



# Planning Commission Agenda

January 13, 2021

**VB** City of  
**Virginia Beach**

The Virginia Beach Planning Commission Public Hearing is carried LIVE on VBTv, which is available on Cox Cable Channel 48, Verizon Cable Channel 45 and on VBgov.com's Media Center webpage at <http://www.vbgov.com/media/pages/videos.aspx>. The meeting is recast on Cox Channel 48 and Verizon Channel 45 the following morning at 9 a.m. and on Cox Channel 47 and Verizon Cable Channel 47 at 7 p.m. on the two consecutive Fridays following the live meeting. The meeting will also be available on the Media Center webpage for two months beginning the Friday after the live hearing.

# **Planning Commission Hearing Procedures**

**In accordance with Virginia Code § 2.2-3708.2, Virginia Code § 15.2-1413 and the City's Continuity of Government Ordinance adopted on September 15, 2020, and Chapter 1289 of the 2020 Acts of Assembly as amended, a Virtual Public Hearing of the Virginia Beach Planning Commission will be held on Wednesday, January 13, 2021 at 12:00 p.m.** A Staff briefing session will be held at 9:00 a.m. This public hearing will be held by electronic communication means. Citizens are encouraged to submit comments to the Planning Commission prior to the public hearing via email to [hdao@vbgov.com](mailto:hdao@vbgov.com) or via United States Postal Service to Hoa N. Dao, 2875 Sabre Street, Suite 500, Virginia Beach, VA 23452. All interested parties are invited to participate by following the two-step process provided below. Due to the ongoing Covid-19 Pandemic, please check our website at [www.vbgov.com/pc](http://www.vbgov.com/pc) for the most updated meeting information.

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/vbgov/onstage/g.php?MTID=ecd62a01dc00615d8affc321fdfe88832>

2. Register with the Planning Department by calling (757) 385-7634 or via email at [nigarrido@vbgov.com](mailto:nigarrido@vbgov.com) prior to 5:00 p.m. on January 12, 2021.

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 <http://www.vbgov.com/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 Planning Department at 757-385-4621. If you are hearing impaired, you can contact Virginia Relay at 711 for TDD service. The meeting will be broadcast on cable TV, [www.vbgov.com](http://www.vbgov.com), and Facebook Live.

- \* Deferral
- \*\* Withdrawal

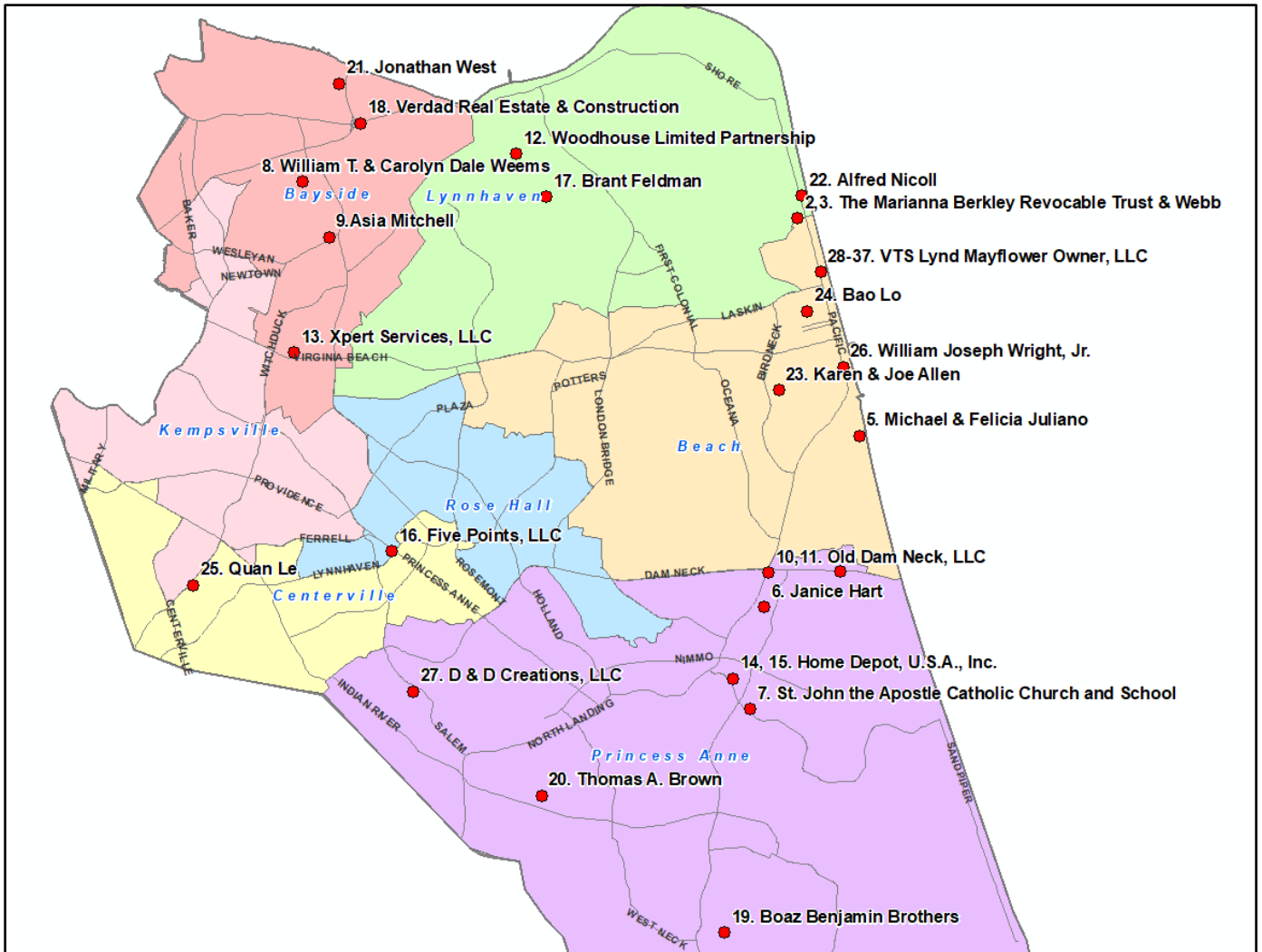


**The following describes the order of business for the Public Hearing.**

1. **Withdrawals and Deferrals:** The first order of business is the consideration of withdrawals or requests to defer an item. The Commission will ask those who are signed up to speak at the hearing if there are any requests to withdraw or defer an item that is on the agenda. **Please note the requests that are made, as one of the items being withdrawn or deferred may be the item that you have an interest in.** Please confine your remarks to the deferral or withdrawal request and do not address the issues of the application – in other words, please let the Commission know why deferring or withdrawing the application is unacceptable rather than discussing what your specific issue is with the application.
2. **Consent Agenda:** The second order of business is consideration of the “consent agenda.” The consent agenda contains those items that the Planning Commission believes are unopposed and which have a favorable Staff recommendation. If an item is placed on the Consent Agenda, that item will be heard with other items on the agenda that appear to be unopposed and have a favorable staff recommendation. The Commission will vote on all of the items at one time. Once the Commission has approved the item as part of the Consent Agenda, it is deemed approved and will not be discussed any further.
3. **Regular Agenda:** The Commission will then proceed with the remaining items on the agenda, according to the following process:
  - a. The applicant or applicant’s representative will have 10 minutes to present its case.
  - b. Next, those who wish to speak in support to the application will have 3 minutes to present their case.
  - c. If there is a spokesperson for the opposition, he or she will have 10 minutes to present their case.
  - d. All other speakers not represented by the spokesperson in opposition will have 3 minutes.
  - e. The applicant or applicant’s representative will then have 3 minutes for rebuttal of any comments from the opposition.
  - f. There is then discussion among the Commission members. No further public comment will be heard at that point.
  - g. The Commission does not allow slide or computer generated projections other than those prepared by the Planning Department Staff.
  - h. The Commission asks that speakers not be repetitive or redundant in their comments. Petitions may be presented and are encouraged. If you are part of a group, the Commission requests, in the interest of time, that you use a spokesperson.

**Planning Commission action is not a final determination regarding the application, but only a recommendation to the City Council of the viewpoint of the Planning Commission. Final determination of the application will be made by City Council at a later date after public notice in the Virginian Pilot/Beacon.**

# JANUARY 13, 2020 PLANNING COMMISSION AGENDA



\* Deferral  
\*\* Withdrawal



JANUARY 13, 2021  
PLANNING COMMISSION AGENDA

**A.**  
**COMMENTS BY DIRECTOR OF PLANNING AND CHAIR OF COMMISSION**

**12:00 P.M. – PUBLIC HEARING**

**Resolution of 2021 Planning Commission Public Hearing Dates**

**1. City of Virginia Beach** – An Ordinance to Adopt and Incorporate into the Virginia Beach Comprehensive Plan the Virginia Beach Active Transportation Plan 2021 which will supersede the Virginia Beach Bikeways and Trails Plan 2011 and to Amend Section 2.1 (Master Transportation Plan) and text pertaining to Active Transportation.

**2.**  
**The Marianna Berkley Revocable Trust** (Applicant & Property Owner)

**Street Closure**

**Address:** 50-foot wide by 125-foot long portion of Holly Road between 49th Street & 48th Street

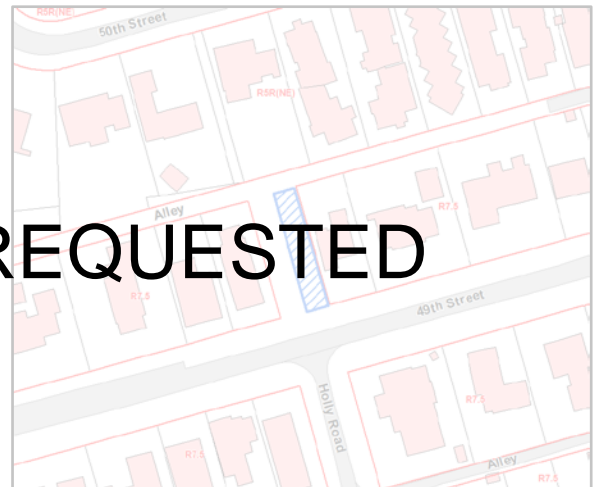
**GPIN(s):** Adjacent to 2116743200

**Council District:** Lynnhaven

**Accela Record:** 2020-PCCC-0028

**Staff Planner:** Marchelle Coleman

*Proposed closure of 6,250 sf of unimproved right-of-way and combine with adjacent parcels.*



**WITHDRAWAL REQUESTED**

**3.**  
**George Randolph Webb & Lelia Graham Webb** (Applicants & Property Owners)

**Street Closure**

**Address:** 50-foot wide by 125-foot long portion of Holly Road between 49th Street & 48th Street

**GPIN(s):** Adjacent to 2116743200

**Council District:** Lynnhaven

**Accela Record:** 2020-PCCC-00024

**Staff Planner:** Marchelle Coleman

*Proposed closure of 6,250 sf of unimproved right-of-way and combine with adjacent parcels.*



**DEFERRAL REQUESTED**

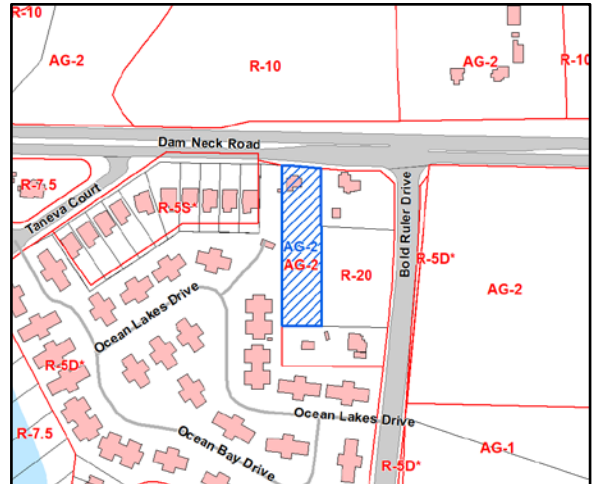
- \* Deferral
- \*\* Withdrawal

**4.**  
**Wilson R. Ballance, Jr** (Applicant & Property Owner)

**Conditional Rezoning** (AG-2 Agricultural District to Conditional R-5D Residential District)

**Address:** 621 Dam Neck Road  
**GPIN(s):** 2425250061  
**Council District:** Princess Anne  
**Accela Record:** 2020-PCCC-00298  
**Staff Planner:** Marchelle Coleman

*Proposal to rezone property to allow development of 2 residential dwelling units.*

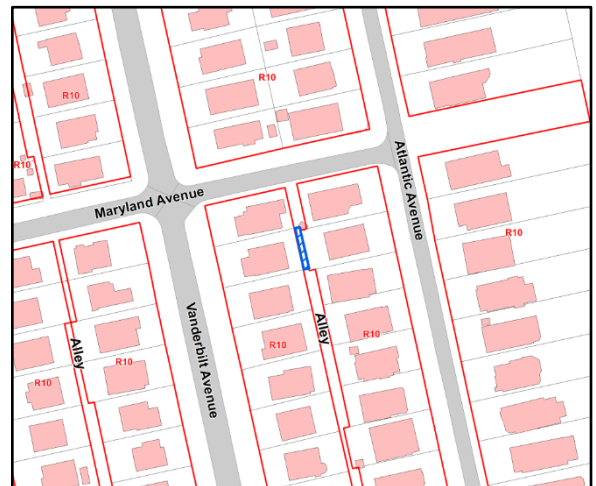


**5.**  
**Michael & Felicia Juliano** (Applicants & Property Owners)

**Street Closure**

**Address:** 7.5-foot by 50-foot portion of an unimproved alley adjacent to 804 Vanderbilt Avenue  
**GPIN(s):** Adjacent to 2426377899  
**Council District:** Beach  
**Accela Record:** 2020-PCCC-00303  
**Staff Planner:** Marchelle Coleman

*Request to close half of 15-foot wide unimproved alley and combine it with applicant's property.*

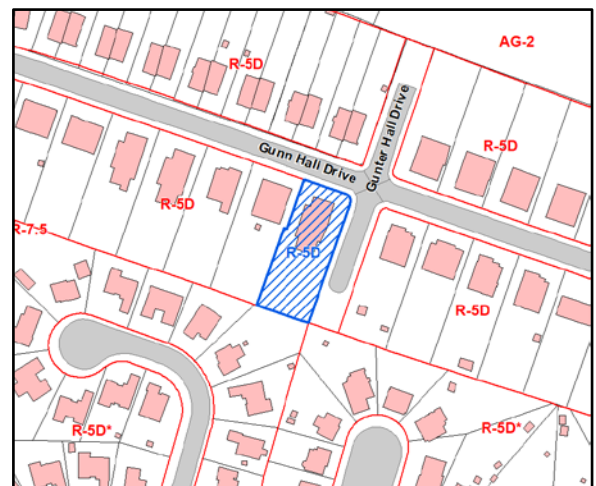


**6.**  
**Janice Hart** (Applicant & Property Owner)

**Conditional Use Permit** (Home-Based Wildlife Rehabilitation Facility)

**Address:** 1203 Gunn Hall Drive  
**GPIN(s):** 2415418733  
**Council District:** Princess Anne  
**Accela Record:** 2020-PCCC-00282  
**Staff Planner:** Marchelle Coleman

*Request to temporarily care for orphaned baby mammals until released at appropriate location off-site.*



- \* Deferral
- \*\* Withdrawal



7.

**St. John the Apostle Catholic Church and School**  
(Applicant)

**The Roman Catholic Diocese of Richmond**  
(Property Owner)

**Modification of Conditions** (Religious Use and  
Private School)

**Address:** 1968 Sandbridge Road

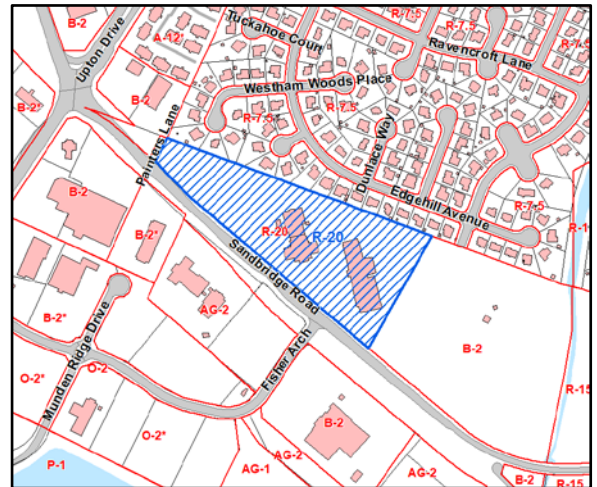
**GPIN(s):** 2414325261

**Council District:** Princess Anne

**Accela Record(s):** 2020-PCCC-00107

**Staff Planner:** Marchelle Coleman

*A request to expand campus facilities including a social hall addition to the existing Church structure, a classroom addition to the existing school, expansion of onsite parking and vehicular circulation, a Columbarium wall, a Veteran's memorial area, and additions to the substantial stormwater management infrastructure.*



8.

**William T. & Carolyn Dale Weems** (Applicants &  
Property Owners)

**Conditional Use Permit** (Indoor Recreational Facility)

**Address:** 1420 Claudia Drive

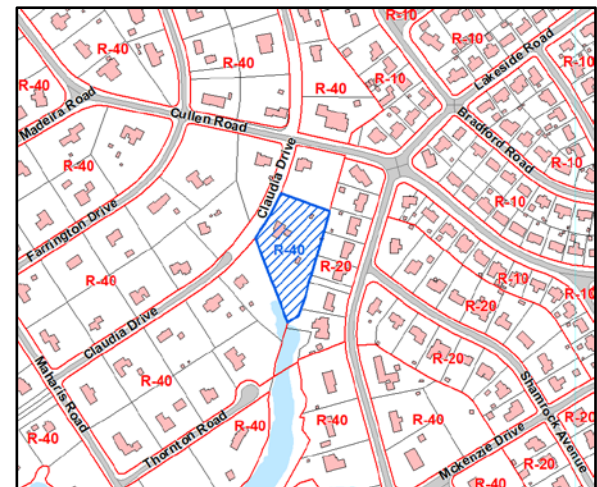
**GPIN(s):** 1479114730

**Council District:** Bayside

**Accela Record:** 2020-PCCC-00301

**Staff Planner:** Jonathan Sanders

*Request for a batting machine with netting.*



- \* Deferral
- \*\* Withdrawal

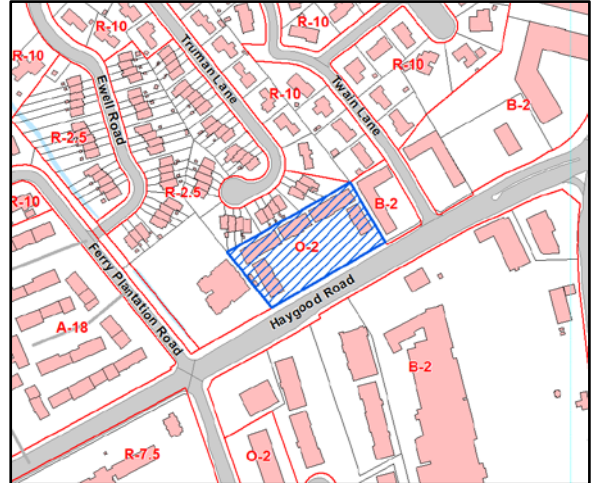
9.

**Asia Mitchell** (Applicant)  
**Touzos Family LP** (Property Owner)

**Conditional Use Permit** (Beauty Salon)

**Address:** 4654 Haygood Road, Suite D  
**GPIN(s):** 1478368597  
**Council District:** Bayside  
**Accela Record:** 2020-PCCC-00304  
**Staff Planner:** Jonathan Sanders

*Request to operate a beauty salon in the Office District, which requires a Conditional Use Permit.*



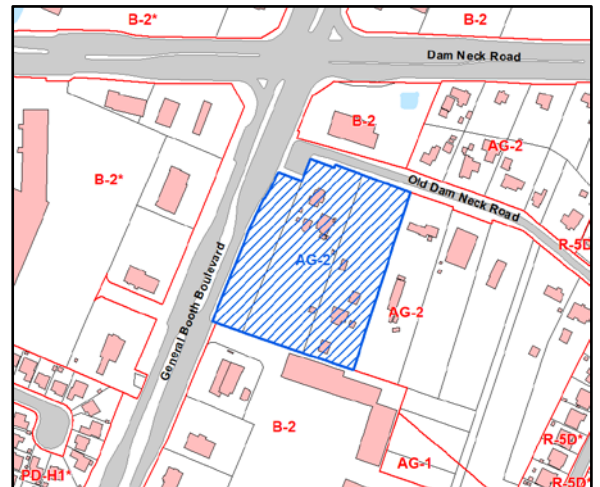
10. & 11.

**Old Dam Neck, LLC** (Applicant)  
**Old Dam Neck, LLC, Frances G. Willis, William E. Gilbert, Bonnie J. Garrett, Catherine D. Meredith, & John J. Weinbrecht, Jr.** (Property Owners)

**Conditional Rezoning** (AG-2 Agricultural District to Conditional B-2 Community Business District)  
**Conditional Use Permit** (Mini-Warehouse)

**Addresses:** 1081, 1087, 1089 Old Dam Neck Road & adjacent parcel west of 1089 Old Dam Neck Road  
**GPIN(s):** 2415540866, 2415541885, 2415543854  
**Council District:** Princess Anne  
**Accela Record(s):** 2020-PCCC-00006, 2020-PCCC-00337  
**Staff Planner:** Hoa N. Dao

*Requesting to rezone from AG-2 to Conditional B-2 to assemble 3 parcels into a self-storage facility and a stormwater retention pond.*



- \* Deferral
- \*\* Withdrawal



12.

**Woodhouse Limited Partnership** (Applicant & Property Owner)

**Subdivision Variance** (Section 4.4(b) of the Subdivision Regulations)

**Address:** 1805 Estates Court

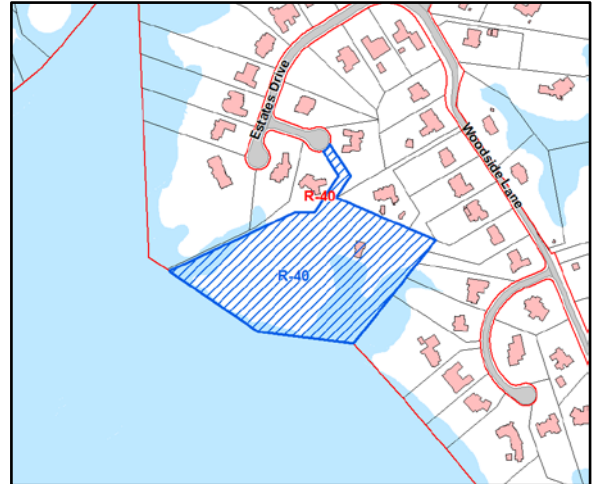
**GPIN(s):** 1499145390

**Council District:** Lynnhaven

**Accela Record:** 2020-PCCC-00296

**Staff Planner:** Hoa N. Dao

*Request to subdivide 8.34-acre site into 3 new lots for development of single-family homes. Lots do not meet minimum required lot width or street frontage dimensions, so variance required.*



13.

**Xpert Services, LLC** (Applicant)

**VB Investments, LLC** (Property Owner)

**Conditional Use Permit** (Car Wash Facility)

**Address:** 4937 Broad Street

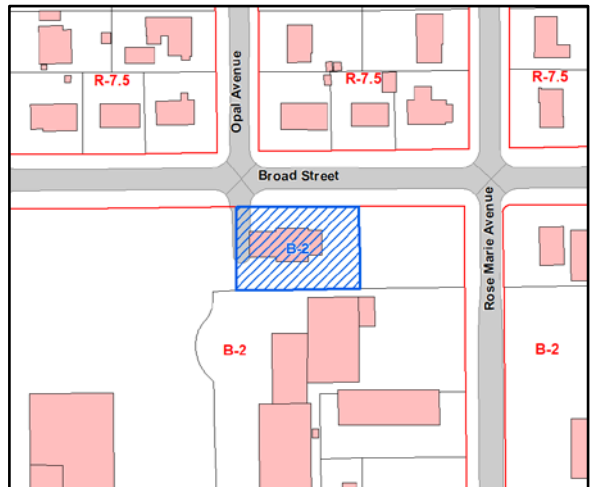
**GPIN(s):** 1477055792

**Council District:** Bayside

**Accela Record:** 2020-PCCC-00295

**Staff Planner:** Hoa N. Dao

*Request to relocate automotive detailing business onto this operation, using up to 800 sf of the existing building and the remainder is storage.*



14. & 15.

**Home Depot, U.S.A., Inc.** (Applicant & Property Owner)

**Conditional Use Permits** (Bulk Storage Yard & Truck & Trailer Rentals)

**Address:** 2324 Elson Green Avenue

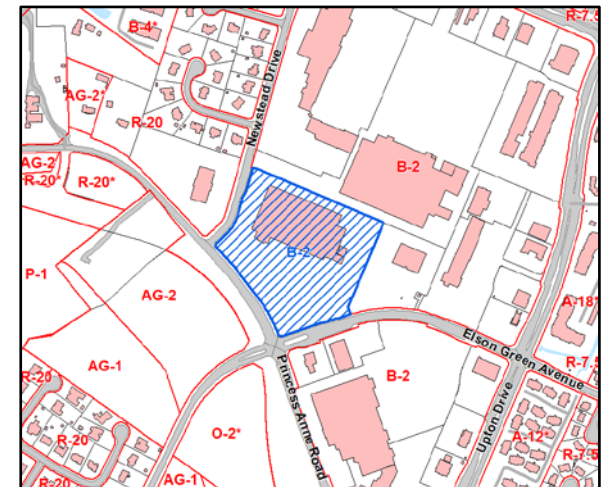
**GPIN(s):** 2414159035

**Council District:** Princess Anne

**Accela Record(s):** 2020-PCCC-00101, 2020-PCCC-00136

**Staff Planner:** Hoa N. Dao

*Request for truck and trailer rentals and adding outdoor display areas for seasonal garden and landscaping materials.*



\* Deferral

\*\* Withdrawal

16.

**Five Points, LLC** (Applicant & Property Owner)

**Modification of Proffers**

**Address:** 2005 Lynnhaven Parkway

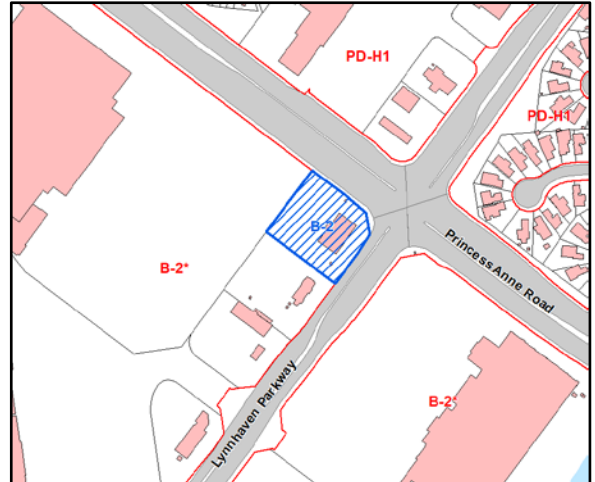
**GPIN(s):** 1475977081

**Council District:** Rose Hall

**Accela Record:** 2020-PCCC-00272

**Staff Planner:** Hoa N. Dao

*Request to modify existing proffers in order to construct a drive through and encroach 200 square feet into landscape buffer.*



17.

**Brant Feldman** (Applicant & Property Owner)

**Conditional Use Permit** (Outdoor Recreation Facility)

**Address:** 1708 River Court

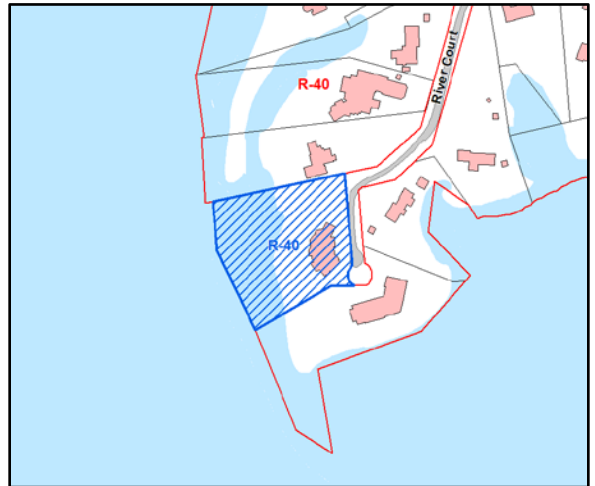
**GPIN(s):** 1499402453

**Council District:** Lynnhaven

**Accela Record:** 2020-PCCC-00262

**Staff Planner:** Hoa N. Dao

*After-the-fact request for skateboard ramp 4' high, 16'X23'.*



18.

**Verdad Real Estate & Construction** (Applicant)  
**SRGS, LLC, Penny R. Pitts Revocable Living Trust, & Adams Outdoor Limited Partnership** (Property Owners)

**Conditional Use Permit** (Automobile Service Station)

**Address:** 4493 Shore Drive

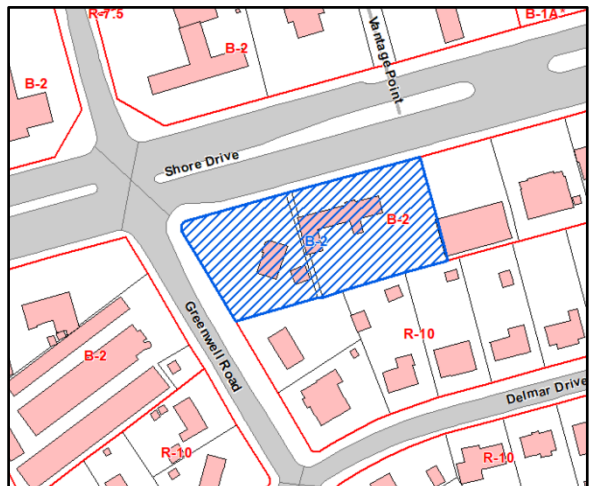
**GPIN(s):** 1479678256, 1479679311, 1479770345

**Council District:** Bayside

**Accela Record(s):** 2020-PCCC-00233

**Staff Planner:** Hoa N. Dao

*Request for a 4,088 sq. ft. convenience store with 10 fuel pumps.*



- \* Deferral
- \*\* Withdrawal



19.

**Boaz Benjamin Brothers** (Applicant & Property Owner)

**Subdivision Variance** (Section 4.4(b) of the Subdivision Regulations)

**Address:** 1944 Pleasant Ridge Road  
**GPIN(s):** 2412111118, 2412100959  
**Council District:** Princess Anne  
**Accela Record:** 2020-PCCC-00283  
**Staff Planner:** Aubrey Trebilcock

*Proposal results in combining 3 lots into 1; however, 2 of existing lots were never legally created by plat so variance required.*



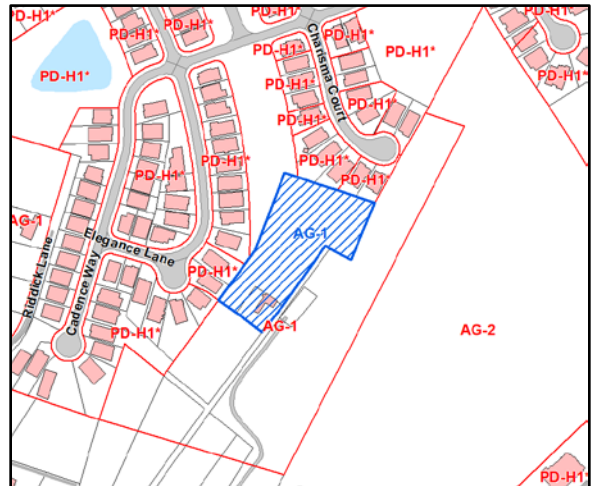
20.

**Thomas A. Brown** (Applicant & Property Owner)

**Subdivision Variance** (Section 4.4(b) of the Subdivision Regulations)

**Address:** 2888 Indian River Road  
**GPIN(s):** 1493348082, 1493440216  
**Council District:** Princess Anne  
**Accela Record:** 2020-PCCC-00293  
**Staff Planner:** Aubrey Trebilcock

*Proposal to reconfigure 2 parcels to create 2 new parcels that are more similar in size and shape.*



## SHORT TERM RENTALS

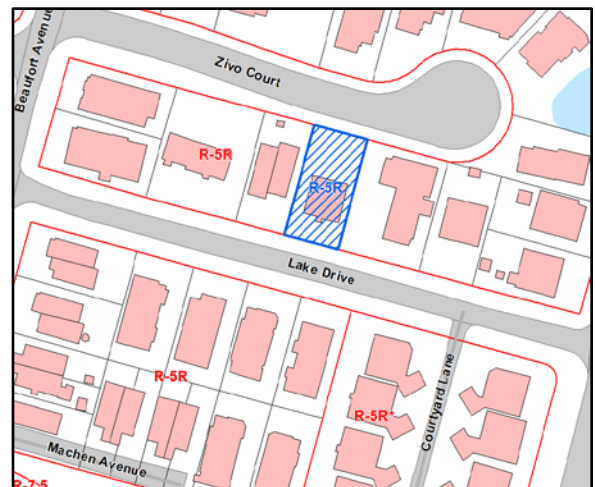
21.

**Jonathan West** (Applicant & Property Owner)

**Conditional Use Permit** (Short Term Rental)

**Address:** 4814 Lake Drive  
**GPIN:** 15704190144814  
**Council District:** Bayside  
**Accela Record(s):** 2020-PCCC-00285  
**Staff Planner:** Will Miller

*Request for a 2-bedroom Short Term Rental.*



- \* Deferral
- \*\* Withdrawal

22.

**Alfred Nicoll** (Applicant & Property Owner)

**Conditional Use Permit** (Short Term Rental)

**Address:** 113 55<sup>th</sup> Street Unit A

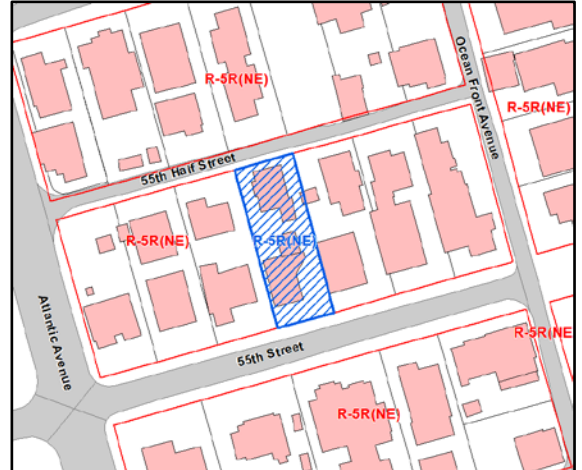
**GPIN:** 24198034800001

**Council District:** Lynnhaven

**Accela Record(s):** 2020-PCCC-00292

**Staff Planner:** Will Miller

*Request for a 3-bedroom Short Term Rental.*



23.

**Karen & Joe Allen** (Applicant)

**Old Hickory Investments, LLC** (Property Owner)

**Conditional Use Permit** (Short Term Rental)

**Address:** 1361 Goose Landing

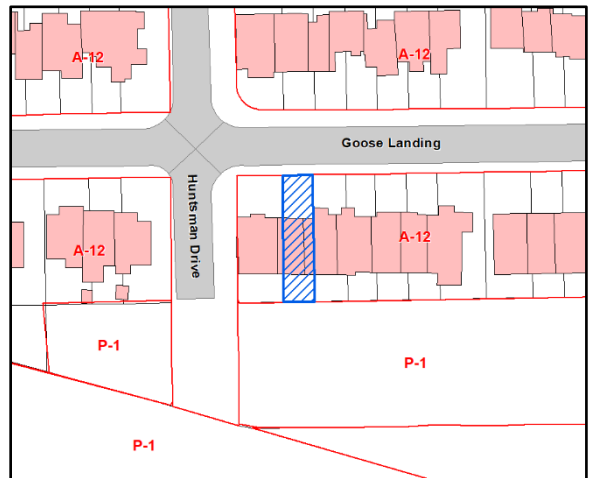
**GPIN:** 2417622261

**Council District:** Beach

**Accela Record(s):** 2020-PCCC-00286

**Staff Planner:** Summer Peebles

*Request for a 2-bedroom Short Term Rental.*



24.

**Bao Lo** (Applicant & Property Owner)

**Conditional Use Permit** (Short Term Rental)

**Address:** 619 25<sup>th</sup> Street

**GPIN:** 2417898644

**Council District:** Beach

**Accela Record(s):** 2020-PCCC-00302

**Staff Planner:** Summer Peebles

*Request for a 4-bedroom Short Term Rental.*



- \* Deferral
- \*\* Withdrawal

25.

**Quan Le** (Applicant & Property Owner)

**Conditional Use Permit** (Short Term Rental)

**Address:** 1612 Tallwood Manor Court

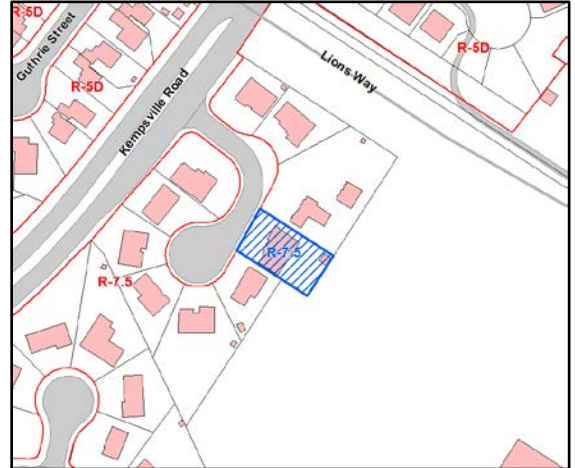
**GPIN:** 1465130874

**Council District:** Centerville

**Accela Record(s):** 2020-PCCC-00306

**Staff Planner:** Summer Peebles

*Request for a 6-bedroom Short Term Rental.*



26.

**William Joseph Wright, Jr.** (Applicant & Property Owner)

**Conditional Use Permit** (Short Term Rental)

**Address:** 911 Pacific Avenue Unit B

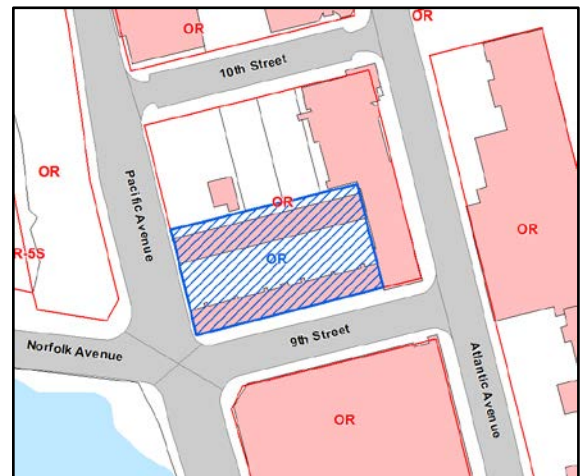
**GPIN:** 24272444111030

**Council District:** Beach

**Accela Record(s):** 2020-PCCC-00294

**Staff Planner:** Jenizza Badua

*Request for a 2-bedroom Short Term Rental.*



27.

**D & D Creations, LLC** (Applicant)

**Daniel David and Kellie David Revocable Trust**  
(Property Owner)

**Conditional Use Permit** (Short Term Rental)

**Address:** 2621 Highland Meadows Way

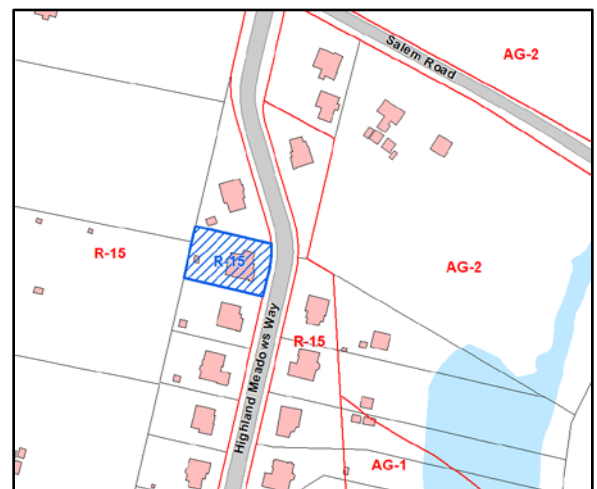
**GPIN:** 1484138836

**Council District:** Princess Anne

**Accela Record(s):** 2020-PCCC-00284

**Staff Planner:** Antionette Fowlkes

*Request for a 4-bedroom Short Term Rental.*



- \* Deferral
- \*\* Withdrawal

**28, 29, 30, 31, 32, 33, 34, 35, 36, & 37.**  
**VTS Lynd Mayflower Owner, LLC** (Applicant &  
Property Owner)

**Conditional Use Permits** (Short Term Rentals)

**Address:** 205 34<sup>th</sup> Street, Units 617, 719, 905, 1005,  
1102, 1601 thru 1605

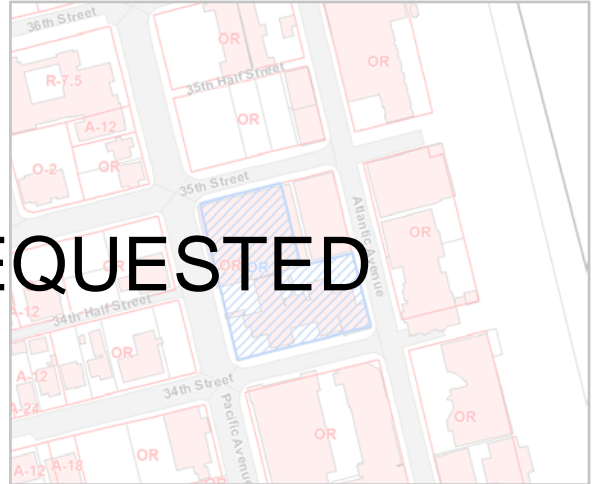
**GPIN(s):** 2428032311

**Council District:** Beach

**Accela Record(s):** 2020-PCCC-  
00248/249/250/251/252/253/254/255/256/257

**Staff Planner:** Will Miller

*A Short Term Rental request for 4 1-Bedrooms, 3 2-  
Bedrooms, 2 3-Bedrooms, and 1 4-Bedroom.*



**DEFERRAL REQUESTED**

- \* Deferral
- \*\* Withdrawal





## Request

An Ordinance to Adopt and Incorporate into the Virginia Beach Comprehensive Plan the Virginia Beach Active Transportation Plan 2021 which will supersede the Virginia Beach Bikeways and Trails Plan 2011 and to Amend Section 2.1 (Master Transportation Plan) and text pertaining to Active Transportation.

## Summary of Request

In 2011, the City of Virginia Beach adopted the “Bikeways and Trails Plan”. Since 2011, much has changed in transportation planning and implementation. The Bikeways and Trails Plan has become an Active transportation Plan which considers and plans for future micro-mobility and multi-modal transportation with the introduction of shared mobility, enhanced curbside treatments, dedicated multi-use zones (varying from pedestrian, vehicle, and bicycle), and an overall increased community desire for an active mobile lifestyle. Supported by Parks and Recreation leadership and the City Council appointed Bikeways and Trails Advisory Committee (BTAC), this newly titled plan is proposed to supersede the bikeways and trails component of the Comprehensive Plan and has been drafted to analyze existing land use and facilities, and to propose additional network and infrastructure for pedestrians and bicycles. The “2021 Active Transportation Plan” is one component of the transportation policies within the Comprehensive Plan, focusing on pedestrian and bicycle networks and how those networks interact and should be planned with other modes of transportation.

Led by the Department of Parks and Recreation, the planning process to create the Active Transportation Plan began in 2017 with the public input process. A formal stakeholder group consisting of BTAC and more than 50 staff members and local and regional participants developed a framework of priorities. A public survey was conducted in the Summer of 2019 with over 1,400 respondents which helped establish the goals and objectives of the Plan. Staff worked with Toole Design Group and Kimley-Horn consultants to develop and finalize the Active Transportation Plan.

This Active Transportation Plan places emphasis on safety, inclusivity, and equitability through the provision of bicycle, pedestrian, and micro-mobility infrastructure and serves as a framework for identifying and selecting active transportation projects in the Capital Improvements Program.

## Recommendation

Staff recommends approval of this Ordinance for the adoption and incorporation into the Virginia Beach Comprehensive Plan, the “2021 Active Transportation Plan”, which will supersede the Virginia Beach Bikeways and Trails Plan, 2011, and to amend Section 2.1 (Master Transportation Plan) and text pertaining to Active Transportation.

1 AN ORDINANCE TO ADOPT AND INCORPORATE INTO  
2 THE VIRGINIA BEACH COMPREHENSIVE PLAN THE  
3 VIRGINIA BEACH ACTIVE TRANSPORTATION PLAN 2021  
4 WHICH WILL SUPERSEDE THE VIRGINIA BEACH  
5 BIKEWAYS AND TRAILS PLAN 2011 AND TO AMEND  
6 SECTION 2.1 (MASTER TRANSPORTATION PLAN) AND  
7 TEXT PERTAINING TO ACTIVE TRANSPORTATION.  
8

9 WHEREAS, the public necessity, convenience, general welfare and good zoning  
10 practice so require; and  
11

12 WHEREAS, the Bikeways and Trails Plan 2011, has been revised and updated  
13 as the Active Transportation Plan 2021, after extensive stakeholder and citizen input.  
14 The Bikeways and Trails Committee has spent considerable effort and time since 2017.  
15

16 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF  
17 VIRGINIA BEACH, VIRGINIA:  
18

19 That the Comprehensive Plan of the City of Virginia Beach be, and hereby is,  
20 amended and reordained by:  
21

22 1. The adoption of the Active Transportation Plan 2021, superceeding the  
23 Bikeway and Trails Plan 2011, and amending the Comprehensive Plan Section 2.1.  
24 Such amendments attached hereto and made a part hereof, having been exhibited to  
25 the City Council and on file in the Department of Planning.  
26  
27

28 Adopted by the Council of the City of Virginia Beach, Virginia, on this \_\_\_\_\_  
29 day of \_\_\_\_\_, 2021.

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL SUFFICIENCY:

\_\_\_\_\_  
Planning Department

\_\_\_\_\_  
City Attorney's Office

CA15298  
R-1  
January 5, 2021

*City of Virginia Beach Comprehensive Plan – It's Our Future: A Choice City*

*May 17, 2016*

The vision for active transportation in Virginia Beach, adopted in the *2011 Bikeways and Trails Plan* reads:

*Virginia Beach will be a City where  
people can walk, run and ride anywhere  
safely, efficiently and enjoyably.*

Virginia Beach developed in the 1960s thru the 1990s with a suburban pattern that fostered the development of residential neighborhoods that, in some cases were isolated from the adjacent areas. This, in part, led to development of a transportation network that relied more and more on higher speed roadways to span the larger distances between the starting and ending points of trips. As this network developed, biking and walking as useful modes of transportation were not as much in the forefront of design, often including small narrow sidewalks as the primary pedestrian/bicycling infrastructure.



Atlantic Avenue

Virginia Beach's historically predominant suburban-style development model can make walking and biking challenging for the following reasons:

- **Distance.** Work centers are scattered, with limited aggregation of large employment centers, like Town Center/Pembroke and the Resort SGAs; and the military bases that draw the majority of workers. Therefore, it is harder to match facilities to predictable work commutes. If employment is not close to home, the commute can be long. Regionally, 46% of workers commute to work in a different city than where they live.

*Master Transportation Plan/2-26*

May 17, 2016

The vision for active transportation in Virginia Beach, adopted in the 2021 Active Transportation Plan reads:

***Active transportation will be the backbone of daily life in Virginia Beach. Sidewalks, trails, blueways, and bike lanes will connect residents, workers, and tourists of all ages and abilities to all the great activities the City has to offer. While driving will still be a popular option for longer trips, walking and bicycling will be a safe, comfortable, and fun option for shorter trips throughout the City. Access to active transportation will bolster public health, support a thriving economy, and help protect our natural environment.***

Virginia Beach developed in the 1960s thru the 1990s with a suburban pattern that fostered the development of residential neighborhoods that, in some cases were isolated from the adjacent areas. This, in part, led to development of a transportation network that relied more and more on higher speed roadways to span the larger distances between the starting and ending points of trips. As this network developed, biking and walking as useful modes of transportation were not as much in the forefront of design, often including small narrow sidewalks as the primary pedestrian/bicycling infrastructure.



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Agenda Item 2 - The applicant, Marianna Berkley Revocable Trust, is requesting a withdrawal of the application.

Agenda Item 3 – The applicants, George Randolph Webb, Jr. & Lelia Graham Webb, are requesting a deferral of their application until the February 10, 2021 Planning Commission public hearing due to the withdrawal of Agenda Item 2.

#### Requests

**#2 - Street Closure** (Eastern 25 feet of  
platted unimproved right-of-way)

**#3 - Street Closure** (Western 25 feet of  
platted unimproved right-of-way)

#### Staff Recommendation

Approval

#### Staff Planner

Marchelle Coleman

#### Location

50-foot wide by 125-foot long portion of Holly  
Road between 319 49th Street & 401 49th  
Street

#### Adjacent GPINs

2418789386, 2418788383

#### Site Size

6,250 square feet

#### AICUZ

65-70 dB DNL; Sub-Area 3

#### Watershed

Chesapeake Bay





### Request

**Conditional Rezoning** (AG-2 Agricultural District to Conditional R-5D Residential District)

### Staff Recommendation

Approval

### Staff Planner

Marchelle Coleman

### Location

621 Dam Neck Road

### GPIN

2425250061

### Site Size

40,017 square feet

### AICUZ

65-70 dB DNL; Sub-Area 2

### Watershed

Southern Rivers

### Existing Land Use and Zoning District

Single-family dwelling / AG-2 Agricultural

### Surrounding Land Uses and Zoning Districts

#### North

Dam Neck Road

Undeveloped land / R-10 Residential

#### South

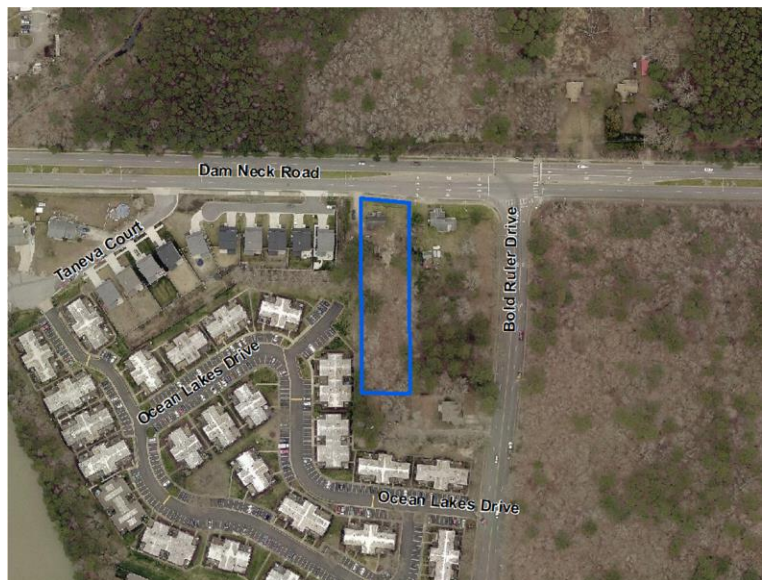
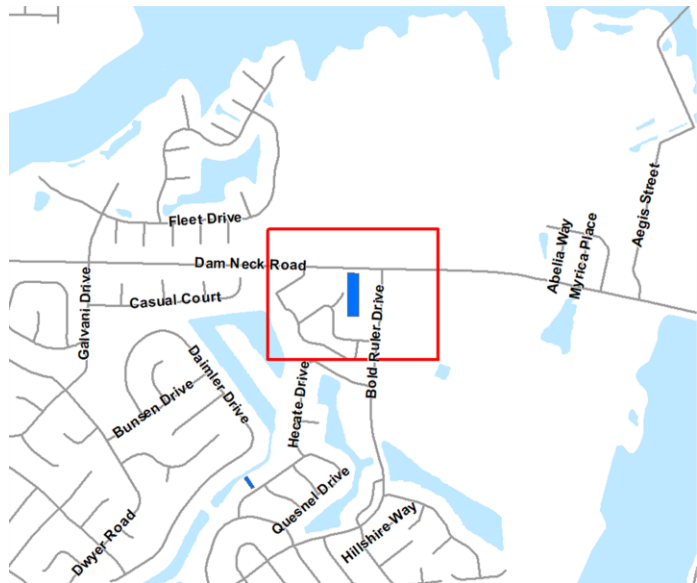
Single-family dwelling / R-20 Residential

#### East

Single-family dwelling / R-20 Residential

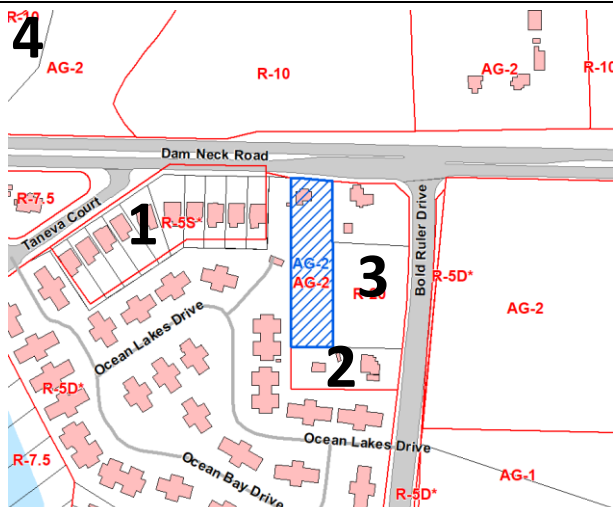
#### West

Single-family dwellings, multi-family dwellings / R-5S Residential, R-5D Residential



## Background & Summary of Proposal

- The applicant is requesting to rezone this 40,017 square foot parcel along Dam Neck Road from AG-2 Agricultural District to Conditional R-5D Residential District to create two single-family residential building lots which is consistent with the adjacent residential developments.
- The existing single-family dwelling on the property proposed to be demolished was constructed in 1950. Existing vehicular ingress/egress is provided along Dam Neck Road.
- The R-5D Residential District requires a minimum lot size of 5,000 square feet, a minimum 50-foot lot width, and a minimum 20 foot front yard setback. As depicted on the proposed site layout plan, the applicant is proposing to demolish the existing single-family dwelling to create two single family building lots. One lot will be 20,099 square feet in size and the other will be 19,918 square feet. Each lot exceeds the minimum lot size, lot width, and front yard setback requirements for the R-5D Residential District.
- The submitted proffered elevations depict a two-story dwelling with vinyl siding, asphalt shingles, vinyl double pane windows and aluminum gutters.
- A shared access for the two parcels is proposed with one driveway entrance along Dam Neck Road. Per Section 203 of the Zoning Ordinance, two parking spaces per dwelling unit are required. As shown on the proposed site layout plan, this requirement will be met.
- As the site is located in 65-70 dB Ldn noise zone within Sub-area 2 surrounding NAS Oceana, the application was considered by the Joint City-Navy Review Process (JRP) Group. Section 1804 (c) of the Zoning Ordinance provides regulations that apply to discretionary development applications for residential uses with this AICUZ. Details of the JRP's findings are provided in the Evaluation Section of this report.

