



# FAIRFAX COUNTY

APPLICATION FILED: October 28, 2003  
APPLICATION AMENDED: February 17, 2004  
PLANNING COMMISSION PUBLIC HEARING: June 3, 2004  
PLANNING COMMISSION DECISION: July 21, 2004  
BOARD OF SUPERVISORS: December 6, 2004 @ 3:00 pm

V I R G I N I A

November 18, 2004

# CRD

## STAFF REPORT ADDENDUM II

### APPLICATION RZ/FDP 2003-MV-059

#### MOUNT VERNON DISTRICT

**APPLICANT:** Anastasios and Anna Grypeos

**PRESENT ZONING:** C-8, R-3, HC, CRD

**REQUESTED ZONING:** PRM (Planned Residential Mixed-Use), HC, CRD

**PARCEL(S):** 93-1 ((18)) (D) 117, 126, 130 pt., 138

**ACREAGE:** 1.23 acres

**FAR:** 0.78

**DENSITY:** 17.89 du/ac

**OPEN SPACE:** 20%

**PLAN MAP:** Alternative Use

**PROPOSAL:** To rezone from the C-8, R-3, HC and CRD District to the PRM, HC and CRD District to permit development of a mixed-use development to include multi-family residential uses (up to 22 units) and non-residential uses of 8,700 SF within a single building.

**WAIVERS/MODIFICATIONS:** Waiver of the minimum district size of two (2) acres

Waiver of the service drive requirement along Richmond Highway

Modification of the transitional screening along the southeastern property line to that shown on the CDP/FDP

Waiver of the transitional screening and peripheral parking lot landscaping requirement along the southwestern property line

Waiver to permit underground detention and best management practices (BMPs) in a multifamily residential development

Modification of the Richmond Highway CRD streetscape requirements along Richmond Highway, East Lee Avenue and Preston Avenue to that shown on the CDP/FDP

Modification of the front yard requirement along Richmond Highway and Preston Avenue to that shown on the CDP/FDP per Sect. 9-622 of the Zoning Ordinance.

### **STAFF RECOMMENDATIONS:**

Staff recommends denial of RZ 2003-MV-059 and the Conceptual Development Plan; however, if it is the intent of the Board of Supervisors to approve RZ 2003-MV-059, staff recommends that the approval be subject to the draft proffers contained in Attachment 1 and subject to the underground detention waiver conditions dated July 20, 2004, as contained in Attachment 3.

Staff recommends denial of FDP 2003-MV-059; however if it is the intent of the Planning Commission to approve FDP 2003-MV-059, staff recommends that the approval be subject to development conditions set forth in Attachment 2.

It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions proffered by the owner, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be further noted that the content of this report reflects the analysis and recommendation of staff; it does not reflect the position of the Board of Supervisors.

For information, contact the Zoning Evaluation Division, Department of Planning and Zoning, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035-5505, (703) 324-1290 TTY 711 (Virginia Relay Center).



Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

**Rezoning Application**  
**RZ 2003-MV-059**

**Final Development Plan**  
**FDP 2003-MV-059**

**Applicant:** ANASTASIOS AND ANNA GRYPEOS  
**Filed:** 02/17/2004- AMENDED 10/28/2003  
**Area:** 1.23 AC OF LAND; DISTRICT - MOUNT VERNON  
**Proposed:** MIXED USE DEVELOPMENT AND A WAIVER OF MINIMUM DISTRICT SIZE  
**Located:** EAST OF RICHMOND HIGHWAY AND SOUTH OF EAST LEE AVENUE AND NORTH OF PRESTON AVENUE  
**Zoning:** FROM C-8 TO PRM, FROM R-3 TO PRM  
**Overlay Dist:** CRD HC  
**Map Ref Num:** 093-1- /18/D /0117 /18/D /0126 /18/D /0130 PT. /18/D /0138

