



COMPTON & DULING L.C.
ATTORNEYS AT LAW

RECEIVED

09 JUN 17 PM 3: 22

COUNTY EXECUTIVE OFFICE
PRINCE WILLIAM CO., VA

June 17, 2009

(703) 565-5137
jeh@comptonduling.com

VIA HAND DELIVERY

Hon. Corey A. Stewart, Chairman
Prince William County Board of County Supervisors
One County Complex Court
Prince William, VA 22192

Re: Braemar – PLN#2002-00134 – **Request for Deferral**

Dear Chairman Stewart:

As you may know, the Applicant has only recently received the July 22, 2008 Traffic Signal Warrant Study done by VETTRA Company for the intersection of Vint Hill Road and Sudley Manor Drive, which is referenced in the VDOT letter attached to and forms the basis for the Proffer Interpretation that gives rise to this appeal. The Applicant is working through the Traffic Warrant Study in response to the Interpretation; however, further review is necessary. Therefore, the Applicant requests a deferral of the proffer interpretation appeal hearing from June 23, 2009 to July 21, 2009, which date has been provided to the Applicant by the County Attorney. The Applicant waives all statutory time limitations.

Please contact me if you need anything further. Thank you for your attention to this matter.

Very truly yours,

COMPTON & DULING, L. C.

Jason E. Hickman

JEH:ljm

cc: Mr. Phil Campbell ✓
County Attorney
Ms. Sara Kroll

MOTION:

**June 23, 2009
Regular Meeting
Res. No. 09-**

SECOND:

RE: DENY APPEAL #APP2009-00008 AND UPHOLD THE ZONING ADMINISTRATOR'S DETERMINATION DATED MAY 6, 2009 – BRENTSVILLE MAGISTERIAL DISTRICT

ACTION:

WHEREAS, the zoning administrator rendered a determination on May 6, 2009 2008 that Brookfield Braemar LLC was obligated to install the warranted traffic signalization at the intersection of Sudley Manor Drive and Vint Hill Road, in accordance with proffered condition #1.F.(5) of Rezoning #PLN2002-00134, Braemar; and

WHEREAS, in accordance with Title 15.2-2301 of the Code of Virginia, any zoning applicant or other person who is aggrieved by a decision of the zoning administrator made pursuant to the provisions of Title 15.2-2299 of the Code of Virginia may petition the governing body for review of the decision of the zoning administrator; and

WHEREAS, the applicant has petitioned the Prince William Board of County Supervisors within the required 30 day period from the date of the decision for which review is sought to reverse the zoning administrator's decision, in accordance with VA. Code 15.2-2301; and

WHEREAS, the Prince William Board of County Supervisors has reviewed the proffered documents established in Rezoning #PLN2002-00134;

NOW, THEREFORE BE IT RESOLVED, that the Prince William Board of County Supervisors does hereby uphold the zoning administrator's determination of May 6, 2009 that Brookfield Braemar LLC is obligated to install the warranted traffic signalization at the intersection of Sudley Manor Drive and Vint Hill Road in accordance with the proffered documents of Rezoning #PLN2002-00134.

Votes:

Ayes:

Nays:

Absent from Vote:

Absent from Meeting:

For Information:

Planning Director

CERTIFIED COPY

Clerk to the Board



Craig S. Gerhart
County Executive

COUNTY OF PRINCE WILLIAM

OFFICE OF EXECUTIVE MANAGEMENT
1 County Complex Court, Prince William, Virginia 22192-9201
(703) 792-6600 Metro 631-1703 FAX: (703) 792-7484

BOARD OF COUNTY SUPERVISORS
Corey A. Stewart, Chairman
W.S. Wally Covington, III, Vice Chairman
Maureen S. Caddigan
John D. Jenkins
Michael C. May
Martin E. Nohe
Frank J. Principi
John T. Stirrup

June 8, 2009

TO: Board of County Supervisors

FROM: Stephen K. Griffin
for Director of Planning *SKG*

THRU: Craig S. Gerhart
County Executive

RE: Deny Appeal #APP2009-00008 and Uphold the Zoning Administrator's Determination dated May 6, 2009, that Brookfield is Responsible for Traffic Signalization at the Intersection of Sudley Manor Drive and Vint Hill Road (Rezoning #PLN2002-00134, Braemar) – **Brentsville Magisterial District**

I. Background in chronological order is as follows:

A. Rezoning and Proffers: On July 2, 2002, the Board of County Supervisors approved Rezoning #PLN2002-00134, which rezoned additional acreage to be included in the Braemar development and amended the proffers of the previously approved rezonings for the entire 1,366.71-acre project. Proffered condition #1.F.(5) states:

1. TRANSPORTATION

F. Signalization: The Applicant shall provide traffic signals, if and when warranted by the Virginia Department of Transportation at any time during development of the Property, at the following intersections:

(5) Intersection of Sudley Manor Drive and Vint Hill Road;

- B. Signal Warrant Study: A signal warrant study for the intersection of Sudley Manor Drive and Vint Hill Road was prepared and submitted to the Virginia Department of Transportation (VDOT) by the Prince William County Public Schools. The Planning Office received written correspondence from VDOT in August 2008 and in March and May of 2009 stating that the subject traffic signal was warranted for the intersection of Sudley Manor Drive and Vint Hill Road (Attachment A). The signal warrant study is the official study used in VDOT's assessment and subsequent decision to require the installation of a traffic signal at a particular location. It serves to provide the most comprehensive and accurate projection of the future vehicle traffic generated by a development.

- C. Zoning Administrator's Determination: Following notification from VDOT that the subject signal was warranted, the Zoning Administrator issued a determination, dated May 6, 2009, stating that Brookfield Braemar LLC ("Brookfield") was obligated to install the warranted traffic signalization at the intersection of Sudley Manor Drive and Vint Hill Road (Attachment B).

II. Current Situation is as follows:

- A. Appeal: On June 5, 2009, Brookfield filed an appeal with the Clerk to the Board of County Supervisors, asking the Board to overturn the Zoning Administrator's determination that Brookfield is responsible for traffic signalization at the intersection of Sudley Manor Drive and Vint Hill Road (Attachment C).

- B. Board Action Requested: Pursuant to Section 32-700.31 of the Prince William County Zoning Ordinance, any applicant aggrieved by a proffer determination of the Zoning Administrator may petition the Board of County Supervisors for a review of such determination. Brookfield has filed the appeal to request the Board to review the Zoning Administrator's decision of May 6, 2009.

III. Staff Analysis:

- A. Brookfield's First Claim: "Brookfield completed its development at the instant location in the spring of 2002, with VDOT accepting the roadway on October 11, 2002. In fact, the bonds for the area of Sudley Manor Drive and Vint Hill Road (Phase 4, Section 3) were released on March 9, 2007." Furthermore, Brookfield states: "As noted above, the development of this project is complete. There are no active requirements of Brookfield under this proffer". The proffered condition being referred to is proffered condition #1.F.(5).

Staff Response: Brookfield claims that proffered condition #1.F.(5) does not apply because a traffic signal was not needed at the subject intersection until after the project was developed.

The problem with this argument is that it ignores the language of the proffered condition (Attachment D). Proffer condition #1.F.(5) states:

The Applicant shall provide traffic signals, if and when warranted by the Virginia Department of Transportation *at any time during development of the Property*, at the following intersections
[emphasis added]

The proffer language requires Brookfield to provide traffic signals if warranted at any time during the development of "the Property". "The Property" consists of over 1,366 acres and 44 Land Bays, and contrary to Brookfield's assertions, the Property is still being developed.

