



FAIRFAX COUNTY

DEPARTMENT OF PLANNING AND ZONING

Zoning Evaluation Division
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035-5509

(703) 324-1290 TTY 711 (Virginia Relay Center) Fax (703) 324-3924

V I R G I N I A

March 17, 2004

Timothy S. Sampson
Walsh, Colucci, Lubeley, Emrich, & Terpak, P.C.
2200 Clarendon Boulevard, Thirteenth Floor
Arlington, VA, 22201-3359

Re: RZ 2001-MV-025, Laurel Hill, Grading of High School Site

Dear Mr. Sampson:

This is in response to your letter of March 1, 2004, requesting an interpretation of Paragraph b(2) of Proffer Number 5 accepted by the Board of Supervisors in conjunction with the approval of RZ 2001-MV-025. As I understand it, the question is whether the proffered commitment to grade the South County High School site may be satisfied by a monetary contribution. A copy of the above referenced letter and attachments are appended to this letter.

It is my determination that the agreement with the Fairfax County Schools contained in the letter dated December 4, 2003 from Chris Guzi, Contracts Manager, Pulte Homes Corporation to Thomas M. Brady, Chief Operating Officer, Fairfax County Schools is in substantial conformance with Paragraph b(2) of Proffer Number 5. A copy of the December 4, 2003 letter is attached to your letter as Attachment B. 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 Peter Braham at (703) 324-1290.

Sincerely,

Barbara A. Byron, Director
Zoning Evaluation Division, DPZ

cc: Gerry Hyland, Supervisor, Mount Vernon District
John Beyers, Planning Commissioner, Mount Vernon District
Thomas M. Brady, Chief Operating Officer, FCPS
Michelle Brickner, Director, Office of Site Development Services, DPWES
Daryl Varney, Chief, Zoning Permit Review Branch, ZAD, DPZ
Craig Carcini, Director, Environmental and Facilities Inspection Division, DPWES
File: RZ 2001-MV-025, PI 0403 026, Imaging, Reading



**WALSH COLUCCI
LUBELEY EMRICH
& TERPAK PC**

RECEIVED
Department of Planning & Zoning

MAR 03 2004

Zoning Evaluation Division

Timothy S. Sampson
(703) 528-4700, ext. 24
tsampson@arl.thelandlawyers.com

March 1, 2004

Via Facsimile & U.S. Mail

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

**Re: Proffer Interpretation Request for RZ 2001-MV-025 (the "Rezoning Application")
Applicant: Pulte Home Corporation**

Dear Ms. Byron:

The purpose of this letter is to request your determination that a certain proffered obligation of the Applicant may be satisfied by a monetary contribution in lieu of specific performance.

By way of background, the Rezoning Application was approved by the Board of Supervisors on October 22, 2001, subject to proffers dated October 19, 2001. Proffer 5.b.2. sets forth the obligation of the Applicant to grade the selected site for the South County Secondary School (the "High School") subject to certain conditions. For your reference, I have attached as Attachment A a copy of the subject proffer. As I believe you are aware, current timing circumstances with respect to the High School site are different than the respective expectations of the Applicant and the Fairfax County Public School Board ("FCPS") were at the time of the approval of the Rezoning Application. Accordingly, the Applicant and FCPS have agreed that FCPS will accept a \$1,050,000.00 cash contribution from the Applicant to FCPS in lieu of the specific requirements contained in Proffer 5.b.2. A copy of correspondence between the Applicant and FCPS documenting such agreement is attached as Attachment B. The Applicant hereby requests your determination that Proffer 5.b.2. of the October 19, 2001 proffers for RZ 2001-MV-025 may be satisfied by the payment of \$1,050,000.00 by the Applicant to FCPS as set forth in Attachment B hereto.

March 1, 2004

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As always, thank you for your attention to this matter. If you have any questions or would like additional information, please do not hesitate to contact me.

Very truly yours,

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

A handwritten signature in black ink, appearing to read 'T. Sampson', with a long horizontal flourish extending to the right.

Timothy S. Sampson

TSS/cs

Enclosures

cc: Peter Braham
Stan Settle
Inda Stagg
Martin D. Walsh

Land Bay A, and that are sufficiently sized to accommodate the proposed Middle and High Schools, as well as the golf clubhouse, prior to a date which is two (2) years from the date of the rezoning.

