



RZ APPLICATION ACCEPTED: August 26, 2005
RZ APPLICATION AMENDED: August 6, 2007
SE APPLICATION ACCEPTED: August 6, 2007
PLANNING COMMISSION PUBLIC HEARING: April 30, 2009
BOARD OF SUPERVISORS: Not yet scheduled

County of Fairfax, Virginia

April 15, 2009

STAFF REPORT

APPLICATION RZ 2005-HM-028 and SE 2007-HM-023

HUNTER MILL DISTRICT

APPLICANT: Pedro and Carmen Toscano

PRESENT ZONING: R-1

REQUESTED ZONING: R-2

PARCEL: 38-3 ((1)) 4

ACREAGE: 1.67 acres

DENSITY: 1.2 du/ac

PLAN MAP: Residential; 1-2 du/ac

RZ PROPOSAL: The applicant seeks to rezone 1.67 acres from R-1 to R-2 to permit the construction of one additional single-family detached dwelling.

SE CATEGORY: Category 6: Waiver of the lot width requirement.

SE PROPOSAL: To permit a waiver of the minimum lot width requirement in order to permit the R-2 District minimum lot width for Lot 1 to be reduced from 100 feet to 20 feet.

STAFF RECOMMENDATIONS:

Staff recommends denial of RZ 2005-HM-028; however, if it is the intent of the Board of Supervisors to approve RZ 2005-HM-028, staff recommends that such approval be subject to the proffers consistent with those contained in Appendix 1.

St.Clair Williams

Staff recommends denial of SE 2007-HM-023; however, if it is the intent of the Board of Supervisors to approve SE 2007-HM-023, staff recommends that such approval be subject to the development conditions contained in Appendix 2.

It should be noted that it is not the intent of the 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.

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.

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.

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.

O:\SWILLIRZ\2005-HM-028 & SE 2007-HM-023 Toscano Jr\Staff Report\Cover.doc



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).

Rezoning Application

RZ 2005-HM-028

Applicant: PEDRO & CARMEN M. TOSCANO, JR.
Accepted: 08/26/2005 - AMENDED 08/06/2007
Proposed: RESIDENTIAL
Area: 1.67 AC OF LAND; DISTRICT - HUNTER MILL

Zoning Dist Sect:

Located: EAST SIDE OF VALE ROAD APPROXIMATELY
500 FEET SOUTH OF ITS INTERSECTION
WITH CORSICA STREET

Zoning: FROM R-1 TO R-2

Overlay Dist:

Map Ref Num: 038-3- /01/ /0004

Special Exception

SE 2007-HM-023

Applicant: PEDRO TOSCANO, JR.
Accepted: 08/06/2007
Proposed: WAIVER OF THE MINIMUM LOT WIDTH REQUIREMENT
Area: 1.67 AC OF LAND; DISTRICT - HUNTER MILL

Zoning Dist Sect: 09-0610

Art 9 Group and Use: 6-06

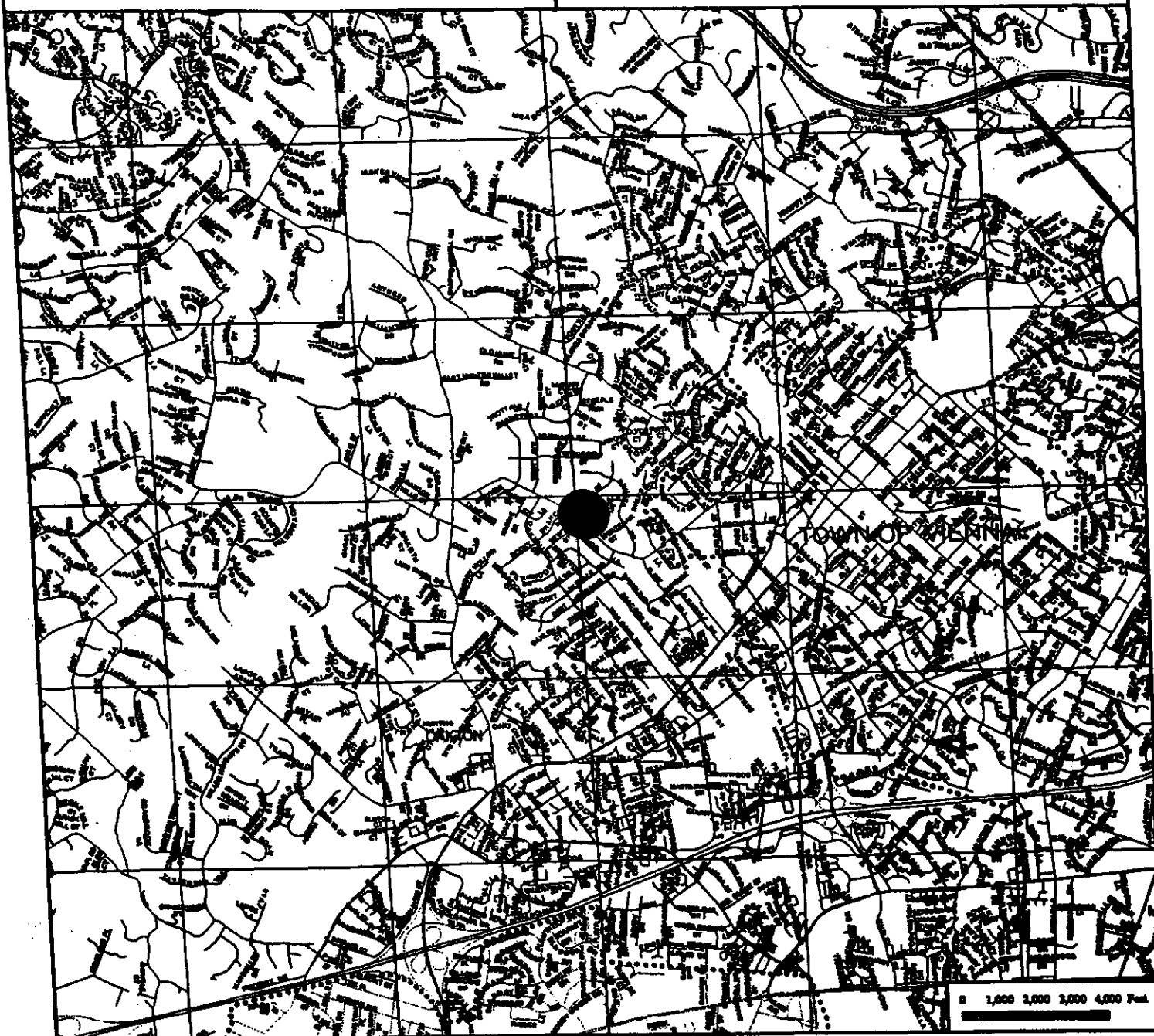
Located: 9946 VALE ROAD

Zoning: R-1

Plan Area: 2

Overlay Dist:

Map Ref Num: 038-3- /01/ /0004



Rezoning Application

RZ 2005-HM-028

Applicant: PEDRO & CARMEN M. TOSCANO, JR.
Accepted: 08/26/2005 - AMENDED 08/06/2007
Proposed: RESIDENTIAL
Area: 1.67 AC OF LAND, DISTRICT - HUNTER MILL

Zoning Dist Sect: EAST SIDE OF VALE ROAD APPROXIMATELY
500 FEET SOUTH OF ITS INTERSECTION
WITH CORSICA STREET

Zoning: FROM R-1 TO R-2

Overlay Dist:

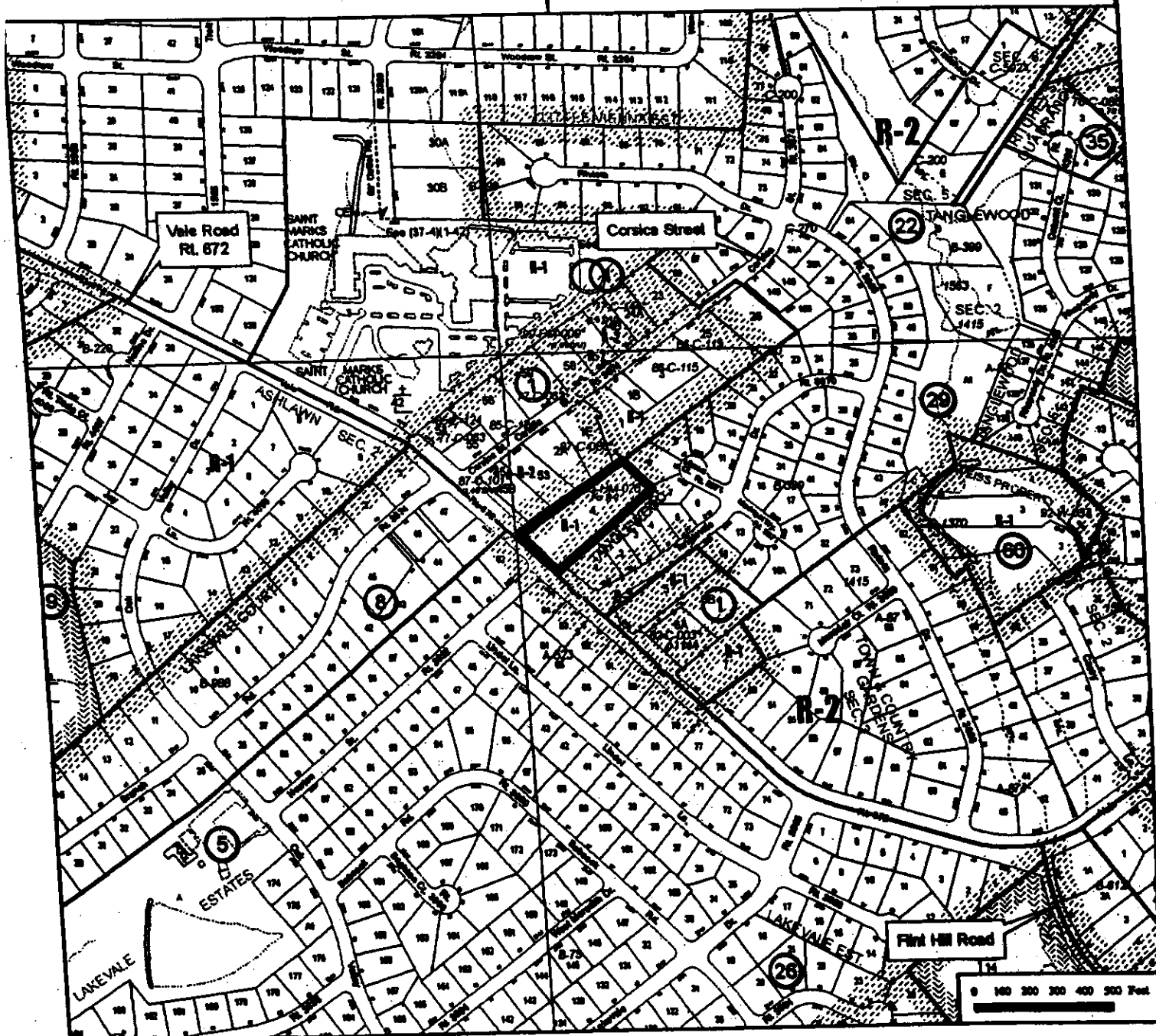
Map Ref Num: 038-3- /01/ /0004

Special Exception

SE 2007-HM-023

Applicant: PEDRO TOSCANO, JR.
Accepted: 08/06/2007
Proposed: WAIVER OF THE MINIMUM LOT WIDTH REQUIREMENT
Area: 1.67 AC OF LAND, DISTRICT - HUNTER MILL

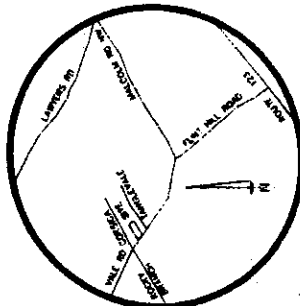
Zoning Dist Sect: 09-0610
Art 9 Group and Use: 6-06
Located: 9946 VALE ROAD
Zoning: R-1
Plan Area: 2
Overlay Dist:
Map Ref Num: 038-3- /01/ /0004



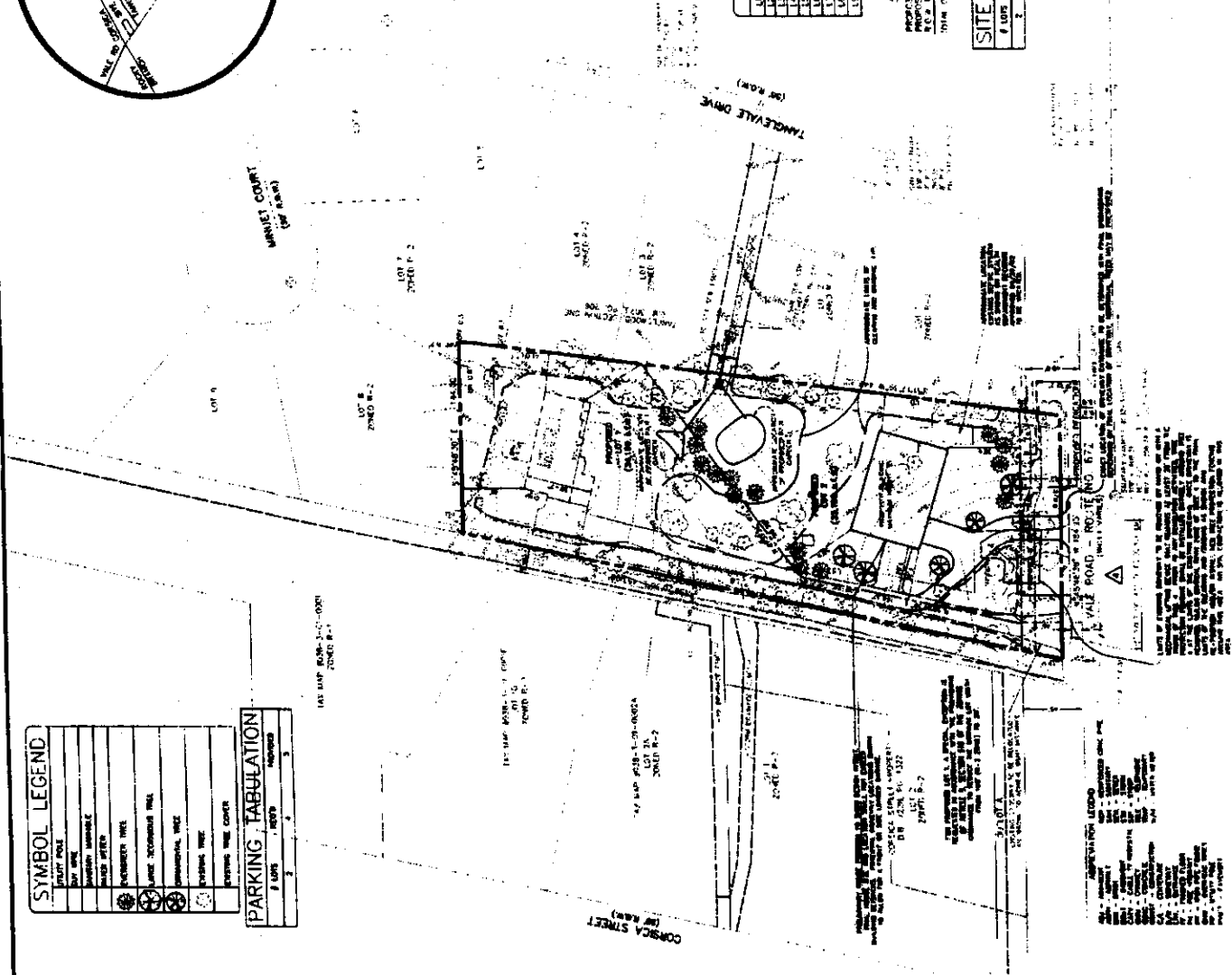
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3	S	51°17'30"	h 5.23
4	H	54°28'30"	h 10.07
5	H	54°28'30"	h 29.44
6	S	51°17'30"	h 21.18
7	H	54°28'30"	h 20.46
8	H	55°20'30"	h 42.27
9	S	51°17'30"	h 19.60










APR 1 1961

SITE TABULATION		
Ø 1075	Ø675	Ø1/AC
2	1 873	12 01/AC



VICINITY MAP
NOT TO SCALE



SYMBOL LEGEND	
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	DAY WINE
	WINEY UNDRINKABLE
	WINEY SPICY
	WINEY TWEET
	WINEY TROUBLESOME FULL
	WINEY TROUBLESOME WINE
	WINEY TWEET
	WINEY TWEET COVER

PARKING TABULATION				
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145 MAP 6030-3-2--0301
25000 0-1

CONSIGLIA STREET
(OF R.M.M.)

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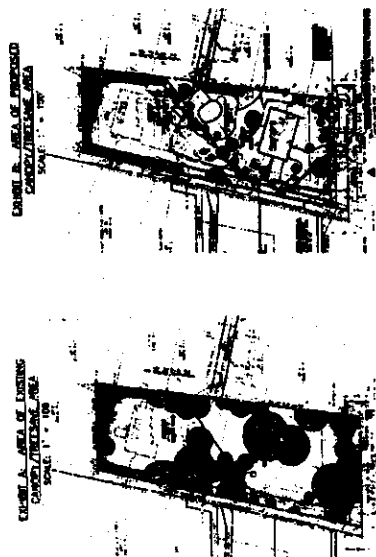
204E (P. 1)

[illegible]

- 1) THE PROPERTY SHOWN HEREON IS SITUATED ON THE EASTERN COUNTY MAP NO. 30-12(1) PARCEL 4 AND IS KNOWN AS 1-1.
- 2) THE PROPERTY IS SHOWN IN THE NAME OF FRANK BROWN JR. AND CHARLES A. KROENKE ACCORDING TO RECORDS IN O.S. 1851.
- 3) THE PROPERTY IS SHOWN IN THE NAME OF THE RECORDS OF MINERAL COUNTY, MINNESOTA AND WHO ARE THE APPLICANTS OF THE SPECIAL EXCEPTIONS.
- 4) THIS SPECIAL PROPERTY IS LOCATED IN TOWNSHIP 20 N. AS SHOWN ON COMBASTY PANEL NO. 93833 0000 D.
- 5) THERE ARE NO TAX MAPS ON SPECIAL FUND MAPS IN AREA.
- 6) THERE ARE NO TAX MAPS ON SPECIAL FUND MAPS IN AREA.
- 7) THE COMPARISON BETWEEN THE 1-1 AND 2-1 IS:
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104. <i>Phacelaria</i> sp.	39,437 S.E.
a. Pin- <i>Leucodermis</i> zone of sapling live canopies	54.1% (50.4-57.8) S.E.
b. Percentages of areas <i>Pin</i> covered by sapling live canopy	50.0% (51.85) S.E.
c. Percentages of 10-year live canopy removal for site	54.1% of $^{\circ}\text{C}$ (11,029 S.E.)
d. Percentages of 10-year live canopy removal that would be met through live canopy removal	55.7% (19,040 S.E.)
e. Observed percentages of canopy removal that would be met through canopy removal	Yes

f. How the [tree preservation target minimum] met? Yes

[illegible]

THE EXISTING TREE SURVEY AND PRESERVATION PLAN SHALL CONSIST OF A TREE SURVEY THAT INCLUDES THE LOCATION, SPECIES, SIZE, AND CONDITION RATING PERCENTAGE OF ALL TREES THAT ARE SIX (6) INCHES OR GREATER IN DIAMETER.

