



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

June 22, 2009

Allan Baken, Operations Manager
Charles P. Johnson & Associates, Inc.
3959 Pender Drive, Suite 210
Fairfax, VA 22030

Re: Proffer Interpretation for PCA 2003-HM-004; Tax Map 16-3 ((1)) 6A, 6B and 36;
Dulles Center: Bus Shelter

Dear Mr. Baken:

This is in response to your letter dated May 20, 2009, requesting an interpretation of the proffers accepted by the Board of Supervisors in conjunction with the approval of Proffered Condition Amendment PCA 2003-HM-004. As I understand it, the question is whether the construction of a bus shelter by the developer would be in substantial conformance with the proffers and, upon completion of the facility, whether reimbursement of the proffered contribution may be provided. This determination is based on your letter and attachments which include a photo of the constructed shelter, a reduction of the approved Conceptual/Final Development Plan Amendment and a copy of the proffers. Copies of the letter and relevant documents are attached for reference.

Proffer 2.k. states:

"Applicant shall contribute the sum of twenty thousand dollars (\$20,000.00) at time of a first site plan approval for the Applicant Property to DPWES for the installation of bus shelter in the vicinity of the Application Property and shall maintain said shelter if adjacent to the Application Property."

You indicate that the proffered funds (\$20,000) were deposited with the Fairfax County Department of Transportation (FCDOT), Account #DE50889, according to policy and procedures. The bus shelter has been constructed by the developer on the adjacent hotel site to the specifications required by FCDOT. You also indicate that the developer, Dulles Center LLC, will enter into an agreement with FCDOT to maintain the facility.

It is my determination that the provision of a bus shelter by the developer and reimbursement of funds subsequent to the execution of a maintenance agreement would be in substantial conformance with the proffers, subject to approval by FCDOT. This determination has been coordinated with

Allan Baken
Page 2

FCDOT and has been made in my capacity as the duly authorized agent of the Zoning Administrator. If you have any questions regarding this interpretation, please contact Carrie Lee at (703) 324-1290.

Sincerely,



Regina C. Coyle, Director
Zoning Evaluation Division, DPZ

RCC/CDL/O:\clee01\ActionAssignments\Interpretations\PI\Dulles Center_bus shelter.doc

Attachments: A/S

cc: Catherine Hudgins, Supervisor, Hunter Mill District
Frank de la Fe, Planning Commissioner, Hunter Mill District
Diane Johnson-Quinn, Deputy Zoning Administrator, Zoning Permit Review, ZAD, DPZ
Ken Williams, Chief, Plan and Document Control, Land Development Services, DPWES
Jack Weyant, Director, Environmental and Facilities Inspection Division, DPWES
Kevin J. Guinaw, Chief, Special Projects/Applications Management, ZED, DPZ
Bahjan Batmanghelidj, Batman Construction Co., 46950 Community Plaza Suite 201,
Sterling, VA 20164
File: PCA 2003-HM-004, PI 0906 068, Imaging, Reading File



Charles P. Johnson & Associates, Inc.

Planners Engineers Landscape Architects Surveyors Environmental Services

3959 Pender Drive, Suite 210 • Fairfax, VA 22030 • 703-385-7555 • Fax: 703-273-8595

May 20, 2009

Fairfax County
Department of Planning and Zoning
12055 Government Center Parkway
Suite 801
Fairfax, VA 22035

Attn: Ms. Regina Coyle, Director
Zoning Evaluation Division

Re: Interpretation re: Proffer 2.k (Bus Shelter Contribution)
PCA 2003-HM-004
Applicant: Dulles Center, LLC
Fairfax County Tax Map Reference: 16-3 ((1)) 6A, 6B and 36

RECEIVED
Department
MAY 21 2009
Zoning Evaluation Division

Dear Ms. Coyle:

I am writing to request a proffer interpretation in accordance with Paragraph 4 of Section 16-403 of the Fairfax County Zoning Ordinance. Specifically, I am requesting an interpretation of Proffer 2.k that the applicant be allowed to install a bus shelter in lieu of the requirement to contribute \$20,000 for a bus shelter so that the applicant can receive a refund of the previously paid \$20,000 contribution.

