



Planning Commission Agenda

February 10, 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, February 10, 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. 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 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=e0aca5338abc082119d4666dda389d9a1>

2. Register with the Planning Department by calling 757-385-4621 or via email at niGarrido@vbgov.com prior to 5:00 p.m. on February 9, 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 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 and Facebook Live.

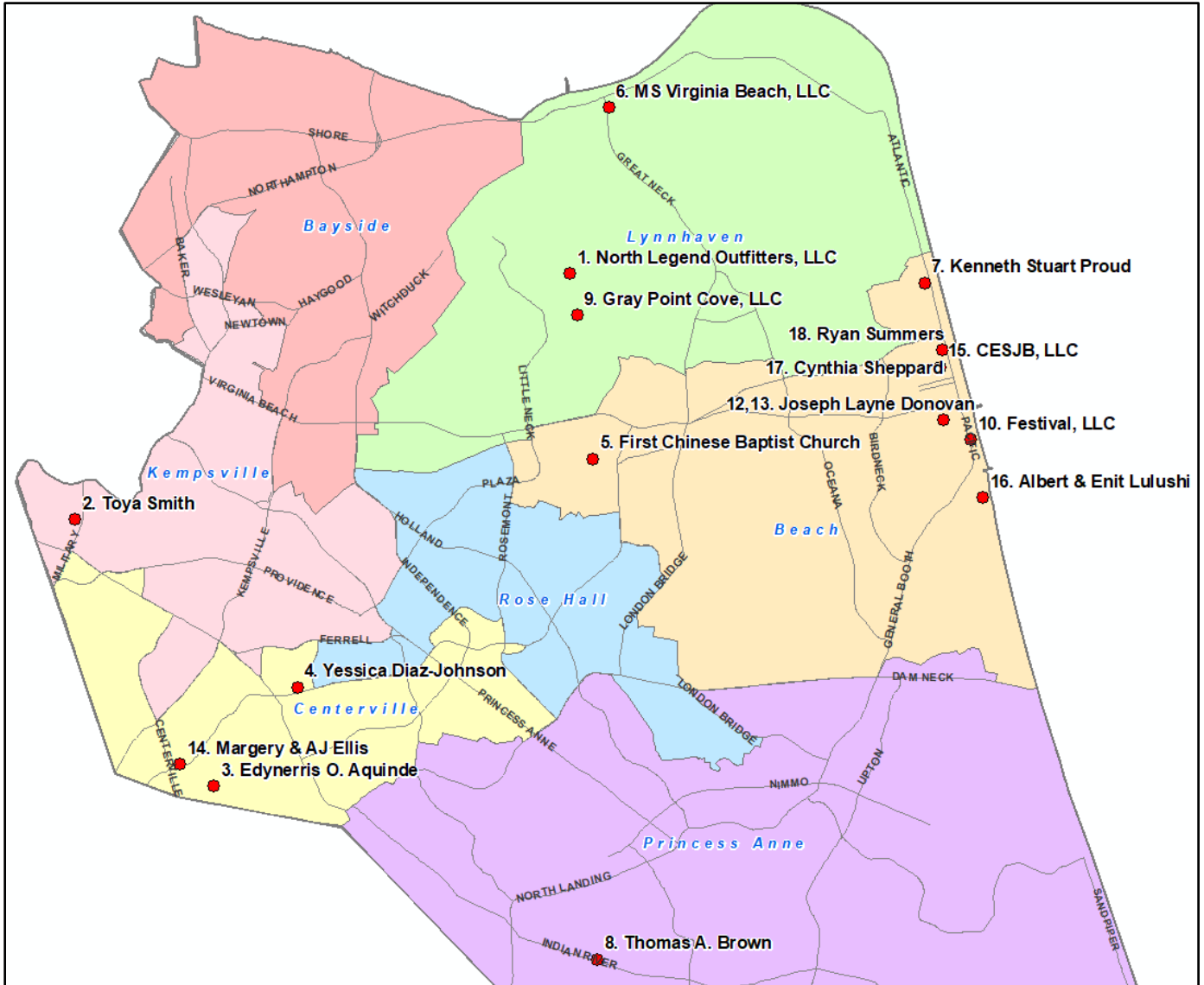
- * Deferral
- ** Withdrawal

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.

FEBRUARY 10, 2021 PLANNING COMMISSION AGENDA



* Deferral
** Withdrawal

FEBRUARY 10, 2021 PLANNING COMMISSION AGENDA

A. COMMENTS BY DIRECTOR OF PLANNING AND CHAIR OF COMMISSION

12:00 P.M. – PUBLIC HEARING

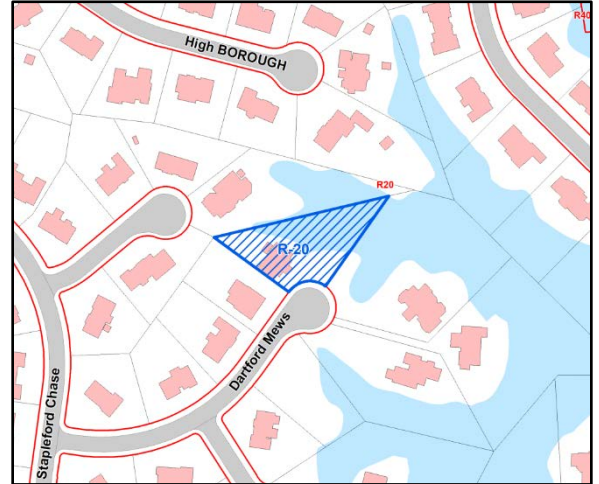
1.

North Legend Outfitters, LLC (Applicant)
Benjamin David Lindborg & Brooke Harris
Lindborg (Property Owners)

Conditional Use Permit (Home Occupation – Retail Sales (Firearms))

Address: 1017 Dartford Mews
GPIN(s): 1498161975
Council District: Lynnhaven
Accela Record: 2020-PCCC-00319
Staff Planner: Marchelle Coleman

Request for the applicant to operate a firearm sales business within the home and by appointment only.



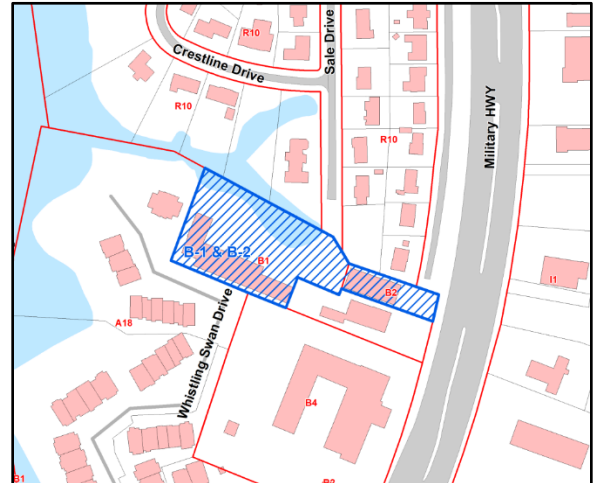
2.

Toya Smith (Applicant)
SST Holdings, LLC (Property Owner)

Conditional Use Permit (Assembly Use)

Address: 701 A S Military Highway
GPIN(s): 1456273699
Council District: Kempsville
Accela Record: 2020-PCCC-00321
Staff Planner: Marchelle Coleman

Request for an event venue for small gatherings within a unit in the shopping center.



- * Deferral
- ** Withdrawal

3.

Edynerris O. Aquinde (Applicant)

Maximo P. Aquinde Jr. & Edynerris O. Aquinde
(Property Owners)

Conditional Use Permit (Family Day-Care Home)

Address: 980 Avery Way

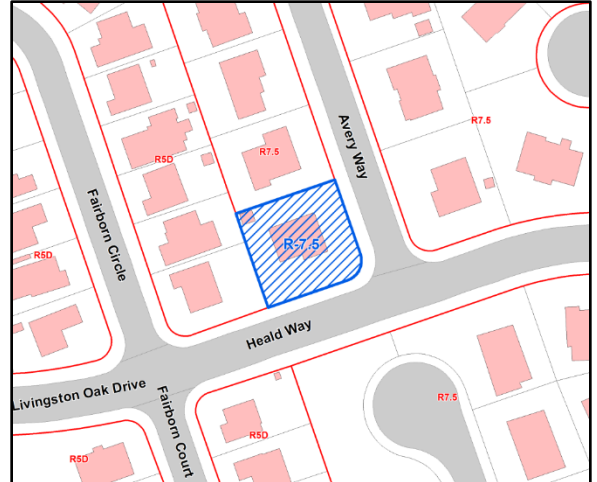
GPIN(s): 1464362803

Council District: Centerville

Accela Record: 2020-PCCC-00324

Staff Planner: Marchelle Coleman

Requesting to care for up to 12 children in applicant's single-family dwelling.



4.

Yessica Diaz-Johnson (Applicant)

Deon Johnson Sr. & Yessica Diaz-Johnson
(Property Owners)

Conditional Use Permit (Family Day-Care Home)

Address: 5150 Rugby Road

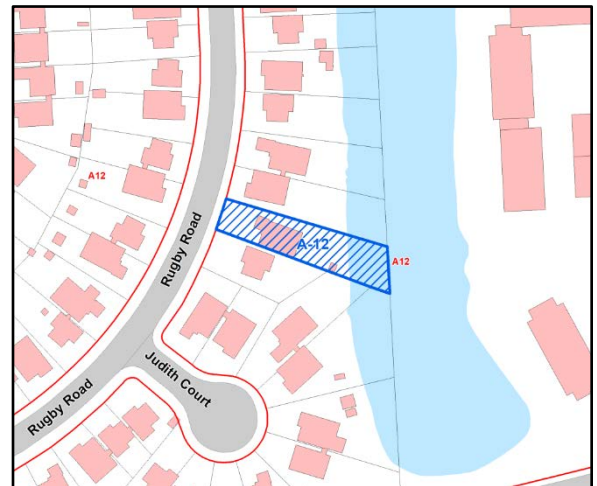
GPIN(s): 1465948584

Council District: Centerville

Accela Record: 2020-PCCC-00327

Staff Planner: Marchelle Coleman

Request to care for up to 12 children in applicant's single-family dwelling.



5.

First Chinese Baptist Church (Applicant & Property Owner)

Modification of Conditions (Religious Use)

Address: 228 Pritchard Road

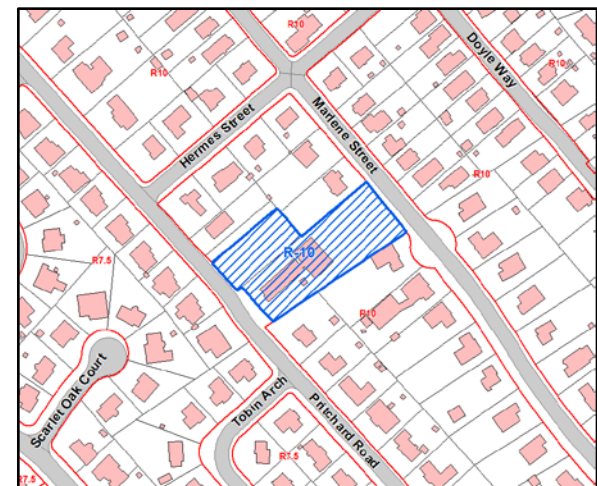
GPIN(s): 1497229425, 1497227432

Council District: Beach

Accela Record: 2020-PCCC-00330

Staff Planner: Jonathan Sanders

Requesting to replace the south wing portion of the church with a larger one-story addition.



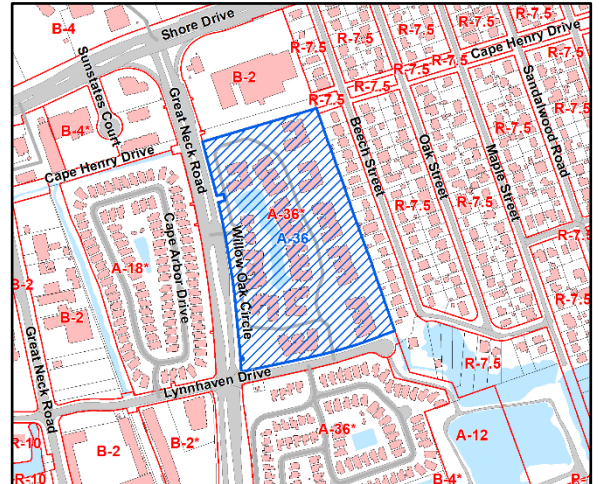
- * Deferral
- ** Withdrawal

6.
MS Virginia Beach, LLC (Applicant & Property Owner)

Modification of Proffers

Address: 2257 Willow Oak Circle
GPIN(s): 1499493656
Council District: Lynnhaven
Accela Record(s): 2020-PCCC-00241
Staff Planner: Jonathan Sanders

A request to building a three-story building over ground level parking to house 49 apartment units. The building will replace the tennis court area at the southwest corner of the site.

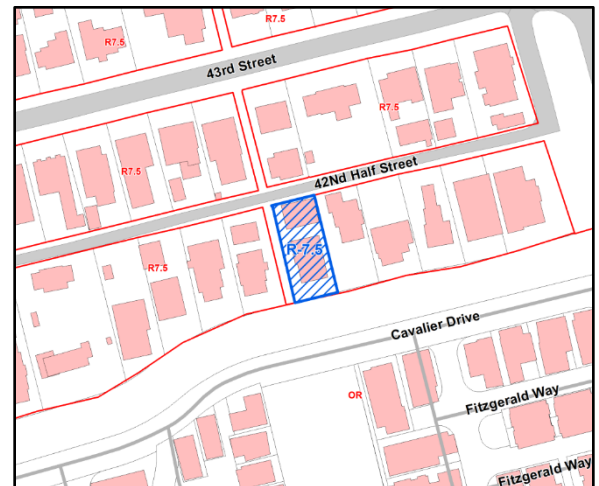


7.
Kenneth Stuart Proud (Applicant & Property Owner)

Change in Nonconformity

Address: 228 Cavalier Drive
GPIN(s): 2418868294
Council District: Beach
Accela Record: 2020-PCCC-00325
Staff Planner: Hoa N. Dao

Request to expand the footprint of the existing nonconforming structure, as only one dwelling allowed on property where two exist.

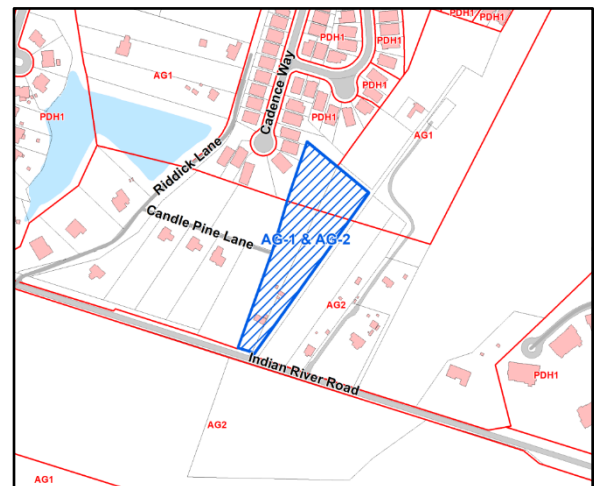


8.
Thomas A. Brown (Applicant & Property Owner)

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

Address: 2892 Indian River Road
GPIN(s): 1493334650, 1493335697
Council District: Princess Anne
Accela Record: 2020-PCCC-00326
Staff Planner: Aubrey Trebilcock

Requesting to reconfigure the property line of the two existing lots that results in no new parcels. The reconfiguration will result in one lot losing direct access to a public street.



- * Deferral
- ** Withdrawal

9.

Gray Point Cove, LLC (Applicant)
Gray Point Cove, LLC & Sharon L. Gray (Property Owners)

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

Address: 3108 Little Haven Road & adjacent western parcel

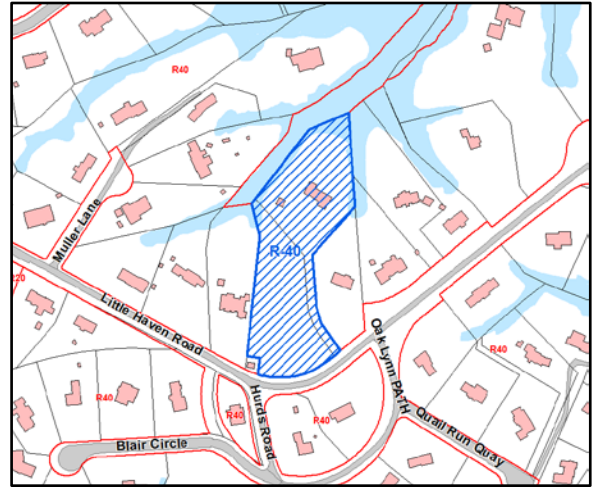
GPIN(s): 1498136679, 1498136243

Council District: Lynnhaven

Accela Record: 2020-PCCC-00334

Staff Planner: Aubrey Trebilcock

Request to subdivide property in order to create two lots for residential development, where both proposed lots are deficient in lot width. This request also includes modifying the boundary of a lot previously granted a subdivision variance for lot width. The lot width of that lot will not be altered.



10.

Festival, LLC (Applicant & Property Owner)

Alternative Compliance

Address: 712 Atlantic Avenue

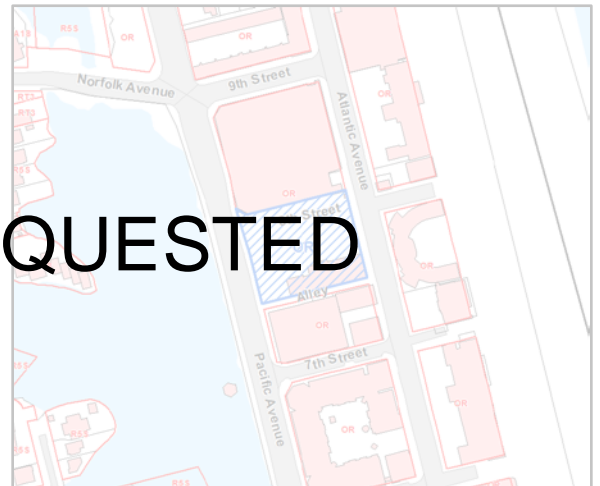
GPIN(s): 2427235940

Council District: Beach

Accela Record: 2020-PCCC-00340

Staff Planner: Ashby Moss

Request for outdoor dining and entertainment, outdoor recreation, open air market, and recurring special events on site with various outbuildings and structures.



DEFERRAL REQUESTED

- * Deferral
- ** Withdrawal

11. City of Virginia Beach - A Resolution to Amend the City Zoning Ordinance Pertaining to Short Term Rentals: To Amend Section 102 of the City Zoning Ordinance Establishing Short Term Rental Overlay Districts-West Shore Drive, East Shore Drive, North End, And Oceanfront Resort; To Add Article 23, Consisting of Sections 2300 To 2303, (Short Term Rental Overlay Districts) to The City Zoning Ordinance Establishing Regulations and Requirements Pertaining to Short Term Rentals in Each Overlay District; To Amend The Official Zoning Map by the Designation and Incorporation of Property Into Short Term Rental Overlay Districts-East Shore Drive, North End and or District; To Amend Sections 401, 501, 601, 901, 1110, 1125, 1521, and 2203 of the City Zoning Ordinance and Section 5.2 of the Oceanfront Resort District Form-Based Code Pertaining to the Requirements and Use of Short Term Rentals and Overlays; Establishing Transitions Rules for the Review of Conditional Use Permits for Short Term Rentals in the Short Term Rental Overlays

SHORT TERM RENTALS

12. & 13.

Joseph Layne Donovan (Applicant & Property Owner)

Conditional Use Permits (Short Term Rental)

Address: 525 13th Street Units A & B

GPIN(s): 2427054405

Council District: Beach

Accela Record(s): 2020-PCCC-00311, 2020-PCCC-00312

Staff Planner: Will Miller

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



14.

Margery & AJ Ellis (Applicants & Property Owners)

Conditional Use Permit (Short Term Rental)

Address: 5632 Freewill Lane

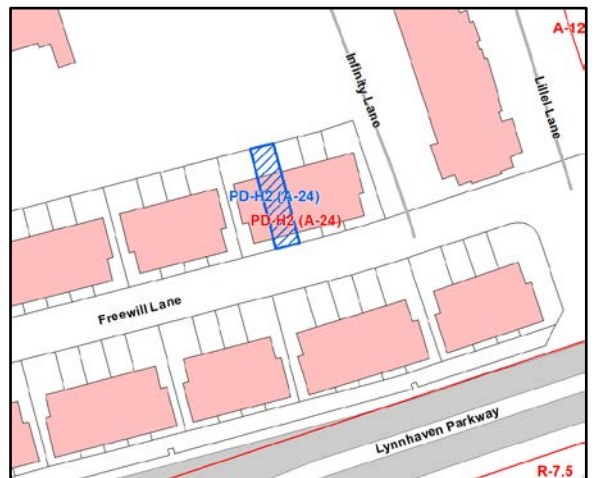
GPIN(s): 1464084535

Council District: Centerville

Accela Record(s): 2020-PCCC-00317

Staff Planner: Will Miller

Request for a 3-bedroom Short Term Rental.



- * Deferral
- ** Withdrawal

15.

CESJB, LLC (Applicant and Property Owner)

Conditional Use Permit (Short Term Rental)

Address: 409 24th ½ Street

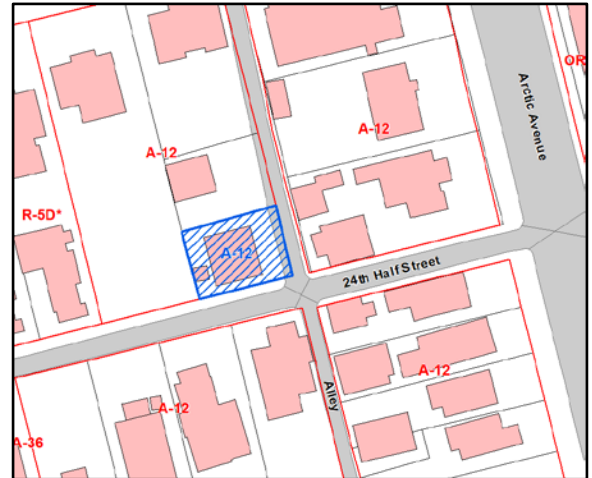
GPIN(s): 2427091661

Council District: Beach

Accela Record(s): 2020-PCCC-00314

Staff Planner: Will Miller

Request for a 2-bedroom Short Term Rental.



16.

Albert & Enit Lulushi (Applicants & Property Owners)

Conditional Use Permit (Short Term Rental)

Address: 528 Vanderbilt Avenue

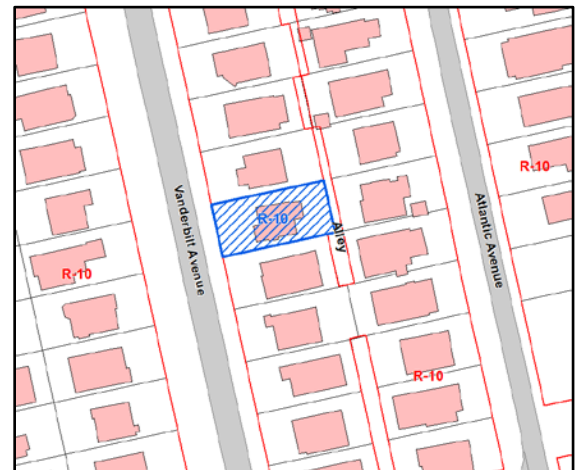
GPIN(s): 2426394440

Council District: Beach

Accela Record(s): 2020-PCCC-00322

Staff Planner: Will Miller

Request for a 4-bedroom Short Term Rental.



17.

Cynthia Sheppard (Applicant & Property Owner)

Conditional Use Permit (Short Term Rental)

Address: 304 28th Street Unit 201

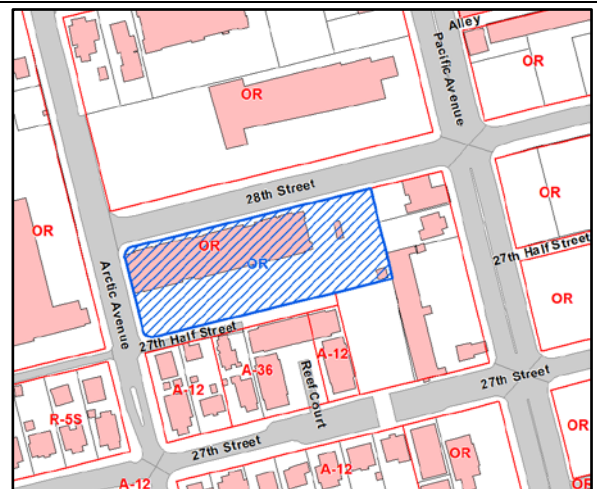
GPIN(s): 2428002866001

Council District: Beach

Accela Record(s): 2020-PCCC-00313

Staff Planner: Summer Peebles

Request for a 2-bedroom Short Term Rental.



- * Deferral
- ** Withdrawal

18.

Ryan Summers (Applicant & Property Owner)

Conditional Use Permit (Short Term Rental)

Address: 304 28th Street Unit 113

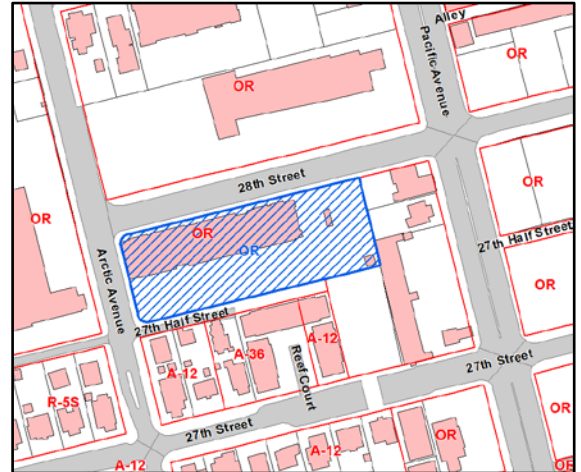
GPIN(s): 24280028661013

Council District: Beach

Accela Record(s): 2020-PCCC-00320

Staff Planner: Summer Peebles

Request for a 2-bedroom Short Term Rental.



- * Deferral
- ** Withdrawal

Request

Conditional Use Permit (Home Occupation – Retail Sales (Firearms))

Staff Recommendation

Approval

Staff Planner

Marchelle Coleman

Location

1017 Dartford Mews

GPIN

1498161975

Site Size

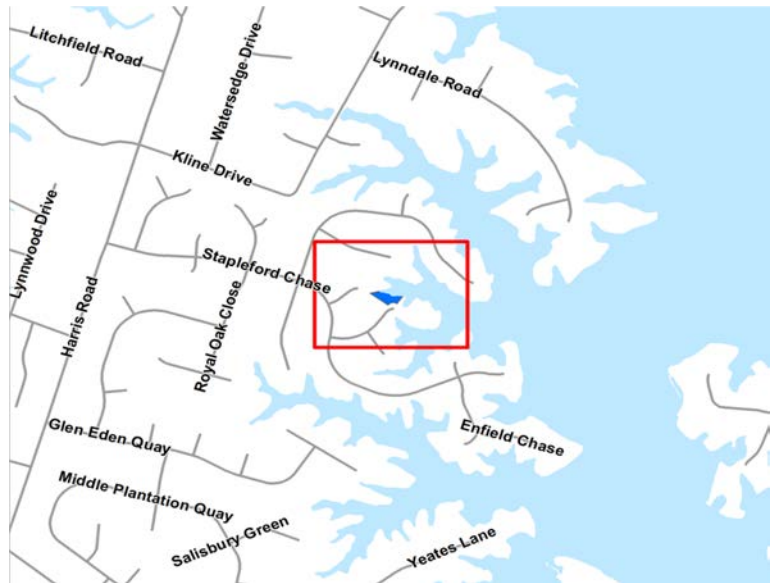
28,005 square feet

AICUZ

Less than 65 dB DNL

Watershed

Chesapeake Bay



Existing Land Use and Zoning District

Single-family dwelling / R-20 Residential

Surrounding Land Uses and Zoning Districts

North

Single-family dwelling / R-20 Residential

South

Dartford Mews

Single-family dwellings/ R-20 Residential

East

Single-family dwelling / R-20 Residential

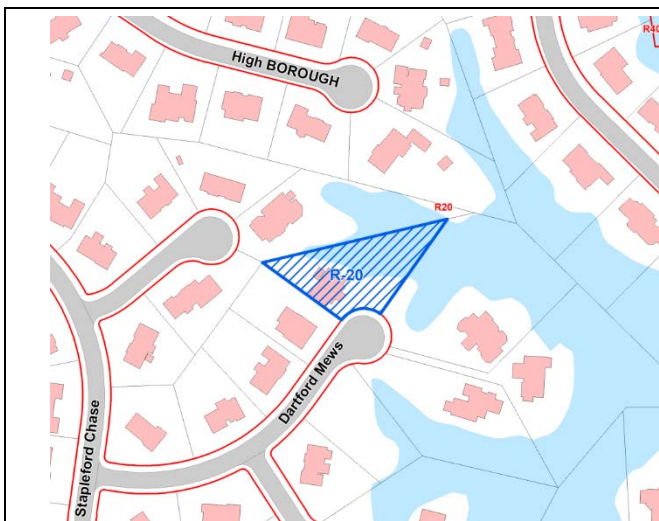
West

Single-family dwelling / R-20 Residential



Background & Summary of Proposal

- The applicant requests a Conditional Use Permit for a Home Occupation to sell high-end custom built rifles on an individual basis, and a limited amount of outdoor and firearm related accessories from the existing single-family dwelling in the R-20 Residential District.
- Sales will be conducted on a referral and internet sales basis. No signs or advertisements are proposed for the property.
- All shipments in which either a firearm or federally controlled item is exchanged will be secured upon delivery by the applicant's signature, as is required by law. No packages containing such products will be left without properly being transferred to the owner.
- All federally controlled items will be stored in secured steel vaults. The applicant also has an electronic security system.
- The applicant has obtained a Federal Firearms License (FFL) through the Bureau of Alcohol, Tobacco, Firearm and Explosives (ATF) for his business. All firearms that are on the site will be required to be secured in accordance with ATF regulations.
- Additionally, a City of Virginia Beach Police Officer will conduct a security assessment of the home in the presence of the applicant within one month of obtaining a Conditional Use Permit.



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 proposed request to operate a Home Occupation – Retail Sales (Firearms) from the existing single-family dwelling, in Staff's opinion, is acceptable. The Home Occupation will not change the character of the neighborhood, as it is a very low intensity use. No testing of firearms will be done from this site, as recommended in Condition 10. To ensure that the impact to the adjoining property owners is minimal, Condition 5 has been added to limit all hand-to-hand transactions of products to no more than 4 per month. Based on Traffic Engineering review, there will be minimal

North Legend Outfitters, LLC

Agenda Item 1

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impacts on traffic to this site for this use. The requirements of the Zoning Ordinance and the conditions recommended by Staff are anticipated to further ensure the compatibility of the proposed use and the safety of the neighborhood.

As stated previously, the Virginia Beach Police Department will conduct a security assessment of the home. The assessment will consist of the following items:

- Inspect all exterior lighting and recommend strategies for best lighting practices to be used;
- Inspect all landscaping, looking for any conflict with lighting and any area where there may be places to hide
- Inspect all interior and exterior door and window locking devices to ensure that they provide adequate home security against burglary
- Inspect all interior and exterior doors to determine adequacy of their strength against penetration by prying, force, or any other means
- Inspect and review any alarm system that may be installed on the home
- Inspect the room and safe where any firearms, firearm supplies, firearms parts, and money may be stored
- If there are children in the home, the assessing officer will review safety measures as it pertains to firearms and the children.

Based on the considerations above, Staff finds that the proposed use meets the requirements for a Home Occupation as stated in Section 234 of the Zoning Ordinance. As such, Staff recommends approval of the request subject to the conditions below.

Recommended Conditions

1. Any firearm or firearm parts kept on the property shall be stored in a locked, secured vault or similar container. The applicant shall contact the Police Department's Crime Prevention Office to arrange for a meeting at the property for the purpose of conducting a security assessment. A report shall be written by the Police Department, a copy provided to the applicant, the Planning Department, and a copy retained by the Police Department. Failure to meet with the Crime Prevention Office within one (1) month of the granting of this Conditional Use Permit shall result in revocation of the Conditional Use Permit.
2. The applicant shall obtain and maintain a Federal Firearms License (FFL) through the Bureau of Alcohol, Tobacco, Firearm and Explosives (ATF) in order to conduct business.
3. All small arms ammunition, primers, smokeless propellants and black powder propellants stored or awaiting transfer at the residence shall comply with Section 3306 of the Virginia Statewide Fire Prevention Code and NFPA 495.
4. There shall be no sign identifying the business on the exterior of any building on the property or within the yard of the property.
5. There shall be no more than four (4) hand-to-hand transactions per month at the dwelling.
6. Not more than twenty (20) percent of the floor area of the dwelling unit and accessory structures shall be used in the conduct of activity with the home occupation.
7. There shall be no more than one (1) employees, other than the homeowner, on the property associated with this home-based business.
8. This Conditional Use Permit is limited to the applicant only, as the main provider of the Firearm Sales Home Occupation.
9. Delivery of firearms to the property shall be received on the applicant's property only, secured by the applicant's signature.

10. There shall be no test firing of firearms on the site.

11. The home occupation shall not create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than would normally be expected in the neighborhood under normal circumstances wherein no home occupation exists.

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. The proposed home occupation, with the proposed conditions, should not adversely effect any of the main goals of the Suburban Areas of the Comprehensive Plan.

Natural & Cultural Resources Impacts

The site is located in the Chesapeake Bay watershed and there no known significant cultural resources associated with this site.

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Dartford Mews	No Data Available	9,900 ADT ¹ (LOS ⁴ "D")	Existing Land Use ² – 10 ADT Proposed Land Use ³ – No Data Available
¹ Average Daily Trips	² as defined by a single-family dwelling	³ No information available in the ITE Trip Generation Manual for home occupation – retail sales (firearms)	⁴ LOS = Level of Service

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

Dartford Mews, in the vicinity of this application, is considered a two-lane local street. There are no roadway CIP projects planned for this area.

Public Utility Impacts

Water & Sewer

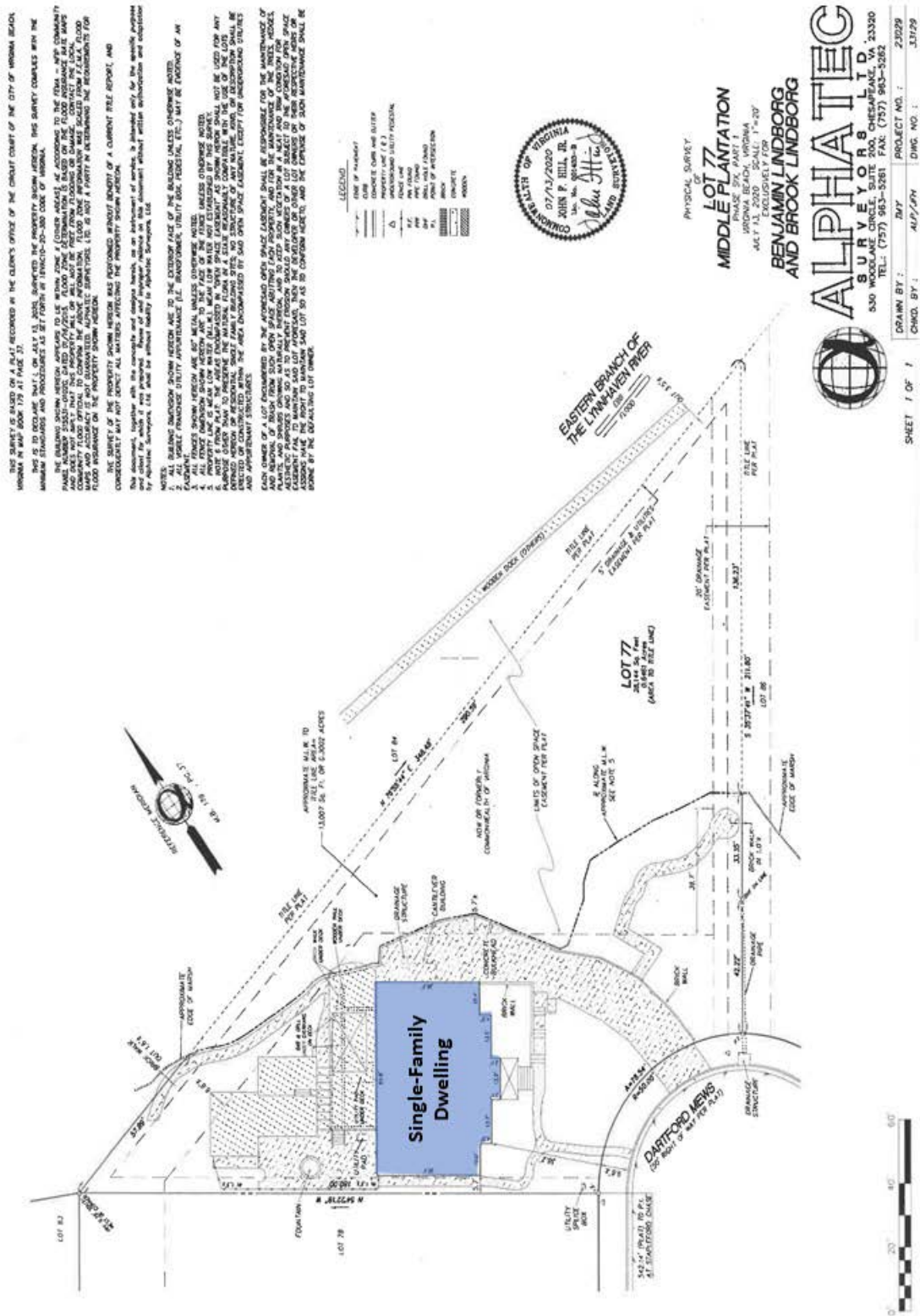
The site is currently connected to both City water and sanitary sewer services.

Public Outreach Information

Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on January 11, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, January 24, 2021 and January 31, 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 January 25, 2021.
- 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 on February 4, 2021.

Proposed Site Layout





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 NORTH LEGEND OUTFITTERS, LLC

Does the applicant have a representative? ☒ Yes ☐ No

- If yes, list the name of the representative.

BENJAMIN LINDBORG

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)

BENJAMIN LINDBORG - MANAGING MEMBER

- If yes, list the businesses that have a parent-subsidary¹ or affiliated business entity² relationship with the applicant. (Attach a list if necessary)

N/A

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

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

Disclosure Statement



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

1. Does the applicant have **any existing financing (mortgage, deeds of trust, cross-collateralization, etc) or are they considering any financing** in connection with the subject of the application or any business operating or to be operated on the property?

☒ Yes ☐ No

- If **yes**, identify the financial institutions.

RENNY MAC

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.

J. MARK COSTEN

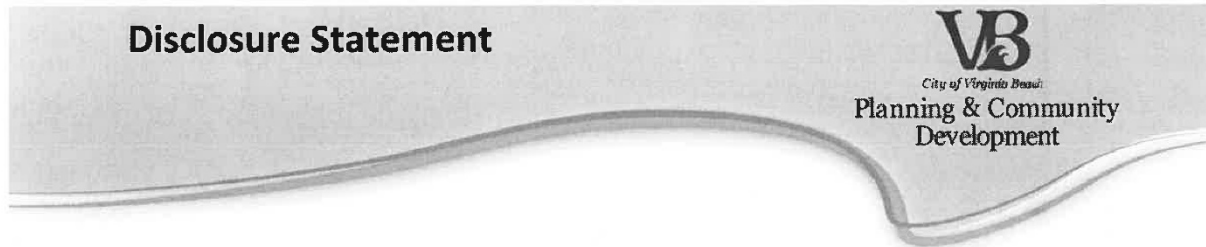
4. Does the applicant have services from an **architect/landscape architect/land planner** provided in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

- 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

BENJAMIN LINDBERG - MANAGING MEMBER
Print Name and Title

30 OCT 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 (Assembly Use)

Staff Recommendation

Approval

Staff Planner

Marchelle Coleman

Location

701 A S. Military Highway

GPIN

1456273699

Site Size

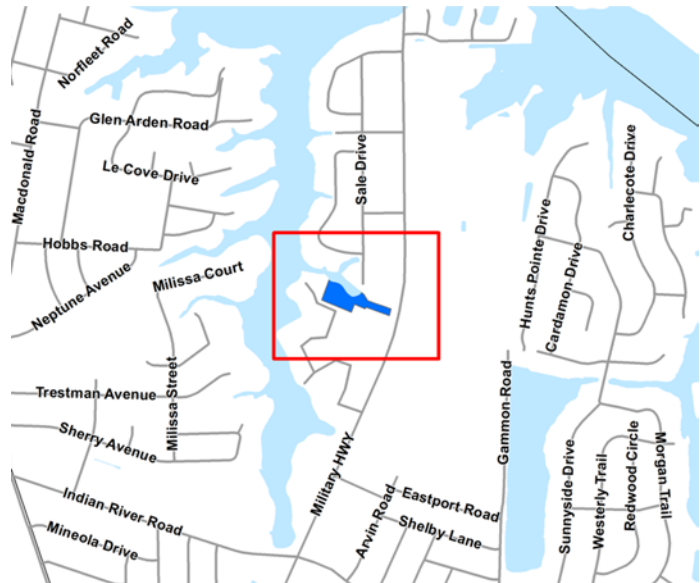
92,302 square feet

AICUZ

Less than 65 dB DNL

Watershed

Chesapeake Bay



Existing Land Use and Zoning District

Shopping Center / B-1 Neighborhood Business,
B-2 Community Business

Surrounding Land Uses and Zoning Districts

North

Single-family dwellings / R-10 Residential

South

Hotel, multi-family dwellings / B-4 Mixed Use,
A-18 Apartment

East

S. Military Highway

Office, Automobile Sales / I-1 Light Industrial

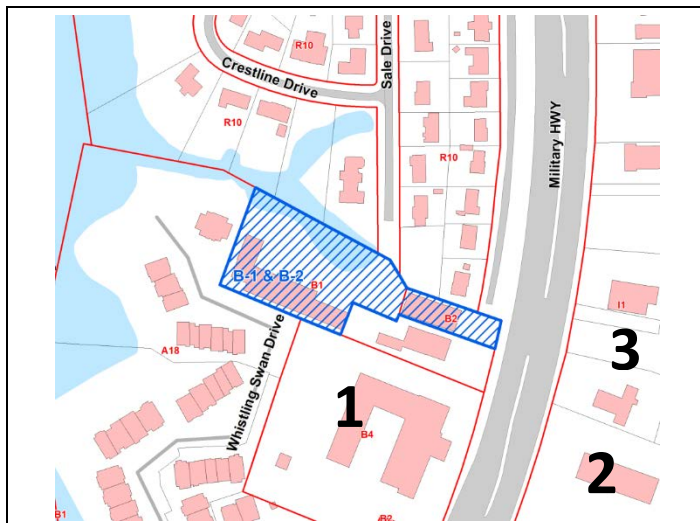
West

Multi-family dwellings/ A-18 Apartment



Background & Summary of Proposal

- The applicant is proposing to operate an event rental space within an 875 square foot unit in one of the existing buildings on the site. The property is zoned B-1 Neighborhood Business and B-2 Community Business. Per the Zoning Ordinance, an event venue is classified as an Assembly Use, and as such, a Conditional Use Permit is required. The building that will be used for the event venue is zoned B-2 Community Business District.
- Specifically, the applicant proposes to rent the venue to the public for small gatherings, such as birthday parties, baby showers, and paint nights. All events will take place inside the building.
- Those renting the venue will be responsible for bringing food prepared offsite, by either a caterer or themselves, as there will not be a kitchen onsite.
- The applicant intends to limit the number of guests to no more than 30 people; however, the maximum occupant load will ultimately be determined by the Building Official/Fire Marshal.
- According to the applicant, scheduling of events will vary, as it is difficult to predict times of service for any future event. However, the applicant is proposing hours of operation to be limited to 7:00 p.m.- 9:00 p.m., Monday through Thursday, 12:00 p.m.- 12:00 a.m. on Friday, 8:00 a.m. – 12:00 a.m. Saturday through Sunday.
- Per the Zoning Ordinance, the site meets the requirements of a shopping center with a parking requirement of one space per 250 square feet of floor area. The total floor area of the buildings on site is 8,050 square feet, resulting in a minimum parking requirement of 32 parking spaces. However, there are 47 parking spaces on the site exceeding the minimum parking requirement by 15 spaces.
- There will be no significant modifications to the site or to the exterior of the building.



