



FAIRFAX COUNTY

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OFFICE OF COMPREHENSIVE PLANNING

Zoning Evaluation Division
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V I R G I N I A

January 30, 1996

Benjamin F. Tompkins
Hazel & Thomas, P.C.
3110 Fairview Park Drive, Suite 1400
Falls Church, VA 22042

FAIRFAX COUNTY
RECEIVED

JAN 30 1996

DIVISION OF
ZONING ADMINISTRATION

Re: Interpretation for PCA/FDPA 84-D-049, Tysons II
Clarification of Reference Dates

Dear Mr. Tompkins:

This is in response to your letter of December 4, 1995, requesting an interpretation of Proffer Number 1 accepted by the Board of Supervisors in conjunction with the approval of PCA 84-D-049 and clarification of the date of the development conditions approved by the Planning Commission with FDPA 84-D-049. As I understand it, your first question is whether the initial dates on the Conceptual Development Plan Amendment (CDPA) and the Final Development Plan Amendment (FDPA) referenced in Proffer Number 1 should be April 12, 1995. Your second question is whether the development conditions imposed by the Planning Commission with the approval of FDPA 84-D-049 on October 12, which were dated October 11 at the time of the Planning Commission public hearing and revised by the Planning Commission at the public hearing to add Paragraph D, are equivalent to those referenced as dated October 12, 1995 in the Clerk to the Board's approval letter for the PCA 84-D-049. A copy of your letter is attached.

In your letter you state that the base reference dates of the CDPA and FDPA contained in Proffer Number 1, February 13, 1995, does not reflect the base reference date of April 12, 1995 shown on the actual CDPA and FDPA graphics, which were inadvertently changed by your engineer in the submission of revised plans for the processing of the applications. Proffer Number 1 correctly references the revision date of September 13, 1995 shown on the approved CDPA and FDPA graphic.

For the purpose of clarification, it is my determination that the approved CDPA and FDPA referenced in Proffer Number 1 are dated April 12, 1995 as revised through September 13, 1995, and the development conditions approved in conjunction with FDPA 84-D-049 and referenced by the Clerk to the Board as dated October 12 (copy attached), are the same as those approved by the Planning Commission dated October 11, 1995 with the addition of Paragraph D. This determination has been made in my capacity as the duly authorized agent of the Zoning Administrator.

Benjamin F. Tompkins
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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

BAB/EZJ

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Attachments: A/S

cc: Gerald E. Connolly, Supervisor, Providence District
Carl A.S. Coan, Jr., Planning Commissioner, Providence District
Jane W. Gwinn, Zoning Administrator
Edward J. Jankiewicz, Director, Design Review Division, DEM
Angela Rodeheaver, Section Chief for Site Analysis
Bonds and Agreements Branch, DRD, DEM
File: PCA 84-D-049/FDPA 84-D-049

FDPA 84-D-049

If it is the intent of the Planning Commissions to approve Final Development Plan Amendment FDPA 84-D-049 on property located at Tax Map Parcels 29-4 ((10)) 3A, 3B, 3C, 3D, 4A, 4B, 5A, 5B, 5C, 6 and B, staff recommends that the Planning Commission condition the approval by requiring conformance with the following development conditions:

1. Landscaping shall be provided in the open space areas shown on the FDPA located north of Tysons Boulevard (Tax Map Parcels B and 6) in conformance with FDP 84-D-049 (Sheet 5) subject to the approval of the Urban Forestry Branch of DEM. Landscaping in the remainder of the FDPA land area shall be provided in accordance with the original rezoning proffers, and conceptual and final development plans.
2. A. The Final Development Plan Amendment Plat (FDPA) prepared by Dewberry and Davis, dated April 4, 1995, as revised through September 13, 1995, shows a maximum building height of 270 feet for each of the buildings located within Sectors II, III and IV. Given the approved intensity of the development and the distribution of intensity among sectors, all buildings cannot mathematically achieve these heights. Therefore as clarification of the requested building heights and to ensure that a variety of building heights will be provided within the development as recommended by the Comprehensive Plan, maximum building heights shall be governed within each sector in accordance with one of the following height distribution options for each sector. Maximum building height in each sector shall be 270 feet.

Sector II

1. If the height of one building within Sector II is between 240 and 270 feet, then the maximum height of the other two buildings shall be between 150 and 240 feet, with the exception that the building module on Building L closest to Chain Bridge Road shall have a maximum building height of 150 feet.
2. Alternatively, Buildings K, L and M may each have maximum heights between 200 and 240 feet, and the building module on Building L closest to Chain Bridge Road shall have a maximum height of 55 feet.

