

010007569

Rezoning Proffers for 8946 Pocahontas Trail, Williamsburg, Virginia

These proffers made this 19th day of March, 2001 by Raymond R. Morton, Marianne G. Morton, Carlton T. Hall and Judith H. Hall, together with their successors, heirs and assigns, the "OWNER".

Recitals

- A. Owner is the owner of certain property located in James City County, Virginia, containing approximately 6.2 acres, more or less, more particularly described as Part of POPLAR HALL as shown on Tax Map as # 59-2 and Parcel # 1-10 (hereafter referred to as the "Property") and described further by:
8946 Pocahontas Trail, Williamsburg, VA 23185
Deed Book 46, Page 252
Deed Book 59, Page 356
Deed Book 127, Page 42
Deed Book 173, Page 176
Plat Book 13, Page 2
V.D.H.&T. Project # 0060-047106, PE-102, M-502, R/W-202
- B. All of the Property is currently zoned R-8 ("the Existing Zoning"). Owner has applied to rezone the Property from R-8 to M-1 ("the Proposed Zoning"), with proffers.
- C. Owner for itself and its successors and assigns desires to offer the County certain conditions on the development of the Property for the protection of the community that are intended to mitigate possible impacts from the development of the surrounding area.

NOW, THEREFORE, this Agreement witnesseth that for and in consideration of the County rezoning the Property from the Existing Zoning to the Proposed Zoning and pursuant to Section 15.2-2296 et. Seq. of the Code of Virginia, 1950, as amended, and Section 24-16 of the Zoning Ordinance of the County, the Owner agrees that in addition to the regulations provided in the Proposed Zoning, it shall meet and comply with all of the following conditions in the development of the Property. In the event the County does not grant the requested zoning, these proffers shall thereupon become null and void.

Conditions

- 1. Limitation on Use. Without the amendment of these Proffers (as to uses otherwise generally permitted by the County's Zoning Ordinance) or the issuance of the special use permit (as to uses only specially permitted by the County's Zoning Ordinance) the Property shall only be used for one or more of the following generally permitted uses. Additionally, the total size of new structures shall not exceed 12,500 square feet.
 - a. Welding and machine shops with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property.
 - b. Accessory uses as defined in the James City County Zoning Ordinance.
 - c. An apartment or living quarters for a guard, caretaker, proprietor, or other person employed on the premises which is clearly secondary to the business or industrial use of the property.
 - d. Business, professional and governmental offices.
 - e. Off-street parking as required by the James City County Zoning Ordinance.
- 2. Setback of New Buildings. New buildings may not be located within 200 feet from the northern property line of parcels known as 8952 Pocahontas Trail, 8956 Pocahontas Trail, and 8960 Pocahontas Trail.

