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<In>: 1:3:2:6
<Fr>: "Minchew, J. Randall" <jrminchew@ldn.thelandlawyers.com>
<Su>: FW: Ritz-Carlton Subdivision Exception Update: Conversation with Melinda Artman

<From>: "Minchew, J. Randall" <jrminchew@ldn.thelandlawyers.com>
<TO>: betulloch@aol.com; sjsnow@earthlink.net; Snow, Stephen
<CC>: hoagie@erols.com; Brownfield, Matthew; Hengemuhle, Michael
<BC>:
<Message Type>: Message
<Creation Date>: 7/18/2005 11:39 AM
<Subject>: FW: Ritz-Carlton Subdivision Exception Update: Conversation with Melinda Artman

<Attachment>: 37\DeLashmutt Tom 7-13-05.doc
<Attachment>: 38\Exhibt A.ppt
<Attachment>: 39\RT15 EXHIBIT B 7-14-05.PDF
<Attachment>: 40\RT15 EXHIBIT C 7-14-05.PDF

<Message>:

Dear Bruce and Steve, I want to give you a quick update on this matter, particularly in light of the issues raised by Mr. Burton. As noted below, the Zoning Administrator modified an oral ruling given to Sally Gillette and me previously as she has the right to do. See attached. In light of this new ruling, there is now no zoning obstacle restraining our client from moving the Rt. 15 entrance further south. Nevertheless, our client is not willing to do so for reasons outlined in the attached letter Steve Hulsey sent to Mr. DeLashmutt last week. Even though this entrance issue is extraneous to the pending subdivision exception, it will likely lead to some members of the Board voting against the application.

Feel free to give me a call on this. You have one heck of an agenda tomorrow. I would suggest that we keep tomorrow's discussion on this item (Agenda Item # 24) as brief as possible as you guys will be at the end of an incredibly long day. I would suggest that Steve simply make the motion (we will e-mail over to you today a draft motion) and let the application be approved over Mr. Burton's objections, probably on a 5-4 vote. I think that as little discussion as possible is best course of action.

Thanks for all that you do. I stand ready to serve you in any capacity.

Best Always, Randy

<<DeLashmutt Tom 7-13-05.doc>> <<Exhibt A.ppt>> <<RT15 EXHIBIT B 7-14-05.PDF>> <<RT15 EXHIBIT C 7-14-05.PDF>>

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> _____
> From: Minchew, J. Randall
> Sent: Monday, July 18, 2005 11:19 AM
> To: 'Mary Martha Vidaver'
> Cc: AldieManor@aol.com
> Subject: FW: Ritz-Carlton Subdivision Exception Update:
> Conversation with Melinda Artman

>
> Dear Mary and Supervisor Burton,

>
> While I was out of town this past Friday, Sally Gillette of our
> office contacted Melinda Artman and discussed the zoning issues
> related to the Rt. 15 entrance. I am attaching Ms. Gillette's
> memorandum to me that is self-explanatory. Given that this memorandum
> shows that we have a revised ruling from the Zoning Administrator that
> is different from the one I relayed to the Board of Supervisors last
> week, it is appropriate to note this new ruling for the record. I will
> let the other members of the Board and staff know also.

>
> Irrespective of the fact that the Zoning Ordinance is now not an
> obstacle to moving the Rt. 15 entrance further south, our client is
> not able to provide a further accomodation to Mr. Delashmutt beyond
> the previous ones already committed to
> (ie: the reduction in the width of the Rt. 15 improvements and the
> movement of the entrance further south from the one previously
> permitted by VDOT).

>
> Best Regards, Randy

>
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> _____
> From: Gillette, Sally
> Sent: Friday, July 15, 2005 6:50 PM
> To: Minchew, J. Randall
> Subject: Juno Update: Conversation with Melinda Artman

>
> Randy, I spoke this afternoon with Melinda Artman. She said:

> 1. We would NOT need to redo the Planning Commission Waiver in the
> event that the Subdivision Exception was approved with a relocated
> entrance. She said that even with movement of the entrance, there
> would be substantial conformance, so long as every lot the PC Waiver
> applies to was advertised.
>

> 2. She also reversed the oral advisory she gave to you and me on July
> 6th. On July 6th, she had said that to access the A-3 Rural Hamlet
> through a conventional (non-Hamlet) A-3 lot would not be a problem so
> long as it was via a "public road" or "private street". As you know,
> our client is not at all open to the idea of a "public" street, as we
> are trying to achieve a gated community. And, the only way to achieve
> a "private street" was to file a new subdivision exception application
> for these new sections of private street on the adjacent, conventional
> (non-Hamlet) A-3 lot.
>

> As you recall, during our July 6th informal conversation with Melinda,
> I inquired as to whether she could consider the private access a
> "driveway", as use of this term could obviate the need for an
> additional Subdivision Exception application for "private streets".
> She said we could do that, if we included the "driveway" in our
> upcoming "Country Club" special exception to allow for the
> Ritz-Carlton Clubhouse to have those uses Melinda could not find to be
> accessory to the golf course use (e.g.: the spa area of the
> clubhouse). I understand that Melinda has ruled in the past that a
> "driveway" is not allowed to serve more than one lot, if the lots do
> not allow the same uses. In our case, Melinda reasoned on July 6th
> that a conventional (non-Hamlet) A-3 lot does not allow a golf course,
> and a Rural Hamlet lot does not allow a Country Club. Thus, a
> "driveway" could not serve both the conventional (non-Hamlet) A-3 lot
> and the Rural Hamlet unless it was included in a Special Exception for
> a Country Club, and that Country Club includes a Golf Course.
>

> The bottom line was that based on what Melinda told us on July 6th, we
> needed either a Subdivision Exception or a Special Exception to
> achieve an entrance on the conventional (non-Hamlet) A-3 lot to the
> immediate south of our client's A-3 hamlet.
>

> Today, however, Melinda has said that she will allow a driveway to
> serve both the conventional (non-Hamlet) A-3 lot to the immediate
> south of our client's A-3 hamlet and the Rural Hamlet and that no
> Subdivision Exception or Special Exception will be required.
>

> Thus, from a Zoning Point of View only, we are now able to move the
> entrances anywhere along Rt 15 that we would like.
>

> Conceivably, this new ruling means that our client could even move its
> entrance much further south toward Gilbert's Corner and possibly even
> get an off-site easement from an adjacent landowner to allow for this
> to occur. Nevertheless, Melinda has the power to reconsider and
> repolish her oral rulings and she has done so in this case. If this
> new ruling was applied universally, it would open the door for a lot
> of off-site "driveways" in Western Loudoun County located on parcels
> that are not benefited by the zoning use rights possessed by the
> master parcel. For example, I could imagine that a number of Western
> Loudoun churches on A-3 lots would like to take advantage of this new
> ruling.

>
> Irrespective, of the new zoning "right" our client has to move its
> entrances further south, there are other reasons why our client cannot
> move the entrance further south as outlined in Steve Hulsey's letter
> to Mr. DeLashmutt.
>
> Best always,
> Sally
>
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