

File PCA C-547-3
PCA 76-P-046-2



COMMONWEALTH OF VIRGINIA
COUNTY OF FAIRFAX



OFFICE OF COMPREHENSIVE PLANNING
ZONING ADMINISTRATION DIVISION
4050 Legato Road, Suite 800
Fairfax, Virginia 22033

September 27, 1990

Mr. Martin D. Walsh
Walsh, Colucci, Stackhouse, Emrich & Lubeley
Attorneys At Law
Courthouse Plaza
Thirteenth Floor
2200 Clarendon Boulevard
Arlington, Virginia 22201

RE: County Creek Housing Proffer
PCA C-547-3
PCA 76-P-046-2

Dear Mr. Walsh:

This is in response to your letter of July 19, 1990 which requested my concurrence of proffer compliance for the above-referenced proffered condition amendment applications.

Based upon a review of our files and information supplied by the Department of Housing and Community Development, I have determined that the payment of funds totaling \$2,100,000 to the Fairfax County Housing Trust Fund in September of 1989 satisfies the requirement of Proffer Number 2, pursuant to the terms and conditions set forth in an agreement dated August 7, 1989, referred to in the proffer, as accepted by the Board of Supervisors as part of PCA-547-3 and PCA 76-P-046-2, on August 7, 1989.

If you require any additional information please feel free to contact Michael Congleton of my staff at 246-1314.

Sincerely,

Jane W. Gwinn
Zoning Administrator

JWG/MRC/sph

cc: Barbara A. Byron, Director
Zoning Evaluation Division
Mary E. Egan, Deputy Director
Department of Housing and Community Development
Michael R. Congleton, Deputy Zoning Administrator for
Ordinance Administration Branch

agreement:WAF13

8/7/89

AGREEMENT

THIS AGREEMENT, made and executed as of the 7th day of August, 1989, by and between NVCOMMERCIAL, INC., WILLS INVESTMENT, INC., and P. REED WILLS, II, hereinafter collectively referred to as the "Owner," and THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA, hereinafter referred to as the "County."

* * W I T N E S S E T H * *

WHEREAS, Wills Investment, Inc., NVCommercial, Inc. and P. Reed Wills, II are the owners of 2.867 acres, 0.4573 acres and 6.8846 acres by virtue of deeds recorded in Deed Book 5637 at page 1721, Deed Book 6063 at page 233, and Deed Book 6232 at page 1180, respectively, among the land records of Fairfax County, Virginia (the "Property"); and

WHEREAS, with respect to the Property, Owner has submitted to the County on August 7, 1989 proffers prepared for PCA C-547-3 and PCA 76-P-046-2 (the "Proffered Condition Amendment"); and

WHEREAS, the parties desire to enter into a written agreement ~~based upon the terms of the Proffered Condition Amendment.~~

which is to be effective only if the Board of Supervisors determines that it is in the best interests of the health, safety and welfare of the citizens of Fairfax County to approve the Proffered Condition Amendment and said Proffered Condition Amendment is approved.

NOW THEREFORE, for and in consideration of the promises and mutual covenants and agreements herein contained, the parties agree as follows:

1. The recitals of this Agreement set forth above are incorporated herein and made a part of this Agreement.

2. The obligations of Owner pursuant to this Agreement are contingent upon County approval of the Proffered Condition Amendment as submitted by Owner, or as amended by agreement of Owner and County.

3. Within thirty days from the approval of the Proffered Condition Amendment, Owner shall pay to the County \$2,100,000.00 (the "Cash Payment"). Upon its receipt of the Cash Payment, the County agrees that Owner can develop all lots ^{permitted by the zoning ordinance} ~~subsequently approved for the Property (up to a maximum of 91 lots) as market units to be sold at Owner's discretion.~~ In the alternative, in lieu of the Cash Payment, Owner at its option may designate ~~33~~ ^{offer 33 or more} lots and/or units in an alternative location, ^{and the County} ~~so long as said location and lots and/or units are acceptable to the County in its sole discretion.~~ ^{may accept the offer of the lots and/or units in lieu of the cash payments.}

4. Upon approval of the Proffered Condition Amendment, the Owner will agree to an order confirming the County's title to the property taken by the County as evidenced by a Certificate of Take recorded on July 24, 1989 in Deed Book 7384 at page 1778. Such order shall be prepared by the County and endorsed by the Owner prior to the hearing on the Proffered Condition Amendment. Said order shall be placed in escrow with Walsh, Colucci, Stackhouse, Emrich & Lubeley (the "Escrow Agent"). Upon approval of the Proffered Condition Amendment, the endorsed order will be delivered to the County to be entered by the Court.

