

CITY OF VIRGINIA BEACH

"COMMUNITY FOR A LIFETIME"

CITY COUNCIL

MAYOR ROBERT M. "BOBBY" DYER, At Large
VICE MAYOR ROSEMARY WILSON – District 5
MICHAEL F. BERLUCCHI – District 3
BARBARA M. HENLEY – District 2
DAVID HUTCHESON – District 1
ROBERT W. "WORTH" REMICK – District 6
DR. AMELIA N. ROSS-HAMMOND – District 4
JENNIFER ROUSE – District 10
JOASHUA F. "JOASH" SCHULMAN – District 9
CHRIS TAYLOR – District 8
SABRINA D. WOOTEN – District 7



CITY COUNCIL APPOINTEES

CITY MANAGER – PATRICK A. DUHANEY
CITY ATTORNEY – MARK D. STILES
CITY ASSESSOR – SUE CUNNINGHAM
CITY AUDITOR – LYNDON S. REMIAS
CITY CLERK – AMANDA BARNES

CITY COUNCIL AGENDA

March 19, 2024

CITY HALL BUILDING 1
2401 COURTHOUSE DRIVE
VIRGINIA BEACH, VIRGINIA 23456
PHONE: (757) 385-4303
FAX (757) 385-5669
EMAIL: CITYCOUNCIL@VBGOV.COM

MAYOR ROBERT M. "BOBBY" DYER PRESIDING

- | | | |
|--|---------------------------|-----------------|
| I. CITY COUNCIL'S BRIEFINGS | - Conference Room- | 12:00 PM |
| A. SISTER CITIES ASSOCIATION OF VIRGINIA BEACH UPDATE | | |
| Maria Weissenseel, President
(Requested by Mayor Dyer and Council Member Berlucchi) | | |
| B. FLOOD PROTECTION PROGRAM AND CAPITAL IMPROVEMENT UPDATE | | |
| Jeff Waller, P.E., Chair – Flood Prevention Bond Referendum Oversight Board
Leisha Pica, Program Manager – Jacobs Engineering | | |
| 12:15 PM | | |
| II. CITY MANAGER'S BRIEFING | | |
| A. CITY MANAGER'S PROPOSED BUDGET | | |
| Kevin Chatellier, Director – Budget & Management Services | | |
| 12:45 PM | | |
| III. CITY COUNCIL DISCUSSION/ INITIATIVES/COMMENTS | | 1:45 PM |
| IV. CITY COUNCIL AGENDA REVIEW | | 2:00 PM |
| V. INFORMAL SESSION | - Conference Room- | 2:15 PM |
| A. CALL TO ORDER | | |
| B. CITY COUNCIL ROLL CALL | | |
| C. RECESS TO CLOSED SESSION | | |

A. **CALL TO ORDER** – Mayor Robert M. “Bobby” Dyer

B. **INVOCATION**

C. **MOMENT OF SILENCE**

D. **PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA**

E. **ROLL CALL OF CITY COUNCIL**

F. **CERTIFICATION OF CLOSED SESSION**

G. **MINUTES**

1. INFORMAL AND FORMAL SESSIONS
2. FORMAL SESSION

March 5, 2024
March 12, 2024

H. **MAYOR’S PRESENTATIONS**

1. RECOGNITION – Sister Cities Association of Virginia Beach
2024 Youth Ambassador – Aubrey Swain
Visiting Students from Waiblingen, Germany
2. PROCLAMATION
Tiffany Richardson-Harrell

I. **FORMAL SESSION AGENDA**

1. CONSENT AGENDA

J. **ORDINANCES / RESOLUTIONS**

1. Ordinance to **DECLARE** a portion of City-Owned property located at 2750 Elbow Road to be in Excess of the City’s Needs and **AUTHORIZE** the City Manager to dedicate the property to the City of Chesapeake re **bridge and road improvements**
2. Ordinance to **GRANT** thirteen (13) Franchise Agreements for Outdoor Cafes in the Resort Area
 - a. Dunes Investment Association, LLC, t/a The Dunes Café re boardwalk café
 - b. Seda Inc. t/a 21st Street Grill Café re sidewalk café
 - c. Atlantic Lobsta, LLC, t/a Mason’s Famous Lobster Rolls Cafe re sidewalk café
 - d. Colonial Inn VB, LLC, t/a Fishtails Café re boardwalk café
 - e. Fogg’s Seafood Company, t/a Waterman’s Surfside Grille Cafe re boardwalk café
 - f. Baja Taco’s, Inc., t/a Baja Cantina Café re sidewalk café
 - g. Chix Sea Grille, LLC, t/a Chix Café re boardwalk café
 - h. Fish-N-Bones, Inc., t/a Fish Bones Café re boardwalk café
 - i. Dandrea, LLC, t/a IL Giardino Café re sidewalk café
 - j. Jumpin Shrimp Inc. t/a Jumpin Shrimp Café re boardwalk café
 - k. Scrambled Inc., t/a Scrambled Café re sidewalk café
 - l. Gold Key/PHR Food Services, LLC, t/a Tortugas Café and Tiki Bar re boardwalk café
 - m. Dunes Investment Associates, LLC, t/a Station 10 Café re boardwalk café

3. Resolution to **ESTABLISH a Stormwater Management Implementation Advisory Group** (Requested by Mayor Dyer and Council Member Schulman) – Deferred from March 5, 2024 (**SPONSORS REQUEST DEFERRAL**)
4. Resolution to **PROVIDE** direction to the City Manager on the use of funds in Capital Project #100629, “**Sports Tourism Infrastructure,**” and **PROVIDE** direction to the City Manager to create options re **dedicated funding source for Arts and Culture using existing funding dedications** (Requested by Council Members Berlucchi, Ross-Hammond, Rouse, Remick, and Schulman)
5. Ordinance to **AMEND** City Code Sections 23-2.1, 23-17, and 23-18.1 re **curfews and other restrictions and regulations during civil commotion to be consistent with state law**
6. Resolution to **PETITION** the Commonwealth of Virginia re **convey certain real property to the City**
7. Resolution to **APPROVE** a Settlement Agreement with The Adventure Park at Virginia Beach, LLC re **unauthorized tree removal** and to **APPROPRIATE** the first installment payment to Parks and Recreation – Tree Mitigation Fund
8. Ordinance to 1) **AUTHORIZE** acquisition of (a) 7.1± acres of land at the intersection of Wolfsnare Road and Great Neck Road; (b) 0.18± acres of land at Half Place; (c) 0.17± acres of land at the intersection of Chadwick Drive and Cambridge Drive from Lynnhaven Area Properties, LLC and Washington Square Townhouses, LLC; and 2) **AUTHORIZE** the City Manager to **EXECUTE** all necessary documents re **the acquisition and the settlement of pending litigation**
9. Ordinance to **AUTHORIZE** temporary encroachments into a portion of City-Owned property known as **Stratton’s Creek** at the rear of 416 Goodspeed Road re **construct and maintain a boat lift and a boathouse** and into a City-Owned utility easement re **construct and maintain riprap** DISTRICT 6
10. Ordinance to **AUTHORIZE** temporary encroachments into the City’s right-of-way known as **Bobolink Drive** at the front of 1060 Bobolink Drive re **maintain existing hardscaping, landscaping and irrigation system** DISTRICT 6
11. Ordinance to **ACCEPT** and **APPROPRIATE** \$32,000 of federal pass-through funding from the Virginia Department of Emergency Management to the FY2023-24 Fire Department Operating Budget re **equipment and training for the Department’s Technical Rescue Team**
12. Ordinance to **ACCEPT** and **APPROPRIATE** \$4,000 from the Federal Emergency Management Agency (FEMA) to the FY2023-24 Fire Department Operating Budget re **FEMA training stipends for certain members of Virginia Task Force 2 (VA-TF2)**
13. Ordinance to **TRANSFER** \$4,638,235 from the Tourism Investment Program (TIP) Fund to Capital Project #100486, “**Winston Salem Avenue Improvements**” re **allow the execution of a construction contract**

K. PLANNING

1. **SUNSACTIONS REALTY, LLC** for a Special Exception for Alternative Compliance re J-1 Visa Dormitory Housing for Temporary Workers at 2500 Atlantic Avenue DISTRICT 6

RECOMMENDATION:

APPROVAL

2. **DAOLIN DONG & JIAYIN WANG / CHARLES B. HAYES & STRAWBRIDGE COMMONS CONDOMINIUM ASSOCIATION** for a Modification of Proffers to a Conditional Change of Zoning re allow retail sales and eating and drinking establishment at 2180 McComas Way, Suite 111 DISTRICT 5

RECOMMENDATION:

APPROVAL

3. **VIRGINIA WESLEYAN UNIVERSITY** for a Conditional Use Permit re Museum at 5817 Wesleyan Drive DISTRICT 4

RECOMMENDATION:

APPROVAL

4. **YURVIN JUAN MORALES LOPEZ / FREEDOM LAND INVESTMENT, LLC** for a Conditional Use Permit re open air market at 5070 Virginia Beach Boulevard DISTRICT 4

RECOMMENDATION:

APPROVAL

5. **GEORGE CUTULLE / GEORGE JOSEPH CUTULLE & VIVIENNE MARY CUTULLE** for a Conditional Use Permit re residential kennel at 2760 Mulberry Loop DISTRICT 5

RECOMMENDATION:

APPROVAL

6. **BRANDON SHAW** for a Conditional Use Permit re home occupation – retail sales at 2076 Mason Neck Lane DISTRICT 7

RECOMMENDATION:

APPROVAL

7. **SIREN ARTS STUDIO / RT VIRGINIA HOLDINGS, LLC** for a Conditional Use Permit re tattoo parlor and body piercing establishment at 1423 North Great Neck Road, Suite 105A DISTRICT 8

RECOMMENDATION:

APPROVAL

8. **CECILIA M. PATTERSON / ROCKY LLC** for a Conditional Use Permit re tattoo parlor at 3920 Virginia Beach Boulevard DISTRICT 8

RECOMMENDATION:

APPROVAL

9. **915C PACIFIC, LLC** for a Conditional Use Permit re short term rental at 915 Pacific Avenue Unit C DISTRICT 5

RECOMMENDATION:

APPROVAL

10. **MARIBEL JOA / MARIBEL JOA & COURTNEY A. CURRIE** for a Conditional Use Permit
for a **short term rental** at 304 28th Street, Unit 211 DISTRICT 6

RECOMMENDATION:

APPROVAL

L. APPOINTMENTS

90-DAY FESTIVAL TASK FORCE
ADVERTISING ADVISORY COMMITTEE
BAYFRONT ADVISORY COMMISSION
BEACHES AND WATERWAYS ADVISORY COMMISSION
CLEAN COMMUNITY COMMISSION
COMMUNITY POLICY AND MANAGEMENT TEAM
COMMUNITY SERVICES BOARD
GREEN RIBBON COMMITTEE
HEALTH SERVICES ADVISORY BOARD
HOUSING ADVISORY BOARD
INDEPENDENT CITIZEN REVIEW BOARD
MINORITY BUSINESS COUNCIL
PERSONNEL BOARD
RESORT ADVISORY COMMISSION
SENIOR SERVICES OF SOUTHEASTERN VIRGINIA BOARD
SHORT TERM RENTAL ENFORCEMENT TASK FORCE
TRANSITION AREA/ INTERFACILITY TRAFFIC AREA CITIZENS ADVISORY COMMITTEE
VIRGINIA BEACH CANNABIS ADVISORY TASK FORCE

M. UNFINISHED BUSINESS

N. NEW BUSINESS

O. ADJOURNMENT

If you are **physically disabled** or **visually impaired**
and need assistance at this meeting,
please call the **CITY CLERK'S OFFICE** at **385-4303**

The Agenda (including all backup documents) is available at <https://clerk.virginiabeach.gov/city-council> under the eDocs Document Archive. If you would like to receive by email a list of the agenda items for each Council meeting, please submit your request to TChelius@vbgov.com or call 385-4303.

Citizens who wish to speak can sign up either in-person or virtually via WebEx. Anyone wishing to participate virtually, must follow the **two-step process** provided below:

1. Register for the WebEx at:
<https://vbgov.webex.com/weblink/register/re9e0662ba478e67eac811db4c8e0eab5>
2. Register with the City Clerk's Office by calling 757-385-4303 prior to 5:00 p.m. on March 19, 2024.

- | | | | |
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V. INFORMAL SESSION

- Conference Room-

2:15 PM

A. CALL TO ORDER

B. CITY COUNCIL ROLL CALL

C. RECESS TO CLOSED SESSION

VI. FORMAL SESSION

- City Council Chamber -

6:00 PM

A. CALL TO ORDER – Mayor Robert M. “Bobby” Dyer

B. INVOCATION

C. MOMENT OF SILENCE

D. PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

E. ROLL CALL OF CITY COUNCIL

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2. PROCLAMATION
Tiffany Richardson-Harrell



Proclamation

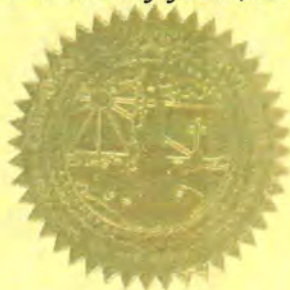
- Whereas:** Tiffany Richardson-Harrell, a wife and mother of two children; and
- Whereas:** Tiffany's background was deeply rooted in a family of auto mechanics and race car drivers, Tiffany's passion for speed and racing was ignited at a young age; and
- Whereas:** Her journey to the racetrack was unconventional, stemming from a childhood dream fueled by her family's hidden legacy in racing, which she discovered while delving into her genealogy; and
- Whereas:** Tiffany's transition from a member of her brother-in-law's (Danny Harrell) pit crew to driving her own race car was driven by her unwavering determination and desire to be more than a spectator. Despite facing challenges such as acquiring technical knowledge and improving physical conditioning, Tiffany persevered, making significant lifestyle changes to prepare for her racing debut; and
- Whereas:** As an entrepreneur, artist, and graduate student, Tiffany exemplifies the balance between pursuing one's passion and managing other life responsibilities; and
- Whereas:** Tiffany Richardson-Harrell is a trailblazer in the racing world, breaking barriers as the first African American female NASCAR driver at Langley Speedway in Hampton, VA; and
- Whereas:** Tiffany's racing career is not just about competition; it's about inspiring others to follow their dreams, regardless of their background or age. Tiffany aims to be a role model for all aspiring racers, especially young African American girls, and boys, encouraging them to start small, seek mentorship, and immerse themselves in the racing community; and
- Whereas:** With her first race approaching in April 2024, Tiffany's goals are clear: to stay safe, keep her car intact, and hopefully claim victory. As she continues to evolve in her racing hobby, she aspires to inspire and mentor the next generation of drivers, proving that it's never too late to pursue what you love.

Now, Therefore I, Robert M. "Bobby" Dyer, Mayor of the City of Virginia Beach, Virginia, do hereby proclaim:

Tiffany Richardson-Harrell as the First Black Female Race car Driver

In Virginia Beach, I call upon all citizens in Virginia Beach to join us in honoring and celebrating Tiffany Richardson-Harrell accomplishments in the world of motorsports, and for inspiring young generations of women.

In Witness Whereof, I have hereunto set my hand and caused the Official Seal of the City of Virginia Beach, Virginia, to be affixed this nineteenth Day of March, Two Thousand and Twenty-Four.



Robert M. "Bobby" Dyer
Mayor

I. FORMAL SESSION AGENDA

1. CONSENT AGENDA

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CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance declaring a portion of City-owned property located at 2750 Elbow Road in Excess of the City's Needs and Authorizing the City Manager to Dedicate the Property to the City of Chesapeake for Bridge and Road Improvements

PUBLIC HEARING DATE: March 5, 2024

MEETING DATE: March 19, 2025

■ **Background:** The City of Virginia Beach (the "Virginia Beach") owns a parcel of land located at 2750 Elbow Road partially located in the City of Chesapeake ("Chesapeake"), and containing approximately 384 acres, which property is known as the Stumpy Lake property. The portion in Virginia Beach is known as 4797 Indian River Road (GPINs: 1464-78-8948 and 1465-70-4777) (all the Stumpy Lake property in both cities collectively, the "Property").

Chesapeake is undertaking the Elbow Road Bridge Replacement Project, UPC 113694 (the "Chesapeake Project") and needs to acquire 523 sq. ft. (0.012 acres) of the Property as right-of-way for bridge improvements for the Chesapeake Project (the "Dedication"). Chesapeake currently owns and maintains the bridge carrying Elbow Road over the Stumpy Lake Spillway outfall (the "Elbow Road Bridge"). Elbow Road and the Elbow Road Bridge are located at the Chesapeake – Virginia Beach City Boundary Line and serve the citizens and visitors of Chesapeake and Virginia Beach. Virginia Beach owns and maintains the public right-of-way known as Elbow Road in Virginia Beach up to the east abutment of the Elbow Road Bridge.

The proposed improvements on the Dedication will include a curb inlet drainage structure, concrete storm pipe, concrete curb and gutter, metal guardrail, wooden bollards, a metal gate, a concrete entrance, and earthwork along Elbow Road.

Separately, Virginia Beach is in the process of implementing improvements to Elbow Road as set forth in the Elbow Road Extended - Phase IIB & IIC Project, CIP 100529, UPC 15828, CIP 100159, UPC 112317 (the "Elbow Road Phase IIB & IIC Project") with its western project limit terminus approximately 675-linear feet (0.13-mile) east of Chesapeake's existing Elbow Road Bridge.

To coordinate their respective projects, Virginia Beach is partnering with Chesapeake for the replacement and raising of approximately 600 linear feet of Elbow Road (the "Elbow Road Grade Adjustment Project") between the Chesapeake Project's eastern bridge approach and the Elbow Road Phase IIB & IIC Project's western project area. The Elbow Road Grade Adjustment Project will also include the raising of the Stumpy Lake Dam crest from the east side of the Stumpy Lake spillway to the southbound lane of Elbow Road.

The combined Chesapeake Project and Elbow Road Grade Adjustment Project involve replacing the existing Elbow Road Bridge with a wider, higher, and longer bridge and raising and widening the approaching road surfaces to reduce bridge and roadway closures from flooding.

■ **Considerations:** The Chesapeake Project will improve safety for the general public. City staff recommends approving the Dedication for the Chesapeake Project.

The Chesapeake Project, the Elbow Road Grade Adjustment Project, and the Elbow Road Phase IIB & IIC Project have been designed to relieve congestion, improve traffic flow and improve safety for the residents of Chesapeake and Virginia Beach.

■ **Public Information:** An advertised public hearing will be held on March 5, 2024, and public notice will be provided via the normal City Council agenda process.

■ **Alternatives:** Deny approval of the Ordinance, or add conditions or modifications as desired by City Council.

■ **Recommendations:** Approval.

■ **Attachments:** Ordinance, Plat and Location Map

Recommended Action: Approval

Submitting Department/Agency: Public Works/Real Estate *hwy*

City Manager: *PAO*

1 AN ORDINANCE DECLARING A PORTION
2 OF CITY-OWNED PROPERTY LOCATED AT
3 2750 ELBOW ROAD IN EXCESS OF THE
4 CITY'S NEEDS AND AUTHORIZING THE
5 CITY MANAGER TO DEDICATE THE
6 PROPERTY TO THE CITY OF CHESAPEAKE
7 FOR BRIDGE IMPROVEMENTS
8

9 WHEREAS, the City of Virginia Beach (the "City") owns a parcel of land located
10 at 2750 Elbow Road in the City of Chesapeake ("Chesapeake") containing
11 approximately 384 acres, and known as the Stumpy Lake property (the "Property");
12

13 WHEREAS, Chesapeake has undertaken a bridge replacement project known as
14 the "Elbow Road Bridge Replacement Project, UPC 113694" (the "Chesapeake
15 Project");
16

17 WHEREAS, Chesapeake needs to acquire a 523 sq. ft. (0.012 ac.) portion of the
18 Property for improvements for the Chesapeake Project; and
19

20 WHEREAS, because the Chesapeake Project will improve the safety of the
21 general public, the City Council finds that it is in the best interest of the City to dedicate
22 the necessary right of way to Chesapeake for the Chesapeake Project.
23

24 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
25 VIRGINIA BEACH, VIRGINIA:
26

27 1. That City Council authorizes the dedication of 523 sq. ft. (0.012 ac.) of the
28 Property for right-of-way purposes as shown on the plat attached hereto as Exhibit A and
29 made a part hereof, to the City of Chesapeake for the Chesapeake Project.
30

31 3. That the City Manager, or his designee, is hereby authorized to execute
32 any and all documents necessary to complete the conveyance of said right-of-way, so
33 long as the documents are in substantial conformity with the terms hereof, and other
34 conditions or minor modifications as may be acceptable to the City Manager and in a
35 form deemed satisfactory by the City Attorney.
36

37 Adopted by the Council of the City of Virginia Beach, Virginia, on the ____ day
38 of _____, 2024.

APPROVED AS TO CONTENT:


Public Works / Real Estate

APPROVED AS TO LEGAL
SUFFICIENCY:


City Attorney

CA16267

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R-1

February 21, 2024

001

NOW OR FORMERLY
CITY OF VIRGINIA BEACHD.B. 4302, PG. 495
D.B. 4302, PG. 490
M.B. 142, PG. 72 - CHESAPEAKE
M.B. 161, PG. 19 - CHESAPEAKE
PN 0390000000330
2750 ELBOW ROADPROPERTY TO BE DEDICATED FOR
RIGHT-OF-WAY PURPOSES
523 SQ. FT. OR 0.012 ACRESCITY LINE
(M.B. 142, PG. 72 - CHESAPEAKE)
(M.B. 296, PG. 39 - VIRGINIA BEACH)

002

NOW OR FORMERLY
CITY OF VIRGINIA BEACH
D.B. 4438, PG. 294
M.B. 296, PG. 39 - VIRGINIA BEACH
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AREA TABLE

EXISTING PARCEL AREA	16,728,042 SQ. FT. OR 384.023 ACRES
PROPERTY TO BE DEDICATED FOR RIGHT-OF-WAY PURPOSES	523 SQ. FT. OR 0.012 ACRES
RESIDUAL PARCEL	16,727,519 SQ. FT. OR 384.011 ACRES

LEGEND

$\frac{00.00'}{+00.00}$	STATION AND OFFSET FOR PROPERTY TO BE DEDICATED FOR RIGHT-OF-WAY PURPOSES		DENOTES PROPERTY TO BE DEDICATED FOR RIGHT-OF-WAY PURPOSES
-------------------------	---	---	--

MONUMENT LEGEND

 MON.	CONCRETE MONUMENT SET
--	-----------------------

NOTES:

1. THIS PLAT IS BASED ON VIRGINIA STATE PLANE COORDINATE SYSTEM, SOUTH ZONE, NAD 1983/ 1994 (HARN). COORDINATE VALUES SHOWN ARE EXPRESSED IN U.S. SURVEY FEET. THE CITY OF CHESAPEAKE CONTROL REFERENCE POINT USED TO ESTABLISH THE COORDINATE VALUES SHOWN HEREON IS STATION NUMBER 103.
2. PROPERTY LINE AND RIGHT-OF-WAY INFORMATION IS BASED ON PLATS, DEEDS OF RECORD, AND ACTUAL FIELD MEASUREMENTS. THIS PLAT DOES NOT REPRESENT A BOUNDARY SURVEY.
3. THIS PLAT IS INTENDED FOR DEDICATION PURPOSES ONLY AND DOES NOT CONSTITUTE A SUBDIVISION OF LAND.
4. PROPERTY TO BE DEDICATED BY DEED.
5. THIS PLAT WAS PREPARED WITH THE BENEFIT OF A TITLE REPORT PREPARED BY JAMES E. RINEHART DATED MAY 15, 2023 AND DOES NOT SHOW ANY PHYSICAL IMPROVEMENTS.
6. SOURCE OF TITLE AND LAST PLACE OF RECORD: DEED BOOK 4302, PAGE 495 AND DEED BOOK 4302, PAGE 490, RECORDED IN THE CLERK'S OFFICE IN THE CIRCUIT COURT IN THE CITY OF CHESAPEAKE, VIRGINIA.
7. PARCEL AREA TAKEN FROM REAL ESTATE ASSESSOR WEB PAGE.



REVISED: 10-24-2023 PER CITY COMMENTS, CHANGE TO "DEDICATED"
8-9-2023 TITLE REPORT
4-14-2023 PER CITY COMMENTS

BY: _____ DATE: _____
DIRECTOR OF PUBLIC WORKS, CITY OF CHESAPEAKE, VIRGINIA

001

PLAT SHOWING
PROPOSED RIGHT OF WAY
FOR

THE CITY OF CHESAPEAKE

TO BE DEDICATED FROM TAX PARCEL #0390000000330
OWNED NOW OR FORMERLY

BY
CITY OF VIRGINIA BEACH


ELBOW ROAD BRIDGE REPLACEMENT
CHESAPEAKE, VIRGINIA

SCALE: 1" = 50' DATE: DECEMBER 27, 2022

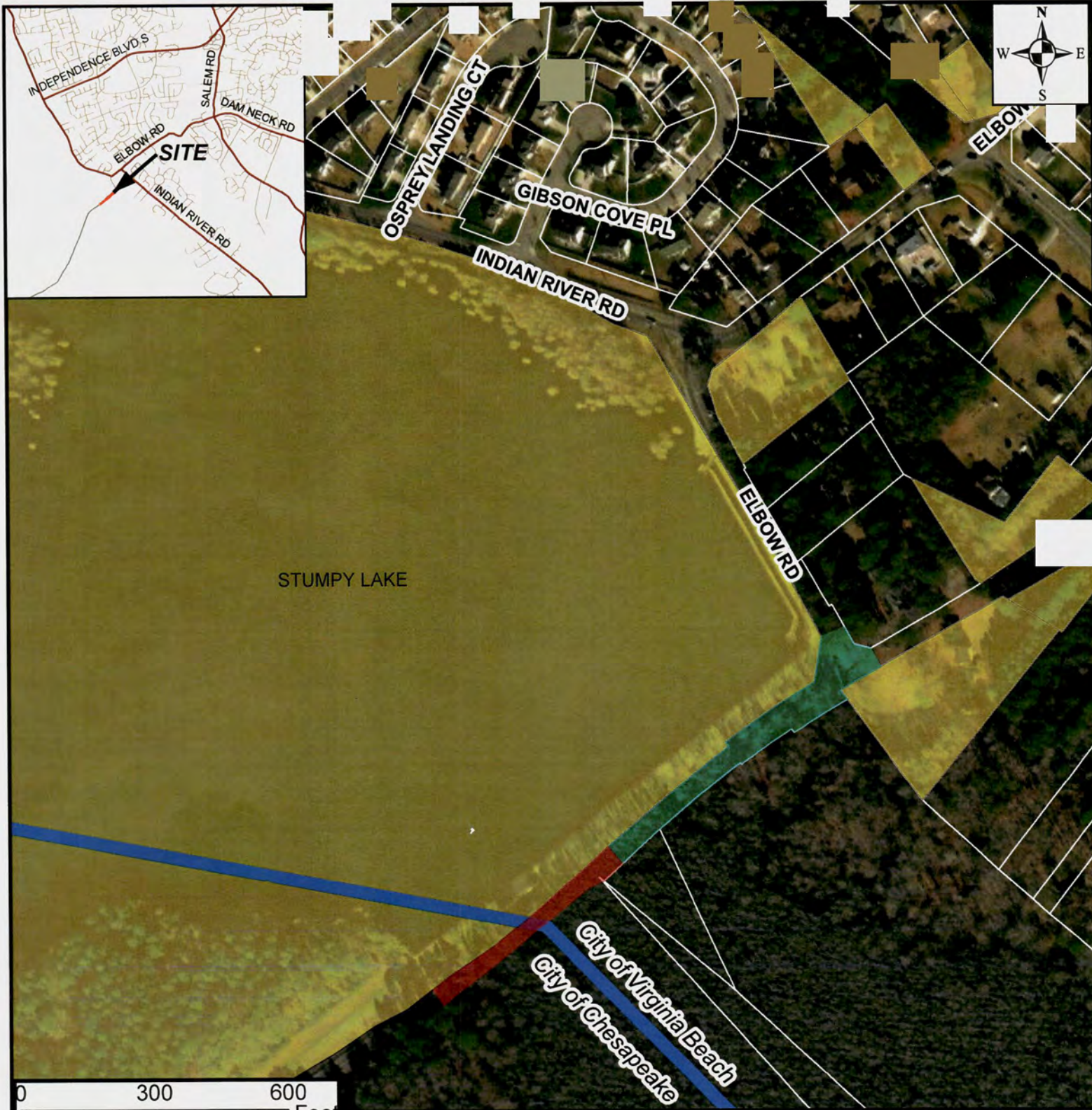
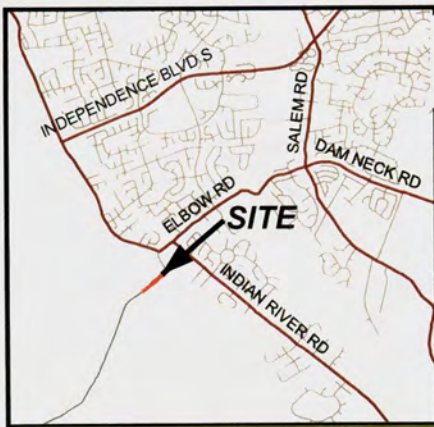
PRECISION MEASUREMENTS, INC.

WWW.PRECISIONMEASUREMENTS.COM

SURVEYORS • GPS • 3-D SCANNING • MAPPERS
770 LYNNHAVEN PARKWAY, SUITE 240
VIRGINIA BEACH, VIRGINIA 23452
(757) 368-0945

0 50 100 150 FEET

GRAPHIC SCALE

SHEET 2 OF 2



0 300 600
Feet

Legend

- City of Virginia Beach
Elbow Road Grade
Adjustments Project Area
- City of Chesapeake
Elbow Road
Bridge Replacement
Project Area
- City of Virginia Beach
Properties

CITY OF VIRGINIA BEACH ELBOW ROAD GRADE ADJUSTMENT PROJECT (CIP 100529.002) AND CITY OF CHESAPEAKE ELBOW ROAD BRIDGE REPLACEMENT PROJECT (UPC 113694) LOCATION MAP



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance Granting Thirteen Franchise Agreements for Outdoor Cafés in the Resort Area

PUBLIC HEARING: March 5, 2024

MEETING DATE: March 19, 2024

■ **Background:** The City Council adopted revised regulations for outdoor café franchises on October 20, 2020 ("Revised Regulations"). The Revised Regulations simplify the outdoor café franchise program and allow more flexibility for outdoor café owners and operators to keep pace with current standards in construction, design and materials. The City has developed a franchise agreement for the regulation of outdoor cafés, which the grantees are required to execute as a condition of the grant. The City Council has traditionally granted initial franchises for one-year terms. If an outdoor café is successfully operated during the initial one-year term, the franchisee may return to Council upon the expiration of the one-year term and request a five-year franchise agreement.

■ **Considerations:** The following two entities are seeking one-year franchise agreements: 1) Dunes Investment Association, LLC, t/a Dunes Café, for a boardwalk café; and 2) Seda Inc., t/a 21st Street Grill Café, for a sidewalk café.


The following eleven entities have successfully operated outdoor cafes pursuant to either one-year or five-year franchise agreements and are seeking franchise agreements for five-year terms: 1) Atlantic Lobsta, LLC, t/a Mason's Famous Lobster Rolls Cafe, for a sidewalk café; 2) Colonial Inn VB, LLC, t/a Fishtails Cafe, for a boardwalk café; 3) Fogg's Seafood Company, t/a Waterman's Surfside Grille Cafe, for a boardwalk café; 4) Baja Tacos, Inc., t/a Baja Cantina Café, for a sidewalk café; 5) Chix Sea Grille, LLC, t/a Chix Café, for a boardwalk café; 6) Fish-N-Bones, Inc., t/a Fish Bones Café, for a boardwalk café; 7) Dandrea, LLC, t/a Il Giardino Café; 8) Jumpin Shrimp Inc., t/a Jumpin Shrimp Café, for a boardwalk café; 9) Scrambled Inc., t/a Scrambled Café, for a sidewalk café; 10) Gold Key/PHR Food Services, LLC, t/a Tortugas Café and Tiki Bar, for a boardwalk café; and 11) Dunes Investment Associates, LLC, t/a Station 10 Café, for a boardwalk café.

■ **Public Information:** A public notice was published in *The Virginian Pilot* on February 25, 2024.

■ **Attachments:** Ordinance, Disclosure Forms, Café Location Maps and Photos, and Plans and Elevations

Recommended Action: Adopt Ordinance

Submitting Department/Agency: Resort Management Office

City Manager: 



1 AN ORDINANCE GRANTING THIRTEEN
2 FRANCHISE AGREEMENTS FOR OUTDOOR
3 CAFÉS IN THE RESORT AREA
4

5 WHEREAS, City Council adopted revised regulations for outdoor café franchises
6 on October 20, 2020 ("Revised Regulations"); and
7

8 WHEREAS, the Revised Regulations simplify the outdoor café franchise program
9 and allow more flexibility for outdoor café owners and operators to keep pace with
10 current standards in construction, design and materials; and
11

12 WHEREAS, the City has developed a franchise agreement for the regulation of
13 outdoor cafés, which the grantees are required to execute as a condition of the grant;
14 and
15

16 WHEREAS, the City Council has traditionally granted initial franchises for one-
17 year terms; and
18

19 WHEREAS, if an outdoor café is successfully operated during the initial one-
20 year term, the franchisee may return to Council and request a five-year franchise
21 agreement; and
22

23 WHEREAS, the following two entities are seeking one-year franchise
24 agreements: 1) Dunes Investment Association, LLC, t/a Dunes Café, for a boardwalk
25 café; and 2) Seda Inc., t/a 21st Street Grill Café, for a sidewalk café; and
26

27 WHEREAS, the following eleven entities have successfully operated outdoor cafes
28 pursuant to either one-year or five-year franchise agreements and are seeking franchise
29 agreements for five-year terms: 1) Atlantic Lobsta, LLC, t/a Mason's Famous Lobster
30 Rolls Cafe, for a sidewalk café; 2) Colonial Inn VB, LLC, t/a Fishtails Cafe, for a
31 boardwalk café; 3) Fogg's Seafood Company, t/a Waterman's Surfside Grille Cafe, for a
32 boardwalk café; 4) Baja Tacos, Inc., t/a Baja Cantina Café, for a sidewalk café; 5) Chix
33 Sea Grille, LLC, t/a Chix Café, for a boardwalk café; 6) Fish-N-Bones, Inc., t/a Fish
34 Bones Café, for a boardwalk café; 7) Dandrea, LLC, t/a Il Giardino Café, for a sidewalk
35 café; 8) Jumpin Shrimp Inc., t/a Jumpin Shrimp Café, for a boardwalk café; 9)
36 Scrambled Inc., t/a Scrambled Café, for a sidewalk café; 10) Gold Key/PHR Food
37 Services, LLC, t/a Tortugas Café and Tiki Bar, for a boardwalk café; and 11) Dunes
38 Investment Associates, LLC, t/a Station 10 Café, for a boardwalk cafe; and
39

40 WHEREAS, the Office of Resort Management recommends that the above-
41 named entities be granted outdoor café franchise agreements.
42

43 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
44 VIRGINIA BEACH:
45

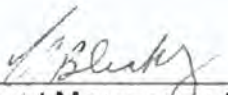
46 That the City Council hereby grants one-year franchise agreements to: 1) Dunes
47 Investment Association, LLC, t/a Dunes Café, for a boardwalk café; and 2) Seda Inc.,
48 t/a 21st Street Grill Café, for a sidewalk café; and
49

50 That the City Council hereby grants five-year franchise agreements to: 1) Atlantic
51 Lobsta, LLC, t/a Mason's Famous Lobster Rolls Cafe, for a sidewalk café; 2) Colonial
52 Inn VB, LLC, t/a Fishtails Cafe, for a boardwalk café; 3) Fogg's Seafood Company, t/a
53 Waterman's Surfside Grille Cafe, for a boardwalk café; 4) Baja Tacos, Inc., t/a Baja
54 Cantina Café, for a sidewalk café; 5) Chix Sea Grille, LLC, t/a Chix Café, for a
55 boardwalk café; 6) Fish-N-Bones, Inc., t/a Fish Bones Café, for a boardwalk café; 7)
56 Dandrea, LLC, t/a Il Giardino Café, for a sidewalk café; 8) Jumpin Shrimp Inc., t/a
57 Jumpin Shrimp Café, for a boardwalk café; 9) Scrambled Inc., t/a Scrambled Café, for a
58 sidewalk café; 10) Gold Key/PHR Food Services, LLC, t/a Tortugas Café and Tiki Bar,
59 for a boardwalk café; and 11) Dunes Investment Associates, LLC, t/a Station 10 Café,
60 for a boardwalk café.
61


Adopted by the City Council of Virginia Beach, Virginia on this ____ day of
_____, 2024.

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL SUFFICIENCY:



Resort Management
Teresa S. Blackley



City Attorney's Office



APPLICANT'S NAME Dunes Investment Associates, LLC - d/b/a The Dunes

THE DUNES CAFE

DISCLOSURE STATEMENT FORM

The completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council or a board, commission, or other body appointed by the City Council. Such applications and matters include, but are not limited to, the following:

Acquisition of Property by City	Disposition of City Property	Modification of Conditions or Proffers
Alternative Compliance, Special Exception for	Economic Development Investment Program (EDIP)	Nonconforming Use Changes
Board of Zoning Appeals	Encroachment Request	Rezoning
Certificate of Appropriateness (Historic Review Board)	Floodplain Variance	Street Closure
Chesapeake Bay Preservation Area Board	Franchise Agreement	Subdivision Variance
Conditional Use Permit	Lease of City Property	Wetlands Board
	License Agreement	

The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law.

SECTION 1 / APPLICANT DISCLOSURE

FOR CITY USE ONLY / All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the application(s).

Page 1 of 7

<input type="checkbox"/>	APPLICANT NOTIFIED OF HEARING	DATE:	
<input type="checkbox"/>	NO CHANGES AS OF	DATE:	
<input type="checkbox"/>	REVISIONS SUBMITTED	DATE:	

- ☐ Check here if the **APPLICANT IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- ☒ Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.

(A) List the Applicant's name: Dunes Investment Associates, LI

If an LLC, list all member's names:

Lyons Family Asset Protection Trust, Octo, Inc./Thomas J. Lyons, Jr. Rev. Trust, Timothy J. Stiffler, Marcus B. Lewis, Fred & Patricia Russell

If a CORPORATION, list the the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

(B) List the businesses that have a parent-subsiary¹ or affiliated business entity² relationship with the Applicant: *(Attach list if necessary)*

Coastal Hospitality Associates, LLC (Management Company)

See next page for information pertaining to footnotes¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

Complete Section 2 only if property owner is different from Applicant.

- ☐ Check here if the **PROPERTY OWNER IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- ☐ Check here if the **PROPERTY OWNER IS** a corporation, partnership, firm, business, or other unincorporated organization, **AND THEN**, complete the following.

(A) List the Property Owner's name: _____

If an LLC, list the member's names:

If a Corporation, list the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

- (B) List the businesses that have a parent-subsidary¹ or affiliated business entity² relationship with the Property Owner: *(Attach list if necessary)*

¹ "Parent-subsidary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

² "Affiliated business entity relationship" means "a relationship, other than parent-subsidary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

SECTION 3. SERVICES DISCLOSURE

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPERATELY

APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	BDO Norfolk, Virginia
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Architect / Landscape Architect / Land Planner	WPL, & Saunder & Crouse, PC
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contract Purchaser (if other than the Applicant) - Identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Construction Contractors	Hoy Construction, Inc. Norfolk, VA
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Engineers / Surveyors/ Agents	MSA Virginia Beach, VA
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	Towne Bank Norfolk
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Legal Services	Kaufman & Canoles, PLC Norfolk, VA
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

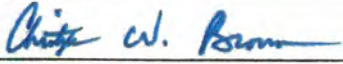
YES	NO	Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	

If yes, what is the name of the official or employee and what is the nature of the interest?

CERTIFICATION:

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

	Christopher W. Brown	03/05/2024
APPLICANT'S SIGNATURE	PRINT NAME	DATE

OWNER

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	BDO Norfolk, Virginia
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Architect / Landscape Architect / Land Planner	WPL, Virginia Beach, VA Saunders & Crouse, PC VA. Beach
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Construction Contractors	Hoy Construction, Inc. Norfolk, VA
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Engineers / Surveyors/ Agents	MSA Virginia Beach, VA
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	Towne Bank Norfolk
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Legal Services	Kaufman & Canoles, PLC Norfolk, VA
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE


YES	NO	Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	

If yes, what is the name of the official or employee and what is the nature of the interest?

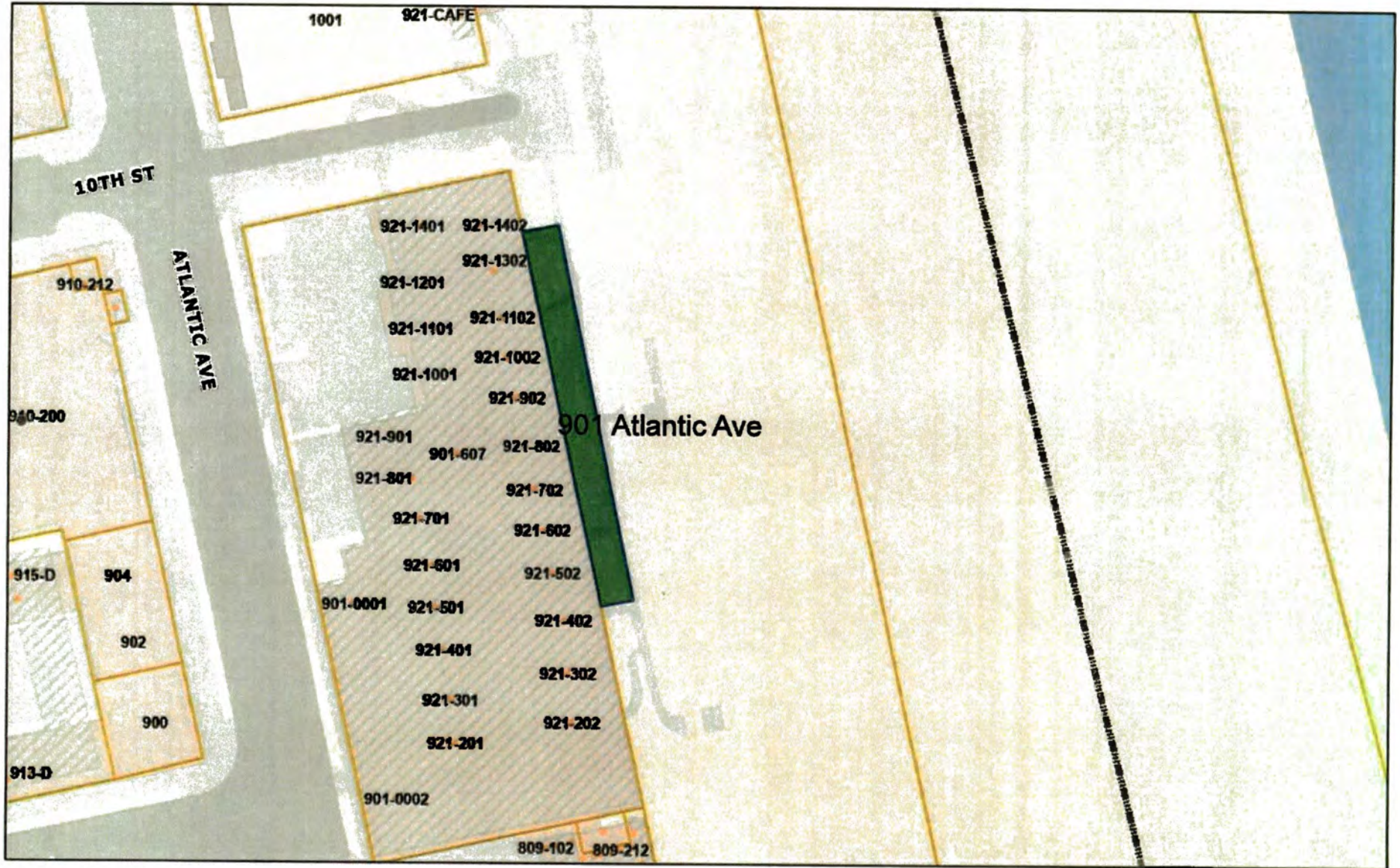
CERTIFICATION:

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.





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	Christopher W. Brown	03/05/2024
PROPERTY OWNER'S SIGNATURE	PRINT NAME	DATE

901 Atlantic Ave, The Beach Club Café



1/29/2024, 4:30:58 PM

 City Boundary  Parcels
 Condos  Address Point
 Primary

Primary Address Point Label

1:1,128
0 0.01 0.01 0.03 mi
0 0.01 0.02 0.04 km
© City of Virginia Beach











City of Virginia Beach Center for GIS
© City of Virginia Beach |



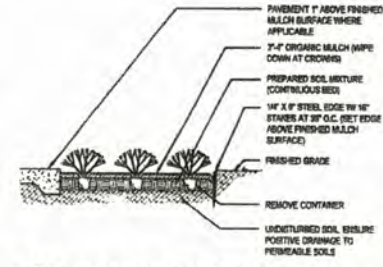
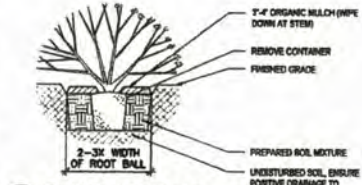
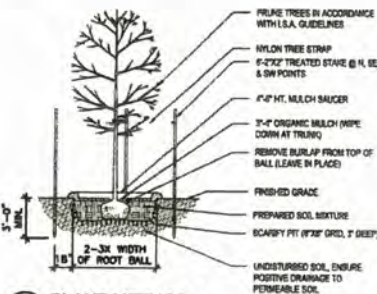
- ALL PLANT MATERIAL SHALL MEET THE MINIMUM SPECIFICATIONS AND STANDARDS DESCRIBED IN THE "AMERICAN STANDARD FOR HEDGEROW STOCK, 2014" (AND T&E 1-2014) PUBLISHED BY AMERICANFOOD, 2130 SHILLA COURT, COLUMBIA, OH 43215.
- PLANTING SEASON RECOMMENDATIONS: ALL BULBLED AND BURLAPPED PLANTS SHALL BE INSTALLED BETWEEN OCTOBER 15 AND MARCH 31 UNLESS OTHERWISE AUTHORIZED BY THE LANDSCAPE ARCHITECT. ALL CONTAINER GROWN PLANTS SHALL BE INSTALLED BETWEEN SEPTEMBER 15 AND MAY 15 UNLESS OTHERWISE AUTHORIZED BY THE LANDSCAPE ARCHITECT.
- CONTRACTOR SHALL NOTIFY LANDSCAPE ARCHITECT IN WRITING OF ANY CONFLICTS AND/OR DISCREPANCIES PRIOR TO INSTALLATION.
- ALL TREE AND SHRUB LOCATIONS ARE TO BE SAVED OUT AND RESPECTED BY LANDSCAPE ARCHITECT PRIOR TO INSTALLATION.
- VERIFICATION OF TOTAL QUANTITIES AS SHOWN IN THE "PLANT SCHEDULE" SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR. THE PLANTING PLAN SHALL GOVERN.
- ALL PLANTING PITS AND BEDS SHALL BE BACKFILLED WITH PREPARED SOIL MIXTURE TO THE REQUIRED DEPTH AS SPECIFIED IN THE METHODS BELOW. WHERE A SHRUB OR GROUND COVER BED OCCURS AND FOR ALL BEDS, THE ENTIRE BED SHALL BE PREPARED CONTINUOUSLY WITH SOIL MIXTURE TO THE REQUIRED DEPTH AS SPECIFIED.
- ALL PLANT BEDS SHALL BE TILLED TO A DEPTH OF 12 INCHES

- OR AS REQUIRED TO IMPROVE CONSTRUCTION COMPACTION AND TO ENSURE POSITIVE DRAINAGE INTO PERMEABLE SOILS.
- PREPARED SOIL MIXTURE SHALL BE COMPOSED OF THE FOLLOWING:
 - (3)-PARTS TOPSOIL
 - (1)-PART COARSE SAND
 - (1)-PART PEAT
 OR - 10% ORGANIC MATTER CONTENT FOR EACH CUBIC YARD OF PREPARED SOIL MIXTURE
- FINISHED GRASSES OR GRASS PLANT THAT OCCUR IN SHALL BEEDS SPECIFY TOP OF FINISHED MULCH GRASSES. LANDSCAPE CONTRACTOR SHALL NOT EXCEED THESE GRASSES WHEN BEDS ARE COMPLETE WITH MULCH INSTALLATION. IF LANDSCAPE CONTRACTOR ENCOUNTERS UNDESIRABLE CONDITIONS THAT WILL RESULT IN FINISHED MULCH TREATMENT EXCEEDING GRASSES SPECIFIED ON GRASS PLANT, THEN THE LANDSCAPE CONTRACTOR SHALL NOTIFY THE GENERAL CONTRACTOR OF SUCH CONDITIONS. UNDER NO CIRCUMSTANCES SHALL FINISHED BEDS EXCEED TOP OF MULCH EXCEED THE GRADE ELEVATIONS AS PROVIDED FOR BY THE GRASS PLANT.
- TOP OF MULCH SHALL FINISH 1" BELOW ADJACENT PAVEMENT.
- NEW PLANTING SHALL BE LOCATED AS SHOWN ON PLANS. THE CONTRACTOR IS RESPONSIBLE FOR VERIFYING THE LOCATION OF

- ALL SITE ELEVATIONS AND UTILITIES, IF DISCREPANCIES OCCUR, OR IF OBSTRUCTIONS BELOW GROUND OR OVERHEAD ARE ENCOUNTERED, THE CONTRACTOR SHALL NOTIFY THE LANDSCAPE ARCHITECT. NECESSARY ADJUSTMENTS SHALL BE MADE ONLY UPON APPROVAL OF THE LANDSCAPE ARCHITECT.
- ALL SHRUBS AND GROUND COVERS ARE TO BE INSTALLED TO AS TO GROW TOGETHER AND FORM A MASS. PRUNING (TRAINING, SHEARING, ETC.) SHALL BE LIMITED TO SHORING AS NECESSARY. THE HEDGEROW GROWN AND FORM OF THE PLANT SHALL BE MAINTAINED WITHOUT DAMAGE TO PRIMARY AND SECONDARY LEAVES.
- ALL TREES SHALL BE SINGLE LEADER SPECIMENS UNLESS OTHERWISE NOTED.

PLANT SCHEDULE									
TREES	QTY	SYMBOL NAME	COMMON NAME	SIZE	HEIGHT	SPREAD	SPACING	METHOD	REMARKS
	1	STYLOCHORDON PURPUREA	IMPERIAL PALM	800	FT. (8-14)	---	PLACE AS SHOWN	1	---
	20	STYLOCHORDON PURPUREA	IMPERIAL PALM	800	FT. (8-14)	---	PLACE AS SHOWN	1	---
	10	STYLOCHORDON PURPUREA	IMPERIAL PALM	800	FT. (8-14)	---	PLACE AS SHOWN	1	---
	10	STYLOCHORDON PURPUREA	IMPERIAL PALM	800	FT. (8-14)	---	PLACE AS SHOWN	1	---
	10	STYLOCHORDON PURPUREA	IMPERIAL PALM	800	FT. (8-14)	---	PLACE AS SHOWN	1	---
	10	STYLOCHORDON PURPUREA	IMPERIAL PALM	800	FT. (8-14)	---	PLACE AS SHOWN	1	---
	10	STYLOCHORDON PURPUREA	IMPERIAL PALM	800	FT. (8-14)	---	PLACE AS SHOWN	1	---
	10	STYLOCHORDON PURPUREA	IMPERIAL PALM	800	FT. (8-14)	---	PLACE AS SHOWN	1	---
	10	STYLOCHORDON PURPUREA	IMPERIAL PALM	800	FT. (8-14)	---	PLACE AS SHOWN	1	---
	10	STYLOCHORDON PURPUREA	IMPERIAL PALM	800	FT. (8-14)	---	PLACE AS SHOWN	1	---

GENERAL PLANTING NOTES



PLANT PALETTE

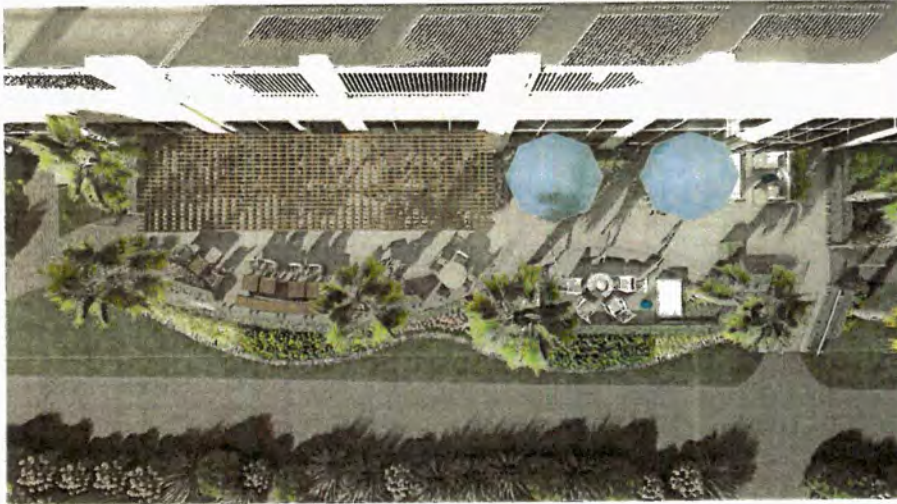


PLANTING DETAILS SPRINGHILL SUITES OPEN-AIR CAFE

901 ATLANTIC AVENUE, VIRGINIA BEACH, VIRGINIA 23451
COASTAL HOSPITALITY ASSOCIATES | WPL LANDSCAPE ARCHITECTS - LAND SURVEYORS - CIVIL ENGINEERS

223-0041
SEPTEMBER 22, 2023





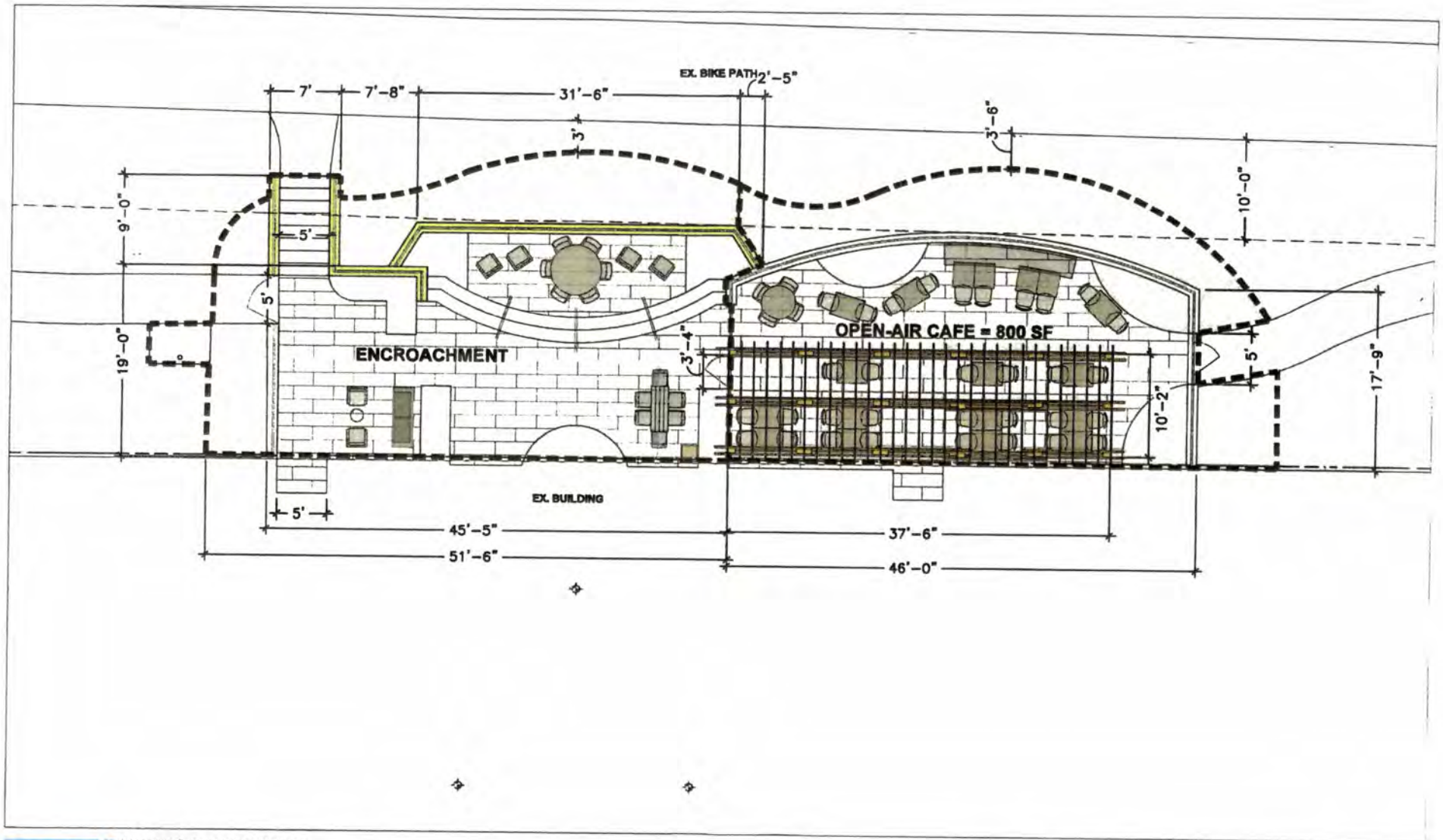
SITE PLAN & ELEVATIONS

SPRINGHILL SUITES OPEN-AIR CAFE

901 ATLANTIC AVENUE, VIRGINIA BEACH, VIRGINIA 23451

COASTAL HOSPITALITY ASSOCIATES | WPL LANDSCAPE ARCHITECTS - LAND SURVEYORS - CIVIL ENGINEERS

223-0041
SEPTEMBER 22, 2023



LAYOUT & DIMENSION PLAN

SPRINGHILL SUITES OPEN-AIR CAFE

901 ATLANTIC AVENUE, VIRGINIA BEACH, VIRGINIA 23451

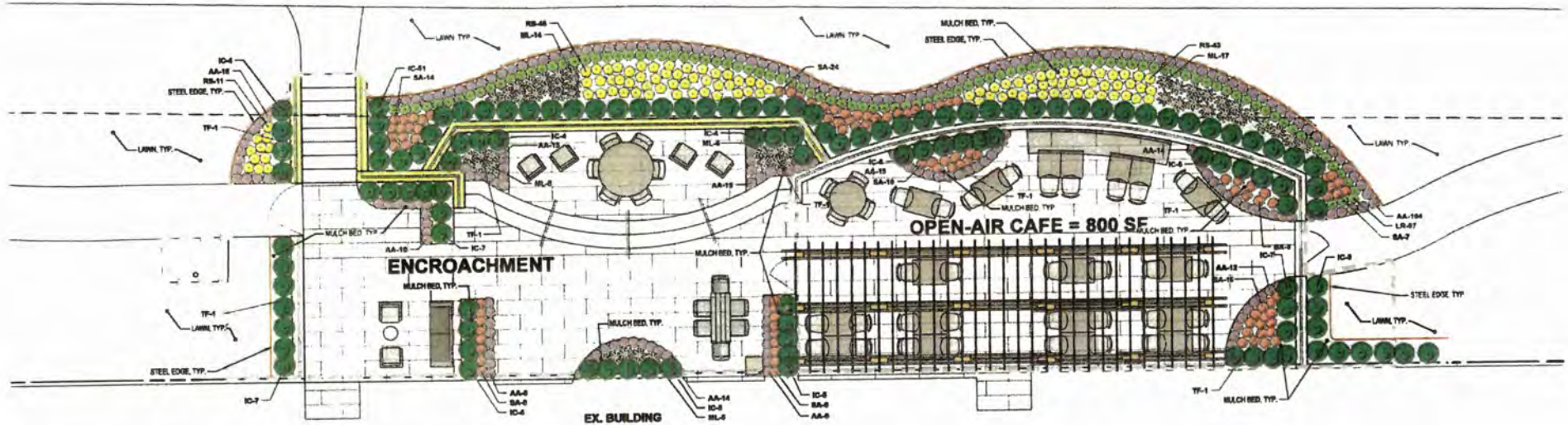
COASTAL HOSPITALITY ASSOCIATES | WPL LANDSCAPE ARCHITECTS - LAND SURVEYORS - CIVIL ENGINEERS










223-0041
SEPTEMBER 22, 2023



EX. BIKE PATH



PLANT SCHEDULE

ITEM	QTY	ITEM/PLANT NAME	COMMON NAME	SEX	HEIGHT	SPREAD	SPACING	METHOD	REMARKS
	1	SPRINGFLAKE WHITE "SPRINGFLAKE" PINK (DB)	WINDMILL JALIS	DB	FT. 03-04	---	PLANT IN GROUP	1	---
	25	SPRINGFLAKE ANEMONE	ANEMONE	F POT	---	---	FT. 15 O.C.	4	SPRINGFLAKE SPENDING MONEY'S BILL
	QTY	SPRINGFLAKE WHITE "LEE VANDERHOE" VERONICA	COMMON VERONICA SUNSHINE VERONICA	DB CONC. PT	HEIGHT 15-13-15	SPREAD ---	SPACING FT. 15 O.C.	METHOD ---	REMARKS COMMON VERONICA
	40	UNIQUE BLOSSOM TROPICAL PINK	ROYAL PINK LITTLE PINK	CONC. (DB)	---	---	FT. 15 O.C.	4	---
	40	SPRINGFLAKE WHITE WINDMILL BLOSSOM "LITTLE PINK"	COMMON NAME LITTLE WINDMILL BLOSSOM	DB CONC. PT	HEIGHT 15-13-15	SPREAD ---	SPACING FT. 15 O.C.	METHOD ---	REMARKS ---
	QTY	SPRINGFLAKE WHITE "SPRINGFLAKE" PINK (DB)	COMMON NAME WINDMILL BLOSSOM	DB CONC. PT	HEIGHT 15-13-15	SPREAD ---	SPACING FT. 15 O.C.	METHOD ---	REMARKS ---
	40	SPRINGFLAKE WHITE "SPRINGFLAKE" PINK (DB)	COMMON NAME WINDMILL BLOSSOM	DB CONC. PT	HEIGHT 15-13-15	SPREAD ---	SPACING FT. 15 O.C.	METHOD ---	REMARKS ---

PLANT PALETTE



SUNPATIENS/SPRING (AA)



PANSY'S/FALL (AA)



YAUPON HOLLY (IC)



ROYAL PURPLE LILYTURF (LR)



LITTLE KITTEN EULALIA GRASS (ML)



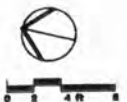
BLACK EYED SUSAN (RS)



AUTUMN FIRE SEDUM (SA)



WINDMILL PALM (TF)



Seda, Inc.



APPLICANT'S NAME 21st Street Cafe Janet Yomusak

DISCLOSURE STATEMENT FORM

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Acquisition of Property by City	Disposition of City Property	Modification of Conditions or Proffers
Alternative Compliance, Special Exception for	Economic Development Investment Program (EDIP)	Nonconforming Use Changes
Board of Zoning Appeals	Encroachment Request	Rezoning
Certificate of Appropriateness (Historic Review Board)	Floodplain Variance	Street Closure
Chesapeake Bay Preservation Area Board	Franchise Agreement	Subdivision Variance
Conditional Use Permit	Lease of City Property	Wetlands Board
	License Agreement	

The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law.

SECTION 1 / APPLICANT DISCLOSURE

FOR CITY USE ONLY: All disclosures must be filed with the Planning Commission and City Council meeting that pertains to the application.

Page 1 of 7

<input type="checkbox"/>	APPLICANT NOTIFIED OF HEARING	DATE	
<input type="checkbox"/>	NO CHANGES AS OF	DATE	
<input type="checkbox"/>	REVISIONS SUBMITTED	DATE	



- ☐ Check here if the **APPLICANT IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- ☒ Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.

(A) List the Applicant's name: SAMET YUMUSAK - Seda, Inc.
If an LLC, list all member's names:
SAMET YUMUSAK

If a CORPORATION, list the the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

(B) List the businesses that have a parent-subsiary ¹ or affiliated business entity ² relationship with the Applicant: *(Attach list if necessary)*

See next page for information pertaining to footnotes ¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

Complete Section 2 only if property owner is different from Applicant.

- ☐ Check here if the **PROPERTY OWNER IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- ☒ Check here if the **PROPERTY OWNER IS** a corporation, partnership, firm, business, or other unincorporated organization, **AND THEN**, complete the following.

(A) List the Property Owner's name: OCEAN HORIZON PROPERTIES
If an LLC, list the member's
names: NABIL D. KASSIR & DEBORAH M. KASSIR



If a Corporation, list the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

- (B) List the businesses that have a parent-subsidary¹ or affiliated business entity² relationship with the Property Owner: *(Attach list if necessary)*
BRAVA, LLC, OCEAN HORIZON PROPERTIES OF FL, LLC, KASSIR INVESTMENT COMPANY, INC, MENU & MANAGEMENT CONSULTANTS, ALDO'S, INC, BIRDNECK ASSOCIATES, LLC, 620 19TH STREET, LLC, 29TH STREET ASSOCIATES, LLC

¹ "Parent-subsidary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

² "Affiliated business entity relationship" means "a relationship, other than parent-subsidary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

SECTION 3. SERVICES DISCLOSURE

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPERATELY

APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	A-Z BOOK KEEPING
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Architect / Landscape Architect / Land Planner	REICH ARCHITECT
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contract Purchaser (if other than the Applicant) - Identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Any other pending or proposed purchaser of the subject property (Identify purchaser(s) and purchaser's service providers)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Construction Contractors	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Engineers / Surveyors/ Agents	WARREN&ASSOCIATES
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Financing (Include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Legal Services	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE


YES	NO	Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	

If yes, what is the name of the official or employee and what is the nature of the interest?

**CERTIFICATION:**

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

	SAMET YUMUSAK	03/05/24
APPLICANT'S SIGNATURE	PRINT NAME	DATE

OWNER

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Accounting and/or preparer of your tax return	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Architect / Landscape Architect / Land Planner	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Construction Contractors	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Engineers / Surveyors/ Agents	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Financing (Include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Legal Services	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

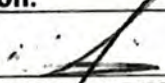
YES	NO	Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	

If yes, what is the name of the official or employee and what is the nature of the interest?

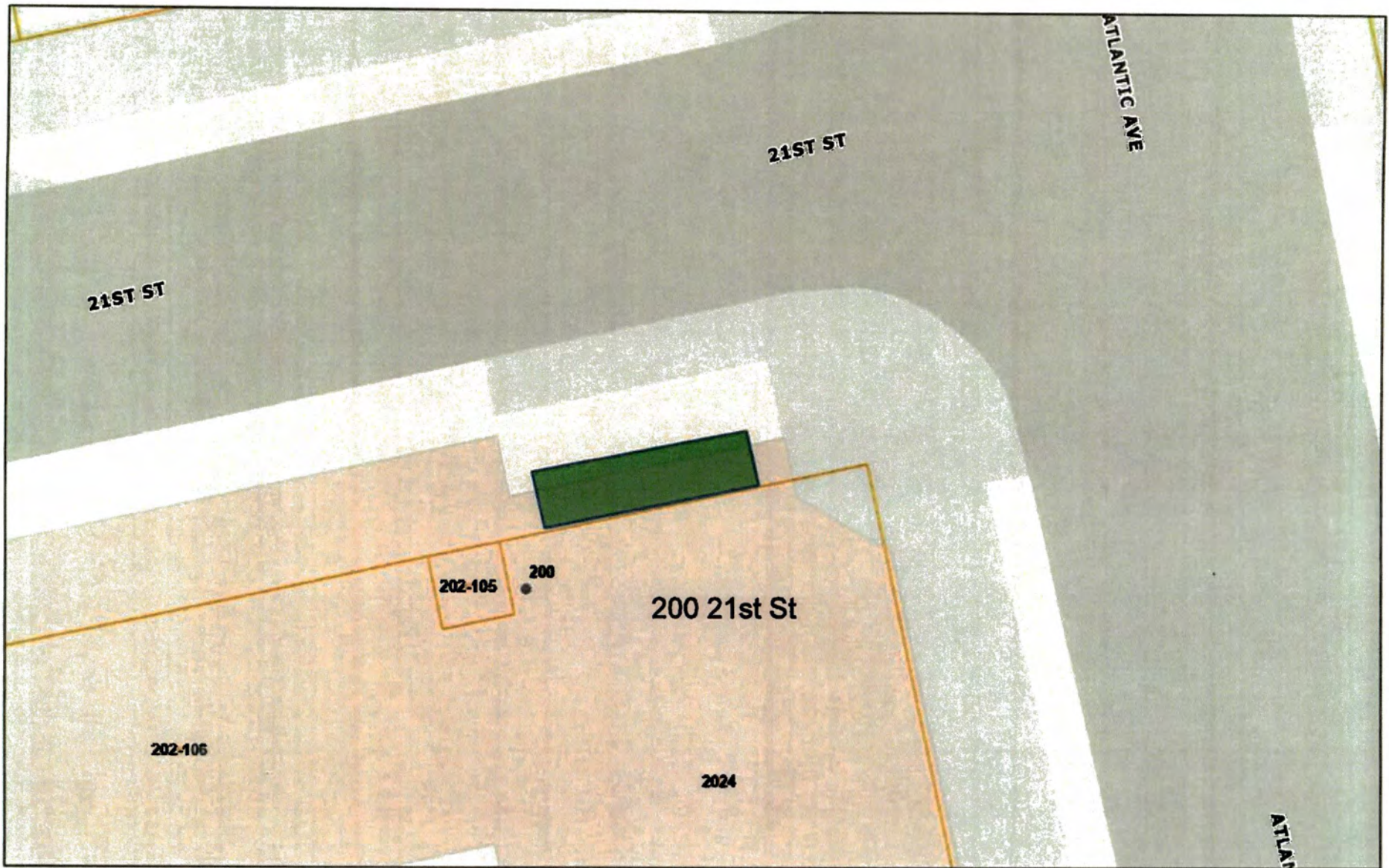
CERTIFICATION:

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	NABIL D. KASSIR	3/5/2024
PROPERTY OWNER'S SIGNATURE	PRINT NAME	DATE

200 21st St, 21st Café



1/31/2024, 7:40:19 AM



City Boundary



Parcels

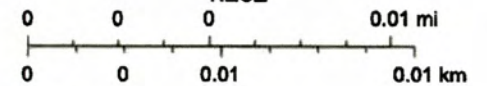
Address Point



Primary

Primary Address Point Label

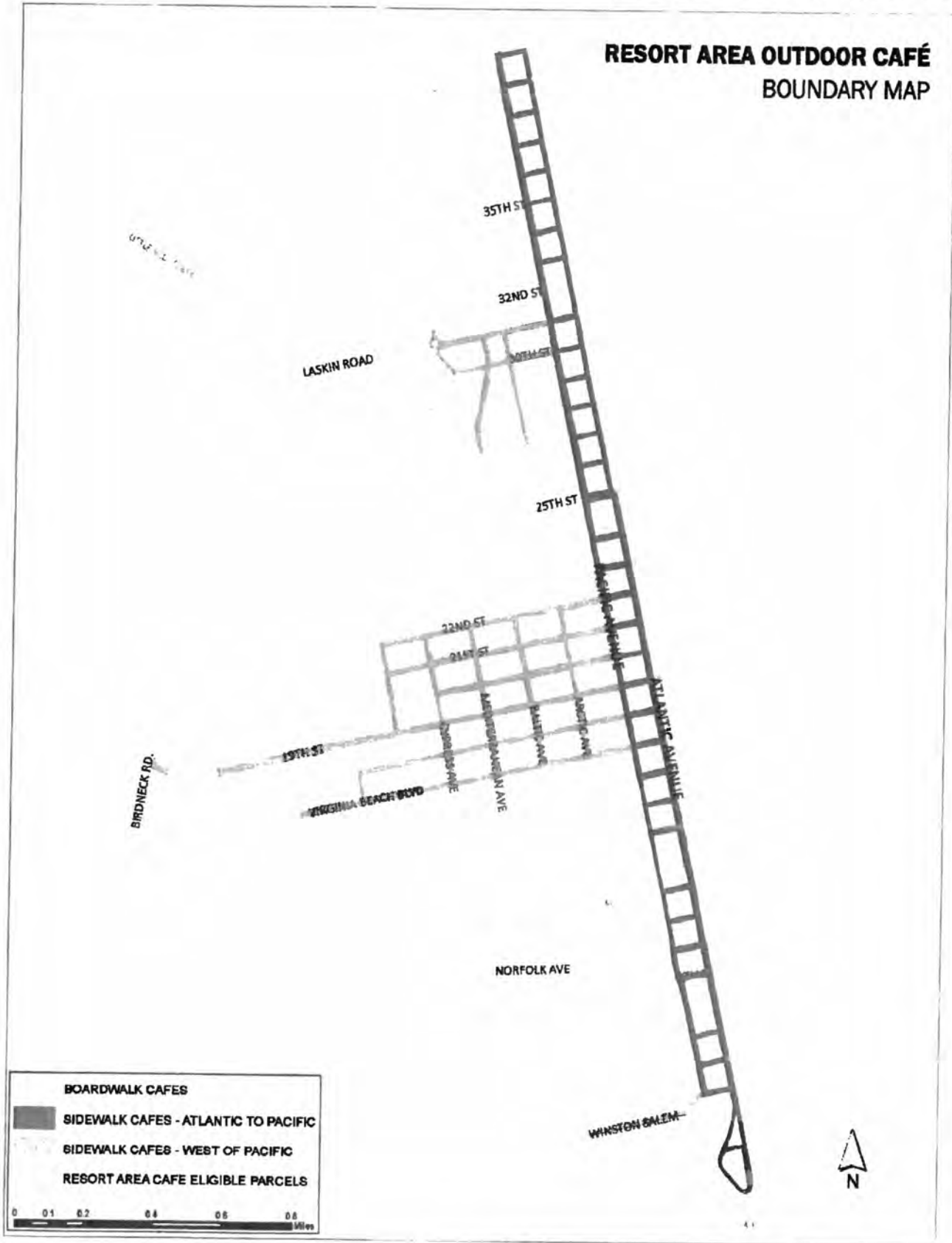
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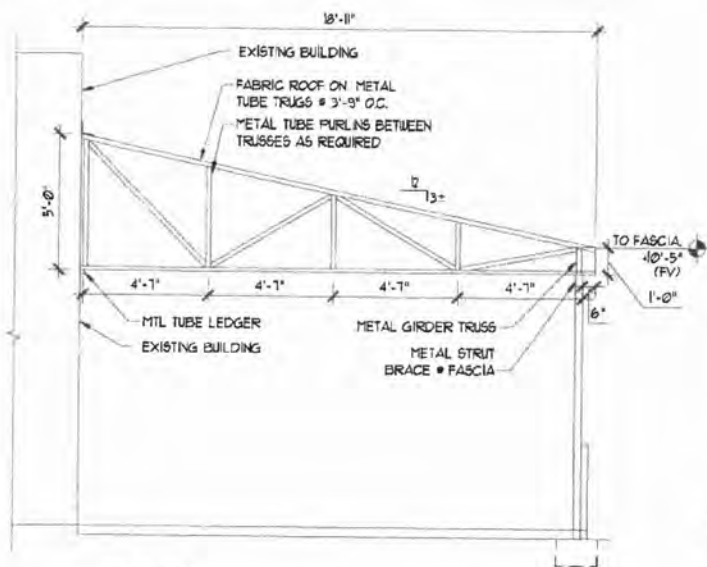


© City of Virginia Beach

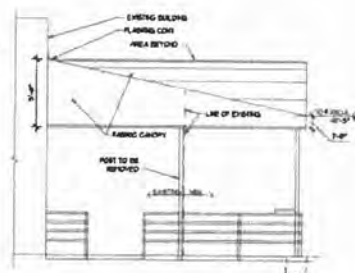
City of Virginia Beach Center for GIS
© City of Virginia Beach |



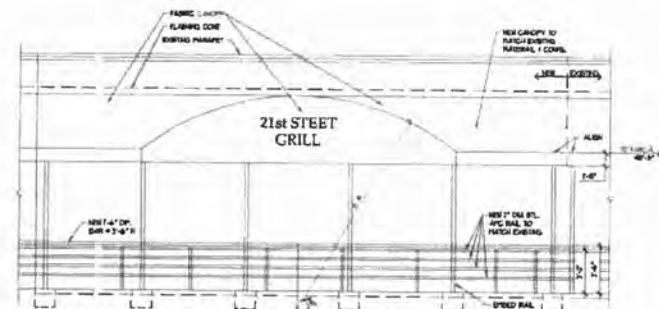




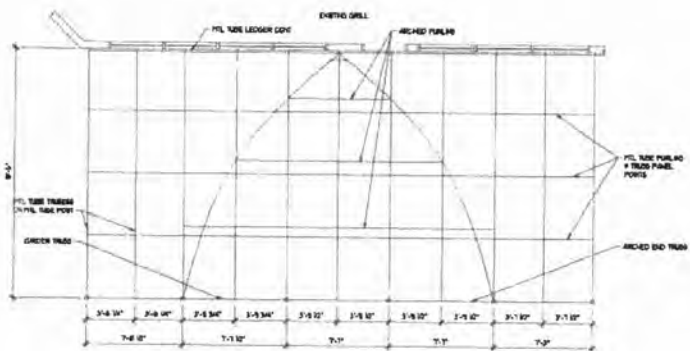
SECTION
1/4" = 1'-0"



ATLANTIC AVE ELEVATION
1/4" = 1'-0"

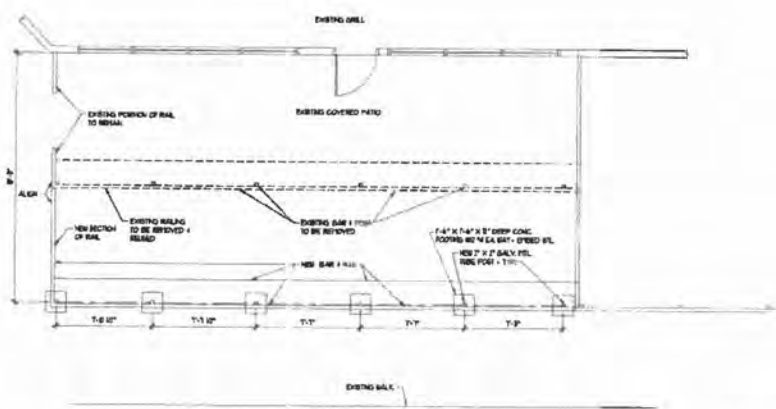


21st STREET ELEVATION
1/4" = 1'-0"



ROOF FRAMING PLAN
1/4" = 1'-0"

ATLANTIC AVE



FLOOR PLAN
1/4" = 1'-0"

21st ST GRILL OUTDOOR COVERED PATIO EXPANSION
200 21st ST
VIRGINIA BEACH, VIRGINIA

REVISIONS	DATE	BY	APP'D
1	06/25/23	AI	
2			
3			
4			
5			
6			
7			
8			
9			
10			

DESIGN: J. L. LEE
CHECKED: J. L. LEE
DATE: 06/25/23
BY: J. L. LEE
APP'D: J. L. LEE

This is to certify that I on October 3, 2023 surveyed the property shown on this plat, and that the title lines and the walls of the buildings are shown on this plat. The buildings stand within the title lines and there are no encroachments of other buildings on the property except as shown.

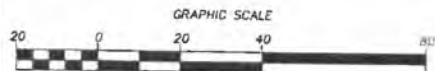
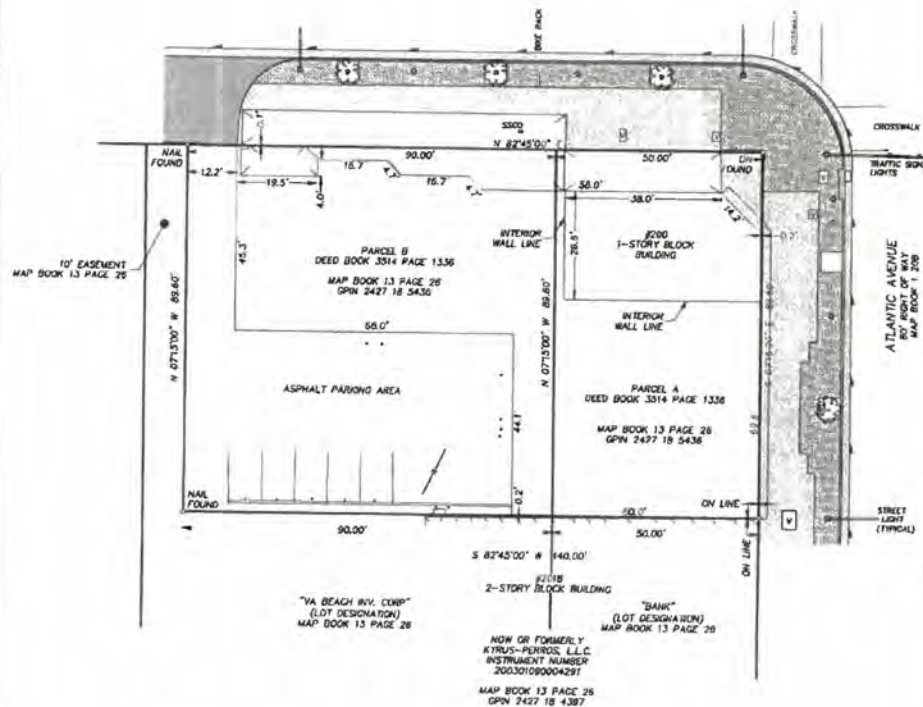
General Notes:

1. This survey is based on a plat recorded in the Clerk's Office of the Circuit Court of the City of Virginia Beach, Virginia in Map Book 13 Page 26.
2. This survey was performed without the benefit of a current title report and does not attempt to depict all title matters and assessments currently affecting this property.
3. The existence of wetlands, hazardous wastes, or underground utilities was neither investigated nor confirmed during the performance of this survey.
4. By scaled map location and graphic plotting only, the property shown hereon appears to lie within flood zone 'X' as shown on the National Flood Insurance Program's, Flood Insurance Rate Maps, community number 515531, panel 0126-G, dated January 16, 2015.
5. This survey was performed for the sole and exclusive benefit of the entities listed hereon and shall not be relied upon by any other entity or individual whatsoever. No modification or reproduction of this document may be made without the written permission of Warren and Associates, PC.



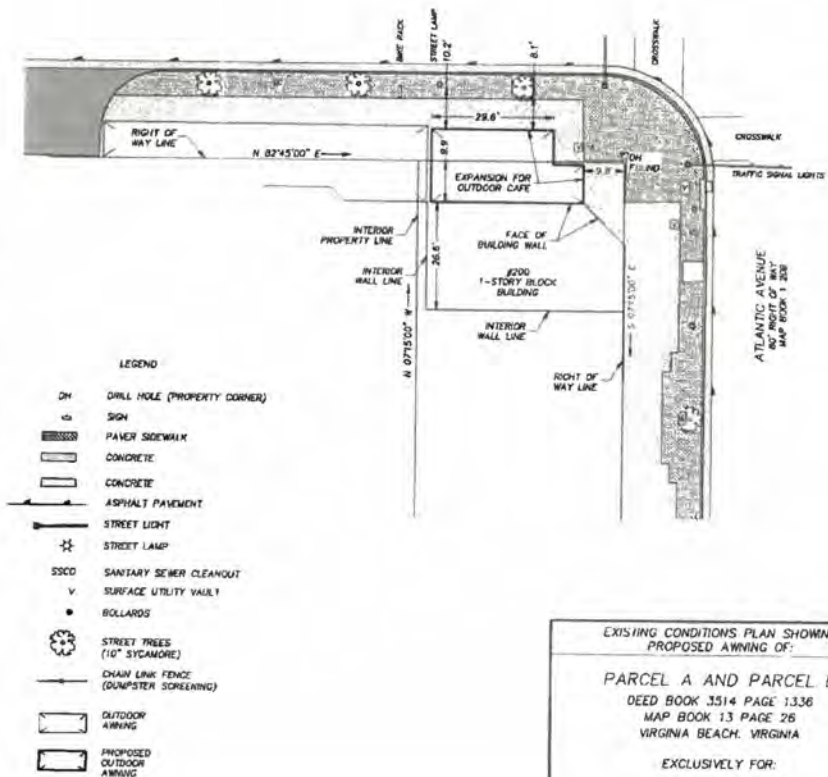
EXISTING CONDITIONS

21st STREET
FORMERLY DELAWARE AVENUE
80' RIGHT OF WAY
MAP BOOK 1 PAGE 208



PROPOSED OUTDOOR CAFE IMPROVEMENT

21st STREET
FORMERLY DELAWARE AVENUE
80' RIGHT OF WAY
MAP BOOK 1 PAGE 208



EXISTING CONDITIONS PLAN SHOWING
PROPOSED AWNING OF:

PARCEL A AND PARCEL B
DEED BOOK 3314 PAGE 1336
MAP BOOK 13 PAGE 26
VIRGINIA BEACH, VIRGINIA

EXCLUSIVELY FOR:

21st STREET GRILL
SEDA INC.

SCALE: 1"=20' OCTOBER 3, 2023
WARREN & ASSOCIATES, PC
LAND SURVEYORS
3933 Indian River Road
Virginia Beach, Virginia
757-471-0572



Atlantic Lobster

APPLICANT'S NAME Mason's Famous Lobster Rolls

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Alternative Compliance, Special Exception for	Economic Development Investment Program (EDIP)	Nonconforming Use Changes
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Page 1 of 7

<input type="checkbox"/>	APPLICANT NOTIFIED OF HEARING	DATE:	
<input type="checkbox"/>	NO CHANGES AS OF	DATE:	
<input type="checkbox"/>	REVISIONS SUBMITTED	DATE:	



- ☐ Check here if the **APPLICANT IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- ☒ Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.

(A) List the Applicant's name: Atlantic Lobsta LLC
If an LLC, list all member's names:

Deborah A. Leonard
Craig M. Leonard

If a CORPORATION, list the the names of all officers, directors, members, trustees, etc. below: (Attach list if necessary)

(B) List the businesses that have a parent-subsidary¹ or affiliated business entity² relationship with the Applicant: (Attach list if necessary)

Shore Lobsta LLC
Boston Lobsta Inc.

See next page for information pertaining to footnotes¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

Complete Section 2 only if property owner is different from Applicant.

- ☐ Check here if the **PROPERTY OWNER IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- ☒ Check here if the **PROPERTY OWNER IS** a corporation, partnership, firm, business, or other unincorporated organization, **AND THEN**, complete the following.

(A) List the Property Owner's name: Heritage Investments LLC
If an LLC, list the member's names:



If a Corporation, list the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

- (B) List the businesses that have a parent-subsidary¹ or affiliated business entity² relationship with the Property Owner: *(Attach list if necessary)*

¹ "Parent-subsidary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

² "Affiliated business entity relationship" means "a relationship, other than parent-subsidary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

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APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	Stewart + Company
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Architect / Landscape Architect / Land Planner	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Construction Contractors	Dunrite Construction
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Engineers / Surveyors/ Agents	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	Towne bank
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Legal Services	Innen + Strickler
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

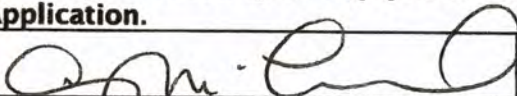
YES	NO	Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	

If yes, what is the name of the official or employee and what is the nature of the interest?

CERTIFICATION:

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

	Craig M Leonard	3/5/24
APPLICANT'S SIGNATURE	PRINT NAME	DATE



OWNER

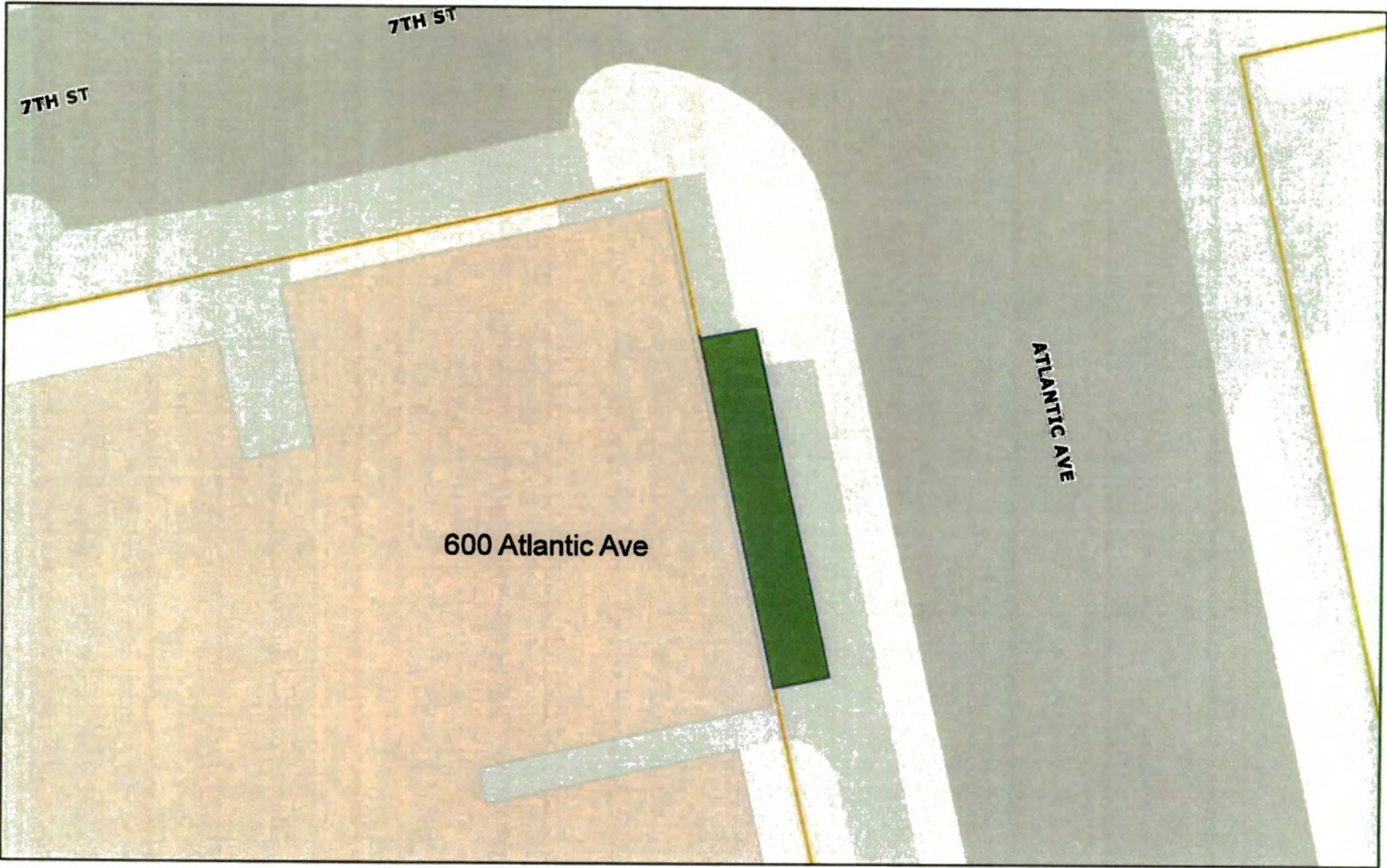
YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	
<input type="checkbox"/>	<input type="checkbox"/>	Architect / Landscape Architect / Land Planner	
<input type="checkbox"/>	<input type="checkbox"/>	Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input type="checkbox"/>	Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)	
<input type="checkbox"/>	<input type="checkbox"/>	Construction Contractors	
<input type="checkbox"/>	<input type="checkbox"/>	Engineers / Surveyors/ Agents	
<input type="checkbox"/>	<input type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	
<input type="checkbox"/>	<input type="checkbox"/>	Legal Services	
<input type="checkbox"/>	<input type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE



YES	NO	Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?
<input type="checkbox"/>	<input type="checkbox"/>	

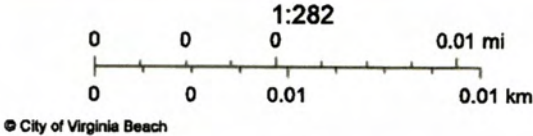
If yes, what is the name of the official or employee and what is the nature of the interest?

600 Atlantic Ave, Mason Famous Lobster Rolls



1/29/2024, 3:36:27 PM

-  City Boundary
-  Parcels





1/5/2024 12:58
201-235 Seventh St
Virginia Beach



APPLICANT'S NAME Colonial Inn VB LLC

HighTails Cafe

DISCLOSURE STATEMENT FORM

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Acquisition of Property by City	Disposition of City Property	Modification of Conditions or Proffers
Alternative Compliance, Special Exception for	Economic Development Investment Program (EDIP)	Nonconforming Use Changes
Board of Zoning Appeals	Encroachment Request	Rezoning
Certificate of Appropriateness (Historic Review Board)	Floodplain Variance	Street Closure
Chesapeake Bay Preservation Area Board	Franchise Agreement	Subdivision Variance
Conditional Use Permit	Lease of City Property	Wetlands Board
	License Agreement	

The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law.

SECTION 1 / APPLICANT DISCLOSURE

FOR CITY USE ONLY / All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the application(s).

Page 1 of 7

<input type="checkbox"/>	APPLICANT NOTIFIED OF HEARING	DATE:	
<input type="checkbox"/>	NO CHANGES AS OF	DATE:	
<input type="checkbox"/>	REVISIONS SUBMITTED	DATE:	



- ☐ Check here if the **APPLICANT IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- ☒ Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.

(A) List the Applicant's name: Colonial Inn VB LLC
If an LLC, list all member's names:

Manan Shah

If a CORPORATION, list the the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

(B) List the businesses that have a parent-subsidary ¹ or affiliated business entity ² relationship with the Applicant: *(Attach list if necessary)*

See Attached

See next page for information pertaining to footnotes ¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

Complete Section 2 only if property owner is different from Applicant.

- ☐ Check here if the **PROPERTY OWNER IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- ☒ Check here if the **PROPERTY OWNER IS** a corporation, partnership, firm, business, or other unincorporated organization, **AND THEN**, complete the following.

(A) List the Property Owner's name: Best Kitty Hawk, LLC
If an LLC, list the member's names: Michael J Standing Jr.



If a Corporation, list the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

- (B) List the businesses that have a parent-subsidary¹ or affiliated business entity² relationship with the Property Owner: *(Attach list if necessary)*

Chix Sea Grille, LLC ; Foggs Seafood Company ; Crushfest LLC;
Festival LLC; Pacific Ave Company

¹ "Parent-subsidary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

² "Affiliated business entity relationship" means "a relationship, other than parent-subsidary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

SECTION 3. SERVICES DISCLOSURE

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPERATELY

APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Accounting and/or preparer of your tax return	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Architect / Landscape Architect / Land Planner	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Construction Contractors	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Engineers / Surveyors/ Agents	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Legal Services	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

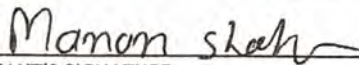
YES	NO	Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	

If yes, what is the name of the official or employee and what is the nature of the interest?

**CERTIFICATION:**

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

	MANAN Shah	3/5/24
APPLICANT'S SIGNATURE	PRINT NAME	DATE

OWNER

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Accounting and/or preparer of your tax return	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Architect / Landscape Architect / Land Planner	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Construction Contractors	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Engineers / Surveyors/ Agents	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Legal Services	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE


YES	NO	Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	

If yes, what is the name of the official or employee and what is the nature of the interest?

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	Michael J Standing Jr	3/5/2024
PROPERTY OWNER'S SIGNATURE	PRINT NAME	DATE


LEGAL NAME	DBA NAME	ADDRESS	Tax ID
Amar 138 Hotels LLC	Barclay Tower Management Company	809 Atlantic Ave. Virginia Beach, VA 23451	88-0579230
Atlantic Smoothies LLC	Tropical Smoothies	209 Laskin Rd Ste 108, Virginia Beach, VA 23451-3017	87-4442125
Barclay Towers (Towne)	Barclay Hotel Corporation	809 Atlantic Ave. Virginia Beach, VA 23451	88-0579230
Colonial Inn VB LLC	Ramada Plaza (New Account)	2809 Atlantic Ave Virginia Beach VA 23451	87-3207938
Colonial Inn VB LLC *	Ramada Plaza (Old Account)	2809 Atlantic Ave Virginia Beach VA 23451	87-3207938
Greenwich LLC (BRB)	Hampton Inn	5793 Greenwich Rd. Virginia Beach, VA 23462	88-2181710
Greenwich LLC (OPNB)	Hampton Inn	5793 Greenwich Rd. Virginia Beach, VA 23462	88-2181710
Heritage Unison LLC	Ocean Resort	2417 Atlantic Avenue Virginia Beach, VA 23451	87-2667045
Manan Shah Irrevocable Insurance Trust	(Edgewater Condominium)	200 Golden Oak Ct # 410 Virginia Beach VA 23452	46-1758273
Manar Hotels LLC	Aqua Vista Resort Hotel	1719 Atlantic Avenue Virginia Beach VA 23451	93-2850036
MKS HOTELS LLC	Sea View Hotel	2109 Atlantic Ave Virginia Beach VA 23451	85-3615806
Plaza Hotels LLC	Travelodge Bay Beach	2968 Shore Drive Virginia Beach, VA 23451	84-3956758
Plaza Hotels LLC		2802 Atlantic Ave Virginia Beach VA 23451	84-3956758
Sharanya Resorts LLC	Sand Castle Resorts	1307 Atlantic Avenue Virginia Beach, VA 23451	86-3793021
Sharanya Venture Inc	Beach Carousel Motel	1300 Pacific Ave Virginia Beach VA 23451	87-1824016
Sharanya Venture LLC (A/C Closed)		200 Golden Oak Ct Suite 410 Virginia Beach VA 23452	87-1814433
Tulsi Hotels LLC	Blue Marlins Inn & Sts	2411 Pacific Avenue Virginia Beach VA 23451	45-4698274
Tulsi Hotels LLC (CLOSED)	Blue Marlins Inn & Sts	2411 Pacific Avenue Virginia Beach VA 23451	45-4698274
	Travelodge 19th st	1909 Atlantic Avenue Virginia Beach VA 23451	54-2005267

2809 Atlantic Ave, Fishtails



1/29/2024, 3:42:03 PM

 City Boundary

 Address Point

 Parcels

 Primary

 Primary Address Point Label

1:564

0 0 0.01 0.01 mi

0 0.01 0.01 0.02 km

© City of Virginia Beach

City of Virginia Beach Center for GIS
© City of Virginia Beach |



1/5/2024 12:43
2707 Atlantic Ave
Virginia Beach



11/3/2023 11:16
2809 Atlantic Ave
Virginia Beach

APPLICANT'S NAME Foggs Seafood Company T/A Waterman's Surfside, Inc.

