

#### **Board of Supervisors**

Jack R. Cavalier, Chairman Gary F. Snellings, Vice Chairman Meg Bohmke Paul V. Milde, III Laura A. Sellers Cord A. Sterling Robert "Bob" Thomas, Jr.

Anthony J. Romanello, ICMA-CM County Administrator

July 30, 2014

Paul-Noel Chretien, Manager Fox Chase Apartments, LLC 43403 Coton Commons Drive Lansdowne, VA 20176

Subject: Proffer Determination; RC1100029, Assessor's Parcel 45-217 and 45-217A,

Zoned R-3, Urban Residential - High Density; Ordinance O11-2

Dear Mr. Chretien:

You submitted a request for a determination of two issues related to conditions in the September 7, 2011 Proffer Statement, adopted by the Stafford County Board of Supervisors on October 4, 2011, pursuant to Ordinance O11-22.

#### **Issues**

In your letter, dated May 2, 2014, you stated the issues are:

"1. Whether the applicant is limited to a maximum of 99 units and; 2. Whether 11 per-unit proffers of \$37,837.93 (\$416,217.23 in total) must be paid if there are fewer than 11 units placed on the former B-1 zoned parcel."

#### Issue #1

A rezoning application submission is required to include a general development plan, which is a concept of the development used to provide a basis for the review of the reclassification of the property. This rezoning application included a generalized development plan, dated December, 2009 (the GDP). Proffer Condition 1(a) states that:

Subject to the terms herein, the Property will be generally developed in accordance with the Generalized Development Plan submitted with our rezoning application prepared by Bowman Consulting entitled "Generalized Development Plan Fox Chase Commons", dated December 2009, as last revised (hereinafter the "GDP").



Letter to: Paul-Noel Chretien, Manager Fox Chase Apartments, LLC Page 2 of 3

Proffer Condition 1(c) describes the amendments that may be made to the GDP.

The County and the Applicant further agree that all parcel lines, parcel sizes, building envelopes, building sizes, public road locations, private driveway and travel way locations, utility locations, storm water management facilities, and dimensions of undeveloped area shown on the GDP may be amended from time to time by the Applicant to fulfill requirements of final engineering and design and/or compliance with state agency regulations including, but not limited to, VDOT, DEQ, etc., and compliance with the requirements of the county's development regulations and design standards manual. Changes consistent with the original intent of the GDP (the original intent of the GDP providing only for the general location of the buildings, parking areas, and entrances to and exits from the development) shall be permitted. Where it is necessary to determine if changes are consistent with the original intent of the GDP, the same shall be referred to the County Zoning Administrator for determination thereof.

The GDP submitted with this reclassification application showed 99 lots within the development. Proffer Condition 1(a) states the property will be developed in accordance with the GDP. Because the permitted GDP amendments under Proffer Condition 1(c) do not include increasing the number of lots, the permitted number of lots in this development is 99.

#### Issue # 2

Your second issue is whether the per-unit proffers must be paid on units that are no longer located on the portion of the property known as Assessor's Parcel 45-217A. Proffered Condition 3 states (in part):

Cash Contribution- For purposes of rezoning TM 45-217A only, the Applicant agrees to pay the County the total sum of \$382,283 as cash proffers, which equates to \$34,753 x 11 units, under the County's current proffer guidelines for townhouses. Cash proffers will be payable pro-rata to the County upon the issuance of a final certificate of occupancy for each of the 11 residential townhouse units located on TM 45-217A, all as shown on the GDP.

This proffer condition states that the applicant shall pay a total of \$382,283 in cash proffers. This total cash proffer contribution equates to \$34,753 per unit, with a total of 11 units on Tax Map Parcel 45-217A, as shown on the GDP. (Please see the attached Proffer Fee Adjustment letter, December 4, 2013 for the revised per unit proffer amount resulting in an adjusted cash proffer total of \$416,217.23). In 2011, Tax Map Parcel 45-217A was rezoned from B-1, Convenience Commercial, to R-3, and Urban Residential. This parcel is still subject to the voluntary cash proffers which the applicant agreed to pay under the Proffer Statement and Ordinance O11-22. The GDP showed all or a portion of 11 units on Tax Map Parcel 45-217A.

