



APPLICATION FILED: March 1, 2007

PLANNING COMMISSION: July 19, 2007

BOARD OF SUPERVISORS: July 23, 2007 @ 3:30 P.M.

County of Fairfax, Virginia

July 5, 2007

STAFF REPORT

APPLICATION RZ 2007-HM-008

HUNTER MILL DISTRICT

APPLICANT: Phillip and Melinda R. Pon

PRESENT ZONING: R-1

REQUESTED ZONING: R-2 (Cluster)

PARCEL(S): 28-4 ((1)) 5

ACREAGE: 2 acres

RESIDENTIAL DENSITY: 1.5 du/ac

PLAN MAP: Residential; 1-2 du/ac

PROPOSAL: To rezone from the R-1 District to the R-2 District to permit cluster residential development, consisting of three (3) single-family detached dwelling units.

REQUESTED WAIVERS/MODIFICATIONS: Waiver of the 20% maximum permitted number of pipestem lots in a subdivision (to permit 100%), per Public Facilities Manual Section 2-0103.2.

Waiver of the sidewalk requirement and modification of the trail width requirement along Old Courthouse Road, in favor of the trail depicted on the GDP.

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Department of Planning and Zoning

Zoning Evaluation Division

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STAFF RECOMMENDATIONS:

Staff recommends denial of RZ 2007-HM-008. However, if it is the intention of the Board of Supervisors to approve the application, staff recommends such approval be subject to the execution of proffers consistent with those found in Appendix 1 of this report.

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).

**A GLOSSARY OF TERMS FREQUENTLY
USED IN STAFF REPORTS WILL BE
FOUND AT THE BACK OF THIS REPORT**

DESCRIPTION OF THE APPLICATION

The applicants, Phillip and Melinda Pon, request approval to rezone approximately two (2) acres from the R-1 District to the R-2 Cluster District, to permit the development of a total of three (3) single-family detached dwelling units. The submitted application proposes an overall density of 1.5 dwelling units per acre, with 31% of the site retained as open space.

A reduced copy of the proposed Generalized Development Plan is included in the front of this report. The applicant’s draft proffers are included as Appendix 1. The applicant’s affidavit is Appendix 2 and the applicant’s statements regarding the application are included as Appendix 3.

Waivers and Modifications

- Waiver of the 20% maximum permitted number of pipestem lots in a subdivision (to permit 100%).
- Waiver of the sidewalk requirement along Old Courthouse Road, in favor of the trail depicted on the GDP.
- Modification of the trail width requirement along Old Courthouse Road, as depicted on the GDP.

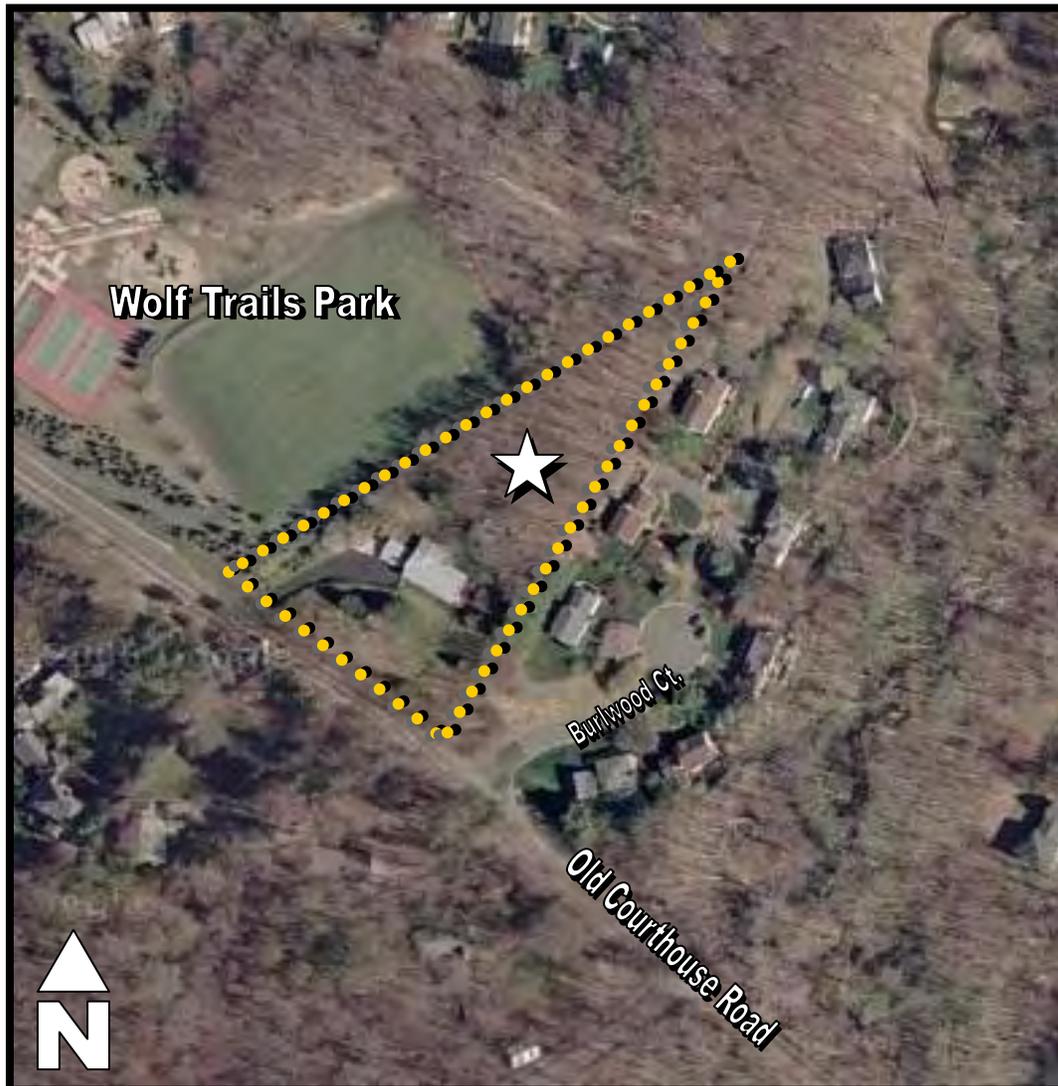
LOCATION AND CHARACTER

The application property is located on the north side of Old Courthouse Road, between Arabian Avenue and Burlwood Court. The subject site is triangular in shape, with the western property line contiguous to Wolf Trails Park and the eastern property line contiguous to the Spring Lake subdivision (composed of 12 single-family detached dwellings). The site is presently developed with one single-family detached dwelling, attached garage, and accessory shed. All of the subject property’s existing structures are proposed for demolition with this application.

| SURROUNDING AREA DESCRIPTION | | | |
|-------------------------------------|--|---------------|-----------------|
| Direction | Use | Zoning | Plan Map |
| West/North | Wolf Trails Park | R-1 | Public Parks |
| East | Single Family Detached Dwellings (Spring Lake Subdivision Sec. 2) | R-1 Cluster | 1-2 du/ac |
| South | Single Family Detached Dwellings (Spring Lake Subdivision Sec. 1) | R-1 | 2-3 du/ac |

AERIAL

★ - Subject Property: 9318 Old Courthouse Road



COMPREHENSIVE PLAN PROVISIONS

| | |
|---------------------------|--|
| Plan Area: | II |
| Planning District: | Vienna Planning District |
| Planning Sector: | Spring Lake Community Planning Sector (V3) |
| Plan Map: | Residential, 1-2 du/ac |

Plan Text:

The Fairfax County Comprehensive Plan, 2007 Edition, as amended through July 10, 2006, Vienna Planning District, V-3 Spring Lake Community Planning Sector, states on page 67:

“9. The remaining vacant area west of Route 123, except for designated public space, should be limited to single-family residential uses at 2-3 dwelling units per acre as shown on the Plan map. However, the area bounded by Old Courthouse Road, Trap Road, the Dulles Airport Access Road, Bartholomew Court, and the Tysons Green subdivision, is planned for 1-2 dwelling units per acre as shown on the Plan map. Protection is required for the areas of Moonac Creek and Wolftrap Creek as tributaries to the environmentally sensitive Difficult Run watershed. [Not shown]”

ANALYSIS**Generalized Development Plan** (Reduction at front of staff report)

Title of Generalized Development Plan: 9318 Old Courthouse Road

Prepared By: Land Design Consultants

Original and Revision Dates: January, 2007 as revised through June 15, 2007

| Generalized Development Plan (9318 Old Courthouse Road) | |
|--|--|
| Sheet # | Description of Sheet |
| 1 of 4 | Vicinity Map, Soils Map, General Notes, Tabulation, Waiver/Modifications Requested, Outfall Narrative, Stormwater Management Narrative, General Statement, Tree Cover Calculations, Planting Schedule, Typical Lot, Fence Detail |
| 2 of 4 | Tabulations, Site Layout |
| 3 of 4 | Existing Vegetation Map and Existing Conditions Plan |
| 4 of 4 | Elevations |

The following features are depicted on the proposed GDP:

Residential Units

- The applicant is proposing a total of 3 single-family detached dwelling units, at an overall density of 1.5 dwelling units per acre. The proposed dwelling lots (depicted as #1, #2, and #3 on the GDP) would be oriented parallel with Old Courthouse Road, with Lot #1 located closest to the right-of-way, Lot #2

located north of Lot #1, and Lot #3 to the rear of the subject property, and north of Lot #2. All of the lots are pipestem lots as they do not abut a public street, other than the driveway which affords access to the lot.