	<h3>Zoning History</h3> <table><tr><th>#</th><th>Request</th></tr><tr><td>1</td><td>CRZ (AG-2 to Conditional R-5S) Approved 08/23/2011</td></tr><tr><td>2</td><td>REZ (B-1A to R-20) Approved 06/27/1995</td></tr><tr><td>3</td><td>REZ (B-1A to R-20) Approved 11/24/1998 MOD Approved 06/25/1995 SVR Approved 06/25/1995 REZ (AG-2 and B-1A to R-20) Approved 06/25/1995 CRZ (PD-H2 (R-5D) &amp; AG-2 to Conditional B-1A) Approved 02/09/1993</td></tr><tr><td>4</td><td>MOD) Approved 12/18/2001 MOD Approved 03/24/1998 MOD Approved 08/27/1991 CUP (Retirement Home) Approved 03/12/1990</td></tr></table>	#	Request	1	CRZ (AG-2 to Conditional R-5S) Approved 08/23/2011	2	REZ (B-1A to R-20) Approved 06/27/1995	3	REZ (B-1A to R-20) Approved 11/24/1998 MOD Approved 06/25/1995 SVR Approved 06/25/1995 REZ (AG-2 and B-1A to R-20) Approved 06/25/1995 CRZ (PD-H2 (R-5D) & AG-2 to Conditional B-1A) Approved 02/09/1993	4	MOD) Approved 12/18/2001 MOD Approved 03/24/1998 MOD Approved 08/27/1991 CUP (Retirement Home) Approved 03/12/1990		
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## Evaluation & Recommendation

The request to rezone this 40,017 square foot site from AG-2 Agricultural District to Conditional R-5D Residential, in Staff's opinion, is consistent with the Comprehensive Plan's vision for the Suburban Area. Development within this area focuses on creating and maintaining great neighborhoods. Achieving this goal reflects on the ability for developments to maintain and enhance the existing neighborhood, to be compatible with surroundings, and provide quality and attractive buildings that provide effective buffering and livability. In Staff's view and in conformance with the Comprehensive Plan, the proposed single-family dwellings will improve the aesthetics for the adjoining property owners and those traveling along Dam Neck Road. The homes will be compatible with the surrounding residential homes along Dam Neck Road in size and design and will be similar to the single-family homes west of the site.

The proposed density of less than two units per acre complies with Section 1804 of the Zoning Ordinance for AICUZ restrictions. After a compatibility review of densities of surrounding properties, the JRP Group found that less than two units per acre is an acceptable density for this property and is consistent with surrounding densities. The JRP group finds this proposal to be consistent with the Comprehensive Plan and City Zoning Ordinance requirements for an infill project, as the density proposed is less than the surrounding properties.

Traffic Engineering Staff reviewed the request and commented that the proposed shared driveway on Dam Neck Road is located in the right turn lane taper for the turn lane onto Bold Ruler Drive. The proposed driveway apron will be in the same general location as the existing driveway apron on the property. Traffic Engineering does not typically allow driveways in turn lane tapers. However, since the parcel's frontage is fully located in the length of the taper this access point will be allowed but may introduce a new safety issue for this area. Additional detailed comments will be provided during the site plan review process.

While this site is located within the Southern Rivers watershed, a preliminary stormwater analysis is not required, as an agreement-in-lieu of a Stormwater Management plan will be reviewed prior to final site plan approval. This is due to the development consisting of only two single-family homes.

Based on the considerations above, Staff recommends approval of this request subject to the proffers 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:**

When the Property is developed, it shall be subdivided into two (2) single family residential building lots with a shared vehicular driveway entrance from Dam Neck Road with a home constructed on each substantially as shown on the exhibit entitled, "REZONING EXHIBIT FOR PARCEL 1, SUBDIVISION PLAT OF NORMA P. LANCASTER AND PARCEL B (M.B. 261, PG. 93) VIRGINIA BEACH, VIRGINIA", dated 10-27-2020, prepared by Gaddy Engineering Services, LLC, which has been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning (hereinafter "Rezoning Exhibit")

### **Proffer 2:**

The architectural design of the two (2) homes depicted on the Rezoning Exhibit will be substantially as depicted on the exhibit entitled, "PROPOSED ELEVATIONS LOCATED AT 621 DAM NECK RD, VIRGINIA BEACH", which has been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning.

**Proffer 3:**

Further conditions may be required by the Grantee during detailed Site Plan review and administration of applicable City codes by all cognizant City agencies and departments to meet all applicable City code requirements.

**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

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 surrounding uses. (pp.1-59 to 1-68)

## 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 this site.

## Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Dam Neck Road	21,540 ADT <sup>1</sup>	39,700 ADT <sup>1</sup> (LOS <sup>4</sup> "D")	Existing Land Use <sup>2</sup> – 10 ADT Proposed Land Use <sup>3</sup> – 20 ADT
<sup>1</sup> Average Daily Trips	<sup>2</sup> as defined by a single-family dwelling	<sup>3</sup> as defined by two single-family dwellings	<sup>4</sup> LOS = Level of Service

## Master Transportation Plan (MTP) and Capital Improvement Program (CIP)

Dam Neck Road, in this vicinity, is a four-lane divided major suburban arterial. There are no roadway CIP projects planned for this area.

## Public Utility Impacts

### Water

The site currently connects to City water. There is an existing 12-inch City Water main along Dam Neck Road.

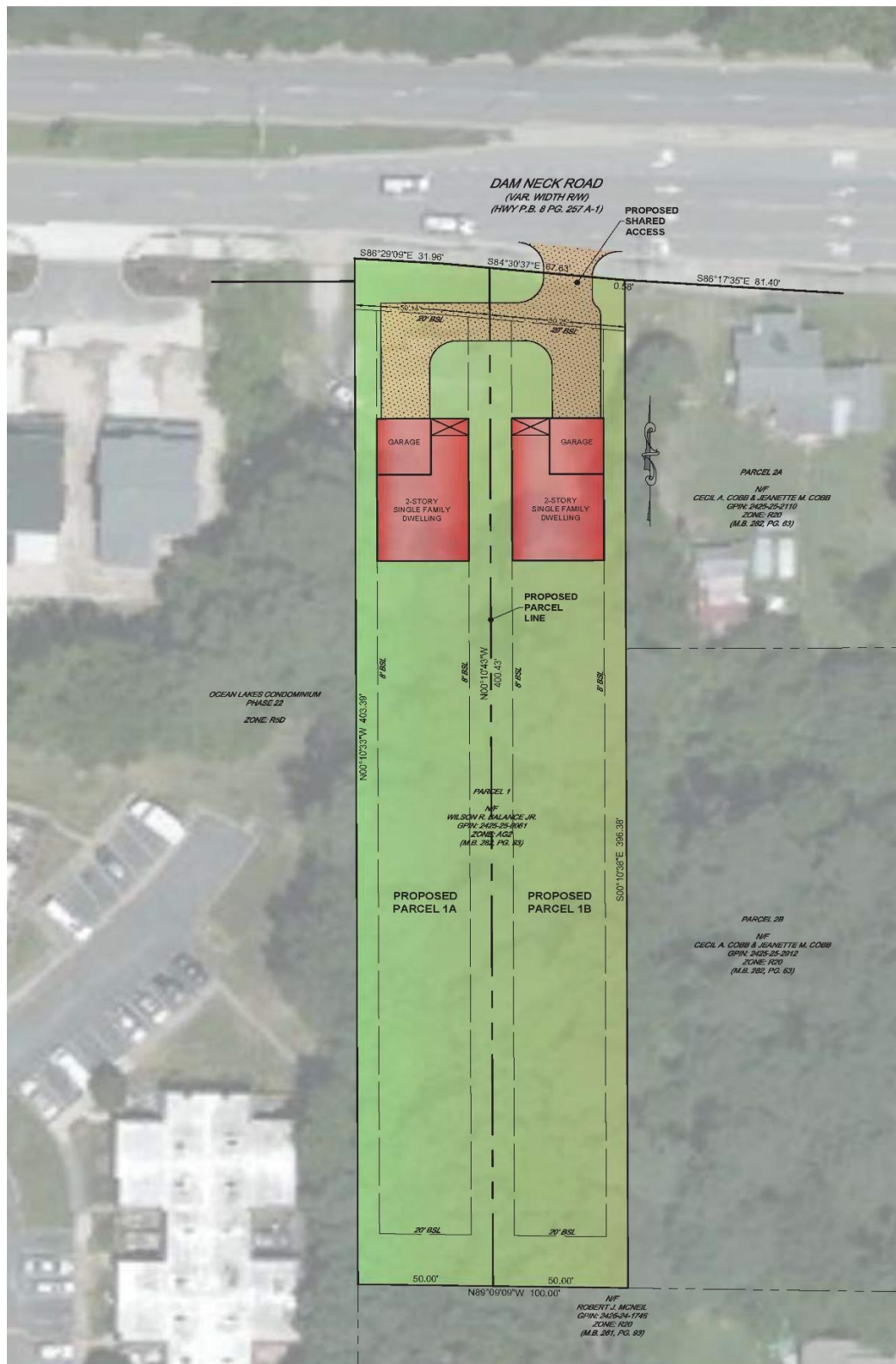
### Sewer

City Sanitary sewer is not available along Dam Neck Road. There is an existing private sanitary sewer force main to the southeast of the property. The applicant intends to construct a private grinder pump station on each of the lots and pump to this force main. This force main ties into the City gravity sewer within Hecate Drive.

### Planning Commission

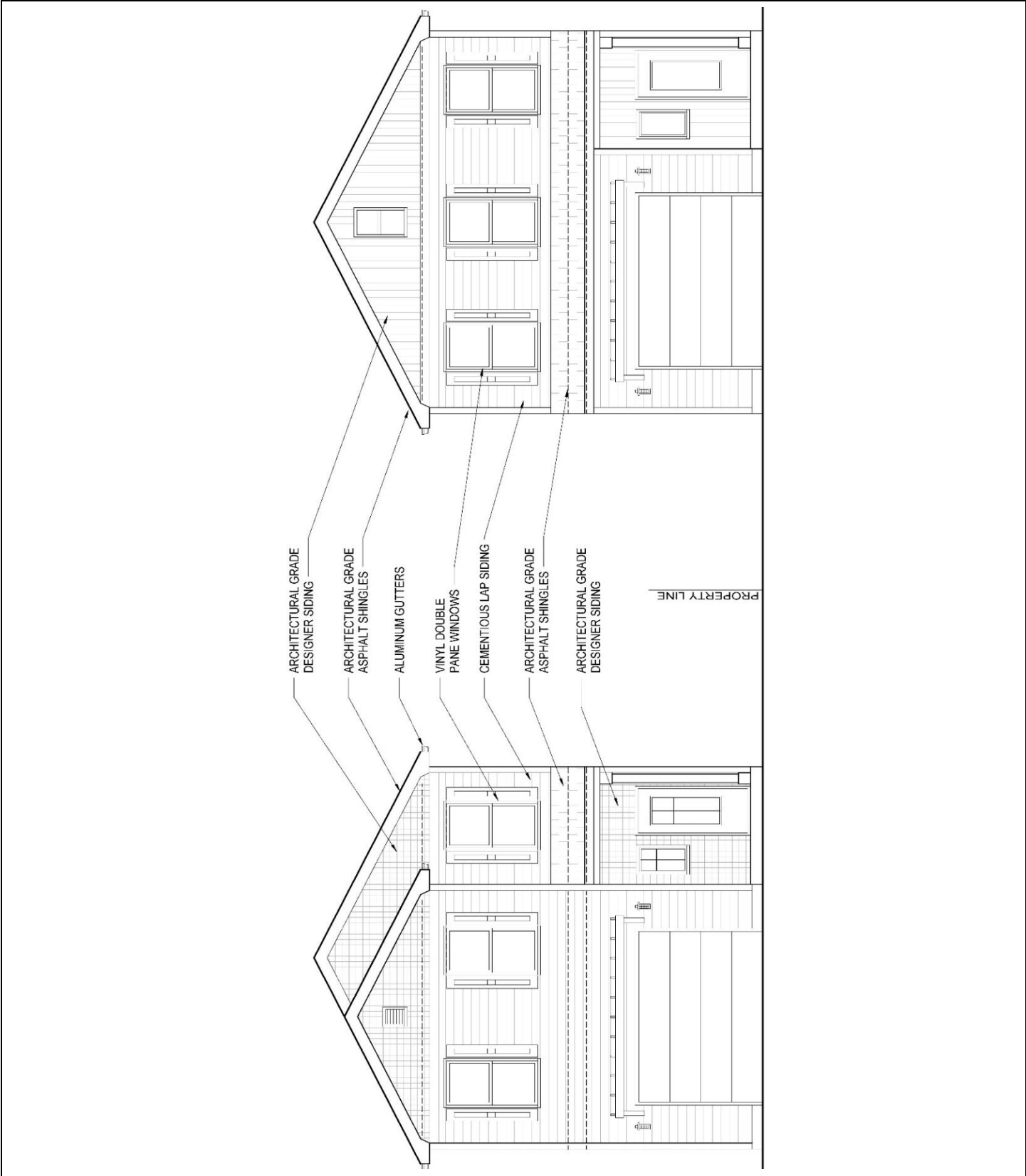
- The applicant discussed the details of the request with the adjacent property owner to the west and no objections were raised. The applicant was unable to contact the property owner to the east to discuss the proposal.
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on December 14, 2020.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, December 27, 2020 and January 3, 2021.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on December 28, 2020.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of [www.vbgov.com/pc](http://www.vbgov.com/pc) on January 7, 2021.

# Proposed Site Layout





Proposed Elevations



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** Wilson R. Ballance, Jr.

**Does the applicant have a representative?** ☒ **Yes** ☐ **No**

- If **yes**, list the name of the representative.

R. Edward Bourdon, Jr., Esq., Sykes, Bourdon, Ahern & Levy, P.C.

**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)

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- If **yes**, list the businesses that have a parent-subsidary<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the applicant. (Attach a list if necessary)

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<sup>1</sup> "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.

<sup>2</sup> "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.

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 real estate broker/realtor.

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 or 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 or 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 construction contractor.

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 engineer/surveyor/agent.

Mike Gaddy, Gaddy Engineering Services, LLC

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 name of the attorney or firm providing legal services.

R. Edward Bourdon, Jr., Esq., Sykes, Bourdon, Ahern & Levy, 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.

A handwritten signature in black ink, appearing to read 'Wilson R. Ballance, Jr.', written over a horizontal line.

Applicant Signature

Wilson R. Ballance, Jr.

Print Name and Title

October 28, 2020

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

## 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 757-385-8610.
- 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.

**Request**

**Street Closure**

**Staff Recommendation**

Approval

**Staff Planner**

Marchelle Coleman

**Location**

7.5-foot by 50-foot portion of an unimproved alley adjacent to 804 Vanderbilt Avenue

**Adjacent GPIN**

2426377899

**Site Size**

375 square feet

**AICUZ**

65-70 dB DNL

**Watershed**

Atlantic Ocean

**Existing Land Use and Zoning District**

Single-family dwelling / R-10 Residential

**Surrounding Land Uses and Zoning Districts**

**North**

Single-family dwellings, unimproved alley / R-10 Residential

**South**

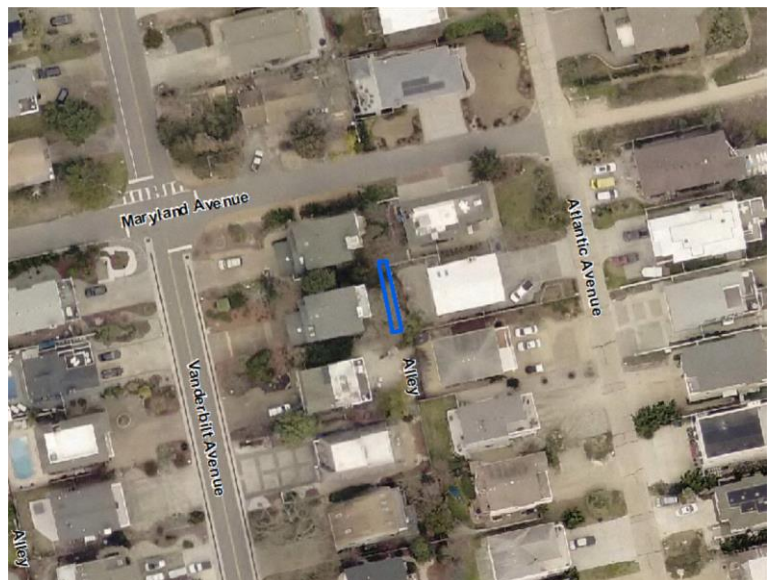
Single-family dwellings, unimproved alley / R-10 Residential

**East**

Single-family dwelling / R-10 Residential

**West**

Single-family dwelling / R-10 Residential



## Background & Summary of Proposal

- The applicant is requesting to close a portion of the platted, unnamed, and unimproved alley that is adjacent to the rear lot line. As shown on the submitted street closure exhibit, the proposal includes closure of half of the 15-foot-wide alley, totaling 375 square feet, and incorporation of that land into their adjacent residential lot, identified as Lot 9, Block 14, Croatan Beach.
- The site is developed consistently with other residential lots in the Croatan neighborhood with single-family home with a fenced in the back yard. Currently, the area proposed to be closed is fenced in and has been used and maintained by the applicant.

### Zoning History

#	Request
1	STC (Portion of 15-foot wide alley) Approved 03/01/2016
2	STC (Portion of 15-foot wide alley) Approved 01/23/2007
3	STC (Portion of 15-foot wide alley) Approved 10/26/2004
4	STC (Portion of 15-foot wide alley) Approved 05/22/2012
5	STC (Portion of 15-foot wide alley) Approved 11/17/2020
6	STC (Portion of 15-foot wide alley) Approved 11/17/2020

### Application Types

CUP – Conditional Use Permit	MOD – Modification of Conditions or Proffers	FVR – Floodplain Variance	LUP – Land Use Plan
REZ – Rezoning	NON – Nonconforming Use	ALT – Alternative Compliance	STR – Short Term Rental
CRZ – Conditional Rezoning	STC – Street Closure	SVR – Subdivision Variance	

## Evaluation & Recommendation

As required by City Code, a Viewers' Meeting was held on December 2, 2020, that included City Staff from the Departments of Public Works, Public Utilities, Planning and Community Development, and the Office of the City Attorney, to consider this request. The Viewers determined that the proposed closure will not result in any public inconvenience; therefore, closure of this portion of the right-of-way is deemed acceptable.

As evident on the Zoning History Map above, many similar requests have been reviewed and approved by City Council for closure of alleys within the Croatan neighborhood. On March 1, 2016, City Council approved the closure of the other half of the 15-foot wide alley adjacent to this parcel. Consistent with that approval, Condition 2 is recommended below whereby the City of Virginia Beach will retain a public drainage easement over the closed portion of the alley.

Based on the considerations above, Staff recommends approval of the proposed Street Closure subject to the conditions listed below.



## Recommended Conditions

1. The City Attorney's Office shall make the final determination regarding ownership of the underlying fee. The purchase price to be paid to the City shall be determined according to the "Policy Regarding Purchase of City's Interest in Streets Pursuant to Street Closures," approved by City Council. Copies of the policy are available in the Planning Department.
2. The applicant shall resubdivide the property and vacate internal lot lines to incorporate the closed area into the adjoining lot. The resubdivision plat must be submitted and approved for recordation prior to the final street closure approval. Said plat shall include the dedication of a public drainage easement over the closed portion of the alley to the City of Virginia Beach, subject to the approval of the Department of Public Works, and the City Attorney's Office, which easement shall include a right of reasonable ingress and egress.
3. The applicant shall verify that no private utilities exist within the right-of-way proposed for the closure. If private utilities do exist, easements satisfactory to the utility company, must be provided.
4. Closure of the right-of-way shall be contingent upon compliance with the above stated conditions within 365 days of approval by City Council. If the conditions noted above are not accomplished and the final plat is not approved for recordation within one year of the City Council vote to close the right-of-way this approval shall be considered null and void.

*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 surrounding uses. (pp.1-59 to 1-68)

## Natural & Cultural Resources Impacts

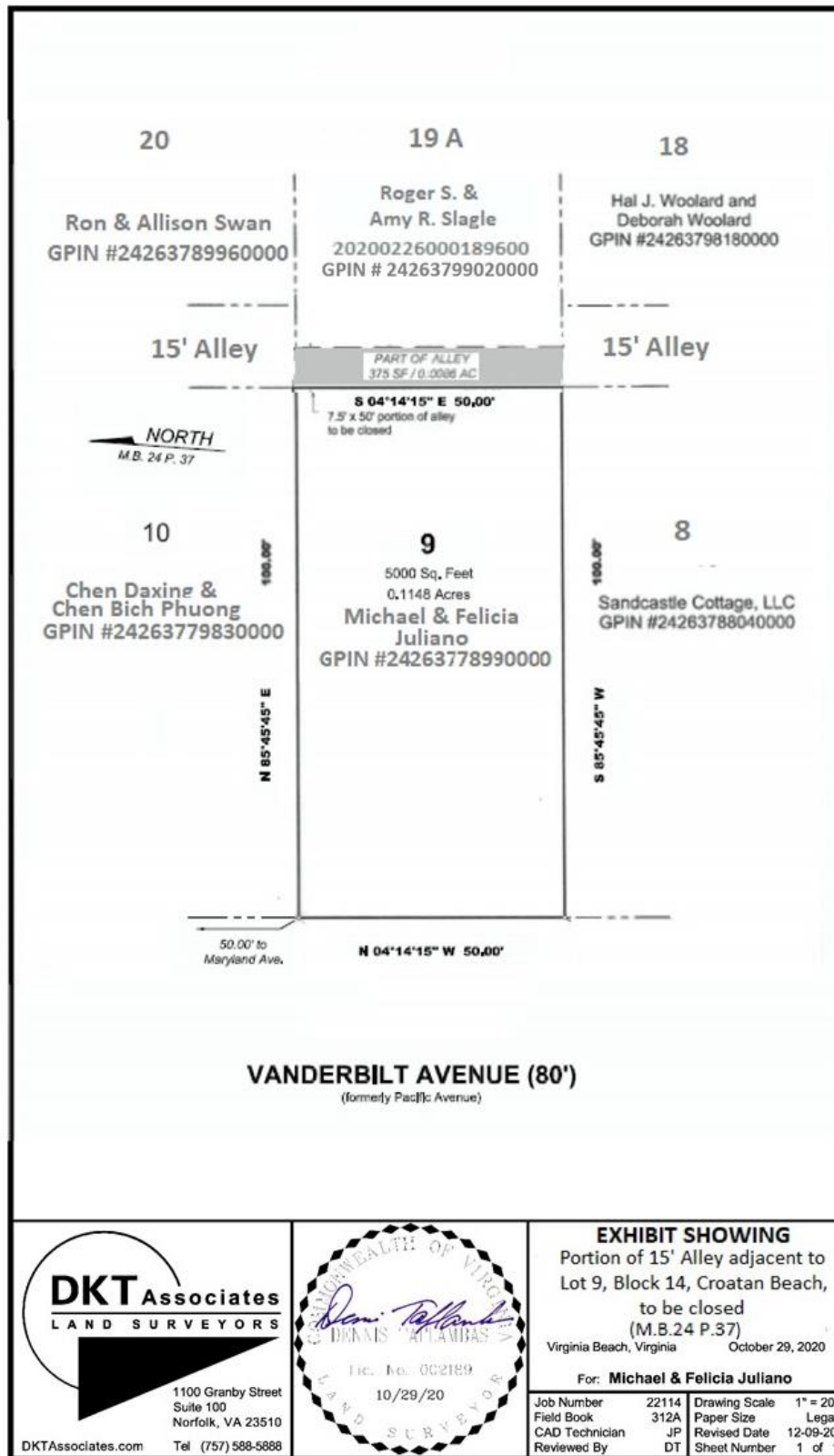
The site is located in the Atlantic Ocean watershed. There does not appear to be significant natural or cultural resources associated with the site.

## Public Outreach Information

### Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on December 14, 2020.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, December 27, 2020 and January 3, 2021.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on December 28, 2020.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of [www.vbgov.com/pc](http://www.vbgov.com/pc) on January 7, 2021.

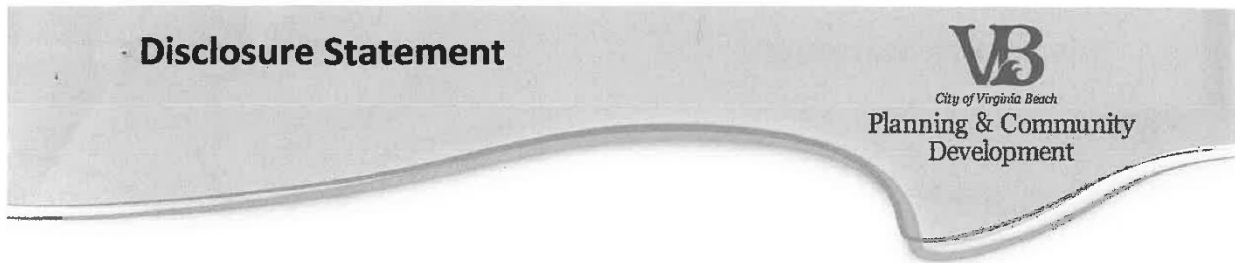
# Street Closure Exhibit



## Site Photo



## 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 Michael and Felicia Juliano

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-subsidary<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the applicant. (Attach a list if necessary)

<sup>1</sup> "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.

<sup>2</sup> "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.

*fjuliano@cox.net*  
757-339-4030 1 | Page



### 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.

*USAA*

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 real estate broker/realtor.

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 or 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 or 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 construction contractor.

The Pool Guyz

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 engineer/surveyor/agent.

DKT ASSOCIATES LAND SURVEYORS.

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 name of the attorney or firm providing legal services.

### 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.

[Signature]

Applicant Signature

MICHAEL JULIANO FELICIA JULIANO

Print Name and Title

10/17/2020

Date

10/17/2020

- 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	

fjuliano@cck.vbc  
757-339-4030

3 | Page

## 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.
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- 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.

**Request**

**Conditional Use Permit** (Home-Based Wildlife Rehabilitation Facility)

**Staff Recommendation**

Approval

**Staff Planner**

Marchelle Coleman

**Location**

1203 Gunn Hall Drive

**GPIN**

24154187331203

**Site Size**

18,092 square feet

**AICUZ**

70-75 dB DNL

**Watershed**

Southern Rivers

**Existing Land Use and Zoning District**

Duplex / R-5D Residential

**Surrounding Land Uses and Zoning Districts**

**North**

Gunn Hall Drive

Semi-detached dwellings/ R-5D Residential

**South**

Single-family dwellings / R-5D Residential

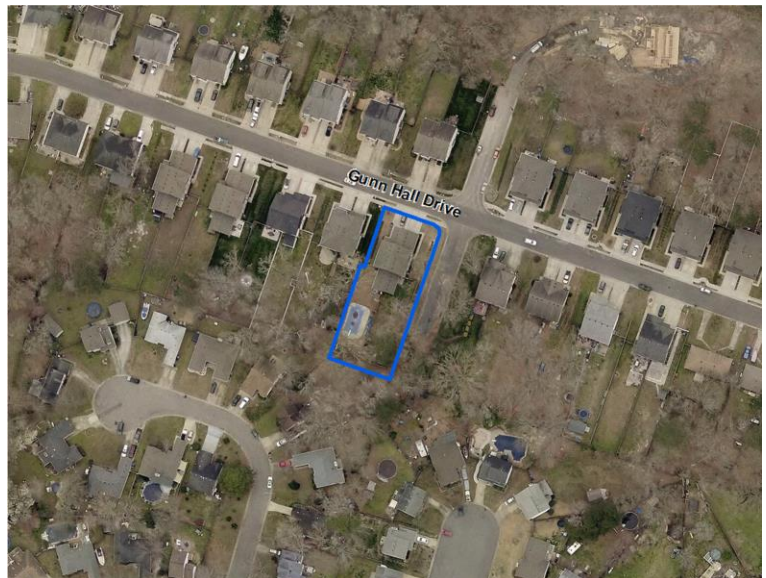
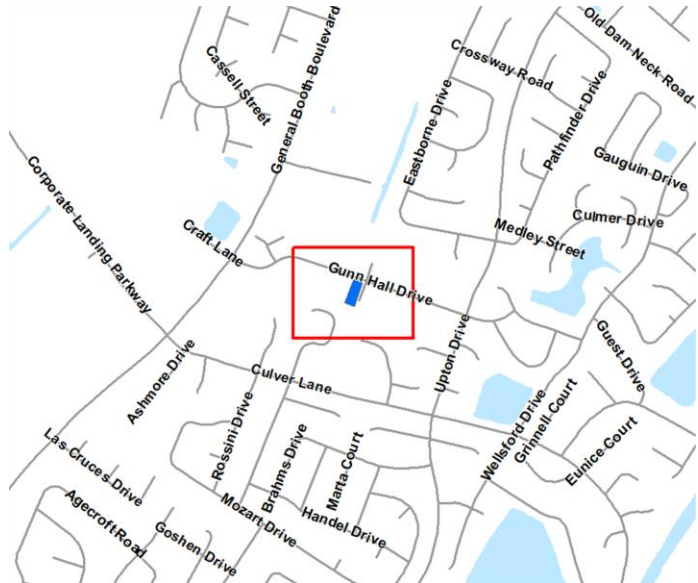
**East**

Gunn Hall Drive

Duplex / R-5D Residential

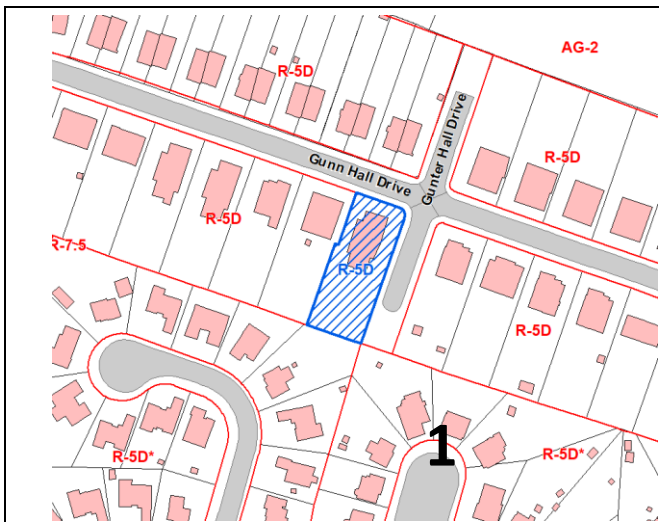
**West**

Duplex / R-5D Residential



## Background & Summary of Proposal

- The applicant is requesting a Conditional Use Permit for a Home-Based Wildlife Rehabilitation Facility to care for infant mammals on an 18,092 square foot parcel zoned R-5D Residential District in the Gunn Hall Manor neighborhood.
- The applicant desires to provide care for juvenile wildlife such as opossums, flying squirrels, squirrels, rabbits and raccoons. According to the application, the mammals will be rehabilitated indoors within cages that are set up solely for their care to comply with the permit requirements of the Virginia Department of Game and Inland Fisheries (VDGIF). The applicant has applied for a Category I Permit, which is categorized as an apprentice whose work is performed under the supervision and guidance of a sponsoring Category II Permit Holder. The applicant works closely with Evelyn's Wildlife Refuge in Suffolk, Virginia.
- The primary goal is to care for these mammals until they are ready to return to their natural habitat.
- Care for the animals will occur both inside one unit of the duplex as well as within the applicant's fully enclosed backyard. Two to three weeks prior to the animal's release, the animals will be relocated to one of the outdoor enclosures in order to acclimate and will not be released at the site. The outdoor enclosures will meet the required five-foot rear and side yard setbacks, as required by the Zoning Ordinance.
- Animals will not be left outside unsupervised or overnight and will remain in their indoor enclosures until their final release location is determined by the VDGIF.
- Animals are referred from the applicant's mentor who receives the wildlife from Animal Control, veterinarian offices, local Virginia residents, the VDGIF, and other rescue organizations. Animals in need of rehabilitation are transported to the site by vehicle between the hours of 7:00 a.m. and 10:00 p.m., and after rehabilitation, the animals are again transferred by vehicle to the Evelyn's Wildlife Refuge in Suffolk, Virginia where they are released into their natural habitat. As noted above, no animals will be released on the site or in the neighborhood.



### Zoning History

#	Request
1	LUP (Ocean Lakes) Approved 02/07/1986

### Application Types

CUP – Conditional Use Permit  
 REZ – Rezoning  
 CRZ – Conditional Rezoning

MOD – Modification of Conditions or 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 proposed Conditional Use Permit for a Home-Based Wildlife Rehabilitation Facility on this site, in Staff's opinion, is consistent with the policies and goals set forth in the Comprehensive Plan for the Suburban Area. Achieving this goal requires that all land use activities either maintain or enhance the existing neighborhood through compatibility with surroundings, quality and attractiveness of structures, and provide effective buffering with respect to the surrounding uses. The proposed wildlife rehabilitation facility is in keeping with these principles, as the existing solid, six-foot height privacy fence provides sufficient screening and buffering for the adjacent properties. During the site visit, Staff found the property to be very organized and well-kept, successfully promoting the policies intended to ensure the maintenance and sustainability of great neighborhoods. No records of violation through Animal Control were found.

The applicant is aware of the standards outlined in Section 242.3 of the City Zoning Ordinance for Home-Based Wildlife Rehabilitation Facilities and Staff believes that this request adequately addresses these requirements.

For the reasons stated above, Staff recommends approval of this application, subject to the conditions below.

## Recommended Conditions

1. The applicant shall comply with all the provisions of Section 242.3 of the City Zoning Ordinance pertaining to a Home-Based Wildlife Rehabilitation Facility.
2. The applicant shall comply with all provisions established for wildlife rehabilitation by the Virginia Department of Game & Inland Fisheries.
3. No animals shall be dropped-off between the hours of 10:00 p.m. and 7:00 a.m.
4. The applicant shall maintain the existing six-foot high privacy fence such that all activity associated with the Home-Based Wildlife Rehabilitation Facility Center and the pre-release facility are screened from view from the right-of-way and all adjacent properties.
5. No animals shall be released at the subject site or within the neighborhood.
6. The pre-release cage depicted on the site layout shall be equipped with a double door system for the protection of the handler and the mammals prior to occupancy by any mammals.
7. All mammals kept onsite shall be properly vaccinated for rabies and proof of rabies immunization shall be kept onsite.
8. Animal waste shall be removed daily in a lawful manner.
9. All animals shall be properly and humanely contained either in the dwelling unit or within the pre-release structure. Animals shall not be allowed to roam freely out of these structures at any time. If any animal does escape, the City of Virginia Beach Animal Control Department shall be notified immediately.

*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.*

## Zoning Ordinance Requirements for Home-Based Wildlife Rehabilitation Facility

Home-based wildlife rehabilitation facilities shall meet the following standards:

- (a) Each operator shall ensure that each animal is provided with:
  - (1) Adequate food and water;
  - (2) Adequate shelter that is clean and of the proper type and size for the particular type of animal and its age, size, species, and weight;
  - (3) Adequate exercise;
  - (4) Adequate lighting; and
  - (5) Veterinary care as necessary to prevent suffering or disease transmission.
- (b) Each operator shall hold a valid category I or category II A or B wildlife rehabilitation permit from the Virginia Department of Game and Inland Fisheries, and a migratory bird wildlife rehabilitation permit issued by the United States Fish and Wildlife Service if the operator rehabilitates migratory birds.
- (c) Only species for which an operator holds current state and, if applicable, federal permits shall be kept in such a facility for more than twenty-four (24) hours. All animals not authorized to be kept pursuant to such permits shall be transported to an appropriate wildlife rehabilitation center or a permitted home-based wildlife rehabilitation facility within twenty-four (24) hours of receipt of such animal.
- (d) No operator shall keep a greater number of animals at any one time than those for which the operator maintains adequate caging as required by the applicable state or federal permit or permits held by the operator.
- (e) No animal shall be kept at any such facility for a period in excess of one hundred and eighty (180) days.
- (f) All animals shall be kept or maintained in such manner that a nuisance is not generated by insects, excessive odor, dust, noise, or other conditions deemed by the zoning administrator to be detrimental to the community health, safety and welfare.
- (g) Removal of dead animals shall be conducted in accordance with the provisions of section 5-14 of the Code of the City of Virginia Beach. The home-based rehabilitator shall be the owner of the wildlife they are rehabilitating for the purposes of City Code section 5-14.
- (h) Removal of all waste, including medical waste, shall be conducted daily in accordance with the provisions of Section 31-7 of the Code of the City of Virginia Beach.
- (i) All structures, buildings, or cages used for the shelter of animals shall comply with the dimensional requirements of the zoning district in which the facility is located, provided that cages or other wildlife confinement areas shall not occupy more than a total of twenty (20) percent of the lot on which the facility is located. Structures in which animals are confined shall not exceed eight (8) feet in height.
- (j) There shall be no signs pertaining to the use on the property other than one (1) non-illuminated sign, not to exceed one (1) square foot in area, that may provide identification of the facility, notice to the public of any potential hazards related to the operation of the facility, and notice to the public of basic instructions for delivery of sick, injured, orphaned, or displaced wildlife.

## 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 surrounding uses. (pp.1-59 to 1-68)

## 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 this site.

## Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Gunn Hall Drive	No Data Available		Existing Land Use <sup>1</sup> —10 ADT Proposed Land Use <sup>2</sup> — 10 ADT
	<sup>1</sup> as defined by a single-family dwelling	<sup>2</sup> as defined by a single-family dwelling with home-based wildlife rehab	

## Master Transportation Plan (MTP) and Capital Improvement Program (CIP)

Gunn Hall Drive in the vicinity of this application is considered a two-lane undivided local street. There are no roadway CIP projects planned for this area.

## Public Utility Impacts

### Water & Sewer

The site is currently connected to both City water and sanitary sewer services.

## Public Outreach Information

### Planning Commission

- The applicant reported that they sent letters to the surrounding property owners to inform them of this request. 3 letters of support and 2 letters of opposition have been received by Staff noting concerns related to potential harm to children and other domestic animals in the neighborhood, adverse impacts on home values, and overall desirability of the neighborhood.
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on December 14, 2020.



- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, December 27, 2020 and January 3, 2021.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on December 28, 2020.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of [www.vbgov.com/pc](http://www.vbgov.com/pc) on January 7, 2021.

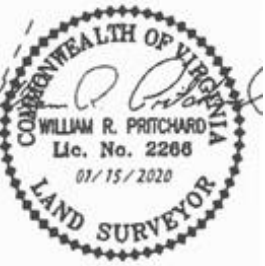
# Proposed Site Layout

THIS IS TO CERTIFY THAT ON DECEMBER 19, 2019, WE SURVEYED THE PROPERTY SHOWN ON THIS PLAT AND THAT THE PROPERTY LINES OF RECORD AS INST. 20150612000776870 AND THE WALLS OF THE BUILDINGS ARE AS SHOWN ON THIS PLAT. THE BUILDINGS STAND WITHIN THE SAID PROPERTY LINES AND THERE ARE NO VISIBLE ENCROACHMENTS OF OTHER BUILDINGS ON THE PROPERTY, EXCEPT AS SHOWN.

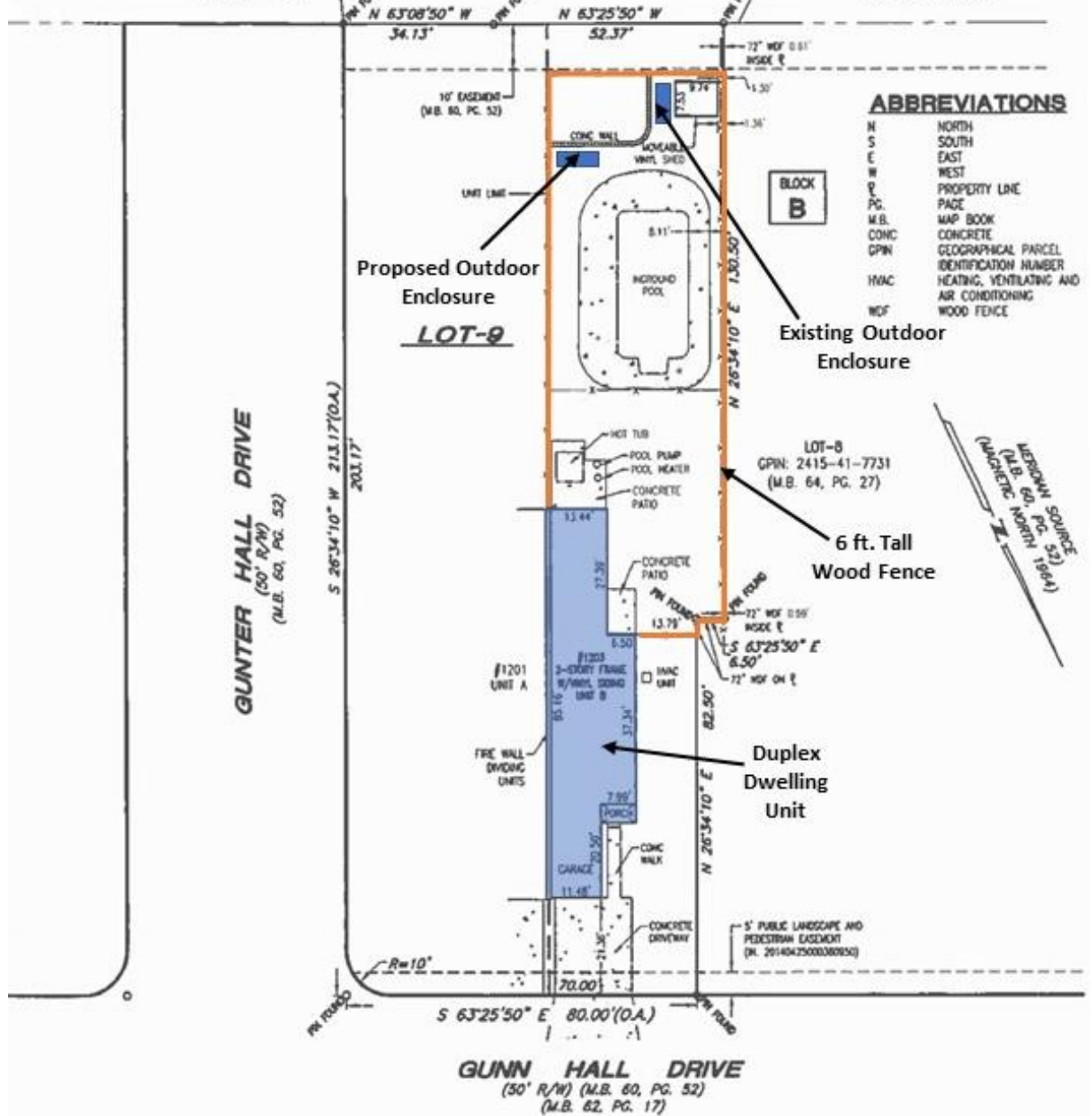
NOTE: THIS CONDOMINIUM PLAT CONSISTS OF LOT 9, BLOCK-B, RESUBDIVISION OF LOTS 7 & 8, BLOCK "A", LOTS 8 & 9, BLOCK "B" AND LOTS 1-4 BLOCK "D", GUNN-HALL MANOR, SECTION ONE PLAT RECORDED IN M.B. 64, PG. 27 IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF THE CITY OF VIRGINIA BEACH, VIRGINIA, LOCATED IN VIRGINIA BEACH, VIRGINIA.

LOT-38  
SUBDIVISION OF  
OCEAN LAKES  
PHASE ONE - SECTION TWO  
(D.B. 2458, P. 2180-2182)  
GPN: 2415-41-8590

LOT-18  
(D.B. 2658, P. 685)  
GPN: 2415-41-7536



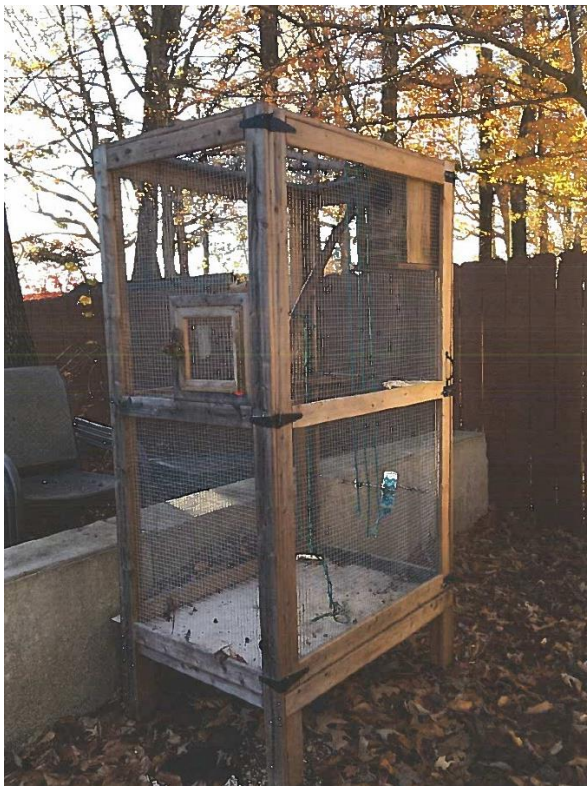
LOT-17  
(D.B. 2658, P. 685)  
GPN: 2415-41-6650



Site Photos









### Disclosure Statement



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#### Applicant Disclosure

**Applicant Name** Janice Hart

**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-subsidary<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the applicant. (Attach a list if necessary)

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### 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**

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#### 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**

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- 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 construction contractor.

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

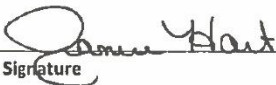
• If yes, identify the engineer/surveyor/agent.

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 name of the attorney or firm providing legal services.

#### 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

Janice Hart - owner and applicant 10/10/2020

#### 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

## 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 757-385-8610.
- 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.



**Request**

**Modification of Conditions** (Religious Use & Private School)

**Staff Recommendation**

Approval

**Staff Planner**

Marchelle Coleman

**Location**

1968 Sandbridge Road

**GPIN**

2414325261

**Site Size**

10.87 acres

**AICUZ**

65-70 dB DNL; Sub-Area 2

**Watershed**

Southern Rivers

**Existing Land Use and Zoning District**

Religious Use, private school / R-20 Residential

**Surrounding Land Uses and Zoning Districts**

**North**

Single-family dwellings / R-7.5 Residential

**South**

Sandbridge Road

Retail, restaurant, daycare, undeveloped land/  
B-2 Community Business, AG-2 Agricultural

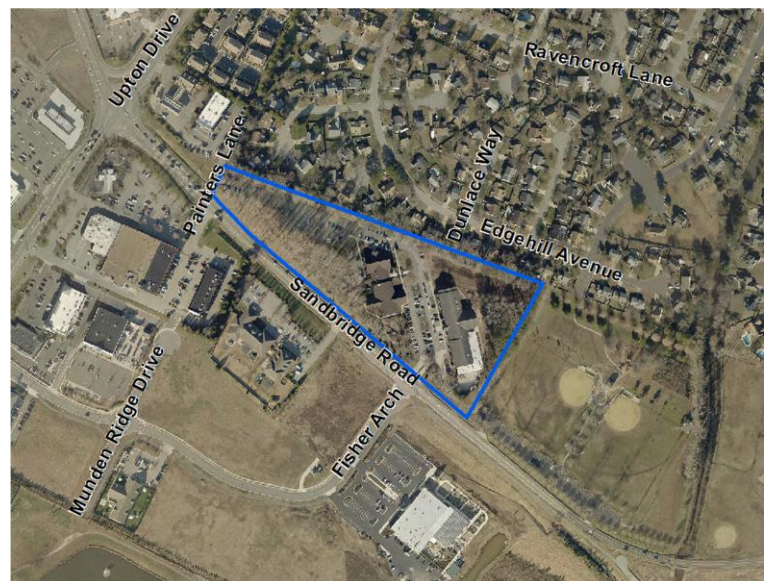
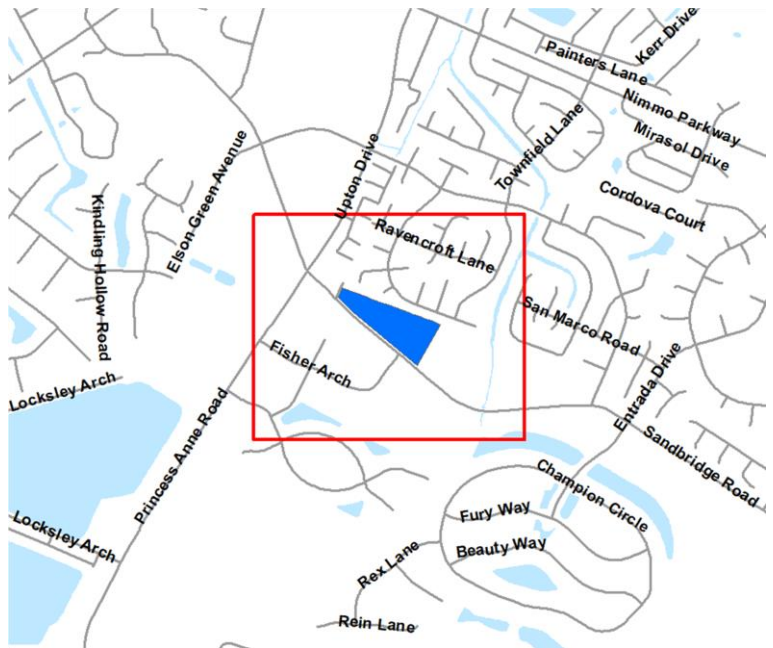
**East**

Red Mill Farms Park / B-2 Community Business

**West**

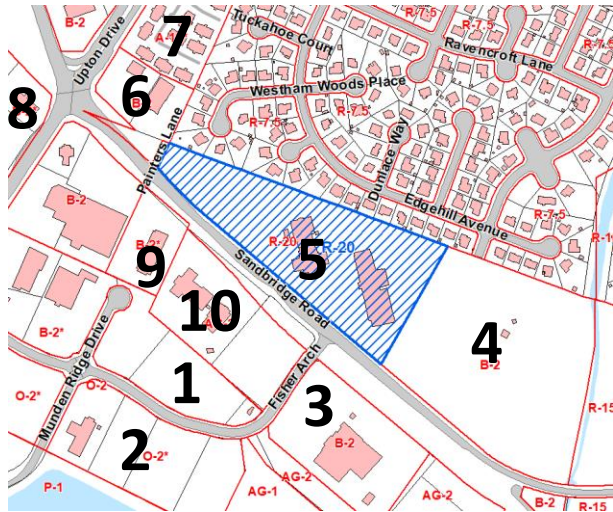
Painters Lane

Office / B-2 Community Business



## Background & Summary of Proposal

- A Conditional Use Permit for a Religious Use and private school was approved by City Council on August 24, 1993.
- The subject 10.87 acre site is currently zoned R-20 Residential District and consists of a church, parking lot, office space, and a private school.
- At this time, the applicant is requesting a Modification of Conditions for an expansion of the site to accommodate the growing parish. The existing buildings are limited in space resulting in overcrowding. To better serve parishioners and guests, the applicant is proposing building improvements to include a 23,791 square foot multi-purpose social hall addition with community meeting space, Sunday School classroom space, and office/resource space.
- Other proposed improvements include a 300 square foot office addition, a 5,418 square foot classroom addition to the existing school, a 478 square foot chapel, a columbarium and memorial areas. The architecture and building materials of the proposed additions will match that of the existing buildings on the site, as depicted on pages 10 – 13 of this report.
- There are currently 296 parking spaces on the site to accommodate the existing church, office space, and school. Despite exceeding the minimum parking requirement by 50 spaces, according to the applicant there is a shortage of parking on the site. In order to address this shortage and to meet the requirements of the Zoning Ordinance with the proposed additions, an additional 188 on-site parking spaces will be provided, exceeding the parking requirement by over 211 parking spaces. The applicant will also be expanding the onsite internal vehicular circulation to better accommodate the drop-off and pick-up of children at the school.
- Existing vegetative buffers will be retained and, where necessary, supplemented with new plantings. As shown on the Conceptual Landscape Plan and further described in the concept stormwater design, the applicant is proposing both a natural and structural approach to addressing stormwater runoff including the use of permeable paver systems, canopy cover, green roof systems and below surface structural stormwater management.

		<h3>Zoning History</h3> <table><tr><th>#</th><th>Request</th></tr><tr><td>1</td><td>CUP (Mini-Warehouses) Approved 12/03/2019</td></tr><tr><td>2</td><td>CRZ (AG-1 and Conditional O-2 to Conditional B-2) Approved 02/24/2009</td></tr><tr><td>3</td><td>CUP (Outdoor Recreation) Approved 11/20/2018 CRZ (AG-2 to Conditional B-2) Approved 09/16/2014</td></tr><tr><td>4</td><td>CUP (Communications Tower) Approved 10/12/2010</td></tr><tr><td>5</td><td>CUP (Church) Approved 08/24/1993</td></tr><tr><td>6</td><td>CUP (Fuel Sales with a Convenience Store) Approved 12/11/2001</td></tr><tr><td>7</td><td>CRZ (B-2 to Conditional A-12) Approved 12/11/2001</td></tr><tr><td>8</td><td>CUP (Fuel Sales) Approved 10/18/2016 MOD Approved 01/20/2015 CRZ (AG-2, B-2 to Conditional B-2) Approved 06/11/2013</td></tr><tr><td>9</td><td>CRZ (AG-2 to Conditional B-2) Approved 05/25/1999</td></tr><tr><td>10</td><td>CUP (Child Care Education Center) Approved 06/14/2005</td></tr></table>		#	Request	1	CUP (Mini-Warehouses) Approved 12/03/2019	2	CRZ (AG-1 and Conditional O-2 to Conditional B-2) Approved 02/24/2009	3	CUP (Outdoor Recreation) Approved 11/20/2018 CRZ (AG-2 to Conditional B-2) Approved 09/16/2014	4	CUP (Communications Tower) Approved 10/12/2010	5	CUP (Church) Approved 08/24/1993	6	CUP (Fuel Sales with a Convenience Store) Approved 12/11/2001	7	CRZ (B-2 to Conditional A-12) Approved 12/11/2001	8	CUP (Fuel Sales) Approved 10/18/2016 MOD Approved 01/20/2015 CRZ (AG-2, B-2 to Conditional B-2) Approved 06/11/2013	9	CRZ (AG-2 to Conditional B-2) Approved 05/25/1999	10	CUP (Child Care Education Center) Approved 06/14/2005
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CUP – Conditional Use Permit REZ – Rezoning CRZ – Conditional Rezoning	MOD – Modification of Conditions or 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 proposed Modification to the Conditional Use Permit for the Religious Use and private school expansion is acceptable. The additions are designed to complement the architecture and character of the existing buildings. Ample parking will be provided with an additional 188 parking spaces in order to meet the parking needs of the church and to satisfy the minimum parking requirements of the Zoning Ordinance. The request remains in keeping with the policies and goals set forth in the Comprehensive Plan for the Suburban Area, as the church and school provides a valuable service to the community and contributes to the sustainability of great neighborhoods.

As shown on the submitted Landscape Plan, the applicant intends to retain all existing vegetative buffers on the site to include all streetscape and foundation plantings. New plantings will be installed to supplement where needed. A more detailed review of all screening and planting requirements will occur during final site plan review.

