



FAIRFAX COUNTY

DEPARTMENT OF PLANNING AND ZONING

Zoning Evaluation Division
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035-5509

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V I R G I N I A

November 16, 2001

Martin D. Walsh
Walsh, Colucci, Stackhouse, Emrich & Lubeley
2200 Clarendon Boulevard
Arlington, VA 22201

Re: Interpretation for CP 86-C-119-2 and CP 86-C-121-11 (PI 0108-115)
Terrabrook/Boston Properties; Pedestrian Bridge

Dear Mr. Walsh:

This is in response to your letter of August 20, 2001, requesting an interpretation of the Town Center Concept Plan (CP) approved by the Planning Commission in conjunction with the approval of CP 86-C-119-2 and CP 86-C-121-11. As I understand it, the question is whether a Non-residential Use Permit (Non-RUP) for the second office building may be issued prior to the construction of a required pedestrian bridge across the W&OD Trail. This determination is based on your letter of August 20, 2001, and subsequent letters of September 10, 2001 and October 1, 2001. Copies of these letters are attached for reference.

CP 86-C-119-2 and CP 86-C-121-11 were approved concurrently by the Planning Commission on November 3, 1999. The Town Center Concept Plan for Section 93, Blocks 3 and 4 (Discovery Square), dated November 4, 1998 as revised through October 18, 1999, included a note #26 stating that a pedestrian access bridge would be constructed across the W&OD Trail, and that the bridge would be completed prior to the Non-RUP for the second office building, "[a]ssuming timely approval by the NVRPA [Northern Virginia Regional Park Authority]."

You have indicated that the Applicant has undertaken all of the necessary pre-construction planning for the bridge, and has been negotiating with NVRPA for over a year. Details of these negotiations are included in your letter of September 10, 2001; however, NVRPA has not yet approved plans for the pedestrian bridge, and therefore its construction cannot commence. Your letter of October 1, 2001, indicates that the Applicant is bound by a lease to provide the pedestrian bridge, and that the applicant is anticipating issuance of the first Non-RUP for the second office building in February 2002.

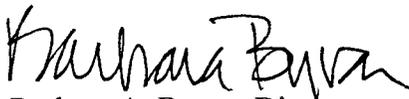
The CP note anticipated that the construction of the pedestrian bridge is dependant upon the action of NVRPA. The information you have provided indicates that the Applicant has pursued the necessary approvals, and continues to work towards installation of the bridge, including a lease agreement binding them to its installation.

Mr. Martin D. Walsh
November 16, 2001
Page 2

It is therefore my determination that the issuance of a Non-RUP for the second office building prior to the construction of the pedestrian bridge over the W&OD Trail would be in substantial conformance with the Conceptual Plan, provided that NVRPA approval continues to be diligently pursued and that construction is completed within six (6) months once this approval is obtained, but in no event later than final bond release for the building. 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 Tracy Swagler at (703) 324-1290.

Sincerely,



Barbara A. Byron, Director
Zoning Evaluation Division

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Attachments: A/S

cc: Catherine Hudgins, Supervisor, Hunter Mill District
John Palatiello, Planning Commissioner, Hunter Mill District
Jane W. Gwinn, Zoning Administrator
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
File: CP 86-C-119-2; CP 86-C-121-11; PI 0108-115

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August 20, 2001

Hand Delivered

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

Re: Terrabrook/Boston Properties
Discovery Square L.L.C., Reston

Dear Ms. Byron:

As you are aware, Terrabrook and Boston Properties (together Discovery Square L.L.C.) are currently constructing its office building at Discovery II and they are on the verge of executing a lease with a prominent tenant.

Note 26 in the adopted Town Center Concept Plan for Section 93, Blocks 3 and 4 dated October 18, 1999, states the following:

"26. The Applicant will construct a pedestrian access bridge across the W&OD Trail, subject to Northern Virginia Regional Park Authority ("NVRPA") approval, generally in the location reflected on this Plan. The construction of the surface trail through the middle of the site will be phased with the construction and will be completed prior to the issuance of the first Non-Residential Use Permit ("Non-RUP"). Assuming timely approval by the NVRPA, the construction of the pedestrian bridge across the W&OD Trail will be completed by the time of issuance of the first Non-RUP for the second office building."