- The applicant has submitted architectural elevations (on Sheet 4 of the GDP) that depict a 2-story detached dwelling with a brick façade, storm shutters, arched doorways, keystone lintel windows, and other architectural details. The applicant's side and rear elevations are not detailed, but do provide the general location of the proposed windows, doors, and garages. In contrast, the applicant's proposed proffers indicate that the structures will have exterior building materials such as brick, wood, stucco, concrete with architectural coating, glass, or cementitious panel (e.g. HardiPlank by James Hardie Building Products), fiberboard cement product, or other masonry product. Each dwelling will be a maximum of 35 feet tall.
- The newly created lots will each have approximate lot sizes of 18,700 SF (Lot #1), 15,700 SF (Lot #2), and 16,900 SF (Lot #3), each with a building footprint of 2,500 square feet (50' wide x 50' length). The established minimum yards for the newly created lots consist of twenty-five foot (25) front yards, eight (8) foot side yards and twenty-five (25) foot rear yards, with 'potential sunrooms' to the rear of the structures.

Access & Parking

- The GDP depicts a private pipestem driveway running perpendicular along the north side of Old Courthouse Road, adjacent to the subject property's western boundary line. The proposed driveway, which would be built over a portion of the site's existing driveway, would serve all three (3) residences, be maintained by the Home Owner's Association, and would contain an ingress/egress easement along Lot #1 and #2.
- Two-car garages, with varied sized driveways (each providing minimum room for two (2) additional parking spaces) are proposed for each newly created lot. In summary:

3 lots x 4 parking spaces per lot = 12 total parking spaces

The applicant has proffered that each driveway shall permit the parking of two (2) vehicles, and that each garage shall be designed to accommodate two (2) vehicles.

Pedestrian Access

- The applicant is proposing no on-site pedestrian sidewalks or trails. The proposed GDP does depict a 6-foot wide trail, within the applicant's proposed dedicated right-of-way. As previously noted, the applicant is requesting a waiver of the sidewalk requirement along Old Courthouse Road, in favor of

the trail depicted on the GDP, as well as a modification of the trail width requirement (from the required 10-foot width).

Proposed Dedicated Right-of-Way

- The applicant has proffered and depicted on the GDP, to dedicate and convey in fee simple to the Board of Supervisors, right-of-way up to 45 feet wide along the site's entire Old Courthouse Road frontage, measured from the right-of-way's existing center line. The subject property has approximately 285 linear feet along its existing frontage, or southern property/right-of-way line.

Tree Preservation/Open Space

- The applicant's GDP indicates that 31% (or 27,400 SF) of the site will remain as Open Space, which exceeds the minimum required 25% (or 21,816 SF). A large portion of the open space will be located to the rear (north end) of the subject property (labeled as Parcel "A"), which consists of over 16,800 SF of existing upland forest, to include a large variety of spruce, hickory, oak, and holly trees. Parcel "A", which also runs along the front half of the subject property's eastern property line (25 foot width), and along the proposed/revised right-of-way line (spite strip), will be preserved and ownership and maintenance of the area will be the responsibility of the Homeowner's Association. The GDP calls for the clearing and grading of most of the site, except for the previously mentioned rear yard, and narrow portions of the site's eastern and western yards. Within the site's existing front yard, the GDP does label a 20" inch Magnolia tree as "TBS" (To Be Saved), and the applicant does provide a proffer that states that they will attempt to preserve one (1) of the two (2) existing Oak trees that fall within the dedicated right-of-way.

Landscaping

- In addition to the tree save areas, the applicant is also proposing to provide supplemental landscaping along the subject property's eastern and western property lines (front half of the site), as well as between the large open space area to the rear of property and proposed Lot #3. The landscaping will consist of a continuous row of large evergreens and deciduous trees. Aside from the previously mentioned Magnolia and Oak trees located near the site's front yard, and the landscaping along the eastern and western property lines, the applicant proposes no other new plantings within the subject property.

Fencing/Retaining Walls

- The applicant is proposing a 6-foot high, approximately 100-linear foot long, board-on-board fence along the subject property's revised/proposed southern property line (or Old Courthouse right-of-way line). The applicant indicates within their proffers that the proposed fence will reduce the maximum exterior

noise to a level of approximately 65 dBA Ldn or less for Lot #1. The GDP also proposes one (1) retaining wall (2 ft. in height), which will be constructed around the previously described 20" inch Magnolia tree. The applicant has added a note to the GDP that all required retaining walls that exceed 4' feet in height, which are not presently depicted on the GDP, shall require a proffered condition amendment (PCA).

Topography

- Within the proposed GDP, the applicant has depicted the site's existing topography with a maximum contour interval of two (2) feet. The subject property reaches a maximum elevation of 398' feet, near the center of the western property line, and slopes downward from this location towards the southeast and northeast corners of the site. The southeast corner of the site reaches a low of 354' feet, while the northeast corner reaches a low of 368' feet.

Stormwater Management

- The GDP indicates that the subject property would meet stormwater management (SWM) and best management practices (BMP) requirements through the construction of two (2) infiltration trenches (located along the west of Lots #1 and #2), and through the preservation of undisturbed open space on a portion of Parcel "A". The trenches would be maintained by the Homeowner's Association and would require a recorded stormwater management agreement, at the time of subdivision, for the maintenance of the infiltration trenches (as the proposed trenches are literally located on Lots #1 and #2, yet serve all 3 proposed lots).

Applicant's Supplemental Information

The applicant has also submitted the following items (located at the front of the report, after the GDP):

1. **Grading Exhibit (Sheet 1 of 1):** The applicant has submitted a grading plan, for informational purposes only, which depicts the development's "likely" grading changes.
2. **Cross-Section Exhibit (Sheet 1 of 1):** The applicant has submitted proposed cross-sections, for informational purposes only, which depict sections ("A" and "B") between Lots # 2 and #3 and the existing residences to the east, as well as a section ("C") that extends from Old Courthouse Road, through the proposed residences, to the rear property line of proposed Lot #3.

The applicant has also submitted the following letters (located after the Applicant's Statement of Justification, Appendix 3).

- 1. Cluster Subdivision Response Letter:** The applicant has provided additional analysis addressing Section 9-615 (*Provisions for a Cluster Subdivision*).
- 2. Lot Compatibility Response Letter:** The applicant has provided analysis (maps, data sheet, and letter) comparing the subject property's proposed lot sizes to neighboring lots.

ANALYSIS

RESIDENTIAL DEVELOPMENT CRITERIA

Fairfax County expects new residential development to enhance the community by fitting into the fabric of the neighborhood, respecting the environment, addressing transportation impacts, addressing impacts on public facilities, being responsive to our historic heritage, contributing to the provision of affordable housing, and being responsive to the unique, site specific considerations of the property. For the complete Residential Development Criteria text, please see Appendix 13.

Site Design (Development Criterion #1)

This Criterion requires that the development proposal address consolidation goals in the plan, further the integration of adjacent parcels, and not preclude adjacent parcels from developing in accordance with the Plan. The application property is surrounded on two sides by single-family detached dwellings on lots which are generally a half-acre (to the east) to 2-acres (to the south) in size. The Spring Lake Subdivision Sec. 2 to the east of the subject property is zoned R-1 Cluster, and planned for a density of 1-2 du/ac, whereas, the Spring Lake Subdivision Sec. 1 to the south is zoned R-1 and planned for a density of 2-3 du/ac. To the west and north of the subject property is Wolf Trails Park, which is zoned R-1 and planned as a public park. Since the surrounding development pattern is already in conformance with the plan (although zoned to a less dense district) there is no additional land which would be available for redevelopment or consolidation in the immediate vicinity.

