

**BK0556PG0579**  
**BOARD OF SUPERVISORS**  
**COUNTY OF NEW KENT**  
**VIRGINIA**

**O-11-09 (R1)**

At the regular meeting of the Board of Supervisors of the County of New Kent, in the Boardroom of the Administration Building in New Kent, Virginia, on the 10th day of August, 2009:

Present:	Vote:
Stran L. Trout	Nay
Thomas W. Evelyn	Aye
David M. Sparks	Nay
James H. Burrell	Aye
W.R. Davis, Jr.	Aye

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Motion was made by Mr. Evelyn, which carried 3:2, to adopt the following ordinance:

**AN ORDINANCE TO REZONE 1188 ACRES OF LAND IN THE ST.  
PETERS MAGISTERIAL DISTRICT FROM ECONOMIC  
OPPORTUNITY TO INDUSTRIAL**

WHEREAS, Mr. Alan Shaia of SPF Investments, LLC, property owner and applicant, has submitted a "Rezoning/Ordinance Change Application" dated March 24, 2009; and

WHEREAS, said application requests the rezoning of approximately 1188 acres identified on the New Kent County digital map as GPIN #I13-3790-4958 (Tax Parcel 22-5A), GPIN #I14-2072-4712 (Tax Parcel 22-6A), GPIN #I13-4169-2181 (Tax Parcel 32-5), portions of GPIN #H13-0380-4661 (Tax Parcel 32-4) and GPIN #H12-1278-4756 (Tax Parcel 31-70); and

WHEREAS, said application was formally referred to the New Kent County Planning Commission (the "Planning Commission") in accordance with applicable procedures; and

WHEREAS, within the timeframes established by the Code of Virginia and the New Kent County Code, the Planning Commission scheduled and conducted a formal and duly advertised public hearing on June 15, 2009, and carefully considered the application; and

WHEREAS, the Planning Commission voted 10:0:1 to forward the subject application to the New Kent County Board of Supervisors ("the Board of Supervisors") with an unfavorable recommendation; and

WHEREAS, the rezoning application has been advertised for public hearing before the Board of Supervisors in full accord with applicable provisions of the Code of Virginia; and

WHEREAS, approval of the rezoning request through the adoption of this Ordinance will

further the public necessity, convenience, general welfare and good zoning practices in the County of New Kent; and

WHEREAS, the Board of Supervisors has found the following, with regard to this application:

- The proposal is not prejudicial to the character of the neighborhood.
- The proposal will not adversely affect the general plans for the physical development of the County as embodied in the Comprehensive Plan.
- The proposal will not be detrimental to the use or development of adjacent properties or the general neighborhood, nor will it impair the value of buildings or property in surrounding areas.
- The application is generally in conformance with the New Kent County Comprehensive Plan, "Vision 2020".
- The proposed rezoning would provide for the long-range development of the subject property in a coordinated and well planned fashion.
- Approval of the subject application would further the health, safety and general welfare of the citizens of New Kent County and support the implementation of good zoning practice within the County.

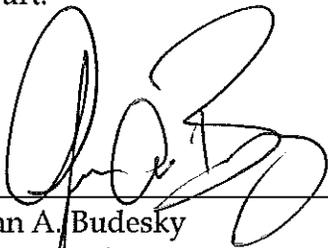
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NOW THEREFORE BE IT ORDAINED this, the 10th day of August 2009, by the New Kent County Board of Supervisors, that application ZM-02-09 be, and it hereby is, approved by amending the New Kent County Zoning Map to rezone GPIN # I13-3790-4958, GPIN # I14-2072-4712, GPIN # I13-4169-2181, portions of GPIN # H13-0380-4661 and GPIN # H12-1278-4756, consisting of approximately 1188 acres to Industrial.

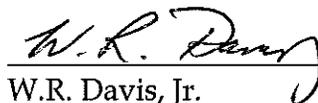
BE IT FURTHER ORDAINED, that the attached legal description and plat, describing the boundaries of the above-referenced, partially - rezoned parcels, be recorded with this Ordinance; and

BE IT FURTHER ORDAINED, that the proffers voluntarily offered by the applicant as evidenced by the revised proffer statement dated July 10, 2009 and incorporated by reference herein and made a part hereof are accepted and shall be fully binding upon the applicant; and

BE IT FURTHER ORDAINED, that the County Administrator be, and he is hereby, directed to have a fully executed copy of this Ordinance, attachments, and the proffers associated with it, recorded upon the Land Records of the County in the office of the Clerk of the Circuit Court.



