

## PROFFERS

### RZ 2001-BR-028 EASTWOOD PROPERTIES, INC.

February 20, 2002

Pursuant to Section 15-2.2303A of the 1950 Code of Virginia, as amended, the undersigned applicant and owners, for themselves and their successors or assigns (hereinafter referred to as "Applicant"), hereby proffer the following conditions provided the Subject Property is rezoned as proffered herein.

1. **Conceptual/Final Development Plan.** Development of the property shall be in conformance with the plan entitled "New London Park ("CDP/FDP")," consisting of six (6) sheets prepared by Charles P. Johnson & Associates, Inc., revised as of February 6, 2002. The CDP portion of the CDP/FDP shall constitute the entire plan relative to the points of access, the total number of units, type of units and general location of residential lots and common open space areas and buffering. The existing dwellings on proposed Lots 8, 10 and 11 may be retained or replaced at the owner's discretion.
2. **Minor Deviations.** Pursuant to Paragraph 4 of Section 16-403 of the Zoning Ordinance, minor modifications from the FDP may be permitted where it is determined by the Zoning Administrator that such are in substantial conformance with the approved FDP. The Applicant shall have the right to make minor adjustments to the lot lines of the proposed lots at the time of subdivision plan submission based upon final house locations and building footprints, provided such changes are in substantial conformance with the FDP and do not increase the number of units or decrease the amount of open space, peripheral setbacks, access or parking spaces, without requiring approval of an amended FDP. The Applicant shall have the option to request Final Development Plan Amendments ("FDPAs") from the Planning Commission for portions of the Plan in accordance with the provisions set forth in Section 16-402 of the Zoning Ordinance.
3. **Tree Preservation.**
  - a. The Applicant shall contract with a certified arborist to prepare a tree preservation plan to be submitted as part of the first subdivision plan submittal. The plan shall be reviewed and approved by the Urban Forestry Division. The certified arborist responsible for preparation of the tree preservation plan shall be referred to as the Project Arborist. 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 four and one-half (4½) feet from the ground, within twenty (20) feet on either side of the limits of clearing and grading. The condition analysis shall be prepared using methods outlined in the eighth (8<sup>th</sup>) 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.

- b. All trees shown to be preserved on the tree preservation plan shall be protected by fencing during construction. Tree protection fencing shall be erected at the limits of clearing and grading as shown on the tree preservation plan. Materials and installation of tree protection fencing shall conform to one of the two following standards:
- (1) Four (4) foot high, fourteen (14) gauge wire attached to six (6) foot steel posts driven eighteen (18) inches into the ground and placed no further than ten (10) feet apart; or
  - (2) Four (4) foot high, orange plastic fence attached to six (6) foot steel posts driven eighteen (18) inches into the ground and placed no further than six (6) feet apart.

The tree protection fencing shall be made clearly visible to all construction personnel. The 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 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 that the tree protection fencing has been properly installed.

- c. 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. These methods are to be included in the tree preservation plan.
- d. Clearing, grading and construction shall conform to the limits of clearing and grading as shown on the CDP/FDP, subject to installation of the necessary utility lines, stormwater management facilities and other required site improvements, all of which shall be installed in the least disruptive manner possible, as determined by the Department of Public Works and Environmental Services ("DPWES"). The Applicant shall have the limits of clearing and grading marked with a continuous line of flagging prior to the pre-construction meeting. Before or during the pre-construction meeting, the Applicant shall walk the limits of clearing and grading with an Urban Forestry Division representative and the Project Arborist to determine where minor 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 will also be identified at this time and the Applicant may be given the option of removing them 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.

