



FAIRFAX COUNTY

DEPARTMENT OF PLANNING AND ZONING

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

(703) 324-1290

Fax (703) 324-3924

V I R G I N I A

March 14, 2001

Philip G. Yates
Dewberry & Davis LLC
8401 Arlington Boulevard
Fairfax, VA 220131-4666

Re: Interpretation for FDPA 84-D-049, SPA 93-P-023, Tysons II, Tax Map 29-4 ((10))
5A: Temporary Trailers

Dear Mr. Yates:

This is in response to your letters of December 12, 2000, January 5, 2001, January 12, 2001, and February 15, 2001, requesting an interpretation of the development conditions and the Final Development Plan Amendment (FDPA) approved by the Planning Commission in conjunction with the approval of FDPA 84-D-049 and the development conditions and Special Permit Amendment (SPA) Plat approved by the Board of Zoning Appeals in conjunction with SPA 93-P-023. As I understand it, the question is whether the location of a temporary building on the site, consisting of four attached construction office trailers, would be in substantial conformance with the development conditions and the FDPA and the development conditions and SPA Plat. In support of your request, a letter dated March 6, 2001, has been submitted by Mark Lerner, on behalf of Lerner Enterprises who own the property, addressing the relationship between the proposed trailers and SPA 93-P-023. This determination is based on the plans attached to your letter of January 5, 2001, entitled "Tysons II, Proposed Construction Office Trailers," and prepared by Dewberry & Davis LLC, which are dated January 2001. Copies of the above-referenced letter and the plans are attached.

You propose four long-term temporary office construction trailers placed side by side on the site, with related parking, to be used as an accessory construction office for the duration of the proposed office/hotel development of Buildings F, G, H, I, J1 and J2 in Sectors III and IV at Tysons II. You anticipate that the temporary construction office will be in use for approximately 10 years, until the development of Sector II is scheduled, which exceeds the permissible length of time for the approval of a temporary special permit. You stated that the proposed trailers will be located in an area that is partially fenced and paved and located within the footprint of the proposed ultimate development approved for Sector II. You indicated that the trailers are attached and will have the appearance of one building.

The proposed plan shows a combined trailer building with dimensions of 50 feet by 60 feet, or 3,000 square feet, located 110± feet from Galleria Drive and 195± feet from Tysons Boulevard. Fifteen (15) parking spaces are proposed, 5 near Galleria Drive and 10 to the interior of the site. The proposed construction trailer building is shown on the submitted plan enclosed with existing and proposed fencing and two gates, and some landscape screening provided. In addition, based on the photograph submitted on February 6, 2001, the construction trailers will have the appearance of one building with stucco treatment on all four sides, a solid material to screen the area between the raised floor and the ground, and foundation landscaping around the base.

The FDPA shows a total of 4,653,741 square feet of GFA for Tysons II. The proposed temporary construction building would be located in the same general area as Building K on the FDPA.

SPA 93-P-023 allows a temporary special permit use for a theatrical performance (circus) to be conducted on the property between September and November biannually starting in the year 2000 through 2006. The SPA Plat shows a parking lot for the Cirque du Soleil and open space in the area where the proposed construction building would be located. You recognize in your correspondence that an amendment to SPA 93-P-023 would be required in order to continue the Cirque du Soleil use allowed under the special permit. This fact is also recognized by Lerner Enterprises to whom the special permit was granted and who own the property. The next use of the site by Cirque du Soleil is scheduled for 2002.

It is my determination that the proposed temporary building would be in substantial conformance with the development conditions and the FDPA, provided that a landscape plan showing foundation plantings around the building, and additional landscape screening as shown on the submitted interpretation plan is provided to the satisfaction of the Urban Forestry Branch of the Department of Public Works and Environmental Services (DPWES).

It is also my determination that the location of the proposed temporary building would not be in substantial conformance with the SPA development conditions and the SPA Plat; however, you have indicated: (1) an amendment to SPA 93-P-023 will be filed to reflect the co-existence of the temporary construction building on the site and the temporary circus use and required parking, and approval will be sought from the Board of Zoning Appeals; or (2) the temporary construction building will be removed from the subject property prior to the next scheduled performance of the circus in October 2002. With those caveats, the trailers can be permitted on the site subject to SPA 93-P-027.

