

## **PROFFERS**

Ivy Development, L.C.

RZ 2001-MV-010

August 27, 2001

Pursuant to Section 15.2-2303(a) Code of Virginia, 1950, as amended, the owners and Ivy Development, L.C. (hereinafter referred to as the "Applicant"), for themselves, successors and assigns in RZ 2001-MV-010, filed for property identified as Tax Map 98-4 ((1)) 14 and 15, (hereinafter referred to as the "Application Property") hereby proffers the following, provided that the Board of Supervisors approves a rezoning of the Application Property to the PDH-3 District in conjunction with a Conceptual/Final Development Plan (CDP/FDP) for residential development. These proffers shall replace and supersede any previous proffers approved on the Application Property.

### **1. CONCEPTUAL/FINAL DEVELOPMENT PLAN -**

- a. Subject to the provisions of Section 16-204 of the Fairfax County Zoning Ordinance (hereinafter referred to as the "Zoning Ordinance"), development of the Application Property shall be in substantial conformance with the CDP/FDP, consisting of two sheets prepared by Planning & Development Services, Inc. dated February 13, 2001 and revised through August 27, 2001.
- b. In the event that easements necessary for trails and utilities are not granted by the adjacent homeowners associations, development of the Application Property shall be in substantial conformance with the Alternative Layout Sketch as identified on the CDP/FDP and these proffers. Documentation of efforts to reach an agreement for such easements, if such efforts have failed, shall be submitted to DPWES at time of subdivision plat submission upon request.
- c. Pursuant to Paragraph 4 of Section 16-403 of the Zoning Ordinance, minor modifications from the CDP/FDP may be permitted as determined by the Zoning Administrator. The Applicant reserves the right to make minor adjustments to the layout, internal lot lines, and lot sizes of the proposed subdivision at time of subdivision plat submission based on final house locations, building footprints, utility locations, and final engineering design, provided that such adjustments do not decrease the amount and location of open space, tree save, distances to peripheral lot lines, or alter pedestrian access points except as provided in Proffer 1.b.

## 2. TRANSPORTATION -

- a. Subject to Virginia Department of Transportation (VDOT) and Department of Public Works and Environmental Services (DPWES) approval, the Applicant shall dedicate and convey in fee simple to the Board of Supervisors a public street to a minimum width of twenty-two (22) feet from the centerline within the Application Property as shown on the CDP/FDP. Dedication shall be made at time of recordation of the final subdivision plat or upon demand from either Fairfax County or VDOT, whichever shall first occur.
- b. Subject to VDOT and DPWES approval, the Applicant shall construct a five (5) foot wide concrete sidewalk within the residential development, as shown on the CDP/FDP.
- c. Applicant reserves density credit as may be permitted by the provisions of Paragraph 4 of Section 2-308 of the Zoning Ordinance for all dedications described herein or as may be reasonably required by Fairfax County or VDOT whether such dedications occur prior to or at time of subdivision plat approval.
- d. Subject to the granting of necessary easements from the adjacent property owners, a pedestrian connection for ingress and egress shall be provided as shown on the CDP/FDP for the benefit of the adjacent residential subdivisions known as Shadowbrook I and Shadowbrook II located on either side of the Application Property. Documentation of efforts to reach an agreement for such easements, if such efforts have failed, shall be submitted to DPWES at time of subdivision plat submission upon request.
- e. Applicant shall be required to demonstrate adequate sight distance at Pohick Road, formerly Rolling Road, to DPWES at time of subdivision plat submission. Should Applicant be unable to demonstrate adequate sight distance, the access to the Application Property shall be relocated in a manner that is in substantial conformance with the CDP/FDP or submit an amendment to the CDP/FDP and these proffers.

## 3. LANDSCAPING AND OPEN SPACE -

- a. Applicant shall provide landscaping on the Application Property as shown on the CDP/FDP. Landscaping shall be provided on each lot as shown on the typical lot landscaping detail on the CDP/FDP.
- b. Applicant shall install landscaping between the cul-de-sac on the Application Property and the adjacent residential subdivision as shown on the CDP/FDP. Said landscaping shall consist of evergreen trees, having a height of 7 to 8 feet at time of planting, as determined by the Urban Forestry Division. The homeowners association established for the proposed development shall be

responsible for the maintenance of the landscaping which shall include the replacement of any dead or dying trees.

