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July 7, 2022

Charles W. Payne, Jr.
c/o Hirschler Fleischer
725 Jackson Street, Suite 200
Fredericksburg, VA 22401

SUBJECT: *Application 22154474; TM# 54-79, 79A, 80, 80A and 81; Zoning Administrator Vesting Determination*

Dear Mr. Payne:

This letter is in response to your request for a determination of vested rights ("Request") related to Tax Map Parcel No. *54-79, 79A, 80, 80A and 81*. The Property is zoned R-5, Age-Restricted Housing.

In the Request, you state that the approved Rezoning and Conditional Use Permit (CUP) were reviewed and approved prior to the subsequent changes to the Zoning Ordinance. You state that there was reliance in good faith on the approvals and diligent pursuit through subsequent approvals and costs.

According to Virginia Code § 15.2-2307, a landowner's rights shall be deemed vested in a land use and such vesting shall not be affected by a subsequent amendment to a zoning ordinance when the following three elements/prongs occur:

1. *The landowner obtains or is the beneficiary of a significant affirmative governmental act (SAGA) which remains in effect allowing development of a specific project;*

The Request states and the approved Rezoning and General Development Plan further demonstrates, exactly what uses, intensity, requirements and further engineered travel lanes and parking spaces are permitted. Virginia Code § 15.2-2307(B) provides, without limitation, a list of acts deemed to be SAGAs:

- (i) the governing body has accepted proffers or proffered conditions which specify use related to a zoning amendment; (ii) the governing body has approved an application for a rezoning for a specific use or density; (iii) the governing body or board of zoning appeals has granted a special exception or use permit with conditions; (iv) the board of zoning appeals has approved a variance; (v) the governing body or its designated agent has approved a preliminary subdivision plat, site plan or plan of development for the landowner's property and the applicant diligently pursues approval of the

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final plat or plan within a reasonable period of time under the circumstances; (vi) the governing body or its designated agent has approved a final subdivision plat, site plan or plan of development for the landowner's property; or (vii) the zoning administrator or other administrative officer has issued a written order, requirement, decision or determination regarding the permissibility of a specific use or density of the landowner's property that is no longer subject to appeal and no longer subject to change, modification or reversal under subsection C of § 15.2-2311.

The operative SAGA in this case is set forth in Virginia Code § 15.2-2307(B)(vi), which states that "the governing body or its designated agent has approved a final subdivision plat, site plan or plan of development for the landowner's property." Accordingly, the landowner obtained and/or is the beneficiary of a SAGA which remains in effect pursuant to Virginia Code § 15.2-2307(A)(i).

2. *Relies in good faith on the SAGA; and*

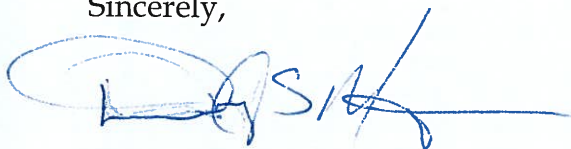
The Request states that the landowner relied in good faith on the Rezoning and Conditional Use Permit (CUP) approval. It is my conclusion that such qualify and show reliance on the SAGA pursuant to Virginia Code § 15.2-2307(A)(ii) and such reliance is presumed to be in good faith without any evidence presented to the contrary.

3. *Incurs extensive obligations or substantial expenses in diligent pursuit of the specific project in reliance on the SAGA.*

The Request states that the landowner incurred extensive obligations or substantial expenses in diligent pursuit of the specific project in reliance on the SAGA pursuant to Virginia Code § 15.2-2307(A)(iii), and such reliance is presumed to be in good faith without any evidence presented to the contrary.

This determination may be appealed to the Board of Zoning Appeals within thirty (30) days from receipt of this letter, in accordance with Virginia Code § 15.2-2311, or this decision shall be final and unappealable. You may obtain the Board of Zoning Appeals application at <https://staffordcountyyva.gov/AppealofZoningDecisions>.

Sincerely,



Douglas S. Morgan, CZA, CTM
Zoning Administrator

DSM:csk