These determinations have been made in my capacity as the duly authorized agent of the Zoning Administrator.

Philip G. Yates
Page Three

If you have any questions regarding this interpretation, please feel free to contact Elaine Jensen at (703) 324-1290.

Sincerely,



Barbara A. Byron, Director
Zoning Evaluation Division, DPZ

BAB/EZJ/N:\ZED\JENSEN\INTERPS\TysonsII\Trailer.doc

Attachments: A/S

cc: Gerald E. Connolly, Supervisor, Providence District
Linda Q. Smyth, Planning Commissioner, Providence District
Board of Zoning Appeals
Jane W. Gwinn, Zoning Administrator
Michelle A. Brickner, Director, Office of Site Development Services, DPWES
Zofia A. Zager, Director, Office of Building Code Services, DPWES
Audrey Clark, Director, Building Plan Review Division, DPWES
Angela K. Rodeheaver, Section Chief for Site Analysis, DOT
Craig A. Carinci, Director, Environmental and Facilities Inspection Division, DPWES
Files: FDPA 84-D-049, SPA 93-P-023, PI 2012 161

Dewberry & Davis LLC

ENGINEERS • PLANNERS • SURVEYORS • LANDSCAPE ARCHITECTS

8401 Arlington Boulevard • Fairfax, Virginia 22031-4666
Voice 703-849-0100 www.dewberry.com

February 15, 2001

Elaine Jensen
Zoning Evaluation Division, DPZ
12055 Government Center Parkway, Suite 800
Fairfax, Virginia 22035

RECEIVED
DEPARTMENT OF PLANNING AND ZONING

FEB 20 2001

RE: Request for Interpretation
Tysons II: FDPA 84-D-049-1; SPA 93-P-023

ZONING EVALUATION DIVISION

Elaine
Dear Ms. Jensen:

This letter is in furtherance of the letters addressed to you and Barbara Byron dated December 12, 2000, January 5, January 12 and February 6, 2001, all in reference to the above-referenced request for interpretation. The request concerns the placement of four (4) trailers side by side to be used as a temporary construction office for the ongoing development at Tysons II.

This letter responds to the latest request you made in our telephone conversation several days ago. In short, notwithstanding the representation we made in my letter to you dated February 6, 2001, you requested that:

- We provide a stucco treatment on all four (4) sides of the proposed temporary construction office.
- We use a solid material and not lattice to screen the area between the raised floor and the ground.
- We provide additional landscaping around the base of the temporary office building as is represented in the photograph that we enclosed in our letter dated February 6, 2001.

The purpose of this letter is to state that we will agree to these conditions. We have modified the graphic titled Tysons II Proposed Construction Office Trailers to represent the additional landscaping, and have attached a revised copy herewith.

Lastly, I have attached a graphic of the subject property with a series of photographs that depict the proposed location of the temporary construction office. As you will conclude from a review of this graphic, the proposed site is fairly well screened by existing vegetation and topography from many vantage points around the periphery of the land bay.



Ms. Elaine Jensen
February 15, 2001

Page 2

We trust that with the consent to the conditions as stated above, the approval of our request for interpretation will be processed at the earliest opportunity.

Please give me a call if you have any questions.

