



# FAIRFAX COUNTY

## DEPARTMENT OF PLANNING AND ZONING

Zoning Evaluation Division  
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V I R G I N I A

October 15, 2003

Mr. Martin D. Walsh  
Walsh, Colucci, Lubeley, Emrich & Terpak, P.C.  
Courthouse Plaza  
2200 Clarendon Boulevard, Thirteenth Floor  
Arlington, VA 22201-3359

Re: Interpretation for RZ 2000-PR-056, PCA 90-P-040, SE 2000-PR-050  
Fairfax Ridge, L.P.

Dear Mr. Walsh:

This is in response to your letter of June 17, 2003, and subsequent information submitted by Sean Caldwell on October 1, 2003, (copies attached) requesting an interpretation of proffers accepted by the Board of Supervisors in conjunction with the approval of RZ 2000-PR-056. As I understand it, the question is whether the 50<sup>th</sup> RUP may be issued prior to the construction of the extension of the existing westernmost lane on southbound Waples Mill Road at Route 50 from its existing terminus to its intersection with Fairfax Ridge Road South. A copy of the proffers is attached.

Proffer 2.A.(4) requires that "...The applicant shall construct an extension of the existing westernmost lane on southbound Waples Mill Road at Route 50 from its existing terminus to its intersection with Fairfax Ridge Road South, subject to securing appropriate grading and sidewalk easements for work on Tax Map 56-2 ((1)) 21. Said improvement shall be complete and open for use by the public prior to the issuance of the 50<sup>th</sup> RUP for the Property."

You have stated that your client has been unsuccessful thus far in acquiring the easements necessary to construct the improvement; documentation in the letter from Mr. Caldwell dated October 1, 2003, details the unsuccessful easement negotiations, begun in June, 2002, and lasting until August, 2003.

Additional information provided by you and your client indicates that the property on which the off-site grading and sidewalk easements are needed is currently under contract to be sold; the sale is expected to be complete later this year. Until that time, as I understand it, your client is unable to negotiate with the new owner, but anticipates beginning such negotiations in early January and concluding them soon thereafter.

According to Mr. Caldwell, it is anticipated that up to 156 RUPs (occupancy of four buildings) will be requested between now and mid-January 2004. Since the necessary grading and sidewalk easements have not been secured due to circumstances beyond your client's control, it is my determination that up to 220 RUPs (the four buildings anticipated to be completed in January and one additional building) can be issued prior to the construction of the extension of the existing westernmost lane on southbound Waples Mill Road at Route 50 from its existing terminus to its intersection with Fairfax Ridge Road South. 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 Kristen Shields at (703) 324-1290.

Sincerely,



Barbara A. Byron, Director  
Zoning Evaluation Division, DPZ

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Attachments: A/S

cc: Gerry Connolly, Supervisor, Providence District  
Linda Smyth, Planning Commissioner, Providence District  
John Crouch, Chief, Permit Review Branch, ZAD, DPZ  
William E. Shoup, Zoning Administrator  
Michelle Brickner, Director, Office of Site Development Services, DPWES  
Angela Rodeheaver, Section Chief for Site Analysis, DOT  
Craig Carinci, Director, Environmental and Facilities Inspection Division,  
DPWES  
File: RZ 2000-PR-056, PCA 90-P-040, SE 2000-PR-050, Imaging



WALSH COLUCCI  
LUBELEY EMRICH  
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JUN 19 2003

Zoning Evaluation Division

Martin D. Walsh  
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June 17, 2003

Via Facsimile

Barbara A. Byron  
Director, Zoning Evaluation Division  
Fairfax County Department of Planning & Zoning  
12055 Government Center Parkway, Suite 801  
Fairfax, Virginia 22035

Re: PCA 1990-P-040; RZ 2000-PR-056; SE 2000-P-050 (Concurrently)  
Concerning Proffer 2.A. (4) ("the Proffer")  
Fairfax Ridge Limited Partnership ("Owner")

Dear Ms. Byron:

Consistent with our meeting of May 12, 2003, the Owner of the Subject Property of the premises subject to the above-referenced approval requested your interpretation concerning the Proffer, which follows:

At the time of site plan approval or upon written demand by Fairfax County, whichever shall occur first, the Applicant shall dedicate and convey in fee simple to the Board of Supervisors right-of-way along the Property's Waples Mill Road frontage, south of Waples Mill Road's intersection with Fairfax Ridge Road South, measuring to a maximum of 57 feet from the existing centerline. The Applicant shall construct an extension of the existing westernmost lane on southbound Waples Mill Road at Route 50 from its existing terminus to its intersection with Fairfax Ridge Road South, subject to securing appropriate grading and sidewalk easements for work on Tax Map 56-2 ((1)) 21. Said improvement shall be complete and open for use by the public prior to the issuance of the 50<sup>th</sup> RUP for the Property.

The roadway, which is the subject of the Proffer, has been designed and bonded by the Owner. The Owner has been actively negotiating with the adjacent property owner who was to provide the easement referenced in the Proffer.

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ATTORNEYS AT LAW

Offers have been made to acquire an easement at a price that exceeds the fair market value, but the adjacent owners have refused to grant the said easements. Although it is our intent to continue to pursue acquisition of the easement, we hereby request your assurance that the residential use permits and other permit approvals will not be denied or delayed as a result of our inability to obtain the easement referred to in the Proffer. The owner is willing to make the satisfaction of this proffer a condition of final bond release.

As always, I appreciate your assistance.

Very truly yours,

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



Martin D. Walsh

MDW/jms

cc: Elizabeth D. Baker  
Sean Caldwell