- e. Prior to subdivision plat approval, a replacement value shall be assigned by the Urban Forestry Division to all healthy trees measuring eight (8) inches or larger in diameter which are either individually designated as required under this proffer or are located within the limits of clearing and grading as shown on the CDP/FDP. At the time of subdivision plat approval, the Applicant will post a cash bond or a letter of credit payable to the County of Fairfax in such an amount assigned as replacement value by the Urban Forestry Division to ensure preservation and/or replacement of the designated trees. The calculated replacement values shall be renewed and approved by the Urban Forestry Division prior to posting the cash bond or letter of credit. The terms of the letter of credit shall be subject to approval by the County Attorney. The replacement value of each designated tree shall be determined according to the methods contained in the latest edition of the *Valuation of Landscape Trees, Shrubs and Other Plants* published by the International Society of Arboriculture and the total amount of the cash bond or letter of credit will not exceed the sum of such assigned values. From time to time, funds, or a portion thereof, may be drawn on the cash bond or letter of credit and expended for the purposes of this proffer. Replacement of trees by the County shall be in accordance with the guidelines of the Fairfax County Public Facilities Manual. The letter of credit or cash bond will be released when the conservation deposit for the subdivision is released.
4. **Off-Site Trail.** Subject to receiving the necessary easements from the adjoining property owner and provided the necessary right-of-way/easements are available at no cost to the Applicant, the Applicant shall construct a four (4) foot wide asphalt path extending to the east off-site along the frontage of Zion Road from the edge of the Subject Property to the existing roadway entrance to Sideburn Civic Association Park. Said path may meander to minimize grading, as determined appropriate by DPWES.
5. **Homeowners' Association.** A Homeowners' Association ("HOA") shall be established to own and maintain the common areas and to maintain the Rain Garden shown on the CDP/FDP. Maintenance of the Rain Garden shall be accomplished consistent with the standards set forth in Attachment A. Prior to entering into a contract for sale, prospective purchasers shall be advised of the HOA membership requirement and associated obligations and responsibilities (including maintenance of the common areas, the Rain Garden and the existing cemetery; see Paragraph 6 below). In addition, the HOA documents shall include a provision that clearly sets out such obligations and responsibilities as well as the specific maintenance requirements for the Rain Garden as set forth in Attachment A, or other equivalent document as may be approved by DPWES. At the time of final subdivision plan approval, if the Rain Garden is approved by DPWES, the Applicant shall establish an escrow fund of \$2,000 for initial maintenance of the Rain Garden by the HOA.

6. **Cemetery Preservation.** The HOA shall also be responsible for maintaining the existing cemetery on the property, designated as Parcel "B" on the CDP/FDP. This maintenance obligation shall be included in the HOA documents. The Applicant shall construct a wrought iron fence (with a gate) around the perimeter of the cemetery as shown on the CDP/FDP and shall provide a public access easement onto Parcel B to the gated entrance.
7. **Drainage.**
  - a. The proposed development of the Subject Property will be designed to reduce stormwater runoff flowing in the direction of the Woodlynne Community, subject to DPWES approval. This will be done by reducing the area that drains to the rear of the Woodlynne Community (with VDOT and DPWES permission) by diverting a portion of the drainage from the Subject Property that currently drains towards the Woodlynne Community and grading the new lots so that this drainage is directed to the north into the proposed stormwater management pond on the Subject Property. The Applicant will also revise the storm drainage on the site to direct the flow from the proposed new cul-de-sac, and from other areas draining into this cul-de-sac, through the site to the proposed pond.
  - b. Subject to receiving permission and the necessary easements from the Woodlynne Community Association and approval by DPWES, the Applicant shall reconstruct the existing inlet straddling the perimeter property line between the Woodlynne Community Association and the Subject Property, at the rear of Lots 188 and 192 of the Woodlynne Community, and new Lots 8 and 10 on the Subject Property, to provide additional throat openings in order to alleviate the ponding problem caused by the blockage occurring on Lots 188 and 192 of the Woodlynne Community. The Applicant shall also grant an easement across existing Lot 3 (future Lot 10) and install a private PVC storm drain or French drain. This private PVC storm drain or French drain will be designed to divert flow away from the open space in the rear of Lots 182 through 187 of the Woodlynne Community, where ponding is created by runoff from these lots, and to divert this flow into the stormwater management system proposed on the Subject Property. Installation of this storm drain shall be contingent upon the execution of an agreement with the Woodlynne Community wherein the Woodlynne Community agrees to maintain said storm drain. Such agreement shall be executed prior to final subdivision plan approval, or the Applicant shall demonstrate to DPWES that the Woodlynne Community is unwilling to make such an agreement.
8. **Recreation.** At the time of subdivision plan approval, pursuant to Section 6-110 of the Zoning Ordinance, the Applicant shall contribute the sum of \$955 per approved dwelling unit for the total number of new dwelling units on the record plat, to the Fairfax County Park Authority ("Park Authority") to be utilized for recreational facilities at Royal Lake Park or Woodglen Lake Park, subject, however, to a credit for expenditures for the gazebo, trails, sidewalks (excluding sidewalks required by the Public Facilities Manual or shown on the Comprehensive Plan Trails Map) and benches, as depicted on the CDP/FDP.

