



**APPLICATION FILED:** August 30, 2006  
**PLANNING COMMISSION:** February 22, 2007  
**BOARD OF SUPERVISORS:** Not Yet Scheduled

# County of Fairfax, Virginia

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**February 7, 2007**

## **STAFF REPORT**

**APPLICATION RZ/FDP 2006-LE-026**

### **LEE DISTRICT**

<b>APPLICANT:</b>	Eastwood Properties, Inc.
<b>PRESENT ZONING:</b>	R-1
<b>REQUESTED ZONING:</b>	PDH-2
<b>PARCEL(S):</b>	90-3 ((3)) 6, 7, 8
<b>ACREAGE:</b>	4.13 acres
<b>DENSITY:</b>	1.94 dwelling units per acre (du/ac)
<b>OPEN SPACE:</b>	22%
<b>PLAN MAP:</b>	Residential; 1-2 du/ac
<b>PROPOSAL:</b>	Rezone 4.13 acres from the R-1 District to the PDH-2 District to permit the development of eight (8) single-family detached dwellings at an overall density of 1.94 du/ac.
<b>REQUESTED MODIFICATIONS/WAIVERS:</b>	Modification of Sect. 2-0103.2 of the Public Facilities Manual (PFM) which limits pipestem lots to 20% of the total number of lots in order to permit 50% of the total number of lots to be pipestem lots.

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#### **Department of Planning and Zoning**

Zoning Evaluation Division  
12055 Government Center Parkway, Suite 801  
Fairfax, Virginia 22035-5509  
Phone 703 324-1290  
FAX 703 324-3924  
[www.fairfaxcounty.gov/dpz/](http://www.fairfaxcounty.gov/dpz/)

Modification of Sect. 6-0202.2A of the PFM to permit a diversion to the natural drainage divide

Modification of Sect. 7-0503 of the PFM to modify the requirements for pipestem driveways in order to permit a 10-foot wide planting strip in the center.

## **STAFF RECOMMENDATIONS:**

Staff recommends that RZ 2006-LE-026 and the Conceptual Development Plan be denied; however, if it is the intent of the Board of Supervisors to approve RZ 2006-LE-026, staff recommends that the approval be subject to the draft proffers contained in Appendix 1 of the staff report.

Staff recommends denial of FDP 2006-LE-026.

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 seeks to rezone the subject 4.13 acre site from the R-1 District to the PDH-2 District to permit the development of eight (8) single-family detached dwelling units at an overall density of 1.94 dwelling units per acre (du/ac) with 22% of the site retained as open space. All existing single-family detached dwellings and associated accessory structures will be removed. One of the proposed units will have driveway access from Dudrow Road. Two of the units will have driveway access from Lackawanna Drive. The remaining units will have access to Lackawanna Drive via a pipestem driveway.

The application seeks a modification of Sect. 2-0103.2 of the Public Facilities Manual (PFM) to allow pipestem lots in excess of 20% of the total number of lots proposed. The applicant proposes that half of the proposed lots (50%) be permitted to be pipestem lots.

The applicant will also be requesting the Director of the Department of Public Works and Environmental Services (DPWES) to modify Sect. 6-0202.2A of the PFM, which requires natural drainage divides to be honored for both concentrated and non-concentrated stormwater runoff leaving the development site, in order to permit a diversion to the natural drainage divide. Specifically, the applicant proposes to grade the site in order to divert surface stormwater away from adjacent Laurel Creek Lot 9 to the proposed on-site stormwater management (SWM) pond.

Finally, the applicant seeks a modification of Sect. 7-0503 to allow a modified pipestem driveway. Specifically, the applicant is requesting the ability to locate a 10-foot wide planting strip down the middle of the driveway, as depicted on the CDP/FDP.

The applicant's draft proffers, and 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 13.

## LOCATION AND CHARACTER

### Site Description:

The subject 4.13 acre site is comprised of three (3) parcels located to the east of Lackawanna Drive and to the south of Dudrow Road. These parcels are part of the Accotink Bluff subdivision. Currently, each of the three parcels is developed with a single-family detached dwelling. All of these dwellings will be removed with the proposed development.

The site slopes steeply from the northeast corner of the site down to the southwest corner. The site is generally wooded and the vegetation consists primarily of upland forest species, including red, white and black oak trees, American beech and American holly trees. Understory species include oak and beech saplings, dogwood and redbud trees and mountain laurel. The northwest portion of the site also contains red maple, sweetgum, blackgum and Virginia pine trees. The understory of this portion of the site has several invasive plants including periwinkle and English ivy.

### Surrounding Area Description:

Direction	Use	Zoning	Plan
North	Single-family detached dwellings (Dudrow's Subdivision)	R-2	Residential, 1-2 du/ac
South	Single-family detached dwellings (Accotink Bluff and Laurel Creek)	R-1 (Accotink Bluff); R-2 Cluster (Laurel Creek)	Residential, 1-2 du/ac
East	Single-family detached dwellings (Meyer's Subdivision)	R-2	Residential, 1-2 du/ac
West	Single-family detached dwellings (Accotink Bluff & Accotink Bluff Estates)	R-1 (Accotink Bluff); PDH-2 (Accotink Bluff Estates)	Residential, 1-2 du/ac

## BACKGROUND

The three parcels included in this proposed rezoning are part of the larger Accotink Bluff subdivision, which is zoned R-1. The applicant has included density tabulations on the CDP/FDP which indicates that the density of the resubdivision will continue to remain below one dwelling unit per acre (0.495 du/ac) with the removal of Parcels 6, 7, and 8.

