

ORDINANCE

~~C-13-94(0), AIR PARK ASSOCIATES~~

~~OWNER OF RECORD:~~ PROFFERS: REZ2019-00037, Air Park Associates, L.P.

~~The rezoning request is subject to the following conditions, which were proffered by the Applicant on April 10, 1995, and accepted by the Board:~~

~~Architectural Treatment. No butler-type building shall be built on the property. AllThe undersigned, Air Park Associates, L.P., owner of parcels designated with GPIN 7798-44-0937, 7798-44-0663, 7798-44-2350, 7798-33-3765, 7798-34-2121, 7798-24-8382, 7798-24-6569, 7798-24-4811, 7798-25-1001, 7798-35-3160, 7798-35-4750, 7798-35-0225, 7798-25-6471, 7798-45-3554, 7798-54-5903, 7798-33-9427, 7798-43-4904, 7798-43-4481, 7798-43-8505, 7798-53-1614, and 7798-35-1840 (“the Property”), voluntarily agrees for themselves, their agent, personal representatives, successors and assigns (collectively “the Property Owner”) that the development and use of the Property shall be subject to the following conditions:~~

~~1. Concept Plan. The property shall be developed in substantial conformity with the conceptual plan attached, titled “WEGMANS VIRGINIA DISTRIBUTION CENTER CONCEPTUAL PLAN” dated March 20, 2020, and prepared by Timmons Group (the “Concept Plan”).~~

~~1. 2. Architectural Treatment. The building shown on the Concept Plan shall be designed and constructed in substantial conformity with the elevations attached titled “WEGMANS, VIRGINIA SERVICE CENTER”, prepared by Whiting-Turner, and dated March 16 & 19, 2020 (the “Elevations”), permitting exterior building material of decorative architectural masonry and decorative architectural insulated metal wall panels. Any additional structures on the Property shall be consistent with the Elevations in scale, design, and materials, which shall be reviewed and approved by the Planning Commission prior to site plan approval to ensure compatibility with the Elevations. In addition, all front facades of main buildings on the property and wall surfaces fronting on Ashcake, Sliding Hill, Relocated Ashcake and New Ashcake Extended Roads shall be constructed of any of the following, or combination of the following, or other materials of similar quality: brick, granite, marble, decorative block glass wall, glass curtain wall, architectural precast, architectural concrete, metal and glass curtain wall, or metal curtain wall construction systems. The internal structural system of the building may be a pre-engineered prefabricated metal building design system. Metal and/or aluminum may be incorporated for window and decorative treatments. All rooftop heating and cooling equipment shall be screened from public view at ground level from all public thoroughfares. This screening may be accomplished by landscaping, or by using building materials that are architecturally compatible with the buildings on site.~~

~~2. 3. Protective Covenants. Prior to or concurrent with the approval of any site plan, there shall be recorded a document in the Clerk'sClerk's Office of the Circuit Court of Hanover County,~~

Virginia, setting forth controls on the development, architectural compatibility and maintenance of the property.

~~3. 4. Signs.~~ — All signs, if lighted, shall be internally lighted, except freestanding signs may be externally lit with down lighting. All freestanding signs shall be monument style signs.

~~4. 5. Outside Storage.~~ Outside storage of equipment, materials, or supplies, shall be prohibited permitted only in side or rear yards. Outside storage within line of sight from any public thoroughfare shall be screened in accordance with the standards specified in ~~Article 7, Section 2A.~~ Where outdoor waste receptacles are used on site, and ~~screen~~ other than plantings is used, such screening shall be architecturally compatible with the buildings on site and shall otherwise comply with the standards of ~~Article 7, Section 2A.~~ Vehicles used in conjunction with the permitted use on site may be stored within a parking area designated for such use, but the parking area shall be landscaped in accordance with the standards of ~~Article 5A, Section 3.2, or shall be screened in accordance with the standards of Article 7, Section 2A.~~ Owner agrees that no outside storage of materials or vehicles shall be permitted in any front yard.

~~5. Fences.~~ ~~Fences on sites fronting along Asheake, Sliding Hill, Asheake Relocated and New Asheake Extended Roads shall be located in the side or rear yard only. Erection of ornamental fencing inside the front yard shall be allowed.~~

~~6. 6. Loading Spaces.~~ Loading spaces shall be located only as shown on the Concept Plan or otherwise for the additional structures on the Property, within side or rear yards.