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# Rezoning Application

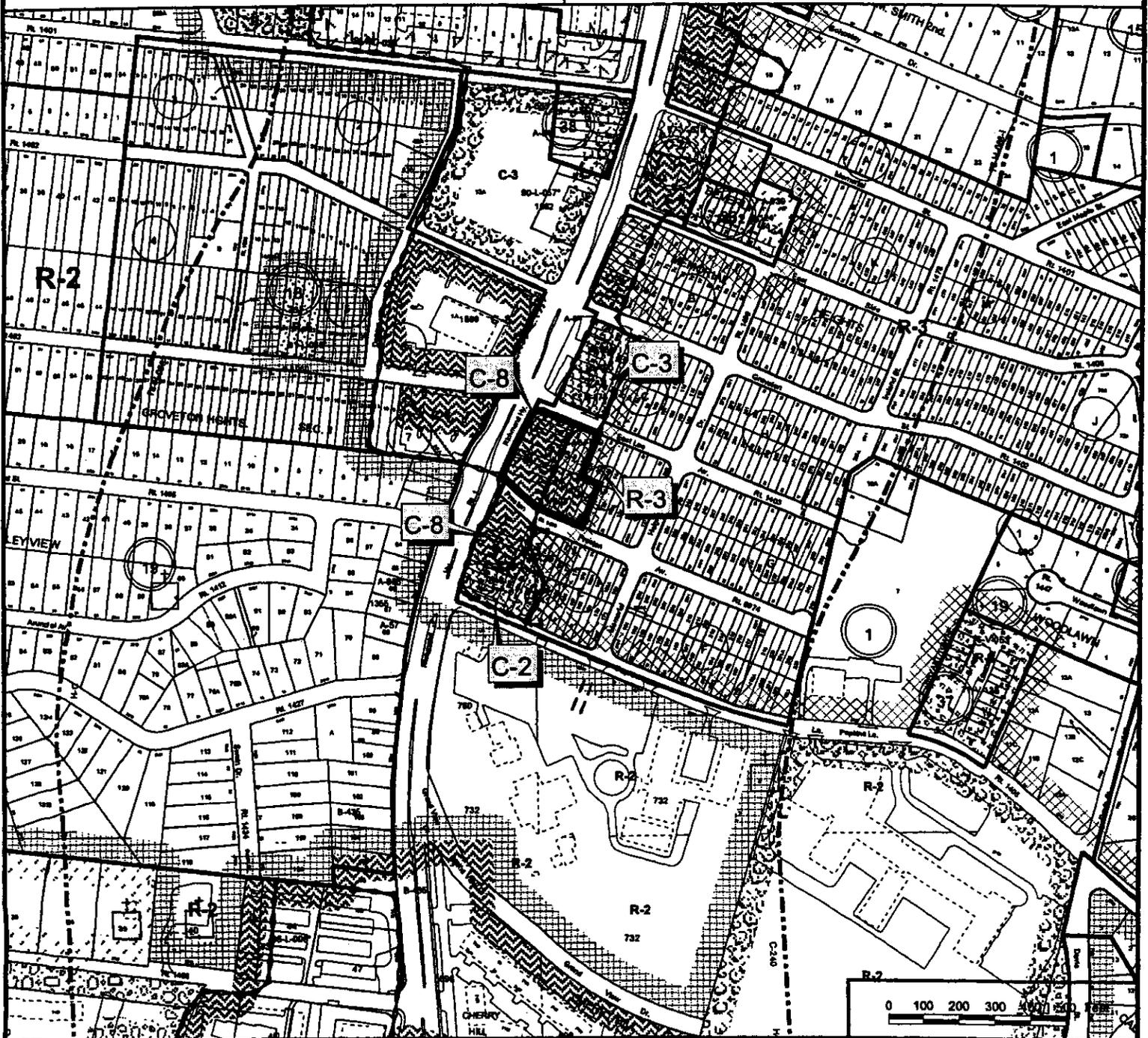
RZ 2003-MV-059

# Final Development Plan

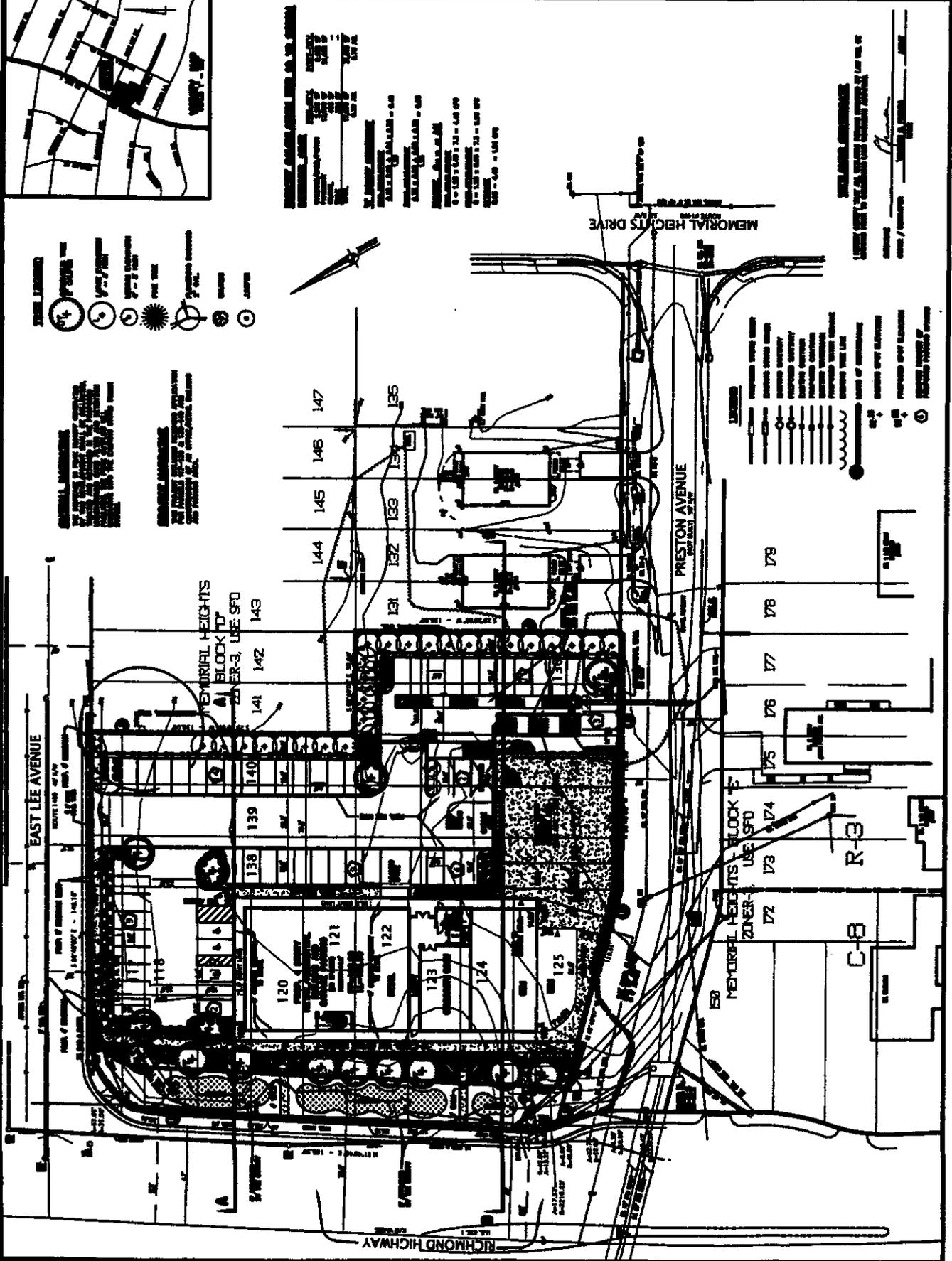
FDP 2003-MV-059

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**Filed:** 02/17/2004- AMENDED 10/28/2003  
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CONCEPTUAL DEVELOPMENT PLAN/  
FINAL DEVELOPMENT PLAN  
ON  
LOTS 117 THRU 130, 138 THRU 140  
BLOCK "D"  
MEMORIAL HEIGHTS  
MOUNT VERNON DISTRICT  
FAIRFAX COUNTY, VIRGINIA  
SCALE: 1" = 20'  
JANUARY 30, 2003



- GENERAL NOTES:**
- 1. ALL UTILITIES SHOWN ARE BASED ON RECORD PLANS AND FIELD SURVEY.
  - 2. ALL UTILITIES SHALL BE DEEPENED TO A MINIMUM OF 48" BELOW FINISHED GRADE.
  - 3. ALL UTILITIES SHALL BE PROTECTED BY CONCRETE CURBS AND RAILS.
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**UTILITIES**

WATER	12" - 18" - 18" - 18"
SEWER	12" - 18" - 18" - 18"
STORM	12" - 18" - 18" - 18"
ELECTRIC	12" - 18" - 18" - 18"
TELEPHONE	12" - 18" - 18" - 18"
CABLE	12" - 18" - 18" - 18"

- LANDSCAPE**
- 1. ALL PLANTING SHALL BE DONE BY THE CONTRACTOR.
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  - 3. ALL PLANTING SHALL BE DONE BY THE CONTRACTOR.
  - 4. ALL PLANTING SHALL BE DONE BY THE CONTRACTOR.







## BACKGROUND

The applicants, Anastasios and Anna Grypeos, request approval to rezone 1.23 acres from the C-8 District (Community Retail Commercial District), R-3 (Residential, up to 3 dwelling units per acre), HC (Highway Corridor Overlay District) and CRD (Commercial Revitalization District) Districts to the PRM (Planned Residential Mixed-Use), HC and CRD Districts to permit development of a 44-foot high multifamily residential building with ground floor retail. This building would contain up to 24 multifamily units with 8,700 SF of ground floor retail. In addition, a 1,440 square foot (SF) freestanding building was also depicted on a previous version of the CDP/FDP. The height and use of this building was not specified, though the applicant had indicated in a letter that it could be used for recreation or an eating establishment. Twenty-seven (27) parking spaces would be provided under the main structure. The rest of the parking would be provided in a surface lot. The application proposes an overall density of 19.51 dwelling units per acre (du/ac) and an overall FAR (floor area ratio) of 0.78.

On May 19, 2004, the Staff Report for RZ/FDP 2003-MV-059 was published. In this report, staff recommended denial of the application for the following reasons:

- The proposed site layout failed to provide effective screening and buffering to the adjacent residential neighborhood along the southeastern and southwestern property lines as recommended by the Comprehensive Plan;
- The proposal did not provide architecture which is compatible with the adjacent residential development as recommended by the Comprehensive Plan;
- It was uncertain whether the interior noise levels could be mitigated to 45 dBA as recommended by the Comprehensive Plan;
- The applicant had not committed to take any steps to preserve an existing off-site tree that staff believes should be preserved;
- The proposal did not provide safe pedestrian access between the site and the bus stop to the south, near Preston Avenue;
- Maintenance and replacement of the proposed underground stormwater management (SWM) facility would pose a significant financial burden for the future homeowners' association (HOA); and
- The proposal provided no amenities for the future residents.

Prior to the June 3, 2004, Planning Commission public hearing, on June 1, 2004, the applicant submitted revised proffers and a revised CDP/FDP. Commitments of note within these proffers, as revised through May 28, 2004, included "good faith efforts" to plant along the undeveloped portion of Preston Avenue and an escrow of \$25,000 in lieu of construction of frontage improvements along Richmond Highway. The revised CDP/FDP, as revised through May 28, 2004, included elevations of the proposed buildings and parking deck along the southeastern and southwestern property lines.

The CDP/FDP also labeled the freestanding building as a community/exercise room and shifted this building toward the main building and Richmond Highway.

Also, on June 2, 2004, the applicant submitted an outdoor/indoor noise analysis.

On June 3, 2004, a public hearing was held before the Planning Commission on RZ/FDP 2003-MV-059. The decision on the application was deferred to June 24, 2004, and again to July 21, 2004.

On June 25, 2004, the applicant submitted a revised CDP/FDP, which increased the size of the main building, eliminated the freestanding building, reduced the size of the concrete deck, and revised the elevations for the proposed parking structure. The applicant also submitted revised proffers. In these proffers, the applicant committed to deposit in the reserves of the future condominium owners' association (COA) funds to cover five years maintenance of the underground SWM facility. The proffers also increased the proposed escrow for future construction of frontage improvements along Richmond Highway from \$25,000 to \$46,702.57. However, under the proposed proffers, this money would be returned to the applicant at the end of fifteen (15) years if such improvements have not been made.

On July 15, 2004, a Staff Report Addendum for RZ/FDP 2003-MV-059 was published. In this report, staff recommended denial of the application. Staff noted that the revisions to the CDP/FDP and proffers did not resolve all of staff's previous concerns as noted in the original staff report. Staff stated that the applicant had still not shown the proposed 0.78 FAR could be accomplished on the 1.23 acre site without adversely impacting the abutting single-family detached residential neighborhood.

On July 21, 2004, the Planning Commission recommended approval of RZ 2003-MV-059, subject to the execution of proffers consistent with those dated July 6, 2004. In addition, the Planning Commission voted to approve FDP 2003-MV-059, subject to the development conditions dated July 15, 2004, and subject also to Board approval of RZ 2003-MV-059. Finally, the Planning Commission also voted to recommend approval of the waiver of the Public Facilities Manual (PFM) requirements in order to permit underground detention and best management practices in a multifamily residential development, subject to development conditions recommended by the Department of Public Works and Environmental Services. A copy of the Planning Commission verbatim is contained in Attachment 4.

The public hearing for the Board of Supervisors was originally scheduled for July 26, 2004, but was deferred in order to allow the applicant time to meet with the surrounding Groveton neighborhood. The Board of Supervisors public hearing is currently scheduled for December 6, 2004, at 3:00 PM.

## DISCUSSION

On November 4, 2004, the applicant submitted the latest revised CDP/FDP, which is included in the front of this staff report addendum. The CDP/FDP, entitled "Memorial

Heights” prepared by Alexandria Surveys International, LLC, consisting of four sheets dated October 15, 2003, as revised through October 11, 2004, includes the following changes:

- Uses. The applicant has reduced the proposed number of dwelling units from a maximum of 24 units (or 19.51 du/ac) to a maximum of 22 units (or 17.89 du/ac). The applicant has also reduced the proposed amount of retail and restaurant space from a maximum of 8,700 square feet to a maximum of 7,050 square feet (SF). A 1,650 SF community room is also proposed on the first floor of the building. Despite this reduction in the number of dwelling units and the amount of retail uses, the proposed four-story building has not changed in size. The Floor Area Ratio (FAR) will remain at 0.78.
- Parking. Despite the reduction in units and retail uses, the applicant has not reduced the amount of parking that will be provided on the site. The applicant continues to provide 93 parking spaces on site.

