



# FAIRFAX COUNTY

DPZ

OFFICE OF THE CLERK  
BOARD OF SUPERVISORS  
12000 Government Center Parkway, Suite 533  
Fairfax, Virginia 22035-0072

V I R G I N I A

Telephone: 703-324-3151  
FAX: 703-324-3926  
TTY: 703-324-3903

April 27, 1999

Lynne J. Strobel, Esquire  
Walsh, Colucci, Stackhouse,  
Emrich and Lubeley  
2200 Clarendon Boulevard  
Arlington, Virginia 22201-3359

RE: Rezoning Application Number RZ 1998-LE-039

Dear Ms. Strobel:

Enclosed you will find a copy of an Ordinance adopted by the Board of Supervisors at a regular meeting held on April 5, 1999 granting Rezoning Application Number RZ 1998-LE-039 in the name of Carr-Skyline, LLC, to rezone certain property in the Lee District from the R-4 and R-1 Districts to the PDH-4 District, subject to the proffers dated February 11, 1999, on subject parcels 91-2 ((1)) 17, 18; and 91-4 ((1)) 9 consisting of approximately 13.41 acres.

The Conceptual Development Plan was approved; the Planning Commission having previously approved FDP 1998-LE-039 on March 18, 1999, subject to the Board's approval of RZ 1998-LE-039 and development conditions dated March 4, 1999.

**The Board also:**

- **Waived the street and cul-de-sac grades and the cul-de-sac radius to that shown on the Final Development Plan (FDP).**
- **Waived to permit the number of pipestem lots to exceed 20 percent.**
- **Directed the Director of the Department of Public Works and Environmental Services (DPW&ES) to return the final subdivision plans and findings of the Geotechnical Review Board to the Planning Commission for administrative review prior to the issuance of the final subdivision plan permit.**

RZ 1998-LE-039  
April 27, 1999

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- **Directed the Director of DPW&ES to review the Rinker-Detweiler Report and the McGinnis Report concurrently with the subdivision review.**

Sincerely,



Nancy Vehrs  
Clerk to the Board of Supervisors

NV/ns

cc: Chairman Katherine K. Hanley  
Supervisor- Lee District  
Janet Coldsmith, Director, Real Estate Div., Dept. of Tax Administration  
Michael R. Congleton, Deputy Zoning Administrator  
Barbara A. Byron, Director, Zoning Evaluation Div., DPZ  
Fred R. Beales, Supervisor Base Property, Mapping/Overlay  
Robert Moore, Trnsprt'n. Planning Div., Dept. of Transportation  
Ellen Gallagher, Project Planning Section, Dept. of Transportation  
Michelle Brickner, Deputy Director, DPW&ES  
DPW&ES - Bonds & Agreements  
Frank Edwards, Department of Highways - VDOT  
Land Acqu. & Planning Div., Park Authority  
District Planning Commissioner  
Thomas Dorman, Director, Facilities Mgmt. Div., DPW&ES  
Barbara J. Lippa, Deputy Executive Director, Planning Commission



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# Charles P. Johnson & Associates, Inc.

PLANNERS

ENGINEERS

LANDSCAPE ARCHITECTS

SURVEYORS

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July 9, 1998

**RECEIVED**  
DEPARTMENT OF PLANNING AND ZONING

DESCRIPTION OF

JUL 16 1998

PROPOSED

CARRINGTON

ZONING EVALUATION DIVISION

LEE DISTRICT

FAIRFAX COUNTY, VIRGINIA

Beginning for the same at a point on the northerly right-of-way line of Telegraph Road, Route 611 (variable width) at a corner common to Noblin, Deed Book 639 at Page 212 thence leaving said Telegraph Road and running with Noblin, the following two (2) courses and distances

1. North 44°36' 02" West, 169.99 feet to a point, thence
2. South 45°24'18" West, 57.27 feet to a point at a corner common to Lot 1, Dewey Park, Deed Book 1053 at Page 385, thence leaving Noblin and running with Dewey Park
3. North 44°36'17" West, 930.09 feet to a point, said point being a corner common to Parcel "A" Turnberry Mews, Deed Book 8984 at Page 138, thence leaving said Dewey Park and running with Parcel "A" Turnberry Mews
4. North 45°24'38" East, 380.90 feet to a point at a corner common to Parcel "G" D'Evereaux West, Section 2, Deed Book 5606 at Page 501 thence leaving Turnberry Mews and running with Parcel "G" and continuing with Parcel "D" D'Evereaux West the following three (3) courses and distances
5. South 51°30'29" East, 754.01 feet to a point, thence
6. North 43°07'39" East, 215.32 feet to a point, thence

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 5th day of April, 1999, the following ordinance was adopted:

AN ORDINANCE AMENDING THE ZONING ORDINANCE  
PROPOSAL NUMBER RZ 1998-LE-039

WHEREAS Carr-Skyline LLC filed in the proper form an application requesting the zoning of a certain parcel of land herein after described, from the R-4 and R-1 Districts; to the PDH-4 District; 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

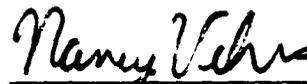
WHEREAS, this Board has today held a duly called public hearing and after due consideration of the reports, recommendation, testimony and facts pertinent to the proposed amendment, the Board is of the opinion that the Ordinance should be amended,

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

Be, and hereby is, zoned to the PDH-4 District; and said property is subject to the use regulations of said PDH-4 District; and further restricted by the conditions proffered and accepted pursuant to Va. Code Ann., §15.2-2303(a), which conditions are in addition to the Zoning Ordinance regulations applicable to 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 parcel.

GIVEN under my hand this 5<sup>th</sup> day of April, 1999.



Nancy Vehrs

Clerk to the Board of Supervisors

Property of Carrington  
Lee District  
Fairfax County, VA  
July 9, 1998  
Page 2

7. South  $46^{\circ}52'14''$  East, 461.43 feet to a point on the northerly right-of-way ;line of the aforesaid Telegraph Road thence with said right-of-way the following two (2) courses and distances
8. South  $55^{\circ}24'59''$  West, 185.34 feet to a point, thence
9. 470.34 feet along the arc of a curve deflecting to the left, having a radius of 6,396.20 feet and a long chord bearing and distance of South  $53^{\circ}48'55''$  West, 470.23 feet to the point of beginning, containing 13.409 acres of land more or less

NO TITLE REPORT FURNISHED

## PROFFERS

RZ 1998-LE-039

February 11, 1999

Pursuant to Section 15.1-2303(A) of the Code of Virginia (1950 as amended) Carr-Skyline, LLC, (hereinafter referred to as the "Applicant"), for the owners, themselves, successors and assigns in RZ 1998-LE-039, filed for property identified as tax map 91-2 ((1)) 17 and 18 and 91-4 ((1)) 9 (hereinafter referred to as the "Application Property"), proffers the following, provided the Fairfax County Board of Supervisors approves a rezoning of the Application Property to the PDH-4 District, in accordance with a Conceptual Development Plan/Final Development Plan ("CDP/FDP") for residential development. In the event that this application is approved, any previous proffers for the Application Property are hereby deemed null and void and hereafter shall have no effect on the Application Property.

