



APPLICATION FILED: May 30, 2006
APPLICATION AMENDED: November 27, 2006
PLANNING COMMISSION: March 7, 2007
PLANNING COMMISSION DECISION ONLY: March 22, 2007
BOARD OF SUPERVISORS: Not Yet Scheduled

County of Fairfax, Virginia

March 21, 2007

STAFF REPORT ADDENDUM IV

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

Waiver of the trail requirement along Fleet Drive

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Department of Planning and Zoning
Zoning Evaluation Division
Fairfax, Virginia 22035-5509
Phone 703 324-1290
FAX 703 324-3924
www.fairfaxcounty.gov/dpz/

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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.

The approval of this rezoning does not interfere with, abrogate or annul any easement, covenants, or other agreements between parties, as they may apply to the property subject to this application.

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 visual 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 and

failed to provide for adequate interparcel access to the unconsolidated parcel. For these reasons, staff continued to recommend denial of the proposed application. Staff has acknowledged that a redesign of the site would be necessary to adequately address staff concerns. 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 March 1, 2007 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.

On March 7, 2007, a second staff addendum was published to reflect the revised proffers, dated March 1, 2007. In that addendum, staff noted that it still had many concerns with the applicant's proffer commitments – in particular, the tree preservation proffers. In staff's opinion, the applicant's proposed tree bond should be based on the appraised value of the tree, not the replacement value, since the main purpose of the tree bonds was to provide a remedy for unapproved disruption to the trees proffered to be preserved. For this same reason, staff objected to the arbitrary cost limitation that the applicant sought to place on the bond. In addition, the applicant had not proffered to post a cash bond in addition to the letter of credit, which would have provided 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. Finally, the proffered method to which the applicant proposed to employ to measure the value of the trees was based on the value on the amount of tree cover lost. In staff's opinion, not only does this method substantially devalue the tree's worth, but it also permitted the applicant to replace any lost trees with many little trees (whips), rather than with trees of larger caliper.

On March 7, 2007, the public hearing before the Planning Commission was held. That same night, the applicant submitted revised proffers, now dated March 7, 2007. The Planning Commission deferred its decision on the application until March 14, 2007. On March 14, 2007, third staff report addendum was published. In that addendum, staff noted that the revisions contained in the March 7, 2007, proffers did not adequately address any of the concerns staff had previously expressed in the March 7, 2007, staff report addendum.

On March 14, 2007, the applicant submitted revised proffers, now dated March 13, 2007, which include the following changes:

- Proffer 8 (Affordable Housing Contribution) includes changes to the method for calculating the 0.5% contribution.

- Proffer 10 (Tree Preservation) now commits to the use of a cash bond proffer.
- Proffer 11 (Noise Attenuation) now commits to a refined acoustical analysis based upon the final grading of the site.
- Proffer 17 (Heritage Resources) has been amended to note that the Phase I archaeological study will be submitted for the review and approval of the Fairfax County Park Authority and that no land disturbance activities shall be conducted until this study is approved.

In addition, the applicant submitted a letter, dated March 13, 2007, to Planning Commissioner Rodney Lusk (a copy of which is attached to this addendum), in which the applicant discusses the feasibility of utilizing underground detention for stormwater management on the site. The applicant also submitted an exhibit depicting the redevelopment of Parcel 7, which is not included within the application property. Finally, on March 15, 2007, the applicant submitted a revised Generalized Development Plan (GDP), as revised through March 13, 2007, which contained the following changes:

- A path leading to a proposed gazebo is proposed between Units 5 and 6.
- A 1,000 SF tot lot area is depicted between proposed Units 18 and 19. Details on the proposed play equipment is not provided.
- The previously depicted open space area located behind proposed Units 8 through 18 is now depicted as an “informal play area.” However, the path leading to this area, which was previously proposed to be located between proposed Units 13 through 16 has been eliminated.
- The proposed Filterra vegetated box was relocated from to the middle of the sidewalk in front of proposed Unit 6 to be located between the sidewalk and street.

ANALYSIS

Proffers

The applicant’s revised tree preservation proffers have addressed some of staff’s concerns. Under these revised proffers, the tree bond would be based on the appraised value of the tree, not the replacement value. In addition, the applicant has now proffered to post a cash bond in addition to the letter of credit. This cash bond is intended 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.

