



APPLICATION FILED: October 25, 2005
PLANNING COMMISSION: March 16, 2006
BOARD OF SUPERVISORS: Not Yet Scheduled

County of Fairfax, Virginia

June 1, 2006

STAFF REPORT

APPLICATION RZ/FDP 2005-LE-032

LEE DISTRICT

APPLICANT: Sharon Chapel, LLC

PRESENT ZONING: R-2

REQUESTED ZONING: PDH-3

PARCEL(S): 82-4 ((1)) 34

ACREAGE: 6.19 acres

DENSITY: 2.0 dwelling units per acre (du/ac)

OPEN SPACE: 25%

PLAN MAP: Residential; 2-3 du/ac

PROPOSAL: Rezoning of 6.19 acres of land zoned R-2 to PDH-3 to permit development of 12 single family detached dwelling units including the preservation of an existing dwelling on the property for a density of 2.0 dwelling units per acre.

WAIVERS/MODIFICATIONS: 600 foot maximum length of private streets.

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STAFF RECOMMENDATIONS:

Staff recommends approval of RZ 2005-LE-032 and the Associated Conceptual Development Plan subject to proffers consistent with those contained in Appendix 1 of this staff report.

Staff recommends approval of FDP 2005-LE-032 subject to the Board of Supervisors approval of RZ 2005-LE-032.

Staff recommends approval of a waiver of 600 foot maximum length of private streets.

It should be noted that it is not the intent of the 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).

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

DESCRIPTION OF APPLICATION

Proposal:

The applicant requests approval of a rezoning of 6.19 acres from the R-2 District to the PDH-3 District to permit the development of 11 single family detached dwelling units in addition to 1 existing single family detached dwelling unit, for a total of 12 units at an overall density of 2.0 dwelling units per acre (du/ac), with 25% of the site retained as open space. Stormwater management and Best Management Practice (BMP) requirements are proposed to be satisfied through a Rainstore system in the southwestern corner of the site. Access will be provided to the development by a private street connecting to Sharon Chapel Road.

The applicant's draft proffers, the applicant's Affidavit and Statement of Justification can be found in Appendices 1-3, respectively.

The application must also comply with certain Zoning Ordinance Provisions found in Article 6, Planned Development Districts, and Article 16, Development Plans (among other Fairfax County requirements); excerpts of which are found in Appendix 14.

LOCATION AND CHARACTER

Site Description:

The 6.19 acre subject property is comprised of one parcel located in the Northwest quadrant of the intersection of Sharon Chapel Road and Telegraph Road. The parcel contains a single family detached home and a carriage house. The parcel is vegetated with mature vegetation and consists of approximately 87 percent potential marine clay soils. The terrain of the property is characterized by the presence of very steep slopes in a downward direction from the northwest to the southeast towards the Telegraph Road frontage`.

Surrounding Area Description:

Direction	Use	Zoning	Plan
North	Single Family Detached	R-8	Residential 2-3 du/ac
South	Single Family Detached	R-2	Residential 2-3 du/ac

East	Private School	R-4	Residential 2-3 du/ac
West	Single Family Detached	R-8	Residential 2-3 du/ac

BACKGROUND

The property was previously the subject of RZ 2001-LE-037, a request to rezone the 6.19 acre subject property to the R-3 District by Equity Homes, L.P. The application was amended to request the rezoning to the PDH-3 district prior to the application being withdrawn by the applicant.

COMPREHENSIVE PLAN PROVISIONS

Plan Area:	IV
Planning District:	Rose Hill
Planning Sector:	Wilton Woods (RH5)
Plan Map:	Residential, 2-3 du/ac
Plan Text:	

The parcel southwest of the intersection of Franconia and Telegraph Roads (Tax Map 82-4 ((1)) 34) is planned for residential development at an overall density of 2-3 dwelling units per acre. The density of development on this property may be reduced by the extent of marine clay soils and other environmental constraints. Achievement of the high end of the Plan density range is contingent upon provision of the following:

- Access is on Sharon Chapel Road;
- Development is sensitive to the environmental constraints of the property;
- Efforts are made to preserve historic features;
- The cemetery is preserved; and
- Substantial landscape buffers are provided next to the existing or planned detached single-family residential subdivisions.

ANALYSIS

Conceptual/Final Development Plan (Copy at the front of staff report)

Title of CDP/FDP: Wilton Hill

Prepared By: Christopher Consultants, Ltd.

Original and Revision Dates: October 12, 2005, with revisions through May 11, 2006

The CDP/FDP consists of eight (8) sheets showing the following information:

	Contents
Sheet 1	Cover Sheet (Site Tabulations)
Sheet 2	Existing Conditions
Sheet 3	Conceptual/Final Development Plan
Sheet 3A	Pedestrian and Traffic Access Plan
Sheet 4	Existing Vegetation Map
Sheet 5	Landscape Plan
Sheet 6	Stormwater Management Calculations
Sheet 7	BMP Computations

The combined CDP/FDP depicts a site layout as follows: The plan shows eleven new single family detached structures and the existed manor house which will be retained for a total of 12 dwellings on the subject property. Access is provided by a private street fronted by lots 1, 2, and 3 on the west side, and lots 4 through 10 on the east side of the street. The existing dwelling, which is an early twentieth century manor house, will be retained on Lot 10 on the western side of the street. An existing Carriage House on the site will be demolished. Within lot 10 is a tree save area where several large deciduous trees are proposed to be preserved. The lots range in size from 7,365 to 15,936 square feet. A storm water management "Rainstore" system is proposed for Parcel A on portion of the property that fronts on Telegraph Road. Two additional open space parcels, both labeled "Parcel B" on the plat, are provided. Parcel B measuring 11,300 square feet is located in the northern most corner of the site. A second part of Parcel B located at the southern boundary of the site at the location of the private road's intersection with Sharon Chapel Road measures 15,300 square feet and is designated as a conservation area on the plat.

Residential Units

- A total of twelve single family detached dwelling units at an overall density of 2.0 du/ac.
- The twelve newly created lots consist of Lots 1-3 arranged on the west side of the private road and Lots 4-12 are located on the east side of the private street. The existing manor house which is to be preserved is located on lot 10.

- The lots will have an average size of 10,460 square feet. The plat shows each lot with a 40 x 50 foot building footprint and an improvement envelope that will permit additions such as decks and patios to be added to each dwelling. Generally the minimum yards for the lots consist of twenty foot (20.0) front yards, ten (10) foot side yards and forty (40) foot rear yards. No minimum setbacks have been committed to.
- Each dwelling will be a maximum of 35 feet tall with a two car garage and driveways a minimum of twenty feet long. The dwelling unit types will sheathed in brick in front and with siding material on all other sides.

Open Space & Landscaping

- Approximately 25% of the site will remain as open space.
- A single retaining wall that will be covered with stone or brick, a maximum of 10 feet in height from finished grade will be located along the eastern side of Parcel B at the site entrance along the private street. An entrance feature including a sign with the development name in the wall will be included.
- Parcel A (42,300 square feet) located in the northeastern corner of the property will remain open space and include a tree save area located to the rear of lot 9 of the development and adjacent to Governors Grove development to the north of the site. Parcel A will contain the Rainstore stormwater management BMP facility that will serve the site. A portion of Parcel B measuring 15,300 square feet located at the entrance to the site along its southern border will be preserved as a tree save conservation area. The northern portion of Parcel B located at the terminus of the private street at the northern boundary of the site will contain a 11,300 square foot open space parcel.
- The landscaping plan depicts deciduous trees lining the Sharon Chapel Road and Telegraph Road boundaries of the site. Scattered deciduous and evergreen trees will be provided along the northern, western and southwestern boundaries of the site. Additional deciduous trees will be clustered within the front yards of the newly created lots along the private drive. The rear yards also are planted with a mixture of deciduous and evergreen plantings.
- No active recreation amenities will be provided on-site. A small neighborhood gathering area will be provided within Parcel B at the site entrance.

