



FAIRFAX COUNTY

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

V I R G I N I A

Telephone: 703-324-3151

FAX: 703-324-3926

TTY: 703-324-3903

November 3, 1999

William B. Lawson, Jr. Esquire
6045 Wilson Boulevard – Suite 100
Arlington, Virginia 22205

RE: Rezoning Application
Number RZ 1999-LE-013

Dear Mr. Lawson:

Enclosed you will find a copy of an Ordinance adopted by the Board of Supervisors at a regular meeting held on October 11, 1999, granting Rezoning Application Number RZ 1999-LE-013 in the name of Rosewood Building and Development, L.L.C., to rezone certain property in the Lee District from the R-2 District to the PDH-2 District, subject to the proffers dated October 5, 1999, on subject parcels 90-3 ((1)) 8, 9, 9A, 10, 11, 14; 90-3 ((3)) 3A, 3B 4; 90-3 ((9)) 1, A consisting of approximately 25.61 acres.

The Conceptual Development Plan was approved; the Planning Commission having previously approved the Final Development Plan FDP 1999-LE-013 on September 23, 1999, subject to the Boards' approval of RZ 1999-LE-013.

The Board also:

- Waived the sidewalk requirement along Lackawanna Drive.
- Waived the sidewalk and trail requirement along Hooes Road.
- Waived the trail requirement along Accotink Creek Stream Valley.

Sincerely,

Nancy Velts
Clerk to the Board of Supervisors

RZ 1999-LE-013
November 3, 1999

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NV/ns

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

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Government Center at Fairfax, Virginia, on the 11th day of October, 1999, the following ordinance was adopted:

AN ORDINANCE AMENDING THE ZONING ORDINANCE
PROPOSAL NUMBER RZ 1999-LE-013

WHEREAS, Rosewood Building and Development, L.L.C. filed in the proper form an application requesting the zoning of a certain parcel of land herein after described, from the R-2, District to the PDH-2, and

WHEREAS, at a duly called public hearing the Planning Commission considered the application and the propriety of amending the Zoning Ordinance in accordance therewith, and thereafter did submit to this Board its recommendation, and

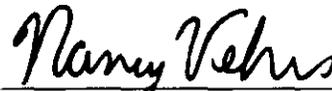
WHEREAS, this Board has today held a duly called public hearing and after due consideration of the reports, recommendation, testimony and facts pertinent to the proposed amendment, the Board is of the opinion that the Ordinance should be amended,

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

Be, and hereby is, zoned to the PDH-2 District, and said property is subject to the use regulations of said PDH-2 District and further restricted by the conditions proffered and accepted pursuant to Va. Code Ann., §15.2-2303(a), which conditions are in addition to the Zoning Ordinance regulations applicable to said parcel, and

BE IT FURTHER ENACTED, that the boundaries of the Zoning Map heretofore adopted as a part of the Zoning Ordinance be, and they hereby are, amended in accordance with this enactment, and that said zoning map shall annotate and incorporate by reference the additional conditions governing said parcel.

GIVEN under my hand this 11th day of October, 1999.



Nancy Veers

Clerk to the Board of Supervisors

PROFFERS

RZ-1999-LE-013

Rosewood Building & Development, L.L.C.

October 5, 1999

Pursuant to Section 15-2-2303A of the 1950 Code of Virginia, as amended, the undersigned hereby proffer the following conditions provided the Property that is the subject of rezoning application RZ-1999-LE-013 is rezoned as proffered herein. For the purpose of these proffers, the term "Applicant" or "Developer" refers to the undersigned or their successors or assigns.

1. Subject to the provisions of Section 13-204 of the Zoning Ordinance, the Property shall be developed in substantial conformance with the Final/Conceptual Development Plan ("CDP/FDP") entitled, "Hooes Road" prepared by the Land Design Consultants, Inc., as of January 1999, revised through August 26, 1999.
 - a. Notwithstanding the CDP/FDP is presented on two sheets and said CDP/FDP is the subject of Proffer 1 above, it will be understood that the Conceptual Development Plan will be the entire plan shown on Sheet 1 relative to the points of access, the total number of units and general location of the residential lots and common open space areas, and that the Developer has the option to request a Final Development Plan Amendment ("FDPA") from the Planning Commission in accordance with the provisions set forth in Sect. 16-402 of the Zoning Ordinance.
 - b. Pursuant to Par. 4 of Sect. 16-403 of the Zoning Ordinance, minor modifications from the CDP/FDP may be permitted as determined by the Zoning Administrator.
2. The Developer shall conform to the limits of clearing and grading shown on the CDP/FDP subject to minor modifications for the installation of necessary trails, utility lines, stormwater management and sanitary sewer facilities as approved by the Department of Public