County records reflect that several of the Land Bays have not been developed. In fact, two separate sketch plans have been approved for Land Bay NN reflecting 65,600 square feet and another 13,866 square feet of commercial and office development, respectively. To date these parcels have not been developed. Additional undeveloped parcels are found in Land Bays R, T, W and X (totaling approximately 10 acres) which are proffered to be developed with public uses (fire/rescue, library, police station, and 125 space commuter parking lot) and Land Bay P is a 4.5 acre parcel planned for commercial development. Land Bays P, R, T, W and X are located adjacent to the intersection of Sudley Manor Drive and Vint Hill Road. The attached Master RPC Zoning Plan and aerial photos reflect the Braemar Land Bay acreage subject to the same proffered conditions, and which has not been developed yet (outlined acreage on Attachment E documents).

- B. Brookfield's Second Claim: Brookfield claims that it is unconstitutional for the Board of County Supervisors to interpret its own proffers, because such an appeal should be reviewed by a court. Brookfield claims the Board is acting as both a legislative body and a judicial body.

Staff Response: Brookfield's argument is based on the assumption that the Board of County Supervisors is the ultimate arbiter of proffer interpretations, and that Brookfield cannot obtain a judicial review of the Board's interpretation. Brookfield is wrong because it could seek a judicial review of the Board's interpretation by filing a petition for declaratory judgment in Circuit Court.

IV. Issues in order of importance are:

- A. Fiscal Impact – What are the fiscal impacts associated with this appeal?
- B. Service Level/Policy Issue – Does this appeal present any service level/policy issues?
- C. Timing – What are the timing issues related to this appeal?
- D. Legal – What are the legal issues associated with the subject appeal?

V. Alternatives in order of feasibility are:

- A. Deny Appeal #APP2009-00008 and uphold the zoning administrator's determination dated May 6, 2009, requiring Brookfield to install the subject signalization at the intersection of Sudley Manor Drive and Vint Hill Road.
1. Fiscal Impact – Brookfield would be obligated to install the subject signalization.
 2. Service Level/Policy Issue – The decision would be consistent with previous interpretations and would support the County's Comprehensive Plan goal of providing transportation facilities for current and future residents of Prince William County.
 3. Timing – The subject appeal was submitted and is being processed in accordance with the state code requirements.
 4. Legal – None identified.

- B. Approve Appeal #APP2009-00008 and overturn the zoning administrator's determination, dated May 6, 2009.
1. Fiscal Impact – Brookfield would not be obligated to install the subject signalization and another source of funds would need to be identified.
 2. Service Level/Policy Issue – The County's Comprehensive Plan goal of providing transportation facilities would not be supported.
 3. Timing – The subject appeal was submitted and is being processed in accordance with the State Code requirements.
 4. Legal – None identified.

VI. Recommendation is that the Board of County Supervisors approve Alternative A and adopt the attached Resolution.

Staff: Lisa Fink-Butler, 703-792-6839

Attachment A: VDOT Correspondence

Attachment B: Zoning Administrator Determination Letter

Attachment C: Appellant's Application for Appeal #APP2008-00008

Attachment D: Applicable Proffer Language

Attachment E: Master RPC Zoning Plan and Aerial Photographs



COMMONWEALTH of VIRGINIA

DEPARTMENT OF TRANSPORTATION

14685 AVION PARKWAY
 CHANTILLY, VA 20151-1104
 (703) 383-VDOT (8368)

DAVID S. EKERN, P.E.
 COMMISSIONER

August 27, 2008

TO: Ron Escherich

FROM: Aleksandra M. Tuliszka, P.E.
 Virginia Department of Transportation – Land Development Section
 703-383-2066 Aleksandra.Tuliszka@VDOT.Virginia.gov

SUBJECT: **Case Number:** 08-00262 and PFR2007-00079
Plan Name: Kettle Run Road and Vint Hill Road Improvements

We have completed the review of the Traffic Signal Warrant Study and associated TIA for the subject site plan and we offer the following comments.

1. The TIA is found acceptable. However, a design waiver for Vint Hill Rd westbound left turn lane at Kettle Run Rd should be submitted for review. This is due to the 335 ft left turn lane is proposed, which does not meet the minimum 400 ft left turn lane requirement. Please note that initial comments for the turn lane waiver application were sent to the engineer on November 19, 2007. The same comment requesting the submission of the turn lane waiver was included in site plan comments sent to the county on July 16, 2008.
2. We have also reviewed the signal warrant study for Vint Hill Rd/Sudley Manor Dr. In general, the study is found acceptable even though the study should use one lane instead of two lanes on Vint Hill Rd. In addition, a westbound right turn overlap on Vint Hill Rd should be considered in the signal design. Therefore, we concur that a traffic signal is justified at Vint Hill Rd/Sudley Manor Dr under the existing traffic conditions. **The County should ask Braemar Development to install a traffic signal at Vint Hill Rd/Sudley Manor Dr which is proffered by Braemar Development.**
3. The signal warrant study for Vint Hill Rd/Kettle Run Rd has been reviewed as well. In general, the study is found acceptable even though the study should use one lane instead of two lanes on Vint Hill Rd. In addition, an eastbound right turn overlap on Vint Hill Rd should be considered in the signal design. Therefore, we concur that a traffic signal is justified at Vint Hill Rd/Kettle Run Rd under the 2011 build-out traffic conditions. The applicant is responsible for the signal installation at Vint Hill Rd/Kettle Run Rd.
4. Please use site plan number (08-00262) and name for future resubmission of turn lane waiver.

If you have any further questions, please feel free to contact me.



COMMONWEALTH of VIRGINIA

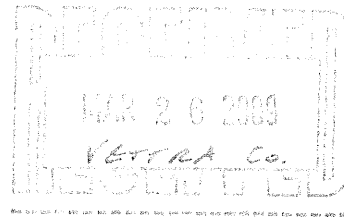
DEPARTMENT OF TRANSPORTATION

14685 AVION PARKWAY
CHANTILLY, VA 20151-1104
(703) 383-VDOT (8368)

DAVID S. EKERN, P.E.
COMMISSIONER

March 24, 2009

Mr. Vern Torney
Vetra Co.
11535 Gunner Court
Woodbridge, VA 22192



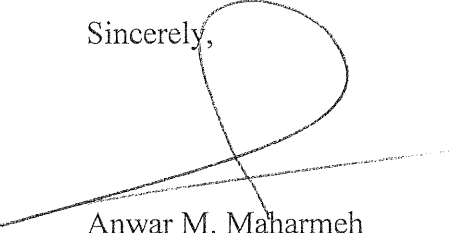
Re: Kettle Run Road PI
Site Plan No.: 08-00262
Submission: Traffic Signal Plan for **Vint Hill Rd @ Sudley Manor Drive**
RUID #1566

Dear Mr. Torney:

We have completed the review for of final modification plan for the above location. The plan has been stamped "accepted for installation" to indicate its acceptability.

Please call if you have any questions.

Sincerely,



Anwar M. Maharmeh
Transportation Engineer

cc: Mr. Art Klos
Mr. Steve Stevens
Mr. Rick Canizales

From: Tuliszka, Aleksandra M., P.E. [Aleksandra.Tuliszka@VDOT.Virginia.gov]
Sent: Thursday, May 14, 2009 9:59 AM
To: Fink-Butler, Lisa M.
Subject: Breamar proffer for the traffic signal at Vint Hill rd and Sudley Manor Dr

Hi Lisa,

Could you please advise on the proffer status from Braemar to install the traffic signal at the intersection of Vint Hill Rd and Sudley Manor Rd?

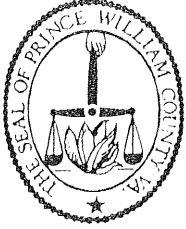
The PWC School Board has submitted the traffic signal warrants and traffic signal plans (both approved by VDOT) for that intersection to show the signal is warranted. Do you have any information when Braemar will proceed with the signal installation?