Letter to: Paul-Noel Chretien, Manager Fox Chase Apartments, LLC Page 3 of 3

Based on Planning Commission requests to relocate the tot lot, the development's layout was revised. The approved Preliminary Plan shows all or a portion of 6 units within the boundaries of former Tax Map Parcel 45-217A and. The GDP is referenced in both of these proffer conditions. The revisions that were approved with the Preliminary Plan were allowed because they were within the scope of amendments p permitted under Proffer Condition 1(c). But those revisions do not and cannot amend the proffer language itself. The proffer statement itself can only be amended by a Board of Supervisors' adopted ordinance. Therefore, the cash proffer amount that must be paid under Proffered Condition 3 was \$382, 283, and now is \$416,217.23, which is based on the number of lots shown within TM 45-217A, as shown on the GDP. This determination may be appealed to the Board of Zoning Appeals within thirty (30) days from receipt of this letter, inaccordance with Virginia Code § 15.2-2311, or this decision shall be final and unappealable.

If you have any questions or comments, I can be reached by phone at (540) 658-8668 or by email at <a href="mailto:sblackburn@staffordcountyva.gov">sblackburn@staffordcountyva.gov</a>.

Sincerely,

Susan W. Blackburn
Zoning Administrator

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SB:dk

Enclosures (4)

# STAFFORD irginia

December 4, 2013

**Board of Supervisors** 

Susan B. Stimpson, Chairman Robert "Bob" Thomas, Jr., Vice Chairman Jack R. Cavaller

Jack R. Cavaller Paul V. Milde, Ill Ty A. Schieber

Gary F. Snellings Cord A. Sterling

Anthony J. Romanello, ICMA-CM County Administrator

Mr. Paul-Noel Chretien Fox Chase Apartments, LLC 6650 Hampton Park Court McLean, Virginia 22101

**FILE COPY** 

SUBJECT: Fox Chase Commons Proffer Fee Adjustment

## Dear Mr. Chretien:

This letter is to advise you of updated proffer fees associated with eleven (11) of the lots in Fox Chase Commons. Proffer #3 in Ordinance 11-22, dated October 4, 2011, states that the per unit contributions for each residential townhouse unit shall, until paid, be subject to annual increases. Each year, per the terms stated in the proffers, the proffer fees are adjusted based on the Marshall Swift Index. The following table displays the new escalated amount per unit:

Category	New Modified Amount
General Government	\$ 514.97
Libraries	\$ 671.75
Transportation Schools	\$11,000.59
	\$16,660.93
Parks and Recreation	\$ 8,124.15
Fire and Rescue TOTAL (PER UNIT)	<b>\$</b> 865.55
	\$37,837.93

The next adjustment to the proffer contributions is scheduled for October 2014. If you have any questions, please feel free to contact me or Erica Ehly at (540) 658-8668.

Sincerely,

Jeffrey M. Harvey AICI

Director of Planning and Zoning

JAH:ehe

THE

## BOARD OF SUPERVISORS COUNTY OF STAFFORD STAFFORD, VIRGINIA

#### **ORDINANCE**

At a regular meeting of the Stafford County Board of Supervisors (the Board) held in the Board Chambers, Stafford County Administration Center, Stafford, Virginia, on the 4<sup>th</sup> day of October, 2011:

MEMBERS:	<u>VOTE</u> :
Mark Dudenhefer, Chairman	Yes
Paul V. Milde III, Vice Chairman	Yes
Harry E. Crisp II	Absent
Gary F. Snellings	Yes
Cord A. Sterling	Yes
Susan B. Stimpson	Yes
Robert "Bob" Woodson	Yes

On motion of Ms. Stimpson, seconded by Mr. Snellings, which carried by a vote of 6 to 0, the following was adopted:

AN ORDINANCE TO AMEND AND REORDAIN THE ZONING ORDINANCE FOR STAFFORD COUNTY BY AMENDING THE PROFFERED CONDITIONS ON ASSESSOR'S PARCELS 45-217, ZONED R-3, URBAN RESIDENTIAL-HIGH DENSITY, AND TO RECLASSIFY FROM B-1, CONVENIENCE COMMERCIAL ZONING DISTRICT, TO R-3, URBAN RESIDENTIAL-HIGH DENSITY ZONING DISTRICT ON ASSESSOR'S PARCEL 45-217A, WITHIN THE FALMOUTH ELECTION DISTRICT

WHEREAS, Fox Chase Apartments, LLC, has submitted application RC1100029 requesting an amendment to proffered conditions on Assessor's Parcel 45-217 zoned R-3, Urban Residential-High Density and a reclassification from B-1, Convenience Commercial Zoning District to R-3, Urban Residential-High Density Zoning District, on Assessor's Parcel 45-217A; and

WHEREAS, the Board has carefully considered the recommendations of the Planning Commission and staff, and public testimony at the public hearing; and

WHEREAS, the Board has determined that the requested amendment to proffered conditions is appropriate; and

WHEREAS, the Board has determined that the requested zoning is compatible with the surrounding land uses and zoning; and

WHEREAS, the Board finds that public necessity, convenience, general welfare, and good zoning practice requires adoption of an ordinance to amend the proffered conditions on the Assessor's Parcel 45-217 and to reclassify Assessor's Parcel 45-217A;

NOW, THEREFORE, BE IT ORDAINED by the Stafford County Board of Supervisors on this the 4<sup>th</sup> day of October, 2011, that the Zoning Ordinance for Stafford County be and it hereby is amended and reordained by amending the zoning district map to amend proffered conditions on Assessor's Parcel 45-217, zoned R-3, Urban Residential-High Density, and to reclassify from B-1, Convenience Commercial Zoning District, to R-3, Urban Residential-High Density, Zoning District on Assessor's Parcel 45-217A, with proffers entitled "Proffer Statement," and dated September 7, 2011.

A Copy, teste:

Anthony J. Romanello, ICMA-CM

County Administrator

AJR:JAH:cjh

## REVISED PROFFER STATEMENT

County of Stafford, Virginia

Applicant: Fox Chase Apts., LLC, a Virginia limited liability company

Rezoning Request: Rezone from B-1 to R-3

Proffer Amendment: Remove Prior Rezoning Conditions for 45-217

Properties: Tax Map 45-217 & 45-217 A, Stafford County, Virginia

(collectively the "Property")

Date: September 7, 2011

## 1. General Requirements.

(a) Subject to the terms herein, the Property will be generally developed in accordance with the Generalized Development Plan submitted with our rezoning application prepared by Bowman Consulting entitled "Generalized Development Plan Fox Chase Commons", dated December 2009, as last revised (hereinafter the "GDP").

- (b) These proffers are being made pursuant to Sections 15.2-2298, et al. of the Code of Virginia (1950), as amended, and Section 28-164, et al. of the County Zoning Ordinance. The proffers provided herein are the only proffered conditions offered in this application, and any prior proffers in which the Property may be subject to or previously offered with the Applicant's application are hereby superseded by these proffers, and further hereby void and of no further force and effect. Notwithstanding the foregoing, the proffers provided hereunder are conditional and will only become effective upon the Stafford County Board of Supervisors approval (including applicable appeal periods) of the Applicant's rezoning and proffer amendment request County File No. RC1100029, "Fox Chase Commons".
- (c) The County and the Applicant further agree that all parcel lines, parcel sizes, building envelopes, building sizes, public road locations, private driveway and travel way locations, utility locations, storm water management facilities, and dimensions of undeveloped area shown on the GDP may be amended from time to time by the Applicant to fulfill requirements of final engineering and design and/or compliance with state agency regulations including, but not limited to, VDOT, DEQ, etc., and compliance with the requirements of the county's development regulations and design standards manual. Changes consistent with the original intent of the GDP (the original intent of the GDP providing only for the general location of the buildings, parking areas, and entrances to and exits from the development) shall be permitted. Where it is necessary to determine if changes are consistent with the original intent of the GDP, the same shall be referred to the County Zoning Administrator for determination thereof.



