County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

May 2, 2012

Robert Weinig
730 S. Washington Street
Alexandria, VA 22314

RE: Special Exception Application SE 2011-MV-012

Dear Mr. Weinig:

At a regular meeting of the Board of Supervisors held on May 1, 2012, the Board held a public hearing on Special Exception Application SE 2011-MV-012 in the name of Redpath Development, LLC. The subject property is located at 6415 13th Street, on approximately 14,000 square feet of land, zoned R-3 in the Mount Vernon District [Tax Map 93-2 ((8)) (27) 13]. The Board's action permits uses in a floodplain pursuant to Section 2-904 of the Fairfax County Zoning Ordinance, by requiring conformance with the following development conditions:

1. This Special Exception is granted for and runs with the land indicated in this application and is not transferable to other land.

2. This Special Exception is granted only for the purpose(s), structure(s) and/or use(s) indicated on the Special Exception Plat approved with the application, as qualified by these development conditions.

3. Any plan submitted pursuant to this Special Exception shall be in substantial conformance with the approved SE plat entitled Special Exception Plat, Lots 13-16 Block 27, New Alexandria, prepared by R C Fields, Jr. & Associates, which is dated August 2, 2011, and revised through January 30, 2012, containing five sheets, and these conditions.

4. A Hold Harmless agreement shall be executed with the County for all adverse effects which may arise as a result of the location of the site within a floodplain area, prior to approval of a grading plan.

Office of the Clerk to the Board of Supervisors
12000 Government Center Parkway, Suite 533
Fairfax, Virginia 22035
Phone: 703-324-3151 ♦ Fax: 703-324-3926 ♦ TTY: 703-324-3903
Email: clerktothebos@fairfaxcounty.gov
http://www.fairfaxcounty.gov/bosclerk

5. Stable vegetation on the site shall be protected and maintained in the floodplain, to the extent possible, as determined by UFM, DPWES.

6. No more land shall be disturbed than is necessary to construct the single-family detached dwelling, the accessory structures and provide the vegetated buffer areas as shown on the SE Plat.

7. The vegetated buffer areas shall be established following construction of the single-family detached dwelling and plantings within the vegetated buffer areas shall be provided, as determined by UFM, DPWES. Once established the vegetated buffer areas shall remain undisturbed. There shall be no fences, structures, or other land disturbance activities permitted except for the removal of dead, dying or diseased trees. If a waiver of Best Management Practices is not granted by DPWES, water quality control requirements shall be provided as determined by DPWES.

8. A geotechnical report shall be submitted to DPWES prior to grading plan approval. Plans shall be implemented as required by DPWES.

9. The applicant shall obtain a written determination from the US Army Corps of Engineers prior to the submission of a grading plan as to whether any action is required by the applicant to ensure compliance with § 404 of the Clean Water Act. Any required actions shall be completed prior to grading the site. If any necessary permissions are not granted or the required actions are not completed, this Special Exception shall be null and void.

10. The applicant shall demonstrate to DPWES prior to approval of a grading plan, that the proposed disturbance, when combined with all other existing, anticipated, and planned development, shall not increase the water surface elevation above the 100-year flood level upstream and downstream.

11. The applicant shall submit certified as-built floor elevations prior to approval of the framing inspection, on a FEMA Certificate to be filed with the Residential Inspections Division, DPWES, in accordance with minimum federal requirements and the Virginia Uniform Statewide Building Code in effect at the time the building permit is issued. In addition, at the time of the framing inspection the applicant shall demonstrate to DPWES that the elevation of the lowest part of the lowest floor of the dwelling proposed on the property shall be at least 18 inches above the base flood elevation, in accordance with Par. 2 of Sect. 2-905 of the Zoning Ordinance, and the inspection record shall include a signed or initialed statement of concurrence by the inspector.

12. Disclosure of potential flood hazards due to the location of the site within the 100-year floodplain shall be made in writing to any potential home buyers prior to execution of a sales contract.

13. There shall be no storage of herbicides, pesticides, or toxic or hazardous substances as set forth in Title 40, Code of Federal Regulations, Parts 116.4 and 261.30 et seq., within the floodplain.

14. All mechanical, electrical, and utility equipment shall be located at or above the flood level.

15. Erosion and sediment control measures shall be installed at all stages of construction, as determined by DPWES. A "super silt fence" shall be installed along the lower clearing and grading limits for the site. If deemed necessary by DPWES, controls shall be designed to achieve greater erosion and sediment control than that achieved by the minimum design standards set forth in the Public Facilities Manual and the Virginia Erosion and Sediment Control Handbook.

