

**ORDINANCE NO.** 7275-16

AN ORDINANCE GRANTING CONDITIONAL USE PERMIT NUMBER CU-16-365 FOR THE HEREINAFTER DESCRIBED PROPERTY FOR THE PURPOSE OF PERMITTING THE CONSTRUCTION AND OPERATION OF A RESTAURANT WITH DRIVE THROUGH SERVICE IN THE LEE HALL CORRIDOR OVERLAY DISTRICT AND ZONED C1 RETAIL COMMERCIAL.

WHEREAS, application number CU-16-365 has been made by **JOHN M. HARRIS and JERRY W. HARRIS and THE DIGGES COMPANY, owners and applicants**, for a conditional use permit for the hereinafter described property for the purpose of permitting the construction and operation of a restaurant with drive through service in the Lee Hall Corridor Overlay District and zoned C1 Retail Commercial; and

WHEREAS, the application has been referred to the Planning Commission of the City of Newport News for recommendation and has been duly advertised as required by law and the said Planning Commission has made its recommendation.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Newport News:

(a) That conditional use permit number CU-16-365 is hereby granted for the property described in paragraph (b) hereof for the purpose of permitting the construction and operation of a restaurant with drive through service in the Lee Hall Corridor Overlay District and zoned C1 Retail Commercial; and

(b) That the property, hereinafter referred to as the "Property," to which the conditional use permit applies is particularly described below:

All that certain piece, parcel or lot of land situate, lying and being in the City of Newport News, Virginia, being more particularly described as follows: Beginning at a point in the westerly right of way line of Virginia State Highway Route 143, formerly Virginia State Highway Route 168, at which said point an abandoned U. S. Government right of way, said Virginia State highway Route 143 right of way and the property herein conveyed converge; thence proceeding in a clockwise direction along said Virginia State Highway Route 143 right of way South 32° 06' East 251.23 feet to a point thence proceeding South 62° 47' 10" West to a point; at which said point land herein conveyed, land now or formerly owned by Virginia Electric and Power Company, and remaining land of the grantor converge; thence 35° 47' 06" West 179.49 feet to a point; at

which said point property herein conveyed, said abandoned U. S. Government right of way, and land now or formerly owned by Virginia Electric and Power Company converge; thence North 37° 03' 30" East a distance of 168.23 feet to a point, the point and place of beginning. The property herein described being bounded on the North by said abandoned U. S. Government right of way; on the East by said Virginia State Highway Route 143 right of way; on the South by remaining land of the grantor herein, and on the West by property now or formerly owned by Virginia Electric and Power Company.

The Property has a common street address of 13921 and a portion of 14523 Jefferson Avenue. The parcel is assigned Real Estate Assessor's Tax I.D.#s 008.00-01-03 and 008.00-01-11.

(c) That this conditional use permit is granted subject to the following conditions, each of which shall be implemented upon approval of this ordinance:

1. The applicant shall submit a class 1 Site Plan to the Department of Engineering for review by the Site Plan Review Committee and approval by the Director of Engineering; this site plan shall be in general conformance with the Conceptual Plan prepared by The Bush Companies, dated March 7, 2016, found in Appendix A-2, which is attached hereto and made a part hereof, and shall conform to this conditional use permit, the City's Site Regulations and the Zoning Ordinance. The site plan shall address traffic improvements as noted by the Department of Engineering in Appendix A-7, which is attached hereto and made a part hereof.
2. The applicant shall submit to the Department of Planning building elevations and exterior building materials consistent with the elevation drawings dated February 24, 2016 prepared by Arie Kohn Architects, PC and found in Appendix A-3, which is attached hereto and made a part hereof, to be reviewed and approved by the Director of Planning prior to the issuance of a building permit. The building shall be constructed in substantial conformance with the approved elevations and materials.
3. The applicant shall submit a landscape plan, which is consistent with the requirements of the Site Regulations and this permit, to be approved by the Director of Planning prior to conditional site plan approval. This landscape plan shall be in general conformance to the conceptual plan prepared by The Bush Companies, dated March 7, 2016, found in Appendix A-2. All landscaping shall be installed in accordance with the approved plan and shall be maintained in a healthy condition in perpetuity. The use approved by this permit shall not commence until the landscaping has been installed.

