

**RZ/FDP 2010-SP-012
WESTBROOK PROPERTY, LLC
PROFFER STATEMENT**

**October 21, 2010
December 10, 2010
January 13, 2011
January 18, 2011
February 2, 2011**

Pursuant to Section 15.2-2303(A) of the Code of Virginia, as amended, and subject to the Fairfax County Board of Supervisors' (the "Board") approval of rezoning application RZ 2010-SP-012, as proposed, for rezoning from the R-1 and WSPOD Districts to the PDH-2 and WSPOD Districts, Westbrook Property LLC (the "Applicant"), for itself and its successors and assigns, hereby proffers that development of Tax Map Parcel 55-4 ((3)) R7 (the "Property"), containing approximately 7.23 acres, shall be in accordance with the following proffered conditions:

1. Substantial Conformity. The Property shall be developed in substantial conformance with the Conceptual Development Plan and Final Development Plan ("CDP/FDP") consisting of ten (10) sheets prepared by Urban Engineering & Associates, Inc., and dated June 18, 2010, revised through February 2, 2011, as further modified by these proffered conditions.
2. Final Development Plan Amendment. Notwithstanding that the CDP/FDP consists of seven (7) sheets and is the subject of Paragraph 1 above, it shall be understood that (i) the CDP shall consist of the entire plan relative to the general layout, points of access to the existing road network, peripheral setbacks, the maximum number and type of units, limits of clearing and grading and the location and amount of open space on the Property; and (ii) the Applicant has the option to request Final Development Plan Amendment ("FDPA") approvals from the Planning Commission in accordance with Section 16-402 of the Zoning Ordinance with respect to the remaining elements.
3. Minor Modifications to Design. Pursuant to Paragraph 4 of Section 16-403 of the Zoning Ordinance, minor modifications from the approved CDP/FDP may be permitted as determined by the Zoning Administrator. The Applicant shall have the flexibility to modify the layout shown on the CDP/FDP provided such changes are in substantial conformance with the CDP/FDP and proffers, and do not increase the total number of units, change the unit mix, or decrease the minimum amount of open space or peripheral setbacks shown to be provided on the Property.
4. Maximum Density. A maximum of fourteen (14) single family detached dwelling units at a maximum density of 1.93 dwelling units per acre shall be permitted on the Property. The Applicant reserves the right to develop fewer than this maximum number of units referenced in this paragraph without the need for a Proffered Condition Amendment ("PCA") application or CDPA/FDPA.

5. Right-of-Way Dedication. The Applicant shall dedicate right-of-way for two new public roads as depicted on the CDP/FDP, subject to review and approval by VDOT and DPWES. All road right-of-way ("ROW") dedicated in conjunction with these proffers and depicted on the CDP/FDP shall be conveyed to the Board in fee simple upon demand by Fairfax County (the "County") or at the time of recordation of the final record plat/subdivision plat, whichever occurs first, and shall be subject to the "Density Credit" Proffer below regarding reservation of development intensity to the residue of the subject Property.
6. Transportation Improvements.
 - A. Prior to the issuance of the first Residential Use Permit ("RUP") and subject to VDOT and DPWES approval, the Applicant shall construct a public street connection linking Autumn Willow Drive and Lincoln Drive, generally as depicted on the CDP/FDP ("Lincoln Drive Extended") in accordance with VDOT and DPWES requirements.
 - B. Prior to the issuance of the first Residential Use Permit ("RUP") and subject to VDOT approval, the Applicant shall construct a public street with a cul-de-sac, generally as depicted on the CDP/FDP in accordance with VDOT and DPWES requirements.
 - C. Subject to VDOT and DPWES approval, as an appropriate traffic-calming measure the Applicant shall provide signage for a three-way stop at the intersection of Lincoln Drive Extended and the proposed cul-de-sac street (referenced in Proffer 6B above).
 - D. As determined by VDOT, the Applicant shall provide a pedestrian crosswalk consisting of stamped asphalt or striped with paint across Lincoln Drive Extended which connects the subdivision sidewalk to the relocated parkland trail access (see Proffer 9) on the east side of Lincoln Drive Extended.
 - E. Subject to provision at no cost to the Applicant of a construction permit and right-of-entry by the Fairfax County Park Authority ("FCPA"), the Applicant shall scarify the asphalt associated with the existing temporary cul-de-sac and replant said area with grass, except for that portion identified as Resource Protection Area ("RPA") "Reforestation Area" on the CDP/FDP, which shall be planted as described in Proffer 14 below.
7. Fairfax Center Area ("FCA") Road Fund. At the time of final site plan approval, the Applicant shall contribute to the FCA Road Fund in accordance with the Procedural Guidelines adopted by the Board of Supervisors on November 22, 1982, as amended, subject to credit for all creditable expenses as determined by Fairfax County Department of Transportation and/or DPWES.
8. Public Street Access. All single family lots shall have frontage on a public street in accordance with Zoning Ordinance requirements.

