



# Planning Commission Agenda

## July 14, 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

A Public Hearing of the Virginia Beach Planning Commission will be held on **Wednesday, July 14, 2021 at 12:00 p.m. in the Council Chamber at City Hall, Building 1, 2<sup>nd</sup> Floor**. Members of the public will be able to observe the Planning Commission meeting through livestreaming on [www.vbgov.com](http://www.vbgov.com), broadcast on VBTV, and via WebEx. Citizens who wish to speak can sign up to speak either in-person at the Council Chamber or virtually via WebEx by completing the two-step process below. A Staff briefing session will be held at 9:00 a.m.. All interested parties are invited to observe.

If you wish to make comments virtually during the public hearing, please follow the **two-step process** provided below:

1. Register for the WebEx at:  
<https://vbgov.webex.com/vbgov/onstage/g.php?MTID=e2b1b98788f238eced526777b65099a6f>
2. Register with the Planning Department by calling 757-385-4621 or via email at [niGarrido@vbgov.com](mailto:niGarrido@vbgov.com) prior to 5:00 p.m. on July 13, 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](http://www.vbgov.com/pc). For information call 757-385-4621. Staff Reports will be available on the webpage 5 days prior to the meeting.

If you require a reasonable accommodation for this meeting due to a disability, please call the Planning Department at 757-385-4621. If you are hearing impaired, you can contact Virginia Relay at 711 for TDD service. The meeting will be broadcast on cable TV, [www.vbgov.com](http://www.vbgov.com) and Facebook Live.

Please check our website at [www.vbgov.com/pc](http://www.vbgov.com/pc) for the most updated meeting information.



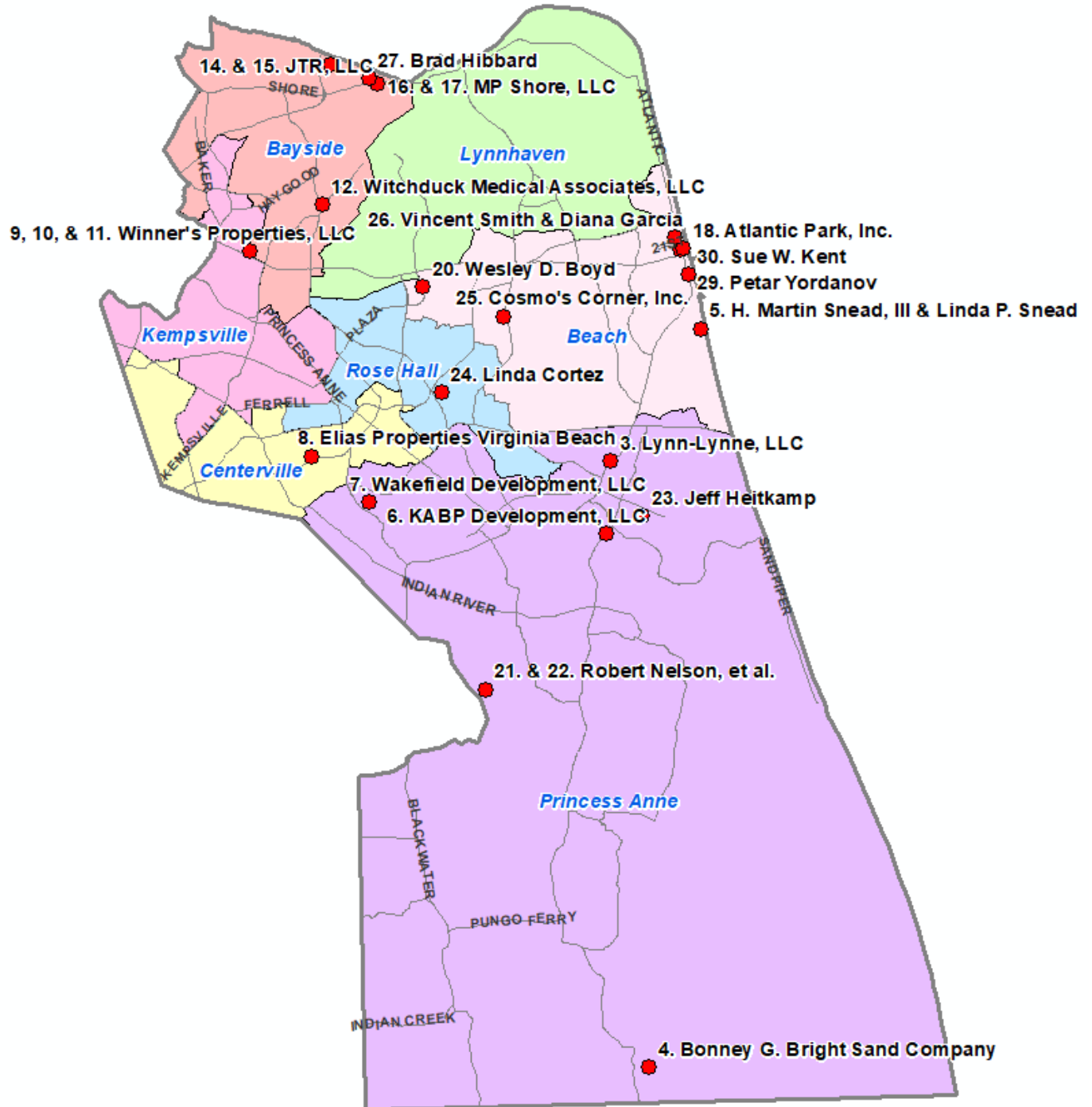
**The following describes the order of business for the Public Hearing.**

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.**

- \* Deferral
- \*\* Withdrawal

# JULY 14, 2021 PLANNING COMMISSION AGENDA



\* Deferral  
\*\* Withdrawal

JULY 14, 2021  
PLANNING COMMISSION AGENDA

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

**12:00 P.M. – PUBLIC HEARING**

**1. City of Virginia Beach** – An Ordinance to amend Section 242.1 of the City Zoning Ordinance to delete the requirements for Tattoo Parlors and Body Piercing Establishments not to be located within six hundred (600) feet of another Tattoo Parlor or Body Piercing Establishment.

**2.**  
**Virginia Beach Development Authority** (Applicant)  
**Virginia Beach Development Authority & Lynn-Lynne, LLC** (Property Owners)

**Modification of Proffers**

**Addresses:** 1941 General Booth Boulevard and portion of Corporate Landing Business Park

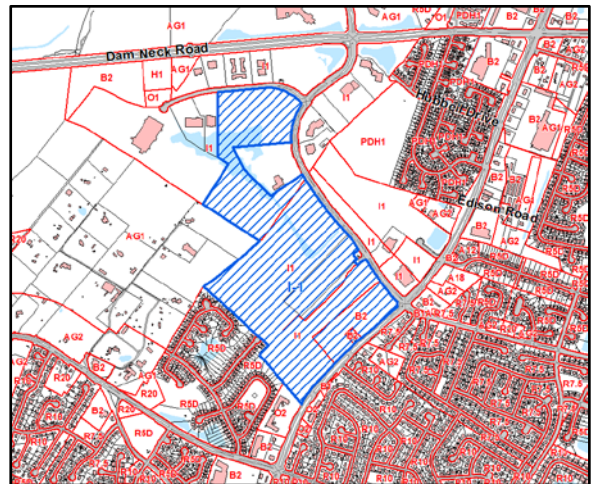
**GPIN(s):** 2415122650, 2415204838

**Council District:** Princess Anne

**Accela Record(s):** 2018-PCCC-00247

**Staff Planner:** Carolyn A. K. Smith

*Request to remove 0.73-acre from the boundary of the Corporate Landing Commerce Park.*



**3.**  
**Lynn-Lynne, LLC** (Applicant)  
**Virginia Beach Development Authority & Lynn-Lynne, LLC** (Property Owners)

**Conditional Change of Zoning** (Conditional B-2 Community Business District to Conditional B-2 Community Business District (0.70-acre) & Conditional I-1 Industrial District (0.52-acre))

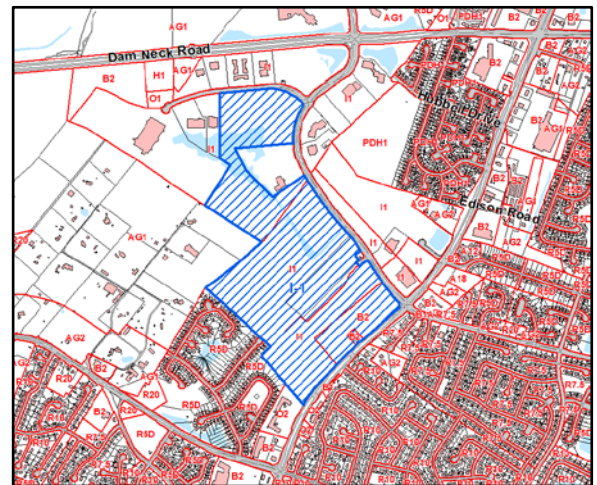
**Addresses:** 1941 General Booth Boulevard and portion of Corporate Landing Business Park

**GPIN(s):** 2415122650, 2415204838

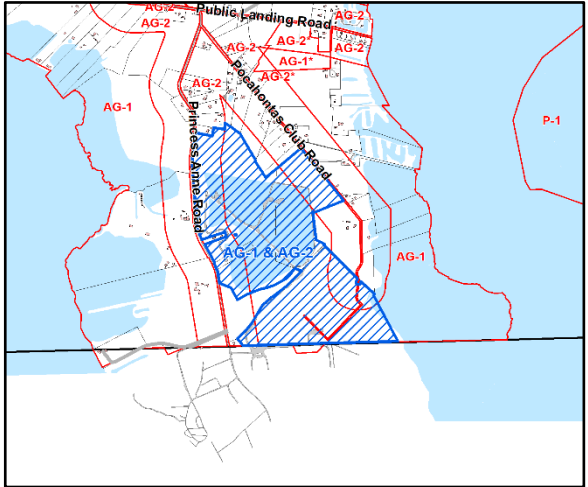

**Council District:** Princess Anne

**Accela Record(s):** 2018-PCCC-00250

**Staff Planner:** Carolyn A. K. Smith



- \* Deferral
- \*\* Withdrawal

<p><i>Rezoning to B-2 (0.70-acre) &amp; I-1 (0.52-acre) for small appliance sales and service operation and associated storage warehouse.</i></p>	
<p><b>4.</b>  <b><u>Bonney G. Bright Sand Company</u></b> (Applicant &amp; Property Owner)</p> <p><b>Modification of Conditions</b></p> <p><b>Address:</b> 200 Princess Anne Road  <b>GPIN(s):</b> 2316698832, 2316896801, 2317621327, 2317723259, 2317612520, 2317801537  <b>Council District:</b> Princess Anne  <b>Accela Record:</b> 2021-PCCC-00110  <b>Staff Planner:</b> Maddie Lowman/Marchelle Coleman</p> <p><i>Request to expand the existing borrow pit by 17.32 acres.</i></p>	
<p><b>5.</b>  <b><u>H. Martin Snead, III &amp; Linda P. Snead</u></b> (Applicants &amp; Property Owners)</p> <p><b>Street Closure</b></p> <p><b>Address:</b> 7.5-foot by 50-foot portion of an unimproved alley adjacent to 828 Vanderbilt Avenue  <b>GPIN(s):</b> 2426378559  <b>Council District:</b> Beach  <b>Accela Record:</b> 2021-PCCC-00113  <b>Staff Planner:</b> Marchelle Coleman</p> <p><i>Request for closure of half of the 15-foot unimproved alley and incorporate the closure area into the applicant's property.</i></p>	

- \* Deferral
- \*\* Withdrawal

6.

**KABP Development, LLC** (Applicant & Property Owner)

**Conditional Use Permit** (Eating and Drinking Establishment)

**Address:** Corner of Fisher Arch & Princess Anne Road, West of 2033 Fisher Arch

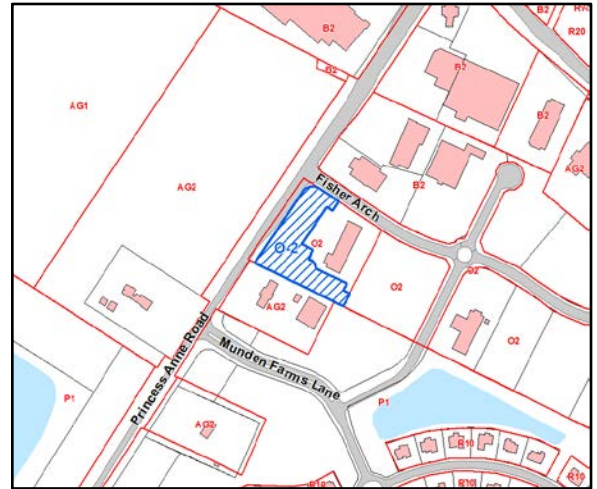
**GPIN(s):** 2414117668

**Council District:** Princess Anne

**Accela Records:** 2021-PCCC-00127

**Staff Planner:** Marchelle Coleman

*Request to operate a small smoothie bar within a wellness center, which requires a Conditional Use Permit within the Office District.*



7.

**Wakefield Development, LLC** (Applicant)  
**Merlin Beiler, Trustee of the Elva Y. Beiler Trust & of Elva Y. Beiler Land Trust** (Property Owner)

**Conditional Change of Zoning** (R-15 Residential District & AG-1 Agricultural District to Conditional R-10 Residential District for construction of 36 dwelling units at a density of approximately 2.14 units/acre.)

**Addresses:** 2328 & 2264 Salem Road

**GPIN(s):** 1484163140, 1484058862

**Council District:** Princess Anne

**Accela Record(s):** 2020-PCCC-00208

**Staff Planner:** Marchelle Coleman

*Rezoning 2 lots totaling 40 acres to create up to 86 lots at least 10,000 sf in size and at a density of 2.14 units/acre.*

**DEFERRAL REQUESTED**



- \* Deferral
- \*\* Withdrawal



8.

**Elias Properties Virginia Beach Independence, LLC**  
(Applicant & Property Owner)

**Conditional Rezoning** (B-1 Neighborhood Business to Conditional B-2 Community Business)

**Address:** 2749 S. Independence Boulevard

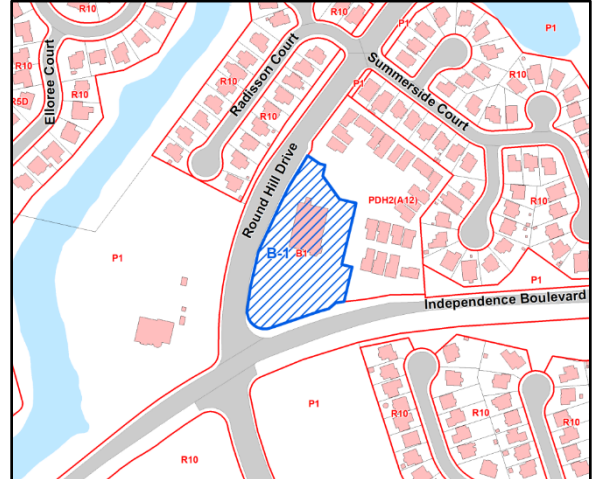
**GPIN(s):** 1475416438

**Council District:** Centerville

**Accela Record:** 2017-PCCC-00172

**Staff Planner:** Marchelle Coleman

*Rezoning to allow for retail business to occupy the site.*



9, 10, & 11.

**Winner's Properties, LLC** (Applicant)  
**Haynes Furniture Co. Inc. & CH&B Associates, LLP**  
(Property Owners)

**Conditional Rezoning** (A-12 Apartment District and B-2 Business District to Conditional B-2 Business District)

**Conditional Use Permit** (Auto Storage Yard)

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

**Addresses:** 325, 349 & 361 Nelms Lane

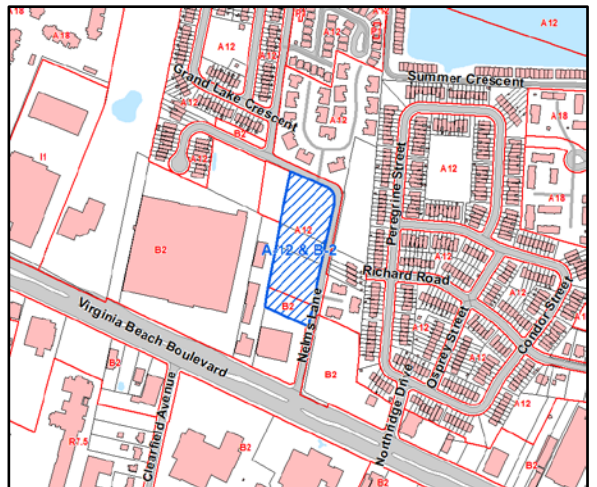
**GPIN(s):** 1467678119, 1467678323, 1467678469, 1467678669

**Council District:** Kempsville

**Accela Records:** 2021-PCCC-00119, 2021-PCCC-00120, 2021-PCCC-00132

**Staff Planner:** Hoa N. Dao

*Requests to rezone 3.28 acres for auto storage and a 3,400 SF car wash facility for the applicant's inventory of vehicles.*



- \* Deferral
- \*\* Withdrawal



**Witchduck Medical Associates, LLC** (Applicant & Property Owner)

**14. & 15.**

**JTR, LLC** (Applicant) **JTR, LLC; Bayliner Building, LLC; & Shore Drive Area Properties** (Property Owners)

**Street Closures**

**Adjacent Address:** Portion of Ocean Tides Drive, south of Shore Drive and north of Clipper Bay Drive, and a portion of Clipper Bay Drive right-of-way south of Shore Drive and west of Ocean Tides Drive

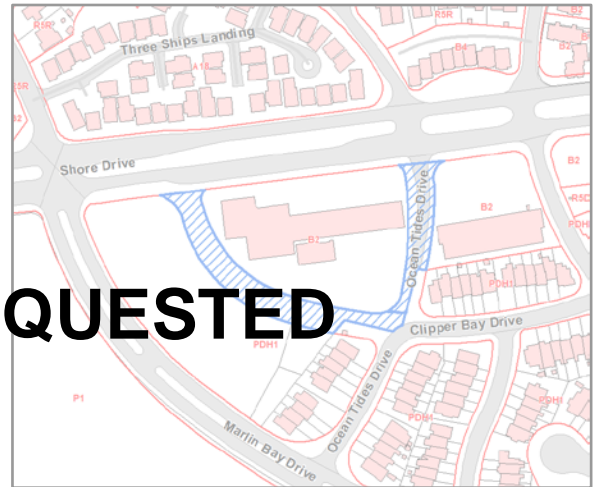
**Adjacent GPIN(s):** 1489289631, 1489286485, 1489382674, 1489289308

**Council District:** Bayside

**Accela Records:** 2020-PCCC-00315/00316

**Staff Planner:** Hoa N. Dao

*Requests to close a portion of Ocean Tides Drive and Clipper Bay Drive in conjunction with a proposal to redevelop the site with an apartment complex.*



**DEFERRAL REQUESTED**

**16. & 17.**

**MP Shore, LLC** (Applicant)  
**JTR, LLC; Bayliner Building, LLC; Shore Drive Area Properties, LLC; & City of Virginia Beach** (Property Owners)

**Conditional Change of Zoning** (B-2 and PD-H1 Districts to Conditional B-4 Mixed Use District)

**Conditional Use Permit** (Multi-Family Dwellings)

**Addresses:** 3829 & 3785 Shore Drive, adjacent parcel between Marlin Bay Drive and 3829 Shore Drive

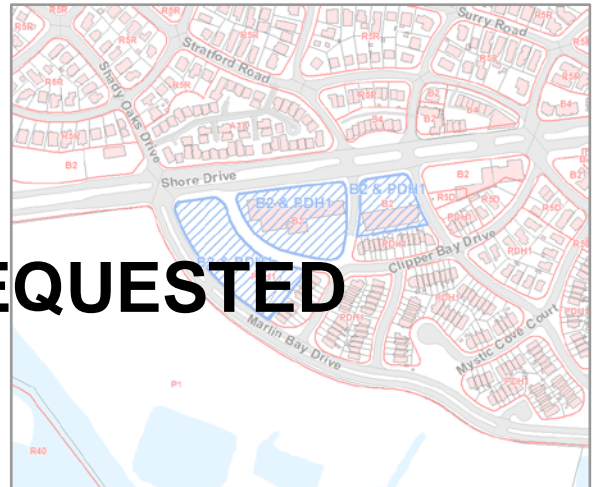
**GPIN(s):** 1489286485, 1489289631, 1489382674, 1489289308

**Council District:** Bayside

**Accela Record(s):** 2020-PCCC-00122, 2020-PCCC-00123

**Staff Planner:** Hoa N. Dao

*Requests to rezone 6.2 acres from B-2 & PD-H1 to B-4 and to construct 197 multi-family dwellings at an approximate density of 31.77 units per acre.*



**DEFERRAL REQUESTED**

- \* Deferral
- \*\* Withdrawal

18.

**Atlantic Park, Inc. & City of Virginia Beach Development Authority** (Applicants & Property Owners)

### Street Closure

**Address:** Portion of 18th Street adjacent to 1880 & 1811 Pacific Avenue, 319 18<sup>th</sup> Street

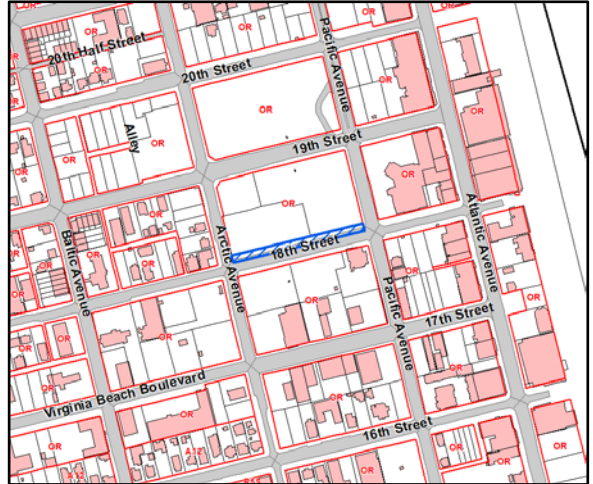
**GPIN(s):** Adjacent to 2427172611, 2427170516

**Council District:** Beach

**Accela Records:** 2021-PCCC-00033

**Staff Planner:** Ashby Moss

*Request to close a portion of 18th Street between Arctic and Pacific Avenues.*



19.