16. Stormwater drainage shall be directed to ditches through the use of pipes, swales, or other devices, as determined by DPWES. All fill areas shall be stabilized, graded, or have drains installed such that rainfall during 2-yr and 10-yr storm events will not flow over the filled area onto adjacent properties, as determined by DPWES.

17. The applicant shall record in the land records of the County of Fairfax that this property's development was approved pursuant to this Special Exception application and that the vegetated buffers shown on the SE plat are required in order to provide for treatment of the property's stormwater runoff and must be maintained in perpetuity, and the SE plat and these conditions shall be attached. Disclosure that the vegetated buffers are required in order to provide for treatment of the property's stormwater runoff and must be maintained in perpetuity shall be made in writing to the existing and all subsequent property owners, in the sales brochures, and sales contract for the subject property.

18. The limits of clearing and grading as shown on the SE plat shall be clearly marked and fenced to protect the trees outside those limits. Tree protection fencing shall be erected using 4-foot high, 14-guage welded wire fencing attached to 6-foot steel posts driven 18 inches into the ground on 10-foot centers. Orange plastic fencing that is 4-feet high may be used in lieu of the wire fencing.

19. All tree-protection fencing shall be installed prior to any clearing and grading activities and shall be done under the supervision of a certified arborist and accomplished in a manner that does not harm any existing vegetation that is to be preserved. After the fencing is installed and at least 3 days prior to any ground disturbing activity, Urban Forest Management, DPWES and the District Supervisor shall be notified and given the opportunity to inspect the site to ensure all tree protection fencing is properly installed. No grading or construction activity shall occur until the required fencing is correctly completed as determined by DPWES.

20. A Loss of Buildable Area Exception shall be submitted to DPWES for review and approval prior to approval of a demolition permit for the existing dwelling.

21. A Water Quality Impact Assessment shall be submitted to DPWES for review and approval prior to approval of a demolition permit for the existing dwelling.

22. Tree Preservation

    a. The limits of clearing and grading shall be strictly adhered to during and after construction. Special attention shall be paid to any demolition, clearing and grading associated with the proposed new septic field and lateral to ensure that there is no encroachment into the RPA/EQC. Prior to any demolition, clearing and grading on the site, the limits of clearing and grading shall be fenced and flagged, as determined appropriate by Urban Forest Management, DPWES, to protect existing vegetation which is to be preserved, both on and off-site, and to prevent intrusions into tree save areas. Clearing and grading limits around the border of the proposed septic field and sewer lateral shall be adjusted, as recommended by the Urban Forest Management, to minimize damage and/or removal of trees in that area.

    b. Minor field adjustments shall be permitted to the location of the limits of clearing and grading to protect individual trees which are located off-site and on the boundary line at time of grading plan review and construction, in conjunction with and to the satisfaction of the Urban Forest Management, DPWES. However all trees shown to be located off-site near the property boundary and co-owned trees shall be protected by adjusted limits of clearing located a minimum of ten (10) feet from the off-site or co-owned tree trunks.

    c. The limits of clearing and grading shall be marked with a continuous line of flagging prior to the demolition and/or pre-construction meeting. Before or during the pre-construction meeting, the limits of clearing and grading shall be walked by the Owner, and a representative of the Owner, who is a certified arborist or landscape architect, with an Urban Forest Management, DPWES, representative to determine where adjustments to the clearing limits can be made to increase the area of tree preservation and/or to increase the survivability of trees at the edge of the limits of clearing and grading, and such adjustment shall be implemented. Trees that are identified specifically by Urban Forest Management in writing as dead or dying may be removed as part of the clearing operation. Any tree that is so designated shall be removed using a chain saw and such removal shall be accomplished in a manner that avoids damage to surrounding trees and associated understory vegetation. 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 and associated understory vegetation and soil conditions.

d. A tree preservation plan shall be prepared and submitted for the review and approval of DPWES and the Urban Forester's office as part of the first and all subsequent submissions of the grading plan. The preservation plan shall be prepared by a professional with experience in the preparation of tree preservation plans, such as a certified arborist or landscape architect, and shall be subject to the review and approval of the Urban Forest Management, DPWES.