DISCLOSURE STATEMENT FORM

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Certificate of Appropriateness (Historic Review Board)	Floodplain Variance	Street Closure
Chesapeake Bay Preservation Area Board	Franchise Agreement	Subdivision Variance
Conditional Use Permit	Lease of City Property	Wetlands Board
	License Agreement	

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SECTION 1 / APPLICANT DISCLOSURE

FOR CITY USE ONLY / All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the application(s).			
<input type="checkbox"/>	APPLICANT NOTIFIED OF HEARING	DATE:	
<input type="checkbox"/>	NO CHANGES AS OF	DATE:	
<input type="checkbox"/>	REVISIONS SUBMITTED	DATE:	

- ☐ Check here if the **APPLICANT IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- ☒ Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.
- (A) List the Applicant's name: Foggs Seafood Company T/A W
If an LLC, list all member's names:

If a CORPORATION, list the the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

Michael J. Standing, Jr. - President, 100% ownership

- (B) List the businesses that have a parent-subsiary ¹ or affiliated business entity ² relationship with the Applicant: *(Attach list if necessary)*
- See attached

See next page for information pertaining to footnotes ¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

Complete Section 2 only if property owner is different from Applicant.

- ☐ Check here if the **PROPERTY OWNER IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- ☒ Check here if the **PROPERTY OWNER IS** a corporation, partnership, firm, business, or other unincorporated organization, **AND THEN**, complete the following.
- (A) List the Property Owner's name: 415 Atlantic, LLC
If an LLC, list the member's
names: Michael J. Standing, Jr. - Managing Member/Owner, 100% ownership

If a Corporation, list the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

- (B) List the businesses that have a parent-subsidary ¹ or affiliated business entity ² relationship with the Property Owner: *(Attach list if necessary)*

¹ "Parent-subsidary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

² "Affiliated business entity relationship" means "a relationship, other than parent-subsidary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

SECTION 3. SERVICES DISCLOSURE

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPERATELY

APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	Dixon Hughes Goodman (Forvis)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Architect / Landscape Architect / Land Planner	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Construction Contractors	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Engineers / Surveyors/ Agents	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Legal Services	Poole Brooke Plumlee
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

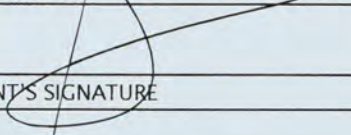
YES	NO	<p>Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?</p>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	

If yes, what is the name of the official or employee and what is the nature of the interest?

CERTIFICATION:

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	Michael J. Standing Jr.	03/05/24
APPLICANT'S SIGNATURE	PRINT NAME	DATE

OWNER

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	Dixon Hughes Goodman (Forvis)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Architect / Landscape Architect / Land Planner	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Construction Contractors	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Engineers / Surveyors/ Agents	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	TowneBank
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Legal Services	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE


YES	NO	Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	

If yes, what is the name of the official or employee and what is the nature of the interest?

CERTIFICATION:

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	Michael J. Standing Jr.	03/05/24
PROPERTY OWNER'S SIGNATURE	PRINT NAME	DATE

Disclosure Statement Form – Affiliated Business Entity Relationship with Applicant

RE: Section 1, Page 2, Part B

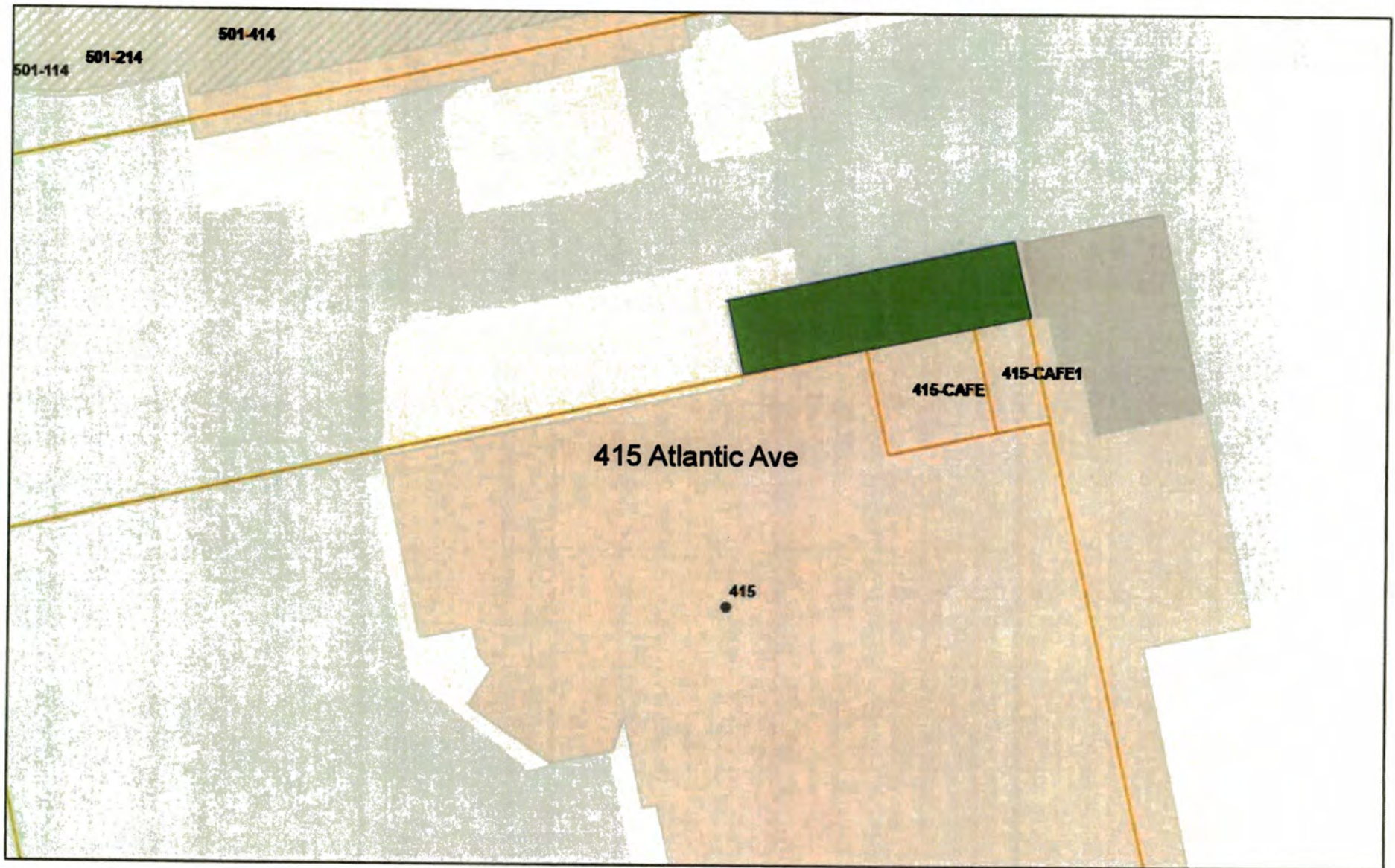
415 Atlantic, LLC
Best Kitty Hawk, LLC
Chix Land, LLC
Chix Sea Grille, LLC
Crushfest, LLC
Eighteenth Street, LLC
Festival, LLC
Forrest Holdings, LLC
Mid Atlantic Rockfish Classic, Inc.
Pacific Avenue Company
Parks Avenue, LLC
South Shores Management, LLC
South Shores, LLC
Standing Properties, LLC
Waffi, LLC

Disclosure Statement Form – Affiliated Business Entity Relationship with Property Owner






RE: Section 2, Page 3, Part B

Best Kitty Hawk, LLC
Chix Land, LLC
Chix Sea Grille, LLC
Crushfest, LLC
Eighteenth Street, LLC
Festival, LLC
Foggs Seafood Company dba. Waterman's Surfside Grille
Forrest Holdings, LLC
Mid Atlantic Rockfish Classic, Inc.
Pacific Avenue Company
Parks Avenue, LLC
South Shores Management, LLC
South Shores, LLC
Standing Properties, LLC
Waffi, LLC

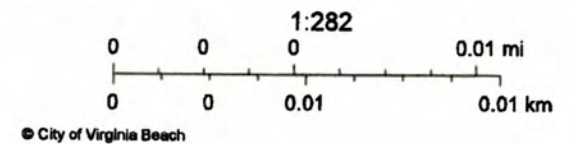
415 Atlantic Ave, Waterman's Surfside

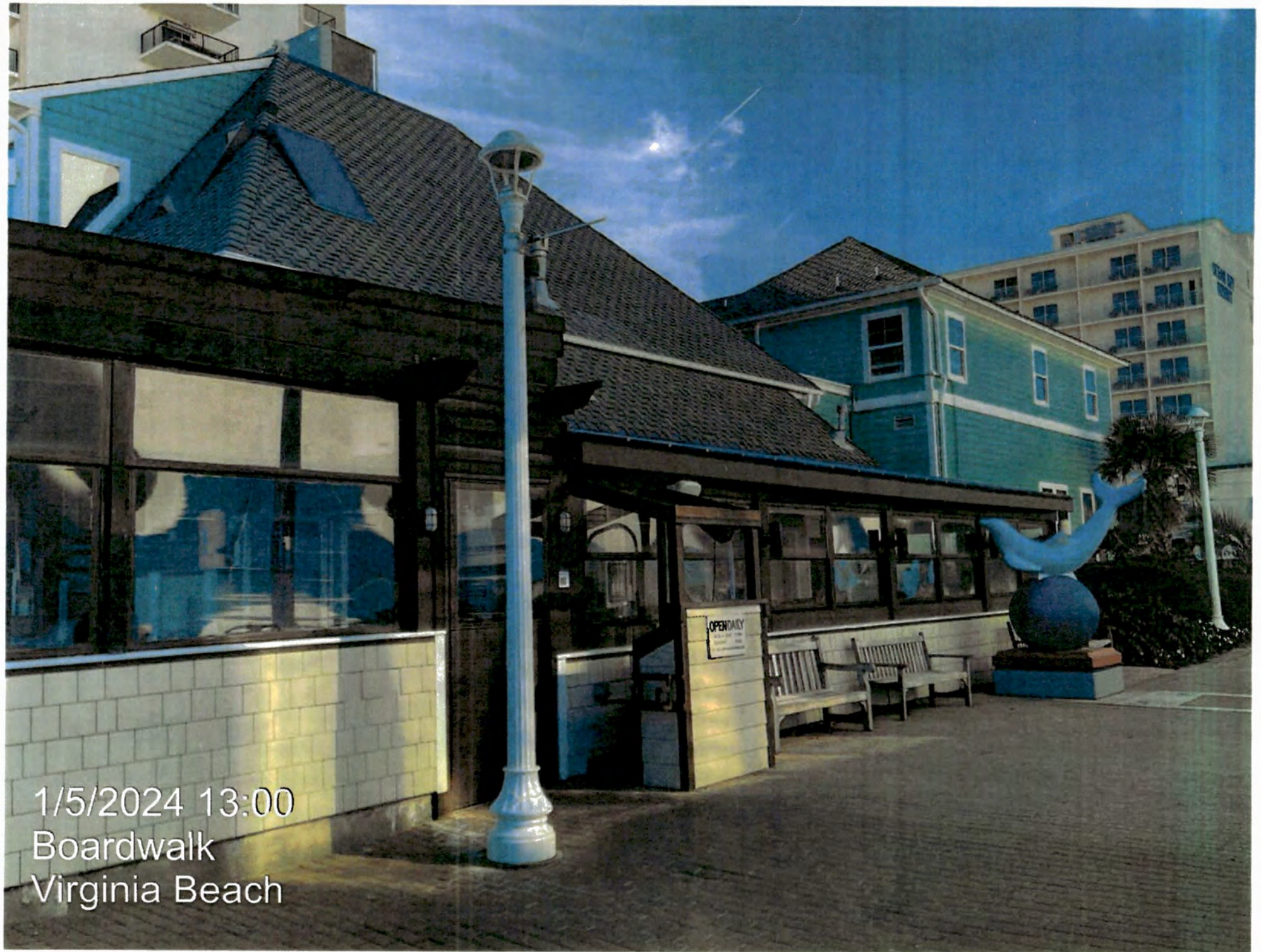


1/29/2024, 3:47:59 PM

 City Boundary  Parcels
 Condos  Address Point
 Primary

Primary Address Point Label





1/5/2024 13:00
Boardwalk
Virginia Beach



APPLICANT'S NAME Boj, Geo Inc. T/A Boj, Conting

DISCLOSURE STATEMENT FORM

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Board of Zoning Appeals	Encroachment Request	Rezoning
Certificate of Appropriateness (Historic Review Board)	Floodplain Variance	Street Closure
Chesapeake Bay Preservation Area Board	Franchise Agreement	Subdivision Variance
Conditional Use Permit	Lease of City Property	Wetlands Board
	License Agreement	

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SECTION 1 / APPLICANT DISCLOSURE

<input type="checkbox"/>			
<input type="checkbox"/>			
<input type="checkbox"/>			



☐ Check here if the **APPLICANT IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.

☒ Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.

(A) List the Applicant's name: Bay's Beach Inn The Bay, Conting
If an LLC, list all member's names:

If a CORPORATION, list the the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

William D. Pender, President
Sheppard T. Pender, Vice President

(B) List the businesses that have a parent-subsidary¹ or affiliated business entity² relationship with the Applicant: *(Attach list if necessary)*

See next page for information pertaining to footnotes¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

Complete Section 2 only if property owner is different from Applicant.

☐ Check here if the **PROPERTY OWNER IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.

☒ Check here if the **PROPERTY OWNER IS** a corporation, partnership, firm, business, or other unincorporated organization, **AND THEN**, complete the following.

(A) List the Property Owner's name: Bay's Beach Inn
If an LLC, list the member's names:

If a Corporation, list the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

William D. Ponder President
Sheppard T. Ponder Vice President

- (B) List the businesses that have a parent-subsidary¹ or affiliated business entity² relationship with the Property Owner: *(Attach list if necessary)*

¹ "Parent-subsidary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

² "Affiliated business entity relationship" means "a relationship, other than parent-subsidary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

SECTION 3. SERVICES DISCLOSURE

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPERATELY

APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Accounting and/or preparer of your tax return	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Architect / Landscape Architect / Land Planner	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Construction Contractors	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Engineers / Surveyors/ Agents	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Legal Services	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

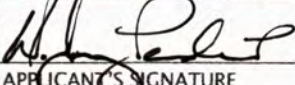
YES	NO	Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	

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	William D. Pender	3/5/24
APPLICANT'S SIGNATURE	PRINT NAME	DATE

OWNER

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Accounting and/or preparer of your tax return	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Architect / Landscape Architect / Land Planner	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Construction Contractors	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Engineers / Surveyors/ Agents	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Legal Services	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

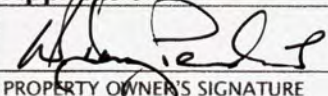
YES	NO	Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	

If yes, what is the name of the official or employee and what is the nature of the interest?

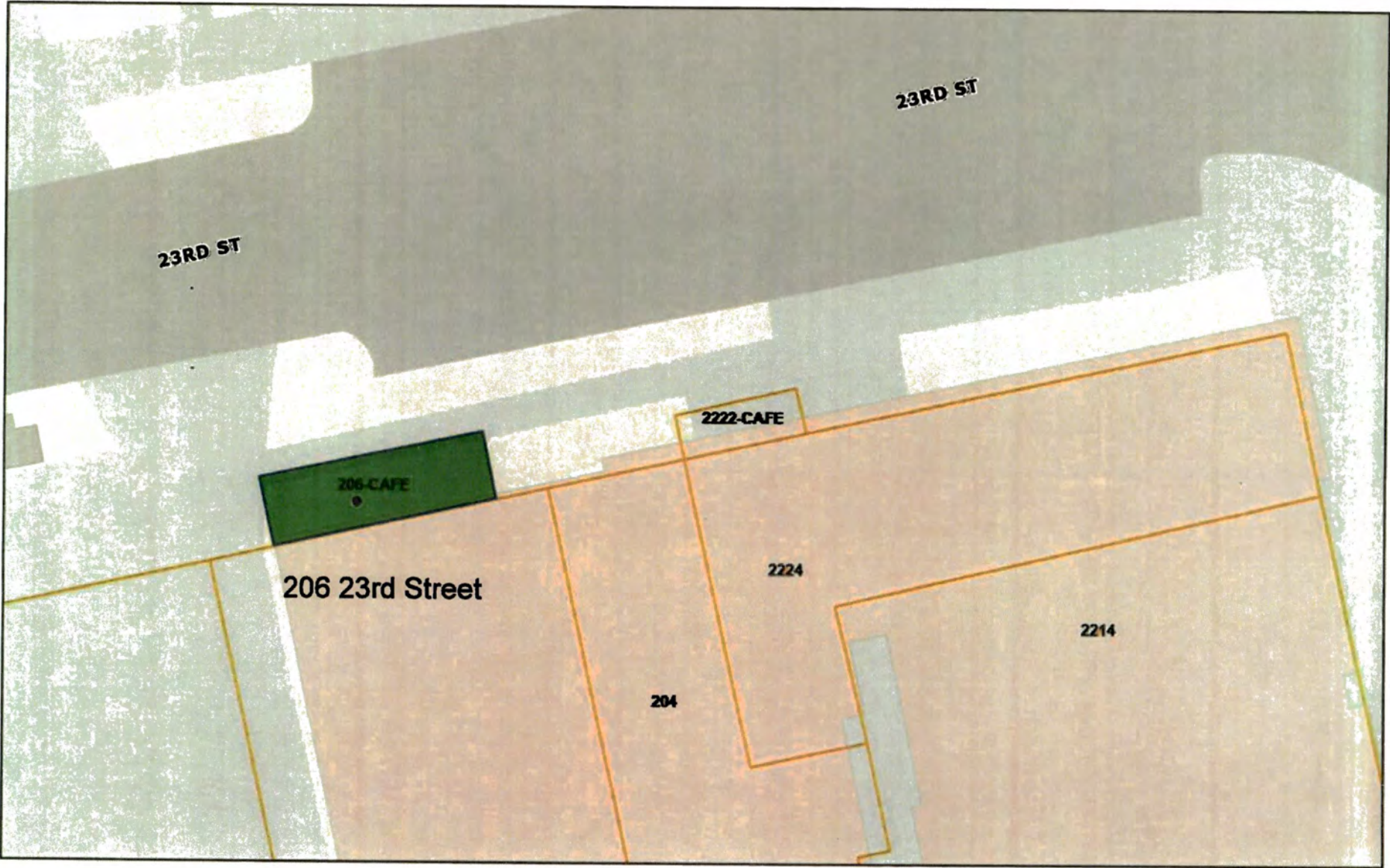
CERTIFICATION:

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.




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	William D. Pender	3/5/24
PROPERTY OWNER'S SIGNATURE	PRINT NAME	DATE

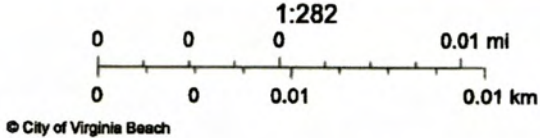
206 23rd St, Baja Cantina Café



1/29/2024, 4:36:02 PM

 City Boundary Address Point
 Parcels  Primary

Primary Address Point Label



A photograph of the exterior of a restaurant named 'Baja Cantina'. The building has a blue facade with white trim around the windows and doors. A large, light-colored awning extends over the entrance area. A sign above the entrance reads 'BAJA CANTINA' and 'HOME OF THE FRESH FISH TACO'. To the left, a vertical sign reads 'MILK BAR'. A blue wooden railing runs along the sidewalk in front of the building. A tree with bare branches is visible on the left side of the frame. The sky is blue with some clouds.

BAJA CANTINA
HOME OF THE FRESH FISH TACO

BO GO & TACO SPECIALS

1/5/2024 12:36
208 23rd St
Virginia Beach

APPLICANT'S NAME Chix Sea Grille, LLC

DISCLOSURE STATEMENT FORM

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Alternative Compliance, Special Exception for	Economic Development Investment Program (EDIP)	Nonconforming Use Changes
Board of Zoning Appeals	Encroachment Request	Rezoning
Certificate of Appropriateness (Historic Review Board)	Floodplain Variance	Street Closure
Chesapeake Bay Preservation Area Board	Franchise Agreement	Subdivision Variance
Conditional Use Permit	Lease of City Property	Wetlands Board
	License Agreement	

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SECTION 1 / APPLICANT DISCLOSURE

FOR CITY USE ONLY / All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the application(s).

<input type="checkbox"/>	APPLICANT NOTIFIED OF HEARING	DATE:	
<input type="checkbox"/>	NO CHANGES AS OF	DATE:	
<input type="checkbox"/>	REVISIONS SUBMITTED	DATE:	

- ☐ Check here if the **APPLICANT IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- ☒ Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.

(A) List the Applicant's name: Chix Sea Grille, LLC

If an LLC, list all member's names:

Michael J. Standing Jr. - Managing Member/Owner, 100% ownership

If a CORPORATION, list the the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

(B) List the businesses that have a parent-subsidary ¹ or affiliated business entity ² relationship with the Applicant: *(Attach list if necessary)*

See attached

See next page for information pertaining to footnotes ¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

Complete Section 2 only if property owner is different from Applicant.

- ☐ Check here if the **PROPERTY OWNER IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- ☒ Check here if the **PROPERTY OWNER IS** a corporation, partnership, firm, business, or other unincorporated organization, **AND THEN**, complete the following.

(A) List the Property Owner's name: Chix Land, LLC

If an LLC, list the member's

names: Michael J. Standing, Jr. - Managing Member/Owner, 100% ownership

If a Corporation, list the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

- (B) List the businesses that have a parent-subsidary¹ or affiliated business entity² relationship with the Property Owner: *(Attach list if necessary)*

See attached

¹ "Parent-subsidary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

² "Affiliated business entity relationship" means "a relationship, other than parent-subsidary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

SECTION 3. SERVICES DISCLOSURE

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPERATELY

APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	Dixon Hughes Goodman (Forvis)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Architect / Landscape Architect / Land Planner	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Construction Contractors	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Engineers / Surveyors/ Agents	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Legal Services	Poole Brooke Plumlee
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE


YES	NO	Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	

If yes, what is the name of the official or employee and what is the nature of the interest?

CERTIFICATION:

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

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	Michael J. Standing Jr.	03/05/24
APPLICANT'S SIGNATURE	PRINT NAME	DATE

OWNER

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	Dixon Hughes Goodman (Forvis)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Architect / Landscape Architect / Land Planner	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Construction Contractors	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Engineers / Surveyors/ Agents	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	TowneBank
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Legal Services	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE


YES	NO	Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	

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	Michael J. Standing Jr.	03/05/24
PROPERTY OWNER'S SIGNATURE	PRINT NAME	DATE

Disclosure Statement Form – Affiliated Business Entity Relationship with Applicant

RE: Section 1, Page 2, Part B

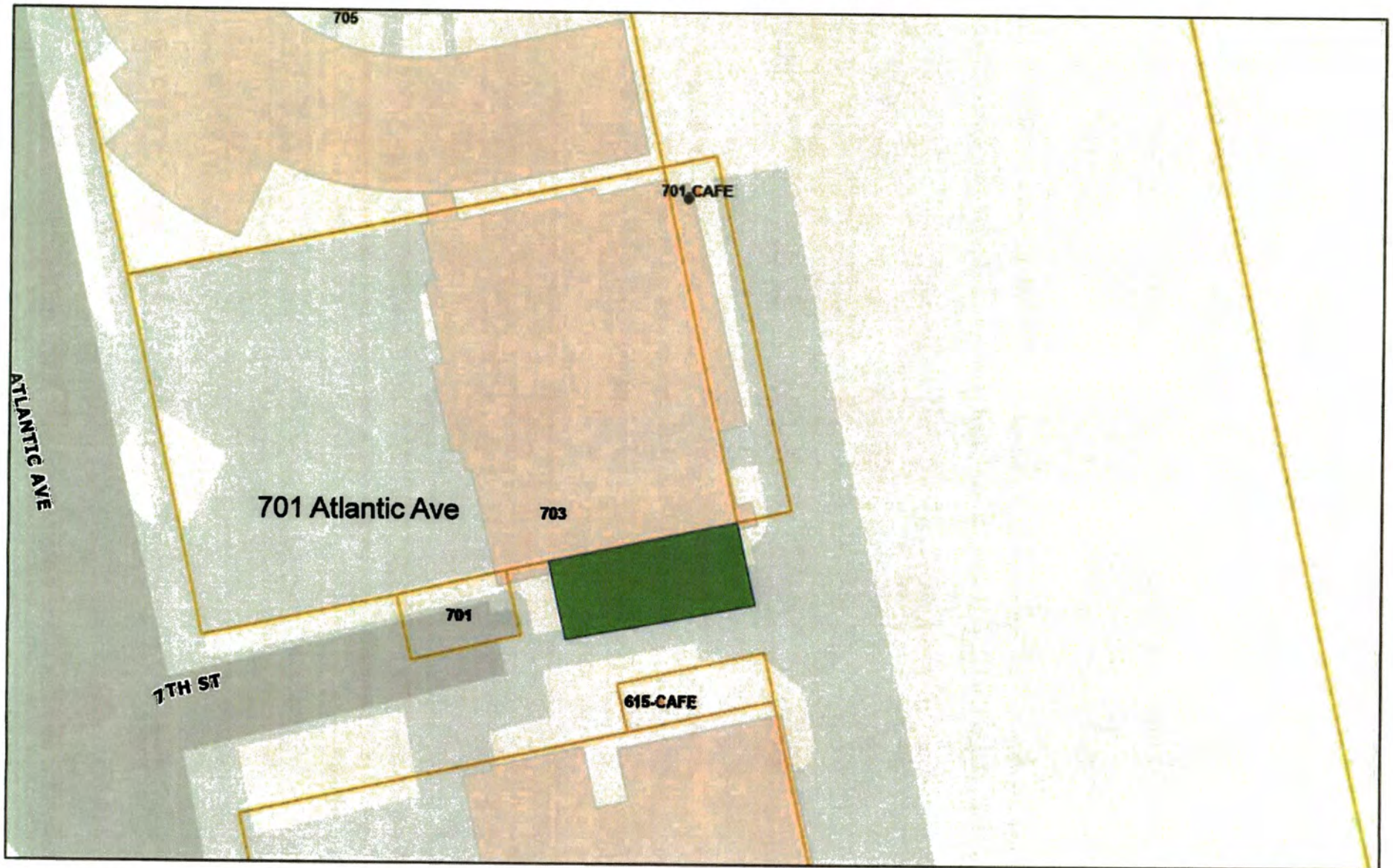
415 Atlantic, LLC
Best Kitty Hawk, LLC
Chix Land, LLC
Crushfest, LLC
Eighteenth Street, LLC
Festival, LLC
Foggs Seafood Company dba. Waterman's Surfside Grille
Forrest Holdings, LLC
Mid Atlantic Rockfish Classic, Inc.
Pacific Avenue Company
Parks Avenue, LLC
South Shores Management, LLC
South Shores, LLC
Standing Properties, LLC
Waffi, LLC

Disclosure Statement Form – Affiliated Business Entity Relationship with Property Owner



RE: Section 2, Page 3, Part B

415 Atlantic, LLC
Best Kitty Hawk, LLC
Chix Sea Grille, LLC
Crushfest, LLC
Eighteenth Street, LLC
Festival, LLC
Foggs Seafood Company dba. Waterman's Surfside Grille
Forrest Holdings, LLC
Mid Atlantic Rockfish Classic, Inc.
Pacific Avenue Company
Parks Avenue, LLC
South Shores Management, LLC
South Shores, LLC
Standing Properties, LLC
Waffi, LLC

701 Atlantic Ave, Chix Cafe



1/29/2024, 3:57:32 PM

 City Boundary
 Parcels
Address Point
Primary
Primary Address Point Label

1:564
0 0 0.01 0.01 mi
0 0.01 0.01 0.02 km
© City of Virginia Beach



1/5/2024 13:05
Boardwalk
Virginia Beach

Fish-N-Bones, Inc., t/a

Virginia Beach

APPLICANT'S NAME Fish Bones Restaurant

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Certificate of Appropriateness (Historic Review Board)	Floodplain Variance	Street Closure
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Conditional Use Permit	Lease of City Property	Wetlands Board
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SECTION 1 / APPLICANT DISCLOSURE

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Page 1 of 7

<input type="checkbox"/>	APPLICANT NOTIFIED OF HEARING	DATE:	
<input type="checkbox"/>	NO CHANGES AS OF	DATE:	
<input type="checkbox"/>	REVISIONS SUBMITTED	DATE:	

☐ Check here if the **APPLICANT IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.

☒ Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.

(A) List the Applicant's name: FISH-N-BONES INC
If an LLC, list all member's names:

If a CORPORATION, list the the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

Michael Georgiou, Andrey Tsokanoff

(B) List the businesses that have a parent-subsidary ¹ or affiliated business entity ² relationship with the Applicant: *(Attach list if necessary)*

See next page for information pertaining to footnotes ¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

Complete Section 2 only if property owner is different from Applicant.

☐ Check here if the **PROPERTY OWNER IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.

☐ Check here if the **PROPERTY OWNER IS** a corporation, partnership, firm, business, or other unincorporated organization, **AND THEN**, complete the following.

(A) List the Property Owner's name: _____
If an LLC, list the member's names:

If a Corporation, list the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

- (B) List the businesses that have a parent-subsidary¹ or affiliated business entity² relationship with the Property Owner: *(Attach list if necessary)*

¹ "Parent-subsidary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

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APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	Jones CPA
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Architect / Landscape Architect / Land Planner	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Construction Contractors	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Engineers / Surveyors/ Agents	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	Towne Bank
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Legal Services	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE


YES	NO	Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	

If yes, what is the name of the official or employee and what is the nature of the interest?

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	Andrey Tsokanoff	03/05/2024
APPLICANT'S SIGNATURE	PRINT NAME	DATE

OWNER

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	
<input type="checkbox"/>	<input type="checkbox"/>	Architect / Landscape Architect / Land Planner	
<input type="checkbox"/>	<input type="checkbox"/>	Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input type="checkbox"/>	Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)	
<input type="checkbox"/>	<input type="checkbox"/>	Construction Contractors	
<input type="checkbox"/>	<input type="checkbox"/>	Engineers / Surveyors/ Agents	
<input type="checkbox"/>	<input type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	
<input type="checkbox"/>	<input type="checkbox"/>	Legal Services	
<input type="checkbox"/>	<input type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE


YES	NO	Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?
<input type="checkbox"/>	<input type="checkbox"/>	

If yes, what is the name of the official or employee and what is the nature of the interest?

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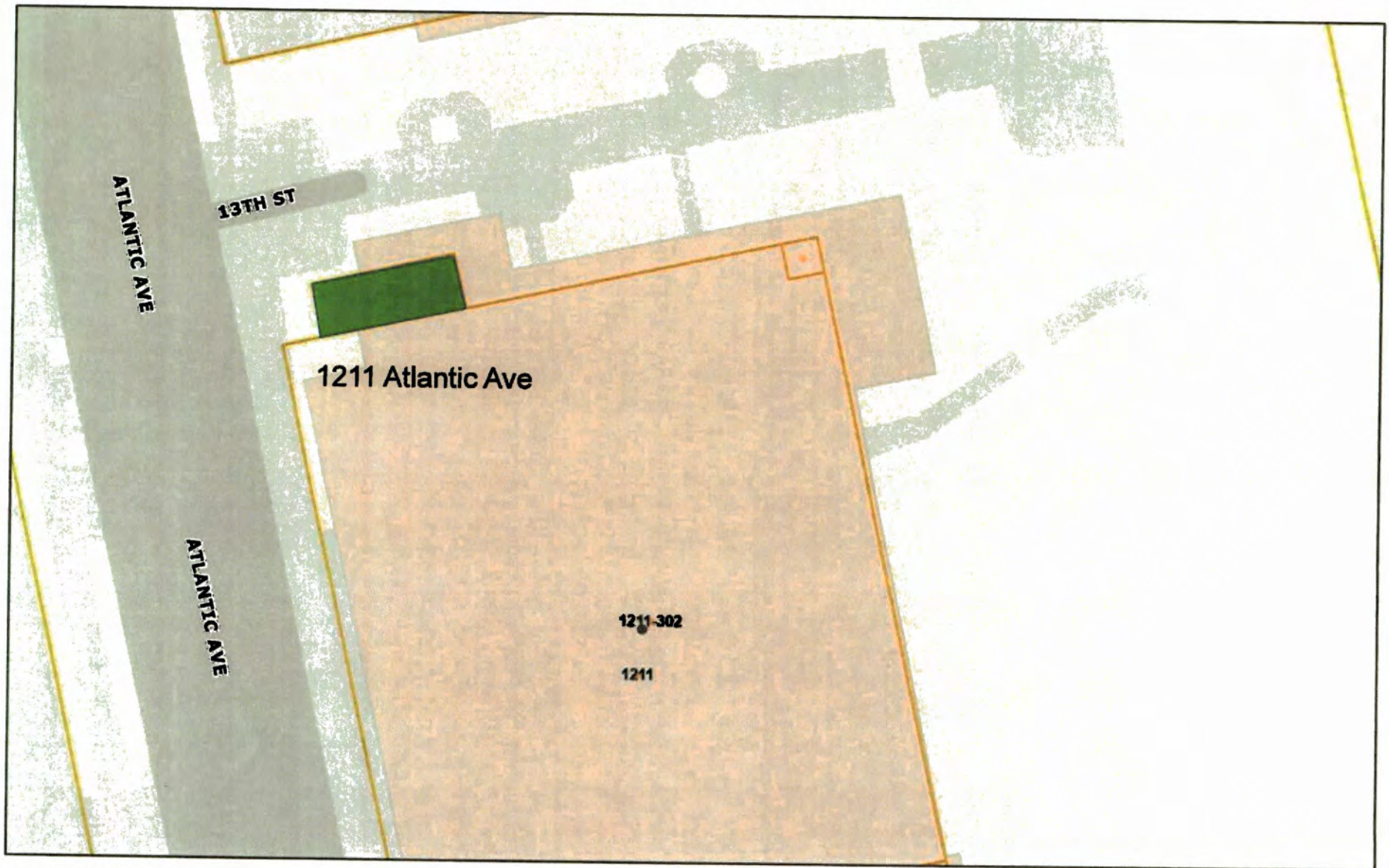
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	Andrey Tsokanoff	03/05/2024
PROPERTY OWNER'S SIGNATURE	PRINT NAME	DATE








12/13/2023 10:14
1301 Atlantic Ave
Virginia Beach

1211 Atlantic Ave, Fish Bones Café



1/29/2024, 4:06:56 PM

 City Boundary  Parcels
 Condos  Address Point
 Primary

Primary Address Point Label

1:564
0 0 0.01 0.01 mi
0 0.01 0.01 0.02 km
© City of Virginia Beach

City of Virginia Beach Center for GIS
© City of Virginia Beach |

Dandrea, LLC, T/A

APPLICANT'S NAME Ih Giardino

DISCLOSURE STATEMENT FORM

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Chesapeake Bay Preservation Area Board	Franchise Agreement	Subdivision Variance
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	License Agreement	

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Page 1 of 7

<input type="checkbox"/>	APPLICANT NOTIFIED OF HEARING	DATE:	
<input type="checkbox"/>	NO CHANGES AS OF	DATE:	
<input type="checkbox"/>	REVISIONS SUBMITTED	DATE:	

☐ Check here if the **APPLICANT IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.

☒ Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.

(A) List the Applicant's name: Dan Clarkson
If an LLC, list all member's names:

If a CORPORATION, list the the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

(B) List the businesses that have a parent-subsidary¹ or affiliated business entity² relationship with the Applicant: *(Attach list if necessary)*

See next page for information pertaining to footnotes¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

Complete Section 2 only if property owner is different from Applicant.

☐ Check here if the **PROPERTY OWNER IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.

☐ Check here if the **PROPERTY OWNER IS** a corporation, partnership, firm, business, or other unincorporated organization, **AND THEN**, complete the following.

(A) List the Property Owner's name: Ocean Horizon
If an LLC, list the member's names:

If a Corporation, list the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

- (B) List the businesses that have a parent-subsidary¹ or affiliated business entity² relationship with the Property Owner: *(Attach list if necessary)*

¹ "Parent-subsidary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

² "Affiliated business entity relationship" means "a relationship, other than parent-subsidary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

SECTION 3. SERVICES DISCLOSURE

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPERATELY

APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Accounting and/or preparer of your tax return	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Architect / Landscape Architect / Land Planner	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contract Purchaser (if other than the Applicant) - Identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Any other pending or proposed purchaser of the subject property (Identify purchaser(s) and purchaser's service providers)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Construction Contractors	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Engineers / Surveyors/ Agents	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	
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<input type="checkbox"/>	<input checked="" type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

YES

☐

NO

☒


Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?

If yes, what is the name of the official or employee and what is the nature of the interest?

CERTIFICATION:

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

	Dan Clarkson	3/5/24
APPLICANT'S SIGNATURE	PRINT NAME	DATE

OWNER

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Accounting and/or preparer of your tax return	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Architect / Landscape Architect / Land Planner	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contract Purchaser (if other than the Applicant) - Identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Any other pending or proposed purchaser of the subject property (Identify purchaser(s) and purchaser's service providers)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Construction Contractors	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Engineers / Surveyors/ Agents	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Legal Services	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE


YES	NO	Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	

If yes, what is the name of the official or employee and what is the nature of the interest?

CERTIFICATION:

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.






I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

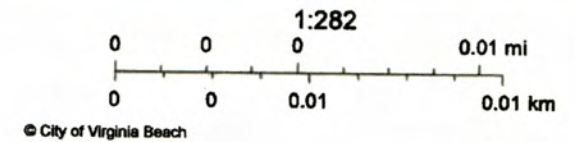
	Dan Clarkso	3/5/24
PROPERTY OWNER'S SIGNATURE	PRINT NAME	DATE

910 Atlantic Ave,



1/29/2024, 4:13:40 PM

-  City Boundary
-  Parcels
-  Primary
-  Address Point
-  Primary Address Point Label





1/5/2024 12:54

Tenth St

Virginia Beach

APPLICANT'S NAME JUMPIN SHRIMP INC.

DISCLOSURE STATEMENT FORM

The completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council or a board, commission, or other body appointed by the City Council. Such applications and matters include, but are not limited to, the following:

Acquisition of Property by City	Disposition of City Property	Modification of Conditions or Proffers
Alternative Compliance, Special Exception for	Economic Development Investment Program (EDIP)	Nonconforming Use Changes
Board of Zoning Appeals	Encroachment Request	Rezoning
Certificate of Appropriateness (Historic Review Board)	Floodplain Variance	Street Closure
Chesapeake Bay Preservation Area Board	Franchise Agreement	Subdivision Variance
Conditional Use Permit	Lease of City Property	Wetlands Board
	License Agreement	

The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law.

SECTION 1 / APPLICANT DISCLOSURE

FOR CITY USE ONLY / All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the application(s).		
<input type="checkbox"/>	APPLICANT NOTIFIED OF HEARING	DATE: _____
<input type="checkbox"/>	NO CHANGES AS OF	DATE: _____
<input type="checkbox"/>	REVISIONS SUBMITTED	DATE: _____



- ☐ Check here if the **APPLICANT IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- ☒ Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.

(A) List the Applicant's name: Jumpin Shrimp Inc
If an LLC, list all member's names:

If a CORPORATION, list the the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

Varshid Vachhani: President
Matthew Sereby: VP
Anjana Javia: Secretary Parul Vachhani: Treasurere

(B) List the businesses that have a parent-subsiadiary ¹ or affiliated business entity ² relationship with the Applicant: *(Attach list if necessary)*
Surfside Resort Inc/ LLC : Landlord

See next page for information pertaining to footnotes ¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

Complete Section 2 only if property owner is different from Applicant.

- ☐ Check here if the **PROPERTY OWNER IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- ☒ Check here if the **PROPERTY OWNER IS** a corporation, partnership, firm, business, or other unincorporated organization, **AND THEN**, complete the following.

(A) List the Property Owner's name: Surfside Resort LLC / Inc
If an LLC, list the member's names: LLC: Anjana Javia, Neela Patel, Parul Vachhani, Hetal Vachhani

If a Corporation, list the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

Inc: Varshid Vachhani: President
Anjana Javia: Secretary
Neela Patel: VP
Hetal Vachhani: Treasurer

- (B) List the businesses that have a parent-subsidary¹ or affiliated business entity² relationship with the Property Owner: *(Attach list if necessary)*
None

¹ "Parent-subsidary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

² "Affiliated business entity relationship" means "a relationship, other than parent-subsidary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

SECTION 3. SERVICES DISCLOSURE

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPERATELY

APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	Corbin & Company
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Architect / Landscape Architect / Land Planner	Cuboid Architecture
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Construction Contractors	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Engineers / Surveyors/ Agents	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Legal Services	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

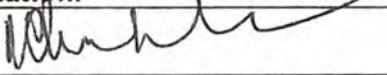
YES	NO	Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	

If yes, what is the name of the official or employee and what is the nature of the interest?

CERTIFICATION:

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

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	Varshid Vachhani	03/0/24
APPLICANT'S SIGNATURE	PRINT NAME	DATE

OWNER

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Architect / Landscape Architect / Land Planner	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Construction Contractors	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Engineers / Surveyors/ Agents	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	Towne Bank
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Legal Services	Wolcott Rivers Gates
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

YES	NO	Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	

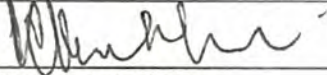
If yes, what is the name of the official or employee and what is the nature of the interest?



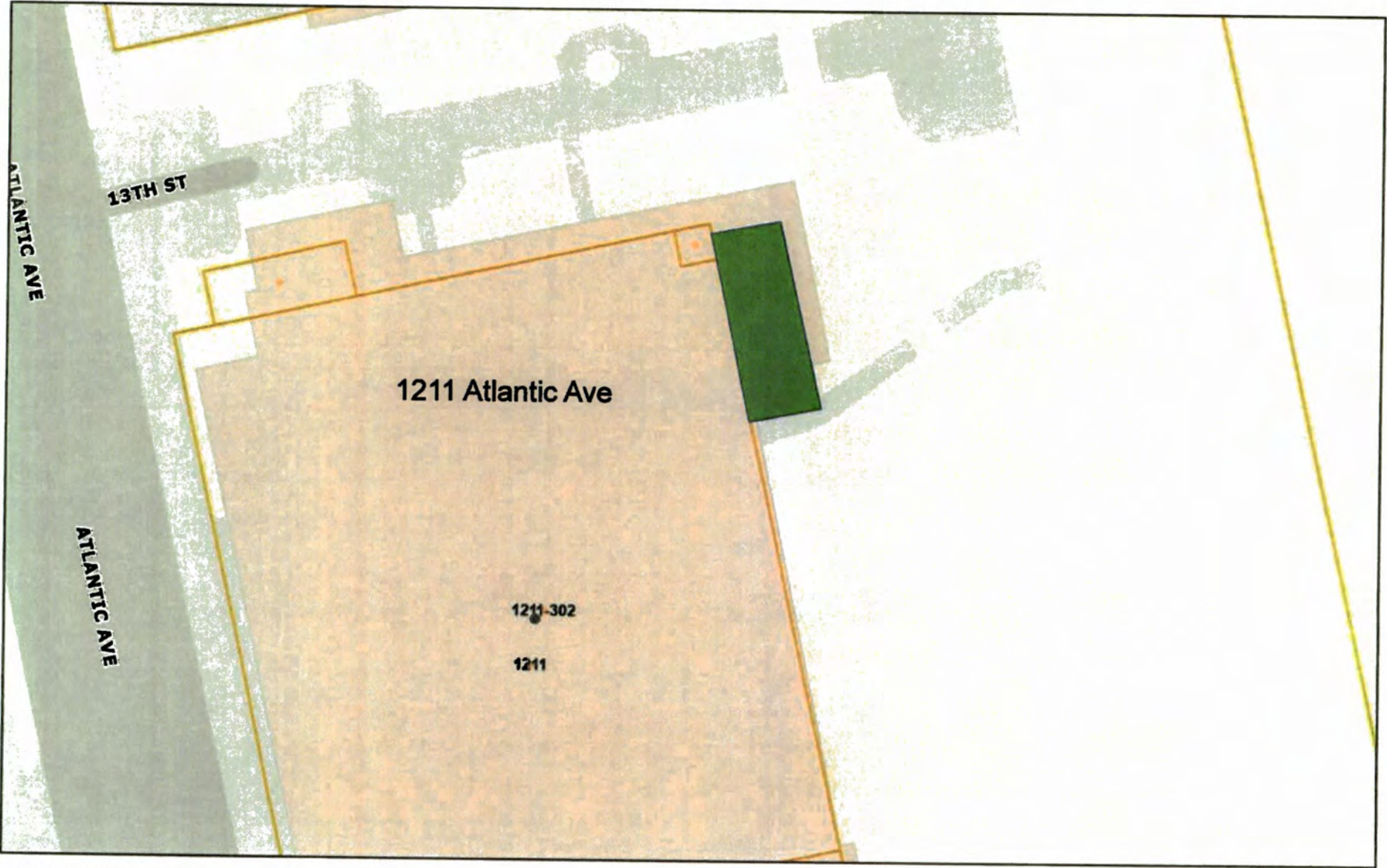
CERTIFICATION:

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I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

	Varshid Vachhani	03/05/24
PROPERTY OWNER'S SIGNATURE	PRINT NAME	DATE

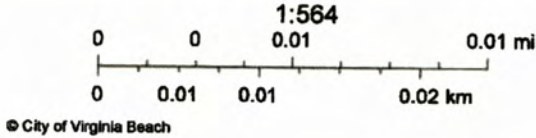
1211 Atlantic Ave, Jumpin Shrimp Café



1/29/2024, 4:03:58 PM

- City Boundary
- Parcels
- Condos
- Address Point
- Primary

Primary Address Point Label





1/5/2024 12:49
1211 Atlantic Ave
Virginia Beach

APPLICANT'S NAME Scrambled, Inc.

DISCLOSURE STATEMENT FORM

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Alternative Compliance, Special Exception for	Economic Development Investment Program (EDIP)	Nonconforming Use Changes
Board of Zoning Appeals	Encroachment Request	Rezoning
Certificate of Appropriateness (Historic Review Board)	Floodplain Variance	Street Closure
Chesapeake Bay Preservation Area Board	Franchise Agreement	Subdivision Variance
Conditional Use Permit	Lease of City Property	Wetlands Board
	License Agreement	

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SECTION 1 / APPLICANT DISCLOSURE

FOR CITY USE ONLY / All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the application(s).

Page 1 of 7

<input type="checkbox"/>	APPLICANT NOTIFIED OF HEARING	DATE:	
<input type="checkbox"/>	NO CHANGES AS OF	DATE:	
<input type="checkbox"/>	REVISIONS SUBMITTED	DATE:	

- ☒ Check here if the **APPLICANT IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- ☐ Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.
- (A) List the Applicant's name: Haim Markso
If an LLC, list all member's names:

If a CORPORATION, list the the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

- (B) List the businesses that have a parent-subsidary ¹ or affiliated business entity ² relationship with the Applicant: *(Attach list if necessary)*

N/A

See next page for information pertaining to footnotes ¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

Complete Section 2 only if property owner is different from Applicant.

- ☐ Check here if the **PROPERTY OWNER IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- ☒ Check here if the **PROPERTY OWNER IS** a corporation, partnership, firm, business, or other unincorporated organization, **AND THEN**, complete the following.

- (A) List the Property Owner's name: Ocean Horizon
If an LLC, list the member's names:

If a Corporation, list the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

- (B) List the businesses that have a parent-subsidary¹ or affiliated business entity² relationship with the Property Owner: *(Attach list if necessary)*

¹ "Parent-subsidary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

² "Affiliated business entity relationship" means "a relationship, other than parent-subsidary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

SECTION 3. SERVICES DISCLOSURE

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPERATELY

APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Accounting and/or preparer of your tax return	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Architect / Landscape Architect / Land Planner	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Construction Contractors	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Engineers / Surveyors/ Agents	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Legal Services	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

YES	NO	Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	

If yes, what is the name of the official or employee and what is the nature of the interest?

CERTIFICATION:

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

<i>Ha. m Marko</i>	<i>Ha. m Marko</i>	<i>3/05/2024</i>
APPLICANT'S SIGNATURE	PRINT NAME	DATE

OWNER

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	
<input type="checkbox"/>	<input type="checkbox"/>	Architect / Landscape Architect / Land Planner	
<input type="checkbox"/>	<input type="checkbox"/>	Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input type="checkbox"/>	Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)	
<input type="checkbox"/>	<input type="checkbox"/>	Construction Contractors	
<input type="checkbox"/>	<input type="checkbox"/>	Engineers / Surveyors/ Agents	
<input type="checkbox"/>	<input type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	
<input type="checkbox"/>	<input type="checkbox"/>	Legal Services	
<input type="checkbox"/>	<input type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

YES NO
☐ ☐

Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?

If yes, what is the name of the official or employee and what is the nature of the interest?

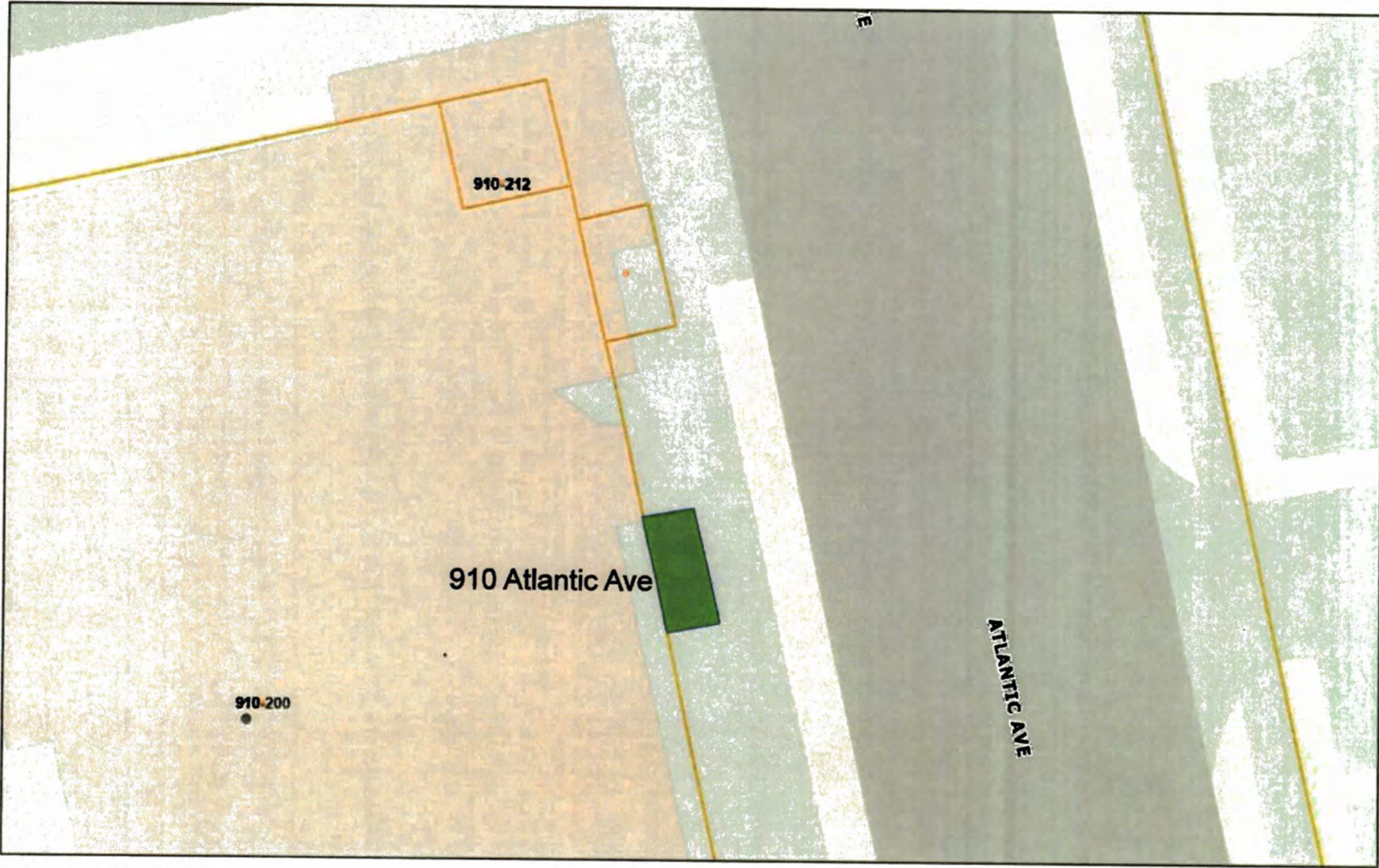
CERTIFICATION:

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<i>Haim Marko</i>	<i>Haim Marko</i>	<i>3/05/2024</i>
PROPERTY OWNER'S SIGNATURE	PRINT NAME	DATE

910 Atlantic Ave, Scrambled Inc



1/29/2024, 2:55:44 PM



City Boundary



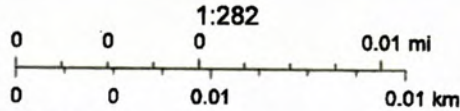
Parcels

Address Point



Primary

Primary Address Point Label



© City of Virginia Beach

City of Virginia Beach Center for GIS
© City of Virginia Beach |

A photograph of the exterior of a restaurant named "Scrambled". The building features a large glass facade with the name "Scrambled" in large, bold, yellow letters. In front of the building are two long, low wooden service counters. The glass windows reflect the sky and surrounding environment. Inside the building, two "OPEN" signs are visible in the windows. To the left, there are menu boards displaying various food and drink items. A small sign on the ground near the entrance is also visible. The sky is clear and blue, and the overall scene is brightly lit, suggesting daytime.

Scrambled

1/5/2024 12:55
910 Atlantic Ave
Virginia Beach



APPLICANT'S NAME Gold Key/PHR Food Services, LLC

DISCLOSURE STATEMENT FORM

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Acquisition of Property by City	Disposition of City Property	Modification of Conditions or Proffers
Alternative Compliance, Special Exception for	Economic Development Investment Program (EDIP)	Nonconforming Use Changes
Board of Zoning Appeals	Encroachment Request	Rezoning
Certificate of Appropriateness (Historic Review Board)	Floodplain Variance	Street Closure
Chesapeake Bay Preservation Area Board	Franchise Agreement	Subdivision Variance
Conditional Use Permit	Lease of City Property	Wetlands Board
	License Agreement	

The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law.

SECTION 1 / APPLICANT DISCLOSURE

FOR CITY USE ONLY / All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the application(s).		
<input type="checkbox"/>	APPLICANT NOTIFIED OF HEARING	DATE: _____
<input type="checkbox"/>	NO CHANGES AS OF	DATE: _____
<input type="checkbox"/>	REVISIONS SUBMITTED	DATE: _____

Page 1 of 7

Rum



- ☐ Check here if the **APPLICANT IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- ☒ Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.

(A) List the Applicant's name: Gold Key/PHR Food Services, LLC
If an LLC, list all member's names: Trade Name: Tortugas Cafe & Tiki Bar
Professional Hospitality Resources, Inc. 100% Membership Interest

If a CORPORATION, list the the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

(B) List the businesses that have a parent-subsiary ¹ or affiliated business entity ² relationship with the Applicant: *(Attach list if necessary)*

Professional Hospitality Resources, Inc.
Heritage Investments, LLC

See next page for information pertaining to footnotes ¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

Complete Section 2 only if property owner is different from Applicant.

- ☐ Check here if the **PROPERTY OWNER IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- ☒ Check here if the **PROPERTY OWNER IS** a corporation, partnership, firm, business, or other unincorporated organization, **AND THEN**, complete the following.

(A) List the Property Owner's name: Heritage Investments, LLC
If an LLC, list the member's names: Bruce L. Thompson
Edmund C. Ruffin



If a Corporation, list the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

- (B) List the businesses that have a parent-subsidary ¹ or affiliated business entity ² relationship with the Property Owner: *(Attach list if necessary)*
Professional Hospitality Resources, Inc.

¹ "Parent-subsidary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

² "Affiliated business entity relationship" means "a relationship, other than parent-subsidary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

SECTION 3. SERVICES DISCLOSURE

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPERATELY

km



APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Accounting and/or preparer of your tax return	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Architect / Landscape Architect / Land Planner	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contract Purchaser (If other than the Applicant) - identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Construction Contractors	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Engineers / Surveyors/ Agents	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Legal Services	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

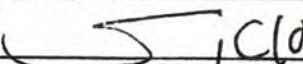
YES	NO	Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	

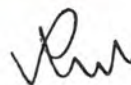
If yes, what is the name of the official or employee and what is the nature of the interest?

**CERTIFICATION:**

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

	Robert M. Howard, Chief Investment Officer	3-5-2024
APPLICANT'S SIGNATURE	PRINT NAME	DATE
Gold Key/PHR Food Services, LLC		

A handwritten signature, possibly 'Rm', located below the main form area.

OWNER

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Accounting and/or preparer of your tax return	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Architect / Landscape Architect / Land Planner	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Construction Contractors	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Engineers / Surveyors/ Agents	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Legal Services	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

YES	NO	Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	


If yes, what is the name of the official or employee and what is the nature of the interest?



CERTIFICATION:

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

 CIO	Robert M. Howard, Chief Investment Officer	3-5-2011
PROPERTY OWNER'S SIGNATURE	PRINT NAME	DATE
Heritage Investments, LLC		



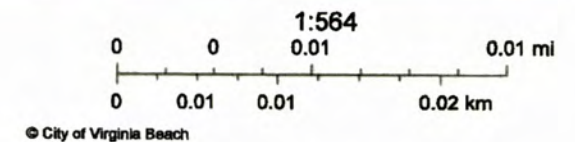
3400 Atlantic Ave, Tortugas Café



1/29/2024, 4:40:13 PM

-  City Boundary
-  Condos
-  Parcels
-  Primary
-  Non-Primary

Non-Primary Address Point Label
Primary Address Point Label





1/5/2024 12:40
3401 Atlantic Ave
Virginia Beach



APPLICANT'S NAME Dunes Investment Associates, LLC

d/b/a STATION 10

DISCLOSURE STATEMENT FORM

The completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council or a board, commission, or other body appointed by the City Council. Such applications and matters include, but are not limited to, the following:

Acquisition of Property by City	Disposition of City Property	Modification of Conditions or Proffers
Alternative Compliance, Special Exception for	Economic Development Investment Program (EDIP)	Nonconforming Use Changes
Board of Zoning Appeals	Encroachment Request	Rezoning
Certificate of Appropriateness (Historic Review Board)	Floodplain Variance	Street Closure
Chesapeake Bay Preservation Area Board	Franchise Agreement	Subdivision Variance
Conditional Use Permit	Lease of City Property	Wetlands Board
	License Agreement	

The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law.

SECTION 1 / APPLICANT DISCLOSURE

FOR CITY USE ONLY / All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the application(s).		
<input type="checkbox"/>	APPLICANT NOTIFIED OF HEARING	DATE: _____
<input type="checkbox"/>	NO CHANGES AS OF	DATE: _____
<input type="checkbox"/>	REVISIONS SUBMITTED	DATE: _____

- ☐ Check here if the **APPLICANT IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- ☒ Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.

(A) List the Applicant's name: Dunes Investment Associates, LI

If an LLC, list all member's names:

Lyons Family Asset Protection Trust, Octo, Inc. Thomas J. Lyons, Jr.
Rev.Trust, Timothy J. Stiffler, Marcus B. Lewis, Fred R. & Patricia C. Russell

If a CORPORATION, list the the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

(B) List the businesses that have a parent-subsiary ¹ or affiliated business entity ² relationship with the Applicant: *(Attach list if necessary)*

Coastal Hospitality Associates, LLC (Management Company)

See next page for information pertaining to footnotes ¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

Complete Section 2 only if property owner is different from Applicant.

- ☐ Check here if the **PROPERTY OWNER IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- ☐ Check here if the **PROPERTY OWNER IS** a corporation, partnership, firm, business, or other unincorporated organization, **AND THEN**, complete the following.

(A) List the Property Owner's name: _____
If an LLC, list the member's names:

If a Corporation, list the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

- (B) List the businesses that have a parent-subsidary¹ or affiliated business entity² relationship with the Property Owner: *(Attach list if necessary)*

¹ "Parent-subsidary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

² "Affiliated business entity relationship" means "a relationship, other than parent-subsidary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

SECTION 3. SERVICES DISCLOSURE

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPERATELY

APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	BDO Norfolk, Virginia
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Architect / Landscape Architect / Land Planner	WPL, & Saunders & Crouse. PC
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contract Purchaser (if other than the Applicant) – identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Construction Contractors	Hoy Construction, Inc. Norfolk, VA
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Engineers / Surveyors/ Agents	MSA Virginia Beach, VA
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	Towne Bank Norfolk
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Legal Services	Kaufman & Canoles. PLC. Norfolk, VA
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE


YES	NO	Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	

If yes, what is the name of the official or employee and what is the nature of the interest?

CERTIFICATION:

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

	Christopher W. Brown	03/05/2024
APPLICANT'S SIGNATURE	PRINT NAME	DATE

OWNER

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	BDO Norfolk, Virginia
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Architect / Landscape Architect / Land Planner	WPL Virginia Beach, VA Saunders & Crouse
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contract Purchaser (if other than the Applicant) – identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Construction Contractors	Hoy Construction, Inc. Norfolk, VA
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Engineers / Surveyors/ Agents	MSA - Virginia Beach, VA
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	Towne Bank Norfolk
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Legal Services	Kaurman & Caonoles PLC Norfolk, VA
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE


YES	NO	Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	

If yes, what is the name of the official or employee and what is the nature of the interest?

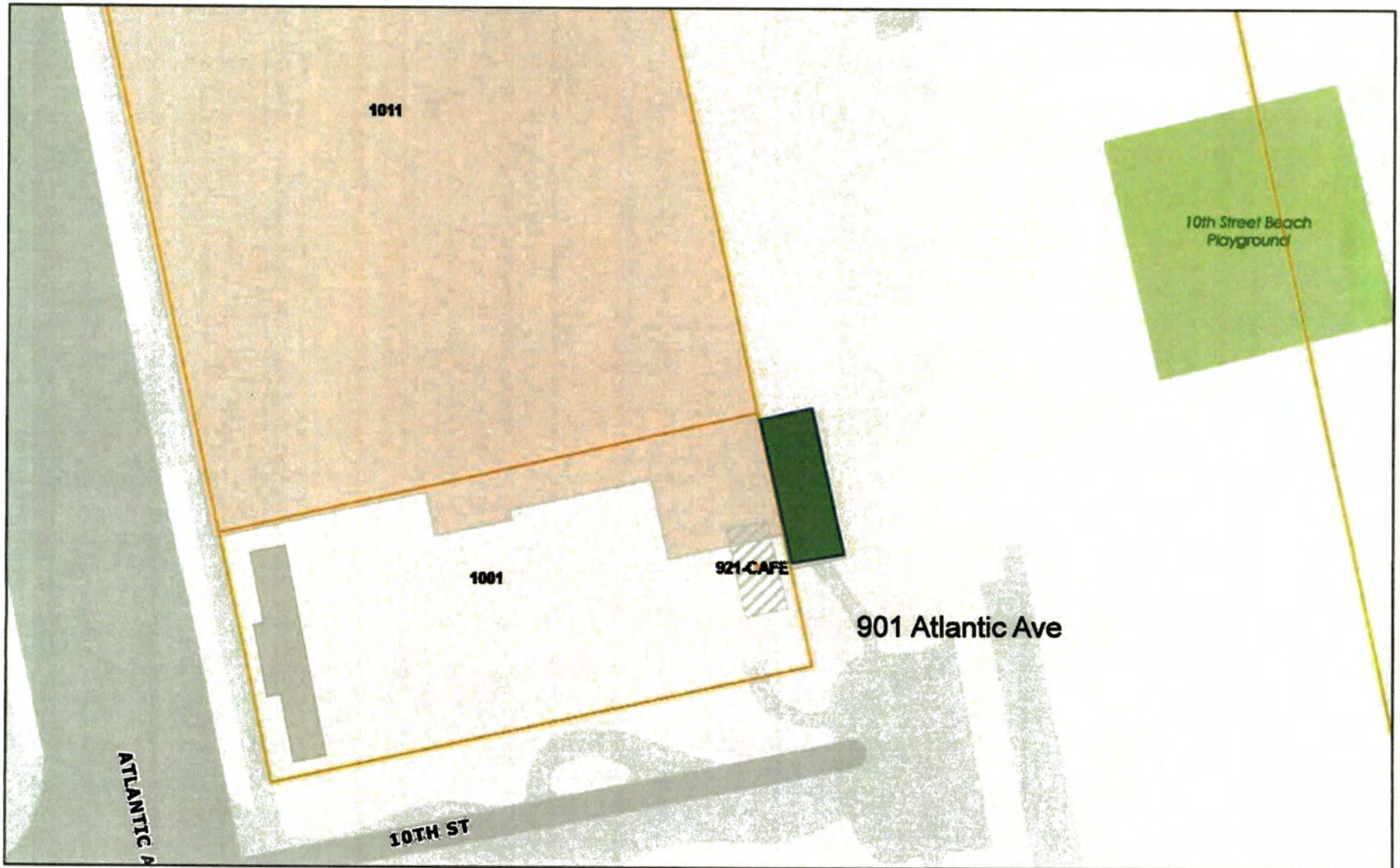
CERTIFICATION:

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.






I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

	Christopher W. Brown	03/05/2024
PROPERTY OWNER'S SIGNATURE	PRINT NAME	DATE

901 Atlantic Ave, Station 10 Café



1/29/2024, 4:26:06 PM

 City Boundary  Parcels
 Condos  Address Point
 Primary

Primary Address Point Label

1:564
0 0 0.01 0.01 mi
0 0.01 0.01 0.02 km
© City of Virginia Beach

City of Virginia Beach Center for GIS
© City of Virginia Beach |



1/5/2024 12:53
Tenth St
Virginia Beach



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: A Resolution Establishing a Stormwater Management Implementation Advisory Group

MEETING DATE: March 19, 2024

■ **Background:** The City Council created the Process Improvement Steering Committee ("PISC") to provide recommendations to improve various aspects of the City's government. The Council referred the "Resolution to Adopt and Amend the Virginia Beach Comprehensive Plan 2016 regarding the Stormwater Impacts for Discretionary Land Use Applications" to the PISC, and the PISC recommended the establishment of a "work group to provide recommendations regarding how best to balance the need for stormwater management and flooding protection with development and redevelopment opportunities." This resolution establishes the recommended work group.

■ **Considerations:** The Stormwater Management Advisory Group ("Advisory Group") will serve in an advisory capacity to the City Council and consist of no more than 19 voting members, including residents, environmental professionals, and industry stakeholders. In addition to the voting members, the Advisory Group will include a Planning Commission liaison and two high school students as nonvoting members.

The duties of the Advisory Group will be to: further review the topic of stormwater management and its impact and consequences on land use and redevelopment issues; identify whether there are any opportunities, advantages, or disadvantages to strengthening regulation alignment and specificity based on the City's varied drainage basin, and a property's land use and zoning characteristics; formalize a cost-sharing program relative to stormwater infrastructure and policy to include developing criteria for cost-sharing eligibility; and determine whether there are any opportunities to advance/incentivize Council-adopted policy and/or planning objectives, such as affordable housing, the preservation and enhancement of our City's tree canopy and open spaces, enhanced water quality, more sidewalks and paved paths, utilization of nature-based stormwater management practices in addition to grey infrastructure solutions, implementation of regional stormwater solutions, strategic and resilient approaches to redevelopment, and other preferred land use approaches, through stormwater management.

■ **Public Information:** This item will be advertised in the same manner as other agenda items. It was part of the March 5, 2024, agenda, but was deferred to March 19.

■ **Attachment:** Resolution

Requested by Mayor Dyer and Councilmember Schulman

**REQUESTED BY MAYOR DYER AND COUNCILMEMBER
SCHULMAN**

**A RESOLUTION ESTABLISHING A STORMWATER
MANAGEMENT IMPLEMENTATION ADVISORY
GROUP**

WHEREAS, the City Council created the Process Improvement Steering Committee ("PISC") to provide recommendations to improve various aspects of the City's government;

WHEREAS, the City Council referred the "Resolution to Adopt and Amend the Virginia Beach Comprehensive Plan 2016 regarding the Stormwater Impacts for Discretionary Land Use Applications" to the PISC, and the PISC has recommended the establishment of a "work group to provide recommendations regarding how best to balance the need for stormwater management and flooding protection with development and redevelopment opportunities;" and

WHEREAS, the City Council agrees that such a work group would be beneficial;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF VIRGINIA BEACH, VIRGINIA:

1. That the City Council hereby establishes the Stormwater Management Implementation Advisory Group ("Advisory Group").

2. That the Advisory Group shall serve in an advisory capacity to the City Council, and the City Council shall appoint its members.

3. That the Advisory Group shall consist of a total of no more than 19 voting members, as follows:

- a. No more than 11 subject matter experts and industry representatives (such as environmental professionals, engineering consultants, land use and/or environmental attorney(s), members of the real estate development community, and representatives from conservation organizations).
- b. No more than 2 resident representatives for the Elizabeth River Watershed who reside in either District 1 or District 4, appointed with the concurrence of the Councilmembers representing Districts 1 and 4;
- c. No more than 2 resident representatives for the Thalia Creek and London Bridge Creek drainage basins (to include areas such as Windsor Woods, Princess Anne Plaza, Green Run and Bow Creek) who reside in either District 3 or District 10, appointed with the concurrence of the Councilmembers representing Districts 3 and 10.
- d. No more than 2 resident representatives for the Chesapeake Bay

44 Watershed and who reside in District 6, District 8, or District 9, appointed
45 with the concurrence of the Councilmembers representing Districts 6, 8,
46 and 9.

- 47 e. No more than 2 resident representatives for the Southern Rivers
48 Watershed who reside in District 2, District 5, or District 7, appointed
49 with the concurrence of the Councilmembers representing Districts 2, 5,
50 and 7.

51
52 4. That, in addition to the above-described voting members, the Advisory Group
53 shall include a nonvoting Planning Commission liaison and two high school students as
54 nonvoting members. A quorum of the membership shall be defined as a majority of the
55 then-appointed voting members, but no less than five.

56
57 5. That the duties of the Advisory Group shall be to:

- 58
59 • Further review the topic of stormwater management and its impact and
60 consequences on land use and redevelopment issues;
61 • Identify whether there are any opportunities, advantages, or disadvantages
62 to strengthening regulation alignment and specificity based on the City's
63 varied drainage basins, and a property's land use and zoning
64 characteristics;
65 • Formalize a cost-sharing program relative to stormwater infrastructure and
66 policy to include developing criteria for cost-sharing eligibility; and
67 • Determine whether there are any opportunities to advance/incentivize
68 Council-adopted policy and/or planning objectives, such as affordable
69 housing, the preservation and enhancement of our City's tree canopy and
70 open spaces, enhanced water quality, more sidewalks and paved paths,
71 utilization of nature-based stormwater management practices in addition to
72 grey infrastructure solutions, implementation of regional stormwater
73 solutions, strategic and resilient approaches to redevelopment, and other
74 preferred land use approaches, through stormwater management.

75
76 6. That the City Manager shall provide staff support on an as-needed basis (from
77 the Economic Development Department, Planning Department, the Department of Public
78 Works, the Office of Performance and Accountability, and any other relevant department)
79 and other support to the Advisory Group, including a professional facilitator to guide group
80 meetings, and the City Attorney shall also provide staff support.

81
82 7. That the Advisory Group may begin to meet upon the appointment of its 11th
83 voting member. The Advisory Group shall provide its recommendations to the City
84 Council within six months of the appointment of its 11th voting member.

Adopted by the Council of the City of Virginia Beach, Virginia, on the ____ day of
_____, 2024.

APPROVED AS TO LEGAL
SUFFICIENCY:



City Attorney's Office

CA16215
R-5
February 28, 2024



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: A Resolution to Provide Direction to the City Manager on the Use of Funds in Capital Project #100629, "Sports Tourism Infrastructure," and to Provide Direction to the City Manager to Create Options for a Dedicated Funding Source for Arts and Culture Using Existing Funding Dedications

MEETING DATE: March 19, 2024

■ **Background:** Capital Project #100629, "Sports Tourism Infrastructure," uses revenues from the Tourism Investment Program (TIP) Fund to support sports tourism opportunities through the upgrade or renovation of existing facilities such as the Virginia Beach SportsPlex, Princess Anne Athletic Complex, Hampton Roads Soccer Complex, and Pickleball Virginia Beach. Project #100629 has funding currently appropriated at \$6,921,100, and the FY2024 Capital Improvement Program had planned for FY2025 to provide an additional \$12.6 million. On March 5, 2024, the City Council was provided two recommendations for allocation of \$18,500,000 in Project #100629. One approach would fund the existing facilities based solely upon anticipated return on investment. The second option provided some funding to all four facilities.

Separately, the City Council recognizes the residents and visitors of the City, in addition to enjoying sports, appreciate arts and culture, which brings a vibrancy to life in the City. To support the arts and culture community, the City should have dedicated funding that nourishes and sustains arts and culture.

■ **Considerations:** The attached resolution provides two directions to the City Manager. First, it directs the City Manager to pursue distribution of Capital Project #100629 based on the second option. This option would provide the following:

1. Pickleball Virginia Beach - \$2,101,000
2. VB SportsPlex and Field Hockey Training Center - \$3,138,500
3. Princess Anne Athletic Complex - \$3,259,500
4. Hampton Roads Soccer Complex - \$10,000,000.

Second, it directs the City Manager to create options for establishing a dedicated funding source for arts and culture from existing funding dedications, excluding the General Fund. The City Manager is to provide these options to the City Council for its consideration within 20 days of the adoption of this Resolution. The City Manager shall thereafter allot time for the discussion of the dedicated funding options at a subsequent Informal or Workshop Session.

■ **Public Information:** Normal Council agenda process.

■ **Attachments:** Resolution; Victus Slide

REQUESTED BY COUNCILMEMBERS BERLUCCHI, ROSS-HAMMOND, ROUSE, REMICK, AND SCHULMAN

**REQUESTED BY COUNCILMEMBERS BERLUCCHI, ROSS-HAMMOND, ROUSE,
REMICK, AND SCHULMAN**

A RESOLUTION TO PROVIDE DIRECTION TO
THE CITY MANAGER ON THE USE OF FUNDS IN
CAPITAL PROJECT #100629, "SPORTS
TOURISM INFRASTRUCTURE," AND TO
PROVIDE DIRECTION TO THE CITY MANAGER
TO CREATE OPTIONS FOR A DEDICATED
FUNDING SOURCE FOR ARTS AND CULTURE
USING EXISTING FUNDING DEDICATIONS

WHEREAS, Capital Project #100629, "Sports Tourism Infrastructure," uses
revenues from the Tourism Investment Program (TIP) Fund to support sports tourism
opportunities through the upgrade or renovation of existing facilities such as the Virginia
Beach SportsPlex, Princess Anne Athletic Complex, Hampton Roads Soccer Complex,
and Pickleball Virginia Beach;

WHEREAS, Project #100629 has funding currently appropriated at \$6,921,100,
and the FY2024 Capital Improvement Program had planned for FY2025 to provide an
additional \$12.6 million;

WHEREAS, the City Council was provided two recommendations for allocation of
\$18,500,000 in Project #100629;

WHEREAS, this resolution provides direction to the City Manager to pursue the
second option, which provides funding to all four of the facilities noted above in the
following amounts:

1. Pickleball Virginia Beach - \$2,101,000
2. VB SportsPlex and Field Hockey Training Center - \$3,138,500
3. Princess Anne Athletic Complex - \$3,259,500
4. Hampton Roads Soccer Complex - \$10,000,000

WHEREAS, the residents and visitors of the City, in addition to enjoying sports,
recognize and appreciate arts and culture, which brings a vibrancy to life in the City;

WHEREAS, to support the arts and culture community, the City should have
dedicated funding that nourishes and sustains arts and culture;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY
OF VIRGINIA BEACH, VIRGINIA, THAT

1. The City Manager is hereby directed to pursue the distribution of Capital Project
#100629 following the second option presented to the City Council, which is
summarized above. To the extent funding is conditioned upon appropriation in
Fiscal Year 2025, the City Manager shall include a condition in any funding
agreement that preserves the City Council's legislative prerogative to make

45 appropriation decisions. The City Manager and the City Attorney are to develop
46 funding agreements with the City's partners for these facilities that incorporate
47 the best practices in operating contracts that were recommended to the City
48 Council by Victus Advisors.
49

50 2. The City Manager is hereby directed to create options for establishing a
51 dedicated funding source for arts and culture from existing funding dedications,
52 excluding the General Fund. The City Manager is to provide these options to
53 the City Council for its consideration within 20 days of the adoption of this
54 Resolution. The City Manager shall thereafter allot time for the discussion of
55 the dedicated funding options at a subsequent Informal or Workshop Session.

Adopted by the City Council of the City of Virginia Beach, Virginia, on this ____
day of _____, 2024.

APPROVED AS TO LEGAL SUFFICIENCY:



City Attorney's Office

CA16458
R-1
March 7, 2024



RECOMMENDED OPTIONS FOR LOCAL SPORTS FACILITY REINVESTMENT - DISTRIBUTIONS TO ALL VENUES



Recommended Sports Tourism CIP Fund Distribution if City Prefers to Contribute to All Four Venues

Pickleball Virginia Beach:

Immediate & Short-Term Court/Venue Needs	\$402,000
Championship Court Improvements	\$1,700,000
11%	Pickleball - Total:
	\$2,102,000

VB Sportsplex & Field Hockey Training Center:

Replace Grass with 2 Artificial/Lighted Fields	\$2,311,000
Flatten Berm & Create Grass Training Area	\$102,500
Install New Lights on Field 2	\$725,000
17%	Sportsplex - Total:
	\$3,138,500

Princess Anne Athletic Complex:

Convert 2 Multi-Use Grass Fields to Artificial/Lights	\$3,259,500
18%	PAAC - Total:
	\$3,259,500

Hampton Roads Soccer Complex:

Resurface Existing Artificial Turf (2)	\$1,000,000
Six (6) New Artificial Turf Fields with Lights	\$9,000,000
54%	Soccer - Total:
	\$10,000,000

TOTAL INVESTMENT AMOUNT:	\$18,500,000
100%	



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance to Amend Sections 23-2.1, 23-17, and 23-18.1 of the City Code Pertaining to Curfews and Other Restrictions and Regulations During Civil Commotion

MEETING DATE: March 19, 2024

■ **Background:** The Virginia Beach City Code contains multiple code sections relating to restricting the gathering and movement of citizens for public safety purposes under certain conditions. Since 2005, the City Code has contained a provision that authorizes the City Manager or his designee to impose a curfew after the declaration of an emergency. That Code section, § 23-2.1, was enacted based on the general grant of police powers in Virginia Code § 15.2-1102.

During the last legislative session, the General Assembly approved amendments to Virginia Code § 15.2-925 that now explicitly authorize a locality to adopt an ordinance regarding curfews. The new provisions of the state law impose certain requirements and limitations on the locality that differ from the provisions of the current City Code section. Accordingly, the City Attorney's Office recommends that the current curfew provision in the City Code be replaced with one that fully aligns with the 2023 state enabling legislation.

The attached ordinance (1) amends City Code § 23-2.1 relating to curfews; (2) makes a minor cross-reference amendment to City Code § 23-17; and (3) revises City Code § 23-18.1 to be consistent with state law relating to police lines and barricades. The text that this ordinance deletes from City Code § 23-18.1 regarding restrictions on the movement of persons and vehicles has essentially been relocated to amended City Code § 23-2.1, aligning with state law.

■ **Considerations:** The ordinance revises the City Code to resolve inconsistencies with Virginia state law by amending sections 23-2.1, 23-17, and 23-18.1.

■ **Public Information:** This item will be advertised in the same manner as other agenda items.

■ **Attachments:** Ordinance

Recommended Action: Approval

Submitting Department/Agency: City Attorney

City Manager:

PAT

1 AN ORDINANCE TO AMEND SECTIONS 23-
2 2.1, 23-17, AND 23-18.1 OF THE CITY CODE
3 PERTAINING TO CURFEWS AND OTHER
4 RESTRICTIONS AND REGULATIONS
5 DURING CIVIL COMMOTION
6
7

8 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VIRGINIA BEACH,
9 VIRGINIA:
10

11 That Sections 23-2.1, 23-17, and 23-18.1 of the Code of the City of Virginia Beach,
12 Virginia, are hereby amended and reordained to read as follows:
13

14 **~~Sec. 23-2.1. Curfews after declarations of emergency.~~**

15 ~~(a) Pursuant to the police powers granted to the city by Code of Virginia, § 15.2-1102,~~
16 ~~and in the interest of promoting public safety, the city manager or his designee is~~
17 ~~hereby authorized to impose a curfew after the declaration of an emergency, in~~
18 ~~accordance with the provisions of this section.~~

19 ~~(b) As used in this section:~~

20 ~~(1) "Curfew" means an order issued by the city manager prohibiting persons from~~
21 ~~being present on any street, road, alley, avenue, park or other public place in~~
22 ~~the city or any portion thereof designated by the city manager during specified~~
23 ~~times of the day or night;~~

24 ~~(2) "City manager" means the city manager or his designee;~~

25 ~~(3) "Natural disaster" means any hurricane, tornado, storm, flood, high water,~~
26 ~~wind-driven water, tidal wave, earthquake, drought, fire or other natural~~
27 ~~catastrophe resulting in damage, hardship, suffering or possible loss of life;~~
28 ~~and~~

29 ~~(4) "Manmade disaster" means any condition following an attack by an enemy or~~
30 ~~foreign nation upon the City of Virginia Beach that results in substantial~~
31 ~~damage of property or injury to persons in the United States, and may be by~~
32 ~~use of bombs, missiles, shell fire, nuclear, radiological, chemical or biological~~
33 ~~means or other weapons or by overt paramilitary actions; terrorism, foreign and~~
34 ~~domestic; any industrial, nuclear or transportation accident, explosion,~~
35 ~~conflagration, power failure, or other condition such as sabotage, oil spills, and~~
36 ~~other injurious environmental contaminations that threaten or cause damage~~
37 ~~to property, human suffering, hardship or loss of life.~~

38 ~~(c) The city manager may declare a curfew if he deems such action necessary for the~~
39 ~~preservation of life or property, the implementation of emergency mitigation,~~
40 ~~preparedness, response actions or recovery actions anticipated or resulting from the~~
41 ~~dangers caused by a natural or manmade disaster or the resulting effects thereof,~~
42 ~~pursuant to the following procedure:~~

- 43 ~~(1) The authority conferred upon the city manager by this section shall arise only~~
44 ~~after either the state or the city declares an emergency in accordance with the~~
45 ~~provisions of Virginia Code section 44-146.19 or 44-146.21 for a geographical~~
46 ~~area located within the city;~~
- 47 ~~(2) The curfew shall be announced in such manner as is reasonably calculated to~~
48 ~~provide notice to the public of the imposition of the curfew. Termination of~~
49 ~~curfew shall be in like manner;~~
- 50 ~~(3) The declaration of a curfew, circumstances justifying its imposition, time and~~
51 ~~areas of the city in which the curfew is in effect, and the means and time of the~~
52 ~~public announcement of the curfew shall be recorded in a written document~~
53 ~~signed by the city manager and maintained in the records of the city;~~
- 54 ~~(4) No curfew shall be imposed except in areas and at times that can be justified~~
55 ~~as necessary for the public safety.~~
- 56 ~~(5) The action of the city manager in imposing a curfew during a natural or~~
57 ~~manmade disaster shall be ratified by the city council at its next regularly~~
58 ~~scheduled meeting.~~
- 59 ~~(d) After the declaration and public announcement of a curfew, it shall be unlawful for:~~
- 60 ~~(1) Any person, after having been warned by a law enforcement officer, to remain~~
61 ~~on any street, road, alley, avenue, park or other public place in the city, or in~~
62 ~~any vehicle operating or parked thereon, in any portion of the city designated~~
63 ~~by the city manager; and~~
- 64 ~~(2) The owner or proprietor of any retail, wholesale or eating and drinking~~
65 ~~establishment, entertainment venue or similar establishment, or other person~~
66 ~~in control of such establishment, to allow any person to remain on the premises~~
67 ~~without the express written permission of the city manager; provided, however,~~
68 ~~that this prohibition shall not apply to lodging establishments serving registered~~
69 ~~guests.~~
- 70 ~~(e) The following persons shall be exempt from the provisions of this section while on~~
71 ~~duty or traveling to and from work:~~
- 72 ~~(1) Hospital personnel;~~
- 73 ~~(2) City employees and volunteers;~~
- 74 ~~(3) Military personnel;~~
- 75 ~~(4) Employees of public utility companies;~~
- 76 ~~(5) Private emergency medical transport workers; and~~
- 77 ~~(6) Other emergency workers as authorized by the city manager.~~
- 78 ~~(f) Nothing in this section shall be construed to prohibit or restrict travel to a hospital in~~
79 ~~the event of a medical emergency, nor shall such travel be considered in violation~~
80 ~~of this section.~~
- 81 ~~(g) A violation of this section shall be punishable as a Class 1 misdemeanor.~~

Sec. 23-2.1. Regulation or restrictions of persons and vehicles by the police chief: curfews.

(a) The police chief may regulate, restrict, or prohibit any assembly of persons or the movement of persons or vehicles if there exists an imminent threat of any civil commotion or disturbance in the nature of a riot which constitutes a clear and present danger.

(b) Any such regulations or restriction may include a curfew declared by the police chief with the concurrence of the city manager and the mayor. A declaration of curfew shall be issued in accordance with the following:

(1) The declaration authorizing the curfew shall provide for reasonable efforts to inform the public in advance of the curfew.

(2) The declaration shall specify the hours of the curfew and the geographic area to which the curfew applies.

(3) The curfew shall be valid for no more than twenty-four (24) hours.

(4) The curfew shall not be extended or renewed unless by recorded vote of the City Council or by judicial order.

(5) The curfew shall contain exceptions for:

a. Any person traveling to or from home, work, or a place of worship;

b. Medical personnel;

c. Members of the press;

d. Federal, state, and local employees and volunteers engaged in official business, including emergency response;

e. Military personnel, including but not limited to National Guard troops;

f. Travel to or from public meetings of the local governing body;

g. Persons seeking emergency services or fleeing any emergency or danger or acting to save other persons from an emergency or danger; and

h. Persons who are incapacitated or who are seeking medical care for themselves or others.

(6) In such circumstances the City Council may convene immediately in a special meeting and enact an emergency ordinance or ordinances, including an extension or renewal of a curfew, for such purposes, notwithstanding any contrary provisions in the City Charter or the general law.

(c) It shall be unlawful and a Class 1 misdemeanor for any person to violate any regulation, restriction, or curfew imposed pursuant to this section.

....

117 **Sec. 23-17. Riots and unlawful assemblies—What constitutes.**

118 (a) For the purposes of ~~sections 23-18 through 23-20~~ this chapter, any unlawful use, by
119 three (3) or more persons acting together, of force or violence which seriously
120 jeopardizes the public safety, peace or order is a riot.

121 (b) For the purposes of ~~sections 23-18 through 23-20~~ this chapter, whenever three (3)
122 or more persons assembled share the common intent to advance some lawful or
123 unlawful purpose by the commission of an act or acts of unlawful force or violence
124 likely to jeopardize seriously public safety, peace or order, and the assembly actually
125 tends to inspire persons of ordinary courage with well-grounded fear of serious and
126 immediate breaches of public safety, peace or order, then such assembly is an
127 unlawful assembly.

128

129 **Sec. 23-18.1. Same—Establishing police lines, perimeters, or barricades.**
130 **Restriction or regulation of persons and vehicles by chief of police.**

131 (a) When riots, crimes, or other emergency situations that may endanger life, limb, or
132 property may cause persons to collect on public streets, parking lots, or other public
133 areas, the police chief or his designee may establish one or more secure areas,
134 zones, or perimeters using police lines or barricades as are reasonably necessary
135 to (i) preserve the integrity of evidence at such scenes, (ii) facilitate the movement
136 of vehicular and pedestrian traffic into, out of, and around the scene, (iii) permit
137 public safety personnel to perform necessary operations unimpeded, and (iv) protect
138 persons and property. Such a police line or barricade may be used to secure such
139 an area no longer than is reasonably necessary.

140 ~~The chief of police, upon his determination that there exists an imminent threat of~~
141 ~~civil commotion or disturbance in the nature of a riot, constituting a clear and present~~
142 ~~danger to the public safety, may restrict or regulate the movement of persons and~~
143 ~~vehicles and may prohibit any assembly of persons in such areas as may be affected~~
144 ~~by the commotion or disturbance.~~

145 (b) Any police line or barricade erected pursuant to this code shall be clearly identified
146 by wording such as "Police Line — DO NOT CROSS" or other similar wording. If
147 material or equipment is not available for identifying the prohibited area, then a
148 verbal warning by an identifiable law-enforcement officer positioned to indicate a
149 location of a police line or barricade shall be given to any person or persons
150 attempting to cross police lines or barricades without proper authorization.

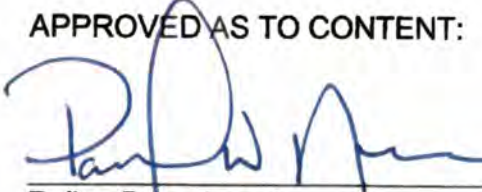
151 ~~Any person who shall willfully enter an area which is subject to such restriction, after~~
152 ~~having been lawfully warned not to do so, shall be guilty of a Class 3 misdemeanor.~~

153 (c) Personnel from information services such as press, radio, and television, when
154 gathering news, shall be exempt from the provisions of this section except that it
155 shall be unlawful for such persons to obstruct the law-enforcement officers,
156 firefighters, or emergency medical services personnel in the performance of their
157 duties at such scene. Information services personnel shall proceed at their own risk.

158 (d) It shall be unlawful and a Class 3 misdemeanor for any person to cross or remain
159 within police lines or barricades which have been established pursuant to this
160 section without proper authorization.
161

Adopted by the City Council of the City of Virginia Beach, Virginia, on this ____
day of _____, 2024.

APPROVED AS TO CONTENT:



Police Department

APPROVED AS TO LEGAL SUFFICIENCY:



City Attorney's Office

CA16209
R-3
March 8, 2024



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: Resolution Petitioning the Commonwealth of Virginia to Convey Certain Real Property to the City of Virginia Beach

MEETING DATE: March 19, 2024

■ **Background:** The Commonwealth of Virginia (the "Commonwealth") acquired certain parcels of real property located in the City of Virginia Beach (the "City") for the construction, reconstruction, alteration, maintenance and repair of Interstate 264 as part of VDOT Project Number 0264-134-102, RW-201 (the "VDOT Project").

The VDOT Project has since been completed and portions of the parcels acquired by the Commonwealth were not utilized in construction of the VDOT Project, including one parcel consisting of 37,784+/- sq. ft. (GPIN: 1467-72-5465) and two residual parcels consisting of 13,695+/- sq. ft. (no GPIN assigned) (collectively, the "Residual Property"). The Residual Property is located adjacent to Kemps Lake, and title to the Residual Property remains vested in the Commonwealth. The Residual Property is unimproved and is more particularly described on the VDOT Project Plan Sheet nos. 10, 10RW, 11, 11RW, 11F, 11F RW(1) and 11F RW(2), which are attached to the Resolution as Exhibit A.

The City is currently constructing the Kemps Lake Water Quality Improvement Project (CIP 100567) for the design and construction of water quality improvements to Kemps Lake (the "City Project"). The City desires to acquire the Residual Property for right-of-way access, laydown area and construction of the City Project. The Commonwealth and the City desire to transfer title to the Residual Property to the City.

The Commonwealth will not begin the process of transferring title to its property to a locality until that locality formally petitions the Commonwealth pursuant to §§ 33.2-907 and 33.2-1001 of the Code of Virginia (1950), as amended.

■ **Considerations:** The City Project is expected to commence in June of 2024. Conveyance of the Residual Property to the City would not affect funding from the Commonwealth or increase costs to the City.

■ **Public Information:** Public notice will be provided via the normal City Council agenda process.

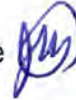
■ **Alternatives:** Commonwealth of Virginia retains title to the Property.

- **Recommendations:** Approval.
 - **Attachments:** Resolution, Plan Sheets (Exhibit A), Location Map
-

Recommended Action: Approval.

Submitting Department/Agency: Public Works / Real Estate

City Manager:



RESOLUTION PETITIONING THE COMMONWEALTH
OF VIRGINIA TO CONVEY CERTAIN REAL
PROPERTY TO THE CITY OF VIRGINIA BEACH

WHEREAS, the Commonwealth of Virginia (the "Commonwealth") acquired parcels of real property located in the City of Virginia Beach (the "City") for the construction, reconstruction, alteration, maintenance and repair of Interstate 264 as part of VDOT Project Number 0264-134-102, RW-201 (the "VDOT Project");

WHEREAS, all aspects of the VDOT Project are complete and portions of the parcels acquired by the Commonwealth were not utilized for the VDOT Project, including one parcel consisting of 37,784+/- sq. ft. (GPIN: 1467-72-5465) and two residual parcels consisting of 13,695+/- sq. ft. (no GPIN assigned) (collectively, the "Residual Property"), as shown on VDOT Project Plan Sheet nos. 10, 10RW, 11, 11RW, 11F, 11F RW(1) and 11F RW(2), attached hereto as Exhibit A and incorporated herein;

WHEREAS, title to the Residual Property remains vested in the Commonwealth;

WHEREAS, the City is constructing the Kemps Lake Water Quality Improvement Project (CIP 100567) for the design and construction of water quality improvements to Kemps Lake (the "City Project") and the Residual Property is located adjacent to Kemps Lake;

WHEREAS, the City desires to acquire the Residual Property from the Commonwealth for right-of-way access, laydown area, and construction of the City Project; and

WHEREAS, City staff and City Council believe it would be in the best interest of the City for the Residual Property to be conveyed to the City.

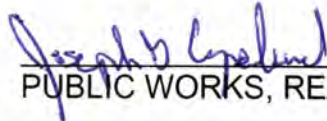
NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF VIRGINIA BEACH, VIRGINIA:

1. That the City hereby petitions the Commonwealth of Virginia, pursuant to Sections 33.2-907 and 33.2-1001 of the Code of Virginia, as amended, to convey the Residual Property to the City, and to take such other actions as necessary to complete the conveyance of the Residual Property to the City, and upon transfer, the Residual Property shall cease being a part of the State Highway System.

2. The City Manager, or his authorized designee, is hereby authorized to execute any and all documents to complete the conveyance of title to the Residual Property, so long as said documents contain such terms, conditions and modifications as may be acceptable to the City Manager and in a form deemed satisfactory by the City Attorney.

Adopted by the Council of the City of Virginia Beach, Virginia, on the ____ day of _____, 2024.

APPROVED AS TO CONTENT


PUBLIC WORKS, REAL ESTATE

APPROVED AS TO LEGAL
SUFFICIENCY:


CITY ATTORNEY

CA16263

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R-1

February 27, 2024

PROJECT: MANHATTAN DRIVE, 1/25/14 400-400-0000
 SURVEYED BY: DATE: 1/25/14 400-400-0000
 DESIGN BY: DATE: 1/25/14 400-400-0000
 SURFACE: 1/25/14 400-400-0000

P.A.C. PLANS

THESE PLANS ARE UNFINISHED
 AND ARE NOT TO BE USED FOR
 ANY TYPE OF CONSTRUCTION.

