

**SPECIAL USE PERMIT-20-0017. Williamsburg Crossing Bruster's Real Ice Cream Amendment  
Staff Report for the January 6, 2021, Planning Commission Public Hearing**

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**SUMMARY FACTS**

Applicant: Mr. Jordan Bristow of AES Consulting Engineers

Land Owner: Caroline's Creamery, LLC

Proposal: Amend previously approved Special Use Permit (SUP) conditions so the business can build a drive-through lane adjacent to the existing building.

Location: 5289 John Tyler Highway

Tax Map/Parcel No.: 4812200010

Project Acreage: .55 +/- acres

Zoning: B1, General Business District

Comprehensive Plan: Mixed Use

Primary Service Area: Inside

Staff Contact: Brett A. Meadows, Planner

**PUBLIC HEARING DATES**

Planning Commission: January 6, 2021, 6 p.m.

Board of Supervisors: February 9, 2021, 5 p.m. (tentative)

**FACTORS FAVORABLE**

1. The proposal is consistent with the recommendations of the 2035 Comprehensive Plan.
2. With the attached SUP conditions, staff finds the proposal compatible with surrounding zoning and development.
3. The proposal meets current Code requirements for right-of-way buffers along a Community Character Corridor (CCC).
4. Impacts: See Impact Analysis on Pages 3-4.

**FACTORS UNFAVORABLE**

1. Impacts: See Impact Analysis on Pages 3-4.

**STAFF RECOMMENDATION**

1. Approval subject to the attached SUP conditions.

**PROJECT DESCRIPTION**

Caroline's Creamery, LLC, doing business as Bruster's Real Ice Cream, currently operates on a parcel in Williamsburg Crossing abutting Humelsine Parkway (State Route 199). The parcel is zoned B1, General Business, and is designated as Mixed Use on the 2035 Comprehensive Plan. Suggested uses include commercial, office, and moderate density residential. The adjacent section of Route 199 is designated as an urban/suburban CCC in the 2035 Comprehensive Plan.

Bruster's Real Ice Cream would like to add a drive-through lane around the building. To help visually screen the drive-through,

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existing vegetation and screening will remain and at least an additional tree and 70 shrubs will be added to the buffer.

No net loss of buffer area is anticipated. On the master plan (Attachment No. 3), the current square footage of the CCC buffer is 12,355 +/-, and the proposed square footage is 12,358 +/-.

With the proposed screening, staff finds the proposed CCC buffer meets the current Ordinance requirements and staff will verify the planting requirements at the development plan stage of the project.

The currently adopted SUP conditions require lighting that does not meet current Ordinance standards. The proposed conditions would eliminate the outdated requirement and allow for the current Ordinance to be met.

#### **SURROUNDING ZONING AND DEVELOPMENT**

1. The immediate surrounding parcels are zoned B1, General Business, and are designated as Mixed Use in Williamsburg Crossing on the 2035 Comprehensive Plan. They are part of the Williamsburg Crossing subdivision. Suggested uses include commercial, office, and moderate density residential.
2. The parcels directly across State Route 199 are located in the City of Williamsburg are zone LB-3, Limited Business Mixed Use and LB-4, Limited Business Corridor District. The parcels and are part of the Governor Berkeley Professional Center.

#### **PLANNING AND ZONING HISTORY**

The currently adopted SUP conditions for this property were adopted on October 20, 1993 and state that a “minimum 50-foot greenbelt, free

of structures and paving, shall be provided along the future right-of-way of Route 199.”

Staff notes that this SUP language, and the greenbelt reference, pre-date current Ordinance language for CCC buffers. The County’s Greenbelt Policy first began as a designation in the 1975 Comprehensive Plan and was expanded and strengthened in the 1987 Comprehensive Plan. As implemented, the Greenbelt Policy was negotiated with applicants as part of the legislative development review process. At the time, there was little to no protection where properties developed with by-right uses, when only minimal landscape standards would apply.

The CCC landscape buffer standards were subsequently added to the Zoning Ordinance in 1999, six years after the approval of this Williamsburg Crossing SUP.

The CCC buffer requirements that are in effect today still meet the goal and intent of providing enhanced landscape protection along our most significant corridors; however, the Code today has evolved to provide some flexibility. Instead of a firm 50-foot requirement, today’s Code allows for a 50-foot average width buffer, with the Code stating that any CCC buffer must be no less than 25 feet in any one area and no more than 65 feet in any one area.

As noted earlier in this staff report, with the current proposal, the current square footage of the existing CCC buffer on this parcel remains intact (i.e., existing is 12,355 +/- and the proposed square footage is 12,358 +/-). As currently proposed, staff find the proposal meets current code requirements for right-of-way buffers along a CCC. If approved, staff will verify existing landscaping and the need for additional screening landscaping at the development plan stage.