Works and Environmental Services ("DPWES"). The Applicant agrees to retain the services of a certified project arborist or landscape architect to monitor all aspects of the construction to ensure that the below listed commitments regarding this preservation are fulfilled.

- a. At the time of grading plan review for the subdivision, the Developer shall designate limits of clearing and grading, in addition to those shown on the CDP/FDP, in areas where it is feasible to save additional trees without precluding construction of the project in accordance with the CDP/FDP, including but not limited to, the specific density and general development configuration shown thereon, and without requiring the installation of retaining walls or relocation of existing utilities or unfeasible relocation of proposed utilities.
- b. The Applicant shall have the limits of clearing and grading marked with a continuous line of flagging prior to the pre-construction meeting. Before or during the pre-construction meeting, the Applicant shall walk the limits of clearing and grading with an Urban Forestry Branch representative and the certified arborist or Landscape Architect to determine where minor adjustments to the clearing limits shall be made to increase the survivability of trees at the edge of the limits of clearing and grading. Trees that are not likely to survive construction due to their proximity to disturbance will also be identified at this time by the Urban Forester and the Applicant given the option of removing them as part of the clearing operation. Any tree at the edge of the limits of clearing and grading and within the tree preservation area that is designated for removal shall be removed using a chain saw. The stump shall be cut as close to ground level as practical. If a stump must be removed this shall be done using a stump grinding machine in a manner causing as little disturbance as possible to the adjacent trees.
- c. If any trails, utility lines, or stormwater management facilities are required to be located within the area protected by the limits of clearing and grading, they shall be shown on the

approved plans and be located and installed in the least disruptive manner feasible, considering cost and engineering, as determined by CPWES, and subject to County Urban Forester approval.

- d. The Applicant shall provide a tree preservation plan prepared by a certified arborist or landscape architect, and coordinated and approved by the Urban Forestry Branch, as a part of the first submission of the subdivision plan. The tree preservation plan shall consist of a tree inventory which includes the location, species, size, crown spread and condition rating percent of all trees 12 inches in diameter and greater, 20 to 25 feet to either side of the limits of clearing and grading. The condition analysis shall be prepared using methods outlined in the eighth edition of The Guide for Plant Appraisal. Specific tree preservation activities designed to maximize the survivability of trees chosen for preservation shall be incorporated into the tree preservation plan. Activities include, but are not limited to, crown pruning, root pruning, mulching and fertilization, as may be recommended by the Project Arborist/Landscape Architect. Additionally, the tree preservation plan shall recommend that tree protection be installed prior to any site disturbance and shall remain in place throughout construction as determined by the Urban Forestry Branch.

- e. The Project Arborist/Landscape Architect shall identify and specify treatments to be used to attempt to preserve the following trees, if feasible as determined by the Urban Forestry Branch:
 1. The 35 inch sycamore located between lot #5 and parcel #13.
 2. The two 14 inch American hollies located at the northern lot line of lot #10.
 3. The 30 inch American beech located at the northern lot line of lot #11.

4. The 40 inch white oak located at the northwest corner of the existing structure at lot #11.
 5. The 25 inch American beech located at the northern lot line of lot #13.
 6. The chestnut oak located on Parcel 48 near the northern corner.
3. The Applicant will provide an on-site SWM/BMP pond facility as shown on the CDP/FDP. Or as an alternative, the Applicant may submit for a waiver/modification of the SWM/BMP pond.
 - a. Should the SWM/BMP pond be waived entirely, the Applicants agree to remove two (2) buildable lots, as determined by the Lee District Supervisor's Office and Applicants, so that the total buildable lots do not exceed 46.
 4. The Property shall be developed such that the post development storm water runoff headed towards Hoopes Road (adjoining Lots 9-16) shall not exceed pre-development volume.
 5. All new homes on the property shall meet the thermal guidelines of the Virginia Power Energy Saver Program for energy-efficient homes or its equivalent, as determined by DPWES for either electric or gas energy systems, as applicable.
 6. Concurrently with recordation of the record plat, the Developer shall dedicate Parcel A, as shown on the CDP/FDP, to the Board of Supervisors for public park purposes.
 7. The Applicant shall locate the proposed sewer lines within Parcel A in such a manner as to minimize impact on existing trees.
 8. Subject to the approval of VDOT and DPWES, the Applicant shall do the following:
 - a. Applicant will dedicate and convey in fee simple to the Fairfax County Board of Supervisors right-

