COMMONWEALTH OF VIRGINIA
COUNTY OF FAIRFAX
4100 CHAIN BRIDGE ROAD
FAIRFAX, VIRGINIA 22030

January 26, 1988

Francis A. McDermott, Esquire
Hazel, Beckhorn and Hanes
Post Office Box 547
Fairfax, Virginia 22030

Re: Rezoning Application
Number RZ 85-P-111
(AMENDED LETTER)

Dear mr. McDermott:

Enclosed you will find a copy of an Ordinance adopted by the Board of Supervisors at a regular meeting held on July 21, 1986, granting, as proffered, Rezoning Application RZ 85-P-111 in the name of YWCA-National Capital Area, Incorporated, to rezone certain property in the Providence District from the R-1 District to the PDH-3 District on subject parcels 39-4 ((1)) 1 consisting of approximately 9.89 acres.

The Board also approved the Conceptual Development Plan, subject to signed proffered conditions dated July 11, 1986, and waived the maximum length for private streets.

Very truly yours,

Ethel W. Register

Ethel W. Register, CMC, Agency Director
Office of the Clerk to the Board

EWR:lc

cc: Joseph T. Hix
Real Estate Division, Assessments
Gilbert R. Knowlton, Deputy
Zoning Administrator
Barbara A. Byron, Director
Zoning Evaluation Division
Fred R. Beales, Supervisor
Base Property Mapping/Overlay
Jack W. Weyant, P. E.
Patton, Harris, Rust & Associates

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Room in the Massey Building at Fairfax, Virginia, on the July 21, 1986, the following ordinance was adopted:

AN ORDINANCE AMENDING THE ZONING ORDINANCE
PROPOSAL NO. RZ 85-P-111

WHEREAS, YWCA-National Capital Area, Incorporated, filed in the proper form, an application requesting the zoning of a certain parcel of land hereinafter described, from the R-1 District to the PDH-3 District, and

WHEREAS, at a duly called public hearing the Planning Commission considered the application and the propriety of amending the Zoning Ordinance in accordance therewith, and thereafter did submit to this Board its recommendation, and

WHEREAS, this Board has today held a duly called public hearing and after due consideration of the reports, recommendation, testimony and facts pertinent to the proposed amendment, the Board is of the opinion that the Ordinance should be amended,

NOW, THEREFORE, BE IT ORDAINED, that that certain parcel of land situated in the Providence District, and more particularly described as follows (see attached legal description):

Be, and hereby is, zoned to the PDH-3 District, and said property is subject to the use regulations of said PDH-3 District, and further restricted by the conditions proffered and accepted pursuant to Va. Code Ann., §15.1-491(a), which conditions are incorporated into the Zoning Ordinance as it affects said parcel, and

BE IT FURTHER ENACTED, that the boundaries of the Zoning Map heretofore adopted as a part of the Zoning Ordinance be, and they hereby are, amended in accordance with this enactment, and that said zoning map shall annotate and incorporate by reference the additional conditions governing said parcels.

GIVEN under my hand this 21st day of July, 1986.

Ethel Wilcox Register, CMC

Ethel Wilcox Register, CMC
Clerk to the Board of Supervisors

COMMONWEALTH OF VIRGINIA
COUNTY OF FAIRFAX
4100 CHAIN BRIDGE ROAD
FAIRFAX, VIRGINIA 22030

January 26, 1988

Mr. Steve L. Patton
Patton, Harris, Rust and Associates
3998 Fair Ridge Drive
Post Office Box 901
Fairfax, Virginia 22030

Re: Rezoning Number
RZ 85-P-111

Dear Mr. Patton:

Your request to correct the last sentence of my letter of August 1, 1986 to Mr. Francis McDermott regarding correction of the last sentence has been reviewed and sent forward to the Board of Supervisors for action. On Monday, January 25, 1988, Supervisor Katherine K. Hanley made a motion to change the word "minimum" to maximum".

Today, an amended letter to Mr. Francis McDermott has been prepared and forwarded to him. A copy of this amended letter is attached.

We are glad to be of service to you in this matter.

Very truly yours,

Ethel W. Register

Ethel W. Register, CMC, Agency Director
Office of the Clerk to the Board

EWR:lc

enclosure

cc: Mr. Francis McDermott

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Room in the Massey Building at Fairfax, Virginia, on the July 21, 1986, the following ordinance was adopted:

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PROPOSAL NO. RZ 85-P-111

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WHEREAS, at a duly called public hearing the Planning Commission considered the application and the propriety of amending the Zoning Ordinance in accordance therewith, and thereafter did submit to this Board its recommendation, and

WHEREAS, this Board has today held a duly called public hearing and after due consideration of the reports, recommendation, testimony and facts pertinent to the proposed amendment, the Board is of the opinion that the Ordinance should be amended,

NOW, THEREFORE, BE IT ORDAINED, that that certain parcel of land situated in the Providence District, and more particularly described as follows (see attached legal description):

Be, and hereby is, zoned to the PDH-3 District, and said property is subject to the use regulations of said PDH-3 District, and further restricted by the conditions proffered and accepted pursuant to Va. Code Ann., §15.1-491(a), which conditions are incorporated into the Zoning Ordinance as it affects said parcel, and

BE IT FURTHER ENACTED, that the boundaries of the Zoning Map heretofore adopted as a part of the Zoning Ordinance be, and they hereby are, amended in accordance with this enactment, and that said zoning map shall annotate and incorporate by reference the additional conditions governing said parcels.

GIVEN under my hand this 21st day of July, 1986.

Ethel Wilcox Register, CMC

Ethel Wilcox Register, CMC
Clerk to the Board of Supervisors

APRIL 11, 1986

DESCRIPTION OF

THE PROPERTY OF

YOUNG WOMEN'S CHRISTIAN ASSOCIATION OF

THE NATIONAL CAPITAL AREA, INC.

