



May 20, 2025

SENT BY FIRST CLASS & CERTIFIED MAIL

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Blankingship and Keith
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5399 Wellington Road
Gainesville, VA 20155

Re: Proffer Determination # ZNR2025-00119
Determination of Rezoning #PLN2010-00309, Hunter Property
Property Address: 8221 Linton Hall Road, Bristow, VA 20136 (the "Property")
Acreage: 9.8409; **GPIN:** 7496-18-4111; **Zoning District:** M-1, Heavy Industrial

To Whom It May Concern:

This is in response to the application that you submitted on February 25, 2025, requesting a proffer determination for the above referenced property on behalf of the property owner, Northern Virginia Electric Cooperation (NOVEC). More specifically, you have requested confirmation that: (1) an intermittent stream buffer was not established pursuant to proffered condition #22; or (2) if the intermittent stream buffer was established by proffered condition #22, the overlap of an existing 15-foot utility easement at the northeast corner is not a perpendicular utility crossing of the stream or buffers that was contemplated by proffered condition #22.

Background

The Property is zoned M-1, Heavy Industrial, and is subject to the proffer conditions approved by the Prince William County Board of Supervisors on January 11, 2011 as part of Rezoning #PLN2010-00309, Hunter Property. The development and use of the Property are regulated by the proffered conditions approved with the referenced rezoning case, as well as the applicable zoning regulations.

Definitions & Applicable Sections of Zoning Ordinance

Part 100 of the Prince William County Zoning Ordinance contains defined terms. The Zoning Administrator shall strictly construe the terms and definitions. In the event a term is not defined in this section, the Administrator shall refer to other chapters of the Prince William County Code and to the building code for guidance. If ambiguity remains, the Zoning Administrator shall then rely upon the conventional, recognized meaning of the word or phrase (e.g., current edition, Merriam-Webster's Dictionary).

Buffer area shall mean a buffer area is a strip of land that contains landscaping, possibly with a man-made barrier, located along the common property line of two dissimilar abutting land uses or properties, between a storm water management facility and buildings, along the edge of a street in a Highway Corridor Overlay District, or where proffered.

Proffer Analysis

Having reviewed the submitted proffer determination request, the approved proffered documents and supporting documents, and other records found in county records, I provide the following analysis regarding the two questions being asked in the application submission request:

Question (1)

That an intermittent stream buffer was not established pursuant to proffered condition #22.

While evaluating the first question, it was determined that one of the stamped approved documents of #PLN2011-00309 were stamped incorrectly. Specifically, the Generalized Development Plan (GDP) that was stamped following the Prince William Board of County Supervisor's (BOCS) rezoning approval on January 11, 2011 was not the GDP that was approved by the BOCS. The incorrectly stamped GDP does show the intermittent stream but does not show a labelled buffer area. Whereas, Page D-1 of the BOCS staff report, which was part of the original BOCS review packet and is deemed to be a supporting document, clearly shows the intermittent stream as well as an intermittent stream buffer.

Additionally, the fourth paragraph of Page 1 of the approved proffer statement states:

"For purposes of reference in this Proffer Statement, the General Development Plan (GDP) shall be the plan prepared by Bowman Consulting Group, Inc., entitled 'General Development Plan' and dated February 2010, last revised October 5, 2010."

As clearly reflected on the incorrectly stamped GDP, that GDP does not have any marks or notations related to revisions. Whereas, on page D-1 of the BOCS staff report, this version of the GDP clearly shows the intermittent stream buffer and also shows notation for three revisions dated June 3rd, 2010, July 30th 2010, and finally October 5th, 2010. Additionally, proffered condition #22 (below) clearly states the intent by the applicant to preserve the intermittent stream.

