

## **PROPOSED DEVELOPMENT CONDITIONS**

### **SE 2007-DR-025**

**May 28, 2009**

If it is the intent of the Board of Supervisors to approve SE 2007-DR-025 located at 8325 Old Dominion Drive (Tax Map 20-3 ((2)) 002) to permit a waiver of the minimum lot width requirement, pursuant to Sect. 9-610 of the Fairfax County Zoning Ordinance, the staff recommends that the Board condition the approval by requiring conformance with the following development conditions:

1. This Special Exception is granted for and runs with the land indicated in this application and is not transferable to other land.
2. This Special Exception is granted only for the purpose(s), structure(s) and/or use(s) indicated on the special exception plat approved with the application, as qualified by these development conditions. Irrespective of Note 26, Sheet 1, any modification, extension or addition to the existing structure will require obtaining a Special Exception Amendment unless the Department of Planning and Zoning determines such modification shall not decrease the limits of clearing and grading, impact tree preservation, or violate substantial conformance with applicable zoning ordinance provisions and/or these development conditions. All required and appropriate permits shall be required for any such modification, extension or addition to the existing structure.
3. Any plan submitted pursuant to this special exception shall be in substantial conformance with the approved Special Exception Plat entitled 8325 Old Dominion Drive, prepared by Land Design Consultants and dated June 2007 as revised through April 15, 2009, and these conditions. Nothing in this Special Exception Plat or these conditions shall be construed to relieve the developer of compliance with the Tree Conservation Ordinance, Chapter 122 of the Fairfax County Code. All development shall be in conformance with this plat as qualified by these development conditions, except minor modifications to the approved special exception may be permitted pursuant to Par. 4 of Sect. 9-004 of the Zoning Ordinance. Prior to record plat approval, a copy of the SE Plat and Approved Development Conditions, and any residential covenants, shall be recorded in the County Land Records which disclose to the existing and all subsequent property owners the obligation to preserve the existing vegetation and trees on this parcel in accordance with the limits of clearing and grading approved with this Special Exception Plat.

4. Fire Protection. At the time of subdivision plan submission, compliance with requirements of the Public Facilities Manual (PFM) regarding Fire Regulations as they apply to the subject property shall be demonstrated.
5. Tree Preservation. A Tree Preservation Plan shall be submitted 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 Urban Forestry Management Division (UFMD), Fairfax County Department of Public Works and Environmental Services (DPWES). The Tree Preservation Plan shall consist of tree survey that includes the location, species, size, crown spread, and condition rating percentage of all trees 8 inches in diameter and greater, and 25 feet to either side of the limits of clearing and grading shown on the Special Exception Plat for the subject property. The Tree Preservation Plan shall provide for the permanent preservation of all of the trees in those areas shown for tree preservation on the Special Exception Plat and shall include any additional areas in which trees can be preserved as a result of final engineering. The conditions 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.

Concurrently with the submission of the Tree Preservation Plan, a schedule shall also be submitted that sets forth a proposed monetary value for each of the trees surveyed that is to be preserved in accordance with the Special Exception Plat, as well as any additional areas in which trees can be preserved as a result of final engineering. The monetary values for each of the trees to be preserved shall be determined using the Trunk Formula Method contained in the latest edition of the Guide for Plant Appraisal published by the International Society of Arboriculture and shall be subject to review and approval by UFMD. The Location Factor of the Trunk Formula Method shall be based on projected post-development Contribution and Placement ratings. The Site Rating Component shall be equal to at least 80 percent. The combined total of monetary values identified in the approved Tree Preservation Plan for trees designated to be preserved shall serve as a baseline sum for determining the amount of the Tree Bond. In addition, the monetary values identified in the approved Tree Preservation Plan for trees to be preserved shall serve as the baseline amount for determining the amounts to be paid to the County in the event that the Applicant, his personal representatives, heirs, successors or assigns violate any of the special exception development conditions; provided, however, that the baseline amounts shall be subject to increase to reflect inflation (to be calculated using the Consumer Price

Index) and tree growth as applicable. Additionally, no person or entity during construction or afterward (in perpetuity) shall perform any of the following activities in the Tree Preservation Area:

