

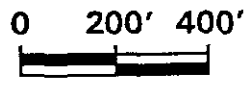
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77-B1-24

THREE CHOPT DISTRICT

AMEND PROFFERED COND.

C-74C-94 [®]



HENRICO COUNTY PLANNING OFFICE



COMMONWEALTH OF VIRGINIA
COUNTY OF HENRICO

Virgil R. Hazelett, P.E.
County Manager

March 14, 1995

Re: Conditional Rezoning Case C-74C-94

Cinco Amigos Partnership
P. O. Box 8156
Roanoke, Va. 24014

Brookhollow of Virginia, Inc.
c/o Mr. Barry M. Bone, President
1341 W. Mockingbird Lane #700 W
Dallas, TX. 75247-6913

Gentlemen:

The Board of Supervisors at its meeting on March 8, 1995 granted your request to amend proffered conditions on Conditional Rezoning Case C-30C-86, being Parcel 77-B1-24.

The following substitute proffered conditions accepted by the Board of Supervisors, further regulates the use of your property in addition to all applicable provisions of Chapter 22, Code of Henrico (Zoning Ordinance).

Applicable to Parcels A, B, and C: (See plat prepared by J. K. Timmons & Associates dated January 26, 1995):

1. Conceptual Master Plan. A Conceptual Master Plan for the entire project shall be submitted with the first request for Plan of Development approval and shall be updated with each subsequent request for Plan of Development approval.

Applicable only to Parcels A and B (western portion of Tax Parcel 77-B1-24):

1. Building Setback. No building shall be constructed within fifty (50) feet of the northern line of the ultimate right of way of West Broad Street as determined at the time of Plan of Development approval, or within forty (40) feet of any other public street constructed within the Property.
2. Buffers.
 - (a) At least twenty-five percent (25%) of every outparcel site within the project and an overall average of twenty-five percent (25%) of the balance of the Property shall be used for permanent open space. This area shall be used for landscaping, berms, lawns, screening and/or buffer areas and may include bodies of water and works of art. The area devoted to the minimum project perimeter, minimum required landscaping along streets and parking lot landscaping may be counted toward this requirement.

74

Cinco Amigos Partnership
Brookhollow of Virginia, Inc.
c/o Mr. Barry M. Bone, President
March 14, 1995

2

- (b) A landscaped and/or bermed area of a minimum of fifty (50) feet in width shall be established and maintained (except for necessary entrance drives and utility easements, which shall generally be perpendicular to the buffer area, and storm water facilities and signage) on the Property along the northern line of the ultimate right of way of West Broad Street as determined at the time of Plan of Development approval. The buffer area along West Broad Street shall be irrigated.
 - (c) A landscaped and/or bermed area of a minimum of twenty-five (25) feet in width shall be established and maintained (except for necessary entrance drives and utility easements, which shall generally run perpendicular to the buffer area) along all internal public streets constructed on the Property.
 - (d) An undisturbed natural buffer area of a minimum of fifty (50) feet in width shall be retained along the common boundaries of subject Property or the existing gas line easement (whichever shall be further east) and Tax Parcels numbered 77-BI-11 and 13 and a six (6) foot high green or black chain link fence or a solid board privacy fence (as determined at the time of Plan of Development approval) shall be installed along the owner's side of the aforesaid buffer, except that the fence shall be located so as to accommodate the location of any graves (excluding those portions of said Tax Parcels used for access) and only until such time as said Tax Parcels adjoining such buffered areas are devoted to a use other than for residential or religious purposes. Any diseased, dead or fallen trees may be removed and any trees which must be removed for the installation of utilities or site work shall be replaced.
 - (e) The landscaped areas described in paragraphs 2(b) and 2(c) above shall be planted with such trees, shrubs, grass or other appropriate vegetation as may be approved or required by the Planning Commission at the time of the approval of a Plan of Development for the Property. Likewise, no buildings or parking (whether inventory, customer or otherwise) shall be permitted in any landscaped or buffer areas required pursuant to paragraphs 2(b), 2(c) and 2(d) above, except for necessary entrance drives and landscaping structures as may be determined at the time of Plan of Development approval.
3. Exterior Lighting. Exterior lighting on the Property shall be produced from concealed sources of light (i.e., shoebox type) to minimize the impact of such lighting on adjacent properties and be of such a type as approved or required by the Planning Commission at the time of Plan of Development review. Parking lot lighting standards within the Property shall not exceed twenty-five (25) feet in height as measured from the grade of the lighting standard, unless otherwise requested, described and specifically permitted, or if required by the Planning Commission at the time of Plan of Development review, except that parking lot lighting standards on the outparcels shall not exceed twenty (20) feet in height.

