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Department of Planning & Zoning
MAY 05 2008
Zoning Evaluation Division

PROFFERS

Lee Village at Silver Lake, LLC

RZ 2007-LE-012
PCA 1996-LE-034-2
PCA 82-L-030-12

May 2, 2008

Pursuant to Section 15.2-2303(a), Code of Virginia, 1950, as amended, Lee Village at Silver Lake, LLC (hereinafter referred to as the "Applicant"), for itself, its successors and assigns in RZ 2007-LE-012, PCA 1996-LE-034-2, PCA 82-L-030-12 filed on 6.64 acres of property identified as Fairfax County Tax Map reference 91-3 ((9)) 8B (hereinafter referred to as the "Application Property"), hereby proffers to the following, provided that the Fairfax County Board of Supervisors (hereinafter referred to the "Board") approves a rezoning of a portion of the Application Property, containing approximately 2.82 acres, from the PDH-8 District to the PRM District, and related applications in conjunction with a Conceptual/Final Development Plan (hereinafter referred to as the "CDP/FDP").

APPLICABLE TO ENTIRE APPLICATION PROPERTY

1. PRIOR PROFFERS

Prior proffers applicable to the Application Property are incorporated into this document by reference and shall continue in full force and effect as follows:

- The proffers associated with PCA 82-L-030-2 et seq. remain in effect for the portions of the Application Property subject to those proffers as referenced in PCA 82-L-030-9 with the exception of the proffered plan, uses and layout of the property wherein these proffers shall govern the property.

- The proffers associated with PCA 82-L-030-9 and RZ 1996-LE-034 remain in effect except as follows: Proffers Number 1, 2, 8, 9, 11, and 13, which are superseded by the following proffers for the Application Property only. Proffer Number 14 regarding noise shall be in effect for the residential uses.

- If the option shown on Sheet 3 of the CDP/FDP to construct only the library is exercised by the Board of Supervisors as outlined in Proffer 3, such construction shall be in substantial conformance with the proffers accepted in conjunction with the approval of PCA 82-L-030-11 & PCA 1996-LE-034 and the development conditions associated with the approval of FDPA 82-L-034. In that instance, in addition to this proffer, the following proffers shall apply: 3.a, 4.a, 4.c., 5, 6, 7.a., 7.b., 7.c., and 9 as well as the proffers identified as applicable to the library only.

- Copies of the above described proffer statements shall be included with any site plan submission made with regard to this approval.

2. CONCEPTUAL/FINAL DEVELOPMENT PLAN (CDP/FDP)

a. Subject to the provisions of Section 16-204 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 CDP/FDP, entitled "Lee Village at Silver Lake," containing seven (7) sheets prepared by Dewberry, dated March 12, 2007, as revised through March 14, 2008.

b. Pursuant to Paragraph 4 of Section 16-403 of the Zoning Ordinance, minor modifications from the CDP/FDP may be permitted as determined by the Zoning Administrator. The Applicant reserves the right to make minor modifications to the building footprints shown on the CDP/FDP and make other modifications provided that such modifications are in substantial conformance with the CDP/FDP as determined by the Zoning Administrator, and do not increase the number of dwelling units, decrease required setbacks to the periphery, or decrease open space.

c. Notwithstanding that the CDP/FDP is presented on seven (7) sheets and said CDP/FDP is the subject of Proffer 1.a. above, it shall be understood that the CDP shall be limited to the location and amount of open space, limits of clearing and grading, the maximum number and general location of residential units and type of units, and the maximum square footage of non-residential development. The Applicant has the option to request Final Development Plan Amendments ("FDPAs") for elements other than CDP elements from the Planning Commission for all of, or a portion of, the CDP/FDP in accordance with the provisions set forth in Section 16-402 of the Zoning Ordinance.

d. Any of the buildings shown on the CDP/FDP may be the subject of a partial and separate Proffered Condition Amendment (PCA) and/or FDPA without joinder and/or consent of the other building owners as determined by the Zoning Administrator pursuant to Paragraph 6 of Section 18-204 of the Zoning Ordinance. Previously approved proffered conditions applicable to buildings that are not the subject of such a PCA or FDPA shall otherwise remain in full force and effect.