John A. Budesky  
County Administrator



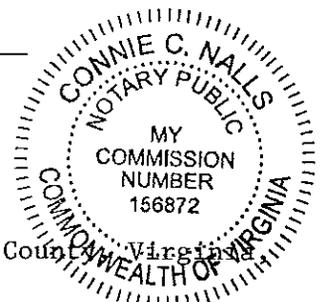
W.R. Davis, Jr.  
Chairman

STATE OF VIRGINIA, County of New Kent, to-wit:

Subscribed to before me, the undersigned Notary Public, in New Kent County, Virginia, on August 12, 2009. My commission expires 5/31/12

*Connie C. Nalls*

Notary Public



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**Legal descriptions of several parcels to remain E/O and to be rezoned INDUSTRIAL, situated between Emmaus Church Road (Route 106) and Olivet Church Road (Route 618) and to the south of Interstate 64, lying and being in the Cumberland District of New Kent County, Virginia :**

**1. 1187.4± acres to be Rezoned INDUSTRIAL:**

All that certain piece or parcel of land lying and being in the Cumberland District of New Kent County, Virginia, Containing 1187.4± acres, situated between Route 106 and route 618 and being more particularly described as follows:

Commencing at a point on the east line of Emmaus Church Road (Route 106), said point being located 2821 feet south along said east line of Emmaus Road from its intersection with the south right of way line of Interstate 64; Thence departing the east line of Emmaus Road, S70°51'00"E 523.51' to a point, said point being the **Point of Beginning** for this Description;

Thence N21°53'23"E 250.00' to a point; Thence S68°01'50"E 803.65' to a point;  
 Thence N21°57'52"E 323.21' to a point; Thence S68°01'47"E 729.16' to a point;  
 Thence N18°54'05"E 107.09' to a point; Thence N17°58'39"W 79.5± to a point in the center of a creek; Thence along the centerline of said creek as it meanders, in a southeasterly direction for a distance of 5781± and with a tie line of S15°47'57"E 5214± to a point in the intersection of two creeks;

Thence along the centerline of another creek as it meanders in a northeasterly direction for a distance of 4802± and with a tie line of N35°39'28"E 4745.39'; Thence Continuing along said creek as it meanders, in a northwesterly direction for a distance of 2883± and with a tie line of N05°42'10"E 2534.69' to a point on the southern limited access right of way line of Interstate 64;

Thence departing said creek and with said south line of Interstate 64, S73°44'26"E 349.54' to a point;  
 Thence continuing with the south line of Interstate 64, S71°38'53"E 1991.00' to a point;  
 Thence continuing with the south line of Interstate 64, S72°42'51"E 1611.77' to a point;  
 Thence continuing with the south line of Interstate 64, S71°04'52"E 277.66' to a point at the west line of Olivet Church Road (Route 618);

Thence with the west line of Olivet Church Road, the following courses, and curves:

S20°10'38"W 353.57'; Thence S11°20'57"E 58.09'; Thence S19°14'14"W 131.82';

Thence along a curve to the right having a Radius of 934.93', Delta of 20°14'04", Arc Length of 330.18' and Chord of S29°24'28"W 328.46'; Thence S39°31'30"W 965.03';

Thence along a curve to the left having a Radius of 974.93', Delta of 17°16'58", Arc Length of 294.08' and Chord of S30°53'01"W 292.97'; Thence S22°14'32"W 211.84';

Thence along a curve to the left having a Radius of 429.26', Delta of 42°41'00", Arc Length of 319.78' and a Chord of S00°54'20"W 312.44'; Thence S20°26'28"E 127.48';

Thence along a curve to the right having a Radius of 500.87', Delta of 40°02'07", Arc Length of 349.98' and Chord of S00°31'31"E 342.91'; Thence S19°29'32"W 317.13';