- (d) These proffers shall run with the properties referenced above and be binding upon all future assignees, successors, grantees or lessees thereof, except as may be otherwise specifically set forth herein.
- (e) Any reference to the "Applicant" shall refer to Fox Chase Apts., LLC, the owner, and its future assignees, successors, grantees or lessees.
- 2. Architecture & Materials: The architecture proffers for the project will be in general accordance with the conceptual architectural rendering attached hereto and marked as Exhibit B. Materials for the townhouse units will include a combination of brick or stone and vinyl or hardy-plank siding, concrete, glass, fiber glass shingles and other similar materials as shown on said exhibit. We also agree to include for 50% of the units facing Route 1 brick or stone material front façades. We also agree to have 25% of the remaining units to include brick or stone material front façades.
- 3. Cash Contribution For purposes of rezoning TM 45-217A only, the Applicant agrees to pay the County the total sum of \$382,283 as cash proffers, which equates to \$34,753 x 11 units, under the County's current proffer guidelines for townhouses. Cash proffers will be payable prorata to the County upon the issuance of a final certificate of occupancy for each of the 11 residential townhouse units located on TM 45-217A, all as shown on the GDP. The per unit payment may, until paid, be subject to annual increases, with prior notice to the Applicant, to be calculated on a yearly basis commencing one year after the date of final County approval of this proffer statement. Such increases shall be calculated by multiplication of the Marshall-Swift Index and not the Consumer Price Index of the Department of Labor Statistics for the current year by the original per unit cash proffer amount.

The per unit cash contribution shall be allocated based on the following categories or subcategories:

General Government \$473 per unit
Libraries \$617 per unit
Fire and Rescue \$795 per unit
Transportation \$10,104 per unit
Schools \$15,303 per unit
Parks & Recreation \$7,462 per unit

Total Proffer Dollars: 11 units x \$34,753 = \$382,283

- 4. <u>Transportation</u>. In addition to the abovementioned cash proffers, the Applicant agrees to provide all right of ways and transportation improvements, as generally shown on the GDP.
- 5. <u>Lighting.</u> For purposes of any outside lighting, the Applicant will provide "down-lighting" techniques not to exceed .50 foot candles at the property line or so as not to intrude upon the adjacent properties.



- 6. <u>Proffer Amendment Recreation Contribution</u>. The Applicant will provide the following onsite recreational amenities:
  - (a) An approximately 4,185-square-foot tot lot area as shown on the GDP and
  - (b) Jogging/walking paths, all as generally shown on the GDP.
- 7. Proffer Amendment Cash Contributions. In addition to the above Section 3 cash proffers for TM 45-217A, the Applicant, for purposes of TM 45-217 and the proffer amendment application provided hereunder, agrees to provide a cash proffer in the aggregate amount of \$500,000 for schools and recreation services. We propose that the proffer dollars under this Section 7 be equally divided amount the County's Parks and Recreation Department and County allocations for Stafford County schools, and more specifically for the following projects: (a) 50% of this monetary contribution towards Stafford High School capital improvements; and (b) 50% towards the Chichester and/or Musselman Parks capital improvements or other option of County applying the funds at its sole discretion. The Applicant will pay this proffer prorata (\$5681.81 per unit) to the County upon the issuance of a final certificate of occupancy for each of the subject 88 residential townhouse units located on TM 45-217, all as shown on the GDP.
- 8. <u>Buffering & Screening</u>. The Applicant will provide a seventeen (17) foot transitional buffering and landscaping, including a six (6) foot high privacy fence located to the south of the site, adjacent to Tax Map No. 46-34, all as shown on the GDP.
- 9. <u>Covenants</u>. The Applicant will encumber the Property with a declaration of conditions, covenants, restrictions, and easements ("Declaration") for the purpose of (a) protecting the value and desirability of the property; (b) facilitating the planning and development of the community in a unified and consistent manner; and (c) providing for the installation, maintenance, and repair for all common area, including landscaping, on-site amenities and open space, parking areas, travelways and roads. The Applicant will also create a property owner's association as a non-stock corporation under the laws of Virginia that will provide and ensure oversight and structure for services provided, quality standards, intercampus relationships and common area maintenance.
- 10. <u>Relocation Assistance</u>. The Applicant proffers that prior to the termination of current residential leases pertaining to apartments located on Tax Map 45-217, it will provide the following to then-current tenants: (i) free relocation counseling through the Applicant's property management company; (ii) 90 days' prior written notice before terminating any lease; and (iii) \$200 per unit to assist tenants with moving expenses.
- 11. <u>Architectural Survey</u>. We will agree to have a general architectural survey prepared prior to the demolition of the buildings.
- 12. <u>Tot Lot Area Limitations</u>. The area will be private, for residents only, and will have signage to that effect. The use will also be limited and no activity will be allowed past sundown.