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3. Setback of Parking Lots for New Buildings. Parking lots for new buildings may not be located within 120 feet from the northern property line of parcels known as 8952 Pocahontas Trail, 8956 Pocahontas Trail, and 8960 Pocahontas Trail.
4. Building Height. New buildings may not exceed 32 feet in height from grade to the top of the building.
5. Development in General. Development of Property shall generally be in accordance with The Structures Group, Inc. schematic site plan, Sheet S3, titled "ESG Metal Fabrication Shop, 8946 Pocahontas Trail" dated January 12, 2001.
6. Noise Abatement and Hours of Operation: No door greater in width than 36" shall be placed on the West side of the new building and such door shall be generally limited to personnel ingress/egress and shall not be blocked open. Additionally, noise abatement insulation will be added to the wall facing west of the new building, subject to approval by the Planning Director or his designee. No heavy machinery or heavy equipment shall be operated between 7 p.m. and 7 a.m. nor shall any material deliveries be made between 7 p.m. and 7 a.m.
7. Existing House. Existing brick house shall remain and be used for management offices for the fabrication shop. Four parking spaces will be added on the west side of the house or in the rear of the house. Parking spaces shall be screened from view of Pocahontas Trail by a wooden privacy fence, 6 feet in height, and evergreen landscaping of at least 133% of zoning ordinance requirements. The existing design and appearance of the residence will be maintained. Any future alteration in design or appearance shall be subject to the approval of the Director of Planning.
8. Existing Structures Other Than Residence. Existing structures other than the residence will be demolished and removed.
9. Cleanup in General. Removal of boat, inoperable cars, car engines, lawnmowers, and miscellaneous junk, etc. from the property will take place at or before the time of development of the new building. Removal of all logs from property will begin at or before the time of development of the new building and will be completed no later than 18 months following the issuance of a certificate of occupancy for the new building.
10. Fencing. A wooden privacy fence, at least 8 feet in height, will be installed along the property line shared with the property commonly known as the Windy Hill Mobile Home Park. Additionally, the existing post and wire fence, running generally east-west and located approximately 100 feet north of the northern property line of parcels known as 8952 Pocahontas Trail, 8956 Pocahontas Trail, and 8960 Pocahontas Trail, will be maintained as a landscaping buffer or replaced with a wooden privacy fence of at least 6 feet in height.
11. Landscaping. Landscaping for new buildings will be predominantly evergreen landscaping of at least 133% of zoning ordinance requirements. Evergreen landscape material and/or solid fence or chain link fence with dark color slats will be provided to screen the storage yard.
12. Exterior Lighting. All exterior light fixtures, including building lighting, on the Property shall have recessed fixtures with no lens, bulb, or globe extending below the casing. A lighting plan shall be submitted to and approved by the Planning Director or his designee.
13. Signs. A freestanding sign shall be ground mounted, monument style, limited to a maximum of 20 square feet per face and no greater than eight-feet in height above natural grade. The sign shall not be internally illuminated, but may be externally illuminated upon the approval of the Director of Planning.

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14. Headings. All section and subsection headings of this Agreement are for convenience only and are not part of the proffers.
15. Severability. The invalidity of any portion of this Proffer shall not be deemed to affect the validity of any other provision. In the event that any provision of this Proffer is held to be invalid, the parties agree that the remaining provisions shall be deemed to be in full force and effect as if they had been executed by both parties subsequent to the expungement of the invalid provision.

Proffered by:

Raymond R. Morton Raymond R. Morton (Seal)

Marianne G. Morton Marianne G. Morton (Seal)

Carlton T. Hall Carlton T. Hall (Seal)

Judith H. Hall Judith H. Hall (Seal)

COMMONWEALTH OF VIRGINIA

City/County of York, to wit:

VIRGINIA: City of Williamsburg and County of James City, to-wit:

This PROFFERS was presented with certificate annexed and admitted to record on April 30, 2001 at 9:47 AM/PM in the Clerk's Office of the Circuit Court of the City of Williamsburg and County of James City.

TESTE: BETSY B. WOOLRIDGE, CLERK

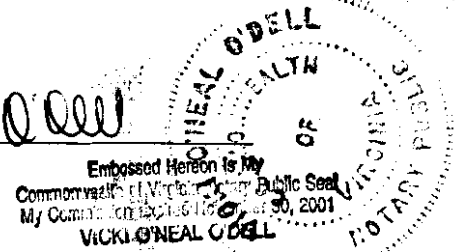
BY: Betsy Woolridge Clerk

I, the undersigned, a Notary Public in and for the County and State aforesaid, do certify that Raymond R. Morton, Marianne G. Morton, Carlton T. Hall and Judith H. Hall, whose names are signed to the foregoing document, have acknowledged the same before me.

Given under my hand this 12th day of April, 2001.

Vicki O'Neal O'Dell
Notary Public

My commission expires: 11/30/01



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COMMONWEALTH OF VIRGINIA



RECEIVED BY
WILLIAMSBURG COUNTY CLERK'S OFFICE

DATE: 04/21/04 TIME: 10:45:00 AM ACCOUNT: 00000000000000000000 RECEIPT: 0000000000
AMOUNT PAID: \$10.00
RECEIVED BY: JCC COUNTY ATTORNEY
DATE OF RECEIPT: 04/21/04
AMOUNT PAID: \$10.00
RECEIVED BY: JCC COUNTY ATTORNEY

TENDERED: \$10.00
AMOUNT PAID: \$10.00
CHANGE AMT: \$0.00

10000000

CLERK OF COURT: BETSY WOOLRIDGE

JCC
County
Atty