

Prepared by:
Patten, Wornom, Hatten & Diamonstein, LC
12350 Jefferson Avenue, Suite 300
Newport News, VA 23602
Attn: Lindsey A. Carney, Esq.

After recording return to:
Office of the City Attorney
22 Lincoln Street
Hampton, Va. 23669
bnb

LRSN No. 13004560

PROFFER STATEMENT
REZONING APPLICATION

THIS PROFFER STATEMENT (“Statement”) made this 26th day of October, 2017, by and between JONAH Z, LLC, a Virginia limited liability company (the “Grantor”); and THE CITY OF HAMPTON, a municipal corporation of the Commonwealth of Virginia (the “Grantee” or “City”), with an address of 22 Lincoln Street, Hampton City Hall, Hampton, Va. 23669.

RECITALS

A. Grantor is the fee simple owner of the parcel of real property located in the City of Hampton, identified as LRSN Number 13004560, and more fully described on “Exhibit A” (the “Property”), with a street address of 56 Butler Farm Road, Hampton, Virginia 23666.

B. Grantor has initiated a conditional amendment to the zoning map of the City of Hampton, Virginia, by petition addressed to the City so as to change the zoning classification of the Property from One Family Residential (R-11) District to Limited Commercial (C-2) District with proffers.

C. Grantor has requested approval of this Proffer Statement.

D. The City's policy is to provide for the orderly development of land for various purposes, including commercial purposes, through zoning and other land development legislation.

E. Grantor desires to offer the City certain conditions for the enhancement of the community and to provide for the highest quality and orderly development of the Property.

F. The conditions outlined in this Proffer Statement have been proffered by Grantor and allowed and accepted by the City as a part of the amendment of the City Zoning Ordinance and the Zoning Map. These conditions shall continue in full force and effect until a subsequent amendment changes the zoning of the Property; provided, however, that such conditions shall continue if the subsequent amendment is part of the comprehensive implementation of a new or substantially revised zoning ordinance of the City.

NOW, THEREFORE, for and in consideration of the approval and acceptance by the City of this Proffer Statement, Grantor agrees that it will meet and comply with all of the following conditions in developing the Property. In the event the requested change of zoning classification is not granted by the City or is withdrawn by the Grantor, these Proffers shall thereupon be void *ab initio* and of no further force or effect. Grantor, its heirs, successors, assigns, grantees and other successors in title or interest to the Property, voluntarily and without any requirement by or exaction from the City or its governing body and without any element or compulsion or quid pro quo for zoning, rezoning, site plan, building permit or subdivision approval, makes the foregoing declaration of conditions and restrictions governing the use and physical development and operation of the Property, and covenants and agrees that this declaration and the further terms of this Proffer Statement shall constitute covenants running with the Property, which shall be binding upon the Property, and

upon all persons and entities claiming under or through the Grantor, its heirs successors and assigns, grantees and other successors in interest or title to the Property; namely:

CONDITIONS

A) The following are a list of conditions upon the use and development of the Property:

1. The Property shall be developed in substantial conformance with the conceptual site plan drawings entitled “CONCEPTUAL SITE LAYOUT”, dated October 24, 2017, which was prepared by ATCS, P.L.C. (the “Conceptual Site Layout”), a copy of which is on file with the Planning & Zoning Division of the Community Development Department and has been exhibited to the Planning Commission and Hampton City Council for illustrative purposes and to provide justification for this rezoning action. Any minor changes to the Conceptual Site Layout made necessary by environmental, engineering, architectural, topographic or other development conditions, or site plan and subdivision approval requirements, may be permitted subject to the approval of the Director of Community Development.

2. All exterior lighting on the Property shall be (i) full cutoff fixtures and directed to minimize glare on public roads and adjacent properties; and (ii) Dark Sky compliant and otherwise in compliance with the City of Hampton Outdoor Lighting Policy & Procedures (May 2013), Article I – Private Property Lighting, Including Property to be Dedicated to the City, Sec. 1-2 Site Plan Lighting, Subsection (d) through (e).

3. Landscaping for the Project will adhere to standard City requirements and shall be in substantial conformance with the Conceptual Site Layout.

4. The applicant will install and operate digital video security equipment with recording capability on the Property. Such surveillance equipment shall be shown to the Community Development Director or his designee upon request.

5. Access to the Property will be controlled by locked ornamental gate made of opaque material that also serves to screen from view of the public right-of-way the vehicles that are stored on the Property. The installation location of said gate shall be in the approximate location as shown on the attached Conceptual Site Layout. The applicant will submit a rendering of the style of the gate to the Director of Community Development or his designee for approval prior to installation, which approval shall not be unreasonably withheld.

