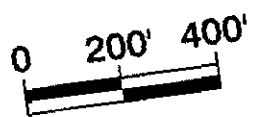


OFFICE

C-23C-98



**33-A-41 and 41A
FAIRFIELD DISTRICT**

HENRICO COUNTY PLANNING OFFICE



COMMONWEALTH OF VIRGINIA

COUNTY OF HENRICO

August 18, 1998

Virgil R. Hazelett, P.E.
County Manager

Re: Conditional Rezoning Case C-23C-98

Mr. and Mrs. Andrew Mulconry
Mr. and Mrs. Milton E. Womack
9700 bundle of Joy Lane
Glen Allen, VA 23060

Dear Ladies and Gentlemen:

The Board of Supervisors at its meeting on August 12, 1998, granted your request to conditionally rezone property from R-2A One Family Residence District to O-2C Office District (Conditional), Parcels 33-A-41 and 41A, described as follows:

Parcel 33-A-41A

Beginning at a monument on the west line of Battlefield Road at the NW corner of the intersection of Battlefield Road and Old Francis Road; then S. 41° 40' 57" W. for 39.30' to a rod; then S. 84° 32' 38" W. for 148.96' to a iron pin; then N. 4° 01' 02" W. for 391.15' to a rod; then S. 84° 46' 41" W., for 200' to an iron pin; then S. 4° 15' 54" E., for 175.46' to a rod; then S. 84° 32' 45" W., for 100.1' to an iron pin; then S. 3° 50' 51" E., for 216.51' to a rod; then S. 84° 32' 38" W. for 3.82' to a rod; then clockwise along an arc with a radius of 477.1' for 135.03' to a rod; then N. 79° 15' 50" W., for 102.30' to a rod; then N 15° 13" E for 129.83' to a rod; then N O' 44' 11" E., for 45.93' to a rod; then S. 87° 31' 57" W., for 137.41' to a rod; then N. O° 44' 11" E., for 210.08' to a monument; then N. 87° 30' 30" E., for 284.55' to a rod; then N. 72° 13' 39" E. for 107.09' to a rod; then N. 6° 24' 51" W. for 196.97' to a rod; then N. 87° 33' 18" E., for 515.54' to a rod; then S. 1° 44' 01" W., for 64.29' to a rod; then along the west line of Battlefield Road in a counterclockwise direction along an arc with a radius of 597.96' for 246.19' to a monument; then S. 1° 42' 41" W. for 289.14' to the point of beginning; said parcel containing 7.247 Acres more or less.

Parcel 33-A-41

Beginning at a point on the north line of Old Francis Road 106.26' west of its intersection with the west line of Bundle of Joy Lane; then N. 15° 15' 13" E. for 129.83'; then N. O° 44' 11" E. for 45.93'; then S. 87° 31' 57" W. for 137.41'; then S. O° 44' 11" W. for 145.48'; then S. 79° 15' 50" E. for 106.26' to the point of beginning; said parcel containing 0.459 Acre more or less.

The Board of Supervisors accepted the following proffered conditions which further regulate the above described property in addition to all applicable provisions of Chapter 24, Code of Henrico (Zoning Ordinance):

1. Permitted Uses. Only the following uses shall be permitted on the Property:

- a. Office and office building, business, professional and administrative.
- b. Banks, savings and loan or small loan establishments, drive-in or otherwise.
- c. Offices, medical and laboratories.
- d. Employment service or agency.
- e. Studios for artists, designers, writers, photographer, sculptor, or musician.
- f. Child care centers in accordance with Section 24-106.
- g. Accessory uses allowed in the O-2 Office zoning district

There shall be no parking decks on the Property.

2. Buffers. The Property shall be developed with the buffers described herein as shown on the attached Exhibit 1 (See case file) entitled "Buffer and Setback Plan, Battlefield Office Park" by McKinney and Company, dated July 28, 1998 (the "Plan").