9. Trail Improvements. Subject to approval and provision, at no cost to Applicant, of a construction permit and right-of-entry by the Fairfax County Park Authority (“FCPA”), the Applicant shall remove parts of the existing trail within the area of the proposed construction of Lincoln Drive Extended and shall reconstruct a new, accessible segment of trail connecting the crosswalk referred in Proffer 6(c) to the existing FCPA trail on the east side of Lincoln Drive Extended, generally as depicted on Sheet 4 of the CDF/FDP, of a similar width and materials. The exact location of the proposed trail connection shall be determined in coordination with the Park Authority Trail Coordinator.
10. Connection to Trail. Subject to obtaining necessary easements and/or right-of-way from the Fairfax County Park Authority (“FCPA”) and the “Tregaron Homeowners’ Association,” the Applicant shall construct a new, off-site sidewalk connection, providing a link to the existing wood chip trail within Tregaron, at Lincoln Drive, in accordance with DPWES and VDOT requirements. Said connection shall be completed prior to issuance of the Residential Use Permit (“RUP”) for the final dwelling unit.
- 10A. Connection to Trail. In the immediate area of the trail connection, the applicant shall work with the Park Authority to design and construct a wayside trail feature, designed as a small, leveled hardscape area that contains two benches and a trash can all designed to Park Authority standards, provided the construction of said wayside trail feature within the RPA shall be permitted without the necessity for any water quality assessment or other extraordinary permitting cost. The Homeowner’s Association (HOA) shall be responsible for maintaining this area, which shall include trash removal at least one time per week.
11. Open Space. A minimum of 2.3 acres (including the land dedicated to the FCPA per Proffer 12), or thirty (30) percent of the site shall remain in open space. At the time of recordation of the subdivision, the Applicant shall convey all open space located along the western and northern property boundaries outside private lot lines, as shown on the CDP/FDP, to the HOA for ownership and maintenance.
12. Land Dedication to Fairfax County Park Authority (“FCPA”). At the time of final subdivision plat recordation or upon completion of Applicant's trail construction, scarifying and reforestation, whichever is later, the Applicant shall dedicate in fee simple, without monetary encumbrances or covenants, approximately 26,000 square feet (± 0.60 acre) of open space located east of the new public road adjacent to the existing parkland as depicted on the CDP/FDP to the FCPA, solely for public park passive open space purposes. Dedication of said 0.60 acre shall be contingent upon FCPA effecting a land exchange with the Applicant in which approximately 3,900 square feet (± 0.09 acre) of parkland (located adjacent to the northeast corner of the Property and within the future road right-of-way of Lincoln Drive Extended, as generally defined on the CDP/FDP) is conveyed to the Board of Supervisors in fee simple for public street purposes.
13. Triangle Parcel “E.” Should the FCPA elect to convey in fee simple without monetary encumbrances or covenants Tax Map Parcel 55-4 ((18)) E to the Applicant at no cost in conjunction with Applicant’s land dedication referenced above, then the Applicant shall

accept Parcel E which shall be owned and maintained by the future Homeowners Association.