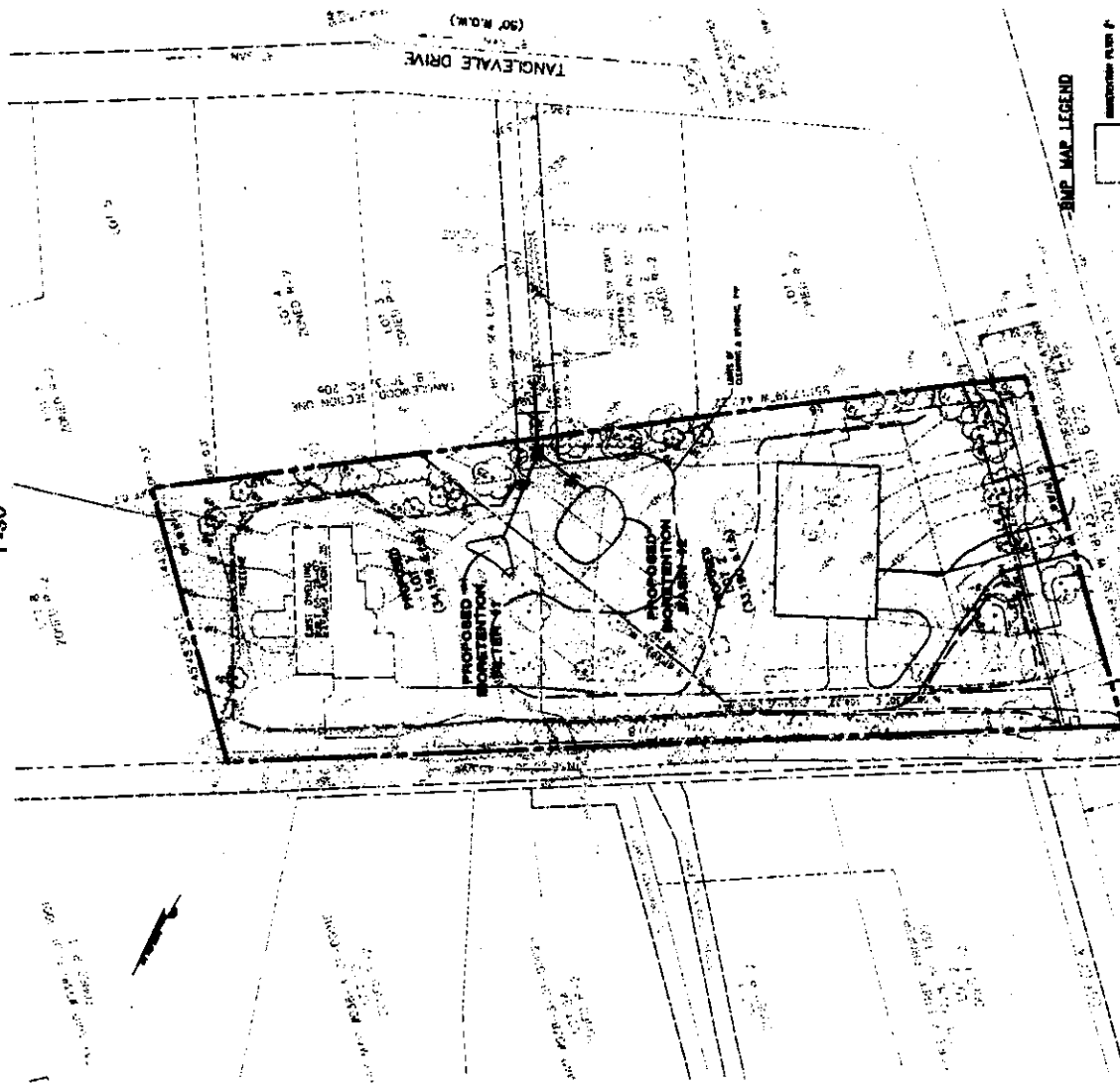
REF PROTECTION FENCE DETAIL



TOSCANO PROPERTY

BMP COMPUTATIONS
K2 2006-HM-028\SE 2007 HM 023[illegible]

BMP MAP
1"=30'



CHMP MAP LEGEND

1	2	3
1. Name of the person or organization that is the subject of the report		
2. Address of the person or organization that is the subject of the report		
3. Date of the report		

SNAP FACILITY DESIGN CALCULATIONS

1. <u>Investigative Information</u>	2. <u>Subject</u>		3. <u>Investigative Method</u>	4. <u>Investigative Results</u>	5. <u>Investigative Conclusions</u>	6. <u>Investigative Recommendations</u>	7. <u>Investigative Comments</u>
	8. <u>Subject Name</u>	9. <u>Subject Address</u>					
10. <u>Investigative Method</u>	11. <u>Investigative Results</u>	12. <u>Investigative Conclusions</u>	13. <u>Investigative Recommendations</u>	14. <u>Investigative Comments</u>	15. <u>Investigative Comments</u>	16. <u>Investigative Comments</u>	17. <u>Investigative Comments</u>

Journal of Management Education 25(1)

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EXPERIMENT	TEMPERATURE °C	INITIAL PRESSURE PSIA	INITIAL RATE PSIA/HR	AREA IN/IN ²	C FACTOR IN/IN ²	PRODUCT IN
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100% OF THE PROCEEDS FROM THE SALE OF THIS BOOK WILL BE DONATED TO THE AMERICAN CANCER SOCIETY.

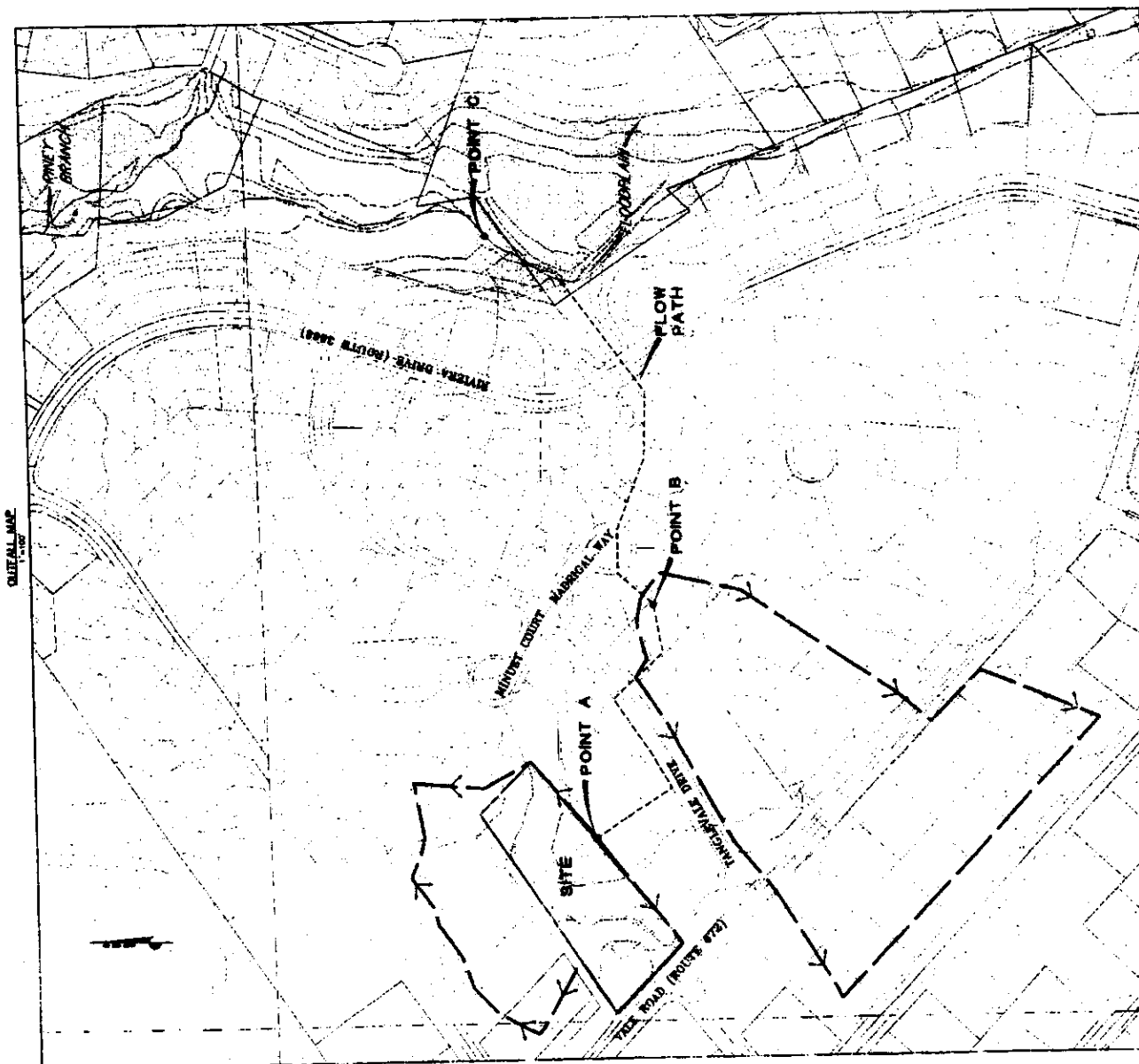
10 SELECT REQUIREMENTS
 11 P LANE COUNTY CHESSMAN BAY RESERVATION AREA 40%
 12 ON P LANE COUNTY WILSON SUPPLY OVERLAY DISTRICT 50%
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END NARRATIVE

INCORPORATION FLIER #1 WILL MEET RUN-OFF FROM PROPOSED LOT 1
INCORPORATION FLIER #2 WILL MEET RUN-OFF FROM PROPOSED LOT 2
WHERE INCORPORATION FLIERS WILL MEET A TOTAL OF 8.92 ACRES AND
PROVIDE AT LEAST 40% POROSITY REMOVAL WHICH IS GREATER THAN THE CITY
REQUIREMENT FOR THIS CITY

STORMWATER MANAGEMENT NARRATIVE

1. I WILL HAVE NO INCREASE IN MY INVESTMENT FOR THE NEXT YEAR. I WILL HAVE NO INCREASE IN MY INVESTMENT FOR THE NEXT YEAR. I WILL HAVE NO INCREASE IN MY INVESTMENT FOR THE NEXT YEAR.



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

DESCRIPTION OF THE APPLICATION

Proposal:

The applicants, Pedro and Carmen Toscano, request approval to rezone 1.67 acres from the R-1 District to the R-2 District to permit the development of two single family detached dwellings. The application proposes to retain the existing single family detached dwelling on the subject property on proposed Lot 1 (34,159 square feet), and to construct a new single family detached dwelling on Lot 2 (33,190 square feet) with an overall density of 1.2 dwelling units per acre (du/ac). The applicants have concurrently filed a special exception request to permit the R-2 District minimum lot width for Lot 1 to be reduced from 100 feet to 20 feet. It should be noted that approval of the lot width waiver is necessary for the applicant to develop the site as depicted on the Generalized Development Plan (GDP)/Special Exception (SE) Plat.

Waivers and Modifications:

The applicant is seeking a waiver of the stormwater management requirements for this site. On-site Low Impact Development (LID) techniques are proposed to be used on each lot in lieu of onsite stormwater management as determined by DPWES at the time of subdivision plan review.

The applicant is seeking a waiver of the construction of the frontage improvements recommended by the Comprehensive Plan along the subject site's Vale Road frontage.

LOCATION AND CHARACTER

Site Description:

The subject site is 1.67 acres and zoned R-1. It is located on the north side of Vale Road, opposite its intersection with Newton Street, approximately 500 feet south of its intersection with Corsica Street. The site contains one existing single family detached dwelling, which was recently constructed. Most of the site was cleared and graded for construction of this dwelling.

Surrounding Area Description:

SURROUNDING AREA DESCRIPTION			
Direction	Use	Zoning	Plan
North	Residential, Single-family detached	R-1, R-2	Residential, 1-2 du/ac
East	Residential; Single-family detached (Tanglewood Subdivision)	R-2	Residential, 1-2 du/ac
West	Residential, Single-family detached (Lakevale Estates Subdivision)	R-2	Residential, 1-2 du/ac
South	Residential, Single-family detached (Tanglewood Subdivision)	R-2	Residential, 1-2 du/ac

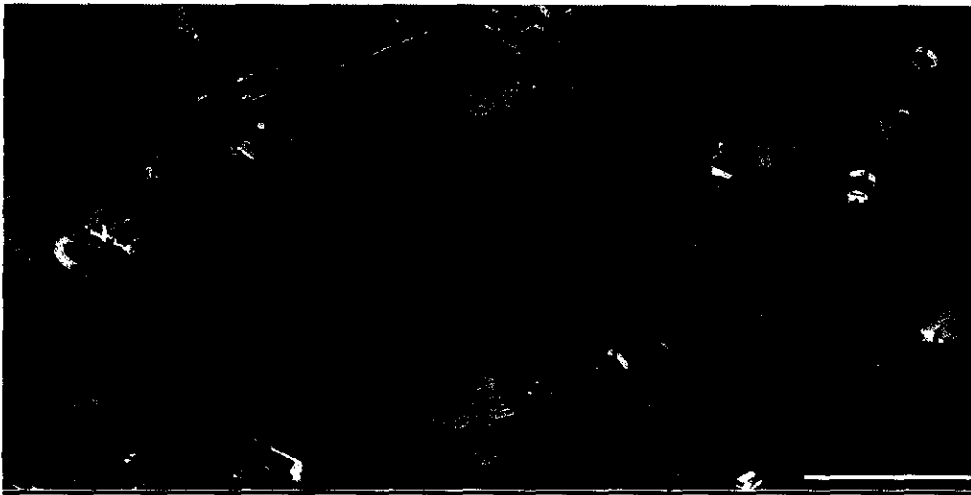
BACKGROUND**Site History:**

The existing lot was created in 1946. A single-family detached dwelling was later constructed on the lot in 1962.

In July of 2006, the applicant requested permission to remain in the existing dwelling while a new single-family detached dwelling was constructed on the R-1 zoned site. In a letter dated July 12, 2006, the Zoning Administration Division (ZAD) of the Department of Planning and Zoning (DPZ) determined that the existing dwelling could be occupied temporarily while the new dwelling was being constructed, however a Residential Use Permit (RUP) for the new dwelling could not be issued until the existing dwelling was demolished. A building permit for construction of a new two-story single family detached dwelling on the subject site was issued on May 7, 2006.

In December of 2006, Fairfax County Environmental and Facilities Inspection Divisions, DPWES staff and Urban Forest Management Division (UFMD) staff visited the subject site to assess the impacts to the tree preservation area caused by encroachments within the limits of clearing and grading approved for the construction of the new dwelling on the site (proposed Lot 1). County staff observed that much of the imported soil had been removed to the area between the limits of clearing and grading and the house under construction at the time.

A permit to demolish the existing dwelling (constructed in 1962) was issued on February 14, 2008.



* Subject property prior to any land disturbance on the site. Dwelling shown was demolished in 2007.

COMPREHENSIVE PLAN PROVISIONS

Plan Area: Vienna Planning District, Area II

Planning Sector: Piney Branch Community Planning Sector

Plan Map: Residential; 1-2 du/acre

The Comprehensive Plan, Area II, Vienna District, as amended through July 10, 2006, Piney Branch Community Planning Sector (V4) pages 74-80 states:

The Piney Branch sector is largely developed as stable residential neighborhoods. Infill development in these neighborhoods should be of a compatible use, type and intensity in accordance with the guidance provided by the Policy Plan under Land Use Objectives 8 and 14.

Where substantial parcel consolidation is specified, it is intended that such consolidations will provide for projects that function in a well-designed, efficient manner and provide for the development of unconsolidated parcels in conformance with the Area Plan.

ANALYSIS

General Development Plan (GDP)/Special Exception Plat (SE Plat)
(Copy at front of staff report)

Title of GDP/SE Plat: Toscano Property

Prepared By: BC Consultants

Original and Revision Dates: July 2008, as revised through April 7, 2009

Description of the combined GDP/SE Plat:

GDP/SE Plat: Toscano Property	
Sheet #	Description of Sheet
1 of 4	Cover Sheet, Vicinity Map, Site Layout, Site Tabulations, General Notes, Waivers and Modifications
2 of 4	Existing Tree Survey and Preservation Plan
3 of 4	BMP Computations
4 of 4	Outfall Analysis

The following features are depicted on the GDP/SE Plat:

- **Site Layout.** The application property, located on the north side of Vale Road, is shown to be subdivided into two lots, each containing one single-family detached dwelling unit.
- **Vehicular Access.** Access to both lots is provided via a shared driveway off of Vale Road providing access to Lot 2 at the southern portion of the site then extending onto the pipestem portion of Lot 1 to provide access to the dwelling on that lot, which is located at the northern portion of the subject property.
- **Parking.** Three parking spaces provided for Lot 1 in an attached 3-car garage. Two parking spaces will be provided for Lot 2 (at a minimum an attached 1 –car garage and one additional surface space).
- **Stormwater Management/Best Management Practices (SWM/BMP) Facilities.** Rain gardens are proposed to be provided on each proposed lot. These rain gardens will be privately owned and maintained by each individual lot owner. As noted earlier, the applicant will be seeking a waiver of on-site SWM/BMP facilities at the time of subdivision review.
- **Pedestrian Facilities.** An eight-foot wide asphalt trail is proposed to be provided along the Vale Road frontage of the site.
- **Tree Preservation.** The GDP/SE Plat depicts tree preservation areas in the central and southwest portions of the site.

RESIDENTIAL DEVELOPMENT CRITERIA (Appendix 14)

The application proposes to develop the site with a total of 2 single family detached dwelling units at a density of 1.2 du/ac. The Comprehensive Plan map shows the entire site as planned for residential development at a density of 1-2 dwelling units per acre. The parcels are not subject to any site specific Comprehensive Plan text.

At a proposed density of 1.2 du/ac, the proposed development is consistent with the density recommended by the Comprehensive Plan.

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. To that end, the following criteria, as contained in the Policy Plan, are used in evaluating zoning requests for new residential development.

Site Design (Development Criterion #1)

This Criterion requires that the development proposal address consolidation goals in the Comprehensive Plan, further the integration of the development with adjacent parcels and not preclude adjacent properties from developing according to the recommendations of the Plan. The Plan Map recommends the subject property for residential development at a density of 1-2 dwelling units per acre (du/ac). The applicant's proposal to rezone to the R-2 District in order to subdivide the property into two separate lots, permit the existing dwelling to remain and the construction of one additional single family detached dwelling at an overall density of 1.2 du/ac would be in conformance with this recommendation. All the surrounding properties have been rezoned or developed for residential use at similar densities. The proposal would not adversely impact any adjacent parcels from developing according to the recommendations of the Plan.

This Criterion further states that the development proposal should provide a logical and functional design with appropriate relationships within the development, including appropriately oriented dwelling units and usable yard areas within the individual lots. In staff's opinion, the proposed lots do not provide appropriate relationships within the development. The proposed rear yard for Lot 2 would directly abut the proposed front yard for Lot 1, limiting the privacy for both lots. Staff believes that the lots are laid out in an undesirable fashion for the sole purpose of maximizing lot yield. Therefore, this criterion has not been met.

Neighborhood Context (Development Criterion #2)

While developments are not expected to be identical with the existing development within which they are to be located, this Criterion states that they should fit into the fabric of the community. The application proposes one regular shaped lot (Lot 2) and a pipestem lot (Lot 1). The existing development in the surrounding area consists of single family detached dwelling developments with lots that have a logical relationship to the street and to one another. There are very few pipestem lots in the surrounding neighborhoods (only three in Lakevale Estates). As noted above, staff believes that the proposed pipestem lot does not provide for a logical

relationship between the two lots with regard to privacy and usable yards and stands out in stark contrast to the surrounding developments. Therefore, staff does not believe that the proposed development fits into the fabric of the surrounding community.

Environment (Development Criterion #3)

This Criterion requires that developments respect the natural environment by conserving natural environmental resources, account for soil and topographic conditions and protect current and future residents from the impacts of noise and light. Developments should minimize off-site impacts from stormwater runoff and adverse water quality impacts.

