



COUNTY OF ALBEMARLE
Department of Community Development
401 McIntire Road, Room 227
Charlottesville, Virginia 22902-4596

Phone (434) 296-5832

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June 22, 2007

Ms. Brenda Beerman Trickey, Esquire
c/o McGuireWoods LLP
Court Square Building
310 Fourth Street, NE, Suite 300
P.O.Box 1288
Charlottesville, VA 22902-1288

RE: OFFICIAL DETERMINATION OF ZONING -- Tax Map 61Z, Parcel 5A
Property of Branchlands Retirement Village, Branchlands Drive
Development of the Whistler House Property (.9892 acres)
Rio Magisterial District

Dear Ms. Trickey:

The County Attorney and I have reviewed our records and the information provided for the above-noted property. It is the County Attorney's advisory opinion and my official determination that Tax Map 61Z, Parcel 5A is still vested for up to 86 congregate units as shown on the site development plan for this property, approved September 18, 2002. **This site plan expires September 18, 2007.**

Our records indicate Tax Map 61Z, Parcel 5A contains .964 acres and is zoned Planned Unit Development (PUD). The property is not within an Agricultural and Forestal District. The property is within the Airport Impact Area Overlay. The PUD zoning (ZMA-88-07) permits the uses shown on the plan, including a total of up to 312 units in Branchlands Village. Given the existing 157 townhomes and condos plus the existing 69 congregate care units, this leaves the 86 congregate care units shown on the approved site plan referenced above.

A letter of determination from John Shepherd, dated September 10, 2001, confirmed, at that time, the owner's right to proceed with the construction of the Whistler House as a 49 unit apartment building. Furthermore, the letter stated that, with a properly approved site plan amendment, the Whistler House could contain up to 86 units. That same letter outlined the facts regarding the special use permit and site plan for a 120 bed "assisted living facility" on the property (SP-96-22, SDP-96-119), indicating that both of these had expired. That determination was not appealed within thirty days, so it is deemed final and unappealable, making the assisted living facility no longer a permitted

use. In order for the property to be developed with an assisted living facility, a special use permit application will need to be submitted in accordance with current regulations and approved by the Board of Supervisors before a new site plan can be approved. .

On September 18, 2002 a site plan was approved for the 86 units, bringing the total for the PUD to 312 units. This plan can still be implemented, as approved, prior to its expiration on September 18, 2007, if building permits are obtained before that date and construction begins. If this plan is to be implemented it may require an extension of the approval, which can only be granted by the Planning Commission upon application submitted prior to the expiration date of September 18, 2007.

If you are aggrieved by this determination, you have a right to appeal it within thirty days of the date notice of this determination is given, in accordance with Section 15.2-2311 of the Code of Virginia. If you do not file a timely appeal, this determination shall be final and unappealable. An appeal shall be taken only by filing with the Zoning Administrator and the Board of Zoning Appeals a notice of appeal which specifies the grounds for the appeal. An appeal application must be completed and filed along with the fee of \$120. The date notice of this determination was given is the same as the date of this letter.

If you have any questions, please contact me.

Sincerely,



Ronald L. Higgins, AICP
Manager of Zoning Administration

Copy: Gay Carver, Real Estate Supervisor
Ella Carey, Clerk of the Board of Supervisors
Whistler House LLC