

PROFFERS
IVY DEVELOPMENT, L.C.
RZ 2000-SP-058

March 23, 2001

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 63 (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 R-8 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 Generalized Development Plan ("GDP") entitled "The Blais Property" containing two sheets and prepared by Planning and Development Services, Inc., dated October 20, 2000 and revised through February 14, 2001.
- b. Pursuant to Paragraph 4 of Section 18-204 of the Ordinance, minor modifications from the GDP 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 GDP.

2. HOMEOWNERS ASSOCIATION

The Applicant shall request that the Application Property be incorporated into the adjacent Bethelen Woods Homeowners' Association (Bethelen Woods HOA). If within 60 days of the request, the Bethelen Woods HOA has not responded or has chosen not to incorporate the Application Property, 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. This information shall also be included in the Homeowners Association documents. If the Application Property is incorporated into the Bethelen Woods HOA, the Applicant shall provide a contribution of \$1,500.00 toward an entry sign and / or landscape improvements within the sign easement shown on the GDP. The Applicant shall establish the Homeowners Association prior to record plat approval.

3. TRANSPORTATION

- a. 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.
- b. The private street (PFM Standard TS-5A) 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 street in the development. The homeowners' association documents shall specify that the homeowners' association is responsible for the maintenance of the private street.
- c. Vehicular access to Hooes Road shall be provided via a private street as shown on the GDP.
- d. At the time of site plan approval, the Applicant shall establish a maintenance fund for the homeowners' association in the amount of \$5000.00 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 street.
- e. 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 shall 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. The homeowners' association documents shall include this covenant.
- f. Any parking lot lighting and security lighting shall be fully shielded and directed downward to minimize off-site glare to adjacent existing residential uses.

4. SIDEWALKS

The Applicant shall provide sidewalks along the internal private street as shown on the GDP.

5. TRAIL

The Applicant will revise the existing trail connection to Hooes Road as shown on the GDP as approved by DPWES.

6. OPEN SPACE DEDICATION

Concurrently with recordation of the record plat, the Applicant shall dedicate Parcel A, as shown on the GDP to the Homeowners Association for Open Space. The open space shall remain undisturbed except for the removal of any dead or dying plant material and shall contain no structures or fences except as may be permitted by proffer # 10 and any necessary utilities to serve the Application Property.

7. LANDSCAPING

- a. Landscaping and on-site amenities shall be generally consistent in terms of character and quantity with the GDP. Specific features such as the exact locations of plantings, driveways, sidewalk connections, etc... are subject to minor modification with final engineering and architectural design.

8. TREE PRESERVATION

The Applicant shall contract with a certified arborist (the "project arborist") to prepare a tree preservation plan to be submitted as part of the first site plan submission. The tree preservation plan shall be reviewed and approved by the Urban Forestry Division. The tree preservation plan shall consist of a tree inventory which includes the location, species, size, crown spread and condition rating percentage of all trees twelve (12) inches of greater in diameter, measured 4 ½ feet from the ground, and located within twenty (20) feet of the limits of clearing and grading for the entire Application Property. The condition analysis shall be prepared using methods outlined in the latest edition of *The Guide for Plant Appraisal*. Specific tree preservation activities designed to maximize the survivability of trees designated for preservation shall be incorporated into the tree preservation plan. Activities should include, but are not limited to, crown pruning, root pruning, mulching, and fertilization.

All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fencing. Tree protection fencing, consisting of four feet high, 14 gauge welded wire or equivalent attached to six (6) feet long steel posts driven eighteen (18) inches into the ground and placed no farther than ten (10) feet apart, shall be placed at the limits of clearing and grading as shown on the Phase I and Phase II erosion and sediment control sheets in all areas. The tree protection fencing shall be made clearly visible to all construction personnel. The tree protection fencing shall be installed prior to the performance of any clearing and grading activities on the site, including the demolition of any existing structures. All tree preservation activities, including the installation of tree protection fencing, shall be performed under the supervision of the Project Arborist. Prior to the commencement of any clearing, grading or demolition activities on the site, the Project Arborist shall verify in writing the tree protection fencing has been properly installed.

The demolition of existing features and structures shall be conducted in such a manner as to minimize the impact on individual trees and groups of trees to be preserved, as determined in consultation with the Urban Forester. The methods to minimize impact on existing trees shall

include, as an alternative, subject to any other legal requirements, leaving in place the existing foundations for structures to be demolished as determined in consultation with the Urban Forestry Division. These methods shall be described in the tree preservation plan.

Clearing, grading and construction shall conform to the limits of clearing and grading as shown on the GDP, subject to the installation of utility lines, stormwater management facilities, recreational improvements, and other required site improvements, all of which shall be installed in the least disruptive manner possible, considering cost and engineering, as determined in consultation with DPWES. The Applicant shall have the limits of clearing and grading marked with a continuous line of flagging prior to the pre-construction meeting and shall clearly delineate the limits of clearing and grading with such flagging throughout the construction period. Before or during the pre-construction meeting, the Applicant shall walk the limits of clearing and grading with a representative of the Urban Forestry Division and the Project Arborist to determine where adjustments to the clearing limits can be made to increase the survivability of trees at the edge of the limits of clearing and grading. Trees that are not likely to survive construction due to their proximity to disturbance shall also be identified at this time and the Applicant shall remove such trees as part of the clearing operation. Any tree designated for removal at the edge of the limits of clearing and grading and within the tree preservation area shall be removed using chain saws. The stump shall be cut as close to the ground level as possible. 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 tree preservation area.

