County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

December 6, 2006

Stefanie Z. Smith, Project Manager
Elm Street Development
6820 Elm Street, Site 200
McLean, VA 22101

Re: Interpretation for RZ/FDP 2003-PR-026, Elm Street Development, Inc. (Cedar Lane/Wedderburn Property), Tax Map 39-3 ((1)) 15, 16, 17, 18, 18A, 18B, 18C, 18D, 18E, 32, 33A, 33B, 33C and 39-3 ((38)) Outlot A: Tree Preservation Proffers

Dear Ms. Smith:

This is in response to your letter of October 26, 2006, requesting an interpretation of Proffers 23 and 24 of the proffers accepted by the Board of Supervisors in conjunction with the approval of RZ 2003-PR-026. As I understand it, the question is whether installation of the tree protection fencing and root pruning in one area of the site prior to approval of the final Site Plan by DPWES would be in substantial conformance with the proffers. This determination is based on your letter and the recommendation of Urban Forest Management (UFM). Copies of your letter and relevant exhibits are attached.

Your letter states that your Project Arborist and Project Engineer have proposed tree protection fencing and silt fencing in a rough lot-grading plan for the demolition of the existing structures on the site. You have stated that you would like to demolish the twelve existing houses as soon as possible because of vandalism problems that are occurring.

Proffer 23 (B) Tree Protection Fencing states the following: "*All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fence...All tree protection fencing shall be installed after the tree preservation walk-through meeting described in Proffer #22 but prior to any clearing and grading activities, including the demolition of any existing structures...*" Proffer 22 Tree Preservation Walk-Through states in part the following: "*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 walk-through meeting. During the tree-reservation walk-through meeting, the Applicant's certified arborist or landscape architect shall walk the limits of clearing and grading with an UFM, of clearing and grading*". Proffer 24.Root Pruning states the following: "*The Applicant shall root prune, as needed to comply with the tree preservation requirements of these proffers...Root pruning shall take place prior to any clearing and grading, or demolition of structures...*

Department of Planning and Zoni
Zoning Evaluation Divis
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DPWES, representative to determine where adjustments to the clearing limits can be made to increase the area 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....Applicant shall notify Providence District Supervisor ten (10) days in advance of the tree preservation walk through meeting. At the discretion and direction of the Providence District Supervisor, the adjacent and abutting property owners shall be notified by United States Mail no later than five (5) days in advance of the walk-through meeting and invited to the meeting to discuss the limits

Your letter states that the limits of clearing and grading have been walked with UFM, staff from the Providence District office, and several citizens and that you have received no indication that modifications to the limits of clearing and grading in the demolition area will be required or recommended. Staff has consulted UFM and been advised that there is no objection to the applicant's proposal as long as the limits of clearing and grading shown on the rough grading plan are consistent with those on the CDP/FDP, and as long as a pre-construction meeting for this area of the site takes place prior to the demolition of any structures in accordance with the requirements of Proffer #22.

As such, it is my determination that the installation of the tree protection and silt fence and root pruning in the demolition area only prior to final subdivision approval is in substantial conformance with Proffers 23 and 24, subject to UFM approval, and provided the requirements of Proffer #22 are fully satisfied.

This determination has been made in my capacity as the duly authorized agent of the Zoning Administrator. If you have any questions regarding this interpretation, please contact Mary Ann Godfrey at (703) 324-1290.

Sincerely,

Barbara A. Byron, Director
Zoning Evaluation Division, DPZ

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Attachments:

cc: Linda Q. Smyth, Supervisor, Providence District
Kenneth Lawrence, Planning Commissioner, Providence District
Leslie Johnson, Deputy Zoning Administrator, DPZ
Michelle Brickner, Assistant Director, Office of Land Development Services, DPWES
Angela Rodeheaver, Section Chief for Site Analysis, DOT
Craig Carinci, Director, Environmental and Facilities Inspection Division, DPWES
Michael Knapp, Director, Urban Forest Management, DPWES
Kevin Guinaw, Chief, Special Projects/Applications Management Branch, DPZ
File: RZ 2003-PR-026, PI 0610 182, Imaging, Reading File

ELM STREET
DEVELOPMENT

RECEIVED
Department of Planning & Zoning
OCT 26 2006
Zoning Evaluation Division

October 26, 2006

Ms. Barbara A. Byron
Director of Zoning Evaluation Division, DPZ
Office of Comprehensive Planning
12055 Government Center Parkway
Suite 801
Fairfax, VA 22035-5511

Dear Ms. Byron:

I am writing at the request of Supervisor Smyth's office to seek your assistance in resolving a proffer interpretation issue on proffers 23 (B) and 24 for RZ2003-PR-026, known as the Cedar Lane/Wedderburn Property.

Final Site Plan 7929-SD for this site should be approved later this year. We will be submitting our third submission set of plans within the next two weeks. In the intervening time, we want to demolish as soon as possible the twelve vacant houses and sheds. Despite our efforts to secure them, several have recently been vandalized and they are public nuisances. In 2007, we will begin clearing and grading activities for the site.