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| <b>Impacts/Potentially Unfavorable Conditions</b>  | <b>Status</b><br><i>(No Mitigation<br/>Required/Mitigated/Not<br/>Fully Mitigated)</i> | <b>Considerations/Proposed Mitigation of Potentially Unfavorable Conditions</b>   |
|--|--|---|
| <u>Watersheds, Streams, and Reservoirs</u><br>The project is located in the Yarmouth Creek Watershed.<br><br>The project is expected to add approximately 2,110 square feet +/- of new pavement. | <u>No Mitigation Required</u>  | <ul style="list-style-type: none"> <li>- The project will meet all Stormwater requirements at the site plan stage.</li> <li>- The proposed impermeable surface area falls within the allowable percentage for the zoning and under the Chesapeake Bay Preservation Act requirements.</li> </ul> |
| <u>Nearby and Surrounding Properties</u><br>The project is surrounded by other Mixed Use parcels.  | <u>No Mitigation Required</u>  | <ul style="list-style-type: none"> <li>- The proposed project would continue the existing business operation.</li> </ul>  |
| <u>Community Character</u><br>The project is located along the State Route 199 CCC. Buffering along a CCC is required to be an average width of 50 feet.   | <u>Mitigated</u>   | <ul style="list-style-type: none"> <li>- Proposed changes to the CCC proposes a similar buffer total square footage to what would be required under the currently adopted Code. The existing square footage is 12,355 +/-, and the proposed square footage is 12,358 +/-.</li> </ul>            |
| <u>Cultural/Historic</u>   | <u>No Mitigation Required</u>  | <ul style="list-style-type: none"> <li>- The site is already developed.</li> </ul>  |
| <u>Public Transportation: Vehicular</u>  | <u>No Mitigation Required</u>  | <ul style="list-style-type: none"> <li>- No additional ingress/egress is proposed in the development.</li> <li>- No public transportation modifications are proposed.</li> <li>- Staff finds this project does not generate impacts requiring mitigation.</li> </ul>                            |

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| <b>Impacts/Potentially Unfavorable Conditions</b>   | <b>Status</b><br><i>(No Mitigation Required/Mitigated/Not Fully Mitigated)</i> | <b>Considerations/Proposed Mitigation of Potentially Unfavorable Conditions</b>  |
|---|--|--|
| <u>Public Transportation: Bicycle/ Pedestrian</u>   | <u>No Mitigation Required</u>  | <ul style="list-style-type: none"> <li>- The parcel is accessed via the Williamsburg Crossing parking lot, and there are no access points to State Route 199. State Route 199 is listed as a shared roadway in the 2013 Adopted Regional Bikeways Plan.</li> <li>- Staff finds this project does not generate impacts requiring mitigation.</li> </ul> |
| <u>Public Safety</u>  | <u>No Mitigation Required</u>  | <ul style="list-style-type: none"> <li>- Staff finds this project does not generate impacts that require mitigation to the County's Fire Department facilities or services.</li> </ul>   |
| <u>Public Schools</u>   | <u>No Mitigation Required</u>  | <ul style="list-style-type: none"> <li>- N/A since no residential dwelling units are proposed.</li> </ul>  |
| <u>Public Parks and Recreation</u>  | <u>No Mitigation Required</u>  | <ul style="list-style-type: none"> <li>- N/A since no residential dwelling units are proposed.</li> </ul>  |
| <u>Public Libraries and Cultural Centers</u>  | <u>No Mitigation Required</u>  | <ul style="list-style-type: none"> <li>- Staff finds this project does not generate impacts that require mitigation.</li> </ul>  |
| <u>Groundwater and Drinking Water Resources</u><br>Project Receives Public Water and Sewer. | <u>No Mitigation Required</u>  | <ul style="list-style-type: none"> <li>- Staff finds this project does not generate impacts that require mitigation. The scope of the business remains similar. The major change is the customer access.</li> </ul>  |

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**COMPREHENSIVE PLAN**

The parcel is designated as Mixed Use in Williamsburg Crossing on the 2035 Comprehensive Plan and abuts the State Route 199 CCC.

Urban/suburban CCC areas are characterized as having high to moderate traffic, commercial, and some residential uses. The predominant visual character of these areas should be the built environment and the natural landscape, with parking and other auto-related areas as a secondary component. The buffer treatments should incorporate existing specimen and understory trees, required plantings, and any legislated enhancements such as over-sized landscape plants, the use of berms, and other desirable design features which complement and enhance the visual quality of the urban corridor. Auto-related activities such as parking lots and other outdoor operations should be screened with required evergreen plantings. This treatment provides the applicant with the most visibility of the commercial use and the most flexibility in establishing a manicured and/or formal look compared to the wooded and open/agricultural treatments.

Staff finds that existing plantings in the CCC and new planting required in the proposed SUP conditions will screen the auto-related activity proposed by the new drive-through.

Staff further finds the proposal meets the following Comprehensive Plan goals:

Economic Development:

ED 1.2. - Encourage the . . . retention of existing small businesses.

ED 1.2.2 - Reviewing the Zoning Ordinance to ensure it allows. . . small businesses consistent with neighborhood and community character.

Community Character:

CC 1 - Preserve and enhance entrance corridors and roads that promote the rural, natural, or historic character of the County.

CC 1.9 - Encourage development to occur in a manner that does not require changing the character of roads that enhance the small town, rural, and natural character of the County by preserving buffers.

Staff finds that the proposed CCC buffer changes maintain an average 50-foot width and the proposed conditions assure that the impact of the proposed drive-through is mitigated.

**PROPOSED SUP CONDITIONS**

The full text of the proposed conditions are provided in Attachment No. 1.

**STAFF RECOMMENDATION**

With the attached conditions, staff finds that the proposal is compatible with surrounding zoning and development and consistent with the 2035 Comprehensive Plan.

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Staff recommends the Planning Commission recommend approval of this application subject to the attached conditions.

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Attachments:

1. Proposed SUP Conditions
2. Location Map
3. Master Plan
4. Applicant Narrative
5. Rendered Layout Plan
6. SUP-0002-1993 Resolution

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