1. Development of the Application Property shall be in substantial conformance with the CDP/FDP prepared by Charles P. Johnson and Associates, dated June 1998 and revised through December 29, 1998. Pursuant to Paragraph 4 of Section 16-403 of the Fairfax County Zoning Ordinance, minor modifications from the CDP/FDP may be permitted as determined by the Zoning Administrator. The Applicant shall have the flexibility to modify the layout shown on the CDP/FDP without requiring approval of an amended CDP/FDP provided such changes are in substantial conformance with the CDP/FDP as determined by the Zoning Administrator, agents or assigns and neither increase the total number of units nor decreases the following: amount of open space, the amount of parking, the amount of tree preservation, the location of common open space areas, or distances to peripheral lot lines.
2. Parcel A as shown on the CDP/FDP shall be conveyed to a homeowners association established for the Application Property to be maintained as open space and utilized for a stormwater management facility as provided herein. Easements shall be provided to Fairfax County for access to the stormwater management facility for maintenance purposes, as determined by the Department of Public Works and Environmental Services (DPWES).
3. Stormwater management shall be provided in accordance with the requirements of the Public Facilities Manual, unless a waiver is granted by the Director of DPWES, in which case the designated detention pond area will remain as open space. Stormwater detention facilities, if constructed, shall be designated to provide BMP storage unless waived or modified by the Director of DPWES. Any reforestation of disturbed open space may be used as open space credit for BMP purposes and placed in a conservation easement subject to the approvals of DPWES and shall be in a form approved by the County Attorney. Any other undisturbed open space may also be

placed in a conservation easement for BMP purposes. Stormwater management shall be provided that will include additional peak shaving to reduce off-site flooding downstream as approved by DPWES. The amount of additional peak shaving shall be determined by DPWES and shall not exceed what can be reasonably achieved by the pond located on the CDP/FDP without reducing the size or number of lots. The stormwater detention facility shall be constructed in a manner consistent with slope stability as required by the approved Geotechnical Report and stormwater shall be contained outside of any tree preservation or landscaped buffer area. Prior to commencement of construction of the stormwater management facility, the Applicant shall post a bond with Fairfax County in an amount, and with a corporate surety, approved by the Director of DPWES and the County Attorney, to provide a fund for any corrective actions deemed necessary by the Director of DPWES, because of malfunctions of said Stormwater Management Facility provided herein. Said corrective actions shall include rectification of damage to off-site properties proximately caused by said malfunctions. Said bond shall be released at such time as Fairfax County accepts said stormwater management pond for maintenance by Fairfax County.

4. The Applicant shall grade the area along the rear property lines of proposed Lots 10, 11 and 12 to divert stormwater runoff from these lots away from existing off-site contiguous lots and to the stormwater management pond shown on Parcel A of the CDP/FDP.
5. Pursuant to Paragraph 2 of Section 6-110 and Paragraph 2 of Section 16-404 of the Zoning Ordinance regarding developed recreation facilities, the Applicant shall make a cash contribution to Fairfax County, the Fairfax County Park Authority or an adjacent homeowners' association as may be approved by the Board of Supervisors in the amount of nine hundred fifty-five dollars (\$955.00) per approved lot for recreation facilities in the vicinity of the Application Property. Said contribution shall be made at time of subdivision plat approval for the Application Property.
6. In building location sites where soil testing indicates marginal or poor soils for basements, design details and construction procedures will be used which shall preclude wet basements, as approved by DPWES.
7. To meet energy conservation concerns, the Applicant shall meet the "basic requirements" as determined by DPWES, required by one of the approved energy efficient programs recognized by the Federal Home Loan Mortgage Corporation (Freddie Mac). These approved programs are:

- a. National Association of Home Builders Thermal Performance Guidelines;
  - b. Virginia Home Builders, E-7 Program;
  - c. Owens Corning Fiberglass Energy Performance Design System; and
  - d. VEPCO Energy Saver Program.
8. With reference to traffic noise emanating from Telegraph Road (Route 611), the Applicant shall provide the following noise attenuation measures as determined by DPWES:
- a. The Applicant proffers that all residential units within 380 feet of the centerline of Telegraph Road (Route 611), having highway noise levels between 65 and 70 dBA Ldn, as determined by an acoustical study submitted by the Applicant and approved by DPWES, shall have the following acoustical attributes to achieve a maximum interior noise level of 45 dBA Ldn:
    - (1) Exterior walls will be constructed of materials and techniques known to have physical properties or characteristics suitable to achieve a laboratory Sound Transmission Class (STC) of at least 39.
    - (2) Doors and windows will be constructed of materials known to have a laboratory Sound Transmission Class (STC) of at least 28. If windows constitute more than 20% of any facade, they shall have the same laboratory STC rating as walls. All units designed to have skylight windows, shall utilize 5/8 inch insulated laminated glazing with a storm protection system estimated to have a laboratory Sound Transmission Class (STC) of at least 35.
    - (3) Adequate measures to seal and caulk between surfaces will be provided.
  - b. The Applicant proffers that all residential units within 150 feet of the centerline of Telegraph Road (Route 611) impacted by highway noise, having levels between 70 and 75 dBA Ldn, as determined by an acoustical study submitted by the Applicant and approved by DPWES, shall have the following acoustical attributes in order to achieve a maximum interior noise level of 45 dBA Ldn:

- (1) Exterior walls will be constructed of materials and techniques known to have physical properties or characteristics suitable to achieve a laboratory Sound Transmission Class (STC) of at least 45.
    - (2) Doors and windows will be constructed of materials known to have a laboratory Sound Transmission Class (STC) of at least 37. If windows constitute more than twenty percent (20%) of any facade, they shall have the same laboratory STC rating as walls. All units designed to have skylight windows, shall utilize 5/8 inch insulated laminated glazing with a storm protection system estimated to have a laboratory Sound Transmission Class (STC) of at least 35.
  - c. As a modification of a or b above, the Applicant may elect to have a refined acoustical analysis performed, subject to approval of Department of Planning and Zoning (DPZ) and DPWES, to determine which units/buildings may have sufficient shielding to permit a reduction in the mitigation measures prescribed above.
  - d. Noise attenuation measures shall be provided to achieve a maximum exterior noise level of 65 dBA Ldn in rear yards of proposed Lots 1-4, 29 and 30 which are unshielded by topography or built structures, as determined by DPWES. Noise attenuation measures such as acoustical (architecturally solid, no gaps, except to allow for drainage) fencing, walls, earthen berms, or combinations thereof, shall be provided for said rear yard areas.
9. The Applicant shall dedicate and convey in fee simple for public street purposes to the Board of Supervisors right-of-way to fifty-one and one-half feet (51½') from design centerline as shown as of the date of this application on VDOT project #0611-029-303-C502. The Applicant shall provide funding for the construction of a curb and gutter section, as determined by DPWES and VDOT at the time of subdivision plat approval. An additional twelve foot (12') width right-of-way shall be dedicated in the area shown on the CDP/FDP for a future right turn deceleration lane. The Applicant shall construct the deceleration lane as shown on the CDP/FDP but may make minor modifications to the length of the deceleration lane or taper to avoid the need to acquire any off-site easements or relocation an existing thirty inch (30") waterline. A five foot (5') utility easement shall be provided adjacent to said frontage. A fifteen foot (15') grading and construction easement shall be provided adjacent to said frontage and shall overlap the five foot (5') utility easement. The Applicant reserves density credit in accordance with the provisions of Article 2-308 of the Zoning

Ordinance as it may apply to all street dedicating described herein or as may be reasonably required by Fairfax County or VDOT at subdivision plan approval. Dedication and conveyance shall be made at the time of subdivision plat approval or upon DPWES and of the Board of Supervisors, whichever event first occurs. No driveway access from Lots 29 and 30 to Telegraph Road shall be provided.

