

C-3C-09

Zoning

Commercial

Brookland District





COMMONWEALTH OF VIRGINIA
COUNTY OF HENRICO

Virgil R. Hazelett, P.E.
County Manager

November 17, 2009

Staples Mill Marketplace, LLC
C/O Marchetti Properties
1567 North Parham Road
Richmond, VA 23229

Re: Conditional Rezoning Case C-3C-09

Dear Mr. Marchetti:

The Board of Supervisors at its meeting on November 10, 2009, granted your request to conditionally rezone from R-3 One-Family Residence District to B-2C Business District (Conditional), Parcels 767-757-8360 and 767-756-9991 and part of Parcel 767-757-6317, containing approximately 28.914 acres, located between the southwest line of Staples Mill Road (U. S. Route 33), the east line of Hungary Spring Road, and the north line of Lucas Road, described as follows:

Beginning at the point of intersection of the eastern boundary of the right-of-way line of Hungary Spring Road and the southern boundary of the right-of-way line of Staples Mill Road; thence proceeding along the southern boundary of the right-of-way line of Staples Mill Road in a southeasterly direction the following three (3) courses and distances: S 40°46'11" E 96.23 feet to a point; thence along a curve to the left having a radius of 3930.72 feet, a delta angle of 1°49'30" and an arc length of 125.20 feet to a point; thence S 39°53'55" E 1536.93 feet to a point; thence leaving the southern boundary of the right-of-way line of Staples Mill Road in northwesterly direction the following three (3) courses and distances: N 89°16'14" W 79.35 feet to a point; thence N 88°24'14" W 147.33 feet to a point; thence S 01°40'09" W 331.17 feet to a point on the northern boundary of the right-of-way line of Lucas Road; thence proceeding along the northern boundary of the right-of-way line of Lucas Road in a northwesterly direction the following six (6) courses and distances: N 88°46'46" W 15.85 feet to a point; thence along a curve to the left having a radius of 312.90 feet, a delta angle of 8°41'36" and an arc length of 47.78 feet to a point; thence N 01°13'14" E 15.91 feet to a point; thence N 88°46'46" W 82.25 feet to a point; thence along a curve to the right having a radius of 312.90 feet, a delta angle of 3°15'22" and an arc length of 17.78 feet to a point; thence N 88°46'46" W 709.29 feet to a point; thence leaving the northern boundary of the right-of-way line of Lucas Road in a northeasterly direction the following six (6) courses and distances: N 15°35'16" E 443.19 feet to a point; thence N 88°45'35" W 132.06 feet to a point; thence S 17°49'01" W 13.85 feet to a point; thence N 88°44'22" W 266.00 feet to a point; thence N 06°19'34" E 96.23 feet to a point; thence N 88°44'22" W 168.17 feet to

a point on the eastern boundary of the right-of-way line of Hungary Spring Road; thence proceeding along the eastern boundary of the right-of-way line of Hungary Spring Road in a northeasterly direction the following six (6) courses and distances: N 17°50'41" E 529.99 feet to a point; thence N 19°33'48" E 226.74 feet to a point; thence N 24°07'34" E 150.90 feet to a point; thence N 19°33'47" E 89.71 feet to a point; thence N 17°50'41" E 160.75 feet to a point; thence N 80°09'04" E 38.61 feet to a point, said point being the Point of Beginning for the Parcel, containing 28.914 Acres, more or less.

The Board of Supervisors accepted the following proffered conditions, dated November 6, 2009, which further regulate the above use of your property in addition to all applicable provisions of Chapter 24, Code of Henrico (Zoning Ordinance):

1. **Landscaped Buffers - Staples Mill Road, Hungary Spring Road and Lucas Road.** A landscaped buffer shall be provided twenty-five (25) feet in width adjacent to the ultimate right-of-way lines of Staples Mill Road, Hungary Spring Road and Lucas Road (each as determined at the time of Plan of Development review), except to the extent necessary or allowed for roads, sidewalks, utility easements, grading, stormwater management facilities and signage and other purposes requested and specifically permitted, or if required, by the Planning Commission at the time of Plan of Development review, or by any other governmental body. Any road, utility easement (other than existing easements) or use permitted within the aforesaid buffer areas shall be extended general perpendicular to the buffer area unless otherwise requested and specifically permitted, or if required, by the County at the time of Plan of Development review and where permitted, areas disturbed for utility installations shall be restored to the extent reasonably practical.

That portion of the twenty-five-foot transitional buffer on the Property adjacent to Lucas Road shall be double in the number of large evergreen trees required under County's twenty-five-foot transitional buffer. That portion of the landscaped buffer along Lucas Road opposite Parcel #768-756-4550 (owned by Henry W. and Z. W. Chenault at the time of the rezoning) and Parcel #768-756-6548 (owned by Henry W. and C. A. Chenault, Jr. at the time of the rezoning) shall include a three to five-foot varying height berm.