3. USES

a. As shown on the CDP/FDP, the Application Property shall be developed with residential units and a library as described herein. The parking garage shall be constructed concurrently with the residential uses. The proposed library shall be under construction prior to the issuance of the first Residential Use Permit (RUP) for any of the proposed residential uses, unless, at its sole option, Fairfax County delays the construction of the library in response to budgetary or other constraints that

preclude the staffing, outfitting and/or operation of the library, in which case there shall be no delay in the issuance of the first RUP. Fairfax County may elect to construct only the library in a configuration that would accommodate future construction of the proposed residential uses and parking garage, or as described in proffer 1 above.

b. The construction of the residential buildings on the Application Property may be phased.

4. TRANSPORTATION

a. Subject to Virginia Department of Transportation's (VDOT) approval, the Applicant shall construct a bus shelter on Beulah Street in the location as generally shown on the CDP/FDP, and pedestrian connections as shown on the CDP/FDP. Pedestrian connections shall comply with ADA regulations.

b. Subject to the approval of VDOT, receipt of all necessary letters of permission from the Fairfax County Park Authority and the Fairfax County School Board, their successors and assigns, and subject to the condition that neither VDOT nor property owners granting letters of permission shall require the payment of funds or the construction of other off-site improvements in order to grant such approval or permission, the Applicant shall remove the "pork chop" island located on adjacent property to the south identified among the Fairfax County tax map records as 91-3 ((1)) 59. Said removal shall not result in any further obligations of the Applicant for off-site right-of-way improvements.

c. Applicant shall record, among the Fairfax County land records, a sight distance easement in a form acceptable to the County Attorney along its property frontage adjacent to Silver Lakes Boulevard at the first access point when proceeding east from Beulah Street.

5. GEOTECHNICAL

Prior to site plan approval, and in accordance with the provisions of the Public Facilities Manual, the Applicant shall submit a geotechnical study of the Application Property to the Geotechnical Review Board through DPWES and shall incorporate appropriate engineering practices as recommended by the Geotechnical Review Board and DPWES to alleviate potential structural problems, to the satisfaction of DPWES. The recommendations of the Geotechnical Review Board shall be implemented during construction. In addition, the Applicant shall comply with the provisions of proffer 13, Soils Activities, accepted pursuant to the approval of PCA 82-L-030-9 and RZ 1996 LE-034 as referenced in proffer 1 above.

6. STORMWATER MANAGEMENT/BEST MANAGEMENT PRACTICES

The Applicant shall provide stormwater management (SWM) and best management practices (BMPs) on the Application Property as generally shown on the CDP/FDP and in accordance with the requirements of the PFM and the Chesapeake Bay Preservation Ordinance, unless waived or modified by the Department of Public Works and Environmental Services (DPWES). Stormwater Management shall be provided off-site in a pond designed to accommodate run-off from the Application Property as detailed on the CDP/FDP. Based on final engineering, the Applicant shall use best efforts to incorporate, low impact development techniques, including, but not limited to, bioretention facilities, porous pavers, Filterra system(s) and infiltration trenches on the remainder of the Application Property, as applicable, to minimize the amount of impervious area on the Application Property, increase infiltration into the ground, and reduce the concentration of run-off from impervious areas. The number, type and location of said facilities shall be coordinated with and approved by DPWES at the time of first site plan submission.

7. LANDSCAPING AND OPEN SPACE

a. The Applicant shall provide landscaping as shown on the CDP/FDP. Deciduous trees shall have minimum caliper of 2 ½ inches at time of planting. Evergreens shall have a minimum height of 5 to 6 feet at time of planting.

b. The Applicant shall provide low planting beds in approximately 50 % of that curved area that is encumbered by a sight distance easement.

c. The Applicant shall submit a detailed landscape plan as part of the first and all subsequent plan submissions for review and approval by Urban Forest Management. The landscaping plan shall utilize a variety of tree species of various sizes planted throughout the Application Property. The Applicant shall utilize native species as coordinated with Urban Forest Management.

d. The Applicant shall provide an open space area between the proposed library and the independent living residential building, as shown on the CDP/FDP. The open space shall include benches, a minimum of two (2) game tables, and a gazebo, or other similar feature, to enhance the use of the open space area.

e. Subsequent to the receipt of the necessary permission, the Applicant shall provide landscaping within the area reserved for future road improvements adjacent to the Application Property.

f. Decorative pavers or stamped and colored asphalt, in accordance with VDOT standards, shall be utilized for the pedestrian crosswalk from the library entrance to the open space area adjacent to the independent living residential building, and between the two portions of the workforce housing units.

g. Subject to receipt of the necessary permission at no cost and the approval of DPWES, the Applicant shall plant native shade trees along a swale located on property identified as 91-3 ((1)) 59 in proximity to Silver Lake Boulevard. A maximum of twenty (20) trees shall be planted. The exact species and location of trees shall be coordinated with Urban Forest Management.