9. **Road Dedication/Construction.** At the time of subdivision plan approval, or upon demand by Fairfax County, whichever occurs first, right-of-way along the Zion Road frontage of the site, necessary for public street purposes and as shown on the CDP/FDP, shall be dedicated and conveyed to the Board of Supervisors ("Board") in fee simple. The Applicant shall also construct road widening with curb gutter and sidewalk along the Zion Road frontage of the Subject Property as shown on the CDP/FDP.
10. **Density Credit.** All density and intensity of use attributable to land areas dedicated and conveyed to the Board pursuant to these proffers shall be subject to the provisions of Paragraph 4 of Section 2-308 of the Zoning Ordinance and density hereby reserved to be applied to the residue of the Subject Property.
11. **Rear/Side Yards.** Rear yards located on the proposed common property line with Goins Manor shall have a minimum twenty-five (25) foot setback/building restriction line. All dwellings (except for the dwelling on Lot 9) shall be located on the lots so as to maintain minimum side yards of eight (8) feet. These minimum side yards may be less than eight (8) feet at any location where a bay window or fireplace is installed. However, the main walls of these dwellings (except for Lot 9) shall be located so as to maintain the eight (8) foot minimum side yard.
12. **Land Swap.** The 8,580 square foot area delineated on Sheet 3 of the CDP/FDP and described therein as "Area to be Dedicated to Goins Manor," shall be conveyed to Goins Manor Homeowners Association, Inc., to be utilized as open space, supplementing the open space of Parcel A of Goins Manor. This parcel shall replace the 8,580 square foot area of open space in Parcel A that is being conveyed to the Applicant. This land swap shall occur prior to the recordation of the final subdivision plat for the Subject Property.
13. **Public Access Easement.** At the time of recordation of the subdivision plat for the Subject Property, the Applicant shall record a public access easement for the sidewalk between the two (2) cul-de-sacs.
14. **Housing Trust Fund.** At the time of subdivision plan approval, the Applicant shall contribute to the Fairfax County Housing Trust Fund a sum equal to one half of one percent (.5%) of the projected sales price of the new homes to be built on-site, as determined by the Department of Housing and Community Development and DPWES in consultation with the Applicant to assist the County in its goal to provide affordable dwelling elsewhere in the County.
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, and all of which taken together shall constitute but one and the same instrument.

*[SIGNATURES ON THE FOLLOWING PAGES]*

Attachment

# ATTACHMENT A

## Specifications for Maintenance of Rain Gardens

Description	Method	Frequency	Time of the year
<b>SOIL</b>			
Inspect and Repair Erosion	Visual	Monthly	Monthly
<b>ORGANIC LAYER</b>			
Remulch any void areas	By hand	Whenever needed	Whenever needed
Remove previous mulch layer before applying new layer (optional)	By hand	Once every two to three years	Spring
Any additional mulch added (optional)	By hand	Once a year	Spring
<b>PLANTS</b>			
Removal and replacement of all dead and diseased vegetation considered beyond treatment	See planting specifications	Twice a year	3/15 to 4/30 and 10/1 to 11/30
Treat all diseased trees and shrubs	Mechanical or by hand	N/A	Varies, depends on insect or disease infestation
Watering of plant material shall take place at the end of each day for fourteen consecutive days after planting has been completed	By hand	Immediately after completion of project	N/A
Replace stakes after one year.	By hand	Once a year	Only remove stakes in the spring
Replace any deficient stakes or wires	By hand	N/A	Whenever needed
Check for accumulated sediments	Visual	Monthly	Monthly

