

**PROFFERS**  
**IVY DEVELOPMENT, L.C.**  
**RZ 2000-SP-026 / FDP 2000-SP-026**

AUGUST 25, 2000  
REVISED OCTOBER 2, 2000  
REVISED OCTOBER 13, 2000  
REVISED OCTOBER 20, 2000

Pursuant to Section 15.2-2303 (A) of the Code of Virginia, 1950 as amended, the owner and the applicant, for themselves and their successors or assigns (herein collectively referred to as the "Applicant") in this rezoning application filed on property identified on Fairfax County Tax Map as 89-4 ((1)) Parcel 60 (hereinafter referred to as the "Application Property") agree to the following proffers, provided that the Fairfax County Board of Supervisors (hereinafter referred to as the "Board") approves the rezoning of the Application Property from the R-1 zoning district to the PDH-3 zoning district:

**1. DEVELOPMENT PLAN**

- a. Subject to the provisions of Section 18-204 of the Fairfax County Zoning Ordinance ("the Ordinance"), development of the Application Property shall be in substantial conformance with the Conceptual / Final Development Plan ("CDP/FDP") entitled "The Gardner Property" prepared by Planning and Development Services, Inc., dated May 8, 2000 revised through October 20, 2000.
- b. Notwithstanding, the CDP/FDP is presented on two sheets and said CDP/FDP is subject to Proffer 1a. above, it will be understood that the Conceptual Development Plan will be the entire plan shown on Sheet 1 relative to the points of access, the total number of units, and the general location of the residential lots, location and amount of common open space areas, limits of clearing and grading and that the Applicant has the option to request a Final Development Plan Amendment ("FDPA") from the Planning Commission in accordance with the provisions set forth in Section 16-402 of the Ordinance.
- c. Pursuant to Paragraph 4 of Section 16-403 of the Ordinance, minor modifications from the CDP/FDP may be permitted as determined by the Fairfax County Zoning Administrator. The Applicant reserves the right to make minor adjustments to the internal lot lines of the proposed subdivision, at the time of subdivision plan submission based upon the final house locations and building footprints, without decreasing the peripheral setbacks and total open space provided, as shown on the CDP/FDP.

**2. HOMEOWNERS ASSOCIATION**

The Applicant shall request that the Application Property be incorporated into the adjacent Westwater Point Homeowners' Association (WWP HOA). In the event the Application Property is not incorporated into the WWP HOA, the Applicant will establish a separate Homeowners Association for the proposed development to own, manage, and maintain the open space, private streets and all other community-owned land and improvements. Prior to entering into a contract of sale, prospective purchasers of houses shall be notified in writing by the Applicant of the maintenance responsibility of the private streets and open space areas on the Application Property and said purchasers shall be required to acknowledge receipt of this information in writing.

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**3. TRANSPORTATION**

- a. At the time of Record Plat approval or upon demand by Fairfax County or the Virginia Department of Transportation ("VDOT"), whichever occurs first, the Applicant shall dedicate and convey in fee simple to the Board right-of-way up to 26 feet from the existing centerline along the Application Property's Hooes Road frontage as shown on the CDP/FDP and subject to the approval of VDOT and the Fairfax County Department of Public Works and Environmental Services ("DPWES").
- b. Advanced density credit shall be reserved as may be permitted by the provisions of Paragraph 4 of Section 2-308 of the Fairfax County Zoning Ordinance for all eligible dedications described herein or as may be reasonably required by DPWES or VDOT at the time of subdivision plat approval.
- c. The Applicant shall construct frontage improvements along the Application Property's Hooes Road frontage measuring 18 feet from the existing centerline. Said frontage improvement will taper back to the existing pavement section east of the proposed entrance to the Application Property as shown on the CDP / FDP as approved by VDOT and DPWES.
- d. The private streets shall be constructed in conformance with the Fairfax County Public Facilities Manual ("PFM"). Purchasers shall be advised in writing prior to entering a contract of sale that the homeowners' association shall be responsible for the maintenance of the private streets in the development. The homeowners' association documents shall specify that the homeowners' association is responsible for the maintenance of the private streets.
- e. There shall be no individual lot access via an individual private driveway to Hooes Road.
- f. At the time of subdivision plat approval, the Applicant shall establish a maintenance fund for the homeowners' association in the amount of \$5500.00 as adjusted according to the construction cost index as published in the *Engineering News Record* by McGraw-Hill from the date of rezoning approval. Said maintenance fund shall be used solely for future maintenance of the private streets.
- g. A covenant shall be recorded which provides that garages shall only be used for a purpose that will not interfere with the intended purpose of garages (e.g., parking of vehicles). This covenant shall be recorded among the land records of Fairfax County in a form approved by the County Attorney prior to the sales of any lots and sale run to the benefit of the homeowners association, which shall be established, and the Board. Purchasers shall be advised of the use restriction prior to entering into a contract of sale.
- h. Any parking lot lighting and security lighting shall be fully shielded and directed downward to minimize off-site glare to adjacent existing residential uses.

