

VIRGINIA LAND RECORD COVER SHEET

Commonwealth of Virginia VA. CODE §§ 17.1-223, -227.1, -249

FORM A – COVER SHEET CONTENT

Instrument Date: 2/13/2025

Instrument Type: AG

Number of Parcels: 1 Number of Pages: 12

[] City County KING GEORGE COUNTY COURT
CIRCUIT COURT

Tax Exempt? VIRGINIA/FEDERAL CODE SECTION

[] Grantor:

[] Grantee:

Business/Name

1. Grantor: KING GEORGE COUNTY BOARD OF SUPERVISORS
2. Grantor: WALNUT HILL DEVELOPMENT CORPORATION
1. Grantee: WALNUT HILL DEVELOPMENT CORPORATION
2. Grantee: NVR INC.

Grantee Address

Name: WALNUT HILL DEVELOPMENT CORPORATION

Address:

City: State: VA Zip Code:

Consideration: \$0.00 Existing Debt: \$0.00 Actual Value/Assumed: \$0.00

PRIOR INSTRUMENT UNDER § 58.1-803(D):

Original Principal: \$0.00 Fair Market Value Increase: \$0.00

Original Book No.: Original Page No.: Original Instrument No.:

Prior Recording At: [] City County Percentage In This Jurisdiction: 100%

Book Number: Page Number: Instrument Number:

Parcel Identification Number/Tax Map Number: VARIOUS

Short Property Description:

Current Property Address:

City: KING GEORGE State: VA Zip Code: 22485

Instrument Prepared By: JACLYN M FISH Recording Paid By: KING GEORGE COUNTY

Recording Returned To: JACLYN M FISH

Address: 10459 COURTHOUSE DRIVE, SUITE 200

City: KING GEORGE State: VA Zip Code: 22485

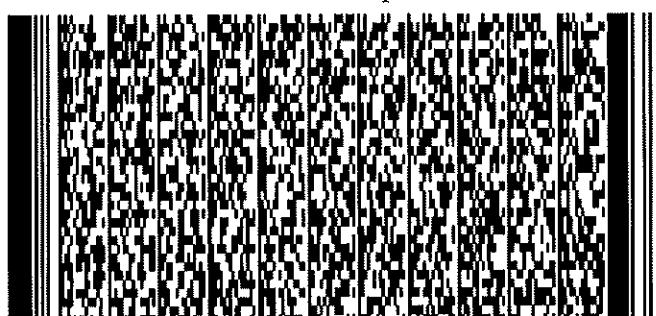
FILED
KING GEORGE COUNTY, VA
Jessica M. Mattingly
CLERK OF CIRCUIT COURT

FILED Feb 13, 2025
AT 03:02 pm

INST. # 250000395
TOTAL PAGES 14

AKT

(Area Above Reserved For Deed Stamp Only)



VIRGINIA LAND RECORD COVER SHEET

Commonwealth of Virginia VA. CODE §§ 17.1-223, -227.1, -249

FORM B – ADDITIONAL GRANTORS/GRANTEES

Instrument Date: 2/13/2025

Instrument Type: AG

Number of Parcels: 1 Number of Pages: 1

[] City County KING GEORGE COUNTY COURT
CIRCUIT COURT

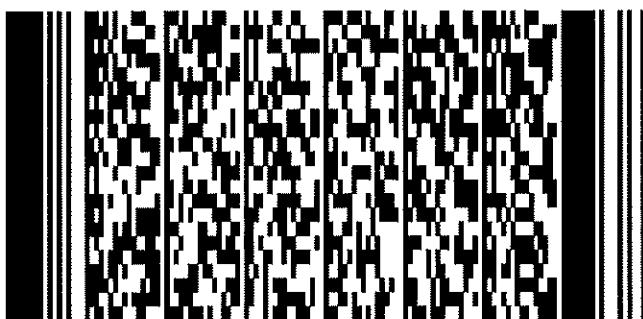
Grantor Business/Name

(Area Above Reserved For Deed Stamp Only)

3 Grantor: NVR INC.
..... Grantor:
..... Grantor:
..... Grantor:
..... Grantor:
..... Grantor:
..... Grantor:
..... Grantor:

