



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

June 15, 2006

Gregory A. Riegler
McGuire Woods, I.L.P.
1750 Tysons Boulevard
McLean, VA 22102-4215

Re: Interpretation for PCA/FDPA 86-C-029-10, PCA/FDPA 88-C-066-5, and PCA/FDPA 1996-IIM-044-3, Tax Map Parcel 15-4 ((1)) 13C, 23A pt. and 23A1; 15-4 ((1)) 13 and 13B; and, 15-4 ((1)) 23A pt.: Hotel Support, Office/Retail Building

Dear Mr. Riegler,

This is in response to your letters of March 16, 2006, and May 17, 2006, requesting an interpretation of the proffers and the Conceptual Development Plan Amendment (CDPA) accepted by the Board of Supervisors and the Final Development Plan Amendment (FDPA) and development conditions approved by the Planning Commission in conjunction with the approval of the above referenced applications. As I understand it, the question is whether interim implementation of the landscape plan which was submitted with the May 17, 2006, letter may be permitted in lieu of constructing the two-story hotel support or office/retail building which is shown in front of the parking garage that serves Buildings 8 and 9 on the CDPA/FDPA for Dulles Corner. This determination is based on the undated 8 ½ x 11 inch landscape exhibit which was attached to the May 17, 2006, letter. Copies of your letters and relevant exhibits are attached.

As I understand it, your question was precipitated by a previous determination on this site that was issued on March 1, 2006, and which stated that the proposed modifications to the footprints of Buildings 8 and 9, changes to the parking decks, and modifications in traffic flow and open space were in substantial conformance with the proffers and development plan, "...provided that the retail/office building located in front of the northern parking deck is site-planned and constructed at the same time as the parking deck located adjacent to it." According to your letter, the previous interpretation appeared to speak only to development of Building 10 as an office tower in which case a two-story retail/office structure is shown in front of the parking garage. Your letter states that if Building 10 is developed under the hotel option under which a hotel support building is shown in front of the parking garage, there is no practical way to build and develop the hotel support use until the hotel is constructed and operational. At this time, I understand that a hotel is planned on the site.

I understand that you intend to file a Final Development Plan Amendment (FDPA) to remove the retail/office and hotel support building under both options and to replace it with landscaping that is generally consistent with that attached to your May 17, 2006, letter. The landscape plan shows planted berms against the garage with walkways, shrubs and trees between the garage and the street. You are asking for confirmation that the site plan for Buildings 8 and 9 may be approved by DPWES without a commitment to build the support building pending the outcome of the FDPA. In the event that the FDPA fails to be approved by the Board, you have agreed that the current FDPA would govern and the support building would be required to be constructed.

Department of Planning and Zoning
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It is my determination that final approval of a site plan for Buildings 8 and 9 with implementation of the attached landscape plan in front of the parking garage in lieu of either the retail/office or hotel support building is in substantial conformance with the proffers and development plan, under the following conditions:

- The landscape plan for the area in front of the parking garage is approved by Urban Forest Management (UFM) and contains an adequate number of tall evergreens and deciduous trees to effectively screen the front of the parking garage
- An FDPA to substitute the landscaped area for the office/retail and hotel support building is filed within sixty (60) days from the date of this letter, and
- No Non-RUPS for Buildings 8 and 9 are issued until either a FDPA has been approved to delete the support structure from in front of the parking garage or site plan approval for the parking garage which includes the support building has been obtained

These determinations have been made in my capacity as the duly authorized agent of the Zoning Administrator. If you have any questions regarding this interpretation, please feel free to contact Mary Ann Godfrey at (703) 324-1290.

Sincerely,



Barbara A. Byron, Director
Zoning Evaluation Division, DPZ

BAB/MAG/O:\mgodfr\Proffer Interpretations PI DullesCorner support bldg..doc

Attachments: A/S

cc: Catherine M. Hudgins, Supervisor, Hunter Mill District
Frank De La Fe, Planning Commissioner, Hunter Mill District
Leslie Johnson, Deputy Zoning Administrator, ZAD, DPZ
Michelle Brickner, Assistant Director, Office of Land Development Services, DPWES
Angela Rodcheaver, Chief, Site Analysis Section, DOT
Kevin J. Guinaw, Chief, Special Projects/Applications Management Branch, DPZ
Audrey Clark, Director, Building Plan Review Division, DPWES
File: PCA 86-C-029, PCA 88-C-066-5, PCA 1996-HM-044-3
PI 0603 043, Imaging, Reading File