PROVIDENCE DISTRICT

FAIRFAX COUNTY, VIRGINIA

Beginning at a point on the Southerly line of Wolf Trap Road (Route #676-45 feet from centerline) marking the Northwesterly corner of Robert C. Kettler, Et Al, Trs.; thence departing Wolf Trap Road and running with the Westerly lines of the said Kettler, Et Al, Trs, the following courses: S 28° 46' 00" W, 37.00 feet; S 61° 14' 00" E, 36.00 feet; with a curve to the right whose radius is 74.00 feet (and whose chord is S 52° 22' 48" E, 22.78 feet) an arc distance of 22.87 feet; S 50° 31' 12" W, 254.79 feet and S 39° 17' 54" E, 35.00 feet to a point marking the Northwest corner of The National Pest Control Association, Inc; thence running with the Westerly line of the said National Pest Control Association, Inc S 50° 31' 12" W, 59.39 feet to a point marking the Northeast corner of the Christian Assembly Church, Tr.; thence departing The National Pest Control Association, Inc and running with the Northerly line of the said Christian Assembly Church, Tr N 61° 42' 18" W, 1198.08 feet to a point on the Easterly line of Briarcliff Housing Associates; thence running with the Easterly line of the said Briarcliff Housing Associates and continuing with the Easterly line of Fairfax County Redevelopment and Housing Authority N 26° 01' 16" E, 337.75 feet to a point on the Southerly line of the said Wolftrap Road; thence running with the Southerly lines of Wolftrap Road S 65° 24' 40" E, 245.66 feet and S 61° 14' 00" E, 994.68 feet to the point of beginning, containing 9.897 acres of land.

All being more particularly described on a plat attached hereto and made a part hereof.

RSS/pyg

Young Women's Christian Association
of the National Capital Area, Inc.
RZ 85-P-111
Tax Map Parcel 39-4-((1))-1

PROFFER
June 3, 1986
Revised June 9, 1986
Revised June 11, 1986
Revised June 19, 1986
Revised July 11, 1986

The undersigned hereby proffers that in the event the Board of Supervisors of Fairfax County, pursuant to the hearing scheduled for June 23, 1986, shall rezone the 9.897 acres which are the subject of Rezoning Application 85-P-111 to the PDH-3 District to permit 37 single family attached units and a community use, development of subject property shall be in general conformance with the Conceptual/Final Development Plan as revised through May 30, 1986, prepared by Dewberry and Davis, and further qualified by and subject to the following terms and conditions:

1. If requested by the Board of Supervisors or the Department of Environmental Management ("DEM") and approved by the Virginia Department of Highways and Transportation ("VDH&T") at the time of final site plan approval, applicant or assigns shall (i) dedicate 45 feet of right-of-way from the existing centerline of Wolftrap Road along subject property frontage; and (ii) make provision to construct one-half section of the appropriate section for a two lane roadway (i.e., one lane of pavement with curb, gutter and sidewalk) along subject property's Wolftrap Road frontage. As an alternative to the roadway improvement referenced in (ii) above, if requested by, and at the sole discretion of the Board of Supervisors and/or DEM, and if approved by VDH&T, applicant or assigns will make a cash contribution, in an amount equal to the cost of constructing the improvement committed in (ii) above, to the County or VDH&T for the construction of improvements to Wolftrap Road between subject property's western boundary and Gallows Road.

2. Approximately 34% of the site, generally as shown on the referenced Plan, shall be reserved for open space. This open space shall be dedicated to a homeowners association and, except as further qualified by this proffer statement and/or the Conceptual/ Final Development Plan, shall be left undisturbed.

3. Limits of clearing and grading shall be generally as depicted on the Conceptual/Final Development Plan and coordinated with the County Arborist to protect clusters of quality vegetation on site. The right is specifically reserved to the applicant or assigns, in coordination with the County Arborist and/or DEM, to locate and/or construct within said undisturbed areas pedestrian trails, tot lots, or other recreational facilities, storm water detention facilities and/or other utilities including storm, sanitary sewer, and water lines. In the event the referenced undisturbed areas are utilized for said facilities/utilities, applicant or assigns shall replant/landscape said areas with comparable indigenous vegetation.

4. Applicant or assigns shall provide developed recreational facilities (i.e., multi-use courts, trails and/or tot lots) which equal or exceed Section 6-110 of the Zoning Ordinance.

5. All residential dwellings will meet the energy conservation guidelines as outlined in the Virginia Home Builders E-7 Program.

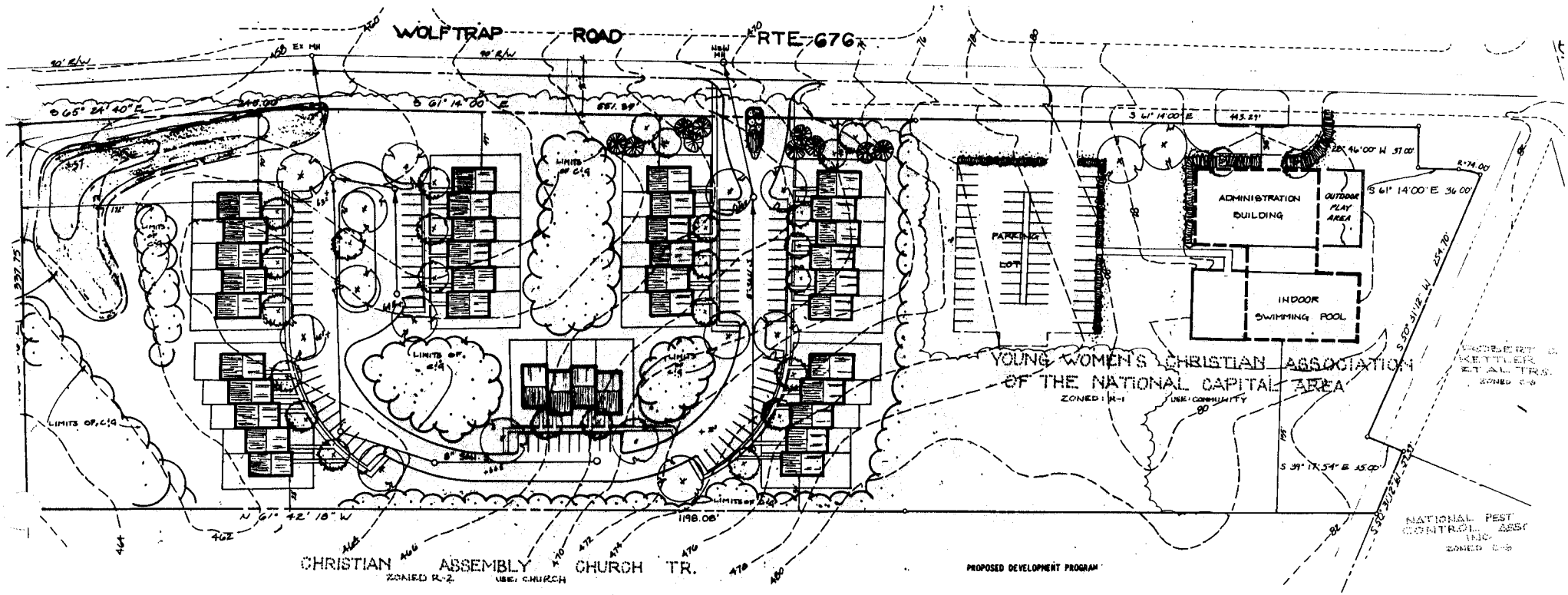
6. The residential dwellings constructed on subject property shall be compatible in architectural design and/or quality, to those in the Tysons Manor and Wheystone communities.

