

BK 0649PG1031
BOARD OF SUPERVISORS
COUNTY OF NEW KENT
VIRGINIA

R-37-15

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 14th day of December, 2015:

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

Motion was made by Mr. Burrell, which carried 5:0, to adopt the following resolution:

**A RESOLUTION TO APPROVE CONDITIONAL USE PERMIT
APPLICATION CUP-02-15, THEATER SQUARE LLC AND
LOVES TRAVEL STOPS AND COUNTRY STORES, INC,
TO AUTHORIZE THE CONSTRUCTION OF A TRAVEL CENTER
LOCATED ON A PORTION OF TAX MAP 21-88 (GPIN #J12-1740-0776)**

WHEREAS, Theater Square LLC (property owner) and representatives from Love's Travel Stops and Country Stores, Inc. (applicant), have submitted a "Conditional Use Permit Application" dated June 24, 2015; 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 #J12-1740-0776 (Tax Map and parcel 21-88); and

WHEREAS, subsequent to receiving a complete application and within the timeframes established by Code, the Planning Commission scheduled and conducted a formal and duly advertised public hearing on November 16, 2015 where they carefully considered the public comment received and voted 9:0:1 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 December 14, 2015, and carefully considered the comments received; and

WHEREAS, the Board of Supervisors has evaluated the application based on the current zoning of the parcel, which is Economic Opportunity, the standards set forth in the Conditional Use Permit Provisions of the Zoning Ordinance (Article XIX, § 98-741 et seq.), and the proposed conditions in the staff memo; and

WHEREAS, the Board of Supervisors finds that approval of CUP-02-15 with the conditions stated herein 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;

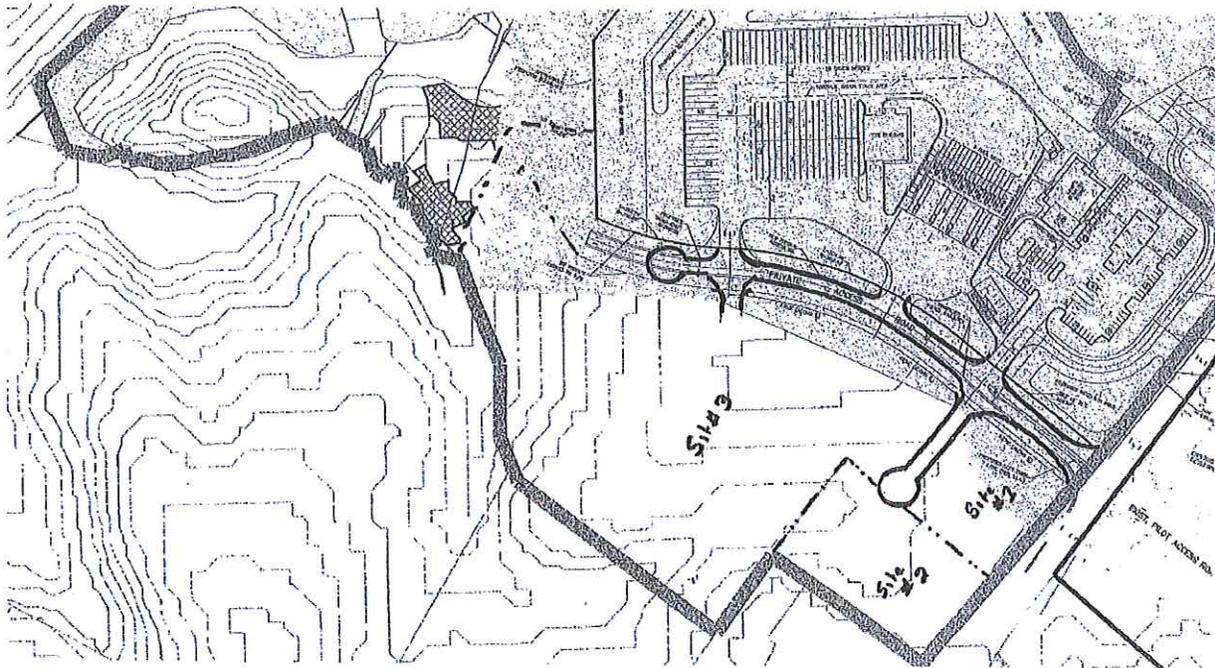
NOW THEREFORE, BE IT RESOLVED that on this, the 14th day of December, 2015, by the New Kent County Board of Supervisors, that Conditional Use Permit Application CUP-02-15 submitted by Theater Square LLC (property owner) and Love's Travel Stops and Country Stores, Inc. (applicant), be, and it hereby is, approved, subject to the following conditions:

1. The following conditions shall apply to the portion of Tax Map & Parcel number 21-88 (GPIN J12-1740-0776) as described in the following legal description:

BEGINNING AT A POINT APPROXIMATELY 977' SOUTHEAST FROM THE INTERSECTION OF INTERSTATE 64 AND ROUTE 609 – EMMAUS CHURCH ROAD EXTENDED;

THENCE S36°43'29"W 494.00'; THENCE N53°16'31"W 368.00';
THENCE ALONG A CURVE TO THE LEFT WITH A RADIUS OF
800.00', AN ARC LENGTH OF 504.06', A CHORD BEARING OF
N71°19'32"W, AND A CHORD DISTANCE OF 495.76'; THENCE
ALONG A CURVE TO THE RIGHT WITH A RADIUS OF 720.00', AN
ARC LENGTH OF 262.75', A CHORD BEARING OF N78°55'17"W,
AND A CHORD DISTANCE OF 261.29'; THENCE N03°29'59"W
346.69'; THENCE N36°52'23"E 266.77'; THENCE N86°30'01"E
637.10'; THENCE S33°05'51"E 308.75'; THENCE S53°16'31"E
103.73'; THENCE S36°43'29"W 75.69'; THENCE S53°16'31"E
418.14' TO THE POINT AND PLACE OF BEGINNING, AND
CONTAINING 17.9 ACRES OF LAND.

2. Development of the site shall be in substantial accord with the "Conditional Use Plan" dated 11-4-15 and submitted with the Conditional Use Permit application (CUP-02-15).
3. Transportation. The applicant shall construct a new public local access road that will connect to Emmaus Church Road at the existing intersection with the Pilot Travel Center access road making the existing 3 way intersection a 4 way intersection.
4. Local Access Road. Upon recordation of the subdivision plat for the development site, the local access road shall be dedicated for public use.
5. Local Access Road Cul de sac. The local access road to serve the Love's Travel Stops and Country Stores, Inc. site and sites #1, #2, and #3 as shown on the conceptual overall layout entitled "Proposed Lots and Road Layout" dated October 21, 2015 shall terminate with a cul de sac immediately past the most distant site entrance for Love's Travel Stops and Country Stores, Inc. from Route 106 as generally shown on this exhibit:



Proposed Lots and Road Layout

October 21, 2015

6. Transportation. For vehicles entering the project from the north, the applicant shall construct a right turn lane from Emmaus Church Road to the new public access road.
7. Transportation. For vehicles entering the project from the south, the applicant shall construct a left turn lane from Emmaus Church Road to the new public access road.
8. Transportation. For vehicles exiting the project from the west, the applicant shall construct a left turn lane from the new public access road to Emmaus Church Road.
9. Right of Way dedication. Love's Travel Stops and Country Stores, Inc. shall dedicate public right of way at no cost to the Virginia Department of Transportation to accommodate the roadway improvements identified in the approved Route 106 Access Management Plan. Right of way dedication shall occur along the entire property frontage on Route 106 and shall not exceed sixty (60) feet in width measured from the current centerline of Route 106.
10. Traffic Signal. A traffic signal shall be installed at the expense of Love's Travel Stops and County Stores, Inc. at the intersection of the local access road and Route 106. The traffic signal shall be installed and be operational prior to the issuance of a final Certificate of Occupancy for the facility. The signal shall be designed to accommodate future travel lanes identified in the Route 106 Access Management Plan, and shall be reviewed and approved by New Kent County and the Virginia Department of Transportation.