Aleksandra M. Tuliszka, P.E.

Senior Transportation Engineer

NOVA Land Development Section

Phone 703-383-2066 Fax 703-383-2070



COUNTY OF PRINCE WILLIAM

5 County Complex Court, Prince William, Virginia 22192-9201
(703) 792-6830 Metro 631-1703 FAX: (703) 792-4401
Internet: www.pwcgov.org

ATTACHMENT B

PLANNING
OFFICE

Stephen K. Griffin, AICP
Director of Planning

May 6, 2009

Brookfield Braemar LLC
8500 Executive Park Avenue
Suite 300
Fairfax, VA 22031
Attn: Rick Dengler

**RE: Proffer Compliance for Rezoning #PLN2002-00134, Braemar
(Proffered Condition #1.F.(5), Traffic Signalization)**

Dear Property Owner:

I am writing this letter regarding required compliance with proffered transportation condition #1.F.(5) of the above referenced rezoning (copy attached). This condition refers to a requirement for traffic signalization at the intersection of Sudley Manor Drive and Vint Hill Road, if so warranted. The County has recently received notification from the Virginia Department of Transportation (VDOT) that following their review of a signal warrant study for the proposed intersection, a traffic signal for the intersection of the Sudley Manor Drive and Vint Hill Road is warranted. Therefore, this letter is to advise you, as the Applicant, that you are required to install such signalization in accordance with proffered condition #1.F.(5). Therefore, please initiate such signal installation immediately. Contact the Transportation Department (703-792-6825) or VDOT (703-383-8368) if you have any questions regarding the signalization design or installation. Diligent pursuit of the signal installation is expected to satisfy this proffered obligation and to avoid enforcement action. I have enclosed a copy of the letter from VDOT accepting the traffic signal warrant study, which was initiated by the Prince William County Public Schools and prepared by Vetra Company (703-590-4932).

The Zoning Ordinance allows that anyone aggrieved by a proffer determination of the Zoning Administrator may appeal the decision to the Board of County Supervisors. An appeal must be filed within 30 days of the date of this letter. The Board of County Supervisors will schedule and advertise a public hearing to consider an appeal within 60 days of the filing. Appeal application forms are available in the Planning Office and the filing fee is \$476. The determination contained within this letter shall be final if an appeal is not filed within 30 days.

Page Two
Proffer Compliance (REZ #PLN2002-00134)
May 6, 2009

You immediate attention to this matter is greatly appreciated. Should you have any questions regarding the proffer matter, feel free to contact Lisa Fink-Butler at 703-792-6830.

Sincerely,

A handwritten signature in cursive script that reads "Nick Evers/ by L. Fink-Butler".

Nick Evers, AICP
Zoning Administrator

Attachments

cc: Maureen Hannan, Public Schools
Oscar Guzman, Development Services/Planning Division Chief
Donna Eaton-Jones, Bond & Permit Administrator
Rick Canizales, Transportation Department
Steve Stevens, Transportation Department

NE/lfb:profcomtrans4

Revised: 02-15-02
Revised: 03-05-02
Revised: 04-01-02
Revised: 04-23-02
Revised: 05-06-02
Revised: 05-30-02
Revised: 06-03-02
Revised: 06-06-20

PROFFER STATEMENT

RECEIVED

JUL 25 2002

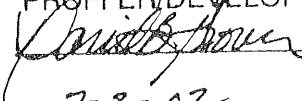
Planning Office
Prince William County, Va.

BRAEMAR Rivenburg
Addition to RPC
Rezoning PLN 2001-00336
and
Rezoning PLN # 2002-00134
Amendment to Rezoning #2000-0032
Property Owner/Applicant: Brookfield Washington, Inc.
and
Howard G. and Betty D. Rivenburg
Property: 1366.71+ Acres
Brentsville Magisterial District
Date: June 6, 2002

The undersigned (undersigned being Brookfield Washington, Inc.) hereby proffers that the use and development of the subject property shall be in strict accordance with the following conditions and shall supersede all other proffers made prior hereto. In the event the above-referenced amendment is not granted as applied for by the Applicant, the below described proffers shall be withdrawn and shall become null and void. The headings of the proffers set forth below have been prepared for convenience or reference only and shall not control or affect the meaning or be taken as an interpretation of any provision of the proffers. The improvements proffered herein shall be provided at the time of development of that portion of the site adjacent to the improvement, unless otherwise specified herein.

APPROVED

PROFFER/DEVELOPMENT PLAN



Signed

7-2-02

Date

OFFICE OF PLANNING

(100)

PROFFER STATEMENT
Braemar Rezoning #PLN2002-00134
Date: June 6, 2002

I. D. Braemar Parkway¹:

(1) (a) The Applicant shall reserve and dedicate, at the time of construction, right-of-way up to one hundred sixteen feet (116') in width in the general location as shown on the Master RPC Zoning Plan for Braemar Parkway.

(b) The Applicant shall construct two (2) four-foot (4') wide asphalt pedestrian trails outside the right-of-way along both sides of Braemar Parkway.

(2) Braemar Parkway, southwest of Iona Sound Drive, shall be transitioned in accordance with standards approved by the Virginia Department of Transportation and Prince William County to a two-lane, divided, bifurcated (where feasible) roadway. Along the majority of Braemar Parkway, a shoulder will be provided adjacent to each through lane as well as a variable width naturally vegetated median and a variable width right-of-way. In addition, conservation areas shall be provided within the right-of-way along with clear areas for safety, as well as median openings and right and left-turn lanes, when warranted by VDOT and Prince William County, at the median openings. Landscaping shall be maintained by the Homeowners Association in accordance with a Landscaping Maintenance Agreement. Braemar Parkway shall terminate into a roundabout or an approved Virginia Department of Transportation equal, in the general area shown on the MZP.

I. E. Drive-Way Access: No individual residential lots shall have direct access to Linton Hall Road, Sudley Manor Drive or Braemar Parkway.

I. F. Signalization: The Applicant shall provide traffic signals, if and when warranted by the Virginia Department of Transportation at any time during development of the Property, at the following locations:

(1) Intersection of Braemar Parkway and Linton Hall Road:

(a) The Applicant shall provide 85.64%, and Tri-Land, Inc. shall provide 14.36% pursuant to Tri-Land's proffers, of the cost of a four-way intersectional traffic signal to the Prince William Board of County Supervisors when the

¹ Proffer D relative to Braemar Parkway, subsections (1) and (2), have been completed

APPROVED
PROFFER/DEVELOPMENT PLAN

Signed
7-2-02
Date
OFFICE OF PLANNING

PROFFER STATEMENT
Braemar Rezoning #PLN2002-00134
Date: June 6, 2002

warrants are met for said signal. In the event either Brookfield Washington, Inc. or Tri-Land takes full responsibility for the installation of the four-way signal, Prince William County, upon collecting from the other party the proportionate percentage of said signal, shall pay that amount to the party providing the installation. In addition, should either party fail to pay its full percentage costs within thirty (30) days of completion of installation, Prince William County shall also collect and pay to the party providing the installation of the signal the unpaid percentage balance plus six percent (6%) per annum until the amount is paid in full;

(b) In the event less than a four-way signal is warranted and is later upgraded to a four-way signal, both parties shall proportionately share in the full cost of a lesser signal and any future upgrades to a four-way signal at the intersection of Braemar Parkway and Linton Hall Road in accordance with I. F. (1) (a) above;

(2) Intersections of internal local streets with Braemar Parkway;

(3) Intersection of Sudley Manor Drive and Linton Hall Road;

(4) Intersections of internal local streets with Sudley Manor Drive that are located within the subject Property;

(5) Intersection of Sudley Manor Drive and Vint Hill Road;

(6) Intersection of Sudley Manor Drive and the primary entrance to Land Bay NN.