Grantee Business/Name

3 Grantee: KING GEORGE COUNTY BOARD OF SUPERVISORS
..... Grantee:
..... Grantee:
..... Grantee:
..... Grantee:
..... Grantee:
..... Grantee:
..... Grantee:



**BOARD OF SUPERVISORS
COUNTY OF KING GEORGE
VIRGINIA**

O-02-25

At the regular meeting of the Board of Supervisors of the County of King George, in the Boardroom of the Revercomb Building in King George, Virginia, on the 21st day of January, 2025:

| Present: | Vote: |
|-------------------------|-------|
| Cathy Binder | Aye |
| Terrence "T.C." Collins | Aye |
| William S. Davis | Aye |
| Kenneth A. Stroud | Aye |
| David D. Sullins | Aye |

Motion was made by Mr. Sullins, which carried 5:0, to adopt the following ordinance:

**AN ORDINANCE TO APPROVE WALNUT HILL'S
SUBDIVISION ORDINANCE EXCEPTION REQUEST TO
SECTION 8.3.1 (B) OF THE KING GEORGE COUNTY
SUBDIVISION ORDINANCE (IN EFFECT ON DECEMBER
19, 2023) TO ALLOW THE SUBDIVISION TO BE SERVED
BY ONE ENTRANCE**

WHEREAS a settlement agreement between Walnut Hill Development Corporation/NVR Inc. and King George County Board of Supervisors was approved by the King George County Board of Supervisors on January 7, 2025, and its prior execution ratified on January 21, 2025; and

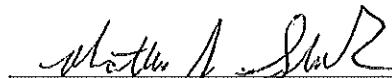
WHEREAS, the settlement agreement allows for the rezoning of property known as Walnut Hill, with updated proffers, from A-2 to R-3; and

WHEREAS, the settlement agreement allows for the approval of a Subdivision Ordinance exception request to the December 19, 2023, version of the Subdivision Ordinance, Section 8.3.1 (B), to allow for the subdivision to be served by one entrance;

NOW THEREFORE BE IT ORDAINED this, the 21st day of January 2025, by the King George County Board of Supervisors, that the Special exception request stated above be, and it hereby is, approved.

BE IT FURTHER ORDAINED, that the County Administrator be, and he is hereby, directed to have a fully executed copy of this Ordinance recorded upon the Land Records of the County in the office of the Clerk of the Circuit Court.

Attest:


Matthew J. Smolnik
County Administrator


William S. Davis
Chairman

Approved as to form:


Charlie Clark
Special Counsel

Attachments:

- Settlement Agreement

SETTLEMENT AGREEMENT
Walnut Hill Development Corporation and NVR Inc.

v.

Board of Supervisors for County of King George and County of King George

THIS SETTLEMENT AGREEMENT is executed this 16th day of January, 2025 ("Effective Date"), by and among Walnut Hill Development Corporation ("Walnut Hill") and NVR Inc. ("NVR"), and together with Walnut Hill, the "Plaintiffs"), and the Board of Supervisors for County of King George (the "Board") and County of King George (the "County", and together with the Board, the "Defendants") (each a "Party" and collectively the "Parties").

WHEREAS, on December 19, 2023, the Board denied (i) Walnut Hill's rezoning application (the "Rezoning Application") to rezone Walnut Hill property from the A-2, Rural Agricultural District, to the R-3, Multifamily Dwelling District, to allow 100 residential lots divided between 25 single family lots and 75 attached townhomes (the "Project"), and (ii) one of three accompanying Subdivision Ordinance exceptions requests which sought an exception from the requirement for more than one direct access to a road (entrance) under Section 8.3.1(b) of the Subdivision Ordinance (the "Exception Request" collectively with the Rezoning Application, the "Zoning Decision"); and

WHEREAS, the denial of the Rezoning Application was predicated on the Board's concerns regarding the sufficiency of Walnut Hill's calculations used to determine its voluntary cash proffer for school improvements (the "School Proffer"); and

WHEREAS, on January 18, 2024, Plaintiffs appealed the Zoning Decision (the "Appeal") to the Circuit Court in King George County (the "Court"); and

WHEREAS, in an effort to resolve the Appeal without further judicial action, which the Parties agree is in their mutual best interest, the Parties have engaged in settlement discussions in good faith to negotiate the terms of this enforceable Settlement Agreement; and

WHEREAS, the Parties acknowledge that this Settlement Agreement is an effort to resolve the Appeal efficiently and to avoid costs of litigation, and the Parties do not intend for this Settlement Agreement to operate as admissions or a waiver of any claims or defenses in the Appeal or any other judicial or administrative proceeding.

