



Board of Supervisors

November 9, 2023

CERTIFIED AND REGULAR MAIL

Jeffrey A. Harvey, AICP
Legacy Engineering, P.C.
419 Chatham Square Office Park
Fredericksburg, VA 22405
Certified Mail Number: 9589 0710 5270 0864 6457 27

Dr. Pamela Yeung, Chairman
Thomas Coen, Vice Chairman
Tinesha Allen
Meg Bohmke
Darrell English
Monica Gary
Crystal L. Vanuch

Randal E. Vosburg
County Administrator

Via Electronic Mail to: jharvey@legacy-eng.com

CERTIFIED AND REGULAR MAIL

Ward Corporation
1300 Piccard Drive, Suite 150
Rockville, MD 20850-4322
Certified Mail Number: 9589 0710 5270 0864 6457 10

SUBJECT: *Application 23155218; Request for Proffer Determination on Tax Map Parcel Nos. 36-39A, 36-66, 36-67 and 37-10, Pursuant to Letter dated August 4, 2023*

Dear Mr. Harvey:

This letter is in response to your enclosed request, dated August 4, 2023, for a Zoning Administrator Proffer Determination ("Proffer Determination Request"), submitted by you on behalf of Atlantic Builders. The Proffer Determination Request sought and this Determination responds to the following with respect to Tax Map Parcel Nos. 36-39A, 36-66, 36-67 and 37-10 (collectively, "Property").

1. "Whether these A-1 zoned parcels¹ are bound by the remaining proffers including proffer 1 which limits the total number of residential lots to 336."

For purposes of this Determination, "these A-1 zoned parcels" as referenced in your Proffer Determination Request was interpreted to reference those portions of the Property that were *not* subject to the rezoning and proffers of Ordinance O92-05, dated March 17, 1992 ("Proffers"), a copy of which is enclosed, ("A-1 Parcels"). The A-1 Parcels are shown on the plat of survey by Bengston, DeBell, Elkin & Titus, LTD., dated May 15, 1991 and entitled "Zoning Plat on Parcel A Portion of Ward Corporation Property" ("Zoning Plat"), but are outside the areas subject to the Proffers. The property subject to the Proffers and rezoned to the R-1, Suburban Residential Zoning District pursuant to the Zoning Plat, is shown thereon as "AREA 1 OF PARCEL A" and "AREA 2 OF PARCEL A," consisting of 143.41 acres and 116.59 acres, respectively ("Rezoned Property"). A copy of the Zoning Plat is enclosed.

¹ Not all of the property for which the Proffer Determination Request was submitted, Tax Map Parcel Nos. 36-39A, 36-66, 36-67 and 37-10, is zoned A-1, Agricultural Zoning District. Pursuant to tax assessor records, at least portions of Tax Map Parcel Nos. 36-66 and 37-10 are zoned R-1, Suburban Residential.

This Determination makes no statement as to whether the "portions of the property designated for Falmouth By-Pass"² are zoned A-1, Agricultural Zoning District, as is implied by the Proffer Determination Request nor whether any of the Property which is the subject of the Proffer Determination Request falls within the bounds of the Rezoned Property on the Zoning Plat.


Proffers 2.a and 2.b under "2. TRANSPORTATION" of the Proffers no longer apply because the condition precedent to said proffers—the requirement for the dedication of land by the applicant and a contract for construction of said roadway—did not occur within the deadline stated by the Proffers. The A-1 Parcels are outside the boundaries of the Rezoned Property on the Zoning Plat and are therefore, not included in nor bound by the Proffers. However, any portion of the Property that may fall within the bounds of the Rezoned Property, pursuant to the Zoning Plat, is subject to all remaining Proffers.

2. Whether the A-1 zoned parcels, "if not bound by the proffers, ...can be combined with an Adjacent A-1 zoned parcel and used for residential subdivision purposes including meeting required A-1 (6-acre) zoning dwelling unit density requirement."