Discovery Square has proceeded with all diligence to gain approval of the pedestrian bridge and has undertaken all of the necessary pre-construction planning for the bridge. Further, Discovery Square has been negotiating in good faith with NVRPA for more than a year in an effort to agree to the terms of an amendment to an existing license agreement with NVRPA which would evidence NVRPA's approval of the construction and maintenance of the pedestrian bridge by Discovery Square. However we continue to experience delays and cannot move forward until receiving final approval by NVRPA. Discovery Square remains poised to construct the bridge but cannot assure completion of the bridge the timeframe contemplated above due to delays in securing necessary approvals from NVRPA.

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FAIRFAX COUNTY GOVERNMENT

August 20, 2001

Page 2

In light of the sensitivity from a time standpoint for the tenant who will be leasing the second office building space, I would like a confirmation from your office that so long as Discovery Square continues to diligently pursue the construction of the bridge, that Non-RUPs may be issued for Building II.

If you have any questions, please feel free to give me a call.

Very truly yours,

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



Martin D. Walsh

MDW:ms

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cc: Tom Williamson
Peter Johnston

WALSH, COLUCCI, STACKHOUSE, EMRICH & LUBELEY

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September 10, 2001

Kevin Guinaw
Fairfax County Department of Planning and Zoning
Zoning Evaluation Division
12055 Government Center Parkway, Suite 800
Fairfax, VA 22035-5505

Re: Terrabrook/Boston Properties
Discovery Square L.L.C., Reston

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Dear Kevin:

ZONING EVALUATION DIVISION

Pursuant to your request for further information concerning efforts made by Discovery Square L.L.C. ("Discovery Square") to comply with the requirement for construction of a pedestrian bridge at Discovery Square.

It is my understanding that the site plan was approved by Fairfax County in May 2000 and the building plans have also been approved for the project. The delay has been due to negotiations with the NVRPA for an agreement to construct the bridge.

The following is a chronological list of meetings and contacts that Discovery Square has had with the NVRPA in trying to obtain approval for the bridge and its design:

- March 29, 2000—Meeting with NVRPA.
- April 24, 2000—NVRPA sent letter to Clinton Abernathy with site plan comments.
- September 8, 2000—Meeting with NVRPA to discuss bridge details and the bridge design was submitted for approval by the NVRPA.
- October 18, 2000—NVRPA submitted first review comments.
- December 8, 2000—Plans were resubmitted to NVRPA, which included architectural design, phasing plans, narratives, etc.

September 10, 2001

Page 2

- April 30, 2001—NVRPA notified Discovery Square that more detail on resubmission was needed.
- May 9, 2001—Meeting with NVRPA to review “revised” bridge plan to show response to earlier comments.
- May 18, 2001—NVRPA notified Discovery Square that the NVRPA Board had granted their approval to allow NVRPA staff to amend the existing license agreement and permit staff to review and approve pedestrian bridge.
- June 26, 2001—NVRPA received revised landscaping plan to incorporate the area of disturbance due to the 24” water main and bridge.
- August 6, 2001—NVRPA was sent revised landscape plan to address NVRPA’s comments on the original landscape plan.

As the above indicates, Discovery Square has been coordinating closely and consistently with NVRPA and we are hopeful that the approval for the bridge will occur soon. However, we do not want that approval to delay occupancy of the affected buildings.

As always, I appreciate your cooperation and assistance.

Very truly yours,

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



Martin D. Walsh

MDW/cs

cc: 1) Tom Williamson
2) Peter Johnston

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October 1, 2001

Ms. Tracy D. Swagler
Fairfax County Department of Planning & Zoning
Department of Planning & Zoning
12055 Government Center Parkway, Suite 801
Fairfax, VA 22035

Re: Determination for Terrabrook Concerning the NVRPA Bridge Completion

Dear Tracy:

This letter will confirm the fact that the anticipated issuance of the first Non-RUPs for the buildings affected by the NVRPA Bridge will be February of 2002. In addition, it is my understanding that the prominent tenant which will occupy the building anticipates that the bridge will be provided, and therefore, it is the intent of Terrabrook to provide the bridge as quickly as possible after the NVRPA permits are executed and the Fairfax City waterline is relocated. They are bound by the lease to provide the bridge. Terrabrook has purchased the pre-fabricated bridge through Clark Construction and fully intends to install the bridge as soon as permits are approved.

If you have any questions, please feel free to give me a call.

Very truly yours,

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



Martin D. Walsh

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