



# FAIRFAX COUNTY

**APPLICATION FILED:** August 23, 2005  
**PLANNING COMMISSION:** January 11, 2006  
**BOARD OF SUPERVISORS:** Not Scheduled Yet

V I R G I N I A

**December 29, 2005**

## **STAFF REPORT**

**APPLICATION RZ 2005-HM-024**  
**(in association with VC 2005-HM-007)**

### **HUNTER MILL DISTRICT**

**APPLICANT:** David M. Laughlin and Charlotte H. Laughlin

**PRESENT ZONING:** R-1

**REQUESTED ZONING:** R-3

**PARCEL(S):** 28-4 ((1)) 57 pt.

**SITE AREA:** 41, 448 square feet

**DENSITY:** 2.1 du/acre

**PLAN MAP:** Residential, 2-3 du/ac

**PROPOSAL:** To rezone from the R-1 District to the R-3 District to permit residential development of two single-family detached lots at a density of 2.10 du/ac.

**WAIVERS & MODIFICATIONS:** Waiver of frontage improvements along the Beulah Road frontage of the subject site.

### **STAFF RECOMMENDATIONS:**

Staff recommends denial of RZ 2005-HM-024. However, if it is the intent of the Board of Supervisors to approve RZ 2005-HM-024, staff recommends that such approval be subject to the proffers consistent with those contained in Appendix 1.

It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions proffered by the owner, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be further noted that the content of this report reflects the analysis and recommendation of staff; it does not reflect the position of the Board of Supervisors.

For information, contact the Zoning Evaluation Division, Department of Planning and Zoning, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035-5505, (703) 324-1290.



Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).



# FAIRFAX COUNTY

APPLICATION FILED: July 25, 2005  
BOARD OF ZONING APPEALS: January 24, 2006  
TIME: 9:00 AM

V I R G I N I A

December 29, 2005

## STAFF REPORT

**VARIANCE APPLICATION VC 2005-HM-007**  
**(in association with RZ 2005-HM-024)**

### HUNTER MILL DISTRICT

**APPLICANTS & PROPERTY OWNERS:** David M. Laughlin and Charlotte H. Laughlin

**STREET ADDRESS:** 1884 Beulah Road

**TAX MAP REFERENCE:** 28-4 ((1)) 57 pt.

**LOT SIZE:** 41,448 square feet

**CURRENT ZONING DISTRICT:** R-1

**PROPOSED ZONING DISTRICT:** R-3

**ZONING ORDINANCE PROVISION:** 18-401

**VARIANCE PROPOSAL:** To permit a dwelling to remain 20.73 feet with eave 26.20 feet and steps 16.83 feet from the front lot line, in conjunction with the proposed subdivision of the site into two lots.

A copy of the BZA's Resolution setting forth this decision will be mailed within five (5) days after the decision becomes final.

For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia 22035-5505.**



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For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

**A GLOSSARY OF TERMS FREQUENTLY  
USED IN STAFF REPORTS WILL BE  
FOUND AT THE BACK OF THIS REPORT**

**DESCRIPTION OF THE APPLICATION**

**RZ 2005-HM-024 Proposal:**

The applicants, David and Charlotte Laughlin, request approval to rezone 41,448 square feet of a two acre parcel from the R-1 District to the R-3 District to permit the development of two single family detached dwellings on proposed lot #1 and lot #2. The application proposes to retain the existing single family detached dwelling on the subject property as lot #1, if an associated Variance application (VC 2005-HM-007) is approved to permit the existing dwelling to remain 20.73 feet with eave 26.20 feet and steps 16.83 feet from the front lot line. If a Variance is not obtained, the existing single family detached dwelling will be demolished and a new single family detached dwelling will be constructed on lot #1 that complies with the setback requirements of the R-3 District. The density of the site as a result of either option would be 2.1 du/ac. The remaining 45,672 square foot area of the two acre lot, which is not part of this application, is zoned R-3 and will remain as open space in compliance with the proffers associated with the rezoning approval for the Embassy Court II Subdivision (RZ 83-C-098) adjacent to the subject site to the south and west.

**Waivers and Modifications:**

The applicant is seeking a waiver of the stormwater management requirements for this site due to the minor increase in site runoff. On site Low Impact Development (LID) techniques are proposed to be used on each lot in lieu of onsite stormwater management as determined by DPWES at the time of subdivision plan review.

The applicant is seeking a waiver of the frontage improvements recommended by the Comprehensive Plan along the subject site's Beulah Road frontage.

**VC 2005-HM-007 Proposal:**

The applicants, David M. Laughlin and Charlotte H. Laughlin seek a variance to permit a dwelling to remain 20.73 feet with eave 26.20 feet and steps 16.83 feet from the front lot line. The variance application has been filed concurrently with the rezoning request referenced above.

	<b>Structure</b>	<b>Yard</b>	<b>Min. Yard Required*</b>	<b>Proposed Location</b>	<b>Variance Requested</b>
<b>Variance # 1</b>	Dwelling	Front	30 feet	20.73 feet	9.27 feet
<b>Variance # 2</b>	Eave	Front	30 feet	26.20 feet	3.8 feet
<b>Variance # 3</b>	Steps	Front	30 feet	16.83 feet	13.17 feet

\*Minimum yard per Sect. 3-307 of the Zoning Ordinance

## LOCATION AND CHARACTER

### Site Description:

The site subject to this application is 41,448 square feet of a two acre parcel. The remaining 45,672 square foot area of the two acre lot, which is not part of this application, will remain as open space to be in compliance with the proffers associated with the rezoning approval for the Embassy Court II Subdivision. The site is located on the west side of Beulah Road, approximately 200 feet north of its intersection with Delaney Drive. The site is bounded by Beulah Road on the east, and contains one existing two-story single family detached dwelling, stable, shed and gravel driveway.