APPLICANT/CONTRACT PURCHASER OF TAX  
MAP 68-4 ((1)) PARCELS 48, 49 and 50; TAX MAP  
68-4 ((4)) PARCELS A1, C, D AND 1; TAX MAP 77-2  
((26)) PARCELS 1, 2 AND 3; TAX MAP 68-4 ((13))  
PARCEL A (PART)

**EASTWOOD PROPERTIES, INC.**

By: *Richard L. Labbe*  
Richard L. Labbe, President

**OWNERS OF TAX MAP 68-4 ((1)) PARCEL 48**

*Robert M. Churchill*  
Robert M. Churchill

*Judith A. Churchill*  
Judith A. Churchill

**OWNER OF TAX MAP 68-4 ((1)) PARCEL 50**

**Mary E. Briggs**

By: *Richard L. Labbe*  
Richard L. Labbe, Agent and Attorney-in-Fact for  
Mary E. Briggs  
*RICHARD L. LABBE, AGENT AND ATTORNEY -  
IN FACT FOR MARY E. BRIGGS.*

**OWNERS OF TAX MAP 68-4 ((1)) PARCEL 49; TAX  
MAP 68-4 ((4)) PARCELS A1, C AND 1**

Alfred A. Abernathy  
Alfred A. Abernathy

Phereso J. Abernathy  
Phereso J. Abernathy

*Signatures of five (5) page proffer agreement.*

**OWNERS OF TAX MAP 68-4 ((4)) PARCEL D; TAX  
MAP 77-2 ((26)) PARCEL 2**

**Bernard Green**

By: Joyce Folks Weaver  
Joyce Folks Weaver, Agent and Attorney-in-Fact  
for Bernard Green *Joyce Folks Weaver, Agent and  
Attorney-in-Fact for Bernard Green*

**Ernest J. Green**

By: Joyce Folks Weaver  
Joyce Folks Weaver, Agent and Attorney-in-Fact  
for Ernest J. Green *Joyce Folks Weaver, Agent and  
Attorney-in-Fact for Ernest Green*

**Patricia A.F. McPhail**

By: Joyce Folks Weaver  
Joyce Folks Weaver, Agent and Attorney-in-Fact  
for Patricia A.F. McPhail *Joyce Folks Weaver,  
Agent and Attorney-in-Fact for Patricia A.F. McPhail*

**John W. Folks, Jr.**

By: Joyce Folks Weaver  
Joyce Folks Weaver, Agent and Attorney-in-Fact  
for John W. Folks, Jr. *Joyce Folks Weaver, Agent and  
Attorney-in-Fact for John W. Folks, Jr.*

**George R. Morton, III**

By: Joyce Folks Weaver  
Joyce Folks Weaver, Agent and Attorney-in-Fact  
for George R. Morton, III *Joyce Folks Weaver, Agent  
and Attorney-in-Fact for George R. Morton, III*

**Curtis M. Morton**

By: Joyce Folks Weaver  
Joyce Folks Weaver, Agent and Attorney-in-Fact  
for Curtis M. Morton *Joyce Folks Weaver, Agent and  
Attorney-in-Fact for Curtis M. Morton*

**Monique P. Morton**

By: Joyce Folks Weaver  
Joyce Folks Weaver, Agent and Attorney-in-Fact  
for Monique P. Morton *Joyce Folks Weaver, Agent  
and Attorney-in-Fact for Monique P. Morton*