The applicant also submitted revised proffers, dated November 3, 2004. The following changes have been made to the proffers:

- Construction Hours and Parking. The applicant has now committed that outdoor construction activity will be prohibited after 7:00 PM on weekdays. Previously, the proffers would have permitted outdoor construction activity to continue until 9:00 PM on weekdays. The applicant has also committed to prohibit construction parking or construction equipment on Preston Avenue (except for that equipment which is needed to construct the frontage improvements along Richmond Highway). The applicant has proffered that the construction dumpster shall be located on-site and that parking for construction workers shall be prohibited along East Lee Street, Memorial Heights Drive, and Preston Avenue.
- Recreation. The applicant has now committed that should there be any remaining funds from the \$955 per residential unit recreation contribution, these funds may either be used to provide additional recreational amenities for the site or be contributed to the Fairfax County Park Authority for use on recreational facilities within the service area of the subject site.
- Stormwater Management. The proffers no longer limit the amount of money which will be deposited in the reserves of the future Condominium Owners Association (CAO) for maintenance of the underground Best Management Practices (BMP) facility. Instead, the applicant has committed to deposit an amount as determined by the Department of Public Works and Environmental Services (DPWES).
- Frontage Improvements. Instead of escrowing funds for future construction of the frontage improvements, the applicant has now committed to provide for frontage improvements consisting of one (1) lane along the Richmond Highway frontage, curb and gutter along that lane and a sidewalk.

## ANALYSIS

### Reduction in Residential and Non-Residential Uses

Though the applicant has reduced the amount of residential and non-residential uses proposed within the building, this reduction in uses has not resulted in a corresponding reduction in building size. Furthermore, despite the reduction in uses, the applicant has not reduced the amount of parking on the site. Staff hoped that the reduction in the uses on the site might have permitted the applicant to reduce the size of the building footprint and the size of the parking lot and therefore, increase the landscaped buffers to the abutting single-family detached neighborhood. Staff continues to believe that the proposed site layout fails to provide effective screening and buffering to the adjacent single-family detached residential neighborhood (Memorial Heights) along the southeastern and southwestern property lines, as recommended by the Comprehensive Plan.

### Stormwater Management

The applicant is proposing to use an underground cartridge-based pre-manufactured BMP system for water quality control purposes. Section 6-0303.8 of the Public Facilities Manual (PFM) has been amended to state that the Board of Supervisors has the sole authority to waive the prohibition on the use of underground detention facilities in residential developments in conjunction with a rezoning – i.e., DPWES cannot approve a waiver after the Board has acted on the rezoning. The process established with this PFM amendment calls for DPWES to make a recommendation on all such waiver requests.

In its memo, dated July 21, 2004; and contained in Attachment 3, DPWES raised two concerns about the applicant's proposal. First, DPWES is concerned that children may try to access the underground facility. DPWES has requested that the applicant provide details of the proposed facility to ensure that children cannot enter the underground facilities. In order to address this concern, the applicant has agreed to provide locks for each of the accessible door and manholes of the underground facility in order to prevent unauthorized access to the underground chambers. This commitment resolved DPWES's safety concerns.

Second, DPWES is concerned about the maintenance costs of this facility and the financial burden that it could place on the future owners. Previously, the applicant proposed to deposit in the reserves of future condominium owners' association (COA) funds to cover five years maintenance of the underground SWM facility. With other underground facilities, DPWES has required applicants to provide an estimate of the 20 year maintenance cost and to establish an escrow of that amount with DPWES. The applicant has now amended the proffers to commit to deposit an amount as determined by the Department of Public Works and Environmental Services (DPWES).

While staff supports the applicant's changes to the stormwater management proffers, staff still does not support the requested waiver for an underground facility in a residential area. Staff continues to be concerned about the burden that this facility will create for the 22 future property owners and business owners responsible for the upkeep of the facility.

### Frontage Improvements

Previously, the applicant had sought a waiver of frontage improvements, in lieu of an escrow of \$46,702.57 toward future construction of frontage improvements along Richmond Highway. The applicant had also proffered that should the frontage improvements not be completed within fifteen (15) years, then the escrowed funds were to be returned to the applicant. The applicant is no longer requesting a waiver of frontage improvements. Rather, the applicant has proffered to provide for frontage improvements.

## CONCLUSIONS AND RECOMMENDATIONS

### Conclusions

The revised CDP/FDP and proffers do not resolve all of staff's previous concerns as noted in the original staff report. While the Comprehensive Plan recommends the subject site for mixed-use development up to 0.80 FAR, it also states that this use is only appropriate if effective screening and buffering is provided between the subject site and the surrounding low-density residential neighborhood. Because the applicant proposes to locate the proposed building immediately on the southwestern property line, no screening would be provided for the surrounding single-family detached neighborhood. Furthermore, because of the large expanse of surface parking proposed behind the building, minimal transitional screening will be provided where the site abuts this same neighborhood along the southeastern property line. For these reasons, staff believes that the applicant has failed to demonstrate that a 0.78 FAR can be accomplished on this 1.23 acre site without adversely impacting the abutting single-family detached residential neighborhood.

### Recommendations

Staff recommends denial of RZ 2003-MV-059 and the Conceptual Development Plan; however, if it is the intent of the Board of Supervisors to approve RZ 2003-MV-059, staff recommends that the approval be subject to the draft proffers contained in Attachment 1 of the staff report.

It should be noted that it is not the intent of the staff to recommend that the Board, in adopting any conditions proffered by the owner, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be noted that the content of this report reflects the analysis and recommendation of staff; it does not reflect the position of the Board of Supervisors.

ATTACHMENTS

1. Proffers, now dated November 8, 2004
2. Affidavit
3. DPWES analysis of underground SWM waiver
4. Planning Commission Verbatim dated July 21, 2004

**RZ 2003-MV-059  
PROFFERS**

**November 8, 2004**

Pursuant to Section 15.2-2303(A), *Code of Virginia*, 1950 as amended, Anastasios Grypeos and Anna Grypeos, for the owners, themselves, their successors and assigns in RZ 2003-MV-059 filed for property identified as Tax Map 93-1((18))(D)117, 126, pt. 130, and 138 (hereinafter referred to as the Property), hereby proffer for themselves and their successors and assigns that the development of the Property will be subject to the following terms and conditions provided that the Board of Supervisors (BOS) approves the rezoning application from the C-8 and R-3 Zoning District to the PRM Zoning District.

**I. Conceptual/Final Development Plan (CDP/FDP)**

I. 1. Substantial Conformity. Development of the property shall be in substantial conformance with the plan entitled "Conceptual Development Plan/Final Development Plan Memorial Heights" (CDP/FDP), consisting of four (4) sheets prepared by Alexandria Surveys International, LLC, dated January 30, 2003, as revised through October 11, 2004. The CDP portion of the CDP/FDP shall constitute the entire plan relative to the FAR, minimum required open space, points of access, height, the maximum number of units, type of units, general location, and orientation of the building, parking, and setbacks. The Applicant shall have the option to request Final Development Plan Amendments (FDPAs) from the Planning Commission for portions of the plan in accordance with the provisions set forth in Section 16-402 of the Zoning Ordinance.

I. 2. Landscaping and Design Amenities. A landscape plan shall be submitted as part of the first and all subsequent site plan submissions for review and approval by the Urban Forest Management Branch. Landscaping shall be provided along Richmond Highway and East Lee Avenue in substantial conformance with the CDP/FDP. Actual types and species of vegetation shall generally meet the guidelines recommended by the Richmond Highway Streetscape Plan as approved by the Urban Forest Management Branch. All new shade trees provided as a part of the streetscape shall be minimum of two (2) inches in caliper at the time of planting; all new flowering trees shall be a minimum of 2 inch caliper at the time of planting; and all new evergreen trees shall be a minimum of six to eight (6 to 8) feet in height at the time of planting. The evergreen trees shall be Leyland Cyprus unless the Urban Forest Management Branch determines that species tree does not have a good chance of survival, in which case the type tree shall be determined by the Urban Forest Management Branch.

All efforts, as determined by the Urban Forestry Division of the Department of Public Works and Environmental Services (DPWES), shall be made to prevent disturbance to the 30" oak tree located off site on lot 141 including the pruning and trimming of said tree if the owner of the tree agrees. These efforts shall include substituting a wood fence instead of architectural block wall in that area. If parking spaces must be removed, the parking reduction which has been requested shall address this reduction but shall not exceed the allowable 20% reduction. The landscaping plantings shall be modified if deemed necessary by the Urban Forest Management Branch to ensure that the roots of any plantings will not adversely affect said tree. Good faith efforts shall be made to obtain approval from the appropriate party(s), government entities, owner(s), but not to include vacation of undeveloped Preston Avenue, to plant evergreen trees/shrubs within the twenty-five (25) feet of undeveloped Preston Avenue that is adjacent to the subject property and across from residentially zoned land. The purpose of these plantings will be to enhance the view of the proposed development from adjacent residential properties. If such approvals are secured, the applicant shall plant within that area plantings approved by the Urban Forest Management Branch; if such approval is not secured, the applicant shall demonstrate to DPWES such failed attempts to plant to secure permission.

Notwithstanding the proposed Garden Area shown on the CDP/FDP, the proposed Garden Area will not be planted in the VDOT right-of-way since that area will be used for frontage improvements in accordance with Proffer V 2.

