

Rosewood Condominium Council's Opposition Statement to Highland Restoration Group's Requested Parking Waivers

1. The applicant's requests are the antithesis of the 2005 approved plan

The worthiness of the applicant's requests must be evaluated within the context of the BOZA hearing and subsequent plan approval. The fate of the proposed building hinged upon HRG's ability to convince the Board of the absolute necessity for off-street parking in an underground garage.

HRG emphasized that increasing the on-street parking burden would cause undue congestion, undermine property values, and create an unsafe environment for nearby residents. Moreover, the development project was deemed economically unsound without the underground garage.

BOZA's approval to waive the requirement for off-street parking on the alley was based solely on HRG's provisions for this 5-car garage.¹ HRG has since abandoned it for unspecified "technical construction reasons," and now seek to implement a plan that they testified under oath would lead to a number of adverse affects on the neighborhood.

The applicant cannot have it both ways. He cannot claim that off-street parking is a critical plan element that protects the neighborhood from adverse affects. Then after obtaining plan approval, choose to eliminate off-street parking and claim there will be no adverse affects because Rosewood Ave. has a "surplus" of parking spaces elsewhere.

The applicant makes no attempt to explain these contradictions, and so the waivers should be flatly denied. HRG should provide off-street parking in a Code-compliant, underground garage or forgo the development plan altogether.

a. Plan approval was justified by provisions for "ample off-street parking"

HRG stated that "by providing an access to the property from Rosewood Ave., a significant amount of on-street parking would be eliminated."²

BOZA accepted this premise at face value, and even reassured residents that the underground garage would mitigate potential adverse affects:

LEIST: I have a concern with too many units in an area and too many people within an area.

BOZA: Even though they have the underground? Most of the folks that have concerns on Rosewood and Castlewood and in that area is parking. And when any of the homes that have been converted into apartments --

LEIST: -- we love what the owners are doing with the back parking lot.

BOZA: -- but they have underground parking for this new building, which alleviates what normally has been a concern that we've heard.³

In spite of those concerns (and despite the far greater concern of overcrowding) the revised September of 2013 site plan reduced the underground garage parking spaces from 5 to 3.⁴ The revised June of 2014 site plan eliminated the underground garage altogether.⁵ The applicant now proposes a value of **-5** off-street parking spaces.

The development plan that once promised a surplus of off-street parking cannot meet the bare minimum requirements and seeks an additional waiver to allow parking that is not even adjacent to the property.

b. Plan approval was based on the expectation of increased property values

HRG testified that their plan would include "off-street parking to compliment the neighborhood and *add to the neighborhood property value*."⁶ Off-street parking is indeed a significant factor to property value. And so the logical converse must also be true: granting the parking waivers would detract from the neighborhood and decrease its property value.

c. Plan approval was based on public safety considerations

The Board expressed a number of safety concerns over the curb cut access because the driveway did not provide sufficient visual clearance at street level. HRG emphasized their grave concerns for public safety as well, asserting that off-street parking is, in fact, a practical safety measure: "By getting the parking off Rosewood, you enhance the value of the property and *you cut down on the chance of accidents*."⁷ Again, the converse is true: approving the parking waivers would increase the chance of accidents.

d. Plan approval was based on the presumption of 11 units

BOZA was unaware that the "existing garage" identified on the submitted site plan was actually a carriage house with potential for an additional unit and requisite parking space. HRG asserted in both the waiver application and testimony no less than 4 times that the site would have a total of only **11 units**.⁸ HRG nevertheless incorporated the existing carriage house into the condo regime. They effectuated a use change for this nonconforming unit without specifically addressing its parking needs.⁹

e. Plan approval was based on a pretense of economic necessity

HRG asserted that "without the access from Rosewood Ave. to the property, *the development potential is significantly, if not completely, adversely rendered to a marginal value.*"¹⁰ In other words, the building is useless without the garage - an expedient claim that requires analysis.

When BOZA questioned if HRG considered abiding by the Code's requirement to provide access from the alley instead of the street, HRG explained:

HRG: No, it's not possible at all... It would significantly reduce the viability of selling those units. It would cut into the number of garages we could offer for sale...

