

A G E N D A
JAMES CITY COUNTY BOARD OF ZONING APPEALS
REGULAR MEETING
James City County Government Center, Building F Board Room
101 Mounts Bay Road, Williamsburg VA 23185
June 2, 2022
5:00 PM

- A. **CALL TO ORDER**
- B. **ROLL CALL**
- C. **OLD BUSINESS**
- D. **NEW BUSINESS**
 - 1. BZA-22-0002. 6910 Richmond Road - Zoning Administrator's Determination Appeal
- E. **MINUTES**
 - 1. May 5, 2022 Meeting Minutes
- F. **MATTERS OF SPECIAL PRIVILEGE**
- G. **ADJOURNMENT**

ITEM SUMMARY

DATE: 6/2/2022

TO: The Board of Zoning Appeals

FROM: Christy H. Parrish, Zoning Administrator

SUBJECT: Case No. BZA-22-0002. 6910 Richmond Road - Zoning Administrator's Determination Appeal

ATTACHMENTS:

	Description	Type
☐	Memorandum	Cover Memo
☐	Signed Appeal with Legislative Materials	Exhibit
☐	Resolution to uphold	Resolution
☐	Resolution to overturn	Resolution

REVIEWERS:

Department	Reviewer	Action	Date
Board of Zoning Appeals	Secretary, BZA	Approved	5/26/2022 - 10:48 AM
Publication Management	Daniel, Martha	Approved	5/26/2022 - 10:50 AM
Board of Zoning Appeals Secretary	Secretary, BZA	Approved	5/26/2022 - 10:51 AM

MEMORANDUM

DATE: June 2, 2022

TO: The Board of Zoning Appeals

FROM: Christy H. Parrish, Zoning Administrator

SUBJECT: Case No. BZA-22-0002. 6910 Richmond Road - Zoning Administrator's Determination Appeal

Mr. Vernon Geddy, III, Attorney at Law, on behalf of Action Park of Williamsburg, VA Inc., is appealing the Zoning Administrator's determination on February 23, 2022, that a "Conceptual Plan Supplied by the Applicant" at the time of the rezoning of the property and issuance of a Special Use Permit ("SUP") for Go Karts Plus constitutes a binding master plan.

The property is currently located in B-1, General Business and can be further identified as James City County Real Estate Tax Map No. 2430100015. This appeal is in accordance with § 15.2-2311 of the Code of Virginia.

Background

Go Karts Plus was located on two separate lots prior to 2011. The northern parcel received an SUP in 1989 (SUP-0036-1988/SUP-0003-1989) to allow for an outdoor center of amusement.

The southern parcel, originally zoned A-1, General Agriculture was rezoned (Z-0010-1994) and received an SUP in 1995 (SUP-0034-1994) to allow for an outdoor center of amusement. In 1996, the southern parcel received an SUP (SUP-0081-1996) to extend the commencement of construction associated with SUP-0034-1994 by one year and removed two conditions that were previously satisfied.

While the property line between the southern and northern parcels was extinguished in 2011, the applicable legislative approvals and conditions remain.

The Planning Division received a conceptual plan request in 2019 for a proposed elevated go kart track to be constructed on the southern portion of the property. Section 24-23 of the Zoning Ordinance states that "Final development plans may be approved after approval of a master plan by the board of supervisors. All final development plans shall be consistent with the master plan" but may deviate from the master plan as approved by the Director of Planning. After review of the referenced conceptual plan, the Planning Director determined that the conceptual plan was inconsistent with the master plan considered by the Board of Supervisors, thus, necessitating either a formal amendment request per Section 24-13 of the Ordinance, or an appeal of the Planning Director's consistency determination to the Planning Commission.

Interpretation

Section 24-5 of the James City County Code requires the Zoning Administrator to administer and enforce Chapter 24 - Zoning of the James City County Code (the "Zoning Ordinance").

A Zoning Administrator's determination was requested on whether the Property is subject to a master plan. Upon reviewing the legislative consideration found in the records for the SUP and Rezoning for this portion of the Property, a plan entitled "Conceptual Plan Supplied by the Applicant" (the "Plan") was identified. This Plan showed the approximate location of the attractions for the proposed facility and was reflected in

the staff report and legislative materials and provided to the Planning Commission and Board of Supervisors.

Section 24-9 of the James City County Zoning Ordinance (the "Ordinance") states that "In considering an application for a special use permit in those districts allowing them, the planning commission and the board of supervisors shall give due regard to the James City County Comprehensive Plan, the nature and condition of adjacent uses and structures, and the probable effect upon them of the proposed special use permit. They shall also take into account the special characteristics, design, location, construction, methods and hours of operation, effect on traffic conditions, or any other aspects of the particular use or structure that may be proposed by the applicant."

It was concluded that as part of the legislative consideration and approval of SUP-0034-1994 and SUP-0008-1996, the applicant committed to the scope of the proposed development as represented by the Plan submitted as part of Z-0010-1994. In addition, the SUP conditions were drafted in consideration of that proposed development and that the Plan serves as the "master plan" for the current specially permitted use. The Planning Commission and Board of Supervisors could not appropriately condition a use different in scope from the development proposed during the legislative process. After consulting with the Director of Community Development and the County Attorney's Office, I determined that the Plan that was submitted and reflected in the staff report and legislative materials for the Property served as the master plan for the current specially permitted use. Therefore, the proposed elevated go kart track must be found consistent by the Planning Director as prescribed in Section 24-23 of the Ordinance.

Recommendation

Staff recommends that the Board of Zoning Appeals uphold the Zoning Administrator's interpretation regarding this matter.

CHP/md

BZA22-2_6910RichRdAppeal-mem

Attachments

1. Signed Appeal with Legislative Materials
2. Resolution to uphold
3. Resolution to overturn

Appeal to Board of Zoning Appeals

Action Park of Williamsburg, owner and operator of Go-Karts Plus located at 6910 Richmond Road, is appealing a decision of the Zoning Administrator dated February 23, 2022, copy attached. The Zoning Administrator has ruled that a plan entitled “Conceptual Plan Supplied by the Applicant” copy attached (the “Conceptual Plan”), constitutes a binding master plan for the project.

Brief History. The original Go-Karts Plus facility consisted of 4.27 acres zoned B-1. Action Park was granted a Special Use Permit to allow an outdoor center of amusement, SUP-36-88, in January 1989 by the Board of Supervisors. The Special Use Permit was amended on March 6, 1989, by the Board of Supervisors by the adoption of SUP-3-89. SUP-3-89, copy attached, imposes eight conditions on the operation of the facility. None reference any plan for the project.

In 1995, in cases Z-10-94 and SUP-34-94, Action Park of Williamsburg applied to rezone a parcel of 3.84 acres immediately adjacent to the existing Go-Karts Plus from A-1 to B-1 and for a Special Use Permit to allow an outdoor center of amusement on the new property to permit the expansion of Go-Karts Plus. In connection with this rezoning and Special Use Permit, the applicant submitted the Conceptual Plan to the County. On the zoning application, the applicant checked the box confirming that “A Conceptual Plan of the project is attached.” The Board of Supervisors approved the requested rezoning and special use permit on February 21, 1995, copies of the Board resolution approving the rezoning and of SUP-34-94 are attached. There were no zoning proffers made in connection with the rezoning and there is no reference to the conceptual plan in SUP-34-94. SUP-34-94 expired by its terms on February 21, 1996.

In 1996, Action Park of Williamsburg applied for and received a new Special Use Permit, SUP-8-96, copy attached, which remains in force today. Again, there is no reference to the

conceptual plan in SUP-8-96. Copies of all the referenced special use permits and the County Staff reports are attached hereto.

The Conceptual Plan. The Conceptual Plan is a hand drawn plan prepared by Jeff Miller, now President of Action Park of Williamsburg. The Conceptual Plan was prepared per the rezoning application to give staff a general idea of the applicant's plans. It is exactly what it was titled – a conceptual plan. The County now has a conceptual plan review process. The Planning Department website states that a conceptual plan helps staff get a general idea for the proposed project and gives the chance for early discussion about potential site design issues before significant investment in engineering fees. By contrast where the Zoning Ordinance requires a master plan, it spells out in detail the binding nature of the plan and detailed requirements for its content.

Appeal. The Zoning Administrator's decision states "the Plan, that was submitted and reflected in the staff report and legislative materials for the property serves as the master plan for the current specially permitted use."

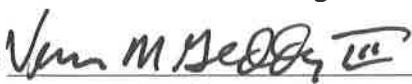
There are three ways a plan submitted by an applicant in a legislative land use case can be made a binding master plan. The applicable provisions of the County Zoning Ordinance can require a binding master plan, the applicant can proffer a binding master plan or the County can impose a condition in a special use permit imposing a binding master plan. None of these are present here. The applicable County Zoning Ordinance provisions at the time did not require submittal of a binding master plan. The Conceptual Plan was not proffered – there are no proffers applicable to the property. Finally, there is no condition in any of the Special Use Permits even referencing the Conceptual Plan. The mere fact a conceptual plan was included in a submittal and transmitted to the Board of Supervisors does not transform it into a binding master plan.

As noted, there is no reference to the Conceptual Plan in any of the Special Use Permits granted for this use. By contrast a copy of SUP-21-0017 is attached (countless other examples could be provided as well). See the first condition of the Special Use Permit. When the Board of Supervisors intends for a plan to be a binding master plan, they clearly know how to accomplish that goal by SUP condition. The only reference to the Conceptual Plan in the staff reports is in one paragraph in the staff report to the Planning Commission in cases Z-10-94 and SUP-34-94. That reference demonstrates the non-binding nature of the Conceptual Plan. It states that plans for two of the three attractions shown on the Conceptual Plan had been dropped by the applicant. There is no reference to the Conceptual Plan in the staff report to the Board of Supervisors. Certainly, if this Conceptual Plans was intended to bind future development of the site, the County would have required an updated and accurate plan be submitted and it would have been discussed as a binding plan in the staff analysis and report and made binding by a specific condition in the relevant Special Use Permit.

In 2004, Action Park proposed a new attraction known as the "Disk "O" located on the portion of the property governed by SUP-8-96. The Disk "O" ride is 32 feet tall and encompasses approximately 2,700 square feet. The Disk "O" is not shown on the Conceptual Plan. The only County approval required for the Disk "O" was site plan approval. There was no mention of a master plan in that entire review process.

In summary, Action Park of Williamsburg respectfully submits that the decision of the Zoning Administrator is simply wrong both as a legal and factual matter.

Action Park of Williamsburg

By: 
Vernon M. Geddy, III, Its Attorney



Community Development
101-A Mounts Bay Road
P.O. Box 8784
Williamsburg, VA 23187-8784
P: 757-253-6671
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community.development@jamescitycountyva.gov

jamescitycountyva.gov

Building Safety & Permits 757-253-6620	Engineering & Resource Protection 757-253-6670	Neighborhood Development 757-253-6640	Planning 757-253-6685	Zoning Enforcement 757-253-6671
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February 23, 2022

Mr. Vernon Geddy, III
vgeddy@ghfhlaw.com
Geddy, Harris, Franck, Hickman, LLP
P. O. Box 379
Williamsburg VA 23187-0379

Re: C-19-0015, Go Karts Plus Elevated Track
6910 Richmond Road

Dear Mr. Geddy,

As you are aware, the Planning Division received a conceptual plan request in 2019 for a proposed elevated go kart track to be constructed on the southern portion of the property located at 6910 Richmond Road (the "Property"). The Property is zoned B-1, General Business and is being used for an outdoor center of amusement known as Go Karts Plus.

Go Karts Plus was located on two separate lots prior to 2011. The northern parcel received a Special Use Permit ("SUP") in 1989 (SUP-0036-1988) to allow for an outdoor center of amusement. The southern parcel, originally zoned A-1 General Agriculture was rezoned (Z-0010-1994) and received an SUP in 1995 (SUP-0034-1994) to allow for an outdoor center of amusement. In 1996, the southern parcel received an SUP (SUP-0081-1996) to extend the commencement of construction associated with SUP-0034-1994 by one year and removed two conditions that were previously satisfied.

You have asked for a determination on whether the proposed elevated go kart track to be located on the Property is subject to a master plan. Upon reviewing the legislative consideration found in the records for the SUP and Rezoning for this portion of the Property, a plan entitled "Conceptual Plan Supplied by the Applicant" (the "Plan") was identified. This Plan showed the approximate location of the attractions for the proposed facility and was reflected in the staff report and legislative materials.

Section 24-9 of the James City County Zoning Ordinance (the "Ordinance") states that *"In considering an application for a special use permit in those districts allowing them, the planning commission and the board of supervisors shall give due regard to the James City County Comprehensive Plan, the nature and condition of adjacent uses and structures, and the probable effect upon them of the proposed special use permit. They shall also take into account the special characteristics, design, location, construction, methods and hours of operation, effect on traffic conditions, or any other aspects of the particular use or structure that may be proposed by the applicant."*

After consulting with the Director of Community Development and the County Attorney's office, it is my opinion that the Plan that was submitted and reflected in the staff report and legislative materials for the Property serves as the master plan for the current specially permitted use. Therefore, the proposed elevated go kart track must be found consistent by the Planning Director as prescribed in Section 24-23 of the Ordinance.

In accordance with section 15.2-2311 of the *Code of Virginia*, 1950, as amended, you have thirty (30) days from this date to appeal this decision to the Board of Zoning Appeals. If not appealed within thirty (30) days from this date, this decision shall be final and unappealable. The applicable appeal fee is \$525. Additional information regarding the filing of an appeal can be found in Sections 24-663 and 24-664 of the Zoning Ordinance and at

https://library.municode.com/va/james_city_county/codes/code_of_ordinances?nodeId=CD_ORD_CH24ZO_ARTVIIIAP

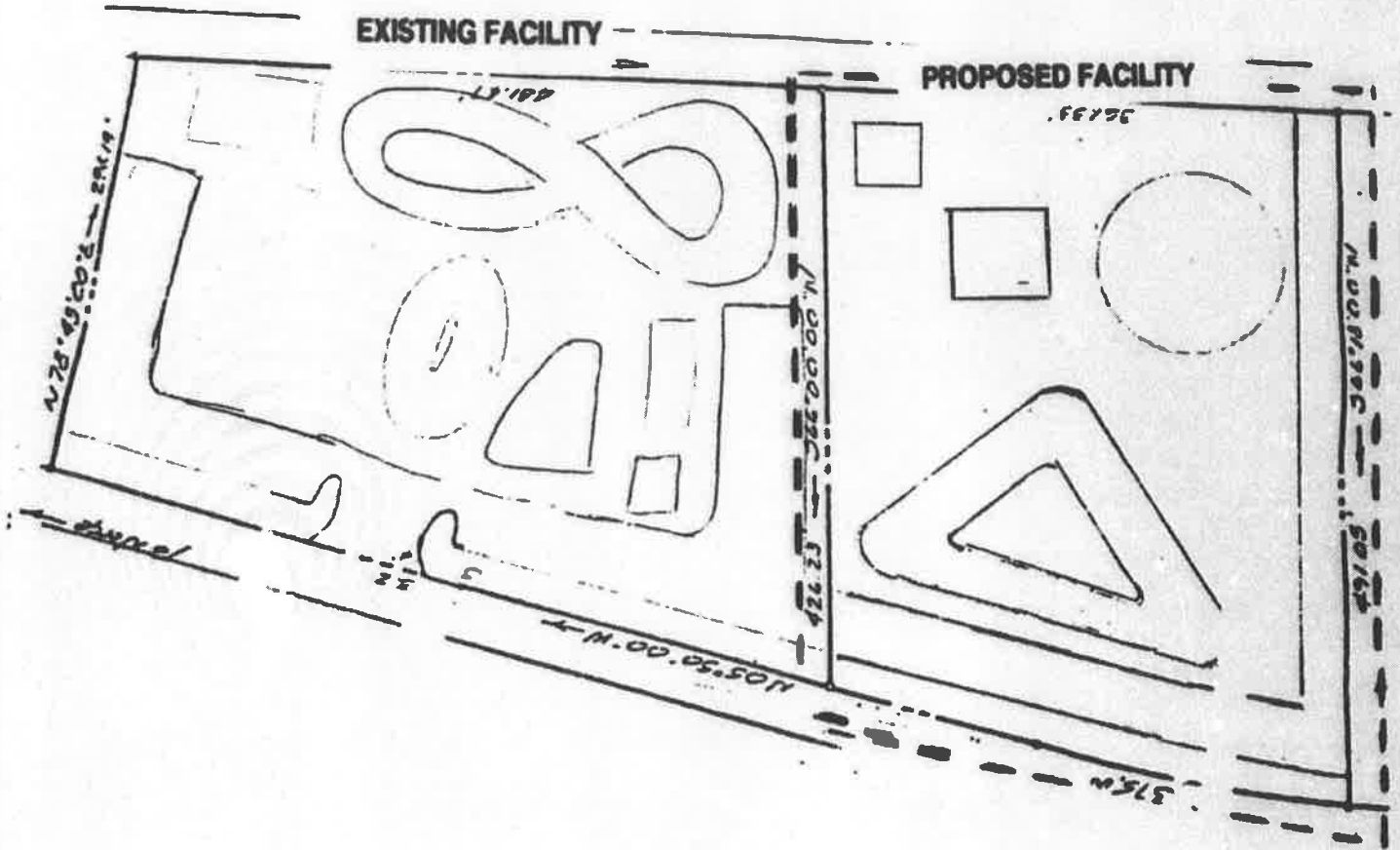
Respectfully,



Christy H. Parrish
Zoning Administrator

CC: Action Park of Williamsburg VA Inc. (6901 Richmond Road Williamsburg VA 23188-7211)
Mr. Paul Holt, Director of Community Development / Planning Director
Ms. Elizabeth Parman, Assistant County Attorney
Mr. Tom Lininger, Principal Planner

**CONCEPTUAL PLAN
SUPPLIED BY
APPLICANT**



SCALE 1"=400 Feet

N

Case No: Z-10-94 & SUP-34-94
Name : GO KARTS PLUS

Attachment 4



PLANNING DIVISION

MEMORANDUM

DATE: January 9, 1969
TO: The Board of Supervisors
FROM: O. Marvin Sowers, Jr., Director of Planning
SUBJECT: Case No. SUP-36-68. Robert E. Miller

BEST POSSIBLE

--- CITY ---

Mr. Robert E. Miller has applied for a special use permit to allow an outdoor amusement center within the B-1, General Business District. The property covering 4.3 acres is located at 6910 Richmond Road and presently contains a water slide which is an abandoned use not permitted under current zoning. The entire existing water slide is proposed to be removed, and the hill would be reduced to an elevation of approximately 6 feet. Proposed rides include mini-race cars, miniature golf, arcade, and various other rides and amusements. This property is located approximately 400 feet north of the Williamsburg Pottery Outlet and is further identified as Parcel (1-15) on James City County Real Estate Tax Map Number (24-3).

Utilities

There is a 16-inch water main along the west side of Richmond Road and a 18-inch sanitary sewer force main along the east side of Richmond Road. Connections to the water and sewer mains would be required.

