



FAIRFAX COUNTY

OFFICE OF THE CLERK
BOARD OF SUPERVISORS
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I R G I N I A

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February 11, 2004

Francis A. McDermott, Esquire
Hunton and Williams
1751 Pinnacle Drive, Suite 1700
McLean, Virginia 22102

RE: Proffered Condition Amendment/Final Development Plan Amendment
Number PCA 86-W-001-10//FDPA 86-W-001-5-2-2
(Concurrent with PCA 86-P-089-6/FDPA 86-P-089-3 and
PCA 82-P-069-13/FDPA 82-P-069-14-3)

Dear Mr. McDermott:

Enclosed you will find a copy of an Ordinance adopted by the Board of Supervisors at a regular meeting held on January 26, 2004, approving Proffered Condition Amendment PCA 86-W-001-10 in the name of The Peterson Companies L. C., to amend the proffers and final development plan for RZ 86-W-001 previously approved for mixed use development (office and retail) to permit mixed use development (residential and retail) with an overall Floor Area Ratio (FAR) of 0.48 including bonus density for the provision of Affordable Dwelling Units (ADUs) located in the southwest quadrant of the intersection of Fair Lakes Parkway and West Ox Road, north of Interstate 66, Tax Map 55-2 ((1)) 15 pt., subject to the proffers dated January 23, 2004, consisting of approximately 30.79 acres located in Springfield District.

(NOTE: The Board waived the seven-day rule applicable to amendments on affidavits for these land use cases in order to allow the Board to proceed with the public hearing and decision on these cases today.)

The Board also approved Final Development Plan Amendment Application FDPA 86-W-001-5-2-2, subject to the final development plan amendment conditions dated January 22, 2003, except for the deletion of number 11.

In addition the Board:

- Modified the PDC District standards for the percentage of residential uses to permit 42 percent of the entire Government Center development as residential uses.

- Modified the transitional screening and waived the barrier requirements along the southern boundary in accordance with landscaping depicted on the CDPA/FDPA.
- Waived the 200 foot setback for residential buildings from Interstate 66 to permit the residential units a minimum of 52 feet from the right-of-way as depicted on the CDPA/FDPA.
- Waived the 75 foot setback for commercial buildings from Interstate 66 to permit the commercial buildings a minimum of 28 feet from the right-of-way as depicted on the CDPA/FDPA.
- Approved a variance of the maximum fence height to permit a noise wall with a maximum height of 48 feet along Interstate 66 and West Ox Road.
- Modified the loading space requirements for the multi-family dwelling units on the western portion of the site to permit a total of two spaces, and waived the loading space requirement for the stacked multi-family units on the eastern portion of the site.

The Peterson Companies L.C. requested an exception to the criteria and requirements of the Chesapeake Bay Preservation Ordinance under Section 118-6-9 General Resource Protection Area Encroachment Exception to permit encroachment into the Resource Protection Area for the uses depicted on FDPA 86-P-089-3, FDPA 86-W-001-05-02-02 and FDPA 82-P-069-14-3, and the Board has made the following findings of fact:

- The requested exception to the criteria is the minimum necessary to afford relief.
- Granting the exception will not confer upon the applicant any special privileges that are denied by this part to other property owners who are subject to its provisions and who are similarly situated.
- The exception is in harmony with the purpose and intent of the Chesapeake Bay Preservation Ordinance and is not of substantial detriment to water quality.
- The exception request is not based upon conditions or circumstances that are self-created or self-imposed.

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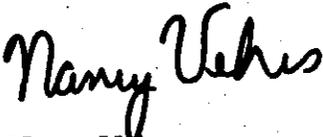
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- Reasonable and appropriate conditions are imposed, as warranted, that will prevent the allowed activity from causing a degradation of water quality.
- The water quality benefits resulting from the proposed facility or improvement exceed the associated water quality detriments.

