

**BOARD OF SUPERVISORS
COUNTY OF NEW KENT
VIRGINIA**

R-11-13 (R)

At the regular meeting of the Board of Supervisors of the County of New Kent, in the Boardroom of the Administration Building in New Kent, Virginia, on the 8th day of July, 2013:

Present:	Vote:
C. Thomas Tiller, Jr.	Nay
James H. Burrell	Aye
Ron Stiers	Aye
Thomas W. Evelyn	Aye
W. R. Davis, Jr.	Aye

Motion was made by Mr. Evelyn, which carried 4:1, to adopt the following resolution:

**A RESOLUTION TO APPROVE CONDITIONAL USE
PERMIT APPLICATION CUP-02-13, SPF INVESTMENTS
AND WILCO-HESS, TO AUTHORIZE THE
CONSTRUCTION
OF A TRAVEL PLAZA (WILCO-HESS TRAVEL PLAZA)
LOCATED ON A PORTION OF
TAX MAP 32-3 (GPIN I13-0958-4889)**

WHEREAS, SPF Investments (property owner), Steve Williams from Wilco-Hess, LLC (applicant), and Derrick Johnson (agent), have submitted a “Conditional Use Permit Application” dated February 19, 2013; and

WHEREAS, said application requests a conditional use permit to construct a truck stop (as defined by the New Kent County Zoning Ordinance) on a portion of a parcel identified on the New Kent County digital map as GPIN #I13-0958-4889 (Tax Map and parcel 23-3); and

WHEREAS, said application was considered by the New Kent County Planning Commission (the “Planning Commission”) in accordance with applicable procedures at a formal and duly advertised public hearing on April 15, 2013, where they carefully considered the public comment received and voted 6:4:1 to forward a recommendation of approval to the Board of Supervisors; and

WHEREAS, within the timeframes established by the Code of Virginia and New Kent County Code, the Board of Supervisors scheduled and conducted a formal and duly

advertised public hearing on May 13, 2013, and carefully considered the comments received, the application and conditions; and

WHEREAS, the applicant requested a deferral of action (letter dated June 6, 2013) on the CUP until the July 8th regular Board of Supervisors meeting; and

WHEREAS, the Board of Supervisors has evaluated the application based on the current zoning of the parcel, which is Economic Opportunity, the Conditional Use Permit Ordinance, and the proposed conditions in the staff memo; and

WHEREAS, the Board of Supervisors has reviewed the traffic study (dated January 8, 2013), which included a traffic signal warrant analysis that has been conducted pursuant to Virginia State Code and finds that there is a need for future traffic signal warrant analyses after site development; and

WHEREAS, the Board of Supervisors finds that adding conditions to this project is appropriate to address, protect, and promote public convenience, necessity, general welfare, and good zoning practices in the County and the health safety, and general welfare of the citizens in the County; and

NOW THEREFORE, BE IT RESOLVED that on this, the 8th day of July, 2013, by the New Kent County Board of Supervisors, that Conditional Use Permit Application CUP-02-13 submitted by SPF Investments (property owner), Steve Williams from Wilco-Hess, LLC (applicant), and Derrick Johnson (agent), be, and it hereby is, approved, subject to the following conditions:

1. The following conditions shall apply to the portion of Tax Map & Parcel number 32-3 (GPIN I13-0958-4889) as described in the following legal description:

SITUATED, LYING AND BEING ALL THAT CERTAIN PIECE OR PARCEL OF LAND LOCATED IN SAINT PETERS DISTRICT, NEW KENT COUNTY, VIRGINIA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS

COMMENCING AT A FOUND MONUMENT LOCATED ON THE EASTERN RIGHT OF WAY LINE OF ROUTE 106, EMMAUS CHURCH ROAD AND THE SOUTHERN RIGHT OF LINE OF INTERSTATE 64; SAID MONUMENT BEING THE TRUE POINT AND PLACE OF BEGINNING, THENCE ALONG SAID RIGHT OF WAY LINE OF INTERSTATE 64, NORTH 74 DEGREES 51 MINUTES 29 SECONDS EAST A DISTANCE OF 197.23 FEET TO A POINT; THENCE SOUTH 67 DEGREES 04 MINUTES 44 SECONDS EAST A DISTANCE OF 286.20 FEET TO POINT; THENCE ALONG A CURVE TO THE LEFT WITH A RADIUS OF 327.71 FEET, A LENGTH OF 206.56 FEET, A CHORD BEARING OF NORTH 85 DEGREES 11 MINUTES 04 SECONDS EAST A CHORD DISTANCE OF 203.16 FEET TO A POINT; THENCE NORTH 76 DEGREES 44 MINUTES 24 SECONDS EAST A DISTANCE OF 69.61 FEET TO A POINT; THENCE LEAVING SAID RIGHT OF WAY LINE, SOUTH 13 DEGREES 15 MINUTES 36 SECONDS EAST