Thence along a curve to the right having a Radius of 1889.86', Delta of 14°19'02", Arc Length of 472.24' and Chord of S26°33'01"W 471.01'; Thence S33°42'32"W 1331.52';

Thence along a curve to the left having a Radius of 429.26', Delta of 61°34'00", Arc Length of 461.26' and Chord of S20°55'32"W 439.38'; Thence S27°51'28"E 93.67';

Thence along a curve to the right having a Radius of 552.96', Delta of 36°31'00", Arc Length of 353.42' and Chord of S09°35'58"E 346.49'; Thence S08°41'21"W 1023.95' to a point on the west line of Olivet Church Road (Route 618);

Thence departing Olivet Church Road (Route 618), N83°33'21"W 422.93' to a point;

Thence S06°59'15"W 303.14' to a point; Thence N81°04'07"W 526.89' to a point;

Thence N65°19'51"W 184.89' to a point; Thence N10°50'59"E 1339.08' to a point;

Thence N83°25'13"W 2379.36' to a point; Thence S22°22'07"W 1810.40' to a point;

Thence N69°07'47"W 1197.09' to a point; Thence S52°58'25"W 439.44' to a point;

Thence S52°48'21"W 347.98' to a point; Thence S58°12'15"W 777.92' to a point;

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Thence S89°30'15"W 2329.17' to a point; Thence N07°27'40"E 95.26' to a point in the center of a creek; Thence along the centerline of said creek as it meanders, in a northwesterly direction for a distance of 2926± and with a tie line of N17°24'05"W 2486.22' to a point;

**Legal Description 1187.4± acres continued:**

Thence departing said creek, N04°14'54"E 37.35' to a point;  
 Thence N01°20'07"E 117.00' to a point; Thence N16°09'53"W 143.80' to a point;  
 Thence N05°05'07"E 173.00' to a point; Thence N01°35'07"E 321.00' to a point;  
 Thence N07°45'07"E 351.00' to a point; Thence N09°32'17"E 282.00' to a point;  
 Thence N06°47'17"E 515.00' to a point; Thence S88°07'43"E 475.50' to a point;  
 Thence S87°13'54"E 330.49' to a point; Thence S86°18'12"E 579.96' to a point;  
 Thence N26°13'12"W 282.00' to a point; Thence N20°11'11"W 225.12' to a point;  
 Thence N26°27'30"W 87.66' to a point; Thence N19°29'06"W 194.59' to a point;  
 Thence N23°50'42"W 146.20' to a point; Thence N23°45'52"W 44.20' to a point;  
 Thence N09°31'48"W 80.02' to a point; Thence N10°21'24"E 62.56' to a point;  
 Thence N12°18'10"E 137.27' to a point; Thence N01°52'17"E 65.94' to a point;  
 Thence N32°45'31"E 1623.22' to a point, said point being the point and place of beginning and containing 1,187.4± acres, in various parcels, to be rezoned "Industrial".

**2. 473.9± acres to remain zoned E/O:**

All that certain piece or parcel of land lying and being in the Cumberland District of New Kent County, Virginia, Containing 459.2± acres, situated between Route 106 and route 618 and being more particularly described as follows:

Commencing at a point on the east line of Emmaus Church Road (Route 106), said point being located 2821 feet south along said east line of Emmaus Road from its intersection with the south right of way line of Interstate 64; Thence departing the east line of Emmaus Road, S70°51'00"E 523.51' to a point,  
 Thence N21°53'23"E 250.00' to a point; Thence S68°01'50"E 803.65' to a point;  
 Thence N21°57'52"E 323.21' to a point; Thence S68°01'47"E 729.16' to a point;  
 Thence N18°54'05"E 107.09' to a point; Thence N17°58'39"W 79.46' to a point in the centerline of a creek, said point being the **Point of Beginning** for this Description;  
 Thence departing said creek, N17°58'39"W 115.68' to a point;  
 Thence N52°44'59"W 755.54' to a point; Thence N32°32'39"E 74.34' to a point;  
 Thence N05°42'54"W 223.36' to a point; Thence N09°02'02"W 464.98' to a point;  
 Thence N01°46'35"E 198.78' to a point; Thence N49°49'06"W 404.22' to a point;  
 Thence N43°47'00"E 641.74' to a point; Thence N44°39'26"E 56.12' to a point at the south limited access right of way line of Interstate 64; Thence along said limited access right of way line, the following courses and curves: N81°59'51"E 197.23' to a point; Thence S59°56'22"E 286.20' to a point;  
 Thence along a curve to the left having a Radius of 326.48', Delta of 36°15'16", Arc length of 206.58' and Chord of S78°04'48"E 203.15' to a point; Thence N83°50'14"E 725.38' to a point;  
 Thence along a curve to the right having a Radius of 914.93', Delta of 24°31'17", Arc length of 391.57' and Chord of S83°52'24"E 388.59' to a point. Thence S71°38'34"E 484.38' to a point;  
 Thence S31°02'59"E 151.57' to a point; Thence N78°23'15"E 40.00' to a point;  
 Thence N19°37'38"E 187.26' to a point; Thence S71°40'43"E 1919.77' to a point;  
 Thence S67°31'31"E 200.74' to a point; Thence S73°44'26"E 50.14' to a point in the centerline of a creek; Thence departing the south limited access right of way line of interstate 64, and with the centerline of said creek as it meanders, in a southerly direction for a distance of 2883± and with a tie line of S05°42'10"E 2534.69' to a point;  
 Thence continuing with the meanders of the centerline of said creek, in a southwesterly direction for a distance of 4802± and with a tie line of S35°39'28"W 4745.39' to a point in the intersection of two creeks;  
 Thence along the centerline of the second creek as it meanders in a northerly direction for a distance of 5781± and with a tie line of N15°47'57"W 5214.37' to a point, said point being the point and place of

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beginning and containing 459.2± acres being all of one and portions of two tax parcels, to remain zoned E/O.

Together with:

**Legal descriptions continued:**

All that certain piece or parcel of land lying and being in the Cumberland District of New Kent County, Virginia, Containing 14.8± acres, situated along the east line of Route 106 and being more particularly described as follows:

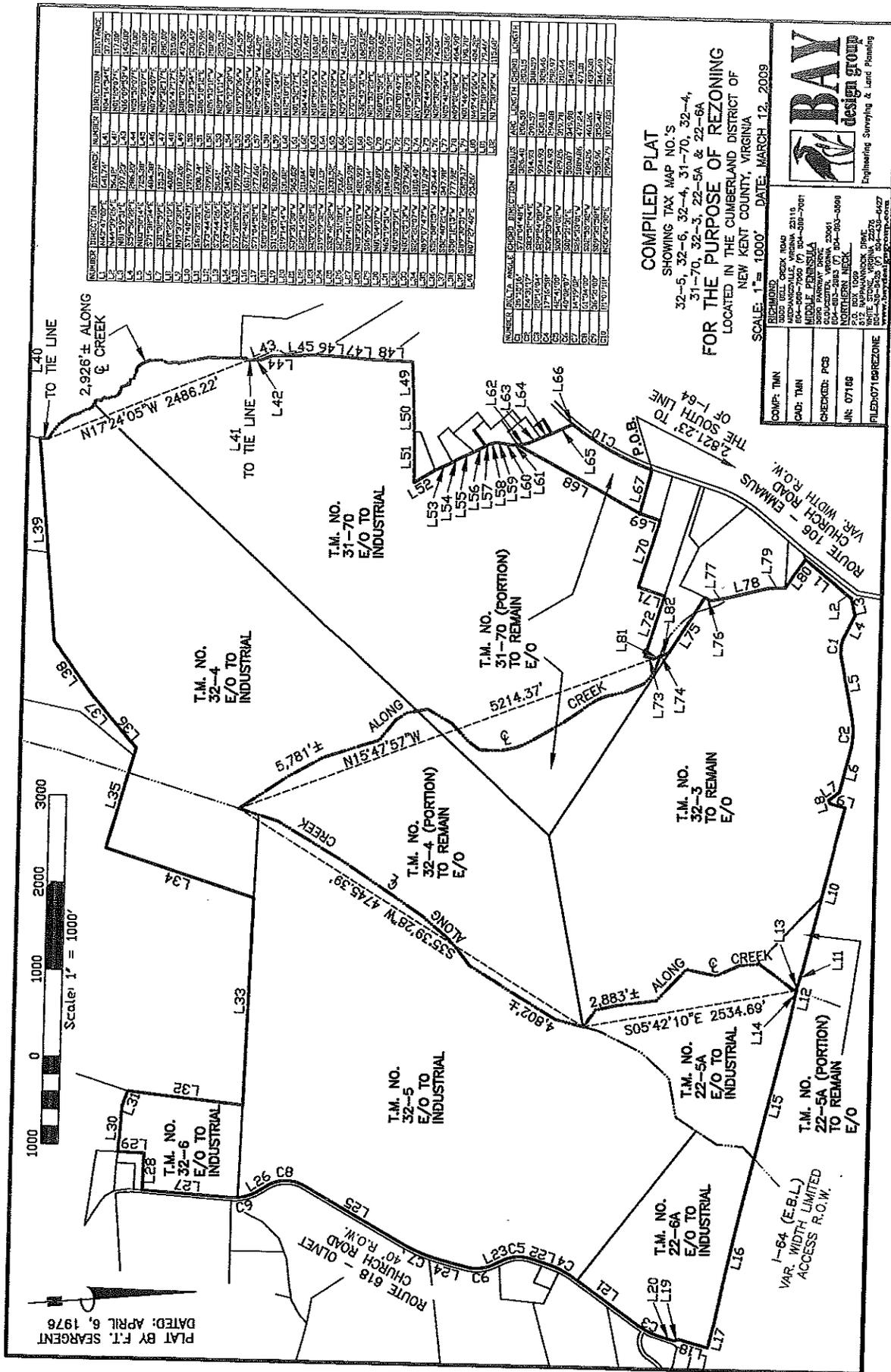
Beginning at a point on the east line of Emmaus Church Road (Route 106), said point being located 2821 feet south along said east line of Emmaus Road from its intersection with the south right of way line of Interstate 64; Thence departing the east line of Emmaus Road, S70°51'00"E 523.51' to a point,  
Thence S23°45'31"W 1623.22' to a point; Thence N04°44'16"W 117.43' to a point;  
Thence N18°39'16"W 160.18' to a point; Thence N18°39'16"W 135.01' to a point;  
Thence N19°33'29"W 251.48' to a point;  
Thence N39°34'18"W 14.12' to a point on the east line of Emmaus Church Road (Route 106);  
Thence with said east line of Emmaus Church Road (Route 106) along a curve to the left having a radius of 2904.79', Delta of 21°07'18", Arc Length of 1070.83' and Chord of N33°04'30"E 1064.77' to a point on the east line of Emmaus Church Road, said point being the point and place of beginning and containing 14.8± acres to remain zoned E/O, all together totaling 473.9± acres to remain zoned E/O as shown on COMPILED PLAT by BAY Design Group, dated March 12, 2009.

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INSTRUMENT #090003182  
RECORDED IN THE CLERK'S OFFICE OF  
NEW KENT COUNTY ON  
AUGUST 17, 2009 AT 08:31AM