4. The applicant shall cause a 20-foot transitional buffer area to be installed and maintained in perpetuity along the property's Jefferson Avenue frontage.
5. The applicant shall install an 8-foot wide sidewalk along the Jefferson Avenue frontage in accordance with City Code requirements.
6. No more than one freestanding sign shall be installed on the Property. The sign shall be a monument style not to exceed eight (8) feet in height, including the base, and the size shall be limited to fifty (50) square feet. The sign shall be located within the boundaries of the Property. The freestanding sign shall be in substantial conformance with the sign identified in Appendix A-4, which is attached hereto and made a part hereof. The design of the freestanding sign and all building signs shall be submitted to the Department of Planning and approved by the Director of Planning prior to the issuance of a sign permit. No portable signs shall be permitted on the Property.
7. Signage placed in or on any window of a building shall be limited to no more than 25 percent of each window.
8. The applicant shall submit the proposed elevations and exterior surface materials for a masonry dumpster enclosure to the Department of Planning to be reviewed and approved by the Director of Planning prior to the issuance of a building permit. The applicant shall construct the dumpster enclosure in substantial conformance with the approved elevations and materials. The container within the enclosure shall be a closed container.
9. The applicant shall screen all heating, ventilation, and air conditioning equipment from view from the public rights-of-way and adjacent properties in a manner reviewed and approved by the Director of Planning.
10. The exterior of the restaurant including the buffer area shall be patrolled by the operator at the close of business each day and all debris, litter and graffiti identified during this process must be removed immediately.
11. The applicant shall cause a plan ("the Plan") to be prepared for the installation and operation of digital video equipment (the "Equipment") with recording devices and capability sufficient to include date and time the recording is made. The Equipment shall provide surveillance coverage encompassing the front, side and rear exteriors of the use permitted by this ordinance. The Plan shall be submitted for review and approval by the Police Department. The Plan shall include an operational period for the Equipment, which shall include all operating hours of the business and one

hour or more after the close of business. Once the Plan is approved, the applicant shall install the Equipment in accord with the provisions of the Plan; and operate, record, and maintain the Equipment to provide for the required surveillance coverage. The Equipment and recordings made thereby shall be subject to periodic inspection by the Police Department at reasonable times. Commencement of the use authorized by this conditional use permit shall constitute acceptance of the conditions of this permit, including consent for such inspections. Surveillance tapes or recorded data must be maintained in a condition permitting review of the information recorded or stored therein or thereon for a period of time no less than thirty days.

12. If approved, the ordinance approving this conditional use permit shall be prominently displayed within the establishment at all times until the use is abandoned.
13. The applicant, as well as successors, assigns and agents, if any, shall comply with all of the conditions stated herein, as well as all codes, ordinances and regulations of federal, state and local governments.
14. The applicant, as well as successors, assigns, and agents, if any, shall obtain all necessary licenses, approvals, conditional approvals, and permits prior to commencing any use, which is authorized by this conditional use permit or law. Furthermore, the applicants, as well as successors, assigns, and agents shall maintain all necessary licenses, approvals, conditional approvals, and permits for the entire period of time during which the real property, whether improved or otherwise is put to a use which is authorized by this conditional use permit.
15. A Certificate of Use and Occupancy shall be obtained prior to the occupancy of, or the operation of, any use of the Property. If applicable, the use approved by this conditional use permit shall not begin until a site plan is approved and fully implemented. If applicable, any landscaping component of the site plan shall be maintained in a healthy condition for the duration of the use authorized by this permit.
16. Violation of any of the above conditions or safeguards attached thereto shall be deemed a violation of the Zoning Ordinance, and, in addition, and notwithstanding any other provision of law, shall serve as grounds for revocation of the conditional use permit by City Council.
17. Notwithstanding any other provision of law, this conditional use permit is being approved due, in part, to the mitigating effects of each and every condition attached hereto; therefore, the conditions contained in this

conditional use permit are not severable; in the event that any condition contained herein, or part thereof, is found by a court of competent jurisdiction to be invalid, unconstitutional, or otherwise unenforceable, then this conditional use permit shall be void and the use permitted by this conditional use permit shall cease. If this conditional use permit becomes void as a result of a condition or a part thereof, or conditions therein, being ruled invalid, unconstitutional or otherwise unenforceable, the property owner shall be afforded the right to reapply for a conditional use permit.

18. Notwithstanding any other provision of law, this conditional use permit is being approved due, in part, to the mitigating effects of each and every condition contained herein; as such, in the event an amendment to the zoning of the property described in Section (b) hereof is produced by a comprehensive implementation of a new or substantially revised Zoning Ordinance, the conditions imposed by the conditional use permit shall continue in effect.

(d) That this conditional use permit shall be deemed to have been abandoned and shall be revoked:

1. If the construction of the improvements or occupancy authorized by this conditional use permit has not commenced within twenty-four (24) months of May 24, 2016, or,
2. In the event of the continuous nonuse of the property as herein permitted for a period of twelve (12) months. encompassing the front, side and rear exteriors of the use permitted by this ordinance. The Plan shall be submitted for review and approval by the Police Department. The Plan shall include an operational period for the Equipment, which shall include all operating hours of the business and one hour or more after the close of business. Once the Plan is approved, the applicant shall install the Equipment in accord with the provisions of the Plan; and operate, record, and maintain the Equipment to provide for the required surveillance coverage. The Equipment and recordings made thereby shall be subject to periodic inspection by the Police Department at reasonable times. Commencement of the use authorized by this conditional use permit shall constitute acceptance of the conditions of this permit, including consent for such inspections. Surveillance tapes or recorded data must be maintained in a condition permitting review of the information recorded or stored therein or thereon for a period of time no less than thirty days.