**Atlantic Park, Inc.** (Applicant)  
**City of Virginia Beach Development Authority**  
(Property Owner)

### Alternative Compliance

**Address:** 1880 & 1811 Pacific Avenue, 319 18<sup>th</sup> Street

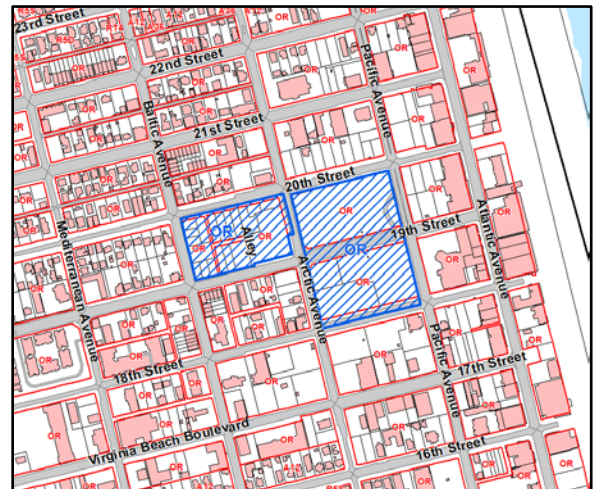
**GPIN(s):** 2427079524, 2427074883, 2427073669, 2427170853, 2427073711, 2427075737, 2427073536, 2427074802, 2427073767, 2427073660, 2427074517, 2427076808, 2427076990, 2427073705, 2427074757, 2427077707, 2427072890, 2427170516, 2427172611

**Council District:** Beach

**Accela Records:** 2021-PCCC-00032

**Staff Planner:** Ashby Moss

*Request for a Special Exception for Alternative Compliance to develop a multi-block, mixed-use residential and commercial development with structured parking, an indoor/outdoor entertainment venue (assembly use), open air surf park (outdoor recreation facility), open air markets, bars/nightclubs, craft breweries/distilleries/wineries, and recurring outdoor special events.*



- \* Deferral
- \*\* Withdrawal

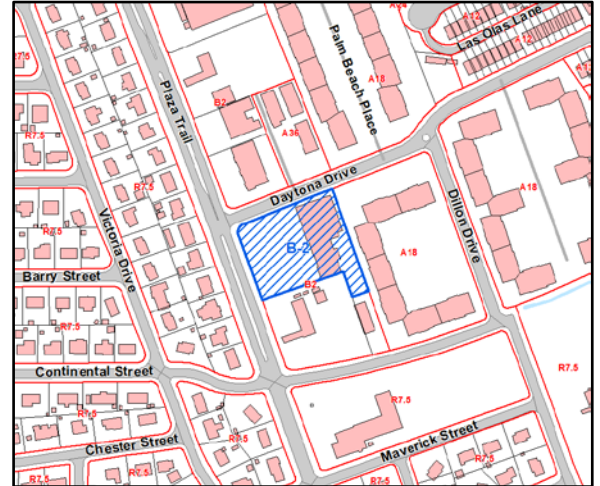
**20.**

**Wesley D. Boyd** (Applicant)  
**Capital Finance, Inc.** (Property Owner)

**Modification of Conditions** (Tattoo Parlor)

**Address:** 172 S Plaza Trail, Suite E  
**GPIN(s):** 1487826823  
**Council District:** Beach  
**Accela Record:** 2021-PCCC-00080  
**Staff Planner:** Hank Morrison

*Request to expand the existing tattoo parlor into adjacent suite in the shopping center.*



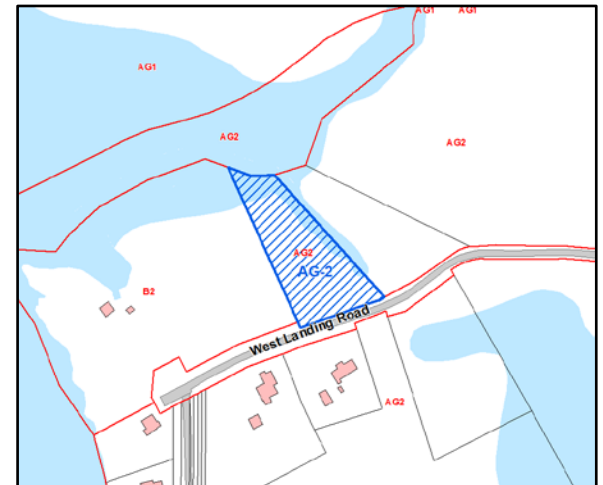
**21. & 22.**

**Robert Nelson, et al.** (Applicants & Property Owners)

**Subdivision Variance** (Section 4.4(b) of the Subdivision Regulations)  
**Floodplain Variance** (Section 4.10 of the Floodplain Ordinance)

**Address:** Vacant parcel on West Landing Road, approximately 5,998 feet west of West Neck Road  
**GPIN(s):** 1492624123  
**Council District:** Princess Anne  
**Accela Record:** 2021-PCCC-00121, 2021-PCCC-00122  
**Staff Planner:** Whitney McNamara

*Site created by deed rather than by plat as required, site comprised on Floodplain Subject to Special Restrictions which cannot be counted towards lot area so variances required.*



- \* Deferral
- \*\* Withdrawal



23.

**Jeff Heitkamp** (Applicant)

**Melinamae & Jeff Heitkamp** (Property Owners)

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

**Address:** 1140 Cordova Court

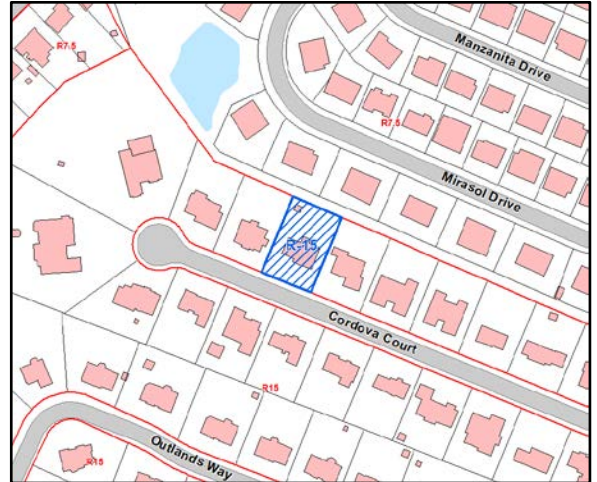
**GPIN(s):** 2414634865

**Council District:** Princess Anne

**Accela Record:** 2021-PCCC-00078

**Staff Planner:** Antionette Fowlkes

*Request for the applicant to operate a firearm sales business within the home.*



24.

**Linda Cortez** (Applicant & Property Owner)

**Conditional Use Permit** (Residential Kennel)

**Address:** 3200 Barlborough Way

**GPIN(s):** 1495190572

**Council District:** West Hall  
**Accela Record:** 2021-PCCC-00117

**Staff Planner:** Antionette Fowlkes

*Request for a residential kennel for up to 9 dogs.*



25.

**Cosmo's Corner, Inc.** (Applicant)

**KNRM Enterprise, LLC & Nelson Industries, LLC**  
(Property Owners)

**Modification of Conditions** (Commercial Kennel)

**Address:** 503, 505, 507, & 511 Central Drive

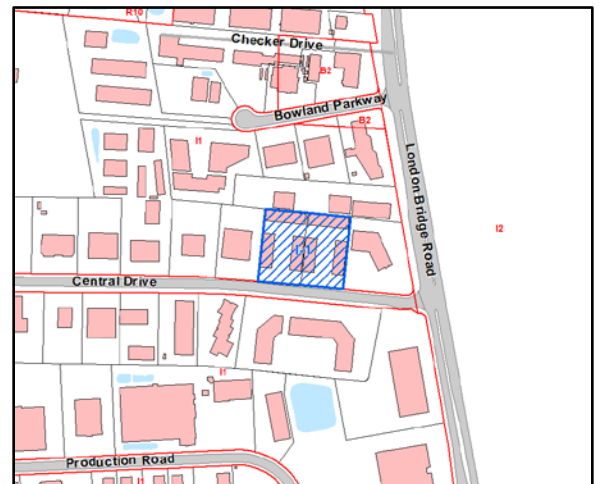
**GPIN(s):** 1496899003, 1496897033

**Council District:** Beach

**Accela Record:** 2021-PCCC-00116

**Staff Planner:** Antionette Fowlkes

*Request to expand kennel into 4 units of adjacent buildings, for a total expansion of 8,000 square feet.*



- \* Deferral
- \*\* Withdrawal

## SHORT TERM RENTALS

26.

**Vincent Smith & Diana Garcia** (Applicants & Property Owners)

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

**Address:** 319 23rd Street Unit 1

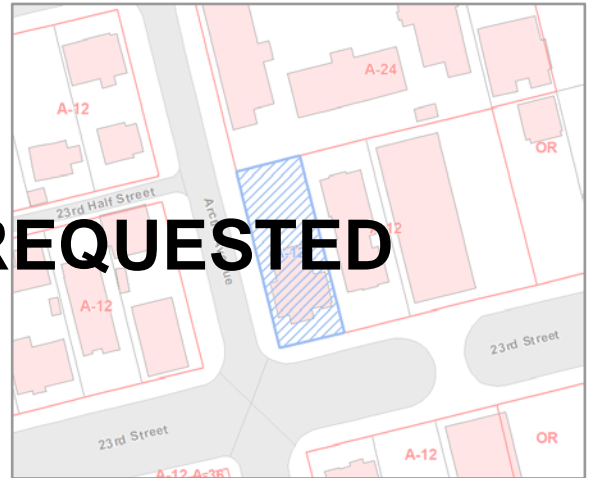
**GPIN:** 24270951

**Council District:** Beach

**Accela Record(s):** 2021-PCCC-00109

**Staff Planner:** Will Miller

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



**WITHDRAWAL REQUESTED**

27.

**Brad Hibbard** (Applicant & Property Owner)

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

**Address:** 2321 Madison Avenue

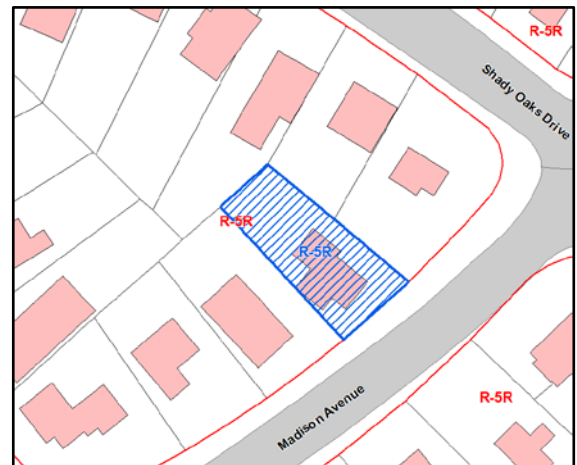
**GPIN(s):** 1489198278

**Council District:** Bayside

**Accela Record(s):** 2021-PCCC-00128

**Staff Planner:** Will Miller

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



28.

**Bowers & Jones Properties, LLC** (Applicant & Property Owner)

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

**Address:** 903 Pacific Avenue, Unit A

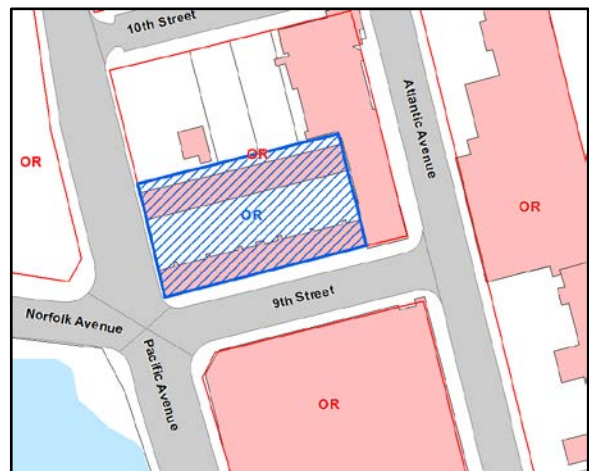
**GPIN(s):** 24272444110960

**Council District:** Beach

**Accela Record(s):** 2021-PCCC-00106

**Staff Planner:** Summer Peebles

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



- \* Deferral
- \*\* Withdrawal



**29.**

**Petar Yordanov Popov** (Applicant & Property Owner)

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

**Address:** 927 Pacific Avenue Unit A

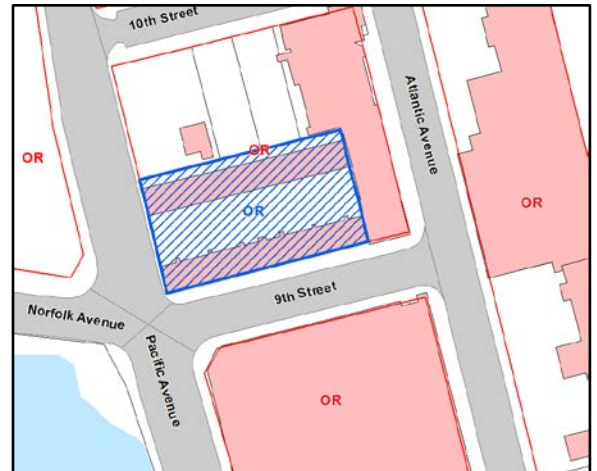
**GPIN(s):** 24272444111150

**Council District:** Beach

**Accela Record(s):** 2021-PCCC-00111

**Staff Planner:** Summer Peebles

*Request for a 1-bedroom Short Term Rental.*



**30.**

**Sue W. Kent** (Applicant & Property Owner)

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

**Address:** 901 Pacific Avenue Unit D

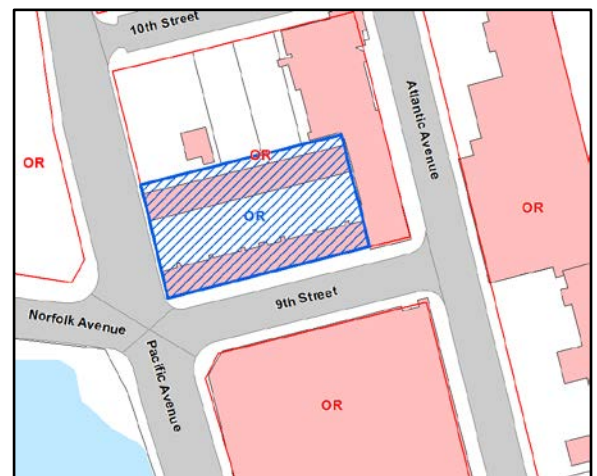
**GPIN(s):** 24272444110955

**Council District:** Beach

**Accela Record(s):** 2021-PCCC-00112

**Staff Planner:** Summer Peebles

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



- \* Deferral
- \*\* Withdrawal





Applicant **City of Virginia Beach**  
Planning Commission Public Hearing **July 14, 2021**  
**Tattoo Ordinance Amendment**

Agenda Item

**1**

## Request

An Ordinance to amend Section 242.1 of the City Zoning Ordinance to delete the requirement for tattoo parlors and body piercing establishments not to be located within six hundred (600) feet of another tattoo parlor or body piercing establishment.

## Summary of Referred Ordinances

The purpose of this ordinance is to remove the current dimensional requirement that prohibits a tattoo parlor and body piercing establishment to be located within six hundred (600) feet of the same use. This request was necessitated due to the number of applications seeking City Council approval for microblading (cosmetic tattooing) located within beauty salons. Although there is a fundamental difference between a traditional tattoo parlor and body piercing establishment and a beauty salon, Section 111 of the Zoning Ordinance, consistent with the Code of Virginia, defines a tattoo parlor as *“Any place in which is offered or practiced the placing of designs, letters, scrolls, figures, symbols or any other marks upon or under the skin of any person with in or any other substance, resulting in the permanent coloration of the skin, including permanent makeup or permanent jewelry, by the aid of needles or any other instrument designed to touch or puncture the skin..”* Because of this definition, the Zoning Ordinance cannot distinguish between microblading and more traditional tattooing practices.

The regulations for tattoo parlors and body piercing establishments were first adopted into the Zoning Ordinance on April 24, 2001. Initially, the six hundred (600) foot separation requirement was not just from other similar establishments, but also from schools and residential and apartment districts. On January 5, 2016, City Council amended the requirements to remove the separation requirement from schools and residential and apartment districts. It should be noted that staff supported the additional removal of the separation requirement between tattoo parlors; however, following deliberation at Planning Commission this requirement remained.

## Recommendation

Staff recommends approval of this Ordinance. The nature of “tattooing” as defined in the Code of Virginia and the City’s Zoning Ordinance has changed greatly since the tattoo ordinance was first adopted. Current trends in beauty practices have made “microblading” extremely common. As this practice is considered tattooing, having a separation requirement between establishments, typically beauty salons, that perform this function is proving to be limiting towards applicants wishing to obtain a Conditional Use Permit. As the use will remain at the discretion of City Council, staff feels there is no adverse impacts that will result from the removal of the six hundred (600) foot separation requirement between tattoo parlors and body piercing establishments.

REQUESTED BY COUNCILMEMBER ABBOTT

AN ORDINANCE TO AMEND SECTION 242.1 OF THE CITY ZONING ORDINANCE TO DELETE THE REQUIREMENT FOR TATTOO PARLORS AND BODY PIERCING ESTABLISHMENTS NOT TO BE LOCATED WITHIN SIX HUNDRED (600) FEET OF ANOTHER TATTOO PARLOR OR BODY PIERCING ESTABLISHMENT

Section Amended: § 242.1 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 242.1 of the City Zoning Ordinance is hereby amended and reordained to read as follows:

**Sec. 242.1. Tattoo parlors and body piercing establishments.**

Tattoo parlors and body piercing establishments shall be permitted only as conditional uses in the B-2 Community Business District, and, ~~in addition thereto:~~

(a) ~~T~~ tattoo parlors and body piercing establishments shall be subject to the requirements pertaining to tattoo parlors and body piercing establishments set forth in Chapter 23 of the City Code, which requirements shall be deemed to be conditions of the conditional use permit; ~~and,~~

(b) ~~No tattoo parlor or body piercing establishment shall be located within six hundred (600) feet of another tattoo parlor or body piercing establishment.~~

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

APPROVED AS TO CONTENT:

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

CA15461/R-2/June 9, 2021

APPROVED AS TO LEGAL SUFFICIENCY:

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

## Requests

**#2 Modification of Proffers** (Adjustment to Corporate Landing Business Park boundary)

**#3 Conditional Rezoning** (Conditional B-2 Community Business District to Conditional B-2 Community Business District & Conditional I-1 Light Industrial District)

## Staff Recommendation

Approval

**Staff Planner**

Carolyn A.K. Smith

## Location

1941 General Booth Boulevard & portion of Corporate Landing Business Park

## GPINs

2415204838, 2415122650,

## Site Size

1.44 acres

## AICUZ

70-75 dB DNL

## Watershed

Southern Rivers

## Existing Land Use and Zoning District

Retail, household appliance sales & service, vacant Corporate Landing Business Park property / Conditional B-2 Community Business

## Surrounding Land Uses and Zoning Districts

### North

Woods, cultivated field (Corporate Landing) / Conditional B-2 Community Business

### South

General Booth Boulevard

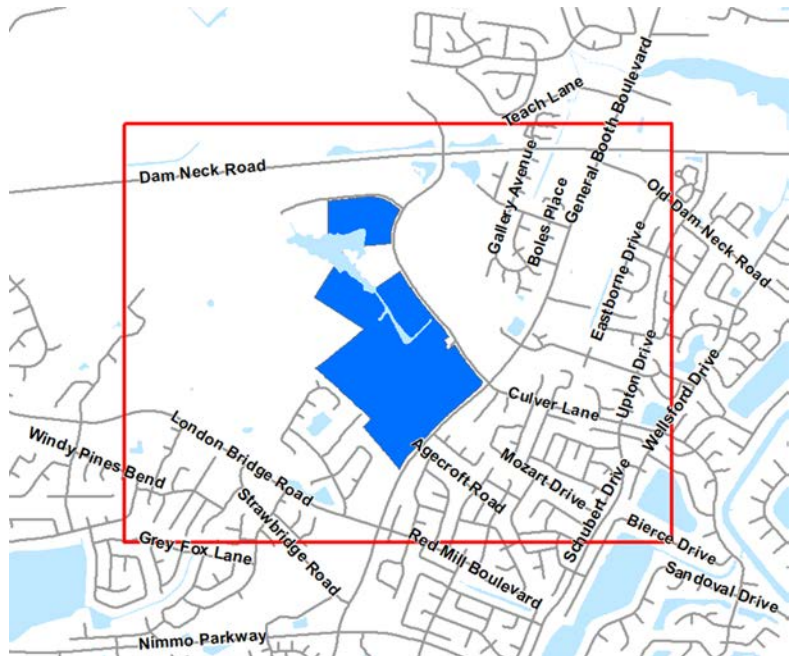
Single-family dwellings / R-7.5, R-10 Residential

### East

Woods, cultivated field (Corporate Landing) / Conditional B-2 Community Business

### West

Cultivated field (Corporate Landing) / Conditional B-2 Community Business

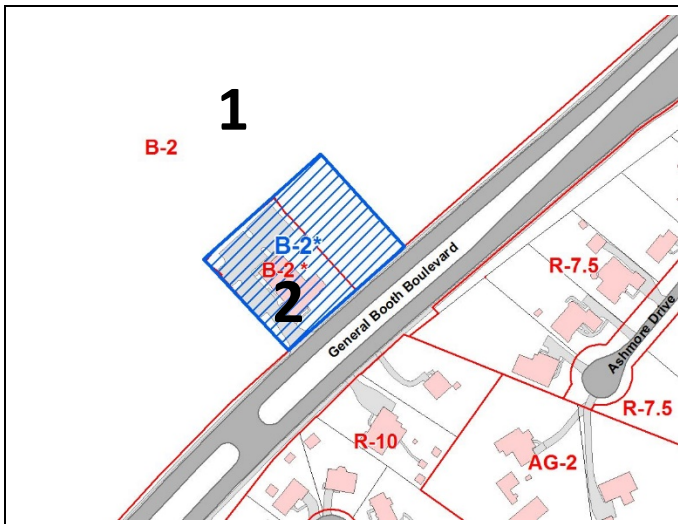




## Background & Summary of Proposal

- A portion of the property where the existing household appliance sales and service business is located (known as Dr. Johnny's Appliances) was rezoned in 1994 from AG-2 Agricultural District to Conditional B-2 Community Business District. A modification to the proffer regarding the freestanding sign was subsequently approved by the City Council in 2004. The remainder of the property associated with this request was rezoned in 1989 from AG-2 Agricultural District to both Conditional I-1 Light Industrial and B-2 Community Business Districts as part of the Corporate Landing Business Park (Corporate Landing).
- This request includes a modification of the conditional rezoning agreement associated with Corporate Landing to remove 0.73 acres from the business park boundary for an expansion of the appliance sales and service business. Secondly, the request is a conditionally rezoning of the project area in order to bring the entire Dr. Johnny's site and adjacent parcel currently under the ownership of the Development Authority under the terms associated with one agreement that will address both the existing and proposed improvements.
- Specifics of the proposal include the retention of the existing improvements associated with the household appliance sales and service business and the addition of a new 5,600 square foot warehouse building on the adjacent property proposed to be acquired from the Virginia Beach Development Authority. According to the application, the warehouse will be used for storage needs of the appliance business as well as provide indoor storage for several limousines.
- The proffered building elevations for the proposed structure depict a single-story building with an exterior of split face block that will be painted to match the existing appliance sales and service building. Faux windows are depicted along the façade that faces General Booth Boulevard in an effort to retain a residential scale for the project. The exterior facades of the existing appliance sales and service building are also proffered, thereby ensuring the architectural style and exterior building materials will remain into the future.
- The single vehicular ingress/egress point along General Booth Boulevard will continue to serve the existing business as well as activities associated with the warehouse. As no vehicular access points are proposed along the right-of-way other than the existing driveway, and General Booth Boulevard is considered an access controlled roadway, a one-foot no ingress/egress easement is depicted on the proffered plan.
- Prior to the filing of the applications, several site plan submittals were reviewed by the Development Services Center. As the design of the site plan addresses stormwater management, it was determined that a Preliminary Stormwater Analysis would not be necessary.
- The entire Corporate Landing Office Park is located outside the mapped FEMA high-risk flood zones. In addition, there is minimal flooding projected even when factoring in 3-feet of sea level rise. The already constructed infrastructure (i.e. roadways) are built to a resilient elevation, and any low-lying site areas can be raised with fill to further reduce potential long-term impacts. The City also recently approved a stormwater improvement Master Drainage Study for Corporate Landing, which provides reduced peak storm elevations and a fully approved stormwater management plan for several available lots.





