

RESOLUTION

CASE NO. SUP-0002-2010. CVS AND FOOD LION AT

SOAP AND CANDLE FACTORY SITE

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. David Todd has applied on behalf of The Rebkee Company for an SUP to allow for the construction of a drive-through pharmacy/retail store on an approximately 1.8-acre parcel and a grocery store on an approximately 4.54-acre parcel of land zoned M-1, Limited Business/Industrial, District; and

WHEREAS, the proposed development is shown on a plan prepared by Kimley-Horn and Associates, Inc. dated March 16, 2010, (the "Master Plan") and entitled "CVS and Food Lion Master Plan"; and

WHEREAS, the property is located at 7521 Richmond Road and can be further identified as James City County Real Estate Tax Map Parcel No. 2321100001C (the "Property"); and

WHEREAS, the Planning Commission, following its public hearing on April 7, 2010, voted 7-0 to recommend approval 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-0002-2010, as described herein with the following conditions:

1. **Master Plan:** This SUP shall be valid for the construction of an approximately 13,600-square-foot, one-story-high, drive-through pharmacy/retail store building (the "CVS" store) and an approximately 34,928-square-foot grocery store building (the "Food Lion" store). The grocery store building may have a possible future expansion of approximately 7,000 square feet for the grocery store, or additional shop space. The property is located at 7521 Richmond Road and further identified as James City County Tax Map Parcel No. 2321100001C (the "Property"). Development and use of the Property shall be generally in accordance with and bound by the Master Plan entitled "CVS and Food Lion Master Plan," prepared by Kimley-Horn and Associates, date-stamped March 16,, 2010, (the "Master Plan") with such minor changes as the Development Review Committee determines does not change the basic concept or character of the development.
2. **Architectural Review:** Prior to final site plan approval, the Planning Director, or his designee, shall review and approve the final building elevations and architectural design for the CVS and the Food Lion. Such buildings shall be reasonably consistent, as determined by the Planning Director, or his designee, with the CVS architectural

elevations titled "CVS No. 75584 James City County, VA" and dated January 13, 2010, and the Food Lion architectural elevations titled "Food Market-Intersection of Rt. 60 and Croaker Road" dated February 2, 2010, submitted with this SUP application, and prepared by The Rebkee Company.

3. **Free-Standing Sign:** Prior to final site plan approval, the Planning Director, or his designee, shall review and approve the design and location of the ground-mounted signs for the Property for consistency with the Norge Community Character Area, as described in the James City County Comprehensive Plan. The sign base shall be made of brick and the colors and materials shall be similar to the CVS and Food Lion buildings.
4. **Dumpsters/HVAC Units:** All heating and cooling units visible from any public street or adjoining property shall be screened from view with landscaping or fencing. Dumpsters shall be screened from view by a brick enclosure (exclusive of doors). All screening devices must be approved by the Planning Director, or his designee, prior to final site plan approval.
5. **Water Conservation:** The 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 site plan approval. The standards may include, but shall not be limited to, such water conservation measures as limitations on the installation and use of irrigations systems and irrigations wells, the use of approved landscaping materials including the use of drought-tolerant plants, warm-season grasses, and the use of water-conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.
6. **Irrigation:** In the design phase, the developer and designing engineer shall take into consideration the design of stormwater systems that can be used to collect stormwater for outdoor water use for the entire development. Only surface water collected from surface water impoundments (the "Impoundments"), or water taken from an underground cistern, may be used for irrigating common areas on the Property (the "Irrigation"). In no circumstances shall the JCSA public water supply be used for Irrigation, except as otherwise provided by this condition. If the owner demonstrates to the satisfaction and approval of the General Manager of the JCSA through drainage area studies and irrigation water budgets that the impoundments cannot provide sufficient water for all Irrigation, the General Manager of the JCSA may, in writing, approve a shallow (less than 100 feet) irrigation well to supplement the water provided by the Impoundments.
7. **Subdivision:** Prior to approval of the Food Lion parcel subdivision plat, evidence must be provided to the County that JCSA has the ability to connect waterlines from the fire hydrant on the southeast corner of the parcel located at 7521 Richmond Road and further identified as James City County Real Estate Tax Map Parcel No. 2321100001C to the parcel directly to the south, located at 7551 Richmond Road and further identified as James City County Real Estate Tax Map No. 2321100001D, in perpetuity.