### Surrounding Area Description:

	Zoning	Use
North	R-2 Cluster	Single Family Detached Dwelling
East	R-2 Cluster	Single Family Detached Dwelling
South	R-3	Single Family Detached Dwelling
West	R-3	Single Family Detached Dwelling

## BACKGROUND

### Site History:

The existing single family detached dwelling on the subject site was constructed in 1925.

On September 17, 1984, the Board of Supervisors approved RZ 83-C-098, which rezoned a portion (45,672 square feet) of lot 53 (now lot 57) from the R-1 District to the R-3 District in conjunction with land area that created the Embassy Court II Subdivision. With that rezoning, the back portion of what is now Lot 57 was utilized to support the requested density. Proffer #6 of that rezoning states that the area identified as parcel "A" (rear portion of lot 57) shall be noted on any plat as "not to be used for development" and shall also note that that area was used for the density calculations for the development approved with RZ 83-C-098. Therefore, the back portion of lot 57 cannot be used in the density calculations or for development of any other property. The proffers and GDP approved pursuant to the approval of RZ 83-C-098 are included in Appendix 14 for reference.

An interpretation of the proffers approved with RZ 83-C-098 was requested by the applicant and the determination made by the Director of the Zoning Evaluation Division, as the duly authorized agent of the Zoning Administrator is included in Appendix 15 for reference

**Surrounding Area Variance History:**

There have been no variances filed or approved within the vicinity of the subject site.

**COMPREHENSIVE PLAN PROVISIONS (Appendix 6)**

**Plan Area:** Vienna Planning District, Area II  
**Planning Sector:** Spring Lake Community Planning Sector  
**Plan Map:** Residential; 2-3 du/acre

The Comprehensive Plan, Area II, Vienna District, as amended through July 11, 2005, Spring Lake Community Planning Sector (V-3), pages 62 states:

The Spring Lake sector is largely developed as stable residential neighborhoods. Infill development in these neighborhoods should be of a compatible use, type and intensity in accordance with the guidance provided by the Policy Plan under Land Use Objectives 8 and 14.

Where substantial parcel consolidation is specified, it is intended that such consolidations will provide for projects that function in a well-designed, efficient manner and provide for the development of unconsolidated parcels in conformance with the Area Plan.

**ANALYSIS**

**General Development Plan (GDP)/Variance (VC) Plat**  
(Copy at front of staff report)

**Title of GDP/VC Plat:** Laughlin Property  
**Prepared By:** Christopher Consultants  
**Original and Revision Dates:** July 18, 2005, as revised through December 2, 2005

**Description of the combined GDP/VC Plat**

<b>GDP/VC Plat Laughlin Property</b>	
<b>Sheet #</b>	<b>Description of Sheet</b>
1 of 4	Cover Sheet, Vicinity Map, Site Tabulations, General Notes, Waivers and Modifications
2 of 4	Existing Conditions and Vegetation Plan
3 of 4	General Development Plan and Landscape Plan
4 of 4	Sight Distance Profile

The following features are depicted on the GDP/VC Plat:

- Site Layout. The application property, located on the west side of Beulah Road, is shown to be subdivided into two lots, each containing one single-family detached dwelling unit.
- Vehicular Access. Access to both lots is provided via separate private driveways off of Beulah Road. The driveway on lot #1 and limits of clearing and grading extend offsite onto the outlot portion of parcel 57 to the south to provide for an easement for the proposed driveway. A determination has been made that locating the driveway on any part of the outlot portion of parcel 57 (offsite) would not be in substantial conformance with those proffers approved with RZ 83-C-098 (Appendix 15). Therefore the proposed driveway on lot # 1 needs to be relocated to be entirely within the portion of parcel 57 included in this rezoning application or a Proffered Condition Amendment of RZ 83-C-098 must be approved by the Board of Supervisors.
- Parking. The Zoning Tabulation chart shows that two parking spaces per dwelling unit will be provided.
- Stormwater management/Best management practices (SWM/BMP) facilities. The Plan shows on-lot LID techniques, labeled as “infiltration trench or rain garden or other LID technique” to be provided on each proposed lot. The LID’s utilized on each lot will be privately owned and maintained by each individual lot owner.
- Pedestrian facilities. An existing four foot asphalt trail is shown along the Beulah Road frontage of the site.
- Tree preservation. There are existing street trees shown outside of the clearing limits along the western and southern portions of the area included in this application and along the site’s street frontage which the applicant proposes to preserve. A note on the Landscape Plan (Sheet 3) indicates that, through the preservation of those trees, the tree cover tabulation for the site will be 52%. However, the trees along the Beulah Road frontage of the site are actually offsite

and within the VDOT right-of-way, and therefore the applicant cannot include these trees in their tree cover calculations nor commit to their preservation.

- Limits of Clearing and Grading. The limits of clearing and grading are shown around proposed lot #1 and lot #2 and extend offsite onto the outlot portion of parcel 57 to the west, to provide for an easement to provide a sanitary sewer connection to an existing main on lot #11 of the Embassy Court II subdivision. The limits of clearing and grading also extend offsite onto the outlot portion of parcel 57 to the south to provide for an easement for the proposed driveway to serve the new single-family detached dwelling on lot # 1. As stated previously, a determination has been made by the Director of the Zoning Evaluation Division, as the duly authorized agent of the Zoning Administrator, that the extension of the limits of clearing and grading offsite to provide sanitary sewer to the proposed lots would be in substantial conformance with the proffers approved with the Embassy Court II rezoning (RZ 83-C-098). However, a determination has also been made that the extension of the limits of clearing and grading offsite to provide the proposed driveway for lot #1 would not be in substantial conformance with the approved proffers. Thereby requiring approval of a Proffered Condition Amendment (PCA) by the Board of Supervisors to permit a change to the limits of clearing approved with that rezoning.

