



County of Fairfax, Virginia

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October 14, 2011

Scott E. Adams
McGuireWoods LLP
1750 Tysons Boulevard, Suite 1800
McLean, VA 22102-4215

Re: Interpretation for RZ C-637, PCA C-637, PCA 637-2, and RZ 88-C-013; Tax Map 15-4 ((1)) 25 and 15-4 ((1)) 26A; Pomeroy Office Park (formerly Frying Pan Road Associates): Modification of Access Drive and Easement

Dear Mr. Adams:

This is in response to your letter of April 15, 2011, subsequent correspondence dated May 16, 2011, and June 6, 2011, and supplemental letter dated September 22, 2011, requesting an interpretation of the Generalized Development Plan (GDP) and the proffers accepted by the Board of Supervisors in conjunction with the approval of Rezoning RZ C-637 and PCA C-637, and the Conceptual Development Plan and proffers accepted by the Board of Supervisors in conjunction with the approval of RZ 88-C-013 and PCA C-637-2. As I understand it, the question is whether the proposed modification of the access drive and easement from Sunrise Valley Drive would be in substantial conformance with the proffers, the CDP and the GDP. This determination is based on your letter and attached Exhibit B titled "Geometry Plan, Pomeroy Office Park," prepared by Urban, dated June 12, 2008; a supplemental email dated May 16, 2011, with attached deed; and an email dated June 6, 2011, with attached revised Exhibit B titled "Overall Exhibit, Pomeroy Office Park," prepared by Urban, dated June 3, 2011. Copies of your letter and relevant documents are attached.

On August 25, 1975, the Board of Supervisors approved RZ C-637, subject to proffers, to rezone 82.30 acres from the RE-1 to I-L Zoning District (which was subsequently converted to the I-5 Zoning District under the current Zoning Ordinance). On September 7, 1988, the Board of Supervisors approved PCA C-637, to reaffirm the previous proffers and to set forth proffers to establish a Three Party Group Agreement by property owners to provide transportation improvements associated with development of the rezoned properties, including Lot 26A. On February 27, 1989, the Board of Supervisors approved RZ 88-C-013, concurrent with PCA C-637-2, subject to proffers, to rezone 6.51 acres from the R-1 and I-5 Districts to the PDC (Planned Development Commercial) District for office development on Lot 25, located at the corner of Frying Pan Road and Sunrise Valley Drive (formerly Horse Pen Road). It should be noted that no Final Development Plan (FDP) has been approved for Lot 25, and that prior to development of the site, an FDP must be submitted and approved by the Planning Commission.

Department of Planning and Zoning
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035-5509
Phone 703 324-1290
FAX 703 324-3924
www.fairfaxcounty.gov/dpz/



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The approved CDP depicts future development of Lot 25 as a 10-story office building, parking garage and associated interior drives and landscaping. The CDP shows two future access points: one from the south on Frying Pan Road; the second point of access, which is the subject of this request, is shown from the north to Sunrise Valley Drive via an adjacent off-site access drive and easement on Lot 26A. The CDP shows the access drive and easement to Sunrise Valley Drive, adjacent to the zoning boundary for Lot 25. The Sunrise Valley Drive access and associated recorded easement are located entirely within the adjacent property, Lot 26A. Both Lots, 25 and 26A are under common ownership.

Currently, a site plan (#6867-SP-021-1.1) is under review in DPWES for Lot 26A, which is adjacent to the north and west of Lot 25. The site plan depicts the development of six office buildings with associated parking, frontage on Frying Pan Road and the subject access drive from Sunrise Valley Drive. Lot 25 is not proposed for development at this time.

According to your letter, the owner is proposing to modify the access drive and easement on Lot 26A to Sunrise Valley Drive from the approved curved configuration to a T-intersection to coordinate access to both Lot 25 and Lot 26A. You propose to maintain the same curb-cut location on Sunrise Valley Drive as shown on the CDP, as well as maintain the provision for a secondary drive aisle extending from the access drive south to Lot 25 to provide an additional right-in/right-out access to Lot 25. Following consultation with Fairfax County Department of Transportation (FCDOT), you propose to provide the reconfigured access as a 30' wide drive within a 40' wide access easement, as shown in the revised exhibit; doing so would provide more of a "gateway" presence from Sunrise Valley Drive into the property. In addition to the widened access drive, you propose to reconfigure the adjacent parking area west of the widened access drive to add landscaped islands to provide a designated entry and access drive rather than a standard parking area travel aisle. You indicate that with the reconfigured access drive, the existing access easement will be vacated and a new access easement will be granted to ensure future ingress and egress. You also state that future development of Lot 25 will maintain the entrance courtyard and design amenities as proffered and described in RZ 88-C-013 and PCA C-637-2 Proffer 4. The final design of the proposed access must be approved by Virginia Department of Transportation (VDOT).