There have been no previous variance, special permit, special exception or rezoning requests on this property.

**COMPREHENSIVE PLAN PROVISIONS**

<b>Plan Area:</b>	IV
<b>Planning District:</b>	Springfield
<b>Planning Sector:</b>	Springvale Planning Sector
<b>Plan Map:</b>	Residential, 1-2 du/ac

There is no specific plan text for the subject site.

**ANALYSIS****Conceptual/Final Development Plan (CDP/FDP)** (Copy at the front of staff report)

<b>Title of CDP/FDP:</b>	Lackawanna Drive
<b>Prepared By:</b>	Charles P. Johnson & Associates, Inc.
<b>Original and Revision Dates:</b>	March 2006, with revisions through October 31, 2006, January 2, 2007 and January 4, 2007

The CDP/FDP consists of six (6) sheets showing the following information:

<b>Lackawanna Drive Conceptual/Final Development Plan</b>	
Sheet 1 of 6	Cover sheet, soils map/data, density tabulations, notes, vicinity map, site tabulations, notes, typical lot layout
Sheet 2 of 6	Site layout, landscaping plan, tree cover calculations, section for the pipestem driveway
Sheet 3 of 6	Detail of SWM pond, cross-section of SWM pond from Lackawanna Drive through to proposed Lot 8
Sheet 4 of 6	Existing vegetation map, tree cover data, cover type summary
Sheet 5 of 6	Pre-development drainage divide map, post-drainage divide map, stormwater management and BMP narrative, outfall narrative, proposed pipe storm sewer analysis, Lackawanna Drive roadside concrete ditch and culvert analysis, existing piped storm sewer analysis, outfall channel analysis, outfall analysis conclusion
Sheet 6 of 6	Outfall cross-section analysis, offsite drainage divide map

The CDP/FDP depicts a site layout as follows:

Site Layout: Under the proposed site layout, a total of eight (8) single-family detached dwelling units at an overall density of 1.94 du/ac are proposed. One of the proposed units will have driveway access from Dudrow Road. Two of the units will have driveway access from Lackawanna Drive. The remaining units will have access to Lackawanna Drive via a pipestem driveway.

The site layout indicates that the proposed units could be side-loaded or front-loaded. It also indicates that the driveway width will accommodate two cars to park side by side. The proffers commit to the provision of two-car garages. According to the typical lot layout, the established minimum yards for the proposed lots would consist of a minimum of a 25-foot front yard setback, eight (8) foot side yard setback and 25-foot rear yard setback. The proffers indicate that decks, bay windows, patios, chimneys, areaways, mechanical equipment and other similar appurtenances may encroach into minimum yards as established on the lot typical, as permitted by Sect. 2-412 and/or Article 10 of the Zoning Ordinance. This information is not shown on the lot typical.

Open Space: Approximately 22% of the site will remain as open space. The open space consists of a tree save area in the northeastern portion of the site (identified as Parcel A) and a proposed stormwater management/best management practices (SWM/BMP) dry pond in the southwestern corner of the site (along Lackawanna Drive). The applicant proposes to preserve the existing trees within Parcel A and to reforest the unforested portions of that area. The applicant also proposes to place a conservation easement over Parcel A in order to satisfy best management practices (BMP) requirements. Some smaller tree save areas/conservation easements are proposed along the eastern and southern property lines, behind proposed Lots 6 through 8. No active recreational facilities are proposed.

Landscaping: The landscaping plan depicts shade trees to be planted along the site's Dudrow Road and Lackawanna Drive frontage. In addition, the applicant proposes to plant ornamental trees and shrubs within a proposed planting strip in the middle of the pipestem driveway. A single row of evergreen and shade trees are proposed to be planted along the eastern and southern property lines, behind proposed Lots 6 and 8. Landscaping is also proposed between the proposed SWM pond and Lot 8.

Access: As noted above, one of the proposed lots will have driveway access from Dudrow Road. Two of the proposed lots will have driveway access from Lackawanna Drive. The remaining five lots will have driveway access from the proposed pipestem driveway. This proposed pipestem driveway would have a ten-foot wide planting strip down its middle. A five-foot wide sidewalk would be constructed along the site's Lackawanna Drive and Dudrow Road frontage. No sidewalk is proposed along the pipestem driveway. A woodchip trail is proposed to

be located between proposed Lots 4 and 5 to provide access to Parcel A (open space).

Frontage Improvements: The applicant has proffered to construct frontage improvements along Lackawanna Drive 18 feet from the centerline to face of curb prior to the issuance of the first Residential Use Permit (RUP). Right-of-way approximately 27.5 feet from the centerline of Lackawanna Drive and Dudrow Road will be dedicated at the time of record plat recording or upon demand by Fairfax County, whichever comes first.

Parking: The proffers commit to the provision of a two car garage. The proffers also state that the driveway on each residential lot shall have a minimum of 18 feet of pavement available for parking without infringing into the right-of-way or sidewalk area. The typical lot layout also indicates that a minimum of an 18-foot wide driveway will be provided (which would permit two cars to park side by side). Six visitor parking spaces will be provided off of the proposed pipestem driveway.

Stormwater Management: A dry pond is proposed along Lackawanna Drive, abutting proposed Lot 8. Access to the pond would be provided via a proposed driveway located off of the proposed pipestem driveway.