The A-1 Parcels are not subject to the Proffers, and such property may be combined with other adjacent properties, developed, and used as otherwise allowed and restricted by applicable County regulations and ordinances.

This determination may be appealed to the Board of Zoning Appeals within thirty (30) days from receipt of this letter, in accordance with Virginia Code § 15.2-2311, or this decision shall be final and unappealable. You may obtain the BZA appeal application at <https://staffordcountyva.gov/AppealofZoningDecisions>. The fee for such an application is \$1,952.25.

Sincerely,


James A. Staranowicz
Interim Zoning Administrator

JAS:sjs

Enclosures

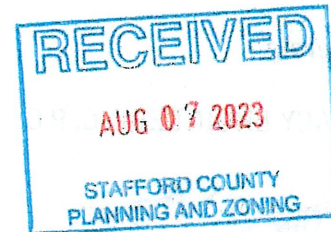
cc: Kathy Baker, Acting Director of Planning and Zoning
Paul Santay, Chief Director of Community Development Services
Michael Morris, Deputy County Administrator
Rysheda McClendon, County Attorney

² The Proffer Determination Request states: "The portions of the property designated for the Falmouth By-Pass appear to be zoned A-1, Agricultural."



August 4, 2023

Mr. James Staranowicz
Deputy Zoning Administrator
Department of Planning & Zoning
P.O. Bx 339
Stafford, VA 22555-0339



Re: Proffer Determination Application

Dear Mr. Staranowicz:

On Behalf of Atlantic Builders, please find attached an application for a proffer determination on Tax Map Parcels 36-39A, 36-66, 36-67, and 37-10. The application is inclusive of this cover letter, completed application form, list of 51 abutting property owners and a fee payment of \$740.30. Additional supplemental information included in the application is a copy of Ordinance 092-05 and a copy of the Generalized Development Plan (GDP) referenced in Ordinance 092-05.

Tax Map Parcels 36-39A, 36-66, 36-67 and 37-10 are a portion of a large assembly of land that was subject to a zoning reclassification approved on March 17, 1992, pursuant to Ordinance 092-05. The zoning reclassification resulted in some of the property being zoned R-1, Suburban Residential and other parts of the property remaining zoned A-1, Agricultural. That Ordinance includes proffered zoning conditions allowing development of 336 residential lots, commitments to dedicate land for the future construction of a Falmouth By-Pass roadway and a stormwater management/wetland mitigation area for the By-Pass among other things.

To date, construction has not commenced on the proposed development or Falmouth By-Pass. Proffer 1 limits the development to no more than 336 residential lots in general accordance with the GDP. Proffer 2.a. commits to dedicating approximately 57 acres of right-of-way to the County to facilitate construction of the Falmouth By-Pass. Proffer 2.b. commits to dedicating approximately 59.58 acres of land to the County for a "Proposed Stormwater Management/Wetland Mitigation Area" for the Falmouth By-Pass.

The proffer to dedicate the land to the Falmouth By-Pass expired 15 years after approval of the 1992 rezoning application (March 16, 2007). The portions of the property designated for the Falmouth By-Pass appear to be zoned A-1, Agricultural. Atlantic Builders requests a proffer determination as to whether these A-1 zoned parcels are bound by the remaining proffers including proffer 1 which limits the total number of residential lots to 336. If they are not bound by the

Mr. James Staranowicz
Page 2 of 2

proffers, Atlantic Builders further ask if the parcels can be combined with an Adjacent A-1 zoned parcel and used for residential subdivision purposes including meeting the required A-1 (6-acre) zoning dwelling unit density requirement.

Thank you for your kind consideration of this request.

Sincerely,

LEGACY ENGINEERING, P.C.

A handwritten signature in blue ink, appearing to read "Jeffrey A. Harvey".