7. Applicant or assigns shall initiate discussions with the appropriate public agencies and with the owners of each parcel along this portion of Wolftrap Road regarding taking action necessary to accomplish the acceptance, by VDH&T, of Wolftrap Road into the state secondary road system.

8. Applicant or assigns shall disclose, in the contract of sale with the original purchaser of each unit constructed on subject property, that each owner may be required to participate in the cost of snow removal from and/or maintenance of Wolftrap Road, if Wolftrap Road is not accepted into the state secondary road system.

YOUNG WOMEN'S CHRISTIAN ASSOCIATION
OF THE NATIONAL CAPITAL AREA, INC.

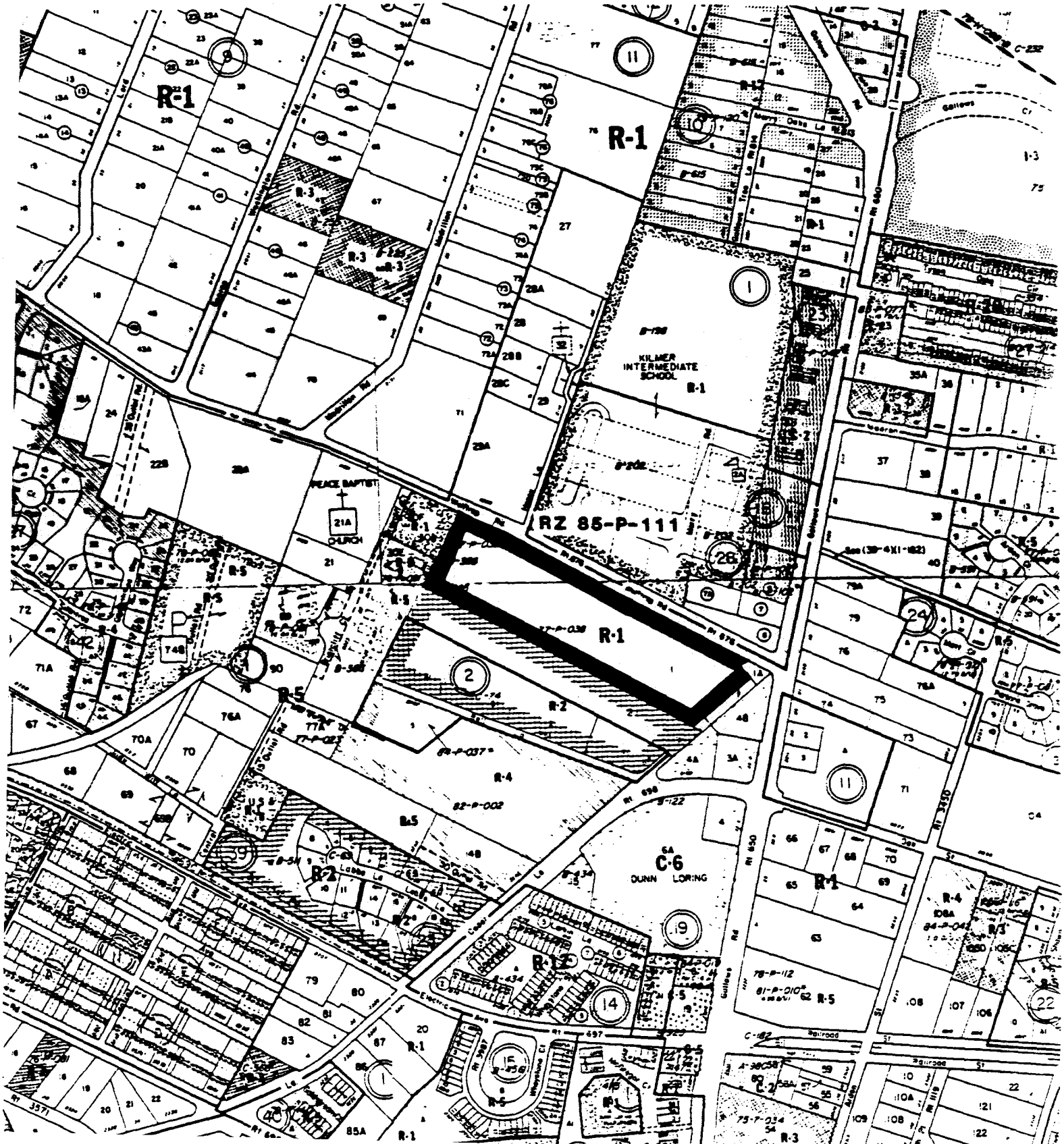
By Shirley A. Henderson, President


WOLFTRAP ROAD RTE 676
S 65° 24' 40" E
S 61° 14' 00" E
S 61° 14' 00" E
N 61° 42' 18" W
1198.08'
PARKING LOT
ADMINISTRATION BUILDING
OUTDOOR PLAY AREA
INDOOR SWIMMING POOL
S 61° 14' 00" E 36.00'
S 39° 17' 54" E 35.00'
YOUNG WOMEN'S CHRISTIAN ASSOCIATION OF THE NATIONAL CAPITAL AREA
ZONED: R-1 USE: COMMUNITY
CHRISTIAN ASSEMBLY CHURCH TR.
ZONED R-2 USE: CHURCH
NATIONAL PEST CONTROL ASSC INC
ZONED C-6
PROPOSED DEVELOPMENT PROGRAM