BOZA: **There will be 11 units and 14 garage spaces?**

HRG: Right. We also get space on Rosewood.

BOZA: But you can't sell that.

HRG: I don't need to sell it.

BOZA: I know. That was my point.¹¹

But isn't that precisely what HRG is trying to do: to sell the space on Rosewood? The condo complex cannot exist without parking. By proposing a plan now utterly dependent upon on-street parking, the waivers would incorporate public property into HRG's condo regime, thereby subsidizing its required parking with public tax dollars.

As HRG explained, the Rosewood site "is very desirable property in this neighborhood and in order for it to be developed, with parking on site, a curb cut is required."¹² More precisely, a development in a "very desirable" neighborhood is not even feasible without the underground garage.

2. The waivers can only benefit HRG at the expense of the Tyler Park community

The requested waivers will provide exactly one beneficial outcome that relates directly to HRG's economic gain. HRG will not reduce the building footprint because larger condos mean higher profits. So instead HRG will destroy the extensive tree canopy that took perhaps a hundred years to grow to make way for the condos.

But HRG has abandoned the underground garage. So why construct a building that will fetch only a marginal profit? Is it reasonable to grant waivers that will bolster HRG's *marginal* economic gains to the detriment of the surrounding property values and the safety of our community?

The applicant himself explained that HRG will make less profit if zoning regulations are correctly enforced:

"[We] planned on using more expensive materials in finish work to get higher sales to complement current property values. It now seems likely that unnecessary further involvement by the bureaucratic process may hinder our ability to create a building that you would be proud to have as part of your association.

Since you now have Metro scrutinizing our plans there is not going back as far as they are concerned. We will have to build what fits even though in my opinion will be less desirable. It's certainly going to allow us to reach more potential buyers with lower listing prices."¹³

A cursory glance at the Highlands condo market reveals that condos under HRG's proposed 1,596 square feet with no off-street parking, no usable private yard, no privacy, and no elevator or otherwise handicap-accessible means of ingress and egress are priced far below HRG's unrealistic asking price at \$275,000.¹⁴

Whatever potential market value these condos may have rests solely on the fact that Rosewood Ave. is a beautiful and cohesive street in the desirable Tyler Park neighborhood. The condo complex will diminish the very property values upon which HRG's expected profit margin is based. In that sense, this development is a metaphoric parasite that relies on its host for sustenance while depleting its life force.

Rosewood Avenue is our neighborhood. HRG is a development group with no vested interest in the future of our community. We will live day in and day out with the repercussions of this building. HRG will carry on to their next project. Many of us have invested our life savings into our homes. HRG's imperative is to make a quick and easy profit, even if only a marginal value.

3. The requirements found in Table 9.1.2 cannot address the parking needs for spot zoned property

Table 9.1.2 requires a minimum of 1.5 spaces for each dwelling unit of a multi-family building in a Traditional Neighborhood district. However, the site was spot zoned as its own R7 District, which is surrounded in every direction by single-family homes.

The Rosewood unit owners already commandeer parking within the vicinity, despite the available garage spaces. There are a total of 9 units. Most of us have partners, some of us have adult children, all of us have visiting family and friends. Parking near the site is chronically congested precisely because the property was spot zoned.

Moreover, the nonconforming site contains two nonconforming structures, each with a nonconforming use. Section 1.3.4 of the LDC states that nonconforming parking "shall not be reduced below the minimum number of spaces required."¹⁵

The requested reduction cannot accommodate the parking demand generated by the proposed use. Even after the maximum credit for on-street parking is applied, the applicant still needs a second parking waiver to allow for on-street parking that is not directly adjacent to or abutting the development site.

Both parking waivers should be denied because they would only exacerbate the nonconformance of the Rosewood property and the parking deficit within its vicinity.

4. The requested waiver is not the smallest possible reduction

The applicant has requested a waiver to reduce the minimum parking requirement from 18 to 16 spaces. He bases this calculation on the 10 existing garage spaces. There are a proposed total of 12 units x 1.5 requisite spaces per dwelling unit = 18 minimum required spaces. He takes credit for the 10 existing garage spaces and 6 on-street spaces, and therefore claims to be short 2 short of the bare minimum, when in fact, he is short **5 spaces**.