10. Until such time as Telegraph Road is reconstructed, an interim left turn lane shall be provided at the entrance to the Application Property, as shown on the CDP/FDP, subject to the approval of VDOT and DPWES.
11. The area identified as "undisturbed buffer," as shown on the CDP/FDP, shall be preserved in an undisturbed natural state subject only to additional plantings by the Applicant. Applicant shall plant a total of thirty (30), six-foot (6') high evergreen trees in areas of the natural buffer. The location and species of trees shall be coordinated with the Urban Forestry Division of DPWES. At the time of recordation of the record plat for the subdivision of the Application Property, the Applicant shall record a conservation easement on that area identified as undisturbed buffer. Said conservation easement shall run to the benefit of the Board of Supervisors of Fairfax County in a form approved by the County Attorney. The conservation easement will require that the natural buffer area be preserved in its natural state, as supplemented by the plantings referenced hereinabove, by the homeowners association created to maintain the open space areas on the Application Property. The easement shall also provide that any trees destroyed in violation of the conservation easement, after full release of any posted bonds with DPWES, shall be replaced by the homeowners association. The association shall provide appropriate replacement in terms of species size and quantity as determined by the Urban Forestry Branch of DPWES.
12. Applicant shall use best efforts to preserve an existing 48-inch oak located on proposed Lot 30 as shown on the CDP/FDP. In addition, during development and construction on the Application Property, the Applicant shall protect the tree preservation area and limits of clearing shown on the CDP/FDP, as well as any other areas deemed suitable, to the maximum extent feasible, for preservation after final engineering. Prior to any clearing and grading on-site, representatives of the Applicant, the Urban Forestry Division of DPWES, and a representative of the Roxann Road residents' association in coordination with DPZ and DPWES, shall hold a preconstruction conference on-site to (a) identify and confirm field surveyed limits of clearing and grading, the limits of tree preservation areas and the limits of selective clearing and grading as may be dictated by field conditions; (b) coordinate placement of any drilled piers or retaining walls with tree preservation areas with final location

of walls to be approved by DPZ and the Director of DPWES, such placement to be in conformance with the CDP/FDP; and (c) identify diseased and/or dying trees located in the tree preservation area in need of repair or removal. The final tree preservation areas so established shall be delineated by the placement of tree save fences to prevent any disturbance within these areas. If any tree designated to be preserved is destroyed as a result of the Applicant's construction activities, the Applicant will provide an appropriate replacement in terms of species, size and quantity as determined by the Urban Forestry Division of DPWES. The Applicant shall provide a minimum of two (2) deciduous trees on each lot, said trees shall be three inches (3") in diameter at breast height. The Applicant shall provide a minimum of one street tree, a minimum caliper of two and one-half inches (2½") in diameter at breast height, on each lot fronting the internal street. The Applicant shall also provide foundation plantings consisting of evergreens and flowering shrubs around the homes constructed on each lot. The types and species of these trees shall be coordinated and approved by the Urban Forestry Division of DPWES at the time of subdivision plan approval.

13. Applicant shall install a board-on-board fence as permitted by the Fairfax County Zoning Ordinance and landscaping along the Application Property's Telegraph Road frontage as conceptually shown on the CDP/FDP. The final location and design of the fence and landscaping shall be determined by the Applicant at the time of final subdivision plat approval. Applicant reserves the right to install landscaping between the proposed stormwater management pond and Telegraph Road at time of final subdivision plat approval subject to the approval of DPWES.
14. During development and construction, the Applicant will provide soil erosion control measures located outside of any tree save or buffer areas shown on the CDP/FDP. These measures shall include design and construction of a sediment basin(s) in the location of the BMP pond during construction, as approved by the Director of DPWES in consultation with the Northern Virginia Soil and Water Conservation District. Prior to commencement of any clearing or grading, the Applicant will post a bond with Fairfax County in an amount, and with a Corporate Surety, approved by the Director of DPWES, to provide a fund for any corrective actions deemed necessary by the Director of DPWES and the Office of the County Attorney because of the failure of the erosion control measures referenced herein. Said corrective actions shall include rectification of damage to off-site properties proximately caused by said failures. Said bond shall be released at such time as there is no longer a need for temporary soil erosion control measures, and Fairfax County accepts the

stormwater management pond for maintenance by Fairfax County all as determined by DPWES.

In addition to the foregoing, at the time of subdivision plat review, the Applicant shall submit a plan for the approval of DPWES showing the clearing and grading of the Application Property so as to minimize erosion and sediment runoff. Such plan shall be consistent with slope stability requirements of the approved Geotechnical Report as determined by DPWES and, further, shall include a plan to minimize denuded areas of development at any one time. Once rough grade has been achieved on any portion of the Application Property, that area shall be hydroseeded in accordance with Fairfax County standards for critical slope areas as set forth in the Public Facilities Manual with an appropriate seed mixture and mulched to prevent erosion during storms.

15. The Applicant shall submit a Geotechnical Report as required by DPWES. The Applicant shall submit geotechnical notes outlining the method of plan implementation to DPWES for approval prior to construction on the Application Property. The Director of DPWES may retain a geotechnical engineer to perform the services set forth in the memorandum. In such event, the Applicant shall reimburse Fairfax County for any and all expenses incurred under the monitoring memorandum.
16. The Applicant shall have a soils engineer on site during all phases of construction that are affected by soil stability. The Applicant will have its geotechnical engineer prepare and submit written inspection reports to DPWES regarding on-site compliance with the geotechnical report approved by DPWES. The Applicant will provide a copy of each such written inspection report within five (5) business days to a designated representative of the Roxann Road residents' association. The Roxann Road representative may, upon request, inspect the Application Property in the company of the geotechnical engineer.
17. As specified below, the Applicant shall be obligated to repair and stabilize any portion of the contiguous off-site properties that may be damaged as a proximate result of the Applicant's faulty and negligent grading and construction activity.

Before construction and grading begins, the Applicant shall mail, by certified mail, return receipt requested, a written request to the following specified landowners (e.g., the landowners of the contiguous off-site properties, Tax Map Nos. 91-4 ((3)) Parcels 1, 3, 5, and 7; 91-4 ((1)) Parcel 10; and 91-2 ((6)) Parcels 9, 11, and 13 (hereinafter the "contiguous off-site properties") to request access to their property for purposes of inspection. The property owners shall be given ten (10) days from the date of the

notice to permit the inspection of the Application Property. Subject to property owner approval, the Applicant will then conduct and document an inspection of the grade conditions of the property and foundations of the foregoing described parcels of property to establish existing house structural conditions and existing off-site property conditions prior to such construction and grading. Said inspection shall be performed by a qualified inspector, independent of the application and acceptable to Fairfax County. A written report with photographs will be used to establish such existing conditions. Upon completion of the inspection, the Applicant will review the results with each landowner and both Applicant and landowner will sign the existing condition report to verify its correctness and each will retain a copy for future reference. A third copy will be provided to the Director of the Fairfax County DPWES for reference. The Applicant will be relieved of its responsibility to conduct such an inspection if the landowner refuses to allow access to the parcel and the house. Prior to being relieved of this responsibility, the Applicant shall mail a letter, by certified mail, return receipt requested, to the landowner stating that the Applicant has not been granted access within the initial ten (10) day period or has been refused access and this letter shall again request access. A copy of such letter request shall also be submitted to the Lee District Supervisor and the Director of DPWES. If the landowner who initially failed to grant access or who refused access again fails to grant the right of access within ten (10) days after the mail of said second written request, then the Applicant shall be relieved of its obligations to inspect said landowner's parcel. Any landowner's failure within ten (10) days of receipt to sign the completed inspection report that accurately reflects existing conditions, shall relieve the Applicant of any requirement to obtain said signature. In addition, any landowner's failure to grant access in a proper and timely manner or to sign the inspection report in a proper and timely manner shall relieve the Applicant of any and all legal obligations which the Applicant may owe to said landowner under these proffers, but shall not relieve the Applicant of any applicable legal liability for any damage to said landowner's property.