The above-referenced proffer condition amendment was approved by the Board of Supervisors on September 24, 2007. The Board also approved an amendment to the Conceptual Development Plan. The Planning Commission approved an amendment to the Final Development Plan on September 11, 2007. The PCA was granted subject to proffers, dated September 12, 2007 (copy enclosed).

Subject to Article 16-402, the proffers require development in substantial conformance with a Conceptual/Final Development Plan, consisting of 11 sheets prepared by Charles P. Johnson & Associates, Inc., dated May 10, 2007 and revised through July 30, 2007 (the CDP/FDP). A copy of the CDP/FDP is enclosed.

Ms. Regina Coyle, Director
Zoning Evaluation Division
PCA 2003-HM-004
Applicant: Dulles Center, LLC
Fairfax County Tax Map Reference: 16-3 ((1)) 6A, 6B and 36
May 20, 2009
Page 2 of 3

Proffer 2.k. states:

“Applicant shall contribute the sum of twenty thousand (\$20,000.00) at time of a first site plan approval for the Application Property to DPWES for the installation of bus shelter in the vicinity of the Application Property and shall maintain said shelter if adjacent to the Application Property.”

It is this proffer for which we are requesting an interpretation.

A portion of the Application Property is the subject of an approved site plan (Dulles Center, 7693-SP-43) which was approved by Fairfax County in January, 2008. This site plan included a bank with drive-thru windows. The on-site improvements and the building construction are complete. The bank is open and operational.

In accordance with the proffer, prior to approval of the bank site plan, the Applicant paid the \$20,000 contribution to Fairfax County. Attached is a printout from the County’s LDSNet showing that the payment for Proffer 2.k was satisfied on April 4, 2008.

Subsequently, the Applicant coordinated with the County’s Department of Transportation and actually constructed a bus shelter located on the west side of Centreville Road approximately 100’ north of the new entrance on Centreville Road (see attached photo).

As a result, we believe that the actual construction of the bus shelter satisfies the intent of Proffer 2.k and that the Applicant should be allowed a refund of the original contribution of \$20,000.00

We believe that the requested interpretation meets the requirement for “substantial conformance” based upon the following:

- The construction of the bus shelter provides a useful facility immediately; whereas, the monetary contribution may not have been used for an indefinite period of time.
- The construction of the bus shelter encourages the use of public transit.
- The location of the bus shelter was coordinated with the County Department of Transportation.
- The original \$20,000 figure was based upon the cost if the County were to construct the bus shelter itself.
- The bus shelter will be maintained by the developer since it is adjacent to the Application Property.
- This request does not materially alter the character of the approved development, the uses, layout or relationship to adjacent properties.
- The requested interpretation is in accordance with the Zoning Ordinance.

Ms. Regina Coyle, Director
Zoning Evaluation Division
PCA 2003-HM-004
Applicant: Dulles Center, LLC
Fairfax County Tax Map Reference: 16-3 ((1)) 6A, 6B and 36
May 20, 2009
Page 3 of 3

- The CDP/FDP (Note #25) specifically provides for minor modifications. This interpretation is allowable within the "minor modification" provisions. There are no negative impacts on offsite properties.

For your reference I have included a full size copy of the approved CDP/FDP, a reduced copy of the CDP/FDP, a copy of the approved proffers and a photo of the bus shelter.

If you have any questions or need any additional information, please let me know.

Thank you for your cooperation.

Sincerely,



Allan Baken
Operations Manager

ADB/cjm



Home Living Here Doing Business Visiting Departments & Agencies Search Site:

help

PAWS Approval Condition Detail

LDSnet Approval Condition Detail--[007693-SP -043-3]

Tuesday, May 12, 2009

Approval Condition Summary	Approval Condition Detail
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Created By: KWILL1	Date Created: 01/23/2008
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Cleared By: AFRANK	Date Cleared: 04/04/2008
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Status: MET

