

## **PROFFERS**

Ivy Development, L.C.

RZ 2001-MA-017

September 20, 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-MA-017, filed for property identified as Tax Map 71-2 ((1)) 27, (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-8 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 16-403 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, prepared by Planning & Development Services, Inc. dated March 12, 2001 and revised through August 10, 2001.
- b. 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 site plan 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, or distances to peripheral lot lines.

### **2. TRANSPORTATION -**

- a. The Applicant shall construct a five (5) foot wide concrete sidewalk within the residential development on both sides of the private street, as shown on the CDP/FDP.
- b. The private streets shown on the CDP/FDP shall be constructed of materials and depth of pavement consistent with the Public Facilities Manual for public streets as approved by DPWES. Purchasers shall be advised of the requirement to maintain private streets prior to entering into a contract of sale. The requirement to maintain the street as constructed shall be included in the homeowners association documents prepared for the Application Property.

### **3. LANDSCAPING AND OPEN SPACE -**

- a. Applicant shall provide landscaping on the Application Property as shown on the CDP/FDP.

- b. Applicant shall install landscaping adjacent to the Brentleigh Subdivision and the individual single family detached homes on Columbia Road as shown on the CDP/FDP, and as reviewed and approved by the Urban Forestry Division of DPWES. Said landscaping shall include a minimum of eleven (11) existing trees to be transplanted from other portions of the Application Property, and shrubs, deciduous trees, measuring three inches in caliper, and evergreens measuring eight to ten feet in height. Applicant shall be responsible for maintenance of landscaping, which shall include the replacement of any dead or dying trees during construction and until final bond release. Subsequent to final bond release, 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. For the purposes of maximizing the preservation of trees in tree save areas, the Applicant shall prepare a tree preservation plan. 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 submittal. The tree preservation plan shall be reviewed and approved by the Urban Forestry Branch. The tree preservation plan shall consist of a tree inventory which includes the location, species, size, crown spread and condition rating percent of all trees twelve (12) inches or 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 (4) foot high, fourteen (14) gauge welded wire attached to six (6) foot 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 sedimentary 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 performances of any clearing and grading activities on the site. All tree preservation activities, including installation of tree protection fencing, shall be performed under the supervision of the Project Arborist. Prior to the commencement of any clearing or grading on the site, the Project Arborist shall verify in writing that the tree protection fencing has been properly installed.

Clearing, grading, and construction shall conform to the limits of clearing and grading as shown on the CDP/FDP, subject to the installation of necessary utility lines, 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 accordance with the approved plans. The Applicant shall have the limits of clearing and grading marked with a continuous line of flagging prior to the pre-construction meeting. The Applicant and Project Arborist shall walk the limits of clearing and grading with an Urban Forestry Division representative 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.

The County Urban Forester may require modifications of such plans 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 greater than four (4) feet in height. 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 ground level as practical. 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.

- d. Subject to the receipt of the necessary permission from the owner, Applicant shall plant five (5) evergreen trees, eight (8) to ten (10) feet in height at time of planting, on the adjacent parcel identified among the Fairfax County tax map records as 71-2 ((9)) 1. Location and species of trees to be coordinated with the property owner. Said trees to be maintained in the future by the property owner. Documentation of efforts to obtain permission from the owner, if such efforts have failed, shall be submitted to the DPWES at time of site plan submission, upon request.
- e. Subject to the receipt of the necessary permission from the owner, Applicant shall plant two (2) evergreen trees, eight (8) to ten (10) feet in height at time of planting, on the adjacent parcel identified among the Fairfax County tax map records as 71-2 ((29)) A, as shown on the CDP/FDP. Location and species of trees to be coordinated with the Board of Directors of the Brentleigh Homeowners Association. Said trees to be maintained in the future by the Brentleigh Homeowners Association. Documentation of efforts to obtain permission from the owner, if such efforts have failed, shall be submitted to DPWES at time of site plan submission, upon request.
- f. Off-site plantings shall be installed subsequent to site plan approval, as soon thereafter as reasonably practical, and prior to the issuance of the first Residential Use Permit on the Application Property, subject to receipt of necessary permission and weather conditions.
- g. In order to preserve and protect the Environmental Quality Corridor (EQC) as delineated on the CDP/FDP, the limits of clearing and grading shall strictly conform to the limits as shown on the CDP/FDP, subject to installation of necessary utilities as determined by DPWES. Any such necessary utilities shall be located and installed in the least disruptive manner possible to minimize damage to trees as determined by DPWES. A replanting plan in accordance with the Public Facilities Manual shall be developed and implemented, as approved by the Urban Forestry Division for any areas outside the limits of clearing and grading that must be disturbed.

#### 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 expend the sum of nine hundred fifty-five dollars (\$955.00) per approved lot for on-site recreation facilities

consisting of a tot lot and benches 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 site plan approval for recreation facilities in the vicinity of the Application Property.

- b. Subject to acceptance by the Fairfax County Park Authority, at time of site plan approval, the Applicant shall dedicate and convey to the Fairfax County Park Authority, for public park purposes, that portion of the Application Property identified as Parcel A and consisting of approximately 99,000 square feet as shown on the CDP/FDP. Should Parcel A not be accepted by the Fairfax County Park Authority, Parcel A shall be maintained as open space and conveyed to the homeowners association established for the proposed development.
- c. At time of site plan approval, subject to approval of the Fairfax County Park Authority, Applicant shall design and construct an eight (8) foot wide asphalt trail within Parcel A as shown on the CDP/FDP in accordance with the trails plan for the Indian Run Steam Valley Park, which is part of the existing County-wide trail system. Said trail shall be designed to Public Facilities Manual standards. Trail shall be field located 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. At time of site plan submission, Applicant reserves the right to request a waiver to permit the escrow of funds in lieu of construction, and in coordination with the Mason District Supervisor's office.