1. Fill, grade, excavate, or perform any other land disturbing activities in the Tree Preservation Area, except as necessary for (a) erosion and sediment control or additional site improvements pursuant to a plan approved by the DPWES and then only in strict accordance with the terms of the approved plan; and (b) the enhancement of existing vegetation through the planting of additional native species on the subject property as approved by UFMD.
2. Remove, disturb, cut, destroy, or otherwise harm any trees, shrubs, or other vegetation in the Tree Preservation Area on the subject property, except as necessary for (a) the control of invasive species of vines and other vegetation; (b) the routine maintenance of existing conditions, such a minor tree limbing or trimming, provided that such activity is consistent with the Tree Preservation Plan; or (c) the removal of trees in order to prevent the endangerment of life, meet insurance requirements or damaged due to natural disasters beyond the control of the Applicant.
3. Construct any retaining walls, trails, walkways, buildings, signs, towers, or any other structures in the Tree Preservation Area on the subject property, absent the Board's approval of a Special Exception Amendment permitting such activity and then only in strict accordance with the terms of that approval.
4. Dump or store soil, trash, ashes, sawdust, bark, dredge spoil, chemicals, pesticides, fertilizers, or other waste on the subject property, except that the Applicant may apply otherwise legally permitted pesticides to the subject property to the extent necessary to control any weeds, insects, pests, and other species destructive to the trees to be preserved as part of these special exception conditions, provided that all use of pesticides shall be consistent with all federal, state, and local regulations.
5. All contractors, sub-contractors and others working on the site must sign and acknowledge the Tree Preservation Area in advance of starting work on the site.

6. Root Pruning and Mulching. Root pruning and mulching shall be performed during construction as needed to comply with the tree preservation requirements of these conditions. 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:
  - a. Root pruning shall be done with a trencher or vibratory plow to a depth of 18 inches;
  - b. Root pruning shall take place prior to any clearing and grading, road building, or demolition of structures, as confirmed by Fairfax County environmental inspectors;
  - c. Root pruning shall be conducted with the supervision of a certified arborist;
  - d. Immediately after the phase II E&S activities are complete, mulch shall be applied at a depth of 3 inches within designated areas without the use of motorized equipment;
  - e. Mulch shall consist of shredded hardwood; hay or straw mulch shall not be used within tree preservation areas, and
  - f. An UFM, DPWES, representative shall be informed in writing when all root pruning and tree protection fence installation is complete.
  
7. Tree Preservation Walk-Through. The services of a certified arborist or landscape architect shall be retained and the limits of clearing and grading shall be 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 identified as dead or dying that have the potential to affect human safety may be removed as part of the clearing operation if approved by UFMD. 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.
  
8. Limits of Clearing and Grading. The limits of clearing and grading shall be strictly adhered to as shown on the Special Exception Plat, subject to allowances specified on the SE Plat and in these conditions and for the

installation of utilities as determined necessary by the Director of DPWES, as described herein. If it is determined necessary to install utilities in areas protected by the limits of clearing and grading as shown on the Special Exception Plat, they shall be located in the least disruptive manner necessary as determined by UFMD, DPWES. A replanting plan shall be developed and implemented, subject to approval by UFMD, DPWES, for any areas protected by the limits of clearing and grading that must be disturbed for such utilities.

9. Management Practices. As part of the subdivision plan, management practices shall be identified and provided by the applicant for the protection of understory plant materials, leaf litter and soil conditions found in areas to be left undisturbed, subject to the approval of the UFMD.
10. Tree Protection Fencing. All trees shown to be preserved on the tree preservation plan 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 UFMD 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 and 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 demolition of any existing structures or road building. The installation of all tree protection fencing shall be performed under the onsite supervision of a certified arborist and accomplished in a manner that does not harm existing vegetation that is to be preserved. Three 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. No grading or construction activities shall occur until the fencing is installed correctly, as certified by UFMD, DPWES.

Signs shall be provided that identify and help protect all areas to be left undisturbed. These signs will in English and Spanish prohibit entry to these protected areas. These signs will be highly visible, posted in appropriate locations along the limits of clearing and grading and attached to tree protection fencing. Under no circumstances will the signs be nailed or in any manner attached to the trees or vegetation within the areas to be left undisturbed.

11. **Site Monitoring.** During any clearing or tree/vegetation/structure removal on the Applicant Property, a certified arborist shall be present to monitor the process and ensure that the activities are conducted in conformance with these conditions and as approved by the UFMD. The services of a certified arborist or landscape architect shall be retained 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 include once weekly inspections during phase I activities and once monthly inspections during phase II activities. This schedule shall be described and detailed in the Landscaping and Tree Preservation Plan, and reviewed and approved by UFMD, DPWES.