I.G. Interparcel Connections:

(1) In the event the Applicant acquires all the adjoining properties located between Land Bays KK and JJ and Sudley Manor Drive at any time during development of the Property, an interparcel connection constructed in accordance with the typical section to be determined at the time of site plan review shall be provided through said parcels to provide access to Sudley Manor Drive and/or alternative access to Linton Hall Road from and/or adjacent to Land Bays JJ and KK.

(2) The Applicant agrees to provide a connection within a sixty foot (60') right-of-way from the Property to an adjacent property to the east in a location

APPROVED

PROFFER/DEVELOPMENT PLAN

David B. Brown

Signed

7-2-02

Date

OFFICE OF PLANNING



COUNTY OF PRINCE WILLIAM

Planning Office
 5 County Complex Court
 Prince William, VA 22192-9201
 Main 703-792-6830 Fax 703-792-4758
 Internet: www.pwcv.gov

APP# _____
 Planner: _____
 Due Date: _____

RECEIVED
 09 JUN -5 PM 3: 9
 COUNTY EXECUTIVE OFFICE
 PRINCE WILLIAM CO. VA

date stamp

APPLICATION FOR AN APPEAL

(please print)

APPLICANT INFORMATION	name <u>Brookfield Braeman LLC</u> mailing address <u>c/o Jason Hickman, Compton + Duling LC</u> <u>10701 Marblestone Drive, Suite 350, Prince William, VA 22192</u> <u>703-565-5137</u> day-time phone
OWNER INFORMATION <input checked="" type="checkbox"/> SAME AS APPLICANT	name <u>Same</u> mailing address _____ day-time phone _____
PROPERTY INFORMATION	property address <u>Traffic Signalization</u> G.P.I.N. (geographic parcel identification number) _____ size (in acres or sq. ft.) _____ zoning of property _____ magisterial district _____
SUBJECT OF APPEAL	This is an application to the Board of Zoning Appeals for an appeal from the following determination by the Zoning Administrator: <u>516109 Proffer Interpretation regarding signalization</u> <u>at Sudley Manor Dr. and Vint Hill Road</u>
JUSTIFICATION FOR AN APPEAL	(statement by applicant - use additional pages if necessary) <u>See attached</u>

I hereby certify that the information provided on this application and the accompanying drawing of the property is accurate, true and correct to the best of my knowledge and belief.

Jason Hickman for Brookfield Braeman LLC _____ receipt # _____ date _____
 signature of applicant date

**BOARD OF ZONING APPEALS
APPEAL CHECKLIST**

THE BOARD OF ZONING APPEALS WILL HEAR ALL REQUESTS FOR A VARIANCE WITHIN 58 DAYS FROM THE RECEIPT OF THE COMPLETED APPLICATION.

THE COMPLETED APPLICATION MUST BE RECEIVED BY CLOSE OF BUSINESS DAY NO LATER THAN 30 DAYS FROM RECEIPT OF A VIOLATION NOTICE AND CORRECTION ORDER OR ZONING DETERMINATION.

THE FOLLOWING INFORMATION MUST ACCOMPANY AN APPLICATION TO THE BOARD OF ZONING APPEALS AND IS TO BE PROVIDED BY THE APPLICANT:

The application form must be completed by the applicant in its entirety. Incorrect or inaccurate information may result in dismissal of the application for a variance.

- Application and justification statement.
- N/A* A copy of the latest deed for the property or properties involved in the request.
- N/P* The appropriate drawings showing all existing and proposed improvements on the property, with dimensions and distances to property lines, all abutting streets, and any special conditions of the property that may justify the request.
- The fee determined by the Board of County Supervisors. **\$476.00**

THE FOLLOWING INFORMATION WILL BE PROVIDED TO THE APPLICANT BY THE PLANNING OFFICE:

- Hearing date, which will be the next applicable agenda date. *All appeals will be heard within 58 days from receipt of the completed application.*
- One public notice signs for each 200 feet along a roadway and/or one for each road frontage. Applicant is responsible for obtaining and posting signs. **Failure to properly post signs within the proscribed time may result in dismissal of the case on procedural grounds.** An automatic continuance will not be granted based on failure to post signs on the property.
- Instructions for posting public notice signs and date by which the sign(s) are to be erected.
- Information to be affixed to the signs giving the date, time and location of the public hearing, and the subject of the public hearing.

-
- Applicants are responsible for submitting Affidavit for Sign Posting to the Zoning Administrator. Affidavits must be received no later than 3 business days after posting the signs.
 - Applicant will receive Board of Zoning Appeals Resolution of Action following hearing.

Jason S. Hill Atty. for Brookfield Breemec LLC 6/5/09
APPLICATION RECEIVED FROM DATE

Phillip J. Campbell 6/5/09
APPLICATION RECEIVED BY DATE



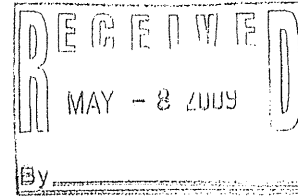
COUNTY OF PRINCE WILLIAM

5 County Complex Court, Prince William, Virginia 22192-9201
(703) 792-6830 Metro 631-1703 FAX: (703) 792-4401
Internet: www.pwegov.org

PLANNING
OFFICE

Stephen K. Griffin, AICP
Director of Planning

May 6, 2009



Brookfield Braemar LLC
8500 Executive Park Avenue
Suite 300
Fairfax, VA 22031
Attn: Rick Dengler

**RE: Proffer Compliance for Rezoning #PLN2002-00134, Braemar
(Proffered Condition #1.F.(5), Traffic Signalization)**

Dear Property Owner:

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Page Two
Proffer Compliance (REZ #PLN2002-00134)
May 6, 2009

Your immediate attention to this matter is greatly appreciated. Should you have any questions regarding the proffer matter, feel free to contact Lisa Fink-Butler at 703-792-6830.

Sincerely,

A handwritten signature in cursive script that reads "Nick Evers / by L. Fink-Butler".

Nick Evers, AICP
Zoning Administrator

Attachments

cc: Maureen Hannan, Public Schools
Oscar Guzman, Development Services/Planning Division Chief
Donna Eaton-Jones, Bond & Permit Administrator
Rick Canizales, Transportation Department
Steve Stevens, Transportation Department

NE/lfb.proffcomptans4

BEFORE THE BOARD OF SUPERVISORS
PRINCE WILLIAM COUNTY, VIRGINIA

&

BEFORE THE BOARD OF ZONING APPEALS
PRINCE WILLIAM COUNTY, VIRGINIA

IN RE: CONDITIONAL ZONING INTERPRETATION
 APPEAL OF BROOKFIELD BRAEMAR LLC
 REZONING NO. 2000-0032
 PLN2002-00134
 OWNER/APPLICANT: BROOKFIELD BRAEMAR LLC

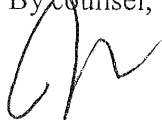
APPEAL OF MAY 6, 2009 PROFFER INTERPRETATION
BY NICK EVERS, ZONING ADMINISTRATOR (BY LISA FINK-BUTLER)
RELATING TO THE ALLEGED RESPONSIBILITIES OF BROOKFIELD
REGARDING TRAFFIC SIGNALIZATION AT THE INTERSECTION OF
SUDLEY MANOR DRIVE AND VINT HILL.

APPELLANT'S BRIEF IN SUPPORT OF APPEAL

Now comes the Appellant, BROOKFIELD BRAEMAR LLC, by and through counsel,
and does hereby submit this Brief in Support of his Appeal of the Proffer Interpretation of May
6, 2009, by Nick Evers, Zoning Administrator, by Lisa Fink Butler, attached hereto and
incorporated herein.