Cinco Amigos Partnership
Brookhollow of Virginia, Inc.
c/o Mr. Barry M. Bone, President
March 14, 1995

3

4. Architectural Treatment.

- (a) Principal Buildings. The exposed portion of the exterior wall surfaces (front, rear and sides) of any building constructed on the Property shall be similar in quality as to architectural treatment and materials. All buildings constructed on the Property shall have exposed exterior walls (above finished grade) of face brick, natural stone, dryvit, stucco if attached to a masonry surface, decorative split-face block and/or glass or of an equivalent, permanent, architecturally finished material, unless otherwise requested, described and specifically permitted, or if required by the Planning Commission at the time of Plan of Development review. No building shall be covered with or have exposed to view any painted or unfinished concrete block, sheet or corrugated aluminum, asbestos, iron or steel and no more than an average of twenty-five percent (25%) of the exterior of the walls of buildings constructed on the Property (exclusive of doors and windows) shall be constructed of dryvit or stucco, unless otherwise requested, described and specifically permitted, or if required by the Planning Commission at the time of Plan of Development review. All buildings constructed on Parcels A and B of the Property shall be constructed of exterior materials which are equal to or better in quality and appearance to buildings constructed on Parcel 77-BI-14 and 29 as approved or required by the Planning Commission at the time of Plan of Development review.
- (b) Outparcel Building. Any building on the outparcel shall be constructed of similar materials of equal or better quality to, and be compatible with, the buildings constructed on the Property as approved or required by the Planning Commission at the time of Plan of Development review and shall at a minimum use accent materials which are substantially identical to those used on the principal buildings.

5. Development Standard. Prior to or concurrent with the conveyance of any part of the Property (other than for the dedication of easements, roads or utilities) covered by a Plan of Development approved by Henrico County, the owner of the part of the Property covered by such Plan of Development, its successors or assigns, shall record a document in the Clerk's Office of the Circuit Court of Henrico County setting forth controls on the development of such part of the Property. The covenants shall, at a minimum, provide for maintenance of individual sites, common areas, open spaces, and private streets, and provide for minimum development and operational standards for each site.
6. Signage. No mobile, portable or temporary signs or banners shall be placed on the Property. Freestanding signage on the Property shall be restricted to earth-mounted signs substantially of the configuration of the S&K sign east of the Property and shall in no event exceed twenty-five (25) feet in height above ground level. Signage shall be uniform throughout the center.
7. HVAC. All roof-mounted equipment which rises above the roofline of any building or

Cinco Amigos Partnership
Brookhollow of Virginia, Inc.
c/o Mr. Barry M. Bone, President
March 14, 1995

4

structure shall be effectively screened from view from any street (except interstate highways) by an architecturally suitable method.

8. Parking. Parking shall be permitted only in parking areas approved in the Plan of Development. The parking lots serving the Property shall be landscaped, including, but not necessarily limited to, the planting and maintaining of shrubbery, trees or other vegetation in islands located within such parking lots or between parking rows as may be required or approved by the Planning Commission at the time of Plan of Development review.
9. POD Approval. Development of each individual site on the Property shall be subject to Plan of Development review and approval by the Planning Commission.
10. Outside Storage. There shall be no outside storage permitted within two hundred (200) feet of West Broad Street. No articles, goods, materials, refuse, refuse receptacles (except for convenience cans), incinerators, storage tanks, or other items shall be stored in the open or exposed to public view from any street or from adjacent land. If there is any outside display or storage area beyond the said two hundred (200) feet limitation, it shall be screened from view by a wall or screening fence of permanent construction designed of solid materials. The foregoing shall not preclude outdoor retail garden supply center and related items.
11. Prohibited Uses. No use shall be permitted which is offensive by reason of odor, fumes, dust, smoke, noise or pollution or which is hazardous by reason of danger of fire or explosion, or injurious to persons or Property, or in violation of the laws of the United States, Commonwealth of Virginia or County of Henrico. Specifically, the following uses shall be prohibited on the Property:
 - (a) Automobile body shops, automobile repair shops and car washes; provided, however, that automobile dealerships shall be permitted provided that all body work, repair work, tire changes, car washes and all other repairs shall be conducted totally within enclosed buildings.
 - (b) Blacksmith, welding, or other metal shop.
 - (c) Bottling, cold storage, or milk processing and distribution plants.
 - (d) Building material sales yards.
 - (e) Carnivals, fairs and circuses.
 - (f) Coal and wood yards.
 - (g) Dancing establishments and dance halls.
 - (i) Display houses, "shell" houses or tool sheds within two hundred (200) feet of West Broad Street.
 - (ii) Drive-in theaters, golf driving ranges, baseball batting ranges, miniature golf courses, pony rides, and similar outdoor amusements or commercial recreation establishments.
 - (j) Dyeing and cleaning works.
 - (k) Flea markets.