## COMPREHENSIVE PLAN ANALYSIS

The application proposes to develop the site with a total of 2 single family detached dwelling units at a density of 2.1 du/ac. The Comprehensive Plan map shows the entire site as planned for residential development at a density of 2-3 dwelling units per acre. The parcels are not subject to any site specific Comprehensive Plan text. At a proposed density of 2.1 du/ac, the proposed development is consistent with the density recommended by the Comprehensive Plan.

## RESIDENTIAL DEVELOPMENT CRITERIA (Appendix 16)

Fairfax County expects new residential development to enhance the community by fitting into the fabric of the neighborhood, respecting the environment, addressing transportation impacts, addressing impacts on public facilities, being responsive to our historic heritage, contributing to the provision of affordable housing, and being responsive to the unique site specific considerations of the property. For the complete Residential Development Criteria text, see Appendix 16.

### Site Design (Development Criterion #1)

*This Criterion requires that the development proposal address consolidation goals in the Comprehensive Plan, further the integration of the development with adjacent parcels and not preclude adjacent properties from developing according to the recommendations of the Plan. The Plan Map recommends the subject property for*

residential development at a density of 2-3 dwelling units per acre (du/ac). The Applicant's proposal to rezone the residue of lot #57 to the R-3 District in order to subdivide the property into two separate lots to either permit the existing dwelling to remain and the construction of one additional single family detached dwelling or demolish the existing dwelling and construction of two new single family detached dwelling units, both at an overall density of 2.1 du/ac would be in conformance with this recommendation. All the surrounding properties have been rezoned or developed for residential use at similar densities. The proposal would not adversely impact any adjacent parcels from developing according to the recommendations of the Plan.

*The development proposal should provide a logical and functional design with appropriate relationships within the development, including appropriately oriented dwelling units and usable yard areas within the individual lots. Convenient access to transit facilities should be provided where available, and all aspects pertaining to utilities shall be identified.* The GDP/VC Plat shows regular shaped lots, however the dwelling orientation for the proposed lots is not provided. The GDP/VC Plat shows only the building envelope for the proposed lots and a note of the plan states that the new house could be located anywhere, even outside the building envelope. Therefore, the information needed in order to make a determination on the appropriateness of the relationships within the development has not been provided.

The proposed new driveway entrance to the house on lot 1 extends offsite onto the outlot portion of lot 57 which has been proffered to remain as an undeveloped area with the approval of RZ 83-C-098. Providing the driveway as shown on the GDP would require the approval of a Proffered Condition Amendment (PCA) of the original proffers by the Board of Supervisors. The driveway must be relocated to be entirely on the portion of parcel 57 subject to this rezoning application. The existing dwelling on the site is located 20.73 feet with its eave 26.20 feet and steps 16.83 feet from the front lot line. If the variance to permit that dwelling to remain is not approved, the proposed building envelope is shown to be located 35.14 feet from the eastern property boundary (front yard), 87.37 feet from the western property boundary (rear yard), 23.30 feet from the southern property boundary (side yard) and 13 feet from the northern property boundary (side yard). The proposed building envelope on Lot 2 is shown to be located 35.14 feet from the eastern property boundary (front yard), 87.28 feet from the western property boundary (rear yard), 12.42 feet from the southern property boundary (side yard), and 31 feet from the northern property boundary (side yard). However, due to the fact that no information is provided to show the proposed house and yard orientations and there is a note on the GDP/VC Plat allows structures to be located outside the building envelope, it cannot be determined if the proposed development will provide usable yard areas within the individual lots. Therefore, this criterion has not been met.

*Open space should be usable, accessible and integrated. Appropriate landscaping and amenities should be provided.* There is no requirement for open space in an R-3 District subdivision, and there are no requirements for transitional screening for the subject application. No amenities are proposed by the Applicant.

### **Neighborhood Context** (Development Criterion #2)

*While developments are not expected to be identical with the existing development within which they are to be located, this Criterion states that they should fit into the fabric of the community.* The property is surrounded by properties consisting of single family detached dwelling developments. The Eudora Subdivision is zoned R-2 cluster and located to the north, the Embassy Court subdivision is zoned R-3 and located to the south and west and the Waverly subdivision is zoned R-2 cluster and located to the east of the subject site. The proposed lot sizes are similar to existing lot sizes in the area and as discussed previously in this report, all the surrounding properties have been rezoned or development for residential use at similar densities.

### **Environment** (Development Criterion #3)

*This Criterion requires that developments respect the natural environment by conserving natural environmental resources, account for soil and topographic conditions and protect current and future residents from the impacts of noise and light. Developments should minimize off-site impacts from stormwater runoff and adverse water quality impacts.*

### **Issue:** Traffic Noise/Exterior Noise Levels (Appendix 9)

The proposed and existing dwellings will be affected by projected future traffic noise. A traffic noise analysis performed for Beulah Road produced the following noise contour projections, 65 dBA  $L_{dn}$  130 feet from centerline, and 70 dBA  $L_{dn}$  60 feet from centerline.

### **Discussion:**

The applicant has committed to mitigate interior noise impact by proffering to constructing all new dwellings and retrofitting the existing dwelling if it remains, with building materials to reduce noise in interior areas to 45 dBA  $L_{dn}$  or less.

However, no mitigation measures have been proposed to address exterior noise levels in the rear yards located within the projected 65-70-dBA  $L_{dn}$  impact area. The environmental review of the application identified several forms of mitigation that could be provided to address the exterior noise levels, including one or two barriers of a height sufficient to break all lines of sight between an imaginary plane formed between a line eight feet above the centerline of the road and a line six feet above the ground in the rear yards, and is architecturally solid from ground up with no gaps or openings, a berm, architecturally solid wall, or berm-wall combination, or by substituting rear yard privacy fencing for the noise barrier as long as such fencing will meet standards of a barrier or berm wall. Alternatively, the applicant may pursue other methods of mitigating traffic noise if it can be demonstrated through an independent noise study for review and approval by DPWES, that these methods will

be effective in reducing exterior noise levels to 65 dBA  $L_{dn}$  or less and interior noise levels to 45 dBA  $L_{dn}$  or less. The applicant has not provided any methods for mitigating exterior noise levels in the rear yards; therefore this criterion has not been met.