### Zoning History

#	Request
1	CRZ (AG-2 to Conditional I-1 & B-2) Approved 08/14/1989
2	MOD (Modification of Proffers - signage) Approved 09/14/2004 CRZ (AG-2 to Conditional B-2) Approved 01/25/1994

### 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 addition of the warehouse to the existing operation aligns with the policies set forth in the Comprehensive Plan for the Special Economic Growth Area 3 – South Oceana. The policies recommend non-residential uses that are consistent with the City’s AICUZ provisions and the Oceana Land Use Compatibility Program and specifically light industrial uses within the eastern portion of the SEGA. The proposed uses are deemed compatible within the 70 – 75 dB Ldn noise zone and are compatible with surrounding uses, thereby passing this test. The future uses envisioned by the Virginia Beach Development Authority for Corporate Landing align with the permitted uses identified in the proffer agreement for the entire property. The residential character of the existing sales and service building will remain unchanged and the exterior of the new warehouse building has been upgraded from the initial submission to complement the existing structure. The warehouse will have space dedicated for the indoor storage of several limousines resulting in a more organized site layout, as the large vehicles are often stored by overlapping parking spaces. Finally, any increase in the number of vehicle trips is expected to be negligible, as the warehouse will primarily serve the storage needs of the existing appliance sales and service business.

Based on these considerations, Staff recommends approval of both the Modification of Proffers and the Conditional Rezoning.

## Proffers for Dr. Johnny’s Site & Expansion

The following are proffers submitted by the applicant as part of a Conditional Zoning Agreement (CZA). The applicant, consistent with Section 107(h) of the City Zoning Ordinance, has voluntarily submitted these proffers in an attempt to “offset identified problems to the extent that the proposed rezoning is acceptable,” (§107(h)(1)). Should this application be approved, the proffers will be recorded at the Circuit Court and serve as conditions restricting the use of the property as proposed with this change of zoning.

**Proffer 1:**

When Parcel A is developed, it shall be developed substantially as shown on the Sheet C200 (Layout Plan) of that certain concept plan entitled "DR. JOHNNY'S APPLIANCES SITE PLAN," prepared by Land Planning Solutions, dated October 4, 2019, which has been exhibited to the Virginia Beach City Council and is on file in the Virginia Beach Planning Department.

**Proffer 2:**

The site design of Parcels B and C, as identified on the Layout Plan, shall be in substantial conformance with the Layout Plan.

**Proffer 3:**

Parcels A, B, and C (collectively, the "Property") shall be landscaped substantially as shown on Sheet C500 (Landscape Plan) and Sheet C501 (Landscape Details) of that certain site plan entitled "DR. JOHNNY'S APPLIANCES SITE PLAN," prepared by Land Planning Solutions, dated October 4, 2019, which has been exhibited to the Virginia Beach City Council and is on file in the Virginia Beach Planning Department. Required landscaping shall also include all plantings on Parcels B and C that were installed per applicable City ordinances including but not limited to interior parking lot landscaping, streetscape landscaping and foundation plantings

**Proffer 4:**

Vehicular access to the Property shall be in substantial conformance as depicted on the Layout Plan as a shared, single ingress/egress point along General Booth Boulevard.

**Proffer 5:**

When Parcel A is developed, the exterior building materials, architectural design, appearance and height shall be substantially as shown on the renderings, consisting of 4 pages entitled: "Dr. Johnny's Appliances East Elevation 09/04/2019", "Dr. Johnny's Appliances West Elevation 09/04/2019", "Dr. Johnny's Appliances South Elevation 09/04/2019" and "Dr. Johnny's Appliances North Elevation 09/04/2019", prepared by Land Planning Solutions, dated September 4, 2019, all of which have been exhibited to the Virginia Beach City Council and are on file in the Virginia Beach Planning Department.

**Proffer 6:**

For Parcels B and C, the building elevations, architectural design, building materials, appearance and height of one-story building shall be substantially as shown on the photos identified as Exhibits P-1 through P-8, which have been exhibited to the Virginia Beach City Council and are on file in the Virginia Beach Planning Department

**Proffer 7:**

Freestanding signage shall be of a monument design with a brick base and internally lighted as depicted on the photo entitled "Frontage-Sign" and "Frontage-Sign 2" which have been exhibited to the Virginia Beach City Council and is on file in the Virginia Beach Planning Department.

**Proffer 8:**

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

**Proffer 9:**

Exterior storage of any materials, motor vehicles, or equipment shall be prohibited.

**Proffer 10:**

The use of fencing on the Property, other than to screen dumpster and trash receptacle areas as required, shall be prohibited.

**Proffer 11:**

The following uses shall be the only uses permitted on Parcel B and Parcel C relating to the current B-2 Business District. Those uses requiring a Conditional Use Permit from City Council shall continue to do so. By City Council accepting this proffer does not grant the right to operate or place such uses on Parcel B and Parcel C.

- a) Bakeries, confectionaries, and delicatessens, provided that products prepared or processed on the premises shall be sold only by retail and only on the premises.
- b) Business studios, offices, and clinics.
- c) Communication towers and temporary communication towers.
- d) Daycare centers and child care education centers.
- e) Drugstores, beauty shops and barbershops and other personal service establishments.
- f) Eating and drinking establishments without drive-through windows, except as specified in the Zoning Ordinance.
- g) Financial institutions.
- h) Florists, gift shops, and stationery stores.
- i) Furniture repair and upholstery, repair services for radio and television and household appliances other than those with gasoline engines; carpet and linoleum laying; tile setting, sign shops and other small service businesses.
- j) Grocery stores, carry-out food stores, and convenience stores in a structure with a gross floor area of less than five thousand (5,000) square feet.
- k) Laboratories and establishments for the production and repair of eyeglasses, hearing aids and prosthetic devices.
- l) Laundry and dry cleaning agencies.
- m) Medical and dental offices and clinics.
- n) Museums and art galleries.
- o) Newspaper printing and publishing, job and commercial printing.
- p) Personal service establishments, other than those listed separately.
- q) Public utilities installations and substations, including offices.
- r) Repair and sales for radio and television and other household appliances and small business machines.

- s) Retail establishments, other than those listed separately, including the incidental manufacturing of goods for sale only at retail on the premises; retail sales and display rooms.
- t) Specialty shops.
- u) Storage garages.
- v) Veterinary establishments and commercial kennels, provided that all animals shall be kept in sound-proofed, air-conditioned buildings.
- w) Wind energy conversion systems, roof mounted.
- x) Accessory uses and structures which may be reviewed and approved by the City of Virginia Beach Zoning Administrator which are clear incidental and subordinate to principle uses on the premises in accordance with the Virginia Beach Zoning Ordinance.

**Proffer 12:**

The following uses shall be the only uses permitted on Parcel A relating to the current I-1 Light Industrial District. Those uses requiring a Conditional Use Permit from City Council shall continue to do so. By City Council accepting this proffer does not grant the right to operate or place such uses on Parcel A.

- (a) Building-mounted antennas meeting the requirements of section 207.
- (b) Business, medical, financial, nonprofit, professional and similar office buildings.
- (c) Communication towers meeting the requirements of section 232(j) and temporary communication towers meeting the requirements of section 207.
- (d) Eating and drinking establishments.
- (e) Establishments such as linen suppliers, freight movers, communication services and canteen services.
- (f) Establishments which deliver merchandise in bulk or by truck or van.
- (g) Indoor storage of motor vehicles.
- (h) Fiber-optics transmission facilities meeting the requirements of section 233.15.
- (i) Manufacturing, processing, extracting, packaging or fabricating establishments; provided that the following uses shall not be allowed: (i) Explosive manufacturing, storage and distribution; (ii) petroleum processing; (iii) processing or outside storage of salvage, scrap or junk.
- (j) Motion picture studios.
- (k) Printing, lithographic or publishing establishments.
- (l) Public utilities installations and substations including offices; provided storage or maintenance facilities shall not be permitted; and provided further, that utilities substations, other than individual transformers, shall be surrounded by Category VI screening solid, except for entrances and exits; and provided also, transformer vaults for underground utilities and the like shall require only Category I screening, solid except for access opening.

- (m) Recreational facilities other than those of an outdoor nature.
- (n) Repair establishments; provided that no outside storage is included (excluding mobile operative equipment).
- (o) Small wireless facilities meeting the requirements of section 207.
- (p) Vocational, technical, industrial and trade schools.
- (q) Wholesaling, warehousing, storage or distribution establishments.
- (r) Wind energy conversion systems, roof-mounted.

**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.

### Mod of Proffers - Corporate Landing Business Park

The following are proffers submitted by the applicant as part of a Conditional Zoning Agreement (CZA). The applicant, consistent with Section 107(h) of the City Zoning Ordinance, has voluntarily submitted these proffers in an attempt to "offset identified problems to the extent that the proposed rezoning is acceptable," (§107(h)(1)). Should this application be approved, the proffers will be recorded at the Circuit Court and serve as conditions restricting the use of the property as proposed with this change of zoning.

#### **Proffer 1:**

Parcel A (consisting of approximately 0.21 acre) and Parcel B (consisting of approximately 0.52 acre) shall be removed from the Corporate Landing Business Park Proffers.

The remainder of the Authority Parcel shall remain subject to the Corporate Landing Business Park Proffers, which remain in full force and effect.

**Staff Comments:** Staff has reviewed the Proffer listed above and finds it acceptable. The City Attorney's Office has reviewed the agreement and found it to be legally sufficient and in acceptable legal form.

### Comprehensive Plan Recommendations

The majority of the Corporate Landing Business Park property is identified in the Comprehensive Plan as being located within the Special Economic Growth Area (SEGA) 3 – South Oceana. Industrially and commercially-zoned parcels both within and immediately adjacent to the Corporate Landing Business Park take cues from the design principles and vision outlined in the Economic Vitality chapter of the Comprehensive Plan, and specifically the recommended policies for the SEGA 3. The SEGAs are one of several areas targeted to accommodate the city's long-term economic development. It is the stated desire in the Comprehensive Plan to direct the majority of the city's future growth and development (or redevelopment) into these areas in a manner consistent with the adopted plans, policies, and design guidelines. Specifically, the SEGA 3 policies recommend non-residential uses that align with the City's AICUZ provisions and the Oceana Land Use Compatibility Program and specifically identify light industrial uses as acceptable within the eastern portion of the SEGA.

### Natural & Cultural Resources Impacts

The site is located in the Southern Rivers watershed. There do not appear to be any significant cultural resources associated with the property.

## Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
General Booth Boulevard	31,079 ADT <sup>1</sup>	32,500 ADT <sup>1</sup> (LOS <sup>4</sup> "C")	Existing Zoning <sup>2</sup> – 402 ADT Proposed Zoning <sup>3</sup> – 674 ADT
<sup>1</sup> Average Daily Trips	<sup>2</sup> as defined by a typical retail business on 0.73 acres	<sup>3</sup> as defined by a typical retail business on 1.23 acres	<sup>4</sup> LOS = Level of Service

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

General Booth Boulevard in the vicinity of this application is considered an access controlled, four-lane divided major suburban arterial. The existing roadway pavement is within the approximately 110-foot wide right-of-way. The MTP proposes a six-lane facility within a 165-foot wide right-of-way. There are no roadway CIP projects slated for this area of General Booth Boulevard. Currently, this segment of the roadway is functioning at Level of Service C.

## Public Utility Impacts

### Water

This site is currently connected to City water. An additional water service connection may be required. There is an existing 20-inch City water transmission main along General Booth Boulevard.

### Sewer

The site is currently connected to the HRSD force main via a private grinder pump and force main. An additional sanitary sewer service connection may be required. There is an existing 30-inch HRSD sanitary sewer force main along General Booth Boulevard.

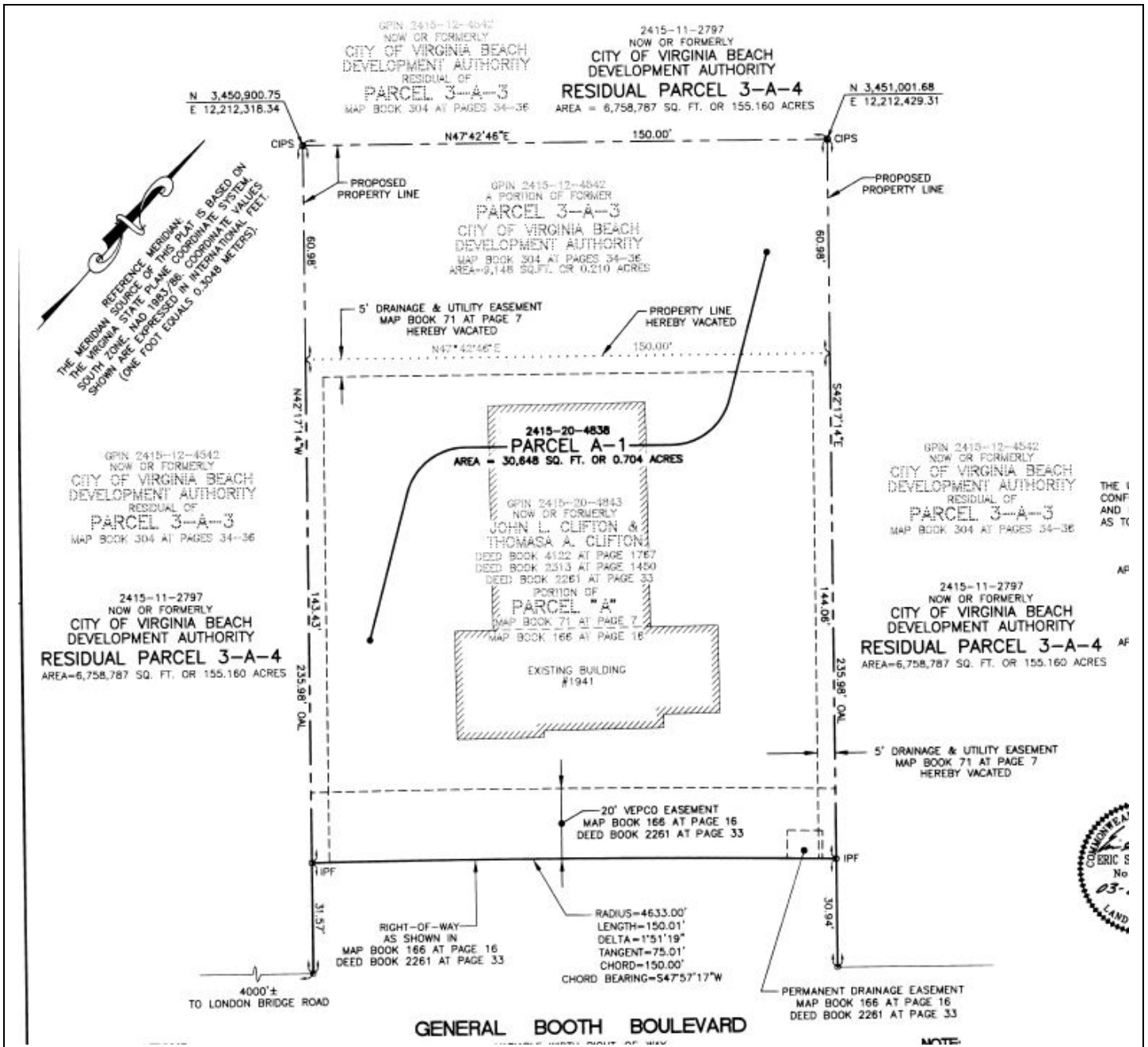
## Public Outreach Information

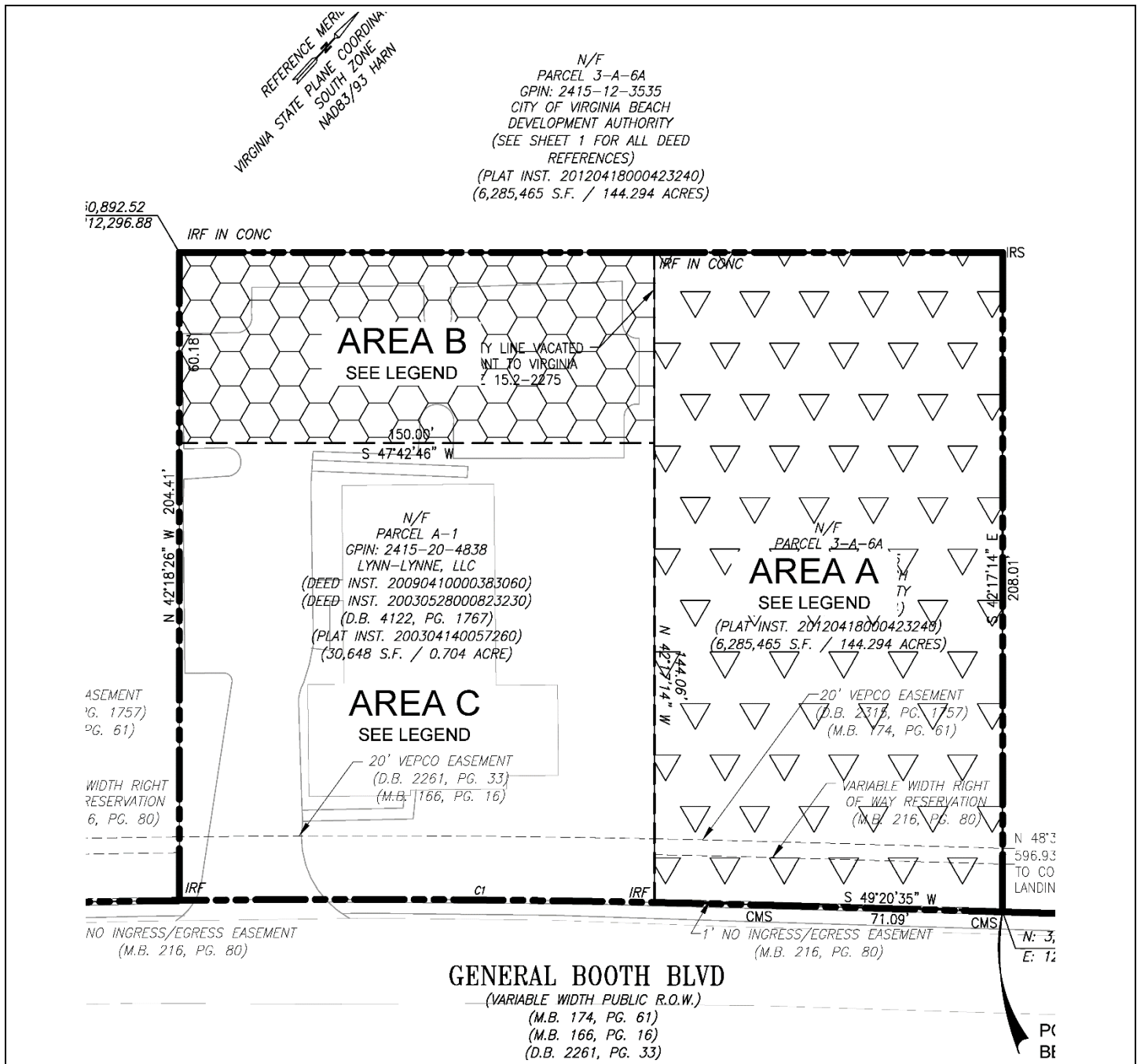
### Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on June 14, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, June 27, 2021 and July 4, 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 June 28, 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](http://www.vbgov.com/pc) on July 8, 2021.