However, the applicant continues to seek to place a cost limitation on the tree bond. The applicant has not provided staff with an appraisal of the tree’s value to allow for a staff determination as to whether the proposed figure is arbitrary. Staff would note that the purpose of the tree bond 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.

Redevelopment Exhibit for Parcel 7

As stated at the public hearing of March 7, 2007, staff has specifically requested an interparcel access from the proposed development to Parcel 7 because staff anticipates concerns with any future development on Parcel 7 that proposes direct access to Fleet Drive given the existing sight distance issues caused by the existing curve in the road at this location. Despite these concerns, the applicant submitted a redevelopment exhibit for Parcel 7 which depicts direct access to Fleet Drive. Not only that, but the exhibit depicts that this access to Fleet Drive would also be available to the 49 units proposed under RZ 2006-LE-018. While staff is generally supportive of providing multiple points of ingress and egress for a subdivision of this size, the proposed location of the Fleet Drive access for Parcel 7 raises serious safety issues given the sight distance issues at this location. For this reason, staff requested that the applicant provide an exhibit which depicts a single access point from the proposed interparcel access so that it can be determined if a turnaround (such as a cul-de-sac) can be provided on Parcel 7. The applicant has provided a hand-drawn exhibit which depicts the previously-proposed access from Parcel 7 to Fleet Drive as an emergency access only. The applicant has also provided a second hand-drawn exhibit which depicts how a hammerhead turnaround could be provided under its proposed redevelopment design.

The redevelopment exhibit for Parcel 7 indicates that a separate stormwater (SWM) pond would be provided for any redevelopment of Parcel 7. Staff believes that it is undesirable to have two SWM ponds in such close proximity to each other. For that reason, staff strongly recommends that the applicant design the SWM pond proposed with this development such that the pond could accommodate any future development of Parcel 7. Staff believes that redesigning the SWM pond to accommodate any future development of Parcel 7 would be beneficial to the future residents of this development because that portion of Parcel 7 shown as a SWM pond could instead become usable open space or additional tree save.

Finally, under the current proffers, the applicant has committed to host a meeting with the future development's Homeowners Association (HOA) Board and invite representatives of the Franconia Commons Board of Directors to attend so that the HOA Board can determine whether or not 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 (subject to the approval of Franconia Commons). In staff's opinion, the proffers should also permit the future HOA Board to decide whether or not to allow any the residents of any future redevelopment on Parcel 7 to join their HOA.

GDP

Staff is concerned with the changes that the applicant has made to the open space on the site. In order to provide access to the relocated gazebo (between Units 5 and 6), the applicant has eliminated all access to the much larger "informal play area" behind Units 8 through 18. Under the previous layout, staff had opined that this open space was not particularly usable or accessible. With the elimination of any access

to this space, this open space has now become little more than the extension of the rear yards of those units which back onto it.

CONCLUSIONS AND RECOMMENDATIONS

Staff Conclusions

The revised tree preservation proffers have addressed some of staff's concerns. However, the proffers continue to propose an unsubstantiated cost limitation on the tree bond amount. Staff also has concerns about the changes that the applicant is now proposing to the open space area and their impacts on accessibility of this space. Staff continues to believe that this application is not 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-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.

The approval of this rezoning does not interfere with, abrogate or annul any easement, covenants, or other agreements between parties, as they may apply to the property subject to this application.

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 March 7, 2007 proffers)
2. March 13, 2007, letter from Applicant to Planning Commissioner Rodney Lusk
3. Exhibit depicting proposed redevelopment of Parcel 7

(A reduction of the GDP, as revised through March 13, 2007, and a copy of the locator map is contained at the front of this report.)