14. Reforestation Area. As defined by striped lines on the "Landscape Plan" (Sheets 4 and 5 of the CDP/FDP), the Applicant shall scarify the asphalt and provide plantings in accordance with PFM Standards to reforest the strip of land located east of Lincoln Drive Extended within and adjacent to the Resource Protection Area ("RPA") in consultation with the County Urban Forester and the Park Authority Staff.
15. Limits of Clearing and Grading. Development of the Property shall conform to the limits of clearing and grading shown on the CDP/FDP, subject only to the installation of utilities, trails and roadways, if necessary, as approved by DPWES. All limits of clearing and grading shall be protected by temporary wire fencing that is a minimum of four (4) feet in height, in accordance with County Urban Forestry Division standards (see below). Any necessary disturbance for utilities beyond that shown on the CDP/FDP shall be coordinated with the Urban Forester and accomplished in the least disruptive manner reasonably possible given engineering, cost, and site design constraints, as determined by the Urban Forester. Any area protected by the limits of clearing and grading that must be disturbed due to the installation of water lines shall be replanted with the application of straw, mulch, grass seed and/or a mix of native vegetation as determined by the Urban Forester, to return the area as nearly as reasonably possible to its condition prior to the disturbance, as determined by the Urban Forester.
16. Tree Preservation.
 - A. Plan. The Applicant shall contract with a certified arborist to prepare a tree preservation plan to be submitted as part of the first and all subsequent subdivision submissions. The plan shall be reviewed and approved by the Urban Forestry Division in accordance with all applicable PFM and Zoning Ordinance requirements, as such may be modified by appropriate approvals such as, but not limited to, the Tree Preservation Target Area Deviation Request set forth in this rezoning application. The certified arborist responsible for the preparation of the tree preservation plan shall be referred to as the "Project Arborist." Said tree preservation plan shall provide for preservation of specific quality trees or stands of trees within the tree save areas depicted on the CDP/FDP to the maximum extent reasonably feasible, subject to the potential installation of utilities, and to the maximum extent reasonably feasible without precluding the development of a single family home typical to this project on each of the building envelopes and lots shown on the CDP/FDP. The Urban Forester may require reasonable modifications of such plan to the extent these modifications do not alter the number of dwelling units shown on the CDP/FDP, reduce the size of the proposed units, significantly move their location on the lot, or require the installation of retaining walls. The tree preservation plan shall consist of a tree survey which includes the locations, species, size, crown spread, and condition rating percent of all trees measuring twelve (12) inch diameter at breast height ("dbh") or

greater located within ten feet (10) inside and twenty-five (25) feet outside the limits of clearing areas depicted on the CDP/FDP. Additionally, included in the tree preservation plan shall be a condition analysis and rating for all trees measuring twelve (12) inch dbh or greater located within ten (10) feet of the inside and twenty-five (25) feet outside of the limits of clearing and grading for all tree buffer areas shown to be preserved on the CDP/FDP. The condition analysis shall be prepared using methods outlined in the latest edition of "The Guide for Plant Appraisal." Specific tree preservation activities shall be incorporated into the tree preservation plan. Activities should include, but not be limited to, crown pruning, root pruning, mulching and fertilization.

- B. Tree Preservation Walk-Through. The Applicant shall retain the services of a Certified Arborist or Registered Consulting Arborist, and shall have the limits of clearing and grading marked with a continuous line of flagging prior to the walk-through meeting. During the tree preservation walk-through meeting, the Applicant's certified arborist or landscape architect shall walk the limits of clearing and grading with an UFMD, DPWES, representative to determine where adjustments to the clearing limits can be made to increase the area of tree preservation and/or to increase the survivability of trees at the edge of the limits of clearing and grading, and such adjustment shall be implemented. Trees that are identified as dead or dying or potentially hazardous may be removed as part of the clearing operation with approval of the Urban Forest Management Division. 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 adjacent trees and associated understory vegetation and soil conditions.

- C. Tree Preservation Fencing. All trees and buffers shown to be preserved on the tree preservation plan shall be protected by fencing. Tree protection fencing shall be erected at the limits of clearing and grading. Materials and installation of tree protection fencing shall consist of four foot-high, 14-gauge welded wire, attached to six foot steel posts, driven 18 inches into the ground and placed no further than 10 feet apart. The tree protection fencing shall be installed after the tree preservation walk-through meeting and prior to the performance of any clearing and grading activities on-site. All tree preservation activities, including the installation of tree protection fencing, shall be performed under the supervision of the Project Arborist and accomplished in a manner that does not harm existing vegetation to be preserved. Prior to commencement of any clearing and grading activities on-site, the Project Arborist shall verify in writing that the tree protection fencing has been properly installed.