RI 'ONING APPLICATI N

RZ 85-P-111 YWCA - NATIONAL CAPITAL AREA, INC.
FILED 10/02/85 TO REZONE: 9.89 ACRES OF LAND; DISTRICT - PROVIDENCE
PROPOSED: RESIDENTIAL
LOCATED: S.W. SIDE WOLFTRAP ROAD
N.W. OF ITS JUNCTION WITH GALLOWS ROAD
ZONING: R-1
TO: PDH-3

MAP REF 039-4- /01/ /0001-



F A I R F A X C O U N T Y

BOARD OF SUPERVISORS ACTION
ZONING MAP AMENDMENT
DATE OF ACTION 07/21/86

PLICATION NUMBER: RZ 85-P-111 PROVIDENCE DISTRICT

PLICANT: YWCA - NATIONAL CAPITAL AREA, INC.

TAFF: DPEN

GRANTED THE REQUESTED ZONING DISTRICT(S) SHOWN BELOW

APPROVED THE CONCEPTUAL DEVELOPMENT PLAN

AND ACCEPTED PROFFERS.

APPLICATION DATA

EXISTING ZONING AND ACREAGE

ONING: R-1

CRES: 9.89

ROPOSED:

PDH-3
9.89

ACTION:

PDH-3
9.89

TOTAL ACRES

9.89

TOTAL ACRES

9.89

MAP NUMBERS

39-4- /01/ /0001-

EMARKS:

ZONING MAP AMENDMENT

RZ 85-P-111

ZONING DISTRICT DATA

NING DISTRICT: PDH-3

PROFFERED/CONDITIONED DWELLING UNIT DATA

PES	UNITS	ACRES	DENSITY	RANGE	LOMOD INCL	LOMOD ADD
D						
A	37	9.89	3.70			
R						
D						
---	---	---	---	---	---	---
T	37	9.89	3.70			

PROFFERED/CONDITIONED NON-RESIDENTIAL GROSS FLOOR AREAS

SE	GFA	FAR	USE	GFA	FAR
OMMERICAL-GEN			PUBLIC/QUASI PUB		
OTEL/MOTEL			OFFICE		
NDUSTRIAL-GEN			TRAN-UTIL-COMM		
ULT/EDU/RELG/ENT			RETAIL-EATING EST		
NDUST-WAREHOUSE			*****TOTAL*****		

EMARKS:

ZONING MAP AMENDMENT

RZ 85-P-111

CONDITION/CONTRIBUTION DATA

IND IDE	DESCRIPTION	COND CODE	DESCRIPTION
1	CONCEPTUAL DEVEL PLAN	1C	FINAL DEVELOPMENT PLAN
2	CONDITIONS, P DISTRICT	1H	WAIVER APPROVED
3	DEDICATION: HOMEOWNRS OPEN SPACE	2H	RECREATION FACIL/SITES
5	ARCHITECTURE	4B	TREES/COUNTY ARBORIST
4	LANDSCAPING		

ONTRIB DATA:	CND CODE	AMOUNT	CONDITIONED	EXPIRES	CONTRIB CODE
		$0		00/00/00	
		$0		00/00/00	
		$0		00/00/00	
		$0		00/00/00	

EMARKS:

FAIRFAX COUNTY, VIRGINIA

MEMORANDUM

TO: John F. Herrity, Chairman
Board of Supervisors

DATE: June 27, 1986

FROM: George M. Lilly, Chairman
Planning Commission

SUBJECT: Planning Commission Action Re: FDP-85-P-111 - YWCA - NATIONAL CAPITAL AREA, INC., Providence District

On Wednesday, June 25, 1986, the Planning Commission voted 6-0-1 (Commssioner Sell abstaining; Commissioner Byers not present for the vote; Commissioners Fasteau, Harsel, and Sparks absent from the meeting) to approve the final development plan for RZ-85-P-111, as amended, subject to the Board of Supervisors' approval of RZ-85-P-111 and the conceptual development plan.

For your information, a copy of the verbatim excerpts from the Commission action on this case is attached.

GML/BJL:gw

Attachment (1)

cc: Nancy Falck, Supervisor, Dranesville District
Frank McDermott, Applicant's Representative
Michelle Drew, Staff Coordinator, OCP
June 25, 1986 Date File
Y-1(a) File

Planning Commission Meeting
June 25, 1986
Verbatim Excerpts

FDP-85-P-111 - YWCA-NATIONAL CAPITAL AREA, INC.

Decision-Only

Commissioner Annunziata: Mr. Chairman, the motion I need to make is one regarding the YWCA property that was here for hearing last Wednesday. If you recall, in particular Commissioner Byers raised some concern, and Commissioner Harsel raised some concern, respecting the siting of the recreational facility on the development plan. This week the applicant has provided a plan which shows as a feature the particular recreational facilities that they have committed on the property, which I believe would satisfy the concern raised on the part of the Commission, and would be the basis warranting approval of the final development plan. The stormwater detention pond in that northeast corner, of course, has been deleted. Lest anyone fear that these recreational facilities were going to be located in that pond, I want to make sure you understand that that feature is no longer there. Therefore, I would MOVE THAT THE PLANNING COMMISSION APPROVE THE FINAL DEVELOPMENT PLAN AS AMENDED, SUBJECT TO APPROVAL BY THE BOARD OF SUPERVISORS OF RZ-85-P-111 AND THE CONCEPTUAL DEVELOPMENT PLAN.

Commissioner Thillmann: Second.

Chairman Lilly: Seconded by Mr. Thillmann. Is there discussion of the motion, which is to recommend approval to the Board of Supervisors of this application. All those in favor say---oh, this is a final development plan. You got two things in here, or just one?

Commissioner Annunziata: No. This is just---the motion is to approve the final development plan as amended, subject to the Board's approval of the rezoning and the conceptual development plan.

Chairman Lilly: All right. All those in favor of that motion say aye.

Commissioners: Aye.

Chairman Lilly: Opposed?

Commissioner Sell: Abstain.

Chairman Lilly: The motion carries. Mr. Sell abstains.

Commissioner Annunziata: Thank you.

Chairman Lilly: You're welcome. Thank you.