PROFFERS

RZ 2006-LE-018 FLEET DRIVE LLC

March 1, 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 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 Preservation Plan.** The Applicant shall submit a tree preservation plan 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~~ reviewed and approved by the Urban Forestry Management (“UFM”), DPWES. The tree preservation plan shall consist of a tree survey that includes the location, species, size, crown radius and condition rating percentage of all trees ten (10) inches in diameter ~~and/or~~ greater, and located within twenty (20) feet to either side of the limits of clearing and grading shown on the GDP for the entire site. The tree preservation plan shall provide for the preservation of those areas shown on the tree preservation plan. The condition ratings shall be prepared using methods outlined in the ~~9th~~ 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, soil treatments, mulching, fertilization and others as necessary, shall be included in the plan.
 - b. **Tree Value Determination.** The Applicant shall retain a professional arborist with experience in plant ~~evaluation~~ approval, such as a certified arborist or landscape architect, to determine the replacement value of all trees ten ~~(10)~~ inches (10”) in diameter or greater and located within twenty (20) 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 GDP which are identified to be preserved on the Tree Preservation Plan. These trees and their value shall be identified on the ~~tree preservation plan~~ Tree Preservation Plan at the time of the first submission of the Site Plan. The replacement value shall take into consideration the age, size and condition of these trees and shall be determined by the ~~ten (10) year canopy calculations as a basis for determining replacement value in conjunction with methods outlined in the 9th~~ “Trunk Formula Method” contained in the latest edition of the *Guide for Plant Appraisal* ~~using the “Trunk Formula Method.”~~ Plant Appraisal published by the International Society of Arboriculture, subject to review and approval by UFM, DPWES.
 - c. **Tree ~~Bonds~~ Bond.** In order to provide a remedy for any unintended disruption to trees required to be preserved under these proffers, at the time of site performance bond approval, the Applicant shall both post a

tree bond secured by a letter of credit or similar corporate surety 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 proffer 10(a) above (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 shall be equal to fifty (50) percent of the replacement value of the bonded trees, but in no event shall this bond/letter of credit amount exceed \$10,000.00.

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 construction activities. The replacement trees shall be of equivalent size, species and/or canopy cover as approved by UFM and shall incorporate native plant species. Upon release of the bond for the site, any amount remaining in the letter of credit required by this proffer shall be returned/released to the Applicant and the tree bond released. At the time of approval of the final RUP, the Applicant may request a reduction in the letter of credit to an amount up to twenty (20) percent of the total amount originally committed provided they are in good standing with the tree proffer commitments.

- d. **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.
- e. **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, rakes and shovels. Any work that requires the use of motorized equipment, such as tree transplanting—~~spaces~~, 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.

f. **Root Pruning and Mulching.** The Applicant shall 1) root prune, 2) mulch, and 3) provide tree protection fencing in the form of four ~~(4)~~-foot (4') high, fourteen (14) gauge welded wire attached to six ~~foot (6')~~-~~foot~~ steel posts driven eighteen ~~(18)~~-inches (18") into the ground and placed no further than ten ~~(10)~~-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 ~~(18)~~-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 fencing 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 ~~(4)~~-inches (4") extending ten ~~(10)~~-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.

g. **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 to determine where adjustments to the clearing limits can be made to increase the area of tree preservation; increase the survivability of trees at the edge of the limits of clearing and grading; facilitate the removal of trees adjacent to the limits of clearing and grading; facilitate tree preservation activities such as root pruning or fencing; or facilitate the installation of erosion and sediment control devices. Such adjustment

shall be implemented. Trees that are identified specifically by UFM in writing as dead or dying may be removed as part of the clearing operation. Any tree that is so designated shall be removed using a chain saw and such removal shall be accomplished in a manner that avoids damage to surrounding trees and associated understory vegetation. If a stump must be removed, this shall be done using a stump grinding machine in a manner causing as little disturbance as possible to the adjacent trees and associated understory vegetation and soil conditions.

- h. **Tree Protection Fencing.** All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fencing. Tree protection fencing of a type permitted by UFM shall be erected concurrently with the Phase I Erosion and Sedimentation permit activities. Tree fencing shall be installed prior to any clearing and grading activities including the demolition of any existing structures at the limits of clearing and grading as shown on the demolition, and Phase I and II erosion and sediment control sheets, as may be modified during the tree preservation walk-through with a 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.
- i. **Site Monitoring.** Inspection of the site by a representative of the Applicant during any clearing or tree/vegetation/structure removal on the Applicant Property within the drip line of the trees to be saved as part of the tree preservation plan as described in Proffer 10a. shall occur on a weekly basis to ensure that the activities are conducted as proffered and as approved by UFM. The inspection/monitoring schedule shall be described and detailed in the Landscaping and Tree Preservation Plan, and reviewed and approved by UFM, DPWES. The Lee District Supervisor shall be notified of the name and contact information of the Applicant's representative responsible for site monitoring at the tree preservation walk-through meeting.

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. A brick acoustic wall shall be constructed in lieu of the wooden barrier shown in the Acoustical Barrier Detail on Sheet 4. In order to achieve a maximum exterior noise level of 65 dBA Ldn, 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. 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 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 plat 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 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 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 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.** At least thirty (30) days 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 plat 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