5. At the time that Owner receives approval of the Proffered Condition Amendment, Owner will dedicate to the County, at no cost to the County, approximately 8,000 square feet, as more fully described in the Proffered Condition Amendment. The Deed of Dedication and accompanying plat shall be executed and placed in escrow with the Escrow Agent prior to the hearing on the Proffered Condition Amendment. Upon approval of the Proffered Condition Amendment, ^{and DeM approval of the plat,} Escrow Agent shall ^{release} the Deed of Dedication and plat for recordation. Applicant agrees ^{to take all actions reasonably required to obtain plat approval as soon as possible.}

6. At the time that Owner receives approval of the Proffered Condition Amendment, Owner will dedicate to the County, at no cost to the County, approximately 28,775 square feet for a

hook ramp. The Deed of Dedication and accompanying plat shall be executed and placed in escrow with Escrow Agent prior to the hearing on the Proffered Condition Amendment. Upon approval of the Proffered Condition Amendment, ^{and P&H approval of the plat, JHL} Escrow Agent shall release the Deed of Dedication and plat for recordation. ~~In the event that this dedication of the hook ramp results in the loss of units on the Property, the Owner shall be entitled to negotiate compensation for said conveyance with the Virginia Department of Transportation.~~ *JHL*

JHL Applicant agrees to take all actions reasonably required to obtain plat approval as soon as possible. *JHL*

Other than the dedications of Property witnessed above no ~~7. Other than the dedications of Property referenced above, no other dedications of any portion of the Property will be required without compensation to Owner.~~ ^{dedications for expansion of existing rights of way will be required without compensation unless the need for expanding existing rights of way is substantially caused by the development of the site}

8. County agrees to expedite the site plan of Owner for the Property and agrees to cooperate with the developer of the site in obtaining temporary construction and grading easements. *JHL*

WITNESS the following signatures:

THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA

By *J. Hamilton Lambert*
J. Hamilton Lambert
County Executive

STATE OF VIRGINIA :
COUNTY OF : to-wit

The foregoing instrument was acknowledged before me this 7th day of August, 1989, by J. Hamilton Lambert, County Executive, on behalf of THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA.

Wili Jester
Notary Public

My Commission expires: 11th April 1990

NVCOMMERCIAL, INC.

By: [Signature]

WILLS INVESTMENT, INC.

By: [Signature]

P. REED WILLS, II

STATE OF VIRGINIA :
COUNTY OF Fairfax : to-wit

The foregoing instrument was acknowledged before me this 7th day of August, 1989, by Stephen M. Cumber, President of NVCOMMERCIAL, INC. on behalf of said corporation.

[Signature]
Notary Public

My Commission expires: 8-11-92

STATE OF VIRGINIA :
COUNTY OF Fairfax : to-wit

The foregoing instrument was acknowledged before me this 7th day of August, 1989, by P. Reed Wills II, President of WILLS INVESTMENT, INC., on behalf of said corporation.

[Signature]
Notary Public

My Commission expires: 8-11-92

STATE OF VIRGINIA :
COUNTY OF Fairfax : to-wit

The foregoing instrument was acknowledged before me this 7th day of August, 1989, by P. REED WILLS, II.