- (a) Buffer A. A natural buffer at least forty (40) feet in width will be provided on the Property adjacent to the right-of-way line of Battlefield Road (as such right-of-way line shall be determined at the time of the initial Plan of Development review of the Property), as shown on the Plan as Buffer A (See case file).

Except as provided herein, the area within such Buffer A shall be left in its natural state. Additional plantings in such buffer may be required as determined necessary at the time of Plan of Development review.

Underbrush, fallen, diseased or dead trees, and plant growth may be removed from Buffer A. If such underbrush, trees or plant growth are removed, additional supplemental plantings will be added to such buffer.

Utility easements, roads and signage may be permitted in Buffer A as approved at the time of Plan of Development review. Any such road or utility easement shall be extended generally perpendicular to such buffer. Any portion of such buffer disturbed for a utility easement or road construction area (other than the road itself) shall be landscaped.

- (b) Buffer B. So long as Parcels 33-A-42, 43 and 44 are zoned residential, a natural and landscaped buffer at least twenty-five (25) feet in width will be provided on the Property adjacent to that portion of such parcels as shown on the Plan as Buffer B.

Except as provided herein, the area within such buffer shall be left in its natural state. Additional plantings in such buffer may be required as determined necessary at the time of Plan of Development review.

Underbrush, fallen, diseased or dead trees, and plant growth may be removed from such buffer. If such underbrush, trees or plant growth are removed, additional supplemental plantings will be added to such buffer.

Utility easements may be permitted in such buffer as approved at the time of Plan of Development review. Any such utility easement shall be extended generally perpendicular to such buffer. Any portion of such buffer disturbed for a utility easement shall be landscaped.

- (c) Buffer C. So long as Parcels 33-A-42, 43 and 44 are zoned residential, a natural or landscaped buffer at least ten (10) feet in width shall be provided on the Property adjacent to those portions of such parcels as shown on the Plan as Buffer C.

Underbrush, fallen, diseased or dead trees, and plant growth may be removed from such buffer. If such underbrush, trees or plant growth are removed, some additional supplemental plantings will be added to such buffer.

Utility easements may be permitted in such buffer as approved at the time of Plan of Development review. Any such utility easement shall be extended generally perpendicular to such buffer. Any portion of such buffer disturbed for a utility easement shall be landscaped.

- (d) Buffer D. A natural and landscaped buffer at least sixty-five (65) feet in width will be provided on the Property adjacent to Old Francis Road (as such right-of-way line shall be determined at the time of the initial Plan of Development review of the Property), as shown on the Plan as Buffer D.

Except as provided herein, the area within Buffer D shall be left in its natural state. Additional plantings in such buffer may be required as determined necessary at the time of Plan of Development review.

Underbrush, fallen, diseased or dead trees and plant growth may be removed from such buffer area; if such underbrush, trees and plant growth are removed, some additional supplemental plantings shall be added to such buffer.

Utility easements may be permitted in such buffer as approved at the time of Plan of Development review. Any such utility easement shall be extended generally perpendicular to such buffer.

Any portion of such buffer disturbed for a utility easement shall be landscaped.

As an alternative to the above-referenced natural and landscape buffer in

Buffer D, a berm a height of eight (8) feet may be required in Buffer D as determined appropriate at the time of Plan of Development review. Landscaped evergreen plantings shall be provided along the crest of this berm as determined appropriate at the time of Plan of Development review.

Buffer D shall be reduced by the amount of any property dedicated to the County of Henrico per proffer 18.

- (e) Buffer E. A buffer at least sixty-five (65) feet in width will be provided on the Property adjacent to the right-of-way line of Old Francis Road (as such right-of-way line shall be determined at the time of the initial Plan of Development review of the Property) in Buffer E as shown on the Plan. A berm of a height of eight (8) feet shall be required in Buffer E as determined appropriate at the time of Plan of Development review. Landscaped evergreen plantings shall be provided along the crest of this berm as determined appropriate at the time of Plan of Development review.
- (f) Buffer F. A natural and landscaped buffer ten (10) feet in width will be provided on the Property as shown on the Plan as Buffer F.