- D. Signage shall be securely attached to the protective fencing, identifying the tree preservation area and made clearly visible to all construction personnel. Signs shall measure a minimum of 10x12 inches and read: "TREE PRESERVATION AREA - KEEP OUT." Three days prior to the commencement of any clearing, grading or demolition activities, the Urban Forestry Division shall be notified and given the opportunity to inspect the site to ensure that all tree protection fencing has been installed properly.
- E. The HOA documents shall require that no structures (other than utilities, utility lines, and/or trails as provided herein above) or fences shall be erected in the tree save area, and that trees in HOA open space areas and the tree save area will not be disturbed except as approved by the Urban Forest Management Division for (i) the removal of diseased, dead, dying, or hazardous trees or parts thereof; and/or (ii) selective maintenance to remove noxious and poisonous weeds.
17. Landscaping. Landscaping shall be generally consistent with the quality, quantity and the locations shown illustratively on Sheet 5 of the CDP/FDP. At the time of planting, the minimum caliper for deciduous trees shall be two (2) to two and one-half (2 ½) inches and the minimum height for evergreen trees shall be seven (7) feet. Actual types, locations and species of vegetation shall be determined pursuant to more detailed landscape plans submitted at the time of submission of subdivision plans for review and approval by the Urban Forester. Such landscape plans shall provide tree coverage and species diversity consistent with the PFM criteria, as determined by the Urban Forester. The Applicant reserves the right to make minor modifications to such landscaping to reasonably accommodate utilities and other design considerations, provided such relocated landscaping shall retain a generally equivalent number of plantings as shown on the approved CDP/FDP.
18. Stormwater Management. In accordance with County engineering requirements and subject to approval by the County DPWES, stormwater management/Best Management Practices ("BMPs") shall be provided on-site in a dry detention facility within the SWM/BMP facility, as depicted on the CDP/FDP. The Applicant shall grant an easement to Fairfax County, in a location approved by DPWES at the time of final subdivision plat approval, to provide access to the stormwater facility for maintenance by Fairfax County. At the time of recordation of the record plat, the Applicant shall convey the stormwater management facilities to the relevant HOA for stormwater management/BMP purposes. The HOA shall maintain all landscaping adjacent to such on-site stormwater management facility.
19. Low-Impact Development ("LID") Techniques. Supplementary innovative measures may be used on the subject Property, such as a bio-retention facility (rain garden) and/or grassy swales, subject to DPWES approval, to meet water quality requirements if necessary.

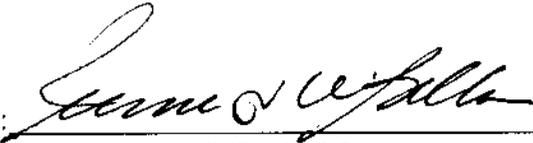
20. Public Schools Contribution. At the time of issuance of the first building permit, Applicant shall contribute to Fairfax County a maximum of \$18,760.00 for capital improvements to schools located within the pyramid serving the subject Property.
21. Recreational Facility Contribution. The Applicant shall provide a contribution of \$13,000.00 to the Fairfax County Park Authority for recreational facilities ("Park Contribution"), plus the residue, if any after construction of on-site recreational amenities such as the wayside trail feature referenced in Proffer 10A above, of the \$22,400 required by Sections 6-110 and 16-404 of the Zoning Ordinance for on-site recreational amenities. Said Park Contribution shall be payable pro rata at the time of issuance of each respective building permit and used entirely off-site for development of park facilities within the service area of the Property, subject to Board of Supervisors' approval and in accordance with Paragraph 2 of Section 16-404 of the Zoning Ordinance.
22. Garages and Driveways. The Applicant shall place a covenant on each residential lot that prohibits the use of the garage for any purpose which would preclude motor vehicle storage. This covenant shall be recorded among the land records of Fairfax County prior to the sale of lots and shall run to the benefit of the HOA and to the Board. Prior to recordation, the covenant shall be approved by the Fairfax County Attorney's office. The HOA documents shall expressly state this use restriction. The driveway provided for each home shall be a minimum of twenty (20) feet in length and sixteen (16) feet in width to permit the parking of vehicles without overhanging into the sidewalk.
23. Architectural Elevations. Illustrative building elevations for the proposed units shall be generally consistent in character, as to architectural style and quality, with the conceptual elevations depicted on Sheet 2 of the CDP/FDP, as determined by DPWES. As determined by the Applicant, siding materials consisting of brick, stone and/or similar materials shall be provided.
24. Energy Efficiency. All new dwelling units shall be designed and constructed as ENERGY STAR qualified homes. The major features of ENERGY STAR homes include features such as: Effective Insulation, High-Performance Windows, Tight Construction and Ducts, Efficient Heating and Cooling Equipment, Efficient Products, and Third Party Verification (Home Energy Rater). Prior to issuance of the Residential Use Permit (RUP) for each dwelling unit, documentation shall be submitted to the Environment and Development Review Branch of the Department of Planning and Zoning (DPZ) from a home energy rater certified through the Residential Energy Services network (RESNET) program that demonstrates that the dwelling unit has attained the ENERGY STAR for homes qualification.
25. Archaeological Studies. As may be required by the County Archaeologist based upon the findings of the "Phase I Archaeological Assessment" (prepared and filed by the Applicant prior to rezoning approval), a "Phase II Archaeological Evaluation" shall be performed either at the Applicant's expense by a certified, professional archaeologist or by archeologists of the Cultural Resource Management and Protection Section of the Fairfax County Park Authority in the immediate vicinity of Fairfax County Archaeological Site #44FX2660. If the work is performed by the Cultural Resource Management and

