

COUNTY OF YORK

MEMORANDUM

DATE: November 30, 2010 (PC Mtg. 12/8/10)
TO: York County Planning Commission
FROM: Timothy C. Cross, AICP, Principal Planner
SUBJECT: Application No. UP-786-10, Charles E. Lewis

ISSUE

This application requests a Special Use Permit, pursuant to Section 24.1-306 (Category 12, No. 3) of the York County Zoning Ordinance, to authorize a tire store and auto repair garage in an existing former gas station located at 722 Merrimac Trail (Route 143). The 0.46-acre parcel, further identified as Assessor's Parcel No. 10-23, is zoned GB (General Business) and designated General Business in the Comprehensive Plan.

DESCRIPTION

- Property Owner: S & L Properties LLC
- Location: 722 Merrimac Trail (Route 143)
- Area: 0.46 acre
- Frontage: 200 feet on Merrimac Trail
- Utilities: Public water and sewer
- Topography: Flat
- 2025 Land Use Map Designation: General Business
- Zoning Classification: GB – General Business
- Existing Development: Vacant gas station
- Surrounding Development:
 - North: CVS pharmacy
 - East: James York Plaza shopping center and Citgo gas station (across Route 143)
 - South: Long John Silver's fast food restaurant
 - West: CVS pharmacy parking lot
- Proposed Development: Tire store and auto repair garage

CONSIDERATIONS/CONCLUSIONS

1. The subject property is the former James York Texaco gas station, which closed several years ago and has been vacant ever since. The current property owner has a prospective purchaser who wishes to operate a tire store and auto repair garage (without painting or body work) in the existing building. The property is zoned GB (General Business), and auto repair requires a Special Use Permit in the GB zoning district. Because the previous use was discontinued more than two years ago, the opportunity to re-open by right as a gas station or similar use under the County's non-conforming use provisions has expired.
2. With the exception of the Magruder Elementary School campus, which is zoned RC (Resource Conservation), this entire segment of Merrimac Trail is zoned GB and has developed essentially in strip commercial fashion. The Comprehensive Plan designates this corridor for General Business development. There is a wide range of commercial uses in the surrounding area, including a sizable automotive component. Within a half-mile radius of the subject parcel, including portions of Williamsburg and James City County, are three gas stations, two auto service centers, two tire store/auto service centers, two auto parts stores, an auto repair garage with painting and body work, a car wash, an oil change establishment, and an auto dealership.
3. The 20,000-square foot site is occupied by a 1,304-square foot gas station building with two service bays, which are now boarded up. In front of the building is a 2,394 square foot canopy. The pump islands are still in place but the gas pumps are not, and the underground tanks were removed in 2008.

The site was developed in 1957 and does not conform to current zoning and Virginia Department of Transportation (VDOT) standards in several respects. Furthermore, years of disuse and vandalism have taken their toll on the building and site, where missing roof and wall panels, a sign structure with no facing, boarded-up windows and bay doors, and graffiti contribute to the appearance of blight. The problem of blighted vacant commercial properties is discussed in the Land Use element of the Comprehensive Plan:

“For various reasons, commercial and residential properties sometimes become vacant and are not maintained properly. These situations range from vacant lots that are not mowed frequently enough to commercial structures that become dilapidated and are prime graffiti targets. Code enforcement efforts sometimes work in these cases but often are very ineffective, particularly in the absence of a comprehensive property maintenance ordinance. Even properly maintained abandoned properties can be a ‘blight’ on a neighborhood or corridor.”

Accordingly, two of the objectives of the Comprehensive Plan are to “*Encourage the adaptive reuse of existing blighted properties*” and to “*Enhance the visual appeal of the County’s major transportation corridors.*”