[Signature]
Notary Public



COMMONWEALTH OF VIRGINIA
COUNTY OF FAIRFAX

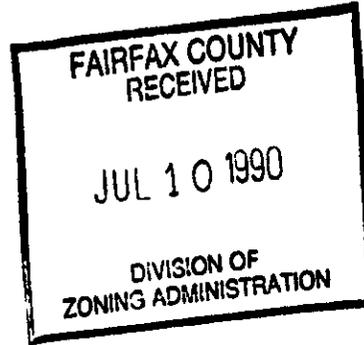
ONE UNIVERSITY PLAZA
FAIRFAX, VIRGINIA 22030-4423



DEPARTMENT OF
HOUSING & COMMUNITY DEVELOPMENT

WALTER D. WEBDALE
DIRECTOR
(703) 246-8250

OR
UNDERSIGNED ENTITY



July 6, 1990

1949E

Walsh, Colucci
2200 Clarendon Boulevard
Arlington, Virginia

Attention: Lynn Follansbee

Re: Country Creek Housing Proffer

Dear Ms. Follansbee,

This is to confirm, per our telephone conversation of July 6, 1990, that the proffered contribution to the Fairfax County Housing Trust Fund of \$2,100,000 for the Country Creek development has been received by Fairfax County.

If there are further questions about this matter, please call me at 246-8271.

Very truly yours,

Mary E. Egan, Deputy Director
Department of Housing and Community Development

MEE:jk

cc: M. Congleton, Zoning Administration, OCP ✓

WALSH, COLUCCI, STACKHOUSE, EMRICH & LUBELEY

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

COURTHOUSE PLAZA

THIRTEENTH FLOOR

2200 CLARENDON BOULEVARD

ARLINGTON, VIRGINIA 22201

(703) 528-4700

TELECOPY (703) 525-3197

PRINCE WILLIAM OFFICE

VILLAGE SQUARE

13863 OFFICE PLACE, SUITE 201

WOODBIDGE, VIRGINIA 22192

(703) 690-4864

METRO 690-4847

TELECOPY (703) 690-2412

LOUDOUN OFFICE

WAVERLY PARK

804 SOUTH KING STREET, SUITE 200

LEESBURG, VIRGINIA 22075

(703) 777-6977

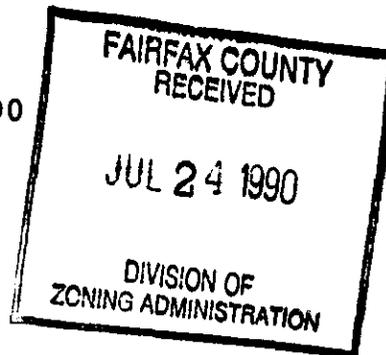
METRO 478-1340

TELECOPY (703) 478-1348

MARTIN D. WALSH
THOMAS J. COLUCCI
NICHOLAS MALINCHAK
PETER K. STACKHOUSE
JERRY K. EMRICH
MICHAEL D. LUBELEY
CHARLES L. SHUMATE
KEITH C. MARTIN
NAN E. TERPAK
WILLIAM A. FOGARTY
JAMES E. BARNETT, JR.
DAVID J. BOMGARDNER
LYNNE J. STROBEL
DEBRA ANNE COLLIGEN
MICHAEL S. DINGMAN

OF COUNSEL
JULIA T. CANNON

July 19, 1990



Ms. Jane W. Gwinn, Director
Zoning Administration Division
Office of Comprehensive Planning
4050 Legato Road, Suite 800
Fairfax, Virginia 22033

Re: Proffered Condition Amendment
Number PCA C-547-3
(Concurrent with PCA 76-P-046-2)

Dear Ms. Gwinn:

I hereby request your concurrence of proffer compliance for the above referenced applications dated August 7, 1989 and approved on August 7, 1989, by the Fairfax County Board of Supervisors. Proffer Number 2 which deletes previous Proffer Number 9 and replaces it with the following commitment:

"The previous rezoning action resulted in a grant of density of 8.5 units per acre on the site which was the subject of applications C-547 and 76-P-046, obligating the applicant to convey a total of 33 lots suitable for construction of dwelling units to the Fairfax County Housing Authority (Authority)...Nothing herein shall be deemed a commitment by application to construct dwelling units, applicant shall not be entitled to develop any of the 33 lots tendered by this paragraph in the event the County or the Authority declines to accept either said lots or cash in lieu thereof. A cash payment pursuant to the terms and conditions set forth in the agreement dated August 7, 1989, between applicant and the Board of Supervisors may be provided by the applicant in lieu of the said 33 lots by mutual agreement of the applicant and Fairfax County, and in the event the applicant will be without requirements to offer said lots to the Authority."