Zoning History

#	Request
1	MOP Approved 05/13/2014 CRZ (B-1 & H-1 to Conditional B-4) Approved 12/4/2012
2	CUP (Bulk Storage Yard) Approved 10/23/2007
3	MOD Approved 12/07/2010 CUP (Automotive Repair Garage & Bulk Storage Yard) Approved 11/14/2006 CUP (Bulk Storage of Motor Vehicles) Approved 12/13/2002 CUP (Temporary Recycling Operation) Approved 12/06/1994 CUP (Bulk Storage Facility) Approved 07/12/1994

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's request for the Conditional Use Permit for Assembly Use, in Staff's opinion, is acceptable. This use is consistent with the Comprehensive Plan's vision for the Suburban Focus Area 8 – Military Highway Corridor. Development within this area focuses on creating and maintaining great neighborhoods by enhancing the existing neighborhood through compatibility with surroundings. This assembly use helps to maintain great neighborhoods by providing an affordable amenity to the community for the use of small gatherings and social events. Access to the site is only from South Military Highway with no vehicular impacts to any adjacent residential uses.

As previously mentioned, the shopping center exceeds the minimum parking requirement, as defined in Section 203 of the Zoning Ordinance. Based on Traffic Engineering review, the event space is not large enough to generate an extensive amount of traffic to this site, as most of the events will take place during off-peak traffic periods.

While the applicant indicates that all activities and music will remain indoors, a condition to reinforce that no amplified music, use of speakers or monitors for the Assembly Use will be permitted outside of the building is recommended.

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

Recommended Conditions

1. The applicant shall obtain all necessary permits and inspections from the Department of Planning & Community Development/Permits and Inspections Division. The applicant shall secure a Certificate of Occupancy from the Building Official's Office for use of the existing building as an Assembly Use.
2. The maximum number of attendees shall not exceed thirty (30) or the occupancy load determined by the City of Virginia Beach Fire Marshal.
3. Any on-site signage for the establishment shall meet the requirements of the City Zoning Ordinance, and there shall be no neon, electronic display or similar 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 Department of Planning & Community Development for the installation of any new signs.
4. All event activities shall occur within the building.
5. No amplification of music or use of speakers shall be permitted except within the enclosed building.
6. Hours of operation shall be limited to 7:00 p.m.- 9:00 p.m., Monday through Thursday, 12:00 p.m.- 12:00 a.m. on Friday, and 8:00 a.m. – 12:00 a.m. Saturday through Sunday.

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 site as being located within the Suburban Focus Area 8 – Military Highway Corridor. This area includes both sides of Military Highway. The general pattern of land uses along this corridor has remained essentially unchanged for decades. North of Indian River Road, the western side of S. Military Highway consists of a low to medium density residential area and on the eastern side it largely consists of light industrial uses including auto and truck sales, rentals, repairs, outdoor storage, and warehousing. The land along S. Military Highway, south of Indian River Road, is zoned and used for commercial purposes. New and redeveloped uses should improve the aesthetic of this corridor through high quality building design, signage, and landscaping.

Natural & Cultural Resources Impacts

The site is located in the Chesapeake Bay watershed and there are no known significant cultural resources associated with this site.

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
S. Military Highway	51,100 ADT ¹	74,000 ADT ¹ (LOS ⁴ “D”)	Existing Land Use ² – No Data Available Proposed Land Use ³ – No Data Available
¹ Average Daily Trips	² as defined by a XXXXXXX	³ No information available in the ITE Trip Generation Manual for event venues	⁴ LOS = Level of Service

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

S. Military Highway, in the vicinity of this application, is considered an eight-lane major urban arterial. The MTP proposes a divided facility within a 150-foot right-of-way. 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.

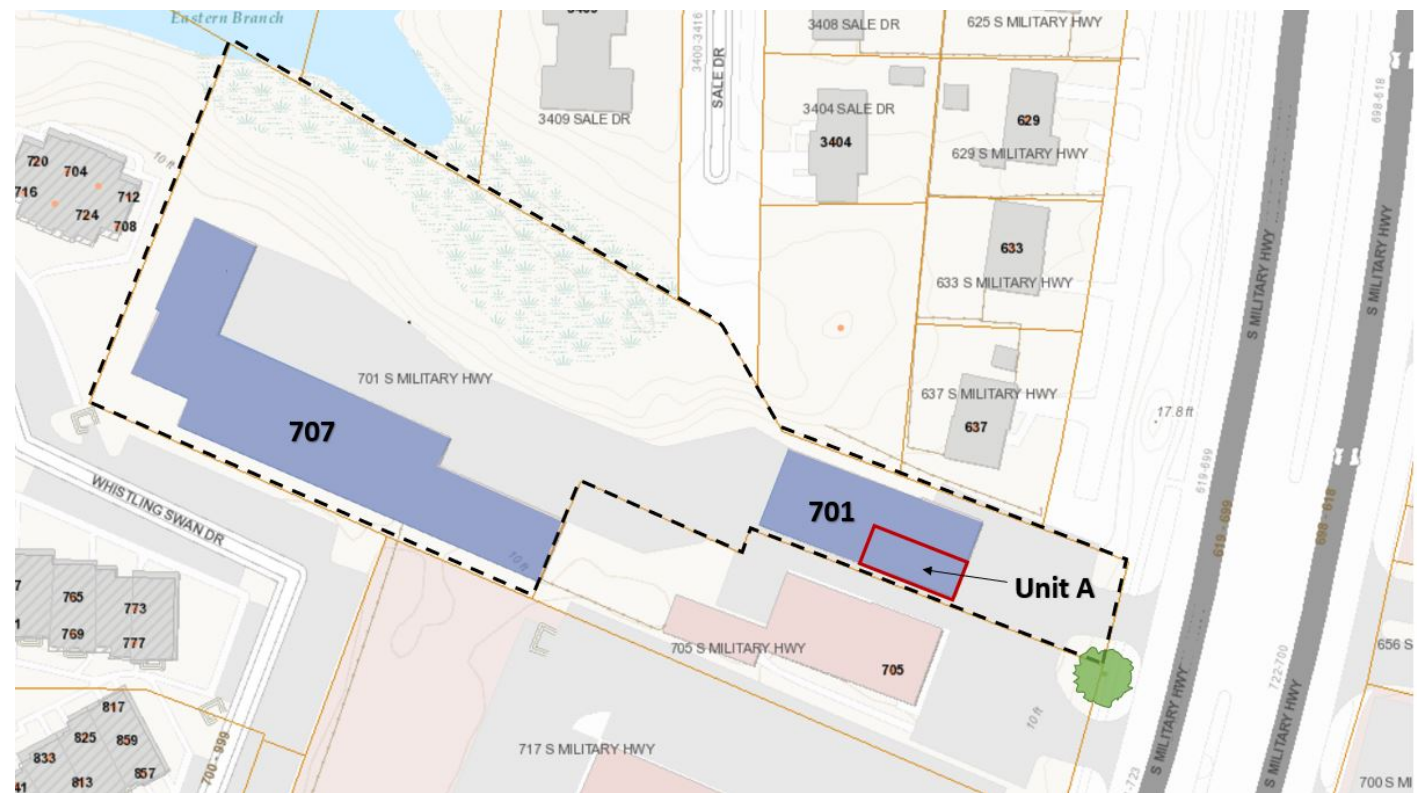
Public Outreach Information

Planning Commission

- The applicant reported that they met with the surrounding property owners, and no objections were raised. A Petition of Support was provided with eight signatures.
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on January 11, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, January 24, 2021 and January 31, 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 January 25, 2021.

- 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 on February 4, 2021.

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

Toya Smith

Does the applicant have a representative? ☐ Yes ☒ No

- If yes, list the name of the representative.

Is the applicant a corporation, partnership, firm, business, trust or an unincorporated business? ☐ Yes ☒ No

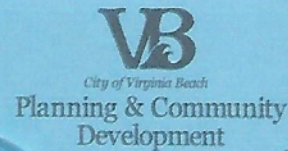
- If yes, list the names of all officers, directors, members, trustees, etc. below. (Attach a list if necessary)

- If yes, list the businesses that have a parent-subsidary¹ or affiliated business entity² relationship with the applicant. (Attach a list if necessary)

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

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

Disclosure Statement



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

1. Does the applicant have any existing financing (mortgage, deeds of trust, cross-collateralization, etc) or are they considering any financing in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

- If yes, identify the financial institutions.

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

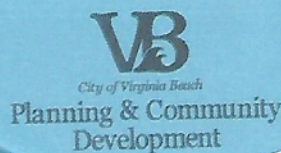
- If yes, identify the firm or individual providing the service.

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.



Applicant Signature

Toya Smith owner

Print Name and Title

11/19/2020

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 SST Holdings LLC

Applicant Name Toya Smith

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)

Thomas Payne
Svitlana Payne

- If yes, list the businesses that have a parent-subsiary³ or affiliated business entity⁴ relationship with the Owner. (Attach a list if necessary)

Known Interest by Public Official or Employee

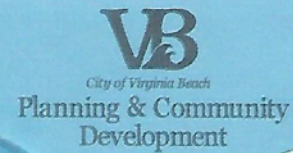
Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action? ☐ Yes ☒ No

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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

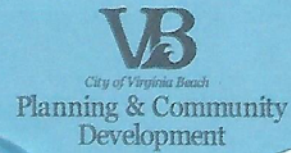
- If yes, identify the construction contractor.

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.

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.

A handwritten signature in black ink, appearing to read 'Thomas C. Payne'. The signature is written in a cursive, flowing style.

Owner Signature

A handwritten name and title in black ink, reading 'Thomas Payne, Owner'. The text is written in a cursive, flowing style.

Print Name and Title

A handwritten date in black ink, reading '11/17/2020'. The date is written in a cursive, flowing style.

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 (Family Day-Care Home)

Staff Recommendation

Approval

Staff Planner

Marchelle Coleman

Location

980 Avery Way

GPIN

1464362803

Site Size

9,416 square feet

AICUZ

Less than 65 dB DNL

Watershed

Southern Rivers

Existing Land Use and Zoning District

Single-family dwelling / R-7.5 Residential

Surrounding Land Uses and Zoning Districts

North

Single-family dwelling / R-7.5 Residential

South

Heald Way

Single-family dwelling / R-7.5 Residential

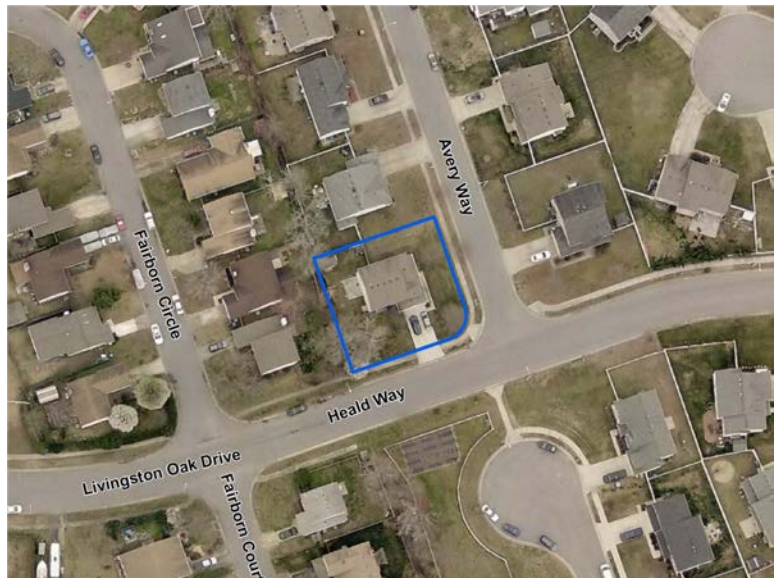
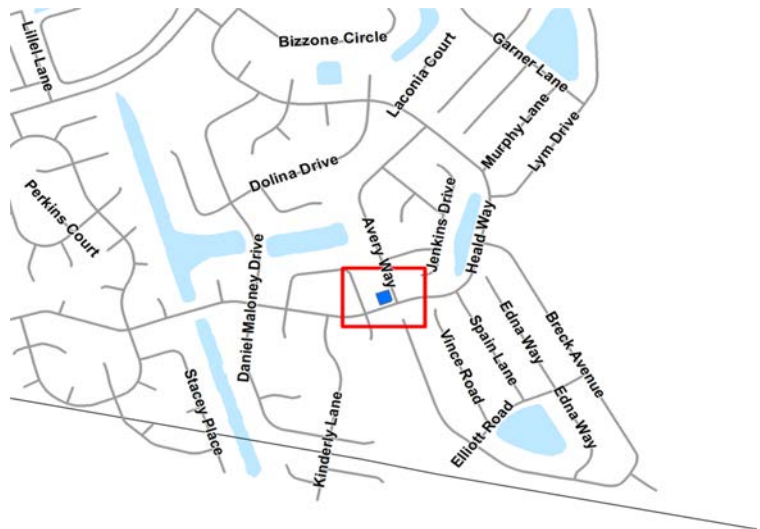
East

Avery Way

Single-family dwellings / R-7.5 Residential

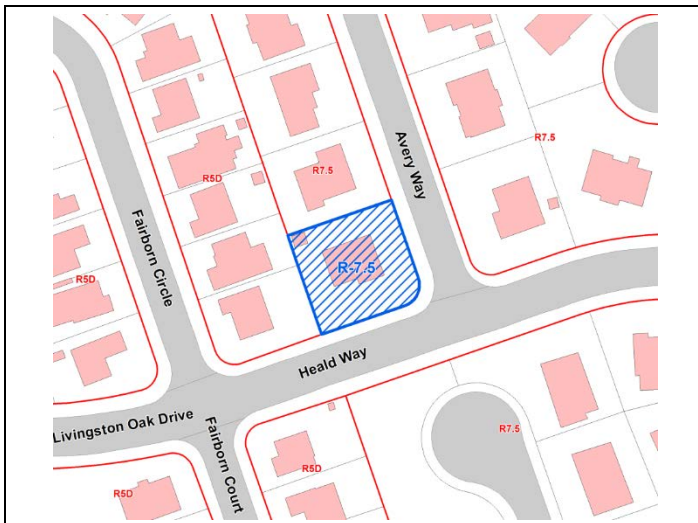
West

Single-family dwellings / R-5D Residential



Background & Summary of Proposal

- The applicant is requesting a Conditional Use Permit for a Family Day-Care Home to care for up to 12 children within the single-family dwelling. The 9,416 square foot parcel is zoned R-7.5 Residential District and is located in the Woodbridge Point neighborhood.
- The applicant has over seven years of experience caring for children and is the only caregiver associated with the proposed day-care.
- The designated outdoor play area is located in the backyard and is enclosed by a four-foot and six-foot tall privacy fence, as depicted on the site layout exhibit on page 5 of this report.
- The typical hours of operation are 7:00 a.m. through 5:00 p.m., Monday through Friday.



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

This request for a Conditional Use Permit for a Family Day-Care Home, in Staff's opinion, is consistent with the policies and goals set forth in the Comprehensive Plan for the Suburban Area. Staff finds the property to be organized and well-kept, successfully promoting the policies intended to ensure the maintenance and sustainability of great neighborhoods.

The applicant has requested to provide day-care services for up to 12 children. A Family Day-Care Home with four or less children are permitted by right in residential districts. When the number of children cared for increases to five or more children, excluding the provider's own children and those who reside in the home, both state licensure and a Conditional Use Permit are required.

Staff recommends conditions that pick-up and drop-off times be staggered and to allow only one Home Occupation operating on the property at any one time to alleviate the potential for congestion in the right-of-way. In general approval of a Conditional Use Permit runs with the land; however, due to the nature of the use, Staff recommends a condition to limit this Conditional Use Permit request to only this applicant. Each Family Day-Care Home operator should

make the request with the City and allow Staff the opportunity to inspect the site and evaluate the operating conditions on an operator-by-operator basis.

In Staff's view, Family Day-Care Homes provide a needed and valuable service to the community and will not be detrimental to any adjacent land uses. Based on these considerations, Staff recommends approval of this request subject to the conditions listed below.

Recommended Conditions

1. Arrival and departure times shall be staggered to avoid vehicular congestion.
2. The Family Day-Care Home shall be limited to the total of twelve (12) children, other than children living in the home.
3. The applicant shall maintain a license with the Virginia Department of Social Services for childcare.
4. This Conditional Use Permit is limited to the applicant only, as the main provider of the Family Day-Care Home.
5. No more than one (1) person, other than the applicant, shall assist with the operation of the Family Day-Care Home at any one time.
6. Any sign identifying the home occupation shall be non-illuminated, not more than one (1) square foot in area and mounted flat against the residence.
7. The applicant shall obtain all necessary permits and inspections from the City of Virginia Beach. Prior to operation, the applicant shall obtain a Certificate of Occupancy from the Building Official's Office for use of the house as a Family Day-Care Home.
8. The applicant/owner shall maintain a six-foot privacy fence around the perimeter of the rear yard for the duration of the use.
9. There shall be only one Home Occupation, the Family Day-Care Home, operating on the property associated with this Conditional Use Permit.

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 this site.

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Avery Way	No Data Available		Existing Land Use ¹ – 10 ADT Proposed Land Use ² – 42 ADT
<div>¹ as defined by a single-family dwelling</div> <div>² as defined by a single-family dwelling with a Family Day-Care Home</div>			

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

Avery Way, in the vicinity of this application, is considered a two-lane undivided local street. It is not included in the MTP and there are no CIP projects planned for this area.

Public Utility Impacts

Water & Sewer

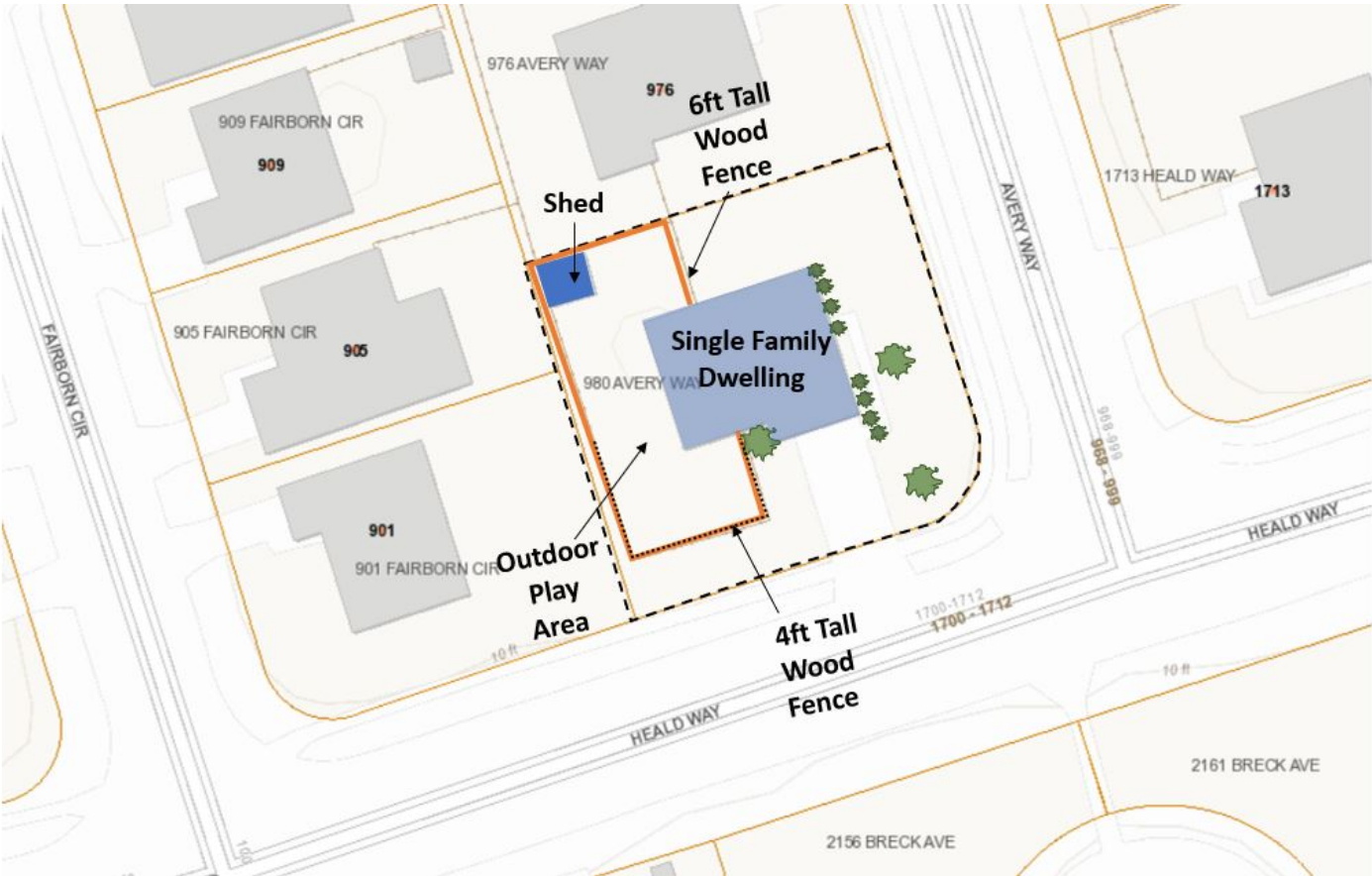
The site is currently connected to both City water and sanitary sewer services.

Public Outreach Information

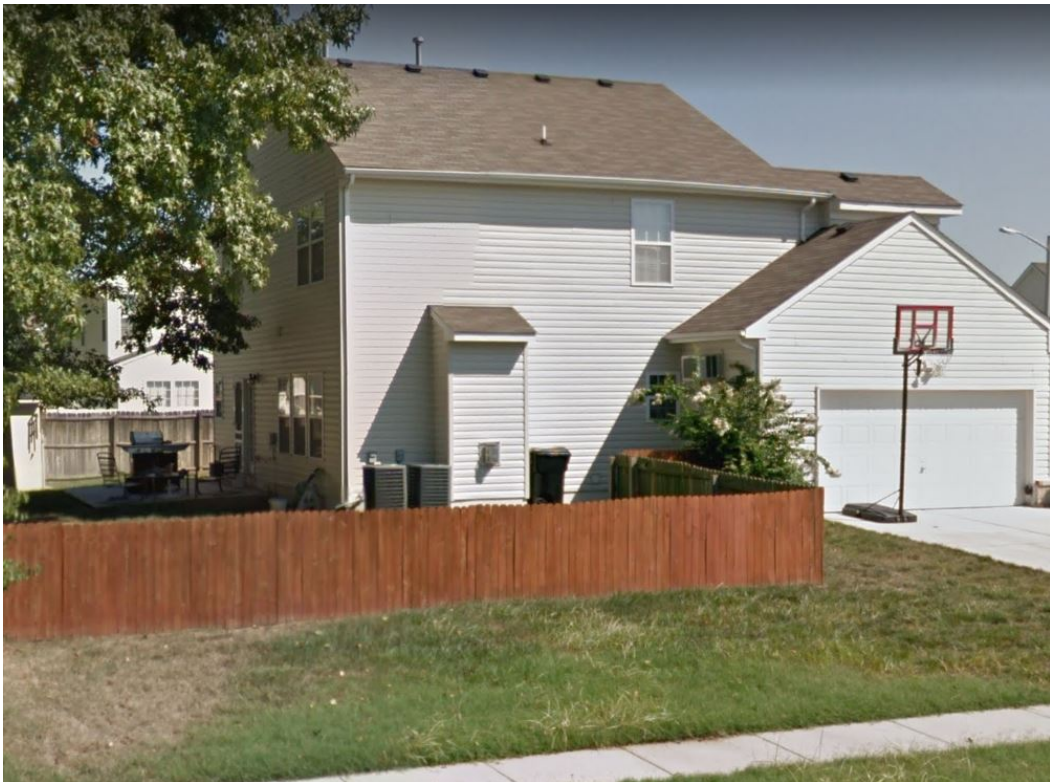
Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on January 11, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, January 24, 2021 and January 31, 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 January 25, 2021.
- 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 on February 4, 2021.

Site Layout



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 EDYNERIS O. AQUINDE

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)

N/A

- If yes, list the businesses that have a parent-subsiary¹ or affiliated business entity² relationship with the applicant. (Attach a list if necessary)

N/A

¹ "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.

² "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.

NAVY FEDERAL CREDIT UNION

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 black ink, appearing to read 'Edynerris O. Aquinde', written over a horizontal line.

Applicant Signature

EDYNNERRIS O. AQUINDE / FAMILY CHILDCARE PROVIDER

Print Name and Title

11/01/20

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 EDYNERIS O. AQUINDE

Applicant Name EDYNERIS O. AQUINDE

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)

N/A

- If yes, list the businesses that have a parent-subsidary³ or affiliated business entity⁴ relationship with the Owner. (Attach a list if necessary)

N/A

Known Interest by Public Official or Employee

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

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

N/A

³ "Parent-subsidary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, VA. Code § 2.2-3101.

⁴ "Affiliated business entity relationship" means "a relationship, other than parent-subsidary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

Disclosure Statement



Owner Services Disclosure

1. Does the Owner have **any existing financing (mortgage, deeds of trust, cross-collateralization, etc)** or are they considering any **financing** in connection with the subject of the application or any business operating or to be operated on the property?

☒ **Yes** ☐ **No**

- If **yes**, identify the financial institutions.

Navy Federal Credit Union

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



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 'Honorio Maximo P. Aquino Jr.'.

Owner Signature

HONORIO MAXIMO P. AQUINO JR./USN Retiree, EDYNERIS O. AQUINO / FAMILY CHILDCARE PROVIDER

Print Name and Title

11/01/2020

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 (Family Day-Care Home)

Staff Recommendation

Approval

Staff Planner

Marchelle Coleman

Location

5150 Rugby Road

GPIN

1465948584

Site Size

8,860 square feet

AICUZ

Less than 65 dB DNL

Watershed

Southern Rivers

Existing Land Use and Zoning District

Single-family dwelling / A-12 Apartment

Surrounding Land Uses and Zoning Districts

North

Single-family dwelling / A-12 Apartment

South

Single-family dwelling / A-12 Apartment

East

Water, apartments / A-12 Apartment

West

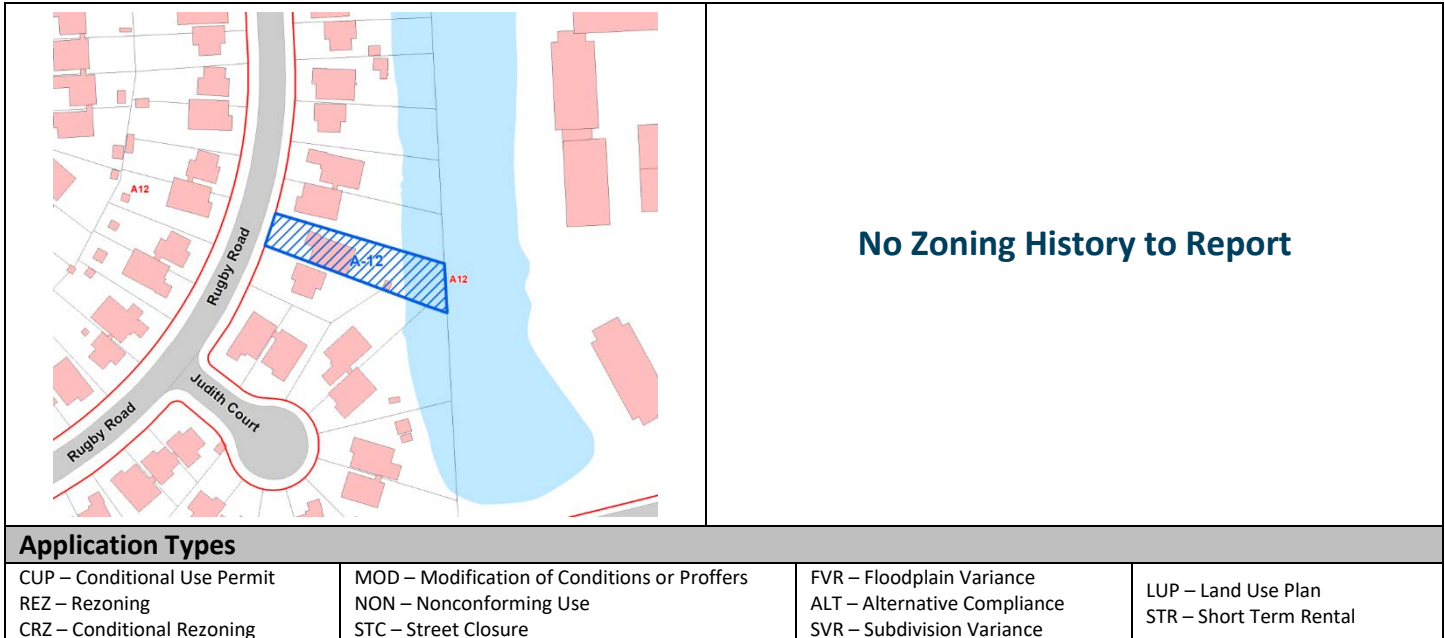
Rugby Road

Single-family dwellings / A-12 Apartment



Background & Summary of Proposal

- The applicant is requesting a Conditional Use Permit for a Family Day-Care Home to care for up to 12 children within the single-family dwelling. The 8,860 square foot parcel is zoned A-12 Apartment District and is located in the Rosemont Forest neighborhood.
- The applicant has over 20 years of experience caring for children and the assistant has 16 years of experience.
- The designated outdoor play area is located in the backyard and is enclosed by a six-foot privacy fence.
- The typical hours of operation are 6:00 a.m. through 6:00 p.m., Monday through Friday.



Evaluation & Recommendation

This request for a Conditional Use Permit for a Family Day-Care Home, in Staff's opinion, is consistent with the policies and goals set forth in the Comprehensive Plan for the Suburban Area. Staff finds the property to be organized and well-kept, successfully promoting the policies intended to ensure the maintenance and sustainability of great neighborhoods.

The applicant has requested to provide day-care services for up to 12 children and has over 20 years of experience. A Family Day-Care Home with four or less children are permitted by right in residential districts. When the number of children cared for increases to five or more children, excluding the provider's own children and those who reside in the home, both state licensure and a Conditional Use Permit are required.

Staff recommends conditions that pick-up and drop-off times be staggered and to allow only one Home Occupation operating on the property at any one time to alleviate the potential for congestion in the right-of-way. In general approval of a Conditional Use Permit runs with the land; however, due to the nature of the use, Staff recommends a condition to limit this Conditional Use Permit request to only this applicant. Each Family Day-Care Home operator should make the request with the City and allow Staff the opportunity to inspect the site and evaluate the operating conditions on an operator-by-operator basis.

In Staff's view, Family Day-Care Homes provide a needed and valuable service to the community and will not be detrimental to any adjacent land uses. Based on these considerations, Staff recommends approval of this request subject to the conditions listed below.

Recommended Conditions

1. Arrival and departure times shall be staggered to avoid vehicular congestion.
2. The Family Day-Care Home shall be limited to the total of twelve (12) children, other than children living in the home.
3. The applicant shall maintain a license with the Virginia Department of Social Services for childcare.
4. This Conditional Use Permit is limited to the applicant only, as the main provider of the Family Day-Care Home.
5. No more than one (1) person, other than the applicant, shall assist with the operation of the Family Day-Care Home at any one time.
6. Any sign identifying the home occupation shall be non-illuminated, not more than one (1) square foot in area and mounted flat against the residence.
7. The applicant shall obtain all necessary permits and inspections from the City of Virginia Beach. Prior to operation, the applicant shall obtain a Certificate of Occupancy from the Building Official's Office for use of the house as a Family Day-Care Home.
8. The applicant/owner shall maintain a six-foot privacy fence around the perimeter of the rear yard for the duration of the use.
9. There shall be only one Home Occupation, the Family Day-Care Home, operating on the property associated with this Conditional Use Permit.

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 this site.

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Rugby Road	No Data Available		Existing Land Use ¹ – 10 ADT Proposed Land Use ² – 46 ADT
	¹ as defined by a single-family dwelling	² as defined by a single-family dwelling with a Family Day-Care Home	

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

Rugby Road, in the vicinity of this application, is considered a two-lane undivided local street. It is not included in the MTP and there are no CIP projects planned for this area.

Public Utility Impacts

Water & Sewer

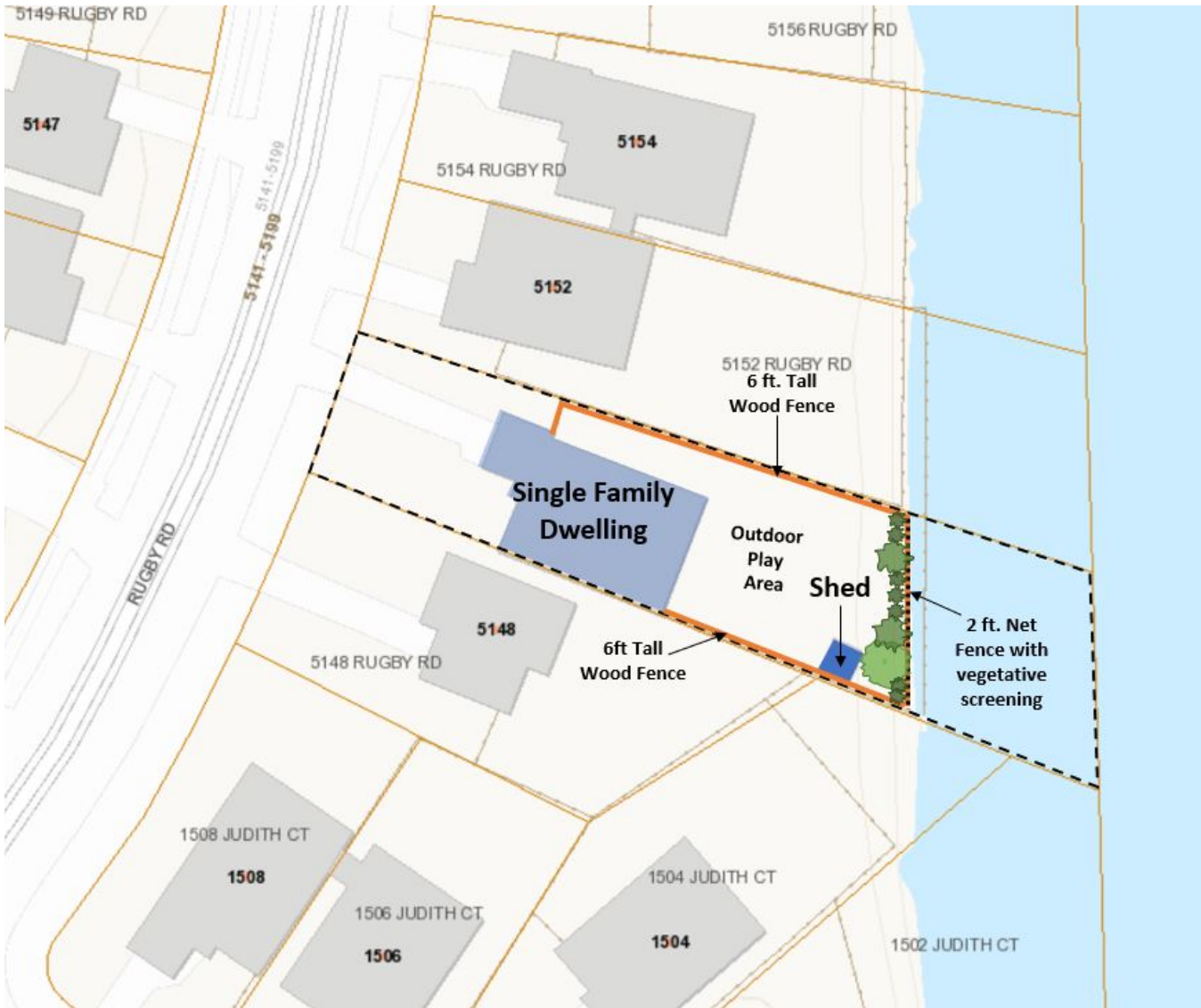
The site is currently connected to both City water and sanitary sewer services.

Public Outreach Information

Planning Commission

- The applicant reported that they met with the surrounding property owners, and no objections were raised. A petition of support was provided to Staff with two signatures from the two immediately adjacent property owners.
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on January 11, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, January 24, 2021 and January 31, 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 January 25, 2021.
- 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 on February 4, 2021.

Site Layout



Site Photos



Site Photos



Disclosure Statement



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Applicant Disclosure

Applicant Name Yessica Diaz-Johnson

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)

Partnership with Jennifer Crump

- If **yes**, list the businesses that have a parent-subsidary¹ or affiliated business entity² relationship with the applicant. (Attach a list if necessary)

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

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

Disclosure Statement



Known Interest by Public Official or Employee

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- 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.

VHA

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 company and individual providing the service.
-
7. Does the applicant have an **engineer/surveyor/agent** in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No
- If **yes**, identify the firm and individual providing the service.
-
8. Is the applicant receiving **legal services** in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No
- If **yes**, identify the firm and individual providing the service.
-

Applicant Signature

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate. I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the meeting of Planning Commission, City Council, VBDA, CBPA, Wetlands Board or any public body or committee in connection with this application.

A handwritten signature in black ink, appearing to read 'Jessica Diaz-Johnson', written over a horizontal line.

Applicant Signature

Yessica Diaz-Johnson

Print Name and Title

11/17/2020

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.
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- 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)

Staff Recommendation

Approval

Staff Planner

Jonathan Sanders

Location

228 Pritchard Road

GPINs

1497227432, 1497229425

Site Size

1.27 acres

AICUZ

Greater than 75 dB DNL

Watershed

Chesapeake Bay

Existing Land Use and Zoning District

Church / R-10 Residential

Surrounding Land Uses and Zoning Districts

North

Single-family dwellings / R-10 Residential

South

Single-family dwellings / R-10 Residential

East

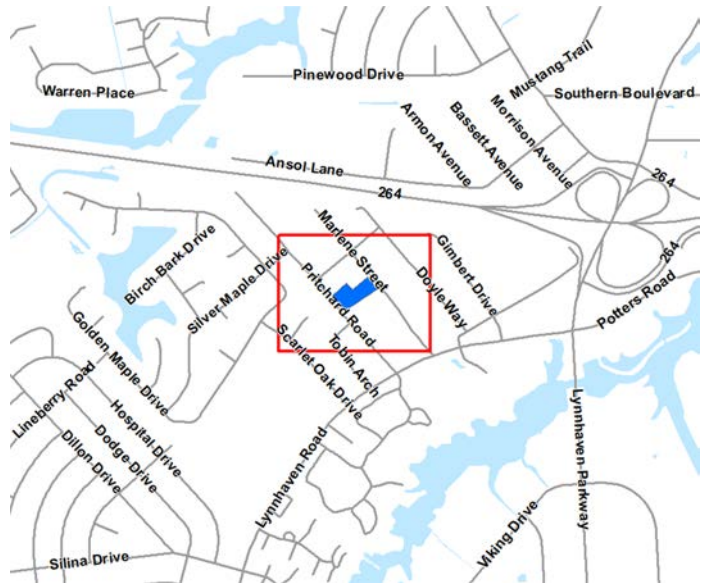
Marlene Street

Single-family dwellings / R-10 Residential

West

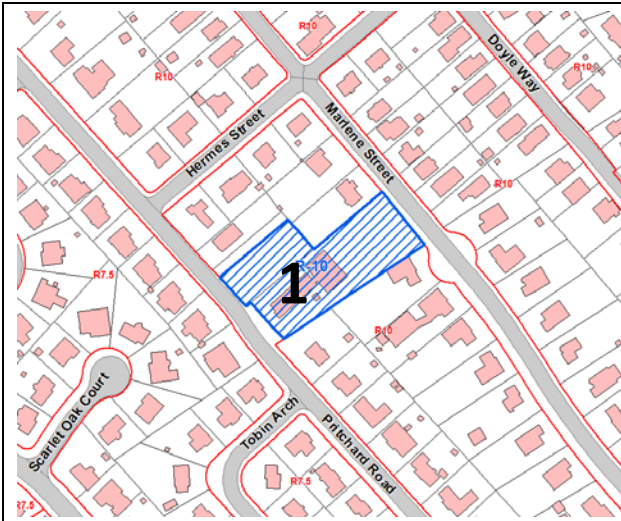
Pritchard Road

Single-family dwellings / R-7.5 Residential



Background & Summary of Proposal

- The subject 1.27 acre site is zoned R-10 Residential District and consists of a church and parking lot with access to both Pritchard Road and Marlene Street.
- The original Conditional Use Permit for a church was approved in 1961 and requests to expand the church and parking area were approved in 1985 and 1995.
- The church is now requesting to demolish the 2,707 square foot front wing of the church along Pritchard Road and to construct a new larger addition in its place. A proposed one-story 4,602 square foot addition is planned to house the main gathering space with 207 seats, offices, bathrooms and classrooms. When complete, the total size of the building will be 7,877 square feet.
- The existing building encroaches 10.42 feet into the front yard setback along Pritchard Road. The proposed addition will encroach 1.31 feet into the setback along Pritchard Road, thus reducing the degree of non-conformity. The proposed porches on the south side will encroach 5.87 feet into the 20-foot side yard setback. As such, a deviation to the front yard and side yard setback is requested.
- The architectural elevations of the exterior façade of the proposed building addition depict brick, cement fiberboard siding & window trim, EIFS and architectural grade shingles.
- Foundation plantings along the front of the addition are proposed. Further review of the landscaping requirements will occur at final site plan review.
- The existing parking lot has 53 parking spaces, which meets the minimum 42 parking spaces that are required in the City Zoning Ordinance.
- The church site currently has two signs, one at each entrance. According to the applicant, the existing freestanding sign along Pritchard Road is currently in the right-of-way and will be removed. A new building sign with the name of the church will be integrated into the front façade of the proposed addition. No new freestanding signs are proposed. Section 240.1 (c) of the Zoning Ordinance states that in Residential Districts, religious uses shall be allowed one sign per entrance not to exceed 24 square feet per face or such other signage approved as part of the Conditional Use Permit.