**Issue:**

Waiver of the Stormwater Management (SWM) /Best Management Practices (BMP) requirements.

The applicant is seeking a waiver of the stormwater management requirements for this site due to the minor increase in site runoff. On site LID techniques are proposed to be used on each lot in lieu of onsite stormwater management.

**Discussion:**

The stormwater management analysis of this application has identified that the limits of clearing and grading need to be revised to include the proposed infiltration trench serving lot 2 of the proposed subdivision. Access to the two infiltration trenches should be shown on the GDP. Additionally, the SWM/BMP proffer proposed by the applicant, does not adequately address the issue. The applicant should commit to employ low impact development techniques to meet detention and BMP requirements by incorporating infiltration practices facility/facilities such as an infiltration trench or a rain garden on site, and that the LID on each lot shall be privately owned and maintained by each separate lot owner.

The design infiltration rates for these facilities shall be established based on field tests and they should have adequate capacity to detain the increased runoff volume for the 10-year storm event. This issue has not been addressed. Without the recommended revisions to the application, DPWES staff has preliminarily indicated that they are not supportive of the waiver of the stormwater management requirements for this site. Staff feels that this criterion has not been adequately addressed.

The use of low impact development (LID) techniques, as deemed appropriate is encouraged in the Comprehensive Plan guidance. As discussed previously, the applicant intends to apply for a waiver of the water quantity and quality requirements to provide the LID techniques as shown on the GDP, subject to the approval of the Department of Public Works and Environmental Services (DPWES). If DPWES does not approve these waivers, or permit the installation of the proposed infiltration trench, the applicant may be required to apply for a Proffered Condition Amendment (PCA) to provide the required practices. The final determination of any water quantity and water quality waivers and/or facilities will be made by DPWES during subdivision plan review.

#### **Tree Preservation and Tree Cover Requirements (Development Criterion #4)**

*This Criterion states that all developments should be designed to take advantage of existing tree cover and developed appropriately to disturb as little existing tree cover as possible, including the extension of utility improvements to the site. As discussed earlier in this report, there are existing street trees shown outside of the clearing limits along the western and southern portions of the area included in this application and along the site's street frontage which the applicant proposes to preserve. A note on the GDP/Landscape Plan (Sheet 3) indicates that, through the preservation of those trees, the tree cover tabulation for the site will be 52%. However, the trees along the Beulah Road frontage of the site are actually offsite and within the VDOT right-of-way, therefore the applicant cannot take credit for the preservation of offsite trees.*

#### **Transportation (Development Criterion #5)**

This Criterion requires that developments provide safe and adequate access to the surrounding road network, that transit and pedestrian travel be encouraged, and that interconnection of streets be encouraged. In addition, alternative street designs may be appropriate where conditions merit. An existing four foot asphalt trail exists along the Beulah Road frontage of the site. Instead of the commitment to the Comprehensive Plan recommendation for a major paved trail, the applicant has proffered to renew and repair the existing asphalt trail along the Beulah Road frontage of the site with a new asphalt surface at least five feet in width. The renewal as proposed in the draft proffers would include removing breaks in the surface and general improvement of the condition of the trail that can be accomplished without damage to the white oak tree shown to be saved on the GDP. A rail would also be installed between the edge of the roadway and the trail at such location as VDOT may deem appropriate, or an asphalt curb may be installed if permitted by VDOT. However, VDOT and FCDOT have recommended that the applicant dedicate 40 feet of right-of-way from the centerline of Beulah Road to the property line and construct frontage improvements to include curb and gutter matching the existing, adjacent parcel to the north. Staff does not support a waiver of the construction of frontage improvements, particularly since the trees along the Beulah Road frontage which the applicant has proffered to preserve are within the right-of-way and therefore their preservation cannot be assured. Staff believes that the trees within the right-of-way along the frontage of the site should be removed to provide the recommended road improvements to provide for safe and adequate pedestrian and vehicular travel along Beulah Road.

#### **Public Facilities (Development Criterion #6)**

*Criterion 6 states that residential developments should offset their impacts upon public facility systems (i.e. schools, parks, libraries, police, fire and rescue, stormwater management and other publicly owned community facilities). Impacts may be offset by the dedication of land, construction of public facilities, contribution of in-kind goods, services or cash earmarked for those uses, and/or monetary contributions to be used toward funding capital improvement projects. (Specific Public Facilities issues are discussed in detail in Appendices 11 – 13).*

### **Fairfax County Public Schools (Appendix 12)**

The proposed development would be served by Wolftrap Elementary School, Kilmer Middle School, and Madison High School. The proposed development would have an insignificant impact on the enrollments of these three schools.

### **Fairfax County Park Authority (Appendix 13)**

The property has several large species that are considered to be invasive plants. The proximity of these plants to park land suggests that these trees could disperse to parkland. NRMP recommends that, where possible, these trees be removed and replaced with native tree species. At this time, no response has been provided to address this issue.

The Virginia Division of Natural Heritage (DNH) has records for rare state species occurring in the vicinity of the project site. The applicant should work with the Virginia Natural Heritage Program (DCR) to determine whether these species are present prior to any activity taking place on the property, and if present, to take all necessary measures to avoid impact to them. This issue has not been addressed with the current application.

### **Fire and Rescue**

The subject property is serviced by the Fairfax County Fire and Rescue Department Station #402, Vienna. The requested rezoning currently meets fire protection guidelines, as determined by the Fire and Rescue Department.

### **Sanitary Sewer Analysis**

The subject property is located within the Difficult Run (D3) watershed.

