



APPLICATION FILED: May 30, 2006
APPLICATION AMENDED: November 27, 2006
PLANNING COMMISSION: March 7, 2007
BOARD OF SUPERVISORS: Not Yet Scheduled

County of Fairfax, Virginia

February 28, 2007

STAFF REPORT ADDENDUM

RZ 2006-LE-018

LEE DISTRICT

APPLICANT: Fleet Drive, LLC

PRESENT ZONING: R-1 (5.24 acres), R-3 (0.66 acres)

REQUESTED ZONING: R-12

PARCEL(S): 91-1 ((1)) 58, 59A, 59B, 60
91-1 ((5)) 2, 3, 4, 5, 6

ACREAGE: 5.90 acres

FAR/DENSITY: 8.31 dwelling units per acre (du/ac)

OPEN SPACE: 28%

PLAN MAP: Residential, 8-12 du/ac

PROPOSAL: Rezone the subject site from R-1 and R-3 to R-12 for the development of 49 new single-family attached dwellings

WAIVERS: Waiver of the 600-foot maximum length for a private street

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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/

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Waiver of the trail requirement along Fleet Drive

Waiver of the barrier requirement where the subject site abuts the existing single-family detached dwelling on Parcel 7

STAFF RECOMMENDATIONS:

Staff recommends that RZ 2006-LE-018 be denied; however, if it is the intent of the Board of Supervisors to approve RZ 2006-LE-018, staff recommends that the approval be subject to the draft proffers contained in Attachment 1 of this staff report addendum.

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

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

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



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

BACKGROUND

The applicant, Fleet Drive, LLC, requests to rezone the 5.90 acre subject site from the R-1 and R-3 Districts to the R-12 District for the development of 49 single-family detached dwellings. The overall proposed density would be 8.31 dwelling units per acre (du/ac) with 28% open space.

On January 10, 2007, the Staff Report for RZ 2006-LE-018 was published. In this report, staff recommended denial of the application for the following reasons:

- The proposed consolidation did not include one critical parcel (Parcel 7);
- The site layout was not high quality; rather, it was characteristic of a design laid out merely to maximize lot yield;
- There was no proposed tree save;
- The proposed clearing and grading could adversely impact the abutting trees owned by Franconia Commons;
- It was not clear who was responsible for maintaining the proposed noise wall along Beulah Street or what this wall would look like along the road;
- The GDP failed to include proposed building elevations;
- The GDP contained discrepancies related to the proposed front yard dimensions, proposed decks and minimum parking requirements.
- The GDP contained incomplete information on stormwater management, including the size of the enhanced extended dry pond, the fate of the proposed Filterra vegetated box once interparcel access is provided to Parcel 7, the capacity of the existing storm sewer and the overland spillway flow path, or the overtopping breach flow path from the upstream pond location in relation to the location of the proposed homes;
- An interparcel connection is not provided to Parcel 7 nor have funds been escrowed for construction of the future connection;
- The proposed site layout proposed emergency access points to Beulah Street, rather than on-site turnaround areas; and
- The proposed site layout did not meet the Zoning Ordinance requirement for parking.

On February 5, 2007, the applicant submitted a revised Generalized Development Plan (GDP), as revised through February 1, 2007, which is contained in the front of this staff addendum report. The following changes are of note:

Unit Orientation: Proposed Units 22 through 24 and 32 through 34 have been reoriented. Instead of facing to the west, Units 22 through 24 are now facing the north. Units 32 through 34 are now facing the south.

Architecture: The GDP now contains architectural elevations for the front of the proposed units. Several of the proposed elevations depict units four stories in height. These elevations are labeled for illustrative purposes only.

Setbacks: The GDP has now been revised to indicate the available deck area for the proposed units, which is 12 feet into the required minimum rear yard (this is in accordance with the requirements of Sect. 2-412 of the Zoning Ordinance).

Limits of Clearing and Grading: The length of proposed Units 1-8 has been reduced from 45 feet in length to 40 feet in length. The reduction in the length of these units has allowed the applicant to pull the limits of clearing and grading away from the northern property line.