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May 17, 2006

RECEIVED
Department of Planning & Zoning

MAY 18 2006

Zoning Evaluation Division

Via Hand Delivery

Barbara Byron
Director
Zoning Evaluation Division
Fairfax County Planning & Zoning
12055 Government Center Parkway
Suite 801
Fairfax, VA 22035

Re: Pending Interpretation for Dulles Corner
Dulles Corner PCA/FDPA 86-C-029-10
PCA/FDP 88-C-066-5, PCA/FDP 1996-HM-044-3

Dear Barbara:

This is a follow up to the recent meeting held on the above referenced topic. Based on our meeting, this letter is intended to supersede my prior request for an interpretation on the same subject dated March 16, 2006.

At issue is the so-called "office/retail" and "hotel support" uses located on the east side of the parking garage that commonly serves Buildings 8 and 9 within Dulles Corner. At our recent meeting, we proposed eliminating the structures shown on the east side of the garage in favor of an attractive landscaped area along the internal street. We further explained that this landscaping is consistent with the overall master planning process in Dulles Corner that has been in place for two decades and has always emphasized the strategic use of landscaping in areas adjacent to parking decks. Drawings generally illustrating our proposed concept are attached for reference.

At our meeting, we also confirmed a willingness to proceed with a Final Development Plan Amendment (FDPA) that would formally amend the governing FDP to reflect an approval that is substantially similar to the concepts described in the attached landscape exhibit.

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The pending FDPA, while creating a positive land use opportunity, also raises an issue in terms of whether a pending site plan for Buildings 8 and 9 must reflect the buildings on the FDP directly east of the parking deck.

It is my understanding that, based on the developer's commitment to proceed with an FDPA, staff is willing to issue a written determination that the pending site plan for Buildings 8 and 9 can be approved without a commitment to build the structures adjacent to the parking garage, with further stipulation that, if for any reason, the FDPA was not approved, the current FDP would, of course, still govern.

Please confirm at your earliest convenience if this assumption is correct. As always, if you have any questions, please feel free to give me a call.