Remark: PROFFER #2K//PAID 4-4-08
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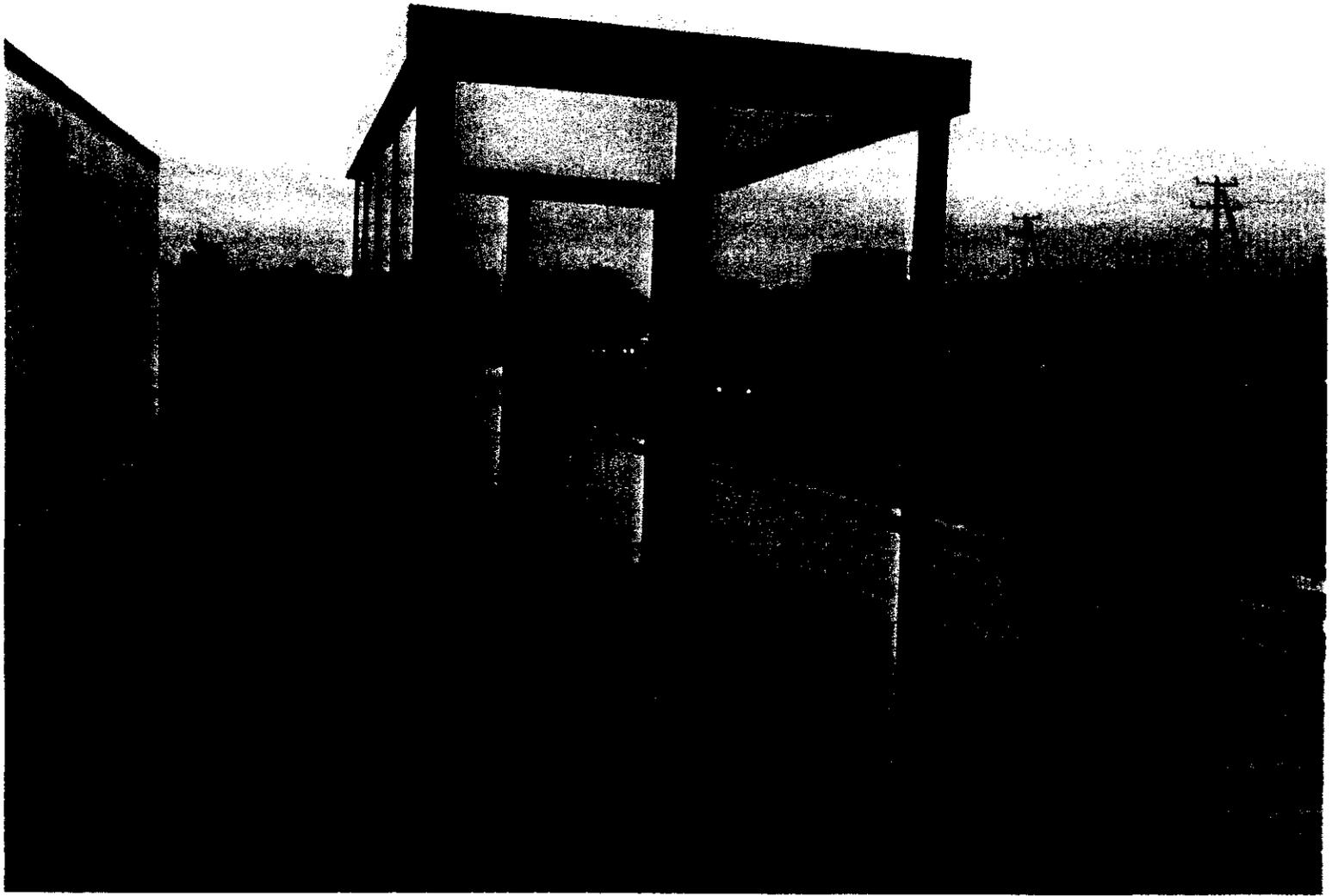
Outstanding Balance: 0.00

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 Phone: County Main Number - 703-FAIRFAX (703-324-7329), TTY 711 | [County Phone Listing](#)