Issue: Waiver of the SWM/BMP Requirements

The applicant is seeking a waiver of the stormwater management requirements for this site in order to locate BMP facilities on individual lots. The application proposes a combined detention/bioretention facility shown to be provided on Lot 2 to provide the stormwater detention requirements for the site.

The stormwater management analysis of this application has identified that based on the County Soils Map, the soils on the subject property appear to be good for infiltration practices. Nevertheless, the applicant still needs to determine the soil infiltration rates to verify if the proposed facilities would meet the two- and ten-year storage and water quality control volume. The applicant also needs to ascertain that the capacity of the existing storm sewers will permit gravity flows. Without this information, it is difficult to ascertain if the applicant's proposed waiver will be favorably considered by DPWES.

The use of low impact development (LID) techniques, as deemed appropriate is encouraged in the Comprehensive Plan guidance. As discussed previously, the applicant intends to apply for a waiver of the water quantity and quality requirements to provide the LID techniques as shown on the GDP/SE Plat, subject to the approval of the Department of Public Works and Environmental Services (DPWES). If DPWES does not approve these waivers, or permit the installation of the proposed LID measures, the applicant may be required to apply for a Proffered Condition Amendment (PCA) to provide the required practices. The final determination of any water quantity and water quality waivers and/or facilities will be made by DPWES during subdivision plan review.

Tree Preservation and Tree Cover Requirements (Development Criterion #4)

This Criterion states that all developments should be designed to take advantage of existing tree cover and developed appropriately to disturb as little existing tree cover as possible, including the extension of utility improvements to the site.

Prior to submitting the subject zoning applications, land disturbances occurred on the subject property, altering the existing grades and significantly reducing tree cover at this location. In December of 2006, staff from the Fairfax County Environmental and Facilities Inspection Division and Urban Forest Management Division (UFMD) of DPWES visited the subject site to assess the impacts to the tree preservation area caused by encroachment beyond the limits of clearing and grading approved for the construction of the house on proposed Lot 1. County staff observed that the applicant was storing soil between the limits of clearing and grading and the house under construction at the time. Furthermore, soil in the tree preservation area had been spread out over most of the area. Tracks through the soil indicated that heavy equipment had traveled over much of the root zones of the trees within the preservation area. Standing water in areas where clay soil had been spread indicated the poor drainage and reduced aeration which was now occurring within the tree preservation as a result of the heavy fill and soil compaction that had taken place. For that reason, UFMD believes that the survival of the trees within the designated tree preservation area, which included mostly tulip poplars, one black walnut and one black locust, had been severely compromised by the impacts of the disturbance activities that occurred. UFMD anticipated that the impacted trees would probably show evidence of decline during the next three to five years and likely die within five to ten years. For that reason, UFMD did not recommend attempting to restore the preservation area as further attempts to restore the area would inflict more damage than benefit to the root zones of the trees in that area. Because of the soil compaction that has occurred and due to the introduction of clay fill in areas designated as tree save areas on the infill plan under which the new residence was constructed, staff does not believe that the existing trees can be considered as being in "good" condition, as stated on the GDP/SE Plat. Development Criterion #4 recommends that developments be designed to take advantage of existing tree cover and developed appropriately to disturb as little existing tree cover as possible. Unfortunately, the applicant removed and otherwise adversely impacted the existing trees on the site prior to submittal of these two zoning applications which eliminated any potential input staff might have made regarding tree preservation measures or changes to site layout which might have contributed to a more desirable project. Therefore, staff believes that the applicant has not satisfied this criterion.

Transportation (Development Criterion #5)

This Criterion requires that developments 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 Comprehensive Plan recommends an eight-foot wide asphalt trail within a 12-foot wide trail easement or a 10-foot wide asphalt trail within the VDOT right-of-way be provided along the north side of Vale Road. The application proposes an eight-foot wide asphalt trail along the site's Vale Road frontage; however, a trail easement is not

shown on the GDP/SE Plat. As such, a modification of the Comprehensive Plain Trails Plan is required. VDOT and FCDOT have recommended that the applicant dedicate 45 feet of right-of-way from the centerline of Vale Road to the property line and construct frontage improvements to include curb and gutter matching the existing, adjacent parcel to the east. The application propose to dedicate 45 feet of right-of-way from the centerline of Vale Road to the property line, however the applicant has requested a waiver of the construction of the requested frontage improvements due to the cost of providing such improvements. Staff does not support this waiver.

Public Facilities (Development Criterion #6)

Criterion 6 states that residential developments should offset their impacts upon public facility systems (i.e. schools, parks, libraries, police, fire and rescue, stormwater management and other publicly owned community facilities). Impacts may be offset by the dedication of land, construction of public facilities, contribution of in-kind goods, services or cash earmarked for those uses, and/or monetary contributions to be used toward funding capital improvement projects.

Fairfax County Public Schools (Appendix 9)

The proposed development would be served by Flint Hill Elementary School, Thoreau Middle School, and Madison High School. The proposed rezoning application will not generate any additional students and therefore, would have no impact on the enrollments of these three schools.

Fairfax County Park Authority (Appendix 10)

The proposed development has the potential to generate 3 additional residents in the Hunter Mill District. In order to offset the additional impact caused by this development on outdoor recreational facilities, the Fairfax County Park Authority (FCPA) has determined that a proffered contribution of \$2,679 (\$893.00 per estimated resident) would be appropriate for recreational facility development at one or more of the existing park sites that is located within the service area of the subject property. At this time, the applicant has not proffered to a contribution to the FCPA for its use in establishing parks and recreational facilities in the Hunter Mill District.

Fire and Rescue (Appendix 11)

The subject property is serviced by the Fairfax County Fire and Rescue Department Station #402, Vienna. The requested rezoning currently meets fire protection guidelines, as determined by the Fire and Rescue Department.

Fairfax County Water Authority (Appendix 12)

The subject property is located within the Fairfax County Water Authority Service Area. Adequate domestic water service is available at the site from existing 12-inch water main located at the site. However, depending upon the configuration of the on-site water mains, additional water main extensions may be necessary to satisfy fire flow requirements and accommodate water quality concerns.

Sanitary Sewer Analysis (Appendix 13)

The subject property is located within the Difficult Run (D3) watershed and would be sewered into the Blue Plains Treatment Plant.

Utilities Planning and Design, DPWES (Appendix 14)

As previously discussed, the applicant has requested a waiver of the stormwater management detention and water quality requirements from DPWES for the subject site. Final determination of any proposed stormwater management or BMP measures will be subject to the review and approval of DPWES. However, if DPWES does not approve these waivers, or permit the installation of the proposed LID measures, the applicant may be required to apply for a Proffered Condition Amendment (PCA) to provide the required practices.

Affordable Housing (Development Criterion #7)

This Criterion 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 Fairfax County. The applicant can elect to fulfill this criterion by providing affordable units that are not otherwise required by the ADU Ordinance. As an alternative, land, adequate and ready to be developed for an equal number of units may be provided to the Fairfax County Redevelopment and Housing Authority or to such other entity as may be approved by the Board. This Criterion may be satisfied by the construction of units, dedication of land, or by a contribution to the Housing Trust Fund. 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. Part 8 of Article 2 of the Zoning Ordinance requires the provision of Affordable Dwelling Units (ADUs) in certain circumstances. Criterion #7 is applicable to all rezoning applications and/or portions thereof that are not required to provide any Affordable Dwelling Units, regardless of the planned density range for the site. The applicant has not proposed a contribution of 1/2 of 1 percent of the sales price of the proposed units to the Housing Trust Fund.

Heritage Resources (Development Criterion #8)

This Criterion requires that developments address potential impacts on historical and/or archaeological resources through research, protection, preservation, or recordation. This criterion is not applicable to this application as no heritage resources have been identified on this site.

ZONING ORDINANCE PROVISIONS (Appendix 16)

Bulk Standards (R-2 District)		
Standard	Required	Proposed
Min. Lot Size	13,000 square feet	Lot 1 - 34,159 square feet Lot 2 - 33,190 square feet
Min. Lot Width	100 feet	Lot 1 - 20 feet (waiver requested with SE) Lot 2 - 164.25 feet
Max. Building Height	35 feet	Lot 1 - 35 feet Lot 2 - 35 feet
Min. Front Yard	35 feet	Lot 1 - 50 feet Lot 2 - 38 feet
Min. Side Yard	15 feet	Lot 1 - 29 feet Lot 2 - 18 feet
Min. Rear Yard	25 feet	Lot 1 - 46 feet Lot 2 - 50 feet
Max. Density	2 du/ac	1.2 du/ac
Min. Open Space	N/A	N/A
Min. Parking Spaces	2 spaces/unit	Lot 1 - 3 spaces Lot 2 - 2 spaces
Loading Spaces	N/A	N/A
There are no transitional screening or barrier requirements since the site abuts other single-family detached dwellings.		

OTHER ZONING ORDINANCE REQUIREMENTS:**Special Exception Requirements (See Appendix 16)****General Standards (Sect. 9-006)**

Par. 1 requires that the proposed use be in harmony with the Comprehensive Plan. As described in the Land Use Analysis section, the resulting density of the proposed development of the subject site would be 1.2 du/acre. Staff believes that the proposed density of 1.2 du/ac is in harmony with the Comprehensive Plan; therefore, this standard has been met.

Par. 2 requires that the proposed use be in harmony with the purpose and intent of the applicable zoning district regulations. The application satisfies all applicable Zoning Ordinance provisions other than the lot width requirement. As previously discussed, a special exception request has been filed concurrently with the rezoning request; therefore, this standard will only be met if the special exception request is approved.

Par. 3 requires that the proposed use be harmonious with and not adversely affect the use or development of neighboring properties in accordance with applicable zoning district regulations and the adopted Comprehensive Plan. It further states that the location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof. There are no screening requirements associated with the application, as all abutting properties are zoned R-1 and R-2 and developed with single-family detached dwellings. The existing dwelling is approximately 35 feet in height and the maximum height proposed for the proposed dwelling on Lot 2 is 35 feet which is in accordance with the Zoning Ordinance provisions for the R-2 District. However the proposed pipestem lot and orientation of the dwellings for the proposed development are not in harmony with the character of the abutting neighborhood. Therefore, this standard has not been met.

Par. 4 states that the proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood. The proposed application would not create any significant additional impacts on the surrounding public street system. As previously discussed, the GDP/SE Plat shows a proposed right-of-way dedication of 45 feet from the centerline of Vale Road across the subject site's Vale Road frontage as requested by VDOT and FCDOT. However, the applicant has requested a waiver of the construction of the requested frontage improvements, which includes the provision of curb and gutter, except for the provision of an eight-foot wide asphalt trail that is shown on the GDP/SE Plat. The frontage improvements requested with this application have been along the frontage of the property directly east of the subject property. Staff believes that the full frontage improvements should be provided as requested in order to match and continue the improvements which have already been provided along Vale Road including improvements provided along the abutting property to the east of the subject property; therefore staff finds that this standard has not been satisfied.

Par. 5 states that in addition to the standards which may be set forth in this Article for a particular category or use, the Board may require landscaping and screening in accordance with the provisions of Article 13. There are no screening requirements associated with the application, as the abutting properties are zoned R-2 and developed with single-family detached dwellings. The UFMD review of the application determined that the tree cover calculations proposed by the applicant

were incorrect. The tree cover calculations and sheet 2 of the GDP/SE Plat indicated that tree cover credit was being taken for trees that were previously impacted by re-grading activities and heavy equipment operations that took place in violation of the limits of clearing and grading during construction of the existing dwelling completed in 2007. Those trees were previously flagged for removal and replacement by UFMD due to the impact that the land disturbance had on those trees during the violation. Furthermore UFMD staff indicated that the applicant was taking tree cover credit for trees that are in very poor conditions. The applicant has submitted a revised GDP/SE Plat on April 9, 2009, which includes revisions to the tree cover calculations based on the comments raised by UFMD; however, UFMD staff has not had adequate time to review the changes and provide feedback based on the revisions.

Par. 6 states that open space should be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located. This standard is not applicable, as there is no requirement for open space in the R-2 District for conventional subdivisions.

Par. 7 states that adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided. As discussed previously, the applicant is seeking a waiver of the stormwater management requirements for this site in order to locate BMP facilities on individual lots, which includes a combined detention/bioretenion facility to be provided on Lot 2 to provide the stormwater detention requirements for the site. The applicant still needs to determine the soil infiltration rates to verify if the proposed facilities would meet the two and ten-year storage and water quality control volume and to demonstrate that the capacity of the existing storm sewers will permit gravity flows. Without this information, it is difficult to judge if DPWES will favorably consider the requested waivers. If DPWES does not approve these waivers, or permit the installation of the proposed LID measures, the applicant may be required to apply for a Proffered Condition Amendment (PCA) to provide the required practices. The final determination of any water quantity and water quality waivers and/or facilities will be made by DPWES during subdivision plan review. Four off-street parking spaces are required for this rezoning application. A total of five off-street parking spaces are provided; three parking spaces for Lot 1 and two parking spaces for Lot 2. Therefore this standard has been met.

Par. 8 states that signs shall be regulated by the provisions of Article 12; however, the Board may impose more strict requirements for a given use than those set forth in this Ordinance. There are no signs proposed with this application, therefore this standard is not applicable.

Provisions for Waiving Minimum Lot Size Requirements (Sect. 9-610)

The Board may approve, either in conjunction with the approval of a rezoning or as a special exception, the waiving of the minimum district size and/or lot width requirement for an R District, except for all cluster subdivisions, in accordance with the following:

Par. 1 states that such lot has not been reduced in width or area since the effective date of this Ordinance to a width or area less than required by this Ordinance. The subject property has not been reduced in width or area since the effective date of the Zoning Ordinance; therefore this standard has been met.

Par. 2 states that the applicant shall demonstrate that the waiver results in a development that preserves existing vegetation, topography, historic resources and/or other environmental features; provides for reduced impervious surface; maintains or improves stormwater management systems; and/or similar demonstrable impact. As discussed previously, prior to submitting the subject zoning applications land disturbances occurred on the subject property, which altered the existing grades, compacted the soil and significantly reduced tree cover at this location. The proposed lot width waiver will not result in a development that will preserve the existing vegetation because the applicant has already removed or significantly harmed it. For that reason, staff believes this standard has not been met.

Par. 3 states that it shall be demonstrated that development of the subject lot will not have any deleterious effect on the existing or planned development of adjacent properties or on area roadways. As discussed previously, the proposed pipestem lot proposed for Lot 1 and the poor lot orientation proposed for the development would not be in harmony with the character of the surrounding neighborhood. Furthermore, the application does not propose to provide the frontage improvements, including curb and gutter along the subject site's Vale Road frontage as requested by VDOT and FCDOT to match the development to the east; therefore, staff finds that this standard has not been satisfied.

Par. 4 states that such waiver shall be approved only if the remaining provisions of this Ordinance can be satisfied. As discussed previously, the application satisfies all applicable Zoning Ordinance provisions other than the lot width requirement; therefore this standard has been met.

CONCLUSIONS AND RECOMMENDATIONS

Staff Conclusions

Staff finds that although the proposed rezoning application is in harmony with the Comprehensive Plan recommendation for residential development at a density of 1-2 du/ac, the application does not adequately address the residential development criteria of the Comprehensive Plan nor does it satisfy the special exception standards for a lot width waiver for the following reasons:

- Staff believes that the tree removal which occurred prior to the submission of the subject applications took away any chances the application had of

providing any true tree preservation on the site. Any preservation proposed with the current application is merely a fraction of what could have been provided if the violation of the limits of clearing and grading approved for the construction of the existing house on proposed Lot 1 had not occurred.

- The application proposes a pipestem lot for Lot 1. The majority of the lots in the surrounding neighborhood are regularly shaped lots which meet the lot width requirement for their respective zoning districts. The proposed site layout would not fit in with the fabric of the surrounding community.
- Furthermore the poor design for the proposed development results in layout which depicts the rear yard for proposed Lot 2 directly abutting the front yard for proposed Lot 1 which the front of the existing dwelling on proposed Lot 1 facing the back of the proposed dwelling on proposed Lot 2. This design is not reflective of any development in the surrounding neighborhood.

As a result of the outstanding issues discussed in this report, staff cannot support the subject rezoning and special exception requests.

Recommendation

Staff recommends denial of RZ 2005-HM-028; however, if it is the intent of the Board of Supervisors to approve RZ 2005-HM-028, staff recommends that such approval be subject to the proffers consistent with those contained in Appendix 1.

Staff recommends denial of SE 2007-HM-023; however, if it is the intent of the Board of Supervisors to approve SE 2007-HM-023, staff recommends that such approval be subject to the development conditions contained in Appendix 2.

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.

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.

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.

APPENDICES

1. Proposed Proffers
2. Proposed Development Conditions
3. Rezoning Affidavit
4. Special Exception Affidavit
5. Statement of Justification
6. Environmental Analysis
7. Transportation Analysis
8. Urban Forest Management Division Analysis
9. Public Schools Analysis
10. Park Authority Analysis
11. Fire & Rescue Analysis
12. Fairfax Water Analysis
13. Sanitary Sewer Analysis
14. DPWES Analysis
15. Residential Development Criteria
16. Applicable Zoning Ordinance Provisions
17. Glossary of Terms

DRAFT PROFFERS

Revised April 13, 2009

RZ 2005-HM-028
Toscano Property

Pursuant to Section 15.2-2303 (A) of The Code of Virginia, 1950 as amended, the undersigned; Pedro and Carmen Toscano, the Applicants and Owners, for themselves and their successors and assigns (hereinafter referred to as the "Applicant"), filed for the rezoning and Special Exception for the property located at Tax Map 38-3((1)) Parcel 4 (hereinafter referred to as the "Application Property") hereby agree to the following Proffers, provided that the Fairfax County Board of Supervisors approves RZ 2005-HM-028, the rezoning of the Application Property to the R-2 Zoning District and the waiver of the minimum lot widths, as proffered herein.

1. **Substantial Conformance.** The Applicant proffers that the Application Property, consisting of approximately 1.6721 acres shall be developed in substantial conformance with the Generalized Development Plan and Special Exception Plat (GDP/SE) prepared by BC Consultants, as revised through April 7, 2009 and subject to the provisions of Section 18-204 and Section 9-004 of the Fairfax County Zoning Ordinance (hereinafter referred to as the Zoning Ordinance).
2. **Minor Modifications.** Pursuant to Section 18-204 and Section 9-004 of the Zoning Ordinance, minor modifications of the proffered conditions may be permitted as determined by the Zoning Administrator. The Applicant shall have the flexibility to modify the layout shown on the GDP/SE provided such changes are in substantial conformance with the GDP/SE and Proffers, and do not increase the total number of units.
3. **Maximum Density.** A maximum of 2 dwelling units shall be permitted on the Application Property.
4. **Energy Efficiency.** All homes constructed on the Application Property shall meet the thermal standards of the CABO Model Energy Program for energy efficient homes, or its equivalent, as determined by the Fairfax County Department of Public Works and Environmental Services (DPWES) for either electric or gas energy homes, as applicable.
5. **Driveway Access Easement.** At the time of subdivision plan approval, the Applicant shall dedicate a driveway access easement on Lot 2 as shown on the GDP/SE. A written disclosure outlining the existence of the driveway access easement shall be placed in the contracts of sale and in the deed for each lot for the initial and all subsequent buyers, and recorded in the land records of Fairfax County in a form approved by the County Attorney.
6. **Water Quality Management Areas #1 and #2.** The Applicant will provide stormwater management in accordance with the Fairfax County Public Facilities Manual (PFM) as approved by the Director. A stormwater quality device will be provided on each of the lots and will not encroach onto the adjacent lots. A written disclosure outlining the existence and maintenance responsibilities for these stormwater management areas shall be placed in the contracts of sale and in the deed for each lot for the initial and all subsequent buyers, and recorded in the land records of Fairfax County in a form approved by the County Attorney.
7. **Garages.** The Applicant shall place a covenant on each dwelling unit that prohibits the use of the

garage for any purpose that precludes motor vehicle storage. The covenant shall be in a form acceptable to the County Attorney and it 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 Board of Supervisors. Garages shall be designed to accommodate at least two (2) vehicles.

