



County of Fairfax, Virginia

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

March 6, 2009

Mr. Alan Boyd
6603 Winstead Manor Court
Lorton, VA 22079

Re: Interpretation for RZ 2001-MV-002, Tax Map 99-2 ((1)) 0036, Winstead Manor,
Maintenance of pipestem driveways

Dear Mr. Boyd:

This is in response to your letter of December 30, 2008, (attached) requesting an interpretation of certain proffered conditions ("proffers") accepted by the Board of Supervisors in conjunction with the approval of RZ 2001-MV-002. As I understand it, you seek clarification of the proffer language as it relates to the responsibility for maintenance of the pipestem driveways within the Winstead Manor subdivision.

RZ 2001-MV-002 was approved by the Board of Supervisors on August 6, 2001, subject to proffers, to rezone 23.52 acres from the R-1 Zoning District to the PDH-2 District to allow the development of 43 single family homes. Proffer 2.b. states as follows:

Subject to VDOT and DPWES approval, the Applicant shall construct a public street within the residential community within the dedicated right-of-way, as shown on the DDP/FDP. Pipestem driveways shall be maintained by the lot owners utilizing said pipestem driveways. Said maintenance responsibilities and public pedestrian easements as applicable shall be disclosed to initial prospective purchasers prior to entering into a contract of sale, and shall be disclosed in the homeowners association documents established for the Application Property.

You have indicated that currently the Winstead Manor Homeowners Association is billing all of the 43 homeowners within the Winstead Manor subdivision for the maintenance costs associated with the two pipestem roads in the subdivision, including the upkeep of road surfaces and snow removal. You are seeking clarification as to whether only the 9 properties with direct access to the pipestem driveways should be solely responsible for the maintenance of the two pipestem driveways instead of all the residents of the Winstead Manor subdivision.

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The proffer language cited above clearly states that lot owners utilizing the pipestem driveways to access their houses are responsible for the maintenance of the pipestem driveways. However, that fact notwithstanding, the collective maintenance of the pipestem driveways is not precluded from the proffer should, for example, the community HOA collectively decide that the costs associated with the pipestem driveways should be shared by all the Winstead Manor subdivision residents. Resolution of any disagreement that you may have with the Winstead Manor Homeowners Association about the collective maintenance of the pipestem driveways in the Winstead Manor subdivision would be a private legal matter between the property owners and the homeowners association.

This determination has been coordinated with the Zoning Administrative Division and is 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 Lisa Feibelman at (703) 324-1290.

Sincerely,



Regina C. Coyle, Director
Zoning Evaluation Division

Attachments: A/S

cc: Gerald W. Hyland, Supervisors, Mount Vernon District
Earl Flanagan, Planning Commissioner, Mount Vernon District
Michael Congleton, Senior Deputy Zoning Administrator, DPZ
Diane Johnson-Quinn, Deputy Zoning Administrator, Permit Review Branch, ZAD, DPZ
Ken Williams, Chief, Plan and Document Control, Land Development Services, DPWES
Jack Weyant, Director, Environmental and Facilities Inspection Division, DPWES
Kevin Guinaw, Chief, Special Projects/Applications Management Branch, ZED, DPZ
File: RZ 2001-MV-002, SPI 0901 002, Imaging, Reading File

DEC 31 2008

Zoning Evaluation Division

Ms. Regina Coyle
Zoning and Evaluation Division
Fairfax County, Virginia
Suite 801
12055 Government Center Parkway
Fairfax, VA 22035

30 December 2008

Dear Ms. Regina Coyle,

I request a written response of the Fairfax County's interpretation of the proffers for the Winstead Manor subdivision that were approved by the Fairfax County Board of Supervisors. The Board's rezoning was voted on this matter during RZ 2001-MV-002. I am looking for Fairfax County's interpretation of who maintains the two pipestem driveways within the community; whether it is the entire Winstead Manor Homeowners' Association or the lot owners utilizing the pipestem driveways to access their houses. The households that use the pipestem driveways are lots 1-5 and 33-37; their address are 8061, 8062, 8063, 8065, and 8067 Winstead Manor Lane and 6612, 6614, 6616, 6620, 6622 Winstead Manor Court.

The Fairfax County interpretation of Proffer 2b which states:
"PUBLIC STREETS ARE PROVIDED AS REQUIRED BY THIS PROFFER AND AS SHOWN ON THE CDP/FDP.

A NOTE IS PROVIDED REGARDING THE MAINTENANCE OF THE PIPESTEM DRIVEWAYS. THE DEVELOPER AGREES TO PROVIDE THE NECESSARY DISCLOSURES AS REQUIRED BY THIS PROFFER"

is the specific section that the Fairfax County interpretation is requested. In all fairness, if there are other sections of the proffers and rezoning decision that apply to the Winstead Manor pipestem driveway maintenance issue, then please include them in your response.

The reason that I am requesting this interpretation is that the lawyers for the Winstead Manor Homeowners' Association have stated that they cannot give an interpretation and that the matter should be resolved. Currently the entire Winstead Manor Board of Directors are residents who live in houses that require the pipestem driveways for access to their house and they refuse to resolve the matter since it could adversely affect them if they become responsible for their property's maintenance.

The information provided by the seller, Carr Homes, at the time of the sale was:

- 1) General Notes and Details of the Fairfax County approved Subdivision Plan [County number 0869-SD-01], Sheet 4 of 54, General Note 32, "PIPESTEM DRIVEWAYS ARE TO BE MAINTAINED BY THE LOT OWNERS UTILIZING THEM PER PROFFER 2b."
- 2) Information Brochure, page 2 paragraph 5(d) is applicable, "Pursuant to Proffer 2(b), and as set forth in Subdivision Documents, owners of lots served by pipestem/common driveways are responsible for maintenance."

- 3) Sales agreement, Paragraph 31 is applicable, Lots 1 thru 5 & 33 thru 37 are located on pipestem driveways which shall be maintained by the lot owners utilizing the pipestem driveways.

I can provide copies of items 2 and 3 above if they are not within the County records. Please inform me and I will send in a copy for your review.

This issue needs to be resolved so that it is put to rest and allow all homeowners of Winstead Manor to properly plan for their financial responsibilities for insurance, snow removal, and repairs.

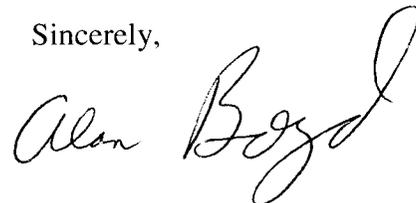
I understand if the Fairfax County interpretation indicates that only the households which utilize the pipestem driveways to access their house are responsible for the maintenance then it would be the responsibility of the thirty-seven other households within Winstead Manor who are not responsible for the maintenance to resolve the issue via the Board of Directors or the Fairfax County Circuit Court.

You can contact me at by telephone at (703) 339-6386 home; (202) 781-2580 work; or (202) 302-8299 cell. My mailing address is:

Alan Boyd
6603 Winstead Manor Court
Lorton, VA 22079

Thank you very much for your time and effort to complete my request for Fairfax County's interpretation of the proffers and rezoning documents for the Winstead Manor subdivision.

Sincerely,

A handwritten signature in black ink that reads "Alan Boyd". The signature is written in a cursive style with a large, looping "B" and "D".

Alan Boyd