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DULLES CENTER

EXISTING CONDITIONS PLAN

MUNTER MILL DISTRICT
FAIRFAX COUNTY, VIRGINIA



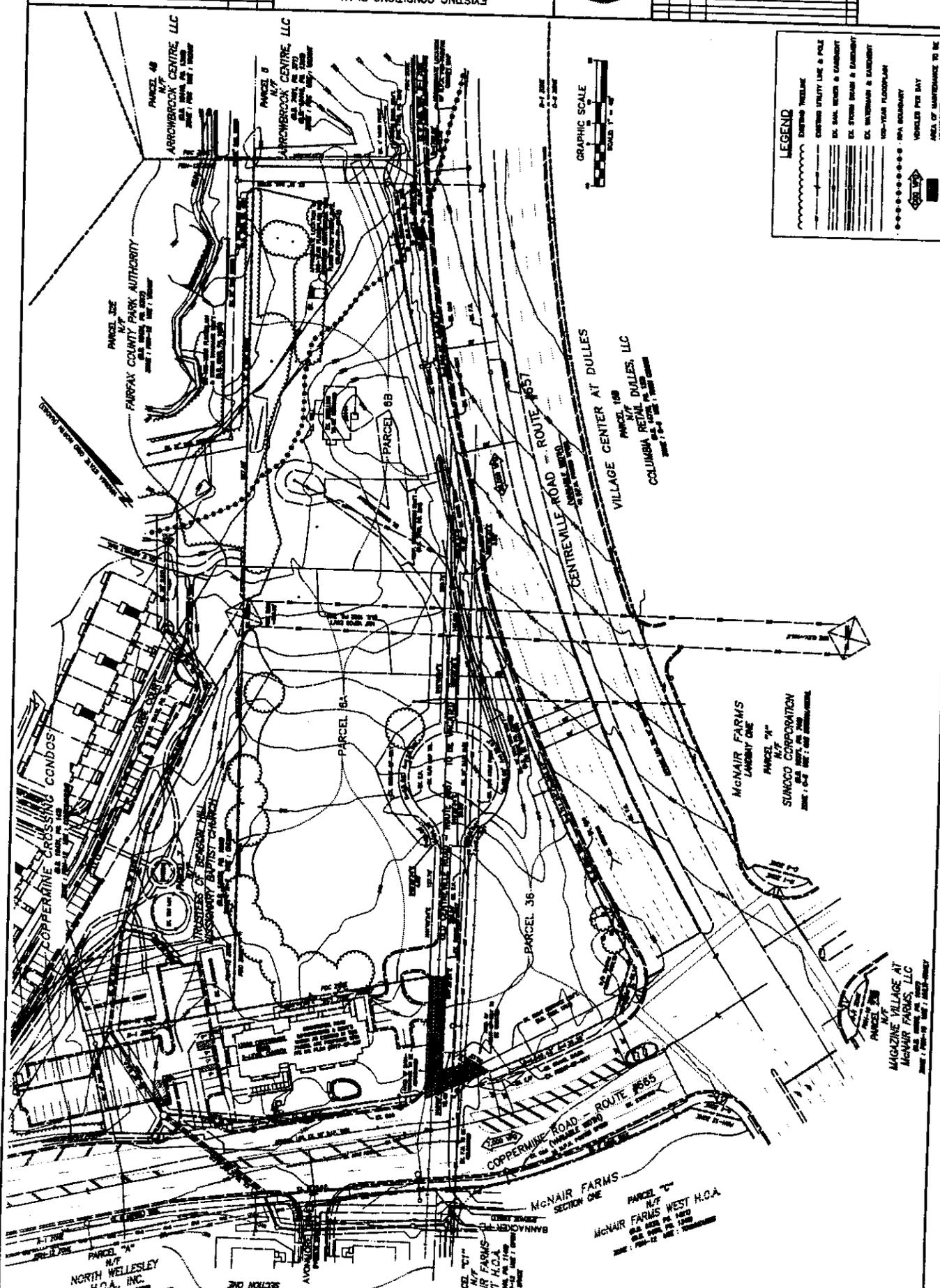
Charles P. Johnson & Associates, Inc.
PLANNING ENGINEERS, ARCHITECTS, LANDSCAPE ARCHITECTS, INTERIORS



NO.	DATE	DESCRIPTION
1	10/10/03	PRELIMINARY PLAN
2	11/03/03	EXISTING CONDITIONS PLAN

LEGEND

- EXISTING UTILITY LINE
- EXISTING UTILITY USE & POLE
- DC. MAIL CENTER & CANNERY
- DC. STORES BRANCH & CANNERY
- DC. WATERMAIN & SANITARY
- 100-YEAR FLOODPLAIN
- HPA BOUNDARY
- VEHICLES FOR BAY
- AREA OF MAINTENANCE TO BE MAINTAINED