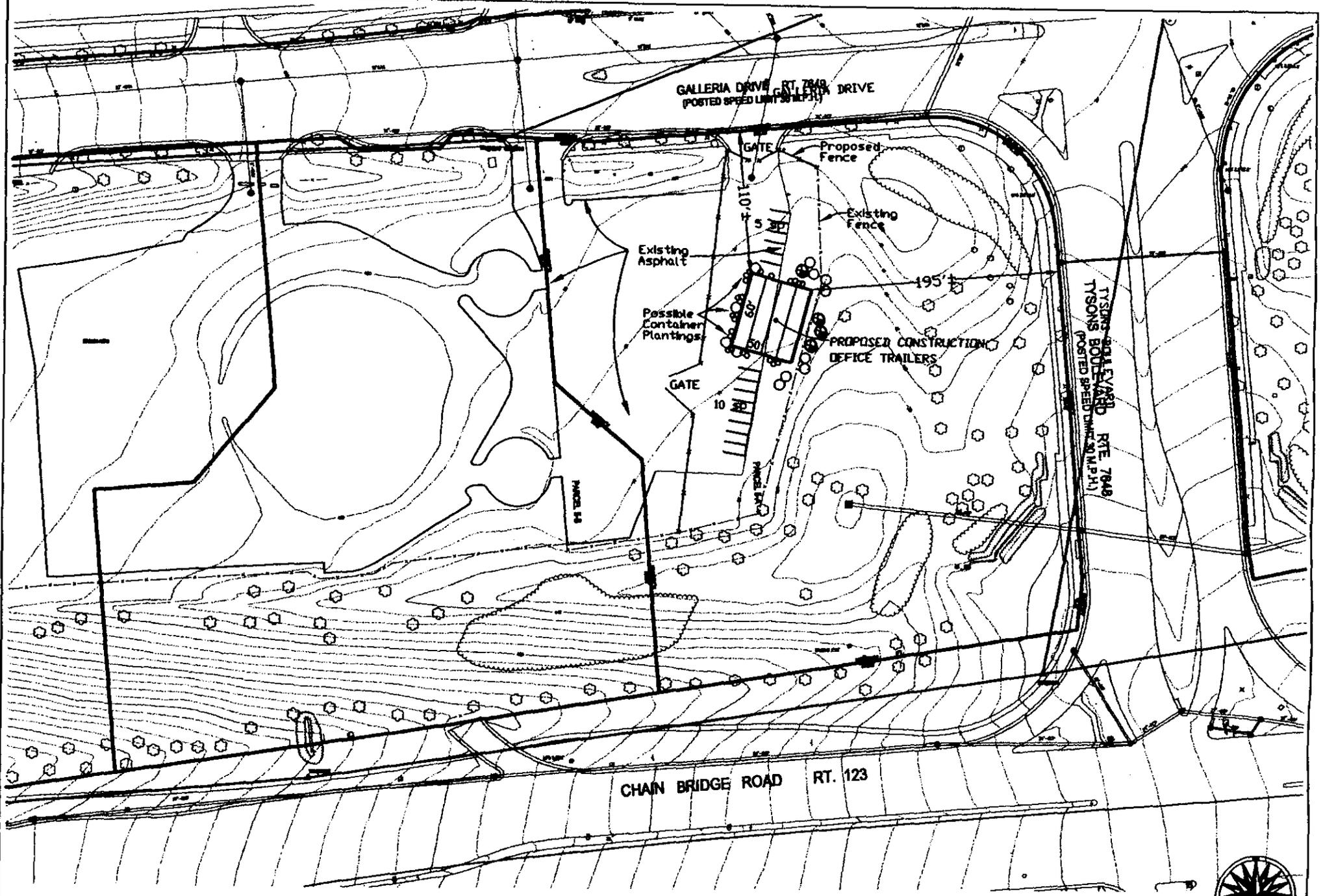
Sincerely,



Philip G. Yates
Senior Associate

Attachments: A/S

cc: Michael Congleton
Tom Reeves
Peter Rosen
Ben Tompkins
Daniela Medek



Dewberry & Davis LLC Engineers
Planners
Surveyors
Landscape Architects
 A Dewberry Company
 8401 Arlington Blvd.
 Fairfax, VA 22031
 (703) 646-0100 Fax (703) 646-0110

TYSONS II
 Proposed Construction Office Trailers
 February 2001
 Scale: 1" = 100'

Dewberry & Davis LLC

ENGINEERS • PLANNERS • SURVEYORS • LANDSCAPE ARCHITECTS

8401 Arlington Boulevard • Fairfax, Virginia 22031-4666
Voice 703-849-0100 www.dewberry.com

February 6, 2001

Elaine Jensen
Zoning Evaluation Division, DPZ
12055 Government Center Parkway, Suite 800
Fairfax, Virginia 22035

