

RESOLUTION

CASE NO. SUP-0004-2010. COURTHOUSE COMMONS

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a Special Use Permit (SUP) process; and

WHEREAS, Mr. Gregory Davis has applied on behalf of New Town Six, LLC for an SUP to allow for the construction of commercial and/or office uses on approximately 9.1 acres zoned M-1, Limited Business/Industrial, District; and

WHEREAS, the proposed development is shown on a plan prepared by AES Consulting Engineers dated June 7, 2010, (the "Master Plan") and entitled "Courthouse Commons Shopping Center Special Use Permit;" and

WHEREAS, the property is located at 5223 and 5227 Monticello Avenue, 4023 and 4025 Ironbound Road, and 113 New Quarter Drive and can be further identified as James City County Real Estate Tax Map Parcel Nos. 3840100003G, 3840100003E, 3840100003F, 3840100004, 3840100004B, and 3840100004A (the "Property"); and

WHEREAS, the Planning Commission, following its public hearing on June 2, 2010, voted 4-2 to recommend denial of this application; and

WHEREAS, the Board of Supervisors of James City County, Virginia, finds this use to be consistent with the 2009 Comprehensive Plan Use Map designation for this Property.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the issuance of SUP-0004-2010 as described herein with the following conditions:

1. Master Plan: This Special Use Permit ("SUP") shall be valid for the construction of commercial/office uses located at 5223 and 5227 Monticello Avenue, 4023 and 4025 Ironbound Road, and 113 New Quarter Drive, also known as James City County Real Estate Tax Map Parcel Nos. 3840100003G, 3840100003E, 3840100003F, 3840100004, 3840100004B, and 3840100004A (the "Property"). The Property shall be developed generally as shown on the Master Plan drawn by AES Consulting Engineers entitled "Master Plan for Special Use Permit for Courthouse Commons" and date-stamped June 7, 2010 (the "Master Plan"). Minor changes may be permitted by the Development Review Committee (DRC), as long as they do not change the basic concept or character of the development.
2. Community Character Corridor (CCC) Buffer: A CCC right-of-way landscape area of no less than an average of 40 feet in width shall be provided along the Monticello Avenue frontage. In addition, between 40 and 50 feet from the right-of-way lines, any specimen trees, as defined in the Zoning Ordinance, will be identified on any landscape plans for Areas 1, 2 and 5, and shall be incorporated into the site design of the project and preserved to the maximum degree practicable, as determined by the Planning Director. Street trees to be located along the Monticello Avenue frontage, as described in the Design Guidelines, shall be located outside of the right-of-way landscape area required by Section 24-96 of the Zoning Ordinance, as approved by VDOT, and shall

not be used to meet the plant quantity or size and mixture requirements in the Zoning Ordinance for right-of-way landscape areas.

3. Archaeology: A Phase I Archaeological Study for the entire Property, other than previously developed parcels 3840100004, 3840100004A, and 3840100004B, shall be submitted to the Director of Planning for review and approval prior to land disturbance. A treatment plan shall be submitted and approved by the Director of Planning for all sites in the Phase I study that are recommended for a Phase II evaluation and/or identified as eligible for inclusion on the National Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the Director of Planning and a treatment plan for said sites shall be submitted to and approved by, the Director of Planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If in the Phase III study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study areas. All Phase I, Phase II, and Phase III studies shall meet the Virginia Department of Historic Resources' Guidelines for Preparing Archaeological Resource Management Reports and the Secretary of the Interior's Standards and Guidelines for Archaeological Documentation, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's Professional Qualification Standards. All approved treatment plans shall be incorporated into the plan of development for the Property and the clearing, grading, or construction activities thereon.
4. Stormwater Pre-Treatment: All stormwater run-off shall be filtered through a Hanson Stormceptor pre-treatment device or other comparable manufactured device, provided that it has been certified by Technology Acceptance and Reciprocity Partnership ("TARP") or New Jersey Corporation for Advanced Technology ("NJCAT") prior to its entering any underground infiltration or attenuation feature.
5. Stormwater Component Phasing: Prior to construction of any impervious areas in Areas 1-5 as shown on Master Plan Sheet 3, all proposed and approved stormwater components designed to treat said area(s) shall be in place and operational.
6. Special Stormwater Criteria: The County's Special Stormwater Criteria Policy adopted by the Board of Supervisors on December 14, 2004, shall apply to all areas of the Property, including areas in which stormwater is directed to the Mill Creek watershed.
7. Lighting: Any new exterior site lighting (excluding building lighting, which shall be similar in type and character to that permitted or in use within the New Town development) shall be comprised of recessed fixtures with no bulb, lens, or globe extending below the fixture housing. The housing shall be opaque and shall completely enclose the light source in such a manner that all light is directed downward and that the light source is not visible from the side of the fixture. Pole-mounted, pedestrian-scaled light fixtures shall not be mounted in excess of 15 feet in height above the finished grade beneath them. Light trespass, defined as light intensity measured at 0.1 foot-candle or higher extending beyond any property line, shall be prohibited.