Zoning History

#	Request
1	CUP (Church Parking Lot Expansion) Approved 05/23/1995 CUP (Church Addition) Approved 01/21/1985 CUP (Church) Approved 05/01/1961

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 Modification of Conditions for a Religious Use on this site, in Staff's opinion, is consistent with the policies and goals set forth in the Comprehensive Plan for the Suburban Area for institutions and businesses. 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 surrounding uses. The proposed redevelopment of the church will enhance the ability of the organization to have more capacity to serve the community and run more efficiently.

As mentioned above, the proposed front of the building encroaches into the 30-foot front setback along Prichard Road setback by 1.3 feet. Additionally, two proposed porches with railings to be used as ingress/egress encroach into the 20-foot side yard setback by 5.87 feet. The encroachment to the front is a reduction in the existing encroachment by 9.11 feet and supported by staff due to the reduction in the existing non-conformity. The proposed building meets the required 20-foot side yard setback, however the required landing and stairs for egress of the building are located within the required side yard setback. Staff supports the deviation to the side yard setback requirement due to the only encroachments being the landing and stairs to egress the building. Per Section 221(i) of the Zoning Ordinance, the City Council may approve the deviation.

Staff has also recommended a condition to allow for the wall sign with the name of the church proposed on the front façade.

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

Recommended Conditions

1. All conditions attached to the Conditional Use Permit (Parking Lot Expansion) granted for the Church in 1995 are hereby deleted and superseded by the following conditions below.
2. When the property is developed, it shall be in substantial conformance with the submitted Concept Plan entitled, "Site Improvements Plan", dated 1/27/2021 and prepared by John Sandow Engineering, LLC, 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 building shall substantially adhere in appearance, size and materials to the elevations entitled, "First Chinese Baptist Church", dated June 25, 2020 and prepared by Barnes Design Group which has been exhibited to the Virginia Beach City Council and is on file in the Virginia Beach Department of Planning & Community Development.
4. 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.
5. The existing freestanding sign fronting Pritchard Road shall be removed from the right-of-way.
6. Signage for the Religious Use permitted includes the sign proposed on the front facade as depicted on the elevations entitled, "First Chinese Baptist Church", dated June 25, 2020 and prepared by Barnes Design Group which has been exhibited to the Virginia Beach City Council and is on file in the Virginia Beach Department of Planning & Community Development.
7. The proposed addition shall be located no closer than 28.69 feet from the Pritchard Road front property line as depicted on the exhibit entitled, "Site Improvements Plan", dated 1/27/2021 and prepared by John Sandow Engineering, LLC. This location is a deviation to the 30-foot front setback required by the Zoning Ordinance.
8. The proposed addition's porch, steps and railings shall be located no closer than 14.13 feet from the southern side yard property line as depicted on the exhibit entitled, "Site Improvements Plan", dated 1/27/2021 and prepared by John Sandow Engineering, LLC. This is a deviation to the 20-foot side yard setback required by the Zoning Ordinance.

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.

1995 Conditions (Parking Lot Expansion)

1. Site improvements shall be in accordance with the submitted plan entitled "New Auxiliary Building, First Chinese Baptist Church" dated March 27, 1995.
2. A fence is to be installed along Pritchard Road with a gate which will remain locked except during church services.
3. A gate is to be installed between the existing parking area fronting on Marlene Road and the proposed parking lot. This gate will also remain locked except during church services.
4. A 6-foot privacy fence and 10-foot landscape buffer along the boundaries abutting single-family residences will be required.

5. All lighting shall be directed toward the interior of the parking lot and away from adjoining residences.

1985 Conditions (Church Addition)

None.

1961 Conditions (Church)

None.

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
Pritchard Road	No Data Available	No Data Available	Existing Land Use ¹ – 41 ADT Proposed Land Use ² – 55 ADT
¹ As defined by a 5,980 square foot church. ² as defined by aa 7,877 square foot church.			

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

Pritchard Road 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

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

Public Outreach Information

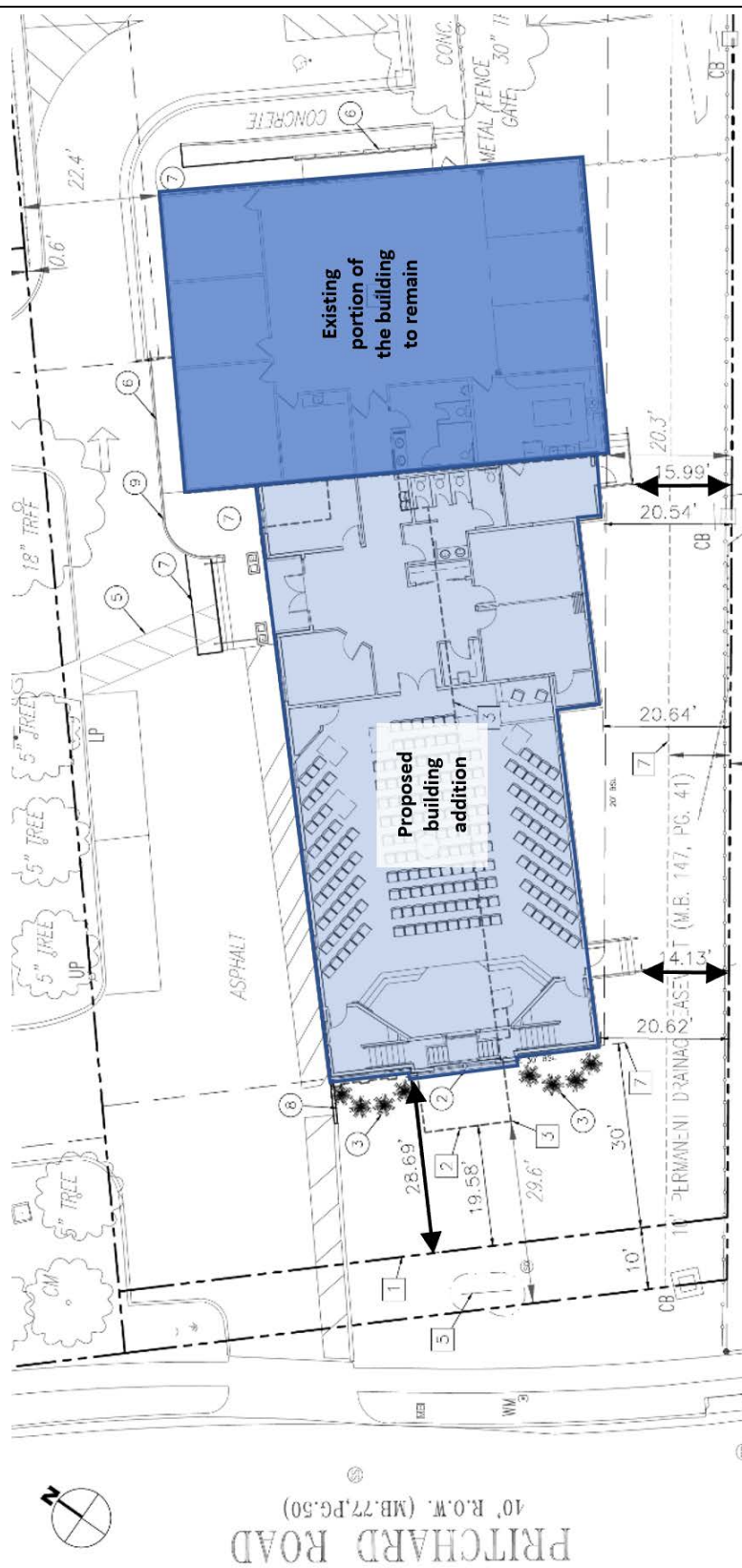
Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on January 11, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, January 24, 2021 and January 31, 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 January 25, 2021.
- 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 on February 4, 2021.

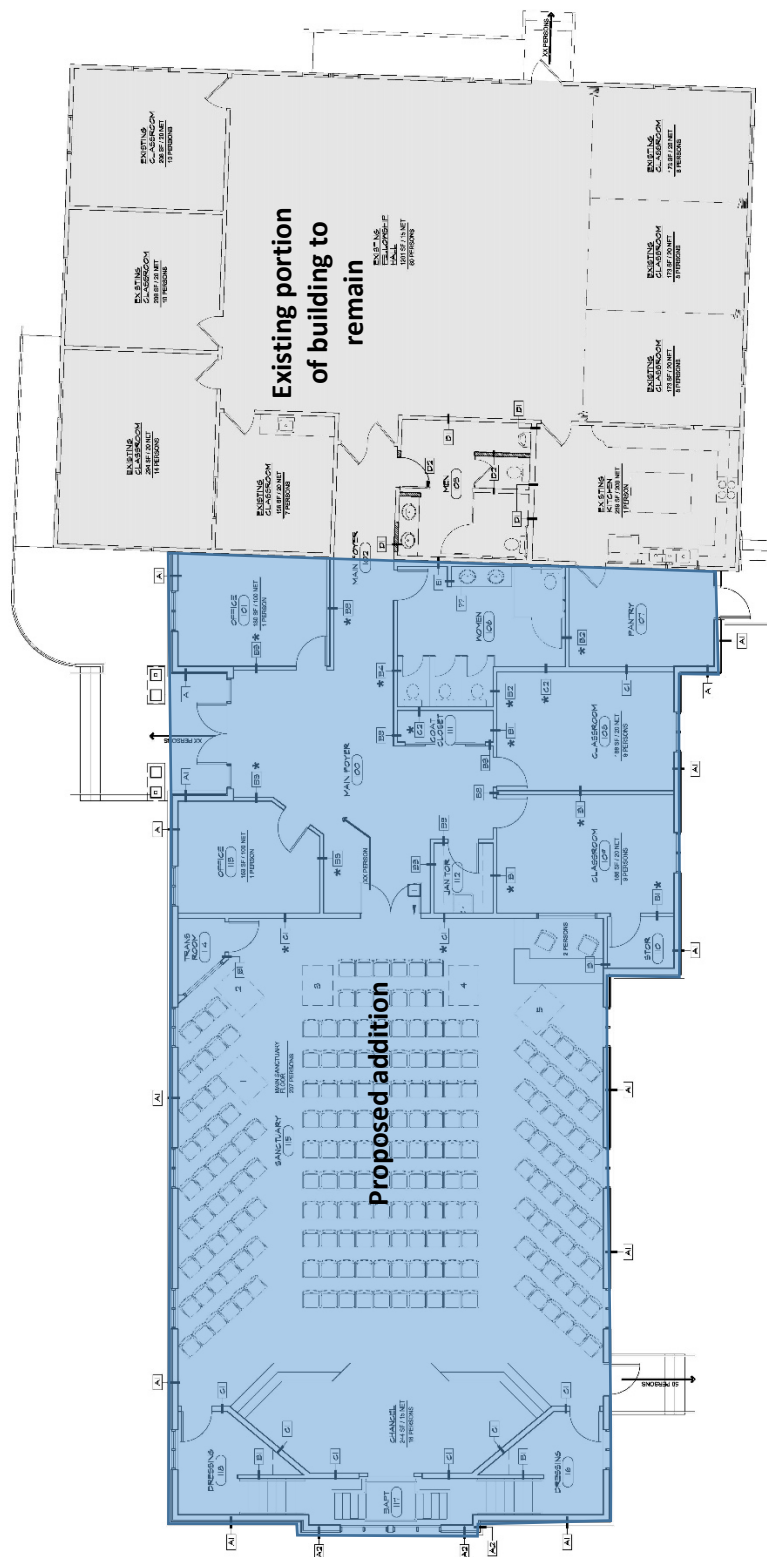
Proposed Site Layout



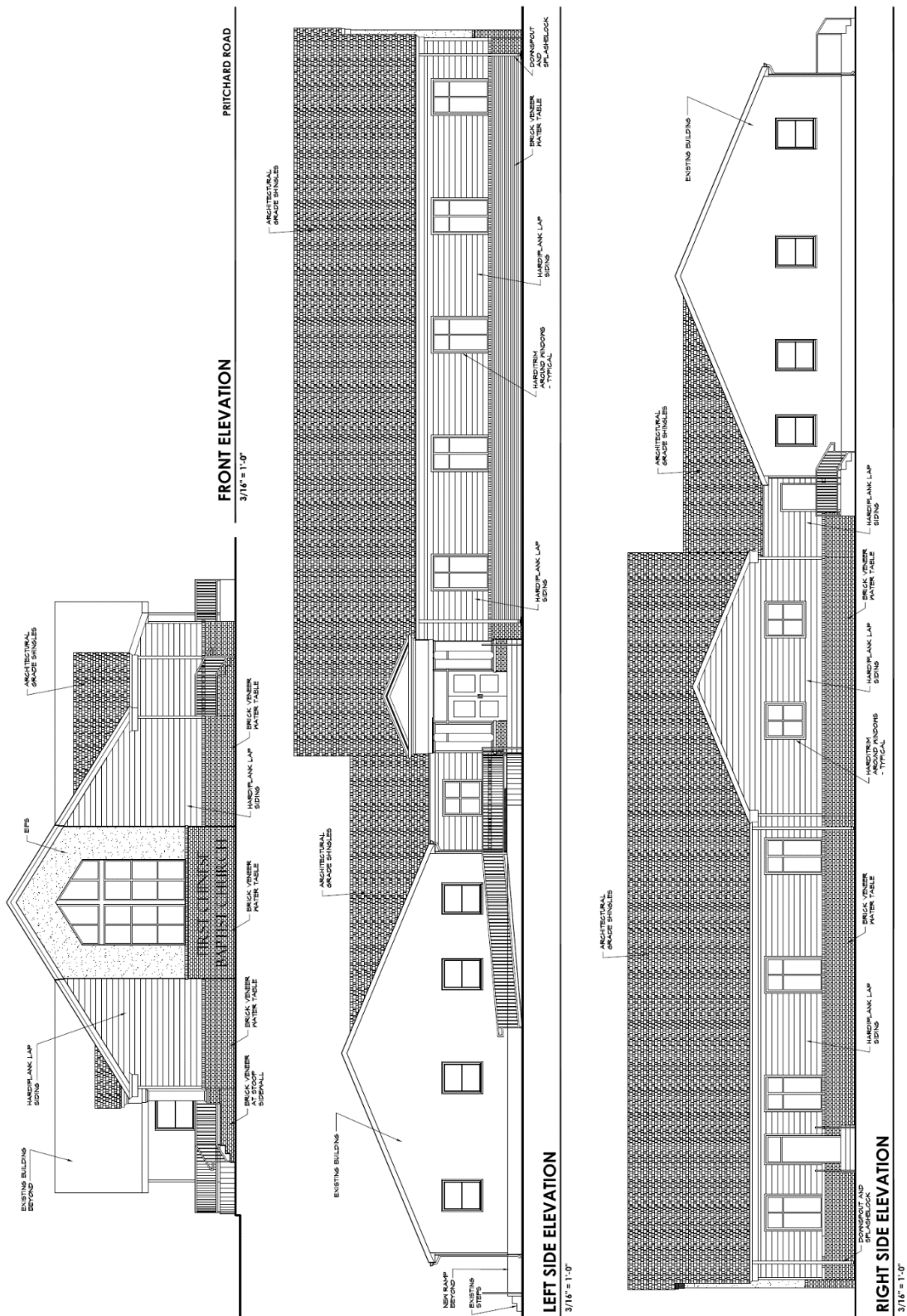
Enlarged Layout - Setback Deviations



Proposed Floor Plan



Proposed Elevations



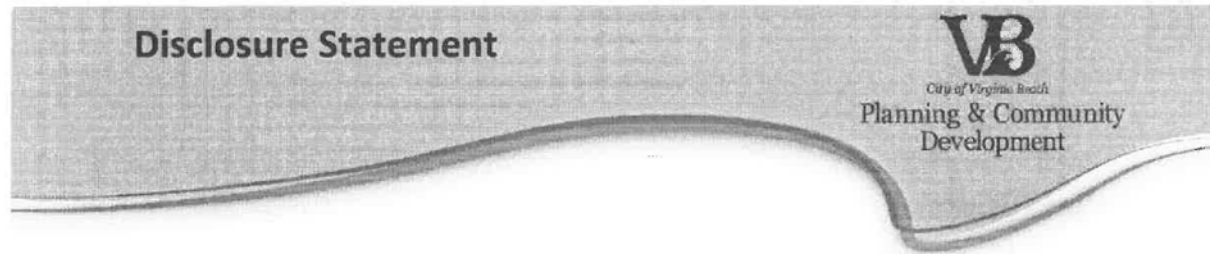
Site Photos



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 First Chinese Baptist Church

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

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

Luis Seuc

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)

Trustees: Loretta Chan, Chi-Man Lee, Doris Lee

Chairman, Building Expansion Committee: Luis Seuc

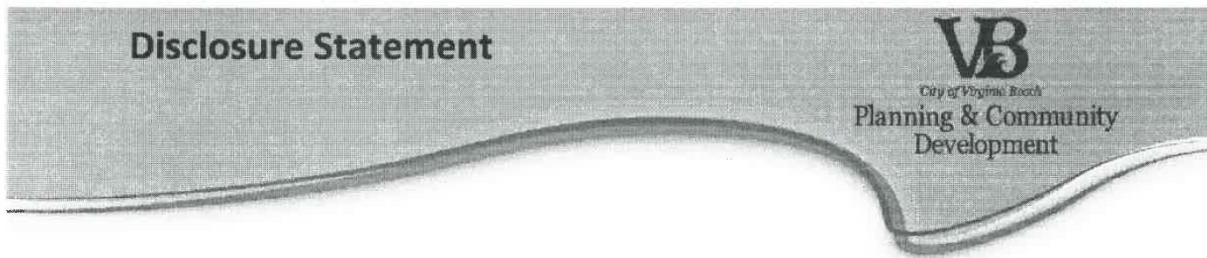
Established in 1901.

- If **yes**, list the businesses that have a parent-subsidary¹ or affiliated business entity² relationship with the applicant. (Attach a list if necessary)

not applicable.

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

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



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.

not applicable

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.

not applicable

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.

not applicable

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.

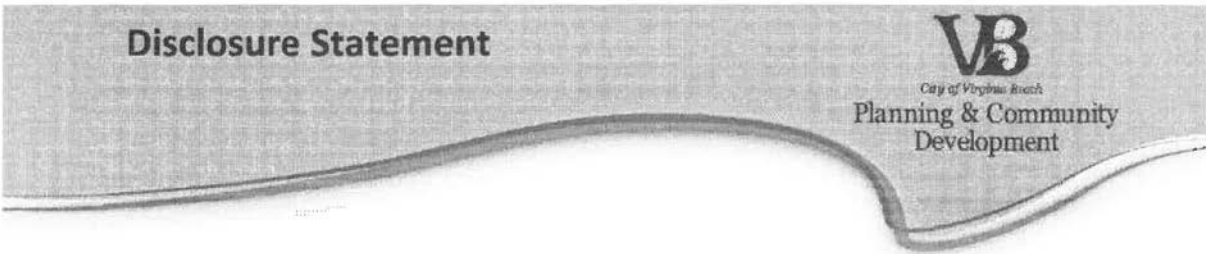
Barnes Design Group - architecture

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.

not applicable

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.

A contractor has not been awarded a contract for the construction of the proposed building at this time.

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.

John Sandow Engineering, LLC (John Sandow , PE- Civil) sandow.civil@gmail.com 757-377-6971

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.

not applicable

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

Chi-Man Lee, Trustee

Print Name and Title

12/6/2020

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 Proffers

Staff Recommendation

Approval

Staff Planner

Jonathan Sanders

Location

2257 Willow Oak Circle

GPIN

1499493656

Site Size

16.33 acres

AICUZ

Less than 65 dB DNL

Watershed

Chesapeake Bay

Existing Land Use and Zoning District

Apartments / A-36 Apartment (Shore Drive Corridor)

Surrounding Land Uses and Zoning Districts

North

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

South

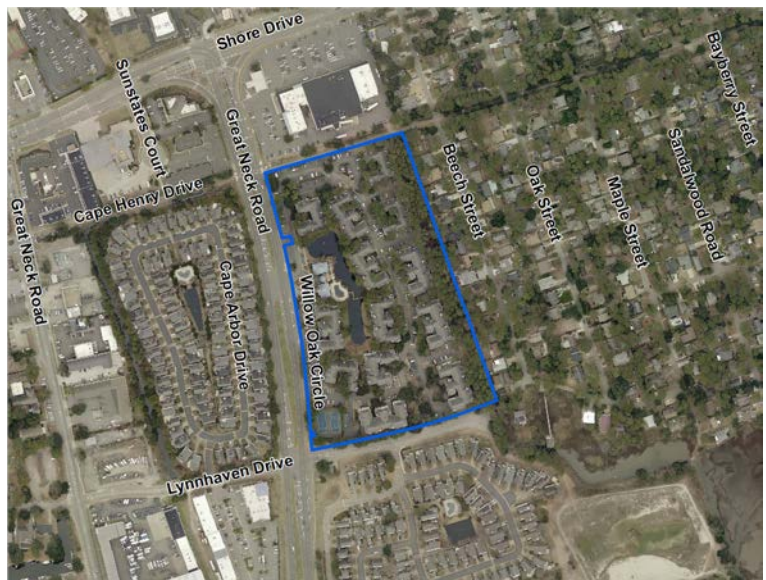
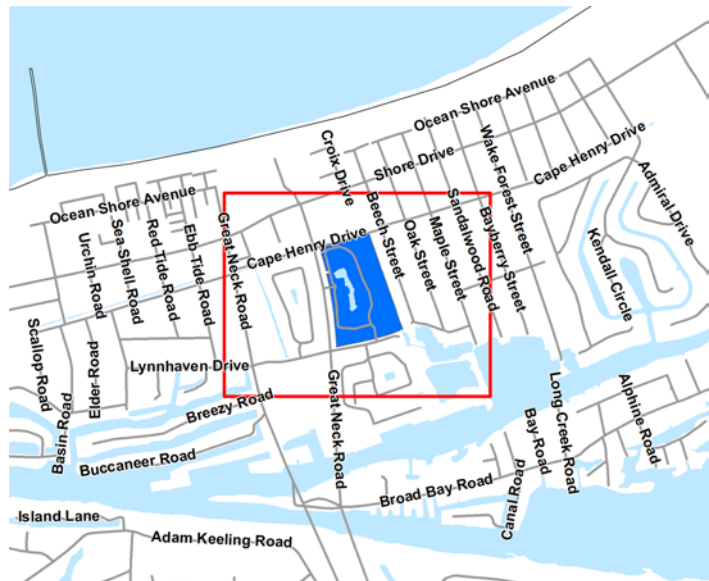
Lynnhaven Drive
Single-family dwellings / A-36 Apartment (Shore Drive Corridor)

East

Single-family dwellings / R-7.5 Residential (Shore Drive Corridor)

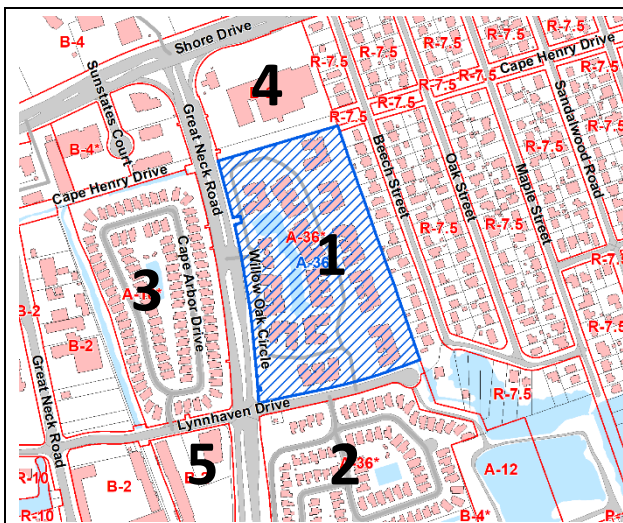
West

N. Great Neck Road
Single-family dwellings / A-18 Apartment (Shore Drive Corridor)



Background & Summary of Proposal

- The subject 16.33-acre site was rezoned to Conditional A-4 on June 1, 1987, which is now zoned Conditional A-36 Apartment District. One of the approved proffers limits the maximum density to 24 units per acre on this site.
- The Marina Shores apartment complex is currently developed with 392 units within 13 apartment buildings, a clubhouse, an office, a community pool, tennis courts and a pond.
- The applicant proposes to redevelop the tennis courts area, located at the southwest corner of the property, with a new 52 foot tall three story building over surface parking with 49 additional units for a total of 441 units, thereby, increasing the overall density from 24 units to 27 units per acre. The proposed Site Layout is depicted on page seven of this report.
- There are 659 parking spaces that exist on the site. Improvements throughout the entire site will add 125 additional parking spaces for a total of 784 spaces, exceeding the parking requirement by 49 spaces. The proposed parking plan is depicted on page eight of this report.
- The building elevations, shown on pages 10 & 11 of this report, depict an architectural fiberglass shingle roof, a first floor band of brick veneer siding to match the existing apartment buildings and fiber cement panel siding. The building features balconies with railings and vinyl lattice work accents are installed in open gables at the roof line and are consistent in height and massing with the existing apartment buildings on site.
- Along with maintaining several existing trees along North Great Neck Road, the Conceptual Landscape Plan, on page nine of this report, depicts new trees and shrubs proposed along both street frontages and interior trees and shrubs installed in the parking lot area. The landscaping and screening requirements will be reviewed in greater detail during final site plan review.



Zoning History

#	Request
1	CRZ (A-1 & B-2 to Conditional A-4) Approved 06/01/1987
2	CUP (Home Occupation - Retail Sales) Approved 10/17/2017 CRZ (B-2 to Conditional PD-H2 (A-36)) Approved 01/04/1993 CRZ (A-1 to Conditional A-4) Approved 06/01/1987
3	CRZ (B-2 to Conditional PD-H2 (A-18)) Approved 01/04/1993 CRZ (R-6 to B-2) Approved 06/01/1987
4	CUP (Wind Turbine) Approved 03/09/2010
5	CUP (Outdoor Recreation Facility, Assembly Use) Approved 05/21/2019

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 Modification of Proffers to add one new building with 49 units to the existing apartment complex for a total of 441 units, in Staff's opinion, is consistent with the Comprehensive Plan's vision for the Suburban Area and Shore Drive Corridor of the City. Development within this area focuses on creating and maintaining great neighborhoods by enhancing the existing neighborhood through compatibility with surroundings, quality and attractiveness of site and buildings, and effective buffering. 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 to preserve and protect the character of the established neighborhood. While, the proposed density slightly increased from 24 units to 27 units per acre, the proposed building height, massing and use of materials is compatible with the existing apartment buildings on the site. The proposed development replaces underutilized tennis courts and replaces the existing impervious surface with a three-story building consistent with the other buildings on site.

As proposed, the development exceeds the minimum parking requirement by 49 parking spaces. There should be no overflow of vehicles onto the streets of the adjacent neighborhoods, as there is adequate parking on site to accommodate residents and their guests. As mentioned previously, the landscaping and screening requirements will be reviewed in greater detail during final site plan review.

Public Works Traffic Engineering reviewed the request and raised no concerns. The Virginia Beach City Public School Staff indicated that the proposal will not impact a school with more than five students, which is within capacity.

The Bayfront Advisory Commission (BAC) reviewed the application and recommended a reduction in the number of stories from four stories above parking to three stories above parking and a reduction of the 60 units initially proposed. As a result, the applicant reduced the number of floors to three stories and the number of units by 11 to 49 proposed units. The BAC reviewed these modifications and finds the proposal to be consistent with the Shore Drive Corridor Design Guidelines and Staff concurs. The BAC is supportive of the request.

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

Proffer 1:

To the extent applicable to the Property, Proffer Number 1 of the Original Proffers is hereby deleted in its entirety.

Proffer 2:

The last sentence of Proffer Number 4 of the Original Proffers is hereby deleted and replaced with the following:

"All structures constructed on Parcel 1-D shall be subject to a maximum height limit of sixty-five (65) feet, and the density shall not exceed four-hundred forty-one (441) units."

Proffer 3:

The following is hereby added as Proffer Number 8 to the Original Proffers, and shall apply only to the Property:

“The structure located in the southwestern corner of the Property, when developed, shall be developed in substantial conformity with the conceptual site plan entitled ‘Marina Shores Expansion’, dated August 31, 2020, and prepared by Timmons Group (the “Concept Plan”), a copy of which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning.”

Proffer 4:

The following is hereby added as Proffer Number 9 to the Original Proffers, and shall apply only to the Property:

“The quality of architectural design and materials of the multifamily residential buildings constructed in the southwest corner of the Property, when developed, shall be in substantial conformity with the exhibit consisting of two (2) sheets, prepared by Cox, Kliewer & Company, P.C., entitled ‘Marina Shores’, and dated November 27, 2020 (the “Elevations”), a copy of which is on file with the Department of Planning and has been exhibited to the Virginia Beach City Council.”

Proffer 5:

The following is hereby added as Proffer Number 10 to the Original Proffers, and shall apply only to the Property:

“Landscaping installed on the Property, when developed, shall be in substantial conformity with that shown on the exhibit prepared by Timmons Group, entitled ‘Marina Shores Apartment Expansion, Conceptual Planting Plan’, and dated August 31, 2020 (the ‘Landscape Plan’), a copy of which is on file with the Department of Planning and has been exhibited to the Virginia Beach City Council. The exact species of the various types of landscaping shall be determined at final site plan review.”

Proffer 6:

Except as expressly modified by this Agreement, all other covenants, restrictions and conditions proffered as part of the Original Proffers shall remain unchanged and are incorporated herein by reference with respect to the Property. The Original Proffers shall remain in effect in their entirety and are unchanged by this Agreement with respect to the remainder of the Property.

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.

1987 Proffers

1. The entire property shall be developed in compliance with sections A, B, C, E, and H of the City of Virginia Beach’s “Urban Best Management Practices Handbook”.
2. On the Northwest Parcel 1-C (12.339 acres) there shall be no more than two (2) curb cuts on Great Neck Road relocated.
3. On the Southwest Parcel 1-B (4.246 acres) there shall be no curb cuts on Great Neck Road relocated.
4. On the Northeast Parcel 1-D (16.330 acres) there shall be no more than two (2) curb cuts on Great Neck Road relocated. A 75’ wide strip of land, running the entire eleven hundred feet (plus or minus) from north to south on the Eastern boundary of Parcel 1-D shall be provided and maintained as a buffer zone. This two acre, more or less, buffer strip is to be used for calculation of density and recreational purposes only, confined to jogging, fountains, benches, bird baths, bird houses, individual fitness stations not to exceed three (3) exercises per station, walkways, children’s fitness outdoor equipment, and low level lighting. Existing trees and vegetation in the buffer zone are to be preserved and maintained to the maximum possible degree. All structures constructed

on Parcel 1-D shall be subject to a maximum height limit of sixty-five (65) feet, and the density shall not exceed three hundred ninety-two (392) units (twenty-four (24) units per gross acre).

5. Southeast Parcel 1-A (14.001 acres) shall have no curb cuts on Great Neck Road relocated. All structures constructed on Parcel 1-A shall be subject to a maximum height limit of sixty-five (65) feet, and the density on the parcel shall not exceed three hundred thirty-six (336) units (twenty-four (24) units per gross acre). Within the limits permitted by law, structures constructed on Parcel 1-A shall be occupied by adults (21 years or older) only. This restriction as to adults only shall be enforced by deed restriction, and/or homeowners association and/or owners of the apartments if rented.
6. Parcel 1 (4.221 acres) shall not be developed in any manner other than for walkways, bird nests and bird feeders, and shall be preserved as a nature conservancy. The grantors hereby concur and give their consent to any motion which may be made by the City of Virginia Beach to rezone Parcel 1 to P-1, Preservation District. By this restriction it is the grantors' intent that the marshlands on Parcel 1 shall be protected and that the entire parcel shall remain in its natural state, free from development other than as stated herein. The Grantors reserve the right to return the high land (located at the south end of Wake Forest St.) to marsh by removal of fill.
7. In the event that a marina is constructed on the property, there shall be no ingress or egress to or from the marina by way of the City's haul road.

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.

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 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
N. Great Neck Road	27,100 ADT ¹	36,900 ADT ¹ (LOS ⁴ "D")	Existing Land Use ² – 2,870 ADT Proposed Land Use ³ – 3,228 ADT
¹ Average Daily Trips	² as defined by 392 apartment units	³ as defined by the proposed 441 apartment units	⁴ LOS = Level of Service

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

Lynnhaven Drive in the vicinity of this application is considered a two-lane undivided local street. No roadway CIP are slated for this area.

North Great Neck Road in the vicinity of this application is considered a four-lane divided major suburban arterial. The Master Transportation Plan proposes a divided facility with bikeway within a 120 foot right-of-way. No roadway CIPs are slated in the vicinity of this site.

Public Utility Impacts

Water & Sewer

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

School Impacts

School	Current Enrollment	Capacity	Generation ¹	Change ²
Dey Elementary	731 students	797 students	5 students	5 students
Great Neck Middle	1,066 students	1,194 students	2 students	2 students
Cox High	1,772 students	1,963 students	2 students	2 students

¹“Generation” represents the number of students that the development will add to the school.

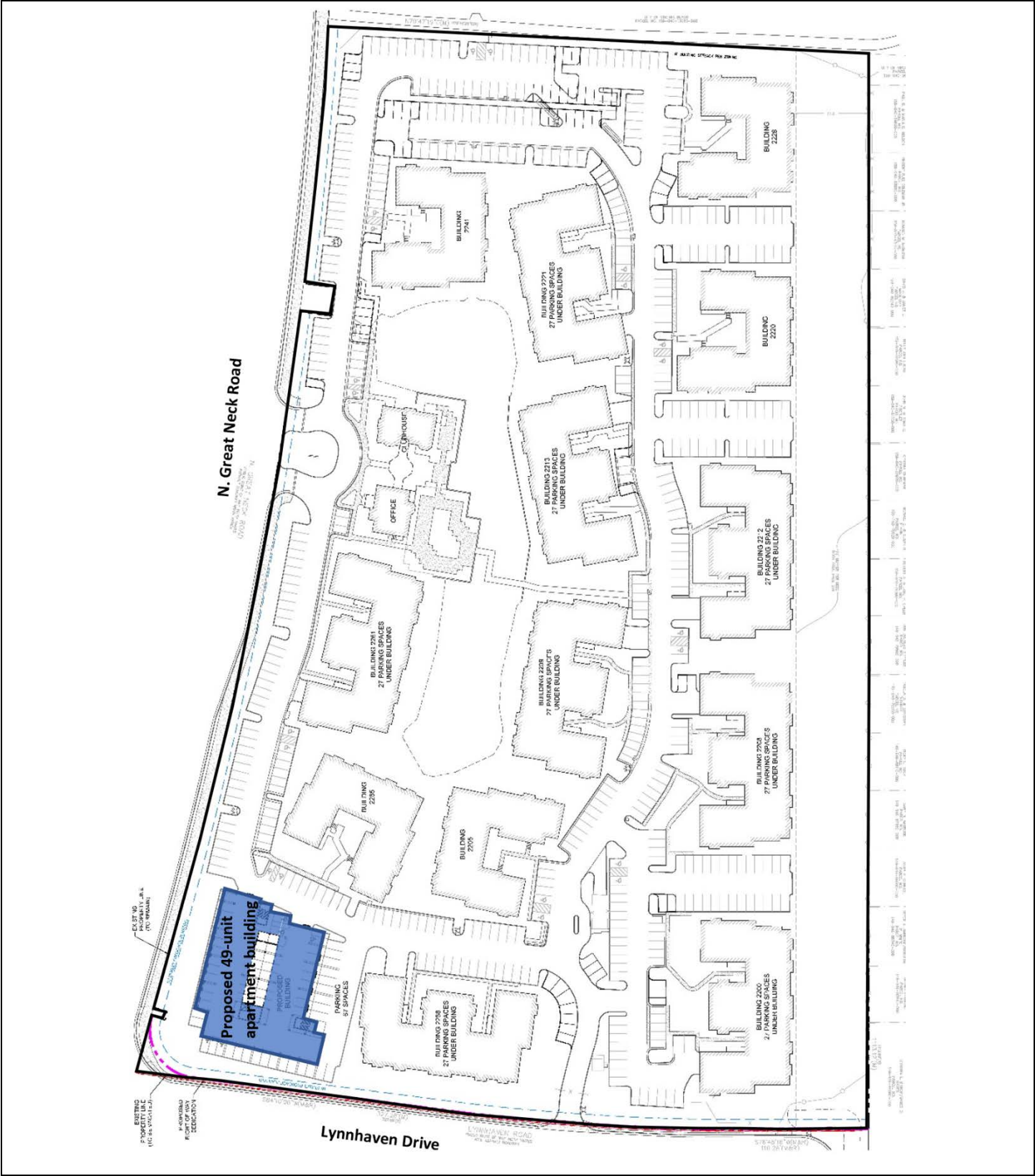
²“change” represents the difference between the number of potential or actual students generated under the existing zoning and the number generated under the proposed zoning. The number can be positive (additional students) or negative (fewer students).

Public Outreach Information

Planning Commission

- The applicant presented the proposal to the Bayfront Advisory Commission (BAC) on November 19, 2020. No objections to the application were noted by the BAC.
- The applicant and the applicant’s representative discussed the proposal with the Board of the Long Creek Cove Condo Association, the Arbors at Marina Shores Association, and the Shore Drive Community Coalition and Cape Story by the Sea. Per the applicant, no concerns were raised.
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on January 11, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, January 24, 2021 and January 31, 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 January 25, 2021.
- 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 on February 4, 2021.

Proposed Site Layout



Conceptual Landscape Plan



Proposed Elevations



Proposed Lynnhaven Road (South) Elevation



Proposed Great Neck Road (West) Elevation

Cox, Kiewit & Company, P.C.
 10000 W. VIRGINIA AVE.
 SUITE 200
 VIRGINIA BEACH, VA 23462
 TEL: 757.491.1000
 FAX: 757.491.1001
 WWW.COXKIEWIT.COM

Marina Shores

VIRGINIA BEACH, VIRGINIA
 NOVEMBER 27, 2020

Proposed Elevations



Proposed North Elevation



Proposed East Elevation

Cox, Klier & Company, P.C.

Marina Shores

VIRGINIA BEACH, VIRGINIA
NOVEMBER 27, 2020

1984 25 YEARS 2009

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 MS VIRGINIA BEACH LLC

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

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

Robert P. Beaman III, Esq. - Troutman Pepper Hamilton Sanders LLP

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)

Please see attached.

- If **yes**, list the businesses that have a parent-subsidary¹ or affiliated business entity² relationship with the applicant. (Attach a list if necessary)

Please see attached.

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

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

Disclosure Statement



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

1. Does the applicant have **any existing financing (mortgage, deeds of trust, cross-collateralization, etc) or are they considering any financing** in connection with the subject of the application or any business operating or to be operated on the property?

☒ Yes ☐ No

- If **yes**, identify the financial institutions.

Wells Fargo Bank, National Association, as Trustee for the Registered Holders of Barclays Commercial Mortgage Securities LLC,

Multifamily Mortgage Pass-Through Certificates, Series 2015-KF08

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.

Cox, Kleiwer & Associates

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.

Timmons Group

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.

Troutman Pepper Hamilton Sanders LLP

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.

Kathy D. Furman

Applicant Signature

Katherine D. Furman Vice President

Print Name and Title

1/5/2021

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	

**CERTIFICATE OF OFFICER
OF
MS VIRGINIA BEACH LLC**


The undersigned, Yvonne Owens, does hereby certify and affirm as follows:

1. That the undersigned is the Assistant Secretary of MS Virginia Beach LLC, a Delaware limited liability company (the "**Company**").
2. That the City of Virginia Beach requires the Company to sign a Disclosure Statement ("**Disclosure**") in connection the Marina Shores Apartments, located in Virginia Beach, Virginia.
3. That the individual identified below has been duly elected, is properly qualified for and currently holds the office of the Company identified adjacent to his name, and that the signature set forth below is the true signature of the individual:

<u>Officer Name</u>	<u>Office(s)</u>	<u>Signature</u>
Katherine D. Furman	Vice President	

4. That the individual identified above is authorized: (a) to sign on behalf of the Company, the documents with respect to which this Certificate is being delivered (and each document referred to therein or contemplated thereby) and (b) to act as a representative of the Company for the purposes of signing such documents and give notices and other communications in connection therewith and the transactions contemplated thereby.

