



County of Fairfax, Virginia

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

May 10, 2010

Martin D. Walsh
Walsh, Collucci, Lubely, Emrich & Walsh, P.C.
Courthouse Plaza – Thirteenth Floor
2200 Clarendon Boulevard
Arlington, VA 22201

Re: Interpretation for RZ 2005-SP-019, Lee Highway Improvements, Tax Map Number 56-2
(1) 37E

Dear Mr. Walsh:

This is in response to your letter of March 24, 2010 (copy attached) requesting a determination pursuant to the proffers accepted by the Board of Supervisors in conjunction with the approval of RZ 2005-SP-019. As I understand it, the question is whether Residential Use Permits (RUPs) or Occupancy Permits may be issued for Building #3 of the development in advance of completion of the proffered Lee Highway Improvements due to a number of unforeseen delays including those associated with the required utility relocation along the site's frontage.

Proffer 18 approved pursuant to the approval of RZ 2005-SP-019 states in relevant part as follows: "Subject to VDOT and DPWES approval. The Applicant shall convert the existing right-turn lane into an additional west-bound lane along the frontage of the Property with Lee Highway and construct a new right-turn deceleration lane in the location as generally shown on the CDP/FDP ("Lee Highway Improvements"). Lee Highway Improvements shall be constructed prior to the issuance of any Non-RUP or RUP for Building #3..."

It is my understanding that the proffered improvements have been double-bonded with DPWES and approved by VDOT. It is further my understanding that construction of the proffered improvements cannot proceed until utility relocation, including Verizon and MCA fiber lines, has been completed and such scheduling is determined by the individual utility. Therefore, in accordance with Par. 5 of Sect. 18-204 of the Zoning Ordinance it is my determination that RUPs or occupancy permits may be issued for up to fifty (50) multi-family dwelling units and a Non-RUP may be issued for a leasing office only within Building #3 prior to completion of the Lee Highway improvements.

Mr. Martin D. Walsh
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It should be noted that completion of the proffered improvements in accordance with Proffer #18 shall be required to obtain additional RUPs or occupancy permits beyond fifty (50) or to obtain additional Non-RUPs for Building #3.

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 me at (703) 324-1290.

Sincerely,



Regina C. Coyle, Director
Zoning Evaluation Division, DPZ

cc: Pat Herrity, Supervisor, Springfield District
Peter J. Murphy, Planning Commissioner, Springfield District
Diane Johnson-Quinn, Deputy Zoning Administrator, Permit Review Branch, ZAD, DPZ
Ken Williams, Plan Control, Land Development Services, DPWES
Jack Weyant, Director, Environmental and Facilities Inspection Division, DPWES
Kevin Guinaw, Branch Chief, Zoning Evaluation Division, DPZ
File: RZ 2005-SP-019; Imaging



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WALSH COLUCCI
LUBELEY EMRICH
& WALSH PC

March 24, 2010

Via E-mail and Hand Delivery

Regina C. Coyle, Director
Fairfax County Department of Planning and Zoning
Zoning Evaluation Division
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035

RECEIVED
Department of Planning & Zoning

MAR 25 2010

Zoning Evaluation Division

Re: RZ 2005-SP-019 – Ridgewood
Interpretation Request

Dear Ms. Coyle:

On June 26, 2006, the Board of Supervisors approved RZ 2005-SP-019 in the name of Midland Road, LLC (the "Applicant") subject to proffers dated June 20, 2006. We represent White/Peterman, Inc. which has purchased a portion of the development known as Ridgewood, an approximately eighteen (18) acre development in the Springfield District that is zoned to the PRM District and approved for multi-family residential, office, and retail uses up to a 1.2 FAR. A White/Peterman, Inc. entity, WPPI Fairfax I LLC, is nearing completion of Building 3 at Ridgewood. Building 3 is located in the northeast quadrant of the intersection of Ridge Top Road and Lee Highway on property identified as Fairfax County tax map reference 56-2 ((1)) 37E. Please accept this letter as a request for an interpretation of Proffer 18 of RZ 2005-SP-019.

In conjunction with the approved rezoning, Proffer 18 states that:

Subject to VDOT and DPWES approval, the Applicant shall convert the existing right-turn lane into an additional west-bound lane along the frontage of the Property with Lee Highway and construct a new right-turn deceleration lane in the location as generally shown on the CDP/FDP ("Lee Highway Improvements"). Lee Highway Improvements shall be constructed prior to the issuance of any Non-RUP or RUP for Building 3. For purposes of this Proffer, "constructed" shall mean open and available for use by the public but not necessarily accepted by VDOT into the state secondary road system for maintenance. The Applicant shall not be fully released from any applicable performance bonds for the public improvements prior to acceptance of the public improvements by VDOT into the state secondary road system for maintenance.

The Applicant has been diligently pursuing construction of the Lee Highway Improvements. The Applicant has double bonded the project as of October 14, 2009. The VDOT permit was released on November 10, 2009; however, VDOT did not provide an approved Maintenance of Traffic Plan to the Applicant until December 1, 2009. On-site work commenced on

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ATTORNEYS AT LAW

December 3, 2009 and included test-pitting for utilities and coordinating field locations with the necessary utility companies. The Applicant requested a pre-construction meeting with the County on January 12, 2010 and the meeting was held on January 21, 2010.

Unfortunately, due to the large snowstorms in February, construction has been significantly delayed on the Lee Highway Improvements. On February 8, 2010, approximately eighteen (18) inches of snow and the subfreezing temperatures halted construction. The snow delayed work due to both site conditions and the closure of area landfills that would accept the asbestos soils that required removal. Work resumed on February 25, 2010 and has progressed steadily since that date. Currently, the Applicant is awaiting the relocation of several utilities. The necessary fiber for the relocation of MCI fiber lines, Verizon lines, and streetlights has been installed and the utility companies have been contacted to schedule the relocations. Once the utilities are relocated, it will be approximately four (4) to six (6) weeks before the new turn lane will be open to the public.

White/Peterman, Inc. anticipates that work on Building 3 may be complete prior to completion of the Lee Highway Improvements. Given the strict language of Proffer 18, White/Peterman, Inc. is unable to obtain non-Residential Use Permits (non-RUPs) or Residential Use Permits (RUPs) prior to completion of the Lee Highway Improvements. Given the diligent pursuit of the construction of the Lee Highway Improvements in fulfillment of Proffer 18, White/Peterman, Inc. requests the ability to obtain non-RUPs and RUPs prior to the final completion of the Lee Highway Improvements. The issuance of non-RUPs and RUPs will not prevent or impair the continued diligent pursuit of the completion of the Lee Highway Improvements. The ability to obtain non-RUPs and RUPs will allow for immediate leasing efforts to begin for Building 3, which is critically important in the establishment of the Ridgewood community. More importantly, leasing of Building 3 will enhance the commercial tax base in this part of Fairfax County. In sum, White/Peterman, Inc. simply requests the ability to obtain non-RUPs and RUPs prior to final completion of the Lee Highway Improvements due to the unforeseen weather that has unduly delayed road construction.

For convenient reference, I have enclosed the accepted proffers, dated June 20, 2006 and a reduction of the approved CDP/FDP. I have also attached a check in the amount of five hundred dollars (\$500.00) made payable to Fairfax County for the processing of this request. Thank you for your attention to this matter. Should you have any questions, or need any additional information, please do not hesitate to contact me. As always, I appreciate your cooperation and assistance.

Very truly yours,

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

Martin D Walsh /svm
Martin D. Walsh

Enclosures

cc: Tim Connelly Sara V. Mariska