Although there are 10 existing garage spaces, none are accessible to any future Rosewood II resident. More precisely, 2 of these 10 spaces are the legal property of Unit #8.¹⁶ These spaces are not interchangeable, communal, or collective.

The applicant would first have to purchase the additional space from the Unit #8 owners to rightfully claim credit for that space. Otherwise, the intended implication is that another resident may park there - when it is legally forbidden. Since no Rosewood II resident can park in any of these garage spaces, then all future residents must park on the street.

The Code mandates 1.5 spaces *per dwelling unit*. A fractional value of .5 is rounded up.¹⁷ 3 units x 1.5 = 4.5 --> 5 spaces. This value constitutes a 27.7% waiver - far above the 11.1% as is stated in the Notice of Public Hearing.¹⁸

The parking waiver to reduce the required minimum should be denied because 3 additional dwelling units will require 5 additional on-street parking spaces.

5. The applicant has not made an effort to provide as many parking spaces as possible

Criteria #2 requires evidence of the applicant's efforts to provide as many on-site parking spaces as possible. The applicant claims to have made "every effort to provide parking on-site. Unfortunately, other options were not code compliant and will require variances and waivers. The request presented appears to be the least impactful on the neighborhood."¹⁹

First, the applicant's logic is unsound. He claims to seek a solution that complies with Code, but his request for relief entails two distinct parking **waivers**. Therefore, his solution is as equally non-compliant as the "other options" posed by the underground garage.

Second, the applicant does not provide a single example to substantiate his claim that he made "every effort to provide parking on-site." For instance, he could have made a purchase offer for one of the garage spaces owned by Unit #8.

Third, the applicant states that "the garage has been removed for a number of technical construction reasons."²⁰ However, it is important to note that he does not suggest the garage cannot be built. He most certainly claimed that it could in 2005. The development plan was once approved on this very basis.

Fourth, he can still choose to follow through on the commitment to provide a 5-car garage. He could overcome these technical challenges instead of seeking waivers that enable him to increase HRG's profit by eliminating the cost and hassle of an underground garage.

The applicant's *unforced choice* to eliminate the garage for whatever unspecified technical reasons indicates HRG has not made a good faith effort to provide off-street parking and so the waivers should be denied.

6. The parking study does not justify compliance with the Comprehensive Plan

The applicant made an interesting revision to the waiver application. The version dated June 2nd asserted that the waiver complied with the Plan because he conducted a parking study "in accordance with the requirements of the LDC and Metro Public Works."²¹

The applicant then cited Guideline 3 - Policy 24 and Guideline 7 - Policy 10.²² One guideline relates to new construction of transportation facilities and the other to commercial areas.²³ Neither is applicable, and so the revised statement omits those citations.²⁴ The version dated July 24th now asserts that the *request* complies with the Plan.

A parking study is a *Code*-specific requirement. Criteria #1 requires a justification that pertains to the *Comprehensive Plan*. The omission does, however, indicate an awareness that this criteria asks for specificity as to how the *waivers* - not the *study* itself - are compliant with the Plan.

The parking waivers should be denied because this vacuous response to Criteria #1 reflects a lack of respect for the authority of the Comprehensive Plan.

7. The parking study deviates from Code

The methodology of the parking study is flawed because it deviates from the Code's instructions. We disagree with Public Works' assertion that the Code's requirements are inapplicable to this site.²⁵

a. Time Count

The Code requires a study to record parking conditions for 9 hours at 1 hour intervals over 5 days.²⁶ The applicant's study instead records 2 hours at 15 minute intervals. Public Works made this judgment call: "The 9-hour time frame within the LDC is more appropriate for commercial, retail, office and restaurant uses which would not yield valuable data if applied to this block of Rosewood." This reasoning inverts the Code's logic and supplants its authority.

A 2 hour count at 15 minute intervals better reflects the frequent turnover rate of a commercial area. Whereas a 9 hour count at 1 hour intervals better reflects parking conditions on a residential street because it experiences far less turnover than a commercial street throughout the course of a day.