RECEIVED

The applicants paid \$2,100,000.00 to the Department of Housing and Community Development of Fairfax County on September 1989 in accordance with the above proffer. We have been told that the check for that amount was received by the Housing Authority as evidenced by the letter signed by Mary E. Egan, Deputy Director, Department of Housing and Community Development, attached for your reference.

This concurrence has been requested by the lending institution involved in financing their property. I would appreciate your concurrence that the above referenced proffer has been satisfied. As always I appreciate your cooperation and assistance in this matter. Should you have any questions regarding my request or require additional information please do not hesitate to call.

Very truly yours,

WALSH, COLUCCI, STACKHOUSE, EMRICH & LUBELEY, P.C.



Martin D. Walsh

BLF/cz

Attachment

cc: Lynne J. Strobel
Micheal Congleton

:L11

FAIRFAX COUNTY, VIRGINIA

MEMORANDUM

DATE: August 1, 1989

TO: Shiva K. Pant, Director
Office of Transportation

FROM: *Barbara A. Byron*
Barbara A. Byron, Director
Zoning Evaluation Division
Office of Comprehensive Planning

SUBJECT: Country Creek Community Request to Change Scotch
Haven Drive from a Two-Way to a One-way Street

FILE NO: MISC 8906 051

REFERENCE: Memorandum dated May 15, 1989

The Zoning Evaluation Division has reviewed the request by the Country Creek Community to change Scotch Haven Drive from a two-way street to a one-way street. It is my determination that the proffers adopted on January 12, 1976 and on June 20, 1977 pursuant to C-547 and RZ 76-P-046 respectively, do not preclude a change of Scotch Haven Drive from a two-way street to a one-way street.

If you have any questions or need more information, please contact me or Regina C. Murray at 246-1290.

BAB/RCM/M:7

file: C-547, RZ 76-P-046

Attachments: a) Memo from Shiva Pant, Office of Transportation
b) Memo from Katherine Hanley, Supervisor

cc: Katherine Hanley, Providence District Supervisor
Patrick Hanlon, Providence District Planning Commissioner
Jane Gwinn, Zoning Administrator
Edward Jankiewicz, Design Review Division, DEM
Shiva Pant, Director, Office of Transportation
Country Creek Homeowners' Association
Bonds and Agreements, DRD, DEM

HA-227-89



KATHERINE K. HANLEY
PROVIDENCE DISTRICT
8739 LEE HIGHWAY
FAIRFAX, VIRGINIA 22031

TELEPHONE 703-560-6946

COMMONWEALTH OF VIRGINIA
COUNTY OF FAIRFAX

BOARD OF SUPERVISORS
FAIRFAX, VIRGINIA 22030

BOARD OF SUPERVISORS
AUDREY MOORE
Chairman

JOSEPH ALEXANDER
SHARON BULOVA
THOMAS M. DAVIS, III
KATHERINE K. HANLEY
GERRY HYLAND
ELAINE McCONNELL
MARTHA V. PENNINO
LILLA RICHARDS

MEMORANDUM

TO: J. Hamilton Lambert
County Executive

FROM: Katherine K. Hanley, Supervisor *KKH*
Providence District

SUBJECT: Rerouting Private Streets in Country Creek Community

DATE: May 15, 1989

The homeowners association president for the Country Creek Community has called my office concerning the rerouting of his streets. Although they are private, he wanted to make certain that if he needed it, he had permission from Fairfax County to make Scotch Haven Drive one-way. I would therefore appreciate knowing if his community needs permission for changing the direction of its streets. If permission is needed, I would also appreciate your sharing this memorandum with the appropriate department(s) to achieve that goal.

Thank you.

KKH/pc

FAIRFAX COUNTY, VIRGINIA

MEMORANDUM

TO: Barbara A. Byron, Director June 14, 1989
Zoning Evaluation Division
Office of Comprehensive Planning

FROM: Shiva K. Pant, Director 
Office of Transportation

FILE: HWY324

SUBJECT: Country Creek Community Request to Change Scotch
Haven Drive from a Two-Way to a One-Way Street

REFERENCE: Memorandum dated May 15, 1989

Attached is a memorandum from Supervisor Hanley to J. Hamilton Lambert, County Executive, dated May 15, 1989, inquiring if permission from the County is needed for Country Creek Community to change Scotch Haven Drive, a private street, from a two-way to a one-way street.

