DEVELOPMENT CONDITIONS

SE 2009-MA-015

March 16, 2010

If it is the intent of the Board of Supervisors to approve SE 2009-MA-015 located at 4954 Sunset Lane and 4921 Backlick Road (Tax Map 71-3 ((1)) 24A and 71-4 ((1)) 20) to permit a waiver of the minimum lot width requirement pursuant to Sect. 9-610 of the Fairfax County Zoning Ordinance, 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. Replacement of the existing structure, accessory structures, extensions, and/or additions that conform with the applicable Zoning Ordinance Provisions and these development conditions, as determined by the Zoning Administrator, may be permitted without an amendment to this Special Exception.

3. 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.

4. Any plan submitted pursuant to this special exception shall be in substantial conformance with the approved Special Exception Plat entitled "Special Exception for Cornejo Properties", consisting of six (6) sheets, prepared by Smith Engineering and dated June 12, 2009 as revised through March 16, 2010, and these conditions. Minor modifications to the approved special exception may be permitted pursuant to Par. 4 of Sect. 9-004 of the Zoning Ordinance.

5. All new dwelling units shall be designed and constructed as ENERGY STAR qualified homes. The major features of an ENERGY STAR home include: Effective Insulation, High-Performance Windows, Tight Construction and Ducts, Efficient Heating and Cooling Equipment, Efficient Products, and Third Party Verification (Home Energy Rater.) Prior to issuance of the Residential Use Permit (RUP) for each dwelling unit, documentation shall be submitted to the Environment and Development Review Branch of the Department of Planning and Zoning (DPZ) from a home energy rater certified through the Residential Energy Services Network (RESNET) program that demonstrates that the dwelling unit has attained the ENERGY STAR for Homes qualification, as described in these conditions.

6. In order to reduce interior noise to a maximum level of approximately DNL 45 dBA, the residential unit adjacent to Backlick 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.

   d. Prior to the issuance of building permits, alternative noise attenuation measures may be provided subject to the implementation of a noise study as reviewed and approved by DPWES after consultation with DPZ.

7. No additions or extensions outside the maximum building envelopes as shown on the SE Plat shall be permitted.

8. Right of way up to sixty-three (63) feet from the centerline of Backlick Road along the entire Backlick Road frontage of the site shall be dedicated to the Board of Supervisors, in fee simple, at the time of subdivision plan approval or within sixty (60) days upon demand by DPWES or VDOT, whichever occurs first. All ancillary easements along the Backlick Road frontage of the site shall be conveyed to the Board of Supervisors at the time of subdivision plan approval or within sixty (60) days upon demand by DPWES or VDOT, whichever occurs first.

9. As part of the sidewalk design for the Backlick Road pedestrian project (Project number 4YP201-PB025) the applicant shall grant any necessary ancillary easements needed in order for VDOT, Fairfax County DOT, and UFM to utilize creative techniques to further reduce grading and impacts to the root system of the 56" oak tree.

10. Landscaping & Tree Preservation

    a. The limits of clearing and grading shall be strictly adhered to during and after construction. Prior to any demolition, clearing and grading on the site, the limits of clearing and grading shall be fenced and flagged, as

determined appropriate by Urban Forest Management, DPWES, to protect existing vegetation which is to be preserved, both on and off-site, and to prevent intrusions into tree save areas. Clearing and grading limits around the border of the proposed septic field and sewer lateral shall be adjusted, as recommended by the Urban Forest Management, to minimize damage and/or removal of trees in that area.

b. Minor field adjustments shall be permitted to the location of the limits of clearing and grading to protect individual trees which are located off-site and on the boundary line at time of subdivision plan review and construction, in conjunction with and to the satisfaction of the Urban Forest Management, DPWES. However all trees shown to be located off-site near the property boundary and co-owned trees shall be protected by adjusted limits of clearing located a minimum of ten (10) feet from the off-site or co-owned tree trunks.

