

ORDINANCE NO. 6532-08

AN ORDINANCE GRANTING CONDITIONAL USE PERMIT NUMBER CU-08-251 FOR THE HEREAFTER DESCRIBED PROPERTY FOR THE PURPOSE OF OPERATING AN AMUSEMENT ARCADE ON A SITE ZONED C1 RETAIL COMMERCIAL DISTRICT.

WHEREAS, application number CU-08-251 has been made by **PETITTO PROPERTIES, LLC** for a conditional use permit for the hereinafter described property for the purpose of operating an amusement arcade on a site zoned C1 Retail Commercial District; 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-08-251 is hereby granted for the property described in paragraph (b) hereof for the purpose of operating an amusement arcade on a site zoned C1 Retail Commercial District; and

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

All those certain lots, pieces or parcels of land situate, lying and being in the City of Newport News, Virginia, together with all buildings and improvements thereon, and being more particularly described as follows: Suite D located at 711 Brick Kiln Boulevard which is a portion of Parcel 1-B containing 89,474 S.F., 2.054 Acres, as shown and designed on that certain plat entitled, "PLAT OF SUBDIVISION OF VILLAGES OF KILN CREEK COMMERCIAL 1, CITY OF NEWPORT NEWS, VIRGINIA", dated January 6, 2005, made by VHB Vanasse Hangen Brustlin, Inc., Transportation Land Development Environmental Services, duly recorded in the Clerk's Office of the Circuit Court for the City of Newport News, Virginia, on June 21, 2005, as Instrument No. 57248, to which reference is here made. (The parcel has a common street address of 711 Brick Kiln Boulevard, Suite D and is assigned Real Estate Assessor's Tax I.D. # 132.00-02-03.)

(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 use of the amusement arcade shall be limited to laser tag gaming.
2. Signage placed in or on any window of the building shall be limited to no more than 25 percent of each window. Any additional building signage shall be approved by the Director of Planning prior to issuance of a sign permit.
3. All plant materials required as part of the approved landscape plan dated July 27, 2006 in connection with CU-07-228, that are now unhealthy or dead shall be replaced and maintained perpetually in a healthy condition and replacement landscaping shall be installed prior to the issuance of a Certificate of Use and Occupancy Permit.
4. The existing surveillance camera system in Suites A, B and C of the property shall be expanded to Suite D and maintained in accordance with the condition regarding surveillance cameras as stated in CU-07-228.
5. 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.
6. 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 applicant, 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.
7. 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.
8. 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.
9. 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.

10. 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 September 23, 2008, or,
2. In the event of the continuous nonuse of the property as herein permitted for a period of twelve (12) months.

PASSED BY THE COUNCIL OF THE CITY OF NEWPORT NEWS ON
SEPTEMBER 23, 2008

Mabel V. Washington, CMC
City Clerk

Joe S. Frank
Mayor

A true copy, teste:

City Clerk