Joyce Folks Weaver  
Joyce Folks Weaver

**OWNER OF TAX MAP 77-2 ((26)) PARCEL 1**

Feb 23 2002 Chul Hee Cho  
Chul Hee Cho

**OWNERS OF TAX MAP 77-2 ((26)) PARCEL 3**

Sami Alamiri  
Sami S. Alamiri

Luma J. Khalaf  
Luma J. Khalaf

**OWNER OF TAX MAP 68-4 ((13)) PARCEL A (PART)**

**GOINS MANOR HOMEOWNERS ASSOCIATION, INC.**

By: Phyllis L. Lawrence

Title: President Goins Manor HOA

**APPLICANT/CONTRACT PURCHASER OF TAX  
MAP 68-4 ((1)) PARCEL 50 (PART) AND TAX MAP  
68-4 ((13)) PARCEL A (PART)**

**EASTWOOD PROPERTIES, INC.**

By:   
Richard L. Labbe, President

**OWNER OF TAX MAP 68-4 ((1)) PARCEL 50**

  
Richard L. Labbe, Agent and Attorney-in-Fact for  
Mary E. Briggs — *RICHARD L. LABBE, AGENT  
AND ATTORNEY-IN-FACT FOR MARY E. BRIGGS*

**OWNER OF TAX MAP 68-4 ((13)) PARCEL A**

**GOINS MANOR HOMEOWNERS ASSOCIATION, INC.**

By:   
Title: *President*  
*GOINS MANOR HOA*



**PROFFERS**

**PCA 81-A-036  
EASTWOOD PROPERTIES, INC.**

**February 13, 2002**

Pursuant to Section 15-2.2303A of the 1950 Code of Virginia, as amended, the undersigned applicant and owners, for themselves and their successors or assigns (hereinafter referred to as "Applicant"), hereby proffer the following conditions for the area described as Tax Map 68-4 ((1)) Parcel 50 part (Subject Property), provided said property is rezoned as proffered herein.

1. Except as modified herein, the Subject Property is governed by the proffers dated July 31, 1981, in RZ 81-A-036, and those proffers are hereby reaffirmed.
2. The 8,580 square foot area delineated on Sheet 3 of the CDP/FDP in RZ 2001-BR-028 as "Area to be Transferred from Goins Manor," shall be deleted from the subdivision of Goins Manor (RZ 81-A-036) and conveyed to the Applicant. This area shall thereafter become part of the area of RZ/FDP 2001-BR-028.
3. The 8,580 square foot area delineated on Sheet 3 of the CDP/FDP in RZ 2001-BR-028 and described therein as "Area to be Dedicated to Goins Manor," shall be conveyed to Goins Manor Homeowners Association, Inc. It shall thereafter be utilized as open space, supplementing the open space of Parcel A of Goins Manor and replacing the 8,580 square foot area of open space in Parcel A that is being conveyed to the Applicant in RZ 2001-BR-028.
4. The land swap referenced in Paragraphs 2 and 3 above, shall occur prior to the recordation of the final subdivision plat for the property which is the subject of RZ/FDP 2001-BR-028
5. These proffers may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed an original, and all of which taken together shall constitute but one and the same instrument.

*[SIGNATURES ON THE FOLLOWING PAGE]*

## **PROPOSED DEVELOPMENT CONDITIONS**

**FDP 2001-BR-028**

**February 13, 2002**

If it is the intent of the Planning Commission to approve Final Development Plan Application FDP 2001-BR-028 for residential development located at Tax Map 68-4 ((1)) 48, 49 and 50; 68-4 ((4)) A1, C, D and 1; 77-2 ((26)) 1, 2 and 3; and 68-4 ((13)) A part, staff recommends that the Planning Commission condition the approval by requiring conformance with the following development conditions.

1. Development of the subject property shall be in conformance, as defined by Section 16-403 of the Zoning Ordinance, with the Final Development Plan entitled "New London Park", prepared by: Charles P. Johnson & Associates, Inc., and dated April 18, 2001, as revised through February 6, 2002.