8. **Driveways.** The minimum driveway length shall be 18 feet, measured from the front of the structure to the inside edge of the sidewalk to permit the parking of vehicles without overhanging into the sidewalk.
9. **Density Credit.** All density and intensity of use attributable to land areas dedicated and conveyed to the Board of Supervisors or any other County agency pursuant to these proffers shall be subject to the provisions of Paragraph 4 of Section 2-308 of the Zoning Ordinance and is hereby reserved to the residue of the Application Property.
10. **Illegal 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 by the Applicant or any builder or at the Applicant's or any builder's direction to assist in the initial sale of homes on the Property. Furthermore, the Applicant and every builder shall direct its agents and employees involved in the marketing and/or sale of the residential units on the Application Property to adhere to this Proffer.
11. **Successors and Assigns.** Each reference to Applicant in this Proffer Statement shall include within its meaning, and shall be binding upon, Applicant's successor(s) in interest, assigns, and/or developer(s) of the Application Property or any portion of the Application Property.
12. **Landscaping/Limits of Clearing and Grading.** The landscape plan submitted with the subdivision plan shall be in substantial conformance with the GDP/SE. The trees shall be of a species and located as determined by the Applicant, the Applicant's selected horticulturist and with the Fairfax County Urban Forest Management Division (UFMD) of the DPWES in order to develop a landscape plan which satisfies the Zoning Ordinance. UFMD will determine which tree species & plants are invasive and those identified shall be removed from the properties.

The Applicant shall conform strictly to the limits of clearing and grading as shown on the GDP/SE.

13. **Tree Preservation and Landscaping.**

- 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 reviewed and approved by UFMD. 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 that are eight (8) inches or greater in diameter, and twenty (20) feet to either side of the limits of clearing and grading shown on the GDP/SE 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/SE, and other 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 to be preserved, such as: crown pruning, root pruning, mulching, fertilization, and others as necessary, shall be included in the plan.

- b. **Protection of Existing Understory Vegetation and Soil Conditions in Tree Preservation Areas.** All tree preservation-related work occurring in or adjacent to tree preservation areas shall be accomplished in a manner that minimizes damage to vegetation to be preserved, including any woody, herbaceous, or vine plant species that occurs in the lower canopy environment, and to the existing top soil and leaf litter layers that provide nourishment and protection to that vegetation. Any removal of any vegetation or soil disturbance in tree preservation areas including the removal of plant species that may be perceived as noxious or invasive, such as poison ivy, greenbrier, multi-floral rose, etc. shall be subject to the review and approval of UFMD.

The use of motorized equipment in tree preservation areas will be limited to hand-operated equipment such as chainsaws, wheel barrows, rakes, and shovels. Except as stated in below, 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 UFMD.

- c. **Root Pruning and Mulching.** The Applicant shall 1) root prune and 2) mulch 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 and demolition plan sheets of the subdivision plan submission. The details for these treatments shall be reviewed and approved by UFMD, accomplished in a manner that protects affected and adjacent vegetation to be preserved, and may include, but not be limited to the following:

- (1) Prior to root pruning operations and installation of tree protection fence, a UFMD representative shall meet with the contractor performing these operations to ensure that root pruning and tree protection fence installation are understood and implemented in conformance with specifications.
- (2) Root pruning shall be done with a trencher or vibratory plow to a depth of 18 inches;
- (3) Root pruning shall take place prior to any clearing and grading or demolition of structures, if the tree is in close proximity to the structure to be demolished; except where the ultimate limits of clearing and grading will be established at the location of the front wall of the existing house following demolition of this structure.
- (4) Root pruning shall be conducted with the supervision of a certified arborist;
- (5) Mulching, where required, shall consist of wood chips

- d. **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 with the UFMD which is to be held prior to any clearing and grading and prior to demolition of the existing dwelling. The Applicant's certified arborist or landscape architect shall walk the limits of clearing and grading with a UFMD representative to increase the area of tree preservation and/or to determine where minor adjustments to the limits of clearing can be made to increase 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 UFMD 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.

- e. **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 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, 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 adjacent to the tree preservation areas as shown on the erosion and sediment control sheets, as may be modified by these Proffers.

All 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 UFMD 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, UFMD, 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 UFMD.

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.

- f. **Site Monitoring.** During any clearing or tree/vegetation/structure removal in the tree preservation area 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 UFMD. The Applicant shall retain the services of a certified arborist or landscape architect to monitor all construction work and tree preservation efforts in order to ensure conformance with all tree preservation proffers and UFMD's approvals. The monitoring schedule shall be described and detailed in the landscaping and/or tree preservation plan and reviewed and approved by UFMD. The Hunter Mill District Supervisor shall be notified of the name and contact information of the Applicant's representative responsible for site monitoring at the tree preservation walk-through meeting described above.
- g. **Sight Distance.** Adequate sight distance shall be provided for the entrances to the two proposed lots as determined by DPWES and the Virginia Dept. of Transportation (VDOT).
- h. **Bonds, Cash, Letter of Credit.** The Applicant shall retain a professional arborist with experience in plant appraisal, to determine the replacement value of all trees eight (8) 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 UFMD.

At the time of subdivision plan approval, the Applicant 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 UFMD 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 UFMD and the Applicant's 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 Applicant did not follow the GDP/SE and Proffers. If the decision of the UFMD's representative is that the death or dying trees was caused by unauthorized construction activities, the Applicant shall replace such trees at their expense. The replacement trees shall be of a species and canopy cover as approved by UFMD. Upon release of the bond for the subdivision, the Tree Bond required by this Proffer shall be returned/released to the Applicant. 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.

14. **Fairfax County Park Authority Contribution.** At the time of building permit approval for the final dwelling, a contribution shall be made to the Fairfax County Park Authority (FCPA) for a sum of \$2,679. The amount of said contribution shall be used by the FCPA for recreational facility development at one or more of the existing park sites that are located within the service area of the Application Property.
15. **Dedication.** Right-of way along Vale Road to 45' from the centerline and as shown on the GDP/SE shall be dedicated and conveyed in fee simple to the Board of Supervisors. Such dedication shall occur at the time of subdivision plan approval for the property or upon demand by Fairfax County, whichever occurs first.
16. **Frontage Improvements.** Frontage improvements of an 8' asphalt trail along Vale Road are proposed as shown on the GDP/SE. Except as noted, any and all frontage improvements, now or in the future, shall not be the obligation of the Applicant nor shall the Applicant be required to provide any escrow funds for any such improvements.

TITLE OWNERS SIGNATURES:

PEDRO TOSCANO
Title Owner of TM 38-3 ((1)) Parcel 4

Date

CARMEN TOSCANO
Title Owner of TM 38-3 ((1)) Parcel 4

Date

DEVELOPMENT CONDITIONS

SE 2007-HM-023

April 15, 2009

If it is the intent of the Board of Supervisors to approve SE 2007-HM-023 located at 9946 Vale Road [Tax Map 38-3 ((1)) 4] 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. 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.
3. Any plan submitted pursuant to this Special Exception shall be in substantial conformance with the approved Generalized Development Plan/Special Exception Plat (GDP/SE plat) entitled, Toscano Property, prepared by BC Consultants, which is dated July 2008, and revised through April 7, 2009 and these conditions.
4. An ingress/egress access easement in a form approved by the County Attorney shall be placed and recorded in land records by the applicant, over part of Lot 2 and the driveway that is to be shared.
5. Stormwater Management or Best Management Practices measures may be provided in rain gardens as shown on the GDP/SE plat as determined by DPWES, which shall be privately maintained. If a modification of the PFM to permit the proposed stormwater management/best management practices as shown on the GDP/SE plat is not granted by DPWES and SWM/BMP facilities in substantial conformance with the GDP/SE Plat cannot be provided, then a Special Exception Amendment (SEA) shall be filed to provide water quantity and quality control measures in accordance with the PFM as determined by DPWES.
6. Prior to record plat approval, the necessary residential covenants shall be established governing the maintenance of the rain gardens and shared driveway on the proposed lots as shown on the GDP/SE Plat. Residential covenants shall be recorded which disclose to the existing and all subsequent property owners the maintenance obligations of the rain gardens and shared driveway.
7. Adequate Outfall shall be demonstrated in accordance with the Public Facilities Manual (PFM) as determined by DPWES at the time of Subdivision plan review.

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 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 Sect. 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.

REZONING AFFIDAVIT

DATE: Sep. 14-2007
(enter date affidavit is notarized)

I, PEDRO TOSCANO, JR. : Carmen Toscano, do hereby state that I am an
(enter name of applicant or authorized agent)

(check one) ☒ applicant
☐ applicant's authorized agent listed in Par. 1(a) below

88970c

in Application No.(s): RZ 2005-HM-028
(enter County-assigned application number(s), e.g. RZ 88-V-001)

and that, to the best of my knowledge and belief, the following information is true:

- 1(a). The following constitutes a listing of the names and addresses of all **APPLICANTS, TITLE OWNERS, CONTRACT PURCHASERS, and LESSEES** of the land described in the application,* and, if any of the foregoing is a **TRUSTEE,**** each **BENEFICIARY** of such trust, and all **ATTORNEYS** and **REAL ESTATE BROKERS**, and all **AGENTS** who have acted on behalf of any of the foregoing with respect to the application:

(NOTE: All relationships to the application listed above in **BOLD** print must be disclosed. Multiple relationships may be listed together, e.g., Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel(s) for each owner(s) in the Relationship column.)

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in BOLD above)
PEDRO TOSCANO, JR. CARMEN M. TOSCANO	9946 VALE RD., VIENNA, VA 22181 9946 VALE RD., VIENNA, VA 22181	APPLICANT/TITLE OWNER APPLICANT/TITLE OWNER
RICE ASSOCIATES, INC.	10625 GASKINS WAY, MANASSAS, VA 20109	AGENT
DAVID F. RICE, III JOHN R. WHITESIDE	(SAME) (SAME)	AGENT FORMER AGENT

(check if applicable) ☐ There are more relationships to be listed and Par. 1(a) is continued on a "Rezoning Attachment to Par. 1(a)" form.

* In the case of a condominium, the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.

** List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary).

REZONING AFFIDAVIT

DATE: SEP. 14, 2007
(enter date affidavit is notarized)

88970c

for Application No. (s): RZ 2005-HM-028

(enter County-assigned application number(s))

- 1(b). The following constitutes a listing*** of the SHAREHOLDERS of all corporations disclosed in this affidavit who own 10% or more of any class of stock issued by said corporation, and where such corporation has 10 or less shareholders, a listing of all of the shareholders, and if the corporation is an owner of the subject land, all of the OFFICERS and DIRECTORS of such corporation:

(NOTE: Include SOLE PROPRIETORSHIPS, LIMITED LIABILITY COMPANIES, and REAL ESTATE INVESTMENT TRUSTS herein.)

CORPORATION INFORMATION

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

RICE ASSOCIATES, INC.
10625 GASKINS WAY
MANASSAS, VA 20109

DESCRIPTION OF CORPORATION: (check one statement)

- ☒ There are 10 or less shareholders, and all of the shareholders are listed below.
☐ There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
☐ There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF SHAREHOLDERS: (enter first name, middle initial, and last name)

DAVID F. RICE III, LESLIE R. BYRNSIDE, LINDA J. POLK, KENNETH L. TALBOT, SUSAN E. JOHNSON, KIM R. MILLS

NAMES OF OFFICERS & DIRECTORS: (enter first name, middle initial, last name & title, e.g. President, Vice President, Secretary, Treasurer, etc.)

(check if applicable) ☐ There is more corporation information and Par. 1(b) is continued on a "Rezoning Attachment 1(b)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed. Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.*

REZONING AFFIDAVIT

DATE: Sep. 14 - 2007
(enter date affidavit is notarized)

88970c

for Application No. (s): RZ 2005-HM-028
(enter County-assigned application number(s))

- 1(c). The following constitutes a listing*** of all of the PARTNERS, both GENERAL and LIMITED, in any partnership disclosed in this affidavit:

PARTNERSHIP INFORMATION

PARTNERSHIP NAME & ADDRESS: (enter complete name, number, street, city, state and zip code)

N/A

(check if applicable) ☐ The above-listed partnership has no limited partners.

NAMES AND TITLE OF THE PARTNERS (enter first name, middle initial, last name, and title, e.g. General Partner, Limited Partner, or General and Limited Partner)

(check if applicable) ☐ There is more partnership information and Par. 1(c) is continued on a "Rezoning Attachment to Par. 1(c)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed. Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.*

REZONING AFFIDAVIT

DATE: Sep. 14 2007
(enter date affidavit is notarized)

88970c

for Application No. (s): RZ 2005-HM-028

(enter County-assigned application number(s))

1(d). One of the following boxes must be checked:

☐ In addition to the names listed in Paragraphs 1(a), 1(b), and 1(c) above, the following is a listing of any and all other individuals who own in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land:

☒ Other than the names listed in Paragraphs 1(a), 1(b), and 1(c) above, no individual owns in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land.

2. That no member of the Fairfax County Board of Supervisors, Planning Commission, or any member of his or her immediate household owns or has any financial interest in the subject land either individually, by ownership of stock in a corporation owning such land, or through an interest in a partnership owning such land.

EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on the line below.)

NONE

(check if applicable) ☐ There are more interests to be listed and Par. 2 is continued on a "Rezoning Attachment to Par. 2" form.

REZONING AFFIDAVIT

DATE: SEP-14-2007
(enter date affidavit is notarized)

88970c

for Application No. (s): RZ 2005-HM-028

(enter County-assigned application number(s))

3. That within the twelve-month period prior to the public hearing of this application, no member of the Fairfax County Board of Supervisors, Planning Commission, or any member of his or her immediate household, either directly or by way of partnership in which any of them is a partner, employee, agent, or attorney, or through a partner of any of them, or through a corporation in which any of them is an officer, director, employee, agent, or attorney or holds 10% or more of the outstanding bonds or shares of stock of a particular class, has, or has had any business or financial relationship, other than any ordinary depositor or customer relationship with or by a retail establishment, public utility, or bank, including any gift or donation having a value of more than \$100, singularly or in the aggregate, with any of those listed in Par. 1 above.

EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on line below.)

NONE

(NOTE: Business or financial relationships of the type described in this paragraph that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings. See Par. 4 below.)

(check if applicable) ☐ There are more disclosures to be listed and Par. 3 is continued on a "Rezoning Attachment to Par. 3" form.

4. That the information contained in this affidavit is complete, that all partnerships, corporations, and trusts owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land have been listed and broken down, and that prior to each and every public hearing on this matter, I will reexamine this affidavit and provide any changed or supplemental information, including business or financial relationships of the type described in Paragraph 3 above, that arise on or after the date of this application.

WITNESS the following signature:

(check one)

[Signature] ☒ Applicant ☐ Applicant's Authorized Agent

PEDRO TOSCANO, JR.

(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 14th day of September 2007, in the State/Comm. of Virginia, County/City of Prince William.

[Signature]
Notary Public

My commission expires: 3/31/10

DATE: Sep. 14 - 2007

Ref: Pedro and Carmen Toscano, Jr.
9946 Vale Road
Vienna, VA 22181

Application Nos. RZ 2005-HM-028 and SE 2007-HM-023; TM 038-3((1)) parcel 4,
containing 1.6721 ac.

To Whom It May Concern:

We, the owners/applicants of the property described above, hereby authorize David F. Rice, III and Rice Associates, Inc., to act as our agents in the furtherance of the above-described applications.

Pedro Toscano
Pedro Toscano, Jr.

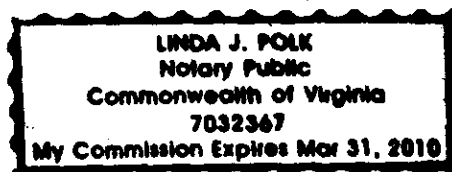
Carmen M. Toscano
Carmen M. Toscano

State/Commonwealth of Virginia
County/City of Prince William

The foregoing instrument was acknowledged before me this 14th day of
September, 2007, by Pedro Toscano, Jr. and
Carmen M. Toscano

Linda J. Polk
NOTARY PUBLIC

My Commission Expires: 3/31/10
Registration No. 7032367



SPECIAL EXCEPTION AFFIDAVIT

DATE: 9/14/07
(enter date affidavit is notarized)I, PEDRO TOSCANO, JR. & Carmen Toscano, do hereby state that I am an
(enter name of applicant or authorized agent)(check one) ☒ applicant
☐ applicant's authorized agent listed in Par. 1(a) below

96945a

in Application No.(s): SE 2007-HM-023

(enter County-assigned application number(s), e.g. SE 88-V-001)

and that, to the best of my knowledge and belief, the following information is true:

- 1(a). The following constitutes a listing of the names and addresses of all **APPLICANTS, TITLE OWNERS, CONTRACT PURCHASERS, and LESSEES** of the land described in the application,* and, if any of the foregoing is a **TRUSTEE,**** each **BENEFICIARY** of such trust, and all **ATTORNEYS** and **REAL ESTATE BROKERS**, and all **AGENTS** who have acted on behalf of any of the foregoing with respect to the application:

(NOTE: All relationships to the application listed above in **BOLD** print are to be disclosed. Multiple relationships may be listed together, e.g., Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel(s) for each owner(s) in the Relationship column.)

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in BOLD above)
PEDRO TOSCANO, JR. CARMEN M. TOSCANO	9946 VALE ROAD, VIENNA, VA 22181 9946 VALE ROAD, VIENNA, VA 22181	APPLICANT/TITLE OWNER TITLE OWNER
RICE ASSOCIATES, INC.	10625 GASKINS WAY, MANASSAS, VA 20109	AGENT
DAVID F. RICE III JOHN R. WHITESIDE	(SAME) (SAME)	AGENT FORMER AGENT

(check if applicable)

☐ There are more relationships to be listed and Par. 1(a) is continued on a "Special Exception Attachment to Par. 1(a)" form.

* In the case of a condominium, the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.

** List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary).

SPECIAL EXCEPTION AFFIDAVIT

DATE: SEP-14-2007
(enter date affidavit is notarized)

96945a

for Application No. (s): SE 2007-HM-023
(enter County-assigned application number(s))

1(b). The following constitutes a listing*** of the SHAREHOLDERS of all corporations disclosed in this affidavit who own 10% or more of any class of stock issued by said corporation, and where such corporation has 10 or less shareholders, a listing of all of the shareholders:

(NOTE: Include SOLE PROPRIETORSHIPS, LIMITED LIABILITY COMPANIES, and REAL ESTATE INVESTMENT TRUSTS herein.)

CORPORATION INFORMATION

NAME & ADDRESS OF CORPORATION: (enter complete name and number, street, city, state, and zip code)

RICE ASSOCIATES, INC.
10625 GASKINS WAY
MANASSAS, VA 20109

DESCRIPTION OF CORPORATION: (check one statement)

- ☒ There are 10 or less shareholders, and all of the shareholders are listed below.
☐ There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
☐ There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF SHAREHOLDERS: (enter first name, middle initial and last name)

DAVID F. RICE, III
LESLIE R. BYRNSIDE
LINDA J. POLK
KENNETH L. TALBOT
SUSAN E. JOHNSON
KIM R. MILLS

(check if applicable) ☐ There is more corporation information and Par. 1(b) is continued on a "Special Exception Affidavit Attachment 1(b)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed. Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.*

SPECIAL EXCEPTION AFFIDAVIT

DATE: Sep-14-2007
(enter date affidavit is notarized)

96945a

for Application No. (s): SE 2007-HM-023
(enter County-assigned application number(s))

1(c). The following constitutes a listing*** of all of the PARTNERS, both GENERAL and LIMITED, in any partnership disclosed in this affidavit:

PARTNERSHIP INFORMATION

PARTNERSHIP NAME & ADDRESS: (enter complete name, and number, street, city, state, and zip code)

N/A

(check if applicable) ☐ The above-listed partnership has no limited partners.