4. In dealing with redevelopment proposals for previously developed nonconforming sites such as this one, the County strives to work cooperatively with property owners and developers to make the site conform as closely as possible in recognition of site constraints and the cost of site improvements. This approach is best exemplified by the Route 17 Commercial Corridor Revitalization overlay district provisions, which was established *“to encourage re-use and redevelopment of physically constrained properties [along Route 17] in a manner that is beneficial for the corridor and economically viable for the property owner.”* The intent is *“to provide additional flexibilities for development and redevelopment situations on such properties with the objective or restoring those properties to an economically viable and attractive component of the commercial corridor.”* While the subject property is not located on Route 17 and therefore is not subject to these provisions, staff believes the guiding principle underlying the provisions – that a more nearly conforming site occupied by a successful business, though not ideal, is better than a vacant non-conforming, and possibly blighted, commercial site – is applicable to this case.
5. One notable zoning deficiency is the relative lack of landscaping. For new development, the Zoning Ordinance would require a 20-foot front landscape yard, 10-foot side and rear landscape yards, and a 10-foot building perimeter landscape yard; in addition, 7.5 percent of the total surface area of the parking lot would have to be landscaped. On a parcel of this size, the required landscaping would comprise about half of the site. The existing development, in contrast, has an approximately 18.5-foot rear landscape yard but has no landscape yard on the south side and only an approximately two- to four-foot landscape yard on the north side. While there is an approximately 40-foot landscape strip across the front of the property, it is entirely within the VDOT right-of-way; there is essentially no front yard landscaping on the subject parcel itself. There is no building perimeter landscaping – other than the rear landscape yard that abuts the rear of the building – or parking lot landscaping. Based on staff’s calculations, existing landscape areas constitute approximately twenty percent (20%) of the site.

The applicant’s sketch plan shows several proposed site improvements intended to address the lack of landscaping. Specifically, the applicant proposes to close off the southern entrance and replace the existing asphalt with a landscape area (approximately 1,600 square feet in area) which would create a continuous strip of green area from the edge of the northern entrance all the way to the side (southern) property boundary (i.e., adjacent to the Long John Silver’s fast food restaurant). Also along the southern property boundary, the sketch plan indicates the existing concrete would be replaced with grass and landscape plantings, resulting in a landscape strip of variable width ranging from 7 to 24 feet. Although most of this landscape strip falls short of the ten-foot (10’) standard, it would actually provide for more landscape area than would a continuous 10-foot strip (approximately 820 vs. 700 square feet). Staff further recommends that a ten-foot (10’) side landscape yard be added on the north side of the parcel as well to provide for additional buffering, landscape plantings, and overall site aesthetics. This will require the parking area in that portion of the site to be reconfigured, but there is sufficient parking lot area to accommodate the changes.

This site is unusual in that there is a rather sizable front landscape area (approximately 40 to 45 feet in width) that happens to be entirely in the VDOT right-of-way for Merrimac Trail. In this case, staff believes it would be appropriate to allow this landscape area, which is at least twice the required front landscape yard width and will be supplemented with at least 1,600 square feet of additional landscape area where asphalt currently exists, to serve as the applicant's *de facto* front landscape yard. On a roadway that is expected to require widening in the foreseeable future, this approach would not be appropriate, and staff would not likely recommend it. Merrimac Trail, however, does not fall into this category. With four through lanes, shoulders on both sides, a two-way center turning lane, and a paved surface of 75 to 90 feet in width, Merrimac Trail is probably as wide as it will need to be for at least the next twenty (20) years. According to the *Hampton Roads Congestion Management Process: 2010 Update* prepared by the Hampton Roads Transportation Planning Organization (HRTPO), this segment of Merrimac Trail is currently operating at only 41 percent of its design capacity in the critical PM peak hour. By 2030, this volume/capacity ratio is projected to increase only marginally to approximately 55 percent with a Level of Service (LOS) in the A to C range, which represents low to moderate congestion.

6. The number, spacing, and width of the site's two entrances on Merrimac Trail do not conform to VDOT access management standards, which are intended to provide reasonable development access to the state highway system while preserving the carrying capacity of the roadway network. This is accomplished by controlling the location, spacing, and design of entrances, street intersections, median openings, and traffic signals, each of which creates conflict points where vehicles have to stop or slow down, disrupting the flow of traffic. As the number of conflict points increases, so does traffic congestion and crashes. Better management of access to the highway can reduce the number of conflict points and their adverse impact on highway operation and public safety. While these standards, which took effect in 2009, are generally applicable to new development, there are certain circumstances where they can also be made to apply to existing development as well. Specifically, Section 24 VAC30-73-110C.1 of the *Virginia Administrative Code* gives VDOT the authority to require "reconstruction, relocation, commercial entrance consolidation, or upgrading" of existing commercial entrances when, as in the case of this application, "the property is being considered for rezoning or other local legislative action that involves a change in use of the property."