of-way for the on-site public roads shown on the CDP/FDP, which roads and cul-de-sac shall be constructed to County and State public road standards.

- b. At time of subdivision plat approval (for the appropriate phase) or upon demand by Fairfax County or Virginia Department of Transportation ("VDOT"), whichever shall first occur, Applicant shall dedicate and convey fee simple to the Fairfax County Board of Supervisors the following right-of-way along the Property's frontage:
 1. 45 feet from the center line of Hooes Road.
 2. 26 feet from the centerline of Lackawanna Drive.
 3. Ancillary easements up to 15 feet along Hooes Road and Lackawanna Drive frontages.
 4. The dedications for Lackawanna Drive abutting Parcel B shall be made with the subdivision plat for Phase II.
9. After approval of the subdivision record plat but prior to recordation, the Applicant shall make the following contributions:
- a. The Applicant shall contribute \$955.00 per building lot to the Fairfax County Park Authority to meet the requirement of providing on-site recreation facilities in the P District. These funds shall be utilized by the Park Authority for the provisions of athletic fields at Hooes Road Park.
 - b. In lieu of installation of the Stream Valley Trail depicted on the County Wide Trails Plan, Applicant shall contribute the sum of \$5,000.00 into an escrow account to be managed by Fairfax County to be utilized for the future construction of said trail. Said sum shall be subject to inflationary adjustments from the date of rezoning approval to the date that the money is posted in escrow in accordance with the Construction Cost Index contained in the Engineering News Record.

- c. Applicant shall contribute \$300.00 per building lot for use by the Lee District for any transportation issue within the Lee District. Alternately, these funds at the option of the Lee District Supervisor may be applied as an additional contribution to the development of athletic fields at Hooes Road Park. Said sum shall be subject to inflationary adjustments from the date of rezoning approval to the date that the money is posted in escrow in accordance with the Construction Cost Index contained in the Engineering News Record.
 - d. If the Applicant receives a waiver of the request to provide a trail/sidewalk along the Hooes Road and Lackawanna Drive frontage of the Property, the Applicant shall provide an escrow in lieu of construction in an amount determined by DPWES. The contribution for Lackawanna Drive abutting Parcel B shall be made with the submission of the subdivision plat for Phase II.
10. The Applicant shall construct sidewalks on both sides of the internal public roads shown on the CDP/FDP.
- a. If prior to bond release the Lee District Supervisor's Office provides the Applicant with the necessary approvals, consents, right-of-way, etc., Applicant agrees to construct the portion of the incomplete sidewalk along the unconstructed portion of Dudrow Lane which runs between Neuman Street and Sterling Grove Drive.
11. The Applicant shall provide an entry feature and landscaping as shown on sheet 2 of CDP/FDP.
- a. The Applicant shall provide a landscape package for each new residence as shown on sheet 2 on the CDP/FDP. The landscape detail will be provided on the landscape plan included with the subdivision plan. Shrubs and other minor plant material shall be planted prior to RUP issuance. Plant material shall be chosen from a list of acceptable species in the approved plan.
 - b. The Applicant shall provide balled and buriapped large deciduous trees at a 3.0 to 3.5 inch caliper

as specified in Section 12 of the PFM and as shown on the CDP/FDP.