Cinco Amigos Partnership
Brookhollow of Virginia, Inc.
c/o Mr. Barry M. Bone, President
March 14, 1995

5

- (1) Fortune tellers, palmists, astrologists, numerologists, clairvoyants, craniologists, phrenologists, card readers, spiritual readers or advisors.
 - (m) Lodges, clubs and meeting halls.
 - (n) Mixing of cement concrete.
 - (o) Outdoor advertising signs and structures.
 - (p) Riding academies, amusement parks and target ranges.
 - (q) Sand, gravel or clay pits, quarries, mines and other extractive operations, including topsoil removal.
 - (r) Sheet metal shops.
 - (s) Stores whose principal business is the sale and repair of guns.
 - (t) The sale of trucks in excess of 5,000 pounds, motorcycles, buses and trailers.
 - (u) Tire dealerships and tire manufacturing, rebuilding or recapping plants.
 - (v) Truck terminals.
 - (w) Veterinary hospitals or clinics which have facilities for treatment of large animals and boarding kennels for small animals.
 - (x) Video and game parlors.
12. Access. There shall be no more than two (2) access drives and/or streets (public or private) to and from the Property and West Broad Street (one of which shall be a shared access drive and/or street providing access to and from West Broad Street and Parcel C) unless additional access drives and/or streets are permitted or required by the Planning Commission.
13. Outparcels. There shall be no more than one (1) outparcel and no outparcel shall have direct vehicular access to or from West Broad Street.
14. Deliveries. There shall be no deliveries to or trash pickup from the buildings along the rear of the boundary line of the Property which abuts Parcels 77-BI-11 and 13 on Sundays.
15. Public Utilities. All principal buildings constructed on the Property shall be served by public utilities.
16. Phasing Plan. No construction shall be commenced on the Property until the Virginia Department of Transportation awards a contract for the widening of West Broad Street adjacent to the Property or October 1, 1996, whichever event shall first occur, except that no Certificate of Occupancy shall be issued for any outparcel or any building on Parcel B until six (6) lanes of West Broad Street are open to traffic adjacent to the Property or December, 1998, whichever shall first occur.
17. Outside Speakers. There shall be no outside speakers which may be heard beyond the boundaries of the Property.
18. Severance. The unenforceability, elimination, revision or amendment of any proffer set forth herein, in whole or in part, shall not affect the validity or enforceability of the

Cinco Amigos Partnership
Brookhollow of Virginia, Inc.
c/o Mr. Barry M. Bone, President
March 14, 1995

6

other proffers or the unaffected part of any such proffer.

APPLICABLE ONLY TO PARCEL C (eastern portion of Tax Parcel 77-BI-24):

1. **Building Setback.** No building shall be constructed within fifty (50) feet of the northern line of the ultimate right of way of West Broad Street as determined at the time of Plan of Development approval, or within forty (40) feet of any other public street constructed within the Property.
2. **Buffers.**
 - (a) At least an overall average of thirty percent (30%) of the Property shall be used for permanent open space. This area shall be used for landscaping, berms, lawns, screening and/or buffer areas and may include bodies of water and works of art. The area devoted to the minimum project perimeter, minimum required landscaping along streets and parking lot landscaping may be counted toward this requirement.
 - (b) A landscaped and/or bermed area of a minimum of fifty (50) feet in width shall be established and maintained (except for necessary entrance drives and utility easements, which shall generally run perpendicular to the buffer area, and storm water facilities and signage) on the Property along the northern line of the ultimate right of way of West Broad Street as determined at the time of Plan of Development approval. The buffer area along West Broad Street shall be irrigated.
 - (c) A landscaped and/or bermed area of a minimum of twenty-five (25) feet in width shall be established and maintained (except for necessary entrance drives, storm water facilities and utility easements, which shall generally run perpendicular to the buffer area) along all internal public streets constructed on the Property.
 - (d) The landscaped and/or bermed areas described in paragraphs 2(b) and 2(c) above shall be planted with such trees, shrubs, grass or other appropriate vegetation as may be approved or required by the Planning Commission at the time of the approval of a Plan of Development for the Property. Likewise, no buildings or parking (whether customer or otherwise) shall be permitted in any landscaped or buffer areas required pursuant to paragraph 2(b) above, except for necessary entrance drives and landscaping structures as may be determined at the time of Plan of Development approval.
3. **Exterior Lighting.** Exterior lighting on the Property shall be produced from concealed sources of light (i.e., shoebox type) to minimize the impact of such lighting on adjacent properties and be of such a type as approved or required by the Planning commission at the time of Plan of Development review. Parking lot lighting standards within the Property shall not exceed twenty (20) feet in height as measured from the grade of the