Traffic

Use of the existing single driveway access is proposed. It is located between existing crossovers on Richmond Road, approximately 300 feet from the east crossover and 650 feet from the west crossover. The Virginia Department of Transportation states that they "have no objections to the application at this time." The site is located in the vicinity of the Williamsburg Pottery Outlet, which during peak hours can generate a substantial amount of traffic. The site is approximately 2,300 feet from the main entrance to the Pottery. Based on available generation rates, average daily trips to the site could reach 950 trips. As an illustration, a 24-hour convenience market with a gross floor area of 2,500 feet, which could be placed on this site, would generate approximately 1,560 trips per day. Traffic impacts on the area should be decreased because of the distance between the proposed entrance and that of the Pottery; the ability to only make right turns in and out of the site; the location of a left-turn lane at the west crossover; the use of one entrance; and expected differences in peak hour traffic.

ATTACHMENT 4

Case no. SUP-34
January 9, 1969
Page 2

Robert E. Miller

BEST POSSIBLE
--- COPY ---

Noise

It has been determined that noise produced by the proposed use (including mini race cars) would be less than or equal to the noise emanating from Richmond Road.

Comprehensive Plan

The Comprehensive Plan designates this area as "Tourist Commercial." Suggested uses include hotels, motels, restaurants, gift shops, amusement parks, antique stores, museums, and automobile service stations. Tourist Commercial uses in the area include the Colonial Towne Shopping Center and the Williamsburg Pottery Factory. The proposed use is consistent with the Comprehensive Plan.

Surrounding Development

There is a mixture of commercial and agricultural uses in the vicinity of the proposed use including the Colonial Towne Shopping Center, the Mason Construction offices, the CSX railroad tracks, and the Williamsburg Pottery Factory (see map). Surrounding properties are zoned A-1.

RECOMMENDATION:

The proposed use is consistent with the Comprehensive Plan and surrounding development. For these reasons, the Staff and Planning Commission unanimously recommended approval of Case No. SUP-34-68 on November 22, 1968, with the following conditions:

1. If construction has not commenced on the project within twelve months from the date of the issuance of the special use permit, it shall become void. During this twelve-month period all permits pertaining to the construction shall be secured, connections to water and sewer shall be made, clearing and grading of the site shall be completed, and footings and/or foundations shall be installed.
2. Access to the site shall be limited to the existing single entrance on Richmond Road.
3. Site plan approval by the Development Review Committee shall be required, including the submittal of a landscaping plan prepared by a landscape architect which protects adjacent properties and minimizes any adverse impacts on Richmond Road's function as a corridor within a historic area.
4. Not less than 120 parking spaces shall be provided. The County may require a parking study within two years of issuance of a permanent Certificate of Occupancy and additional parking spaces, depending on the results of the study, if the County perceives a parking problem that jeopardizes public safety. The owner(s) shall also reserve land that is indicated as "future parking" on the Conceptual Plan during that time period. Such land shall be reserved to allow for any expansion of parking required by the County. However, that land may be used for any purpose other than meeting the open space requirement within that two-year period.

27

Case No. SUP-36 Robert L. Miller
January 9, 1989
Page 3

5. Structures, monuments, amusement devices, and rides shall be limited to:
- A. One figure eight mini-race car track on a paved surface covering an area no more than 720 feet in length and no more than 100 feet in width.
 - B. One mini-race car track on a paved surface covering an area no more than 100 feet in diameter.
 - C. One bumper boat ride covering an area no more than 60 feet by 50 feet.
 - D. An 18-hole miniature golf course.
 - E. An arcade to be contained in an approximately 1,100 square foot building.
 - F. A roller scooter ride covering an area no more than 25 feet by 15 feet.
 - G. A battery operated "kiddie car" ride covering an area no more than 25 feet by 30 feet.
 - H. A playport and/or a flat ride covering an area no more than 70 feet in length or width.
 - I. One storage building covering an area of no more than 40 feet by 24 feet.
6. On-site utilities, including electric services, which serve the site shall be placed underground.
7. Operation of the amusement center between 12:00 a.m. and 9:00 a.m. shall be prohibited.
8. All mini-race cars shall be equipped with mufflers, which are in good repair.

R. Patrick Friel

R. Patrick Friel

CONCUR:

D. Marvin Sowers, Jr.

D. Marvin Sowers, Jr.

RPF/bth
3633a

Attachment

28

RESOLUTION

CASE NO. SUP-36-00, ROBERT E. MILLER

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 process; and

WHEREAS, the Planning Commission of James City County, following its public hearing on November 22, 1988, unanimously recommended approval of Case No. SUP-36-00.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-36-00 as described herein with the following conditions:

1. If construction has not commenced on the project within twelve months from the date of the issuance of the special use permit, it shall become void. During this twelve-month period all permits pertaining to the construction shall be secured, connections to water and sewer shall be made, clearing and grading of the site shall be completed, and footings and/or foundations shall be installed.
2. Access to the site shall be limited to the existing single entrance on Richmond Road.
3. Site plan approval by the Site Plan Review Committee shall be required, including the submittal of a landscaping plan prepared by a landscape architect which protects adjacent properties and minimizes any adverse impacts on Richmond Road's function as a corridor within a historic area.
4. Not less than 120 parking spaces shall be provided. The County may require a parking study within two years of issuance of a permanent Certificate of Occupancy and additional parking spaces, depending on the results of the study, if the County perceives a parking problem that jeopardizes public safety. The owner(s) shall also reserve land that is indicated as "future parking" on the Conceptual Plan during that time period. Such land shall be reserved to allow for any expansion of parking required by the County. However, that land may be used for any purpose other than meeting the open space requirement within that two-year period.
5. Structures, monuments, amusement devices, and rides shall be limited to:

BEST POSSIBLE

--- COPY ---

- A. One figure eight mini-race car track on a paved surface covering an area no more than 250 feet in length and no more than 70 feet in width.
 - B. One mini-race car track on a paved surface covering an area no more than 100 feet by 150 feet.
 - C. One bumper boat ride covering an area no more than 60 feet by 50 feet.
 - D. An 18-hole miniature golf course.
 - E. An arcade to be contained in an approximately 1,100 square foot building.
 - F. A roller scooter ride covering an area no more than 25 feet by 15 feet.
 - G. A battery operated "kiddie car" ride covering an area no more than 25 feet by 30 feet.
 - H. A playport and/or a flat ride covering an area no more than 70 feet in length or width.
 - I. One storage building covering an area of no more than 40 feet by 24 feet.
- 6. On-site utilities, including electric services, which serve the site shall be placed underground.
 - 7. Operation of the amusement center between 12:00 a.m. and 9:00 a.m. shall be prohibited.
 - 8. All mini-race cars shall be equipped with mufflers, which are in good repair.

BEST PRACTICE
--- CITY ---

Thomas D. Mahone
Thomas D. Mahone, Chairman
Board of Supervisors

ATTEST:

David B. Norman
David B. Norman
Clerk to the Board

SUPERVISOR	VOTE
ROBERTS	AYE
TAYLOR	AYE
EDWARDS	AYE
DEPUZ	AYE
MAHON	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of January, 1969.

OS12A
0005W

BEST COPY AVAILABLE

TO: THE PLANNING COMMISSION

FROM: MARVIN SOWERS, JR., ZONING ADMINISTRATOR

SUBJECT: Case No. SUP-3-89 Robert L. Miller

Mr. Robert L. Miller has applied for a special use permit to amend Condition 5 of a previously approved Special Use Permit (SUP-3b-88) which granted approval of an outdoor amusement center. The site is zoned B-1, General Business and is located at 6910 Richmond Road. The property can be further identified as Parcel (1-15) on the James City Real Estate Tax Map No. (24-3).

During preparation of the site plan, the applicant's engineer conferred with engineers from the amusement manufacturers regarding area requirements for the amusements. It was then realized that some of the dimensions, which were incorporated as conditions into the approved special use permit (attached), were not large enough. Mr. Miller has applied to amend Condition 5 as follows in order to provide flexibility in the size of the proposed amusements.

The new condition would read:

5. The use of this site shall be limited to structures, monuments, amusement devices and rides less than 35 feet in height considered part of or accessory to an outdoor amusement park by the Zoning Administrator. Thirty percent open space shall be maintained on site.

RECOMMENDATION:

On February 14, 1989, the Planning Commission, in accordance with the staff recommendation, unanimously recommended approval of Case No. SUP-3-89, because the proposed amendment is reasonable and is consistent with the intent of the approved special use permit.


D. Marvin Sowers, Jr.

OHS/dlh
3982a

Attachment

BEST COPY AVAILABLE

WHEREAS, the Board of Supervisors of James City County has approved the issuance of a Special Use Permit No. SUP-3-89, and

WHEREAS, the applicant has applied to amend the conditions attached to SUP 36 88, and

WHEREAS, the Planning Commission of James City County, following its public hearing on February 14, 1989, unanimously recommended approval of Case No. SUP-1-89, which amends the conditions attached to SUP-36-88.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County does hereby approve the issuance of Special Use Permit No. SUP-3-89 as described herein with the following conditions.

1. If construction has not commenced on the project within twelve months from the date of the issuance of the special use permit, it shall become void. During this twelve-month period all permits pertaining to the construction shall be secured, connections to water and sewer shall be made, clearing and grading of the site shall be completed, and footings and/or foundations shall be installed.
2. Access to the site shall be limited to the existing single entrance on Richmond Road.
3. Site plan approval by the Development Review Committee shall be required, including the submittal of a landscaping plan prepared by a landscape architect which protects adjacent properties and minimizes any adverse impacts on Richmond Road's function as a corridor within a historic area.
4. Not less than 120 parking spaces shall be provided. The County may require a parking study within two years of issuance of a permanent Certificate of Occupancy and additional parking spaces, depending on the results of the study, if the County perceives a parking problem that jeopardizes public safety. The owner(s) shall also reserve land that is indicated as "future parking" on the Conceptual Plan during that time period. Such land shall be reserved to allow for any expansion of parking required by the County. However, that land may be used for any purpose other than meeting the open space requirement within that two-year period.

The Board of Supervisors hereby amends Ordinance No. 1989-001, which is hereby amended to read as follows: The Board of Supervisors hereby amends Ordinance No. 1989-001, which is hereby amended to read as follows: The Board of Supervisors hereby amends Ordinance No. 1989-001, which is hereby amended to read as follows: Thirty percent open space shall be maintained on site.

- 6. On-site utilities, including electric services, which serve the site shall be placed underground.
- 7. Operation of the amusement center between 11:00 p.m. and 9:00 a.m. shall be prohibited.
- 8. All mini-race cars shall be equipped with mufflers, which are in good repair.

Thomas D. Mahone

Thomas D. Mahone, Chairman
Board of Supervisors

ATTEST:

David B. Norman

David B. Norman
Clerk to the Board

SUPERVISOR	VOTE
ARMSTRONG	AYE
CANTOR	AYE
EDWARDS	AYE
FRUE	AYE
MAHONE	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 6th day of March, 1989.

0513A
0905w

Date Nov 28, 1994

z-10-94

REZONING
APPLICATION



TO THE PLANNING COMMISSION AND
BOARD OF SUPERVISORS OF
JAMES CITY COUNTY, VIRGINIA

I (We), the undersigned do hereby respectfully make application and petition the Governing Body of James City County, Virginia, to amend the Zoning Ordinance and to change the Zoning Map as hereinafter requested, and in support of this application, the following facts are shown:

1. The property is located at 6916 RICHMOND ROAD
WILLIAMSBURG, VA. JAMES CITY COUNTY PARCEL A-2 3.84
"GO KART PLUS" IN THE WEST "THE WILLIAMSBURG POTTERY" ON
THE EAST
2. The property is owned by ACTION PARK OF WILLIAMSBURG
as evidenced by deed from _____
recorded in Book 107, Page 622, Registry of County of James
City County, Virginia.
3. Tax Map Number (24-3) Parcel Number (1-18).
4. The site is zoned A-1
Requested zoning B-1
5. It is proposed that the property would be put to the following use:
TO EXPAND ACTION PARK OF WILLIAMSBURG, VA.
"GO KART PLUS" TO INCREASE PARKING AREA AND
TO ADD ANOTHER GO-KART TRACK PLUS
(IN THE FUTURE) BATTING CAGES

6. Proposed construction: _____

7. Attached is a copy of a Vicinity Map. Yes No

8. A Conceptual Plan of the project is attached. Yes No

9. Proffers attached (see attached letter for submittal details)
Yes No

The **OWNER** of the property must sign this application.

~~PROPERTY OWNER'S NAME~~
ACTION PARK OF WMBC
Property Owner's Name

ROBERT E MILLER
Contact's Name

Robert C Miller
Signature

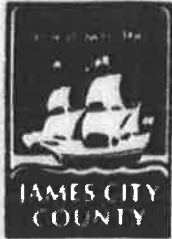
Robert C Miller
Signature

Address: 6910 RICHMOND RD
WILLIAMSBURG, VA

Address: 113 HEMPSTEAD RD
WILLIAMSBURG, VA

Phone: 564-7600

Phone: 565-1221



DEPARTMENT OF DEVELOPMENT MANAGEMENT
P. O. Box 8784
Williamsburg, Virginia 23187-8784

County Government Center, 101-E Mounts Bay Road

4/11

Development Manager
(804) 253-6671

Code Compliance
253-6626

County Engineer
253-6678

Planning
253-6685

Integrated Pool Management
253-2620

March 1, 1995

Mr. Robert E. Miller
113 Hempstead Road
Williamsburg, VA 23185

RE: Case No. SUP-34-94 and Z-10-94. Go Karts Plus.

Dear Mr. Miller:

This is to confirm that on February 21, 1995, the James City County Board of Supervisors approved your request for a Special Use Permit and a Rezoning for the above referenced project. The Special Use Permit and Rezoning were granted as specified in the attached Resolution.

If you have any questions, please contact me.

Sincerely,

O. Marvin Sowers, Jr.
Director of Planning

OMS/cg

cc: Code Compliance
Real Estate Assessment
Commissioner of Revenue

Fax: (804) 253-6850

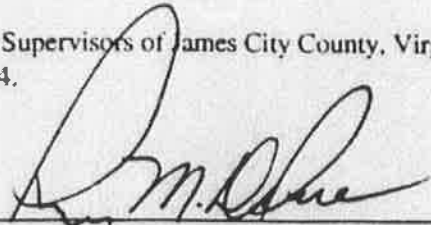
RESOLUTION

CASE NO. Z-1094 GO-KARTS PLUS

WHEREAS, in accordance with Section 15.1-431 of the Code of Virginia, and Section 20-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled on Zoning Case No. Z-10-94 for rezoning approximately 3.84 acres of land from A-1 to B-1, further identified as Parcel No. (1-18) on James City County Real Estate Tax Map No. (24-3); and

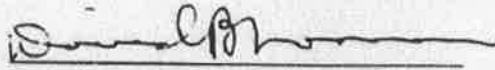
WHEREAS, the Planning Commission of James City County, recommended approval of Case No. Z-10-94 by a vote of 6 to 1.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Zoning Case No. Z-10-94.



Perry M. DePue
Chairman, Board of Supervisors

ATTEST:



David B. Norman
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
SISK	AYE
EDWARDS	AYE
MAGOON	AYE
TAYLOR	AYE
DEPUE	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 21st day of February, 1995.

z1094.res

RESOLUTION

CASE NO. SUP-34-94. GO-KARTS PLUS

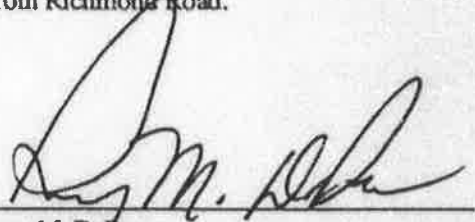
WHEREAS, the Board of Supervisors of James City County has adopted by Ordinance specific land uses that shall be subjected to a special use permit process; and

WHEREAS, the Planning Commission of James City County, following its public hearing on January 10, 1995, recommended approval of Case No. SUP-34-94, by a vote of 6 to 1, to permit the construction of an outdoor center of amusement, further identified as Parcel No. (1-18) on James City County Real Estate Tax Map No. (24-3).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-34-94 as described herein with the following conditions:

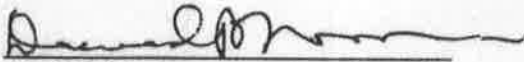
1. If construction has not commenced on the project within twelve months from the issuance of the special use permit, it shall become void. During this twelve month period all permits pertaining to the construction shall be secured, connections to water and sewer shall be made, clearing and grading of the site shall be completed and footings and/or foundations shall be installed.
2. Site plan approval by the Development Review Committee shall be required, including the submittal of a landscaping plan which protects adjacent properties and minimizes any adverse impacts on Richmond Road's function as a corridor within an historic area.
3. This special use permit shall expire in five years from its issuance unless the applicant constructs a new, commercial grade, main entrance at the crossover in front of the new amusement site within 5 years from the issuance of the special use permit. When the new entrance is opened, the existing main entrance which served the original Go Karts Plus site shall be closed. During the five-year period, the applicant can ask the Board of Supervisors to examine the need for a new entrance. It shall be the responsibility of the applicant to demonstrate to the Board of Supervisors that a new entrance at the crossover is not warranted.
4. The applicant shall show the future commercial main entrance located at the crossover on any future site plan details of the Go Karts Plus facility.
5. Parking lots and pedestrian facilities between the new and existing sites shall be connected.
6. One and only one entrance shall serve the entire Go Karts Plus outdoor amusement facility unless additional access points are required by fire or local law enforcement officials.
7. All statues, monuments and signs visible from Richmond Road shall be approved by the Director of Planning.

8. The use of this site shall be limited to structures, monuments, amusements devices and rides less than 35 feet in height considered part of or accessory to an outdoor center of amusement by the Zoning Administrator.
9. Final landscaping plan shall be approved by the Director of Planning.
10. Operation of the amusement center between 12:00 a.m. and 9:00 a.m. shall be prohibited.
11. All mini-race cars shall be equipped with mufflers, which are in good repair. Noise levels shall be less than that emanating from Richmond Road.



Perry M. Depue
Chairman, Board of Supervisors

ATTEST:



David B. Norman
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
STIK	AYE
EDWARDS	AYE
MAGGON	AYE
TAYLOR	AYE
DEPUE	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 21st day of February, 1995.

sup-3494.res

MEMORANDUM

Date: January 10, 1995
From: Gary A. Pleskac, Planner
To: The Honorable Chairman & Members of the Planning Commission
Subject: Case Nos. Z-10-94 & SUP-34-94. Go-Karts Plus

Mr. Robert E. Miller has applied to rezone approximately 3.84 acres from A-1, General Agricultural, to B-1, General Business, directly adjacent to the existing Go-Karts Plus facility at 6910 Richmond Road for the purpose of expanding existing outdoor amusement facilities. The applicant has also applied for a special use permit to allow outdoor centers of amusement in the B-1, General Business District. The property is further identified as Parcel (1-18) on James City County Real Estate Tax Map No. (24-3).