Traffic Engineering data shows that the proposed modifications to the existing Religious Use and private school would result in an increase in traffic generation. Based on the submitted application, the school building addition will not result in higher student enrollment, so the school addition was not factored into the new trip generation calculations. The proposed social hall is counted as part of the church for trip generation and the proposed new trips have been based on the 23,791 square foot addition. It is likely that the calculation of new trip generation included vehicles that are already at the church; therefore, the proposed additional trip generation numbers are expected to be lower than the data provided. Condition 5 of the 1993 Conditional Use Permit referenced that Traffic Engineering Staff may require right and left turn lanes along Sandbridge Road for vehicles entering the site. Based on the current modification request, Traffic Engineering Staff provided that these turn lanes were never constructed and an agreement between the church and the City determined that a gate at the main entrance would be required to block traffic from using this access point on weekdays during school drop-off and pick up times. During final site plan review, turn lanes or either a gate at the main entrance may be revisited to allow for better traffic flow along Sandbridge Road during drop-off and pick-up times for the private school. The applicant is aware that additional review and discussion regarding this issue will occur during final site plan review.

Upon submission of this application, City Staff and the engineers and developers for this project recognized that more substantial stormwater management infrastructure was necessary to meet anticipated regulatory requirements. As recommended by Staff, the applicant submitted a preliminary stormwater management analysis to the Development Services Center (DSC) outlining the proposed stormwater strategy for this site. The DSC has reviewed the preliminary stormwater analysis and finds that the submitted stormwater strategy has the potential to successfully comply with stormwater regulations for this site. More detailed information can be found in the Stormwater Impacts section of this report.

Based on these considerations, Staff recommends approval of the application, subject to the modified conditions below.

## Stormwater Impacts

### Project Stormwater Design Staff Summary

The proposed drainage patterns for the site are comprised into two drainage areas. Runoff from the majority of the proposed building and parking additions (7.66 acres) discharges to an existing storm sewer system located behind the Red Mill Subdivision while the remaining area (approximately 3.21 acres) drains directly toward Sandbridge Road. The proposed stormwater management facility (SWMF) consists of an underground detention facility, primarily intended to address water quantity requirements, augmented with treatment devices to provide a portion of the required pollutant removal.

The provided preliminary stormwater management design demonstrates adequate conveyance of the runoff from the proposed development for storms up to and including the 100-year event plus 1.5 feet of sea-level rise (SLR). The stormwater model evaluation included an offsite analysis to verify that the project will not have a negative impact or increase flooding levels on the existing stormwater system upstream or downstream of the project.

Based on the information provided by WPL and Hoggard-Eure Associates in the Preliminary Stormwater Analysis, the Development Services Center finds that the proposed conceptual stormwater management strategy has the potential to successfully comply with the stormwater requirements for this site. Final design and detailed updates will be made during site plan submittal. More detailed project stormwater information is listed below.

### **Project Information**

**Total project area:** 10.87 Acres

**Pre-Development impervious area:** 4.17 Acres

**Post-Development impervious area:** 6.83 Acres

**Does the analysis utilize the City of Virginia Beach Master Drainage Model:** Yes

**Does the analysis incorporate into design increased rainfall amounts (NOAA plus 20%) and account for 1.5' SLR:** Yes

### **Stormwater Management Facility Design Information**

**Type of facility proposed:** Underground detention storage chambers with treatment devices

**Total storage volume provided in proposed stormwater management facility:** 131,100 cubic feet

**Description of outfall:** Runoff leaves the site primarily in two directions. All proposed improvements will drain into the underground detention system, which outfalls into an existing public storm sewer system located along the Church's northern property line. The area draining to the Sandbridge Road ditch system is reduced by approximately 50% and remains otherwise unchanged.

**Downstream conveyance path:** Both of the project outfalls connect to the historic ditch less than 1,000 feet downstream, which then drains north through Redmill to the South Shore Estates pond, which connects to Ashville Bridge Creek and eventually into Back Bay.

### **Stormwater Quality Compliance Design Information**

**Pounds of phosphorus removal per year (lb/yr) required:** 6.94 lb/yr

**Method of treatment proposed:** Manufactured treatment devices provide 4.57 lbs of phosphorus load reduction. A nutrient credit purchase will be required to provide the remaining 2.37 lbs of the 6.94 lb reduction required.

### **Stormwater Quantity Compliance Design Information**

**Channel protection:** Provided stormwater model demonstrates a reduction in peak velocities of stormwater discharge in all evaluated structures downstream of project site.

**Flood protection:** Attenuation of peak flow rates with reduction in hydraulic grade line (HGL) for 10-year storm in all evaluated structures downstream of project site.

**100-Year storm evaluation:** Stormwater modeling demonstrates project meets requirement of no increase (0.00 feet increase in HGL) in all evaluated structures downstream of project site.

**Sea-Level Rise:** Project evaluated, and stormwater modeling demonstrates proposed structures will not be inundated with stormwater during 100-year (including 1.5 feet SLR) storm event.



## Recommended Conditions

1. All conditions attached to the Conditional Use Permit for a Religious Use and school, dated August 24, 1993, are hereby deleted and superseded by the conditions below.
2. The site shall be in substantial conformance with the submitted site layout exhibit entitled, "CONCEPTUAL MASTER PLAN – ST. JOHN THE APOSTLE CHURCH AND SCHOOL – Virginia Beach, VA ", prepared by WPL, dated 12/12/2019, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
3. The exterior of the proposed buildings shall substantially adhere in appearance, size, materials to the submitted elevations entitled " ST. JOHN'S ARCHITECTURE" prepared by Waller Todd & Sadler, dated 12/12/2019 , which has been exhibited tot the Virginia Beach City Council and are on file in the Department of Planning & Community Development.
4. A Landscape Plan shall be submitted and approved by the Development Services Center Landscape Architect prior to final site plan approval.
5. The applicant shall obtain all necessary permits and inspections from the Department of Planning and 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 the use of the proposed additions.
6. All on-site signage must meet the requirements and regulations of the Zoning Ordinance. A separate permit from the Department of Planning & Community Development is required for any new signage installed on the site.
7. All outdoor lights shall be shielded to direct light and glare onto the premises, said lighting and glare shall be deflected, shaded, and focused away from all adjoining property. Any outdoor lighting fixtures shall not be erected any higher than fourteen (14) feet.
8. The final stormwater plan submitted to the Development Services Center (DSC) shall be in substantial conformance with the preliminary stormwater analysis utilizing the same basis of design, unless otherwise approved by the DSC.

*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 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
Sandbridge Road	14,200 ADT <sup>1</sup>	15,400 ADT <sup>1</sup> (LOS <sup>4</sup> "D")	Existing Land Use <sup>2</sup> – No Data Available Proposed Land Use <sup>3</sup> – 166 ADT (Weekday) Proposed Land Use <sup>3</sup> – 663 ADT (Sunday)
<sup>1</sup> Average Daily Trips	<sup>2</sup> as defined by the existing 52,509 square foot church & private school	<sup>3</sup> as defined by the existing 52,509 square foot church & private school with a 23,791 square foot church addition	<sup>4</sup> LOS = Level of Service

## Master Transportation Plan (MTP) and Capital Improvement Program (CIP)

Sandbridge Road in the vicinity of this application is considered a two-lane undivided minor suburban arterial with a variable-width right-of-way in this location. The MTP proposes the Princess Anne Commons/Transition Area Parkway with up to four lanes for this segment of Sandbridge Road. Princess Anne Road Phase VII (CIP 2-195) is for the construction of a four-lane divided roadway within a 143-foot right-of-way with a bike path, from General Booth Boulevard to just past the Upton Drive/Princess Anne Road intersection. The project is currently under construction and is slated to be completed in Spring 2021.

## Public Utility Impacts

### Water & Sewer

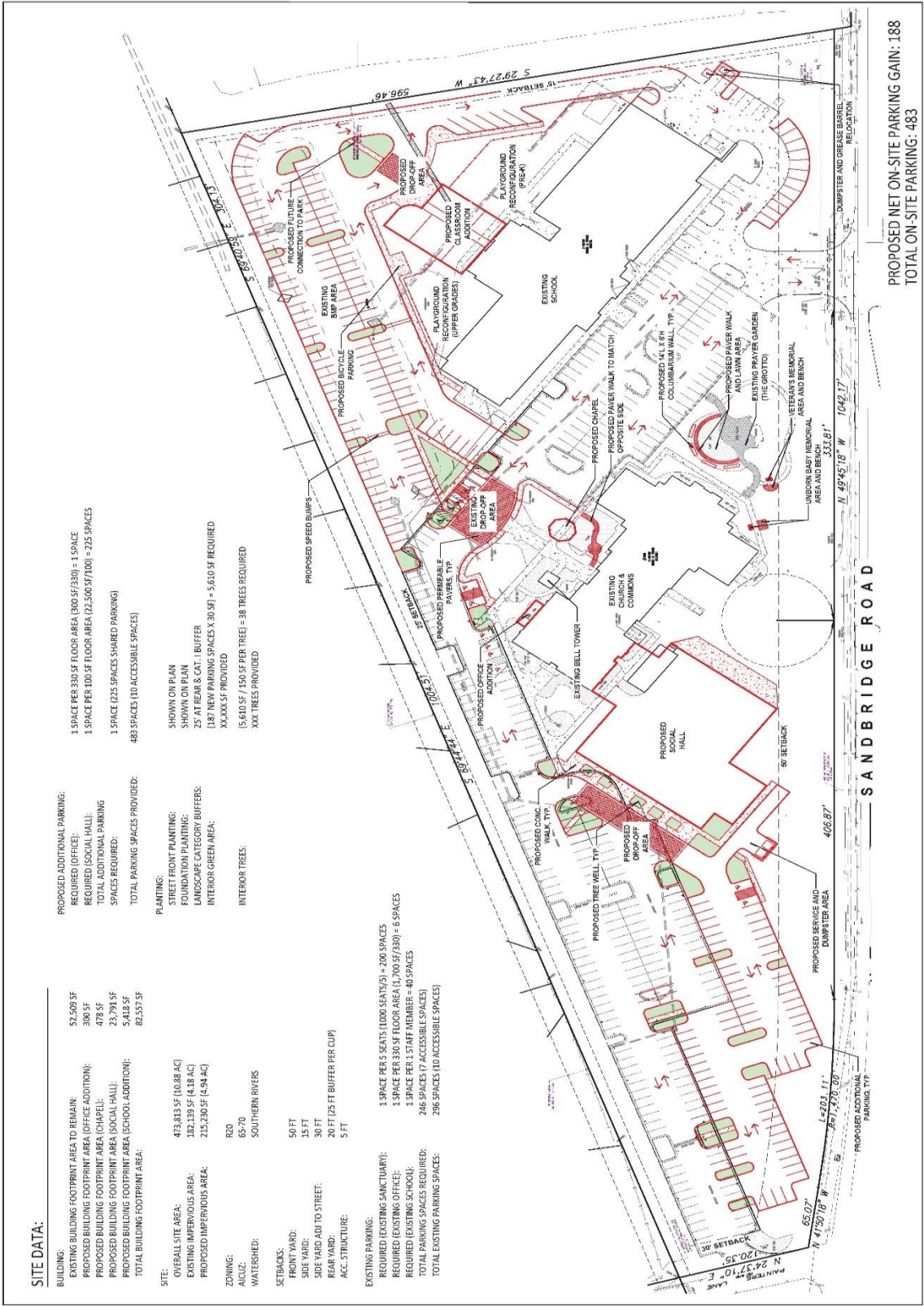
The site currently connects to both City water and sanitary sewer services.

## Public Outreach Information

### Planning Commission

- The applicant met with the surrounding neighbors to discuss the details of the request on Thursday, January 23, 2020. Approximately 30 residents were in attendance. Overall, the proposal was well received. However, according to the applicant, one neighbor was concerned about the landscaping and the preservation of trees on the site.
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on December 14, 2020.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, December 27, 2020 and January 3, 2021.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on December 28, 2020.

- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of [www.vbgov.com/pc](http://www.vbgov.com/pc) on January 7, 2021.



CONCEPTUAL MASTER PLAN  
**ST. JOHN THE APOSTLE CHURCH AND SCHOOL**  
VIRGINIA BEACH, VIRGINIA  
WPL | LANDSCAPE ARCHITECTS | LAND SURVEYORS | CIVIL ENGINEERS

217-0299  
DECEMBER 12, 2019



# Conceptual Landscaping Plan





## Proposed Social Hall



## Proposed Classroom Addition



## Proposed Chapel





## Proposed Columbarium Wall





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** St. John the Apostle Catholic Church and School

**Does the applicant have a representative?** ☒ Yes ☐ No

- If yes, list the name of the representative.

R. Edward Bourdon, Jr., Esq., Sykes, Bourdon, Ahern & Levy, P.C.

**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)

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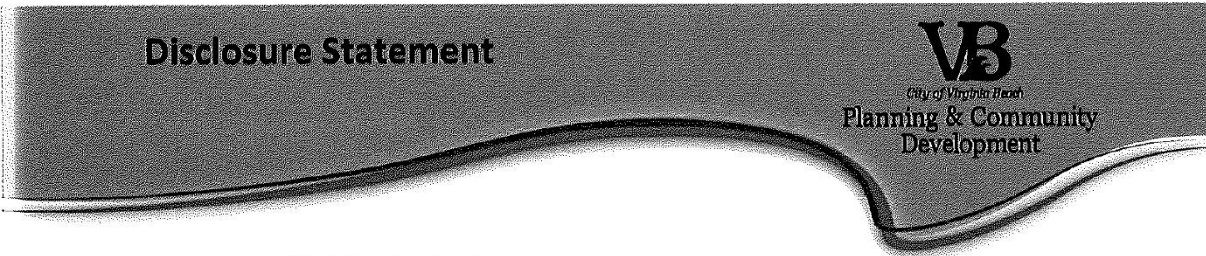
- If yes, list the businesses that have a parent-subsidary<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the applicant. (Attach a list if necessary)

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<sup>1</sup> "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.

<sup>2</sup> "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.



### **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.

Waller Todd Sadler, AIA; WPL (Landscape)

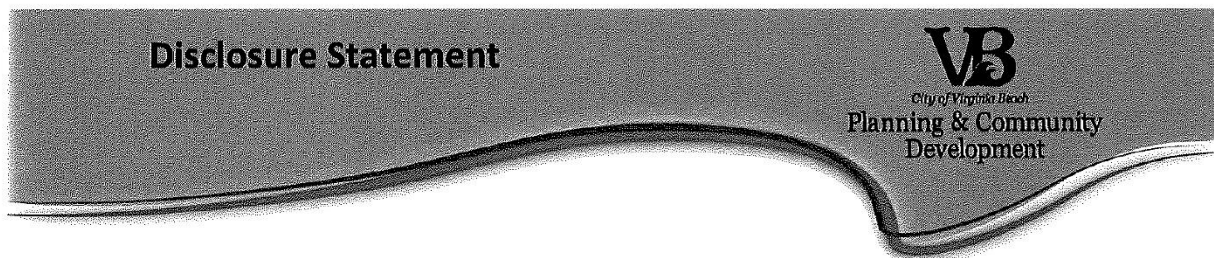
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5. Is there any other pending or proposed purchaser of the subject property? ☐ Yes ☒ No

- 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.

TBD

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.

WPL

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.

R. Edward Bourdon, Jr., Esq., Sykes, Bourdon, Ahern & Levy, 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.

*Rev. Robert J. Cole*

Applicant Signature

Rev. Robert J. Cole

Print Name and Title

Date 12/1/2020

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	

### Disclosure Statement



#### Owner Disclosure

**Owner Name** Bishop of The Catholic Diocese of Richmond, Virginia

**Applicant Name** St. John the Apostle Catholic Church and School

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)

Diocesan Bishop: Most Reverend Barry C. Knestout; Vicar General & Moderator of the Curia: Very Reverend Michael G. Boehling;  
Chief Financial Officer: Mr. Michael J. McGee; Chancellor: Very Reverend Monsignor R. Francis Muench, J.C.L., E.V.

- If yes, list the businesses that have a parent-subsidary<sup>3</sup> or affiliated business entity<sup>4</sup> relationship with the Owner. (Attach a list if necessary)

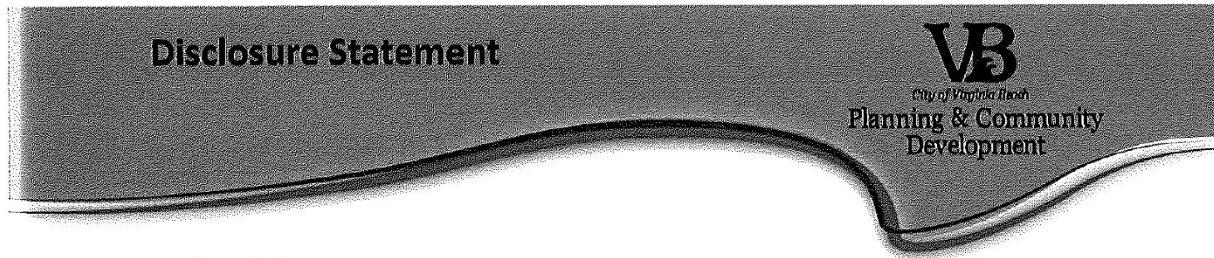
#### Known Interest by Public Official or Employee

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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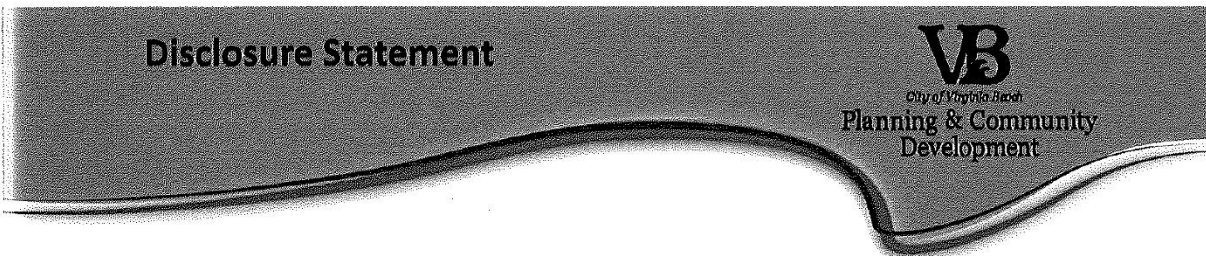
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### Owner Services Disclosure

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  
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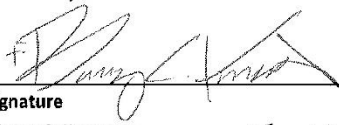




8. Is the Owner receiving legal services in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No
- If yes, identify the firm and individual providing legal the service.

### 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  
Bishop Barry C. Knestout THE MOST REVEREND  
Print Name and Title  
12/3/20  
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 757-385-8610.
- 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.

**Request**

**Conditional Use Permit** (Outdoor Recreation Facility)

**Staff Recommendation**

Approval

**Staff Planner**

Jonathan Sanders

**Location**

1420 Claudia Drive

**GPIN**

1479114730

**Site Size**

1.98 acres

**AICUZ**

Less than 65 dB DNL

**Watershed**

Chesapeake Bay

**Existing Land Use and Zoning District**

Single-family dwelling / R-40 Residential

**Surrounding Land Uses and Zoning Districts**

**North**

Single-family dwelling / R-40 Residential

**South**

Single-family dwellings / R-40 Residential

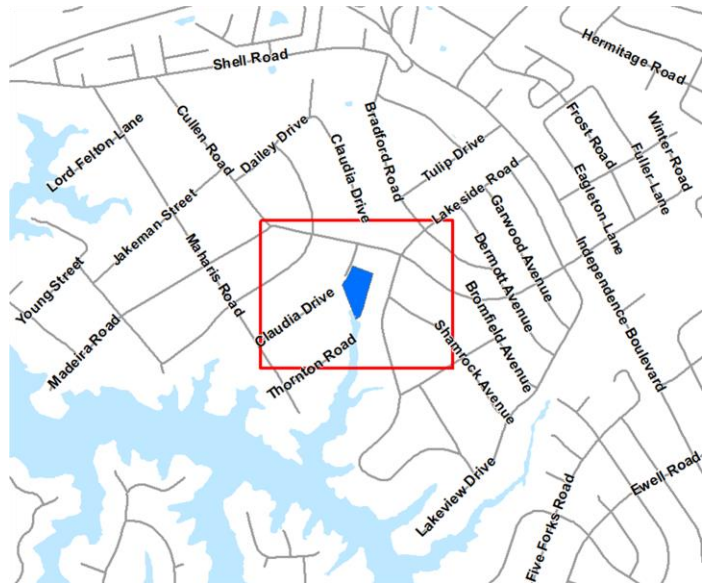
**East**

Single-family dwellings / R-20 Residential

**West**

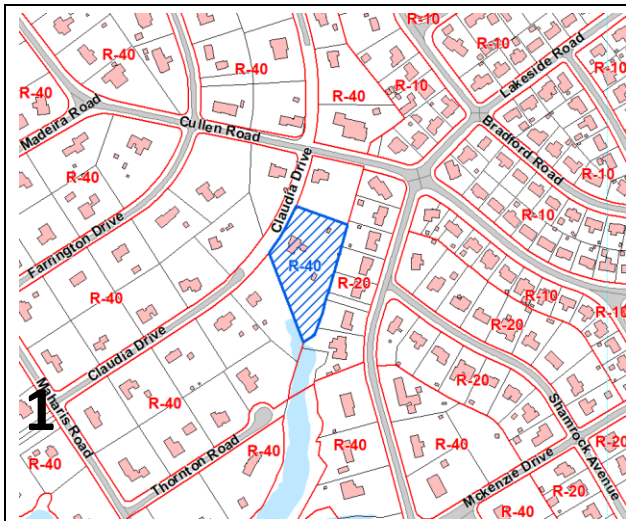
Claudia Drive (unimproved)

Single-family dwellings / R-40 Residential



## Background & Summary of Proposal

- This is an application for a Conditional Use Permit request for an Outdoor Recreation Facility in the backyard of a heavily wooded 1.98-acre parcel zoned R-40 Residential District within the Lakeview Park neighborhood.
- The outdoor recreation area is located along the rear fence line in the backyard. Included in this area are a pitching machine, artificial green mats and home plate, three 12-foot tall lights mounted to the fence, and a seven-foot high net. These improvements currently exist as the applicant was unaware of the need for the Conditional Use Permit and based upon notice by the Zoning Office, the applicant submitted the Conditional Use Permit application in order to correct this oversight.
- According to the applicant, the pitching machine and net area are used by the applicant's friends and children in the neighborhood. It is not open to the general public.



### Zoning History

#	Request
1	SVR Approved 08/23/2005

### Application Types

CUP – Conditional Use Permit  
 REZ – Rezoning  
 CRZ – Conditional Rezoning

MOD – Modification of Conditions or 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 proposed Conditional Use Permit for an Outdoor Recreation Facility for the applicant's use on this large lot is, in Staff's opinion, acceptable. To minimize the noise impact to neighbors, Staff recommends a condition that limits the hours of use of the pitching machine and outdoor batting area for associated activities to between 9:00 a.m. to dusk, daily. Furthermore, Staff recommends in Condition 3 that the three light fixtures mounted above the fence be removed to mitigate impacts on neighboring properties. Staff also recommends that an annual review of the Conditional Use Permit be performed by the Planning Director to ensure the use is operating consistent with the conditions and remains compatible with the surrounding residential uses. This review will include a determination of whether the Outdoor Recreation Facility remains an acceptable use and that a continuation of the use poses no detrimental impact to public health, safety, and welfare. Two adjacent property owners are supportive of this request and submitted letters of support. Additionally, six nearby property owners signed a petition of support for the proposal.

Based on the considerations above, Staff recommends approval of the application subject to the conditions listed below.

## Recommended Conditions

1. Use of the Outdoor Recreation Facility shall be limited to the hours between 9:00 a.m. to dusk, daily.
2. The applicant shall maintain a solid, six-foot tall fence along the backyard property line adjacent to the outdoor recreation area.
3. The existing lighting along the backyard fencing for this use shall be removed. No lights shall be used in conjunction with the Outdoor Recreation Facility.
4. The Outdoor Recreation Facility shall not be opened to the general public nor shall it operate for profit.
5. Subject to Section 221 (k) of the Zoning Ordinance, an annual review of the Outdoor Recreation Facility Conditional Use Permit, based on the date of City Council approval, shall be performed by the Planning Director or his designee to assure that the use does not conflict with any adjacent land uses.

*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 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 neighborhoods 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. Land use compatibility among uses in the Suburban Area is vital to the stability of the City's neighborhoods.

## 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.



## Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Claudia Drive	No Data Available	No Data Available	Existing Land Use <sup>2</sup> – 10 ADT <sup>1</sup> Proposed Land Use <sup>3</sup> – No Change Anticipated
<sup>1</sup> Average Daily Trips	<sup>2</sup> as defined by a single-family dwelling.	<sup>3</sup> as defined by a single-family dwelling with an Outdoor Recreation Facility	

## Public Utility Impacts

### Water & Sewer

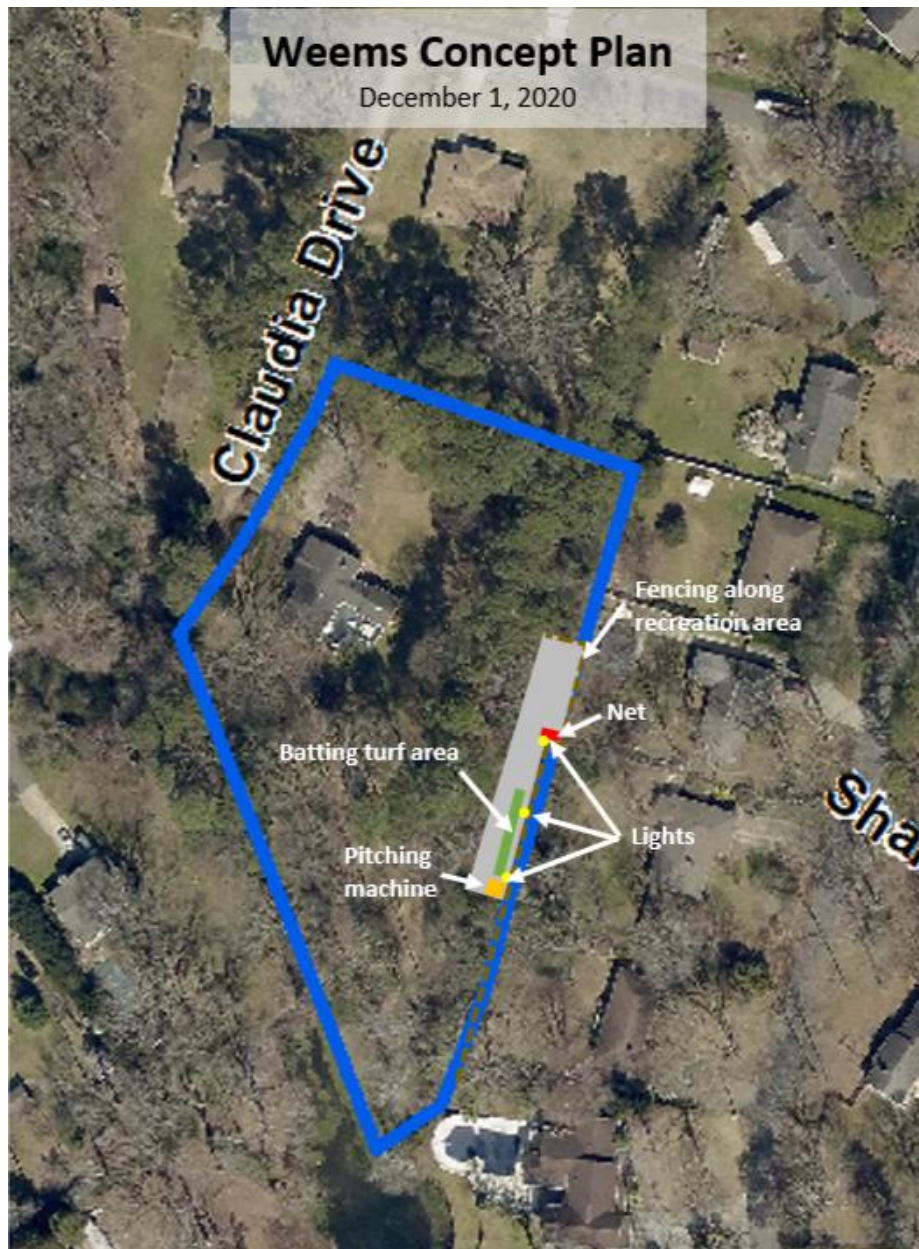
This site is currently connected to both City water and sanitary sewer services.

## Public Outreach Information

### Planning Commission

- Two letters of support and a petition of support signed by six neighboring property owners have been received.
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on December 14, 2020.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, December 20, 2020 and December 27, 2020.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on December 28, 2020.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of [www.vbgov.com/pc](http://www.vbgov.com/pc) on January 7, 2021.

## Proposed Site Layout



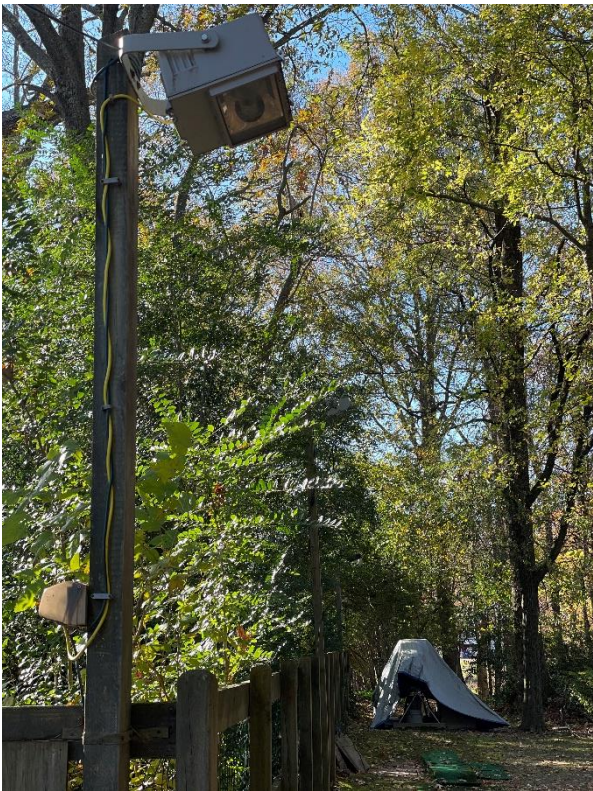


## Site Photos





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 William T. & Carolyn Dale Weems

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)

We run a small business from our home, Simply Sales Inc.

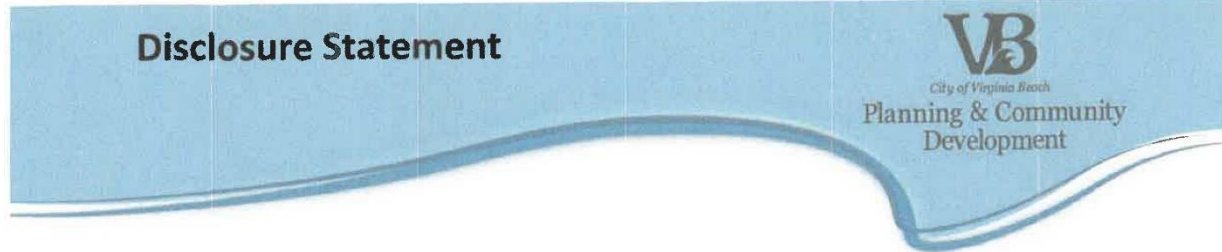
- If yes, list the businesses that have a parent-subsidary<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the applicant. (Attach a list if necessary)

NO

<sup>1</sup> "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.

<sup>2</sup> "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.

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 real estate broker/realtor.

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 or individual providing the service.

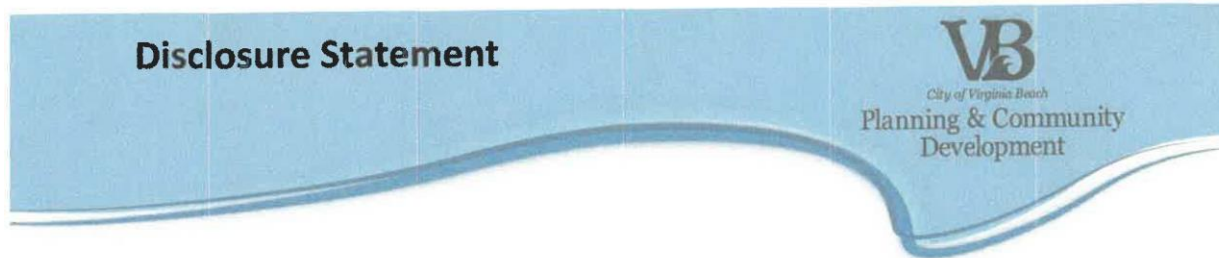
4. Does the applicant have services from an **architect/landscape architect/land planner** provided in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

- If **yes**, identify the firm or 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 construction contractor.
- 
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 engineer/surveyor/agent.
- 
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 name of the attorney or firm providing legal services.
- 

### 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.

Carolyn D. Weems W T Weems  
 Applicant Signature  
Carolyn D. Weems William T. Weems  
 Print Name and Title  
October 25, 2020  
 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	

## 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 757-385-8610.
- 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.





**Request**

**Conditional Use Permit** (Beauty Salon)

**Staff Recommendation**

Approval

**Staff Planner**

Jonathan Sanders

**Location**

4654 Haygood Road, Suite D

**GPIN**

1478368597

**Site Size**

1.97 acres

**AICUZ**

Less than 65 dB DNL

**Watershed**

Chesapeake Bay

**Existing Land Use and Zoning District**

Mixed office & retail / O-2 Office

**Surrounding Land Uses and Zoning Districts**

**North**

Townhouses / R-2.5 Residential

**South**

Haygood Road

Shopping center, mixed office & retail / B-2

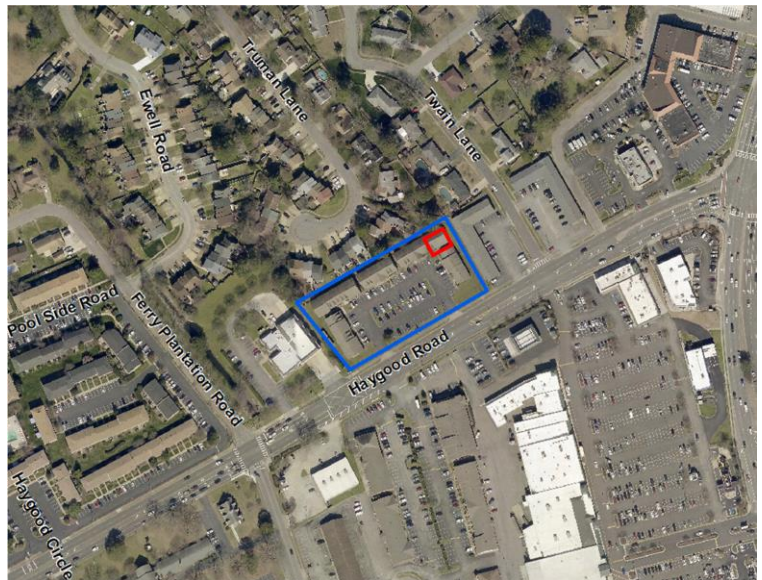
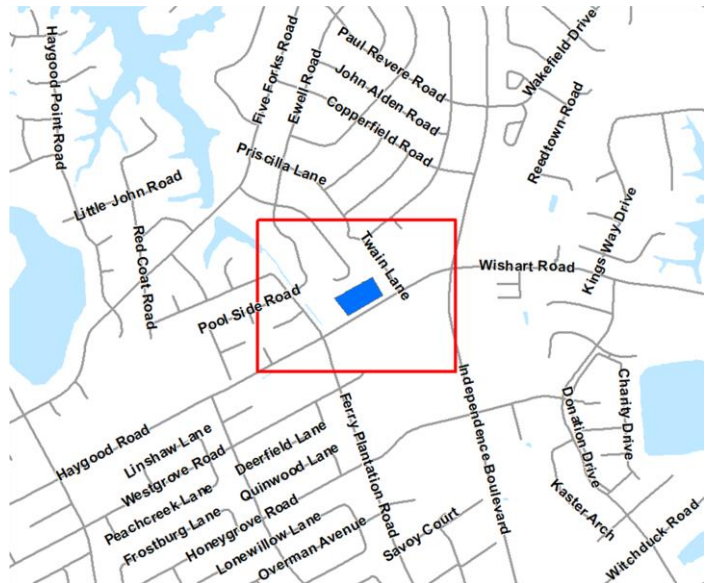
Community Business

**East**

Mixed retail / B-2 Community Business

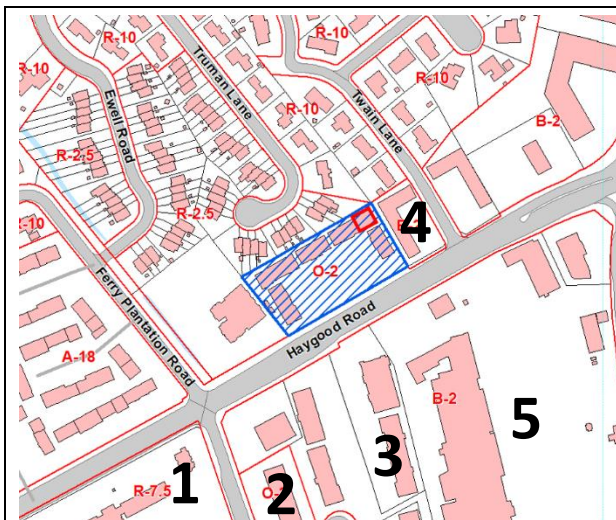
**West**

Fire station / R-2.5 Residential



## Background & Summary of Proposal

- The applicant is requesting a Conditional Use Permit for a 750-square foot Beauty Salon within a unit of an existing office building. The property is located along Haygood Road and is zoned O-2 Office District. The Zoning Ordinance identifies a Beauty Salon as a conditional use within the O-2 Office District and as such, a Conditional Use Permit is required.
- The applicant recently began operating the salon and was unaware of the need for a Conditional Use Permit and has applied for the Conditional Use Permit to rectify this oversight.
- As the site was developed for office use, it has adequate parking for all uses on site, including the proposed beauty salon.
- No modifications to the exterior are proposed and no new signage is proposed.
- The hours of operation are 9:00 a.m. to 8:00 p.m. Monday through Friday and 9:00 a.m. to 5:00 p.m. on Saturday. There are two employees.



### Zoning History

#	Request
1	CUP (Church Addition) Approved 12/17/1984
2	CRZ (B-2 to O-2) Approved 11/26/1996
3	CUP (Tattoo Parlor) Approved 10/15/2019
4	CUP (Tattoo Parlor) Approved 12/11/2018
5	CUP (Indoor Recreational Facility) Approved 11/24/2009 CUP (Fuel Sales) Approved 11/28/2006

### Application Types

CUP – Conditional Use Permit REZ – Rezoning CRZ – Conditional Rezoning	MOD – Modification of Conditions or Proffers NON – Nonconforming Use STC – Street Closure	FVR – Floodplain Variance ALT – Alternative Compliance SVR – Subdivision Variance	LUP – Land Use Plan STR – Short Term Rental
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## Evaluation & Recommendation

This request for a Conditional Use Permit for a Beauty Salon on this property zoned O-2 Office District is, in Staff's opinion, acceptable. The use provides a service to the community and will not change the character of the neighborhood, nor does it affect the surrounding residential properties any differently than the by-right office uses permitted on this site. Activities, including parking, deliveries, etc., associated with the Conditional Use Permit and all other by-right uses on the site occur in the front of the property, away from the adjacent townhouses that share the rear property line.

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 hygiene, licenses, recordkeeping, inspections, cleanliness and permitting.

Based on the considerations described above, Staff recommends approval of the application subject to the conditions listed below.

### Recommended Conditions

- 1. A business license for the beauty salon shall not be issued to the applicant without the approval of the Health Department to ensure consistency with the provisions of Chapter 23 of the City Code.
- 2. Any on-site signage shall meet the requirements of the City Zoning Ordinance, and there shall be no neon, electronic display or similar sign installed on the exterior of the building or in any window, or on the doors. A separate sign permit shall be obtained from the Planning Department 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 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 neighborhoods 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.

### 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.

### Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Haygood Road	20,700 ADT <sup>1</sup>	25,100 ADT <sup>1</sup> (LOS <sup>4</sup> “D”)	Existing Land Use <sup>2</sup> – 10 ADT Proposed Land Use <sup>3</sup> – No Change Anticipated
<sup>1</sup> Average Daily Trips	<sup>2</sup> as defined by a 750 square foot office	<sup>3</sup> as defined by a 750 square foot salon	<sup>4</sup> LOS = Level of Service



## **Master Transportation Plan (MTP) and Capital Improvement Program (CIP)**

Haygood Road is a four-lane minor urban arterial. The MTP shows a four-lane minor arterial with an ultimate right-of-way of 110 feet. There is currently no roadway CIP scheduled for this segment of Haygood Road.

### **Public Utility Impacts**

#### **Water & Sewer**

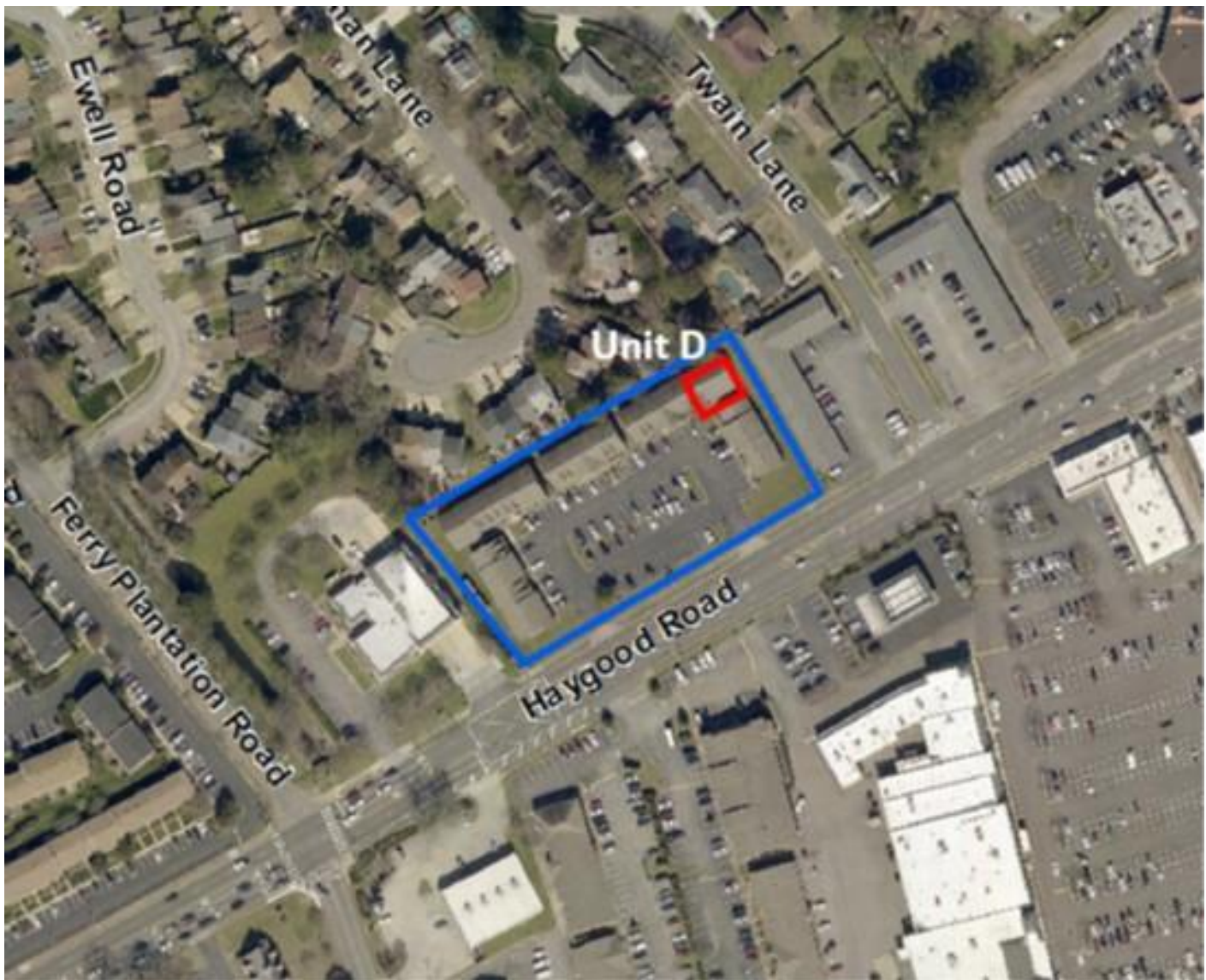
This site is currently connected to both City water and sanitary sewer service.

### **Public Outreach Information**

#### **Planning Commission**

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on December 14, 2020.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, December 27, 2020 and January 3, 2021.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on December 28, 2020.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of [www.vbgov.com/pc](http://www.vbgov.com/pc) on January 7, 2021.

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 Asia Mitchell

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)

Asia Mitchell - owner

- If yes, list the businesses that have a parent-subsidary<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the applicant. (Attach a list if necessary)


AKA Skin Secrets LLC DBA Brazilian  
located at 1333 Harpers Road Suite 110 VM-Beach 23454

<sup>1</sup> "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.

<sup>2</sup> "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

<h3>Disclosure Statement</h3>		
<b><u>Known Interest by Public Official or Employee</u></b>		
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"/> Yes <input checked="" type="checkbox"/> No		
<ul style="list-style-type: none"><li>If yes, what is the name of the official or employee and what is the nature of the interest?</li></ul> <hr/>		
<b><u>Applicant Services Disclosure</u></b>		
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? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
<ul style="list-style-type: none"><li>If yes, identify the financial institutions.</li></ul> <hr/>		
2. Does the applicant have a real estate broker/agent/realtor for current and anticipated future sales of the subject property? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
<ul style="list-style-type: none"><li>If yes, identify the real estate broker/realtor.</li></ul> <hr/>		
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? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
<ul style="list-style-type: none"><li>If yes, identify the firm or individual providing the service.</li></ul> <div style="border-bottom: 1px solid black; padding-bottom: 5px;">small business Specialists in virginia beach</div>		
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? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
<ul style="list-style-type: none"><li>If yes, identify the firm or individual providing the service.</li></ul> <hr/>		
5. Is there any other pending or proposed purchaser of the subject property? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
<ul style="list-style-type: none"><li>If yes, identify the purchaser and purchaser's service providers.</li></ul> <hr/>		

## 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 construction contractor.
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 engineer/surveyor/agent.
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 name of the attorney or firm providing legal services.

#### 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.

*Asia Mitchell*

Applicant Signature

Asia Mitchell Owner

Print Name and Title

11/2/2020

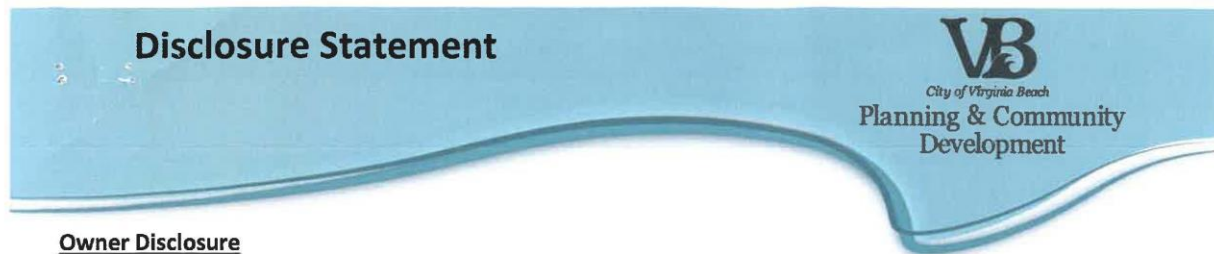
Date

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 information must be updated two (2) weeks prior to the Planning Commission and City Council meeting that pertains to the application.			
<input type="checkbox"/>	No changes as of	Date	Signature
			Print Name

## Disclosure Statement



### Owner Disclosure

Owner Name TOUZOS FAMILY LIMITED PARTNERSHIP

Applicant Name ASIA MITCHELL

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)

TOUZOS FLP: PATRICIA MOUSOURIS, ANTONIA  
CAVROS, TENA CANAVOS

- If yes, list the businesses that have a parent-subsiary<sup>3</sup> or affiliated business entity<sup>4</sup> relationship with the Owner. (Attach a list if necessary)

—

### Known Interest by Public Official or Employee

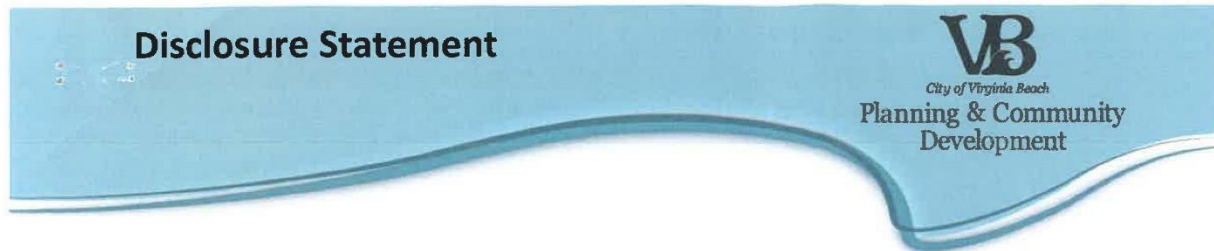
Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action? ☐ Yes ☒ No

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

—

<sup>3</sup> "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.

<sup>4</sup> "Affiliated business entity relationship" means "a relationship, other than parent-subsiary 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.



### 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.

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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 real estate broker/realtor.

---
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 or 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 or 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 construction contractor.

---
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 engineer/surveyor/agent.

---



## 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 name of the attorney or firm providing legal services.

#### 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.

*Antonia Cavros*

Owner Signature

ANTONIA CAVROS - TRUSTEE

Print Name and Title

10.20.20

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 757-385-8610.
- 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.



## Requests

**#10 - Conditional Rezoning** (AG-2 Agricultural District to Conditional B-2 Community Business District)

**#11 - Conditional Use Permit** (Mini-warehouse)

## Staff Recommendation

Approval

## Staff Planner

Hoa N. Dao

## Location

1081, 1087, 1089 Old Dam Neck Road & adjacent parcel west of 1089 Old Dam Neck Road

## GPINs

2415540866, 2415541885, 2415543854

## Site Size

4.46 acres

## AICUZ

70-75 dB DNL

## Watershed

Southern Rivers

## Existing Land Use and Zoning District

Single-family dwellings / AG-2 Agricultural

## Surrounding Land Uses and Zoning Districts

### North

Old Dam Neck Road

Automotive repair garage, single-family dwelling / B-2 Community Business & AG-2 Agricultural

### South

Shopping center / B-2 Community Business

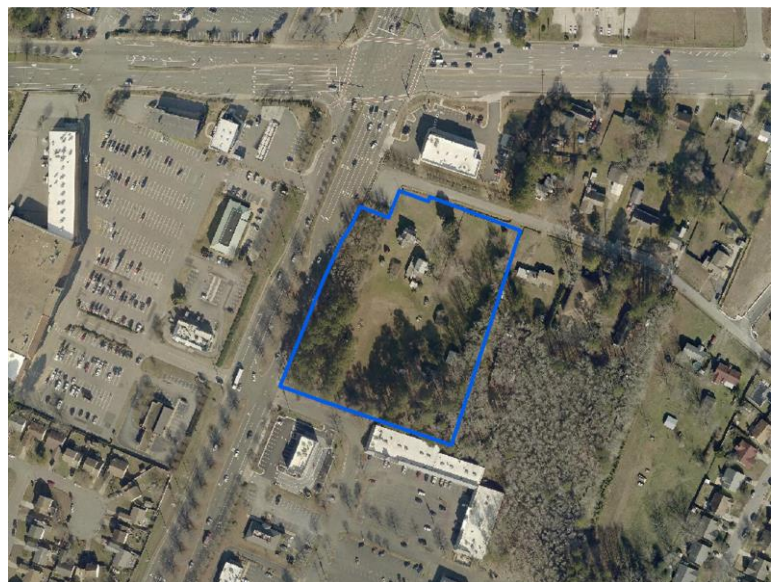
### East

Single-family dwelling / AG-2 Agricultural

### West

General Booth Boulevard

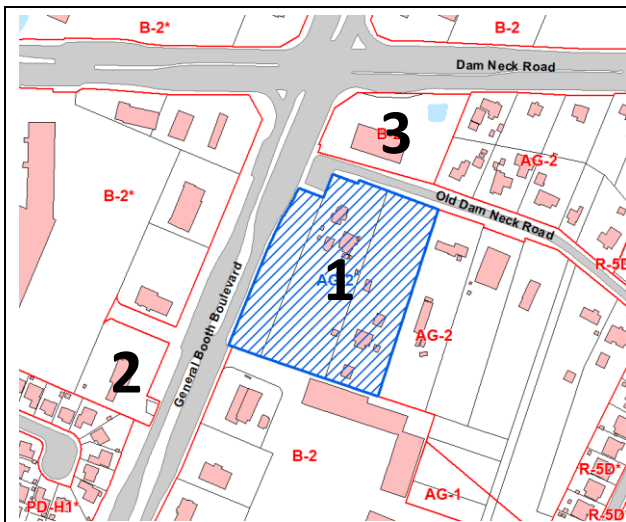
Shopping center / B-2 Community Business





## Background & Summary of Proposal

- The subject site, consisting of three parcels, is zoned AG-2 Agricultural District and is along General Booth Boulevard just south of the Dam Neck Road/General Booth Boulevard intersection. Two of the three parcels are developed with single-family dwellings.
- The applicant requests to rezone the 4.46-acre site from AG-2 Agricultural District to Conditional B-2 Community Business District in order to construct a three-story, 169,000 square foot, climate controlled self-storage facility. The Zoning Ordinance identifies “mini-warehouse” as a conditional use in the B-2 Community Business District; therefore, a Conditional Use Permit is also required and requested.
- The conceptual layout plan depicts the building placement along General Booth Boulevard at the minimum 30-foot front setback with parking and the stormwater management facility in the rear of the site, closest to the existing residences to the west. Plantings that include a mix of trees and shrubs throughout the site.
- A six-foot high, wrought-iron style fence, and a 15-foot wide landscape buffer is proposed along the western property line adjacent to property zoned AG-2 Agricultural District and developed with a single-family dwelling.
- The submitted Lighting Plan indicates that the free-standing and building-mounted lights will be shielded and directed downward. The proposed fence, landscape buffer, and lighting all appear to meet the requirements of Section 237 of the Zoning Ordinance for mini-warehouses.
- The submitted and proffered elevations and renderings depict a 45-foot tall, contemporary earth-tone building with exterior building materials of architectural metal panels, brick veneer, EIFS, and stucco.
- Per Section 203 of the Zoning Ordinance, three parking spaces are required for the mini-warehouse use. The submitted plan depicts eight parking spaces, thereby exceeding the parking requirement by five spaces.