Cinco Amigos Partnership
Brookhollow of Virginia, Inc.
c/o Mr. Barry M. Bone, President
March 14, 1995

7

lighting standard, unless otherwise requested, described and specifically permitted, or if required by the Planning Commission at the time of Plan of Development review.

4. **Architectural Treatment.** The exposed portion of the exterior wall surfaces (front, rear and sides) of any building constructed on the Property shall be similar in quality as to architectural treatment and materials. All buildings constructed on the Property shall have exposed exterior walls (above finished grade) of face brick, natural stone, dryvit, stucco, if applied to a masonry backing, decorative split-face block and/or glass or of an equivalent, permanent, architecturally finished material, unless otherwise requested, described and specifically permitted, or if required by the Planning Commission at the time of Plan of Development review. No building shall be covered with or have exposed to view any painted or unfinished concrete block, sheet or corrugated aluminum, asbestos, iron or steel and no more than an average of twenty-five percent (25%) of the exterior walls of any building constructed on the Property (exclusive of doors and windows) shall be constructed of dryvit or stucco, unless otherwise requested, described and specifically permitted, or if required by the Planning Commission at the time of Plan of Development review.
5. **Development Standard.** Prior to or concurrent with the conveyance of any part of the Property (other than for the dedication of easements, roads or utilities) covered by a Plan of Development approved by Henrico County, Owner shall record a document in the Clerk's Office of the Circuit Court of Henrico County setting forth controls on the development of such part of the Property. The covenants shall, at a minimum, provide for maintenance of individual sites, common areas, open spaces, and private streets, and provide for minimum development and operational standards for each site.
6. **Signage.** No mobile, portable or temporary signs or banners shall be placed on the Property.
7. **HVAC.** All roof-mounted equipment which rises above the roofline of any building or structure shall be effectively screened from view from any street (except interstate highways) by an architecturally suitable method.
8. **Parking.** Parking shall be permitted only in parking areas approved in the Plan of Development. The parking lots serving the Property shall be landscaped, including, but not necessarily limited to, the planting and maintaining of shrubbery, trees or other vegetation in islands located within such parking lots or between parking rows as may be required or approved by the Planning Commission at the time of Plan of Development review.
9. **POD Approval.** Development of each individual site on the Property shall be subject to Plan of Development review and approval by the Planning Commission.
10. **Outside Storage.** There shall be no outside storage permitted within two hundred (200) feet of West Broad Street. No articles, goods, materials, refuse, refuse

receptacles (except for convenience cans), incinerators, storage tanks, or other items shall be stored in the open or exposed to public view from any street or from adjacent land. If there is any outside display or storage beyond the aforesaid two hundred (200) feet limitation, it shall be screened from view by a wall or screening fence of permanent construction designed of solid materials. The foregoing shall not preclude outdoor retail garden supply center and related items.