IN WITNESS WHEREOF, the undersigned has executed this Certificate as of the 6th day of January 2021.



Yvonne Owens
Assistant 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

Change in Nonconformity

Staff Recommendation

Approval

Staff Planner

Hoa N. Dao

Location

228 Cavalier Drive

GPIN

2418868294

Site Size

5,708 square feet

AICUZ

65-70 dB DNL; Sub-Area 1

Watershed

Atlantic Ocean

Existing Land Use and Zoning District

Single-family dwellings / R-7.5 Residential (NE)

Surrounding Land Uses and Zoning Districts

North

42nd ½ Street

Single-family dwellings / R-7.5 Residential (NE)

South

Cavalier Park, Cavalier Drive

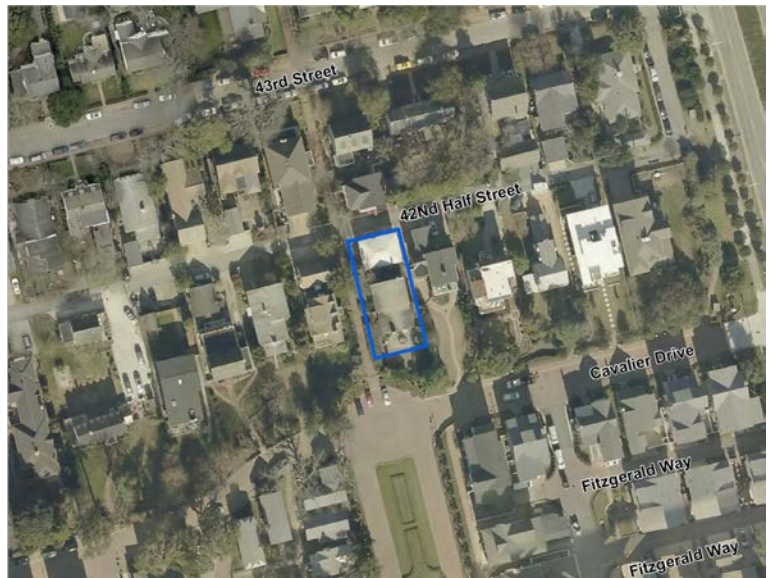
Single-family dwelling, hotel / OR Oceanfront Resort

East

Single-family dwellings / R-7.5 Residential (NE)

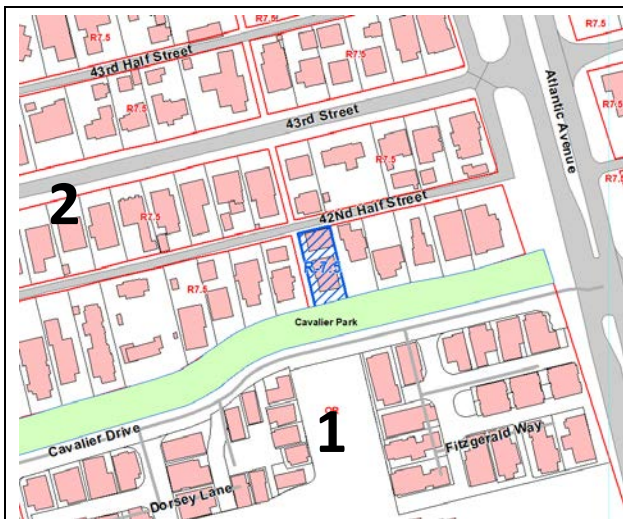
West

Single-family dwellings / R-7.5 Residential (NE)



Background & Summary of Proposal

- The subject 5,708 square foot site is zoned R-7.5 Residential District and is located within the North End Suburban Focus Area.
- The dwellings on the subject parcel were constructed in the 1940s, prior to the adoption of the City of Virginia Beach Zoning Ordinance.
- The R-7.5 zoning district permits one dwelling on each lot. As the property is developed with two dwellings, the applicant seeks a Change in Nonconformity request to expand the size of one of the dwellings on the site. Specifically, the applicant seeks to expand the front stoop by 24 square feet with a new porch roof, a 278 square foot addition on the first floor, and a 278 square foot addition to the second floor.
- The rear yard of the subject site abuts Cavalier Park. As the proposed expansion encroaches into the rear yard setback by 10.86 feet, the applicant seeks a deviation to the rear yard setback from 20 feet to 9.14 feet. The existing rear yard setback is 19.14 feet.



Zoning History

#	Request
1	REZ (RT-1 & R-7.5 to OR) Approved 12/10/2013 ALT (Special Exception) Approved 12/10/2013 SVR (Section 4.1 & 4.4(d)) Approved 12/10/2013
2	NON (Expansion of Nonconforming Use) Approved 10/11/2005

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

Section 105(d) of the Zoning Ordinance states that no nonconforming use or structure shall be enlarged, extended, or structurally altered unless City Council finds that the proposed use will be “equally appropriate or more appropriate to the district than is the existing nonconformity.” The proposal to expand one of the existing dwellings to include a breakfast nook, covered porch and office is small in scale and would not have a negative impact on surrounding properties. The proposed elevations are in keeping with the scale, proportion and design of the existing residences and with other residential structures in the vicinity.

The applicant is requesting to encroach 10.86 feet into the required 20 feet rear yard setback. Staff finds this request to be acceptable as the property abuts the 50-foot wide Parcel B-2 identified as “Cavalier Park”, which is between the property and the private portion of Cavalier Drive. There is no public access to this portion of the park and the residences in this area maintain the 50-foot wide park area as if it were their backyard.

In Staff's opinion, the proposed expansion and deviation to the required rear yard setback are very minimal and are reasonable requests. Staff recommends approval subject to the conditions below.

Recommended Conditions

1. The expansion of the building shall be in substantial conformance with the submitted Site Plan entitled, "BZA Exhibit of Lot 6", dated October 6, 2020, and prepared by WPL, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development.
2. The exterior of the proposed improvements shall substantially adhere in appearance, size and materials to the submitted elevations entitled, "Proud Residence", revised September 21, 2020, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development.
3. The expansion shall be located no closer than 9.14 feet from the rear property line as depicted on the submitted Site Plan entitled, "BZA Exhibit of Lot 6", dated October 6, 2020, and prepared by WPL, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development. This location is a deviation to the 20-foot setback required by the Zoning Ordinance.

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 North End Suburban Focus Area (SFAs), which is characterized by compact arrangement of relatively high density single-family and duplex dwelling units predominantly zoned as Residential Resort District (R-5R). The Comprehensive Plan recommends the use of attractive and high-quality materials capable of withstanding severe weather events, whilst retaining the historical appeal of the structures. In regard to the building design, the Comprehensive Plan recommends structures to have human-scale design and visual interest through proper fenestration, materiality, and color palette. Such structures shall also be consistent with the characteristics of the surrounding neighborhood in regard to the height, size, color, and materiality. As such, the proposed structural modification to the dwelling unit is consistent with the Comprehensive Plan's recommendations.

Natural & Cultural Resources Impacts

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

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Cavalier Drive	No Data Available		Existing Land Use ¹ – 20 ADT Proposed Land Use ² – 20 ADT
¹ as defined by two single-family homes ² as defined by two single-family homes			

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

Cavalier Drive 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 subject site is 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 January 11, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, January 24, 2021 and January 31, 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 January 25, 2021.
- 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 on February 4, 2021.

1 A RESOLUTION AUTHORIZING AN EXPANSION OF on the
2 NONCONFORMING USE ON PROPERTY LOCATED AT
3 228 CAVALIER DRIVE
4

5 WHEREAS, Kenneth Stuart Proud (the "Applicant") has made application to the
6 City Council for authorization to expand one of the nonconforming structures located at
7 228 Cavalier Drive and zoned R-7.5 (NE) Residential Zoning District with the addition of
8 a front porch and addition to one of the two dwellings on the parcel;
9

10 WHEREAS, this parcel currently contains two (2) single family dwelling units which
11 is not allowed in the R-7.5 Zoning District, but the two (2) dwellings were built prior to the
12 adoption of the applicable zoning regulations and are therefore nonconforming;
13

14 WHEREAS, the Planning Commission of the City of Virginia Beach recommended
15 approval of this application on February 10, 2021; and
16

17 WHEREAS, pursuant to Section 105 of the City Zoning Ordinance, the expansion
18 of nonconforming structures is unlawful in the absence of a resolution of the City Council
19 authorizing such action upon a finding that the proposed structures as expanded will be
20 equally appropriate or more appropriate to the zoning district than are the existing
21 structures.
22

23 NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF
24 VIRGINIA BEACH, VIRGINIA:
25

26 That the City Council hereby finds that the proposed structures as expanded, will
27 be equally appropriate to the district as are the existing nonconforming structures under
28 the conditions of approval set forth herein below.
29

30 BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF VIRGINIA
31 BEACH, VIRGINIA:
32

33 That the expansion of the nonconforming structures is hereby authorized, upon the
34 following conditions:
35

- 36 1. The expansion of the building shall be in substantial conformance with the
37 submitted Site Plan entitled, "BZA Exhibit of Lot 6", dated October 6, 2020, and
38 prepared by WPL, which has been exhibited to the Virginia Beach City Council
39 and is on file in the Department of Planning and Community Development.
40
- 41 2. The exterior of the proposed improvements shall substantially adhere in
42 appearance, size and materials to the submitted elevations entitled, "Proud
43 Residence" revised September 21, 2020, which has been exhibited to the
44 Virginia Beach City Council and is on file in the Department of Planning and
45 Community Development.
46

- 47 3. The expansion shall be located no closer than 9.14 feet from the rear property
48 line as depicted on the submitted Site Plan entitled, "BZA Exhibit of Lot 6",
49 dated October 6, 2020, and prepared by WPL, which have been exhibited to
50 the Virginia Beach City Council and is on file in the Department of Planning and
51 Community Development. This location is a deviation to the 20 foot setback
52 required by the Zoning Ordinance.
53
54
55

Adopted by the Council of the City of Virginia Beach, Virginia, on the _____ day
of _____, 2021.

APPROVED AS TO CONTENT:

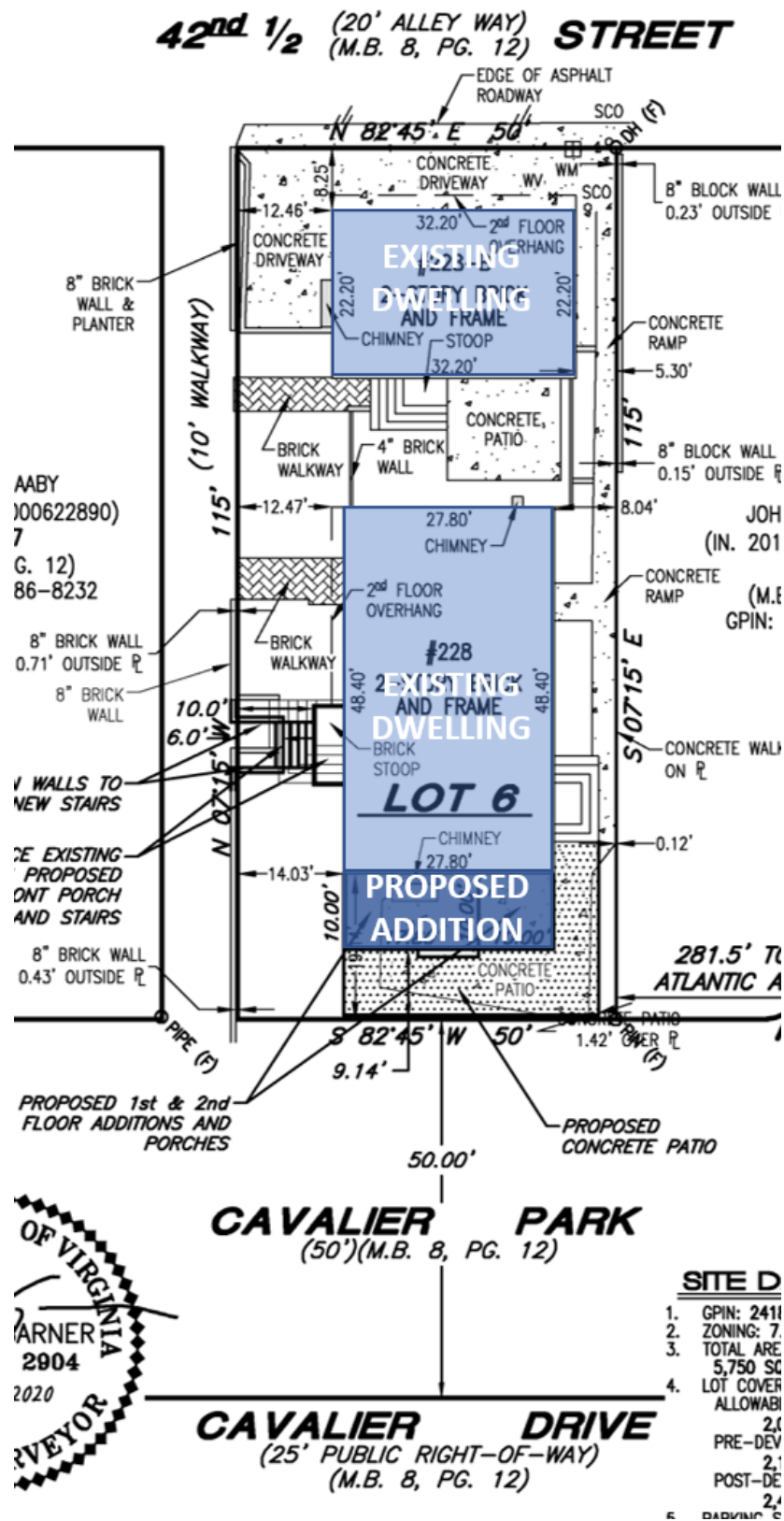
APPROVED AS TO LEGAL SUFFICIENCY:

Planning and Community
Development

City Attorney's Office

CA15314
R-1
January 29, 2021

Proposed Site Layout



Proposed Elevations



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 Kenneth Stuart Proud

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)

- If **yes**, list the businesses that have a parent-subsidary¹ or affiliated business entity² relationship with the applicant. (Attach a list if necessary)

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

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

Disclosure Statement



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

1. Does the applicant have **any existing financing (mortgage, deeds of trust, cross-collateralization, etc) or are they considering any financing** in connection with the subject of the application or any business operating or to be operated on the property?

☒ Yes ☐ No

- If **yes**, identify the financial institutions providing the service.

Wells Fargo

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

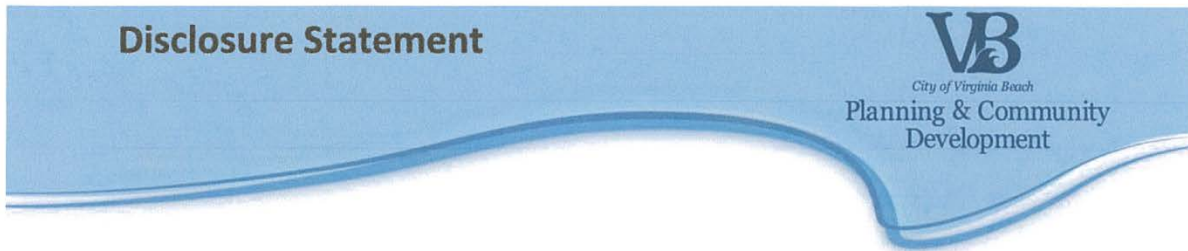
- If **yes**, identify the firm and individual providing the service.

Wayne Anderson, Covington Hendrix & Anderson Architects

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.

WPL (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.

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

Kenneth Proud

Print Name and Title

11/03/2020

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.
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- 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 & d) of the Subdivision Regulations)

Staff Recommendation

Approval

Staff Planner

Aubrey A. Trebilcock

Location

2892 Indian River Road

GPINs

14933356970, 1493334650

Site Size

3.10 acres

AICUZ

Less than 65 dB DNL

Watershed

Southern Rivers

Existing Land Use and Zoning District

Single-family dwelling / AG-1 & AG-2

Agricultural

Surrounding Land Uses and Zoning Districts

North

Single-family dwellings, undeveloped / AG-1

Agricultural & PH-D1 Planned Unit

Development

South

Indian River Road

Undeveloped / AG-2 Agricultural

East

Private Road

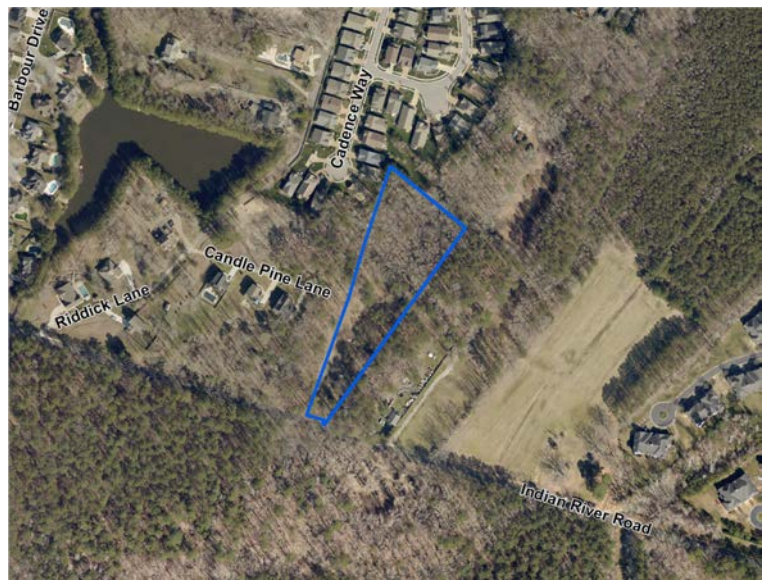
Single-family dwellings / AG-1 & AG-2

Agricultural

West

Single-family dwellings / AG-2 Agricultural &

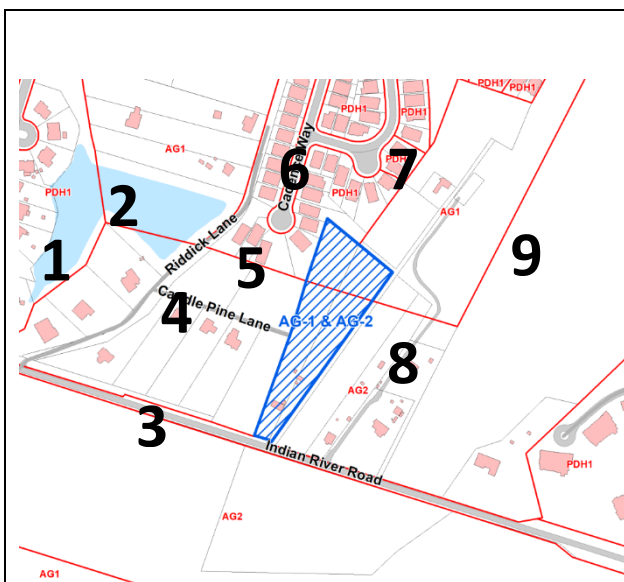
PH-D1 Planned Unit Development



Background & Summary of Proposal

- The applicant is proposing to reconfigure the two subject lots, measuring 1.66 and 1.44 acres, along Indian River Road. The properties are zoned AG-1 & AG-2 Agricultural Zoning District.
- The 1.66-acre lot, addressed as 2892 Indian River Road, was legally created by subdivision plat in MB 46 P 1 in 1958. The 1.44-acre lot, which has not been addressed, was legally created by Deed in DB 269 P 180, and exhibited in MB 24 P 84, in 1949.
- The proposal results in two lots with square footages of approximately 1.46 acres (Parcel 1) and 1.64 (Parcel 2). The proposal will result in Parcel 2 no longer having frontage along Indian River Road, only being accessible by a private 15-foot wide private lane. Since the lot will no longer have direct access to a public street, as required by Section 4.4(d) of the Subdivision Regulations, a variance to Section 4.4(d) of the Subdivision Regulations is required.
- The 1.66-acre lot currently has 57 feet of street frontage and 62 feet of lot width. The proposal will increase both the street frontage to 67 feet and the lot width to 85 feet. The 1.44-acre lot currently has 8 feet of lot frontage and 18 feet of lot width. As it will lose access to a public street, the street frontage will decrease to 0 feet. The lot width for this lot will increase to 270 feet, as lot width is measured at the front setback of the lot. Since the existing nonconforming street frontage will be decreased even further, a variance to Section 4.4(b) of the Subdivision Regulations is required.

Proposed Lot	Required Street Line Frontage in AG-2 (feet)	Proposed Street Line Frontage (feet)	Required Lot Width (feet)	Proposed Lot Width (feet)	Required Lot Area (acre)	Proposed Lot Area (acre)
Parcel 1	120	67	150	85	1	1.46
Parcel 2	120	0	150	270	1	1.64



Zoning History

#	Request
1	SVR (Lot width, Access to Public Street) Approved 09/27/2011
2	SVR (Access to Public Street) Approved 04/26/2011
3	CUP (TV Transmitter Tower) Approved 03/21/1986
4	SVR (Lot width, Access to Public Street) Approved 09/27/2011
5	SVR (Lot size, Access to Public Street) Approved 12/13/2016
6	MOD Approved 05/13/2008 CUP (Planned Unit Development? (What is the use?)) Approved 05/11/1999
7	SVR (Street Frontage, Access to Public Street) Approved 09/15/2015 CUP (Residential Kennel) Approved 11/21/2018
9	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 applicant is requesting to reconfigure the existing lots to improve the shape and marketability of the lots. Although legally created, neither of the existing lots meet the AG-2 Zoning District minimum requirements for street frontage and lot width. The 1.66 acre lot currently has 57 feet of street frontage and 62 feet of lot width. The 1.44 acre lot currently has eight feet of lot frontage and 18 feet of lot width. The minimum street frontage required is 120 feet and the minimum lot width is 150 feet. The lack of width may limit prospective development closer to the road frontage, particularly on the 1.44 acre lot.

The proposed reconfiguration would increase the lot width of both lots. The proposed relocation of the 1.44 acre lot would remove its current minimal street frontage and place it fully along the 15-foot wide private lane where access to the properties is common. This would not be a unique exception within the context of the neighborhood, as the Zoning History above includes several examples of lots granted Subdivision Variances for lack of frontage along a public street. The property directly to the north and along this same private lane, 2884 Indian River Road, was also granted a Subdivision Variance for its lack of street frontage and access to a public street.

Both lots will continue to exceed the minimum lot area of the AG-1 and AG-2 Zoning Districts. As no new lots are created and the existing lots are buildable by-right, there will be no increase in residential density. This is consistent with the recommendations of the Comprehensive Plan and Interfacility Traffic Area (ITA) and Vicinity Master Plan which seek to limit the density of residential development within the ITA. As the request is not out of character with the surrounding neighborhood and fits the development pattern recommended by the Comprehensive 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 2892 Indian River Road and 'B' Georgie Wilson 1.44 AC." dated November 25, 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 Parcel 2 to Indian River Road from the private lane to be known as Lauren Lane shall be maintained at all times, through ingress/egress easement(s). Said easement(s) shall be depicted on the final plat and recorded contemporaneously by deed.
3. The private lane must conform to the Virginia Statewide Fire Prevention Code for fire apparatus access. The lane must be a minimum 20' wide, the road surface must be able to support 82,000 of vehicle loading and be all-weather, and the fire apparatus must be able to reach the most exterior wall from an approved roadway within 150'.

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 ¹	15,000 ADT ¹ (LOS ⁴ "D")	Existing Land Use ² – 10 ADT Proposed Land Use ³ – 20 ADT
¹ Average Daily Trips	² as defined by a single family home	³ as defined by two single family homes	⁴ LOS = Level of Service

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

Indian River Road 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.

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

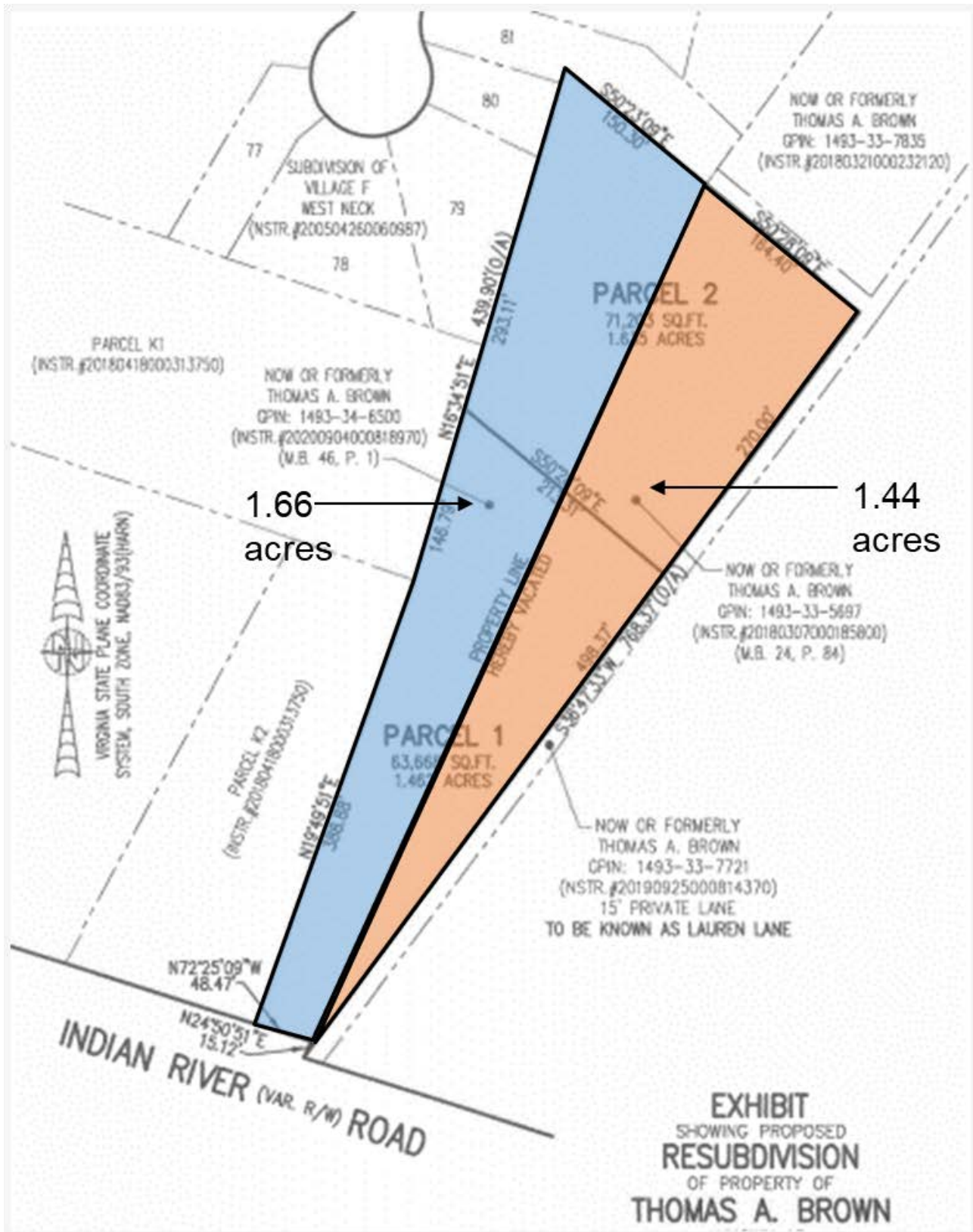
City sanitary sewer is not readily available to the property. Health Department approval is required for septic systems. A connection to City sewer may be possible via private easements. Private grinder pumps and force main(s) may be an option.

Public Outreach Information

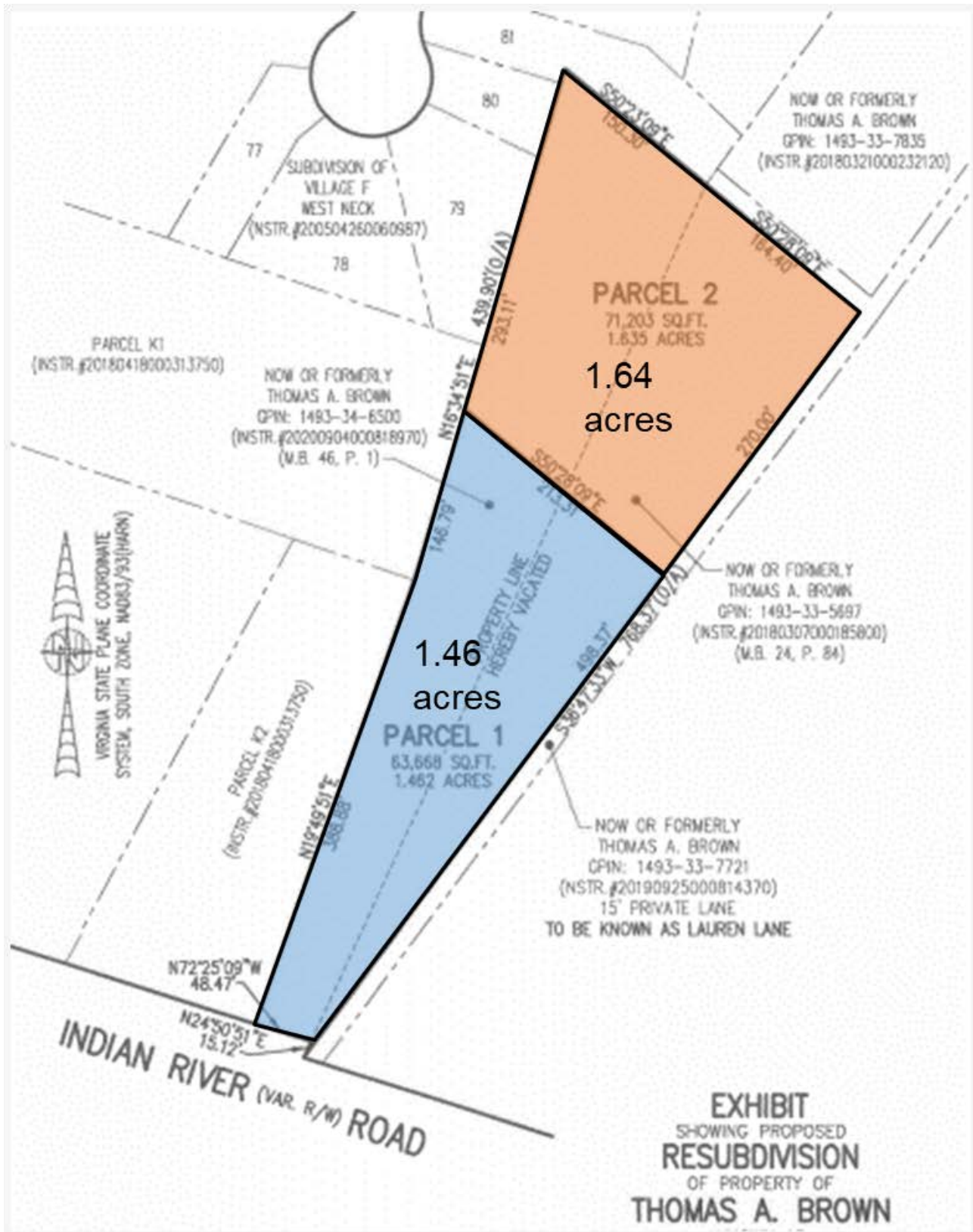
Planning Commission

- No letters of support/opposition have been received by Staff.
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on January 11, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, January 24, 2021 and January 31, 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 January 25, 2021.
- 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 on February 4, 2021.

Existing Site Layout



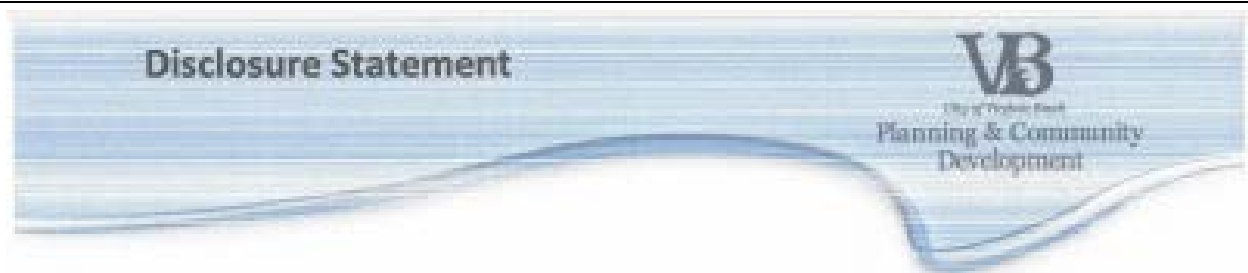
Proposed Lots



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 THOMAS A. BROWN

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-subsidiary¹ or affiliated business entity² relationship with the applicant. (Attach a list if necessary)

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

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

Disclosure Statement



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.

Dominion Financial Group

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.

Creed Realty - Thomas Brown (Applicant/owner)

3. Does the applicant have services for accounting and/or preparation of tax returns provided in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

- If yes, identify the firm and individual providing the service.

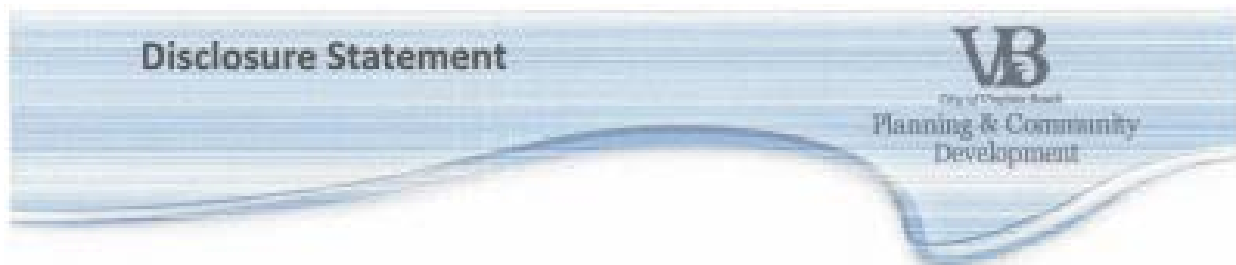
4. Does the applicant have services from an architect/landscape architect/land planner provided in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

- If yes, identify the firm and individual providing the service.

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

- If yes, identify the purchaser and purchaser's service providers.

Disclosure Statement



6. Does the applicant have a construction contractor in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

• If yes, identify the company and individual providing the service.

7. Does the applicant have an engineer/surveyor/agent in connection with the subject of the application or any business operating or to be operated on the property? ☒ Yes ☐ No

• If yes, identify the firm and individual providing the service.

Hayden Faye and Associates, Inc.

8. Is the applicant receiving legal services in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

• If yes, identify the firm and individual providing the service.

Applicant Signature

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate. I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the meeting of Planning Commission, City Council, VBDA, CBPA, Wetlands Board or any public body or committee in connection with this application.

TL. Brown

Applicant Signature

THOMAS A. BROWN

Print Name and Title

11/30/2020

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 application:

<input type="checkbox"/>	No changes as of	Date	Signature	
			Print Name	

Revised 11.09.2020

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.
- 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

3108 Little Haven Road & adjacent western parcel north of intersection of Hurds Road and Little Haven Road

GPINs

1498136243, 1498136679

Site Size

3.71 acres

AICUZ

Less than 65 dB DNL

Watershed

Chesapeake Bay

Existing Land Use and Zoning District

Single-family dwelling, Undeveloped land / R-40 Residential

Surrounding Land Uses and Zoning Districts

North

Lynnhaven River Eastern Branch

Single-family dwellings / R-40 Residential

South

Little Haven Road

Single-family dwellings / R-40 Residential

East

Single-family dwellings / R-40 Residential

West

Pump station

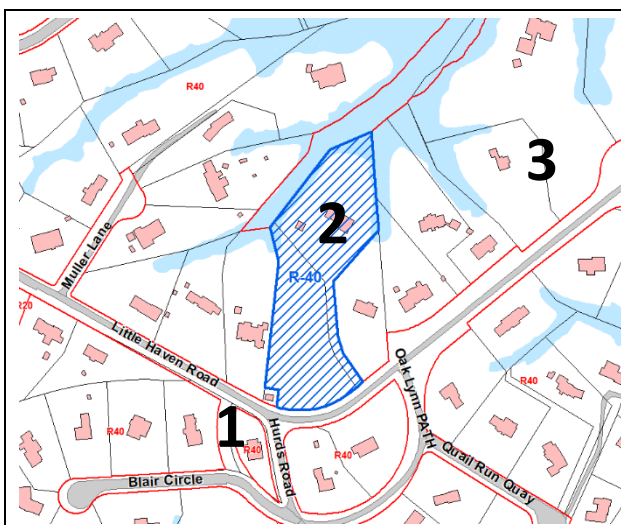
Single-family dwellings / R-40 Residential



Background & Summary of Proposal

- The existing site has two lots, Lot G-1-A with 1.91 acres and Lot G-1-B with 1.79 acres. The applicant is proposing resubdividing these lots for a total of three lots. Both lots are zoned R-40 Residential. Lot G-1-A contains a single-family home while Lot G-1-B remains vacant.
- Both of the subject lots were legally established. Lot G-1-A was created by MB 184, P 28 in 1984 and Lot G-1-B was created by plat recorded as DB 2713, P 397 in 1988.
- A 1,861 sq. ft. pump station was acquired from Lot G-1-B by the City of Virginia Beach in 1996 via DB 3709, P 89 and is exhibited in MB 256 P 92.
- The two new lots would be created from Lot G-1-B and a 1,896 square foot portion of Lot G-1-A to create the proposed Lot G-1-B1 and proposed Lot G-1-B2. Lot G-1-B1 would measure 40,015 square feet and Lot G-1-B2 would measure 40,026 square feet. Both lots meet the minimum 40,000 square foot lot area requirement in the R-40 Zoning District.
- The required minimum lot width in the R-40 Zoning District is 125 feet and the required street frontage is 100 feet. Proposed Lot G-1-B1 would have a 108.5 foot lot width with 125 feet of frontage. Proposed Lot G-1-B2 would have a 103 foot lot width with 96 feet of frontage. Therefore, a Subdivision Variance to Section 4.4(b) of the Subdivision Regulations, for lot width and street frontage is required.
- The width of the pump station parcel, which was acquired from Lot G-1-B in 1996, measures 40 feet at the front setback where lot width is determined and 42 feet at the street line frontage.

Proposed Lot	Required Street Line Frontage in R-40 (feet)	Proposed Street Line Frontage (feet)	Required Lot Width (feet)	Proposed Lot Width (feet)	Required Lot Area (square feet)	Proposed Lot Area (acre)
Lot G-1-B1	100	125	125	108*	40,000	40,015
Lot G-1-B2	100	96*	125	103*	40,000	40,026
Lot G-1-A	100	25	125	25	40,000	81,390



Zoning History

#	Request
1	STC Approved 09/24/2013
2	SVR (Lot Width Reduction) Approved 05/07/1984
3	SVR (Lot Width Reduction) Approved 08/11/2009

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 state: “Except where created by governmental action, lots created by subdivision must meet all requirements of the zoning ordinance.” The Zoning Ordinance requires that lots within the R-40 Residential Zoning District have a minimum of 125 feet for lot width and 100 feet for street frontage. Proposed Lot G-1-B1 will only possess a 108 foot lot width while Lot G-1-B2 will only have a 103 foot lot width with a 96 foot street frontage.

Prior to the conveyance of the Pump Station parcel from Lot G-1-B in 1996, Lot G-1-B would have possessed the requisite land to be able to subdivide into two lots and meet the lot area, width, and street frontage requirements of the R-40 Residential Zoning District, with an additional 40 feet of lot width and 42 feet of street frontage available. Due to the odd shaped lot caused by the conveyance of the Pump Station parcel to the City, the applicant has requested this variance to allow for the creation of the proposed lots.

As proposed, the lots will be able to meet the minimum lot size. Lot G-1-A itself was granted a Subdivision Variance in 1984 for lot width. This proposal will not impact the approved variance to the width of Lot G-1-A and the lot will continue to otherwise meet all Zoning requirements. Since the resulting lots will still meet the area requirements of the Zoning District, they will not be out of character within this neighborhood where several nearby lots do not meet lot width and street frontage requirements

As Lot G-1-B was legally created and possessed the requisite area to subdivide into two parcels which would meet the Zoning Ordinance prior to the conveyance of the Pump Station parcel to the City of Virginia Beach, Staff recognizes the hardship placed upon the owners of the property and recommends approval of the request subject to the condition listed below

Recommended Condition

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 "Preliminary Subdivision Plat of Lot G-1-A and Lot G-1-B, Little Haven", dated September 28, 2020, and prepared by American Engineering, 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 lying within the Suburban Area. The guiding principles for the Suburban Area strive to create and maintain neighborhood stability and sustainability to create "Great Neighborhoods."

Natural & Cultural Resources Impacts

This site is located in a Chesapeake Bay Preservation Area and is subject to the provisions of the Chesapeake Bay Preservation Area Ordinance." The Lynnhaven River Eastern Branch borders the north side of these properties. There are no known cultural resources associated with the sites.

Public Utility Impacts

Water

There is an existing eight-inch city water main along Little Haven Road. Each proposed lot (G-1-B1 & G-1-B2) must connect to City water with an individual and exclusive water service line and meter.

