

BK0564PG0553

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

O-26-09

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 14th day of December, 2009:

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

Motion was made by Mr. Sparks, which carried 4:1, to adopt the following ordinance:

**AN ORDINANCE TO REZONE APPROXIMATELY
FOUR (4) ACRES OF LAND IN THE
WEIR CREEK MAGISTERIAL DISTRICT
FROM A-1, AGRICULTURAL, TO BUSINESS**

WHEREAS, George Philbates Jr. and Rebecca Philbates, applicants and property owners, have submitted a "Rezoning/Ordinance Change Application" dated April 30, 2009; and

WHEREAS, said application requests the rezoning of approximately four (4) acres identified on the New Kent County digital map as GPIN #J27-1002-0745 (Tax Parcel 26-87F); 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 November 16, 2009, and carefully considered the application; and

WHEREAS, the Planning Commission voted 9:1 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.

NOW THEREFORE BE IT ORDAINED this, the 14th day of December 2009, by the New Kent County Board of Supervisors, that application ZM-06-09 be, and it hereby is, approved by amending the New Kent County Zoning Map to rezone GPIN # J27-1002-0745, consisting of approximately 4 acres from A-1, Agricultural, to Business.

BE IT FURTHER ORDAINED, that the proffers voluntarily offered by the applicants as evidenced by the proffer statement dated January 12, 2009 and incorporated by reference herein and made a part hereof are accepted and shall be fully binding upon the applicants; and

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

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William H. Whitley
William H. Whitley
Interim County Administrator

W.R. Davis, Jr
W.R. Davis, Jr
Chairman

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

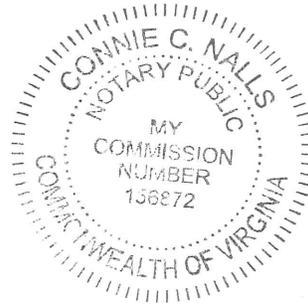
Subscribed to before me, the undersigned Notary Public, in the county and state aforesaid, on the 17th day of December, 2009.

My commission expires 5/31/12.

Connie C. Nalls

Notary Public

Notary Registration Number: 156872



INSTRUMENT #090004704
RECORDED IN THE CLERK'S OFFICE OF
NEW KENT COUNTY ON
DECEMBER 18, 2009 AT 02:40PM

KAREN A. BUTLER, CLERK
RECORDED BY: TMK

RECEIVED
JAN 12 2009

BK 0564 PG 0556 Proffer Statement



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 #: ZH-06-09
Date Received: 1/12/09
Staff Initials: KLJ

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.

I/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. THERE WILL BE NO OUTSIDE STORAGE FOR BOATS, RV'S, OR MOTOR VEHICLES.
 2. FRONT WALL WILL BE OF CINDER BLOCK CONSTRUCTION, 8 FT. TALL, FACED WITH STONE IN OPEN AREA, and ENTRANCE WILL MAKE 90° ANGLE MAKING BUILDING AND CONTENTS NOT VISIBLE FROM THE ROAD.
 3. SITE WILL BE USED FOR MINI STORAGE USE ONLY.
 4. SITE WILL BE DEVELOPED IN STAGES AS CLOSE TO CONCEPT PLAN AS POSSIBLE.
- Use Additional sheets if needed**

George A. Philbates Rebecca C. Philbates
 Applicant Agent Contract Purchaser

Date: 1-12-09

STATE OF VIRGINIA
CITY/COUNTY OF New Kent, TO-WIT:

This day George + Rebecca Philbates personally appeared before me, Tracee McLeod, 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 12 date of January 2009.

Notary registration No.: 7109306
My commission expires: 1/31/2011



Tracee Anne McLeod
Notary Public