In addition to the twenty-five-foot transitional buffer on the Property adjacent to Lucas Road, there shall be installed and maintained on the Property a six-foot tall black PVC coated chain link fence with black mesh screening attached, with such fencing being on the internal side of the buffer on the Property.

2. **Architectural Treatment.** The exposed portion of each exterior wall surface (front, rear and sides) of any building to be constructed on the Property (excluding rooftop screening materials for mechanical equipment) shall be similar in quality of construction and shall have compatible architectural design (incorporating compatible design elements, color and architectural styles. All

buildings constructed on the Property shall have exposed exterior walls (above finished grade) constructed primarily of masonry brick, stone, precast concrete, exterior insulating finishing systems (E.I.F.S.), stucco over wire mesh and/or glass and may have varying amounts of these exterior materials or an equivalent permanent architecturally finished material, unless different architectural treatment and/or materials are requested and specifically permitted at the time of Plan of Development (POD) review. Wood or composite siding, natural or cultured stone, marble, pre-cast or cast-in-place architectural concrete, exposed aggregate concrete, exterior insulating finish systems, and/or glass, or an equivalent, permanent, architecturally finished material may be utilized as accent materials on such buildings.

3. **Parking Lot Lighting.** Parking lot lighting standards shall not exceed thirty-five (35) feet in height above grade level, except that parking lot lighting standards on out-parcels and parking lot lighting standards immediately adjacent to properties zoned residential shall not exceed twenty-five (25) feet in height above grade level. All parking lot lighting standards on the Property shall be positioned in such a manner as to minimize the impact of such lighting on any adjacent property and shall be produced from concealed sources of light.

All parking lot lighting shall be reduced to no more than a security level following the close of business operations on the Property.

At the time of Plan of Development review by the Planning Commission, the parking lot lighting on the Property shall be designed with a cohesive plan so that all such lighting shall use compatible design elements.

The Planning Commission at the time of Plan of Development review may allow deviation from standards of this proffer if specifically requested and permitted during such Plan of Development review.

4. **Use Restrictions.** The following uses shall be prohibited on the Property:
 - a. flea markets;
 - b. gun shop, sales and repairs, except that such gun sales and repairs shall be permitted in a store that sells a variety of sporting goods;
 - c. establishments whose primary business is check cashing and/or the making of payday loans as defined and regulated by Sections 6.1-432 et seq. and 6.1-444 et seq. of the Code of Virginia (1950), in effect as of the date of the approvals of these proffers (the foregoing shall not preclude banks, savings and loans or similar financial institutions that are not regulated by the foregoing Virginia Code sections);
 - d. lodge and fraternal organization;
 - e. skating rinks (unless such ice skating areas are an amenity of the pedestrian-oriented shopping center), roller skating rinks, model racing

- tracks, electronic video game rooms, bingo halls and billiard parlors unless such billiard parlors are associated with a restaurant;
 - f. funeral home, mortuary, crematorium and/or undertaking establishment;
 - g. parking lots, commercial (nothing herein shall preclude parking lots as an accessory use to a principally permitted use);
 - h. automobile service station, however, a grocery or convenience food store dispensing gasoline products shall be permitted; towing service;
 - i. adult businesses as defined by the County of Henrico;
 - j. billboards;
 - k. truck stops;
 - l. communication tower;
 - m. self-storage facilities;
 - n. off-track betting parlors;
 - o. permanent on-site recycling collection facilities;
 - p. sewer/water pump stations;
 - q. massage establishments;
 - r. automobile, truck, trailer, motorcycle, recreational vehicle or bus sales, rental and repair;
 - s. automobile, truck, trailer, motorcycle or recreational vehicle storage lot;
 - t. boat and boat trailer sales, service and storage;
 - u. exterminating establishment;
 - v. fortuneteller, palmist, astrologist, numerologist, clairvoyant, craniologist, phrenologist, card reader, spiritual reader or similar activity;
 - w. public dance halls;
 - x. rifle or pistol range; and
 - y. sheet metal shop or roofing company.
5. **HVAC.** Rooftop heating and air conditioning equipment shall be screened from public view at ground level at the Property lines by means of parapets or other architectural features, in a manner approved by the Planning Commission at the time of Plan of Development review.
6. **Central Trash Receptacles; Trash Pick Up; Parking Lot Cleaning.** Central trash receptacles, not including convenience cans, shall be screened from public view at ground level, in a manner approved by the Planning Commission at the time of Plan of Development review. Trash pickup and parking lot cleaning on the Property shall occur only between 7:00 a.m. and 10:00 p.m., Monday through Saturday.
7. **Building Heights.** No building constructed on the Property shall exceed the lesser of two (2) stories or thirty-five (35) feet in height, exclusive of parapets, chimneys or other architectural design features on any building.
8. **Underground Utility Lines.** All utility lines on the Property shall be underground, except for existing utilities, junction boxes, meters, utility lines in

wetland areas and utility lines required to be above ground by the utility company.