### Zoning History

#	Request
1	CUP (Tattoo Parlor) Approved 09/08/2020 CUP (Indoor Recreation Facility) Approved 05/16/2017 CUP (Motor Vehicle Rentals) Approved 05/27/2014
2	CUP (Car Wash Facility) Approved 11/20/2018
3	CUP (Automobile Repair Garage) Approved 02/16/2016 MOD (AG-2 to Conditional O-2) Approved 02/11/2014 CUP (Automobile Service Station) Approved 12/13/1995

### Application Types

CUP – Conditional Use Permit  
REZ – Rezoning  
CRZ – Conditional Rezoning

MOD – Modification of Conditions or 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

Staff finds the proposed rezoning and Conditional Use Permit requests to construct a three-story self-storage facility to be acceptable. Rezoning the agriculturally-zoned property located near a very busy intersection to a commercial district is appropriate. The Comprehensive Plan's guiding principle with regard to infill development states "development within existing neighborhood or on parcels being redeveloped should be compatible to the existing development around it." The site abuts commercially-zoned parcels (B-2 Community Business District) to the north, west, and south. Immediately adjacent to the north and south is a large shopping center. Based on these facts, the rezoning will be consistent with the development pattern found along this portion of General Booth Boulevard. In addition, the proposed storage facility provides a convenience service to the surrounding businesses and residences with minimal impacts to the City infrastructures.

The two existing dwellings will be demolished for the construction of the storage facility, and while there are existing single-family dwellings in the vicinity, the area is located in the highest noise zone, greater than 75 dB DNL, where residential uses are incompatible. The proposed storage facility is deemed a compatible use as per Section 1804 of the Zoning Ordinance.

Thorough consideration has been given to the site layout for the proposed development to minimize any impacts to the adjacent dwellings located east and north of the subject site. This includes the building footprint adjacent to General Booth Boulevard with the drive aisle between the stormwater management pond and the building. The location of the pond provides a significant buffer between the three-story building and the existing homes, with the closest dwelling approximately 220 feet from the proposed building. As mentioned above, the proposed lighting, landscape buffers and fencing appear to meet the requirements of Section 237 of the Zoning Ordinance for a mini-warehouse facility. A more detailed review of all screening and planting requirements will occur during final site plan review.

As proffered, access to the site will be via a shared access easement with the Dam Neck Crossing Shopping Center as depicted on the Layout Plan. There will be no vehicular access from Old Dam Neck Road; therefore, the adjacent residential community will not experience changes in the number of vehicles within the neighborhood or to the pattern of traffic. Furthermore, no concerns were raised by Traffic Engineering Staff as the use of a storage facility generates very low traffic volume.

The Development Service Center (DSC) Staff reviewed the preliminary stormwater analysis and agrees that the proposed stormwater management strategy has the potential to successfully comply with the stormwater requirements for this site. Further details of the proposed stormwater management strategy is discussed below in this report. Based on this, the replacement of the existing woods with the planned development will not result in stormwater changes for the surrounding properties.

Based on the considerations above, Staff recommends approval of this request subject to the proffers and the conditions noted 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:**

When the Property is developed, it shall be developed substantially as shown on the exhibits entitled, Layout Plan for General Booth Blvd Mini Price Storage Virginia Beach, Virginia”, dated November 20, 2019, and prepared by Site Improvement Associates, Inc. (“Site Plan”) and “Conceptual Landscape Plan, General Booth Blvd Mini Prince Storage Virginia Beach, VA”, dated November 20, 2019 (“Landscape Plan”), which have been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning.

**Proffer 2:**

The exterior of the building depicted on the Site Plan shall be substantially similar in appearance, architectural features and materials as depicted on the two (2) exhibits entitled, General Booth Boulevard – Mini Price Storage Conceptual Renderings”, dated November 20, 2019 and “General Booth Boulevard Mini Price Storage Building Elevations”, dated November 20, 2019, prepared by Finley Design, which have been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning (“Elevations”).

**Proffer 3:**

As depicted on the Site Plan, the access to this commercial property shall be solely from General Booth Boulevard using the existing shared commercial entrance with the adjacent Dam Neck Crossing Center. Until the pending Cross Access (Ingress and Egress) Easement with the adjacent property is fully executed and recorded to provide the access depicted on the proffered Site Plan, the Property cannot be developed.

**Proffer 4:**

Further conditions may be required by the Grantee during detailed Site Plan review and administration of applicable City codes by all cognizant City agencies and departments to meet all applicable City code requirements.

**Staff Comments:** Staff has reviewed the Proffers listed above and finds them acceptable as they provide a high level of predictability with regard to building location, design, and exterior materials; as well as information on vehicular access. The City Attorney’s Office has reviewed the agreement and found it to be legally sufficient and in acceptable legal form.

## Recommended Conditions

1. All outdoor lights shall be shielded to direct light and glare onto the premises, said lighting and glare shall be deflected, shaded, and focused away from all adjoining property. Any outdoor lighting fixtures shall not be erected any higher than fourteen (14) feet.
2. All on-site signage must meet the requirements and regulations of the Zoning Ordinance. A separate permit from the Department of Planning & Community Development is required for any new signage installed on the site.
3. The final stormwater plan submitted to the Development Services Center (DSC) shall be in substantial conformance with the preliminary stormwater analysis utilizing the same basis of design, unless otherwise approved by the DSC.

## Comprehensive Plan Recommendations

The Comprehensive Plan designates the subject property as 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 neighborhoods 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.

## 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 are no known cultural resources on the site.

## Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
General Booth Boulevard	30,500 ADT <sup>1</sup>	32,700 ADT <sup>1</sup> (LOS <sup>4</sup> “D”)	Existing Land Use <sup>2</sup> – 40 ADT Proposed Land Use <sup>3</sup> – 251 ADT
<sup>1</sup> Average Daily Trips	<sup>2</sup> as defined by two single-family dwellings	<sup>3</sup> as defined by a 169,000 sq. ft. mini-warehouse	<sup>4</sup> LOS = Level of Service

## Master Transportation Plan (MTP) and Capital Improvement Program (CIP)

This portion of General Booth Boulevard is a four-lane major suburban arterial, controlled access roadway, with variable (120 feet to 160 feet) right-of-way width. General Booth Boulevard is designated in the MTP as a six-lane, 150 feet right-of-way width arterial. There is no CIP project slated for this portion of the roadway.

## Public Utility Impacts

### Water

This site currently connects to City water. The two (2) existing 5/8” meters (City ID #95132187) and (City ID #95128928) may be used or upgraded to accommodate the proposed development.

### Sewer

The site currently connects to City sanitary sewer service.

## Stormwater Impacts

### Project Stormwater Design Staff Summary

The project site is divided into 2 drainage areas with the majority of the proposed self-storage project designed to convey stormwater runoff to a proposed wet pond stormwater management facility (SWMF). The majority of the site (4.17 acres) will drain to the proposed SWMF before flowing to the existing public drainage system within the General Booth Boulevard right-of-way and ultimately outfalling to an existing outfall at Lake Red Wing. The remaining 0.34 acres of the site will continue to drain towards Old Dam Neck Road. The proposed SWMF is on the east side of the proposed building and parking and is designed to provide both water quality and water quantity treatment.

The provided preliminary stormwater management design demonstrates adequate conveyance of the runoff from the proposed development for storms up to and including the 100-year event plus 1.5’ of sea-level rise (SLR). The stormwater model evaluation included an offsite analysis to verify that the project will not have a negative impact or increase flooding levels on the existing stormwater system upstream or downstream of the project.

Based on the information provided by Site Improvement Associates, Inc. in the preliminary stormwater analysis, the Development Services Center finds that the proposed conceptual stormwater management strategy has the potential to



successfully comply with the stormwater requirements for this site. Final design and detailed updates will be made during site plan submittal. More detailed project stormwater information is listed below.

## Project Information

**Total project area:** 4.51 Acres

**Pre-Development impervious area:** 0.35 Acres

**Post-Development impervious area:** 2.70 Acres

**Does the analysis utilize the City of Virginia Beach Master Drainage Model:** Yes

**Does the analysis incorporate into design increased rainfall amounts (NOAA plus 20%) and account for 1.5' SLR:** Yes

## Stormwater Management Facility Design Information

**Type of facility proposed:** Wet Pond

**Total storage volume provided in proposed stormwater management facility:** 149,865 cubic feet

**Description of outfall:** Runoff leaves the site in two directions. Stormwater from the wet pond will connect into the existing General Booth Boulevard storm sewer system. A small area will continue to flow east to an existing ditch, then into the Old Dam Neck Road drainage ditch system, but this area is reduced by 92% from existing conditions and does not include any impervious area. These 2 drainage systems connect back together at the corner of Dam Neck Road and General Booth Boulevard.

**Downstream conveyance path:** The General Booth Boulevard storm sewer system drains into an existing ditch south of Red Wing Park that leads to Red Wing Lake, then into Lake Tecumseh, which outfalls through Ashville Bridge Creek into Back Bay.

## Stormwater Quality Compliance Design Information

**Pounds of phosphorus removal per year (lb/yr) required:** 4.46 lb/yr

**Method of treatment proposed:** 2.91 lb/yr of phosphorous load is removed with the wet pond, and the remaining 1.55 lb/yr will be accounted for by purchasing nutrient credits from an approved nutrient bank during detailed site plan review.

## Stormwater Quantity Compliance Design Information

**Channel protection:** Provided stormwater model demonstrates non-erosive velocities of stormwater discharge.

**Flood protection:** Attenuation of peak flow rates with reduction in hydraulic grade line (HGL) for 10-year storm in all evaluated structures downstream of project site that currently experience flooding. There are increases and decreases in peak HGL (water surface elevation) throughout the modeled drainage system, but all increases are contained within the storm sewer system structures or pipes.

**100-Year storm evaluation:** Stormwater modeling demonstrates project meets requirement of no increase (0.00' increase in HGL) to any existing flooded areas. There are increases and decreases in peak HGL throughout the modeled drainage system, but the increases are contained within the stormwater system and there are no increases in areas of existing flooding.

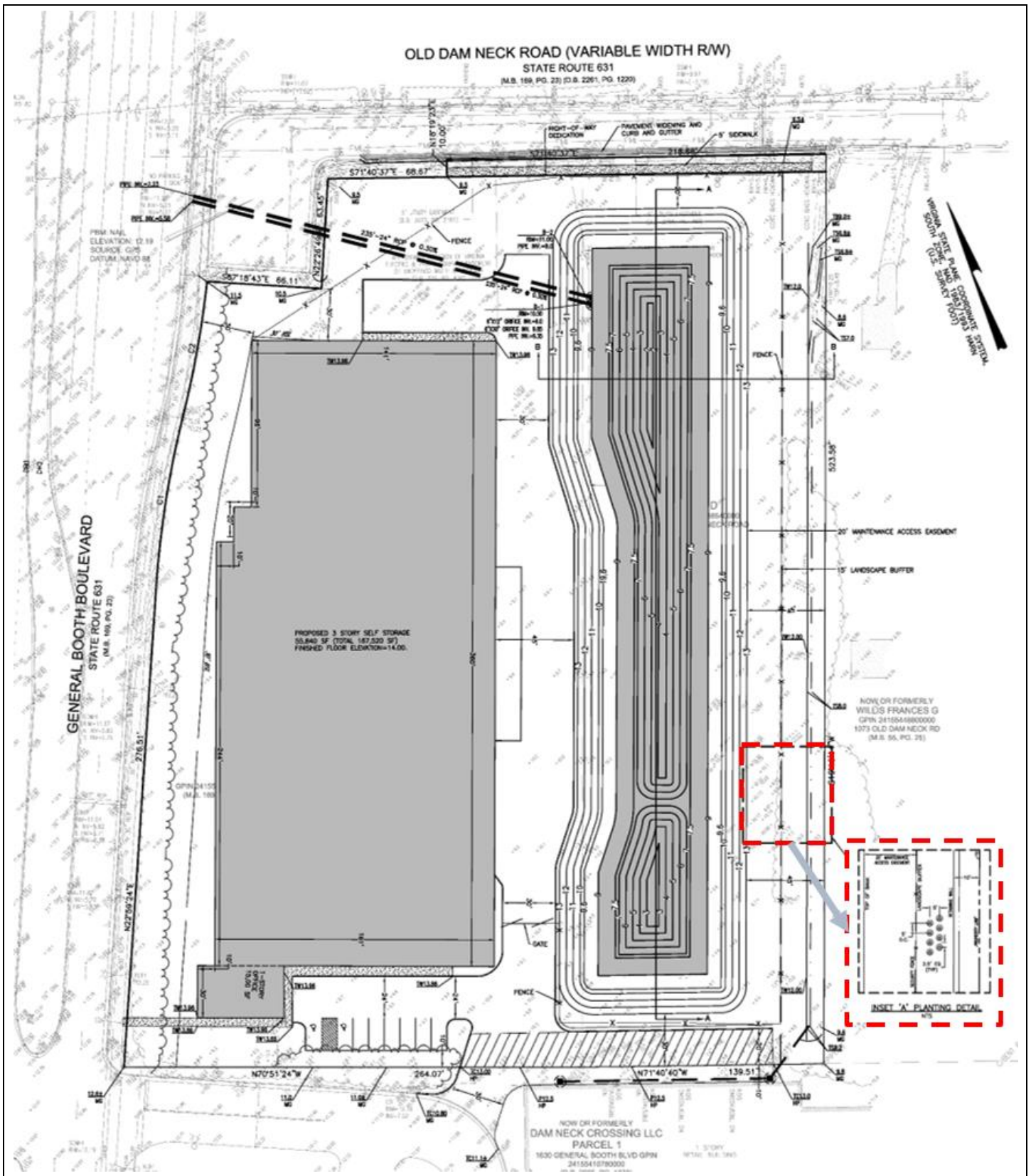
**Sea-Level Rise:** Project evaluated, and stormwater modeling demonstrates proposed structures will not be inundated with stormwater during 100-year (including 1.5' SLR) storm event.

## Public Outreach Information

### Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on December 14, 2020.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, December 27, 2020 and January 3, 2021.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on December 28, 2020.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of [www.vbgov.com/pc](http://www.vbgov.com/pc) on January 7, 2021.

# Proposed Site Layout

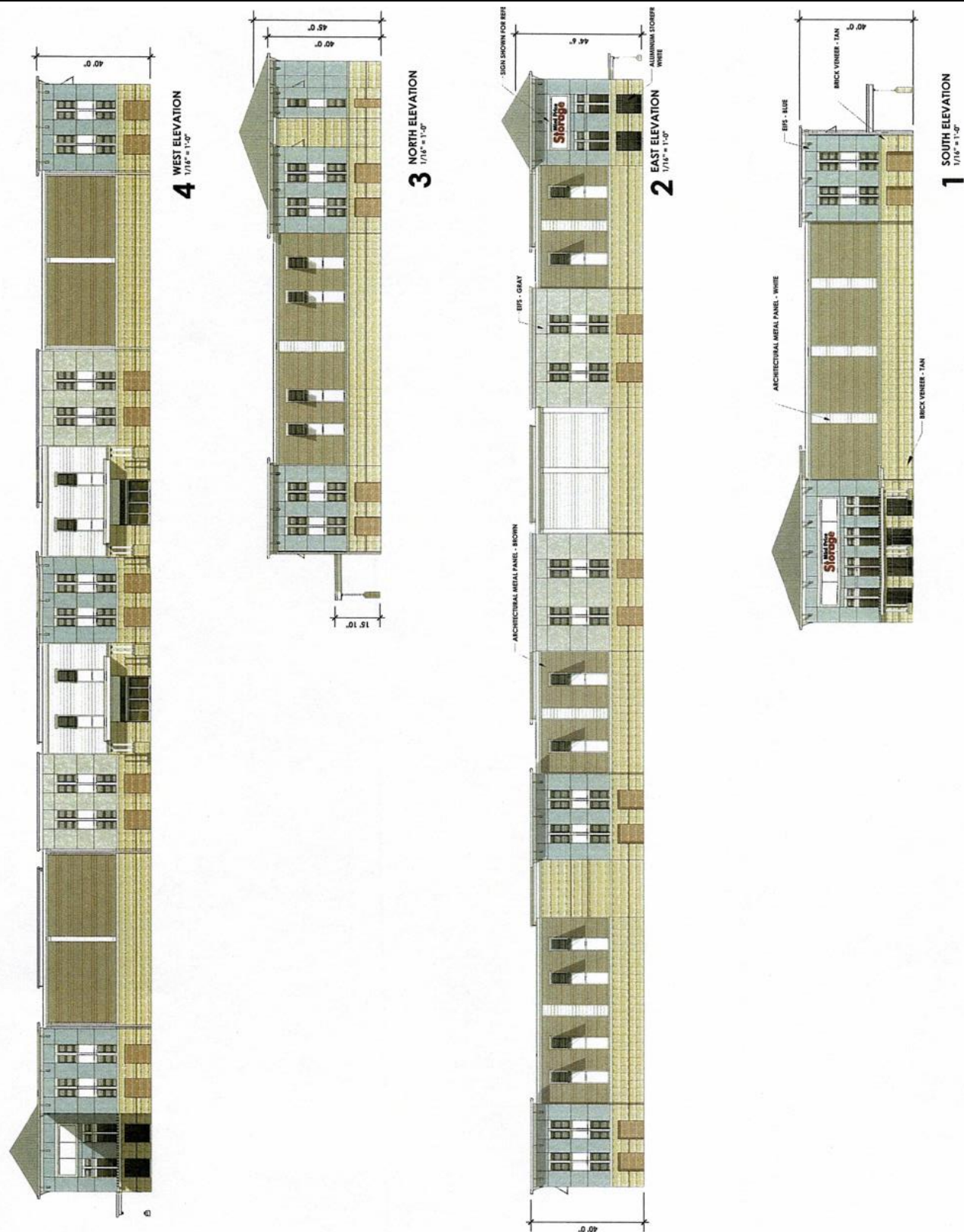


## Proposed Landscape Plan





## Proposed Elevation Plan



## Proposed Rendering





Site Photos





Site Photos



Google Street View





**APPLICANT'S NAME** Old Dam Neck, L.L.C.

## 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:	

## Disclosure Statement



- ☐ 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: Old Dam Neck, L.L.C.  
If an LLC, list all member's names:  
Michael D. Sifen, President

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 <sup>1</sup> or affiliated business entity <sup>2</sup> relationship with the Applicant: *(Attach list if necessary)*

See next page for information pertaining to footnotes <sup>1</sup> and <sup>2</sup>

---

### 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: Frances G. Willis;  
If an LLC, list the member's names: William E. Gilbert & Bonnie Jane Garrett

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Page 2 of 7

## Disclosure Statement



- ☐ 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: Old Dam Neck, L.L.C.  
If an LLC, list all member's names:  
Michael D. Sifen, President

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 <sup>1</sup> or affiliated business entity <sup>2</sup> relationship with the Applicant: *(Attach list if necessary)*

See next page for information pertaining to footnotes <sup>1</sup> and <sup>2</sup>

---

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- ☐ 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: Catharine D. Meredith &  
If an LLC, list the member's names: John Joseph Weinbrecht, Jr.

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Page 2 of 7



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<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the Property Owner: *(Attach list if necessary)*

<sup>1</sup> "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.

<sup>2</sup> "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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### 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	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Architect / Landscape Architect / Land Planner	Finley Design
<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	Michel D. Sifen, Inc.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Engineers / Surveyors/ Agents	Site Improvement Associates, Inc.
<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)	Unknown; possibly TowneBank or Atlantic Union
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Legal Services	Sykes, Bourdon, Ahern & Levy, P.C.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	Troy Parker, Parker Burnell Group

### 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?

## Disclosure Statement

**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.

Old Dam Neck, L.L.C.	Michael D. Sifen, President	12-18-19
By: <i>Michael D. Sifen Pres.</i>		
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 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)	MERS/SunTrust Mortgage, Inc.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Legal Services	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	Mike Roach, Dynamic Commercial Real Estate Advisors

**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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	Catharine D. Meredith	12/23/19
PROPERTY OWNER'S SIGNATURE	PRINT NAME	DATE
	John Joseph Weinbrecht, Jr.	12-23-2019





## 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 checked="" type="checkbox"/>	<input type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	Mike Roach, Dynamic Commercial Real Estate Advisors

## 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"/>	

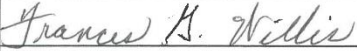
If yes, what is the name of the official or employee and what is the nature of the interest?

## Disclosure Statement

**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.

	Frances G. Willis	12-23-19
PROPERTY OWNER'S SIGNATURE	PRINT NAME	DATE
	William E. Gilbert	

Bonnie Jane Garrett

## Disclosure Statement

**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.

	Frances G. Willis	
PROPERTY OWNER'S SIGNATURE	PRINT NAME	DATE
<i>William E. Gilbert</i>	William E. Gilbert	1-3-20

Bonnie Jane Garrett

## Disclosure Statement

**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.

	Frances G. Willis	
PROPERTY OWNER'S SIGNATURE	PRINT NAME	DATE
	William E. Gilbert	

A handwritten signature in dark ink that reads 'Bonnie Jane Garrett'.

Bonnie Jane Garrett

1/3/20



## 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 757-385-8610.
- 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.

**Request**

**Subdivision Variance** (Section 4.4(b) of the Subdivision Regulations)

**Staff Recommendation**

Approval

**Staff Planner**

Hoa N. Dao

**Location**

1805 Estates Court

**GPIN**

1499145390

**Site Size**

8.34 acres (5.20 acres above water, marsh, floodplain, & wetlands)

**AICUZ**

Less than 65 dB DNL

**Watershed**

Chesapeake Bay

**Existing Land Use and Zoning District**

Vacant / R-40 Residential

**Surrounding Land Uses and Zoning Districts**

**North**

Single-family dwellings / R-40 Residential

**South**

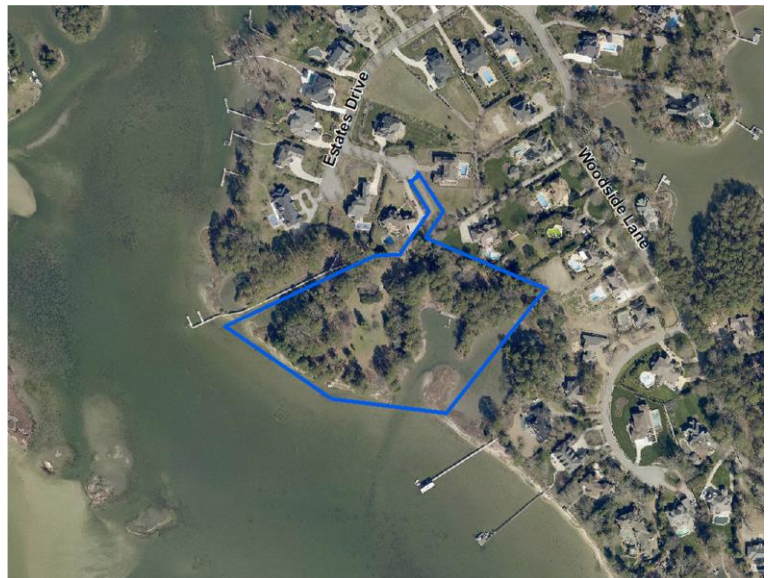
Lynnhaven Bay

**East**

Single-family dwellings / R-40 Residential

**West**

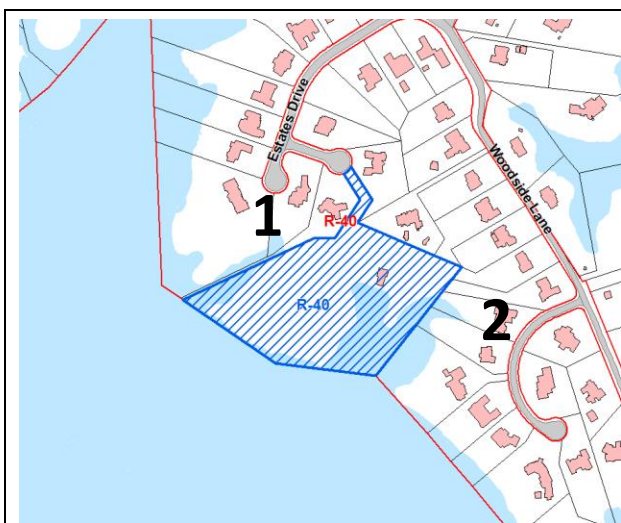
Single-family dwellings / R-40 Residential



## Background & Summary of Proposal

- The applicant seeks a Subdivision Variance to create three residential lots that are below the minimum lot width and street line frontage requirements for properties zoned R-40 Residential District.
- The original Woodhouse estate contained approximately 106 acres of land. In 1950, Robert W. Woodhouse platted the land into three lots (38 acres, 24 acres, and 44 acres) for his three children. The 44-acre lot, including the boundary of this project site, was further subdivided in 2004 to create 26 new residential lots, leaving the 8.34-acre lot remaining that contained the original Woodhouse residence. The residence was demolished in 2019 in anticipation of new residential development on the property.
- The subject 8.34-acre lot, 5.20 acres of which is located above water, marsh, floodplain, and wetlands, is owned by a joint partnership comprised of three generations of Woodhouses. The family seeks to subdivide the land into three lots that will meet the minimum lot size standards but not the required lot width or street line frontage.
- As the property abuts the Lynnhaven Bay, a request was submitted to the Chesapeake Bay Preservation Area Board (CBPA) for encroachment into the buffer for five residential lots. The CBPA Board approved a reduction of the original request to just encroachment for development associated with three lots. All proposed development will be located outside of the 100-foot Resource Protection Area (RPA) buffer.
- As shown on the Conceptual Site Layout Plan, a shared driveway is proposed. Evergreen plantings are depicted along the western side of the driveway and a portion of the northern boundary line of the proposed Lot 3 to screen the development from the adjacent lots.

Proposed Lot	Required Lot Width in R-40 (feet)	Required Street Line Frontage in R-40 (feet)	Proposed Lot Width and Street Line Frontage (feet)	Proposed Landward Lot Area (acre)
Lot 1	125	15	13.26	1.93
Lot 2	125	15	13.26	1.45
Lot 3	125	15	13.26	1.82



### Zoning History

#	Request
1	CUP (Non-Commercial Community Pier) Approved 03/09/2010
2	SVR (Sections 4.1(m), 4.4(b), 5.5(a&b)) Approved 02/25/1997

### Application Types

CUP – Conditional Use Permit  
REZ – Rezoning  
CRZ – Conditional Rezoning

MOD – Modification of Conditions or 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

Staff finds the proposal to be consistent with the principles of the Comprehensive Plan for the Suburban Area. The proposed residential lots will be compatible in size and use with the development pattern in this area and the waterfront lots will be developed with high quality materials and architectural styles that will enhance the existing character of the community.

As stated earlier, the CBPA variance requires all development on these lots be located outside of the 100-foot RPA buffer. While not required, the applicant agrees with Staff's recommendation to install evergreen plantings along the western side of the driveway and along the northern boundary line of the proposed Lot 3 to mitigate noise impacts and to screen the proposed development from the adjacent residences. Since the applicant does not plan to develop these lots but intends to sell the lots as vacant land for others to develop, exterior building elevations were not requested nor submitted. To ensure that the development of these lots will be unique and compatible with the character of the surrounding community, Condition 3 is recommended which requires materials consistent with the existing surrounding development.

Based on the considerations described above, Staff recommends approval of the request, subject to the conditions listed below.

## Recommended Conditions

1. The applicant/owner shall submit a subdivision plat to the City of Virginia Beach, subject to the review and approval of the Department of Planning & Community Development prior to recordation, which shall be in substantial conformance to the submitted plat exhibit entitled "Conceptual Site Layout Plan of 1805 Estates Court, Virginia Beach, Virginia," and prepared by Orbis Landscape Architecture, dated October 26, 2020, a copy of which has been exhibited to the Virginia Beach City Council and is on file with the Department of Planning & Community Development.
2. Prior to the issuance of the Certificate of Occupancy, the applicant/property owner shall install the plant material as depicted on the exhibit entitled "Conceptual Site Layout Plan of 1805 Estates Court, Virginia Beach, Virginia," and prepared by Orbis Landscape Architecture, dated October 26, 2020, a copy of which has been exhibited to the Virginia Beach City Council and is on file with the Department of Planning & Community Development.
3. When the property is developed, the residential dwellings constructed shall vary in size and design and shall be of high quality materials and architectural features that are compatible with the surrounding development, as determined by the Planning Director.
4. There shall be one shared driveway to access all three proposed residences.

*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 a careful mix of land uses and compatible infill development, site and building design that is visually interesting, encourages greater social interaction and provides a memorable character, improved mobility, and promotes sustainability and responsive action to changes in our environment.

## 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.

## Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Estates Court	No Data Available		Existing Zoning <sup>1</sup> – 10 ADT Proposed Land Use <sup>2</sup> – 30 ADT
<sup>1</sup> as defined by existing one residential lot		<sup>2</sup> as defined by three single-family dwellings	

## Master Transportation Plan (MTP) and Capital Improvement Program (CIP)

Estates Court is a two-lane undivided local street. There are no roadway CIP projects slated for this area.

## Public Utility Impacts

### Water

There is an four-inch City water main along Estates Court available for connection.

### Sewer

There is an eight-inch City sanitary sewer gravity main along Estates Courts available for connection.

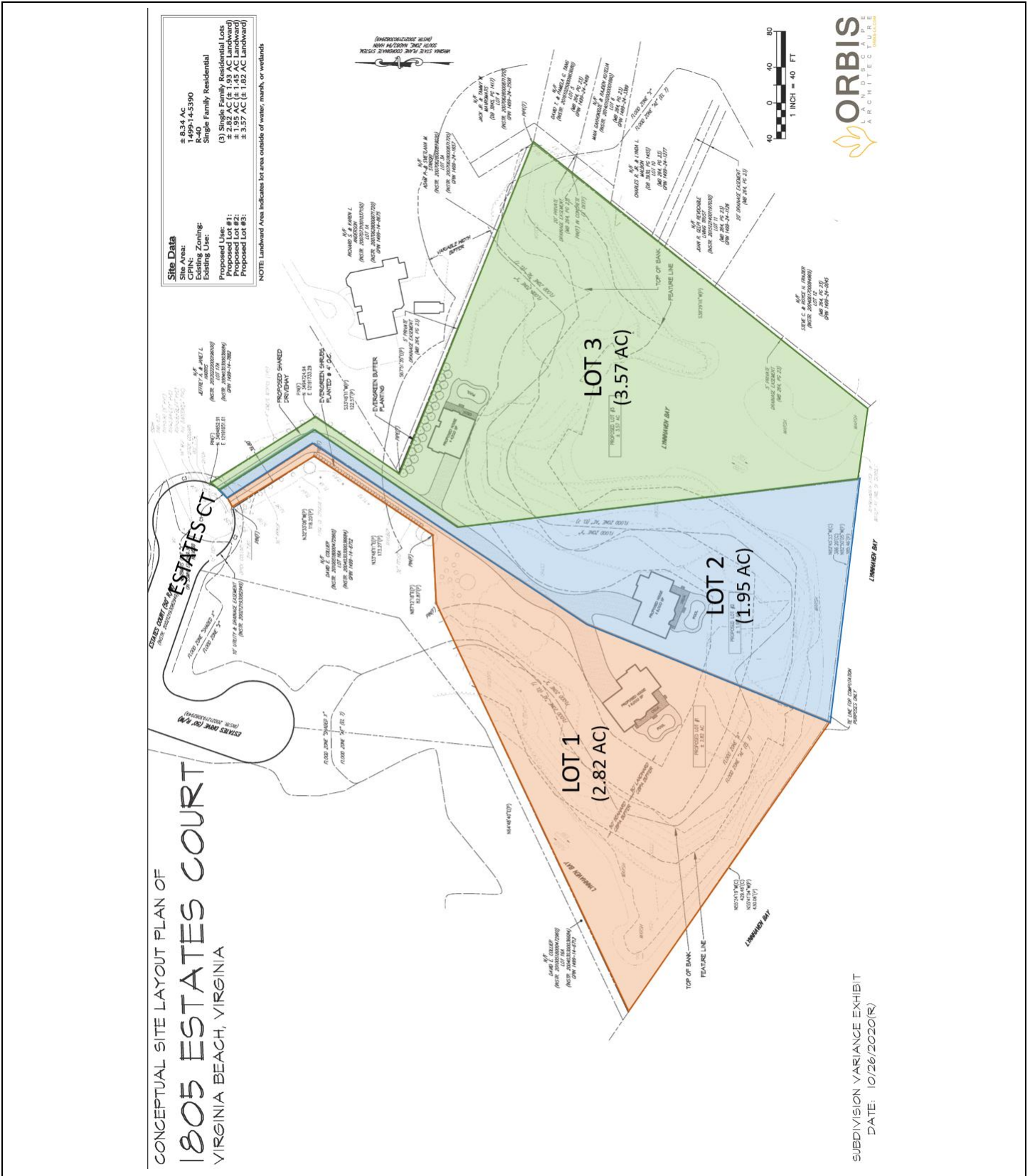
## Public Outreach Information

### Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on December 14, 2020.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, December 27, 2020 and January 3, 2021.

- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on December 28, 2020.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of [www.vbgov.com/pc](http://www.vbgov.com/pc) on January 7, 2021.

# Proposed Site Layout





Site Photos





## Site Photo



### 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** Woodhouse Limited Partnership

**Does the applicant have a representative?** ☒ **Yes** ☐ **No**

- If **yes**, list the name of the representative.

Les Watson, Wolcott Rivers Gates Attorneys at Law

**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)

Robert W. Woodhouse (Co-General Partner), Sarah W. Woodhouse (Co-General Partner), Sarah E. Woodhouse, Robert M. Woodhouse, Amanda Orchowsky, Andrew Orchowsky, Lou Woodhouse

- If **yes**, list the businesses that have a parent-subsiary<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the applicant. (Attach a list if necessary)

N/A

<sup>1</sup> "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.

<sup>2</sup> "Affiliated business entity relationship" means "a relationship, other than parent-subsiary 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.

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 real estate broker/realtor.

Rebecca Watkins, Wainwright Real Estate

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 or individual providing the service.

Bourdow, Bowen & Ellis, PC (Midlothian, VA)

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 or individual providing the service.

Orbis Landscape Architecture (Land Architecture/Planning)

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 construction contractor.
- 
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 engineer/surveyor/agent.
- MSA, P.C. (Engineer, Surveyor)
- 
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 name of the attorney or firm providing legal services.
- Les Watson - Wolcott Rivers Gates Attorneys
- 

#### 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.

*Robert W. Woodhouse*

Applicant Signature

*Robert W. Woodhouse (co-general partner)*

Print Name and Title

*10/28/2020*

Date

*Sarah Woodhouse*

*Sarah Woodhouse (cogeneral partner)*

*10/28/20*

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



## 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 757-385-8610.
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- 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.

**Request**

**Conditional Use Permit** (Car Wash Facility)

**Staff Recommendation**

Denial

**Staff Planner**

Hoa N. Dao

**Location**

4937 Broad Street

**GPIN**

1477055792

**Site Size**

14,756 square feet

**AICUZ**

Less than 65 dB DNL

**Watershed**

Chesapeake Bay

**Existing Land Use and Zoning District**

Vacant building / B-2 Community Business

**Surrounding Land Uses and Zoning Districts**

**North**

Broad Street

Single-family dwellings / R-7.5 Residential

**South**

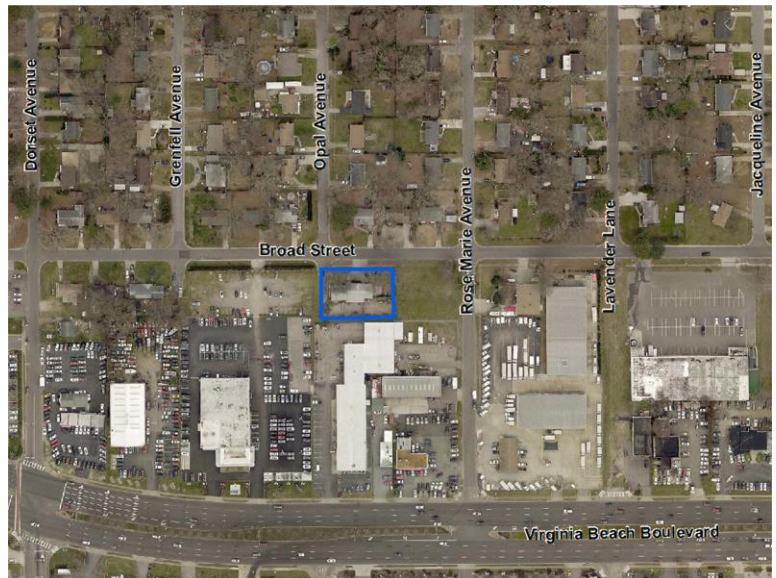
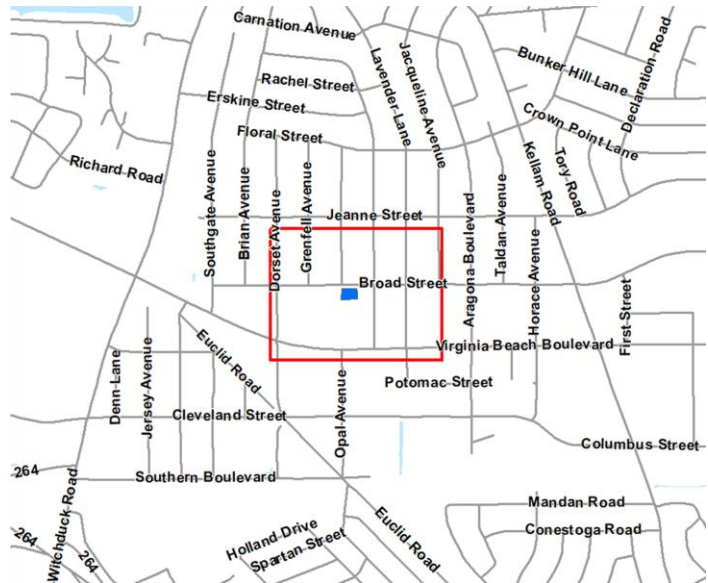
Automobile sales & repair / B-2 Community Business

**East**

Vacant lot / B-2 Community Business

**West**

Automobile sales, vehicles storage / B-2 Community Business



## Background & Summary of Proposal

- The 14,700 square foot parcel is zoned B-2 Community Business District and is located within the Central Village District of the Pembroke Strategic Growth Area (SGA). The property is developed with a former single-family dwelling that has been modified for office use.
- The applicant seeks a Conditional Use Permit to operate a Car Wash Facility for automotive detail services of vehicles from the applicant's dealership that is located approximately 0.2 miles from this property.
- A majority of the building, 1,900 square feet, will be used for storage and the 800 square foot garage will be used for the detailing activities. No automotive repair will be conducted on-site.
- According to the revised project narrative, no more than six vehicles, including the employee's vehicles, will be parked on-site. The vehicles will be parked behind the building, enclosed by a wood and chain-link fence.
- Vehicles requiring detail services will access the property from the unimproved segment of the right-of-way (partially located on the applicant's property), west of the property, through a chain-link gate. Detailing services will be completed either inside the garage or behind the building within the enclosed fence area consisting of dirt and loose gravel. The applicant stated that the vehicles will be hand-washed within this area.
- The submitted plan depicts proposed plantings that are between 18 to 24 inches high along a portion of Broad Street with parking spaces provided at the front and side of the building. According to the applicant, the landscaping cannot be extended along the entire length of the front of the property on Broad Street due to a conflict with the stabilization wires for the electrical pole on the northwest corner of the property.
- The proposed hours of operation are 9:00 a.m. to 5:30 p.m., Monday through Saturday, with up to three employees.



### Zoning History

#	Request
1	MOD (Automobile Repair) Approved 11/28/2006 CUP (Automobile Repair) Approved 11/04/2004
2	CUP (Mini-Warehouse) Approved 12/14/1993
3	CUP (Motor Vehicle Sales & Service) Approved 09/25/1990

### Application Types

CUP – Conditional Use Permit  
REZ – Rezoning  
CRZ – Conditional Rezoning

MOD – Modification of Conditions or 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 to operate an automobile detailing service establishment at this location is not acceptable. Broad Street serves as the boundary between commercial and residential uses in this area, where south of Broad Street

Xpert Services, LLC

Agenda Item 13

Page 2

are commercial uses and north of Broad Street are residential uses. While the property is located on the southern side of Broad Street, unlike the other commercial lots with auto-related uses that have their main access from Virginia Beach Boulevard, this site's access is from Broad Street, which has a residential character and is not suitable for an automotive detailing business. While the application states that only six vehicles will be on-site, it does not limit how many vehicles can be brought to the site for detailing services each day, nor could this be easily monitored or enforced.

The Pembroke SGA Plan emphasizes the importance of preserving the character of adjacent neighborhoods and providing compatibility between future development and these adjoining neighborhoods. In Staff's view, the proposed use is not keeping with the recommended policy of the Comprehensive Plan as the introduction of an auto-related operation that uses Broad Street as access to the site could negatively impact residences located across the street. Of particular concern is the intrinsic nature of the operation as well as the potential for the site to become disorderly from a visual standpoint. In addition, constant noise generated from the equipment used to perform the detailing service, such as a vacuum cleaner, could disturb the residential character in this area where the use has direct access and exposure to the residential uses.

Vehicles requiring detail services will access the property from the unimproved segment of the right-of-way (partially located on the applicant's property), west of the property, through a chain-link gate. As stated previously, detailing services will be completed either inside the garage or behind the building within the enclosed fence area consisting of dirt and loose gravel. Section 228.1 of the Zoning Ordinance requires that the water produced by the facility does not drain across public streets, sidewalks or adjacent properties. It is unclear as to how the proposed operation will comply with this provision of the Code, as the applicant has yet to provide this information.

Based on the considerations described, Staff recommends denial of the request; however, should the Commission contemplate approval, the following conditions are provided for consideration.

### Recommended Conditions

1. Except for the ingress/egress point and where possible, the applicant shall install and maintain a minimum six-foot tall hedgerow along the entire length of the property on Broad Street. New plant material shall be at least four feet tall at the time of installation and appropriately spaced as per the species. A Landscape Plan shall be submitted to the Planning Department for review and ultimate approval. Plant material required by the approved Landscape Plan shall be installed prior to the issuance of the Certificate of Occupancy for the Conditional Use Permit.
2. There shall be no more than four (4) vehicles parked on the subject property at any one time. In no case shall the number of vehicles brought to the site for detailing exceed 10 per day.
3. Vehicles associated with the operation, employees or otherwise, shall not be parked on any portion of the public right-of-way or the paved roadway/driveway west of the building.
4. There shall be no automotive repair work performed on this site nor shall there be any outdoor storage of materials, vehicles, equipment, or vehicles other than those awaiting detailing and as conditioned herein.
5. All automotive detailing shall be limited to only inside the garage, and the handwashing of vehicles within the enclosed fenced in area in the rear of the site.
6. The hours of operation shall be between 9:00 a.m. to 5:30 p.m., Monday through Saturday.
7. There shall be no signage on-site to identify the business.
8. The proposed use shall comply with the provisions of Section 228.1 of the Zoning Ordinance for a Car Wash Facility.



9. The existing vehicular access point shall be upgraded to a commercial entrance that meets Public Works Standards. All approvals and permits associated with this upgrade shall be obtained prior to the commencement of any work in 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

The subject site is located within the Central Village District of the Pembroke Strategic Growth Area (SGA) which calls for an eclectic, mid to low-rise commercial and urban residential area in the form of live-work, loft and row-house residential buildings and smaller scale mixed-use commercial buildings. The Pembroke SGA Plan also emphasizes the importance of preserving the character of adjacent neighborhoods and providing compatibility between future development and these adjoining neighborhoods.

## Natural & Cultural Resources Impacts

The site is located in the Chesapeake Bay Watershed. There does not appear to be any significant natural or cultural impacts associated with the proposed project.

## Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Broad Street	No Data Available	9,900 ADT <sup>1</sup> (LOS <sup>4</sup> "D")	Existing Land Use <sup>2</sup> – 186 ADT Proposed Land Use <sup>3</sup> – No Data Available
<sup>1</sup> Average Daily Trips	<sup>2</sup> as defined by a 14,765 square feet parcel zoned B-2 with a vacant building	<sup>3</sup> No information available in the ITE Trip Generation Manual for an auto detailing center	<sup>4</sup> LOS = Level of Service

## Master Transportation Plan (MTP) and Capital Improvement Program (CIP)

Broad Street is a two-lane local collector street. There are no roadway CIP projects slated for this portion of the roadway.

## Public Utility Impacts

### Water & Sewer

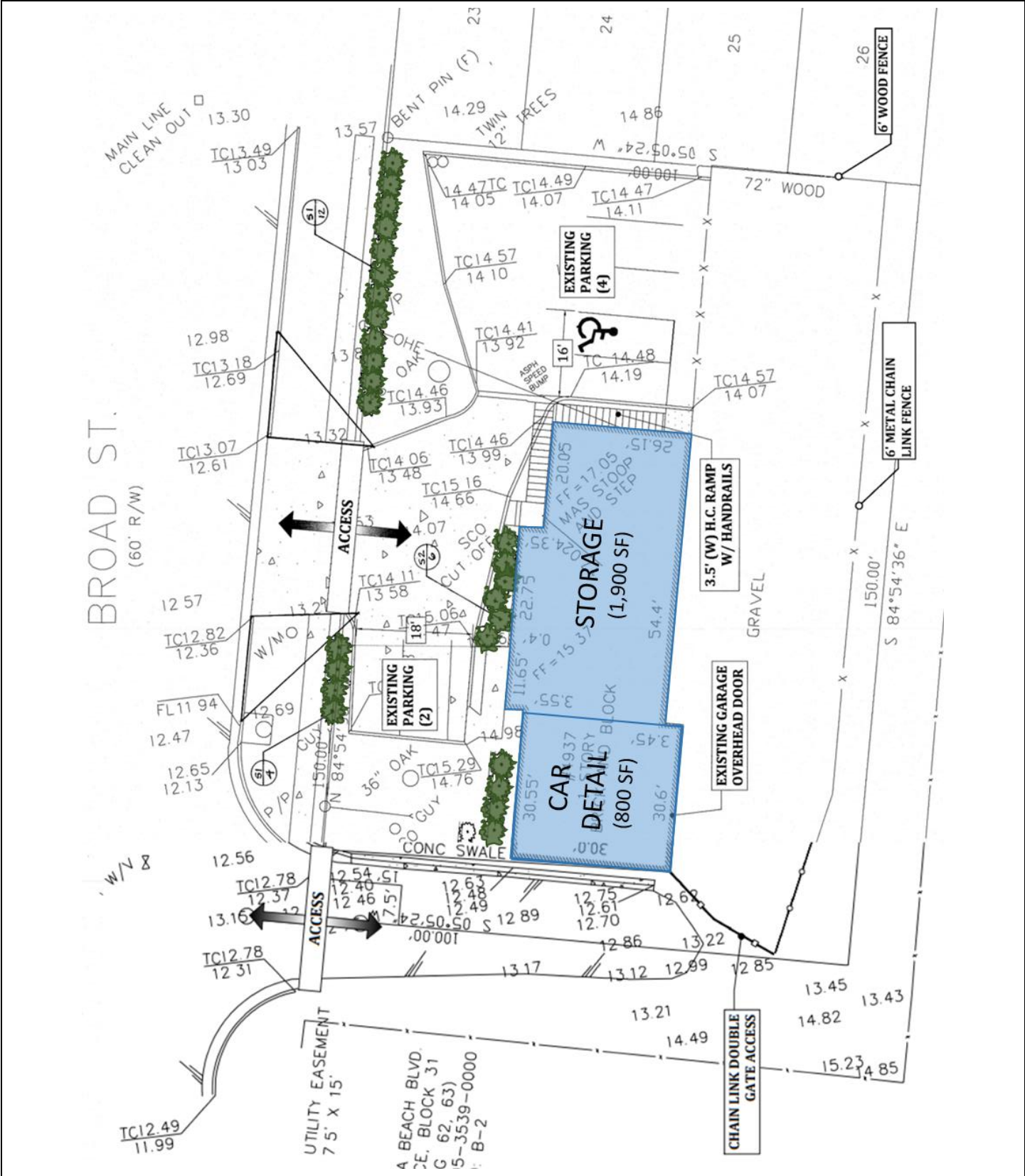
The site is currently connected to both City water and sanitary sewer service.

## Public Outreach Information

### Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on December 14, 2020.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, December 27, 2020 and January 3, 2021.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on December 28, 2020.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of [www.vbgov.com/pc](http://www.vbgov.com/pc) on January 7, 2021.

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** Xpert Services, LLC, a Virginia limited liability company

**Does the applicant have a representative?** ☒ Yes ☐ No

- If yes, list the name of the representative.

R. Edward Bourdon, Jr., Esq., Sykes, Bourdon, Ahern & Levy, P.C.

**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)

Andreas E. Loizou, Sole Member

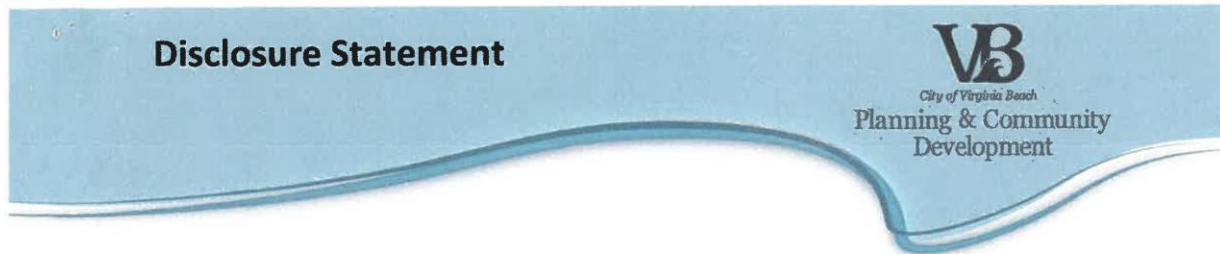
- If yes, list the businesses that have a parent-subsidary<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the applicant. (Attach a list if necessary)

Loizou, Inc. and A & G Auto Sales

<sup>1</sup> "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.

<sup>2</sup> "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.





### **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.

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 real estate broker/realtor.

Jason Loizou, JL Real Estate

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 or 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 or 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 construction contractor.

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 engineer/surveyor/agent.

CHRISTOS DAMALAS WITH SYNERTRON

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 name of the attorney or firm providing legal services.

EDWARD BOURDON JR, Skypes, Bourdon, Ahern & Levy, 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

ANDREAS LOIZOU, ITS MEMBER

Print Name and Title

10/13/2020

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	



## Disclosure Statement

### Disclosure Statement



#### Owner Disclosure

**Owner Name** VB Investments, LLC, a Virginia limited liability company

**Applicant Name** Xpert Services, LLC, a Virginia limited liability company

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)

Jason Loizou, Managing Member

- If **yes**, list the businesses that have a parent-subsidary<sup>3</sup> or affiliated business entity<sup>4</sup> 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?

<sup>3</sup> "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.

<sup>4</sup> "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.

TowneBank

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 real estate broker/realtor.

Jason Loizou, JL Real Estate

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 or 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 or 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 construction contractor.

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 engineer/surveyor/agent.

## 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 name of the attorney or firm providing legal services.

#### 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

JASON LOFELY, its MANAGING MEMBER

Print Name and Title

10/14/2020

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 757-385-8610.
- 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.





### Requests

**#14 - Conditional Use Permit** (Bulk Storage Yard)

**#15 - Conditional Use Permit** (Truck & Trailer Rentals)

### Staff Recommendation

Approval

### Staff Planner

Hoa N. Dao

### Location

2324 Elson Green Avenue

### GPIN

2414159035

### Site Size

11.8 acres

### AICUZ

65-70 dB DNL; Sub-Area 2

### Watershed

Southern Rivers

### Existing Land Use and Zoning District

Retail / B-2 Community Business

### Surrounding Land Uses and Zoning Districts

#### North

Mixed retail / B-2 Community Business

#### South

Princess Anne Road & Elson Green Avenue

Undeveloped land, mixed retail / B-2

Community Business

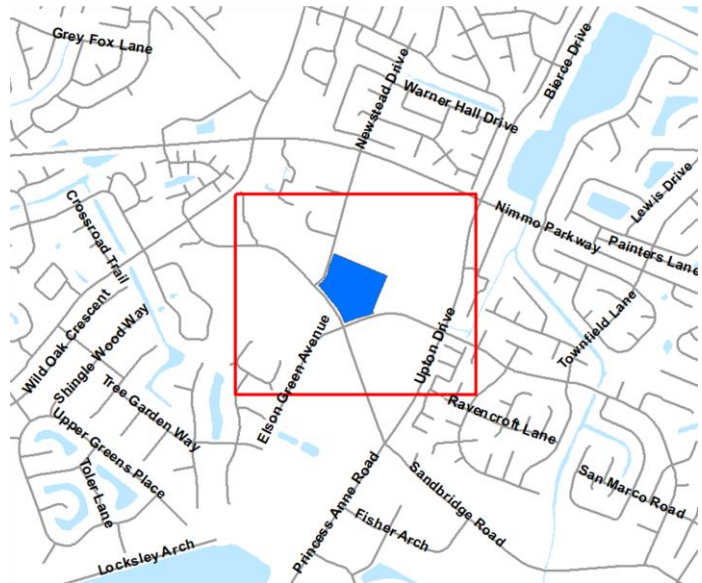
#### East

Religious use / R-20 Residential

#### West

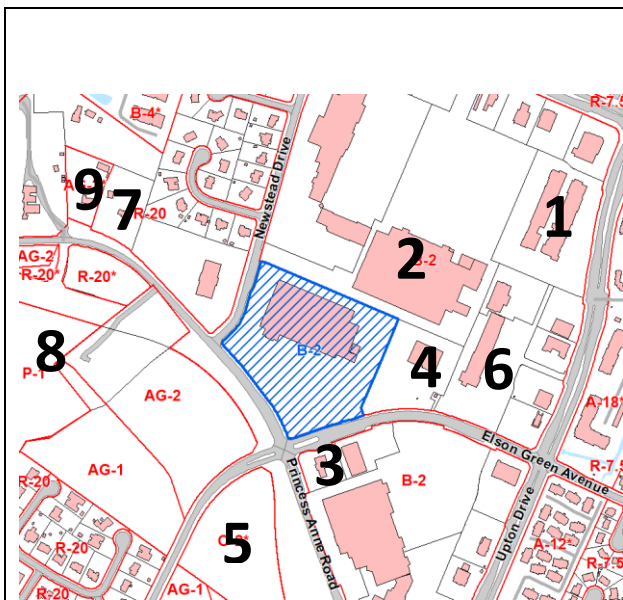
Newstead Drive

Retail / B-2 Community Business



## Background & Summary of Proposal

- The 11.8-acre parcel is zoned B-2 Community Business District in the Red Mill Commons shopping center. The property is developed with a 130,184 square foot building that is occupied by Home Depot.
- The applicant is requesting two Conditional Use Permits, one for a Bulk Storage Yard and one for Truck and Trailer Rentals. The proposals will occupy 169 of the available 659 parking spaces in order to store mulch, sheds, small construction equipment (backhoes, stump grinders, skid steer, aerial equipment, light tower, dump trailer, trencher), and truck and trailer for rentals. The remaining 490 parking spaces do meet the parking requirement for the large home improvement retail building. According to the applicant, this location has the highest grossing sales of mulch in the country for the company.
- Sections 228 and 242.2 of the Zoning Ordinance require that the area for bulk storage and vehicle storage be entirely screened with Category VI landscaping, which includes a solid fence, not less than six feet in height, with plants along the exterior of the fence. The applicant is requesting a deviation to the required fencing and landscaping through the provisions of Section 221(i) of the Zoning Ordinance. The submitted plan depicts the truck and trailer and small construction equipment rental area along the western side of the building. The lumber will also be stored in this area. The mulch storage areas are proposed on the eastern side of the Garden Center along with a parking lot to provide both convenience and ease of access for customers to pull-up vehicles and load the mulch. The mulch storage area will be partially enclosed by a chain-link fence with opaque screening and will be on a seasonal basis that typically lasts four months in the Spring. The storage of the sheds, construction equipment, and rental trucks is proposed to be year-round. Specifically, a deviation to these storage areas are requested for: (1) no perimeter fencing on the western side of the building; (2) no perimeter fencing or landscaping on the eastern side of the Garden Center; (3) and for partial fencing with a chain-link fence with opaque screening for the mulch storage area at the front parking lot.
- There are existing berm, mature trees, and tall hedgerows along Elson Green Avenue, Newstead Drive, and Princess Anne Road. Additional shrub and evergreen trees will be installed along the entrance driveway from Elson Green Avenue and along Newstead Drive that will screen the storage and rental equipment areas from public rights-of-way.