Development should also provide for a logical design with appropriate relationships within the neighborhood, including appropriately oriented units and usable yards. Access should be provided to transit facilities where available, and utilities should be identified to the extent possible. The development, as proposed, orients all of the lots from east to west, facing Wolf Trails Park, and stacked parallel from Old Courthouse Road. The development's design, or orientation, is controlled solely by its access off of a proposed pipestem driveway, running perpendicular off of Old Courthouse Road, along the subject property's western boundary line. The result, in Staff's opinion, is a proposed development

that does not integrate well with Old Courthouse Road or the adjoining neighborhood, as the predominant feature of the development will be the south side of Unit #1, as well as a six (6) foot high board-on-board fence that runs 100' feet in length along the Old Courthouse Road frontage.

Open space should be useable, accessible, and integrated with the development. Appropriate landscaping should be provided. The R-2 Cluster provisions require that 25% of the subject property's gross area shall be open space, and the applicant has provided 31% (27,400 SF). Parcel "A", the dedicated open space to be owned and controlled by the Home Owners' Association, is primarily located to the north and east of the proposed lots. Parcel "A" is largely composed of existing trees to the north of the site, as well as new plantings along the eastern boundary line of the subject property. The proposed open space is not useable (designed for recreational activities), and the largest portion of Parcel "A", located to the north of the subject property, will be difficult for Lots #1 and #2 to access due to the location of Lot #3. The applicant is proposing supplemental landscaping between the proposed lots and the adjoining properties to the east and west, but none along the Old Courthouse Road frontage.

Finally, the Comprehensive Plan map designates this area for a density of 1-2 dwelling units per acre. The existing zoning, R-1, is in conformance with the low end of that density range. Staff believes that rezoning this property to R-2 Cluster does not result in a better subdivision, and that the applicant should redevelop by-right under the current zoning, or request a rezoning to the standard R-2 District, both of which fall within the Plan range. To date, the applicant has not submitted or proposed any alternative designs for the subject property; nor, in staff's opinion, thoroughly explored any other possibilities.

The subject property abuts four (4) single-family detached residences along its eastern property line (Spring Lake Section 2 subdivision), and faces three (3) single-family detached residences across Old Courthouse Road. The applicant's proposed average lot size of 17,100 SF is approximately 5,700 SF less than the four (4) abutting SFD residences to the east, and approximately 60,000 SF less than the three (3) adjacent SFD residences across Old Courthouse Road. The applicant is proposing a larger building footprint (2,500 SF) than the abutting residences to the east (in some cases, over 900 SF), and will have less restrictive setbacks than the surrounding R-1 zoned properties to its east and south. The proposed development will require the clearing and grading of over half of the subject property, extensive slope renovation/disfigurement, and a significant increase in intensity and impervious surface ratio. Additionally, staff is concerned with the east-west orientation of the lots, which are made possible by the proposed spite strip along Old Courthouse Road, and pipestem driveway along the western property line.

Staff believes that if the subject property were designed using the R-2 District standard subdivision regulations with proffers, and not the R-2 cluster provisions, that the design and character of the proposal would improve in the following ways:

1. Number and Orientation of Lots: The proposed number of SFD dwelling lots would be required to decrease from three (3) to two (2) lots, thus decreasing the proposed imperviousness, intensity, and limits of clearing and grading. The reduction to two (2) dwelling lots would also permit the applicant to orientate both lots and dwelling facades towards Old Courthouse Road, as well to provide each lot with equal frontage along the right-of-way. The proposed reorientation of the lots, running north to south, would thus be in character with the development pattern along this portion of Old Courthouse Road, where the majority of lots and dwellings face onto the right-of-way or onto public/private streets that run perpendicular to Old Courthouse Road. In Staff's opinion, the applicant's proposal is an aberration from this surrounding development pattern.
2. Increased Setbacks off of Old Courthouse Road: The applicant's design will result in the proposed dwellings being constructed approximately 75' feet closer (south) to Old Courthouse Road than the existing dwelling, as well as 75' to 100' feet further north, into the site's existing tree canopy. By limiting the development to two (2) dwelling lots, the applicant would be required to meet a greater setback from Old Courthouse Road, and with the increased lot size, would have more flexibility in structure location and design options.
3. Open Space/Tree and Slope Preservation: Due to the compactness/engineering of the existing proposal, the applicant has very little room to modify or redesign the site in any significant manner. By increasing the lot sizes and reducing the proposed imperviousness, the applicant would be able to preserve a far greater number of mature trees, reduce the proposed limits of clearing and grading, and lessen the impact upon the property's existing slope and character. The applicant's GDP does state that the proposed development will exceed the required R-2 Cluster minimum open space requirement of 25% (they are proposing 31%); however, from an overall property perspective, the amount of existing open space will be significantly reduced in size as a result of the proposal. Lastly, "A", which is predominately located to the north (rear) of the subject property, is largely inaccessible to Lot #1 and Lot #2, except for a twenty-five (25) foot wide heavily-sloped, heavily-vegetated, wooded area along the subject property's eastern boundary line.
4. Elimination of Spite Strip, Noise Barrier, and Pipestem Lots/Driveway: By reducing the property to two (2) lots, there would no longer be a need for a noise barrier, spite strip, or pipestem lot/driveway design. The proposed spite strip, a narrow 2-ft. (+/-) wide strip of land (technically part of Parcel "A"), located between Lot #1 and revised Old Courthouse Road right-of-way, is proposed by the applicant in order to technically make Lot #1 an interior lot (versus a corner lot), which in turn reduces the Lot #1 setback requirements. The applicant's proposed noise barrier, a 6-ft high board-on-board fence,

extends approximately 100' linear feet along the revised Old Courthouse Road right-of-way line and would, in Staff's opinion, be out of character with the area (particularly as the fence location would normally be considered a front yard, where fences are restricted to 4 ft. in height). Lastly, if the applicant was to only develop two (2) dwellings there would be no need to construct the site with pipestem lots/driveways, as the enlarged lot sizes and potential design options would lend themselves to a more practical and traditional design solution (such as separate driveways having direct access onto Old Courthouse Road).

5. Homeowners' Association (HOA): With the change to two (2) residences, no HOA would be needed for the subject property. Therefore, the need to own, manage, and maintain the open space areas, including tree save areas and all other community land and improvements and infiltration trench(s) would be addressed by the individual land owner, not the HOA.

Neighborhood Context (Development Criterion #2)

While developments are not expected to be identical to their neighbors, this Criterion states that they should fit in the fabric of the area, especially at the interface between the two. This application directly abuts single-family detached residential developments zoned R-1 Cluster, and developed with lots which are generally half-an-acre or larger in size. As previously mentioned, the applicant is proposing lots that are smaller than that found in the surrounding developments, with units that have a minimum footprint of 50' ft x 50' ft' (2,500 SF), which are almost 900 SF larger than the footprints of the abutting residences to the east. The R-2 District setbacks are less restrictive than the surrounding R-1 District, and as the applicant is proposing smaller lots with larger building footprints, their proposed setbacks are less than the adjacent developments.

Due to applicant's desire to create three (3) lots, Unit #1 will be built significantly closer to Old Courthouse Road than the subject property's existing residence. As noted, the majority of the nearby residences along Old Courthouse Road face towards the right-of-way, with the exception of those residences which face onto a public or private street. The applicant's proposed Lots #1 and #2 will have front yards that face onto a pipestem driveway, and Lot #3 proposes a structure that faces towards the side of Lot #2 and #1.

The subject property slopes downward from the center of the site to Old Courthouse Road, with the existing elevation changing from a high of 398' feet to an Old Courthouse Road elevation of 360' to 370' feet. The site dips between 20' to 30' feet in elevation from the existing residence to Old Courthouse Road (which is 130' ft away). Due to the steep grade change and desire to build close to Old Courthouse Road, the applicant will need to significantly regrade the subject property (adding and taking fill). As a result, most of the existing trees and landscaping located within the existing front yard are proposed to be removed.

Environment (Development Criterion #3) (see Appendix 5)

This Criterion requires that developments conserve natural environmental features to the extent possible, account for soil conditions, and protect current and future residents from noise and lighting impacts. Developments should minimize off-site impacts from stormwater runoff and adverse water quality impacts. Due to the location and configuration of the proposed dwellings to Old Courthouse Road, the applicant needs to construct a 6-ft high barrier (board on board fence) along Old Courthouse Road in order to mitigate noise impacts. As previously mentioned, with the reduction to two (2) lots, this fence would not be necessary. No lighting has been depicted on the GDP, but all exterior lighting shall be in conformance with Part 9 of Article 14 of the Zoning Ordinance.