//

(Commissioner Byers was not present for the vote; Commissioners Fasteau, Harsel, and Sparks were absent from the meeting.)

SRD

4:00 p.m. Item - RZ-85-P-111 - YWCA-NATIONAL CAPITAL AREA, INC.
Providence District

On Wednesday, June 18, 1986, the Planning Commission voted 6-2-1 (Commissioners Byers and Koch opposed; Commissioner Harsel abstaining; Commissioners Fasteau and Sell absent from the meeting) to recommend to the Board of Supervisors approval of RZ-85-P-111 for rezoning from the R-1 District to the PDH-3 District, subject to the proffered conditions submitted in the staff report and amended orally on 6-18-86 as follows:

--Modify proffer #1 to indicate that the applicant agrees to initiate discussions among the adjoining property owners relating to the provision of funds or a commitment to construct the road system as required by VDH&T.

--Modify proffer # 1 to read: "...(ii) make provision to construct one-half section of the appropriate design for a two-lane roadway (i.e. pavement with curb, gutter and sidewalk) along Wolftrap...."

--Add language to read: "Active recreational facilities will be provided in the western or townhouse portion of the site."

--Add language to read: "Any sales documents to ultimate users must include a disclosure that if Wolftrap Road is not brought into the State system, there may fall upon the individual homeowners the burden of sharing in the cost of maintenance and snow-clearing of the road."

The Commission also voted unanimously (Commissioners Fasteau and Sell absent from the meeting) to request that the applicant consider increasing his road proffer from one lane to two lanes of the four required for Wolftrap Road from the eastern boundary of the site to the western boundary of the site prior to the scheduled Board hearing.

The Commission voted 6-1-2 (Commissioner Koch opposed; Commissioners Byers and Harsel abstaining; Commissioners Fasteau and Sell absent from the meeting) to recommend to the Board of Supervisors approval of the conceptual development plan, subject to the execution of the draft proffered conditions as amended on 6-19-86.

The Commission voted unanimously (Commissioners Fasteau and Sell absent from the meeting) to defer action on the final development plan until Wednesday, June 25, 1986.

The Commisssion also voted unanimously (Commissioners Fasteau and Sell absent from the meeting) to recommend that the Board grant a waiver of the minimum length for private streets as it pertains to the subject application.

Planning Commission Meeting
June 18, 1986
Verbatim Excerpts

RZ-85-P-111 - YWCA-NATIONAL CAPITAL AREA, INC.

After Close of the Public Hearing

Chairman Lilly: The public hearing is closed. We turn to Mrs. Annunziata.

Commissioner Annunziata: Well, I dare say no one listening to this case would have a hard time concluding where I'm headed on it. I have not agreed with the staff analysis from the beginning, frankly, because I believe it to be unfair. There aren't too many cases in which I've come to such a conclusion, but in this case I really could see it no other way. This is an application in which---and I think it's fairly rare---and why's it's come out this way I'm not really certain, except that I would have to admit that the road issue is a very important one. While admitting it, I don't understand fully how one applicant who is proposing one portion of the use of the site can be asked to build, or to construct, or take responsibility for three more lanes on this particular road system. The---but the analysis really didn't even begin there. The analysis began with not comprehending why a proffer respecting recreational facilities was not given any credit at all. Had it been, I think the conclusions of staff would have had to be somewhat different. The bottom line, I think, in the case, as it is with all cases, is that there are certain standards by which we all have to analyze what is being proposed. And you have to begin with the Plan first of all. And then you have to begin with what the Zoning Ordinance allows a developer to do and also any development criteria that might apply in special districts, such as the one that is before us, the PDH District. Once you have come to the conclusion that an application is consistent with the Plan; once you've come to the conclusion that it meets the criteria required for extra bonus credits in a PDH District; and once you've come to the conclusion that it meets the criteria that are applicable, I think it takes quite a leap from everything fits to denial. I would recognize that the criteria that we're talking about does provide giving extra weight to certain elements of a plan. And even, in my view, even giving extra weight to the road problem, if you will, in this case still doesn't justify not recognizing provision of part of that public facility. And that's where I keep coming back to the same analysis. It seemed to me that the staff report was saying this was an either/or situation, and I just couldn't accept the analysis. I, in my view, feel it warrants approval. It may not be perfect, but I don't think there's been any application that I've seen 1981 that is perfect. And frankly, I just can't go so far as to ask this applicant to bear this kind of burden when no one else has been asked in any instance. And I see no reason for not having other individuals or other applicants, whether they be institutional or human, if you will, without having their participation in the plan. If the only thing that is necessary in the case is to have some, someone initiate the process, I dare say this applicant could initiate the process, but if it were to be a condition that failure to get agreement on the part of the School Board or the fire house or the townhouses or the commercial property or whoever else is down there, if failure to get that kind of commitment from other applicants were made a condition for approval, I dare say we'd come back to the same conclusion which I think is unfair. I would recommend approval of the rezoning as proffered with some

amendment. When we get to the conceptual development plan it is normal to recommend approval subject to executed development conditions. I would, I would intend to amend those conditions to include the amendments made orally by the applicant. And they relate to the changes in the proffer which commits them to constructing a certain width of roadway. And I would like to have that taken from the verbatim. I'm not sure I could reiterate it. It would include a proffer and a development condition that states that the sales documents must include a disclosure of the fact that Wolftrap Road is not a, is not part of the State system, which may result in the necessity of the homeowners to participate in its maintenance, in the cost of its maintenance in the future. It would include a modification to proffer #1, and to the extent that would become part of the development condition, that THE APPLICANT WOULD AGREE TO INITIATE DISCUSSIONS AMONG THE ADJOINING PROPERTY OWNERS RELATING TO THE PROVISION OF FUNDS and/or commitment---I guess it wouldn't be and/or---OR A COMMITMENT TO CONSTRUCT THE ROAD SYSTEM AS REQUIRED BY VDH&T. But it would simply be to initate those discussion. And finally, if---let's see---no, I guess that would be the end of it because the rest would go to the final development plan which I would intend to defer. Let me ask staff a question before I make this motion, though, in a more formal sense. Do the proffers, in effect, become development conditions? Okay, so that's the way the motion should read as opposed to being a rezoning in conformance with proffers. It'd be a rezoning---let's see---with the adoption of executed development conditions consistent with those submittted. And the conceptual development plan would also be consistent to those development conditions. The development conditions would simply be the proffers as stated. Mr. McDermott has a question? May I ask him to come back?

