



County of Fairfax, Virginia

MEMORANDUM

Office of the County Attorney
Suite 549, 12000 Government Center Parkway
Fairfax, Virginia 22035-0064
Phone: (703) 324-2421; Fax: (703) 324-2665
www.fairfaxcounty.gov

DATE: August 18, 2011

TO: Suzie Zottl, Staff Coordinator
Zoning Evaluation Division
Department of Planning and Zoning

FROM: Bette R. Crane, Paralegal *[Signature]*
Office of the County Attorney

SUBJECT: Revised Affidavit
RZ 2011-SU-006/FDP 2011-SU-006
Applicant: Landmark Atlantic Development LLC
PC Hearing Date: 9/29/11
BOS Hearing Date: 10/18/11

REF.: 111894

Attached is an affidavit which has been approved by the Office of the County Attorney for the above-referenced case. Please include this affidavit dated 8/16/11, which bears my initials and is numbered 111894b, when you prepare the staff report.

Thank you for your cooperation.

Attachment
cc: (w/attach) *[Signature]* Laura Gumkowski, Planning Technician
Zoning Evaluation Division
Department of Planning and Zoning

REZONING AFFIDAVIT

DATE: 8/16/11
 (enter date affidavit is notarized)

I, John H. Thillmann, do hereby state that I am an
 (enter name of applicant or authorized agent)

(check one) applicant 1118946
 applicant's authorized agent listed in Par. 1(a) below

in Application No.(s): RZ/FDP 2011-SU-006
 (enter County-assigned application number(s), e.g. RZ 88-V-001)

and that, to the best of my knowledge and belief, the following information is true:

1(a). The following constitutes a listing of the names and addresses of all **APPLICANTS, TITLE OWNERS, CONTRACT PURCHASERS, and LESSEES** of the land described in the application,* and, if any of the foregoing is a **TRUSTEE,**** each **BENEFICIARY** of such trust, and all **ATTORNEYS and REAL ESTATE BROKERS**, and all **AGENTS** who have acted on behalf of any of the foregoing with respect to the application:

(NOTE: All relationships to the application listed above in **BOLD** print must be disclosed. Multiple relationships may be listed together, e.g., **Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner**, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel(s) for each owner(s) in the Relationship column.)

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in BOLD above)
Landmark Atlantic Development, LLC	2700 S. Nelson St., Arlington, VA 22206	Applicant/Contract Assignee; Agent and Attorney-in-Fact for Mark W. Spungin, Dale L. Keener, Trustee, and Thelma A. Keener, Trustee.
Scott M. Herrick, Agent John H. Thillmann, Agent	(same) (same)	
Eastwood Properties, Inc.	3059 Chain Bridge Rd., Fairfax, VA 22030	Contract Purchaser/Assignor
Richard L. Labbe, Agent	(same)	
Mark W. Spungin	5837 Stone Road, Centreville, VA 20122	Title Owner of TM 054-3((2)) parcel 61

(check if applicable) There are more relationships to be listed and Par. 1(a) is continued on a "Rezoning Attachment to Par. 1(a)" form.

* In the case of a condominium, the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.
 ** List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary).

Rezoning Attachment to Par. 1(a)

DATE: 8/16/11
 (enter date affidavit is notarized)

1118940

for Application No. (s): RZ/FDP 2011-SU-006
 (enter County-assigned application number (s))

(NOTE): All relationships to the application are to be disclosed. Multiple relationships may be listed together, e.g., **Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner**, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel(s) for each owner(s) in the Relationship column.

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in BOLD above)
Charles P. Johnson & Associates, Inc.	3059 Pender Drive, Ste. 210, Fairfax, VA 22030	Agent/Engineer
Paul B. Johnson, Agent	(same)	
Allan D. Baken, Agent	(same)	
Henry M. Fox, Agent	(same)	
Dale L. Keener and Thelma A. Keener, Trustees of the Dale L. Keener & Thelma A. Keener Trust, for the benefit of:	P. O. Box 160, Centreville, VA 20122	Title Owners of TM 054-3((2)) parcel 61C
Renee Keener	11256 Silentwood Lane, Reston, VA 20191	
Charles Keener	P. O. Box 196, Centreville, VA 20122	
Rachel & Carol Keener	834 Santa Barbara St., Pasadena, CA 91101	
Daniel Keener	7601 Sipe Ave., Fayetteville, NC 28304	
Andrew Keener	12753 Fair Briar Lane, Fairfax, VA 22033	

(check if applicable)

There are more relationships to be listed and Par. 1(a) is continued further on a "Rezoning Attachment to Par. 1(a)" form.

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for Application No. (s): RZ/FDP 2011-SU-006
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1(b). The following constitutes a listing*** of the **SHAREHOLDERS** of all corporations disclosed in this affidavit who own 10% or more of any class of stock issued by said corporation, and where such corporation has 10 or less shareholders, a listing of all of the shareholders, **and if the corporation is an owner of the subject land, all of the OFFICERS and DIRECTORS of such corporation:**

(NOTE: Include **SOLE PROPRIETORSHIPS, LIMITED LIABILITY COMPANIES,** and **REAL ESTATE INVESTMENT TRUSTS** herein.)

CORPORATION INFORMATION

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

Landmark Atlantic Development, LLC
2700 S. Nelson Street
Arlington, VA 22206

DESCRIPTION OF CORPORATION: (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF SHAREHOLDERS: (enter first name, middle initial, and last name)

Scott M. Herrick, Managing Member
Bernadette Manara, Member

NAMES OF OFFICERS & DIRECTORS: (enter first name, middle initial, last name & title, e.g. **President, Vice President, Secretary, Treasurer,** etc.)