COPPERMINE CROSSING CONDOS
 0.2 AC. 1998-01-15
 100% DEVELOPED

PARCEL 32E
 FAIRFAX COUNTY PARK AUTHORITY
 0.2 AC. 1998-01-15
 100% DEVELOPED

PARCEL 48
 N/F
 ARCHBROOK CENTRE, LLC
 0.2 AC. 1998-01-15
 100% DEVELOPED

PARCEL 8
 N/F
 ARCHBROOK CENTRE, LLC
 0.2 AC. 1998-01-15
 100% DEVELOPED

PARCEL 8B
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 ARCHBROOK CENTRE, LLC
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PARCEL 8A
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 ARCHBROOK CENTRE, LLC
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PARCEL 36
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 ARCHBROOK CENTRE, LLC
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PARCEL 39
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 McNAIR FARMS
 LANSWAY ONE
 SUNOCO CORPORATION
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PARCEL 40
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 MAGAZINE VILLAGE AT
 McNAIR FARMS, LLC
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PARCEL 37
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 NORTH WELLESLEY
 H.O.A., INC.
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 100% DEVELOPED

PARCEL 38
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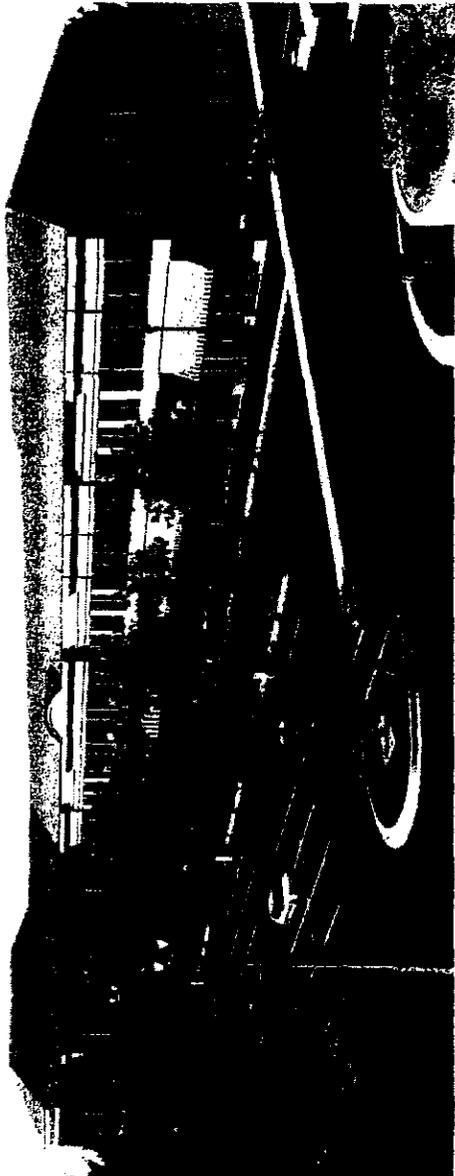
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DULLES CENTER
 DETAILS

HUNTER MILL DISTRICT
 FAYETTE COUNTY, VIRGINIA

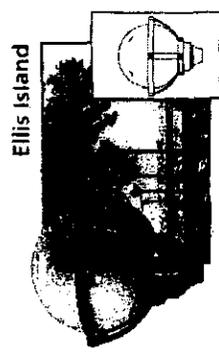


DATE	NO. OF SHEETS	TOTAL SHEETS
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PROJECT: DULLES CENTER SHEET: 5 OF 11 DRAWN BY: [Name] CHECKED BY: [Name] DATE: 10/20/03		