12/6/14
 BK 19
 PG 40D

STATE	ROUTE	PROJECT	SHEET NO.
VA	264	0264-134-102, RW-201, C-501,B-502	10

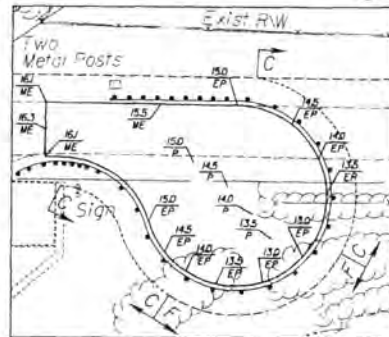
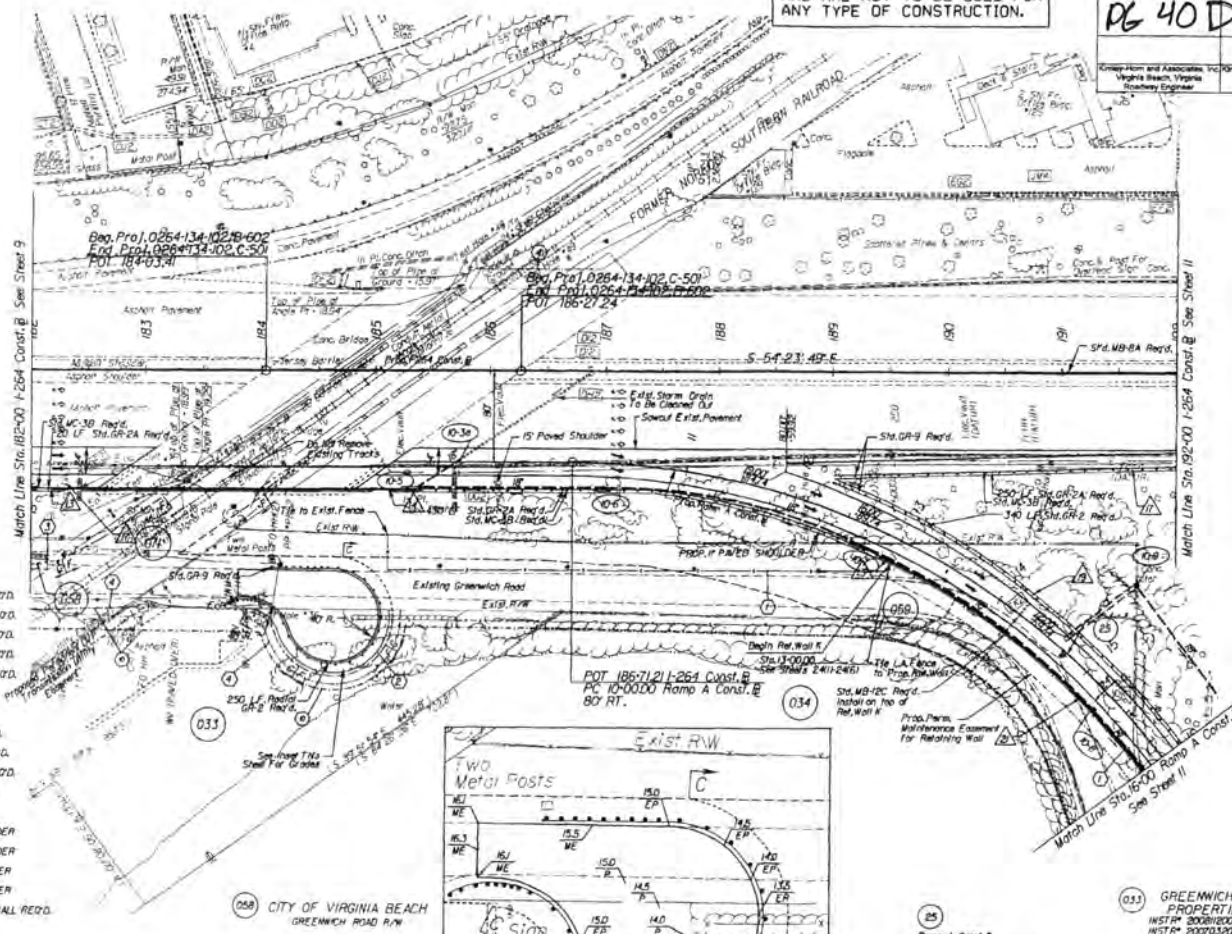
DESIGN FEATURES RELATING TO CONSTRUCTION
 OR TO REGULATION AND CONTROL OF TRAFFIC
 MAY BE SUBJECT TO CHANGE AS DEEMED
 NECESSARY BY THE DEPARTMENT

Chesley-Horn and Associates, Inc.
 Virginia Beach, Virginia
 Highway Engineer

Chesley-Horn and Associates, Inc.
 Virginia Beach, Virginia
 Highway Engineer

- LEGEND
- ▲ STD.CD-6 RECD.
 - ▲ STD.CD-2 RECD.
 - ▲ STD.CD-3 RECD.
 - ▲ STD.CD-7 RECD.
 - ▲ STD.CD-12 TYPE A RECD.
 - ▲ STD.CD-12 TYPE B RECD.
 - ▲ STD.CD-12 TYPE C RECD.
 - ▲ STD.CD-12 TYPE M RECD.
 - ▲ STD.CD-12 TYPE RH RECD.
 - ▲ STD.WS-14 RECD.
 - ▲ STD.WS-1 RECD.
 - ▲ STD.GR-FOR-1 TY.1 RECD.
 - ▲ STD.GR-FOR-2 TY.1 RECD.
 - ▲ STD.GR-FOR-2 TY.2 RECD.
 - ▲ PROP. 5' CONC. SIDEWALK
 - ▲ PROP. 15' PAVED SHOULDER
 - ▲ PROP. 15' PAVED SHOULDER
 - ▲ PROP. 5' PAVED SHOULDER
 - ▲ PROP. 8' PAVED SHOULDER
 - ▲ PROP. 8' CONC. SIDEWALK

- LEGEND
- C- DENOTES CONSTRUCTION LIMITS IN CUTS
 - F- DENOTES CONSTRUCTION LIMITS IN FILLS
 - DENOTES PERMANENT EASEMENTS
 - DENOTES TEMPORARY EASEMENTS



INSET
 1" = 25'

- LEGEND
- 1 DENOTES PROP. RW & LIMITED ACCESS
 - 2 DENOTES PROP. RW
 - 3 DENOTES PROP. PERMANENT DRAINAGE EASEMENT
 - 4 DENOTES TEMPORARY CONST. EASEMENT FOR SLOPES
 - 5 DENOTES TEMPORARY CONST. EASEMENT FOR ENTRANCES
 - 6 DENOTES PROPOSED PERMANENT SIDEWALK EASEMENT
 - 7 DENOTES VARIABLE WIDTH PERMANENT STANDARD UTILITY EASEMENT REQUIRED FOR VERIZON VIRGINIA LLC
 - 8 PROP. NO INGRESS/EGRESS EASEMENT
 - 9 DENOTES VARIABLE WIDTH PERMANENT STANDARD UTILITY EASEMENT REQUIRED FOR COMMONWEALTH POWER
 - 10 DENOTES VARIABLE WIDTH PERMANENT STANDARD VDOT UTILITY EASEMENT REQUIRED

SHEET NOTE

1. FOR PLAN CLARITY, ITEMS TO BE DEMOLISHED, ABANDONED, RELOCATED OR REWORKED ARE LOCATED ON SHEET K00P. SHEET K00P ALSO INCLUDES THE LIMITS OF PAVEMENT DEMOLITION, MILLING AND OVERLAY, AND FULL DEPTH PAVEMENT CONSTRUCTION.

REFERENCES

(1 PROFILES, DETAIL & DRAINAGE DESCRIPTION SHEETS, ETC.)

PROFILE 1004	104
PROFILE 1005	105
DEMOLITION AND PAVING PLAN K00P	100
ALIGNMENT DATA	101
UTILITY OWNERS	102
DRAINAGE DESCRIPTIONS	103
B-502	20
ENCL. PLAN PHASE I	108
ENCL. PLAN PHASE II	109



PROJECT	0264-134-102
SHEET NO.	10

Note: To Convert VA State Plane Coordinates NAD 83 Metric Values to VDOT Project Coordinates:
1. Reduce the Easting 2.5 Million Meters and the South and North Zone Northing by 1 and 2 Million Respectively.
2. Multiply by the US Survey Foot (3.2808333333333333).
3. Multiply These Values by the Combined Scale and Elevation Factor (1.00000) for this County.
A Reversal of This Procedure will Transform VDOT Project Coordinates to NAD 83 Values

GENERAL NOTES:

1. This is Intended For Acquisition Only and Does Not Constitute A Boundary Survey.
2. Property Line Information Is Based on Plans And Deeds Of Record Limited Field Work Was Performed In The Creation Of This Plan.
3. This Plan Was Prepared Without The Benefit Of A Title Report. Consequently Not All Encumbrances May Be Depicted.
4. This Plan Was Forwarded Electronically In "Read Only" Format. Any Attempt At Alteration Invalidates The Seal And Signature. An Original Hard Copy Remains On File At The Virginia Department Of Transportation, Hampton Roads District Office.
5. All Properties Physical Improvements Are Not Shown Hereon.
6. The Survey Datum Is Based On VDOT Project # 0264-134-102, R201, UPC # 17830

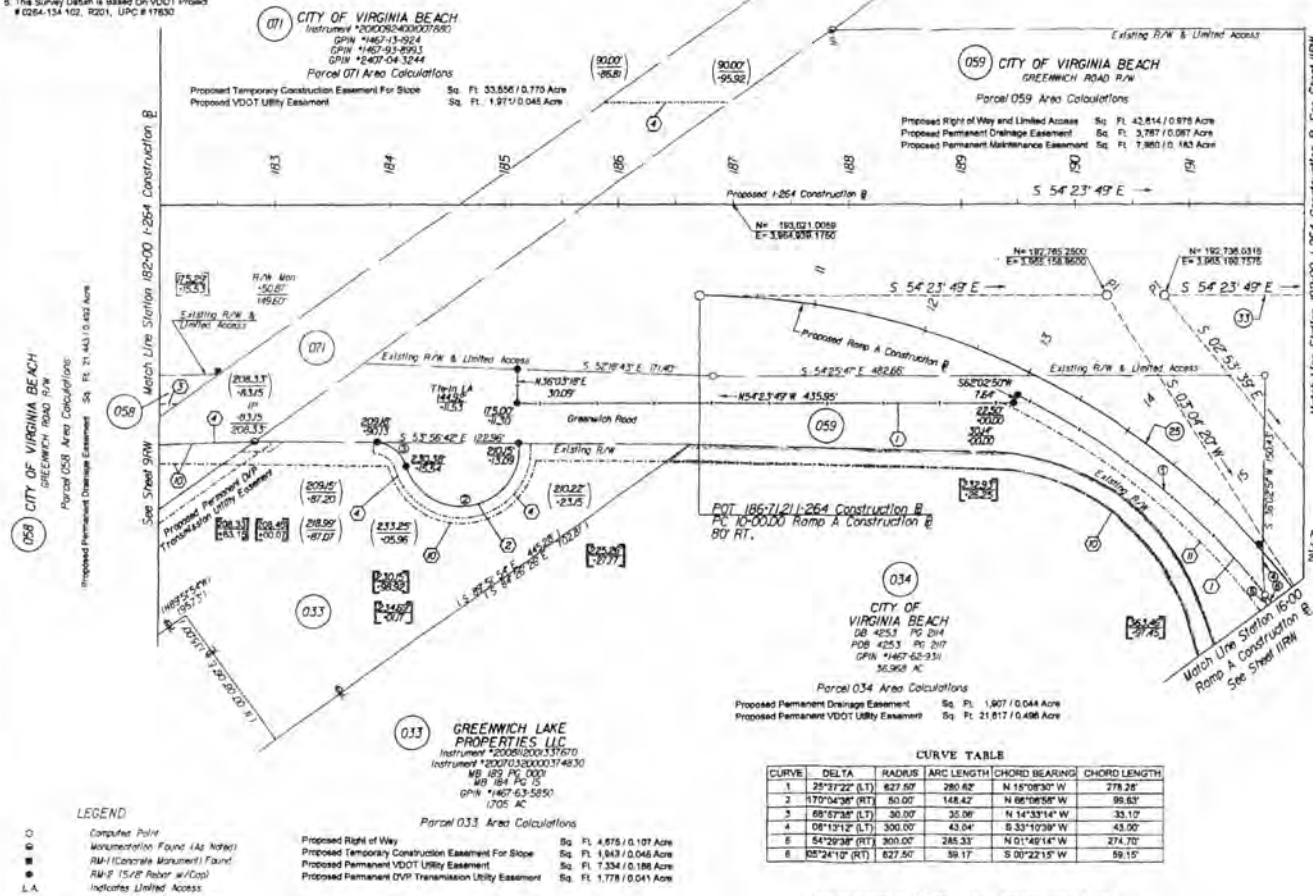
RIGHT OF WAY PLAN SHEET SHOWING PROPERTY FOR COMMONWEALTH OF VIRGINIA

City Of Virginia Beach, Virginia
Scale: 1" = 50'
Surveyed By: R. Dean Minnix, L.S.
June 5, 2015

12/6/16
BL 19
PG 40 E



REVISED	DATE	BY	REASON	SHEET NO.
04/14/2016	05/04/2016	VA	0264-134-102, RW-201, C-SOI-B-602	10RW



- 25** Ramp A Construction @
PI = 0356.38
DELTA = 57° 28' 09" (RT)
D = 8' 48" 5.3
T = 356.38
L = 659.97
R = 650.00
PC = 1200.00
PCC = 165.97
- 31** Loop B Construction @
PI = 0376.75
DELTA = 128° 25' 52" (RT)
D = 25' 87" 5.3
T = 486.44
L = 504.64
R = 225.00
PC = 1714.53
PCC = 2214.82

LINE LEGEND

- DENOTES PERMANENT EASEMENTS
- DENOTES TEMPORARY EASEMENTS
- DENOTES EXISTING MONUMENTATION AS NOTED
- ① DENOTES PROPOSED R/W & LIMITED ACCESS
- ② DENOTES PROPOSED R/W
- ③ DENOTES PROPOSED PERMANENT DRAINAGE EASEMENT
- ④ DENOTES PROPOSED TEMPORARY CONSTRUCTION EASEMENT FOR SLOPES
- ⑤ DENOTES PROPOSED TEMPORARY CONSTRUCTION EASEMENT FOR ENTRANCES
- ⑥ DENOTES PROPOSED VARIABLE WIDTH PERMANENT SIDEWALK EASEMENT
- ⑦ DENOTES PROPOSED VARIABLE WIDTH PERMANENT STANDARD UTILITY EASEMENT REQUIRED FOR VIRGINIA VIRGINIA LLC
- ⑧ PROPOSED 1' NO IMPRESS/EGRESS EASEMENT
- ⑨ DENOTES PROPOSED VARIABLE WIDTH PERMANENT STANDARD UTILITY EASEMENT REQUIRED FOR VIRGINIA VIRGINIA LLC
- ⑩ DENOTES PROPOSED VARIABLE WIDTH PERMANENT STANDARD VDOT UTILITY EASEMENT
- ⑪ DENOTES PROPOSED PERMANENT MAINTENANCE EASEMENT FOR RETAINING WALL

CURVE TABLE

CURVE	DELTA	RADIUS	ARC LENGTH	CHORD BEARING	CHORD LENGTH
1	25° 21' 22" (LT)	627.50'	280.82'	N 15° 08' 30" W	278.28'
2	170° 04' 38" (RT)	50.00'	148.42'	N 86° 08' 58" W	98.63'
3	68° 57' 38" (LT)	30.00'	35.06'	N 14° 33' 14" W	33.10'
4	08° 13' 12" (LT)	300.00'	43.04'	S 53° 10' 38" W	43.00'
5	54° 29' 38" (RT)	300.00'	348.33'	N 01° 46' 14" W	274.70'
6	08° 24' 12" (RT)	627.50'	39.17'	S 90° 22' 15" W	59.15'

NOTES: All Stations And Offsets Are From The Construction Baseline.
Bearings And Distances In Parenthesis Are Record Data.



SCALE: 1" = 50'
PROJECT: 0264-134-102
SHEET NO: 10RW

Lamp B Const. @
 P1 = 15-07.20
 DELTA = 32 12" 146" 197"
 D = 12' 43" 57"
 T = 129.30'
 L = 252.92'
 R = 450.00'
 PCC = 14-51.30
 PCC = 17-10.11
 E = 5.402'
 Lf = 39' (MS FULL TRANS.)
 V = 25 mph
 TC = 5.11 R

33
 Loop B Const. @
 P1 = 217675
 DELTA = 128 25' 43.58" (177)
 D = 25' 27" 5.3"
 T = 466.44
 L = 504.61
 R = 225.00
 MCC = 17-10.31
 PT = 22-14.92
 E = 7.20X
 Lr = 45' 155' FULL TRANS.
 V = 25 mph
 TC = 5.11

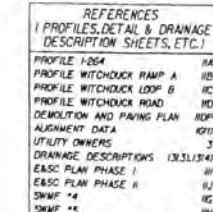
25
 Pump A Const. #
 $P_1 = 13.56.30$
 $\Delta T = 57.28^\circ \text{C}$
 $D = 8.48.53$
 $T = 356.38$
 $L = 651.97$
 $A = 650.00$
 $PC = 1000.00$
 $PAC = 16.51.97$
 $E = 0.00\%$
 $Lr = 209$
 $V = 45 \text{ mph}$

(26)
 Romp A Const. 8
 PI = 2079.77
 DELTA = 66 42' 06.96" LT
 D = 8 48' 5.3"
 T = 427.80
 L = 756.77
 R = 650.00
 ARC = 18.5137
 WT = 24.08.68
 E = 8.00%
 Lr = 209

	
Kinney Horn and Associates, Inc. Virginia Beach, Virginia Hydraulic Engineer	Kinney Horn and Associates, Inc. Virginia Beach, Virginia Hydraulic Engineer

DESIGN FEATURES RELATING TO CONSTRUCTION
OF TO REGULATION AND CONTROL OF TRAFFIC
MAY BE SUBJECT TO CHANGE AS DEEMED
NECESSARY BY THE DEPARTMENT.

DESIGN FEATURES RELATING TO CONSTRUCTION
OR TO REGULATION AND CONTROL OF TRAFFIC
MAY BE SUBJECT TO CHANGE AS DEEMED
NECESSARY BY THE DEPARTMENT.



SHEET
FOR PLAN CLARITY, ITEMS TO BE DEMOLISHED, ABANDONED, RELOCATED OR REMOVED ARE LOCATED ON SHEET NO. SHEET WITH ALL DIMENSIONS, THE LIMITS OF PAVEMENT DEMOLITION, MILLING AND OVERLAY, AND FULL DEPTH PAVEMENT CONSTRUCTION.

2. REPLACE "CLOSED" WITH "NO TRESPASSING" SIGN OR CABLE BARRIERS, 40" X 84" SIGN SIZE TO BE 32" X 9".

LEGEND

- DEMOTES CONSTRUCTION LIMITS IN CURB
- F— DEMOTES CONSTRUCTION LIMITS IN FILL
- DEMOTES PERMANENT EASEMENTS

PROJECT: MANHATTAN DRIVE, 2014, 10/15/2014, 10/15/2014, 10/15/2014
 SURVEYED BY: DAYE, ROBERT, 10/15/2014, 10/15/2014, 10/15/2014, 10/15/2014
 DESIGN BY: DAYE, ROBERT, 10/15/2014, 10/15/2014, 10/15/2014, 10/15/2014
 SUBSURFACE UTILITY BY: DATE 2014, 10/15/2014, 10/15/2014, 10/15/2014

12/6/16
 BK 19 PG 40H

LEGEND

1 DENOTES PROP. R/W & LIMITED ACCESS

2 DENOTES PROP. PERMANENT DRAINAGE EASEMENT

3 DENOTES TEMPORARY CONST. EASEMENT FOR SLOPES

4 DENOTES TEMPORARY CONST. EASEMENT FOR ENTRANCES

5 DENOTES PROPOSED PERMANENT SIDEWALK EASEMENT

6 DENOTES VARIABLE WIDTH PERMANENT STANDARD UTILITY EASEMENT REQUIRED FOR VERITON VIRGINIA LLC

7 DENOTES VARIABLE WIDTH PERMANENT STANDARD UTILITY EASEMENT REQUIRED

8 PROP. 10% INGRESS/EGRESS EASEMENT

9 DENOTES VARIABLE WIDTH PERMANENT STANDARD UTILITY EASEMENT REQUIRED

10 DENOTES VARIABLE WIDTH PERMANENT STANDARD UTILITY EASEMENT REQUIRED

LIMITED ACCESS HIGHWAY

STATE OF VIRGINIA

DEPARTMENT OF TRANSPORTATION

DESIGN FEATURES RELATING TO CONSTRUCTION OR TO REGULATION AND CONTROL OF TRAFFIC MAY BE SUBJECT TO CHANGE AS DEEMED NECESSARY BY THE DEPARTMENT

LEGEND

1 STD. 00-5 RECD.

2 STD. 00-3 RECD.

3 STD. 00-1 RECD.

4 STD. 00-1 RECD.

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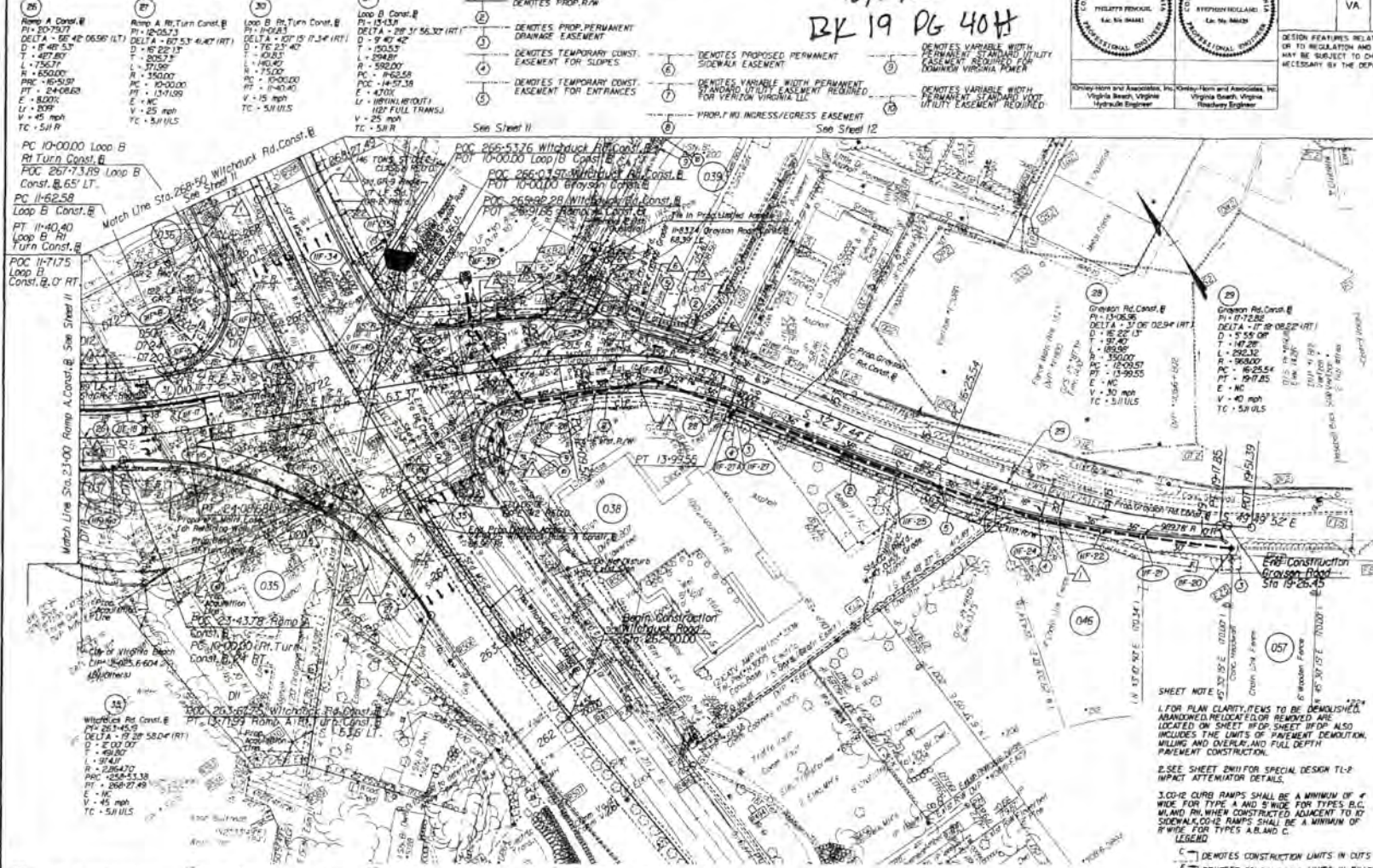
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035 CAP WITCHDOCK, LLC
 INSTR# 201227700-65290
 PG 17 PG 41
 OPIN# 1467-10-6647
 0.71% AC

036 S/21 GREENWICH ROAD, LLC
 INSTR# 200702000006900
 PG 30 PG 30
 OPIN# 1467-10-5465
 0.828% AC

037 GREENWICH CENTER, LLC
 INSTR# 201032200038030
 PG 16 PG 43
 OPIN# 1467-12-4756
 OPIN# 1467-12-5742
 TOTAL AC 0.771

038 VIRGINIA BEACH FREE
 WILL BAPTIST CHURCH, INC.
 INSTR# 200904000046240
 INSTR# 200800000053390 (PLAT)
 PG 205 PG 47
 OPIN# 1467-12-5262
 0.283% AC

039 THE SMILE CENTER, LLC
 INSTR# 2012055007603
 PG 28 PG 430
 OPIN# 1467-10-1571
 0.9552% AC

040 KENNETH H. LOK AND
 ANNA L. LOK
 O.B. 804 PG 450
 O.B. 600 PG 452
 PG 54 PG 15
 INSTR# 1467020300000
 OPIN# 1467-10-50003
 37.858% AC

057 ADDISON KREMEN,
 FAVEL KREMEN,
 and STELLA KREMEN
 INSTR# 201306400003390
 PG 1467-10-3890
 OPIN# 1467-10-3890
 15.5302% AC

REFERENCES
 (PROFILES, DETAIL & DRAINAGE
 DESCRIPTION SHEETS, ETC.)

PROFILE WITCHDOCK RAMP A
 PG 18

PROFILE WITCHDOCK LOOP B
 PG 19

PROFILE WITCHDOCK LOOP C
 PG 20

PROFILE WITCHDOCK ROAD
 PG 21

PROFILE GRAYSON ROAD
 PG 22

ALIGNMENT DATA
 PG 23

UTILITY OWNERS
 PG 24

DRAINAGE DESCRIPTIONS
 PG 25

ENTRANCE PROFILES
 PG 26

EASC PLAN PHASE I
 PG 27

EASC PLAN PHASE II
 PG 28

0264-134-102
 PG 11F

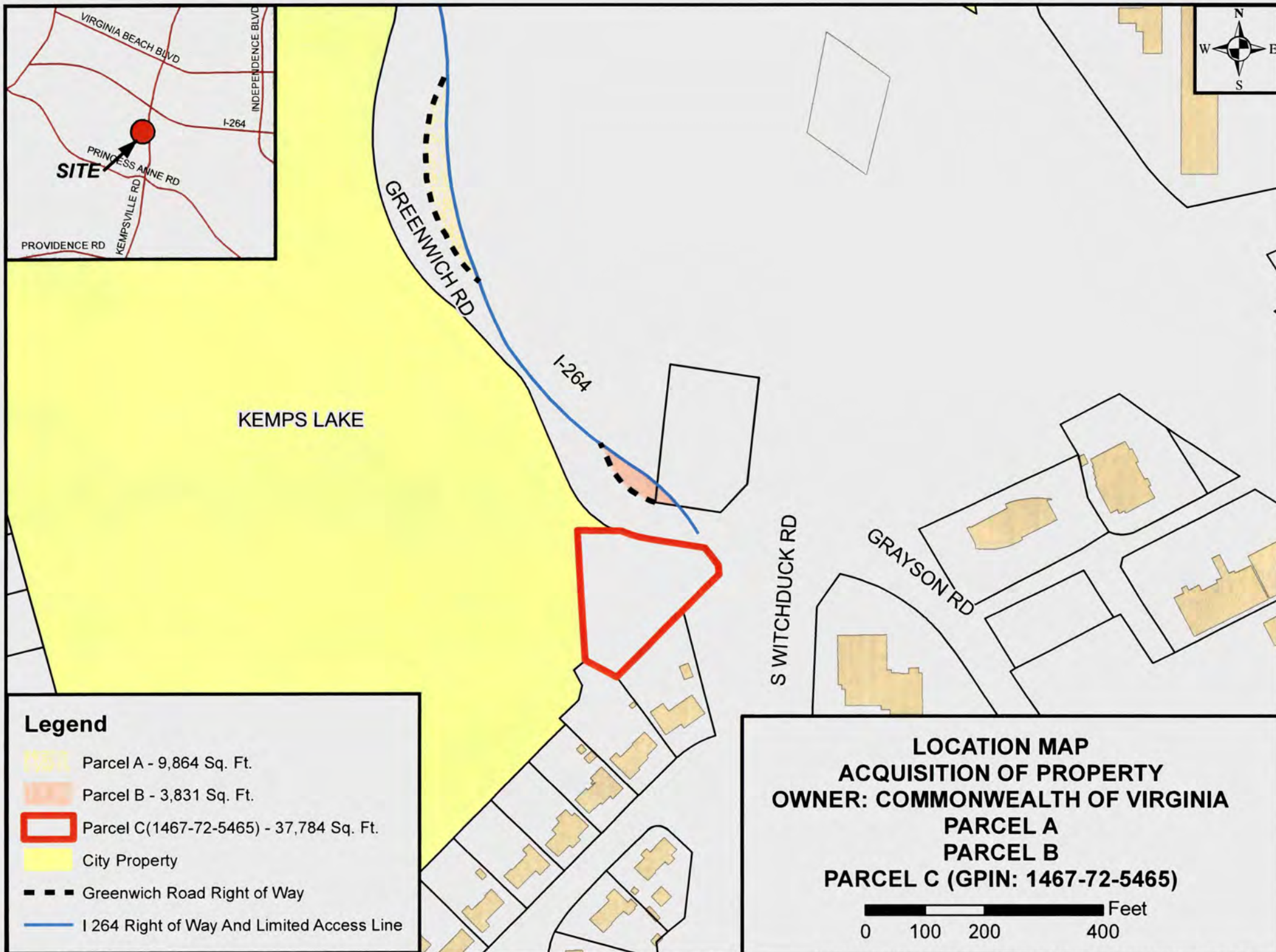
NOTE: All Stoppers And Offsets Are From The Construction Boarding
Beelings And Distances In Forests Are Record Data

LIMITED ACCESS HIGHWAY By Resolution of Commonwealth Transportation Board dated October 15, 2014

PROJECT 0264-134-102	SHEET NO. 11FRW(2)
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PROJECT 0264-134-102	SHEET NO. 11FRW(2)
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NOTE: All Stations And Offsets Are From The Construction Baseline
Elevations And Distances In Parenthesis Are Record Data





CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: A Resolution to Approve a Settlement Agreement with The Adventure Park at Virginia Beach, LLC, Regarding Unauthorized Tree Removal and to Appropriate the First Installment Payment

MEETING DATE: March 19, 2024

Background: The Adventure Park at Virginia Beach, LLC, ("Tenant") leases certain City property under the control of the Virginia Aquarium and Marine Science Foundation. In preparing the leased property for improvements to create Phase II of the Adventure Park, the Tenant prematurely and without obtaining the necessary approvals and permits retained a contractor to remove trees from the leased property.

The City and the Tenant have come to a proposed settlement that is generally as follows:

- a. Tenant to plant 175 new trees on the parcel where Phase II of the Adventure Park will be located; and
- b. Tenant to pay the City \$86,355 over four installments to allow the City to further mitigate the tree loss with offsite tree planting.

Considerations: The resolution attached hereto allows for the settlement of the City's property damage claims related to the unauthorized tree removal. The mitigation activities will include both onsite tree restoration (175 new trees) and offsite tree planting through the payment of \$86,355. The first installment (\$15,000) is to be paid in the current fiscal year, so the resolution appropriates this installment. The three additional installments will be due July 1, 2024 (\$20,000), July 1, 2025 (\$25,000), and July 1, 2026 (\$26,355).

Public Information: Normal Council Agenda process.

Recommendation: Approval of the attached resolution.

Attachments: Resolution; Disclosure Form

Recommended Action: Approval

Submitting Department/Agency: Virginia Aquarium / City Attorney

City Manager: 

1 A RESOLUTION TO APPROVE A SETTLEMENT
2 AGREEMENT WITH THE ADVENTURE PARK AT
3 VIRGINIA BEACH, LLC, REGARDING
4 UNAUTHORIZED TREE REMOVAL AND TO
5 APPROPRIATE THE FIRST INSTALLMENT PAYMENT
6

7 WHEREAS, The Adventure Park at Virginia Beach, LLC, ("Tenant") leases certain
8 City property under the control of the Virginia Aquarium and Marine Science Foundation;
9

10 WHEREAS, in preparing the leased property for improvements to create Phase II
11 of the Adventure Park, the Tenant prematurely and without obtaining the necessary
12 approvals and permits retained a contractor to remove trees from the leased property;
13

14 WHEREAS, the City and the Tenant have come to a proposed settlement that is
15 generally as follows:
16

- 17 a. Tenant to plant 175 new trees on the parcel where Phase II of the Adventure
18 Park will be located; and
19
20 b. Tenant to pay the City \$86,355 over four installments to allow the City to further
21 mitigate the tree loss with offsite tree planting.
22

23 WHEREAS, based upon the negotiated settlement, the parties desire and intend
24 to resolve and settle all claims by and between them;
25

26 NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF
27 VIRGINIA BEACH, VIRGINIA:
28

29 That the City Council hereby approves a settlement agreement consistent with the
30 terms recited above.
31

32 BE IT FURTHER RESOLVED, THAT:
33

34 The City Manager and the City Attorney are hereby authorized and directed to
35 undertake any action consistent with the Council's approval of such settlement
36 agreement.
37


38 BE IT FURTHER RESOLVED, THAT:
39

40 For the installment due in the current fiscal year, \$15,000 is hereby appropriated
41 to the Tree Mitigation Fund in the Department of Parks and Recreation.

Adopted by the Council of the City of Virginia Beach, Virginia on the ____ day of
_____, 2024.

Requires an affirmative vote by a majority of all of the members of the City Council.

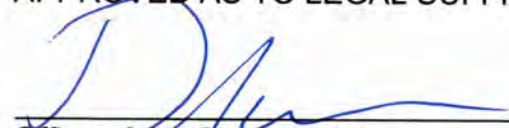
APPROVED AS TO CONTENT:



Budget and Management Services

CA16457
R-1
March 7, 2024

APPROVED AS TO LEGAL SUFFICIENCY:



Office of the City Attorney

DISCLOSURE STATEMENT FORM

The completion and submission of this form is required for all applications wherein such applicant may utilize certain service providers or financial institutions, and the City seeks to know of the existence of such relationships in advance of any vote upon such application.

SECTION 1 / APPLICANT DISCLOSURE

Organization name: The Adventure Park at Virginia Beach, LLC, a Virginia limited liability company

SECTION 2. SERVICES DISCLOSURE


Are any of the following services being provided in connection with the applicant? If the answer to any item is YES, please identify the firm or individual providing the service:

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	Morain Bakarich CPAs 2801 Youngfield St, Suite 370 Golden, CO. 80401
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Financial Services (include lending/banking institutions and current mortgage holders as applicable)	Madison One Lender Services, LLC 9375 E. Shea Blvd, Suite 100 Scottsdale, AZ. 85260
X	<input type="checkbox"/>	Legal Services	R. Edward Bourdon, Jr., Esq., Sykes, Bourdon, Ahern & Levy, P.C.
<input type="checkbox"/>	X	Broker/Contractor/Engineer/Other Service Providers	Billy Almond, WPL

CERTIFICATION:

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand I am responsible for updating the information provided herein if it changes prior to the Council action upon this Application.

	Bahman Azarm, Manager	03/07/2024
APPLICANT'S SIGNATURE	PRINT NAME	DATE



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance to 1) authorize acquisition of (a) 7.1± acres of land located at the intersection of Wolfsnare Road and Great Neck Road (GPINs: 2407-09-6257, 2407-09-2464, 2407-09-4435, 2407-09-5412); (b) 0.18± acres of land located at Half Place (GPIN: 2407-19-4539); and (c) 0.17± acres of land located at the intersection of Chadwick Drive and Cambridge Drive (GPIN: 2407-19-8383) from Lynnhaven Area Properties, LLC and Washington Square Townhouses, LLC; and 2) authorize the City Manager to execute all necessary documents for the acquisition and the settlement of pending litigation

MEETING DATE: March 19, 2024

■ **Background:** Lynnhaven Area Properties, LLC and Washington Square Townhouses, LLC (collectively, the "Seller") are related entities that own four parcels of land at the intersection of Wolfsnare Road and Great Neck Road, comprising approximately 7.1 acres (GPINs: 2407-09-6257, 2407-09-2464, 2407-09-4435, 2407-09-5412), as shown on the attached plat (the "Park Parcels"). The largest tract (GPIN: 2407-09-6257) is the subject of litigation concerning an appeal of the Board of Zoning Appeals and the Seller's contention that it has a right to develop the parcel with residential use, which the City disputes. That case is styled *In Re: February 5, 2020 Decision of the Board of Zoning Appeals of the City of Virginia Beach, Virginia*, Case No. CL20-2108 (the "Litigation").

As part of a comprehensive acquisition and settlement agreement (the "Settlement Agreement"), which includes dismissal of the Litigation, Seller proposes to sell the Park Parcels to the City. The purchase of the Park Parcels will fill a need for public park space in this community by providing public outdoor recreational opportunities within a ten-minute walk time to adjacent residents.

Seller will retain an easement for an existing sign, which advertises the adjacent townhouses, on the parcel closest to the intersection (GPIN: 2407-09-2464). Existing restrictions on the sign will not be affected by the Settlement Agreement or the sale of the Park Parcels.

Additionally, as a part of the Settlement Agreement, Seller, in its capacity as Washington Square Townhouses, LLC, will convey to the City two interior vacant parcels in the Washington Square subdivision: (1) 0.18± acres of land at Half Place; and (2) 0.17± acres of land at the intersection of Chadwick Drive and Cambridge Drive, as shown on the attached plats (collectively, the "Lots").

■ **Considerations:** The proposed purchase price for the Park Parcels and the Lots is \$1,500,000 and is recommended to be funded from the Open Space Acquisition IV Project, CIP 100641. The purchase resolves the Litigation and provides an opportunity to preserve green space and to provide a recreational amenity for the community. The Open Space Advisory Committee supports the City's acquisition of these parcels.

Future park improvements on the acquired properties will depend on the allocation of funds in future budget cycles.

■ **Public Information:** Public notice via the normal City Council agenda process.

■ **Alternatives:** Deny the request to acquire the properties as part of the Settlement Agreement and continue with the Litigation.

■ **Recommendations:** Approve the request subject to the terms and conditions set forth in the attached Summary of Terms and the Settlement Agreement entitled "Settlement and Release and Agreement for Purchase," which is an exhibit to the Summary of Terms.

■ **Attachments:** Ordinance, Summary of Terms, Disclosure Statement Form, Plats and Location Map.

Recommended Action: Approval

Submitting Department/Agency: PW/Real Estate

City Manager:



1 AN ORDINANCE TO 1) AUTHORIZE ACQUISITION
2 OF (A) 7.1± ACRES OF LAND LOCATED AT THE
3 INTERSECTION OF WOLFSNARE ROAD AND
4 GREAT NECK ROAD (GPINS: 2407-09-6257, 2407-
5 09-2464, 2407-09-4435, 2407-09-5412); (B) 0.18±
6 ACRES OF LAND LOCATED AT HALF PLACE
7 (GPIN: 2407-19-4539); AND (C) 0.17± ACRES OF
8 LAND LOCATED AT THE INTERSECTION OF
9 CHADWICK DRIVE AND CAMBRIDGE DRIVE
10 (GPIN: 2407-19-8383) FROM LYNNHAVEN AREA
11 PROPERTIES, LLC AND WASHINGTON SQUARE
12 TOWNHOUSES, LLC; AND 2) AUTHORIZE THE
13 CITY MANAGER TO EXECUTE ALL NECESSARY
14 DOCUMENTS FOR THE ACQUISITION AND THE
15 SETTLEMENT OF PENDING LITIGATION
16

17 WHEREAS, Lynnhaven Area Properties, LLC and Washington Square Townhouses,
18 LLC (collectively, the "Seller") are related entities that own four parcels of land located at
19 the intersection of Wolfsnare Road and Great Neck Road and comprising 7.1± acres as
20 further described on Exhibit A, attached hereto and incorporated herein (the "Park
21 Parcels");
22

23 WHEREAS, Seller, in its capacity as Washington Square Townhouses, LLC, owns
24 two vacant parcels in the Washington Square subdivision: (1) 0.18± acres of land at Half
25 Place; and (2) 0.17± acres of land at the intersection of Chadwick Drive and Cambridge
26 Drive, as further described on Exhibit A (the "Lots");
27

28 WHEREAS, Seller initiated litigation against the City concerning the development
29 potential of one of the Park Parcels (the "Litigation");
30

31 WHEREAS, as part of a proposed resolution of the Litigation, Seller will convey the
32 Park Parcels and the Lots to the City (collectively, the Park Parcels and the Lots are
33 referenced herein as the "Properties");
34

35 WHEREAS, the Parties have agreed to the terms of a "Settlement and Release and
36 Agreement for Purchase" (the "Settlement Agreement"), which includes Seller conveying
37 the Properties to the City for \$1,500,000, in accordance with the Summary of Terms
38 attached hereto as Exhibit B and incorporated herein;
39

40 WHEREAS, the purchase of the Properties will provide public outdoor recreational
41 opportunities and park space within a ten-minute walk time to adjacent residents;
42

43 WHEREAS, funding for the acquisition is available in Open Space Acquisition IV
44 Project, CIP 100641; and
45

46 WHEREAS, the Open Space Advisory Committee supports the City's acquisition of
47 the Properties; and

48 WHEREAS, the City Council finds that it is in the best interests of the City to acquire
49 the Properties and to take other action in accordance with the Settlement Agreement.
50

51 BE IT ORDAINED BY THE COUNCIL OF THE CITY OF VIRGINIA BEACH,
52 VIRGINIA:
53

54 1. That the City Council authorizes the acquisition of the Properties described on
55 Exhibit A.
56

57 2. That the City Manager or his designee is further authorized to execute all
58 documents that may be necessary or appropriate in connection with the purchase of the
59 Properties and the settlement of the Litigation, in accordance with the Summary of Terms
60 attached hereto as Exhibit B, and including such other terms, conditions and modifications
61 as may be acceptable to the City Manager and in a form deemed satisfactory by the City
62 Attorney.
63

64 Adopted by the Council of the City of Virginia Beach, Virginia, on the ____ day
65 of _____, 2024.
66

67 CA15203

R-1

PREPARED: 2/29/24

APPROVED AS TO CONTENT:


PUBLIC WORKS, REAL ESTATE

APPROVED AS TO CONTENT:


PARK AND RECREATION

APPROVED AS TO AVAILABILITY
OF FUNDS:


FINANCE

APPROVED AS TO LEGAL
SUFFICIENCY AND FORM:


CITY ATTORNEY

EXHIBIT "A"

Legal Description

Parcel 1, Parcel 5, and Parcel 6 are owned by Washington Square Townhouses, LLC.

Parcel 2 and Parcel 3 are owned by Lynnhaven Area Properties, LLC..

Parcel 4 is owned by both Lynnhaven Area Properties, LLC and Washington Square Townhouses, LLC as a result of a street closure.

Parcel 1 (GPIN: 2407-09-6257):

ALL THAT certain lot, piece and parcel of land, together with the improvements thereunto belonging, lying, being and situate in the City of Virginia Beach, Virginia and being known, designated and described as "now or formerly Lynnhaven Building Supply (D.B. 823, P. 492) GPIN 2407-09-6257" as shown on that certain plat entitled, "PLAT SHOWING A PORTION OF OLD WOLFSNARE ROAD TO BE CLOSED AND VACATED BY THE CITY OF VIRGINIA BEACH, VIRGINIA LYNNHAVEN BOROUGH - VIRGINIA BEACH, VIRGINIA" Scale: 1"= 40', dated February 27, 1981, prepared by Rouse- Sirine Associates, Ltd., which was recorded in the Clerk's Office of the Circuit Court of the City of Virginia Beach as Instrument Number 201600016543, to which reference is made for a more particular description.

Parcel 2 (GPIN: 2407-09-2464):

ALL THAT certain lot, piece and parcel of land, together with the improvements thereunto belonging, lying, being and situate in the City of Virginia Beach, Virginia and being known, designated and described as "NOW OR FORMERLY F. WAYNE MCLESKEY, JR. (D.B. 1486, P. 203)" as shown on that certain plat entitled, "PLAT SHOWING A PORTION OF OLD WOLFSNARE ROAD TO BE CLOSED AND VACATED BY THE CITY OF VIRGINIA BEACH, VIRGINIA LYNNHAVEN BOROUGH - VIRGINIA BEACH, VIRGINIA" Scale: 1"= 40', dated February 27, 1981, prepared by Rouse - Sirine Associates, Ltd., which was recorded in the Clerk's Office of the Circuit Court of the City of Virginia Beach as Instrument Number 201600016543, to which reference is made for a more particular description.
Description.

RESERVING UNTO THE LANDOWNER, its successors and assigns, an approximately 1,565 square foot sign, access, and maintenance easement, together with improvements thereon, in the location more particularly described as "VARIABLE WIDTH SIGN ACCESS AND MAINTENANCE EASEMENT AREA= 1,565 S.F. OR 0.03593 AC (SEE NOTE 6)," (collectively, the "Easement") on the plat entitled "PLAT SHOWING PROPERTY TO BE ACQUIRED TRACTS A, B, C & D FROM LYNNHAVEN AREA PROPERTIES BY CITY OF

VIRGINIA BEACH," and dated March 8, 2023. The following terms apply to the Easement: (1) the Easement shall allow the Landowner to own, maintain, and repair that certain existing wooden sign (the "Sign") located on the Easement; (2) the Sign is and shall remain subject to all applicable state, federal and local laws, ordinances, permits, variances, or regulations; (3) Landowner shall bear all liability and responsibility for the sign and shall maintain it in a manner that it does not become unsightly or a hazard; and (4) in the event of any casualty or other damage or destruction to all or any portion of the Sign, and provided that Landowner can obtain approvals to rebuild or replace the nonconforming Sign pursuant to applicable state, federal, and local laws, ordinances, permits, variances, or regulations, including but not limited to, approval(s) from the Virginia Beach City Council, Landowner shall have the right to rebuild and replace the Sign.

Parcel 3 (GPIN: 2407-09-4435):

ALL THAT certain lot, piece and parcel of land, together with the improvements thereunto belonging, lying, being and situate in the City of Virginia Beach, Virginia and being known, designated and described as "LOT 4 SUBDIVISION OF PROPERTY OF ALLEN E. PERREL (M.B. 110, P. 48) NOW OR FORMERLY F. WAYNE MCLESKEY, JR. (D.B. 1623, P. 744) GPIN 2407-09-4435" as shown on that certain plat entitled, "PLAT SHOWING A PORTION OF OLD WOLFSNARE ROAD TO BE CLOSED AND VACATED BY THE CITY OF VIRGINIA BEACH, VIRGINIA LYNNHAVEN BOROUGH - VIRGINIA BEACH, VIRGINIA" Scale: 1"= 40', dated February 27, 1981, prepared by Rouse- Sirine Associates, Ltd., which was recorded in the Clerk's Office of the Circuit Court of the City of Virginia Beach as Instrument Number 201600016543, to which reference is made for a more particular description.

Parcel 4 (GPIN: 2407-09-5412):

ALL THAT certain lot, piece and parcel of land, together with the improvements thereunto belonging, lying, being and situate in the City of Virginia Beach, Virginia and being known, designated and described as "OLD WOLFSNARE ROAD TO BE CLOSED AND VACATED AREA - 19,365 SQUARE FEET (INCLUDING PERMANENT DRAINAGE EASEMENT) GPIN 2407-09-5412" as shown on that certain plat entitled, "PLAT SHOWING A PORTION OF OLD WOLFSNARE ROAD TO BE CLOSED AND VACATED BY THE CITY OF VIRGINIA BEACH, VIRGINIA LYNNHAVEN BOROUGH - VIRGINIA BEACH, VIRGINIA" Scale: 1"= 40', dated February 27, 1981, prepared by Rouse - Sirine Associates, Ltd., which was recorded in the Clerk's Office of the Circuit Court of the City of Virginia Beach as Instrument Number 201600016543, to which reference is made for a more particular description.

Parcel 5 (GPIN: 2407-19-4539):

ALL THAT certain lot, piece and parcel of land, together with the improvements thereunto belonging, lying, being and situate in the City of Virginia Beach, Virginia and being known, designated and described as "PARCEL A" as shown on that certain plat entitled, "PLAT OF

SUBDIVISION OF WASHINGTON SQUARE BLOCKS D, F & G SECTION I L YNNHAVEN BOROUGH VIRGINIA BEACH, VIRGINIA," Scale: 1"= 100', dated March 9, 1971, prepared by Talbot, Wermers, and Standing, Ltd., which was recorded in the Clerk's Office of the Circuit Court of the City of Virginia Beach in Map Book 86, at page 17, to which reference is made for a more particular description.

Parcel 6 (GPIN: 2407-19-8383):

ALL THAT certain lot, piece and parcel of land, together with the improvements thereunto belonging, lying, being and situate in the City of Virginia Beach, Virginia and being known, designated and described as "PARCEL 'B' AREA= 0.174 ACRES" as shown on that certain plat entitled, "PLAT OF SUBDIVISION OF WASHINGTON SQUARE BLOCKS I, J & K SECTION 2 LYNNHAVEN BOROUGH VA. BEACH, VA," Scale: 1" = 50', dated December 29, 1971, prepared by Talbot, Wermers, and Standing, Ltd., which was recorded in the Clerk's Office of the Circuit court of the City of Virginia Beach in Map Book 93, at page 16, to which reference is made for a more particular description.

AS TO PARCEL 2, PARCEL 3, AND PARCEL 4 ABOVE, TOGETHER WITH all right, title and interest of Lynnhaven Area Properties, LLC, if any, in and to any and all easements, rights of way, private roads and other rights of access, ingress and/or egress adjacent to, appurtenant to or in any way benefiting the above-described parcels.

AS TO PARCEL 1, PARCEL 4, PARCEL 5 AND PARCEL 6, TOGETHER WITH all right, title and interest of Washington Square Townhouses, LLC, if any, in and to any and all easements, rights of way, private roads and other rights of access, ingress and/or egress adjacent to, appurtenant to or in any way benefiting the above-described parcels.

EXHIBIT "B"

SUMMARY OF TERMS OF SETTLEMENT AND AGREEMENT FOR PURCHASE

PARTIES:	Lynnhaven Area Properties, LLC and Washington Square Townhouses, LLC (collectively, "Seller") City of Virginia Beach ("City")
PROPERTIES:	Approximately 7.1 acres of land located at the intersection of Wolfsnare Road and Great Neck Road (GPINs: 2407-09-6257, 2407-09-2464, 2407-09-4435, 2407-09-5412); and Two parcels of land in the Washington Square subdivision: (1) 0.18 acres of land located at Half Place (GPIN: 2407-19-4539); and (2) 0.17± acres of land located at the intersection of Chadwick Drive and Cambridge Drive (GPIN: 2407-19-8383)
CONSIDERATION:	\$1,500,000 and settlement of pending litigation
SOURCE OF FUNDS:	Open Space Acquisition IV Project, CIP 100641

ADDITIONAL TERMS:

The Parties shall execute and abide by the terms contained in the Settlement and Release and Agreement for Purchase ("Settlement Agreement"), delivered to the City Attorney's Office on February 28, 2024, a copy of which is attached hereto as Attachment B-1 and incorporated herein, and confirm the satisfaction of all contingencies stated in the Settlement Agreement prior to closing.

Pertinent terms of the Settlement Agreement include:

- City shall have a sixty (60) day study period.
- Properties must be conveyed free and clear of all liens, leases, and tenancies and rights of possession of any and all parties other than the City.
- Settlement will be within 90 days of full execution of the Settlement Agreement, or as soon thereafter as is practicable.
- City shall bear the costs of preparation of closing documents and acquisition plats. Seller shall pay its own attorney's fees and costs, if any.
- Seller reserves an easement for an existing sign on the parcel with GPIN 2407-09-2464. Existing restrictions as to the sign will not be affected by the Settlement Agreement or the conveyance of the Properties.

- Within three (3) business days of closing, the Parties shall submit an Agreed Order of Dismissal, with prejudice, for the pending litigation.



Properties at Wolfsnare Road and Great Neck Road
Open Space & Park Infrastructure Development &
Maintenance II Project, CIP #100641

SETTLEMENT AND RELEASE AND AGREEMENT FOR PURCHASE

THIS SETTLEMENT AND RELEASE AND AGREEMENT FOR PURCHASE ("Agreement"), effective as of this ____ day of February, 2024, is entered into by and between LYNNHAVEN AREA PROPERTIES, LLC, a Virginia limited liability company, and its successors and assigns ("Lynnhaven"), and WASHINGTON SQUARE TOWNHOUSES, LLC, a Virginia limited liability company, and its successors and assigns ("Washington Square") (Lynnhaven and Washington Square are collectively, the "Seller"), and the CITY OF VIRGINIA BEACH, a municipal corporation of the Commonwealth of Virginia (the "City") (the Seller and the City are collectively referred to in this Agreement as, the "Parties," or individually as, a "Party").

RECITALS

1. Washington Square owns approximately 3.3 acres of real property situated near the intersection of Wolfsnare Road and Westminster Lane in Virginia Beach, Virginia, identified as Parcel 1 on **Exhibit A** attached hereto (GPIN: 2407-09-6257), and also shown as Tract "D" on Plat No. 1 (defined below) attached hereto as **Exhibit B** ("Parcel 1").
2. Lynnhaven believed that it was the owner of Parcel 1, and initiated a dispute with the City as to the development potential of Parcel 1, and such dispute resulted in an appeal filed by Lynnhaven against the Board of Zoning Appeals of the City of Virginia Beach under Case No. CL20-2018 in the Circuit Court of the City of Virginia Beach (the "Litigation").
3. Lynnhaven, Washington Square, and the City have agreed to a resolution of the Litigation to include:

- a. the City's purchase of Parcel 1 from Washington Square;
- b. the City's purchase of additional property in the vicinity of Parcel 1 and owned by Lynnhaven, to-wit:
 - i. that certain parcel of real property identified as Parcel 2 on **Exhibit A** attached hereto (GPIN: 2407-09-2464), and also shown as Tract "A" on Plat No. 1 attached hereto as **Exhibit B** ("Parcel 2"), subject to Lynnhaven reserving to itself, its successors and assigns, an approximately 1,565 square foot sign, access, and maintenance easement, in the location more particularly described as "VARIABLE WIDTH SIGN ACCESS & MAINTENANCE EASEMENT TO BE RESERVED, AREA = 1,565 SQ. FT. OR 0.03593 AC (SEE NOTE 6)" (collectively, the "Easement"), on the plat entitled "PLAT SHOWING PROPERTY TO BE ACQUIRED, TRACTS A, B, C & D FROM LYNNHAVEN AREA PROPERTIES, LLC, & WASHINGTON SQUARE TOWNHOUSES, LLC, BY CITY OF VIRGINIA BEACH FOR OPEN SPACE & PARK INFRASTRUCTURE DEVELOPMENT & MAINTENANCE II PROJECT, CIP 100289," and dated March 8, 2023, a copy of which is attached hereto as **Exhibit B** ("Plat No. 1"). The following terms apply to the Easement: (1) The Easement shall allow Lynnhaven to own, maintain, and repair that certain wooden sign (the "Sign") located on the Easement; (2) the Sign is and shall remain subject to all applicable state federal, and local laws, ordinances, permits, variances, or regulations; (3) Lynnhaven shall bear all liability and responsibility for the Sign and shall maintain it in a manner that it does not

become unsightly or a hazard; and (4) in the event of any casualty or other damage or destruction to all or any portion of the Sign, and provided that Lynnhaven can obtain approvals to rebuild or replace the nonconforming Sign pursuant to applicable state, federal, and local laws, ordinances, permits, variances, or regulations, including but not limited to, approval(s) from the Virginia Beach City Council, Lynnhaven shall have the right to rebuild and replace the Sign. The dimensions of the Easement are depicted on Plat No. 1 attached as **Exhibit B** hereto and made a part hereof. Notwithstanding the foregoing or anything herein to the contrary, in the event Lynnhaven desires to take any action following Closing (defined in Section 6 below) that requires governmental consent or approval with respect to the Sign and/or Parcel 2 (including without limitation, any application for rezoning of Parcel 2 and any proposed repair or replacement of the Sign beyond that allowed by right, if any, by virtue of the Sign's status as a lawful non-conforming use), the City, as the then owner of Parcel 2, on behalf of itself and any future owner of Parcel 2, agrees that it will promptly execute and deliver to Lynnhaven or other applicable party any application or similar documents required in connection with any such action or similar matter to allow for proper submission to the governmental entity in accordance with such governmental entity's requirements. Notwithstanding the foregoing, Lynnhaven acknowledges that the City's signature on such application or similar document does not and shall not

- indicate the City's approval or support of such matter before the appropriate governing body considering such action or matter.
- ii. that certain parcel of real property identified as Parcel 3 on Exhibit A attached hereto (GPIN: 2407-09-4435), and also shown Tract "B" on Plat No. 1 attached hereto as Exhibit B ("Parcel 3");
 - iii. Lynnhaven's interest in that certain parcel of real property identified as Parcel 4 on Exhibit A attached hereto (GPIN: 2407-09-5412), and also shown as Tract "C" on Plat No. 1 attached hereto as Exhibit B ("Parcel 4"), which is jointly owned with Washington Square (Parcel 2, Parcel 3, and Lynnhaven's interest in Parcel 4 are collectively, the "Lynnhaven Property"); and
- c. the City's purchase of additional property in the vicinity of Parcel 1 and owned by Washington Square, to-wit:
- i. Washington Square's interest in Parcel 4, which is jointly owned with Lynnhaven; and
 - ii. that certain parcel of real property identified as Parcel 5 on Exhibit A attached hereto (GPIN: 2407-19-4539), and also identified as Parcel "A" on that certain plat entitled "PLAT SHOWING PROPERTY TO BE ACQUIRED PARCEL A FROM WASHINGTON SQUARE TOWNHOUSES, LLC. BY CITY OF VIRGINIA BEACH FOR OPEN SPACE & PARK INFRASTRUCTURE DEVELOPMENT & MAINTENANCE II PROJECT, CIP 100289," dated March 8, 2023, and

revised April 20, 2023, a copy of which is attached hereto as Exhibit C (“Plat No. 2”) (“Parcel 5”); and

- iii. that certain parcel of real property identified as Parcel 6 on Exhibit A attached hereto (GPIN: 2407-19-8383), and also shown as Parcel “B” on that certain plat entitled “PLAT SHOWING PROPERTY TO BE ACQUIRED PARCEL B FROM WASHINGTON SQUARE TOWNHOUSES, LLC. BY CITY OF VIRGINIA BEACH FOR OPEN SPACE & PARK INFRASTRUCTURE DEVELOPMENT & MAINTENANCE II PROJECT, CIP 100289,” dated March 8, 2023, and revised April 20, 2023, a copy of which is attached hereto as Exhibit D (“Plat No. 3”) (“Parcel 6”) (Parcel 1, Washington Square’s interest in Parcel 4, Parcel 5, and Parcel 6 are collectively, the “Washington Square Property”) (hereinafter, the Lynnhaven Property and the Washington Square Property are collectively, the “Property”).

4. The Parties’ agreement to enter into this Agreement is made without prejudice and with no acknowledgement or admission of the validity of the other Party’s claims and defenses in the Litigation.
5. Subject to the terms and conditions of this Agreement, and contingent upon Closing the transaction as set forth herein, Lynnhaven, Washington Square, and the City have agreed to compromise and settle any and all past, present and future claims, actions, causes of action, suits, demands, rights, damages, liability, costs, losses of service, loss of access, loss of profits, attorneys’ fees, expenses and compensation whatsoever, which Lynnhaven,

Washington Square, or the City may have had, now has, or which may hereafter accrue on account of or in any way arising out of or any way related to the Litigation.

NOW THEREFORE, the parties covenant and agree, acknowledging the exchange of good and valuable consideration, as follows:

1. **Recitals Incorporated.** All recitals stated above are hereby incorporated as if fully restated herein.
2. **Release Related to the Litigation.**
 - a. Effective solely upon the Closing, Seller, for the consideration of payment of the Purchase Price (defined below) and other matters as set forth herein, does hereby and for its heirs, executors, administrators, successors and assigns, release, acquit and forever discharge the City, and its officers, employees, agents, servants, successors, heirs, executors, administrators and all other persons, firms, corporations, associations or partnerships ("Releasees"), from any and all liabilities, claims, breaches of contract, disputes, actions, causes of action, demands, rights, damages, costs, loss of service, loss of access, loss of profits, attorney fees, expenses and compensation whatsoever, which Lynnhaven and/or Washington Square may have had, now has, or which may hereafter accrue on account of or in any way arising out of or in any way related to the Litigation and/or Parcel 1 (the "Release"). The foregoing Release is expressly contingent upon the Closing of the transaction as contemplated by this Agreement. In the event this transaction does not close in accordance with its terms, the foregoing Release shall be null and void, and the Litigation shall continue as if this Agreement never occurred.
 - b. It is understood and agreed that this Agreement is the compromise of disputed claims and defenses, and that this Agreement is not to be construed as an admission of liability

or concession of a position taken in the Litigation by either Party, and that the City denies liability to Seller, and that Seller denies liability to the City; and this Agreement is intended by the Parties merely to avoid litigation, result in peace, and further the Parties' objectives in the exchange of real property.

- c. The Parties agree that no further action will be taken to pursue, defend, or otherwise expend resources (monetary or non-monetary) to pursue the Litigation while the transaction contemplated by this Agreement is pending.
 - d. Seller hereby declares and represents that it relies wholly upon its own judgment, belief and knowledge of the claims and defenses in the Litigation, and thus this Release is made without reliance upon any statement or representation of the Party or Parties hereby released or their representatives.
 - e. Seller further declares and represents that, except as otherwise set forth herein, no promise, inducement or agreement not herein expressed has been made to Seller and that the terms of the Release are contractual and not a mere recital.
 - f. No later than three (3) business days after Closing, the Parties agree to submit an agreed order of dismissal, with prejudice, for all claims and defenses raised in or related to the Litigation (the "Dismissal Order") in a form substantially similar to **Exhibit E** attached hereto and made a part hereof.
3. **Supplementary Documents.** All parties to this Agreement agree to execute any and all supplementary documents and to take all actions reasonably required to implement and to give full force and effect to the terms and intent of this Agreement, including (i) such documents necessary for the City to take proper title to the Property as described in this Agreement, (ii) a Dismissal Order submitted to the Circuit Court of the City of Virginia

Beach to dismiss the Litigation brought by Lynnhaven against the City with prejudice, and (iii) any application or similar document required in connection with any future action or similar matter requiring governmental consent or approval in connection with the Sign and/or Parcel 2 pursuant to Recital 3(b)(i) above.

4. **Binding Intent of Settlement and Release.** In executing this Agreement, all Parties assert and affirm that they understand and appreciate the terms of the Agreement and have communicated with legal counsel regarding their respective interest herein, and hereby enter into this Agreement knowingly, competently and of their own free will with the intent to be bound.
5. **Authorship.** The Parties agree that this Agreement reflects the joint drafting efforts of all Parties. In the event any dispute, disagreement or controversy arises regarding this Agreement, the Parties shall be considered joint authors and no provision shall be interpreted against any Party because of authorship. Each Party also agrees that it is fully informed as to the meaning and intent of this Agreement and has been advised by independent counsel in that regard.
6. **Agreement to Purchase the Property.** The Parties agree that that for and in consideration of the Purchase Price, and other valuable consideration, including the Release as described in Section 2 above, the receipt and sufficiency of which are hereby acknowledged, the City agrees to buy, and Lynnhaven and Washington Square each agree to sell to the City, as applicable, all its rights and interests in certain real property, pursuant to and in accordance with the following terms and provisions:
 - a. **Property.** The City agrees to (i) purchase from Lynnhaven, and Lynnhaven agrees to sell to the City, the Lynnhaven Property, by General Warranty Deed, properly

executed, acknowledged, and delivered, with usual English covenants of title, and subject to the Permitted Exceptions (defined below), and further subject to the Easement that Seller is reserving pursuant to Recital No. 3(b)(i), together with the appurtenances and improvements thereon, if any, and (ii) purchase from Washington Square, and Washington Square agrees to sell to the City, the Washington Square Property, by General Warranty Deed, properly executed, acknowledged, and delivered, with usual English covenants of title, and subject to the Permitted Exceptions, together with the appurtenances and improvements thereon, if any.

- b. Purchase Price. The total consideration for the Property is as follows: ONE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$1,500,000.00) in full for the Property (the "Purchase Price").
- c. Payment of Purchase Price. The Purchase Price is to be paid by wire transfer of immediately available funds at the time of Closing, as defined below. FIVE THOUSAND AND 00/100 DOLLARS (\$5,000.00) of the above consideration will be withheld until the Property has been confirmed that it is vacant and free of waste, debris, and/or hazardous materials. Lynnhaven and Washington Square will timely notify the City Real Estate Agent for the Property to be inspected and accepted. The City Attorney will be notified by the City Real Estate Agent whether to deliver the remaining part of the consideration, and the City Attorney shall promptly cause the release of the remaining part of the consideration.
- d. Prorations. All rent, interest, taxes, and other appropriate items shall be prorated as of the date of Closing, with Seller responsible for those items up to the Closing Date (defined below), and the City responsible for such items on and after the Closing Date.

- e. Costs and Expenses. City shall bear the cost of obtaining a title report for the Property and all other closing costs associated with Closing, including but not limited to, all title insurance premiums and its own attorney's fees and costs, and preparation of the Deed(s) and Easement (drafts of which shall be delivered to Seller for review in advance of Closing), and any fees or recording taxes payable by a grantee in connection with recording the Deed(s) and Easement, to the extent City is not exempt from such fees and taxes. City will not bear any costs associated with clearing up or removing liens or encumbrances of title affecting the Property, nor any legal fees or costs of Lynnhaven or Washington Square, including but not limited to, those related to the Litigation. Lynnhaven and Washington Square shall supply affidavits and other documents reasonably required by the City's title insurance company for the issuance of a policy of insurance.

f. Conditions Precedent.

1. The obligations of the City to close the transactions contemplated by this Agreement and to pay the Purchase Price are conditioned upon and subject to the satisfaction on or before Closing (or waiver by City) of each of the following conditions:
 - a. The representations and warranties of Seller contained in this Agreement shall be true, complete and accurate on and as of the date hereof and the date of Closing in all material respects, as if the same were made on and as of such date.
 - b. All covenants and obligations of Seller required in this Agreement to be performed on or before the date of Closing have been timely and duly

performed in all material respects.

- c. Title to the Property shall be good and marketable, and subject to no liens, encumbrances, leases, licenses, rights of occupancy, security interests, restrictions, rights of way, easements or encroachments other than the Permitted Exceptions, and the City's title company shall be prepared to issue, at its standard premium rates, a title insurance policy satisfactory to City insuring the title to the Property in the amount of the Purchase Price or such lesser amount as the City may determine.
- d. Both Lynnhaven and Washington Square are prepared to proceed to Closing. This Agreement is expressly conditioned upon simultaneous closing on Parcels 1-6.
- e. City Council has appropriated the funds necessary to pay the Purchase Price.

2. In the event that any of the foregoing conditions to Closing have not been met or waived in writing by the City on or before the date scheduled for Closing, the City may either (i) extend the Closing Date until such conditions are satisfied, up to a maximum of ninety (90) days, (ii) elect to terminate this Agreement by written notice to Seller, or (iii) waive in writing such conditions, in which event this Agreement shall be read as if such conditions no longer existed.

g. Title.

- 1. No later than thirty (30) days after full execution of this Agreement, the City shall (i) furnish Seller with a copy of City's title commitment (the "Title Commitment") for the Property issued by a reputable title insurance company

(the "Title Company") in the amount of the Purchase Price or such lesser amount as the City may determine, and (ii) notify ("Notice of Objection") Seller of any matters reported in the Title Commitment or contained in any survey obtained by the City that would make title to the Property unmarketable or uninsurable under an ALTA owner's title insurance policy in the reasonable opinion of the City (such matters are referred to herein as, the "Title Objections").

2. Seller shall have ten (10) business days after receipt of the Notice of Objection to notify the City in writing whether or not Seller elects to cure the Title Objections. If Seller elects to cure, Seller shall have a reasonable time to cure the Title Objections. If Seller fails to give notice within such ten (10) business day period, Seller shall be deemed to have elected not to cure. If Seller elects to cure but is/are unable to do so or Seller elects not to cure (or is deemed to have elected not to cure) any or all of the Title Objections identified by the City in the Notice of Objection, the City shall have the right to elect within ten (10) business days after receipt of Seller's written notice of inability to do so or refusal to do so (or after Seller's deemed election not to do so), to (i) accept title and survey subject to the Title Objections and proceed to close the transaction notwithstanding the existence of the uncured Title Objections without any abatement in the Purchase Price, or (ii) terminate this Agreement by written notice to Seller.
3. Seller covenants that it will not voluntarily create or cause or permit a lien or encumbrance to attach to the Property between the date of this Agreement and

Closing.

4. All matters of title that are shown as exceptions in the Title Commitment and which do not constitute Title Objections or that are Title Objections which are either (i) cured by Seller, or (ii) subsequently accepted by the City as provided above, shall be referred to collectively as, the "Permitted Exceptions."

h. Study Period.

1. City shall have a period of sixty (60) days from the full execution of this Agreement to conduct, at the City's sole cost and expense, any and all title examinations, surveys, soil tests, engineering studies, access to utilities, environmental studies, site inspections and/or studies which City deems necessary or relevant in connection with the acquisition of the Property ("Study Period"). City, upon written notice to Seller, may waive all or any portion of this Study Period.
2. If the results of any inspection or investigation as specified in Section 6.h. are deemed unsatisfactory to City in City's reasonable discretion, City shall have the right to terminate this Agreement by giving Seller written notice on or before the expiration of the Study Period. If City terminates this Agreement pursuant to this Section 6.h., neither Party shall have any further liability to the other under this Agreement. In the event the Agreement is terminated, the Litigation shall be continued as if this Agreement never occurred.
3. This Study Period may be extended for a period of thirty (30) days by City if City deems necessary for 1) any environmental assessment or 2) preparation of an acquisition plat.

i. Closing. The closing of the transaction contemplated by this Agreement (the "Closing")

will be on or before ninety (90) days from the date this Agreement is fully executed and delivered by all parties (the "Closing Date") or the conclusion of the Study Period. This Closing Date may only be extended as expressly provided elsewhere in this Agreement, or to assist in Seller's 1031 transaction, not to delay the Closing by more than thirty (30) days.

j. Vacating Property. Seller will vacate and remove all personal property from the Property by the date of Closing. Closing will not occur until Seller has vacated the Property. In the event Seller has not vacated the Property, excepting its reserved right to the Easement, on or before Closing, City reserves any and all remedies available at law or in equity.

k. Tenancies. Seller warrants that the Property is free of any tenancies, and Seller will not lease or allow the use of the Property to any person or entity, other than the City as set forth herein. In the event this clause is violated, Seller agrees to compensate any such tenant for any damages said tenant may suffer and sustain by reason of the conveyance agreed to hereunder and will save the City harmless from any and all claims that may be made by said tenant by reason of such conveyance.

l. Possession/Access/Right of Entry. Upon full execution of this Agreement, the City, or its agents or contractors, may exercise the right to enter upon the Property with reasonable prior notice to Seller.

m. Environmental Concerns.

1. For purposes of this clause the following definitions shall apply:

a. "Hazardous Substances" means asbestos and any and all pollutants, dangerous substances, toxic substances, hazardous wastes, hazardous

materials and hazardous substances as referenced or defined in, or pursuant to, any federal, state, local or other applicable environmental law, statute, ordinance, rule, order, regulation or standard in effect on the date hereof including, without limitation, the Resource Conservation and Recovery Act (42 U.S.C 6901, et seq.), as amended, the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 135, et seq.), as amended, the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601, et seq.), as amended, and the Toxic Substance Control Act (15 U.S.C. 2601, et seq.), as amended.

- b. "Environmental Release" means placing, releasing, depositing, spilling, leaking, pumping, emitting, emptying, discharging, injecting, escaping, leaching, disposing or dumping.
- c. "Environmental Condition" means any condition, including without limitation, the Environmental Release of Hazardous Substances, located on or affecting the Property that could require remedial action and/or may result in claims, demands, liabilities, costs and/or expenses to the City.
- d. "Notice" means any written, civil, administrative or criminal summons, citation, directive, order, claim, litigation, investigation, proceeding, judgment, letter or other communication from the United States Environmental Protection Agency ("USEPA"), the Virginia Department Environmental Quality, or other federal, state or local agency or authority, or any other entity or any individual, concerning

any intentional or unintentional act or omission which has resulted or which may result in the Environmental Release of Hazardous Substances on or into the Property or otherwise relates to an Environmental Condition.

2. Except as set forth on **Exhibit F** attached hereto and incorporated herein, Lynnhaven and Washington Square each covenant, represent and warrant to City that (i) Lynnhaven and Washington Square have received no Notice, (ii) to the best of its knowledge and belief, Lynnhaven and Washington Square have not caused or permitted any Environmental Condition on or affecting the Property, and knows of no such Environmental Condition caused or permitted by any other person or entity, and (iii) to the best its knowledge and belief, Lynnhaven and Washington Square have not caused or permitted, the Property to be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process, Hazardous Substances or other dangerous or toxic substances or solid wastes. Except as set forth on **Exhibit F** attached hereto and incorporated herein, Lynnhaven and Washington Square further covenant, represent and warrant that, to its knowledge, there is no action, suit, proceeding, claim, investigation, citizen suit or review pending or threatened against or affecting the title to the Property. Should any notice of such an action, suit, proceeding, claim, investigation or citizen suit be received, it will be promptly forwarded to the Office of the City Attorney of the City of Virginia Beach, Virginia.

7. **Failure to Perform.** If Seller refuses to vacate the Property, or any portion thereof, on or

before Closing, or otherwise fails to consummate the transaction as contemplated herein, and such refusal to vacate or failure to consummate the transaction shall continue for a period of thirty (30) days after written notice from the City of such refusal or failure is received by the Seller, the City shall be entitled to terminate this Agreement or pursue a claim for specific performance or any other remedy, in its sole discretion. In the event a suit or specific performance or other remedy is necessitated by Seller's breach, Seller warrants and agrees that it shall be liable for City's reasonable attorney's fees as well as costs attributable to delays, if any. The City expressly preserves its rights to pursue any and all claims, at law or in equity, or to pursue any other remedy, by reason of the breach of this Agreement. If the City fails or refuses to consummate the transaction as contemplated herein, and such failure to consummate the transaction shall continue for a period of thirty (30) days after written notice from the Seller of such failure is received by the City, the Seller shall be entitled to terminate this Agreement. In the event the Agreement is terminated by either party as aforesaid, the Litigation shall be continued as if this Agreement never occurred.

8. **Entire Agreement.** There have been no other promises, considerations or representations made which are not set forth in this Agreement. There shall be no modification of this Agreement except in writing executed by Lynnhaven, Washington Square, and City.
9. **Survival.** The covenants, agreements, representations, warranties and indemnities of Seller as to title (per Section 6(a)) and environmental (per Section 6(m)) shall survive Closing. Any other covenants, agreements, warranties and indemnities of Seller and the City contained in this Agreement shall survive Closing but such survival shall terminate when the applicable statute of limitations ceases to authorize a cause of action.

10. **Successors and Assigns.** The terms and provisions of this Agreement are binding upon and will inure to the benefit of the parties, their respective successors and assigns. Lynnhaven and Washington Square may not assign the rights and benefits of this Agreement except upon written consent of the City, except however, Lynnhaven may sell, assign or transfer its rights in the Easement without the consent of the City.
11. **Compliance with Tax Laws.** In accordance with instructions by the Department of the Treasury, Internal Revenue Service, for Form 1099-S, the Seller is required by law to provide the City Attorney's Office, Municipal Center, Virginia Beach, VA 23456, with its correct taxpayer identification number(s). If Seller does not provide the City Attorney's Office with its correct taxpayer identification number(s), Seller may be subject to civil or criminal penalties imposed by law Seller will also provide the City Attorney's Office with other documents necessary for City to comply with State reporting requirements. Under the penalties of perjury, by signing below, Lynnhaven and Washington Square certify that the taxpayer identification number provided to the City or to be provided to the City is the correct taxpayer identification number.
12. **No Broker.** Lynnhaven, Washington Square, and City represent and warrant that no broker was involved in this transaction. Lynnhaven, Washington Square, and City warrant unto each other that no broker fees or commissions are owed.
13. **Notices.** All notices to be delivered hereunder shall be sent in writing and shall be deemed given (i) two (2) business days after being mailed by U.S. registered or certified mail, postage prepaid, return receipt requested, (ii) one (1) business day after being deposited with a nationally recognized overnight delivery service (such as Federal Express), or (iii) on the date of delivery, if delivered in person, addressed and to the attention of the

respective parties set forth below. Notices delivered by email transmission shall be effective on the date of such email transmission, provided notice is also simultaneously sent by another method permitted hereunder. Notices may be given by counsel on behalf of either Party.

Buyer/City: City of Virginia Beach
Tim Copeland, City Real Estate Agent
Department of Public Works/Real Estate
2473 N. Landing Road, Building 23
Virginia Beach, VA 23456
Email: JGCopeland@vbgov.com

Copy to: Elizabeth S. Chupik, Associate City Attorney
2473 N. Landing Road, Building 23
Virginia Beach, VA 23456
Email: echupik@vbgov.com

Seller/Lynnhaven: Lynnhaven Area Properties, LLC
2859 Virginia Beach Blvd., Suite 106
Virginia Beach, VA 23452
Attn: Chris Wood
Email: chris@mcleskey.com

Copy to: Woods Rogers Vandeventer Black PLC
101 West Main Street
500 World Trade Center
Norfolk, Virginia 23510
Attn: James R. Harvey, Esq.
Attn: James B. Rixey, III, Esq.
Email: jim.harvey@wrvblaw.com
Email: jay.rixey@wrvblaw.com

Seller/Washington Square: Washington Square Townhouses, LLC
2859 Virginia Beach Blvd., Suite 106
Virginia Beach, VA 23452
Attn: Chris Wood
Email: chris@mcleskey.com

Copy to: Woods Rogers Vandeventer Black PLC
101 West Main Street
500 World Trade Center
Norfolk, Virginia 23510
Attn: James R. Harvey, Esq.

Attn: James B. Rixey, III, Esq.
Email: jim.harvey@wrvblaw.com
Email: jay.rixey@wrvblaw.com

14. **Governing Law/Venue.** This Agreement shall be deemed to be a Virginia contract and shall be governed by the laws of the Commonwealth of Virginia, and the parties hereto designate a court of competent jurisdiction in the City of Virginia Beach as the venue for the resolution of all litigation that may arise from this Agreement.
15. **Amendment.** This Agreement may not be amended or modified except by a written instrument signed by the duly authorized representatives of all of the Parties.
16. **Headings.** The headings of sections are designed to facilitate ready reference to subject matter and shall be disregarded when resolving any dispute concerning the meaning or interpretation of any language contained in this Agreement.
17. **Authority to Sign Agreement and Release.** The individuals signing this Agreement and the Parties on whose behalf such individuals are signing hereby represent and warrant that they are empowered and authorized to sign on behalf of and bind the Parties for whom they have signed.
18. **1031 Exchange.** The parties acknowledge that Lynnhaven and/or Washington Square may wish to enter into a like-kind exchange (either simultaneous or deferred) with respect to the Property (the "Exchange") pursuant to the applicable provisions of Section 1031 of the Internal Revenue Code of 1986, as amended. Notwithstanding anything to the contrary contained herein, Lynnhaven and Washington Square shall have the right to assign his/her/its interest under this Agreement to a qualified intermediary without City's consent to effectuate the Exchange, including execution of any necessary acknowledgment documents; provided, however, that notwithstanding any such assignment, Lynnhaven

shall not be released from any of its liabilities, obligations or indemnities under this Agreement. The parties shall cooperate in all reasonable respects to effectuate such Exchange; provided, however, that: (a) Closing shall not be extended or delayed by reason of such Exchange except as provided in Section 6.i.; (b) City shall not be required to incur any additional cost or expense or liability as a result of such Exchange; and (c) Lynnhaven's or Washington Square's ability to consummate the Exchange shall not be contingent or a condition to the obligations of Lynnhaven or Washington Square under this Agreement. Lynnhaven and Washington Square warrant that the City shall not be responsible for any of the tax consequences with respect to the transactions contemplated hereunder.

19. **Signatures of Parties.** The following information must be provided on the signature lines below: the authorized signatory of each Seller shall sign and print his/her name and provide his/her title. At or prior to Closing, each Seller shall provide the City with its taxpayer identification number and a resolution authorizing the sale of the property.
20. **Waiver.** The failure of any Party at any time or times to require performance of any provisions of this Agreement shall in no manner affect the right at a later time to enforce such provision. No waiver by either party of any condition, or the breach of any term, covenant, representation or warranty contained in this Agreement, whether by conduct or otherwise, in any one of more instances, shall be deemed a further or continuing waiver of condition or covenant, representation or warranty contained in this Agreement.
21. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same instrument.

WITNESS the following signatures and seals:

BUYER:

CITY OF VIRGINIA BEACH:

By: _____ (SEAL) _____ (DATE)
City Manager/Authorized
Designee of City Manager

Attest:

Amanda F. Barnes, MMC, City Clerk

SELLER:

LYNNHAVEN AREA PROPERTIES, LLC
a Virginia limited liability company

By: _____ (SEAL)
Name: W. Susan W. W. W.
Title: Manager

MAILING ADDRESS:
2859 Virginia Beach Blvd., Ste. 106
Virginia Beach, VA 23452

SELLER:

WASHINGTON SQUARE TOWNHOUSES, LLC
a Virginia limited liability company

By: _____ (SEAL)
Name: W. Susan W. W. W.
Title: Manager

MAILING ADDRESS:
2859 Virginia Beach Blvd., Ste. 106
Virginia Beach, VA 23452

**Certified as to
Availability of Funds**

Content Approved

Form Approved

Director of Finance

Real Estate Agent

City Attorney

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

Parcel 2 and Parcel 3 below are owned by Lynnhaven. Parcel 1, Parcel 5, and Parcel 6 below are owned by Washington Square. Parcel 4 below is owned by both Lynnhaven and Washington Square as a result of a street closure.

Parcel 1 (GPIN: 2407-09-6257):

ALL THAT CERTAIN lot, piece and parcel of land, together with the improvements thereunto belonging, lying, being and situate in the City of Virginia Beach, Virginia and being known, designated and described as "now or formerly Lynnhaven Building Supply (D.B. 823, P. 492) GPIN 2407-09-6257" as shown on that certain plat entitled, "PLAT SHOWING A PORTION OF OLD WOLFSNARE ROAD TO BE CLOSED AND VACATED BY THE CITY OF VIRGINIA BEACH, VIRGINIA LYNNHAVEN BOROUGH – VIRGINIA BEACH, VIRGINIA" Scale: 1" = 40', dated February 27, 1981, prepared by Rouse – Sirine Associates, Ltd., which was recorded in the Clerk's Office of the Circuit Court of the City of Virginia Beach as Instrument Number 201600016543, to which reference is made for a more particular description.

Parcel 2 (GPIN: 2407-09-2464):

ALL THAT CERTAIN lot, piece and parcel of land, together with the improvements thereunto belonging, lying, being and situate in the City of Virginia Beach, Virginia and being known, designated and described as "NOW OR FORMERLY F. WAYNE MCLESKEY, JR. (D.B. 1486, P. 203)" as shown on that certain plat entitled, "PLAT SHOWING A PORTION OF OLD WOLFSNARE ROAD TO BE CLOSED AND VACATED BY THE CITY OF VIRGINIA BEACH, VIRGINIA LYNNHAVEN BOROUGH – VIRGINIA BEACH, VIRGINIA" Scale: 1" = 40', dated February 27, 1981, prepared by Rouse – Sirine Associates, Ltd., which was recorded in the Clerk's Office of the Circuit Court of the City of Virginia Beach as Instrument Number 201600016543, to which reference is made for a more particular description.
Description.

Reserving unto the Grantor, its successors and assigns, an approximately 1,565 square foot sign, access, and maintenance easement, together with improvements thereon, in the location more particularly described as "VARIABLE WIDTH SIGN ACCESS & MAINTENANCE EASEMENT TO BE RESERVED, AREA = 1,565 SQ. FT. OR 0.03593 AC (SEE NOTE 6)," (collectively, the "Easement"), on the plat entitled "PLAT SHOWING PROPERTY TO BE ACQUIRED, TRACTS A, B, C & D FROM LYNNHAVEN AREA PROPERTIES, LLC, & WASHINGTON SQUARE TOWNHOUSES, LLC, BY CITY OF VIRGINIA BEACH FOR OPEN SPACE PARK & INFRASTRUCTURE DEVELOPMENT & MAINTENANCE II PROJECT, CIP 100289," and dated March 8, 2023. The following terms apply to the Easement: (1) the Easement shall allow the Grantor to own, maintain, and repair that certain existing wooden sign (the "Sign") located on the Easement; (2) the Sign is and shall remain subject to all applicable state, federal and local laws, ordinances, permits, variances, or regulations; (3) Grantor shall bear all liability and responsibility for the sign and shall maintain it in a manner that it does not become

unsightly or a hazard; and (4) in the event of any casualty or other damage or destruction to all or any portion of the Sign, and provided that Grantor can obtain approvals to rebuild or replace the nonconforming Sign pursuant to applicable state, federal, and local laws, ordinances, permits, variances, or regulations, including but not limited to, approval(s) from the Virginia Beach City Council, Grantor shall have the right to rebuild and replace the Sign.

Parcel 3 (GPIN: 2407-09-4435):

ALL THAT CERTAIN lot, piece and parcel of land, together with the improvements thereunto belonging, lying, being and situate in the City of Virginia Beach, Virginia and being known, designated and described as "LOT 4 SUBDIVISION OF PROPERTY OF ALLEN E. PERREL (M.B. 110, P. 48) NOW OR FORMERLY F. WAYNE MCLESKEY, JR. (D.B. 1623, P. 744) GPIN 2407-09-4435" as shown on that certain plat entitled, "PLAT SHOWING A PORTION OF OLD WOLFSNARE ROAD TO BE CLOSED AND VACATED BY THE CITY OF VIRGINIA BEACH, VIRGINIA LYNNHAVEN BOROUGH – VIRGINIA BEACH, VIRGINIA" Scale: 1" = 40', dated February 27, 1981, prepared by Rouse – Sirine Associates, Ltd., which was recorded in the Clerk's Office of the Circuit Court of the City of Virginia Beach as Instrument Number 201600016543, to which reference is made for a more particular description.

Parcel 4 (GPIN: 2407-09-5412):

ALL THAT CERTAIN lot, piece and parcel of land, together with the improvements thereunto belonging, lying, being and situate in the City of Virginia Beach, Virginia and being known, designated and described as "OLD WOLFSNARE ROAD TO BE CLOSED AND VACATED AREA – 19,365 SQUARE FEET (INCLUDING PERMANENT DRAINAGE EASEMENT) GPIN 2407-09-5412" as shown on that certain plat entitled, "PLAT SHOWING A PORTION OF OLD WOLFSNARE ROAD TO BE CLOSED AND VACATED BY THE CITY OF VIRGINIA BEACH, VIRGINIA LYNNHAVEN BOROUGH – VIRGINIA BEACH, VIRGINIA" Scale: 1" = 40', dated February 27, 1981, prepared by Rouse – Sirine Associates, Ltd., which was recorded in the Clerk's Office of the Circuit Court of the City of Virginia Beach as Instrument Number 201600016543, to which reference is made for a more particular description.

Parcel 5 (GPIN: 2407-19-4539):

ALL THAT CERTAIN lot, piece and parcel of land, together with the improvements thereunto belonging, lying, being and situate in the City of Virginia Beach, Virginia and being known, designated and described as "PARCEL A" as shown on that certain plat entitled, "PLAT OF SUBDIVISION OF WASHINGTON SQUARE BLOCKS D, F & G SECTION 1 LYNNHAVEN BOROUGH VIRGINIA BEACH, VIRGINIA," Scale: 1" = 100', dated March 9, 1971, prepared by Talbot, Wermers, and Standing, Ltd., which was recorded in the Clerk's Office of the Circuit Court of the City of Virginia Beach in Map Book 86, at page 17, to which reference is made for a more particular description.

Parcel 6 (GPIN: 2407-19-8383):

ALL THAT CERTAIN lot, piece and parcel of land, together with the improvements thereunto

belonging, lying, being and situate in the City of Virginia Beach, Virginia and being known, designated and described as "PARCEL 'B' AREA = 0.174 ACRES" as shown on that certain plat entitled, "PLAT OF SUBDIVISION OF WASHINGTON SQUARE BLOCKS I, J & K SECTION 2 LYNNHAVEN BOROUGH VA. BEACH, VA," Scale: 1" = 50', dated December 29, 1971, prepared by Talbot, Wermers, and Standing, Ltd., which was recorded in the Clerk's Office of the Circuit court of the City of Virginia Beach in Map Book 93, at page 16, to which reference is made for a more particular description.

AS TO PARCEL 2, PARCEL 3, AND PARCEL 4 ABOVE, TOGETHER WITH all right, title and interest of Lynnhaven, if any, in and to any and all easements, rights of way, private roads and other rights of access, ingress and/or egress adjacent to, appurtenant to or in any way benefiting the above-described parcels.

AS TO PARCEL 1, PARCEL 4, PARCEL 5 AND PARCEL 6, TOGETHER WITH all right, title and interest of Washington Square, if any, in and to any and all easements, rights of way, private roads and other rights of access, ingress and/or egress adjacent to, appurtenant to or in any way benefiting the above-described parcels.

Exhibit B

Plat No. 1

[See Attached]

AREA TABLE

PROPERTIES TO BE ACQUIRED	Sq. Ft. and Ac.
TRACT 'A' GPIN: 2407-09-2464	27,459 Sq. Ft. or 0.63037 Ac.
RESIDUAL TRACT 'A'	0.00 Sq. Ft. or 0.00000 Ac.
TRACT 'B' GPIN: 2407-09-4435 LOT 4	42,190 Sq. Ft. or 0.96855 Ac.
RESIDUAL TRACT 'B'	0.00 Sq. Ft. or 0.00000 Ac.
TRACT 'C' GPIN: 2407-09-5412	19,228 Sq. Ft. or 0.44141 Ac.
RESIDUAL TRACT 'C'	0.00 Sq. Ft. or 0.00000 Ac.
TRACT 'D' GPIN: 2407-09-6257	220,629 Sq. Ft. or 5.06495 Ac.
RESIDUAL TRACT 'D'	0.00 Sq. Ft. or 0.00000 Ac.
VARIABLE WIDTH SIGN ACCESS & MAINTENANCE EASEMENT	1,565 Sq. Ft. or 0.03593 Ac.
TOTAL AREA TRACTS A, B, C, & D	309,506 Sq. Ft. or 7.10528 Ac.
RESIDUAL TRACTS A, B, C, & D	0.00 Sq. Ft. or 0.00000 Ac.

PROPERTIES TO BE ACQUIRED

TRACT 'A'

BEING DESIGNATED AS PARCEL III, IN A DEED RECORDED IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF THE CITY OF VIRGINIA BEACH IN INSTRUMENT # 20080818000976290. GPIN: 2407-09-2464.

TRACT 'B'

BEING DESIGNATED AS PARCEL I, IN A DEED RECORDED IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF THE CITY OF VIRGINIA BEACH AS INSTRUMENT # 20080818000976290, AND ALSO BEING DESIGNATED AS LOT 4 AS SHOWN ON THE PLAT RECORDED IN M.B. 110 PG. 48. GPIN: 2407-09-4435.

TRACT 'C'

BEING DESIGNATED OLD WOLFSPARE ROAD, IN A DEED RECORDED IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF THE CITY OF VIRGINIA BEACH IN INSTRUMENT # 20160301000165440, INSTRUMENT # 20080710000809510 AND IN A DEED OF CORRECTION IN INSTRUMENT # 20080922001111740, BEING OLD WOLFSPARE ROAD TO BE CLOSED AND VACATED AS SHOWN ON THE PLAT RECORDED AS INSTRUMENT # 20160301000165430. GPIN: 2407-09-5412.

TRACT 'D'

BEING DESIGNATED AS PARCEL II, TRACT A, IN A DEED RECORDED IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF THE CITY OF VIRGINIA BEACH AS INSTRUMENT # 20080710000809510 AND BEING DESIGNATED AS PARCEL I, IN A DEED OF CORRECTION AS INSTRUMENT # 20080922001111740. GPIN: 2407-09-6257.



BY APPROVAL, THE UNDERSIGNED DOES NOT CERTIFY AS TO THE CORRECTNESS OF THE BOUNDARY, STREETS OR OTHER LINES SHOWN ON THIS PLAT. EXISTING PUBLIC RIGHT-OF-WAY, EASEMENTS OR OTHER PUBLIC INTERESTS NOT SHOWN ON THIS PLAT REMAIN IN EFFECT AND ARE NOT TERMINATED OR EXTINGUISHED BY OMISSION FROM THIS PLAT.

APPROVED: _____ DATE: _____
DIRECTOR OF PUBLIC WORKS, CITY OF VIRGINIA BEACH

NOTES:

1. THE MERIDIAN SOURCE OF THIS PLAT IS BASED ON THE VIRGINIA STATE PLANE COORDINATE SYSTEM, SOUTH ZONE, NAD 1983/1993 (HARN). COORDINATE VALUES SHOWN HEREON ARE EXPRESSED IN U.S. SURVEY FEET AND ARE DERIVED FROM GPS UTILIZING THE CITY OF VIRGINIA BEACH VIRTUAL REFERENCE STATIONS (VRS) NETWORK.
2. THIS PLAT IS A RESULT OF A FIELD SURVEY OF EXISTING MONUMENTS COMBINED WITH THE COMPIHATION OF DEEDS AND PLATS SHOWN HEREON.
3. THIS PLAT WAS PREPARED UTILIZING A TITLE REPORT PREPARED BY WFG NATIONAL TITLE INSURANCE COMPANY DATED FEBRUARY 13, 2023. COMMITMENT NUMBER 5123-0004A-1 & 5123-0004F-1.
4. THIS PLAT IS INTENDED FOR ACQUISITION PURPOSES ONLY AND DOES NOT CONSTITUTE A SUBDIVISION OF LAND.
5. PROPERTIES TO BE ACQUIRED BY DEED.
6. VARIABLE WIDTH SIGN ACCESS & MAINTENANCE EASEMENT TO BE RESERVED BY GRANTOR BY DEED TO BE RECORDED CONTEMPORANEOUSLY HERewith.
7. TRACT 'C' IS SUBJECT TO A 15' VIRGINIA ELECTRIC AND POWER COMPANY EASEMENT AS SHOWN IN DEED BOOK 1948 PAGE UNKNOWN. LOCATION UNKNOWN.



PLAT SHOWING
PROPERTY TO BE ACQUIRED
TRACTS A, B, C, & D

FROM
LYNNHAVEN AREA
PROPERTIES, LLC
&
WASHINGTON SQUARE
TOWNHOUSES, LLC

BY
CITY OF VIRGINIA BEACH
FOR
OPEN SPACE & PARK INFRASTRUCTURE DEVELOPMENT
& MAINTENANCE II PROJECT, CIP 100289

DEPARTMENT OF PUBLIC WORKS, ENGINEERING GROUP, SURVEY BUREAU
TEL (757) 385-4131; 2473 N. LANDING ROAD; BLDG. 2S; ROOM 180
VIRGINIA BEACH, VIRGINIA 23456



WOLFSNARE ROAD (RELOCATED)

(60' R/W) (M.B. 108 PG. 3) (M.B. 107 PG. 55)

* SEE SHEET 1 FOR NOTES *
AND AREA TABLE

CURVE DATA CHART

NUMBER	ARC	RADIUS	DELTA ANGLE	TANGENT	CHORD DIRECTION	CHORD LENGTH
C1	39.25'	25.00'	89°57'00"	24.98'	N 39°11'11" E	35.34'
C2	63.74'	590.00'	6°11'24"	31.90'	N 81°03'59" E	63.71'
C3	40.81'	590.00'	3°57'47"	20.41'	N 75°59'23" E	40.80'
C4	38.53'	90.35'	24°25'55"	19.56'	N 86°13'27" E	38.24'
C5	27.09'	30.00'	51°43'53"	14.55'	S 55°42'02" E	26.18'
C6	342.64'	2200.00'	8°55'25"	171.67'	N 50°08'53" E	342.30'
C7	347.31'	2230.00'	8°55'25"	174.01'	S 50°08'53" W	346.96'
C8	64.51'	494.73'	7°28'15"	32.30'	N 41°57'02" E	64.46'
C9	35.19'	524.73'	3°50'32"	17.60'	S 43°59'32" W	35.18'
C10	102.55'	941.45'	6°14'28"	51.33'	S 32°57'19" E	102.50'

LINE DATA CHART

NUMBER	DIRECTION	DISTANCE
L1	N 84°09'41" E	80.44'
L2	S 5°50'19" E	52.00'
L3	N 84°09'41" E	7.50'
L4	S 5°50'19" E	15.00'
L5	S 84°09'41" W	35.00'
L6	N 5°50'19" W	15.00'
L7	N 84°09'41" E	7.50'
L8	N 5°50'19" W	52.00'
L9	N 84°09'41" E	20.00'

LEGEND

- PIN FOUND
- PIN SET
- ⊗ VDOT MONUMENT FOUND
- DENOTES PROPERTY TO BE ACQUIRED
- ▨ DENOTES VARIABLE WIDTH SIGN ACCESS & MAINTENANCE EASEMENT TO BE RESERVED AREA = 1565 Sq. Ft. OR 0.03595 AC. (SEE NOTE 6)

PLAT SHOWING
PROPERTY TO BE ACQUIRED
TRACTS A, B, C, & D

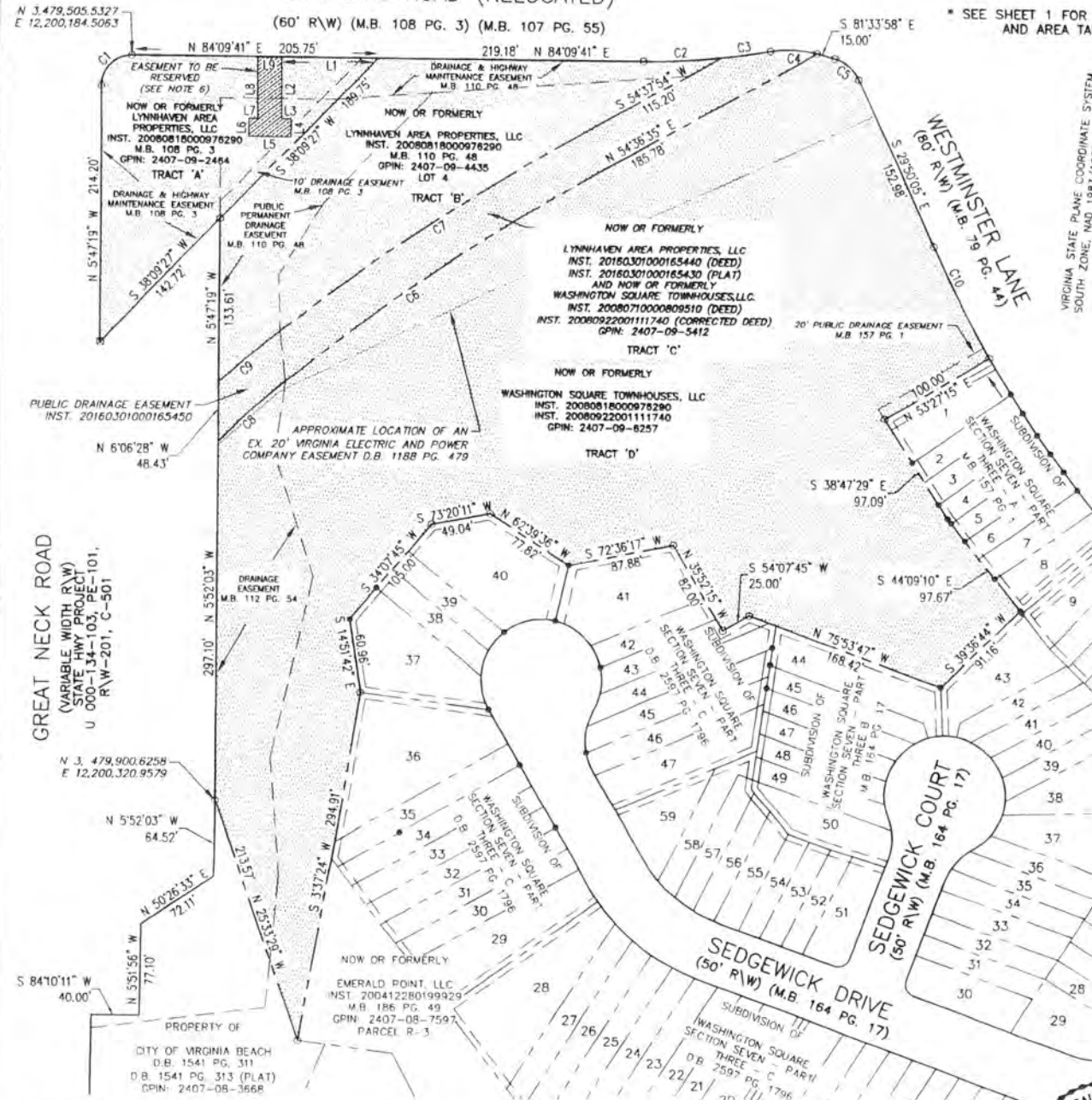
FROM
LYNNHAVEN AREA
PROPERTIES, LLC
&
WASHINGTON SQUARE
TOWNHOUSES, LLC
BY
CITY OF VIRGINIA BEACH
FOR

OPEN SPACE & PARK INFRASTRUCTURE DEVELOPMENT
& MAINTENANCE II PROJECT, CIP 100289

DEPARTMENT OF PUBLIC WORKS, ENGINEERING GROUP, SURVEY BUREAU
TEL (757) 385-4131; 2473 N. LANDING ROAD; BLDG. 23; ROOM 180
VIRGINIA BEACH, VIRGINIA 23456



MARCH 8, 2023 JOB NO. 220330 SHEET 2 OF 2



BY APPROVAL, THE UNDERSIGNED DOES NOT CERTIFY AS TO THE CORRECTNESS OF THE BOUNDARY, STREETS OR OTHER LINES SHOWN ON THIS PLAT. EXISTING PUBLIC RIGHT-OF-WAY, EASEMENTS OR OTHER PUBLIC INTERESTS NOT SHOWN ON THIS PLAT REMAIN IN EFFECT AND ARE NOT TERMINATED OR EXTINGUISHED BY OMISSION FROM THIS PLAT.