Jeffrey A. Harvey, AICP
Director of Planning

Attachments (4)



BOARD OF SUPERVISORS
COUNTY OF STAFFORD
STAFFORD, VIRGINIA

ORDINANCE

At a regular meeting of the Stafford County Board of Supervisors held in the Board Chambers, Stafford County Administration Center, Stafford, Virginia, on the 17th day of March, 1992:

MEMBERS:

John M. Porter, Chairman
Lyle Ray Smith, Vice Chairman
Alvin Y. Bandy
Ferris M. Belman, Sr.
Lindbergh A. Fritter
Robert C. Gibbons
E. C. "Bill" Williams, Jr.

VOTE:

Absent
Yes
Yes
Absent
Yes
Yes
Yes

On motion of Mr. Bandy, seconded by Mr. Gibbons, which carried by a vote of 5 to 0, the following was adopted:

AN ORDINANCE TO AMEND AND REORDAIN THE ZONING ORDINANCE FOR STAFFORD COUNTY BY AMENDING THE ZONING DISTRICT MAP TO RECLASSIFY WITH PROFFERS, ON THE PROPERTY IDENTIFIED AS ASSESSOR'S PARCELS 36-65 (PORTION), 66 (PORTION), AND 37-5 (PORTION), 6 (PORTION), 7 (PORTION), 7B (PORTION), 8 (PORTION), 9 (PORTION) AND 10 (PORTION), HARTWOOD ELECTION DISTRICT

WHEREAS, Ward Corporation, applicant, has submitted application RC91-06 requesting reclassification, with proffers, from A-1, Agricultural to R-1, Single Family Residential of property consisting of approximately 260 acres, located on the north side of Halls Chapel Road (SR-653) approximately 1.1 miles from the intersection with Enon Road (SR-753), Hartwood Election District; and

WHEREAS, the Stafford County Board of Supervisors has carefully considered the recommendation of the Planning Commission and staff and the testimony at the public hearing; and

WHEREAS, the Stafford County Board of Supervisors has determined that the requested zoning is compatible with the surrounding land uses and zoning; and

WHEREAS, Ward Corporation, property owners, have submitted proffers that are a part of this request;

NOW, THEREFORE, BE IT ORDAINED by the Stafford County Board of Supervisors on this the 17th day of March, 1992, that the Zoning Ordinance for Stafford County be and it hereby is amended and reordained by amending the Zoning District Map to reclassify with proffers from A-1, Agricultural, to R-1, Single Family Residential, for the parcels of land, as shown on the plat of survey by Bengtson, DeBell, Elkin & Titus, Ltd, dated, May 15, 1991, with the following proffers:

1. GENERALIZED DEVELOPMENT PLAN.

The Property will be developed generally in accordance with that plan identified as "Generalized Development Plan - Portion of Ward Corporation Property", prepared by Bengtson, DeBell, Elkin & Titus, Ltd., and dated, August 12, 1991 (the "GDP"); subject, however, to minor modifications to street and lot locations as dictated by topographical considerations, good engineering practice, or house type and location considerations in order to achieve a total of no greater than 336 residential lots.

2. TRANSPORTATION.

a. The Applicant shall dedicate, free and clear of any monetary encumbrances, right-of-way one hundred ninety feet (190') in width (totalling approximately 57 acres) in the general location shown on the GDP across that property owned by the Applicant adjacent to the Property, to allow for future construction by others of the proposed Falmouth Bypass. Said right-of-way shall be dedicated within nine (9) months following approval of this rezoning application by the Stafford County Board of Supervisors. In the event contracts have not been let for construction by Stafford County or VDOT of a roadway within said right-of-way within fifteen (15) years following the date of approval of this rezoning application, the ownership of said right-of-way shall revert to the Applicant, and Applicant shall have no obligation to dedicate any land referenced in Paragraph #2.b. below.

