County of Fairfax, Virginia

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

July 10, 2008

G. Evan Pritchard
Walsh Colucci Lubeley Emrich & Walsh PC
2200 Clarendon Boulevard, Thirteenth Floor
Arlington, Virginia 22201-3359

Re: Interpretation for RZ 2003-PR-008, The Reserve at Tysons Corner,
Tax Map 39-2 ((56)) 62-73: Removal of Sunrooms and Deck Lattice for Townhouses

Dear Mr. Pritchard:

This is in response to your letter of May 6, 2008, (attached) requesting an interpretation of the Conceptual Development Plan (CDP) and proffers accepted by the Board of Supervisors in conjunction with the approval of RZ 2003-PR-008, and the Final Development Plan (FDP) approved by the Planning Commission with FDP 2003-PR-008. As I understand it, the question is whether removal of the sunroom option and the inclusion of a lattice screen on the rear of the decks of the front-loaded townhouses would be in substantial conformance with the CDP/FDP and proffers. This determination is based on your letter of May 6, 2008, and attached photograph.

On March 15, 2004, the Board of Supervisors approved RZ 2003-PR-008, subject to proffers dated March 14, 2004, and the Planning Commission approved FDP 2003-PR-008 on April 7, 2004. Sheet 3 of the CDP/FDP contains the typical lot layout with unit dimensions and setbacks for the front-loaded townhouses. It includes a 6-10 foot deep deck extension, with a 5 foot minimum yard, and a portion of that area designated for an optional sunroom. You are requesting to remove the sunroom option, and include a lattice screen along the rear of the decks. The lattices would extend approximately 3 to 4 feet above the railing, for a total height of 6 to 7 feet. As such, the deck with lattice screens is treated as part of the principal structure for the purpose of determining building setbacks. However, because the optional sunrooms were shown on the approved CDP/FDP for the full depth of the deck, the addition of a lattice does not affect the required minimum setback illustrated in the lot typical.

Therefore, it is my determination that the removal of the sunroom option and the inclusion of a lattice screen on the rear of the decks of the front-loaded townhouses would be in substantial conformance with the CDP/FDP and proffers, provided the railings and screens do not exceed a total height of 7 feet. 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 feel free to contact Cathy Belgin at (703) 324-1290.

Sincerely,

Regina C. Coyle, Director
Zoning Evaluation Division, DPZ

RCC/ O:\FORMS\NEW DOCUMENTS WITH DPZ LOGO\LETTERS\PI FROM RC.DOC

Attachments: A/S

cc: Linda Q. Smyth, Supervisor, Providence District
Kenneth Lawrence, Planning Commissioner, Providence District
Diane Johnson-Quinn, Deputy Zoning Administrator, Permit Review Branch, ZAD, DPZ
Ken Williams, Plan Control, Land Development Services, DPWES
Angela Rodeheaver, Section Chief for Site Analysis, DOT
Assad Ayoubi, Acting Director, Environmental and Facilities Inspection Division, DPWES
Kevin J. Guinaw, Chief, Special Projects/Applications Management Branch, ZED, DPZ
File: No. RZ 2003-PR-008, FDP 2003-PR-008, PI 0805 047, Imaging, Reading File

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WALSH COLUCCI
LUBELEY EMRICH
& WALSH PC

May 6, 2008

By Scheduled Express

Regina M. Coyle
Director, Zoning Evaluation Division
Fairfax County Department of Planning and Zoning
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035

Re: Interpretation Request
The Reserve at Tysons Corner/RZ 2003-PR-008
Tax Map Reference: 39-2 ((56)) 62 through 73 (the "Subject Townhomes")
Applicant: MHI – Tyson's Reserve, L.L.C.

Dear Ms. Coyle:

Please accept this letter as a request for an interpretation pertaining to RZ 2003-PR-008. The purpose of this letter is to request your determination whether screening proposed for the Subject Townhomes is in substantial conformance with the above-referenced zoning approval.

Background

The Subject Townhomes are to be part of the residential development known as the Reserve at Tysons Corner, which is bordered by Gallows Road to the west, the Beltway to the east, Science Applications Court to the north, and the Courts of Tysons townhouse development to the south. The Reserve at Tysons Corner was approved in 2004 when the underlying property was rezoned to the PDH-30 District. Copies of the approved proffers and the Conceptual Development Plan/Final Development Plan (the "CDP/FDP") are enclosed.

The twelve (12) Subject Townhomes are described on Sheet 3 of the CDP/FDP as the "Front Loaded Townhomes" in the center of the development abutting the "Existing Townhomes" to the south, the Courts of Tysons. The typical lot layout for the Subject Townhomes at the bottom of Sheet 3 shows an optional sunroom or deck at the rear of the units. The Applicant, the successor of the applicant at the time of rezoning, intends to only offer the optional decks and not the sunrooms.

The approved proffers and CDP/FDP provide flexibility in the final design of the Subject Townhomes. Specifically, Proffer 3 provides the following:

> *Pursuant to Paragraph 4 of Section 16-403 of the Zoning Ordinance, minor modifications from the CDP/FDP may be permitted as determined by the Zoning Administrator. The Applicant or successors shall have the flexibility to modify the*

layouts shown on Sheets 2 and 3 of the CDP/FDP without requiring approval of an amended CDP/FDP as determined by the Department of Planning and Zoning ("DPZ") and do not increase the number of dwelling units, decrease the amount of open space, or decrease the setback from the peripheries.

In addition, Note 19 on Sheet 2 provides that "additional site features such as plaza development, gazebos, fencing, retaining walls, cornices, trellises, entrance signs, lights and/or walls not represented hereon may be provided."