## **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 applicant has consolidated three of the five parcels located on the east side of Lackawanna Drive between Dudrow Road and the Laurel Creek subdivision. The applicant has provided exhibits to depict how Parcels 9 and 10 could redevelop on their own. According to this exhibit, Parcels 9 and 10 could be redeveloped into four (4) lots; however, three of the four lots would be pipestem lots. Furthermore, this exhibit presumes development under the PDH-2 District but the site layout does not depict any tree save; the only open space proposed is the SWM pond. For these reasons, staff does not believe the layout which could result if Parcels 9 and 10 were to redevelop separately is desirable. In staff's opinion, a full consolidation of these five parcels would result in a better site

layout in that only one SWM pond would be needed and the opportunities to create a site layout which preserved the trees in the southeast corner of the site would be enhanced. Furthermore, a consolidated layout would provide for coordinated access and would also reduce the number of pipestem lots.

*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 applicant's development proposal includes a site design with eight lots. Half of the proposed lots would be pipestem lots. For the most part, side yards face side yards and rear yards face rear yards (or open space); however, Lot 1's driveway is located off of Dudrow Road. As depicted on the CDP/FDP, the house on proposed Lot 1 faces Dudrow Road and the existing Dudrow Subdivision SWM pond. Its orientation also means that the rear yard faces the side yard of proposed Lot 2. Staff recommends that the applicant reorient the house so that the house fronts along Lackawanna Drive (and not the SWM pond) and the rear yard faces the proposed open space (not another unit's side yard). This proposed shift in the house's orientation would result in a greater privacy for both proposed Lots 1 and 2. Furthermore, the driveway access from Dudrow Road could be retained via the use of a side-load or rear-load garage.

As viewed on Sheet 2, it would appear that the proposed site layout provides sufficient separation between units, comparable to that of the surrounding developments. However, the footprints on Sheet 2 can shift (as reflected on the typical lot layout). In order for staff to get a better understanding of the true separation between units, staff recommends that the site layout depict the envelope for the proposed units as reflected on the typical lot layout.

*Open space should be usable, accessible and integrated. Appropriate landscaping and amenities should be provided.* The CDP/FDP indicates that approximately 22% of the site will remain as open space. This open space includes the SWM pond and the proposed tree save in the northeast corner of the site (Parcel A). The applicant proposes to reforest the unforested portions of Parcel A and install a gazebo. The applicant also proposes to place a wood chip trail between Parcels 4 and 5 in order to provide access to Parcel A. Parcel A is surrounded by proposed lots; it is not visible or accessible from the street. Given this location, staff believes that the proposed open space will function more like the extension of the surrounding lots' yards, rather than an area that can be used by all of the future residents. Despite the proposed gazebo, staff does not believe that the location of the open space makes it conducive as a gathering space for the future residents. Finally, the trees in this portion of the site are not the highest quality trees on the site; rather, Urban Forest Management has recommended that the trees in the southern portion of the site be preserved (this issue is further discussed under DC #4).

**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, as evidenced by an evaluation of such factors as: transitions to abutting and adjacent uses; lot sizes; bulk/mass of the proposed dwelling units; setbacks; orientation of the proposed dwelling units to adjacent streets and homes; and architectural elevations and materials.*

The lot sizes proposed under this application are approximately the same size as those lots located within Meyer's Subdivision to the east. However, because no architectural elevations have been provided for the proposed units, it is difficult to know if the size and style of the proposed houses will be similar to those located with the abutting area. (Generally, architectural elevations are provided with P-District zoning requests.) The footprints depicted on the CDP/FDP appear to be much larger than the existing homes in the Meyer's and Dudrow Subdivisions. Given this unknown factor, staff believes that it would highly preferable if the applicant could provide a buffer of existing trees between proposed Lots 6 through 8 and the abutting dwellings.

Staff is also concerned about the view of the proposed SWM pond along Lackawanna Drive. The applicant has provided a section of the proposed pond through Lackawanna Drive to depict that the pond itself would not be seen from Lackawanna because of the height of the dam. However, staff believes that a perspective of the pond from Lackawanna Drive would also be helpful. Staff is also concerned about the proximity of the pond to the house on proposed Lot 8 and the height difference between the two. A proposed grading exhibit indicates that the ground floor elevation of the house could be approximately 20 feet above the lowest elevation of the pond. While the topography dictates that the pond for this development be located along Lackawanna Drive, full consolidation of the five parcels would allow for there to be only one SWM pond visible from the street, instead of two. Alternatively, the applicant could reduce the number of lots proposed with this application, which would result in a smaller pond and produce less of a visual impact.

**Environment** (Development Criterion #3) (Appendices 4 and 12)

*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.*

Preservation

The site is wooded. The applicant has proposed to preserve the existing trees in the northeastern corner of the site. This section of the site contains several invasive species; Urban Forest Management has stated that the better quality trees are

located in the southern portion of the site. The preservation of the existing trees will be discussed in the next section.

### Slopes

The site slopes from the northeastern corner of the site to the southwestern corner of the site. With the exception of the northeastern corner of the site, the site will be cleared and graded. Only one retaining wall is proposed – a six-foot high retaining wall between the SWM pond and the proposed pipestem driveway and proposed Lot 8. However, a detail of the proposed wall and a perspective to illustrate what the wall would look like from Lackawanna Drive has not been provided. As such, staff cannot gauge the visual impact that this retaining wall might have on the surrounding community. The applicant states the reason a P-District has been proposed is to reduce the grading and the use of retaining walls throughout the site. The applicant notes that the P-District allows the use of pipestem driveways and private streets. Because the maximum slope percentage for a pipestem driveway and/or private street is greater than a public street, less grading is required and as such, no retaining wall is necessary. However, as noted earlier in this report, staff believes that a full consolidation of the five parcels would result in a better site layout because only one SWM pond would be needed and the opportunities to create a site layout which preserved the trees in the southeast corner of the site would be enhanced.