The application proposes to use two (2) on-site infiltration trenches (upon Lot #1 and Lot #2) to collect post-development runoff for the entire property. Once the trenches have reached capacity, the drainage will proceed overland into the existing downstream storm sewer located along Old Courthouse Road, until it is eventually discharged into Wolftrap Creek. Although the applicant is proposing a SWM/BMP maintenance easement for the two (2) infiltration trenches, as well as HOA maintenance, Staff does not consider it an ideal circumstance when two (2) private lots are responsible for the retention of a third lot, and believes that each lot should instead be designed with its own infiltration trench. As noted, if the proposed development were reduced to two (2) lots, no HOA would be necessary. In summary, staff is not in support of the applicant's considerable reduction of natural vegetation/trees upon the subject property, the increase to intensity and imperviousness, or the significant regrading/fill of the subject property's natural slopes and character.

Tree Preservation & Tree Cover Requirements (Development Criterion #4) (see Appendix 5)

This Criterion states that all developments should take advantage of existing quality tree cover—as preserving existing trees is highly desirable to meet the Public Facilities Manual (PFM) requirements—and that, where feasible, utility crossings should be located so as not to interfere with proposed tree save areas. Sheet 1 of the GDP indicates that the tree cover requirements will be met through a combination of preservation and new plantings; tree cover is provided in excess of the minimum requirement (20%). The applicant has proffered to provide a tree preservation plan at the time of the first and all subsequent subdivision plan submissions, and to post cash bond and letter of credit payable to the County of Fairfax to ensure preservation and/or replacement of the trees that are designated to be saved that die or are dying due to unauthorized construction activities not permitted on the approved plan.

The applicant's GDP depicts a proposed limits of clearing and grading area (on Sheet 2 of 4) that includes over half of the two-acre site. As a result, the majority of the site's existing vegetation and mature trees, along the front end of the property, will be removed, except for a handful of trees. Staff believes that the

size of the clearing and grading area is inflated by the over-design of the site, which calls for proposed Lot #1 to be located twenty-five (25') feet from the revised Old Courthouse Road right-of-way (the existing dwelling is over 112' feet from the revised Old Courthouse Road r-o-w), and proposed Lot #3 to be located 345' feet from the subject property's northeast corner (the existing dwelling is approximately 460'+/-from the northeast corner). Adding to the design complexities, the lot has a significant slope and is oddly configured (triangular). For these reasons and for others previously stated, Staff supports a reduction of units upon the subject property, and an increase in tree preservation/tree cover.

The Urban Forest Management (UFM) Division requested the following amendments to the applicant's proposed GDP:

- The Urban Forest Management (UFM) Division requested that the applicant delete white pines, Leyland cypress, and cherry trees from their GDP's list of proposed trees, and add native species such as dark green American arborvitae, Southern magnolia, and fringetree. The applicant has amended their GDP as requested.
- The Urban Forest Management (UFM) Division requested that the applicant modify Note #26 on the GDP to specify the type of proposed tree protection fencing. The applicant has amended Note #26 on the GDP to read that the tree protection fencing shall be constructed as detailed within the applicant's proposed proffers (which states (in part), "...tree protection fencing using four foot high, 14-gauge welded wire attached to 6-foot steel posts driven 18 inches into the ground and placed no further than 10-feet apart or super silt fence..."). This proffer is acceptable to UFM.
- The Urban Forest Management (UFM) Division requested that the applicant increase the limits of grading and clearing around the southern magnolia proposed for preservation (on Lot #1), closer to the dripline. The applicant has increased the limits of grading as requested, and has added the following note (#33) to the GDP (as requested by UFM): "*The type of retaining wall and construction of the wall at the southern magnolia on lot 1, as well as any pruning done on this tree, shall be coordinated with the Fairfax County Urban Forest Management Division.*"
- The Urban Forest Management (UFM) Division requested that, with regard to the two (2) oak trees located along the southern property line (near the trail location), that the applicant focus their preservation efforts on one (1) tree, staying as far away as possible from the tree further from Old Courthouse Road. Further, the applicant should remove the tree closer to Old Courthouse Road and construct the trail closer to the road where it passes the location of the tree to be preserved. The applicant has indicated that, due to the existing topography and required grading, that

the trail cannot be located closer to the road. The applicant's GDP and proffers state that they will attempt to save the existing 30 inch oak tree adjacent to Old Courthouse Road, but that it shall be subject to final engineering and grading and in consultation with UFM. Of the two (2) oak trees, the applicant is proposing to save the one not recommended by UFM. Due to the lack of engineering required with the GDP, and the uncertainty of the trail location or width size, staff believes that this issue is better resolved at the subdivision plan approval stage, where UFM, DPWES, and VDOT will be able to review the applicant's proposal more thoroughly.

Transportation (Development Criterion #5) (see Appendix 6)

This Criterion requires that a development provide safe and adequate access to the surrounding road network, that transit and pedestrian travel be encouraged, and that interconnection of streets be encouraged. In addition, alternative street designs may be appropriate where conditions merit. The applicant is proposing a pipestem driveway, entering from Old Courthouse Road and serving all three (3) lots along the site's existing western boundary line. The applicant has requested a waiver of the 20% maximum permitted number of pipestem lots in a subdivision (to permit 100%). As is discussed elsewhere in this report, staff disagrees with the proposed pipestem lot/driveway design, and views its need as being intertwined with the desire to maximize density upon the site, versus more appropriate design principles that fit the character of the neighborhood.

The Comprehensive Plan depicts a Type I trail along the site's southern property line (along the north side of Old Courthouse Road). The Type 1 trail, if located within the VDOT right-of-way, is required to be 10-feet in width. The applicant has requested a modification of this requirement, in favor of a 6-foot wide trail, and is proffering to construct and locate it within their proposed/dedicated Old Courthouse Road right-of-way. The applicant has also requested a waiver of the sidewalk requirement in the PFM, in favor of the trail depicted on the GDP. As the proposed trail does not meet VDOT standards and therefore will not be maintained by them, Staff is investigating whether or not a County agency will accept maintenance responsibilities of the trail.

Staff has addressed both of these topics within the Waiver and Modification section, located later in this report.

Public Facilities (Development Criterion #6)

Criterion 6 states that the impacts on public facility systems (i.e., schools, parks, libraries, police, fire and rescue, stormwater management) should be offset by residential development. Impacts may be offset through the dedication of land, the construction of public facilities, the contribution of specified in-kind goods, services or cash earmarked for those uses, and/or monetary contributions to be used toward funding capital improvement projects. (Specific Public Facilities issues are discussed in detail in Appendices 7-11).

Fairfax County Park Authority (Appendix 7)

The development as proposed is projected to add approximately 6 persons to the current population of the Hunter Mill District. The GDP shows no recreational amenities. Residents of this development will need access to outdoor facilities including picnic, playground/tot lot, tennis, multi-use court and athletic fields. The proportional development cost to provide recreational facilities for the residents of this development while maintaining the current level of service is estimated to be \$1,590. The applicant has proffered to contribute \$1,590 to the Park Authority.

The Park Authority analysis notes that the site is adjacent to Wolf Trails Park, which it owns and operates. The Park Authority recommends that the applicants site their proposed infiltration trenches after locating suitable locations or abandon it in favor of a different stormwater detention and water quality technique, that the limits of clearing and grading be field-sited to ensure that they are outside the dripline of the Park Authority trees, and that all proposed landscaping be conducted with non-invasive, native species. To address these issues, the applicant has added proffers that require a tree preservation plan, preservation walk-through, site monitoring, limits of clearing and grading, tree protection fencing, root pruning, and bonds, cash, and/or letter of credit if the decision of the UFM representative is that the death or dying trees was caused by unauthorized construction activities, the applicants shall replace such trees at their expense. All proposed landscaping shall be reviewed by UFM during the subdivision plan submittal. Likewise, the proposed infiltration trenches will be required to meet all DPWES requirements, with regard to efficiency and location, during the subdivision plan review.

Fairfax County Public Schools (Appendix 8)

The application property is served by Wolftrap Elementary, Kilmer Middle, and Marshall High Schools. Enrollment for Marshall High School is currently below capacity and is projected to remain so through the 2011-2012 school year; however, enrollment for Wolftrap Elementary and Kilmer Middle School currently exceeds capacity and is projected to remain so through the 2011-2012 school year. The proposed application is projected to generate a total of one elementary school student and one high school student, a total of two (2) additional students over what would be projected under the current zoning. An appropriate contribution would be \$23,260. The applicant has proffered to contribute \$23,260 to the public schools served by the subdivision.