Ordinance No. 7275-16  
Page Six

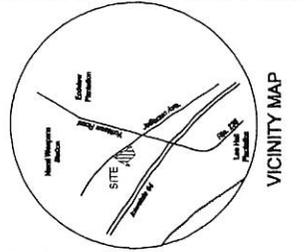
PASSED BY THE COUNCIL OF THE CITY OF NEWPORT NEWS ON MAY 24, 2016

Mabel Washington Jenkins, MMC  
City Clerk

McKinley L. Price, DDS  
Mayor

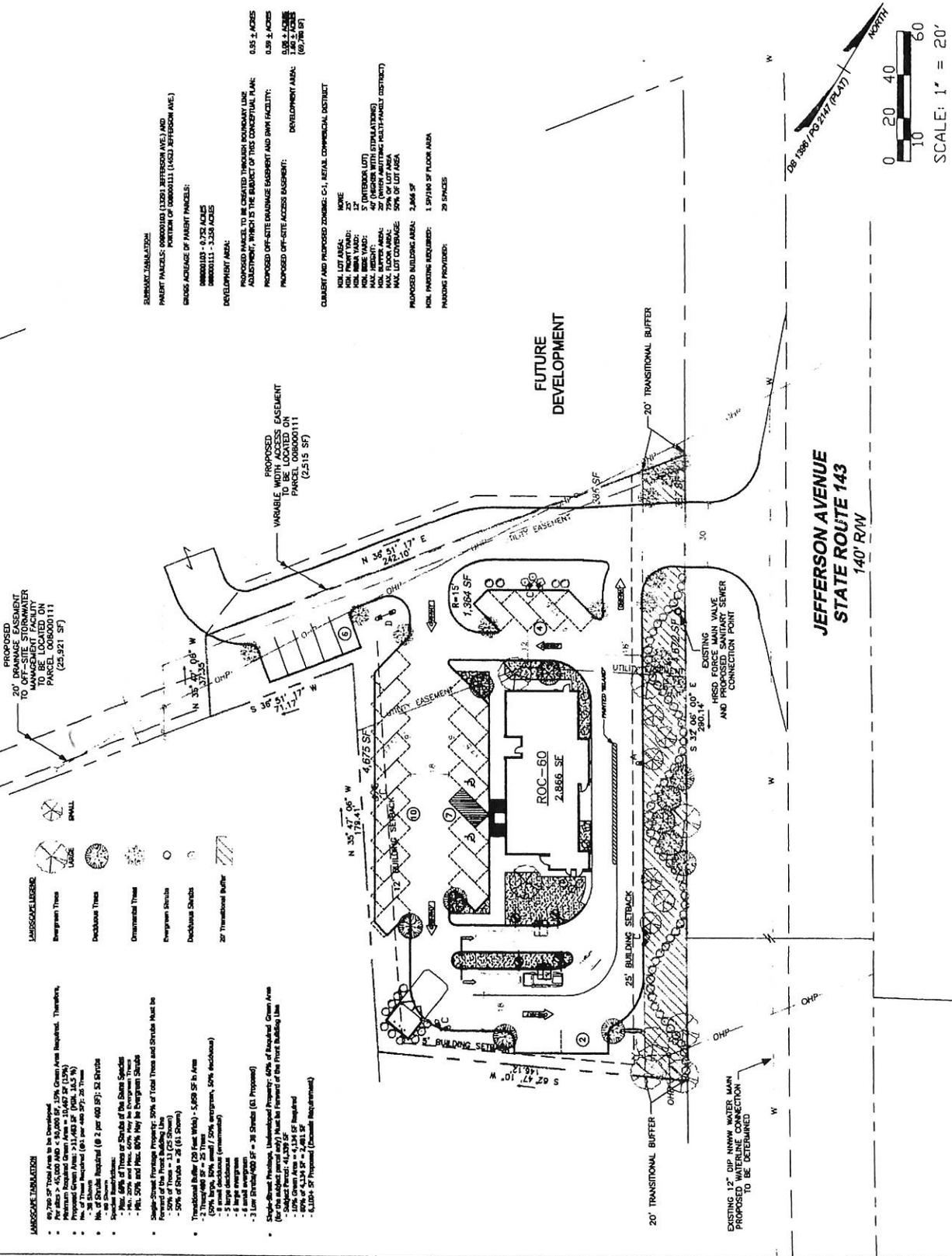
A true copy, teste:

City Clerk



**CONCEPTUAL PLAN**  
 Proposed Burger King Restaurant  
 13921 & 14523 Jefferson Ave.  
 March 7, 2016  
 City of Newport News  
 Virginia