11. Prohibited Uses. The following uses shall be prohibited on the property (as identified by the legal description in Condition 1):
 - a. Massage parlors
 - b. Tattoo parlors
 - c. Adult businesses
 - d. Businesses whose principal purpose is the cashing of checks
 - e. Pay day loan businesses
 - f. Auto body and painting
12. 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.
13. Parking. No vehicle parking shall be permitted to occur along or parallel to the local access road. "No Parking" signs shall be posted along this road.
14. 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.
15. 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.
16. 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.
 - a. Where required by the Fire Code Official, approved signs or other approved notices or markings that include the words NO PARKING-FIRE LANE shall be provided for fire apparatus access roads to identify such roads or prohibit the obstruction thereof. The means by which fire lanes are designated shall be maintained in a clean and legible condition at all times and be replaced or repaired when necessary to provide adequate visibility.
 - b. Fire apparatus access roads shall not be obstructed in any manner, including the parking of vehicles. The minimum widths and clearances established in the VA Statewide Fire Prevention Code shall be maintained at all times.
 - c. Fire apparatus access roads shall have an unobstructed width of not less than 20 feet, exclusive of shoulders, except for approved security gates in accordance with the VA Statewide Fire Prevention Code, and an unobstructed vertical clearance of not less than 13 feet 6 inches.
17. 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

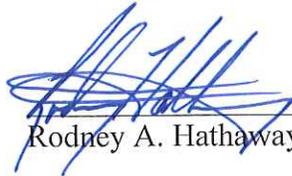
prevention of illegal and illicit activities from occurring on the site and adjoining properties. That plan may include, among other components, the hiring of a private security guard or special police, as that term is used in §19.2-13 of the Virginia Code, as amended. The site may not operate as a truck 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.

- a. A contact person at the Love's site shall be designated and their contact information given to the Sheriff's Office. This contact person shall be responsible and responsive to the daily safety and security issues on the site.
- b. As part of the security plan, the property owner shall work with the Sheriff's Office to share information and directives/training that staff at the Love's is given regarding how to handle an armed robbery, shoplifting, assaults, etc. The plan shall also discuss how to obtain suspect descriptions, vehicle descriptions, mode of travel, direction of travel, witness information, etc.
- c. As part of the security plan, a protocol for gas drive-offs and accidents that occur in the parking lot shall be developed.

18. 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.
19. Public Utilities. The project is within the designated water and sewer service area and therefore connection to public utilities is required. All utility design shall be in accordance with the latest edition of the *New Kent County Utility Design Standards*.
20. Landscaping. All landscaping shall be of a water conserving design and should minimize irrigation from the public water supply. Irrigation system must be approved by the Department of Public Utilities. Private irrigation wells are not approved.
21. Water Conservation and Management Plan. A site-specific water conservation and management plan, as well as a grease trap management plan, will be required by the Department of Public Utilities.
22. 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.
23. Certificate of Occupancy. A Certificate of Occupancy will be obtained within three years from the date of approval of this resolution.
24. This Conditional Use Permit shall expire on the thirtieth anniversary of its issuance if it is not renewed prior to that date.

BE IT FURTHER RESOLVED, that the County Administrator be, and he is hereby, directed to have a fully executed copy of this Resolution recorded upon the Land Records of the County in the office of the Clerk of the Circuit Court.

County Administrator/Board Clerk


Rodney A. Hathaway

COUNTY OF NEW KENT
COMMONWEALTH OF VIRGINIA

The foregoing instrument was acknowledged before me this 16th day of December, 2015 by Rodney A. Hathaway, County Administrator and Clerk of the New Kent Board of Supervisors.




Notary

My commission expires:

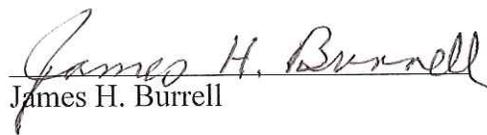
12-31-2018

My Commission Number: 315272

INSTRUMENT #150004005
RECORDED IN THE CLERK'S OFFICE OF
NEW KENT COUNTY ON
DECEMBER 31, 2015 AT 09:57AM

KAREN A. BUTLER, CLERK
RECORDED BY: KSM

Board Chairman


James H. Burrell

COUNTY OF NEW KENT
COMMONWEALTH OF VIRGINIA

The foregoing instrument was acknowledged before me this 17th day of December, 2015 by James H. Burrell, Chairman of the New Kent Board of Supervisors.




Notary

My commission expires:

12-31-2018

My Commission Number: 315272