NAMES AND TITLE OF THE PARTNERS (enter first name, middle initial, last name, and title, e.g. General Partner, Limited Partner, or General and Limited Partner)

(check if applicable) ☐ There is more partnership information and Par. 1(c) is continued on a "Special Exception Affidavit Attachment to Par. 1(c)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed. Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

SPECIAL EXCEPTION AFFIDAVIT

DATE: SEP-14-2007
(enter date affidavit is notarized)

96945a

for Application No. (s): SE 2007-HM-023
(enter County-assigned application number(s))1(d). One of the following boxes must be checked:

☐ In addition to the names listed in Paragraphs 1(a), 1(b), and 1(c) above, the following is a listing of any and all other individuals who own in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land:

☒ Other than the names listed in Paragraphs 1(a), 1(b), and 1(c) above, no individual owns in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land.

2. That no member of the Fairfax County Board of Supervisors, Planning Commission, or any member of his or her immediate household owns or has any financial interest in the subject land either individually, by ownership of stock in a corporation owning such land, or through an interest in a partnership owning such land.

EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on the line below.)

NONE

(check if applicable) ☐ There are more interests to be listed and Par. 2 is continued on a "Special Exception Attachment to Par. 2" form.

SPECIAL EXCEPTION AFFIDAVIT

DATE: SEP-14-2007
(enter date affidavit is notarized)

969452

3. That within the twelve-month period prior to the public hearing of this application, no member of the Fairfax County Board of Supervisors, Planning Commission, or any member of his or her immediate household, either directly or by way of partnership in which any of them is a partner, employee, agent, or attorney, or through a partner of any of them, or through a corporation in which any of them is an officer, director, employee, agent, or attorney or holds 10% or more of the outstanding bonds or shares of stock of a particular class, has, or has had any business or financial relationship, other than any ordinary depositor or customer relationship with or by a retail establishment, public utility, or bank, including any gift or donation having a value of more than \$100, singularly or in the aggregate, with any of those listed in Par. 1 above.

EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on line below.)

NONE

NOTE: Business or financial relationships of the type described in this paragraph that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings. See Par. 4 below.)

(check if applicable) ☐ There are more disclosures to be listed and Par. 3 is continued on a "Special Exception Attachment to Par. 3" form.

4. That the information contained in this affidavit is complete, that all partnerships, corporations, and trusts owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land have been listed and broken down, and that prior to each and every public hearing on this matter, I will reexamine this affidavit and provide any changed or supplemental information, including business or financial relationships of the type described in Paragraph 3 above, that arise on or after the date of this application.

WITNESS the following signature:

(check one)

☒ Applicant☐ Applicant's Authorized AgentPEDRO TOSCANO, JR.

(type or print first name, middle initial, last name, and & title of signee)


Subscribed and sworn to before me this 14th day of September 2007, in the State/Comm. of Virginia, County/City of Prince William

Linda J. Polk
Notary Public

My commission expires: 3/31/10

STATEMENT OF JUSTIFICATION

In accordance with the Fairfax County Rezoning requirements process, we are applying for rezoning of our land use from an R-1 to R-2 zoning. Currently this property consists of 1.67 acres, with a wood structure house on the front side of the lot that was built in 1960. Development changes in our subdivision, since this zoning was established would allow for residential conformity. Our proposal is to subdivide this acreage into two lots for future new residential single family development. The development would convert an oversize lot, into two properties that would conform with the surrounding properties. At the same time this frontage parcel of property is one of the last lots frontage lots that has not dedicated frontage property that can be used for the Fairfax County future development plans.

21 MAY 2007

Pedro & Carmen Toscano
9946 Vale Road
Vienna, VA 22181

RECEIVED
Department of Planning & Zoning

JUL 11 2007

Zoning Evaluation Division

SPECIAL EXCEPTION STATEMENT OF JUSTIFICATION

30 March 2007

RZ-2005-HM-028

Pedro & Carmen Toscano Jr.
9946 Vale Road
Vienna, VA 22181

RECEIVED
Department of Planning & Zoning
JUL 11 2007
Zoning Evaluation Division

- A. Type of operation - Not applicable
- B. Hours of operation - Not applicable
- C. Estimated number of patrons/clients/patients/pupils/etc. - Not applicable
- D. Proposed number of employees/attendants/teachers/etc. - Not applicable
- E. Estimate of traffic impact of the proposed use, including the maximum expected trip generation and the distribution of such trips by mode and time of day.
 - 1. Average residence in/out per day is 5-7 - No Impact
- F. Vicinity or general area to be served by the use. - Not applicable
- G. Description of building facade and architecture of proposed new building or additions. - Not applicable, this is for a proposed new residence
- H. A listing, if known, of all hazardous or toxic substances as set forth in Title 40, code of Federal Regulations Parts 116.4, 302.4 and 355; all hazardous waste as set forth in Virginia Department of Environmental Quality Hazardous Waste Management Regulations; and/or petroleum products as defined in Title 40, Code of Federal Regulations Part 280; to be generated, utilized, stored, treated, and/or disposed of on site and the size and contents of any existing or proposed storage tanks or containers. - No known hazardous or toxic contaminations
- I. A statement of how the proposed use conforms to the provisions of all applicable ordinances, regulations, adopted standards and any applicable conditions, or if any waiver, exception or variance is sought by the applicant from such ordinances, regulations, standards and conditions, such shall be specifically noted with the justification for any such modifications.

The proposal is for rezoning from R-1 to R-2 1.67 Acre lot for the purpose of subdividing this lot, which currently has a house on front of property. Once subdivided, both lots would have more or equal land with the adjacent properties and the lots would not be of irregular shape. We are requesting a Special Exception Permit for a pipe stem driveway which would run parallel with a neighbors exiting pipe stem driveway. We are currently building new residence on the back of property. We are following the residence applicable ordinance, regulations, and adopted standards for this construction project.



County of Fairfax, Virginia

MEMORANDUM

DATE: February 20, 2009

TO: Regina Coyle, Director
Zoning Evaluation Division, DPZ

FROM: Pamela G. Nee, Chief *PHH*
Environment and Development Review Branch, DPZ

SUBJECT: ENVIRONMENTAL ASSESSMENT for: RZ 2005-HM-028
SE 2007-HM-023
Toscano

This memorandum, prepared by John R. Bell, includes citations from the Comprehensive Plan that list and explain environmental policies for this property. The citations are followed by a discussion of environmental concerns, including a description of potential impacts that may result from the proposed development as depicted on the final development plan dated January 16, 2009. Possible solutions to remedy identified environmental impacts are suggested. Other solutions may be acceptable, provided that they achieve the desired degree of mitigation and are also compatible with Plan policies.

COMPREHENSIVE PLAN CITATIONS:

In the Fairfax County Comprehensive Plan, Policy Plan, 2007 Edition, Environment section as amended through February 25, 2008 on page 5 through 10, the Plan states:

“Objective 2: Prevent and reduce pollution of surface and groundwater resources. Protect and restore the ecological integrity of streams in Fairfax County....

Policy k. For new development and redevelopment, apply better site design and low impact development (LID) techniques such as those described below, and pursue commitments to reduce stormwater runoff volumes and peak flows, to increase groundwater recharge, and to increase preservation of undisturbed areas. In order to minimize the impacts that new development and redevelopment projects may have on the County's streams, some or all of the following practices should be considered where not in conflict with land use compatibility objectives:

- Minimize the amount of impervious surface created.
- Encourage the use of innovative BMPs and infiltration techniques of stormwater management where site conditions are appropriate, if consistent with County requirements.
- Apply nonstructural best management practices and bioengineering practices where site conditions are appropriate, if consistent with County requirements.
- Maximize the use of infiltration landscaping within streetscapes consistent with County and State requirements.

Development proposals should implement best management practices to reduce runoff pollution and other impacts. Preferred practices include: those which recharge groundwater when such recharge will not degrade groundwater quality; those which preserve as much undisturbed open space as possible; and, those which contribute to ecological diversity by the creation of wetlands or other habitat enhancing BMPs, consistent with State guidelines and regulations.

Programs to improve water quality in the Potomac River/Estuary, and Chesapeake Bay will continue to have significant impacts on planning and development in Fairfax County. There is abundant evidence that water quality and the marine environment in the Bay are deteriorating, and that this deterioration is the result of land use activities throughout the watershed. . . .

Objective 3: **Protect the Potomac Estuary and the Chesapeake Bay from the avoidable impacts of land use activities in Fairfax County.**

Policy a. **Ensure that new development and redevelopment complies with the County's Chesapeake Bay Preservation Ordinance. . . ."**

In the Fairfax County Comprehensive Plan, Policy Plan, 2007 Edition, Environment section as amended through February 25, 2008, on page 14, the Plan states:

"Objective 10: **Conserve and restore tree cover on developed and developing sites. Provide tree cover on sites where it is absent prior to development.**

Policy a: **Protect or restore the maximum amount of tree cover on developed and developing sites consistent with planned land use and good silvicultural practices.**

Policy b: **Require new tree plantings on developing sites which were not forested prior to development and on public rights of way."**

ENVIRONMENTAL ANALYSIS:

This section characterizes the environmental concerns raised by an evaluation of this site and the proposed land use. Solutions are suggested to remedy the concerns that have been identified by staff. There may be other acceptable solutions. Particular emphasis is given to opportunities provided by this application to conserve the county's remaining natural amenities.

Water Quality

Issue:

The applicant is proposing the use of two small raingardens in order to satisfy stormwater management requirements for the proposed development. Staff had raised some initial concerns regarding the proposed stormwater measures for the proposed development. Those concerns related to the location, sizing and adequate outfall of the proposed facilities. The applicants was asked to provide additional information regarding the proposed facility to ensure that all of these concerns were adequately addressed.

Resolution:

The applicant has provided additional information regarding the proposed dry pond which satisfies questions raised by staff in the Department of Planning and Zoning as well as staff within the Department of Public Works and Environmental Services (DPWES). The applicant has received approval from DPWES which will allow for final design and approval of on-site stormwater management measures to be determined at the time of submission of the final subdivision plan. Any final determination regarding the adequacy of stormwater management facilities will be made by staff in the Department of Public Works and Environmental Services at the time of subdivision plan review.

Tree Preservation

Issue:

Prior to submitting any plans for the subject property the applicant removed a large number of mature trees from the property altering the existing grades and significantly reducing tree cover at this location. Staff had raised a number of concerns regarding this element of the proposed development. The removal of these trees prior to the submission of an application on the property eliminated any potential input regarding preservation measures which might have contributed to a more desirable project given the potential tree preservation which might have occurred at this location. Any trees located within the future right-of-way for Vale Road should not be included as part of the applicant's tree cover calculations. Staff feels that significant tree replacement measures should be incorporated into the final design for the proposed subdivision.

Resolution:

The applicant may be required to modify the proposed landscaping for the proposed development. The landscaping legend noted on the development plan does not provide any specific information regarding plant species which might be used as part of this proposed development. Only native species should be permitted for the proposed development. Staff feels that the applicants should work with the Urban Forestry Management Branch in the Department of Public Works and Environmental Services to determine which species and locations are most appropriate for this site.

Countywide Trails Plan

The Countywide Trails Plan map depicts a major paved trail described as asphalt or concrete 8 feet in width or greater along the site's Vail Road frontage. The development plan indicates that the applicant will be providing an eight foot wide asphalt trail along this frontage.

PGN:JRB

FAIRFAX COUNTY, VIRGINIA

MEMORANDUM

TO: Barbara A. Byron, Director
Zoning Evaluation Division,
Department of Comprehensive Planning

FROM: Angela Kadar Rodeheaver, Chief
Site Analysis Section,
Department of Transportation

FILE: 3-5 (RZ 2005-HM-028) Concurrent with
3- 6 (VC 04-DR-111)

SUBJECT: Transportation Impact

REFERENCE: RZ 2005-HM-028; VC 05-HM-009; Pedro and Carmen Toscano
Traffic Zone: 1692
Land Identification Map: 38-3 ((01)) 4

DATE: October 18, 2005

Transmitted herewith are comments from the Department of Transportation with respect to the referenced application. These comments are based on revised plat dated August 19, 2005.

The applicant requests to rezone from the R-1 District to the R-2 District and also requests to permit the subdivision of one lot into two lots with a variance for lot width.

This department mentions the following:

- The applicant should plan to eliminate the existing access and consolidate both accesses to the one proposed 12-ft. wide driveway access to Vale Road.
- The applicant should verify adequate sight distance at the proposed access to Vale Road.
- The applicant should construct frontage improvements that match-up to the construction improvements to the east, at 35-ft. from centerline. Additionally, along the site, right-of-way dedication at 45-ft. from centerline on Vale Road would also be required to accommodate the construction of a 5-ft. wide sidewalk.

AKR/ak

c:\mword\RZ2005HM028ToscanoVC05HM028

cc: Michele Brickner, Director, Office of Site Review, DPW & ES



County of Fairfax, Virginia

MEMORANDUM

October 31, 2008

TO: St. Clair Williams, Staff Coordinator
Zoning Evaluation Division, DPZ

FROM: Hugh Whitehead, Urban Forester II *HW*
Forest Conservation Branch, DPWES

SUBJECT: Urban Forest Management Comments and recommendations

RE: Pedro and Carmen M. Toscano, Jr. Property, RZ 2005-HM-028

I have reviewed the above referenced rezoning application and accompanying special exception plat. The following comments and recommendations are based on this review and a site visit conducted on October 29, 2008.

1. **Comment:** No tree cover calculation is provided to show how the tree cover requirement will be met for this site.

Recommendation: Require an accurate tree cover calculation to show how the tree cover requirement will be met for this site.

2. **Comment:** Trees #3, #31, #32, #34 & #43 were severely impacted by deposits of fill and soil compaction resulting from heavy equipment in violation of the limits of clearing and grading (LCG) during construction of the existing dwelling, completed in May 2007. These trees were previously flagged for removal and replacement due to the impacts occurring during this violation.

Recommendation: Do not permit credit for these trees in the tree cover calculation. If additional trees are needed to meet the required tree cover area show additional trees to be planted.

3. **Comment:** The proposed limits of clearing and grading (LCG) do not protect all trees designated for preservation.

Recommendation: Require that the proposed LCG be revised to protect all trees to be preserved with the implementation of this plan.

Department of Public Works and Environmental Services
Land Development Services, Urban Forest Management Division
12055 Government Center Parkway, Suite 518
Fairfax, Virginia 22035-5503
Phone 703-324-1770, TTY: 703-324-1877, Fax: 703-803-7769
www.fairfaxcounty.gov/dpwes



Pedro and Carmen M. Toscano, Jr. Property
RZ 2005-HM-028; SE 2007-HM-023
October 31, 2008
Page 2 of 2

If there are any questions, please contact me at 703-324-1770.

HCW/
UFMID #: 105642

cc: RA File
DPZ File





County of Fairfax, Virginia

MEMORANDUM

January 30, 2009

TO: St. Clair Williams, Staff Coordinator
Zoning Evaluation Division, DPZ

FROM: Hugh Whitehead, Urban Forester II *HW*
Forest Conservation Branch, DPWES

SUBJECT: Urban Forest Management comments and recommendations

RE: Pedro and Carmen M. Toscano, Jr. Property, RZ 2005-HM-028

I have reviewed the above referenced rezoning application stamped as received by the Zoning Evaluation Division on January 16, 2009. The following comments are based on this review and a site visit conducted on October 29, 2008, during review of a previously submitted rezoning application for this site.

1. **Comment:** The tree cover calculation and plan graphics appear to indicate that tree cover credit is being taken for trees #3, #31, #32, #34 and #43. These trees were previously impacted by deposits of fill and soil compaction resulting from heavy equipment operating in violation of the limits of clearing and grading (LCG) during construction of the existing dwelling, completed in May 2007. These trees were previously flagged for removal and replacement due to the impacts occurring during this violation.

Recommendation: Do not permit tree cover credit to be taken for these trees. If additional trees are needed to meet the tree cover requirement for the site, show additional trees to be planted.

2. **Comment:** In addition, tree cover credit is taken for trees in very poor condition.

Recommendation: Do not permit tree cover credit to be taken for trees #1, #29, #36, #38 and #40.

3. **Comment:** Trees #5, #7, #8, #9 and #10 are shown to be preserved within the VDOT right-of-way. No tree cover credit can be taken for trees located within the right-of-way.

Recommendation: Ensure that tree cover credit is not included for these trees in the tree cover calculation. In addition, if these trees are to be preserved despite receiving no tree cover credit, show LCG to protect the crowns and critical root zones of these trees.

Department of Public Works and Environmental Services
Land Development Services, Urban Forest Management Division
12055 Government Center Parkway, Suite 518
Fairfax, Virginia 22035-5503
Phone 703-324-1770, TTY: 703-324-1877, Fax: 703-803-7769
www.fairfaxcounty.gov/dpwes



4. **Comment:** The tree inventory on sheet 2 of 4 indicates that trees #2, #6 and #16 are proposed for preservation. These trees are located within the proposed driveway.

Recommendation: Require that these trees be indicated for removal, and any credit taken for these trees be deleted from the tree cover calculation.

5. **Comment:** It is unclear whether or not the existing asphalt driveway/parking area will be removed. Serious impacts to trees #4 and #5 could potentially result from this demolition.

Recommendation: Note any proposed demolition of this area. If trees #4 and #5 are to be preserved, provide notes indicating how the trees will be protected and impacts minimized during demolition.

6. **Comment:** The proposed LCG does not adequately protect all trees designated for preservation. LCG indicated for tree #15, a 40-inch diameter tulip poplar, does not protect enough of the tree's critical root zone to provide a reasonable chance of survival.

Recommendation: Provide LCG for tree #15 as indicated on the attached copy of the SE Plat.

