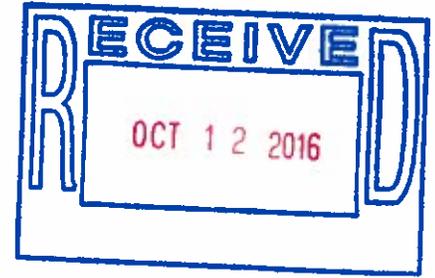




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**WALSH COLUCCI
LUBELEY & WALSH PC**

October 12, 2016



Via E-Mail Only

Christopher N. Granger, Chairman
Fauquier County Board of Supervisors
10 Hotel Street, Suite 208
Warrenton, Virginia 20186

Re: WAIV-16-005690, Agenda Item #7

Dear Chairman Granger:

On behalf of our clients Zand 78, LLC and Demavand 9, LLC, we request that the Board vote to defer action on the application to waive the Zoning Ordinance requirement set forth in Section 7-302.1.A.2 in order to construct a new section of a private street that does not connect directly to a state maintained street. We are in receipt of the staff report prepared by the Department of Community Development, and although we disagree that the application does not meet the standards for granting a waiver, we would like the opportunity to discuss this application further with staff and possibly pursue some of the recommendations contained in the staff report. Our clients' objectives are to ensure that their properties remain subdivided as permitted under the County's Subdivision Ordinance and under the restrictive covenants applicable to the Apple Manor subdivision. They also desire to serve the lots with a road network that can be supported by the majority of the lot owners in the Apple Manor subdivision, County staff, and the Board of Supervisors.

Although we are requesting a deferral, it is necessary to briefly rebut some of the statements made in the letters submitted by lot owners regarding the proposal, and in the staff report. First, the original covenants in the subdivision clearly permitted the re-subdivision of lots 7, 8 and 9, provided that these lots "be resubdivided subject to the provisions of the Fauquier County Subdivision Ordinance in effect as of the date of execution of this Deed of Modification of Covenants," which date was May 28, 1997. The new road section currently proposed, connecting Apple Manor Road to Audubon Trail, would be mostly hidden from the other lots within the subdivision because of the topography, as would any homes built on the lots. Furthermore, an open space easement granted to the Virginia Outdoor Foundation restricts the placement of homes and likely requires any land development to avoid disturbing wooded areas along the ridgelines on the lots. Therefore, any concerns regarding an impact to viewsheds are overstated. Finally, under both the original covenants and a new set of recorded covenants, my clients do not have the ability to require the other lot owners to maintain the new road, but instead, my clients or their successors in interest must maintain the new road.

ATTORNEYS AT LAW

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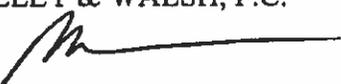
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The irony is that the re-subdivision creating only five additional lots, approved by the County in 2007, and the road network associated with that re-subdivision, would have involved less land disturbance than what is currently proposed. Yet one of the lot owners chose to challenge that subdivision, forcing our clients to devise a plan that would both satisfy the County's ordinances and the rulings made by the Supreme Court of Virginia and the Fauquier Circuit Court. Nonetheless, we are hopeful that through further discussions with staff, a modification of the existing plan can be developed that will allow staff to support the waiver application.

We are grateful for your consideration of this request.

Sincerely,

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



Michael J. Coughlin

cc: BOS@fauquiercounty.gov
Supervisor Mary Leigh McDaniel
Supervisor Christopher T. Butler
Supervisor Richard R. Gerhardt
Supervisor R. Holder Trumbo, Jr.
Ms. Heather Jenkins, Senior Planner
Clients