- I. 3. Building Design and Building Materials. The design and architecture of the proposed building shall be in substantial conformance with the illustrative elevations submitted with the application, except that all or a portion of the balconies may be deleted at the option of the developer to address noise issues. Modifications may be made with the final architectural design if they are determined to be in substantial conformance with the elevations. The exterior building materials will be a combination of materials to include concrete, siding, glass, metal panels, masonry, cementitious panel, or stucco or brick.
- I. 4. Maximum Density and Permitted Uses. A maximum of Twenty-Two (22) multiple family dwelling units and a maximum of 7,050 square feet of non-residential uses (retail and/or office) and the community room shall be provided on the first floor in the main building. The Floor Area Ratio (FAR) for the site shall not exceed 0.78. The primary uses shall be multiple family dwelling units. The following secondary uses may be located on the first floor of the building but only if the combined parking requirement for the uses can be met on site taking into account a 20%

reduction in required parking permitted in the Richmond Highway Commercial Revitalization District:

- A. Accessory uses and accessory service uses.
- B. Business service and supply service establishments.
- C. Eating establishments (not drive through).
- D. Fast food restaurants (not drive through), such as a deli, ice cream parlor, or coffee shop.
- E. Financial institution (not drive through).
- F. Garment cleaning establishment (not drive through).
- G. Health clubs.
- H. Personal service establishment.
- I. Private club and public benefit associations.
- J. Public uses.
- K. Quick service food store.
- L. Unmanned bank teller machines (not drive through).
- M. Offices.
- N. Retail sales establishments.
- O. Repair service establishments for minor appliances, bicycles, and computers.
- P. Private schools of special education (which do not require outdoor recreation areas) -- such as ballet studio.

## II. General

- II. 1. Signs. Signage shall be provided in accordance with Article 12 of the Zoning Ordinance. If lighted, signage shall be internally lit only. The Applicant reserves the right to make application for a comprehensive signage plan in accordance with the provisions set forth in Sect. 12-210 of the Zoning Ordinance. No temporary signs (including "popsicle" paper or cardboard signs) which are prohibited by Article 12 of the Zoning Ordinance, and no signs which are prohibited by Chapter 7 of Title 33.1 or Chapter 8 of Title 46.2 of the Code of Virginia shall be placed on or off-site by the Applicant or by any builder or at the Applicant's or any builder's direction to assist in the initial and future marketing and/or sale/rental of dwelling units on the subject property. The Property Owner or Developer shall direct agents and employees involved in marketing the Property to adhere to this Proffer.
- II. 2. School Contributions. After the approval of the site plan and prior to approval of the first Building Permit for the approved development, the Applicants shall contribute the sum of \$22,500 to the Board of Supervisors for capital projects related to Bucknell Elementary, Sandburg Middle, and/or West Potomac High School.

- II. 3. Density Credit. Advanced density credit is reserved consistent with Sect. 2-308 of the Fairfax County Zoning Ordinance for all eligible dedications described herein or as may be required by Fairfax County or VDOT pursuant to the Public Facilities Manual (PFM), at the time of site plan approval for the Property.
- II. 4. Affordable Dwelling Units (ADUs). After the approval of the site plan and prior to the issuance of the first Building Permit, the Applicant shall contribute to the Fairfax County Housing Trust Fund a sum equal to one-half of one percent (0.5%) of the projected sales price of the new residential condominiums to be built on-site, as determined by the Department of Housing and Community Development (HCD) and DPWES in consultation with the Applicant to assist the County in its goal to provide affordable dwellings elsewhere in the County.
- II. 5. Administrative Review. Concurrent with the submission of site plans to DPWES, the Applicant shall submit copies of the site plans and all revisions to the Mt. Vernon District Supervisor and Planning Commissioner for the purpose of administrative review and comment.
- II. 6. Construction Hours: Outdoor construction activity will be limited to between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday and 8:00 am and 5:00 pm on Saturdays. No outdoor construction activities will be permitted on Sundays.
- II. 7. Construction Parking and Equipment: There shall be no construction parking or construction equipment on Preston Avenue, except that which is necessary to construct the frontage improvements for Richmond Highway. If permission is granted to allow planting in the undeveloped portion of Preston Avenue, equipment appropriate to prepare the soil for plantings shall be allowed in that area. All parking by construction employees shall be on site and the construction dumpster shall be on site. There shall be no parking by employees engaged in the construction activities on East Lee Street, Memorial Heights Drive and/or Preston Avenue. There shall also be a temporary construction fence around the perimeter of the site abutting Preston Avenue, adjacent to the limits of disturbance indicated on the development plan and along the rear of the property abutting the residentially zoned and developed land.

### III. Recreation

- III. 1. Recreation Contribution: At the time of site plan review, the Applicants shall demonstrate that the value of the amenities within the community room/exercise facility and community deck designated for the residents is equivalent to a minimum of \$955.00 per residential unit as required by Section 6-409 of the Zoning Ordinance. Pursuant to Section 16-404 of the

Zoning Ordinance, in the event it is demonstrated that these recreational facilities as described therein, do not have sufficient value as defined above, the Applicants shall, prior to the issuance of the first residential building permit, provide additional recreational amenities for the condominium units or shall contribute the remaining amount per unit to the Fairfax County Park Authority ("Park Authority") for use of recreational facilities for one of its parks within the service area of the Subject Property.

- III. 2. Landscaped Deck: The Applicants also proffer that the proposed deck which is to the east of the community/exercise room shall be landscaped and designed to provide an amenity to the residents of the building in accordance with the CDP/FDP. The portion of the deck between the community outdoor area and contiguous to the main building shall be landscaped in accordance with the CDP/FDP and shall be utilized by patrons of the non-residential uses in the building. The landscaping shall consist of the combination of shrubs and ornamental trees planted in the planters around the outside perimeter of the deck.
- III. 3. Benches and Outdoor Spaces: A minimum of four (4) benches shall be provided on the subject property along the Richmond Highway frontage, together with landscaping to encourage the gathering of people. The design of the benches and landscaping shall conform to the Richmond Highway Streetscape Guidelines.
- III. 4. Community Room: The amenities provided to the residents within the community room may include the following: television and other electronic entertainment facilities with seating arrangements, billiard and/or ping pong table, exercise equipment, card tables and chairs with appropriate lighting, bar/kitchen area for serving food prepared elsewhere, such furnishings to be determined and purchased by the Condominium Owners Association (COA) or the developer.

#### IV Environmental:

- IV. 1. Stormwater Management (SWM) and Best Management Practices (BMP): In accordance with County engineering requirements and subject to approval by the County DPWES, stormwater management/Best Management Practices (BMPs) shall be provided on-site in an underground facility(s), as approved by DPWES. The stormwater management facility shall be part of the common elements of the condominium and shall be maintained by the Condominium Unit Owners Association (COA). The applicants/developers shall deposit in the reserves of the COA an amount as determined by the DPWES to cover maintenance of the Underground Stormwater Management Facility as agreed to by the Applicant's engineer and DPWES.

IV.2. Energy Conservation. The Residential Units shall meet the thermal standards of the CABO Model Energy Program for energy efficient homes, or its equivalent, as determined by DPWES for either electric or gas energy dwellings as applicable.

IV.3. Noise Attenuation. The Applicants shall provide the following noise attenuation measures:

A. In order to reduce the maximum interior noise to a level of 45 dBA Ldn or less, the Applicant proffers that the front and side walls of all residential units facing Richmond Highway shall have the following acoustical attributes:

- (1) Exterior walls shall have a laboratory sound transmission class (STC) rating of at least 45;
- (2) Windows shall have a STC of 35, exterior doors shall have a STC of 34 and sliding doors shall have a STC of 36. If glazing constitutes more than 20% of any facade it shall have the same laboratory STC rating as walls; and
- (3) Measures to seal and caulk between surfaces shall follow methods approved by the American Society for Testing and Materials to minimize sound transmission.

B. In order to reduce the maximum interior noise to a level of 45 dBA Ldn or less, the applicants proffer that the front wall of all residential units facing the rear of the property shall have at least the following acoustical attributes:

- (1) Exterior walls shall have a laboratory sound transmission class (STC) rating of 45;
- (2) Windows shall have a STC of 31, exterior doors and sliding doors shall have a STC of 30. If glazing constitutes more than 20% of any facade, it shall have the same laboratory STC rating as walls; and
- (3) Measures to seal and caulk between surfaces shall follow methods approved by the American Society for Testing and Materials to minimize sound transmission.

IV 4. Lighting. All on-site outdoor and parking garage lighting shall comply with the Outdoor Lighting Standards set forth in Part 9 of Article 14 of the Zoning Ordinance. Street lights shall be full cut off. Parking lot lights shall conform to the Richmond Highway Urban Design Recommendations of the Comprehensive Plan (preferably bollard type) unless light poles are required for safety considerations. Pedestrian lights shall be provided along the Richmond Highway frontage of the property in conformance with the Richmond Highway Streetscape requirements.

IV. 5. Pedestrian Facilities. The pedestrian facilities and related streetscape design for Richmond Highway and East Lee Avenue, including the browsing plazas, shall be in substantial conformance with the CDP/FDP except for the following: If at the time of site plan review, it is determined that the public sidewalk cannot be constructed within the 75 foot of dedicated area, public access easements shall be established over the proposed sidewalk in the front of the building and the connection sidewalks to East Lee Avenue and the three proposed sidewalks that connect to the existing sidewalk along Richmond Highway.

V. Transportation.

V. 1. Transportation Management Strategies. Mass transit, ride-sharing, and other transportation strategies will be utilized to attempt to reduce single occupancy vehicular (SOV) traffic during peak hours. Residents and employees of the residential development shall be advised of this transportation strategy. The following is a list of strategies that shall be implemented:

- A. Dissemination of information by the COA regarding Metrorail, Metrobus, ridesharing, and other relevant transit options in residential sale/lease packages;
- B. Making Metro maps, schedules and forms, ridesharing and other relevant transit option information available to owners/tenants and employees in a common area(s) of property ;
- C. Maintaining a safe sidewalk system designed to encourage/facilitate pedestrian circulation and to clear the sidewalk of snow as required by law.