Emergency Access: Only one emergency access point is proposed. This access point would be located between proposed Units 34 and 35 in the southeastern portion of the site.

Parking Tabulations: The site tabulations have been updated to reflect the new Zoning Ordinance parking requirements for single-family attached dwellings. The site tabulations indicate that the provided parking for the site (170 spaces) will exceed the Zoning Ordinance parking requirement (133 spaces).

Noise Mitigation: A 6.5-foot to 7-foot high acoustical barrier is proposed along the eastern property line (between the proposed site and Beulah Street). It is also proposed to extend along the northern property line, behind Units 19 through 21, as well as along the southern property line, behind Units 35 through 39. The proposed proffers note that the future homeowners' association (HOA) will be responsible for the maintenance of this wall. The GDP also depicts the location of the 65 dBA L_{dn} and 70 dBA L_{dn} noise levels. A detail of a wooden acoustical barrier is provided on the GDP.

Stormwater Management: The proffers now clarify that the proposed stormwater management (SWM) pond is an extended pond, not an enhanced extended pond. As such, the applicant believes that the limits of clearing and grading depicted on the GDP are accurate. The applicant has also provided spot elevations to depict the elevations of the rear yards for proposed Units 47 through 49. These spot elevations indicate that these rear yards will be a minimum of five (5) feet higher than the 100-year water surface elevation (W.S.E.) of the proposed pond. The previous GDP had depicted that a Filterra vegetated box would be located where interparcel access is proposed to Parcel 7 in the future. The GDP now indicates that the Filterra box will be located in the middle of the sidewalk in front of proposed Unit 6.

ANALYSIS

Compatibility

In the staff report, staff expressed concern about the potential impact that the proposed units would have upon the existing single-family attached neighborhood of Franconia Commons, located to the north of the site. This development is zoned R-8. The units within Franconia Commons were constructed in the late 1970s and are two

stories in height. Given that the new townhouses will be 35 feet in height and more massive than those built in the 1970s, staff had requested that the applicant provide a cross-section of the site to illustrate the impact that the massing and scale of the proposed units might have upon Franconia Commons.

While the applicant has not provided the requested section, the GDP now includes the proposed architectural elevations for the front of the proposed units. Several of the proposed elevations depict units which are four stories in height. Even though these elevations are labeled for illustrative purposes only, staff remains concerned that the proposed four-story units could have an adverse impact upon the existing two-story units within the Franconia Commons neighborhood. Staff still strongly recommends that the applicant provide the previously-requested section in order to illustrate the impact that the proposed units will have on the abutting residences.

Tree Save

In the staff report, it was noted that there are several mature trees along the site's shared property line with Franconia Commons that could be adversely impacted by the proposed development. For that reason, staff recommended that the applicant adjust the proposed limits of clearing and grading in order to ensure that Franconia Commons' existing vegetated buffer remains.

The applicant has now adjusted the limits of clearing and grading away from the northern property line by reducing the length of proposed Units 1 through 8 from 45 feet to 40 feet. While the limits of clearing and grading have moved back from two oaks located in the northeastern corner of the site (designated as Tree Number 20 and Tree Number 22 on the Tree Preservation Plan on Sheet 5 of the GDP), the dripline of these trees would continue to be impacted by the limits of clearing and grading. The applicant has also proffered to post a cash bond or letter of credit of \$2,000 to ensure preservation and/or replacement of these trees.

Unfortunately, the applicant's own Tree Preservation Plan states that Tree Numbers 20 and 22 appear to be jointly-owned with Franconia Commons. The Tree Preservation Plan goes on to recommend to "*never damage or take out jointly-owned trees without the owners' written consent.*" Again, staff has no record that Franconia Commons has granted written consent to permit these trees to be damaged or removed. Furthermore, while staff appreciates the tree bond proffer, moving the limits of clearing and grading away from the dripline of these trees would provide far better assurance that these trees would be preserved. Finally, staff believes that the tree bond proffer should be extended to all trees within 25 feet of the limits of clearing and grading.

