CITY OF VIRGINIA BEACH
Planning & Community Development

Reasonable Use Exception for Proposed Residential Uses in Sub-Area 1 or 2 of the 65-70 dB DNL AICUZ

Purpose and Information

The information required by this form must be submitted with an application for any of the following types of City Council action, when the use the applicant is applying for is listed as **Not Compatible** within Sub-Area 1 or 2 of the 65 to 70 dB DNL AICUZ under the United States Navy's OPNAVINST 11010.36D:

1. Rezonings, including conditional zonings;
2. Conditional use permits for new uses or structures, or for alterations or enlargements of existing conditional uses where the occupant load would increase;
3. Conversions or enlargements of nonconforming uses or structures, except where the application contemplates the construction of a new building or structure or expansion of an existing use or structure where the total occupant load would not increase;
4. Street closures where the application contemplates the construction of a new building or structure or the expansion of a use or structure where the total occupant load is increased; and
5. Special exceptions for Alternative Compliance in any zoning district listed in section 102(a)(13) where the special exception allows a use not otherwise permitted by the applicable regulations.

If you are not sure whether your proposal falls within one of the types listed above, please contact a Staff Planner at (757) 385-4621 or PlanAdmn@VBgov.com.

Reasonable Use Exception Criteria per Section 1804 of the City Zoning Ordinance

(c) *Special regulations in the 65—70 dB DNL Noise Zone*. The following regulations shall apply to discretionary development applications for residential uses on property within the 65—70 dB DNL Noise Zone. Residential uses shall include all of the uses listed under the heading of "Residential and Related" in Table 1 of Section 1804.

(1) For property within **Sub-area 1** of the 65—70 dB DNL Noise Zone, discretionary development applications for residential uses may be granted only if the city council finds that the proposed development:

(i) Conforms to the applicable provisions of the city zoning ordinance, including all requirements of the zoning district; and

(ii) Conforms to the applicable provisions of the Comprehensive Plan, including, without limitation, the Resort Area Strategic Action Plan, Old Beach Design Guidelines or Special Area Design Guidelines (Urban Areas) set forth in the Reference Handbook of the Comprehensive Plan.

(2) For property within **Sub-area 2** of the 65—70 dB DNL Noise Zone, discretionary development applications for residential uses may be approved only if the city council finds that the proposed development:

(i) Is at a density similar to or lower than that of surrounding properties having a similar use and no greater than recommended by the Comprehensive Plan; and

(ii) Conforms to the applicable provisions of the Comprehensive Plan, including, without limitation, the Princess Anne Corridor Study, Princess Anne Commons Design Guidelines, or Mixed Use Development Guidelines.

(d) *Redevelopment.* The provisions of this section shall not apply to discretionary development applications for the redevelopment of property where the proposed dwelling unit density is the same as or lower than the actual unit density existing at the time the application is submitted. Actual units

are those units that exist on the property at the time of application.

(e) *Dwelling unit density – Reduction in density required.*

(1) Definitions.
(i) For purposes of this section previously authorized dwelling units is defined as residential uses currently permitted or approved prior to December 20, 2005:
(1) As a matter of right;
(2) Subject to a conditional use permit or proffer agreement; or
(3) Subject to any prior city council approval.

(2) Notwithstanding the provisions of subsection (a) above, where previously authorized dwelling units are permitted on one (1) or more contiguous properties, city council may consider an application or modification that would allow: (1) the previously authorized dwelling units to be changed in form and/or relocated; (2) the incorporation of additional land; (3) or the introduction of compatible uses, as per section 1804, subject to the following:
(i) No previously authorized dwelling units shall be relocated into a higher noise zone or into an accident potential zone or clear zone; and
(ii) Previously authorized dwelling units that are affected or changed by the proposed discretionary action shall be reduced by five (5) percent, except as noted below.

(3) Nothing in this section shall require the reduction of previously authorized dwelling units for discretionary actions that:
(i) Shift previously authorized dwelling units to a lower noise zone, but only for those previously authorized dwelling units that are actually moved, not the entire development; or
(ii) Modify conditions or proffers where the number of previously authorized dwelling units are not increased, the site layout or building design is modified and no additional uses are proposed; or
(iii) It is determined by the zoning administrator to be redevelopment and meets the criteria as set forth in Section 1804(d) of this appendix.

(4) No actions taken in accordance with subdivision (e) of this section shall be allowed to take the additional bonus density of the City Zoning Ordinance, Article 21, Workforce Housing.

Application Requirements

To satisfactorily demonstrate that the Reasonable Use Exception criteria have been examined and considered, the applicant must provide all information and materials listed in the Required Information section below.

Please submit all information to:

Department of Planning and Community Development
Planning Administration, Current Planning
2403 Courthouse Dr.
Building 3, Municipal Center
Virginia Beach, VA 23456-9101

Required Information

1. A description of all properties to be incorporated in the project (all addresses and/or GPINs).
2. A list of those uses designated as Compatible in the 65 to 70 dB DNL Noise Contour under the United States Navy's OPNAVINST 11010.36D. (See Table 1 in Appendix C of OPNAVINST 11010.36D). List all uses that have been considered for the property and a detailed explanation why development of

those uses would:

- not be physically possible given the property's topography, location or geographic or environmental characteristics;
- not be economically feasible; or
- not be a reasonable use of the property for other reasons.

3. A list of those uses designated as Not Compatible in the 65-70 dB DNL Noise Contour under the United States Navy's OPNAVINST 11010.36D but would result in use at a lower density and/or intensity. List all uses that have been considered for the property and a detailed explanation why development of those uses would:
   - not be physically possible given the property's topography, location or geographic or environmental characteristics;
   - not be economically feasible; or
   - not be a reasonable use of the property for other reasons
4. An explanation why the proposal is not capable of development at a lower density and/or intensity of use.