- 2) The Applicant shall grade the entire South County Secondary School (High School) site, including athletic fields, parking areas and school location, but not including any roads extending to the site from Silverbrook Road, assuming that the County and/or the FCPS shall secure all required grading approvals within three (3) years from the date of approval of the first site plan/subdivision plan approved for the Application Property pursuant to RZ 2001-MV-025. In the event that the aforesaid grading approvals and requisite construction permits are not secured by the date that is three (3) years from the date of the first site plan/subdivision plan approval, the Applicant shall have no further obligation to grade the South County Secondary School site.
- c) The Applicant shall notify the FCPS and the County Executive, in writing, within fifteen (15) days of the initial site plan/subdivision plan approval for the Application Property.
- d) The Applicant shall contribute six hundred thousand dollars (\$600,000.00) in cash to the Fairfax County BOS upon first site plan/subdivision plan approval, for the construction of the proposed South County Secondary School, as stated in the 2001 Capital Improvement Program. In-kind contributions to the County shall also include the demolition of the existing Transportation Facility and grading of the elementary school site, sizing of the SWM/BMP facilities for the elementary school site, and sizing the sanitary sewer and water lines in order to accommodate that area of the three (3) proposed school sites that are to be located within the same sewer drainage shed as the Application Property, at no cost to the County.
- e) In the event that the Applicant files a FDPA for Land Bay E that is consistent with Concept A on the CDP/FDP, the Applicant shall include in the FDPA the land area for the elementary school site's FDP in a design layout approved by the FCPS, if the FCPS presents the following information to the Applicant no later than November 15, 2001: (1) the location and arrangement of all proposed uses, including the school building, all accessory structures, and dumpsters; (2) the maximum height in feet of all structures and the number of floors both above and below or partially below finished grade; (3) the location and width of all driveways, entrances to parking areas and parking structures, walkways, bicycle paths and trails; (4) the location of off-street parking and accessible spaces, loading areas and structures; (5) the location of open space areas, the proposed treatment or improvement of all open space areas, and delineation of those areas proposed for specific types of developed recreational facilities; (6) a landscape plan, indicating type and height of screening, if any; (7) the proposed development schedule; (8) the total floor area; (8) the total number of off-street parking and loading spaces provided; (9) architectural sketches, if available, of typical proposed structures, including lighting fixtures and signs; and (10) complete affidavit information. A sales trailer may be placed on the elementary school site in a location and of a size mutually agreed upon by the FCPS and the Applicant, for a period of time not less than twenty-four (24)



December 4, 2003

Via Overnight Delivery

Thomas M. Brady
Fairfax Co. Public Schools
10640 Page Avenue
Fairfax, VA 22030

Re: Agreement Between FCPS and Pulte Home Corporation
Fulfillment of RZ 2001-MV-025; Proffer 5(b)(2)
Grading of South County High School Site

Dear Mr. Brady:

It is my understanding we have reached an agreement between the Fairfax County Public Schools ("FCPS") and Pulte Home Corporation ("Pulte") regarding fulfillment of Proffer 5(b)(2) that was accepted by the Fairfax County Board of Supervisors pursuant to the approval of Pulte Home Corporation's Laurel Hill South rezoning application, RZ 2001-MV-025. This proffer addresses grading of the South County Secondary School site and states:

"In addition to commitments that benefit the elementary school site, the following shall be provided, at no cost to the County: . . . The Applicant shall grade the entire South County Secondary School (High School) site, including athletic fields, parking areas and school location, but not including any roads extending to the site from Silverbrook Road, assuming that the County and/or the FCPS shall secure all required grading approvals within three (3) years from the date of approval of the first site plan/subdivision plan approved for the Application Property pursuant to RZ 2001-MV-025. In the event that the aforesaid grading approvals and requisite construction permits are not secured by the date that is three (3) years from the date of the first site plan/subdivision plan approval, the Applicant shall have no further obligation to grade the South County Secondary School site."

It is also my understanding that, because of an accelerated construction schedule for the South County Secondary School, the FCPS determined to complete grading of the site within an accelerated time-frame, and has proceeded with the grading of the site independent of Pulte with the understanding that Pulte would pay the FCPS \$1,050,000 as fulfillment of this proffer obligation.

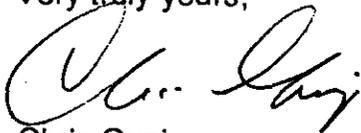
Washington Division
10600 Arrowhead Drive, Suite 225
Fairfax, VA 22030
703-934-9300 703-934-9391 (Fax)

Attachment B

Therefore, enclosed is a check in the amount of \$1,050,000 and considers Pulte Homes Corporation's responsibility to fulfill Proffer 5(b)(2) complete. If you, as the representative of the FCPS agree that the proffer has been fulfilled by this payment, please acknowledge this agreement by signing in the appropriate location below, and return one (1) original copy to my attention. Pulte will in turn forward signed copies to Barbara Byron and Peter Braham.

Thank you for your time and consideration of this matter. Please do not hesitate to call if you have any questions about this agreement.

Very truly yours,



Chris Guzi
Contracts Manager
Pulte Homes Corporation

cc: Stanley F. Settle Jr.
Barbara A. Byron
Peter Braham

SEEN AND AGREED:

FAIRFAX COUNTY PUBLIC SCHOOLS

By: Thomas M. Brady

Name: Thomas M. Brady

Date 12/30/03

Title: Chief Operating Officer