### Water Quality

There are no Resource Protection Areas (RPAs) designated on this site nor are there any regulated floodplains. The applicant is required to incorporate best management practices (BMPs) into the development plan which would achieve a 40% phosphorus removal, as the proposed site improvements qualify as “development” under the CBPO. The applicant indicates that BMP requirements will be met by the installation of an extended detention dry pond and perpetually undisturbed open space. The proposed pond will also provide water quality control of the small off-site area from portions of three adjacent lots that will drain to the proposed pond. DPWES notes that the proposed conservation easement on Parcel A must be reduced so that the easement does not overlap a required storm drainage easement. Staff believes that this change should be reflected on the CDP/FDP.

### Drainage

The CDP/FDP states that, in addition to the standard water quantity control requirements, control of the 1-year and a proportional reduction of the 2- and 10-year discharge below the “good-forested” run-off will be met by the installation of an extended detention dry pond. DPWES notes that the proposed limits of clearing and grading must be at least 10 feet from the toe of the slope and abutment contacts. As such, the location of the embankment must be revised or the limits may have to extend off-site, which could result in the need for additional off-site clearing, construction and restrictive planting easements from abutting Parcel 9. In order to

determine if the proposed pond will create any impact on abutting Parcel 9, staff strongly recommends that the applicant revise the CDP/FDP to reflect the correct limits of clearing and grading for the pond. If the applicant continues to show the current limits of clearing and grading and later needs to adjust these limits for the SWM pond, the applicant will need to seek a Proffered Condition Amendment (PCA).

The proposed grading diverts surface stormwater away from adjacent Laurel Creek Lot 9 to the proposed pond. A change in drainage area, measured at the site boundary, is considered a diversion of the drainage divides in accordance with the revised drainage divide provisions of Sect. 6-0202.2A of the PFM. Based on the preliminary design, DPWES believes that the proposed drainage area diversion appears to meet the criteria listed in the amended PFM to justify the approval of the diversion by the Director. Because it is not clear if DPWES will approve the requested diversion to the drainage divides, staff believes that the proffers should reflect the applicant's acknowledgment that a PCA may be required.

In its review, DPWES notes that a storm drainage easement will be required on Parcel A to replace the easement that is proposed to be vacated. The conservation easement on Parcel A must be reduced so that it does not overlap the storm drainage easement. In addition, an easement is required on the rear of proposed Lot 8 and possibly proposed Lot 7, as the swale conveys runoff from more than three existing and/or proposed lots.

**Tree Preservation and Tree Cover Requirements** (Development Criterion #4)  
(Appendix 6)

*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. Overall, the site is heavily wooded. In its review of the site, Urban Forest Management (UFM) noted that the upland hardwood vegetation in the southern portion of the site in good condition and recommended that it be considered a priority for preservation. However, the applicant has proposed to preserve trees located in the northeast portion of the site. The applicant has adjusted the limits of clearing and grading along the eastern and southern property lines in order to preserve the existing trees within Meyer's Subdivision, Laurel Creek and Parcel 9 (as recommended by UFM). Where no vegetation is proposed along these property lines, the applicant proposes to landscape. UFM notes that the proposed tree save area contains a large amount of invasive species, including periwinkle, English ivy and Japanese wisteria. UFM believes that the better quality trees are located in the southeast corner of the site, where the applicant proposes to clear completely. In addition, preservation of the trees in the southeast portion of the site protect the existing 15-foot "natural state buffer" between existing Lots 14-16 in the Meyer's Subdivision. Preservation of these trees would also provide a buffer for the abutting Laurel Creek subdivision.*

The applicant has proffered to take steps to ensure the preservation of the trees in the northeastern corner of the site, as shown on the CDP/FDP. These commitments include the preparation of a tree preservation plan, the installation of tree preservation fencing, and the posting of tree preservation bonds. Staff, however, strongly recommends that the applicant eliminate the proposed cost limitation placed on the cash bond. The purpose of the tree bonds is to provide a remedy for unintended disruption to the trees proffered to be preserved, not just to ensure replacement of trees that are lost due to construction impact. Placing an arbitrary cost limitation on the cash bond (and in this case, one which is much lower than the value estimated by Urban Forest Management) defeats this purpose. Furthermore, UFM notes that the method which the applicant proposes to employ to measure the value of the trees does not provide an accurate value of each individual tree. Rather, it appears that the applicant seeks to calculate the individual value of each tree based on the amount of tree cover loss – a substantial devaluation of the tree's worth.

As detailed in the site description, the site is completely wooded. As such, staff believes that it is important that the applicant take care when removing the existing structures in order to not damage any of the surrounding trees. The applicant has proffered to remove an existing shed in the northeast corner of the site. The applicant has made no other commitments to ensure that demolition of the other existing structures does not damage the existing trees. Given that tree preservation appears to be one of the applicant's primary justifications for the P-District request, staff finds the proposed proffer commitments unacceptable.

#### **Transportation** (Development Criterion #5) (Appendix 7)

*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 applicant has proffered to construct frontage improvements along Lackawanna Drive, including curb and gutter and a five-foot wide sidewalk (which would extend along the Dudrow Road frontage). The applicant has also proffered to dedicate right-of-way approximately 27.5 feet from the centerline of Lackawanna Drive and Dudrow Road. The applicant has proffered to pay the future homeowners' association \$2,000 for the purpose of private street maintenance. However, the CDP/FDP indicates that a pipestem driveway is proposed, not a private street.