Fire and Rescue (Appendix 9)

The application properties are serviced by the Fairfax County Fire and Rescue Department Station # 402, Vienna. The subject property currently meets fire protection guidelines.

Sanitary Sewer Analysis (Appendix 10)

The application properties are located in the Difficult Run (D3) Watershed, and would be sewerred into the Blue Plains Treatment Plant. An existing 8 inch pipe, located within Burlwood Court, and approximately 170 feet from the subject property, is adequate for the proposed use. The applicant has depicted upon the GDP an off-site limits of clearing and grading area (approximately 30' ft. wide), east of their eastern property line, which leads to Burlwood Court from the subject property, and follows an existing 10-ft. wide sanitary sewer easement. The clearing of this area will be made necessary by the applicant's need to enlarge the subject property's existing sewer pipes which extend off-site to Burlwood Court.

Fairfax County Water Authority (Appendix 11)

The subject properties are located within the Fairfax Water Service Area. Fairfax Water has reviewed the above referenced plan and has no comments.

Environmental & Site Review Division, Stormwater Management, DPWES (Appendix 12)

The application is proposing to satisfy their on-site stormwater management requirements with the construction of two (2) infiltration trenches and preserved open space, which will be encumbered with a conservation easement. The application seeks to apply low impact development (LID) techniques in order to satisfy the quantity and quality requirements set forth within the Public Facilities Manual (PFM). The infiltration trenches shall be the responsibility of the Homeowner's Association and a Stormwater Management Agreement will be required.

Affordable Housing (Development Criterion #7) (Appendix 7)

With less than 50 units, this application is not subject to the ADU Ordinance and therefore not required to construct any ADUs. Criterion 7 states that ensuring an adequate supply of housing for low and moderate income families, those with special accessibility requirements, and those with other special needs is a goal of the County. Satisfaction of this criterion may be achieved by the construction of units, contribution of land, or by a contribution to the Housing Trust Fund. The applicant has proffered to a contribution of 0.5% of the sales price of the houses to the Housing Trust Fund.

Heritage Resources (Development Criterion #8) (Appendix 5)

The Residential Development Criteria states that heritage resources are those sites or structures, including their landscape settings that exemplify the cultural, architectural, economic, social, political, or historic heritage of the County or its communities. There are no heritage resources identified on this property.

ZONING ORDINANCE PROVISIONS (Appendix 14)

This application proposes to rezone approximately two (2) acres from R-1 to R-2 and to develop a cluster subdivision. The requested rezoning must comply with the applicable regulations of the Zoning Ordinance found in Article 3, Part 2, Section 3-200, R-2 District Regulations and Article 18, Generalized Development Plan Regulations, among others.

| Bulk Standards (R-2 Cluster) | | |
|--|---|--|
| Standard | Required | Provided |
| Min. District Size | 2.0 acres | 2.0 acres |
| Min. Lot Area | 13,000 sq. ft. ¹ | 15,700 sq. ft. |
| Average Lot Area | No Requirement | 17,100 sq. ft. |
| Lot Width | Interior – No Requirement ² Corner – 100 feet (N/A) | Interior – Lot #1: 106 ft. Lot #2: 98 ft. Lot #3: 125 ft. |
| Building Height | 35 feet | 35 feet |
| Front Yard | 25 feet | 25 feet |
| Side Yard | 8 feet, total min. of 24 feet | 12 feet, total min. of 24 feet |
| Rear Yard | 25 feet | 25 feet |
| Density | 2.0 du/ac | 1.5 du/ac |
| Open Space | 21,816 sq. ft. (25 percent) | 27,400 sq. ft. (31 percent) |
| Parking Spaces | 9 | 12 |
| Transitional Screening & Barrier: none required | | |

1. Cluster subdivision lot approved by the Director: 13,000 sq. ft., except that if any portion of a cluster subdivision lot is located within 25 feet of a peripheral boundary of the cluster subdivision, and any portion of any lot located outside of the cluster subdivision that is contiguous to that cluster subdivision's peripheral boundary is zoned to a district that permits a maximum density equal to or less than 2 dwelling units per acre and contains a single family detached dwelling or is vacant, then such cluster subdivision lot shall contain a minimum lot area of 15,000 square feet.
2. If any portion of a cluster subdivision lot is located within 25 feet of a peripheral boundary of the cluster subdivision, and any portion of any lot located outside of the cluster subdivision that is contiguous to that peripheral cluster subdivision's boundary is zoned to a district that permits a maximum density equal to or less than 2 dwelling units per acre and contains a single family detached dwelling or is vacant, then such cluster subdivision lot shall contain a minimum lot width of 100 feet for interior lots and 125 feet for corner lots.

Cluster Development Provisions

Minimum District Size: Cluster subdivisions may be permitted in the R-2 District with a minimum district size of two (2.0) acres or greater. The proposed cluster

subdivision is 87,266 SF (2.00335 acres) and therefore meets this minimum requirement.

Bulk Requirements: Pursuant to the provisions of Par. 4 of Sect. 2-241, the proposed subdivision must comply with the district size, lot area, lot width, open space requirements and the applicable provisions of Chapter 101, Subdivision Ordinance without waiver or modification. The submitted GDP complies with these standards, as detailed within the R-2 Cluster Bulk Regulation table above. As a note (as per footnotes No. 1 and 2 above), the subject property is contiguous to Spring Lake Subdivision Section 2 (to its east), which is composed of single-family detached dwellings that are zoned at less than 2 dwelling units per acre. Since the applicant has provided a 25-foot wide landscaping strip (Parcel "A") between the peripheral boundary of the cluster subdivision and the proposed lots, the footnotes are not applicable.

Open Space: The proposed cluster subdivision exceeds the minimum open space requirement of 25 percent (21,816 SF) because 31 percent (27,400 SF) of the site is open space. As per Par. 4 of Sect. 2-309, in cluster subdivisions, at least seventy-five (75) percent of the minimum required open space or one (1) acre, whichever is less, shall be provided as a contiguous area of open space, which has no dimension less than fifty (50) feet. The GDP depicts conformance with this requirement (see the hatched depiction of Parcel "A"), with an open space area of 16,800 SF (which exceeds the 75% requirement of 16,362 SF).

Provision of the Subdivision Ordinance: Section 101-2-8, of the Cluster subdivision provisions, states (*in part*) that when the topography or other physical characteristics of the property are such that a cluster subdivision will preserve open space, steep slopes, floodplains, Resource Protection Areas and/or desirable vegetation, a cluster subdivision may be permitted in the R-2 District, by the Director, provided that all other applicable cluster subdivision regulations shall be met, including but not limited to the Zoning Ordinance and Public Facilities Manual. There are no Resource Protection Areas or floodplains located upon the subject property. While the applicant will be exceeding the R-2 cluster open space requirement of 25%, the proposal, in Staff's opinion, does not respect the topography or existing vegetation/trees upon the subject property. The proposal, which leaves little room for revision, will greatly impact (versus preserve) the site's existing steep slopes, and desirable vegetation. As detailed earlier in the report, the subject property contains a large variety of spruce, hickory, oak, and holly trees, along the front half of the property, that are slated for demolition within the applicant's plan (please refer to Sheet 3 of 4, *Existing Vegetation Map & Existing Conditions Plan*). It is Staff's opinion that a redesign of the site, with only two (2) lots (as detailed previously in the report), would better preserve the subject property's trees and topography. As proposed, Staff believes that the applicant does not meet the Cluster subdivision provisions of the Subdivision Ordinance.

Additional Cluster Subdivision Provisions

As per Par. 2 of Sect. 9-615 Provisions for a Cluster Subdivision, it shall be demonstrated by the applicant that the location, topography and other physical characteristics of the property are such that cluster development will:

- A. *Preserve the environmental integrity of the site by protecting and/or promoting the preservation of features such as steep slopes, stream valleys, desirable vegetation or farmland, and either:*
- (1) Produce a more efficient and practicable development, or*
 - (2) Provide land necessary for public or community facilities.*

Staff believes that the applicant's proposed cluster development does not preserve the environmental integrity of the site by protecting and/or promoting the preservation of features such as steep slopes, desirable vegetation, or produce a more efficient and practical development. The applicant's GDP depicts over half of the 2-acre property as being included within its clearing and grading boundaries. In addition to the removal of a large portion of existing tree canopy due to Lot #3, the applicant is also removing hickory, holly, dogwood and oak trees from the front portion of the property. With respect to preserving the environmental integrity of the site by protecting and/or promoting the site's steep slope (along the front of the subject property), the applicant will be required to regrade a significant portion of the slope in order to stabilize the new development, which will be located significantly closer to Old Courthouse Road than the existing single-family dwelling.