RECEIVED
DEPARTMENT OF PLANNING AND ZONING
FEB 7 2001

RE: Request for Interpretation
Tysons II: FDPA 84-D-049-1; SPA 93-P-023

ZONING EVALUATION DIVISION

Elaine
Dear Ms. Jensen:

This letter is in response to the request you made by telephone several weeks ago concerning the above-referenced request for interpretation. The information presented herein supplements that which we presented in the original request for interpretation by letter dated December 12, 2000 addressed to Barbara Byron, and the two additional letters addressed to you dated January 5 and January 12, 2001.

In short, you asked if we could consider a more aesthetically-pleasing siding for the proposed construction office trailers. We have consulted with the distributor, Williams Scotsman, and have learned that for a fairly substantial additional charge the proposed construction office trailers can be covered with stucco. Attached is a colored photograph of such a treatment which the applicant will consent to provide on at least two (2) sides of the proposed temporary construction offices.

I would note two (2) differences between the proposed temporary offices and the one represented in the attached photograph: 1) The proposed temporary offices will be raised above-ground approximately 30-inches but the area between the floor and the ground will be completely screened by a lattice; and 2) The proposed temporary offices will not have the recessed entryway that is represented in the attached photograph.

The applicant will provide the stucco on the western and northern elevations of the proposed temporary offices as they are the elevations that are most visible from the adjacent roadways. Given the existing topography and vegetation on the site, the proposed temporary offices will not be that visible from the east (Tysons Boulevard) or the south (Route 123). In addition, these two sides will be screened with the proposed additional landscaping that we represented on the attachment to our letter dated January 5, 2001.

We well appreciate the staff's concern for the appearance of the proposed temporary office trailers at this strategic location. The applicant is sensitive to this concern as well for his own presence.



Ms. Elaine Jensen
February 6, 2001

Page 2

We trust the improvements we have tendered meet with your approval. Your early determination on our request for interpretation will be appreciated.

Sincerely,



Philip G. Yates
Senior Associate

Attachment: A/S

cc: Michael Congleton
Tom Reeves
Peter Rosen
Ben Tompkins
Daniela Medek



Concurrent Construction is so convenient, we've used it ourselves for more than 70 Williams Scotsman branch offices.

Dewberry & Davis LLC

ENGINEERS • PLANNERS • SURVEYORS • LANDSCAPE ARCHITECTS

8401 Arlington Boulevard • Fairfax, Virginia 22031-4666
Voice 703-849-0100 www.dewberry.com

January 12, 2001

Elaine Jensen
Zoning Evaluation Division, DPZ
12055 Government Center Parkway, Suite 800
Fairfax, Virginia 22035

RECEIVED
DEPARTMENT OF PLANNING AND ZONING

JAN 12 2001

ZONING EVALUATION DIVISION

RE: Request for Interpretation
Tysons II: FDPA 84-D-049-1; SPA 93-P-023

Elaine
Dear Ms. Jensen:

This letter is in response to two (2) requests you made by separate phone calls concerning the above-referenced request for interpretation.

First, you asked for a picture or representation of the proposed trailers. Attached is a copy of a brochure from Williams Scotsman that adequately depicts the proposed trailers.

Second, you asked for the type and height of the proposed fence that we have represented on our graphic. The proposed fence will be a six (6) foot high chain link fence.

I trust that this information will satisfy your need, but should you have additional questions, please give me a call.

Your early attention to our request for interpretation will be appreciated.