Access & Parking

- The entrance to the development will be from a 24 foot wide private street which intersects with Sharon Chapel Road approximately 500 feet from its intersection with Telegraph Road. A five foot wide sidewalk will be provided along both sides of the street fronting all lots.

- Two-car garages, with eighteen foot long driveways will be provided for each newly created lot. Off-lot visitor parking will be provided along both sides of the street. The existing structure to be retained will have a longer curved driveway to access a detached garage located in the left front of the house.
- Right-of-way approximately 25 feet from the centerline of Sharon Chapel Road and approximately 35 feet from the centerline of Telegraph Road will be dedicated at the time of subdivision plan approval. Frontage improvements along Sharon Chapel Road will consist of a five foot wide sidewalk and curb and gutter that will connect to that existing to the west of the subject property. Improvements to Telegraph Road include the construction of a right turn taper at the sites intersection with Sharon Chapel Road. An 8 foot wide bicycle trail is provided per the comprehensive plan along the sites Telegraph Road frontage.

Stormwater Management

Stormwater management/Best Management Practices (SWM/BMP) facilities will be provided by the use of a Rainstore and sand filter system located on Parcel A. Outfall from the site will be conveyed downstream via a combination of a closed conduit pipe system and natural channel flow. A storm water management "Rainstore³" system is proposed for Parcel A on portion of the property that fronts on Telegraph road. Rainstore³ is a plastic structure used to store stormwater underground. Made from injection molded plastic, a single panel contains 36 vertical columns allowing the construction of driving areas, parking lots, or other small structures above the system allows the storage and infiltration of stormwater beneath parking lots, playfields, etc. in a limited area. Use of the proposed Rainstore³ system will require approval of a PFM modification prior to subdivision plan approval.

RESIDENTIAL DEVELOPMENT CRITERIA

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 14.

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 development of eleven new single family detached dwellings and the retention of the existing manor house provides a fitting transition from the higher density R-8 development to the north and the lower density R-2 development adjacent to the property to the south and west.

The Comprehensive Plan makes the following parcel specific recommendations:

“...3. The parcel southwest of the intersection of Franconia and Telegraph Roads (Tax Map 82-4 ((1)) 34) is planned for residential development at an overall density of 2-3 dwelling units per acre. The density of development on this property may be reduced by the extent of marine clay soils and other environmental constraints. Achievement of the high end of the Plan density range is contingent upon provision of the following:

- Access is on Sharon Chapel Road;
- Development is sensitive to the environmental constraints of the property;
- Efforts are made to preserve historic features;
- The cemetery is preserved; and
- Substantial landscape buffers are provided next to the existing or planned detached single-family residential subdivisions...”

“...3. The following properties should be studied for possible inclusion on the Fairfax County Inventory of Historic Sites:

- House (c. 1860) and old cemetery at 5918 Telegraph Road;...”

The retention of the existing dwelling enhances the site design, by giving it a focal point and by addressing the parcel specific language in the Plan regarding preservation and protection of the existing house and adjacent family cemetery. Therefore, staff believes that this portion of the Criterion has been satisfied.

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 twelve newly created lots consist of Lots 1-3 arranged on the west side of the private road and Lots 4-12 are located on the east side of the private street. The existing manor house which is to be preserved is located on lot 10. The proposed lots have an average size of 10,460 square feet.

The plat shows each lot with a 40 x 50 foot building footprint and an improvement envelope that will permit additions such as decks and patios to be added to each dwelling. Generally the minimum yards for the lots consist of twenty foot (20.0) front yards, ten (10) foot side yards and forty (40) foot rear yards. No minimum setbacks have been committed to. Most lots exceed the minimum setbacks provided. Each dwelling will be a maximum of 35 feet tall with a two car garage and driveways a minimum of twenty feet long. With the inclusion of these design features staff believes that this portion of this Criterion has been satisfied.

Open space should be usable, accessible and integrated. Appropriate landscaping and amenities should be provided. The CDP/FDP indicates that approximately 25% of the site will remain as open exceeding the requirements for the PDH-3 District. The majority of the open space will be contained within Outlots A, B and C. The development provides usable open space including a small neighborhood gathering area located adjacent to the site entrance and Parcel B. The open space in the three Outlots includes significant tree save areas that are augmented by well placed supplemental landscaping on the site. Existing trees and landscaping around the existing manor house provides maintenance of the scenic vista of the house framed from its view from Telegraph Road. Staff believes that this portion of the Criterion has been satisfied.

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 to the north is developed with a mixture of single family attached and detached dwellings zoned R-8. Single family detached dwellings are located to the south and west (R-2 District) of the site. The development of eleven new single family detached dwellings and the retention of the existing manor house provide an appropriate transition from the higher density R-8 development to the north and the lower density R-2 development adjacent to the property to the south and west. The preservation of the manor house preserves the character and profile of the property and the scenic vista it provides from the view of the development from Telegraph Road. Staff believes that this Criterion has been satisfied.

Environment (Development Criterion #3) (Appendix 4)

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. The applicant has used a unit type of a size and shape that allowed for the clustering of the development of the site that minimized clearing and grading and limited the need for use of retaining walls to one at the site entrance despite the predominance of marine clay soils on the site. The reduction in the need for clearing and grading with the redesigned site resulted in the preservation of existing vegetation in several tree save areas.

The applicant proposes to meet the water quality the provision of a Rainstore BMP Stormwater Management Facility and water quantity control requirements through a sand filter and undisturbed open space in Parcels A and B. Staff believes that this Criterion has been satisfied.

Tree Preservation and Tree Cover Requirements (Development Criterion #4)
(Appendix 5)

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.

The minimization in the need for clearing and grading with the site as currently designed results in the preservation of existing vegetation in several tree save areas. The open space in the three out parcels includes significant tree save areas that are augmented by well placed supplemental landscaping on the site. Existing trees and landscaping around the existing manor house provide maintenance of the scenic vista of the house framed from its view from Telegraph Road. Staff believes that this portion of the Criterion has been satisfied.

Transportation (Development Criterion #5) (Appendix 6)

Criterion 5 requires that development provide safe and adequate access to the surrounding road network, and that transit and pedestrian travel and interconnection of streets should be encouraged. In addition, alternative street designs may be appropriate where conditions merit.

The access to the development from a 24 foot wide private street which intersects with Sharon Chapel Road approximately 500 feet from its intersection with Telegraph Road provides a safe and adequate access to the surrounding road network. A five foot wide sidewalk will be provided along both sides of the street fronting all lots provides excellent pedestrian access and circulation within the development and connection to sidewalks outside the development. Access to bus transportation is available on Telegraph Road a short distance away. Because of the presence of steep slopes on the site the use of a private street contributed to minimizing the need for grading of site and eliminating the need for use of pipe-stem driveways to access lots.

Two-car garages, with eighteen foot long driveways will be provided for each newly created lot. Off-lot visitor parking will be provided along the private street. The existing structure to be retained will have a longer curved driveway to access a detached garage located in the left front of the house.