In short, the proposed development will increase the subject property's impervious surface ratio, remove a significant portion of its trees, and require the clearing and grading of over 1-acre of land, to include the steep slope along the front property line. In Staff's opinion, the proposed environmental impact is due to the desire to fit a third (3rd) residence onto the property, not because it would create a more efficient and practicable development. As previously outlined, Staff believes that the subject property should be developed with a maximum of two (2) dwelling lots, with both lots having frontage and facades facing Old Courthouse Road.

- B. *Be in accordance with the adopted comprehensive plan and the established character of the area. To accomplish this end, the cluster subdivision shall be designed to maintain the character of the area by preserving, where applicable, rural views along major roads and from surrounding properties through the use of open space buffers, minimum yard requirements, varied lot sizes, landscaping or other measures.*

The proposed development's density of 1.5 du/ac falls within the Comprehensive Land Use Plan recommended density range of 1-2 du/ac. However, as is detailed within the Residential Development Criteria,

Staff does not believe that the applicant's proposed cluster development is in harmony with the character of the area. The applicant's development, which proposes smaller lots, larger building footprints, and less restrictive setbacks than the adjacent residences, will not maintain the character or development pattern of the area. Instead, the intensity upon the subject property will increase 3-fold, the majority of the property will be cleared and regraded, and the proposed development will move 75' feet closer to Old Courthouse Road, as well as move between 75'-100' feet into the site's existing tree canopy (to the north). In staff's opinion, the rural views will be diminished with this proposal, not preserved.

WAIVERS AND MODIFICATIONS

Waiver of the 20% maximum permitted number of pipestem lots in a subdivision (to permit 100%).

The applicant is requesting a waiver of Section 2-0103.2 of the Public Facilities Manual, which states that pipestem lots (defined within the Zoning Ordinance as, "*a lot approved in accordance with the provisions of Sect. 2-406 which does not abut a public street other than by its driveway which affords access to the lot*"), may not represent more than 20% of the total number of lots within a given subdivision. The applicant is proposing pipestem lots for all three (3) single-family dwellings, therefore is requesting a waiver to permit 100% of the proposed lots as pipestem lots.

Per Par. 1 of Sect. 2-406 of the Zoning Ordinance, *Pipestem Lots*, when deemed necessary to achieve more creative planning and preservation of natural property features, or to provide for affordable dwelling unit developments, the Director may approve pipestem lots for residential cluster subdivisions (approved under the provisions of Sections 2-421 or 9-615), either as a single lot or in a group of lots not to exceed five (5) in number, but only in accordance with the provisions of the Public Facilities Manual. It is Staff's opinion that the proposed development does not meet this test, as it does not achieve more creative planning and preservation of the property's natural features, or provide affordable dwelling unit developments. As previously mentioned, the proposed development will require substantial regrading and clearing, a significant loss of tree canopy, and increased intensity and imperviousness upon the property. Staff feels that the site is not compatible with the neighboring lots to its south or east. As such, Staff does not support the applicant's waiver request.

Modification of the trail width requirement along Old Courthouse Road, as depicted on the GDP (Appendix 6)

The applicant has depicted upon the GDP and proffered to provide a six-foot wide trail along the north side of Old Courthouse Road (abutting the subject property), within the applicant's dedicated right-of-way. The Countywide Trails Plan recommends that a Type I (asphalt) trail in this location, 8-foot wide within a

12-foot trail easement, or 10-feet wide within VDOT right-of-way. As the trail will be located within the VDOT right-of-way, the applicant has requested a modification to provide a six-foot wide trail instead the required 10-foot wide trail.

The Department of Transportation has indicated that VDOT will not maintain a trail unless it is 10-feet wide, located within the right-of-way, and located a minimum seven (7) feet from curb to trail for new construction, and a minimum of three (3) feet from trail to ROW/property line. The applicant's proposed trail will be constructed within the Old Courthouse Road right-of-way (dedicated) and is located a minimum of seven (7) feet in distance from curb to trail; however, as noted, the trail is only six (6)-feet wide (instead of the VDOT standard ten (10) feet), and does not appear to meet, in some locations, the minimum three (3) feet distance from trail to ROW/property line. As the proposed trail does not meet VDOT standards and therefore will not be maintained by them, Staff is investigating whether or not a County agency will accept maintenance responsibilities of the proposed trail.

Waiver of the sidewalk requirement along Old Courthouse Road, in favor of the trail depicted on the GDP.

The applicant has requested a waiver of the sidewalk requirement, as required per the Subdivision Ordinance and PFM, in favor of the proposed six (6) foot wide trail depicted on the GDP. In Staff's opinion, the proposed trail will alleviate the need for the required sidewalk. As mentioned above, Staff is investigating whether or not a County agency will accept maintenance responsibilities of the proposed trail.

CONCLUSIONS AND RECOMMENDATIONS

Staff Conclusions

In staff's evaluation, the applicant's proposal fails to satisfy the Residential Development Criteria, Cluster Subdivision Provisions, and Pipestem Lot requirements. Staff believes that the applicant's proposed Cluster does not fit within the context of the surrounding neighborhood, primarily due to the following development features: smaller lots, larger building footprints, less restrictive setbacks, increase in intensity and impervious surface ratio, the reconfiguring of the site's southern slope, the clearing and grading of over half of the subject property, the loss of tree habitat, the loss of character and rural views.

In Staff's opinion, the proposed development doe not work well on the subject property. The orientation of the lots and dwellings are dictated by trying to achieve 3 lots via the pipestem driveway, which is required due to the peculiar and narrow triangular-layout of the subject property. The result is that the proposed development does not integrate well with Old Courthouse Road or the

adjoining developments, as the proposed development offers a side view of one of the residences, as well as a six (6) foot high board-on-board fence that runs 100' feet along the site's frontage. Staff believes that the applicant's proposed cluster development does not preserve the environmental integrity of the site, protect and/or promote the preservation of features such as steep slopes or desirable vegetation, or produce a more efficient and practical development.

Staff Recommendations

Staff recommends denial of RZ 2007-HM-008. However, if it is the intention of the Board of Supervisors to approve RZ 2007-HM-008, staff recommends such approval be subject to the execution of proffers consistent with those found in Appendix 1 of this report.

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.

APPENDICES

1. Draft Proffers
2. Affidavit
3. Statement of Justification
4. Comprehensive Plan Citations
5. Environmental Analysis
6. Transportation Analysis
7. Park Authority Analysis
8. Schools Analysis
9. Fire and Rescue Analysis
10. Sanitary Sewer Analysis
11. Water Service Analysis
12. Land Development Services, DPWES (Stormwater Management)
13. Residential Development Criteria
14. Zoning Ordinance Provisions
15. Glossary of Terms

PROFFERS

June 27, 2007

PHILLIP PON AND MELINDA R. PON RZ 2007-HM-008

Pursuant to Section 15.2-2303(A), Code of Virginia, 1950 as amended, the undersigned Applicants and Owners, for themselves and their successors and assigns (hereinafter referred to as the "Applicants"), filed for a rezoning for property identified on Fairfax County Tax Map as 28-4((1))5, (hereinafter referred to as "Application Property"), hereby agree to the following Proffers, provided that the Fairfax County Board of Supervisors (hereinafter referred to as the "Board") approves a rezoning of the Application Property to the R-2 Zoning District to be developed under the cluster provisions of the Zoning Ordinance, as proffered herein.

I. GENERALIZED DEVELOPMENT PLAN (GDP)

- a. Subject to the provisions of Section 18-204 of the Fairfax County Zoning Ordinance (hereinafter referred to as the "Zoning Ordinance"), development of the Application Property shall be in substantial conformance with the Generalized Development Plan (GDP), prepared by Land Design Consultants, dated January 2007 and revised through June 15, 2007, containing four (4) sheets.
- b. Pursuant to Section 18-204 of the Zoning Ordinance, minor modifications from the approved GDP may be permitted as determined by the Zoning Administrator. The layout shown on the GDP may be modified provided such changes are in substantial conformance with the GDP and proffers, and do not increase the total number of units, reduce open space, or reduce the distance to peripheral lot lines.