18. Subject to the owner's consent and access, the Applicant will repair and stabilize any portion of the contiguous off-site properties that may have shifted and may have caused damage to any structures or property as a proximate result of the negligent and faulty grading of construction activity. Such repairs and stabilization shall be commenced within ninety (90) days of written notification to the Applicant by a landowner specifying the damage done by the Applicant's negligent and faulty grading and construction activity unless reasonable additional time is needed to determine an appropriate course of action for repair. Upon receipt of said written notice, the Applicant and the landowner will meet to inspect the damage claim, to compare the

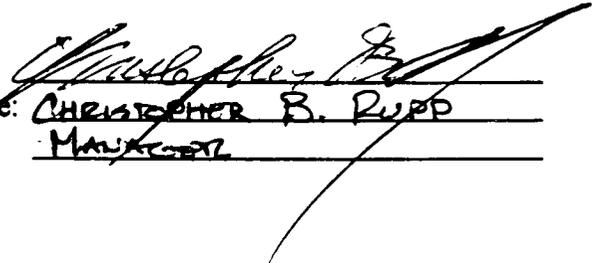
damage claim with the existing condition report and to determine an appropriate course of action for repair. If a repair is warranted under the requirements of this proffer, such repair shall be diligently pursued and completed without unreasonable delay. Any repair required pursuant to the requirement of this proffer shall be subject to review and approval by DPWES. If, despite good faith efforts by both parties, an appropriate course of action for repair cannot be agreed upon, then the parties shall submit the matter to arbitration under the rules of the American Arbitration Association before taking any other action. The foregoing responsibility of the Applicant shall begin upon the commencement of construction and shall remain effective until the later of: (i) one year after the completion of land development as evidenced by release of bond, or (ii) not less than five years from the date of start of construction as determined by the date of issuance of site disturbance permits for the Property.

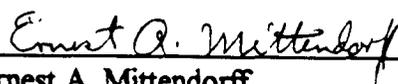
19. Upon conveyance of a dwelling unit, the Applicant shall provide to each initial purchaser a ten (10) year warranty if then offered in the marketplace from HBW (Home Buyer's Warranty), RWC (Residential Warranty Corp.), QBW (Quality Builders Warranty), or other equivalently rated licensed insurer, licensed by the Commonwealth of Virginia, insuring structural stability for each dwelling unit constructed on the Property for the warranty period. Such warranty shall be transferable by the initial purchaser to subsequent purchasers.
20. The Applicant shall, during development, obtain and maintain General Liability insurance coverage with a limit of Two Million Dollars (\$2,000,000.00) per occurrence with a \$2,000,000.00 aggregate, insuring against on and off-site property damage which results from faulty and negligent grading and construction by the developer or any subcontractor on the Application Property. Fairfax County shall be included as an additional insured party in the insurance policy required under this proffer, and Fairfax County, as the additional insured, shall be given a forty-five (45) day notice of any proposed changes to the policy.
21. To further insure the Applicant's ability to protect on-site and contiguous off-site property owners, the Applicant shall require all contractors and subcontractors working on the Application Property to also obtain and maintain general liability insurance coverage in a commercially reasonable amount.
22. The Applicant will provide by covenant approved by the County Attorney and recorded in the land records of Fairfax County with the deed to each dwelling unit for affirmative disclosure that the subject units are built in an area containing marine clay.

The Applicant shall provide a similar disclosure in each new home sales contract specifically stating that the dwelling unit was constructed on marine clay soils.

23. The Applicant, or his agents, shall not use Roxann Road for construction traffic.
24. The Applicant's general liability insurance policy shall be underwritten by a licensed insurance firm, which maintains, at minimum, an A Best's rating. The Applicant shall provide a certificate of insurance to the Director of DPWES prior to site plan approval.

CARR-SKYLINE, LLC

By:   
Name: CHRISTOPHER B. RUPP  
Its: MAINTENANCE

  
Ernest A. Mittendorff

  
Jean D. Mittendorff

## **REVISED PROPOSED DEVELOPMENT CONDITIONS**

**FDP 1998-LE-039**

**March 4, 1999**

1. In the event the 48 inch oak tree described in the proffers does not survive construction, 3 large deciduous trees a minimum 2.5 inch caliper shall be planted by the developer on proposed Lots 29 and 30 adjacent to the proposed board-on-board fence which is proposed along Telegraph Road, as approved by the Urban Forester.
2. Sales documents provided to prospective purchases shall disclose the fact that the planned widening of Telegraph Road does not provide a median break at the site entrance so that left turns from the development will not be possible.
3. A right-turn deceleration lane into the site entrance which meets the VDOT standards shall be constructed by the applicant.

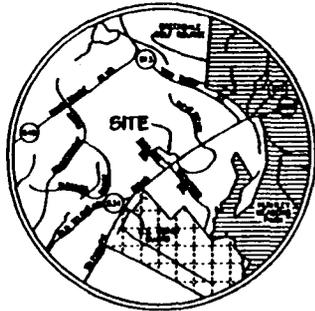
# CONCEPTUAL / FINAL DEVELOPMENT PLAN

# CARRINGTON

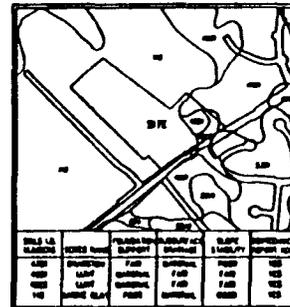
## LEE DISTRICT

## FAIRFAX COUNTY, VIRGINIA

### RZ 98-LE-039



**VICINITY MAP**  
SCALE: 1"=500'



**SOILS MAP/DATA**  
SCALE: 1"=500'

**GENERAL NOTES**

1. THE PROPERTY DEICATED BY THIS PLAN IS LOCATED ON FAIRFAX COUNTY TAX MAP ( 91-1 (11) PARCELS 17 & 18, & 9 (1-4 (21) PARCELS. THE PARCELS ARE CURRENTLY ZONED R-1 AND R-1. THE PROPOSED ZONING IS PDH-4.
2. NO TITLE REPORT FURNISHED.
3. THE PROPERTY SHOWN HEREON, PARCELS 9 & 17 ARE CURRENTLY IN THE OWNERSHIP OF, LAM-STRINE LLC, A VIRGINIA LIMITED LIABILITY COMPANY, DEED BOOK 16647 PAGE 1371. THE PROPERTY SHOWN HEREON, PARCEL 18, IS CURRENTLY IN THE OWNERSHIP OF, LARVEST A, & LAKE WYCHWOOD DEED BOOK 1186 PAGE 538.
4. BOUNDARY INFORMATION TAKEN FROM A FIELD SURVEY BY G.C. FIELDS FOR PAR. 9 & 17, AND CHARLES P. JOHNSON & ASSOCIATES FOR PAR. 18.
5. ELEVATION INFORMATION TAKEN FROM A FIELD SURVEY BY G.C. FIELDS FOR PAR. 9 & 17, AND CHARLES P. JOHNSON & ASSOCIATES FOR PARCEL 18. CONTOUR INTERVAL EQUALS ONE HALF (1/2) FEET.
6. IN ACCORDANCE WITH THE ADOPTED COMPREHENSIVE PLAN RECOMMENDATION OF 3-4 UNITS/ACRE THE PROPOSED DEVELOPMENT WILL PROVIDE RESIDENTIAL DEVELOPMENT.
7. THERE ARE NO DENSITY REGULATIONS REQUIRED BY ZONING ORDINANCE ARTICLE 7-205.3 AND 4.
8. THERE ARE NO 100-YEAR FLOODPLAINS, RESOURCE PROTECTION AREAS (RPAs) OR EASLS LOCATED ON THIS SITE.
9. THE MAXIMUM NUMBER OF PROPOSED SINGLE-FAMILY DETACHED UNITS IS 22. THE PROPOSED DENSITY FOR THE SITE IS 2.28 UNITS PER ACRE.
10. PROPOSED PUBLIC IMPROVEMENTS:
  - a) WATER SERVICE TO BE PROVIDED FROM AN EXISTING MAIN LOCATED IN TELEGRAPH ROAD & TELEGRAPH ROAD.
  - b) SANITARY SERVICE TO BE PROVIDED BY A CONNECTION TO AN EXISTING 8" SANITARY SEWER IN TELEGRAPH ROAD.
11. ALL COMMON OPEN SPACE (PARCEL A) WILL BE CONVEYED TO A HOMEOWNERS ASSOCIATION FOR OWNERSHIP AND MAINTENANCE.
12. TO THE BEST OF OUR KNOWLEDGE THERE ARE NO KNOWN GRAVES, OBJECTS OR STRUCTURES MARKING A PLACE OF BURIAL.
13. TO THE BEST OF OUR KNOWLEDGE THERE ARE NO HAZARDOUS OR TOXIC SUBSTANCES AS SET FORTH IN THE STATE AND CODE OF FEDERAL REGULATIONS PART 312.4 AND 300. HAZARDOUS WASTE AS SET FORTH IN CONFORMANCE WITH VIRGINIA DEPARTMENT OF ENVIRONMENT MANAGEMENT NO. 673-10-1 - VIRGINIA HAZARDOUS WASTE MANAGEMENT REGULATION AND FOR REGULATORY PRODUCTS AS SET FORTH IN STATE AND CODE OF FEDERAL REGULATIONS PART 300.10 OF REGULATORY, UNLACED, UNLACED, UNLACED, AND/OR EXPOSED TO SOIL.

