



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

November 14, 2005

Lynne J. Strobel
Walsh, Colucci, Lubeley, Emrich & Terpak, P.C.
2200 Clarendon Blvd., Thirteenth Floor
Arlington, VA 22201-3359

Re: Interpretation for RZ/FDP 2001-SP-041, Fairchase Development, Tax Map
Page 56-1: ADU reduction

Dear Ms. Strobel:

This is in response to your letter of October 31, 2005, requesting an interpretation of the proffers and Conceptual Development Plan (CDP) accepted by the Board of Supervisors and the Final Development Plan (FDP) and development conditions approved by the Planning Commission in conjunction with the approval of RZ/FDP 2001-SP-041. As I understand it, your question is whether a reduction in the number of affordable dwelling units (ADUs) to be provided in the Fairchase Development from 89 to 82 based on a reduction in the total number of dwelling units to be constructed would be in conformance with RZ/FDP 2001-SP-041. This determination is based on your letter and the attached proffers. Copies of your letter and relevant proffers are attached.

According to your letter, the approved CDP/FDP showed a total of 1,087 residential units which consisted of 755 multi-family units, 327 single-family attached units, and 5 single-family detached units. Eighty-nine (89) ADUs were required based on the total number of units approved.

As I understand it, you are now planning to construct only 1,048 residential units consisting of 724 multi-family units, 319 single-family attached units, and 5 single-family detached units. According to your letter and calculations, based on the reduction in the total unit count, eighty-two (82) ADUs are now required. Your letter also states that no reductions in open space or proffered setbacks are proposed.

Proffer # 4, Maximum Density, states the following:

"A maximum of 1,087 dwelling units shall be permitted on the Property inclusive of affordable dwelling units ("ADUs") and ADU bonus units. The Applicant shall provide ADUs as required by Section 2-800 of the Zoning Ordinance. The number of

Lynne J. Strobel
Page 2

ADUs to be provided may be reduced based on the adoption of future amendments to the ADU ordinance, or commensurate with any reduction in the number of market rate units on the Property. The Applicant reserves the right to develop fewer than the maximum number of units referenced in this paragraph without the need for a Proffered Condition Amendment ("PCA") application or CDPA/FDPA."

Zoning Administration (ZAD) staff has reviewed your calculations and concurs that 82 ADUs are required for the proposed number of dwellings on the site. As such, it is my determination that the proposed reduction in ADUs from 89 to 82 based upon a reduction in the total number and types of units to be built, as described in your letter, is in conformance with RZ/FDP 2000-SP-041. This determination has been made in my capacity as the duly authorized agent of the Zoning Administrator. If you have any questions regarding this interpretation, please contact Mary Ann Godfrey at (703) 324-1290.

Sincerely,



Barbara A. Byron, Director
Zoning Evaluation Division, DPZ

O:\mgodfr\PI Interpretations\Fairchase(RZ 2001-SP-041)ADUinterp.doc

Attachments: A/S

cc: Elaine McConnell, Supervisor, Springfield District
Peter Murphy, Planning Commissioner, Springfield District
Leslie Johnson, Deputy Zoning Administrator, DPZ
Michelle Brickner, Director, Office of Site Development Services, DPWES
Angela Rodeheaver, Section Chief for Site Analysis, DOT
Craig Carinci, Director, Environmental and Facilities Inspection Division, DPWES
Kevin Guinaw, Chief, Special Permits/Applications Management Branch, DPZ
File: RZ/FDP 2001-SP-041-3, PI 0511 175, Imaging, Reading File

Lynne J. Strobel
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WALSH COLUCCI
LUBELEY EMRICH
& TERPAK PC

October 31, 2005

RECEIVED
Department of Planning & Zoning

NOV 07 2005

Zoning Evaluation Division

By Facsimile and U.S. Mail

Barbara A. Byron, Director
Zoning Evaluation Division
Fairfax County Department of Planning & Zoning
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035

Re: RZ 2001-SP-041 - Fairchase
Request for Approval of a Reduction in the Number of Required Affordable
Dwelling Units (ADUs)

Dear Ms. Byron:

The referenced rezoning application was approved by the Board of Supervisors at its hearing held on May 20, 2002. The Board of Supervisors rezoned approximately 79.95 acres from the R-1 and R-2 Districts to the PDH-12 District. The rezoning was approved subject to proffers dated May 17, 2002, a copy of which is attached for your convenient reference.