Mr. McDermott: If I may, on that point, in all the P Districts in which I've been involved and those I've heard here in the room before the Board, from time to time the question has been put to the County Attorney by a member of the Board as to whether a certain type of development condition could be imposed as part of the zoning. And the response has been, each time I've heard it and/or been involved, has been, better that it be a proffer. I really think it should be zoned as proffered. I think the proffers are, in the eyes of the, because of the voluntary nature of them, more sustainable if there is any enforcement issue, than a development condition per se.

Commissioner Annunziata: What about a---what about the conceptual development plan? Isn't that normally approved consistent with development conditions?

Mr. McDermott: It depends on whether there are any development conditions in addition to the proffers.

Commissioner Annunziata: Okay. So, in other words, you're saying that that really we could go through this with the use of proffers as opposed to development conditions altogether?

Mr. McDermott: Right.

Commissioner Annunziata: Okay.

Chairman Lilly: Oh, wait a minute. Is that correct on a PDH?

Ms. Byron: I think it's called, in the statute, proffered conditions, is it not? And I think we could use that terminology and that would be following the statute.

Chairman Lilly: Oh, all right. If it's semantical.

Mr. McDermott: What I'm relating though is the response that I've heard from the County Attorney that they prefer the proffers as opposed to the development condition.

Ms. Byron: I think what their concern is that---it is the distinction between imposed development conditions and ones that are volunteered and signed by the applicants and owners.

Mr. McDermott: Right. That's correct. The voluntary nature of the proffers---

Chairman Lilly: That's a great distinction. I won't go into that. Anyone else?

Commissioner Annunziata: Let me just formalize that motion. Basically, I WOULD MOVE THAT WE RECOMMEND THAT THE ZONING ORDINANCE, AS IT APPLIES TO THE APPLICATION PROPERTY, WHICH IS THE SUBJECT OF RZ-85-P-111, BE AMENDED FROM THE R-1 DISTRICT TO THE PDH-3 DISTRICT WITH THE ADOPTED OF EXECUTED PROFFERED CONDITIONS CONSISTENT WITH THOSE SUBMITTTED IN THE STAFF REPORT AND DEMONINATED PROFFERS AND AS FURTHER AMENDED THIS EVENING ORALLY AND BY THE COMMISSIONER---

Chairman Lilly: And agreed to by the applicant.

Commissioner Annunziata: And agreed to. Yes, well, I said amended orally by the applicant. I guess that's the best way to state that.

Commissioner Thomas: Second.

Chairman Lilly: Seconded by Mr. Thomas. Is there discussion of the motion?

Commissioner Byers: Mr. Chairman.

Chairman Lilly: Mr. Byers.

Commissioner Byers: We've heard from an expert witness tonight that when this road is going to be entered into the State system of highways it's going to be required to be four lanes. The applicant has proffered to build only one of those four lanes. We wouldn't even be here hassling this thing if this application had never come forward. And the applicant wants the high end of the density range. It seems to me that, the applicant's asking for a good bit, and at least the applicant could meet the County and the State halfway and develop one half of that requirement rather than only one fourth of it. And I would ASK THAT THE MOTION BE AMENDED, AND THAT THE APPLICANT BE ASKED TO INCREASE THE PROFFER TO TWO OF THE FOUR LANES FROM GALLOWS ROAD TO THE WESTERN EDGE OF THE APPLICATION PROPERTY.

Chairman Lilly: It has to be seconded.

Commissioner Koch: Second.

Chairman Lilly: Seconded by Mr. Koch.

Commissioner Annunziata: Mr. Chairman.

Chairman Lilly: Mrs. Annunziata.

Commissioner Annunziata: I'm not going to accept it because I think I would prefer to see the Commission discuss it as an alternative. And rather than accepting it and making it part of my motion, I'd rather the Commission deal with it as a separate issue, see which way they want to go on it. I have to just note, though, the applicant hasn't agreed to do it. And I'm not sure, given what everyone seems to say here, I'm not sure we can impose it.

Commissioner Koch: Mr. Chairman.

Chairman Lilly: Mr. Koch.

Commissioner Koch: Are we discussing the issue?

Chairman Lilly: The amendment.

Commissioner Koch: Two points. This is a PDH. He is asking for bonus units. The bonus units are at the discretion of the Board so we do have some leverage here, I believe. Secondly, we heard the attorney for the applicant go back to 1979, using something that happened back there as a precedent I can see him coming back next month or two months and using this as a precedent. And that bothers me a great deal. They're always doing this. There's never a precedent until it suits them and they come back and use it as a precedent, so I'm going to support the amendment.

Chairman Lilly: Is there further discussion?

Commissioner Harsel: Mr. Chairman.

Chairman Lilly: Mrs. Harsel.

Commissioner Harsel: I think I'm going to have to ask staff on this. On condition #1, the way that the applicant has amended it, where he says, "one half section of the appropriate roadway". Now---along Wolftrap Road---if, well, he says appropriate, so that would mean appropriate as it sits today, right?

Ms. Poppendieck: I'm not---I can't totally address it. What he said, if I took this down correctly, was the "appropriate design for a two-lane roadway". I'm not sure what that would be inasmuch as the indication has been that we need a four-lane roadway. The anticipated volumes there, long term, would require a four-lane roadway. And if I had to interpret that statement of the appropriate design for a two-lane roadway, I don't think I'd know what

to do with it.

Commissioner Harsel: All right. Then, as a follow-up, Mr. Chairman, if I may, at the bottom of this proffer #1 where we're giving monies as an alternative. But rereading it, it says, "to a similar improvement or construct a comparable section of Wolftrap Road east of the subject property entrance on said road to VDH&T standards". I think he's taking that little corner there and if VDH&T standards call for two lanes that seems to be what he's proffering. Now, I may be putting words in your mouth. There's four lanes in that little corner there and two lanes on his property. Have I read that right, or am I comfused?

Ms. Poppendieck: I find it ambiguous and I don't think I can really interpret it, I'm sorry. Maybe the County Attorney can.

Commissioner Thillmann: Mr. Chairman.