KAREN A. BUTLER, CLERK  
RECORDED BY: KSM

BK0556PG0584



PLAT BY F.T. SEARAGENT  
DATED: APRIL 6, 1976

NUMBER	BEARING	DISTANCE	NUMBER	DIRECTION	DISTANCE
L1	N 89° 52' 42" W	11.72	L41	N 72° 40' 57" W	2488.22
L2	N 89° 52' 42" W	11.72	L42	N 72° 40' 57" W	2488.22
L3	N 89° 52' 42" W	11.72	L43	N 72° 40' 57" W	2488.22
L4	N 89° 52' 42" W	11.72	L44	N 72° 40' 57" W	2488.22
L5	N 89° 52' 42" W	11.72	L45	N 72° 40' 57" W	2488.22
L6	N 89° 52' 42" W	11.72	L46	N 72° 40' 57" W	2488.22
L7	N 89° 52' 42" W	11.72	L47	N 72° 40' 57" W	2488.22
L8	N 89° 52' 42" W	11.72	L48	N 72° 40' 57" W	2488.22
L9	N 89° 52' 42" W	11.72	L49	N 72° 40' 57" W	2488.22
L10	N 89° 52' 42" W	11.72	L50	N 72° 40' 57" W	2488.22
L11	N 89° 52' 42" W	11.72	L51	N 72° 40' 57" W	2488.22
L12	N 89° 52' 42" W	11.72	L52	N 72° 40' 57" W	2488.22
L13	N 89° 52' 42" W	11.72	L53	N 72° 40' 57" W	2488.22
L14	N 89° 52' 42" W	11.72	L54	N 72° 40' 57" W	2488.22
L15	N 89° 52' 42" W	11.72	L55	N 72° 40' 57" W	2488.22
L16	N 89° 52' 42" W	11.72	L56	N 72° 40' 57" W	2488.22
L17	N 89° 52' 42" W	11.72	L57	N 72° 40' 57" W	2488.22
L18	N 89° 52' 42" W	11.72	L58	N 72° 40' 57" W	2488.22
L19	N 89° 52' 42" W	11.72	L59	N 72° 40' 57" W	2488.22
L20	N 89° 52' 42" W	11.72	L60	N 72° 40' 57" W	2488.22
L21	N 89° 52' 42" W	11.72	L61	N 72° 40' 57" W	2488.22
L22	N 89° 52' 42" W	11.72	L62	N 72° 40' 57" W	2488.22
L23	N 89° 52' 42" W	11.72	L63	N 72° 40' 57" W	2488.22
L24	N 89° 52' 42" W	11.72	L64	N 72° 40' 57" W	2488.22
L25	N 89° 52' 42" W	11.72	L65	N 72° 40' 57" W	2488.22
L26	N 89° 52' 42" W	11.72	L66	N 72° 40' 57" W	2488.22
L27	N 89° 52' 42" W	11.72	L67	N 72° 40' 57" W	2488.22
L28	N 89° 52' 42" W	11.72	L68	N 72° 40' 57" W	2488.22
L29	N 89° 52' 42" W	11.72	L69	N 72° 40' 57" W	2488.22
L30	N 89° 52' 42" W	11.72	L70	N 72° 40' 57" W	2488.22
L31	N 89° 52' 42" W	11.72	L71	N 72° 40' 57" W	2488.22
L32	N 89° 52' 42" W	11.72	L72	N 72° 40' 57" W	2488.22
L33	N 89° 52' 42" W	11.72	L73	N 72° 40' 57" W	2488.22
L34	N 89° 52' 42" W	11.72	L74	N 72° 40' 57" W	2488.22
L35	N 89° 52' 42" W	11.72	L75	N 72° 40' 57" W	2488.22
L36	N 89° 52' 42" W	11.72	L76	N 72° 40' 57" W	2488.22
L37	N 89° 52' 42" W	11.72	L77	N 72° 40' 57" W	2488.22
L38	N 89° 52' 42" W	11.72	L78	N 72° 40' 57" W	2488.22
L39	N 89° 52' 42" W	11.72	L79	N 72° 40' 57" W	2488.22
L40	N 89° 52' 42" W	11.72	L80	N 72° 40' 57" W	2488.22
L41	N 89° 52' 42" W	11.72	L81	N 72° 40' 57" W	2488.22
L42	N 89° 52' 42" W	11.72	L82	N 72° 40' 57" W	2488.22
L43	N 89° 52' 42" W	11.72	L83	N 72° 40' 57" W	2488.22
L44	N 89° 52' 42" W	11.72	L84	N 72° 40' 57" W	2488.22
L45	N 89° 52' 42" W	11.72	L85	N 72° 40' 57" W	2488.22
L46	N 89° 52' 42" W	11.72	L86	N 72° 40' 57" W	2488.22
L47	N 89° 52' 42" W	11.72	L87	N 72° 40' 57" W	2488.22
L48	N 89° 52' 42" W	11.72	L88	N 72° 40' 57" W	2488.22
L49	N 89° 52' 42" W	11.72	L89	N 72° 40' 57" W	2488.22
L50	N 89° 52' 42" W	11.72	L90	N 72° 40' 57" W	2488.22
L51	N 89° 52' 42" W	11.72	L91	N 72° 40' 57" W	2488.22
L52	N 89° 52' 42" W	11.72	L92	N 72° 40' 57" W	2488.22
L53	N 89° 52' 42" W	11.72	L93	N 72° 40' 57" W	2488.22
L54	N 89° 52' 42" W	11.72	L94	N 72° 40' 57" W	2488.22
L55	N 89° 52' 42" W	11.72	L95	N 72° 40' 57" W	2488.22
L56	N 89° 52' 42" W	11.72	L96	N 72° 40' 57" W	2488.22
L57	N 89° 52' 42" W	11.72	L97	N 72° 40' 57" W	2488.22
L58	N 89° 52' 42" W	11.72	L98	N 72° 40' 57" W	2488.22
L59	N 89° 52' 42" W	11.72	L99	N 72° 40' 57" W	2488.22
L60	N 89° 52' 42" W	11.72	L100	N 72° 40' 57" W	2488.22