The proffers approved in conjunction with the referenced rezoning include a requirement that the property be developed in substantial conformance with a Conceptual/Final Development Plan (CDP/FDP) prepared by BC Consultants dated August, 2001 and revised through April 29, 2002. In addition, the proffers include the flexibility for minor modifications to the CDP/FDP provided at such changes are in substantial conformance with the CDP/FDP and do not increase the total number of units or decrease the minimum amount of open space shown to be provided on the property. The proffers state that the number of ADUs provided may be reduced based on the adoption of future amendments to the ADU Ordinance, or commensurate with any reduction in the number of market rate units on the property. The proffers reserved the ability to develop fewer than the maximum number of units without the need for an amendment to the proffers or to the CDP/FDP.

The approved CDP/FDP identifies a total of one thousand eighty-seven (1,087) residential units comprised of seven hundred fifty-five (755) multi-family dwelling units, three hundred twenty-seven (327) single-family attached dwelling units, and five (5) single-family detached dwelling units. This includes a requirement to construct 89 ADUs. Proffer 20 states that the ADUs shall be located within the multi-family units. There will be fewer actual units constructed on the property as a result of final design and engineering. The total number of dwelling units to be constructed is one thousand forty-eight (1,048) comprised of seven hundred twenty-four (724) multi-family dwelling units, three hundred nineteen (319) single-family attached dwelling units, and five (5) single-family detached dwelling units. The resulting density

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is 13.1 dwelling units per acre. As a result of the construction of fewer dwelling units, the number of required ADUs is reduced. I have analyzed the new requirement based on the ADU Ordinance.

The Fairchase development is located within the Fairfax Center area of the Comprehensive Plan which recommends three (3) levels of development. The base line recommended density is one (1) dwelling unit per acre and the overlay recommended density is twelve (12) dwelling units per acre. It is my understanding from a conversation with Donna Pesto of the Zoning Administration Division that the density range for purposes of calculating the ADU Ordinance requirement is the base line level compared to the overlay level. Therefore, the Comprehensive Plan density range is one to twelve dwelling units per acre. The following calculation is based on the actual number of units that will be constructed on the property in accordance with the ADU Ordinance.

ADU Ordinance Calculation:

Proposed Density	13.1 du/ac		
		MF	-724
		SFA/SFD	- 324

			1048
Comprehensive Plan Range	1-12 du/ac		
Adjusted Range - MF - 1.1 - 13.2 du/ac			
Adjusted Range - SFA/SFD 12.1 - 14.4 du/ac			
MF:	$\frac{13.1 - 1}{13.2 - 1.1}$	=	$\frac{12.1}{12.1} = 1 \times 6.25 = 6.25\% \times 724 = 45$
SFA/SFD:	$\frac{13.1 - 1}{14.4 - 1.2}$	=	$\frac{12.1}{13.2} = .916 \times 12.5 = 11.45\% \times 324 = 37$
			=====
Total Required ADUs:			82

The total number of required ADUs is eighty-two (82) in lieu of eighty-nine (89) as shown on the approved CDP/FDP. The total number of multi-family units to be constructed on this site is now seven hundred twenty-four (724) as compared to the seven hundred fifty-five (755) shown on the approved CDP/FDP.

The proposed modifications to the number of dwelling units does not reduce the amount of open space or reduce the setbacks to proffered lot lines. In addition, this request may be processed in accordance with the provision of Section 16-403, Paragraph 4, of the Fairfax County Zoning Ordinance. The request does not permit a more intensive use than approved; result in an increased parking requirement as density has been reduced; permit additional uses

October 31, 2005

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other than those approved; reduce the effectiveness of approved transitional screening, buffering, landscaping or open space; or permit changes to bulk, mass, orientation or location of buildings which adversely impacts the relationship of the development to adjacent properties. In fact, a reduction in a number of required ADUs was contemplated in the proffers.

I would appreciate your confirmation that the total number of ADUs required to be provided in conjunction with the referenced rezoning is eighty-two (82) based on the total number of dwelling units to be constructed as described herein. I would appreciate a response at your earliest convenience. Should you have any questions regarding this request, or require additional information, please do not hesitate to give me call. As always, I appreciate your cooperation and assistance.

Very truly yours,

WALSH, COLUCCI, LUBELEY, EMRICH & TERPAK, P.C.