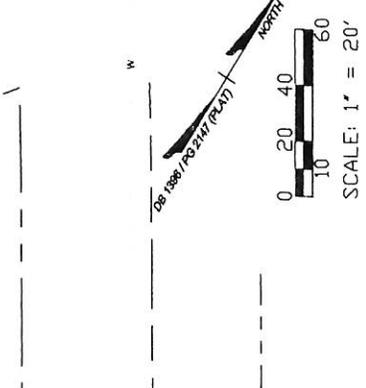
Prepared By:  
**THE BUSH COMPANIES**  
 4029 Ironbound Road, Ste. 100  
 Williamsburg, VA 23188  
 (757) 220-2874  
**SHEET 1 OF 1**



**SUBMITTAL INFORMATION**  
 PARCEL NUMBERS: 08080013 (13200 JEFFERSON AVE.) AND 08080011 (14523 JEFFERSON AVE.)  
 GRADE ADJUSTMENT: 0.00000000  
 DEVELOPMENT AREA: 0.35 ± ACRES (151,786 SF)

**PROPOSED OFF-SITE DRAINAGE BASIN AND SWM FACILITY:**  
 PROPOSED OFF-SITE ACCESS EASEMENT: 2.515 SF  
 PROPOSED OFF-SITE ACCESS BASINMENT: 0.35 ± ACRES (151,786 SF)

**CLUBSET AND PROPOSED ZONING: C-1, RETAIL COMMERCIAL DISTRICT**  
 MIN. LOT AREA: 10,000 SF  
 MIN. AREA VARI: 2%  
 MIN. SIDE YARD: 5' (OUTER PER LOT)  
 MIN. REAR YARD: 5' (OUTER PER LOT)  
 MIN. SETBACK: 20' (WITH ANNOTATING MULTI-PARCEL DISTRICT)  
 MAX. LOT COVERAGE: 50% OF LOT AREA  
 PROPOSED BUILDING AREA: 2,866 SF  
 MIN. PARKING REQUIRED: 1.59146 SF FLOOR AREA  
 PARKING PROVIDED: 20 SPACES



- LANDSCAPE LEGEND:**
- Emergent Trees
  - Deciduous Trees
  - Ornamental Trees
  - Emergent Shrubs
  - Deciduous Shrubs
  - 20' Transitional Buffer
- LANDSCAPE TABLE:**
- 90,790 SF Total Area to be Developed
  - For sites > 45,000 SQ. FT. 15% Green Area Required. Therefore, 13,618.5 SF (15% of 90,790 SF) must be provided.
  - Proposed Green Area: 21,140.3 SF (23.27%) (14.5' x 14.5')
  - No. of Trees Required (6.5' per 400 SF): 24 Trees
  - No. of Shrubs Required (8' per 400 SF): 24 Shrubs
  - Site Conditions:
    - 100% of Trees or Shrubs of the Same Species
    - 100% of Trees and Shrubs must be native to the region
    - 100% of Trees and Shrubs must be 40% (40%) for the proposed site
    - 100% of Trees and Shrubs must be 50% of Total Trees and Shrubs must be 50% of Total Trees and Shrubs
    - 50% of Trees = 12 (120 Shrubs)
    - 50% of Shrubs = 12 (120 Shrubs)
  - Transitional Buffer: (20' Feet Wide) = 5,659 SF to Area
    - 20% to be 100% (20%) of Required Green Area
    - 10% to be 100% (20%) of Required Green Area
    - 10% to be 100% (20%) of Required Green Area
    - 10% of 4,134 SF = 4,134 SF Required
    - 80% of 4,134 SF = 3,307 SF
    - 4,134 SF Proposed (Amount Required)
  - Single-Street Frontage, Undeveloped Property: 60% of Required Green Area (No. of trees per frontage) must be fronted by the front building line
    - 100% of 4,134 SF = 4,134 SF Required
    - 10% of 4,134 SF = 413.4 SF
    - 80% of 4,134 SF = 3,307 SF
    - 4,134 SF Proposed (Amount Required)

**PROPOSED 20' OFF-SITE STORMWATER MANAGEMENT FACILITY**  
 PARCEL: 08080011 (25,921 SF)

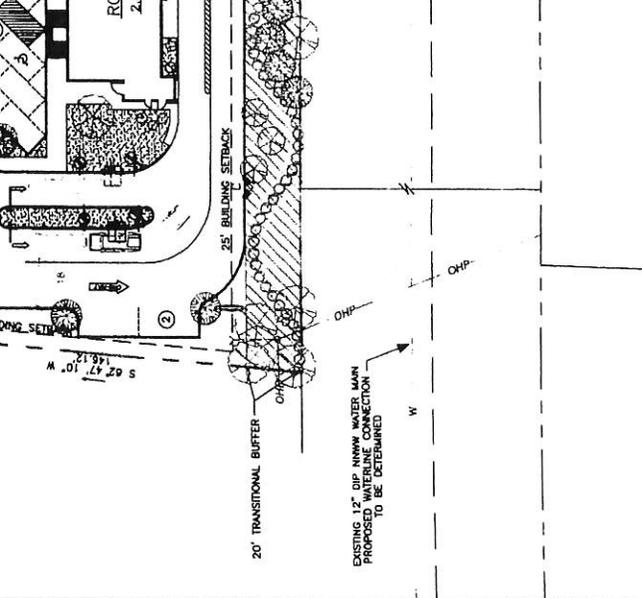
**PROPOSED VARIABLE WIDTH ACCESS EASEMENT TO THE ACCESS EASEMENT**  
 PARCEL: 08080011 (2,515 SF)