Existing Site and Past Case History

The existing Go-Karts Plus facility consists of 4.27 acres. The existing facility was granted a special use permit, SUP-36-88, in January, 1989, by the Board of Supervisors. That special use permit was amended on March 6, 1989 by the Board with Special Use Permit 3-89. This purpose of the amendment was to give the applicant more flexibility in the choice of attractions he could incorporate onto the site. All other conditions that were listed under the original special use permit were unchanged.

Proposed Development

Since the submittal of the conceptual plan, the applicant has indicated to staff that only a triangular go-cart race track, storage facility and parking will be built on the new site. The applicant has dropped plans to build batting cages for reasons unrelated to this consideration. The applicant has requested that the bumper car area be removed from the conceptual plan of the proposed site. Instead, the applicant may build this amusement somewhere else on the existing site. This may require an amendment to the original special use permit when and if the applicant decides to proceed with this particular attraction. The applicant proposes about 60 new parking stalls on the new site.

Surrounding Land Uses and Development

The CSX Railway has tracks immediately to the east of the property. Beyond the tracks, the property is zoned A-1, General Agricultural, and is farmland. Southwest of the site, the property is zoned A-1. Directly west of the property, the land is zoned M-1, Limited Business/Industrial District and B-1, General Business District. The Colonial Towne Shopping Center is west of the site across Richmond Road. To the south is the

Williamsburg Pottery. Adding to the existing Go-Karts Plus facility would be compatible with surrounding development because of the tourist-oriented nature of the Williamsburg Pottery, the existing Go-Karts Plus outdoor amusement facility, and the commercial nature of the Colonial Towne Shopping Center across Route 60 from the existing Go-Karts Plus Action Park.

Comprehensive Plan

The James City County Comprehensive Plan Land Use Map designates this proposed rezoning area as Mixed Use. Mixed Use zones are centers within the Primary Service Area where higher density development, redevelopment, and a broader spectrum of land uses are encouraged. These areas are intended to maximize the economic development potential of interstate interchanges and the intersections of major thoroughfares by providing areas primarily for more intensive commercial, office, and light industrial use. According to the Comprehensive Plan, the land east of Richmond Road in the vicinity of the proposed rezoning is developed or developing as support uses for the Williamsburg Pottery Factory. This part of Richmond Road is expected to continue to develop as an urban corridor. One of the Commercial and Industrial Land Use Standards in the Comprehensive Plan advocates locating proposed commercial and industrial developments adjacent to compatible uses. The mixed-use nature of the area, and the surrounding and existing development make this proposed rezoning and special use permit request consistent with the Comprehensive Plan.

Transportation, Parking and Access

Both the existing amusement park and proposed site front on Route 60. A single entrance provides access to the existing park. Due to the lack of a median crossover at the existing entrance, left turns in and out of the park site are not possible. The proposed site is across from a median crossover and contains a single gravel entrance across from that crossover. This entrance provides access to a farm across the CSX tracks. This access will have to be maintained. The applicant proposes to use this entrance for the park expansion.

The Virginia Department of Transportation (VDOT), has reviewed this application and has *required*:

1. A left turn lane at the median crossover for the Route 60 eastbound lane; and
2. A right turn lane into the site where the existing gravel driveway is now.

VDOT has *recommended*:

1. The installation of a commercial entrance aligned with the existing crossover; and
2. The dedication of an additional 15 feet of right-of-way along the property frontage of Route 60.

VDOT has indicated that the existing entrance to Go-Karts Plus will be analyzed to determine if any upgrade is needed to meet VDOT commercial entrance standards. This will be performed when more information on the exact use and layout of the site is submitted. This will occur at the site plan review stage. Staff recommends that any new parking on the proposed site be linked to parking facilities on the current site to reduce turning maneuvers on Route 60. This can also be accomplished during site plan review.

The entrance which serves the proposed site is a more desirable main entrance for the entire amusement park because it aligns with an existing crossover to the eastbound lanes of Route 60. Staff recommends that the existing main entrance which serves the existing amusement park site be closed in the future, in order that the entire amusement facility will be served by a new main entrance that aligns with the crossover. This would greatly diminish potential turning conflicts on this stretch of Route 60. This would not limit access to or from the existing amusement park. Furthermore, one of the Comprehensive Plan General Land Use Standards attempts to minimize the impact of development proposals on major roads by limiting access points and providing side street access and joint entrances. Recommending one entrance for the entire amusement facility would be consistent with this standard.

The applicant has expressed interest in closing the existing main entrance sometime in the near future and using the entrance to the proposed site as the main entrance for both sites. Staff agrees with closing the existing main entrance, but would like to have a specific date or stage in the development process for such a closing. Staff proposes the existing main entrance be closed prior to issuance of a certificate of occupancy for the new facility. It would be preferable if this could be accomplished through a proffer rather than through an SUP condition. If the applicant is receptive to this suggestion, the condition could be removed between the Planning Commission meeting and the meeting of the Board of Supervisors. Finally, the applicant has indicated to staff that he will link parking and access between the existing and proposed sites. This will be accomplished through an SUP condition.

Topography and Drainage

Drainage will be a major consideration for development of this site. A stormwater detention facility will be required to enable the site to meet Chesapeake Bay Ordinance requirements. Since the site drains toward the railroad, a 50-year detention requirement will have to be met. As an adequate outfall is probably not available for the majority of the site, 2- and 10-year storm detention criteria will also need to be addressed by the detention facility. Drainage is not a barrier to development of the site. However, drainage facilities, such as BMPs and their location, will have a bearing on the layout of the site and on the scale of development. Drainage facility requirements will be addressed during site plan review.

Utilities

The site is within the Primary Service Area. Public water and public sewer are available to the site. Existing sewer and water capacities are able to accommodate development of the site as shown on the conceptual plan.

Noise and Lighting

The original staff report to the Board of Supervisors dated January 9, 1989 regarding Case No. SUP-36-88 stated that, for the then proposed Go Karts Plus facility, the noise produced would be less than or equal to the noise emanating from Richmond Road. Staff has requested information from the applicant pertaining to the noise levels of the mini-race cars the applicant proposes to use in the new facility. The applicant has indicated he will supply staff with information pertaining to the decibel levels of the mini-race cars. An SUP condition has been drafted requiring this information be made available to staff. Another condition similar to one in the original special use permit has been drafted to ensure the noise levels of the mini-race cars shall be less than the noise emanating from Richmond Road.

The applicant has indicated to staff that no metal halide lighting will be used on the site. Staff will work with the applicant and the engineer at the site plan review stage on a lighting plan that will adequately and safely serve the site and reduce the potential for glare in the surrounding area. Since the amusement park operates in late spring, summer and fall, the hours when artificial lighting is needed is reduced. The original special use permit prohibits operation of the amusement center between midnight and 9:00 a.m., further reducing the time artificial lighting is needed for safe operation of the amusement facilities.

Landscaping and Buffering

Staff feels the provisions pertaining to B-1, General Business Districts in the Landscaping Section of the Zoning Ordinance will provide adequate landscaping and transitional screening of the site, especially along Route 60. The Zoning Ordinance will also give the Planning Commission and the Development Review Committee enough latitude to require additional transitional screening if the Commission determines that noise, dust, debris, glare or other objectionable impacts will result from this development.

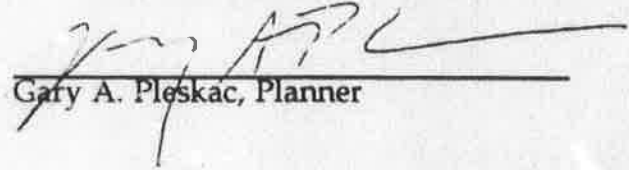
Recommendation:

Staff recommends the application to rezone Parcel (1-18) on James City County Real Estate Tax Map No. (24-3) from A-1, General Agricultural District to B-1, General Business District, be approved by the Planning Commission. Staff also recommends that Special Use Permit 34-94 be approved by the Planning Commission with the conditions listed below. Conditions 1, 2, & 7 are identical to conditions which appeared in the original special use permit SUP-36-88. Condition 6 is identical to the amended condition which appeared in SUP-3-89.

1. If construction has not commenced on the project within twelve months from the issuance of the special use permit, it shall become void. During this twelve month period all permits pertaining to the construction shall be secured, connections to water and sewer shall be made, clearing and grading of the site shall be completed and footings and/or foundations shall be installed.
2. Site plan approval by the Development Review Committee shall be required, including the submittal of a landscaping plan which protects adjacent properties and minimizes any adverse impacts on Richmond Road's function as a corridor within an historic area.
3. The existing main entrance shall be closed prior to the issuance of a certificate of occupancy for the additional site. At that time, the use shall have only one entrance which is located at the crossover directly across from the site on Route 60 which will serve the entire amusement complex. This new main entrance shall meet all applicable VDOT standards for commercial entrances.
4. Parking lots between the new and existing sites shall be connected.
5. All statues, monuments and signs shall be approved by the Director of Planning.

Case Nos. Z-10-94 & SUP 34-94
Planning Commission
December 10, 1995
Page 6

6. The use of this site shall be limited to structures, monuments, amusements devices and rides less than 35 feet in height considered part of or accessory to an outdoor center of amusement by the Zoning Administrator.
7. Final landscaping plan shall be approved by the Director of Planning.
8. Operation of the amusement center between 12:00 a.m. and 9:00 a.m. shall be prohibited.
9. All mini-race cars shall be equipped with mufflers, which are in good repair. The applicant shall supply staff with information pertaining to the decibel level of the mini-race cars. Noise levels shall be less than that emanating from Richmond Road.



Gary A. Pleskac, Planner

Attachments:

1. Location Map
2. Lot Survey
3. Conceptual Plan
4. SUP-36-88 & SUP-3-89

22

See (24-1)(1-5)

Existing site

A1

B1

SITE

M1

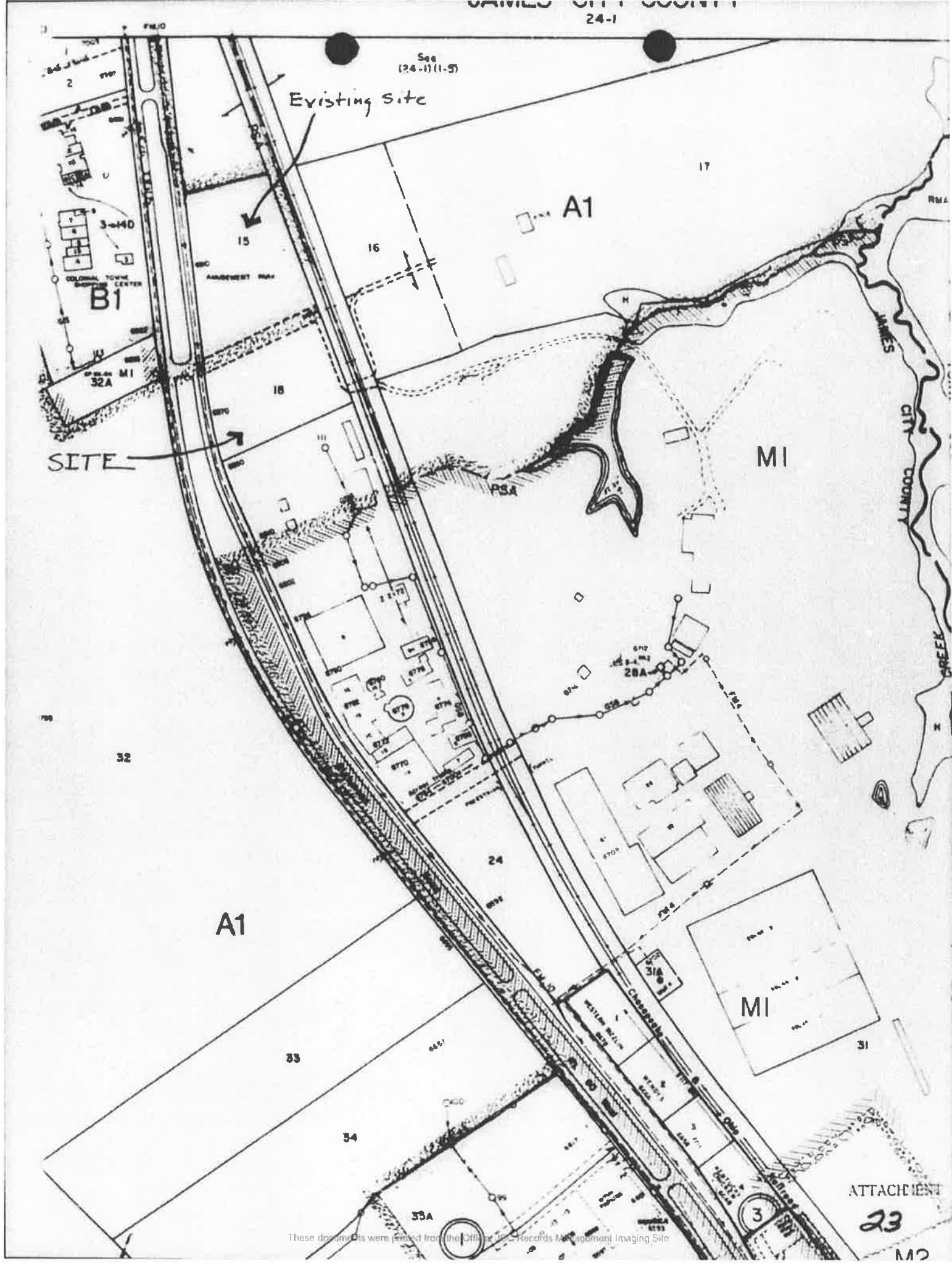
A1

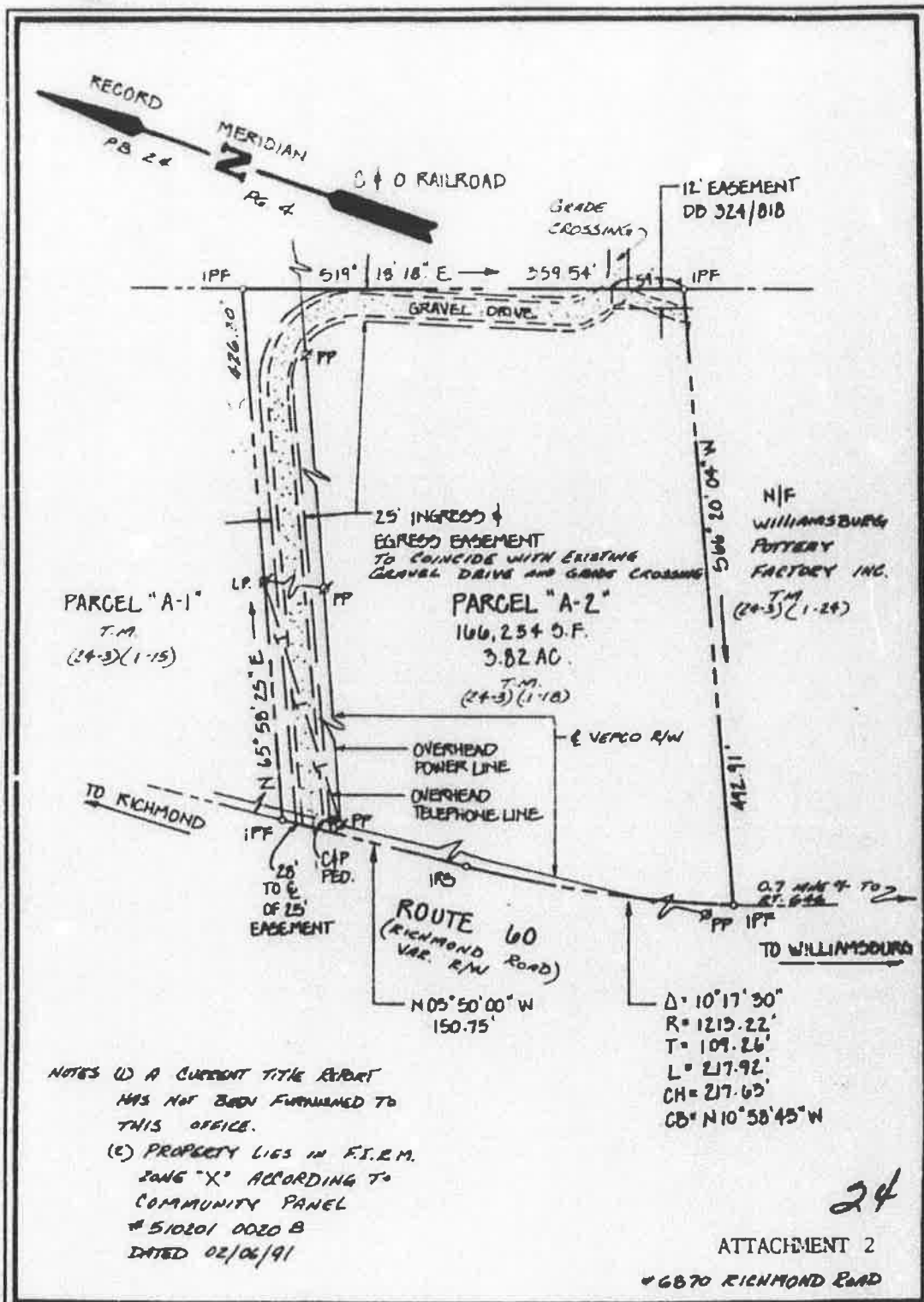
M1

ATTACHMENT

23

M2



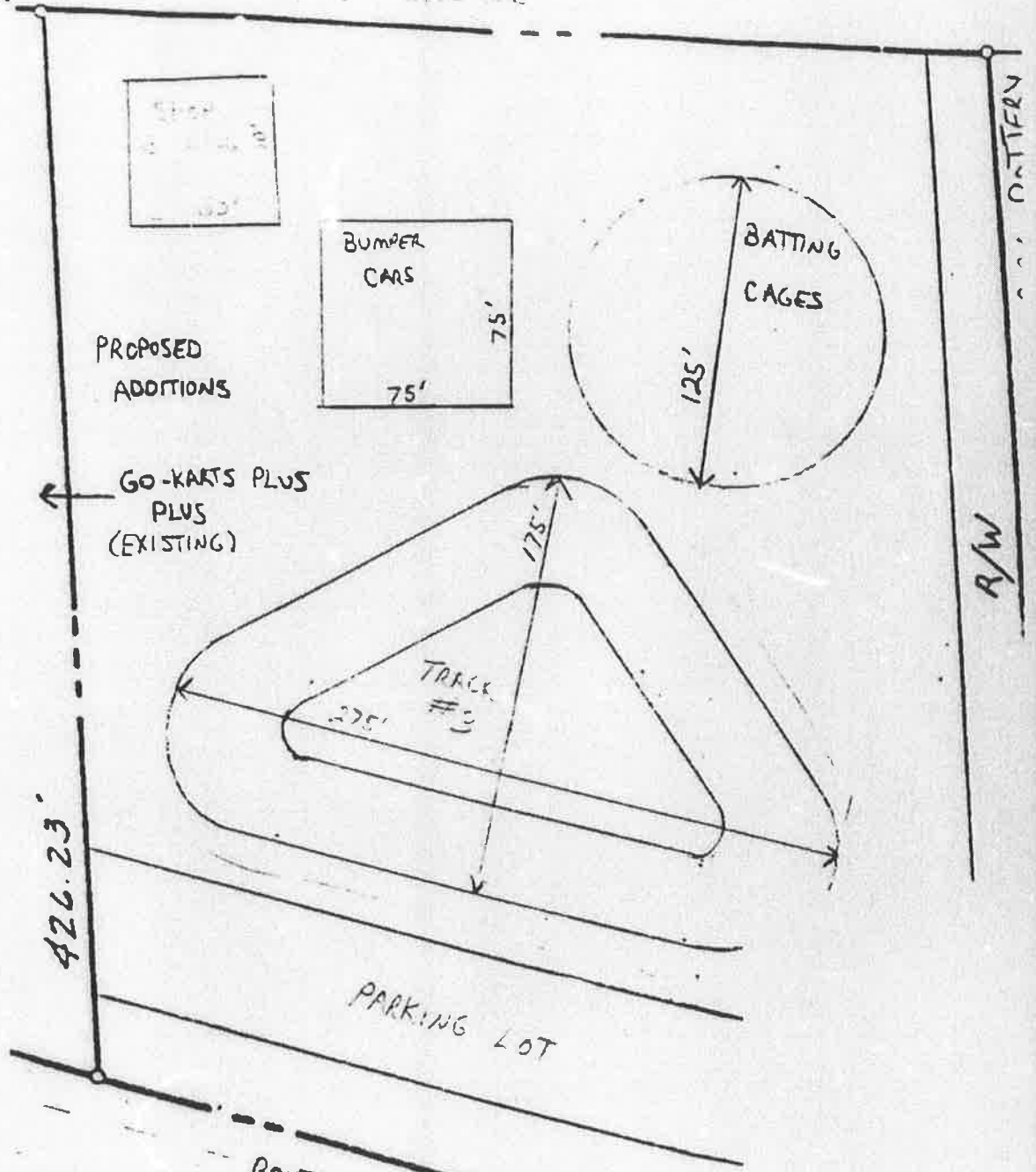


NOTES (D) A CURRENT TITLE REPORT HAS NOT BEEN FURNISHED TO THIS OFFICE.
 (E) PROPERTY LIES IN F.I.R.M. ZONE "X" ACCORDING TO COMMUNITY PANEL # 510201 0020 B DATED 02/06/91