BROOKFIELD BRAEMAR LLC

By counsel,



Jason E. Hickman, VSB # 73645
COMPTON & DULING, L.C.
12701 Marblestone Drive, Suite 350
Prince William, VA 22192
Tel: (703) 565-5137
Fax: (703) 583-6066
Email: JHickman@ComptonDuling.com
Counsel for Appellant, Brookfield Braemar LLC

APPELLATE ISSUES FOR REVIEW

1. Whether the conditional zoning interpretation of May 6, 2009, by Nick Evers, Zoning Administrator, is correct.
2. Whether the conditional zoning interpretation statute and/or code sections addressing appellate review of interpretations by the zoning administrator are constitutional as written and/or as applied.

STATEMENT OF RELEVANT FACTS

Brookfield Braemar LLC (“Brookfield”) did proffer the Conditional Zoning for Plan Number 2002-00134, under Rezoning Number 2000-0032. See May 6, 2009 Proffer Interpretation. According to the Proffer, which concerned the Braemar development, Brookfield, during the development of the property, was required to provide certain signalization. See Proffer Statement, PLN2002-00134.

Brookfield completed its development at Braemar at the instant location in the spring of 2002, with the Virginia Department of Transportation accepting the roadway on October 11, 2002. In fact, the bonds for the area of Sudley Manor Drive and Vint Hill Road (Phase 4, Section3) were released on March 9, 2007.

LAW AND ARGUMENT

1. Whether the conditional zoning interpretation of May 6, 2009, by Nick Evers, Zoning Administrator, is correct.

In interpreting zoning ordinances, "[t]he purpose and intent of the ordinance should be considered but **the ordinance should not be extended by interpretation or construction** beyond its intended purpose." *Donovan v. Board of Zoning Appeals*, 251 Va. 271, 274, 467 S.E.2d 808, 810 (1996). (Emphasis added). Rather, "the interpretation of a zoning ordinance is controlled by the principle that words in common use must be given their plain and natural meaning in the absence of any showing that such words were used in any other than their usual and ordinary sense." *McClung v. County of Henrico*, 200 Va. 870, 875, 108 S.E.2d 513, 516 (1959).

In the present situation, the May 6, 2009 Nick Evers' letter contains incorrect interpretations of the Proffer and also attempts to place additional conditions upon Brookfield without any legal authority to do so. Therefore, the interpretation is an impermissible extension by interpretation or construction beyond its intended scope. *See Donovan v. Board of Zoning Appeals*, 251 Va. 271, 274, 467 S.E.2d 808, 810 (1996).

Specifically, as to the Proffers in the case *sub judice*, the following analysis is offered:

1. Proffer

1.F. Signalization: The Applicant shall provide traffic signals, if and when warranted by the Virginia Department of Transportation at any time during development of the Property, at the following locations:

- (5) Intersection of Sudley Manor Drive and Vint Hill Road.**

As noted above, the development of this project is complete. There are no active requirements of Brookfield under this Proffer.

2. Whether the conditional zoning interpretation statute and/or code sections addressing appellate review of interpretations by the zoning administrator is constitutional as written and/or as applied.

Generally, conditional zoning or proffers are governed by Virginia Code §15.2-2296, which section provides:

§ 15.2-2296. Conditional zoning; declaration of legislative policy and findings; purpose.

It is the general policy of the Commonwealth in accordance with the provisions of § 15.2-2283 to provide for the orderly development of land, for all purposes, through zoning and other land development legislation. Frequently, where competing and incompatible uses conflict, traditional zoning methods and procedures are inadequate. In these cases, more flexible and adaptable zoning methods are needed to permit differing land uses and the same time to recognize effects of change. It is the purpose of §§ 15.2-2296 through 15.2-2300 to provide a more flexible and adaptable zoning method to cope with situations found in such zones through conditional zoning, whereby a zoning reclassification may be allowed subject to certain conditions proffered by the zoning applicant for the protection of the community that are not generally applicable to land similarly zoned. The exercise of authority granted pursuant to §§ 15.2-2296 through 15.2-2302 shall not be construed to limit or restrict powers otherwise granted to any locality, nor to affect the validity of any ordinance adopted by any such locality which would be valid without regard to this section. The provisions of this section and the following six sections shall not be used for the purpose of discrimination in housing.

Further, the zoning administrator, according to the Code, is vested with the authority to issue interpretations of the conditional zoning adopted by the local Board. §15.2-2299. Finally, the appellate review of a zoning administrator's interpretation is governed by §15.2-2301, which states

Any zoning applicant or any other person who is aggrieved by a decision of the zoning administrator made pursuant to the provisions of § 15.2-2299 may petition the governing body for review of the decision of the zoning administrator. (Emphasis added). All petitions for review shall be filed with the zoning administrator and with the clerk of the governing body within thirty days from the date of the decision for which review is sought and shall specify the grounds upon which the petitioner is aggrieved.

Id.

Interestingly, Prince William County, in adopting these provisions, states

Sec. 32-700.30. Conditional zoning.

1. Any applicant for a zoning map amendment (rezoning) may, as a part of his application, proffer reasonable conditions concerning the use and development of his property, including also off-site improvements that may serve or benefit his property and the public welfare. Proffers shall be signed and acknowledged by the owner of the property or any agent authorized by a power of attorney meeting the requirements of subsection 32-700.03.1(c).

2. Every proffer statement shall state that the applicant proffers that use and development of the property shall be in strict accordance with the proffered conditions. Any revised proffer statement shall state that it supersedes any proffer statements previously submitted and shall either show the revisions by appropriate annotation on its face or by reference to a narrative description of changes submitted at the same time. In the event the applicant proffers to develop and use his property in accordance with the schematic land use plan, or other plans, proffers, elevations, demonstrative materials and written statements submitted as part of the general development plan, the proffer statement shall so state and each copy of such materials shall so provide, in accordance with the provisions of the adopted proffer policy. In the event of an inconsistency between a specific written proffer and a depiction upon a proffered general development plan, the proffered text shall control.

3. The Board of County Supervisors when acting on an application for a zoning map amendment, may adopt as a part of the zoning map the proffered conditions, in whole or in part, set forth by the applicant. ***Once adopted by the Board of County Supervisors, such proffered conditions shall be binding on the use and development of the property, and shall continue in full force and effect until a subsequent amendment changes the zoning on the property covered by such conditions;*** provided, however, that such conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance and/or zoning map.

4. Proffered conditions adopted by the Board of County Supervisors shall be in addition to the regulations provided for the zoning district by the text of this chapter. Except as standards that are specifically permitted to be modified or waived by the Board of County Supervisors, as part of a rezoning or special use permit approval, development shall conform to mandatory standards in effect at the time of final plan approval if such standards exceed proffered conditions accepted at the time of rezoning.

5. The zoning map, and other appropriate files maintained by the zoning administrator, shall reference the existence of adopted proffered conditions attached to various properties. Any site plan, subdivision plan, development plat or permit application thereafter submitted for development of property to which proffered conditions have attached shall conform with all such conditions, and shall not be approved by any county official in the absence of such conformity. For the purpose of this section, conformity shall mean such conformity which leaves a reasonable margin of adjustment due to final engineering data, but conforms with the general nature and intent of the development, the specific uses, and the general layout depicted by the plans, profiles, elevations, and other demonstrative materials presented by the applicant.

(Emphasis added)(Ord. No. 04-78, 12-21-04).

Sec. 32-700.31. Conditional zoning enforcement.

1. *The zoning administrator shall be vested with all necessary authority on behalf of the Board of County Supervisors to enforce conditions that have attached to special use permits, or to rezonings (zoning map amendments) which have been proffered by an applicant for rezoning and accepted by the Board of County Supervisors in accordance with the provisions of the chapter.*

The zoning administrator may, in exercise of his discretion, issue a violation notice and correction order that orders the remedy of any noncompliance with any such conditions, or bring legal action to ensure compliance including injunction, abatement or other appropriate action or proceeding including the institution of criminal process; or any combination of the above deemed necessary to obtain compliance.