The applicant has provided right-of-way dedication of approximately 25 feet from the centerline of Sharon Chapel Road and approximately 35 feet from the centerline of Telegraph Road will be dedicated at the time of subdivision plan approval. Frontage improvements along Sharon Chapel Road will consist of a five foot wide sidewalk and curb and gutter that will connect to that existing to the west of the subject property. Improvements to Telegraph Road include the construction of a right turn taper at the sites intersection with Sharon Chapel Road. An 8 foot wide bicycle trail is provided per the comprehensive plan along the sites Telegraph Road frontage. The applicant has met all transportation issues therefore staff believes that this Criterion has been satisfied.

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 8 – 13).

As noted below Staff believes that this portion of the Criterion has been satisfied.

Fairfax County Public Schools (Appendix 7)

The proposed development would be served by Clermont Elementary School, Twain Middle School and Edison High School. Clermont Elementary School, Twain Middle School are projected to exceed capacity through the 2010-2011 school year, while Edison High School is projected to be below capacity by the 2010-2011 school year. The total number of students generated by this development is anticipated to be eight students total: one elementary and one high school student. This is an increase of two students above that generated by the existing zoning district. The applicant has proffered to provide a \$22,500 contribution for capital improvements to Fairfax County schools.

Fairfax County Park Authority (Appendix 8)

The proposed development would add approximately 37 residents to the current population of the Lee District. The applicant proposes no recreational amenities on-site for future residents to utilize aside from a small neighborhood gathering area in Outlot A. In order to offset the impact this development will have on Fairfax County Park Authority (FCPA) resources, the applicant has been requested to provide \$20,030 to the FCPA for recreation development \$10,505 (\$955 per unit) per the P-District Zoning Ordinance requirement plus an additional \$9,805 for recreational facilities to offset the impact of this development on FCPA resources. The applicant has proffered to provide \$20,030 to the FCPA at the time of subdivision plan approval in addition to the Zoning Ordinance Requirement of \$955 per dwelling unit.

Fire and Rescue (Appendix 9)

The subject property would be serviced by the Fairfax County Fire and Rescue Department Station #411, Penn Daw. The requested rezoning currently meets fire protection guidelines.

Sanitary Sewer Analysis (Appendix 10)

The subject property is located within the Cameron Run (J1) watershed and would be sewered into the Alexandria Sanitation Authority Treatment Plant. An existing eight inch line located in Sharon Chapel Road, approximately thirty feet from the property is adequate for the proposed use.

Fairfax County Water Authority (Appendix 11)

The subject property is located within the Fairfax County Water Authority service area. Adequate domestic water service is available to the site from existing twelve inch and twenty-four inch water mains located at the property.

Utilities Planning and Design, DPWES (Appendix 12)

The applicant proposes to meet the water quality and water quantity control requirements through the provision of a Rainstore BMP Stormwater Management Facility, a sand filter and undisturbed open space in Parcels A and B. A preliminary review by DPWES indicates that the proposed Rainstore system and sand filter are the best alternatives to meeting BMP requirements for the site. As part of this proposal, the applicant must obtain a modification of the Fairfax County Public Facilities Manual (PFM) to permit the use of the Rainstore system as an innovative detention system to meet detention requirements; this issue will be addressed during subdivision plan review.

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. This Criterion may be satisfied by the construction of units, dedication of land, or by a contribution to the Housing Trust Fund. Although the property is not subject to the Affordable Dwelling Unit Ordinance requirements, the applicant has proffered to contribute one half of one percent (0.5%) of the projected sales price of the houses to the Housing Trust Fund, in accordance with Fairfax County policy. Staff believes that this portion of the Criterion has been satisfied.

Heritage Resources (Development Criterion #8) (Appendix 13)

This Criterion requires that developments address potential impacts on historical and/or archaeological resources through research, protection, preservation, or recordation.

The existing dwelling which is an early twentieth century manor house will be retained on Lot 10 on the western side of the street. The Comprehensive Plan makes reference to a 1860 house at the site, but staff has determined that the house in all probability dates back to late 1920's or early 1930's because there is no visible evidence from the exterior indicating that the house dates to the 1860's. The applicant has proffered to document existing conditions on the site prior to any disturbance on the site with a photographic inventory. Proffers also commit the applicant to study the house for possible inclusion in the Fairfax County Inventory of Historic Sites. Proffers also address architectural features of any repairs and improvements to the house and that the detached freestanding garage proposed to serve the dwelling be architecturally compatible. The applicant has proffered that the

existing house cannot be demolished without prior review and approval by the Architectural Review Board (ARB) unless the property is determined to be not structurally sound. Proffers also address the provision of a historic marker, fence and landscaping around the historic cemetery (Pullman/Struder Families) that is located on the adjacent property to the north on the Telegraph Road frontage. Staff believes that this portion of the Criterion has been satisfied.

ZONING ORDINANCE PROVISIONS (Appendix 14)

Waivers and Modifications

The applicant proposes to meet the water quality and water quantity control requirements through the provision of a Rainstore BMP Stormwater Management Facility, a sand filter and undisturbed open space in Parcels A and B. As part of this proposal, the applicant must obtain a modification of the Fairfax County Public Facilities Manual (PFM) to permit the use of the Rainstore system as an innovative detention system to meet detention requirements; this issue will be addressed during subdivision plan review.

Section 11-302 of the Zoning Ordinance does not permit private streets within a residential development to exceed 600 feet in length. Therefore, the applicant is requesting a waiver of this requirement to permit the private street system to exceed 600 feet in length. As shown on the CDP/FDP, the private street system will connect to the Sharon Chapel Road. Staff is not opposed to this waiver request.

OTHER ZONING ORDINANCE REQUIREMENTS

P-District Standards

The requested rezoning of the 6.19 acre site to the PDH-3 District must comply with, among others, the Zoning Ordinance provisions found in Article 6, Planned Development District Regulations and Article 16, Development Plans, among others.

Article 6

Sect. 6-101 Purpose and Intent

This section states that the PDH District is established to encourage innovative and creative design, to ensure ample provision and efficient use of open space; to promote balanced development of mixed housing types and to encourage the provision of affordable dwelling units. The applicant requests approval of a rezoning of 6.19 acres from the R-2 District to the PDH-3 District to permit the development of 11 single family detached dwelling units in addition to 1 existing single family detached dwelling units, for a total of 12 units at an overall density of 2.0 dwelling units per acre (du/ac), with 25% of the site retained as open space. The property's

characteristics of steep slopes and predominantly marine clay soils created a difficult situation for the development of the property. In addition the need to be sensitive to the existence of an historic existing structure on the site created additional challenges. The applicant has used a unit type of a size and shape that allows for the clustering of the development of the site minimized clearing and grading and limiting the need for use of retaining walls to one at the site entrance despite the predominance of marine clay soils on the site. The reduction in the need for clearing and grading with the redesigned site resulted in the preservation of existing vegetation in several tree save areas. These factors and the preservation of the existing manor house making it a focal point for the development and retaining the scenic vista of the property from Telegraph Road contribute to make this proposal an appropriate use of the P District. Therefore, staff believes that the applicant's proposal meets the purpose and intent of the PDH District.

Sect. 6-107 Lot Size Requirements

This section states that a minimum of two acres is required for approval of a PDH District. The area of this rezoning application is 6.19 acres; therefore this standard has been satisfied.

Sect. 6-109 Maximum Density

This section states that the maximum density for the PDH-3 District is 3 dwelling units per acre (du/ac). The applicant proposes a density of 2.0 du/ac; therefore this standard has been satisfied.