Chairman Lilly: Mr. Thillmann.

Commissioner Thillmann: I got to say this. This is a rezoning application and therefore we can't impose conditions; so, while I would very much like to come down on the side of Commissioner Byers' motion and, the one seconded by Commissioner Koch, I don't think legally that we can do it. I think the best we can do is get what the applicant is willing to give us in the form of a proffer. And what we have to do is judge whether those are acceptable in the context of the application. And while everything tells me that would be the way to go on this, if the applicant has not proffered it, we absolutely, legally, cannot condition it. It's illegal in this state to condition zoning.

Commissioner Koch: Mr. Chairman.

Chairman Lilly: Mr. Koch.

Commissioner Koch: May I ask staff for their feeling on that?

Ms. Byron: Considering the fact that this is a PDH District, the Board can impose conditions, although the County Attorneys feel that that is not the most desirable way to go. They would much prefer them to be proffered and agreed to by the applicant.

Comissioner Thillmann: Mr. Chairman, I guess, what I have to do is refer back to what we consider to be an eminently reasonable request which was to have a special exception driveway blacktopped. It doesn't seem like a whole lot, does it? But we went to court and we lost that. So if we couldn't get somebody to blacktop a parking lot, how in God's name are we going to get somebody to build a road. I mean, I just don't want to see us go to court with this thing and then lose it. I'd like us to vote on the merits as they are before us, and that's just my position.

Chairman Lilly: Mr. Byers, state your motion again please, your amendment.

Commisssioner Byers: If I can remember it. The amendment was to ask for the

motion to be changed and the applicant be asked to change his proffer accordingly to build two lanes of the proposed, as required, four-lane road from the, from Gallows Road to the western boundary of the site.

Chairman Lilly: You're not offering it as a proffered condition, I mean a condition of the---

Commissioner Byers: What I'd really be doing is asking the applicant to reconsider his proffer.

Chairman Lilly: That's different.

Commissioner Murphy: That's different.

Commissioner Sparks: We all agree that that's different.

Chairman Lilly: Even Mr. Sparks agrees that's different.

Commissioner Annunziata: Mr. Chairman.

Chairman Lilly: Mrs. Annunziata.

Commissioner Annunziata: I need a clarification. As I understand the proposal, this would include that section in front of the commercial office building on the corner of Gallows Road. I mean, it goes back to my initial reaction to all of this, which is---somebody said that these folks would benefit by Mr. Moore fixing the potholes. But it seems to me it's just the reverse. It seems to me that there are 3,000 trips here, 3,000 folks here, if I read these numbers correctly, who are going be, who are going to benefit as the result of 37 homeowners footing the bill for this road.

Commissioner Byers: Wait a minute, I want---change it from the eastern boundary to the western boundary.

Commissioner Annunziata: That's the bottom line. The bottom line is that the cost of this housing is going to go up to the extent that you impose this kind of condition. And I'm not saying that it hasn't been done, but I think in the particular context of this case, in light of the numbers of users that have been allowed to go in there without putting one penny forth on a road that they have used for years and will continue to use ad infinitum, and put in on these 37 property owners, strikes me as unjust. And it's not as though they're not going to put some money down. They're not saying, "Hey, we're not going to do any of the frontage." I mean, that commercial office building over there, I'm not sure yet to this day if they've built anything. The staff's report would seem to imply that there's no road there that they've built. So now the 37 owners are going to put it up for the commercial owners on the corner. It just doesn't make sense to me.

Commissioner Byers: Mr. Byers.

Chairman Lilly: Mr. Byers.

Commissioner Byers: I WILL AMEND THAT TO CHANGE IT "FROM THE EASTERN BOUNDARY OF THE SITE TO THE WESTERN BOUNDARY OF THE SITE" and exempt the corner. But I think, to carry your argument a little bit farther, Mrs. Annunziata, it seems unfair to me to ask all the other citizens in the County to build that road for the benefit of those 37 homeowners.

Commissioner Annunziata: They use it. That fire department helps a lot of folks. And the schools pull in uses from a wide, wide area. I agree. I'm only suggesting that if this applicant had proposed nothing, I could follow the analysis a little bit better. But I think it's a question of proportion, that's all. And I think they met the proportion that would be required.

Chairman Lilly: All right, we'll vote first on the amendment, Mr. Byers' amendment.

Commissioner Thillmann: Mr. Chairman, just to clarify the amendment. The amendment, would that be a suggestion to the applicant to consider this before it gets to the Board of Supervisors? That's all it is?

Chairman Lilly: Yeah. That's the way I understand it.

Commissioner Thillmann: Okay, I could support the suggestion that it be considered before it goes to the Board.

Chairman Lilly: All right. All those in favor of the motion say aye.

Commissioners: Aye.

Chairman Lilly: Opposed? That motion carries. We will now vote on the main motion, as amended. All those in favor---

Commissioner Harsel: Mr. Chairman, I've got a little discussion. Since we decided that the proffers were proffered conditions and Mrs. Annunziata was going to take up, if she took up the final development plan, the recreation had changed, that as agreed upon. Do you want to do that as part of the main motion, or what? The recreational facility. I think the applicant said orally that he would be willing to change that, that they would provide recreational---- What are we going to do with the recreation thing since now these proffers are part of the----?

Commissioner Annunziata: Okay. It's my understanding that this problem would be cured if there was some designation the final development plan of the location of facilities. It is my understanding that the applicant is going to explore where to put it in the next week because they are going to have to work out the issue relating to storm water on the other side. So it would be my intent to simply wait that week and not take ay action on the final development plan, which is the more, the plan that would put into effect the exact location, the recreational facilities' exact location. So I don't think it matters that we take action on the conceptual development plan with the language of the proffer as it stands. But if you really want---and I understand that there is support to implement, or to make effective, that provision of facilities. I think you'd have to do it on the final development

plan for sure. Is that---I don't know if staff agrees.

Commissioner Byers: Mr. Chairman.

Chairman Lilly: Mr. Byers.

Commissioner Byers: We're now going to vote on the main motion which includes only a single lane, is that correct?

Chairman Lilly: That's right. With your suggestion, with your amendment that suggested that the applicant consider doing something more.

Commissioner Annunziata: Do we have to vote on that?

Chairman Lilly: No, no.