Sewer

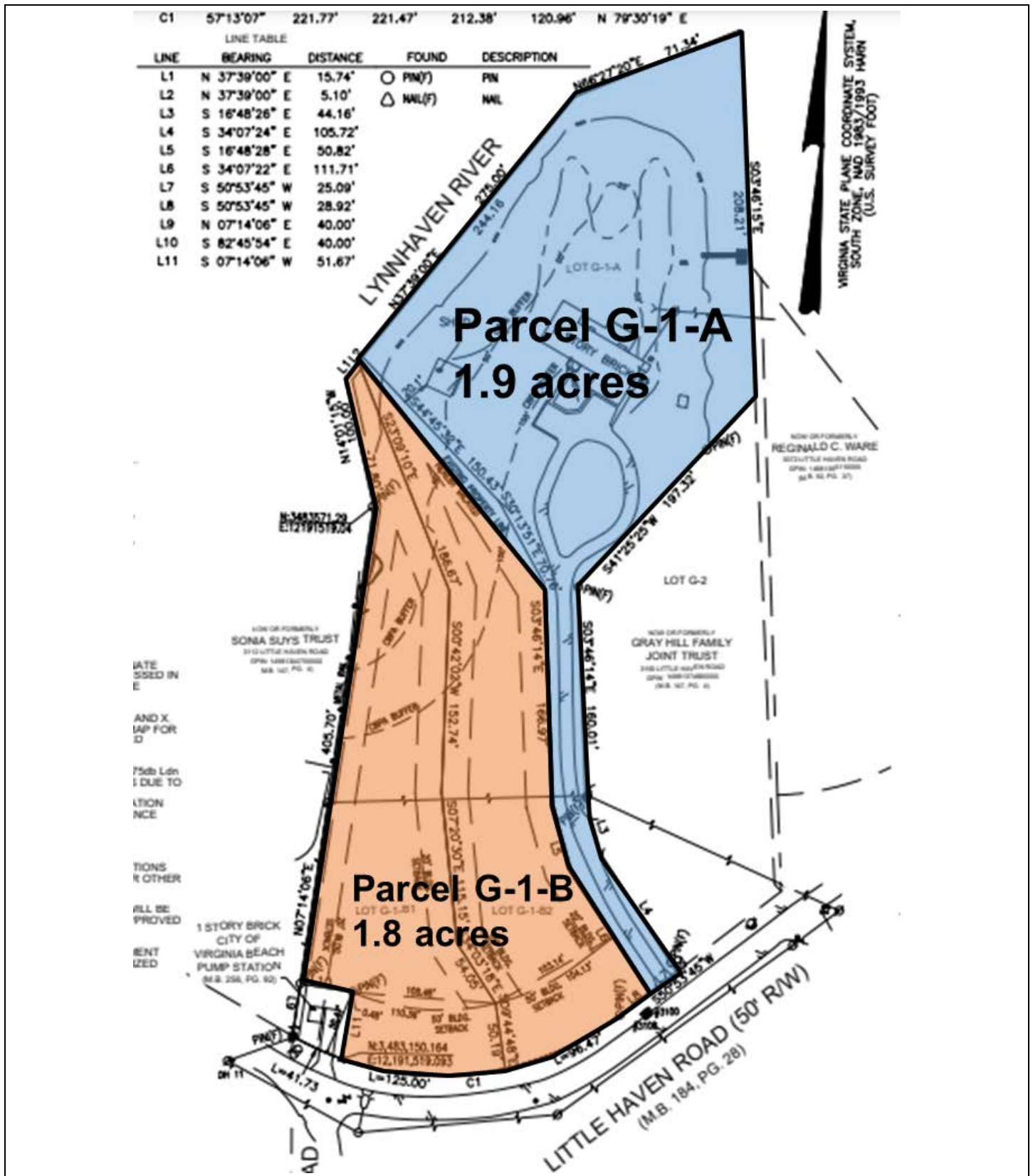
There is an existing eight-inch city sanitary sewer gravity main along Little Haven Road. Each proposed lot (G-1-B1 & G-1-B2) must connect to City sanitary sewer with an individual and exclusive sewer service lateral and cleanout.

Public Outreach Information

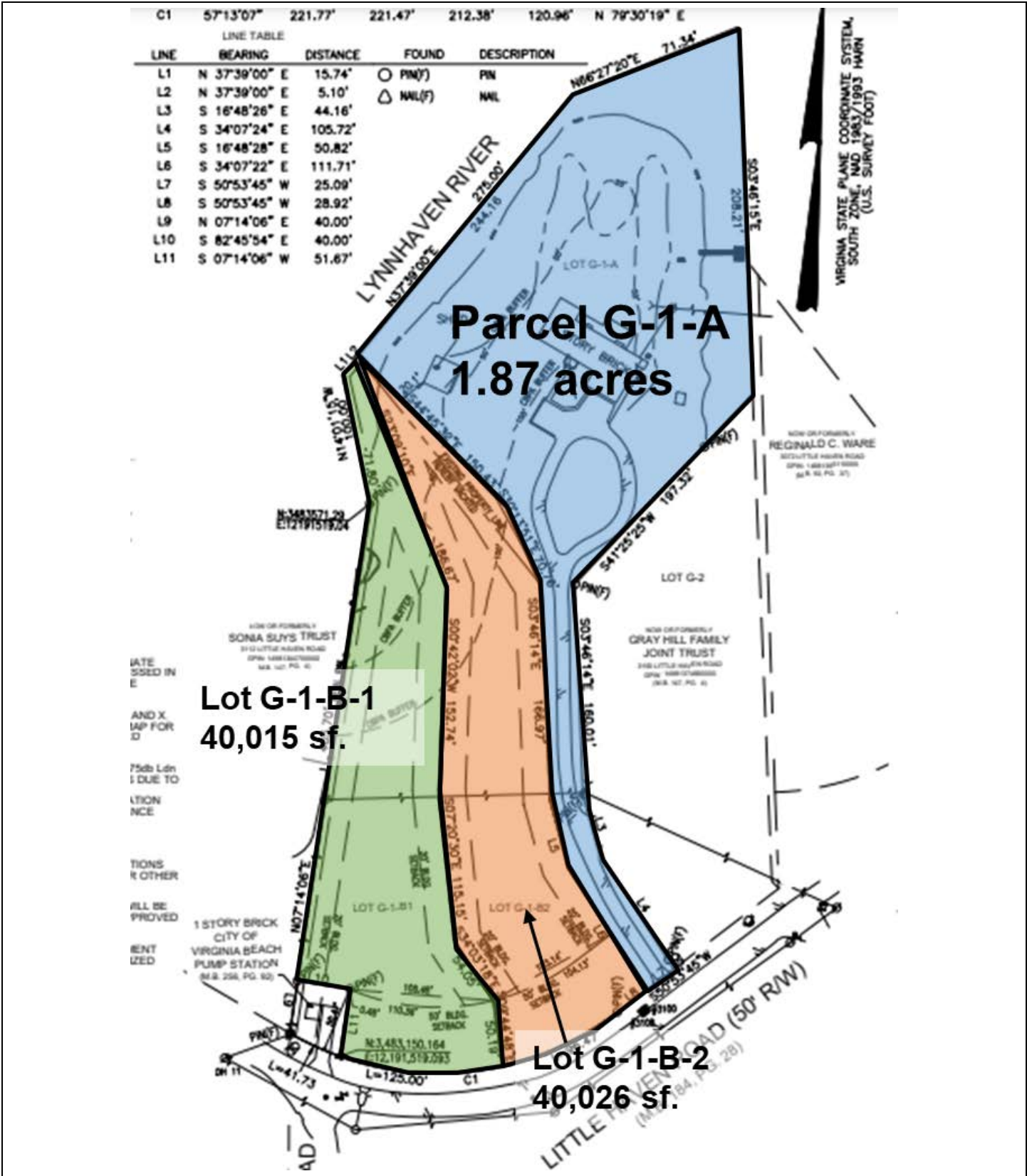
Planning Commission

- No letters of support/opposition have been received by Staff.
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on January 11, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, January 24, 2021 and January 31, 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 January 25, 2021.
- 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 on February 4, 2021.

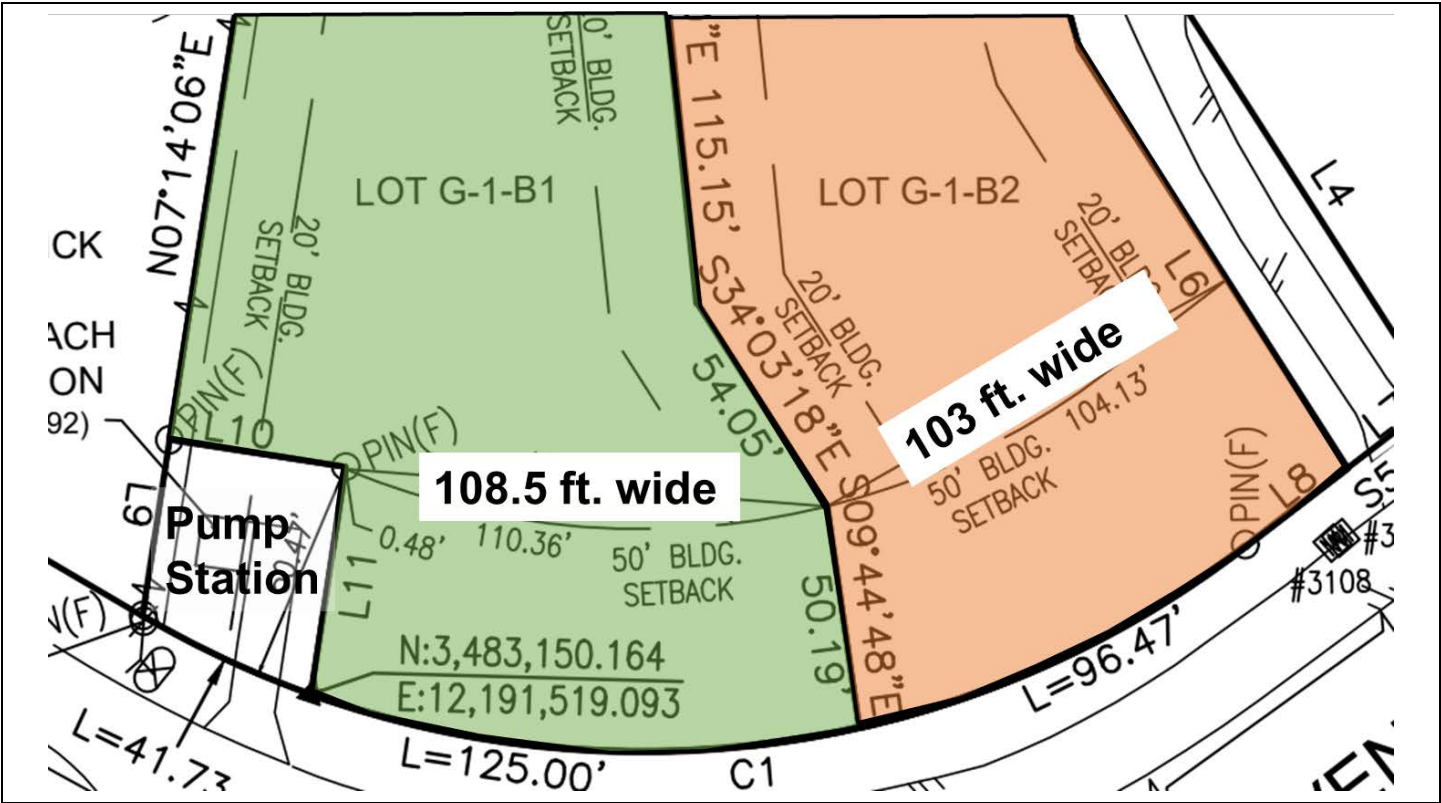
Existing Lots



Proposed Lots



Proposed Lot Width



Site Photos



Disclosure Statement



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Applicant Disclosure

Applicant Name Gray Point Cove, LLC, a Virginia limited liability company

Does the applicant have a representative? ☒ Yes ☐ No

- If yes, list the name of the representative.

R. Edward Boudon, Jr., Esq., Sykes, Boudon, 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)

Sharon L. Gray, Managing Member

- If yes, list the businesses that have a parent-subsidiary¹ or affiliated business entity² relationship with the applicant. (Attach a list if necessary)

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

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

Disclosure Statement



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

1. Does the applicant have **any existing financing (mortgage, deeds of trust, cross-collateralization, etc)** or are they considering **any financing** in connection with the subject of the application or any business operating or to be operated on the property?

☐ Yes ☒ No

- If **yes**, identify the financial institutions providing the service.

2. Does the applicant have a **real estate broker/agent/realtor** for current and anticipated future sales of the subject property?

☐ Yes ☒ No

- If **yes**, identify the company and individual providing the service.

3. Does the applicant have services for **accounting and/or preparation of tax returns** provided in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

- If **yes**, identify the firm and individual providing the service.

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

- If **yes**, identify the firm and individual providing the service.

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

- If **yes**, identify the purchaser and purchaser's service providers.

Disclosure Statement

Disclosure Statement



6. Does the applicant have a **construction contractor** in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

• If yes, identify the company and individual providing the service.

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

• If yes, identify the firm and individual providing the service.

American Engineering

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.

Sharon L. Gray

Applicant Signature

Sharon L. Gray, Managing Member

Print Name and Title

December 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.
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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.

The Applicant has requested an indefinite deferral of this application to further research infrastructure constraints and options for site redevelopment.

Request

Alternative Compliance (Request for outdoor dining and entertainment, outdoor recreation, open air market, and recurring special events on site with various outbuildings and structures)

Staff Recommendation

Indefinite Deferral

Staff Planner

Ashby Moss

Location

712 Atlantic Avenue

GPIN

24272359400000

Site Size

+/- 1.5 acres

AICUZ

65-70 dB DNL; Sub-Area 1

Watershed

Atlantic Ocean





Request

A resolution referring to the Planning Commission ordinances to amends the City Zoning Ordinance, pertaining to Short Term Rentals: to amend Section 102 of the City Zoning Ordinance establishing Short Term Rental Overlay Districts - West Shore Drive (removed by City Council during the hearing), East Shore Drive, North End and Oceanfront Resort; to add Article 23, consisting of Sections 2300 through 2303 (Short Term Rental Overlay Districts), to the City Zoning Ordinance establishing regulations and requirements pertaining to Short Term Rentals in each Overlay District; to amend the official zoning map through the designation and incorporation of property into Short Term Rental Overlay Districts - West Shore Drive (removed by City Council during the hearing), East Shore Drive, North End and OR District; to amend Sections 401, 501, 506, 601, 901, 1110, 1125, 1521 and 2203 of the City Zoning Ordinance and Section 5.2 of the Oceanfront Resort District Form-Based Code pertaining to the requirements and use of Short Term Rentals and Overlays; establishing transition rules for the review of Conditional Use Permits for Short Term Rentals in the Short Term Rental Overlays.

Summary of Referred Ordinances

City Council adopted the Short Term Rental Ordinance on January 15, 2019. Presently, amendments to the Ordinance, in combination with newly added Articles, Sections, and Subsections of the City Zoning Ordinance relating to Short Term Rentals, are being considered.

The following amendments to the City Zoning Ordinance pertaining to Short Term Rentals are noted below. Each of these five (5) proposals are itemized through the use of a lower case letter (a through e). These letters match the related summary sheets on the following pages (upper right corner of the page):

- a) Add three (3) additional Short Term Rental Overlay Districts; (*West Shore Drive Overlay was removed at the City Council formal hearing*) and
- b) Amend the official zoning map with three (3) proposed overlay districts; and
- c) Establish conditions for each overlay district; and
- d) Amend the Short Term Rental requirements in each zoning district (use tables); and
- e) Add transition rules.

This referral was requested by Vice-Mayor Wood and Councilman Jones.

This item was referred to the Planning Commission at City Council's October 20, 2020 formal public hearing.

Recommendation

In advance of their February public hearing, the Planning Commission held a virtual workshop on January 28, 2021 with the purpose of considering these proposed Ordinance revisions and additions. During this workshop, the Planning

Commission discussed the proposed overlay districts and regulations to be set forth there within. A summary of those discussions are detailed in the following pages of this report.

**REQUESTED BY VICE-MAYOR WOOD AND COUNCILMEMBERS JONES AND
TOWER**

1 A RESOLUTION REFERRING TO THE PLANNING
2 COMMISSION ORDINANCES TO AMEND THE CITY ZONING
3 ORDINANCE PERTAINING TO SHORT TERM RENTALS: TO
4 AMEND SECTION 102 OF THE CITY ZONING ORDINANCE
5 ESTABLISHING SHORT TERM RENTAL OVERLAY
6 DISTRICTS—WEST SHORE DRIVE, EAST SHORE DRIVE
7 NORTH END AND OCEANFRONT RESORT; TO ADD
8 ARTICLE 23, CONSISTING OF SECTIONS 2300 TO 2303,
9 (SHORT TERM RENTAL OVERLAY DISTRICTS) TO THE
10 CITY ZONING ORDINANCE ESTABLISHING REGULATIONS
11 AND REQUIREMENTS PERTAINING TO SHORT TERM
12 RENTALS IN EACH OVERLAY DISTRICT; TO AMEND THE
13 OFFICIAL ZONING MAP BY THE DESIGNATION AND
14 INCORPORATION OF PROPERTY INTO SHORT TERM
15 RENTAL OVERLAY DISTRICTS—WEST SHORE DRIVE,
16 EAST SHORE DRIVE, NORTH END AND OR DISTRICT; TO
17 AMEND SECTIONS 401, 501, 601, 901, 1110, 1125, 1521 AND
18 2203 OF THE CITY ZONING ORDINANCE AND SECTION 5.2
19 OF THE OCEANFRONT RESORT DISTRICT FORM-BASED
20 CODE PERTAINING TO THE REQUIREMENTS AND USE OF
21 SHORT TERM RENTALS AND OVERLAYS; ESTABLISHING
22 TRANSITIONS RULES FOR THE REVIEW OF CONDITIONAL
23 USE PERMITS FOR SHORT TERM RENTALS IN THE SHORT
24 TERM RENTAL OVERLAYS

25
26 WHEREAS, the public necessity, convenience, general welfare and good zoning
27 practice so require;

28
29 WHEREAS, concern has been expressed that the density of short term rentals is
30 increasing too rapidly and that the number of short term rentals will make the city appear
31 vacant during the off season; and

32
33 WHEREAS, the five (5) ordinances are to amend the City Zoning Ordinance to 1)
34 create four short term rental overlay districts, 2) to establish the conditions for each overlay
35 district, 3) to amend the official zoning map with the four overlays, 4) to amend the

36 requirements for short term rentals in each zoning district, and, 5) provide transition rules for
37 short term rental conditional use permit applications; and
38

39 BE IT RESOLVED BY THE COUNCIL OF THE CITY OF VIRGINIA BEACH,
40 VIRGINIA:
41

42 There are hereby referred to the Planning Commission, for its consideration and
43 recommendation the five (5) ordinances attached hereto.
44

45 BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF VIRGINIA
46 BEACH, VIRGINIA:
47

48 That the Planning Commission be, and hereby is, directed in accordance with Virginia
49 Code Section 15.2-2229 to transmit to the City Council its recommendations concerning the
50 aforesaid amendments no later than one hundred (100) days after the date of the adoption
51 of this Resolution.

Adopted by the City Council of the City of Virginia Beach, Virginia, on the ____ day of
_____, 2020.

APPROVED AS TO LEGAL SUFFICIENCY:


City Attorney's Office

CA15135
R-7
October 6, 2020



Request

An Ordinance to amend Section 102 of the City Zoning Ordinance establishing Short Term Rental Overlay Districts - East Shore Drive, North End and Oceanfront Resort.

Summary of Referred Ordinance

This Ordinance amends Section 102 of the City Zoning Ordinance to establish three (3) Short Term Rental Overlay Districts. The proposed Short Term Overlay Districts are: (1) East Shore Drive, (2) North End, and (3) Oceanfront Resort District (*West Shore Drive Overlay was removed from consideration at the City Council formal hearing*). Further descriptions of the metes and bounds of these areas are provided in the proposed ordinance amendment to the official zoning map.

Recommendation

At the Planning Commission workshop held on January 28, 2021, the Planning Commission discussed the areas of the City in which they felt Short Term Rental overlay districts were appropriate. It should be noted that no vote was taken; the purpose of the workshop was for discussion only. The information listed below reflects the discussions that occurred during the workshop and are not a formal recommendation by the Planning Commission.

Following in-depth discussions, the Planning Commission felt that a Short Term Rental overlay district is appropriate in the Oceanfront Resort (OR) District, as well as the remaining Resort Tourist (RT) zoned properties in the City. In these overlay districts, Short Term Rentals would be permitted by-right, provided they meet the requirements of Section 241.2 of the Zoning Ordinance.

The remaining proposed overlays, East Shore Drive and North End, including the area of the "Hollies," should be included in an overlay district that permits Short Term Rentals by conditional use permit only. The possibility of a density cap, permitting only to a certain number or percentage of Short Term Rentals within a neighborhood, was also discussed. Any property located outside of the overlay districts described above could not operate a Short Term Rental unless grandfathered and could not apply for a conditional use permit.

REQUESTED BY VICE-MAYOR WOOD AND COUNCILMEMBERS JONES AND
TOWER

AN ORDINANCE TO AMEND SECTION 102
OF THE CITY ZONING ORDINANCE
ESTABLISHING SHORT TERM RENTAL
OVERLAY DISTRICTS - WEST SHORE
DRIVE, EAST SHORE DRIVE, NORTH END
AND OCEANFRONT RESORT

Section Amended: § 102 of the City Zoning
Ordinance

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

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

That Section 102 of the City Zoning Ordinance is hereby amended and
reordained to read as follows:

Sec. 102. - Establishment of districts and official zoning maps.

....

(a1) There are hereby established the following overlay districts:

- (1) Shore Drive Corridor Overlay District ("SD");
- (2) North End Overlay District ("NE");
- (3) Old Beach Overlay District ("OB");
- (4) Historic Kempsville Area Overlay District ("HK");
- (5) Workforce Housing Overlay District ("WF"); and
- (6) Short Term Rental Overlay District ("STR").

- a. West Shore Drive ("STR-W")
- b. East Shore Drive ("STR-E")
- c. North End ("STR-NE")
- d. Oceanfront Resort ("STR-OR")

43 Such districts shall be designated on the official zoning map by an appropriate notation
44 following the designation of the underlying zoning district. As an illustration, property in
45 the Shore Drive Corridor Overlay District and in the B-4 Mixed Use District shall be
46 designated on the official zoning map as having the classification "B-4(SD)."

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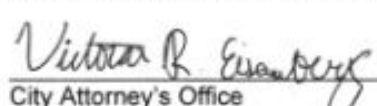
Adopted by the Council of the City of Virginia Beach, Virginia, on the _____ day
of _____, 2020.

APPROVED AS TO CONTENT:



Planning Department

APPROVED AS TO LEGAL SUFFICIENCY:



City Attorney's Office

CA15136
R-3
October 6, 2020



Request

An Ordinance to amend the official zoning map by the designation and incorporation of property into Short Term Rental Overlay Districts - East Shore Drive, North End, and Oceanfront Resort District.

Summary of Referred Ordinance

This Ordinance amends the official zoning map to incorporate three (3) proposed Short Term Rental Overlay Districts. A brief description of the area encompassed by each of the proposed overlay districts are listed below.

1. East Shore Drive - East of the Lesner Bridge; Northern boundary is the Chesapeake Bay; Southern boundary is the Cape Henry bike trail; Eastern boundary First Landing State Park; and the Western boundary is the shopping center located at 2817 Shore Drive to the centerline of Shore Drive, then traveling west down centerline of Shore Drive to the eastern property line of the property located at 2800 Shore Drive and then north to the Chesapeake Bay.
2. North End - Entire existing North End Overlay District (Zoned R-5R (NE)) with the exception of the area located west of Holly Road from the intersection of Holly Road and 58th Street and the Pirate's Hill subdivision. Northern boundary is Fort Story; Southern boundary is 49 ½ Street; Eastern boundary is the Atlantic Ocean; and the Western boundary is First Landing State Park, then Holly Road south of 58th Street.
3. Oceanfront Resort - Overlay included the entire area currently zoned Oceanfront Resort (OR).
 - *West Shore Drive Overlay removed from consideration at the formal City Council hearing on October 20, 2020.*

Recommendation

The boundaries and inclusion of certain neighborhoods in the Short Term Rental overlay districts was discussed at the Planning Commission workshop held on January 28, 2021. At this workshop, the proposed overlay districts considered, were the Oceanfront Resort, East Shore Drive, and North End overlay districts; each reflecting the boundaries as referred by City Council. Additionally, the Planning Commission suggested the area known as "the Hollies," and the remaining properties in the City zoned Resort Tourist (RT), be included in proposed overlay districts.

REQUESTED BY VICE-MAYOR WOOD AND COUNCILMEMBERS JONES AND TOWER

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP BY THE DESIGNATION AND INCORPORATION OF PROPERTY INTO SHORT TERM RENTAL OVERLAY DISTRICTS—WEST SHORE DRIVE; EAST SHORE DRIVE, NORTH END; AND OR DISTRICT

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

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

That the official zoning map of the City of Virginia Beach be, and hereby is, amended by the designation and incorporation of the areas described below:

- 1) That property located in the Shore Drive Overlay District on the west side of the Lesner Bridge and bounded as follows: Starting at the western terminus of the Lesner Bridge heading west along Shore Drive to where the Shore Drive North Eastern property line of the property known as 3336 Baylake Road (GPIN: 14890972370000), heading Northwest along the property lines to the southeast property corner of 2404 Indian Hill Road (14890918910000), heading North 50 feet then heading west 82 feet to Indian Hill Road, then heading North along the rear property lines of properties fronting on Rookery Way to the Chesapeake Bay, heading East to the Lesner Bridge, as depicted by the attached map labeled "Short Term Rental Overlay-West Shore Drive;"
- 2) That property located in the Shore Drive Overlay District on the east side of the Lesner Bridge and bounded as follows: from the centerline of Cape Henry Drive and its continuation north along the eastern property line of the property addressed 2817 Shore Drive (GPIN: 15904016980000), to the centerline of Shore Drive, west along the centerline of Shore Drive, then its continuation north along eastern property line of the property addressed 2800 Shore Drive (GPIN: 15903180160000) to the Chesapeake Bay; then its continuation east along the Chesapeake Bay to the western property line of First Landing State Park; then its continuation south along the western property line of First Landing State Park; then it's continuation east along the centerline Cape Henry Drive and depicted by the attached map labeled, "Short Term Rental Overlay-East Shore Drive."

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- 3) That property located in the North End Overlay and depicted as such on the Official City Zoning Map, except for that area located west of the intersection of Holly Road and 58th Street; south to 49th Street as shown by the attached map labeled "Short Term Rental Overlay—North End;"
- 4) That property located in the City of Virginia Beach, zoned as Oceanfront Resort District and depicted as such on the Official City Zoning Map as shown on the attached map labeled "Short Term Rental Overlay—OR District;


Adopted by the Council of the City of Virginia Beach, Virginia, on the ____ day of _____, 2020.

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL SUFFICIENCY:



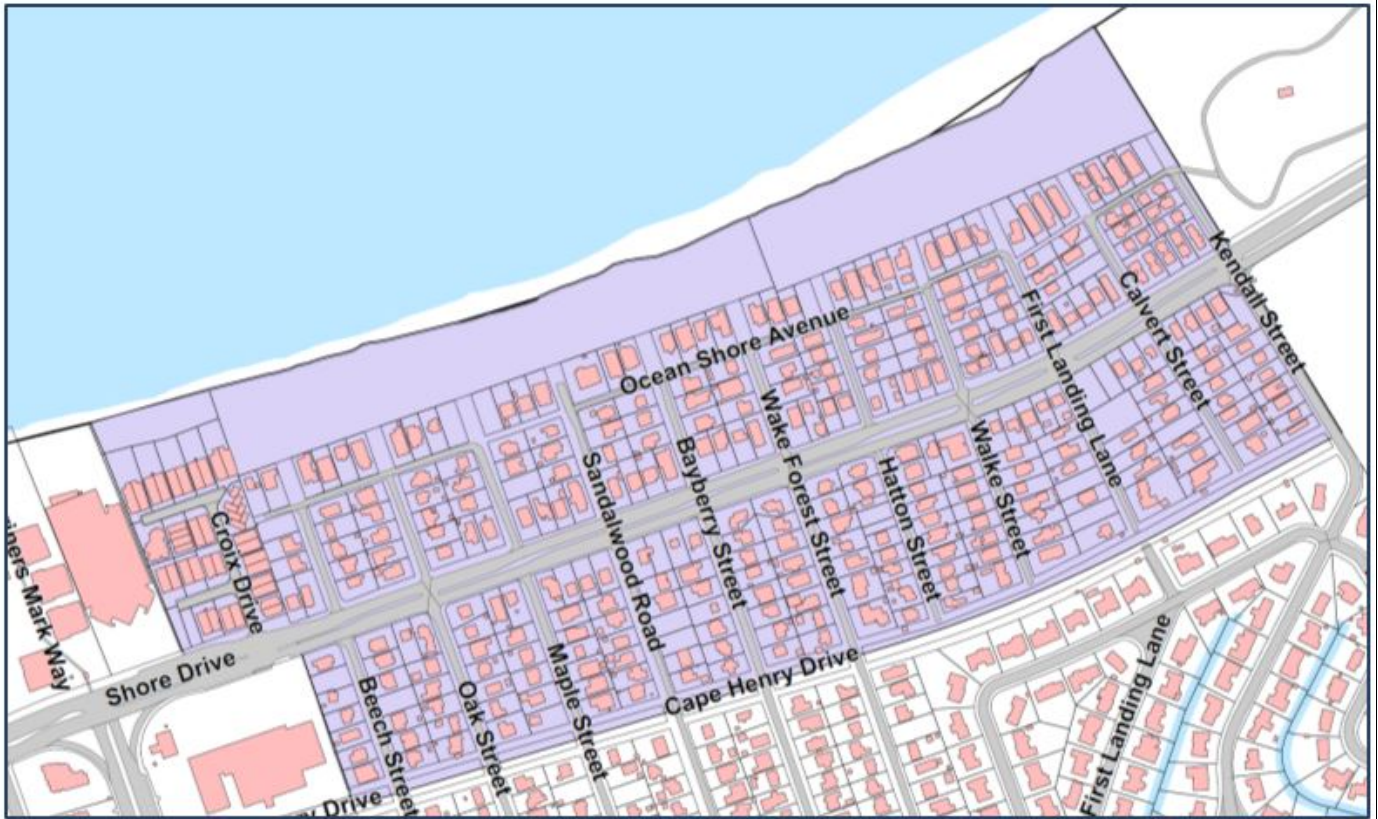
Planning Department



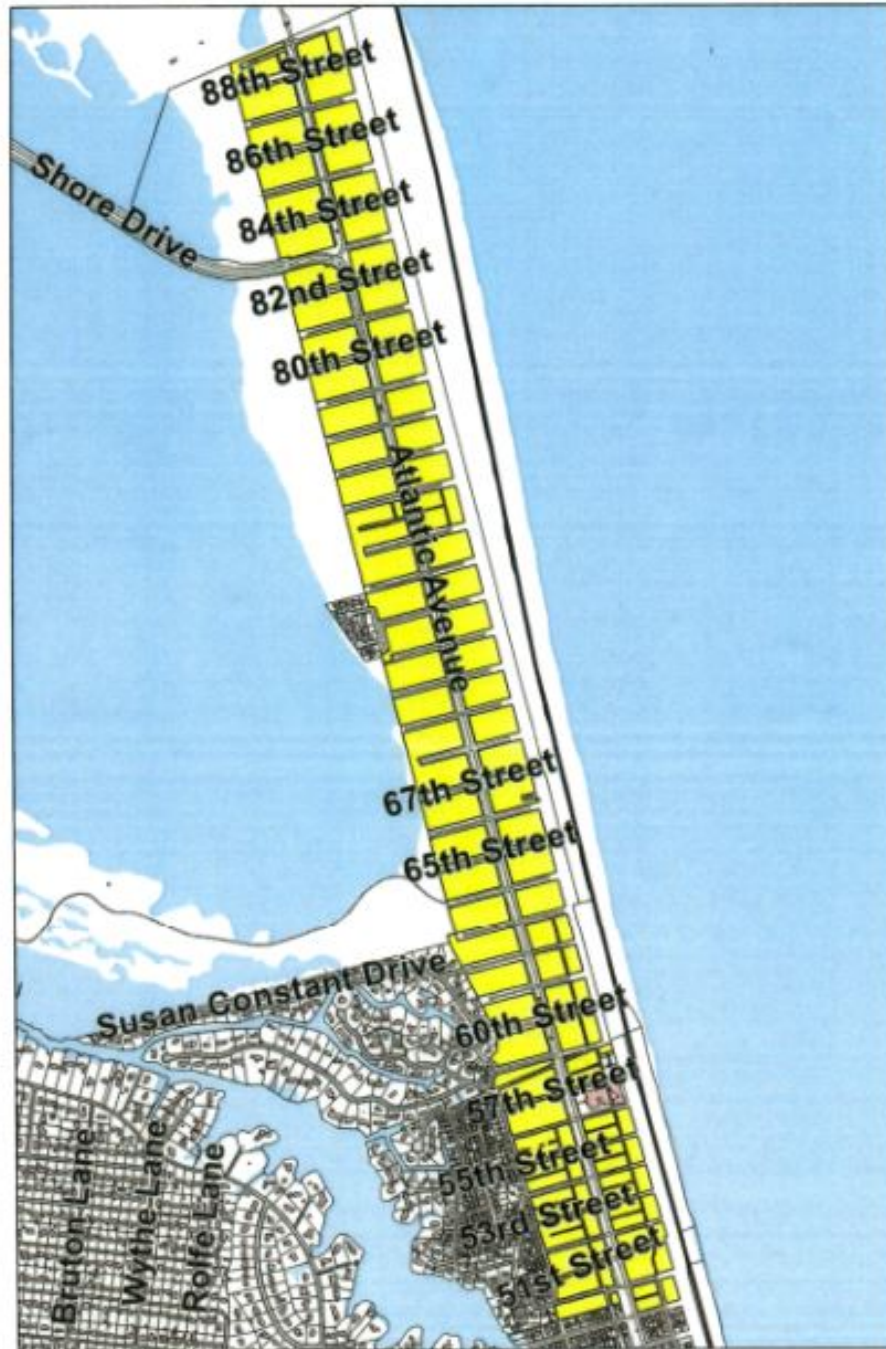
City Attorney's Office

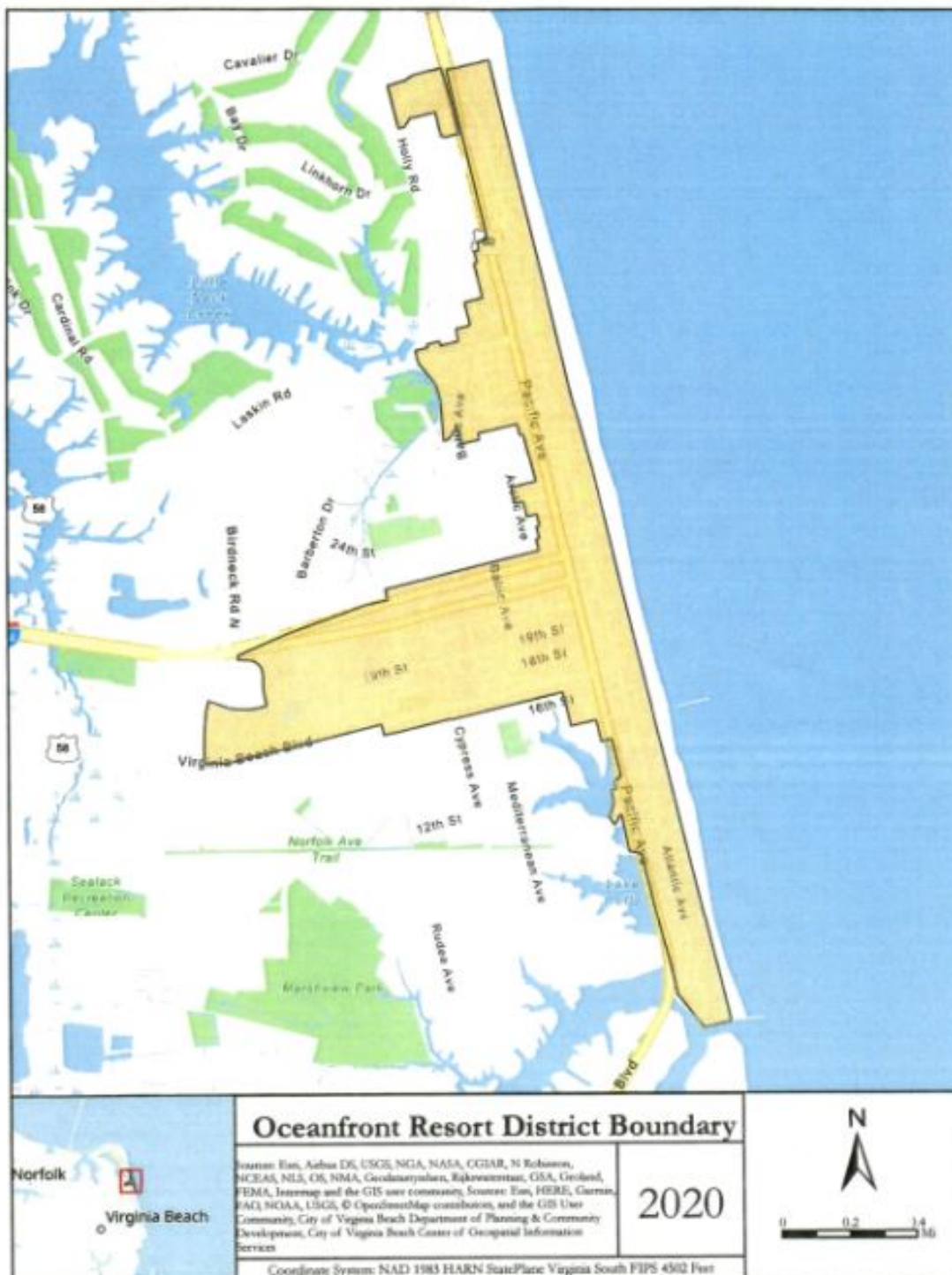
CA15117
R-4
October 6, 2020

PROPOSED EAST SHORE DRIVE STR OVERLAY DISTRICT



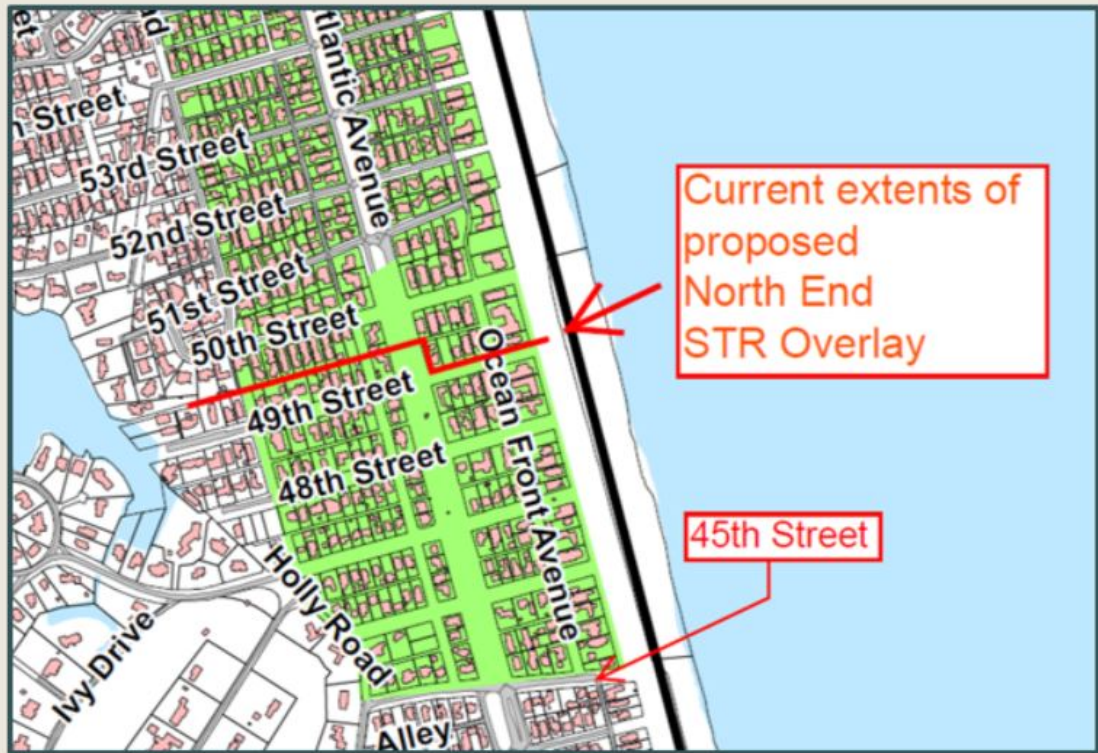
Short Term Rentals Overlay—North End



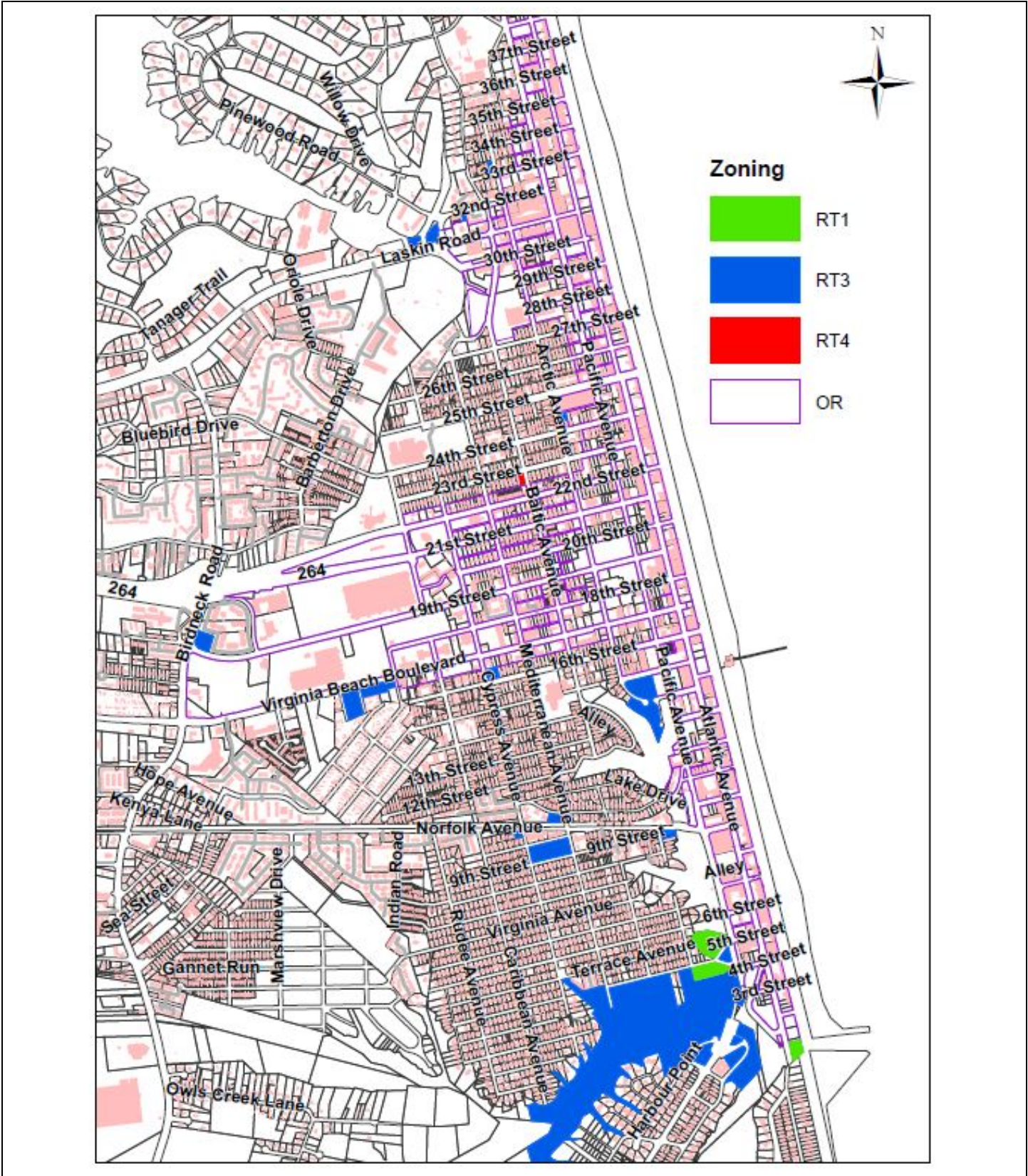


The Hollies

(Area currently not included in proposed North End STR Overlay district)



Proposed Overlay





Request

An Ordinance to add Article 23, consisting of Sections 2300 through 2303 (Short Term Rental Overlay Districts), to the City Zoning Ordinance establishing regulations and requirements pertaining to Short Term Rentals in each overlay district.