Proffered Condition #22

"The Applicant shall provide a fifty foot (50') wide buffer on both sides of the intermittent stream located in the southwest corner of Landbay F, to the extent said intermittent stream/buffer is identified on the GDP. Said intermittent stream and adjacent buffer shall be retained substantially in its existing natural condition except for drainage outfalls required in connection with the stormwater management and clearing, grading and other land disturbing activity required for the installation and maintenance of utility crossings (water, sanitary sewer, drainage, electric, cable, telephone, etc.). No more than one perpendicular crossing shall be permitted, which crossing shall be a maximum of 50' in width, may contain multiple utility lines and shall be designed in a manner to restore the hydrology of the stream to the extent reasonably possible. Said crossing shall be in addition to the existing 50' wide Prince William Cooperative Easement located along the

southeastern boundary of Landbay F and the rights created therein. In addition, the property owner shall have the right to prune and remove objectionable vegetation, such as poison ivy, poison oak, etc. as well as damaged and/or diseased vegetation.”

Furthermore, on page B-8 of the staff report, staff made clear that one of the environmental strengths of the proposed rezoning was:

“Intermittent Stream – The applicant has proffered to preserve the lower course of a substantial intermittent stream in Landbay F which is in the southeast corner of the overall site.”

Question (2)

That if the intermittent stream buffer was established by proffered condition #22, the overlap of an existing 15-foot utility easement at the northeast corner is not a perpendicular utility crossing of the stream or buffers that was contemplated by proffered condition #22.

Prince William County’s Zoning Ordinance does not have a definition for crossing, perpendicular or otherwise. Merriam-Webster dictionary provides two definitions for perpendicular relevant to this discussion:

Perpendicular:

1a: *standing at right angles to the plane of the horizon: exactly upright*

1b: *being at right angles to a given line or plane*

However, this strict interpretation of the word perpendicular would make any development impracticable. Strict right angles of stream crossings, which are inherently not straight, would be near impossible. For example, the proposed crossing by the applicant, shown on Exhibit A of the submission material, would not meet this strict interpretation of perpendicular crossing.

In your letter you state that, in your opinion, the existing 15-foot utility easement does not interact at a right angle. As stated above, strict interpretation of a strict 90-degree angle is impracticable. You further state that “the utility easement is not a crossing because it does not transect from one side to the other”. However, a crossing need not cross from one side to the other in order for it to be considered a crossing. Due to the exclusive nature of the Zoning Ordinance, because the existing 15-foot utility easement interacts with the intermittent stream buffer in a non-parallel manner it is deemed to be a “crossing”.

Proffer Determination

Based on the approved proffered documents, the referenced background information including supporting documents, and analysis of the relevant sections of the Zoning Ordinance, it is determined that:

(1) The intermittent stream was shown on the approved GDP referenced in the fourth paragraph of Page 1 of the approved proffer statement. However, that approved GDP did not receive the standard approval stamp following rezoning approval. Unfortunately, the wrong GDP was

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incorrectly stamped during the case close out process. County records will be updated to reflect the correct GDP that is referenced in the approved proffer statement. The conclusion is that the approved proffer statement and correctly dated GDP clearly state and show the intermittent stream, the intermittent stream buffer, and the intent of the buffer.

(2) While not strictly perpendicular, the established 15-foot easement is deemed to be a crossing and accounts for the permitted crossing outlined in proffered condition #22 of #PLN2011-00309.

This determination is based on regulations that are in effect on the date of this letter, which are subject to change. Should you have any questions, please feel free to contact this office. State law mandates the following paragraph to be included in all determinations rendered by the Zoning Administrator.

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 (BOCS). An appeal must be filed within 30 days of receipt of this letter with the clerk to the board and the zoning administrator. The BOCS will schedule and advertise a public hearing to consider an appeal within 30 days unless there is no regular meeting scheduled, in which case the BOCS shall act at its next regular meeting. The determination contained within this letter shall be final if an appeal is not filed within 30 days of receipt of this letter. The application fee and the appeal application form is available on our web page at the following link:

<https://www.pwcva.gov/assets/2021-06/Application%20for%20an%20Appeal.pdf>

Sincerely,



Alexander Stanley, CZA
Principal Planner Zoning Administration

Attachment: Correctly dated GDP (as conditioned in the approved proffer statement)

cc: Joyce Fadeley, Department of Development Services, Land Development Division Chief