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**4. SIDEWALKS**

A five foot wide sidewalk shall be provided along the Application Property's Hooes Road frontage as shown on the CDP / FDP. This sidewalk will terminate east of the proposed entrance to the Application Property as shown on the CDP / FDP.

As shown on the CDP / FDP, the Applicant shall provide two sidewalk connections to the Westwater Point Community. The Applicant will provide these two sidewalk connections if permission is granted by the Westwater Point Homeowners' Association to construct the offsite portions of these sidewalks on property owned by the Westwater Point Community. If permission is not granted, then these sidewalk connections will not be provided.

**5. TRAIL**

Prior to the approval of the subdivision plan, the Applicant shall coordinate the location of the 6 foot wide asphalt stream valley trail with the trails planner of the Fairfax County Park Authority. The coordinated trail location shall be shown on the approved subdivision plan and will be designed to limit, to the extent possible, the disturbance to any wetland areas and to meander around existing trees where possible.

**6. RECREATION**

Pursuant to Section 6-110, Paragraph 2 and Section 16-404, Paragraph 2 of the Ordinance, the Applicant shall establish a recreation fund at the time of subdivision plan approval for the homeowners' association in the amount of \$10,505.00 (\$955.00 per unit) less the cost of the onsite gazebo and two stream valley benches to be provided by the Applicant. This fund shall be contributed to the Fairfax County Park Authority for improvements to a nearby park or shall be provided to the adjacent Westwater Point Homeowners Association in accordance with Section 16-404, Paragraphs A and B.

**7. OPEN SPACE DEDICATION**

Concurrently with recordation of the record plat, the Applicant shall dedicate Parcel A, as shown on the CDP / FDP, to the Board for public park purposes. The applicant has the right to provide the stream valley trail with benches, landscaping and other features shown on the CDP / FDP within Parcel A.

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**8. LANDSCAPING**

- a. Landscaping and on-site amenities shall be generally consistent in terms of character and quantity with the CDP / FDP. Specific features such as the exact locations of plantings, driveways, sidewalk connections, etc... are subject to minor modification with final engineering and architectural design.
- b. At the time of final subdivision plan approval, the Applicant shall provide a contribution of \$5000.00 to the Westwater Point Homeowners Association for their use for landscaping or other improvements to the Westwater Point Community.

**9. TREE PRESERVATION**

- a. The Applicant shall conform to the limits of construction as shown on the CDP / FDP, subject to minor modifications, as approved by DPWES for the placement and installation of utilities. Placement of utilities within the limits of clearing and grading, if necessary, shall be performed in the least disruptive manner and disturbed areas shall be re-vegetated.
- b. The Applicant will retain a certified arborist and / or landscape architect to prepare a Tree Preservation Plan to be submitted at the time of the first submission of the subdivision plan. The following shall be provided on the Preservation Plan:
  - I. Location of all trees 10 inches or greater in diameter that are located within 20 feet of either side of the limits of construction as shown on the CDP/FDP.
  - II. A chart shall be provided on the plan which outlines tree preservation activities (such as fertilization and / or root pruning) designed to maximize the survivability of trees designated for preservation. The chart shall also designate trees to be removed due to excessive construction impact and / or safety / health considerations.
  - III. The Tree Preservation plan shall indicate the location of Tree Protection fencing. This fencing will be provided around all individual trees or groups of trees which shall be preserved and may be subject to construction impacts. Fencing shall consist of 4 feet high orange plastic fencing attached to six foot steel posts driven approximately 18 inches into the ground and placed no greater than 6 feet apart. This fencing shall be installed prior to any clearing and / or grading activities onsite.
- c. Trees identified within areas designated for tree preservation on the CDP / FDP

- IV. During the subdivision plan review, if it is determined that as a result of final engineering the areas designated to be preserved on the CDP / FDP are modified or can not be preserved, substitute tree cover shall be provided elsewhere as determined by the Urban Forester. In no event shall the required tree preservation result in the reduction in the number of approved dwelling units or in the requirement for the construction of retaining walls greater than two feet in height.

## **10. STORM WATER MANAGEMENT**

- a. The Applicant shall provide onsite storm water detention and a best management practices ("BMPs") pond in accordance with the requirements of the Fairfax County Public Facilities Manual ("PFM") unless waived or modified by DPWES. The pond will be constructed in the general location, within Parcel E, as shown on the CDP / FDP. In the event the pond is waived by DPWES, this area will be retained as undisturbed open space.
- b. A public access and pond maintenance easement shall be provided as shown on the CDP / FDP. The Applicant shall construct the first one-hundred feet of the pond access road using a grass-crete or similar material if approved by DPW during its review of the final subdivision plan.