b. At the time of commencement of construction of the Falmouth Bypass within the right-of-way referenced in Paragraph #2.a. above, the Applicant shall dedicate to Stafford County, free and clear of any monetary encumbrances, that area identified on the GDP as "Proposed Stormwater Management/Wetland Mitigation Area" and consisting of approximately 59.58 acres for purposes of providing an area which may be utilized for stormwater management and wetland mitigation in conjunction with future construction by others of the proposed Falmouth Bypass, or for such other purposes as deemed necessary or desirable by the Stafford County Board of Supervisors, including, but not limited to a fire and rescue station site.

c. In lieu of any off-site construction by Applicant on Hulls Chapel Road (State Route 653), Applicant agrees to contribute to the Board of Supervisors of Stafford County the sum of \$130,000, to be used for matching fund improvements to Hulls Chapel Road beginning with the off-site unpaved section of said road. Said contribution shall be paid at the time of issuance of a building permit for the first residential unit to be constructed on the Property. In the event said contribution is paid after January 1, 1994, then the maximum amount of said contribution shall be adjusted by the percentage change in the Consumer Price Index ("CPI") published by the United States Department of Labor from January 1, 1994 to the most recently available CPI on the date said contribution is paid, subject to a cap of six percent (6%) per year, non-compounded.

d. Prior to the issuance of a certificate of occupancy for more than 160 residential units on the Property, or at the time of issuance of the building permit for the first residential unit on the north side of Potomac Creek, whichever first occurs, the Applicant shall have available or provide a second point of vehicular access to the Property, to supplement the connection to Route 653.

3. PUBLIC UTILITIES.

All dwelling units to be constructed on the Property shall be served by public water and sewer.

4. ENVIRONMENTAL.

a. A buffer area shall be provided on the Applicant's Property sufficient to result in a buffer of two hundred feet (200') in width, measured at a linear distance, adjacent to the shoreline of Abel Lake and each shoreline of Potomac Creek. No disturbance shall occur on the Property within that portion of the buffer area adjacent to Abel Lake, and disturbance of buffer area on the Property adjacent to Potomac Creek shall be permitted only for the construction of public street crossings, public utilities, and bridge crossings related to the proposed golf course.

b. A three hundred foot (300') setback line shall be established adjacent to the shoreline of Abel Lake and each shoreline of Potomac Creek, and no buildings shall be constructed within said setback; however, the construction of outdoor decks, porches, patios and the like, and golf course greens, tees, fairways, cart paths, bridges, rain shelters, and utilities within such setback area shall be permitted, subject to receipt of any necessary state approvals.

c. The Applicant shall convey to the homeowners association to be created for the Property that area consisting of approximately 239.75 acres and identified on the GDP as "Dedicated Open Space" for recreation use for the members of said association. The Applicant shall also convey to the Virginia Outdoors Foundation a non-exclusive easement for said area which shall provide that said area shall remain open space. Notwithstanding conveyance of said easement, said area shall be open only to the homeowners association and its members and not to the general public.

d. The Applicant shall grant to Stafford County or its designees the easements necessary to allow access to and the placing of monitoring stations on the Property and adjacent property owned by Applicant, to monitor water quality in Abel Lake. In addition, the Applicant shall provide right of entry to monitor and/or inspect water quality to authorized personnel of Stafford County, the State Water Control Board, and the Virginia Department of Health where such entry is reasonably deemed necessary by any such entity.

e. The Applicant, and its successors in interest to the ownership of the golf course and open space areas, agrees that the program that Applicant will use in connection with the maintenance of the golf course will be substantially as detailed in the attached Exhibit "A". Modifications to said program may be made by agreement of the Applicant and Stafford County.

f. A provision shall be incorporated into the covenants for the homeowners association to be created for the Property providing that, in the event individual homeowners wish to implement a fertilization program for their lawns, said homeowners must first seek and receive approval from the homeowners association, and the association shall prescribe the program to be used, which shall be in substantial accordance with that program detailed in the attached Exhibit "B". Said covenants shall also provide that the association will review and approve fertilization programs submitted by professional lawn services, and the association will maintain and provide to homeowners a list of professional services whose plans have been approved.