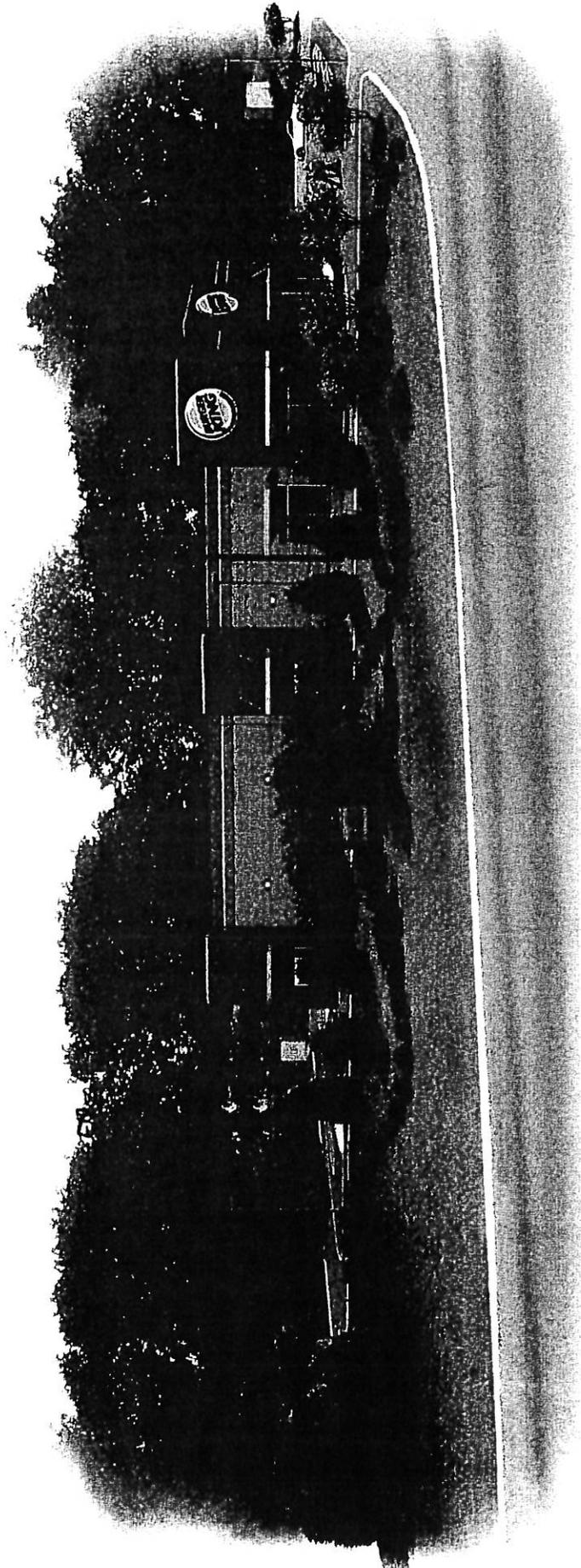
**PROPOSED 20' TRANSITIONAL BUFFER**

**PROPOSED 25' BUILDING SETBACK**

**EXISTING 12" DIP INNOW WATER MAIN PROPOSED WATERLINE CONNECTION TO BE DETERMINED**

**EXISTING FORCE MAIN VALVE AND PROPOSED SANITARY SEWER CONNECTION POINT**





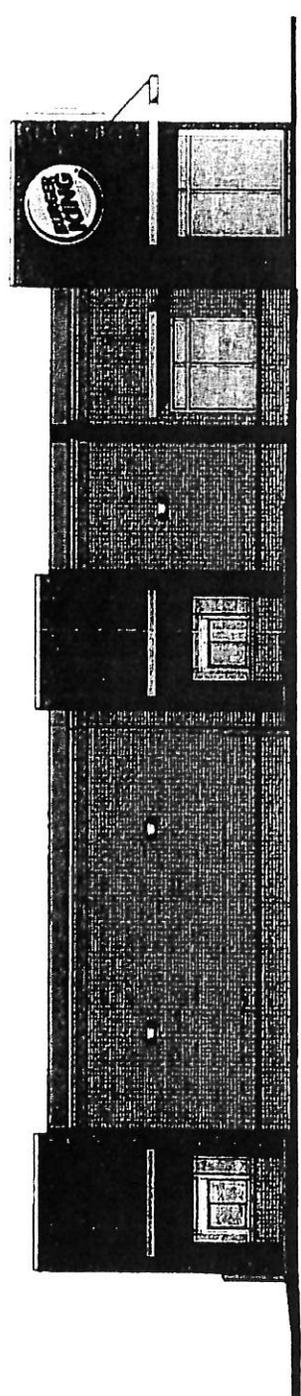

  
**BURGER KING**
  
**RESTAURANT**
  
 BK # 11111


  
**AKA**
  
 ARCHITECTS, P.C.