#### **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 – 12).*

#### **Fairfax County Public Schools** (Appendix 8)

The proposed development would be served by Forestdale Elementary, Key Middle and Lee High Schools. All of these schools are projected to be below capacity by the 2010-2011 school year. The total number of students generated by this development is anticipated to be four total students: two elementary, one middle and one high school students. This is an increase of two students above that generated by the existing zoning district. An appropriate contribution would be approximately between \$23,260 and \$46,520 (\$11,630 per student). It should be noted that a proposal for the residential/mixed use redevelopment of a 182-acre site which encompasses the Springfield Mall and immediately surrounding areas is under consideration as an amendment to the County's Comprehensive Plan and could also impact the receiving schools.

The applicant has proffered to provide a contribution of \$23,260 to the Board of Supervisors (BOS) for use at public schools within the Lee District prior to issuance of the first RUP for the approved units.

#### **Fairfax County Park Authority** (Appendix 8)

The required on-site active recreation contribution for P-Districts per the Zoning Ordinance is \$955 per dwelling unit. Therefore, with this proposal a contribution of \$7,640 is required. In order to offset the additional impact caused by the proposed development, FCPA recommends that the applicant provide an additional \$4,240 (or \$265 per estimated resident) for recreational facility development at one or more of the sites located within the service area of this development. If no qualifying outdoor recreational amenities are provided on-site, the FCPA recommends that the applicant contribute the full \$11,880.

The applicant has proffered to contribute the required sum of \$955.00 per approved residential unit approved for the total number of dwelling units, to FCPA for use on recreational facilities in the general vicinity of the subject property, subject to a credit for expenditures on-site for a gazebo, benches, trail and other similar facilities in open space areas depicted on the CDP/FDP. The applicant has also proffered to contribute an additional \$5,035 to FCPA prior to the issuance of the first RUP for park purposes and/or facilities in the area.

#### **Fire and Rescue** (Appendix 9)

The subject property would be serviced by the Fairfax County Fire and Rescue Department Station #422, Springfield. The requested rezoning currently meets fire protection guidelines.

**Sanitary Sewer Analysis** (Appendix 10)

The subject property is located within the Accotink Creek (M5) watershed and would be sewerred into the Noman M. Cole, Jr. Pollution Control Plant. An existing 8-inch line located in Lackawanna Drive and approximately 800 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 12-inch water main located at the property.

**Stormwater Analysis** (Appendix 12)

There are no downstream drainage complaints on file relative to the outfalls for this site.

As noted earlier in this report, the applicant has proposed to install an extended detention dry pond in order to provide for control of the 1-year and a proportional reduction of the 2- and 10-year discharge below the “good-forested” run-off condition. However, the proposed limits of clearing and grading are not 10 feet from the toe of the slope and abutment contacts. As such, DPWES recommends that the location of the embankment be revised, otherwise the limits may have to be extended off-site, which could result in the need for additional off-site clearing, construction and restrictive planting easements from abutting Parcel 9. In order to determine if the proposed pond will create any impact on abutting Parcel 9, staff strongly recommends that the applicant revise the embankment location to reflect the correct limits of clearing and grading for the pond. If the limits of clearing and grading are not revised on the CDP/FDP, the applicant will need to seek a PCA if the limits do not match those reflected on any future subdivision plan.

**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. The applicant has proffered to contribute one half of one percent (0.5%) of the projected sales price of the new houses to the Fairfax County Housing Trust Fund.*

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

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

*recordation.* No historical or archaeological resources have been identified on this site.

**ZONING ORDINANCE PROVISIONS** (Appendix 14)

**Maximum Density/Bulk Regulations**

The maximum density permitted in the PDH-2 District is two dwelling units per acre (du/ac). The applicant’s proposed development is 1.94 du/ac. In the PDH-2 District, there are no minimum lot size requirements or minimum yard requirements for single-family detached dwellings, except that the application is subject to the standards set forth in Part 1 of Article 16, as described further below. However, to provide some perspective, staff has compared the setbacks and lot sizes provided under the application with the requirements for the R-2 Cluster District:

<b>R-2 Cluster Zoning District Requirements vs. Provided</b>		
<b>Standard</b>	<b>Required</b>	<b>Provided</b>
District Size	2 acres minimum	4.13 acres
Lot Area	13,000 to 15,000 SF	12,276 to 14,787 SF
Lot Width	125 feet minimum for corner lots; 100 feet minimum for interior lots;	Lot 1 (corner) – 130 feet*; Lot 6 (interior) – 70 feet*
Building Height	35 feet maximum	35 feet
Front Yard	25 feet	25 feet
Side Yard	8 feet but a total minimum of 24 feet	8 feet
Rear Yard	25 feet	25 feet
Density	2 du/ac maximum for PDH-2 District	1.94 du/ac
Open Space	20% for PDH-2 District	22%
Parking	2 spaces/unit for lots with frontage on a public street (Lots 1 – 4) + 3 spaces/unit for lots with frontage on a private street, provided that only 1 such space must have convenient access to a street (Lots 5 – 8) = 16 spaces	32 spaces (2 in garage + 2 in driveway/unit) + 6 off-street spaces on pipestem driveway = 38 spaces total**
There are no transitional screening or barrier requirements for this application.		

\*The lot width information was not provided on the CDP/FDP. These figures were derived from staff measurements and are therefore approximate.