14. THERE ARE NO SCENE AREAS OR NATURAL FEATURES FOR PRESERVATION SPECIAL AGREEMENTS ARE NOT PROPOSED UNDER THE DEVELOPMENT.
15. THE DEVELOPMENT SCHEDULE HAS NOT BEEN DETERMINED AT THIS TIME.
16. THE PROPOSED DEVELOPMENT WILL CONFORM TO ALL APPLICABLE ORDINANCES, REGULATIONS AND ADOPTED STANDARDS EXCEPT AS NOTED.
  - A PARTIAL ZONING OF 3 UNITS/ACRE MANAGEMENT.
  - A MODIFICATION TO THE PROPOSED RESIDENTIAL REQUIREMENTS OF THE COMPREHENSIVE PLAN PRESERVATION ORDINANCE.
  - A WIDEN TO INCREASE THE STREET GRADE AND C&G-O&G-S&G GRADE.
  - A WIDEN FOR FORESTED LOTS TO EXCEED 20% OF THE LOTS.
  - A WIDEN TO USE 100% C&G-O&G-S&G GRADE.
17. WHICH SEPARATIONS MAY RESULT FROM FINAL ENGINEERING SUCH AS THE LOCATION OF UTILITIES, UTILIZED LOT AREAS AND THE LOTS OF CLEARING AND GRADING.
18. BEST MANAGEMENT PRACTICES WILL BE PROVIDED ON-SITE. (SEE NOTE 14).
19. PARKING WILL BE PROVIDED IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE 11 OF THE ZONING ORDINANCE.
20. THERE IS NO SCREENING REQUIRED BY ARTICLE 13. THE LOTS OF CLEARING AND GRADING ARE SHOWN ON THE PLAN.
21. ARCHITECTURAL DETAILS ARE NOT AVAILABLE AT THIS TIME.
22. NO TRAILS ARE REQUIRED FOR THE COMPREHENSIVE PLAN.
23. EXISTING ON-SITE STRUCTURES AND IMPROVEMENTS ARE TO BE RETAINED. THE DATE OF CONSTRUCTION IS NOT KNOWN.
24. THERE IS NO OTHER INFORMATION REQUIRED BY ARTICLE 7.
25. EXISTING WELLS ON PARCEL 18 TO BE RETAINED AND OR CAPPED PER HEALTH DEPARTMENT REGULATIONS.
26. THE DEVELOPER RETAINS THE RIGHT TO ADD LANDSCAPING BETWEEN THE STORMWATER MANAGEMENT POND AND TELEGRAPH ROAD BEING FINAL ENGINEERING IF APPROVED BY THE DEPT. OF PUBLIC WORKS AND ENVIRONMENTAL SERVICES.
27. THE PROPOSED LANDSCAPING AND FENCING SHOWN IS ILLUSTRATIVE AND MAY BE MODIFIED DURING FINAL ENGINEERING.

**SITE TABULATIONS**

SITE AREA = 13,118 ACRES (8,436,000)

NAMES OF UNITS	PDH 4	PROVIDED
	REQUIRED	
DENSITY	4.00/AC (18 DU/AC) MAX	2.28 DU/AC (2.07 DU/AC)
MINIMUM LOT SIZE	N/A	N/A
MAXIMUM BUILDING HEIGHT	N/A	35' (16.80m)
OPEN SPACE (PARCEL "A")	20%	20% @ 28.410 ACRES (1,080,000)
RIGHT-OF-WAY DESIGNATION	N/A	1.20 ACRES (51,000)
BUILDING SETBACKS		
FRONT	N/A	30'
SIDE	N/A	5'
REAR	N/A	30'
*BUILDING SETBACKS MAY VARY WITH FINAL ENGINEERING PLANS.		

**DENSITY CALCULATION PER SECTION 2-308**

SITE AREA	13,118 AC
AMT OF BARRING CLAY	11,374 AC
20% OF SITE	2,623.60 AC
DIFFERENCE	7,264 AC
7.20 AC = 2 DU/AC =	1810 UNITS
2.08 AC = 1 DU/AC =	2144 UNITS
TOTAL	3954 UNITS



