



RE: 4104 Woodlark Drive

To: All members, Fairfax County Board of Supervisors

May 19, 2018

The Friends of Accotink Creek wish to offer comments on a land use appeal that will be brought before the Board of Supervisors June 19, 2018, in reference to this property.

The applicant is appealing a Chesapeake Bay Preservation Ordinance Exception Review Committee denial of additional relief beyond that already granted to lots in existence prior to delineation of Resource Protection Area buffers along perennial streams. The applicant is in this position after disregarding the setback provisions of the property covenant.

As a commercial entity specialized in real estate development, the applicant should have been expected to discover the covenant restrictions prior to purchase. Further, the applicant was, in fact, aware of the setback covenant, but felt safe from enforcement by an inactive civic association, as the applicant's representative made clear at the December 6, 2017, hearing of the Chesapeake Bay Preservation Ordinance Exception Review Committee.

The applicant's intention is clearly to sell the property as soon as possible and leave others to deal later with the problems of flooding and environmental degradation.

A decision in favor of the applicant may be expected to cascade very soon, as this is just one of four side-by-side nearly identical undeveloped properties along Woodlark Drive.

The Board of Supervisors is being asked to decide between two conflicting restrictions on the use of this property. One restriction is the Resource Protection Area, based on the need to preserve the health of our streams and the Chesapeake Bay. The other restriction is the covenant, an arbitrary limitation intended to provide subjective benefits, conceived at a time when all the harms befalling the Chesapeake Bay were little understood.

5. No lot or lots in said Subdivision or any part of any lot or lots shall ever be used or occupied by or directly or indirectly sold, devised, transferred, conveyed unto or in trust for, leased, or rented to any one not of the Caucasian race, except that this shall not exclude partial occupancy by domestic servants of another race employed by and in actual service at the time of such partial occupancy of any owner or owners of any lot or lots in said Subdivision.

6. No building shall be erected within seventy-five (75) feet of the front property line of any lot or lots in said Subdivision.

The covenant's setback provision is an artifact of the past which must give way to the duty to preserve our natural heritage, just as its whites-only provision long ago yielded to the demands of social justice.

The Board of Supervisors' duty is to deny the appeal and direct the applicant to seek legal remedies to lift the covenant.

Sincerely,
Friends of Accotink Creek