Noise Mitigation

As noted in the staff report, the applicant has proposed to mitigate the traffic noise created by Beulah Street with the construction of a 6.5 to 7 foot noise barrier along the eastern periphery of the development. The applicant had also proffered to interior noise mitigation techniques within the impacted units. Staff expressed concern about maintenance of the proposed noise wall. Because the proposed barrier was depicted

along the rear and side property lines of the proposed lots, it was unclear whether it was the individual lot owners' responsibility to maintain their portion of the wall or if the wall was to be the general responsibility of the homeowners' association. Staff also recommended that the applicant consider using materials other than wood for the proposed noise wall. Specifically, staff recommended that the applicant use a durable, low-maintenance material, such as brick or masonry, in order to ensure that the noise wall remains in good repair.

A 6.5-foot to 7-foot high acoustical barrier is proposed along the eastern property line (between the proposed site and Beulah Street). It is also proposed to extend along the northern property line, behind Units 19 through 21, as well as along the southern property line, behind Units 35 through 39. The proposed proffers note that the future homeowners' association (HOA) will be responsible for the maintenance of this wall. The GDP also depicts the location of the 70 dBA L_{dn} and 65 dBA L_{dn} noise levels. Though the proffers indicate that the wall would be constructed of brick as shown on the GDP, the GDP contains a detail of a lumber pressure treated acoustical barrier. This discrepancy between the proffers and the GDP needs to be corrected. Given the noise levels that impact the subject site, staff does not believe that a wood barrier is appropriate in this location. Should the barrier fall into disrepair, approximately 19 of the 49 units will be adversely impacted by noise levels above 65 dBA. Staff supports the use of a brick wall as stated by the proffers, because brick is a low maintenance material. However, it is critical that the GDP be corrected to reflect this commitment to a brick wall.

Stormwater Management

In the staff report, it was noted that the applicant had proffered to provide an enhanced extended detention dry pond on the site. However, the GDP did not depict such a pond. As such, staff raised concerns that the limits of clearing and grading for the proposed pond may have to expand, which, in turn, could adversely impact the yards of proposed units 46 through 49 (as well as Parcel 7). Staff also noted that the proposed Filterra vegetated box was shown to be located within the path of the future interparcel access to Parcel 7 and that the applicant had not addressed how and where the Filterra would be relocated.

The applicant has now clarified that the proposed pond will be an extended pond, not an enhanced extended pond. Therefore, the limits of clearing and grading should not change. The applicant also included spot elevations on the GDP to depict the elevations of the rear yards for proposed units 47 through 49. These spot elevations indicate that these locations within rear yards will be a minimum of five (5) feet higher than the 100-year water surface elevation (W.S.E.) of the proposed pond.

The applicant has also relocated the proposed Filterra vegetated box from its previous location in the path of the future interparcel access to the middle of the sidewalk in front of proposed unit 6. Staff does not believe that a Filterra vegetated box is appropriate in the middle of a sidewalk because the Filterra box will completely block the sidewalk. Staff recommends that the applicant commit to relocate the Filterra box to a location which will not block pedestrian or future vehicular traffic.

CONCLUSIONS AND RECOMMENDATIONS

Conclusions

The revised GDP and proffers have addressed some of staff's earlier concerns regarding the provided parking, the permitted extensions into minimum yards, maintenance responsibility for the proposed noise wall and the limits of clearing and grading for the proposed SWM pond. However, some of the changes have raised additional issues, such as the impact of the proposed four-story units on the abutting two-story units and how a Filterra vegetated box can be located in the middle of a sidewalk. Overall, however, staff does not believe that the applicant has addressed staff's original concern which is that the site layout is intense with limited opportunity for active and usable open space on-site, and therefore, not high quality; rather, it was characteristic of a design laid out merely to maximize lot yield. While staff recognizes that the site is planned for residential at 8 to 12 units per acre, the applicant is proposing a higher density than the surrounding neighborhoods (Franconia Commons is zoned R-8 and Autumn Chase is zoned PDH-4). Furthermore, in staff's opinion, the applicant has failed to create a site layout which meets the goals of the Comprehensive Plan Residential Development Criteria. It would be more desirable to have a site design that incorporates usable and accessible open space on-site for use by the future residents. It should be recognized that the proposed units are land intensive and furthermore, that efficiencies in the site design cannot be achieved when one of the critical parcels is not included as part of the development. An interparcel connection is not provided to parcel 7 nor have funds been escrowed for construction of the future connection. For these reasons, staff continues to recommend denial of the proposed application. As an alternative, staff would recommend that the property be rezoned to the R-5 District.