12. Tree Bond. A letter of credit, or a cash contribution equal to one-half (50%) of the total monetary value of the trees designated to be preserved as identified above shall be placed with the County. The Tree Bond letter of credit shall be prepared in a manner acceptable to the County Attorney naming the County as beneficiary to ensure the preservation, conservation, replacement, removal, and/or treatment of the trees identified in the Tree Preservation Plan, and to ensure the undisturbed areas identified on the approved SE. The cash or Tree Bond shall be held by the County as a cash reserve that can be used by the County to ensure the preservation, conservation, replacement, removal, and/or treatment of the trees identified in the Tree Preservation Plan and as approved on the subdivision plan, and for work relating to the protection and management of undisturbed areas identified on the approved SE. If the Applicant fails to complete any work identified in the approved subdivision plan, then the County may use cash or money from the Tree Bond to accomplish the required work. If the County must use all or part of the cash or Tree Bond to accomplish the outstanding work, then the Applicant will replenish the cash or Tree Bond to its full amount. If the Applicant fails to replenish the cash or Tree Bond to its full amount, then the cash or Tree Bond may be used by the County to replenish the Tree Preservation Deposit to its full amount. The cash/Tree Bond may be used by the County as described in the Tree Preservation condition, above. Any cash of funds remaining in the Tree Bond shall be released along with the project's final bond release if approved in writing by UFMD, DPWES.
13. Site Protection. Any work occurring in or adjacent to the areas to be left undisturbed, such as root pruning, installation of tree protection fencing and silt control devices, removal of trash or plant debris, or extraction of fallen trees designated to be removed shall be performed in a manner that minimizes damage to any tree, shrub, herbaceous, or vine plant species that grows in the lower canopy environment; and minimizes impacts to the existing top soil and leaf litter layers that provide nourishment and protection to that vegetation, all as approved by UFMD. The use of power equipment in these areas shall be limited to small hand-operated equipment such as chainsaws. Any work that requires the use of larger motorized equipment such as, but not limited to, tree transplanting spades, skid loaders, tractors, trucks, stump-grinders, or any accessory or attachment connected to such equipment shall not occur unless reviewed and approved in writing by UFMD.
14. Stormwater Management (SWM) and Best Management Practices (BMP). The stormwater runoff from this parcel shall be controlled by containing the stormwater runoff generated from all contributing on-site and offsite drainage areas, calculated based on existing off-site and proposed on-site conditions, such that there is no concentrated stormwater runoff leaving the developed site during the 10-year storm, as determined by DPWES. To accomplish this commitment, infiltration trenches as shown on the SE

Plat shall be installed, subject to the engineering and design review and approval by DPWES. The infiltration trenches shall be maintained in accordance with the standard maintenance agreements and requirements of DPWES. The executed maintenance agreement shall be recorded in County Land Records prior to construction plan approval. If said infiltration trenches are not sufficient to contain the afore-described stormwater runoff of the ten-year rain storm, the trenches shall be redesigned, with approval from DPWES, and/or additional SWM/BMP facilities shall be installed as necessary, and these facilities shall be subject to engineering and design review and approval by DPWES and shall also be subject to the standard maintenance agreements and requirements of DPWES. If such additional SWM/BMP facilities are not in substantial conformance with the SE Plat, then a Special Exception Amendment (SEA) shall be filed.

15. Adequate Outfall. Adequate outfall shall be demonstrated in accordance with the PFM, as determined by DPWES, at the time of subdivision plan review.
16. Removal of Features from ROW. Features currently built in the area to be dedicated for the Right-of-Way (ROW), e.g. stone wall, driveway curbing, etc. shall be removed to outside of the ROW prior to acceptance of the right-of-way by the Virginia Department of Transportation (VDOT).
17. Additional Tree Preservation. In addition to the tree preservation areas shown on the Special Exception Plat, the following trees as designated on the Special Exception Plat shall be preserved: Trees 68-70 and Trees 75.04-75.09.
18. Structures. No structure shall be placed within sixty feet of the boundary between Tax Map 20-3 ((2)) 3B and proposed Lot 2B as delineated on the Special Exception Plat.
19. Garages. Garages shall be designed to accommodate a minimum of two (2) vehicles. This condition shall be noted in the Deed of Subdivision to be recorded in the land records of Fairfax County which provides that garages shall only be used for a purpose that will not interfere with the intended purpose of garages (i.e., the parking of vehicles). This condition shall be recorded among the land records of Fairfax County as part of the Deed of Subdivision in a form approved by the County Attorney prior to the sale of any lots and shall inure to the benefit of Fairfax County. Initial purchasers shall be advised of the use restriction prior to entering into a contract of sale.
20. Energy Star. All proposed dwellings shall be required to qualify for the Energy Star Qualified Homes designation.

21. 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.
22. A written disclosure shall be made to contract purchasers prior to entering into a contract of sale and shall be placed in the purchase contract and in the deed for each lot and recorded among the Land Records of Fairfax County which discloses the presence and requirements of the Development Conditions as stated herein and identifies the areas shown for Tree Preservation as delineated on the Special Exception Plat.

The above proposed conditions are staff recommendations and do not reflect the position of the Board of Supervisors unless and until adopted by that Board.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be himself responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Exception shall not be valid until this has been accomplished.

Pursuant to Section 9-015 of the Zoning Ordinance, this special exception shall automatically expire, without notice, thirty (30) months after the date of approval unless the use has been established or construction has commenced and been diligently prosecuted. The Board of Supervisors may grant additional time to establish the use or to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special exception. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.