6. During development of the Property, construction vehicles, materials and equipment shall be stored on the Property or other private property with agreement of the property owner. Storage of any vehicles, materials or equipment on public property and right-of-way is prohibited.

7. Loading and offloading of vehicles being stored on the Property shall not occur on Butler Farm Road. Relocation of vehicles from the offload area to the Property for storage will occur Monday through Saturday between the hours of 8:00 a.m. and 9:00 p.m.

B) It is understood that all phases of the proposed project shall comply with all ordinances of the City.

C) Further lawful conditions or restrictions against the Property may be required by the City during the detailed Site Plan review and administration of applicable codes and regulations of the City by all appropriate agencies and departments of the City, which shall be observed or performed by Grantor. Grantor acknowledges that additional further lawful

conditions or restrictions may be imposed by the City as a condition of approvals, including but not limited to final Concept Plan approval.

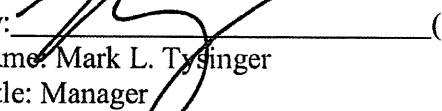
D) All references hereinabove to zoning districts and to regulations applicable thereto, refer to the City Zoning Ordinance of the City of Hampton, in force as of the date the conditional rezoning amendment is approved by the City.

E) The Grantor covenants and agrees that: (1) the Zoning Administrator of the City shall be vested with all necessary authority on behalf of the governing body of the City to administer and enforce the foregoing conditions and restrictions specified in this Proffer Statement, including (i) the ordering in writing of the remedying of any noncompliance with such conditions, and (ii) the bringing of legal action or suit to ensure compliance with such conditions, including mandatory or prohibitory injunction, abatement, damages or other appropriate action, suit or proceedings; (2) the Grantor's failure to meet all conditions shall constitute cause to deny the issuance of any of the required building or occupancy permits as may be appropriate; and (3) the Zoning Map shall show by an appropriate symbol on the Map the existence of conditions attaching to the zoning of the subject Property on the Map and that the ordinance and conditions may be made readily available and accessible for public inspection in the office of the Zoning Administrator and in the Department of Community Development and that this Proffer Statement shall be recorded in the Clerk's Office of the Circuit Court of the City of Hampton, Virginia and indexed in the name of the Grantor and the City.

WITNESS the following signatures and seals:

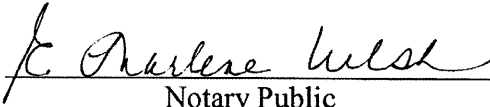
GRANTOR:

JONAH Z, LLC, a Virginia limited liability company

By:  (SEAL)
Name: Mark L. Tysinger
Title: Manager

COMMONWEALTH OF VIRGINIA
CITY OF Hampton, to-wit:

The foregoing instrument was acknowledged before me, E. Marlene Welsh
Notary Public, this 26th day of October, 2017, by Mark L. Tysinger, as Manager for and on
behalf of Jonah Z, LLC, a Virginia limited liability company, on behalf of said company.


Notary Public

My Commission Expires: 3-31-2020

Notary Registration Number: 203502

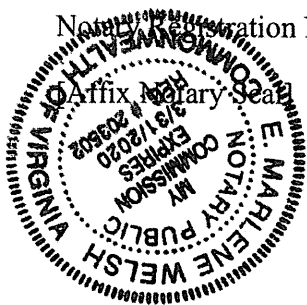


Exhibit A
Legal Description of Property

ALL THAT certain tract or parcel of land, together with the buildings and improvements thereon, situate and being in the City of Hampton, Virginia, and designated as JZ-1, 9.945 +/- Acres as shown on the plat entitled, "BOUNDARY LINE VACATION PLAT BETWEEN PARCELS 1, NO. 5 & NO. 6 PROPERTY OF JONAH Z, LLC, CITY OF HAMPTON, VIRGINIA" dated March 1, 2017, Project Number 14-039, made by Michael Surveying & Mapping, P.C. and recorded in the Clerk's Office of the Circuit Court of the City of Hampton, Virginia in Miscellaneous Plat Book 5, at page 25, to which reference is here made.

BEING part of the same property conveyed to Jonah Z, LLC, a Virginia limited liability company, from Arlington W. Chisman, Jr. by deed dated September 4, 2015 and recorded September 18, 2015 in the Clerk's Office of the Circuit Court of the City of Hampton, Virginia as Instrument No. 150011899.

BEING part of the same property conveyed to Jonah Z, LLC, a Virginia limited liability company, from Old NorthHampton Development, LLC, a Virginia limited liability company, by deed dated September 4, 2015 and recorded September 18, 2015 in the Clerk's Office of the Circuit Court of the City of Hampton, Virginia as Instrument No. 150011900.