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VIA HAND DELIVERY

Rachel Hudson, Zoning Administrator
1300 Courthouse Road
County of Stafford
Post Office Box 339
Stafford, Virginia 22555-0339

**RE: REQUEST FOR PROFFER DETERMINATION –
ORDINANCE 001-08 – EMBREY MILL (TAX MAP 29-53)**

Dear Ms. Hudson:

I am writing to you on behalf of North Stafford Associates, LC, the owner of development known as Embrey Mill, (the "Property") for an interpretation of proffer 3 of Ordinance O01-08 governing the Property.

Background

In 2001 the Property, then known as Tax Map Parcels 29-44Y, 29-53 and 29-70L, was the subject of a rezoning with proffers from a mix of A-1, R-1, R-2, B-2, B-3, and PD1 to A-1, A-2, and PD-2. The rezoning was approved by means of Ordinance O01-08 (Exhibit "A") on March 6, 2001. Proffer 3(a) proffers real property for two school sites. Proffer 3(a)(i) further designates School Site #1 as an approximately 23 acres site for an elementary school

School Site #1, as denoted on the General Development Plan (GDP), is located adjacent to an existing Dominion Virginia Power easement currently containing overhead power lines. Dominion Virginia has filed a Petition for Condemnation, CL09-933, to acquire an additional easement for the installation of underground facilities (Exhibit "B"). The take includes approximately 1.3 acres of School Site #1. While the proposed take is for an easement, Dominion's permission will be required to install anything in the easement, which permission cannot be guaranteed. However, the area of the proposed take does not include the area for school buildings or parking; rather it is limited to a portion of School Site #1 planned for the playing fields.

Given the potential impact of Dominion's take on School Site #1, the property owner has

discussed this matter with the Stafford County Public School System (the "School System") (Scott Horan). The preference of the School System is to receive the money paid for the 1.3 acre portion of the School Site by Dominion rather than have the property owner replace lost area for playing fields. I am writing to you to confirm that such arrangement will not run afoul of the proffers, and that the requirement for the dedication of the an elementary school site will be satisfied by the dedication of the remaining 21.7 free and clear acres (approximate) and the acceptance by the School Board of monetary damages as part of the condemnation proceedings for the 1.3 acres to the School System.

Analysis

In examining Ordinance O01-08, the proffers explicitly permit the relocation and redesign of both school sites. Thus, there is no doubt that the location, site design, and site layout can vary from the GDP. Furthermore, the proffer requiring the dedication of the school sites, references the acreage of the sites in approximate terms, i.e. the total of the two sites is "approximately 61 acres," School Site #1 is "approximately 23 acres." It would appear that a 21.7 acre site, especially with additional monies, is "approximately" 23 acres.¹

It is my opinion that the requirement of the proffers for the dedication for School Site #1 is satisfied by the dedication of an approximately 21.7 unencumbered acre site and the acceptance of monetary damages by the School Board from the condemnation proceedings representing the 1.3 acres encumbered by Dominion Power's take. Given the fact that the proffers explicitly anticipate potential site redesign², and permit such redesign with the agreement of the School System, it follows that the School System is free to accept a redesigned site, which lowers the total unencumbered acreage to 21.7 acres.

Conclusion

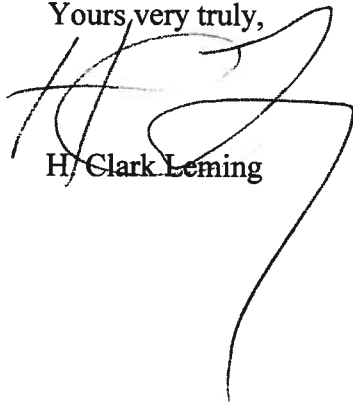
I request your confirmation that the requirements of the proffer for the conveyance of School Site #1, is satisfied with the reduction of the acreage to 21.7 acres provided the School System consents to such change.

¹ I do note that the full 23 acres would still be conveyed to the schools. The potential deficiency is that 1.3 acres of the site would be burdened by the Dominion Easement.

² In relevant part proffer 3(a) provides: "[s]aid conveyances shall be made upon the request of the Stafford County Public Schools at any time following the approval of RC981380; however, the conveyance of School Site #1 and School Site #2 in the locations shown on the GDP shall be subject to the acceptance by the Stafford County Public Schools (or any other public user) of the building architecture and site layout for said schools shown on that plan entitled "Proposed School Elevation", prepared by WHA Architecture & Planning and dated July 16, 1999 (the "School Elevation"), **or an alternate design which is acceptable to both the applicant and the Stafford County Public Schools.**" (Emphasis added).

If you have any questions or need any additional information or assistance, please let me know.

Yours very truly,

A handwritten signature in black ink, appearing to be 'H. Clark Leming', written over the typed name. The signature is stylized with loops and a long tail that extends downwards.

H. Clark Leming

Enclosures

cc: North Stafford Associates, LC

Scott Horan