Summary of Referred Ordinance

The establishment of Short Term Rental overlay districts would make Short Term Rentals a permitted use within the overlay districts, provided they meet the requirements of the City Zoning Ordinance. The existing regulations found in Section 241.2 of the City Zoning Ordinance, remain in place. Article 23 is proposed to be added that specifically applies to Short Term Rental Overlay Districts as follows:

- i. Add to Condition (1) – Any parking spaces added to the site to meet the required parking shall not add impervious surface. One required space within a garage may be counted, provided it meets the dimensional requirements of a parking space. Driveway areas within the City right-of-way may be counted provided pedestrian or vehicular traffic is not impacted.
- ii. Replace Condition (2) – No events associated with the Short Term Rental are permitted with more persons than can stay overnight. No Special event Permits may be requested.
- iii. Replace Condition (3) – Name and contact of owner or representative must be provided that can respond and be capable of being physically at the site within 30 minutes to address an issue.
- iv. Replace Condition (8) – No more than fifty-two (52) rental contracts permitted per year.
- v. Replace Condition (11) – Maximum occupancy between the hours of 11 p.m. and 7 a.m. shall be the number of bedrooms times two. Minors, sixteen years or younger are not counted; however, in no case shall occupancy be greater than three times the number of bedrooms.
- vi. New Condition – If a Short Term Rental is located within the boundary of the Residential Parking Permit Program (RPPP), only two residential passes are permitted while Short Term Rental is in use. No temporary or guest RPPP passes are permitted.

An area not located in a Short Term Rental overlay district may petition City Council to create an overlay district, provided the area is a pre-established boundary and that the identified community is able to gather signatures in favor of the request from sixty (60) percent of the property owners within the community.

These amendments do not pertain to properties located within the Sandbridge Special Service District, as per legislation from the General Assembly.

If a property previously obtained a Conditional Use Permit for Short Term Rental use, that property could operate under the conditions of the use permit, or homeowner may choose to relinquish the use permit and operate under the above listed regulations. Should these amendments be approved, a conditional use permit will not be able to be administratively renewed following its five year duration, and the property must meet the above requirements or will not be able to operate a Short Term Rental.

Recommendation

At the Planning Commission workshop held on January 28, 2021, each of these proposed amendments were discussed in. Below is a description of the items discussed during the workshop.

- i. Parking – No change to the required number of off-street parking spaces, one space per bedroom was suggested. The Planning Commission agreed that any space added to the site to meet this requirement should be a permeable material, but suggested that the language be changed to be consistent with the definition for impervious cover listed in the Chesapeake Bay Preservation Area Ordinance. The amendment referred to Planning Commission allowed only one parking space within a garage to be counted toward the minimum number of off-street parking spaces required; however, the Planning Commission felt that garages large enough to accommodate more than one vehicle, should be allowed to do so.
- ii. Special Events – The Planning Commission agrees with the requirement in the ordinance referred to them by City Council.
- iii. Responsible Party – The Planning Commission agreed that the name and contact information of a responsible party must be provided and kept on file. In addition, the responsible party should be able to respond to any issue that arises within 30 minutes. The Planning Commission did not agree that the responsible party must be on-site within 30 minutes, instead, they suggested this time limitation be changed to one (1) hour.
- iv. Number of Rental Contracts - The Planning Commission felt that the number of rental contracts should be different depending on which overlay district the property is in. If a property is located in the proposed Oceanfront Resort or Resort Tourist overlay district, the Short Term Rental owner would be permitted two rental contracts per week. If the property is located within the proposed East Shore Drive, North End, or the Hollies overlay districts, the Short Term Rental owner would be permitted one rental contract per week.
- v. Occupancy - The Planning Commission agrees with the requirement in the ordinance referred to them by City Council.
- vi. Residential Parking Permit Program – The Planning Commission supports the addition of this requirement since it mirrors the condition already imposed on all properties within the boundaries of the Residential Parking Program Permit program, which limits the property to two residential passes when used as a Short Term Rental and no guest or temporary passes..

Additionally, the Planning Commission discussed two other amendments involving life safety requirements, as referred to them by Councilwoman Henley. This ordinance was not advertised for the February Planning Commission meeting, so it will not be voted on; however, it will be considered at the March public hearing. These proposed amendments are listed below and are accompanied by the Planning Commission's suggestions. These proposed changes will also apply to Sandbridge.

1. Life Safety – The referred Ordinance requires that an affidavit, signed by the property owner or representative, be submitted to the Planning Department annually. This affidavit must state that the smoke alarms and carbon monoxide detectors are in good working order, that they have been inspected in the past year, and that there is a fire extinguisher on-site and in plain sight. The Planning Commission suggested this ordinance move forward as referred.
2. Deck Safety – The ordinance referred by City Council requires a safety inspection to be done annually by a construction professional or engineer. A report must be submitted and maintained with the zoning office. The report must indicate that all exterior decks, stairs and patios are safe for occupancy. In addition, a placard

identifying the number of occupants permitted on all exterior decks and patios must be posted on each level of the structure. The Planning Commission supported this ordinance; however, they suggested that a report be submitted every five years instead of annually. The Planning Commission also noted that Commonwealth of Virginia Registered Design Professional's (architects and engineers) are qualified to generate and certify such a safety report. Furthermore, the Planning Commissioners felt that a Commonwealth of Virginia Class A Contractor could also generate and certify the safety report.

**REQUESTED BY VICE-MAYOR WOOD AND COUNCILMEMBERS JONES AND
TOWER**

1 AN ORDINANCE TO ADD ARTICLE 23,
2 CONSISTING OF SECTIONS 2300 THROUGH 2303,
3 (SHORT TERM RENTAL OVERLAY DISTRICTS) TO
4 THE CITY ZONING ORDINANCE ESTABLISHING
5 REGULATIONS AND REQUIREMENTS
6 PERTAINING TO SHORT TERM RENTALS IN EACH
7 OVERLAY DISTRICT

8
9 Sections Added: City Zoning Ordinance Sections
10 2300 - 2303

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

14
15 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VIRGINIA
16 BEACH, VIRGINIA:

17
18 That Article 23 of the City Zoning Ordinance, consisting of Sections 2300 through
19 2303, is hereby added and ordained to read as follows:

20
21 **ARTICLE 23. SHORT TERM RENTAL OVERLAY DISTRICTS**

22
23 **Sec. 2300. Findings; intent.**

24
25 The Virginia General Assembly has directed that short term rentals shall be
26 permitted as a principal use in the area defined as the Sandbridge Special Service
27 District. In addition, the City Council hereby finds that there are certain areas of the City
28 in which residential dwellings are, and historically have been, rented to vacationers or
29 others on a short term basis. In these areas, the City Council finds that such use, when
30 appropriately regulated, may be carried on without adversely affecting the adjacent
31 residential neighborhoods. In other areas of the City, short term rentals are not
32 compatible with the residential use of the surrounding properties and are often the
33 cause of excessive noise, illegal or improper parking, traffic violations, congestion and
34 litter, thereby interfering with the quiet enjoyment of the residential neighborhood in
35 which they occur. The provisions of this Article allow short term rentals, with appropriate
36 restrictions, only in those areas directed by the General Assembly and/or in such other

37 areas in which short term rentals may be carried on without adversely affecting the quiet
38 enjoyment of neighboring properties.

39 The East Shore Drive and West Shore Drive Overlays are an area where multi-
40 family dwellings are common and are located very close to the Chesapeake Bay, where
41 rentals have been long established. Other areas of the Shore Drive Overlay contain
42 more single-family dwellings and are not as compatible with the activities of a short term
43 rental. The North End Overlay is also an area on the Atlantic Ocean that has seen a
44 proliferation of rentals for many years, and where rental of property during the summer
45 is a common experience, that does not increase the problems of strangers in a
46 neighborhood. The OR Overlay is in an area of the City that is more urbanized than
47 other areas. Commercial property and establishments are common, and there are few
48 neighborhoods that would be adversely impacted by short term rentals.

49
50 **Sec. 2301. District boundaries.**

51
52 (a) The Short Term Rental Overlay Districts boundaries shall be as
53 designated on the official zoning map of the city (STR).

54
55 (b) Other identified areas of the City may petition the City Council for an
56 overlay to be created if the identified community is able to gather the signatures of sixty
57 (60) percent of the owners of the properties in the community. Such communities shall
58 be pre-existing, and new community boundaries may not be created for the purpose of
59 meeting the requirements of this section for creation of a short term rental overlay.
60 Nothing in this section shall prohibit a member of the City Council from offering a
61 resolution proposing the creation of an overlay district.

62
63 **Sec. 2302. Application of regulations.**

64
65 The designation of any property as lying within a Short Term Rental Overlay
66 District shall be in addition to, and not in lieu of, the underlying zoning district
67 classification of such property, such that any property situated in a Short Term Rental
68 Overlay District shall also lie within one or more of the zoning districts enumerated in
69 Section 102(a) of this ordinance. All such property shall be subject to the requirements
70 of this Article as well as to all other regulations applicable to it, and to the extent that
71 any provision of this Article conflicts with any other ordinance or regulation, the
72 provision of this Article shall control.

73
74 **Sec. 2303. Use regulations.**

(a) Subject to general requirements and to the regulations of the underlying zoning district, all uses and structures permitted as principal, conditional or accessory uses in the underlying zoning district in which they are located shall be permitted within the Short Term Rental Overlay Districts.

(b) Short term rental overlay – West Shore Drive, East Shore Drive, North End and OR

a. Short term rental shall be a principal use if it complies with the requirements of Section 241.2 as modified as follows:

i. Add to condition (1): Parking spaces created to comply with this condition shall not add additional impervious area to the site. Area within a residential garage may be used for no more than one (1) required space provided the available area within the garage meets the dimensional requirements of this ordinance. Driveway area located within the city right of way may be utilized to meet the parking requirement provided there is no traffic impact and the location of the parking space does not block an existing sidewalk.

ii. Replacing condition (2): 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).

iii. Replacing Condition (3): 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. The owner or agent must be capable of physically responding to the site of the short term rental within thirty (30) minutes at all times while the property is rented.

iv. Replacing condition (8): A short term rental shall have no more than fifty-two (52) rental contracts during a calendar year.

v. Replacing condition (11): The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom, which number shall not include minors under the age of 16, provided

116 that in no event may the total number of persons staying
117 overnight at the property exceed the number of approved
118 bedrooms multiplied by three (3).
119 vi. While the short term rental use is active, parking passes issued
120 for the subject dwelling unit(s) through the Residential Parking
121 Permit Program (RPPP) shall be limited to two resident passes
122 only. Guest and temporary passes through the RPPP shall not
123 be permitted.
124
125 (c) The use regulations of this section shall not apply to short term rentals
126 within a Short Term Rental Overlay District that were grandfathered at the
127 time of adoption of the short term rental ordinance, which properties shall be
128 subject exclusively to the provisions of section 241.2. The use regulations
129 of this section shall also not apply to short term rentals within a Short Term
130 Rental Overlay District that are operating under the provisions of a
131 conditional use permit, which properties are governed by the provisions of
132 section 241.2 and the conditions of the permit.

Adopted by the Council of the City of Virginia Beach, Virginia, on the _____ day
of _____, 2020.

APPROVED AS TO CONTENT:



Planning Department

APPROVED AS TO LEGAL SUFFICIENCY:



City Attorney's Office

CA15116
R-6
October 6, 2020



Request

An Ordinance to amend Sections 401, 501, 601, 901, 1110, 1125, 1521 and 2203 of the City Zoning Ordinance and Section 5.2 of the Oceanfront Resort District Form-Based Code pertaining to the requirements and use of Short Term Rentals and overlays.

Summary of Referred Ordinance

This Ordinance amends the use tables in the City Zoning Ordinance pertaining to Short Term Rentals. In all districts where Short Term Rentals require a Conditional Use Permit, such designation is removed. In these districts, Short Term Rental is replaced with a new use identifying them as permitted by-right; provided all requirements of Section 241.2, and where applicable Section 2303, are met.

Recommendation

At the Planning Commission workshop held on January 28, 2021, the boundaries and requirements of potential Short Term Rental overlay districts were discussed. The Planning Commission felt the requirement for a Conditional Use Permit should depend on what potential overlay district the property is in. If a property is in the Oceanfront Resort or Resort Tourist districts, Planning Commission felt that Short Term Rentals should be permitted as a matter of right, provided they meet the requirements of Section 241.2 and the proposed section 2303 of the Zoning Ordinance. They felt that properties located in the other proposed overlay districts, East Shore Drive, North End and the Hollies, should require a Conditional Use Permit for Short Term Rental uses. Any property located outside a proposed overlay district, should not be permitted to operate a Short Term Rental unless grandfathered. No new Conditional Use Permits may be applied for outside of the overlay districts.

REQUESTED BY VICE-MAYOR WOOD AND COUNCILMEMBERS JONES AND TOWER

AN ORDINANCE TO AMEND SECTIONS 401, 501, 601, 901, 1110, 1125, 1521 AND 2203 OF THE CITY ZONING ORDINANCE AND SECTION 5.2 OF THE OCEANFRONT RESORT DISTRICT FORM-BASED CODE PERTAINING TO THE REQUIREMENTS AND USE OF SHORT TERM RENTALS AND OVERLAYS

Sections Amended: City Zoning Ordinance Sections 401, 501, 601, 901, 1110, 1125, 1521, and 2203 and Oceanfront Resort District Form-Based Code Section 5.2

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

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

That Sections 401, 501, 601, 901, 1110, 1125, 1521, and 2203 of the City Zoning Ordinance and Section 5.2 of the Oceanfront Resort District Form-Based Code are hereby amended and reordained, to read as follows:

ARTICLE 4. - AGRICULTURAL DISTRICTS

Sec. 401. Use regulations.

(a) *Principal and conditional uses.* The following chart lists those uses permitted within the AG-1 and AG-2 Agricultural Districts. Those uses and structures in the respective agricultural districts shall be permitted as either principal uses indicated by a "P" or as conditional uses indicated by a "C." Uses and structures indicated by an "X" shall be prohibited in the respective districts. No uses or structures other than as specified shall be permitted.

Use	AG-1	AG-2
....		
Short term rental	C -X	C -X
Short term rental within the Sandbridge Special Service District,* <u>meeting all of the requirements of Section 241.2</u>	P	P

Short term rental within an STR Overlay District, meeting all of the requirements of Section 241.2 and, where applicable, Section 2303

P

P

ARTICLE 5. RESIDENTIAL DISTRICTS.

....

Sec. 501. Use regulations.

(a) *Principal and conditional uses.* The following chart lists those uses permitted within the R-40 through R-2.5 Residential Districts. Those uses and structures in the respective residential districts shall be permitted as either principal uses indicated by a "P" or as conditional uses indicated by a "C." Uses and structures indicated by an "X" shall be prohibited in the respective districts. No uses or structures other than as specified shall be permitted.

Use	R-40	R-30	R-20	R-15	R-10	R-7.5	R-5D	R-5R	R-5S	R-2.5
....										
Short term rental	C X	C X	C X	C X	C X	C X	C X	C X	C X	C X
Short term rental within the Sandbridge Special Service District,* <u>meeting all of the requirements of Section 241.2</u>	P	P	P	P	P	P	P	P	P	P
Short term rental within an STR Overlay District, <u>meeting all of the requirements of Section 241.2 and, where applicable, Section 2303</u>	P	P	P	P	P	P	P	P	P	P
....										

....

ARTICLE 6. - APARTMENT DISTRICTS

....

Sec. 601. - Use regulations.

(a) *Principal and conditional uses.* The following chart lists those uses permitted within the A-12 through A-36 Apartment Districts. Those uses and structures in the respective apartment districts shall be permitted as either principal uses indicated by a "P" or as conditional uses indicated by a "C." Uses and structures indicated by an "X" shall be prohibited in the respective districts. No uses or structures other than as specified shall be permitted.

Use	A-12	A-18	A-24	A-36
Short term rental	C X	C X	C X	C X
Short term rental within the Sandbridge Special Service District,* <u>meeting all of the requirements of Section 241.2</u>	P	P	P	P
Short term rental within an STR Overlay District, <u>meeting all of the</u> <u>requirements of Section 241.2 and, where applicable, Section 2303</u>	P	P	P	P
....				

ARTICLE 9. - BUSINESS DISTRICTS

Sec. 901. - Use regulations.

(a) *Principal and conditional uses.* The following chart lists those uses permitted within the B-1 through B-4K Business Districts. Those uses and structures in the respective business districts shall be permitted as either principal uses indicated by a "P" or as conditional uses indicated by a "C." Uses and structures indicated by an "X" shall be prohibited in the respective districts. No uses or structures other than as specified shall be permitted.

Use	B-1	B-1A	B-2	B-3	B-4	B-4C	B-4K
....							
Short term rental	X	X	X	X	C X	C X	C X

Short term rental within the Sandbridge Special Service District,* <u>meeting all of the requirements of Section 241.2</u>	P	P	P	P	P	P	P
Short term rental within an STR Overlay District, <u>meeting all of the requirements of Section 241.2 and, where applicable, Section 2303</u>	X	X	X	X	P	P	P
....							

ARTICLE 11. - PLANNED DEVELOPMENT DISTRICTS

Sec. 1110. - Land use regulation.

....

(c) Within a PD-H1 District, all of the principal uses and structures permitted within an A-12 Apartment District other than hospitals and sanitariums, together with the following enumerated uses and structures, shall be permitted:

- (1) Fraternity and sorority houses, student dormitories and student centers;
- (2) Housing for seniors and disabled persons, with a conditional use permit;
- (3) Marinas;
- (4) Private clubs or social centers provided that clubs where conduct of commercial affairs is a principal activity shall not be permitted; ~~and~~
- (5) Residential care for seniors, provided that no more than two (2) employees including a bona fide resident of the dwelling shall be permitted; and
- (6) Home sharing meeting the requirements of section 209.6.

(d) Within a PD-H1 District, the following uses shall be allowed as conditional uses:

- (1) Communication towers;
- (2) Family day-care homes;
- (3) Group homes;
- (4) Kennels, residential;
- (5) Religious uses;
- (6) Wind energy conversion systems, free standing and roof-mounted; and

- (7) Home-based wildlife rehabilitation facilities, provided that the principal structure is a single-family dwelling and the lot is greater than two thousand five hundred (2,500) square feet; ~~and~~

~~(8) Short term rental.~~

B. - PD-H2 PLANNED UNIT DEVELOPMENT DISTRICT

....

Sec. 1125. - Allowed uses.

Within the PD-H2 District, only the following uses and structures shall be permitted:

(a) *Principal uses and structures.*

- (1) Dwelling units of the types specified in the land use plan;
- (2) Public buildings, structures, and other public uses;
- (3) Recreational facilities of the type described in the plan;
- (4) Child care education centers, in connection with public or private elementary schools or churches, provided that such uses shall not be eligible for residential density credit;
- (5) Day-care centers, provided that such uses shall not be eligible for residential density credit;
- (6) Public utilities installations and substations; provided offices or storage or maintenance facilities shall not be permitted; and provided, further, that utilities substations, other than individual transformers, shall be surrounded by a wall, solid except for entrances and exits, or by a fence with a screening hedge five (5) to six (6) feet in height; and provided also, transformer vaults for underground utilities and like uses shall require only a landscaped screening hedge, solid except for access opening; ~~and~~
- (7) Home sharing meeting the requirements of section 209.6; ~~and~~
- (8) Short term rental within a STR Overlay District meeting all of the requirements of Section 241.2 and, where applicable, Section 2303.

(c) *Conditional uses.*

- (1) Religious uses, provided that such use shall not be eligible for residential density credit;

- 163
164 (2) Family day-care homes; foster homes and group homes, provided that such
165 uses shall not be eligible for residential density credit;
166
167 (3) Home occupations; and
168
169 (4) Housing for seniors and disabled persons; and
170
171 ~~(5) Short-term rental;~~

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173

174
175 **C. RT-3 RESORT TOURIST DISTRICT**

176
177

178
179 **Sec. 1521. Use regulations.**

180
181 (a) The following chart lists those uses permitted within the RT-3 Resort Tourist District
182 as either principal uses, as indicated by a "P" or as conditional uses, as indicated by a
183 "C." Conditional uses shall be subject to the provisions of Part C of Article 2 (section
184 220 et seq.). Except for single-family, duplex, semidetached and attached dwellings,
185 buildings within the RT-3 District may include any principal or conditional uses in
186 combination with any other principal or conditional use. No uses or structures other than
187 those specified shall be permitted. All uses, whether principal or conditional, should to
188 the greatest extent possible adhere to the provisions of the Special Area Design
189 Guidelines (Urban Areas) set forth in the Reference Handbook of the Comprehensive
190 Plan.

Use	RT-3
. . . .	
Short term rental	C -X
Short term rental within an STR Overlay District, <u>meeting all of</u> the requirements of Section 241.2 and, where applicable, Section 2303	P

191
192 **ARTICLE 22. - CENTRAL BUSINESS CORE DISTRICT**

193
194

195
196 **B. - DEVELOPMENT REGULATIONS**

197

.....

Sec. 2203. - Use regulations.

(a) The following chart lists those uses permitted within the Central Business Core District. Uses and structures shall be allowed either as principal uses, indicated by a "P", or as conditional uses, indicated by a "C." Uses and structures indicated by an "X" shall be prohibited, unless allowed by special exception for Alternative Compliance pursuant to Section 2205. No uses or structures other than as specified herein or as allowed pursuant to subsection (b) shall be permitted.

Use	District CBC
Short term rental	G X
Short term rental within an STR Overlay District, <u>meeting all of the requirements of Section 241.2 and, where applicable, Section 2303</u>	P

.....

APPENDIX 1. - OCEANFRONT RESORT DISTRICT FORM-BASED CODE

.....

Sec. 5.2. Permitted Use Table.

	MIXED-USE BUILDING		COMMERCIAL BUILDING	APARTMENT BUILDING	ROW HOUSE		DETACHED HOUSE	CIVIC BUILDING	
USE	Ground Floor	Upper Floors	Ground Floor	All Floors	Ground Floor	Upper Floors	All Floors	All Floors	Use Standard /Notes
LODGING									
.....									
Short term rental	--	C --	--	--	C --	C --	C --	--	See Sec. 241.2
Short term rental within an STR overlay District meeting the requirements of section 241.2 and, where applicable, Section 2303		P			P	P	P		See Sec. 241.2 and 2303 (c)
.....									

Adopted by the Council of the City of Virginia Beach, Virginia, on the _____ day of _____, 2020.

APPROVED AS TO CONTENT:



Planning Department

APPROVED AS TO LEGAL SUFFICIENCY:



City Attorney's Office

CA15115
R-3
October 6, 2020



Request

An Ordinance establishing transition rules for the review of Short Term Rental Conditional Use Permit applications submitted before and after the City Council date of referral.

Summary of Referred Ordinance

This Ordinance establishes transition rules for conditional use permit applications that are submitted and considered prior to the adoption of this amendment. The transition rules are as follows:

Any application for a conditional use permit for a Short Term Rental accepted prior to the date of referral shall be processed based upon the law existing at the time of submission. Any application accepted after the date of referral shall be considered based upon the law applicable at the time of City Council consideration. No application shall be unnecessarily delayed.

The date of referral referenced above is October 20, 2020.

Recommendation

At the Planning Commission workshop held on January 28, 2021, the Planning Commission suggested no changes to this proposed ordinance referred to them by City Council.

**REQUESTED BY VICE-MAYOR WOOD AND COUNCILMEMBER JONES AND
TOWER**

**AN ORDINANCE ESTABLISHING TRANSITION RULES
FOR THE REVIEW OF CONDITIONAL USE PERMITS FOR
SHORT TERM RENTALS IN THE SHORT TERM RENTAL
OVERLAYS**

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

WHEREAS, the City Council has referred to the Planning Commission ordinances creating the West Shore Drive Short Term Rental Overlay, East Shore Drive Short Term Rental Overlay, North End Short Term Rental Overlay and Oceanfront Resort Short Term Rental Overlay and providing new regulations that would be applicable to a short term rental use within those overlays; and

WHEREAS, the referred ordinances would allow the short term rental use only in those areas mandated by the General Assembly and in Short Term Rental Overlays;

WHEREAS, the short term rental use would no longer be authorized through the granting of a conditional use permit if the referred ordinances are adopted; and

WHEREAS, it is the sense of the City Council that special transition rules should be adopted to govern applications for conditional use permits for short term rentals that are filed but not approved prior to the referral date of the ordinances.

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

Any application for a conditional use permit for a short term rental accepted prior to the date of referral shall be processed based upon the law existing at the time of submission. Any application accepted after the date of referral shall be considered based upon the law applicable at the time of City Council consideration. No application shall be unnecessarily delayed.

**BE IT FURTHER ORDAINED BY THE COUNCIL OF THE CITY OF VIRGINIA
BEACH, VIRGINIA:**

That nothing in this ordinance shall be construed to affect any vested rights which existed as of the effective date of the ordinance.

Adopted by the Council of the City of Virginia Beach, Virginia, on the ____ day
of _____, 2020.

APPROVED AS TO CONTENT:



Planning Department

APPROVED AS TO LEGAL SUFFICIENCY:



City Attorney's Office

CA15137
R-5
October 6, 2020



Short Term Rental Workshop

January 28, 2021

Ordinances referred to Planning Commission by City Council on October 21, 2021:

1. Create three Short Term Rental overlay districts:
 - a. East Shore Drive
 - b. North End
 - c. Oceanfront Resort
2. Amend the official zoning map to include the overlay districts
3. Establish conditions for each overlay district
4. Amend the requirements for Short Term Rentals in each zoning district (use tables)
5. Establish transition rules

EXISTING REGULATIONS WITH NO PROPOSED CHANGES			
ITEM	EXISTING ORDINANCE	REFERRED ORDINANCE REVISIONS	Direction per PC on 1/28/2021 meeting (no changes to Sandbridge STRs unless noted)
Definition of Home Sharing	<ul style="list-style-type: none">▪ Permitted Use.▪ Must pay taxes and register with Commissioner of Revenue (COR), not Zoning Office.▪ Must be operator's principal residence; operator must be present during rental period.	<ul style="list-style-type: none">▪ Same as existing ordinance	<ul style="list-style-type: none">▪ No change

Planning Commission STR Workshop Summary



Sign posted on home	<ul style="list-style-type: none"> One sign permitted, not to exceed 4 square feet in size. Sign must be attached to home. Architectural signs naming the home are exempt. 	<ul style="list-style-type: none"> Same as existing ordinance 	<ul style="list-style-type: none"> Require posting of contact phone number of operator/ representative visible from the street (Including Sandbridge)
Registration and taxes	<ul style="list-style-type: none"> Must be maintain with the COR and all applicable taxes paid. 	<ul style="list-style-type: none"> Same as existing ordinance 	<ul style="list-style-type: none"> Per Council Direction, create Zoning permit/ license required to be renewed yearly with user fee each year. (Including Sandbridge) Submittal for permit/license would require a summary of rental dates per year to show compliance with requirements.
Summary of City Code Sections: [fires on beach, fireworks, trash disposal, noise, and the parking plan]	<ul style="list-style-type: none"> Summary of code section must be posted in home. Summary provided by the Zoning Administrator. 	<ul style="list-style-type: none"> Same as existing ordinance 	<ul style="list-style-type: none"> No change
Trash	<ul style="list-style-type: none"> Trash must be kept in automated refuse receptacles. 	<ul style="list-style-type: none"> Same as existing ordinance 	<ul style="list-style-type: none"> No change
Insurance Requirement	<ul style="list-style-type: none"> \$1,000,000 liability insurance required. Proof of insurance must be provided and kept with the Zoning Office. 	<ul style="list-style-type: none"> Same as existing ordinance 	<ul style="list-style-type: none"> No change
Noise	<ul style="list-style-type: none"> No outdoor amplified sound after 10 p.m. or before 10 a.m. 	<ul style="list-style-type: none"> Same as existing ordinance 	<ul style="list-style-type: none"> No change

Planning Commission STR Workshop Summary



Criteria to be Grandfathered	<ul style="list-style-type: none"> ▪ Must be registered with the Commissioner of Revenue <u>and</u> pay TOT taxes prior to July 1, 2018. ▪ Grandfathering runs with the land and is valid until STR use ceases to exist on property. ▪ Revocation of grandfathering only if overall square footage of the structure is increased by 25% or 1,000 square feet (whichever is less). 	<ul style="list-style-type: none"> ▪ Staff proposed to administratively remove any grandfather status if the property not used as STR for a two year period. ▪ This change was not included in referred amendment. 	<ul style="list-style-type: none"> ▪ No change
Use of Accessory Structures as STRs	<ul style="list-style-type: none"> ▪ Accessory structures <u>shall not</u> be used as short term rentals. 	<ul style="list-style-type: none"> ▪ Same as existing ordinance 	<ul style="list-style-type: none"> ▪ No change
Violations	<ul style="list-style-type: none"> ▪ Violations are a civil penalty. ▪ Fines/summons issued, \$200 for first violation, \$500 for each subsequent violation. 	<ul style="list-style-type: none"> ▪ This was included in the Old Beach Overlay proposal; however, was adopted by City Council. 	<ul style="list-style-type: none"> ▪ No change

Planning Commission STR Workshop Summary



PROPOSED AMENDMENTS TO EXISTING REGULATIONS			
ITEM	EXISTING ORDINANCE	REFERRED ORDINANCE REVISIONS	Direction per PC on 1/28/2021 meeting (no changes to Sandbridge STRs unless noted)
Establish Overlay Districts	<ul style="list-style-type: none"> No overly districts currently exist 	<ul style="list-style-type: none"> Establish three overlay districts: East Shore Drive, North End, and Oceanfront Resort 	<p>Consensus</p> <ul style="list-style-type: none"> Permit STRs in OR and RT zoning districts by-right <p>Other PC discussion</p> <ul style="list-style-type: none"> In proposed Shore Drive East and Proposed North End (Including the Hollies area) STR overlays require CUP with staff reviewing a maximum density requirement. STRs not permitted in areas outside of STR-Overlays, and no CUPs may be applied for. Area included in overlays as referred by City Council permitted by right with appropriate performance measures
Requirement for a Conditional Use Permit (CUP)	<ul style="list-style-type: none"> CUP required for any STR that is not 'grandfathered' or located in the Sandbridge SSD (State legislation). 	<ul style="list-style-type: none"> CUPs will no longer be considered for STR use. STRs permitted only if located in a proposed overlay district. 	<ul style="list-style-type: none"> Allow administrative approval and review every 5 years If violations are found to be detrimental to neighborhood,



	<ul style="list-style-type: none"> Must meet standards of section 241.2. Must pay taxes and register with COR. 		brought to CC for revocation by Planning Director
Parking Requirement	<ul style="list-style-type: none"> Required: One space per bedroom. If minimum cannot be met, parking plan needs to be approved by the Zoning Administrator. No street parking may be used. 	<ul style="list-style-type: none"> One off-street per bedroom required. Space within garage (meeting dimensional criteria) may count for only one parking space. Any spaces added on-site shall be pervious material. No street parking may be used. 	<ul style="list-style-type: none"> No change in parking requirement Allow all parking that is available and meets dimension requirements to count towards parking including spaces inside garages Parking added shall not be impervious
Inclusion in the Residential Parking Permit Program (RPPP)	<ul style="list-style-type: none"> Not included in the existing ordinance, <i>[included as a condition on all applicable properties.]</i> 	<ul style="list-style-type: none"> While STR is in use, dwelling limited to 2 residential passes only. Guest and temporary passes shall not be permitted. 	<ul style="list-style-type: none"> Move forward as proposed
Special Events	<ul style="list-style-type: none"> Special event permit required for gathering with more than 50 people. (Permit through Resort Management Office) No event may exceed than 100 persons. 3 events allowed per year. 	<ul style="list-style-type: none"> No events associated with STR with more persons than maximum occupancy. STR may not request a Special Event Permit. 	<ul style="list-style-type: none"> Move forward as proposed

Planning Commission STR Workshop Summary



Identification of a Responsible Party	<ul style="list-style-type: none"> Provide name and telephone number of contact person. Contact person must be available to address problem within 30 minutes. Not required to physically go to STR. 	<ul style="list-style-type: none"> Provide name and telephone number of responsible person available to be contacted and address problem within 30 minutes. Responsible party must be able to <u>physically respond</u> to site within 30 minutes. 	<ul style="list-style-type: none"> Name and Contact information/number or responsible person must be posted on property and legible from right of way Responsible party must respond to complaints within 30 minutes Responsible party must also be able to physically respond within 1 hour to complaints
Number of Rental Contracts	<ul style="list-style-type: none"> No more than 2 contracts permitted within 7 consecutive days. <i>[Conditional that has been used as per City Council Guidance: No more than one rental contract per seven day period.]</i> 	<ul style="list-style-type: none"> No more than 52 rental contracts during a calendar year. 	<ul style="list-style-type: none"> Within the RT and OR zoning districts – 2 rentals per 7-day period All other STR overlays – 1 rental per 7-day period.

Planning Commission STR Workshop Summary



Maximum Occupancy permitted	<ul style="list-style-type: none"> Total occupancy of the home between the hours of 11 p.m. and 7 a.m. shall not exceed 3 persons per bedroom. (Example: 3 bedroom home = max occupancy of 9.) <i>[Conditional that has been used as per City Council Guidance: Total occupancy not to exceed two persons per bedroom (Example: 3 bedroom home = max occupancy of 6.)]</i> 	<ul style="list-style-type: none"> Total occupancy of the home between the hours of 11 p.m. and 7 a.m. shall not exceed <u>2</u> persons per bedroom. Persons under the age of 16 shall not be included; however, in no case shall the total number of occupants exceed 3 per bedroom. 	<ul style="list-style-type: none"> Move forward as proposed
Life Safety requirements	<ul style="list-style-type: none"> To the extent permissible under state law, interconnected smoke detectors and CO detectors (where applicable) required. 	<ul style="list-style-type: none"> Owner/representative provide Zoning with signed affidavit (annually) stating the following: <ul style="list-style-type: none"> Fire extinguisher installed and location; Smoke detectors and CO2 detectors in compliance with Building Code (if prior to interconnect req., min. of one per floor) Smoke detectors and CO2 detectors inspected annually. 	<ul style="list-style-type: none"> Move forward as proposed, including Sandbridge

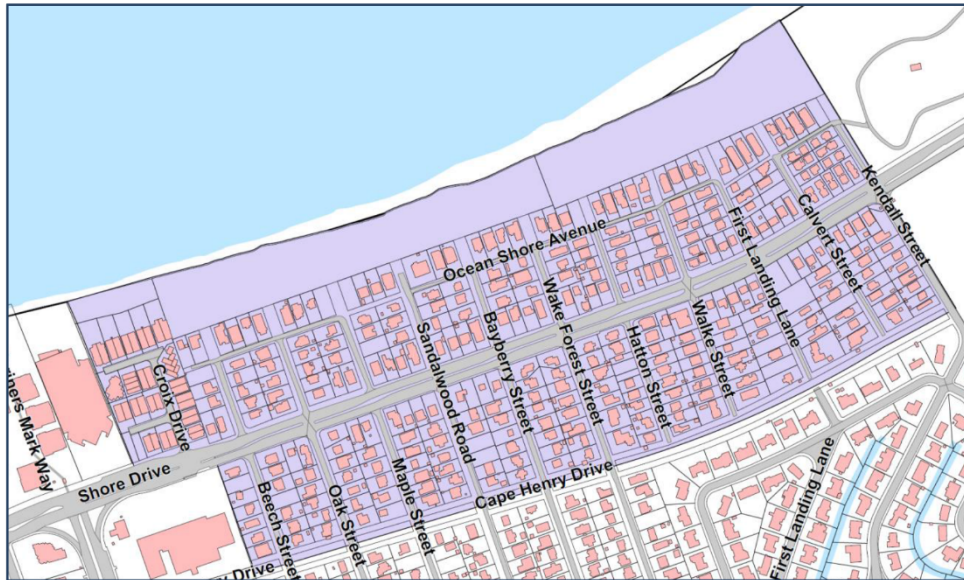
Planning Commission STR Workshop Summary



Deck Safety	<ul style="list-style-type: none"> No regulations regarding deck safety are present in the existing ordinance 	<ul style="list-style-type: none"> Structural report must be submitted annually to the zoning office Must indicate all exterior stairs, decks, porches and balconies are safe. Inspection done by licensed engineer or construction professional. Occupant load must be noted and put on a placard displayed at the property. 	<ul style="list-style-type: none"> Structural report must be submitted every 5 years to the zoning office Must indicate all exterior stairs, decks, porches and balconies are safe. Inspection done by licensed design professional or licensed construction professional (Class A or B). Occupant load must be noted and put on a placard displayed at the property.
Time limitations for Conditional Use Permits	<ul style="list-style-type: none"> CUP shall expire after 5 years. CUP may be administratively renewed by the Planning Department. Zoning will notify City Council in writing of any complaints related to STR use. 	<ul style="list-style-type: none"> Same as existing ordinance. CUP may not be renewed administratively by the Planning Department because no longer an approved use. 	<ul style="list-style-type: none"> Move forward as proposed
Maximum Density	<ul style="list-style-type: none"> Not addressed 	<ul style="list-style-type: none"> Not referred 	<ul style="list-style-type: none"> Discussed maximum density of STRs within a "neighborhood" Staff asked to research what is permissible



PROPOSED EAST SHORE DRIVE STR OVERLAY DISTRICT

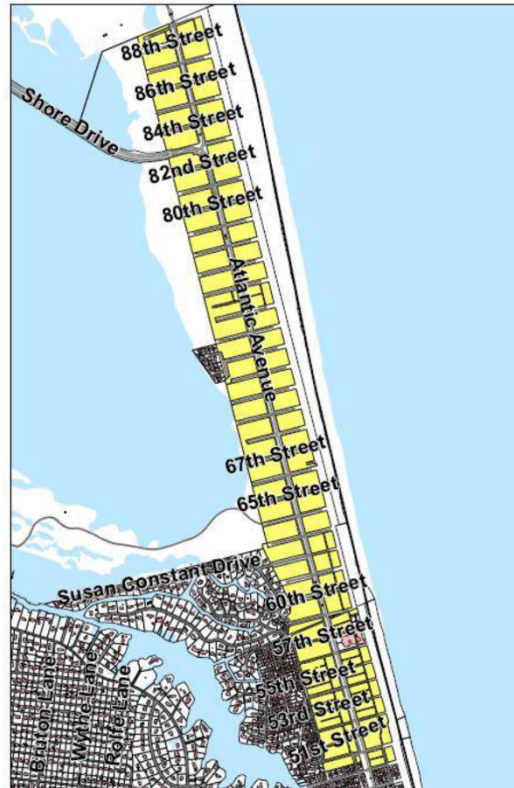


<u>OVERLAY DISTRICT</u>	<u>PROPOSED BOUNDARY</u>	<u>Direction per PC on 1/28/2021 meeting (no changes to Sandbridge STRs unless noted)</u>
East Shore Drive STR	<ul style="list-style-type: none"> North – Chesapeake Bay South – Cape Henry Bike Trail East – First Landing State Park West – west side of Cape Henry neighborhood and west side 2817 Shore Drive 	<ul style="list-style-type: none"> Move forward with same area as referred by City Council

Planning Commission STR Workshop Summary



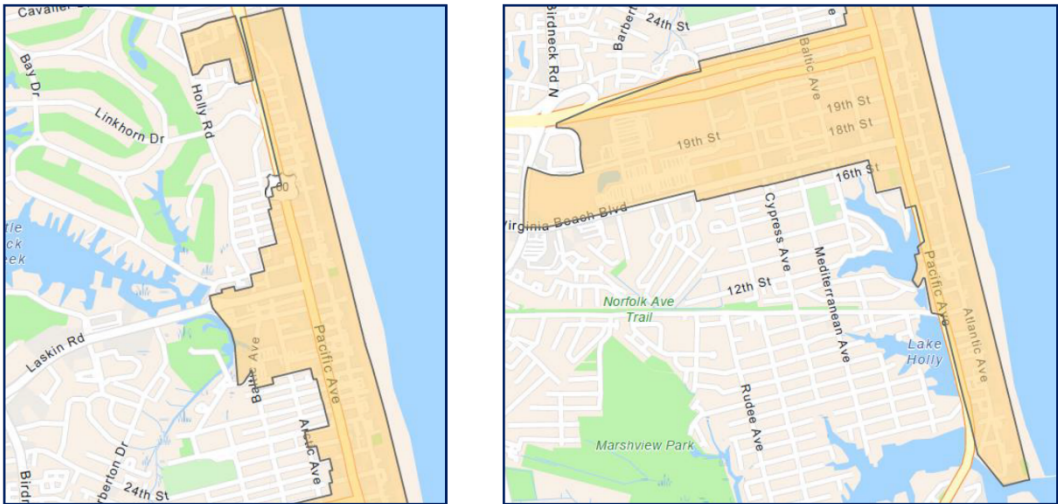
PROPOSED NORTH END STR OVERLAY



<u>OVERLAY DISTRICT</u>	<u>PROPOSED BOUNDARY</u>	<u>Direction per PC on 1/28/2021 meeting (no changes to Sandbridge STRs unless noted)</u>
North End STR	<ul style="list-style-type: none"> North – Fort Story South – 49 ½ Street East – Atlantic Ocean West – Holly Road 	<ul style="list-style-type: none"> Include area known as “The Hollies” bounded by Holly Road, 49th Street and 45th street into North End STR Overlay