**DEVELOPER**  
 CHAR-STRINE LLC  
 7535 LITTLE ROCK TURNPIKE, SUITE 325  
 LANHAM, VIRGINIA 22093  
 (703)350-8000

**TABLE OF CONTENTS**

1. COVER SHEET
2. FINAL DEVELOPMENT PLAN

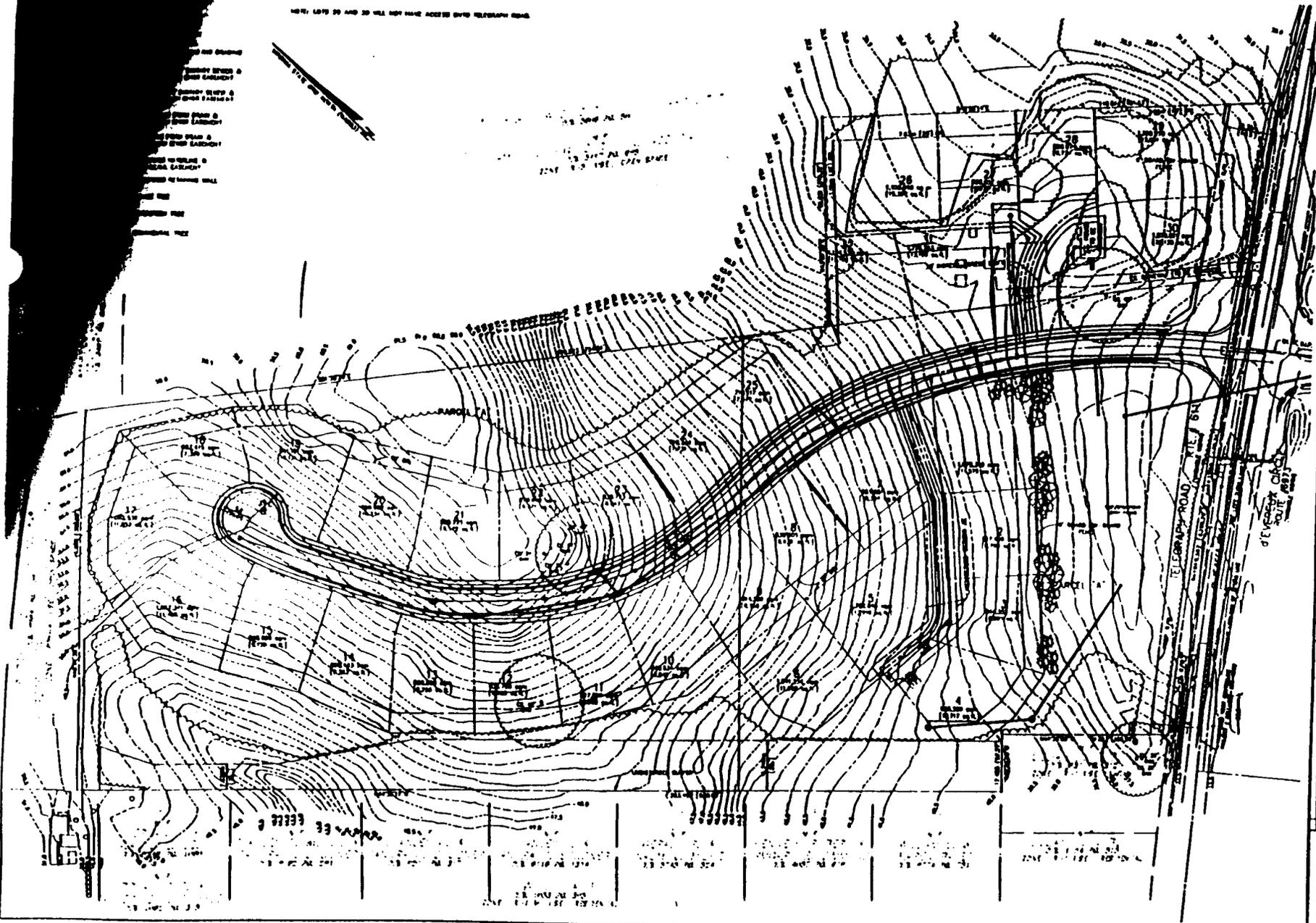


**Charles P. Johnson & Associates, Inc.**  
 PLANNING ENGINEERS LANDSCAPE ARCHITECTS SURVEYORS

DATE: 7/15/08  
 REVISION: 10/29/08  
 REVISION: 11/29/08  
 REVISION: 12/29/08

NOTE: LOTS 20 AND 21 WILL NOT HAVE ACCESS OVER TELEGRAPH ROAD

- PROPERTY OWNERS
- PROPERTY NUMBER
- PROPERTY NAME
- PROPERTY ADDRESS
- PROPERTY CITY
- PROPERTY STATE
- PROPERTY ZIP
- PROPERTY PHONE
- PROPERTY FAX
- PROPERTY E-MAIL
- PROPERTY WEBSITE
- PROPERTY COMMENTS



CONCEPTUAL / FINAL DEVELOPMENT PLAN  
 RZ 98-LE-039  
**CARRINGTON**  
 LEE DISTRICT  
 FAIRFAX COUNTY, VIRGINIA



DATE	12/26/98
BY	[Signature]
TITLE	CONCEPTUAL / FINAL DEVELOPMENT PLAN
PROJECT NUMBER	RZ 98-LE-039
PROJECT NAME	CARRINGTON
PROJECT ADDRESS	LEE DISTRICT, FAIRFAX COUNTY, VIRGINIA
PROJECT PHONE	
PROJECT FAX	
PROJECT E-MAIL	
PROJECT WEBSITE	
PROJECT COMMENTS	
DATE	12/26/98
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PROJECT PHONE	
PROJECT FAX	
PROJECT E-MAIL	
PROJECT WEBSITE	
PROJECT COMMENTS	

CLARENCE J. ALLEN & ASSOCIATES, INC.  
 10000 WOODBURN ROAD  
 SUITE 100  
 FALLS CHURCH, VIRGINIA 22044  
 (703) 441-1111  
 FAX (703) 441-1112  
 WWW.CJALLEN.COM

F A I R F A X C O U N T Y

BOARD OF SUPERVISORS ACTION  
ZONING MAP AMENDMENT  
DATE OF ACTION 04/05/99

APPLICATION NUMBER: RZ 98-L-039 LEE DISTRICT  
APPLICANT: CARR-SKYLINE L.L.C.  
STAFF: GODFREY

APPLICATION DATA

-----  
EXISTING ZONING AND ACREAGE

ZONING: R- 1 R- 4  
ACRES: 2.00 11.41

PROPOSED:

PDH- 4  
13.41

ACTION:

PDH- 4  
13.41

TOTAL ACRES

13.41

TOTAL ACRES

13.41

MAP NUMBERS

091-2- /01/ /0017- ,0018-  
091-4- /01/ /0009-

REMARKS:

APPROVED BY THE BOARD ON APRIL 5, 1999.

ZONING MAP AMENDMENT

RZ 98-L-039

ZONING DISTRICT DATA

ZONING DISTRICT: PDH- 4

PROFFERED/CONDITIONED DWELLING UNIT DATA

TYPES	UNITS	ACRES	DENSITY	RANGE	LOMOD INCL	LOMOD ADD
SFD	32	13.41				

-----

TOT

PROFFERED/CONDITIONED NON-RESIDENTIAL GROSS FLOOR AREAS

USE	GFA	FAR	USE	GFA	FAR
COMMERICAL-GEN			PUBLIC/QUASI PUB		
HOTEL/MOTEL			OFFICE		
INDUSTRIAL-GEN			TRAN-UTIL-COMM		
CULT/EDU/RELG/ENT			RETAIL-EATING EST		
INDUST-WAREHOUSE			*****TOTAL*****		

REMARKS:

ZONING MAP AMENDMENT

RZ 98-L-039

CONDITION/CONTRIBUTION DATA

COND CODE DESCRIPTION	COND CODE DESCRIPTION
7A OTHER MISCELLANEOUS - SEE FILE	1Z OTHER - GENERAL
4Z OTHER - ENVIRONMENT	4Z OTHER - ENVIRONMENT
2G DEDICATION: HOMEOWNRS OPEN SPACE	4Z OTHER - ENVIRONMENT
4Z OTHER - ENVIRONMENT	1B CONCEPTUAL DEVEL PLAN
1Z OTHER - GENERAL	1Z OTHER - GENERAL
4B TREES/COUNTY ARBORIST	4Z OTHER - ENVIRONMENT
4Z OTHER - ENVIRONMENT	4M SOIL PROBLMS/GEOTECHNICAL REVIEW
4Z OTHER - ENVIRONMENT	4D BUFFER
4Z OTHER - ENVIRONMENT	4Z OTHER - ENVIRONMENT
3B RIGHT-OF-WAY: DEDICATION/RESERV	3Z OTHER - TRANSPORTATION

\$0	00/00/00
\$0	00/00/00
\$0	00/00/00
\$0	00/00/00

REMARKS:

SITE CONTAINS A HIGH PERCENTAGE OF MARINE CLAY SOILS. THERE ARE PROFERED COMMITMENTS TO INSURANCE COVERAGE TO PROTECT ADJACENT OFF-SITE PRO

4/5/99

4:30 p.m. Item - RZ-1998-LE-039 - CARR-SKYLINE L.L.C.

Lee District

On Thursday, March 18, 1999, the Planning Commission voted unanimously (Commissioners Byers and Hall absent from the meeting) to recommend to the Board of Supervisors the following actions pertinent to the subject application:

- 1) approval of RZ-1998-LE-039, subject to the execution of proffers consistent with those dated February 11, 1999; and
- 2) waiver of the street and cul-de-sac grades and the cul-de-sac radius to that shown on the FDP.

The Commission also voted unanimously (Commissioners Byers and Hall absent from the meeting) to approve FDP-1998-LE-039, subject to the Board's approval of RZ-1998-LE-039 and the development conditions dated March 4, 1999.

The Commission voted 8-0-2 (Commissioners Coan and Harsel abstaining; Commissioners Byers and Hall absent from the meeting) to recommend to the Board of Supervisors a waiver of the maximum percentage of pipestems to that shown on the FDP.

The Commission further voted unanimously (Commissioners Byers and Hall absent from the meeting) to direct the Director of DPW&ES to return the final site plans and findings of the Geotechnical Review Board to the Planning Commission for administrative review prior to the issuance of the final site plan permit.