RENOVATION DRAWINGS FOR:  
**N AND R DINING**  
 423 N. Boundary St., Suite 100  
 Williamsburg, Va. 23182  
 Office 767-664-3175  
 Party Dunford, cell 670-880-6632

CHECKED BY: \_\_\_\_\_  
 DRAWN BY: \_\_\_\_\_  
 DATE: \_\_\_\_\_  
 SCALE: \_\_\_\_\_  
 SHEET NO. \_\_\_\_\_ OF \_\_\_\_\_  
 PROJECT NO. \_\_\_\_\_

03.04.2016.



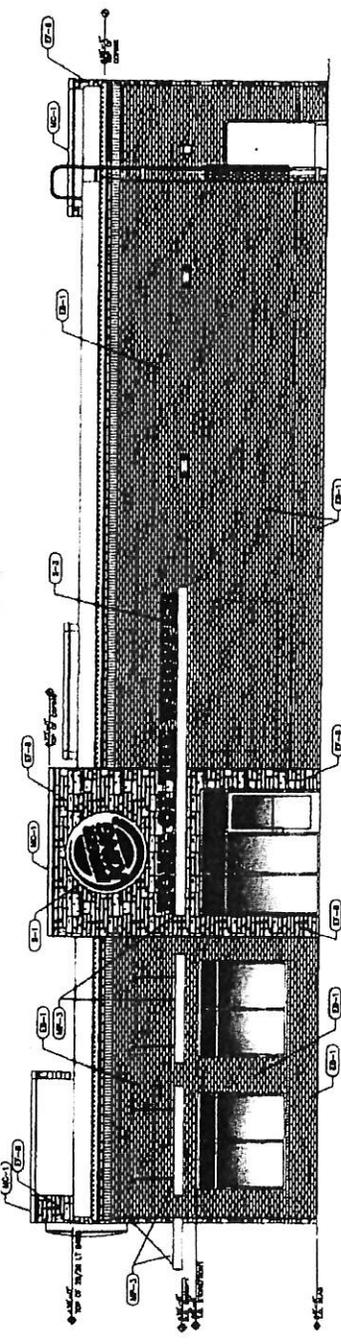
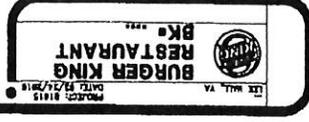
4 DRIVE THRU - LEFT ELEVATION  
 SCALE: 1/8" = 1'-0"

NO.	DATE	DESCRIPTION
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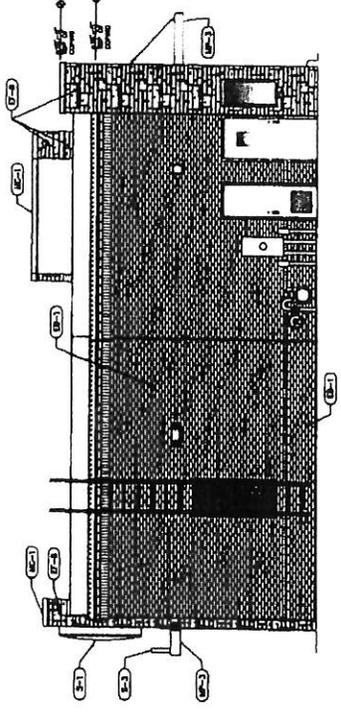
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 Perry Dunford, cell 570-890-6632



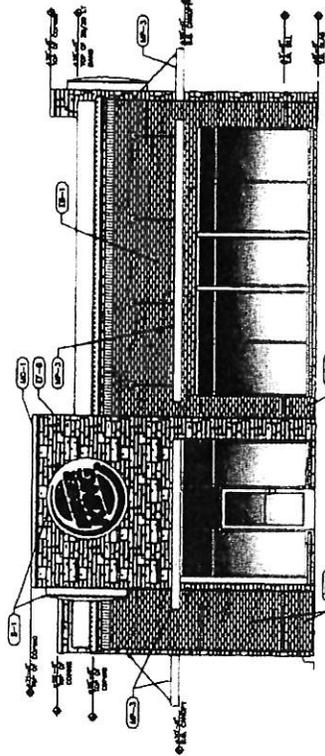
**AKA ARCHITECTURE, P.C.**  
 17 WOODROCK ROAD, NORFOLK, VA 23502  
 TEL: 757-643-7443 FAX: 757-643-7447  
 Email: info@akarchitect.com