24
 ATTACHMENT 2
 # 6870 RICHMOND ROAD

	REF.:	A SURVEY OF	
	DB 107/622	PARCEL "A-2"	
	DB 221/350	OF THE FRANK H & DORA A. HUGHES SUBDIVISION	
PB 24/4	FOR CONVEYANCE TO:		
DB 120/639	ACTION PARK OF WILLIAMSBURG INC.		
VERCO PB 3/256	JAMES CITY COUNTY,	VIRGINIA	
	DATE: NOVEMBER 21, 1994	SCALE: 1"=100'	JOB NO.
	ENGINEERS ARCHITECTS SURVEYORS INTERIOR DESIGNERS PLANNERS		5696
	<small>P.O. BOX 305 WILLIAMSBURG, VIRGINIA 23187 804-553-6871</small>		

C+O 1/1/10



426.23'

ACTION PARK

1" - 50'

7-10-94

ROUTE 60

375' x 275'

SUP-35 94

ATTACHMENT 3

25

MEMORANDUM

DATE: February 6, 1995
TO: The Board of Supervisors
FROM: Gary A. Pleskac, Planner
SUBJECT: Case Nos. Z-10-94 and SUP-34-94. Go-Karts Plus

Mr. Robert E. Miller has applied to rezone approximately 3.84 acres from A-1, General Agricultural, to B-1, General Business, directly adjacent to the existing Go-Karts Plus facility at 6910 Richmond Road for the purpose of expanding existing outdoor amusement facilities. The applicant has also applied for a special use permit to allow outdoor centers of amusement in the B-1, General Business District. The property is further identified as Parcel No. (1-18) on James City County Real Estate Tax Map No. (24-3).

Existing Site and Past Case History

The existing Go-Karts Plus facility consists of 4.27 acres. The existing facility was granted a special use permit, SUP-36-88, in January 1989 by the Board of Supervisors. That special use permit was amended on March 6, 1989, by the Board with Special Use Permit 3-89. This purpose of the amendment was to give the applicant more flexibility in the choice of attractions he could incorporate onto the site. All other conditions that were listed under the original special use permit were unchanged.

Proposed Development

The applicant has indicated to staff that a triangular go-cart race track, bumper car area, storage facility, and parking will be built on the new site. The applicant has dropped plans to build batting cages for reasons unrelated to this consideration. The applicant proposes about 60 new parking stalls on the new site.

Surrounding Land Uses and Development

The CSX Railway has tracks immediately to the east of the property. Beyond the tracks, the property is zoned A-1, General Agricultural, and is farmland. Southwest of the site, the property is zoned A-1. Directly west of the property, the land is zoned M-1, Limited Business/Industrial District, and B-1, General Business District. The Colonial Towne Shopping Center is west of the site across Richmond Road. To the south is the Williamsburg Pottery. Adding to the existing Go-Karts Plus facility would be compatible with surrounding development because of the tourist-oriented nature of the Williamsburg Pottery, the existing Go-Karts Plus outdoor amusement facility, and the commercial nature of the Colonial Towne Shopping Center. The nearest residential development is Kristiansand, over one-half mile away to the northwest of the site.

Comprehensive Plan

The James City County Comprehensive Plan Land Use Map designates this proposed rezoning area as Mixed Use. Mixed Use zones are centers within the Primary Service Area where higher density development, redevelopment, and a broader spectrum of land uses are encouraged. These areas are intended to maximize the economic development potential of interstate interchanges and the intersections of major thoroughfares by providing areas primarily for more intensive commercial, office, and light industrial use. According to the Comprehensive Plan, the land east of Richmond Road in the vicinity of the proposed rezoning is developed or

developing as support uses for the Williamsburg Pottery Factory. This part of Richmond Road is expected to continue to develop as an urban corridor. One of the Commercial and Industrial Land Use Standards in the Comprehensive Plan advocates locating proposed commercial and industrial developments adjacent to compatible uses. The mixed-use nature of the area, and the surrounding and existing development make this proposed rezoning and special use permit request consistent with the Comprehensive Plan.

Transportation, Parking and Access

Both the existing amusement park and proposed site front on Route 60. A single entrance provides access to the existing park. Due to the lack of a median crossover at the existing entrance, left turns in and out of the park site are not possible. The proposed site is across from a median crossover and contains a single gravel entrance across from that crossover. This entrance provides access to a farm across the CSX tracks. This access will have to be maintained. The applicant proposes to use this entrance for the park expansion.

The Virginia Department of Transportation (VDOT), has reviewed this application and has *required*:

1. A left-turn lane at the median crossover for the Route 60 eastbound lane; and
2. A right-turn lane into the site where the existing gravel driveway is now.

VDOT has *recommended*:

1. The installation of a commercial entrance aligned with the existing crossover; and
2. The dedication of an additional 15 feet of right-of-way along the property frontage of Route 60.

VDOT has indicated that the existing entrance to Go-Karts Plus will be analyzed to determine if any upgrade is needed to meet VDOT commercial entrance standards. If the existing main entrance is closed in favor of a new entrance at the crossover, no review will be needed. Staff recommends that any new parking on the proposed site be linked to parking facilities on the current site to reduce turning maneuvers on Route 60. This can also be accomplished during site plan review.

The entrance which serves the proposed site is a more desirable main entrance for the entire amusement park because it aligns with an existing crossover to the eastbound lanes of Route 60. Staff recommends that the existing main entrance which serves the existing amusement park site be closed in the future, in order that the entire amusement facility will be served by a new main entrance that aligns with the crossover. This would greatly diminish potential turning conflicts on this stretch of Route 60. This would not limit access to or from the existing amusement park. Furthermore, one of the Comprehensive Plan General Land Use Standards attempts to minimize the impact of development proposals on major roads by limiting access points and providing side street access and joint entrances. Recommending one entrance for the entire amusement facility would be consistent with this standard. The most logical place for this single entrance is at the crossover.

The applicant expressed reservations toward this proposal at the January Planning Commission meeting. The applicant offered to close the entrance at the crossover if he could keep his existing main entrance. This is not a logical alternative because it would not improve access to or from the site from eastbound Route 60. At present, motorists leaving the existing site must turn right onto westbound Route 60 and then perform a u-turn at a different crossover further west up the road to head into Williamsburg. In addition, motorists traveling on the eastbound lanes of Route 60 have to perform a u-turn if they wish to enter Go-Karts Plus. Putting the main entrance at the crossover which aligns with the proposed rezoning site will greatly reduce u-turns and will make the site directly accessible from eastbound Route 60.

Staff proposes the existing main entrance be closed prior to issuance of a certificate of occupancy for the new facility. Finally, the applicant has indicated to staff that he will link parking and access between the existing and proposed sites. This will be accomplished through an SUP condition.

Topography and Drainage

Drainage will be a major consideration for development of this site. A stormwater detention facility will be required to enable the site to meet Chesapeake Bay Ordinance requirements. Since the site drains toward the railroad, a 50-year detention requirement will have to be met. As an adequate outfall is probably not available for the majority of the site, 2- and 10-year storm detention criteria will also need to be addressed by the detention facility. Drainage is not a barrier to development of the site. However, drainage facilities, such as BMPs and their location, will have a bearing on the layout of the site and on the scale of development. Drainage facility requirements will be addressed during site plan review.

Utilities

The site is within the Primary Service Area. Public water and public sewer are available to the site. Existing sewer and water capacities are able to accommodate development of the site as shown on the conceptual plan.

Noise and Lighting

The original staff report to the Board of Supervisors dated January 9, 1989, regarding Case No. SUP-36-88 stated that, for the then proposed Go Karts Plus facility, the noise produced would be less than or equal to the noise emanating from Richmond Road. Staff is satisfied that this will remain the case. The applicant has supplied staff with manufacturer's information pertaining to the decibel levels of the mini-race cars he proposes to use on the new site. The sound level produced by the mini-race cars appears to be at a level equal to or less than the noise emanating from Richmond Road. Another condition similar to one in the original special use permit has been drafted to ensure the noise levels of the mini-race cars shall be less than the noise emanating from Richmond Road.

The applicant has indicated to staff that no metal halide lighting will be used on the site, and that all lighting will be to code. Staff will work with the applicant and the engineer at the site plan review stage on a lighting plan that will adequately and safely serve the site and reduce the potential for glare affecting the surrounding area. Since the amusement park operates in late spring, summer and fall, the hours when artificial lighting is needed is further reduced. The original special use permit prohibits operation of the amusement center between midnight and 9:00 a.m., further reducing the time artificial lighting is needed for safe operation of the amusement facilities.

Landscaping and Buffering

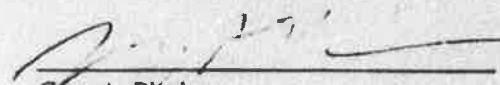
Staff feels the provisions pertaining to B-1, General Business, Districts in the Landscaping Section of the Zoning Ordinance will provide adequate landscaping and transitional screening of the site, especially along Route 60. The Zoning Ordinance will also give the Planning Commission and the Development Review Committee enough latitude to require additional transitional screening if the Commission determines that noise, dust, debris, glare or other objectionable impacts will result from this development.

RECOMMENDATION:


At its January 10, 1995, meeting, the Planning Commission concurred with staff's recommendation and voted 6-1 to approve the rezoning of Parcel No. (1-18) on James City County Real Estate Tax Map No. (24-3) from A-1, General Agricultural District, to B-1, General Business District. At the same meeting, the Planning Commission concurred with staff's recommendation and voted 6-1 to approve Special Use Permit 34-94 with the

conditions listed below. Staff recommends the Board of Supervisors approve this rezoning request and the special use permit with the conditions listed below:

1. If construction has not commenced on the project within twelve months from the issuance of the special use permit, the permit shall become void. During this twelve month period all permits pertaining to the construction shall be secured, connections to water and sewer shall be made, clearing and grading of the site shall be completed and footings and/or foundations shall be installed.
2. Site plan approval by the Development Review Committee shall be required, including the submittal of a landscaping plan which protects adjacent properties and minimizes any adverse impacts on Richmond Road's function as a corridor within an historic area.
3. The existing main entrance shall be closed prior to the issuance of a certificate of occupancy for the additional site. At that time, the use shall have only one entrance which is located at the crossover directly across from the site on Route 60 which will serve the entire amusement complex. This new main entrance shall meet all applicable VDOT standards for commercial entrances.
4. Parking lots between the new and existing sites shall be connected.
5. All statues, monuments and signs visible from Richmond Road shall be approved by the Director of Planning.
6. The use of this site shall be limited to structures, monuments, amusements devices and rides less than 35 feet in height considered part of or accessory to an outdoor center of amusement by the Zoning Administrator.
7. Final landscaping plan shall be approved by the Director of Planning.
8. Operation of the amusement center between 12:00 a.m. and 9:00 a.m. shall be prohibited.
9. All mini-race cars shall be equipped with mufflers, which are in good repair. Noise levels shall be less than that emanating from Richmond Road.



Gary A. Pléskac

CONCUR:


O. Marvin Sowers, Jr.

GAP/fow
Z1094.mem

Attachments:

1. Planning Commission Minutes
2. Location Map
3. Lot Survey
4. Conceptual Plan
5. SUP-36-88 & SUP-3-89
6. Z-10-94 Resolution
7. SUP-34-94 Resolution

UNAPPROVED MINUTES OF THE JANUARY 10, 1995 PLANNING COMMISSION MEETING .

CASE NO. Z-10-94 AND SUP-34-94. GO-KARTS PLUS

Mr. Pleskac presented the staff report (appended) for the rezoning of approximately 3.84 acres for the purpose of expanding existing outdoor amusement facilities, and special use permit to allow an outdoor center of amusement in the B-1, General Business District. Mr. Pleskac stated that staff recommended approval of the application to rezone and the special use permit with the conditions detailed in the staff report.

In response to Mr. Hunt's inquiry regarding closing the entrance at the crossover, Mr. Pleskac explained: The applicant offered to close the entrance at the crossover if he could keep his existing main entrance. Mr. Pleskac responded that this was not a logical alternative because it would not improve access to or from the site from eastbound Route 60. At present, motorists leaving the existing site must turn right onto westbound Route 60 and then perform a U-turn at a different crossover further west up the road to head into Williamsburg. In addition, motorists travelling on the eastbound lanes of Route 60 have to perform a U-turn if they wish to enter Go-Karts Plus. Putting the main entrance at the crossover, which aligns with the proposed rezoning site, will greatly reduce U-turns and will make the site directly accessible from eastbound Route 60.

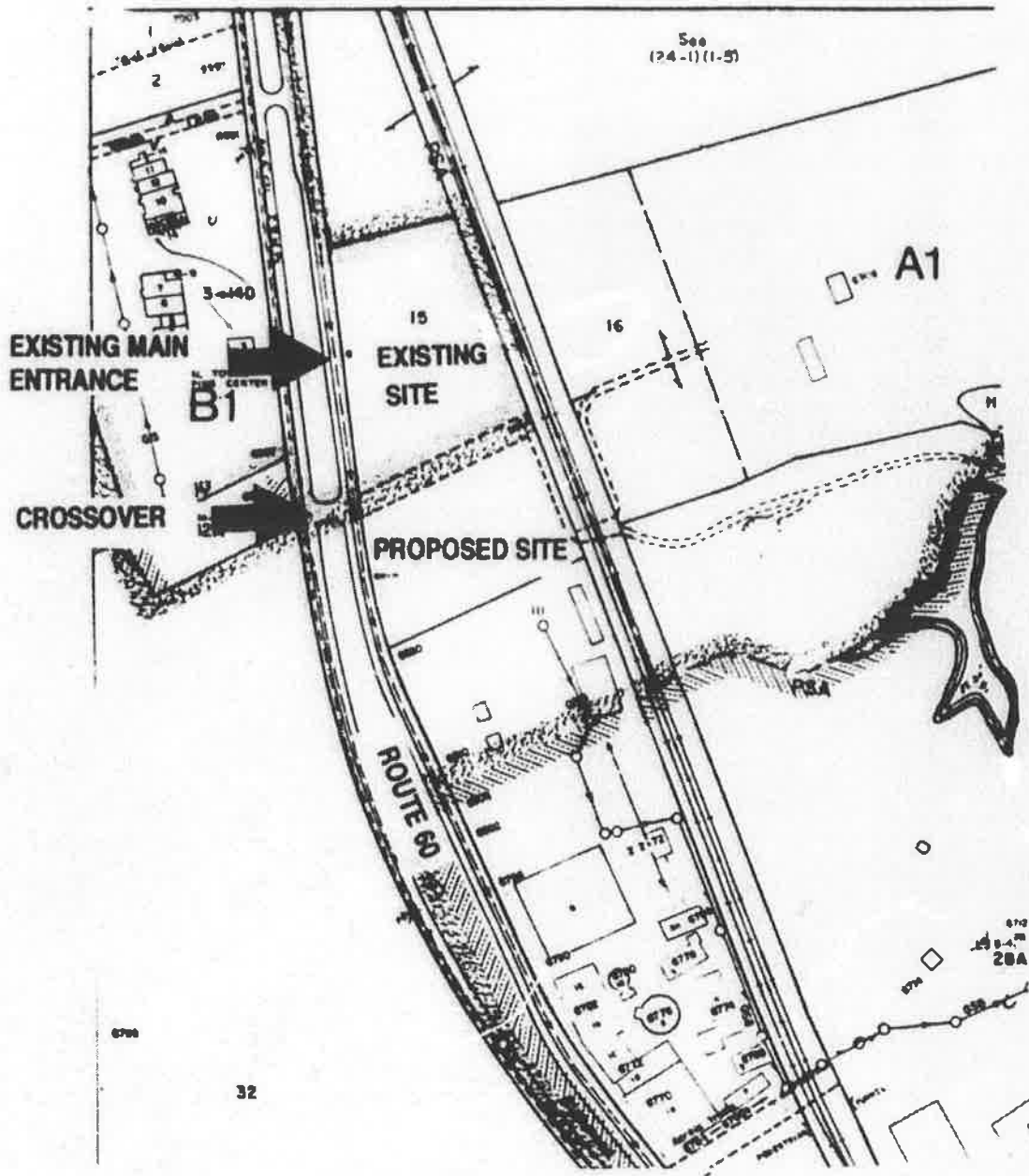
Mr. Kuras opened the public hearing.

Mr. Robert Miller, a partner in Action Parks, felt the existing entrance would be adequate to serve the addition. However, at a later date, if the attraction draws many more people, then they would be glad to put in a new entrance. Also, Mr. Miller asked that Condition #5 be changed to read: All statues, monuments and signs *visible from Richmond Road* shall be approved by the Director of Planning.

In response to Mr. Everson's inquiry, Mr. Miller stated that the gravel road could be closed and an alternative access could be accommodated for the adjacent property owner.

There being no further speakers, the public hearing was closed.

Mr. Betzner made a motion, seconded by Ms. McKenna, to accept the staff's recommendation of approval with the amendment to Condition #5 by adding *visible from Richmond Road*. The motion passed: (AYE) Garrett, McKenna, Hagee, Betzner, Everson, Kuras (6). (NAY) Hunt (1).