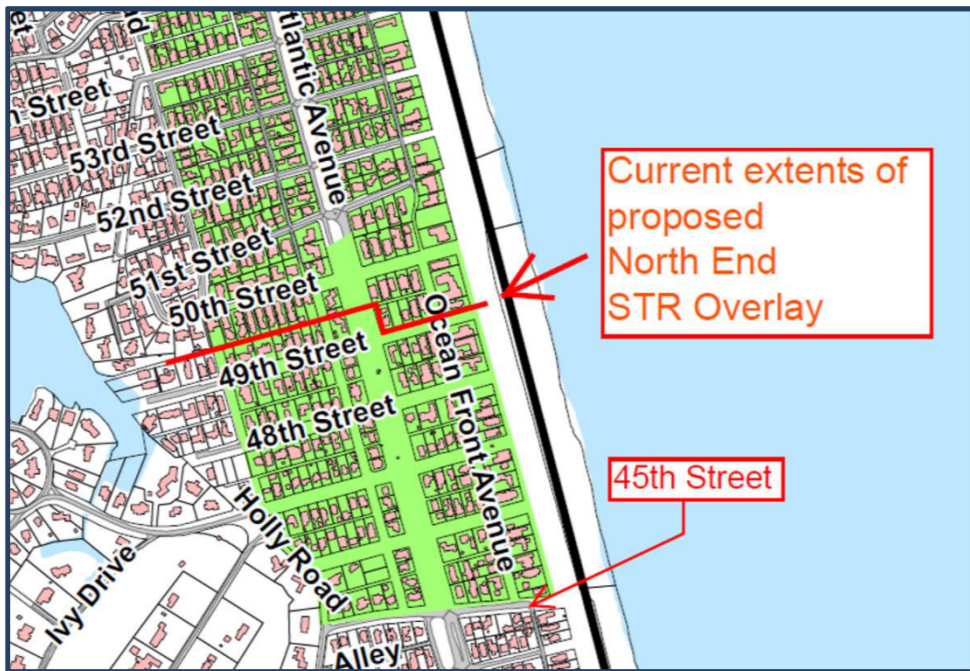
PROPOSED OCEANFRONT RESORT STR OVERLAY DISTRICT



OVERLAY DISTRICT	PROPOSED BOUNDARY	Direction per PC on 1/28/2021 meeting (no changes to Sandbridge STRs unless noted)
Ocean Front Resort (OR) STR	<ul style="list-style-type: none"> All of existing OR District 	<ul style="list-style-type: none"> Move forward with same area as referred by City Council



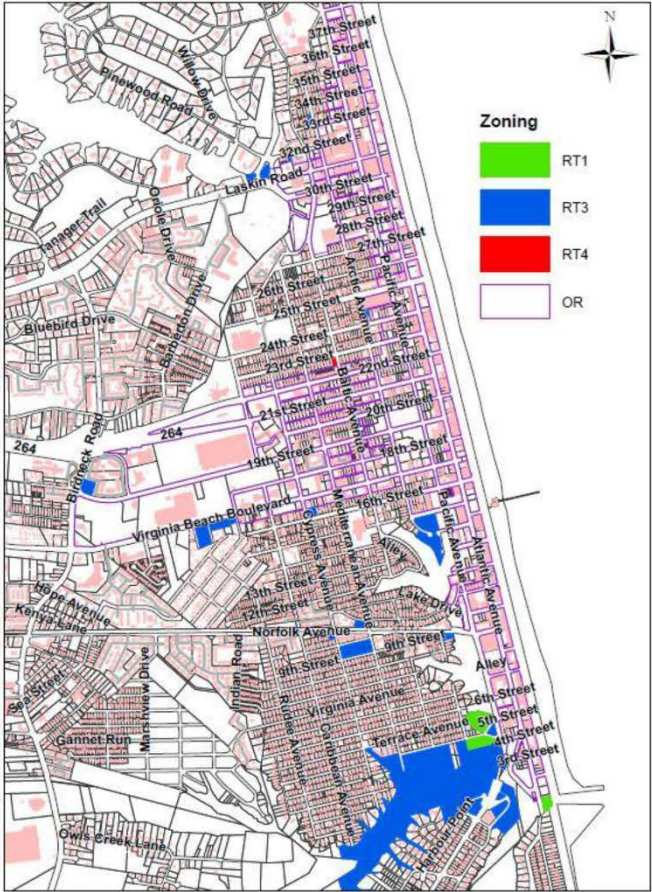
THE HOLLIES (CURRENTLY NOT INCLUDED IN AN STR OVERLAY DISTRICT)



<u>OVERLAY DISTRICT</u>	<u>PROPOSED BOUNDARY</u>	<u>Direction per PC on 1/28/2021 meeting (no changes to Sandbridge STRs unless noted)</u>
The Hollies not currently included in an overlay	<ul style="list-style-type: none"> North – 49 ½ Street South – 45th Street East – Atlantic Ocean West – Holly Road 	<ul style="list-style-type: none"> Include with the North End STR Overlay district



AREAS OF THE CITY CURRENTLY ZONED “RT” RESORT TOURIST



OVERLAY DISTRICT	PROPOSED BOUNDARY	Direction per PC on 1/28/2021 meeting (no changes to Sandbridge STRs unless noted)
RT Zoning Districts not currently included in a STR overlay	<ul style="list-style-type: none"> Scattered throughout the oceanfront neighborhoods 	<ul style="list-style-type: none"> Allow Short Term Rentals by-right in the RT zoning districts

Requests

12 - Conditional Use Permit (Short Term Rental) – Unit A

13 - Conditional Use Permit (Short Term Rental) - Unit B

Staff Recommendation

Approval

Staff Planner

William Miller

Location

525 13th Street, Units A & B

GPIN

24270544050000

Site Size

7,000 square feet

Existing Land Use and Zoning District

Duplex dwelling / R-5D Residential

Surrounding Land Uses and Zoning Districts

North

Single-family dwellings / R-5S Residential

South

13th Street

Single-family dwellings / R-5S Residential & R-5D Duplex

East

Single-family dwellings / R-5S Residential

West

Single-family dwellings / R-5S Residential

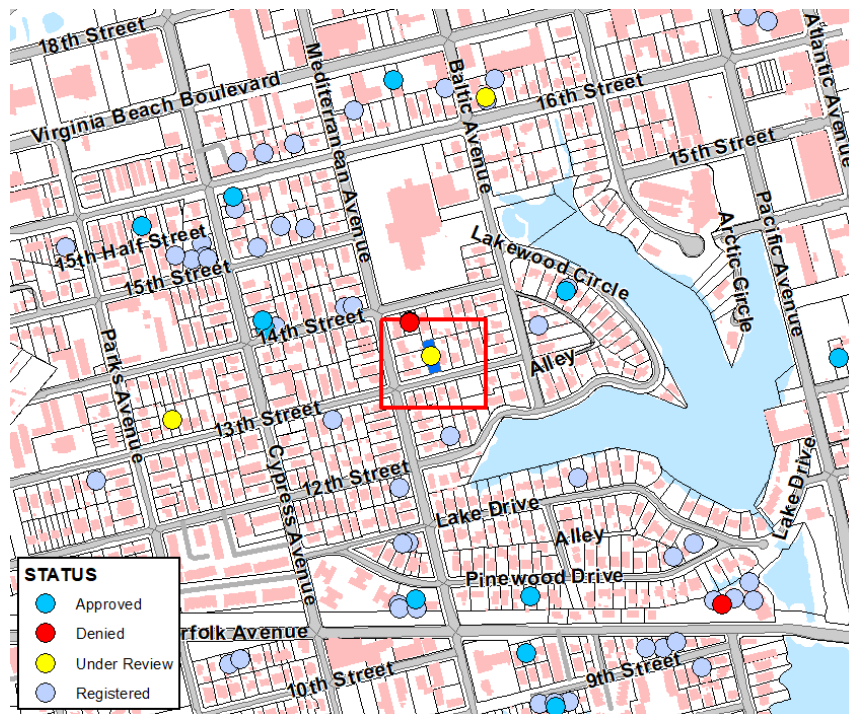


Background & Summary of Proposal

Site Conditions and History

- This 7,000 square foot lot is located within the R-5D Duplex District and contains one duplex dwelling. The applicant owns both units.
- According to City records, this home was constructed in 1965.
- Staff inspected the site on December 17, 2020 to observe site conditions and take photographs for this report.
- Because the existing driveway cannot fully accommodate all four required off-street parking spaces, the applicant's representative advised of her client's willingness to enlarge the current driveway. To address this matter, recommended condition #3 was added to this Staff 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.
- 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



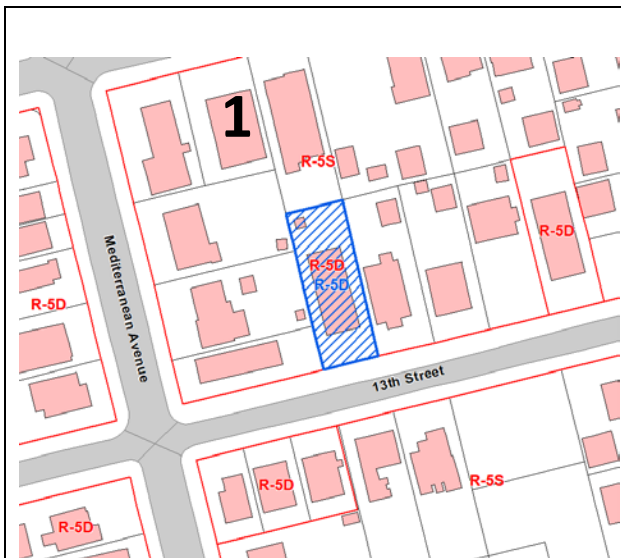
Updated as of 01.21.2021

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.

	Unit A	Unit B
Number of bedrooms in the Short Term Rentals:	2	2
Maximum number of guests permitted on the property after 11:00 pm:	4 - As recommended in condition #17	4 - As recommended in condition #17
Number of parking spaces required (1 space per bedroom required):	2	2
Number of parking spaces provided on-site:	2	1*

**If the STR CUP request is granted, the applicant will add enough parking surface to the existing driveway to make up for this deficiency.*



Zoning History

#	Request
1	STR (Short Term Rental) Denied 07/07/2020

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 property is located within the Lakewood subdivision, which is a neighborhood composed of a mixture of housing types with a few scattered commercial uses. Nevertheless, the subject property lies within a block consisting primarily of single-family dwellings. This duplex lot sits approximately .4 miles from both the public beach of the Atlantic Ocean and the Virginia Beach Convention Center. The applicant's parking plan depicts four off-street parking spaces on the property; however, one space is deficient in width. As a result, the applicant is willing to add a small addition to the existing driveway to fully accommodate that substandard parking space. Recommended condition #3 was added to

address this matter. In addition, the property lies within the boundary of the Residential Parking Permit Program (RPPP). Consequently, another condition is recommended that limits the parking permits issued to two resident passes for each unit; guest and temporary passes will not be allowed while the Conditional Use Permit is active. As permitted by Section 241.2(1) of the City Zoning Ordinance, the Zoning Administrator reviewed the parking plan and deemed it acceptable. Furthermore, all other requirements listed in Section 241.2 of the CZO 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 525 25th Street, Units A & 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.
3. Additional driveway surface shall be added as illustrated in the parking plan found in the Staff report. The proposed surface material type and placement shall be submitted to the Zoning Administrator for review within 60-days of the City Council public hearing. Once the Zoning Administrator's review is complete and a material type is approved, the driveway addition shall be placed within 90-days. In addition, a building permit issued by the Permits and Inspections Division of the Planning Department shall be obtained prior to the installation of the driveway addition.
4. 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.
5. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
6. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1 (8a).
7. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes. Physical response to the site of the Short Term Rental is not required.
8. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
 - a) A completed Department of Planning and Community Development Short Term Rental Zoning 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.
9. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
 10. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
 11. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
 12. Accessory structures shall not be used or occupied as Short Term Rentals.
 13. No signage shall be on-site, except one (1), four (4) square foot sign, may be posted on the building which identifies the Short Term Rental.
 14. The Short Term Rental shall have no more than one (1) rental contract during any consecutive seven (7) day period.
 15. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
 16. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
 17. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom.
 18. 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.

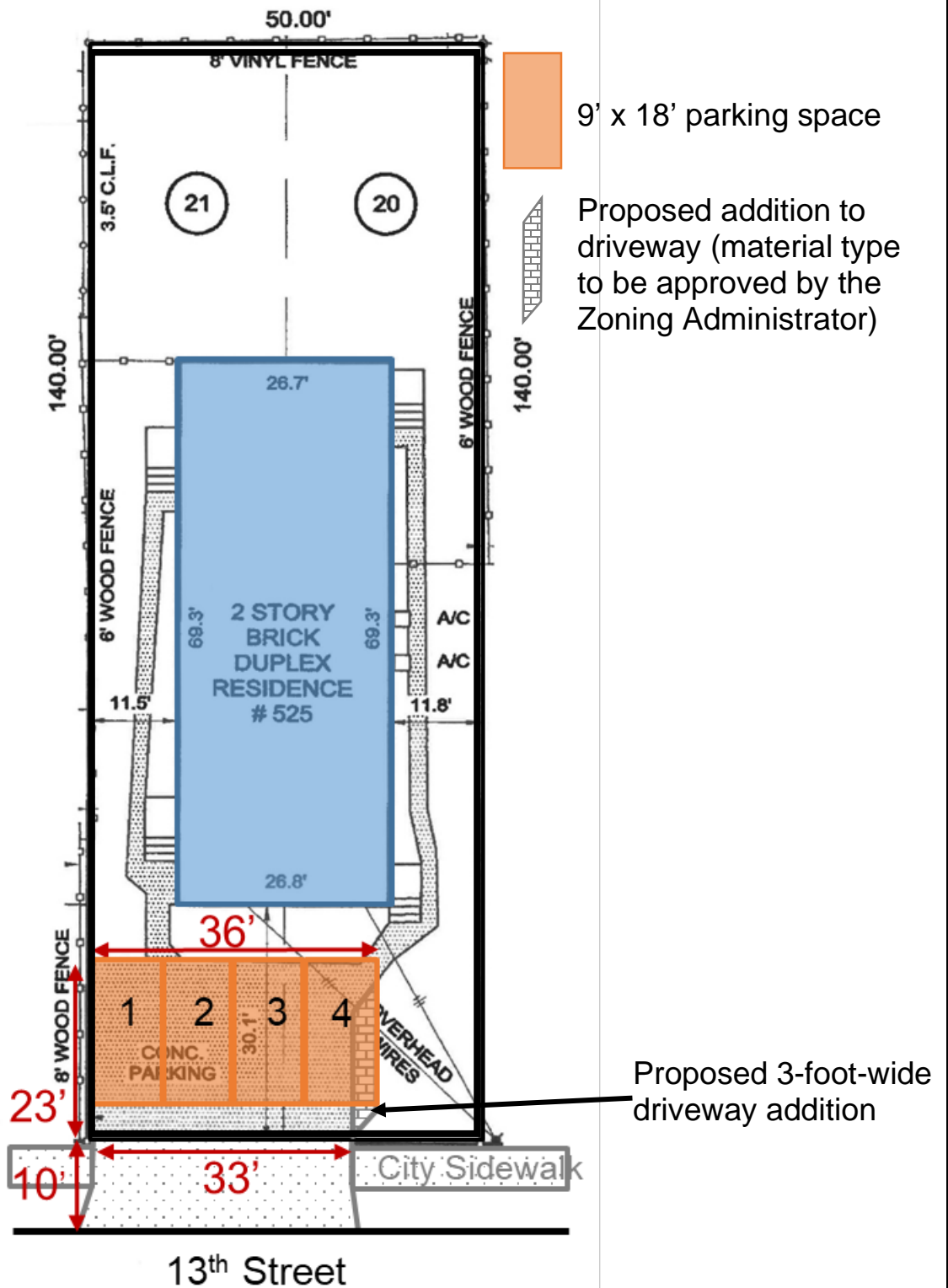
The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.

Public Outreach Information

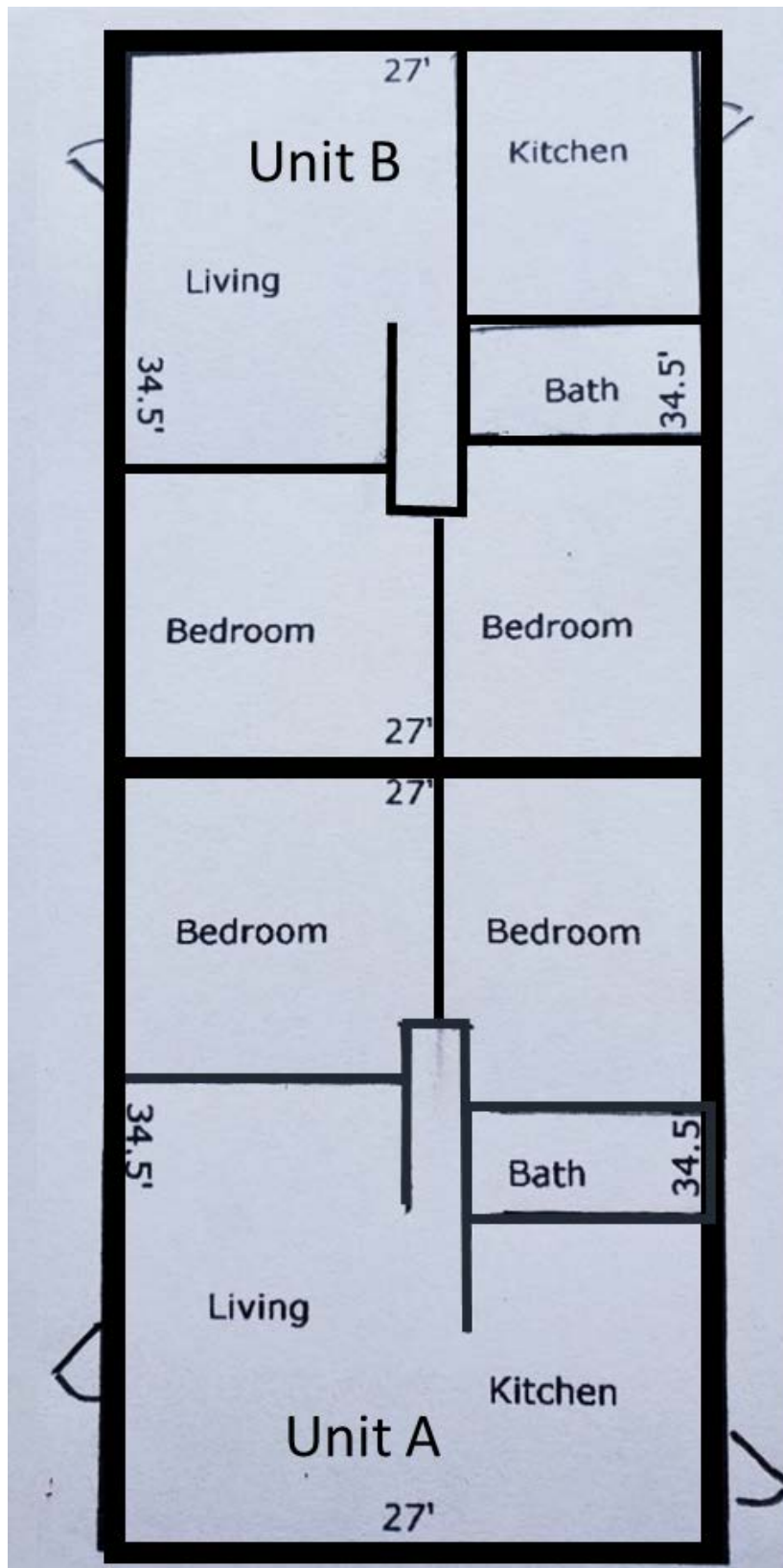
Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on January 11, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, January 24, 2021, and January 31, 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 January 25, 2021.
- 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 on February 4, 2021.

Site Layout & Parking Plan



Floor Plan



Floor plan submitted by the applicant's representative

Street Photo



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 Joseph Layhe Donovan

Does the applicant have a representative? ☒ Yes ☐ No

- If yes, list the name of the representative.

Arica Atkins

Is the applicant a corporation, partnership, firm, business, trust or an unincorporated business? ☐ Yes ☒ No

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

- If yes, list the businesses that have a parent-subsidary¹ or affiliated business entity² relationship with the applicant. (Attach a list if necessary)

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

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

Disclosure Statement

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.

Mortgage through Colonial

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.

Jim Stephenson (757) 679 0823

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.

(Joseph) Layne Donovan Real Estate Agent (SELF)

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.

John Richardson w/ Wolcott, Rivers, Gates (757) 497-1633

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

Joseph Layne Donovan - Owner

Print Name and Title

10/12/2020

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 Joseph "Layne" Donovan

Applicant Name same as above

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-subsiary³ or affiliated business entity⁴ relationship with the Owner. (Attach a list if necessary)

Known Interest by Public Official or Employee

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

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

³ "Parent-subsiary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, VA. Code § 2.2-3101.

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Disclosure Statement



Owner Services Disclosure

1. Does the Owner have any existing financing (mortgage, deeds of trust, cross-collateralization, etc) or are they considering any financing in connection with the subject of the application or any business operating or to be operated on the property?

☒ Yes ☐ No

- If yes, identify the financial institutions.

Mortgage through Colonial

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.

Jim Stephenson (757) 679 0823

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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.

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.

(Joseph) Layne Donovan - Real Estate Agent (self)

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.

John Richardson w/ Wolcott, Rivers, Gates (757) 497-1633

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

Joseph Layne Donovan - Owner

Print Name and Title

10/12/2020

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

William Miller

Location

5632 Freewill Lane

GPIN

14640845350000

Site Size

2,068 square feet

Existing Land Use and Zoning District

Townhome dwelling / PD-H2 Planned Unit
Development (A-24)

Surrounding Land Uses and Zoning Districts

North

Multi-family dwellings / PD-H2 Planned Unit
Development (A-24)

South

Freewill Lane

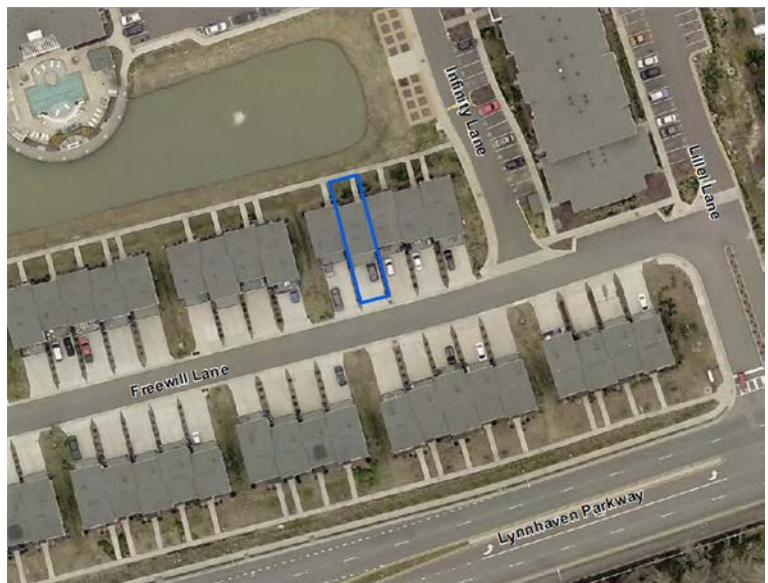
Townhome dwellings / PD-H2 Planned Unit
Development (A-24)

East

Townhome dwellings / PD-H2 Planned Unit
Development (A-24)

West

Townhome dwellings / PD-H2 Planned Unit
Development (A-24)

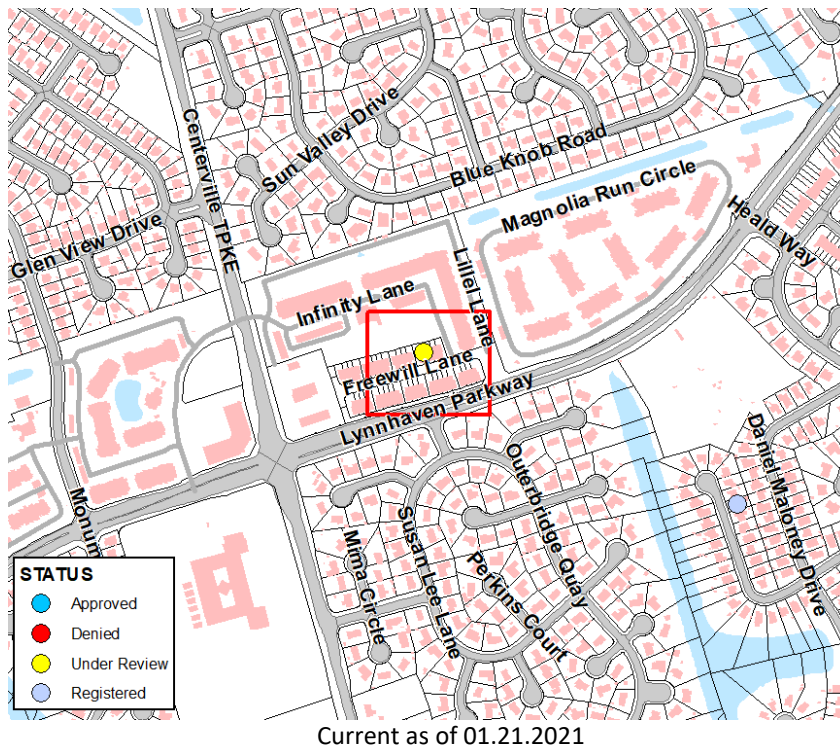


Background & Summary of Proposal

Site Conditions and History

- This 2,068 square foot lot is located within the PD-H2(A-24) Planned Development District and contains one townhome dwelling within a row of five.
- According to City records, this home was constructed in 2016.
- Staff inspected the site on December 17, 2020 to observe site conditions and take photographs for this report.
- On-street parking is permitted 24-hours per day; however, due to the inherent narrowness of the townhome lots and the width of the double driveways along this street, there are few opportunities for on-street parking. Nevertheless, any overflow parking beyond the minimum parking spaces required could occur within the public street.
- 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.

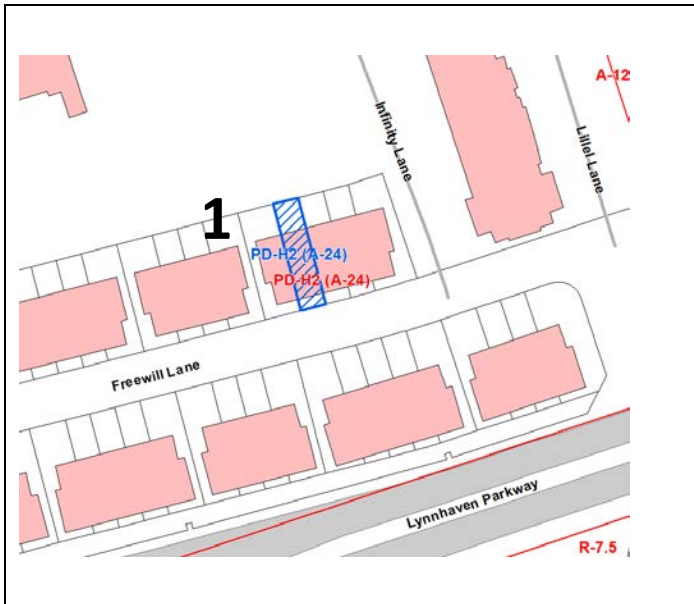
Short Term Rentals in the Vicinity



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	REZ (B-2 to PDH2/A-24 – Townhomes and Apartments) Approved 09/24/2013 SVR (Subdivision Variance) Approved 09/24/2013

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 Infinity Townhomes subdivision, which is a Planned Development of 40 Townhomes located in the Centerville community. The submitted parking plan shows all three required parking spaces located in the existing driveway; however, one space does project 2-feet into the city right-of-way but is still within the driveway apron. Since this projection does not impede pedestrian or traffic flow, the Zoning Administrator deemed the parking as acceptable, as allowed by Section 241.2(1) of the City Zoning Ordinance. In addition, all other 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 5632 Freewill Lane 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
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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.
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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.

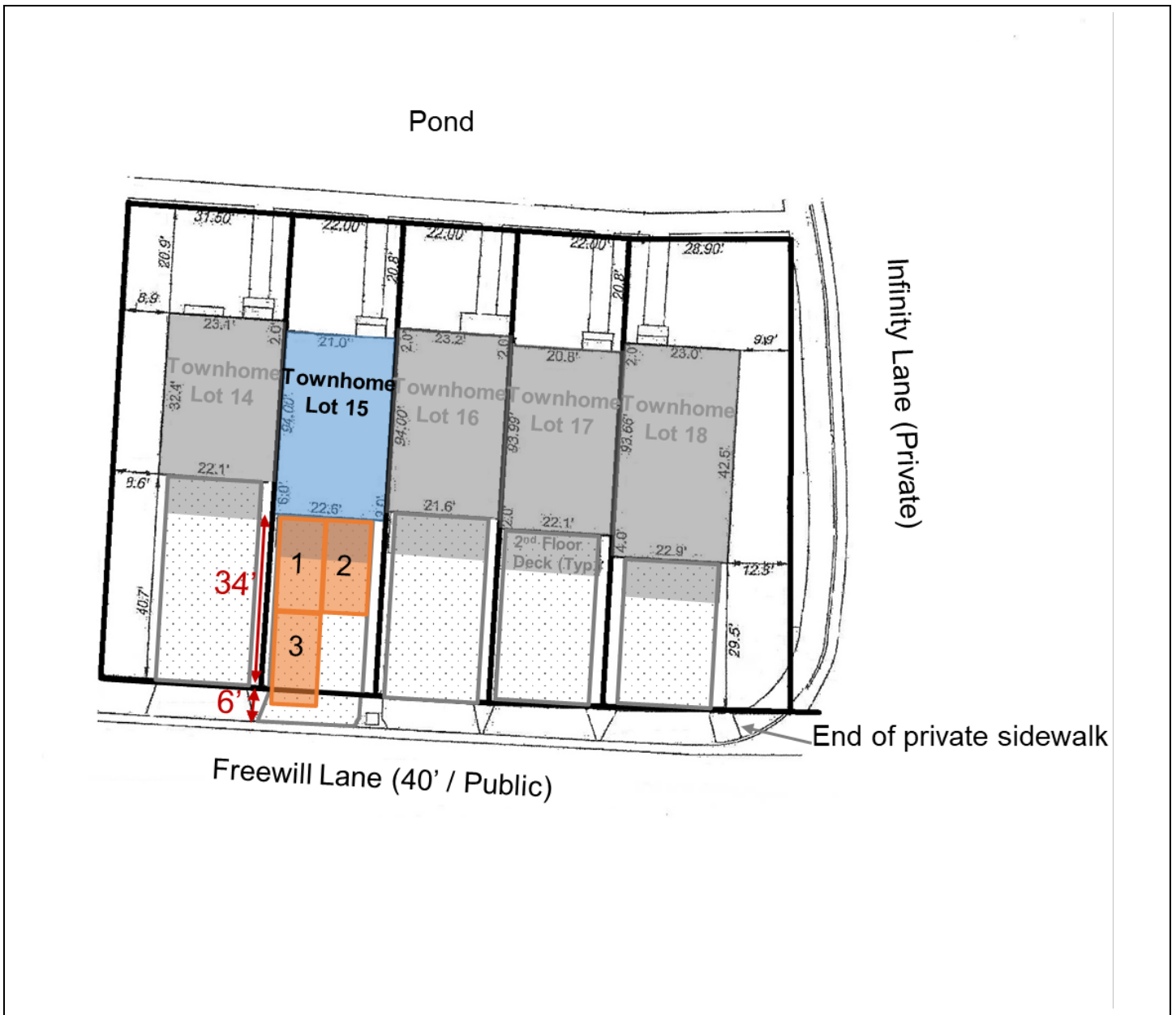
The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.

Public Outreach Information

Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on January 11, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, January 24, 2021, and January 31, 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 January 25, 2021.
- 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 on February 4, 2021.

Site Layout & Parking Plan



9' x 18' parking space

Street Photo



5632 Freewill Lane

Site Photos





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Applicant Disclosure

Applicant Name Margery & AJ Ellis

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-subsiary¹ or affiliated business entity² relationship with the applicant. (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?

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.

PennyMac

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.

Evolve Vacation Rental

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.

M. Ellis, AJ Ellis
Applicant Signature
Margery & AJ Ellis (Owners)

Print Name and Title

11/9/20

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 checked="" 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

William Miller

Location

409 24th ½ Street

GPIN

24270916610000

Site Size

2,700 square feet

Existing Land Use and Zoning District

Single-family dwelling / A-12 Apartment (Old Beach Overlay)

Surrounding Land Uses and Zoning Districts

North

Single-family dwellings / A-12 Apartment (Old Beach Overlay)

South

24th ½ Street (alley)

Single-family dwellings / A-12 Apartment (Old Beach Overlay)

East

10-foot alley

Single-family dwellings / A-12 Apartment (Old Beach Overlay)

West

Single-family dwellings / A-12 Apartment (Old Beach Overlay)

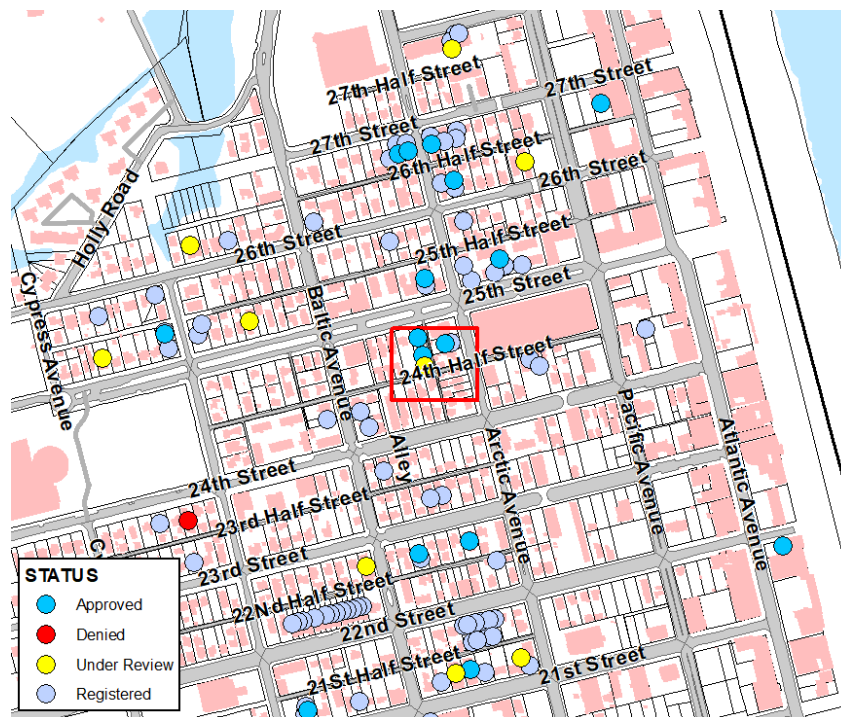


Background & Summary of Proposal

Site Conditions and History

- This 2,700 square foot lot is located within the A-12 Apartment District (Old Beach Overlay) and contains one single-family dwelling.
- According to City records, this home was constructed in 1939.
- Staff inspected the site on December 17, 2020 to observe site conditions and take photographs for this report.
- According to the applicant's representative, the current owners of the home have rented the house out on a short term basis for many years; however, they did not register the rental with the Commissioner of the Revenue.
- The subject dwelling was constructed before on-site parking was mandatory; therefore, the property does not currently meet the off-street parking requirements for Short Term Rental use. Because of this, the applicant is willing to add a code compliant entry apron on 24 ½ Street and a 9-foot wide by 36-foot long north/south oriented compacted gravel driveway. A recommended condition was added to address this matter.
- On-street parking is not permitted on this portion of 24 ½ Street, nor is it permitted in the 10-foot alley.
- 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



Current as of 01.21.2021

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 #18
- Number of parking spaces required (1 space per bedroom required): 2
- Number of parking spaces provided on-site: 0 (2 are proposed – see parking plan on page 7)

Zoning History

#	Request
1	STR (Short Term Rental) Approved 06/23/2020 STR (Short Term Rental) Approved 06/23/2020
2	STR (Short Term Rental) Approved 06/23/2020
3	CUP (Bed and Breakfast) Approved 08/26/2003
4	STR (Short Term Rental) Approved 02/04/2020
5	CRZ (O-2 to R-5D) Approved 08/09/2011

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 property is located within the Old Beach Overlay and was partially included in the original subdivision plat created by the Virginia Beach Development Company in 1915 (it was later subdivided by deed). 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. Specifically, 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 east of Baltic Avenue, was developed in 1939, contains one single-family home, and is assigned to the A-12 Apartment Zoning District. Additionally, this home sits approximately ¼ miles from the public beach of the Atlantic Ocean. The applicant's parking plan illustrates two proposed on-site compacted gravel parking spaces. Based on the specifics noted in the "Site Conditions and History" section of this Staff report, as well as recommended conditions 3, 4, and 5, the Parking plan was deemed acceptable by The Zoning Administrator as permitted by Section 241.2(1) of the City Zoning Ordinance (CZO). In addition, all other requirements found in Section 241.2 of the CZO pertaining to Short Term Rentals can be reasonably met by the applicant.

As noted above, the applicant is willing to add a code compliant entry apron on 24 ½ Street and a 9-foot wide by 36-foot long north/south oriented compacted gravel driveway to meet the parking requirements. A recommended condition was added to address this matter.

Since parking access can only be granted from an improved right-of-way, and the 10-foot alley is intended for southbound traffic only, a recommended condition is included requiring the placement of a hedgerow bordering the proposed driveway. The aim of the hedgerow is to dissuade vehicle operators, whose intentions may be to park on the subject property, from entering the 10-foot alley in the wrong direction and to clearly delineate the extents of the alley and the private property. The applicant is agreeable to the placement of the hedgerow as depicted in the parking plan found in this Staff report.

Another condition is also recommended addressing the existing compacted gravel currently on the subject property. This gravel is presently used in connection with the 10-foot alley, and until recently, continued onto the abutting lot to the north. Since the northern lot is now being developed, the alleyway gravel located on that lot was removed and a concrete driveway for the newly built single-family home will be poured in its place. Consequently, Staff feels that the area of gravel associated with the 10-foot alley on the subject lot may be confusing to motorists. Therefore, Staff recommends that it be removed. The applicant is agreeable to this condition.

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 409 24 ½ 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. A driveway apron meeting Public Works Specifications and Standards shall be installed along 24 ½ Street within 90-days of City Council approval. As illustrated on the parking plan included in the Staff report, this apron shall be used for vehicle entry and exit onto the proposed 9-foot by 36-foot north/south oriented compacted gravel driveway.
4. As illustrated on the parking plan found in the Staff report, a planted hedgerow shall be installed within 90-days of City Council approval. All proposed plant species shall be submitted for review to the Zoning Administrator. Only those species approved by the Zoning Administrator shall be installed.
5. All compacted gravel on the east side of the subject lot, located between the dwelling and the eastern property line, shall be removed within 90-days of City Council approval. As illustrated in the parking plan included in the Staff report, this requirement does not include the proposed north/south oriented 9-foot by 36-foot compacted gravel driveway.
6. 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.

7. 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).
8. 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.
9. 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.
10. 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.
11. 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.
12. 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.
13. Accessory structures shall not be used or occupied as Short Term Rentals.
14. 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.
15. The Short Term Rental shall have no more than one (1) rental contract during any consecutive seven (7) day period.
16. 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.
17. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
18. 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.
19. 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 January 11, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, January 24, 2021, and January 31, 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 January 25, 2021.
- 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 on February 4, 2021.