### Zoning History

#	Request
1	CUP (Tattoo Parlor) Approved 05/07/2019
2	CUP (Bulk Storage Yard) Approved 08/21/2018 CUP (Bulk Storage Yard) Approved 09/20/2016 MOD (Modification of Conditions) Approved 08/12/2008 CUP (Bulk Storage) Approved 08/05/2003 CUP (Automobile Service Station) Approved 11/14/2000
3	CUP (Automobile Repair Garage) Approved 02/07/2017 CUP (Automobile Service Station) Approved 10/11/1995
4	CUP (Tattoo Parlor) Approved 12/06/2016
5	CRZ (AG-1 & AG-2 Agricultural to Conditional O-2 Office) Approved 02/12/2013
6	MOD (Modification of Conditions) Approved 04/27/2010 CUP (Outdoor Market) Approved 05/26/2009
7	CUP (Home Occupation) Approved 10/11/1995
8	LUP (AG-1 Agricultural to Conditional R-20 Residential with PD-H2 Overlay) Approved 08/22/2006
9	REZ (R-20 Residential to AG-2 Agricultural) Approved 11/27/2001

### Application Types

CUP – Conditional Use Permit REZ – Rezoning CRZ – Conditional Rezoning	MOD – Modification of Conditions or Proffers NON – Nonconforming Use STC – Street Closure	FVR – Floodplain Variance ALT – Alternative Compliance SVR – Subdivision Variance	LUP – Land Use Plan STR – Short Term Rental
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## Evaluation & Recommendation

The requests for a Bulk Storage Yard to seasonally store mulch and lumber and for Truck and Trailer Rental for small construction equipment services are, in Staff's opinion, acceptable. The proposals are consistent with the goals set forth in the Comprehensive Plan for the Suburban Area, as the seasonal sales of mulch, truck and trailer rentals, and small construction equipment rental services provide a convenient and valuable service to the community and contribute to the sustainability of great neighborhoods by offering necessary goods and services. These types of operations are common for big box home improvement stores throughout the City.

The applicant is requesting a deviation to the required fencing and landscaping through the provisions of Section 221(i) of the Zoning Ordinance, which allows City Council to grant deviations if "for good cause shown upon a finding that there will be no significant detrimental effects on surrounding properties." In Staff's view, the deviations (as described above) are minimal and the storage areas can be appropriately screened. The deviations will not negatively impact surrounding properties, particularly residential homes west of the site along Newstead Drive. To mitigate any potential impacts, a condition is recommended that the stacking of the outdoor storage materials not be taller than the plant material or fence. Staff concludes that the proposed deviations to this requirement are acceptable.

Based on the considerations described, Staff recommends approval of these requests, subject to the conditions listed below.

## Recommended Conditions

1. The location of the outdoor storage areas, and the trucks and trailers and construction equipment rentals shall be limited to the areas depicted on the submitted plan entitled, "THD #4643 TRC Prepare For The Home Depot," prepared by Kimley Horn and Associates, Inc., dated November 16, 2020, (Site Layout Plan) which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development, and shall be subject to all applicable building and fire Codes.
2. The outdoor storage areas shall be fenced and screened as depicted on the Site Layout Plan and submitted plan entitled, "Concept B," which have been exhibited to the Virginia Beach City Council and are on file in the Department of Planning and Community Development. This is a deviation to the perimeter fencing and landscaping required by the Zoning Ordinance.
3. The mulch shall not be stored outdoor more than five months per calendar year.
4. There shall be no signage installed within the area, on the fence, or immediately adjacent to the area other than professionally prepared traffic control signs.
5. The outdoor storage materials shall not be stacked higher than the installed hedgerow and/or fence screening.
6. The proposed landscape depicted on the submitted Site Layout Plan shall be installed and maintained for the duration of the use.

*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.

## Natural & Cultural Resources Impacts

The site is located within the Southern Rivers watershed. As the site is almost entirely impervious, there are no significant environmental or cultural features on the property.

## Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Princess Anne Road	17,400 ADT <sup>1</sup>	15,000 ADT <sup>1</sup> (LOS <sup>2</sup> “D”)	No change anticipated
Elson Green Avenue	4,950 ADT <sup>1</sup>	20,700 ADT <sup>1</sup> (LOS <sup>2</sup> “D”)	
Newstead Drive	2,700 ADT <sup>1</sup>	9,900 ADT <sup>1</sup> (LOS <sup>2</sup> “D”)	
<sup>1</sup> Average Daily Trips <sup>2</sup> LOS = Level of Service			

### Master Transportation Plan (MTP) and Capital Improvement Program (CIP)

Princess Anne Road in the vicinity of this application is considered a two-lane undivided minor suburban arterial. The existing infrastructure currently resides in a variable width right-of-way. The MTP proposes up to a four-lane facility using a Princess Anne Commons/Transition Area typical section within an unspecified right-of-way width.

Elson Green Avenue in the vicinity of this application is considered a three/four-lane undivided local collector. The existing infrastructure currently resides in a variable width right-of-way. It is not included in the MTP.

Newstead Drive in the vicinity of this application is considered a two-lane undivided local collector. It is not included in the MTP.

There is a roadway CIP project under construction immediately adjacent to this site. Princess Anne Road Phase VII (CIP 2-195) is for the construction of a four-lane divided roadway with a bike path within a 143-foot right-of-way from General Booth Boulevard to Fisher Arch. These limits include the intersections at General Booth Boulevard, Elson Green

Avenue, and Upton Drive/Sandbridge Road. Construction is scheduled to be completed in March 2021. The capacity for Princess Anne Road will be 31,000 ADT after the roadway project is completed.

## Public Utility Impacts

### Water & Sewer

This site is currently connected to both 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 December 14, 2020.
- As required by State Code, this item was advertised in the Virginia Pilot Beacon on Sundays, December 27, 2020 and January 3, 2021.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on December 28, 2020.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of [www.vbgov.com/pc](http://www.vbgov.com/pc) on January 7, 2021.

# Proposed Site Layout Plan



VOSM CP\_XXXXX\_HID GENERAL BOOTH

CONCEPT B



Side A - 212' x 6'



Side B1 - 40' x 6'



Side B2 - 20' x 6'



Side B3 - 9' x 6'



Side C - 20' x 6'



Site Photos





Site Photos





**APPLICANT'S NAME** Home Depot USA, 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:	

Page 1 of 7





- ☐ 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: Home Depot USA, 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)*

CRAIG MENEAR, CEO/PRESIDENT; TERESA WYNN ROSEBOROUGH, EVP/GC/S; STACY S INGRAM, ASST SEC; ANN-MARIE CAMPBELL, EVP; MATTHEW A CAREY, EVP

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

See next page for information pertaining to footnotes<sup>1</sup> and <sup>2</sup>

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## 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: Home Depot USA, Inc.  
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)*

CRAIG MENEAR, CEO/PRESIDENT TERESA WYNN ROSEBOROUGH,  
EVP/GC/S STACY S INGRAM, ASST SEC ANN-MARIE CAMPBELL, EVP;  
MATTHEW A CAREY, EVP

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

<sup>1</sup> "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.

<sup>2</sup> "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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### 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 checked="" type="checkbox"/>	<input type="checkbox"/>	Engineers / Surveyors/ Agents	Kimley-Horn Associates, Inc.
<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"/>	

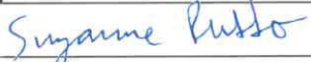
If yes, what is the name of the official or employee and what is the nature of the interest?

## Disclosure Statement

**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.**

	Suzanne Russo	03/18/2020
APPLICANT'S SIGNATURE	PRINT NAME	DATE

### DELEGATION OF AUTHORITY

I, Teresa Wynn Roseborough, Executive Vice President, General Counsel and Corporate Secretary of The Home Depot, Inc. (the "Company") and its wholly owned subsidiary, Home Depot U.S.A., Inc., do hereby designate each Vice President and Deputy General Counsel and each of Michael A. Dalton, Jessica Borgert and Suzanne Russo, as my designees and authorize each of them acting either alone or together to execute and deliver, or cause to be executed and delivered, any and all contracts, assignments, easements, conveyances, deeds, leases, subleases, agreements, certificates, instruments, or any other documents on behalf of the Company and each of its direct and indirect subsidiaries related to real property owned or leased or to be acquired or leased by the Company or its direct and indirect subsidiaries (the "Documents") and to take, or cause to be taken, any and all actions in connection therewith as such individual or individuals may consider necessary or desirable, with such necessity or desirability being conclusively evidenced by the actions so taken. Further, I hereby ratify and approve all previous actions taken with respect to the execution and delivery of such Documents in the name of and on behalf of the Company and its direct and indirect subsidiaries.

IN WITNESS WHEREOF, I have hereunto set my hand this 23<sup>rd</sup> day of February, 2018.



Teresa Wynn Roseborough  
Executive Vice President, General  
Counsel and Corporate Secretary



## 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 757-385-8610.
- 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.

**Request**

**Modification of Proffers**

**Staff Recommendation**

Approval

**Staff Planner**

Hoa N. Dao

**Location**

2005 Lynnhaven Parkway

**GPIN**

1475977081

**Site Size**

1.22 acres

**AICUZ**

Less than 65 dB DNL

**Watershed**

Southern Rivers

**Existing Land Use and Zoning District**

Shopping center / B-2 Community Business

**Surrounding Land Uses and Zoning Districts**

**North**

Princess Anne Road

Shopping center / PD-H1 Planned Unit  
Development

**South**

Shopping center / B-2 Community Business

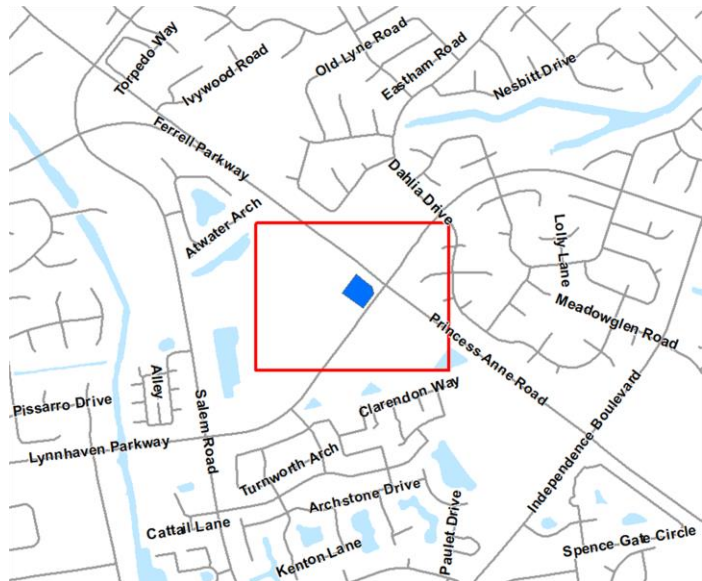
**East**

Lynnhaven Parkway

Shopping center / B-2 Community Business

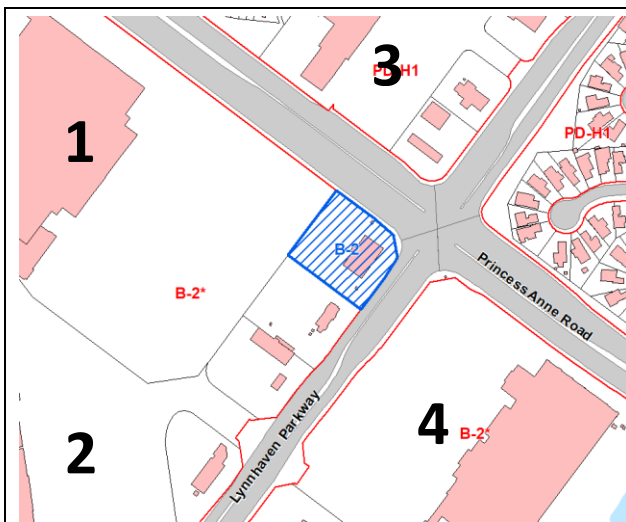
**West**

Shopping center / B-2 Community Business



## Background & Summary of Proposal

- The subject 1.22-acre site is an outparcel of the Salem Crossing Shopping Center, zoned Conditional B-2 Community Business District. The site is developed with a 6,500 square foot building that is shared by a dental office and Starbucks.
- In 1995, City Council granted approval to rezone the property from R-5D Residential District to Conditional B-2 Community Business District for the development of the shopping center. In the following year, a Modification of Proffers was granted to change the layout of the site. Proffer 3 associated with the 1996 request required the installation of a berm and a 25-foot wide landscape buffer along the perimeter of the site.
- The applicant seeks to modify Proffer 3 to allow for a 200-square foot encroachment into the 25-foot wide landscape buffer in order to install a drive-through aisle and a small retaining wall. The drive-through aisle will be associated with the existing eating and drinking establishment, which is a by-right use in the B-2 District.
- Additional plantings are proposed along Lynnhaven Parkway and Princess Anne Road to screen the drive-through aisle from the rights-of-way. Striped crosswalks are provided across the drive-through aisle to direct pedestrians safely into the entrance from the sidewalk along Princess Anne Road and between this site and the parcel to the south.



### Zoning History

#	Request
1	CUP (Bulk Storage Yard) Approved 08/21/2018 CUP (Bulk Storage Yard) Approved 09/20/2016 MOD (Proffers) Approved 02/27/1996 CRZ (R-5D to B-2) Approved 07/11/1995
2	CUP (Indoor Recreation Facility) Approved 09/10/2013 CUP (Indoor Recreation Facility) Approved 10/11/2011
3	CUP (Indoor Recreation Facility) Approved 08/09/2011
4	CUP (Bulk Storage Yard) Approved 03/25/2003 CRZ (R-5D to B-2) Approved 06/22/1999

### Application Types

CUP – Conditional Use Permit  
REZ – Rezoning  
CRZ – Conditional Rezoning

MOD – Modification of Conditions or 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 request for a 200-square foot encroachment into the 25-foot wide landscape buffer with a berm to construct a drive-through aisle and small retaining wall, in Staff's opinion, is acceptable. Other eating and drinking establishments in the immediate vicinity have drive-throughs with a similar layout to this request. The encroachment is necessary in order to meet the turn radius of vehicles when circulating the rear of the building. The alternative is to remove a portion of the building, which is not feasible for the applicant. Additionally, this corner parcel is imposed with two front yard setbacks observed from the rights-of-way.

As shown on the proffered Landscape Plan, the drive-through aisle will be screened by existing and proposed landscaping. A small retaining wall is proposed in order to contain the soil from the existing berm at the eastern corner of the lot. To promote safe pedestrian access, striped crosswalks and signage are proposed across the drive-through aisle at two locations. Traffic Engineering Staff reviewed the request and commented that while the proposal for a drive-through will slightly increase the traffic volume, Lynnhaven Parkway and Princess Anne Road are well under capacity and can easily accommodate the anticipated increase.

Based on the consideration described, Staff recommends approval of this request, subject to the proffers 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 3 of the Original Agreement is hereby modified with regard to the Property only by adding the following language:

“Notwithstanding the requirements of Proffer #3, the drive-through lane depicted on the Property (known as Outparcel 4) may encroach by up to 200 square feet into the portion of the 25 foot landscape buffer (“25 Foot Landscape Buffer”) depicted on the original “LANDSCAPE PLAN OF DEVELOPMENT OPTIONS, INC. SHOPPING CENTER” prepared by Engineering Services, Inc. dated January 2, 1996 (“Original Landscape Plan”), with a retaining wall, curbing and pavement, in the manner depicted on the exhibit entitled “12’ DRIVE THRU ENCROACHMENT EXHIBIT, PRINCESS ANNE ROAD, VIRGINIA BEACH, VA” dated December 17, 2020 (“Encroachment Plat”), which Encroachment Plat has been exhibited to City Council and is on file with the Planning Department. In order to supplement the Original Landscape Buffer on the Property, GRANTOR will add additional landscaping in the manner and locations depicted on the Encroachment Plat. Moreover, in the event that the construction of the retaining wall and improvements depicted on the Encroachment Plat causes the trees in close proximity to the retaining wall to die, GRANTOR will remove and replant such tree or trees.”

### Proffer 2:

Those proffered covenants, restrictions and conditions contained in the Original Agreement, which have not been modified herein, shall remain in full force and effect.

### Proffer 3:

Further conditions lawfully imposed by development ordinances may be required by the GRANTEE during detailed site plan review and administration of applicable City Codes by City agencies and departments to meet all applicable City Code requirements.

**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

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 Southern Rivers Watershed and there are no known significant cultural resources associated with this site. Drainage in the Southern Rivers Watershed is highly impacted by the presence of high groundwater, poorly draining soils, and high water surface elevations in downstream receiving waters.

## Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Lynnhaven Parkway	23,000 ADT <sup>1</sup>	36,900 ADT <sup>1</sup> (LOS <sup>4</sup> “D”)	Existing Land Use <sup>2</sup> – 1,340 ADT Proposed Land Use <sup>3</sup> – 1,640 ADT
Princess Anne Road	41,800 ADT <sup>1</sup>	74,000 ADT <sup>1</sup> (LOS <sup>4</sup> “D”)	
<sup>1</sup> Average Daily Trips	<sup>2</sup> as defined by a coffee shop without a drive-through	<sup>3</sup> as defined by a coffee shop with a drive-through	<sup>4</sup> LOS = Level of Service

## Master Transportation Plan (MTP) and Capital Improvement Program (CIP)

Lynnhaven Parkway is a four-lane minor arterial and Princess Anne Road is an eight-lane major arterial. There are no CIP projects slated for these portions of the roadways.

## Public Utility Impacts

### Water & Sewer

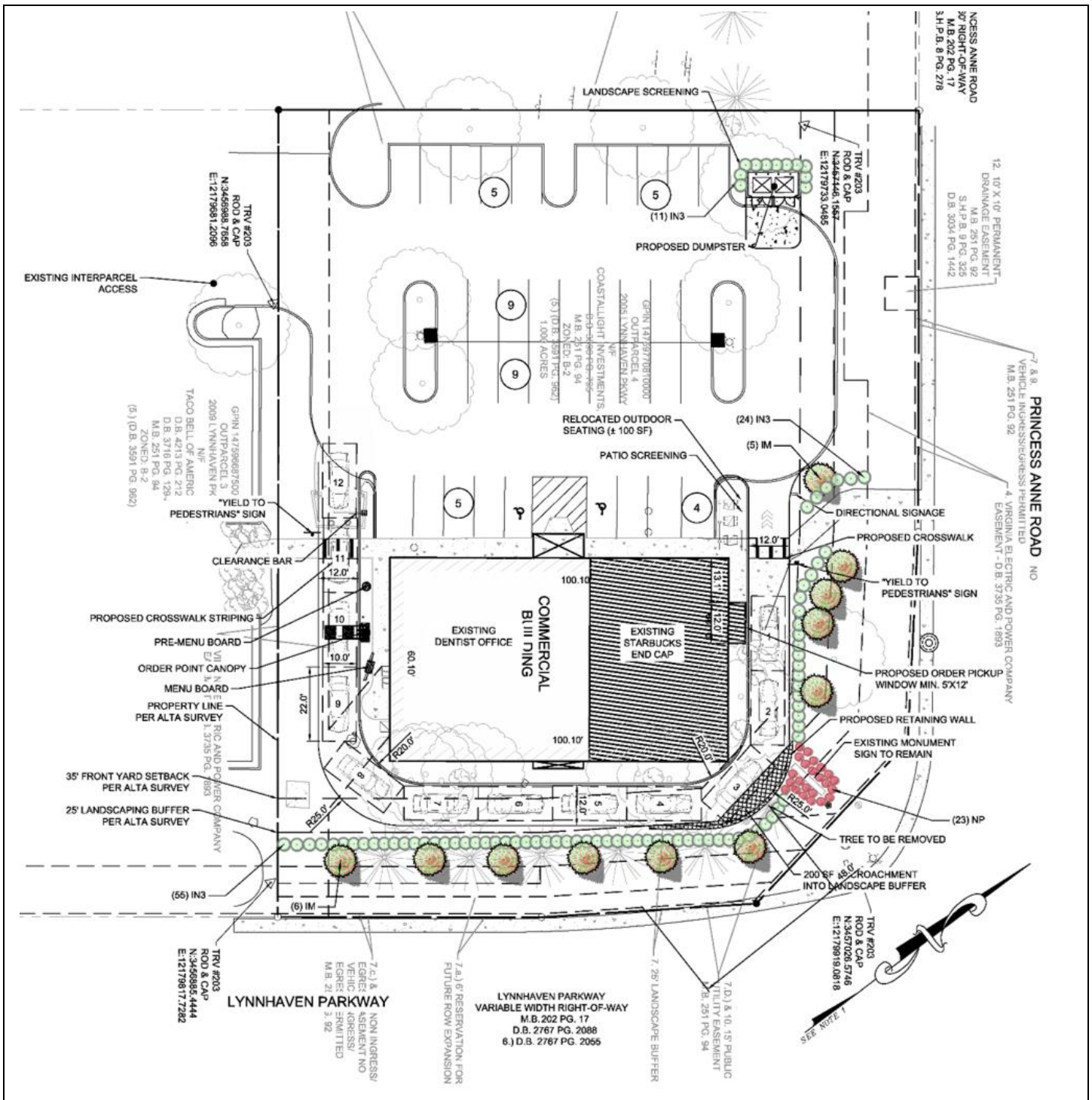
The subject site is connected with City water and sanitary sewer services.

## Public Outreach Information

### Planning Commission

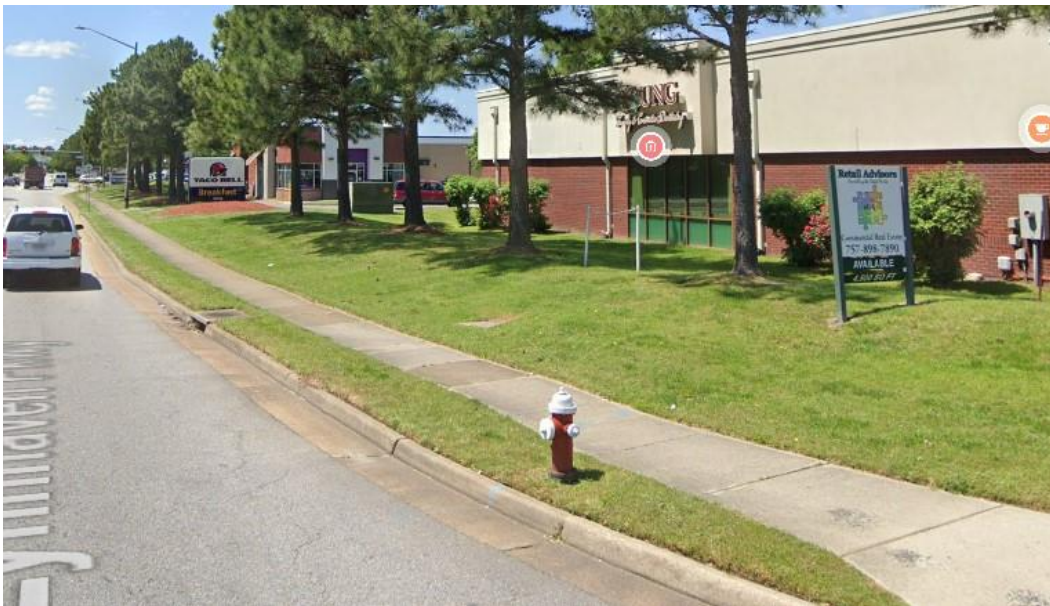
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on December 14, 2020.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, December 27, 2020 and January 3, 2021.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on December 28, 2020.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of [www.vbgov.com/pc](http://www.vbgov.com/pc) on January 7, 2021.

## Proposed Site Layout





## Site Photos



*Google Street View*



## 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 is also the Owner)**

**Applicant Name** Five Points, LLC

Does the applicant have a representative? ☒ **Yes** ☐ **No**

- If **yes**, list the name of the representative.

Lisa M. Murphy Willcox & Savage P.C.

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)

Five Points, LLC – Charles N. Cooper, Member & Manager; Erik Cooper, Member & Manager;

Jeff Cooper, Member & Manager

- If **yes**, list the businesses that have a parent-subsidary<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the applicant. (Attach a list if necessary)

Cooper Realty, Inc.

<sup>1</sup> "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.

<sup>2</sup> "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.  
TowneBank

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 real estate broker/realtor.

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 or individual providing the service.  
Wall, Einhorn & Chernitzer

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 or individual providing the service.  
Kimley-Horn – land planner

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 construction contractor.

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 engineer/surveyor/agent.

Kimley-Horn / Draper Haden

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 name of the attorney or firm providing legal services.

Willcox & Savage, 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

Erik Cooper, Manager

Print Name and Title

October 1, 2020

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	

## 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 757-385-8610.
- 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.





**Request**

**Conditional Use Permit** (Outdoor Recreation Facility (Skateboard Ramp))

**Staff Recommendation**

Approval

**Staff Planner**

Hoa N. Dao

**Location**

1708 River Court

**GPIN**

1499402453

**Site Size**

1.82 acres

**AICUZ**

Less than 65 dB DNL

**Watershed**

Chesapeake Bay

**Existing Land Use and Zoning District**

Single-family dwelling / R-40 Residential

**Surrounding Land Uses and Zoning Districts**

**North**

Single-family dwelling / R-40 Residential

**South**

Single-family dwelling / R-40 Residential

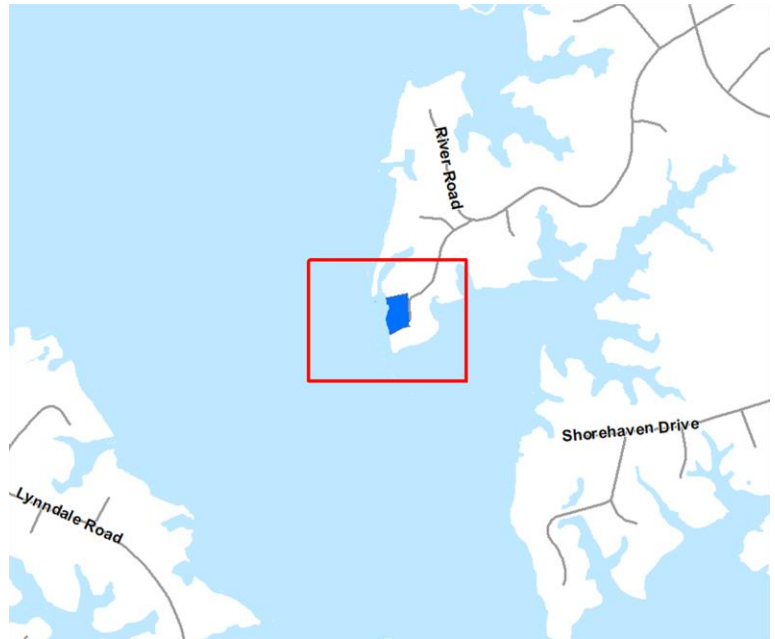
**East**

River Court

Single-family dwelling / R-40 Residential

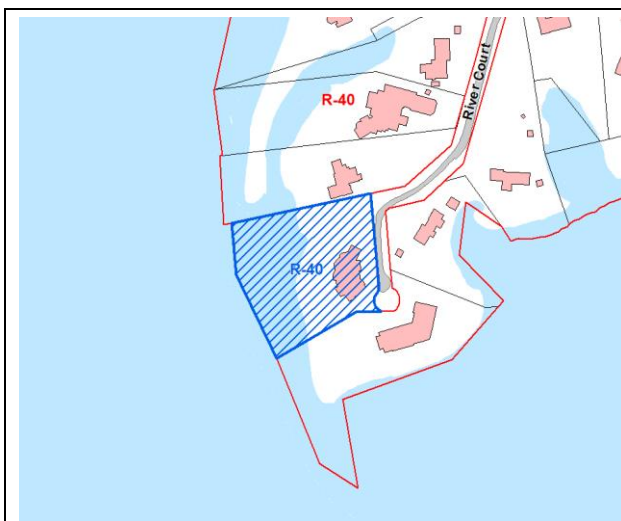
**West**

Lynnhaven Bay



## Background & Summary of Proposal

- The applicant seeks a Conditional Use Permit for an Outdoor Recreation Facility (Skateboard Ramp) on a 1.82-acre parcel zoned R-40 Residential District.
- The applicant was unaware of the need for the Conditional Use Permit and has submitted this request in order to rectify the oversight. The skateboard ramp is used by the applicant's children. It is not open to the general public.
- The deck of the skateboard ramp is between four to six feet high with a four-foot high railing. The ramp is partially screened by existing vegetation. Additional evergreen plants are proposed to screen the ramp from the adjacent residence to the north.
- The submitted plan depicts the ramp 32 feet from the front property line. As the required front yard setback in the R-40 Residential District is 50 feet, the applicant is seeking a deviation to this standard.



**No Zoning History to Report**

### Application Types

CUP – Conditional Use Permit  
 REZ – Rezoning  
 CRZ – Conditional Rezoning

MOD – Modification of Conditions or 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 Conditional Use Permit request for an Outdoor Recreation Facility for a skateboard ramp for the applicant's personal use, in Staff's opinion, is acceptable. The ramp was constructed with sound attenuation installed on the underside of the skating deck and wood sheathing is installed at each end of the deck platform to reduce noise. In addition, the coping will be filled with spray foam and the ramp will be painted brown to blend with the surrounding environment. There is existing vegetation that screens the ramp from the right-of-way and additional plantings are proposed to screen the ramp from the adjacent residence. There is a six-foot privacy fence that provides additional screening of the ramp to the adjacent residence to the north. Staff recommends that an annual review of the Conditional Use Permit be performed per Section 221(k) of the Zoning Ordinance to ensure compatibility with the neighborhood. The review will include a determination of whether the Outdoor Recreation Facility remains an acceptable use and that a continuation of the use poses no detrimental impact to public health, safety, and welfare.

The applicant's request to deviate from the required 50-foot front yard setback is acceptable. The existing dwelling was constructed 27.70 feet from the front property line. The reduced front yard setback of 32 feet for the ramp places it behind the front elevation of the home while keeping out of the 100-foot buffer of the Resource Protection Area, which is the most environmentally sensitive portion of the Chesapeake Bay watershed.

Based on these considerations, Staff recommends approval of this request, subject to the conditions listed below.

### Recommended Conditions

1. The skateboard ramp structure shall be located no closer than 32 feet from the front property line as depicted on the exhibit entitled, "Conceptual Site Plan of 1708 River Court Virginia Beach, VA," by Orbis Landscape Architecture, dated September 24, 2020. This location is a deviation to the fifty-foot setback required by the Zoning Ordinance.
2. To reduce the level of sound emanating from the ramp when in use, the following shall be utilized on the construction of the ramp: (a) the underside of the skating deck shall be insulated; (b) wood sheathing shall be installed at each end of the deck platform; and (c) the coping shall be filled with spray foam.
3. The skateboard ramp shall not be open to the general public nor shall it operate for profit.
4. Within ninety (90) days of City Council action, the applicant shall file all necessary permits with the City for review and approval for the skateboard ramp structure.
5. The use of the skateboard ramp shall be limited to the hours between 10:00 a.m. to dusk, daily.
6. A chain shall be secured across the ramp when the ramp is not in use such that the ramp cannot be used.
7. At least one adult shall be outside the house and present when the ramp is in use.
8. Subject to Section 221(k) of the Zoning Ordinance, an annual review of the Outdoor Recreation Facility Conditional Use Permit, based on the date of City Council approval, shall be performed by the Planning Director or his designee to assure that the use does not conflict with any adjacent land uses.

*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 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 surrounding uses.

## Natural & Cultural Resources Impacts

The site is located in the Chesapeake Bay Watershed. There does not appear to be any significant natural or cultural impacts associated with the proposed project.

## Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
River Court	No Data Available		Existing Land Use <sup>2</sup> – 10 ADT Proposed Land Use <sup>3</sup> – 10 ADT
<sup>1</sup> Average Daily Trips	<sup>2</sup> as defined by a single-family dwelling	<sup>3</sup> as defined by a single-family dwelling with a skateboard ramp	<sup>4</sup> LOS = Level of Service

## Master Transportation Plan (MTP) and Capital Improvement Program (CIP)

River Court in the vicinity of this application is considered a two-lane undivided local street. There are no roadway CIP projects slated for this area.

## Public Utility Impacts

### Water & Sewer

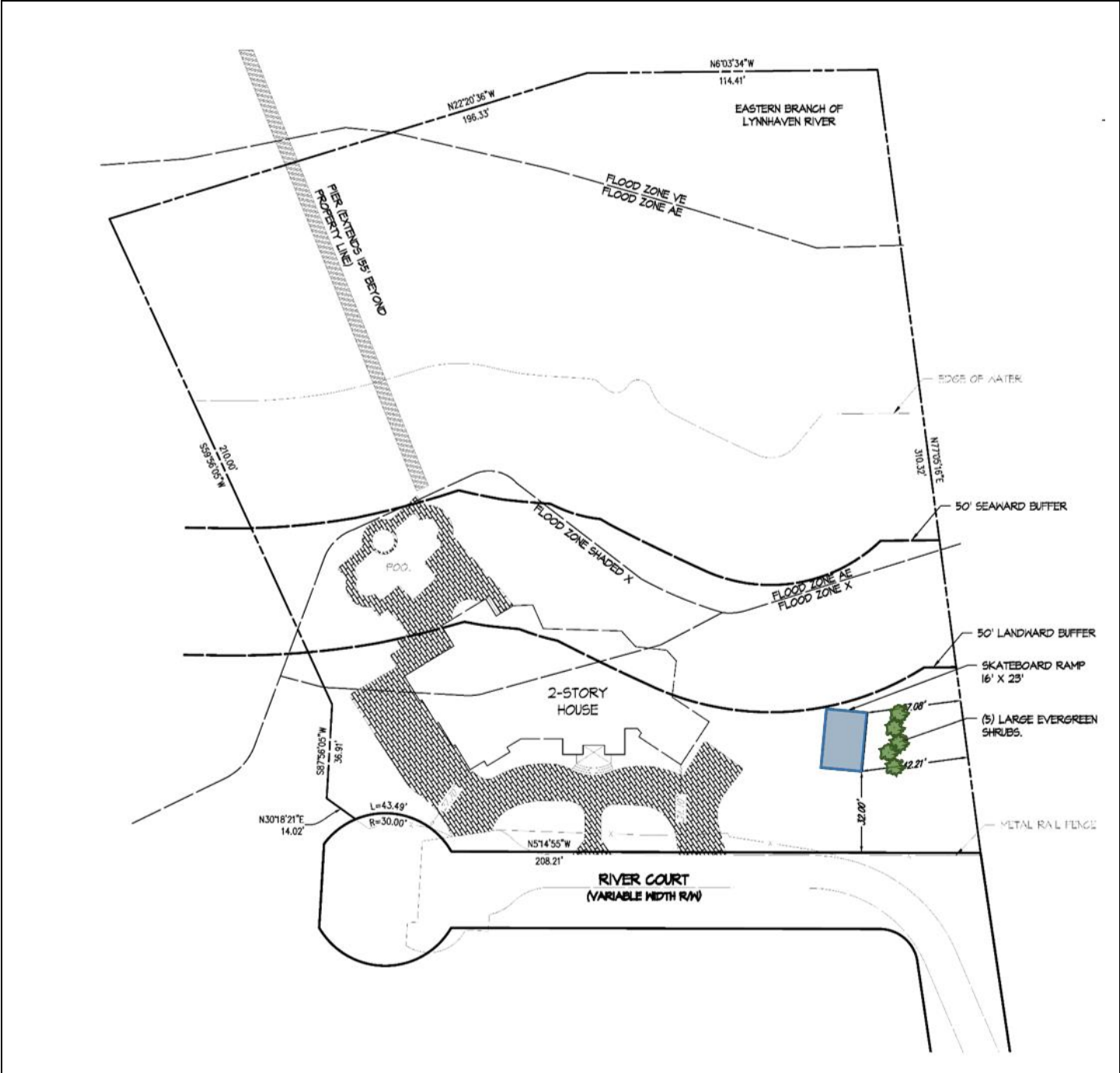
The site is currently connected to both City water and sanitary sewer service.

## Public Outreach Information

### Planning Commission

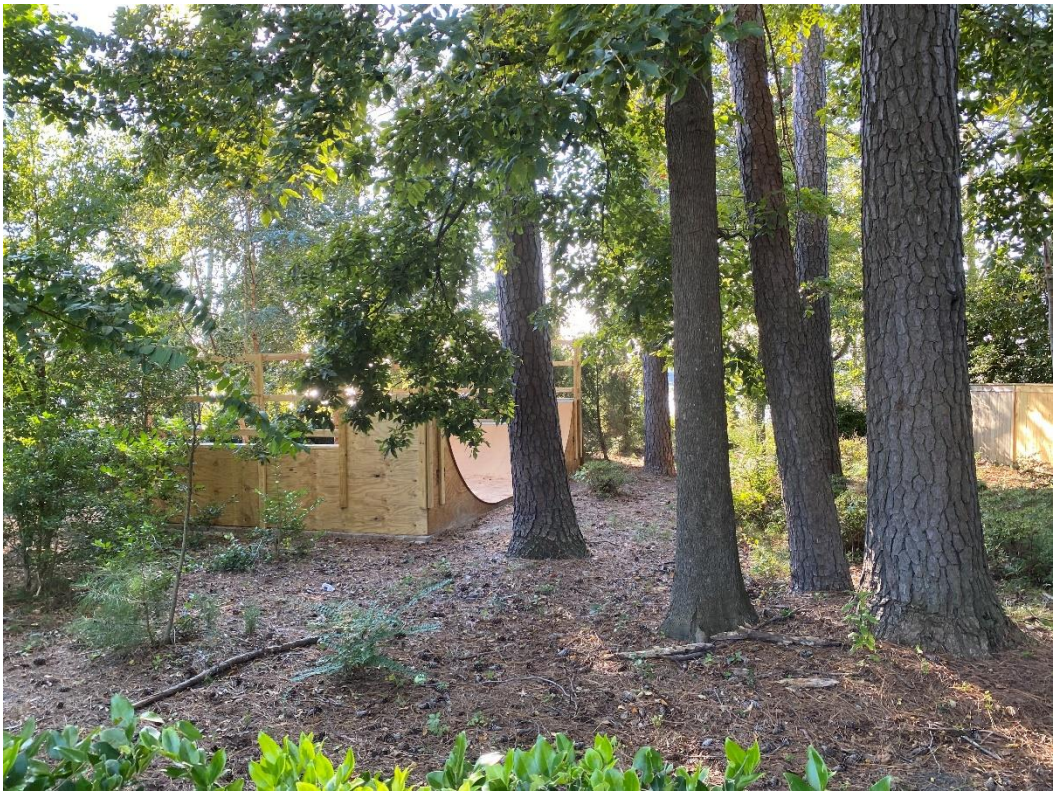
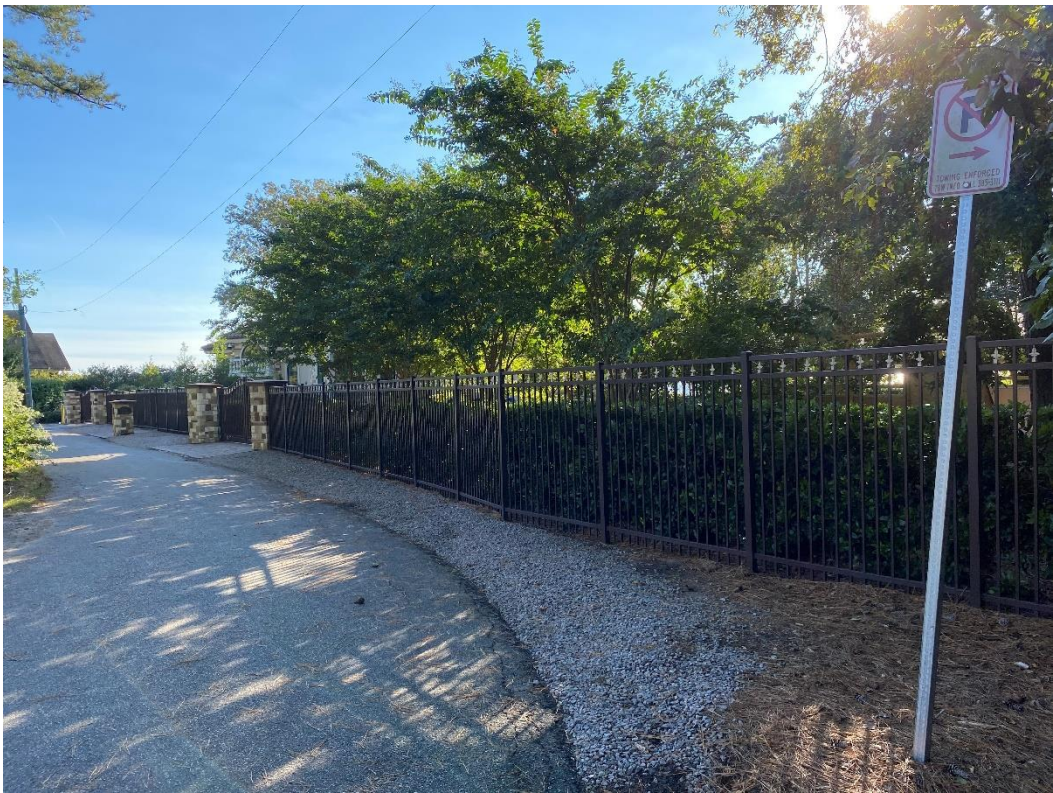
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on December 14, 2020.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, December 27, 2020 and January 3, 2021.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on December 28, 2020.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of [www.vbgov.com/pc](http://www.vbgov.com/pc) on January 7, 2021.

# 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** Brant Feldman

**Does the applicant have a representative?** ☒ **Yes** ☐ **No**

- If **yes**, list the name of the representative.

Owner will represent. Orbis will assist.

**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)

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- If **yes**, list the businesses that have a parent-subsiary<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the applicant. (Attach a list if necessary)

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<sup>1</sup> "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.

<sup>2</sup> "Affiliated business entity relationship" means "a relationship, other than parent-subsiary 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.

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 real estate broker/realtor.

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 or 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 or individual providing the service.

Orbis (c/o Nathan Lahy) - Landscape Architect/Planner

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 construction contractor.

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 engineer/surveyor/agent.

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 name of the attorney or firm providing legal services.

#### 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

*Brant Feldman*

Print Name and Title

Brant Feldman

Date September 26, 2020

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	

## 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 757-385-8610.
- 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.

**Request**

**Conditional Use Permit** (Automobile Service Station)

**Staff Recommendation**

Approval

**Staff Planner**

Hoa N. Dao

**Location**

4493 Shore Drive

**GPINS**

1479678256, 1479679311, 1479770345

**Site Size**

1.08 acres

**AICUZ**

Less than 65 dB DNL

**Watershed**

Chesapeake Bay

**Existing Land Use and Zoning District**

Motor vehicle sales, car wash facility / B-2 Community Business (Shore Drive Corridor Overlay)

**Surrounding Land Uses and Zoning Districts**

**North**

Shore Drive

Automobile service station, veterinary establishment / B-2 Community Business (Shore Drive Corridor Overlay)

**South**

Single-family dwellings / R-10 Residential (Shore Drive Corridor Overlay)

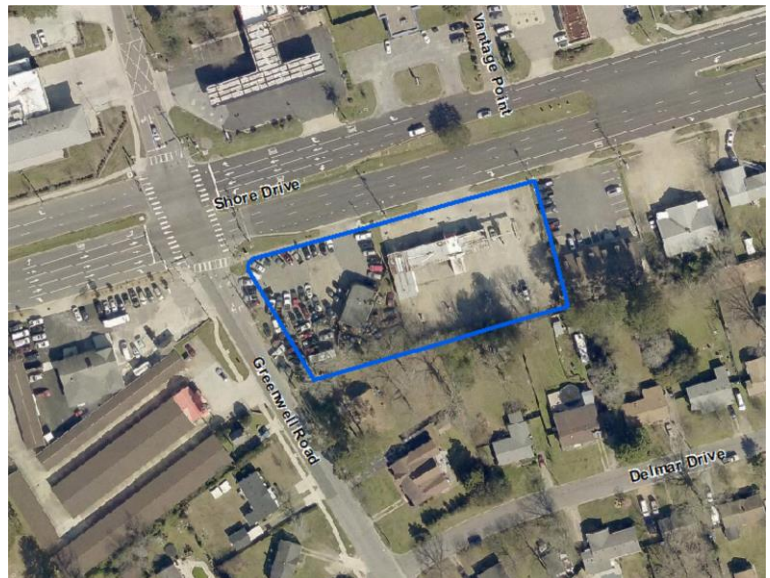
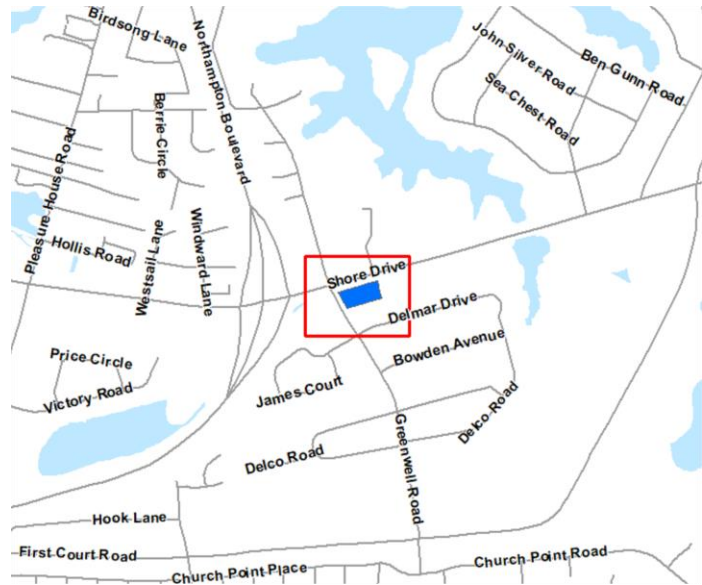
**East**

Mixed retail / B-2 Community Business (Shore Drive Corridor Overlay)

**West**

Greenwell Road

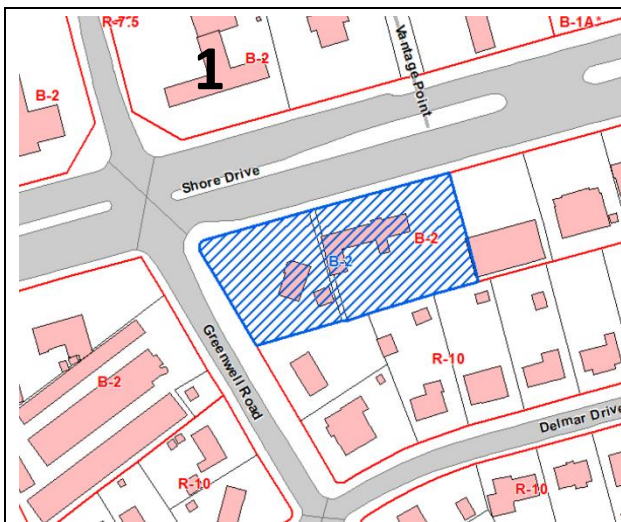
Automobile repair garage, mini-storage / B-2 Community Business (Shore Drive Corridor Overlay)





## Background & Summary of Proposal

- The subject site is zoned B-2 Community Business and is located within the Shore Drive Corridor in the Bayside District.
- The 1.08-acre site is currently occupied by a motor vehicle sales establishment and a car wash facility.
- The applicant seeks to redevelop the site with a 4,088-square foot, 24-hour/seven days per week convenience store with ten fuel pumps. The fuel sales require a Conditional Use Permit for an Automobile Service Station.
- The proposed convenience store features coastal-style architecture with exterior building materials of fiber cement lap siding and brick veneer with an asphalt shingle roof. The fuel canopy and dumpster enclosure match the architectural materials of the convenience store building.
- The submitted site layout depicts a three-foot tall berm at the southeast corner of Shore Drive and Greenwell Road, and an eight-foot high privacy fence where the property abuts residentially zoned properties to the south. Plantings are proposed along Shore Drive, Greenwell Road and the southern property line. The proposed landscaping and number of parking spaces exceed the requirements of the Zoning Ordinance.
- An eight-foot tall, monument-style freestanding sign with a brick base is proposed near the intersection of Shore Drive and Greenwell Road.
- Pedestrian connectivity is provided on Shore Drive and a five-foot pedestrian sidewalk is proposed along Greenwell Road.
- Per Section 203 of the Zoning Ordinance, 21 parking spaces are required for the proposed use. The submitted layout shows 31 parking spaces, exceeding the parking requirement by 10 spaces.
- The proposed redevelopment of the property includes a reduction in the number of entrances along Shore Drive and Greenwell Road from four to two.



### Zoning History

#	Request
1	CUP (Automobile Service Station) Approved 12/03/1996

### Application Types

CUP – Conditional Use Permit  
 REZ – Rezoning  
 CRZ – Conditional Rezoning

MOD – Modification of Conditions or 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

Staff finds the proposal to construct a convenience store with 10 fuel pump stations to be acceptable. The request is consistent with the recommendations of the Comprehensive Plan that identify the Shore Drive Corridor is primarily a residential neighborhood area with commercial uses to support the residents. The Plan recommends the reuse and revitalization of existing commercial properties and preserve and protect the character of the established neighborhood. Specifically, the proposed redevelopment addresses these recommendations with the replacement of an older motor vehicle sales and car wash operation with an updated, unified development and improved architectural details. The existing car wash has four vacuum stations very close to homes that produce significantly more noise as compared to the single air pump station that is proposed along Shore Drive.

The convenience store and fuel stations offer the surrounding community a necessary service within a coastal-style building in keeping with the character of the Bayfront and designed with the elements of the Shore Drive Design Guidelines in mind. Specific guidelines being met with this proposal include the use of neutral colors, high-quality architectural style and building materials that are compatible with the character of the community, and promote walkability with pedestrian access pathway connecting to public sidewalks. The Bayfront Advisory Commission (BAC) reviewed the application and finds the proposal to be consistent with the Shore Drive Corridor Design Guidelines. The BAC is supportive of the request.

The proposal also includes an eight-foot tall, solid, privacy fence that will replace the existing six-foot high, chain-link fence that does little to screening the adjacent residential properties to the south from the auto-related activities currently on this site. Along with the privacy fence, a 15-foot wide landscape buffer consisting of evergreen trees and shrubs is proposed along the southern property line. A more detailed review of all screening and planting requirements will occur during final site plan review.

To prevent traffic queueing issues on Greenwell Road at the approach to the traffic signal at Shore Drive, the applicant proposes to install a curb island on the western access point to prevent a left turn into the site from Greenwell Road. In addition, two of the three existing access points along Shore Drive will be eliminated, thereby reducing conflict points along this right-of-way which will improve safety. The remaining access point on Shore Drive will be a right-in/right-out access point. The Traffic Impact Analysis (TIA) indicates that the proposed development will result in a minor increase in vehicular delay at the intersection of Shore Drive and Greenwell Road in the morning and afternoon peaks hours. Minor adjustments to the traffic signal's timing along Shore Drive is proposed to address this issue. Traffic Engineering has reviewed the submitted TIA and concurs with its findings, and that the intersection of Shore Drive and Greenwell Road will continue to operate at an acceptable level of service during the peak periods.

Based on the considerations above, Staff recommends approval of this request subject to the conditions noted below.

## Recommended Conditions

1. When the property is developed, it shall be in substantial conformance with the submitted concept plan entitled, "CUP Exhibit - 4493 Shore Dr, Virginia Beach, VA" ("CUP Exhibit"), prepared by Kimley-Horn, dated October 2020, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
2. When the property is developed, the exterior of the convenience store building and fuel canopy shall substantially adhere in appearance, size and materials to the elevations entitled, "Review Board Elevations - 7-Eleven Store #1048169, Shore Drive and Greenwell Road, Virginia Beach, VA 23120," prepared by Intrépide Design, dated October 12, 2020 and October 15, 2020, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.

3. When the property is developed, the monument sign shall substantially adhere in appearance, size and materials to the elevations entitled, "SVE\_1048169\_Shore Dr Virginia Beach VA\_R3," prepared by Harbinger, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
4. Signage for the site shall be limited to:
  - a. Directional signs.
  - b. One (1) monument-style freestanding sign, no more than eight (8) feet in height, set in a brick base, as noted in condition 3.
  - c. No striping shall be permitted on the fuel canopy.
  - d. There shall be no other signs, neon signs, or neon accents installed on any wall area of the building, on the windows and/or doors, canopy, light poles or any other portion of the site.
5. At the time of site plan review, a Landscape Plan that reflects the plant material depicted on the submitted CUP Exhibit, along with all applicable requirements of the Zoning Ordinance, shall be submitted for review to the Development Services Center and shall obtain approval prior to the issuance of a building permit.
6. The dumpster shall be enclosed with a solid brick wall in color and material to match the building and any required screening shall be installed in accordance with Section 245(e) of the Zoning Ordinance.
7. All air pumps shall be screened from the right-of-way with plant material of a size and species acceptable to the Development Service Center's Landscape Architect, all of which shall be depicted on the Landscape Plan.
8. Outdoor vending machines and/or display of merchandise may be permitted only if fully screened from view from the rights-of-way as approved by the Planning Director.

*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 in Suburban Focus Area 1 – Shore Drive Corridor. The Shore Drive Corridor is an integral part of the Bayfront Community, extending from Independence Boulevard to First Landing State Park. While primarily a residential community, the corridor shares the responsibility of being one of Virginia Beach's primary east-west connectors, creating unique and sometimes problematic challenges. The area is considered a resort neighborhood and not a resort destination. The Shore Drive Corridor is primarily a residential neighborhood area with commercial uses to support the residents.

## Natural & Cultural Resources Impacts

The site is located within the Chesapeake Bay watershed. There do not appear to be any significant natural or cultural resources associated with the site.

## Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Shore Drive	37,100 ADT <sup>1</sup>	36,900 ADT <sup>1</sup> (LOS <sup>4</sup> "D")	Existing Zoning <sup>2</sup> – 550 ADT Proposed Land Use <sup>3</sup> – 2,306 ADT
Greenwell Road	1,740 ADT <sup>1</sup>	9,900 ADT <sup>1</sup> (LOS <sup>4</sup> "D")	
<sup>1</sup> Average Daily Trips	<sup>2</sup> as defined by a 1.08-acre B-2 parcel	<sup>3</sup> as defined by a convenience store/gas station with 10 fuel pumps	<sup>4</sup> LOS = Level of Service

### Master Transportation Plan (MTP) and Capital Improvement Program (CIP)

Shore Drive in the vicinity of this application is considered a four-lane divided major urban arterial. The MTP proposes a six-lane divided facility within a 150-foot right-of-way. Currently, this segment of the roadway is functioning right at capacity. Greenwell Road in the vicinity of this application is considered a two-lane undivided local street. It is not included in the MTP. Greenwell Road is included in Phase III of the City's Traffic Calming Program.

A roadway CIP project is slated for this area. Shore Drive Corridor Improvements - Phase II (CIP 2-116) will provide safety improvements, including pedestrian walkways and bikeways, along the Shore Drive corridor from South Oliver Drive/Waterspoint Place to Treasure Island Drive. It will also include improvements along Shore Drive at the Northampton Boulevard interchange and to the intersection at Pleasure House Road and at Greenwell Road. There is currently no funding for this project.

## Public Utility Impacts

### Water & Sewer

The site currently connects to City water and sanitary sewer services.

## Public Outreach Information

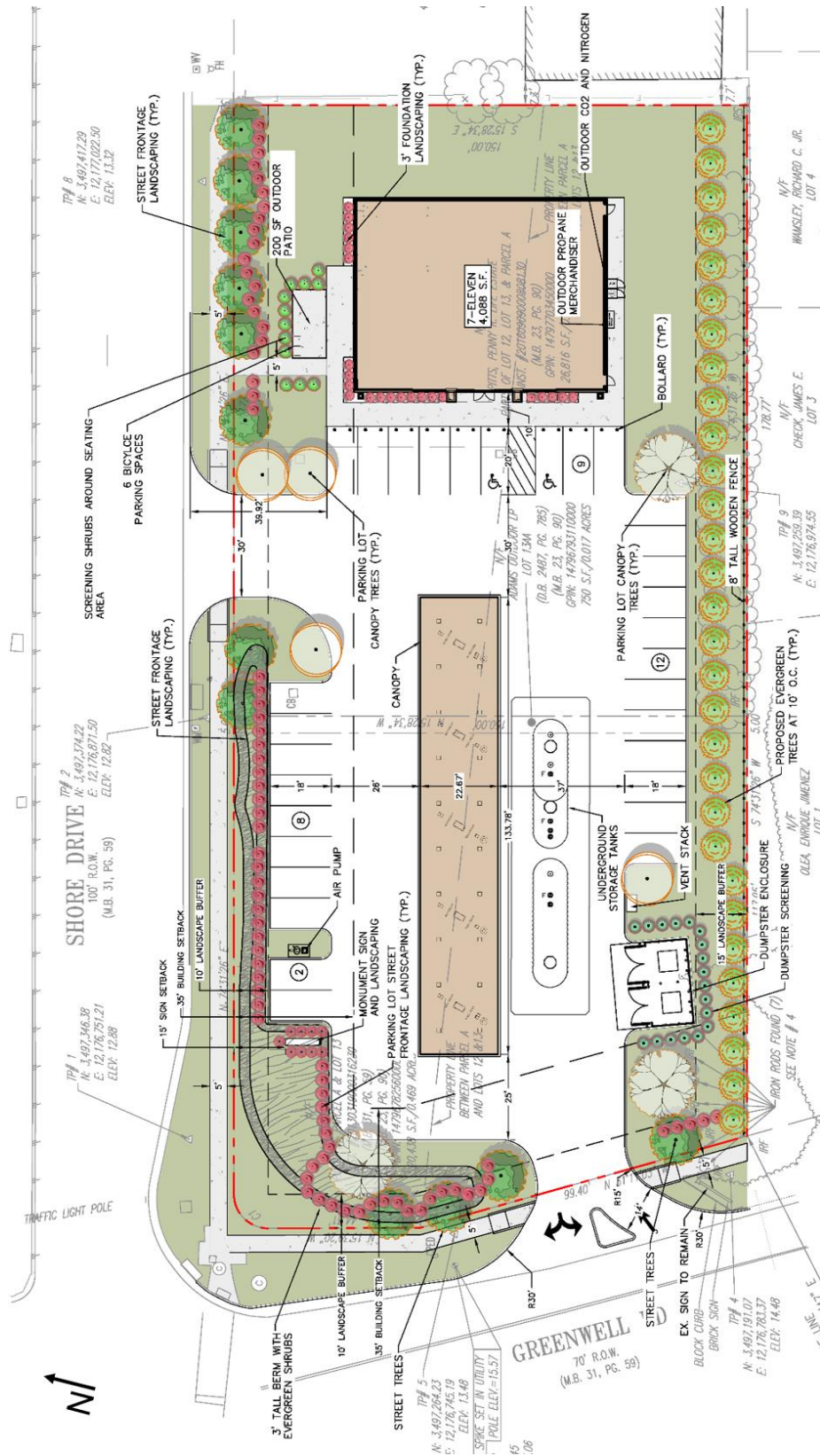
### Planning Commission

- The applicant/applicant's representative presented the proposal to the Bayfront Advisory Commission (BAC) on October 15, 2020. The BAC provided feedback on the building façade and orientation. The applicant voluntarily adjusted the plan to comply with the Commission's feedback and the BAC is supportive of the proposal.
- One letter of opposition has been received by Staff noting concerns related to health and safety for having a fueling station operating behind her property.
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on December 14, 2020.



- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, December 27, 2020 and January 3, 2021.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on December 28, 2020.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of [www.vbgov.com/pc](http://www.vbgov.com/pc) on January 7, 2021.

## Proposed Site Layout

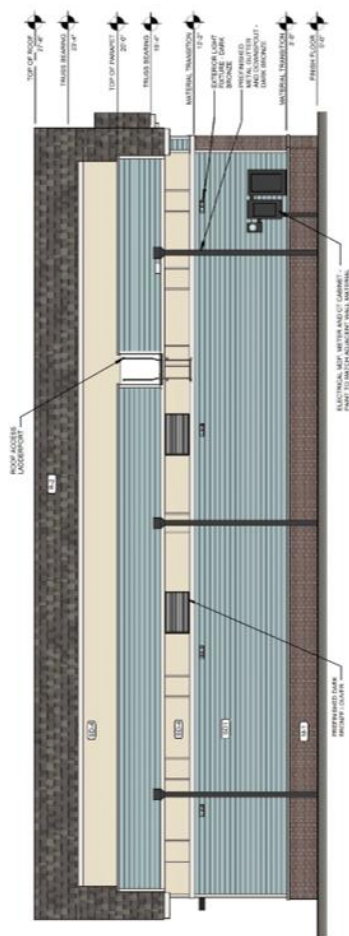


# Proposed Elevation Plan

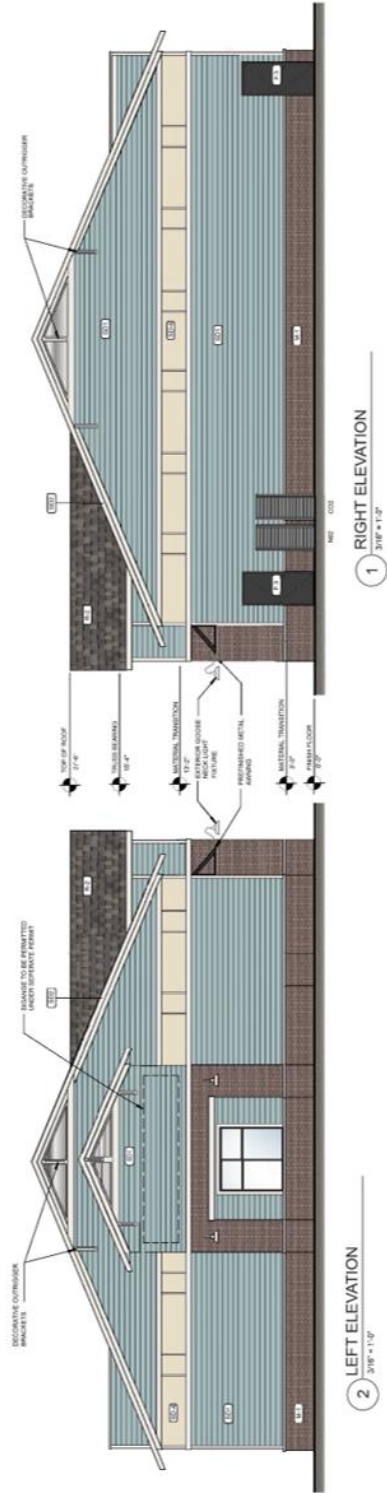
EXTERIOR FINISH SCHEDULE		
FINISH	MATERIAL	PALETTE
1.1	PAINT: EXTERIOR, LIGHT GREY, SMOKE, TO MATCH R-2 SIV7504 "WOODGROUN"	
1.2	PAINT: EXTERIOR, LIGHT GREY, SMOKE, TO MATCH R-2 SIV7504 "WOODGROUN"	
1.3	PAINT: EXTERIOR, LIGHT GREY, SMOKE, TO MATCH R-2 SIV7504 "WOODGROUN"	
1.4	PAINT: EXTERIOR, LIGHT GREY, SMOKE, TO MATCH R-2 SIV7504 "WOODGROUN"	
1.5	PAINT: EXTERIOR, LIGHT GREY, SMOKE, TO MATCH R-2 SIV7504 "WOODGROUN"	
1.6	PAINT: EXTERIOR, LIGHT GREY, SMOKE, TO MATCH R-2 SIV7504 "WOODGROUN"	
1.7	PAINT: EXTERIOR, LIGHT GREY, SMOKE, TO MATCH R-2 SIV7504 "WOODGROUN"	
1.8	PAINT: EXTERIOR, LIGHT GREY, SMOKE, TO MATCH R-2 SIV7504 "WOODGROUN"	
1.9	PAINT: EXTERIOR, LIGHT GREY, SMOKE, TO MATCH R-2 SIV7504 "WOODGROUN"	
1.10	PAINT: EXTERIOR, LIGHT GREY, SMOKE, TO MATCH R-2 SIV7504 "WOODGROUN"	
1.11	PAINT: EXTERIOR, LIGHT GREY, SMOKE, TO MATCH R-2 SIV7504 "WOODGROUN"	
1.12	PAINT: EXTERIOR, LIGHT GREY, SMOKE, TO MATCH R-2 SIV7504 "WOODGROUN"	
1.13	PAINT: EXTERIOR, LIGHT GREY, SMOKE, TO MATCH R-2 SIV7504 "WOODGROUN"	
1.14	PAINT: EXTERIOR, LIGHT GREY, SMOKE, TO MATCH R-2 SIV7504 "WOODGROUN"	
1.15	PAINT: EXTERIOR, LIGHT GREY, SMOKE, TO MATCH R-2 SIV7504 "WOODGROUN"	
1.16	PAINT: EXTERIOR, LIGHT GREY, SMOKE, TO MATCH R-2 SIV7504 "WOODGROUN"	
1.17	PAINT: EXTERIOR, LIGHT GREY, SMOKE, TO MATCH R-2 SIV7504 "WOODGROUN"	
1.18	PAINT: EXTERIOR, LIGHT GREY, SMOKE, TO MATCH R-2 SIV7504 "WOODGROUN"	
1.19	PAINT: EXTERIOR, LIGHT GREY, SMOKE, TO MATCH R-2 SIV7504 "WOODGROUN"	
1.20	PAINT: EXTERIOR, LIGHT GREY, SMOKE, TO MATCH R-2 SIV7504 "WOODGROUN"	



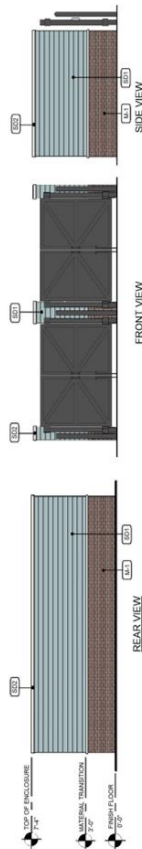
4 FRONT ELEVATION  
3/16" x 1'-0"



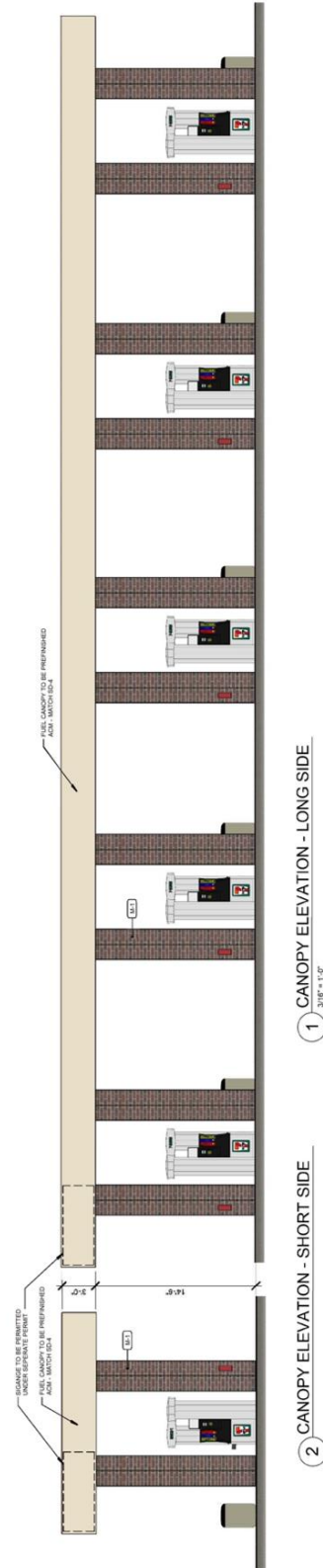
3 REAR ELEVATION  
3/16" x 1'-0"



## Proposed Elevation Plan

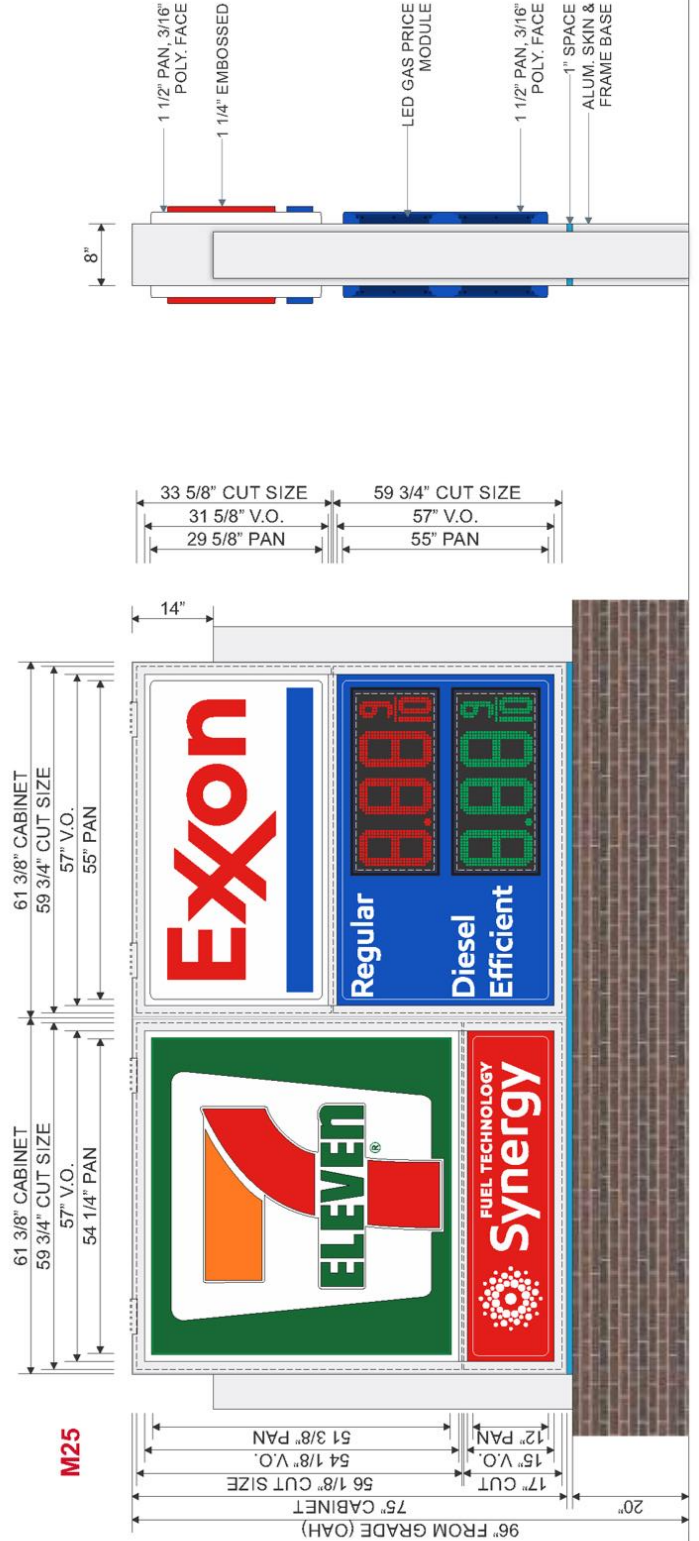
[illegible]

3 DUMPSTER ENCLOSURE  
3/16" = 1'-0"





# Proposed Monument Sign



Site Photos





## Site Photos





**APPLICANT'S NAME** VERDAD REAL ESTATE & CONSTRUCTION

## **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:	

Page 1 of 7





☐ 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: Verdad Real Estate & Construction, LLC

If an LLC, list all member's names: Brian Joseph Keen  
Joseph Mann, Jr.  
Shane Joeseephson

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 <sup>1</sup> or affillated business entity <sup>2</sup> relationship with the Applicant: *(Attach list if necessary)*

See next page for information pertaining to footnotes <sup>1</sup> and <sup>2</sup>

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### 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: Penny R. Pitts Revocable Living Trust

If an LLC, list the member's names: Harry E. Pitts, Trustee



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<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the Property Owner: *(Attach list if necessary)*

<sup>1</sup> "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.

<sup>2</sup> "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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### 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



- ☐ 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: \_\_\_\_\_  
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 <sup>1</sup> or affiliated business entity <sup>2</sup> relationship with the Applicant: *(Attach list if necessary)*

See next page for information pertaining to footnotes <sup>1</sup> and <sup>2</sup>

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- ☒ 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: SRGS LLC  
If an LLC, list the member's names: Michael J. Schutz, Matthew Schutz and Robin Schutz



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<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the Property Owner: *(Attach list if necessary)*

<sup>1</sup> "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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### 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





- ☐ 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: \_\_\_\_\_  
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-subsidiary <sup>1</sup> or affiliated business entity <sup>2</sup> relationship with the Applicant: *(Attach list if necessary)*

See next page for information pertaining to footnotes <sup>1</sup> and <sup>2</sup>

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### 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: Adams Outdoor Limited Partnership  
If an LLC, list the member's names: Richard Zecchino, General Legal Counsel



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 <sup>1</sup> or affiliated business entity <sup>2</sup> relationship with the Property Owner: *(Attach list if necessary)*

Adams Outdoor, Inc., General Partner of Adams Outdoor Limited Partnership

<sup>1</sup> "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.

<sup>2</sup> "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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### 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 SEPARATELY



### 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 checked="" type="checkbox"/>	<input type="checkbox"/>	Architect / Landscape Architect / Land Planner	Intrepid Design
<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	Kimley Horn
<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	Grady Palmer and/or Williams Mullen
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	Jones Lang Lasalle

### 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.

	B. Jason Keen	08/12/20
APPLICANT'S SIGNATURE	PRINT NAME	DATE
	CEO, Verdad Real Estate & Construction, LLC	



## Disclosure Statement

OWNER: SRGS, LLC

### 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 checked="" type="checkbox"/>	<input type="checkbox"/>	Legal Services	Erik P. Gordon
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	Dynamic Commercial Real Estate Advisors

### 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 Schatz	8/10/20
PROPERTY OWNER'S SIGNATURE	PRINT NAME	DATE
Member	SRGS LLC	

## Disclosure Statement

Owner: Penny R. Pitts Revocable Living Trust



### 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 checked="" type="checkbox"/>	<input type="checkbox"/>	Legal Services	Crenshaw Ware & Martin, P.L.C.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	Dynamic Commercial Real Estate Advisors

### 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"/>	

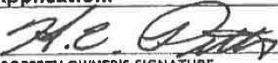

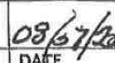
If yes, what is the name of the official or employee and what is the nature of the interest?



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PROPERTY OWNER'S SIGNATURE	PRINT NAME	DATE
Trustee of the Penny R. Pitts Revocable Living Trust		



## Disclosure Statement

Owner: Adams Outdoor Limited Partnership

### 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 checked="" type="checkbox"/>	<input type="checkbox"/>	Legal Services	Richard J. Zecchino
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	Dynamic Commercial Real Estate Advisors

### 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.

	Richard J. Zerchino	8-6-2020
PROPERTY OWNER'S SIGNATURE	PRINT NAME	DATE
General Counsel	Adams Outdoor Limited Partnership, by its	

General Partner, Adams Outdoor, Inc.

## 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 757-385-8610.
- 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.

**Request**

**Subdivision Variance** (Section 4.4(b) of the Subdivision Regulations)

**Staff Recommendation**

Approval

**Staff Planner**

Aubrey A. Trebilcock

**Location**

1944 Pleasant Ridge Road

**GPIN**

24121111180000

**Site Size**

1.32 acres

**AICUZ**

Less than 65 dB DNL

**Watershed**

Southern Rivers

**Existing Land Use and Zoning District**

Single-family dwelling / AG-2 Agricultural

**Surrounding Land Uses and Zoning Districts**

**North**

Single-family dwelling / AG-2 Agricultural

**South**

Pleasant Ridge Road

Single-family dwellings / B-2 Community

Business & AG-2 Agricultural

**East**

Princess Anne Road

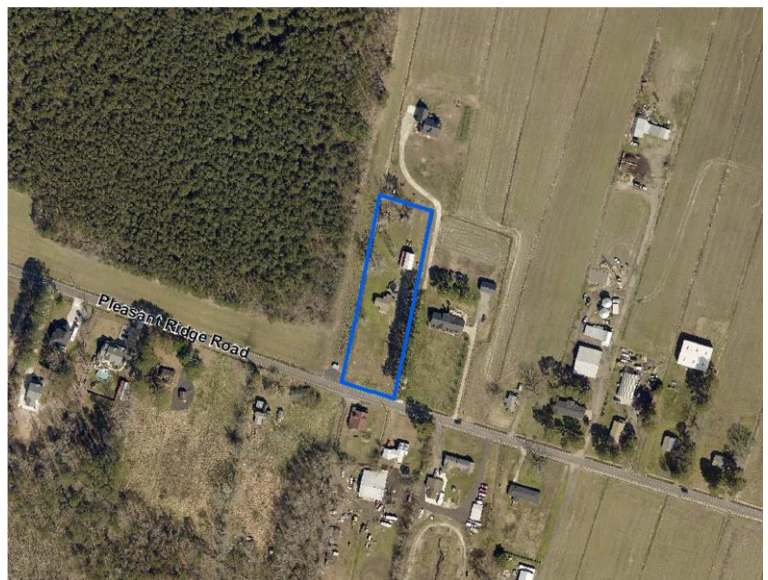
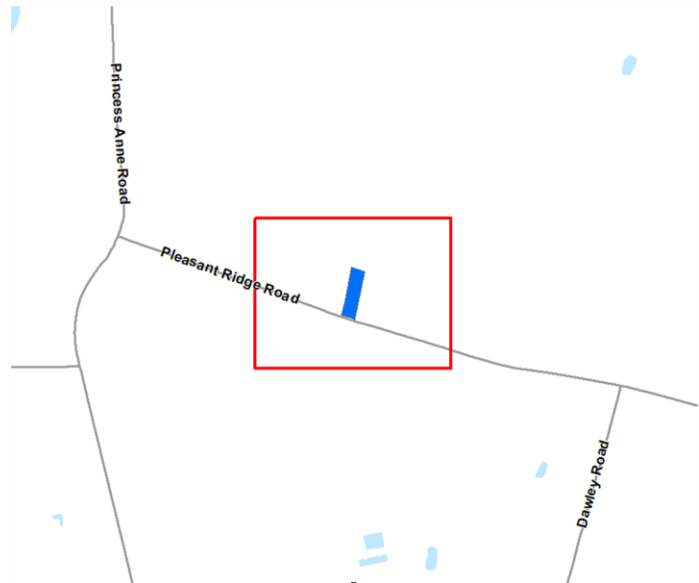
Single-family dwellings, cultivated fields / AG-2

Agricultural

**West**

Access to agricultural properties, woods / AG-2

Agricultural

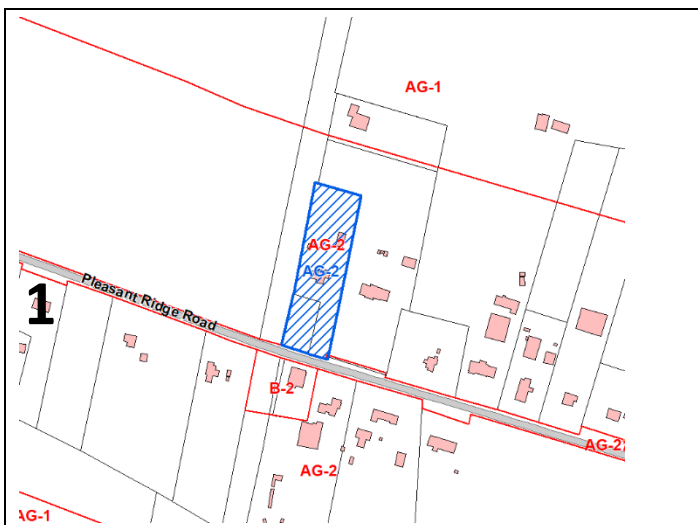




## Background & Summary of Proposal

- The three subject parcels, which total 1.32 acres, are zoned AG-2 Agricultural District in the southern part of Virginia Beach. The applicant is proposing to resubdivide the three existing parcels into a single 1.32-acre lot, "Lot A". One single-family dwelling is present on the 41,780 square foot parcel described on the submitted plat exhibit as "Property of Boaz Benjamin Brothers & 12' R/W", while the other two lots are currently vacant.
- The 10,251 square foot lot described on the submitted plat exhibit as "Property of Boaz Benjamin Brothers" was legally created by plat in Map Book 50, Page 46 in 1960. The 41,780 square foot parcel described on the submitted plat exhibit as "Property of Boaz Benjamin Brothers & 12' R/W" and the 5,508 square foot "Parcel A" were improperly created by deed in Deed Book 701, Page 562 in 1961. At that time, properties were required to be recorded with a plat rather than by deed. Based on this, a Subdivision Variance is required in order to combine the two improperly created lots with the third, adjacent lot.
- Development of the parcels with a residential use is limited to just the legally recorded, 10,251 square foot lot, as it is the only property that has been legally established. The proposed resubdivision would allow the applicant to make full use of the 1.32 acres that they currently own.
- In the AG-2 Agricultural District, the minimum lot width is 150 feet. Proposed Lot A will only have a lot width of 124.5 feet, also creating the need for the Subdivision Variance.

Proposed Lot	Required Lot Width in AG-2 (feet)	Existing Lot Width (feet)	Proposed Lot Width (feet)	Required Lot Area (acre)	Proposed Lot Area (acre)
Lot A	150	12	124.5	1	1.32



### Zoning History

#	Request
1	SVR (Lot Area & Width Reduction) Approved 05/08/2007

### Application Types

CUP – Conditional Use Permit  
 REZ – Rezoning  
 CRZ – Conditional Rezoning

MOD – Modification of Conditions or 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

Section 9.3 of the Subdivision Regulations states:

No variance shall be authorized by the Council unless it finds that:

- A. Strict application of the ordinance would produce undue hardship.
- B. The authorization of the variance will not be of substantial detriment to adjacent property, and the character of the neighborhood will not be adversely affected.
- C. The problem involved is not of so general or recurring a nature as to make reasonably practicable the formulation of general regulations to be adopted as an amendment to the ordinance.
- D. The hardship is created by the physical character of the property, including dimensions and topography, or by other extraordinary situation or condition of such property, or by the use or development of property immediately adjacent thereto. Personal or self-inflicted hardship shall not be considered as grounds for the issuance of a variance.
- E. The hardship is created by the requirements of the zoning district in which the property is located at the time the variance is authorized whenever such variance pertains to provisions of the Zoning Ordinance incorporated by reference in this ordinance.

Section 4.4(b) of the Subdivision Regulations states: “Existing lots which fail to conform to present applicable zoning regulations may also be resubdivided to less than current minimum zoning standards where the following apply:

- 1. The existing lots have been legally created
- 2. The resulting lots conform to applicable requirements in each respect that the existing lots conform, and in those respects that the existing lots do not conform, no greater degree of nonconformity than that already present would result.

By this standard, the 124.5-foot lot width of proposed Lot A will satisfy point #2 above, as it does not increase the degree of nonconformity in regard to the width. However, point #1 requires that all existing lots be legally created. As the “Property of Boaz Benjamin Brothers & 12’ R/W” and “Parcel A” were improperly created by deed, rather than by a subdivision plat, a Subdivision Variance is required. In addition, all new parcels are obligated to meet all requirements of the Zoning Ordinance. As the required lot width cannot be met, a variance to the lot width is also necessary.

None of the existing three parcels currently meet the minimum one-acre lot size nor the 150-foot lot width requirements of the AG-2 Agricultural Zoning District. This resubdivision proposal would create a 1.32-acre lot, thereby meeting the minimum lot area and density requirements; and eliminates the two parcels which were not legally created, allowing the applicant to better utilize the entirety of the 1.32 acres. The decrease in density of parcels would furthermore reflect the Comprehensive Plan’s vision for the Rural Area by limiting new growth and thus preserving the existing rural character.

As the proposal would result in a lot that is closer to conforming with the Zoning Ordinance than any of the individual existing parcels, and also reflects the values of the Rural Area as defined by the Comprehensive Plan, Staff recommends approval of the request.

## Recommended Conditions

- 1. The applicant/owner shall submit a subdivision plat to the City of Virginia Beach, subject to the review and approval of the Department of Planning & Community Development prior to recordation, which shall be in substantial conformance to the submitted plat exhibit entitled “Resubdivision of Property of Boaz Benjamin Brothers”, dated

August 10, 2020, and prepared by WPL Site Design, a copy of which has been exhibited to the Virginia Beach City Council and is on file with the Department of Planning & Community Development.

*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 part of the Rural Area. The vision for the Rural Area is for it to remain rural into the foreseeable future through a commitment to strong planning objectives that emphasize its agricultural and environmental economic value, in an effort to preserve the area for future generations. This includes directing new growth into the Urban and Suburban areas while reinforcing rural heritage and way of life, sustaining natural resources for future generations, and managing rural area development and design.

## Natural & Cultural Resources Impacts

The site is located in the Southern Rivers Watershed.

## Public Utility Impacts

### Water

City water is not available to the property. Health Department approval is required for a private well.

### Sewer

City sanitary sewer is not available to the property. Health Department approval is required for a septic system.

## Public Outreach Information

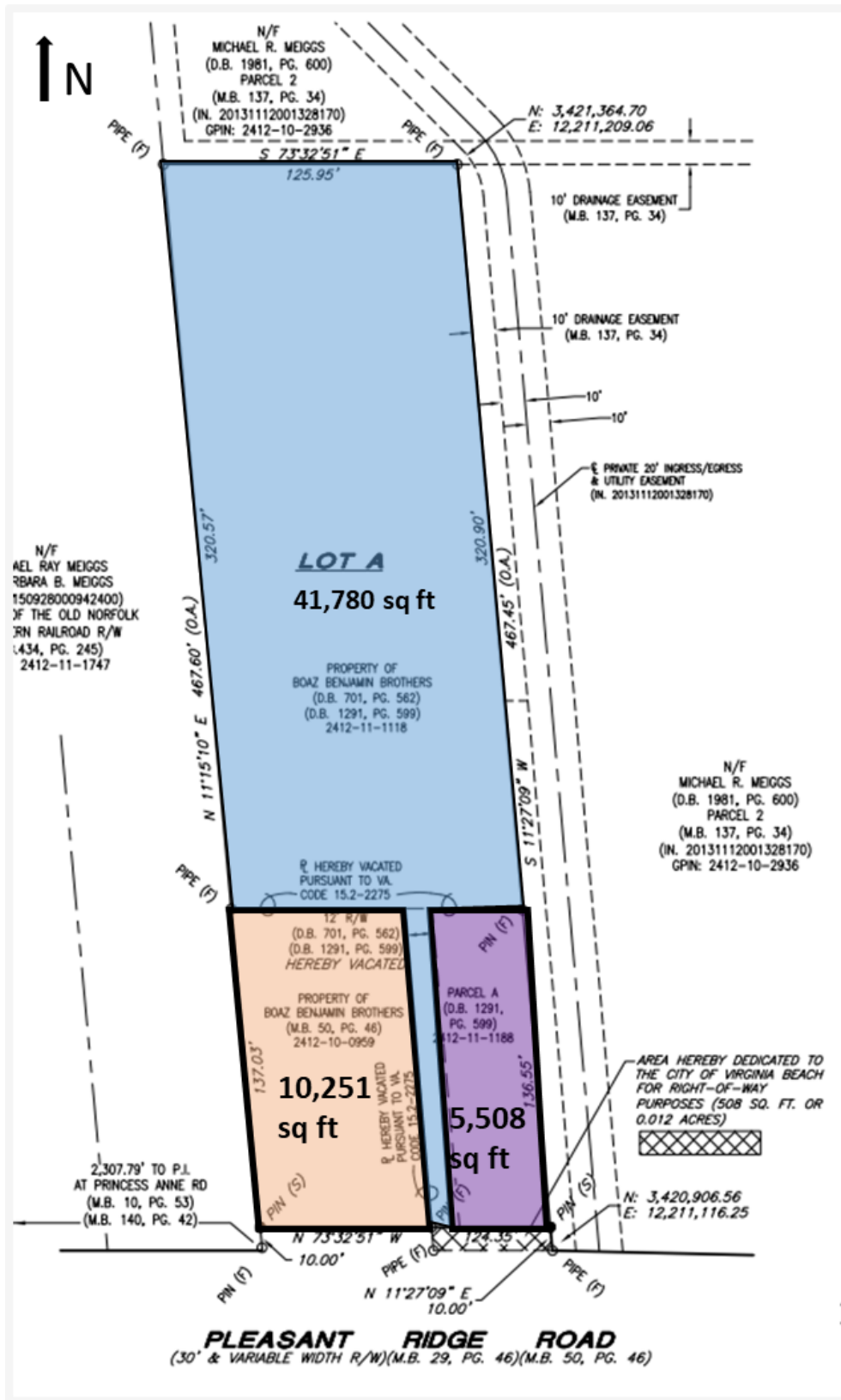
### Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on December 14, 2020.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, December 27, 2020 and January 3, 2021.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on December 28, 2020.

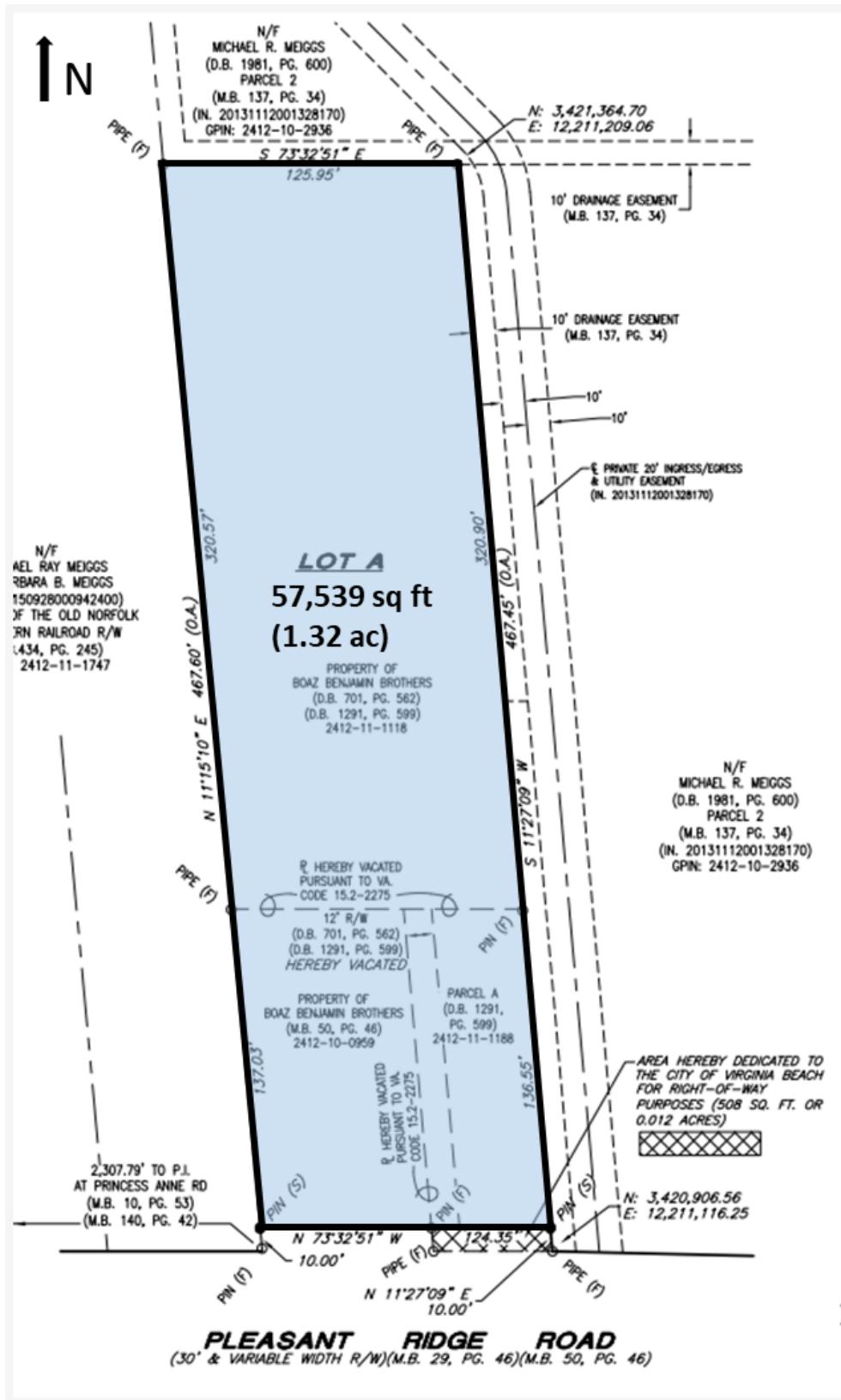
This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of [www.vbgov.com/pc](http://www.vbgov.com/pc) on January 7, 2021.



## Existing Site Layout



## Proposed Lot A



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** Boaz Benjamin Brothers

**Does the applicant have a representative?** ☐ Yes ☒ No

- If yes, list the name of the representative.

WPL - Eric Garner

**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)

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- If yes, list the businesses that have a parent-subsidiary<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the applicant. (Attach a list if necessary)

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<sup>1</sup> "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.

<sup>2</sup> "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



### 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.

Chase Bank

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 real estate broker/realtor.

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 or 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 or 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 construction contractor.

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 engineer/surveyor/agent.

WPL

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 name of the attorney or firm providing legal services.

### 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

Boaz Benjamin Brothers

Print Name and Title

10/13/2020

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

## Disclosure Statement

**Disclosure Statement**



### Owner Disclosure

Owner Name \_\_\_\_\_

Applicant Name Boaz Benjamin Brothers

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-subsidary<sup>3</sup> or affiliated business entity<sup>4</sup> 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?

\_\_\_\_\_

<sup>3</sup> "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



### 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.  

---
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 real estate broker/realtor.  

---
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 or 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 or 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 construction contractor.  

---
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 engineer/surveyor/agent.  

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## 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 name of the attorney or firm providing legal services.

### 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

BOAZ BROTHERS OWNER  
Print Name and Title

10/19/2020  
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.
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- 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.



**Request**

**Subdivision Variance** (Section 4.4(b & d) of the Subdivision Regulations)

**Staff Recommendation**

Approval

**Staff Planner**

Aubrey A. Trebilcock

**Location**

2888 Indian River Road

**GPIN**

14933480820000, 14934402160000

**Site Size**

2.20 acres

**AICUZ**

Less than 65 dB DNL

**Watershed**

Southern Rivers

**Existing Land Use and Zoning District**

Single-family dwelling, undeveloped Land / AG-1 Agricultural

**Surrounding Land Uses and Zoning Districts**

**North**

Single-family dwellings / PD-H1 Planned Unit Development

**South**

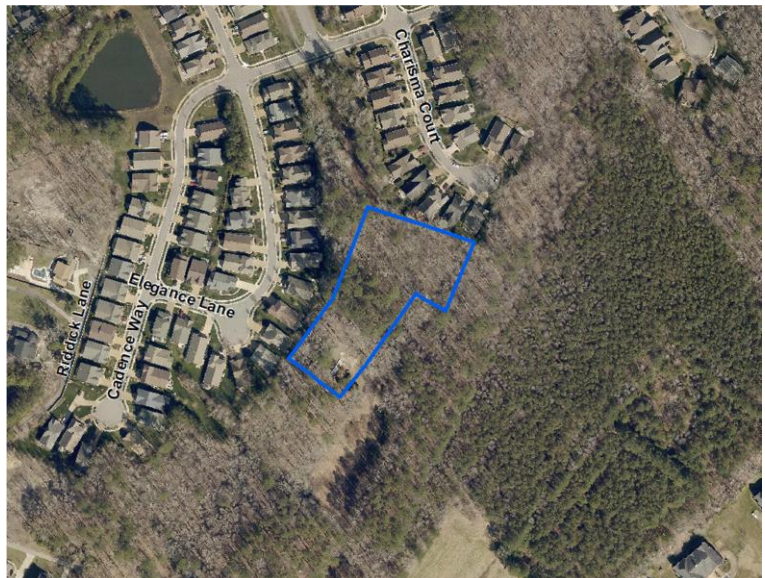
Undeveloped Land / AG-1 Agricultural

**East**

Undeveloped land / AG-1 Agricultural

**West**

Single-family dwellings / PD-H1 Planned Unit Development

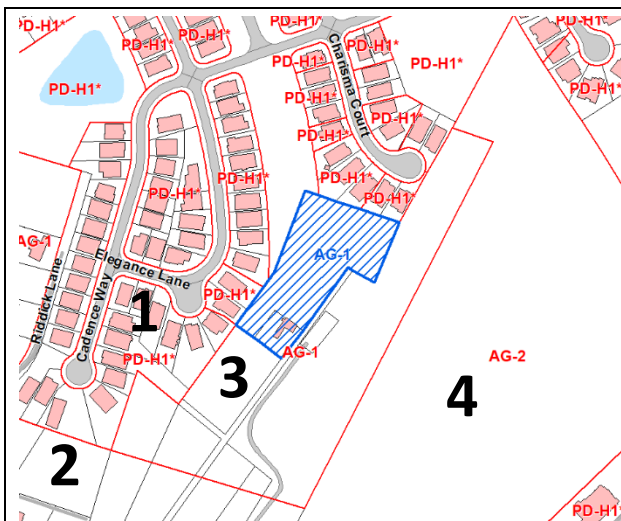




## Background & Summary of Proposal

- The applicant is proposing to reconfigure the property lines of the two parcels, one of which was created improperly.
- The two-acre parcel was legally subdivided by plat in Map Book 62, Page 43 in 1964. The 10,000 square foot parcel was improperly created by deed in Deed Book 691, Page 541 in 1961.
- The two subject parcels, which together measure 2.20 acres, are zoned AG-1 Agricultural Zoning District. The 10,000 square foot parcel formerly contained a single-family home, while the two-acre parcel is undeveloped.
- The proposal results in two parcels with square footages of approximately 52,000 (Parcel 4) and 44,000 (Parcel 5) along a private 15-foot wide private lane. Since neither lot will have direct access to a public street, as required by Section 4.4(d) of the Subdivision Regulations, a variance is required.
- Required Street Line Frontage is equal to 80% of the required Lot Width. The required Lot Width in the AG-1 Agricultural Zoning District is 150 feet, the required Street Line Frontage is equal to 120 feet. As neither lot will have direct access to a public street, their Street Line Frontage is measured as zero, and therefore also requires a variance to the Subdivision Regulations (Section 4.4[b]).

Proposed Lot	Required Street Line Frontage in AG-1 (feet)	Proposed Street Line Frontage (feet)	Required Lot Width (feet)	Proposed Lot Width (feet)	Required Lot Area (acre)	Proposed Lot Area (acre)
Parcel 4	120	0	150	260	1	1.19
Parcel 5	120	0	150	190	1	1.02



### Zoning History

#	Request
1	CUP (Planned Unit Development) Approved 05/11/1999 MOD Approved 05/13/2008
2	CRZ (AG-2 to Conditional B-2) Approved 07/07/2009
3	SVR Approved 09/15/2015
4	CUP (Funeral Home, Cemetery, Crematorium) Approved 03/09/1999

### Application Types

CUP – Conditional Use Permit  
 REZ – Rezoning  
 CRZ – Conditional Rezoning

MOD – Modification of Conditions or 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

Section 9.3 of the Subdivision Regulations states:

No variance shall be authorized by the Council unless it finds that:

- A. Strict application of the ordinance would produce undue hardship.
- B. The authorization of the variance will not be of substantial detriment to adjacent property, and the character of the neighborhood will not be adversely affected.
- C. The problem involved is not of so general or recurring a nature as to make reasonably practicable the formulation of general regulations to be adopted as an amendment to the ordinance.
- D. The hardship is created by the physical character of the property, including dimensions and topography, or by other extraordinary situation or condition of such property, or by the use or development of property immediately adjacent thereto. Personal or self-inflicted hardship shall not be considered as grounds for the issuance of a variance.
- E. The hardship is created by the requirements of the zoning district in which the property is located at the time the variance is authorized whenever such variance pertains to provisions of the Zoning Ordinance incorporated by reference in this ordinance.

The request to reconfigure the existing parcels will not increase the nonconformity of either lot and will result in both lots meeting the minimum lot area of the AG-1 Agricultural Zoning District. As no new parcels are to be created, this request would not increase residential density and would therefore be consistent with the recommendations of the Comprehensive Plan and the ITA and Vicinity Master Plan.

The parcels will still lack direct access to a public street and will need to maintain access via a private access easement over the 15-foot wide private lane to ensure continued access to Indian River Road.

The 10,000 square foot parcel was created by deed and was never properly established by plat. This is similar in circumstance to the property directly to the south, which was granted a Subdivision Variance to the same sections of the Subdivision Regulations in 2015. In its current form, the subject parcel is well short of the one acre minimum lot size of the AG-1 Zoning District. This proposal creates two parcels that will meet this requirement, where only one currently conforms.

As the proposal will allow for both lots to better meet the requirements of the Zoning Ordinance, while satisfying the recommendations of the Comprehensive Plan and ITA and Vicinity Master Plan, Staff is recommending approval subject to the conditions below.

## Recommended Conditions

1. The applicant/owner shall submit a subdivision plat to the City of Virginia Beach, subject to the review and approval of the Department of Planning & Community Development prior to recordation, which shall be in substantial conformance to the submitted plat exhibit entitled "Exhibit Showing Proposed Resubdivision of Property of Thomas A. Brown Known as 2888 Indian River Road and J.C. Davis Parcel 2 Ac. +/-", dated September 30, 2020, and prepared by Hayden Frye and Associates, Inc. Land Surveyors, a copy of which has been exhibited to the Virginia Beach City Council and is on file with the Department of Planning & Community Development.
2. Legal ingress/egress for Parcels 4 and 5 to Indian River Road via the private lane to be known as Lauren Lane shall be maintained at all time, through ingress/egress easement(s). The easement(s) shall include an all-weather surface for the 15' private lane to be installed and maintained. Said easement(s) shall be depicted on the final plat and recorded contemporaneously by deed.

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 this area as being within the South Princess Anne Commons, a subarea of Princess Anne Commons SEGA 4. South Princess Anne Commons lies within the Interfacility Traffic Area (ITA) between NAS Oceana and NALF Fentress, a designation that reduces by-right residential density, yet overall still offers a unique opportunity for education, entertainment, recreation, and habitat preservation, by-right rural residential, and agricultural and related activities. It is not the intent of this Plan for this area to become part of the urban area north of the Green Line. Instead, the general goals are for creation of quality development, provide for a planned mix of public and private uses, provide exceptional open spaces, and to design with nature. In addition to the Comprehensive Plan, the ITA and Vicinity Master Plan provides more detailed land use plan and recommendations for this area. The preferred land use plan designates this site as Agricultural/Rural Residential and calls for low density residential and agricultural farmettes.

## Natural & Cultural Resources Impacts

The site is located in the Southern Rivers Watershed. There are no known natural or cultural resources associated with the sites.

## Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Indian River Road	5,845 ADT <sup>1</sup>	15,000 ADT <sup>1</sup> (LOS <sup>4</sup> “D”)	Existing Land Use <sup>2</sup> – 10 ADT Proposed Land Use <sup>3</sup> – 20 ADT
<sup>1</sup> Average Daily Trips	<sup>2</sup> as defined by a Single Family Home	<sup>3</sup> as defined by 2 Single Family Homes	<sup>4</sup> LOS = Level of Service

## Master Transportation Plan (MTP) and Capital Improvement Program (CIP)

Indian River Rd is in the vicinity of this application and is considered a two-lane minor suburban arterial. The Master Transportation Plan proposes a divided facility within a 150 foot right-of-way for Indian River Rd. An undeveloped section of West Neck Parkway borders the subject properties. The Master Transportation Plan shows this section as a future expansion, but states that the alignment of West Neck Parkway (from North Landing Road to Indian River Road) has been moved to the area just west of Courthouse Estates and line it up with the north-south portion of Landstown Road (from North Landing Road to Landstown Road). There are no current plans to expand the roadway. No Capital Improvement Projects are slated for this area.

## Public Utility Impacts

## **Water**

City water is not readily available to the property. Health Department approval is required for private wells. A connection to City water may be possible via private easements.

## **Sewer**

City sanitary sewer is not readily available to the property. Health Department approval is required for septic systems. A connection to City sewer may be possible via private easements. Private grinder pumps and force main(s) may be an option.

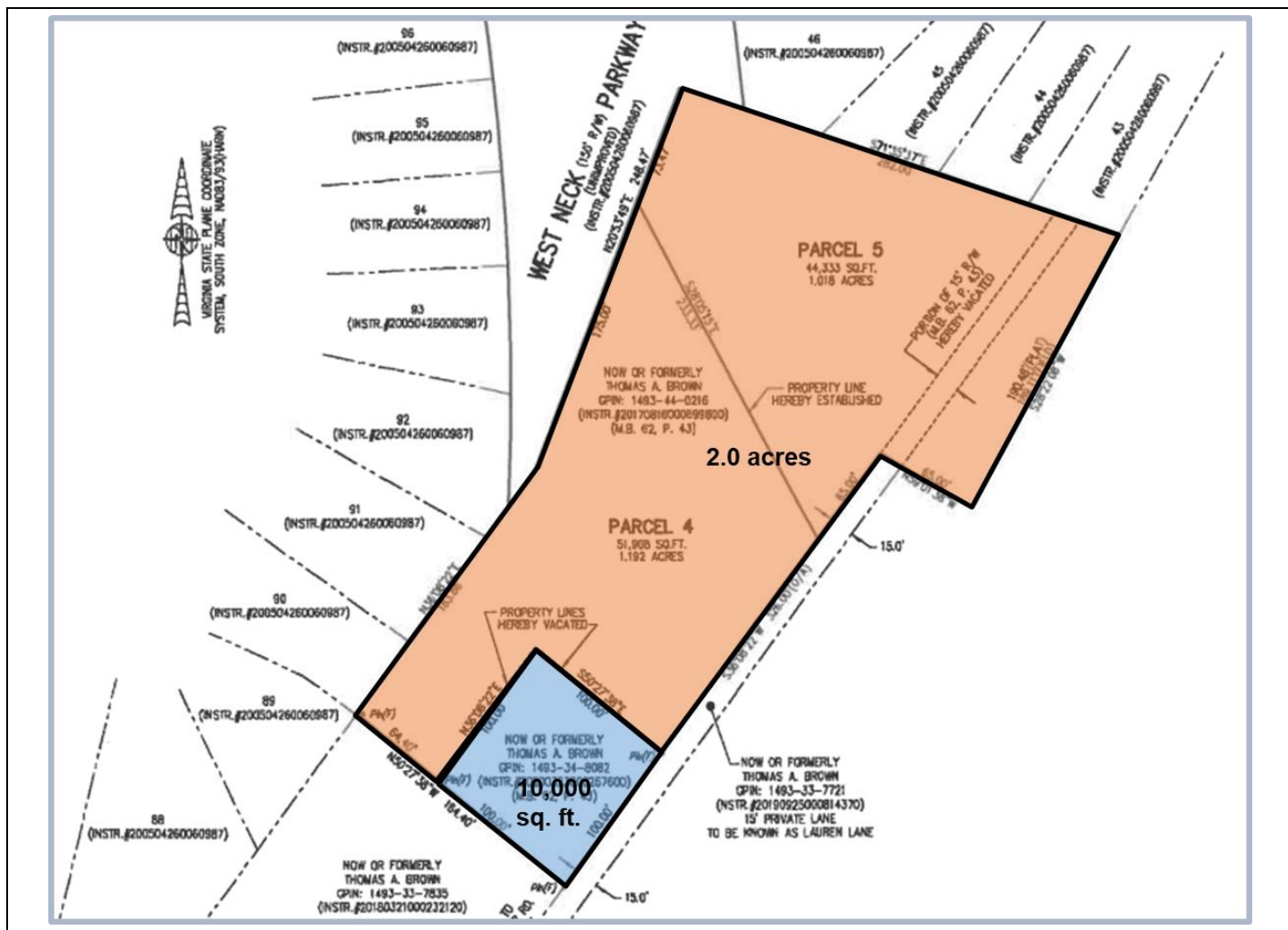
## **Public Outreach Information**

### **Planning Commission**

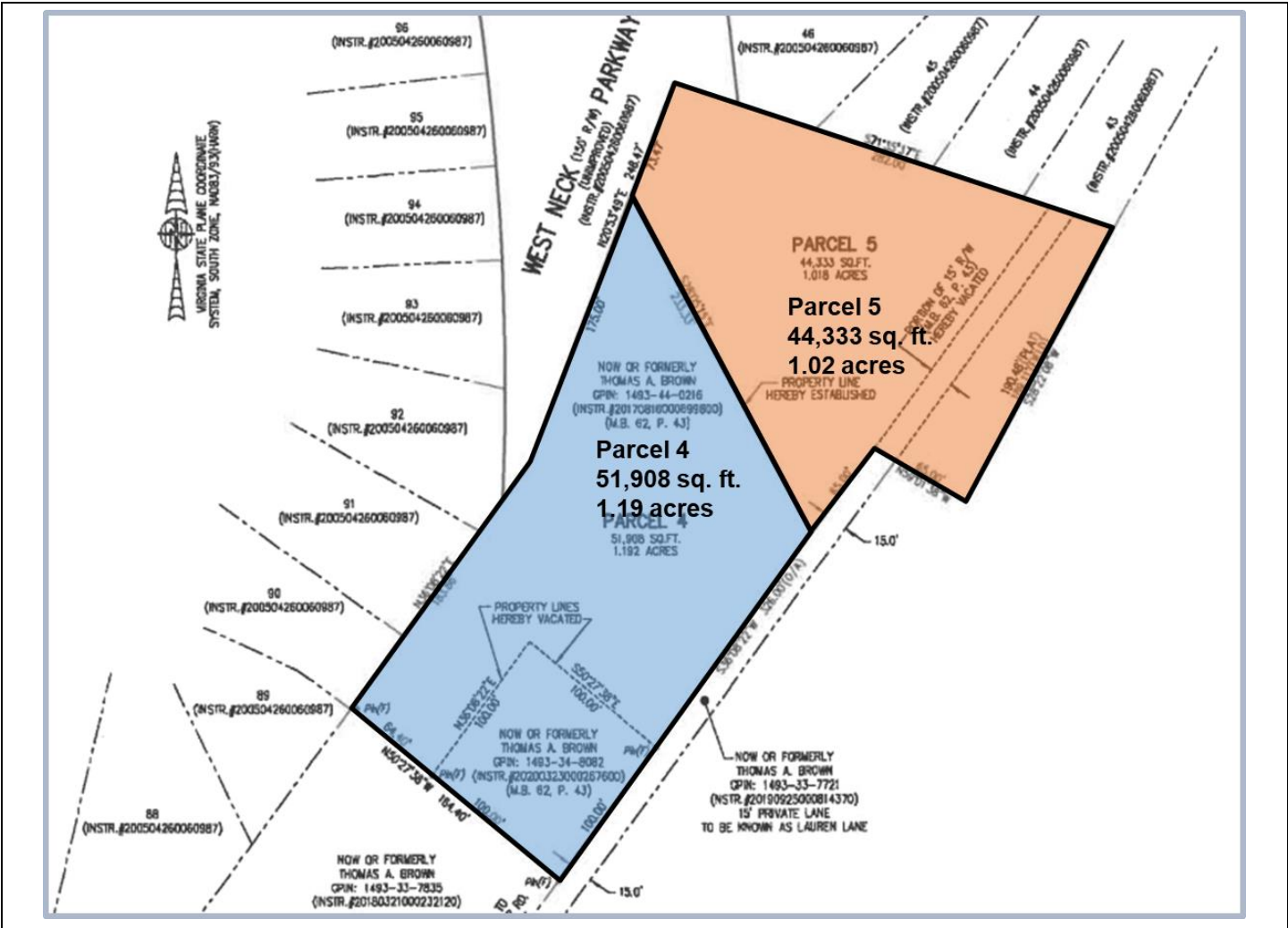
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on December 14, 2020.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, December 27, 2020 and January 3, 2021.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on December 28, 2020.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of [www.vbgov.com/pc](http://www.vbgov.com/pc) on January 7, 2021.