The Office of Transportation is coordinating a response from appropriate County agencies. We would appreciate receiving your Department's response and/or comments to the attached memorandum.

If you have any questions or need more information, please contact Alex Verzosa of my staff at 246-1178.

SKP/AV:kdr

Attachment: a/s

RECEIVED
OFFICE OF COMPREHENSIVE PLANNING

JUN 16 1989

ZONING EVALUATION DIVISION

Roger.
Cornellier
is this office



DATE 9-7-82

MEMO TO ROGER

RE: NOTICE TO LEROY J. BLACKWELDER RE: C-547, GDPA C-547, AND R2 76-P-046.

1. IT IS APPARENT FROM THE ENCLOSURE THAT NOTICE WAS SENT TO MR BLACKWELDER FOR EACH APPLICATION. HOWEVER, A RECEIPT WAS RETURNED ONLY ON THE INITIAL APPLICATION.
2. THOUGH THE OTHER TWO NOTICES WERE RETURNED, THEY WOULD APPEAR TO SATISFY THE Z.O. REPT. FOR NOTIFICATION. REF SECT 18-110, PARA 4 A.

ENCL -
COPIES OF NOTICES & ZONING MAP

SID

ORIGINAL
MISSIONHURST
REZONING
APPLICATION
RECEIVED FOR

C-547

● SENDER: Complete items 1, 2, and 3. Add your address in the "RETURN TO" space on reverse.	
1. The following service is requested (check one). <input checked="" type="checkbox"/> Show to whom and date delivered..... 15¢ <input type="checkbox"/> Show to whom, date, & address of delivery.. 35¢ <input type="checkbox"/> RESTRICTED DELIVERY. Show to whom and date delivered..... <input type="checkbox"/> RESTRICTED DELIVERY. Show to whom, date, and address of delivery 85¢	
2. ARTICLE ADDRESSED TO: Mr. Leroy J. Blackwelder 212 Park Rd. Alexandria, Va. 22301	
3. ARTICLE DESCRIPTION: REGISTERED NO. 446620	CERTIFIED NO. _____ INSURED NO. _____
(Always obtain signature of addressee or agent) I have received the article described above. SIGNATURE <input type="checkbox"/> Addressee <input type="checkbox"/> Authorized agent <i>Blackwelder Milton</i>	
DATE OF DELIVERY _____ POSTMARK _____	5. ADDRESS (Complete only if requested) _____
6. UNABLE TO DELIVER BECAUSE: _____ CLERK'S INITIALS _____	

PS Form 3811, Jan. 1975

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

County Planning Commission
 1 Bridge Road
 Virginia 22030

CERTIFIED MAIL
 260241

RETURNED TO SENDER
 MOVED, Let's no address
 FROM ALEXANDRIA, VA.
 Do not use this envelope
 or wrapper again



Mr. Leroy J. Blackwelder
 212 Park Rd.
 Alexandria, Va. 22301

GOPA - C-547

RETURN TO ORIGINAL MISSIONHURST APPLICATION;
 NOTICE RETURNED

RETURN RECEIPT REQUESTED

County Planning Commission
 1 Bridge Road
 Virginia 22030

6-P-046

RETURNED TO SENDER
 MOVED, Let's no address
 FROM ALEXANDRIA, VA.
 Do not use this envelope
 or wrapper again



48-1-01-86
 Leroy J. Blackwelder
 212 Park Rd.
 Alexandria, Va. 22301

SECOND REZONING EXPANDING
 MISSIONHURST REZONING;
 NOTICE RETURNED

CERTIFIED



COMMONWEALTH OF VIRGINIA
COUNTY OF FAIRFAX



Office of Comprehensive Planning
Zoning Evaluation Division
Special Permit and Variance Evaluation Branch
4050 Legato Road, Suite 700
Fairfax, Virginia 22033
246-1280

September 5, 1989

Mr. Martin D. Walsh
Walsh, Colucci, Stackhouse, Emrich & Lubeley
2200 Clarendon Boulevard
Arlington, Virginia 22201

RE: Proffer Interpretation for PCA C-547-3 and PCA 76-P-046-2

Dear Mr. Walsh

This is in response to your letter of August 11, 1989 requesting an interpretation of the proffers adopted by the Board of Supervisors in conjunction with the approval of PCA C-547-3 and PCA 76-P-046-2. As I understand it, the questions are whether the plan prepared by Christopher Consultants dated August 4, 1989 is in substantial conformance with the proffered Generalized Development Plan and whether the proffers accepted pursuant to PCA C-547-3 and PCA 74-P-046-2 should be retyped and reexecuted.