Under the access management standards, a 200-foot wide parcel such as this would not be permitted to have two entrances, and the minimum allowable spacing between entrances on an urban minor arterial such as Merrimac Trail is 305 feet. As noted earlier, the applicant already plans to eliminate one of the entrances, and VDOT concurs with this closure. For the remaining entrance, in accordance with VDOT's recommendation, staff has proposed a condition requiring that it be modified to reduce its width from approximately 79 feet to the standard VDOT width of thirty to forty feet (30'-40') for a two-way commercial entrance.

7. To improve the appearance of the existing structures, the applicant plans to replace the building façade with (horizontal) clapboard siding of a composite wood type, which will significantly enhance the appearance of the building and to paint the canopy to match or complement the color of the new building façade. These are included as conditions in the proposed resolution of approval.

With regard to the canopy, staff has also proposed a condition of approval to require that it be removed in the event that the use permit expires. The rationale for this recommendation is that gas station canopies were a particular concern in 2004 when the Board of Supervisors amended the Zoning Ordinance by establishing Special Use Permit requirements for certain automobile-related uses and accompanying performance standards intended to preserve the economic vitality of Route 17 and other commercial corridors. The 2004 staff report states that one of the major factors prompting these zoning text amendments was a concern *“about the condition that convenience store and gas station sites are sometimes left in after the use has gone out of business. In the short-term, vacancies are bound to occur. However, there are several notable examples ... where pumps, pump islands, canopies and other features associated with a former convenience store/gas station use have remained in place and in poor condition for years. These abandoned facilities have had negative impacts on surrounding properties and on the corridor as a whole and, in some cases, their structural condition represents a potential safety concern.”* To address this concern, the 2004 amendments included a requirement [Section 24.1-477(h)] that gas station canopies be removed whenever a gas station closes and remains closed for at least nine (9) months. The existing gas station and canopy on this site were built before this requirement was in place and thus, when the gas station closed, the canopy was allowed to remain. As a condition of this use permit, however, staff believes it would be reasonable and appropriate to require the property owner to remove the canopy upon the expiration of the use permit [i.e., if the Special Use is discontinued for a period of at least two (2) years].

8. According to trip generation rates published by the ITE (Institute of Transportation Engineers) in *Trip Generation: An ITE Informational Report* (8th edition), a typical tire store of this size (including tire installation and repair as well as other automotive maintenance or repair services and customer assistance) can be expected to generate an average of approximately 32 vehicle trips per weekday, including up to four (4) in the AM peak hour and seven (7) in the PM peak hour. This level of traffic is well below the Zoning Ordinance thresholds for requiring a traffic study (1,000 trips per day or 100 peak-hour trips), and Route 143 has ample turn lane capacity to accommodate the projected amount of traffic exiting and entering the site. Specifically, there are already a dedicated right turn lane into the site from Route 143 southbound and a two-way center turn lane to accommodate vehicles turning left into the site from Route 143 northbound. Nevertheless, Section 24.1-477(e) of the Zoning Ordinance specifically requires a traffic impact analysis to be performed for any proposed gas station or auto repair garage, and this has been included as a condition of approval. Rather than a full-blown traffic study, staff believes that a relatively short summary consisting of a trip generation table and a description of existing improvements will be sufficient to meet this requirement.

9. For this type of use, the Zoning Ordinance requires a minimum of seven (7) off-street parking spaces (one space for every 500 square feet of enclosed office, sales, or service floor area plus two spaces per service bay). There are twelve (12) striped spaces in the existing parking lot; however, the layout of these spaces creates a conflict with the northern entrance because there is no end island to separate the side parking bay from the entrance. This can be addressed with the construction of an end island or the relocation of this parking area to the opposite side of the parking lot, which has sufficient space to accommodate approximately five (5) parking spaces.
10. There are no special environmental standards applicable to this site. It is not located in any Chesapeake Bay Preservation Areas or in the Watershed Management and Protection Area overlay district, and there are no steep or even moderate slopes on the property.

RECOMMENDATION

Through a combination of private and public sector efforts, this segment of Merrimac Trail has been undergoing a gradual revitalization over the past ten years or so that has noticeably improved aesthetics and mobility along this important commercial corridor. These efforts include the County-funded sidewalks and landscape plantings that extend down both Merrimac Trail and Second Street all the way to the Williamsburg city boundary; redevelopment of the northwest quadrant of the Merrimac Trail/Penniman Road intersection (aka “Bingley’s Corner”), which replaced several older, nonconforming commercial structures with an attractive new convenience store/gas station, complete with sidewalks on both street frontages; façade improvements at the James York Plaza shopping center, as well as a developer-funded sidewalk connection to the County sidewalks; the construction of Williamsburg Area Transport bus shelters in front of James York Plaza and Farm Fresh; and the architectural improvements to the Farm Fresh store, Ebby’s, and Holiday Cadillac.