**RECEIVED**  
DEPARTMENT OF PLANNING AND ZONING  
MAR 25 1999  
ZONING EVALUATION DIVISION

Planning Commission Meeting  
March 18, 1999  
Verbatim Excerpts

RZ-1998-LE-039 - CARR-SKYLINE L.L.C.

Decision Only During Commission Matters  
(Public hearing held on February 18, 1999)

Commissioner Kelso: This has to do with the Carr-Skyline application in the Lee District. We received a 13 page document tonight from a neighbor, citing several concerns and issues. I've read them carefully and I appreciate Mr. Spooner's efforts in putting together this document, but I find nothing actually new rather than a very well documented history of applications on both this site and surrounding sites. But I intend to move forward on this application and I will ask staff to attach this to my recommendation and have some staff comments for the Board should it succeed to the Board. As the Commission may recall, we heard a rezoning case on this date last month concerning the rezoning of a parcel along Telegraph Road for a PDH cluster single family detached residential development from an R-4 zoning on a sloping site with soils problems. At the public hearing, concerns were raised by the residents adjoining this application with written comments, which gave us an opportunity to explore in more detail their issues. In response to the concerns of the neighboring residents about the above development proposal presented at the Planning Commission this past Thursday, February 18th, I have discussed these with various staff members of the County and the applicant with the following conclusions. With regard to stormwater management, we have discussed the issue of the existing stormwater pond condition and serviceability at Turnberry Mews with the County Bonds & Agreements staff. I am informed that the issue of enforcement of the pond improvements currently under bond is complicated by a foreclosure action. However, I am informed that the County is close to resolving the repair and improvements to this pond with the institution holding title to the property. Our staff assures me that the issues of water bypassing the pond, the spillway condition and other downstream problems will be resolved. This action is not related directly to the application at hand, but the corrections needed are indeed of concern to all parties. After due consideration of the suggestion to retain the original upper pond of the previous application, I agree with the applicant's engineers that the reduction of their drainage area towards this previous location by two-thirds and redirection to the lower pond area is a significant benefit to the entire area and adequate reasoning for eliminating the upper pond. I have discussed this with staff, as has Ms. Godfrey, and we are in agreement. The Chairman of the County Environmental Quality Advisory Committee happens to be a resident of Lee District and a land use representative. I share his opinion that the retention of the existing trees in the upper pond area is preferable to clearing for a pond. Part of my motion, if approved -- if approval of the rezoning is granted, will be to require that our Lee District -- review the final site engineering plans -- and the Planning Commission -- prior to issuance of any building permits. We will also require that the limits of clearing and grading be staked clearly on the site and reviewed by our Council and the Urban Forestry Division. In addition, this period will allow us opportunity to review the findings of the Fairfax County Geotechnical Review Committee as to soils issues. The Applicant has made extensive exploratory borings on the property to develop a soils mitigation plan which addresses the existing marine clay conditions. Before a final plan can

be prepared, the final grading of the site must be engineered to determine areas of additional testing that may be required to prepare a final geotechnical plan. Once completed, the Fairfax County Geotechnical Review Board will review the plan. This Board will make findings as to the acceptance of the submitted plan and/or recommendations for other measures. We will include these findings as part of our final site review as mentioned. Although it is possible to develop in marine clay areas with steep slopes, it is a risk that a developer must incur. Our review process is in place and has effectively addressed similar concerns in other similar areas. As you know, the Planning Commission has asked the applicant to provide satisfactory information concerning the insuranceability (sic) question. The applicant has, in my opinion as a layperson in this area, provided safeguards and information sufficient to justify this proffer amendment. I ask that the correspondence from the applicant dated March 3, 1999 and the correspondence from Stanley C. Spooner dated March 3, 1999 -- both March 3rd -- and another dated today be entered into the record and attached to our recommendations to the Board of Supervisors. Ms. Strobel, representative of the applicant, is here to respond to any questions my colleagues may have in this regard. Mr. Chairman, I am satisfied that this application is in conformance with the Comprehensive Plan, as outlined in the staff report, and is a more desirable development than currently approved -- than that currently approved for this site. The applicant has met with the neighboring communities numerous times and has the support of our Lee District Council and our planning staff. Therefore, Mr. Chairman I have five motions to present for consideration. **I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF RZ-1998-LE-039, BY CARR-SKYLINE L.L.C., SUBJECT TO EXECUTION OF THE PROFFERS DATED FEBRUARY 11, 1999 AND ATTACHED TO THE STAFF REPORT.**

Commissioner Koch: Second.

Chairman Murphy: Seconded by Mr. Koch. Is there a discussion of the motion? All those in favor of the motion to recommend to --

Commissioner Wilson: Mr. Chairman?

Chairman Murphy: I'm sorry --

Commissioner Wilson: I had one question. Actually, I had two questions with respect to this proposal. There was a question I had asked for some information on with respect to the Fire Department and the turning radius for the fire engines. And I see in -- I think this is Ms. Strobel's March 3rd letter, that the Fire Marshall reviewed it. And I was just wondering -- does the Fire Marshall review the transportation access to and from developments?

Ms. Mary Ann Godfrey: I can probably answer the question -- I spoke with Fire and Rescue -- that I heard you ask at the Planning Commission. I think one of the questions was, would Fire and Rescue or the Fire Marshall be aware that there is no median break in front

of this property? And the answer to that question is no, but what they look at is the distance to the nearest fire station and the type of use being proposed. In this case, the nearest fire station is in Kingstowne, so the first responding unit would come from the south. The nearest median break that they could use is at Devereau Circle. They would either go to Devereau Circle and make a U-turn there or, if it's a low enough median, they would just drive over the median. A second responding unit would be coming from the north and they would be able to turn directly into the site. So they didn't -- they weren't aware that there was not going to be a median break, but they did not see that as a problem.

Commissioner Wilson: They didn't see a problem for the U-turn of the trucks?

Ms. Godfrey: No, they didn't.

Commissioner Wilson: Okay. The other question that came up was with respect to the insurance policies. And I noted that we have a response saying that the 25-year insurance policy isn't generally available, but my understanding of the original proffers is that it was going to be the insurance coverage for 25 years. I never heard of a 25-year insurance policy either, but general liability insurance and property damage is generally purchased on an annual basis for a period of time. And so I wasn't satisfied with the answer that we got here because I think that that was a big concern, whether the surrounding neighborhoods would continue to be provided coverage if there is any sliding, mud slides or some kind of property damage. So I just -- I see the answer that we have here, that a 25-year insurance policy is not available, but I don't think that was the question.

Commissioner Kelso: I think I'll ask Ms. Strobel to come down to respond to that.

Lynne Strobel, Esquire: For the record, my name is Lynne Strobel. I represent the applicant and I will concede up front that I am not an expert in insurance, but I can hopefully provide some explanation. Mr. Ness is also here and hopefully we can answer your questions. The first thing I would like to point out is that current practice does not require proffers regarding insurance and inspection of off-site properties. I attached to that package the Morris Construction site proffers just up the street, just for comparative purposes. So, I just want to make it clear that there was a previous proffer and the applicant is really trying to abide by prior commitments for the inspection of off-site properties and for providing insurance. There are extensive proffers that provide for a very thorough inspection process. And my understanding of general liability insurance is that it is insuring against on- and off-site property damage which results from faulty and negligent grading and construction by the developer or any sub-contractor. And that can occur years down the road. As long as there is insurance in place when the work is being done, that is covered. As I said, there is a thorough process in the proffers for inspections of off-site properties and providing that insurance. The other thing I would say, as I said in the letter, the 25-year period is something that is generally not available. And, as I think I stated in the letter, there would be no guarantee of automatic renewal, so even if premiums were

required, there would be no guarantee of renewal. And, as I say in addition, I think that what the Commission is interested in is if there is anything done during construction that is faulty or negligent by the applicant, clearly that is covered because the insurance was in place at that time. So, with that, I would ask if Mr. Ness would like to add anything or if you have any further questions, we'll try to answer those.