### **Utilities Planning and Design, DPWES (Appendix 11)**

The applicant has indicated the intent to request a waiver of the stormwater management detention and water quality requirements from DPWES for the subject site. Final determination of any proposed stormwater management or BMP measures will be subject to the review and approval by DPWES. As discussed earlier in this report, the stormwater management analysis of this application has identified that the limits of clearing and grading needs to be revised to include the proposed infiltration trench serving lot 2 of the proposed subdivision. Access to the two infiltration trenches should be shown on the GDP and subject plans for this site, and the SWM/BMP proffer proposed by the applicant, does not adequately address the issue. Without the recommended revisions to the application, DPWES staff has preliminarily indicated that they are not supportive of the waiver of the stormwater management detention and water quality requirements for this site.

**Affordable Housing (Development Criterion #7)**

*This Criterion states that ensuring an adequate supply of housing for low and moderate income families, those with special accessibility requirements, and those with other special needs is a goal of Fairfax County. The applicant can elect to fulfill this criterion by providing affordable units that are not otherwise required by the ADU Ordinance. As an alternative, land, adequate and ready to be developed for an equal number of units may be provided to the Fairfax County Redevelopment and Housing Authority or to such other entity as may be approved by the Board. This Criterion may be satisfied by the construction of units, dedication of land, or by a contribution to the Housing Trust Fund. Ensuring an adequate supply of housing for low and moderate income families, those with special accessibility requirements, and those with other special needs is a goal of the County. Part 8 of Article 2 of the Zoning Ordinance requires the provision of Affordable Dwelling Units (ADUs) in certain circumstances. Criterion #7 is applicable to all rezoning applications and/or portions thereof that are not required to provide any Affordable Dwelling Units, regardless of the planned density range for the site. The applicants have not proposed a contribution of 1/2 of 1 percent of the sales price of the proposed units to the Housing Trust Fund. Therefore this criterion has not been met.*

**Heritage Resources (Development Criterion #8)**

*This Criterion requires that developments address potential impacts on historical and/or archaeological resources through research, protection, preservation, or recordation. No heritage resources have been identified on this site.*

**ZONING ORDINANCE PROVISIONS (Appendix 17)**

<b>Bulk Standards - R-3 District</b>		
<b>Standard</b>	<b>Required</b>	<b>Proposed</b>
Min. Lot Area	10,500 square feet	19,852 sq. ft. – Lot 1 21, 586 sq. ft. – Lot 2
Min. Lot Width	80 feet	101feet – Lot 1 110 feet – Lot 2
Max. Building Height	35 feet	35 feet
Front Yard	30 feet	16.83 feet– Lot 1 * ** 35.14 feet – Lot 2**
Front Yard	30 feet	35.14 feet **
Side Yard (North)	12 feet	13 feet – Lot 1** 31 feet – Lot 2**
Side Yard (South)	12 feet	23.30 feet – Lot 1** 12.42 feet – Lot 2**
Rear Yard	25 feet	87.37 feet – Lot 1** 87.28 feet – Lot 2**

<b>Bulk Standards - R-3 District</b>		
<b>Standard</b>	<b>Required</b>	<b>Proposed</b>
Density	2.86 du/ac	2.1 du/ac
Tree Cover	20%	52%***
Parking Spaces	2 spaces per du	2 spaces per du

\* A variance of the front yard setback is requested.

\*\* Based on building envelope shown on GDP/VC Plat.

\*\*\* Based on Tree Cover calculation shown on GDP/VC Plat.

### **Waivers/Modifications**

The applicant is seeking a waiver of the frontage improvements recommended by the Comprehensive Plan along the subject site's Beulah Road frontage to preserve trees along the Beulah Road frontage of the site. However, the trees along the Beulah Road frontage of the site are actually offsite and within the VDOT right-of-way. VDOT and FCDOT have recommended that the applicant dedicate 40 feet of right-of-way from the centerline of Beulah Road to the property line and construct frontage improvements to include curb and gutter matching the existing, adjacent parcel to the north. Staff does not support a waiver of the construction of frontage improvements.

### **OTHER ZONING ORDINANCE REQUIREMENTS:**

#### **Variance Requirements (see Appendix 17)**

There is a variance request included in association with this rezoning application to permit an existing dwelling to remain 20.73 feet with eave 26.20 feet and steps 16.83 feet from the front lot line. The subject dwelling was constructed in 1925, prior to the adoption of the first Zoning Ordinance. The subject property does not have any of the exceptional or extraordinary characteristics identified in the required standards for variances. The variance is required at this time as a result of the applicants request to rezone the subject property from the R-1 District to the R-3 District, retain the existing dwelling and subdivide the site area into two single family detached units. These actions require the existing dwelling to be in conformance with the setback requirements of the R-3 District or to obtain approval of a variance. Strict application of the Ordinance would not produce undue hardship, would not prohibit or restrict all reasonable use of the subject property, and would not create a demonstrable hardship approaching confiscation. In the event a variance is denied the applicant has proposed an alternative plan for development of the site under the strict application of the Zoning Ordinance. The alternative plan proposes to demolish the existing dwelling and construct a new single-family detached dwelling in compliance with the setback requirements of the R-3 District. Variance applications must satisfy all of the nine (9) enumerated requirements contained in Section 18-404, Required Standards for Variances.

If the Board of Zoning Appeals determines that a variance can be justified, it must then decide the minimum variance which would afford relief as set forth in Section 18-405. A copy of these provisions is included in Appendix 17.

## **CONCLUSIONS AND RECOMMENDATIONS**

### **Staff Conclusions**

Staff finds that although the proposed application is in harmony with the Comprehensive Plan recommendation for residential development at a density of 2-3 du/ac, the application does not adequately address the residential development criteria.

The GDP/VC Plat shows regular shaped lots, however the housing orientation for the proposed lots is not provided. The GDP/VC Plat shows only the building envelope for the proposed lots and a note on the plan states that the new house could be located anywhere, even outside the building envelope. Therefore, the information needed in order to make a determination on the appropriateness of the relationships within the development has not been provided.