Sincerely,



Philip G. Yates
Senior Associate

Attachment: A/S

cc: Michael Congleton
Tom Reeves
Peter Rosen
Ben Tompkins
Daniela Medek



Dewberry & Davis LLC

ENGINEERS • PLANNERS • SURVEYORS • LANDSCAPE ARCHITECTS

8401 Arlington Boulevard • Fairfax, Virginia 22031 4666
Voice 703 849 0100 www.dewberry.com

January 5, 2001

Via FAX and Mail

Elaine Jensen
Zoning Evaluation Division, DPZ
12055 Government Center Parkway, Suite 800
Fairfax, Virginia 22035

RE: Request for Interpretation
Tysons II: FDPA 84-D-049-1; SPA 93-P-023

Elaine
Dear Ms. Jensen:

This letter is in furtherance of a letter addressed to Barbara Byron dated December 12, 2000 on the above-referenced subject.

Per your request by telephone several days ago, attached is a revised graphic labeled Tysons II - Proposed Construction Office Trailers and dated January 2001. The revision represents the proposed landscaping around the proposed trailers that you requested. We have also represented the four (4) proposed trailers within the "building" footprint.

In addition, we have adjusted the location and number of parking spaces that will be provided for the proposed construction office, and we have furnished you two copies of the graphic - one at 1" = 50' and one at 1" = 100' that shows the relationship of the location of the proposed trailers to Chain Bridge Road, Route 123.

I trust that the revised graphic will satisfy your need, but should you have additional questions or the need for elaboration, please give me a call.

Our client is quite anxious to open this construction office at the earliest opportunity, so your early attention to this request will be appreciated.

Sincerely,



Philip G. Yates
Senior Associate

Attachment: A/S

cc: Michael Congleton
Tom Reeves
Peter Rosen
Ben Tompkins
Daniela Medek

 **Dewberry**

Dewberry & Davis LLC • Dewberry Design Group Incorporated • Dewberry & Davis, Inc. • Goodkind & O'Dea, Inc. • Dewberry Technologies Inc. • TOLK, Inc.

TD:R05849051

08D PLANNING

December 12, 2000

Barbara A. Byron, Director
Zoning Evaluation Division, DPZ
12055 Government Center Parkway, Suite 800
Fairfax, Virginia 22033

RECEIVED
DEPARTMENT OF PLANNING AND ZONING
DEC 13 2000

ZONING EVALUATION DIVISION

RE: Request for Interpretation
Tysons II: FDPA 84-D-049-1; SPA 93-P-023

Barbara
Dear Ms. Byron:

May this letter serve as a request for an interpretation related to the above-referenced Final Development Plan Amendment (FDPA) that was approved by the Planning Commission on October 12, 1995. A copy of the approved FDPA is attached for your convenient reference.

I would note that an interpretation or an amendment will also be required for SPA 93-P-023, as the subject property is the site where the Cirque Du Soleil is held. As you may be aware, the Cirque Du Soleil has completed its tour at this location for the year 2000, and is scheduled to return in the years 2002, 2004 and 2006. We will concern ourselves with the implications that the proposed interim use will have on the approved SPA 93-P-023 at a later time. We will file either an interpretation or an amendment as needed to the approved temporary special permit at a future date if the trailers remain on site at the time the Cirque Du Soleil returns. At this time, we request an interpretation related solely to FDPA 84-D-049-1.

The request concerns the placement of four (4) trailers side by side to be used as a construction office for the ongoing development at Tysons II. Accessory parking for the proposed longstanding interim use will also be provided.

The location of the proposed construction office trailers and related parking is represented on the attached graphic labeled Tysons II - Proposed Construction Office Trailers and dated December, 2000. The construction office trailers will be at this location for a currently estimated ten (10+) years until development of the subject property known as Sector II is scheduled. This will be the construction office site for Lerner for the proposed offices/hotel referenced as Buildings F, G, H, I, J₁ and J₂ which will be located on the adjacent Sectors of Tysons II. As you will note, the location of the proposed construction office trailers is currently paved.

Under ordinary circumstances, we would apply for a temporary special permit for the proposed construction office trailers under the provisions set forth in Part 8 of Article 8 of the Zoning Ordinance. Given the proposed duration of the trailers, however, we would not comply with the time limits prescribed by the applicable Sect. 8-806 of the Zoning Ordinance. It is for this reason that we are requesting the interpretation.