APPROVED: _____ DATE: _____
DIRECTOR OF PUBLIC WORKS, CITY OF VIRGINIA BEACH

GRAPHIC SCALE
1" = 60'



Exhibit C

Plat No. 2

[See Attached]



LEGEND

- PIN FOUND
- PIN SET
- DENOTES PROPERTY TO BE ACQUIRED



NOTES:

1. THE MERIDIAN SOURCE OF THIS PLAT IS BASED ON THE VIRGINIA STATE PLANE COORDINATE SYSTEM, SOUTH ZONE, NAD 1983/1993 (HARN). COORDINATE VALUES SHOWN HEREON ARE EXPRESSED IN U.S. SURVEY FEET AND ARE DERIVED FROM GPS UTILIZING THE CITY OF VIRGINIA BEACH VIRTUAL REFERENCE STATIONS (VRS) NETWORK.
2. THIS PLAT IS A RESULT OF A FIELD SURVEY OF EXISTING MONUMENTS COMBINED WITH THE COMPILATION OF DEEDS AND PLATS SHOWN HEREON.
3. THIS PLAT WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT.
4. THIS PLAT IS INTENDED FOR ACQUISITION PURPOSES ONLY AND DOES NOT CONSTITUTE A SUBDIVISION OF LAND.
5. PROPERTIES TO BE ACQUIRED BY DEED.

AREA TABLE

PARCEL A	7,932 Sq. Ft. or 0.18209 Ac.
PROPERTY TO BE ACQUIRED	7,932 Sq. Ft. or 0.18209 Ac.
RESIDUAL	0 Sq. Ft. or 0.00000 Ac.

PLAT SHOWING
PROPERTY TO BE ACQUIRED

PARCEL A
FROM
WASHINGTON SQUARE
TOWNHOUSES, LLC.

BY
CITY OF VIRGINIA BEACH
FOR
OPEN SPACE & PARK INFRASTRUCTURE DEVELOPMENT
& MAINTENANCE II PROJECT, CIP 100289

DEPARTMENT OF PUBLIC WORKS, ENGINEERING GROUP, SURVEY BUREAU
TEL (757) 385-4131; 2473 N. LANDING ROAD; BLDG. 23; ROOM 180
VIRGINIA BEACH, VIRGINIA 23458



CITY OF VIRGINIA BEACH

JOB NO. 220330

SHEET 1 OF 1

CURVE DATA CHART

NUMBER	ARC	RADIUS	DELTA ANGLE	TANGENT	CHORD DIRECTION	CHORD LENGTH
C1	55.85°	1041.00'	304°22'	27.93'	N 59°25'48" E	55.85'
C2	26.76°	10.00'	153°19'36"	42.18'	S 42°22'12" E	19.46'

BY APPROVAL, THE UNDERSIGNED DOES NOT CERTIFY AS TO THE CORRECTNESS OF THE BOUNDARY, STREETS OR OTHER LINES SHOWN ON THIS PLAT. EXISTING PUBLIC RIGHT-OF-WAY, EASEMENTS OR OTHER PUBLIC INTERESTS NOT SHOWN ON THIS PLAT REMAIN IN EFFECT AND ARE NOT TERMINATED OR EXTINGUISHED BY OMISSION FROM THIS PLAT.

APPROVED: _____ DATE: _____
DIRECTOR OF PUBLIC WORKS, CITY OF VIRGINIA BEACH

0 30' 60'
GRAPHIC SCALE
1" = 30'

REV. APRIL 20, 2023
MARCH 8, 2023



Exhibit D

Plat No. 3

[See Attached]



LEGEND

- PIN FOUND
- DENOTES PROPERTY TO BE ACQUIRED

VIRGINIA STATE PLANE COORDINATE SYSTEM,
SOUTH ZONE, NAD 1983/1993 (HARN)



NOTES:

1. THE MERIDIAN SOURCE OF THIS PLAT IS BASED ON THE VIRGINIA STATE PLANE COORDINATE SYSTEM, SOUTH ZONE, NAD 1983/1993 (HARN). COORDINATE VALUES SHOWN HEREON ARE EXPRESSED IN U.S. SURVEY FEET AND ARE DERIVED FROM GPS UTILIZING THE CITY OF VIRGINIA BEACH VIRTUAL REFERENCE STATIONS (VRS) NETWORK.
2. THIS PLAT IS A RESULT OF A FIELD SURVEY OF EXISTING MONUMENTS, COMBINED WITH THE COMPILATION OF DEEDS AND PLATS SHOWN HEREON.
3. THIS PLAT WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT.
4. THIS PLAT IS INTENDED FOR ACQUISITION PURPOSES ONLY AND DOES NOT CONSTITUTE A SUBDIVISION OF LAND.
5. PROPERTIES TO BE ACQUIRED BY DEED.

AREA TABLE

PARCEL B	7,566 Sq. Ft. or 0.17370 Ac.
PROPERTY TO BE ACQUIRED	7,566 Sq. Ft. or 0.17370 Ac.
RESIDUAL	0 Sq. Ft. or 0.00000 Ac.

PLAT SHOWING
PROPERTY TO BE ACQUIRED

PARCEL B
FROM
WASHINGTON SQUARE
TOWNHOUSES, LLC.

BY
CITY OF VIRGINIA BEACH
FOR
OPEN SPACE & PARK INFRASTRUCTURE DEVELOPMENT
& MAINTENANCE II PROJECT, CIP 100289

DEPARTMENT OF PUBLIC WORKS, ENGINEERING GROUP, SURVEY BUREAU
TEL (757) 385-4131; 2473 N. LANDING ROAD; BLDG. 23; ROOM 160
VIRGINIA BEACH, VIRGINIA 23456



CITY OF VIRGINIA BEACH

REV. APRIL 20, 2023
MARCH 8, 2023

JOB NO. 220330

SHEET 1 OF 1

CURVE DATA CHART

NUMBER	ARC	RADIUS	DELTA ANGLE	TANGENT	CHORD DIRECTION	CHORD LENGTH
C1	52.53°	20.00'	150°29'09"	75.93'	S 70°27'49" E	38.68'

BY APPROVAL, THE UNDERSIGNED DOES NOT CERTIFY AS TO THE CORRECTNESS OF THE BOUNDARY, STREETS OR OTHER LINES SHOWN ON THIS PLAT. EXISTING PUBLIC RIGHT-OF-WAY, EASEMENTS OR OTHER PUBLIC INTERESTS NOT SHOWN ON THIS PLAT REMAIN IN EFFECT AND ARE NOT TERMINATED OR EXTINGUISHED BY OMISSION FROM THIS PLAT.

APPROVED: _____ DATE: _____
DIRECTOR OF PUBLIC WORKS, CITY OF VIRGINIA BEACH

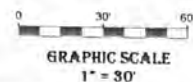


Exhibit E

Dismissal Order

VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF VIRGINIA BEACH

**IN RE: SEPTEMBER 1, 2021, DECISION OF THE BOARD OF ZONING APPEALS
OF THE CITY OF VIRGINIA BEACH**

CASE NO.: CL21-4555

FINAL ORDER

THIS DAY came the parties, by counsel, and represented to the Court that all matters in controversy herein have been settled;

It is **ORDERED** that this case be, and it hereby is, **DISMISSED WITH PREJUDICE BY AGREEMENT OF THE PARTIES.**

ENTERED:

Judge

WE ASK FOR THIS:

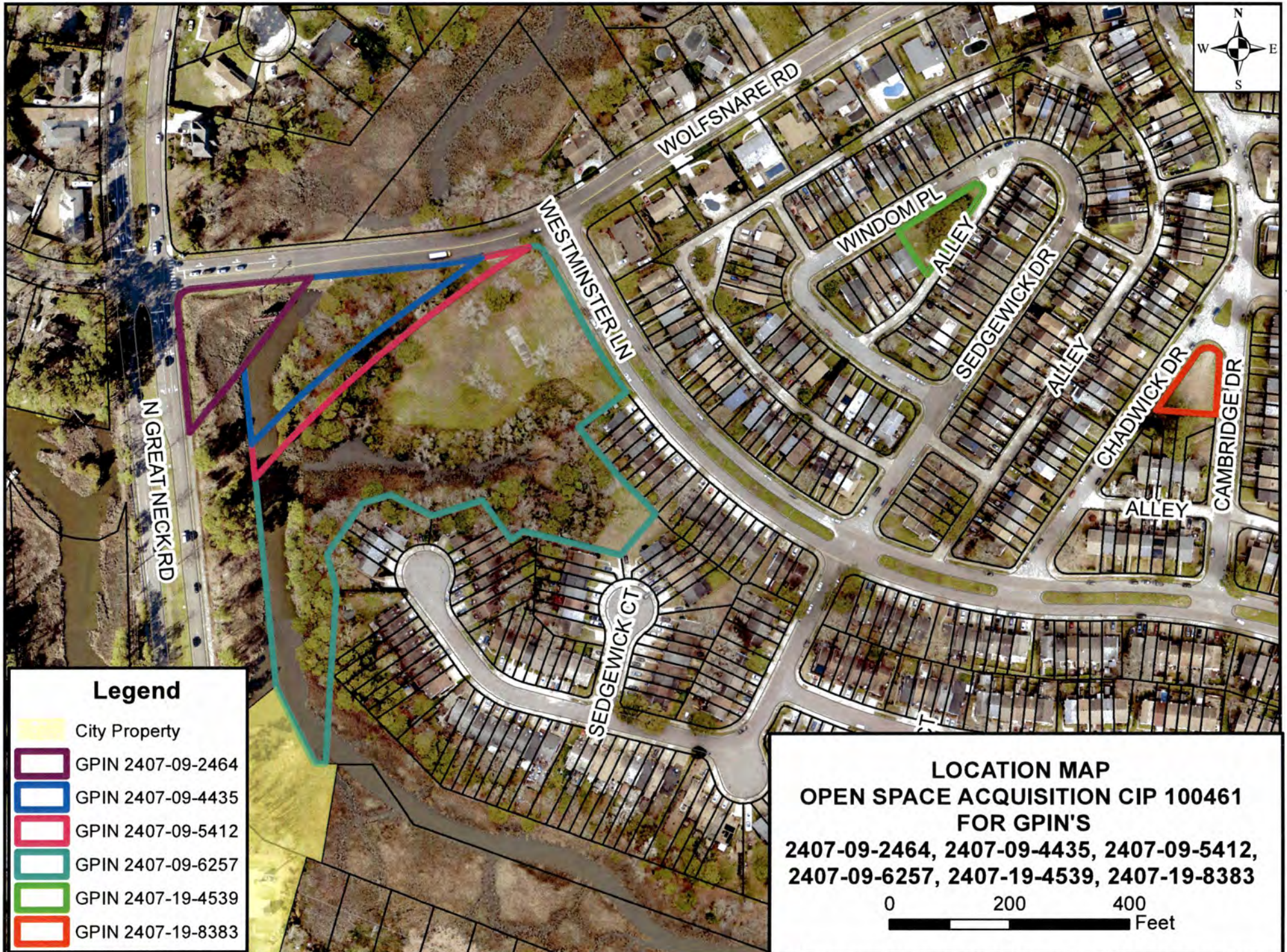
Gregory D. Surber, Esq. (VSB No. 72282)
Office of the City Attorney
Municipal Center, Building 1
2401 Courthouse Drive, Room 260
Virginia Beach, VA 23456
(757) 385-4531
gsurber@vbgov.com
Counsel for the City of Virginia Beach

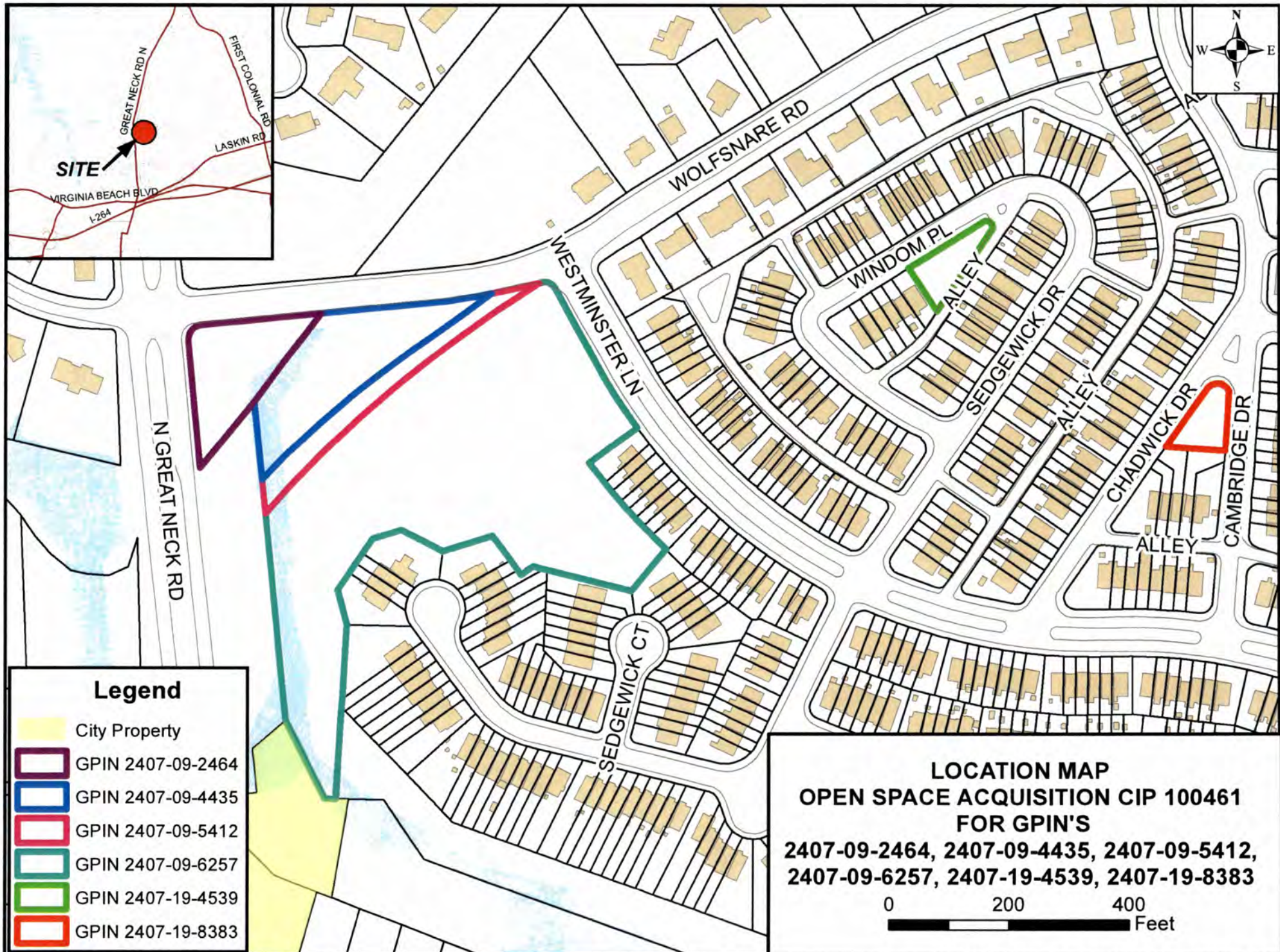
James R. Harvey, III, Esq. (VSB No. 40726)
Woods Rogers Vandeventer Black PLC
101 W. Main Street
Suite 500
Norfolk, VA 23510
(757) 446-8600
jim.harvey@wrvblaw.com
Counsel for Lynnhaven Area Properties, LLC

Exhibit F

Disclosure of Environmental Matters

Seller recalls that a notice was delivered to the then-owner of the Property in the 1970's regarding some fill on the Property. It is believed the notice was from either the U.S. Environmental Protection Agency or the Virginia Department of Environmental Quality (or their respective predecessors, as applicable). Seller believes, but cannot confirm, that such notice stated that no further action was required. Seller is unable to locate a copy of such notice.





AREA TABLE

PROPERTIES TO BE ACQUIRED	Sq. Ft. and Ac.
TRACT 'A' GPIN: 2407-09-2464	27,459 Sq. Ft. or 0.63037 Ac.
RESIDUAL TRACT 'A'	0.00 Sq. Ft. or 0.00000 Ac.
TRACT 'B' GPIN: 2407-09-4435 LOT 4	42,190 Sq. Ft. or 0.96855 Ac.
RESIDUAL TRACT 'B'	0.00 Sq. Ft. or 0.00000 Ac.
TRACT 'C' GPIN: 2407-09-5412	19,228 Sq. Ft. or 0.44141 Ac.
RESIDUAL TRACT 'C'	0.00 Sq. Ft. or 0.00000 Ac.
TRACT 'D' GPIN: 2407-09-6257	220,629 Sq. Ft. or 5.06495 Ac.
RESIDUAL TRACT 'D'	0.00 Sq. Ft. or 0.00000 Ac.
VARIABLE WIDTH SIGN ACCESS & MAINTENANCE EASEMENT	1,565 Sq. Ft. or 0.03593 Ac.
TOTAL AREA TRACTS A, B, C, & D	309,506 Sq. Ft. or 7.10528 Ac.
RESIDUAL TRACTS A, B, C, & D	0.00 Sq. Ft. or 0.00000 Ac.

PROPERTIES TO BE ACQUIRED

TRACT 'A'

BEING DESIGNATED AS PARCEL III, IN A DEED RECORDED IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF THE CITY OF VIRGINIA BEACH IN INSTRUMENT # 20080818000976290. GPIN: 2407-09-2464.

TRACT 'B'

BEING DESIGNATED AS PARCEL I, IN A DEED RECORDED IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF THE CITY OF VIRGINIA BEACH AS INSTRUMENT # 20080818000976290; AND ALSO BEING DESIGNATED AS LOT 4 AS SHOWN ON THE PLAT RECORDED IN M.B. 110 PG. 48. GPIN: 2407-09-4435

TRACT 'C'

BEING DESIGNATED OLD WOLFENBARN ROAD, IN A DEED RECORDED IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF THE CITY OF VIRGINIA BEACH IN INSTRUMENT # 20160301000165440, INSTRUMENT # 20080710000809510 AND IN A DEED OF CORRECTION IN INSTRUMENT # 20080922001111740. BEING OLD WOLFENBARN ROAD TO BE CLOSED AND VACATED AS SHOWN ON THE PLAT RECORDED AS INSTRUMENT # 20160301000165430. GPIN: 2407-09-5412.

TRACT 'D'

BEING DESIGNATED AS PARCEL II, TRACT A, IN A DEED RECORDED IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF THE CITY OF VIRGINIA BEACH AS INSTRUMENT # 20080710000809510 AND BEING DESIGNATED AS PARCEL I, IN A DEED OF CORRECTION AS INSTRUMENT # 20080922001111740. GPIN: 2407-09-6257.

NOTES:

1. THE MERIDIAN SOURCE OF THIS PLAT IS BASED ON THE VIRGINIA STATE PLANE COORDINATE SYSTEM, SOUTH ZONE, NAD 1983/1993 (HARN). COORDINATE VALUES SHOWN HEREON ARE EXPRESSED IN U.S. SURVEY FEET AND ARE DERIVED FROM GPS UTILIZING THE CITY OF VIRGINIA BEACH VIRTUAL REFERENCE STATIONS (VRS) NETWORK.
2. THIS PLAT IS A RESULT OF A FIELD SURVEY OF EXISTING MONUMENTS COMBINED WITH THE COMPILATION OF DEEDS AND PLATS SHOWN HEREON.
3. THIS PLAT WAS PREPARED UTILIZING A TITLE REPORT PREPARED BY WFC NATIONAL TITLE INSURANCE COMPANY DATED FEBRUARY 13, 2023. COMMITMENT NUMBER ST23-0004A-1 & ST23-0004F-1.
4. THIS PLAT IS INTENDED FOR ACQUISITION PURPOSES ONLY AND DOES NOT CONSTITUTE A SUBDIVISION OF LAND.
5. PROPERTIES TO BE ACQUIRED BY DEED.
6. VARIABLE WIDTH SIGN ACCESS & MAINTENANCE EASEMENT TO BE RESERVED BY GRANTOR BY DEED TO BE RECORDED CONTEMPORANEOUSLY HERewith.
7. TRACT 'C' IS SUBJECT TO A 15' VIRGINIA ELECTRIC AND POWER COMPANY EASEMENT AS SHOWN IN DEED BOOK 1948 PAGE UNKNOWN. LOCATION UNKNOWN.



PLAT SHOWING
PROPERTY TO BE ACQUIRED
TRACTS A, B, C, & D

FROM
LYNNHAVEN AREA
PROPERTIES, LLC
&
WASHINGTON SQUARE
TOWNHOUSES, LLC

BY
CITY OF VIRGINIA BEACH
FOR
OPEN SPACE & PARK INFRASTRUCTURE DEVELOPMENT
& MAINTENANCE II PROJECT, CIP 100289

DEPARTMENT OF PUBLIC WORKS, ENGINEERING GROUP, SURVEY BUREAU
TEL (757) 365-4131; 2473 N. LANDING ROAD, BLDG. 23; ROOM 160
VIRGINIA BEACH, VIRGINIA 23456



BY APPROVAL, THE UNDERSIGNED DOES NOT CERTIFY AS TO THE CORRECTNESS OF THE BOUNDARY, STREETS OR OTHER LINES SHOWN ON THIS PLAT. EXISTING PUBLIC RIGHT-OF-WAY, EASEMENTS OR OTHER PUBLIC INTERESTS NOT SHOWN ON THIS PLAT REMAIN IN EFFECT AND ARE NOT TERMINATED OR EXTINGUISHED BY OMISSION FROM THIS PLAT.

APPROVED: _____ DATE: _____
DIRECTOR OF PUBLIC WORKS, CITY OF VIRGINIA BEACH

WOLFSNARE ROAD (RELOCATED)

(60' R/W) (M.B. 108 PG. 3) (M.B. 107 PG. 55)

* SEE SHEET 1 FOR NOTES *
AND AREA TABLE



CURVE DATA CHART

NUMBER	ARC	RADIUS	DELTA ANGLE	TANGENT	CHORD DIRECTION	CHORD LENGTH
C1	39.25'	25.00'	89°57'00"	24.98'	N 39°11'11" E	35.34'
C2	63.74'	590.00'	6°11'24"	31.90'	N 81°03'59" E	63.71'
C3	40.81'	590.00'	3°57'47"	20.41'	N 75°59'23" E	40.80'
C4	38.53'	90.35'	24°25'55"	19.56'	N 86°13'27" E	38.24'
C5	27.09'	30.00'	51°43'53"	14.55'	S 55°42'02" E	26.18'
C6	342.64'	2200.00'	8°55'25"	171.67'	N 50°08'53" E	342.30'
C7	347.31'	2230.00'	8°55'25"	174.01'	S 50°08'53" W	346.96'
C8	64.51'	494.73'	7°28'15"	32.30'	N 41°57'02" E	64.46'
C9	35.19'	524.73'	3°50'32"	17.60'	S 43°59'32" W	35.18'
C10	102.55'	941.45'	6°14'28"	51.33'	S 32°57'19" E	102.50'

LINE DATA CHART

NUMBER	DIRECTION	DISTANCE
L1	N 84°09'41" E	80.44'
L2	S 5°50'19" E	52.00'
L3	N 84°09'41" E	7.50'
L4	S 5°50'19" E	15.00'
L5	S 84°09'41" W	35.00'
L6	N 5°50'19" W	15.00'
L7	N 84°09'41" E	7.50'
L8	N 5°50'19" W	52.00'
L9	N 84°09'41" E	20.00'

LEGEND

- PIN FOUND
- PIN SET
- ⊠ VDOT MONUMENT FOUND
-  DENOTES PROPERTY TO BE ACQUIRED
-  DENOTES VARIABLE WIDTH SIGN ACCESS & MAINTENANCE EASEMENT TO BE RESERVED
AREA = 1565 Sq. Ft. OR 0.03595 AC. (SEE NOTE 6)

PLAT SHOWING
PROPERTY TO BE ACQUIRED
TRACTS A, B, C, & D

FROM
LYNNHAVEN AREA
PROPERTIES, LLC
&
WASHINGTON SQUARE
TOWNHOUSES, LLC

BY
CITY OF VIRGINIA BEACH
FOR
OPEN SPACE & PARK INFRASTRUCTURE DEVELOPMENT
& MAINTENANCE II PROJECT, CIP 100269

DEPARTMENT OF PUBLIC WORKS, ENGINEERING GROUP, SURVEY BUREAU
TEL (757) 385-4131; 2473 N. LANDING ROAD; BLDG. 23; ROOM 160
VIRGINIA BEACH, VIRGINIA 23456

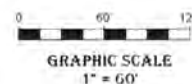


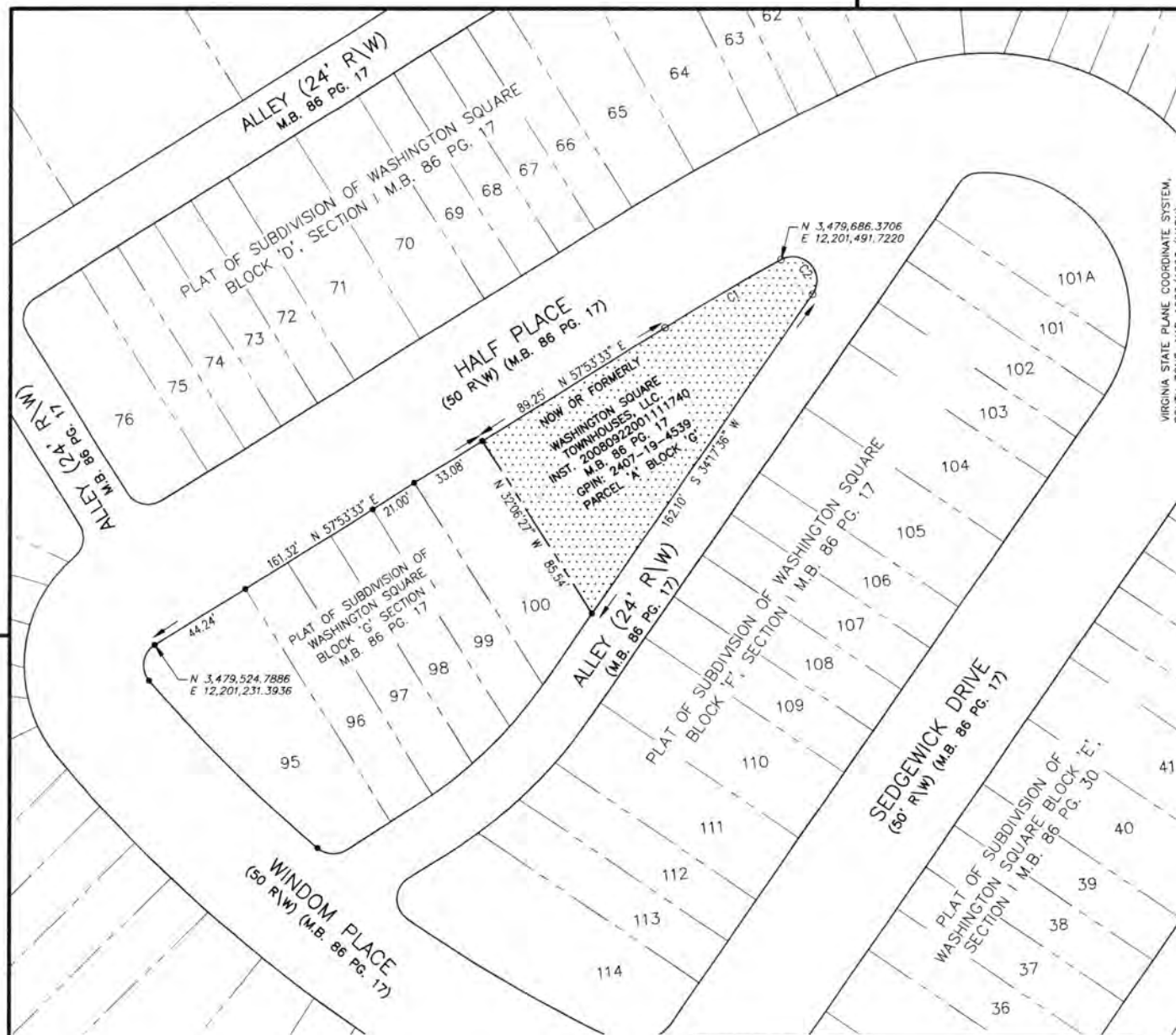
MARCH 8, 2023 JOB NO. 220330 SHEET 2 OF 2



BY APPROVAL, THE UNDERSIGNED DOES NOT CERTIFY AS TO THE CORRECTNESS OF THE
BOUNDARY, STREETS OR OTHER LINES SHOWN ON THIS PLAT. EXISTING PUBLIC RIGHT-OF-WAY,
EASEMENTS OR OTHER PUBLIC INTERESTS NOT SHOWN ON THIS PLAT REMAIN IN EFFECT AND ARE
NOT TERMINATED OR EXTINGUISHED BY OMISSION FROM THIS PLAT.

APPROVED: _____ DATE: _____
DIRECTOR OF PUBLIC WORKS, CITY OF VIRGINIA BEACH





LEGEND

- PIN FOUND
- PIN SET
- DENOTES PROPERTY TO BE ACQUIRED



NOTES:

1. THE MERIDIAN SOURCE OF THIS PLAT IS BASED ON THE VIRGINIA STATE PLANE COORDINATE SYSTEM, SOUTH ZONE, NAD 1983/1993 (HARN). COORDINATE VALUES SHOWN HEREON ARE EXPRESSED IN U.S. SURVEY FEET AND ARE DERIVED FROM GPS UTILIZING THE CITY OF VIRGINIA BEACH VIRTUAL REFERENCE STATIONS (VRS) NETWORK.
2. THIS PLAT IS A RESULT OF A FIELD SURVEY OF EXISTING MONUMENTS COMBINED WITH THE COMPILATION OF DEEDS AND PLATS SHOWN HEREON.
3. THIS PLAT WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT.
4. THIS PLAT IS INTENDED FOR ACQUISITION PURPOSES ONLY AND DOES NOT CONSTITUTE A SUBDIVISION OF LAND.
5. PROPERTIES TO BE ACQUIRED BY DEED.

AREA TABLE

PARCEL A	7,932 Sq. Ft. or 0.18209 Ac.
PROPERTY TO BE ACQUIRED	7,932 Sq. Ft. or 0.18209 Ac.
RESIDUAL	0 Sq. Ft. or 0.00000 Ac.

PLAT SHOWING
PROPERTY TO BE ACQUIRED

PARCEL A
FROM
WASHINGTON SQUARE
TOWNHOUSES, LLC.

BY
CITY OF VIRGINIA BEACH
FOR

OPEN SPACE & PARK INFRASTRUCTURE DEVELOPMENT
& MAINTENANCE II PROJECT, CIP 100289

DEPARTMENT OF PUBLIC WORKS, ENGINEERING GROUP, SURVEY BUREAU
TEL (757) 385-4131; 2473 N. LANDING ROAD; BLDG. 23; ROOM 160
VIRGINIA BEACH, VIRGINIA 23456



CURVE DATA CHART

NUMBER	ARC	RADIUS	DELTA ANGLE	TANGENT	CHORD DIRECTION	CHORD LENGTH
C1	55.85'	1041.00'	3°04'27"	27.93'	N 59°25'48" E	55.85'
C2	26.76'	10.00'	153°19'36"	42.18'	S 42°22'12" E	19.46'

BY APPROVAL, THE UNDERSIGNED DOES NOT CERTIFY AS TO THE CORRECTNESS OF THE BOUNDARY, STREETS OR OTHER LINES SHOWN ON THIS PLAT. EXISTING PUBLIC RIGHT-OF-WAY, EASEMENTS OR OTHER PUBLIC INTERESTS NOT SHOWN ON THIS PLAT REMAIN IN EFFECT AND ARE NOT TERMINATED OR EXTINGUISHED BY OMISSION FROM THIS PLAT.

APPROVED: _____ DATE: _____
DIRECTOR OF PUBLIC WORKS, CITY OF VIRGINIA BEACH

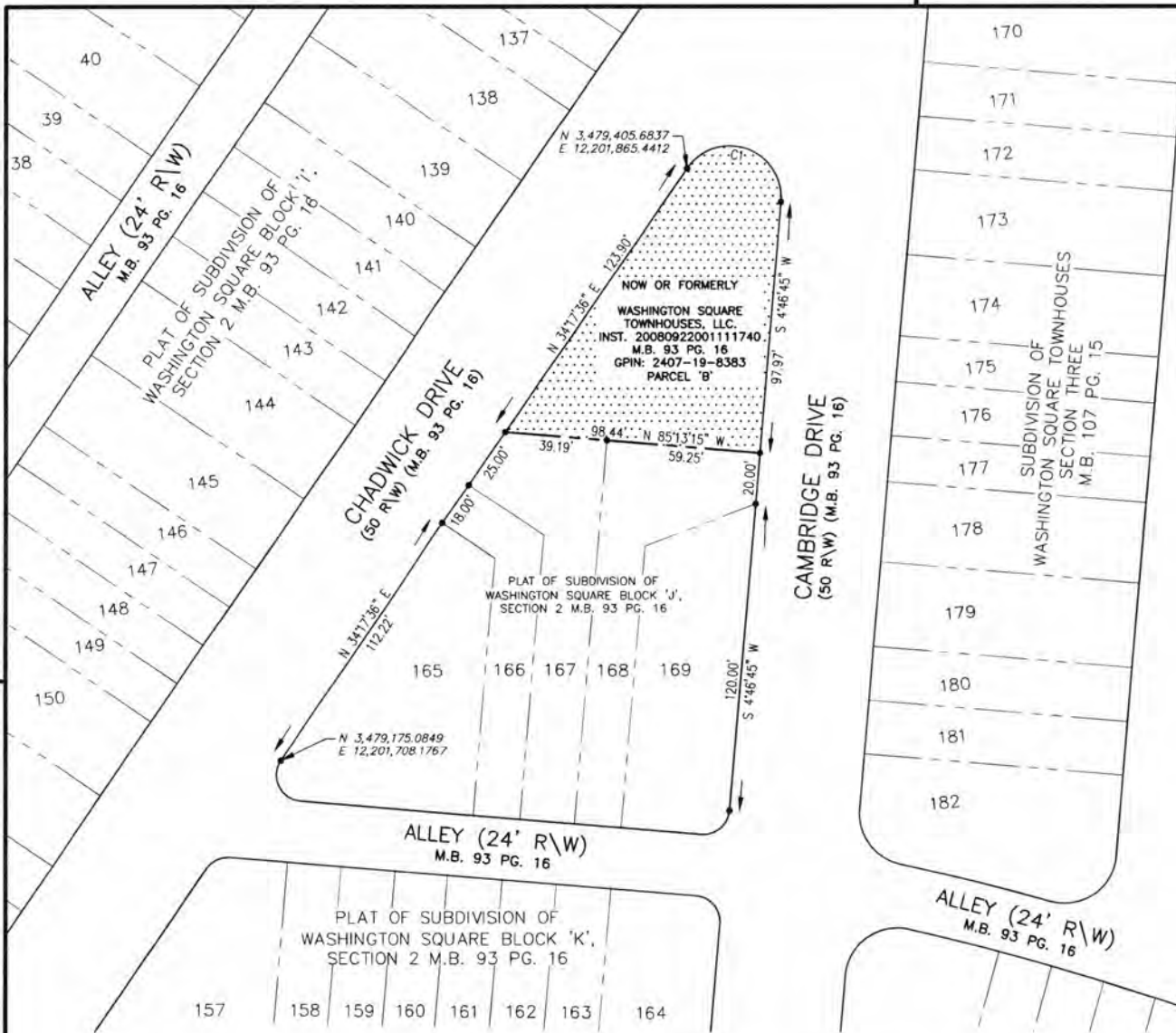
0 30' 60'
GRAPHIC SCALE
1" = 30'

REV. APRIL 20, 2023
MARCH 8, 2023

JOB NO. 220330

SHEET 1 OF 1





LEGEND

• PIN FOUND



DENOTES PROPERTY TO BE ACQUIRED

VIRGINIA STATE PLANE COORDINATE SYSTEM,
 SOUTH ZONE, NAD 1983/1993 (HARN)



NOTES:

1. THE MERIDIAN SOURCE OF THIS PLAT IS BASED ON THE VIRGINIA STATE PLANE COORDINATE SYSTEM, SOUTH ZONE, NAD 1983/1993 (HARN). COORDINATE VALUES SHOWN HEREON ARE EXPRESSED IN U.S. SURVEY FEET AND ARE DERIVED FROM GPS UTILIZING THE CITY OF VIRGINIA BEACH VIRTUAL REFERENCE STATIONS (VRS) NETWORK.
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AREA TABLE

PARCEL B	7,566 Sq. Ft. or 0.17370 Ac.
PROPERTY TO BE ACQUIRED	7,566 Sq. Ft. or 0.17370 Ac.
RESIDUAL	0 Sq. Ft. or 0.00000 Ac.

PLAT SHOWING
 PROPERTY TO BE ACQUIRED

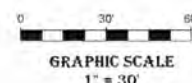
PARCEL B
 FROM

WASHINGTON SQUARE
 TOWNHOUSES, LLC.

BY
 CITY OF VIRGINIA BEACH
 FOR

OPEN SPACE & PARK INFRASTRUCTURE DEVELOPMENT
 & MAINTENANCE II PROJECT, CIP 100289

DEPARTMENT OF PUBLIC WORKS, ENGINEERING GROUP, SURVEY BUREAU
 TEL (757) 365-4131; 2473 N. LANDING ROAD; BLDG. 23; ROOM 160
 VIRGINIA BEACH, VIRGINIA 23456



REV. APRIL 20, 2023
 MARCH 6, 2023

JOB NO. 220330

SHEET 1 OF 1



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APPROVED: _____ DATE: _____
 DIRECTOR OF PUBLIC WORKS, CITY OF VIRGINIA BEACH

Disclosure Statement



The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law. The completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council or a City board, commission or other body.

Applicant Disclosure

Applicant Name Lynnhaven Area Properties LLC and Washington Square Townhouses LLC

Does the applicant have a representative? ☒ **Yes** ☐ **No**

- If **yes**, list the name of the representative.

Jay Rixey and James Harvey, Woods Rogers Vandeventer Black PLC

Is the applicant a corporation, partnership, firm, business, trust or an unincorporated business? ☒ **Yes** ☐ **No**

- If **yes**, list the names of all officers, directors, members, trustees, etc. below. (Attach a list if necessary)

Cheryl P McLeskey and William A Wilcox ; F. Wayne McLeskey, Jr. QTIP Marital Trust

- If **yes**, list the businesses that have a parent-subsidary¹ or affiliated business entity² relationship with the applicant. (Attach a list if necessary)

see attached

¹ "Parent-subsidary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, VA. Code § 2.2-3101.

² "Affiliated business entity relationship" means "a relationship, other than parent-subsidary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

Disclosure Statement



Known Interest by Public Official or Employee

Does an **official or employee of the City of Virginia Beach** have an interest in the subject land or any proposed development contingent on the subject public action? ☐ Yes ☒ No

- If **yes**, what is the name of the official or employee and what is the nature of the interest?
-

Applicant Services Disclosure

1. Does the applicant have **any existing financing (mortgage, deeds of trust, cross-collateralization, etc) or are they considering any financing** in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

- If **yes**, identify the financial institutions providing the service.
-

2. Does the applicant have a **real estate broker/agent/realtor** for current and anticipated future sales of the subject property? ☐ Yes ☒ No

- If **yes**, identify the company and individual providing the service.
-

3. Does the applicant have services for **accounting and/or preparation of tax returns** provided in connection with the subject of the application or any business operating or to be operated on the property? ☒ Yes ☐ No

- If **yes**, identify the firm and individual providing the service.

Dixon Hughes Goodman

4. Does the applicant have services from an **architect/landscape architect/land planner** provided in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

- If **yes**, identify the firm and individual providing the service.
-

5. Is there any other **pending or proposed purchaser** of the subject property? ☐ Yes ☒ No

- If **yes**, identify the purchaser and purchaser's service providers.
-

Disclosure Statement



6. Does the applicant have a **construction contractor** in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No
- If **yes**, identify the company and individual providing the service.

7. Does the applicant have an **engineer/surveyor/agent** in connection with the subject of the application or any business operating or to be operated on the property? ☒ Yes ☐ No
- If **yes**, identify the firm and individual providing the service.

MSA

8. Is the applicant receiving **legal services** in connection with the subject of the application or any business operating or to be operated on the property? ☒ Yes ☐ No
- If **yes**, identify the firm and individual providing the service.

Jay Rixey and James Harvey at Woods Rogers Vandeventer Black PLC

Applicant Signature

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate. I understand that, upon receipt of notification that the application has been scheduled for public hearing, **I am responsible for updating the information provided herein two weeks prior to the meeting of Planning Commission, City Council, VBDA, CBPA, Wetlands Board or any public body or committee in connection with this application.**

Applicant Signature

Print Name and Title

Date

Is the applicant also the owner of the subject property? ☐ Yes ☐ No

- If **yes**, you do not need to fill out the owner disclosure statement.

FOR CITY USE ONLY/ All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the applications

<input type="checkbox"/>	No changes as of	Date	Signature
			Print Name

Continue to Next Page for Owner Disclosure

Disclosure Statement



Owner Disclosure

Owner Name _____

Applicant Name Lynnhaven Area Properties LLC and Washington Square Townhouses LLC

Is the Owner a corporation, partnership, firm, business, trust or an unincorporated business? ☐ Yes ☐ No

- If **yes**, list the names of all officers, directors, members, trustees, etc. below. (Attach a list if necessary)

Cheryl McLeskey and William A Wilcox

- If **yes**, list the businesses that have a parent-subsiary³ or affiliated business entity⁴ relationship with the Owner. (Attach a list if necessary)

see attached

Known Interest by Public Official or Employee

Does an **official or employee of the City of Virginia Beach** have an interest in the subject land or any proposed development contingent on the subject public action? ☐ Yes ☒ No

- If **yes**, what is the name of the official or employee and what is the nature of the interest?

³ "Parent-subsiary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, VA. Code § 2.2-3101.

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Disclosure Statement



Owner Services Disclosure

1. Does the Owner have **any existing financing (mortgage, deeds of trust, cross-collateralization, etc)** or are they considering any **financing** in connection with the subject of the application or any business operating or to be operated on the property?

☐ Yes ☒ No

- If **yes**, identify the financial institutions providing the service.

2. Does the Owner have a **real estate broker/agent/realtor** for current and anticipated future sales of the subject property?

☐ Yes ☒ No

- If **yes**, identify the company and individual providing the service.

3. Does the Owner have services for **accounting and/or preparation of tax returns** provided in connection with the subject of the application or any business operating or to be operated on the property? ☒ Yes ☐ No

- If **yes**, identify the firm and individual providing the service.

Dixon Hughes Goodman

4. Does the Owner have services from an **architect/landscape architect/land planner** provided in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

- If **yes**, identify the firm and individual providing the service.

5. Is there any other **pending or proposed purchaser** of the subject property? ☐ Yes ☒ No

- If **yes**, identify the purchaser and purchaser's service providers.

6. Does the Owner have a **construction contractor** in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

- If **yes**, identify the company and individual providing the service.

7. Does the Owner have an **engineer/surveyor/agent** in connection with the subject of the application or any business operating or to be operated on the property? ☒ Yes ☐ No

- If **yes**, identify the firm and individual providing the service.

MSA

Disclosure Statement



8. Is the Owner receiving **legal services** in connection with the subject of the application or any business operating or to be operated on the property? ☒ **Yes** ☐ **No**

- If **yes**, identify the firm and individual providing legal the service.

Jay Rixey and James Harvey, Woods Rogers Vandeventer Black PLC

Owner Signature

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate. I understand that, upon receipt of notification that the application has been scheduled for public hearing, **I am responsible for updating the information provided herein two weeks prior to the meeting of Planning Commission, City Council, VBDA, CBPA, Wetlands Board or any public body or committee in connection with this application.**

Owner Signature

Print Name and Title

Date

McLeskey & Associates, LLC
Entities (Companies)

co#	name
01	Cheryl P. McLeskey - personal
02	WASHINGTON SQUARE TOWNHOUSES, LLC
03	Bel-Aire LLC
04	Virginia Beach Fishing Center LLC
05	FWM RESIDENTIAL RENTAL PROPERTIES, LLC
06	2859 VBB, LLC
07	
09	Elizabeth City Development Company LLC
11	Elizabeth City Airport Industrial Park, Inc.
12	LDSM Properties LLC
13	
14	
16	Mortons Baye LLC
17	J&W Investors, LLC
18	RADCLIFFE TOWNHOUSES, LLC
19	Cepco LLC
20	COLONY PINES APARTMENTS, LLC
21	Coastal Investors LLC
23	
26	
27	Norfolk-Virginia Beach Airport LLC
29	2648 VBB, LLC
30	Lynnhaven Shopping Center, LLC (dba MarketSquare)- Div. 20
31	Satellite A- Division 21 of Co. 30 (all included in Co.30)
32	Satellite B- Division 22 of Co. 30
33	Riverwalk LLC
34	2540 VBB, LLC
35	NEWTOWN CONVENIENCE CENTER, LLC
36	
38	Front Street Investors LLC
40	MGM Associates
41	Furberfax LLC
42	
43	
46	Lotsalisa LLC
	Lotsalisa LLC
	Lotsalisa LLC
49	
52	
53	AIR TACO, LLC
54	103, LLC
55	Croupier LLC
56	Air Walker LLC (new in Feb 2021)
80	Cheryl Anne, LLC
81	LAW- Pirate's Cove, LLC
82	428 Timberline, LLC
83	CPM Properties LLC
84	VBFC PROPERTIES, LLC
85	BAYLINER BUILDING, LLC
87	LITTLE NECK COMMERCIAL PROPERTY, LLC
88	
90	McLeskey & Associates, LLC
91	SHORE DRIVE AREA PROPERTIES LLC
92	LYNNHAVEN AREA PROPERTIES, LLC
93	LITTLE CREEK ROAD PROPERTIES, LLC
94	RUDEE HEIGHTS PROPERTIES, LLC
95	Southside Waterfront Properties, LLC
73	F. Wayne McLeskey, Jr., QTIP Marital Trust
74	FWM Memorial Marlin Open Inc.
75	The McLeskey Family Foundation, Inc.
76	The Cheryl P. McLeskey Charitable Foundation, Inc.
	Regency Hilltop Associates, LLP
13	BA-GB, LLC
New	Dam Neck Assolcates, LLC (new in 2020)



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance to authorize Temporary Encroachments into a portion of City-owned property known as Stratton's Creek and into a City-owned 10' utility easement

MEETING DATE: March 19, 2024

■ **Background:**

Jonathan L. Schreiber and Elizabeth D. Kulas (the "Applicants") request permission to construct and maintain a boat lift, a boathouse, and a rip rap into City-owned property known as Stratton's Creek and a into a 10' City-owned utility easement (collectively, the "Temporary Encroachment"), located at the rear of 416 Goodspeed Road (GPIN: 2419-60-3857).

■ **Considerations:**

City staff reviewed the Temporary Encroachment and have recommended approval of same, subject to certain conditions outlined in the Agreement.

There are similar encroachments into Stratton's Creek, which is where the Applicants have requested to encroach.

■ **Public Information:**

Public notice will be provided via the normal City Council agenda process.

■ **Alternatives:**

Deny the Temporary Encroachment or add conditions as desired by Council.

■ **Recommendations:**


Approve the request subject to the terms and conditions of the Agreement.

■ **Attachments:**

Ordinance, Agreement, Exhibit, Photos, Location Map and Disclosure Statement.

Recommended Action: Approval

Submitting Department/Agency: Public Works/Real Estate

City Manager: 



1 Requested by Department of Public Works

2
3 AN ORDINANCE TO AUTHORIZE
4 TEMPORARY ENCROACHMENTS INTO
5 A PORTION OF CITY-OWNED
6 PROPERTY KNOWN AS STRATTON'S
7 CREEK AND INTO A 10' CITY-OWNED
8 UTILITY EASEMENT.
9

10 WHEREAS, Jonathan L. Schreiber and Elizabeth D. Kulas (the "Applicants")
11 request permission to construct and maintain 12' x 12' boat lift and a 16' x 32' boathouse
12 into City-owned property known as Stratton's Creek and to construct and maintain a riprap
13 with a maximum encroachment of 9.04' into a 10' City-owned utility easement (collectively,
14 the "Temporary Encroachment"), located at the rear of 416 Goodspeed Road (GPIN: 2419-
15 60-3857); and
16

17 WHEREAS, City Council is authorized pursuant to §§ 15.2-2009 and 15.2-
18 2107, Code of Virginia, 1950, as amended, to authorize temporary encroachments upon
19 City-owned property subject to such terms and conditions as Council may prescribe.
20

21 NOW, THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
22 VIRGINIA BEACH, VIRGINIA:
23

24 That pursuant to the authority and to the extent thereof contained in §§ 15.2-
25 2009 and 15.2-2107, Code of Virginia, 1950, as amended, the Applicants, their heirs,
26 assigns and successors in title are authorized to construct and maintain the Temporary
27 Encroachment into City-owned property known as Stratton's Creek and into a 10' City-
28 owned utility easement as shown on the map entitled: "Exhibit A ENCROACHMENT
29 EXHIBIT SHOWING BOATHOUSE, BOAT LIFT & RIP RAP FOR JONATHAN L.
30 SCHREIBER & ELIZABETH D. KULAS I.N. 202103089771 LOCATED ON LOT 44A,
31 RESUBDIVISION OF LOT 44 & A PORTION OF LOT 45, PRINCESS ANNE HILLS PARK,
32 SECTION A I.N. 200509190151527 (PLAT) GPIN: 2419-60-3857 CITY OF VIRGINIA
33 BEACH, VIRGINIA," Scale: 1" = 50', dated February 23, 2023, prepared by Gallup
34 Surveyors & Engineers, a copy of which is attached hereto as Exhibit "A" and on file in the
35 Department of Public Works and to which reference is made for a more particular
36 description;
37

38 BE IT FURTHER ORDAINED, that the Temporary Encroachment is expressly
39 subject to those terms, conditions and criteria contained in the agreement between the City
40 of Virginia Beach and the Applicants (the "Agreement"), an unexecuted copy of which has
41 been presented to the Council in its agenda, and will be recorded among the records of the
42 Clerk's Office of the Circuit Court of the City of Virginia Beach;
43

44 BE IT FURTHER ORDAINED, that the City Manager or his authorized
45 designee is hereby authorized to execute the Agreement; and

46
47 BE IT FURTHER ORDAINED, that this Ordinance shall not be in effect until
48 such time as the Applicant's and the City Manager or his authorized designee execute the
49 Agreement.

50
51 Adopted by the Council of the City of Virginia Beach, Virginia, on the _____
52 day of _____, 2024.
53
54

CA16053

R-1

Prepared: 2/22/24

APPROVED AS TO CONTENT:


PUBLIC WORKS, REAL ESTATE

APPROVED AS TO LEGAL
SUFFICIENCY AND FORM:


DANA R. HARMEYER
SENIOR CITY ATTORNEY



A PERPETUAL EASEMENT IS GRANTED TO THE COUNTY OF PRINCESS ANNE ALONG AND ACROSS STRATTON'S CREEK IN IT'S ENTIRELY FOR DRAINAGE - M.B. 41, PG. 2 & 2A



I.N. 200509190151527 (PLAT)

10' PUBLIC UTILITY EASEMENT
M.B. 41, PG. 2 & 2A
N 31°19'07" E - 119.76'

N 09°27'42" E - 163.05'

LOT 44A



10' PUBLIC UTILITY EASEMENT
M.B. 41, PG. 2 & 2A

GOODSPEED ROAD
(50' RIGHT OF WAY)
M.B. 41, PG. 2 & 2A
S 76°24'43" W 127.50'

STRATTON'S CREEK
M.B. 41, PG. 2 & 2A
S 80°19'42" E
98.53' (CALC.)
98.76' (PLAT)

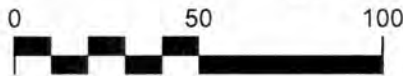
10' PUBLIC UTILITY EASEMENT
M.B. 41, PG. 2 & 2A
S 10°21'43" W - 110.09'

S 03°56'47" E 102.63'

546.28' (PLAT) TO
P.I. AT DISCOVERY ROAD

CURVE TABLE

CURVE	DELTA	RADIUS	LENGTH	TANGENT	CHD BEARING	CHORD
C1	13°25'55"	213.28'	50.00'	25.12'	S 83°07'41" W	49.89'



1. THIS PLAN WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT.
2. THIS EXHIBIT IS INTENDED FOR AN ENCROACHMENT REQUEST ONLY.
3. THE CITY OF VIRGINIA BEACH IS NOT RESPONSIBLE FOR VERIFICATION OF RESTRICTIONS REQUIRED BY OTHER ASSOCIATIONS OR AGENCIES.

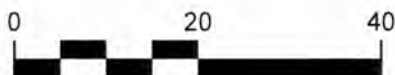
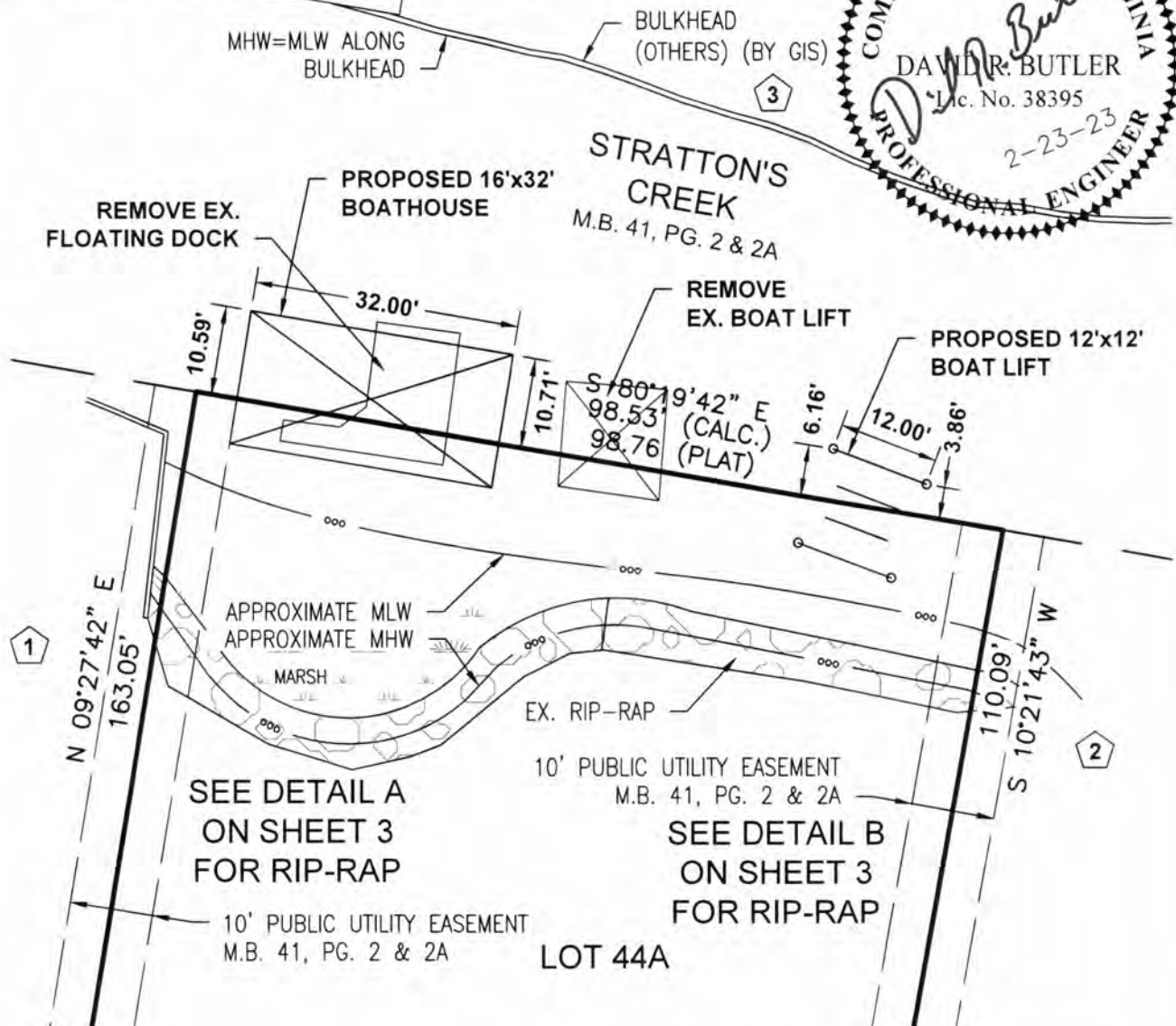


GALLUP
SURVEYORS & ENGINEERS
323 FIRST COLONIAL ROAD
VIRGINIA BEACH, VIRGINIA 23454
(757)428-8132 (757)425-2390 FAX

EXHIBIT A
**ENCROACHMENT EXHIBIT SHOWING
BOATHOUSE, BOAT LIFT & RIP-RAP**
FOR
JONATHAN L. SCHREIBER & ELIZABETH D. KULAS
I.N. 202103089771
LOCATED ON
LOT 44A, RESUBDIVISION OF LOT 44 & A PORTION OF
LOT 45, PRINCESS ANNE HILLS PARK, SECTION A
I.N. 200509190151527 (PLAT)
GPIN: 2419-60-3857
CITY OF VIRGINIA BEACH, VIRGINIA

Scale: 1"=50' Date: FEB. 23, 2023 Sheet: 1 of 3

A PERPETUAL EASEMENT IS GRANTED TO THE COUNTY OF PRINCESS ANNE ALONG AND ACROSS STRATTON'S CREEK IN IT'S ENTIRELY FOR DRAINAGE — M.B. 41, PG. 2 & 2A



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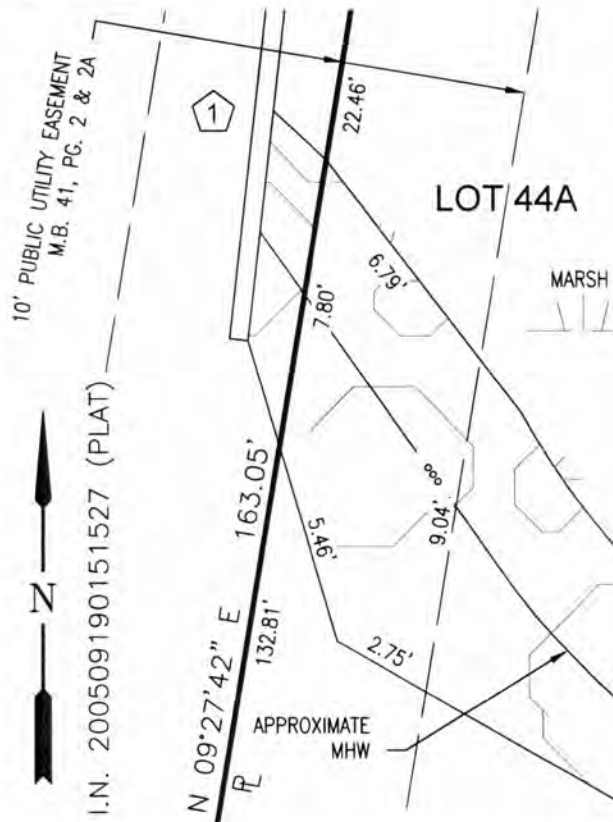
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Scale: 1"=20'

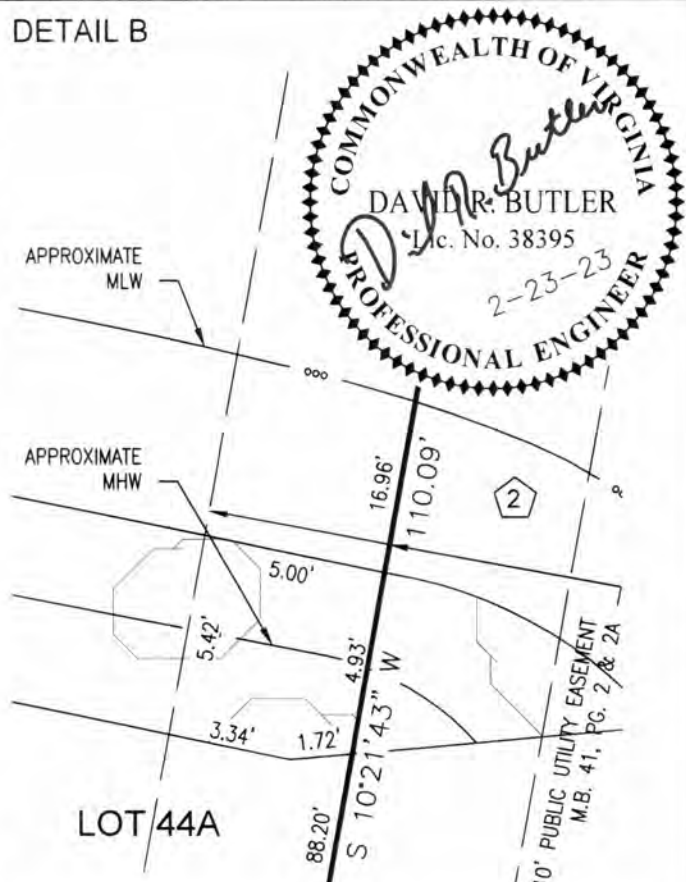
Date: FEB. 23, 2023

Sheet: 2 of 3

DETAIL A



DETAIL B



ADJACENT OWNERS

KEY	NOW OR FORMERLY / INSTRUMENT	LEGAL	PLAT / GPIN
1	EDNA LARAIN BREITENBERG, TRUSTEE OF THE EDNA LARAIN BREITENBERG REVOCABLE TRUST OF JANUARY 10, 2006 I. N. 20060126000134120	LOT 43B, SUBDIVISION OF LOTS 42 & 43, SECTION A, PRINCESS ANNE HILLS PARK	M.B. 107, PG. 44 GPIN: 2419-60-1884
2	CHRISTOPHER DEMENT & AUDRA B. DEMENT I. N. 202203052299	LOT 45, RESUBDIVISION OF SITES 54, 46 & 47, SECTION A, PRINCESS ANNE HILLS PARK	M.B. 48, PG. 54 GPIN: 2419-60-4865
3	CRAIG DOOREN I. N. 20200908000821170	PART OF PARCEL D, PRINCESS ANNE HILLS PARK	M.B. 145, PG. 24 GPIN: 2419-61-3098

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BOATHOUSE, BOAT LIFT & RIP-RAP

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JONATHAN L. SCHREIBER & ELIZABETH D. KULAS

I.N. 202103089771

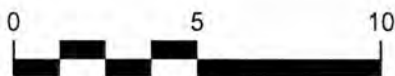
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I.N. 200509190151527 (PLAT)

GPIN: 2419-60-3857

CITY OF VIRGINIA BEACH, VIRGINIA

**GALLUP****SURVEYORS & ENGINEERS**323 FIRST COLONIAL ROAD
VIRGINIA BEACH, VIRGINIA 23454
(757)428-8132 (757)425-2390 FAX

Scale: 1"=5'

Date: FEB. 23, 2023

Sheet: 3 of 3

PREPARED BY VIRGINIA BEACH
CITY ATTORNEY'S OFFICE (BOX 31)

EXEMPTED FROM RECORDATION TAXES
UNDER SECTION 58.1-811(C) (4)

THIS AGREEMENT, made this 10 day of February, 2024, by and between the **CITY OF VIRGINIA BEACH, VIRGINIA**, a municipal corporation of the Commonwealth of Virginia, Grantor, **JONATHAN L. SCHREIBER** and **ELIZABETH D. KULAS**, husband and wife, THEIR HEIRS, ASSIGNS AND SUCCESSORS IN TITLE, collectively "Grantee", even though more than one.

WITNESSETH:

WHEREAS, the Grantee is the owner of that certain lot, tract, or parcel of land designated and described as LOT "44A" as shown on that certain plat entitled: "RESUBDIVISION OF LOT 44 AND A PORTION OF LOT 45 PRINCESS ANNE HILLS PARK SECTION A MB 41 P 2, 2A DB 4291 P 1576 VIRGINIA BEACH, VIRGINIA," Scale: 1" = 20', dated May 17, 2005, prepared by Gallup Surveyors and Engineers LTD, which plat is recorded in the Clerk's Office of the Circuit Court of the City of Virginia Beach, Virginia as Instrument No. 200509190151527, and being further designated, known, and described as 416 Goodspeed Road, Virginia Beach, Virginia 23451;

WHEREAS, it is proposed by the Grantee to construct and maintain a 12' x 12' boat lift and a 16' x 32' boathouse into City-owned creek known as Stratton's Creek, and riprap that extends a maximum of 9.04' into a 10' City-owned utility easement, collectively, the "Temporary Encroachments", in the City of Virginia Beach; and

**GPINs: CITY-OWNED PROPERTY KNOWN AS STRATTON'S CREEK (NO GPIN
ASSIGNED)
2419-60-3857 (416 GOODSPEED ROAD)**

WHEREAS, in constructing and maintaining the Temporary Encroachments, it is necessary that the Grantee encroach into a portion of City-owned property known as a Stratton's Creek and a 10' City-owned utility easement, collectively, the "Encroachment Areas"; and

WHEREAS, the Grantee has requested that the City permit the Temporary Encroachments within the Encroachment Area.

NOW, THEREFORE, for and in consideration of the premises and of the benefits accruing or to accrue to the Grantee and for the further consideration of One Dollar (\$1.00), cash in hand paid to the City, receipt and sufficiency of which are hereby acknowledged, the City hereby grants to the Grantee permission to use the Encroachment Areas for the purpose of constructing and maintaining the Temporary Encroachments.

It is expressly understood and agreed that the Temporary Encroachments will be constructed and maintained in accordance with the laws of the Commonwealth of Virginia and the City of Virginia Beach, and in accordance with the City's specifications and approval and is more particularly described as follows, to wit:

Temporary Encroachments into the Encroachment Areas as shown on that certain exhibit plat entitled: "EXHIBIT A ENCROACHMENT EXHIBIT SHOWING BOATHOUSE, BOAT LIFT & RIP-RAP FOR JONATHAN L. SCHREIBER & ELIZABETH D. KULAS I.N. 202103089771 LOCATED ON LOT 44A, RESUBDIVISION OF LOT 44 & A PORTION OF LOT 45, PRINCESS ANNE HILLS PARK, SECTION A I.N. 200509190151527 (PLAT) GPIN: 2419-60-3857 CITY OF VIRGINIA BEACH, VIRGINIA," Scale: 1" = 50', dated February 23, 2023 and prepared by Gallup Surveyors & Engineers, a copy of which is attached hereto as Exhibit "A" and to which reference is made for a more particular description.

Providing however, nothing herein shall prohibit the City from immediately removing, or ordering the Grantee to remove, all or any part of the Temporary Encroachments from the Encroachment Areas in the event of an emergency or public necessity, and Grantee shall bear all costs and expenses of such removal.

It is further expressly understood and agreed that the Temporary Encroachments herein authorized terminate upon notice by the City to the Grantee, and that within thirty (30) days after the notice is given, the Temporary Encroachments must be removed from the Encroachment Areas by the Grantee; and that the Grantee will bear all costs and expenses of such removal.

It is further expressly understood and agreed that the Grantee shall indemnify, hold harmless, and defend the City, its agents and employees, from and against all claims, damages, losses and expenses, including reasonable attorney's fees, in case it shall be necessary to file or defend an action arising out of the construction, location or existence of the Temporary Encroachments.

It is further expressly understood and agreed that nothing herein contained shall be construed to enlarge the permission and authority to permit the maintenance or construction of any encroachment other than that specified herein and to the limited extent specified herein, nor to permit the maintenance and construction of any encroachment by anyone other than the Grantee.

It is further expressly understood and agreed that the Grantee agrees to maintain the Temporary Encroachments so as not to become unsightly or a hazard.

It is further expressly understood that any existing encroachments referenced in the attached Exhibit or in this Agreement are the ongoing maintenance

obligation of the Grantee and the City disclaims any ownership interest or maintenance obligation of such encroachments.

It is further expressly understood and agreed that the Grantee must obtain and keep in effect liability insurance with the City as a named insured in an amount not less than \$500,000.00, per person injured and property damage per incident, combined. The company providing the insurance must be registered and licensed to provide insurance in the Commonwealth of Virginia. The Grantee will provide endorsements providing at least thirty (30) days written notice to the City prior to the cancellation or termination of, or material change to, any of the insurance policies. The Grantee assumes all responsibilities and liabilities, vested or contingent, with relation to the construction, location, and/or existence of the Temporary Encroachments.

It is further expressly understood and agreed that the Temporary Encroachments must conform to the minimum setback requirements, as established by the City.

It is further expressly understood and agreed that the City, upon revocation of such authority and permission so granted, may remove the Temporary Encroachments and charge the cost thereof to the Grantee, and collect the cost in any manner provided by law for the collection of local or state taxes; may require the Grantee to remove the Temporary Encroachments; and pending such removal, the City may charge the Grantee for the use of the Encroachment Area, the equivalent of what would be the real property tax upon the land so occupied if it were owned by the Grantee; and if such removal shall not be made within the time ordered hereinabove by this Agreement, the City may impose a penalty in the sum of One Hundred Dollars (\$100.00) per day for each and every day that the Temporary Encroachments are

allowed to continue thereafter, and may collect such compensation and penalties in any manner provided by law for the collection of local or state taxes.

IN WITNESS WHEREOF, **JONATHAN L. SCHRIEBER** and **ELIZABETH D. KULAS**, the said Grantees, have caused this Agreement to be executed by their signatures. Further, that the City of Virginia Beach has caused this Agreement to be executed in its name and on its behalf by its City Manager and its seal be hereunto affixed and attested by its City Clerk.

(THE REMAINDER OF THIS PAGE WAS INTENTIONALLY LEFT BLANK)

CITY OF VIRGINIA BEACH

By: _____ (SEAL)
City Manager/Authorized
Designee of the City Manager

STATE OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

The foregoing instrument was acknowledged before me this 10 day of
February, 2024, by _____, CITY MANAGER/AUTHORIZED
DESIGNEE OF THE CITY MANAGER OF THE CITY OF VIRGINIA BEACH, VIRGINIA,
on its behalf. He/She is personally known to me.

Notary Public (SEAL)

Notary Registration Number: _____
My Commission Expires: _____

(SEAL)
ATTEST:

City Clerk/Authorized
Designee of the City Clerk

STATE OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

The foregoing instrument was acknowledged before me this _____ day of
_____, 202____, by _____, CITY CLERK/AUTHORIZED
DESIGNEE OF THE CITY CLERK OF THE CITY OF VIRGINIA BEACH, VIRGINIA, on
its behalf. She is personally known to me.

Notary Public (SEAL)

Notary Registration Number: _____
My Commission Expires: _____


Jonathan L. Schreiber
Jonathan L. Schreiber

Elizabeth D. Kulas
Elizabeth D. Kulas

STATE OF Virginia
CITY/COUNTY OF Virginia Beach, to-wit:

The foregoing instrument was acknowledged before me this 10 day of
Feb, 2024, by Jonathan L. Schreiber.

Joseph M. Barber
Notary Public



Notary Registration Number: 7680569
My Commission Expires: 9/30/2024

STATE OF Virginia
CITY/COUNTY OF Virginia Beach, to-wit:

The foregoing instrument was acknowledged before me this 10 day of
Feb, 2024, by Elizabeth D. Kulas.

Joseph M. Barber (SEAL)
Notary Public

Notary Registration Number: 7680569
My Commission Expires: 9/30/2024



APPROVED AS TO CONTENTS

Joseph B. Capaldi
PUBLIC WORKS / REAL ESTATE

**APPROVED AS TO LEGAL
SUFFICIENCY AND FORM**

Dana R. Harmeyer
DANA R. HARMeyer
SENIOR CITY ATTORNEY



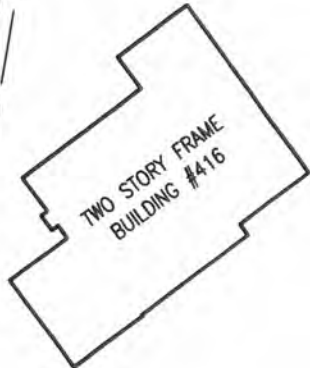
A PERPETUAL EASEMENT IS GRANTED TO THE COUNTY OF PRINCESS ANNE ALONG AND ACROSS STRATTON'S CREEK IN IT'S ENTIRELY FOR DRAINAGE - M.B. 41, PG. 2 & 2A



I.N. 200509190151527 (PLAT)

1

-N 09°27'42" E- 163.05'



LOT 44A

TWO STORY FRAME BUILDING #416

10' PUBLIC UTILITY EASEMENT
M.B. 41, PG. 2 & 2A

10' PUBLIC UTILITY EASEMENT
M.B. 41, PG. 2 & 2A

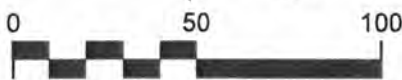
10' PUBLIC UTILITY EASEMENT
M.B. 41, PG. 2 & 2A

STRATTON'S CREEK
M.B. 41, PG. 2 & 2A

S 80°19'42" E
98.53' (CALC.)
98.76' (PLAT)

FLOOD
EBB

CURVE TABLE					
CURVE	DELTA	RADIUS	LENGTH	TANGENT	CHD BEARING
C1	13°25'55"	213.28'	50.00'	25.12'	S 83°07'41" W
					49.89'



GOODSPEED ROAD
(50' RIGHT OF WAY)
M.B. 41, PG. 2 & 2A

546.28' (PLAT) TO
P.I. AT DISCOVERY ROAD

SEE SHEET 3 FOR ADJACENT OWNERS INFORMATION.

1. THIS PLAN WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT.
2. THIS EXHIBIT IS INTENDED FOR AN ENCROACHMENT REQUEST ONLY.
3. THE CITY OF VIRGINIA BEACH IS NOT RESPONSIBLE FOR VERIFICATION OF RESTRICTIONS REQUIRED BY OTHER ASSOCIATIONS OR AGENCIES.

GALLUP

SURVEYORS & ENGINEERS
323 FIRST COLONIAL ROAD
VIRGINIA BEACH, VIRGINIA 23454
(757)428-8132 (757)425-2390 FAX

**EXHIBIT A
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FOR
JONATHAN L. SCHREIBER & ELIZABETH D. KULAS
I.N. 202103089771
LOCATED ON
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Scale: 1"=50' Date: FEB. 23, 2023 Sheet: 1 of 3

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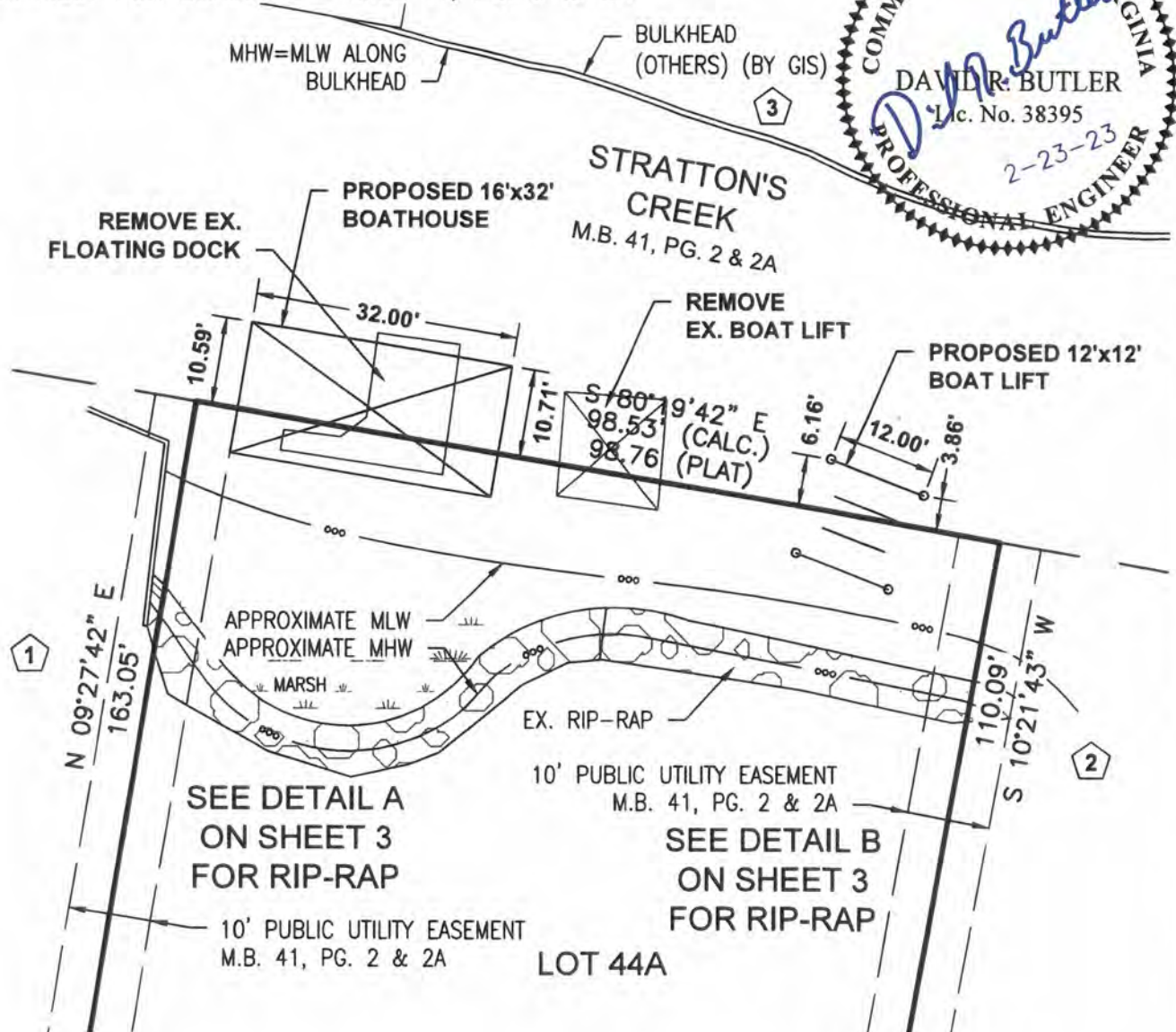
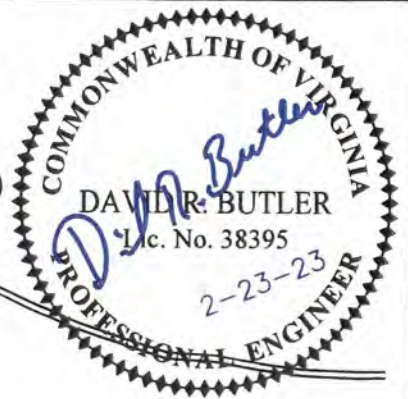


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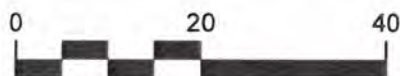
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CITY OF VIRGINIA BEACH, VIRGINIA



GALLUP

SURVEYORS & ENGINEERS

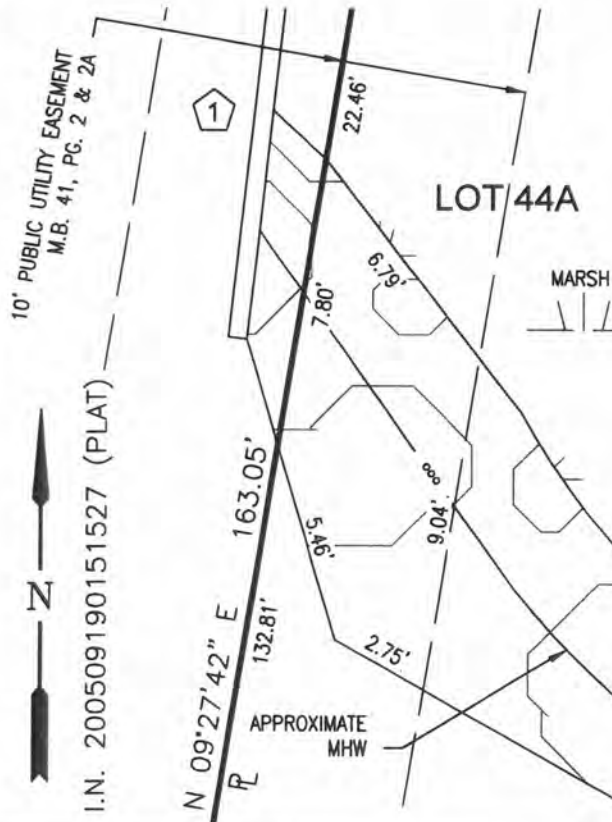
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Scale: 1"=20'

Date: FEB. 23, 2023

Sheet: 2 of 3

DETAIL A



DETAIL B



ADJACENT OWNERS

KEY	NOW OR FORMERLY / INSTRUMENT	LEGAL	PLAT / GPIN
1	EDNA LARAIN BREITENBERG, TRUSTEE OF THE EDNA LARAIN BREITENBERG REVOCABLE TRUST OF JANUARY 10, 2006 I. N. 20060126000134120	LOT 43B, SUBDIVISION OF LOTS 42 & 43, SECTION A, PRINCESS ANNE HILLS PARK	M.B. 107, PG. 44 GPIN: 2419-60-1884
2	CHRISTOPHER DEMENT & AUDRA B. DEMENT I. N. 202203052299	LOT 45, RESUBDIVISION OF SITES 54, 46 & 47, SECTION A, PRINCESS ANNE HILLS PARK	M.B. 48, PG. 54 GPIN: 2419-60-4865
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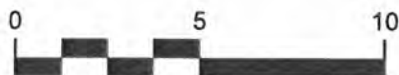
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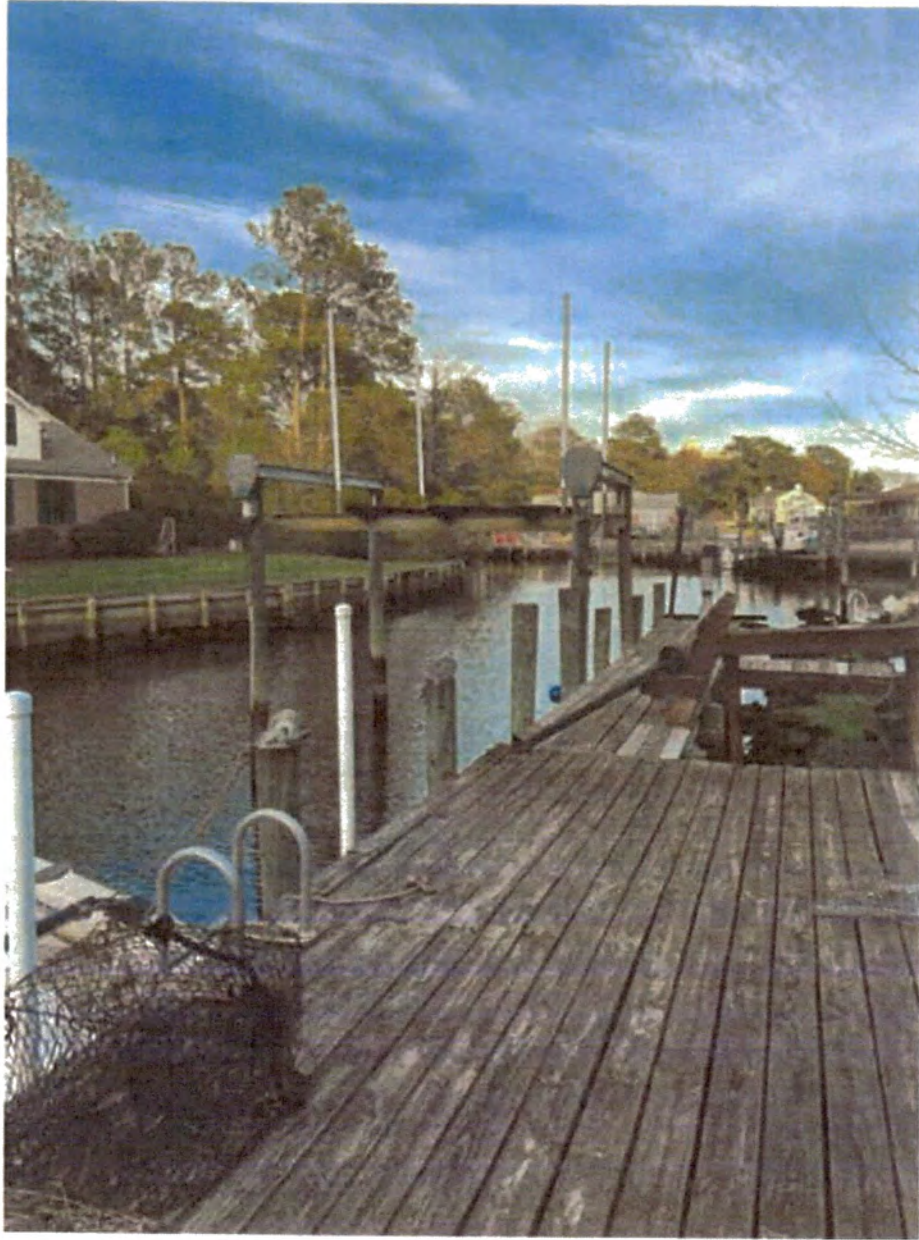
CITY OF VIRGINIA BEACH, VIRGINIA

**GALLUP****SURVEYORS & ENGINEERS**323 FIRST COLONIAL ROAD
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Scale: 1"=5'

Date: FEB. 23, 2023

Sheet: 3 of 3










DISCOVERY RD

GOODSPEED RD


TH ST

Legend

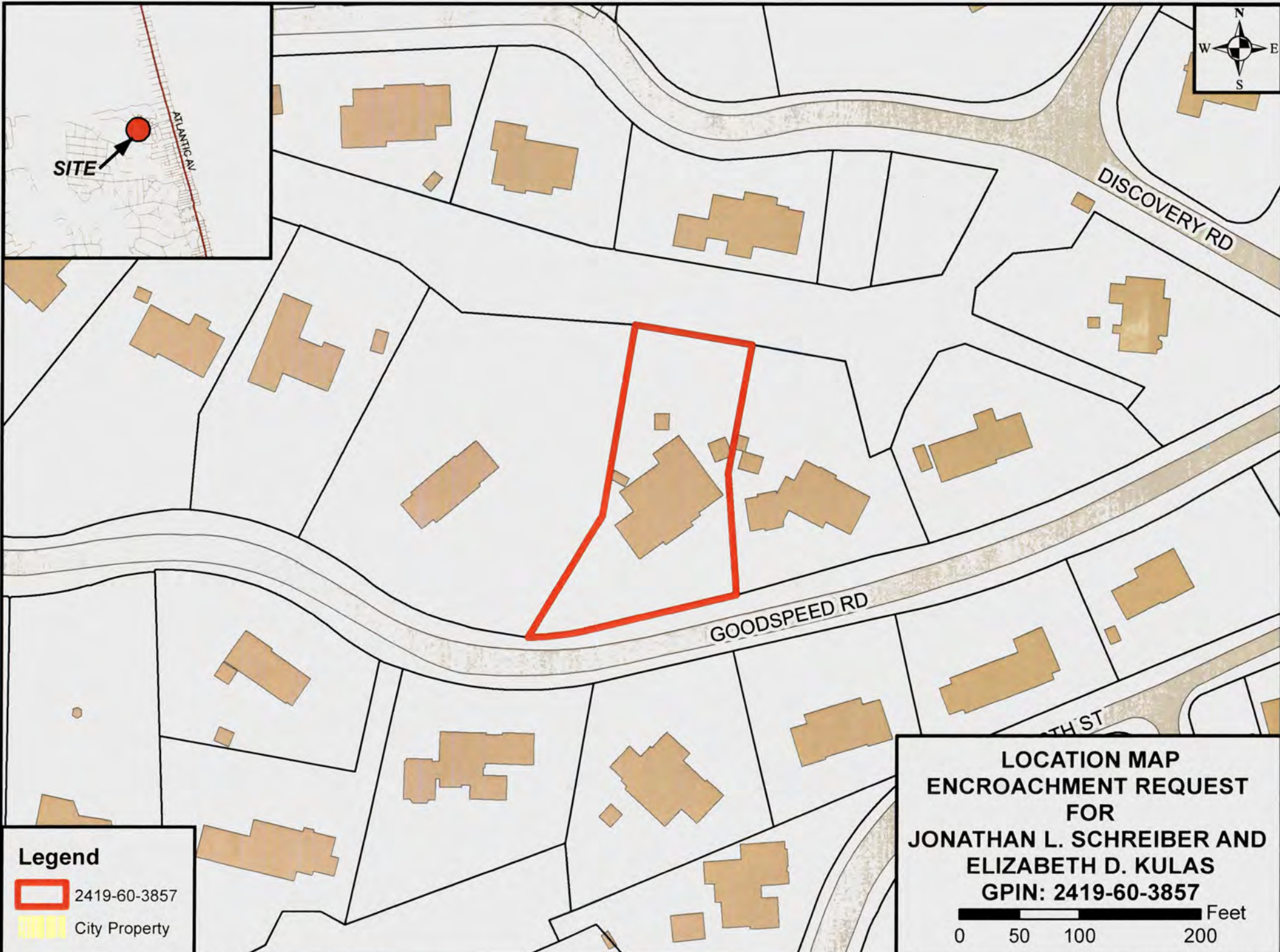
 2419-60-3857

City Property

LOCATION MAP
ENCROACHMENT REQUEST
FOR
JONATHAN L. SCHREIBER AND
ELIZABETH D. KULAS
GPIN: 2419-60-3857

 Feet

0 50 100 200



Disclosure Statement



City of Virginia Beach

Planning & Community
Development

The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law. The completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council or a City board, commission or other body.

Applicant Disclosure

Applicant Name Jonathan Schreiber and Elizabeth Kulas

Does the applicant have a representative? ☐ Yes ☒ No

- If yes, list the name of the representative.

Is the applicant a corporation, partnership, firm, business, trust or an unincorporated business? ☐ Yes ☒ No

- If yes, list the names of all officers, directors, members, trustees, etc. below. (Attach a list if necessary)

- If yes, list the businesses that have a parent-subsidary¹ or affiliated business entity² relationship with the applicant. (Attach a list if necessary)

¹ "Parent-subsidary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, VA. Code § 2.2-3101.

² "Affiliated business entity relationship" means "a relationship, other than parent-subsidary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

Disclosure Statement

Known Interest by Public Official or Employee

Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action? ☐ Yes ☒ No

- If yes, what is the name of the official or employee and what is the nature of the interest?

Applicant Services Disclosure

1. Does the applicant have any existing financing (mortgage, deeds of trust, cross-collateralization, etc) or are they considering any financing in connection with the subject of the application or any business operating or to be operated on the property?

☒ Yes ☐ No

- If yes, identify the financial institutions providing the service.

Existing mortgage - Towne Bank primary, PNC Secondary

2. Does the applicant have a real estate broker/agent/realtor for current and anticipated future sales of the subject property?

☐ Yes ☒ No

- If yes, identify the company and individual providing the service.

3. Does the applicant have services for accounting and/or preparation of tax returns provided in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

- If yes, identify the firm and individual providing the service.

4. Does the applicant have services from an architect/landscape architect/land planner provided in connection with the subject of the application or any business operating or to be operated on the property? ☒ Yes ☐ No

- If yes, identify the firm and individual providing the service.

Architect - Glen Smith Landscape Architect Painted Fern

5. Is there any other pending or proposed purchaser of the subject property? ☐ Yes ☒ No

- If yes, identify the purchaser and purchaser's service providers.

Disclosure Statement



6. Does the applicant have a construction contractor in connection with the subject of the application or any business operating or to be operated on the property? ☒ Yes ☐ No

• If yes, identify the company and individual providing the service.

Excel Builders

7. Does the applicant have an engineer/surveyor/agent in connection with the subject of the application or any business operating or to be operated on the property? ☒ Yes ☐ No

• If yes, identify the firm and individual providing the service.

Gallup

8. Is the applicant receiving legal services in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

• If yes, identify the firm and individual providing the service.

Applicant Signature

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate. I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the meeting of Planning Commission, City Council, VBDA, CBPA, Wetlands Board or any public body or committee in connection with this application.

Elizabeth Kulas
Signature of Applicant

Elizabeth Kulas
Print Name and Title

3/22/23 March 4 2024
Date

- Is the applicant also the owner of the subject property? ☒ Yes ☐ No

• If yes, you do not need to fill out the owner disclosure statement.

FOR CITY USE ONLY/ All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the applications

<input type="checkbox"/>	No changes as of	Date	Signature	
			Print Name	



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance to authorize Temporary Encroachments into the City's right-of-way known as Bobolink Drive, located at the front of 1060 Bobolink Drive

MEETING DATE: March 19, 2024

- **Background:**
Charles G. Barker and Susan Barker (the "Applicants") have requested permission to maintain existing hardscaping, landscaping and an irrigation system in the City's right-of-way known as Bobolink Drive (collectively, the "Temporary Encroachment"), located at the front of the Applicants' property at 1060 Bobolink Drive (GPIN: 2418-15-2571).
- **Considerations:**
City staff reviewed the Temporary Encroachment and have recommended approval of same, subject to certain conditions outlined in the Agreement.
- **Public Information:**
Public notice will be provided via the normal City Council agenda process.
- **Alternatives:**
Deny the Temporary Encroachment or add conditions as desired by Council.
- **Recommendations:**
Approve the request subject to the terms and conditions of the Agreement.
- **Attachments:**
Ordinance, Exhibit, Agreement, Pictures, Location Map, and Disclosure Statement Form.

Recommended Action: Approval

Submitting Department/Agency: Public Works/Real Estate *Kal*

City Manager: *AM*

1 Requested by Department of Public Works

2
3 AN ORDINANCE TO AUTHORIZE
4 TEMPORARY ENCROACHMENTS INTO
5 THE CITY'S RIGHT-OF-WAY KNOWN AS
6 BOBOLINK DRIVE, LOCATED AT THE
7 FRONT OF 1060 BOBOLINK DRIVE
8

9 WHEREAS, Charles G. Barker and Susan Barker (the "Applicants") have
10 requested permission to maintain existing hardscaping and landscaping and an irrigation
11 system within the City's right-of-way known as Bobolink Drive (collectively, the "Temporary
12 Encroachment"), located at the front of the Applicants' property at 1060 Bobolink Drive
13 (GPIN: 2418-15-2571); and
14

15 WHEREAS, City Council is authorized pursuant to §§ 15.2-2009 and 15.2-
16 2107, Code of Virginia, 1950, as amended, to authorize the temporary encroachment upon
17 the City's right-of-way subject to such terms and conditions as Council may prescribe.
18

19 NOW, THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
20 VIRGINIA BEACH, VIRGINIA:
21

22 That pursuant to the authority and to the extent thereof contained in §§ 15.2-
23 2009 and 15.2-2107, Code of Virginia, 1950, as amended, the Applicants, their heirs,
24 assigns and successors in title are authorized to maintain the Temporary Encroachment
25 within the City's right-of-way as shown on the map entitled: "ENCROACHMENT EXHIBIT
26 FOR EXISTING HARDSCAPING, LANDSCAPING AND IRRIGATION SYSTEM SITE 231
27 SUBDIVISION OF BAY SECTIONS 'NORTH EAST' & 'NORTH WEST' (RESERVED
28 SECTIONS) BIRD NECK POINT (M.B. 18, P. 84) VIRGINIA BEACH, VIRGINIA FOR
29 CHARLES G. BARKER & SUSAN BARKER," Scale: 1" = 25', dated December 14, 2023
30 and revised through December 27, 2023, prepared by Rouse-Sirine Associates, LTD., a
31 copy of which is attached hereto as Exhibit "A", on file in the Department of Public Works
32 and to which reference is made for a more particular description;
33

34 BE IT FURTHER ORDAINED, that the Temporary Encroachment is expressly
35 subject to those terms, conditions and criteria contained in the agreement between the City
36 of Virginia Beach and the Applicants (the "Agreement"), an unexecuted copy of which has
37 been presented to the Council in its agenda, and will be recorded among the records of the
38 Clerk's Office of the Circuit Court of the City of Virginia Beach;
39

40 BE IT FURTHER ORDAINED, that the City Manager or his authorized
41 designee is hereby authorized to execute the Agreement; and
42

43 BE IT FURTHER ORDAINED, that this Ordinance shall not be in effect until
44 such time as the Applicants and the City Manager or his authorized designee execute the
45 Agreement.

46
47
48

Adopted by the Council of the City of Virginia Beach, Virginia, on the _____
day of _____, 2024.