- c. The Applicant shall contract with a certified arborist or certified landscape architect (the "Project Arborist") to prepare a tree preservation plan to be submitted as part of the first subdivision plan submission. The tree preservation plan shall be reviewed and approved by the Urban Forestry Division and shall not reduce the number or alter the size of proposed dwelling units. 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 or greater in diameter, measured 4 ½ feet from the ground, and located within fifteen (15) 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 foot high, 14 gauge welded wire or equivalent attached to six (6) foot 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 Application Property, including the demolition of any existing structures. All tree preservation activities, including the installation of tree protection fencing, shall be performed under the guidance of the Project Arborist. Prior to the commencement of any clearing, grading or demolition activities on the Application Property, the Project Arborist shall verify in writing the tree protection fencing has been properly installed.

- d. Clearing, grading and construction shall conform to the limits of necessary clearing and grading as shown on the CDP/FDP, subject to the installation of utility lines, stormwater management facilities, trails, 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.

#### 4. PARKS AND RECREATION -

- a. Pursuant to Paragraph 2 of Section 6-110 and Paragraph 2 of Section 16-404 of the Zoning Ordinance regarding developed recreational facilities, the Applicant shall at a minimum expend the sum of nine hundred fifty-five dollars (\$955.00) per approved lot for on-site recreation facilities consisting of a gazebo, benches, and pedestrian paths/trails as shown on the CDP/FDP. The balance of any funds not expended on-site shall be contributed to the Fairfax County Park Authority at time of subdivision plan approval for recreation facilities in the vicinity of the Application Property.
- b. At time of subdivision plan approval, the Applicant shall convey to the Fairfax County Park Authority, for public park purposes, that portion of the Application Property identified as Parcel C and consisting of approximately 58,100 square feet as shown on the CDP/FDP, subject to the installation of a trail as described in proffer 4.c. below and utilities as necessary.
- c. Subject to approval of the Fairfax County Park Authority, Applicant shall design and construct a six (6) foot wide asphalt trail within Parcel C as shown on the CDP/FDP to create a pedestrian connection from the Application Property to the existing County-wide trail system. Said trail shall be designed to Public Facilities Manual standards and shall include guardrails and signs as determined by the Fairfax County Park Authority. Trail shall be field located and meander to ensure preservation of mature trees located on the Application Property to the greatest extent feasible. Cleared area shall be stabilized and revegetated upon completion of trail construction to the satisfaction of the Urban Forester.

#### 5. STORMWATER MANAGEMENT - BEST MANAGEMENT PRACTICE

- a. The Applicant shall provide stormwater management (SWM) and Best Management Practices (BMP), which may include BMP alternatives such as infiltration trenches and rain gardens, in the location as generally shown on the CDP/FDP and in accordance with the requirements of the Public Facilities Manual and Chesapeake Bay Preservation Ordinance, unless waived or modified by DPWES. In the event that on-site stormwater management is waived or modified by DPWES, removal or modification of the SWM pond shown on the CDP/FDP shall not require the approval of a proffered condition amendment or an amendment to the CDP/FDP and the area shall remain as open space.

- b. The Applicant shall provide landscaping around the SWM pond as shown on the CDP/FDP and to the extent possible in keeping with the planting policies of Fairfax County.

#### 6. AFFORDABLE HOUSING -

At the time of final subdivision plat approval, the Applicant shall contribute to the Fairfax County Housing Trust Fund the sum equal to one percent (1%) of the estimated sales price of each house to be built on an approved lot to assist Fairfax County's low and moderate income housing goals. The estimated sales price shall be determined by the Applicant in consultation with the staff of the Fairfax County Department of Housing and Community Development (HCD). The timing and amount of this contribution may be modified at the Applicant's sole option in compliance with the adoption of a future amendment to the formula and/or timing as adopted by the Board of Supervisors.