The proposed new driveway entrance to the house on lot 1 extends offsite onto the outlot portion of lot 57 which has been proffered to remain undeveloped area with the approval of RZ 83-C-098. Providing the driveway as shown on the GDP would require the approval of an amendment to those approved proffers. A PCA application has not been filed. The driveway must be relocated to be entirely on the portion of parcel 57 subject to this rezoning application. This issue has not been addressed.

VDOT and FCDOT have recommended that the applicant dedicate 40 feet of right-of-way from the centerline of Beulah Road to the property line and construct curb and gutter matching the existing, adjacent parcel to the north. Therefore, the trees along the frontage of the site within the right-of-way should be removed to provide the recommended improvements to provide for safe and adequate vehicular pedestrian travel. This issue is still outstanding

The environmental review of the application identified several forms of mitigation that could be provided to address the exterior noise levels in the rear yards located within the projected 65-70-dBA  $L_{dn}$  impact area. The applicant has not provided any methods for mitigating exterior noise levels in the rear yards; therefore this criterion has not been met.

The stormwater management analysis of this application has identified that the limits of clearing and grading needs to be revised to include the proposed infiltration trench serving lot 2 of the proposed subdivision. Access to the two infiltration trenches should be shown on the GDP and subject plans for this site. Additionally the SWM/BMP proffer proposed by the applicant, does not adequately address the issue. The applicant

should commit to employ low impact development techniques to meet detention and BMP requirements by incorporating infiltration practices facility/facilities such as an infiltration trench or a rain garden on site, and that the LID on each lot shall be privately owned and maintained by each separate lot owner. The design infiltration rates for these facilities shall be established based on field tests and they should have adequate capacity to detain the increased runoff volume for the 10-year storm event. Without the recommended revisions to the application, DPWES is not supportive of the waiver of the stormwater management requirements for this site.

Finally, as discussed previously, ensuring an adequate supply of housing for low and moderate income families, those with special accessibility requirements, and those with other special needs is a goal of the County. Part 8 of Article 2 of the Zoning Ordinance requires the provision of Affordable Dwelling Units (ADUs) in certain circumstances. However, Criterion #7 of the Residential Development Criteria of the Comprehensive Plan is applicable to all rezoning applications and/or portions thereof that are not required to provide any Affordable Dwelling Units, regardless of the planned density range for the site. The applicant has not proposed any measures for meeting this criterion. As a result of the outstanding issues discussed in this report, staff is not supportive of this rezoning request.

### **Recommendation**

Staff recommends denial of RZ 2005-HM-024. However, if it is the intent of the Board of Supervisors to approve RZ 2005-HM-024, staff recommends that such approval be subject to the proffers consistent with those contained in Appendix 1.

It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions proffered by the owner, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Supervisors.

### **APPENDICES**

1. Proposed Proffers
2. Proposed Development Conditions
3. Rezoning Affidavit
4. Variance Affidavit
- 5A. Rezoning Statement of Justification
- 5B. Variance Statement of Justification
6. Plan Citations and Land Use Analysis
7. Transportation Analysis
8. VDOT Analysis
9. Environmental Analysis

**APPENDICES** (Continued)

10. Urban Forestry Analysis
11. DPWES Analysis
12. Public Schools Analysis
13. Park Authority Analysis
14. RZ 83-C-098 - Approved Proffers/Development Plan
15. Proffer Interpretation Letter
16. Residential Development Criteria
17. Applicable Zoning Ordinance Provisions
18. Glossary of Terms

**DRAFT PROFFERS dated: October 3, 2005 and Revised through  
December 2, 2005**

**DAVID M. AND CHARLOTTE H. LAUGHLIN  
RZ 2005-HM-024**

Pursuant to Section 15.2-2303(A), Code of Virginia, 1950 as amended, the undersigned Applicants and Owners, for themselves and their successors and assigns (hereinafter referred to as the "Applicants"), filed for a rezoning for property identified on Fairfax County Tax Map as 28-4((1))pt.57, (hereinafter referred to as "Application Property"), hereby agree to the following Proffers, provided that the Fairfax County Board of Supervisors (hereinafter referred to as the "Board") approves a rezoning of the Application Property to the R-3 Zoning District, as proffered herein.

**I. GENERALIZED DEVELOPMENT PLAN (GDP)**

- a. Subject to the provisions of Section 18-204 of the Fairfax County Zoning Ordinance (hereinafter referred to as the "Zoning Ordinance"), development of the Application Property shall be in substantial conformance with the Generalized Development Plan (GDP), prepared by Christopher Consultants, dated December 2, 2005.
- b. Pursuant to Section 18-204 of the Zoning Ordinance, minor modifications from the approved GDP may be permitted as determined by the Zoning Administrator. The layout shown on the GDP may be modified provided such changes are in substantial conformance with the GDP and proffers, and do not increase the total number of units.

**II. LANDSCAPING/LIMITS OF CLEARING AND GRADING**

**(The previous text was completed removed and Staff's suggested wording substituted)**

**1. Tree Preservation Plan - Comprehensive**

- a. The Applicants shall submit a tree preservation plan as part of the first and all subsequent subdivision plan submissions. The preservation plan shall be prepared by a professional with experience in the preparation of tree preservation plans, such as a certified arborist or landscape architect, and shall be subject to the review and approval of the Urban Forest Management, DPWES.
- b. The tree preservation plan shall consist of a tree survey that includes the location, species, size, crown spread and condition rating percentage of all trees 10 inches in diameter and greater, and 20 feet to either side of the limits of clearing and grading shown on the GDP for the entire site. The tree preservation plan shall provide for the preservation of those areas shown for tree preservation, those areas outside of the limits of clearing and grading shown on the GDP, and those additional areas in which trees can be preserved as a result of final engineering. The condition analysis ratings shall be prepared using methods outlined in the latest edition of the Guide for Plant Appraisal published by the International Society of Arboriculture. Specific tree preservation activities that will maximize the survivability of trees identified to be preserved, such as: crown pruning, root pruning, mulching, fertilization, and others as necessary, shall be included in the plan."