8. PARKING GARAGE

a. The parking garage shall be constructed of earth tone colored materials to minimize its visual appearance, and as may be specified in the agreement between the Applicant and Fairfax County. The Applicant shall utilize a combination of plantings and techniques to maximize screening of the garage from Beulah Street in coordination with Urban Forest Management.

b. The parking garage shall include pavement markings and signs to restrict commuter parking, and to identify parking for library and resident use. Said parking regulations shall be strictly enforced in accordance with a parking agreement to be entered into between the owners of the residential buildings and Fairfax County.

c. With the exception of trailers and vehicles necessary for moving residents in and out of units, and vehicles associated with library activities, the parking of trailers, commercial vehicles, boats and recreation vehicles shall not be permitted on the Application Property. This restriction shall be enforced by a covenant recorded among the Fairfax County land records.

d. The parking garage shall provide secure, weather protected bicycle storage in a location convenient to residents, their visitors and guests. Bicycle racks shall also be provided in proximity to the library.

9. LIGHTING

To prevent lighting from adversely impacting adjacent properties, exterior building lighting shall be shielded in a manner that prevents light spillage. All exterior lighting fixtures shall be equipped with "cut-off" luminaries and all parking lot lighting shall also be a maximum of twenty (20) feet in height. All lighting standards shall comply with Zoning Ordinance Article 14, Part 9, Outdoor Lighting Standards.

10. SUCCESSORS AND ASSIGNS

These proffers will bind and inure to the benefit of the Applicant and its successors and assigns.

11. COUNTERPARTS

These proffers may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed an original document and all of which when taken together shall constitute one and the same instrument.

APPLICABLE ONLY TO THE RESIDENTIAL PORTION OF THE APPLICATION PROPERTY

The following proffers shall be applicable solely to the residential portion of the Application Property as shown on the CDP/FDP.

1. USES

a. The Applicant shall rent 89 of the residential units as age-restricted independent living units as designated on the CDP/FDP and zoned to the PDH-8 District. The residents shall be restricted to those who are fifty-five (55) years of age or older and couples where either the husband or the wife is fifty-five (55) years of age or older, in accordance with the Fair Housing Act (FHA).

b. The Applicant shall rent and administer 111 of the residential units designated as workforce housing units on the CDP/FDP and zoned to the PRM District as housing that is affordable to essential professionals (i.e., teachers, nurses, and Fairfax County employees) working in Fairfax County. These units shall be affordable to individuals with initial maximum income limits up to 100% of the Area Median Income ("AMI") for the Washington Metropolitan Statistical Area, as determined periodically by the U.S. Department of Housing and Urban Development, unless the maximum income limit is increased by Fairfax County. The workforce housing units shall be comprised of one (1) and two (2) bedroom units; one (1) bedroom units shall have a minimum size of 600 square feet, and two (2) bedroom units shall have minimum size of 900 square feet. The Applicant shall administer the units in accordance with a separate agreement between the Applicant and Fairfax County, which may include the following terms:

- The units may be leased for a minimum of a one (1) year lease period, but may have a lease term of up to two (2) years for tenants who meet the initial eligibility criteria established by the Applicant. A tenant who no longer meets eligibiltiy criteria may continue to occupy a workforce unit until the end of the lease
term.

- Units shall not be subleased by the tenant.

- A statement shall be obtained upon lease signing verifying the tenant's name, household size and household income. If a unit is occupied by more than one individual, and both are employed, the household income may be up to 150% of AMI. Said verification will be provided to the Fairfax County Department of Housing and Community Development.

- A minimum of one parking space shall be provided for each unit.

- Separate fees may be charged for utilities, additional parking spaces, and/or amenities.

c. The Applicant shall record a covenant in a form acceptable to the County Attorney on the Application Property identifying the 111 residential units described in proffer b. above as workforce housing units. These units may be target marketed to Fairfax County employees, personnel of the Fairfax Education Association, employees of Inova Hospital System; MetroPark employees; Kingstowne office buildings workers, and/or other essential professionals provided, however, that such marketing shall be completed on a non-discriminatory basis in conformance with the Fair Housing Act and all other applicable laws and regulations.