2. As part of the bonding procedures established in the design and construction standards manual, the zoning administrator or other county official designated by the administrator may require with final plans of any owner a guarantee (bond, assurance, sanction) satisfactory to the Board of County Supervisors in an amount sufficient for and conditioned upon the construction of any physical improvements required by such conditions or a contract for the construction of such improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee may be reduced or released by the planning director upon the submission to the administrator or his designee of satisfactory evidence that the construction of such improvements has been completed in whole or in part, as appropriate.

3. Failure to meet or comply with any such condition shall be sufficient cause to deny the approval of site plans, subdivision plans, or the issuance of building permits, occupancy permits or other permits or licenses, as may be appropriate. Upon receipt by any public official of appropriate written notice of failure to meet such conditions, signed by the zoning administrator, said public official shall not issue any approvals, permits or licenses to the alleged violator until such official

has received written notification from the zoning administrator that the applicant for approvals, permits or licenses has remedied all noncompliance with the such conditions.

4. *Any applicant for approvals, permits or licenses who is aggrieved by a decision of the zoning administrator pursuant to the provisions of this section may petition either the Board of County Supervisors or the Board of Zoning Appeals for a review thereof, by filing a written notice thereof with the clerk to the Board and the zoning administrator within 30 days after notice of the decision has been received.* Said 30-day period shall be deemed jurisdictional. Such notice shall set forth with reasonable specificity the basis for such appeal and shall include payment of such fee as may be set by the Board of County Supervisors. The Board of County Supervisors or the Board of Zoning Appeals shall act upon any appeal within 30 days unless there is no regular meeting scheduled, in which case the Board of County Supervisors or the Board of Zoning Appeals shall act at its next regular meeting. The decision of the Board of County Supervisors or the Board of Zoning appeals on such appeal shall be final.

(Emphasis added)(Ord. No. 04-78, 12-21-04).

Therefore, the Prince William County Code (“PWCC”) provides that the zoning administrator, on behalf of the Board of Supervisors, is to issue interpretations of the conditional zoning or proffers. Finally, the PWCC provides that any party aggrieved by a decision of the zoning administrator, who is acting on behalf of the Board of Supervisors, may appeal the zoning administrator’s decision to the Board of Supervisors.

A. Review of Conditional Zoning by the Board of County Supervisors Who Adopted the Conditional Zoning

Alexander Hamilton, in *Federalist No. 78*, wrote “[t]he powers of the legislature are defined, and limited; and that those limits may not be mistaken, or forgotten, the constitution is written.” Thus, the Constitution of Virginia provides:

ARTICLE I

Bill of Rights

A DECLARATION OF RIGHTS made by the good people of Virginia in the exercise of their sovereign powers, which rights do pertain to them and their

posterity, as the basis and foundation of government.

...

Section 5. Separation of legislative, executive, and judicial departments; periodical elections.

That the legislative, executive, and judicial departments of the Commonwealth should be separate and distinct;....

ARTICLE III

Division of Powers

Section 1. Departments to be distinct.

The legislative, executive, and judicial departments shall be separate and distinct, so that none exercise the powers properly belonging to the others, nor any person exercise the power of more than one of them at the same time; provided, however, administrative agencies may be created by the General Assembly with such authority and duties as the General Assembly may prescribe. Provisions may be made for judicial review of any finding, order, or judgment of such administrative agencies.

See the Constitution of Virginia; *See* the United States Constitution.

According to the provisions of the Prince William County Code, the County Board of Supervisors adopts conditional zoning or proffers, which is a legitimate legislative function. However, the PWCC then provides that the zoning administrator, on behalf of the County Board of Supervisors has all necessary authority to interpret and enforce the conditional zoning or proffers, which is an executive and judicial function. Thereafter, the PWCC provides that an aggrieved party can then appeal the zoning administrator's interpretation to the Board of Supervisors, who is to perform a judicial function.

In other words, rather than an independent judicial review of an enforcement action concerning a legislative enactment, the PWCC permits the Board of Supervisors to be the legislative, executive and judicial branches of the government. The PWCC permits the Board to

adopt legislation, enforce the same legislation, and then interpret the legislation. Clearly, there is no separation of powers in this scenario.

Therefore, permitting the Board of County Supervisors to interpret the legislation that they have adopted is a violation of separation of powers provisions of the United States and Virginia Constitutions. The seminal case of *Marbury v. Madison* provides the clearest statement of the role of an independent judiciary, “[i]t is emphatically the province and duty of the judicial department to say what the law is.” 5 U.S. 137, 177 (1803). By permitting the Board of Supervisors to serve in the legislative, executive and judicial capacities, the PWCC has obviated the very premise upon which the Commonwealth and the United States were founded—a separation of the powers of the legislative, executive and judicial offices.

B. Review of Conditional Zoning by the Board of County Supervisors Who Have a Pecuniary Interest in the Outcome

As alluded to above, when a legislative body is permitted to enforce its adopted legislation and then interpret the same, there is no independence, which means that the pecuniary interest of the legislative body becomes a greater threat to society. In this situation, the Board of County Supervisors is given the authority to interpret legislation that it adopted so that it keeps certain monies which a citizen claims belongs to him. There is no independent review with such a financial incentive to deny the citizen’s claim. There is no protection for the citizen.

C. Reviewing Body Has an Inherent Bias

As troubling as the pecuniary interest is the inherent bias of upholding its own interpretation. In other words, when one body adopts legislation and enforces it, is there any likelihood that the body will not uphold its own enforcement in interpreting its own legislation? Of course not, there is an inherent bias, a complete lack of independent review.

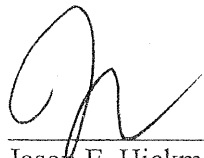
For the foregoing reasons, the Virginia Code and/or Prince William County Code regarding appellate review of conditional zoning a/k/a proffers is unconstitutional and should be stricken.

CONCLUSION

For the foregoing reasons, Appellant does respectfully request that this Board rescind the May 6, 2009 letter of Nick Evers, Zoning Administrator because it attempts to expand the Proffer to new and additional requirements rather than interpreting the subject Proffer language; and it is an improper expansion of the subject Proffer. Further, the ordinance is unconstitutional.

BROOKFIELD BRAEMAR, LLC

By counsel,



Jason E. Hickman, VSB # 73645
COMPTON & DULING, L.C.
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Tel: (703) 565-5137
Fax: (703) 583-6066
Email: JHickman@comptonduling.com
Counsel for Appellant, BROOKFIELD BRAEMAR, LLC

Revised: 02-15-02
Revised: 03-05-02
Revised: 04-01-02
Revised: 04-23-02
Revised: 05-06-02
Revised: 05-30-02
Revised: 06-03-02
Revised: 06-06-20

PROFFER STATEMENT

RECEIVED

JUL 25 2002

Planning Office
Prince William County, Va.

BRAEMAR Rivenburg
Addition to RPC
Rezoning PLN 2001-00336
and
Rezoning PLN # 2002-00134
Amendment to Rezoning #2000-0032
Property Owner/Applicant: Brookfield Washington, Inc.
and
Howard G. and Betty D. Rivenburg
Property: 1366.71+ Acres
Brentsville Magisterial District
Date: June 6, 2002

The undersigned (undersigned being Brookfield Washington, Inc.) hereby proffers that the use and development of the subject property shall be in strict accordance with the following conditions and shall supersede all other proffers made prior hereto. In the event the above-referenced amendment is not granted as applied for by the Applicant, the below described proffers shall be withdrawn and shall become null and void. The headings of the proffers set forth below have been prepared for convenience or reference only and shall not control or affect the meaning or be taken as an interpretation of any provision of the proffers. The improvements proffered herein shall be provided at the time of development of that portion of the site adjacent to the improvement, unless otherwise specified herein.