APPROVED AS TO CONTENT:



PUBLIC WORKS / REAL ESTATE

**APPROVED AS TO LEGAL
SUFFICIENCY AND FORM:**



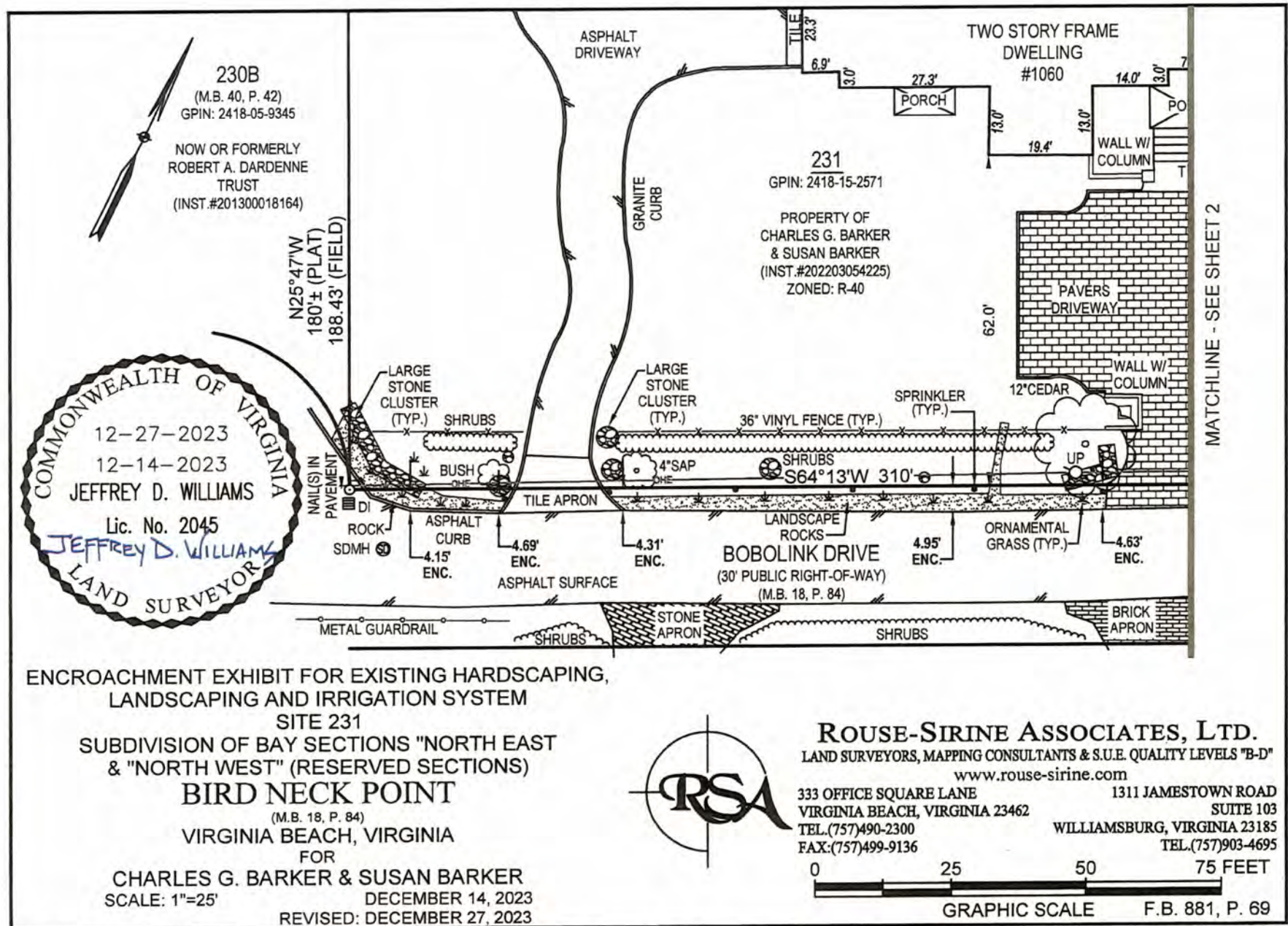
**NELL L. FORD
ASSOCIATE CITY ATTORNEY**

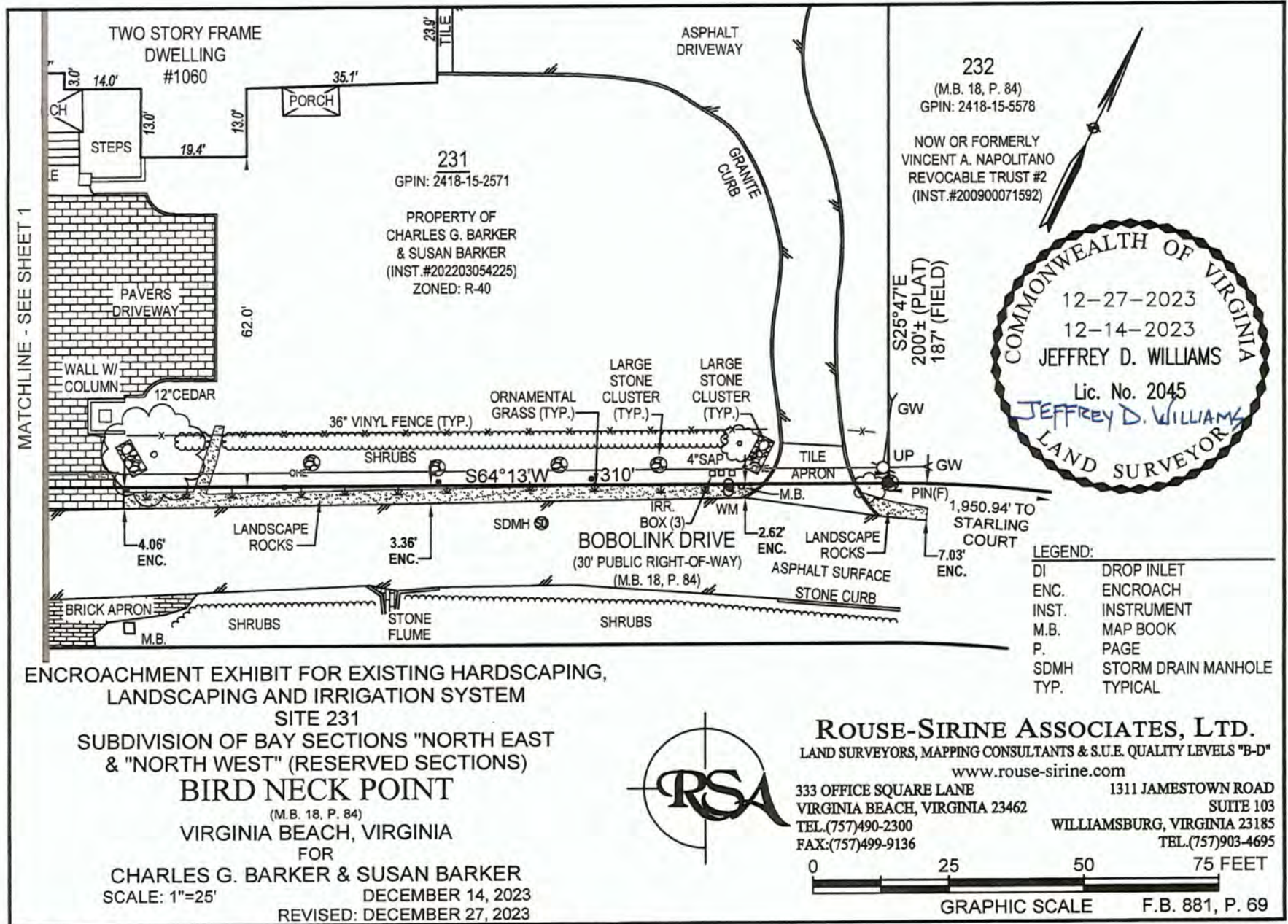
CA16068

R-2

Prepared: 01/04/2024

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PREPARED BY VIRGINIA BEACH
CITY ATTORNEY'S OFFICE (BOX 31)

EXEMPTED FROM RECORDATION TAXES
UNDER SECTION 58.1-811(C) (4)

THIS AGREEMENT, made this 26 day of January, 2024, by and between the **CITY OF VIRGINIA BEACH, VIRGINIA**, a municipal corporation of the Commonwealth of Virginia, Grantor, "City", and **CHARLES G. BARKER** and **SUSAN BARKER**, husband and wife, THEIR HEIRS, ASSIGNS AND SUCCESSORS IN TITLE, collectively "Grantee", even though more than one.

WITNESSETH:

WHEREAS, the Grantee is the owner of that certain lot, tract, or parcel of land designated and described as Site "231", as shown on that certain plat entitled: "SUBDIVISION OF BAY SECTIONS 'NORTH EAST' & 'NORTH WEST' (RESERVED SECTIONS), BIRDNECK POINT," Scale 1" = 100', dated July 22, 1946, prepared by JNO. M. Baldwin, C.E., which plat is recorded in the Clerk's Office of the Circuit Court of the City of Virginia Beach, Virginia in Map Book 18, at page 84, and being further designated, known, and described as 1060 Bobolink Drive, Virginia Beach, Virginia 23451;

WHEREAS, it is proposed by the Grantee to maintain existing hardscaping, landscaping, and an irrigation system, collectively, the "Temporary Encroachment", in the City of Virginia Beach; and

WHEREAS, in maintaining the Temporary Encroachment, it is necessary that the Grantee encroach into a portion of an existing City right-of-way known as Bobolink Drive, the "Encroachment Area"; and

**GPIN: CITY RIGHT-OF-WAY KNOWN AS BOBOLINK DRIVE (NO GPIN ASSIGNED)
2418-15-2571 (1060 BOBLINK DRIVE)**

WHEREAS, the Grantee has requested that the City permit the Temporary Encroachment within the Encroachment Area.

NOW, THEREFORE, for and in consideration of the premises and of the benefits accruing or to accrue to the Grantee and for the further consideration of One Dollar (\$1.00), cash in hand paid to the City, receipt and sufficiency of which are hereby acknowledged, the City hereby grants to the Grantee permission to use the Encroachment Area for the purpose of maintaining the Temporary Encroachment.

It is expressly understood and agreed that the Temporary Encroachment will be maintained in accordance with the laws of the Commonwealth of Virginia and the City of Virginia Beach, and in accordance with the City's specifications and approval and is more particularly described as follows, to wit:

A Temporary Encroachment into the Encroachment Area as shown on that certain exhibit plat entitled: "ENCROACHMENT EXHIBIT FOR EXISTING HARDSCAPING, LANDSCAPING AND IRRIGATION SYSTEM SITE 231 SUBDIVISION OF BAY SECTIONS 'NORTH EAST & 'NORTH WEST' (RESERVED SECTIONS) BIRD NECK POINT (M.B. 18, P. 84) VIRGINIA BEACH, VIRGINIA FOR CHARLES G. BARKER & SUSAN BARKER," Scale: 1" = 25', dated December 14, 2023, and revised through December 27, 2023, prepared by Rouse-Sirine Associates, LTD., a copy of which is attached hereto as Exhibit "A" and to which reference is made for a more particular description.

Providing however, nothing herein shall prohibit the City from immediately removing, or ordering the Grantee to remove, all or any part of the Temporary Encroachment from the Encroachment Area in the event of an emergency or public necessity, and Grantee shall bear all costs and expenses of such removal.

It is further expressly understood and agreed that the Temporary Encroachment herein authorized terminates upon notice by the City to the Grantee, and

that within thirty (30) days after the notice is given, the Temporary Encroachment must be removed from the Encroachment Area by the Grantee; and that the Grantee will bear all costs and expenses of such removal.

It is further expressly understood and agreed that the Grantee shall indemnify, hold harmless, and defend the City, its agents and employees, from and against all claims, damages, losses and expenses, including reasonable attorney's fees, in case it shall be necessary to file or defend an action arising out of the maintenance, location or existence of the Temporary Encroachment.

It is further expressly understood and agreed that nothing herein contained shall be construed to enlarge the permission and authority to permit the maintenance or construction of any encroachment other than that specified herein and to the limited extent specified herein, nor to permit the maintenance and construction of any encroachment by anyone other than the Grantee.

It is further expressly understood and agreed that the Grantee agrees to maintain the Temporary Encroachment so as not to become unsightly or a hazard.

It is further expressly understood that any existing encroachments referenced in the attached Exhibit or in this Agreement are the ongoing maintenance obligation of the Grantee and the City disclaims any ownership interest or maintenance obligation of such encroachments.

It is further expressly understood and agreed that the Grantee must obtain and keep in effect liability insurance with the City as a named insured in an amount not less than \$500,000.00, per person injured and property damage per incident, combined. The company providing the insurance must be registered and licensed to provide insurance in the Commonwealth of Virginia. The Grantee will provide endorsements

providing at least thirty (30) days written notice to the City prior to the cancellation or termination of, or material change to, any of the insurance policies. The Grantee assumes all responsibilities and liabilities, vested or contingent, with relation to construction, location, maintenance and/or existence of the Temporary Encroachment.

It is further expressly understood and agreed that the Temporary Encroachment must conform to the minimum setback requirements, as established by the City.

It is further expressly understood and agreed that the City, upon revocation of such authority and permission so granted, may remove the Temporary Encroachment and charge the cost thereof to the Grantee, and collect the cost in any manner provided by law for the collection of local or state taxes; may require the Grantee to remove the Temporary Encroachment; and pending such removal, the City may charge the Grantee for the use of the Encroachment Area, the equivalent of what would be the real property tax upon the land so occupied if it were owned by the Grantee; and if such removal shall not be made within the time ordered hereinabove by this Agreement, the City may impose a penalty in the sum of One Hundred Dollars (\$100.00) per day for each and every day that the Temporary Encroachment is allowed to continue thereafter, and may collect such compensation and penalties in any manner provided by law for the collection of local or state taxes.

IN WITNESS WHEREOF, CHARLES G. BARKER and SUSAN BARKER, the said Grantees, have caused this Agreement to be executed by their signatures. Further, that the City of Virginia Beach has caused this Agreement to be executed in its name and on its behalf by its City Manager and its seal be hereunto affixed and attested by its City Clerk.

(THE REMAINDER OF THIS PAGE WAS INTENTIONALLY LEFT BLANK)

CITY OF VIRGINIA BEACH

By: _____ (SEAL)
City Manager/Authorized
Designee of the City Manager

STATE OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

The foregoing instrument was acknowledged before me this _____ day of _____, 20__, by _____, CITY MANAGER/AUTHORIZED DESIGNEE OF THE CITY MANAGER OF THE CITY OF VIRGINIA BEACH, VIRGINIA, on its behalf. He/She is personally known to me.

Notary Public (SEAL)

My Notary Registration Number: _____
My Commission Expires: _____

(SEAL)
ATTEST:

City Clerk/Authorized
Designee of the City Clerk

STATE OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

The foregoing instrument was acknowledged before me this _____ day of _____, 20__, by _____, CITY CLERK/AUTHORIZED DESIGNEE OF THE CITY CLERK OF THE CITY OF VIRGINIA BEACH, VIRGINIA, on its behalf. She is personally known to me.

Notary Public (SEAL)


My Notary Registration Number: _____
My Commission Expires: _____


Charles G. Barker


Susan Barker

STATE OF Virginia
CITY/COUNTY OF Virginia Beach, to-wit:

The foregoing instrument was acknowledged before me this 26 day of
January, 2024, by Charles G. Barker and Susan Barker.

 (SEAL)
Notary Public

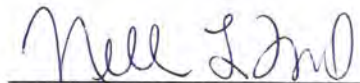
My Notary Registration Number: # 8089411
My Commission Expires: 8/31/27

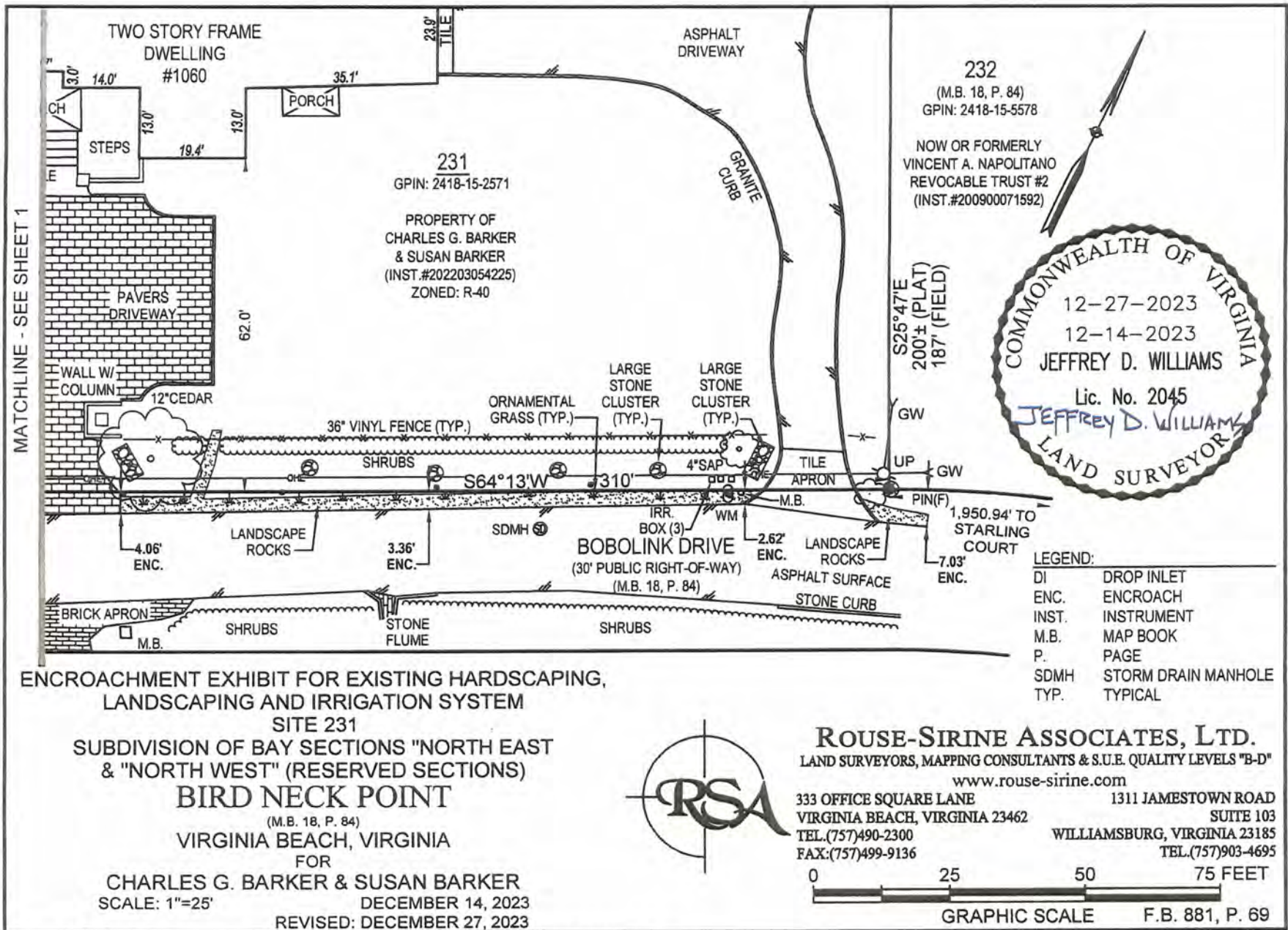


APPROVED AS TO CONTENTS

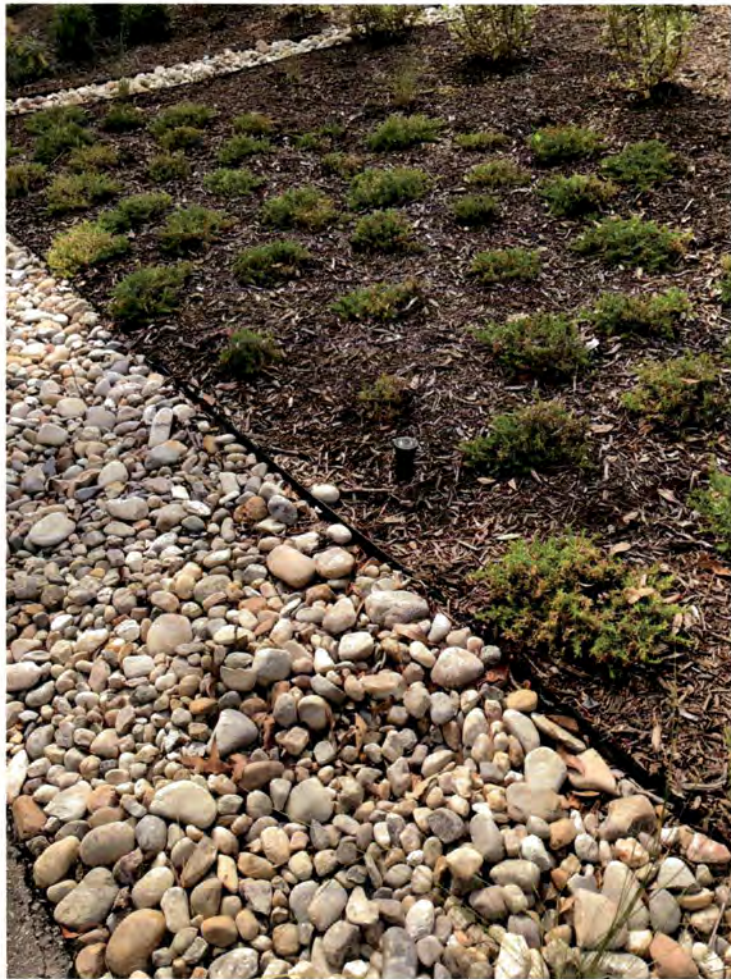

PUBLIC WORKS/REAL ESTATE

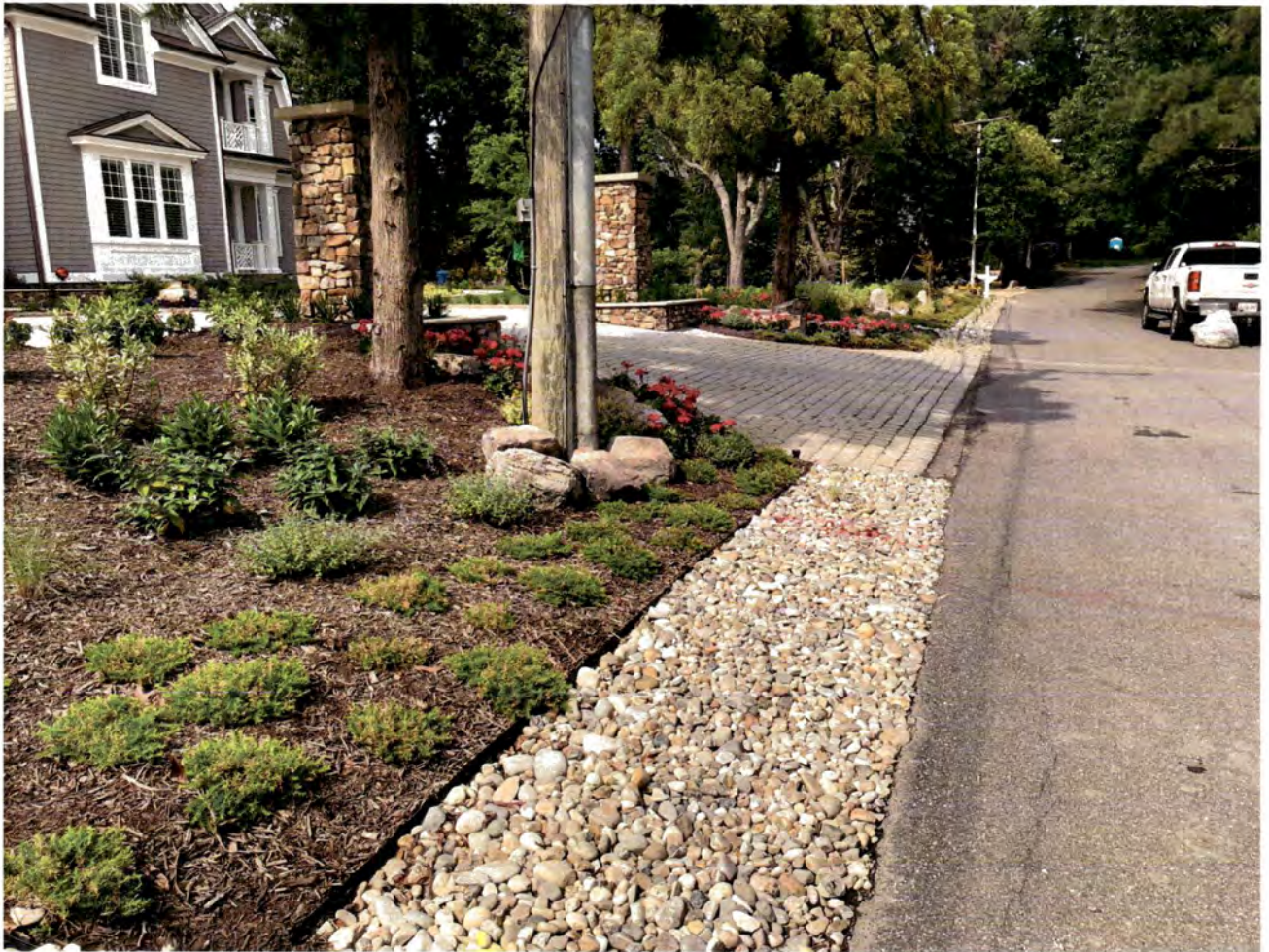
APPROVED AS TO LEGAL
SUFFICIENCY AND FORM


NELL L. FORD
ASSOCIATE CITY ATTORNEY

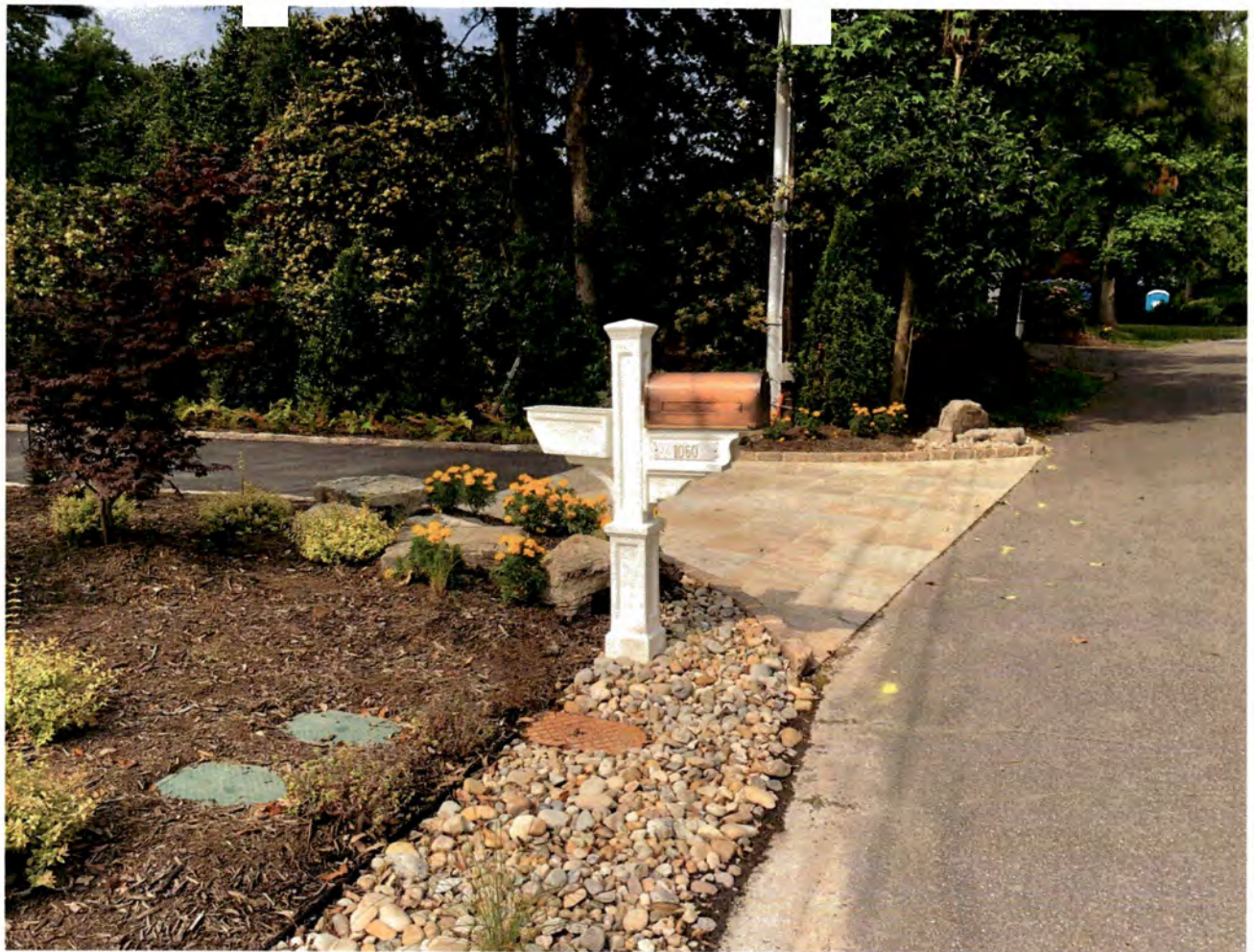




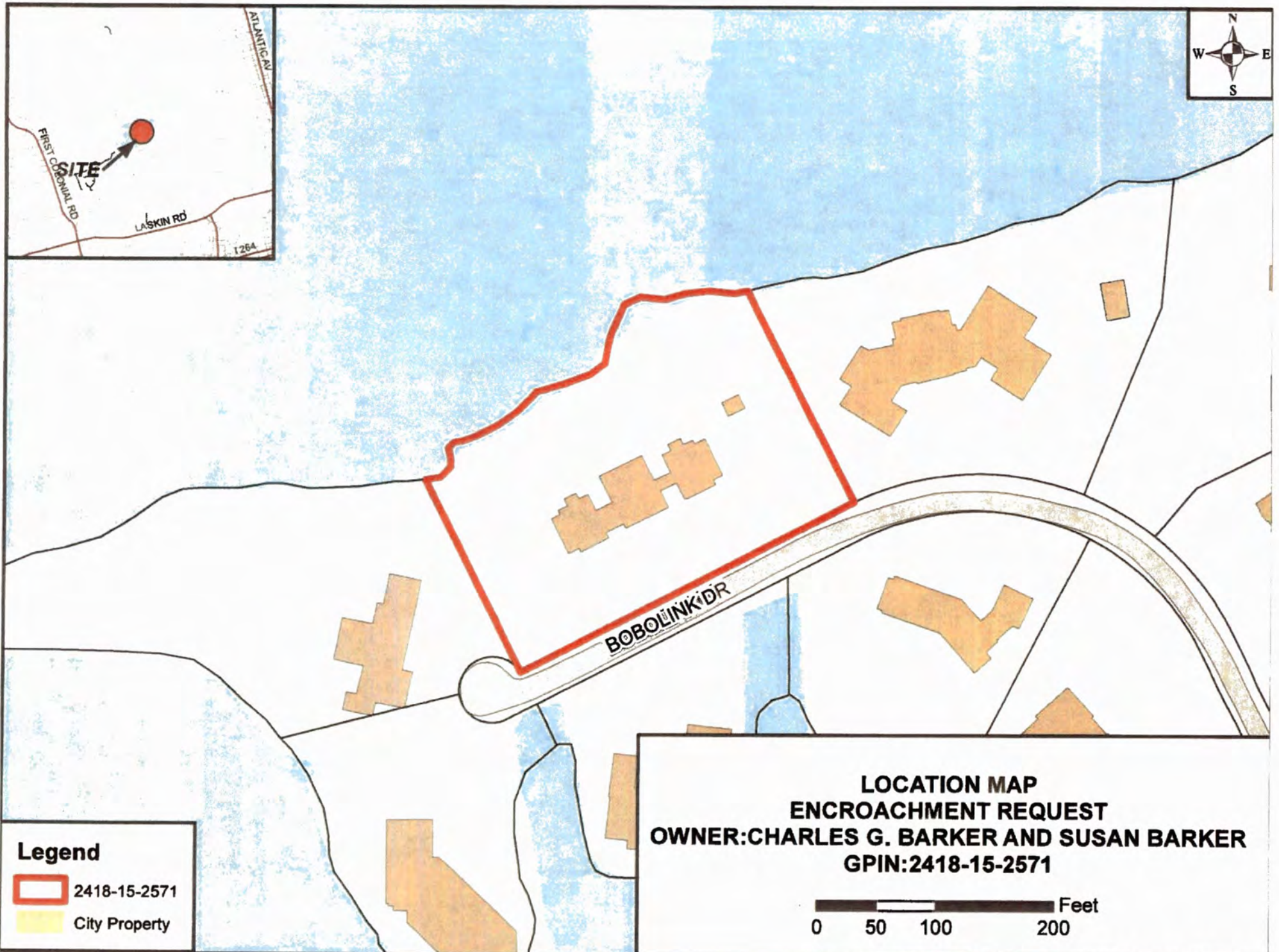












Disclosure Statement



The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law. The completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council or a City board, commission or other body.

Applicant Disclosure

Applicant Name Charles G. Barker and Susan Barker

Does the applicant have a representative? ☐ Yes ☒ No

- If yes, list the name of the representative.

Is the applicant a corporation, partnership, firm, business, trust or an unincorporated business? ☐ Yes ☒ No

- If yes, list the names of all officers, directors, members, trustees, etc. below. (Attach a list if necessary)

- If yes, list the businesses that have a parent-subsidary¹ or affiliated business entity² relationship with the applicant. (Attach a list if necessary)

N/A

¹ "Parent-subsidary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, VA. Code § 2.2-3101.

² "Affiliated business entity relationship" means "a relationship, other than parent-subsidary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

Disclosure Statement



Known Interest by Public Official or Employee

Does an **official or employee of the City of Virginia Beach** have an interest in the subject land or any proposed development contingent on the subject public action? ☐ Yes ☒ No

- If **yes**, what is the name of the official or employee and what is the nature of the interest?
-

Applicant Services Disclosure

1. Does the applicant have **any existing financing (mortgage, deeds of trust, cross-collateralization, etc)** or **are they considering any financing** in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

- If **yes**, identify the financial institutions providing the service.
-

2. Does the applicant have a **real estate broker/agent/realtor** for current and anticipated future sales of the subject property? ☐ Yes ☒ No

- If **yes**, identify the company and individual providing the service.
-

3. Does the applicant have services for **accounting and/or preparation of tax returns** provided in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

- If **yes**, identify the firm and individual providing the service.
-

4. Does the applicant have services from an **architect/landscape architect/land planner** provided in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

- If **yes**, identify the firm and individual providing the service.
-

5. Is there any other **pending or proposed purchaser** of the subject property? ☐ Yes ☒ No

- If **yes**, identify the purchaser and purchaser's service providers.
-

Disclosure Statement



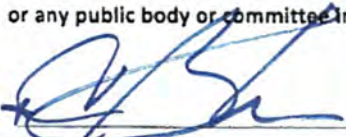
6. Does the applicant have a **construction contractor** in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No
- If **yes**, identify the company and individual providing the service.

7. Does the applicant have an **engineer/surveyor/agent** in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No
- If **yes**, identify the firm and individual providing the service.

8. Is the applicant receiving **legal services** in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No
- If **yes**, identify the firm and individual providing the service.

Applicant Signature

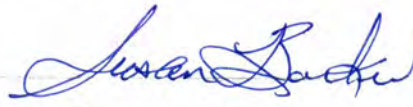
I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate. I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the meeting of Planning Commission, City Council, VBDA, CBPA, Wetlands Board or any public body or committee in connection with this application.


Applicant Signature
Charles H. Barker

Print Name and Title

5/26/23

Date


Susan Barker

1/26/24

Is the applicant also the owner of the subject property? ☒ Yes ☐ No

- If **yes**, you do not need to fill out the owner disclosure statement.

FOR CITY USE ONLY/ All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the applications

<input type="checkbox"/>	No changes as of	Date	Signature	
			Print Name	



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance to Accept and Appropriate Grant Funds for the Fire Department's Technical Rescue Team

MEETING DATE: March 19, 2024

■ **Background:** Each year the City of Virginia Beach receives funding from the Virginia Department of Emergency Management (VDEM) to support technical rescue response activities. In January 2024, the Fire Department was contacted about accepting the FY23 Special Operations Technical Rescue Team Grant from VDEM in the amount of \$32,000.

■ **Considerations:** The intended use of the grant funds is to purchase equipment needed to facilitate water rescue and to provide training that will allow the team to continue to train on technical water rescue scenarios.

■ **Public Information:** Normal Council agenda process.

■ **Recommendations:** Adopt the attached ordinance.

■ **Attachments:** Ordinance

Recommended Action: Approval

Submitting Department/Agency: Fire Department

City Manager: 

1 AN ORDINANCE TO ACCEPT AND APPROPRIATE
2 GRANT FUNDS FOR THE FIRE DEPARTMENT'S
3 TECHNICAL RESCUE TEAM
4

5 BE IT ORDAINED BY THE COUNCIL OF THE CITY OF VIRGINIA BEACH,
6 VIRGINIA THAT:
7

8 \$32,000 of federal pass-through funding is hereby accepted from the Virginia
9 Department of Emergency Management and appropriated, with federal revenue
10 increased accordingly, to the FY 2023-24 Operating Budget of the Fire Department for
11 equipment and training for the Department's Technical Rescue Team.

Adopted by the Council of the City of Virginia Beach, Virginia on the _____ day
of _____, 2024.

Requires the affirmative vote of a majority of all of the members of the City Council.

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL SUFFICIENCY:



Budget and Management Services



City Attorney's Office

CA16455
R-1
March 6, 2024



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance to Accept and Appropriate \$4,000 from the Federal Emergency Management Agency for Virginia Task Force 2 Training Stipends

MEETING DATE: March 19, 2024

■ **Background:** The Fire Department is the sponsoring agency for the Virginia Task Force 2 Urban Search and Rescue Team. The Federal Emergency Management Agency (FEMA) has authorized stipends to support attendance and participation in training called "Functional Workgroup Meetings." These training sessions are intended for the Deputy Functional Workgroup Leader of the FEMA Logistics Component.

■ **Considerations:** The Deputy Functional Workgroup Leader is required to attend specific meetings and participate in training. This training is valuable to the management and operation of our task force. No local match is required for this funding.

■ **Public Information:** Normal agenda process.

■ **Recommendations:** Adopt the attached ordinance.

■ **Attachments:** Ordinance

Recommended Action: Approval

Submitting Department/Agency: Fire Department

City Manager: *PAO*

1 AN ORDINANCE TO ACCEPT AND APPROPRIATE
2 \$4,000 FROM THE FEDERAL EMERGENCY
3 MANAGEMENT AGENCY FOR VIRGINIA TASK
4 FORCE 2 TRAINING STIPENDS
5

6 BE IT ORDAINED BY THE COUNCIL OF THE CITY OF VIRGINIA BEACH,
7 VIRGINIA THAT:
8

9 \$4,000 is hereby accepted from the Federal Emergency Management Agency
10 (FEMA) and appropriated, with federal revenue increased accordingly, to the FY 2023-24
11 Operating Budget of the Fire Department for FEMA training stipends for certain members
12 of the Virginia Task Force 2.

Adopted by the Council of the City of Virginia Beach, Virginia on the _____ day
of _____, 2024.

Requires the affirmative vote of a majority of all of the members of the City Council.

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL SUFFICIENCY:


Budget and Management Services


City Attorney's Office

CA16456
R-1
March 6, 2024



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance to Transfer \$4,638,235 from the Tourism Investment Program (TIP) Fund to Capital Project #100489, "Winston Salem Avenue Improvements," to Allow the Execution of a Construction Contract

MEETING DATE: March 19, 2024

■ **Background:** Capital Project #100489, "Winston Salem Avenue Improvements," seeks to improve the Winston Salem Avenue Corridor, which extends from Mediterranean Avenue to Pacific Avenue. This project will increase safety by providing improved vehicular and pedestrian circulation and connections and will make the area more accessible and attractive for future re-development. This project supports several goals set forth in the Resort Area Strategic Action Plan including: supporting the Marina District's growth; creating great districts with distinctive identities; improving active transit and pedestrian connections between destinations; and creating a transition from the Resort Area to the adjacent neighborhoods.

Construction for this project was bid for a third time this winter. Three bids were received, and the lowest responsive bidder's price came in above the funding available. \$4,638,235 in additional funding is needed to advance the project to construction. The current low bid is approximately 4% less than the previous bid process. The funding difference between funds appropriated to date and the bids is related to inflationary costs and specialized work of constructing an underground utility duct bank to replace the existing overhead utilities. Staff believes this is a competitive bid that deserves consideration by the City Council.

This project first appeared in the FY 2013-14 CIP. Several delays have occurred during the design due to scope modifications, funding deficits, and the pandemic. Additionally, funding for this project was temporarily included in the COVID-19 Revenue Shortfall Stabilization reserve.


■ **Considerations:** The attached ordinance provides the \$4,638,235 funding needed to advance the project to construction. The bid price is valid until April 15, 2024. Construction is expected to take two and a half years, with the bulk of work taking place during the off-seasons. Funding in this amount is available within the TIP Fund due to the delayed bond sale. If this transfer is approved, the total appropriations for this project will total \$18,558,235.

■ **Public Information:** Normal City Council agenda processes.

■ **Attachment:** Ordinance, Capital Project Detail Sheet

Recommended Action: Approval

Submitting Department/Agency: Economic Development

City Manager: 

1 AN ORDINANCE TO TRANSFER \$4,638,235 FROM THE
2 TOURISM INVESTMENT PROGRAM (TIP) FUND TO
3 CAPITAL PROJECT #100489, "WINSTON SALEM AVENUE
4 IMPROVEMENTS," TO ALLOW THE EXECUTION OF A
5 CONSTRUCTION CONTRACT
6

7 BE IT ORDAINED BY THE COUNCIL OF THE CITY OF VIRGINIA BEACH,
8 VIRGINIA:
9

10 \$4,638,235 from unexpended debt service within the TIP Fund is hereby
11 transferred as pay-go funding to Capital Project #100489, "Winston Salem Avenue
12 Improvements" to allow the City to execute a construction contract.

Adopted by the Council of the City of Virginia Beach, Virginia on the ____ day of
_____, 2024.

APPROVED AS TO CONTENT:


Budget and Management Services

APPROVED AS TO LEGAL SUFFICIENCY:


City Attorney's Office

Fiscal Years FY25 through FY30 Capital Improvement Program

Project: PG100489 Title: Winston Salem Avenue Improvements Status: Proposed

Category: Economic & Tourism Development Department: Economic Development

Project Type

Project Location

Project Type: Rehabilitation/Replacement

District: 5

Programmed Funding

Programmed Funding	Appropriated To Date	Budgeted FY25	Non-Appropriated Programmed CIP Funding					Funding Future
			FY26	FY27	FY28	FY29	FY30	
13,920,000	13,920,000	-	-	-	-	-	-	-

Description and Scope

This project will provide funding for the design, property acquisition, and construction of a two-lane roadway with on-street parking and a five foot wide walkway on the north side, a nine foot wide walkway on the south side, LED street lighting, and landscaping consisting of trees, shrubs, and grasses. The project corridor is Winston Salem Avenue from Mediterranean Avenue to Pacific Avenue. Included in the construction will be an underground utility duct bank to replace the existing overhead utilities, new water, sewer and gas lines and storm drainage improvements.

Purpose and Need

This project will increase safety by providing improved vehicular and pedestrian circulation and connections, and will make the area more accessible and attractive for future re-development. This project supports several goals set forth in the Resort Area Strategic Action Plan including: creating great districts with distinctive identities; improving transit and pedestrian connections between destinations and creating a transition from the resort area to the adjacent neighborhoods. This project will support City Council's goal of being a competitive first class resort for residents, businesses and tourists.

History and Current Status

This project first appeared in the FY 2013-14 CIP. In the FY 2016-17 CIP, the project cost estimates were revised from \$3,604,516 to \$8,320,000 and the scope was revised with the removal of the conceptual design and feasibility report for an extension of the Rudee Walk along the Marina District Waterfront. During the adoption of the FY 2020-21 CIP, City Council identified appropriations within the CIP totaling \$21.8 million to establish a COVID-19 Revenue Shortfall Stabilization reserve. Funding within this project represented a portion of that reserve and the project was put on hold. Funding was released in January of 2021 and design was completed in the spring of 2022. The project was bid in June of 2022 and bids came approximately \$5M over the funding available. The project received a \$5M appropriation in FY2023-24. The project was bid in the summer of 2023 and the bids came in \$4.5M over funding available. Construction is expected to take two and a half years, with the bulk of work taking place during the off-seasons.

Operating Budget Impact Comments

To be determined.

	FY25	FY26	FY27	FY28	FY29	FY30
Total Operating Budget Impacts	-	-	-	-	-	-
Total FTE	-	-	-	-	-	-

Project Map



Schedule of Activities

Project Activities	From - To	Amount
Design	07/13 - 05/23	700,000
Site Acquisition	10/21 - 05/24	275,000
Private Utility Adjustments	10/24 - 05/27	2,000,000
Construction	10/24 - 06/27	9,055,000
Street Lights	10/25 - 06/27	235,000
Landscaping	10/25 - 06/27	155,000
Contingencies	07/13 - 06/27	1,500,000
Total Budgetary Cost Estimate:		13,920,000

Means of Financing

Funding Subclass	Amount
Local Funding	13,920,000
Total Funding:	13,920,000

K. PLANNING

1. **SUNSATIONS REALTY, LLC** for a Special Exception for Alternative Compliance re **J-1 Visa Dormitory Housing for Temporary Workers** at 2500 Atlantic Avenue DISTRICT 6

RECOMMENDATION:

APPROVAL

2. **DAOLIN DONG & JIAYIN WANG / CHARLES B. HAYES & STRAWBRIDGE COMMONS CONDOMINIUM ASSOCIATION** for a Modification of Proffers to a Conditional Change of Zoning re **allow retail sales and eating and drinking establishment** at 2180 McComas Way, Suite 111 DISTRICT 5

RECOMMENDATION:

APPROVAL

3. **VIRGINIA WESLEYAN UNIVERSITY** for a Conditional Use Permit re **Museum** at 5817 Wesleyan Drive DISTRICT 4

RECOMMENDATION:

APPROVAL

4. **YURVIN JUAN MORALES LOPEZ / FREEDOM LAND INVESTMENT, LLC** for a Conditional Use Permit re **open air market** at 5070 Virginia Beach Boulevard DISTRICT 4

RECOMMENDATION:

APPROVAL

5. **GEORGE CUTULLE / GEORGE JOSEPH CUTULLE & VIVIENNE MARY CUTULLE** for a Conditional Use Permit re **residential kennel** at 2760 Mulberry Loop DISTRICT 5

RECOMMENDATION:

APPROVAL

6. **BRANDON SHAW** for a Conditional Use Permit re **home occupation – retail sales** at 2076 Mason Neck Lane DISTRICT 7

RECOMMENDATION:

APPROVAL

7. **SIREN ARTS STUDIO / RT VIRGINIA HOLDINGS, LLC** for a Conditional Use Permit re **tattoo parlor and body piercing establishment** at 1423 North Great Neck Road, Suite 105A DISTRICT 8

RECOMMENDATION:

APPROVAL

8. **CECILIA M. PATTERSON / ROCKY LLC** for a Conditional Use Permit re **tattoo parlor** at 3920 Virginia Beach Boulevard DISTRICT 8

RECOMMENDATION:

APPROVAL

9. **915C PACIFIC, LLC** for a Conditional Use Permit re **short term rental** at 915 Pacific Avenue Unit C DISTRICT 5

RECOMMENDATION:

APPROVAL

10. **MARIBEL JOA / MARIBEL JOA & COURTNEY A. CURRIE** for a Conditional Use Permit
for a **short term rental** at 304 28th Street, Unit 211 DISTRICT 6

RECOMMENDATION:

APPROVAL



NOTICE OF PUBLIC HEARING

A Public Hearing of the Virginia Beach City Council will be held on **Tuesday, March 19, 2024 at 6:00 p.m. in the Council Chamber at City Hall, 2nd Floor at 2401 Courthouse Drive, Building 1, Virginia Beach, VA 23456**. Members of the public will be able to observe the City Council meeting through livestreaming on www.virginiabeach.gov, broadcast on VBTv, and via WebEx. Citizens who wish to speak can sign up to speak either in-person at the Council Chamber or virtually via WebEx by completing the two-step process below. All interested parties are invited to observe.

If you wish to make comments virtually during the public hearing, please follow the **two-step process** provided below:

1. Register for the WebEx at:
<https://vbgov.webex.com/webex/register/re9e0652ba478e67eac811db4c8e0eab5>
2. Register with the City Clerk's Office by calling 757-385-4303 prior to 5:00 p.m. on March 19, 2024.

The following requests are scheduled to be heard:

Sunsations Realty, LLC (Applicant & Property Owner) Alternative Compliance Address: 2500 Atlantic Avenue GPIN(s): 2428100185 **City Council: District 6**

Daolin Dong & Jiayin Wang (Applicants) Charles B. Hayes & Strawbridge Commons Condominium Association (Property Owners) Modification of Proffers Address: 2180 McComas Way, Suite 111 GPIN(s): 24049774940111 **City Council: District 5**

Virginia Wesleyan University (Applicant & Property Owner) Conditional Use Permit (Museum) Address: 5817 Wesleyan Drive GPIN(s): 1468032646 **City Council: District 4**

Yurvin Juan Morales Lopez (Applicant) Freedom Land Investment, LLC (Property Owner) Conditional Use Permit (Open-Air Market) Address: 5070 Virginia Beach Boulevard GPIN(s): 1467960131 **City Council: District 4**

George Cutulle (Applicant) George Joseph Cutulle & Vivienne Mary Cutulle (Property Owner) Conditional Use Permit (Residential Kennel) Address: 2760 Mulberry Loop GPIN(s): 2405215708 **City Council: District 5**

Brandon Shaw (Applicant & Property Owner) Conditional Use Permit (Home Occupation - Retail Sales) Address: 2076 Mason Neck Lane GPIN(s): 1454694387 **City Council: District 7**

Siren Arts Studio (Applicant) RT Virginia Holdings, LLC (Property Owner) Conditional Use Permits (Tattoo Parlor & Body Piercing Establishment) Address: 1423 N Great Neck Road, Suite 105A GPIN(s): 2408184833 **City Council: District 8**

Cecilia M. Patterson (Applicant) Rocky, LLC (Property Owner) Conditional Use Permit (Tattoo Parlor) Address: 3920 Virginia Beach Boulevard GPIN(s): 1487240595 **City Council: District 8**

915C Pacific LLC (Applicant & Property Owner) Conditional Use Permit (Short Term Rental) Address: 915 Pacific Avenue, Unit C GPIN(s): 24272444111075 **City Council: District 5**

Maribel Joa (Applicant) Maribel Joa & Courtney A. Currie (Property Owner) Conditional Use Permit (Short Term Rental) Address: 304 28th Street, Unit 211 GPIN(s): 24280028662011 **City Council: District 6**

Copies of the proposed plans, ordinances, amendments and/or resolutions are on file and may be examined by appointment in the Planning Department at 2875 Sabre St. Suite 500, Virginia Beach, VA 23452 or online at www.virginiabeach.gov/pc. For information call 757-385-4621. Staff Reports will be available on the webpage 5 days prior to the meeting.

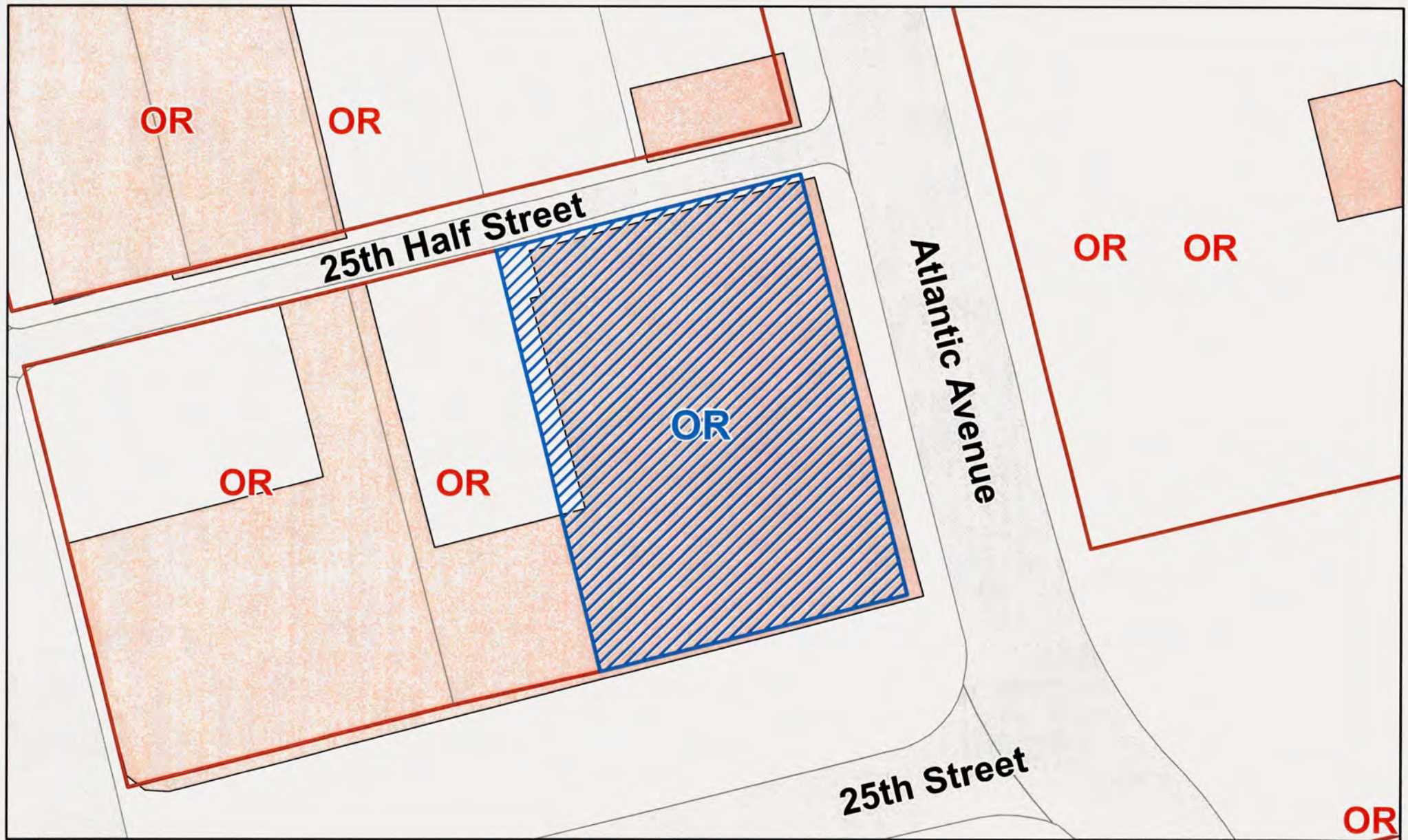
If you require a reasonable accommodation for this meeting due to a disability, please call the City Clerk's Office at 757-385-4303. If you are hearing impaired, you can contact Virginia Relay at 711 for TDD service. The meeting will be broadcast on cable TV, www.virginiabeach.gov and Facebook Live.

Please check our website at <https://clerk.virginiabeach.gov/city-council> for the most updated meeting information.




All interested parties are invited to participate.

Amanda Barnes
City Clerk

PILOT - MARCH 5, 2024 & MARCH 12, 2024 - 1 TIME EACH



Sunsations Realty, LLC
2500 Atlantic Avenue

-  Site
-  Property_Polygons
-  Zoning
-  Building

0 10 20 30 40 50 60 Feet





CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: SUNSATIIONS REALTY, LLC [Applicant & Property Owner] Special Exception for Alternative Compliance (J-1 Visa Dormitory Housing for Temporary Workers) for the property located at 2500 Atlantic Avenue (GPIN 24281001850000). COUNCIL DISTRICT 6

MEETING DATE: March 19, 2024

■ **Background:**

The applicant is requesting a Special Exception for Alternative Compliance for a J-1 Visa Dormitory Housing facility as the use is not expressly listed in the use table of the Oceanfront Resort District Form-Based Code (ORDFBC). The applicant proposes to occupy the second floor of an existing building to create a dormitory dwelling space which can accommodate up to 86 J-1 Visa workers. The site is in the Resort Area and is located on the northwest corner of Atlantic Avenue and 25th Street. The J-1 Visa workers are primarily employed by hotels and restaurants in the Resort Area. While peak employment demand occurs during the summer season, the applicant believes there would be year-round demand to support the proposed use. The facility will only be used as a dormitory for J-1 Visa applicants; no other individuals will reside on-site. The facility will be managed by a 3rd party company, to include a 24/7 on-site manager to ensure the safety and cleanliness of the dormitory.

This request was considered by the Joint Review Process Group (JRP) on December 12, 2023, who found, based on criteria established for discretionary proposals in Sub-Area 1, the proposed development is consistent with the recommendations of Section 1804(c)(1) of the Ordinance.

Additionally, this request was presented to the Resort Advisory Commission (RAC) and their subcommittees Planning/Design Review Committee (PDRC) and Resort Investment Committee (RIC). On February 1, 2024, RAC voted to support the item as their membership believes there is demand for this type of housing to support the international students working in the local hospitality industry under the Federal J-1 Visa program.

■ **Considerations:**

The Oceanfront Resort District Form-Based Code (ORDFBC) provides flexibility through the Special Exception of Alternative Compliance process to accommodate unique uses and development forms that contribute to the character and ambiance envisioned in the Resort Area Strategic Action Plan (RASAP 2030), per Sec. 7.3

of the ORDFBC. Although the proposed use of "J-1 Visa Dormitory Housing" is not expressly listed within the Permitted Use Table, per Sec. 5.2 of the ORDFBC, Staff believes that the use is compatible with the Oceanfront Resort as it provides much-needed housing opportunities for J-1 Visa workers who support the operations of the Resort Area year-round. Furthermore, providing a diverse housing stock, to include J-1 Visa housing, was identified in the RASAP 2030. Additionally, this location is optimal for dormitory housing as many of the J-1 Visa workers rely on bike/pedestrian infrastructure, public transportation, and micro transit. The building is located in the midst of the Resort Area and is in close proximity to the boardwalk and public transportation, which will connect residents to employment opportunities and other services in the area.

Further details pertaining to the application, as well as Staff's evaluation, are provided in the attached Staff Report. Staff has received 2 letters of support for the request and is unaware of any opposition.

■ **Recommendation:**

On February 14, 2024, the Planning Commission passed a motion to recommend approval of this request, by a vote of 10 to 0 with 1 abstention, with a modification to Condition 7 to allow the additional bike racks to be installed in the public right-of-way.

1. The interior renovations for the J-1 Visa Dormitory Housing shall be in substantial conformance to the submitted plan, entitled "25th Street SJ1 Student Housing", prepared by T3 Architects, and dated October 19, 2023, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development. Any changes to the plan required by the Building Code, Fire Marshal, or any other governing body are acceptable to the extent that they do not result in a greater occupancy than the 86 beds presented in the original plan.
2. The J-1 Visa Dormitory shall be limited to a maximum of 86 occupants. The occupants of this dormitory must also be enrolled in the J-1 Visa Exchange Visitor Program for the extent of time they are inhabiting the dormitory. The dormitory may not be utilized for any other purpose than housing J-1 Visa workers.
3. A lighting plan which indicates LED light fixtures on all exterior walls of the structure must be approved prior to issuance of a Certificate of Occupancy for the J-1 Visa Dormitory Housing use. These LED light fixtures must be always maintained and provide illumination of the exterior of the structure, including all entrances of the building, all fire exits on the building, and the alleyway (25th ½ Street).
4. A means of emergency access shall be provided to the Virginia Beach Police Department for the J-1 Visa Dormitory Housing prior to the issuance of a

Certificate of Occupancy for the use. The applicant and/or site manager shall meet any access requirements as determined by the Police Crime Prevention Office.

5. All entryways, lobbies, and fire exits to and from the J-1 Visa Dormitory Housing shall be monitored by a functioning security camera system which the Virginia Beach Police Department can access. A plan indicating the location of these cameras shall be approved prior to the issuance of a Certificate of Occupancy for the J-1 Visa Dormitory Housing Use.
6. A secure, lockable wardrobe, footlocker, or other administratively approved container shall be provided per bed for the occupants of the J-1 Visa Dormitory Housing.
7. A plan which provides bicycle parking for no less than 40 bikes, either in the form of a bicycle rack(s) or other indoor, secured storage area, is required to be approved prior to the issuance of the Certificate of Occupancy for the J-1 Visa Dormitory Housing use. This bicycle parking ~~must~~ may be provided within the limits of private property ~~and not~~ or within the right-of-way.

■ **Attachments:**

Staff Report and Disclosure Statements
Location Map
Minutes of Planning Commission Hearing
Letter(s) of Support (2)

Recommended Action: Staff recommends Approval. Planning Commission recommends Approval.

Submitting Department/Agency: Planning Department

City Manager:

PAO

Curz

Request

Alternative Compliance (J-1 Visa Dormitory
Housing for Temporary Workers)

Staff Recommendation

Approval

Staff Planner

Garek Hall Hannigan

Location

2500 Atlantic Avenue

GPIN

24281001850000

Site Size

±14,356 square feet

AICUZ

65-70 dB DNL; Sub-Area 1

Watershed

Chesapeake Bay

Existing Land Use and Zoning District

Retail establishment / OR Oceanfront Resort

Surrounding Land Uses and Zoning Districts

North

25th ½ Street

Eating and drinking establishment, Parking lot /
OR Oceanfront Resort

South

25th Street

Offices, Retail establishment / OR Oceanfront
Resort

East

Atlantic Avenue

Hotel / OR Oceanfront Resort

West

Offices, Eating and drinking establishment / OR
Oceanfront Resort



Background & Summary of Proposal

- The applicant is requesting a Special Exception of Alternative Compliance for a J-1 Visa Dormitory Housing facility as the use is not expressly listed in the use table of the Oceanfront Resort District Form-Based Code. The proposed dormitory will occupy the second floor of an existing building.
- The existing two-story building is occupied by a retail establishment, Sunsations, on the first floor. The second floor is currently vacant space but has been previously used as inventory storage for the retail establishment.
- The applicant proposes a dormitory to house up to 86 student workers. These student workers are classified as J-1 exchange visitors and are nonimmigrants sponsored by exchange programs under the administration of the Department of State.
- J-1 Visa workers are primarily employed by hotels and restaurants in the Resort Area. While peak employment demand occurs during the summer season, the applicant believes there would be year-round demand to support the proposed use.
- The facility will only be used as a dormitory for J-1 Visa applicants; no other individuals will reside on-site.
- This request was considered by the Joint Review Process Group (JRP) on December 12, 2023, who found, that based on criteria established for discretionary proposals in Sub-Area 1, the proposed development is consistent with the recommendations of Section 1804(c)(1) of the Ordinance.
 - Section 1804(c)(1) requires that the applications conform to the applicable provisions of the Oceanfront Resort District Form-Based Code as well as the Comprehensive Plan and the Resort Area Strategic Action Plan (RASAP) 2030.
- This request was presented to the Resort Advisory Commission (RAC) and their subcommittees Planning/Design Review Committee (PDRC) and Resort Investment Committee (RIC). On February 1, 2024, RAC voted to support the item as their membership believes there is demand for this type of housing to support the international students working in the local hospitality industry under the Federal J-1 Visa program.



Zoning History

#	Request
1	ALT Approved 03/19/2019 CUPs (Short Term Rentals) Approved 01/18/2022

Application Types

CUP – Conditional Use Permit	MDC – Modification of Conditions	STC – Street Closure	SVR – Subdivision Variance
REZ – Rezoning	MDP – Modification of Proffers	FVR – Floodplain Variance	LUP – Land Use Plan
CRZ – Conditional Rezoning	NON – Nonconforming Use	ALT – Alternative Compliance	STR – Short Term Rental

Evaluation & Recommendation

The Oceanfront Resort District Form-Based Code (ORDFBC) provides flexibility through the Special Exception of Alternative Compliance process to accommodate unique uses and development forms that contribute to the character and ambiance envisioned in the Resort Area Strategic Action Plan (RASAP 2030), per Sec. 7.3 of the ORDFBC. Although the proposed use of “J-1 Visa Dormitory Housing” is not expressly listed within the Permitted Use Table, per Sec. 5.2 of the ORDFBC, Staff believes that the use is compatible with the Oceanfront Resort as it provides much-needed housing opportunities for J-1 Visa workers who support the operations of the Resort Area year-round. Additionally, this location is optimal for dormitory housing as many of the J-1 Visa workers rely on bike/pedestrian infrastructure, public transportation, and micro transit. The building is located in the midst of the Resort Area and is in close proximity to the boardwalk and public transportation, which will connect residents to employment opportunities and other services in the area.

The Oceanfront Resort District, pursuant to Section 7.3.3, provides ‘Review Standards’ for applications for Alternative Compliance, noting that the City Council “shall consider the extent to which the proposed development, taken as a whole,” satisfies these standards. Each of these standards is listed below, with a Staff comment pertaining to the degree to which the proposal meets each.

- **Promotes modes of transportation other than the automobile, including walking, biking, and transit.**
Staff Comments: The site is located at the northwest corner of 25th Street and Atlantic Avenue which is a central location within the Resort Area. 25th Street is designated as “Beach” frontage type which is intended as a frontage with high pedestrian activity directed downward to the beach, while Atlantic Avenue is designated as a “Shopping” frontage type which features the most walkable places in the Resort Area, with a focus on pedestrian movement and activity to and from a mix of retail, dining, and lodging uses. While there is a higher volume of traffic on these streets, particularly Atlantic Avenue, the area still offers accommodations for pedestrians. The proposed dormitory is in close proximity to many employment opportunities for the J-1 Visa Workers and is accessible by various modes of transportation, thus enabling the residents to walk, bike, or utilize public transportation to get to their destinations. In these ways, the proposed dormitory use promotes modes of transportation other than the automobile within the Resort Area.
- **Creates a built environment that is in scale with pedestrian-oriented activities and provides visual interest and orientation for pedestrians.**
Staff Comments: There are minor proposed changes to the built environment with this application as the applicant will be adding fenestration to the west elevation of the building. As these exterior alterations are located behind the building, away from Atlantic Avenue, there will be no visual change from the pedestrian level. The primary changes proposed will be made to the interior of the existing building. The proposed dormitory will not alter the existing scale of the building, nor will it enhance or detract from the existing pedestrian-oriented activities and visual interests of the Resort Area.
- **Contributes to a mix of uses in the area that are compatible with each other and work together to create a memorable and successful place.**
Staff Comments: The proposed dormitory will provide lodging for J-1 Visa workers, many of whom are employed by businesses within the Resort Area. It will occupy the second floor of an existing retail establishment thus contributing to the goal of creating mixed-uses within the Oceanfront. This proposed dormitory is consistent with the goals of the Resort Area and furthers them by providing a much-needed housing option within the heart of the Resort Area.

- **Is consistent with the intent of the regulations applicable to the street frontage in which it is located, as set forth in Sec. 2.1 of this code.**

Staff Comments: The “Beach” and “Shopping” frontages are both intended to promote pedestrianism in the Oceanfront by providing residential uses near commercial uses to reduce the need for a personal automobile. The location of the dormitory is one block from the boardwalk and fronts Atlantic Avenue, which has well-supported multi-modal transit infrastructure.

- **Is physically and functionally integrated with the built environment in which it is located.**

Staff Comments: The proposed use will not alter the exterior of the existing structure on the site. The existing structure is a two-story, mixed-use building, and is in keeping with the spirit of the Oceanfront Resort district and the frontage types on which it is located. The proposed use and structure on the site are well-suited to the Resort District.

- **Advances the goals and objectives of the parking strategy for the District.**

Staff Comments: No additional parking will be provided on site. Given the proximity of the dormitory to the robust multi-modal transit system in the Resort Area, no additional parking will be required for this use. It is unlikely that all or even most residents of the dormitory will have a personal vehicle and demand for individual parking is unexpected. As such, it is Staff’s opinion that the proposed use, while not providing additional parking, will have no detrimental effect on the parking strategy for the Resort Area.

- **The City Council shall also consider the potential impacts of the proposed deviation on surrounding properties and the extent to which any adverse impacts from such deviation can be mitigated.**

Staff Comments: The proposed use is unlikely to have any adverse impacts on surrounding properties. Under the current zoning, this site can be developed or redeveloped with residential uses. A project of that type would require additional parking and increase average daily trips to this area. The proposed dormitory, while a type of residential use, has a lower parking demand. It will also provide J-1 Visa workers an affordable housing opportunity near employment opportunities and a new customer base for the Resort Area. Given this, Staff does not believe the proposed use will be a detriment to surrounding properties nor the Resort Area in general.

Within the Resort Area Strategic Action Plan, J-1 housing is specifically listed in Chapter 4.6 as a use that is “needed to achieve the goal of a year-round resort.” Chapter 4.6 notes that J-1 housing will be a critical component to the Resort Area as it will enable it “to be a walkable community and will alleviate congestion and parking issues.” A priority action item of the RASAP 2030, as stated in Chapter 5, is to “Support residential and mixed-use development in the Resort Area” by developing “J-1 housing to promote year-round activity”.

This project was presented to the Joint Review Process Group on December 12, 2023. The group, which contains representation from Naval Air Station Oceana, found the request acceptable based on criteria established for discretionary proposals in Sub-Area 1 of the Air Installations Compatible Use Zones (AICUZ), namely that the development conforms to the applicable provisions of the Zoning Ordinance and applicable provisions of the Comprehensive Plan, including the Resort Area Strategic Action Plan. More specifically, the group found the proposed development to be in conformance with the RASAP 2030, which expressly identifies the need for J-1 housing in the Resort Area. As part of the recommended conditions, the density of this project will be capped at 86 J-1 Visa occupants in accordance with the findings and recommendations of the Joint Review Process Group.

Additionally, the applicant’s representative presented the project to the Resort Advisory Commission (RAC) on February 1, 2024, as well as their subcommittees Planning/Design Review Committee (PDRC) and Resort Investment Committee (RIC) on January 30, 2024, and January 31, 2024, respectively. The applicant’s representative shared the conceptual plan with the Commission as well as details pertaining to how the dormitory will be managed: A 3rd party will manage the site in order to ensure the security and safety of the occupants, they will upkeep the shared amenities of the facility such as the bathrooms, kitchen, and laundry, and they will provide an on-site manager similar to a Resident Advisor (RA) in a college dormitory. Given these details, the RAC voted to support the request under the pretenses that their membership

believes there is demand for this type of housing to support the international students working in the local hospitality industry under the Federal J-1 Visa program. RAC's support was based on the following features of the proposed project; the dormitory will only support housing for the J-1 program, the project provides a high capacity of housing for workers to support multiple businesses in the Resort Area, parking in the Resort Area will not be adversely affected as the workers typically utilize bicycles and other microtransit, and that there are "built-in" health and welfare safeguards for the occupants and the surrounding community given the inclusion of a site manager. It is the belief of the Commission that this project should be allowed to proceed to help meet the continuing demand for labor by the local hospitality industry.

The application was reviewed by the Police Crime Prevention Office and the Police Resort Liaisons and they provided feedback regarding site lighting, access, ongoing inspections, security cameras, personal storage, and bicycle parking and storage. Conditions 3 through 7 have been recommended to address their comments.

Staff is supportive of the proposal as it will provide housing for a year-round workforce while maintaining compatibility with the established character of the Oceanfront Resort Area. Based on the conclusion that the proposed use will satisfy the standards above to the greatest extent possible, that the proposed use is supported by the RASAP 2030, that the project is limited to 86 J-1 Visa occupants, that the Joint Review Process Group found the proposal to be consistent with the recommendations of the AICUZ, and that the Resort Advisory Commission believes that this project satisfies the need for temporary labor housing in the Resort Area, Staff recommends approval of this Special Exception for Alternative Compliance to the Form-Based Code, subject to the conditions below.

Recommended Conditions

1. The interior renovations for the J-1 Visa Dormitory Housing shall be in substantial conformance to the submitted plan, entitled "25th Street SJ1 Student Housing", prepared by T3 Architects, and dated October 19, 2023, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development. Any changes to the plan required by the Building Code, Fire Marshal, or any other governing body are acceptable to the extent that they do not result in a greater occupancy than the 86 beds presented in the original plan.
2. The J-1 Visa Dormitory shall be limited to a maximum of 86 occupants. The occupants of this dormitory must also be enrolled in the J-1 Visa Exchange Visitor Program for the extent of time they are inhabiting the dormitory. The dormitory may not be utilized for any other purpose than housing J-1 Visa workers.
3. A lighting plan which indicates LED light fixtures on all exterior walls of the structure must be approved prior to issuance of a Certificate of Occupancy for the J-1 Visa Dormitory Housing use. These LED light fixtures must be always maintained and provide illumination of the exterior of the structure, including all entrances of the building, all fire exits on the building, and the alleyway (25th ½ Street).
4. A means of emergency access shall be provided to the Virginia Beach Police Department for the J-1 Visa Dormitory Housing prior to the issuance of a Certificate of Occupancy for the use. The applicant and/or site manager shall meet any access requirements as determined by the Police Crime Prevention Office.
5. All entryways, lobbies, and fire exits to and from the J-1 Visa Dormitory Housing shall be monitored by a functioning security camera system which the Virginia Beach Police Department can access. A plan indicating the location of these cameras shall be approved prior to the issuance of a Certificate of Occupancy for the J-1 Visa Dormitory Housing Use.
6. A secure, lockable wardrobe, footlocker, or other administratively approved container shall be provided per bed for the occupants of the J-1 Visa Dormitory Housing.

7. A plan which provides bicycle parking for no less than 40 bikes, either in the form of a bicycle rack(s) or other indoor, secured storage area, is required to be approved prior to the issuance of the Certificate of Occupancy for the J-1 Visa Dormitory Housing use. This bicycle parking ~~must~~ may be provided within the limits of private property ~~and not or~~ within the right-of-way.

Further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.

The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.

Comprehensive Plan Recommendations

This project falls within the Resort Area SGA and the Short Term Rental Overlay. Based on the guidelines set in the Resort Area Strategic Action Plan (RASAP), J-1 Housing is needed and welcomed in the Resort Area as the SGA is striving to achieve a goal of being a year-round resort.

Natural & Cultural Resources Impacts

The site is located in the Chesapeake Bay watershed. There does not appear to be any significant natural or cultural resources associated with the site.

Public Outreach Information

Planning Commission

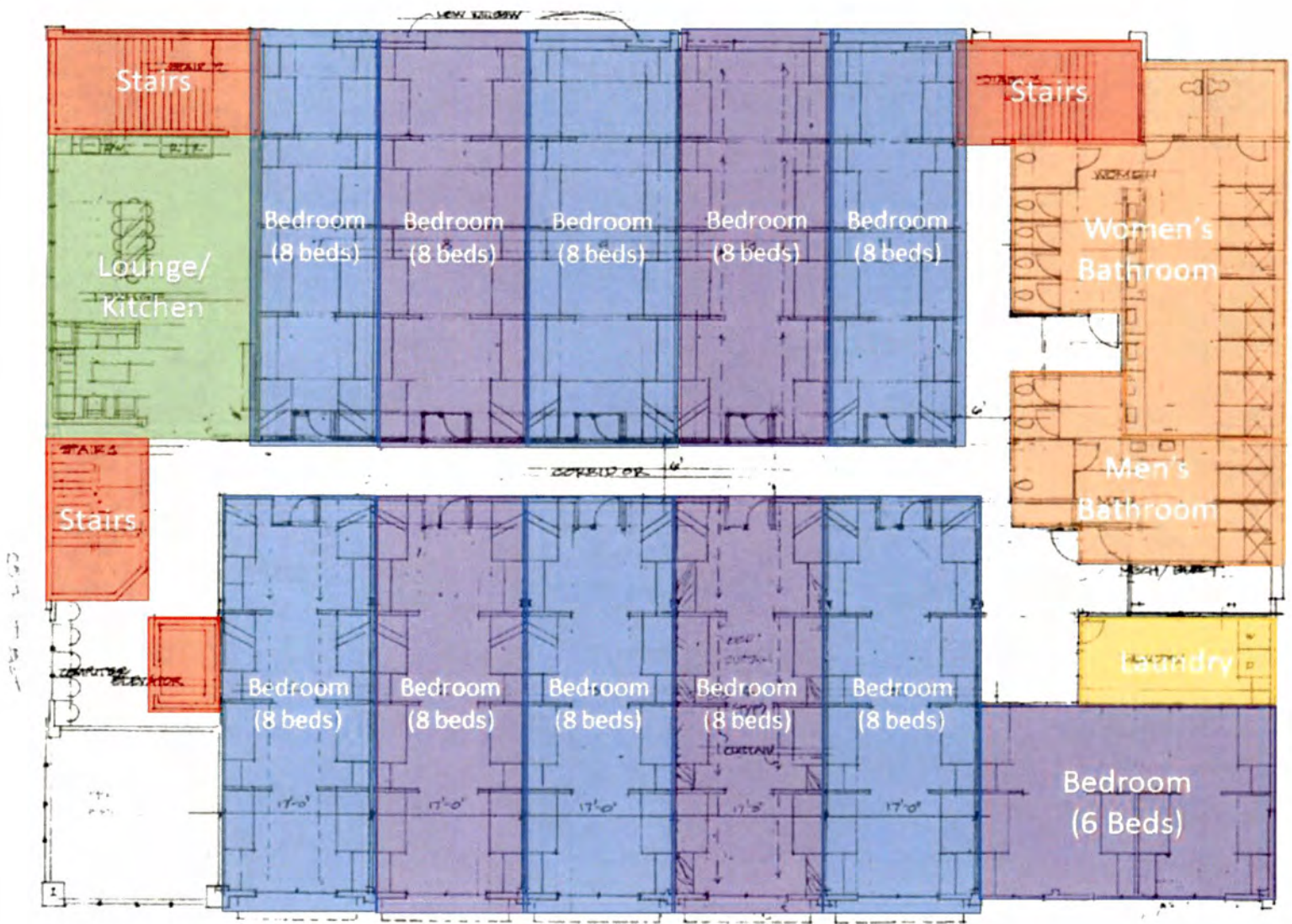
- The applicant's representative met with the Joint Review Process Group on December 12, 2023 to discuss the details of the request. A letter of approval was provided to Staff by the Joint Review Process Group as a result of this meeting.
- As required by the Zoning Ordinance, the public notice signs were placed on the property on January 15, 2024.
- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, January 31, 2024 and February 7, 2024.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on January 29, 2024.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.virginiabeach.gov/pc on February 8, 2024.

City Council

- As required by City Code, this item was advertised in the Virginian-Pilot Beacon on Tuesdays, March 5, 2024 and March 12, 2024.

- As required by City Code, the adjacent property owners were notified regarding both the request and the date of the City Council's public hearing on March 4, 2024.
- The City Clerk's Office posted the materials associated with the application on the City Council website of <https://clerk.virginiabeach.gov/city-council> on March 15, 2024.

Proposed Floor Plan



Disclosure Statement



The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law. The completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council or a City board, commission or other body.

Applicant Disclosure

Applicant Name SUNSATIONS REALTY LLC

Does the applicant have a representative? ☒ Yes ☐ No

- If yes, list the name of the representative.

KYLE D. KORTE

Is the applicant a corporation, partnership, firm, business, trust or an unincorporated business? ☒ Yes ☐ No

- If yes, list the names of all officers, directors, members, trustees, etc. below. (Attach a list if necessary)

YARON SIBONY, PRESIDENT

- If yes, list the businesses that have a parent-subsidary¹ or affiliated business entity² relationship with the applicant. (Attach a list if necessary)

SUNSATIONS INC.

¹ "Parent-subsidary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, VA. Code § 2.2-3101.

² "Affiliated business entity relationship" means "a relationship, other than parent-subsidary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va Code § 2.2-3101.

Disclosure Statement

Disclosure Statement



Known Interest by Public Official or Employee

Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action? ☐ Yes ☒ No

- If yes, what is the name of the official or employee and what is the nature of the interest?

Applicant Services Disclosure

1. Does the applicant have any existing financing (mortgage, deeds of trust, cross-collateralization, etc) or are they considering any financing in connection with the subject of the application or any business operating or to be operated on the property?

☐ Yes ☒ No

- If yes, identify the financial institutions providing the service.

2. Does the applicant have a real estate broker/agent/realtor for current and anticipated future sales of the subject property?

☐ Yes ☒ No

- If yes, identify the company and individual providing the service

3. Does the applicant have services for accounting and/or preparation of tax returns provided in connection with the subject of the application or any business operating or to be operated on the property? ☒ Yes ☐ No

- If yes, identify the firm and individual providing the service.

TYLER & COMPANY LLC

4. Does the applicant have services from an architect/landscape architect/land planner provided in connection with the subject of the application or any business operating or to be operated on the property? ☒ Yes ☐ No

- If yes, identify the firm and individual providing the service

MICHEL C. ASHE, FAIA ARCHITECT

5. Is there any other pending or proposed purchaser of the subject property? ☐ Yes ☒ No

- If yes, identify the purchaser and purchaser's service providers.

Disclosure Statement

Disclosure Statement



6. Does the applicant have a **construction contractor** in connection with the subject of the application or any business operating or to be operated on the property? ☒ **Yes** ☐ **No**

• If **yes**, identify the company and individual providing the service.

IS CONTRACTORS

7. Does the applicant have an **engineer/surveyor/agent** in connection with the subject of the application or any business operating or to be operated on the property? ☐ **Yes** ☒ **No**

• If **yes**, identify the firm and individual providing the service.

8. Is the applicant receiving **legal services** in connection with the subject of the application or any business operating or to be operated on the property? ☒ **Yes** ☐ **No**

• If **yes**, identify the firm and individual providing the service.

KYLE D. KORTE, WOLCOTT RIVERS GATES

Applicant Signature

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate. I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the meeting of Planning Commission, City Council, VBDA, CBPA, Wetlands Board or any public body or committee in connection with this application.


Applicant Signature

Paras S. Bandy - OWNER
Print Name and Title

11/1/23
Date

- Is the applicant also the owner of the subject property? ☐ **Yes** ☐ **No**

• If **yes**, you do not need to fill out the owner disclosure statement.

FOR CITY USE ONLY/ All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the applications



No changes as of

Date 3/4/2024

Signature



Print Name

Garek Hall Hannigan

Next Steps

- Upon receiving a recommendation from Planning Commission, this request will be scheduled for a City Council public hearing. Staff will inform the applicant and/or their representative of the date of the hearing in the upcoming days.
- Following City Council's decision, the applicant will receive a decision letter from Staff.
- Once the conditions of approval are in place and/or completed, the applicant must contact the Zoning Division of the Planning Department to obtain verification that the conditions have been met. Contact the Zoning Division at 757-385-8074.
- If the request requires land disturbance and/or a subdivision of property, please contact the Development Services Center (DSC) to discuss next steps for site plan/plat review. Contact the DSC at 757-385-4621 or the Development Liaison Team at 757-385-5692.
- Please note that further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.
- The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.

**Virginia Beach Planning Commission
February 14, 2024, Public Meeting
Agenda Item # 8**

Sunsations Realty, LLC

RECOMMENDED FOR APPROVAL

Mr. Alcaraz: Thank you. Next item for us to hear is item number eight. Please come forward and state your name.

Mr. Korte: Good afternoon. My name's Kyle Korte. I'm a lawyer with Wolcott Rivers in Virginia Beach. I represent the applicant on item number eight, which is the alternate compliance to allow J-1 housing of temporary workers. I understand there are some questions. I can go through the report and what we've done or I can just take the questions immediately, whatever the preference is.

Mr. Alcaraz: Are there any questions for Mr. Korte, Ms. Hippen?

Ms. Hippen: I have a couple. My concern was making sure that each person has enough personal space during the informal. We were told that this will hold 86 people, they are only here for four to five months, is that correct?

Mr. Korte: Yes, ma'am.

Ms. Hippen: But a J-1 Visa does allow you to stay longer?

Mr. Korte: And they'll be permitted to stay as long as they're here on a J-1 Visa, they'll be permitted to stay in the property. So we anticipate the four to five months or the timeframe you specified, but if they're ended up permitted to stay longer, we don't take them out of the space as long as they're here on the J-1 Visa, they're permitted to stay.

Ms. Hippen: Okay and do you have someone monitoring that space on a 24-hour basis and where are they?

Mr. Korte: There will be an on-site manager 24/7. They do not live on-site. It'll be a desk and they'll have a location for the manager that'll be on that second floor where all the bedrooms are. The exact plan hasn't been thought-out as far as layout and everything. Still, we're working through that, but there will be an on-site manager 24 hours a day.

Ms. Hippen: Okay. Alright. Let me see. Those were the questions that I had.

Mr. Alcaraz: Just to be clear, so they're on duty, they're not there to stay and sleep. They're actually on a time.

Mr. Korte: Yes sir. That's correct. They'll be there working. They won't sleep there, but yeah, it'll be 24/7. There'll be a desk kind of like a hotel lobby type reception situation.

Mr. Alcaraz: Great. Thanks. Any other questions? Mrs. Estaris?

Ms. Estaris: Yes I understand that there were some presentations. There were Resort Advisory Commission and some subcommittees and also the Resort Investment Committee. Were you present at those meetings?

Mr. Korte: Yes, ma'am. I was present at all three.

Ms. Estaris: All three, and I understand there were some opposition at those meetings of this project. Can you share some of that opposition as to what were the concerns at that time?

Mr. Korte: I mean, maybe I'm always optimistic. I wouldn't characterize anything we felt as opposition. There were certain requests and concerns that were raised. One of the concerns was safety as far as access to the property, and if you look the plan or how the property works, there's only one access point up and that'll be controlled by a key fob, with a video camera that the police will have access to, and then there's three exits counting that, entry exit. There's three ways out. The other two ways out are on the outside, there's no hardware for the doors, so you can only exit out, not in. So that was one concern that was raised. Another concern that was raised was a location kind of a locker type storage area where the residents could store valuables, whether it's a laptop or money or whatever, and there is going to be a lock type area for each resident to have their own private lock space. There was a concern about a lot of times these residents, obviously, there's no parking associated with this plan because they don't bring vehicles with them when they come over, but they use bicycles for transportation, and a concern was where would they store their bicycles? And so you saw that, I believe, addressed and item number eight, that we've, that's been modified somewhat and that because the building goes all the way up to the property

line, there's no room on site to allow for a bike path or a bike, I'm sorry, a bike rack. So the modification that was requested is that the bike rack be located nearby, you know, wherever the city deems as appropriate. And then the applicant will reimburse the city for the cost of installing that bike rack. I don't recall any other concerns, but I mean if there were some and you know what they are, I'm happy to address them, but I don't recall anything other than that.

Ms. Estaris: Okay. So one of the concerns that I had was knowing that a lot of the J-1 applicants as to where they work from that actual location having an appropriate transportation and to have the appropriate space and with the plans of having 86 potential and not having 86 potential bike spaces, how do you see that to be addressed specifically for safety and also that this is also people coming in and we want to make sure they're appropriately provided the housing as well as the transportation to go back and forth to homes -- to work and noting also some of these J-1s are not specifically just an oceanfront, but it could be all the way around to say, Shore Drive. How do you see that transportation issue being addressed?

Mr. Korte: Well, the -- I guess principally the transportation issue is, this is centrally located in that area, you know, it's the 25th street block of the Oceanfront, which is centrally located on the businesses that traditionally rely on these workers. If and I'm not challenging you, we didn't contemplate in making this application, workers outside of the Oceanfront area. This was deemed a need for the workers of the Oceanfront area that are finding space, you know, independence or off bird neck, you know, they're far and far away from their locations. So, I would take the position that if there is a J-1 worker on Shore Drive, this might not be the best location for them to house. I think there'd probably be a location that would be more appropriate, closer to that, closer to their place of employment. The idea behind this application is that it's centrally located at the Oceanfront area and you know, easy for a lot of these residents or workers or however you want to characterize them, whether they're residents or workers to get to their location or to get home as a resident and that was the idea there.

Ms. Estaris: Well, I've had many conversations in this particular arena, and knowing that we lack housing just in general, I know that by setting this plan, you set the precedence for others to be doing the same thing. So I want to make sure that we are taking those things in consideration in the planning, but again, I don't feel comfortable that if you are having up to 86 people and not having

the appropriate space for their actual vehicles or their bikes and you're right, most of them are bikes, but I do, and I'm aware that some J-1s do have cars. So that -- what is the plan for making sure that if it's at full occupancy at 86, how do you see the parking available for those 86 individuals? That's the concern I have.

Mr. CKrte: I understand and my response would be if, you know, the need for the J-1 housing is there and there is not parking available on this site. If you look at the survey for the property, it's a zero-foot setback. It goes all the way to the border or to the property line. So if it is a J-1 worker or resident that has a vehicle, this might not be the appropriate location for them. This plan is for -- are designed for workers that are working at the Oceanfront that do not require a vehicle to go to and from their place of employment and it might not be the exact fit for everyone, and we're not trying to make the exact fit for everybody. The need has been identified and to your point, this is the, you know, it's a lot easier to follow someone else doing it versus being the first, but the idea was that this is a starting point that we think or my client thinks, the applicant thinks will satisfy the need for a lot of these, these folks that come over here and are forced to live 10, 15, 20 miles from their place of employment.

Ms. Estaris: I agree. I mean, this has been an issue just generally for the City of Virginia Beach in regards to J-1s and ongoing Workforce Development Programs. Again, I'm just concerned with the safety and the security of those who are going to be staying there and when you're saying occupancy is going to be 86, I know there's gonna be a wait list of people that will want to, if this is the only location in that area, and you're right, it's very central, but again, I am concerned about the safety and the parking issue of their vehicles or their bikes and most of them are bikes and they, I know that when J-1s leave, they sell their bikes to the next set of groups. So the bike is a thing, but if you only have parking, if you look at the map that was actually provided to us, and then I have the idea that ride of access, I just don't see where the appropriate parking of even just saying bikes and if you have that at full occupancy and how to address that issue or even possible shuttles for taking people back and forth to the workplace. I believe that this is a very important for the way that we present this project, this plan, because others will want to follow through because this is an issue way for many years, and I've been in many discussion groups about this issue, so that's why I am very adamant about making sure that when we set this as a precedent, so we set it correctly from the get-go. Again, I think that we have to take

consideration that those who are even weather conditions and how people going back and forth to their workplace, maybe that wasn't a consideration when making this plan, but I think we do need to take that in consideration when we're bringing people in. We're supposed to house them and we want to be respected that we have such a great program. I know that we have reviewed other locations with J-1s specifically in the tourism sectors in the Southeastern area as far as from North Carolina, Maryland, and looking at other tourism and how they provide appropriate housing. I want to know that when we set this as a very first project for housing, that we're also taking those things in consideration that, oh my gosh, you've got to go to Virginia Beach because they do take care of their people. I want to know that we're taking care of our people that we're bringing here and helping support our tourism sector. So again, my issue is the bicycles and their lack of parking, I feel for 86 people and how we addressing that?

Mr. Korte: I guess the security aspect first, and I believe it's addressed in the report, but one of aside from the security cameras and the entry, fob type system, the applicant is going to meet with the police, during the construction process and make sure we get feedback from the police as far as lighting and the different factors that they identify that this property will need to keep these residents safe because that is a top priority of the applicant as well. I mean, this, you know, they're, you know, putting the reputation on the line here as well, and they want this to be a class A project that is, you know, support and that we'd all be proud of. So they've, you know, they've taken the time to address as many of the concerns as they can, that they can think of, but they are seeking input from folks like at the police department that'll meet with them and help them address and get down to a granular level as far as what'll be required. As far as parking of automobiles, this site just is not, it is not suitable for that. I mean, if that is, if there is a resident that has a vehicle, this is not the right site for them. As far as the bike, a number of 40, their understanding or my -- the applicant's understanding is that several of the folks they will have bikes, but several walk just based on the proximity of everything. Proximity to the Harris Teeter Grocery Store, proximity to their place of employment, a lot of these, a lot of them do have bikes. If 40 is not the right number and there's a different number, that's the right number. I don't think that'll be a sticking point for the applicant. If the bike rack needs to be larger to suit additional bikes, that's certainly not a sticking point for this applicant. I mean, if they need to have more availability for more bicycles, they'll do that.

Mr. Alcaraz: Are you done Ms. Estaris?

Ms. Estaris: Yes.

Mr. Corte: Thank you.

Mr. Alcaraz: Any other questions?

Mr. Anderson: I got one question, sir.

Mr. Alcaraz: Mr. Anderson.

Mr. Anderson: On your layout of the beds, what about the privacy of the students? Is there going to be a temporary wall by the bed? Is it going to be a curtain? I know it's, the details haven't been drawn up yet to that detail, but I'm, you know, looking at their privacy, while they're sleeping, during getting changed, that kind of thing?

Mr. Korte: Right now the plan is to have in each room that has, I think, six to eight beds depending on the room. It'll be curtains between the various beds.

Mr. Anderson: Okay. We just couldn't see it on this drawing?

Mr. Korte: No, absolutely. No. Good question and that's what's contemplated at this point.

Mr. Anderson: Okay.

Mr. Korte: Thank you.

Mr. Alcaraz: Any other questions? I got one for staff. Mr. Mauch. I got a question. Isn't there a four story J-1 at 19th or 20th Mr. Mauch, is there one?

Mr. Mauch: To my knowledge that's the 19th Street Hotel, and I believe it's owned by the same applicant. I believe they use that hotel as or have used as similar style, but that would be a question for them hopefully.

Mr. Alcaraz: But staff didn't we have a use come in, a use permit for that some time ago?

Ms. Estaris: It was hotel though, right?

Ms. Alcock: Yeah. We'll have to look into that.

Mr. Alcaraz: I think we did right there at 19th and 20th, corner of 19th and 20th. So I'm just saying there's one that's already existed. If I'm, my memory serves me right. I think it's four stories. Okay, Ms. Hippen?

Ms. Hippen: Let me go back to the privacy thing. That was the other thing that we talked about quite a bit. So I'm a retired Navy master chief, so I've served on ships. Just keep paying your taxes for my retirement. Thank you. That was the other concern that I had because there's eight beds in all of these rooms except for one, one has six. How do you, you said there's curtains between the beds?

Mr. Korte: Yes, ma'am. The design, at this point, the design contemplates there being like pull curtains that'll partition off or carton off the different beds. Yes, ma'am.

Ms. Hippen: Okay. Because what I see is people working different shifts coming and going at different times of the day and night and how that will affect each person's living space? I guess that's the question.

Mr. Korte: Well, I would agree that that's a concern and I think that is a concern whether, you know, in my college experience, whether you have two, four or eight people in a single room, you're dealing with folks that are going to have to learn to live together and be courteous and be respectful and I'm, you know, there is a risk for if you have one disruptive person or one person that elects not to be courteous. That's in that room, that could present an issue and that would be an issue that the on staff or on-site manager, I think would have to address if folks aren't being, you know, good courteous roommates. I mean, that's why we have, I characterize it at one of the meetings. It's kind of an RA type situation and it's not going to be a RA, but that's the best, in my head, that's the best comparison I could draw, and that's their role. Their role is to maintain the safety of these residents, but also to help negotiate situations like the one you're describing.

Ms. Hippen: Okay, based on the picture, I'm trying to figure out where that staff person will be? Because the picture that we have is kind of hard to see even if I blow it up, where's that picture, where's that person going to be?

Mr. Korte: I don't think it's been confirmed, like this plan isn't written in stone as far as the actual layout, I mean, that's something that's still going to be developed and discussions with the city to get the certificate of occupancy and also with the police. As far as how is this, what's the best way to structure this? This was a depiction showing that there could be 86 beds that would still far exceed the square footage requirement as far as per bed under the code. So this is a conceptual plan.

Ms. Hippen: Okay. Thank you.

Mr. Korte: Yes, ma'am.

Mr. Alcaraz: Alright, any other questions for Mr. Corte? Mr. Mauch?

Mr. Mauch: I don't think I have a question as much as maybe a comment or two.

Mr. Alcaraz: You want to save it for discussions?

Mr. Mauch: Yeah, that'd be wonderful.

Mr. Alcaraz: Alright, if you can be seated, I'm going to just ask, is there any objections or any virtual, no speakers. Okay. Now we'll close it for discussion. Mr. Mauch.

Mr. Mauch: Sure. Thanks. I think, you know, reviewing this and having seen the presentation a couple of times, looking at this specific site, I know that the concerns raised are getting it right and I believe that that is something that we want to make sure we're doing. I do think that every application, if other applications are going to come, are also going to have their own nuances. So I believe that looking at this, this is probably killing two birds with one stone with an appropriate use for the upstairs that typically down there does not get used as well as the downstairs does and housing these J-1 students in a safe manner, you know, with the bicycle racks that are being proposed to add with what the city currently has out. I mean, we can see one right here on this corner and then I know that there's a couple of more right around the on the Ben and Jerry's side over there. You know, even if there were to be the will that we would want to add a few more bike racks or spaces for bikes, you know, I think this is about as appropriate of a use for, you know, helping both issues that this Oceanfront and the hospitality

industry has down there. I think that I'm inclined to support this and make sure that we're getting this right for future things too.

Mr. Alcaraz: Alright. Thank you. Any other comments? If not, I'd like a motion.

Mr. Mauch: I will have a motion to approve.

Mr. Alcaraz: I have a motion by Mr. Mauch.

Ms. Alcock: Chairman, can I just specify one thing? I think the representative did make a comment about a modification to condition seven to allow bike racks to be installed in the right-of-way. So just if you're amenable to that change, that would need to be part of the motion if you are amending what is recommended in the staff--

Mr. Mauch: Approved with the amended condition as stated.

Mr. Alcaraz: With the number. Was there a number? We are good with the number?

Mr. Mauch: I'm fine with the number.

Mr. Alcaraz: Okay. We're good with the number. Alright. I have a motion with amendment. Do I have a second?

Mr. Coston: Second.

Mr. Alcaraz: Second by Mr. Coston, is there any abstaining? Anybody abstaining?

Mr. Plumlee: I need to abstain from this matter. For the reasons set forth in a letter on file with the city.

Mr. Alcaraz: Thank you.

Ms. Alcock: The vote is now open. By a vote of 10 to 0 with one abstention, item number eight has been recommended for approval.

	AYE 10	NAY 0	ABS 0	ABSENT 0
Alcaraz	AYE			
Anderson	AYE			
Byler	AYE			
Clemons	AYE			
Coston	AYE			
Cuellar	AYE			
Estaris	AYE			
Hippen	AYE			
Mauch	AYE			
Parks	AYE			
Plumlee			ABS	

CONDITIONS

1. The interior renovations for the J-1 Visa Dormitory Housing shall be in substantial conformance to the submitted plan, entitled "25th Street SJ1 Student Housing", prepared by T3 Architects, and dated October 19, 2023, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development. Any changes to the plan required by the Building Code, Fire Marshal, or any other governing body are acceptable to the extent that they do not result in a greater occupancy than the 86 beds presented in the original plan.
2. The J-1 Visa Dormitory shall be limited to a maximum of 86 occupants. The occupants of this dormitory must also be enrolled in the J-1 Visa Exchange Visitor Program for the extent of time they are inhabiting the dormitory. The dormitory may not be utilized for any other purpose than housing J-1 Visa workers.
3. A lighting plan which indicates LED light fixtures on all exterior walls of the structure must be approved prior to issuance of a Certificate of Occupancy for the J-1 Visa Dormitory Housing use. These LED light fixtures must be always maintained and provide illumination of the exterior of the structure, including all entrances of the building, all fire exits on the building, and the alleyway (25th ½ Street).
4. A means of emergency access shall be provided to the Virginia Beach Police Department for the J-1 Visa Dormitory Housing prior to the issuance of a Certificate of Occupancy for the use. The applicant and/or site manager shall meet any access requirements as determined by the Police Crime Prevention Office.
5. All entryways, lobbies, and fire exits to and from the J-1 Visa Dormitory Housing shall be monitored by a functioning security camera system which the Virginia Beach Police Department can access. A plan indicating the location of these cameras shall be approved prior to the issuance of a Certificate of Occupancy for the J-1 Visa Dormitory Housing Use.
6. A secure, lockable wardrobe, footlocker, or other administratively approved container shall be provided per bed for the occupants of the J-1 Visa Dormitory Housing.