A DISTANCE OF 150.00 FEET TO POINT; THENCE NORTH 76 DEGREES 44 MINUTES 24 SECONDS EAST A DISTANCE OF 210.00 FEET TO POINT; THENCE SOUTH 13 DEGREES 15 MINUTES 36 SECONDS EAST A DISTANCE OF 59.89 FEET TO A POINT; THENCE SOUTH 36 DEGREES 41 MINUTES 28 SECONDS WEST A DISTANCE OF 688.26 FEET TO POINT; THENCE SOUTH 84 DEGREES 33 MINUTES 03 SECONDS WEST A DISTANCE OF 15.67 FEET TO A POINT; THENCE ALONG A CURVE TO THE RIGHT WITH A RADIUS OF 1250.00 FEET, A LENGTH OF 918.90 FEET, A CHORD BEARING OF NORTH 74 DEGREES 24 MINUTES 57 SECONDS WEST A CHORD DISTANCE OF 898.35 FEET TO A POINT; THENCE NORTH 53 DEGREES 21 MINUTES 22 SECONDS WEST A DISTANCE OF 63.62 FEET TO A POINT, SAID POINT BEING ON THE EASTERN RIGHT OF WAY LINE OF ROUTE 106, EMMAUS CHURCH ROAD; THENCE ALONG SAID RIGHT OF WAY LINE NORTH 36 DEGREES 38 MINUTES 38 SECONDS EAST A DISTANCE OF 556.75 FEET TO POINT; THENCE ALONG A CURVE TO THE RIGHT WITH A RADIUS OF 1839.86 FEET, A LENGTH OF 56.12 FEET, A CHORD BEARING OF NORTH 37 DEGREES 31 MINUTES 04 SECONDS EAST A CHORD DISTANCE OF 56.12 FEET TO A FOUND MONUMENT; SAID MONUMENT BEING THE TRUE POINT AND PLACE OF BEGINNING AND CONTAINING 16.12 ACRES OF LAND MORE OR LESS.

2. Development of the site shall be in substantial accord with the "Conditional Use Plan" submitted on 2-19-13 with the Conditional Use Permit application (CUP-02-13) dated 6-12-12 and the "Traffic Improvement Plan" dated 4-19-13.
3. Transportation. Prior to site opening, a full auxiliary right turn lane shall be constructed, at the applicant's expense, on northbound VA Route 106 (Emmaus Church Road) extending from the northern entrance of the Pilot Travel Center to the proposed Access Road.
4. Transportation. Prior to site opening, a 250-foot left turn lane with a 200-foot taper shall be constructed, at the applicant's expense, on southbound VA Route 106 (Emmaus Church Road) at the proposed Access Road.
5. Transportation. Prior to site opening, a three lane Access Road shall be constructed, at the applicant's expense, the full length of the Wilco-Hess parcel (as referenced in Condition 1) to serve the internal access points of the site.
6. Access Road. Upon recordation of the subdivision plat for the development site, the access road shall be dedicated for public use.
7. Transportation Improvements. VDOT and/or the County may request the applicant, and the applicant shall conduct, at the applicant's expense, to prepare up to two (2) additional traffic signal warrant analyses at the intersection of Route 106 (Emmaus Church Road) and the proposed Access Road within four (4) years of the site opening; however, the request by VDOT and/or the County shall be no more frequent than every

two (2) years. Prior to site opening the applicant shall post a bond in the amount of one hundred thousand dollars (\$100,000) to be held for four (4) years after site opening to financially assist with the traffic signal improvements should they be warranted by the analyses.

8. Prohibited Uses. The following uses shall be prohibited on the property (as identified by the legal description in Condition 1):
 - a. Truck service facilities (oil changing, tire changing, cleaning, repair, and maintenance); this does not include emergency onsite repair
 - b. Massage parlors
 - c. Tattoo parlors
 - d. Adult businesses
 - e. Businesses whose principal purpose is the cashing of checks
 - f. Pay day loan businesses
 - g. Auto body and painting
9. Subdivision. Future subdivision or resubdivision of the parcel shall not alter the use prohibitions. All other uses permitted as a matter of right or by use permit shall be permitted in the manner specified by the Zoning Ordinance as it may be amended from time to time.
10. Parking. No vehicle parking shall be permitted to occur along or parallel to the access road. "No Parking" signs shall be posted along this road.
11. Future Retail/Restaurant Development site. The site on the "Conditional Use Plan" designated as a future retail/restaurant development site shall not have designated truck (tractor-trailer) parking spaces.
12. Mechanical Equipment. Mechanical equipment shall be screened from public view at ground level. Screening material will be a minimum of six (6) inches higher than the mechanical equipment.
13. Outdoor Storage. Outdoor storage areas, including dumpster sites, shall be within a fenced area and screened from the view of surrounding properties and the adjoining public right-of-way.
14. Signage. The property owner/applicant shall submit a signage and pavement marking plan to the New Kent County Community Development Department as part of the site plan approval process. The signage plan shall address parking and loitering on the property, as well as ensuring that all fire lanes are kept clear at all times. Signage and pavement markings shall be maintained continuously and replaced or refreshed as needed.
15. Safety and Security. Within 90 days of the approval of this use permit, the property owner/applicant shall develop a security plan and submit that plan for review by the

New Kent County Sheriff's Office and Fire and Rescue Department for approval, which shall not be withheld unreasonably. Such plan shall fully address the physical and operational methods to be utilized to ensure the safety and security of the patrons of the site and the adjoining properties as well as the prevention of illegal and illicit activities from occurring on the site and adjoining properties. That plan may include, among other components, the hiring of a private security guard or special police, as that term is used in §19.2-13 of the Virginia Code, as amended. The site may not operate as a truck stop without an approved safety and security plan and said plan shall be updated and re-approved by the Sheriff's Office at least annually.

16. Monitoring of Site. Staff will routinely walk around the interior and exterior of the entire site to identify missing signage, lighting issues, traffic issues, and ensure cleanliness of the site.
17. Expansion of Facility and Use. No expansion of this use or enterprise beyond the boundaries of the subject parcel (as identified by the legal description in Condition 1) as it exists on the date of approval of the permit shall be permitted.
18. This Conditional Use Permit shall expire on December 31, 2043 if it is not renewed prior to that date.



Rodney A. Hathaway
County Administrator



W.R. Davis, Jr.
Chairman