Sector III

1. If the height of one building within Sector III is between 240 and 270 feet, then the maximum height of the other two buildings shall be between 150 and 240 feet.
2. Alternatively, Buildings G, H and I may each have maximum heights between 150 and 206 feet.

Sector IV

1. If the height of Building J-1 is between 240 and 270 feet, then the maximum height of J-2 shall be between 100 and 150 feet.
2. Alternatively, Building J-1 may have a maximum height of 206 feet and Building J-2 shall have a maximum height of 131 feet.

B. Under no circumstances shall the maximum building height exceed 270 feet. All building heights, except for those buildings which have heights of 270 feet, may be increased by up to 10 feet, if necessary to accommodate architectural features provided that a variation in building height, as described in the options above, is maintained.

C. In the event that any building is proposed with a height of between 240 and 270 feet, a height profile for the sector in which the building is located shall be submitted to the Planning Commission for review and approval as to such sector's compliance with the Comprehensive Plan recommendation for a variety of building heights, prior to the approval of a site plan for the building by DEM. The height profile shall illustrate maximum building heights for all buildings shown on the FDPA within the sector and their interrelationships.

D. If the height of Building J-1 is 270 feet, then the maximum height of Building I shall be 240 feet. If the height of Building I is 270 feet, then the maximum height of Building J-1 shall be 240 feet.

Hazel & Thomas

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RECEIVED
OFFICE OF COMPREHENSIVE PLANNING

DEC 12 1995

ZONING EVALUATION DIVISION

December 4, 1995

Mr. Kevin Guinaw
Office of Comprehensive Planning
12055 Government Center Parkway
Suite 800
Fairfax, Virginia 22035-5505

Re: Tysons II Proffer Condition Amendment/Final Development
Plan Amendment, PCA/FDPA 84-D-049

Dear Kevin:

As part of my post Board of Supervisors approval review of the referenced matter, I noticed that there is a clerical error in the reference to the CDPA and FDPA in Proffer No. 1 of the Proffer Statement dated February 15, 1995 and last revised September 14, 1995. Specifically, Proffer No. 1 refers to the "Conceptual Development Plan Amendment dated February 13, 1995, as revised through September 13, 1995 ("CDPA")" and to the "Final Development Plan Amendment dated February 13, 1995 as revised through September 13, 1995 ("FDPA")". With respect to both the CDPA and FDPA, the initial date should be April 12, 1995 not February 13, 1995. The discrepancy apparently resulted when Dewberry & Davis erased the original date on both plats and replaced it with the April 12, 1995 date.

Additionally, the ordinance adopted by the Board of Supervisors on October 16, 1995 with respect to PCA 84-D-049 references a Planning Commission approval of FDPA 84-D-049 subject to revised Development Conditions dated October 12, 1995. In fact, the Planning Commission's action was to approve FDPA 84-D-049 subject to the Development Conditions dated October 11, 1995, with the addition of a new paragraph D read into the record by Commissioner Coan. Based on our conversation, I understand that you prepared a set of Development Conditions dated October 12, 1995 for the Board package. Please provide me with a copy of the same for my files.

Therefore, at your convenience please obtain a confirmation/interpretation from the Zoning Administrator or her authorized designee stating:

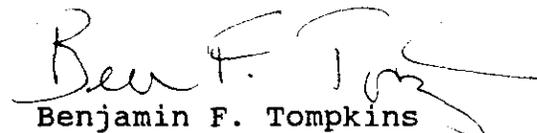
Mr. Kevin Guinaw
Office of Comprehensive Planning
December 4, 1995
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1. That the CDPA and FDPA referenced in the Proffer Statement dated February 15, 1995 and last revised September 14, 1995 should be to the Conceptual Development Plan Amendment dated April 12, 1995, as revised through September 13, 1995 and to the Final Development Plan Amendment in Final dated April 12, 1995, as revised through September 13, 1995.
2. FDPA 84-D-049 was approved by the Planning Commission, subject to the Development Conditions dated October 11, 1995, with the addition of Paragraph D as read into the record by Mr. Coan which conditions (including Paragraph D) are the same as the conditions dated October 12, 1995. A copy of the October 12, 1995 Development Conditions (including the new Paragraph D) is attached hereto as Exhibit A.

I know at present these sort of clarifications seem of little consequence, but when revisiting these files years from now or when educating lenders or purchasers who are contemplating multi-million dollar investments, these issues can be significant.

Very truly yours,

HAZEL & THOMAS, P.C.


Benjamin F. Tompkins

BFT/sc
Enclosure
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