V. 2. Right of Way Dedication and Frontage Improvements. The Applicants shall dedicate a maximum of seventy-five (75) feet from existing center line of Richmond Highway as shown on the CDP/FDP. This right-of-way shall be dedicated and conveyed in fee simple to the Board of Supervisors upon demand by the VDOT or Fairfax County, or at the time of site plan approval, whichever occurs first. The applicant shall provide for frontage improvements along the Richmond Highway frontage of the site.

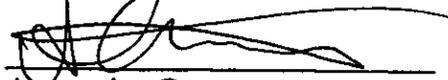
VI. Miscellaneous.

VI. 1 The Condominium Owners Association:

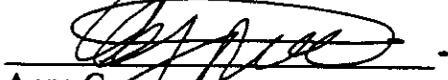
- A. Condominium Owners Associations. The Condominium Owners Association shall be created upon substantial completion of the units as required by the Condominium Act of the Commonwealth of Virginia and prior to the sale of the first unit. The COA shall consist of all of the residential and non-residential units within this development.
- B. The public offering statement shall be made available to potential purchasers in accordance with the Condominium Act of the Commonwealth of Virginia. Maintenance of all common elements contained in the condominium shall be included in the Public Offering Statement. All potential purchasers shall be notified in writing prior to purchase that the COA is responsible for maintenance and replacement of all common elements and areas within the condominium development. The Condominium documents shall disclose that parking in the garage and within the gated area shall be for residents and employees of the retail units. In addition, it shall also be disclosed that the residents may share the use of the parking spaces for the retail uses during the hours the retail businesses are closed. This notification shall also be included in the COA documents. Potential purchasers shall also be notified in writing prior to purchase that: Richmond Highway shall be widened along the property's frontage; that this property is within the noise impacts of Richmond Highway; and that the outside balconies will be impacted by this noise.
- VI. 2. Dumpster Pad. If it is determined that the dumpster pad interferes with safe ingress and egress of emergency vehicles or turnaround of those vehicles, the dumpster pad, the adjacent two parking spaces, and the adjacent proposed fire lane may be switched or the two parking spaces removed to shift back toward the proposed retaining wall to provide more maneuvering room for the trash vehicle and/or the emergency vehicles.
- VI. 3. Successors and Assigns. These proffers will bind and inure to the benefit of the Applicant and his successors and assigns. Each reference to "Applicant" in this proffer statement shall include within its meaning and shall be binding upon Applicants successor(s) in interest and/or developer(s) of the site or any portion of the site.

TITLE OWNERS SIGNATURE TO FOLLOW:

TITLE OWNERS:



Anastasios Grypeos



Anna Grypeos

## REZONING AFFIDAVIT

DATE October 6, 2004  
(enter date affidavit is notarized)

I, Lori R. Greenlief, do hereby state that I am an  
(enter name of applicant or authorized agent)

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

81329e

In Application No (s) RZ 2003-MV-059  
(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 )

<b>NAME</b> (enter first name, middle initial, and last name)	<b>ADDRESS</b> (enter number, street, city, state, and zip code)	<b>RELATIONSHIP(S)</b> (enter applicable relationships listed in <b>BOLD</b> above)
Anastasios and Anna Grypeos	<b>3134</b> Clayborne Ave. Alexandria, VA 22306	Applicants/Title Owners
Alexandria Surveys International LLC J. Paul Hoofnagle	6343 South Kings Highway Alexandria, VA 22306	Engineer/Agent for the Applicants Agent
Jane Kelsey & Associates, Inc. Jane Kelsey	4041 Autumn Court Fairfax, VA 22030	Agent for Applicants Agent

(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

\* 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: October 6, 2004  
(enter date affidavit is notarized)

81329e

for Application No. (s): RZ 2003-MV-059  
(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.

<b>NAME</b> (enter first name, middle initial, and last name)	<b>ADDRESS</b> (enter number, street, city, state, and zip code)	<b>RELATIONSHIP(S)</b> (enter applicable relationships listed in <b>BOLD</b> above)
Greenlief Consulting LLC Lori R. Greenlief	14368 Nandina Court Centreville, VA 20120	Agent for Applicants Agent
Architectural Design Services, Inc.  Avgerinos Vakalopoulos	<del>340</del> Hungerford Dr. 2nd Floor Rockville, MD 20850	Architect/Agent for Applicants Agent
Polysonics Corp.  Robert M. Brenneman Scott Harvey	5115 MacArthur Blvd. NW Washington, DC 20016	Agent for Applicants Agent Agent
Reed Smith LLP  Grayson P. Hanes Robert M. Diamond	3110 Fairview Park Dr. #1400 Falls Church, VA 22042	Attorney/Agent for Applicants Agent Agent
Patton Harris Rust & Associates, PC Douglas R. Kennedy Kamesh KUMar Mantravadi Dilip N. Malave Nikolai Alexandrow	14532 Lee Road Chantilly, VA 20151	Traffic CONSULTANT/Agent Agent Agent Agent

(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.

## REZONING AFFIDAVIT

DATE: 5 October 6, 2004  
(enter date affidavit is notarized)

8/32e

for Application No (s) RZ 2003-MV-059  
(enter County-assigned application number(s))

(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)

Alexandria Surveys International LLC  
6343 South Kings Highway  
Alexandria, VA 22306

**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)

J. Paul Hoofnagle  
William G. Fry

Harbor Island Capital, LLC  
By: Harbor Island Partners, LLC as Sole  
Manager of Harbor Island Capital, LLC

**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 Part 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)**

DATE: October 6, 2004  
(enter date affidavit is notarized)

81329e

for Application No. (s): RZ 2003-MV-059  
(enter County-assigned application number (s))

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

Jane Kelsey & Associates, Inc.  
4041 Autumn Court  
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)

Jane Kelsey

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

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

Greenlief Consulting, LLC  
14368 Nandina Court  
Centreville, VA 20120

**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)

Lori R. Greenlief

**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 Attachment to Par. 1(b)**

DATE: October 6, 2004  
(enter date affidavit is notarized)

81329e

for Application No. (s): RZ 2003-MV-059  
(enter County-assigned application number (s))

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

Harbor Island Capital, LLC  
6329 Oleander Drive, Ste. 200  
Wilmington, NC 28403

**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)

Harbor Island Partners, LLC  
Charles A. Paul III

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

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

Harbor Island Partners, LLC  
6329 Oleander Drive, Ste. 200  
Wilmington, NC 28403

**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 A. Paul III

**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 Attachment to Par. 1(b)**

DATE: October 6, 2004  
(enter date affidavit is notarized)

813 29 e

for Application No. (s): RZ 2003-MV-059  
(enter County-assigned application number (s))

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

Polysonics Corp.  
5115 MacArthur Blvd. NW  
Washington, DC 20016

**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)

George Spano  
Pari Spano  
Scott B. Harvey

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

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

Architectural Design Services, Inc.  
340 Hungerford Dr., 2nd Floor, Rockville, MD 20850

**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)

Averginos Vakalopoulos

**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 Attachment to Par. 1(b)**

DATE: October 6, 2004  
(enter date affidavit is notarized)

81329e

for Application No. (s): RZ 2003-MV-059  
(enter County-assigned application number (s))

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

Patton Harris Rust & ASSOCIATES, PC  
14532 Lee Road  
Chantilly, VA 20151

**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)

THomas Davis Rust  
Jeffrey E. Frank

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

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

**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)

**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

DATE. October 6, 2004  
(enter date affidavit is notarized)

81329 e

for Application No. (s) RZ 2003-MV-059  
(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)

Reed Smith LLP  
3110 Fairview Park Dr., #1400  
Falls Church, VA 22042

(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)

**GENERAL PARTNERS:**

Abbott, Kevin C.	Blicht, Stephen G.	Clark, II, Peter S.	Dittoe, John E.
Alfandary, Peter R.	Boehner, Russell J.	Cobetto, III, Jack B.	Duman, Thomas J.
Allen, Thomas L.	Bolden, A. Scott	Colen, Frederick H.	Dumville, S. Miles
Arnold, Roy W.	Bonessa, Dennis R.	Coltman, Larry	Duronio, Carolyn D.
Baglebter, William	Booker, Daniel I.	Connors, Eugene K.	Epstein, Bette B.
Baker, Scott D.	Borrowdale, Peter E.	Convery, III, J. Ferd	Eskilson, James R.
Banko, Kathleen M.	Boven, Douglas G.	Cotler, Alan K.	Evans, David C.
Banzhaf, Michael A.	Bradford, Timothy B.	Cottingham, Robert B.	Fagelson, Ian B.
Barry, Kevin R.	Brown, George	Davies, Colleen T.	Fagelson, Karen C.
Beattie, Gregory L.	Brown, Michael K.	Demase, Lawrence A.	Fallon, Paul F.
Bentz, James W.	Buckley, Mike C.	DeNinno, David L.	Fisher, Stanley P.
Bernstein, Leonard A.	Burroughs, Jr., Benton	Dermody, Debra H.	Flatley, Lawrence E.
Bersch, Lynn A.	Cameron, Douglas E.	DiCello, Francis P.	Fogle, Paul D.
Bevan, III, William	Carder, Elizabeth B.	DiFiore, Gerard S.	Fontana, Mark A.
Binis, Barbara R.	Christian, Douglas Y.	Dilling, Robert M.	Foster, Timothy G.
Biasler, Peter C.	Christman, Bruce L.	DiNome, John A.	Fox, Thomas C.