## 2. Protection of Existing Understory Vegetation and Soil Conditions in Tree Preservation Areas.

- a. All tree preservation-related work occurring in or adjacent to tree preservation areas shall be accomplished in a manner that minimizes damage to vegetation to be preserved including any woody, herbaceous or vine plant species that occurs in the lower canopy environment, and to the existing top soil and leaf litter layers that provide nourishment and protection to that vegetation. Any removal of any vegetation or soil disturbance in tree preservation areas including the removal of plant species that may be perceived as noxious or invasive, such as poison ivy, greenbrier, multi-floral rose, etc. shall be subject to the review and approval of the Urban Forest Management, DPWES
- b. The use of motorized equipment in tree preservation areas will be limited to hand-operated equipment such as chainsaws, wheel barrows, rake, and shovels. Except as stated in No. 4 before, any work that requires the use of motorized equipment, such as tree transplanting spaces, skid loaders, tractors, trucks, stump-grinders, etc., or any accessory or attachment connected to this type of equipment shall not occur unless pre-approved by the Urban Forest Management, DPWES.

## 3. Root Pruning and Mulching.

The Applicants shall 1) root prune, 2) mulch, and 3) provide tree protection fencing in the form of four foot high, 14 gauge welded wire attached to 6 foot steel posts driven 18 inches into the ground and placed no further than 10 feet apart, or other forms of tree protection fencing approved by Urban Forest Management, DPWES, for all tree preservation areas/ All treatments shall be clearly identified, labeled, and detailed on the erosion and sediment control sheets and demolition plan sheets of the subdivision plan submission. The details for these treatments shall be reviewed and approved by Urban Forest Management, DPWES, accomplished in a manner that protects affected and adjacent vegetation to be preserved, and may include, but not be limited to the following:

- Root pruning shall be done with a trencher or vibratory plow to a depth of 18 inches.
- Root pruning shall take place prior to any clearing and grading, or demolition of structures, if the tree is in close proximity to the structure to be demolished.
- Root pruning shall be conducted with the supervision of a certified arborist.
- Tree protection fence shall be installed immediately after root pruning, and shall be positioned directly in the root pruning trench and backfilled for stability, or just outside the trench within the disturbed area.
- Immediately after the phase II E & S activities are complete, mulch shall be applied at a depth of 4 inches extending 10 feet inside the undisturbed area without the use of motorized equipment.
- Mulch shall consist of wood chips.
- An Urban Forest Management, DPWES, representative shall be informed when all root pruning and tree protection fence installation is complete.

#### 4. Tree Preservation Walk-Through

a. The Applicants shall retain the services of a certified arborist or landscape architect, and shall have the limits of clearing and grading marked with a continuous line of flagging prior to the pre-construction meeting. Before or during the pre-construction meeting, the Applicants' certified arborist or landscape architect shall walk the limits of clearing and grading with an Urban Forest Management, DPWES, representative to determine where minor adjustments to the clearing limits can be made to increase survivability of tree preservation and/or to increase the survivability of trees at the edge of the limits of clearing and grading, and such adjustment shall be implemented. Trees that are identified specifically by UFM in writing as dead or dying may be removed as part of the clearing operation. Any tree that is so designated shall be removed using a chain saw and such removal shall be accomplished in a manner that avoids damage to surrounding trees and associated understory vegetation. If a stump must be removed, this shall be done using a stump grinding machine in a manner causing as little disturbance as possible to the adjacent trees and associated understory vegetation and soil conditions.

#### 5. Tree Protection Fencing

a. All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fence. Tree protection fencing using four foot high, 14-gauge welded wire attached to 6-foot steel posts driven 18 inches into the ground and placed no further than 10-feet apart, shall be erected as shown on the GDP.

b. All tree protection fencing shall be installed prior to any clearing and grading activities, including the demolition of any existing structures. The installation of tree protection fence shall be performed under the supervision of a certified arborist and accomplished in a manner that does not harm existing vegetation that is to be preserved. Three days prior to the commencement of any clearing, grading, or demolition activities, but subsequent to the installation of the tree protection devices, Urban Forest Management, DPWES, and the District Supervisor shall be notified and given the opportunity to inspect the site to assure that all tree protection devices have been correctly installed. If it is determined that the fencing has not been installed correctly, no grading or construction activities shall occur until the fencing is installed correctly, as determined by Urban Forest Management, DPWES.

#### 6. Demolition of Existing Structures

The demolition of existing features and structures shall be conducted in a manner that does not impact on individual trees and/or groups of trees that are to be preserved as reviewed and approved by Urban Forest Management, DPWES. Methods to preserve existing trees may include, but not be limited to the use of super silt fence, welded wire tree protection fence, root pruning, mulching as approved by the Urban Forest Management, DPWES.

### 7. Site Monitoring

During any clearing or tree/vegetation/structure removal on the Application Property, a representative of the Applicants shall be present to monitor the process and ensure that the activities are conducted as proffered and as approved by UFM. The Applicants shall retain the services of a certified arborist or landscape architect to monitor all construction work and tree preservation efforts in order to ensure conformance with all tree preservation proffers and UFM approvals. The monitoring schedule shall be described and detailed in the landscaping and/or tree preservation plan and reviewed and approved by Urban Forest Management, DPWES.

### 8. Limits of Clearing and Grading and Sight Distance

The Applicants shall conform strictly to the limits of clearing and grading as shown on the GDP subject to the installation of utilities and/or trails as determined necessary by the Director of DPWES. If it is determined necessary to install utilities, and/or trails outside of the limits of clearing and grading as shown on the GDP, they shall be located in the least disruptive manner necessary as determined by Urban Forest Management, DPWES. A replanting plan shall be developed and implemented, subject to the approval by Urban Forest Management, DPWES, for any areas outside the limits of clearing and Grading that must be disturbed.