12. The Applicant will establish a Homeowners Association for the proposed development to own, manage, and maintain the open space, including the private streets, and all other community-owned land and improvements. Purchasers shall be advised in writing prior to entering into a contract as to the responsibilities of the Homeowners Association.
13. If blasting is necessary, before any blasting occurred on the application property, the Applicant will ensure that the Fairfax County Fire Marshall had reviewed the blasting plans and all safety recommendations of the Fire Marshall, including, without limitation, the use of blasting mats will be followed and provide an independent qualified inspector (s) approved by DPWES to inspect the wells and septic fields of any lot adjoining the site.
14. In order to achieve a maximum exterior noise level of 65 dBA Ldn for proposed Lots 9-16 which are located within 358 feet of the existing (358') of the existing centerline of Fr-Spr. Parkway, noise attenuation measures such as acoustical fencing, walls, earthen berms or combinations thereof, shall be provided for those rear yards that are unshielded by topography or built structures. If acoustical fencing or walls are used, they shall be architecturally solid from ground up with no gaps or openings except for gates which may be provided. The structure employed shall be of sufficient height to adequately shield the rear yards from the source of the noise.
 - a. As an alternative, the Applicant may choose to have a refined acoustical analysis performed at time of subdivision plat submission, subject to approval of DPWES, to determine which units may have sufficient shielding with vegetation and other structures to permit a reduction in the mitigation measures prescribed above.
15. The Developer agrees that with the exception of removal of dead and/or dying vegetation or clearing of vines and undergrowth, Parcel B shall not be cleared. When the existing driveway on Parcel B is closed in Phase II, the driveway shall be revegetated. A plan for the revegetation shall be submitted with the tree

preservation plan at first submission of the subdivision plan for Phase II.

16. Applicant has agreed to assist certain surrounding home owners to obtain access to public sanitary sewer and public water.
 - a. Tax Map 90-3((1)) Parcel 13-Davis - This Parcel owner is currently using a privy. Applicant has agreed at its sole cost and expense to extend a sanitary lateral onto this property and bring the sanitary line into the house connecting it to the existing plumbing. Applicant has also agreed, if required, to pay the Fairfax County sanitary sewer tap fees on behalf of this owner.
 - b. Tax Map 90-3((1)) Parcel 12-Stanis - This parcel owner is currently using a partially failing drain field. Applicant has agreed to extend a sanitary sewer lateral onto this owner's property so that the owner, at his expense, may hook up to public sanitary sewer.
 - c. Property - 7122 Lackawanna Drive-Green - This parcel owner is currently using a partially and periodically failing drain field. Applicant has agreed to extend a sanitary sewer lateral up to the property line of this property. At the owners option, the owner, at his expense, will then be able to hook up to public sanitary sewer when the field fully fails.
 - d. Property - 7200 Lackawanna Drive-Rine - This property owner has requested access to public water. Several wells in the general area have begun to fail. Applicant has agreed to provide access to public water through applicant's property if access is otherwise unavailable so that this owner, at his expense, may have access to public water.
 - e. Property - 7218 Lackawanna Drive-Scott - This owner reports both a diminishing well output and failing drain field. Applicant has agreed to extend sanitary and water laterals onto this property so that at the option of the owner, the owner may hook up to public water and sewer, at his expense.

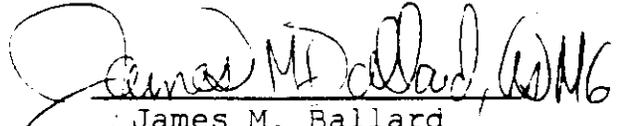
- f. Prior to subdivision plan approval, the Applicant shall provide written notification to the owners of the properties listed above indicating the opportunity to have the Applicant provide the commitments listed in Paragraphs a, b, c, d and e above. The owners of these properties shall have 30 days to respond to the Applicant in writing indicating their cooperation with the Applicant to provide these commitments. Applicant's obligation to complete this proffer is strictly contingent on the continuing cooperation of these property owners with the Applicant and Fairfax County by these owners to facilitate the installation of the utilities. Prior to the release of applicant's public improvement bond, applicant agrees to notify the Office of the Lee District Supervisor as to any property owner who has decided not to cooperate with Applicant in the installation of the aforesaid utilities or of circumstances where the County has disapproved such installation.
17. All dedications contained herein are made subject to Paragraph 5 of Section 2-308 of the Fairfax County Zoning Ordinance as dedications for which density is reserved.
18. All contributions set forth herein shall be pro-rated for Phase I and Phase II, so that the contributions for Phase II shall be made by that owner upon submission of a subdivision plat for Phase II creating Lots 44, 45, and 46 and Parcel B.
19. The Applicant shall provide the following exterior enhancements for all proposed dwellings:
1. A brick watertable will be provided on all homes where an optional brick front is provided.
 2. Upgraded Colonial 6 inch wide siding shall be provided wherever vinyl siding is used.
 3. Homes where vinyl siding is selected on the front elevation shall receive an upgraded brick stoop.
 4. Brick will be used on the sides of all houses that abut Lackawanna Drive.