In other words, residential areas moved at a slower pace and so they require a more extensive time count. The Code mandates a 45 hour study. The applicant's study is 10. **It is 35 hours short of the requisite data.**

The parking waivers should be denied because the study does not accurately reflect parking conditions over a sufficient time period on this residential street.

b. Available Spaces

The study documents "within the study area a total of available parking of 177 parking spaces." But its conclusion that there is a parking surplus is suspect because the results are muddled by irrelevant data.

The tally of 177 available parking spaces includes every space within the north and south alleys (garage, car port, and uncovered space) as well as driveways and garages facing Rosewood. The data is invalid because these spaces are privately owned. None of them are "available" to anyone but the property owner. Even if 10,000 parking spaces lined those alleys, they are still not accessible to the public and so they cannot be considered "available."

The same flawed logic that the applicant used to claim credit for Unit #8's privately owned garage space is exhibited in this study. The Code does not ask for a tally of the existing *private spaces* because such a value is meaningless in this context. The applicant fails to meet Criteria #4, which requires evidence of a surplus of *public spaces* in the area that can accommodate the generated parking demand.

The waivers should be denied because the claimed parking surplus is based upon data that improperly includes private spaces in the tabulation of "available parking spaces."

8. The parking study boundaries are unreasonably expansive

The study area extends 443 feet northeast towards Baxter Ave. and 1,056 southwest towards Castlewood Ave.²⁷ Nothing in the Code justifies such an expansive study area to assess potential parking spaces for such a limited and easily defined site.

The applicant has requested a reduction of 2 spaces (although he needs 5), but the study itself covers an unreasonably large distance to arrive at this surplus. Logically, the farther a study area expands, the greater potential for available spaces. The end result is a false impression that there is more available parking than what actually exists within the area.

Per the study's flawed parameters, it makes just as much sense to expand the northeast boundary equidistant to the southwest boundary and include public parking at Mid City Mall. Its rear parking area is a closer and less treacherous journey than the trek from Castlewood to the site. The applicant may then claim a bounty of available parking spaces. There is obviously something wrong with the study limits.

If the intent is simply to determine the "quantity of available and occupied on-street parking spaces *within the area of the proposed project*,"²⁸ then the study fails to meet that objective.

The waivers should be denied because the study offers skewed results that favor the applicant's request for relief.

a. The study limits is based upon an arbitrary standard

The study limits is not based upon a calculated ratio or a specific analysis of the actual site. Public Works determined the limits by applying a poorly defined and entirely subjective standard of a "walking distance of 1,000 ft."²⁹ In other words, it was deemed perfectly acceptable to expect residents to walk as far as 1,000 feet from their cars to their homes.

This standard should not be applied to a strictly residential street in a traditional neighborhood district. It is far better suited to a high density, urban area that relies heavily on public transportation. In fact, city planners typically utilize this standard when analyzing mixed-use districts. They apply it to scenarios such as the distance of a home to a public transit site, an office, a school, or a retail area.³⁰

The parking waivers should be denied because a 6-minute walk at 1,000 feet is by no means a reasonable distance between a resident's car and home.

b. The study fails to address parking conditions within the relevant area

The pertinent question that this study does not answer is how much parking is available within the Rosewood's vicinity? The correct answer is very limited, consistently at a deficit, and unable to withstand an increased burden.

The proposed building would have three, 2-bedroom condos, so in all probability the residents will increase the parking burden by at least **6 cars**. So, 6 cars x 20 feet will monopolize an additional 120 feet of on-street parking. Of course,

these residents will utilize on-street parking for deliveries, friends, family, and the casual passerby, which can only exacerbate the parking deficit.

We considered conducting an independent parking study until we realized that online mapping tools are far more reliable because they objectively reflect parking conditions at completely random times.