9. STORM WATER MANAGEMENT

- a. The Applicant shall provide onsite storm water detention and / or a best management practices ("BMP's") 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 A, as shown on the GDP. In the event the pond is waived by DPWES, this area will be retained as undisturbed open space and the evergreen trees shown to screen the pond behind Lots 1 through 7 will be deleted. The Applicant has the option of providing 40% or more qualifying open space to meet the BMP requirements as determined by DPWES. If a pond is required, the Applicant shall provide landscaping around the pond in a reasonable quantity to be approved by the Urban Forestry Division.

10. NOISE ATTENUATION

- a. In order to achieve a maximum interior noise level of approximately 45 dBA Ldn for all lots within 200 feet of the centerline of the Springfield-Franconia Parkway which may be impacted by highway noise from the Springfield-Franconia Parkway and may have noise levels between the 70 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:

- I. Construction materials and techniques known to have physical properties or characteristics suitable to achieve an STC of at least 45 for exterior walls;
 - II. Doors and windows shall have a laboratory STC rating of at least 37. If glazing constitutes more than twenty percent of any facade, they shall have the same STC rating for walls.
 - III. Measures to seal and caulk between surfaces shall follow methods approved by the American Society for Testing and Materials to minimize sound transmission.
- a. In order to achieve a maximum interior noise level of approximately 45 dBA Ldn for all lots within 430 feet of the centerline of the Springfield-Franconia Parkway which may be impacted by highway noise from the Springfield-Franconia Parkway and may have noise levels between the 65 and 70 dBA Ldn noise contours, the Applicant shall construct the proposed dwelling units with the following acoustical measures to mitigate the impact of highway noise:
- I. Construction materials and techniques known to have physical properties or characteristics suitable to achieve an STC of at least 39 for exterior walls;
 - II. Doors and windows shall have a laboratory STC rating of at least 28. If glazing constitute more than twenty percent of any facade, they shall have the same STC rating for walls.
 - III. Measures to seal and caulk between surfaces shall follow methods approved by the American Society for Testing and Materials to minimize sound transmission.
- 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 Springfield-Franconia 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. Said fence, wall and / or berm may be located within Parcel A or within the right of way of the Springfield-Franconia Parkway as shown on the GDP and as approved by VDOT. Supplemental noise attenuation in the form of an acoustically solid wood fence with a height of 6 feet or less may be provided on individual lots.
- c. As an alternative to 3a, 3b and 3c, 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.

11. 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.

12. PARK CONTRIBUTION

At the time of site plan approval, the Applicant shall contribute the sum of \$4,200.00 (\$300.00 per unit) 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.

13. HISTORICAL MARKER

If recommended and approved by the Fairfax County Historical Commission, the Applicant shall contribute a sum of up to \$1,500.00 to the Fairfax County Historical Commission at the time of subdivision plan approval, for a Historical Marker to be placed on or near the subject property as adjusted according to the construction cost index as published in the *Engineering News Record* by McGraw-Hill from the date of rezoning approval.

14. ARCHAEOLOGY

Prior to any land disturbing activities on the application property, the Applicant shall conduct a Phase I archaeological study and, if necessary, as determined by the Heritage Resources Branch of the Fairfax County Park Authority (Heritage Resources), a Phase II archaeological study on those areas of the application property identified by Heritage Resources. A qualified archaeological professional approved by Heritage Resources shall perform the studies. The results shall be reviewed and approved by Heritage Resources. The studies shall be completed prior to subdivision plat approval. If the Phase I and / or Phase II studies conclude that significant artifacts are present on the application property, and if Heritage Resources notifies the Applicant in writing within thirty (30) days of the submission of the study results to Heritage Resources of its desire to conduct additional investigations, the Applicant shall provide access to the application property so that Heritage Resources may conduct additional investigations for a period of seventy-five (75) days from the date of notification. Additional time may be permitted to conduct such investigations if mutually agreed to by the Applicant and Heritage Resources.

15. OFFSITE WATER SERVICE CONNECTION

If required by the Fairfax County Water Authority, the Applicant shall provide a waterline extension toward the southern corner of the subject property within an easement as approved by the Fairfax County Water Authority. The Applicant will perform tree preservation activities in accordance with Proffer 8 in order to minimize disturbance to the existing trees in the area of this waterline extension through Parcel A and potentially offsite.

16. STORMWATER OUTFALL

As required by DPWES, the Applicant shall provide an adequate outfall for the stormwater runoff generated by this project. While designing this outfall, the Applicant will perform tree preservation activities in accordance with Proffer 8 in order to minimize disturbance to the existing trees in the area of the outfall extension through Parcel A

17. 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 at the Applicant's direction to assist in the initial marketing and sale of homes on the Property. Furthermore, the Applicant shall direct its agents and employees involved in marketing and/or home sales for the Property to adhere to this Proffer.

18. HOUSING TRUST FUND

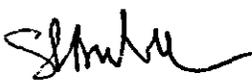
At the time of Record Plat approval, the Applicant shall contribute a sum equaling one-quarter of one percent (0.25 percent) of the projected sales price of the houses to be built on each lot to the Fairfax County Housing Trust Fund to assist Fairfax County's low and moderate income housing goals. The 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.

19. 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.

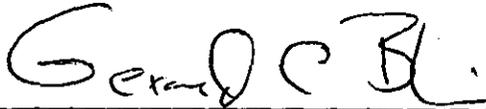
By: 

Stephen A. Bannister
Its: Manager / Member

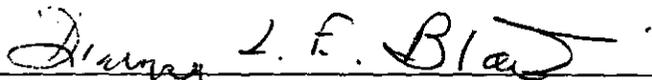
(SIGNATURES CONTINUED ON THE NEXT PAGE)

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TITLE OWNERS OF TAX MAP 89-4 ((1)) PARCEL 63



Gerard C. Blais



Dianne L.F. Blais