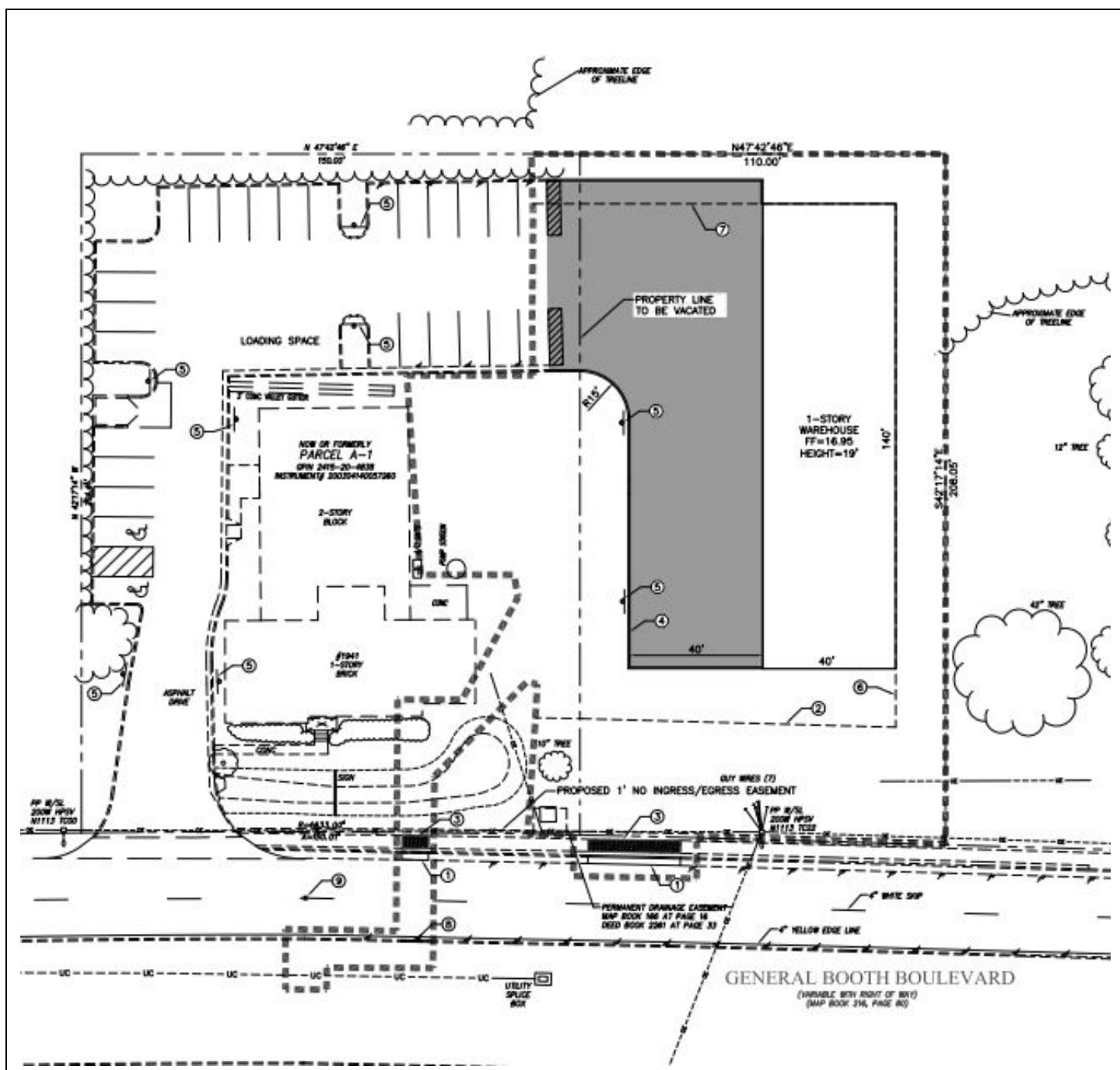


## Survey – Dr. Johnny's Site

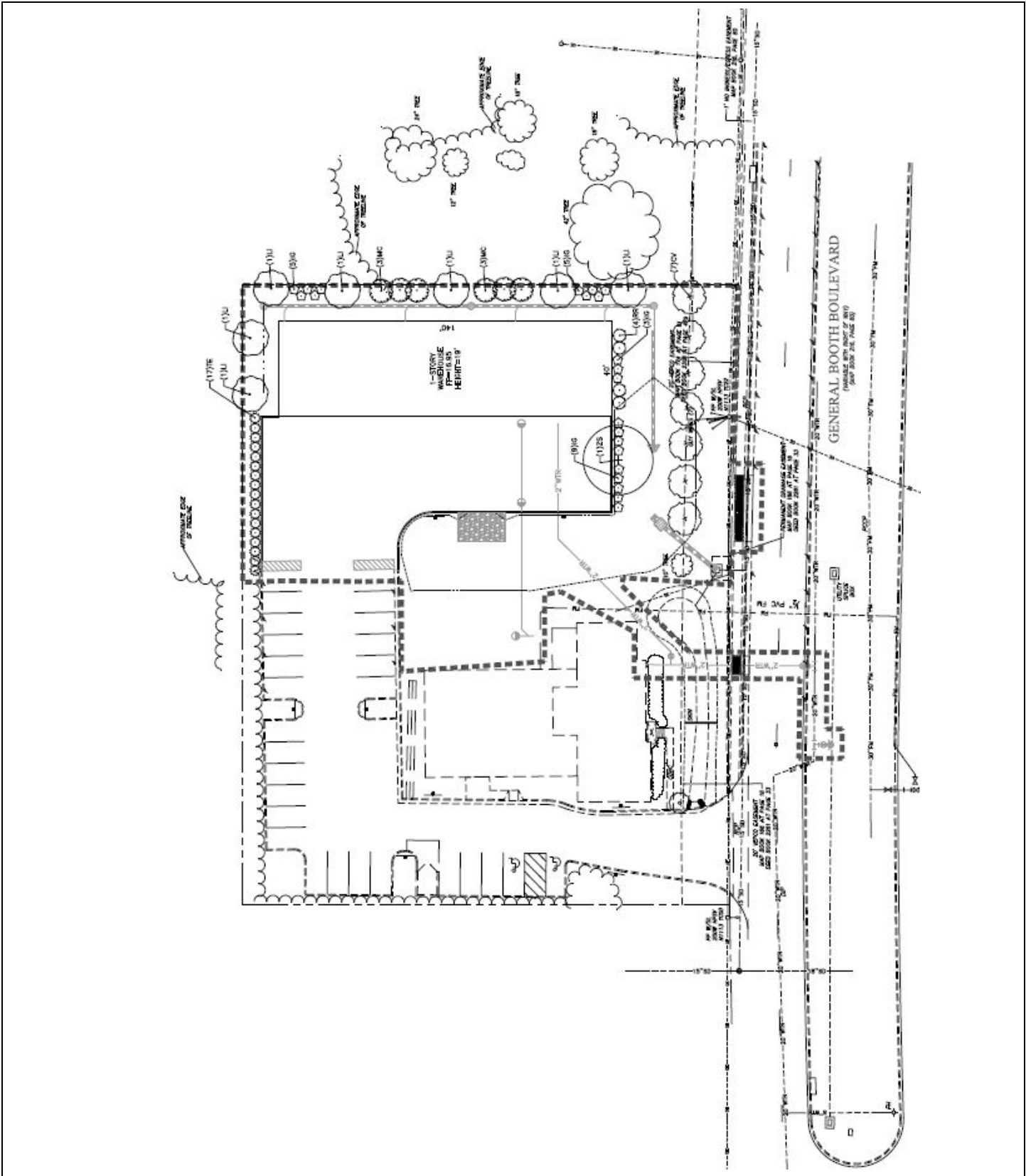




## Proposed Site Layout



Proposed Landscape Plan





## Existing Sales & Service Building

EXHIBIT P-4  
FRONT VIEW FROM GENERAL BOOTH





## Proposed Building Elevations





## Proposed Building Elevations

### Dr. Johnny's Appliances South Elevation 09/04/2019



### Dr. Johnny's Appliances West Elevation 09/04/2019





FRONTAGE-SIGN





## Site Photos



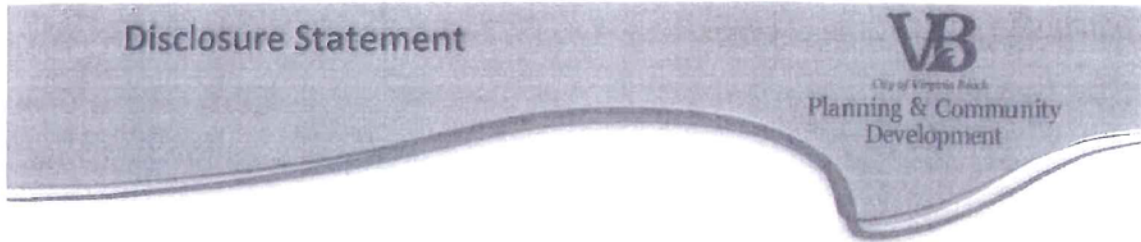


## Site Photos





## 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** The City of Virginia Beach Development Authority.

Does the applicant have a representative? ☒ Yes ☐ No

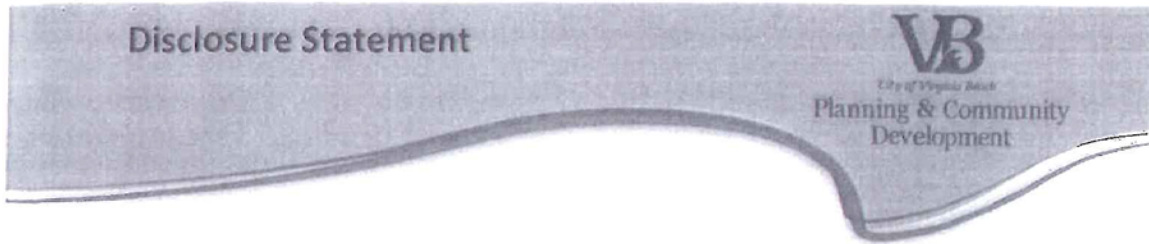
- If yes, list the name of the representative.  
Office of the City Attorney

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)  
Applicant is a political subdivision of the Commonwealth of Virginia. Attached is a list of the current Commissioners of the VBDA
- If yes, list the businesses that have a parent-subsidary<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the applicant. (Attach a list if necessary)  
N/A

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

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



### **Known Interest by Public Official or Employee**

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

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

### **Applicant Services Disclosure**

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

☐ Yes ☒ No

- If yes, identify the financial institutions.
- 

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

☐ Yes ☒ No

- If yes, identify the real estate broker/realtor.
- 

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.
- 

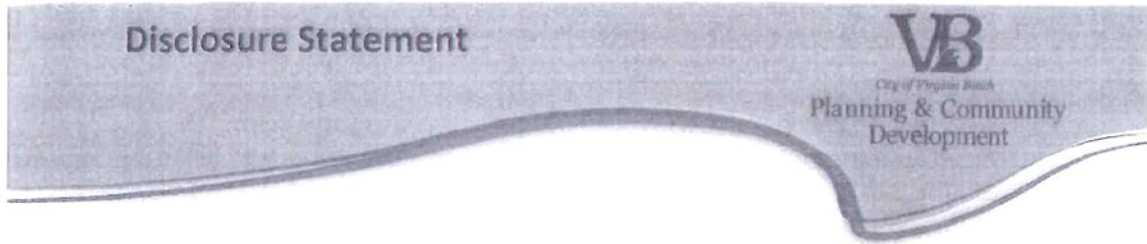
4. Does the applicant have services from an **architect/landscape architect/land planner** provided in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

- 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.  
WM Jordan & Sons has been identified as the general contractor for the project.
7. Does the applicant have an **engineer/surveyor/agent** in connection with the subject of the application or any business operating or to be operated on the property? ☒ **Yes** ☐ **No**
- If **yes**, identify the engineer/surveyor/agent.  
Kimley Horn has been retained to provide engineering services.
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.  
Singer Davis (Steve Davis is outside counsel to VBDA)

### 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

Alexander W. Giles

Print Name and Title

11.6.20

Date

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

- If **yes**, you do not need to fill out the owner disclosure statement.

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

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



## Disclosure Statement

### Disclosure Statement



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** LYNN -LYNNE, LLC t/a Dr. Johnny's Appliances

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

- If yes, list the name of the representative.

John W. Richardson, Attorney at Law

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

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

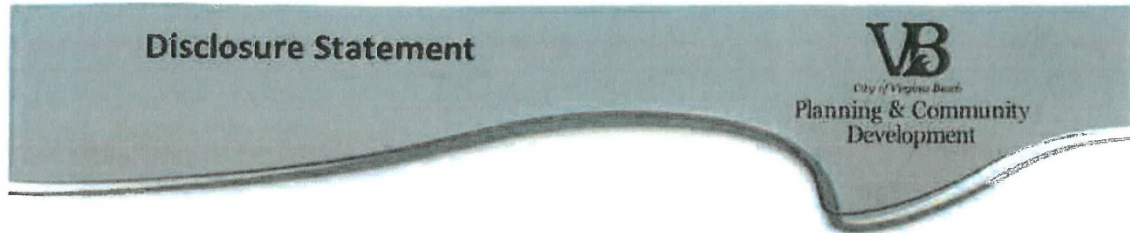
John L. Clifton

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

Clifton Ventures, Inc.

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

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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 providing the service.

BB&T, now Truist Bank

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

☐ Yes ☒ No

- If yes, identify the 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

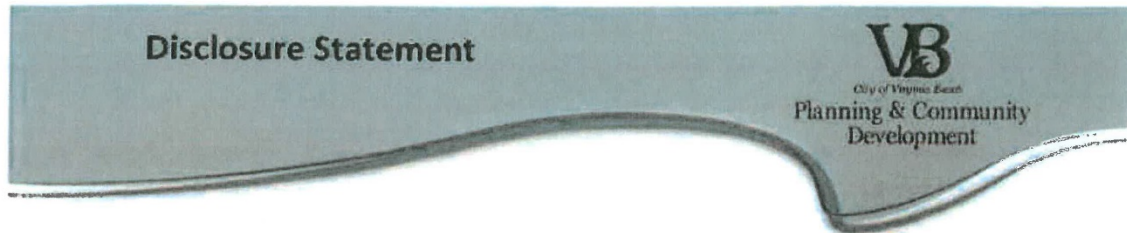
- If yes, identify the firm and individual providing the service.

Land Planning Solutions - Scott D. Stamm

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.


Land Planning Solutions - Scott D. Stamm


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.

Wolcott Rivers Gates - John W. Richardson

### 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

 - President  
Print Name and Title

John L. Clifton, President

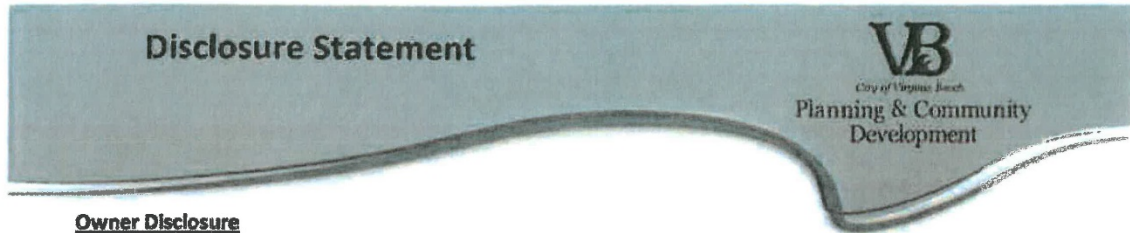
Date 12/10/2020

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



## Owner Disclosure

Owner Name LYNN-LYNNE, LLC

Applicant Name LYNN -LYNNE, LLC t/a Dr. Johnny's Appliances

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)

John L. Clifton, sole member

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

Clifton Ventures, Inc. t/a Dr. Johnny's Appliances

## Known Interest by Public Official or Employee

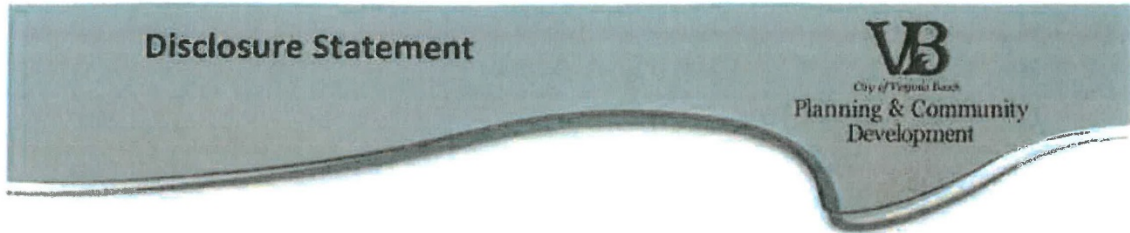
Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action? ☐ Yes ☒ No

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

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

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





### Owner Services Disclosure

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

☒ Yes ☐ No

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

BB&T now Truist Bank

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

☐ Yes ☒ No

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

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

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

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

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

Land Planning Solutions - Scott D. Stamm

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

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

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

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

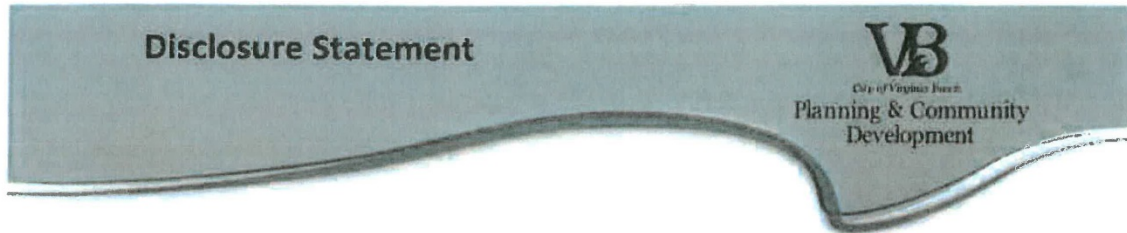
7. Does the Owner have an engineer/surveyor/agent in connection with the subject of the application or any business operating or to be operated on the property? ☒ Yes ☐ No

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

Land Planning Solutions - Scott D. Stamm



## Disclosure Statement



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

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

Wolcott Rivers Gates - John W. Richardson

### Owner Signature

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

Owner Signature

Print Name and Title

John L. Clifton, Sole Member

Date

12/10/2020

### Virginia Beach Development Authority Membership

- Lisa Murphy, Chair
- Joseph E. Strange, Vice Chair
- David L. Bernd
- Dr. William Brown
- William Brunke
- Nneka Chiazor
- W. Taylor Franklin
- Penny Morgan
- Michael J. Standing
- Guenter H. Weissenseel
- Dorothy L. Wood

## Next Steps

- Upon receiving a recommendation from Planning Commission, this request will be scheduled for a City Council public hearing. Staff will inform the applicant and/or their representative of the date of the hearing in the upcoming days.
- Following City Council's decision, the applicant will receive a decision letter from Staff.
- Once the conditions of approval are in place and/or completed, the applicant must contact the Zoning Division of the Planning Department to obtain verification that the conditions have been met. Contact the Zoning Division at 757-385-8074.
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- The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.



**Request**

**Modification of Conditions** (Borrow Pit Expansion)

**Staff Recommendation**

Approval

**Staff Planner**

Maddie Lowman/Marchelle Coleman

**Location**

200 Princess Anne Road

**GPINs**

23166988320000, 23168968010000,  
23176213270000, 23177232590000,  
23176125200000, 23178015370000

**Site Size**

237.57 acres

**AICUZ**

Less than 65 dB DNL

**Watershed**

Southern Rivers

**Existing Land Use and Zoning District**

Cultivated fields, borrow pit / AG-1 & AG-2  
Agricultural

**Surrounding Land Uses and Zoning Districts**

**North**

Single-family dwelling, cultivated fields / AG-1 & AG-2 Agricultural

**South**

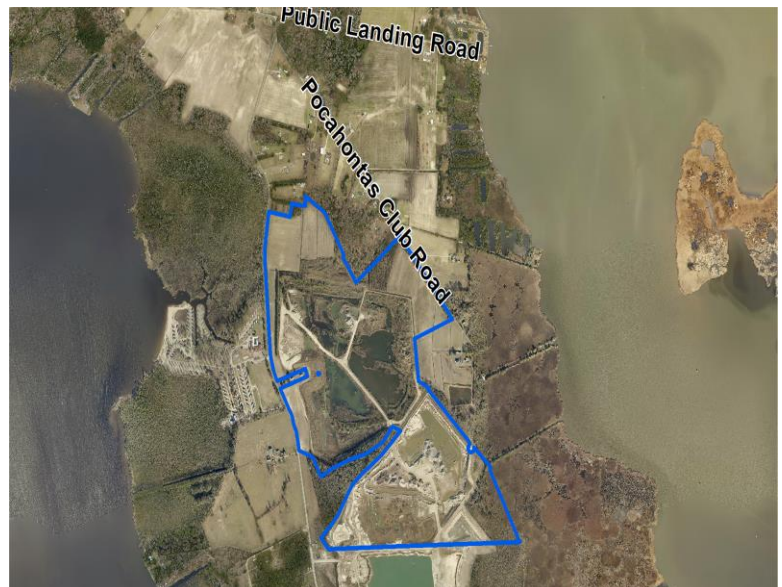
North Carolina Line, borrow pit

**East**

Pocahontas Club Road  
Single-family dwellings, cultivated fields / AG-1 & AG-2 Agricultural

**West**

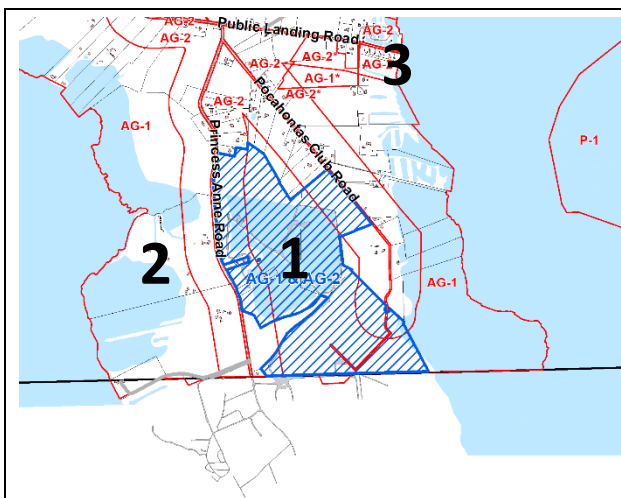
Princess Anne Road  
Campground, marshland / AG-1 & AG-2  
Agricultural





## Background & Summary of Proposal

- The applicant is requesting a Modification of Conditions to the existing Conditional Use Permit to expand the existing borrow pit by 17.315 acres on this agriculturally-zoned property. The applicant proposes to use the materials that are mined to provide private, commercial and government entities with fill sand, masonry sand, clay and fill “dirt”.
- Since the 1970s, the sand excavation operation at this borrow pit has been ongoing. In 1989, City Council approved a Conditional Use Permit for a 23.40-acre borrow pit, as prior to that no consideration by the Council for this activity was required. Since then, two additional Conditional Use Permits were granted: one in 2000 for the expansion of the pit by 46 acres, and one in 2010 for an additional expansion of the pit by 87.23 acres.
- Along with those approvals, two Modification of Conditions were granted in 2006 and 2020 to extend the length of time allotted for excavation and ultimate restoration of the site. The 2020 Modification of Conditions approval extended the timeline of the operation by 10 years and until 2030 to restore the site. The current restoration plan indicates that the borrow pit will ultimately be converted into several lakes and the surrounding land to be used for cultivation.
- The on-site operations will continue between the hours of 7:00 a.m. to 7:00 p.m., Monday through Saturday. No operations are conducted or are planned to be conducted on Sundays.



### Zoning History

#	Request
11	MOD (Modification of Conditions) Approved 09/15/2020 CUP (Borrow Pit Expansion) Approved 02/09/2010 MOD (Modification of Conditions) Approved 02/14/2006 CUP (Borrow Pit Expansion) Approved 11/28/2000 CUP (Borrow Pit) Approved 12/18/1989
2	MOD (Modification of Conditions) Approved 04/16/2019 MOD (Modification of Conditions) Approved 11/08/2005 CUP (Campground) Approved 11/08/1971
3	CUP (Non-Commercial Marina) Approved 8/27/2013

### Application Types

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

MOD – Modification of Conditions or Proffers  
NON – Nonconforming Use  
STC – Street Closure

FVR – Floodplain Variance  
ALT – Alternative Compliance  
SVR – Subdivision Variance

LUP – Land Use Plan  
STR – Short Term Rental

## Evaluation & Recommendation

The request for a Modification of Conditions for an expansion of the existing borrow pit, in Staff’s opinion, is acceptable. The request is consistent with the policies and goals set forth in the Comprehensive Plan for the Rural Area, as the site has remained rural throughout the years and is maintaining its commitment to the agricultural vision for this area.

As part of this application, the submitted draft report entitled *2021 Ground Water Monitoring and Recharge Plan* indicates how the applicant is complying with the imposed conditions of the 2000 and 2010 approvals related to the expansion of the borrow pit. Included is the establishment of seven monitoring wells in Virginia and four in North Carolina to routinely evaluate the ground water in order to detect any salt water intrusion caused by the borrow pit

Bonney G. Bright Sand Company

Agenda Item 4

Page 2

operation. Each of these wells are used to test the water at least four times a year. As with borrow pits in the coastal plain, the potential for salt water intrusion into the aquifer is a concern. This intrusion could affect wells in the vicinity, possibly decreasing the quality of drinking water wells. As an additional safeguard to protect the quality of drinking water wells, Condition 18 below indicates that the Groundwater Recharge Plan must be reviewed and approved by the Department of Public Utilities. Per proposed condition 18, a quarterly report shall be submitted to the Department of Public Utilities for review and approval that identifies the amount of water pumped from the borrow pit, the amount of groundwater recharged on site, the amount of water discharged to offsite surface water, the local precipitation, and a detailed description of the way in which each of these volumes are determined.

Condition 18 of the 2006 Modification of Conditions required that a left turn lane along Princess Anne Road into the entrance of the site be installed. Field investigation revealed that this left turn lane was never constructed. The applicant informed Staff that the entrances along Princess Anne Road are not used by trucks that haul materials and that the main entrance into the pit is located in North Carolina. Based on this, the condition (condition 24 below) has been revised to prohibit trucks that haul materials to and from the property from using Princess Anne Road as an ingress and egress for the operation. Traffic Engineering Staff noted that the proposed expansion is not expected to significantly impact traffic in the area.

To aid in additional screening of this operation along Princess Anne Road, Condition 11 has been added that requires additional plantings in order to screen this portion of the expansion from the right-of-way.

The Virginia Department of Mines, Minerals and Energy indicated no opposition with the borrow pit expansion and noted that the pit has been operating in accordance with State regulations and there have been no violations or issues on the site.

In sum, as monitoring of the groundwater continues to indicate no detrimental impact to drinking water wells or salt water intrusion into the aquifer, the roadway system is not expected to be adversely impacted, and there have been no known incidents regarding compliance with State regulations, Staff recommends approval of this request subject to the conditions listed below.