9. **Best Management Practice.** Any permanently wet above-ground Best Management Practice structure shall include an aeration feature to move water within such structure. The Landscape Plan for the Property shall take into consideration the visibility of any such Best Management Practice structure on the Property. The Landscape Plan for the Property shall include for any such Best Management Practice structure visible from the right-of-way of Hungary Spring Road or Staples Mill Road plantings equivalent to a transitional buffer 25 unless otherwise approved as part of the Landscape Plan.
10. **Signs.** All signs on the Property shall be internally lit, if lighted. There shall not be any exterior mobile signs on the property.
11. **Attention Getting Devices.** Attention-getting devices shall not be allowed on the Property except for a two-week grand opening. Seasonal banners are permitted provided there is no tenant information on such banner.
12. **Vehicular Access.** Unless otherwise requested and specifically permitted at the time of Plan of Development review, there shall be no more than two (2) vehicular access points to the Property from Staples Mill Road and no more than one (1) vehicular access point to the Property from Hungary Spring Road. There shall be no vehicular access to and from Lucas Road. No out parcel on the Property shall have direct vehicular access to Staples Mill Road or Hungary Spring Road.
13. **Fencing; Parcel #767-757-6317 (owned by Leroy S. Compton at the time of the rezoning).** There shall be constructed and maintained on the Property a six-foot tall black PVC coated chain link fencing with black mesh screen attached adjacent to any portion of the Property adjacent to Parcel #767-757-6317.
14. **Landscaped buffers and fencing; Parcels #767-757-4502, #767-756-6892 and #767-756-7792 (owned by Goodwill Baptist Church at the time of the rezoning).** There shall be constructed and maintained on the Property a six-foot tall black PVC coated chain link fencing with black mesh screen attached adjacent to any portion of the Property adjacent to Parcels #767-757-4502, #767-756-6892 and #767-756-7792.

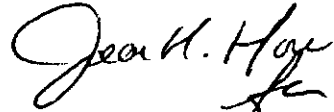
That portion of the 25-foot transitional buffer on the Property adjacent to the following portions of the Parcels described below shall be double in the number of large evergreen trees required under the County 25-foot transitional buffer for the following portions on the Property adjacent to the following: (i) a distance of 140 feet west from the eastern edge of Parcel #767-756-7792; (ii) a distance

of 50 feet east from the western most point that the Property abuts Parcel #767-757-4502.

15. **Illustrative Fencing and Landscape Buffer Plans.** The attached exhibit entitled "Staples Mill Marketplace, Illustrative Fencing and Landscape Buffers", dated September 23, 2009, by Rummel Klepper and Kahl, LLP, (see case file) illustrates the landscape buffer and fencing requirements set forth in proffers 13 and 14.
16. **Stormwater; Parcels #767-756-7792, 767-756-6892, #767-756-5286, #767-757-4502, #767-756-6056, #767-756-2955 and #767-756-3262 (owned by Goodwill Baptist Church at the time of this rezoning).** Prior to any certificate of occupancy being issued on the Property, the owner of the Property shall provide an easement and stormwater conveyance designed to accommodate the stormwater that would naturally drain from Parcels #767-756-7792, 767-756-6892, #767-756-5286, #767-757-4502, #767-756-6056, #767-756-2955 and #767-756-3262, taking into consideration the current and future development for church-related uses on the enumerated Parcels. In preparing and seeking approval for the referenced Plan of Development, the owner of the Property shall keep informed the owner of Parcels #767-756-7792, 767-756-6892, #767-756-5286, #767-757-4502, #767-756-6056, #767-756-2955 and #767-756-3262.
17. **Road Improvements.** The improvements outlined in the letter of Ralph L. "Bill" Axselle, Jr. to Timothy A. Foster, Henrico County Director of Public Works, dated September 23, 2009 (see case file) shall be made by the Developer of the Property as may be required by the Director of Public Works.
18. **Fencing; Parcel #767-756-8792 (owned by Luis Linan-Olivera at the time of the rezoning).** There shall be constructed and maintained on the Property a six-foot tall black PVC coated chain link fence on any portion of the Property adjacent to Parcel #767-756-8792.
19. **Outdoor Display and Sales.** Areas for outdoor display of merchandise for sale shall be clearly delineated on the Plan of Development for the Property. In no case shall outdoor display of merchandise occur on any portion of the Property in use for dispensing gasoline products.
20. **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.

The Planning Department 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,

A handwritten signature in black ink, appearing to read "Virgil R. Hazelett". The signature is written in a cursive style with a large initial "V" and a long horizontal stroke extending to the right.

Virgil R. Hazelett, P.E.
County Manager

pc: LeRoy S. Compton
Michael and Barbara Norton
Ralph L. "Bill" Axelle, Jr., Esquire
Dr. Martha G. Blumenthal, Dir., Research & Planning, Henrico County Schools
Director, Real Estate Assessment
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