## **11. NOISE ATTENUATION**

- a. In order to achieve a maximum interior noise level of approximately 45 dBA Ldn for all lots within 305 feet of the centerline of the Springfield-Franconia Parkway which may be impacted by highway noise from the Springfield-Franconia Parkway and may have levels between the 65 and 75 dBA Ldn noise contours, the Applicant shall construct the proposed dwelling units with the following acoustical measures to mitigate the impact of highway noise:
- V. Construction materials and techniques known to have physical properties or characteristics suitable to achieve an STC of at least 45 for interior walls;
- VI. Doors and windows shall have a laboratory STC rating of at least 37. If glazing constitutes more than twenty percent of any facade, they should have the same STC rating for walls.
- VII. Measures to seal and caulk between surfaces should follow methods approved by the American Society for Testing and Materials to minimize sound transmission.

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- b. In order to achieve a maximum exterior noise level of approximately 65 dBA Ldn in the rear yard areas of all lots, an acoustically solid fence, wall and / or berm between the Fairfax County Parkway and any unshielded rear yard areas of all lots shall be constructed where those rear yard areas are located within the 65 dBA noise contour. The fence, wall and / or berm shall have no gaps or openings (except where necessary to provide for a gate, drainage or utilities, as determined by DPWES however, any gate, etc... shall be solid) and shall be of sufficient height to achieve the performance standards specified in this proffer, but shall not exceed the height limitations of the Zoning Ordinance. Said fence, wall and / or berm may be located on any lot, Parcel A, C or E.
- c. As an alternative to 3a. and 3b., the Applicant may, at its sole discretion, have a refined acoustical analysis performed to determine what measures, if any, are required to meet the outdoor and indoor noise level goals and shall implement these measures, subject to approval by DPWES.

**12. HOUSING TRUST FUND**

At the time of Record Plat approval, the Applicant shall contribute a sum equaling one percent (1%) of the projected sales price of the houses to be built on each lot to the Fairfax County Housing Trust Fund to assist Fairfax County's low and moderate income housing goals. The projected sales price shall be determined by the Applicant in consultation with the staff of the Fairfax County Department of Housing and Community Development (HCD) and DPWES. The timing and amount of this contribution may be modified at the Applicant's sole option based upon the adoption of a future amendment to the formula adopted by the Board.

**13. ENERGY SAVER PROGRAM**

All homes on the property shall meet the thermal guidelines of the Virginia Power Energy Saver Program for energy-efficient homes or its equivalent, as determined by the DPWES for either electric or gas energy systems, as applicable.

**14. PARK CONTRIBUTION**

At the time of subdivision plan approval, the Applicant shall contribute the sum of \$5000.00 to the Fairfax County Park Authority for improvements to a nearby park as adjusted according to the construction cost index as published in the *Engineering News Record* by McGraw-Hill from the date of rezoning approval.

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**15. COUNTERPARTS**

These proffers may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed an original document and all of which taken together shall constitute but one and the same instrument.

**APPLICANT / CONTRACT PURCHASER**

**IVY DEVELOPMENT, L.C.**

By:



\_\_\_\_\_  
**Stephen A. Bannister**

Its: **Manager / Member**

**(SIGNATURES CONTINUED ON THE NEXT PAGE)**

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**TITLE OWNERS OF TAX MAP 89-4 ((1)) PARCEL 60**

  
Robert L. Gardner, Jr.

  
Margaret M. Gardner

PROPOSED FINAL DEVELOPMENT CONDITIONS

FDP 2000-SP-026

October 25, 2000

If it is the intent of the Planning Commission to approve FDP 2000-SP-026 for single-family detached residential development located at Tax Map 89-4 ((1)) 60, staff recommends that the Planning Commission condition the approval by requiring conformance with the following development conditions.

1. Development of the property shall be in substantial conformance with the two sheets of the CDP/FDP entitled "The Gardner Property" and dated May 8, 2000 as revised through October 20, 2000.
2. The architectural features and building materials of the subject building facades and roofs (as depicted on Attachment A) shall be considered illustrative; final architecture shall be consistent with these illustrations in terms of massing, special features, etc., as determined by DPWES.
3. All peripheral lots of the development shall conform to the bulk regulations of the R-3 Cluster District, pursuant to Sect. 16-102 of the Zoning Ordinance.
4. A soil survey and a geotechnical study shall be submitted to DPWES prior to site plan approval and the results implemented into the development to ensure that possible soil constraints are addressed in the early stages of the development.

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