



**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

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**March 7, 2007**

## **STAFF REPORT ADDENDUM II**

### **APPLICATION 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

**SITE AREA:** 5.90 acres

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

**PLAN MAP:** Residential; 8-12 du/acre

**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  
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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 contained the following changes:

- Proposed Units 22 through 24 and 32 through 34 were reoriented so that Units 22 through 24 would face north and Units 32 through 34 would face south.
- Architectural elevations, labeled for illustrative purposes only, were provided for the front of the proposed units.
- The setbacks for the available deck area were revised to depict that decks could extend 12 feet into the required minimum rear yard as permitted by Sect. 2-412 of the Zoning Ordinance.
- The length of proposed Units 1-8 has been reduced from 45 feet in length to 40 feet in length in order to permit the limits of clearing and grading to be pulled away from the northern property line (the shared property line with Franconia Commons).
- Only one emergency access point (located between proposed Units 34 and 35 in the southeastern portion of the site) was proposed.

- The parking tabulations were updated to indicate that the provided parking for the site (170 spaces) will exceed the Zoning Ordinance parking requirement (133 spaces).
- A 6.5-foot to 7-foot high acoustical barrier is depicted on the GDP to extend along the eastern property line (between the proposed site and Beulah Street), the northern property line (behind Units 19 through 21), and the southern property line (behind Units 35 through 39).
- A detail of a wooden acoustical barrier was provided.
- Spot elevations were provided to depict the elevations of the rear yards for proposed Units 47 through 49; and
- The proposed Filterra vegetated box was relocated from the location of the future interparcel access to Parcel 7 to the middle of the sidewalk in front of proposed Unit 6.

In addition to these changes on the GDP, the applicant also revised the proffers to clarify that the proposed stormwater management (SWM) pond is an extended pond, not an enhanced extended pond, and that the future homeowners' association (HOA) would be responsible for the maintenance of the proposed noise barrier.

On February 28, 2007, a staff report addendum was published. In this addendum, staff noted that while the revised GDP and proffers 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, 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 believed that the applicant had failed to address staff's original concern which was that the site layout was 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 recognized that the site is planned for residential at 8 to 12 units per acre, staff also observed that the applicant was 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 had not provided a site layout which met the goals of the Comprehensive Plan Residential Development Criteria. Staff continued to recommend that the applicant fashion a site design which incorporated usable and accessible open space on-site for use by the future residents. Staff further noted that the applicant's proposed units were land intensive and furthermore, that efficiencies in the site design could not be achieved because the applicant had left out one of the critical parcels (Parcel 7) as part of the development. For these reasons, staff continued to recommend denial of the proposed application. As an alternative, staff also continued to recommend that the property be rezoned to the R-5 District.

On March 6, 2007, the applicant submitted revised proffers dated May 25, 2006 in response to staff's concerns, which included the following revisions:

- Proffer 3 contains a minor edit.

- Proffer 10, which contains the tree preservation proffers, has been completely revised.
- Proffer 11c has been revised to note that a brick acoustic wall will be constructed in lieu of the wooden barrier depicted on Sheet 4 of the GDP; and
- Proffer 17 has been revised to note that the Phase I archaeological study will be submitted at least thirty (3) days prior to any land disturbing activities on the property.

## **ANALYSIS**

### **Tree Preservation Proffers**

Staff does not feel that the proposed tree preservation proffers have addressed staff's earlier concerns. Specifically, though the applicant has adjusted the limits of clearing and grading away from the northern property line, staff believes that the wording of the proffers does not evidence a real commitment to preserve these trees. While the applicant has committed to prepare a tree preservation plan and install tree preservation fencing, staff has concerns with the applicant's proposed tree preservation bonds. The applicant has proffered to post a bond secured by a letter of credit (or similar corporate surety) to ensure preservation and/or replacement of the trees to be preserved. The applicant has limited the proposed bond to 50% of the replacement value of the bonded trees, but no greater than \$10,000. First of all, the tree bond should be based on the appraised value of the tree, not the replacement value. The purpose of the tree bonds is to provide a remedy for unapproved disruption to the trees proffered to be preserved. Placing an arbitrary cost limitation on the bond defeats this purpose. The applicant has also not proffered to post a cash bond in addition to the letter of credit. The intent of the cash bond is to provide the County with a cash reserve that can be used to ensure the preservation, conservation, replacement, removal and/or treatment of the trees identified in the Tree Preservation Plan, and for work relating to the protection and management of undistributed areas identified on the approved GDP. Furthermore, staff would also note 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, the applicant seeks to base the lost value on the amount of tree cover lost. Not only does this method substantially devalue the tree's worth, but it also permits the applicant to replace any lost trees with many little trees (whips), rather than with trees of larger caliper.