See
(24-1)(1-5)

A1

EXISTING MAIN
ENTRANCE

B1

EXISTING
SITE

CROSSOVER

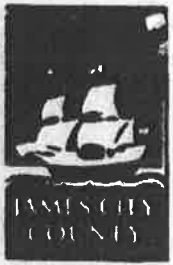
PROPOSED SITE

ROUTE 60

SCALE 1"=400 Feet

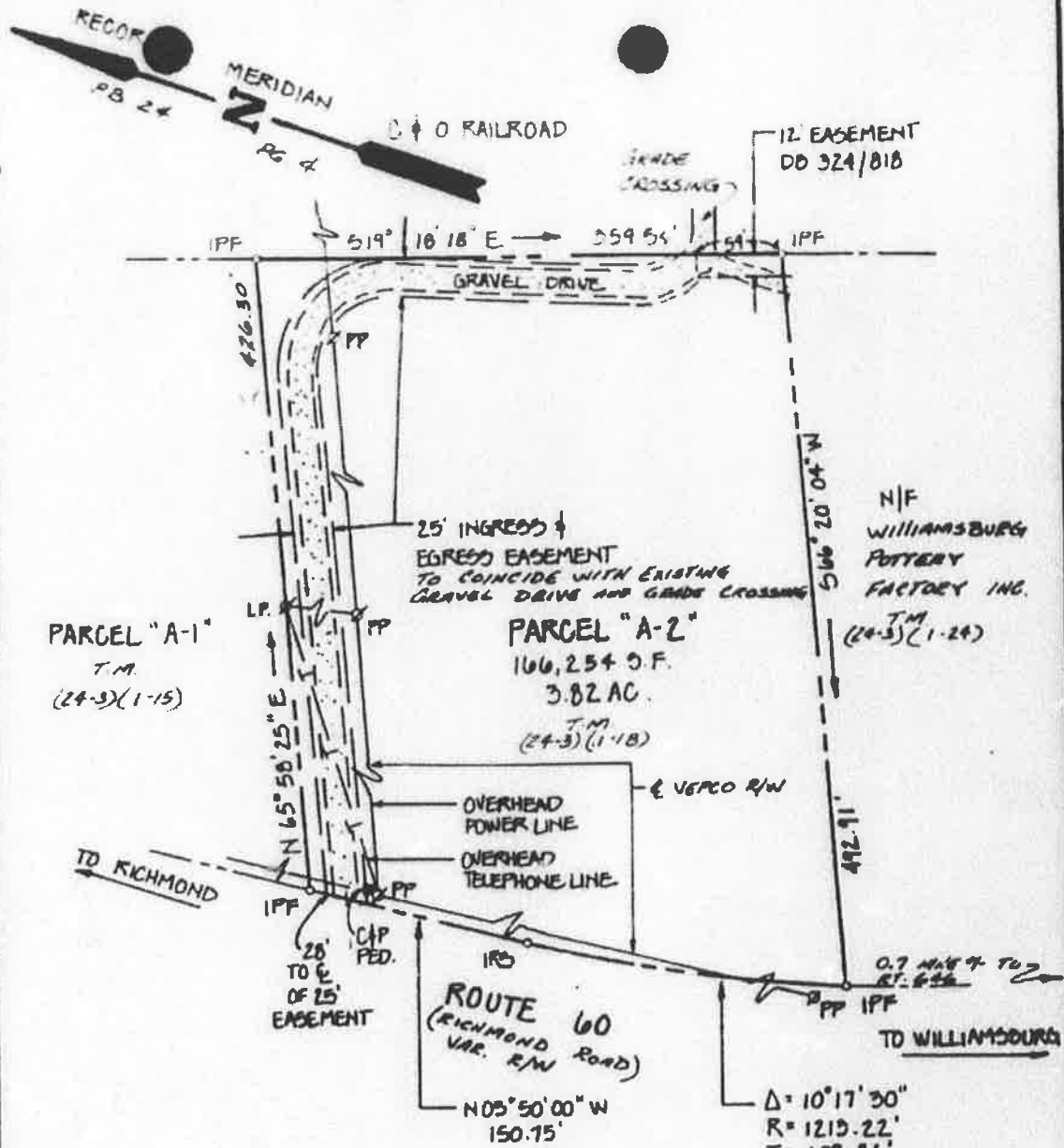
N

Case No: Z-10-94 & SUP-34-94
Name : Go Karts Plus



PLANNING DIVISION

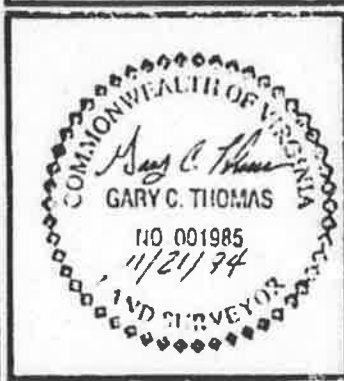
Attachment 2



NOTES (D) A CURRENT TITLE REPORT HAS NOT BEEN FURNISHED TO THIS OFFICE.
 (E) PROPERTY LIES IN F.I.R.M. ZONE "X" ACCORDING TO COMMUNITY PANEL # 510201 0020 B DATED 02/06/91

$\Delta = 10^{\circ}17'30''$
 $R = 1215.22'$
 $T = 109.26'$
 $L = 217.92'$
 $CH = 217.63'$
 $CB = N10^{\circ}58'45''W$

* 6870 RICHMOND ROAD



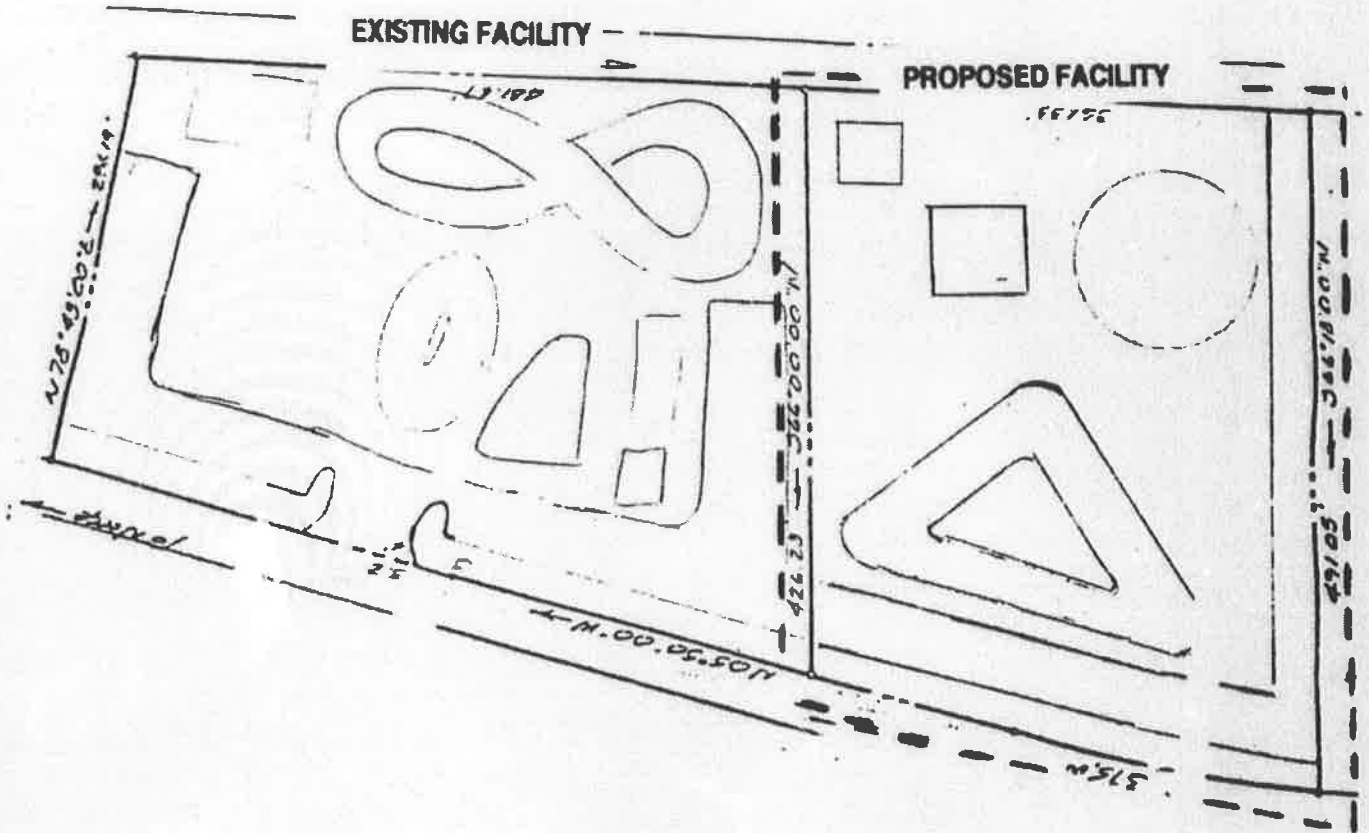
REF. #
 DB 107/622
 DB 221/350
 PB 24/4
 DB 120/639
 VERCO PB 3/256

A SURVEY OF
 PARCEL "A-2"
 OF THE FRANK H & DORA A. HUGHES SUBDIVISION
 FOR CONVEYANCE TO:
 ACTION PARK OF WILLIAMSBURG INC.
 JAMES CITY COUNTY, VIRGINIA

DATE: NOVEMBER 21, 1994 SCALE: 1"=100'

DJG ENGINEERS ARCHITECTS SURVEYORS JOB NO.
 INTERIOR DESIGNERS PLANNERS

**CONCEPTUAL PLAN
SUPPLIED BY
APPLICANT**



SCALE 1"=400 Feet

N

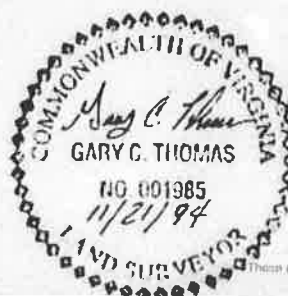
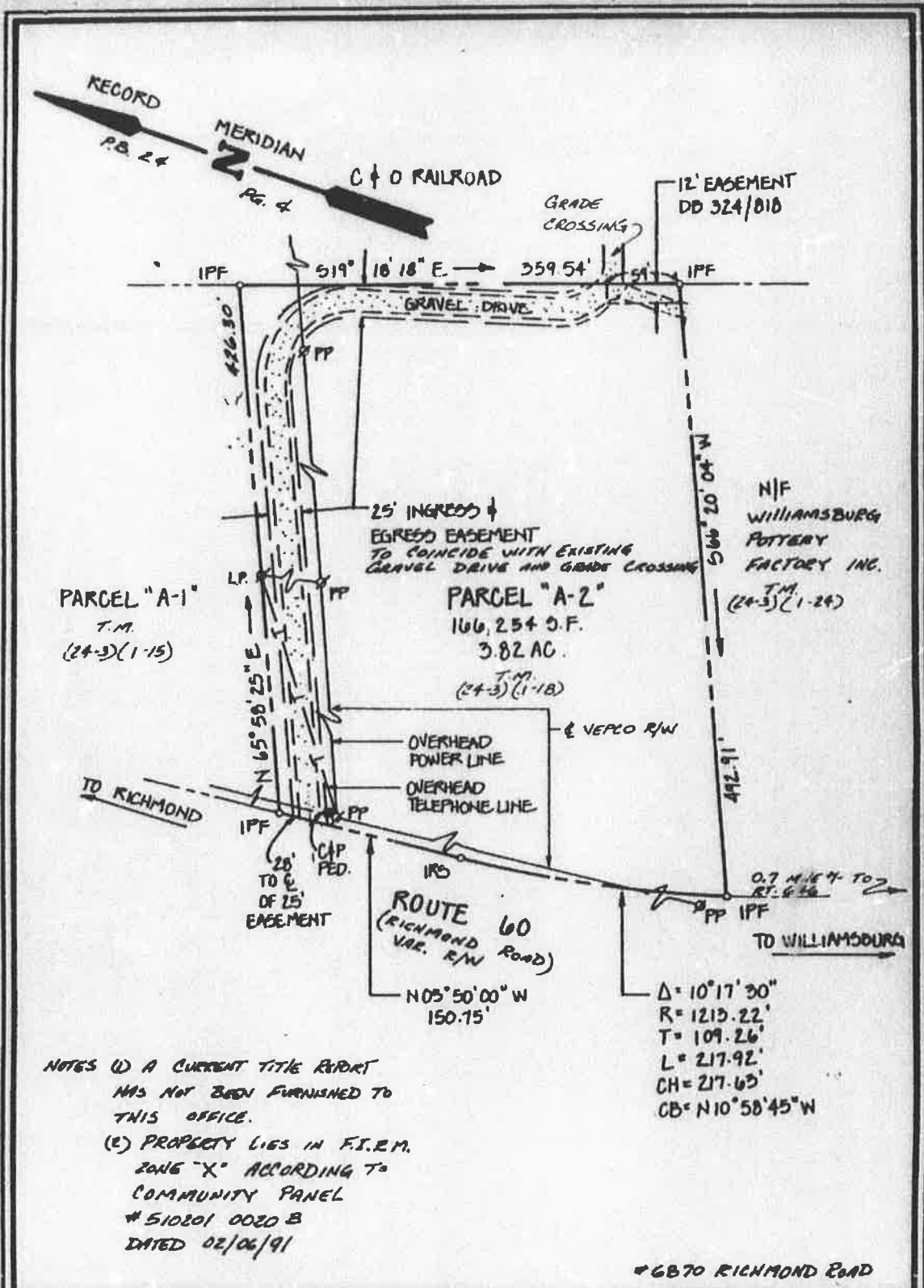
Case No: Z-10-94 & SUP-34-94
Name : GO KARTS PLUS



Attachment 4

PLANNING DIVISION

L-10-94



REF. DB 107/622 DB 221/350 PB 24/4 DB 120/639 VEPCO PB 3/266

A SURVEY OF PARCEL "A-2" OF THE FRANK H & DORA A. HUGHES SUBDIVISION FOR CONVEYANCE TO: ACTION PARK OF WILLIAMSBURG INC. JAMES CITY COUNTY, VIRGINIA

DATE: NOVEMBER 21, 1994 SCALE: 1"=100'

ENGINEERS ARCHITECTS SURVEYORS JOB NO. 5696
 PRIOR DESIGNERS PLANNERS

MEMORANDUM

AGENDA ITEM # G-1
and
AGENDA ITEM # G-2

DATE: February 21, 1995
TO: The Board of Supervisors
FROM: Gary A. Pleskac, Planner
SUBJECT: Case Nos. Z-10-94 & SUP-34-94. Go-Karts Plus

On February 6, 1995, the Board of Supervisors deferred this case and requested additional information regarding traffic and entrances at the Go Karts Plus outdoor amusement facility. Below is a revised Transportation, Parking and Access section from the February 6 staff report. This revision reflects subsequent discussions with the applicant and several courses of action the Board can take on this issue.

Transportation, Parking and Access

Both the existing amusement park and proposed site front on Route 60. A single entrance provides access to the existing park. Due to the lack of a median crossover at the existing *main* entrance, left turns in and out of the existing park site are not possible. Vehicles exiting the site must make a u-turn to return to Williamsburg. Vehicles arriving from the west must make a u-turn to access the site. The proposed site is across from a median crossover and contains a single gravel entrance. This gravel entrance provides access to a farm across the CSX tracks. This access will have to be maintained.

The Virginia Department of Transportation (VDOT), has reviewed this application and has *required*:

1. A left-turn lane at the median crossover across from the proposed rezoning site for the Route 60 eastbound lane; and
2. A right-turn lane into the site where the existing gravel driveway is now.

VDOT has *recommended*:

1. The installation of a commercial entrance aligned with the existing crossover.

VDOT has indicated that the existing entrance to Go-Karts Plus will be analyzed to determine if any upgrade is needed to meet VDOT commercial entrance standards. If the existing main entrance is closed in favor of a new entrance at the crossover, no review will be needed.

The applicant expressed reservations about relocating the main entrance to Go Karts Plus at both the January Planning Commission meeting and at the February 6, 1995, Board meeting. The applicant offered to close the existing gravel entrance at the crossover if he could keep his existing main entrance. Although this would be a cost saving measure to the applicant, there was no conclusive argument made by staff or the applicant on which the Board could resolve this entrance issue. The Board directed staff to gather more information from VDOT, particularly on sight distance issues relating to a new entrance at the crossover. The applicant agreed to supply an estimated price list of the required and recommended improvements to Route 60 and the entrances to the site. As of this writing, this information has not been received.

Staff has developed three options for the Board to consider in relation to the Go Karts Plus facility:

1. Require a new entrance immediately and close the old one as soon as the new one is constructed.

Attachment 2

2. Require a new commercial grade entrance at the crossover to be constructed within five years and close the existing main entrance at that time. During the five-year period, the applicant may ask the Board to reexamine the need for the new entrance. It would be up to the applicant to demonstrate to the Board of Supervisors that a single new entrance at the crossover is not warranted.
3. Require the new entrance at the crossover and leave the old one. Two entrances would serve the site.

The first option is the optimum scenario for staff because it would immediately address traffic management concerns. This option is also the most preferable to VDOT. However, it is the least acceptable option in the opinion of the applicant. Option 2 would require the construction of a new entrance at the crossover and the closure of the existing main entrance within five years. This option would allow the applicant time to dedicate funds for the construction of the new entrance. This option would also give the applicant the ability to ask the Board to examine his case. The third option would simply require the applicant to construct the new entrance at the crossover and leave intact his existing main entrance.

Staff supplied the above-listed options to the applicant. A representative of the applicant responded that the applicant will relocate the existing main entrance only if VDOT determines the present entrance is unsafe or when a signal is installed at the crossover across from the proposed rezoning site. Staff believes Option 2 would grant the applicant sufficient time to plan, design and pay for a new entrance at the crossover. It would also address traffic management and comprehensive plan strategies, but at a later time. Staff also points out that if the Board would like to take positive action on this case and not commit the applicant to any action on the entrance issue, the issue can be further examined at the site plan stage.

Staff has written language similar to Option 2 above Condition 3 of the special use permit. Staff recommends the Board find Option 2 acceptable. Staff has added Condition 4 which would require the applicant to show a future commercial main entrance located at the crossover on any future site plan details of the Go Karts Plus property. This detail would demonstrate to staff that when the new main entrance is relocated, it would be constructed at this location. Staff also added Condition 5 which states that one and only one entrance shall serve the entire Go Karts Plus facilities unless additional access points are required by fire or local law enforcement officials.

Staff recommends that new parking and amusement facilities on the proposed site be linked to the current site. At the February 6 Board meeting, the applicant stated he would do this for safety and internal access reasons. This would be accomplished through an SUP condition and through site plan review.