8. **BMP Discharge:** Overflows from any proposed Best Management Practices (BMPs) shall discharge to an adequate channel in accordance with State Minimum Standard No. 19 and shall not be conveyed through any of the adjacent parcels without an off-site drainage easement. All associated easements shall be of an appropriate width to permit access for maintenance of the channel and any associated appurtenances such as outlet protection, flow control devices, channel linings, etc. Said easement shall be in place prior to the issuance of a Land Disturbing Permit.
9. **Landscape Plan:** Prior to final site plan approval, the Planning Director, or his designee, shall review and approve a landscape plan for this development. The landscape plan shall meet all applicable zoning ordinance requirements and shall include at a minimum: (i) enhanced landscaping within the northern 50-foot landscape buffer along Richmond Road, (ii) enhanced landscaping within the western 30-foot landscape buffer along Croaker Road, (iii) enhanced landscaping along the southern property line. Enhanced landscaping is hereby defined as 125 percent of the size requirements of the James City County Landscape Ordinance.
10. **Impervious Coverage:** Prior to final site plan approval, the applicant must demonstrate compliance with the provisions of Section 23-9(b)(1)(b) of the County's Chesapeake Bay Preservation Ordinance. Demonstration of equivalent water quality will be through compliance with guidelines established by the Environmental Director.
11. **Exterior Lighting:** All new exterior light fixtures, including building lighting, on the Property shall have recessed fixtures with no lens, bulb, or globe extending below the casing. In addition, a lighting plan shall be submitted to and approved by the Planning Director, or his designee, which indicates no glare outside the property lines. All light poles shall not exceed 20 feet in height unless otherwise approved by the Planning Director, or his designee, prior to final site plan approval. "Glare" shall be defined as more than 0.1 foot-candle at the property line or any direct view of the lighting source from the adjoining properties.
12. **Internal Traffic Signage Plan:** The applicant shall include along with the materials submitted as part of the site plan review process for this development, an internal signage plan indicating the location of internal traffic signs and the orientation of vehicular flow within the Property. The internal signage plan shall be reviewed and approved by the Planning Director, or his designee, concurrently with the site plan submission for this project.
13. **Roadway Improvements:** Prior to issuance of a Certificate of Occupancy (CO) for the Food Lion, the road improvements listed below shall be constructed or bonded in a manner acceptable to the County Attorney:
 - a. At the intersection of Richmond Road (U.S. Route 60) and Croaker Road (State Route 607):
 - (i) The northbound approach shall include one exclusive left-turn lane with 200 feet of storage and a 100-foot taper;
 - (ii) An eastbound right-turn lane with a 200-foot taper must be provided;
 - (iii) The eastbound left-turn lane shall be lengthened to 200 feet of storage and a 200-foot taper;
 - (iv) The westbound left-turn lane shall be lengthened to 300 feet of storage and a 200-foot taper.

Prior to issuance of a CO for the CVS, the road improvements listed below shall be completed at the following intersections:

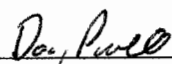
- b. At the right-in and right-out entrance to the development from Richmond Road (U.S Route 60):
 - (i) The existing entrance into the Candle Factory complex from Richmond Road will be relocated to 430 feet east of the Richmond Road Croaker Road intersection; and
 - (ii) A right-turn lane shall be provided, with 100-feet of storage and a 200-foot taper on eastbound Richmond Road shall be provided at this entrance.