Commissioner Murphy: We just did.

Chairman Lilly: All right. The main motion, as amended. Is there further discussion of that? If not, all those in favor say aye.

Commissioners: Aye.

Chairman Lilly: Opposed?

Commissioner Byers: No.

Commissioner Koch: No.

Commissioner Harsel: Abstain.

Chairman Lilly: The motion carries. Mr. Koch and Mr. Byers vote "no" and Mrs. Harsel abstains. Is that correct? Anything else?

Commissioner Annunziata: Yes. I WOULD FURTHER MOVE THAT WE RECOMMEND APPROVAL OF THE CONCEPTUAL DEVELOPMENT PLAN, SUBJECT TO THE ADOPTION OF THE EXECUTED DRAFT PROFFERED CONDITIONS CONSISTENT WITH THOSE SUBMITTED AND AMENDED ORALLY BY THE APPLICANT AND AS FURTHER AMENDED BY THE COMMISSION THIS EVENING, WHICH WOULD INCORPORATE MR. BYERS' SUGGESTION.

Commissioner Thomas: Second.

Chairman Lilly: All right. Seconded by Mr.Thomas. Is there discussion of that motion? If not, all those in favor say aye.

Commissioners: Aye.

Chairman Lilly: Opposed?

Commissioner Byers: Abstain.

Commissioner Harsel: Abstain.

Commissioner Koch: No.

Chairman Lilly: Did you abstain, Mr. Byers? Mr. Byers and Mrs. Harsel abstain; Mr. Koch votes "no". The motion carries.

Commissioner Annunziata: Mr. Chairman, I would further MOVE that we recommend, excuse me, THAT WE DEFER ACTION ON THE FINAL DEVELOPMENT PLAN IN RZ-85-P-111.

Commissioner Thomas: Second.

Chairman Lilly: Seconded by Mr. Thomas. Is there discussion of that motion?

Commissioner Murphy: Do you want a date?

Commissioner Annunziata: ONE WEEK. Sorry.

Chairman Lilly: The 25th? June 25th. All those in favor of that motion say aye.

Commissioners: Aye.

Chairman Lilly: Opposed? The motion carries. Anything else?

Commissioner Annunziata: Mr. Chairman.

Chairman Lilly: Mrs. Annunziata.

Commissioner Annunziata: Yes, I believe there was also a requested waiver for the minimum lenghth of private streets that I think would have to be acted upon this evening, yes? All right, well, I WOULD FURTHER MOVE THAT WE RECOMMEND TO THE BOARD OF SUPERVISORS THAT THEY GRANT WAVIER OF THE MINIMUM LENGTH FOR PRIVATE STREETS ON THIS APPLICATION.

Commissioner Murphy: Second.

Commissioner Harsel: Mr. Chairman. Yeah, Mr. Murphy seconded it.

Chairman Lilly: Yes, Mrs. Harsel.

Commissioner Harsel: A point of clarification from staff. This recommendation of the waiver of the minimum street, that is this one lane that we've all be fussing about, is that correct?

Ms. Drew: No.

Chairman Lilly: No.

Commissioner Harsel: Okay, that's the little street that goes in around the townhouses?

Chairman Lilly: Yes.

Commissioner Murphy: It's internal.

Chairman Lilly: It's an internal street. Further discussion of the motion? If not, all those---

Commissioner Harsel: Yes. Then what do we call this Wolftrap Road that isn't in the State highway system?

Commissioner Sparks: Wolftrap Road that's---

Chairman Lilly: Wolftrap Road that's not in the State highway system.

Commissioner Harsel: Is that a private street or a public street?

Chairman Lilly: Private. But it's not theirs. It's not theirs.

Commissioner Sparks: It's owned by the same people who own Woodlake Associates.

Chairman Lilly: Their headquarters are up at the end of this, I guess. All those in favor of that motion say aye.

Commissioners: Aye.

Chairman Lilly: Opposed? The motion carries. Thank you very much.

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(The vote on Commissioner Byers' amendment was unanimous with Commissioners Fasteau and Sell absent from the meeting.)

(The vote on the main motion, as amended, to recommend approval of the rezoning was 6-2-1 with Commissioners Byers and Koch opposed; Commissioner Harsel abstaining; Commissioners Fasteau and Sell absent from the meeting.)

(The vote on the motion to recommend approval of the conceptual development plan was 6-1-2 with Commissioner Koch opposed; Commissioners Byers and Harsel abstaining; Commissioners Fasteau and Sell absent from the meeting.)

(The vote on the motion to defer the final development plan was unanimous with Commissioners Fasteau and Sell absent from the meeting.)

(The vote on the motion to recommend waiver of the private street length requirement was unanimously with Commissioners Fasteau and Sell absent from the meeting.)

GW

Planning Commission Meeting
June 18, 1986
Verbatim Excerpts

Mr. McDermott's comments during the public hearing regarding changes to the proffers

Mr. McDermott: We would amend the proffer to read that: "Any sales documents to ultimate users must include a disclosure that if Wolftrap Road is not brought into the State system there may fall upon the individual homeowners the burden of sharing in the cost of maintenance and snow clearing of the road."

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Mr. McDermott: We can add to the proffer language that: "Active recreational facilities will be provided in the western or townhouse portion of the site."

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Mr. McDermott: I think that proffer language should read: "Make provision to construct one half section of a"---and strike "26-foot"---and add in there---I'm sorry, strike "a 26-foot"---add in there "of the appropriate design for a two-lane roadway." If it's 13, fine, if it's 18, if it's 20---I'm not aware of a 20-foot section for a two-lane roadway, I mean a half section for a two-lane roadway for this number of trips. But, do you understand that? To add in there "construct one half section of"---strike "a 26-foot"---and put in "the appropriate design for a two-lane roadway." Okay? And that should clarify that issue.

Commissioner Harsel: As a follow up---Mr. McDermott, are we striking, "i.e., 13-foot"?

Mr. McDermott: I certainly want to add in "with curb, gutter, and sidewalk", and---

Commissioner Annunziata: Just strike the number, say pavement, "i.e., pavement with curb, gutter, and---"

Mr. McDermott: All right, fine. That's fine. Let's strike then, "13 feet of" and just say "pavement with curb, gutter, and sidewalk". Okay? Thank you.