## Recommended Conditions

1. All previous conditions attached to the Conditional Use Permit approvals of November 28, 2000 and February 9, 2010 and the Modification of Conditions Permit approvals of February 14, 2006 and September 15, 2020 shall be voided and replaced with the following conditions below.
2. Activities on the site shall meet all the requirements identified by the Virginia Department of Mines, Minerals and Energy. Additionally, the applicant shall renew their permit and license with the Department of Mines, Minerals and Energy before October 21, 2021.
3. No excavation or restoration of the borrow pit expansion shall be allowed without first obtaining any necessary permits from the appropriate Federal, State and Local agencies, required as a result of the expansion of the existing borrow pit operation. In addition, the applicant shall renew the Non-Metallic Mineral Mining General Permit from the Department of Environmental Quality for the proposed expansion.
4. No excavation or restoration of the borrow pit shall commence until such time that a site plan has been reviewed and approved by the Development Services Center. The site plan must include a specific street and highway contingency plan that addresses the repair and replacement of any damaged roadway surfaces associated with the borrow pit operation. The site plan shall also detail the truck watering schedule currently utilized for the abatement of the dust generated by this operation and must indicate the sequence of construction for maintaining 3:1 side slopes on the borrow pit within 60 days after the excavation is complete.

5. No access to or from Pocahontas Club Road shall be permitted for the borrow pit operation.
6. Operating hours shall be 7:00 a.m. to 7:00 p.m., Monday through Saturday. No operations shall be permitted on Sunday.
7. No encroachment into existing easements will be allowed. Access to drainage easements must be provided by the applicant overall output systems within the site.
8. No encroachments into natural drainage channels shall be permitted.
9. The existing buffer of pine trees along Princess Anne Road, the double row of Loblolly and Virginia pine trees, an understory row of wax myrtle shrubs and the three to four-foot-high berm along Pocahontas Club Road used for screening and buffering shall remain undisturbed.
10. A row of pine trees shall be planted along Princess Anne Road continuing north from the existing trees that will be used as screening and buffering for the expansion of the borrow pit. The required pine trees shall be allowed to grow and be maintained at a height of no less than 30 feet.
11. Undrained pockets and stagnant pools resulting from surface drainage shall be sprayed in accordance with requirements of the state board of health to eliminate breeding places for mosquitos and other insects.
12. The 100-foot buffer between the cemetery in the southeast corner and the excavation site must remain undisturbed.
13. The maximum depth of the proposed expansion shall not exceed an elevation of -25.00 feet below ground surface from elevation 0.00 feet below ground surface. The applicant shall not breach the confining layers regardless of depth.
14. Dewatering of the pit will be allowed and the following are required:
  - a. A permit from the Virginia Water Control Board is required to discharge any water from dewatering into a state waterway.
  - b. The operator of the borrow pit shall be responsible for continuous water service for the private wells up to 1,000 feet from the borrow pit operation and those within 2,500 feet if proved to be affected by this operation.
15. The maximum number of truck trips generated by the borrow pit shall be 75 per day. A truck trip shall be considered one round trip, in and out of the borrow pit.
16. All trucks and equipment used in conjunction with the borrow pit operation must be stored, repaired and fueled on the borrow pit site or on property zoned for such use.
17. The applicant and/or operator of the borrow pit shall provide sufficient information to further the knowledge of the impacted subsurface geology by providing a Monitoring Well/Bore Hole Installation Plan and to estimate existing and projected recharge of dewatering operation discharge water. The applicant shall provide a Groundwater Recharge Plan, which shall include all phases of the expansion, subject to the approval of the Director of Public Utilities or designee.
18. The Groundwater Recharge Plan shall provide for the retention of water onsite to the highest degree practical. As one means to achieve this, the flooding of depleted mine areas shall be implemented to the maximum extent practical and outlined in detail in the Groundwater Recharge Plan, accounting for all phases of expansion and reclamation. The applicant and/or operator of the borrow pit shall provide a reliable quarterly report to the

Department of Public Utilities to include the analysis of the recharge system. This plan shall contain the amount of water pumped from the borrow pit, the amount of groundwater recharged on the site, the amount of water discharged to offsite surface water, the local precipitation, and a detailed description of the way in which each of these volumes were determined. The plan shall be subject to the approval of the Director of Public Utilities or designee.

19. Testing shall be performed at each monitoring well a minimum of four times a year and analytical results shall be provided to the Director of Public Utilities or designee. The Director of Public Utilities or designee may reduce monitoring frequency to annual testing at each well. If, in the judgement of the Director of Public Utilities or designee, such results indicate that salt water intrusion is occurring to such extent that private drinking water wells are threatened, the applicant shall cease dewatering of the borrow pit at the cost of the borrow pit operator.
20. Extension of time for operations is ending in June 2030, to include restoration of the property.
21. When mining is complete, the applicant shall redevelop the sides of the pit to a 3:1 slope within 6 months as depicted on the plan for the borrow pit entitled "Reclamation Plan", dated October 3, 2007, revised September 10, 2009, revised July 1, 2021, prepared by Gallup Surveyors and Engineers. Said plan has been exhibited to the City of Virginia Beach City Council and is on file in the Planning Department.
22. The applicant shall submit a site development plan in accordance with the Zoning Ordinance, Article 2 C Section 227 Borrow Pits to the Development Services Center of the Planning Department for review and approval prior to any excavation of the additional areas depicted on the submitted site plan entitled "PROPOSED BORROW PIT EXPANSION PLAN FOR BONNEY G. BRIGHT", dated October 3, 2007, revised September 10, 2009, revised March 12, 2021, prepared by Gallup Surveyors & Engineers. Said plan has been exhibited to the City of Virginia Beach City Council and is on file in the Planning Department.
23. Trucks that haul material to and from the property shall not use Princess Anne Road as an ingress and egress for the operation. All trucks in association with the mining operation shall use the entrance in North Carolina to enter and exit the site. If the entrance from Princess Anne Road is used to haul material than the following shall apply: the operator shall install a left turn lane on Princess Anne Road into the borrow pit entrance, the property owner shall dedicate as deemed necessary by City Staff any additional right-of-way to accommodate the turn lane, the entrance from Princess Anne Road shall be paved and the pavement shall extend 50 feet back from the property line and then graveled an additional 50 feet, and an entrance plan shall be required subject to the review and approval by Department of Public Works/Traffic Engineering.

*Further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.*

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

## Comprehensive Plan Recommendations

The Comprehensive Plan recognizes this site to be within the Rural Area, a critical part of the City that encompasses the agricultural industry and economic vitality, rural heritage, and wildlife habitat. The Rural Area supplements the diversity of the City's character and provides a unique component to the City's tourist industry, while maintaining the rural

community that is essential to the overall quality of life for Virginia Beach residents. The vision for the Rural Area is for it to remain rural into the foreseeable future through a commitment to strong planning objectives that emphasize its agricultural and environmental economic value, in an effort to preserve the area for future generations.

## Natural & Cultural Resources Impacts

The site is located in the Southern Rivers watershed. Drainage in the Southern Rivers watershed is highly impacted by the presence of high ground water, poorly draining soils, and high-water surface elevations in downstream receiving waters. There does not appear to be any significant natural or cultural resources associated with the site.

## Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Princess Anne Road	4,100 ADT <sup>1</sup>	11,200 ADT <sup>1</sup> (LOS <sup>2</sup> "D")	No Change Anticipated <sup>3</sup>
<sup>1</sup> Average Daily Trips <sup>2</sup> LOS = Level of Service <sup>3</sup> No information available in the ITE Trip Generation Manual for a borrow pit			

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

Princess Anne Road in the vicinity of this site is a two-lane rural road with a 50-foot right-of-way. The MTP Map indicates an ultimate future right-of-way width of 90 feet for a roadway with a bikeway. There is currently no roadway CIP scheduled for this segment of Princess Anne Road.

## Public Utility Impacts

### Water

City water is not available. Health Department approval is required for private wells.

### Sewer

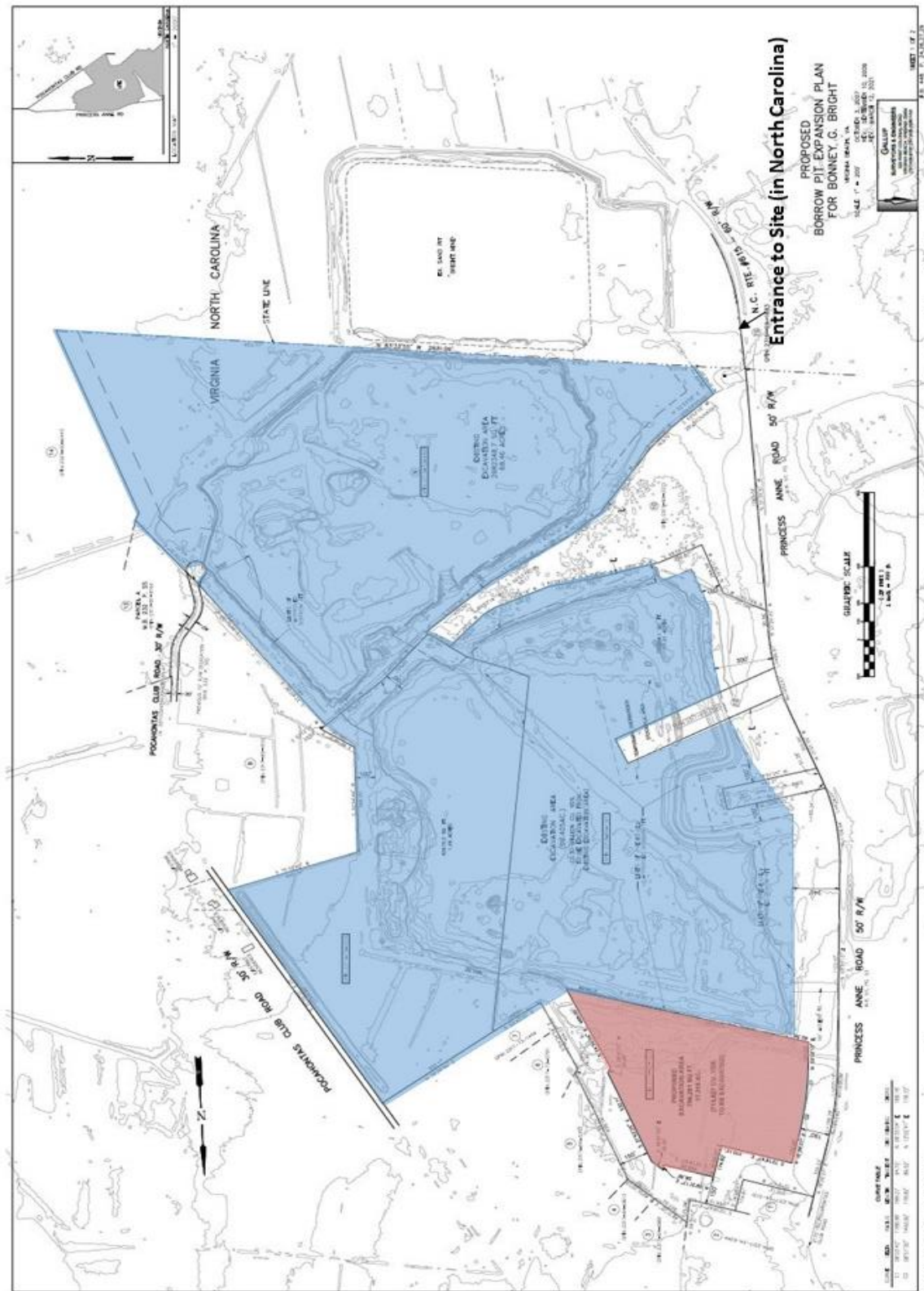
City sanitary sewer is not available. Health Department approval is required for septic systems.

## Public Outreach Information

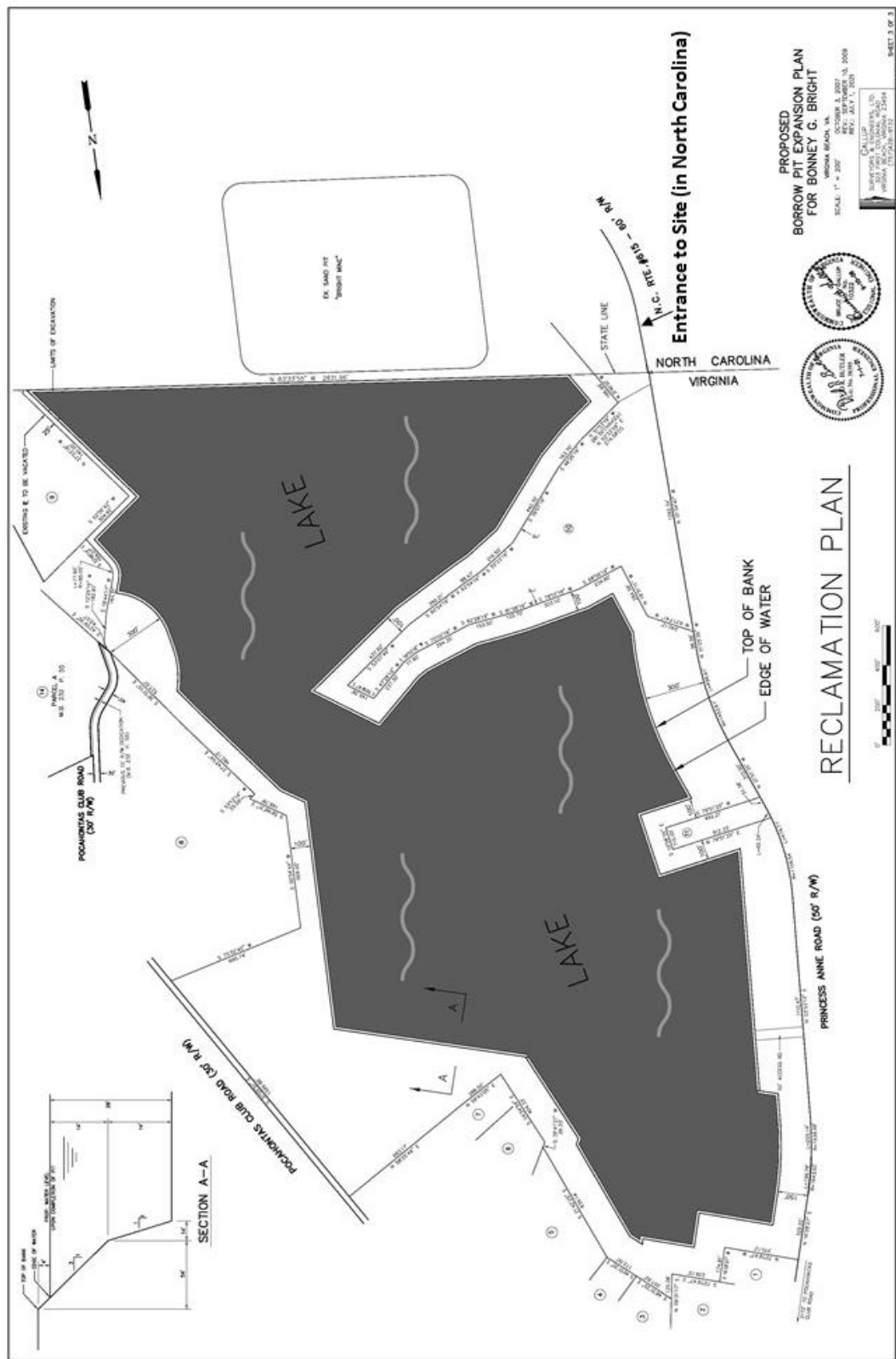
### Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on June 14, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, June 27, 2021 and July 4, 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 June 28, 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](http://www.vbgov.com/pc) on July 8, 2021.





## Reclamation Plan

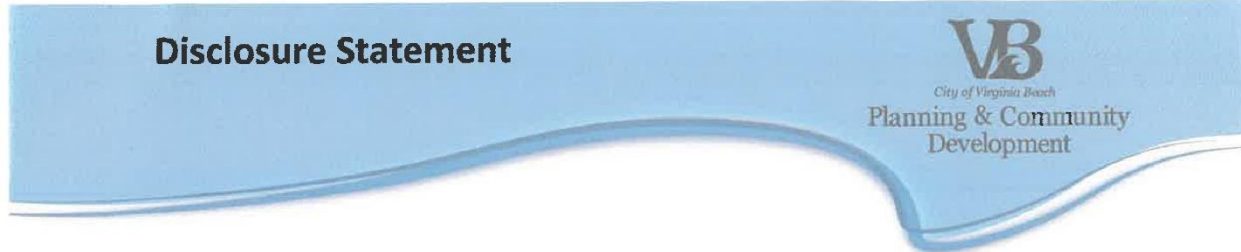




## Site Photos



## Disclosure Statement



The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law. The completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council or a City board, commission or other body.

### Applicant Disclosure

**Applicant Name** Bonney G. Bright

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

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

R. Harold Jones, SPWS, Emeritus c/o Sigma Environmental Services, inc.

**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)

S- Corp. Bonney G. Bright, President

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

N/A

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

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### 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.

Towne Bank

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

☐ Yes ☒ No

- If **yes**, identify the 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.

Anderson & Associates, P.C.

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.

Bruce Gallop Surveyors & Engineers, Inc.

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.

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.

*Bonney G. Bright*

Applicant Signature

Bonney G. Bright, President, Owner

Print Name and Title

*April 27 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	

## 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**

**Street Closure**

**Staff Recommendation**

Approval

**Staff Planner**

Marchelle Coleman

**Location**

7.5-foot by 50-foot portion of an unimproved alley adjacent to 828 Vanderbilt Avenue

**GPIN**

2426378559

**Site Size**

375 square feet

**AICUZ**

65-70 dB DNL

**Watershed**

Atlantic Ocean

**Existing Land Use and Zoning District**

Single-family dwelling / R-10 Residential

**Surrounding Land Uses and Zoning Districts**

**North**

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

**South**

Single-family dwelling / R-10 Residential

**East**

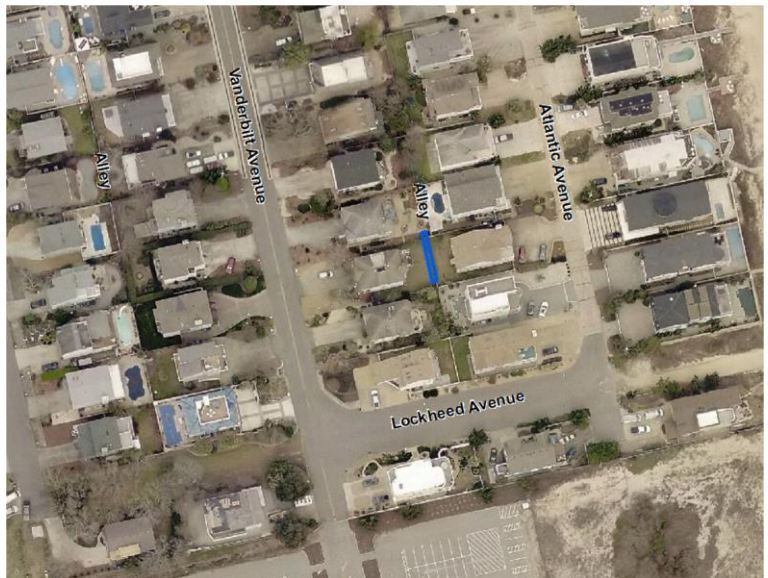
S. Atlantic Avenue

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

**West**

Vanderbilt Avenue

Single-family dwelling / R-10 Residential



## Background & Summary of Proposal

- The applicant is requesting to close a portion of the platted, unnamed, and unimproved alley that is adjacent to the rear lot line. As shown on the submitted street closure exhibit, the proposal includes closure of half of the 15-foot wide alley, totaling 375 square feet, and incorporating that land into their adjacent residential lot, identified as Lot 3, Block 14, Croatan Beach.
- The site is developed consistent with other residential lots in the Croatan neighborhood with a single-family home and a fenced in back yard. Currently, the area proposed to be closed is fenced in and has been used and maintained by the applicant.

## Zoning History

#	Request
1	STC (Portion of 15-foot wide alley) Approved 01/23/2007
2	STC (Portion of 15-foot wide alley) Approved 11/17/2020
3	STC (Portion of 15-foot wide alley) Approved 02/28/2006
4	STC (Portion of 15-foot wide alley) Approved 01/22/2008
5	STC (Portion of 15-foot wide alley) Approved 01/31/2006
6	STC (Portion of 15-foot wide alley) Approved 01/31/2006

## Application Types

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

MOD – Modification of Conditions or Proffers  
 NON – Nonconforming Use  
 STC – Street Closure

FVR – Floodplain Variance  
 ALT – Alternative Compliance  
 SVR – Subdivision Variance

LUP – Land Use Plan  
 STR – Short Term Rental

## Evaluation & Recommendation

As required by City Code, a Viewers' Meeting was held on May 17, 2021, that included City Staff from the Departments of Public Works, Public Utilities, Planning & Community Development, and the Office of the City Attorney, to consider this request. The Viewers determined that the proposed closure will not result in any public inconvenience; therefore, closure of this portion of the right-of-way is deemed acceptable.

As evident on the Zoning History map above, many similar requests have been reviewed and approved by City Council for closure of alleys within the Croatan neighborhood. Consistent with that many of those approvals, Condition 2 is recommended below whereby the City of Virginia Beach will retain a public drainage easement over the closed portion of the alley.