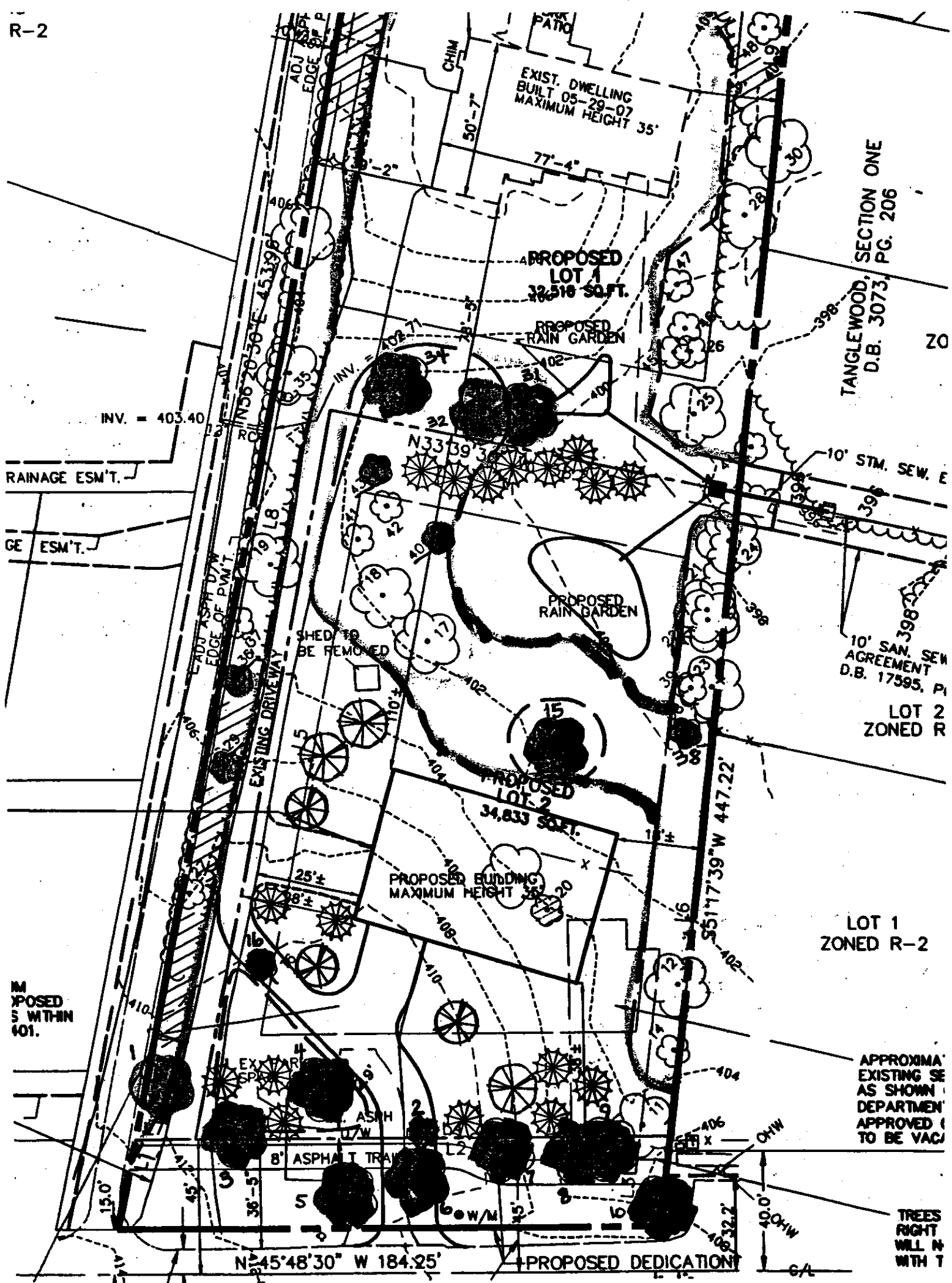
If there are any questions, please contact me at 703-324-1770.

HCW/
UFMID #: 105642

Attachment (as stated)

cc: RA File
DPZ File







County of Fairfax, Virginia

MEMORANDUM

September 24, 2007

TO: St. Clair Williams, Staff Coordinator
Zoning Evaluation Division, DPZ

FROM: Hugh Whitehead, Urban Forester II
Forest Conservation Branch, DPWES

SUBJECT: Pedro and Carmen M. Toscano, Jr. Property, RZ 2005-HM-028

RE: Forest Conservation Branch comments and recommendations

I have reviewed the above referenced rezoning application, submitted concurrently with special exception SE 2007-HM-023, and stamped as received by the Zoning Evaluation Division on July 11, 2007. The following comments and recommendations are based on this review and several visits to the site during construction of the residence on proposed Lot 1 (003525-INF-001), in response to a request from the Environmental and Facilities Inspections Division (EFID) to evaluate impacts to tree preservation areas resulting from violations of the limits of clearing and grading.

1. **Comment:** Tree cover on the site was severely compromised during construction of the new residence on proposed Lot 1. See the attached memo to David Nichols of EFID dated January 7, 2007. Trees on the site can not be considered in good condition, as claimed on the Special Exception Plat, due to soil compaction and the introduction of clay fill in areas designated as tree save areas on the infill plan under which the new residence was constructed. Some of the trees shown will likely not survive another ten years due to these impacts.

Recommendation: Require the Applicant to contract an ISA certified arborist or landscape architect with experience in tree preservation on construction sites to develop a tree designation plan to be included with this application.

The Tree Designation Plan shall be based upon the submittal at the time of zoning application of a tree study. The contents of the tree study and proposed designation of trees as categorized below should be critiqued by Urban Forest Management (UFM). Amendments to the original application involving relocation of proposed limits of clearing and grading may result in a request to the applicant to submit updates to the arboricultural study. Once the tree study is found to be acceptable by the County, the applicant should



include the information and commitments in a Tree Designation Plan that will be included as part of the proffered development plan. Trees on the Tree Designation Plan can be designated in one of three categories, as follows:

- **Trees to be preserved** consists of trees that the applicant is committing to preserve. It is expected that the applicant would proffer such preservation as well as what would occur in the result of non-compliance.
- **Trees to be conserved** consists of trees that the applicant will attempt to preserve, but for various reason (usually related to the tree's proximity to construction), cannot guarantee will survive the impacts of lawfully executed construction. It is anticipated that the applicant would commit to attempt to preserve the trees, but if not feasible due to lawful construction activities, would commit to remove and replace them. In addition, it is anticipated that the applicant would commit to remuneration if trees in this designation are killed or are significantly damaged by wrongful acts or negligence.
- **Trees to be removed** consists of trees that are already dead, in decline, cannot be saved due to their location on the site as related to the location of the proposed development, or are likely to experience severe impacts from lawful construction activities.

The Tree Survey should contain an accurate tree survey that identifies the trunk location, species, size, crown spread and condition analysis rating for all individual trees to be preserved, as well as all on and off-site trees, living or dead with trunks 6 inches in diameter and greater (measured at 4 ½ -feet from the base of the trunk or as otherwise allowed in the 9th edition of the Guide for Plant Appraisal published by the International Society of Arboriculture) located within 20 feet to either side of the limits of clearing and grading; and specific preservation practices used to maximize chances of tree survival, such as crown pruning, root pruning, mulching, fertilization, and others as necessary. The condition analysis used to evaluate trees should be prepared using methods outlined in 9th edition of the Guide for Plant Appraisal published by the International Society of Arboriculture.

The Tree Designation Plan should also specify by plan note, shading, or other designation the limits of clearing and grading and the portions of the site to remain as undisturbed areas. In addition, the plan should provide management practices for the protection of understory plant materials, leaf litter, and soil conditions found in areas to be left undisturbed; or if previously disturbed, the plan should provide management practices for the restoration of areas containing trees to be preserved or conserved.



In addition, with the exception of dead trees, the Tree Designation Plan shall provide a monetary value for each tree surveyed that is designated to be retained. The monetary values should be determined using the Trunk Formula Method contained in the 9th edition of the Guide for Plant Appraisal published by the International Society of Arboriculture.

2. **Comment:** The subdivision plan should include a proffer that provides for the restoration of areas disturbed and trees impacted as a result of wrongful or negligent acts during construction of the residence on proposed Lot 1.

Proposed Proffer:

The landscape plan submitted as part of the subdivision plan shall conform to the Tree Designation Plan, as determined by Urban Forest Management Division (UFM), of Fairfax County Department of Public Works and Environmental Services ("DPWES"). Minor modifications may be permitted by UFM to the extent that these do not change the designations of individual trees, or result in significant physical impacts to the areas designated to be left undisturbed. If more than five years have elapsed since the date of approval of the application, a revised tree survey that identifies the trunk location, species, size, crown spread and condition analysis rating for all individual trees to be preserved and conserved, as well as all on and off-site trees, living or dead with trunks 6 inches in diameter and greater (measured at 4 ½ -feet from the base of the trunk or as otherwise allowed in the 9th edition of the Guide for Plant Appraisal published by the International Society of Arboriculture) located within 25 feet to either side of the approved limits of clearing and grading shall also be submitted for review and approval by the Urban Forest Management Division. Based upon the updated information on the status and health of trees to be preserved and conserved, modifications to the Tree Designation Plan may be approved by the UFM. In that instance that a revised Tree Designation Plan is submitted, the applicant shall also submit concurrently an updated monetary value for each tree surveyed that is located within the areas designated to be left undisturbed. The monetary values shall be determined using the Trunk Formula Method contained in the 9th edition of the Guide for Plant Appraisal published by the International Society of Arboriculture, and as further defined under the Determining Monetary Values of Trees, Tree Bond and Tree Preservation Deposit section below.

Trees to be preserved: The applicant shall take necessary steps and actions to ensure the long-term survival, and continuing structural integrity and health of trees designated on the Tree Designation Plan to be preserved. If any of these trees is found to be dead, dying, diseased, or hazardous (as determined by UFM, at or prior to, the final release of the project



bond) and that such was not the result of unapproved construction practices, the applicant shall provide for restoration and remuneration by:

1. providing for the removal of the above ground portions of trees
2. restoring understory plants and/or soil conditions damaged during tree removal activities (as determined by UFM)
3. restoring the associated loss in canopy coverage in accordance with the tree cover guidance found in the Public Facilities Manual
4. paying a sum equal to the monetary value of that tree or trees identified in the approved Tree Designation Plan into the Hunter Mill District's Tree Preservation and Planting Fund for use by the County within the Hunter Mill Magisterial District on or off the subject property as determined by UFM after consultation with the District Supervisor.
5. 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 Proffered Condition Amendment may be required if any proposed remedies are not in substantial conformance with the proffers, as determined by the Zoning Administrator.

Trees to be conserved. The applicant shall take necessary steps and actions to ensure the long-term survival, and continuing structural integrity and health of trees designated on the Tree Designation Plan to be conserved. However, if for reasons related to lawfully executed construction practices on the subject property and/or changes to 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 UFM at or prior to the final release of the project bond) the applicant shall:

1. provide for the removal of above ground portions of the trees
2. provide for the restoration of any understory plant and soil conditions damaged during their removal (as determined by UFM)
3. provide for the restoration of the associated loss in canopy coverage in accordance with the tree cover guidance found in the Public Facilities Manual

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 UFM at, or prior to, the final release of the project bond, in addition to the removal and restoration requirements identified above, the applicant shall provide remuneration by paying a sum equal to the monetary value of that tree or trees as identified in the approved Tree Designation Plan into the Hunter Mill District's Tree Preservation and Planting Fund for use by the County within the Hunter Mill Magisterial District on or off the



Pedro and Carmen M. Toscano, Jr. Property
RZ 2005-HM-028
September 24, 2007
Page 5 of 5

subject property as determined by UFM 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 Proffered Condition Amendment may be required if any proposed remedies are not in substantial conformance with the proffers, as determined by the Zoning Administrator.

Trees to be removed. The applicant shall remove the trees designated on the Tree Designation Plan to be removed during initial clearing and grading activities in a manner approved by the Urban Forest Management Division.

HCW/
UFMID #: 105642

cc: RA File
DPZ File





County of Fairfax, Virginia

MEMORANDUM

January 7, 2007

TO: David Nichols, Senior Engineering Inspector
Environmental and Facilities Inspections Division, DPWES

FROM: Hugh Whitehead, Urban Forester II
Urban Forest Management Division, DPWES

SUBJECT: 9946 Vale Road, 003525-INF-001

RE: Request received December 19, 2006 to evaluate impacts to tree preservation area resulting from violation of limits of clearing and grading

You and I visited the above referenced site on December 14, 2006 to assess impacts to the tree preservation area resulting from violation of the limits of clearing and grading (LCG). Silt fence, installed along the approved LCG, had been removed and large quantities of clay soil had been brought in from off-site and dumped in the tree preservation area.

I revisited the site on January 3, 2007 with Todd Nelson, also of the Urban Forest Management Division (UFMD). We observed that much of the imported soil had been removed to the area between the LCG and the house under construction. Soil remaining in the tree preservation area had been spread out over most of the area. Tracks through the soil indicated that heavy equipment had traveled over much of the root zones of the trees within the preservation area. Standing water in areas where the clay soil had been spread attest to the poor drainage and reduced aeration resulting from the heavy fill and soil compaction. The majority of the trees in this preservation area are tulip poplars which do not tolerate these kinds of impact well (PFM 12-0404 and Table 12.1). Other species within the save area include one black walnut, which is also sensitive to root zone impacts, and one black locust. The likelihood of survival for these trees has been severely compromised by the impacts resulting from these activities in violation of the limits of clearing and grading. It can be anticipated that trees will probably show evidence of decline during the next three to five years and will likely die within five to ten years.

UFMD staff does not recommend attempting to restore this area. During our most recent site visit (1/3/07), it was evident that work to remove soil brought into the preservation area has already resulted in further compaction, and significant fill remains in the preservation area.



9946 Vale Road
003525-INF-001
January 7, 2007
Page 2 of 2

Due to the type and extent of the disturbance it is our determination that further attempts to restore the area would incur more damage than benefit to the root zones of trees in the area.

It is the recommendation of UFMD that a revision submission be required to be reviewed by UFMD staff. This revision submission should include the following:

1. Revised limits of clearing and grading reflecting the current disturbance on the site
2. Removal of impacted trees as determined by UFMD
3. Replacement planting sufficient to meet tree cover requirements for the site
4. Revised tree cover calculations showing how the site will satisfy tree cover requirements

I suggest we schedule a site meeting with the developer to discuss these points and identify trees to be removed and trees to be retained.

If you have any questions, please contact me at (703)324-1770.

HCW/
UFMD #: 121843

cc: RA File





Department of Facilities and Transportation Services

FAIRFAX COUNTY
PUBLIC SCHOOLSOffice of Facilities Planning
10640 Page Avenue
Fairfax, Virginia 22030

TO: St. Clair Williams, Planner III
Fairfax County Department of Planning & Zoning
Zoning Evaluation Division

FROM: Denise M. James, Director
Office of Facilities Planning Services

SUBJECT: RZ 2005-HM-028, Toscano

DATE: February 23, 2009

PLANNING AREA: 3836, Cluster II

ACREAGE: 1.67 acres

TAX MAP: 38-3 ((1)) 4

PROPOSAL: The nomination proposes to rezone property from the R-1 to the R-2 District to permit development of a new single family detached dwelling.

COMMENTS: This memo revises a previous memo dated September 11, 2007 to reflect updated school enrollment and capacity data for the receiving schools. The proposed rezoning area is within the Flint Hill Elementary School, Thoreau Middle School, and Madison High School boundaries. The chart below shows the existing school capacity, enrollment, and projected five year enrollment.

School	Capacity	Enrollment (9/30/08)	2009-2010 Projected Enrollment	Capacity Balance 2009-2010	2013-14 Projected Enrollment	Capacity Balance 2013-14
Flint Hill ES	614	665	665	-51	649	-35
Thoreau MS	750	804	857	-107	916	-165
Madison HS	2016	1919	2012	4	2131	-115

The rezoning application proposes to rezone the existing property from the R-1 to R-2 District to permit the development of a new lot. Currently there is one existing dwelling unit on the property.

The chart below shows the number of anticipated students from this application.

School Level	Proposed Zoning R-2			Existing Zoning R-1		
	Units	Ratio	Students	Units	Ratio	Students
Elementary	2	0.239	0	1	0.239	0
Middle	2	0.069	0	1	0.069	0
High	2	0.172	0	1	0.172	0
	Total 0			Total 0		

SUMMARY: The proposed rezoning application is not anticipated to generate any additional students.



FAIRFAX COUNTY PARK AUTHORITY

MEMORANDUM



TO: Regina M. Coyle, Director
Zoning Evaluation Division
Department of Planning and Zoning

FROM: Sandy Stallman, Manager
Park Planning Branch *SS*

DATE: February 23, 2009

SUBJECT: RZ 2005-HM-028_SE 2007-HM-023, Pedro and Carmen M. Toscano, Jr.
Tax Map Number: 38-3((1)) 4

BACKGROUND

The Park Authority staff has reviewed the proposed Development Plan dated February 1, 2005, for the above referenced application. The Development Plan shows one new single-family home on a 1.6 acre parcel to be rezoned from R-1 to R-2 with proffers. Based on an average single-family household size of 2.91 in the Vienna Planning District, the development could add about three new residents to the Hunter Mill Supervisory District.

COMPREHENSIVE PLAN CITATIONS

1. Park Services and New Development (The Policy Plan, Parks and Recreation Objective 6, p. 8)

“Objective 6: Ensure the mitigation of adverse impacts to park and recreation facilities and service levels caused by growth and land development through the provision of proffers, conditions, contributions, commitments, and land dedication.”

“Policy a: Offset residential development impacts to parks and recreation resources, facilities and service levels based on the adopted facility service level standards (Appendix 2). The provision of suitable new park and recreational lands and facilities will be considered in the review of land development proposals in accordance with Residential Development Criteria - Appendix 9 of the Land Use element of the Countywide Policy Plan.”

“Policy b: To implement Policy a: above, residential land development should include provisions for contributions, or dedication, to the Park Authority of usable parkland and facilities, public trails, development of recreational facilities on private open space, and/or provision of improvements at existing nearby park facilities.”

ANALYSIS AND RECOMMENDATIONS

Needs Assessment and Facility Standards Analysis:

Currently, there are 20 + parks located in the Vienna area. There is a need for all types of parkland and recreational facilities in this area. Existing nearby parks (Nottoway and Oak Marr) meet only a portion of the demand for parkland generated by residential development in the Vienna area. In addition to parkland, the recreational facilities in greatest need in this area include 30 basketball courts, 22 playgrounds, 25 tennis courts, and 23 rectangle fields.

Recreational Impact:

With the Countywide Comprehensive Policy Plan as a guide (Appendix 9, #6 of the Land Use section, as well as Objective 6, Policy a, b and c of the Parks and Recreation section), the Park Authority requests a fair share contribution of \$893 per new resident with any residential rezoning application to offset impacts to park and recreation service levels. This allows the Park Authority to build additional facilities needed as the population increases. To offset the additional impact caused by the proposed development, the applicant should contribute \$2,679 to the Park Authority for recreational facility development at one or more park sites located within the service area of the subject property.

SUMMARY OF RECOMMENDATIONS

The section summarizes the recommendations included in the preceding analysis section. Following is a table summarizing recommended recreation contribution amounts:

Proposed Units	Requested Park Proffer Amount
Single-family detached units	\$2,679
Total	\$2,679

FCPA Reviewer: Andy Galusha
DPZ Coordinator: St. Clair D. Williams

cc: Cindy Walsh, Acting Director, Resource Management Division
Chron Binder
File Copy



County of Fairfax, Virginia

MEMORANDUM

DATE: February 23, 2009

TO: Regina Coyle, Director
Zoning Evaluation Division
Office of Comprehensive Planning

FROM: Eric Fisher (246-3501)
Information Technology Section
Fire and Rescue Department

SUBJECT: Fire and Rescue Department Preliminary Analysis of Rezoning Application RZ 2005-HM-028 concurrent with Special Exception Application SE 2007-HM-023

The following information is submitted in response to your request for a preliminary Fire and Rescue Department analysis for the subject:

1. The application property is serviced by the Fairfax County Fire and Rescue Department Station #402, Vienna
2. After construction programmed _____ this property will be serviced by the fire station _____
3. In summary, the Fire and Rescue Department considers that the subject rezoning application property:

- ☒ a. currently meets fire protection guidelines.
- ☐ b. will meet fire protection guidelines when a proposed fire station becomes fully operational.
- ☐ c. does not meet current fire protection guidelines without an additional facility; however, a future station is projected for this area.
- ☐ d. does not meet current fire protection guidelines without an additional facility. The application property is _____ of a mile outside the fire protection guidelines. No new facility is currently planned for this area.