g. The Applicant shall prepare and record against the Property and the golf course area, covenants which will restrict the use of certain specified pollutants such as non-biodegradable fertilizers, pesticides, and herbicides, which may be likely to harm the water quality of Abel Lake. The list of substances shall be approved by Stafford County Utility Department, and may be revised from time to time upon the approval of Stafford County and the Applicant or its successor in interest in ownership of the golf course and common areas of the development. Said covenants shall also specify a suggested "woodlot management" program to encourage the retention of existing trees. Treed areas adjacent to the golf course shall be permitted to develop secondary tree canopy growth, except where clearing of secondary growth is desirable to provide for play on the golf course.

h. No below ground storage of petroleum products shall be permitted on the Property or the adjacent golf course. Any aboveground storage facilities shall include a lined catchment basin sized to hold 125 percent of the volume of the storage vessel.

i. Best Management Practices (BMPs) shall be utilized in the design of stormwater management facilities for the Property and the golf course. A minimum of seventy percent (70%) of the land area of the Property and the golf course shall be subject to structural or non-structural BMP coverage. All practical measures will be taken to achieve a post-development average phosphorus loading rate of 0.61 pounds per acre per year for the area disturbed for residential and golf course construction. In the event that the 0.61 pounds per acre per year average loading rate cannot be achieved for the overall site, then that portion of the site subject to BMP coverage shall meet the 0.61 pounds per acre per year standard, and for the remaining balance of the disturbed area not subject to BMP coverage, loading shall be reduced to the maximum extent practicable.

j. The Applicant shall delineate proposed approximate limits of clearing and grading in conjunction with any preliminary plans for the Property which are subject to Stafford County review and approval. Final limits of clearing and grading shall be delineated prior to approval of construction plans for the Property.

k. The Applicant agrees that during the development stage, a minimum of fifty percent (50%) of the land area located north of the right-of-way for the Falmouth Bypass, as generally shown on the GDP, shall remain undisturbed. For purposes of this proffer, the Applicant shall be entitled to include as undisturbed area all of the area within the right-of-way to be dedicated for the Falmouth Bypass, pursuant to Paragraph #2.a. above, and the area to be dedicated for stormwater management and passive recreation purposes pursuant to Paragraphs #2.b. and #4.c. above.

l. Water for irrigation of the golf course shall be drawn from holding ponds to be created on and adjacent to the golf course and supplemented as necessary with water drawn from deep wells to be constructed by Applicant. The holding ponds to be constructed in conjunction with development of the project shall have a minimum aggregate storage capacity of four million gallons, unless extraordinary construction costs, such as rock, would be encountered in constructing ponds with that capacity. No deep well for irrigation shall be drilled within 1,000

feet of any residence not served by public water. Water shall not be drawn directly from Potomac Creek for irrigation purposes unless approved by the Stafford County Board of Supervisors, and water from said Creek shall not be utilized unless water from the holding ponds and deep wells is insufficient to provide adequate irrigation.

5. CEMETERIES.

In the event any cemeteries are located on the Property or on the adjacent golf course area, the Applicant shall not disturb said cemeteries and shall also reserve access to and provide a 25-foot buffer adjacent to said cemeteries. In addition, the Applicant shall set corner markers at the four corners of any such cemetery, and shall also reset any headstones found on such cemeteries.

6. TOT LOT.

The Applicant shall construct a tot lot for the use of residents of the Property in the location generally shown on the GDP. The minimum size, types of play equipment, surface materials, benches, and equipment clearances shall be in accordance with the "Stafford County recommended Guidelines For Tot Lots/Play Lots".

7. USE RESTRICTION.

The Applicant agrees that the areas shown on the GDP as "Golf Course", "Driving Range", and "Club House" shall be used only for the uses specified, or for other recreational uses such as equestrian facilities and playing fields or as open space uses. In no event shall any residential units be constructed in any such areas.