\*\*The applicant has proffered that the driveways will be a minimum length of 18 feet. The lot typical on the CDP/FDP indicates that the driveways will have a minimum width of 18 feet.

## **P-District Standards**

The requested proposal must comply with, among others, the Zoning Ordinance provisions found in Section 16-101, General Standards, and Section 16-102, Design Standards.

### 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. This standard also notes that planned developments are not to exceed the density or intensity permitted by the adopted comprehensive plan, except as expressly permitted under the applicable density or intensity bonus provisions. The proposed PDH-2 development at a density of 1.94 du/ac would not exceed the density recommended by the Comprehensive Plan of 1-2 du/ac.

General Standard 2 states that the design should result in a development achieving the stated purpose and intent of the planned development district more than would development under a conventional zoning district. Development under the PDH-2 zoning district permits a greater level of flexibility for development of a planned community for the purpose of preserving natural features and providing a greater level of quality design and amenities than might be provided with a conventional zoning district. As noted under DC3, the applicant has stated that he has proposed a P-District zoning in order to reduce the grading and the use of retaining walls throughout the site (via the use of a pipestem driveway). Staff, however, believes that the applicant has requested the P-District solely to maximize the number of lots which can be accommodated on the site. As noted under DC1, the proposed open space is neither usable, accessible nor integrated into the proposed development. In addition, as stated under DC4, this open space does not preserve the quality trees on site. Staff suspects that the open space was located in its current location because the applicant simply could not figure out how to locate a lot in that area. Staff believes that a usable, accessible and integrated open space area would result in a better site layout for the subject site. Staff recommends that the applicant explore these design options even if it means a reduction in the number of units. In fact, staff believes that a reduction in the number of units or consolidation of additional land area might also produce other benefits, including a reduction in the pond size and/or a reduction in the number of pipestem lots. Finally, no architectural elevations have been provided for the proposed units. Not only is the provision of these details customary with P-District zoning requests, but they provide staff with necessary information for assessing whether or not a proposed development provides a greater level of quality design than would be achieved under a conventional zoning district. Without this information, staff cannot make this assessment.

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. Under the proposed layout, there would be approximately 22% open space provided on-site, which would satisfy the 20% open space requirement for the PDH-2 District. One of the applicant's primary justifications for the P-District zoning request is the preservation of existing trees. As noted under the discussion of DC4, the proposed site layout does not preserve the best quality trees on site. Furthermore, in staff's opinion, the applicant's proffered tree preservation commitments are weak and do not ensure that the applicant will take all steps necessary to ensure the preservation of the trees within the proffered tree save. The applicant has also stated that the P-District allows the site to be designed with less grading and reduced use of retaining walls because the P-District permits the use of pipestem driveways and/or private streets. But staff believes that these same objectives could be achieved through development under the current zoning district since there would be no need to construct a street or pipestem driveway at all. Not only would development under the current zoning district protect the existing slopes, but it would also preserve the existing mature trees in the southern corner of the site (which are better quality trees).

General 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. As noted earlier in this report, the application consolidates three of the five Accotink Bluff parcels located on the east side of Lackawanna Drive. Staff is concerned that development of these three parcels will impede development of the remaining two parcels (Parcels 9 and 10) in the future. More importantly, as noted under the Stormwater Analysis, it is possible that the applicant may need to grade portions of Parcel 9 in order to accommodate the proposed SWM pond. For that reason, staff believes that the applicant should reduce the number of lots proposed under this application in order to reduce the size of the proposed SWM pond and eliminate any impact on Parcel 9.

General 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 available. As demonstrated in the public facilities analysis, adequate public facilities infrastructure is generally available to support the proposed development.

General 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 proposed lots would be accessed from Dudrow Road, Lackawanna Drive and a

proposed pipestem driveway. Pedestrian circulation is accommodated via a five-foot wide sidewalk along the site's Dudrow Road and Lackawanna Drive frontage. However, no sidewalk is proposed along the pipestem driveway. In order to access the proposed trail leading to the open space, the future residents will be required to walk down the pipestem driveway.

### 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 PDH-2 District is the R-2 Cluster District. The bulk standards for single-family detached dwellings in the R-2 Cluster District include front yard setbacks of 25 feet, side yard setbacks of 8 feet (but a total of 20 feet), and rear yard setbacks of 25 feet. The proposed setbacks of units at the periphery of this development meet the R-2 Cluster District setbacks. As noted earlier in this report, without the proposed architecture of the units, there is the potential for a great size difference between the existing homes in the area and the proposed homes. As such, staff recommends that the applicant preserve a buffer of the existing mature trees (rather than new landscaping) along the periphery of proposed Lots 6 through 8 in order to provide better buffering.

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 open space provided is approximately 22%, which exceeds the requirement of 20%. The applicant is providing parking on each residential parcel, with additional visitor parking available. All zoning ordinance requirements are being met with this application; therefore, 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. The proposed lots would have driveway access from Dudrow Road and Lackawanna Drive. Pedestrian circulation is accommodated via a five-foot wide sidewalk along the site's Dudrow Road and Lackawanna Drive frontage. However, no sidewalk is proposed along the pipestem driveway. Staff believes that the lack of a sidewalk between Lackawanna Drive and the path to the open space (Parcel A) could preclude the access and use of the open space.

