DATE: March 9, 2006

SUBJECT: Enactment of an Ordinance to Vacate a 5-foot Easement for Storm Sewer Along the Easterly Boundary of Lots 1 and 2, Block 7, Fort Myer Heights located at 1531 North Pierce Street, RPC #17003002, with Conditions.

Applicant: Rosslyn Ridge Development Corporation

By: Tara E. Wiedeman
   Walsh, Colucci, Lubeley, Emrich & Terpak, PC
   2200 Clarendon Boulevard, 13th Floor, Arlington, VA  22201

C. M. RECOMMENDATIONS:

1. Approve the requested vacation and enact an Ordinance to Vacate a 5-foot Easement for Storm Sewer Along the Easterly Boundary of Lots 1 and 2, Block 7, Fort Myer Heights located at 1531 North Pierce Street, RPC #17003002 (the “Property”).

2. Authorize the Real Estate Bureau Chief, or his designee, to execute the Deed of Vacation on behalf of the County Board, subject to approval of such deed as to form by the County Attorney.

ISSUE: None.

SUMMARY: The Applicant has requested the vacation of a five-foot wide storm sewer easement situated along the easterly boundary of the property at 1531 North Pierce Street (see Exhibit B, Vicinity Map), to allow for the construction of an underground garage for the proposed Rosslyn Ridge Apartments on this site in accordance with the Site Plan (SP #369) previously approved by the County Board. The Applicant will, at its own expense, remove and relocate the existing storm sewer within the easement to be vacated. Upon enactment of the requested Ordinance of Vacation (Attachment 1), satisfaction by the Applicant of all of the conditions of the Ordinance and recordation of the Deed of Vacation by the Applicant before the expiration of the Ordinance, the County’s interest in the vacated storm sewer easement will be extinguished.

County Manager: _____________
County Attorney: _____________
Staff: Troy Harris, DES, Real Estate Bureau
**BACKGROUND:** On July 10, 2004, the County Board approved Site Plan SP #369 for a 238-dwelling unit residential building at 1531 North Pierce Street. The Applicant’s approved site engineering design plans, which were prepared in accordance with the above Site Plan and approved by the Department of Environmental Services on November 27, 2005, show the removal and relocation of an existing storm sewer and associated structures that run along the easterly boundary of the site from a structure on the north side of a formerly-vacated portion of 16th Street North, to a point approximately 35 feet into the subject Property. The limit of the Applicant’s underground garage for the proposed building extends to, and runs along, the boundary of the site encompassing the existing storm sewer and the associated easement to be vacated.

Condition 34 of SP #369 requires the Applicant to provide a performance bond and agreement, in favor of the County, for the construction of all required public infrastructure within the rights of way or easements for the development, including the removal and relocation of the above storm sewer, before the issuance of the Footing to Grade Structure Permit.

**Legal and Physical Description:** The 5-foot easement for storm sewer to be vacated was conveyed to the County by a Deed of Easement dated June 27, 1947, recorded in Deed Book 780, Page 559, among the land records of Arlington County, Virginia. The five-foot storm sewer easement to be vacated is shown on the attached Exhibit A entitled “Plat Showing the Vacation of a 5-foot Easement for Storm Sewer, Deed Book 780, Page 559, on Lots 1 and 2, Block 7, Fort Myers Heights, Deed Book N-4, Pages 50 & 51, Arlington County, Virginia.”

**Public Notice:** Public notice was given in accord with the Code of Virginia. Notices were placed in the March 27, 2006 and April 3, 2006 issues of the Washington Times for the County Board Meeting of April 22, 2006.

**Compensation:** In keeping with current practice, staff recommends that no compensation be required from the Applicant for vacating a public utilities easement located on property, which easement is no longer needed by the County or by any adjoining properties, or which will be relocated for new development at the Applicant’s or developer’s expense.

**FISCAL IMPACT:** None.

**CONCLUSION:** Staff recommends approval of the requested vacation and enactment of an Ordinance to Vacate a Five-foot Storm Sewer Easement along the Easterly Boundary of Lots 1 and 2, Block 7, Fort Myer Heights located at 1531 North Pierce Street, RPC #17003002, subject to the following terms and conditions:

1. The Applicant/Property Owner shall prepare and submit to the County for review and approval, the Deed of Vacation, all required plats, and other necessary documents, subject to the approval thereof by the County Manager, or his designee, and approval of the deeds as to form by the County Attorney.