Sect 6-110 Open Space

Par. 1 of this section requires a minimum of 20% of the gross area as open space in the PDH-3 District. Par. 2 of this section requires that recreational amenities be provided in the amount of \$955/du. The applicant proposes to retain 25% of the site as open space, with a small neighborhood gathering area near the site entrance, no active recreational open space is provided within the development. The applicant has proffered to provide the required monetary contribution to the FCPA. This standard has been satisfied.

Article 16

Section 16-101 General Standards

General Standard 1 states that the planned development shall substantially conform to the adopted comprehensive plan with respect to type, character, intensity of use and public facilities. Planned developments shall not exceed the density or intensity permitted by the adopted comprehensive plan, except as expressly permitted under the applicable density or intensity bonus provisions. The applicant proposes to develop the property with 12 single family detached dwellings at an overall density of 2.0 du/ac, which meets the Plan recommendation of 2-3 du/ac. Therefore, this standard has been satisfied.

General Standard 2 states that the planned development shall be of such design that it will result in a development achieving the stated purpose and intent of the planned development district more than would development under a conventional zoning district. As previously stated, Staff believes that the applicant's proposal satisfies the stated purpose and intent of the planned development district by utilizing a design that takes into account the predominance of marine clay soils and steep slopes on the site by utilizing a unit type that allows for the optimum development potential of the site. Therefore, staff believes that this standard has been satisfied.

General Standard 3 states that the planned development shall efficiently utilize the available land, and shall protect and preserve to the extent possible all scenic assets and natural features such as trees, streams and topographic features. The open space in the three out lots includes significant tree save areas that are augmented by well placed supplemental landscaping on the site. A redesign of the site by the applicant and use of a different unit type resulted in a reduction of clearing and grading and less reliance on the use of retaining walls. Existing trees and landscaping around the existing manor house provides maintenance of the scenic vista of the house and its surrounding landscape framed from its view from Telegraph Road. Therefore, this standard has been satisfied.

Standard 4 states that the planned development shall be designed to prevent substantial injury to the use and value of existing surrounding development, and shall not hinder, deter or impede development of surrounding undeveloped properties in accordance with the adopted Comprehensive Plan. The surrounding properties are developed according to the recommendations of the Comprehensive Plan. The development of eleven new single family detached dwellings and the retention of the existing manor house provide an appropriate transition from the higher density R-8 development to the north and the lower density R-2 development adjacent to the property to the south and west. The retention of the existing dwelling enhances the site design, by giving it a focal point and by addressing the parcel specific language in the plan regarding preservation and protection of the existing house and adjacent family cemetery. Therefore, staff believes that this standard has been satisfied.

Standard 5 states that the planned development shall be located in an area in which transportation, police and fire protection, other public facilities and public utilities, including sewerage, are or will be available and adequate for the uses proposed; provided, however, that the applicant may make provision for such facilities or utilities which are not presently developed. The applicant has provided all requested right-of-way dedication and road improvements and has addressed all transportation, public utilities and public facility issues therefore staff believes that this standard has been satisfied.

Standard 6 states that the planned development shall provide coordinated linkages among internal facilities and services as well as connections to major external facilities and services at a scale appropriate to the development. The access to the development from a 24 foot wide private street which intersects with Sharon Chapel Road approximately 500 feet from its intersection with Telegraph Road provides a

safe and adequate access to the surrounding road network. A five foot wide sidewalk will be provided along both sides of the street fronting all lots provides excellent pedestrian access and circulation within the development and connection to sidewalks outside the development. Staff believes that this standard has been satisfied.

Section 16-102 Design Standards

Design Standard 1 states that in order to complement development on adjacent properties, at all peripheral boundaries of the planned development district, the bulk regulations and landscaping and screening provisions shall generally conform to the provisions of that conventional zoning district which most closely characterizes the particular type of development under consideration. The most similar conventional zoning district to the applicant's proposal is the R-3 Cluster District, which requires minimum yards of 25 feet (front), 8 feet, 24 feet between structures (side) and 25 feet (rear) with an average lot area of 11,500 square feet.

The proposed lots have an average size of 10,460 square feet. The plat shows each lot with a 40 x 50 foot building footprint and an improvement envelope that will permit additions such as decks and patios to be added to each dwelling.

Generally the minimum yards for the lots consist of twenty foot (20.0) front yards, ten (10) foot side yards and forty (40) foot rear yards. No minimum setbacks have been committed to. Staff believes that this standard has been satisfied.

Design Standard 2 states that other than those regulations specifically set forth in Article 6 for a particular P district, the open space, off-street parking, loading, sign and all other similar regulations set forth in this Ordinance shall have general application in all planned developments. The CDP/FDP depicts that 25% of the site will remain as open space. This area will be comprised of small wooded and landscaped outlots, stormwater management facilities and. Each unit will have a two car garage and driveway parking. Off-lot visitor parking will be provided along the private street. Staff believes that this standard has been satisfied.

Design Standard 3 states that streets and driveways shall be designed to generally conform to the provisions set forth in this Ordinance and all other County ordinances and regulations controlling same, and where applicable, street systems shall be designed to afford convenient access to mass transportation facilities. In addition, a network of trails and sidewalks shall be coordinated to provide access to recreational amenities, open space, public facilities, vehicular access routes, and mass transportation facilities. As previously noted, access to the development is from a 24 foot wide private street which intersects with Sharon Chapel Road approximately 500 feet from its intersection with Telegraph Road provides a safe and adequate access to the surrounding road network. A five foot wide sidewalk will be provided along both sides of the street fronting all lots provides excellent pedestrian access and circulation within the development and connection to sidewalks outside the development.

Under Section 2-308 Paragraph 2 of the Zoning Ordinance "Maximum density shall be calculated on the gross area of the lot, except when thirty (30) percent or more of the total area of the lot is comprised of any or all the following features:

- A. Floodplains and adjacent slopes in excess of fifteen (15) percent grade.
- B. Quarries.
- C. Marine clays.
- D. Existing water bodies, unless a water body is a proposed integral design component of an open space system for a given development, in which case total density credit shall be calculated on such areas.

When thirty (30) percent or more of the total area of the lot is comprised of any or all of the above features, then fifty (50) percent of the maximum permitted density shall be calculated for that area of the lot which exceeds thirty (30) percent of the total area of the lot. The fifty (50) percent density limitation shall apply, notwithstanding that such area may be used for open space, parks, schools, rights-of-way, utility easements or other designated uses as may be presented in the following paragraphs.

The density penalty was applied to the property resulting in a maximum of 13 dwelling units for the 6.19 acre parcel. The application proposes 12 dwelling units which is below the allowed density with the density penalty pursuant to Section 2-308 of the Zoning Ordinance. Staff believes that this standard has been satisfied.

CONCLUSIONS AND RECOMMENDATIONS

Staff Conclusions

As proposed, staff believes that the proposed PDH-3 development satisfies All P District General Standards, and does meet the intent of the Comprehensive Plan Residential Development Criteria particularly for Site Design and Neighborhood Context. The applicant requests approval of a rezoning of 6.19 acres from the R-2 District to the PDH-3 District to permit the development of 11 single family detached dwelling units in addition to 1 existing single family detached dwelling units, for a total of 12 units at an overall density of 2.0 dwelling units per acre (du/ac), with 25% of the site retained as open space. The applicant met the challenging task of working with the property's characteristics of steep slopes and predominantly marine clay soils and the need for sensitivity to the existence of an historic existing structure on site in the creation of a functional development plan for the property that met the standards of the P-District. The applicant has used a unit type of a size and shape that allowed for the clustering of the development of the site that minimized clearing and grading and limited the need for the use of retaining walls to one, at the site entrance, despite the predominance of marine clay soils on the site and steep slopes.

