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M E M O R A N D U M

TO: Policy File

FROM: Jay Scudder, Planning Director

DATE: March 8, 2007

SUBJECT: Use of Private Roads or easements for Access to proposed Subdivisions

The following shall apply when an application for subdivision is submitted where the means of access from the subject property to a state road is by way of an existing right-of-way or easement. The APPLICANT (owner(s) of the property to be divided) shall provide legal verification that they have the right to use the existing right-of-way or easement for purposes of subdivision. This verification shall be in addition to the completion of the owner's consent required pursuant to Section 15-63(6) of the Subdivision Ordinance by the owner or owners of the property on which the existing right-of-way or easement is located.

The type of verification needed will be dictated by the specific property and may be in the form of a recorded plat, deed or will, certification from a licensed surveyor, copies of restrictive covenants, etc. If there is question as to whether any of these forms of verification actually provide sufficient details to determine the right to use the easement for the purpose requested, the subdivision agent may require additional information from the applicant. A certification from an attorney licensed to practice law in the Commonwealth of Virginia may be required indicating that the attorney has reviewed the terms of the exiting easement and in their professional opinion, the easement grants the applicant the right-of- access for the purposes of the proposed subdivision.

If the existing right-of-way is owned by the applicant, the owner's consent on the plat shall serve as verification that they are allowing the right-of-way to be used for the proposed division.

For new easements created on the subdivision plat, a written deed of easement should be prepared by an attorney and recorded with the plat. The deed of easement should indicate the terms of the new easement including provisions for maintenance and future use of the easement by the parties involved.

This policy shall primarily apply to any subdivision submitted pursuant to Section 15-3.2, Family Transfers, or Section 15-31(c), private roads; however, it may also be applicable in boundary line adjustment applications.