NOW, THEREFORE, in consideration of the mutual promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, the Parties hereby agree as follows:

1. Terms of Settlement. The Parties hereby agree as follows:

a. Plaintiffs shall increase the School Proffer to \$440,000 and shall add the following language (the "Phasing Proffer") to Section II of the Proffer Statement:

I. Phasing. It is anticipated that the Project will be constructed over a three (3) year period. Beginning on the first day of the month after this rezoning is approved, the Project shall have a limit of 33 building permits for residential dwelling units per year. The limit on building permits shall be

cumulative, such that unused permits may be carried over to successive years. The existing units on Lots 1 and 17 will be excluded from this Phasing proffer.

- b. The Board shall agree and accept the \$440,000 as a reasonable School Proffer and shall accept the Phasing Proffer as a reasonable phasing proffer.
- c. The Defendants shall accept service of the Appeal within five (5) days of the effective date of this agreement. Within fifteen (15) days of service of the Appeal, the Parties will draft and submit a joint order (the "Court Order") to the Circuit Court (in substantially the same form as the order which attached hereto as Exhibit A and incorporated herein by reference) advising that the matter has been settled and requesting that the Circuit Court: (i) declare the Zoning Decision void; (ii) remand the Rezoning Application back to the Board for reconsideration on the sole issues of the reasonableness of the School Proffer amount and the Phasing Proffer and final action consistent with the terms of this Settlement Agreement; (iii) direct that the Plaintiffs may file an amended School Proffer and Phasing Proffer for the Board's reconsideration consistent with the terms of this Settlement Agreement; (iv) remand the Exception Request back to the Board for reconsideration consistent with the Board's reconsideration of the Rezoning Application and final action consistent with the terms of this Settlement Agreement; and (v) dismiss the Appeal with prejudice.
- d. Within five (5) days of entry of the Court Order, the Plaintiffs shall revise the Rezoning Application to increase the School Proffer to \$440,000 and add the Phasing Proffer.
- e. The revised Rezoning Application and the Exception Request shall be placed on the Board's agenda in accordance with the Court Order and this Settlement Agreement.
- f. The revised Rezoning Application and Exception Request shall be governed by the County ordinances in place on December 19, 2023.
- g. The Board shall reconsider the denial of the Rezoning Application based solely on the increased School Proffer and the Phasing Proffer and shall vote on the Rezoning Application limiting its deliberations to the reasonableness of the School Proffer and the Phasing Proffer which the Board herein agrees are reasonable.
- h. The Board shall then vote on the Exception Request and take action consistent with vote on the Rezoning Application and this agreement.

2. Defendants' Fees and Costs. Plaintiffs agree to reimburse Defendants for reasonable attorneys' fees and costs incurred in the negotiation and execution of this Settlement Agreement. Within thirty (30) days following the date the Board votes on the revised Rezoning Application and Exception Request, Defendants will submit an invoice to Plaintiffs detailing such attorneys' fees or costs incurred. Within thirty (30) days of Plaintiffs' receipt of the invoice, Plaintiffs will notify Defendants in writing of any disputed amounts in invoice and pay to Plaintiffs all undisputed amounts. Except as provided in this paragraph, Plaintiffs shall have no responsibility for any other attorneys' fees or costs or any other expenses Defendants incurred in connection with the Zoning Appeal and/or Rezoning Application.