II. HOMEOWNERS' ASSOCIATION

The applicant shall establish a Homeowners' Association for the proposed development to own, manage and maintain the open space areas, including tree save areas and all other community land and improvements and infiltration trench(s). Restrictions placed on the use of the open space/buffer areas, minimum setbacks and the maintenance responsibilities of the Homeowner's Association shall be disclosed to all prospective homeowners in a disclosure memorandum prior to entering into a contract of sale and included in the homeowners' association documents.

III. TRANSPORTATION

- a. Density credit shall be reserved as may be permitted by the provisions of Paragraph 4 of Section 2-308 of the Ordinance for all eligible dedications described herein.

- b. At the time of subdivision plan approval or upon demand by Fairfax County or the Virginia Department of Transportation (VDOT) whichever occurs first, the Applicant shall dedicate and convey in fee simple to the Board of Supervisors, right-of-way up to 45 feet along the site's frontage with Old Courthouse Road from the existing center line.
- c. Sight Distance. Adequate sight distance shall be provided for the entrance to the property as determined by the Department of Public Works and Environmental Services (DPWES) and the Virginia Department of Transportation (VDOT).
- d. Garages and Driveways. The Applicant shall place a covenant on each residential lot that prohibits the use of the garage for any purpose, which would preclude motor vehicle storage. This covenant shall be recorded among the land records of Fairfax County prior to the sale of the lots and shall run to the benefit of the HOA and to the Board of Supervisors. Prior to recordation, the covenant shall be approved by the Fairfax County Attorney's office. The HOA documents shall expressly state this use restriction. The driveway provided for each unit shall be a minimum of eighteen (18) feet in length to permit the parking of two (2) vehicles. Garages shall be designed to accommodate two (2) vehicles.
- e. Pipestem Driveway. The proposed pipestem driveway shall be designed and constructed in accordance with the Public Facilities Manual. This driveway will be privately maintained by the Homeowner's Association. The maintenance responsibilities of the Homeowner's Association shall be disclosed to all prospective homeowners in a disclosure memorandum prior to entering into a contract of sale and included in the homeowners' association documents.

IV. LANDSCAPING / LIMITS OF CLEARING AND GRADING

- a) Landscaping and on-site amenities shall be generally consistent in terms of character and materials with the GDP. Specific features such as the exact locations of plantings, driveways, walks, etc., are subject to minor modification with final engineering and architectural design, as approved by Urban Forest Management, Department of Public Works and Environmental Services (DPWES). A landscape plan will be submitted with the first and all subsequent submissions of the subdivision plan, which details the quantity and types of trees to be planted on site in order to meet tree coverage requirements and shall be in substantial conformance with the GDP.

As part of the development of the subject property, and as determined feasible by Urban Forest Management (UFM) during subdivision plan review, the Applicants will attempt to save the existing 30 inch oak tree adjacent to Old Courthouse Road and located within the proposed right-of-way of Old Courthouse Road, Route 677, and adjacent to the proposed 6 foot asphalt trail. The ability to save this tree will be subject to final engineering and grading and in consultation with UFM. The proposed tree preservation techniques will be subject to consultation with, and review and approval by, UFM.

- 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 the UFM, DPWES.
- b. The tree preservation plan shall consist of tree survey that includes the location, species, size, crown spread, and condition rating percentage of all trees 10 inches in diameter and greater, and 25 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 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 any tree identified to be preserved, such as: crown pruning, root pruning, mulching, fertilization, and others as necessary, shall be included in the plan.
- c. Root Pruning. The Applicant shall root prune, as needed to comply with the tree preservation requirements of these proffers. All treatments shall be clearly identified, labeled, and detailed on the erosion and sediment control sheets of the subdivision plan submission. The details for these treatments shall be reviewed and approved by the UFM, DPWES, accomplished in a manner that protects affected and adjacent vegetation to be preserved, and may include, but not be limited to the following:
 1. Root pruning shall be done with a trencher or vibratory plow to a depth of 18 inches;
 2. Root pruning shall take place prior to any clearing and grading, or demolition of structures;
 3. Root pruning shall be conducted with the supervision of a certified arborist; and

4. An UFM, DPWES, representative shall be informed when all root pruning and tree protection fence installation is complete.
-
- d. Preservation Walk-Through. The Applicant shall retain the services of a certified arborist or landscape architect, and shall have the limits of clearing and grading marked with a continuous line of flagging prior to the walk-through meeting. During the tree-preservation walk-through meeting, the Applicant's certified arborist or landscape architect shall walk the limits of clearing and grading with an UFM, DPWES, representative to determine where adjustments to the clearing limits can be made to increase the area of tree preservation and/or to increase the survivability of trees at the edge of the limits of clearing and grading, and such adjustment shall be implemented. Trees that are identified 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 under story vegetation. If a stump must be removed, this shall be done using a stump-grinding machine in a manner causing as little disturbance as possible to adjacent trees and associated under story vegetation and soil conditions.
 - e. Limits of Clearing and Grading. The Applicant shall conform strictly to the limits of clearing and grading as shown on the GDP, subject to allowances specified in these proffered conditions and for the installation of utilities and/or trails as determined necessary by the Director of DPWES, as described herein. If it is determined necessary to install utilities and/or trails in areas protected by 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, DPWES. A replanting plan shall be developed and implemented, subject to approval by the UFM, DPWES, for any areas protected by the limits of clearing and the Applicants shall conform strictly to the limits of clearing and grading as shown on the GDP.
 - f. Tree Protection Fencing. All trees, to be preserved, are shown on the tree preservation plan and shall be protected by tree protection fence. Tree protection fencing using 4-foot high, 14-gauge welded wire attached to 6-foot steel posts driven 18 inches into the ground and placed no further than 10-feet apart or super silt fence, as determined by UFM to the extent that required trenching for super silt fence does not sever or wound compression roots which can lead to structural failure and/or uprooting of trees, shall be erected at the limits of clearing and grading adjacent to the tree preservation areas as shown on the erosion and sediment control sheets, as may be modified by these Proffers.
 - g. Tree protection fencing shall be installed after the tree preservation walk-through meeting and prior to any clearing and grading activities, including the demolition

of any existing structures. The installation of tree protection fence shall be performed under the supervision of a certified arborist and UFM and accomplished in a manner that does not harm existing vegetation that is to be preserved. At least ten (10) days prior to the commencement of any clearing, grading, or demolition activities adjacent to the tree preservation areas, but subsequent to the installation of the tree protection devices, UFM, DPWES, and the Hunter Mill District Supervisor shall be notified and given the opportunity to inspect the site to assure that all tree protection devices have been correctly installed and no grading or construction activities shall occur until the fencing is installed correctly, as determined by UFM, DPWES.

- h. Tree protection fence shall be installed immediately after root pruning, and shall be positioned directly in the root-pruning trench and backfilled for stability, or just outside the trench within the disturbed area, as determined by UFM.
- i. Demolition of Existing Structures. The demolition of all existing features and structures within areas protected by the limits of clearing and grading areas shown on the GDP shall be done by hand without heavy equipment and conducted in a manner that does not impact individual trees and/or groups of trees that are to be preserved as reviewed and approved by the UFM, DPWES.
- j. Site Monitoring. During any clearing or tree/vegetation/structure removal on the Applicant Property, a representative of the Applicant shall be present to monitor the process and ensure that the activities are conducted as proffered and as approved by the UFM. The Applicant shall retain the services of a certified arborist or landscape architect to monitor all construction and demolition work and tree preservation efforts in order to ensure conformance with all tree preservation proffers, and UFM approvals. The monitoring schedule shall be described and detailed in the Landscaping and Tree Preservation Plan, and reviewed and approved by the UFM.
- k. Bonds, Cash, Letter of Credit. The Applicants shall retain a professional arborist with experience in plant appraisal, to determine the replacement value of all trees six (6) inches in diameter or greater located on the Application Property that are shown to be saved on the Tree Preservation Plan. These trees and their value shall be identified on the Tree Preservation Plan at the time of the first submission of the subdivision plan. The replacement value shall take into consideration the age, size, and condition of these trees and shall be determined by the so-called "Trunk Formula Method" contained in the latest edition of the Guide for Plant Appraisal published by the International Society of Arboriculture, subject to review and approval by UFM.

At the time of subdivision plan approval, the Applicants shall post cash bond and letter of credit payable to the County of Fairfax to ensure preservation and/or replacement of the trees that are designated to be saved that die or are dying due to unauthorized construction activities not permitted on the approved plan.