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

## Recommended Conditions

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

*Further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.*

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

## Natural & Cultural Resources Impacts

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

## Public Outreach Information

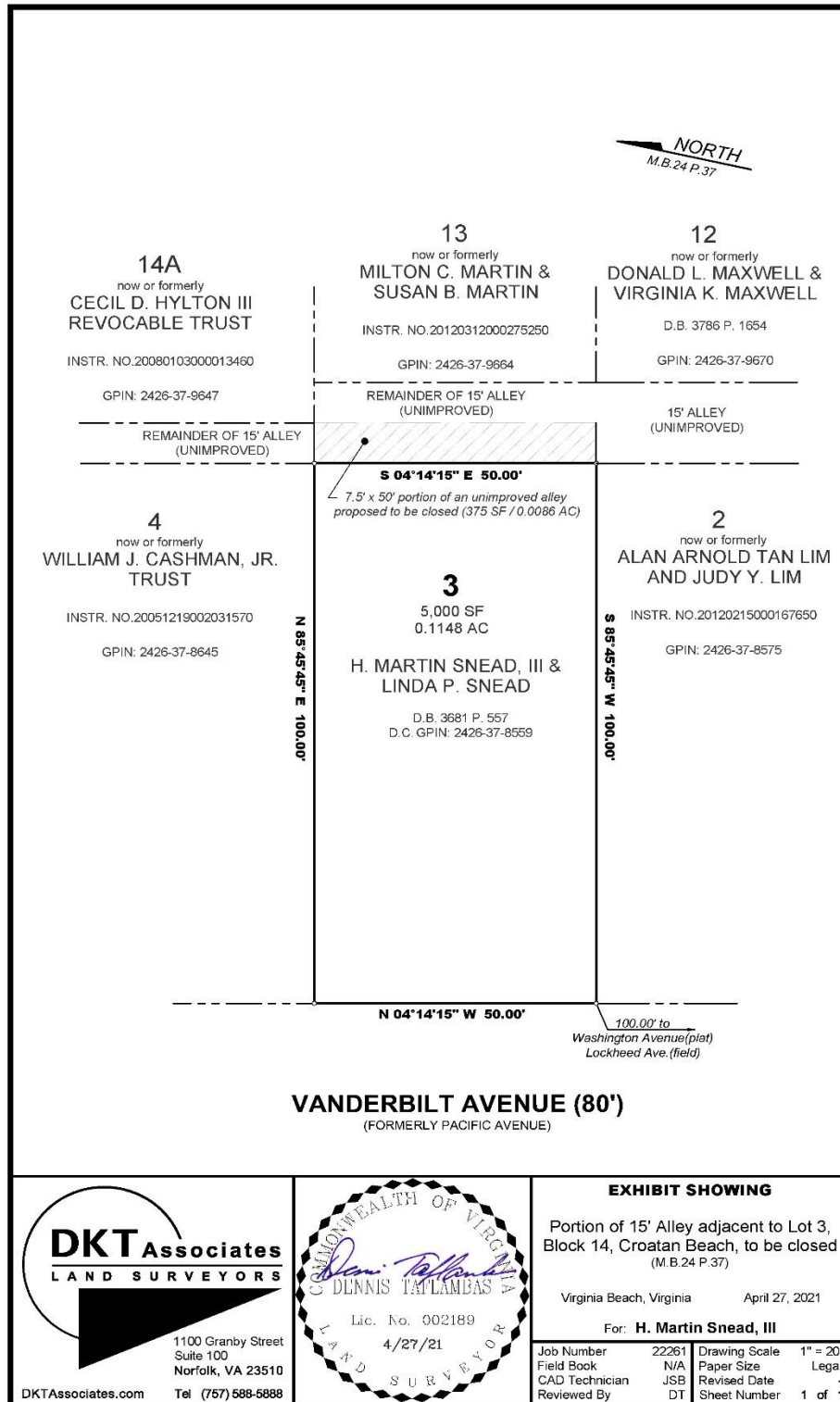
### Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on June 14, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, June 27, 2021 and July 4, 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 June 28, 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](http://www.vbgov.com/pc) on July 8, 2021.



# Proposed Site Layout



Site Photos



### Disclosure Statement



The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law. The completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council or a City board, commission or other body.

#### Applicant Disclosure

**Applicant Name** H. Martin Snead, III & Linda P. Snead

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

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

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

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

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

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

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

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



### Disclosure Statement



#### Known Interest by Public Official or Employee

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

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

#### Applicant Services Disclosure

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

☐ **Yes** ☒ **No**

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

DKT Associates

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.

H. Martin Snead, III Linda P. Snead  
 Applicant Signature  
 H. Martin Snead, III / owner Linda P. Snead / owner  
 Print Name and Title  
4/29/2021 4/29/2021  
 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	

## 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** (Eating & Drinking Establishment)

**Staff Recommendation**

Approval

**Staff Planner**

Marchelle Coleman

**Location**

Corner of Fisher Arch & Princess Anne Road,  
West of 2033 Fisher Arch

**GPIN**

2414117668

**Site Size**

68,495 square feet

**AICUZ**

65-70 dB DNL; Sub-Area 2

**Watershed**

Southern Rivers

**Existing Land Use and Zoning District**

Vacant lot / O-2 Office

**Surrounding Land Uses and Zoning Districts**

**North**

Fisher Arch

Medical office, retail / B-2 Community Business

**South**

Single-family dwelling, cultivated land / AG-2

Agricultural

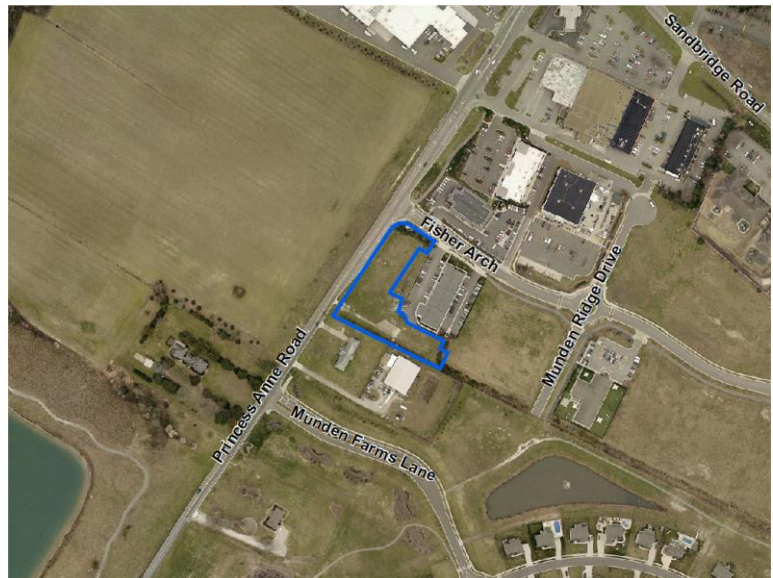
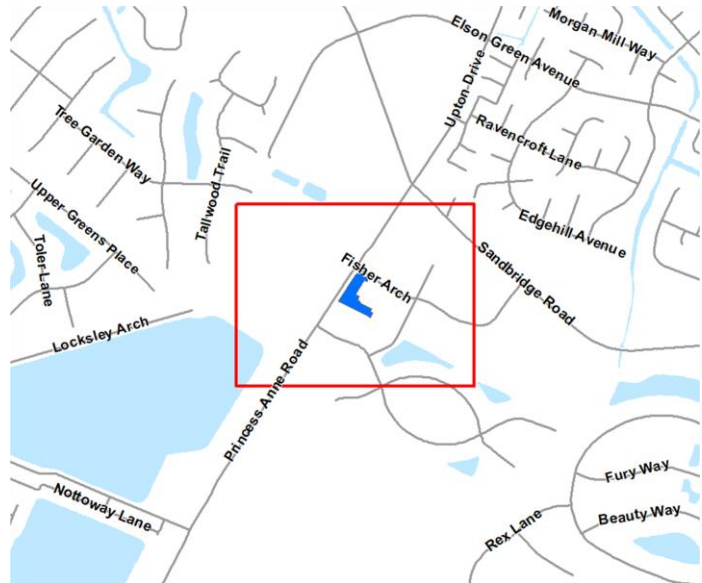
**East**

Office / O-2 Office

**West**

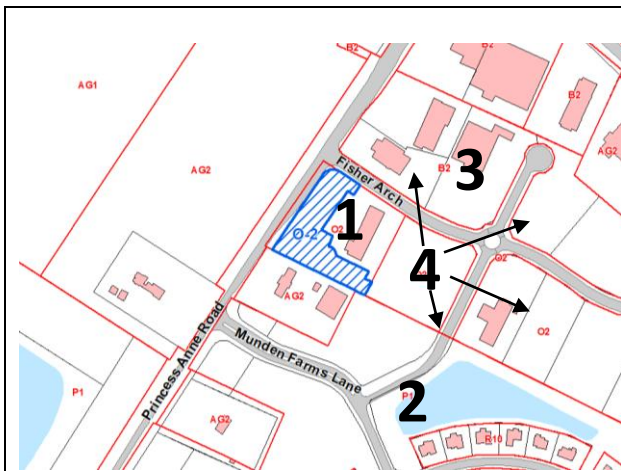
Princess Anne Road

Undeveloped land / AG-2 Agricultural



## Background & Summary of Proposal

- The applicant is requesting a Conditional Use Permit for an Eating and Drinking Establishment to be located on this property zoned O-2 Office District. In 2009, the entire property was rezoned from AG-2 Agricultural District to Conditional O-2 Office District in order to develop a two-building office complex. A Conditional Use Permit is required in the O-2 Office District for Eating and Drinking Establishments, as it is required to not occupy more than 10% of total floor area of the principle use.
- This phased development included two phases. Phase 1 included a 13,111 square foot one-story building which is constructed and occupied. The second building associated with Phase 2, consisting of 11,460 square feet, is under construction. The applicant is seeking this Conditional Use Permit to operate a health bar within a 1,100 square foot unit for a health and wellness center within this second building.
- The health and wellness center will provide individual nutritional training sessions virtually as well as in person meal planning and nutritional classes. A small health bar is also planned that will offer health drinks, snacks, and meals. Per the Zoning Ordinance, the eating and drinking establishment cannot occupy more than 10% of the total floor area of the principle use. The proposed small health bar meets this requirement as it is proposed to have a total floor area of 110 square feet, as depicted in the floor plan on page eight of this report.
- The proposed building's façade that is under construction will have an exterior primarily of Exterior Insulation Finishing System (EIFS) and storefront glass with stone and vinyl, and an architectural-style shingle roof, as depicted on pages six and seven of this report.
- The typical hours of operation will be from 9:00 a.m. through 7:00 p.m., Monday through Saturday. Approximately 3-4 employees will be on-site at any one time.



### Zoning History

#	Request
1	CUP (Hair Care Center) Approved 11/07/2017 CRZ (AG-2 to Conditional O-2) Approved 04/14/2009
2	MOD Approved 12/10/2003 CRZ (AG-2 to Conditional R-10 & P-1 (PD-H2)) Approved 03/08/2006
3	CUP (Bulk Storage Yard) Approved 02/28/2012
4	CRZ (AG-2 to Conditional O-2 and B-2) Approved 02/24/2009

### 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

This request for a Conditional Use Permit for an Eating and Drinking Establishment, in Staff's opinion, is acceptable. The request is in keeping with the policies and goals set forth in the Comprehensive Plan for the Transition Area and is compatible to the existing development in the vicinity that serves the residents of the area. The land use planning



policies focus strongly on promoting this area as a well-planned, low density, fiscally sound and desirable destination for people to live, work and play. The Plan encourages commercial developments within the Transition Area be scaled to accommodate local neighborhood needs and be “neighborhood-serving” to support the nearby residential neighborhoods. As such, the proposed health and wellness center and health bar aligns with this principle and in Staff’s view is consistent with the general use recommendation for the Transition Area.

This site is located within the Southern Rivers watershed. A preliminary stormwater analysis was not needed as the site plan for the construction of this building has been approved and all stormwater regulations have been reviewed and approved by the Development Services Center.

Per the Zoning Ordinance, 43 parking spaces are required. Parking on-site is met and exceeded by 24 parking spaces.

Based on these considerations, Staff recommends approval of the 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.
2. The maximum number of attendees or the occupancy load shall be determined by the City of Virginia Beach Building Official’s Office.
3. No amplification of music or use of speakers shall be permitted except within the enclosed building.
4. The Eating and Drinking Establishment, in conjunction with this principle use, shall in combination not occupy more than ten (10) percent of the total floor area.
5. Any onsite signage for the health and wellness center shall meet the requirements of the City Zoning Ordinance, and there shall be no neon or electronic display signs or accents, installed on any wall area of the exterior of the building, in or on the windows, or on the doors. The building signage shall not be a “box sign.” There shall be no window signage permitted. A separate sign permit shall be obtained from the Department of Planning & Community Development for the installation of the signage.

*Further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.*

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

## Comprehensive Plan Recommendations

The Comprehensive Plan designates the subject property as being within the Transition Area. The Transition Area serves as a unique land use area buffering the low density Rural Area to the south from the more densely developed Suburban Area to the north. Within the Transition Area, the Plan calls for development patterns that promote open space, low per acre density and preservation of natural features. Non-residential uses should be “neighborhood-serving.” These are

uses that are scaled to support the needs of nearby residential neighborhoods, users of the Transition Area's open space and recreational areas, and agricultural users.

## 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. As the site is developed with an existing medical office center and parking lot, no additional impacts are anticipated with this request. There do not appear to be any significant natural or cultural resources on the site.

## Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Fisher Arch	No Data Available <sup>1</sup>	9,900 ADT <sup>1</sup> (LOS <sup>3</sup> “D”)	No Change Anticipated <sup>2</sup>
Princess Anne Road	12,340 ADT <sup>1</sup>	15,400 ADT <sup>1</sup> (LOS <sup>3</sup> “D”)	
<sup>1</sup> Average Daily Trips	<sup>2</sup> as defined by a health & wellness center with a health bar	<sup>3</sup> LOS = Level of Service	

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

Access to this site is from Fisher arch, which is a loop road connecting Princess Anne Road and Sandbridge Road. Fisher Arch is a two-lane local roadway with a sixty foot right-of-way width. It is not included in the City's MTP map. Princess Anne Road is a two-lane minor suburban arterial with a variable-width right-of-way near the intersection with Fisher Arch.

## Public Utility Impacts

### Water & Sewer

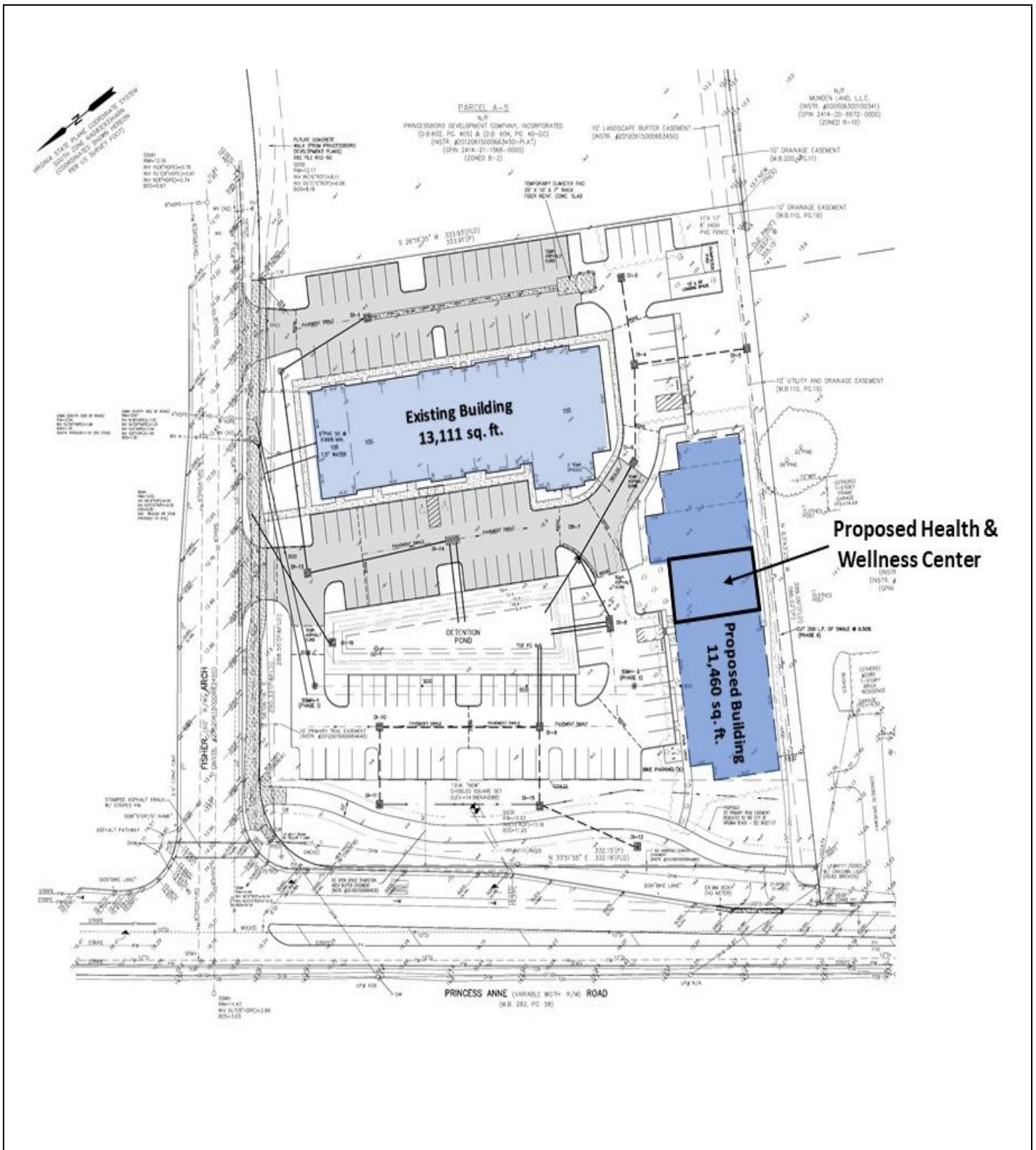
The site is currently connected to both City water and sanitary sewer service.

## Public Outreach Information

### Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on June 14, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, June 27, 2021 and July 4, 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 June 28, 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](http://www.vbgov.com/pc) on July 8, 2021.

# Proposed Site Layout





## Proposed Building Renderings

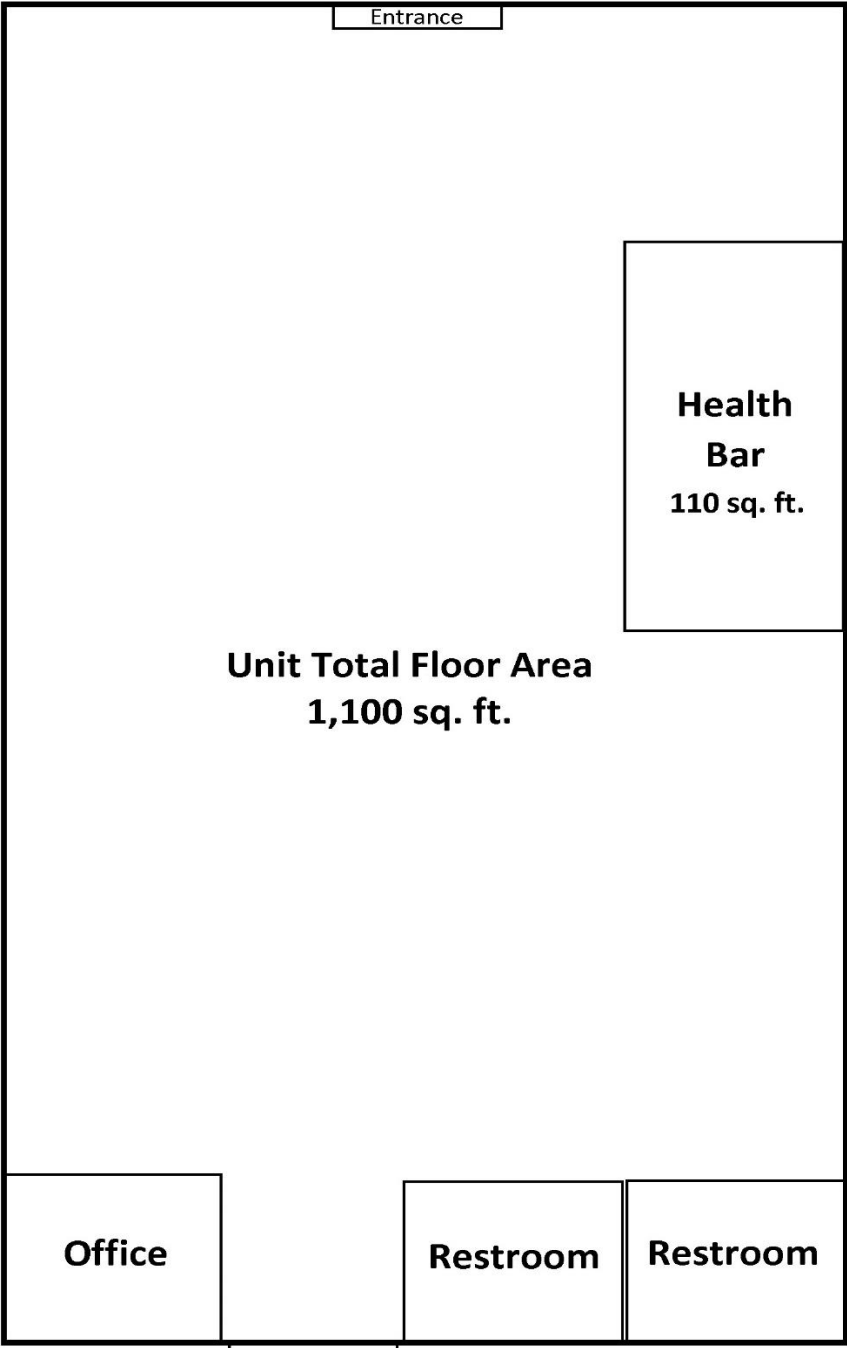




## Proposed Building Renderings



KABP Development, LLC  
Floor 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** KABP Development, LLC

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

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

Kristen Huber

**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)

Thomas H. Atherton, III; R. Troy Parker; James Burnell; Michael Kahan

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

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

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

### Disclosure Statement



#### Known Interest by Public Official or Employee

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

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

#### Applicant Services Disclosure

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

☒ Yes ☐ No

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

Towne Bank

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

☒ Yes ☐ No

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

Parker Burnell Real Estate Group, LLC

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.

Pat Yockey

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.

Kerry Finley

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.

Atherton Construction & Development, Inc. see text here

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.

Gaddy

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.

Nathaniel P. Tyler, Willcox & Savage, P.C.