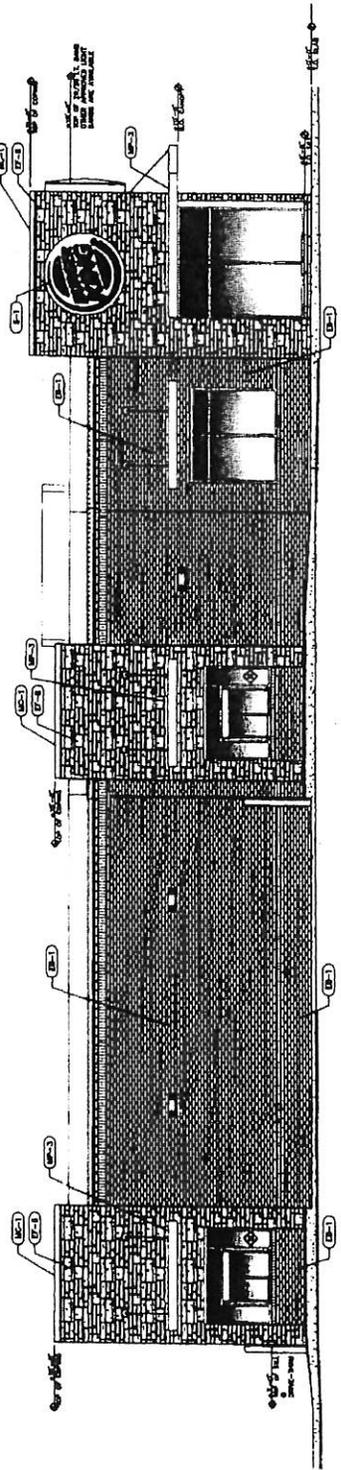
1 MAIN ENTRANCE - RIGHT ELEVATION  
 SCALE 1/4" = 1'-0"



2 REAR ELEVATION  
 SCALE 1/4" = 1'-0"



3 FRONT ELEVATION  
 SCALE 1/4" = 1'-0"



4 DRIVE THRU - LEFT ELEVATION  
 SCALE 1/4" = 1'-0"

03.04.2016

**Manufacturing Facilities:**  
 Odessa, FL; Tampa, FL; Jacksonville, FL; Dallas, TX; Chicago, IL; St. Louis, MO; Phoenix, AZ; Birmingham, AL; Houston, TX; Orlando, FL; Fort Lauderdale, FL; Miami, FL; New York, NY; Philadelphia, PA; Washington, DC; Atlanta, GA; Charlotte, NC; Denver, CO; San Francisco, CA; Portland, OR; Seattle, WA; San Diego, CA; San Jose, CA; Austin, TX; Dallas, TX; Houston, TX; Phoenix, AZ; Tampa, FL; Virginia Beach, VA; Columbus, OH.

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**Revisions:**

1. VERIFY ONE SHALL USE TO # 109
2. VERIFY ONE INCREMENT SIGN (S)
3. VERIFY ONE CHANGE TO THE SIGN TO # 109
4. VERIFY ONE INCREMENT SIGN TO # 109
5. VERIFY ONE INCREMENT SIGN TO # 109
6. VERIFY ONE INCREMENT SIGN TO # 109

**Account Rep:** FRANK PAUL

**Project Manager:** KATE SOMMEGER

**Drawn By:** J. CARPENTER

**Project/Location:**



**LOCATION # 4973**  
**221 FOX HILL ROAD**  
**HAMPTON, VA 23665**

**Client:** FRANK PAUL

**Job Number:** 73-16899-10

**Date:** FEBRUARY 20, 2013

**Sheet Number:** 1 OF 1

**Design Number:** 73-16899-10R6

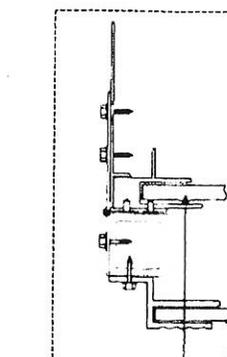
**Labels/Approvals/Date:**

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**RB-1 DETAIL | CLEAR COVER & LOCK**