Fairfax Water

FAIRFAX COUNTY WATER AUTHORITY

8560 Arlington Boulevard
Fairfax, Virginia 22031PLANNING AND ENGINEERING DIVISION
C. DAVID BINNING, P.E., DIRECTOR

September 28, 2005

TELEPHONE (703) 289-6325

FACSIMILE (703) 289-6362

Ms. Barbara A. Byron, Director
Zoning Evaluation Division
Fairfax County Department of Planning and Zoning
12055 Government Center Parkway
Suite 801
Fairfax, Virginia 22035-5505

Re: RZ 05-HM-028
VC 05-HM-009
Water Service Analysis

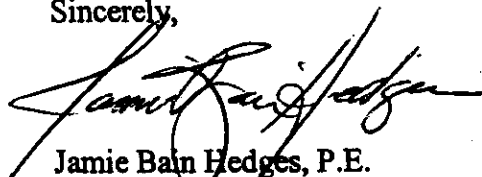
Dear Ms. Byron:

The following information is submitted in response to your request for a water service analysis for the above application:

1. The property is located within the Fairfax Water service area.
2. Adequate domestic water service is available at the site from an existing 12-inch water main located at the property. See the enclosed water system map. The Generalized Development Plan has been forwarded to Plan Control for distribution to the Engineering Firm.
3. Depending upon the configuration of the on-site water mains, additional water main extensions may be necessary to satisfy fire flow requirements and accommodate water quality concerns.

If you have any questions regarding this information please contact me at (703) 289-6302.

Sincerely,



Jamie Bain Hedges, P.E.
Manager, Planning Department

Enclosures (as noted)



County of Fairfax, Virginia

MEMORANDUM

DATE: February 23, 2009

TO: St. Clair Williams
Zoning Evaluation Division
Department of Planning & Zoning

FROM: Lana Tran (Tel: 703 324-5008)
Wastewater Planning & Monitoring Division
Department of Public Works & Environmental Services

SUBJECT: Sanitary Sewer Analysis Report

REFERENCE: Application No. RZ2005-HM-028
Tax Map No. 038-3/01//0004

The following information is submitted in response to your request for a sanitary sewer analysis for above referenced application:

1. The application property is located in the Difficult Run (D-3) watershed. It would be sewer into the Blue Plains Treatment Plant.
2. Based upon current and committed flow, there is excess capacity in the Blue Plains Treatment Plant at this time. For purposes of this report, committed flow shall be deemed that for which fees have been paid, building permits have been issued, or priority reservations have been established by the Board of Supervisors. No commitment can be made, however, as to the availability of treatment capacity for the development of the subject property. Availability of treatment capacity will depend upon the current rate of construction and the timing for development of this site.
3. An existing 8 inch line located in the street is adequate for the proposed use at this time.
4. The following table indicates the condition of all related sewer facilities and the total effect of this application.

<u>Sewer Network</u>	<u>Existing Use + Application</u>		<u>Existing Use + Application Previous Rezoning</u>		<u>Existing Use + Application + Comp Plan</u>	
	<u>Adeq.</u>	<u>Inadeq.</u>	<u>Adeq.</u>	<u>Inadeq.</u>	<u>Adeq.</u>	<u>Inadeq.</u>
Collector	<u>X</u>	_____	<u>X</u>	_____	<u>X</u>	_____
Submain	<u>X</u>	_____	<u>X</u>	_____	<u>X</u>	_____
Main/Trunk	<u>X</u>	_____	<u>X</u>	_____	<u>X</u>	_____
Interceptor	_____	_____	_____	_____	_____	_____
Outfall	_____	_____	_____	_____	_____	_____

5. Other pertinent information or comments:

Department of Public Works and Environmental Services
Wastewater Planning & Monitoring Division
12000 Government Center Parkway, Suite 358
Fairfax, VA 22035-0052
Phone: 703-324-5030, Fax: 703-324-3946





County of Fairfax, Virginia

MEMORANDUM

DATE:

TO: St.Clair Williams, Staff Coordinator
Zoning Evaluation Division
Department of Planning and Zoning

From: Qayyum Khan, Senior Stormwater Engineer *QK*
Geotechnical and Stormwater Section
Environmental and Site Review Division
Department of Public Works and Environmental Services

SUBJECT: Rezoning Application Concurrent with Special Exception Application, RZ 2005-HM-028, SE 2007-HM-023, CDP/SE Plat dated January 16, 2009, Toscano Property, LDS Project #3525-ZONA-002-3, Tax Map #038-3-03-0004 (Property), Hunter Mill District

We have reviewed the subject application and offer the following comments related to stormwater management (SWM):

Chesapeake Bay Preservation Ordinance

There is no Resource Protection Area (RPA) on the subject property.

Floodplain Regulations

There are no floodplains on the Property.

SWM

The applicant proposes creating an additional lot by rezoning this property from R-1 to R-2. The applicant has proposed two bio-retention filters for the two lots. The applicant will need a PFM modification approval by the Director, DPWES to locate BMP facilities on individual lots (See PFM Section 6-1307.2). Based on the County Soils Map, soils on the property appear to be good for infiltration practices. The applicant proposed to meet detention requirements combined with bioretention facility #2. The applicant needs to determine the soil infiltration rates in accordance with the DPWES Letter to Industry #07-04 to verify if the facilities would meet the 2- and 10-year storage as well as the water quality control volume.

Site Outfall

The applicant has provided an outfall narrative and describes that the existing storm sewer is adequate to convey the increased flow. The applicant needs to ascertain that the capacity of existing sewers will permit the gravity flows.



St.Clair Williams, Staff Coordinator
RZ 2005-HM-028, SE 2007-HM-023
Page 2 of 2

If you need further assistance, please contact me at 703-324-1720.

QK/mw

cc: Craig Carinci, Director, Stormwater Planning Division, DPWES
Zoning Application File

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 other 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. To that end, the following criteria are to be used in evaluating zoning requests for new residential development. The resolution of issues identified during the evaluation of a specific development proposal is critical if the proposal is to receive favorable consideration.

Where the Plan recommends a possible increase in density above the existing zoning of the property, achievement of the requested density will be based, in substantial part, on whether development related issues are satisfactorily addressed as determined by application of these development criteria. Most, if not all, of the criteria will be applicable in every application; however, due to the differing nature of specific development proposals and their impacts, the development criteria need not be equally weighted. If there are extraordinary circumstances, a single criterion or several criteria may be overriding in evaluating the merits of a particular proposal. Use of these criteria as an evaluation tool is not intended to be limiting in regard to review of the application with respect to other guidance found in the Plan or other aspects that the applicant incorporates into the development proposal. Applicants are encouraged to submit the best possible development proposals. In applying the Residential Development Criteria to specific projects and in determining whether a criterion has been satisfied, factors such as the following may be considered:

- the size of the project
- site specific issues that affect the applicant's ability to address in a meaningful way relevant development issues
- whether the proposal is advancing the guidance found in the area plans or other planning and policy goals (e.g. revitalization).

When there has been an identified need or problem, credit toward satisfying the criteria will be awarded based upon whether proposed commitments by the applicant will significantly advance problem resolution. In all cases, the responsibility for demonstrating satisfaction of the criteria rests with the applicant.

1. Site Design:

All rezoning applications for residential development should be characterized by high quality site design. Rezoning proposals for residential development, regardless of the proposed density, will be evaluated based upon the following principles, although not all of the principles may be applicable for all developments.

- a) *Consolidation:* Developments should provide parcel consolidation in conformance with any site specific text and applicable policy recommendations of the Comprehensive Plan. Should the Plan text not specifically address consolidation, the nature and extent of any proposed parcel consolidation should further the integration of the development with adjacent parcels. In any event, the proposed consolidation should not preclude nearby properties from developing as recommended by the Plan.
- b) *Layout:* The layout should:
 - provide logical, functional and appropriate relationships among the various parts (e. g. dwelling units, yards, streets, open space, stormwater management facilities, existing vegetation, noise mitigation measures, sidewalks and fences);
 - provide dwelling units that are oriented appropriately to adjacent streets and homes;

- include usable yard areas within the individual lots that accommodate the future construction of decks, sunrooms, porches, and/or accessory structures in the layout of the lots, and that provide space for landscaping to thrive and for maintenance activities;
 - provide logical and appropriate relationships among the proposed lots including the relationships of yards, the orientation of the dwelling units, and the use of pipestem lots;
 - provide convenient access to transit facilities;
 - Identify all existing utilities and make every effort to identify all proposed utilities and stormwater management outfall areas; encourage utility collocation where feasible.
- c) *Open Space:* Developments should provide usable, accessible, and well-integrated open space. This principle is applicable to all projects where open space is required by the Zoning Ordinance and should be considered, where appropriate, in other circumstances.
- d) *Landscaping:* Developments should provide appropriate landscaping: for example, in parking lots, in open space areas, along streets, in and around stormwater management facilities, and on individual lots.
- e) *Amenities:* Developments should provide amenities such as benches, gazebos, recreational amenities, play areas for children, walls and fences, special paving treatments, street furniture, and lighting.

2. Neighborhood Context

All rezoning applications for residential development, regardless of the proposed density, should be designed to fit into the community within which the development is to be located. Developments should fit into the fabric of their adjacent neighborhoods, as evidenced by an evaluation of:

- transitions to abutting and adjacent uses;
- lot sizes, particularly along the periphery;
- bulk/mass of the proposed dwelling units;
- setbacks (front, side and rear);
- orientation of the proposed dwelling units to adjacent streets and homes;
- architectural elevations and materials;
- pedestrian, bicycle and vehicular connections to off-site trails, roadways, transit facilities and land uses;
- existing topography and vegetative cover and proposed changes to them as a result of clearing and grading.

It is not expected that developments will be identical to their neighbors, but that the development fit into the fabric of the community. In evaluating this criterion, the individual circumstances of the property will be considered: such as, the nature of existing and planned development surrounding and/or adjacent to the property; whether the property provides a transition between different uses or densities; whether access to an infill development is through an existing neighborhood; or, whether the property is within an area that is planned for redevelopment.

3. Environment:

All rezoning applications for residential development should respect the environment. Rezoning proposals for residential development, regardless of the proposed density, should be consistent with the policies and objectives of the environmental element of the Policy Plan, and will also be evaluated on the following principles, where applicable.

- a) *Preservation:* Developments should conserve natural environmental resources by protecting, enhancing, and/or restoring the habitat value and pollution reduction potential of floodplains, stream valleys, EQCs, RPAs, woodlands, wetlands and other environmentally sensitive areas.
- b) *Slopes and Soils:* The design of developments should take existing topographic conditions and soil characteristics into consideration.
- c) *Water Quality:* Developments should minimize off-site impacts on water quality by commitments to state of the art best management practices for stormwater management and low-impact site design techniques.
- d) *Drainage:* The volume and velocity of stormwater runoff from new development should be managed in order to avoid impacts on downstream properties. Where drainage is a particular concern, the applicant should demonstrate that off-site drainage impacts will be mitigated and that stormwater management facilities are designed and sized appropriately. Adequate drainage outfall should be verified, and the location of drainage outfall (onsite or offsite) should be shown on development plans.
- e) *Noise:* Developments should protect future and current residents and others from the adverse impacts of transportation generated noise.
- f) *Lighting:* Developments should commit to exterior lighting fixtures that minimize neighborhood glare and impacts to the night sky.
- g) *Energy:* Developments should use site design techniques such as solar orientation and landscaping to achieve energy savings, and should be designed to encourage and facilitate walking and bicycling.

4. Tree Preservation and Tree Cover Requirements:

All rezoning applications for residential development, regardless of the proposed density, should be designed to take advantage of the existing quality tree cover. If quality tree cover exists on site as determined by the County, it is highly desirable that developments meet most or all of their tree cover requirement by preserving and, where feasible and appropriate, transplanting existing trees. Tree cover in excess of ordinance requirements is highly desirable. Proposed utilities, including stormwater management and outfall facilities and sanitary sewer lines, should be located to avoid conflicts with tree preservation and planting areas.

5. Transportation:

All rezoning applications for residential development should implement measures to address planned transportation improvements. Applicants should offset their impacts to the transportation network. Accepted techniques should be utilized for analysis of the development's impact on the network. Residential development considered under these criteria will range widely in density and, therefore, will result in differing impacts to the transportation network. Some criteria will have universal applicability while others will apply only under specific circumstances. Regardless of the proposed density, applications will be evaluated based upon the following principles, although not all of the principles may be applicable.

- a) *Transportation Improvements:* Residential development should provide safe and adequate access to the road network, maintain the ability of local streets to safely accommodate traffic, and offset the impact of additional traffic through commitments to the following:

- Capacity enhancements to nearby arterial and collector streets;
 - Street design features that improve safety and mobility for non-motorized forms of transportation;
 - Signals and other traffic control measures;
 - Development phasing to coincide with identified transportation improvements;
 - Right-of-way dedication;
 - Construction of other improvements beyond ordinance requirements;
 - Monetary contributions for improvements in the vicinity of the development.
- b) *Transit/Transportation Management:* Mass transit usage and other transportation measures to reduce vehicular trips should be encouraged by:
- Provision of bus shelters;
 - Implementation and/or participation in a shuttle bus service;
 - Participation in programs designed to reduce vehicular trips;
 - Incorporation of transit facilities within the development and integration of transit with adjacent areas;
 - Provision of trails and facilities that increase safety and mobility for non-motorized travel.
- c) *Interconnection of the Street Network:* Vehicular connections between neighborhoods should be provided, as follows:
- Local streets within the development should be connected with adjacent local streets to improve neighborhood circulation;
 - When appropriate, existing stub streets should be connected to adjoining parcels. If street connections are dedicated but not constructed with development, they should be identified with signage that indicates the street is to be extended;
 - Streets should be designed and constructed to accommodate safe and convenient usage by buses and non-motorized forms of transportation;
 - Traffic calming measures should be implemented where needed to discourage cut-through traffic, increase safety and reduce vehicular speed;
 - The number and length of long, single-ended roadways should be minimized;
 - Sufficient access for public safety vehicles should be ensured.
- d) *Streets:* Public streets are preferred. If private streets are proposed in single family detached developments, the applicant shall demonstrate the benefits for such streets. Applicants should make appropriate design and construction commitments for all private streets so as to minimize maintenance costs which may accrue to future property owners. Furthermore, convenience and safety issues such as parking on private streets should be considered during the review process.
- e) *Non-motorized Facilities:* Non-motorized facilities, such as those listed below, should be provided:
- Connections to transit facilities;
 - Connections between adjoining neighborhoods;
 - Connections to existing non-motorized facilities;
 - Connections to off-site retail/commercial uses, public/community facilities, and natural and recreational areas;
 - An internal non-motorized facility network with pedestrian and natural amenities, particularly those included in the Comprehensive Plan;
 - Offsite non-motorized facilities, particularly those included in the Comprehensive Plan;
 - Driveways to residences should be of adequate length to accommodate passenger vehicles without blocking walkways;

- Construction of non-motorized facilities on both sides of the street is preferred. If construction on a single side of the street is proposed, the applicant shall demonstrate the public benefit of a limited facility.
- f) *Alternative Street Designs:* Under specific design conditions for individual sites or where existing features such as trees, topography, etc. are important elements, modifications to the public street standards may be considered.

6. Public Facilities:

Residential development impacts public facility systems (i.e., schools, parks, libraries, police, fire and rescue, stormwater management and other publicly owned community facilities). These impacts will be identified and evaluated during the development review process. For schools, a methodology approved by the Board of Supervisors, after input and recommendation by the School Board, will be used as a guideline for determining the impact of additional students generated by the new development.

Given the variety of public facility needs throughout the County, on a case-by-case basis, public facility needs will be evaluated so that local concerns may be addressed.

All rezoning applications for residential development are expected to offset their public facility impact and to first address public facility needs in the vicinity of the proposed development. Impact offset may be accomplished through the dedication of land suitable for the construction of an identified public facility need, 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. Selection of the appropriate offset mechanism should maximize the public benefit of the contribution.

Furthermore, phasing of development may be required to ensure mitigation of impacts.

7. Affordable Housing:

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. Part 8 of Article 2 of the Zoning Ordinance requires the provision of Affordable Dwelling Units (ADUs) in certain circumstances. Criterion #7 is applicable to all rezoning applications and/or portions thereof that are not required to provide any Affordable Dwelling Units, regardless of the planned density range for the site.

- a) *Dedication of Units or Land:* If the applicant elects to fulfill this criterion by providing affordable units that are not otherwise required by the ADU Ordinance: a maximum density of 20% above the upper limit of the Plan range could be achieved if 12.5% of the total number of single family detached and attached units are provided pursuant to the Affordable Dwelling Unit Program; and, a maximum density of 10% or 20% above the upper limit of the Plan range could be achieved if 6.25% or 12.5%, respectively of the total number of multifamily units are provided to the Affordable Dwelling Unit Program. As an alternative, land, adequate and ready to be developed for an equal number of units may be provided to the Fairfax County Redevelopment and Housing Authority or to such other entity as may be approved by the Board.
- b) *Housing Trust Fund Contributions:* Satisfaction of this criterion may also be achieved by a contribution to the Housing Trust Fund or, as may be approved by the Board, a monetary and/or in-kind contribution to another entity whose mission is to provide affordable housing in Fairfax County, equal to 0.5% of the value of all of the units approved on the property except those that result in the provision of ADUs. This contribution shall be payable prior to the issuance of the first

building permit. For for-sale projects, the percentage set forth above is based upon the aggregate sales price of all of the units subject to the contribution, as if all of those units were sold at the time of the issuance of the first building permit, and is estimated through comparable sales of similar type units. For rental projects, the amount of the contribution is based upon the total development cost of the portion of the project subject to the contribution for all elements necessary to bring the project to market, including land, financing, soft costs and construction. The sales price or development cost will be determined by the Department of Housing and Community Development, in consultation with the Applicant and the Department of Public Works and Environmental Services. If this criterion is fulfilled by a contribution as set forth in this paragraph, the density bonus permitted in a) above does not apply.

8. Heritage Resources:

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. Such sites or structures have been 1) listed on, or determined eligible for listing on, the National Register of Historic Places or the Virginia Landmarks Register; 2) determined to be a contributing structure within a district so listed or eligible for listing; 3) located within and considered as a contributing structure within a Fairfax County Historic Overlay District; or 4) listed on, or having a reasonable potential as determined by the County, for meeting the criteria for listing on, the Fairfax County Inventories of Historic or Archaeological Sites.

In reviewing rezoning applications for properties on which known or potential heritage resources are located, some or all of the following shall apply:

- a) Protect heritage resources from deterioration or destruction until they can be documented, evaluated, and/or preserved;
- b) Conduct archaeological, architectural, and/or historical research to determine the presence, extent, and significance of heritage resources;
- c) Submit proposals for archaeological work to the County for review and approval and, unless otherwise agreed, conduct such work in accordance with state standards;
- d) Preserve and rehabilitate heritage resources for continued or adaptive use where feasible;
- e) Submit proposals to change the exterior appearance of, relocate, or demolish historic structures to the Fairfax County Architectural Review Board for review and approval;
- f) Document heritage resources to be demolished or relocated;
- g) Design new structures and site improvements, including clearing and grading, to enhance rather than harm heritage resources;
- h) Establish easements that will assure continued preservation of heritage resources with an appropriate entity such as the County's Open Space and Historic Preservation Easement Program; and
- i) Provide a Fairfax County Historical Marker or Virginia Historical Highway Marker on or near the site of a heritage resource, if recommended and approved by the Fairfax County History Commission.

ROLE OF DENSITY RANGES IN AREA PLANS

Density ranges for property planned for residential development, expressed generally in terms of dwelling units per acre, are recommended in the Area Plans and are shown on the Comprehensive Plan Map. Where the Plan text and map differ, the text governs. In defining the density range:

- the “base level” of the range is defined as the lowest density recommended in the Plan range, i.e., 5 dwelling units per acre in the 5-8 dwelling unit per acre range;
- the “high end” of the range is defined as the base level plus 60% of the density range in a particular Plan category, which in the residential density range of 5-8 dwelling units per acre would be considered as 6.8 dwelling units per acre and above; and,
- the upper limit is defined as the maximum density called for in any Plan range, which, in the 5-8 dwelling unit per acre range would be 8 dwelling units per acre.
- In instances where a range is not specified in the Plan, for example where the Plan calls for residential density up to 30 dwelling units per acre, the density cited in the Plan shall be construed to equate to the upper limit of the Plan range, and the base level shall be the upper limit of the next lower Plan range, in this instance, 20 dwelling units per acre.