We have attached a copy of the screen shots to illustrate our point,³¹ but we suggest a visit to the Google Maps website. The August of 2011 panoramic walk along Rosewood depicts parked cars within every square inch of the Rosewood's immediate vicinity, heavy congestion towards Baxter, and somewhat more space towards the south.³²

Google Earth offers historic aerials. The December of 2002 aerial depicts severe congestion from Baxter to the site with more parking spaces to the south. The June of 2010 aerial depicts moderate congestion along the Rosewood site and available spaces to the south. Yahoo Maps also depicts the same heavy congestion from the site to Baxter, but fewer cars to the south.

The LOJIC Map offers historic aerials as well. The 2009 map shows a heavy concentration of cars within the Rosewood's immediate vicinity but fewer cars heading south towards Castlewood. The 2012 map depicts a concentration of cars immediately to the Rosewood property that thins out towards the south.

These six entirely random and objective aerials of the vicinity throughout different years reveal a strikingly consistent pattern: heavy congestion immediate to the Rosewood site; moderate to heavy congestion towards Baxter; and more available space towards Castlewood. **There is a very specific explanation for this pattern: the site is located at the apex of a steep and dangerous hill.**

The parking waivers should be denied because there is not a surplus of on-street spaces in the relevant area that can accommodate the generated parking.

9. The parking waivers would violate the Comprehensive Plan

The study fails to convey that the "45 parking spaces available at any given time" are in no way evenly dispersed throughout Rosewood Avenue. They are concentrated almost exclusively along this hill.

The Comprehensive Plan urges developers to take into account the existing land use patterns and physical features of a potential site.³³ Goal A3.6 mandates that parking waivers for a new development "will not place a burden on street parking that would deprive nearby residents dependent upon street parking with *reasonably easy vehicular access to their homes*."³⁴

This is exactly the argument that HRG made in support of their 2005 curb cut to the underground garage: "It would provide *convenient* access to the property owners. It is not an unreasonable request and does not create a nuisance or hazard."³⁵

The request to allow on-street parking that is not adjacent to the site should be denied because such parking is neither easy nor safe for nearby residents.

a. Public safety hazards

Guideline 7 requires that "all new development provides safe and efficient travel."³⁶ But an increased parking burden of 6 cars necessitates that residents park elsewhere from their homes. Since there is scant space towards Baxter, residents will have no choice but to shift their parking towards Castlewood.

First, it must be understood that there is absolutely no sidewalk on either side of this steep and dangerous hill. Therefore, residents walking to and from their cars - and up to a distance of 1,000 feet - must do so on the street.

Second, although Rosewood is classified as a local road, it functions as a connector between Castlewood and Baxter. Drivers frequently travel along Rosewood at alarming speeds. As a matter of fact, the Louisville Police Department conducted a 2013 traffic study on Rosewood Ave. in which **the fastest speed was clocked at 54 MPH.**³⁷

Third, Rosewood is narrow, so the pedestrian residents must walk a third into the street. They will have little time to dodge a fast-approaching car because the parked cars and the hill itself act as a significant visual obstruction to drivers, pedestrians, and cyclists.

Fourth, a distance of 1,000 feet is nearly the length of three football fields - an impossibility for anyone who is elderly, disabled, injured, or in generally poor health. A person in a wheelchair or reliant upon a walker **will not** make their way safely up this hill.

We invite you to drive along Rosewood one evening. Ask yourself if you would feel comfortable walking up this hill with no sidewalk, your children by your side, a bag of groceries in each arm, and your home 1,000 feet away. Imagine this hill during inclement weather, most especially at wintertime, when it's dark before you're home from work. A car loses control on a patch of ice and barrels right for you.

Section 11.8.1 of the LDC states that "standards based on public health and safety concerns may not be waived."³⁸ The parking waivers should be denied because the Code strictly forbids a waiver of this nature. The Plan serves to protect residents from exactly the kinds of dangers that would result from increased parking along the hillside.

b. Reasonably easy vehicular access

The study fails to take into account certain factors that are unique to this particular site. Since Rosewood is located between Mid City Mall and public transit sites along Castlewood and Barret, non-resident pedestrians often travel along Rosewood Ave. Unfortunately, the area is prone to car theft, break-ins, and vandalism.³⁹

The spaces that are not adjacent to the site are also not within visual range of the property. If residents hear a car alarm or the sound of broken glass, they cannot identify the source unless they leave their homes and walk to the top of the hill. By that time the culprit will be long gone.