The applicant shall construct westbound dual left-turn lanes on Richmond Road and all associated Virginia Department of Transportation (VDOT) requirements (which includes a receiving lane) at the intersection with Croaker Road upon the request of the County or VDOT but no later than April 7, 2017. The applicant shall submit a traffic impact study to the County and VDOT within three years of the date of approval of this SUP to determine the construction timing of the dual left-turn lanes, unless a study is required by VDOT prior to that date. The submission of the traffic impact study may be delayed upon request and approval of the Director of Planning and VDOT. This request must demonstrate that the dual left-turn lanes are not warranted due to development timing.

- 14. **Shared Access Easement:** Prior to issuance of a CO for either the CVS or the Food Lion, the applicant shall demonstrate to the satisfaction of the County Attorney that shared access easements have been obtained and recorded, as applicable, allowing vehicular access to the Property. This includes the entrance being relocated 430 feet east of the intersection of Croaker Road (Route 607) and Richmond Road (U.S. Route 60), off Richmond Road, and the existing entrance located across from Croaker Road.
- 15. **Church Entrance Realignment:** Prior to the issuance of a CO for the Food Lion the entrance to the Crosswalk Community Church must be realigned with the proposed entrance to the Food Lion as shown on the Master Plan. The realignment must not prevent access to the church and should not pose any safety risk to visitors of the church.
- 16. **Bike Lane:** Prior to issuance of a CO for the CVS, a VDOT standard shoulder bike lane along the front of the Property adjacent to Richmond Road (U.S. Route 60) shall be provided. This bike lane shall be depicted in the site plan for the Property.
- 17. **Sidewalk:** Should the construction of the proposed CVS or Food Lion building start on the Property prior to construction of any building at adjacent parcels located at 7551 and 7567 Richmond Road, The Rebkee Company shall provide and construct along the length of the northwestern property line a portion of the eight-foot-wide concrete or asphalt shared use path referenced by the Master Plan titled "Master Plan for Rezoning of Candle Factory Property for Candle Development, LLC." Construction shall be hereby defined as obtaining permits for building construction and installation of footings and foundations.

18. **Shared Parking Agreement:** Prior to the issuance of a CO for the Food Lion, a shared parking agreement shall demonstrate to the satisfaction of the County Attorney that both the CVS and the Food Lion will have access to adequate parking. Proffer No. 6, from Case No. Z-0003-1997, requiring shared parking for Parcel No. 2321100001B on the Property must also be satisfied.
19. **Parking Analysis:** Prior to application for a site plan to expand the Food Lion building (the "Expansion"), a parking analysis shall be prepared and submitted to the Planning Director for review and approval. If after review of the parking analysis, the Planning Director determines that the expansion requires additional parking spaces beyond that which is already provided, the site plan for the Expansion must accommodate such additional parking spaces.
20. **LEED Certification:** The property owner shall achieve LEED (Leadership in Energy and Environmental Design) certification for the Food Lion, as set forth in the U.S. Green Building Councils (USGBC) Rating System for the LEED certification program. Alternatively, the property owner shall use "green building" techniques consistent with the USGBC or a similar organization's guidelines, as approved by the Director of Planning. Green building techniques may include recycling waste material from the demolition of the existing strip development, using Certified Wood from renewable sources for all new construction, recycling groundwater for irrigation of landscaping, and requiring the use of environmentally preferable cleaning products. Documentation of such practices shall be provided to the Director of Planning prior to receipt of final Certificate of Occupancy upon his request.
21. **Commencement of Use:** Use of the Property as described in this SUP shall commence within 36 months from the date of approval of this SUP or this permit shall be void. Use shall be defined as obtaining business license(s) for permitted uses, opening for business with regular business hours, and/or obtaining permits for building construction and installation of footings and foundations.
22. **Severance Clause:** This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

ATTEST:



Doug Powell
Deputy Clerk to the Board

James G. Kennedy	
Chairman, Board of Supervisors	
SUPERVISOR	VOTE
MCGLENNON	NAY
GOODSON	AYE
ICENHOUR	NAY
JONES	AYE
KENNEDY	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of May,
2010.