ILLUSTRATIVE ELEVATION

NOTE: 1. PROVIDE LIFT SYSTEM IN NOT COMPATIBLE WITH THE PLAN ON SHEET 3

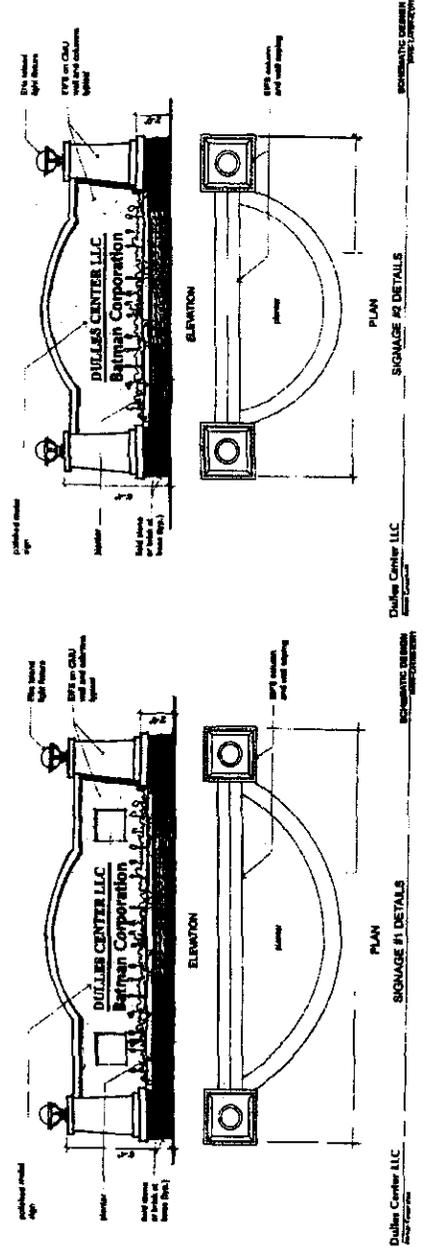


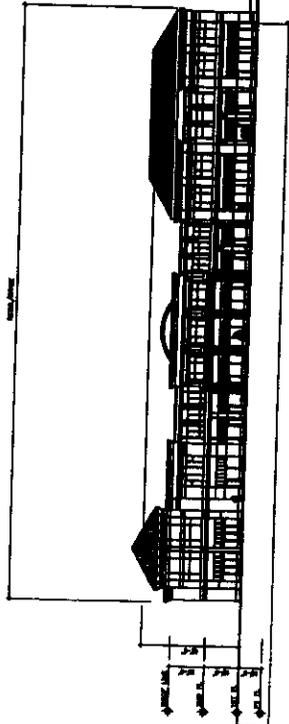
Ellis Island



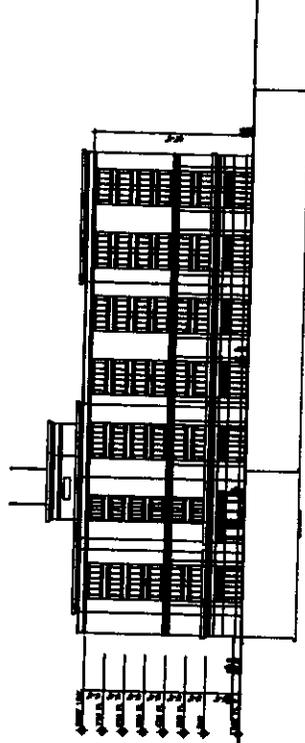
Museum Liberty Lantern

TYPICAL LIGHTING DETAIL

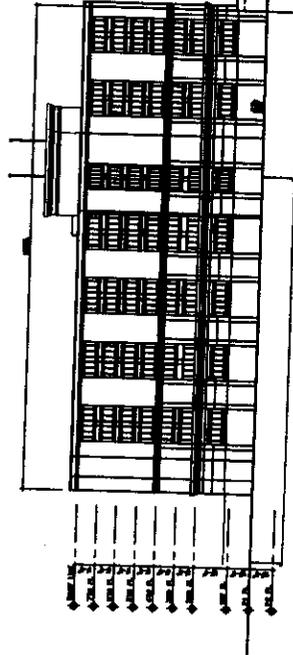
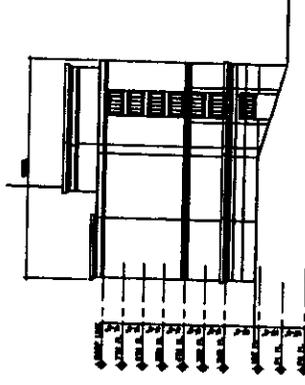