~~7. Parking.~~ ~~On sites fronting Sliding Hill, Asheake, Asheake Relocated and New Asheake Extended Roads, all parking areas located within front yards shall be paved, and curb and gutter shall be used around and within all such parking areas. Subject to reasonable modifications for maneuvering and loading of trucks, the owner will provide landscaping for all parking areas as required by Article 5A, Section 3.2, Title I, Hanover County Zoning Ordinance. Any modification shall be agreed upon during site plan review. The Planning Commission shall resolve, in its sole discretion, any disagreement regarding such modification.~~

7. Parking. The passenger vehicle and truck parking and storage areas shall be designed and constructed in accordance with the following standards:

- a. Employee and passenger vehicle parking areas shall be designed and constructed to include hard surface paving, curb and gutter, and shall be landscaped in accordance with the standards of Section 26-192 of the Hanover County Zoning Ordinance.
- b. Truck and trailer parking areas shall be designed to include the use of curb and gutter and hard surface paving, and shall be striped to clearly delineate individual parking stalls from drive aisles.
- c. Truck storage areas shall be designed to include curb and gutter and shall be hard surface paved.
- a.d. All such parking and storage areas shall be clearly delineated on the site plan for such improvements.

~~8. Buffer Strip.~~ ~~owner will provide and maintain a landscaped buffer strip 25 feet in depth from (i) the new right-of-way line of Sliding Hill and Asheake Roads,~~

- b. ~~adjoining existing R zoned or A 1 zoned property fronting Little Egypt Road (Route 741), and~~

~~e. adjoining existing R or A-1 zoned property fronting on Asheake Road. The buffer will be increased to 50 feet between points A and B shown on Exhibit A. The buffer referred to in (ii) and (iii) shall be required only so long as the adjoining property is R or A-1 zoned. Such buffer strips shall be landscaped and otherwise regulated in accordance with the commercial buffer site standards required by Article 7, Section 2B.1, Hanover County Zoning Ordinance. Where the property adjoins an R zoned property, or an A-1 zoned property on which there is a dwelling within 200 feet of the common property line, buffers shall be provided along such line in accordance with the standards specified in Article 7, Section 2B.3a. Buffers may be penetrated for access, stormwater facilities, signage, traffic control devices and utilities; provided that, any such penetration for access, drainage, stormwater facilities and utilities will be at an angle as close to 90° as possible. The landscaped buffer strips will be installed in phases as each site is developed. Until development and except for penetration for access, stormwater facilities, signage, traffic control devices and utilities, site clearing will only occur when a site is approved for development.~~

8. Buffer and Screening Areas. Buffers and screening shall be provided in accordance with the following standards:

a. Areas fronting Ashcake Road (State Route 657) shall include a thoroughfare buffer no less than seventy-five (75) feet in width, and the frontage along Sliding Hill Road (State Route 656) shall include a thoroughfare buffer no less than twenty-five (25) feet in width all as shown on the Concept Plan. Buffers shall be measured from the ultimate right of way. The outer most (road) side of the buffer shall be planted with a vegetated screen in accordance with the standards of Section 26-263(b) of the Hanover County Zoning Ordinance. The remaining portion of the buffer shall be planted in accordance with the standards of 26-264 of the Hanover County Zoning Ordinance. The installation of the buffer along Sliding Hill Road shall be phased with the approvals of the final plans for the ultimate right-of-way determination for the realignment of Sliding Hill along the Property. Utility easements (including storm sewer) shall be permitted within the buffer area so long as such easements are generally perpendicular to the buffer.

b. A variable width natural area shall be provided along Sliding Hill Road as shown on the Concept Plan as “APPROXIMATE LIMITS OF VARIABLE WIDTH NATURAL AREA”, with the exception of dead or diseased trees and vegetation, and the removal of trees as necessary for construction of improvements shown on the Concept Plan (such as for grading or roads) and for other engineering reasons, as approved at the time of site plan review. No buildings shall be constructed within such natural area. Utility easements (including storm sewer) shall be permitted within the buffer area so long as such easements are generally perpendicular to the buffer.

c. A variable width natural and landscaped area a minimum of one hundred (100) feet in width shall be provided, as generally shown on the Concept Plan, along the western edge of the Property adjoining any property designated as agricultural or residential zoning, with the exterior 20-40 feet in width of the 100 feet to be landscaped area per Sec. 26-266 of the County Code. Utility easements (including storm sewer) shall be permitted within the buffer area so long as such easements are generally perpendicular to the buffer, and access from Ashcake Road may be permitted as shown on the Concept Plan.