(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.*

Rezoning Attachment to Par. 1(c)

DATE: October 6, 2004  
(enter date affidavit is notarized)

81329e

for Application No (s) RZ 2003-MV-059  
(enter County-assigned application number (s))

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

Reed Smith LLP  
3110 Fairview Park Dr. #1400  
Falls Church, VA 22042

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

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

**GENERAL PARTNERS:**

- |                           |                           |                        |                        |
|---------------------------|---------------------------|------------------------|------------------------|
| Frank, Ronald W.          | Kelly, Bradley L.         | Mehfoud, Kathleen S.   | Sabourin, Jr., John J. |
| Frenier, Diane M.         | Kemp, John M.             | Melodia, Mark S.       | Sanders, Michael       |
| Fritton, Karl A.          | Kiel, Gerard H.           | Metro, Joseph W.       | Schaffer, Eric A.      |
| Gallagher, Jr., Daniel P. | King, Robert A.           | Meyers, Michael A.     | Schatz, Gordon B.      |
| Gallatin, Jr., James P.   | Klein, Murray J.          | Miller, Edward S.      | Scott, Michael T.      |
| Gasparetti, Lorenzo E.    | Kohn, Steven M.           | Miller, Robert J.      | Seaman, Charles H.     |
| Gentile, Jr., Pasquale D. | Kolaski, Kenneth M.       | Moberg, Marilyn A.     | Sedlack, Joseph M.     |
| Goldrosen, Donald N.      | Kosch, James A.           | Morris, Robert K.      | Shanus, Stuart A.      |
| Goldschmidt, Jr., John W. | Kozlov, Herbert F.        | Munoz, Peter S.        | Shmulewitz, Aaron A.   |
| Greerson, Thomas W.       | Krebs-Markrich, Julia     | Munsch, Martha Hartle  | Short, Carolyn P.      |
| Gross, Dodi Walker        | Kwuon, Janet H.           | Myers, Donald J.       | Siamas, John S.        |
| Guadagnino, Frank T.      | Lacy, Jr., D. Patrick     | Napolitano, Perry A.   | Simons, Bernard P.     |
| Gwynne, Kurt F.           | Lasher, Lori L.           | Naugle, Louis A.       | Simons, Robert P.      |
| Hackett, Mary J.          | LeDonne, Eugene           | Nelson, Jack R.        | Singer, Paul M.        |
| Haggerty, James R.        | Leech, Frederick C.       | Nicholas, Robert A.    | Sleeth, Boyd C.        |
| Hanes, Grayson P.         | Levine, Edward H.         | Nogay, Arlie R.        | Smith, III, John F.    |
| Harnsberger, Thomas L.    | Linge, H. Kennedy         | Oppedahl, Mary C.      | Smith, John Lynn       |
| Harris, Judith L.         | Loepere, Carol C.         | Peck, Jr., Daniel F.   | Spaulding, Douglas K.  |
| Hartman, Ronald G.        | London, Alan E.           | Perfido, Ruth S.       | Speed, Nicholas P.     |
| Hayes, David S.           | Lowenstein, Michael E.    | Peterson, Kurt C.      | Stanley, David E.      |
| Heard, David J.           | Luchini, Joseph S.        | Philpot, Kenneth J.    | Stewart, II, George L. |
| Heffler, Curt L.          | Lynyak, III, Joseph T.    | Picco, Steven J.       | Stoney, Jr., Carl J.   |
| Heidelberger, Louis M.    | Lyons, III, Stephen M.    | Pollock, Michael B.    | Stroyd, Jr., Arthur H. |
| Hill, Christopher A.      | Mahone, Glenn R.          | Prorok, Robert F.      | Tabachnick, Gene A.    |
| Hill, Robert J.           | Mantell, Nanette W.       | Quinlan, Thomas J.     | Thallner, Jr., Karl A. |
| Hitt, Leo N.              | Marger, Joseph M.         | Quinn, John E.         | Thomas, William G.     |
| Hoeg, III, A. Everett     | Martin, James C.          | Radley, Lawrence J.    | Thompson, David A.     |
| Hofstetter, Jonathan M.   | McAllister, David J.      | Raymond, Peter D.      | Tillman, Eugene        |
| Honigberg, Carol C.       | McDavid, George E.        | Reed, W. Franklin      | Tocci, Gary M.         |
| Iino, John M.             | McGarrigle, Thomas J.     | Rainke, Brent A.       | Todd, Thomas           |
| Innamorato, Don A.        | McGough, Jr., W. Thomas   | Rainke, Donald C.      | Tompkins, Benjamin F.  |
| Johnson, Stephen W.       | McGuan, Kathleen H.       | Restivo, Jr., James J. | Tovey, Morgan W.       |
| Jordan, Gregory B.        | McKenna, J. Frank         | Rhatigan, Sean M.      | Trevelise, Andrew J.   |
| Kabnick, Lisa D.          | McNichol, Jr., William J. | Ritchey, Patrick W.    | Unkovic, John C.       |
| Kearney, Kerry A.         |                           | Rubenstein, Donald P.  | Vitsas, John L.        |

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

**Rezoning Attachment to Par. 1(c)**

DATE October 6, 2004  
(enter date affidavit is notarized)

81329e

for Application No (s)

RZ 2003-MV-059  
(enter County-assigned application number (s))

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

Reed Smith LLP  
3110 Fairview Park Dr. #1400  
Falls Church, VA 22042

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

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

**GENERAL PARTNERS:**

- vonWaldow, Arnd N.
- Wallace, Marshall C.
- Wallis, Eric G.
- Wasserman, Mark W.
- Weissman, David L.
- Weissman, Sonja S.
- Wilson, Stephanie
- Wood, Douglas J.
- Wood, James M.
- Young, Jonathan

**Former Equity Partners**

- Aaronson, Joel P.
- Birnbaum, Lloyd C.
- Bruzzone, Richard A.
- Casey, Bernard J.
- Dare, R. Mark
- Devis, Peter R.
- Hawkins, Jane M.
- Kearney, James K.
- Maier, Thomas A.
- Mansmann, J. Jerome
- Moorhouse, Richard L.
- Post, Peter D.
- Reichner, Henry F.
- Risotto, Christopher L.
- Springer, Claudia Z.
- Whitley, Bruce D.
- Winter, Nelson W.
- Zimmerman, Scott F.

**Former Partners**

- Browne, Michael L.
- Blum-Herkenhoff, L. Amy
- D'Agostino, L. James
- Fontana, Mark A.
- Gianton, Richard H.
- Gryko, Wlt J.
- Howell, Ben Burke
- Sachse, Kimberly L.
- Scheineson, Marc J.
- Swayze, David S.

(check if applicable)  |

There is more partnership information and Par. 1(c) is continued further on a "Rezoning Attachment to Par. 1(c)" form.

REZONING AFFIDAVIT

DATE: October 6, 2004  
(enter date affidavit is notarized)

81329e

for Application No. (s) RZ 2003-MV-059  
(enter County-assigned application number(s))

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: October 6, 2004  
(enter date affidavit is notarized)

81329e

for Application No. (s): RZ 2003-MV-059  
(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 \$200 or more, with any of those listed in Par. 1 above.

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

- \$300.00 Contribution from Anastios and Anna Grypeos to Supervisor Gerry HYland's campaign
- \$250.00 Contribution from Tom Greeson (Reed SMithLLP) to Supervisor Catherine Hudgins campaign

**(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.)**

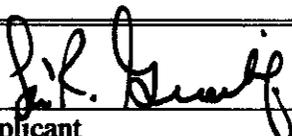
(check if applicable)  There are more disclosures to be listed and Par. 3 is continued on a "Rezoning Attachment to Par. 3" form.

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)

Applicant



Applicant's Authorized Agent

Lori R. Greenlief

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

Subscribed and sworn to before me this 6<sup>th</sup> day of OCTOBER 2004, in the State/Comm. of VIRGINIA, County/City of FAIRFAX.

Mark R. King  
Notary Public

My commission expires: 4/30/2006

## FAIRFAX COUNTY, VIRGINIA

## MEMORANDUM

**TO:** Cathy Lewis, Senior Staff Coordinator  
Rezoning/Special Exception Branch  
Zoning Evaluation Division  
Department of Planning and Zoning

**DATE:** July 21, 2004

**FROM:** Valerie Tucker, Chief Stormwater Engineer  
Site Review East  
Environmental and Site Review Division  
Department of Public Works and Environmental Services

**SUBJECT:** RZ/FDP 2003-MV-059, Grypeos, Tax Map #093-1-18-D-0117-0130, 0138, 0139, and 0140, Memorial Heights, Block D, Lots 117 Through 130, 138, 139 and 140, Mount Vernon District

**REFERENCE:** Your July 15, 2004, E-mail to Jerry Stonefield, Requesting DPWES Recommendation Regarding a Waiver of Underground Facilities in Residential Areas, Plan Entitled "Conceptual Development Plan/ Final Development Plan" prepared by Alexandria Surveys International, LLC, revised through June 23, 2004

We have reviewed the referenced submission for consistency with Section 6-0303.8 of the Public Facilities Manual (PFM) which restricts the use of underground detention facilities located in a residential development (Attachment B). The Board of Supervisors (Board) may grant a waiver after taking into consideration possible impacts on public safety, the environment, and the burden placed on prospective homeowners for maintenance. Where deemed appropriate, the Board may require as a condition of approval of the waiver that the property owner provide adequate funding for future maintenance of the facilities. Underground detention facilities allowed by waiver in residential developments are subject to the following requirements:

- The underground detention facilities shall be privately maintained;
- The underground detention facilities shall be disclosed as part of the chain of title to all future owners responsible for maintenance of the facilities;
- The underground detention facilities shall not be located in a County storm drainage easement; and
- A private maintenance agreement in a form acceptable to the Director of the Department of Public Works and Environmental Services (DPWES) must be executed before the construction plan is approved.