(check if applicable) There is more corporation information and Par. 1(b) is continued on a "Rezoning Attachment 1(b)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Rezoning Attachment to Par. 1(b)

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NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

Eastwood Properties, Inc.
3050 Chain Bridge Road
Fairfax, VA 22030

DESCRIPTION OF CORPORATION: (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF THE SHAREHOLDER: (enter first name, middle initial, and last name)

Richard L. Labbe

NAMES OF OFFICERS & DIRECTORS: (enter first name, middle initial, last name, and title, e.g.

President, Vice-President, Secretary, Treasurer, etc.)

Richard L. Labbe, President

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

Charles P. Johnson & Associates, Inc.
3059 Pender Drive, Suite 210
Fairfax, VA 22030

DESCRIPTION OF CORPORATION: (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF THE SHAREHOLDERS: (enter first name, middle initial, and last name)

Charles P. Johnson
Paul B. Johnson

NAMES OF OFFICERS & DIRECTORS: (enter first name, middle initial, last name, and title, e.g.

President, Vice-President, Secretary, Treasurer, etc.)

(check if applicable) There is more corporation information and Par. 1(b) is continued further on a "Rezoning Attachment to Par. 1(b)" form.

REZONING AFFIDAVIT

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for Application No. (s): RZ/FDP 2011-SU-006
(enter County-assigned application number(s))

1(c). The following constitutes a listing*** of all of the PARTNERS, both GENERAL and LIMITED, in any partnership disclosed in this affidavit:

PARTNERSHIP INFORMATION

PARTNERSHIP NAME & ADDRESS: (enter complete name, number, street, city, state and zip code)

NOT APPLICABLE

(check if applicable) [] The above-listed partnership has no limited partners.

NAMES AND TITLE OF THE PARTNERS (enter first name, middle initial, last name, and title, e.g. General Partner, Limited Partner, or General and Limited Partner)

(check if applicable) [] There is more partnership information and Par. 1(c) is continued on a "Rezoning Attachment to Par. 1(c)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

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1(d). One of the following boxes **must** be checked:

In addition to the names listed in Paragraphs 1(a), 1(b), and 1(c) above, the following is a listing of any and all other individuals who own in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land:

Other than the names listed in Paragraphs 1(a), 1(b), and 1(c) above, no individual owns in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land.

2. That no member of the Fairfax County Board of Supervisors, Planning Commission, or any member of his or her immediate household owns or has any financial interest in the subject land either individually, by ownership of stock in a corporation owning such land, or through an interest in a partnership owning such land.

EXCEPT AS FOLLOWS: (**NOTE:** If answer is none, enter "NONE" on the line below.)

NONE

(check if applicable) There are more interests to be listed and Par. 2 is continued on a "Rezoning Attachment to Par. 2" form.

REZONING AFFIDAVIT

DATE: 8/16/11
(enter date affidavit is notarized)

1118946

for Application No. (s): RZ/FDP 2011-SU-006
(enter County-assigned application number(s))

3. That within the twelve-month period prior to the public hearing of this application, no member of the Fairfax County Board of Supervisors, Planning Commission, or any member of his or her immediate household, either directly or by way of partnership in which any of them is a partner, employee, agent, or attorney, or through a partner of any of them, or through a corporation in which any of them is an officer, director, employee, agent, or attorney or holds 10% or more of the outstanding bonds or shares of stock of a particular class, has, or has had any business or financial relationship, other than any ordinary depositor or customer relationship with or by a retail establishment, public utility, or bank, including any gift or donation having a value of more than \$100, singularly or in the aggregate, with any of those listed in Par. 1 above.

EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on line below.)

- Scott M. Herrick of Landmark Atlantic Development, LLC, the Applicant/Contract Purchaser, contributed in excess of \$100 to the following members of the Board of Supervisors through Cherokee Management, which is not a party to this application: Michael Frey, Gerald Hyland, Jeffrey McKay, John Foust, John Cook, and Pat Herryty.
- Scott M. Herrick of Landmark Atlantic Development, LLC, the Applicant/Contract Purchaser, contributed in excess of \$100 to Supervisor Penny Gross through Columbia Pike Associates, which is not a party to this application.

(NOTE: Business or financial relationships of the type described in this paragraph that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings. See Par. 4 below.)

(check if applicable) There are more disclosures to be listed and Par. 3 is continued on a "Rezoning Attachment to Par. 3" form. →

4. That the information contained in this affidavit is complete, that all partnerships, corporations, and trusts owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land have been listed and broken down, and that prior to each and every public hearing on this matter, I will reexamine this affidavit and provide any changed or supplemental information, including business or financial relationships of the type described in Paragraph 3 above, that arise on or after the date of this application.

WITNESS the following signature:

(check one)

John H. Thillmann
 Applicant Applicant's Authorized Agent

JOHN H. THILLMANN

(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 16 day of August, 2011, in the State/Comm. of Virginia, County/City of Arlington.

[Signature]
Notary Public

My commission expires: Nov. 30, 2012



Rezoning Attachment to Par. 3

DATE: 8/16/11
(enter date affidavit is notarized)

111 8948

for Application No. (s): RZ/FDP 2011-SU-006
(enter County-assigned application number (s))

- Scott M. Herrick of Landmark Development, LLC, the Applicant/Contract Purchaser, contributed in excess of \$100 to Chairman Sharon Bulova through Fleetwood Management, which is not a party to this application.
- John H. Thillmann of Landmark Development, LLC, the Applicant/Contract Purchaser, contributed in excess of \$100 to the following members of the Board of Supervisors: Sharon Bulova, Michael Frey, Penelope Gross, Jeffrey McKay, Gerald Hyland, John Foust, and Catherine Hudgins.

(check if applicable)

There are more disclosures to be listed for Par. 3, and Par. 3 is continued further on a "Rezoning Attachment to Par. 3" form.