It is my determination that the plan submitted with your letter is in substantial conformance with the proffered Generalized Plan provided that a minimum of twenty five (25) feet is provided between the property line and all the lot lines within the 'major open space' area and that the emergency turn-arounds shown within the twenty-five (25) foot wide 'major open space' area are constructed of grasscrete or a similar material as approved by DEM. It is further my determination that the executed proffers accepted by the Board at the time of the public hearing on PCA C-547-3 and PCA 76-P-046-2 on August 7, 1989 are the official proffers pertaining to those zoning actions and that it would not be appropriate for you to have them retyped and reexecuted. These determinations and has been made in my capacity as the duly authorized agent of the Zoning Administrator. If you have any questions regarding this interpretation, please feel free to contact me at 246-1250.

Sincerely,

Barbara A. Byron, Director

BAB/bb

cc: Katherine K. Hanley, Providence District Supervisor
Patrick Hanlon, Providence District Planning Commissioner
Jane W. Gwinn, Zoning Administrator
Edward J. Jankiewicz, Director, Design Review Division, DEM
Bonds and Agreements Branch, DRD, DEM
File: PCA C-547-3 ; PCA 76-P-046-2

WALSH, COLUCCI, STACKHOUSE, EMRICH & LUBELEY

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

COURTHOUSE PLAZA

THIRTEENTH FLOOR

2200 CLARENDON BOULEVARD

ARLINGTON, VIRGINIA 22201

(703) 528-4700

TELECOPY (703) 525-3197

PRINCE WILLIAM OFFICE

VILLAGE SQUARE

13963 OFFICE PLACE, SUITE 201
WOODBIDGE, VIRGINIA 22182

(703) 690-4864

METRO 690-4847

TELECOPY (703) 690-2412

LOUDOUN OFFICE

WAVERLY PARK

604 SOUTH KING STREET, SUITE 200
LEESBURG, VIRGINIA 22075

(703) 777-6677

METRO 478-1340

TELECOPY (703) 478-1348

MARTIN D. WALSH
THOMAS J. COLUCCI
NICHOLAS MALINCHAK
PETER K. STACKHOUSE
JERRY K. EMRICH
MICHAEL D. LUBELEY
CHARLES L. SHUMATE
KEITH C. MARTIN
NAN E. TERPAK
WILLIAM A. FOGARTY
JAMES E. BARNETT, JR.
DAVID J. BOMGARDNER
SARAH L. STEWART
DANIEL M. RATHBUN
LYNNE J. STROBEL
DEBRA ANNE COLLIGEN*

OF COUNSEL

JULIA T. CANNON

*ADMITTED IN COLORADO AND MASSACHUSETTS

August 11, 1989

Ms. Barbara Byron, Director
Zoning Evaluation Division
Office of Comprehensive Planning
4050 Legato Road
Fairfax, Virginia 22033

Re: Wills/Nutley

Dear Barbara:

Thank you for your assistance in this case. Your hard work enabled us to meet the scheduling deadline of the public hearing prior to the August recess, which was greatly appreciated by me and my client.

I wanted to remind you of our request for a letter confirming that the development plan prepared by Dewberry & Davis does comply generally with the "Generalized Development Plan" approved at the time of the zoning application. Also, please confirm that the required emergency turn-arounds (within the 25 foot setback area along I-66) shall be a grasscrete or similar material if approved by the Department of Environmental Management. Also, do we need to retype copies of final proffers and have them re-executed?

Thanks again.

Very truly yours,

WALSH, COLUCCI, STACKHOUSE, EMRICH & LUBELEY, P.C.



Martin D. Walsh

MDW/ms

RECEIVED
OFFICE OF COMPREHENSIVE PLANNING

AUG 15 1989

ZONING EVALUATION DIVISION