The reduction in the need for clearing and grading within the redesigned site resulted in the preservation of existing vegetation in several tree save areas. The development provides an appropriate transition from the higher density R-8 development to the north and the lower density R-2 development adjacent to the property to the south and west. The retention of the existing dwelling enhances the site design, by giving it a focal point and by addressing the parcel specific language in the Plan regarding preservation and protection of the existing house and adjacent family cemetery.

Recommendation

Staff recommends approval of RZ 2005-LE-032 and the Associated Conceptual Development Plan subject to proffers consistent with those contained in Attachment 1 of this staff report.

Staff recommends approval of FDP 2005-LE-032 subject to the Board of Supervisors approval of RZ 2005-LE-032.

Staff recommends approval of a waiver of 600 foot maximum length of private streets.

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. Draft Proffers
2. Affidavit
3. Statement of Justification
4. Environmental Analysis
5. Urban Forestry Analysis
6. Transportation Analysis
7. Fairfax County Public Schools
8. Fairfax County Park Authority
9. Fire and Rescue
10. Sanitary Sewer Analysis
11. Fairfax County Water Authority
12. Utilities Planning and Design, DPWES
13. Heritage Resources Analysis
14. Zoning Ordinance Provisions
15. Residential Development Criteria
16. Glossary

Draft Proffers

Sharon Chapel, LLC

RZ 2005-LE-032

May 26, 2006

Pursuant to Section 15.2-2303(A), Code of Virginia, 1950 as amended, the undersigned Applicant and Owner, in this rezoning proffer that the development of the parcel under consideration and shown on the Fairfax County Tax Map as Tax Map Reference 82-4((1))34 (hereinafter referred to as the "Property") will be in accordance with the following conditions (the "Proffered Conditions"), if and only if, said rezoning request for the PDH-3 Zoning District is granted. In the event said rezoning request is denied, these Proffered Conditions shall be null and void. The Owner and Applicant, for themselves, their successors and assigns hereby agree that these Proffered Conditions shall be binding on the future development of the Property unless modified, waived or rescinded in the future by the Board of Supervisors of Fairfax County, Virginia, in accordance with applicable County and State statutory procedures. The Proffered Conditions are:

I. GENERAL

1. Substantial Conformance. Subject to the provisions of Article 16 of the Fairfax County Zoning Ordinance (hereinafter referred to as the "Zoning Ordinance"), development of the Property shall be in substantial conformance with the Conceptual Development Plan/Final Development Plan (CDP/FDP), prepared by christopher consultants, consisting of 6 sheets, dated October 12, 2005, revised through May 11, 2006.
2. Maximum Lot Yield. The development shall consist of a maximum of 12 single

family detached units, including the existing dwelling. The existing dwelling may be modified, internally or externally. Except as may be further qualified by these proffered conditions, minor modifications to the building envelopes including house location and sizes may be permitted in accordance with Section 16-403 of the Zoning Ordinance.

3. Establishment of HOA. Prior to subdivision plan approval, the Applicant shall demonstrate that the Property will be governed by a Homeowners Association (HOA) and be subject to a Declaration of Covenants, Conditions and Restrictions consistent with the requirements of Article 2 of the Zoning Ordinance.
4. Dedication to HOA. In conjunction with the appropriate subdivision plan review process, open space, common areas, private street and amenities not otherwise conveyed or dedicated to the County shall be dedicated to the HOA and maintained by the same.
5. Disclosure. Prior to entering into a contract of sale, prospective purchasers shall be notified in writing by the Applicants of the maintenance responsibility for the private street, sidewalks, stormwater management facilities, retaining wall, cemetery fence, common area landscaping and any other open space amenities and shall acknowledge receipt of this information in writing. The prospective purchaser of the existing house on the Property shall be notified of the obligations as outlined in Proffer I.13 with

respect to architectural elements and demolition of the dwelling and shall acknowledge receipt of this information in writing. The deeds of conveyance shall expressly contain these disclosures.

6. Garages. A minimum of two parking spaces shall be provided within the garage of each new dwelling unit. Any conversion of garages that will preclude the parking of vehicles within the garage is prohibited. A covenant setting forth this restriction shall be recorded among the land records of Fairfax County in a form approved by the County Attorney prior to the sale of any lots and shall run to the benefit of the Board of Supervisors and the HOA and this restriction shall be included in the HOA documents.
7. Retaining Wall.
 - a. The retaining wall shall be constructed of stone. Anticipated height of the retaining wall is shown on the CDP/FDP. Retaining wall size and location may be subject to change upon final engineering. The retaining wall shall not exceed a height of 10 feet.
 - b. The Applicant shall have a geotechnical engineer present during the construction/installation of the retaining wall. The geotechnical engineer shall monitor the construction/installation for compliance with approved specifications and shall prepare a certification of compliance to be submitted to DPWES.

- c. On or before bond release for the proposed development, and as a condition thereto, the Applicant shall deposit \$15,000 into an escrow account established for the benefit of the HOA for future maintenance, repair and upkeep of the common area retaining wall within the development.
8. Cemetery. The applicant shall install a wrought iron or aluminum fence which has the appearance of wrought iron, four (4) feet in height, along the two sides of the family cemetery (Lot 43) which abut the application property. The applicant shall continue the described fence along the lot line between Lot 43 and Section One of Governor's Hill provided consent for the installation is received from either the property owners of Lot 43 or the Governor's Hill HOA and along the right-of-way of Telegraph Road provided consent for the installation is received from the property owners of Lot 43. A gate shall be installed on the northwestern side of the fence. The Applicant shall diligently pursue this consent and if such is not obtained, shall demonstrate the failed attempt to DPWES. The Applicant shall also place a plaque at the cemetery at the time the fence is installed, the location and wording to be determined by the Applicant together with the cemetery owners.
9. Energy Conservation. All newly constructed dwellings on the Property shall meet the thermal guidelines of the CABO Model Energy Program for energy efficient homes, or its equivalent as determined by DPWES for either gas or electric energy systems, as may be applicable.

10. Signs. No temporary signs (including “popsicle” style paper or cardboard signs), which are prohibited by Article 12 of the Zoning Ordinance and Chapter 7 of Title 33.1, and Chapter 8 of Title 46.2 of the Code of Virginia, shall be placed on or offsite by the Applicant or at the Applicant’s direction. The Applicant shall direct its agents and employees involved with the Property to adhere to this proffer.

11. Construction Access. There shall be no construction access directly off of Telegraph Road. Construction access shall only be off of Sharon Chapel Road. There shall be no staging or parking of construction vehicles, construction equipment, or construction workers vehicles on Sharon Chapel Road associated with the construction of the proposed houses.

12. Construction Hours. Construction shall only occur between the hours of 7:00 a.m. until 7:00 p.m. Monday through Friday, 8:00 a.m. until 6:00 p.m. on Saturday and 9:00 a.m. until 6:00 p.m. on Sunday. Construction activities shall not occur on the holidays of Memorial Day, July 4th, Labor Day, Thanksgiving, Christmas, Easter, and New Years Day. The construction hours shall be posted on the property. The allowable hours of construction as specified in this proffer shall be listed within any contract with future sub-contractors associated with construction on the site.