Recommendations

Staff recommends that RZ 2006-LE-018 be denied; however, if it is the intent of the Board of Supervisors to approve RZ 2006-LE-018, staff recommends that the approval be subject to the draft proffers contained in Attachment 1 of this staff report addendum.

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 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.

ATTACHMENTS

1. Proffers (dated February 19, 2007)
2. Affidavit
3. Urban Forest Management Analysis

PROFFERS

RZ 2006-LE-018
FLEET DRIVE LLC

February 19, 2007

Pursuant to Section 15-2.2303A of the 1950 Code of Virginia, as amended, the undersigned applicant and owners, for themselves and their successors or assigns (hereinafter referred to as "Applicant"), hereby proffer the following conditions provided the Subject Property is rezoned as proffered herein.

1. **Generalized Development Plan.** Development of the property shall be in substantial conformance with the plan entitled "Generalized Development Plan Beulah Fleet" ("GDP"), prepared by Charles P. Johnson & Associates, Inc. (Sheets 1 through 9), revised as of February 1, 2007.
2. **Energy Efficiency.** All homes constructed on the property shall meet the thermal standards of the Cabo Model Energy Program for energy efficient homes, or its equivalent, as determined by the Department of Public Works and Environmental Services ("DPWES") for either electric or gas energy homes, as applicable.
3. **Recreational Facilities.** At the time of site plan approval, the Applicant shall contribute the sum of \$955 per approved dwelling unit for the total number of dwelling units on the approved site plan, to the Fairfax County Park Authority for use on recreational facilities at the nearby Manchester Lakes Public Park as determined by the Park Authority, subject, however, to a credit for expenditures on-site for a gazebo, benches and a sidewalk within the open space area depicted on the GDP.
4. **Road Dedication/Construction.** At the time of subdivision plat approval, or upon demand by Fairfax County, whichever occurs first, right-of-way up to 45 feet from centerline along the Fleet Drive road frontage, necessary for public street purposes and as shown on the GDP, shall be dedicated and conveyed to the Board of Supervisors in fee simple. The Applicant shall also construct road widening, with curb gutter and sidewalk 35 feet from centerline along the Fleet Drive frontage of the Subject Property plus a taper as shown on the GDP.
5. **Stormwater Management Pond Landscaping.** Subject to DPWES approval, the Applicant shall provide an extended detention stormwater management pond on the Property. In order to restore a natural appearance to the proposed stormwater management pond and to plant water-tolerant plants in the bed of the pond, if determined feasible by DPWES, the landscape plan to be submitted as part of the first submission of the site plan shall show the maximum feasible amount of landscaping that will be allowed in the planting areas of the pond, in keeping with the planting policies of Fairfax County.