## Existing Lot Configuration

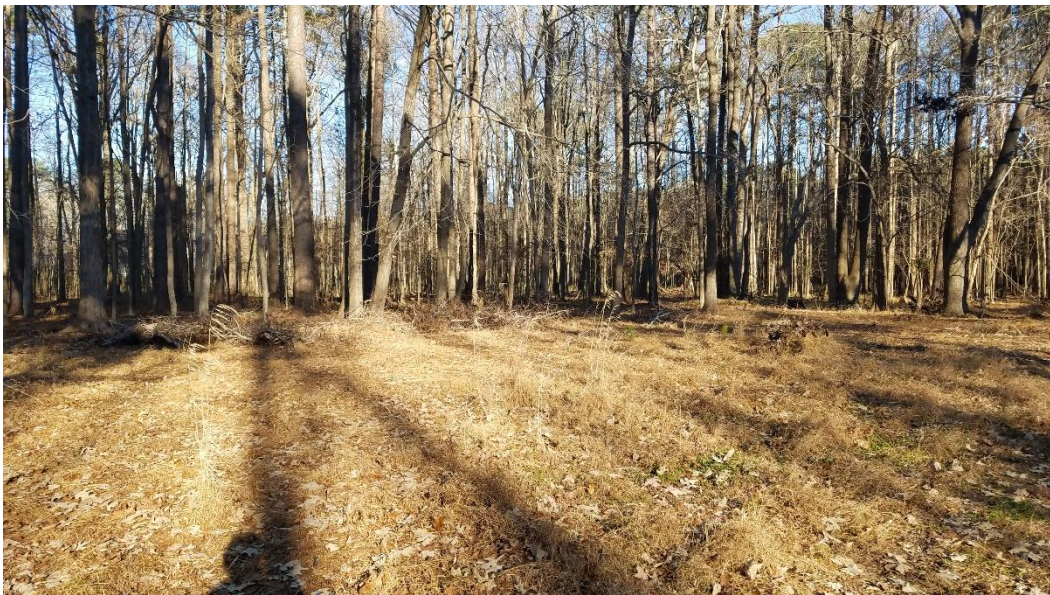


## Proposed Layout





## Site Photos





APPLICANT'S NAME THOMAS A. BROWN

## 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: THOMAS A. BROWN  
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)*

NA

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

NA

See next page for information pertaining to footnotes <sup>1</sup> and <sup>2</sup>

---

## 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: THOMAS A. BROWN  
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)*

NA

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

NA

<sup>1</sup> "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.

<sup>2</sup> "Affiliated business entity relationship" means "a relationship, other than parent-subsiary 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

ARE THE SAME



### 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	NA
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Architect / Landscape Architect / Land Planner	NA
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers	NA
<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)	NA
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Construction Contractors	NA
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Engineers / Surveyors/ Agents	Hayden Frye and Assoc., Inc.
<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)	Dominion Group Richmond, VA.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Legal Services	NA
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	Creed Realty

#### 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?

NA

## Disclosure Statement

**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.

	THOMAS A. BROWN	10/23/20
APPLICANT'S SIGNATURE / OWNER	PRINT NAME	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 757-385-8610.
- 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.

**Request**

**Conditional Use Permit** (Short Term Rental)

**Staff Recommendation**

Approval

**Staff Planner**

William Miller

**Location**

4814 Lake Drive

**GPIN**

15704190144814

**Site Size**

5,000 square feet

**Existing Land Use and Zoning District**

Duplex dwelling / R-5R Residential (Shore Drive Overlay)

**Surrounding Land Uses and Zoning Districts**

**North**

Zivo Court

Single-family dwellings / R-5R Residential (Shore Drive Overlay)

**South**

Lake Drive

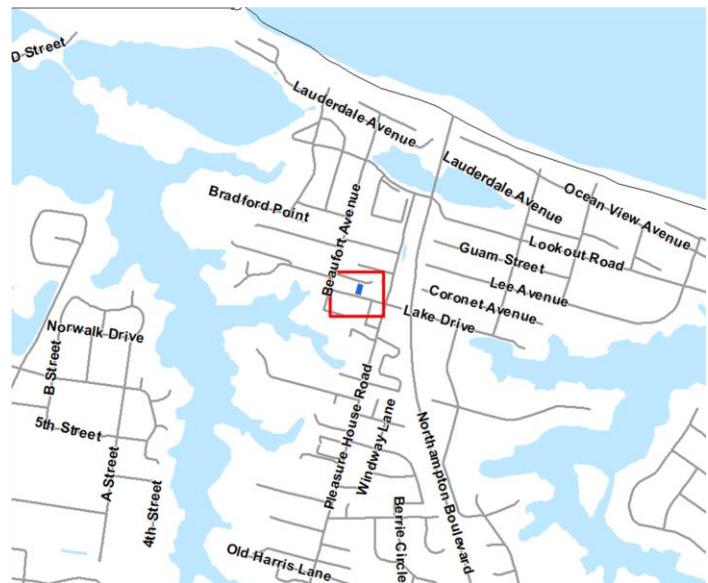
Duplex dwellings / R-5R Residential (Shore Drive Overlay)

**East**

Duplex dwelling / R-5R Residential (Shore Drive Overlay)

**West**

Semi-detached dwellings / R-5R Residential (Shore Drive Overlay)

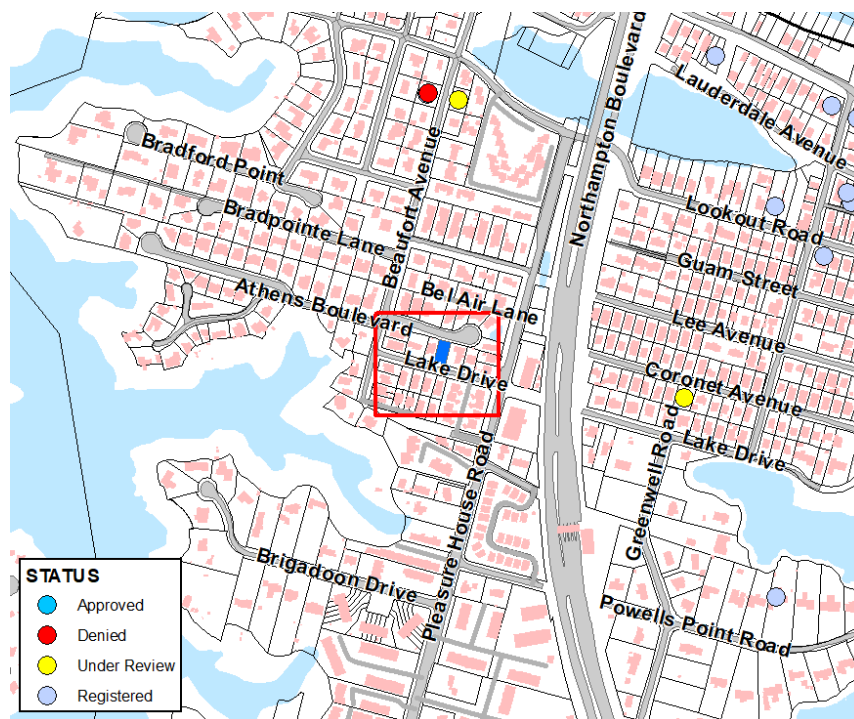


## Background & Summary of Proposal

### Site Conditions and History

- This 5,000 square foot lot is located within the R-5R(SD) Residential District and contains one duplex building. Both units are owned by the applicant; however, he is only requesting the Conditional Use Permit for 4814 Lake Drive.
- According to City records, this home was constructed in 1993.
- As per City records, the subject dwelling contains two bedrooms.
- Staff inspected the site on November 17, 2020 to observe site conditions and take photographs for this report.
- On-street parking is not permitted on this portion of Lake Drive.
- No records of zoning violations relating to Short Term Rental use were found associated with the subject address.
- The applicant accepts City Council's recently imposed conditions reducing the number of bookings in a seven day period to one and limiting the overnight guest calculation to two per bedroom.

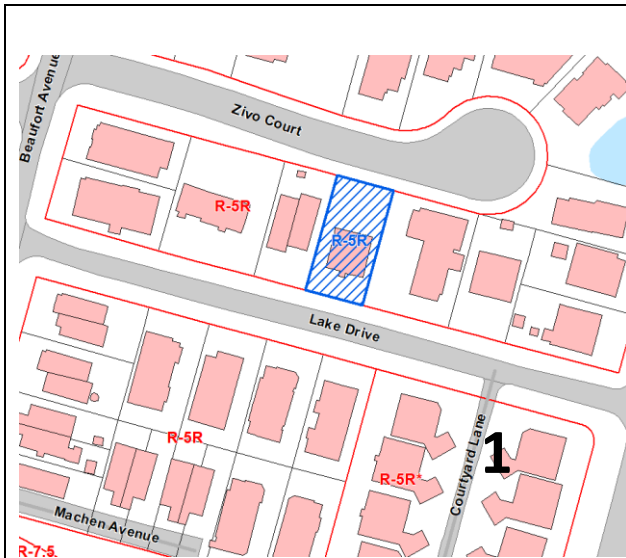
#### *Short Term Rentals in the Vicinity*



### 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: 2
- Maximum number of guests permitted on the property after 11:00 pm: 4 - As recommended in condition #15
- Number of parking spaces required (1 space per bedroom required): 2
- Number of parking spaces provided on-site: 2



### Zoning History

#	Request
1	REZ (B-2 to R-5R(PDH2) for eight single-family condominium dwelling units) Approved 11/23/1999

### Application Types

CUP – Conditional Use Permit	MOD – Modification of Conditions or Proffers	FVR – Floodplain Variance	LUP – Land Use Plan
REZ – Rezoning	NON – Nonconforming Use	ALT – Alternative Compliance	STR – Short Term Rental
CRZ – Conditional Rezoning	STC – Street Closure	SVR – Subdivision Variance	

## Evaluation & Recommendation

This site is located within the Chesapeake Beach subdivision, which is home to a myriad of dwelling types, including, but not limited to, single-family, duplex, and multi-family. The subject lot is zoned R-5R duplex district and falls in the Shore Drive Overlay. In addition, the site lies approximately 2,100 feet, or .39 miles, from the public beach of the Chesapeake Bay. For clarity, the applicant owns both dwelling units in this duplex building; however, he is only requested a Conditional Use Permit for the subject address. The applicant's parking plan depicts two required off-street parking spaces within the existing driveway, which meets Section 241.2(1) of the City Zoning Ordinance. Furthermore, the requirements of Section 241.2 of the Zoning Ordinance pertaining to Short Term Rentals can be reasonably met by the applicant.

Based on the considerations above, Staff recommends approval of this request with the conditions listed below; however, the recommended conditions do reflect City Council's Short Term Rental revisions by reducing the number of bookings in a seven day period to one and limiting the overnight guest calculation to two per bedroom.



## Recommended Conditions

1. The following conditions shall only apply to the dwelling unit addressed as 4814 Lake Drive and the Short Term Rental use shall only occur in the principal structure.
2. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.
3. 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.
4. 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 (8a).
5. 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. Physical response to the site of the Short Term Rental is not required.
6. 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 registration form; 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.
7. 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.
8. 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.
9. 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.
10. Accessory structures shall not be used or occupied as Short Term Rentals.
11. No signage shall be on-site, except one (1), four (4) square foot sign, may be posted on the building which identifies the Short Term Rental.
12. The Short Term Rental shall have no more than one (1) rental contract during any consecutive seven (7) day period.
13. 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.

14. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
15. 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.
16. To the extent permissible under state law, interconnected smoke detectors (which may be wireless), a fire extinguisher and, where natural gas or propane is present, carbon monoxide detectors, shall be installed in each Short Term Rental.

*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.*

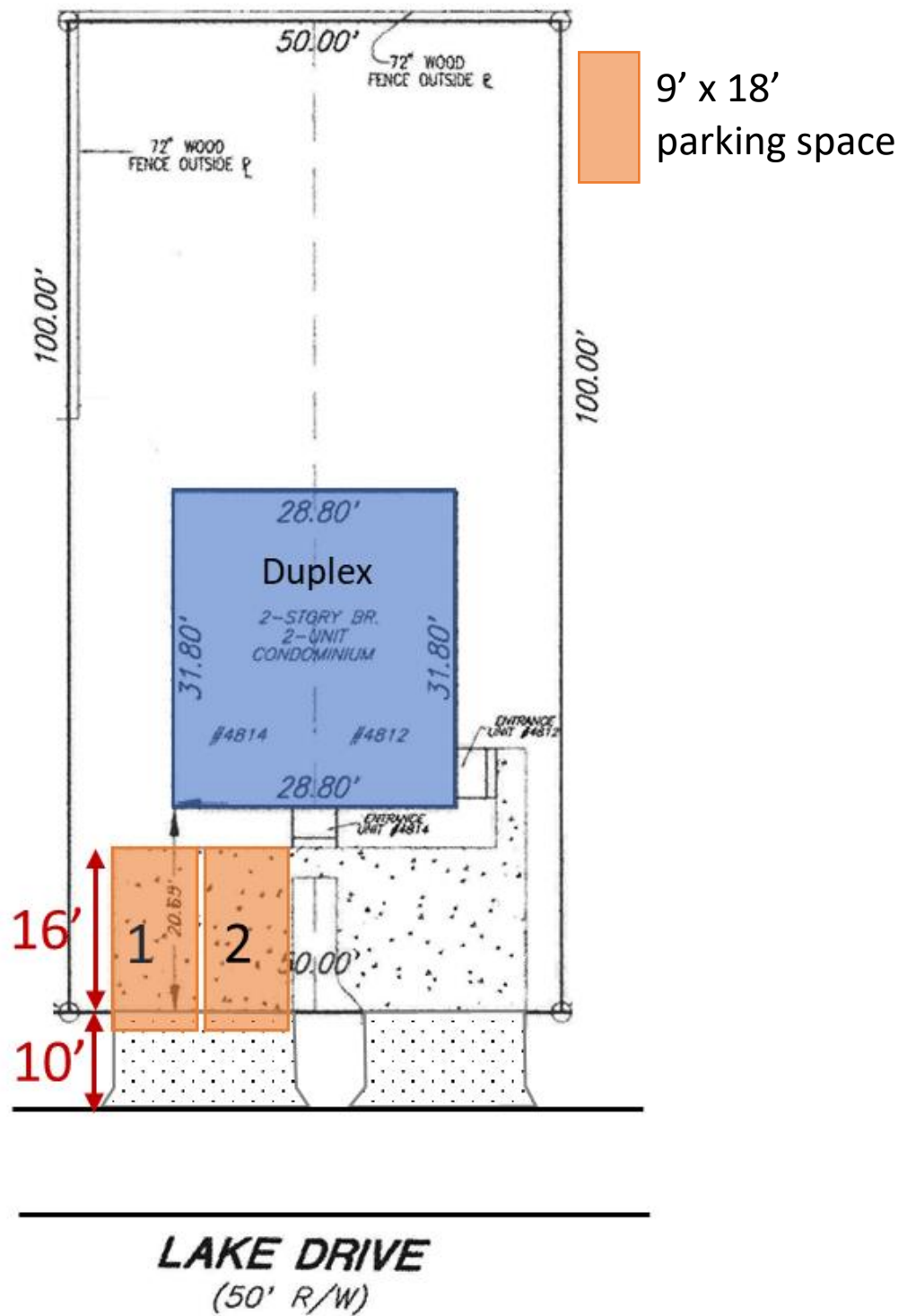
*The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.*

## Public Outreach Information

### Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on December 14, 2020.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, December 27, 2020, and January 3, 2021.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on December 28, 2020.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of [www.vbgov.com/pc](http://www.vbgov.com/pc) on January 7, 2021.

Site Layout & Parking Plan





Site Photos

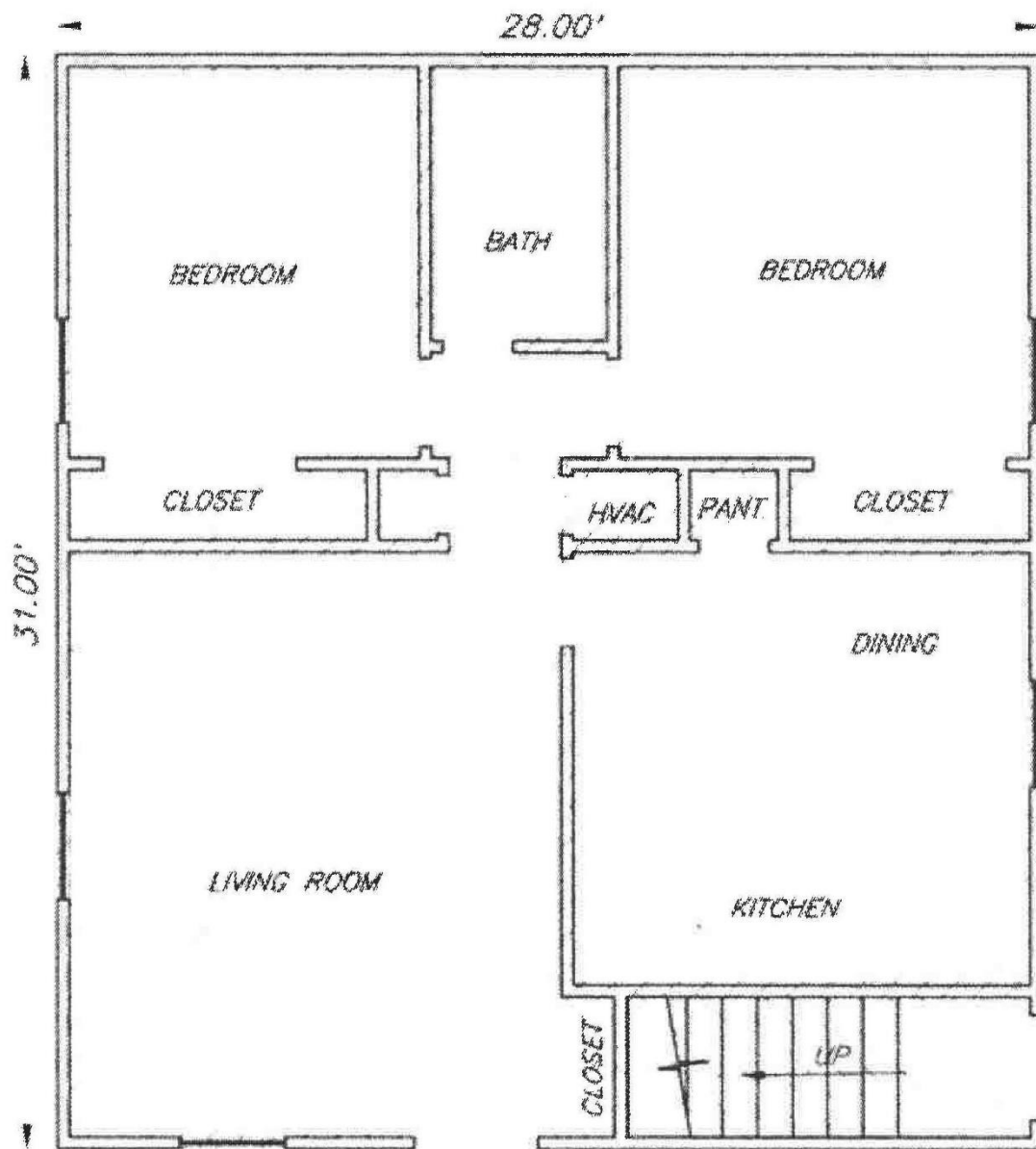




Site Photos



Floor Plan

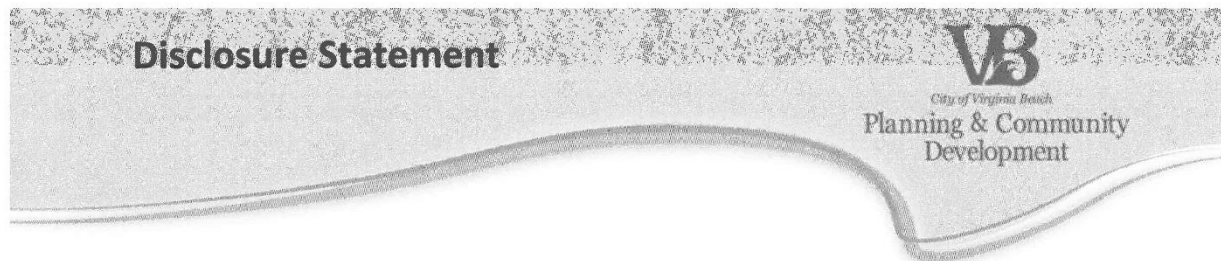


**FIRST FLOOR PLAN**

SCALE: 1" = 4'



## 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 Jonathan West

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-subsidary<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the applicant. (Attach a list if necessary)

<sup>1</sup> "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.

<sup>2</sup> "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.



### 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.

*Penny Mac Primary 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 real estate broker/realtor.

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 or individual providing the service.

*Frank Stahl CPA*

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 or 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 construction contractor.

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 engineer/surveyor/agent.

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 name of the attorney or firm providing legal services.

### 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

*Jonathan West*  
Jonathan West owner

Print Name and Title

10-7-20

Date

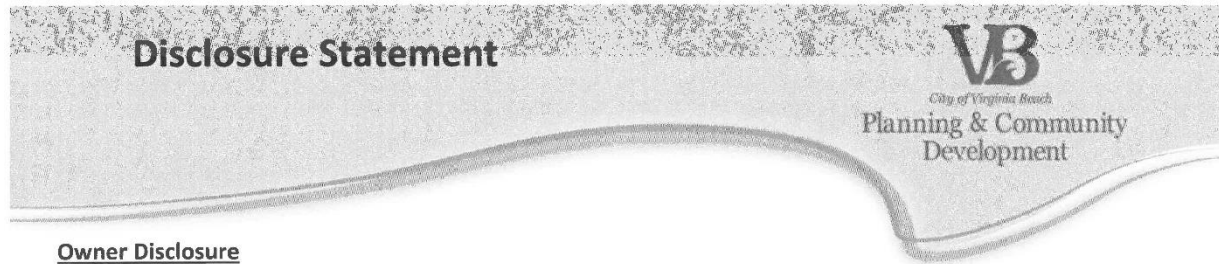
- Is the applicant also the owner of the subject property? ☒ Yes ☐ No

- 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	

## Disclosure Statement



### Owner Disclosure

Owner Name Jonathan West

Applicant Name Jonathan West

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)

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- If yes, list the businesses that have a parent-subsidary<sup>3</sup> or affiliated business entity<sup>4</sup> relationship with the Owner. (Attach a list if necessary)

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### 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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<sup>3</sup> "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.

<sup>4</sup> "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.

*Penny mac primary mortgage*

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 real estate broker/realtor.

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 or individual providing the service.

*Frank Stahl C.P.A.*

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 or 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 construction contractor.

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 engineer/surveyor/agent.

## 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 name of the attorney or firm providing legal services.

#### 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.**

Jonathan West  
Owner Signature

Jonathan West owner  
Print Name and Title

10-7-20  
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 757-385-8610.
- 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.

**Request**

**Conditional Use Permit** (Short Term Rental)

**Staff Recommendation**

Approval

**Staff Planner**

William Miller

**Location**

113 55th Street, Unit A

**GPIN**

24198034800001

**Site Size**

6,625 square feet

**Existing Land Use and Zoning District**

Duplex dwelling / R-5R Residential (North End)

**Surrounding Land Uses and Zoning Districts**

**North**

55<sup>th</sup> ½ Street (alley)

Duplex dwellings / R-5R Residential (North End)

**South**

55th Street

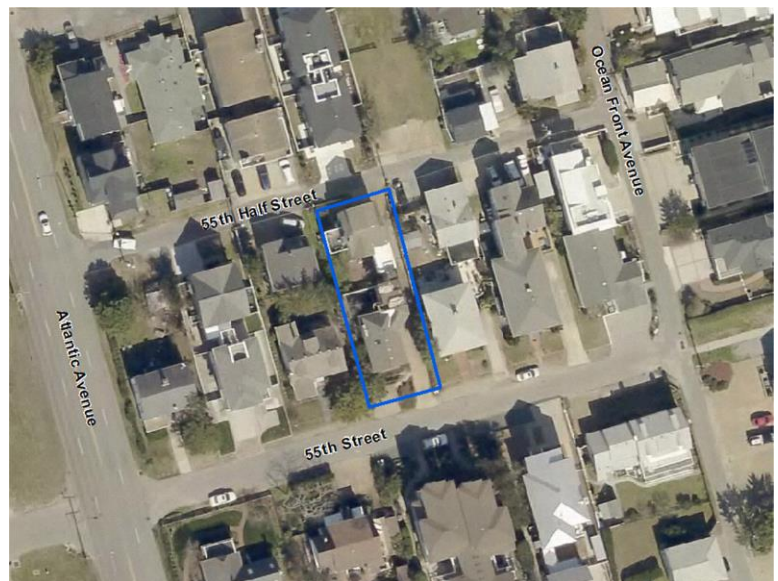
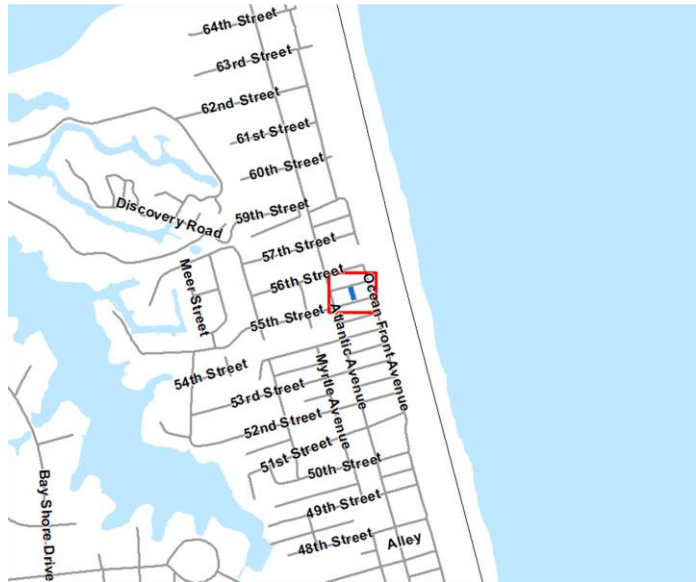
Duplex dwellings / R-5R Residential (North End)

**East**

Duplex dwellings / R-5R Residential (North End)

**West**

Duplex dwellings / R-5R Residential (North End)

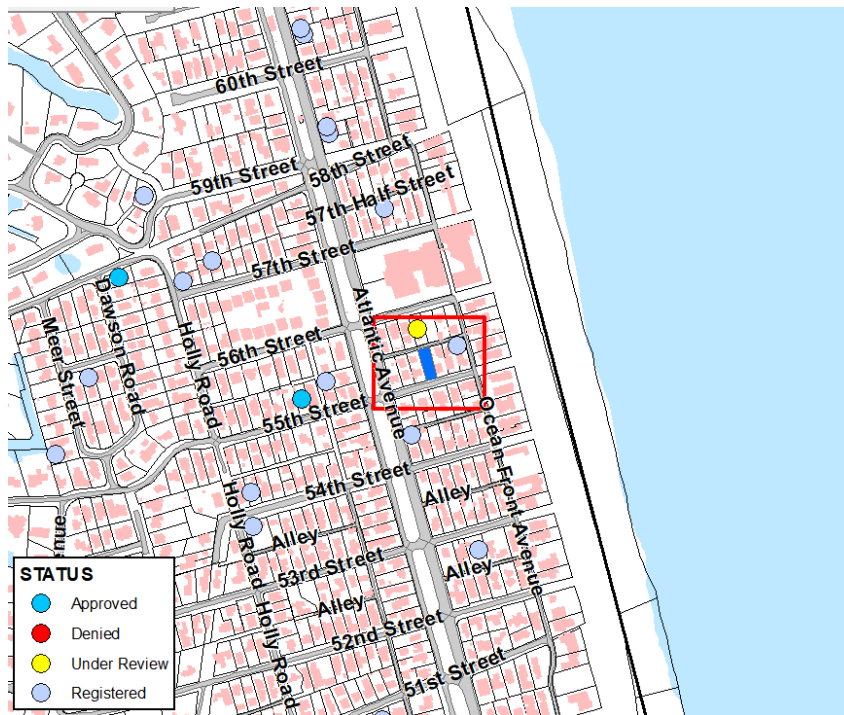


## Background & Summary of Proposal

### Site Conditions and History

- This 6,625 square foot lot is zoned R-5R(NE) Residential District and contains one duplex building built in 1989.
- According to City records, this application is for a three-bedroom unit in the duplex.
- Staff inspected the site on November 17, 2020 to observe site conditions and take photographs for this report.
- Parallel parking in the City right-of-way is permitted 24-hours per day; therefore, any overflow parking beyond the minimum parking spaces required could occur within the public right-of-way.
- No records of zoning violations relating to Short Term Rental use were found associated with the subject address.
- The applicant accepts City Council's recently imposed conditions reducing the number of bookings in a seven day period to one and limiting the overnight guest calculation to two per bedroom.

#### *Short Term Rentals in the Vicinity*

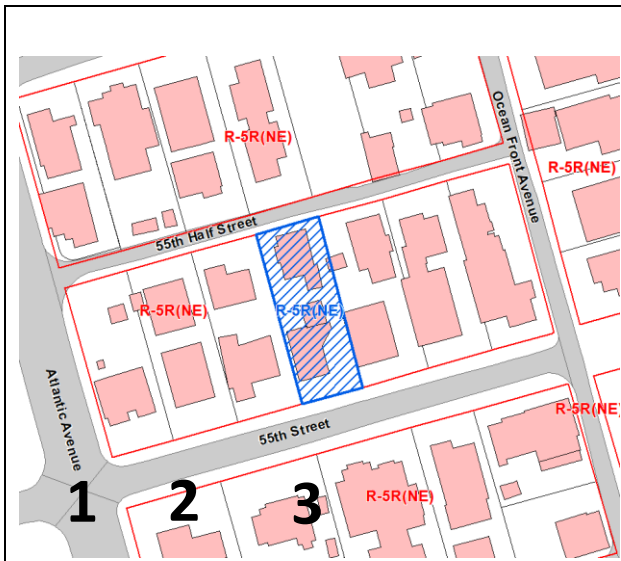


### Summary of Proposal

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: 3
- Maximum number of guests permitted on the property after 11:00 pm: 6 - As recommended in condition #15

- Number of parking spaces required (1 space per bedroom required): 3
- Number of parking spaces provided on-site: 3



### Zoning History

#	Request
1	SVR (Lots 1A and 1B created/reduced width for Lot 1A) Approved 03/20/2018
2	NON (Enlargement/Room addition) Approved 08/15/2017
3	NON (Enlargement/Room addition) Approved 05/16/2017

### Application Types

CUP – Conditional Use Permit  
 REZ – Rezoning  
 CRZ – Conditional Rezoning

MOD – Modification of Conditions or 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

This site is located within the North End community, which is primarily home to single-family and duplex style dwellings. The subject is approximately 350 feet from the public beach of the Atlantic Ocean and is within easy biking distance to the oceanfront boardwalk and other resort venues. The applicant's parking plan depicts all three required off-street parking spaces within the existing driveway, which meets the requirements of Section 241.2(1) of the City Zoning Ordinance. In addition, the requirements of Section 241.2 of the Zoning Ordinance pertaining to Short Term Rentals can be reasonably met by the applicant.

Based on the considerations above, Staff recommends approval of this request with the conditions listed below. The recommended conditions do reflect City Council's Short Term Rental revisions by reducing the number of bookings in a seven day period to one and limiting the overnight guest calculation to two per bedroom.

## Recommended Conditions

1. The following conditions shall only apply to the dwelling unit addressed as 113 55<sup>th</sup> Street, Unit A, and the Short Term Rental use shall only occur in the principal structure.
2. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.
3. 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.

4. 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 (8a).
5. 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. Physical response to the site of the Short Term Rental is not required.
6. 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 registration form; 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.
7. 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.
8. 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.
9. 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.
10. Accessory structures shall not be used or occupied as Short Term Rentals.
11. No signage shall be on-site, except one (1), four (4) square foot sign, may be posted on the building which identifies the Short Term Rental.
12. The Short Term Rental shall have no more than one (1) rental contract during any consecutive seven (7) day period.
13. 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.
14. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
15. 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.
16. To the extent permissible under state law, interconnected smoke detectors (which may be wireless), a fire extinguisher and, where natural gas or propane is present, carbon monoxide detectors, shall be installed in each Short Term Rental.

*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.*

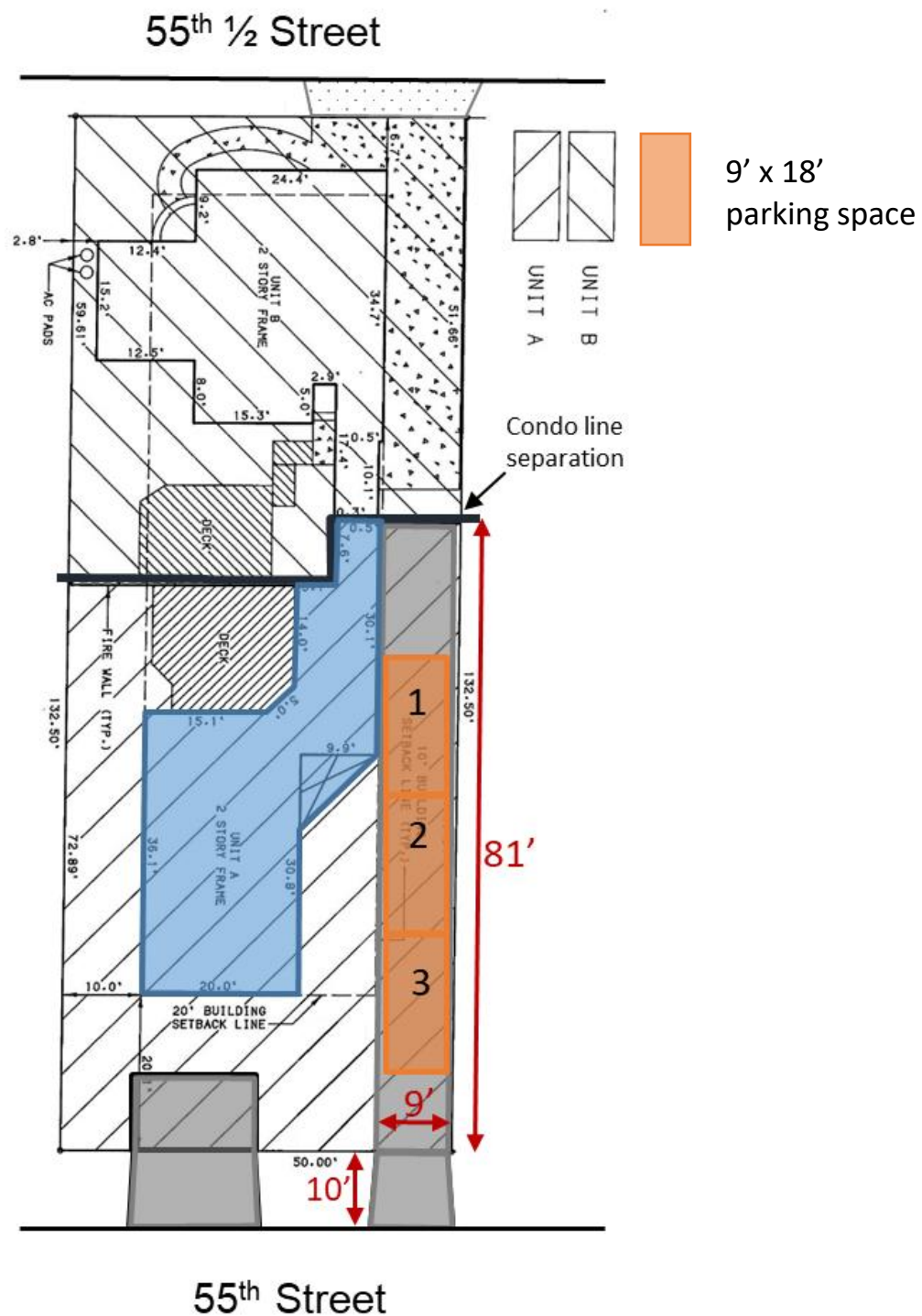
*The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.*

## **Public Outreach Information**

### **Planning Commission**

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on December 14, 2020.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, December 27, 2020, and January 3, 2021.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on December 28, 2020.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of [www.vbgov.com/pc](http://www.vbgov.com/pc) on January 7, 2021.

## Site Layout & Parking Plan



Site Photos





Site Photos





**APPLICANT'S NAME** Alfred Nicholl

## **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:

<b>Acquisition of Property by City</b>	<b>Disposition of City Property</b>	<b>Modification of Conditions or Proffers</b>
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



- ☒ 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: ALFRED NICOLL  
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-subsiary <sup>1</sup> or affiliated business entity <sup>2</sup> relationship with the Applicant: *(Attach list if necessary)*

N/A

See next page for information pertaining to footnotes <sup>1</sup> and <sup>2</sup>

## 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-subsidary <sup>1</sup> or affiliated business entity <sup>2</sup> relationship with the Property Owner: *(Attach list if necessary)*

<sup>1</sup> "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.

<sup>2</sup> "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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### 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 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)	CALIBER HOME LOANS
<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?

## Disclosure Statement

**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.

	ALFRED NICOLL	6/15/2020
APPLICANT'S SIGNATURE	PRINT NAME	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 757-385-8610.
- 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.

**Request**

**Conditional Use Permit** (Short Term Rental)

**Staff Recommendation**

Approval

**Staff Planner**

Summer Peebles

**Location**

1361 Goose Landing

**GPIN**

2417622261

**Site Size**

2,433 square feet

**Existing Land Use and Zoning District**

Townhouse / A-12 Apartment

**Surrounding Land Uses and Zoning Districts**

**North**

Goose Landing

Townhouses / A-12 Apartment

**South**

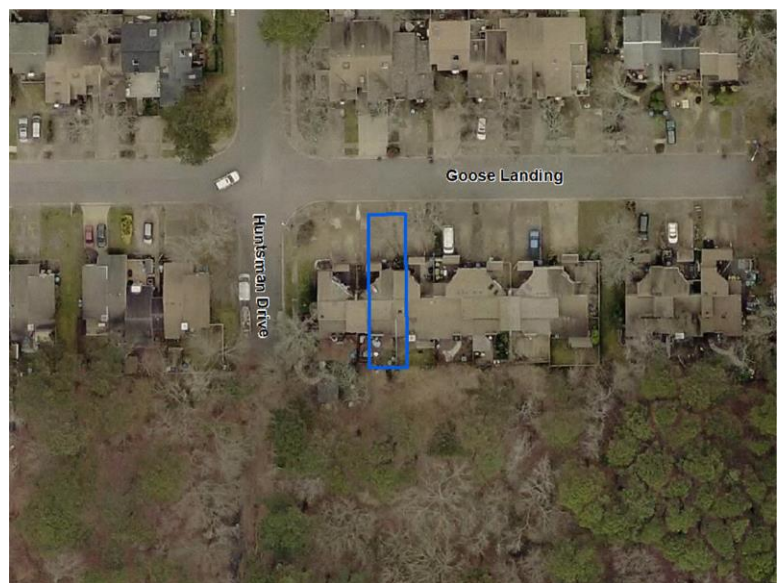
Marshview Park / P-1 Preservation

**East**

Townhouses / A-12 Apartment

**West**

Townhouses / A-12 Apartment



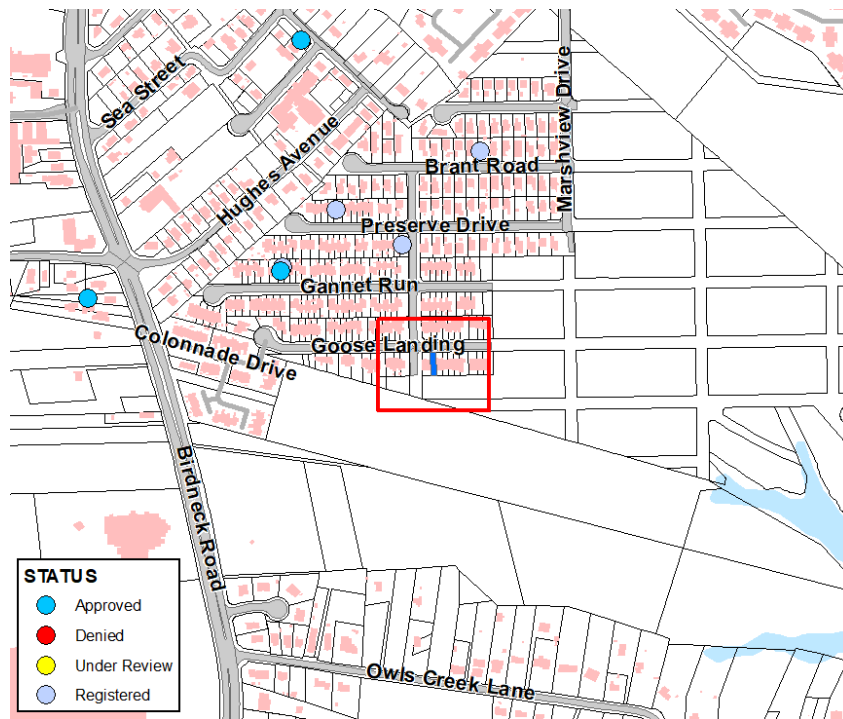


## Background & Summary of Proposal

### Site Conditions and History

- This is a 2,433 square foot parcel is located within the A-12 Apartment District.
- The subject dwelling was constructed in 1984.
- Staff inspected the site on November 17, 2020 to observe site conditions and take photographs for this report.
- 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.
- The applicant accepts City Council's recently imposed conditions reducing the number of bookings in a seven-day period to one and limiting the overnight guest calculation to two per bedroom.

#### *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: 2
- Maximum number of guests permitted on the property after 11:00 pm: 4 - As recommended in condition 15
- Number of parking spaces required (1 space per bedroom required): 2

- Number of parking spaces provided on-site: 2



### Zoning History

#	Request
1	NON (Enclose a front patio) Approved 06/23/2009

### Application Types

CUP – Conditional Use Permit	MOD – Modification of Conditions or Proffers	FVR – Floodplain Variance	LUP – Land Use Plan
REZ – Rezoning	NON – Nonconforming Use	ALT – Alternative Compliance	STR – Short Term Rental
CRZ – Conditional Rezoning	STC – Street Closure	SVR – Subdivision Variance	

## Evaluation & Recommendation

This property is located within the Salt Marsh Point subdivision. This townhouse contains two bedrooms and requires two off-street parking spaces. The proposed parking plan shows both parking spaces within the driveway in front of the unit, which meet the requirements of Section 241.2(1) of the City Zoning Ordinance (CZO). Furthermore, the remaining requirements of Section 241.2 of the City Zoning Ordinance pertaining to Short Term Rentals can be reasonably met by the applicant.

Based on the considerations above, Staff recommends approval of this request with the conditions listed below. The recommended conditions do reflect City Council's Short Term Rental revisions by reducing the number of bookings in a seven day period to one and limiting the overnight guest calculation to two per bedroom.

## Recommended Conditions

1. The following conditions shall only apply to the dwelling unit addressed as 1361 Goose Landing, and the Short Term Rental use shall only occur in the principal structure.
2. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.
3. 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.

4. 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 (8a).
5. 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. Physical response to the site of the Short Term Rental is not required.
6. 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 registration form; 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.
7. 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.
8. 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.
9. 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.
10. Accessory structures shall not be used or occupied as Short Term Rentals.
11. No signage shall be on-site, except one (1), four (4) square foot sign, may be posted on the building which identifies the Short Term Rental.
12. The Short Term Rental shall have no more than one (1) rental contract during any consecutive seven (7) day period.
13. 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.
14. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
15. 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.
16. To the extent permissible under state law, interconnected smoke detectors (which may be wireless), a fire extinguisher and, where natural gas or propane is present, carbon monoxide detectors, shall be installed in each Short Term Rental.

*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.*

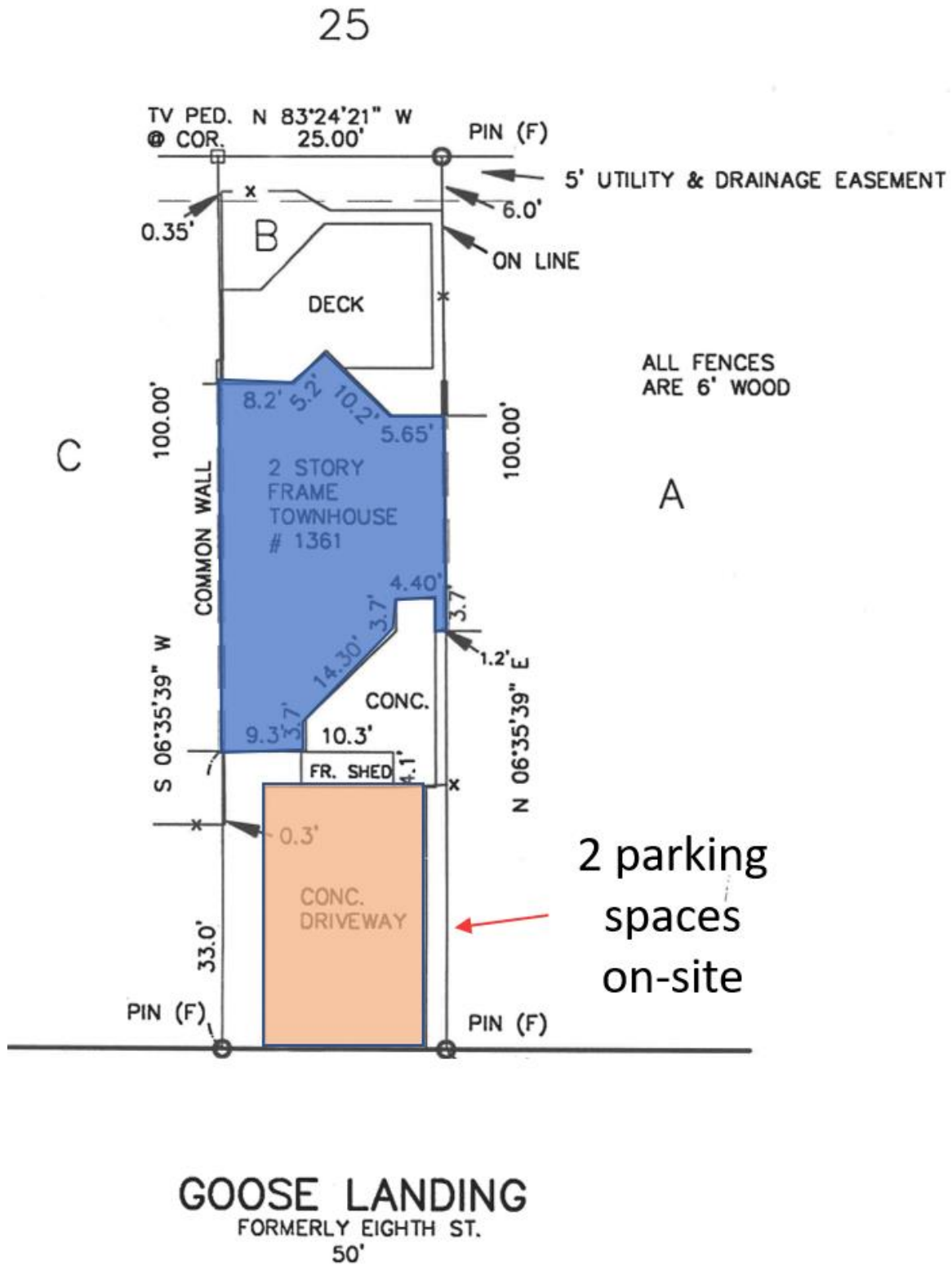
## Public Outreach Information

### Planning Commission

- As required by the Zoning Ordinance, the public notice signs were placed on the property on or before December 14, 2020.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, December 27, 2020, and January 3, 2021.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on December 28, 2020.
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# Site Layout & Parking Plan



## 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 Karen and Joe Allen

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-subsidary<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the applicant. (Attach a list if necessary)

<sup>1</sup> "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.

<sup>2</sup> "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.

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 real estate broker/realtor.

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 or 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 or 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 construction contractor.
- 
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 engineer/surveyor/agent.
- 
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 name of the attorney or firm providing legal services.
- 

#### 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.

Karen Allen / Joe Allen  
Applicant Signature

Karen Allen / Joe Allen  
Print Name and Title

10/15/20  
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	

## Disclosure Statement

### Disclosure Statement



#### Owner Disclosure

Owner Name Old Hickory Investments

Applicant Name Karen and Joe Allen

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)

Karen and Joe Allen

- If yes, list the businesses that have a parent-subsidary<sup>3</sup> or affiliated business entity<sup>4</sup> 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?

<sup>3</sup> "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



#### 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.

---
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 real estate broker/realtor.

---
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  
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---
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  - If **yes**, identify the firm or 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.

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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 construction contractor.

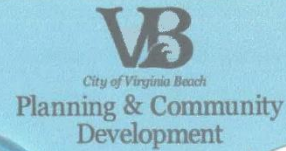
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7. Does the Owner have an **engineer/surveyor/agent** in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No  
  - If **yes**, identify the engineer/surveyor/agent.

---



## 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 name of the attorney or firm providing legal services.

#### 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.

Karen Allen / Joe Allen  
Owner Signature

Karen Allen / Joe Allen - owner  
Print Name and Title

10/15/20  
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 757-385-8610.
- 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.



**Request**

**Conditional Use Permit** (Short Term Rental)

**Staff Recommendation**

Approval

**Staff Planner**

Summer Peebles

**Location**

619 25th Street

**GPIN**

2417898644

**Site Size**

8,400 square feet

**Existing Land Use and Zoning District**

Single-family dwelling / R-5S Residential (Old Beach Overlay)

**Surrounding Land Uses and Zoning Districts**

**North**

Unimproved Alley

Duplexes / R-5S Residential

**South**

25th Street

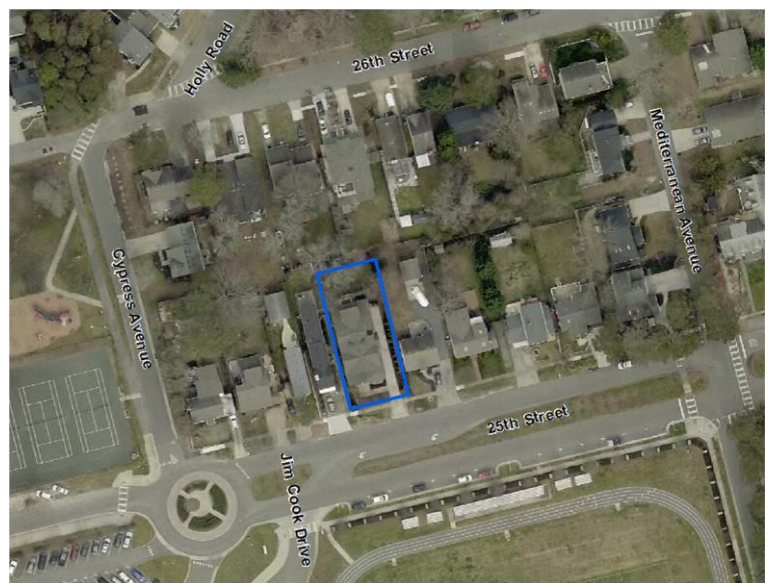
Virginia Beach Middle School / R-5S Residential

**East**

Single-family dwellings / R-5S Residential

**West**

Single-family dwellings / R-5S Residential



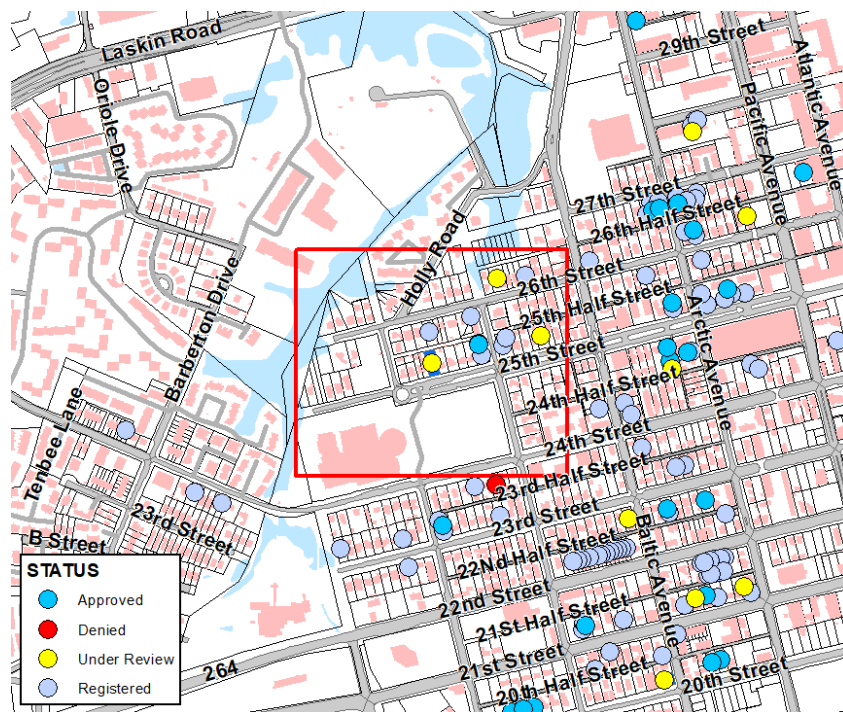


## Background & Summary of Proposal

### Site Conditions and History

- This 8,400 square foot parcel is zoned R-5S Residential and Old Beach Overlay Districts.
- The subject dwelling was constructed in 2007.
- Staff inspected the site on November 17, 2020 to observe site conditions and take photographs for this report.
- The property lies within the RPPP boundary, where parking during the evening and overnight hours is limited. Based on this, a condition is recommended that would prohibit the occupants of the STR from parking in the street during the restricted hours.
- The applicant accepts City Council's recently imposed conditions reducing the number of bookings in a seven-day period to one and limiting the overnight guest calculation to two per bedroom.

