

RESOLUTION

CASE NO. SUP-0012-2017. WENDY'S-TOANO

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

WHEREAS, American Dync Holdings Toano, LLC and Hornsby Investment Company (the "Owners") own property located at 9210 Old Stage Road, 9220 Old Stage Road, and 9131 Barhamsville Road, further identified as James City County Real Estate Tax Map Parcel Nos. 0440100032, 0440100016 and 0530100002, respectively (together, the "Property"); and

WHEREAS, on behalf of the Owners, Mr. David Barlow of CHA Consulting Inc. has applied for an SUP to allow construction of a fast food restaurant on the Property, as shown on the exhibit titled "Wendy's-Toano James City County, VA SUP" prepared by CHA Consulting Inc., dated December 21, 2017; and

WHEREAS, a public hearing was advertised, adjoining property owners notified and a hearing conducted on Case No. SUP-0012-2017; and

WHEREAS, the Planning Commission, following its public hearing on March 7, 2018, recommended approval of the application by a vote of 6-1.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, after consideration of the factors in Section 24-9 of the James City County Code, does hereby approve the issuance of Case No. SUP-0012-2017 as described herein with the following conditions:

1. *Master Plan:* This SUP shall apply to certain portions of properties located at 9210 Old Stage Road, 9220 Old Stage Road and 9131 Barhamsville Road, which are further identified as James City County Real Estate Tax Map Nos. 0440100032, 0440100016 and 0530100002, respectively (the "Parcels") as shown on the Master Plan entitled, "Wendy's-Toano James City County, VA SUP" prepared by CHA Consulting Inc., dated December 21, 2017 (the "Master Plan"). The SUP shall be valid for a drive-through fast food restaurant of up to 3,324 square feet (the "Restaurant"). All final development plans shall be consistent with the Master Plan as determined by the Director of Planning with any deviations considered per Section 24-23(a)(2) of the Zoning Ordinance, as amended.
2. *Subdivision:* Prior to issuance of final site plan approval for the Restaurant, the boundary lines of the Parcels shall be adjusted by recordation of a subdivision plat to ensure that those portions of the Parcels containing the Restaurant and subject to this SUP shall be contained on one parcel of property (the "Property").

3. *Sewer Crossing:* Prior to final site plan approval, the final design of the septic system shall be subject to the review and approval of the Director of Stormwater and Resource Protection for consistency with this condition. At a minimum, the sewer line shall be constructed of high-density polyethylene pipe material with a minimum Standard Dimension Ratio of 11. All parts of the sewer system that are within a Resource Protection Area (RPA) shall be (i) located underground, (ii) so located as to minimize disturbance to the RPA, (iii) located within an outer protective sleeve, and (iv) contain a leak detection system. Directional drilling through the RPA shall not be permitted. In no instance shall the sewer line be located inside of the seaward 50 feet of the RPA.
4. *Internal Pedestrian Connections:* Internal pedestrian connections shall be provided, including, but *not* be limited to, wherever sidewalks enter the parking area or cross any entrance to the Property or drive-through lane, and shall provide safe connections from the property located at 9220 Old Stage Road. The connections shall be clearly delineated by use of a different color of pavement, brick pavers or some other method determined to be acceptable by the Director of Planning. The connections shall be shown on the approved final site plan. Prior to the issuance of a Certificate of Occupancy for the Restaurant, internal pedestrian connections shown on the final site plan shall be installed or guaranteed with a surety to the County in an amount acceptable to the Director of Planning.
5. *Architectural Review:* Exterior building materials and colors for all structures on the Property shall be generally consistent with the drawing entitled "Wendy's 9220 Old Stage Rd Toano, VA" prepared by Wallin & Gomez Architects, Ltd. The Director of Planning, or his designee, shall review and approve the final building elevations, architectural design and samples of building materials and colors for all structures prior to final site plan approval. In the event the Director of Planning disapproves the architectural elevations, the decision may be appealed to the Development Review Committee, which shall forward a recommendation to the Planning Commission.
6. *Screening of Site Features:* All dumpsters and ground-mounted HVAC and mechanical units shall be screened by an enclosure composed of masonry, closed cell PVC, prefinished metal, or cementitious panels in detail and colors to blend with adjacent building materials. Where present, such features shall be shown on the site plan for the adjacent building and shall be reviewed and approved by the Director of Planning prior to final site plan approval for consistency with this condition.
7. *Canopies:* Canopies and associated mounting structures on the Property shall use neutral colors and building materials similar to the Restaurant. Prior to issuance of site plan approval, the Director of Planning or his designee shall review and approve the final design and colors of any canopies for consistency with this condition.
8. *Signage:* All building face signage shall be externally illuminated or use backlit or channeled lettered lighting as defined in Section 24-67 of the Zoning Ordinance. For any backlit or channeled lettered signs, the sign shall meet the criteria listed in Section 24-72 of the Zoning Ordinance, or successor section. In addition to any building face signage as permitted by the Zoning Ordinance, the Restaurant may have one exterior freestanding sign. The freestanding sign shall be externally

illuminated, monument style, not exceed eight feet in height and have a base of brick or other materials similar in type and color to the architecture of the Restaurant.

9. *Landscaping:* A landscaping plan for the Property shall be approved by the Director of Planning or his designee prior to final site plan approval. Prior to the issuance of a Certificate of Occupancy for the Restaurant, landscaping shown on the plan shall be installed or guaranteed with a surety to the County in an amount acceptable to the Director of Planning. The 50-foot Open/Agricultural Community Character Corridor buffer along Old Stage Road shall meet the Community Character Buffer guidelines adopted by the Board of Supervisors.
10. *Archaeology:* A Phase I Archaeological Study for the Property shall be submitted to and approved by the Director of Planning prior to land disturbance approval for the Restaurant. A treatment plan shall be submitted to 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 being 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 preliminary approval 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 site and the clearing, grading or construction activities thereon.
11. *Commencement:* Construction on the Restaurant shall commence within 36 months from the date of approval of this SUP or this SUP shall be void. Construction shall be defined as obtaining building permits and an approved footing inspection and/or foundation inspection.
12. *Severability:* This SUP is not severable. Invalidation of any word, phrase, clause, sentence or paragraph shall invalidate the remainder.

Ruth M. Larson

Ruth M. Larson
Chairman, Board of Supervisors

ATTEST:

Teresa J. Fellows
Teresa J. Fellows
Deputy Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MC GLENNON	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ICENHOUR	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SADLER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HIPPLE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
LARSON	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of April, 2018.

SUP12-17WendysTno-res