7. A plan which provides bicycle parking for no less than 40 bikes, either in the form of a bicycle rack(s) or other indoor, secured storage area, is required to be approved prior to the issuance of the Certificate of Occupancy for the J-1 Visa Dormitory Housing use. This bicycle parking ~~must~~ may be provided within the limits of private property ~~and not~~ or within the right-of-way.

Courtyard By Marriott
2501 Atlantic Ave
VB 23451

Courtyard Marriott South/25th Street

2501 Atlantic Avenue, Virginia Beach, Virginia 23451

757.491.6222

guest.services@courtyardsouth.com Marriott.com/DRFOC

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Jan 22, 2024

City of Virginia Beach
Planning and Community Development Department
2875 Sabre Street, Suite 500
Virginia Beach, VA 23452

RE: Alternative Compliance Application
Property: 2500 Atlantic Avenue

Dear Sir or Madam:

As owner of the property located (adjacent/directly across the street/in close proximity to) 2500 Atlantic Avenue, I am writing this correspondence in support of the pending Alternative Compliance Application filed by Sunsations Realty, LLC. The proposed SJ1 Visa Housing is highly needed at the oceanfront, and the proposed location is perfect for that use. Additionally, I am requesting that the Alternative Compliance Application be supported by the Planning Commission and City Council.

Thank you for your consideration in this matter. Should you have any questions, please do not hesitate to contact me.

Sincerely,





February 2, 2024

The Honorable Robert M. "Bobby" Dyer
Members of City Council
Municipal Center – Building 1
2401 Courthouse Drive
Virginia Beach, VA 23456

Subject: Letter of Support for J-1 Alternative Compliance Dormitory Housing

Mayor and Members of City Council:

The Resort Advisory Commission supports the application for alternative compliance for the construction of J-1 Visa student dormitory style housing located at 2500 Atlantic Avenue. The legal and design professionals overseeing this project for the property owner presented the project details to several committees of the Resort Advisory Commission (RAC) including the full RAC membership during the February 1, 2024, meeting.

The RAC membership believes there is demand for this type of housing to support the international students working in the local hospitality industry under the Federal J-1 Visa program and supports the project as presented. Highlights include:

- Only used to support housing for the J-1 program.
- Capacity for J-1 students for multiple businesses.
- Not adversely affect parking. Students use bicycles and other microtransit.
- Built-in health and welfare safeguards for the occupants and surrounding community.

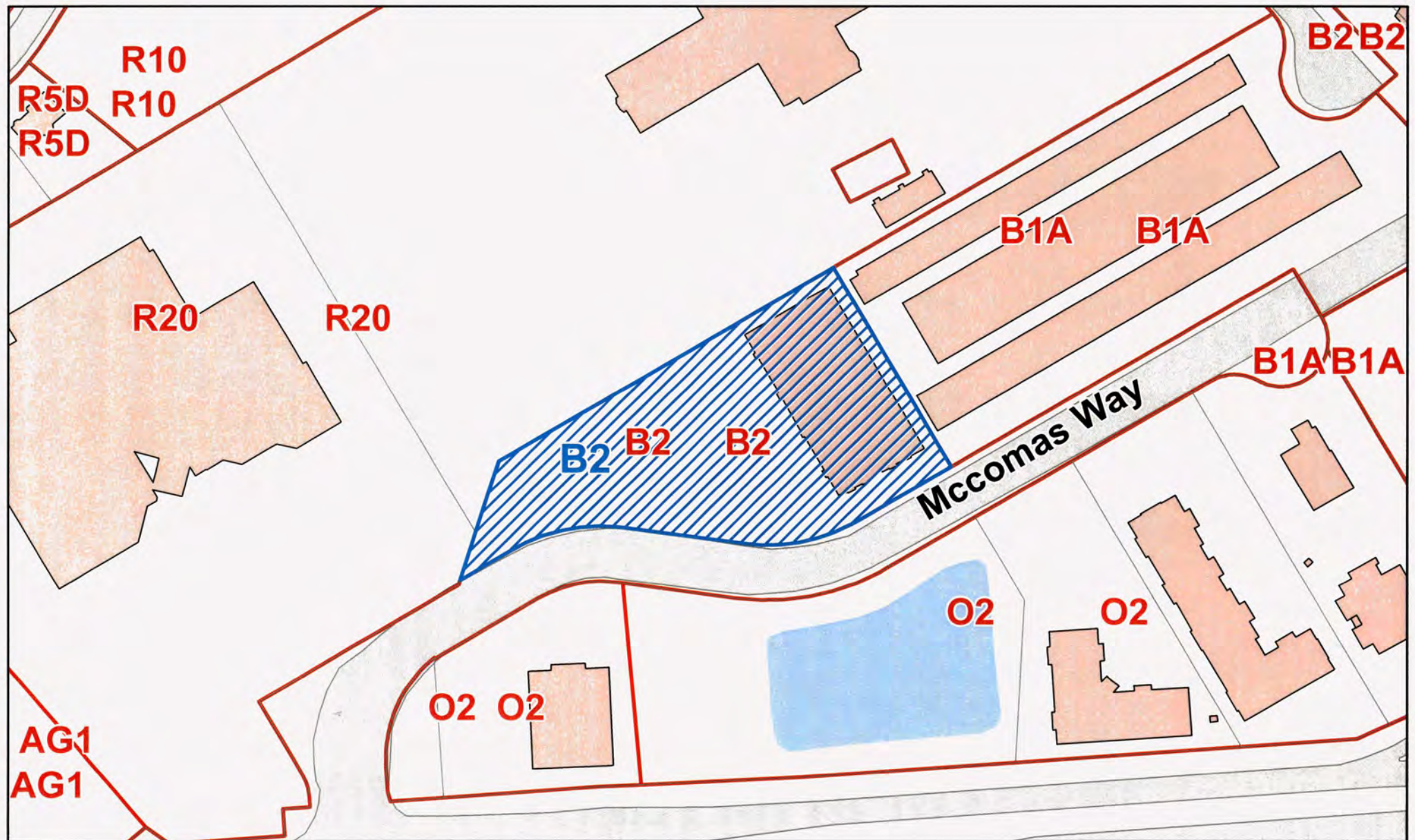
It is the belief of this Commission that this project should be allowed to proceed to help meet the continuing demand for labor by the local hospitality industry. Please contact me either by phone (757) 335-1233 or email: bj@rockafellers.com should you wish to discuss further or collect additional information.

Sincerely,



A handwritten signature in black ink, appearing to read 'E. Baumann'.

Elizabeth "BJ" Baumann
Chairperson, Resort Advisory Commission

cc: **Patrick Duhaney, City Manager**
Kathy Warren, Director, Planning Department
Nancy Helman, Director, Convention and Visitors Bureau Department
Lisa S. Bleakley, Resort Administrator, Resort Management Office



Daolin Dong & Jiayin Wang
2180 McComas Way, Suite 111

-  Site
-  Property_Polygons
-  Zoning
-  Building



0 30 60 120 180 240 300 360 Feet



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: DAOLIN DONG & JIAYIN WANG [Applicant] CHARLES B HAYES & STRAWBRIDGE COMMONS CONDOMINIUM ASSOCIATION [PROPERTY OWNERS] Modification of Proffers to a Conditional Rezoning for the property located at 2180 McComas Way, Suite 111 (GPIN 24049774940111). COUNCIL DISTRICT 5

MEETING DATE: March 19, 2024

■ **Background:**

The applicant is seeking to amend the proffers associated with the 1993 Conditional Rezoning and 2009 Modification of Proffers, in order to offer music lessons for violins and other string instruments, and general sales and repair of musical instruments, within the existing suite. Additionally, they intend to operate a small café on site that will serve coffee, tea, non-alcoholic beverages, and food items.

As currently proffered, the only uses permitted on site would be an indoor skate park or those uses that are permitted in both the O-2 and B-2 Districts. The applicant is intending to modify this proffers, solely for Suite 111, to allow the uses specified above as well as those uses that are permitted either by-right or through a Conditional Use Permit in both the O-2 and B-2 Districts. The proposed operation will operate 9:00 am to 5:00 pm, Monday to Friday with two employees proposed.

■ **Considerations:**

In Staff's opinion, the request is acceptable with the proffers submitted by the applicant. This complementary non-residential use will not have an adverse effect on traffic nor will it negatively impact the surrounding areas.

Further details pertaining to the application, as well as Staff's evaluation, are provided in the attached Staff Report.

■ **Recommendation:**

On February 14, 2024, the Planning Commission passed a motion to recommend approval of this item on the Consent Agenda, by a recorded vote of 11-0.

The applicants are proposing to amend the 2009 Modified Proffers to say:

Proffer 1:

Proffer numbered 8 in the 1993 original proffer agreement and proffer numbered 1 in the 2009 Modified Proffer Agreement are hereby amended to read as follows:

The B-2 Business District uses available to Unit 111 shall be as follows:

- i. The retail sale of violins, violin components, and other musical instruments
- ii. The repair of violins and other musical instruments
- iii. The provision of violin lessons and other string instruments
- iv. The sale to customers of tea, coffee, and nonalcoholic drinks and food items
- v. Uses permitted and conditioned in O-2 Office District Zoning, which are also uses permitted and conditioned in the B-2 District.

Proffer 2:

Except as modified, herein, with respect to the Property, all of the proffers, covenants, restrictions and conditions set forth in the Original 1993 Proffers (Deed Book 3297 Page 65) and amended 2009 Proffers (Recorded Instrument # 20090313000264880) are ratified, affirmed and remain binding upon the Property and upon any party holding title under, by or through, the Grantor.

■ **Attachments:**

Staff Report and Disclosure Statements
Location Map
Minutes of Planning Commission Hearing
Proffer Agreement

Recommended Action: Staff recommends Approval. Planning Commission recommends Approval.

Submitting Department/Agency: Planning Department

City Manager:



Request

Modification of Proffers

Staff Recommendation

Approval

Staff Planner

Michaela McKinney

Location

2180 McComas Way, Suite 111

GPIN

24049774940111

Site Size

1,568 square feet

AICUZ

65-70 dB DNL; Sub-Area 2

Watershed

Southern Rivers

Existing Land Use and Zoning District

Office Space / B-2 Community Business

Surrounding Land Uses and Zoning Districts

North

Elementary School / R-20 Residential

South

McComas Way

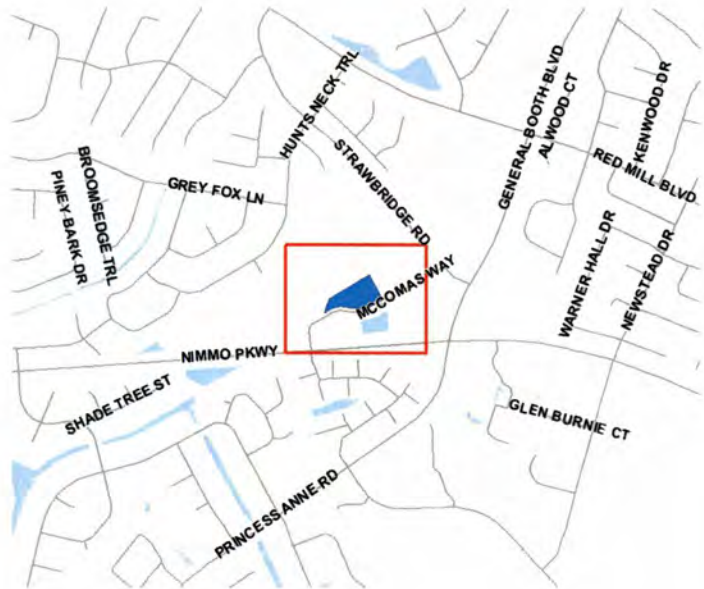
Office Space, cultivated field / O-2 Office

East

Office Space / B-1A Limited Community Business

West

Recreation Center / R-20 Residential

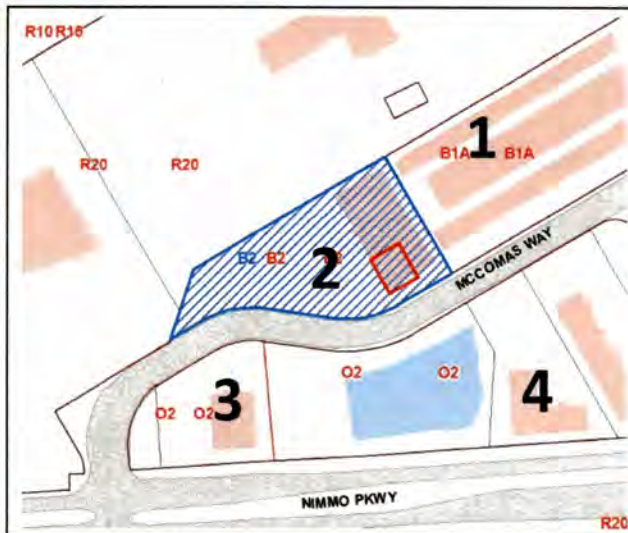


Background & Summary of Proposal

- The applicants are requesting a Modification of Proffers to amend proffers associated with a 1993 Conditional Rezoning and 2009 Modification of Proffers on this site. Per the current proffers, the only uses allowed on this property must be permitted in both the O-2 Office District and B-2 Community Business district.
- The applicants are requesting to modify Proffer 8 in the 1993 Proffers and Proffer 1 in the 2009 Proffers to allow retail sales that are limited to violin and other musical instrument operations, and eating and drinking establishments occupying no more than 10% of the floor area.
- This parcel was rezoned from O-2 Office District to B-2 Community Business in 1993. The proffers associated with the 1993 rezoning were subsequently amended in 2009 to allow for an Indoor Commercial Recreation Facility-Skate Park to be developed. More specifically, Proffer 1 below replaced Proffer 8 from the 1993 Conditional Rezoning.
 - Proffer 1: The only B-2 Business District use available to this site shall be for an indoor skate park. All the uses for the property shall be limited to those uses allowed in O-2 Office District, which are also uses permitted in the B-2 District.
- The applicants are proposing to amend the 2009 Modified Proffers to say:
 - Proffer 1: Proffer numbered 8 in the 1993 original proffer agreement and proffer numbered 1 in the 2009 Modified Proffer Agreement are hereby amended to read as follows:

The B-2 Business District uses available to Unit 111 shall be as follows:

 - i. The retail sale of violins, violin components, and other musical instruments
 - ii. The repair of violins and other musical instruments
 - iii. The provision of violin lessons and other string instruments
 - iv. The sale to customers of tea, coffee and nonalcoholic drinks and food items
 - v. Uses permitted and conditioned in O-2 Office District Zoning, which are also uses permitted and conditioned in the B-2 District.
 - Proffer 2: Except as modified, herein, with respect to the Property, all of the proffers, covenants, restrictions and conditions set forth in the Original 1993 Proffers (Deed Book 3297 Page 65) and amended 2009 Proffers (Recorded Instrument # 20090313000264880) are ratified, affirmed and remain binding upon the Property and upon any party holding title under, by or through, the Grantor.
- The Modification of Proffers is limited to Unit 111.
- The applicants intend to offer music lessons for violins and other string instruments, general sales and repair of musical instruments. In addition, they intend to operate a café that will serve only coffee, tea, non-alcoholic beverages, and food items that will be prepared onsite.
- Typical hours of operation are 9:00 am to 5:00 p.m., Monday to Friday, with a total of two employees proposed.
- With the exception of signage, there are no other planned improvements to be done onsite.



Zoning History

#	Request
1	MDC Approved 07/03/2012 MDC Approved 01/28/2006 MDP Approved 08/14/2001 CUP (Communication Tower) Approved 08/14/2001 CRZ (O2 to B1A) Approved 12/07/1999
2	CUP (Indoor Recreational Facility) Approved 03/10/2009 CUP (Church) Approved 10/09/2007 MDP Approved 03/10/2009
3	CRZ (O-2 to Conditional O-2) Approved 03/14/2000
4	CRZ (O-2 to Conditional A-12) Approved 11/12/1997

Application Types

CUP – Conditional Use Permit
REZ – Rezoning
CRZ – Conditional Rezoning

MDC – Modification of Conditions
MDP – Modification of Proffers
NON – Nonconforming Use

STC – Street Closure
FVR – Floodplain Variance
ALT – Alternative Compliance

SVR – Subdivision Variance
LUP – Land Use Plan
STR – Short Term Rental

Evaluation & Recommendation

In Staff's opinion, the request is acceptable with the proffers submitted by the applicant. The request is consistent with the Comprehensive Plan's policies and land use goals for the suburban area as the addition of retail sales to this area will enhance the existing businesses. This complementary non-residential use will not cause an adverse effect on traffic related to the office center and will not negatively impact the surrounding areas.

Based on these considerations, Staff is recommending approval of this request subject to the proffers listed below.

Proffers

The following are proffers submitted by the applicant as part of a Conditional Zoning Agreement (CZA). The applicant, consistent with Section 107(h) of the City Zoning Ordinance, has voluntarily submitted these proffers in an attempt to "offset identified problems to the extent that the proposed rezoning is acceptable," (§107(h)(1)). Should this application be approved, the proffers will be recorded at the Circuit Court and serve as conditions restricting the use of the property as proposed with this change of zoning.

Proffer 1:

Proffer numbered 8 in the 1993 original proffer agreement and proffer numbered 1 in the 2009 Modified Proffer Agreement are hereby amended to read as follows:

The B-2 Business District uses available to Unit 111 shall be as follows:

- i. The retail sale of violin, violin components, and other musical instruments
- ii. The repair of violins and other musical instruments
- iii. The provision of violin lessons and other string instruments
- iv. The sale to customers of tea, coffee and nonalcoholic drinks and food items
- v. Uses permitted and conditioned in O-2 Office District Zoning, which are also uses permitted and conditioned in the B-2 District.

Proffer 2:

Except as modified, herein, with respect to the Property, all of the proffers, covenants, restrictions and conditions set forth in the Original 1993 Proffers (Deed Book 3297 Page 65) and amended 2009 Proffers (Recorded Instrument # 20090313000264880) are ratified, affirmed and remain binding upon the Property and upon any party holding title under, by or through, the Grantor.

Staff Comments: Staff has reviewed the Proffers listed above and finds them acceptable. The City Attorney’s Office has reviewed the agreement and found it to be legally sufficient and in acceptable legal form.

Comprehensive Plan Recommendations

This property is located within the Suburban Area of the city, as designated by the Comprehensive Plan. Guiding principles have been established in the Comprehensive Plan to protect the stability of the Suburban Area and to provide a framework for neighborhoods and places that are visually interesting and that provide memorable character. The Plan’s primary guiding principle is to create “Great Neighborhoods,” and to support those neighborhoods with complementary non-residential uses in such a way that the stability of the Suburban Area is maintained.

Natural & Cultural Resources Impacts

The site is located in the Southern Rivers Watershed. Drainage in the Southern Rivers watershed is highly impacted by the presence of high ground water, poorly draining soils, and high water surface elevations in downstream receiving waters. There does not appear to be any significant natural or cultural resources associated with the site.

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
McComas Way	ADT ¹	8,700 ADT ¹ (LOS ⁴ “D”)	Existing Land Use ² – 1,210 ADT Proposed Land Use ³ – 1,210 ADT
¹ Average Daily Trips	² as defined by a lane local street	³ No information available in the ITE Trip Generation Manual for event venues	⁴ LOS = Level of Service

Master Transportation Plan (MTP) and Capital Improvement Program (CIP)
McComas Way in the vicinity of this application is a two-lane local street.

Public Utility Impacts

Sewer & Water
This site is connected to City sanitary sewer and City water.

Public Outreach Information

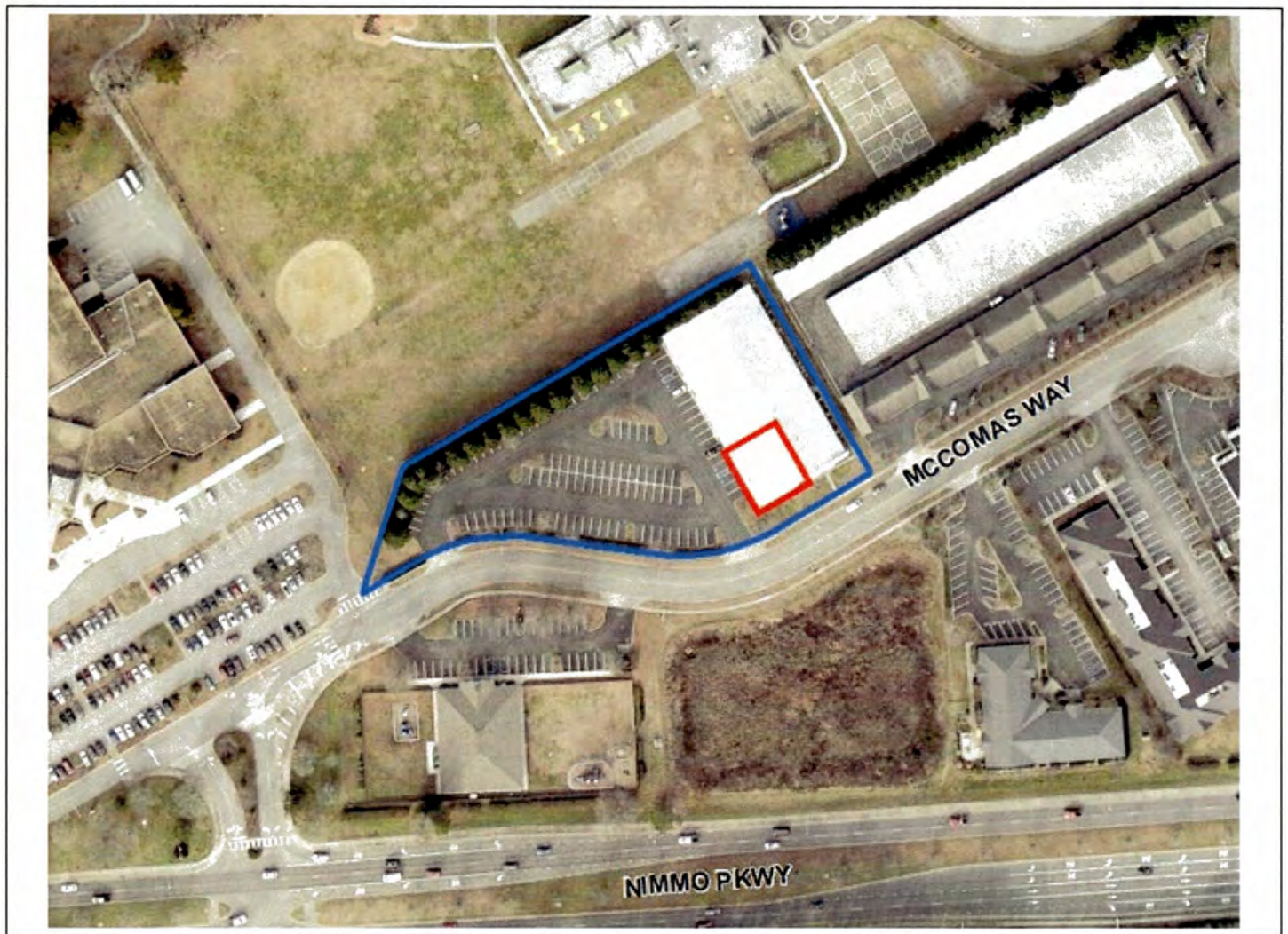
Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on January 15, 2024.
- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, January 31, 2024 and February 7, 2024.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on January 29, 2024.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.virginiabeach.gov/pc on February 8, 2024.

City Council

- As required by City Code, this item was advertised in the Virginian-Pilot Beacon on Tuesdays, March 5, 2024 and March 12, 2024.
- As required by City Code, the adjacent property owners were notified regarding both the request and the date of the City Council's public hearing on March 4, 2024.
- The City Clerk's Office posted the materials associated with the application on the City Council website of <https://clerk.virginiabeach.gov/city-council> on March 15, 2024.

Proposed Site Layout



Site Photos



Disclosure Statement



The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law. The completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council or a City board, commission or other body.

Applicant Disclosure

Applicant Name DAOLIN DONG AND JIAYIN WANG

Does the applicant have a representative? ☒ Yes ☐ No

- If yes, list the name of the representative.

KEVIN M. BRUNICK

Is the applicant a corporation, partnership, firm, business, trust or an unincorporated business? ☐ Yes ☒ No

- If yes, list the names of all officers, directors, members, trustees, etc. below. (Attach a list if necessary)

- If yes, list the businesses that have a parent-subsidary¹ or affiliated business entity² relationship with the applicant. (Attach a list if necessary)

¹ "Parent-subsidary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, VA. Code § 2.2-3101.

² "Affiliated business entity relationship" means "a relationship, other than parent-subsidary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

Disclosure Statement



Known Interest by Public Official or Employee

Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action? ☐ Yes ☒ No

- If yes, what is the name of the official or employee and what is the nature of the interest?

Applicant Services Disclosure

1. Does the applicant have any existing financing (mortgage, deeds of trust, cross-collateralization, etc) or are they considering any financing in connection with the subject of the application or any business operating or to be operated on the property?

☐ Yes ☒ No

- If yes, identify the financial institutions providing the service.

2. Does the applicant have a real estate broker/agent/realtor for current and anticipated future sales of the subject property?

☐ Yes ☒ No

- If yes, identify the company and individual providing the service.

3. Does the applicant have services for accounting and/or preparation of tax returns provided in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

- If yes, identify the firm and individual providing the service.

4. Does the applicant have services from an architect/landscape architect/land planner provided in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

- If yes, identify the firm and individual providing the service.

5. Is there any other pending or proposed purchaser of the subject property? ☐ Yes ☒ No

- If yes, identify the purchaser and purchaser's service providers.

Disclosure Statement

Disclosure Statement



6. Does the applicant have a **construction contractor** in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No
- If yes, identify the company and individual providing the service.

7. Does the applicant have an **engineer/surveyor/agent** in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No
- If yes, identify the firm and individual providing the service.

8. Is the applicant receiving **legal services** in connection with the subject of the application or any business operating or to be operated on the property? ☒ Yes ☐ No
- If yes, identify the firm and individual providing the service.

KEVIN M. BRUNICK ATTORNEY, P.C.

Applicant Signature

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate. I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the meeting of Planning Commission, City Council, VBDA, CBPA, Wetlands Board or any public body or committee in connection with this application.

Applicant Signature

Print Name and Title

Daolin Dong

Jiayin Wang

Date 11/28/2023

11/28/2023

Is the applicant also the owner of the subject property? ☐ Yes ☒ No

- If yes, you do not need to fill out the owner disclosure statement.

FOR CITY USE ONLY/ All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the applications

<input checked="" type="checkbox"/>	No changes as of	Date	03/04/2024	Signature	Michaela D. McKinney
				Print Name	Michaela D. McKinney

Disclosure Statement



Owner Disclosure

Owner Name STRAWBRIDGE COMMONS CONDOMINIUM ASSOCIATION

Applicant Name DAOLIN DONG AND JIAYIN WANG

Is the Owner a corporation, partnership, firm, business, trust or an unincorporated business? ☒ Yes ☐ No

- If yes, list the names of all officers, directors, members, trustees, etc. below. (Attach a list if necessary)

JORDAN HEIJERMANS - PRESIDENT

STEVE CHRISTINE - VICE PRESIDENT

CAROLINE YARBROUGH - SECRETARY AND TREASURER

- If yes, list the businesses that have a parent-subsidary³ or affiliated business entity⁴ relationship with the Owner. (Attach a list if necessary)

NONE

Known Interest by Public Official or Employee

Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action? ☐ Yes ☒ No

- If yes, what is the name of the official or employee and what is the nature of the interest?

³ "Parent-subsidary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, VA. Code § 2.2-3101.

⁴ "Affiliated business entity relationship" means "a relationship, other than parent-subsidary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

Disclosure Statement



Owner Services Disclosure

1. Does the Owner have any existing financing (mortgage, deeds of trust, cross-collateralization, etc) or are they considering any financing in connection with the subject of the application or any business operating or to be operated on the property?
☐ Yes ☒ No
• If yes, identify the financial institutions providing the service.

2. Does the Owner have a real estate broker/agent/realtor for current and anticipated future sales of the subject property?
☐ Yes ☒ No
• If yes, identify the company and individual providing the service.

3. Does the Owner have services for accounting and/or preparation of tax returns provided in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No
• If yes, identify the firm and individual providing the service.

4. Does the Owner have services from an architect/landscape architect/land planner provided in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No
• If yes, identify the firm and individual providing the service.

5. Is there any other pending or proposed purchaser of the subject property? ☐ Yes ☒ No
• If yes, identify the purchaser and purchaser's service providers.

6. Does the Owner have a construction contractor in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No
• If yes, identify the company and individual providing the service.

7. Does the Owner have an engineer/surveyor/agent in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No
• If yes, identify the firm and individual providing the service.

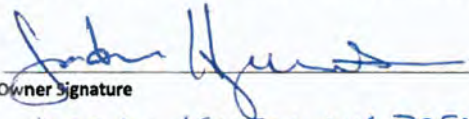
Disclosure Statement



8. Is the Owner receiving **legal services** in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No
- If yes, identify the firm and individual providing legal the service.

Owner Signature

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate. I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the meeting of Planning Commission, City Council, VBDA, CBPA, Wetlands Board or any public body or committee in connection with this application.



Owner Signature

JORDAN HEIJERMANS, PRESIDENT

Print Name and Title

11/30/23

Date

Disclosure Statement

757-965-3146

10:12:47 a.m. 01-25-2024

2 / 7



Owner Disclosure

Owner Name CHARLES B. HAYES

Applicant Name DAOLIN DONG AND JIAYIN WANG

Is the Owner a corporation, partnership, firm, business, trust or an unincorporated business? ☐ Yes ☒ No

- If yes, list the names of all officers, directors, members, trustees, etc. below. (Attach a list if necessary)

- If yes, list the businesses that have a parent-subsidary³ or affiliated business entity⁴ relationship with the Owner. (Attach a list if necessary)

Known Interest by Public Official or Employee

Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action? ☐ Yes ☒ No

- If yes, what is the name of the official or employee and what is the nature of the interest?

³ "Parent-subsidary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, VA. Code § 2.2-3101.

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Disclosure Statement

757-965-3146

10:14:26 a.m. 01-25-2024

3 / 7



Owner Services Disclosure

1. Does the Owner have any existing financing (mortgage, deeds of trust, cross-collateralization, etc) or are they considering any financing in connection with the subject of the application or any business operating or to be operated on the property?

☒ Yes ☐ No

- If yes, identify the financial institutions providing the service.

THERE IS A CREDIT LINE LOAN WITH TOWNEBANK SECURED BY A DEED OF TRUST BUT OWNER IS NOT THE BORROWER ON THAT LOAN. OWNER INHERITED THE PROPERTY

2. Does the Owner have a real estate broker/agent/realtor for current and anticipated future sales of the subject property?

☒ Yes ☐ No

- If yes, identify the company and individual providing the service.

CREOTERIC COMMERCIAL REAL ESTATE - JON ELLIOTT

3. Does the Owner have services for accounting and/or preparation of tax returns provided in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

- If yes, identify the firm and individual providing the service.

4. Does the Owner have services from an architect/landscape architect/land planner provided in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

- If yes, identify the firm and individual providing the service.

5. Is there any other pending or proposed purchaser of the subject property? ☐ Yes ☒ No

- If yes, identify the purchaser and purchaser's service providers.

NO PURCHASER(S) OTHER THAN APPLICANTS

6. Does the Owner have a construction contractor in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

- If yes, identify the company and individual providing the service.

7. Does the Owner have an engineer/surveyor/agent in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

- If yes, identify the firm and individual providing the service.

Disclosure Statement

757-965-3146

10:16:09 a.m. 01-25-2024



8. Is the Owner receiving legal services in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No
- If yes, identify the firm and individual providing legal the service.

Owner Signature

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate. I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the meeting of Planning Commission, City Council, VBDA, CEPA, Wetlands Board or any public body or committee in connection with this application.

Charles B. Hayes
Owner Signature
CHARLES B. HAYES
Print Name and Title
JANUARY 21, 2024
Date

Next Steps

- Upon receiving a recommendation from Planning Commission, this request will be scheduled for a City Council public hearing. Staff will inform the applicant and/or their representative of the date of the hearing in the upcoming days.
- Following City Council's decision, the applicant will receive a decision letter from Staff.
- Once the conditions of approval are in place and/or completed, the applicant must contact the Zoning Division of the Planning Department to obtain verification that the conditions have been met. Contact the Zoning Division at 757-385-8074.
- If the request requires land disturbance and/or a subdivision of property, please contact the Development Services Center (DSC) to discuss next steps for site plan/plat review. Contact the DSC at 757-385-4621 or the Development Liaison Team at 757-385-5692.
- Please note that further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.
- The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.

FIRST AMENDMENT TO PROFFERED COVENANTS, RESTRICTIONS AND CONDITIONS

STRAWBRIDGE COMMONS CONDOMINIUM ASSOCIATION, INC.

CHARLES B. HAYES

TO (PROFFERED COVENANTS, RESTRICTIONS AND CONDITIONS)

CITY OF VIRGINIA BEACH, a municipal corporation of the Commonwealth of Virginia

THIS AGREEMENT, made this 23rd day of January, 2024, by and between STRAWBRIDGE COMMONS CONDOMINIUM ASSOCIATION, INC. and CHARLES B. HAYES, Grantors; and THE CITY OF VIRGINIA BEACH, a municipal corporation of the Commonwealth of Virginia, Grantee.

WITNESSETH:

WHEREAS, the Grantor Strawbridge Commons Condominium Association, Inc. is the owner of the land and common elements and Grantor Charles B. Hayes is the owner of the structure comprising Unit 111 within that business condominium located in the City of Virginia Beach, Virginia, as described in Exhibit "A" attached hereto and incorporated herein by reference, which is referred to herein as the "Property"; and

WHEREAS, Grantors' predecessor in title and Grantee are parties to a previous Proffer Agreement dated September 27, 1993 recorded in the Clerk's Office of the Circuit Court of the City of Virginia Beach, Virginia (the "Clerk's Office") in Deed Book 3297 at Page 65 (the "Proffer Agreement") and to a Modified Proffer Agreement dated January 28, 20029 recorded in the Clerk's Office as Instrument Number 20090313000264880 (the 2009 Modified Proffers) in connection with and as a condition of the rezoning of the Property described on Exhibit A attached hereto from 0-2 Office District to conditional B-2 Business District; and

WHEREAS, the Grantors have initiated a modification to a conditional amendment to the Zoning Map of the City of Virginia Beach, by petition addressed to the Grantee so as to modify conditions to the Zoning Classification of the Property; and

WHEREAS, the Grantors have requested Grantee to permit this modification of the previously proffered 2009 Modified Proffers to reflect amendments applicable to the land use plan on the Property; and

GPIN: 2404-97-7494-0111

Prepared by:
Kevin M. Brunick, Esq. (VSB# 18826)
2101 Parks Avenue, Suite 500
Virginia Beach, VA 23451

WHEREAS, it is the intent of the Grantors that the proffered covenant, restriction and condition contained herein shall modify Proffer numbered 8 in the 1993 original proffer agreement and proffer numbered 1 in the 2009 Modified Proffer Agreement; and

WHEREAS, the Grantee's policy is to provide only for the orderly development of land for various purposes through zoning and other land development legislation; and

WHEREAS, the Grantors acknowledge that competing and sometimes incompatible uses conflict and that in order to permit differing uses on and in the area of the Property and at the same time to recognize the effects of change, and the need for various types of uses, certain reasonable conditions governing the use of the Property for the protection of the community that are not generally applicable to land similarly zoned are needed to cope with the situation to which the Grantors' proposed modification of conditions to the zoning gives rise; and

WHEREAS, the Grantors have voluntarily proffered, in writing, in advance of and prior to the public hearing before the Grantee, as a part of the proposed modification to the existing zoning conditions with respect to the Property, the following reasonable conditions related to the physical development, operation, and use of the Property to be adopted, which conditions have a reasonable relation to the proposed modification and the need for which is generated by the proposed modification.

NOW, THEREFORE, the Grantors, their successors, personal representatives, assigns, grantees, and other successors in title or interest, voluntarily and without any requirement by or exaction from the Grantee or its governing body and without any element of compulsion or quid pro quo for zoning, rezoning, site plan, building permit, or subdivision approval, hereby makes the following amendment to the Covenants, Conditions and Restrictions which shall restrict and govern the physical development, operation, and use of the Property and hereby covenants and agrees that this declaration shall constitute covenants running with the Property, which shall be binding upon the Property and upon all parties and persons claiming under or through the Grantor, its successors, personal representatives, assigns, grantees, and other successors in interest or title:

1. Proffer numbered 8 in the 1993 original proffer agreement and proffer numbered 1 in the 2009 Modified Proffer Agreement are hereby amended to read as follows:

The B-2 Business District uses available to Unit 111 shall be as follows:

- (i) The retail sale of violins, violin components and other musical instruments;
- (ii) The repair of violins and other musical instruments;
- (iii) The provision of violin lessons and lessons involving other musical instruments;
- (iv) The sale to customers of the violin shop of coffee, tea, other non-alcoholic drinks and

food items.

(v) Uses permitted and conditioned in the O-2 Office District Zoning, which are also uses permitted and conditioned in the B-2 District.

2. Except as modified herein, with respect to the Property, all of the proffers, covenants, restrictions and conditions set forth in the Original 1993 Proffers (Deed Book 3297 Page 65) and amended 2009 Proffers (Recorded Instrument # 20090313000264880) are ratified, affirmed and remain binding upon the Property and upon any party holding title under, by or through the Grantor..

The above conditions, having been proffered, ratified and affirmed by the Grantors and allowed and accepted by the Grantee as part of the amendment to the Zoning Ordinance, shall continue in full force and effect until a subsequent amendment changes the zoning of the Property and specifically repeals such conditions. Such conditions shall continue despite a subsequent amendment to the Zoning Ordinance even if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised Zoning Ordinance until specifically repealed. The conditions, however, may be repealed, amended, or varied by written instrument recorded in the Clerk's Office of the Circuit Court of the City of Virginia Beach, Virginia, and executed by the record owner of the Property at the time of recordation of such instrument, provided that said instrument is consented to by the Grantee in writing as evidenced by a certified copy of an ordinance or a resolution adopted by the governing body of the Grantee, after a public hearing before the Grantee which was advertised pursuant to the provisions of Section 15.2-2204 of the Code of Virginia, 1950, as amended. Said ordinance or resolution shall be recorded along with said instrument as conclusive evidence of such consent, and if not so recorded, said instrument shall be void.

The Grantors covenants and agree that:

(1) The Zoning Administrator of the City of Virginia Beach, Virginia, shall be vested with all necessary authority, on behalf of the governing body of the City of Virginia Beach, Virginia, to administer and enforce the foregoing conditions and restrictions, including the authority (a) to order, in writing, that any noncompliance with such conditions be remedied; and (b) to bring legal action or suit to insure compliance with such conditions, including mandatory or prohibitory injunction, abatement, damages, or other appropriate action, suit, or proceeding;

(2) The failure to meet all conditions and restrictions shall constitute cause to deny the issuance of any of the required building or occupancy permits as may be appropriate;

(3) If aggrieved by any decision of the Zoning Administrator, made pursuant to these provisions, the Grantors shall petition the governing body for the review thereof prior to instituting proceedings in court; and

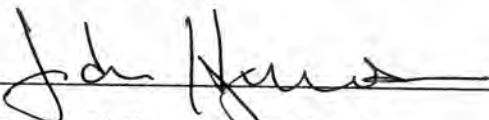
(4) The Zoning Map may show by an appropriate symbol on the map the existence of conditions attaching to the zoning of the Property, and the ordinances and the conditions may be made readily available and accessible for public inspection in the office of the Zoning Administrator and in the Planning Department, and they shall be recorded in the Clerk's Office of the Circuit Court of the City of Virginia Beach, Virginia, and indexed in the names of the Grantors and the Grantee.

WITNESS the following signature and seal:

Grantor:

STRAWBRIDGE COMMONS CONDOMINIUM
ASSOCIATION, INC.

By:


Jordan Heijermans, President

STATE OF VIRGINIA

CITY OF VIRGINIA BEACH, to-wit:

The foregoing instrument was acknowledged before me this 30th day of January 2024, by Jordan Heijermans, in his capacity as President of the Strawbridge Commons Condominium Association, Inc, Grantor.


Notary Public

My Commission Expires: 6/30/24

Notary Registration Number: 7981795



Grantor:

Charles B. Hayes
Charles B. Hayes

STATE OF VIRGINIA

CITY OF VIRGINIA BEACH, to-wit:

The foregoing instrument was acknowledged before me this 30th day of January 2024,
by Charles B. Hayes, Grantor.

Kevin Michael Brunick
Notary Public

My Commission Expires: June 30, 2026

Notary Registration Number: 7981795

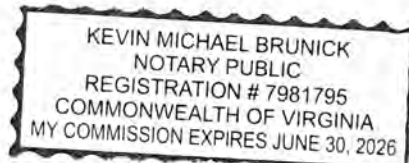


EXHIBIT A

LEGAL DESCRIPTION

All that certain condominium being known, numbered and designated as Unit No. 111 in the commercial condominium known as "Strawbridge Commons Condominium", located in the City of Virginia Beach, Virginia, designated and described in the Declaration made by Williams Mullen, establishing a plan for condominium ownership of that building and the land on which it is created (to which Declaration reference is hereby made for a more particular description thereof), and which Declaration is recorded in the Clerk's Office of the Circuit Court of the City of Virginia Beach, Virginia as Instrument No. 200700075289, and the amendments thereto recorded as Instrument Nos. 201200081456 and 201500013712, together with the undivided interest in the common areas and facilities described therein to be appurtenant to said Unit. Reference is hereby made to Map Book 240, at Page 22 and to Instrument No. 201500013711 for a more particular description of said property.

**Virginia Beach Planning Commission
February 14, 2024, Public Meeting
Agenda Item # 10**

Daoling Dong & Jiayin Wang

RECOMMENDED FOR APPROVAL – CONSENT

Ms. Cuellar: Thank you very much. Our next item is item number 10, a modification of proffers. The applicants are Daolin Dong and Jiayin Wang, would you please come forward? Welcome. Could you please state your name for the record?

Ms. Wang: My name is Jiayin Wang.

Mr. Dong: My name is Daolin Dong.

Ms. Cuellar: And are the conditions acceptable to you?

Mr. Dong: Yes.

Ms. Wang: Yes.

Ms. Cuellar: Thank you very much. Is there any opposition to this item being placed on the consent agenda? Hearing none. I've asked Commissioner Parks to read this item into the record.

Mr. Parks: Thank you. The applicants are requesting a modification of proffers to amend proffers associated with the 1993 conditional rezoning and 2009 modification of proffers on this site. Per the current proffers, the only use allowed on this property must be permitted in both the O-2 Office District and B-2 Community Business District. The applicants intend to offer music lessons for violins and other string instruments, general sales and repairs of musical instruments. In addition, they intend to operate a small cafe that will serve only coffee and tea, non-alcoholic beverages and food items that will be prepared on site, hearing no objections and having favorable staff approval. We've recommended this for the consent agenda.

Ms. Cuellar: Thank you very much. Mr. Chairman that was the last item on the consent agenda, the Planning Commission places the following applications on the consent agenda, items number 2, 3, 4, 6, 7, 9, 10, 11 and 12.

Mr. Alcaraz: Alright, do I have a motion to approve this for consent?

Ms. Cuellar: I move that these items be approved by consent.

Ms. Hippen: So moved.

Mr. Alcaraz: I have a motion from Ms. Cuellar and Ms. Hippen second it.

Ms. Alcock: The vote is now open. Ms. Byler can I have your verbal really quickly?

Ms. Byler: Oh, never mind, went through. Thank you.

Ms. Alcock: By vote of 11 to 0 items number 2, 3, 4, 6, 7, 9, 10, 11 and 12 have been recommended for approval.

	AYE 11	NAY 0	ABS 0	ABSENT 0
Alcaraz	AYE			
Anderson	AYE			
Byler	AYE			
Clemons	AYE			
Coston	AYE			
Cuellar	AYE			
Estaris	AYE			
Hippen	AYE			
Mauch	AYE			
Parks	AYE			
Plumlee	AYE			

PROFFERS

The following are proffers submitted by the applicant as part of a Conditional Zoning Agreement (CZA). The applicant, consistent with Section 107(h) of the City Zoning Ordinance, has voluntarily submitted these proffers in an attempt to "offset identified problems to the extent that the proposed rezoning is acceptable," (§107(h)(1)). Should this application be approved, the proffers will be recorded at the Circuit Court and serve as conditions restricting the use of the property as proposed with this change of zoning.

Proffer 1:

Proffer numbered 8 in the 1993 original proffer agreement and proffer numbered 1 in the 2009 Modified Proffer Agreement are hereby amended to read as follows:

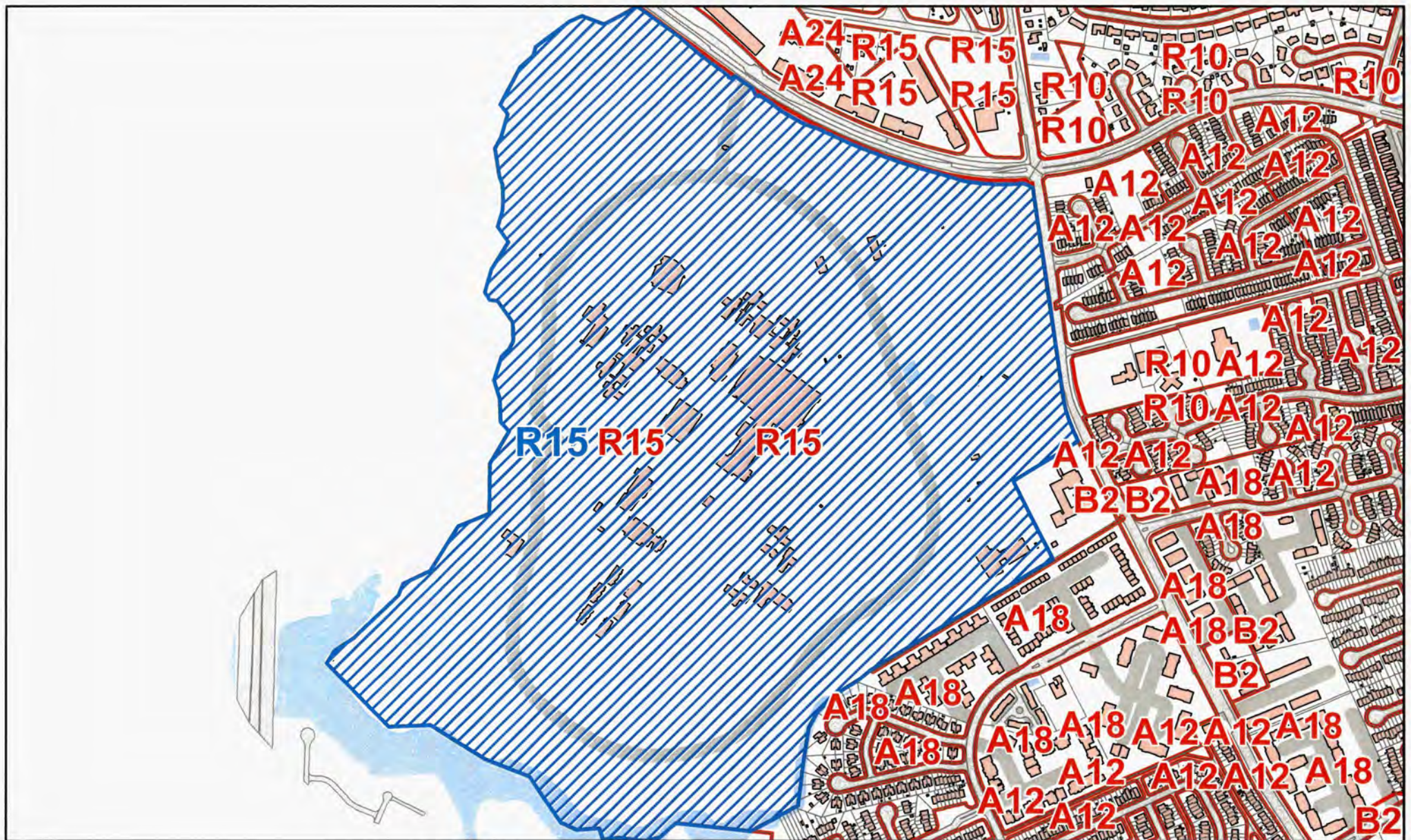
The B-2 Business District uses available to Unit 111 shall be as follows:

- i. The retail sale of violin, violin components, and other musical instruments
- ii. The repair of violins and other musical instruments

- iii. The provision of violin lessons and other string instruments
- iv. The sale to customers of tea, coffee and nonalcoholic drinks and food items
- v. Uses permitted and conditioned in O-2 Office District Zoning, which are also uses permitted and conditioned in the B-2 District.

Proffer 2:

Except as modified, herein, with respect to the Property, all of the proffers, covenants, restrictions and conditions set forth in the Original 1993 Proffers (Deed Book 3297 Page 65) and amended 2009 Proffers (Recorded Instrument # 20090313000264880) are ratified, affirmed and remain binding upon the Property and upon any party holding title under, by or through, the Grantor.



Virginia Wesleyan University
5817 Wesleyan Drive

-  Site
-  Property_Polygons
-  Zoning
-  Building



0 1500 600 900 1,200 1,500 1,800 Feet



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: VIRGINIA WESLEYAN UNIVERSITY [Applicant & Property Owner] Conditional Use Permit (Museum) for the property located at 5817 Wesleyan Drive (GPIN 1468032646). COUNCIL DISTRICT 4

MEETING DATE: March 19, 2024

■ **Background:**

The applicant is requesting a Conditional Use Permit to construct a Museum (Virginia Museum of Cultural Arts (VMOCA)), on the Virginia Wesleyan University campus between the Susan S. Goode Performing Arts Center and the President's House. The proposed two-story building will be approximately 36,000 square feet with a building height not to exceed 41 feet. The VMOCA building will include a gallery, educational, office, security, and event/gathering spaces. Outdoor educational and fundraising events with food and beverage services are proposed to include community days, live music, and film events. Up to eight special events per year are proposed. Proposed hours of operation will be 7:00 a.m. to 5:30 p.m., Monday through Friday, and 10:00 a.m. to 4:00 p.m., Saturday through Sunday. Other special events, as described above, will vary between the hours of 8:00 a.m. and 11:00 p.m., Monday through Sunday. Required parking is met on site to accommodate both the performing arts center and the museum with satellite parking provided on campus for larger fundraising events.

■ **Considerations:**

The proposed museum is an appropriate use on this property and will further enhance the campus's existing character, providing educational and cultural activity opportunities for students, nearby neighborhoods, and the general public. A deviation to the building height was requested by the applicant, as the maximum building height in the R-15 Residential District is 35 feet. Overall, the height will not be detrimental to surrounding properties, as it is setback significantly from the public right-of-way and will be further buffered by existing vegetation on site. Planning Commission concurred with Staff's recommendation to support the deviation request. The proposal is consistent with the existing campus development and compatible with nearby residential uses. Further details pertaining to the application, as well as Staff's evaluation, are provided in the attached Staff Report. There is no known opposition to this request.

■ **Recommendation:**

On February 14, 2024, the Planning Commission passed a motion to recommend approval of this item on the Consent Agenda, by a recorded vote of 11-0.

1. When the site is developed, it shall be in substantial conformance with the submitted Conceptual Site Plan exhibit entitled "VMOCA at Virginia Wesleyan University, SHEET L1.0 – Landscape Site Plan", prepared by TYMOFF+MOSS Architects, dated 02/02/2024 which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development.
2. A Landscape Plan shall be submitted at the time of final site plan review reflective of the location and plant material depicted on Conceptual Landscape Plans entitled "VMOCA at Virginia Wesleyan University, SHEET L2.0 – Landscape Plan" & "VMOCA at Virginia Wesleyan University, SHEET L4.0 – Planting Plan - Building", prepared by TYMOFF+MOSS Architects, dated 02/02/2024 which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development.
3. The exterior of the proposed building shall substantially adhere in appearance, size, color, and materials to the elevations depicted on pages 10 & 11 of this report, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development. The maximum building height shall not exceed 41 feet in height.
4. All on-site signage shall meet the requirements and regulations of the Zoning Ordinance, unless otherwise approved by the Board of Zoning Appeals. A separate permit from the Department of Planning and Community Development is required for all signage installed on the site.
5. The sign package to include all proposed signage associated with the museum shall be submitted to the Planning Director for review and approval prior to the issuance of a sign permit.
6. The applicant shall obtain all necessary permits and inspections from the Department of Planning & Community Development Permits and Inspections Division, the Health Department, and the Fire Department. The applicant shall obtain a Certificate of Occupancy from the Building Official's Office prior to commencing operation.
7. The maximum number of individuals within the facility shall not exceed the maximum number as required by applicable building codes, noted on the Certificate of Occupancy, and posted by the Fire Marshal.
8. Prior to final site plan approval, a Lighting Plan in accordance with Sections 252 and 254 of the Zoning Ordinance, or as amended, shall be approved by the Department of Planning and Community Development.
9. The Virginia Museum of Cultural Arts (VMOCA) may be permitted to have up to eight (8) Special Events per calendar year.

10. Prior to each Special Event, the applicant shall contact the Special Events Office and all appropriate City agencies as required including the Fire Marshal Bureau, Police Department, Commissioner of Revenue, Department of Planning and Community Development - Zoning Division, and the Health Department.
11. All Special Events associated with the Virginia Museum of Contemporary Art (VMOCA) shall cease operation by 11:00 p.m.
12. During Special Events, no less than one trash receptacle per 1,000 square feet of area shall be provided. All trash receptacles shall be emptied regularly so as not to overflow, and litter and debris shall not be allowed to accumulate.

■ **Attachments:**

Staff Report and Disclosure Statements
Location Map
Minutes of Planning Commission Hearing

Recommended Action: Staff recommends Approval. Planning Commission recommends Approval

Submitting Department/Agency: Planning Department *Curry*

City Manager: *PAO*

Request

Conditional Use Permit (Museum)

Staff Recommendation

Approval

Staff Planner

Marchelle Coleman

Location

5817 Wesleyan Drive

GPIN

1468032646

Site Size

227 acres

AICUZ

Less than 65 dB DNL

Watershed

Chesapeake Bay

Existing Land Use and Zoning District

University / R-15 Residential

Surrounding Land Uses and Zoning Districts

North

Wesleyan Drive

Multi-family dwellings / A-24 Apartment

South

City of Norfolk

East

Baker Road

Multi-family dwellings, church, retail / A-12 Apartment, A-18 Apartment, R-10 Residential, B-2 Community Business

West

City of Norfolk



Background & Summary of Proposal

- The applicant is requesting a Conditional Use Permit to construct a Museum on a portion of this 227-acre R-15 Residential District zoned parcel, which is the home of Virginia Wesleyan University.
- The museum, Virginia Museum of Cultural Arts (VMOCA), will be constructed on the western portion of the site between the Susan S. Goode Performing Arts Center and the President's House along the main campus road (Smith Drive).
- The proposed two-story building will have a total floor area of approximately 36,000 square feet with a building height not to exceed 41 feet. Deviation to exceed the maximum building height of 35 feet on property zoned R-15 Residential is requested.
- As depicted on the submitted building elevations, the façade will have a neutral color palette with brick veneer, precast concrete wall panels, metal panels, a glazed storefront, and glass.
- The VMOCA building will include gallery and education spaces, offices, event and gathering spaces, as well as spaces for security.
- In addition to the daily operations of the museum, outdoor educational and fundraising events with food and beverage services are proposed to include community days, live music, and film events. Up to eight events per year are proposed.
- Events will be connected to the other exhibitions on-site to encourage attendees to view and tour the galleries, thus enhancing the public's access to art.
- The typical hours of operation for the museum will be 7:00 a.m. to 5:30 p.m., Monday through Friday, and 10:00 a.m. to 4:00 p.m., Saturday through Sunday. Other special events, as described above, will vary between the hours of 8:00 a.m. and 11:00 p.m., Monday through Sunday.
- 161 parking spaces are required for both the performing arts center and the proposed museum. The Conceptual Site Plan depicts 166 parking spaces, exceeding the parking requirement by five spaces.
- At this time, the applicant does not have a prepared sign package for the museum. All signage, however, will be required to meet the requirements of the Zoning Ordinance and will be subject to the review and approval of the Planning Director to ensure that all signage is complementary to the building and the general area, as noted in conditions 4 & 5.

--

Evaluation & Recommendation

This request, for a Conditional Use Permit for a Museum is, in Staff's opinion, acceptable.

The location of the proposed museum is logical in terms of the overall layout of the university campus and will not be highly visible from adjacent properties to the east, west, and south, as adequate screening is provided. While the building will be visible to the north along Wesleyan Drive, it is well over 850 feet away from the public right-of-way.

The proposed building will be constructed with high quality materials and the design is compatible with other structures on the Virginia Wesleyan University campus. In Staff's opinion, a museum is an appropriate use and will further enhance the campus's existing character, providing educational and cultural activity opportunities for students, nearby neighborhoods, and the general public to explore and view contemporary art from diverse perspectives. Furthermore, the proposed walkways throughout the site coupled with the proposed landscaping promotes connectivity and the environmental stewardship framework of the Comprehensive Plan.

As stated previously, parking can easily be accommodated on site for both the Susan S. Goode Performing Arts Center and VMOCA. For larger VMOCA fundraising and cultural events, overflow parking will be provided by way of satellite parking on the Virginia Wesleyan University campus. Walking instructions to the museum from the designated satellite parking locations, as well as shuttle services will be provided to accommodate guests. The fundraising events proposed help ensure the continued success of the facility and the sustained opportunity to provide cultural opportunities to both residents and visitors to Virginia Beach. As the proposal is consistent with the existing campus development and compatible with nearby residential uses, Staff recommends approval with the conditions listed below.

Recommended Conditions

1. When the site is developed, it shall be in substantial conformance with the submitted Conceptual Site Plan exhibit entitled "VMOCA at Virginia Wesleyan University, SHEET L1.0 – Landscape Site Plan", prepared by TYMOFF+MOSS

Architects, dated 02/02/2024 which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development.

2. A Landscape Plan shall be submitted at the time of final site plan review reflective of the location and plant material depicted on Conceptual Landscape Plans entitled "VMOCA at Virginia Wesleyan University, SHEET L2.0 – Landscape Plan" & "VMOCA at Virginia Wesleyan University, SHEET L4.0 – Planting Plan - Building", prepared by TYMOFF+MOSS Architects, dated 02/02/2024 which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development.
3. The exterior of the proposed building shall substantially adhere in appearance, size, color, and materials to the elevations depicted on pages 10 & 11 of this report, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development. The maximum building height shall not exceed 41 feet in height.
4. All on-site signage shall meet the requirements and regulations of the Zoning Ordinance, unless otherwise approved by the Board of Zoning Appeals. A separate permit from the Department of Planning and Community Development is required for all signage installed on the site.
5. The sign package to include all proposed signage associated with the museum shall be submitted to the Planning Director for review and approval prior to the issuance of a sign permit.
6. The applicant shall obtain all necessary permits and inspections from the Department of Planning & Community Development Permits and Inspections Division, the Health Department, and the Fire Department. The applicant shall obtain a Certificate of Occupancy from the Building Official's Office prior to commencing operation.
7. The maximum number of individuals within the facility shall not exceed the maximum number as required by applicable building codes, noted on the Certificate of Occupancy, and posted by the Fire Marshal.
8. Prior to final site plan approval, a Lighting Plan in accordance with Sections 252 and 254 of the Zoning Ordinance, or as amended, shall be approved by the Department of Planning and Community Development.
9. The Virginia Museum of Cultural Arts (VMOCA) may be permitted to have up to eight (8) Special Events per calendar year.
10. Prior to each Special Event, the applicant shall contact the Special Events Office and all appropriate City agencies as required including the Fire Marshal Bureau, Police Department, Commissioner of Revenue, Department of Planning and Community Development - Zoning Division, and the Health Department.
11. All Special Events associated with the Virginia Museum of Contemporary Art (VMOCA) shall cease operation by 11:00 p.m.
12. During Special Events, no less than one trash receptacle per 1,000 square feet of area shall be provided. All trash receptacles shall be emptied regularly so as not to overflow, and litter and debris shall not be allowed to accumulate.

Further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.

The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.

Comprehensive Plan Recommendations

The Comprehensive Plan recognizes this property as being within the “Suburban Area.” Guiding principles have been established in the Comprehensive Plan to guard against possible threats to the stability of the Suburban Area and to provide a framework for neighbors and places that are increasingly vibrant and distinctive. The Plan’s primary guiding principle for the Suburban Area is to create “Great Neighborhoods,” and to support those neighborhoods with complementary non-residential uses in such a way that working together the stability and sustainability of the Suburban Area is ensured for now and the future. Overall, the proposal is consistent with the Comprehensive Plan’s recommendations for this area.

Natural & Cultural Resources Impacts

The site is located in the Chesapeake Bay watershed. The campus is a mix of mature wooded areas, open grassed areas, buildings, and parking lots associated with college campus learning and living. There are some nontidal wetlands in the vicinity of the project. If impacted, the necessary permits must be provided during final site plan review.

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Wesleyan Drive	20,500 ADT ¹	32,700 ADT ¹ (LOS ³ “D”)	No Data Available ²
¹ Average Daily Trips	² No information available in the ITE Trip Generation Manual for Museums*		³ LOS = Level of Service

*Although trip generation for a museum land use is not available, this land use does not generate significant traffic in the weekday morning or afternoon peak hours.

Master Transportation Plan (MTP) and Capital Improvement Program (CIP)

Wesleyan Drive, in this vicinity, is considered a four-lane divided minor urban arterial. No CIP projects are planned for this area.

Public Utility Impacts

Water

The site connects to City water. There is an existing 24-inch City water transmission main along Wesleyan Drive and an existing 12-inch City water main along Baker Road.

Sewer

The site is being served by a private pump station and force main.

Public Outreach Information

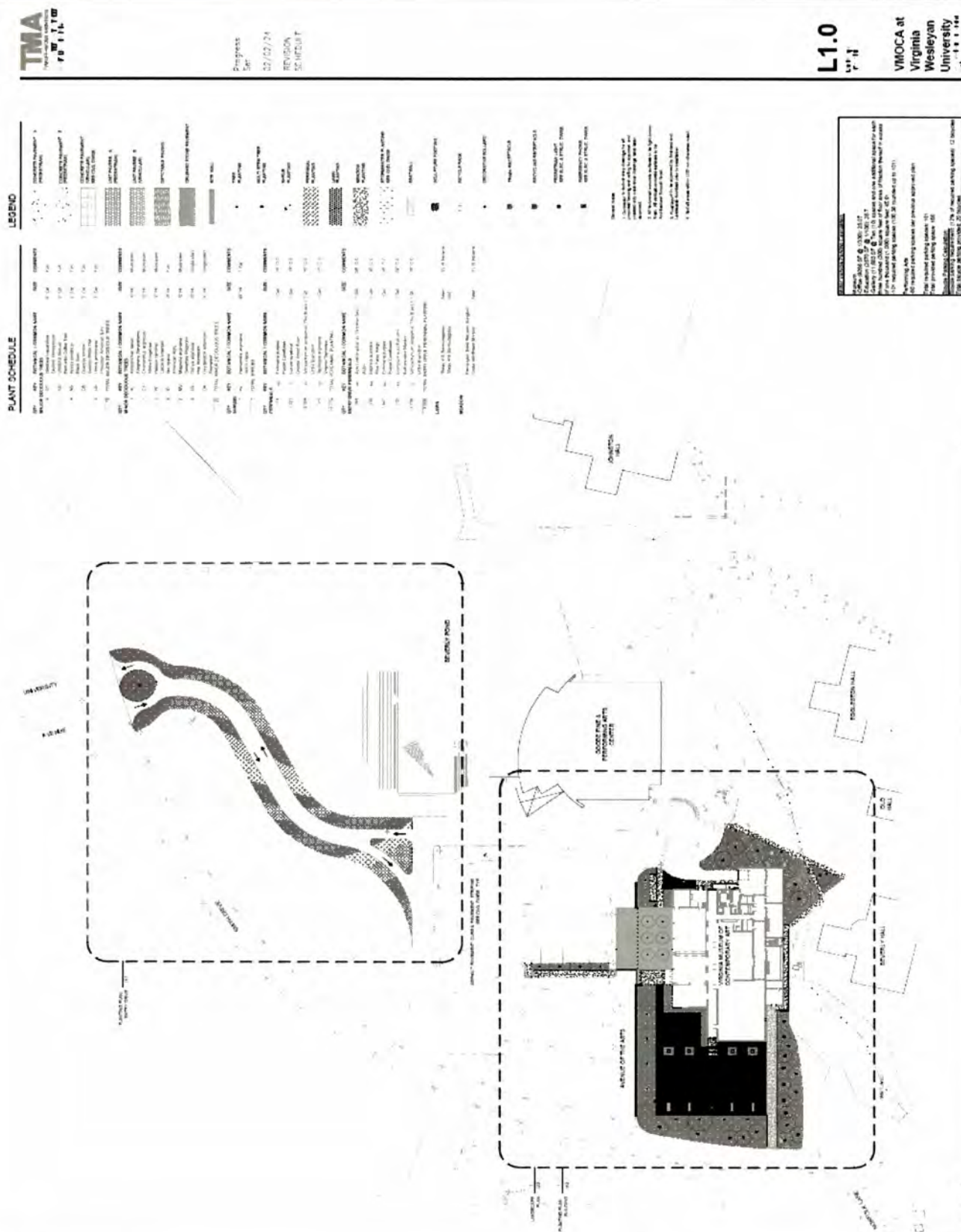
Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on January 15, 2024.
- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, January 31, 2024 and February 7, 2024.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on January 29, 2024.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.virginiabeach.gov/pc on February 8, 2024.

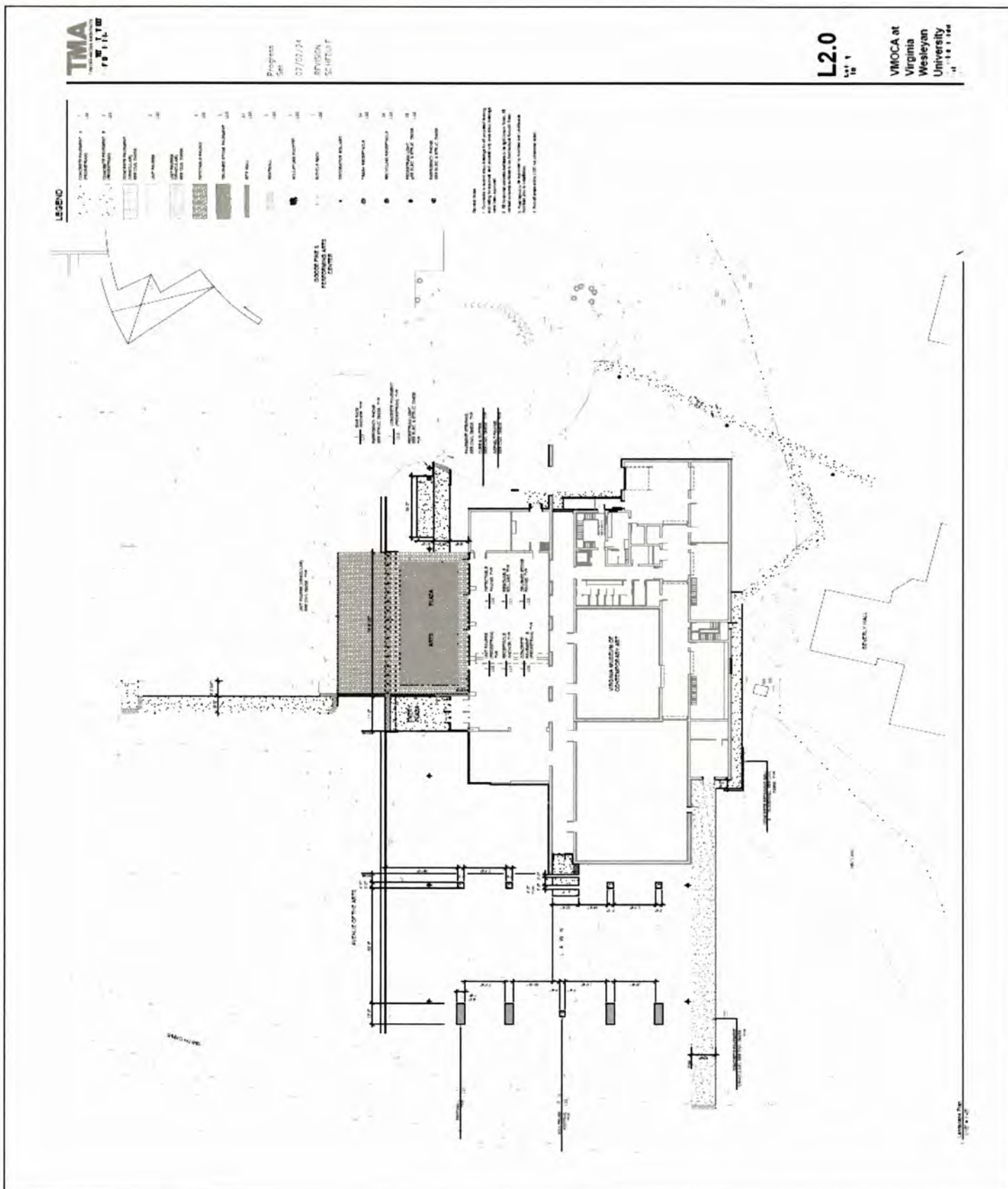
City Council

- As required by City Code, this item was advertised in the Virginian-Pilot Beacon on Tuesdays, March 5, 2024 and March 12, 2024.
- As required by City Code, the adjacent property owners were notified regarding both the request and the date of the City Council's public hearing on March 4, 2024.
- The City Clerk's Office posted the materials associated with the application on the City Council website of <https://clerk.virginiabeach.gov/city-council> on March 15, 2024.

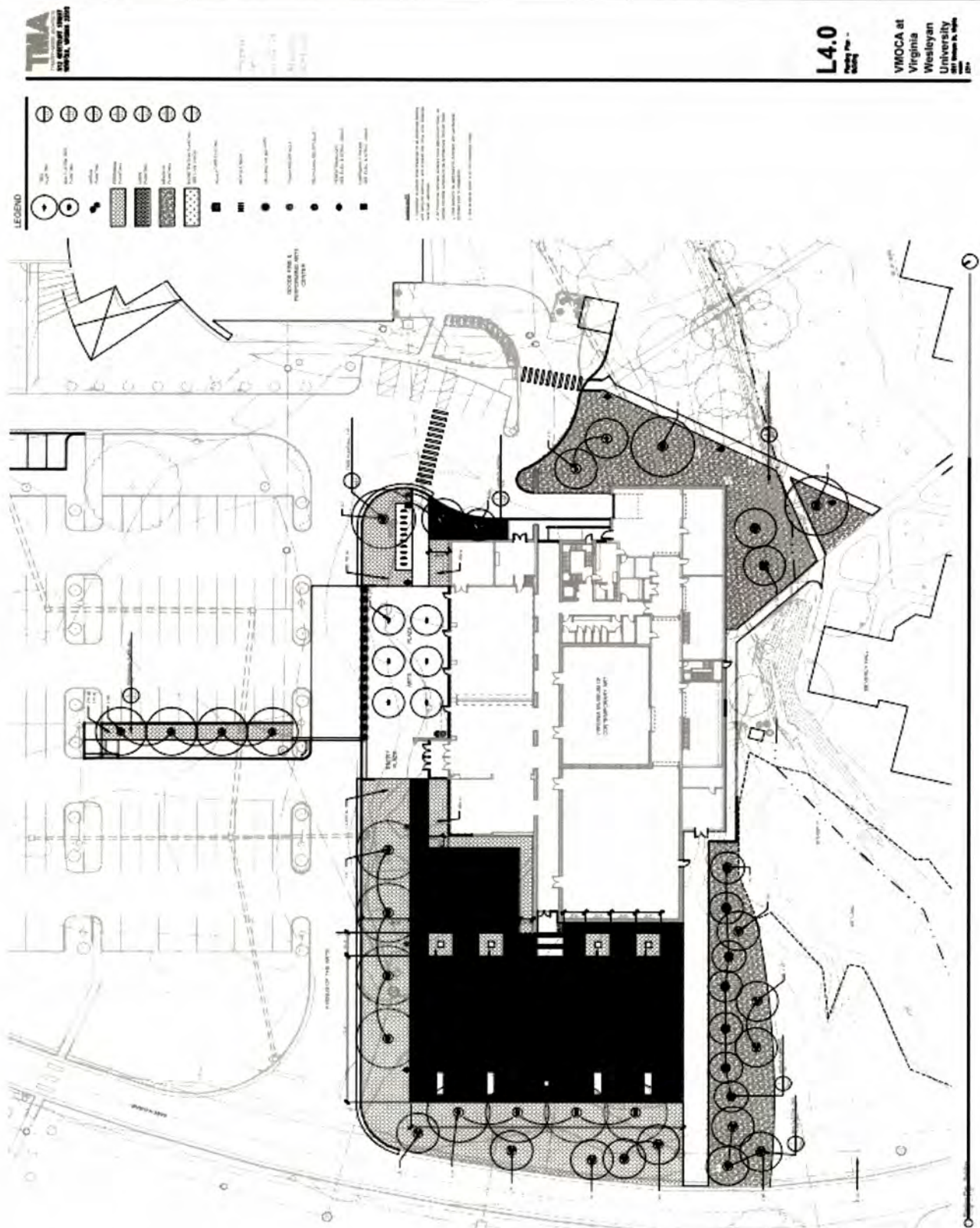
Proposed Conceptual Site Layout

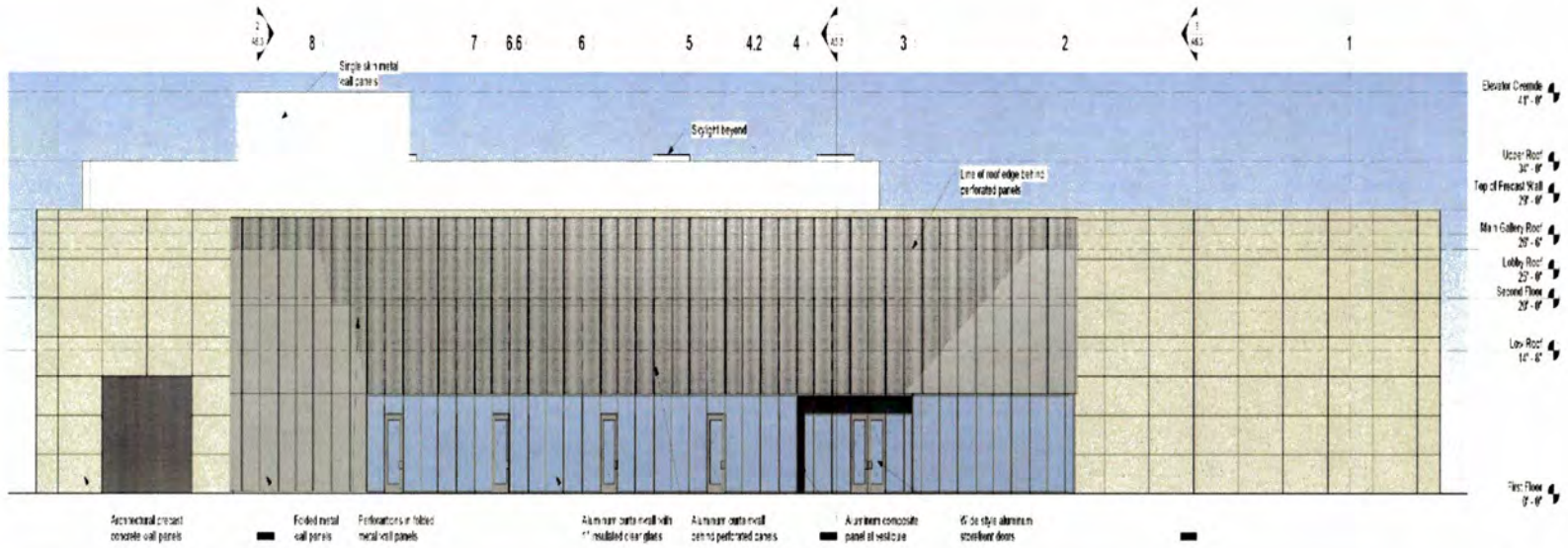


Proposed Conceptual Landscape Plan

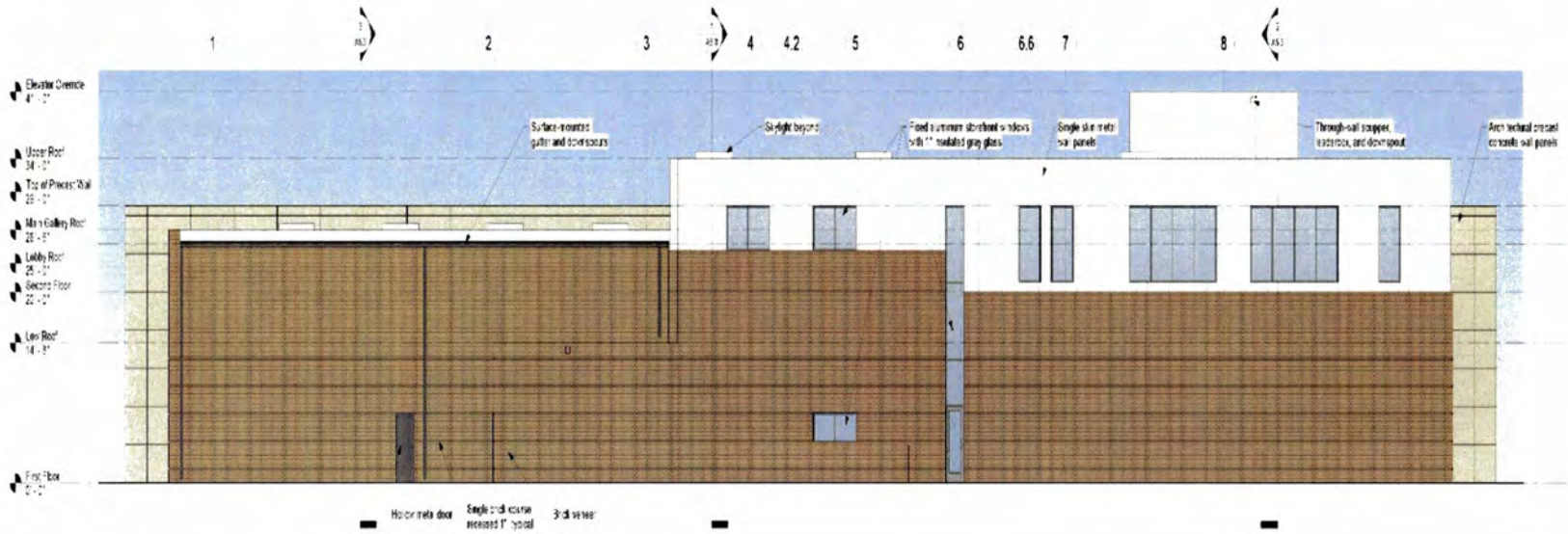


Proposed Conceptual Building Planting Plan

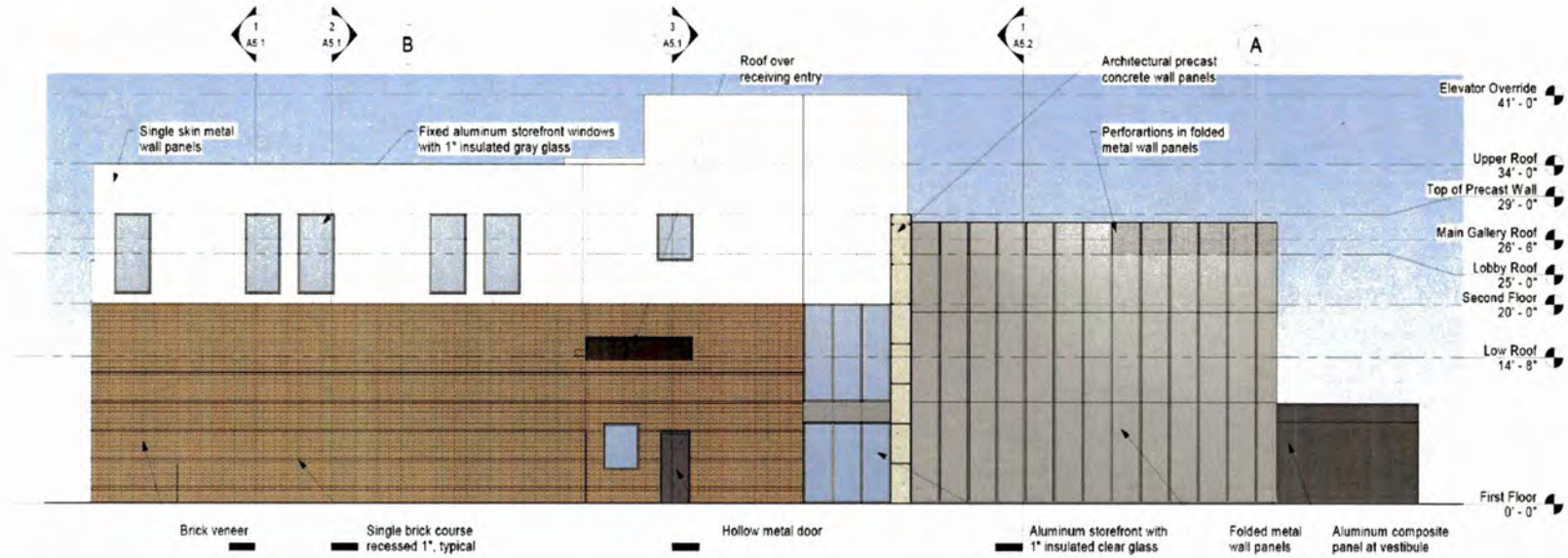




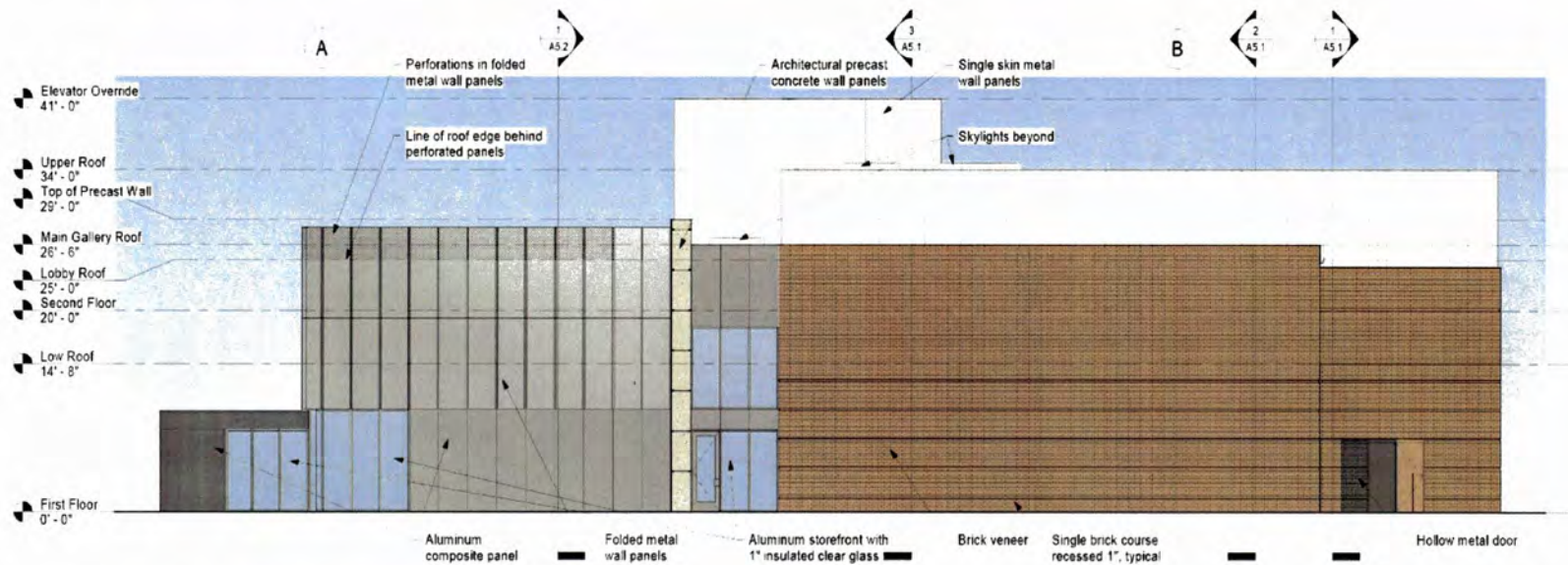
North Elevation



South Elevation



East Elevation



West Elevation

Site Photos



Site Photos



Disclosure Statement

Disclosure Statement



The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law. The completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council or a City board, commission or other body.

Applicant Disclosure

Applicant Name Dr. Scott Miller, Virginia Wesleyan University

Does the applicant have a representative? ☒ Yes ☐ No

- If yes, list the name of the representative.

Michael Schnekser, Tymoff and Moss Architects

Is the applicant a corporation, partnership, firm, business, trust or an unincorporated business? ☐ Yes ☒ No

- If yes, list the names of all officers, directors, members, trustees, etc. below. (Attach a list if necessary)

- If yes, list the businesses that have a parent-subsidary¹ or affiliated business entity² relationship with the applicant. (Attach a list if necessary)

¹ "Parent-subsidary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, VA. Code § 2.2-3101.

² "Affiliated business entity relationship" means "a relationship, other than parent-subsidary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

Disclosure Statement



Known Interest by Public Official or Employee

Does an **official or employee of the City of Virginia Beach** have an interest in the subject land or any proposed development contingent on the subject public action? ☐ Yes ☒ No

- If **yes**, what is the name of the official or employee and what is the nature of the interest?

Applicant Services Disclosure

1. Does the applicant have **any existing financing (mortgage, deeds of trust, cross-collateralization, etc) or are they considering any financing** in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

- If **yes**, identify the financial institutions providing the service.

2. Does the applicant have a **real estate broker/agent/realtor** for current and anticipated future sales of the subject property? ☐ Yes ☒ No

- If **yes**, identify the company and individual providing the service.

3. Does the applicant have services for **accounting and/or preparation of tax returns** provided in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

- If **yes**, identify the firm and individual providing the service.

4. Does the applicant have services from an **architect/landscape architect/land planner** provided in connection with the subject of the application or any business operating or to be operated on the property? ☒ Yes ☐ No

- If **yes**, identify the firm and individual providing the service.

Tymoff+Moss Architects, Michael Schnekser, Principal

5. Is there any other **pending or proposed purchaser** of the subject property? ☐ Yes ☒ No

- If **yes**, identify the purchaser and purchaser's service providers.

Disclosure Statement

Disclosure Statement



6. Does the applicant have a **construction contractor** in connection with the subject of the application or any business operating or to be operated on the property? ☒ **Yes** ☐ **No**

• If **yes**, identify the company and individual providing the service.

Hourigan Construction, Bart Dexter, Vice President

7. Does the applicant have an **engineer/surveyor/agent** in connection with the subject of the application or any business operating or to be operated on the property? ☒ **Yes** ☐ **No**

• If **yes**, identify the firm and individual providing the service.

TRCC, Joseph Bushey

8. Is the applicant receiving **legal services** in connection with the subject of the application or any business operating or to be operated on the property? ☐ **Yes** ☒ **No**

• If **yes**, identify the firm and individual providing the service.

Applicant Signature

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate. I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the meeting of Planning Commission, City Council, VBDA, CBPA, Wetlands Board or any public body or committee in connection with this application.

Applicant Signature

Dr. Scott D. Miller, President of Virginia Wesleyan University

Print Name and Title

10/20/2023

Date

- Is the applicant also the owner of the subject property? ☐ **Yes** ☐ **No**

• If **yes**, you do not need to fill out the owner disclosure statement.

FOR CITY USE ONLY/ All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the applications

<input checked="" type="checkbox"/>	No changes as of	Date	2/28/2024	Signature	
				Print Name	Marchelle L. Coleman

Revised 11/04/2020

3 | Page

Disclosure Statement

Disclosure Statement



Owner Disclosure

Owner Name Dr. Keith Moore, Virginia Wesleyan University

Applicant Name Dr. Scott Miller, Virginia Wesleyan University

Is the Owner a corporation, partnership, firm, business, trust or an unincorporated business? ☐ Yes ☒ No

- If **yes**, list the names of all officers, directors, members, trustees, etc. below. (Attach a list if necessary)

- If **yes**, list the businesses that have a parent-subsidary³ or affiliated business entity⁴ relationship with the Owner. (Attach a list if necessary)

Known Interest by Public Official or Employee

Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action? ☐ Yes ☒ No

- If **yes**, what is the name of the official or employee and what is the nature of the interest?

³ "Parent-subsidary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, VA. Code § 2.2-3101.

⁴ "Affiliated business entity relationship" means "a relationship, other than parent-subsidary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

Disclosure Statement



Owner Services Disclosure

1. Does the Owner have any existing financing (mortgage, deeds of trust, cross-collateralization, etc) or are they considering any financing in connection with the subject of the application or any business operating or to be operated on the property?

☐ Yes ☒ No

- If yes, identify the financial institutions providing the service.

2. Does the Owner have a real estate broker/agent/realtor for current and anticipated future sales of the subject property?

☐ Yes ☒ No

- If yes, identify the company and individual providing the service.

3. Does the Owner have services for accounting and/or preparation of tax returns provided in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

- If yes, identify the firm and individual providing the service.

4. Does the Owner have services from an architect/landscape architect/land planner provided in connection with the subject of the application or any business operating or to be operated on the property? ☒ Yes ☐ No

- If yes, identify the firm and individual providing the service.

Tymoff+Moss Architects, Michael Schnekser, Principal

5. Is there any other pending or proposed purchaser of the subject property? ☐ Yes ☒ No

- If yes, identify the purchaser and purchaser's service providers.

6. Does the Owner have a construction contractor in connection with the subject of the application or any business operating or to be operated on the property? ☒ Yes ☐ No

- If yes, identify the company and individual providing the service.

Hourigan Construction, Bart Dexter, Vice President

7. Does the Owner have an engineer/surveyor/agent in connection with the subject of the application or any business operating or to be operated on the property? ☒ Yes ☐ No

- If yes, identify the firm and individual providing the service.

TRCC, Joseph Bushey

Disclosure Statement

Disclosure Statement



8. Is the Owner receiving **legal services** in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No
- If yes, identify the firm and individual providing legal the service.

Owner Signature

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate. I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the meeting of Planning Commission, City Council, VBDA, CBPA, Wetlands Board or any public body or committee in connection with this application.

Owner Signature

Print Name and Title

Keith E. Moore, Ed.D. Senior Vice President

Date October 20, 2023

Next Steps

- Upon receiving a recommendation from Planning Commission, this request will be scheduled for a City Council public hearing. Staff will inform the applicant and/or their representative of the date of the hearing in the upcoming days.
- Following City Council's decision, the applicant will receive a decision letter from Staff.
- Once the conditions of approval are in place and/or completed, the applicant must contact the Zoning Division of the Planning Department to obtain verification that the conditions have been met. Contact the Zoning Division at 757-385-8074.
- If the request requires land disturbance and/or a subdivision of property, please contact the Development Services Center (DSC) to discuss next steps for site plan/plat review. Contact the DSC at 757-385-4621 or the Development Liaison Team at 757-385-5692.
- Please note that further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.
- The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.

**Virginia Beach Planning Commission
February 14, 2024, Public Meeting
Agenda Item # 4**

Virginia Wesleyan University

RECOMMENDED FOR APPROVAL – CONSENT

Ms. Cuellar: Thank you very much. Item number four, Virginia Wesleyan University. If the applicant could please come forward.

Mr. Schnekser: Good afternoon, (Inaudible 18:17).

Ms. Cuellar: Thank you. And are the conditions acceptable to you?

Mr. Schnekser: They are.

Ms. Cuellar: Great. Is there any opposition to this item being placed on the consent agenda? Hearing none. I've asked Commissioner Byler to read this item into the record.

Ms. Byler: The applicant is requesting a conditional use permit to construct a museum, which is part of the, which is in fact the Virginia Museum of Cultural Arts. It will be located on the campus of Virginia Wesleyan University that is of 227-acre parcel, currently zoned residential. Therefore, the conditional use permit. The staff has recommended a few conditions and those conditions are agreeable with the applicant. There being no opposition. It seems appropriate for the consent agenda.

Ms. Cuellar: Thank you very much. Mr. Chairman that was the last item on the consent agenda, the Planning Commission places the following applications on the consent agenda, items number 2, 3, 4, 6, 7, 9, 10, 11 and 12.

Mr. Alcaraz: Alright, do I have a motion to approve this for consent?

Ms. Cuellar: I move that these items be approved by consent.

Ms. Hippen: So moved.

Mr. Alcaraz: I have a motion from Ms. Cuellar and Ms. Hippen second it.

Ms. Alcock: The vote is now open. Ms. Byler can I have your verbal really quickly?

Ms. Byler: Oh, never mind, went through. Thank you.

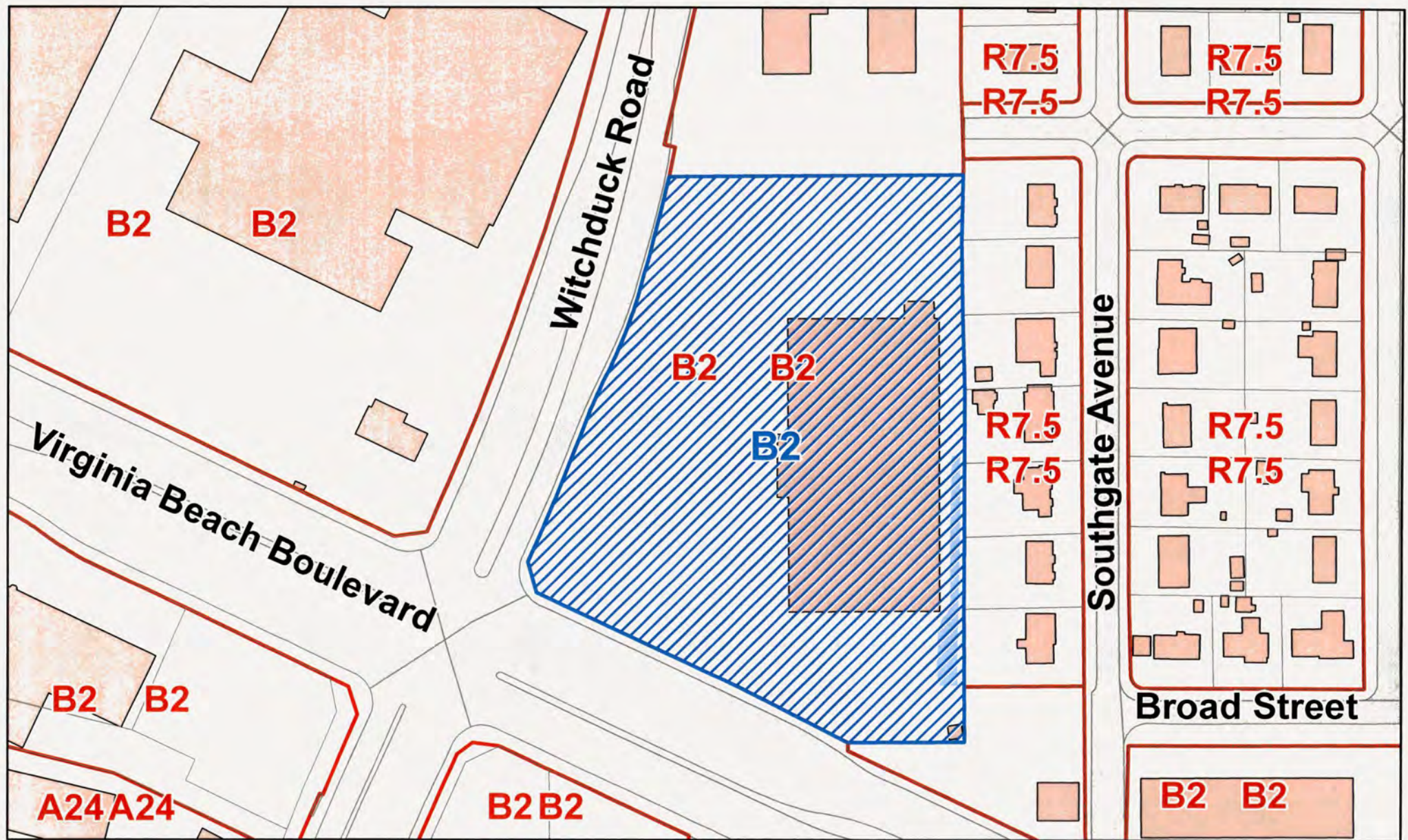
Ms. Alcock: By vote of 11 to 0 items number 2, 3, 4, 6, 7, 9, 10, 11 and 12 have been recommended for approval.

	AYE 11	NAY 0	ABS 0	ABSENT 0
Alcaraz	AYE			
Anderson	AYE			
Byler	AYE			
Clemons	AYE			
Coston	AYE			
Cuellar	AYE			
Estaris	AYE			
Hippen	AYE			
Mauch	AYE			
Parks	AYE			
Plumlee	AYE			





CONDITIONS

1. When the site is developed, it shall be in substantial conformance with the submitted Conceptual Site Plan exhibit entitled "VMOCA at Virginia Wesleyan University, SHEET L1.0 – Landscape Site Plan", prepared by TYMOFF+MOSS Architects, dated 02/02/2024 which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development.
2. A Landscape Plan shall be submitted at the time of final site plan review reflective of the location and plant material depicted on Conceptual Landscape Plans entitled "VMOCA at Virginia Wesleyan University, SHEET L2.0 – Landscape Plan" & "VMOCA at Virginia Wesleyan University, SHEET L4.0 – Planting Plan - Building", prepared by TYMOFF+MOSS Architects, dated 02/02/2024 which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development.
3. The exterior of the proposed building shall substantially adhere in appearance, size, color, and materials to the elevations depicted on pages 10 & 11 of this report, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development. The maximum building height shall not exceed 41 feet in height.
4. All on-site signage shall meet the requirements and regulations of the Zoning Ordinance, unless otherwise approved by the Board of Zoning Appeals. A separate permit from the Department of Planning and Community Development is required for all signage installed on the site.