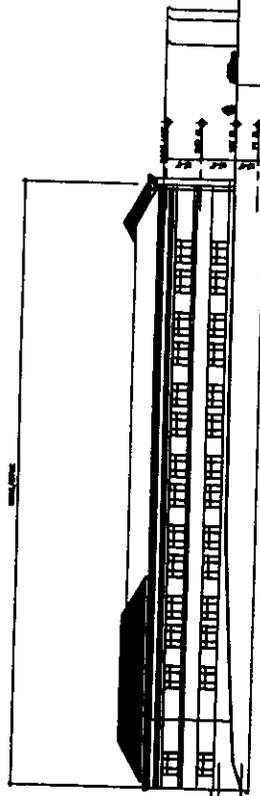
VIEW FROM CENTREVILLE ROAD



SOUTH ELEVATION



REAR VIEW OF HOTEL AND RETAIL/OFFICE



DULLES CENTER LLC
DAVIS • CARTER • SCOTT

ELEVATIONS

SCALE: 1" = 25'-0"

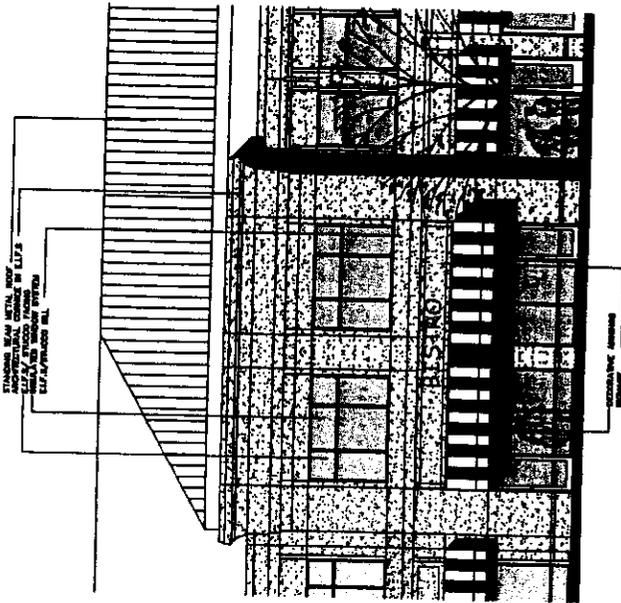
NOTE: LANDSCAPING HAS BEEN REMOVED FOR CLARITY
FOR CONCEPTUAL PURPOSES ONLY

APRIL 30, 2003

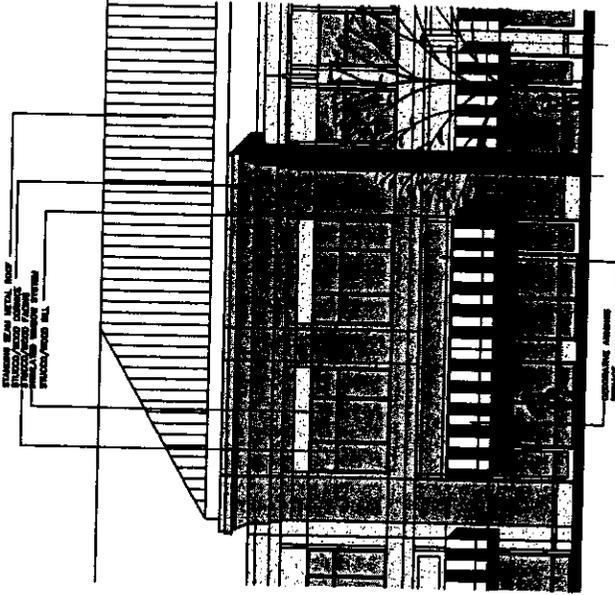
A300

SHEET 7 OF 11

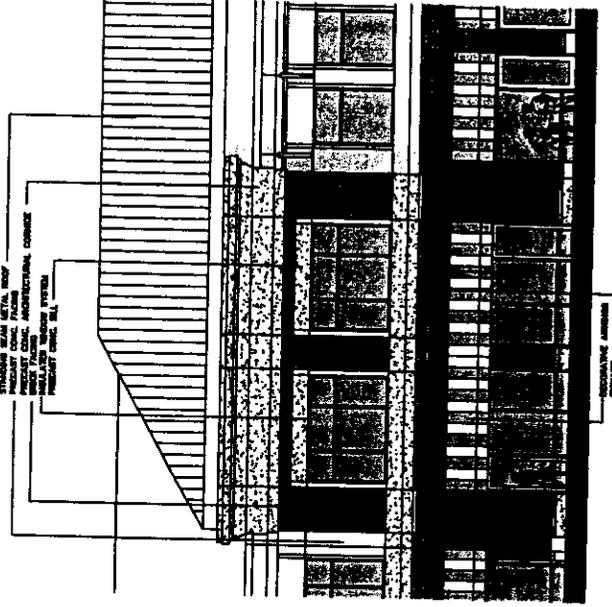
FILE # 87-840



OPTION 1.



OPTION 2.



OPTION 3.

DULLES CENTER LLC
DAVIS • CARTER • SCOTT