6. **Homeowners' Association.**
 - a. The Applicant shall establish a Homeowners' Association ("HOA") for the proposed development to own, manage and maintain the open space areas, private streets, common parking areas, and all other community-owned land and improvements.
 - b. The HOA shall also maintain the acoustical wall shown on the GDP. In cases where the wall is installed on a lot, the conveyance of that lot shall be subject to an easement to the benefit of the HOA permitting the HOA access to maintain the acoustic wall on that lot. This easement shall be a covenant running with the land. The HOA documents shall disclose these maintenance responsibilities.
 - c. The Applicant shall deposit the sum of \$10,000 into a maintenance account that will be available for utilization by the HOA for street maintenance after the Applicant turns over control of the HOA to the homeowners.
 - d. At such time as the Applicant is prepared to turn over full control of the HOA to the homeowners, the Applicant shall host a meeting with the HOA board and invite representatives of the Franconia Commons Board of Directors to attend. The purpose of the meeting will be to allow the HOA to determine whether it would be advantageous or desirable for the residents of the subject property to participate in the use and maintenance of the common facilities within Franconia Commons, if Franconia Commons is amenable to such participation. However, the final determination shall be made solely by the HOA for the subject property.
7. **Private Streets.** The on-site private streets shall be constructed in conformance with the Public Facilities Manual ("PFM"). Said streets shall be constructed of materials and depth of pavement consistent with the PFM for public streets. Initial purchasers shall be advised in writing, prior to entering into a contract of sale, that the HOA shall be responsible for the maintenance of all the private streets in the development. The HOA documents shall specify that the HOA is responsible for the maintenance of the private streets.
8. **Affordable Housing Contribution.** Prior to the issuance of the first building permit, the Applicant shall contribute to the Fairfax County Housing Trust Fund a sum equal to one half of one percent (.5%) of the projected sales price of the new homes to be built on-site, as determined by the Department of Housing and Community Development and DPWES in consultation with the Applicant to assist the County in its goal to provide affordable dwellings elsewhere in the County.

9. **Density.** All density and intensity of use attributable to land areas dedicated and conveyed to the Board of Supervisors pursuant to these proffers shall be subject to the provisions of Paragraph 4 of Section 2-308 of the Zoning Ordinance and density is hereby reserved to be applied to the residue of the Subject Property.
10. **Tree Preservation.**
 - a. **Tree Protection Fencing.** All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fencing. Tree protection fencing four (4) feet high, fourteen (14) gauge welded wire attached to six (6) foot steel posts driven eighteen (18) inches into the ground and placed no further than ten (10) feet apart shall be erected at the limits of clearing and grading as shown on the demolition, and Phase I & II Erosion and Sediment Control Sheets for those tree save areas depicted on the GDP. All tree protection fencing shall be installed prior to any clearing and grading activities, including the demolition of any existing structures. The installation of all tree protection fencing, except super silt fencing, shall be performed under the supervision of a certified arborist. Three (3) days prior to the commencement of any clearing, grading or demolition activities, Urban Forestry Management ("UFM") shall be notified and given the opportunity to inspect the site to assure that all tree protection devices have been correctly installed.
 - b. **Limits of Clearing and Grading.** The Applicant shall conform to the limits of clearing and grading as shown on the GDP, subject to the installation of utilities and/or trails as determined necessary by the Director of DPWES. All utility crossings (including stormwater management outfall facilities and sanitary sewer lines) shall be located so as not to interfere with proposed tree save areas. If it is determined necessary to install utilities and/or trails within the limits of clearing and grading as shown on the GDP, they shall be located in the least disruptive manner necessary as determined by the UFM. A replanting plan shall be developed and implemented, subject to approval by the UFM, for any areas within the limits of clearing and grading that must be disturbed.
 - c. **Tree Preservation Plan.** The Applicant shall implement a Tree Preservation Plan in substantial conformance with Sheet 5 of 8 of the GDP as part of the first and all subsequent subdivision plan submissions. The preservation plan shall be prepared by a professional with experience in the preparation of tree preservation plans, such as a certified arborist or landscape architect, and shall be subject to the review and approval of UFM, DPWES. The tree preservation plan shall provide for the preservation of those areas shown for tree preservation, those areas outside of the limits of clearing and grading shown on the GDP and those additional areas

in which trees can be preserved as a result of final engineering. The condition analysis ratings shall be prepared using methods outlined in the latest edition of *The Guide for Plant Appraisal* published by the International Society of Arboriculture. Specific tree preservation activities that will maximize the survivability of trees identified to be preserved, such as crown pruning, root pruning, mulching, fertilization and others as necessary, as generally indicated in the Tree Preservation Plan.

d. **Replacement Value.** At the time of subdivision plan approval, the Applicant will post a cash bond or letter of credit payable to the County of Fairfax to ensure preservation and/or replacement of two specific trees (Tree Number 20 and Tree Number 22) shown on Sheet 5 of the GDP ("designated trees") in the event that these designated trees die or are dying due to Applicant's construction activities. The terms of the letter of credit shall be subject to approval by the County Attorney. The total amount of the cash bond or letter of credit shall be \$2,000.