~~9. Parking Lot Lighting. Parking lot lighting fixtures shall not exceed 25 feet in height above grade level. As a minimum, directional lighting shall be used of an intensity measured to be no greater than 0.5 foot candles above background at the property line. Such lighting shall be shielded from direct view from any adjoining residential district or from any public right of way. All exterior lighting shall be reduced to the minimum level necessary for security during the close of business.~~

9. Parking Lot Lighting. Light poles within parking areas designated as “25’-30’ Fixture Mounting Height” on the “OVERALL LIGHTING PLAN” and dated March 20, 2020, (the “Lighting Plan”) shall not exceed thirty (30) feet in height. Light poles within areas designated as “≤ 45’ Fixture Mounting Height” shall not exceed forty-five (45) feet in height.

10. Utility Lines Underground. Except for major transmission lines and existing lines that now traverse the property, all utility lines, such as electric, telephone, CATV, or other similar lines shall be installed underground or located overhead along rear property lines. To the extent possible, utility service lines shall be located so as to minimize disturbance of any tree of 15 inch caliper or greater on site. All junction and access boxes, when located on sites fronting on Ashcake or Sliding Hill Roads shall be screened from view with landscaping.

11. Use Restrictions. Except for the following, all permitted uses in the M-2, Light Industrial District, shall be allowed:

~~d.e.~~ Animal, poultry, and bird raising, commercial.

~~e.f.~~ Tire retreading, recapping and vulcanizing (as a principal use).

~~f.g.~~ Coal and wood yards, coke storage and sales.

~~g.h.~~ Plating, electrolytic process.

~~h.i.~~ Poultry packing and slaughtering (wholesale).

~~i.j.~~ Outside storage or dispensing of bulk fertilizer.

~~j.k.~~ Insecticides, fungicides, disinfectants, and related industrial and household chemical elements (as a principal use).

~~k.l.~~ Animal hospital or animal pound.

~~l.m.~~ Kennels, boarding or otherwise.

12. Traffic. ~~The maximum density of this propertythe Property shall be that which does not generate in excess of 2710 a.m. and 2420 p.m. peak hour trips based on the trip generation rates as set forth in the Institute of Transportation Engineers Trip General Manual, 5th Edition, which density is, by way of example, equivalent to 2,258,718 square feet of general office space, unless such higher densities are approved by the Planning Director in conjunction with site plan reviews based on additional traffic studies. Notwithstanding the foregoing, the maximum density of building floor area on the Property shall be 1,700,000 square feet of floor area.~~

~~(a) Turn Lanes. Prior to issuance of any occupancy permit, the owner shall construct at the intersection of New Asheake and Sliding Hill Roads additional pavement so as to provide a right turn lane from New Asheake Road onto Sliding Hill Road and a right turn lane from Sliding Hill Road onto New Asheake Road. Such additional lanes shall be constructed in the existing right of way or on such additional right of way provided by the County at the expense of owner. No certificate of occupancy shall be refused based upon the County's inability to provide additional right of way (if required) in a timely fashion.~~

~~1. Right of way Dedication. The owner agrees to dedicate (but not construct) areas of the property for the improvement of public roads as follows:~~

~~(a) A 30 foot strip of land over the property measured from the existing centerline of Asheake Road for the full front of the property.~~

~~(b) An area not to exceed 100 feet in width for improvements to Sliding Hill Road, which area shall be located and measured no farther than 100 feet from the existing right of way line of Sliding Hill Road.~~

~~(c) An area for New Asheake Road Extended not to exceed 100 feet in width located in the general area of the dashed line shown on Exhibit A and as close to the western property boundary as feasible as long as VDOT alignment standards can be met.~~

~~(d) An area not to exceed 100 feet in width in the general area shown on Exhibit A as Relocated Asheake Road.~~

~~The specific areas for dedication shall be identified and agreed to at the time of subdivision. In the event the new roads shown on Exhibit A are not constructed within eighteen (18) years from the date of their dedication, the County shall reconvey to the owner any area dedicated but not constructed and the owner shall be relieved of any responsibility to so dedicate such property.~~