8. Water Conservation: The owner of the Property ("Owner") shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority (the "JCSA") prior to final development plan approval. The standards shall include, but shall not be limited to, such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials including the use of drought-resistant native and other adopted low-water-use landscaping materials and warm-season turf where appropriate, and the use of water-conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.
9. Waterline Loop: The existing dead-end waterline in New Quarter Drive shall be looped to the waterline in Monticello Avenue. Such waterline loop shall be shown on the development plans for and shall be constructed prior to issuance of a Certificate of Occupancy (CO) for buildings in Master Plan Area 1.
10. Traffic: The following transportation improvements shall be constructed/completed to the Virginia Department of Transportation (VDOT) standards:
 - a. Widening of Old Ironbound Road northbound at Monticello Avenue to provide a northbound left-turn lane and a northbound shared left/through/right-turn lane.
 - b. Connection of primary New Town Six driveway at Monticello Avenue/Settler's Market signalized intersection with additions/modifications to traffic signal for vehicular traffic.
 - c. Addition of pedestrian signal on Monticello Avenue east of Settler's Market Boulevard to include crosswalk from curb to curb, modifications to median to provide flush pedestrian crosswalk, median pedestrian pushbutton, and modifications to curbing and/or pavement necessary for design of pedestrian facilities under VDOT design criteria.
 - d. Extension of full-width westbound left-turn lane on Monticello Avenue at New Town Six driveway to 275 feet to provide adequate storage capacity.
 - e. Connection of secondary New Town Six driveway to Old Ironbound Road at Ironbound cul-de-sac to include a 200-foot right-turn taper on Old Ironbound Road northbound at New Town Six secondary driveway.
 - f. Addition of stop bar and stop sign on New Quarter Road approach to Old Ironbound Road.

These improvements shall be shown on the initial plan of development for the Property and installed prior to issuance of a final CO for any structure on the Property.

11. Trip Generation Cap: Total trip generation from the Property shall not exceed 730 trips in the PM peak hour and 348 trips in the AM peak hour. PM and AM peak hour information shall be submitted for each proposed use on the Property prior to preliminary site plan approval, including a calculation of the total site peak hour trips based on built or other proposed uses. Trip generation may be based on calculations used in the revised Exhibit 10, the original version of which was in the DRW Consultants, LLC Courthouse Commons traffic study dated May 15, 2010, for the specific uses included in the traffic study. For any other types of uses proposed for this Property, trip generation shall be based on the most recent edition of the Institute of Traffic Engineers Trip Generation manuals, unless otherwise approved by the Director of Planning and VDOT.

12. Signal Optimization: The Owner of the Property shall provide to the Director of Planning and VDOT verification from a professional engineer licensed in the Commonwealth of Virginia and specializing in the area of transportation planning and traffic operations that the signal timing and signal coordination for those traffic signals along the Monticello Avenue corridor from Ironbound Road to News Road is optimized in accordance with VDOT policy and regulation. Such verification shall be provided within 12 months of issuance of a final CO for the commercial building in Area 1 of the Master Plan. Such verification shall be at the expense of the Owner of the Property and shall be based on the defined PM peak period (4-6 p.m.) travel time run (left and right through lanes [or left and center through lanes for three through lane sections] on westbound Monticello Avenue between Ironbound Road and News Road on a Tuesday, Wednesday or Thursday) performed/supervised by the Owner's traffic consultant or such other methods as may be requested by the Owner and approved by the Director of Planning and VDOT. If the travel time run or other methods used reflect that the signal timing and coordination is not optimized, then the Owner shall provide the Director of Planning and VDOT with a proposed signal optimization and coordination timing plan prepared in connection with this SUP. To fulfill the defined requirement, the signal timing plans must be approved and accepted by VDOT for field implementation. In addition, no sooner than 12 months after issuance of a final CO for 50,000 square feet on the Property and no later than July 1, 2016, the Owner shall submit a supplemental document that reflects and evaluates corridor conditions at that time and either re-affirms or amends the signal optimization and coordination timing plan, which shall also be at the expense of the Owner of the Property. Should amendments be indicated by the evaluation, they shall be approved by the Director of Planning and VDOT, and shall be implemented along the corridor. The timing of the signal optimization plan and supplement listed above can be modified with prior approval of the Planning Commission.

13. West Monticello Plan Transportation Improvements:

A. The following transportation improvements shall be constructed/completed to VDOT standards:

- Monticello Avenue: Exclusive right-turn lane westbound at WindsorMeade Way; adjust westbound right-turn radius and remove island at Old News Road; re-stripe for three westbound through lanes between Old News and Monticello Marketplace; and pave 10 feet of the existing 12-foot median for a second westbound left-turn lane at News Road.
- Ironbound Connector (News Road south of Monticello): Add an additional northbound through lane and for the southbound segment, realign the median and provide a dual right-turn lane onto Ironbound Road (and any associated improvements that may be necessary in terms of widening along southbound Ironbound Road to accommodate the proposed second right-turn lane).
- News Road (north of Monticello): Add a lane to provide a double southbound left turn.