8. MONETARY CONTRIBUTION.

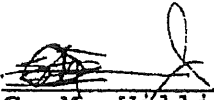
a. The Applicant shall contribute to the Stafford County Board of Supervisors the sum of One Hundred Dollars (\$100.00) per residential unit, for schools and park and recreation purposes. Said contribution shall be paid on a per-unit basis at the time of issuance of a certificate of occupancy for each unit to be constructed on the Property.

b. The Applicant shall contribute to the Stafford County Board of Supervisors the sum of Ten Thousand Dollars (\$10,000.00) for use for fire and rescue service improvements in the area in which the Property is located. Said contribution shall be paid on a per-unit basis at the rate of One Hundred Dollars (\$100.00) per unit at the time of issuance of a building permit for the first 100 units to be constructed on the Property.

9. GOLF COURSE CONSTRUCTION

No more than 160 certificates of occupancy shall be issued for residential units on the Property prior to the time a golf course is constructed on the Property and ready for play.

A Copy, teste:



C. M. Williams, Jr.
County Administrator

CMWJr:WCS:tg

- AREA: 215.00 Ac
 CR. REMOVED: 4.50
 PUMP, EXHAUST: 0-1
 REMOVED ALLOWED: 8 D.U. / Ac.
 REMOVED PROPOSED: 1.33 D.U. / Ac.
 RECEIVED REMOVED LOT AREA: .275 Ac.
 PUMP, REMOVED LOT AREA: .8 Ac.
 REMOVED CR. LOT PROPOSED: 316
 REMOVED LOT SIZE: .77 Ac.
 AREA OF REMOVED CIRCULATION: 220.0 Ac.
 AREA OF REMOVED ST-PARK STREET OF 121: 57.0 Ac.



FALMOUTH-HARTWOOD MAGISTERIAL DISTRICT
STAFFORD COUNTY, VIRGINIA
DATE MAY 8, 1974 SCALE 1"=100'
BENTSON, D. DELL, ELKIN & TITUS, LTD.
CONTRACT NO. 100-101-012 SHEET 1 OF 1



VICINITY MAP
SCALE 1"=2 MI.

NOTES

1. OWNER: WARD CORPORATION
1300 PICCARD DRIVE
ROCKVILLE, MD. 20850
2. NO TITLE REPORT FURNISHED.
3. THE PROPERTY DELINEATED HEREON IS LOCATED ON TAX MAP 36, A PORTION OF PARCELS 65 & 66, TAX MAP 37, A PORTION OF PARCELS 5, 6, 7, 7B, 8, 9, & 10.

AREA TABULATIONS

AREA 1 PARCEL A: 143.41 AC.
AREA 2 PARCEL A: 116.59 AC.

TOTAL AREA TO BE
REZONED FROM A-1
TO R-1: 260.00 AC.

ZONING PLAT
ON

PARCEL A
PORTION OF WARD CORPORATION PROPERTY

FALMOUTH - HARTWOOD MAGISTERIAL DISTRICT
STAFFORD COUNTY, VIRGINIA
DATE: MAY 15, 1991 SCALE: 1" = 400'

BENGTSON, DeBELL, ELKIN & TITUS, LTD.



4379 RIDGEWOOD CENTER DRIVE, WOODBRIDGE, VIRGINIA 22192
(703) 690-4322 (703) 670-6400 (703) 373-0207

WARD CORPORATION
PROPERTIES
EX. ZONING A-1

ABEL RESERVOIR

WARD CORPORATION
PROPERTIES
EX. ZONING A-1

AREA 1 OF PARCEL A
EX. ZONING: A-1
PROP. ZONING: R-1

WARD CORPORATION
PROPERTIES
EX. ZONING A-1

AREA 2 OF PARCEL A
EX. ZONING: A-1
PROP. ZONING: R-1

WARD CORPORATION
PROPERTIES
EX. ZONING A-1

PROPOSED ALIGNMENT FALMOUTH - ROUTE 17 BY-PASS
(150' R/W)