Commissioner Kelso: I might also add that in the proffers the applicant is agreeing to be responsible for one year after release of the site bond, which will probably be two or two and a half years after construction commences.

Ms. Strobel: Right.

Chairman Murphy: Further discussison of the motion?

Commissioner Coan: Mr. Chairman?

Chairman Murphy: Mr. Coan.

Commissioner Coan: Ms. Strobel, do I understand you to say that you don't think you can get this insurance? Is that what you're saying?

Ms. Strobel: My understanding, in the letter I submitted with my package, is that it is not available, that's correct.

Commissioner Coan: Not on a year to year basis?

Ms. Strobel: I have a letter that's in the package that's dated March 1st and it says: "In our experience the cash escrow requirements for Carr Homes to provide annual premiums for a 25-year period is not typically seen within our industry and would be cost prohibitive for a development of this size."

Commissioner Coan: Well, then, in effect, you feel that you're client is not willing to say that his product will hold up for 25 years?

Ms. Strobel: I don't think that that's what my client is saying. I think that he's saying that for the period of construction, when he will be on the property, he will have insurance that will continue to cover the work that is done.

Commissioner Coan: Indefinitely?

Ms. Strobel: I think that as long as there is a causal relationship between the work that was done by the applicant and that causal relationship is established and there was insurance in place at that time, I believe that's why you have insurance and I believe you would be covered. Again, I'm not an expert. And I also would say that my client has been

a home builder in this area for a good number of years. I think they feel very confident about the product that they build. Carr Homes, as I say, has been in Fairfax County, I know for over 25 years. They do good work. They've already had a number of soil borings on this site. There were borings done with the prior rezoning. They've gone out and done an extensive amount of additional research. The proposed development does nothing but make things better because there's less clearing and grading on this site.

Commissioner Coan: Well, I have no problem with Carr. Carr's been around since the 50s as I recollect -- Eddie Carr -- I presume this is the successor to that, is it not?

Ms. Strobel: Yes, it is.

Commissioner Coan: He built Springfield.

Ms. Strobel: My parents are original homeowners.

Commissioner Coan: And I don't question their integrity or their ability, but I still harken to the problem that developed in my own situation down in Prince William County. And what I'm trying to plumb is what happens four or five or six years from now when this -- something slides away? Hopefully it won't slide away, but it can happen. And am I understanding you to say that if your client is still in business and has kept its policy up, that that work will be covered if in fact it's traceable to its negligence in building the property -- building the house?

Ms. Strobel: That's my understanding. If there's a causal relationship and it's traced to --

Commissioner Coan: But it depends upon the policy still being in effect, does it not? Or does it? I see the gentleman in the back shaking his head sometimes. Or is it in effect covered, regardless of whether the policy lapses or not?

Ms. Strobel: My understanding is that if there's a policy in place, that that policy continues; that if there was work that was --

Commissioner Coan: In other words, if the work is done negligently today and they don't renew that policy next year, nevertheless there's a claim against that insurance if, in fact --

Ms. Strobel: That's my understanding.

Commissioner Wilson: Do we have that referenced anywhere in the proffers?

Chairman Murphy: You're going to have to put your -- we're on verbatim, so you have to put the microphone on because this all has to be typed for the Board.

Commissioner Wilson: Excuse me, Mr. Chairman, I didn't realize mine was off. I wanted

to find out if that was referenced in the proffers anywhere because that was one of the really big concerns of the neighbors when they came to testify. And I'm not sure what you mean by, if the policy's not in place there'd still be coverage at some point in the future. You either have a current policy or claims made policy and with claims made, if the policy's not renewed, there's no coverage for it.

Ms. Strobel: I would direct you to the letter that was attached to my submission on March 3rd which -- the second paragraph says: "A commercial general liability occurrence policy in effect during the land development construction activities on Carrington Project provides completed operations coverage for bodily injury and property damage due to your negligence and arising after your work has been completed even if the damage occurs years later. This would be subject to the policy terms, conditions and exclusions." But that is stated in the letter from Lynn McUumber that is attached to my correspondence.

Commissioner Wilson: Are there any policy terms, conditions or exclusions in there that could exclude the neighbors damage if they could show that it was related to the grading and engineering?

Ms. Strobel: Ms. Wilson, I have not gone through that entire policy and read every word, but, as I say, my understanding is that the work would be covered. We have tried very hard to provide some information here. My understanding, in working with my client and reading this letter, is that my client has tried to ensure that the work that he does is covered by the policy.

Chairman Murphy: Further discussion of the motion?

Commissioner Coan: May I make one suggestion? I'm not going to oppose this proposal, but perhaps Ms. Strobel could look into it in a little more detail and provide some letter that can be available to the Board of Supervisors if they wish to look into the issue when they take the matter up. I hear and appreciate what you're saying and I feel somewhat comfortable, but maybe a little more detail would be helpful.

Ms. Strobel: Yes, sir.

Chairman Murphy: All those in favor of the motion to recommend to the Board of Supervisors that it approve RZ-1998-LE-039, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Mr. Kelso.

Commissioner Kelso: I MOVE THAT THE PLANNING COMMISSION APPROVE FDP-1998-L-039, SUBJECT TO THE BOARD'S APPROVAL OF RZ-1998-LE-039 AND THE DEVELOPMENT CONDITIONS DATED MARCH 4, 1999.

Commissioner Koch: Second.

Chairman Murphy: Seconded by Mr. Koch. Discussion of the motion? All those in favor of the motion to approve FDP-1998-LE-039, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Mr. Kelso.

Commissioner Kelso: I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS WAIVER OF THE MAXIMUM PERCENTAGE OF PIPESTEMS TO THAT SHOWN ON THE FDP.

Commissioner Koch: Second.

Chairman Murphy: Seconded by Mr. Koch. Discussion of the motion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed?

Commissioners Coan and Harsel: Abstain.

Chairman Murphy: Motion carries; Mr. Coan abstains; Ms. Harsel abstains. Mr. Kelso.

Commissioner Kelso: I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF A WAIVER OF THE STREET AND CUL-DE-SAC GRADES AND THE CUL-DE-SAC RADIUS TO THAT SHOWN ON THE FDP.

Commissioner Koch: Second.

Chairman Murphy: Seconded by Mr. Koch. Discussion of the motion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Mr. Kelso.

Commissioner Kelso: I MOVE THAT THE PLANNING COMMISSION DIRECT THE DIRECTOR OF DPW&ES TO RETURN THE FINAL SITE PLANS AND FINDINGS OF THE GEOTECHNICAL REVIEW BOARD TO THE PLANNING COMMISSION for approval -- well, FOR ADMINISTRATIVE REVIEW PRIOR TO THE ISSUANCE OF FINAL SITE PLAN PERMIT.

Commissioners Coan and Alcorn: - Second.

Chairman Murphy: Seconded by Mr. Coan and Mr. Alcorn. Discussion of the motion?  
All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Mr. Kelso.

Commissioner Kelso: Mr. Chairman, I would like to recognize Ms. Godfrey and Ms. McNeally for their thorough work in staffing this application and to acknowledge the applicant's efforts in resolving the local issues which arose in this process. I would also thank the neighboring residents who came to our meeting last month to express their concerns. Although I do not share their concerns and have more confidence in our in-place system to monitor this development, I do have great appreciation of their efforts to air their issues and have measured their opinion as part of my decision to move on this application. Thank you, Mr. Chairman.

//

(The first and second motions carried unanimously with Commissioners Byers and Hall absent from the meeting.)

(The third motion carried by a vote of 8-0-2 with Commissioners Coan and Harsel abstaining; Commissioners Byers and Hall absent from the meeting.)

(The fourth and fifth motions carried unanimously with Commissioners Byers and Hall absent from the meeting.)

GLW