Residents along the hill tend to avoid parking in the north alley near Castlewood because its seclusion invites such crime. This alley has dense vegetation that hinders sight and sound, and parking is some distance from the homes. Existing parking along the hill should not be construed as evidence of safe or convenient parking. It is indicative of a local response to criminal activity. Residents must have reasonably easy vehicular access for reasons involving personal safety and the protection of their personal property.

The parking waivers should be denied because an increase in hillside parking conflicts with the Plan's requirement that new developments provide reasonably easy vehicular access.

c. Existing patterns

The Plan ensures that new developments respect a neighborhood's identified patterns to preserve its basic character.⁴⁰ Rosewood Avenue is well-recognized for its "remarkable continuity."⁴¹ The reason for this continuity is that nearly every home on Rosewood was built between 1900 and 1940.⁴²

The proposed condo complex will be the first structure built on Rosewood Avenue in 60 years. In fact, it is a complete departure from the surrounding land use of the predominantly single-family homes. The relatively few duplexes and triplexes along Rosewood are rightly located near commercial nodes. Moreover, these former single-family homes were converted to multi-family structures, whereas this development entails the creation of a multi-family structure.

The development plan must respect infill standards. There are a total of 95 homes on Rosewood within this traditional neighborhood district. 86 of these homes have some form of off-street parking.⁴³

HRG even cited this established pattern of off-street parking in support of their 2005 waiver application: "The new garages would continue the *pattern* established along the alley."⁴⁴ HRG reiterated that point to BOZA: "We will follow the *pattern* in the neighborhood of having as much off-street parking as possible."⁴⁵

The waivers should be denied because it conflicts with the neighborhood's long-standing pattern: 91% of Rosewood homes have provisions for off-street parking. An incompatible 3-unit condo complex on a nonconforming site should at least follow suit.

d. Neighborhood aesthetics

Rosewood Avenue's property values are dependent upon the neighborhood's aesthetic appeal. The Plan requires that new infill developments are compatible, so that they contribute to rather than detract from those aesthetics.⁴⁶ HRG's testimony reveals a keen awareness of this standard: "We are putting the underground parking in specifically for *aesthetics*. Specially for it being upscale property."⁴⁷

The parking waivers should be denied because an increased parking burden will diminish the neighborhood's aesthetics and corresponding property values.

10. Waiver approval would conflict with HRG's private yard claims

In order to obtain plan approval in 2005, HRG stated that denial of the request to build a rear garage at 0 ft. from the west property line would entail an unnecessary hardship that "would require additional parking to occur on Rosewood Ave. and limit access to the rear of the building for elevator access to condominium units."⁴⁸

The justification to allow that garage to encroach 10 feet into the requisite LBA is now completely negated by HRG's current site plan. The applicant intends to convert this concrete loading/service area adjacent to the alley into "green space" in an attempt to claim it as private yard.⁴⁹

In fact, HRG claimed there would be no adverse affects on adjacent owners because they had actually *exceeded* guidelines via mitigating plan elements.⁵⁰ They purported that only exception was the open space requirement.⁵¹ BOZA's justification to drastically reduce the PYA was based on this assertion of *exceeding* standards by providing an underground garage.

HRG now claims as PYA the disallowed Accessory Use Area, which entirely negates the justification to allow what one Board member described as a "humongous" reduction of green space.⁵²

The current site plan reveals a *desperation* for more land. The crux of the matter is that the land is far too small to contain the density of a combined 12 units. We have attached excerpts of certain documents submitted to zoning officials that meticulously details the Code's prohibition on claiming the Accessory Use Area as private yard.⁵³

This attempt to usurp private property will negatively impact on-street parking conditions. Since the three-story Rosewood is located on a narrow road at the top of a dangerous hill, this rear loading area is essential for residents moving in and out, as well as short-term parking for medium and heavy service and delivery trucks.

The conversion of this loading area to private yard would mean that transactions involving moves, deliveries, and other cumbersome services will occur on a congested street instead of the alley. Since these large trucks cannot reasonably park along the hill, they must park at its apex. This guarantees a hazardous blind spot for oncoming traffic.