14. ~~13.~~ Right of Way Dedication. The owner agrees to dedicate the following right-of-way free of cost to the County of Hanover, Virginia (the "County"), upon the request of the County or the Virginia Department of Transportation ("VDOT"):

n. Thirty feet (30') of right-of-way measured from the centerline of Ashcake Road (State Route 657), which may be used for a shared use pedestrian and biking path;

o. Fifty feet (50') of right-of-way measured from the centerline of Sliding Hill Road (State Route 656), which may be used for a shared use pedestrian and biking path; and

p. Right-of-way for the purpose of realigning Sliding Hill Road (State Route 657) as generally shown on the Concept Plan as "PROPOSED SLIDING HILL ROAD INTERIM RE-ALIGNMENT" (the "Sliding Hill Realignment"). The final conceptual Sliding Hill Realignment shall conform to applicable VDOT geometric standards and be subject to mutual agreement of the Owner, the County and VDOT prior to site plan approval.

~~(b). 14. Accesses.~~ Except as provided below, there shall be no more than two (2) access points located along Sliding Hill Road, and no more than two (2) access points along Ashcake Road. No access centerline shall be located within 800 feet of the Sliding Hill/Ashcake intersection (measured at the point where the centerline of those roads intersects). No entrance shall be located within 200 feet of Countryside Lane (measured from centerline to centerline). No access shall be located directly across from Brown Grove Church. ~~The owner may be granted additional access points by the Planning Commission upon the submission of a Master Plan (which may be a preliminary subdivision plan) which identifies additional site access locations and internal street systems. Additional access points based~~

~~upon a Master Plan shall be permitted or denied by the Planning Commission at the sole discretion of the Commission. The owner shall construct left-turn lanes and right-turn lanes at each public road access. Such turn lanes shall be provided at each private site access from Sliding Hill and Asheake Roads if required by VDOT. For any access along Sliding Hill Road (other than an emergency only access), a sign shall be placed on such access prohibiting trucks from turning left from the Property onto~~
Sliding Hill Road.

~~12(e).~~ 15. Phasing. ~~Development on the site will be limited to trip generation of not more than 610 trips in the p.m. peak hour (based on ITE trip generation rates) prior to 4 laning of Sliding Hill Road from New Asheake Road to I-95. Upon the completion of the Sliding Hill improvements, total Total trip development on the Property shall be limited to not more than 1815 trips in the p.m. peak hours until such time as two (2) lanes of New Ashcake Road extended are constructed between Sliding Hill Road and Lewistown Road. In no event shall development on site exceed trip generation of more than 2420 trips in the p.m. In the event the owner desires to construct all or a portion of the aforementioned road improvements and is unable to acquire the off-site right-of-way necessary for such construction, the owner may request, in writing, the County to acquire such right-of-way as a public road improvement. All costs associated with the acquisition of the right- of-way shall be borne by the owner. In the event the County chooses not to assist the owner in acquisition of such right-of-way or is unable to acquire the right-of-way, the owner shall be relieved of the obligation to cap this development below 2420 trips in the P.M. In the event the new Ashcake Road extended improvements are made prior to the Sliding Hill improvements, the Planning Commission may, in its sole discretion, adjust the phasing caps, but in no event shall development on site exceed trip generation of more than 2420 trips in the P.M.~~

~~13. Merry Oaks Tavern Site. The owner agrees that within six (6) months from the date of the approval of this rezoning by the Board of Supervisors, a 2 acre site adjacent to Asheake Road may be designated an archaeological investigation site (the "Site") by the Hanover Historical Commission (the "Commission"). The site shall be identified by a metes and bounds survey and provided to the owner. The owner agrees that the Site will not be developed for a period of thirty six (36) months from the date of approval of this rezoning. During such thirty six (36) month period, the Commission, its agents and designees, may perform archaeological investigations in its sole discretion in order to inventory the cultural resources, if any, within the project area. Such archaeological investigations may include excavations, the recovery of artifacts and the mapping and identification of any particular areas that have historical significance. Upon completion of any such archaeological investigations, the owner will consult with the Commission regarding the dedication, sale, etc., of an appropriate area, if any, for preservation and/or interpretation. As a minimum, the owner will provide an area of no less than .2 acres to be chosen by the owner at a prominent location to be eventually accessible to the public, to surround a historical marker to commemorate past events of historical significance occurring on the property. The owner will consult with the Commission on the creation and location of such area and marker. In the event the site is needed for development prior to the end of the above referenced thirty six (36) month period, the owner will, at its sole cost and expense, conduct a phase I cultural resources documentation study. Such study shall be pursuant to guidelines adopted by the Virginia Historic Resources Department for phase I identification and prepared by a qualified archaeological consultant approved by the Department. The results of any such study shall be provided to the Commission and the owner will consult with the Commission regarding the dedication, sale, etc., of an appropriate area, if any, for preservation and/or interpretation. In any event, the owner shall erect a marker and provide the minimum area as set out above.~~