5. The sign package to include all proposed signage associated with the museum shall be submitted to the Planning Director for review and approval prior to the issuance of a sign permit.
6. The applicant shall obtain all necessary permits and inspections from the Department of Planning & Community Development Permits and Inspections Division, the Health Department, and the Fire Department. The applicant shall obtain a Certificate of Occupancy from the Building Official's Office prior to commencing operation.
7. The maximum number of individuals within the facility shall not exceed the maximum number as required by applicable building codes, noted on the Certificate of Occupancy, and posted by the Fire Marshal.
8. Prior to final site plan approval, a Lighting Plan in accordance with Sections 252 and 254 of the Zoning Ordinance, or as amended, shall be approved by the Department of Planning and Community Development.
9. The Virginia Museum of Cultural Arts (VMOCA) may be permitted to have up to eight (8) Special Events per calendar year.
10. Prior to each Special Event, the applicant shall contact the Special Events Office and all appropriate City agencies as required including the Fire Marshal Bureau, Police Department, Commissioner of Revenue, Department of Planning and Community Development - Zoning Division, and the Health Department.
11. All Special Events associated with the Virginia Museum of Contemporary Art (VMOCA) shall cease operation by 11:00 p.m.
12. During Special Events, no less than one trash receptacle per 1,000 square feet of area shall be provided. All trash receptacles shall be emptied regularly so as not to overflow, and litter and debris shall not be allowed to accumulate.



Yurvin Juan Morales Lopez
5070 Virginia Beach Boulevard

-  Site
-  Property_Polygons
-  Zoning
-  Building



0 30 60 120 180 240 300 360 Feet



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: YURVIN JUAN MORALES LOPEZ [Applicant] FREEDOM LAND INVESTMENT, LLC [PROPERTY OWNER] Conditional Use Permit (Open Air Market) for the property located at 5070 Virginia Beach Boulevard (GPIN 1467960131). COUNCIL DISTRICT 4

MEETING DATE: March 19, 2024

■ **Background:**

This is an application for a Conditional Use Permit for an Open-Air Market to operate a food truck in the parking lot of Freedom Outdoor Gun Range. This property is located along Virginia Beach Boulevard at the intersection of North Witchduck Road. The food truck will operate from 11:00 a.m. to 8:00 p.m., Monday through Saturday. Two employees are proposed.

This site was approved for a Modification of Conditions in 2020 to allow for the construction of 3 additional retail buildings; these buildings have not been constructed to date. Due to the potential future construction, Staff has decided to not condition the location of the food truck on the site. A Board of Zoning Appeals variance was granted in 2021 to reduce the amount of required parking spaces on-site to 208 spaces; however, a total of 253 parking spaces exist today.

■ **Considerations:**

The proposed use is, in Staff's opinion, acceptable, as this is a largely commercial area and is proposed within the parking lot of an existing business.

The applicant's food truck currently operates on site with an active Peddler's Permit, which is set to expire in March 2024. This permit allows them to operate at one location for a duration of 6 months, after which they cannot return to that location for another year. The applicant is seeking the Conditional Use Permit to remain at this location permanently.

Further details pertaining to the application, as well as Staff's evaluation, are provided in the attached Staff Report. There is no known opposition to this request.

■ **Recommendation:**

On February 14, 2024, the Planning Commission passed a motion to recommend approval of this item on the Consent Agenda, by a recorded vote of 11-0.

1. Unless otherwise authorized by the Zoning Ordinance, the Open-Air Market shall be limited to one food truck.
2. All trash receptacles shall be emptied regularly as to not overflow, and litter and debris shall not be allowed to accumulate.
3. The food truck shall be stored onsite within the striped parking spaces of the existing business when the food truck is not in operation. The food truck shall not obstruct the drive aisle or fire lanes.

- **Attachments:**
Staff Report and Disclosure Statements
Location Map
Minutes of Planning Commission Hearing

Recommended Action: Staff recommends Approval. Planning Commission recommends Approval.

Submitting Department/Agency: Planning Department

City Manager:



Request

Conditional Use Permit (Open-Air Market)

Staff Recommendation

Approval

Staff Planner

Michaela McKinney

Location

5070 Virginia Beach Boulevard

GPIN

1467960131

Site Size

5.14 acres

AICUZ

Less than 65 dB DNL

Watershed

Chesapeake Bay

Existing Land Use and Zoning District

Retail, Indoor Recreation Facility / B-2

Community Business

Surrounding Land Uses and Zoning Districts

North

Mixed retail / B-2 Community Business

South

Virginia Beach Boulevard

Car Dealership / B-2 Community Business

East

Single-family dwellings / R-7.5 Residential

West


N. Witchduck Road

Mixed retail / B-2 Community Business



Background & Summary of Proposal

- The applicant is requesting a Conditional Use Permit for an Open-Air Market for the operation of a food truck on a 5.14 acre parcel zoned B-2 Community Business District.
- The food truck currently operates in the parking lot of the Freedom Outdoor Gun Range. The applicant has been issued a peddler permit to operate the food truck. The peddler permit is valid for a period of six months and is set to expire in March 2024. Since peddler permits can only be issued once in the same location per Section 33-6 of City Zoning Ordinance, the applicant is requesting a Conditional Use Permit to remain at the subject location.
- The applicant's food truck, Taqueria La Ceiba, is a standalone food truck that is located within the southwestern portion of the parcel, facing Virginia Beach Boulevard. The existing Indoor Recreation Facility requires 253 parking spaces and exceeds their current minimum requirement by 16 spaces with the food truck occupying 5 parking spaces. The site was approved for a Modification of Conditions in 2020 for three additional retail buildings that are not yet constructed. Upon the completion of these buildings, this site will be deficient in parking by 61 spaces. Following the Modification approval, a Board of Zoning Appeals variance was approved in January 2021 for a reduction in parking, allowing the site to operate with 208 spaces. Therefore, the parking requirements are met including the addition of the food truck onsite.
- The food truck area will include a table and two chairs for patrons. The property owner and applicant have a lease agreement for the food truck to operate on-site for two years. At the conclusion of their two-year lease agreement, the applicant intends to seek renewal of the lease.
- The typical hours of operation are 11:00 a.m. to 8:00 p.m., Monday through Saturday. Two employees are anticipated. When the food truck is not operating it will remain on site and closed.
- This property is located within the Western Campus Overlay District which is an opt-in overlay district intended to be a low-rise academic district and service area. Since Open-Air markets are not a permitted use within the overlay district the applicant is choosing not to opt in to the District.

	<h3>Zoning History</h3> <table><thead><tr><th>#</th><th>Request</th></tr></thead><tbody><tr><td>1</td><td>MDC (Motor Vehicle Rentals) Approved 12/1/2020 MDC Approved 10/07/2014 CUP (Indoor Recreational Facility [Shooting Range]) Approved 06/25/2013 CUP (Motor Vehicle Repair) Approved 02/23/2010</td></tr><tr><td>2</td><td>STC & MDC Approved 09/15/2017</td></tr><tr><td>3</td><td>STC Approved 06/23/2009 STC Approved 05/23/2006</td></tr><tr><td>4</td><td>CUP (Automobile Sales & Services) Approved 10/13/1999 CUP (Automobile Sales & Services) Approved 09/28/1999</td></tr><tr><td>5</td><td>CUP (Automobile Repair & Service Establishment) Approved 11/10/1993</td></tr><tr><td>6</td><td>CUP (Motor Vehicle Rentals) Approved 06/09/1993</td></tr></tbody></table>	#	Request	1	MDC (Motor Vehicle Rentals) Approved 12/1/2020 MDC Approved 10/07/2014 CUP (Indoor Recreational Facility [Shooting Range]) Approved 06/25/2013 CUP (Motor Vehicle Repair) Approved 02/23/2010	2	STC & MDC Approved 09/15/2017	3	STC Approved 06/23/2009 STC Approved 05/23/2006	4	CUP (Automobile Sales & Services) Approved 10/13/1999 CUP (Automobile Sales & Services) Approved 09/28/1999	5	CUP (Automobile Repair & Service Establishment) Approved 11/10/1993	6	CUP (Motor Vehicle Rentals) Approved 06/09/1993
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Evaluation & Recommendation

The Conditional Use Permit request for an Open-Air Market to operate a food truck is, in Staff's opinion, acceptable. The addition of a food truck to an existing business is in keeping with the policies and goals set forth in the Comprehensive Plan and its guiding principles to encourage a compatible mix of uses and an efficient use of land resources. The food truck is located at the corner of the main artery, Witchduck Road and Virginia Beach Boulevard, and is accessible to pedestrians in the corridor.

A Modification of Conditions was approved in 2020 to allow the existing retail business, Freedom Outdoors, to construct three additional buildings onsite. Since one of the future buildings is proposed to be located along Virginia Beach Boulevard, staff has chosen not to condition the location of the food truck so it may be relocated when construction begins on-site. It is Staff's opinion that the proposed food truck will not result in a significant increase in traffic in the parking lot as the use is consistent with the typical retail business uses.

Based on the considerations above, Staff recommends approval of this request with the conditions listed below.

Recommended Conditions

1. Unless otherwise authorized by the Zoning Ordinance, the Open-Air Market shall be limited to one food truck.
2. All trash receptacles shall be emptied regularly as to not overflow, and litter and debris shall not be allowed to accumulate.
3. The food truck shall be stored onsite within the striped parking spaces of the existing business when the food truck is not in operation. The food truck shall not obstruct the drive aisle or fire lanes.

Further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.

The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.

Comprehensive Plan Recommendations

This site is located within the Pembroke Strategic Growth Area within the Western Campus Overlay District. The addition of food trucks at Freedom Outdoors would be a compatible use that would increase economic development for local businesses and provide a new food service to not only Pembroke but the surrounding residential neighborhoods and would be supported by the Comprehensive Plan and Pembroke SGA Master Plan.

Natural & Cultural Resources Impacts

The site is located in the Chesapeake Bay Watershed. There are no known cultural or natural impacts.

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Virginia Beach Boulevard	35,000 ADT ¹	74,000 ADT ¹ (LOS ⁴ "D")	Existing Land Use ² – 0 ADT Proposed Land Use ³ – No Data Available
N Witchduck Road	24,200 ADT ¹	36,900 ADT ¹ (LOS ⁴ "D")	
¹ Average Daily Trips	² as defined by a single food truck	³ No information available in the ITE Trip Generation Manual for event venues	⁴ LOS = Level of Service

Master Transportation Plan (MTP) and Capital Improvement Program (CIP)

Virginia Beach Boulevard in the vicinity of this application is considered an eight-lane divided major urban arterial. The Master Transportation Plan (MTP) proposes a divided facility within an existing 150 foot right-of-way section.

N Witchduck Road in the vicinity of this application is considered a four-lane divided minor urban arterial. The Master Transportation Plan proposes an eight-lane facility within a 155 foot right-of-way.

Public Utility Impacts

Water & Sewer

This site is connected to City water and sanitary sewer.

Public Outreach Information

Planning Commission

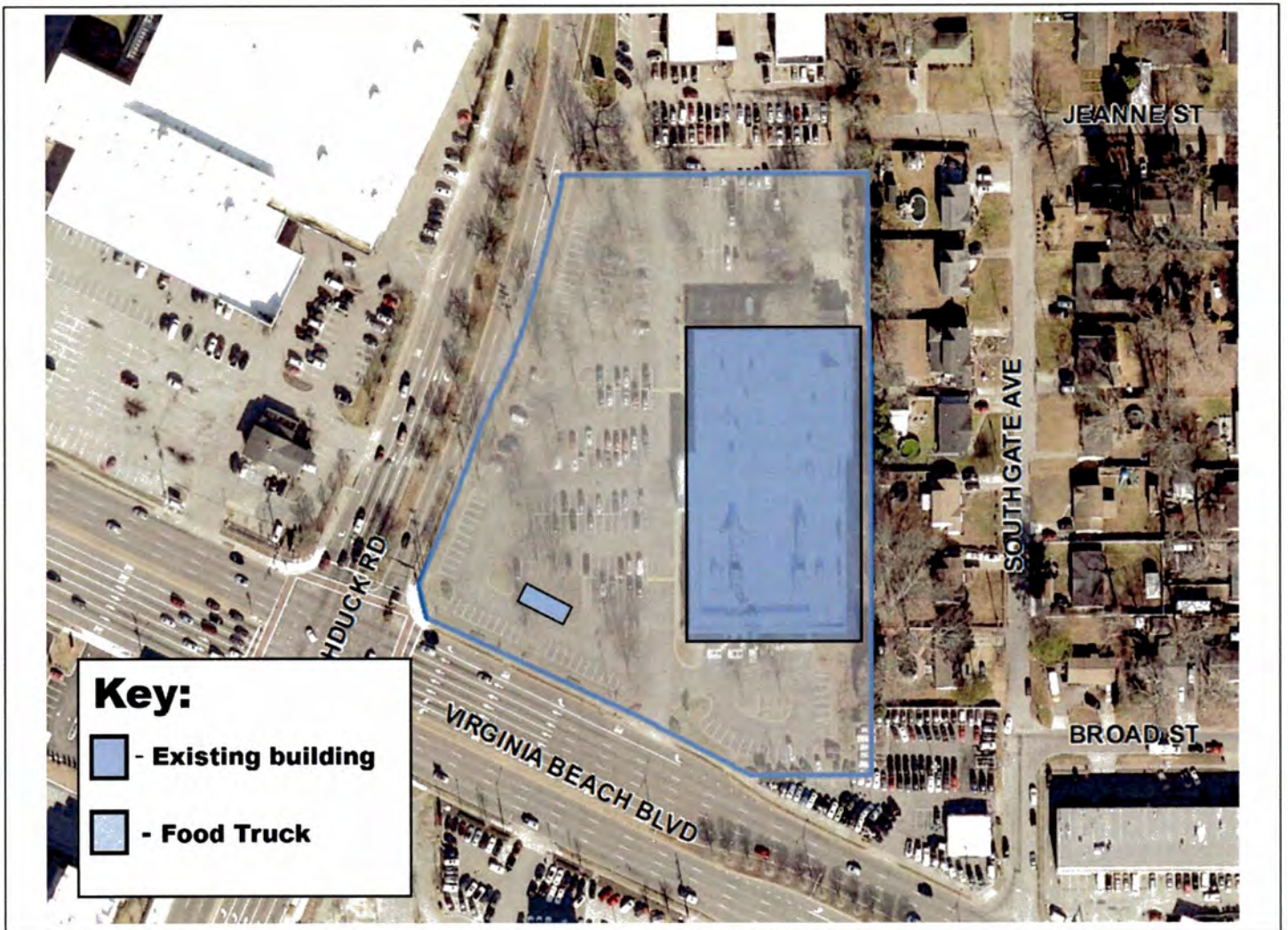
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on January 15, 2024.
- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, January 31, 2024 and February 7, 2024.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on January 29, 2024.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.virginiabeach.gov/pc on February 8, 2024.

City Council

- As required by City Code, this item was advertised in the Virginian-Pilot Beacon on Tuesdays, March 5, 2024 and March 12, 2024.

- As required by City Code, the adjacent property owners were notified regarding both the request and the date of the City Council's public hearing on March 4, 2024.
- The City Clerk's Office posted the materials associated with the application on the City Council website of <https://clerk.virginiabeach.gov/city-council> on March 15, 2024.

Proposed Site Layout



Site Photos



Disclosure Statement

Disclosure Statement



The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law. The completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council or a City board, commission or other body.

Applicant Disclosure

Applicant Name Yurvin Juan Morales Lopez

Does the applicant have a representative? ☐ Yes ☒ No

- If yes, list the name of the representative.

Is the applicant a corporation, partnership, firm, business, trust or an unincorporated business? ☐ Yes ☒ No

- If yes, list the names of all officers, directors, members, trustees, etc. below. (Attach a list if necessary)

- If yes, list the businesses that have a parent-subsidary¹ or affiliated business entity² relationship with the applicant. (Attach a list if necessary)

¹ "Parent-subsidary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, VA. Code § 2.2-3101.

² "Affiliated business entity relationship" means "a relationship, other than parent-subsidary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

Disclosure Statement



Known Interest by Public Official or Employee

Does an **official or employee of the City of Virginia Beach** have an interest in the subject land or any proposed development contingent on the subject public action? ☐ Yes ☒ No

- If **yes**, what is the name of the official or employee and what is the nature of the interest?

Applicant Services Disclosure

1. Does the applicant have **any existing financing (mortgage, deeds of trust, cross-collateralization, etc)** or are they considering **any financing** in connection with the subject of the application or any business operating or to be operated on the property?

☐ Yes ☒ No

- If **yes**, identify the financial institutions providing the service.

2. Does the applicant have a **real estate broker/agent/realtor** for current and anticipated future sales of the subject property?

☐ Yes ☒ No

- If **yes**, identify the company and individual providing the service.

3. Does the applicant have services for **accounting and/or preparation of tax returns** provided in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

- If **yes**, identify the firm and individual providing the service.

4. Does the applicant have services from an **architect/landscape architect/land planner** provided in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

- If **yes**, identify the firm and individual providing the service.

5. Is there any other **pending or proposed purchaser** of the subject property? ☐ Yes ☒ No

- If **yes**, identify the purchaser and purchaser's service providers.

Disclosure Statement

Disclosure Statement



6. Does the applicant have a **construction contractor** in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No
- If **yes**, identify the company and individual providing the service.
-
7. Does the applicant have an **engineer/surveyor/agent** in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No
- If **yes**, identify the firm and individual providing the service.
-
8. Is the applicant receiving **legal services** in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No
- If **yes**, identify the firm and individual providing the service.
-

Applicant Signature

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate. I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the meeting of Planning Commission, City Council, VBDA, CBPA, Wetlands Board or any public body or committee in connection with this application.

Applicant Signature

Print Name and Title

Date

Is the applicant also the owner of the subject property? ☐ Yes ☒ No

- If **yes**, you do not need to fill out the owner disclosure statement.

FOR CITY USE ONLY/ All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the applications

<input checked="" type="checkbox"/>	No changes as of	Date	03/05/2024	Signature	Michaela D. McKinney
				Print Name	Michaela D. McKinney

Disclosure Statement



Owner Disclosure

Owner Name Freedom Land Investment, LLC

Applicant Name Yurvin Juan Morales Lopez

Is the Owner a corporation, partnership, firm, business, trust or an unincorporated business? ☐ Yes ☐ No

- If yes, list the names of all officers, directors, members, trustees, etc. below. (Attach a list if necessary)

<u>Page Johnson, II</u>	<u>Jeffrey Hodgson</u>
<u>Grey Folkes</u>	<u>Dwight Schaubach</u>
<u>Skylar Thomas</u>	<u>William Gillum</u>

- If yes, list the businesses that have a parent-subsidary³ or affiliated business entity⁴ relationship with the Owner. (Attach a list if necessary)

Known Interest by Public Official or Employee

Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action? ☐ Yes ☒ No

- If yes, what is the name of the official or employee and what is the nature of the interest?

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⁴ "Affiliated business entity relationship" means "a relationship, other than parent-subsidary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

Disclosure Statement



Owner Services Disclosure

1. Does the Owner have any existing financing (mortgage, deeds of trust, cross-collateralization, etc) or are they considering any financing in connection with the subject of the application or any business operating or to be operated on the property?

☒ Yes ☐ No

- If yes, identify the financial institutions providing the service.

Towne Bank

2. Does the Owner have a real estate broker/agent/realtor for current and anticipated future sales of the subject property?

☐ Yes ☒ No

- If yes, identify the company and individual providing the service.

3. Does the Owner have services for accounting and/or preparation of tax returns provided in connection with the subject of the application or any business operating or to be operated on the property? ☒ Yes ☐ No

- If yes, identify the firm and individual providing the service.

FORVIS - Michael Hanger

4. Does the Owner have services from an architect/landscape architect/land planner provided in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

- If yes, identify the firm and individual providing the service.

5. Is there any other pending or proposed purchaser of the subject property? ☐ Yes ☒ No

- If yes, identify the purchaser and purchaser's service providers.

6. Does the Owner have a construction contractor in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

- If yes, identify the company and individual providing the service.

7. Does the Owner have an engineer/surveyor/agent in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

- If yes, identify the firm and individual providing the service.

Disclosure Statement



8. Is the Owner receiving legal services in connection with the subject of the application or any business operating or to be operated on the property? ☒ Yes ☐ No

- If yes, identify the firm and individual providing legal the service.

Willcox Savage - Brian Russell

Owner Signature

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate. I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the meeting of Planning Commission, City Council, VBDA, CBPA, Wetlands Board or any public body or committee in connection with this application.

S.R. Thomas
Owner Signature

Skylar R. Thomas / OWNER
Print Name and Title

11/1/23
Date

Next Steps

- Upon receiving a recommendation from Planning Commission, this request will be scheduled for a City Council public hearing. Staff will inform the applicant and/or their representative of the date of the hearing in the upcoming days.
- Following City Council's decision, the applicant will receive a decision letter from Staff.
- Once the conditions of approval are in place and/or completed, the applicant must contact the Zoning Division of the Planning Department to obtain verification that the conditions have been met. Contact the Zoning Division at 757-385-8074.
- If the request requires land disturbance and/or a subdivision of property, please contact the Development Services Center (DSC) to discuss next steps for site plan/plat review. Contact the DSC at 757-385-4621 or the Development Liaison Team at 757-385-5692.
- Please note that further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.
- The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.

**Virginia Beach Planning Commission
February 14, 2024, Public Meeting
Agenda Item # 9**

Yurvin Juan Morales Lopez

RECOMMENDED FOR APPROVAL – CONSENT

Ms. Cuellar: Thank you very much. Our next item on the consent agenda is item number nine. conditional use permit for an open-air market is Yurvin Juan Morales Lopez here to speak on this application. Hello.

Mr. Lopez: Hello.

Ms. Cuellar: Could you please state your name for the record?

Mr. Lopez: Yes, my name is Yurvin Juan Morales Lopez.

Ms. Cuellar: And are the conditions acceptable to you?

Mr. Lopez: Yes.

Ms. Cuellar: Okay. Thank you very much. You may be seated.

Mr. Lopez: Thank you.

Ms. Cuellar: Is there any opposition to this item being placed on the consent agenda? Hearing none. I've asked Commissioner Byler to read this into the record.

Ms. Byler: The applicant is requesting a conditional use permit at 5070 Virginia Beach Boulevard, which is part of the Freedom Outdoor Gun Range. The applicant has been issued a peddler permit to operate a food truck. The permit is valid for a period of six months and is set to expire in March of 2024. Since the peddler permits can only be issued once in the same location based on city ordinance, the applicant is requesting a conditional use permit to remain at the subject location. There was no opposition and the applicant is agreeable to conditions based on staff recommendations. Therefore, this has been placed on the consent agenda.

Ms. Cuellar: Thank you very much. Mr. Chairman that was the last item on the consent agenda, the Planning Commission places the following applications on the consent agenda, items number 2, 3, 4, 6, 7, 9, 10, 11 and 12.

Mr. Alcaraz: Alright, do I have a motion to approve this for consent?

Ms. Cuellar: I move that these items be approved by consent.

Ms. Hippen: So moved.

Mr. Alcaraz: I have a motion from Ms. Cuellar and Ms. Hippen second it.

Ms. Alcock: The vote is now open. Ms. Byler can I have your verbal really quickly?

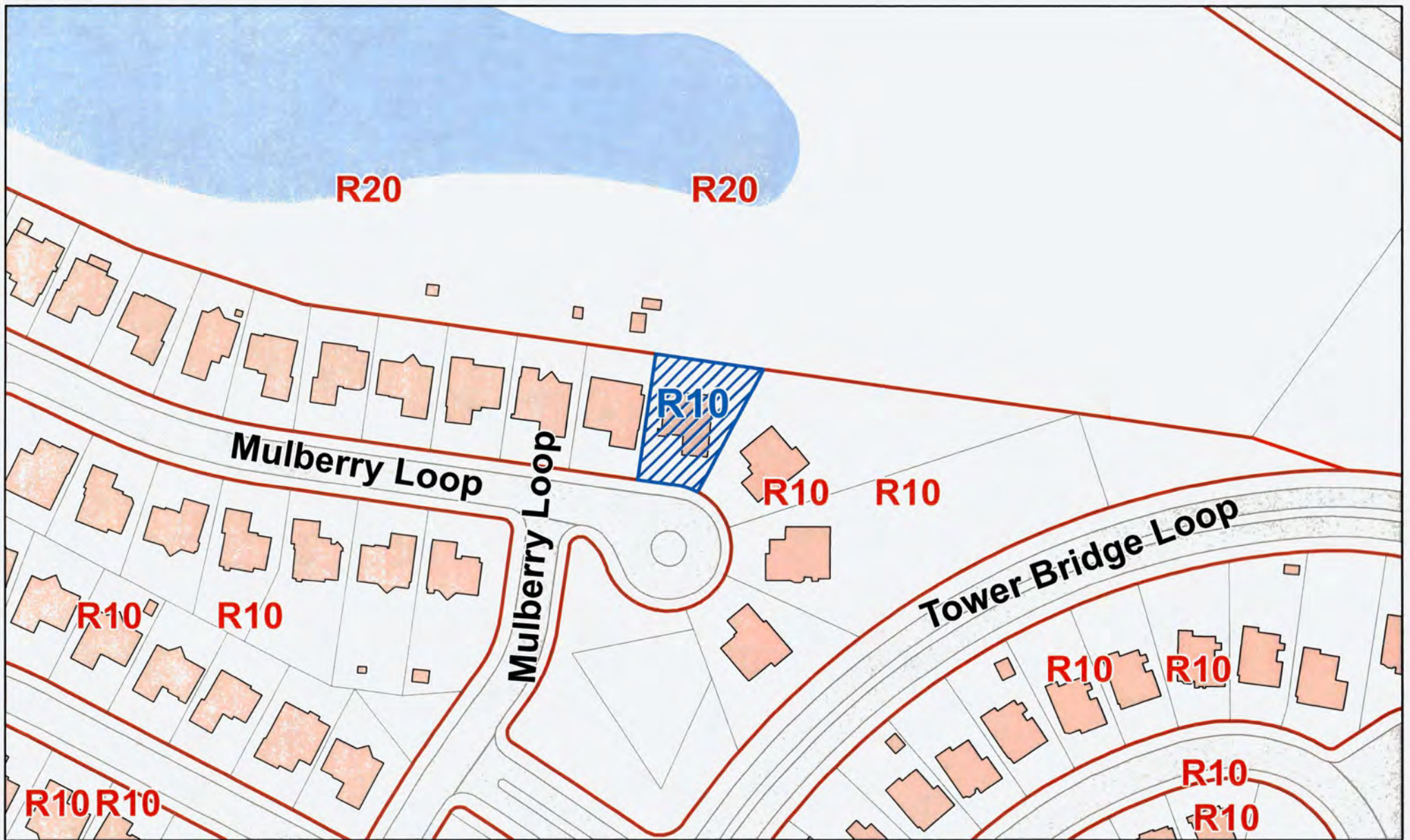
Ms. Byler: Oh, never mind, went through. Thank you.

Ms. Alcock: By vote of 11 to 0 items number 2, 3, 4, 6, 7, 9, 10, 11 and 12 have been recommended for approval.





	AYE 11	NAY 0	ABS 0	ABSENT 0
Alcaraz	AYE			
Anderson	AYE			
Byler	AYE			
Clemons	AYE			
Coston	AYE			
Cuellar	AYE			
Estaris	AYE			
Hippen	AYE			
Mauch	AYE			
Parks	AYE			
Plumlee	AYE			

CONDITIONS

1. Unless otherwise authorized by the Zoning Ordinance, the Open-Air Market shall be limited to one food truck.
2. All trash receptacles shall be emptied regularly as to not overflow, and litter and debris shall not be allowed to accumulate.
3. The food truck shall be stored onsite within the striped parking spaces of the existing business when the food truck is not in operation. The food truck shall not obstruct the drive aisle or fire lanes.



George Cutulle
2760 Mulberry Loop

-  Site
-  Property_Polygons
-  Zoning
-  Building



0 20 40 80 120 160 200 240 Feet



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: GEORGE CUTULLE [Applicant] GEORGE JOSEPH CUTULLE & VIVIENNE MARY CUTULLE [Property Owners] Conditional Use Permit (Residential Kennel) for the property located at 2760 Mulberry Loop (GPIN 2405215708). COUNCIL DISTRICT 5

MEETING DATE: March 19, 2024

■ **Background:**

The applicant and his wife own four dogs and frequently care for their daughter's two dogs when she is on deployment, underway, or otherwise out of town. As the Zoning Ordinance only permits up to four dogs without a Conditional Use Permit, the applicant is requesting a Conditional Use Permit for a Residential Kennel to permit up to six adult dogs at this R-10 Residential property. All the dogs are current on their required vaccinations and the applicant has no open violations with Animal Control.

■ **Considerations:**

Keeping dogs as pets is a compatible use in this area and aligns with the general goals of the Suburban Area as set forth in the Comprehensive Plan. The applicant's request is reasonable to accommodate the frequent, though not constant, presence of six adult dogs. The dogs will not be kenneled outdoors, and the applicant's rear yard is enclosed with a fence.

Further details pertaining to the application, as well as Staff's evaluation, are provided in the attached Staff Report. There is no known opposition to this request.

■ **Recommendation:**

On February 14, 2024, the Planning Commission passed a motion to recommend approval of this item on the Consent Agenda, by a recorded vote of 11-0.

1. All animal waste from the dogs shall be collected and disposed of in a lawful manner on a weekly basis.
2. The applicant shall ensure that all dogs are properly vaccinated and immunized and are licensed through the City of Virginia Beach.
3. There shall be no breeding of dogs on the site.

4. Day Care, Training, and Boarding services for monetary consumption are not permitted on this site.
5. No more than four (4) dogs shall be permitted to be outdoors at one time and the dogs shall remain under the supervision of the caretaker at all times and shall not be a nuisance to any other property owners or residents.
6. There shall be no more than six (6) adult dogs on site.

■ **Attachments:**

Staff Report and Disclosure Statements
Location Map
Minutes of Planning Commission Hearing
Petition of Support (3 signatures)

Recommended Action: Staff recommends Approval. Planning Commission recommends Approval.

Submitting Department/Agency: Planning Department

City Manager:

PAD

Cur

Request

Conditional Use Permit (Residential Kennel)

Staff Recommendation

Approval

Staff Planner

Elizabeth Nowak

Location

2760 Mulberry Loop

GPIN

2405215708

Site Size

8,120 square feet

AICUZ

70-75 dB DNL

Watershed

Southern Rivers

Existing Land Use and Zoning District

Single-family dwelling / R-10 Residential with PD-H2 Overlay

Surrounding Land Uses and Zoning Districts

North

Stormwater pond / R-20 Residential

South

Mulberry Loop

Single-family dwelling / R-10 Residential with PD-H2 Overlay

East

Single-family dwelling, cultivated field / R-10 Residential with PD-H2 Overlay

West

Single-family dwelling / R-10 Residential with PD-H2 Overlay



Background & Summary of Proposal

- The applicant is requesting a Conditional Use Permit to operate a residential kennel at their residence at 2760 Mulberry Loop zoned R-10 Residential District.
- The applicant, George Cutulle and his wife own four dogs and frequently care for their daughter's two dogs. They are seeking a Conditional Use Permit to keep their daughter's two dogs overnight for extended periods while she is deployed, underway, or out of town.
- The rear yard is enclosed with a fence that has recently been reconfigured to enclose only the applicant's property.
- All dogs on the property, including the applicant's daughter's dogs, are current on all required vaccinations.
- One call to Animal Control was made for this area in October 2023 that reported a dog chasing a teenager. The report identified the at-large dog to be a Great Dane. The applicant does not own a Great Dane, nor is one known to be associated with this property.
- The property is located in the 70-75 dB DNL noise zone of the Air Installation Compatibility Use Zone (AICUZ). The Zoning Administrator determined that this use is permitted in this noise zone as it is an Animal Husbandry Service, a type of agricultural-related activity allowed in high-noise zones.

A map showing a residential area with various zoning districts. A blue hatched area is labeled 'R10'. Other areas are labeled 'R20' and 'R10'. A road is labeled 'MULBERRY LOOP'. Two numbered locations are marked: '1' and '2'. The map also shows a noise contour line labeled '70-75 dB DNL'.

Zoning History

#	Request
1	CUP (Family Day-Care Home) Approved 12/06/2016
2	CRZ (Athletic Club) Approved 01/14/1985 LUP (Taylor Farm) Approved

Application Types			
CUP – Conditional Use Permit	MDC – Modification of Conditions	STC – Street Closure	SVR – Subdivision Variance
REZ – Rezoning	MDP – Modification of Proffers	FVR – Floodplain Variance	LUP – Land Use Plan
CRZ – Conditional Rezoning	NON – Nonconforming Use	ALT – Alternative Compliance	STR – Short Term Rental

Evaluation & Recommendation

In Staff's opinion, this request for a Conditional Use Permit for a residential kennel is acceptable. This property is located in the Suburban Area, as identified in the Comprehensive Plan, and is part of a residential subdivision that was developed under a land use plan in the late 1990s and early 2000s. Keeping dogs as pets is compatible with this area and with the general goals for the Suburban Area as a residentially focused area. The dogs are not hunting animals and will not be kenneled outdoors. The need for the Conditional Use Permit is to permit the applicant to care for his daughter's animals while she is deployed, underway, or otherwise out of town. The proposed quantity of animals at this site is limited and will be transient as the two dogs that are not owned by the applicants do not and will not make this their

permanent home. No changes to traffic are anticipated and, with the conditions recommended below, Staff believes there will be no adverse effect to the area. Additionally, the applicant states they met with several of their neighbors and received three signatures of support for their application.

Staff recommends approval of the application subject to the following conditions and exhibits.

Recommended Conditions

1. All animal waste from the dogs shall be collected and disposed of in a lawful manner on a weekly basis.
2. The applicant shall ensure that all dogs are properly vaccinated and immunized and are licensed through the City of Virginia Beach.
3. There shall be no breeding of dogs on the site.
4. Day Care, Training, and Boarding services for monetary consumption are not permitted on this site.
5. No more than four (4) dogs shall be permitted to be outdoors at one time and the dogs shall remain under the supervision of the caretaker at all times and shall not be a nuisance to any other property owners or residents.
6. There shall be no more than six (6) adult dogs on site.

Further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.

The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.

Comprehensive Plan Recommendations

This project falls within the Suburban Area. Guiding principles of the Suburban Area in the Comprehensive Plan Policy Document include creation and maintenance of "Great Neighborhoods" by having supportive and complementary non-residential uses. The safe keeping of pets is a compatible activity in suburban neighborhoods and is consistent with the overall goals of the Comprehensive Plan for the Suburban Area.

Natural & Cultural Resources Impacts

The site is located in the Southern Rivers Watershed. No ground-disturbing activities will occur as part of this application.

No historical or cultural resources will be affected by this use.

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Mulberry Loop	No data available		Existing Land Use ² – 10 ADT ¹ Proposed Land Use ² – 10 ADT

¹ Average Daily Trips

² As defined by a single-family dwelling

Master Transportation Plan (MTP) and Capital Improvement Program (CIP)

Mulberry Loop is a two-lane, undivided local street. It is not included in the MTP, and no CIP projects are slated for this area.

Public Utility Impacts

Water & Sewer

The site is already connected to City water and sanitary sewer.

Public Outreach Information

Planning Commission

- The applicant reported that they met with the surrounding property owners, and no objections were raised. Three signatures of support have been received by Staff.
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on January 15, 2024.
- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, January 31, 2024 and February 7, 2024.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on January 29, 2024.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.virginiabeach.gov/pc on February 8, 2024.

City Council

- As required by City Code, this item was advertised in the Virginian-Pilot Beacon on Tuesdays, March 5, 2024 and March 12, 2024.
- As required by City Code, the adjacent property owners were notified regarding both the request and the date of the City Council's public hearing on March 4, 2024.
- The City Clerk's Office posted the materials associated with the application on the City Council website of <https://clerk.virginiabeach.gov/city-council> on March 15, 2024.

Proposed Site Layout



Site Photos



Site Photos



Disclosure Statement

Disclosure Statement



The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law. The completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council or a City board, commission or other body.

Applicant Disclosure

Applicant Name

GEORGE CUTULLE

Does the applicant have a representative? ☐ Yes ☒ No

- If yes, list the name of the representative.

Is the applicant a corporation, partnership, firm, business, trust or an unincorporated business? ☐ Yes ☒ No

- If yes, list the names of all officers, directors, members, trustees, etc. below. (Attach a list if necessary)

- If yes, list the businesses that have a parent-subsidary¹ or affiliated business entity² relationship with the applicant. (Attach a list if necessary)

¹ "Parent-subsidary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, VA. Code § 2.2-3101.

² "Affiliated business entity relationship" means "a relationship, other than parent-subsidary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

Disclosure Statement



Known Interest by Public Official or Employee

Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action? ☐ Yes ☒ No

- If yes, what is the name of the official or employee and what is the nature of the interest?

Applicant Services Disclosure

1. Does the applicant have any existing financing (mortgage, deeds of trust, cross-collateralization, etc) or are they considering any financing in connection with the subject of the application or any business operating or to be operated on the property?

☐ Yes ☒ No

- If yes, identify the financial institutions providing the service.

2. Does the applicant have a real estate broker/agent/realtor for current and anticipated future sales of the subject property?

☐ Yes ☒ No

- If yes, identify the company and individual providing the service.

3. Does the applicant have services for accounting and/or preparation of tax returns provided in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

- If yes, identify the firm and individual providing the service.

4. Does the applicant have services from an architect/landscape architect/land planner provided in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

- If yes, identify the firm and individual providing the service.

5. Is there any other pending or proposed purchaser of the subject property? ☐ Yes ☒ No

- If yes, identify the purchaser and purchaser's service providers.

Disclosure Statement

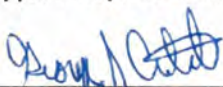
Disclosure Statement



6. Does the applicant have a **construction contractor** in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No
- If **yes**, identify the company and individual providing the service.
-
7. Does the applicant have an **engineer/surveyor/agent** in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No
- If **yes**, identify the firm and individual providing the service.
-
8. Is the applicant receiving **legal services** in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No
- If **yes**, identify the firm and individual providing the service.
-

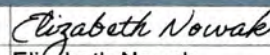
Applicant Signature

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate. I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the meeting of Planning Commission, City Council, VBDA, CBPA, Wetlands Board or any public body or committee in connection with this application.


Applicant Signature
George J. Cutulle
Print Name and Title
November 21, 2023
Date

- Is the applicant also the owner of the subject property? ☒ Yes ☐ No
- If **yes**, you do not need to fill out the owner disclosure statement.

FOR CITY USE ONLY/ All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the applications

<input checked="" type="checkbox"/>	No changes as of	Date	03/06/2024	Signature	
				Print Name	Elizabeth Nowak

Next Steps

- Upon receiving a recommendation from Planning Commission, this request will be scheduled for a City Council public hearing. Staff will inform the applicant and/or their representative of the date of the hearing in the upcoming days.
- Following City Council's decision, the applicant will receive a decision letter from Staff.
- Once the conditions of approval are in place and/or completed, the applicant must contact the Zoning Division of the Planning Department to obtain verification that the conditions have been met. Contact the Zoning Division at 757-385-8074.
- If the request requires land disturbance and/or a subdivision of property, please contact the Development Services Center (DSC) to discuss next steps for site plan/plat review. Contact the DSC at 757-385-4621 or the Development Liaison Team at 757-385-5692.
- Please note that further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.
- The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.

**Virginia Beach Planning Commission
February 14, 2024, Public Meeting
Agenda Item # 7**

George Cutulle

RECOMMENDED FOR APPROVAL – CONSENT

Ms. Cuellar: Our next item is item number seven, a conditional use permit for a residential kennel. Can we have a representative please come forward on this application. Welcome.

Mr. Cutulle: Hi, good afternoon. I'm George Cutulle.

Ms. Cuellar: And are the conditions acceptable to you?

Mr. Cutulle: Yes, they are.

Ms. Cuellar: Thank you very much. You may be seated and, then, is there any opposition? Hearing none. We have asked Commissioner Mauch to read this application.

Mr. Mauch: The applicant is requesting a conditional use permit to operate a residential kennel at their residence at 2760. Mulberry Loop zoned R-10 residential district. The applicant owns four dogs and frequently cares for their daughter's two dogs. They're seeking a conditional use permit to keep their daughter's two dogs overnight and extended periods while she is deployed, underway, or out of town. All dogs on the property including the applicant's dogs are current on their required vaccinations and, hearing no opposition, we put this on the consent.

Ms. Cuellar: Thank you very much. Mr. Chairman that was the last item on the consent agenda, the Planning Commission places the following applications on the consent agenda, items number 2, 3, 4, 6, 7, 9, 10, 11 and 12.

Mr. Alcaraz: Alright, do I have a motion to approve this for consent?

Ms. Cuellar: I move that these items be approved by consent.

Ms. Hippen: So moved.

Mr. Alcaraz: I have a motion from Ms. Cuellar and Ms. Hippen seconded it.

Ms. Alcock: The vote is now open. Ms. Byler, can I have your verbal really quickly?

Ms. Byler: Oh, never mind, it went through. Thank you.

Ms. Alcock: By vote of 11 to 0 items number 2, 3, 4, 6, 7, 9, 10, 11 and 12 have been recommended for approval.

	AYE 11	NAY 0	ABS 0	ABSENT 0
Alcaraz	AYE			
Anderson	AYE			
Byler	AYE			
Clemons	AYE			
Coston	AYE			
Cuellar	AYE			
Estaris	AYE			
Hippen	AYE			
Mauch	AYE			
Parks	AYE			
Plumlee	AYE			

CONDITIONS

1. All animal waste from the dogs shall be collected and disposed of in a lawful manner on a weekly basis.
2. The applicant shall ensure that all dogs are properly vaccinated and immunized and are licensed through the City of Virginia Beach.
3. There shall be no breeding of dogs on the site.
4. Day Care, Training, and Boarding services for monetary consumption are not permitted on this site.
5. No more than four (4) dogs shall be permitted to be outdoors at one time and the dogs shall remain under the supervision of the caretaker at all times and shall not be a nuisance to any other property owners or residents.
6. There shall be no more than six (6) adult dogs on site.

FROM: George J Cutulle

2760 Mulberry Loop

Virginia Beach VA, 23456

Dear Virginia Beach Planning Commission and City Council,

This letter is intended to let my neighbors know that I am applying for a Conditional Use Permit for residential kennel at my property located at 2760 Mulberry Loop Virginia Beach VA, 23456. We currently have four inside dogs at our residence.

My daughter is an Officer in the United States Navy and has two small dogs that my wife and I take care of when she is deployed or detached and is why we are applying for a Conditional Use Permit for residence Kennel.


This Conditional Permit will give permission to temporarily house a total of six dogs at our residence.

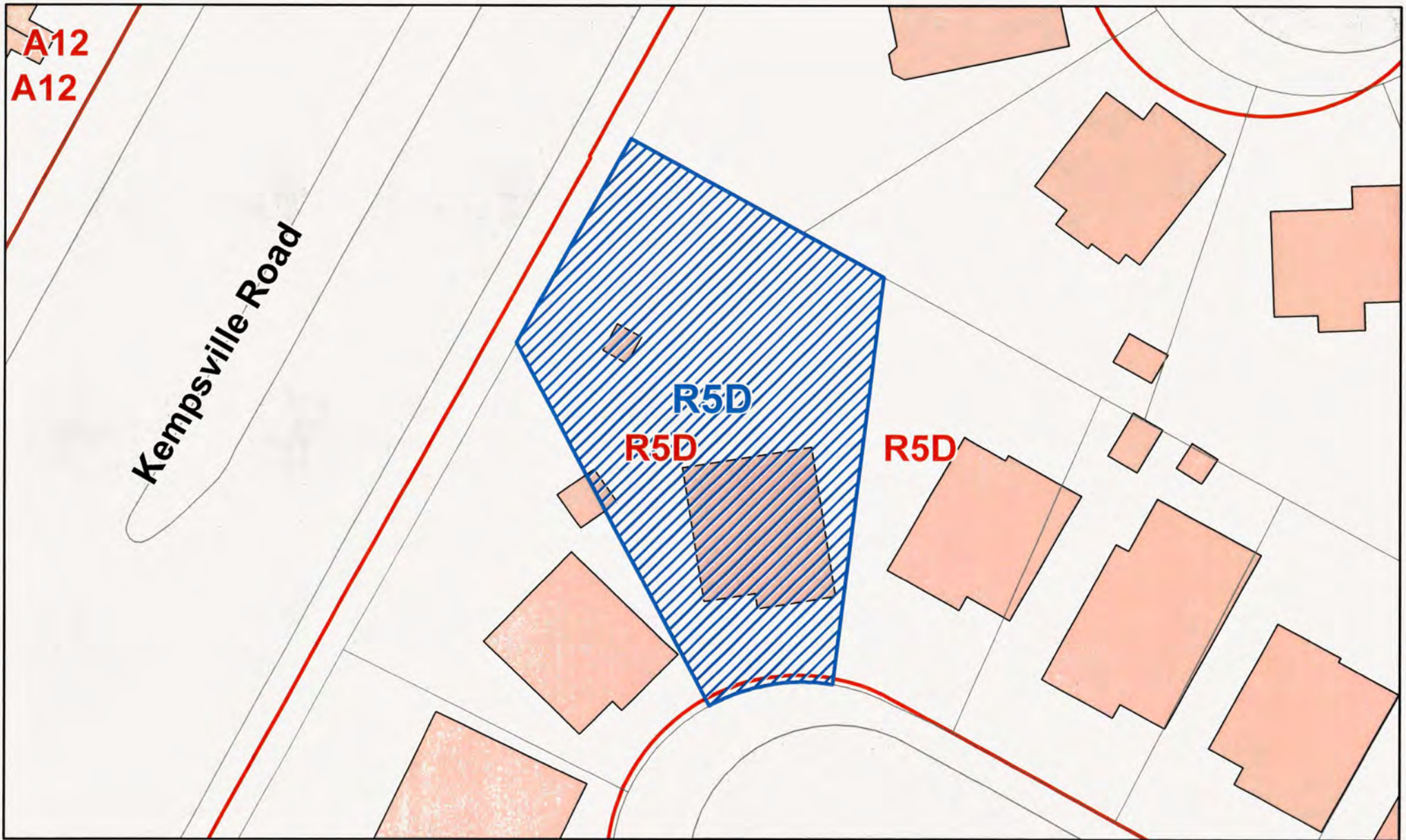
RESIDENT NAME

RESIDENT ADDRESS

ERIC CAMERON  2752 MULBERRY LOOP

JEFF EUBANK  2764 MULBERRY LOOP

Robin Graham  2768 Mulberry Loop



Brandon Shaw
2076 Mason Neck Lane

-  Site
-  Property_Polygons
-  Zoning
-  Building



0 5 10 20 30 40 50 60 Feet



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: BRANDON SHAW [Applicant & Property Owner] Conditional Use Permit (Home Occupation – Retail Sales) for the property located at 2076 Mason Neck Lane (GPIN 1454694387). COUNCIL DISTRICT 7

MEETING DATE: March 19, 2024

■ **Background:**

The applicant requests a Conditional Use Permit for a Home Occupation to operate an online retail sale (firearms) business within the single-family dwelling. The applicant will be the sole operator of the online business. There will be no sale of firearms from this residence. No signs or advertisements are proposed for the property.

■ **Considerations:**

No firearm or federally controlled item will be left on the property without properly being transferred to the owner. Section 234 of the Zoning Ordinance allows up to 20 percent of the total floor area of the primary and ancillary structures on the site to be used in association with a home occupation. In this instance, 20 percent equates to 394 square feet, thus the 299 square foot office within the home will be below the maximum allowed.

All federally controlled items will be stored in secured steel vaults. In addition to this Conditional Use Permit, the applicant anticipates obtaining a Federal Firearms License (FFL) through the Bureau of Alcohol, Tobacco, Firearm and Explosives (ATF) prior to conducting business. Approval of the Conditional Use Permit is required for the applicant to obtain his FFL. All firearms that are on the site will be required to be secured in accordance with ATF regulations.

Additionally, a City of Virginia Beach Police officer will conduct a security assessment of the home in the presence of the applicant within one month of obtaining a Conditional Use Permit.

Further details pertaining to the request, as well as Staff's evaluation of the request, are provided in the attached Staff Report. Two letters of support were received by Staff. There is no known opposition to this request.

■ **Recommendation:**

On February 14, 2024, the Planning Commission passed a motion to recommend approval of this request by a vote of 11 to 0.


1. Any firearm or firearm parts kept on the property shall be stored in a locked, secured vault or similar container. The applicant shall contact the Police Department's Crime Prevention Office to arrange for a meeting at the property for the purpose of conducting a security assessment within one (1) month of the granting of this Conditional Use Permit. A report shall be written by the Police Department, with a copy provided to the applicant, the Planning Department, and a copy retained by the Police Department.
2. The applicant shall obtain and maintain a Federal Firearms License (FFL) through the Bureau of Alcohol, Tobacco, Firearm and Explosives (ATF) in order to conduct business.
3. All small arms ammunition, primers, smokeless propellants, and black powder propellants stored or awaiting transfer at the residence shall comply with Section 3306 of the Virginia Statewide Fire Prevention Code and NFPA 495.
4. There shall be no sign identifying the business on the exterior of any building on the property or within the yard of the property.
5. There shall be no hand-to-hand transactions permitted from this residence. All sales shall be conducted online.
6. Delivery of firearms to the property shall be received on the applicant's property only, secured by the applicant's signature.
7. The use shall not create noise, dust, vibration, smell, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than would normally be expected in the neighborhood under normal circumstances wherein no home occupation exists.
8. No more than twenty (20) percent of the floor area of the dwelling unit shall be used in conduct of the activity. In addition, all activities related to the proposed Home Occupation shall only be conducted inside the 299 square foot office on the property.
9. There shall be only one (1) employee associated with this home-based business.



Attachments:

Staff Report and Disclosure Statements
Location Map
Minutes of Planning Commission Hearing
Letters of Support (2)

Recommended Action: Staff recommends Approval. Planning Commission recommends Approval.

Submitting Department/Agency: Planning Department 

City Manager: 

Background & Summary of Proposal

- The applicant is requesting a Conditional Use Permit for a Home Occupation to operate an online retail sale (firearms) business within the single-family dwelling on a parcel in the Alexandria neighborhood zoned R-5D Residential Duplex District.
- The home occupation will occupy 299 square feet within the residence.
- There will be no sale of firearms from this residence as all sales will be conducted online. No signs or advertisements are proposed for the property.
- The applicant has over five years of experience working with firearms.
- The applicant will be the sole operator of the in-home business. No other employees are proposed.
- As required by federal law, the applicant will obtain a Federal Firearms License (FFL) through the Bureau of Alcohol, Tobacco, Firearm and Explosives (ATF). All firearms will be secured in the home in accordance with ATF regulations.
- Additionally, a City of Virginia Beach Police Officer will conduct a security assessment of the home in the presence of the applicant within one month of obtaining a Conditional Use Permit.

Zoning History	
#	Request
1	CRZ (R-5D to Conditional A-12 with PD-H2) Approved 03/13/2001

Application Types			
CUP – Conditional Use Permit	MDC – Modification of Conditions	STC – Street Closure	SVR – Subdivision Variance
REZ – Rezoning	MDP – Modification of Proffers	FVR – Floodplain Variance	LUP – Land Use Plan
CRZ – Conditional Rezoning	NON – Nonconforming Use	ALT – Alternative Compliance	STR – Short Term Rental

Evaluation & Recommendation

The applicant's request for a Conditional Use Permit for a Home Occupation for a retail sales (firearms) business within this single-family dwelling is acceptable, in Staff's opinion. This proposed use is located within the Suburban Area of the city as defined by the Comprehensive plan. In Staff's opinion, this use will not change the character of the neighborhood and will not adversely affect the surrounding properties, as it is a very low intensity use. All activities of this business will occur indoors and will be undetectable by pedestrians and immediate neighbors.

Section 234 of the Zoning Ordinance allows up to 20 percent of the total floor area of the primary and ancillary structures on the site to be used in association with a home occupation. In this instance, 20 percent equates to 394 square feet, thus the 299 square foot office within the home will be below the maximum allowed. As mentioned previously, no on-site sale of firearms will occur at the residence, as the applicant intends to purchase firearms and sell them exclusively online. A condition is recommended below to ensure this. If the applicant proposes to expand services offered, a modification to this Conditional Use Permit will be required.

The applicant intends to store firearms in a locked and secured vault, in accordance with ATF regulations. As stated previously, the Virginia Beach Police Department will conduct a security assessment of the home within one month of the granting of the Conditional Use Permit, as noted in Condition 1. The assessment will consist of the following items:

- Inspect all exterior lighting and recommend strategies for best lighting practices to be used
- Inspect all landscaping, looking for any conflict with lighting and any area where there may be places to hide
- Inspect all interior and exterior door and window locking devices to ensure that they provide adequate home security against burglary
- Inspect all interior and exterior doors to determine adequacy of their strength against penetration by prying, force, or any other means
- Inspect and review any alarm system that may be installed on the home
- Inspect the room and safe where any firearms, firearm supplies, firearms parts, and money may be stored
- If there are children in the home, the assessing officer will review safety measures as it pertains to firearms and the children.

The applicant has notified his adjacent neighbors of his request to operate the retail firearm sales business and has provided letters of support from two immediate neighbors along Mason Neck Lane.

Based on the considerations above, Staff finds that the proposed use meets the requirements for a Home Occupation as stated in Section 234 of the Zoning Ordinance. The requirements of the Zoning Ordinance and the conditions recommended by Staff are anticipated to further ensure the compatibility of the proposed use and the safety of the neighborhood. As such, Staff recommends approval of the request subject to the conditions below.

Recommended Conditions

1. Any firearm or firearm parts kept on the property shall be stored in a locked, secured vault or similar container. The applicant shall contact the Police Department's Crime Prevention Office to arrange for a meeting at the property for the purpose of conducting a security assessment within one (1) month of the granting of this Conditional Use Permit. A report shall be written by the Police Department, with a copy provided to the applicant, the Planning Department, and a copy retained by the Police Department.
2. The applicant shall obtain and maintain a Federal Firearms License (FFL) through the Bureau of Alcohol, Tobacco, Firearm and Explosives (ATF) in order to conduct business.
3. All small arms ammunition, primers, smokeless propellants, and black powder propellants stored or awaiting transfer at the residence shall comply with Section 3306 of the Virginia Statewide Fire Prevention Code and NFPA 495.
4. There shall be no sign identifying the business on the exterior of any building on the property or within the yard of the property.
5. There shall be no hand-to-hand transactions permitted from this residence. All sales shall be conducted online.

- 6. Delivery of firearms to the property shall be received on the applicant’s property only, secured by the applicant’s signature.
- 7. The use shall not create noise, dust, vibration, smell, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than would normally be expected in the neighborhood under normal circumstances wherein no home occupation exists.
- 8. No more than twenty (20) percent of the floor area of the dwelling unit shall be used in conduct of the activity. In addition, all activities related to the proposed Home Occupation shall only be conducted inside the 299 square foot office on the property.
- 9. There shall be only one (1) employee associated with this home-based business.

Further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.

The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.

Comprehensive Plan Recommendations

The Comprehensive Plan identifies this site as being located within the Suburban Area. The general planning principles for the Suburban Area focus on creating and maintaining great neighborhoods through stability and sustainability; protecting and enhancing open spaces and places of cultural and historical significance; and creating and maintaining a transportation system that provides connectivity and mobility. Achieving these goals requires that all land use activities either maintain or enhance the existing neighborhood through compatibility with surroundings, quality and attractiveness of site and buildings, improved mobility, environmental responsibility, livability, and effective buffering with respect to type, size, intensity, and relationship to the surrounding uses.

Natural & Cultural Resources Impacts

The site is located within the Southern Rivers watershed. Drainage in the Southern Rivers watershed is highly impacted by the presence of high ground water, poorly draining soils, and high-water surface elevations in downstream receiving waters. There does not appear to be any significant natural or cultural resources associated with the site.

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Mason Neck Lane	No Data Available ¹		Existing Land Use ² – 10 ADT Proposed Land Use ³ – 10 ADT
¹ Average Daily Trips	² as defined by a single-family dwelling	³ as defined by a single-family dwelling with a home occupation	

Master Transportation Plan (MTP) and Capital Improvement Program (CIP)

Mason Neck Lane, in this vicinity, is considered a two-lane undivided local street. It is not included in the MTP. No roadway CIP projects are slated for this roadway.

Public Utility Impacts

Water & Sewer

The site currently connects to both City water and sanitary sewer.

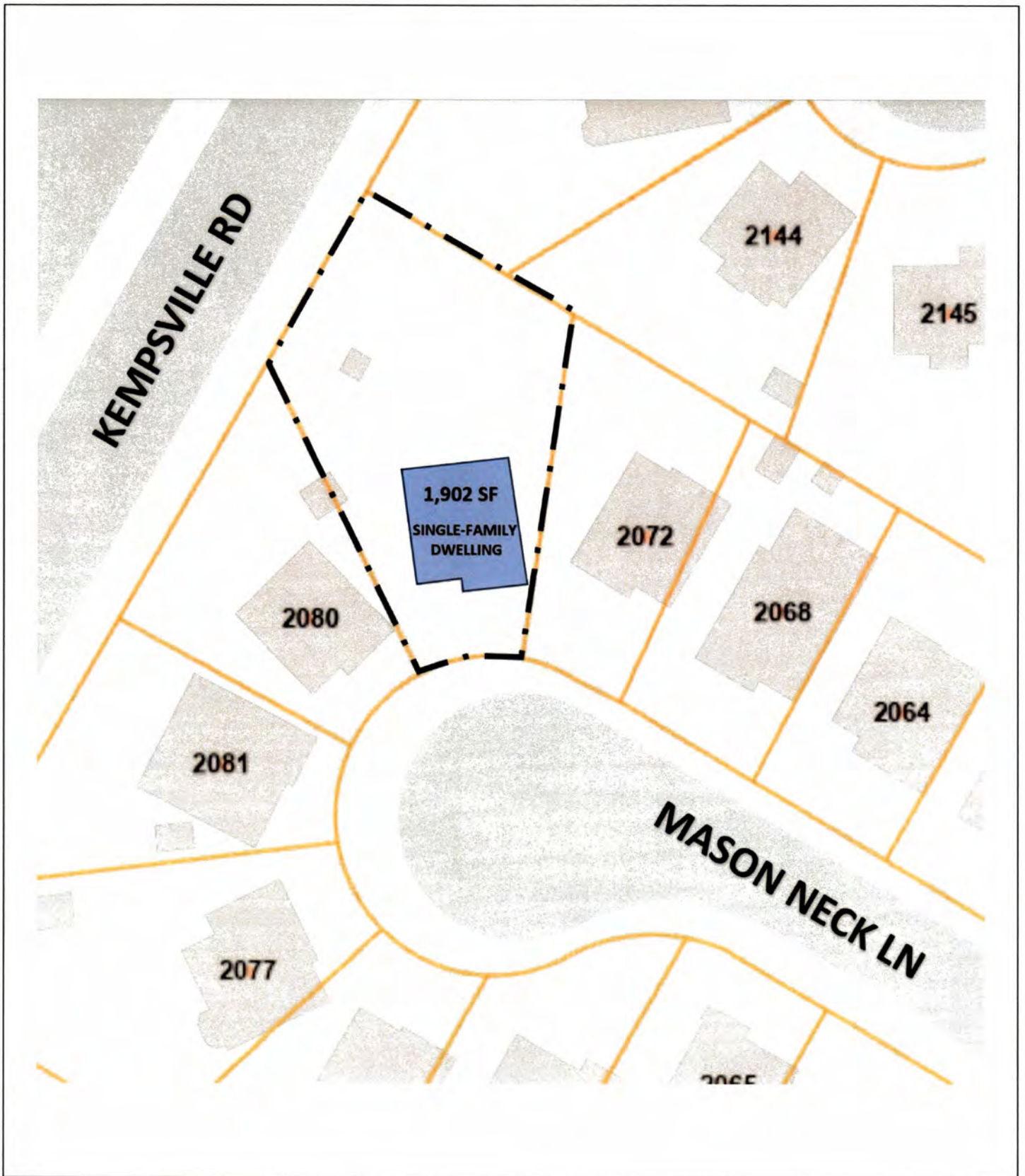
Public Outreach Information

Planning Commission

- The applicant reported that they met with the surrounding property owners, and no objections were raised. Two letters of support have been received by Staff.
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on January 15, 2024.
- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, January 31, 2024 and February 7, 2024.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on January 29, 2024.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.virginiabeach.gov/pc on February 8, 2024.

City Council

- As required by City Code, this item was advertised in the Virginian-Pilot Beacon on Tuesdays, March 5, 2024 and March 12, 2024.
- As required by City Code, the adjacent property owners were notified regarding both the request and the date of the City Council's public hearing on March 4, 2024.
- The City Clerk's Office posted the materials associated with the application on the City Council website of <https://clerk.virginiabeach.gov/city-council> on March 15, 2024.



Site Photos



Disclosure Statement



The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law. The completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council or a City board, commission or other body.

Applicant Disclosure

Applicant Name Brandon Shaw

Does the applicant have a representative? ☐ Yes ☒ No

- If **yes**, list the name of the representative.

Is the applicant a corporation, partnership, firm, business, trust or an unincorporated business? ☒ Yes ☐ No

- If **yes**, list the names of all officers, directors, members, trustees, etc. below. (Attach a list if necessary)

Brandon Shaw

- If **yes**, list the businesses that have a parent-subsidary¹ or affiliated business entity² relationship with the applicant. (Attach a list if necessary)

Gladiator Arms LLC

¹ "Parent-subsidary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, VA. Code § 2.2-3101.

² "Affiliated business entity relationship" means "a relationship, other than parent-subsidary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

Disclosure Statement



Known Interest by Public Official or Employee

Does an **official or employee of the City of Virginia Beach** have an interest in the subject land or any proposed development contingent on the subject public action? ☐ Yes ☒ No

- If **yes**, what is the name of the official or employee and what is the nature of the interest?
-

Applicant Services Disclosure

1. Does the applicant have **any existing financing (mortgage, deeds of trust, cross-collateralization, etc)** or **are they considering any financing** in connection with the subject of the application or any business operating or to be operated on the property?

☐ Yes ☒ No

- If **yes**, identify the financial institutions providing the service.
-

2. Does the applicant have a **real estate broker/agent/realtor** for current and anticipated future sales of the subject property?

☐ Yes ☒ No

- If **yes**, identify the company and individual providing the service.
-

3. Does the applicant have services for **accounting and/or preparation of tax returns** provided in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

- If **yes**, identify the firm and individual providing the service.
-

4. Does the applicant have services from an **architect/landscape architect/land planner** provided in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

- If **yes**, identify the firm and individual providing the service.
-

5. Is there any other **pending or proposed purchaser** of the subject property? ☐ Yes ☒ No

- If **yes**, identify the purchaser and purchaser's service providers.
-

Disclosure Statement

Disclosure Statement



6. Does the applicant have a **construction contractor** in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No
- If **yes**, identify the company and individual providing the service.
-
7. Does the applicant have an **engineer/surveyor/agent** in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No
- If **yes**, identify the firm and individual providing the service.
-
8. Is the applicant receiving **legal services** in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No
- If **yes**, identify the firm and individual providing the service.
-

Applicant Signature

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate. I understand that, upon receipt of notification that the application has been scheduled for public hearing, **I am responsible for updating the information provided herein two weeks prior to the meeting of Planning Commission, City Council, VBDA, CBPA, Wetlands Board or any public body or committee in connection with this application.**

A handwritten signature in black ink that reads 'Brandon Shaw'.

Applicant Signature

Brandon Shaw, Owner

Print Name and Title

11/29/23

Date

Is the applicant also the owner of the subject property? ☒ Yes ☐ No

- If **yes**, you do not need to fill out the owner disclosure statement.

FOR CITY USE ONLY/ All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the applications

<input checked="" type="checkbox"/>	No changes as of	Date	2/27/2024	Signature	
				Print Name	Marchelle L. Coleman

Next Steps

- Upon receiving a recommendation from Planning Commission, this request will be scheduled for a City Council public hearing. Staff will inform the applicant and/or their representative of the date of the hearing in the upcoming days.
- Following City Council's decision, the applicant will receive a decision letter from Staff.
- Once the conditions of approval are in place and/or completed, the applicant must contact the Zoning Division of the Planning Department to obtain verification that the conditions have been met. Contact the Zoning Division at 757-385-8074.
- If the request requires land disturbance and/or a subdivision of property, please contact the Development Services Center (DSC) to discuss next steps for site plan/plat review. Contact the DSC at 757-385-4621 or the Development Liaison Team at 757-385-5692.
- Please note that further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.
- The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.

**Virginia Beach Planning Commission
February 14, 2024, Public Meeting
Agenda Item # 5**

Brandon Shaw

RECOMMENDED FOR APPROVAL

Mr. Alcaraz: My fault. Alright. Thank you. Those were approved for consent and if you can get with your representative in the planning department and see when you're up for City Council. Next item up for is the, Madam Clerk, if you can see whose first item for hearing.

Madam Clerk: Agenda item number five Brandon Shaw, a conditional use permit request for a home occupation for retail sales at 2076 Mason Neck Lane in District 7.

Mr. Alcaraz: Just come forward and state your name, please.

Mr. Shaw: Good afternoon. Brandon Shaw for item five.

Mr. Alcaraz: Alright. You state what you're doing.

Mr. Shaw: Looking to do a conditional use permit for a FFL at home.

Mr. Alcaraz: Okay. There were some questions and I'm going to go ahead and let the commissioners come in. Who'd like to ask some questions. Mr. Plumlee?

Mr. Plumlee: Yes. Hey, thank you for coming down today. I know this is a busy time for you, but with this request, can you give us a little insight to your experience with this type of work and what your plans are at this location?

Mr. Shaw: So I have a history of owning and buying firearms, and I was just looking to expand and sell parts of my collection and to possibly see it about doing that in the future. So ,taking the first step by doing an at-home FFL to facilitate transfer and buying and selling of firearms.

Mr. Plumlee: Does that require any special training for you to do that?

Mr. Shaw: No, just I have to go through the ATF to request an FFL. I've done so, and I've gone through the paperwork, finger checks, background checks to do so.

Mr. Plumlee: And you hadn't been selling from this location at any prior time, is that fair?

Mr. Shaw: No. You cannot do that without FFL.

Mr. Plumlee: Okay.

Mr. Alcaraz: Alright. Any other questions? A lot of discussion at informal, we good?
Alright, you can be seated.

Mr. Shaw: Alright, thank you.

Mr. Alcaraz: Is there any opposition for this agenda item? Alright, we'll close it and we'll have a discussion if you'd like anyone like to discuss. If not, I'll take a motion.

Mr. Mauch: I'll make a motion.

Mr. Alcaraz: Mr. Mauch.

Mr. Mauch: Make a motion for approval.

Ms. Hippen: I Second.

Mr. Alcaraz: Motion by Mr. Mauch. Second by Ms. Hippen. Thank you.

Ms. Alcock: The vote is now open. By a vote of 11 to 0, agenda item number five has been recommended for approval.

	AYE 11	NAY 0	ABS 0	ABSENT 0
Alcaraz	AYE			
Anderson	AYE			
Byler	AYE			
Clemons	AYE			
Coston	AYE			
Cuellar	AYE			
Estaris	AYE			
Hippen	AYE			
Mauch	AYE			
Parks	AYE			
Plumlee	AYE			

CONDITIONS

1. Any firearm or firearm parts kept on the property shall be stored in a locked, secured vault or similar container. The applicant shall contact the Police Department's Crime Prevention Office to arrange for a meeting at the property for the purpose of conducting a security assessment within one (1) month of the granting of this Conditional Use Permit. A report shall be written by the Police Department, with a copy provided to the applicant, the Planning Department, and a copy retained by the Police Department.
2. The applicant shall obtain and maintain a Federal Firearms License (FFL) through the Bureau of Alcohol, Tobacco, Firearm and Explosives (ATF) in order to conduct business.
3. All small arms ammunition, primers, smokeless propellants, and black powder propellants stored or awaiting transfer at the residence shall comply with Section 3306 of the Virginia Statewide Fire Prevention Code and NFPA 495.
4. There shall be no sign identifying the business on the exterior of any building on the property or within the yard of the property.
5. There shall be no hand-to-hand transactions permitted from this residence. All sales shall be conducted online.
6. Delivery of firearms to the property shall be received on the applicant's property only, secured by the applicant's signature.
7. The use shall not create noise, dust, vibration, smell, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than would normally be expected in the neighborhood under normal circumstances wherein no home occupation exists.
8. No more than twenty (20) percent of the floor area of the dwelling unit shall be used in conduct of the activity. In addition, all activities related to the proposed Home Occupation shall only be conducted inside the 299 square foot office on the property.
9. There shall be only one (1) employee associated with this home-based business.

Name Robert W West
Address 2080 Mason Neck

Email Address _____

Phone Number 757-274-8158

Dear Virginia Beach Planning Commission,

I acknowledge and support Brandon Shaw's application for a Federal Firearms License (FFL) to operate from 2076 Mason Neck Lane as a home-based firearms business.

Brandon Shaw possesses exceptional knowledge and understanding of firearm safety, legal compliance, and the importance of maintaining the highest standards of security and accountability in the handling and distribution of firearms. Their dedication to safety protocols and ethical practices in this field is commendable.

Furthermore, Brandon Shaw's plan to operate a home-based FFL adheres to all zoning ordinances, local regulations, and safety protocols required by law. Their commitment to maintaining a secure and controlled environment for the sale and transfer of firearms demonstrates a high level of responsibility and professionalism.

I firmly believe that granting Brandon Shaw an FFL to operate from their residence aligns with the values of ensuring responsible firearm distribution while meeting all legal requirements. I am confident in Brandon Shaw's ability to maintain the highest standards of safety, security, and integrity in conducting business as an FFL holder.

Thank you for considering this letter of support. I am optimistic that Brandon Shaw will contribute positively to the firearms community while upholding all legal and ethical standards as an FFL holder.

Sincerely,

RW West

[Name]

RW West

[Signature]

1-4-24

[Date]

Name Lynette Harper
Address 2072 Mason Neck Ln
Virginia Beach VA 23464
Email Address Lharper14@cox.net
Phone Number 757 335 2910

Dear Virginia Beach Planning Commission,

I acknowledge and support Brandon Shaw's application for a Federal Firearms License (FFL) to operate from 2076 Mason Neck Lane as a home-based firearms business.

Brandon Shaw possesses exceptional knowledge and understanding of firearm safety, legal compliance, and the importance of maintaining the highest standards of security and accountability in the handling and distribution of firearms. Their dedication to safety protocols and ethical practices in this field is commendable.

Furthermore, Brandon Shaw's plan to operate a home-based FFL adheres to all zoning ordinances, local regulations, and safety protocols required by law. Their commitment to maintaining a secure and controlled environment for the sale and transfer of firearms demonstrates a high level of responsibility and professionalism.

I firmly believe that granting Brandon Shaw an FFL to operate from their residence aligns with the values of ensuring responsible firearm distribution while meeting all legal requirements. I am confident in Brandon Shaw's ability to maintain the highest standards of safety, security, and integrity in conducting business as an FFL holder.

Thank you for considering this letter of support. I am optimistic that Brandon Shaw will contribute positively to the firearms community while upholding all legal and ethical standards as an FFL holder.

Sincerely,

Lynette Harper

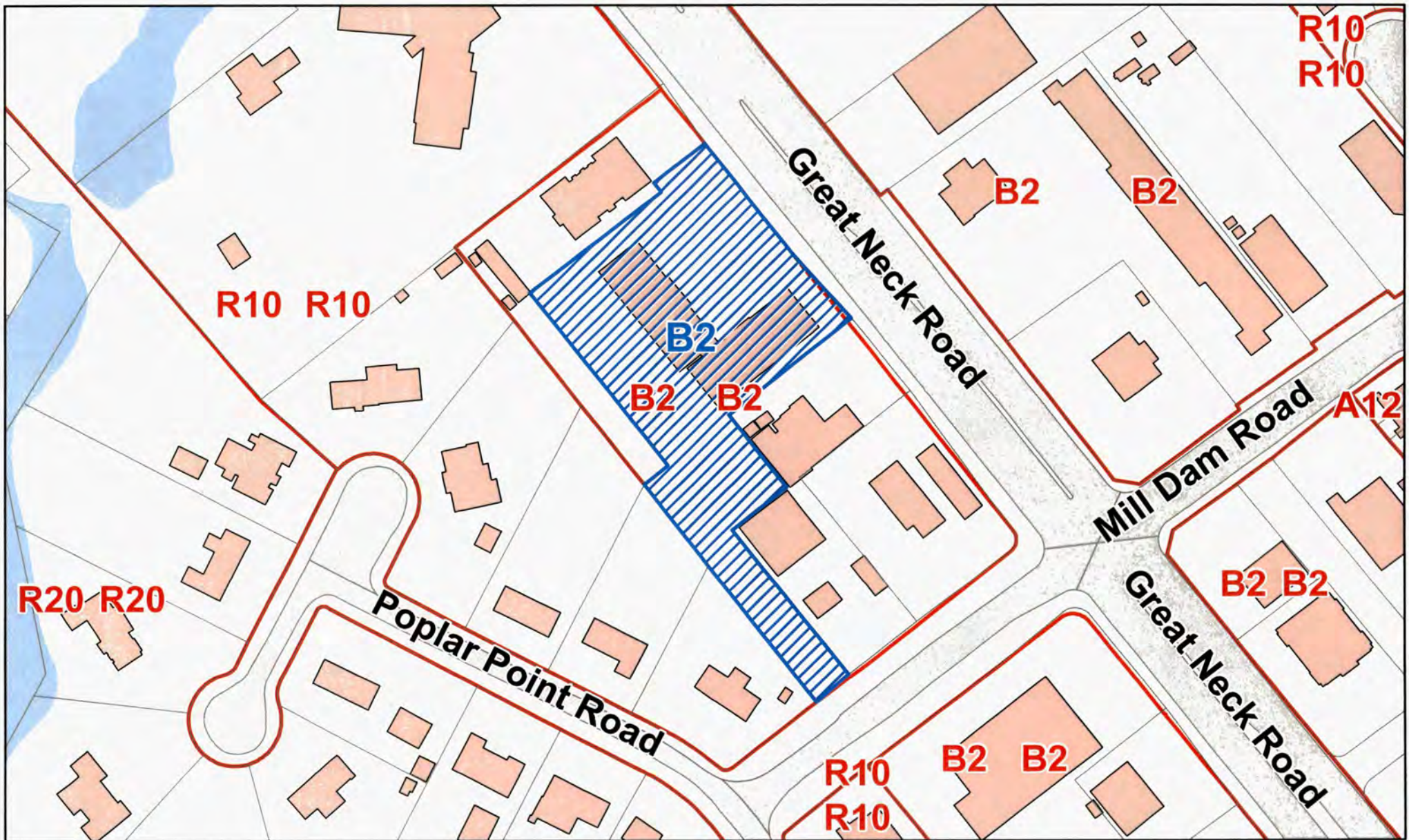
[Name]

Lynette Harper

[Signature]

01/04/24

[Date]



Siren Arts Studio
1423 Great Neck Road, Suite 105A

-  Site
-  Property_Polygons
-  Zoning
-  Building



0 30 60 120 180 240 300 360 Feet



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: SIREN ARTS STUDIO [Applicant] RT VIRGINIA HOLDINGS, LLC [Property Owner] Conditional Use Permits (Tattoo Parlor & Body Piercing Establishment) for the property located at 1423 N. Great Neck Road, Suite 105A (GPIN 2408184833). COUNCIL DISTRICT 8

MEETING DATE: March 19, 2024

■ **Background:**

The applicant is requesting two Conditional Use Permits to operate a Tattoo Parlor for traditional tattooing and a Body Piercing Establishment within an existing 1,677 square-foot suite at the Mill Dam Crossing Shopping Center. Typical hours of operation will be 10:00 a.m. to 8:00 p.m., Tuesday through Saturday, by appointment. With the exception of signage, no changes to the building exterior are proposed and the required parking is met on site.

■ **Considerations:**

The proposed uses are, in the opinion of Staff and the Planning Commission, acceptable. These uses are compatible with the other existing commercial businesses located in the vicinity and within this part of the Suburban Area. Prior to operating, the applicant is required to obtain business licenses and the Health Department must verify that the business meets all the requirements of Chapter 23 of the City Code. This section of the code establishes standards for disclosure, hygiene, licenses, waivers, proof of age, recordkeeping, inspections, cleanliness, vaccinations, and permitting. A Certificate of Occupancy will not be issued until the requirements of the Health Department are met.

Further details pertaining to the application, as well as Staff's evaluation, are provided in the attached Staff Report. There is no known opposition to these requests.

■ **Recommendation:**

On February 14, 2024, the Planning Commission passed a motion to recommend approval of these items on the Consent Agenda, by a recorded vote of 11-0.

CONDITIONS:

1. Business licenses for the Tattoo Parlor and Body Piercing Establishment shall not be issued to the applicant without the approval of the Health Department to

ensure compliance with the provisions of Chapters 23-51 and 23-53.1 of the City Code, or as amended.

2. The actual application of tattoos and/or body piercing shall not be visible from the exterior of the establishment or from the waiting and sales area within the establishment.
3. Any on-site signage for the establishment shall meet the requirements of the City Zoning Ordinance, and there shall be no neon, electronic display or similar signage installed on the exterior of the building or in any window, or on the doors. Window signage shall not be permitted. A separate sign permit shall be obtained from the Department of Planning & Community Development for the installation of any new signs.

■ **Attachments:**

Staff Report and Disclosure Statements
Location Map
Minutes of Planning Commission Hearing

Recommended Action: Staff recommends Approval. Planning Commission recommends Approval.

Submitting Department/Agency: Planning Department

City Manager:



Requests

#2 - Conditional Use Permit (Tattoo Parlor)

#3 - Conditional Use Permit (Body Piercing Establishment)

Staff Recommendation

Approval

Staff Planner

Hoa N. Dao

Location

1423 N. Great Neck Road, Suite 105A

GPIN

2408184833

Site Size

1.88 acres (1,677 square feet Suite)

AICUZ

Less than 65 dB DNL

Watershed

Chesapeake Bay

Existing Land Use and Zoning District

Shopping center / B-2 Community Business

Surrounding Land Uses and Zoning Districts

North

Office / B-2 Community Business

South

Retail, vocational school / B-2 Community Business

East

North Great Neck Road

Retail, shopping center / B-2 Community Business

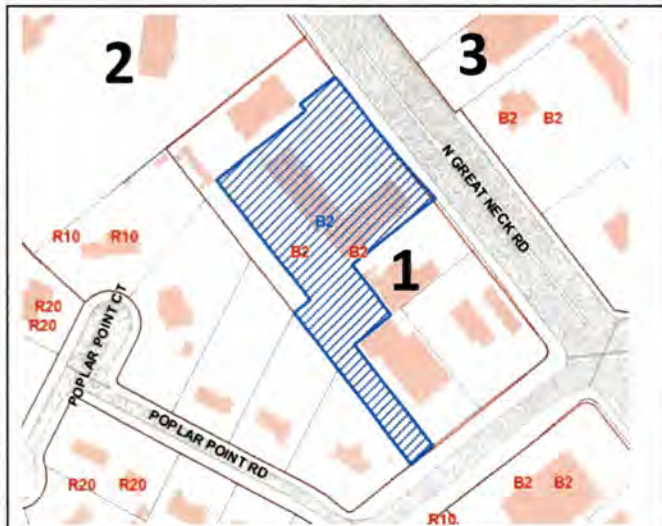
West

Single-family dwellings / R-10 Residential



Background & Summary of Proposal

- The applicant is requesting two Conditional Use Permits to operate a Tattoo Parlor for traditional tattooing and to operate a Body Piercing Establishment within an existing 1,677 square-foot suite at the Mill Dam Crossing Shopping Center.
- The proposed hours of operation will be from 10:00 a.m. to 8:00 p.m., Tuesday through Saturday, by appointment only.
- Piercing booths will be completely private and out of view of both patrons in the suite and outdoors.
- No changes to the exterior of the building are proposed.
- Per Section 203(a)(33), shopping centers with four or more tenants are required to provide one parking space for every 250 square feet of floor area. The 10,756 square foot shopping center requires 43 parking spaces. There are 78 parking spaces on site, which exceeds the required parking by 35 spaces. There is a shared parking agreement with the adjacent commercial parcels; therefore, an exemption to exceed the maximum allowed parking of 65 spaces per Section 203(b)(8) is permitted.



Zoning History

#	Request
1	SVR (Lot Width Reduction) Approved 10/05/2021 CUP (Vocational School) Approved 10/05/2021
2	MDC (Church Addition) Approved 12/12/2000 MDC (Child Care Education Center) Approved 12/19/1988 CUP (Pump Station) Approved 10/15/1973 CUP (Church) Approved 08/03/1966
3	CUP (Automotive Repair Garage) Approved 06/09/1992

Application Types

CUP – Conditional Use Permit
REZ – Rezoning
CRZ – Conditional Rezoning

MDC – Modification of Conditions
MDP – Modification of Proffers
NON – Nonconforming Use

STC – Street Closure
FVR – Floodplain Variance
ALT – Alternative Compliance

SVR – Subdivision Variance
LUP – Land Use Plan
STR – Short Term Rental

Evaluation & Recommendation

These requests for Conditional Use Permits for a Tattoo Parlor and Body Piercing Establishment, in Staff's opinion, are acceptable given that these uses are compatible with the other existing commercial businesses located in the vicinity and within this part of the Suburban Area. Staff does not anticipate any potential negative impact to the surrounding area. Furthermore, the proposed use would be supported by the Comprehensive Plan which calls for the introduction of complementary non-residential uses in the Suburban Area.

Prior to commencing operations on the site, the applicant must obtain a business license and the Health Department must verify that the business meets all the requirements of Chapter 23-51 of the City Code. Chapter 23-51 details the standards for disclosure, hygiene, licenses, waivers, proof of age, recordkeeping, inspections, cleanliness, vaccinations,

and permitting applicable to such establishments. A Certificate of Occupancy shall not be issued until these requirements are satisfied and Health Department approval is obtained.

For the reasons stated above, Staff recommends approval of these applications, subject to the conditions listed below.

Recommended Conditions

1. Business licenses for the Tattoo Parlor and Body Piercing Establishment shall not be issued to the applicant without the approval of the Health Department to ensure compliance with the provisions of Chapters 23-51 and 23-53.1 of the City Code, or as amended.
2. The actual application of tattoos and/or body piercing shall not be visible from the exterior of the establishment or from the waiting and sales area within the establishment.
3. Any on-site signage for the establishment shall meet the requirements of the City Zoning Ordinance, and there shall be no neon, electronic display or similar signage installed on the exterior of the building or in any window, or on the doors. Window signage shall not be permitted. A separate sign permit shall be obtained from the Department of Planning & Community Development for the installation of any new signs.

Further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.

The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.

Comprehensive Plan Recommendations

The Comprehensive Plan identifies this site as being located within the Suburban Area. The general planning principles for the Suburban Area focus on creating and maintaining great neighborhoods through stability and sustainability; protecting and enhancing open spaces and places of cultural and historical significance; and creating and maintaining a transportation system that provides connectivity and mobility. Achieving these goals requires that all land use activities either maintain or enhance the existing neighborhood through compatibility with surroundings, quality and attractiveness of site and buildings, improved mobility, environmental responsibility, livability, and effective buffering with respect to type, size, intensity, and relationship to the surrounding uses.

Natural & Cultural Resources Impacts

The site is located in the Chesapeake Bay watershed and there are no known significant cultural resources associated with this site.

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
N. Great Neck Road	38,800 ADT ¹	55,000 ADT ¹ (LOS ⁴ "D")	No Change Anticipated
¹ Average Daily Trips		⁴ LOS = Level of Service	

Master Transportation Plan (MTP) and Capital Improvement Program (CIP)

N. Great Neck Road is a six-lane suburban arterial in the vicinity of this site. N. Great Neck has a variable right-of-way width and the MTP shows a divided highway with a bikeway and an ultimate right-of-way width of 120 feet. There are currently no CIP projects scheduled for this segment of N. Great Neck Road.

Public Utility Impacts

Water & Sewer

The parcel is currently connected to City water and sanitary sewer services.

Public Outreach Information

Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on January 15, 2024.
- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, January 31, 2024 and February 7, 2024.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on January 29, 2024.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.virginiabeach.gov/pc on February 8, 2024.

City Council

- As required by City Code, this item was advertised in the Virginian-Pilot Beacon on Tuesdays, March 5, 2024 and March 12, 2024.
- As required by City Code, the adjacent property owners were notified regarding both the request and the date of the City Council's public hearing on March 4, 2024.
- The City Clerk's Office posted the materials associated with the application on the City Council website of <https://clerk.virginiabeach.gov/city-council> on March 15, 2024.

Mill Dam Crossing, Virginia Beach, VA

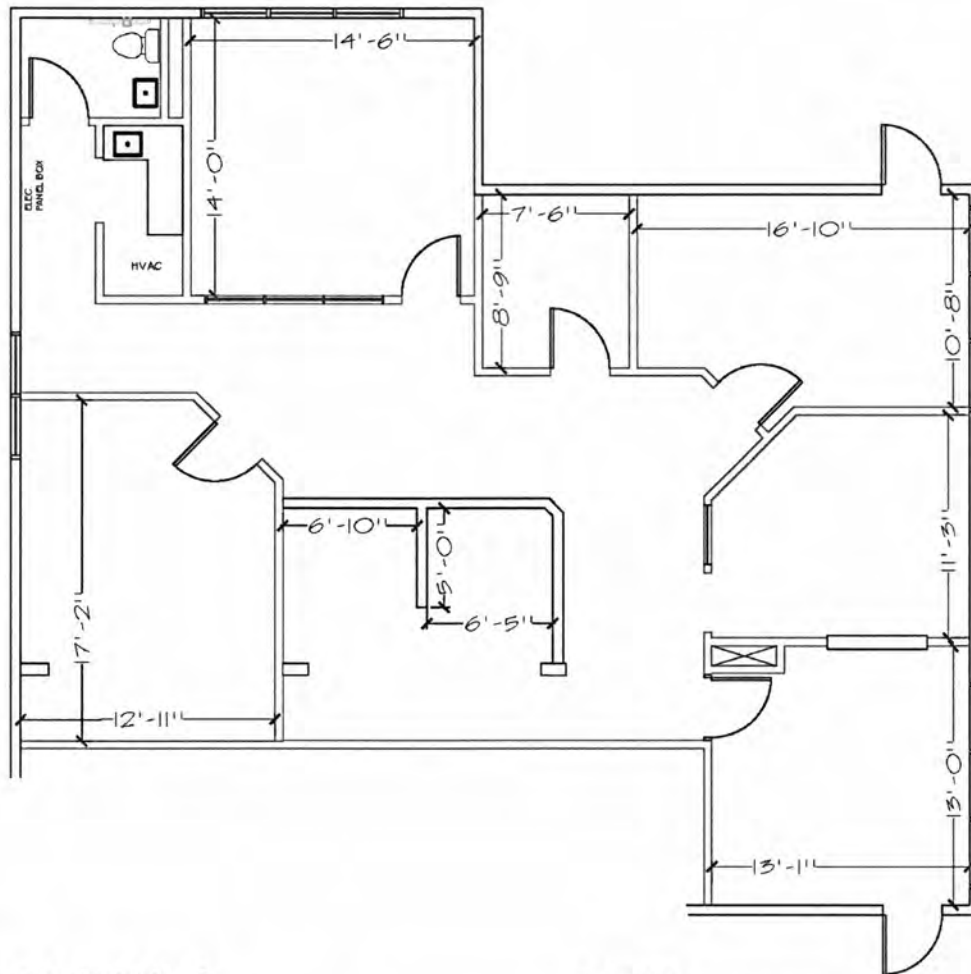
SITE PLAN
AERIAL VIEWS



Proposed Floor Plan

FLOOR PLAN SUITE 105A

Mill Dam Crossing, Virginia Beach, VA



MILL DAM CROSSING

1423 N. GREAT NECK ROAD, SUITE 105A
VIRGINIA BEACH, VA 23455

1,677 SF

DATE: 12/16/22 SCALE: N.T.S.
DRAWN BY: K.L. MONETTE 757.214.1345

Site Photos



Disclosure Statement



The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law. The completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council or a City board, commission or other body.

Applicant Disclosure

Applicant Name Siren Arts Studio

Does the applicant have a representative? ☒ Yes ☐ No

- If yes, list the name of the representative.

Cutler Moss

Is the applicant a corporation, partnership, firm, business, trust or an unincorporated business? ☒ Yes ☐ No

- If yes, list the names of all officers, directors, members, trustees, etc. below. (Attach a list if necessary)

Cutler Moss- Sole Member

Mary Pruitt- Sole Member

- If yes, list the businesses that have a parent-subsidary¹ or affiliated business entity² relationship with the applicant. (Attach a list if necessary)

N/a

¹ "Parent-subsidary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, VA. Code § 2.2-3101.

² "Affiliated business entity relationship" means "a relationship, other than parent-subsidary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

Disclosure Statement



Known Interest by Public Official or Employee

Does an **official or employee of the City of Virginia Beach** have an interest in the subject land or any proposed development contingent on the subject public action? ☐ Yes ☒ No

- If **yes**, what is the name of the official or employee and what is the nature of the interest?
-

Applicant Services Disclosure

1. Does the applicant have any **existing financing (mortgage, deeds of trust, cross-collateralization, etc)** or are they **considering any financing** in connection with the subject of the application or any business operating or to be operated on the property?

☐ Yes ☒ No

- If **yes**, identify the financial institutions providing the service.
-

2. Does the applicant have a **real estate broker/agent/realtor** for current and anticipated future sales of the subject property?

☐ Yes ☒ No

- If **yes**, identify the company and individual providing the service.
-

3. Does the applicant have services for **accounting and/or preparation of tax returns** provided in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

- If **yes**, identify the firm and individual providing the service.
-

4. Does the applicant have services from an **architect/landscape architect/land planner** provided in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

- If **yes**, identify the firm and individual providing the service.
-

5. Is there any other **pending or proposed purchaser** of the subject property? ☐ Yes ☒ No

- If **yes**, identify the purchaser and purchaser's service providers.
-

Disclosure Statement

Disclosure Statement



6. Does the applicant have a **construction contractor** in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

• If **yes**, identify the company and individual providing the service.

7. Does the applicant have an **engineer/surveyor/agent** in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

• If **yes**, identify the firm and individual providing the service.

8. Is the applicant receiving **legal services** in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

• If **yes**, identify the firm and individual providing the service.

Applicant Signature

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate. I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the meeting of Planning Commission, City Council, VBDA, CBPA, Wetlands Board or any public body or committee in connection with this application.

Cutler Moss

Applicant Signature

Cutler W Moss

Print Name and Title

8 December 2023

Date

- Is the applicant also the owner of the subject property? ☐ Yes ☒ No

• If **yes**, you do not need to fill out the owner disclosure statement.

FOR CITY USE ONLY/ All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the applications

<input checked="" type="checkbox"/>	No changes as of	Date	03.05.2024	Signature	<i>Hoa N. Dao</i>
				Print Name	Hoa N. Dao

Disclosure Statement



Owner Disclosure

Owner Name RT Virginia Holdings LLC

Applicant Name Siren Arts Studio

Is the Owner a corporation, partnership, firm, business, trust or an unincorporated business? ☒ Yes ☐ No

- If yes, list the names of all officers, directors, members, trustees, etc. below. (Attach a list if necessary)

Judy Tang- manager

- If yes, list the businesses that have a parent-subsidary³ or affiliated business entity⁴ relationship with the Owner. (Attach a list if necessary)

N/A

Known Interest by Public Official or Employee

Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action? ☐ Yes ☒ No

- If yes, what is the name of the official or employee and what is the nature of the interest?

³ "Parent-subsidary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, VA. Code § 2.2-3101.

⁴ "Affiliated business entity relationship" means "a relationship, other than parent-subsidary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

Disclosure Statement



Owner Services Disclosure

1. Does the Owner have any existing financing (mortgage, deeds of trust, cross-collateralization, etc) or are they considering any financing in connection with the subject of the application or any business operating or to be operated on the property?
☐ Yes ☒ No
 - If yes, identify the financial institutions providing the service.

2. Does the Owner have a real estate broker/agent/realtor for current and anticipated future sales of the subject property?
☐ Yes ☒ No
 - If yes, identify the company and individual providing the service.

3. Does the Owner have services for accounting and/or preparation of tax returns provided in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No
 - If yes, identify the firm and individual providing the service.

4. Does the Owner have services from an architect/landscape architect/land planner provided in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No
 - If yes, identify the firm and individual providing the service.

5. Is there any other pending or proposed purchaser of the subject property? ☐ Yes ☒ No
 - If yes, identify the purchaser and purchaser's service providers.

6. Does the Owner have a construction contractor in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No
 - If yes, identify the company and individual providing the service.

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 - If yes, identify the firm and individual providing the service.

Disclosure Statement

Disclosure Statement



8. Is the Owner receiving **legal services** in connection with the subject of the application or any business operating or to be operated on the property? ☒ **Yes** ☐ **No**

- If **yes**, identify the firm and individual providing legal the service.

Otey Smith & Quarles- Dan Quarles

Owner Signature

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate. I understand that, upon receipt of notification that the application has been scheduled for public hearing, **I am responsible for updating the information provided herein two weeks prior to the meeting of Planning Commission, City Council, VBDA, CBPA, Wetlands Board or any public body or committee in connection with this application.**

A handwritten signature in black ink, appearing to read 'Judy Tang', written over a horizontal line.

Owner Signature

Judy Tang- manager

Print Name and Title

12/8/2023

Date

Next Steps

- Upon receiving a recommendation from Planning Commission, this request will be scheduled for a City Council public hearing. Staff will inform the applicant and/or their representative of the date of the hearing in the upcoming days.
- Following City Council's decision, the applicant will receive a decision letter from Staff.
- Once the conditions of approval are in place and/or completed, the applicant must contact the Zoning Division of the Planning Department to obtain verification that the conditions have been met. Contact the Zoning Division at 757-385-8074.
- If the request requires land disturbance and/or a subdivision of property, please contact the Development Services Center (DSC) to discuss next steps for site plan/plat review. Contact the DSC at 757-385-4621 or the Development Liaison Team at 757-385-5692.
- Please note that further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.
- The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.

**Virginia Beach Planning Commission
February 14, 2024, Public Meeting
Agenda Item # 2 & 3**

Siren Arts Studio

RECOMMENDED FOR APPROVAL – CONSENT

Mr. Alcaraz: Alright, I think we go on to consent. Alright, I'll pass it on to Ms. Holly Cuellar.

Ms. Cuellar: Thank you Mr. Chairman. Thank you. Today we have nine items on the consent agenda. These are applications that are recommended for approval by staff and the Planning Commission concurred and there are no speakers signed up in opposition. We'll go ahead and start with items number two and three if the applicant could please come forward, Siren Art Studio.

Mr. Moss: Good afternoon. Cutler Moss for Siren Art Studio.

Ms. Cuellar: Thank you very much. And are the conditions acceptable to you?

Mr. Moss: They are.

Ms. Cuellar: Great. You may be seated.

Mr. Moss: Thank you.

Ms. Cuellar: Is there any opposition for this item being placed on the consent agenda? Hearing none. I've asked Commissioner Estaris to please read this into the record.

Ms. Estaris: Yes, the background of these applications that the applicant is requesting two conditional use permits to operate a tattoo parlor for traditional tattooing, and to operate a body piercing establishment within an existing 1,677 square foot suite at the Mill Dam Crossing Shopping Center. The proposed hours of operation will be from 10 a.m. to 8 p.m. Tuesday through Saturday by appointment only. Piercing booths will be completely private and out of view of both patrons in the suite and outdoors. No changes to the exterior of the building are proposed. With that being said, there was no opposition to the filing. We agree with the planning staff approval. Planning moves this to the consent agenda.

Ms. Cuellar: Thank you very much. Mr. Chairman that was the last item on the consent agenda, the Planning Commission places the following applications on the consent agenda, items number 2, 3, 4, 6, 7, 9, 10, 11 and 12.

Mr. Alcaraz: Alright, do I have a motion to approve this for consent?

Ms. Cuellar: I move that these items be approved by consent.

Ms. Hippen: So moved.

Mr. Alcaraz: I have a motion from Ms. Cuellar and Ms. Hippen second it.

Ms. Alcock: The vote is now open. Ms. Byler can I have your verbal really quickly?

Ms. Byler: Oh, never mind, went through. Thank you.

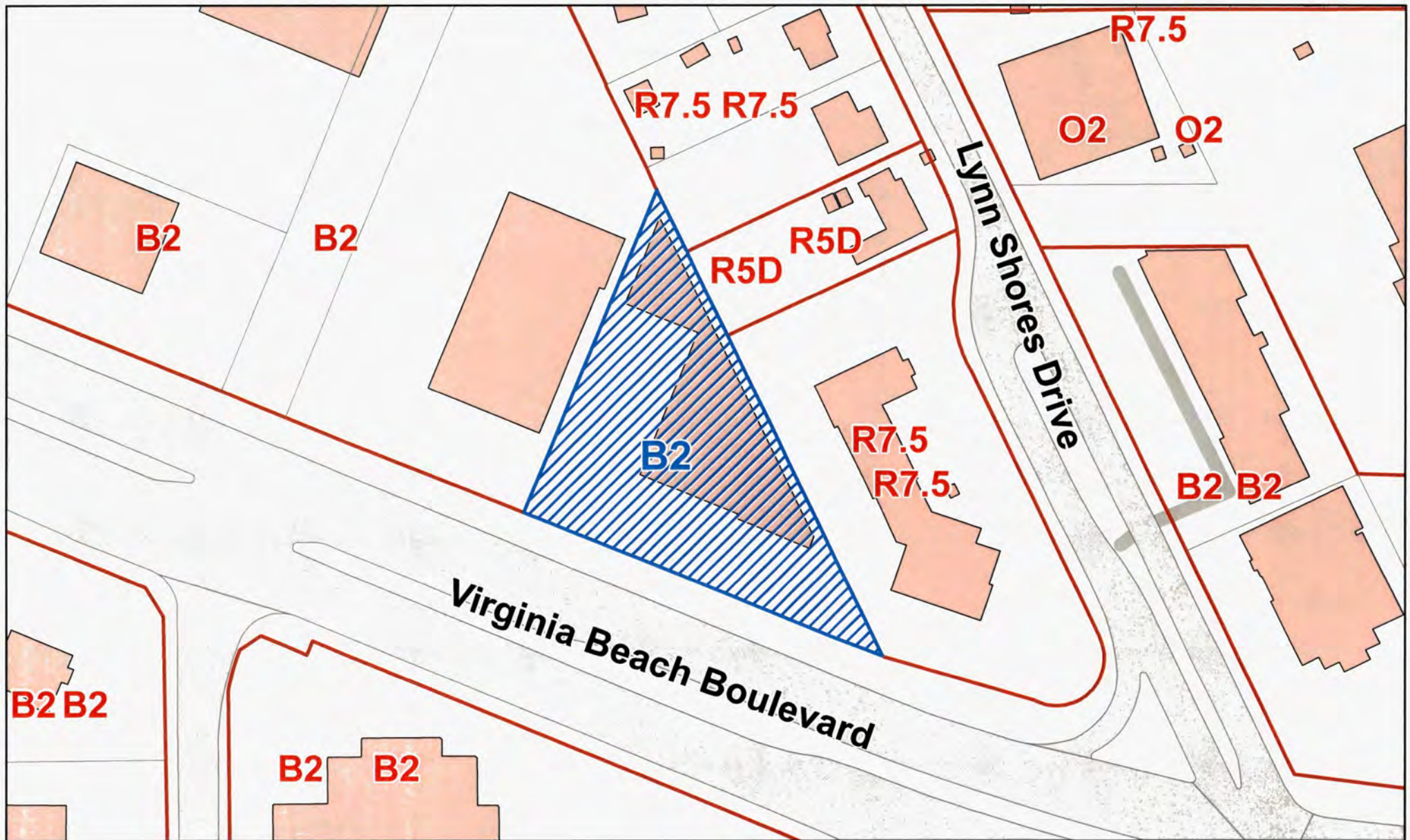
Ms. Alcock: By vote of 11 to 0 items number 2, 3, 4, 6, 7, 9, 10, 11 and 12 have been recommended for approval.