2. The Applicant/Property Owner shall record all plats and the Deed of Vacation.
3. The Applicant/Property Owner shall pay all fees, including fees for review, approval, and recording of the required documents associated with the Ordinance of Vacation.

4. The Applicant/Property Owner shall, subject to approval by the Director of Environmental Services or his designee, abandon or remove the existing storm sewer facilities within the aforesaid five-foot easement for storm sewer, at its own cost and expense, and shall construct a new storm sewer in accordance with the Site Engineering Plans approved for the Property by the Department of Environmental Services on November 27, 2005.

5. The Applicant/Property Owner shall submit to the Department of Environmental Services, a utility relocation plan and design (the “Plan”), consistent with the Arlington County Department of Environmental Services Construction Standards and Specifications, which shall be subject to approval thereof by the Director of the Department of Environmental Services, or his designee, for the abandonment or removal of the existing storm sewer facilities and construction of the new storm sewer facilities. The Applicant/Property Owner shall provide to the County a bond, letter of credit, or other satisfactory surety, in a form and in an amount, as determined by the County Manager or his designee, acceptable to the Director of Environmental Services or his designee, for the construction of the new storm sewer to be constructed pursuant to the Plan.

6. All conditions of the Ordinance of Vacation must be met by noon on July 10, 2007, or the Ordinance of Vacation shall become null and void, without further action by the County Board.
Attachment 1

ORDINANCE TO VACATE A FIVE-FOOT EASEMENT FOR STORM SEWER ALONG THE EASTERLY BOUNDARY OF LOTS 1 AND 2, BLOCK 7, FORT MYER HEIGHTS, LOCATED AT 1531 NORTH PIERCE STREET, RPC #17003002, WITH CONDITIONS:

BE IT ORDAINED that, pursuant to a request by Rosslyn Ridge Development Corporation (the “Applicant”) on file in the Real Estate Bureau of the Department of Environmental Services, the five-foot Easement for Storm Sewer along the easterly boundary of Lots 1 and 2, Block 7, Fort Myer Heights, recorded in Deed Book 780, Page 559 in the Land Records of Arlington County, Virginia, located at 1531 North Pierce Street, RPC #17003002, as shown on Exhibit A, attached hereto, is vacated, subject to the following conditions:

1. The Applicant/Property Owner shall prepare and submit to the County for review and approval, the Deed of Vacation, all required plats, and other necessary documents, subject to the approval thereof by the County Manager, or his designee, and approval of the deeds as to form by the County Attorney.

2. The Applicant/Property Owner shall record all plats and the Deed of Vacation.

3. The Applicant/Property Owner shall pay all fees, including fees for review, approval, and recording of the required documents associated with the Ordinance of Vacation.

4. The Applicant/Property Owner shall, subject to approval by the Director of Environmental Services or his designee, abandon or remove the existing storm sewer facilities within the aforesaid five-foot easement for storm sewer, at its own cost and expense, and shall construct a new storm sewer in accordance with the Site Engineering Plans approved for the Property by the Department of Environmental Services on November 27, 2005.

5. The Applicant/Property Owner shall submit to the Department of Environmental Services, a utility relocation plan and design (the “Plan”), consistent with the Arlington County Department of Environmental Services Construction Standards and Specifications, which shall be subject to approval thereof by the Director of the Department of Environmental Services, or his designee, for the abandonment or removal of the existing storm sewer facilities and construction of the new storm sewer facilities. The Applicant/Property Owner shall provide to the County a bond, letter of credit, or other satisfactory surety, in a form and in an amount, as determined by the County Manager or his designee, acceptable to the Director of Environmental Services or his designee, for the construction of the new storm sewer to be constructed pursuant to the Plan.

6. All conditions of the Ordinance of Vacation must be met by noon on July 10, 2007, or the Ordinance of Vacation shall become null and void, without further action by the County Board.
EXHIBIT B

Vicinity Map

1531 N. Pierce Street

Proposed Storm Sewer Easement Vacation

Proposed Storm Sewer Easement Vacation Outlined in Red

March 9, 2006