

THE CITY OF
PORTSMOUTH

May 17, 2005

C. Andrew Herr, P. E.
Vice President, Land Development
Terry-Peterson Residential Companies
4640 Shore Drive, Suite 111
Virginia Beach, Virginia 23455-2859

RE: Zoning Case # Z-90-2

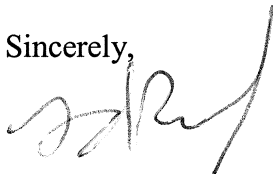
Dear Mr. Herr:

In response to your May 16, 2005 letter the following is provided:

1. The following are the uses that would be permitted as a result of the rezoning:
 - a. Agencies and offices rendering specialized services in the professions, finance, real estate and brokerage
 - b. Banks and saving and loan associations
 - c. Barber, beauty and other personal services
 - d. Funeral homes and undertaking establishments
 - e. Laboratories for research and testing
 - f. Lodges and fraternal and social organizations provided that any such establishment shall not be conducted primarily for gain.
 - g. Office Buildings
2. Any other uses must be considered as a change of the conditions or a zoning change.
3. Finally, I will make a copy of the applicable code available to you if you wish to copy it.

Should you have any additional questions please feel free to call me at 393-8836 extension 4205.

Sincerely,



Fred R. Brusso, Jr
Acting Zoning Administrator

Department of Planning and Zoning

801 Crawford Street • Portsmouth, VA 23704-3822 • (757) 393-8836 • Fax: (757) 393-5223



May 16, 2005

Mr. Fred Brusso
Special Projects Administrator
Department of Planning and Zoning
801 Crawford Street
Portsmouth, Virginia 23704-3822

RE: Hampton Roads Crossing Property
(16.4 Acre parcel in the Armistead Forest area of Portsmouth),
Zoning Amendment #Z-90-2

Dear Mr. Brusso:

Pursuant to our telephone conversation this afternoon, please accept this letter as our request for your interpretation of permitted uses on the referenced property as well as your opinion as to any potential issues with the property from staff's perspective or as it relates to the pre 1991 Zoning Ordinance.

During our brief telephone conversation you seemed to indicate a relatively narrow range of permitted uses of the property based on the rezoning done in 1990. It would be most helpful if you could also list some other uses that staff could support for this property should we wish to consider modifying the current zoning. A brief outline of the process required to accomplish such a modification would also be most helpful. Finally, we ask that you advise us as to how we can obtain a copy of the pre1991 Zoning Ordinance for our reference.

We very much appreciate your assistance with this matter and ask that, if possible, we receive a response to the forgoing prior to the end of this week as this is the contractual deadline to complete our due diligence.

Very truly yours,

A handwritten signature in dark ink, appearing to read "C. Andrew Herr".

C. Andrew Herr, P.E.
Vice President, Land Development

HARVEY LINDSAY

Commercial Real Estate

1400 Dominion Tower
999 Waterside Drive
Norfolk, Virginia 23510-1579
(804) 640-8700

Mr. Norman Whitaker
Director of Planning
City of Portsmouth
801 Crawford Street
Portsmouth, VA 23704

RE: Z-90-2, PROFFER LETTER

Dear Mr. Whitaker:

This letter supercedes and replaces my letter, dated February 28, 1990, to you regarding the same subject.

Hampton Roads Crossing Associates has submitted an application for rezoning 16.4 acre in the Armistead Forest area of Portsmouth from Residential R-75-K and Residential R-100 to Commercial C-2-K. The following conditions are proffered:

1. Vehicular access to the site shall be provided by a street or drive meeting the requirements of Section 40-40 of Portsmouth's Zoning Ordinance. This roadway shall enter the site from Suffolk at its western property line and shall not connect with Tallwood Drive. Tallwood Drive shall not be used to provide access to the site.
2. In conjunction with development of the site, the owner agrees to the following improvements:
 - (a) Along the eastern property line of the site, a solid wood fence or masonry wall at least seven feet high shall be erected and maintained in good repair.
 - (b) Along the northern property line of the site, a solid wood fence or masonry wall at least seven feet high shall be erected and maintained in good repair. Gates may be provided in the fence or wall to allow access to the Virginia Power easement. In the event the Virginia Power Easement precludes the construction of a wall or fence, a dense landscaping screen at least

Portsmouth

Based on
pre 91 ordinance

May 2, 1990

PC - Subdivision
only Plat

150K SF based on
OFFICE sewage flows
per landmark

Mr. Norman Whitaker
Proffer Letter, Z-90-2
May 2, 1990

five feet high at time of planting shall be provided instead.