3. Effect of Settlement and Reservation of Rights.

- a. The Parties reserve all legal and equitable remedies available to enforce the terms of this Settlement Agreement.
- b. Nothing in this Settlement Agreement shall restrict or control the Parties' comments, litigation, or any other activity related to any decision, determination, or action of the Board or County other than the Zoning Decision or as otherwise expressly provided in this Settlement Agreement.

4. Force Majeure and Excusable Delays. The Parties shall perform all requirements under this Settlement Agreement in the manner and within the time limits established herein, unless performance is delayed or prevented by "Force Majeure" or "Excusable Delays," which are defined for purposes of this Settlement Agreement as events or circumstances arising from causes not reasonably foreseeable and beyond the control of the Parties, or any entity controlled by the Parties or the Parties' contractors, which delay or prevent performance of any obligation under this Settlement Agreement despite due diligence and best efforts to fulfill the obligation.

- a. Events and circumstances beyond the control of the Parties may include, without limitation, earthquake, flood, hurricane, or other act of God, war, strike or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part.
- b. Such events and circumstances do not include normal inclement weather, financial inability to complete the work, increased cost of performance, changes in the Parties' economic circumstances, or the failure to obtain federal, State, or local permits, authorizations and approvals unless the Parties have made timely and complete application for such permits, authorizations, and approvals.
- c. The Party asserting a Force Majeure or Excusable Delay shall notify the other Parties in writing within ten (10) days after becoming aware of an event or circumstance that constitutes Force Majeure or Excusable Delay that such Party believes may prevent or delay performance of an obligation under this Settlement Agreement. Such Party's notification shall describe in detail the cause of the delay, the anticipated length of the delay, the precise cause or causes of the delay, the measures taken and to be taken by such Party to prevent or minimize the delay, and a timetable by which those measures will be implemented. The Party shall adopt all reasonable measures to avoid or minimize any such delay. The Party shall include in the notification a request to extend the deadline associated with any obligation under this Settlement Agreement whose performance may be prevented or delayed by unforeseeable events or circumstances beyond such Party's reasonable control.
- d. Failure by any Party to comply with the notice requirements set forth in the preceding paragraph constitutes a waiver of such Party's right to request an extension of the applicable deadline associated with an obligation to be performed under this Settlement

Agreement.

- e. If the circumstance, event, or anticipated event that has caused or will cause the delay constitutes a Force Majeure or Excusable Delay as defined herein, the time for performance shall be extended by an appropriate period substantially equal to the necessary delay.

5. Miscellaneous Provisions.

- a. No Third-Party Beneficiaries. This Settlement Agreement is solely for the benefit of the Parties hereto and their permitted successors and assigns and shall not confer any rights or benefits on any other person or entity.
- b. No Assignment. No Party may transfer or assign this Settlement Agreement, or its rights or obligations hereunder, without the prior written consent of the other Parties, which may be withheld in the sole discretion of each other Party.
- c. Governing Law; Venue; Severability. This Settlement Agreement is a Virginia contract that shall be construed in accordance with and governed for all purposes by the laws of the Commonwealth of Virginia. All questions with respect to any of its provisions shall be instituted, maintained, and contested in a court of competent jurisdiction in the Commonwealth of Virginia. If any word or provision of this Settlement Agreement as applied to any Party or to any circumstance is adjudged by a court to be invalid or unenforceable, the same shall in no way affect any other circumstance or the validity or enforceability of any other word or provision.
- d. Entire Agreement; Amendments. This Settlement Agreement contains the entire agreement between the Parties as to its subject matter and supersedes all previous written and oral negotiations, commitments, proposals and writings. No amendments may be made to this Settlement Agreement except by a writing signed by the Parties.
- e. Dispute Resolution. In the event of a disagreement between the Parties concerning the interpretation or performance of any aspect of this Settlement Agreement, the dissatisfied Party shall provide the other Party with written notice of the dispute and a request for negotiations. The Parties shall meet and confer in order to attempt to resolve the dispute within thirty (30) days of the written notice, or such time thereafter as is mutually agreed. If the Parties are unable to resolve the dispute within sixty (60) days of such meeting, the disputing Party shall have the right to seek judicial enforcement of the terms of this agreement.
- f. Counterparts; Signatures; Copies. This Settlement Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. A scanned or other electronic signature may substitute for and have the same legal effect as an original signature. Any copy of this executed Settlement Agreement made by photocopy, scanner or other imaging technology shall be considered an original for all purposes.