2. TRANSPORTATION DEMAND MANAGEMENT STRATEGIES

a. The Applicant shall implement the following transportation demand management (TDM) strategies to reduce peak hour vehicle trips from the Application Property during the AM and PM peak periods. The TDM strategies shall be implemented prior to issuance of the first RUP for the Application Property. Strategies shall include the following:

i. All residential units shall be pre-wired with high capacity data/network connections in addition to standard phone lines.

ii. SmarTrip cards shall be provided to each resident on a one time basis at the time of initial lease execution for dwellings on the Application Property, SmarTrip cards for each resident shall include a pre-paid value of Fifty Dollars ($50.00).

iii. Metro maps, schedules and forms, ridesharing and other relevant transit option information shall be available to residents and employees in a common area; such as a central lobby or community room, and provided to all residents at the time of lease execution.

iv. Transportation coordination duties shall be assigned to one of the property managers, who will implement the TDM strategies described herein. The transportation coordinator shall be available to Fairfax County Department of

Transportation (FCDOT) staff to work cooperatively to promote opportunities to enhance participation in TDM programs.

v. A newsletter shall be distributed at a minimum on a quarterly basis or a webpage maintained for tenants describing and updating information on TDM strategies and services.

b. The transportation coordinator shall provide compliance reports annually to FCDOT for the first three years following issuance of the last RUP for the Application Property. Thereafter, reports shall be provided periodically as determined by FCDOT.

3. BUS SHELTER MAINTENANCE

The Applicant shall be responsible for general upkeep of the grounds in the vicinity of the bus shelter (grass mowing, landscape maintenance) located on Beulah Street and for collection and disposal of trash from the bus shelter).

4. PARKS AND RECREATION

a. The Applicant shall comply with Paragraph 2 of Section 6-110 and Paragraph 2 of Section 6-409 of the Zoning Ordinance regarding developed recreation facilities for residential uses. The Applicant proffers a minimum expenditure for recreational facilities of One Thousand Five Hundred Dollars ($1,500.00) per residential unit, exclusive of Affordable Dwelling Units. On-site recreational facilities shall include a tot lot as shown on the CDP/FDP, an indoor exercise facility containing a minimum of 700 square feet, and those recreation amenities described in proffer 7.d., Applicable to Entire Application Property.

b. Any funds required in accordance with proffer 4.a., and not expended on-site, shall be utilized by the Applicant to design, permit and construct (subject to acceptable letters of permission from the property owners for the construction of off-site improvements) the following improvements to existing facilities at Beulah Park:

i. A landscaped plaza area with benches at the southwest corner of Silver Lake Boulevard and Beulah Street to include plant materials and pavers similar to those utilized and to a similar extent as proposed in the open space between the library and the independent living residential building on the Application Property.

ii. Dugout improvements at each of the two (2) athletic fields (4 dugouts) as follows:

- installation of a concrete floor at each dugout.

- installation of surface mounted, 21-inch benches with backs at each dugout.
- construction of a roof over each dugout.
- installation of aprons at each dugout.

iii. Roof replacement and installation of ceiling insulation on restroom building.

c. The Applicant shall install two (2) crosswalks across Silver Lake Boulevard to provide access from the Application Property to Beulah Park.

d. The Applicant shall complete the improvements described herein regardless if the amount of completion exceeds the Ordinance requirement described in 4.a.

5. SCHOOL CONTRIBUTION

The Applicant shall contribute the sum of Eighty-One Thousand Four Hundred Ten Dollars ($81,410.00) to the Fairfax County Board of Supervisors for capital improvements to Lane Elementary School, Hayfield Middle School and Hayfield High School, which are located in the vicinity of the Application Property. The amount of this contribution may be reduced at time of payment based on the final number of workforce housing units constructed on the Application Property in accordance with the school generation rates of Fairfax County as provided by Fairfax County Public School Facilities Planning. Said contribution shall be payable at time of site plan approval for the residential portion of the Application Property.