Staff views this application as an opportunity to further enhance the corridor by converting an existing vacant building and site, which has become somewhat of an eyesore after years of disuse, to a productive – and more aesthetically appealing – commercial use. The proposed conditions of approval are intended to accomplish this without overburdening the property owner with cost-prohibitive site improvements. Therefore, based on the considerations and conclusions as noted, staff recommends that the Commission forward this application to the Board of Supervisors with a recommendation of approval subject to the conditions contained in proposed Resolution No. PC10-22.

TCC

Attachments:

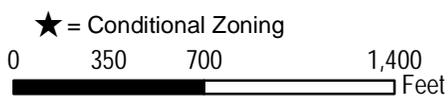
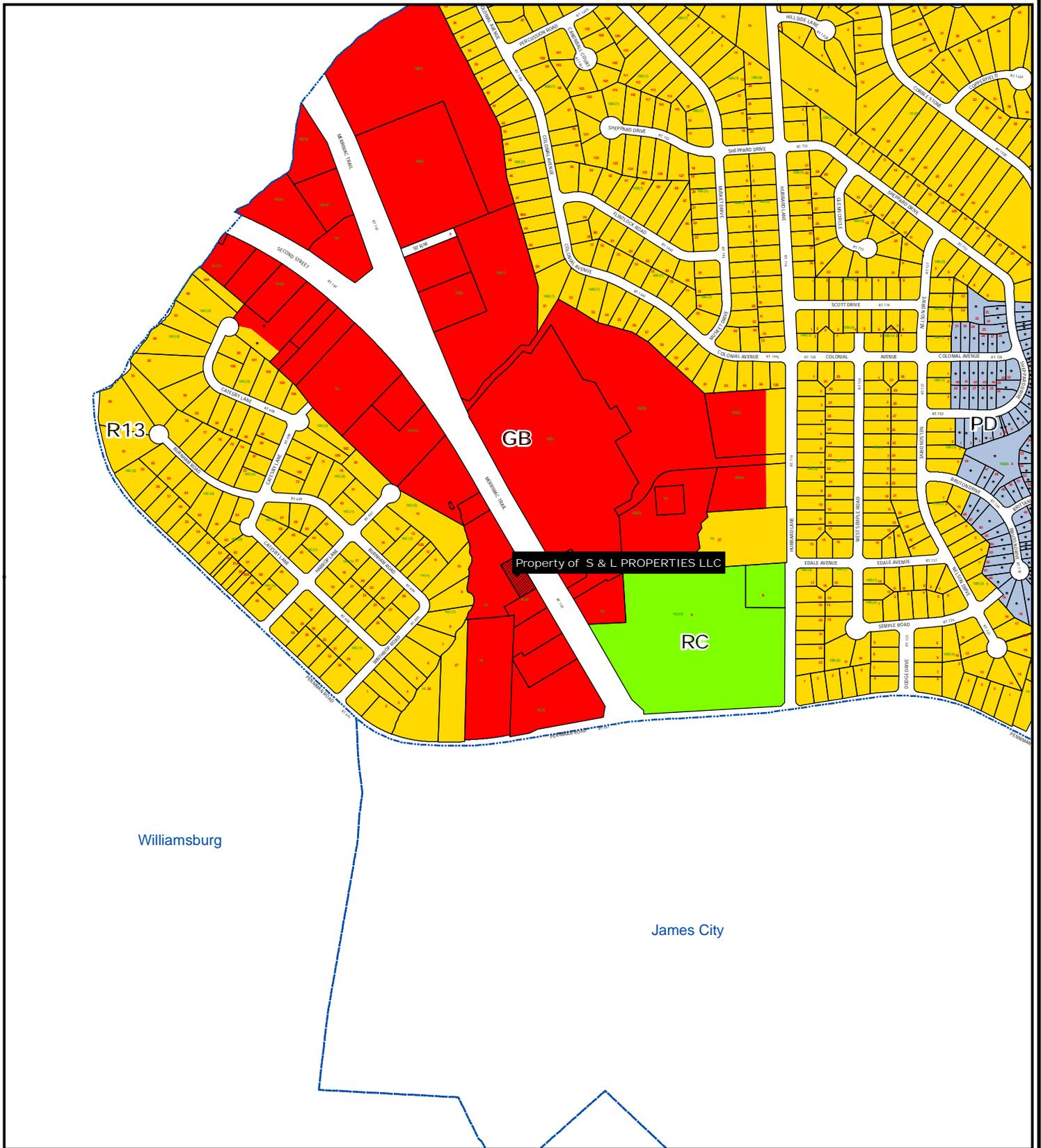
- Zoning Map
- Sketch Plan
- Aerial Photo
- Site Photos

