



November 2nd, 2023

Councilmember Andrew Friedson
Council Office Building
100 Maryland Ave.
6th Floor
Rockville, Maryland 20850

Re: WSSC Property Located within the Avenel Community/Equestrian Facilities

Dear Councilmember Friedson:

This letter follows an earlier meeting regarding the above-mentioned matter to provide more details regarding the history and our communications with WSSC. Consistent with the very strong sentiment of the Avenel community, the greater Potomac area, and other residents in Montgomery County, we seek your and County Council support for the continuation of the Equestrian Facilities on the WSSC property located within the Avenel community.

As you are aware, WSSC's recent notice of lease termination of the long-standing Equestrian Operator has created a ground swell of concern and opposition from not only the Avenel Community residents, but also surrounding areas within Montgomery County and beyond. WSSC's plans to cease Equestrian operations raises significant concern in the community, given that its foundational history is central to Avenel's and Potomac's character.

When Avenel learned, secondhand, of WSSC's notice of lease termination, we, along with Tom Natelli of Natelli Communities, successor to Rock Run, the original Avenel developer, and Robert Brownell, Rock Run's counsel involved in the negotiations surrounding the Avenel development, including the golf course and the use of the WSSC property, met with WSSC staff. Our stated goal for such meeting was to establish a framework for a collaborative process among the interested parties to preserve the continued use of the Equestrian Facilities, including potential restoration of the buildings. To our surprise and disappointment, WSSC was not interested in pursuing this discussion. Rather, WSSC confirmed its interest in terminating the use of the Equestrian Facilities claiming that it is not in the horse business and is no longer interested in permitting such use of its property. WSSC expressed unwillingness to consider the concerns of Avenel and Natelli Communities despite its clear obligations under several binding agreements. We attach for your information and review copies of the relevant binding agreements. However, as the various agreements are voluminous and address a number of issues, the following summarizes some of the most pertinent provisions that confirm WSSC's obligation to maintain the availability of Equestrian Facilities as a public amenity.

A recorded Agreement of Sale entered by WSSC on March 18th, 1998, as amended, states the following:

15.4 Operation of Equestrian Facilities.

If the TPC Property is conveyed pursuant to paragraph III.A.3.b.(1) of the Master Agreement [*which is exactly what occurred*], WSSC agrees to permit the operation of riding trails and Equestrian Facilities on its property to the extent that such use does not conflict with the construction and operation of the AWT Plant."

The term “Equestrian Facilities,” as used in the above-quoted provision, is defined in paragraph 1.2 of the same Agreement of Sale to mean “the horseback riding facility that presently includes a barn and various riding areas and that may include additional structures in the future.”

Additionally, Paragraph 20.0 of such Agreement makes it clear that these commitments survive conveyance of the property to WSSC.

The Avenel Farm Development Plan Master Agreement dated July 3, 1984 (which was an exhibit to the above-referenced Agreement of Sale) specifically addresses WSSC’s obligations with respect to the Equestrian Facilities. In particular, Paragraph 3, Section H.1 of the Master Plan Agreement sets forth the intent of the parties to maintain the availability of equestrian activities in the Avenel Farm area. Further, Section H.5 the Master Plan Agreement is equally definitive, as it states:

5. WSSC Property

WSSC shall permit the operation of riding trails and equestrian facilities on its property to the extent such use does not conflict with the construction or operation of the AWT.
(*Emphasis added*)

As you are no doubt aware, the AWT (Avenel Water Treatment Plant) has never been constructed and is not in any future published plans by WSSC or the County.

In addition to the above-noted agreements, we recently obtained a copy of WSSC Resolution 91-1319, adopted May 15th, 1991, that reads in part:

WHEREAS, upon the above recommendation of the CAC, there was formed the Avenel Equestrian Center Council Corporation (AECC), as a non-profit organization of Potomac area community, civic, business, recreational, nature and equestrian groups interest in preserving equestrian activities at Avenel as an integral part of community life, tradition, and recognizing the advantages of improving and preserving the equestrian facility and trails as a significant community asset; and

WHEREAS, at the time the WSSC acquired the property, it expressed its commitment to retain the equestrian facility and related uses on the property while endeavoring to continue such uses during the construction and operation of the Commission’s proposed AWT; and

WHEREAS the WSSC wishes to reaffirm its commitment with regard to the equestrian facility uses. (*Emphasis added*)

It is our understanding that this Resolution is part of public documents maintained by WSSC and was issued to reflect WSSC’s interest to retain the operation of the Equestrian Facilities on its property as a public amenity for the Potomac and greater Montgomery County community.

Further, by written agreement dated March 30, 1998, WSSC agreed that it would consult with and consider in good faith the views of the ACA (Avenel Community Association) and TPC (Avenel Tournament of Players Club) before making any changes to the physical appearance of the structure compromising the equestrian center. Certainly, demolition or abandonment of the Equestrian Facilities and the structures related thereto would change the physical appearance of the property.

Not only was the ACA (and TPC) not consulted, but we received no notice from WSSC of its intentions to discontinue the operation and use of the Equestrian Facilities. WSSC's future plans for the property remain unclear. In fact, its stated plans are inconsistent, as it initially stated that it may "demolish" the barn but has also stated that it may "secure the barn" but without continued use and operation of the property for equestrian activities. WSSC staff has indicated that they believe the buildings are unsafe without significant repairs. However, no data has been provided to substantiate this claim and WSSC has refused to entertain any discussions regarding our proposal that Avenel and the other interested parties work collaboratively with WSSC on solutions that could remedy this alleged situation.


Based upon the long history, the binding agreements summarized above and WSSC's own published resolution of intent to maintain the Equestrian Facilities and use on its property, the actions of WSSC are a direct violation of its obligations. As notice of termination has been given to the current operator of the Equestrian Facilities, immediate action is warranted to ensure the intent of the agreements is honored and there is a continuation of the use and operation of the Equestrian Facilities as a public amenity to the greater Montgomery County community.

As you learned during the Potomac Day events, held on October 21, 2023, Avenel residents initiated a petition to garner support for the preservation of the Equestrian Facilities and the ACA and various other Potomac area organizations and residents, including, without limitation the West Montgomery County Citizens Association, strongly support this action. The petition was initiated through an online resource but was also available for signatures during Potomac Day. We are enclosing with this letter petition results through October 28th, 2023, plus there were an additional 300 signatures received since October 28th. To assist in analysis of the data, we created a graph that identifies the signatories by area. As evidenced in the attached, many of your constituents support the continuation of the use and operation of the Equestrian Facilities.

Avenel together with other interested parties including Natelli Communities and interested residents and organizations in the greater Potomac area request that your office intervene in this matter to obtain compliance by WSSC with its long standing and well-established obligations under numerous recorded or otherwise binding agreements regarding the continued use and operation of the Equestrian Facilities on its property. As we previously indicated to WSSC, we remain interested and willing to work with WSSC to address its concerns with respect to the property and to engage in good faith collaborative efforts to preserve the Equestrian Use envisioned.

Sincerely,

Avenel Community Association Board of Directors

By:  _____
 Title: President

CC: Tom Natelli, Natelli Communities
 Stephanie McGovern, Avenel Resident and Petition Originator
 Lisa Kaiser, Avenel Resident and Petition Originator

Enclosures:

Recorded Agreement of Sale March 18th, 1998

Avenel Farm Development Plan Master Agreement dated July 3, 1984 (exhibit to Agreement of Sale)

WSSC Resolution 91-1319, adopted May 15th, 1991

WSSC agreement March 30, 1998

Petition Data and Summary of Results