APPROVED

PROFFER/DEVELOPMENT PLAN

[Signature]
Signed

7-2-02
Date

OFFICE OF PLANNING

(JU)

PROFFER STATEMENT
Braemar Rezoning #PLN2002-00134
Date: June 6, 2002

References made in this Amendment to the Master RPC Zoning Plan as required in Part 305 of the Zoning Ordinance are to be interpreted to be references to the "Master RPC Zoning Plan" prepared by Dewberry & Davis, dated December 7, 1999, revised through March 8, 2002. In addition, references shall be made to the following plans or exhibits to the Master RPC Zoning Plan:

1. Linton Hall Road & Sudley Manor Drive Interim Intersection Exhibit Plan ("Linton Hall Road/Sudley Manor Drive Plan"), prepared by Dewberry & Davis, dated December 7, 1999.
2. Exhibit A, Optional Golf Course Overlay, ("Golf Course Overlay Plan"), prepared by Dewberry & Davis, dated December 7, 1999.
3. School and Park Plan, ("School and Park Plan"), prepared by The Land Planning & Design Group, Inc., dated November 12, 1997.
4. "Sudley Manor Road Conceptual Landscape Areas", prepared by The Land Planning & Design Group Inc., dated December 14, 1999.
5. "Linton Hall Road Conceptual Landscape Areas", prepared by The Land Planning & Design Group Inc., dated December 14, 1999.

*

* This proffer is no longer valid.

The exact boundary and acreage of each land bay may be shifted to a reasonable degree at the time of site plan submission for each land bay in order to accommodate engineering or reasonable design considerations.

1. TRANSPORTATION:

For purposes of this Proffer, reference to the ultimate Linton Hall Road alignment or the Linton Hall Road ultimate alignment shall refer to the alignment proposed on VDOT Project # 0619-076-305, C-502.

The Applicant has submitted a Transportation Impact Analysis ("TIA") dated December 22, 1999, in connection with this rezoning. Traffic improvements shall be provided in accordance with Exhibit "8" entitled, "Recommended Lane Usage" of the TIA and shall be implemented in conjunction with development of the Property.

APPROVED
PROFFER/DEVELOPMENT PLAN


7-2-02

Date
OFFICE OF PLANNING

Signed

D. Braemar Parkway¹:

(1) (a) The Applicant shall reserve and dedicate, at the time of construction, right-of-way up to one hundred sixteen feet (116') in width in the general location as shown on the Master RPC Zoning Plan for Braemar Parkway.

(b) The Applicant shall construct two (2) four-foot (4') wide asphalt pedestrian trails outside the right-of-way along both sides of Braemar Parkway.

(2) Braemar Parkway, southwest of Iona Sound Drive, shall be transitioned in accordance with standards approved by the Virginia Department of Transportation and Prince William County to a two-lane, divided, bifurcated (where feasible) roadway. Along the majority of Braemar Parkway, a shoulder will be provided adjacent to each through lane as well as a variable width naturally vegetated median and a variable width right-of-way. In addition, conservation areas shall be provided within the right-of-way along with clear areas for safety, as well as median openings and right and left-turn lanes, when warranted by VDOT and Prince William County, at the median openings. Landscaping shall be maintained by the Homeowners Association in accordance with a Landscaping Maintenance Agreement. Braemar Parkway shall terminate into a roundabout or an approved Virginia Department of Transportation equal, in the general area shown on the MZP.

E. Drive-Way Access: No individual residential lots shall have direct access to Linton Hall Road, Sudley Manor Drive or Braemar Parkway.

F. Signalization: The Applicant shall provide traffic signals, if and when warranted by the Virginia Department of Transportation at any time during development of the Property, at the following locations:

(1) Intersection of Braemar Parkway and Linton Hall Road:

(a) The Applicant shall provide 85.64%, and Tri-Land, Inc. shall provide 14.36% pursuant to Tri-Land's proffers, of the cost of a four-way intersectional traffic signal to the Prince William Board of County Supervisors when the

¹ Proffer D relative to Braemar Parkway, subsections (1) and (2), have been completed

APPROVED
PROFFER/DEVELOPMENT PLAN

Signed
7-2-02
Date
OFFICE OF PLANNING

PROFFER STATEMENT
Braemar Rezoning #PLN2002-00134
Date: June 6, 2002

warrants are met for said signal. In the event either Brookfield Washington, Inc. or Tri-Land takes full responsibility for the installation of the four-way signal, Prince William County, upon collecting from the other party the proportionate percentage of said signal, shall pay that amount to the party providing the installation. In addition, should either party fail to pay its full percentage costs within thirty (30) days of completion of installation, Prince William County shall also collect and pay to the party providing the installation of the signal the unpaid percentage balance plus six percent (6%) per annum until the amount is paid in full;

(b) In the event less than a four-way signal is warranted and is later upgraded to a four-way signal, both parties shall proportionately share in the full cost of a lesser signal and any future upgrades to a four-way signal at the intersection of Braemar Parkway and Linton Hall Road in accordance with 1. F. (1) (a) above;

(2) Intersections of internal local streets with Braemar Parkway;

(3) Intersection of Sudley Manor Drive and Linton Hall Road;

(4) Intersections of internal local streets with Sudley Manor Drive that are located within the subject Property;

(5) Intersection of Sudley Manor Drive and Vint Hill Road;

(6) Intersection of Sudley Manor Drive and the primary entrance to Land Bay NN.

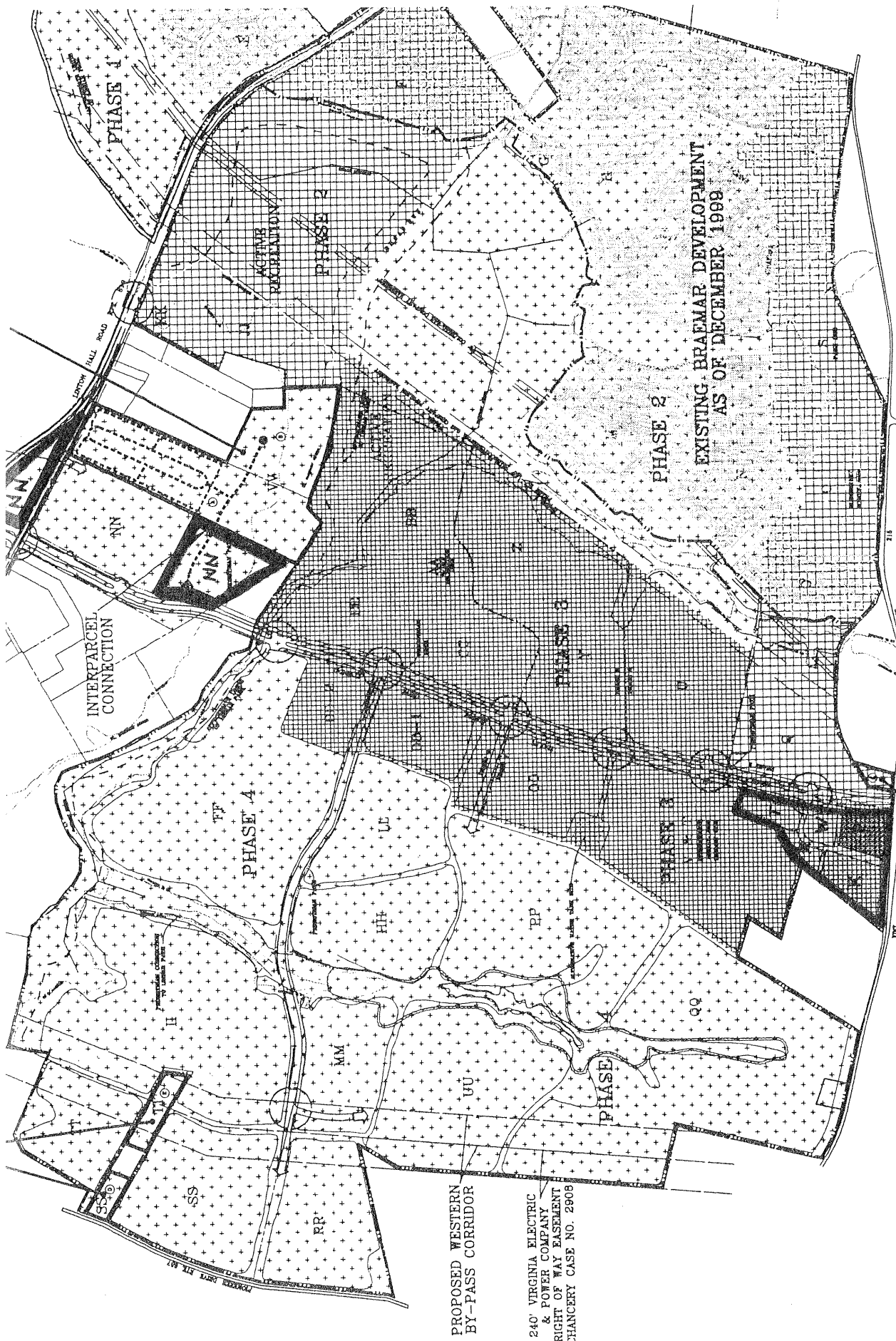
G. Interparcel Connections:

(1) In the event the Applicant acquires all the adjoining properties located between Land Bays KK and JJ and Sudley Manor Drive at any time during development of the Property, an interparcel connection constructed in accordance with the typical section to be determined at the time of site plan review shall be provided through said parcels to provide access to Sudley Manor Drive and/or alternative access to Linton Hall Road from and/or adjacent to Land Bays JJ and KK.

(2) The Applicant agrees to provide a connection within a sixty foot (60') right-of-way from the Property to an adjacent property to the east in a location

APPROVED
PROFFER/DEVELOPMENT PLAN

Signed
7-2-02
Date
OFFICE OF PLANNING



PROPOSED WESTERN BY-PASS CORRIDOR

240' VIRGINIA ELECTRIC & POWER COMPANY RIGHT OF WAY EASEMENT CHANCERY CASE NO. 2908

APPROVED
 PROFFER/DEVELOPMENT PLAN
David Egan
 7-2-02

"EXHIBIT A"
 MASTER RPC ZONING PLAN

Braemar

BRENTSVILLE MAGISTERIAL DISTRICT
 PRINCE WILLIAM COUNTY, VIRGINIA

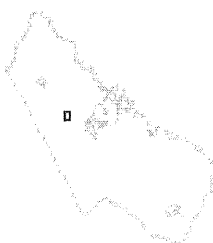
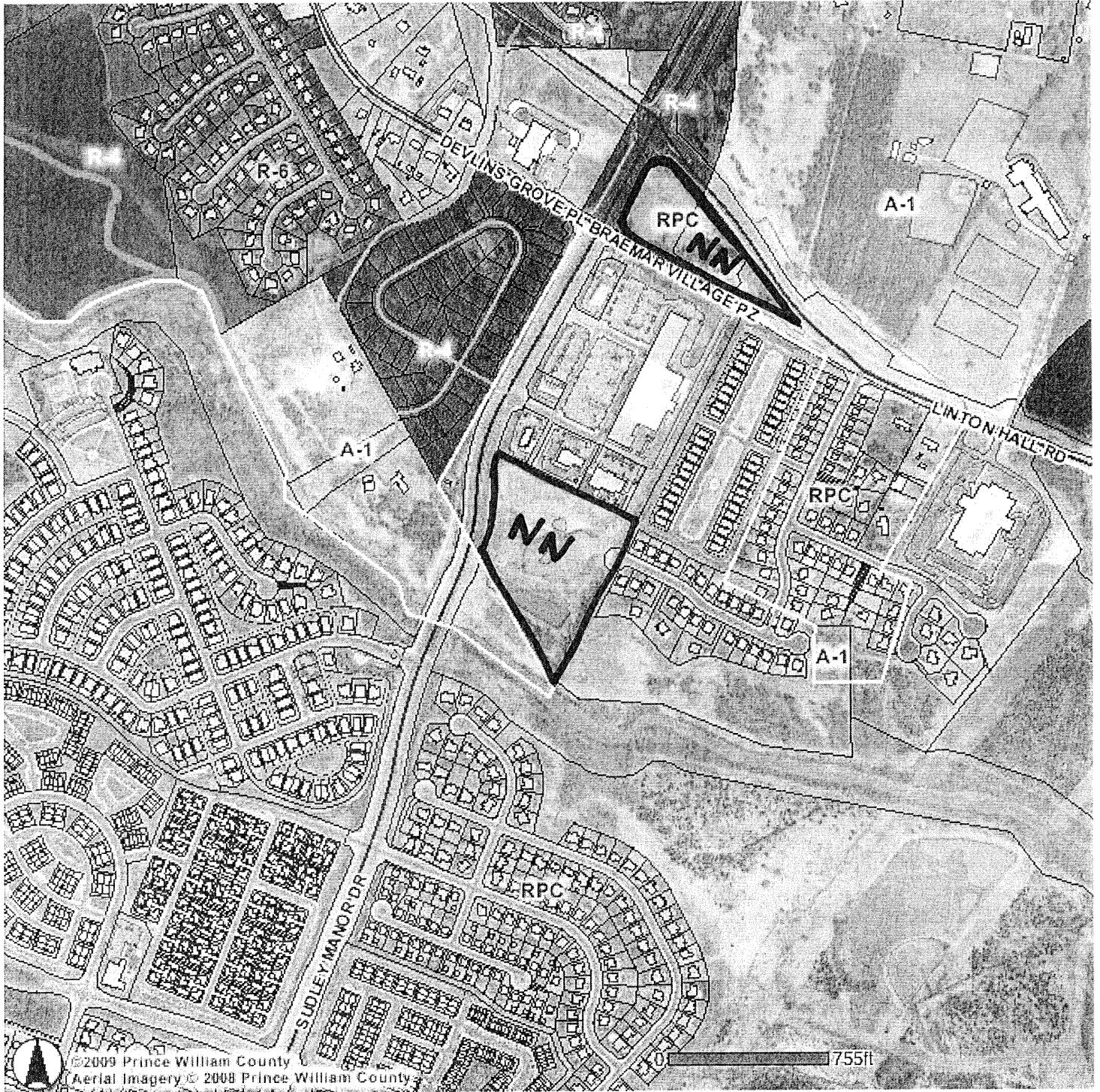
OCTOBER 31, 2001
 REVISED: FEB. 12, 2002
 PROJECT: MABR# 4 2002

AREA TABULATION
 Approved Braemar Development
 (As of January 2002)

ADDITIONS TO RPC	
①	Howard C. & Elizabeth D. Rye
②	Howard C. & Elizabeth D. Rye
③	Cocacan Washington, Inc.
④	Brookfield Washington Inc.
⑤	Brookfield Washington Inc.

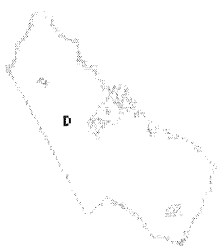
Total Site Area

PWC-GIS CountyMapper



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PWC-GIS CountyMapper



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