Proffer 23 (B) states that all trees shown to be preserved on the tree protection plan shall be protected by tree protection fence. This tree protection fencing is to be installed prior to any clearing and grading activities, including the demolition of any existing structures. Proffer 24 states that root pruning shall take place prior to demolition of structures.

We are seeking permission to install the tree protection fence and do root pruning shown on the E&S Phase I of the Final Site Plan, even though our site plan is not approved. We do not think that there will be any changes to the tree protection as 1) we have walked the limits of clearing and grading and done the tree preservation walk with Todd Nelson from UFM, Mike Wing from Providence Supervisor's office, and several neighbors and 2) we have not received any comments regarding changing the limits of clearing and grading in this demolition area on the comment letters from Fairfax County.

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175 Admiral Cochrane Drive, Suite 204
Annapolis, Maryland 21401
Phone: (410) 266-9700
Fax: (410) 266-9165

❒ *Main Office*
6820 Elm Street, Suite 200
McLean, Virginia 22101
Phone: (703) 734-9730
Fax: (703) 734-0322

❒ *Ellicott City*
5094 Dorsey Hall Drive, Suite 104
Ellicott City, Maryland 21042
Phone: (410) 720-3021
Fax: (410) 720-3035

Our Project Arborist and Project Engineer have proposed tree protection fence and silt fence in a demolition rough lot grading plan. The location of the tree protection fence matches exactly that shown on the Final Site Plan. This demolition rough grading plan allows for demolition of existing structures only and does not include any other site improvements.

I have reviewed this matter with Supervisor Smyth's office. Please let me know if you require additional information on this matter.

Sincerely,

Stefanie Z. Smith
Project Manager

cc: Linda Smyth, Supervisor, Providence District
Todd Nelson, Urban Forest Management

ELM STREET DEVELOPMENT, INC.
JCE, INC.
PROFFERED CONDITIONS

RZ 2003-PR-026
September 22, 2005

Pursuant to Section 15.2-2303(a) of the Code of Virginia, 1950, as amended, the Property Owners and Applicant in this rezoning proffer that the development of the parcels under consideration and shown on the Fairfax County Tax Maps as Tax Map Reference 39-3 ((1)) Parcels 15, 16, 17, 18, 18A, 18B, 18C, 18D, 18E, 32, 33A, 33B, 33C and 39-3 ((38)) Outlot "A" (hereinafter referred to as the "Property") will be in substantial conformance with the following conditions if, and only if, said Rezoning request for the provisions of the PDH-2 Zoning District is granted by the Board of Supervisors in conjunction with the Conceptual/Final Development Plan (CDP/FDP) for residential development consisting of 24 units at a density of 1.99 units per acre. In the event said application request is denied, these proffers shall be null and void. The Property Owners and the Applicant ("Applicant"), for themselves, their successors and assigns, agree that these proffers 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 and supercede the previous proffers applicable to this Property. The proffered conditions are:

I. GENERAL

1. Substantial Conformance. Subject to the proffers and the provisions of Articles 16 of the Zoning Ordinance, under which minor modifications to an approved development plan are permitted, the development shall be in substantial conformance with the CDP/FDP containing eleven (11) sheets prepared by Dewberry and Davis LLC, dated July 23, 2004 and revised through August 25, 2005 .

provide nourishment and protection to that vegetation. Removal of any vegetation, if any, 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, DPWES.

The use of equipment in tree preservation areas will be limited to hand-operated equipment such as chainsaw, wheel barrows, rake and shovels. Any work that requires the use of 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, DPWES.

22. 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 walk-through meeting. During the tree-preservation walk-through meeting, the Applicant's certified arborist or landscape architect shall walk the limits of clearing and grading with an UFM, DPWES, representative to determine where adjustments to the clearing limits can be made to increase the area 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 adjacent trees and associated understory vegetation and soil conditions. Applicant shall notify Providence District Supervisor ten (10) days in advance of the tree preservation walk through meeting. At the

- An UFM, DPWES, representative shall be informed when all root pruning and tree protection fence installation is complete.

25. Demolition of Existing Structures. The demolition of all existing features and structures within areas protected by the limits of clearing and grading areas shown on Sheet 3 of the CDP/FDP shall be done by hand without heavy equipment and conducted in a manner that does not impact individual trees and/or groups of trees that are to be preserved as reviewed and approved by UFM, DPWES.

26. Site Monitoring. During any clearing or tree/vegetation/structure removal on the Applicant Property, a representative of the Applicant shall be present to monitor the process and ensure that the activities are conducted as proffered and as approved by UFM. The Applicant shall retain the services of a certified arborist or landscape architect to monitor all construction and demolition 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 Tree Preservation Plan, and reviewed and approved by UFM, DPWES. The Providence 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 described in Proffer #22 "Tree Preservation Walk-Through."

27. Reforestation Plan. A reforestation plan shall be submitted for: areas where structures were removed as described in Proffer # 25 "Demolition of Existing Structures;" areas disturbed by pipe installation as shown on the Sheets 3 and 11 CDP/FDP; are as disturbed for the undergrounding of utilities and that area surrounding the stormwater management pond; the southwest boundary of the Property currently not forested and specified areas of the intermittent steam identified for replanting on the CDP/FDP. This Plan