11. Prohibited Uses. No use shall be permitted which is offensive by reason of odor, fumes, dust, smoke, noise or pollution or which is hazardous by reason of danger of fire or explosion, or injurious to persons or Property, or in violation of the laws of the United States, Commonwealth of Virginia or County of Henrico. Specifically, the following uses shall be prohibited on the Property:
- (a) Automobile body shops, automobile repair shops, automobile dealerships, car washes and truck terminals.
 - (b) Blacksmith, welding, or other metal shop.
 - (c) Bottling, cold storage, or milk processing and distribution plants.
 - (d) Bowling, skating, billiards and similar indoor recreational establishments.
 - (e) Building material sales yards.
 - (f) Carnivals, fairs and circuses.
 - (g) Coal and wood yards.
 - (h) Dancing establishments and dance halls.
 - (i) Display houses, "shell" houses or tool sheds within two hundred (200) feet of West Broad Street.
 - (j) Drive-in theaters, golf driving ranges, baseball batting ranges, miniature golf courses, pony rides, and similar outdoor amusements or commercial recreation establishments.
 - (k) Dyeing and cleaning works.
 - (l) Flea markets.
 - (m) Fortune tellers, palmists, astrologists, numerologists, clairvoyants, craniologists, phrenologists, card readers, spiritual readers or advisors.
 - (n) Lodges, clubs and meeting halls.
 - (o) Mixing of cement concrete.
 - (p) Outdoor advertising signs and structures.
 - (q) Riding academies, amusement parks and target ranges.
 - (r) Sand, gravel or clay pits, quarries, mines and other extractive operations, including topsoil removal.
 - (s) Sheet metal shops.
 - (t) Stores whose principal business is the sale and repair of guns.
 - (u) The sale of trucks in excess of 5,000 pounds, motorcycles, buses and trailers.
 - (v) Tire dealerships and tire manufacturing, rebuilding or recapping plants.
 - (w) Veterinary hospitals or clinics which have facilities for treatment of large animals and boarding kennels for small animals.

Cinco Amigos Partnership
Brookhollow of Virginia, Inc.
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March 14, 1995

9

12. Retail Space. None of the Property shall be used for retail purposes. For the purposes of this paragraph 12, "retail purposes" shall not be deemed to include hotel uses. Any hotel constructed on the Property shall be a first-class hotel, having a full service restaurant, meeting rooms, an exterior of at least fifty percent (50%) brick with no stucco finishes, not have a shingle roof, any roof-mounted HVAC or other facilities and any exterior facilities for trash collection or removal shall be screened from public view at ground level, including view from Parcel 77-BI-19, have free-standing signage, if any, of no more than four (4) feet in height with no pole-mounted signs, have irrigated landscaping where trees, shrubs, bushes, flowers or other vegetation is planted, have access to guest rooms only from interior hallways and not directly from the outdoors and shall have surface parking only.
13. Access. There shall be no more than one (1) access drive and/or street (public or private) to and from the Property and West Broad Street (which shall be a shared access drive and/or street providing access to and from West Broad Street and Parcel A and Parcel B) unless additional access drives and/or streets are permitted or required by the Planning Commission.
14. Public Utilities. All principal buildings constructed on the Property shall be served by public utilities.
15. S&K Access. In the event zoning cases C-52C-94 and C-74C-94 are approved by the Board of Supervisors and such approval becomes final and nonappealable, then the Owner shall, within one hundred twenty (120) days from the date thereof, grant a fifty (50) foot right-of-way easement from Brookriver Drive to S&K Famous Brands, Inc. property on the eastern boundary of Owner's Property for vehicular ingress and egress in common with others substantially as shown on the plat prepared by J.K. Timmons entitled "Plat Showing S&K Headquarters and Warehouse Access to Brookriver Drive", dated December 29, 1994, a copy of which is attached hereto as Exhibit A (see case file) and by this reference made a part hereof.
16. Phasing Plan. No construction shall be commenced on the Property until the Virginia Department of Transportation awards a contract for the widening of West Broad Street adjacent to the Property or October 1, 1996, whichever event shall first occur.
17. Outside Speakers. There shall be no outside speakers which may be heard beyond the boundaries of the Property.
18. Outparcels. There shall be no outparcels permitted on the Property.
19. Severance. The unenforceability, elimination, revision or amendment of any proffer set forth herein, in whole or in part, shall not affect the validity or enforceability of the other proffers or the unaffected part of any such proffer.

Cinco Amigos Partnership
Brookhollow of Virginia, Inc.
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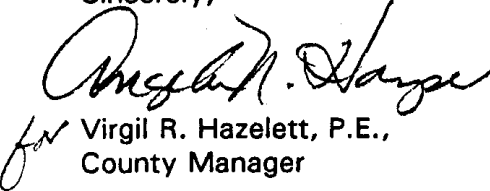
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APPLICABLE ONLY TO PARCELS A AND C

1. Sidewalk. Subject to obtaining all required governmental approvals, Owner shall install, with each phase of the development, a standard size pedestrian sidewalk in the state's right-of-way along West Broad Street.

The Planning Office has been advised of the action of the Board of Supervisors and will revise its records and place a copy of the accepted proffered condition in the Conditional Zoning Index.

Sincerely,



for Virgil R. Hazelett, P.E.,
County Manager

cc: Clerk, Board of Supervisors
Director, Real Estate Assessment
Conditional Zoning Index
Messrs. Jay M. Weinberg
& Charles M. Rothenberg, Esquires