13. Architecture. The front façade of the new dwelling units will be designed with brick, stone and/or beaded siding or similar materials or a combination of these exclusive of

windows, doors, shutters and trim. Exterior alterations of the existing house on the Property shall be subject to review and approval by the Fairfax County Architectural Review Board (ARB). Prior to the issuance of any building permits for changes to the existing dwelling, written confirmation of review and approval by the ARB shall be provided to the County. Any window replacement of double-hung windows on the existing dwelling will match the existing in window style, type, muntin, mullion, and light configuration. Any replacement of metal casement windows with wood windows will match the existing window in muntin, mullion and light configuration. Any replacement windows will be: a) true divided light, b) of material comparable in quality to the existing windows, and c) within the existing window opening in the façade. At no time can the existing dwelling be demolished without prior review and approval of the ARB, unless the dwelling is deemed structurally unsound by an unbiased structural engineer.

14. Historical Assessment. A study, conducted in accordance with the Fairfax County History Commission's (FCHC) guidelines, shall be conducted on the existing house and the newly created lot for this house. The study shall be submitted to the FCHC for consideration of listing on the Fairfax County Inventory of Historic Sites within 6 months of the approved rezoning and prior to subdivision plan approval. If the FCHC determines that the house meets the criteria for listing and acts to list the house, then the listing would include the house and newly created lot for this house. The applicant shall provide or fund an interpretive marker(s) for the site, if the site is deemed to be of historical significance as determined by the FCHC.

15. Photographic Inventory. The existing conditions on the Property to include at a minimum, the house, landscape and cultural landscape features, topographic features, and all accessory structures proposed for demolition shall be photographed and documented prior to any demolition of the accessory structures. The photographic recordation shall be shown on an aerial site map indicating the location, angle and number of each photograph, along with an existing conditions boundary and topographic survey map and shall be completed prior to subdivision plan approval. All photographs shall be captioned for identification. All photographs and maps shall be submitted to the Virginia Room of the Fairfax County Public Library and to the Fairfax County Department of Planning and Zoning (DPZ). The applicant shall provide written documentation to DPZ that the required documentation has been submitted to the Virginia Room.

16. Escalation. All monetary contributions required by these proffers shall be adjusted upward or downward based on changes to the Construction Cost Index published in the Engineering New Record occurring subsequent to the date of rezoning approval and up to the date of payment.

17. Lot Typical. Decks, bays, windows, patios, chimneys, areaways, mechanical equipment and other similar appurtenances may encroach into minimum yards as established on the “lot typical” generally described on the CDP/FDP, as permitted by Section 2-412 and/or Article 10 of the Zoning Ordinance.

II. TRANSPORTATION

1. Right-of-Way Dedication. At the time of recordation of the first record plat or upon demand, whichever occurs first, right-of-way along the site's Sharon Chapel Road frontage as shown on the CDP/FDP shall be dedicated and conveyed to the Board of Supervisors in fee simple with density reserved subject to the provisions of Paragraph 4 of Section 2-308 of the Zoning Ordinance.
2. Private Street. The private street shall be constructed by the Applicant with materials and to the pavement thickness standard of public streets as set forth in the Public Facilities Manual (PFM), subject to DPWES approval. Prior to entering into a contract of sale, prospective purchasers shall be notified of the existence of the private street and the associated maintenance obligations required by these Proffered Conditions and such information shall be included in the HOA documents.
3. Length of Driveways. All driveways serving the approved residential units shall be a minimum of 18 ft. in length starting at the entrance to the garage.
4. Frontage Improvements. Prior to the issuance of the first Residential Use Permit, the Applicant shall construct a right turn taper along the site's frontage on Telegraph Road and construct improvements on Sharon Chapel Road to a 14 foot wide half section with curb and gutter and a 5 foot wide sidewalk, as approved by DPWES. As part of the improvements, the culvert at the intersection of Sharon Chapel Road and Telegraph Road will be replaced, subject to VDOT approval.

5. Sidewalks/Open Space Amenities. Sidewalks shall be constructed as shown on the CDP/FDP in accordance with the PFM standards. Prior to entering into a contract of sale, prospective purchasers shall be notified of the existence of the sidewalks and any amenities constructed with the open space areas such as gazebos and the associated maintenance obligations required by these Proffered Conditions and such information shall be included in the HOA documents.

6. Public Access Easements. A public access easement in a form approved by the County Attorney shall be placed on the private street and sidewalks within the approved development. A public access easement in a form approved by the County Attorney, the exact location and width to be determined at the time of subdivision plan review, shall be placed between the trail along Telegraph Road shown on the CDP/FDP and the future cemetery gate.

III. HOUSING TRUST FUND

1. At the time of the first building permit issuance, the Applicant shall contribute a sum equal to one-half of one percent (0.5%) of the projected sales price for each new dwelling unit on the Property to the Fairfax County Housing Trust Fund, as determined by the Department of Housing and Community Development in consultation with the Applicant to assist the County in its goal to provide affordable dwellings elsewhere in the County.

IV. ENVIRONMENTAL

1. Stormwater Management Facilities and Best Management Practices Techniques.

Stormwater Management and Best Management Practices (BMP's) shall be provided through the use of a rainstore system, as approved by DPWES, in the area shown on the CDP/FDP. This stormwater management facility shall also include the use of a sand filter system as shown on the CDP/FDP. If this type of stormwater management/BMP facility is not approved by DPWES, a conventional type of facility, such as a dry pond, shall be provided in the same general area shown on the CDP/FDP. If a conventional type of facility is required, retaining walls may be installed in that area of the site. Individual retaining walls in this area shall be no higher than 12 feet each with the acknowledgement that terracing of walls may occur.

If approved by DPWES, the rainstore facility and sand filter shall be maintained by the applicant, its successors and assigns, in accordance with the regulations of Fairfax County. Said maintenance responsibility shall be incorporated in an agreement to be reviewed and approved by the Fairfax County Attorney's Office and recorded among the Fairfax County land records. The obligation specified in this agreement shall be incorporated in the HOA documents. Prospective purchasers shall be informed of this requirement prior to entering into a contract for the purchase of a unit. Said agreement shall address the following:

- a. Future replacements of facilities when warranted.
- b. County inspection and all other issues as may be necessary to ensure the facilities are maintained in good working order acceptable to the County.

- c. Liability and insurance in an amount acceptable to the applicant and Fairfax County.
 - d. A restriction that the applicant, their successors and assigns, shall not petition DPWES for future maintenance.
 - e. The establishment of an initial reserve fund by the applicant to the benefit of any future HOA to be formed with respect to the subject site for future maintenance and/or replacement in an amount to be determined by DPWES in coordination with the applicant. Said reserve fund shall be established prior to the conveyance of the first residential unit on the site.
2. Limits of Clearing and Grading. The Applicant shall conform strictly to the limits of clearing and grading as shown on the CDP/FDP 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 CDP/FDP, they shall be located in the least disrupting manner possible as determined by Urban Forest Management, DPWES. A replanting plan shall be developed and implemented, subject to approval by the Urban Forest Management, DPWES, for any areas outside the limits of clearing and grading that must be disturbed.
3. Tree Preservation. The applicant shall submit a tree preservation plan as part of 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 reviewed and approved by the Urban Forest Management (UFM), DPWES.