### Applicant Signature

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

Applicant Signature

Thomas H. Atherton, III

Print Name and Title

3/2/2021

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	

## 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.





Applicant **Wakefield Development, LLC**  
Property Owner **Merlin Beiler, Trustee of the Elva Y. Beiler Trust & of Elva Y. Beiler Land Trust**  
Planning Commission Public Hearing **July 14, 2021**  
City Council Election District **Princess Anne**

Agenda Item

7

**The applicant is requesting an indefinite deferral to refine the Preliminary Stormwater Drainage Analysis.**

**Request**

**Conditional Rezoning** (R-15 Residential District & AG-1 Agricultural District to Conditional R-10 Residential District)

**Staff Recommendation**

Deferral

**Staff Planner**

Marchelle Coleman

**Location**

2328 & 2264 Salem Road

**GPINs**

1484163140, 1484058862

**Site Size**

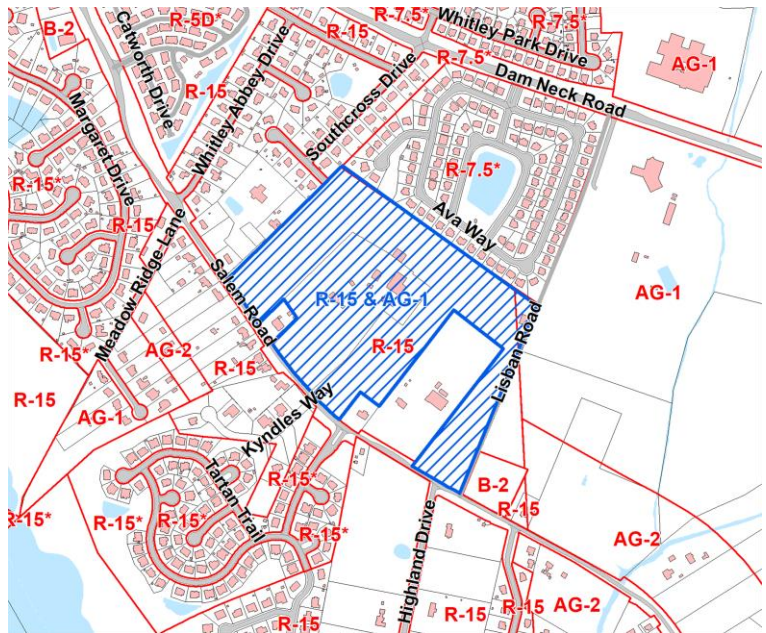
40.04 acres

**AICUZ**

Less than 65 dB DNL

**Watershed**

Southern Rivers





**Request**

**Conditional Rezoning** (B-1 Neighborhood Business to B-2 Community Business)

**Staff Recommendation**

Approval

**Staff Planner**

Marchelle Coleman

**Location**

2749 S. Independence Boulevard

**GPIN**

1475416438

**Site Size**

2.17 acres

**AICUZ**

Less than 65 dB DNL

**Watershed**

Southern Rivers

**Existing Land Use and Zoning District**

Vacant retail / B-1 Neighborhood Business

**Surrounding Land Uses and Zoning Districts**

**North**

Single-family dwellings / PD-H2 Planned Unit Development (A-12 Apartment)

**South**

Golf course / P-1 Preservation

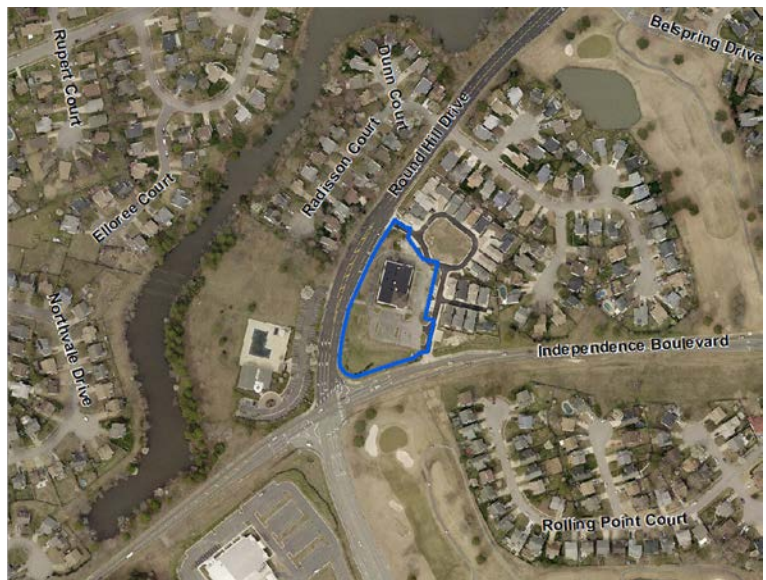
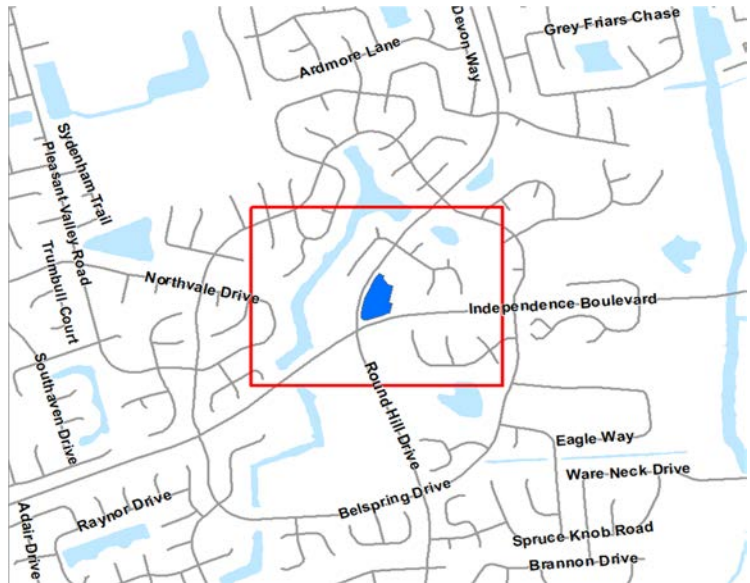
**East**

Single-family dwellings / PD-H2 Planned Unit Development (A-12 Apartment)

**West**

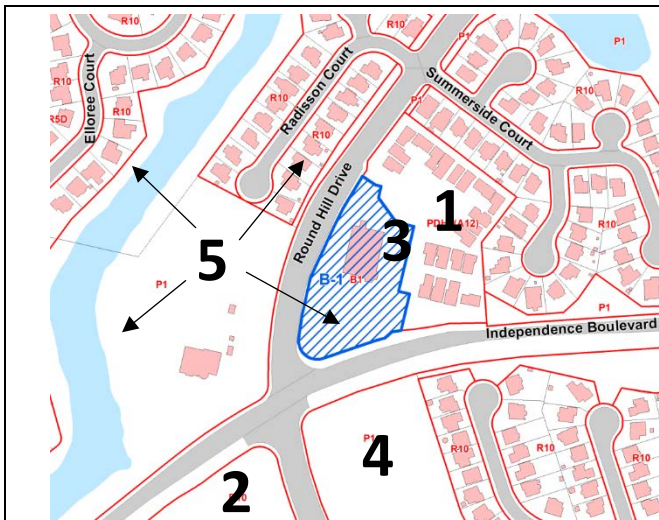
S. Independence Boulevard

Community center / P-1 Preservation



## Background & Summary of Proposal

- The applicant proposes to rezone a 2.17-acre parcel from B-1 Neighborhood Business District to Conditional B-2 Community Business District in order to operate a commercial retail store in the vacant building on the site. The property was rezoned from PD-H2 Planned Unit Development to Conditional B-1 Neighborhood Business on December 5, 1995 in order to allow a pharmacy to occupy the site. The B-1 District permits uses that are specifically considered neighborhood serving, such as a pharmacy. In order to operate a general retail use, a rezoning to B-2 Community Business District is required.
- The existing building, previously a Rite Aid Pharmacy, was developed in 1997. The building has been vacant since 2005 and the applicant is seeking to rezone the property in order to operate a retail store (Dollar Tree). No major structural changes are proposed to the exterior of the building.
- The property to the north was at one time part of the larger commercial development but was rezoned in 2014 to allow for the subdivision and construction of the single-family condominium homes, known as Honeybee Village. As part of the conditional rezoning agreement associated with the single-family condominium property, a cross access easement along Charlotte Way was established for the benefit of both the pharmacy and the condominium. At the request of the condominium association, the applicant is now seeking to construct a new vehicular access point on Round Hill Drive, rather than continue to access the former pharmacy site through a shared ingress/egress. The goal is to provide a separate entrance for the commercial site as a means to eliminate non-residential traffic at Charlotte Way/Round Hill Drive from mixing with traffic generated solely by the single-family condominium neighborhood.
- As depicted on the proffered site layout plan, the landscaping on the site will meet all standards identified in the Zoning Ordinance, including but not limited to, streetscape, interior parking lot, and foundation plantings. The landscape plan will be reviewed in more detail during final site plan review.
- The proffered building elevations show that there will be no major changes to the building, except for the addition of the business' logo and fresh new paint, as depicted on page seven of this report.



### Zoning History

#	Request
1	CRZ (B-1 to Conditional PD-H2 (A-12)) Approved 10/07/2014
2	CUP (Church) Approved 12/03/2013 MOD (Add an Awning) Approved 05/10/2005 CUP (Church) Approved 10/28/1997 REZ (B-1 to R-10) Approved 10/17/1995 CUP (Church) Approved 10/17/1995
3	REZ (PD-H2 to B-1) Approved 12/05/1995
4	REZ (PD-H2 to P-1) Approved 12/09/1985
5	LUP (Glenwood Land Use Plan) Approved 11/12/1984

### 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 to rezone the 2.17-acre parcel from B-1 Neighborhood Business to Conditional B-2 Community Business to operate a retail store (Dollar Tree), in Staff's opinion, is acceptable. The request is in keeping with the policies and goals set forth in the Comprehensive Plan for the Suburban Area, as it is in line with the vision of creating and maintaining "Great Neighborhoods". The reuse of the existing building that has sat vacant for 16 years will provide a much needed service to the community which allows those in the vicinity to walk or bike to obtain food, school and office supplies, and houseware products. The reuse of this building is encouraged in order to maintain neighborhood stability and high-quality standard of living for the current and future residents of the City. The proposal to reuse the existing footprint of the building is in conformance with the Comprehensive Plans' Special Area Development Guidelines for the suburban areas.

The proffers have been crafted to prohibit the most objectionable uses that could be incompatible with the nearby residences. As a safeguard to the neighboring residential development, the following uses will be prohibited for any future development of the site: automobile repair garages and small engine repair establishments; automobile service stations; bars or nightclubs; beverage manufacturing shops; bicycle and moped rental establishments; boat sales; body piercing establishments; borrow pits; building-mounted antennas other than those meeting the requirements of Section 207 of the City Zoning Ordinance; bulk storage yards and building contractor yards; car wash facilities; commercial parking lots; parking garages, parking structures and storage garages; craft breweries; craft distilleries; dormitories for marine pilots; eating and drinking establishments with drive-through windows; liquor stores; mini-warehouses; mobile home sales; motor vehicles sales and rental; passenger transportation terminals; public utility storage or maintenance installations; radio and television broadcasting stations; satellite wagering facilities; storage garages; tattoo parlors; and wine-tasting rooms. By limiting the uses allowed on the site, it will provide protection for the residential development as the majority of these uses generate high traffic volumes, create noise and are more intense uses that can adversely affect the quality of life and enjoyment of the adjacent residential property owners.

To address concerns from the neighboring community regarding the shared access on Charlotte Way off of Round Hill Drive, the applicant worked with Staff and the community to construct a new access on Round Hill Drive solely for the retail use. The construction of this proposed entrance on Round Hill Drive will help to eliminate safety and increased traffic concerns for this small knit community. While both S. Independence Boulevard and Round Hill Drive are under capacity, Staff noted that the proposed retail use will likely result in a decrease in traffic generation when compared to the previous use of the site by a pharmacy.

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

## Proffers

The following are proffers submitted by the applicant as part of a Conditional Zoning Agreement (CZA). The applicant, consistent with Section 107(h) of the City Zoning Ordinance, has voluntarily submitted these proffers in an attempt to "offset identified problems to the extent that the proposed rezoning is acceptable," (§107(h)(1)). Should this application be approved, the proffers will be recorded at the Circuit Court and serve as conditions restricting the use of the property as proposed with this change of zoning.

### **Proffer 1:**

The Property shall be developed in substantial conformity with the conceptual site plan entitled "Dollar Tree – Independence Boulevard, Virginia Beach, VA, Conceptual Development Plan", dated June 14, 2021, and prepared by Timmons Group, Inc. (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 2:**

The quality of architectural design and materials of the retail building on the Property shall be in general conformity with the elevations entitled “Dollar Tree – Former Rite Aid”, dated February 1, 2021, and prepared by RRMM Architects (the “Elevations”), 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 3:**

The following uses will be prohibited on the Property: automobile repair garages and small engine repair establishments; automobile service stations; bars or nightclubs; beverage manufacturing shops; bicycle and moped rental establishments; boat sales; body piercing establishments; borrow pits; building-mounted antennas other than those meeting the requirements of Section 207 of the City Zoning Ordinance; bulk storage yards and building contractor yards; car wash facilities; commercial parking lots; parking garages, parking structures and storage garages; craft breweries; craft distilleries; dormitories for marine pilots; eating and drinking establishments with drive-through windows; liquor stores; mini-warehouses; mobile home sales; motor vehicles sales and rental; passenger transportation terminals; public utility storage or maintenance installations; radio and television broadcasting stations; satellite wagering facilities; storage garages; tattoo parlors; and wine-tasting rooms.

**Proffer 4:**

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

**Staff Comments:** Staff has reviewed the Proffers listed above and finds them acceptable. The City Attorney’s Office has reviewed the agreement and found it to be legally sufficient and in acceptable legal form.

## Comprehensive Plan Recommendations

The Comprehensive Plan identifies this site as being located within the Suburban Area. The general planning principles for the Suburban Area focus on creating and maintaining great neighborhoods through stability and sustainability; protecting and enhancing open spaces and places of cultural and historical significance; and creating and maintaining a transportation system that provides connectivity and mobility. Achieving these goals requires that all land use activities either maintain or enhance the existing neighborhood through compatibility with surroundings, quality and attractiveness of site and buildings, improved mobility, environmental responsibility, livability, and effective buffering with respect to type, size, intensity and relationship to 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
S. Independence Boulevard	12,200 ADT <sup>1</sup>	15,000 ADT <sup>1</sup> (LOS <sup>4</sup> "D")	Existing Land Use <sup>2</sup> – 1,200 ADT Proposed Land Use <sup>3</sup> – 700 ADT
Round Hill Drive	3,000 ADT <sup>1</sup>	20,700 ADT <sup>1</sup> (LOS <sup>4</sup> "D")	
<sup>1</sup> Average Daily Trips	<sup>2</sup> as defined by a pharmacy with drive-thru	<sup>3</sup> as defined by a 11,00 square foot retail store	<sup>4</sup> LOS = Level of Service

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

S. Independence Boulevard, in the vicinity of this application, is considered a two-lane undivided minor suburban arterial. The MTP proposes a four-lane facility within a 110-foot right-of-way. No roadway CIP projects are slated for this area.

Round Hill Drive, in the vicinity of this application, is considered a four-lane undivided collector street. The MTP proposes a four-lane facility within an 80-foot right-of-way. No roadway CIP projects are slated for this area.

## Public Utility Impacts

### Water

The site must connect to City water. There is an existing 16-inch City water transmission main along S. Independence Boulevard and an existing 12-inch City water main along Round Hill Drive.

### Sewer

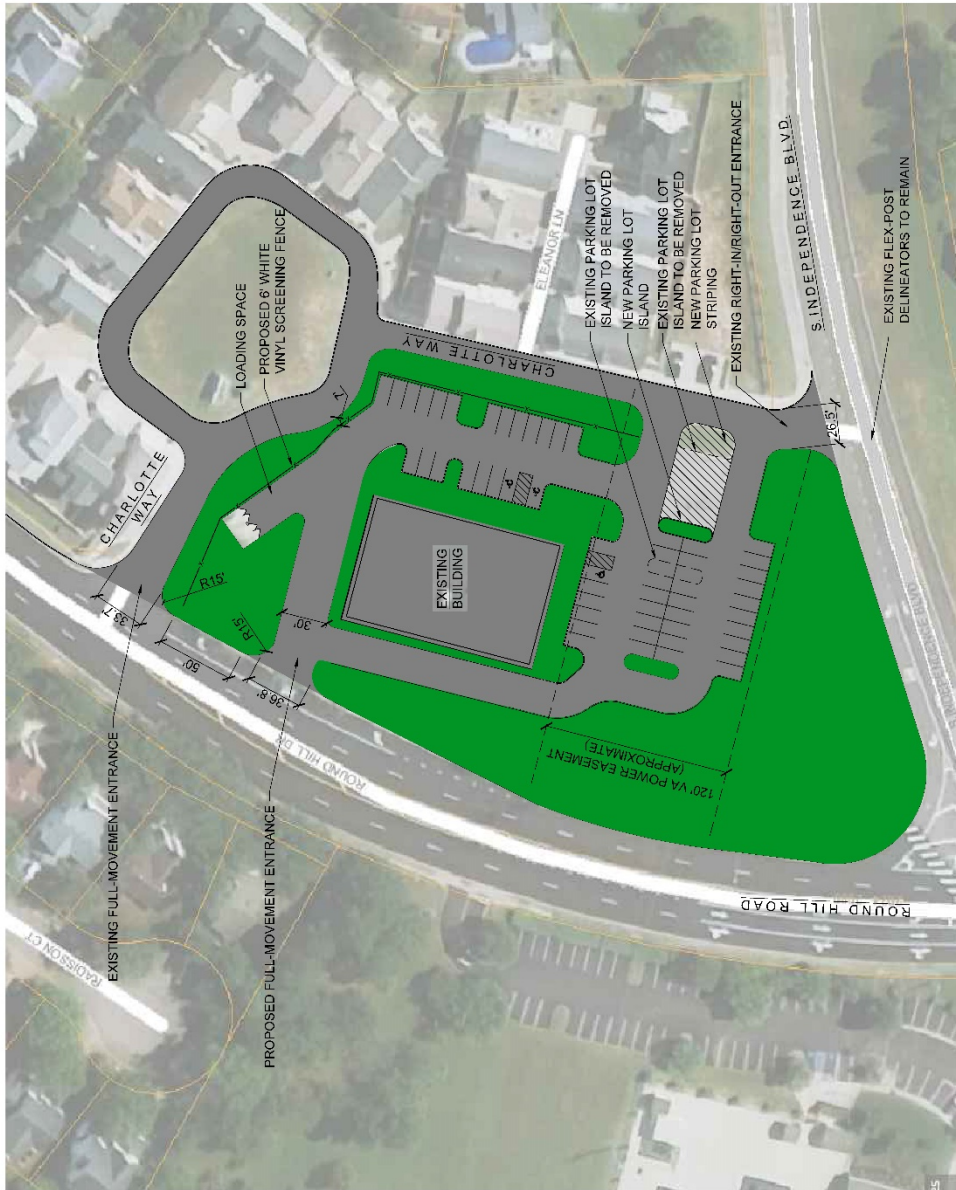
The site is connected to City sewer. There is an existing 8-inch sanitary sewer gravity main along Round Hill Drive.

## Public Outreach Information

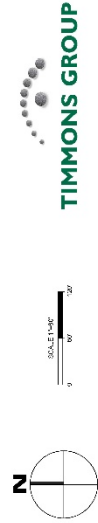
### Planning Commission

- The applicant's representative discussed the proposal with the Glenwood Community Association and no objections were raised. On Tuesday, April 6, 2021, the applicant's representative met with the Honeybee Village Homeowner's Association to discuss the details of the request. According to the applicant, the proposal to operate a Dollar Tree store was well received; however, there were concerns for the safety of residents regarding the shared vehicular access points along Round Hill Drive.
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on May 10, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, May 23, 2021 and May 30, 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 May 24, 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](http://www.vbgov.com/pc) on June 3, 2021.

# Proposed Site Layout



- PARKING TABULATION:**  
 56 TOTAL  
 53 STANDARD  
 3 HANDICAPPED VAN ACCESSIBLE
- NOTES:**  
 1. SUBJECT TO CITY APPROVAL, DIRECTIONAL SIGNAGE TO BE INSTALLED IN PROXIMITY TO THE PROPERTY'S ROUND HILL DRIVE AND S. INDEPENDENCE BLVD FRONTAGES IDENTIFYING THE ENTRANCE TO THE COMMERCIAL PARKING AREA LOCATED ON THE PROPERTY.  
 2. SITE LIGHTING WILL BE INWARDLY AND DOWNWARDLY DIRECTED, AND ANY EXISTING LIGHTING DIRECTED TOWARD THE HONEY BEE VILLAGE COMMUNITY WILL BE REMOVED.



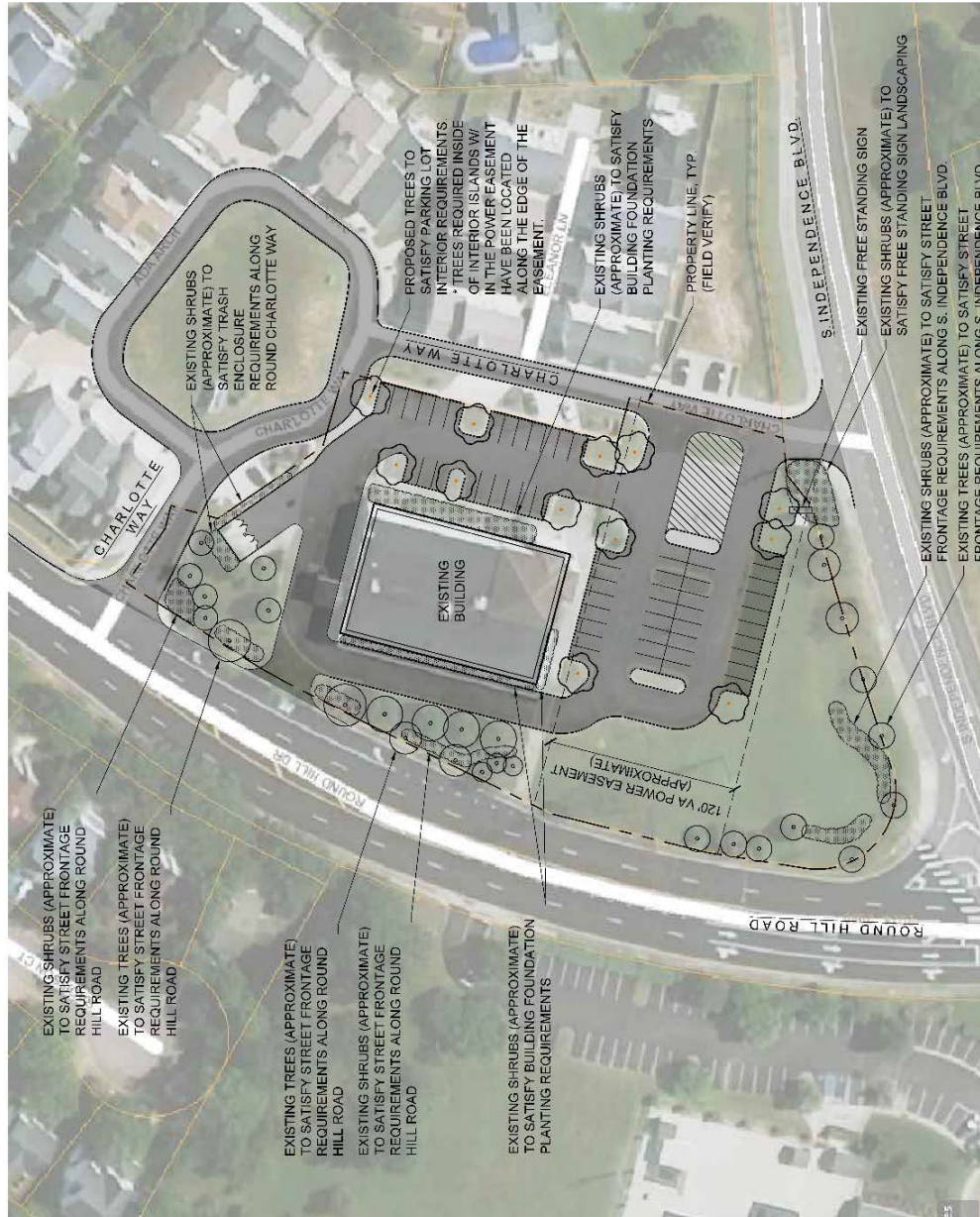
## DOLLAR TREE - Independence Blvd, Virginia Beach, VA

Conceptual Development Plan - June 14, 2021



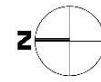


# Proposed Landscape Plan



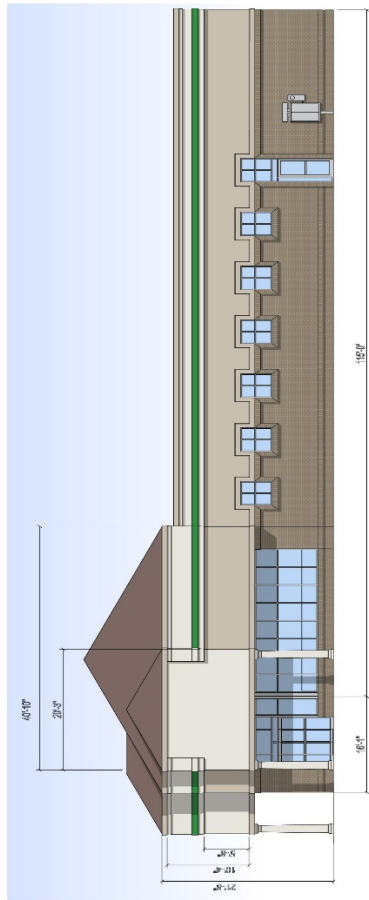
## DOLLAR TREE - Independence Blvd, Virginia Beach, VA

Conceptual Development Plan - June 14, 2021



SCALE  
0 60 120

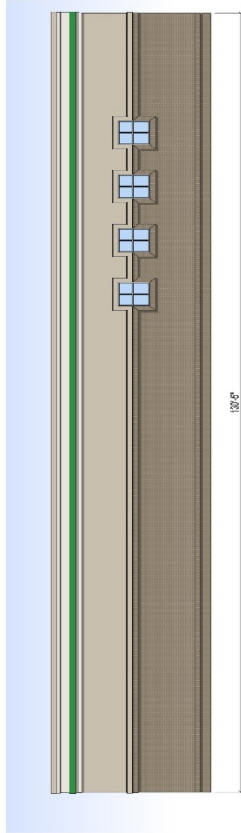
TIMMONS GROUP



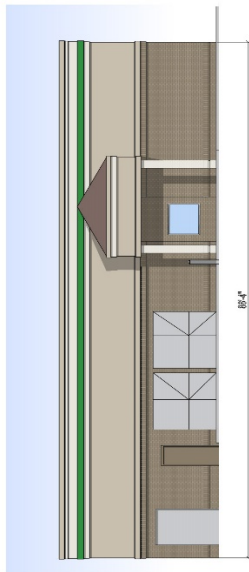
FRONT LEFT ELEVATION



FRONT RIGHT ELEVATION



RIGHT REAR ELEVATION



LEFT REAR ELEVATION



EXISTING ELEVATION

- |   |                                       |   |                                   |
|---|---------------------------------------|---|-----------------------------------|
|  | SW ENVIY                              |  | SW BALANCED BEIGE / STO SANDSTONE |
|  | SW AESTHETIC WHITE / STO SMOKED PUTTY |  | SW VIRTUAL TAUPE                  |

## VIRGINIA BEACH, VA.

### Dollar Tree - Former Rite Aid

February 1, 2021





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** Elias Properties Virginia Beach Independence, 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)

Martin Elias, Sole Member/Manager

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

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

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

### Disclosure Statement



#### Known Interest by Public Official or Employee

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

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

#### Applicant Services Disclosure

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

☒ Yes ☐ No

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

Genworth Life Insurance Company

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.