### **Requested PFM Modifications**

The CDP/FDP states that the applicant will be seeking three modifications of the PFM at the time of subdivision approval. The first modification is of Sect. 6-0202.2A of the PFM, which requires natural drainage divides to be honored for both concentrated and non-concentrated stormwater runoff leaving the development site, in order to permit a diversion to the natural drainage divide. Specifically, the applicant proposes to grade the site in order to divert surface stormwater away from adjacent Laurel Creek Lot 9 to the proposed on-site stormwater management (SWM) pond. As noted earlier in this report, DPWES believes that this modification could be approved. A final determination will be made at the time of subdivision plan review. In the event the proposed diversion is denied, approval of a PCA may be required.

The other requested modifications have to do with the requested pipestem lots. The application seeks a modification of Sect. 2-0103.2 of the Public Facilities Manual (PFM) to allow pipestem lots in excess of 20% of the total number of lots proposed. The applicant proposes that half of the proposed lots (50%) be permitted to be pipestem lots. In addition, the applicant seeks a modification of Sect. 7-0503 to allow a modified pipestem driveway. Specifically, the applicant is requesting the ability to locate a 10-foot wide planting strip down the middle of the driveway, as depicted on the CDP/FDP. Staff does not support the excessive use of pipestem lots as proposed under this application. Staff does not believe that the applicant is utilizing pipestem lots to protect and preserve any natural features. Rather, staff believes that the applicant is using the pipestem lots to maximize the lot yield on the site. For that reason, staff does not support the requested modifications.

## **CONCLUSIONS AND RECOMMENDATIONS**

### **Staff Conclusions**

The applicant seeks to rezone the subject 4.13 acre site from the R-1 District to the PDH-2 District to permit the development of eight (8) single-family attached dwelling units at an overall density of 1.94 dwelling units per acre (du/ac) with 22% of the site retained as open space.

The purpose of the flexibility granted under the P-District standards is to allow for a greater level of quality design and amenities than might be provided with a conventional zoning district. Staff believes that the proposed site layout has not met that goal. The open space is neither usable, accessible nor integrated into the proposed development. In addition, the open space does not protect the best quality trees on site. Even worse, the applicant proposes to place a cost limitation on the tree bond for the proposed tree save, which makes staff question the applicant's commitment to preserve any trees on site. Additionally, the proposed SWM pond could require that clearing and grading within an off-site parcel. Finally, no

architectural elevations have been provided for the proposed units. As such, staff does not believe that the proposed application provides the level of quality design expected of P-District developments.

For these reasons, staff does not believe that this application is in conformance with the Residential Development Criteria of the Comprehensive Plan nor does it meet the requirements of the Zoning Ordinance.

### **Recommendation**

Staff recommends that RZ 2006-LE-026 and the Conceptual Development Plan be denied; however, if it is the intent of the Board of Supervisors to approve RZ 2006-LE-026, staff recommends that the approval be subject to the draft proffers contained in Appendix 1 of the staff report.

Staff recommends denial of FDP 2006-LE-026.

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 Forest Management 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. Stormwater Analysis (Environmental and Site Review Division, DPWES)
13. Zoning Ordinance Provisions
14. Residential Development Criteria
15. Glossary

**Proffers**

**Eastwood Properties, Lackawanna Drive**

**RZ 2006-LE-026**

**January 18, 2007**

Pursuant to Section 15.2-2303(A), Code of Virginia, 1950 as amended, the undersigned Applicant and Owners, in this rezoning proffer that the development of the parcel under consideration and shown on the Fairfax County Tax Map as Tax Map Reference 90-3((3))6, 7, 8 (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-2 Zoning District is granted. In the event said rezoning request is denied, these Proffered Conditions shall be null and void. The Owners 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 Charles P. Johnson & Associates, Inc., consisting of 5 sheets, dated June 9, 2006, revised through \_\_\_\_\_.

2. Maximum Lot Yield. The development shall consist of a maximum of 8 single family detached units. 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 plat 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, stormwater management facilities, common area landscaping and any other open space amenities, and the porous parking space surfaces 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. Energy Conservation. All 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.
  
8. 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.
  
9. 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 4<sup>th</sup>, 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.

10. Architecture. The fronts of the dwelling units and the sides of the units on Lots 1 and 8 will be designed with brick and/or stone materials, exclusive of windows, doors, shutters and trim. Vinyl, hardi-plank or other similar cementitious siding products or a combination of these shall be used on the other sides and backs, exclusive of windows, doors, shutters and trim. The retaining wall shown to the east of the proposed stormwater management facility shall be faced with masonry materials and shall be earthtone in color.
  
11. Lot Typical. The minimum front, side and rear yards shall be consistent with that shown on the typical lot layout on the CDP/FDP. 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.
  
12. Construction Staging. There shall be no staging or parking of construction vehicles, construction equipment, or construction workers vehicles on Lackawanna Drive or Dudrow Road associated with the construction of the proposed houses.

**II. TRANSPORTATION**

13. Right-of-Way Dedication. At the time of recordation of the first record plat or upon demand, whichever occurs first, right-of-way to 27.5 feet from the centerline of Lackawanna Drive and Dudrow Road, 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.

14. 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 and such information shall be included in the HOA documents.
15. Length of Driveways. The driveway on each residential lot shall have a minimum of 18 feet of pavement available for parking without infringing into the right-of-way or sidewalk area.
16. Frontage Improvements. Prior to the issuance of the first Residential Use Permit, the Applicant shall construct improvements on Lackawanna Drive 18 feet from the centerline to face of curb, as approved by DPWES. A 5 foot side sidewalk will also be provided as part of the road improvements on Lackawanna Drive, as approved by DPWES.
17. Public Access Easements. A public access easement in a form approved by the County Attorney shall be placed on the private street within the approved development.