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 20 feet to either side of the limits of clearing and grading shown on the CDP/FDP for the entire site. The tree survey shall also include areas of clearing and grading not shown on the CDP/FDP resulting from engineering requirements, such as off-site clearing and grading for utilities or stormwater outfall. 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.

4. Tree Value Determination. The Applicant shall retain a professional arborist with experience in plant evaluation, to determine the replacement value of all trees 10 inches (10") in diameter or greater and located within twenty feet (20') of the outer edge of the limits of clearing and grading (i.e. outside the limits of clearing and grading) as shown on the CDP/FDP. These trees and their value shall be identified on the Tree Preservation Plan at the time of the first submission of the Subdivision Plan. The replacement value

shall take into consideration the age, size and condition of these trees and shall be determined by the “Trunk Value Method” contained in the latest edition of the Guide of Plan Appraisal published by the International Society of Arboriculture, subject to review and approval by UFM, DPWES.

5. Tree Bonds. In order to provide a remedy for any unintended disruption to trees required to be preserved under these proffers, at the time of bond approval, the Applicant shall both post a cash bond and a letter of credit or similar corporate surety bond payable to the County of Fairfax to ensure preservation and/or replacement of the trees for which a tree value has been determined in accordance with the previous proffer (hereinafter the “bonded trees”) that die or are dying due solely to unauthorized construction activities. The Applicant shall have no obligation for trees that die or are dying for reasons unrelated to unauthorized construction activities, or for no apparent reason. The letter of credit or corporate surety bond shall be equal to fifty percent (50%) of the replacement value of the bonded trees. The cash bond shall consist of thirty three percent (33%) of the amount of the letter of credit or corporate surety bond.

During the time period in which the Tree Bond is required to be held, should unauthorized construction activity cause any bonded trees to die, or be removed, the Applicant shall replace such trees at its expense. As stated above, the Applicant shall have no obligation to replace trees that die or are dying for causes unrelated to unauthorized activities, or no apparent reason. The replacement trees shall be of equivalent size, species, and/or canopy cover as approved by UFM and shall incorporate native plant species. In addition to this replacement obligation, the Applicant shall also make a payment equal to the value of any Bonded Tree that is dead or dying or improperly removed due to unauthorized activity.

This payment shall be determined based on the valuation methodology described in Proffer V.4 above and paid to a fund established by the County for furtherance of tree preservation objectives. Upon release of the site performance bond, any amount remaining in the tree bonds required by this proffer shall be returned/released to the Applicant. At the time of approval of the final RUP, the Applicant may request a release of any monies remaining in the cash bond and a reduction in the letter of credit or corporate surety bond to an amount up to twenty percent (20%) of the total amounts originally committed provided they are in good standing with the tree proffer commitments.

Any funds remaining in the letter of credit or cash bond will be released concurrently with the site performance bond release, or sooner, if approved by UFM.

6. Protection of Existing Understory Vegetation and Soil Conditions in Tree Preservation Areas. 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 in the lower canopy environment, and to the existing top soil and leaf litter layers that provide nourishment and protection to that vegetation with the exception of the attempt to remove the ivy discussed in Proffer IV. 12. 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 UFM.

7. Use of Equipment. Except as qualified herein, the use of motorized equipment in tree preservation areas will be limited to hand-operated equipment such as chainsaws, wheel

barrows, rake and shovels. Any work that requires the use of motorized equipment, such as tree transplanting spades, 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 UFM.

8. Root Pruning and Mulching. The Applicant shall 1) root prune, 2) mulch, and 3) provide tree protection fencing in the form of four foot (4') high, fourteen (14) gauge welded wire attached to six foot (6') steel posts driven eighteen inches (18") into the ground and placed no further than ten feet (10') apart, or other forms of tree protection fencing approved by UFM, DPWES for all tree preservation relevant 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 UFM, 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, vibratory plow to a depth of eighteen inches (18").
- Root pruning shall take place prior to any clearing and grading, or demolition of structures.
- 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 Erosion and Sedimentation activities are complete, mulch shall be applied at a depth of four inches (4") extending ten feet (10') inside the undisturbed area without the use of motorized equipment.
- An UFM, representative shall be informed when all root pruning and tree protection fence installation is complete.

9. Tree Preservation Walk-Through. The Applicant 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 Applicant's certified arborist or landscape architect shall walk the limits of clearing and grading with an UFM representative and a representative from the Lee District Land Use Committee to determine where adjustments to the clearing limits can be made to increase the area of tree preservation; increase the survivability of trees at the edge of the limits of clearing and grading; facilitate the removal of trees adjacent to the limits of clearing and grading; facilitate tree preservation activities such as root pruning or fencing; or facilitate the installation of erosion and sediment control devices. 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.

10. Tree Protection Fencing. All trees shown to be preserved on the Tree Preservation Plan shall be protected by tree protection fencing. Tree protection fencing of a type permitted by UFM shall be erected concurrently with the Phase I Erosion and Sedimentation permit activities. Tree fencing shall be installed prior to any clearing and grading activities including the demolition of any existing structures at the limits of clearing and grading as shown on the demolition, and Phase I & II erosion and sediment

control sheets, as may be modified during the tree preservation walk through with an UFM representative. All tree protection fencing shall be installed after the tree preservation walk-through meeting but prior to any clearing and grading activities, including the demolition of any existing structures. The installation of all tree protection fence types 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. Five (5) working days prior to the commencement of any clearing, grading, or demolition activities, but subsequent to the installation of the tree protection devices including fencing, UFM and Lee District Supervisor staff 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 UFM.

11. Site Monitoring. Inspection of the site by a representative of the Applicant during any clearing or tree/vegetation/structure removal on the Applicant Property within the drip line of the trees to be saved as part of the Tree Preservation Plan as described in Proffer V.3, shall occur on a weekly basis to ensure that the activities are conducted as proffered and as approved by UFM. The inspection/monitoring schedule shall be described and detailed in the Landscaping and Tree Preservation Plan, and reviewed and approved by UFM, DPWES. The Lee District Supervisor shall be notified of the name and contact information of the Applicant's representative responsible for site monitoring at the tree preservation walk-through meeting.

12. Ivy. The Applicant shall attempt to remove the English ivy within the tree save areas but shall not be responsible for continual removal due to reinvasion from neighboring properties. An invasives control plan shall be submitted with the first and all subsequent subdivision plan submissions detailing how the English ivy will be removed subject to review and approval by UFM.

13. Landscaping. Landscaping shall be consistent with the quality, quantity and general location shown on the Landscape Plan on Sheet 4 of the CDP/FDP. At the time of planting, the minimum caliper for deciduous trees shall be two and one-half (2.5) inches and the minimum height for evergreen trees shall be six (6) feet. Actual types and species of vegetation shall be determined pursuant to more detailed landscape plans approved by Urban Forest Management at the time of subdivision plan approval. Such landscape plans shall provide tree coverage and species diversity consistent with the Public Facilities Manual (PFM) criteria, as determined by Urban Forest Management.

14. Geotechnical. The Applicant shall construct improvements on the Property in accordance with a final geotechnical report, as approved by DPWES. The geotechnical notes contained within the approved report as may be amended and approved by DPWES shall be incorporated into the plan of implementation required for approval by DPWES.
 - a. Geotechnical inspection reports certified by a licensed professional engineer (the engineer of record) shall cover all aspects of the slope stabilization structures constructed on the Property, engineered fill construction, the foundation of all

buildings including floor slabs, roadways, public utilities and private driveways. To ensure that certified construction items are in compliance with the approved plans, the form of such certification shall be as determined by DPWES. If deemed necessary, DPWES may require the recordation of all or some of the certifications in the land records.