- Proposed Resolution No. PC10-22

APPLICANT
Charles E. Lewis
Tire Store and Auto Repair Garage
722 MERRIMAC TRL

ZONING MAP

APPLICATION NUMBER: UP-786-10

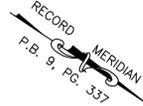


SOURCE: YORK COUNTY GIS PARCEL DATA and ZONING COVERAGE

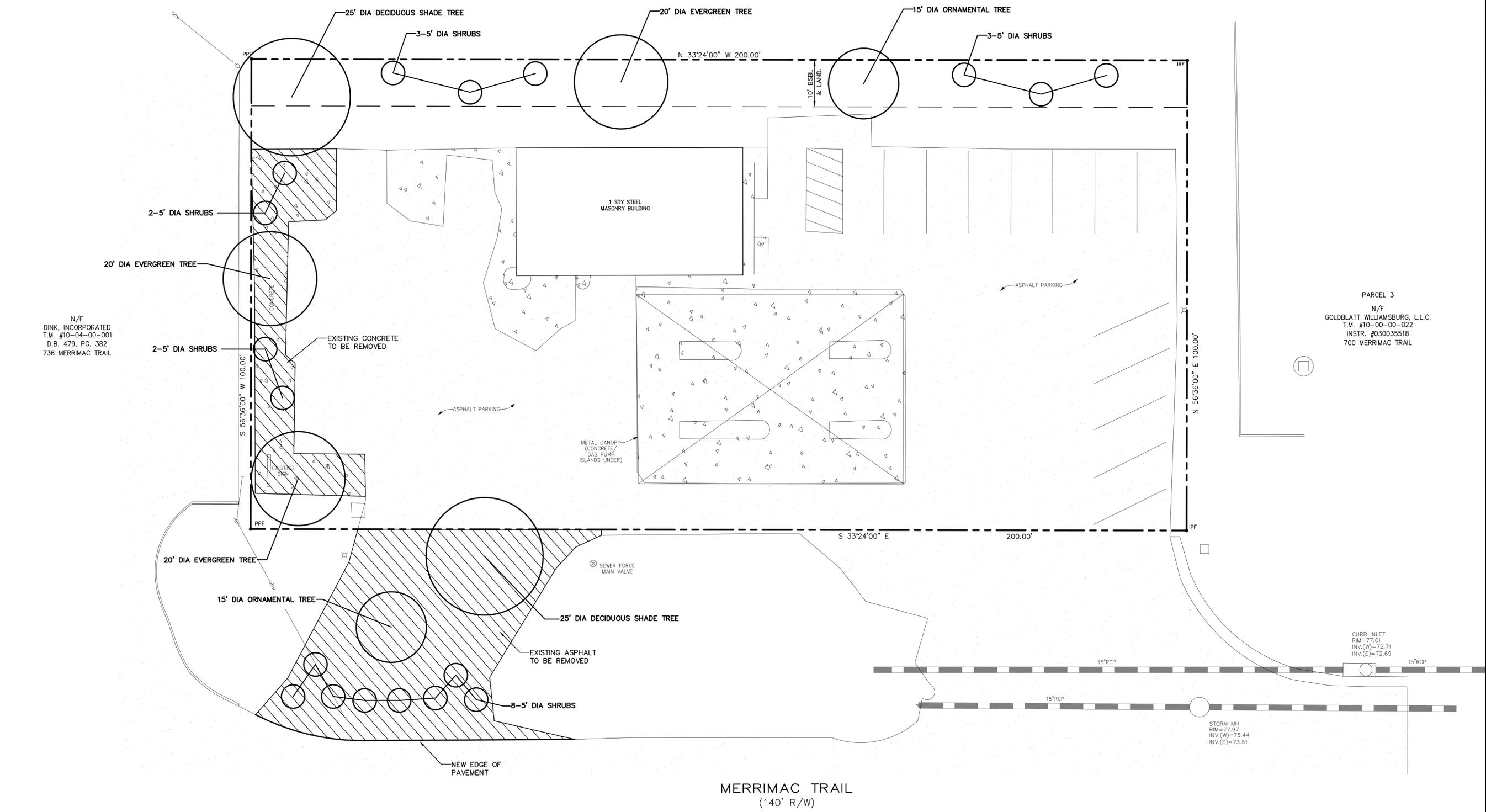
THIS IS NOT A LEGAL PLAT. This map should be used for information purposes only. It is not suitable for detailed site planning.