16. Road Improvements. The Owner agrees to undertake the following study and construct the following road improvements:

- a. Prepare a Signal Justification Study for the intersection of Sliding Hill Road and New Ashcake Road (the "Study Intersection") and submit the study to VDOT for review and approval or disapproval prior to site plan approval;
- b. Install either a traffic signal or other traffic control improvements at the Study Intersection, to ensure the safe movement of traffic through the Study Intersection, provided the cost of such improvements do not exceed five hundred thousand dollars (\$500,000). Such installation shall commence at such time as VDOT deems the improvement to be warranted.
- c. Should improvements referenced in 10.b. exceed the value referenced herein, a one-time cash contribution of five hundred thousand dollars (\$500,000) shall be made to Hanover County with such funds being used for the sole purpose of improving the Study Intersection.
- d. Should Hanover County undertake the funding and construction responsibilities for improving the aforesaid intersection, the Owner shall then be obligated to realign approximately 500 linear feet of Sliding Hill Road (State Route 656) within the additional right-of-way dedication area as depicted on the plan titled "WEGMANS VIRGINIA DISTRIBUTION CENTER PROPOSED SLIDING HILL ROAD INTERIM REALIGNMENT EXHIBIT" prepared by Timmons Group, and dated February 11, 2020.
- e. Install left and right turn lanes (only if warranted by VDOT) at the Main Entrance as depicted on the Concept Plan with the first phase of development.
- f. Install an acceleration lane from the main access along Sliding Hill Road heading west on Sliding Hill Road (as warranted by VDOT).
- g. All such improvements shall be designed and constructed in accordance with VDOT standards and specifications unless otherwise approved by the County and VDOT.

17. Cemetery Removal or Relocation. Should a grave or cemetery be discovered, and should the location of the grave or cemetery be in conflict with the Concept Plan and necessary infrastructure such as roads, drainage, and utilities, the grave or cemetery shall be relocated in accordance with the procedure administered by the Virginia Department of Historic Resources. The Owner shall be responsible for all costs and expenses associated with the cemetery removal or relocation.

~~15. Burial Grounds. Owner shall not disinter or displace any dead human body, or any part of a dead human body, which has been deposited in any vault, grave or other burial place. Any grave, object or structure marking a place of burial shall be identified on any subdivision or site plan. The owner shall allow access, after reasonable notice at his last known address, to representatives of local historical commissions or persons with identifiable ancestors buried to enter upon the land for the purpose of conducting official business or visiting ancestors graves sites. The owner shall provide and maintain suitable decorative metal fencing around any identifiable graves for the purpose of security and protection.~~

18. Tandem Trailers. Tractor-trailer trucks delivering product to and from the Property shall consist of single trailers only and use of tandem trailers (double trailers) is prohibited.

19. Operational Requirements. Unless a local delivery, any facility operator's trucks delivering product to and from the Property shall be subject to a procedural requirement that they access the site from Sliding Hill Road directly from I-95, unless another direct route from I-95 via New Ashcake Road Extended west of Sliding Hill Road is made available. All other trucks delivering product to and from the Property shall be instructed to follow the same access as described above.

20. Fencing. Any fence located along Ashcake Road and the portion of Sliding Hill Road as shown on the Concept Plan shall be opaque, such as a solid board on board type fence, or if a chain link fence, installed with an all-weather sound attenuation slat or panels specifically designed for such use.

~~16. Severance. The unenforceability, elimination, revision, or amendment of any proffer set forth herein, in whole or in part, shall not affect the validity or enforceability of other proffers or the unaffected part of any such proffer.~~

AIR PARK ASSOCIATES, L.P.

By: _____

Phillip W. Dean, General Partner

Date

COMMONWEALTH OF VIRGINIA,

COUNTY OF HANOVER, to-wit:

I, _____, do hereby certify that Phillip W. Dean, General Partner of Air Park Associates, L.P. has acknowledged the foregoing proffers before me, this _____ day of _____, 2020.

(SEAL)

Notary Public

My Commission Expires: _____ / _____ / _____