Staff continues to have concerns about the possible impacts of this proposed development on trees which are not wholly-owned by the applicant. As noted in the staff addendum, the limits of clearing and grading depicted on the GDP show that there would be construction activity within the dripline of Tree Numbers 20 and 22 (as depicted on the tree preservation plan contained in the GDP.) The Tree Preservation Plan contained in the GDP states that Tree Numbers 20 and 22 appear to be jointly-owned with Franconia Commons. The Tree Preservation Plan also quite specifically recommends that the applicant *"never damage or take out jointly-owned trees without the owners' written consent."* Staff has no record that

Franconia Commons has granted written consent to permit these trees to be damaged or removed. For that reason, staff continues to urge the applicant to move the limits of clearing and grading away from the dripline of these two trees in order to ensure that these trees are not adversely impacted.

### **Timing of Proffer Commitments**

Staff is also concerned with another error in the proffers that still has not been corrected. Throughout the proffers, the applicant has used subdivision approval as the timing mechanism. However, because the proposed units are single-family attached dwellings, the applicant will not be going through the subdivision process. Rather, the applicant will be seeking site plan approval. Staff has pointed out this repeated error on the proffers, yet the applicant has not corrected it. It is unclear why.

## **CONCLUSIONS AND RECOMMENDATIONS**

### **Staff Conclusions**

None of staff's concerns, as laid out in both the staff report and staff addendum, have been addressed with the proposed proffers. Therefore, staff continues to recommend denial of the proposed application.

### **Recommendation**

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 recommendations of staff; it does not reflect the position of the Board of Supervisors.

## **ATTACHMENTS**

1. Proposed Proffers (blackline version showing changes from February 19, 2007 proffers)

## PROFFERS

### RZ 2006-LE-018 FLEET DRIVE LLC

February ~~1~~, 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.

~~6. Homeowners' Association. 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 ~~fencing~~wall shown on the ~~CDP/FDP~~GDP. In cases where the ~~fence~~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 ~~fence~~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.

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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.

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

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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.

d. 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.
  - (3) Measures to seal and caulk between surfaces shall follow methods approved by the American Society for Testing and Materials to minimize sound transmission.

- c. In order to achieve a maximum exterior noise level of 65 dBA Ldn, ~~noise attenuation measures such as acoustical (architecturally solid, no gaps) fencing, walls, earthen berms, or combinations thereof,~~ a six (6) to seven (7) foot high brick acoustic wall shall be provided as shown on the GDP for rear yard, ground level areas, unshielded by topography or built structures, in accordance with noise wall specifications depicted on the GDP, ~~unless alternative specifications are requested by the Applicant and approved by DPWES and the Department of Planning and Zoning ("DPZ").~~ Where necessary, utilities or drainage lines may cross under the noise fence or wall. The HOA shall be responsible for the maintenance of the acoustic ~~fencing~~wall as provided in proffer number 6 hereinabove.
- d. The Applicant may elect to have a refined acoustical analysis performed to verify or amend the noise levels and impact areas set forth above to revise interior noise attenuation measures as prescribed above and/or to revise exterior noise mitigation in order to determine if the height of the acoustical fencing may be reduced to six (6) feet. The refined acoustical analysis and revisions to noise attenuation measures is subject to the approval of DPWES and the Department of Planning and Zoning. Any refined acoustical analysis shall also be forwarded to the Lee District Planning Commissioner at the time of filing with the County.
12. **School Contribution.** Prior to the issuance of the first building permit, the Applicant shall contribute \$135,000 to the Board of Supervisors ("Board") to be utilized for the provision of capital facilities within the Fairfax County School Board's pyramid of schools serving this development. In the event that the approved final subdivision plan yields less than forty-nine (49) market rate units, this contribution amount shall be reduced proportionately based upon a ratio of forty-nine (49) units to \$135,000.
13. **Landscaping.** Landscaping for the site and landscaping for the individual units shall be in substantial conformance with the landscaping shown on Sheet 3 of 8 of the GDP, subject to minor adjustments approved by UFM.
14. **Architectural Treatment.** The building elevations for the proposed dwelling units shall be generally in character with the illustrative elevations entitled "Ashlawn & Somerset Front Elevations" and "Somerset Rear Elevations & Building Section," prepared by Creaser/O'Brien Architects and dated May 2, 2006 attached hereto as ~~sheet~~Sheet 9 of 9 of the GDP. Exterior walls shall be constructed with siding, brick, stucco or stone facings, or a combination thereof. Elevated stoops may be provided to main entrances. The rear and sides of the approved units that are visible from Beulah Street (i.e., the sides of units 21, 22, 34 and 35 facing Beulah Street and the rear walls of units 25 through 31 and 35 through 39) shall incorporate the use of shutters or decorative trim and related accent materials on windows ~~and on~~ portions of the rear façade that are not visually screened by the noise attenuation wall required by these proffers along

Beulah Street (generally the second ~~story~~ and ~~above~~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 ~~homeowners association~~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 ~~homeowners association~~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

Document comparison done by DeltaView on Tuesday, February 20, 2007 2:31:45 PM

Input:	
Document 1	pdocs://frxlib/430978/6
Document 2	pdocs://frxlib/430978/7
Rendering set	ReedSmith Standard

Legend:	
<a href="#">Insertion</a>	
<del>Deletion</del>	
<del>Moved from</del>	
<a href="#">Moved to</a>	
Style change	
Format change	
<del>Moved deletion</del>	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	71
Deletions	37
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	108