c. The limits of clearing and grading shall be marked with a continuous line of flagging prior to the demolition and/or pre-construction meeting. Before or during the pre-construction meeting, the limits of clearing and grading shall be walked by the Owner, and a representative of the Owner, who is a certified arborist or landscape architect, with an Urban Forest Management, 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 specifically by Urban Forest Management in writing as dead or dying may be removed as part of the clearing operation. Any tree that is so designated shall be removed using a chain saw and such removal shall be accomplished in a manner that avoids damage to surrounding trees and associated understory vegetation. If a stump must be removed, this shall be done using a stump grinding machine in a manner causing as little disturbance as possible to the adjacent trees and associated understory vegetation and soil conditions.

d. A tree preservation plan shall be prepared and submitted for the review and approval of DPWES and the Urban Forester's office as part of the first and all subsequent submissions of the subdivision plan. The plan may include, but shall not be limited to the use of root aeration matting, supersonic air tools, retaining walls and other measures to be approved by Urban Forest Management. 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, DPWES.

e. The tree preservation plan shall consist of a final tree survey that includes the location, species, size, crown spread and condition rating percentage of all trees 12 inches in diameter and greater, and 20 feet to either side of the limits of clearing and grading shown on the SE Plat 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 SE Plat, 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 trees identified to be preserved, such as: crown pruning, root pruning, mulching, fertilization, and others as necessary, shall be included in the plan.

f. The use of motorized equipment in tree preservation areas will be limited to hand-operated equipment such as chainsaws, wheel barrows, rake and shovels. Any work that requires the use of motorized equipment, such as tree transplanting spades, skid loaders, tractors, trucks, stump-grinders, etc., or any accessory or attachment connected to this type of equipment shall not occur unless pre-approved by Urban Forest Management, DPWES.

g. All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fence. Tree protection fencing (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 other measures as approved by Urban Forest Management, DPWES) 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 Urban Forest Management.

h. All tree protection fencing shall be installed prior to any clearing and grading activities, including the demolition of any existing structures. The installation of all tree protection fence types shall be performed under the supervision of a certified arborist, and accomplished in a manner that does not harm existing vegetation that is to be preserved. Three days prior to the commencement of any clearing, grading, or demolition activities, but subsequent to the installation of the tree protection devices, Urban Forest Management, DPWES and the District Supervisor shall be notified and given the opportunity to inspect the site to assure that all tree protection devices have been correctly installed. If it is determined that the fencing has not been installed correctly, no grading or construction activities shall occur until the fencing is installed correctly, as determined by Urban Forest Management, DPWES.

11. At the time of subdivision plan, an invasive plant removal plan for those areas identified for preservation as shown on the SE Plat shall be submitted to Urban Forest Management; the plan shall be implemented to the satisfaction of UFM.

12. A Homeowner's Association (HOA) shall be established for the subdivision and the covenants shall include the ownership and maintenance responsibilities for the stormwater management facilities, trees on HOA property, and the shared driveway. In accordance with the Virginia Property Owners' Association Act, Section 55 of the Code of Virginia, purchasers shall be advised of these requirements and restrictions prior to entering into a contract of sale through a disclosure package that contains the HOA documentation.

13. At the time of subdivision plan approval, the Applicant shall contribute a sum of $23,096.00 to the Board of Supervisors for transfer to the Fairfax County School Board. These funds shall be allocated by the Board of Supervisors for capital improvements contained in the adopted Capital Improvement Program (CIP) for public schools within Fairfax County. If approved by the Board of Supervisors or its authorized agent, the Applicant may make an in-kind contribution for capital improvements to the Fairfax County School Board equal to, or greater in value than, the cash contribution, as determined by the Board of Supervisors or its agent.

14. At the time of subdivision plan approval, Applicant shall contribute the sum of $5,358.00 to the Fairfax County Park Authority for the provision of recreational facilities in the vicinity of the Application Property.

15. Prior to subdivision plan approval, a Phase I archeological survey shall be completed, using a scope of work provided by the Fairfax County Park Authority's Cultural Resource Management and Protection section (CRMPS). If any potentially significant archeological resources are found by the Phase I survey than a Phase II assessment shall be completed. If any sites are determined to be significant then they shall be avoided or a Phase III data recovery shall be performed in accordance with a scope provided by the CRMPS. One copy of the draft and final archeological reports shall be provided to the Park Authority's Resource Management Division within 30 days of completion of the study or survey.

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 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. If the project is phased, development of the initial phase shall be considered to establish the use for the entire development as shown herein. 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.