### Short Term Rentals in the Vicinity

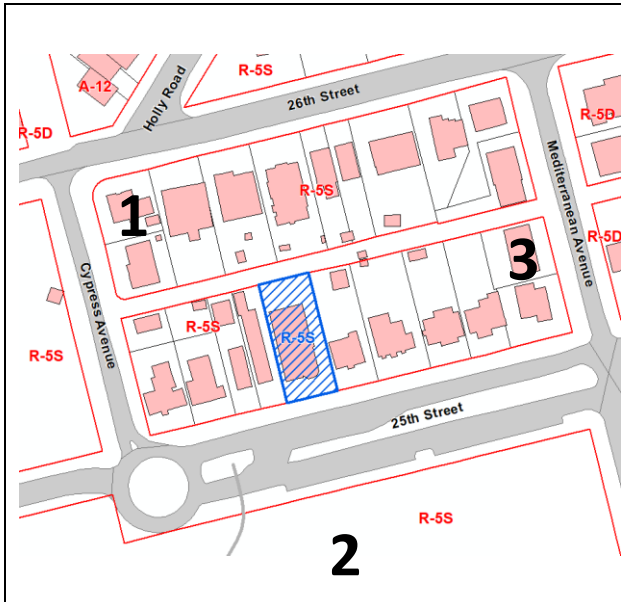


### Summary of Proposal

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: 4
- Maximum number of guests permitted on the property after 11:00 pm: 8 - As recommended in condition 16
- Number of parking spaces required (1 space per bedroom required): 4

- Number of parking spaces provided on-site: 4



### Zoning History

#	Request
1	STC (Close unimproved portion of right-of-way) Approved 06/26/2001
2	STC (Closing, vacating and discontinuing portions of right-of-way) Approved 09/11/2007
3	STR (Short Term Rental) Approved 02/04/2020

### Application Types

CUP – Conditional Use Permit  
 REZ – Rezoning  
 CRZ – Conditional Rezoning

MOD – Modification of Conditions or 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

This single-family dwelling is located within the Old Beach Overlay. The Old Beach community includes an assortment of development types and uses with Baltic Avenue acting as a separation line between higher and lower density zoning districts. Typically, much of the property east of Baltic Avenue falls within a higher density apartment zoning district, while much of the property west of Baltic Avenue falls within a lower density residential zoning district. Admittedly, exceptions to this statement can be found both east and west of Baltic Avenue. The subject property lies west of Baltic Avenue and was constructed in 2007.

City records note the subject address as containing four bedrooms; thus, four off-street parking spaces are required and are provided in the driveway. Since the property is within the boundary of the Residential Parking Permit Program (RPPP), parking passes issued for the subject dwelling unit(s) will be limited to two resident passes; guest and temporary passes will not be permitted while the Conditional Use Permit is active.

Based on the considerations above, Staff recommends approval of this request with the conditions listed below. The recommended conditions do reflect City Council's Short Term Rental revisions by reducing the number of bookings in a seven day period to one and limiting the overnight guest calculation to two per bedroom.

## Recommended Conditions

1. The following conditions shall only apply to the dwelling unit addressed as 619 25<sup>th</sup> Street, and the Short Term Rental use shall only occur in the principal structure.

2. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.
3. While this Conditional Use Permit is active, parking passes issued for the subject dwelling unit(s) through the Residential Parking Permit Program (RPPP) shall be limited to two resident passes only. Guest and temporary passes through the RPPP shall not be permitted.
4. 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.
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8. 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.
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16. 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.
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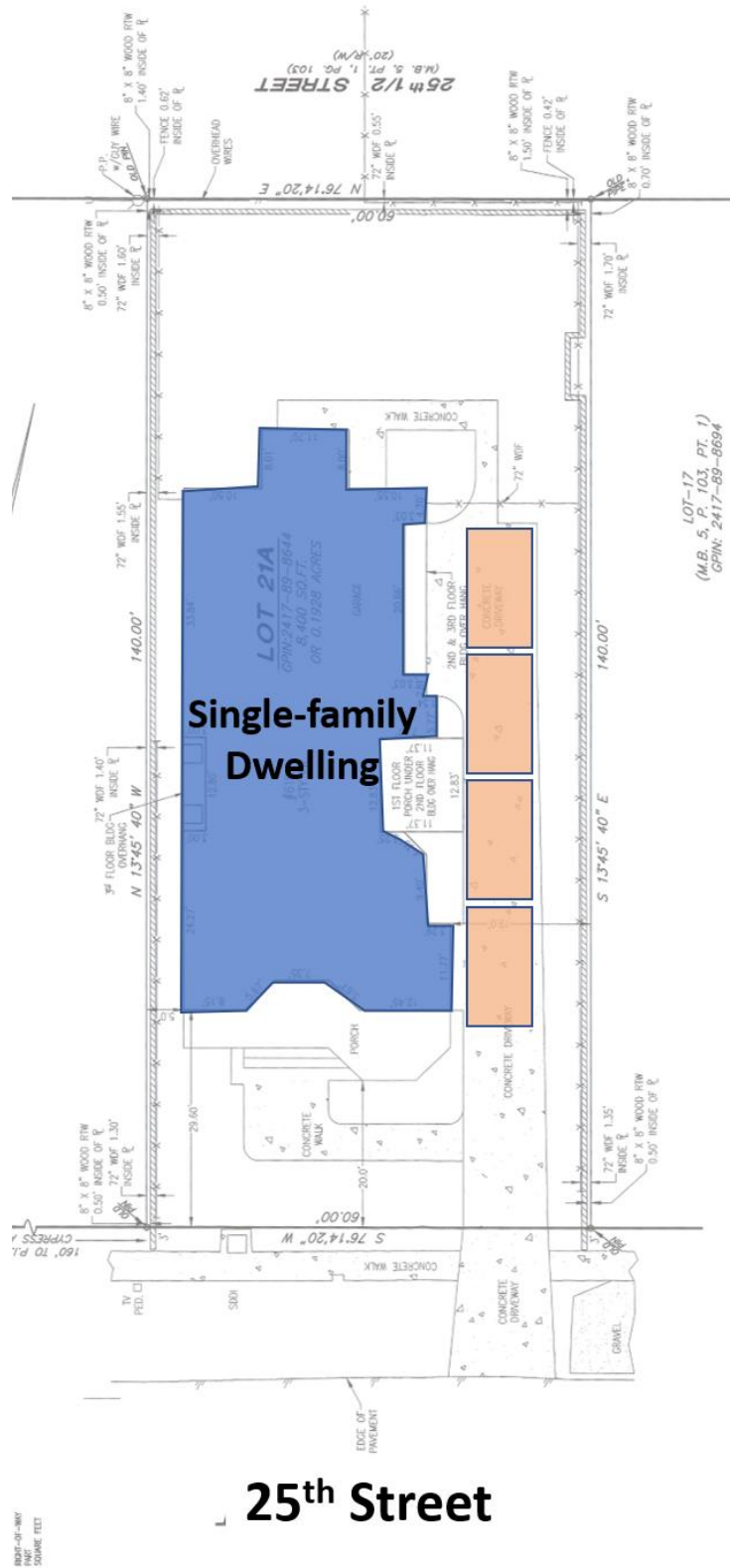
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# Site Layout & Parking Plan



Site Photos





## Site Photos





**APPLICANT'S NAME** Bao Lo - 619 25th Street

### 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	

Page 1 of 7





- ☒ 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: \_\_\_\_\_  
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-subsiary <sup>1</sup> or affiliated business entity <sup>2</sup> relationship with the Applicant: *(Attach list if necessary)*

See next page for information pertaining to footnotes <sup>1</sup> and <sup>2</sup>

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### 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-subsidary <sup>1</sup> or affiliated business entity <sup>2</sup> relationship with the Property Owner: *(Attach list if necessary)*

<sup>1</sup> "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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### 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



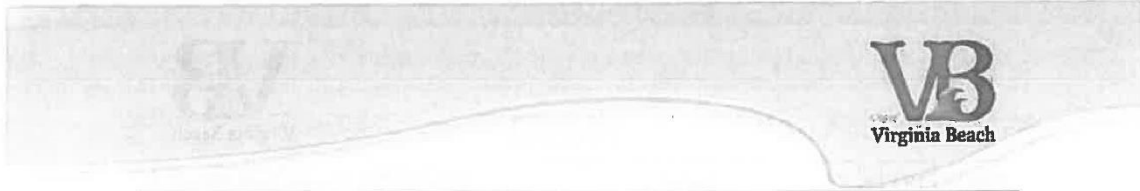
YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Accounting and/or preparer of your tax return	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Architect / Landscape Architect / Land Planner	
<input type="checkbox"/>	<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 checked="" type="checkbox"/>	<input type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	On-site Manager

**SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE**

YES	NO	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	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?

## Disclosure Statement

**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.

	Scott Westfall	10/20/2020
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	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	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.

	Bao Lo	10/20/20
PROPERTY OWNER'S SIGNATURE	PRINT NAME	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 757-385-8610.
- 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.

**Request**

**Conditional Use Permit** (Short Term Rental)

**Staff Recommendation**

Approval

**Staff Planner**

Summer Peebles

**Location**

1612 Tallwood Manor Court

**GPIN**

1465130874

**Site Size**

10,114 square feet

**Existing Land Use and Zoning District**

Single-family dwelling / R-7.5 Residential

**Surrounding Land Uses and Zoning Districts**

**North**

Tallwood Manor Court

Single-family dwellings / R-7.5 Residential

**South**

26th ½ Street (alley)

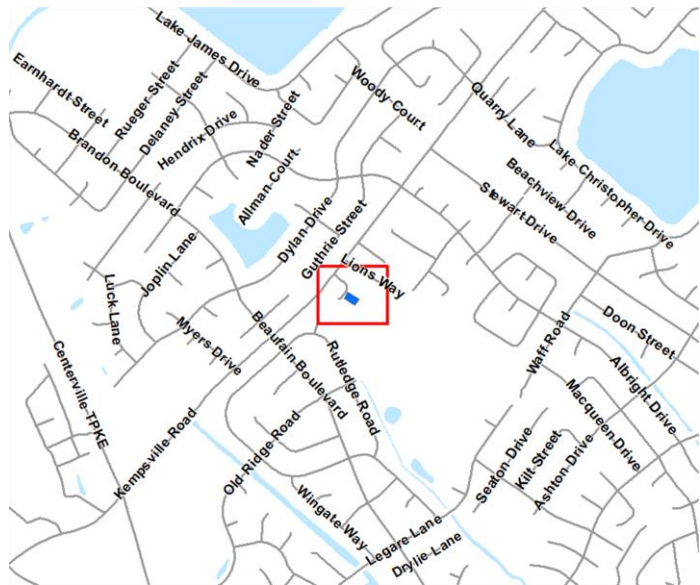
Tallwood High School / R-7.5 Residential

**East**

Tallwood High School / R-7.5 Residential

**West**

Single-family dwellings / R-7.5 Residential



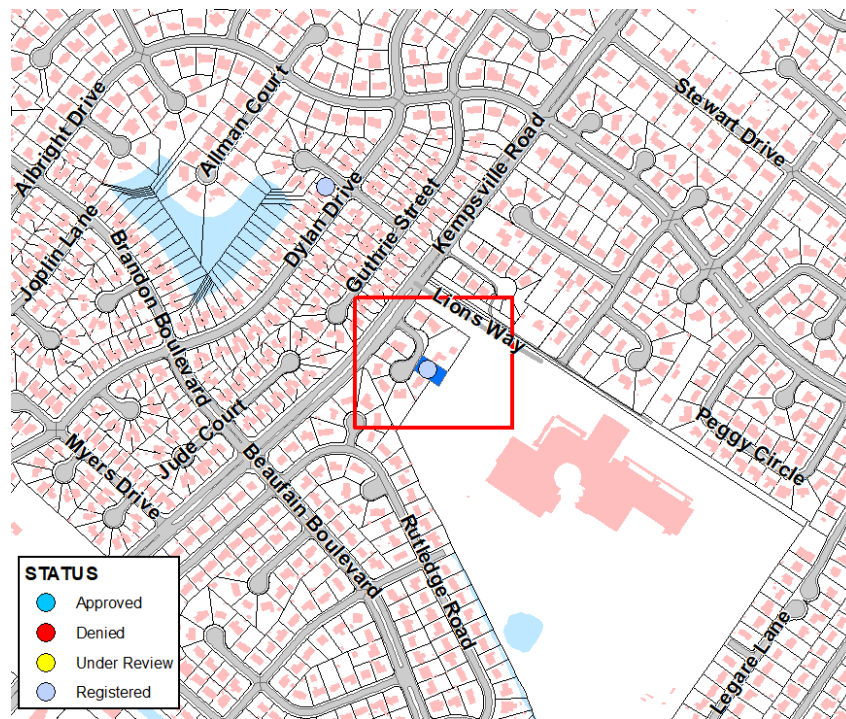


## Background & Summary of Proposal

### Site Conditions and History

- This is a 10,114 square foot parcel zoned R-7.5 Residential District.
- The subject dwelling was constructed in 2005.
- Staff inspected the site on November 17, 2020 to observe site conditions and take photographs for this report.
- 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.
- The applicant accepts City Council's recently imposed conditions reducing the number of bookings in a seven-day period to one and limiting the overnight guest calculation to two per bedroom.

#### *Short Term Rentals in the Vicinity*

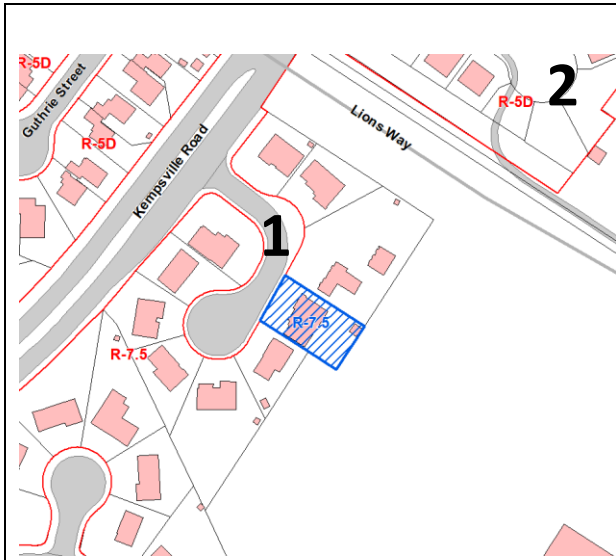


### Summary of Proposal

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: 6
- Maximum number of guests permitted on the property after 11:00 pm: 12 - As recommended in condition 16
- Number of parking spaces required (1 space per bedroom required): 6

- Number of parking spaces provided on-site: 6, however, 1 parking space is located partially in the right of way



### Zoning History

#	Request
1	SVR (Creation of 11-lot subdivision) Approved 10/29/2002
2	CRZ (R-7.5 Residential to Conditional R-5D Residential) Approved 05/27/2014

### Application Types

CUP – Conditional Use Permit	MOD – Modification of Conditions or Proffers	FVR – Floodplain Variance	LUP – Land Use Plan
REZ – Rezoning	NON – Nonconforming Use	ALT – Alternative Compliance	STR – Short Term Rental
CRZ – Conditional Rezoning	STC – Street Closure	SVR – Subdivision Variance	

## Evaluation & Recommendation

The site is located in the Tallwood Manor subdivision, which consists of single-family dwellings and is immediately adjacent to Tallwood High School. Short Term Rentals have not proven to be a common use in this area of the City. Six off-street parking spaces are required for this six-bedroom home. The applicant has submitted an alternative parking plan that shows two parking spaces in the garage with the remaining parking being accommodated in the driveway, with one stacked parking space encroaching two feet into the right-of-way. As the two spaces that encroach into the right-of-way do not block vehicular or pedestrian traffic, the Zoning Administrator has deemed this plan acceptable. Staff believes that all other requirements of Section 241.2 of the Zoning Ordinance pertaining to Short Term Rentals can reasonably be met. The applicant met with 7 out of 9 of the surrounding property owners in the subdivision. The applicant provided Staff with a petition from surrounding property owners containing 6 signatures.

Based on the considerations above, Staff recommends approval of this request with the conditions listed below. The recommended conditions do reflect City Council's Short Term Rental revisions by reducing the number of bookings in a seven day period to one and limiting the overnight guest calculation to two per bedroom.

## Recommended Conditions

1. The following conditions shall only apply to the dwelling unit addressed as 1612 Tallwood Court, and the Short Term Rental use shall only occur in the principal structure.
2. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.

3. The garage space within the unit must remain a minimum of 18-feet by 18-feet, contain a minimum 16-foot wide vehicle entryway opening, and shall remain free of materials to ensure vehicular accessibility to the Short Term Rental tenants.
4. 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.
5. 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 (8a).
6. 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. Physical response to the site of the Short Term Rental is not required.
7. 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 registration form; 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.
8. 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.
9. 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.
10. 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.
11. Accessory structures shall not be used or occupied as Short Term Rentals.
12. No signage shall be on-site, except one (1), four (4) square foot sign, may be posted on the building which identifies the Short Term Rental.
13. The Short Term Rental shall have no more than one (1) rental contract during any consecutive seven (7) day period.
14. 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.
15. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
16. 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.

17. To the extent permissible under state law, interconnected smoke detectors (which may be wireless), a fire extinguisher and, where natural gas or propane is present, carbon monoxide detectors, shall be installed in each Short Term Rental.

*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.*

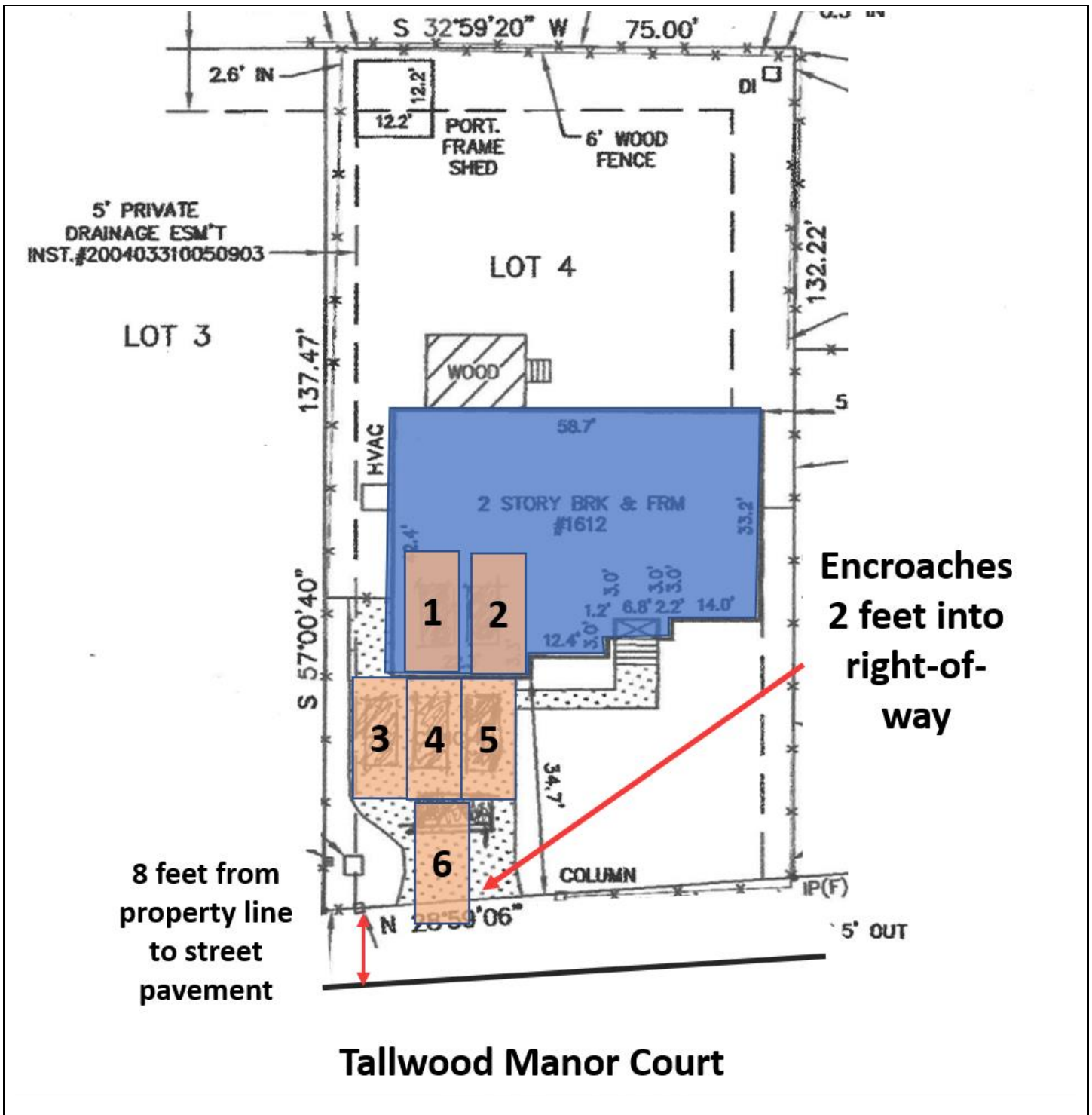
## Public Outreach Information

### Planning Commission

- The applicant met with the neighbors on December 17, 2020 to discuss the details of the request. According to the applicant, they met with 7 of the 9 surrounding property owners in the subdivision. A petition of support was provided to Staff by the applicant as a result of this meeting, containing 6 signatures.
- As required by the Zoning Ordinance, the public notice signs were placed on the property on or before December 14, 2020.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, December 27, 2020, and January 3, 2021.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on December 28, 2020.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of [www.vbgov.com/pc](http://www.vbgov.com/pc) on January 7, 2021.



## Site Layout & Parking Plan



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 QUAN LE

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-subsidary<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the applicant. (Attach a list if necessary)

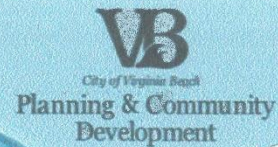
\_\_\_\_\_  
\_\_\_\_\_

<sup>1</sup> "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.

<sup>2</sup> "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.

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 real estate broker/realtor.

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 or 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 or 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 construction contractor.
- 
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 engineer/surveyor/agent.
- 
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 name of the attorney or firm providing legal services.
- 

#### 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 dark ink, appearing to be 'Quan Le', written over a horizontal line.

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	

## 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 757-385-8610.
- 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.

**Request**

**Conditional Use Permit** (Short Term Rental)

**Staff Recommendation**

Approval

**Staff Planner**

Jenizza Badua

**Location**

911 Pacific Avenue, Unit B

**GPIN**

24272444111030

**Site Size**

34,996 square feet

**Existing Land Use and Zoning District**

Multi-family dwellings / OR Oceanfront Resort

**Surrounding Land Uses and Zoning Districts**

**North**

Duplex dwellings, commercial parking lot / OR Oceanfront Resort

**South**

9<sup>th</sup> Street

Municipal parking garage / OR Oceanfront Resort

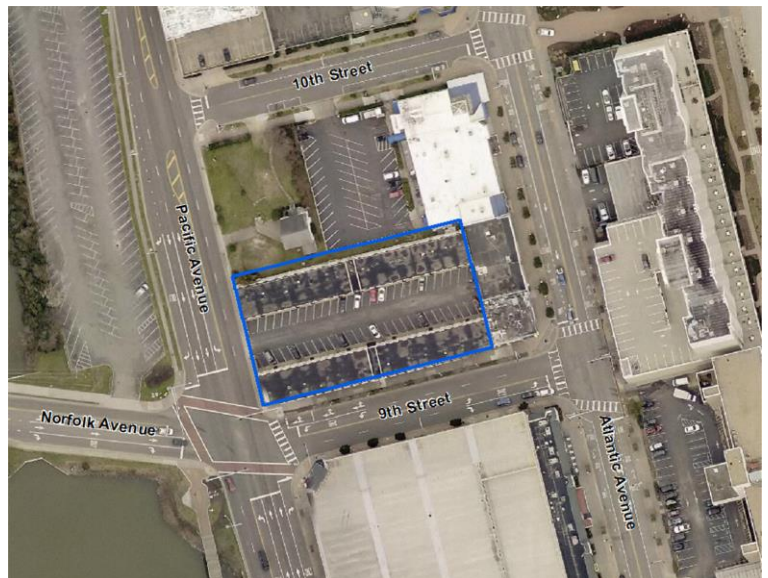
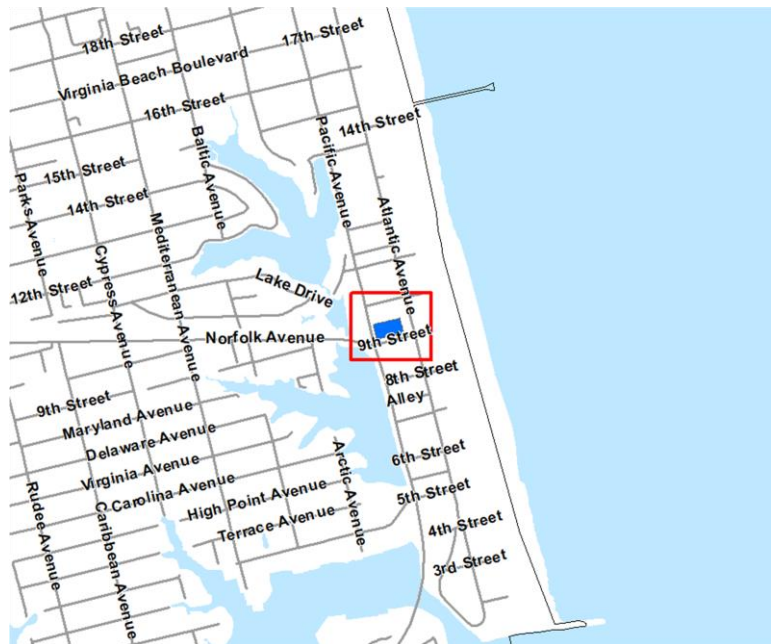
**East**

Retail shops / OR Oceanfront Resort

**West**

Pacific Avenue

Off-site parking lot / OR Oceanfront Resort



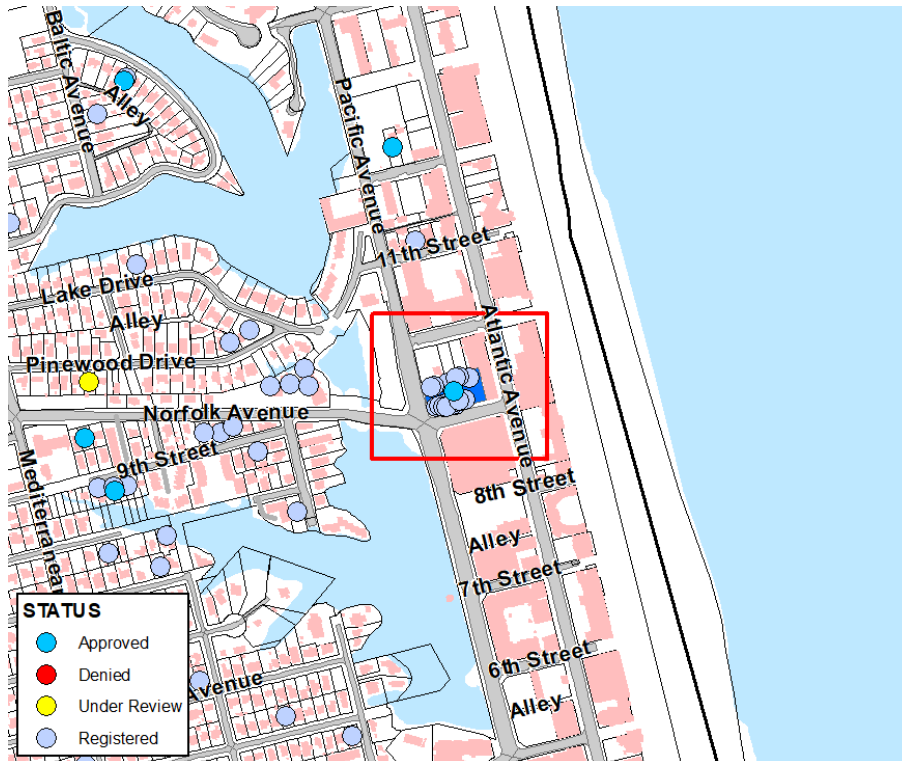


## Background & Summary of Proposal

### Site Conditions and History

- The 35,000 square foot parcel is zoned OR Oceanfront Resort District.
- City records indicate that the multi-family condominium complex was constructed in 1969.
- Staff inspected the site on November 12, 2020 to observe site conditions and take photographs for this report.
- One on-site parking space in the parking lot is designated for the 2-bedroom unit. There is no on-street parking on this portion of Pacific Avenue.
- Five Short Term Rental application requests have been approved within the condominium complex, Retreat by the Sea, thus far. All five approved applications have leased their second required parking space off-site at the 9<sup>th</sup> Street Municipal Garage, which is located immediately across the street south of the complex.
- One of these approved five Short Term Rental properties, 909 Pacific Avenue, Unit A, is also owned by the applicant and was approved by City Council in August 25, 2020.
- No records of zoning violations relating to Short Term Rental use were found associated with the subject address.

### *Short Term Rentals in the Vicinity*

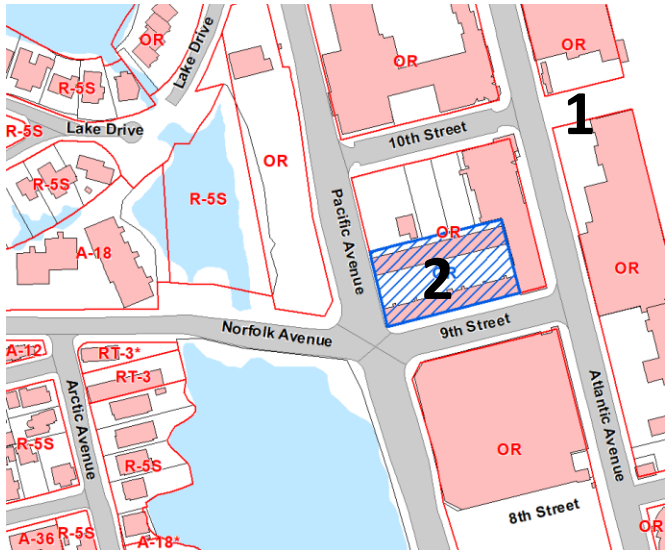


## Summary of Proposal

The applicant submitted a Conditional Use Permit request to operate a two-bedroom Short Term Rental on the subject property. 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 p.m. (maximum 2 per bedroom): 4
- Number of parking spaces required (1 space per bedroom required): 2
- Number of parking spaces provided on-site: 1\*

\*A second parking space will be leased at the 9<sup>th</sup> Street Municipal Garage located across the street.

	<h3>Zoning History</h3> <table><tr><th>#</th><th>Request</th></tr><tr><td>1</td><td>STC Approved 12/4/2004</td></tr><tr><td>2</td><td>STR Approved 02/4/2020 STR Approved 06/9/2020 STR Approved 08/25/2020 STR Approved 08/25/2020 STR Approved 10/20/2020</td></tr></table>	#	Request	1	STC Approved 12/4/2004	2	STR Approved 02/4/2020 STR Approved 06/9/2020 STR Approved 08/25/2020 STR Approved 08/25/2020 STR Approved 10/20/2020
#	Request						
1	STC Approved 12/4/2004						
2	STR Approved 02/4/2020 STR Approved 06/9/2020 STR Approved 08/25/2020 STR Approved 08/25/2020 STR Approved 10/20/2020						
<h3>Application Types</h3> <table><tr><td>CUP – Conditional Use Permit REZ – Rezoning CRZ – Conditional Rezoning</td><td>MOD – Modification of Conditions or Proffers NON – Nonconforming Use STC – Street Closure</td><td>FVR – Floodplain Variance ALT – Alternative Compliance SVR – Subdivision Variance</td><td>LUP – Land Use Plan STR – Short Term Rental</td></tr></table>		CUP – Conditional Use Permit REZ – Rezoning CRZ – Conditional Rezoning	MOD – Modification of Conditions or Proffers NON – Nonconforming Use STC – Street Closure	FVR – Floodplain Variance ALT – Alternative Compliance SVR – Subdivision Variance	LUP – Land Use Plan STR – Short Term Rental		
CUP – Conditional Use Permit REZ – Rezoning CRZ – Conditional Rezoning	MOD – Modification of Conditions or 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 two-bedroom Short Term Rental unit within the Retreat by the Sea condominium development located at 911 Pacific Avenue, Unit B. Two parking spaces are required for the two-bedroom unit.

One designated parking space on-site will be available for the renters and the second space will be met off-site. The applicant has signed and submitted a letter of intent to lease the second parking space at the 9<sup>th</sup> Street Municipal Parking Garage, which is conveniently located across the street just south of the condominium complex. The Zoning Administrator has approved the applicant's parking plan. As recommended below in Condition 2, the applicant will be required to submit receipts or proof of availability of a second off-street parking space annually to the Zoning Administrator while the Conditional Use Permit remains active.

All requirements of Section 241.2 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 911 Pacific Avenue, Unit B, and the Short Term Rental use shall only occur in the principal structure.
2. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council. Proof of ability to use at least one off-street parking space at a location acceptable to the Zoning Administrator shall be provided to the Planning Department on an annual basis as long as the Conditional Use Permit is active.
3. 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.
4. 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 (8a).
5. 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. Physical response to the site of the Short Term Rental is not required.
6. 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 registration form; 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.
7. 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.
8. 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.
9. 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.
10. Accessory structures shall not be used or occupied as Short Term Rental.

11. No signage shall be on site, except one (1), four (4) square foot sign, may be posted on the building which identifies the Short Term Rental.
12. The Short Term Rental shall have no more than one (1) rental contract during any consecutive seven (7) day period.
13. 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.
14. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
15. 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.
16. To the extent permissible under state law, interconnected smoke detectors (which may be wireless), a fire extinguisher and, where natural gas or propane is present, carbon monoxide detectors shall be installed in each Short Term Rental.

*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 signs were placed on the property on or before December 14, 2020.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, December 27, 2020, and January 3, 2021.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on December 28, 2020.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of [www.vbgov.com/pc](http://www.vbgov.com/pc) on January 7, 2021.



Site Layout & Parking Plan



## Site Photos

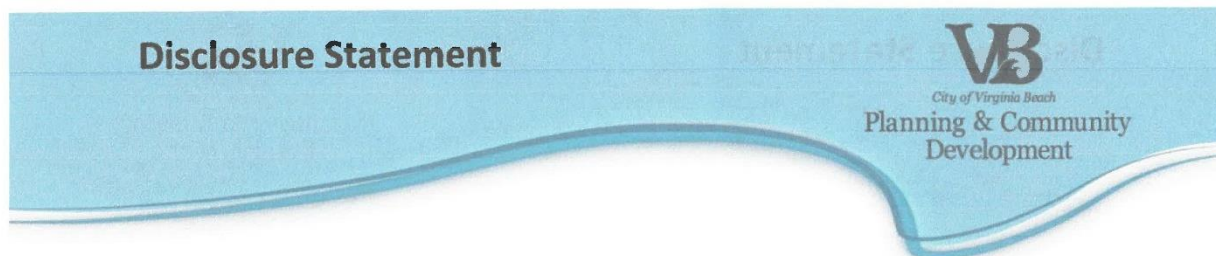




Site Photos



## 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** William J. Wright, Jr.

**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-subsidary<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the applicant. (Attach a list if necessary)

<sup>1</sup> "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.

<sup>2</sup> "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 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.

Tidewater 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 real estate broker/realtor.

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 or individual providing the service.

Mathews and Saunders

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 or 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 construction contractor.

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 engineer/surveyor/agent.

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 name of the attorney or firm providing legal services.

### 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

WILLIAM J. WRIGHT

Print Name and Title

10/15/2020

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	Signature	
			Print Name	

## Disclosure Statement

### Disclosure Statement



#### Owner Disclosure

**Owner Name** William J. Wright, Jr.

**Applicant Name** William J. Wright, Jr.

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)

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- If yes, list the businesses that have a parent-subsidary<sup>3</sup> or affiliated business entity<sup>4</sup> relationship with the Owner. (Attach a list if necessary)

---

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#### 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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<sup>3</sup> "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



#### 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.

Tidewater Mortgage

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 real estate broker/realtor.

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 or individual providing the service.

Mathews and Saunders

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 or 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 construction contractor.

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 engineer/surveyor/agent.



### 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 name of the attorney or firm providing legal services.

#### 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 'William J. Wright, Jr.', written over a horizontal line.

Owner Signature

WILLIAM J. WRIGHT, JR.

Print Name and Title

10/15/2020

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 757-385-8610.
- 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.



**Request**

**Conditional Use Permit** (Short Term Rental)

**Staff Recommendation**

Approval

**Staff Planner**

Antionette Fowlkes

**Location**

2621 Highland Meadows Way

**GPIN**

14841388360000

**Site Size**

15,094 square feet

**Existing Land Use and Zoning District**

Single-family dwelling / R-15 Residential

**Surrounding Land Uses and Zoning Districts**

**North**

Salem Road

Single-family dwellings / R-15 Residential

**South**

Highland Drive

Single-family dwellings / R-15 Residential

**East**

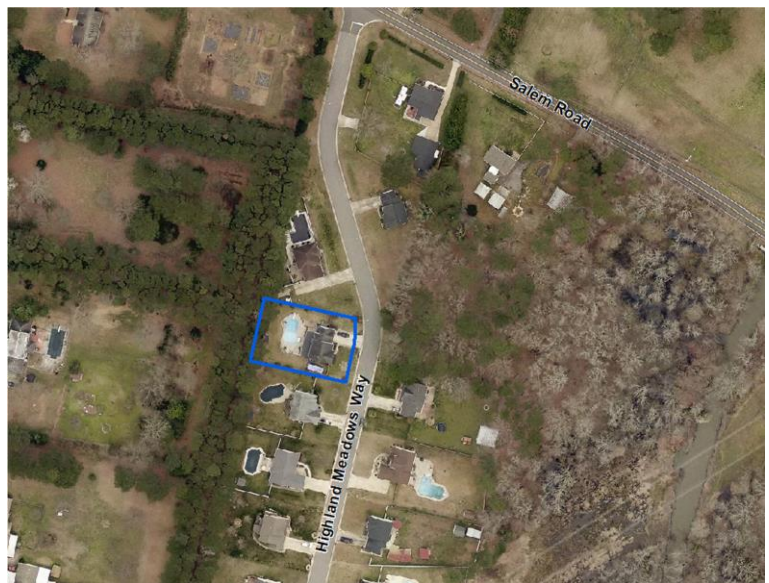
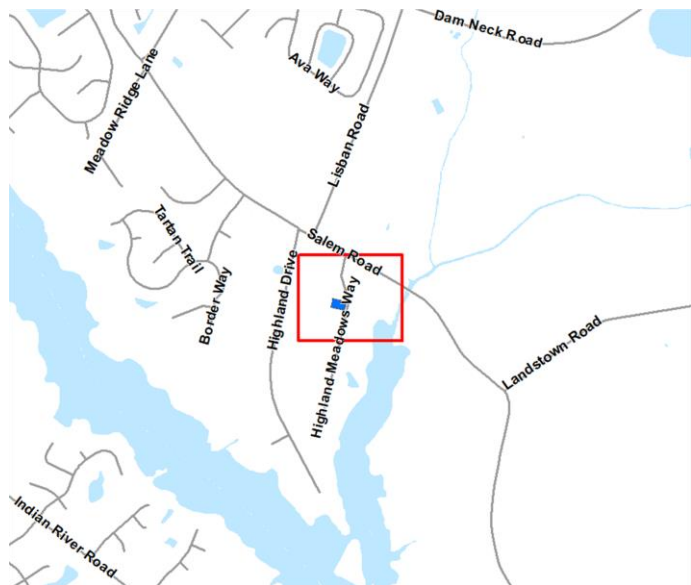
Salem Road

Single-family dwellings / R-15 Residential

**West**

Highland Drive

Single-family dwellings / R-15 Residential



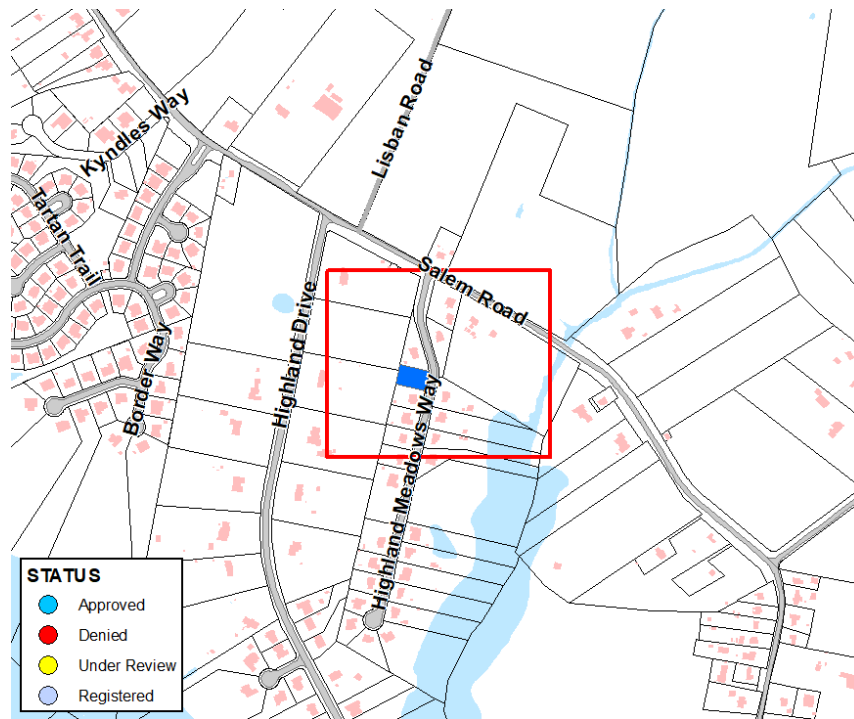


## Background & Summary of Proposal

### Site Conditions and History

- The approximately 15,094 square foot property is zoned R-15 Residential District.
- City records indicate that the single-family dwelling was constructed in 2003.
- Staff inspected the site on November 9, 2020 to observe site conditions and take photographs for this report.
- 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.
- The applicant accepts City Council's recently imposed conditions reducing the number of bookings in a seven day period to one and limiting the overnight guest calculation to two per bedroom.

### *Short Term Rentals in the Vicinity*

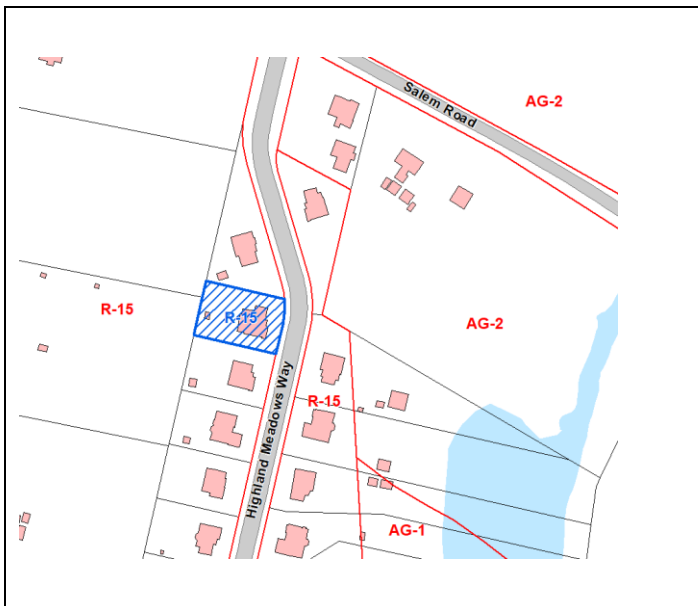


### Summary of Proposal

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: 4
- Maximum number of guests permitted on the property after 11:00 pm: 8 - As recommended in condition #15
- Number of parking spaces required (1 space per bedroom required): 4

- Number of parking spaces provided on-site: 4



**No Zoning History to Report**

#### Application Types

CUP – Conditional Use Permit  
REZ – Rezoning  
CRZ – Conditional Rezoning

MOD – Modification of Conditions or 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 four-bedroom Short Term Rental. The property is located in the Princess Anne District, along Highland Meadows Way, where short term rentals are not a typical use. Four off-street parking spaces are required for the proposed four-bedroom Short Term Rental. The applicant is planning to meet this requirement by parking four vehicles in the driveway as shown on page six of this report. While two of the four spaces slightly encroach into the right-of-way, the flow of pedestrian or vehicular movements will not be impacted. Based on this, the Zoning Administrator reviewed the parking plan and deemed it acceptable. All other requirements of Section 241.2 of the Zoning Ordinance pertaining to Short Term Rentals can be reasonably met by the applicant. There is no known opposition to this request, and Staff has received eight letters of support from surrounding property owners.

Based on the considerations above, Staff recommends approval of this request with the conditions listed below, including City Council's revisions, reducing the number of bookings in a seven day period to one and limiting the overnight guest calculation to two per bedroom.

### Recommended Conditions

1. The following conditions shall only apply to the dwelling unit addressed as 2621 Highland Meadows Way, and the Short Term Rental use shall only occur in the principal structure.
2. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.
3. 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.

4. 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 (8a).
5. 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. Physical response to the site of the Short Term Rental is not required.
6. 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 registration form; 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.
7. 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.
8. 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.
9. 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.
10. Accessory structures shall not be used or occupied as Short Term Rentals.
11. No signage shall be on-site, except one (1), four (4) square foot sign, may be posted on the building which identifies the Short Term Rental.
12. The Short Term Rental shall have no more than one (1) rental contract during any consecutive seven (7) day period.
13. 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.
14. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
15. 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.
16. To the extent permissible under state law, interconnected smoke detectors (which may be wireless), a fire extinguisher and, where natural gas or propane is present, carbon monoxide detectors, shall be installed in each Short Term Rental.

*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.*

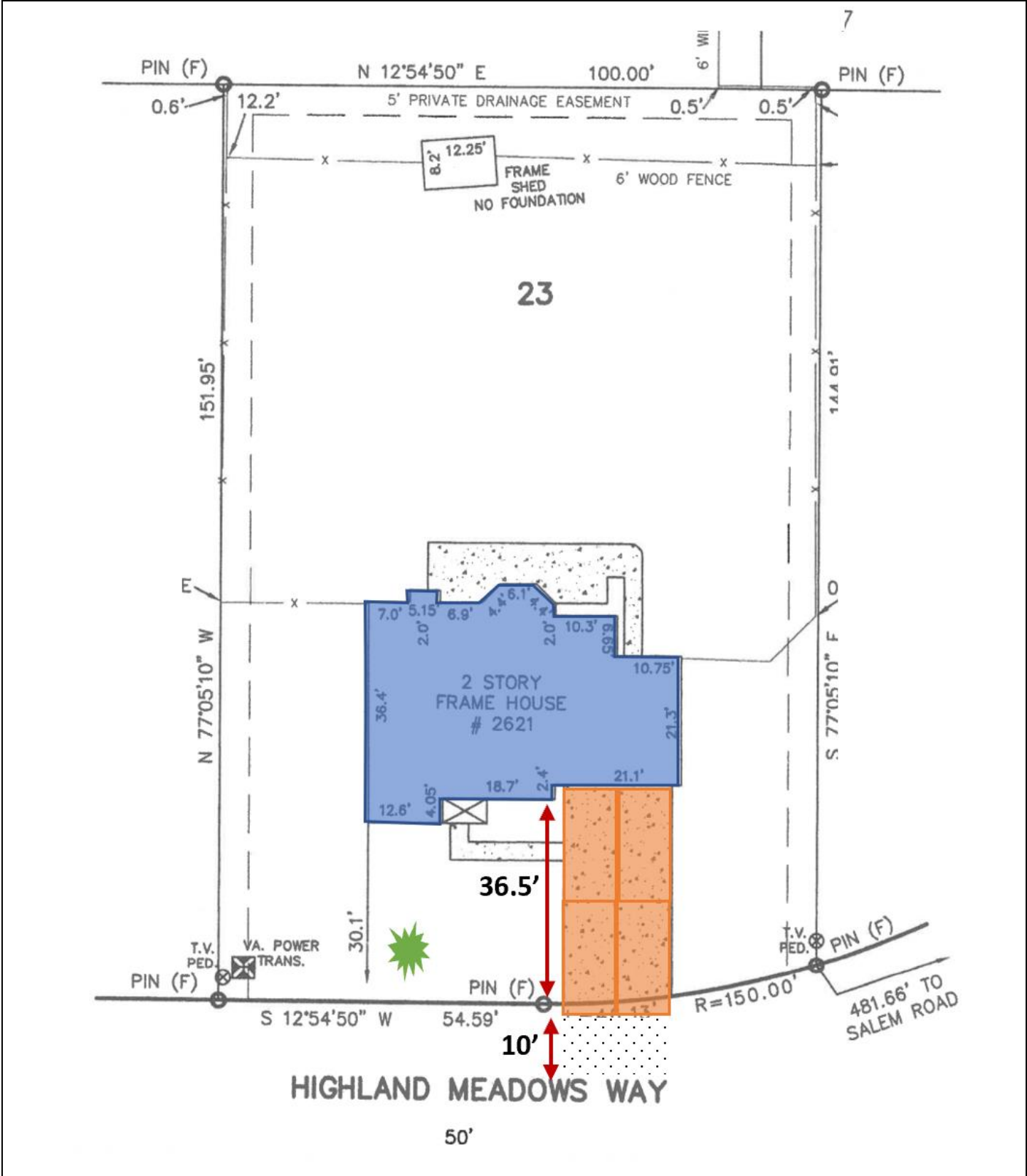
## Public Outreach Information

### Planning Commission

- The applicant reported that they met with the surrounding property owners, and no objections were raised. Four 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 December 14, 2020.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, December 27, 2020, and January 3, 2021.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on December 28, 2020.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of [www.vbgov.com/pc](http://www.vbgov.com/pc) on January 7, 2021.



Site Layout & Parking Plan



## Site Photos





## Disclosure Statement



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### Applicant Disclosure

**Applicant Name** D and D Creations

**Does the applicant have a representative?** ☒ **Yes** ☐ **No**

- If **yes**, list the name of the representative.

Kellie Jo David

**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)

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- If **yes**, list the businesses that have a parent-subsiary<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the applicant. (Attach a list if necessary)

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<sup>1</sup> "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



#### 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?

Daniel David Building Maintenance department

#### 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.

Cross Country 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 real estate broker/realtor.

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 or individual providing the service.

Jackson Hewitt Taxes Melinda Wittenhoff

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 or 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

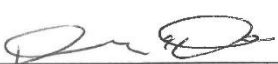
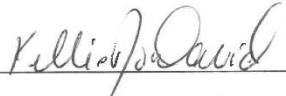
### Disclosure Statement



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 construction contractor.
- 
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 engineer/surveyor/agent.
- 
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 name of the attorney or firm providing legal services.
- 

#### 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**  
 Daniel E. David Kellie Jo David  
**Print Name and Title**  
 Daniel and Kellie Jo David Owners

**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	Signature	
			Print Name	

## Disclosure Statement

## Disclosure Statement



### Owner Disclosure

Owner Name Daniel David and Kellie Jo David Revocable Trust

Applicant Name D and D Creations

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)

Daniel David and Kellie Jo David are only members

- If yes, list the businesses that have a parent-subsidiary<sup>3</sup> or affiliated business entity<sup>4</sup> 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?  
John Doe, 15 shares

- If yes, what is the name of the official or employee and what is the nature of the interest?  
Daniel David city of VA Beach Employee City Building Inspector

<sup>3</sup> "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.

Act, VA. Code § 2.2-3101.

4 "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



#### 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.

Cross Country Mortgage

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 real estate broker/realtor.

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 or 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 or 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 construction contractor.

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 engineer/surveyor/agent.



## Disclosure Statement

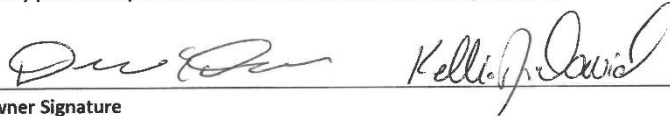
### Disclosure Statement



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 name of the attorney or firm providing legal services.

#### 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

Daniel and Kellie Jo David

Date 10/9/2020



## 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 757-385-8610.
- 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.

The applicant is requesting an indefinite deferral of these applications to reevaluate their requests.

### Requests

#### 205 34<sup>th</sup> Street

#28 - Conditional Use Permit (Short Term Rental) – Unit 617  
#29 - Conditional Use Permit (Short Term Rental) – Unit 719  
#30 - Conditional Use Permit (Short Term Rental) – Unit 905  
#31 - Conditional Use Permit (Short Term Rental) – Unit 1005  
#32 - Conditional Use Permit (Short Term Rental) – Unit 1102  
#33 - Conditional Use Permit (Short Term Rental) – Unit 1601  
#34 - Conditional Use Permit (Short Term Rental) – Unit 1602  
#35 - Conditional Use Permit (Short Term Rental) – Unit 1603  
#36 - Conditional Use Permit (Short Term Rental) – Unit 1604  
#37 - Conditional Use Permit (Short Term Rental) – Unit 1605

### Staff Recommendation

Indefinite Deferral

### Staff Planner

William Miller

### Location

205 34<sup>th</sup> Street – Units 617, 719, 905, 1005, 1102, 1601, 1602, 1603, 1604, & 1605

### GPIN

2428032311

### Site Size

62,000 square feet