Lynn J. Strobel

LJS/lbm

Enclosure

cc: Jay Johnson
Tom Colucci
Martin D. Walsh



FAIRFAX COUNTY

OFFICE OF THE CLERK
BOARD OF SUPERVISORS
12000 Government Center Parkway, Suite 533
Fairfax, Virginia 22035-0072

V I R G I N I A

June 21, 2002

Telephone: 703-324-3151

FAX: 703-324-3926

TTY: 703-324-3903



Francis A. McDermott, Esquire
Hunton and Williams
1751 Pinnacle Drive, Suite 1700
McLean, Virginia 22102

RE: Rezoning Application
Number RZ 2001-SP-041
(Amended Letter Only-Page 2)

Dear Mr. McDermott:

Enclosed you will find a copy of an Ordinance adopted by the Board of Supervisors at a regular meeting held on May 20, 2002, granting Rezoning Application Number RZ 2001-SP-041 in the name of Centex Homes to rezone certain property in the Springfield District from the R-1, R-2 Districts and Water Supply Protection Overlay District to the PDH-12 District and Water Supply Protection Overlay District, located on the north side of Lee Highway, south of Post Forest Drive on both sides of Legato Road and Dixie Hill Road, Tax Map 56-1 ((1)) 11a, 11b, 27 - 30; 56-1 ((2)) 1 - 5; 56-1 ((3)) 1 - 14; 56-1 ((4)) 4, 6 - 12; 56-1 ((5)) 6 - 8, 9 pt., 10 pt., 11 pt., 12 pt., 13 pt., 14 pt., 15 pt., 16 - 28; 56-1 ((6)) 1 - 10; 56-1 ((9)) 1 - 7, 11 - 13, 15 - 22; 56-1 ((11)) 1, 2, 3a, 4a, 5 - 7, A and B and a portion of the public rights-of-way for Deljo Drive, Ruffin Drive, Deming Drive, Butler Drive, Legato Road, Dixie Hill Road, Rhett Lane, and Quality Street to be vacated and/or abandoned, subject to the executed proffers dated May 17, 2002, consisting of approximately 79.95 acres.

The Conceptual Development Plan was approved; the Planning Commission having previously approved Final Development Plan FDP 2001-SP-041 on May 16, 2002, subject to the Board's approval of RZ 2001-SP-041.

The Board also:

- Modified the transitional screening and barrier requirements in accordance with the Conceptual Development Plan for the perimeter of the site and between the residential and public uses with the development.

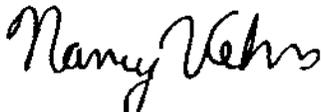
RZ 2001-SP-041

June 21, 2002

- 2 -

- Waived the 200 square foot privacy yard requirement for rear-load single family attached units and waived the 600 foot maximum length of private street requirement.

Sincerely,



Nancy Vehrs
Clerk to the Board of Supervisors

NV/ns

cc: Chairman Katherine K. Hanley
Supervisor Springfield District
Janet Coldsmith, Director, Real Estate Div., Dept. of Tax Administration
Michael R. Congleton, Deputy Zoning Administrator
Barbara A. Byron, Director, Zoning Evaluation Div., DPZ
Thomas Conry, Dept. Mgr. - GIS - Mapping/Overlay
Angela K. Rodeheaver, Section Chief, Trnsprt'n. Planning Div.,
Charles Strunk, Project Planning Section, Dept. of Transportation
Michelle Brickner, Deputy Director, DPWES
Kenny King, Proffer Administrator, Plans & Document Control, OSDS, DPWES
Frank Edwards, Department of Highways - VDOT
Land Acq. & Planning Div., Park Authority
District Planning Commissioner
James Patteson, Director, Facilities Mgmt. Div., DPWES
Barbara J. Lippa, Executive Director, Planning Commission

RZ 2001-SP-041
CENTEX HOMES – DIX-CEN-GATO
PROFFER STATEMENT

November 27, 2001
January 7, 2002
February 14, 2002
March 8, 2002
March 20, 2002
March 29, 2002
April 11, 2002
April 18, 2002
April 26, 2002
May 8, 2002
May 15, 2002
May 16, 2002
May 17, 2002