At the time of the on site preconstruction conference, a representative of UFM shall note the condition of these designated trees.

Prior to bond release, if either or both of these designated trees are determined to be dead or dying due to construction activities as determined by UFM, funds from the cash bond, or letter of credit, shall be used to plant similar species, or species appropriate to the site, in consultation with UFM. The cash bond or letter of credit shall not be used for the removal or replacement of other dead/dying trees. If the UFM representative, determines that only a certain number of replacement trees can be planted due to space constraints in the designated tree area, and the cost of replacement amounts to less than the full extent of the security, the remainder of the moneys shall be returned to the Applicant at the time of bond release. If no replacement trees are required, the cash bond or letter of credit shall be released and returned to the Applicant at the time the subdivision bond is released.

e. **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 a UFM, DPWES representative to determine whether 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. Any such adjustment shall be implemented, provided they do not result in the loss of any residential lot. Trees that are identified specifically by UFM in writing as dead or dying within the

tree preservation area located in the northwest corner of the Property 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.

11. **Noise Attenuation.** With reference to Beulah Street, the Applicant shall provide the following noise attenuation measures:
 - a. In order to achieve a maximum interior noise level of approximately 45 dBA Ldn, the Applicant proffers that all residential units located between 82 feet and 148 feet from the centerline of Beulah Street, impacted by highway noise having levels between 65 and 70 dBA Ldn, shall have the following acoustical attributes:
 - (1) Exterior walls shall have a laboratory sound transmission class ("STC") of at least 39.
 - (2) Doors and glazing shall have a laboratory STC of at least 28. If glazing constitutes more than twenty percent (20%) of any facade, they shall have the same laboratory STC rating as walls.
 - (3) Measures to seal and caulk between surfaces shall follow methods approved by the American Society for Testing and Materials to minimize sound transmission.
 - b. In order to achieve a maximum interior noise level of approximately 45 dBA Ldn, the Applicant proffers that all residential units located within 82 feet from the centerline of Beulah Street, impacted by highway noise having levels between 70 and 75 dBA Ldn, shall have the following acoustical attributes:
 - (1) Exterior walls shall have a laboratory sound transmission class ("STC") of at least 45.
 - (2) Doors and glazing shall have a laboratory STC of at least 37. If glazing constitutes more than twenty percent (20%) of any facade, they shall have the same laboratory STC rating as walls.

Beulah Street (generally the second and third stories). Such shutters, trim or other accent materials shall be complementary in terms of type and color to those items or materials used on other portions of the façade.

15. **Interparcel Access.** As a part of the subdivision plat approval, the Applicant shall convey an access easement allowing interparcel access between the subject property and Tax Map 91-1 ((5)) Parcel 7 over the area so designated on the GDP. Said easement shall be subject to the residents of Parcel 7 paying their pro rata share for the maintenance of the private street on the subject property providing access from Fleet Drive to Parcel 7. In addition, the Applicant shall place a conspicuous sign at this location stating that this area will be the site of future construction of the road extension by others to provide an interparcel connection. All prospective new home purchasers shall be advised of this future extension prior to entering into a contract of sale and notice of the interparcel connection shall also be placed within the HOA documents. The sign shall remain in place until the future road connection is made. The HOA shall maintain the sign in good repair.
16. **Temporary Signage.** No temporary signs (including "popsicle" style paper or cardboard signs) which are prohibited by Article 12 of the Zoning Ordinance, and no signs which are prohibited by Chapter 7 of Title 33.1 or Chapter 8 of Title 46.2 of the Code of Virginia shall be placed on or off-site by the Applicant or at the Applicant's direction to assist in the initial marketing and sale of homes on the subject Property. Furthermore, the Applicant shall direct its agents and employees involved in marketing and/or sale of residential units on the subject Property to adhere to this proffer.
17. **Heritage Resources.** Prior to any land disturbing activities on the Property, Applicant shall conduct a Phase I archaeological study on those areas of the Property identified by CRMPS of the Fairfax County Park Authority ("CRMPS") and provide the results of such study to CRMPS. The study shall be conducted by a qualified archaeological professional. If the Phase I study concludes that an additional Phase II study of the Property is warranted, the Applicant shall complete said study and provide the results to CRMPS; however, submission of the Phase II study to CRMPS shall not be a pre-condition of site plan approval. If the Phase II study concludes that additional Phase III evaluation and/or recovery is warranted, the Applicant shall also complete said work in consultation and coordination with CRMPS; however, any such Phase III work shall not be a pre-condition of site plan approval.
18. **Garage Conversion.** A covenant shall be recorded which provides that garages shall not be used for any purpose that will interfere with the parking of vehicles in the garage. The covenant 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 HOA, which shall be established, and to Fairfax County. Purchasers shall