Printed on November 04, 2010

SITE AREA = 0.4591 AC.
 IMPERVIOUS AREA = 15,107 SF
 GREEN AREA = 4,893 SF



PARCEL 2
 N/F
 GOLDBLATT WILLIAMSBURG, L.L.C.
 T.M. #10-00-00-022
 INSTR. #030035518
 700 MERRIMAC TRAIL

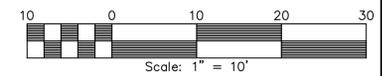


N/F
 DINK, INCORPORATED
 T.M. #10-04-00-001
 D.B. 479, PG. 382
 736 MERRIMAC TRAIL

PARCEL 3
 N/F
 GOLDBLATT WILLIAMSBURG, L.L.C.
 T.M. #10-00-00-022
 INSTR. #030035518
 700 MERRIMAC TRAIL

MERRIMAC TRAIL
 (140' R/W)

BEFORE DIGGING CALL "MISS UTILITY"
 OF VIRGINIA AT 1 - 800 - 552 - 7001



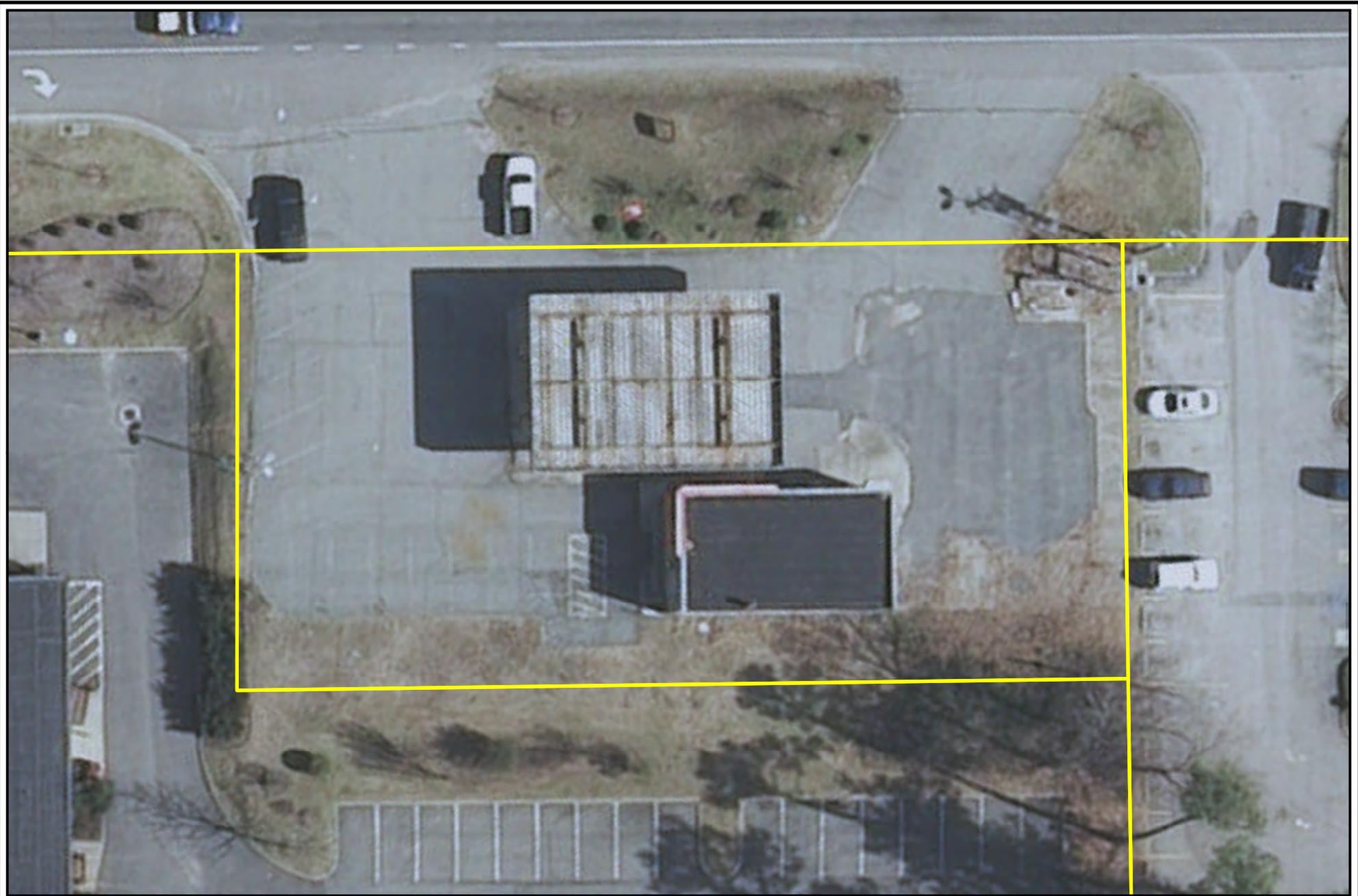
PLAN OF AUTO REPAIR
 AND TIRE STORE
 BRUTON MAGISTERIAL DISTRICT
 722 MERRIMAC TRAIL
 SUP EXHIBIT

