

PROFFERS

PCA-C-448-31

October 14, 2004

Pursuant to Section 15.2-2303(A) of the Code of Virginia, 1950, as amended, and Section 16-403 of the Zoning Ordinance of Fairfax County (1978, as amended) (the "Zoning Ordinance"), the undersigned Applicant/Owner for both themselves and their successors and assigns (hereinafter "Applicant"), file for a proffer condition amendment approval for property identified as Tax Map Reference 091-2((1)) Parcels 35A and 35B (the "Subject Property") and hereby agree to the following proffers, if, and only if, the Fairfax County Board of Supervisors (the "Board") approves the PCA for the Subject Property, which is subject to the proffers for PCA-C-448-16. In the event said application is denied, this proffer statement shall be rendered null and void. This PCA is being process concurrently with SE 2004-LE-015.

1. Except as modified below, the Subject Property is governed by the Proffers dated December 11, 1997 of PCA-C-448-16.
2. Proffer Number 1 of the December 11, 1997 proffers shall be amended as follows:

“1. CONCEPTUAL/FINAL (CDP/FDP)

1.1 Subject to the proffers and the provisions of Section 16-402 of the Zoning Ordinance, under which minor modifications to an approved CDP/FDP are permitted, development of the Subject Property shall be in substantial conformance with the CDPA/FDPA/PCA/SE Plat, entitled "Conceptual Development Plan Amendment/Final Development Plan Amendment/Proffer Condition Amendment/Special Exception Application Plat Golf Center at Kingstowne", consisting of four sheets (the "Plat"). The first two sheets are dated October 7, 2003, as revised through September 23 2004, and prepared by Williamsburg Environmental Group, Inc.; the third and fourth sheets are dated April 15, 2004 as revised through July 26, 2004 and prepared by E. K. Fox and Associates, Ltd ”

3. Proffer Number 3 of the December 11, 1997 proffers shall be amended as follows:

“3. HOURS OF OPERATION

The driving range and clubhouse shall be limited to the following hours of operation:

8 a.m. to 11 p.m. Monday – Thursday and 8 a.m. to 12 midnight
Friday – Sunday during the months of April – October. During the
months of November – March the hours of operation will be 8 a.m. to 11

p.m. 7 days a week. The driving range and miniature golf course lights shall be turned off at the end of evening hours of operation.”

4. Proffer Number 5 of the December 11, 1997 proffers shall be amended as follows:

“5. LIGHTING

The driving range facility on the subject Property shall comply with all applicable lighting standards contained in the zoning ordinance and will be consistent with the lighting plan included in the Plat.”

5. Proffer Number 7 of the December 11, 1997 proffers shall be amended as follows:

“7. ARTIFICIAL SURFACES

a. Applicant reserves the right to construct ball landing areas and target green areas on the driving range and putting greens with an artificial surface subject to the following criteria:

- Surface materials shall be porous and water permeable.
- Sub-surface materials shall be porous and water permeable to allow ground water to naturally reach the sub-surface.”

6. In addition to the obligations regarding netting described in proffer number 8 of the December 11, 1997 proffers, the Applicant agrees that it shall implement the following:

1. the netting structure located on the eastern boundary of the Subject Property closest to the property occupied by Faith Evangelical Presbyterian Church shall be modified as follows:

a. new netting shall be installed to be an ultimate height of approximately 80 feet. The netting shall be installed along the entire length of the existing netting structure, and shall be extended for a minimum of an additional 50 feet on either end of the existing netting structure consistent with Exhibit 1 attached hereto entitled “Net Structure Plan for the Golf Driving Range at Kingstowne”.

b. additional netting shall be installed between the lowest portion of the existing netting and the ground along the entire new length of the new netting structure.

2. modifications will be made to the upper deck tee box areas such that the tee “dividers” between driving stations will be adjusted, thus angling the driving position of each player away from the eastern boundary of the Subject Property

Within six months after the issuance of the non-RUP for the driving range facility on the Subject Property, representatives from the Applicant shall meet with representatives of the church located on Tax Map 91-2 ((1)) 56A and the Lee District Planning Commissioner to review the effectiveness of the measures described in this proffer in limiting the number of golf balls entering the Church Property. If, and only if, it is agreed that the measures described herein do not appreciably decrease the number of golf balls entering the Church Property from the current quantity, the Church Property representatives, applicant representatives and Planning Commissioner shall work together in good faith to determine what additional measures should be taken to further decrease the number of golf balls entering the Church Property. The applicant shall be responsible for the implementation of such measures.

7. The Applicant shall submit to DPWES at the time of site plan review, geotechnical data derived from soil borings in the areas of the proposed target greens. These borings shall be drilled to a depth of four feet below the proposed bottom of the target pit. Prior to site plan approval, the project engineer will submit evidence to DPWES that construction of these target pits in the existing site soils will not negatively affect the overall stormwater management proposed for the site.
8. Computer monitors located at each tee box shall not have an audio component.
9. Applicant shall cover the ball landing area with a permeable, artificial turf which will be laid on top of a stone sub-base. Within the landing area, a series of circular and rectangular target areas will be constructed. These target areas will be excavated below the existing grade level, and will utilize a vertical galvanized steel to retain the sidewalls, and a permeable stone sub-base on the bottom.
10. All landscaping shall be maintained in an attractive and healthy manner. This will include regular mowing of grass, weeding and mulching of beds, trimming of trees, shrubs and ornamental grasses throughout the entire site, including areas within the driving range, along the streetscape and parking areas and the entrance feature island.

The planting and maintenance of all tree and other landscape plants on the site shall be in conformance with the Public Facilities Manual. Plants shall meet the size requirement of the Public Facilities Manual. Plants shall also meet the health and quality standards for the size of the material to be planted as specified in the latest edition of American Association of Nurseryman's American Standard for Nursery Stock (ANSI Z60.1). All trees and shrubs shall be planted as specified in the latest edition of Landscape Specification Guidelines, Landscape Contractors Association, MD, DC, VA. Any trees that are staked or guyed at the time of planting shall have the stakes and guy wires removed within one year. All plants shall be maintained to ensure a healthy growing condition and to preserve their natural form and function. All plants shall be maintained with proper watering,

mulching, pruning and other maintenance as specified in the Landscape Specification Guidelines and pruning as specified in the latest edition of American National Standard for Tree care Operations - Tree Shrub and Other Woody Plant Maintenance - Standard Practices, ANSI A-300. All plant material that is dead, dying, or damaged beyond repair shall be replaced.

11. The development conditions accepted by the Board of Supervisors pursuant to the approval of SE 2004-LE-015 are incorporated into these proffers by reference.

PCC-VAN DORN L.L.C.
(Title owner of Tax Map 91-2-((1)) parcel 35A)

By: 
Name: Herbert A. Higham
Title: Manager

PCC-VAN DORN L.L.C.
(Title owner of Tax Map 91-2-((1)) parcel 35A)

Signature not
necessary

By: DA [Signature]
Name: Douglas S. Rice, V.P.
Title: Public Country Clubs, Inc
~~1111~~ Mid-Atlantic Golf Properties, Inc

RUBY TUESDAY, INC.

By: Walter G. Cole, Jr.
Name: Walter G. Cole, Jr.
Title: Vice President
Date: November 8, 2004