**NOTE: DETAIL CONCEPTUAL. EXACT MANUFACTURING SPECIFICATIONS AS PER ENGINEERING REQUIREMENTS.**

**FLAT ACRYLIC FACES W/ HIGH IMPACT CLEAR TRACK**

**.177 CLEAR POLYCARBONATE COVER WITH LOCK**

**STANDARD INSTALLATION TO BE DIRECT PIPE EMBEDMENT INTO CONCRETE FOOTING PER FH ENGINEERING SPE.**

**CONSTRUCTION: 1.5" THICK POLYMER CONCRETE WITH 1/2" REBAR.**

**FINISH: 1.5" THICK POLYMER CONCRETE WITH 1/2" REBAR.**

**INSTALLATION: 1.5" THICK POLYMER CONCRETE WITH 1/2" REBAR.**

**REVISIONS: 1.5" THICK POLYMER CONCRETE WITH 1/2" REBAR.**

**DATE: 1.5" THICK POLYMER CONCRETE WITH 1/2" REBAR.**

**BY: 1.5" THICK POLYMER CONCRETE WITH 1/2" REBAR.**

**CHECKED BY: 1.5" THICK POLYMER CONCRETE WITH 1/2" REBAR.**

**APPROVED BY: 1.5" THICK POLYMER CONCRETE WITH 1/2" REBAR.**

**SCALE: 1/4" = 1'-0"**

**35 SQ. FT. SIGN AREA**

**D/F MONUMENT SIGN**

**SCALE: 1/4" = 1'-0"**

**SIGN TYPE**

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**FINISH: 1.5" THICK POLYMER CONCRETE WITH 1/2" REBAR.**

**INSTALLATION: 1.5" THICK POLYMER CONCRETE WITH 1/2" REBAR.**

**REVISIONS: 1.5" THICK POLYMER CONCRETE WITH 1/2" REBAR.**

**DATE: 1.5" THICK POLYMER CONCRETE WITH 1/2" REBAR.**

**BY: 1.5" THICK POLYMER CONCRETE WITH 1/2" REBAR.**

**CHECKED BY: 1.5" THICK POLYMER CONCRETE WITH 1/2" REBAR.**

**APPROVED BY: 1.5" THICK POLYMER CONCRETE WITH 1/2" REBAR.**

**SCALE: 1/4" = 1'-0"**

**35 SQ. FT. SIGN AREA**

**D/F MONUMENT SIGN**

**SCALE: 1/4" = 1'-0"**

**SIGN TYPE**

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**D/F MONUMENT SIGN**

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**FLAT ACRYLIC FACES W/ HIGH IMPACT CLEAR TRACK**

**.177 CLEAR POLYCARBONATE COVER WITH LOCK**

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**D/F MONUMENT SIGN**

**City of Newport News**  
Department of Engineering

April 20, 2016

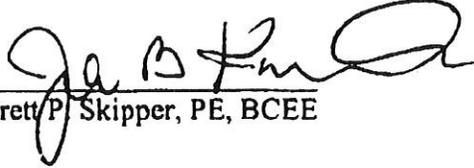
**To:** Director of Planning  
**From:** Director of Engineering  
**Subject:** Comments for Planning Commission Case for May 4, 2016

**Application No. CU-16-364, Julien Lloyd Allen Jr.** The Department of Engineering has no objection to the request for a conditional use permit to allow for a small motor vehicle repair and service facility at 12011 Jefferson Avenue and a portion of the property located at 12001 Jefferson Avenue totaling 0.84 acres and zoned C2 General Commercial.

Please advise the applicant that a site plan and a boundary line adjustment plat will be required. As part of the site plan review process, the developer must review the traffic impacts at the proposed entrances based on existing traffic volumes along Jefferson Avenue vs. the number of proposed right-turns into the site to determine if the standard entrance, taper entrance or an entrance with a full width right turn lane would be justified.

**Application No. CU-16-365, Jerry and John Harris and The Diggs Co.** The Department of Engineering has no objection to the request for a conditional use permit to allow for the construction of a restaurant with a drive through on a 1.12 acre parcel located at 13921 Jefferson Avenue and a portion of 14523 Jefferson Avenue within the Lee Hall Corridor Overlay District and zoned C1 Retail Commercial. Please advise the applicant that a site plan and a boundary line adjustment plat will be required. As part of the site plan review process, the developer must review the traffic impacts at the proposed entrances based on existing traffic volumes along Jefferson Avenue vs. the number of proposed right-turns into the site to determine if a standard entrance, taper entrance or an entrance with a full width right turn lane would be justified. Further, the analysis must also examine the number of proposed left-turns into the site to determine if a left turn lane is justified. An 8' wide sidewalk will be required along Jefferson Avenue along the full length of the properties to be developed.

**Application No. CU-16-366, City of Newport News and YM Devco - 10.** The Department of Engineering has no objection to the request for a conditional use permit to allow for the construction of a multi-modal transportation center located on portions of 550 Youngs Mill Lane, 490 Youngs Mill Lane, 13020 Mitchell Point Road, 199 & 201 Motoka Drive and 500 B Bland Boulevard on six parcels totaling 40.44 acres. Please advise the applicant that a site plan and a subdivision plat will be required. A Traffic Impact Study for the station and associated maintenance facility has been approved by the Department of Engineering. No additional roadway improvements are required beyond what is proposed for the site development.

  
Everett P. Skipper, PE, BCEE

EPS/SDK