The waivers should be denied because HRG's current site plan has entirely negated the justification to reduce the private yard in the first place. Moreover, an increased parking burden in conjunction with the loss of this loading area will significantly compound the adverse affects of the two.

Conclusion

The applicant must meet each of the six criteria to justify *both requests*: to reduce the minimum requirement from 18 to 16 spaces, and also to use on-street parking spaces that are not directly adjacent or abutting the site.

The applicant hangs his hat on just one argument: the parking study indicates a surplus. Every other answer is merely a terse iteration of that theme. We have offered persuasive evidence that the applicant has failed to substantiate this singular argument and has failed to meet the necessary criteria to justify either request.

On behalf of the Tyler Park Neighborhood and all Rosewood residents, the Rosewood Condominium Council respectfully requests that both parking waivers be denied.

DOCUMENT CITATIONS

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- ¹ see 2005 site plan with BOZA handwritten corrections related to HRG's testimony pertaining to proposed number of units and parking spaces. Also see Minutes of the Meeting of the Louisville Metro Board of Zoning Adjustment, page 20, May 16, 2005.
- ² HRG's "variance" application for a *waiver* of LDC requirement for off-street parking from the alley, Response #3d, April 25, 2005.
- ³ BOZA Hearing Transcript, page 7 at 19:31.
- ⁴ September of 2013 revised site plan depicting reduction of underground garage spaces from 5 to 3.
- ⁵ June of 2014 revised site plan with elimination of underground garage.
- ⁶ BOZA Hearing Transcript, page 1 at 4:54.
- ⁷ BOZA Hearing Transcript, page 15 at 39:37-40:20.
- ⁸ HRG "waiver" application for private yard *variance*, statement B: "the number of dwelling units, 11, is also well below the maximum allowed, 17.1" received by PDS on April 25, 2005. Also refer to BOZA testimony on page 11 at 33:09, page 15 at 40:20.
- ⁹ LDC 2006 - Section 9.1.16 Parking Waiver Provisions A.5.a-c.
- ¹⁰ Justification Statement #3b.
- ¹¹ BOZA Hearing Transcript, page 15 at 38:50.
- ¹² Application for Curb Cut Access, Response # 3a., received by PDS on April 25, 2005.
- ¹³ Email from Gene Crawford to the Council's president Mike Kuharich on February 17, 2014.
- ¹⁴ Condo market research in Highlands area per listings on Louisville MLS and Semonin websites.
- ¹⁵ LDC 2006 - Chapter 1 Part 3 Nonconformance, Section 1.3.4
- ¹⁶ General Warranty Deed for Unit #8 between LaFever and Sheryak, DB 09525PG0336 dated February 19, 2010.
- ¹⁷ LDC 2006 - Chapter 9 Parking and Loading - Section 9.1.3E.1.
- ¹⁸ Planning & Design Notice of Public Hearing to reduce the required spaces from 18 to 16, *a waiver of 2 spaces, an 11.1% waiver*.
- ¹⁹ Application for Parking Waivers - revised, Response #2, dated June 18, 2014.
- ²⁰ Withdrawn application to reduce the property perimeter LBA from 10 to 5 feet, received by PDS on June 2, 2014. The applicant oddly enough addresses the eliminated garage in this withdrawn LBA waiver application rather than the parking waiver application.
- ²¹ HRG's Revised Rosewood II Parking Waiver Application Attachment received by PDS on July 24, 2014.
- ²² HRG's initial parking Waiver Application and study, submitted to PDS on June 2, 2014.
- ²³ Cornerstone 2020 Guideline 3 [page 81] Policy 24 [page 83]. Guideline 3 requires that land uses and transportation facilities are located, designed, and constructed to be compatible with nearby land uses and to minimized impacts to residential neighborhoods. Policy 24 requires that "parking, loading, and delivery areas located adjacent to residential areas should be designed to minimize adverse impacts from noise lights, and other potential impacts. However, the proposed building would utilize the existing on-street parking rather than construct or design a new parking area. The waivers would reduce available parking and force residents to park elsewhere, which would maximize impacts to this residential neighborhood. Guideline 7, Policy 10 relates specifically to the "density and relative proximity of residences to businesses in the market area." Rosewood Ave. is a strictly residential street. The proposed building is a residential multi-family complex. There is no market place within the site that requires hours of operation or presents shared parking opportunities.
- ²⁴ see revised Parking Waiver Application, Response #1, dated July 24, 2014.
- ²⁵ Email exchange between Elizabeth Fauxpoint, Secretary of Rosewood Condominium Council and Jeffrey Brown of Public Works regarding validity of parking study, June 16, 2014.
- ²⁶ LDC 2006 - Chapter 9 - Parking and Loading Section 9.1.17.B.2.b.
- ²⁷ Google Maps depicting walking distance of study limits.
- ²⁸ Response from Jeff Brown to Elizabeth Fauxpoint regarding study methodology via email on June 16, 2014.
- ²⁹ The Walking Standard basis was communicated by Jeff Brown to Elizabeth Fauxpoint during a telephone conversation on 6/16/14.
- ³⁰ Planning Commission TOD Committee, Walking Distance Research, pages 1-9.
- ³¹ Collection of screen shots of Google Maps, Google Earth, LOJIC, and Yahoo Maps aerial maps depicting parking conditions on Rosewood throughout random years.
- ³² Google Maps - August of 2011, Rosewood site facing Baxter and then Castlewood
- ³³ Cornerstone 2020 - Community Form Strategy, page 11.
- ³⁴ Cornerstone 2020 Objective A3.6, page 14.
- ³⁵ Application for curb cut, Answer 3d., submitted on April 25, 2005.
- ³⁶ Cornerstone 2020 - Mobility/Transportation, Guide 7, page 89.
- ³⁷ Email from Officer Cody Chapelle regarding traffic monitoring on Rosewood Ave.
- ³⁸ LDC 2006 - Chapter 11 Part 8 - Waivers Section 11.8.1
- ³⁹ LouisvilleKy.Gov Crime Data for Rosewood and Castlewood.
- ⁴⁰ Cornerstone 2020 - Community Form Strategy Goals and Objective A3.4 encourages regulations that "reinforce the form of development and discourage design, location, configuration and relationship of land uses that would detract from the pattern and form of development characteristic of a specific form or special district." Page 14.
- ⁴¹ National Register of Historic Places excerpt, page 2.
- ⁴² Comparative Analysis of Rosewood Homes and provisions for off-street parking based upon PVA reports and site visits.