Furthermore, while the construction of trails and public utilities depicted on the aforementioned FDPs are permitted or exempt uses in Resource Protection Areas and did not require an exception, the applicant addressed all the proposed encroachments as part of the Water Quality Impact Assessment and the exception request. Approval of the exception request will automatically permit all the proposed encroachments in the Resource Protection Area and eliminate the need for separate determinations that such activities are permitted.

Therefore, the Board of Supervisors approved Exception Request # 026133 under Section 118-6-9 of the Chesapeake Bay Preservation Ordinance to permit the encroachments into the Resource Protection Area depicted on FDPA 86-P-089-3, FDPA 86-W-001-5-2-2, and FDPA 82-P-069-14-3 subject to PCA 86-P-089-6 PCA 86-W-001-10, and PCA 82-P-069-13. This approval shall be valid for as long as the FDPAs and PCAs remain valid. Additional proffered condition amendments and amendments to the approved final development plans may be approved as long as the amendment does not aggravate conflicts with the provisions of the Ordinance.

Sincerely,



Nancy Vehrs
Clerk to the Board of Supervisors
NV/ns

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cc: **Chairman Gerald E. Connolly**
Supervisor Elaine McConnell, Springfield District
Janet Coldsmith, Director, Real Estate Div., Dept. of Tax Administration
Michael R. Congleton, Deputy Zoning Enforcement Branch
Barbara A. Byron, Director, Zoning Evaluation Div., DPZ
Thomas Conry, Dept. Mgr. - GIS - Mapping/Overlay
Angela K. Rodeheaver, Section Chief, Trnsprt'n. Planning Div.
Charles Strunk, Project Planning Section, Dept. of Transportation
Michelle Brickner, Deputy Director, DPWES
Kenny King, Proffer Administrator, Plans & Document Control, OSDS, DPWES
Department of Highways - VDOT
Land Acqu. & Planning Div., Park Authority
District Planning Commissioner
James Patteson, Director, Facilities Mgmt. Div., DPWES
Barbara J. Lippa, Director Planning Commission
Gary Chevalier, Office of Capital Facilities, Fairfax County Public Schools.

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Government Center at Fairfax, Virginia, on the 26th day of January, 2004, the following ordinance was adopted:

**AN ORDINANCE AMENDING THE ZONING ORDINANCE
PROFFERED CONDITION AMENDMENT/FINAL DEVELOPMENT PLAN
AMENDMENT PCA 86-W-001-10/FDPA 86-W-001-5-2-2
(CONCURRENT WITH PCA 86-P-089-6/FDPA 86-P-089-3 AND
PCA 82-P-069-13/FDPA 82-P-069-14-3)**

WHEREAS, The Peterson Companies L. C. filed in the proper form an application to amend the proffers for RZ 86-W-001 hereinafter described, by amending conditions proffered and accepted pursuant to Virginia Code Ann. § 15.2-2303(a), and

WHEREAS, at a duly called public hearing the Planning Commission considered the application and the propriety of amending the Zoning Ordinance in accordance therewith, and thereafter did submit to this Board its recommendation, and

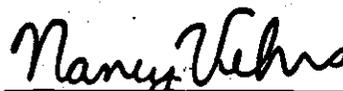
WHEREAS, this Board has today held a duly called public hearing and after due consideration of the reports, recommendation, testimony and facts pertinent to the proposed amendment, the Board is of the opinion that the Ordinance should be amended,

NOW, THEREFORE, BE IT ORDAINED, that that certain parcel of land situated in the Springfield District, and more particularly described as follows (see attached legal description):

Be, and hereby is further restricted by the amended conditions proffered and accepted pursuant to Virginia Code Ann., § 15.2-2303(a), which conditions are incorporated into the Zoning Ordinance as it affects said parcel, and

BE IT FURTHER ENACTED, that the boundaries of the Zoning Map heretofore adopted as a part of the Zoning Ordinance be, and they hereby are, amended in accordance with this enactment, and that said zoning map shall annotate and incorporate by reference the additional conditions governing said parcels.

GIVEN under my hand this 26th day of January, 2004.



Nancy Veirs
Clerk to the Board of Supervisors