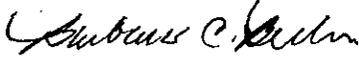
You also propose to provide an additional interparcel access from the west through Lot 26A, since it is uncertain whether the drive shown on the CDP from Frying Pan Road would meet current VDOT access management standards. According to your supplemental letter and revised interpretation exhibit, you propose an extension of the main access drive on Lot 26A to the west boundary of Lot 25 to provide an additional interparcel connection, proposed as a 30' wide ingress-egress easement.

It is my determination that the proposed modification to the access drive and easement from Sunrise Valley Drive, and the proposed interparcel access along the western boundary of Lot 25, as discussed above, would be in substantial conformance with the proffers, the CDP and the GDP, subject to final approval by Department of Public Works and Environmental Services, FCDOT and VDOT, and subject to the concurrence of the property owner of Lot 25. Should the proposed access from Sunrise Valley Drive not be approved, the submission of a revised proffer interpretation will be required.

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This determination has been made in my capacity as the duly authorized agent of the Zoning Administrator and only addresses the issues discussed herein. If you have any questions regarding this interpretation, please contact Carrie Lee at (703) 324-1290.

Sincerely,



Barbara C. Berlin, AICP, Director
Zoning Evaluation Division, DPZ

BCB/CDL/O:\clee01\Interpretations\RZ\Frying Pan Road Assoc_access road.doc

Attachments: A/S

cc: Catherine M. Hudgins, Supervisor, Hunter Mill District
Frank A. de la Fe, Planning Commissioner, Hunter Mill District
Diane Johnson-Quinn, Deputy Zoning Administrator, Permit Review Branch, ZAD, DPZ
Ken Williams, Chief, Plan Control, Land Development Services, DPWES
Jack Weyant, Director, Environmental and Facilities Inspection Division, DPWES
Angela Rodeheaver, Chief, Site Analysis Section, FCDOT
Kevin Guinaw, Chief, Special Projects/Applications Management Branch, ZED, DPZ
File: RZ C-637, PCA C-637, PCA C-637-2, RZ 88-C-013, PI 1104 046, Imaging, Reading

McGuireWoods LLP
1750 Tysons Boulevard
Suite 1800
McLean, VA 22102-4215
Phone: 703.712.5000
Fax: 703.712.5050
www.mcguirewoods.com

Scott E. Adams
Direct: 703.712.5461

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Department of Planning & Zoning

APR 18 2011

Zoning Evaluation Division

sadams@mcguirewoods.com
Direct Fax: 703.712.5278

RECEIVED
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APR 21 2011

Zoning Evaluation Division

April 15, 2011

VIA FED EX

Kevin J. Guinaw
Chief, Special Projects/Applications Management
Zoning Evaluation Division
Department of Planning and Zoning
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035

**RE: Substantial Conformance Request
PCA C-637-2/RZ 88-C-013
Tax Map No. 15-4-((01))-0025, pt. 15-4-((01))-26A (the "Property")**

Dear Mr. Guinaw,

Thank you for meeting with Greg Riegle, Jeremy Small, and me to discuss the above-referenced Property. As we discussed, the adjacent parcel, 15-4-((01))-0026A (the "Adjacent Property") is now being developed and is currently in site plan review. In an effort to coordinate access from Sunrise Valley Drive to both properties, our client proposes a minor modification to the off-site access shown on the approved plans for the Property. We request your determination that such a modification is in substantial conformance with the legislative approvals on the Property.

The Property and the Adjacent Property are under common ownership. The Property was rezoned pursuant to case number PCA C-637-2/RZ 88-C-013 (the "Zoning Approvals"). The approved Conceptual Development Plan for the rezoning (the "CDP"), attached hereto as Exhibit A, shows two future access points to the Property. The first is via a curb-cut on Frying Pan Road. The second is from Sunrise Valley Drive via an easement across the Adjacent Property. The access from Sunrise Valley Drive is located entirely on the Adjacent Property and is not governed by the Zoning Approvals.