e. The tree preservation plan shall consist of a final tree survey that includes the location, species, size, crown spread and condition rating percentage of all trees 12 inches in diameter and greater, and 20 feet to either side of the limits of clearing and grading shown on the SE Plat for the entire site. The tree preservation plan shall provide for the preservation of those areas shown for tree preservation, those areas outside of the limits of clearing and grading shown on the SE Plat, and those additional areas in which trees can be preserved as a result of final engineering. The condition analysis ratings shall be prepared using methods outlined in the latest edition of the Guide for Plant Appraisal published by the International Society of Arboriculture. Specific tree preservation activities that will maximize the survivability of trees identified to be preserved, such as: crown pruning, root pruning, mulching, fertilization, and others as necessary, shall be included in the plan.

f. At the time of grading plan approval, the Applicants shall post cash, bond, or letter of credit payable to the County of Fairfax to ensure preservation and/or replacement of the trees that are designated to be saved that die or are dying due to normal construction activities permitted on the approved plan. Provided, however, notwithstanding anything to the contrary in these development conditions, the amount of the cash, bond, letter of credit regarding the trees referred to in these development conditions shall not exceed $10,000. Any trees shown to be preserved on the Tree Preservation Plan that die or are dying due to construction activities shall be replaced with trees of a species and size acceptable to the Urban Forest Management, DPWES, and reasonably ensured of surviving. The total amount of cash, bond, or letter of credit shall be in the amount of the sum of the assigned replacement values of the designated trees. These preservation measures shall not apply to trees otherwise protected by these development conditions that die or begin to die as a result of factors not related to the Applicant's construction activities.

If, at the time of final bond release, trees are found to be dead or dying despite adherence to approved construction activities by the Urban Forest Management, DPWES, the cash, bond, or letter of credit shall be used as necessary to plant replacement trees of a size and species appropriate to the site, in consultation with the Urban Forest Management, DPWES, and the Applicants' certified arborist. The cash, bond, or letter of credit shall not to be used for the removal of the dead/dying trees normally required by the Public Facilities Manual (PFM) and the Conservation Agreement. Any funds remaining in the cash, bond, or letter of credit will be released two years from the date of release of the Applicants' property's conservation escrow, or sooner, if approved by Urban Forest Management, DPWES.

g. The use of motorized equipment in tree preservation areas will be limited to hand-operated equipment such as chainsaws, wheel barrows, rake and shovels. Any work that requires the use of motorized equipment, such as tree transplanting spades, skid loaders, tractors, trucks, stump-grinders, etc., or any accessory or attachment connected to this type of equipment shall not occur unless pre-approved by Urban Forest Management, DPWES.

h. All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fence. Tree protection fencing (four foot high, 14 gauge welded wire attached to 6 foot steel posts driven 18 inches into the ground and placed no further than 10 feet apart, or other measures as approved by Urban Forest Management, DPWES) shall be erected at the limits of clearing and grading as shown on the demolition, and Phase I and II erosion and sediment control sheets, as may be modified by Urban Forest Management.

i. All tree protection fencing shall be installed prior to any clearing and grading activities, including the demolition of any existing structures. The installation of all tree protection fence types shall be performed under the supervision of a certified arborist, and accomplished in a manner that does not harm existing vegetation that is to be preserved. Three days prior to the commencement of any clearing, grading, or demolition activities, but subsequent to the installation of the tree protection devices, Urban Forest Management, DPWES and the District Supervisor shall be notified and given the opportunity to inspect the site to assure that all tree protection devices have been correctly installed. If it is determined that the fencing has not been installed correctly, no grading or construction activities shall occur until the fencing is installed correctly, as determined by Urban Forest Management, DPWES.

This approval, contingent on the above noted conditions, shall not relieve the Applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The Applicant shall be himself responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Exception shall not be valid until this has been accomplished.

Pursuant to Section 9-015 of the Zoning Ordinance, this special exception shall automatically expire, without notice, thirty (30) months after the date of approval unless the use has been established or construction has commenced and been diligently prosecuted. The Board of Supervisors may grant additional time to establish the use or to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special exception. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

Sincerely,

Catherine A. Chianese

Catherine A. Chianese
Clerk to the Board of Supervisors

Cc: Chairman Sharon Bulova
Supervisor Gerry Hyland, Mount Vernon District
Janet Coldsmith, Director, Real Estate Division, Dept. of Tax Administration
Barbara C. Berlin, Director, Zoning Evaluation Division, DPZ
Diane Johnson-Quinn, Deputy Zoning Administrator, Dept. of Planning and Zoning
Angela K. Rodeheaver, Section Chief, Transportation Planning Division
Department of Highways-VDOT
Sandy Stallman, Park Planning Branch Manager, FCPA
District Planning Commissioner
Karyn Moreland, Chief Capital Projects Sections, Dept. of Transportation