Notwithstanding the driveway to Lot 1 as shown on the Development Plan, if the Zoning Administrator or his agent does not approve this short section of driveway on the outlot adjacent to Lot 1, the driveway shall be relocated to be entirely on Lot 1.

Adequate sight distance shall be provided for the entrances to the two proposed lots as determined by DPWES and the Virginia Dept. of Transportation (VDOT).

## III. EXISTING DWELLING

If a variance is denied which would have permitted the existing dwelling on Lot 1 to remain as it is currently located, the dwelling shall be removed or reconstructed to meet the required front yards. Such removal of the existing dwelling shall be accomplished in conjunction with the Urban Forest Management of DPWES so that the removal will not impact the white oak tree-which shall be saved as determined by the Urban Forester as set forth in the proffer above.

In any event, the dwelling shall be removed prior to a Residential Use Permit (RUP) being issued for a new dwelling on the lot in which the existing dwelling is located.

#### **IV. ENERGY CONSERVATION**

All dwellings on the Property shall meet the thermal guidelines of the CABO Model Energy Program, or its equivalent as determined by DPWES for either gas or electric energy systems, as may be applicable.

#### **V. Storm Water Management and Best Management Practices**

A waiver for storm water management (SWM) shall be requested. On-lot LID techniques, such as rain gardens, shall be utilized to provide Stormwater Management and Best Management Practices. The LID's utilized on each lot shall be privately owned and maintained by each separate lot owner and STM and BMP's shall not be on the separate outlots as would be required without the stormwater management waiver.

#### **VI. SIGNS**

No temporary signs (including "popsicle" style paper or cardboard signs), which are prohibited by Article 12 of the Zoning Ordinance or Chapter 7 of Title 33.1, of Chapter 8 of Title 46.2 of the Code of Virginia, 1950 as amended, shall be placed on or off site by the Applicants or at the Applicants' direction, to assist in the initial sale of homes on the Application Property. The Applicants shall direct its agents and employees involved in marketing and/or home sales for the Application Property to adhere to this proffer.

#### **VII. NOISE ATTENUATION**

In order to reduce the maximum interior noise to a level of 45 DBA Ldn or less, the Applicants proffers that the front and side walls of the new dwellings shall have the following acoustical attributes:

- (1) Exterior walls shall have a laboratory sound transmission class (STC) rating of at least 45;
- (2) Windows shall have a STC of 35, exterior doors shall have a STC of 34.
- (3) Measures to seal and caulk between surfaces shall follow methods approved by the American Society for Testing and Materials to minimize sound transmission.

If the existing dwelling remains, it shall be retrofitted to the extent reasonable and practical by installing storm windows or replacing the windows with the above cited STC of 35 and replacing the exterior front door to have a STC of 34. Sealing and caulking shall be applied as indicated above.

**VIII. HOUSE DESIGN**

The design of the dwellings shall be of a design that is compatible with house designs commonly used in new homes in Fairfax County. The exterior building materials will also be materials which are commonly used in dwellings throughout Fairfax County, such as brick, siding, stucco, concrete with architectural coating, glass, or cementitious panel.

**IX. ROAD IMPROVEMENTS**

A five (5) foot easement along the frontage of the property adjacent to Beulah Road shall be given to the Fairfax County Board of Supervisors for the purpose of future road widening along Beulah Road if determined by the Department of Transportation.

The existing trail shall be renewed and repaired with a new asphalt surface at least five (5) feet in width, if allowed by the Fairfax County Urban Forest Management of DPWES. This renewal is to remove any breaks in the surface and to generally improve the condition of the trail provided that can be accomplished without damage to the white oak tree which shall be saved, as shown on the GDP, or any other tree along that frontage which the Urban Forest Management of DPWES determines should be saved. In addition, if permitted by VDOT, a rail shall be installed between the edge of the roadway and the trail at such location as VDOT may deem appropriate, or an asphalt curb may be installed, if permitted by VDOT between the edge of the roadway and the trail of a height to be determined at the time of subdivision review by DPWES along all or a portion of the frontage of the property.

**IX. MISCELLANEOUS**

- c. Successors and Assigns. These proffers shall bind the Applicants and his/her successors and assigns.
- d. Counterparts. These proffers may be executed on one or more counterparts, each of which when so executed and delivered shall be deemed an original document and all of which taken together shall constitute but one and the same instrument.

TITLE OWNERS SIGNATURES TO FOLLOW ON NEXT PAGE:

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DAVID M. LAUGHLIN  
Title Owner of TM 28-4((1)) PT 57

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Date

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CHARLOTTE H. LAUGHLIN  
Title Owner of TM 28-4((1))PT 57

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Date

Laughlin/10-3-05revisedthru10-28-05

**PROPOSED DEVELOPMENT CONDITIONS**

**VC 2005-HM-007**

**December 29, 2005**

If it is the intent of the Board of Zoning Appeals to approve VC 2005-HM-007 located at 1884 Beulah Road (Tax Map 28-4((1)) 57 pt. to permit the existing dwelling to remain 20.73 feet with eave 26.20 feet and steps 16.83 feet from the front lot line, pursuant to Sect. 18-404 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions.

1. This variance is approved to permit a dwelling on lot #1 to remain as shown on the General Development Plan/Variance (GDP/VC) Plat entitled "Laughlin Property", prepared by Christopher Consultants, dated July 18, 2005, as revised through December 2, 2005, submitted with this application and is not transferable to other land.

Pursuant to Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, thirty (30) months after the date of approval unless construction has commenced and has been diligently prosecuted. The Board of Zoning Appeals may grant additional time to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the variance. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

