

## PROFFERS

PCA 91-W-023-3

March 21, 2008

Pursuant to Section 15.2-2303 (A), Code of Virginia, as amended, subject to the Board of Supervisors' approval of PCA 91-W-023-3, the applicant, the Board of Supervisors of Fairfax County ("the applicant"), proffers that the development of the subject property shall be in accordance with the following conditions:

A. Except as modified herein, the property is governed by the Proffers for PCA 91-W-023, dated October 16, 1997 and PCA 91-W-023-2, dated March 13, 2002. The proffer statement for PCA 91-W-023 applies to the whole of the 47.8 acres identified as the Public Safety Center. The proffer statement for PCA 91-W-023-2 applies within the 26.91 acre application property for that partial proffered condition amendment application consisting of the land around Parking Structure B, the existing Jennings Building, the new Judicial Center, the Massey Building, the historic Courthouse and the Legato School and as identified therein, that proffer statement modifies portions of the proffers dated October 16, 1997. The numbers used refer to the numbers of the proffers in the March 13, 2002 proffer statement, which applies to the whole of the 47.8 acre Public Safety Center.

1. With regard to the 7.52 acre application property for FDPA 91-W-023-2, and subject to the provisions of Section 16-403 of the Zoning Ordinance, development of that property shall be in submittal conformance with the FDPA prepared by Paciulli, Simmons, and Associates, Ltd. dated March 20, 2008. The remainder of 47.8 acre Public Safety Center shall be constructed in accordance with the development plans previously proffered pursuant PCA 91-W-023 and PCA 91-W-023-2 respectively.
10. Landscaping within the 7.52 acres subject to FDPA 92-W-023-2 shall be in substantial conformance with that shown on the FDPA prepared by Paciulli, Simmons, and Associates, Ltd. dated March 20, 2008. Landscaping on the remainder of the Public Safety Center shall conform to the development plans previously proffered pursuant PCA 91-W-023 and PCA 91-W-023-2 respectively.
12. In addition to the requirements outlined in Proffer Number 12 of PCA 91-W-023, the 7.52 acres of land subject to FDPA 91-W-023-2 shall be subject to the following:

### Tree Preservation/Limits of Clearing

- A. Tree Preservation: The applicant shall submit a Tree Preservation plan as part of the site plan submission. 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 Urban Forest Management Division, DPWES.

The tree preservation plan shall consist of a tree survey that includes the location, species, size, crown spread and condition rating percentage of all trees 10 inches in diameter and greater, and 25 feet to either side of the limits of clearing and grading shown on the 7.52 acres subject to FDPA 92-W-023-2. 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 other as necessary, shall be included in the plan.

- B. **Tree Preservation Walk-Through**: The Applicant shall retain the services of a certified arborist or landscape architect, and shall have the limits of clearing and grading marked with a continuous line of flagging prior to the walk-through meeting. During the tree-preservation walk-through meeting, the Applicant's certified arborist or landscape architect shall walk the limits of clearing and grading with an UFMD, 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 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 adjacent trees and associated understory vegetation and soil conditions.
- C. **Limits of Clearing and Grading**: The Applicant shall conform strictly to the limits of clearing and grading as shown on the PCA/FDPA, 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 PCA/FDPA, they shall be located in the least disruptive manner necessary as determined by the UFMD, DPWES. A replanting plan shall be developed and implemented, subject to approval by the UFMD, DPWES, for any areas protected by the limits of clearing and grading that must be disturbed for such trails or utilities.

D. Tree Preservation Fencing: All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fence. Tree protection fencing in the form of four (4) foot high, fourteen (14) gauge welded wire attached to six (6) foot steel posts driven eighteen (18) inches into the ground and placed no further than ten (10) feet apart or, super silt fence 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 as shown on the demolition, and phase I & II erosion and sediment control sheets, as may be modified by the "Root Pruning" proffer below.

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 fencing 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. Three (3) days prior to the commencement of any clearing, grading or demolition activities, but subsequent to the installation of the tree protection devices, the UFMD, DPWES, shall be notified and given the opportunity to inspect the site to ensure 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 the UFMD, DPWES.

E. 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 UFMD, DPWES, 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 or vibratory plow to a depth of 18 inches.
- 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.
- An UFMD, DPWES, representative shall be informed when all root pruning and tree protection fence installation is complete.

F. 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 UFMD. 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 UFMD approvals. The monitoring schedule shall be described and detailed in the Landscaping and Tree Preservation Plan, and reviewed and approved by the UFMD, DPWES.

G. Tree Conservation: The Applicant shall take necessary steps and actions to ensure the long-term survival, and continuing structural integrity and health of trees designated by the Tree Preservation Plan to be conserved. However, if for reasons related to lawfully executed construction practices on the subject property and/or changes in the environment brought about by these construction activities, but not resulting from wrongful or negligent acts on the part of the applicant or the applicant's agents, these trees are found to be dead, dying, diseased, or hazardous (as determined by UFMD at or prior to the final release of the project bond) the applicant shall:

1. Provide for the removal of above ground portion of the trees.
2. Provide for the restoration of any understory plant and soil damage during their removal (as determined by UFMD).
3. Provide for the restoration of the associated loss in canopy coverage in accordance with the tree cover guidance found in the Public Facilities.

If wrongful or negligent acts on the part of the applicant or the applicant's agents caused in whole or in part, these trees to be found to be dead, dying, diseased, or hazardous, as determined by UFMD at, or prior to, the final release of the project bond, in addition to the removal and restoration requirements identified above, the applicant shall plant an additional 50% of the loss in canopy coverage in accordance with the tree cover guideline found in the Public Facilities Manual. The additional planting shall be located on the 7.52 acres subject to FDPA 92-W-023-2 or within the Public Safety Center as determined by UFMD after consultation with the District Supervisor. In addition, the County may use other legal remedies at its disposal related to non-compliance, including, but not limited to the fact that a Proffer Condition Amendment may be required if any proposed remedies are not in substantial conformance with the proffers, as determined by the Zoning Administrator.

H. Ornamental Fencing: Any ornamental fencing to be installed in area protected by the limits of clearing shall be field place in consultation with UFMD, DPWES.

APPROVED:

  
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Anthony H. Griffin  
County Executive

3/21/08  
Date