**COMPILED PLAT**  
SHOWING TAX MAP NO.'S  
32-5, 32-6, 32-4, 31-70, 32-4,  
31-70, 32-3, 22-5A & 22-6A  
**FOR THE PURPOSE OF REZONING**  
LOCATED IN THE CUMBERLAND DISTRICT OF  
NEW KENT COUNTY, VIRGINIA  
SCALE: 1" = 1000' DATE: MARCH 12, 2009



RECOMMENDED BY: BOB  
MIDDLETON  
1000 W. MAIN ST., SUITE 2010  
MIDDLETON, VIRGINIA 23102  
CHECKED: PCS  
DATE: 03/12/09  
JUN: 07188  
FILED: 07188

Engineering Surveying & Land Planning  
www.baydesign.com



PROFFER STATEMENT
County of New Kent, Virginia
Planning Department
Web site:
www.co.new-kent.va.us/planning

OFFICE USE ONLY
\*DO NOT WRITE IN THIS BOX\*
Application #: ZM-02-09
Date Received: 7/10/09
Staff Initials: KLL

New Kent County ♦ Community Development Department-Planning ♦ P O Box 50 ♦ New Kent, VA 23124 ♦ Phone 804-966-9690 ♦ Fax 804-966-8531
\*\*Use P O Box for all mail. Street address: 12007 Courthouse Circle, New Kent, VA 23124 FOR DELIVERIES ONLY\*\*

Information and Instructions:

Sections 98-781 to 98-790 of the New Kent County Code govern the establishment of conditions at the time of rezoning of property. The proffer of conditions must be prepared and submitted voluntarily by the property owner. Conditions must be specific and must bear a direct relationship to the rezoning request. Conditions may not impose any obligations upon the County beyond the granting of the requested zoning.

Proffers or amendments thereto must be filed within (ten) 10 business days prior to the public hearing at which the rezoning request will be heard.

All property owners of record must sign the proffer statement before a Notary Public. If a person signs on behalf of a company or organization, or if someone other than the property owner signs, then a Power of Attorney Form will need to accompany the Proffer Statement.

We hereby voluntarily proffer that the development of the subject property of this application shall be in strict accordance with the conditions set forth below:

- 1. Within 60 days of the rezoning approval, the property owner will submit an application for a boundary line adjustment for parcel 32-3, 32-4 and 31-70 in order to match the property lines with the new zoning approval.
2. No industrial traffic will be allowed to access route 618 from parcel 22-6A, 32-5 and 32-6.
3. Prohibit Uses - The following uses shall be prohibited in the Industrial zoning: Waste Transfer Station, construction debris landfill, salvage yard, and automobile graveyard.

Use Additional sheets if needed

[Handwritten signature]

Date: 07-09-2009

[x] Applicant [ ] Agent [ ] Contract Purchaser

STATE OF VIRGINIA
CITY/COUNTY OF Richmond, TO-WIT:

This day Alan T Shaia personally appeared before me, Andrea R Campbell a Notary Public in and for the County and State aforesaid, swore or affirmed that the matters stated in the foregoing Statement of Proffer are true to the best of his acknowledgement and belief. Given under my hand this 9 date of July 2009.

Notary registration No.: 300298
My commission expires: July 31, 2009

[Handwritten signature of Andrea R Campbell]
Notary Public