Very truly yours,



Gregory A. Riegler

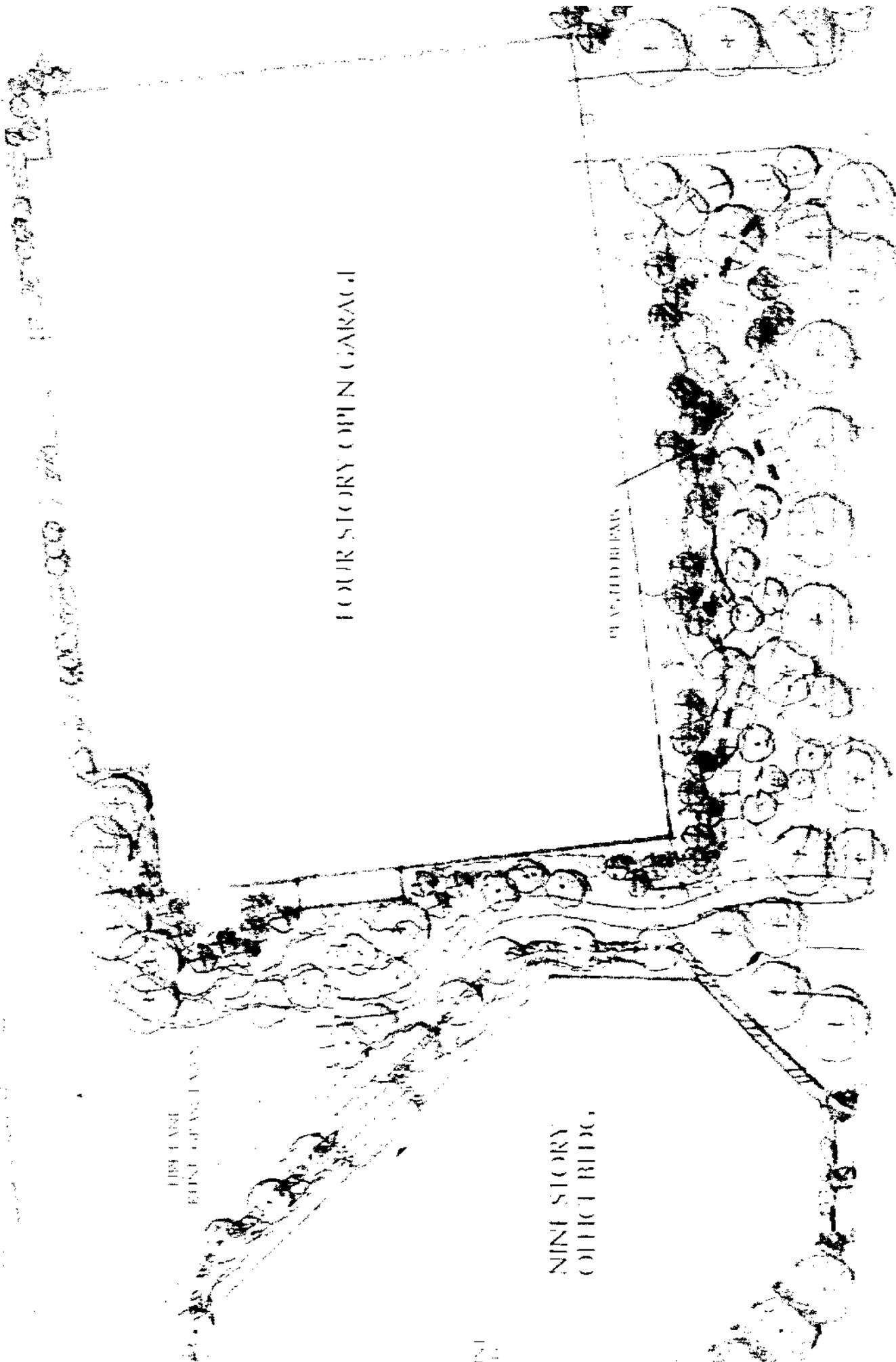
GAR/pwy

Attachment

cc: Mary Ann Godfrey (via e-mail)
Michael Vardell

13984615.1

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March 16, 2006

RECEIVED
Department of Planning & Zoning

MAR 17 2006

Zoning Evaluation Division

Barbara Byron
Director
Zoning Evaluation Division
Fairfax County Planning & Zoning
12055 Government Center Parkway
Suite 801
Fairfax, VA 22035

Re: Interpretation for Dulles Corner PCA/FDPA 86-C-029-10
PCA/FDP 88-C-066-5, PCA/FDP 1996-HM-044-3

Dear Barbara:

This letter is a follow up to our recent discussion on the above referenced matter. On March 1, 2006, your office issued an administrative determination (copy attached) confirming that certain changes to the shape and configuration of buildings 8 and 9 at Dulles Corner and the associated parking deck, accessways and open space areas were in substantial conformance with the governing approvals. The March 1, 2006 letter also noted that a building identified as "two story retail/office" was required to be constructed on the east side of the northern parking deck concurrent with the deck's construction.

As you may recall, the approved CDP/FDP for this portion of Dulles Corner incorporates two distinct approved options for the building located north of the parking deck in question and south of Dulles Corner Lake. The March 1, 2006 administrative determination appears to only speak to the "two story retail/office" uses proposed in connection with the ten story office option. Under the office option and consistent with the determination, it is reasonable to presume that a two story retail office building could be constructed irrespective of the timing of the larger office building. Unaddressed in the March 1, 2006 letter is the potential building configuration on the east side of the parking deck if the approved hotel option were exercised.

The landowner fully understands that under the governing approvals a building is depicted on the east side of the parking deck. However, under the approved hotel option, the area along the eastern edge of the parking deck is clearly identified on the

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CDP/FDP as "hotel support" use. If the approved hotel option were to be exercised, there is no practical way to build and develop the "hotel support" use until the principal hotel use is also constructed and operational.

Based on these practical facts and circumstances, we are requesting further confirmation that if the hotel option were exercised, the so-called "hotel support building" on the east side of the parking deck would not have to be constructed independently from the construction of the hotel itself. In support of this request, we can find nothing in the proffered conditions or the CDP/FDP that would require construction of the approved "hotel support uses" ahead of the approved hotel. A drawing showing the "hotel support use" in the context of the other recently approved administrative determinations is attached.

Upon receipt if you have any questions or require further information, please don't hesitate to let me know.

Very truly yours,



Gregory A. Riegler

GAR/pwy

cc: Michael Vardell