RECOMMENDATION:

At its January 10, 1995, meeting, the Planning Commission concurred with staff's recommendation and voted 6-1 to approve the rezoning of Parcel No. (1-18) on James City County Real Estate Tax Map No. (24-3) from A-1, General Agricultural District to B-1, General Business District. At the same meeting, the Planning Commission concurred with staff's recommendation and voted 6-1 to approve SUP-34-94. The Board of Supervisors deferred this application until their February 21 meeting. Condition 3 has been modified to reflect Option 2 above. Conditions 4 and 5 have been added since the Board's February 6 meeting. Staff recommends the Board of Supervisors approve this rezoning request and the special use permit with the conditions listed below:

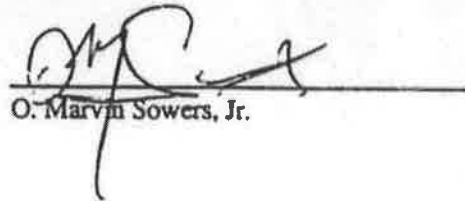
1. If construction has not commenced on the project within twelve months from the issuance of the special use permit, the permit shall become void. During this twelve-month period all permits pertaining to the construction shall be secured, connections to water and sewer shall be made, clearing and grading of the site shall be completed and footings and/or foundations shall be installed.

2. Site plan approval by the Development Review Committee shall be required, including the submittal of a landscaping plan which protects adjacent properties and minimizes any adverse impacts on Richmond Road's function as a corridor within an historic area.
3. This special use permit shall expire in five years from its issuance unless the applicant constructs a new, commercial grade, main entrance at the crossover in front of the new amusement site within 5 years from the issuance of the special use permit. When the new entrance is opened, the existing main entrance which served the original Go Karts Plus site shall be closed. During the five-year period, the applicant can ask the Board of Supervisors to examine the need for a new entrance. It shall be the responsibility of the applicant to demonstrate to the Board of Supervisors that a new entrance at the crossover is not warranted.
4. The applicant shall show the new commercial main entrance located at the crossover on any future site plan of the Go Karts Plus facility.
5. One and only one entrance shall serve the entire Go Karts Plus outdoor amusement facility unless additional access points are required by fire or local law enforcement officials.
6. Parking lots between the new and existing sites shall be connected.
7. All statues, monuments and signs visible from Richmond Road shall be approved by the Director of Planning.
8. The use of this site shall be limited to structures, monuments, amusement devices and rides less than 35 feet in height considered part of or accessory to an outdoor center of amusement by the Zoning Administrator.
9. Final landscaping plan shall be approved by the Director of Planning.
10. Operation of the amusement center between 12:00 a.m. and 9:00 a.m. shall be prohibited.
11. All mini-race cars shall be equipped with mufflers, which are in good repair. Noise levels shall be less than that emanating from Richmond Road.



Gary A. Pleskac

CONCUR:



O. Marvin Sowers, Jr.

OMS/blh
gokarts.mem

Attachments

1. Planning Commission Minutes
2. Site Map
3. VDOT Letter February 14, 1995
4. Z-10-94 Resolution
5. SUP-34-94 Resolution

EXCERPTS FROM THE MINUTES OF THE JANUARY 10, 1995 PLANNING
COMMISSION MEETING

CASE NO. Z-10-94 AND SUP-34-94 GO-KARTS PLUS

Mr. Pleskac presented the staff report (appended) for the rezoning of approximately 3.84 acres for the purpose of expanding existing outdoor amusement facilities, and special use permit to allow an outdoor center of amusement in the B-1, General Business District. Mr. Pleskac stated that staff recommended approval of the application to rezone and the special use permit with the conditions detailed in the staff report.

In response to Mr. Hunt's inquiry regarding closing the entrance at the crossover, Mr. Pleskac explained: The applicant offered to close the entrance at the crossover if he could keep his existing main entrance. Mr. Pleskac responded that this was not a logical alternative because it would not improve access to or from the site from eastbound Route 60. At present, motorists leaving the existing site must turn right onto westbound Route 60 and then perform a U-turn at a different crossover further west up the road to head into Williamsburg. In addition, motorists travelling on the eastbound lanes of Route 60 have to perform a U-turn if they wish to enter Go-Karts Plus. Putting the main entrance at the crossover, which aligns with the proposed rezoning site, will greatly reduce U-turns and will make the site directly accessible from eastbound Route 60.

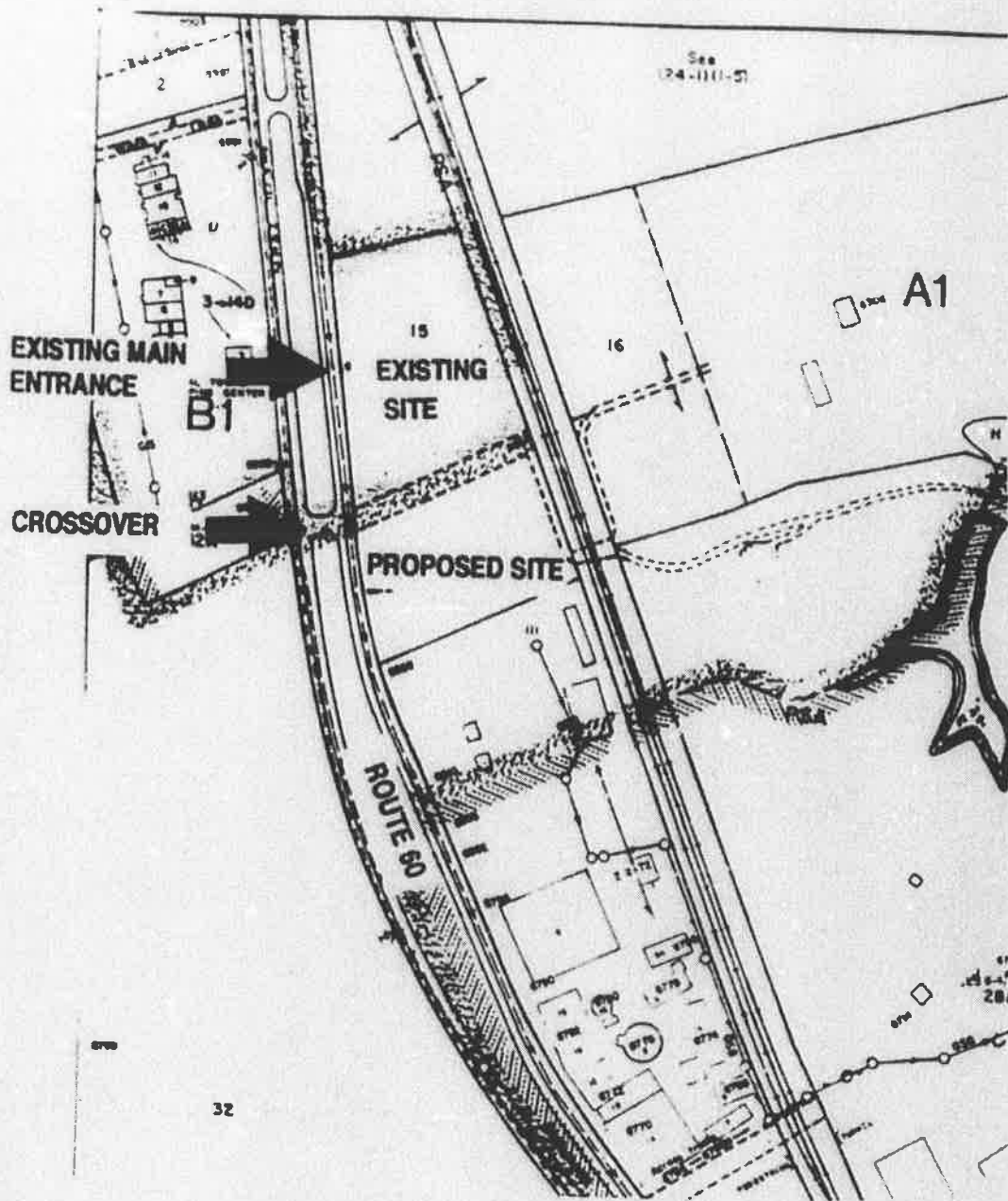
Mr. Kuras opened the public hearing.

Mr. Robert Miller, a partner in Action Parks, felt the existing entrance would be adequate to serve the addition. However, at a later date, if the attraction draws many more people, then they would be glad to put in a new entrance. Also, Mr. Miller asked that Condition #5 be changed to read: All statues, monuments and signs *visible from Richmond Road* shall be approved by the Director of Planning.

In response to Mr. Everson's inquiry, Mr. Miller stated that the gravel road could be closed and an alternative access could be accommodated for the adjacent property owner.

There being no further speakers, the public hearing was closed.

Mr. Betzner made a motion, seconded by Ms. McKenna, to accept the staff's recommendation of approval with the amendment to Condition #5 by adding *visible from Richmond Road*. The motion passed: (AYE) Garrett, McKenna, Hagee, Betzner, Everson, Kuras (6). (NAY) Hunt (1).



SCALE 1"=400 Feet

N

Case No: Z-10-94 & SUP-34-94
 Name : Go Karts Plus

Attachment 2

PLANNING DIVISION





DEPARTMENT OF DEVELOPMENT MANAGEMENT
P. O. Box 8784
Williamsburg, Virginia 23187-8784

County Government Center, 101-E Mounts Bay Road

file

Development Manager
(804) 253-6671

Code Compliance
253-6620

County Engineer
253-6678

Planning
253-6685

Integrated Pest Management
253-2620

May 28 1996

Mr. Robert Miller
Action Park of Williamsburg, Inc.
6910 Richmond Road
Williamsburg, VA 23188

RE: Case No. SUP-8-96. Action Park of Williamsburg, Inc.

Dear Mr. Miller:

This is to confirm that on May 14, 1996 the James City County Board of Supervisors approved the above-referenced application. The approval was granted as specified on the attached Resolution.

If you have any questions, please contact me.

Sincerely,

O. Marvin Sowers, Jr.
Director of Planning

OMS/cg

Enclosures

cc: Code Compliance
Real Estate Assessment
Commissioner of Revenue

Fax: (804) 253-6850

RESOLUTION

CASE NO. SUP-8-96. GO-KARTS PLUS

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 process; and

WHEREAS, the Planning Commission of James City County, following its public hearing on April 1, 1996, recommended approval of Case No. SUP 8-96, by a vote of 6 to 0, and extend by one year SUP-34-94 to permit the construction of an outdoor center of amusement, further identified as Parcel No. (1-18) on James City County Real Estate Tax Map No. (24-3).

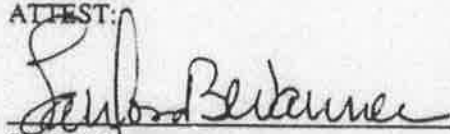
NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-8-96 as described herein with the following conditions:

1. If construction has not commenced on the project within twelve months from the issuance of the special use permit, it shall become void. During this twelve month period all permits pertaining to the construction shall be secured, connections to water and sewer shall be made, clearing and grading of the site shall be completed and footings and/or foundations shall be installed.
2. The applicant shall construct a new, commercial grade, main entrance at the crossover in front of the new amusement site within five years from the issuance of the special use permit. When the new entrance is opened, the existing main entrance which served the original Go Karts Plus site shall be closed. During the five year period, the applicant can ask the Board of Supervisors to examine the need for a new entrance. It shall be the responsibility of the applicant to demonstrate to the Board of Supervisors that a new entrance at the crossover is not warranted.
3. The applicant shall show the future commercial main entrance located at the crossover on any future site plan details of the Go Karts Plus facility.
4. Parking lots between the new and existing sites shall be connected.
5. Only one entrance shall serve the entire Go Karts Plus outdoor amusement facility unless additional access points are required by fire or local law enforcement officials.
6. All statues, monuments and signs visible from Richmond Road shall be approved by the Director of Planning.
7. The use of this site shall be limited to structures, monuments, amusements devices and rides less than 35 feet in height considered part of or accessory to an outdoor center of amusement by the Zoning Administrator.
8. Operation of the amusement center between 12:00 a.m. and 9:00 a.m. shall be prohibited.
9. All mini-race cars shall be equipped with mufflers, which are in good repair. Noise levels at the property lines shall be less than that emanating from Richmond Road.



David L. Sisk
Chairman, Board of Supervisors

ATTEST:

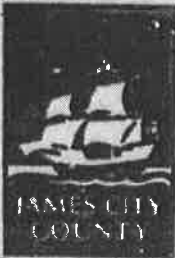
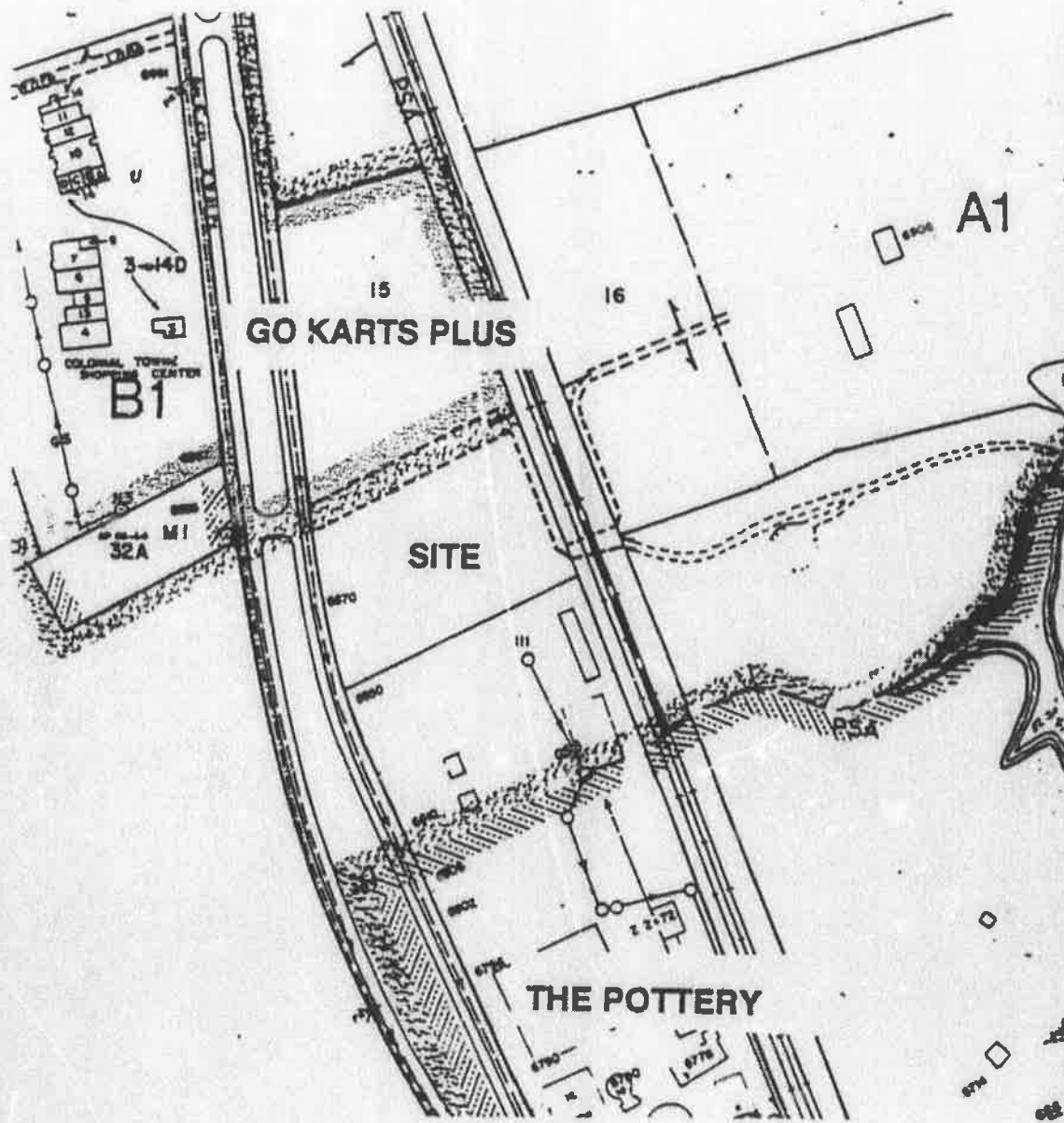


Sanford B. Wanner
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
-------------------	-------------

TAYLOR	ABSENT
MAGOON	AYE
DEPUE	AYE
EDWARDS	AYE
SISK	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of May,
1996.



Case No: SUP-8-96
 Name : Go Karts Plus



PLANNING DIVISION
 PLANNING DIVISION

Attachment 2

MEMORANDUM

DATE: May 14, 1996
TO: The Board of Supervisors
FROM: Gary A. Pleskac, Planner
SUBJECT: Case No. SUP-8-96. Go Karts Plus

Mr. Richard Müller has applied for a special use permit to request an extension of an expired special use permit on a portion of his property known as Go Karts Plus at 6870 Richmond Road. The property is further identified as Parcel No. (1-18) on James City County Real Estate Tax Map No. (24-3).

History

The Board of Supervisors previously approved a rezoning and special use permit on this property on February 21, 1995, (see attached memorandums for Case Nos. Z-10-94 and SUP-34-94), to allow expansion of the Go Karts Plus Facility. Since that time, the applicant submitted a site plan for the project which received final approval on January 30, 1996, (Case No. SP-108-95). However, the special use permit expired on February 21, 1996. The applicant did not secure *all* permits pertaining to construction, connections to water and sewer, clearing, grading, and the installation of footings and/or foundations within one year as required by Condition No. 1 of SUP-34-94. He has obtained several permits for construction and land disturbing. Some construction work has begun on the site. The applicant is asking for a one-year extension of that special use permit in order to complete construction of the project. Original Conditions 2 and 9 have already been met and therefore, have been excluded. No other new special use permit conditions are necessary because conditions in the area have not significantly changed to warrant reconsideration of the overall project.

RECOMMENDATION:

At its April 1 meeting, the Planning Commission concurred with staff's recommendation and voted 6-0 to approve this special use permit request and grant a one-year extension to this project with the conditions listed below. Staff recommends the Board of Supervisors approve Case No. SUP-8-96, and grant a one-year extension to this project with the conditions listed below. These are the same conditions as were originally approved for the project with the exception of Condition 9 which was altered slightly, with the applicant's consent, to include the words, "at the property lines":

1. If construction has not commenced on the project within twelve months from the issuance of the special use permit, it shall become void. During this twelve month period, all permits pertaining to the construction shall be secured, connections to water and sewer shall be made, clearing and grading of the site shall be completed and footings and/or foundations shall be installed.
2. The applicant shall construct a new, commercial grade, main entrance at the crossover in front of the new amusement site within five years from the issuance of the special use permit. When the new entrance is opened, the existing main entrance which served the original Go Karts Plus site shall be closed. During the five year period, the applicant can ask the Board of Supervisors to examine the need for a new entrance. It shall be the responsibility of the applicant to demonstrate to the Board of Supervisors that a new entrance at the crossover is not warranted.
3. The applicant shall show the future commercial main entrance located at the crossover on any future site plan details of the Go Karts Plus facility.