13. <u>Fire Suppression System</u>. For purposes of all the units described hereunder, the Applicant agrees to offer future buyers, as an option and not a requirement of said buyer or the Applicant, the installation of automatic sprinkler systems.

# APPLICANT'S ACKNOWLEDGMENT & CONSENT

Fox Chase Apts., LLC a Virginia limited liability company			
Print Name: Paul Noel Chretien Title: Manager			
COMMONWEALTH OF VIRGINIA CITY/COUNTY OF TOWNS, to wit:			
I, the undersigned, a Notary Public in and for the City/County and State aforesaid, do hereby certify that and local Charles, whose name as manager for Fox Chase Apts., LLC, has personally acknowledged the same before me in my aforesaid jurisdiction for the company.			
GIVEN under my hand and seal this 1 day of 5 ( ) knib (20)	11.		
Print Name: TUPINDERSINGH  My Commission Expires: 701/30/30/2014			
Registration No.:     Seal   Commission Expires:   Seal   Commission   Commission	RUPINDER K. SINGH Notary Public Commonwealth of Virginia 7011248 My Commission Expires Apr 30, 2014		

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## GENERALIZED DEVELOPMENT PLAN

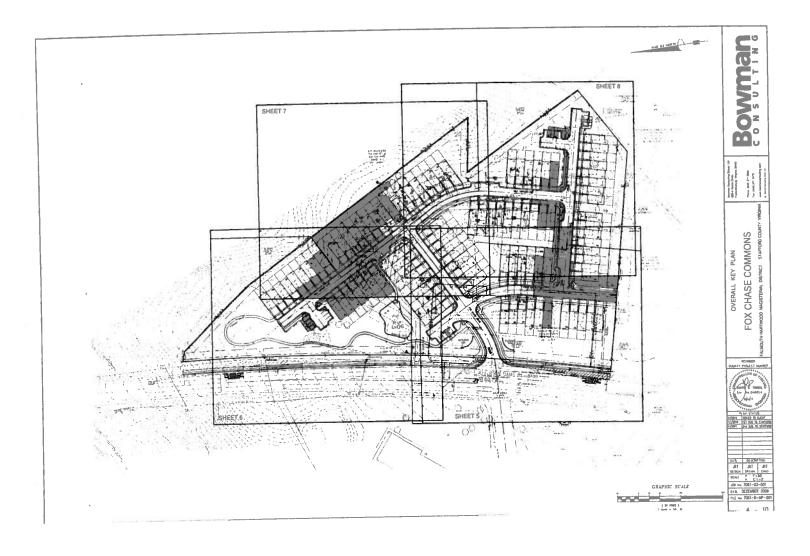
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APPROVAL

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# GENERALIZED DEVELOPMENT PLAN

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APPROVAL.

FOX CHASE COMMONS