- (c) Owner/Applicant shall submit for approval by the Planning Department Staff a landscaping plan to be installed on the adjoining residentially zoned property along the wood fence or masonry wall erected in (a) or (b), above, for the purpose of screening the fence or wall. Upon approval by the Planning Department Staff and upon request by any adjoining property owner, owner/applicant shall, at it's expense, install said screen. However, the owner/applicant shall not be responsible for the maintenance or replanting of the screen.

3. The following conditions shall apply to all portions of the site within one hundred (100) feet of any residentially zoned property:

- (a) Permitted uses of land and buildings shall be limited to those uses permitted in the OR-75 Office Residential District which are also permitted in the C-2 Commercial District. However, parking in this area may include parking for any use permitted in the C-2 Commercial District.
- (b) Buildings or other structures shall not exceed 25 feet in height.
- (c) Signs shall conform to the sign restrictions of the OR-75 Office Residential District.
- (d) All lighting shall be directional lighting situated so as to minimize any visual impact on residential properties.

4. The following condition shall apply to all portions of the site within fifty (50) feet of any residentially zoned property:

No loading or unloading areas, principal buildings or accessory buildings, garbage cans or garbage dumpsters shall be located in this area.

5. A fifteen (15) foot setback shall be provided between any parking area and the lot line of residentially zoned property.

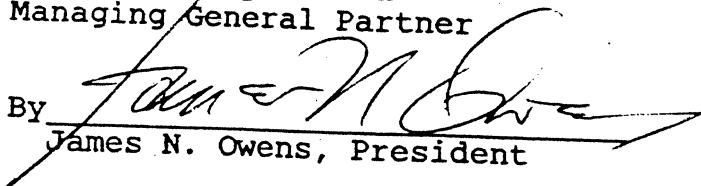
Mr. Norman Whitaker
Proffer Letter, Z-90-2
May 2, 1990

6. The general location of the areas subject to restrictions listed in items (3) and (4) above are shown on the attached plat.

Sincerely,

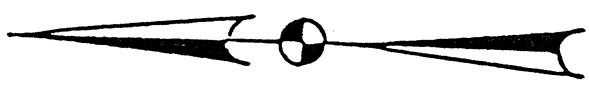
HAMPTON ROADS CROSSING ASSOCIATES
By HLHRC Corporation
Managing General Partner

By


James N. Owens, President

JNO/mbw
Attachment

cc: Albert J. Taylor, Jr., Esq.



REZONING EXHIBIT

--- LANDSCAPING SCREEN

... ZONING LINE-EXISTING



100' RESTRICTED AREA



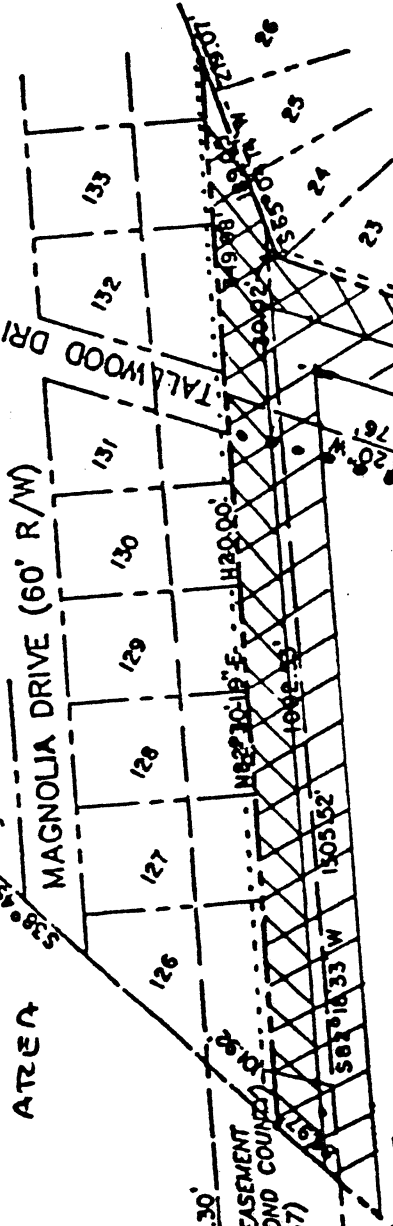
50' RESTRICTED AREA

CITY OF SUFFOLK		CITY OF PORTSMOUTH	
QTY LIMITS-TOTAL	QTY EASEMENT	QTY LIMITS-TOTAL	QTY EASEMENT
302	108.385	302	108.385
302	108.385	302	108.385
302	108.385	302	108.385

