



# FAIRFAX COUNTY

## DEPARTMENT OF PLANNING AND ZONING

Zoning Evaluation Division  
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V I R G I N I A

February 15, 2005

Thomas P. Davis  
JCE, Real Estate Management Development  
5350 Shawnee Road, Suite 310  
Alexandria, VA 22312

Re: Interpretation for RZ 1998-MV-059, Cook Inlet  
Tax Map 108-1 ((47)) 47A: Road Improvements

Dear Mr. Davis:

This is in response to your letter of November 22, 2004, requesting an interpretation of the Conceptual/Final Development Plan (CDP/FDP), and proffers accepted by the Board of Supervisors in conjunction with the approval of RZ 1998-MV-059, the development conditions imposed by the Planning Commission pursuant to FDP 1998-MV-059, and the proffers, Generalized Development Plan Amendment (GDPA) and Special Exception Amendment (SEA) Plat, and development conditions accepted and approved by the Board of Supervisors in conjunction with the approval of PCA 84-V-131/SEA 84-V-131. As I understand it, the question is whether a cash contribution for the uncompleted improvements (right turn lane, pavement width, curb and gutter and trail) at the southern entrance to Route 1 would be in substantial conformance with the above-referenced approvals. This determination is based on your letter of November 22, 2004, a copy of which is attached.

As I understand it, you are proposing to make a cash contribution for the uncompleted improvements proffered for the southern site access to Route 1. Virginia Department of Transportation (VDOT) Project # 001-29-F20 along the southern portion of the property is currently under construction by a VDOT contractor. You indicate that this VDOT contractor has prohibited you from completing your committed entrance improvements as required by Proffer 7 and you will be delayed from your bond release for your project.

Your request has been reviewed with the Fairfax County Department of Transportation (DOT), who have indicated that, due to the fact that the VDOT project is currently under construction, and the difficulties of shifting road work for the southbound and northbound lanes of Route 1, your road improvements for southern access should be coordinated with the VDOT contractor and done in conjunction with that project. Typically, cash contributions are considered when the improvement can be constructed with a future VDOT project. However this project is currently under construction, therefore, a cash contribution in lieu of constructing the proffered improvements would not be appropriate.

Thomas P. Davis  
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It is my determination that the proposed cash contributions for the uncompleted improvements to the southern site access to Route 1 would not be in substantial conformance with the CDP/FDP 1998-MV-059, proffers and development conditions and the concurrent GDPA/SEA 84-V-131, proffers and development conditions. This determination has been reviewed with the Department of Transportation and 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 Kul Sandhu at (703) 324-1290.

Sincerely,



Barbara A. Byron, Director  
Zoning Evaluation Division

Attachments: A/S

*BAB/Sandhu/InterpCook Inlet, Road Improvements*

cc: Gerry Hyland, Supervisor, Mount Vernon District  
John R. Byers, Planning Commissioner, Mount Vernon District  
Leslie B. Johnson, Deputy Zoning Administrator, Permits Review Branch, DPZ  
Michelle Brickner, Director, Office of Site Development Services, DPWES  
Craig Carinci, Director, Environmental and Facilities Inspection Division, DPWES  
Angela Rhodeheaver, Chief, Site Analysis Branch, DOT  
File: RZ/FDP 1998-MV-059, RZ/SEA 84-V-131; PI 0412 159, Imaging, Reading File



Real Estate  
Management  
Development

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RECEIVED  
Department of Planning & Zoning

NOV 24 2004

Zoning Evaluation Division

November 22, 2004

**VIA FACSIMILE and US MAIL**

Barbara Byron  
Zoning Evaluation Division  
12055 Government Center Parkway  
Fairfax, Virginia 22035

**RE: Rezoning 1998-MV-059  
Cook Inlet and Compliance with Proffer #7 Transportation  
Improvements for Route 1**

Dear Barbara:

We are now nearing the completion of all 256 homes within the Cook Inlet development pursuant to the above referenced rezoning case.

Proffer #7 requires significant improvements to the US Route 1 frontage of the property but recognizes that these improvements are dependent upon the construction of VDOT Project #001-29-F20 across the southern portion of the property.

At the present time, the proffered improvements required of the Cook Inlet developer in conjunction with our northern entrance to the site are complete including the installation of a new traffic signal on US Route 1.

The entrance improvements at our southern entrance connection to US Route 1 have not been made and the southern entrance is not open at this time.

For many months we have been pursuing with VDOT the installation of our required frontage improvements to the southern portion of the site.

The VDOT project referenced above is currently under construction by VDOT contractor Martin & Gass.

Martin & Gass has consistently refused to allow us to work in the area of the VDOT project in order to make our required improvements and complete our connection to US Route 1.

We have been advised by Martin & Gass which has been supported by VDOT that we cannot work within the VDOT right-of-way in that area and make our connection without approval of Martin & Gass.

This approval has been promised at various stages of the VDOT project construction, only to be denied when the stated requisite stage of construction was complete.

At the present time we have no idea whether we will be allowed to make this connection any time prior to the completion of the VDOT project which is scheduled for November 2005.

As you know, VDOT project scheduled completions often do not occur as planned.

We are seeking an alternate way to meet our proffer requirements at Cook Inlet and be released from these obligations.

We are willing to make cash contributions for our uncompleted improvements.

Upon your approval of the concept of cash contribution in lieu of completing these requirements, we will prepare a certified estimate of the remaining uncompleted items and post with the County a future construction escrow for this amount.

It is imperative that a methodology be developed to allow us to either complete our improvements or post alternate funds so that we may fulfill our obligations for US Route 1 improvements and be released of our bonds in a timely manner.

Please review the attached documentation and advise if this methodology is acceptable.

Thank you for your cooperation in this matter.

Sincerely,



Thomas P. Davis  
TPD/lb

cc: John E. Cowles  
Eric Vandernoot  
Dudley Howard