6. AFFORDABLE HOUSING

a. In accordance with Section 9-306(2) of the Zoning Ordinance, a minimum of 15% of the independent living dwelling units shall be Affordable Dwelling Units (ADUs). Said ADUs shall be provided in the independent living portion of the development, and shall be administered in accordance with the provisions of Part 8 of Article 2 of the Zoning Ordinance.

b. Applicant shall provide ADUs in accordance with Zoning Ordinance requirements for the workforce housing, or a minimum of 5%. Said ADUs shall be provided in the workforce housing portion of the development and shall be administered in accordance with the provisions of Part 8 of Article 2 of the Zoning Ordinance.

c. The Applicant may provide ADUs in excess of the nineteen (19) required by the Zoning Ordinance. ADUs provided in excess of the Zoning Ordinance requirement may be provided in either the independent living or workforce housing portion of the development within the Applicant's discretion, and shall be administered in accordance with the provisions of Part 8 of Article 2 of the Zoning Ordinance.

7. DESIGN

a. The residential buildings shall be four (4) stories and constructed primarily with a combination of masonry, siding, and glass materials. All buildings shall be serviced by an elevator. All buildings shall be architecturally compatible.

b. Residential buildings constructed on the Application Property shall include energy star appliances.

c. One parking space shall be provided per residential unit.

d. Universal design elements, such as levered door handles, thirty-six (36) inch wide doors, level entry thresholds and lower light switches, shall be incorporated into age-restricted units and the accessible residential work force housing units, as determined economically feasible by the Applicant.

e. Four street lights shall be installed along the sidewalk adjacent to Silver Lake Boulevard in the following locations:

   i Between the northernmost entrance to the Application Property and the sidewalk connection to the entry court;

   ii. Along the curve in Silver Lake Boulevard;

   iii. In the vicinity of the crosswalk to the trail to Beulah Park; and

   iv. At the entrance closest to the library.

8. NOISE ATTENUATION

Applicant shall achieve, at substantial completion of the improvements, an interior noise level of approximately 45 dBA Ldn for all residential units as described in proffer 14, Noise Attenuation, accepted pursuant to the approval of PCA 82-L-030-9 and RZ 1996-LE-034 as referenced herein.

9. SIGNS

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 to assist in the rental of residences on the Application Property. Furthermore, the agents and employees involved in the marketing and rental of the residential units on the Application Property shall be directed to adhere to this proffer.

APPLICABLE ONLY TO THE LIBRARY PORTION OF THE APPLICATION PROPERTY

The following proffers shall be applicable solely to the library portion of the Application Property as shown on the CDP/FDP.

1. USES

Pursuant to a separate agreement between the Applicant and Fairfax County, the Applicant may construct a library containing approximately 45,900 gross square feet as shown on the CDP/FDP and zoned to the PDH-8 District. This is inclusive of approximately 6,500 gross square feet of public meeting and office space and a 900 square foot café, to the extent that it is economically feasible, that will be accessory to the library. If a café is not constructed, this square footage shall be allocated to library use. The library drive–thru window as shown on the CDP/FDP shall not be utilized by the café.

2. DESIGN

The library shown on the CDP/FDP shall incorporate environmentally sustainable elements into its building program that include, but are not necessarily limited to, high-efficiency mechanical systems, use of materials with recycled content, a high performance and insulated building envelope, water efficient fixtures, low volatile organic compounds in paints, sealants and finish materials, construction waste management and storage and collection of recyclables. These measures shall be provided to an extent and in a manner that is consistent with the most current version of the United States Green Building Council's Leadership in Energy and Environmental Design rating system for new construction (LEED-NC), silver rating, including alternative credit language and compliance measures as may be permitted through the most current version of any LEED-NC program specifically applicable to commercial projects, as documented through a statement to be provided to DPWES, prior to bond release, that certifies to this level of performance for each of these elements. This statement shall be certified by a LEED-accredited professional.

[SIGNATURES BEGIN ON THE FOLLOWING PAGE]

APPLICANT / LESSEE OF TAX MAP 91-3 ((9)) 8B

LEE VILLAGE AT SILVER LAKE, LLC

By: Claudia M. Meer
Its: Manager

By: C. Neal Fleming, Jr.
Its: Manager

[SIGNATURES CONTINUE ON THE FOLLOWING PAGE]

TITLE OWNER/LESSOR OF TAX MAP 91-3 (9)) 8B

THE BOARD OF SUPERVISORS OF THE COUNTY OF FAIRFAX

By: _____
Anthony H. Griffin
County Executive

[SIGNATURES END]