The development plan for the Adjacent Property, an excerpt of which is attached hereto as Exhibit B, proposes to modify the location of the access drive. Specifically, it maintains the same curb-cut location on Sunrise Valley Drive, but changes the private access drive to a t-intersection to coordinate access between the Property and the Adjacent Property. The point where the proposed access drive meets the Property is moved slightly to the west of that shown on the CDP. As mentioned above, the access drive to Sunrise Valley Drive is not located on the Property and is not subject to the Zoning Approvals. Therefore, modification to a t-intersection

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should not affect whether the Property is in substantial conformance with the CDP and proffers after development of the Adjacent Property. Additionally, the slight shift in the access point's connection with the Property is consistent with and does not materially alter the character of the approved development, including the relationship to Adjacent Property, and should be deemed in substantial conformance. Further, such shift is not contrary to any proffers associated with the Zoning Approvals. We therefore request your review and determination that the Property is in substantial conformance with the Zoning Approvals despite the change in the off-site access drive location.

Your review of this request is greatly appreciated. If you have any questions or comments, please contact me at the number above.

Sincerely,

A handwritten signature in black ink, appearing to read "S.E. Adams", is written over a light blue horizontal line.

Scott E. Adams

Enclosures

cc: Jeremy Small, Clark Realty Capital (w/ enclosures)
Gregory A. Riegle, McGuireWoods LLP (w/o enclosures)

30171790.1

McGuireWoods LLP
1750 Tysons Boulevard
Suite 1800
McLean, VA 22102-4215
Phone: 703.712.5000
Fax: 703.712.5050
www.mcguirewoods.com

Scott E. Adams
Direct: 703.712.5461

McGUIREWOODS

sadams@mcguirewoods.com
Direct Fax: 703.712.5278

September 22, 2011

VIA EMAIL

Carrie Lee
Staff Coordinator, Proffer Interpretations Section
Zoning Evaluation Division, Department of Planning & Zoning
Fairfax County
12055 Government Center Parkway, Suite 801
Fairfax, VA 22035

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Department of Planning & Zoning

SEP 22 2011

Zoning Evaluation Division

RE: **Substantial Conformance Request**
RZ 88-C-013/PCA C-637-2
Tax Map No. 15-4-((01))-0025, pt. 15-4-((01))-0026A (the "Murphy Property")

Dear Carrie:

Thank you for meeting with us on September 21, 2011. I appreciate you and Angela Rodeheaver working with us to find an appropriate solution. As discussed at our meeting, we made several changes to address FCDOT's comments. The changes are depicted on the attached Exhibit "A". First, the access leading to the Murphy Property from the main access onto Sunrise Valley Drive will be widened to thirty feet (30') to create more of a "gateway" feel. We will also reconfigure parking adjacent to the widened drive to create awareness that this is an access point rather than a parking aisle. Second, we will extend the adjacent property's main access drive from Frying Pan Road to connect with the Murphy Property. This will provide a second gateway access to the Murphy Property. Both of these entrances will be barricaded until construction of the Murphy Property takes place. As discussed previously, we also amended the plan to include a future second right-in/right-out access point onto the main Sunrise Valley Drive access road.

To accommodate the reconfigured access to the Murphy Property, the existing access easement will be vacated and a new access easement will be granted to ensure future ingress and egress. Further, all proffers associated with the Murphy Property (RZ 88-C-013/PCA C-637-2) remain in full force and effect. Specifically, at the time the Murphy Parcel is developed the entrance courtyard and design amenity described in Proffer 4 will be constructed. Because no development is occurring on the Murphy Property as part of the adjacent property's site plan, no landscaping, entrance

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Zoning Evaluation Division

courtyard, design amenity, or other improvements will be constructed on the Murphy Property at this time.

Please let me know if you have any additional comments or questions regarding this interpretation request.

Sincerely,



Scott E. Adams

Enclosure

Cc: Kevin Guinaw, FCDPZ (via email)
Jeremy Small, Clark Realty Capital (via email)
Gregory A. Riegler, McGuireWoods LLP (via email)
Bob Brown, Urban (via email)