20. At the time of final subdivision plat approval, but prior to recordation, the Applicant shall contribute to the Fairfax County Housing Trust Fund the sum equal to one percent (1%) of the projected sales price of the house to be built on each lot (excluding any lots that retain an existing house) to assist Fairfax County's Low and Moderate income housing goals. The projected sales price shall be determined by the Applicant in consultation with the Fairfax County Department of Housing and Community Development and DPWES.
21. These proffers pre-empt and render null and void those proffers associated with RZ-89-L-087 dated September 4, 1990.
22. These proffers may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed an original, and all of which taken together shall constitute but one and the same instrument.

[Signatures on the next page]

APPLICANT:

Rosewood Building &
Development, L.L.C.

By:  James M. Ballard, WMG
James M. Ballard

Title: Managing Member

Owner of Tax Map Parcel
90-3((1))9:

Wm. C. Walther

William C. Walther

Owner of Tax Map Parcel
90-3((1))-8; 9A

Lawrence Falés Ayers, Jr. Trus.
Lawrence Falés Ayers, Jr.,
Trustee

Margaret Cox Ayers, Trustee
Margaret Cox Ayers, Trustee

RECEIVED
DEPARTMENT OF PLANNING AND ZONING
OCT 8 1999
ZONING EVALUATION DIVISION

Owner of Tax Map Parcel
90-3((9))-1

Claude O. Dodson
Claude O. Dodson

Owner of Tax Map Parcel
90-3(1)-11

William King
William J. King

Martha M. King
Martha M. King

Owner of Tax Map Parcel
90-3((1))-10


Lawrence Fales Ayers, Jr.


Margaret Cox Ayers

Owner of Tax Map Parcel
90-3((1))-14
90-3((9))-A

John C Peterson
John C. Peterson

Kathleen M Peterson
Kathleen M. Peterson

Owner of Tax Map Parcel
90-3((3))-3A, 3B, 4

Beldon D. Scott, Trustee
Beldon D. Scott, Trustee

Corine G. Scott, Trustee
Corine G. Scott, Trustee

RECEIVED
DEPARTMENT OF PLANNING AND ZONING

OCT 8 1999

DEVELOPMENT CONDITIONS

FDP 1999-LE-013

September 16, 1999

If it is the intent of the Planning Commission to approve Final Development Plan FDP 1999-LE-013 for residential development located at Tax Map 90-3 ((1)) 8, 9, 9A, 10, 11, 14; 90-3 ((3)) 3A, 3B, 4; and 90-3 ((9)) A, 1, staff recommends that the Planning Commission condition the approval by requiring conformance with the following development conditions.

1. All development shall be in conformance with the FDP entitled "Hooes Road" prepared by the Land Design Consultants, Inc., dated January 1999, revised through August 26, 1999.
2. Notwithstanding that shown on the CDP/FDP, there shall be a maximum of forty-six (46) lots. Adjustments to lot lines may occur so long as a minimum lot size of 8,050 square feet is maintained.
3. No lots shall have direct access to Hooes Road.
4. With the exception of removal of dead and/or dying vegetation or clearing of vines and undergrowth, Parcel B shall not be cleared. When the existing driveway on Parcel B is closed in Phase II, the driveway shall be revegetated. A plan for the revegetation shall be submitted with the tree preservation plan at first submission of the subdivision plan.
5. The existing dwellings on proposed Lots 16 and 20 may be removed in the future and replaced with one (1) dwelling per lot. Such dwellings shall be constructed to be compatible with those in the remainder of the development, including setbacks from property lines.
6. If the dam at the existing pond is breached for any reason, the limits of clearing and grading depicted on the CDP/FDP shall not be violated.
7. Building setbacks shall be provided at the site periphery which are consistent with those required by the Cluster Standards for the R-2 District.