9-006 General Standards

In addition to the specific standards set forth hereinafter with regard to particular special exception uses, all such uses shall satisfy the following general standards:

1. The proposed use at the specified location shall be in harmony with the adopted comprehensive plan.
2. The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.
3. The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. The location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.
4. The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.
5. In addition to the standards which may be set forth in this Article for a particular category or use, the Board shall require landscaping and screening in accordance with the provisions of Article 13.
6. Open space shall be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located.
7. Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided. Parking and loading requirements shall be in accordance with the provisions of Article 11.
8. Signs shall be regulated by the provisions of Article 12; however, the Board may impose more strict requirements for a given use than those set forth in this Ordinance.

9-610 Provisions for Waiving Minimum Lot Size Requirements

The Board may approve, either in conjunction with the approval of a rezoning or as a special exception, the waiving of the minimum district size and/or lot width requirement for an R District, except for all cluster subdivisions, the minimum lot area and/or lot width requirements for a C district or the minimum district size requirement for the C-9 District, and the minimum district size, lot area and/or lot width requirements for an I district, but only in accordance with the following:

1. Such lot has not been reduced in width or area since the effective date of this Ordinance to a width or area less than required by this Ordinance.
2. The applicant shall demonstrate that the waiver results in a development that preserves existing vegetation, topography, historic resources and/or other environmental features; provides for reduced impervious surface; maintains or improves stormwater management systems; and/or similar demonstrable impact.
3. It shall be demonstrated that development of the subject lot will not have any deleterious effect on the existing or planned development of adjacent properties or on area roadways.
4. Such waiver shall be approved only if the remaining provisions of this Ordinance can be satisfied.

GLOSSARY

This Glossary is provided to assist the public in understanding the staff evaluation and analysis of development proposals. It should not be construed as representing legal definitions. Refer to the Fairfax County Zoning Ordinance, Comprehensive Plan or Public Facilities Manual for additional information.

ABANDONMENT: Refers to road or street abandonment, an action taken by the Board of Supervisors, usually through the public hearing process, to abolish the public's right-of-passage over a road or road right-of way. Upon abandonment, the right-of-way automatically reverts to the underlying fee owners. If the fee to the owner is unknown, Virginia law presumes that fee to the roadbed rests with the adjacent property owners if there is no evidence to the contrary.

ACCESSORY DWELLING UNIT (OR APARTMENT): A secondary dwelling unit established in conjunction with and clearly subordinate to a single family detached dwelling unit. An accessory dwelling unit may be allowed if a special permit is granted by the Board of Zoning Appeals (BZA). Refer to Sect. 8-918 of the Zoning Ordinance.

AFFORDABLE DWELLING UNIT (ADU) DEVELOPMENT: Residential development to assist in the provision of affordable housing for persons of low and moderate income in accordance with the affordable dwelling unit program and in accordance with Zoning Ordinance regulations. Residential development which provides affordable dwelling units may result in a density bonus (see below) permitting the construction of additional housing units. See Part 8 of Article 2 of the Zoning Ordinance.

AGRICULTURAL AND FORESTAL DISTRICTS: A land use classification created under Chapter 114 or 115 of the Fairfax County Code for the purpose of qualifying landowners who wish to retain their property for agricultural or forestal use for use/value taxation pursuant to Chapter 58 of the Fairfax County Code.

BARRIER: A wall, fence, earthen berm, or plant materials which may be used to provide a physical separation between land uses. Refer to Article 13 of the Zoning Ordinance for specific barrier requirements.

BEST MANAGEMENT PRACTICES (BMPs): Stormwater management techniques or land use practices that are determined to be the most effective, practicable means of preventing and/or reducing the amount of pollution generated by nonpoint sources in order to improve water quality.

BUFFER: Graduated mix of land uses, building heights or intensities designed to mitigate potential conflicts between different types or intensities of land uses; may also provide for a transition between uses. A landscaped buffer may be an area of open, undeveloped land and may include a combination of fences, walls, berms, open space and/or landscape plantings. A buffer is not necessarily coincident with transitional screening.

CHESAPEAKE BAY PRESERVATION ORDINANCE: Regulations which the State has mandated must be adopted to protect the Chesapeake Bay and its tributaries. These regulations must be incorporated into the comprehensive plans, zoning ordinances and subdivision ordinances of the affected localities. Refer to Chesapeake Bay Preservation Act, Va. Code Section 10.1-2100 et seq and VR 173-02-01, Chesapeake Bay Preservation Area Designation and Management Regulations.

CLUSTER DEVELOPMENT: Residential development in which the lots are clustered on a portion of a site so that significant environmental/historical/cultural resources may be preserved or recreational amenities provided. While smaller lot sizes are permitted in a cluster subdivision to preserve open space, the overall density cannot exceed that permitted by the applicable zoning district. See Sect. 2-421 and Sect. 9-615 of the Zoning Ordinance.

COUNTY 2232 REVIEW PROCESS: A public hearing process pursuant to Sect. 15.2-2232 (Formerly Sect. 15.1-456) of the Virginia Code which is used to determine if a proposed public facility not shown on the adopted Comprehensive Plan is in substantial accord with the plan. Specifically, this process is used to determine if the general or approximate location, character and extent of a proposed facility is in substantial accord with the Plan.

dBA: The momentary magnitude of sound weighted to approximate the sensitivity of the human ear to certain frequencies; the dBA value describes a sound at a given instant, a maximum sound level or a steady state value. See also Ldn.

DENSITY: Number of dwelling units (du) divided by the gross acreage (ac) of a site being developed in residential use; or, the number of dwelling units per acre (du/ac) except in the PRC District when density refers to the number of persons per acre.

DENSITY BONUS: An increase in the density otherwise allowed in a given zoning district which may be granted under specific provisions of the Zoning Ordinance when a developer provides excess open space, recreation facilities, or affordable dwelling units (ADUs), etc.

DEVELOPMENT CONDITIONS: Terms or conditions imposed on a development by the Board of Supervisors (BOS) or the Board of Zoning Appeals (BZA) in connection with approval of a special exception, special permit or variance application or rezoning application in a "P" district. Conditions may be imposed to mitigate adverse impacts associated with a development as well as secure compliance with the Zoning Ordinance and/or conformance with the Comprehensive Plan. For example, development conditions may regulate hours of operation, number of employees, height of buildings, and intensity of development.

DEVELOPMENT PLAN: A graphic representation which depicts the nature and character of the development proposed for a specific land area; information such as topography, location and size of proposed structures, location of streets, trails, utilities, and storm drainage are generally included on a development plan. A development plan is a submission requirement for rezoning to the PRC District. A **GENERALIZED DEVELOPMENT PLAN (GDP)** is a submission requirement for a rezoning application for all conventional zoning districts other than a P District. A development plan submitted in connection with a special exception (SE) or special permit (SP) is generally referred to as an SE or SP plat. A **CONCEPTUAL DEVELOPMENT PLAN (CDP)** is a submission requirement when filing a rezoning application for a P District other than the PRC District; a CDP characterizes in a general way the planned development of the site. A **FINAL DEVELOPMENT PLAN (FDP)** is a submission requirement following the approval of a conceptual development plan and rezoning application for a P District other than the PRC District; an FDP further details the planned development of the site. See Article 16 of the Zoning Ordinance.

EASEMENT: A right to or interest in property owned by another for a specific and limited purpose. Examples: access easement, utility easement, construction easement, etc. Easements may be for public or private purposes.

ENVIRONMENTAL QUALITY CORRIDORS (EQCs): An open space system designed to link and preserve natural resource areas, provide passive recreation and protect wildlife habitat. The system includes stream valleys, steep slopes and wetlands. For a complete definition of EQCs, refer to the Environmental section of the Policy Plan for Fairfax County contained in Vol. 1 of the Comprehensive Plan.

ERODIBLE SOILS: Soils that wash away easily, especially under conditions where stormwater runoff is inadequately controlled. Silt and sediment are washed into nearby streams, thereby degrading water quality.

FLOODPLAIN: Those land areas in and adjacent to streams and watercourses subject to periodic flooding; usually associated with environmental quality corridors. The 100 year floodplain drains 70 acres or more of land and has a one percent chance of flood occurrence in any given year.

FLOOR AREA RATIO (FAR): An expression of the amount of development intensity (typically, non-residential uses) on a specific parcel of land. FAR is determined by dividing the total square footage of gross floor area of buildings on a site by the total square footage of the site itself.

FUNCTIONAL CLASSIFICATION: A system for classifying roads in terms of the character of service that individual facilities are providing or are intended to provide, ranging from travel mobility to land access. Roadway system functional classification elements include Freeways or Expressways which are limited access highways, Other Principal (or Major) Arterials, Minor Arterials, Collector Streets, and Local Streets. Principal arterials are designed to accommodate travel; access to adjacent properties is discouraged. Minor arterials are designed to serve both through traffic and local trips. Collector roads and streets link local streets and properties with the arterial network. Local streets provide access to adjacent properties.

GEOTECHNICAL REVIEW: An engineering study of the geology and soils of a site which is submitted to determine the suitability of a site for development and recommends construction techniques designed to overcome development on problem soils, e.g., marine clay soils.

HYDROCARBON RUNOFF: Petroleum products, such as motor oil, gasoline or transmission fluid deposited by motor vehicles which are carried into the local storm sewer system with the stormwater runoff, and ultimately, into receiving streams; a major source of non-point source pollution. An oil-grit separator is a common hydrocarbon runoff reduction method.

IMPERVIOUS SURFACE: Any land area covered by buildings or paved with a hard surface such that water cannot seep through the surface into the ground.

INFILL: Development on vacant or underutilized sites within an area which is already mostly developed in an established development pattern or neighborhood.

INTENSITY: The magnitude of development usually measured in such terms as density, floor area ratio, building height, percentage of impervious surface, traffic generation, etc. Intensity is also based on a comparison of the development proposal against environmental constraints or other conditions which determine the carrying capacity of a specific land area to accommodate development without adverse impacts.

Ldn: Day night average sound level. It is the twenty-four hour average sound level expressed in A-weighted decibels; the measurement assigns a "penalty" to night time noise to account for night time sensitivity. Ldn represents the total noise environment which varies over time and correlates with the effects of noise on the public health, safety and welfare.

LEVEL OF SERVICE (LOS): An estimate of the effectiveness of a roadway to carry traffic, usually under anticipated peak traffic conditions. Level of Service efficiency is generally characterized by the letters A through F, with LOS-A describing free flow traffic conditions and LOS-F describing jammed or grid-lock conditions.

MARINE CLAY SOILS: Soils that occur in widespread areas of the County generally east of Interstate 95. Because of the abundance of shrink-swell clays in these soils, they tend to be highly unstable. Many areas of slope failure are evident on natural slopes. Construction on these soils may initiate or accelerate slope movement or slope failure. The shrink-swell soils can cause movement in structures, even in areas of flat topography, from dry to wet seasons resulting in cracked foundations, etc. Also known as slippage soils.

OPEN SPACE: That portion of a site which generally is not covered by buildings, streets, or parking areas. Open space is intended to provide light and air; open space may function as a buffer between land uses or for scenic, environmental, or recreational purposes.

OPEN SPACE EASEMENT: An easement usually granted to the Board of Supervisors which preserves a tract of land in open space for some public benefit in perpetuity or for a specified period of time. Open space easements may be accepted by the Board of Supervisors, upon request of the land owner, after evaluation under criteria established by the Board. See Open Space Land Act, Code of Virginia, Sections 10.1-1700, et seq.

P DISTRICT: A "P" district refers to land that is planned and/or developed as a Planned Development Housing (PDH) District, a Planned Development Commercial (PDC) District or a Planned Residential Community (PRC) District. The PDH, PDC and PRC Zoning Districts are established to encourage innovative and creative design for land development; to provide ample and efficient use of open space; to promote a balance in the mix of land uses, housing types, and intensity of development; and to allow maximum flexibility in order to achieve excellence in physical, social and economic planning and development of a site. Refer to Articles 6 and 16 of the Zoning Ordinance.

PROFFER: A written condition, which, when offered voluntarily by a property owner and accepted by the Board of Supervisors in a rezoning action, becomes a legally binding condition which is in addition to the zoning district regulations applicable to a specific property. Proffers are submitted and signed by an owner prior to the Board of Supervisors public hearing on a rezoning application and run with the land. Once accepted by the Board, proffers may be modified only by a proffered condition amendment (PCA) application or other zoning action of the Board and the hearing process required for a rezoning application applies. See Sect. 15.2-2303 (formerly 15.1-491) of the Code of Virginia.

PUBLIC FACILITIES MANUAL (PFM): A technical text approved by the Board of Supervisors containing guidelines and standards which govern the design and construction of site improvements incorporating applicable Federal, State and County Codes, specific standards of the Virginia Department of Transportation and the County's Department of Public Works and Environmental Services.

RESOURCE MANAGEMENT AREA (RMA): That component of the Chesapeake Bay Preservation Area comprised of lands that, if improperly used or developed, have a potential for causing significant water quality degradation or for diminishing the functional value of the Resource Protection Area. See Fairfax County Code, Ch. 118, Chesapeake Bay Preservation Ordinance.

RESOURCE PROTECTION AREA (RPA): That component of the Chesapeake Bay Preservation Area comprised of lands at or near the shoreline or water's edge that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may result in significant degradation of the quality of state waters. In their natural condition, these lands provide for the removal, reduction or assimilation of sediments from runoff entering the Bay and its tributaries, and minimize the adverse effects of human activities on state waters and aquatic resources. New development is generally discouraged in an RPA. See Fairfax County Code, Ch. 118, Chesapeake Bay Preservation Ordinance.

SITE PLAN: A detailed engineering plan, to scale, depicting the development of a parcel of land and containing all information required by Article 17 of the Zoning Ordinance. Generally, submission of a site plan to DPWES for review and approval is required for all residential, commercial and industrial development except for development of single family detached dwellings. The site plan is required to assure that development complies with the Zoning Ordinance.

SPECIAL EXCEPTION (SE) / SPECIAL PERMIT (SP): Uses, which by their nature, can have an undue impact upon or can be incompatible with other land uses and therefore need a site specific review. After review, such uses may be allowed to locate within given designated zoning districts if appropriate and only under special controls, limitations, and regulations. A special exception is subject to public hearings by the Planning Commission and Board of Supervisors with approval by the Board of Supervisors; a special permit requires a public hearing and approval by the Board of Zoning Appeals. Unlike proffers which are voluntary, the Board of Supervisors or BZA may impose reasonable conditions to assure, for example, compatibility and safety. See Article 8, Special Permits and Article 9, Special Exceptions, of the Zoning Ordinance.

STORMWATER MANAGEMENT: Engineering practices that are incorporated into the design of a development in order to mitigate or abate adverse water quantity and water quality impacts resulting from development. Stormwater management systems are designed to slow down or retain runoff to re-create, as nearly as possible, the pre-development flow conditions.

SUBDIVISION PLAT: The engineering plan for a subdivision of land submitted to DPWES for review and approved pursuant to Chapter 101 of the County Code.

TRANSPORTATION DEMAND MANAGEMENT (TDM): Actions taken to reduce single occupant vehicle automobile trips or actions taken to manage or reduce overall transportation demand in a particular area.

TRANSPORTATION SYSTEM MANAGEMENT (TSM) PROGRAMS: This term is used to describe a full spectrum of actions that may be applied to improve the overall efficiency of the transportation network. TSM programs usually consist of low-cost alternatives to major capital expenditures, and may include parking management measures, ridesharing programs, flexible or staggered work hours, transit promotion or operational improvements to the existing roadway system. TSM includes Transportation Demand Management (TDM) measures as well as H.O.V. use and other strategies associated with the operation of the street and transit systems.

URBAN DESIGN: An aspect of urban or suburban planning that focuses on creating a desirable environment in which to live, work and play. A well-designed urban or suburban environment demonstrates the four generally accepted principles of design: clearly identifiable function for the area; easily understood order; distinctive identity; and visual appeal.

VACATION: Refers to vacation of street or road as an action taken by the Board of Supervisors in order to abolish the public's right-of-passage over a road or road right-of-way dedicated by a plat of subdivision. Upon vacation, title to the road right-of-way transfers by operation of law to the owner(s) of the adjacent properties within the subdivision from whence the road/road right-of-way originated.

VARIANCE: An application to the Board of Zoning Appeals which seeks relief from a specific zoning regulation such as lot width, building height, or minimum yard requirements, among others. A variance may only be granted by the Board of Zoning Appeals through the public hearing process and upon a finding by the BZA that the variance application meets the required Standards for a Variance set forth in Sect. 18-404 of the Zoning Ordinance.

WETLANDS: Land characterized by wetness for a portion of the growing season. Wetlands are generally delineated on the basis of physical characteristics such as soil properties indicative of wetness, the presence of vegetation with an affinity for water, and the presence or evidence of surface wetness or soil saturation. Wetland environments provide water quality improvement benefits and are ecologically valuable. Development activity in wetlands is subject to permitting processes administered by the U.S. Army Corps of Engineers.

TIDAL WETLANDS: Vegetated and nonvegetated wetlands as defined in Chapter 116 Wetlands Ordinance of the Fairfax County Code: includes tidal shores and tidally influenced embayments, creeks, and tributaries to the Occoquan and Potomac Rivers. Development activity in tidal wetlands may require approval from the Fairfax County Wetlands Board.

Abbreviations Commonly Used in Staff Reports

A&F	Agricultural & Forestal District	PDH	Planned Development Housing
ADU	Affordable Dwelling Unit	PFM	Public Facilities Manual
ARB	Architectural Review Board	PRC	Planned Residential Community
BMP	Best Management Practices	RC	Residential-Conservation
BOS	Board of Supervisors	RE	Residential Estate
BZA	Board of Zoning Appeals	RMA	Resource Management Area
COG	Council of Governments	RPA	Resource Protection Area
CBC	Community Business Center	RUP	Residential Use Permit
CDP	Conceptual Development Plan	RZ	Rezoning
CRD	Commercial Revitalization District	SE	Special Exception
DOT	Department of Transportation	SEA	Special Exception Amendment
DP	Development Plan	SP	Special Permit
DPWES	Department of Public Works and Environmental Services	TDM	Transportation Demand Management
DPZ	Department of Planning and Zoning	TMA	Transportation Management Association
DU/AC	Dwelling Units Per Acre	TSA	Transit Station Area
EQC	Environmental Quality Corridor	TSM	Transportation System Management
FAR	Floor Area Ratio	UP & DD	Utilities Planning and Design Division, DPWES
FDP	Final Development Plan	VC	Variance
GDP	Generalized Development Plan	VDOT	Virginia Dept. of Transportation
GFA	Gross Floor Area	VPD	Vehicles Per Day
HC	Highway Corridor Overlay District	VPH	Vehicles per Hour
HCD	Housing and Community Development	WMATA	Washington Metropolitan Area Transit Authority
LOS	Level of Service	WS	Water Supply Protection Overlay District
Non-RUP	Non-Residential Use Permit	ZAD	Zoning Administration Division, DPZ
OSDS	Office of Site Development Services, DPWES	ZED	Zoning Evaluation Division, DPZ
PCA	Proffered Condition Amendment	ZPRB	Zoning Permit Review Branch
PD	Planning Division		
PDC	Planned Development Commercial		