⁴³ *ibid.*

⁴⁴ Application to build the west garage at zero feet from the property line, Answer 3d., submitted on April 25, 2005.

⁴⁵ BOZA Hearing Transcript page 2 at 6:30.

⁴⁶ Cornerstone 2020 defines Scale as: the relationship of a particular project or development, in terms of size, height, bulk, intensity, and **aesthetics** to its surroundings, page 12. Also see Community Form Strategy Objective A1.2; A3.4 discourages land use that detracts from the pattern and form of a district; Goal C2.4 ensures that developments maintain or improve existing street patterns established in a traditional neighborhood; and Guideline 1 Community Form (page 71) to ensure land use decisions preserve and improve identified existing and emerging patterns of development (page 74).

⁴⁷ DOCUMENT #3 - BOZA Hearing Transcript page 11 at 33:09.

⁴⁸ Application to build rear garage at 0 feet from west property line, Response 3b., dated April 25, 2005.

⁴⁹ Current site plan under review depicting revised claim to PYA, July 15, 2014.

⁵⁰ Application to reduce PYA, Response A, April 25, 2005.

⁵¹ *ibid.*

⁵² BOZA Hearing Transcript page 18 at 45:31.

⁵³ excerpts from the Rosewood Council's documents pertaining to PYA submitted to zoning officials: 1 - letter to Jim Mims, Director of Codes & Regulations; 2 - Downzone Proposal submitted to Planning & Design on July 7, 2014; 3 - Summary of Inaccurate and Omitted Data on HRG's revised site plan of July 21, 2014 submitted to case manager Joe Reverman.