NO.	DATE	REVISION / COMMENT / NOTE
1	10/21/10	REV PER YC TELECON 10/21/10

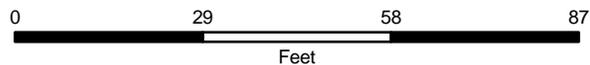
LandTech Resources, Inc.
 Surveying • GPS • Engineering
 201 Bullfants Blvd., Ste. A Williamsburg, VA 23188
 Phone: (757) 565-1677 Fax: (757) 565-0782
 web: landtechresources.com

SCALE: 1" = 10'
 DATE: 10/5/10
 JOB: 07-339
 DRAWN BY: KMJ
 SHEET: 1 OF 1

Virginia
 York County



722 Merrimac Trail



THIS IS NOT A LEGAL PLAT.
 This map should be used for information purposes. It is not suitable for detailed site planning.

*Flood Information Courtesy of:
 Federal Emergency Management Agency (FEMA)
 This flood data has not been certified.*

Site Photos – November 17, 2010



Figure 1: View of the site from across Merrimac Trail



Figure 2: View of the building from the northwest

**Site Photos – November 17, 2010
(continued)**



Figure 3: View of the site from the south



Figure 4: Rear view of the building

PLANNING COMMISSION
COUNTY OF YORK
YORKTOWN, VIRGINIA

Resolution

At a regular meeting of the York County Planning Commission held in the Board Room, York Hall, Yorktown, Virginia, on the ____ day of _____, 2010:

Present

Vote

Christopher A. Abel, Chair
M. Sean Fisher, Vice Chair
Alexander T. Hamilton
Mario C. Buffa
Richard M. Myer, Jr.
John R. Davis
Mark B. Suiter

On motion of _____, which carried ____, the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL
USE PERMIT APPLICATION TO AUTHORIZE A TIRE STORE AND
AUTO REPAIR GARAGE IN A FORMER GAS STATION LOCATED
AT 722 MERRIMAC TRAIL

WHEREAS, Charles E. Lewis has submitted Application No. UP-786-10, which requests a Special Use Permit, pursuant to Section 24.1-306 (Category 12, No. 3) of the York County Zoning Ordinance, to authorize the establishment of a tire store and auto repair garage in an existing former gas station on a 0.46-acre parcel located at 722 Merrimac Trail (Route 143) and further identified as Assessor's Parcel No. 10-23 (GPIN F14d-3312-1252); and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the ____ day of _____, 2010, that Application No. UP-786-10,

which requests a Special Use Permit, pursuant to Section 24.1-306 (Category 12, No. 3) of the York County Zoning Ordinance, to authorize the establishment of a tire store and auto repair garage in an existing former gas station on a 0.46-acre parcel located at 722 Merrimac Trail (Route 143) and further identified as Assessor's Parcel No. 10-23 (GPIN F14d-3312-1252) be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval subject to the following conditions:

1. This Special Use Permit shall authorize the establishment of a tire store and auto repair garage in an existing former gas station on a 0.46-acre parcel located at 722 Merrimac Trail (Route 143) and further identified as Assessor's Parcel No. 10-23 (GPIN F14d-3312-1252).
2. A site plan, prepared in accordance with the provisions of Article V of the York County Zoning Ordinance, shall be submitted to and approved by the York County Department of Environmental and Development Services, Division of Development and Compliance, prior to the commencement of land clearing or construction activities on the site. Said site plan shall be in substantial conformance, except as modified herein, with the sketch plan titled "Plan of Auto Repair and Tire Store, Bruton Magisterial District, 722 Merrimac Trail, SUP Exhibit," prepared by LandTech Resources, Inc., dated October 5, 2010, and revised October 21, 2010, a copy of which shall remain on file in the office of the Planning Division.
3. The tire store and auto repair garage shall be established and operated in conformance with the provisions set forth in Sections 24.1-475, *Standards for all motor vehicle and transportation related uses*, and 24.1-477, *Standards for auto fuel dispensing establishments, service stations and auto repair garages*, of the Zoning Ordinance, except as modified herein.
4. Automobile service and repairs permitted in accordance with this use permit shall be deemed to include engine tune-ups, oil changes and lubrication, and the repair or installation of mufflers, tailpipes, exhaust pipes, catalytic converters, brakes, shock absorbers, tires, batteries, and similar automotive components. Auto body work and painting shall be prohibited.
5. No portion of the site shall be used as an automobile graveyard or junkyard as defined in Section 24.1-104 of the Zoning Ordinance or for storage of inoperable motor vehicles.
6. In accordance with Virginia Department of Transportation (VDOT) *Access Management Regulations: Minor Arterials, Collectors, and Local Roads (24 VAC-30-73)*, the existing northern entrance shall be modified to reduce the entrance width to 30'-40'. In addition, the entrance/side parking area shall be reconfigured to prevent conflicts between entering vehicles and parked vehicles.

7. As shown on the referenced sketch plan, the existing southern entrance to the site shall be eliminated and replaced with a landscape area, including trees and shrubs. Subject to VDOT approval, the equivalent of a twenty-foot (20') front landscape yard, including trees and shrubs, shall be established within the existing and proposed front landscape areas located within the VDOT right-of-way for Merrimac Trail in accordance with the provisions set forth in Section 24.1-244 of the Zoning Ordinance. Pursuant to Section 24.1-477(d), landscape plantings shall be utilized to partially screen direct views of service bays from adjacent properties and rights-of-way.
8. A ten-foot (10') side landscape yard shall be established along the northern property boundary in accordance with the provisions set forth in Section 24.1-244 of the Zoning Ordinance.
9. The existing building façades shall be replaced with (horizontal) clapboard siding of composite wood type. The existing canopy shall be integrally related to the building design by using the same or complementary colors. Paint colors for exterior building and canopy surfaces, including trim and accent features, shall be selected from the Corridor Overlay Color Palette which shall be defined as those exterior colors represented on such color charts as are approved by resolution adopted by the Board of Supervisors from time to time. The adoption of a particular color chart shall not be construed to require the use of paints from these companies and color matches from other paint suppliers will be acceptable. The Zoning Administrator shall have the authority to approve requests for use of other colors that are similar to and compatible with those specifically shown on the referenced and approved palette. The use of metallic colors, black (except as an accent or trim color), or fluorescent colors shall not be permitted.
10. In the event the tire store/auto repair garage use ceases operation and the same or a materially similar use is not established under the auspices of this use permit, the owner shall be responsible for performing removal of the canopy. The real property on which the canopy is located shall be restored to the same grade or condition as the remainder of the parking lot and maintained either as landscaped green area or as paved area until a new site plan for same has been approved by the County. Except in the restored area that is established as landscaped green area, the paved area shall be re-stripped to match the remainder of the parking lot.
11. Pursuant to Section 24.1-477(e) of the Zoning Ordinance, but in lieu of a full-scale traffic impact analysis, a traffic summary consisting of a trip generation table and a description of existing improvements shall be submitted as part of site plan submission to document the adequacy of existing roadway improvements to safely and efficiently accommodate vehicle movements into and out of the site.
12. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this Special Use Permit shall be

recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court prior to application for a building permit.

BE IT FURTHER RESOLVED that this Special Use Permit is severable and invalidation of any word, phrase, clause, sentence, or paragraph shall not invalidate the remainder.