- b. A geotechnical engineer shall be retained by the Applicant to be on-site during all phases of construction that are affected by soil stability. During the on-going construction, the geotechnical engineer shall prepare and submit written inspection reports to DPWES regarding on-site compliance with the geotechnical report approved by DPWES. The frequency of the preparation and submission of said inspection reports shall be determined by DPWES.
- c. All slope stabilization features including, but not limited to, piles, retaining walls (if applicable) and subsurface drains, shall be bonded. Construction of private streets shall be completed as set forth in the geotechnical study and constructed in accordance with the design standards of the Public Facilities Manual.
- d. Prior to the issuance of any building permits, slope stabilization features including, but not limited to, piles, cutoff walls, retaining walls, soil nails, subsurface drains, granular wedges, shall be installed, inspected and certified to DPWES by a geotechnical engineer. An as-built plan for these features shall be submitted prior to the issuance of any building permits for the individual dwelling units. The geotechnical engineer shall state clearly in his or her certifications whether the slope stabilization features were installed in accordance with the design shown on the plans approved by DPWES.

- e. The deed to each dwelling unit shall contain a disclosure that the subject units are built in an area containing marine clay and subject to geotechnical reports, as reviewed and approved by Fairfax County. The disclosure shall be approved by the County Attorney and may be recorded among the land records of Fairfax County. A similar disclosure shall be provided in writing to each prospective purchaser at time of initial home sales contract execution. The homeowners' association documents shall specifically state that the dwelling units within the community were constructed in an area known to have marine clay soils. The initial home purchaser shall be required to acknowledge in writing the receipt of this information.

- f. Adequate perimeter erosion and sediment control measures shall be installed prior to the start of any construction or earth moving activity as reviewed and approved by DPWES. No disturbed area shall be left unprotected for more than seven (7) days, except for those portions of the Property in which earth moving activities are planned to occur imminently beyond that period.

- g. Upon conveyance of each dwelling unit, each initial purchaser shall be provided a ten (10) year structural warranty if then offered in the marketplace from HBW (Home Buyer's Warranty), RWC (Residential Warranty Corp.), QBW (Quality Builders Warranty), PWC (Professional Warranty Corporation) or other equivalently rated licensed insurer, licensed by the Commonwealth of Virginia, insuring at reasonably competitive market rates for such coverage, the structural stability for each dwelling unit constructed on the Property for the warranty

period. Such warranty shall be transferable by the initial purchaser to subsequent purchasers. Said ten (10) year structural warranty may be offered by the builder if said warranty is modeled after those offered by HBW, RWC, QBW or PWC; is transferable; and is acceptable to Fairfax County.

- h. Up until the issuance of the final residential use permit for the Property, general liability insurance coverage, with a limit of two million dollars (\$2,000,000.00) per occurrence with a \$2,000,000.00 aggregate, insuring against on and off-site property damage which results from faulty and/or negligent grading and construction by the Applicant or any subcontractor on the Property shall be obtained by the Applicant. Fairfax County shall be included as an additional insured party in the insurance policy required under this proffer, and Fairfax County, as the additional insured, shall be given a forty-five (45) day notice of any proposed changes to the policy. All contractors and subcontractors working on the Application Property shall also be required to obtain and maintain general liability insurance coverage in a commercially reasonable amount.
- i. A geotechnical engineer shall be retained by the Applicant, and if permitted by the owners, shall conduct pre-construction inspections of the dwellings, and other improvements such as retaining walls and grounds on Lots 21-25 in Wilton Woods subdivision, to assess pre-grading/construction conditions. A written request to the above referenced properties shall be mailed, certified mail, return receipt requested, by the Applicant to request access to these properties for the purpose of inspection. The letter shall explain the reason for the request. If the property owner has not responded within to allow inspection within thirty (30)

days of the date of the certified letter, the Applicant shall be relieved of the responsibility of conducting an inspection. Upon receipt of a written claim of damage to properties that were inspected as a proximate result of negligent and faulty grading and construction activity on the Property, the Applicant or their successors or assigns shall meet with the claimant/owner within fourteen (14) days to determine an appropriate course of action for repair unless a more reasonable amount of time is needed and agreed upon by the Applicant and the claimant/owner. The Applicant or their successors or assigns shall cause commencement of repair and/or stabilization within ninety (90) days of the written claim unless reasonable additional time is needed as agreed upon by the Applicant or their successors or assigns and the claimant/owner. Any repair required by this proffer shall be subject to review and approval by DPWES. If, despite good faith efforts by both parties, an appropriate course of action for repair cannot be agreed upon, then the parties shall submit the matter to arbitration under the rules of the American Arbitration Association before taking any other action. The foregoing responsibility of the Applicant or their successors or assigns shall begin upon the commencement of construction and shall remain effective until the latter of: (i) one year after the completion of land development, or (ii) upon release of all bonds. The Applicant or their successors or assigns shall not be responsible for any repairs as outlined in this proffer on property where a pre-construction inspection was disallowed by the Property Owner.

15. Conservation Easement. The area identified on the CDP/FDP as conservation easement shall remain as undisturbed open space, subject to a conservation easement running to the

benefit of Fairfax County, in a form approved by the County Attorney, which prohibits removal of trees except those which are dead, diseased, noxious or hazardous. The homeowner's association covenants shall contain clear language delineating this area, the restrictions in that area including the prohibition of any structures, fences, etc. and the responsibilities of individual homeowners.

16. Endangered Species. The Applicant shall coordinate with the Virginia Natural Heritage Program within the Virginia Department of Conservation and Recreation to determine if a state threatened and globally rare plant species occurs on the Property. If present, the Applicant shall take all reasonable measures to either avoid, minimize impact to or relocate the plants.

V. Recreation Facilities

1. Recreation Contribution. The Applicant shall contribute \$955.00 per new residential unit approved on site in accordance with Section 16-404 to the Fairfax County Park Authority for outdoor recreation facilities to serve the development population. Said per unit contributions shall be made prior to the issuance of a building permit for each new unit. The Applicant further reserves the right to make all or a portion of the contribution to an individual park or recreation facility within Lee District.
2. Park Authority Contribution. In addition to Proffer 1 above, the Applicant shall contribute \$9,805 to the Fairfax County Park Authority prior to the issuance of the first Residential Use Permit for park purposes and/or facilities in the area. The

Applicant further reserves the right to make all or a portion of the contribution to an individual park or recreation facility within Lee District.

VI. SCHOOLS

1. A contribution of a total of \$30,000 shall be made to the Board of Supervisors for use at the three public schools serving this future development. A sum of \$10,000 shall be allocated to each of the following public schools: Clermont Elementary School, Mark Twain Intermediate School and Edison High School. The Applicant reserves the right to contribute actual capital equipment in an amount equal to the monetary requirements of this proffer. The substance of any such non-monetary contribution shall be approved by a representative of the School Board or the principal of an individual public school. The required contribution shall be made at the time of, or prior to, issuance of the first Residential Use Permit for the approved units.

VII. Successors and Assigns

These proffers shall bind and inure to the benefit of the Applicant and his/her successors and assigns.

VIII. Counterparts

These proffers may be executed in 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 AND APPLICANTS SIGNATURES TO FOLLOW ON THE NEXT PAGE:

SHARON CHAPEL, LLC
(Applicant and Owner of TM 82-4((1))34)

By: _____

Name: _____

Michael B. Hummel

Title: Managing Member