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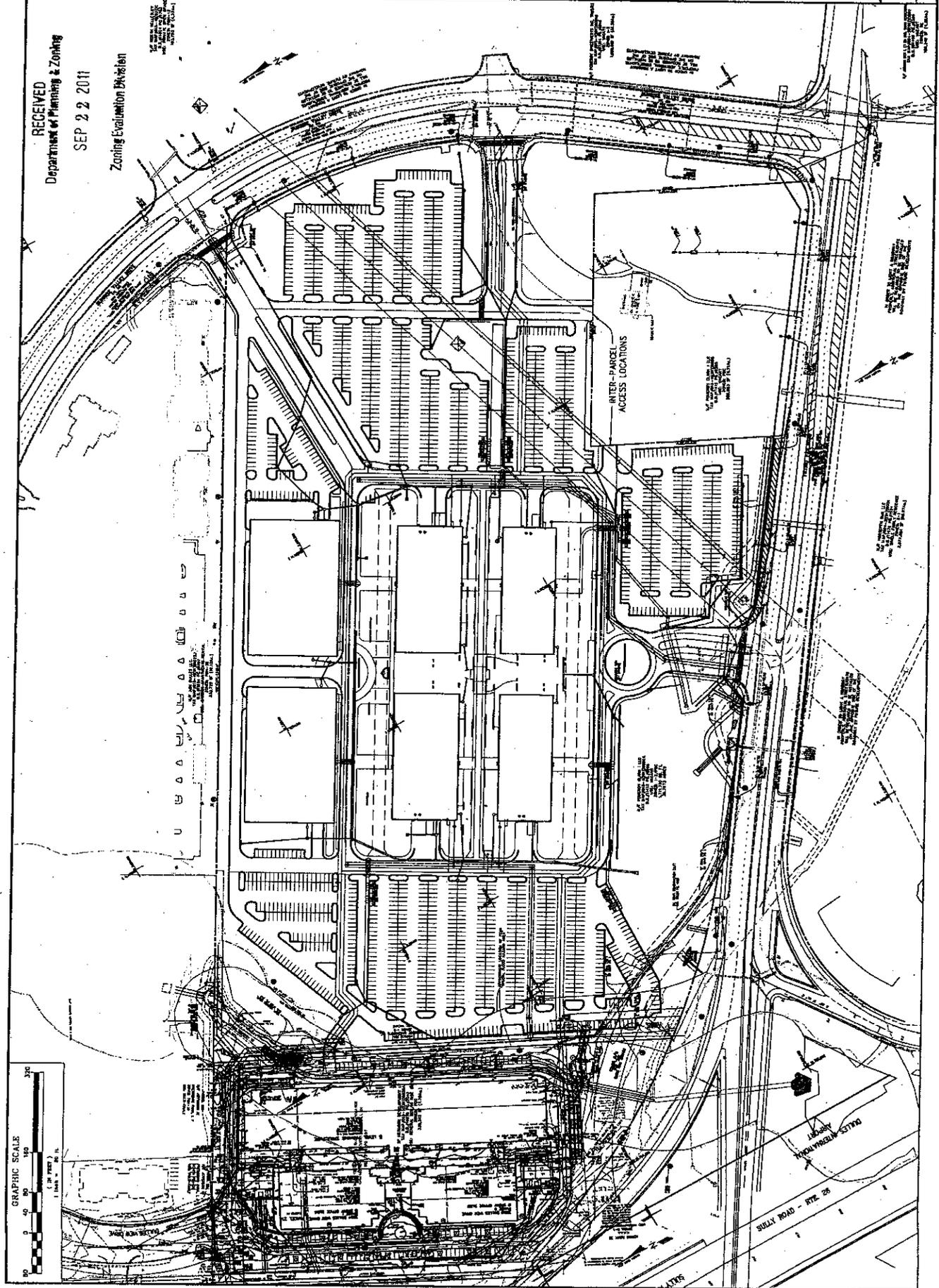
SCALE: 1"=40'
DATE: NOV. 2007
CL: N/A
POMEROY OFFICE PARK
HUNTER HILL DISTRICT
PARKFAX COUNTY, VIRGINIA



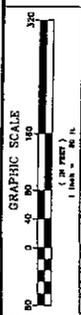
Project: Engineers, Landscape Architects - Land Services
Urban, Ltd.
1711 Lakeshore Parkway
Suite 100
Falls Church, VA 22044
Tel: 703.261.1000
Fax: 703.261.1001
www.urban.com

NO.	DATE	DESCRIPTION	BY	DATE

APPROVED BY DIVISION OF DESIGN REVIEW
PLAN DATE: 09-22-11



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Zoning Evaluation Division



NO.	DATE	REVISION	APPROVED BY

REVISION APPROVED BY DIVISION OF DESIGN SERVICES

DATE: NOV. 2007

CL: NVA

SCALE: 1" = 40'