Except as provided herein, the area within Buffer F shall be left in its natural state. Underbrush, fallen, diseased or dead trees and plant growth may be removed from such buffer area; if such underbrush, trees and plant growth are removed, some additional supplemental plantings may be added to such buffer.

Utility easements and roads may be permitted in Buffer F as approved at time of Plan of Development review. Any such road or utility easement shall be extended generally perpendicular to such buffer.

- (g) The provisions of this proffer 2 regarding buffers shall not be applicable until there is non-residential development on the Property.
3. Building Setback. Any building on the Property shall be set back at least sixty-five (65) feet from the right of way lines of Battlefield Road and Old Francis Road (as such right-of-way lines shall be determined at the time of the initial Plan of Development review for the Property).
 4. Building Height. No building on the Property shall exceed the lesser of 2 stories or 30 feet above the finished grade of the building at the front of the building.
 5. Maximum Development. The total square footage of gross floor area of all buildings on the Property shall not exceed sixty thousand (60,000) square feet in the aggregate.

6. Vehicular Drive Restrictions. There shall be no more than one (1) vehicular access point from the Property to Battlefield Road and one (1) vehicular access point from the Property to Bundle of Joy Lane. There shall be no direct vehicular access point from the Property to Old Francis Road.

There shall be no access connecting the Property to and from Bundle of Joy Lane until an access has been constructed connecting the Property to and from Battlefield Road.

The access road connecting the Property to and from Battlefield Road shall have a divided, landscaped entrance for a minimum distance of one-hundred (100) feet from Battlefield Road.

7. Adjacent Property Access. Upon the request of and for the benefit of the Adjacent Property, as hereinafter defined, but no later than the receipt of a certificate of occupancy for a building on the Property, a non-exclusive access easement for ingress and egress acceptable to the County of Henrico, Virginia shall be recorded in the Clerk's Office of the Circuit Court of the County of Henrico, Virginia to grant the adjacent property to the north and south of the Property, being designated as Parcels 33-A-46, 33-A-42, 33-A-47, 33-A-43 and/or 33-A-44 (the "Adjacent Property"), the right to tie into and use the road system on the Property. Such road system shall be designed and constructed so that at least two (2) access points to and from 33-A-46 and 33-A-47 and at least one access point to and from 33-A-43 and 33-A-44 are available. The intent of the easement is to provide cross-access between the Property and the Adjacent Property so that traffic generated from development on either the Property or any of the Adjacent Property shall have the ability to access across the roads on both the Property and the Adjacent Property.

8. Exterior Materials; Exterior Appearance. The exposed portions of each exterior wall surface (front, rear and sides) of each building constructed on the Property (excluding rooftop screening materials for mechanical equipment) shall be similar to the exposed portions of other exterior walls of such buildings in architectural treatment and materials. Any building hereafter constructed on the Property shall have exposed exterior wall surfaces (above finished grade) other than accent materials of such exterior wall surface of face brick, natural stone, EIFS, architectural precast, or glass unless other aesthetically comparable finished materials are specifically requested and permitted by the Planning Commission at the time of Plan of Development review.

Gutters and downspouts of each building shall be of a color and material to complement the exterior materials and accent materials of such building.

Any building constructed on the Property within one hundred and fifty (150) feet of Battlefield Road shall be residential in appearance as determined appropriate at the time of Plan of Development review.