be advised of the use restriction prior to entering into a contract of sale; this restriction shall also be included in the HOA documents.

19. **Bus Stop.** Prior to subdivision plan approval, the Applicant shall contribute \$5,000 to Fairfax County to be utilized for a bus stop shelter in the general vicinity of the subject property.
20. **Geotechnical Investigation.** The Applicant shall submit a geotechnical investigation of the site for the review and approval of DPWES and implement such measures as determined by the investigation, subject to the satisfaction of DPWES.
21. **Counterparts.** These proffers may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed an original, and all of which taken together shall constitute but one and the same instrument.

APPLICANT/CONTRACT PURCHASER OF TAX MAP 91-5 ((5)) Parcels 2, 3, 4, 5 and 6; 91-1 ((1)) Parcels 58, 59A and 59B; Owner of Tax Map 91-1 (91)) parcel 60

FLEET DRIVE LLC

By: _____
Ray Smith, III, Managing Member

OWNERS OF TAX MAP 91-1 ((5)) PARCEL 2

DALLAS R. SMITH

By: _____
Ray Smith, III, Agent and Attorney-in-Fact for
Dallas R. Smith

RUTH M. SMITH

By: _____
Ray Smith, III, Agent and Attorney-in-Fact for
Ruth M. Smith

OWNER OF TAX MAP 91-1 ((5)) PARCEL 3

JULIO C. GONZALEZ

By: _____
Ray Smith, III, Agent and Attorney-in-Fact for
Julio C. Gonzalez

OWNERS OF TAX MAP 91-1 ((5)) PARCEL 4

ERIC B. MCGEE

By: _____
Ray Smith, III, Agent and Attorney-in-Fact for
Eric B. McGee

GLORIA CARHUANCHO

By: _____
Ray Smith, III, Agent and Attorney-in-Fact for
Gloria Carhuancho

OWNERS OF TAX MAP 91-1 ((5)) PARCELS 5 AND 6

MICHAEL E. MARTIN

By: _____
Ray Smith, III, Agent and Attorney-in-Fact for
Michael E. Martin

JOANNE M. MARTIN

By: _____
Ray Smith, III, Agent and Attorney-in-Fact for
Joanne M. Martin

OWNER OF TAX MAP 91-1 ((1)) PARCEL 58

JORGE BERRIOS

By: _____
Ray Smith, III, Agent and Attorney-in-Fact for
Jorge Berrios

OWNERS OF TAX MAP 91-1 ((1)) PARCEL 59A

SUNG SOO KIM

By: _____
Ray Smith, III, Agent and Attorney-in-Fact for
Sung Soo Kim

GOH LAI-FOONG

By: _____
Ray Smith, III, Agent and Attorney-in-Fact for
Goh Lai-Foong

OWNER OF TAX MAP 91-1 ((1)) PARCEL 59B

SUNG WOO KIM

By: _____
Ray Smith, III, Agent and Attorney-in-Fact for
Sung Woo Kim