Interpretation Request

The Applicant requests confirmation that the proposed screening that would be added onto the decks of the Subject Townhomes would be permitted under the approved proffers and CDP/FDP. The screening is necessary to provide both privacy and an attractive visual buffer between the Subject Townhomes and the Courts of Tysons development to the south, which over the years has become somewhat dated and unappealing to the eye. Although trees are located along the boundary of the two properties, they are not tall enough to provide any screening for the decks.

The proposed screening would consist of wooden lattice work similar to that used to construct trellises and would rise just a few feet above the rear railing of each deck. Enclosed is a photograph of an example of this type of screening very similar to what the Applicant is proposing.

Conclusion

The proposed screening will be an unobtrusive and attractive architectural complement for each deck. The look will be similar to that of a trellis, which is specifically referenced in the CDP/FDP as the type of additional feature that could be added to the site at the Applicant's discretion. This modification from the layout shown on the CDP/FDP is minor in nature and will provide privacy and visual appeal. Furthermore, it is in substantial conformance with the CDP/FDP and does not:

- *Permit a more intensive use than that previously approved.*

  The modification will not affect GFA.

- *Result in an increased parking requirement.*

  No additional GFA and no use changes are proposed. As such, there is no proposed change to the parking requirement.

- *Permit uses other than those approved.*

  No new uses are proposed.

- *Reduce the effectiveness of the approved transitional screening, buffering, and landscaping.*

  The modification will have no effect on landscaping and will serve as screening only as described above.

- *Permit changes to the bulk, mass, orientation or location which adversely impacts the relationship of the development or part thereof to adjacent properties.*

  The modification will not adversely impact adjacent properties.

- *Result in an increase in the amount of clearing and/or grading for a stormwater management facility.*

  The modification will have no effect on stormwater management.

- *Include the addition of any building or additions to buildings.*

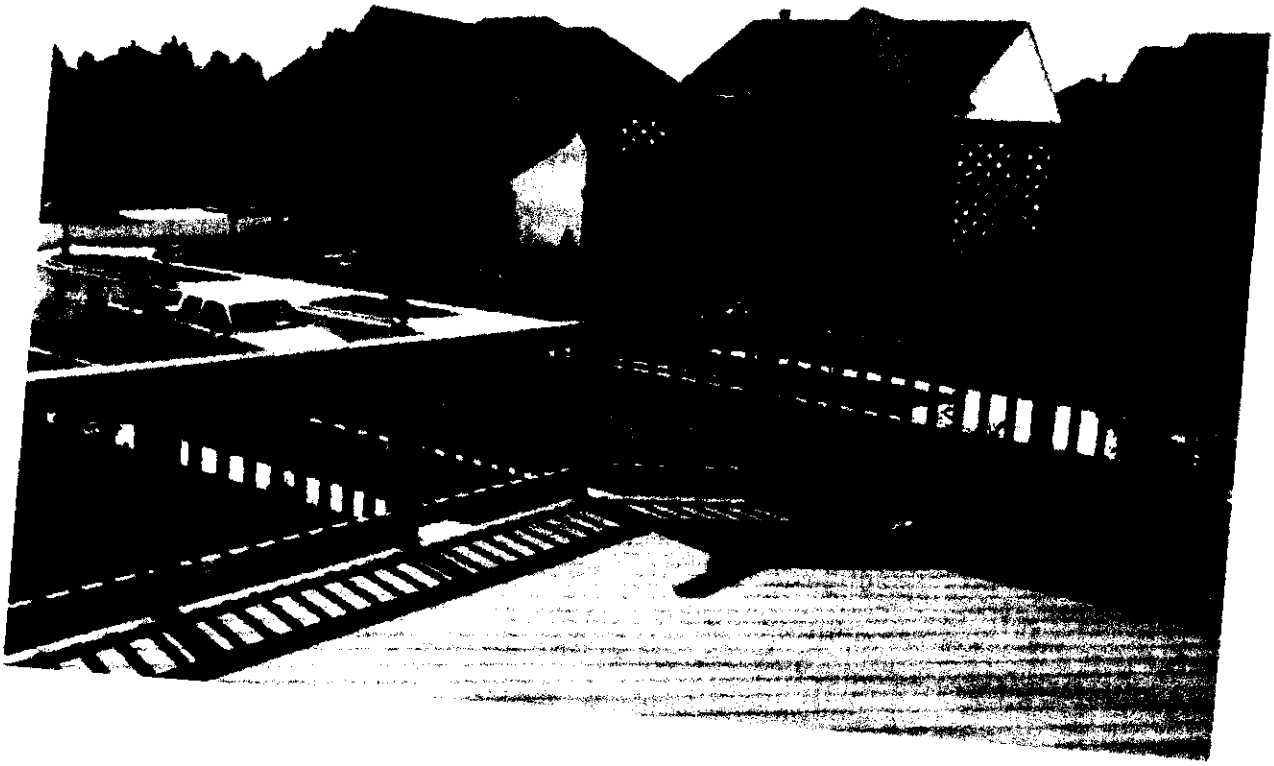
  The modification will only include additions to buildings to the extent that the screening described above will be added to the decks of the Subject Townhomes.

Thank you for your consideration of this request. If you have any questions, or require additional information, please do not hesitate to give me a call.

Very truly yours,

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

G. Evan Pritchard

Enclosures:
1) Approved Proffers
2) CDP/FDP
3) Photograph

cc: Mark Westmoreland
Elizabeth D. Baker
Martin D. Walsh