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

- a. The Applicant shall provide stormwater management (SWM) and Best Management Practices (BMP), which may include, but not be limited to, 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 modified by DPWES. The SWM pond shall not be located within the EQC, as identified on the CDP/FDP.
- 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.
- c. Access for maintenance of the SWM pond shall be provided as shown on the CDP/FDP. The Applicant shall not extend nor use the SWM pond access road for any purpose other than that of maintenance of the SWM pond and its immediate vicinity.

#### 6. AFFORDABLE HOUSING -

At the time of final site plan approval, the Applicant shall contribute to the Fairfax County Housing Trust Fund the sum equal to one-half of one percent (1/2%) 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) and DPWES. The timing and amount of this contribution may be modified at the Applicant's sole option based on the adoption of a future amendment to the timing and/or formula, if such amendment is 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 340 feet from the centerline of Little River Turnpike in the area identified as having levels between 65 and 70 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 façade, they shall have the same laboratory STC ratings specified for exterior walls.
  3. Adequate measures to seal and caulk between surfaces will be provided and shall follow methods approved by the American Society of Testing and Materials to minimize sound transmission.
- b. For privacy yards and outdoor recreational areas exposed to noise levels above 65 dBA Ldn, solid wood privacy fences shall be considered as a sound attenuation measure. These fences shall conform to Zoning Ordinance regulations.
- 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. 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 Application Property as conceptually shown in the architectural renderings on sheet 3 of the CDP/FDP. Residential dwellings shall measure a minimum of twenty-four (24) feet in width and thirty-six (36) feet in length. Height of units shall not exceed thirty-five (35) feet as defined by the Zoning Ordinance. Proposed units located on Lots 1-4 shall front on Little River Turnpike (Route 236). Front facades shall be brick, masonry, or stone facing, exclusive of trim and architectural features. Rear facades of all units shall be beaded siding, with a reveal of approximately 5 inches or greater, and roofs shall be architectural/dimensional shingles.

- c. A two car garage shall be provided for each residential dwelling. The garage door opening height shall measure a minimum of six feet, three inches.
- d. Each residential dwelling shall have a minimum rear yard of 12 feet, a minimum two hundred (200) square foot privacy yard, and a minimum front yard of 16 feet, with a minimum driveway length of sixteen (16) feet. Driveways, even with a length of eighteen (18) feet, shall not be utilized to satisfy parking requirements. Initial purchasers of units with a driveway length of sixteen (16) feet shall be advised of this limitation prior to entering into a contract of sale and said limitation shall be disclosed in the homeowners' association documents.
- 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 vehicle). This covenant shall be recorded among the land records of Fairfax County in a form approved by the County Attorney prior to the sale of any lots and shall run to the benefit of the homeowners association, which shall be established, and the Fairfax County Board of Supervisors. Purchasers shall be advised of the use restriction prior to entering into a contract of sale and said restriction shall be disclosed in the homeowners' association documents.
- f. Applicant shall install a six (6) foot high wall of architectural block or brick on the west side of an existing Fairfax County Water Authority easement located on the east property line of the Application Property as shown on the CDP/FDP. Said wall shall include two gates: one located between proposed Lots 29 and 30, and one located on the southwest side of proposed Lot 24. Gates shall be kept locked and access controlled by the homeowners' association established for the residential community. Landscaping shall be provided as shown on the CDP/FDP. Said wall and landscaping shall be maintained by the homeowners' association established for the residential community.
- g. Applicant shall extend the existing chain link fence along the western property line to the north toward Little River Turnpike (Route 236) as shown on the CDP/FDP. Fence location shall meander to preserve existing trees.

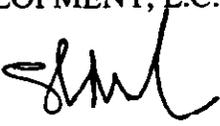
9. MISCELLANEOUS -

- 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 on the CDP/FDP, and all other community owned land and improvements.

- d. All of the improvements described herein shall be constructed concurrent with development of the Application Property.
- e. 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 Application Property. Furthermore, the Applicant shall direct its agents and employees involved in marketing and/or home sales for the Application Property to adhere to this proffer.
- f. The existing play area utilized by adjacent owners and shown on the CDP/FDP is subject to a lease, which shall expire on October 31, 2005, and Applicant shall not extend the term of the lease. At time of lease expiration, the homeowners' association established for the proposed development shall remove existing play equipment and revegetate the play area. Applicant shall escrow, on or before final bond release, the sum of five thousand (\$5,000.00) dollars into an account owned and controlled by the homeowners' association established for the proposed development, to be utilized for this purpose.
- g. Applicant shall provide written notice of the pre-construction conference to abutting homeowners in accordance with Par. 1 of Sect. 17-107 of the Zoning Ordinance so that abutting homeowners may attend said meeting for informational purposes. Such written notice shall be sent by certified mail postmarked a minimum of ten (10) days before the day of the pre-construction conference. Copies of the written notice shall be provided to the Mason District Supervisor's Office and the Zoning Administrator ten (10) days prior to the pre-construction conference.

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

APPLICANT/CONTRACT PURCHASER  
IVY DEVELOPMENT, L.C.

By: 

Name: Stephen Bannister

Title: Manager

TITLE OWNER:  
CASEY CLUB ASSOCIATION, INC.

By: RICHARD OWEN

Name: Richard Owen

Title: President Casey Club

TITLE OWNER:  
SOUTHERN REGION INDUSTRIAL REALTY, INC.

By: SG Fortnell

Name: SG FORTNELL

Title: Real Estate Manager