Pursuant to Section 15.2-2303(A) of the Code of Virginia, as amended, and subject to the Fairfax County Board of Supervisors' (the "Board") approval of rezoning application RZ-2001-SP-041, as proposed, for rezoning from the R-1, R-2 and WS (part) Districts to the PDH-12 District and WS (part) Districts, the owners and Centex Homes (the "Applicant"), for themselves and their successors and assigns, hereby proffer that development of Tax Map Parcels 56-1-((1))-11A, 11B, 27, 28, 29 and 30; 56-1-((2))-1, 2, 3, 4 and 5; 56-1-((3))-1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14; 56-1-((4))-4, 6, 7, 8, 9, 10, 11 and 12; 56-1-((5))-6, 7, 8, part 9, part 10, part 11, part 12, part 13, part 14, part 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28; 56-1-((6))-1, 2, 3, 4, 5, 6, 7, 8, 9 and 10; 56-1-((9))-1, 2, 3, 4, 5, 6, 7, 11, 12, 13, 15, 16, 17, 18, 19, 20, 21 and 22; 56-1-((11))-A, B, 1, 2, 3A, 4A, 5, 6 and 7; and approximately 10.386 acres of the public rights-of-way ("R-O-W") for Deming Drive, Quality Street and Deljo Drive and portions of Legato Road, Butler Drive, Ruffin Drive, Dixie Hill Road, and Rhett Lane (collectively the "Property"), containing approximately 79.9523 acres, shall be in accordance with the following proffered conditions:

1. Substantial Conformity. The Property shall be developed in substantial conformance with the Conceptual Development Plan and Final Development Plan ("CDP/FDP") consisting of eighteen (18) sheets prepared by BC Consultants, entitled Dix-Cen-Gato Conceptual Development Plan/Final Development Plan, dated August, 2001, revised through April 29, 2002 and as further modified by these proffered conditions.
2. Final Development Plan Amendment. Notwithstanding that the CDP/FDP consists of eighteen (18) sheets and said CDP is the subject of Proffer 1 above, it shall be understood that (i) the CDP shall consist of the entire plan relative to the general layout, points of access to the existing road network, location and types of units, peripheral setbacks, the maximum number of units, general limits of clearing and grading and the location and amount of open space on the Property; and (ii) the Applicant has the option to request Final Development Plan Amendment ("FDPA") approvals from the Planning Commission in accordance with Section 16-402 of the Zoning Ordinance with respect to

the remaining elements. The amenity areas are shown on Sheets 17 and 18, and the minimum amenities within each area shall be provided generally as shown, although final locations and substitutions may be revised at the time of final site plan approval in coordination with the Department of Planning and Zoning.

3. Minor Modifications to Design. Pursuant to Paragraph 4 of Section 16-403 of the Zoning Ordinance, minor modifications from the approved CDP/FDP may be permitted as determined by the Zoning Administrator. The Applicant shall have the flexibility to modify the layout shown on the CDP/FDP provided such changes are in substantial conformance with the CDP/FDP and proffers, and do not increase the total number of units or decrease the minimum amount of open space shown to be provided on the Property.
4. Maximum Density. A maximum of 1,087 dwelling units shall be permitted on the Property inclusive of affordable dwelling units ("ADUs") and ADU bonus units. The Applicant shall provide ADUs as required by Section 2-800 of the Zoning Ordinance. The number of ADUs to be provided may be reduced based on the adoption of future amendments to the ADU ordinance, or commensurate with any reduction in the number of market rate units on the Property. The Applicant reserves the right to develop fewer than the maximum number of units referenced in this paragraph without the need for a Proffered Condition Amendment ("PCA") application or CDPA/FDPA.
5. Landscaping and Design Amenities.

A. Development Sections.

Landscaping shall be consistent with the quality, quantity and the locations shown on Sheets 6, 7, 10, 12 and 13 of the CDP/FDP. Actual types and species of vegetation shall be determined pursuant to more detailed landscape plans submitted for the applicable development section, at the time of first and all subsequent submissions of the site plan for each respective section, for review and approval by the Urban Forester and the Fairfax County Department of Public Works and Environmental Services ("DPWES"). Such landscape plans shall provide tree coverage and species diversity consistent with the Public Facilities Manual ("PFM") criteria, as determined by the Urban Forester. Site amenities such as entry signs, light posts, tot lots, benches, and community mailboxes shall be located generally as depicted on the CDP/FDP, and shall be of a quality consistent with the illustrative shown on Sheet 13 of the CDP/FDP.

B. Streetscape.

Landscaping and design amenities along Legato Road shall be consistent with the streetscape design and details shown on Sheets 16 and 17 of the CDP/FDP, except that landscaping in the VDOT right-of-way shall be subject to VDOT approval. Street trees shall be provided along the frontage of Legato Road adjacent to Tax Map Parcels 56-1-((1))-35 and -36A, however, should VDOT not approve the location of the trees in the VDOT right-of-way, the Applicant shall have no obligation to acquire additional land