9. Covenants. The Property shall be subjected to restrictive covenants for the benefit of the Owner and all users of the Property consistent with the standards set forth in those certain covenants dated June, 1998, entitled "PROTECTIVE COVENANTS C-23C-98" and a copy of which has been submitted to the Planning Office as part of this case. The covenants shall, at a minimum, provide for the creation of a property owners' association; maintenance of individual sites, common areas, open spaces, landscaping and buffering and private streets; and minimum development and operational standards for the Property consistent with these proffered conditions. These standards shall be enforceable by the property owners' association. The proposed restrictive covenants shall be submitted to the Planning Office and the County Attorney for review and approval as to compliance with the terms of this paragraph prior to any Plan of Development approval for the Property. The restrictive covenants shall be recorded prior to any building permit approval on the Property. Henrico County shall have no responsibility for enforcement of these covenants.
10. Rooftop Screening. Any rooftop mounted equipment shall be screened from public view at ground level at the perimeter of the Property along Battlefield and Old Francis Roads.
11. Exterior Lighting. Exterior lighting fixtures shall not exceed twenty (20) feet in height as measured from the grade of the base of the lighting standard or from the finished grade of the building directly below such lighting fixture, as the case may be. Light fixtures, other than low intensity decorative ornamental fixtures such as gas style lamps, shall be produced from concealed sources of light and shall be reduced to no more than a security level following the close of business operations each day. At no time shall the parking lot lighting exceed one-half (1/2) foot-candle at the right-of-way lines of Battlefield Road and Old Francis Road. All parking lot lighting shall be positioned in such a manner as to minimize the impact of such lighting on any adjacent property. All lighting fixtures shall be compatible with the lighting fixtures on the Parcel designated as 33-A-47, if any, to provide a uniform lighting appearance upon the Property and Parcel 33-A-47.
12. Utility Lines. Except for junction and access boxes, meters and existing overhead utility lines, all utility lines, including, without limitation, electric, telephone, CATV or other similar lines, shall be installed underground. All junction and access boxes and meters shall be screened from view at the perimeter of the Property to the greatest extent practical.
13. Security Alarms. Outside speakers shall be prohibited. No external alarm bells or external warning devices that are audible beyond the boundary lines of the Property shall be permitted on the Property.
14. Detached Signage. Any detached signs shall be monolithic style signs, the base of which shall be landscaped. All such signage shall be six (6) feet or less in height. Other than directional, parking and traffic signage, there shall be no more than two

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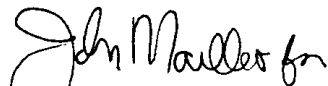
(2) detached signs placed upon the Property. Any detached sign shall not be internally lighted.

Attention getting devices shall not be permitted on the Property.

15. Trash and Recycling Receptacle Areas. All dumpsters, trash and recycling receptacles, (not including convenience cans), shall be screened from view at the boundary line of the Property in a manner approved at the time of Plan of Development review and shall be located away from residential areas. No trash pick up shall occur before 7:00 a.m. or after 7:00 p.m. Monday through Friday or before 9:00 a.m. or after 7:00 p.m. on Saturdays. No trash pick up shall occur on Sundays.
16. Parking Lot Cleaning. No parking lot cleaning shall occur before 7:00 a.m. or after 7:00 p.m. Monday through Friday or before 9:00 a.m. or after 7:00 p.m. on Saturdays. No parking lot cleaning shall occur on Sundays.
17. Plan of Development. Within one week of the filing of a Plan of Development on any portion of the Property, a letter advising of such filing shall be forwarded to all adjoining and adjacent property owners of the Property as shown on the real estate tax records of the County of Henrico, Virginia.
18. Old Francis Road Dedication. If so requested by the County of Henrico as part of an approved plan for the widening of Old Francis Road, up to nine (9) feet of the Property along Old Francis Road shall be dedicated to the County of Henrico for such approved widening of Old Francis Road.
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 any of the other proffers or the unaffected part of any such proffer.

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 conditions in the Conditional Zoning Index.

Sincerely,


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

cc: Director, Real Estate Assessment
Conditional Zoning Index
Messrs. Ralph L. Axselle & Andrew M. Condlin