4. Parking lots between the new and existing sites shall be connected.
5. Only one entrance shall serve the entire Go Karts Plus outdoor amusement facility unless additional access points are required by fire or local law enforcement officials.
6. All statues, monuments and signs visible from Richmond Road shall be approved by the Director of Planning.
7. The use of this site shall be limited to structures, monuments, amusements devices and rides less than 35 feet in height considered part of or accessory to an outdoor center of amusement by the Zoning Administrator.
8. Operation of the amusement center between 12:00 a.m. and 9:00 a.m. shall be prohibited.
9. All mini-race cars shall be equipped with mufflers, which are in good repair. Noise levels at the property lines shall be less than that emanating from Richmond Road.


Gary A. Pleskac

CONCUR:


O. Marvin Sowers, Jr.

GAP/iow
SUP896.mem

Attachments

1. Planning Commission Minutes
2. Location Map
3. Board of Supervisors Memorandum, Case Nos. SUP-34-94 and Z-10-94, February 21, 1995.
4. Approved Board of Supervisors Resolution, SUP-34-94, February 21, 1995
5. Resolution

UNAPPROVED MINUTES OF THE APRIL 1, 1996 PLANNING COMMISSION MEETING.

CASE NO. SUP-8-96. GO KARTS PLUS

Mr. Gary Pleskac presented the staff report (appended) for a special use permit to request an extension of an expired special use permit on a portion of property at 6870 Richmond Road. Mr. Pleskac stated that staff recommends approval of the extension with the conditions contained in the staff report.

Mr. Kuras opened the public hearing. There being no speakers the public hearing was closed.

Mr. Garrett made a motion, seconded by Ms. McKenna, to accept the staff's recommendation of approval. The motion passed: Garrett, McKenna, Hunt, Everson, Poole, Kuras (6). NAY: (0).

Attachment 1

MEMORANDUM

DATE: April 1, 1996
TO: The Honorable Chairman and Members of the Planning Commission
FROM: Gary A. Pleskac, Planner
SUBJECT: Case No. SUP-8-96, Go Karts Plus

Mr. Richard Miller has applied for a special use permit to request an extension of an expired special use permit on a portion of his property known as Go Karts Plus at 6870 Richmond Road. The property is further identified as Parcel No. (1-18) on James City County Real Estate Tax Map (24-3).

History

The Board of Supervisors previously approved a rezoning and special use permit on this property on February 21, 1995 (see attached memos for Case Nos. Z-10-94 and SUP-34-94), to allow expansion of the Go Karts Plus Facility. Since that time, the applicant submitted a site plan for the project which received final approval on January 30, 1996 (Case No. SP-108-95). However, the special use permit expired on February 21, 1996. The applicant did not secure *all* permits pertaining to construction, connections to water and sewer, clearing, grading, and the installation of footings and/or foundations within 1 year as required by condition #1 of SUP-34-94. He has obtained several permits for construction and land disturbing. Some minor construction work has begun on the site. The applicant is asking for a 1-year extension of that special use permit in order to complete construction of the project. Original conditions 2 and 9 have already been met and therefore, have been excluded. No other new special use permit conditions are necessary because conditions in the area have not significantly changed to warrant reconsideration of the overall project.

RECOMMENDATION: Staff recommends the Planning Commission approve Case No. SUP-8-96, and grant a 1-year extension to this project with the conditions listed below. These are the same conditions as were originally approved for the project with the exception of condition 9 which was altered slightly, with the applicant's consent, to include the words, "at the property lines":

1. If construction has not commenced on the project within twelve months from the issuance of the special use permit, it shall become void. During this twelve month period all permits pertaining to the construction shall be secured, connections to water and sewer shall be made, clearing and grading of the site shall be completed and footings and/or foundations shall be installed.
2. The applicant shall construct a new, commercial grade, main entrance at the crossover in front of the new amusement site within 5 years from the issuance of the special use permit. When the new entrance is opened, the existing main entrance which served the original Go Karts Plus site shall be closed. During the five year period, the applicant can ask the Board

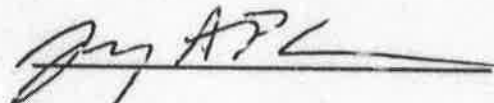
Case No. SUP-8-96, Go Karts Plus

April 1, 1996

Page 2

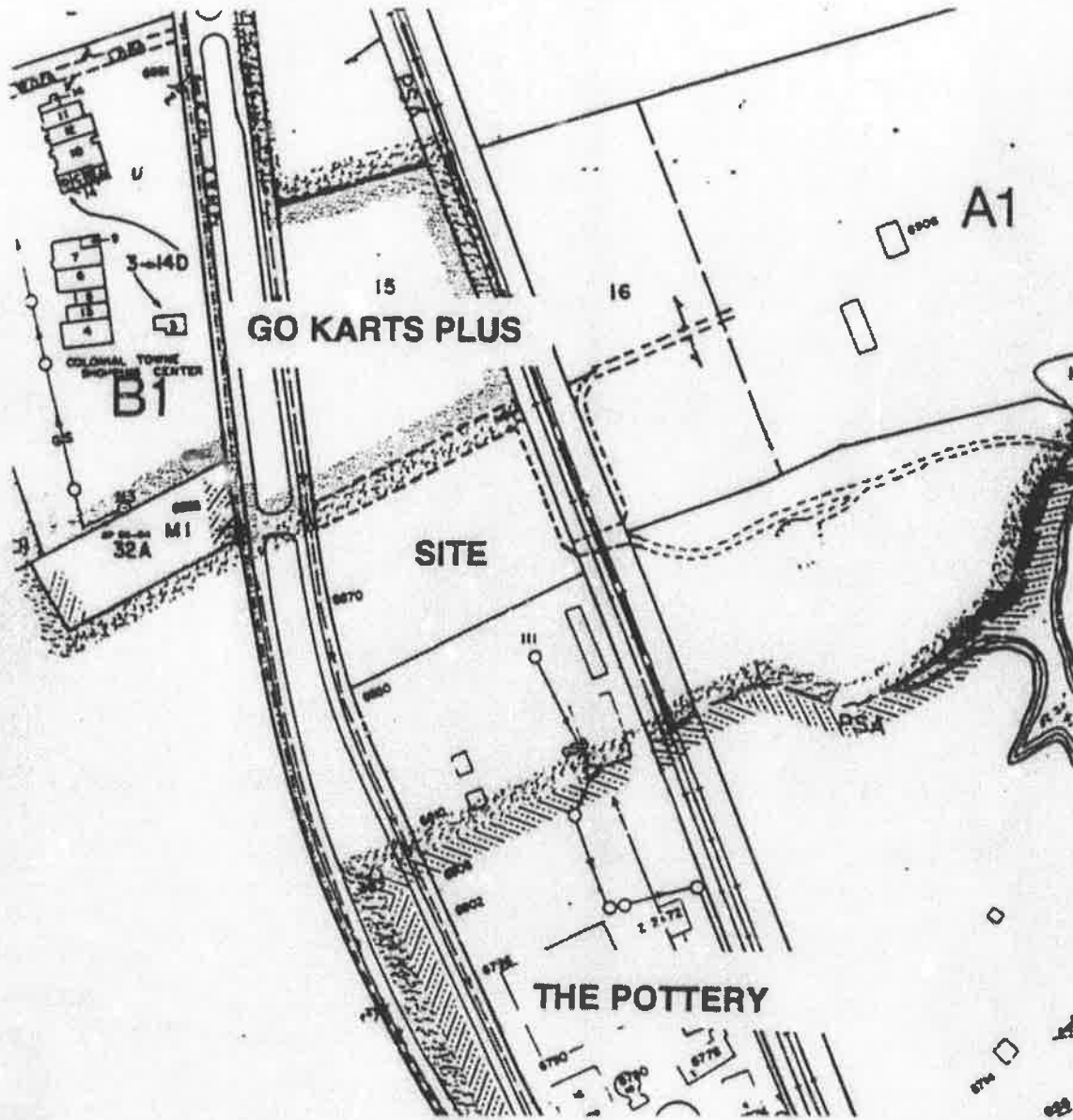
of Supervisors to examine the need for a new entrance. It shall be the responsibility of the applicant to demonstrate to the Board of Supervisors that a new entrance at the crossover is not warranted.

3. The applicant shall show the future commercial main entrance located at the crossover on any future site plan details of the Go Karts Plus facility.
4. Parking lots between the new and existing sites shall be connected.
5. Only one entrance shall serve the entire Go Karts Plus outdoor amusement facility unless additional access points are required by fire or local law enforcement officials.
6. All statues, monuments and signs visible from Richmond Road shall be approved by the Director of Planning.
7. The use of this site shall be limited to structures, monuments, amusements devices and rides less than 35 feet in height considered part of or accessory to an outdoor center of amusement by the Zoning Administrator.
8. Operation of the amusement center between 12:00 a.m. and 9:00 a.m. shall be prohibited.
9. All mini-race cars shall be equipped with mufflers, which are in good repair. Noise levels at the property lines shall be less than that emanating from Richmond Road.


Gary A. Pleskac, Planner

Attachments:

1. Location Map
2. Board of Supervisors Memorandum, Case Nos. SUP-34-94 & Z-10-94, February 21, 1995.
3. Approved Board of Supervisors Resolution, SUP-34-94, February 21, 1995



Case No: SUP-8-96
 Name : Go Karts Plus



PLANNING DIVISION
 PLANNING DIVISION

Attachment 1

ADOPTED

NOV 8 1989

ORDINANCE NO. 31A-116

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 20, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL, SECTION 20-8. SPECIAL USE PERMITS; ARTICLE V, NONCONFORMITIES, SECTION 20-401. PERMITTED CHANGES OF NONCONFORMING USES.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 20, Zoning, is hereby amended and reordained by amending Section 20-8. Special Use Permits; and Section 20-401 (a)(11). Permitted changes of nonconforming uses.

Chapter 20.

Article I. In General

Section 20-8. Special Use Permits.

In order to provide for good zoning practices, the purpose the Zoning District seeks to accomplish, to provide for adjustments in the relative location of uses and buildings of the same or different classification, and to promote the usefulness of these regulations, Special Use Permits, limited as to location by the District regulations are permitted as set forth under the terms of this Chapter. In considering an application for a Special Use Permit in those Districts allowing them, the Planning Commission and the Board of Supervisors shall give due regard to the James City County Comprehensive Plan, the nature and condition of adjacent uses and structures, and the probable effect upon them of the proposed exception. They shall also take into account the special characteristics, design, location, construction, methods and hours of operation, effect on traffic conditions, or any other aspects of the particular use or structure that may be proposed by the applicant. The Planning Commission and the Board of Supervisors should consider whether the proposed establishment or use will adversely affect the health, safety, or welfare of persons residing or working on the premises or in the neighborhood, will unreasonably restrict an adequate supply of light and air to adjacent

property, will increase congestion in the streets, will increase public danger from fire, will impair the character of the District or adjacent Districts, will be incompatible with the Comprehensive Plan of James City County, will likely reduce or impair the value of buildings or property in surrounding areas, and whether such establishment or use will be in substantial accordance with the general purpose and objectives of this Chapter. After a public hearing if the Planning Commission determines the above considerations have been protected, the Planning Commission shall recommend to the Board of Supervisors that the Special Use Permit be granted. The Board of Supervisors shall consider the recommendation of the Planning Commission and after a public hearing and a determination that the above considerations have been protected shall grant the Special Use Permit. In those instances where the Planning Commission or the Board of Supervisors find that the proposed use may be likely to have an adverse affect, they shall determine whether such affect may be avoided by the imposition of special requirements or conditions, including, but not limited to, location, design, construction, equipment, maintenance and-or hours of operation, in addition to those expressly stipulated in this Chapter and the Commission may make their recommendation or the Board of Supervisors may grant the Special Use Permit contingent upon the imposition of such special requirements or conditions. An application for a special use permit substantially the same as one previously denied shall not be reconsidered within a one-year period from the date the similar application was denied.

Article V. Nonconformities

Section 20-401. Permitted changes of nonconforming uses.

(a) (11). Nonconforming mobile homes or manufactured homes in any agricultural or residential district may be replaced with manufactured homes upon issuance of a special use permit. For purposes of this article, a "nonconforming mobile home or manufactured home" shall be defined as any mobile home or manufactured home which does not meet all current zoning requirements which was:

- a. Located in the county prior to April of 1969, or any replacement thereof;
- b. Located pursuant to a conditional use permit, either with or without an expiration date;
- c. Located pursuant to a special use permit; provided, however, any manufactured home located pursuant to a special use permit with an expiration date shall be removed from the site upon expiration of the special use permit unless a new special use permit is approved to lawfully continue the use; or
- d. A replacement for a mobile home or manufactured home located pursuant to a conditional or special use permit not specifically prohibited by the permit.

Thomas D. Mahone

Thomas D. Mahone, Chairman
Board of Supervisors

ATTEST:

David B. Norman

David B. Norman
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
NORMENT	AYE
TAYLOR	AYE
EDWARDS	AYE
DEPUE	AYE
MAHONE	AYE

Adopted by the Board of Supervisors of James City County, Virginia,
this 6th day of November, 1989.

0592A

RESOLUTION

CASE NO. SUP-21-0017. 4007 IRONBOUND ROAD

CONVENIENCE STORE WITH FUEL


- WHEREAS, the Board of Supervisors of James City County, Virginia, has adopted by Ordinance specific land uses that shall be subjected to a Special Use Permit (SUP) process; and
- WHEREAS, Mr. Mark Rinaldi, on behalf of the property owner, G-Square, Inc., has applied for an SUP on property located at 4007 Ironbound Road, further identified as James City County Real Estate Tax Map Parcel No. 3840100002A (the "Property") to allow for a convenience store with fuel sales pursuant to Section 24-390 of the County Code, a convenience store pursuant to Section 24-11(a)(1) of the County Code, and a commercial building or group of buildings, which generates, or would be expected to generate, a total of 100 or more additional trips to and from the Property during the peak hour of the operation pursuant to Section 24-11(a)(3) of the County Code; and
- WHEREAS, the Planning Commission, following its public hearing on January 5, 2022, recommended approval of Case No. SUP-21-0017 by a vote of 6-0; and
- WHEREAS, a public hearing was advertised, adjoining property owners notified, and a hearing conducted on Case No. SUP-21-0017; and
- WHEREAS, the Board of Supervisors of James City County, Virginia, finds this use to be consistent with good zoning practices and the 2045 Comprehensive Plan Land Use Map designation for the Property.
- 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-21-0017 as described herein with the following conditions:
1. Master Plan. This Special Use Permit ("SUP") shall apply to property located at 4007 Ironbound Road, which is further identified as James City County Real Estate Tax Map Parcel No. 3840100002A, (the "Property"). The SUP shall be valid for a convenience store of approximately 6,049 square feet that sells and dispenses fuel (the "Convenience Store"). All final development plans for the Property shall be consistent with the Master Plan entitled, "Master Plan Ironbound Crossing for Special Use Permit" prepared by AES, dated September 21, 2021, and revised December 7, 2021 (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. Design Guidelines. The Property shall be developed in accordance with the adopted design guidelines entitled "Design Guidelines for Ironbound Crossing in James City County, Virginia" prepared by AES Consulting Engineers and Hopke & Associates, dated December 13, 2018 (the "Design Guidelines"). Prior to site plan approval, the Planning Director, or designee, with consultation with the New Town Design Review Board (DRB), shall review the final design elements for consistency with the Design Guidelines.

3. Architectural Review - Convenience Store. Exterior building materials and colors for all structures shall be generally consistent with the drawing entitled "WAWA W50 FB M VA_v.2019.01 STORE #8687" prepared by Cuhaci & Peterson, dated November 3, 2021, and revised December 20, 2021 (the "Exterior Design"). Prior to site plan approval for the Convenience Store, the Planning Director, or designee, with consultation with the New Town DRB, shall review and approve the final building elevations and architectural design for consistency with this Condition and Condition No. 2. In the event the Planning Director disapproves the architectural elevations, the applicant may appeal the decision to the Development Review Committee (DRC), which shall forward a recommendation to the Planning Commission.
4. Architectural Review - Gas Pump Canopy and Trash Compound. The architecture of (1) the canopy covering the fuel dispensing stations (the "Canopy") and (2) the trash compound as shown on the Master Plan, including any columns, shall match the Design Guidelines, the Exterior Design, and the exterior building materials of the Convenience Store. The Canopy shall have a maximum height of twenty-one (21) feet measured from the finished grade to the top of the pitched A-frame roof structure as shown in the drawing entitled, "WAWA Gas Canopy Stacked 6 A-Frame - Trash Compound MAOF17-R", prepared by Cuhaci & Peterson, dated September 10, 2019, and revised December 20, 2021. No more than two signs shall be allowed on the Canopy. The Canopy shall not include gas pricing signs. Prior to site plan approval, the Canopy architecture shall be approved by the Planning Director for consistency with this condition, with consultation with the New Town DRB. In the event the Planning Director disapproves the architectural elevations, the applicant may appeal the decision to the DRC, which shall forward a recommendation to the Planning Commission.
5. Lighting. There shall be no light trespass, defined as light intensity measured at 0.1 footcandle or higher extending beyond any property line or into the public right-of-way, unless approved in writing by the Planning Director. All lights, including any lighting on the Canopy, shall have recessed fixtures with no bulb, lens, or globe extending below the casing or the Canopy ceiling. Light poles on the Property shall not exceed twenty (20) feet in height. The lighting for the Property, to include the Canopy lighting, shall be consistent with the Design Guidelines and reviewed and approved by the Planning Director prior to final site plan approval.
6. Landscape. As part of the initial site plan submittal, a landscape plan shall be submitted to the Planning Director or designee consistent with the following standards:
 - a. The perimeter buffer shall be landscaped to the provisions of Section 24-96 of the Zoning Ordinance for General Landscape Areas, except that the required evergreen tree and shrub mixture shall be increased from 35% to at least 45%.
 - b. Any proposed fencing or wall shall be shown on the landscape plan and be consistent with the Design Guidelines.
 - c. The required plantings between the Property and 4002 Ironbound Road shall be shown on the site plan for the Property and shall be guaranteed prior to site plan approval in a manner acceptable to the County Attorney. All plantings within this area shall be installed prior to Certificate of Occupancy for the Convenience Store.


Prior to final site plan approval, the landscape plan shall be reviewed and approved by the Planning Director for consistency with this condition. The Planning Director may consult with the New Town DRB in determining consistency with Condition No. 6(b).