Any trees shown to be preserved on the Tree Preservation Plan that die or are dying due to unauthorized construction activities shall be replaced with trees of a species and size acceptable to the UFM, DPWES, and reasonably ensured of surviving. The value of the trees shall be determined using the Trunk Formula Method referenced above. The letter of credit shall be equal to 50% of the replacement value of the Bonded Trees. The cash bond shall consist of 33% of the amount of the letter of credit. At any time prior to final bond release for the subdivision, should any Bonded Trees die, be removed, or are determined to be dying a meeting shall be conducted between UFM and the Applicants' certified professional arborist in an effort to determine the cause of dying and whether or not it is due to unauthorized construction activities meaning that the Applicants did not follow the Approved Development Plan and Proffers.

If the decision of the UFM representative is that the death or dying trees was caused by unauthorized construction activities, the Applicants shall replace such trees at their expense. The replacement trees shall be of a species and canopy cover as approved by UFM. Upon release of the bond for the subdivision, the Tree Bond required by this Proffer shall be returned/released to the Applicants. These preservation measures shall not apply to trees otherwise protected by these proffers that die or begin to die as a result of factors not related to unauthorized construction activities.

V. EXISTING DWELLING & OTHER EXISTING STRUCTURES

The existing dwelling and other structures shall be removed prior to the issuance of a building permit for a new dwelling on the application property.

VI. ENERGY CONSERVATION

All dwellings shall meet the thermal guidelines of the CABO Model Energy Program, or its equivalent, as determined by DPWES for either gas or electric energy systems, as may be applicable.

VII. STORM WATER MANAGEMENT AND BEST MANAGEMENT PRACTICES

If approved by DPWES, stormwater management and Best Management Practices (BMP) may be accomplished through the provision of infiltration trenches or alternative Low Impact Development techniques, as generally shown on the GDP and shall be in accordance with the requirements of the Fairfax County Public Facilities Manual (PFM). The size and location of the facility may be subject to modifications based on final engineering provided they are in substantial conformance with the GDP. If SWM/BMP is not provided in conformance with the GDP, then a PCA shall be required. This facility will be designed for the one-year storm in accordance with the PFM and will provide additional detention for the site, over and above that required by the PFM.

VIII. SIGNS

No temporary signs (including “popsicle” style paper or cardboard signs), which are prohibited by Article 12 of the Zoning Ordinance or Chapter 7 of Title 33.1, of Chapter 8 of Title 46.2 of the Code of Virginia, 1950 as amended, shall be placed on or off site by the Applicants or at the Applicants’ direction, to assist in the initial sale of homes on the Application Property. The Applicants shall direct its agents and employees involved in marketing and/or home sales for the Application Property to adhere to this proffer.

IX. NOISE ATTENUATION

In order to reduce interior noise to a maximum level of approximately DNL 45 dBA, the Applicant proffers that the southern side wall of the residential unit adjacent to Old Courthouse Road, shall have the following acoustical attributes:

a. Exterior walls shall have a laboratory sound transmission class (“STC”) rating of at least 45. Exterior doors shall have a laboratory sound transmission class (“STC”) rating of at least 34.

b. Glazed areas, including doors and windows, shall have a laboratory STC rating of at least 28 unless glazing constitutes more than 20% of any facade exposed to noise levels of DNL 65 dBA or above. If glazing constitutes more than 20% of an exposed facade, then the windows shall have a STC rating of at least 35.

c. All surfaces shall be sealed and caulked in accordance with methods approved by the American Society for Testing and Materials (“ASTM”) to minimize sound transmission.

In order to reduce the maximum exterior noise to a level of 65 dBA Ldn or less for Lot 1, a 6’ Board on Board fence, as shown on Sheet 1 of the GDP, will be provided on Lot 1 as generally shown on Sheet 2 of the GDP. The location and purpose of this fence will be disclosed to all prospective homeowners as a disclosure memorandum prior to entering into a contract of sale and included in the HOA documents. The Applicant will also place a covenant in the deed of subdivision noting that this fence shall remain in the location generally shown on Sheet 2 of the GDP.

X. HOUSE DESIGN

The exterior building materials will be materials, such as brick, wood, stucco, concrete with architectural coating, glass, or cementitious panel (e.g. HardiPlank by James Hardie Building Products), fiberboard cement product, or other masonry product. The side of the house on Lot 1 facing Old Courthouse Road will be constructed of brick.

Any extension into the minimum required side and rear yards for covered and uncovered decks shall be permitted in accordance with Section 2-412 of the Fairfax County Zoning Ordinance. Restrictions placed on the location of covered and

uncovered decks per Section 2-412 of the Zoning Ordinance shall be disclosed to all prospective homeowners as a disclosure memorandum prior to entering into a contract of sale, included in the Homeowner's Association documents, and included as a covenant in the deed of subdivision. In accordance with the Zoning Ordinance, any sunrooms or enclosed porches may not encroach into the minimum required setbacks as shown on Sheet 2 of the GDP. This shall be disclosed to all prospective homeowners as a disclosure memorandum prior to entering into a contract of sale, included in the Homeowner's Association documents, and included as a covenant in the deed of subdivision.

All dwellings shall have a minimum side yard setback of twelve (12) feet. However, the proposed house only on future Lot 1, adjacent to Old Courthouse Road, shall have a minimum southern side yard of twenty-five feet (25'). A covenant shall be recorded in the deed of subdivision restricting the placement of any buildings and/or accessory structures within the aforementioned twenty-five foot (25') side setback on Lot 1. In addition to being recorded in the deed of subdivision, this covenant shall be disclosed to all prospective homeowners as a disclosure memorandum prior to entering into a contract of sale and included in the Homeowner's Association documents.

A covenant shall be recorded in the deed of subdivision prohibiting the encroachment of any buildings, sunrooms, or accessory structures in the minimum required side yards between proposed Lots 1 and 2. This covenant shall run to the benefit of the HOA. This covenant shall be disclosed to all prospective homeowners as a disclosure memorandum prior to entering into a contract of sale and included in the Homeowner's Association documents.

XI. FRONTAGE IMPROVEMENTS / TRAILS

A modification of the trails requirement is requested in order to provide a 6 foot asphalt trail in lieu of a 10 foot trail. The location shown on the GDP is approximate and subject to final engineering. The trail may be a meandering trail that is field located to ~~adjust to the grade, allow minimum grading, and~~ preserve the existing 30-inch oak tree adjacent to Old Courthouse Road subject to consultation with, and review and approval by, UFM.

XII. CONTRIBUTIONS

Parks: At the time of subdivision plan approval, the Applicants shall contribute \$1590.00 to the Fairfax County Park Authority for its use in establishing and maintaining parks and recreational facilities in the Hunter Mill District of Fairfax County.

Housing Trust Fund Contribution: At the time of first building permit approval, a contribution shall be made to the Fairfax County Housing Trust Fund a sum of one half of one percent (0.5%) of the estimated sales price of each single family dwelling actually

constructed. The amount of said contribution, determined by the Department of Housing and Community Development and the Applicants, is for the purpose of assisting the County in its goal to provide affordable dwellings elsewhere in the County.

Schools: At the time of subdivision plan approval, the Applicants shall contribute \$23,260.00 for capital improvements to the public schools served by the subdivision. Said contribution shall be deposited with DPWES for transfer to Fairfax County Public Schools.

XIII. TELECOMMUTING

All dwellings shall be pre-wired with broadband, high capacity data/network connections in multiple rooms, in addition to standard phone lines.

XIV. OTHER

Outdoor construction activity will be limited to between the hours of 7:00 a.m. and 7:00 p.m. Monday through Friday and 8:00 a.m. and 5:00 p.m. on Saturdays. No outdoor construction activities will be permitted on Sundays or on Federal holidays. The site superintendent shall notify all employees and subcontractors of these hours of operation and shall ensure that the hours of operation are respected by all employees and subcontractors. Construction hours shall be posted on-site in both English and Spanish. This proffer applies to the original construction only and not to future additions and renovations by homeowners.

XV. MISCELLANEOUS

- a. Successors and Assigns. These proffers shall bind the Applicants and his/her successors and assigns.
- b. Counterparts. These proffers may be executed on one or more counterparts, each of which when so executed and delivered shall be deemed an original document and all of which taken together shall constitute but one and the same instrument.

TITLE OWNERS SIGNATURES TO FOLLOW ON NEXT PAGE:

Phillip Pon
Title Owner of TM 28-4((1))5

Date

Melinda R. Pon
Title Owner of TM 28-4((1))5

Date