The applicant's proposed Proffers dated July 6, 2004, indicate that the underground stormwater facility will be privately maintained and the maintenance responsibility will be disclosed to potential purchasers of the units. However, the applicant proffers to deposit in the reserve funds

of the Condominium Owners Association an amount to cover the maintenance of the underground facility for a period of only five years. The application does not specifically provide that the facility will not be located in a County Easement or that a maintenance agreement will be executed. Therefore, if it is the intent of the Board to approve a waiver of underground facilities in residential areas, the Department of Public Works and Environmental Services (DPWES) recommends that the attached Waiver Conditions (Attachment A) which addresses these issues become part of the waiver.

An analysis of the possible impacts on public safety, the environment, and the burden placed on prospective owners for maintenance is provided below.

**ANALYSIS:**

**Impacts on Public Safety –** The applicant has agreed to provide locks for each of the accessible doors and manholes of the detention/best management practices (BMP) facilities to prevent unauthorized access to the underground chambers. The applicant should be required to provide liability insurance in an amount acceptable to Fairfax County as a waiver condition. A typical liability insurance amount is \$1,000,000 against claims associated with underground detention facilities. The maintenance agreement shall also hold Fairfax County harmless for any liability associated with the underground facilities.

**Impacts on the Environment –** The surrounding areas are densely developed and the proposed underground facilities will outfall into an existing piped storm drainage system. Therefore, staff does not believe that there will be any adverse impact on the environment from the proposed underground facilities.

**The Burden Placed on Prospective Owners for Maintenance –** The proposed development is for construction of 24 residential units with 8,700 square feet of retail space. Under the approved rezoning, the units may be either rental apartments or condominiums. The applicant has indicated that the current plan is for these units to be condominiums. The applicant should also be required, as a waiver condition, to address future replacement of the underground facilities as part of a private maintenance agreement with the County. The estimated annual maintenance cost in current dollars for the underground water quality control facility, provided by the applicant, is \$2,800. The overall maintenance burden is closely tied to the materials used in construction of the underground facilities. Based on DPWES' experience conducting inspections of privately maintained underground detention facilities, staff recommends that they be constructed of reinforced concrete products only. Staff further recommends that the applicant establish a reserve fund for future replacement of the facilities with an annual pro-rata to the reserve fund based on the initial construction costs subject to inflation and an estimated 50-year lifespan for concrete products. The applicant also should include a line item in the annual budget for inspection and maintenance.

Cathy Lewis, Senior Staff Coordinator  
RZ/FDP 2003-MV-059  
Page 3

Compliance with the Waiver Conditions in Attachment A would adequately address the above issues.

**RECOMMENDATION:**

If it is the intent of Board to approve the waiver of underground facilities in residential areas with RZ 2003-MV-059, DPWES recommends that the waiver be subject to the Waiver Conditions in Attachment A.

If you have any questions, or need further assistance, please contact Jeremiah Stonefield, Stormwater Engineer, Site Review East, Environmental and Site Review Division, LDS, DPWES, at 703-324-1720.

**ATTACHED DOCUMENTS:**

Attachment A – Waiver Conditions Dated July 20, 2004  
Attachment B – PFM Section 6-0303.8

cc: Robert A. Stalzer, Deputy County Executive  
Jimmie D. Jenkins, Acting Director, Department of Public Works and Environmental Services  
Michelle A. Brickner, Acting Director, Environmental and Site Review Division, DPWES  
Steve Aitcheson, Deputy Director, MSMD, DPWES  
Jeremiah Stonefield, Stormwater Engineer, ESRD, LDS, DPWES

Waiver Conditions

Grypeos Property  
RZ/FDP 2003-MV-059

July 20, 2004

1. The underground detention/best management practice facilities shall be constructed of reinforced concrete products only and incorporate safety features including locking manholes and doors within 100 feet of the underground facility as determined by the Department of Public Works and Environmental Services (DPWES) at the time of plan submission.
2. The underground facilities shall be privately maintained and shall not be located in a County storm drainage easement.
3. Operational procedures associated with the underground detention facilities shall be incorporated in the Condominium/Owners Association's documents to ensure safe operation and maintenance of the facilities.
4. A maintenance plan and agreement shall be executed prior to plan approval with a financial plan for all of the property owners and the Condominium/Owner Association, should one be created, to finance regular maintenance, including full life cycle replacement costs. The applicant shall establish a reserve fund for future replacement of the facilities with an annual pro-ration to the reserve fund based on the initial construction costs subject to inflation and an estimated 50-year lifespan for concrete products. Should the property or buildings be sold at a future date, the reserve fund shall be transferred with the property to the successors in interest and the Condominium/Owner Association, if one is created. The applicant and future owners also shall include a line item in the annual budget for inspection and maintenance.
5. The maintenance agreement shall be reviewed and approved by the Fairfax County Attorney's office and recorded in the Land Records of the County. This agreement shall address:
  - a. County inspection and all other issues as may be necessary to insure that the facilities are maintained by the applicants in good working condition acceptable to the County so as to detain stormwater which results from the development of the Grypeos property.
  - b. A condition that the applicants, their successors and assigns shall not petition the County for future maintenance or replacement of the underground facilities.

## ATTACHMENT A

- c. Establishment of a reserve fund, as described above, by the applicant for future maintenance or replacement of the underground facilities.
  - d. Arrangements and procedures to be established which facilitate inspection by the County, i.e. advance notice procedure, whom to contact, and who has the keys for access to the underground facility, etc.
  - e. Liability insurance in an amount of \$1,000,000 shall be continuously maintained by the owners and the Condominium/Owner Association, if one is created, against claims associated with the facilities.
  - f. A statement that Fairfax County shall be held harmless for any liability associated with the facilities.
6. The proposed facilities shall be maintained by the applicants, their successors and assigns in accordance with the regulations of DPWES, i.e., a private maintenance agreement as conditioned above.
7. The purchasers shall be advised prior to entering into a contract of sale and in the Condominium/Owner Association documents that all of the property owners and the Association, if one is created, shall be responsible for the maintenance of the underground facilities.
8. Underground detention facilities approved for use in residential developments, shall be disclosed as part of the chain of title to all future property owners including owners (e.g. individual members of an owners or condominium association) responsible for maintenance of the facilities.

Public Facilities Manual  
Section 6-0303.8

6-0303.8 Underground detention facilities may not be used in residential developments, including rental townhouses, condominiums and apartments, unless specifically waived by the Board of Supervisors (Board) in conjunction with the approval of a rezoning, proffered condition amendment, special exception, or special exception amendment. In addition, after receiving input from the Director regarding a request by the property owner(s) to use underground detention in a residential development, the Board may grant a waiver if an application for rezoning, proffered condition amendment, special exception, and special exception amendment was approved prior to June 8, 2004, and if an underground detention facility was a feature shown on an approved proffered development plan or on an approved special exception plat. Any decision by the Board to grant a waiver shall take into consideration possible impacts on public safety, the environment, and the burden placed on prospective owners for maintenance of the facilities. Any property owner(s) seeking a waiver shall provide for adequate funding for maintenance of the facilities where deemed appropriate by the Board. Underground detention facilities approved for use in residential developments by the Board shall be privately maintained, shall be disclosed as part of the chain of title to all future homeowners (e.g. individual members of a homeowners or condominium association) responsible for maintenance of the facilities, shall not be located in a County storm drainage easement, and a private maintenance agreement in a form acceptable to the Director must be executed before the construction plan is approved. Underground detention facilities may be used in commercial and industrial developments where private maintenance agreements are executed and the facilities are not located in a County storm drainage easement.

Board Agenda Item  
September 27, 2004

3:30 p.m.

Public Hearing on RZ 2003-MV-059 (Anastasios and Anna Grypeos) to Rezone From C-8, R-3, CRD and HC to PRM, CRD and HC to Permit Mixed Use Development Overall Floor Area Ratio (FAR) of 0.76 (19.51 du/ac) and a Waiver of the Minimum District Size, Located on Approximately 1.23 Acres, Mourt Vernon District

The application property is located east of Richmond Highway, south of East Lee Avenue and north of Preston Avenue, Tax Map 93-1 ((18)) (D) 117, 126, 130 pt. and 138.

On Wednesday, July 21, 2004, the Planning Commission recommended the following actions to the Board of Supervisors by votes of 10-0-2 (Commissioners Harsel and Murphy abstaining), except for the recommendation concerning waiver of service drive requirement which passed by a vote of 11-0-1 (Commissioner Murphy abstaining):

- Approval of RZ 2003-MV-059, subject to execution of proffers consistent with those dated July 6, 2004;
- Waiver of the minimum district size of two acres for the PRM District;
- Waiver of the service drive requirement along Richmond Highway;
- Modification of the transitional screening along the southeaster property line to that shown on the CDP/FDP;
- Waiver of the transitional screening requirement along the southwestern property line;
- Waiver of the Public Facilities Manual requirements in order to permit underground detention and best management practices in a multifamily residential development, subject to development conditions recommended by the Department of Public Works and Environmental Services

The Planning Commission then voted 10-0-2 (Commissioners Harsel and Murphy abstaining) to approve FDP 2003-MV-059, subject to the development conditions dated July 15, 2004, and subject also to Board approval of RZ 2003-MV-059.