STREET: 2

FILE NO.: 81-12465

FAIRFAX COUNTY, VIRGINIA

PLANNING & ZONING DEPARTMENT

RECEIVED SEP 22 2011

Zoning Evaluation Division

IN ORDER TO LIGHT A ROADWAY PROPOSED ON THE OPPOSITE SIDE OF THE ROADWAY BY FUTURE DEVELOPMENTS WILL BE REQUIRED TO BE INSTALLED

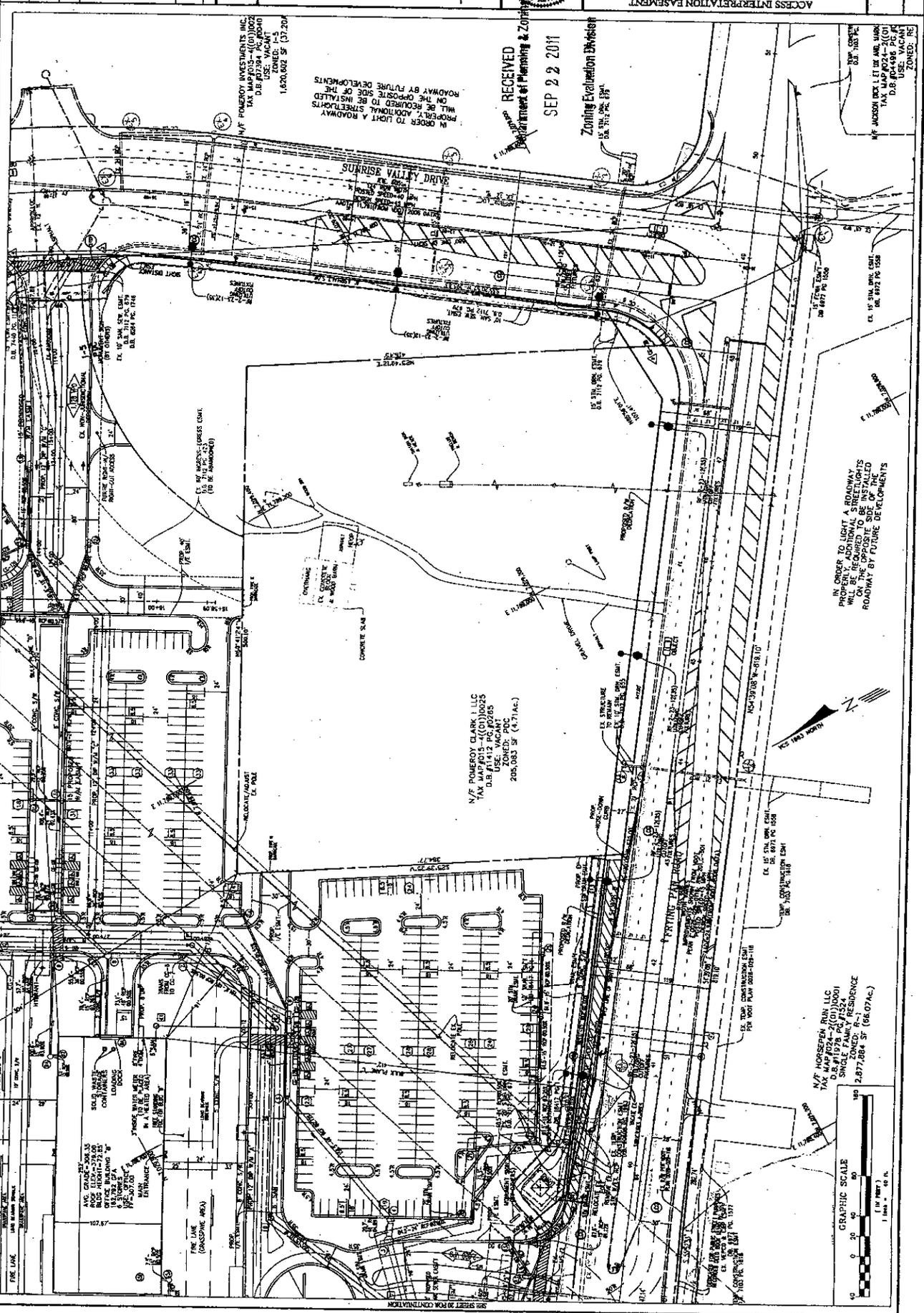
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SEE SHEET 2 FOR CONTINUATION

SEE SHEET 1 FOR CONTINUATION