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December 1, 2015

Via Email pcaramanis@rcmplc.com and Regular Mail

Peter J. Caramanis, Esquire
Royer Caramanis & McDonough
200-C Garrett Street
Charlottesville, VA 22902

Re: Hollymead Town Center – Transportation Proffer

Dear Pete:

I have reviewed your letter dated November 16, 2015, in which you challenge the County's reliance on Proffer 4, which was originally accepted by the Albemarle County Board of Supervisors in conjunction with the rezoning of Hollymead Town Center Area A-1 (ZMA 2005-00015) on September 12, 2007. Proffer 4 was most recently accepted in conjunction with ZMA 2012-00005. Proffer 4 provides in part that, within 30 days "after demand by the County after public transportation service is provided to the Project, the Owner shall contribute \$50,000 cash to the County to be used for operating expenses . . ." Proffer 4 also commits the Owner to contribute \$50,000 each year thereafter for 9 additional years. Proffer 4 has not been amended since it was originally accepted.

The purpose of Proffer 4 was to partially address the transportation impacts that would result from rezoning the Hollymead Town Center Area A-1 lands from Rural Areas, an agricultural zoning district, to Planned Development – Mixed Commercial, a district that allows large scale commercial uses composed of both office and retail. The rezoning authorized 278,000 square feet of retail and office uses. The transportation impacts resulting from this rezoning were a key consideration, and many of the proffers accepted in conjunction with the rezoning addressed transportation-related impacts.

While it may be true that no other rezoning in Albemarle County has included a proffer in which an owner has committed itself to contribute a cash amount for public transportation service similar to that in Proffer 4, transportation impacts may be addressed at the rezoning stage in a number of ways. Each rezoning is evaluated on its own merits and the proffers are tailored by the owner to address the impacts generated by its particular project. Proffer 4 was not unreasonable in 2007 nor is it unreasonable now.

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JAUNT provides "public transportation service" within the meaning of Proffer 4. To the extent that the proposed route will be a commuter route, the parking lot in Hollymead Town Center Area A-1 is not planned to serve as a park-and-ride location. Instead, Hollymead Town Center Area A-1 will serve as a transit stop, a use envisioned by the commitment by the Owner in Proffer 3 to construct a transit stop within Area A-1. It may reasonably be assumed that riders will get on and off the bus at the Area A-1 transit stop. While Route 29 LLC may want the JAUNT bus to primarily be dropping off shoppers at the Hollymead Town Center Area A-1 transit stop, the plain language of Proffer 4 does not restrict "public transportation services" for purposes of the proffer. Moreover, Hollymead Town Center is a large employment center and providing public transportation for the employees of Hollymead Town Center reasonably addresses some of the transportation impacts resulting from the Area A-1 rezoning.

Unless, and until, Proffer 4 is amended, it is an enforceable obligation of Route 29 LLC. Failure to comply with the proffer will be a zoning violation. Amending Proffer 4 would have to be accomplished through the rezoning process and ultimately be subject to approval by the Board of Supervisors. If Route 29 LLC is interested in pursuing amending Proffer 4, I suggest that you contact the County's Department of Community Development (434-296-5832) to schedule a pre-application meeting.

Very truly yours,


Greg Kamptner
Deputy County Attorney