As noted above, the proposed use will be construction office trailers accessory to the ongoing development program on the adjacent land bays (sectors) at Tysons II. The trailers will be an interim use. They will be located within the footprint of the proposed ultimate development program approved for Sector II. They will be located in an area that is currently partially fenced and paved. Given these considerations, it is our judgment they are accessory structures clearly subordinate to the approved use which is a minor modification permitted by the provisions set forth in Par. 4F of Sect. 16-403 of the Zoning Ordinance. It is our judgment as well that the proposed construction office trailers conform to the standards that are prescribed by Par. 4F of Sect. 16-403. Lastly, since the proposed trailers are an interim use, and therefore are not an addition to the approved use, there is no notice requirement as prescribed by the subject provision.

We trust you will concur with our judgments and we solicit a response at your earliest convenience. Should you have any questions or the need for elaboration, please give me a call.

Sincerely,



Philip G. Yates
Senior Associate

Attachments: A/S

cc: Michael Congleton
Tom Reeves
Peter Rosen
Ben Tompkins
Daniela Medek



LERNER ENTERPRISES

March 6, 2001

Barbara A. Byron, Director
Zoning Evaluation Division, DPZ
12055 Government Center Parkway, Suite 800
Fairfax, Virginia 22035

RECEIVED
DEPARTMENT OF PLANNING AND ZONING

MAR 8 2001

RE: Request for Interpretation
Tysons II FDPA 84-D-049-1 and SPA 93-P-023

ZONING EVALUATION DIVISION

Dear Ms. Byron:

This letter is in furtherance of a telephone conversation between Kevin Guinaw of your staff and Philip Yates of Dewberry & Davis held on March 2, 2001 concerning the above-referenced request for interpretation. Please be informed that Tysons II Land Company L.L.C. is the owner of the property benefited by SPA 93-P-023.

As we understand it, all of the issues identified by staff in its review of the request have been satisfied with but one exception, and the purpose of this letter is to address that exception. The exception deals with the necessity to amend Special Permit Amendment - SPA 93-P-023 which benefits the subject property to reflect the existence of the proposed construction trailers, unless such trailers have been removed by the time of the next scheduled performance of the Cirque Du Soleil. SPA 93-P-023 was approved by the Board of Zoning Appeals on September 19, 2000 to enable the Cirque Du Soleil to occupy the site on a bi-annual basis. As you are aware, the first annual performance was held in October and November 2000, and the next scheduled performance is scheduled in October 2002.

As Mr. Yates identified in his first letter concerning this request for interpretation dated December 12, 2000, we recognize that SPA 93-P-023 must be amended or other suitable arrangements made before the Cirque Du Soleil returns for their next performance in October 2002. As we understand, however, staff is not willing to rely solely on this representation before approving the interpretation for the temporary construction office trailers on the same site. Therefore, the purpose of this letter is to state that we are willing to temporarily suspend the right

to establish the uses permitted by SPA 93-P-023 unless and until one of three possible actions are taken:

1. An amendment to SPA 93-P-023 is filed and approved by the Board of Zoning Appeals to revise the related Special Permit Plat to reflect the co-existence of the temporary construction office trailers and the temporary circus development program and required parking on the subject property, or
2. An alternate site for the circus is located and a Special Permit is filed and approved by the Board of Zoning Appeals prior to their next performance in October 2002, or
3. The temporary construction office trailers are removed from the subject property prior to the next scheduled performance in October 2002 or other arrangements satisfactory to the Zoning Administrator are made.

Given this background, we would not object to conditioning the approval of the request for interpretation for the temporary construction office trailers with the representations presented in this letter.

I trust this letter will satisfy your need, but please let me know if you have any questions or the need for elaboration.

Sincerely,

Tysons II Land Company, L.L.C.,
A Virginia limited liability company
By Lerner Enterprises
Limited Partnership,
its manager
By Taleco Partners L.L.C.
its General Partner

By: 

Mark D. Lerner

cc: Kevin Guinaw
Elaine Jensen
Michael Congleton
Peter Rosen
Tom Reeves
Benjamin F. Tompkins
Philip G. Yates