Planning Commission Meeting  
July 21, 2004  
Verbatim Excerpt

RZ 2003-MV-059 - ANASTASIOS AND ANNA GRYPEOS  
FDP 2003-MV-059 - ANASTASIOS AND ANNA GRYPEOS

Decision Only During Commission Matters  
(Public Hearing held on June 3, 2004)

Commissioner Byers: Mr. Chairman, I have several motions to make tonight. I'd like to ask Ms. Lewis, Cathy, will you come over to the - - before we go on the verbatim on the first case, I'd like to revisit some of the issues. This is a very controversial case and I'm talking about Anastasios and Anna Grypeos, RZ 2003-MV-059. This is an extremely difficult lot to develop and the grade of the lot is about 12 feet below Richmond Highway. The bank falls off precipitously if you get off the highway. It's been very difficult to find anybody who is interested in working with this. And if you've read the last addendum of the staff report they came up with, the issues with the staff are essentially two. One of them has to do with landscaping on the Preston Avenue side and the other issue has to do with the stormwater detention under residential area. So, I would like to show on the map here - - Preston Avenue is not developed. The first 50 feet or so have asphalt; the rest of it is just gravel or no road at all. What the staff would like to do and what the owner would like to do. The applicant - - is to put landscaping along where Preston Avenue is on the south side of the development community. Ms. Lewis, would you point to that? The adjacent owner, sometime ago, asked for a vacation of Preston Avenue but he didn't follow up on it. Subsequently, Mr. Grypeos, the applicant, has asked for a vacation also, but now his neighbor doesn't want to do it. The Department of Transportation has said that Preston Avenue might be developed sometime in the future by the County to provide access to those lots, lot 115 and 172, along Richmond Highway. But I would look at the map and I'd see that Preston Avenue could run right up to the edge of those lots and therefore, provide access. The little bit that angles off Preston Avenue on the way up west toward Richmond Highway could in fact be vacated and could be planted and that would provide the landscaping that the County staff would like to see along the PRM project. But we're in a "Catch 22." The applicant wants to plant it and is willing to do it. The applicant would like to vacate it. The neighbor is unhappy with the applicant and is holding him hostage. And Department of Transportation is saying, "Well, we're not going to recommend approval on this and let any planting be done in this." This is an unhappy situation. I'm trying to find a way around it. I have decided to go ahead and recommend approval on this. It has a Board date of Monday. I talked today to Mr. Hyland about it and the problems involved in it. I think that most of all of the issues raised by the County staff have been answered by the applicant in various ways with redesign. So with that, Mr. Chairman - -

Commissioner Alcorn: Mr. Chairman?

Chairman Murphy: Mr. Alcorn.

Planning Commission Meeting  
July 21, 2004

Page 2

RZ 2003-MV-059 and FDP 2003-MV-059

Commissioner Alcorn: Before we go on verbatim, could I ask Mr. Byers a question? There's a memo that we got tonight to Cathy Lewis from Valerie Tucker and it includes a series of Attachment A waiver conditions. Would those apply if this application is ultimately approved, would those waiver conditions be in effect?

Commissioner Byers: Yes.

Commissioner Alcorn: Okay. Thank you.

Commissioner Byers: Now I've got to find the right one. Mr. Chairman, we have an application in a Revitalization District, RZ and FDP 2003 MV-059, Anastasios and Anna Grypeos. This is for PRM zoning in this Revitalization District. It is in a commercial building in a central business district and on Richmond Highway up in the Beacon Hill area. Mr. Chairman, I MOVE THE PLANNING COMMISSION RECOMMEND THAT THE BOARD APPROVE RZ 2003-MV-059, SUBJECT TO THE PROFFERS NOW DATED JULY 6, 2004.

Commissioner Lusk: Second.

Chairman Murphy: Seconded by Mr. Lusk. Is there a discussion of the motion?

Commissioner Alcorn: Mr. Chairman?

Chairman Murphy: Mr. Alcorn.

Commissioner Alcorn: Ms. Lewis, staff's recommendation on this?

Cathy Lewis: We're still recommending denial.

Commissioner Alcorn: But the Attachment A waiver conditions would apply if this is ultimately approved by the Board. Is that correct?

Ms. Lewis: Right, I believe that what Mr. Byers needs to do is when he moves to recommend the waiver; the conditions would be attached to the waiver.

Commissioner Alcorn: Okay. Thank you.

Chairman Murphy: Further discussion? All those in favor of the motion to recommend the Board of Supervisors that it approve RZ 2003-MV-059, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed?

Commissioner Harsel: Abstain.

Planning Commission Meeting  
July 21, 2004  
RZ 2003-MV-059 and FDP 2003-MV-059

Page 3

Chairman Murphy: The motion carries. Ms. Harsel abstains; Chair abstains, not present for the public hearing.

Commissioner Byers: Mr. Chairman?

Chairman Murphy: Mr. Byers.

Commissioner Byers: I MOVE THE PLANNING COMMISSION APPROVE FDP 2003-MV-059, SUBJECT TO THE DEVELOPMENT CONDITIONS DATED JULY 15, 2004, AND SUBJECT TO THE BOARD'S APPROVAL OF RZ 2003-MV-059.

Commissioner Lusk: Second.

Chairman Murphy: Seconded by Mr. Lusk. Discussion? All those in favor of the motion to approve FDP 2003-MV-059, subject to the Board's approval of the rezoning and the Conceptual Development Plan, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Same abstentions.

Commissioner Byers: Mr. Chairman, I MOVE THE PLANNING COMMISSION RECOMEMND THAT THE BOARD WAIVE THE MINIMUM DISTRICT SIZE OF TWO ACRES FOR THE PRM DISTRICT.

Commissioner Lusk: Second.

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

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Same abstentions.

Commissioner Byers: Mr. Chairman, I MOVE THE PLANNING COMMISSION RECOMMEND THAT THE BOARD WAIVE THE SERVICE DRIVE REQUIREMENT ALONG RICHMOND HIGHWAY.

Commissioner Lusk: Second.

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

Commissioners: Aye.

Planning Commission Meeting  
July 21, 2004  
RZ 2003-MV-059 and FDP 2003-MV-059

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Chairman Murphy: Opposed? Motion carries. Same abstentions.

Commissioner Harsel: No, I voted aye on that.

Chairman Murphy: Ms. Harsel changed her mind. I figured she would somewhere along the line.

Commissioner Harsel: No, I didn't change my mind -- I know what I'm doing.

Chairman Murphy: Some things never change. Ms. Harsel votes aye. One abstention. I wasn't here for the public hearing. Okay.

Commissioner Byers: Mr. Chairman, I MOVE THE PLANNING COMMISSION RECOMMEND THAT THE BOARD MODIFY THE TRANSITIONAL SCREENING ALONG THE SOUTHEASTERN PROPERTY LINE TO THAT SHOWN ON THE CDP/FDP.

Commissioner Lusk: Second.

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

Commissioners: Aye.

Commissioner Harsel: Abstain.

Chairman Murphy: Opposed? Motion carries. The same two abstentions before the last one.

Commissioner Byers: Mr. Chairman, I MOVE THE PLANNING COMMISSION RECOMMEND THAT THE BOARD WAIVE A TRANSITIONAL SCREENING ALONG THE SOUTHWESTERN PROPERTY LINE.

Commissioner Lusk: Second.

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

Commissioners: Aye.

Commissioner Harsel: Abstain.

Chairman Murphy: Opposed? Motion carries. Same abstentions.

Planning Commission Meeting  
July 21, 2004  
RZ 2003-MV-059 and FDP 2003-MV-059

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Commissioner Byers: Mr. Chairman, I MOVE THE PLANNING COMMISSION RECOMMEND THAT THE BOARD WAIVE THE PUBLIC FACILITY MANUAL REQUIREMENT TO PERMIT UNDERGROUND DETENTION AND BEST MANAGEMENT PROPERTIES IN A MULTI-FAMILY RESIDENTIAL DEVELOPMENT, SUBJECT TO DEVELOPMENT CONDITIONS RECOMMENDED BY THE DEPARTMENT OF PUBLIC WORKS AND ENVIRONMENTAL SERVICES.

Commissioner Lusk: Second.

Chairman Murphy: Seconded by Mr. Lusk. Discussion?

Commissioner Alcorn: Mr. Chairman?

Chairman Murphy: Mr. Alcorn.

Commissioner Alcorn: Quickly on that, I'm supporting this motion. I think we still have more to learn about underground stormwater detention but based on what we know today pending further analysis. I'll go along with this.

Commissioner Byers: It has been approved in other cases already.

Chairman Murphy: Further discussion? All those in favor of the motion, say aye.

Commissioners: Aye.

Commissioner Harsel: Abstain.

Chairman Murphy: Opposed? Motion carries. Same abstentions.

Commissioner Byers: Mr. Chairman, finally, I MOVE THE PLANNING COMMISSION RECOMMEND THAT THE BOARD MODIFY RICHMOND HIGHWAY AND EAST LEE AVENUE STREETScape REQUIREMENTS TO THAT SHOWN ON THE CDP/FDP.

Commissioner Lusk: Second.

Chairman Murphy: Seconded by Mr. Lusk. Is there a discussion of that motion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Same abstentions.

Ms. Lewis: There was one more waiver that was waiving the peripheral parking lot landscaping.

Planning Commission Meeting  
July 21, 2004  
RZ 2003-MV-059 and FDP 2003-MV-059

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Commissioner Byers: I don't need that, do I?

Ms. Lewis: Yes, I think you might. We might as well cover all the bases, we're waiving everything.

Commissioner Byers: If I recall, you revised the affidavit and you didn't need that.

Ms. Lewis: Oh, okay. Thank you.

Chairman Murphy: All right. There were more motions on that than on Tysons 1.

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(Each motion except the fourth motion carried by a vote of 10-0-2 with Commissioners Harsel and Murphy abstaining.)

(The fourth motion carried by a vote of 11-0-1 with Commissioner Murphy abstaining.)

KAD