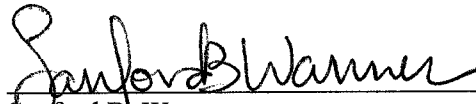
These improvements shall be shown on the initial plan of development for the Property and installed prior to issuance of a building permit for any structure on the Property.

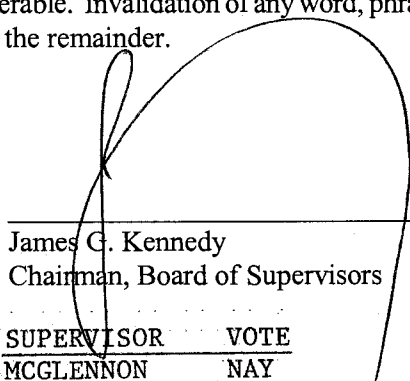
- B. Alternatively, the Owner shall provide a cash contribution toward completion of the improvements listed in Section A above. Such contribution would constitute 3.4 percent of \$2,425,000, or \$82,450. Such contribution shall be provided to the County prior to the issuance of a building permit for any structure on the Property.
14. Natural Resources Policy: A natural resource inventory of the Property, other than previously developed Parcels Nos. 3840100004, 3840100004A, and 3840100004B of suitable habitats for S1, S2, S3, G1, G2, or G3 resources in the project area, shall be submitted to the Director of Planning for review and approval prior to land disturbance. If the inventory confirms that a natural heritage resource either exists or could be supported by a portion of the Property, a conservation management plan shall be submitted to and approved by the Director of Planning for the affected area. All inventories and conservation management plans shall meet the Department of Conservation and Recreation Natural Heritage Program ("DCR-DNH") standards for preparing such plans and shall be conducted under the supervision of a qualified biologist as determined by the DCR-DNH or the United States Fish and Wildlife Service. All approved conservation management plans shall be incorporated into the plan of development for the site and the clearing, grading, or construction activities thereon, to the maximum extent possible. Upon approval by the Director of Planning, a mitigation plan may substitute for the incorporation of the conservation management plan into the plan of development for the Property.
15. Shared Maintenance of Site Improvements: Prior to final site plan approval for the initial site plan for the Property, Owner shall submit documentation demonstrating that all shared site improvements (including, but not limited to, utilities, stormwater facilities, landscaping, roads and parking lots, and lighting) are subject to appropriate shared maintenance agreements ensuring that the site improvements will be maintained continuously. Such documents shall be subject to review and approval of the County Attorney or his designee.
16. Design Review:
- A. The Property shall be developed generally in accordance with the design guidelines (the "Design Guidelines") prepared by AES Consulting Engineers and Hopke and Associates, Inc. entitled "Design Guidelines for Courthouse Commons" date-stamped May 27, 2010, subject to these Guidelines receiving final approval from the Design Review Board (DRB), which shall occur prior to submission of the first site plan for the Property. All architectural elevations, building materials, colors, signage, and other project elements shall be submitted to the Planning Director and the New Town DRB, for the DRB's review and approval for consistency with the Design Guidelines.
- B. Prior to final approval of a site plan for any development of the Property, a declaration of restrictive covenants shall be (i) submitted to and approved by the County Attorney for consistency with this condition and (ii) recorded among the records of the Office of the Clerk of the Circuit Court for the City of Williamsburg and County of James City (the "Clerk's Office") relating to design review. The declaration shall provide that all items listed in "A" above proposed for the Property shall be subject to review and approval by the New Town DRB as comprised and described in the New Town Proffers, dated December 9, 1997, and recorded in the Clerk's Office as Instrument No. 980001284. At the request of the Owner, decisions of the DRB pursuant to the declaration may be appealed to the

Development Review Committee of the Planning Commission (the "DRC") and modified and/or overturned at its discretion.

17. Limitation of Uses: As requested by the Owner, the following uses shall not be permitted on the Property:
- a) Adult day care centers;
 - b) Automobile sales and service;
 - c) Funeral homes;
 - d) Heavy equipment sales and service;
 - e) Kennels;
 - f) Manufacturing uses listed in County Code Section 24-411;
 - g) Nurseries;
 - h) Welding and machine shops; and
 - i) Vehicle and trailer sales and service.
18. Declaration of Restrictive Covenants: Prior to final approval of a site plan for any development of the Property, a declaration of restrictive covenants shall be (i) submitted to and approved by the County Attorney for consistency with this condition and (ii) recorded among the records of the office of the Clerk of the Circuit Court for the City of Williamsburg and County of James City (the "Clerk's Office"). The declaration shall incorporate all of the conditions described in this resolution and establish the same as private land use restrictions on the Property enforceable by the County as such, independent of this special use permit.
19. Commencement of Construction: If construction has not commenced on this project within 36 months from the issuance of an SUP, the SUP shall become void. Construction shall be defined as obtaining permits for building construction and footings and/or foundation has passed required inspections.
20. Severance Clause: This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

ATTEST:


Sanford B. Wanner
Clerk to the Board


James G. Kennedy
Chairman, Board of Supervisors

SUPERVISOR	VOTE
MCLENNON	NAY
GOODSON	AYE
ICENHOUR	NAY
JONES	AYE
KENNEDY	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of June, 2010.

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