7. Signage. All building face signage shall be externally illuminated or use back-lit or channeled lettered lighting as defined in Section 24-67 of the Zoning Ordinance. For any back-lit 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 Property shall be allowed one exterior freestanding sign. The freestanding sign shall be externally illuminated, monument style, not exceed eight (8) feet in height, and have a base of brick or other materials similar in type and color with the architecture of the Convenience Store. The Planning Director shall approve the design of the signage for consistency with this condition prior to initial site plan approval and prior to any subsequent sign modifications.
8. Screening of Site Features. All dumpsters and roof and ground-mounted HVAC and mechanical units located on the Property 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 and shall be reviewed and approved by the Planning Director for consistency with this condition prior to site plan approval.
9. Outdoor Display, Sale, or Storage. Unless otherwise stated in this condition, no outside display, sale, or storage of merchandise shall be permitted on the Property. As used for this condition, the term "merchandise" shall include but not be limited to ice, soda, candy, and/or snack machines. No more than two (2) outside vending machines and one (1) outside ice chest shall be permitted and, if used, shall be situated against the exterior wall not facing Monticello Avenue and shall be screened with building materials similar in type and color with the site architecture to minimize visual impacts from adjacent road rights-of-way. Final screening design shall be approved by the Planning Director prior to site plan approval.
10. Intercom and Speaker Noise. All intercom and other speaker systems on the Property shall operate in such a manner that they are not audible from adjacent properties.
11. Fueling Islands. There shall be no more than six (6) fueling islands on the Property as shown on the Master Plan.
12. Traffic Impacts. Prior to final site plan approval, all recommended improvements and mitigation measures listed within the approved traffic impact analysis titled "Traffic Impact Analysis for Proposed Special Use Permit of Ironbound Crossing" prepared by DRW Consultants, LLC, dated November 23, 2021, as approved by the Planning Director and Virginia Department of Transportation shall be guaranteed in a manner acceptable to the County Attorney. All recommended improvements and mitigation measures shall be installed prior to issuance of a Certificate of Occupancy for the Convenience Store.

- 13. Water Conservation Agreement. Water conservation standards shall be enforced on the Property. Water conservation standards shall be submitted to and approved by the James City Service Authority prior to final site plan approval for the Property. The standards may 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-tolerant plants where appropriate, and the use of water-conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.
- 14. Spill Prevention, Control, and Countermeasures (SPCC) Plan. Prior to the issuance of a Land Disturbing Permit, an SPCC Plan which addresses chemical handling, including but not limited to oil, diesel, and gasoline, shall be reviewed and approved by the Director of Stormwater and Resource Protection.
- 15. Offsite Compliance Options. This site may not use offsite compliance options (i.e., nutrient credit bank purchases) to achieve the required water quality. In order to best protect the impaired downstream systems, all required water quality needs/phosphorus nutrient reductions must be met onsite through the proposed stormwater design.
- 16. Quantity Control. As the proposed stormwater design directs flows into an existing system, attenuation of the 2-, 10-, and 100-year storms are required at the point of discharge into the existing 42" RCP crossing Old Ironbound Road. This includes attenuation of the bypass system shown on the Master Plan.
- 17. Commencement of Construction. Construction on both the Convenience Store and the Canopy shall commence within thirty-six (36) months from the date of approval of this Special Use Permit or this permit shall be void. Construction shall be defined as obtaining building permits and an approved footing inspection and/or foundation inspection for the Convenience Store and the Canopy.
- 18. Severance Clause. This Special Use Permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.


 John J. McGlennon
 Chairman, Board of Supervisors

ATTEST:


 Teresa J. Saeed
 Deputy Clerk to the Board

	VOTES			
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
ICENHOUR	✓	—	—	—
HIPPLE	✓	—	—	—
LARSON	✓	—	—	—
SADLER	✓	—	—	—
MCGLENNON	✓	—	—	—

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of February, 2022.

RESOLUTION

CASE NO. BZA-22-0002. 6910 RICHMOND -

ZONING ADMINISTRATOR'S DETERMINATION APPEAL

WHEREAS, Mr. Vernon Geddy, III, Attorney at Law on behalf of Action Park of Williamsburg, VA Inc. (the "Appellant"), has appealed the Zoning Administrator's written determination on February 23, 2022, that a "Conceptual Plan Supplied by the Applicant" at the time of the rezoning of the property and issuance of a Special Use Permit (SUP) for Go Karts Plus constitutes a binding master plan for property located at 6910 Richmond Road (the "Property"). The Property is currently located in B-1, General Business and can be further identified as James City County Real Estate Tax Map No. 2430100015; and

WHEREAS, the Board of Zoning Appeals at its meeting on June 2, 2022 held a public hearing and considered the statements made by the public and also reviewed and considered the materials and testimony offered by the Zoning Administrator and the Appellant; and

WHEREAS, the Board of Zoning Appeals is of the opinion that the decision of the Zoning Administrator is correct and that the Appellant's appeal should be denied.

NOW, THEREFORE, BE IT RESOLVED that the Board of Zoning Appeals of James City County, Virginia, does hereby uphold the Zoning Administrator's written determination on February 23, 2022, that a "Conceptual Plan Supplied by the Applicant" at the time of the rezoning of the property and issuance of an SUP for Go Karts Plus constitutes a binding master plan for property located at 6910 Richmond Road and in consideration of such decision, the Board of Zoning Appeals makes the following specific findings of fact:

1. Section 15.2-2309 of the Code of Virginia, 1950, as amended (the "Virginia Code"), authorizes the Board of Zoning Appeals to hear and decide appeals from any order, requirement, decision, or determination made by an administrative officer in the administration or enforcement of this article or of any ordinance adopted pursuant thereto.
2. Section 24-5 of the James City County Code requires that the zoning administrator administer and enforce Chapter 24 Zoning of the James City County Code (the "Zoning Ordinance").
3. Section 15.2-2309 of the Virginia Code requires that the Zoning Administrator's interpretation is presumed to be correct and the appellant has the burden of proof to rebut such presumption of correctness by a preponderance of the evidence.
4. The Board of Zoning Appeals finds the Zoning Administrator's interpretation is correct, the appellant has not met his burden of proof, and that a "Conceptual Plan Supplied by the Applicant" at the time of the rezoning of the property and issuance of an SUP for Go Karts Plus constitutes a binding master plan for Property, and that all future development plans shall be found consistent with the master plan as described in Section 24-23 of the James City County Zoning Ordinance.

Mark Jakobowski
Chairman, Board of Zoning Appeals

ATTEST:

Christy H. Parrish
Secretary

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
JAKOBOWSKI	_____	_____	_____
OTEY	_____	_____	_____
GEIB	_____	_____	_____
CAMPANA, JR.	_____	_____	_____
DEAN	_____	_____	_____

Adopted by the Board of Zoning Appeals of James City County, Virginia, this 2nd day of June 2022.

BZA22-2_6910RichRdUphold-res

RESOLUTION

CASE NO. BZA-22-0002. 6910 RICHMOND ROAD -

ZONING ADMINISTRATOR'S DETERMINATION APPEAL

WHEREAS, Mr. Vernon Geddy, III, Attorney at Law on behalf of Action Park of Williamsburg, VA Inc. (the "Appellant"), has appealed the Zoning Administrator's written determination on February 23, 2022, that a "Conceptual Plan Supplied by the Applicant" at the time of the rezoning of the property and issuance of a Special Use Permit (SUP) for Go Karts Plus constitutes a binding master plan for property located at 6910 Richmond Road (the "Property"). The Property is currently located in B-1, General Business and can be further identified as James City County Real Estate Tax Map No. 2430100015; and

WHEREAS, the Board of Zoning Appeals at its meeting on June 2, 2022 held a public hearing and considered the statements made by the public and also reviewed and considered the materials and testimony offered by the Zoning Administrator and the Appellant; and

WHEREAS, the Board of Zoning Appeals is of the opinion that the decision of the Zoning Administrator is not correct and that the Appellant's appeal should be approved.

NOW, THEREFORE, BE IT RESOLVED that the Board of Zoning Appeals of James City County, Virginia, does hereby overturn the Zoning Administrator's written determination on February 23, 2022, that a "Conceptual Plan Supplied by the Applicant" at the time of the rezoning of the property and issuance of an SUP for Go Karts Plus constitutes a binding master plan for property located at 6910 Richmond Road and in consideration of such decision, the Board of Zoning Appeals makes the following specific findings of fact:

1. Section 15.2-2309 of the Code of Virginia, 1950, as amended (the "Virginia Code"), authorizes the Board of Zoning Appeals to hear and decide appeals from any order, requirement, decision, or determination made by an administrative officer in the administration or enforcement of this article or of any ordinance adopted pursuant thereto.
2. Section 24-5 of the James City County Code requires that the Zoning Administrator administer and enforce Chapter 24- Zoning of the James City County Code (the "Zoning Ordinance").
3. Section 15.2-2309 of the Virginia Code requires that the Zoning Administrator's interpretation is presumed to be correct, and the appellant has the burden of proof to rebut such presumption of correctness by a preponderance of the evidence.
4. The Board of Zoning Appeals finds the Zoning Administrator's interpretation is not correct, the appellant has met his burden of proof, and that a "Conceptual Plan Supplied by the Applicant" at the time of the rezoning of the property and issuance of an SUP for Go Karts Plus is not a binding master plan for the Property, and that all future development plans do not have to be found consistent with a master plan as described in Section 24-23 of the James City County Zoning Ordinance.

Mark Jakobowski
Chairman, Board of Zoning Appeals

ATTEST:

Christy H. Parrish
Secretary

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
JAKOBOWSKI	_____	_____	_____
OTEY	_____	_____	_____
GEIB	_____	_____	_____
CAMPANA, JR.	_____	_____	_____
DEAN	_____	_____	_____

Adopted by the Board of Zoning Appeals of James City County, Virginia, this 2nd day of June 2022.

BZA22-2_6910RichRdOvrtrn-res

ITEM SUMMARY

DATE: 6/2/2022
TO: The Board of Zoning Appeals
FROM: Christy H. Parrish, Zoning Administrator
SUBJECT: May 5, 2022 Meeting Minutes

ATTACHMENTS:

	Description	Type
📎	May 5, 2022 Meeting Minutes	Minutes

REVIEWERS:

Department	Reviewer	Action	Date
Board of Zoning Appeals	Secretary, BZA	Approved	5/25/2022 - 3:34 PM
Publication Management	Pobiak, Amanda	Approved	5/25/2022 - 3:39 PM
Board of Zoning Appeals Secretary	Secretary, BZA	Approved	5/25/2022 - 4:12 PM

MINUTES
JAMES CITY COUNTY BOARD OF ZONING APPEALS
REGULAR MEETING
James City County Government Center, Building F Board Room
101 Mounts Bay Road, Williamsburg VA 23185
May 5, 2022
5:00 PM

A. CALL TO ORDER

Mr. Mark Jakobowski called the meeting to order.

B. ROLL CALL

Ms. Christy Parrish called the roll:

Present:

Mr. Mark Jakobowski
Mr. Ron Campana, Jr.
Mr. William Geib
Mr. David Otey, Jr.
Mr. Andrew Dean

Staff Present:

Mr. John Rogerson, Senior Zoning Officer
Ms. Christy Parrish, Zoning Administrator
Ms. Liz Parman, Deputy County Attorney
Mr. Josh Everard, Assistant County Attorney

C. OLD BUSINESS

None.

D. NEW BUSINESS

Mr. Jakobowski presented the mission statement of the Board of Zoning Appeals (BZA) for those present in the audience. He stated that the BZA was a five-member Board consisting of James City County residents. It has the power to hear and decide appeals to decisions of the Zoning Administrator and applications for special exceptions, such as yard and setback variances. A favorable vote of three members of the Board was always required to pass a motion. Variances are not granted unless the strict application of the Ordinance would unreasonably restrict the utilization of the property, the need for a variance was not shared generally by other properties, and the variance was not contrary to the purpose of the Ordinance. Variances are not granted as a special privilege or convenience. If the variance was requested because the physical condition of the property or improvements thereon restrict the utilization of the property, the following additional requirements must be met: (i) the property must have been acquired in good faith and any hardship cannot be created by the applicant; (ii) the granting of the variance cannot be substantially detrimental to nearby properties; and (iii) the condition or situation cannot be so general or recurring as to make the formulation of an amendment to the Ordinance reasonably practicable to address the condition or situation. If the Board does authorize a variance, it may impose conditions regarding the location, character, or any other features it may deem necessary in the public interest.

1. BZA-22-0003. 4816 Hickory Signpost Road

Mr. Rogerson presented the staff report.

Mr. Rogerson stated that Mr. Chase Grogg of LandTech Resources, Inc., on behalf of property owner Sone L. Marcano, has applied for a variance to Section 24-236, Setback requirements, of the James City County Zoning Ordinance. He stated that the variance request was to reduce the required front setback from 60 feet from the centerline of the street to 30 feet from the centerline of the street for the construction of a new single-family dwelling at 4816 Hickory Signpost Road.

Mr. Rogerson stated that the parcel was 0.563 acres in size and was created in October of 1970. He stated that the entire lot was located within the Resource Protection Area (RPA) and contained delineated wetlands. He stated that the proposed dwelling was 560 square feet in size, would be located on a level area in front of the required front setback line, and the rear of the house would be approximately 7 feet from the wetlands.

Mr. Rogerson stated that the lot to the north at 4824 Hickory Signpost Road received a similar variance in 2005, which reduced the front setback from 60 feet from the centerline of the street to 45 feet for the construction of a new dwelling. He stated that the BZA granted the variance because the RPA and wetlands restricted the use of the lot.

Mr. Rogerson stated that should the BZA grant the variance, the applicant would be required to obtain Chesapeake Bay Board approval to construct in the RPA buffer.

Mr. Rogerson stated that staff recognized that this lot had development constraints due to the existence of the wetlands and RPA, and therefore, the strict application of the setbacks would unreasonably restrict the utilization of the property.

Mr. Rogerson stated that staff believed that the property was acquired in good faith, the hardship was not created by the applicant, and the variance would not be of substantial detriment to adjacent properties. He stated that staff recommended approval of the variance. He further stated that should the BZA approve the variance request, staff recommended that the front setback be reduced from 60 feet from the centerline of the street to 30 feet from the centerline of the street with no further encroachment.

Mr. Geib asked what the setback was when the lot was created.

Mr. Rogerson stated he could not confirm what the setback requirement was in 1970 for this lot.

Mr. Otey asked if the plat stated what the setback requirements were back then.

Mr. Rogerson stated the plat did not.

Ms. Parrish stated that since there were no setbacks shown on the recorded plat, the current setback requirements applied.

Mr. Geib discussed with staff that the 60-foot required setback did not allow much buildable area due to the wetlands and topography of the lot which created a hardship.

Mr. Rogerson confirmed that there was not much buildable area on the lot, and it was unsure whether the County would approve the creation of this lot today.

Mr. Geib asked staff to describe the variance that was granted on the neighboring lot in 2005.

Mr. Rogerson stated that the lots were similar, the flat buildable area was on the front of the lot, and that the BZA granted a front setback variance of 45 feet from the centerline of the

street.

Mr. Rogerson stated that the BZA was provided a letter from a property owner in opposition of the variance who lived across the street.

Mr. Jakobowski confirmed that everyone had received a copy.

Seeing no further questions for staff, Mr. Jakobowski opened the Public Hearing.

Mr. Chase Grogg of LandTech Resources, Inc., 7657 Turlington Road, Toano, stated that the goal was to build a small house with a deck on the back. He stated that the proposed house would be on a slab and constructed on the flat area of the lot. He stated that the proposed location of the house was moved further back to help alleviate some of the concerns seeing the one-lane bridge to the south of the lot.

Mr. Grogg stated that the original front setback was in the middle of the slope where the wetlands were located. He stated that proposal was to try to satisfy both Boards with minimal impacts.

Mr. Jakobowski stated that he visited the site and concurred that the removal of some of the vegetation on the front of the lot will open up the view to the bridge for motorists.

Ms. Babs Bengtson, 4824 Hickory Signpost Road, stated the following concerns: 1) a new driveway before the bridge was not a good idea for traffic control and additional traffic would cause a hardship because the road goes from a two-lane to a one-lane bridge; 2) construction of a new house in wetlands should not be permitted; 3) the lot should have to adhere to the required 60-foot setback as they were established for a reason; and 4) flooding concerns for the new house.

Mr. Gary Bowling, 4676 Hickory Signpost Road, stated he was concerned that this lot is about 80% wetlands, and the front of the house would be about 15 feet from the ditch line. He stated that cars are often stacked up in front of this lot waiting to cross the one-lane bridge. He inquired what the minimum lot size for a house in the R-8 Zoning District was because the houses along the road were much larger than 500 square feet.

Ms. Elizabeth Bowling, 4676 Hickory Signpost Road, stated that the proposal was taking down large trees that would allow more light into the swamp. She stated that she believed that the property was not a usable and the construction activities will be an inconvenience to others. She requested that the BZA reconsider the variance to save the swamp.

Mr. Bowling stated that the construction was in the inward 50-foot RPA buffer and was unsure how they were going to get a variance from the Chesapeake Bay Board to build a house.

Ms. Bowling stated that the bridge was not going to be able to hold all the equipment going back and forth across it.

Seeing no further speakers, Mr. Jakobowski closed the Public Hearing.

Mr. Campana asked if he could ask a question to Mr. Rogerson.

Mr. Jakobowski reopened the Public Hearing.

Mr. Campana asked if there had been any correspondence with the Chesapeake Bay Board on the matter.

Mr. Rogerson stated he had informed Stormwater and Resource Protection of the case but believed that Mr. Grogg had more conversations with them.

Mr. Grogg stated that they had applied for the exception, and it is on hold pending the outcome of this variance. He stated that while he does not know what the outcome would be, he has not received any negative comments from staff.

Seeing no further questions, Mr. Jakobowski closed the Public Hearing.

Mr. Campana stated that the Board's job was not to decide what kind of house a person could build but rather if a hardship exists. He stated that there was a clear hardship because if a variance was not granted, the lot could only then be used as a green strip of land. He stated the hardship was not self-imposed and supported the variance.

Mr. Jakobowski stated the variance granted in 2005 established a precedent.

Mr. Geib stated that the property owners had the right to use their land and changes to the Zoning Ordinance requirements over time often disadvantaged owners. He stated he was concerned about the effects on the swamp, but that review authority belongs to the Chesapeake Bay Board. He stated that there was almost no usable space on the property outside of what the applicant had proposed for the construction of the new house and supported the variance.

Mr. Otey motioned to Approve the Resolution for Case No. BZA-22-0003 as presented.

Mr. Geib seconded the motion.

Mr. Jakobowski asked if there were any further questions or comments from the Board.

Mr. Dean asked if someone could clarify the one-lane bridge crossing procedures for motorists.

Mr. Jakobowski stated there were yield signs on both sides of the bridge.

Mr. Otey stated that the bridge was very narrow but believes that the proposed house did not have anything to do with the dynamics of the bridge. He stated that there was a topographical hardship that would make it impossible to use the lot for residential purposes if the variance was not approved.

Ms. Parrish confirmed that Mr. Otey motioned to approve the variance and that Mr. Geib seconded that motion.

Mr. Jakobowski confirmed and asked Ms. Parrish to call the roll.

On a voice vote, the BZA voted to Approve the Resolutions for Case No. BZA-22-0003, as presented. (5-0)

E. MINUTES

1. March 3, 2022, Meeting Minutes

Mr. Geib made a motion to Approve the March 3, 2022, Meeting Minutes as presented.

Mr. Campana seconded the motion.

On a voice vote, the BZA voted unanimously to Approve the March 3, 2022, Meeting Minutes

F. MATTERS OF SPECIAL PRIVILEGE

None.

G. ADJOURNMENT

There being no further business, Mr. Campana made a motion to Adjourn the meeting.

Mr. Geib seconded the motion.

On a voice vote, the BZA unanimously voted to Adjourn the meeting.

The meeting was adjourned at approximately at 5:43 p.m.

Mark Jakobowski, Chairman

Christy Parrish, Secretary