Protection Section of the Fairfax County Park Authority, submission of the Phase II study shall not be a pre-condition of Subdivision Plan approval or recordation of the same. If the Phase II study concludes that additional Phase III evaluation and/or recovery is warranted, the Applicant shall also complete said work in consultation and coordination with the County Archaeologist; however, any such Phase III work shall not be a pre-condition of Subdivision Plan approval or recordation of the same. In accordance with findings and recommendations of said "Phase II Evaluation," the Applicant and its certified professional archaeologist or archeologists of the Cultural Resource Management and Protection Section of the Fairfax County Park Authority shall, prior to final approval of the subdivision plan, perform the following as may be required: collect and catalog archaeological data/relics deemed significant.

26. Street-furnishings. Pursuant to the recommendations of the Fairfax Center Area Plan, the Applicant shall provide site entrance zone features, including special plantings and lighting, street lighting and at least one bench at the park trail entrance, generally as depicted on the CDP/FDP and subject to Park Authority review and approval for those elements located within areas to be dedicated.
27. Unreasonable Delay. In the event that, despite diligent efforts by the Applicant, provision of an improvement has been unreasonably delayed by others or by circumstances beyond the control of the Applicant, the Zoning Administrator may agree to a later date for the completion of each such improvement
28. Escalation. All monetary contributions required by Proffer 21 shall be adjusted for inflation in conformance with the Consumer Price Index, occurring subsequent to the date of subject rezoning approval and up to the date of payment of the respective contribution.
29. Density Credit. All intensity of use attributable to land areas dedicated and conveyed to the Board or any other County agency pursuant to these proffers (including, without limitation, the dedications referenced in Proffers 5 and 12) 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 Property.
30. Severability. Any of portion may be the subject of a PCA, CDPA and/or FDPA without joinder and/or consent of the other lots, if such PCA, CDPA and/or FDPA does not have any material adverse effect on such other lots. Previously approved proffered conditions or development conditions applicable to the portion not the subject of such a PCA, CDPA, and/or FDPA shall otherwise remain in full force and effect.
31. 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 Property or any portion of the Property.

[SIGNATURE ON FOLLOWING PAGE]

WESTBROOK PROPERTY, LLC

By: 
Richard D. DiBella, Manager

DEVELOPMENT CONDITIONS

**Final Development Plan FDP 2010-SP-012
Westbrook Property, LLC**

February 9, 2011

1. The applicant shall provide, subject to VDOT approval, center line marking, plus striping and signing for east-west bicycle lanes on Autumn Willow Drive between the recreation areas at Stringfellow Road and the proposed park entrance opposite the applicant's proposed cul-de-sac. The markings and signing shall be installed prior to opening of the Autumn Willow Drive/Lincoln Drive segment of the roadway on the applicant's property, except that if permitted by VDOT, final striping of the on-site segment may be deferred until final surfacing of the roadway.