	AYE 11	NAY 0	ABS 0	ABSENT 0
Alcaraz	AYE			
Anderson	AYE			
Byler	AYE			
Clemons	AYE			
Coston	AYE			
Cuellar	AYE			
Estaris	AYE			
Hippen	AYE			
Mauch	AYE			
Parks	AYE			
Plumlee	AYE			





CONDITIONS

1. Business licenses for the Tattoo Parlor and Body Piercing Establishment shall not be issued to the applicant without the approval of the Health Department to ensure compliance with the provisions of Chapters 23-51 and 23-53.1 of the City Code, or as amended.
2. The actual application of tattoos and/or body piercing shall not be visible from the exterior of the establishment or from the waiting and sales area within the establishment.
3. Any on-site signage for the establishment shall meet the requirements of the City Zoning Ordinance, and there shall be no neon, electronic display or similar signage installed on the exterior of the building or in any window, or on the doors. Window signage shall not be

permitted. A separate sign permit shall be obtained from the Department of Planning & Community Development for the installation of any new signs.



Cecilia M. Patterson
3920 Virginia Beach Boulevard

-  Site
-  Property_Polygons
-  Zoning
-  Building



0 20 40 80 120 160 200 240 Feet



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: CECILIA M. PATTERSON [Applicant] ROCKY LLC [Property Owner]
Conditional Use Permit (Tattoo Parlor) for the property located at 3920
Virginia Beach Boulevard (GPIN 1487240595). COUNCIL DISTRICT 8

MEETING DATE: March 19, 2024

■ **Background:**

The applicant is requesting a Conditional Use Permit for a Tattoo Parlor to offer traditional tattooing services, as well as the application of permanent makeup, including paramedical tattoos. The parlor will be in an existing 2,200 square-foot suite in an existing shopping center. Proposed hours of operation will be from 10:00 a.m. to 6:00 p.m., Monday through Saturday, by appointment only. The applicant anticipates employing five tattoo artists and a front desk receptionist. A portion of the lobby will be used as a boutique to sell local artists' wares.

■ **Considerations:**

The proposed tattoo parlor will be compatible with other commercial businesses in the shopping center and in this corridor of Virginia Beach Boulevard. It also aligns with goals for the Rosemont Strategic Growth Area to transition this portion of Virginia Beach Boulevard away from auto-centric uses and towards diverse service and retail businesses. Prior to operating the site, the applicant is required to obtain a business license and the Health Department must verify that the business meets all the requirements of Chapter 23 of the City Code.

Further details pertaining to the application, as well as Staff's evaluation, are provided in the attached Staff Report. There is no known opposition to this request.

■ **Recommendation:**

On February 14, 2024, the Planning Commission passed a motion to recommend approval of this item on the Consent Agenda, by a recorded vote of 11-0.

1. A business license for the Tattoo Parlor shall not be issued to the applicant without the approval of the Health Department to ensure compliance with the provisions of Chapter 23-51 of the City Code.
2. The actual application of tattoos shall not be visible from the exterior of the establishment or from the waiting and sales area within the establishment.

3. Any on-site signage for the establishment shall meet the requirements of the City Zoning Ordinance, and there shall be no neon, electronic display or similar signage installed on the exterior of the building or in any window, or on the doors. Window signage shall not be permitted. A separate sign permit shall be obtained from the Department of Planning & Community Development for the installation of any new signs.

- **Attachments:**
 - Staff Report and Disclosure Statements
 - Location Map
 - Minutes of Planning Commission Hearing

Recommended Action: Staff recommends Approval. Planning Commission recommends Approval.

Submitting Department/Agency: Planning Department

City Manager:



Request

Conditional Use Permit (Tattoo Parlor)

Staff Recommendation

Approval

Staff Planner

Elizabeth Nowak

Location

3920 Virginia Beach Boulevard

GPIN

1487240595

Site Size

2,200 square feet

AICUZ

Less than 65 dB DNL

Watershed

Chesapeake Bay

Existing Land Use and Zoning District

Shopping center / B-2 Community Business

Surrounding Land Uses and Zoning Districts

North

Single-family dwelling, religious use / R-7.5

Residential, R-5D Residential

South

Virginia Beach Boulevard

Automobile sales / B-2 Community Business

East

Religious use / R-7.5 Residential

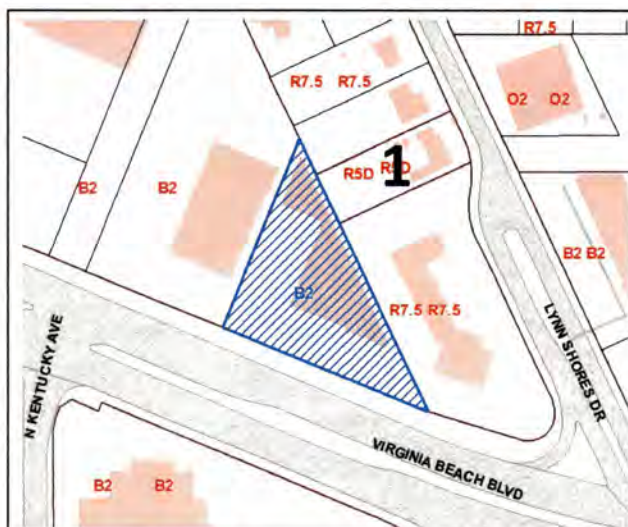
West

Medical office facility / B-2 Community Business



Background & Summary of Proposal

- The applicant is requesting a Conditional Use Permit to operate a Tattoo Parlor in a 2,200 square-foot suite in an existing shopping center. The shopping center is located along Virginia Beach Boulevard on property zoned B-2 Community Business District.
- The applicant will offer both traditional tattooing, as well as permanent makeup for eyebrows, microblading, eyeliner, lips, and paramedical tattoos. The applicant is a member of "Operation Tattooing Freedom," a non-profit organization that connects veterans with tattoo artists in support of their mental health.
- The proposed hours of operation will be from 10:00 a.m. to 6:00 p.m., Monday through Saturday, by appointment only.
- Five tattoo artists and a front desk receptionist are anticipated during business hours. The applicant estimates that each artist will have two to three clients a day, depending on their schedule.
- In addition to tattooing, the applicant intends on using a portion of the front lobby as a boutique in which to sell local artists' wares.
- The applicant plans to install a channel-letter wall sign on the building that will include the name of the business, The Vintage Cauldron.
- Per Section 203(a)(33), shopping centers with four or more tenants are required to provide one parking space for every 250 square feet of floor area. There are 75 parking spaces on site, which exceeds the parking requirement by 17 spaces.



Zoning History

#	Request
1	CUP (Church) Approved 08/12/1997

Application Types

CUP – Conditional Use Permit	MDC – Modification of Conditions	STC – Street Closure	SVR – Subdivision Variance
REZ – Rezoning	MDP – Modification of Proffers	FVR – Floodplain Variance	LUP – Land Use Plan
CRZ – Conditional Rezoning	NON – Nonconforming Use	ALT – Alternative Compliance	STR – Short Term Rental

Evaluation & Recommendation

The Conditional Use Permit request for a Tattoo Parlor is, in Staff's opinion, acceptable given that the use will be compatible with the other existing commercial businesses in the shopping center and in this corridor of Virginia Beach

Boulevard. The property is located in the Rosemont Strategic Growth Area (SGA) as defined by the Comprehensive Plan. The main goal for the Rosemont SGA is to transition from an auto-oriented retail strip to a mixed-used, transit-oriented neighborhood center. Artistic and community-oriented businesses such as the one proposed by the applicant are complementary with the kind of services and retail that support diverse and mixed-use areas. While the request includes the reuse of an existing suite and no exterior changes are proposed, the proposal includes no new construction, but the business operations align with the goals of the Rosemont SGA.

Prior to operating on the site, the applicant is required to obtain a business license and the Health Department must verify that the business meets all the requirements of Chapter 23 of the City Code. This section of the code establishes standards for disclosure, hygiene, licenses, waivers, proof of age, recordkeeping, inspections, cleanliness, vaccinations, and permitting. A Certificate of Occupancy will not be issued until the requirements of the Health Department are met.

For the reasons stated above, Staff recommends approval of this application, subject to the conditions listed below.

Recommended Conditions

1. A business license for the Tattoo Parlor shall not be issued to the applicant without the approval of the Health Department to ensure compliance with the provisions of Chapter 23-51 of the City Code.
2. The actual application of tattoos shall not be visible from the exterior of the establishment or from the waiting and sales area within the establishment.
3. Any on-site signage for the establishment shall meet the requirements of the City Zoning Ordinance, and there shall be no neon, electronic display or similar signage installed on the exterior of the building or in any window, or on the doors. Window signage shall not be permitted. A separate sign permit shall be obtained from the Department of Planning & Community Development for the installation of any new signs.

Further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.

The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.

Comprehensive Plan Recommendations

The Comprehensive Plan designates the subject property as being within the Rosemont Strategic Growth Area (SGA), which is envisioned as a becoming a transit-oriented corridor with mixed-uses and higher residential densities. Key recommendations for this SGA are centered around transportation infrastructure improvements to develop a more transit-oriented development pattern and accompanying village core and higher residential densities. Diverse businesses and services are key to thriving mixed-use areas such as the one envisioned in the Rosemont SGA.

Natural & Cultural Resources Impacts

The site is located in the Chesapeake Bay Watershed. It is located outside the Resource Protection Area and no impact is anticipated as there are no physical alterations proposed with this application.

No historical or cultural resources will be affected by this proposal.

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Virginia Beach Boulevard	39,000 ADT ¹	74,000 ADT ¹ (LOS ² "D")	No change anticipated
¹ Average Daily Trips		² LOS = Level of Service	

Master Transportation Plan (MTP) and Capital Improvement Program (CIP)

In the vicinity of this site, Virginia Beach Boulevard is an eight-lane major urban arterial road with an approximate right-of-way width of 150 feet. The MTP shows an eight-lane major arterial with an ultimate right-of-way width of 155 feet. There are no CIP projects scheduled near this site.

Public Utility Impacts

Water & Sewer

The site connects to City water and sewer.

Public Outreach Information

Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on January 15, 2024.
- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, January 31, 2024 and February 7, 2024.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on January 29, 2024.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.virginiabeach.gov/pc on February 8, 2024.

City Council

- As required by City Code, this item was advertised in the Virginian-Pilot Beacon on Tuesdays, March 5, 2024 and March 12, 2024.
- As required by City Code, the adjacent property owners were notified regarding both the request and the date of the City Council's public hearing on March 4, 2024.
- The City Clerk's Office posted the materials associated with the application on the City Council website of <https://clerk.virginiabeach.gov/city-council> on March 15, 2024.

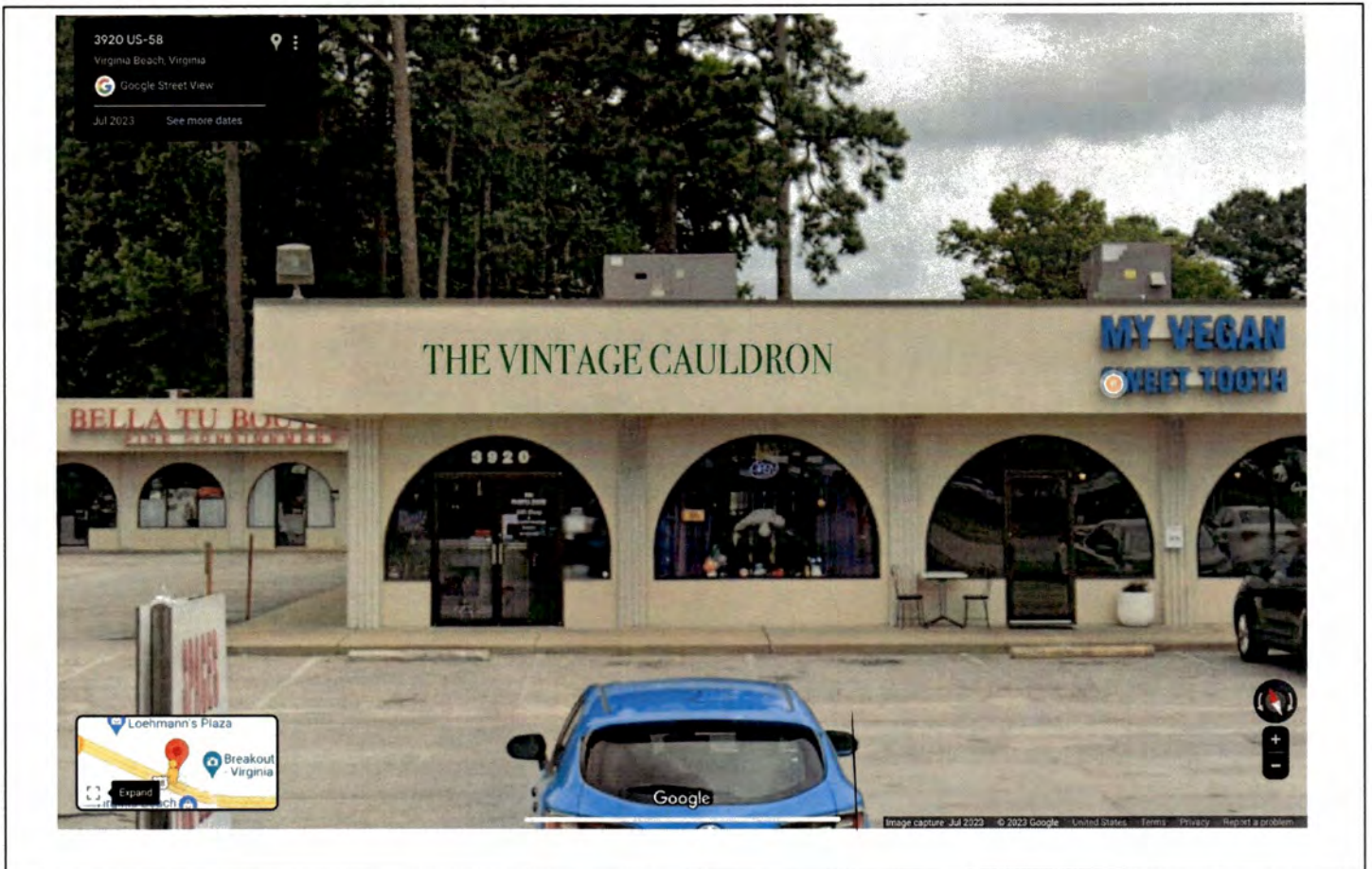
Proposed Site Layout



Proposed Floor Plan



Proposed Sign Exhibit



Site Photos



Disclosure Statement

Disclosure Statement



The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law. The completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council or a City board, commission or other body.

Applicant Disclosure

Applicant Name Cecilia Patterson

Does the applicant have a representative? ☒ Yes ☐ No

- If yes, list the name of the representative.

Kira Yamanashi-Elliott

Is the applicant a corporation, partnership, firm, business, trust or an unincorporated business? ☐ Yes ☒ No

- If yes, list the names of all officers, directors, members, trustees, etc. below. (Attach a list if necessary)

- If yes, list the businesses that have a parent-subsidiary¹ or affiliated business entity² relationship with the applicant. (Attach a list if necessary)

¹ "Parent-subsidiary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, VA. Code § 2.2-3101.

² "Affiliated business entity relationship" means "a relationship, other than parent-subsidiary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

Disclosure Statement

Disclosure Statement



Known Interest by Public Official or Employee

Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action? ☐ Yes ☒ No

- If yes, what is the name of the official or employee and what is the nature of the interest?

Applicant Services Disclosure

1. Does the applicant have any existing financing (mortgage, deeds of trust, cross-collateralization, etc) or are they considering any financing in connection with the subject of the application or any business operating or to be operated on the property?

☐ Yes ☒ No

- If yes, identify the financial institutions providing the service.

2. Does the applicant have a real estate broker/agent/realtor for current and anticipated future sales of the subject property?

☐ Yes ☒ No

- If yes, identify the company and individual providing the service.

3. Does the applicant have services for accounting and/or preparation of tax returns provided in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

- If yes, identify the firm and individual providing the service.

4. Does the applicant have services from an architect/landscape architect/land planner provided in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

- If yes, identify the firm and individual providing the service.

5. Is there any other pending or proposed purchaser of the subject property? ☐ Yes ☒ No

- If yes, identify the purchaser and purchaser's service providers.

Disclosure Statement

Disclosure Statement



6. Does the applicant have a **construction contractor** in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No
- If **yes**, identify the company and individual providing the service.
-
7. Does the applicant have an **engineer/surveyor/agent** in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No
- If **yes**, identify the firm and individual providing the service.
-
8. Is the applicant receiving **legal services** in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No
- If **yes**, identify the firm and individual providing the service.
-

Applicant Signature

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate. I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the meeting of Planning Commission, City Council, VBDA, CBPA, Wetlands Board or any public body or committee in connection with this application.

Applicant Signature

Cecilia Patterson Tattoo Artist / Owner

Print Name and Title

11.19.23

Date

Is the applicant also the owner of the subject property? ☐ Yes ☒ No

- If **yes**, you do not need to fill out the owner disclosure statement.

FOR CITY USE ONLY/ All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the applications

<input checked="" type="checkbox"/>	No changes as of	Date	3/5/2024	Signature	Elizabeth Nowak
				Print Name	Elizabeth Nowak

Revised 11/01/2011

3 | Page

Disclosure Statement



Owner Disclosure

Owner Name Rocky LLC

Applicant Name Cecilia M. Patterson

Is the Owner a corporation, partnership, firm, business, trust or an unincorporated business? ☒ Yes ☐ No

- If yes, list the names of all officers, directors, members, trustees, etc. below. (Attach a list if necessary)

Kimberly Hudgins

Judy Hudgins

- If yes, list the businesses that have a parent-subsidary³ or affiliated business entity⁴ relationship with the Owner. (Attach a list if necessary)

Known Interest by Public Official or Employee

Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action? ☐ Yes ☒ No

- If yes, what is the name of the official or employee and what is the nature of the interest?

³ "Parent-subsidary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, VA. Code § 2.2-3101.

⁴ "Affiliated business entity relationship" means "a relationship, other than parent-subsidary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

Disclosure Statement



Owner Services Disclosure

1. Does the Owner have **any existing financing (mortgage, deeds of trust, cross-collateralization, etc)** or **are they considering any financing** in connection with the subject of the application or any business operating or to be operated on the property?
☐ Yes ☒ No
 - If **yes**, identify the financial institutions providing the service.

2. Does the Owner have a **real estate broker/agent/realtor** for current and anticipated future sales of the subject property?
☐ Yes ☒ No
 - If **yes**, identify the company and individual providing the service.

3. Does the Owner have services for **accounting and/or preparation of tax returns** provided in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No
 - If **yes**, identify the firm and individual providing the service.

4. Does the Owner have services from an **architect/landscape architect/land planner** provided in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No
 - If **yes**, identify the firm and individual providing the service.

5. Is there any other **pending or proposed purchaser** of the subject property? ☐ Yes ☒ No
 - If **yes**, identify the purchaser and purchaser's service providers.

6. Does the Owner have a **construction contractor** in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No
 - If **yes**, identify the company and individual providing the service.

7. Does the Owner have an **engineer/surveyor/agent** in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No
 - If **yes**, identify the firm and individual providing the service.

Disclosure Statement

Disclosure Statement



8. Is the Owner receiving **legal services** in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

- If **yes**, identify the firm and individual providing legal the service.

Owner Signature

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate. I understand that, upon receipt of notification that the application has been scheduled for public hearing, **I am responsible for updating the information provided herein two weeks prior to the meeting of Planning Commission, City Council, VBDA, CBPA, Wetlands Board or any public body or committee in connection with this application.**


Owner Signature

Kimberly HUDGINS, OWNER
Print Name and Title

December 8, 2023
Date

Next Steps

- Upon receiving a recommendation from Planning Commission, this request will be scheduled for a City Council public hearing. Staff will inform the applicant and/or their representative of the date of the hearing in the upcoming days.
- Following City Council's decision, the applicant will receive a decision letter from Staff.
- Once the conditions of approval are in place and/or completed, the applicant must contact the Zoning Division of the Planning Department to obtain verification that the conditions have been met. Contact the Zoning Division at 757-385-8074.
- If the request requires land disturbance and/or a subdivision of property, please contact the Development Services Center (DSC) to discuss next steps for site plan/plat review. Contact the DSC at 757-385-4621 or the Development Liaison Team at 757-385-5692.
- Please note that further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.
- The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.

**Virginia Beach Planning Commission
February 14, 2024, Public Meeting
Agenda Item # 6**

Cecelia M. Patterson

RECOMMENDED FOR APPROVAL – CONSENT

Ms. Cuellar: Thank you very much. The next item is item number six, a conditional use permit for a tattoo parlor. Is there a representative here today to speak on this item?

Ms. Yamanashi: Hi, my name is Kira Yamanashi. I'm here representing Cecilia Patterson.

Ms. Cuellar: Thank you very much, and are the conditions acceptable to you?

Ms. Yamanashi: Yes, ma'am.

Ms. Cuellar: Thank you very much. You may be seated. Is there any opposition to this item being placed on the consent agenda? Hearing none. I'll go ahead and read this item into the record. This is a request for a conditional use permit for a tattoo parlor. The applicant is requesting the permit to operate the tattoo parlor in a 2,200 square foot suite in an existing shopping center. The shopping center is located along Virginia Beach, Boulevard on property zoned B-2 Community Business District. There is no opposition to this application. Staff is recommending it for approval. The Planning Commission is recommending it for the consent agenda.

Ms. Cuellar: Thank you very much. Mr. Chairman that was the last item on the consent agenda, the Planning Commission places the following applications on the consent agenda, items number 2, 3, 4, 6, 7, 9, 10, 11 and 12.

Mr. Alcaraz: Alright, do I have a motion to approve this for consent?

Ms. Cuellar: I move that these items be approved by consent.

Ms. Hippen: So moved.

Mr. Alcaraz: I have a motion from Ms. Cuellar and Ms. Hippen seconded it.

Ms. Alcock: The vote is now open. Ms. Byler, can I have your verbal really quickly?

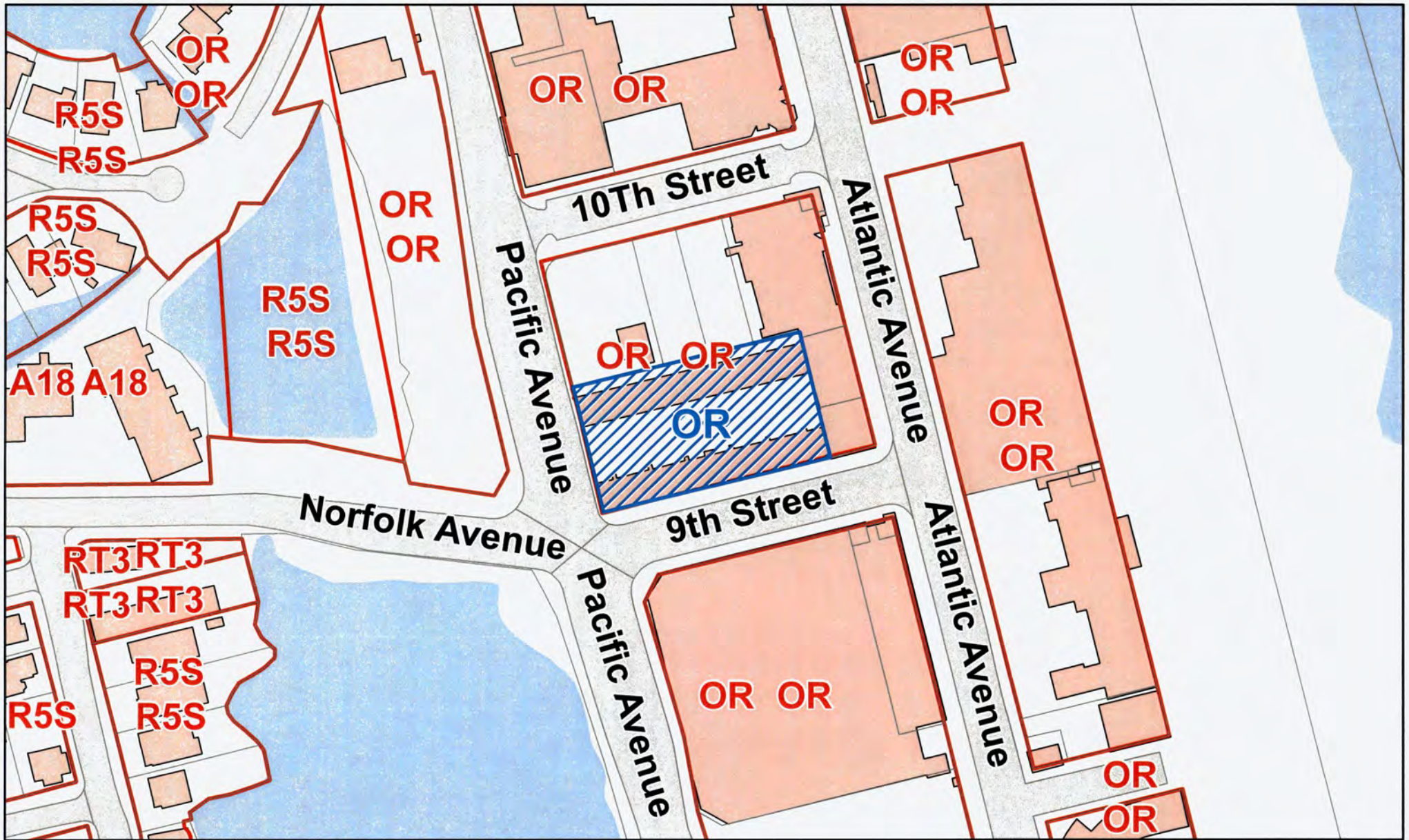
Ms. Byler: Oh, never mind, it went through. Thank you.

Ms. Alcock: By vote of 11 to 0 items number 2, 3, 4, 6, 7, 9, 10, 11 and 12 have been recommended for approval.



	AYE 11	NAY 0	ABS 0	ABSENT 0
Alcaraz	AYE			
Anderson	AYE			
Byler	AYE			
Clemons	AYE			
Coston	AYE			
Cuellar	AYE			
Estaris	AYE			
Hippen	AYE			
Mauch	AYE			
Parks	AYE			
Plumlee	AYE			

CONDITIONS

1. A business license for the Tattoo Parlor shall not be issued to the applicant without the approval of the Health Department to ensure compliance with the provisions of Chapter 23-51 of the City Code.
2. The actual application of tattoos shall not be visible from the exterior of the establishment or from the waiting and sales area within the establishment.
3. Any on-site signage for the establishment shall meet the requirements of the City Zoning Ordinance, and there shall be no neon, electronic display or similar signage installed on the exterior of the building or in any window, or on the doors. Window signage shall not be permitted. A separate sign permit shall be obtained from the Department of Planning & Community Development for the installation of any new signs.



915C Pacific LLC
915 Pacific Avenue, Unit C

-  Site
-  Property_Polygons
-  Zoning
-  Building



0 30 60 120 180 240 300 360 Feet



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: 915C PACIFIC, LLC [Applicant & Property Owner] Conditional Use Permit (Short Term Rental) for the property located at 915 Pacific Avenue Unit C (GPIN 24272444111075). COUNCIL DISTRICT 5

MEETING DATE: March 19, 2024

■ **Background:**

The applicant is requesting a Conditional Use Permit to operate a Short Term Rental in a one-bedroom, 450 square-foot unit located at 915 Pacific Avenue, Unit C within the Pacific Place Condominiums.

There are no current or past zoning violations associated with the subject property. The applicant has been advertising the property as a long-term rental, with a minimum 31-night stay, since January 18, 2023.

■ **Considerations:**

The applicant is requesting to operate a one-bedroom, 450 square-foot Short Term Rental within the Pacific Place Condominiums. Short Term Rentals are prevalent on this property with a total of 16 previously approved Conditional Use Permits for Short Term Rentals. The one parking space required for this use is an assigned space within the condominium's parking lot.

Further details pertaining to the application, as well as Staff's evaluation, are provided in the attached Staff Report. There is no known opposition to this request.

■ **Recommendation:**

On February 14, 2024, the Planning Commission passed a motion to recommend approval of this item on the Consent Agenda, by a recorded vote of 11-0.

1. The following conditions shall only apply to the dwelling unit addressed as 915 Pacific Avenue, Unit C, and the Short Term Rental use shall only occur in the principal structure.
2. An annual (yearly) STR Zoning Permit must be obtained from the Department of Planning and Community Development (Zoning Administration) before using the dwelling for Short-Term Rental purposes.
3. The dwelling unit shall comply with all required Fire and Building code requirements.

4. Off-street parking shall be provided as required by Section 241.2 and 2303(b)(a)(i)(ii) of the City Zoning Ordinance or as approved by City Council.
5. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
6. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1.
7. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes and to be physical present at the Short Term Rental within one (1) hour.
8. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
 - a) A completed Department of Planning and Community Development Short Term Rental Zoning Permit; and
 - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
 - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
9. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
10. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.

11. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
12. Accessory structures shall not be used or occupied as Short Term Rentals.
13. No signage shall be on-site, except that each short term rental shall have one (1) four-square foot sign posted on the building, or other permanent structure or location approved by the Zoning Administrator, that identifies the property as a short term rental and provides the telephone numbers for the Short Term Rental Hotlines in text large enough to be read from the public street.
14. The Short Term Rental shall have no more than one (1) rental contract for every seven (7) consecutive days.
15. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
16. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
17. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom, which number shall not include minors under the age of 16, provided that in no case may the total number of persons staying overnight at the property exceed the number of approved bedrooms multiplied by three (3).
18. The property owner, or their representative, shall provide to the City Planning Department permission to inspect the Short Term Rental property annually. Such inspection shall include: 1) At least one fire extinguisher has been installed inside the unit (in the kitchen) and in plain sight 2) Smoke alarms and carbon monoxide detectors are installed in accordance with the building code in effect at the of construction and interconnected. Units constructed prior to interconnection requirements must have a minimum of one smoke alarm installed on every floor of the structure and in the areas adjacent to all sleeping rooms, and when activated, be audible in all sleeping rooms, and 3) All smoke alarms and carbon monoxide detectors have been inspected within the last twelve months and are in good working order.

Properties managed by Short Term Rental Companies certified by the Department of Planning shall only be required to be inspected every three years. The inspection for compliance with the requirements above shall be performed by the short term rental management company and be documented on a form prescribed by the Planning Department and shall be provided during the yearly permitting process.

Properties may be inspected annually for compliance with the requirements above by certified Short Term Rental Management Companies or Certified Home Inspectors. The compliance inspection shall be documented on a form prescribed by the Planning Department and shall be provided during the yearly permit process.

19. A structural safety inspection report shall be provided to the city every three (3) years indicating all exterior stairways, decks, porches, and balconies have been inspected by a licensed design professional qualified to perform such inspection (engineer or architect) and are safe for use. The report must indicate the maximum number of occupants permitted on each level of these structures and placards indicating the maximum number of occupants of all exterior stairways, decks, porches, and balconies must be posted on each level of these structures.

- **Attachments:**
 - Staff Report and Disclosure Statements
 - Location Map
 - STR Vicinity Map
 - Minutes of Planning Commission Hearing

Recommended Action: Staff recommends Approval. Planning Commission recommends Approval.

Submitting Department/Agency: Planning Department

City Manager:



Request

Conditional Use Permit (Short Term Rental)

Staff Recommendation

Approval

Staff Planner

Michaela McKinney

Location

915 Pacific Ave, Unit C

GPIN

24272444111075

Site Size

34,984 square feet (450 Square foot unit)

Existing Land Use and Zoning District

Multi-family dwelling / OR Oceanfront Resort

Surrounding Land Uses and Zoning Districts

North

Multi-family dwellings, commercial parking lot /
OR Oceanfront Resort

South

9th Street

Municipal Parking Garage / OR Oceanfront
Resort

East

Atlantic Avenue

Retail Shops / OR Oceanfront Resort

West

Pacific Avenue

Single-family dwellings / OR Oceanfront Resort



Background & Summary of Proposal

Site Conditions and History

- This 34,984 square foot parcel contains the Pacific Place Condominiums and is zoned OR Oceanfront Resort District. According to City records, this multi-family condominium was constructed in 1969.
- On-street parking is not permitted on this portion of Pacific Avenue.
- Although there are no current or past zoning violations on the site, when researching the property for the current request, staff found that the residence is currently utilized for rental stays no less than 31 days in length, from May 2023 to present. The services are offered via Airbnb.com. The applicant is seeking a Conditional Use Permit to offer short term rental services.
- Since this property was not registered nor paying transient occupancy taxes to the Commissioner of the Revenue prior to July 1, 2018, the property would not be considered a grandfathered Short Term Rental and thus would require a Conditional Use Permit prior to operating.
- Known Short Term Rental activity as of January 17, 2024, is shown in the chart below:

CURRENTLY ADVERTISED	LAST KNOWN RENTAL	REGISTERED WITH THE COMMISSIONER OF THE REVENUE
No	N/A	No

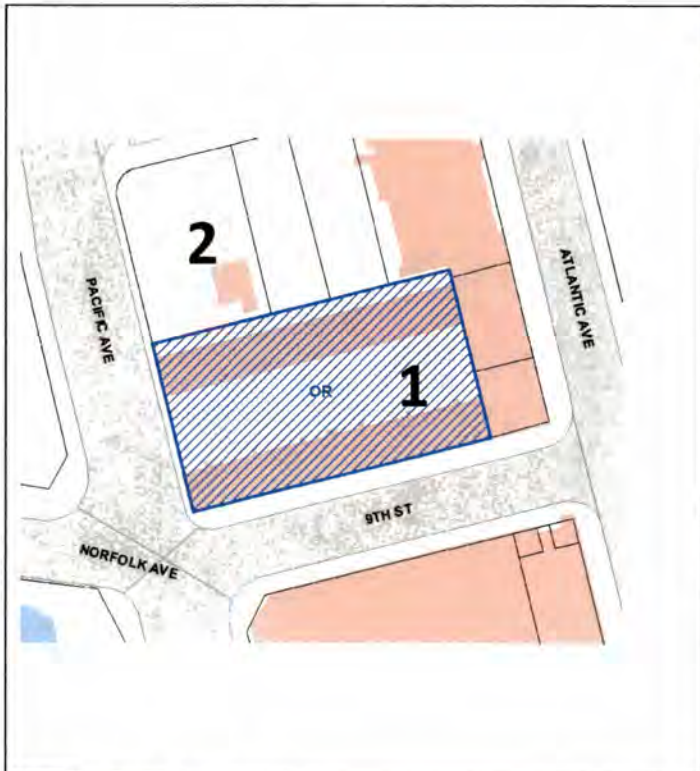
Short Term Rentals in the Vicinity



Summary of Proposal

The applicant submitted a Conditional Use Permit request to operate a Short Term Rental on the subject site. The regulations for Short Term Rental use are identified in Section 241.2 of the City Zoning Ordinance. Specific details pertaining to this application are listed below.

- Number of bedrooms in the Short Term Rental: 1
- Maximum number of guests permitted on the property after 11:00 pm: 2
- Number of parking spaces required (1 space per bedroom required): 1
- Number of off-street parking spaces provided: 1

	Zoning History	
	#	Request
	1	CUP (Short Term Rental) Approved 11/14/2023 CUP (Short Term Rental) Approved 08/15/2023 CUP (Short Term Rental) Approved 07/11/2023 CUP (Short Term Rental) Approved 05/16/2023 CUP (Short Term Rental) Approved 05/16/2023 CUP (Short Term Rental) Approved 06/12/2022 CUP (Short Term Rental) Approved 04/05/2022 CUP (Short Term Rental) Approved 11/09/2021 CUP (Short Term Rental) Approved 03/02/2021 CUP (Short Term Rental) Approved 10/20/2020 CUP (Short Term Rental) Approved 08/25/2020 CUP (Short Term Rental) Approved 08/25/2020 CUP (Short Term Rental) Approved 06/09/2020 CUP (Short Term Rental) Approved 04/06/2020 CUP (Short Term Rental) Approved 02/04/2020
	2	CUP (Short Term Rental) Approved 12/13/2022 CUP (Short Term Rental) Approved 12/13/2022 CUP (Short Term Rental) Approved 12/13/2022 CUP (Short Term Rental) Approved 12/13/2022 CUP (Short Term Rental) Approved 12/13/2022 CUP (Short Term Rental) Approved 12/13/2022
Application Types		
CUP – Conditional Use Permit REZ – Rezoning CRZ – Conditional Rezoning	MDC – Modification of Conditions MDP – Modification of Proffers NON – Nonconforming Use	STC – Street Closure FVR – Floodplain Variance ALT – Alternative Compliance SVR – Subdivision Variance LUP – Land Use Plan STR – Short Term Rental

Evaluation & Recommendation

The applicant is requesting to operate a one-bedroom, 450 square-foot Short Term Rental within the Pacific Place Condominium building. Short Term Rentals are prevalent on this property with a total of 15 approved Conditional Use Permits for the operation of Short Term Rentals.

There is one assigned parking space associated with this unit in the condominium's parking lot. According to the City of Virginia Beach Zoning Ordinance, Appendix A, Article 23, Section 2303, (b), a., ii., "There are certain condominium properties that have historically operated as short term lodging units and have not experienced any inconvenience to

guests or the surrounding area without the required one (1) parking space per bedroom. Further, such properties are unable to provide the required parking on-site. For these condominium properties, the Zoning Administrator may, at his discretion, require one (1) parking space per dwelling unit similar to the requirement for lodging uses in the Oceanfront Resort District Form Based Code (ORDFBC). Such properties must provide written evidence of their past use and the Zoning Administrator shall find that there is no public inconvenience with the current parking design." Pacific Place Condominiums is one such property granted a historical exception to the Short Term Rental parking requirements of one space per bedroom; therefore, only one parking space is required for the entire unit. All other requirements of Section 241.2 and Section 2303 of the Zoning Ordinance regulating Short Term Rentals can be reasonably met with this application.

The subject property lies in the Pacific Avenue corridor, which serves as the main north-south connector, including Atlantic Avenue, in the Resort Area. As identified in the Resort Area Strategic Action Plan (RASAP) 2030, both corridors serve as an area where many Resort Area visitors stay and gather. Therefore, the use of the unit as a Short Term Rental is consistent with this purpose. The unit would further provide diverse lodging opportunities for visitors and travelers wanting the Resort Area experience.

Based on the considerations above, Staff recommends approval of this request with the conditions listed below.

Recommended Conditions

1. The following conditions shall only apply to the dwelling unit addressed as 915 Pacific Avenue, Unit C, and the Short Term Rental use shall only occur in the principal structure.
2. An annual (yearly) STR Zoning Permit must be obtained from the Department of Planning and Community Development (Zoning Administration) before using the dwelling for Short-Term Rental purposes.
3. The dwelling unit shall comply with all required Fire and Building code requirements.
4. Off-street parking shall be provided as required by Section 241.2 and 2303(b)(a)(i)(ii) of the City Zoning Ordinance or as approved by City Council.
5. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
6. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1.
7. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes and to be physical present at the Short Term Rental within one (1) hour.
8. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
 - a) A completed Department of Planning and Community Development Short Term Rental Zoning Permit; and

- b) Copies of the Commissioner of Revenue's Office receipt of registration; and
 - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
9. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
 10. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
 11. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
 12. Accessory structures shall not be used or occupied as Short Term Rentals.
 13. No signage shall be on-site, except that each short term rental shall have one (1) four-square foot sign posted on the building, or other permanent structure or location approved by the Zoning Administrator, that identifies the property as a short term rental and provides the telephone numbers for the Short Term Rental Hotlines in text large enough to be read from the public street.
 14. The Short Term Rental shall have no more than one (1) rental contract for every seven (7) consecutive days.
 15. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
 16. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
 17. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom, which number shall not include minors under the age of 16, provided that in no case may the total number of persons staying overnight at the property exceed the number of approved bedrooms multiplied by three (3).
 18. The property owner, or their representative, shall provide to the City Planning Department permission to inspect the Short Term Rental property annually. Such inspection shall include: 1) At least one fire extinguisher has been installed inside the unit (in the kitchen) and in plain sight 2) Smoke alarms and carbon monoxide detectors are installed in accordance with the building code in effect at the of construction and interconnected. Units constructed prior to interconnection requirements must have a minimum of one smoke alarm installed on every floor of the structure and in the areas adjacent to all sleeping rooms, and when activated, be audible in all sleeping rooms, and 3) All smoke alarms and carbon monoxide detectors have been inspected within the last twelve months and are in good working order.

Properties managed by Short Term Rental Companies certified by the Department of Planning shall only be required to be inspected every three years. The inspection for compliance with the requirements above shall be performed by the short term rental management company and be documented on a form prescribed by the Planning Department and shall be provided during the yearly permitting process.

Properties may be inspected annually for compliance with the requirements above by certified Short Term Rental Management Companies or Certified Home Inspectors. The compliance inspection shall be documented on a form prescribed by the Planning Department and shall be provided during the yearly permit process.

19. A structural safety inspection report shall be provided to the city every three (3) years indicating all exterior stairways, decks, porches, and balconies have been inspected by a licensed design professional qualified to perform

such inspection (engineer or architect) and are safe for use. The report must indicate the maximum number of occupants permitted on each level of these structures and placards indicating the maximum number of occupants of all exterior stairways, decks, porches, and balconies must be posted on each level of these structures.

Further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.

The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.

Public Outreach Information

Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on January 15, 2024.
- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, January 31, 2024 and February 7, 2024.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on January 29, 2024.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.virginiabeach.gov/pc on February 8, 2024.

City Council

- As required by City Code, this item was advertised in the Virginian-Pilot Beacon on Tuesdays, March 5, 2024 and March 12, 2024.
- As required by City Code, the adjacent property owners were notified regarding both the request and the date of the City Council's public hearing on March 4, 2024.
- The City Clerk's Office posted the materials associated with the application on the City Council website of <https://clerk.virginiabeach.gov/city-council> on March 15, 2024.

Site Layout & Parking Plan



Site Photos



Disclosure Statement



The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law. The completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council or a City board, commission or other body.

Applicant Disclosure

Applicant Name 915C Pacific LLC

Does the applicant have a representative? ☐ Yes ☒ No

- If yes, list the name of the representative.

Is the applicant a corporation, partnership, firm, business, trust or an unincorporated business? ☒ Yes ☐ No

- If yes, list the names of all officers, directors, members, trustees, etc. below. (Attach a list if necessary)

Jackie Crawford, David Crawford

- If yes, list the businesses that have a parent-subsidary¹ or affiliated business entity² relationship with the applicant. (Attach a list if necessary)

none

¹ "Parent-subsidary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, VA. Code § 2.2-3101.

² "Affiliated business entity relationship" means "a relationship, other than parent-subsidary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

Disclosure Statement

Disclosure Statement



Known Interest by Public Official or Employee

Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action? ☐ Yes ☒ No

- If yes, what is the name of the official or employee and what is the nature of the interest?

Applicant Services Disclosure

1. Does the applicant have any existing financing (mortgage, deeds of trust, cross-collateralization, etc) or are they considering any financing in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

- If yes, identify the financial institutions providing the service.

2. Does the applicant have a real estate broker/agent/realtor for current and anticipated future sales of the subject property? ☐ Yes ☒ No

- If yes, identify the company and individual providing the service.

3. Does the applicant have services for accounting and/or preparation of tax returns provided in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

- If yes, identify the firm and individual providing the service.

4. Does the applicant have services from an architect/landscape architect/land planner provided in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

- If yes, identify the firm and individual providing the service.

5. Is there any other pending or proposed purchaser of the subject property? ☐ Yes ☒ No

- If yes, identify the purchaser and purchaser's service providers.

Disclosure Statement

Disclosure Statement



6. Does the applicant have a **construction contractor** in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

• If **yes**, identify the company and individual providing the service.

7. Does the applicant have an **engineer/surveyor/agent** in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

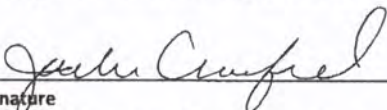
• If **yes**, identify the firm and individual providing the service.

8. Is the applicant receiving **legal services** in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

• If **yes**, identify the firm and individual providing the service.

Applicant Signature

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate. I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the meeting of Planning Commission, City Council, VBDA, CBPA, Wetlands Board or any public body or committee in connection with this application.



Applicant Signature

Jackie Crawford, Co-managing member

Print Name and Title

1-19-24

Date

- Is the applicant also the owner of the subject property? ☒ Yes ☐ No

• If **yes**, you do not need to fill out the owner disclosure statement.

FOR CITY USE ONLY/ All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the applications

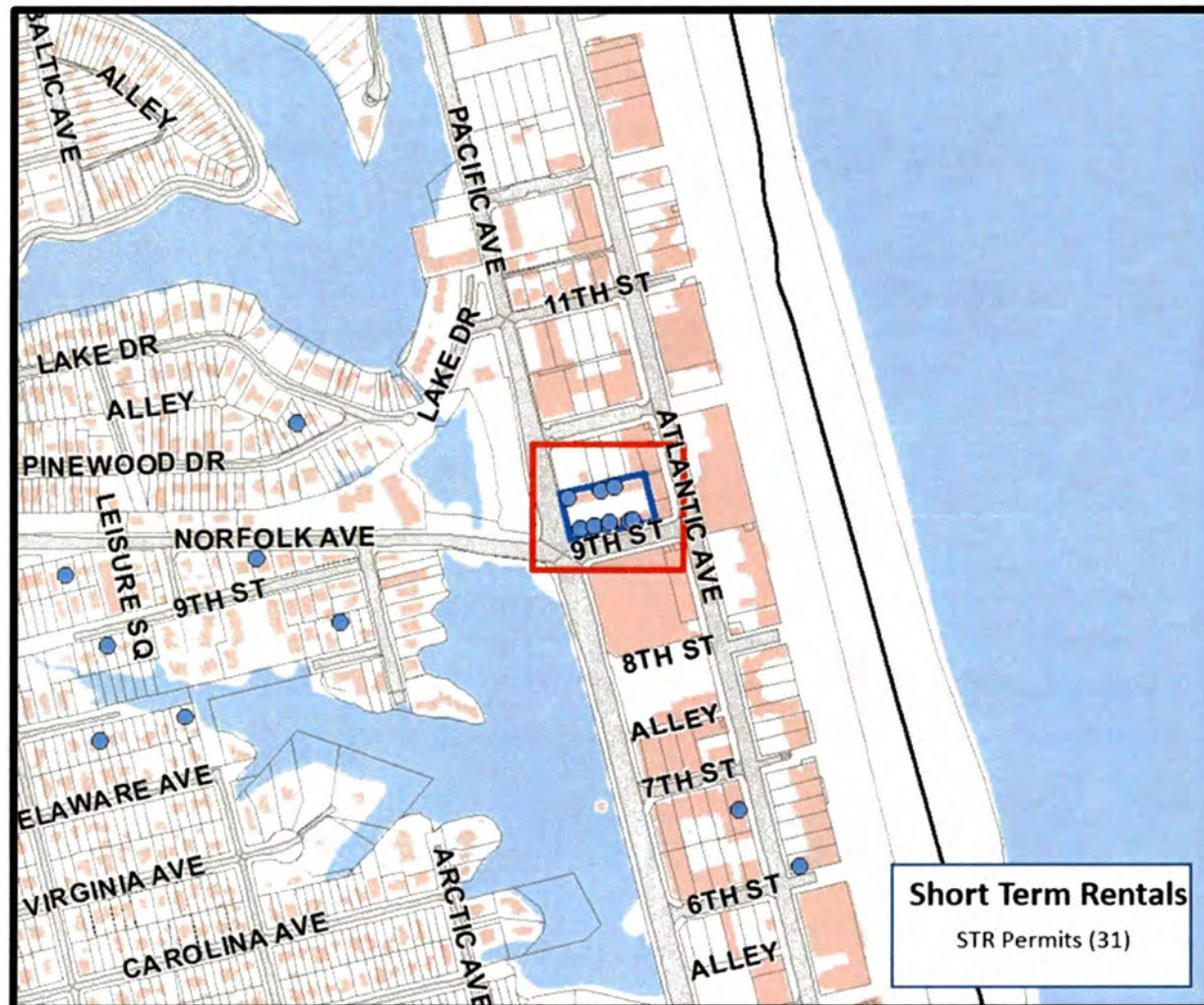
<input checked="" type="checkbox"/>	No changes as of	Date	02/28/2024	Signature	Michaela D. McKinney
				Print Name	Michaela D. McKinney

Next Steps

- Upon receiving a recommendation from Planning Commission, this request will be scheduled for a City Council public hearing. Staff will inform the applicant and/or their representative of the date of the hearing in the upcoming days.
- Following City Council's decision, the applicant will receive a decision letter from Staff.
- Once the conditions of approval are in place and/or completed, the applicant must contact the Zoning Division of the Planning Department to obtain verification that the conditions have been met. Contact the Zoning Division at 757-385-8074.
- If the request requires land disturbance and/or a subdivision of property, please contact the Development Services Center (DSC) to discuss next steps for site plan/plat review. Contact the DSC at 757-385-4621 or the Development Liaison Team at 757-385-5692.
- Please note that further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.
- The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.

STR VICINITY MAP

915C PACIFIC, LLC



**Virginia Beach Planning Commission
February 14, 2024, Public Meeting
Agenda Item # 11**

915C Pacific, LLC

RECOMMENDED FOR APPROVAL – CONSENT

Ms. Cuellar: Thank you very much. Our next item is item number 11, a conditional use permit for a short-term rental. Is there a representative here today on this item?

Ms. Alcock: Vice Chair, they're attending virtually, so I'm going to, Jackie Crawford.

Ms. Cuellar: Pardon me? Were you going to speak on this item?

Mr. Crawford: Yes, I'm David Crawford for 915C Pacific, LLC.

Ms. Cuellar: And are the conditions acceptable to you?

Mr. Crawford: Yes, ma'am.

Ms. Cuellar: Okay. Just pardon me for a moment, Madam Clerk. Is there another individual?

Ms. Alcock: I would assume that it is your wife, correct.

Ms. Cuellar: Thank you for being here today. Okay. Is there any opposition to this item being placed on the consent agenda? Hearing none. I've asked Commissioner Plumlee to read this item into the record.

Mr. Plumlee: The applicant 915C Pacific, LLC has requested a short-term rental conditional use permit to be located at 915 Pacific Avenue Unit C. The excellent planning staff for the City of Virginia Beach has recommended approval. This is within the district for this use, and the commission saw fit to place it on the consent agenda.

Ms. Cuellar: Thank you very much. Mr. Chairman that was the last item on the consent agenda, the Planning Commission places the following applications on the consent agenda, items number 2, 3, 4, 6, 7, 9, 10, 11 and 12.

Mr. Alcaraz: Alright, do I have a motion to approve this for consent?

Ms. Cuellar: I move that these items be approved by consent.

Ms. Hippen: So moved.

Mr. Alcaraz: I have a motion from Ms. Cuellar and Ms. Hippen second it.

Ms. Alcock: The vote is now open. Ms. Byler can I have your verbal really quickly?

Ms. Byler: Oh, never mind, went through. Thank you.

Ms. Alcock: By vote of 11 to 0 items number 2, 3, 4, 6, 7, 9, 10, 11 and 12 have been recommended for approval.

	AYE 11	NAY 0	ABS 0	ABSENT 0
Alcaraz	AYE			
Anderson	AYE			
Byler	AYE			
Clemons	AYE			
Coston	AYE			
Cuellar	AYE			
Estaris	AYE			
Hippen	AYE			
Mauch	AYE			
Parks	AYE			
Plumlee	AYE			

CONDITIONS

1. The following conditions shall only apply to the dwelling unit addressed as 915 Pacific Avenue, Unit C, and the Short Term Rental use shall only occur in the principal structure.
2. An annual (yearly) STR Zoning Permit must be obtained from the Department of Planning and Community Development (Zoning Administration) before using the dwelling for Short-Term Rental purposes.
3. The dwelling unit shall comply with all required Fire and Building code requirements.
4. Off-street parking shall be provided as required by Section 241.2 and 2303(b)(a)(i)(ii) of the City Zoning Ordinance or as approved by City Council.
5. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
6. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on

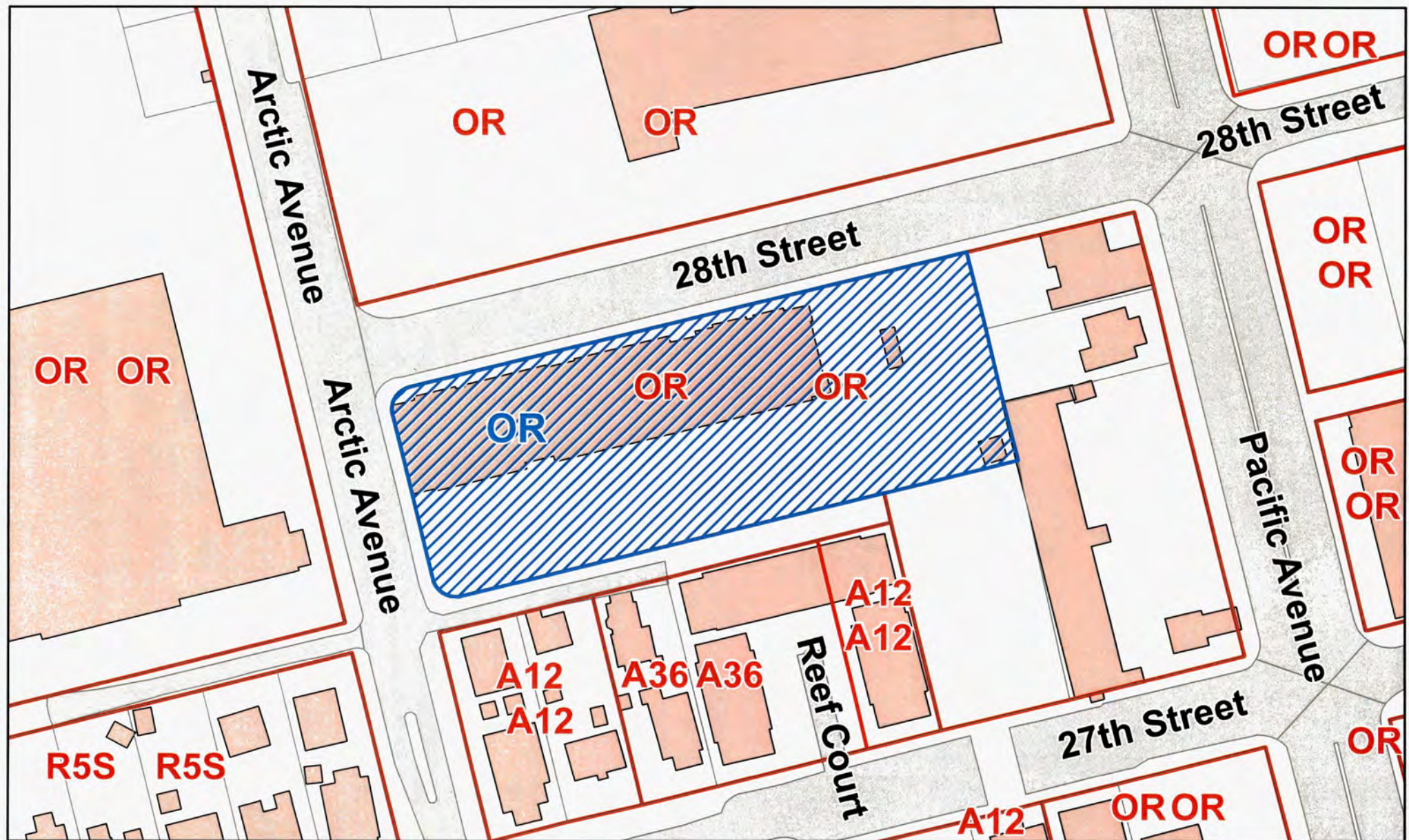
the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1.

7. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes and to be physical present at the Short Term Rental within one (1) hour.
8. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
 - a) A completed Department of Planning and Community Development Short Term Rental Zoning Permit; and
 - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
 - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
9. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
10. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
11. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
12. Accessory structures shall not be used or occupied as Short Term Rentals.
13. No signage shall be on-site, except that each short term rental shall have one (1) four-square foot sign posted on the building, or other permanent structure or location approved by the Zoning Administrator, that identifies the property as a short term rental and provides the telephone numbers for the Short Term Rental Hotlines in text large enough to be read from the public street.
14. The Short Term Rental shall have no more than one (1) rental contract for every seven (7) consecutive days.
15. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
16. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
17. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom, which number shall not include minors under the age of 16, provided that in no case may the total number of persons staying overnight at the property exceed the number of approved bedrooms multiplied by three (3).
18. The property owner, or their representative, shall provide to the City Planning Department permission to inspect the Short Term Rental property annually. Such inspection shall include: 1) At least one fire extinguisher has been installed inside the unit (in the kitchen) and in plain sight 2) Smoke alarms and carbon monoxide detectors are installed in accordance with the building code in effect at the of construction and interconnected. Units constructed prior to interconnection requirements must have a minimum of one smoke alarm installed on every floor of the structure and in the areas adjacent to all sleeping rooms, and when activated, be audible in all sleeping rooms, and 3) All smoke alarms and carbon monoxide detectors have been inspected within the last twelve months and are in good working order.



Properties managed by Short Term Rental Companies certified by the Department of Planning shall only be required to be inspected every three years. The inspection for compliance with the requirements above shall be performed by the short term rental management company and be documented on a form prescribed by the Planning Department and shall be provided during the yearly permitting process.

Properties may be inspected annually for compliance with the requirements above by certified Short Term Rental Management Companies or Certified Home Inspectors. The compliance inspection shall be documented on a form prescribed by the Planning Department and shall be provided during the yearly permit process.

19. A structural safety inspection report shall be provided to the city every three (3) years indicating all exterior stairways, decks, porches, and balconies have been inspected by a licensed design professional qualified to perform such inspection (engineer or architect) and are safe for use. The report must indicate the maximum number of occupants permitted on each level of these structures and placards indicating the maximum number of occupants of all exterior stairways, decks, porches, and balconies must be posted on each level of these structures.



Maribel Joa
304 28th Street, Unit 211

-  Site
-  Property_Polygons
-  Zoning
-  Building

0 15 30 60 90 120 150 180 Feet





CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: MARIBEL JOA [Applicant] MARIBEL JOA & COURTNEY A CURRIE [Property Owners] Conditional Use Permit (Short Term Rental) for the property located at 304 28th St, Unit 211 (GPIN 24280028662011). COUNCIL DISTRICT 6

MEETING DATE: March 19, 2024

■ **Background:**

The applicant is requesting a Conditional Use Permit to operate a Short Term Rental in a two-bedroom, 974 square-foot unit of the Playa Rana Condominiums located at 304 28th St, Unit 211.

A zoning complaint was made in 2022 for the operation of a Short Term Rental without a Conditional Use Permit; however, the complaint was with a prior owner, before the current applicant purchased the property. When the current applicant purchased the property in November 2023, she immediately applied for the Conditional Use Permit. After purchasing the property, the applicant also suspended all advertising and renting of this property as a Short Term Rental.

■ **Considerations:**

The applicant is requesting to operate a two-bedroom, 974 square-foot Short Term Rental within the Playa Rana Condominium building. Short Term Rentals are prevalent on this property with a total of 8 approved Conditional Use Permits. There is one assigned parking space associated with this unit in the condominium's parking lot. Playa Rana Condominiums is one such property granted a historical exception to the Short Term Rental parking requirement of one space per bedroom; therefore, only one parking space is required for the entire unit. All other requirements of Section 241.2 and Section 2303 of the Zoning Ordinance regulating Short Term Rentals can be reasonably met with this application.

Further details pertaining to the application, as well as Staff's evaluation, are provided in the attached Staff Report. There is no known opposition to this request.

■ **Recommendation:**

On February 14, 2024, the Planning Commission passed a motion to recommend approval of this item on the Consent Agenda, by a recorded vote of 11-0.

1. The following conditions shall only apply to the dwelling unit addressed as 304 28th St, Unit 211, and the Short Term Rental use shall only occur in the principal structure.
2. An annual (yearly) STR Zoning Permit must be obtained from the Department of Planning and Community Development (Zoning Administration) before using the dwelling for Short-Term Rental purposes.
3. The dwelling unit shall comply with all required Fire and Building code requirements.
4. Off-street parking shall be provided as required by Section 241.2 and 2303(b)(a)(i)(ii) of the City Zoning Ordinance or as approved by City Council.
5. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
6. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1.
7. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes and to be physical present at the Short Term Rental within one (1) hour.
8. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
 - a) A completed Department of Planning and Community Development Short Term Rental Zoning Permit; and
 - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
 - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.

9. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
10. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
11. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
12. Accessory structures shall not be used or occupied as Short Term Rentals.
13. No signage shall be on-site, except that each short term rental shall have one (1) four-square foot sign posted on the building, or other permanent structure or location approved by the Zoning Administrator, that identifies the property as a short term rental and provides the telephone numbers for the Short Term Rental Hotlines in text large enough to be read from the public street.
14. The Short Term Rental shall have no more than one (1) rental contract for every seven (7) consecutive days.
15. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
16. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
17. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom, which number shall not include minors under the age of 16, provided that in no case may the total number of persons staying overnight at the property exceed the number of approved bedrooms multiplied by three (3).
18. The property owner, or their representative, shall provide to the City Planning Department permission to inspect the Short Term Rental property annually. Such inspection shall include: 1) At least one fire extinguisher has been installed inside the unit (in the kitchen) and in plain sight 2) Smoke alarms and carbon monoxide detectors are installed in accordance with the building code in effect at the of construction and interconnected. Units constructed prior to interconnection requirements must have a minimum of one smoke alarm installed on every floor of the structure and in the areas adjacent to all sleeping rooms, and when activated, be audible in all sleeping rooms, and 3) All smoke alarms and carbon monoxide detectors have been inspected within the last twelve months and are in good working order.

Properties managed by Short Term Rental Companies certified by the Department of Planning shall only be required to be inspected every three years. The inspection for compliance with the requirements above shall be performed by the short term rental management company and be documented on a form prescribed by the Planning Department and shall be provided during the yearly permitting process.

Properties may be inspected annually for compliance with the requirements above by certified Short Term Rental Management Companies or Certified Home Inspectors. The compliance inspection shall be documented on a form prescribed by the Planning Department and shall be provided during the yearly permit process.

19. A structural safety inspection report shall be provided to the city every three (3) years indicating all exterior stairways, decks, porches, and balconies have been inspected by a licensed design professional qualified to perform such inspection (engineer or architect) and are safe for use. The report must indicate the maximum number of occupants permitted on each level of these structures and placards indicating the maximum number of occupants of all exterior stairways, decks, porches, and balconies must be posted on each level of these structures.

- **Attachments:**
 - Staff Report and Disclosure Statements
 - Location Map
 - STR Vicinity Map
 - Minutes of Planning Commission Hearing

Recommended Action: Staff recommends Approval. Planning Commission recommends Approval.

Submitting Department/Agency: Planning Department

City Manager:



Request

Conditional Use Permit (Short Term Rental)

Staff Recommendation

Approval

Staff Planner

Michaela McKinney

Location

304 28th Street, Unit 211

GPIN

24280028662011

Site Size

53,138 square feet (974 square feet unit)

Existing Land Use and Zoning District

Condominiums / OR Oceanfront Resort

Surrounding Land Uses and Zoning Districts

North

28th Street

Hotel / OR Oceanfront Resort

South

27th Half Street

Single-family dwellings, multi-family dwellings/
A-12 Apartment and A-36 Apartment

East

Restaurant / OR Oceanfront Resort

West

Arctic Avenue

Grocery Store and Single Family Dwellings / OR
Oceanfront Resort / R-5S Residential



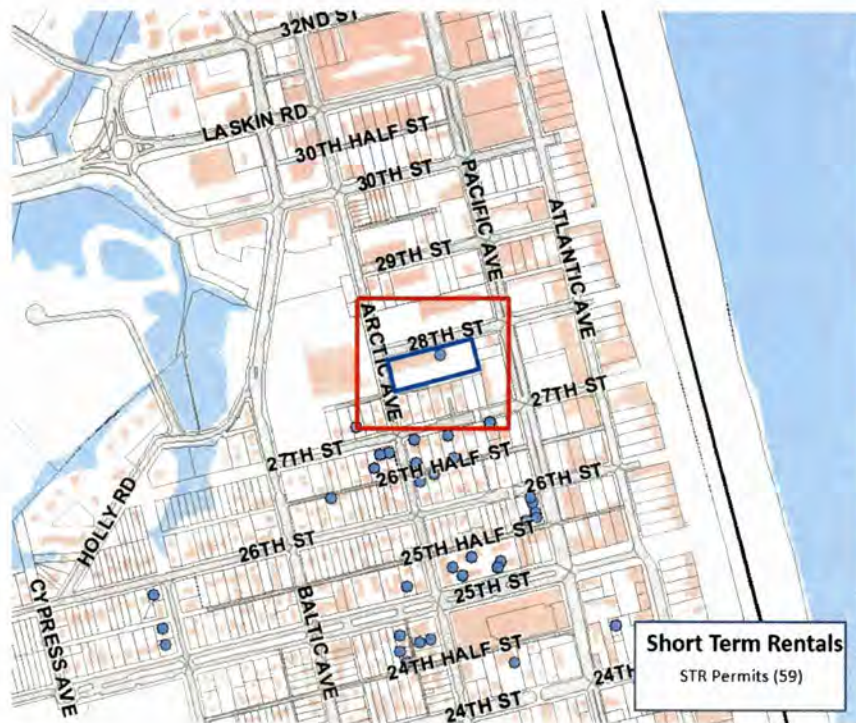
Background & Summary of Proposal

Site Conditions and History

- This 53,138 square foot parcel contains the Playa Rana Condominiums and is zoned OR Oceanfront Resort District. According to City records, this multi-family condominium was constructed in 2008.
- On-street parking is permitted 24-hours per day, therefore any overflow parking beyond the minimum parking spaces required could occur within the public street.
- When researching the property for the current request, staff discovered a past zoning complaint from 2022 for operation of a Short Term Rental without a Conditional Use Permit; however the unpermitted STR operation was by a previous property owner. The current applicant purchased the property in November 2023 and applied for the Conditional Use Permit immediately thereafter. Upon purchase of the property, the applicant also suspended all advertising and renting of this property as a Short Term Rental.
- Since this property was not registered with the Commissioner of Revenue nor paying transient occupancy taxes to the Commissioner of the Revenue prior to July 1, 2018, the property would not be considered a grandfathered Short Term Rental and thus would require a Conditional Use Permit prior to operating.
- Known Short Term Rental activity as of January 17, 2024, is shown in the chart below:

CURRENTLY ADVERTISED	LAST KNOWN RENTAL	REGISTERED WITH THE COMMISSIONER OF THE REVENUE
No	September 2023	No

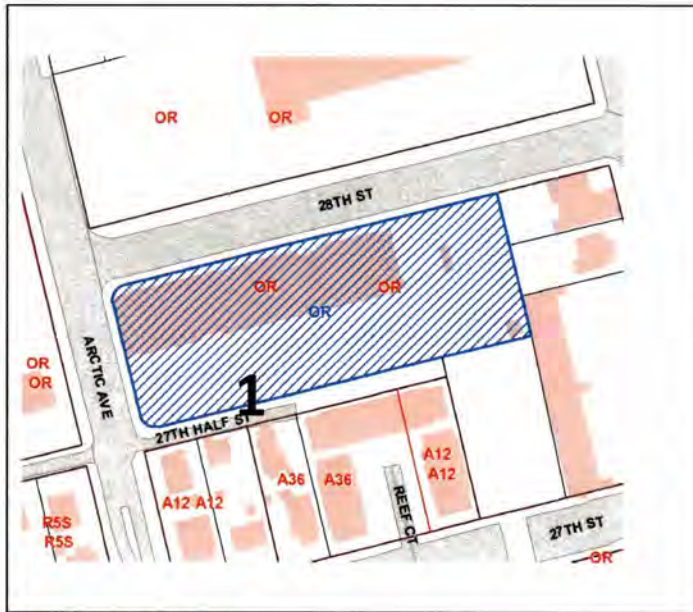
Short Term Rentals in the Vicinity



Summary of Proposal

The applicant is requesting a Conditional Use Permit to operate a Short Term Rental on the subject site. The regulations for Short Term Rental use are identified in Section 241.2 of the City Zoning Ordinance. Specific details pertaining to this application are listed below.

- Number of bedrooms in the Short Term Rental: 2
- Maximum number of guests permitted on the property after 11:00 pm: 4
- Number of parking spaces required (1 space per bedroom required): 2
- Number of off-street parking spaces provided: 1



Zoning History

#	Request
1	CUP (Short Term Rental) Approved 07/06/2021
	CUP (Short Term Rental) Approved 06/01/2021
	CUP (Short Term Rental) Approved 06/01/2021
	CUP (Short Term Rental) Approved 04/07/2021
	CUP (Short Term Rental) Approved 10/20/2020
	CUP (Short Term Rental) Approved 10/20/2020
	CUP (Short Term Rental) Approved 09/08/2020
	CUP (Short Term Rental) Approved 09/08/2020

Application Types

CUP – Conditional Use Permit	MDC – Modification of Conditions	STC – Street Closure	SVR – Subdivision Variance
REZ – Rezoning	MDP – Modification of Proffers	FVR – Floodplain Variance	LUP – Land Use Plan
CRZ – Conditional Rezoning	NON – Nonconforming Use	ALT – Alternative Compliance	STR – Short Term Rental

Evaluation & Recommendation

The applicant is requesting to operate a two-bedroom, 974 square-foot Short Term Rental within the Playa Rana Condominium building. Short Term Rentals are prevalent on this property with a total of eight approved Conditional Use Permits for the operation of Short Term Rentals.

There ~~are two~~ is one assigned parking space associated with this unit in the condominium's parking lot. According to the City of Virginia Beach Zoning Ordinance, Appendix A, Article 23, Section 2303, (b), a., ii., "There are certain condominium properties that have historically operated as short term lodging units and have not experienced any inconvenience to guests or the surrounding area without the required one (1) parking space per bedroom. Further, such properties are unable to provide the required parking on-site. For these condominium properties, the Zoning Administrator may, at his discretion, require one (1) parking space per dwelling unit similar to the requirement for lodging uses in the Oceanfront Resort District Form Based Code (ORDFBC). Such properties must provide written evidence of their past use and the Zoning Administrator shall find that there is no public inconvenience with the current parking design." Playa Rana

Condominiums is one such property granted a historical exception to the Short Term Rental parking requirements of one space per bedroom; therefore, only one parking space is required for the entire unit. All other requirements of Section 241.2 and Section 2303 of the Zoning Ordinance regulating Short Term Rentals can be reasonably met with this application.

Based on the considerations above, Staff recommends approval of this request with the conditions listed below.

Recommended Conditions

1. The following conditions shall only apply to the dwelling unit addressed as 304 28th St, Unit 211, and the Short Term Rental use shall only occur in the principal structure.
2. An annual (yearly) STR Zoning Permit must be obtained from the Department of Planning and Community Development (Zoning Administration) before using the dwelling for Short-Term Rental purposes.
3. The dwelling unit shall comply with all required Fire and Building code requirements.
4. Off-street parking shall be provided as required by Section 241.2 and 2303(b)(a)(i)(ii) of the City Zoning Ordinance or as approved by City Council.
5. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
6. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1.
7. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes and to be physical present at the Short Term Rental within one (1) hour.
8. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
 - a) A completed Department of Planning and Community Development Short Term Rental Zoning Permit; and
 - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
 - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
9. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
10. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.

11. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
12. Accessory structures shall not be used or occupied as Short Term Rentals.
13. No signage shall be on-site, except that each short term rental shall have one (1) four-square foot sign posted on the building, or other permanent structure or location approved by the Zoning Administrator, that identifies the property as a short term rental and provides the telephone numbers for the Short Term Rental Hotlines in text large enough to be read from the public street.
14. The Short Term Rental shall have no more than one (1) rental contract for every seven (7) consecutive days.
15. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
16. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
17. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom, which number shall not include minors under the age of 16, provided that in no case may the total number of persons staying overnight at the property exceed the number of approved bedrooms multiplied by three (3).
18. The property owner, or their representative, shall provide to the City Planning Department permission to inspect the Short Term Rental property annually. Such inspection shall include: 1) At least one fire extinguisher has been installed inside the unit (in the kitchen) and in plain sight 2) Smoke alarms and carbon monoxide detectors are installed in accordance with the building code in effect at the of construction and interconnected. Units constructed prior to interconnection requirements must have a minimum of one smoke alarm installed on every floor of the structure and in the areas adjacent to all sleeping rooms, and when activated, be audible in all sleeping rooms, and 3) All smoke alarms and carbon monoxide detectors have been inspected within the last twelve months and are in good working order.

Properties managed by Short Term Rental Companies certified by the Department of Planning shall only be required to be inspected every three years. The inspection for compliance with the requirements above shall be performed by the short term rental management company and be documented on a form prescribed by the Planning Department and shall be provided during the yearly permitting process.

Properties may be inspected annually for compliance with the requirements above by certified Short Term Rental Management Companies or Certified Home Inspectors. The compliance inspection shall be documented on a form prescribed by the Planning Department and shall be provided during the yearly permit process.

19. A structural safety inspection report shall be provided to the city every three (3) years indicating all exterior stairways, decks, porches, and balconies have been inspected by a licensed design professional qualified to perform such inspection (engineer or architect) and are safe for use. The report must indicate the maximum number of occupants permitted on each level of these structures and placards indicating the maximum number of occupants of all exterior stairways, decks, porches, and balconies must be posted on each level of these structures.

Further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.

The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.

Public Outreach Information

Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on January 15, 2024.
- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, January 31, 2024 and February 7, 2024.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on January 29, 2024.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.virginiabeach.gov/pc on February 8, 2024.

City Council

- As required by City Code, this item was advertised in the Virginian-Pilot Beacon on Tuesdays, March 5, 2024 and March 12, 2024.
- As required by City Code, the adjacent property owners were notified regarding both the request and the date of the City Council's public hearing on March 4, 2024.
- The City Clerk's Office posted the materials associated with the application on the City Council website of <https://clerk.virginiabeach.gov/city-council> on March 15, 2024.

Site Layout & Parking Plan



Site Photos



Disclosure Statement



The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law. The completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council or a City board, commission or other body.

Applicant Disclosure

Applicant Name Maribel Joa

Does the applicant have a representative? ☐ Yes ☒ No

- If yes, list the name of the representative.

Is the applicant a corporation, partnership, firm, business, trust or an unincorporated business? ☐ Yes ☒ No

- If yes, list the names of all officers, directors, members, trustees, etc. below. (Attach a list if necessary)

- If yes, list the businesses that have a parent-subsidary¹ or affiliated business entity² relationship with the applicant. (Attach a list if necessary)

¹ "Parent-subsidary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, VA. Code § 2.2-3101.

² "Affiliated business entity relationship" means "a relationship, other than parent-subsidary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

Disclosure Statement



Known Interest by Public Official or Employee

Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action? ☐ Yes ☒ No

- If yes, what is the name of the official or employee and what is the nature of the interest?

Applicant Services Disclosure

1. Does the applicant have any existing financing (mortgage, deeds of trust, cross-collateralization, etc) or are they considering any financing in connection with the subject of the application or any business operating or to be operated on the property?

☒ Yes ☐ No

- If yes, identify the financial institutions providing the service.

Union Home Mortgage

2. Does the applicant have a real estate broker/agent/realtor for current and anticipated future sales of the subject property?

☐ Yes ☒ No

- If yes, identify the company and individual providing the service.

3. Does the applicant have services for accounting and/or preparation of tax returns provided in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

- If yes, identify the firm and individual providing the service.

4. Does the applicant have services from an architect/landscape architect/land planner provided in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

- If yes, identify the firm and individual providing the service.

5. Is there any other pending or proposed purchaser of the subject property? ☐ Yes ☒ No

- If yes, identify the purchaser and purchaser's service providers.

Disclosure Statement

Disclosure Statement



6. Does the applicant have a **construction contractor** in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No
- If **yes**, identify the company and individual providing the service.
-
7. Does the applicant have an **engineer/surveyor/agent** in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No
- If **yes**, identify the firm and individual providing the service.
-
8. Is the applicant receiving **legal services** in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No
- If **yes**, identify the firm and individual providing the service.
-

Applicant Signature

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate. I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the meeting of Planning Commission, City Council, VBDA, CBPA, Wetlands Board or any public body or committee in connection with this application.

A handwritten signature in black ink, appearing to read 'Maribel Joa', written over a horizontal line.

Applicant Signature

Maribel Joa

Print Name and Title

Dec 1, 2023

Date

Is the applicant also the owner of the subject property? ☒ Yes ☐ No

- If **yes**, you do not need to fill out the owner disclosure statement.

FOR CITY USE ONLY/ All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the applications

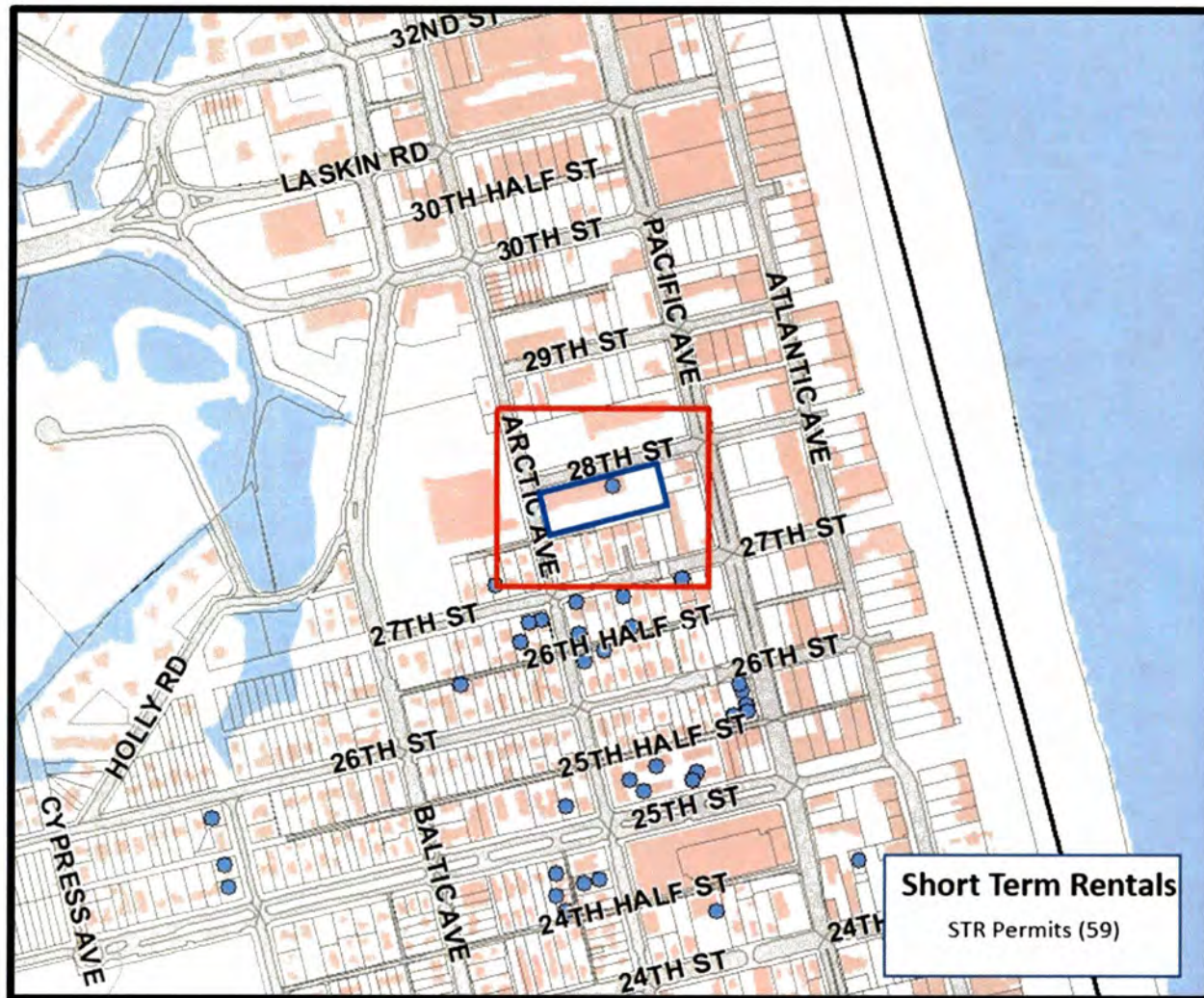
<input checked="" type="checkbox"/>	No changes as of	Date	03/01/24	Signature	<i>Michaela D. McKinney</i>
				Print Name	Michaela D. McKinney

Next Steps

- Upon receiving a recommendation from Planning Commission, this request will be scheduled for a City Council public hearing. Staff will inform the applicant and/or their representative of the date of the hearing in the upcoming days.
- Following City Council's decision, the applicant will receive a decision letter from Staff.
- Once the conditions of approval are in place and/or completed, the applicant must contact the Zoning Division of the Planning Department to obtain verification that the conditions have been met. Contact the Zoning Division at 757-385-8074.
- If the request requires land disturbance and/or a subdivision of property, please contact the Development Services Center (DSC) to discuss next steps for site plan/plat review. Contact the DSC at 757-385-4621 or the Development Liaison Team at 757-385-5692.
- Please note that further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.
- The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.

STR VICINITY MAP

MARIBEL JOA



**Virginia Beach Planning Commission
February 14, 2024, Public Meeting
Agenda Item # 12**

Maribel Joa

RECOMMENDED FOR APPROVAL – CONSENT

Ms. Cuellar: Thank you very much, and the next item will be item number 12, conditional use permit for a short-term rental. Is their representative here to speak on this item? Welcome. Hi, could you please state your name for the record.

Ms. Joa: Maribel Joa.

Ms. Cuellar: And are the conditions agreeable to you?

Ms. Joa: Yes.

Ms. Cuellar: Thank you very much. Is there any opposition to this item being placed on the consent agenda? Hearing none. I've asked Commissioner Plumlee to read this item into the record.

Mr. Plumlee: The applicant Maribel Joa has requested a short-term rental conditional use permit at 304 28th Street Unit 211. It has been reviewed thoroughly by our excellent staff and recommended for approval, and it's within the appropriate district.

Ms. Cuellar: Thank you very much. Mr. Chairman that was the last item on the consent agenda, the Planning Commission places the following applications on the consent agenda, items number 2, 3, 4, 6, 7, 9, 10, 11 and 12.

Mr. Alcaraz: Alright, do I have a motion to approve this for consent?

Ms. Cuellar: I move that these items be approved by consent.

Ms. Hippen: So moved.

Mr. Alcaraz: I have a motion from Ms. Cuellar and Ms. Hippen second it.

Ms. Alcock: The vote is now open. Ms. Byler can I have your verbal really quickly?

Ms. Byler: Oh, never mind, went through. Thank you.

Ms. Alcock: By vote of 11 to 0 items number 2, 3, 4, 6, 7, 9, 10, 11 and 12 have been recommended for approval.

	AYE 11	NAY 0	ABS 0	ABSENT 0
Alcaraz	AYE			
Anderson	AYE			
Byler	AYE			
Clemons	AYE			
Coston	AYE			
Cuellar	AYE			
Estaris	AYE			
Hippen	AYE			
Mauch	AYE			
Parks	AYE			
Plumlee	AYE			

CONDITIONS

1. The following conditions shall only apply to the dwelling unit addressed as 304 28th St, Unit 211, and the Short Term Rental use shall only occur in the principal structure.
2. An annual (yearly) STR Zoning Permit must be obtained from the Department of Planning and Community Development (Zoning Administration) before using the dwelling for Short-Term Rental purposes.
3. The dwelling unit shall comply with all required Fire and Building code requirements.
4. Off-street parking shall be provided as required by Section 241.2 and 2303(b)(a)(i)(ii) of the City Zoning Ordinance or as approved by City Council.
5. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
6. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1.
7. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes and to be physical present at the Short Term Rental within one (1) hour.
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 - a) A completed Department of Planning and Community Development Short Term Rental Zoning Permit; and

- b) Copies of the Commissioner of Revenue's Office receipt of registration; and
 - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
9. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
 10. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
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 12. Accessory structures shall not be used or occupied as Short Term Rentals.
 13. No signage shall be on-site, except that each short term rental shall have one (1) four-square foot sign posted on the building, or other permanent structure or location approved by the Zoning Administrator, that identifies the property as a short term rental and provides the telephone numbers for the Short Term Rental Hotlines in text large enough to be read from the public street.
 14. The Short Term Rental shall have no more than one (1) rental contract for every seven (7) consecutive days.
 15. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
 16. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
 17. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom, which number shall not include minors under the age of 16, provided that in no case may the total number of persons staying overnight at the property exceed the number of approved bedrooms multiplied by three (3).
 18. The property owner, or their representative, shall provide to the City Planning Department permission to inspect the Short Term Rental property annually. Such inspection shall include: 1) At least one fire extinguisher has been installed inside the unit (in the kitchen) and in plain sight 2) Smoke alarms and carbon monoxide detectors are installed in accordance with the building code in effect at the of construction and interconnected. Units constructed prior to interconnection requirements must have a minimum of one smoke alarm installed on every floor of the structure and in the areas adjacent to all sleeping rooms, and when activated, be audible in all sleeping rooms, and 3) All smoke alarms and carbon monoxide detectors have been inspected within the last twelve months and are in good working order.

Properties managed by Short Term Rental Companies certified by the Department of Planning shall only be required to be inspected every three years. The inspection for compliance with the requirements above shall be performed by the short term rental management company and be documented on a form prescribed by the Planning Department and shall be provided during the yearly permitting process.

Properties may be inspected annually for compliance with the requirements above by certified Short Term Rental Management Companies or Certified Home Inspectors. The compliance inspection shall be documented on a form prescribed by the Planning Department and shall be provided during the yearly permit process.
 19. A structural safety inspection report shall be provided to the city every three (3) years indicating all exterior stairways, decks, porches, and balconies have been inspected by a licensed design professional qualified to perform such inspection (engineer or architect) and are safe for use. The report must indicate the maximum number of occupants permitted on each level of these structures and placards indicating the maximum number of occupants of

all exterior stairways, decks, porches, and balconies must be posted on each level of these structures.

L. APPOINTMENTS

90-DAY FESTIVAL TASK FORCE

ADVERTISING ADVISORY COMMITTEE

BAYFRONT ADVISORY COMMISSION

BEACHES AND WATERWAYS ADVISORY COMMISSION

CLEAN COMMUNITY COMMISSION

COMMUNITY POLICY AND MANAGEMENT TEAM

COMMUNITY SERVICES BOARD

GREEN RIBBON COMMITTEE

HEALTH SERVICES ADVISORY BOARD

HOUSING ADVISORY BOARD

INDEPENDENT CITIZEN REVIEW BOARD

MINORITY BUSINESS COUNCIL

PERSONNEL BOARD

RESORT ADVISORY COMMISSION

SENIOR SERVICES OF SOUTHEASTERN VIRGINIA BOARD

SHORT TERM RENTAL ENFORCEMENT TASK FORCE

TRANSITION AREA/ INTERFACILITY TRAFFIC AREA CITIZENS ADVISORY COMMITTEE

VIRGINIA BEACH CANNABIS ADVISORY TASK FORCE

M. UNFINISHED BUSINESS

N. NEW BUSINESS

O. ADJOURNMENT

If you are **physically disabled** or **visually impaired**
and need assistance at this meeting,
please call the **CITY CLERK'S OFFICE** at **385-4303**

The Agenda (including all backup documents) is available at <https://clerk.virginiabeach.gov/city-council> under the eDocs Document Archive. If you would like to receive by email a list of the agenda items for each Council meeting, please submit your request to TChelius@vbgov.com or call 385-4303.

Citizens who wish to speak can sign up either in-person or virtually via WebEx. Anyone wishing to participate virtually, must follow the **two-step process** provided below:

1. Register for the WebEx at:
<https://vbgov.webex.com/weblink/register/re9e0662ba478e67eac811db4c8e0eab5>
2. Register with the City Clerk's Office by calling 757-385-4303 prior to 5:00 p.m. on March 19, 2024.

[illegible][illegible]

**CITY OF VIRGINIA BEACH
SUMMARY OF COUNCIL ACTIONS**

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AGENDA

ITEM #

SUBJECT

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J.	BID SUMMARY													
1.	MANAGEMENT OF CITY PROPERTY 2044 Landstown Centre Way/ Sportsplex and Field Hockey Center													
L.1.	Ordinance to AMEND City Code Section 2-3-1 pertaining to the Attendance Policy / AMEND the Final Report to City Council of the Citizens Committee on Boards and Commissions re Boards and Commissions	ADOPTED, BY CONSENT	10-0	Y	Y	Y	A	Y	Y	Y	Y	Y	Y	Y
L.2.	Resolution to AMEND Student Members re Flood Prevention Bond Referendum Oversight Board	ADOPTED, BY CONSENT	10-0	Y	Y	Y	A	Y	Y	Y	Y	Y	Y	Y
L.3.	Resolution to ESTABLISH a Stormwater Management Implementation Advisory Group	DEFERRED TO MARCH 19, 2024, BY CONSENT	10-0	Y	Y	Y	A	Y	Y	Y	Y	Y	Y	Y
L.4.	Resolution to AUTHORIZE and DIRECT the City Manager to EXECUTE a Mutual Aid Agreement re Fire and Rescue Services among localities in Hampton Roads	ADOPTED, BY CONSENT	10-0	Y	Y	Y	A	Y	Y	Y	Y	Y	Y	Y
L.5.	Ordinance to DECLARE 9,833± square feet of City-owned property at Ferry Point Road to be in Excess of the City's Needs and AUTHORIZE the City Manager to convey to Meador Properties, LLC DISTRICT 7	ADOPTED, BY CONSENT	10-0	Y	Y	Y	A	Y	Y	Y	Y	Y	Y	Y
L.6.	Ordinance to AUTHORIZE temporary encroachments into the City-owned drainage, Maintenance and variable width impoundment easement at the rear of 5945 Glen View Drive re maintain existing fence and construct and maintain rip rap revetment DISTRICT 7	ADOPTED, BY CONSENT	10-0	Y	Y	Y	A	Y	Y	Y	Y	Y	Y	Y
L.7.	Ordinance to AUTHORIZE temporary encroachments into the City-owned property known as Starboard Canal and Island Lake at the rear of 2428 Windward Shore Drive re construct and maintain a revetment encroaching variable distances, a timber pier, floating dock with aluminum gangway and a covered boat lift DISTRICT 8	ADOPTED, BY CONSENT	10-0	Y	Y	Y	A	Y	Y	Y	Y	Y	Y	Y
L.8.	Ordinance to AUTHORIZE temporary encroachment into the City-owned property known as Treasure Canal at the rear of 2204 Windward Shore Drive re maintain an existing bulkhead, construct and maintain a timber bulkhead with a return wall, sand backfill, and topsoil/turfgrass, timber open pile wharf, timber pile overhead beam boatlift and boatlift electrical cable DISTRICT 8	ADOPTED, BY CONSENT	10-0	Y	Y	Y	A	Y	Y	Y	Y	Y	Y	Y
L.9.	Ordinance to AUTHORIZE temporary encroachment into the City-owned property known as Chesapeake Bay at the rear of 2810 Ocean Shore Avenue re maintain existing wood steps with metal rails, moveable wood platform and wood retaining wall and construct and maintain a wood fence/retaining wall DISTRICT 8	ADOPTED, BY CONSENT	10-0	Y	Y	Y	A	Y	Y	Y	Y	Y	Y	Y

**CITY OF VIRGINIA BEACH
SUMMARY OF COUNCIL ACTIONS**

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AGENDA

ITEM #	SUBJECT	MOTION	VOTE	B E R L U C H I	D Y E R	H E N L E Y	H U T C H E S O N	R E M I C K	R O S S - H A M M O N D	R O U S E	S C H U L M A N	T A Y L O R	W I L S O N	W O O T E N
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L.10.	Ordinance to ACCEPT and APPROPRIATE \$290,000 from Dominion Energy Virginia for Section 106 Mitigation of Adverse Visual Effects to the FY 2023-24 Planning and Community Development Operating Budget re Coastal Virginia Offshore Wind Commercial Project / historic preservation program priorities	ADOPTED, BY CONSENT	9-0	Y	Y	Y	A	Y	Y	Y	Y	Y	A B S T A I N E D	Y
L.11.	Ordinance to ACCEPT and APPROPRIATE \$19,446 from the Virginia Department of Criminal Justice Services to the FY 2023-24 Human Services Operating Budget re salary increases in Community Corrections and Pretrial Services	ADOPTED, BY CONSENT	10-0	Y	Y	Y	A	Y	Y	Y	Y	Y	Y	Y
M.1.	RUFFIN 86, LLC for a <u>Variance</u> to Section 4.4(c) of the Subdivision Regulations re demolish three (3) dwelling units to construct one-single family dwelling at 109 A & B 86 th Street & 8600 Ocean Front Avenue DISTRICT 6	APPROVED / CONDITIONED, BY CONSENT	10-0	Y	Y	Y	A	Y	Y	Y	Y	Y	Y	Y
M.2.	C THE JEMS, LLC / JONATHAN PROPERTIES, LLC for a <u>Modification of Proffers to a Conditional Change of Zoning</u> and a <u>Conditional Use Permit</u> re bulk storage yard – tow at 2625 Horse Pasture Road DISTRICT 5	APPROVED / MODIFIED / AS PROFFERED / CONDITIONED, BY CONSENT	10-0	Y	Y	Y	A	Y	Y	Y	Y	Y	Y	Y
N.	APPOINTMENTS 90-DAY FESTIVAL TASK FORCE BAYFRONT ADVISORY COMMISSION BEACHES AND WATERWAYS ADVISORY COMMISSION CLEAN COMMUNITY COMMISSION COMMUNITY POLICY AND MANAGEMENT TEAM GREEN RIBBON COMMITTEE HEALTH SERVICES ADVISORY BOARD PERSONNEL BOARD RESORT ADVISORY COMMISSION SENIOR SERVICES OF SOUTHEASTERN VA BOARD SHORT TERM RENTAL ENFORCEMENT TASK FORCE TRANSITION AREA/ INTERFACILITY TRAFFIC AREA CITIZENS ADVISORY COMMITTEE VIRGINIA BEACH CANNABIS ADVISORY TASK FORCE	RESCHEDULED		B	Y	C	O	N	S	E	N	S	U	S
	ATLANTIC PARK COMMUNITY DEVELOPMENT AUTHORITY	Appointed: Council Member David Hutcheson Elected term thru 12/31/2024	10-0	Y	Y	Y	A	Y	Y	Y	Y	Y	Y	Y
	BAYFRONT ADVISORY COMMISSION	Appointed: Sandford Cohen 3 Year Term 3/5/2024 - 2/28/2027	10-0	Y	Y	Y	A	Y	Y	Y	Y	Y	Y	Y
	CLEAN COMMUNITY COMMISSION	Reappointed: Dianna McDowell Sandra Shinabarger 3 Year Term 4/1/2024 - 3/31/2027	10-0	Y	Y	Y	A	Y	Y	Y	Y	Y	Y	Y

**CITY OF VIRGINIA BEACH
SUMMARY OF COUNCIL ACTIONS**

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AGENDA

ITEM #

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	DEFERRED COMPENSATION BOARD	Appointed: Council Member David Hutcheson No Term	10-0	Y	Y	Y	A	Y	Y	Y	Y	Y	Y	Y	Y
	FLOOD PREVENTION BOND REFERENDUM OVERSIGHT BOARD	Appointed: Isabelle Chao Torrence Spreder Representing Student Members 3/5/2024 – 6/30/2025 (Student Term)	10-0	Y	Y	Y	A	Y	Y	Y	Y	Y	Y	Y	Y
	HAMPTON ROADS TRANSPORT PLANNING ORGANIZATION	Appointed: Council Member Joashua Schulman – Representing Alternate Member No Term	10-0	Y	Y	Y	A	Y	Y	Y	Y	Y	Y	Y	Y
	HEALTH SERVICES ADVISORY BOARD	Appointed: Carol Ashman 3 Year Term 4/1/2024 - 3/31/2027	10-0	Y	Y	Y	A	Y	Y	Y	Y	Y	Y	Y	Y
	HUMAN RIGHTS COMMISSION	Appointed: Jackson Doane 3 Year Term 4/1/2024 - 3/31/2027 Reappointed: Jamal Gunn 3 Year Term 4/1/2024 - 3/31/2027 Sylvia Strickland 1 Year Term 4/1/2024 - 3/31/2025	10-0	Y	Y	Y	A	Y	Y	Y	Y	Y	Y	Y	Y
	MILITARY ECONOMIC DEVELOPMENT ADVISORY COMMITTEE	Appointed: Eric Keplinger – Representing Development Authority Unexpired thru 2/29/2028 Robert Holmes Unexpired thru 2/28/2025 +5 Year Term 3/1/2025 – 2/28/2030	10-0	Y	Y	Y	A	Y	Y	Y	Y	Y	Y	Y	Y
	OLD BEACH DESIGN REVIEW COMMITTEE	Appointed: Jeremy Maloney – Representing Resort Advisory Commission No Term	10-0	Y	Y	Y	A	Y	Y	Y	Y	Y	Y	Y	Y
	PERSONNEL BOARD	Reappointed: Susan Salafranca – Representing Alternate Merit Service Employee Member 3 Year Term 4/1/2024 - 3/31/2027	10-0	Y	Y	Y	A	Y	Y	Y	Y	Y	Y	Y	Y

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AGENDA

ITEM #

SUBJECT

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