Subdivision of
ARMISTEAD FOREST
SECTION ONE
(MB 42, P 61)

TALWOOD DRIVE (60' R/W)

MAGNOLIA DRIVE (60' R/W)



CHURCHLAND WEST 34 & 38
(MB 18, P 21-PORTSMOUTH)

LURET PARK
(MB 34, P 12)
(CHESPEAKE)

LANDSCAPING SCREEN
50' RESTRICTED AREA
100' RESTRICTED AREA

PROPOSED WESTERN FREEWAY (ROUTE 164)

STATE PROJECT 0164-061-102, RW 202 (REVISED 01/27/88)

TR-75-K

4/90
REVISED

1990-45

ZONING ORDINANCE AMENDMENT 2-90-2

BE IT ORDAINED by the Council of the City of Portsmouth, Virginia;

1. That a portion of the zoning map attached to and made a part of the Zoning Ordinance of the City of Portsmouth, 1973, which now zones as Residential R-100 and Residential R-75-K (Conditional), the property described in Petition for Zoning Amendment Number 2-90-2, is hereby amended and changed so as to show said property zoned as Commercial C-2-K (Conditional), and that said property is hereby zoned as Commercial C-2-K (Conditional).

2. The property affected by this ordinance is described as follows:

2-90-2

Beginning at the southeast intersection of Magnolia Drive and Tallwood Drive and thence southerly along the east right-of-way of Tallwood Drive 200.8' to establish the true point of beginning; thence easterly 168.8' to a point; thence southerly 49.95'; thence westerly 53.82'; thence southwesterly 651'+ to the north right-of-way of the proposed Western Freeway Route 164; thence southwesterly along said right-of-way 415'+ to a point; thence continuing westerly along said right-of-way 910'+ to the corporate boundary line of the Cities of Portsmouth and Suffolk; thence northeasterly along said boundary 910'+ to the rear property line of properties fronting Magnolia Drive; thence easterly along said line 789.45' to the point of beginning.

3. Zoning Ordinance Amendment 2-90-2 is conditioned upon the following:

A. Tallwood Drive shall not be used to provide ingress or egress to the site. Vehicular access shall be provided by a street or drive meeting applicable requirements of the Portsmouth City Code. All streets or drives shall enter the site only from the City of Suffolk at the site's western property line.

B. As a part of any development of the site, the following improvements are required:

(1) Along the eastern property line of the site, a solid wood fence or masonry wall at least seven feet high shall be erected and maintained in good repair.

(2) Along the northern property line of the site, a solid wood fence or masonry wall at least seven feet high shall be erected and maintained in good repair. Gates may be provided in the fence or wall to allow access to the Virginia Power easement. In the event the Virginia Power easement precludes the construction of a wall or fence, a dense landscaping screen at least five feet high at time of planting shall be provided instead.

(3) Thirty days prior to the issuance of any certificate of occupancy, there shall be submitted for approval by the Planning Department a plan for landscaping to be installed on the adjoining residentially zoned property along the wood fence or masonry wall erected pursuant to (a) or (b), above, for the purpose of screening the fence or wall. Upon approval by the Planning Department and upon request by any adjoining property owner, the applicant or the developer of the site or the owner of the site shall, at its expense, install said landscaping screen. However, the applicant or the developer of the site or the owner of the site shall not be responsible for the maintenance or replanting of the screen.

C. The following conditions shall apply to all portions of the site within one hundred (100) feet of any residentially zoned property:

(1) Permitted uses of land and buildings shall be limited to those uses permitted in the Office Residential OR-75 District which are also permitted in the Commercial C-2 District. However, parking in this area may include parking for any use permitted in the Commercial C-2 District.

(2) Buildings or other structures shall not exceed 25 feet in height.

(3) Signs shall conform to the sign restrictions of the Office Residential OR-75 District.

(4) All lighting shall be directional lighting situated so as to minimize any visual impact on residential property.

D. The following condition shall apply to all portions of the site within fifty (50) feet of any residentially zoned property:

No loading or unloading areas, principal buildings or accessory buildings, garbage cans or garbage dumpsters shall be located in this area.

E. A setback of fifteen (15) feet shall be provided between any parking area and the lot line of any residentially zoned property.

F. That this ordinance shall take effect thirty (30) days after the date of its adoption.

Adopted by the Council of the City of Portsmouth, Virginia, at a meeting held May 22, 1990.

Teste:

City Clerk