BOARD OF SUPERVISORS
COUNTY OF NEW KENT
VIRGINIA

O-22-05

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 11th day of July, 2005:

Present:	Vote:
James H. Burrell	Aye
Stran L. Trout	Aye
Mark E. Hill	Aye
D. M. Sparks	Aye
W. R. Davis, Jr.	Aye

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

AN ORDINANCE TO REZONE APPROXIMATELY 6.8 ACRES
OF LAND IN THE SAINT PETERS MAGISTERIAL
DISTRICT FROM B-1, GENERAL BUSINESS TO B-2,
BUSINESS LIMITED

WHEREAS, Mr. David L. Horsley submitted application ZM-02-05 on 12 April 2005; and

WHEREAS, said application requests the rezoning of approximately 6.8 acres of land, more specifically Tax Map Parcel number 21 (6) 8, from B-1, General Business to B-2, Business Limited; and

WHEREAS, said application was formally referred to the New Kent County Planning Commission (the "Planning Commission") in accordance with applicable procedures; and

WHEREAS, within the timeframes established by the Code of Virginia and New Kent County Code, the Planning Commission scheduled and conducted a formal and duly advertised public hearing on 20 June 2005, and carefully considered the public comment received; and

WHEREAS, the Planning Commission voted 9:0:1 to forward the subject application to the New Kent County Board of Supervisors ("the Board of Supervisors") with a favorable recommendation because the rezoning of the land would result in the zoning classification that is consistent with the Vision 2020 Comprehensive Plan; and

WHEREAS, the rezoning application has been advertised for public hearing before the Board of Supervisors in full accord with applicable provisions of the Code of Virginia; and

WHEREAS, this Ordinance will further the public necessity, convenience, general welfare and good zoning practices in the County of New Kent; and

WHEREAS, the Board of Supervisors has made the following findings with regard to this application:

- The application is generally in conformance with the New Kent County Comprehensive Plan, "Vision 2020".
- Approval of the subject application would further the health, safety and general welfare of the citizens of New Kent County and support the implementation of good zoning practice within the County.

NOW THEREFORE BE IT ORDAINED this, the 11th day of July 2005, by the New Kent County Board of Supervisors that application ZM-02-05 be, and it hereby is, approved by amending the New Kent County Zoning Map to rezone tax map parcel 21 (6) 8 consisting of 6.8 acres to B-2, Business Limited.

BE IT FURTHER ORDAINED that approval of this application is conditioned upon the proffers contained in the Proffer Statement submitted by the applicant and dated 14 June 2005.

BE IT FURTHER ORDAINED that the County Administrator is directed to cause this ordinance together with the proffer statement referenced above to be recorded upon the land records of the County as maintained by the Clerk of the Circuit Court.

John A. Budesky
County Administrator

W. R. Davis, Jr.
Chairman

STATE OF VIRGINIA

County of New Kent, to-wit:

Subscribed to before me, the undersigned Notary Public, by John A. Budeksy, County Administrator, and W. R. Davis, Jr., Chairman of the Board of Supervisors, on the 20th day of July, 2005.

My commission expires May 31, 2008.

Connie C. Nalls

Notary Public

Rezoning Application: ZM-02-05

PROFFER STATEMENT
14 June 2005

I hereby voluntarily proffer that the development of the subject property of this application shall be in strict accordance with the conditions set forth below:

1. Except for junction boxes, meters, pedestals, transformers and existing overhead utility lines and for technical and environmental reasons, all utilities shall be underground.
2. 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.
3. All lighting shall utilize "cut-off" fixtures and luminaires that prevent upward light scatter and preserve the dark night sky. Luminairs shall be installed to prevent direct glare into adjacent properties.
4. Detached signage describing the property shall be monolithic style signs, the base of which shall have landscaping. No portable signs shall be permitted on the site other than during construction of the property. No detached sign shall exceed a height of twelve (12) feet, as measured from the base of the sign.
5. The following uses shall be prohibited: Auto sales and services, Used auto parts sales, Broadcasting studio, Lumber, and building supply centers (with outside storage), Assembly halls, Clubs, Laundromats, Marinas, Miniature golf, Amusement parks, Conference centers, Machine sales and indoor service, Mobile and motor home sales, Plant nurseries, Printing establishments, Tourist homes, Upholstery shops, Autobody/painting, Convalescent homes, kennels, Bus terminal/stations.
6. The following uses are allowed with a Conditional Use Permit: Restaurants – drive thru, Restaurants – with drive-in window, Auto part sales – new, Automobile service station with minor repairs under cover, Automobile fuel sales, Theaters, Farm equipment sales, Funeral homes, Game rooms, amusement facilities.
7. Outdoor storage areas shall be within a fenced area and screened from the view of surrounding properties and the adjoining public right-of-ways.
8. Architectural Treatment – Exterior walls visible from public road shall be comprised of a minimum of forty (40) percent brick exclusive of

architectural features and elements such as, by way of example, doors, windows, and dormers. Additional materials shall consist of glass, split face block, precast concrete, E.I.F.S., cementitious or composite-type siding, stone, marble or granite, or a combination of the foregoing. Architectural Renderings must be approved by the Zoning Administrator prior to site plan approval. If the applicant disagrees with the Zoning Administrators findings, the applicant may appeal to the New Kent County Planning Commission. The appeal must be filed with the New Kent County Zoning Administrator in writing.

9. Security Alarms. – Outside speakers shall be prohibited. No external alarm bells or external warning devices that are audible beyond the Boundary lines of the Property shall be permitted on the property.
10. Trash receptacles shall be screened from public view at ground level.

David L Horsley Sr — Date: 6-20-05
Applicant/Agent/Contract Purchaser

_____ Date: _____
Applicant/Agent/Contract Purchaser

_____ Date: _____
Applicant/Agent/Contract Purchaser

_____ Date: _____
Applicant/Agent/Contract Purchaser

STATE OF VIRGINIA
CITY/COUNTY OF NEW KENT, TO-WIT:

This day David L Horsley Sr personally appeared before me, Pamela D Crosby, a Notary Public in and for the County and State aforesaid, swore or affirmed that the matters stated in the foregoing Statement of Proffer are true to the best of his acknowledgement and belief. Given under my hand this 20 date of June, 2005.

Pamela D Crosby
Notary Public

My commission expires: 043008

INSTRUMENT #050003460
RECORDED IN THE CLERK'S OFFICE OF
NEW KENT COUNTY ON
JULY 26, 2005 AT 02:22PM
KAREN A. BUTLER, CLERK

RECORDED BY: ADM