ENLARGED ELEVATIONS

FOR CONCEPTUAL PURPOSES ONLY

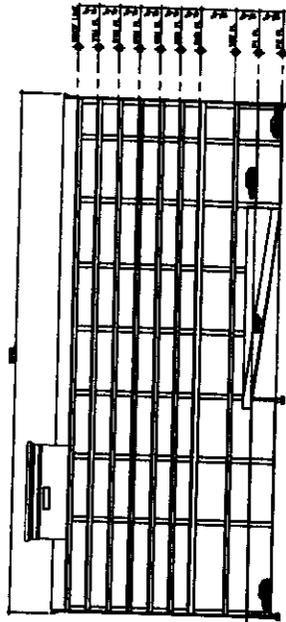
SCALE: 3/8" = 1'-0"

APRIL 30, 2003

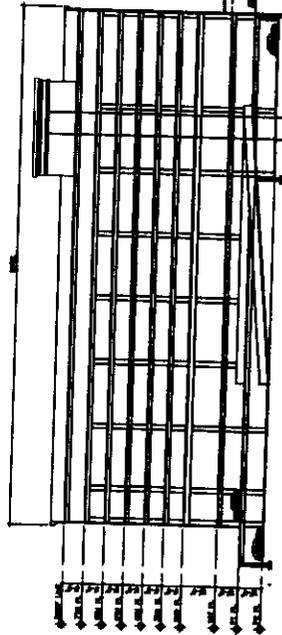
A310

SHEET 8 OF 11

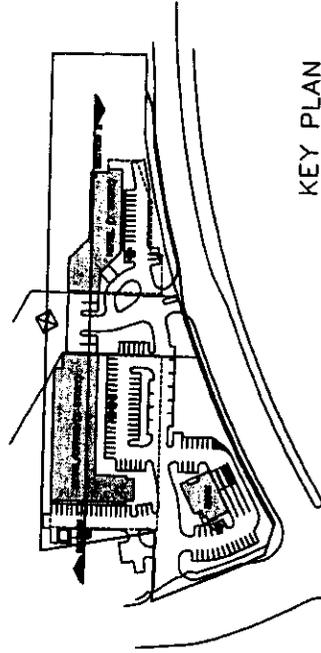
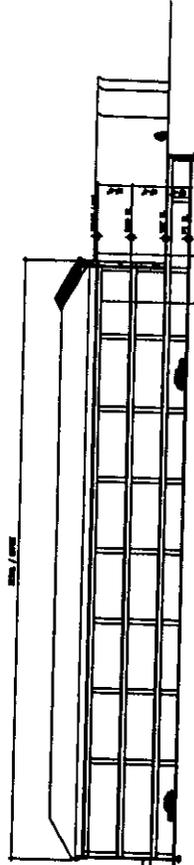
FILE # 07-040



SECTION 1



SECTION 2



KEY PLAN
SCALE: 1" = 100'-0"

SITE SECTIONS

DULLES CENTER LLC
DAVIS • CARTER • SCOTT

NOTE: LANDSCAPING HAS BEEN REMOVED FOR CLARITY
FOR CONCEPTUAL PURPOSES ONLY

SCALE: 1" = 30'

A401

SHEET 9 OF 11

APRIL 30, 2003

FILE # 97-940