#### 7. NOISE ATTENUATION -

- a. Applicant shall achieve an interior noise level of approximately 45 dBA Ldn in all units located within 220 feet from the centerline of Pohick Road, formerly Rolling Road, in the area identified as having noise impacts up to 65 dBA Ldn. All units within this impacted area will have the following acoustical attributes as determined by DPWES:
  1. Exterior walls shall have a laboratory Sound Transmission Classification (STC) of at least 39.
  2. Doors and glazing shall have an STC of at least 28. If glazing constitutes more than 20 percent of any facade, they shall have the same laboratory STC ratings specified for exterior walls.
  3. Adequate measures to seal and caulk between surfaces will be provided.
- b. In order to reduce exterior noise levels in rear/side yard recreational areas to 65 dBA Ldn or less, a wooden fence and/or berm in accordance with Zoning Ordinance regulations shall be provided generally along the lot lines of proposed Lot 15 closest to Pohick Road, formerly Rolling Road, to mitigate exterior noise levels emanating from traffic on Pohick Road, formerly Rolling Road. Fencing shall be architecturally solid, flush with the ground, with no gaps or openings.
- c. Nothing herein shall be construed to restrict or otherwise limit the use of balconies, patios or decks on residential units.
- d. The Applicant reserves the right to pursue other methods of mitigating highway noise impacts that can be demonstrated, through an independent noise study as reviewed and approved by DPWES that these methods will be effective in

reducing exterior noise levels to 65 dBA Ldn or less and interior noise levels to 45 dBA Ldn or less.

8. HERITAGE RESOURCES -

- a. That area identified on the Application Property as Site P7 1551 shall remain undisturbed except as may be permitted in coordination with the Fairfax County Heritage Resources Branch ("Heritage Resources"). Applicant shall coordinate with Heritage Resources to field locate the trail, as described in proffer 4.c.
- b. The Applicant shall provide written notification to Heritage Resources ten (10) working days prior to commencement of construction. The Applicant shall make Application Property available to Heritage Resources for monitoring during construction for the purpose of recovering any artifacts that may be exposed. Said studies shall not interfere with the construction schedule of the Application Property.

9. DESIGN -

- a. Residential dwellings constructed on the Application Property shall meet thermal guidelines of the Virginia Power Energy Saver Program for energy-efficient homes or its equivalent, as determined by the DPWES, for either electrical or gas energy systems.
- b. Applicant shall design the residential dwellings on the Applications Property as conceptually shown in the architectural renderings on sheet 2 of the CDP/FDP. Front facades shall be brick, masonry, or stone facing, exclusive of trim and architectural features. A two car garage shall be provided for each residential dwelling.
- c. Each residential dwelling shall have a minimum rear yard of twenty-five (25) feet and a minimum front yard of eighteen (18) feet. A minimum distance of ten (10) feet shall be provided between residential dwellings, exclusive of Zoning Ordinance extensions permitted in Article 2 for bay windows, chimneys, and similar features.
- d. Lighting installed on the Application Property shall be directed downward to minimize off-site glare to adjacent existing residential uses.

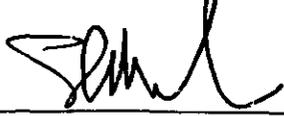
10. MISCELLANEOUS -

- a. These proffers shall bind and inure to the benefit of the Applicant and his or her successors and assigns.
- b. 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.

- c. The Applicant shall establish a homeowners association for the proposed development to own, manage and maintain the open space identified as Parcels A, B, D, and E on the CDP/FDP, and all other community owned land and improvements.
- d. Applicant shall contribute the sum of Seven Hundred Fifty Dollars (\$750.00) per market unit approved above the by-right density of the R-1 District (10 lots) to the Fairfax County Board of Supervisors for the design/construction of the proposed South County Secondary School as stated in the 2001 Capital Improvement Program. Said contribution shall be made payable to the Fairfax County Board of Supervisors at time of subdivision plat approval for the Application Property.
- e. All of the improvements described herein shall be constructed concurrent with development of the Application Property.

**[SIGNATURES BEGIN ON THE FOLLOWING PAGE]**

APPLICANT/CONTRACT PURCHASER  
IVY DEVELOPMENT, L.C.

By: 

Name: Stephen A. Bannister

Title: Manager