### **III. HOUSING TRUST FUND**

18. 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 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. The projected sales price shall be based upon the aggregate sales price of all of the units, as if those units were sold at the time of the issuance of the first building permit and is estimated through comparable sales of similar type units.

#### **IV. ENVIRONMENTAL**

19. Stormwater Management Facilities and Best Management Practices Techniques. Stormwater Management and Best Management Practices (BMP's) shall be provided, as approved by DPWES, in the area shown on the CDP/FDP. The detention facility shall be landscaped to the maximum extent possible, as determined by the Urban Forest Management, in accordance with the planting policies of the Board of Supervisors and as generally shown on Sheet 2 of 5 of the CDP/FDP. Specifically, water-loving grasses will be utilized in the base of the pond.
20. 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.

21. 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 or greater and located within 15 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 and 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.

22. Tree Value Determination. The Applicant shall retain a professional with experience in plant appraisal, such as a certified arborist or landscape architect, to determine the replacement value of all trees 10 inches (10”) in diameter or greater and located within fifteen (15) feet 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 which are identified to be preserved on the Tree Preservation Plan. 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.
  
23. 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 subdivision plan 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, but in no instance shall this amount exceed \$11,600.

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 21 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.

24. 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. 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.
  
25. 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.
  
26. 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.
- A UFM representative shall be informed when all root pruning and tree protection fence installation is complete.

27. 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 a 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, but it is noted that unless a dead or dying tree presents a safety hazard, attempts will be made to retain the tree. The dead or dying tree may be topped in order to be retained if that eliminates the problem of a safety hazard. 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.

28. Tree Protection Fencing. All trees shown to be preserved on the Tree Preservation Plan shall be protected by tree protection fencing, as proffered above. Tree protection 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.

29. Site Monitoring. During any clearing or tree/vegetation.structure removal or transplantation of vegetation on the subject site, 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 work and tree preservation efforts in order to ensure conformance with all tree preservation proffers/conditions, and UFM approvals. 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.

30. Landscaping. Landscaping shall be consistent with the quality, quantity and general location shown on the Landscape Plan on Sheet 2 of the CDP/FDP. At the time of planting, the minimum caliper for deciduous trees shall be two and one-half (2.5) inches to three (3) inches and the minimum height for evergreen trees shall be seven (7) 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.

31. Conservation Easement. The area identified on the CDP/FDP as “proposed conservation easement” shall remain as undisturbed, except for areas necessary for installation of utility easements or trails determined necessary by the Director, DPWES. These undisturbed areas shall be subject to a conservation easement running to the benefit of the HOA, in a form approved by the County Attorney. Such easement shall prohibit the removal of trees except those which are diseased, noxious or hazardous or within utility or trail easements. If a tree is dead but does not pose a safety hazard, attempts will be made to retain the tree. The dead or dying tree may be topped in order to be retained if that eliminates the problem of a safety hazard. 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. This Conservation Easement shall be recorded prior to final bond release.
  
32. Reforestation. A reforestation plan for that area on the CDP/FDP shown to be reforested shall be submitted concurrently with the first and all subsequent subdivision plan submissions for review and approval by UFM and shall be implemented as approved. The plan shall propose an appropriate selection of species based on existing and proposed site conditions to restore the area to a native forest cover type. The reforestation plan

shall include, but not be limited to the following:

- plant list detailing species, sizes and stock type of tree and other vegetation to be planted
- soil treatments and amendments if necessary
- mulching specifications
- methods of installation
- maintenance
- morality threshold
- monitoring
- replacement schedule

After removal by hand of the existing shed in the northern corner of the site, the area shall be reforested as specified in this proffer. To the greatest extent possible, existing laurel bushes on the site within the areas to be graded will be used as reforestation material.

33. Grass-Crete Paver Maintenance. On or before bond release for the proposed development, and as a condition thereto, the Applicant shall deposit \$3,000 into an escrow account established for the benefit of the HOA for future maintenance, repair and upkeep of the grass-crete pavers utilized in the off-street parking off of the private street.

**V. Recreation Facilities**

34. Recreation Contribution. At the time of subdivision approval, the Applicant shall contribute the sum of \$955.00 per approved residential unit approved for the total number of dwelling units, to the Fairfax County Park Authority or use on recreational facilities in the general vicinity of the subject property, subject, however, to a credit for expenditures on-site for a gazebo, benches, trail and other similar facilities in open space areas depicted on the CDP/FDP.

35. Park Authority Contribution. In addition to Proffer 34 above, the Applicant shall contribute \$5,035 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.

**VI. SCHOOLS**

36. Prior to the issuance of the first building permit, the Applicant shall contribute \$23,260 to the Board of Supervisors (“Board”) to be utilized for the provision of capital facilities within the Fairfax County schools serving this development.

**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:

Clifford F. Lindsay, Trustee for the Joyce F.  
Lindsay Revocable Trust  
Title Owner of TM 90-3((3))6

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Clifford F. Lindsay, Trustee for the Joyce F.  
Lindsay Revocable Trust

Joseph A. Gillespie, Trustee  
Title Owner of TM 90-3((3))7

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Joseph A. Gillespie, Trustee

Nancy J. Valentine, Trustee of the Nancy J.  
Valentine Trust

Richard M. Valentine, Trustee of the Nancy J.  
Valentine Trust

Title Owners of TM 90-3((3))8

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Nancy J. Valentine, Trustee of the Nancy J.  
Valentine Trust

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Richard M. Valentine, Trustee of the Nancy J.  
Valentine Trust