Site Layout & Parking Plan

Driveway apron / Placed to meet Public Works Specifications and Standards
See recommended condition #3

Removal of existing gravel
See recommended condition #5

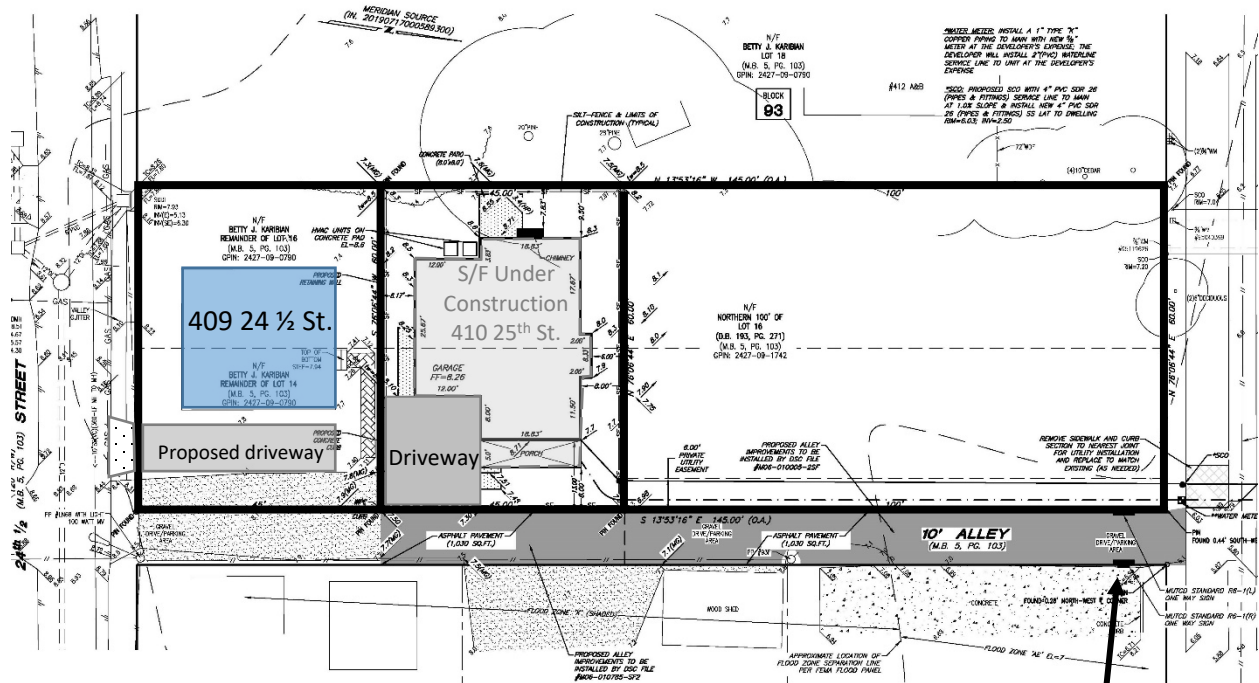
Hedgerow
See recommended condition #4

9' x 18' parking space on compacted gravel surface

Abutting lot / Single-family home under construction / 410 25th Street

The developer of 410 25th Street has removed all gravel from this lot. This will be part of the driveway for 410 25th Street

The developer of 410 25th Street will soon pave a portion of the 10-foot alley from 25th Street to the southern limits of the property addressed as 410 25th Street



DEVELOPER NOTES:

GENERAL NOTES:

- AFTER OBTAINING THE LAND DISTURBING PERMIT AND AT LEAST 48 HOURS PRIOR TO ANY LAND DISTURBING ACTIVITY, THE CONTRACTOR SHALL CONTACT PLANNING/CIVIL INSPECTIONS AT 360-4660 TO SCHEDULE A PRE-CONSTRUCTION MEETING. FAILURE TO CONTACT PLANNING/CIVIL INSPECTIONS PRIOR TO ANY LAND DISTURBING ACTIVITY MAY SUBJECT THE CONTRACTOR TO A STOP WORK ORDER OR OTHER LEGAL ACTION.
- ALL ON-SITE DRIVEWAY/PAVEMENT/CONCRETE SHALL BE A MINIMUM OF FIVE (5) INCHES THICK.
- THE MAXIMUM HEIGHT OF THE PROPOSED DRIVEWAY SHALL NOT EXCEED 35". IT IS THE DEVELOPER'S RESPONSIBILITY TO ENSURE COMPLIANCE WITH THIS REQUIREMENT.
- THE PROPOSED DRIVEWAY SHALL NOT EXTEND BEYOND THE APPROVED DRIVEWAY AT A HEIGHT GREATER THAN 18".
- THE CONTRACTOR SHALL MAINTAIN THE DRIVEWAY GRADE.
- THE CONTRACTOR SHALL MAINTAIN THE DRIVEWAY GRADE.
- PRIOR TO THE ISSUANCE OF ANY CERTIFICATE OF OCCUPANCY, OR THE FINAL RELEASE OF ANY PERMIT AUTHORIZING A

UTILITY INFO (TYPICAL FOR EACH UNIT)

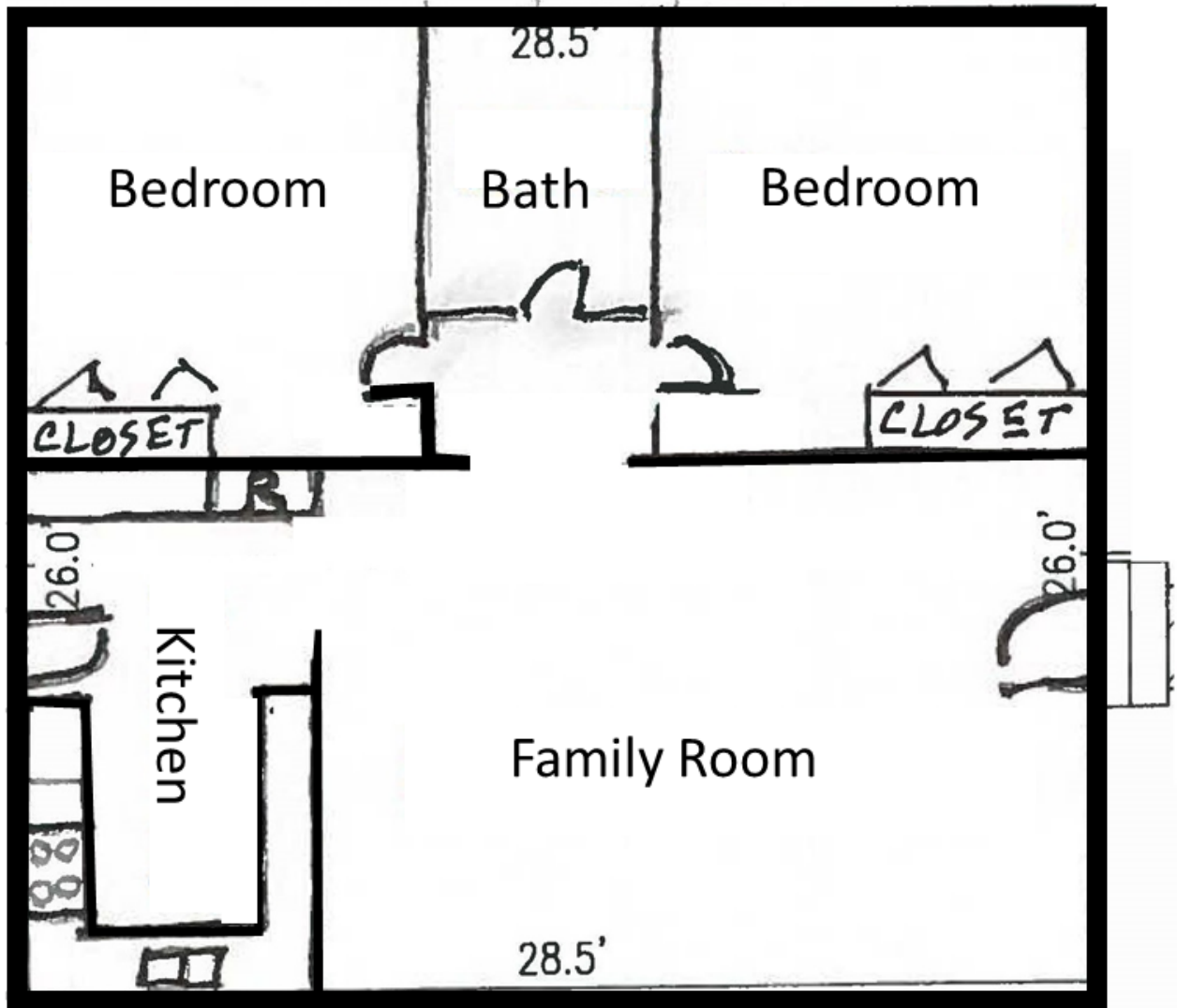
WATER SERVICE	SEWER SERVICE
FOR ALL OCCUPANCIES: 22 GPM (0.75)	FOR ALL OCCUPANCIES: 22 GPM (0.75)
FOR 1-2 UNITS: 22 GPM (0.75)	FOR 1-2 UNITS: 22 GPM (0.75)
FOR 3-4 UNITS: 22 GPM (0.75)	FOR 3-4 UNITS: 22 GPM (0.75)
FOR 5-6 UNITS: 22 GPM (0.75)	FOR 5-6 UNITS: 22 GPM (0.75)
FOR 7-8 UNITS: 22 GPM (0.75)	FOR 7-8 UNITS: 22 GPM (0.75)
FOR 9-10 UNITS: 22 GPM (0.75)	FOR 9-10 UNITS: 22 GPM (0.75)

FIRE FLOW INFORMATION:

FOR 1-2 UNITS: 22 GPM (0.75) FOR 3-4 UNITS: 22 GPM (0.75) FOR 5-6 UNITS: 22 GPM (0.75) FOR 7-8 UNITS: 22 GPM (0.75) FOR 9-10 UNITS: 22 GPM (0.75)

One Way Signs

Floor Plan



Floor plan of 409 24 ½ Street / Submitted by the applicant

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 CESJB, 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**

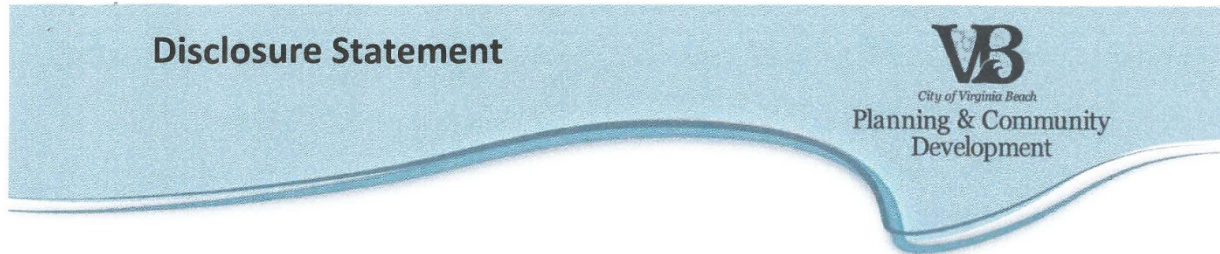
- If **yes**, list the names of all officers, directors, members, trustees, etc. below. (Attach a list if necessary)

Christopher J. Ettel, Steven W. Bishard, and John Bishard, Members

- If **yes**, list the businesses that have a parent-subsiary¹ or affiliated business entity² relationship with the applicant. (Attach a list if necessary)

¹ "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.

² "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.



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.

Eric Garner, 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.

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

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 'C. Ettel'.

Applicant Signature

Christopher J. Ettel, Member

Print Name and Title

~~November 2, 2020~~ JANUARY 7, 2021

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	

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

528 Vanderbilt Avenue

GPIN

2426394440

Site Size

5,000 square feet

Existing Land Use and Zoning District

Single-family dwelling / R-10 Residential

Surrounding Land Uses and Zoning Districts

North

Single-family dwellings / R-10 Residential

South

Single-family dwellings / R-10 Residential

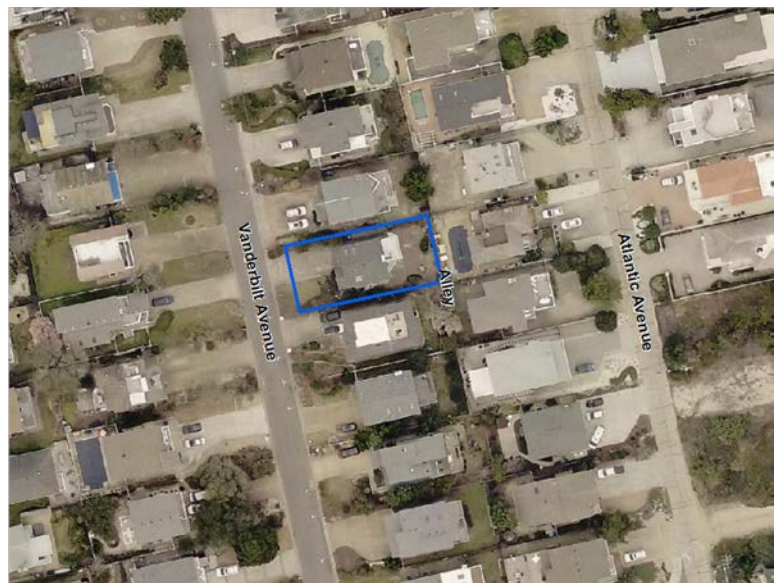
East

Single-family dwellings / R-10 Residential

West

Vanderbilt Avenue

Single-family dwellings / R-10 Residential

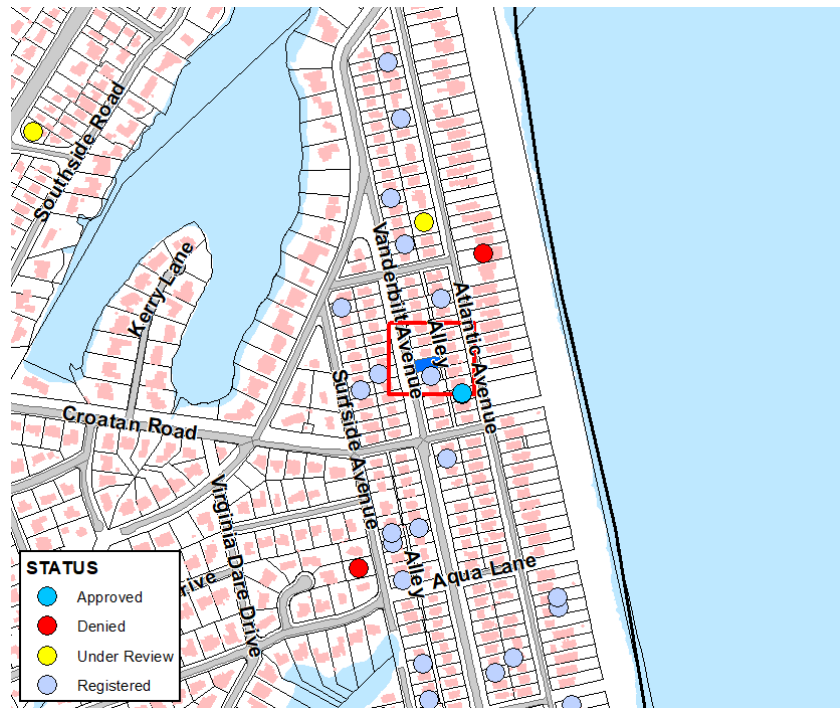


Background & Summary of Proposal

Site Conditions and History

- This 5,000 square foot lot is located within the R-10 Residential District and contains one single-family dwelling.
- According to City records, this home was constructed in 1984.
- Staff inspected the site on December 17, 2020 to observe site conditions and take photographs for this report.
- On-street parking is permitted from 9:30am to 7pm daily, therefore any overflow parking beyond the minimum parking spaces required could occur within the public street during those specified times.
- No records of zoning violations relating to Short Term Rental use were found associated with the subject address.
- The applicant accepted City Council's recommended 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

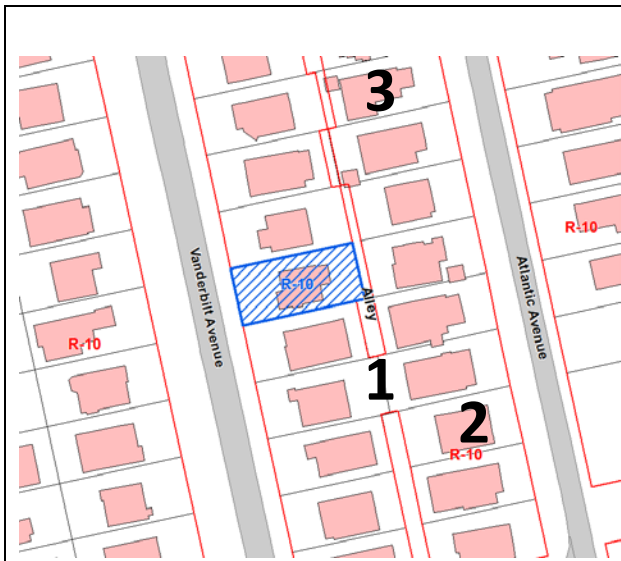


Summary of Proposal

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



Zoning History

#	Request
1	STC (Street Closure) Approved 08/20/2019
2	STR (Short Term Rental) Approved 06/09/2020
3	STC (Street Closure) Approved 08/20/2019

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 Croatan subdivision, which primarily consists of single-family dwellings. In fact, the neighborhood contains only three known lots with dwelling types other than single-family. In addition, the subject property sits approximately 400 feet from the public beach of the Atlantic Ocean. The applicant's parking plan depicts all four required off-street parking spaces within the existing driveway, which meet the requirements of Section 241.2(1) the City Zoning Ordinance. Furthermore, all 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 528 Vanderbilt Avenue, 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.

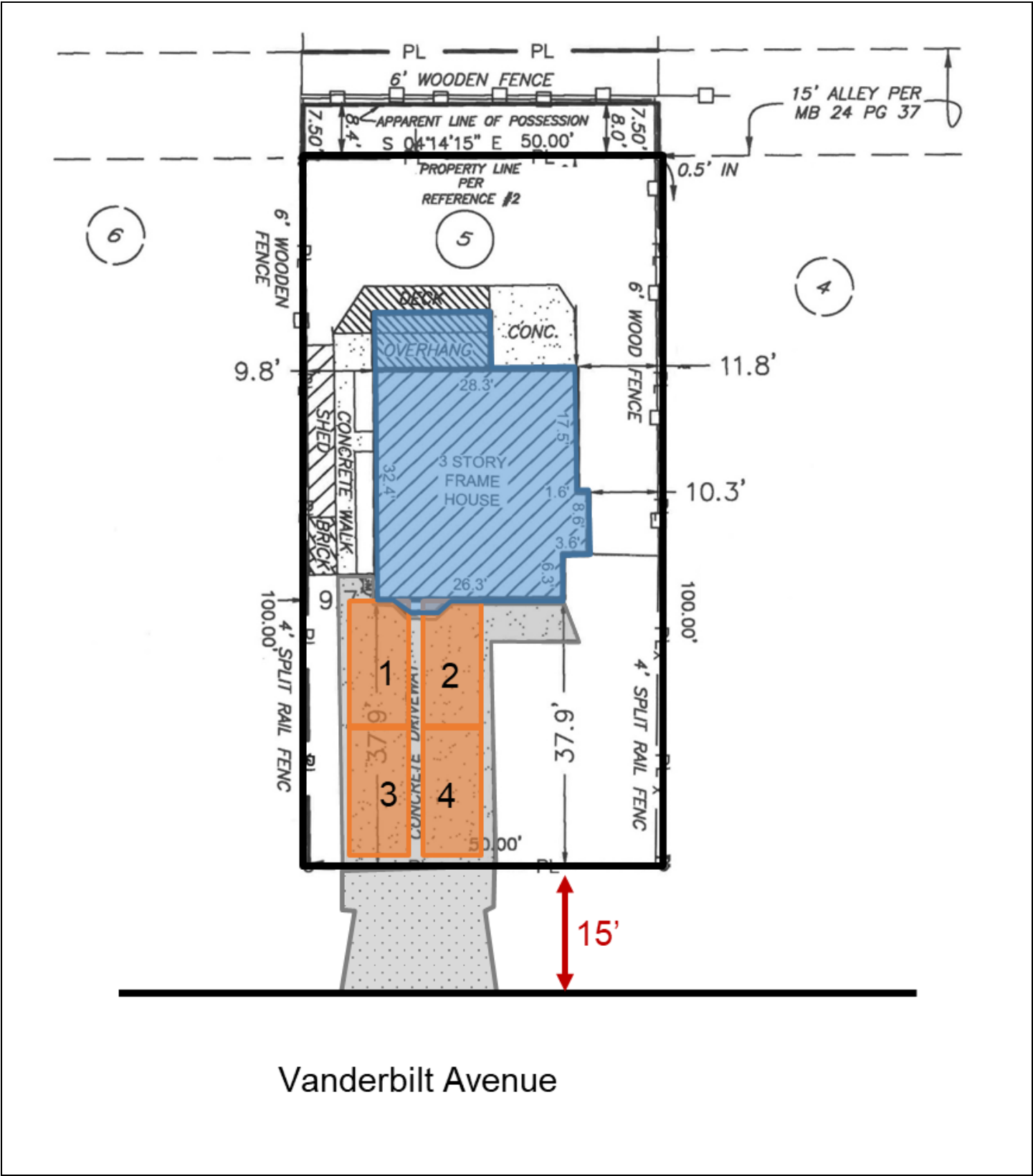
The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.

Public Outreach Information

Planning Commission

- The applicant reported that they met with the surrounding property owners, and no objections were raised. Three letters of support and six letters of opposition has been received by Staff related to this request (one of the letters of opposition is from the Croatan Civic League).
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on January 11, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, January 24, 2021, and January 31, 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 January 25, 2021.
- 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 on February 4, 2021.

Site Layout & Parking Plan



Street Photo



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 ALBERT LULUSHI

Does the applicant have a representative? ☐ Yes ☒ No

- If yes, list the name of the representative.

Is the applicant a corporation, partnership, firm, business, trust or an unincorporated business? ☐ Yes ☒ No

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

- If yes, list the businesses that have a parent-subsidary¹ or affiliated business entity² relationship with the applicant. (Attach a list if necessary)

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

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

Disclosure Statement



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

1. Does the applicant have **any existing financing (mortgage, deeds of trust, cross-collateralization, etc) or are they considering any financing** in connection with the subject of the application or any business operating or to be operated on the property?

☒ Yes ☐ No

- If **yes**, identify the financial institutions.

US BANK 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.

ATKINSON REALTY (FOR LEASING AND MANAGEMENT)

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.

Applicant Signature
ALBERT LULUSHI, OWNER

Print Name and Title
11/20/2020

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	

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

304 28th Street Unit 201

GPIN

24280028662001

Site Size

53,385 square feet

Existing Land Use and Zoning District

Multi-family dwelling / OR Oceanfront Resort

Surrounding Land Uses and Zoning Districts

North

28th Street

Hotel / OR Oceanfront Resort

South

27th ½ Street (alley)

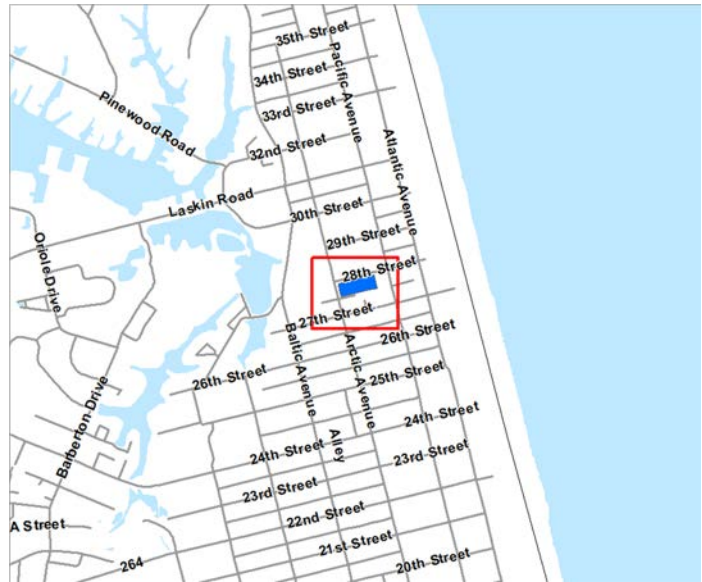
Apartments / A-12 & A-36 Apartments

East

Commercial / OR Oceanfront Resort

West

Commercial / OR Oceanfront Resort

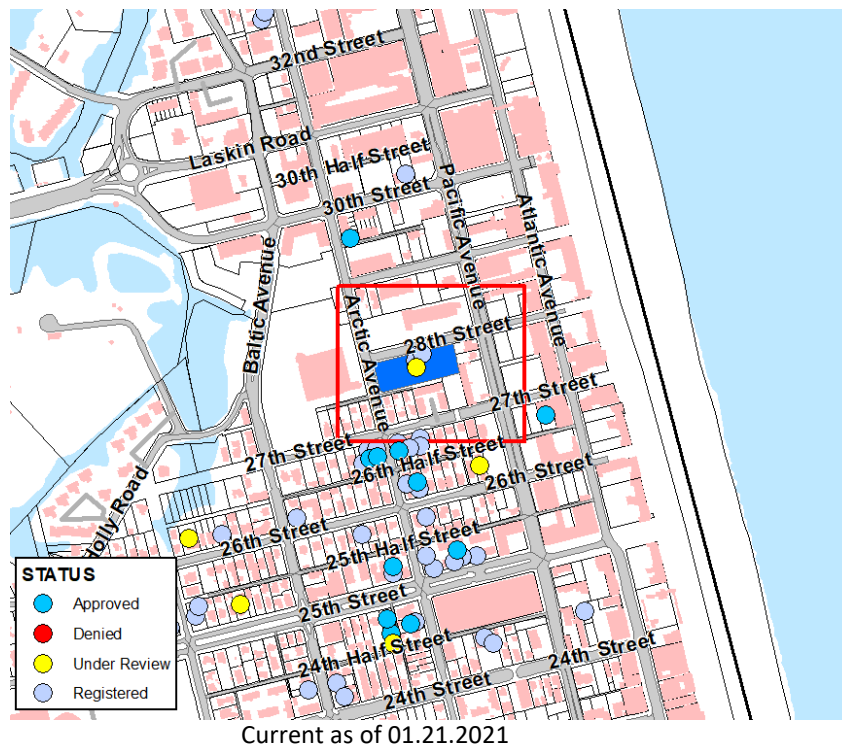


Background & Summary of Proposal

Site Conditions and History

- The site is approximately 53,385 square feet and is zoned OR Oceanfront Resort District.
- The property consists of a three-story, multi-family condominium building containing 42 units. Designated parking spaces are provided on-site. City records indicate this building was constructed in 1985
- Staff inspected the site on December 10, 2020 to observe site conditions and take photographs for this report.
- Parking along this segment of 28th Street is metered so this property is not eligible for the Residential Parking Permit Program (RPPP)
- City Council previously approved a Conditional Use Permit for Sunray Court Associates, L.P. in April 1996 for 'Housing for the Elderly' on the subject site. This building now operates as a condominium known as Playa Rana; therefore, the previous CUP for Housing for Elderly is no longer active.
- 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

A map of a residential area. The map shows several streets: 28th Street at the top, 27th Street at the bottom, 27th Half Street on the right, Arctic Avenue on the left, and Pacific Avenue at the top right. A blue shaded area, labeled with large numbers 2, 3, 4, and 5, is located between 28th Street and 27th Street, and between Arctic Avenue and Pacific Avenue. This area is also labeled 'OR'. Other areas on the map are labeled 'OR' or 'A-12'. A small area on the right side of the map, near 27th Half Street and 27th Street, is labeled with a large number 1.

Zoning History

#	Request
1	ALT (Hotel, Apartments, Parking Garage along 27 th Street) Approved 11/13/2018
2	CUP (Housing for Elderly) Approved 04/1996
3	STR (Short Term Rental) Approved 09/08/2020
4	STR (Short Term Rental) Approved 09/08/2020
5	STR (Short Term Rental) Approved 10/20/2020

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

This Short Term Rental request is for one, two-bedroom unit within the Playa Rana Condominium complex. The 42-unit condominium complex is located three blocks west of the public beaches of the Atlantic Ocean, an area of the City where Short Term Rental use is common. There are two assigned on-site parking spaces that will be used to fulfill the parking requirement. Furthermore, it is Staff's opinion that all other 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; 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. The applicant is agreeable to these condition changes. No letters of opposition or support have been received.

Recommended Conditions

1. The following conditions shall only apply to the dwelling unit addressed as 304 28th Street Unit 201, 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.

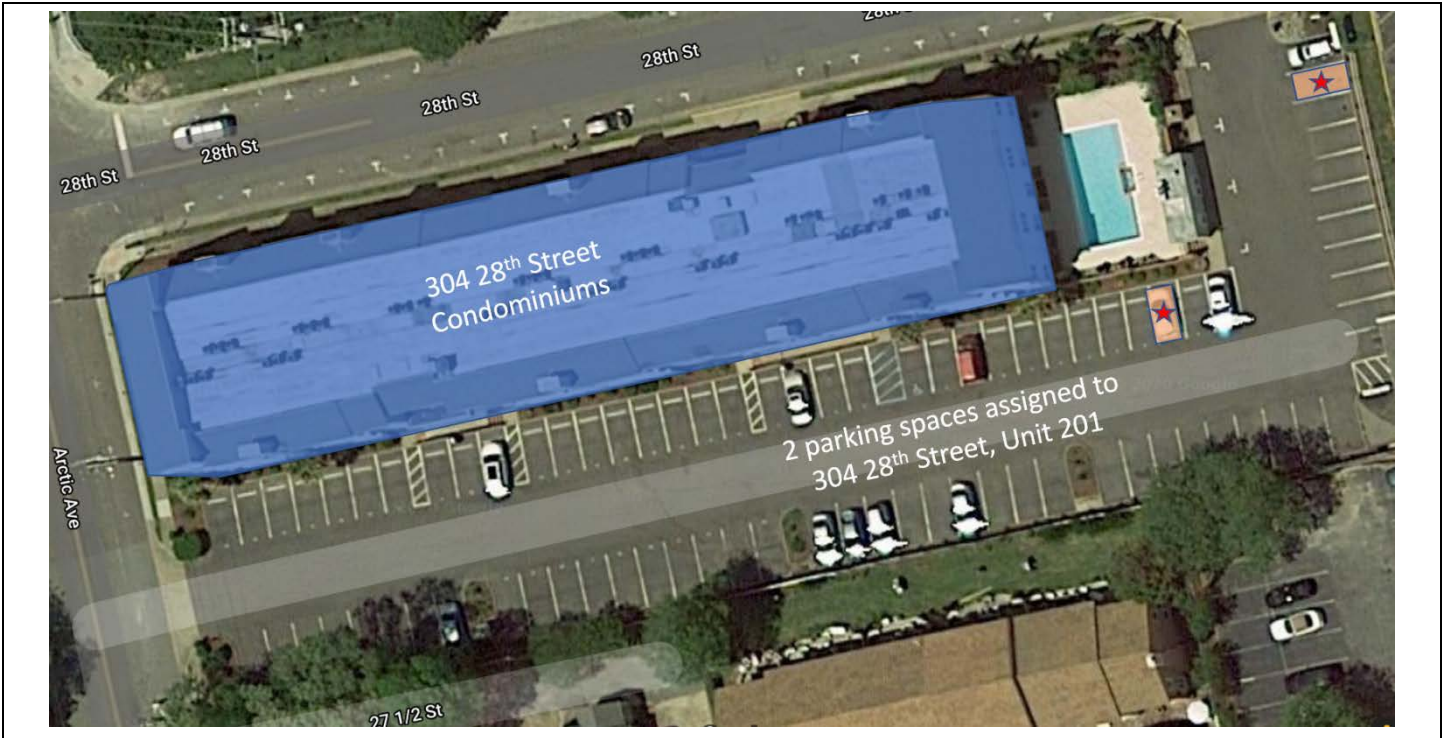
The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.

Public Outreach Information

Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on January 11, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, January 24, 2021, and January 31, 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 January 25, 2021.
- 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 on February 4, 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 Cynthia Sheppard

Does the applicant have a representative? ☐ Yes ☒ No

- If yes, list the name of the representative.

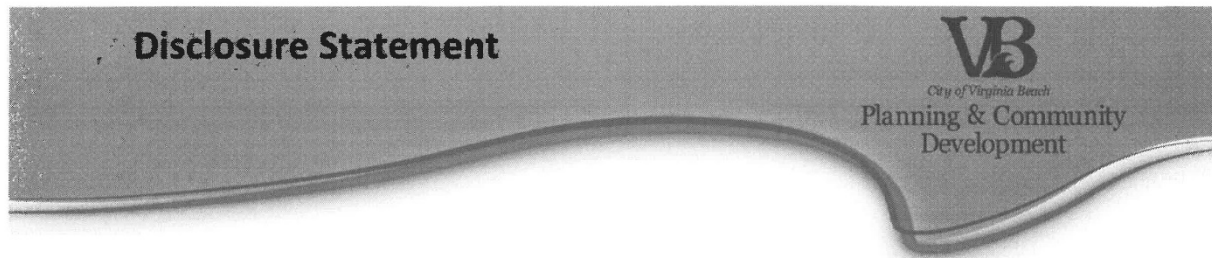
Is the applicant a corporation, partnership, firm, business, trust or an unincorporated business? ☐ Yes ☒ No

- 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-subsiary¹ or affiliated business entity² relationship with the applicant. (Attach a list if necessary)

¹ "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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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.
-

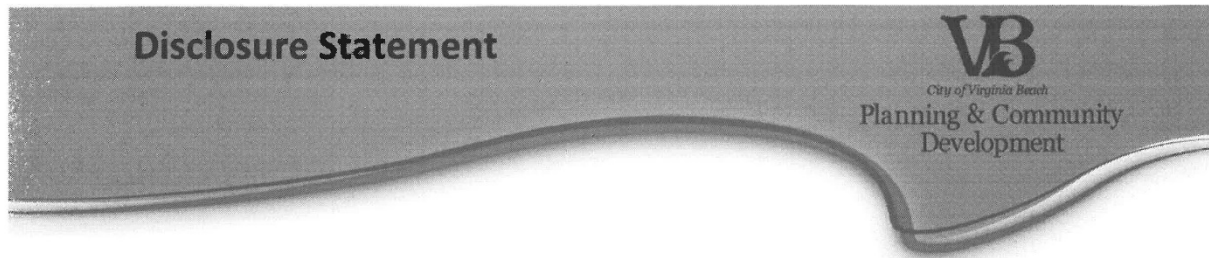
4. Does the applicant have services from an **architect/landscape architect/land planner** provided in connection with the subject of the application or any business operating or to be operated on the property? ☐ **Yes** ☒ **No**

- 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.**

Applicant Signature

Cynthia Sheppard

Print Name and Title

Cynthia Sheppard, OWNER

Date 10-29-20

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 (Short Term Rental)

Staff Recommendation

Approval

Staff Planner

Summer Peebles

Location

304 28th Street Unit 113

GPIN

24280028661013

Site Size

53,385 square feet

Existing Land Use and Zoning District

Multi-family dwellings / OR Oceanfront Resort

Surrounding Land Uses and Zoning Districts

North

28th Street

Hotel / OR Oceanfront Resort

South

27th ½ Street (alley)

Apartments / A-12 & A-36 Apartments

East

Commercial / OR Oceanfront Resort

West

Commercial / OR Oceanfront Resort

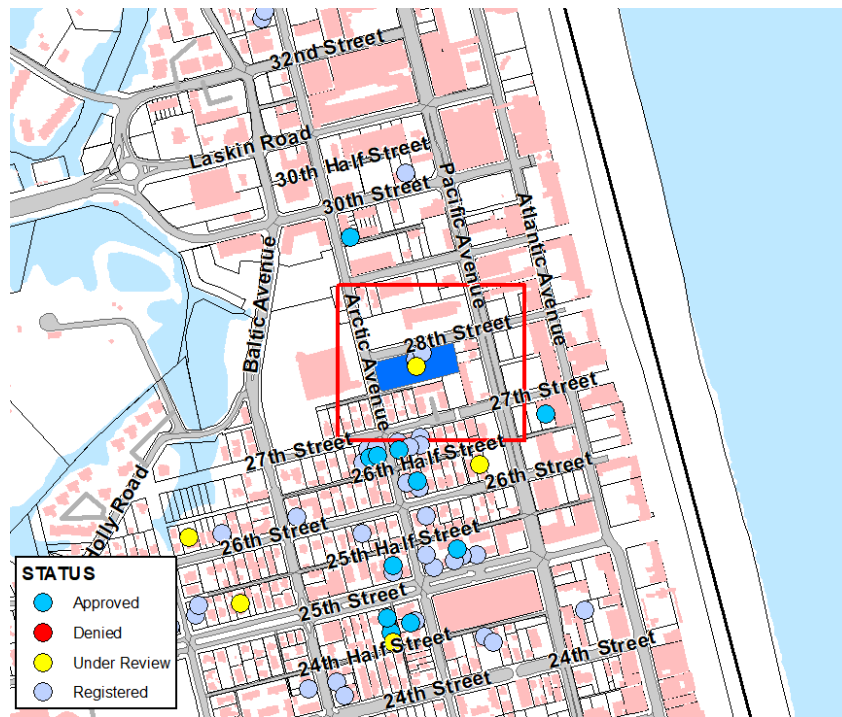


Background & Summary of Proposal

Site Conditions and History

- The site is approximately 53,385 square feet and is zoned OR Oceanfront Resort District.
- The property consists of a three-story, multi-family condominium building containing 42 units. Designated parking spaces are provided on-site. City records indicate this building was constructed in 1985.
- Staff inspected the site on December 1, 2020 to observe site conditions and take photographs for this report.
- Parking along this segment of 28th Street is metered so this property is not eligible for the Residential Parking Permit Program (RPPP).
- City Council previously approved a Conditional Use Permit for Sunray Court Associates, L.P. in April of 1996 for 'Housing for the Elderly' on the subject site. This building now operates as a condominium known as Playa Rana; therefore, the previous CUP for Housing for the Elderly is no longer active.
- 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



Current as of 01.21.2021

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 #
- Number of parking spaces required (1 space per bedroom required): 2
- Number of parking spaces provided on-site: 2

A map of a residential area showing streets 27th Street, 27th Half Street, 28th Street, Arctic Avenue, and Pacific Avenue. A blue hatched area is labeled with numbers 2, 3, 4, and 5. Other areas are labeled with 'OR' and 'A-12'.

Zoning History

#	Request
1	ALT (Hotel, Apartments, Parking Garage along 27 th Street) Approved 11/13/2018
2	CUP (Housing for Elderly) Approved 04/1996
3	STR (Short Term Rental) Approved 09/08/2020
4	STR (Short Term Rental) Approved 09/08/2020
5	STR (Short Term Rental) Approved 10/20/2020

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

This Short Term Rental request is for a one, two-bedroom unit within the Playa Rana Condominium complex. The 42-unit condominium complex is located three blocks west of the public beaches of the Atlantic Ocean, an area of the City where Short Term Rental use is common. There are two assigned on-site parking spaces that will be used to fulfill the parking requirement. Furthermore, it is Staff's opinion that all other 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; however, the recommended conditions reflect City Council's Short Term Rental revisions by reducing the number of rental contracts in a seven day period to one and limiting the overnight guest calculation to two per bedroom. The applicant is agreeable to these condition changes. No letters of opposition or support have been received.

Recommended Conditions

1. The following conditions shall only apply to the dwelling unit addressed as 304 28th Street Unit 113, 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.

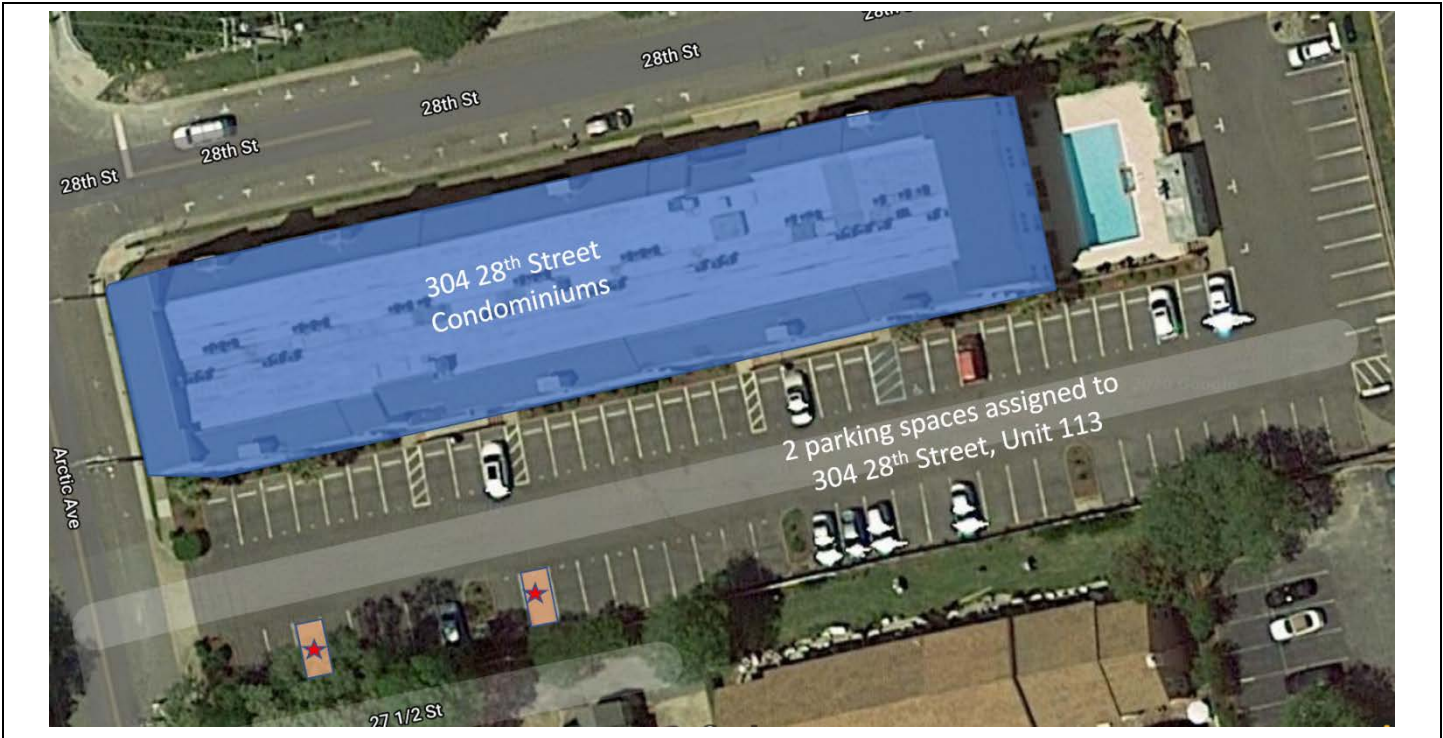
The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.

Public Outreach Information

Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on January 11, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, January 24, 2021, and January 31, 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 January 25, 2021.
- 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 on February 4, 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 Ryan Summers

Does the applicant have a representative? ☐ Yes ☒ No

- If yes, list the name of the representative.

N/A

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-subsiary¹ or affiliated business entity² relationship with the applicant. (Attach a list if necessary)

¹ "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.

² "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.

Atlantic Bay 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.

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

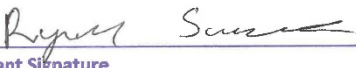
• If yes, identify the engineer/surveyor/agent.

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

Print Name and Title

Ryan Summers

Date 11-10-2020

- 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 checked="" 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.