This Settlement Agreement is agreed to by each of the undersigned effective on the date first written above.

[SIGNATURES BEGIN ON FOLLOWING PAGE]

COUNTY OF KING GEORGE, VIRGINIA

By: Matthew J. Smith
Name: Matthew J. Smith
Title: County Administrator

BOARD OF SUPERVISORS FOR
COUNTY OF KING GEORGE, VIRGINIA

By: W. Davis
Name: William Davis
Title: Chairman

RECOMMENDED FOR APPROVAL:

By: _____
Name: _____
Title: _____

N/A

APPROVED AS TO FORM:

By: CHARLES CLARK
Name: CHARLES CLARK
Title: County Attorney

SPECIAL COUNSEL TO THE BOARD

[SIGNATURES CONTINUE ON THE FOLLOWING PAGE.]

WALNUT HILL DEVELOPMENT CORPORATION

By: _____

Name: James E. Jarrell, Jr.

Title: President

NVR INC.

By: _____

Name: _____

Title: _____

WALNUT HILL DEVELOPMENT CORPORATION

By: _____
Name: _____
Title: _____

NVR INC.

By: Eric Shirey
Name: Eric Shirey
Title: Vice President

Exhibit A

VIRGINIA:

IN THE CIRCUIT COURT OF THE COUNTY OF KING GEORGE

WALNUT HILL DEVELOPMENT)
CORPORATION, and)
NVR, INC.)
)
Plaintiffs,)
)
v.) Case No. CL24000048-00
)
BOARD OF SUPERVISORS FOR THE)
COUNTY OF KING GEORGE, and)
KING GEORGE COUNTY, VIRGINIA)
)
Defendants,

AGREED FINAL ORDER

This day came the Plaintiffs and the Defendants, jointly, by counsel and advised this Court that this matter has been resolved, and upon Joint Motion and agreement of the Parties, it therefore ORDERED, and DECREED:¹

1. The decisions by the Board on December 19, 2023, to deny the Plaintiffs' Rezoning Application and Exception Request are declared to be void.
2. The Rezoning Application and Exception Request are remanded back to the Board for additional consideration.
3. The Board's reconsideration of the Rezoning Application shall be limited to the reasonableness of the School Proffer and related Phasing Proffer, which the Plaintiffs shall be permitted to amend prior to reconsideration to address impacts to County schools.

¹ Capitalized terms used herein shall have the same definitions as given in the Petition for Review and Complaint.

4. The Board's reconsideration and vote on the Exception Request shall be consistent with the vote on the Rezoning Application.

5. The Clerk shall cause a certified copy of this order to be sent via first class mail to all counsel of record.

6. This matter is closed and shall be placed among the ended causes.

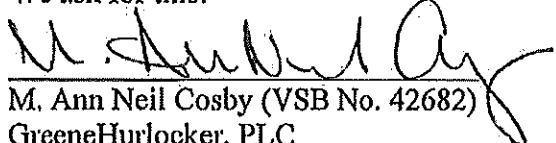
DATE: 1/17/25

ENTER:



J. B. Hunt
Circuit Court Judge

We ask for this:



M. Ann Neil Cosby (VSB No. 42682)

GreeneHullocker, PLC
4908 Monument Avenue
Suite 200
Richmond, VA 23230
Telephone: 804.6724546
ancosby@greenehullocker.com

Counsel Walnut Hill Development Corporation and NVR, Inc.

and



Charlie Clark (VSB No. 80228)

Special Counsel
10459 Courthouse Drive
King George, VA 22485
Telephone: 540-775-8548
charliec@co.kinggeorge.state.va.us

Counsel for the Board of Supervisors for the County of King George, and King George County, Virginia

INSTRUMENT # 250000395
RECORDED KING GEORGE CO CIRCUIT COURT CLERK'S OFFICE
Feb 13, 2025 AT 03:02 pm
Jessica M. Mattingly, CLERK by AKT