Divaris Real Estate, Inc.

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.

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 firm and individual providing the service.

Troutman Pepper Hamilton Sanders LLP; Robert P. Beaman III

#### 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 'M. Elias'.

Applicant Signature

Martin Elias, Managing Member

Print Name and Title

February 22, 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	

## Next Steps

- Upon receiving a recommendation from Planning Commission, this request will be scheduled for a City Council public hearing. Staff will inform the applicant and/or their representative of the date of the hearing in the upcoming days.
- Following City Council's decision, the applicant will receive a decision letter from Staff.
- Once the conditions of approval are in place and/or completed, the applicant must contact the Zoning Division of the Planning Department to obtain verification that the conditions have been met. Contact the Zoning Division at 757-385-8074.
- If the request requires land disturbance and/or a subdivision of property, please contact the Development Services Center (DSC) to discuss next steps for site plan/plat review. Contact the DSC at 757-385-4621 or the Development Liaison Team at 757-385-8610.
- Please note that further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.
- The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.



### Requests

**#9 - Conditional Rezoning** (A-12 Apartment District & B-2 Business District to Conditional B-2 Business District)

**#10 - Conditional Use Permit** (Auto Storage Yard)

**#11 - Conditional Use Permit** (Car Wash Facility)

### Staff Recommendation

Denial

### Staff Planner

Hoa N. Dao

### Location

325, 349 & 361 Nelms Lane

### GPINs

1467678119, 1467678323, 1467678469,  
1467678669

### Site Size

3.28 acres

### AICUZ

Less than 65 dB DNL

### Watershed

Chesapeake Bay

### Existing Land Use and Zoning District

Undeveloped land / B-2 Community Business & A-12 Apartment

### Surrounding Land Uses and Zoning Districts

#### North

Nelms Lane

Multi-family dwellings / A-12 Apartment

#### South

Retail / B-2 Community Business

#### East

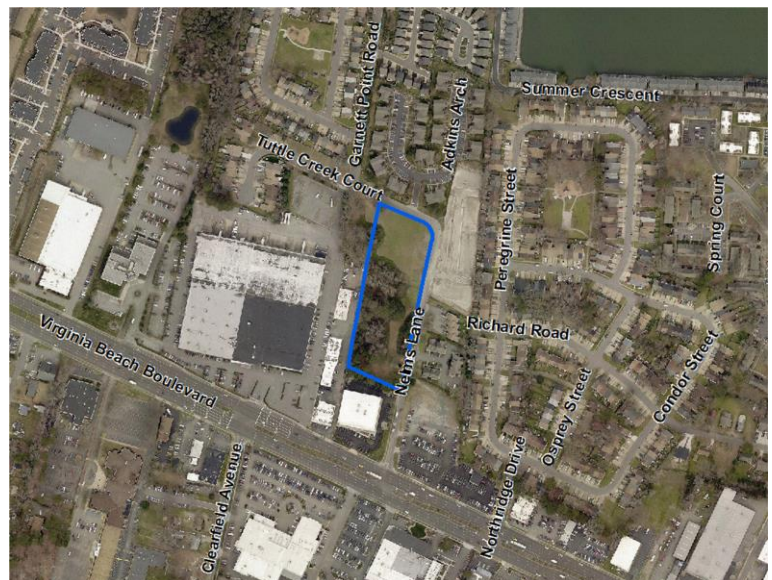
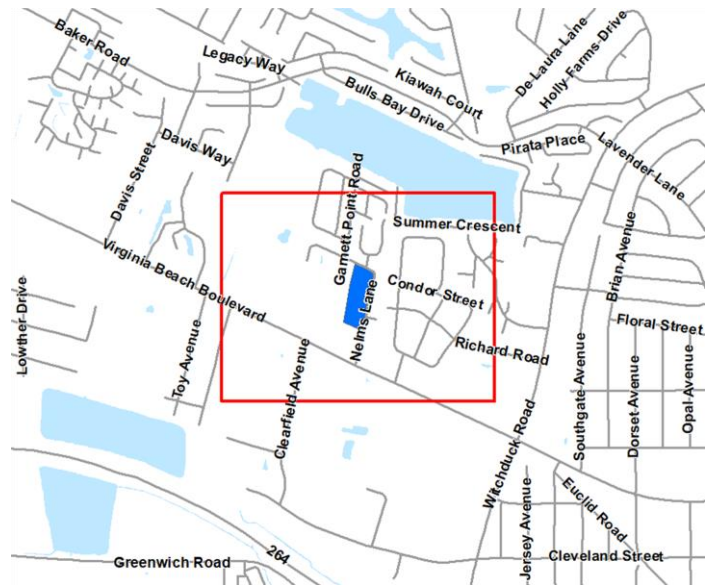
Nelms Lane

Multi-family dwellings, dealership / A-12

Apartment & B-2 Community Business

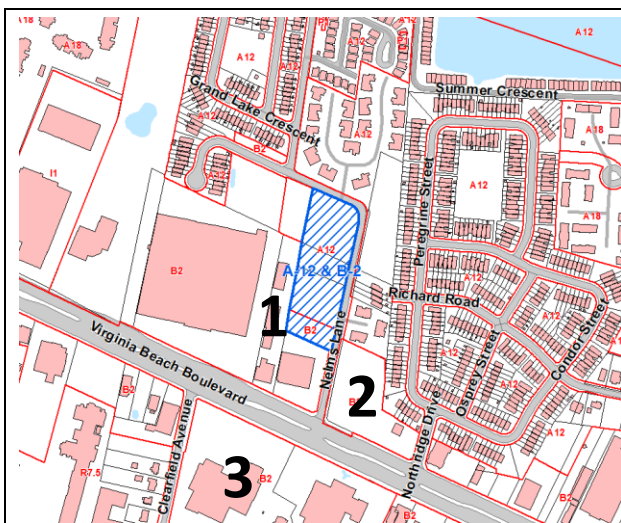
#### West

Retail / B-2 Community Business



## Background & Summary of Proposal

- The applicant seeks to rezone 3.91 acres from A-12 Apartment District and B-2 Community Business District to Conditional B-2 Community Business District to operate an Auto Storage Yard and Car Wash Facility. Both the Auto Storage Yard and the Car Wash Facility require Conditional Use Permits in the B-2 Community Business District.
- The development is proposed to be completed in two phases. Phase I will be limited to the Auto Storage Yard on the entire 3.28-acre site. At some point in the future, Phase II will include the construction of a 4,256 square foot Car Wash facility and a reduction in the square footage of the Auto Storage Yard in order to accommodate the car wash building. According to the applicant, there is no timeline for the development of Phase II at this time.
- The proposed storage yard and car wash will not be open to the public and use will be limited to the applicant's auto dealership that operates on the adjacent parcel with frontage along Virginia Beach Boulevard.
- The submitted site layout plan shows sidewalks, and curb and gutter improvements along Nelms Lane, and proposed 20-foot and 15-foot-wide landscape buffers with an eight-foot tall privacy fence, thereby exceeding the minimum screening requirement for these uses.
- Vehicular access to the site will be from Nelms Lane, which serves as the single access street for the adjacent residential community to the east, north and west of this site.
- The submitted elevations for the car wash building depict an earth tone building with a metal roof, fiber cement siding, and split face CMU base, as depicted on page nine of this report.
- The applicant has indicated that an underground stormwater system beneath the parking area will be installed to capture and treat stormwater runoff. Review for compliance with all stormwater regulations will be completed at the time of final site plan review.



### Zoning History

#	Request
1	CUP (Bulk Storage Yard) Approved 11/20/2018
2	CRZ (A-12 & B-2 to Conditional B-2) Approved 01/20/2015 CUP (Auto Sales & Service) Approved 01/20/2015
3	MOD (Modification of Conditions) Approved 9/24/2013 CRZ (AG-2 to Conditional O-2) Approved 11/08/1995 CUP (Private Club, Lodge, Social Center, Eleemosynary Establishment, Athletic Club) Approved 11/08/1995

### Application Types

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

MOD – Modification of Conditions or Proffers  
NON – Nonconforming Use  
STC – Street Closure

FVR – Floodplain Variance  
ALT – Alternative Compliance  
SVR – Subdivision Variance

LUP – Land Use Plan  
STR – Short Term Rental

## Evaluation & Recommendation

The proposal to rezone the 3.28-acre site for commercial uses at this location, in Staff's opinion, is not acceptable. The Comprehensive Plan recommends that developments within the Suburban Area preserve and protect the overall character, economic value, and aesthetic quality of the existing surrounding neighborhoods. One of the guiding development principles of the Suburban Area is the creation of "Great Neighborhoods," which can be achieved by providing a stable and sustainable neighborhood supported by complimentary non-residential uses. The access to the property is proposed from Nelms Lane which is the only access way to the residential dwellings in the neighborhood. The proposal to rezone the property for auto-centric commercial uses that will not be neighborhood serving and not complementary to the residences in the vicinity is deemed to be inconsistent with the vision of the Comprehensive Plan. The existing A-12 zoning is consistent with the zoning of the property across Nelms Lane. Staff does not believe that this proposal, including the voluntary proffers included with the application, is designed to sufficiently project the integrity of the adjacent residential properties. The proposed uses at this location, regardless of the content of the proffer agreement, present difficulties with regard to compatibility as described herein.

The surrounding area is a well-established residential community with one-way in and out by a single roadway, Nelms Lane. With Nelms Lane serving as the only access point for the residential community adjacent to this development, Staff is concerned with the nature of the Auto Storage Yard that includes large tractor trailers transporting and delivering vehicles to the site. The proposed plan also depicts that an existing non-compliant driveway will remain and be blocked with a fence. In Staff's opinion, this could hinder access on Nelms Lane for residents in the community. In addition, the aesthetic associated with the car wash and large auto storage yard will do little to enhance the community.

While Staff found the proposal to be incompatible at this location and has concerns regarding traffic congestion and safety, Staff appreciates the applicant's willingness to work with Staff to enhance the landscape buffers along Nelms Lane to 20 feet wide and increase the fence height from six to eight feet tall. These enhancements exceed the minimum Zoning Ordinance requirements for a 15-foot landscape buffer along residential districts with Category VI screening. In addition, the building's exterior was modified from an industrial metal building type to include earth tone colors, cement fiber board lap siding and trim that are more in line with the surrounding residential area. The applicant also agrees to limit the number of access points to this property to one and designate the northern access point for emergency vehicle use only. This reduces the potential for vehicular conflicts on Nelms Lane.

Based on the considerations described above, Staff recommends denial of these requests; however, should the Planning Commission contemplate approval, the following proffers and conditions are provided for consideration.

## Proffers

The following are proffers submitted by the applicant as part of a Conditional Zoning Agreement (CZA). The applicant, consistent with Section 107(h) of the City Zoning Ordinance, has voluntarily submitted these proffers in an attempt to "offset identified problems to the extent that the proposed rezoning is acceptable," (§107(h)(1)). Should this application be approved, the proffers will be recorded at the Circuit Court and serve as conditions restricting the use of the property as proposed with this change of zoning.

### **Proffer 1:**

When the Property is developed, the entrance, streets, landscaping and fencing shall be substantially in accordance with the "CONCEPTUAL SITE LAYOUT PLAN OF CAR WASH W/ BULK STORAGE FOR CHECKERED FLAG – NELMS LANE", dated 04/15/2021, prepared by Orbis Landscape Architecture, which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning ("Concept Plan").

**Proffer 2:**

To the extent that the Property is developed with a car wash facility, there will be no more than one (1) enclosed building as depicted on the Concept Plan.

**Proffer 3:**

When the Property is developed, all outdoor lighting will be shielded to direct light and glare onto the premises, said lighting and glare will be deflected, shaded, and focused away from all adjoining property. Any outdoor lighting will not be erected any higher than fourteen (14) feet.

**Proffer 4:**

When the Property is developed, the storage yard as depicted on the Concept Plan will be completely enclosed, except for necessary opening for ingress and egress, by a fence no less than six (6) feet in height, except where prohibited by Section 201(e)(1) and Category VI landscaping as per Section 228 of the Zoning Ordinance.

**Proffer 5:**

When the Property is developed, the Property will utilize Category VI landscaping, and will include evergreen shrubs or a combination of trees and shrubs, which will better screen the proposed use from the surrounding residential uses.

**Proffer 6:**

To the extent that the Property is developed with a car wash facility as depicted on the Concept Plan, said facility will restrict any water produced from said facility from falling upon or draining across public streets or sidewalks or adjacent properties.

**Proffer 7:**

To the extent that the Property is developed with a car wash facility as depicted on the Concept Plan, said facility will include the required minimum parking spaces as required by Section 228.1 of the Zoning Ordinance.

**Proffer 8:**

Further conditions may be required by the Grantee during the detailed review of the Conceptual Plan and Review Set and administration of applicable City Codes by all cognizant City agencies and departments to meet all applicable City Code requirements.

**Staff Comments:** The proposed proffers provide assurance for enhancing screening of the site and minimize vehicular impact to the surrounding residential community. Staff has reviewed the Proffers listed above and does not believe the proffers provide protections to the surrounding residential community. The City Attorney's Office has reviewed the agreement and found it to be legally sufficient and in acceptable legal form.

## Recommended Conditions for Auto Storage Yard

1. When the site is being developed, it shall be in substantial conformance to the site layout entitled 'Conceptual Site Layout Plan for Phase 1 of Checkered Flag – Nelms Lane Virginia Beach, Virginia, prepared by Orbis Landscape Architecture, dated April 16, 2021, which has been exhibited to the City Council and is on file in the Planning Department.
2. Any lighting for the Auto Storage Yard shall be limited to light packs installed on the building and fence, as well as pole lighting not to exceed a maximum height of fourteen (14) feet. All lighting shall be shielded and directed downward to limit the amount of light overspill outside the property boundary.
3. The Auto Storage Yard shall be limited to vehicles from the applicant's dealership only.



4. Vehicles associated with this use, including but not limited to, tractor trailers use for transporting vehicles from and to the site, shall not park within the right-of-way.
5. The loading and unloading of vehicles from tractor trailers shall be limited to the subject property and not within the right -of-way.
6. No driveways or vehicular access points shall be permitted along the northern property line.
7. The existing driveway entrance on the eastern property line shall be removed with the curb and sidewalk replaced in compliance with the Public Works Design Standards Manual requirements.
8. Prior to site plan approval, the applicant/owner shall submit a subdivision plat to the Department of Planning & Community Development for review, approval, and recordation to vacate all interior lot lines of the parcels.

### **Recommended Conditions for Car Wash Facility**

1. When the site is being developed, it shall be in substantial conformance to the site layout entitled 'Conceptual Site Layout Plan for Phase 2 of Checkered Flag – Nelms Lane Virginia Beach, Virginia, prepared by Orbis Landscape Architecture, dated April 16, 2021, which has been exhibited to the City Council and is on file in the Planning Department.
2. When the site is being developed, the design and architectural materials of the building shall be in substantial conformance to the elevation plan entitled 'Checker Flag – Nelms Lane – Future Car Wash Building, prepared by Covington Hendrix Anderson Architects, dated June 10, 2021, which has been exhibited to the City Council and is on file in the Planning Department.
3. The Car Wash Facility shall be limited to vehicles from the adjacent dealership only that has frontage along Virginia Beach Boulevard to the south and shall not be opened to the general public.
4. Washing, drying, vacuuming, or detailing of vehicles outdoors shall be prohibited.
5. No driveways or vehicular access points shall be permitted along the northern property line.
6. The existing driveway entrance on the eastern property line shall be removed with the curb and sidewalk replaced in compliance with the Public Works Design Standards Manual requirements.

### **Comprehensive Plan Recommendations**

The Comprehensive Plan designates the subject property in the Suburban Area, which encompasses the preservation and protection of the overall character, economic value, and aesthetic quality of the existing surrounding neighborhoods. Preserving neighborhood quality and characteristics requires that all new development or redevelopment projects to maintain or enhance the existing characteristics of the area, including efforts to protect the natural environment and the historic and cultural resources. One of the guiding development principles of Suburban Areas is the creation of "Great Neighborhoods," which can be achieved by providing a stable and sustainable neighborhood supported by complimentary non-residential uses.

## Natural & Cultural Resources Impacts

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

## Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Nelms Lane	No Data Available	9,900 ADT <sup>1</sup> (LOS <sup>4</sup> "D")	Existing Zoning <sup>2</sup> – 475 ADT Proposed Land Use <sup>3</sup> – No Data Available
<sup>1</sup> Average Daily Trips	<sup>2</sup> as defined by a 21,779 square foot parcel zoned B-2 and 2.8-acre parcels zoned A-12	<sup>3</sup> No information available in the ITE Trip Generation Manual for event venues	<sup>4</sup> LOS = Level of Service

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

Nelms Lane is a two-lane local street. This roadway is not included in the City's MTP, and there are no current CIP projects planned for this portion of roadway.

## Public Utility Impacts

### Water

Future development of the Car Wash Facility will be required to be connected to City water. There is an existing 8-inch City water main along Nelms Lane and 4-inch water main along Tuttle Creek Court.

### Sewer

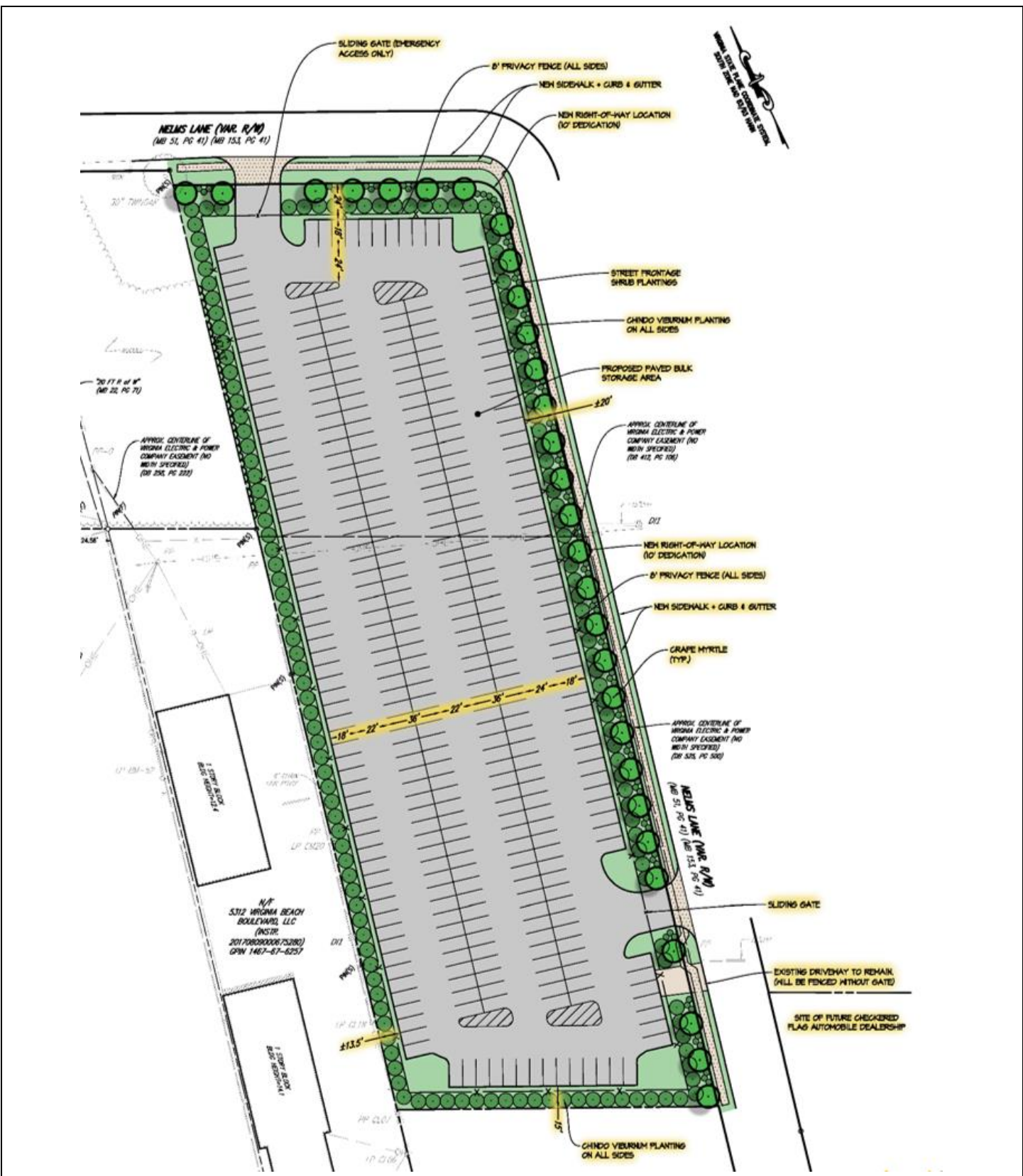
Future development of the Car Wash Facility will be required to be connected to City sanitary sewer. There is an existing 8-inch gravity sanitary sewer main along Nelms Lane and 4-inch force main along Nelms Lane.

## Public Outreach Information

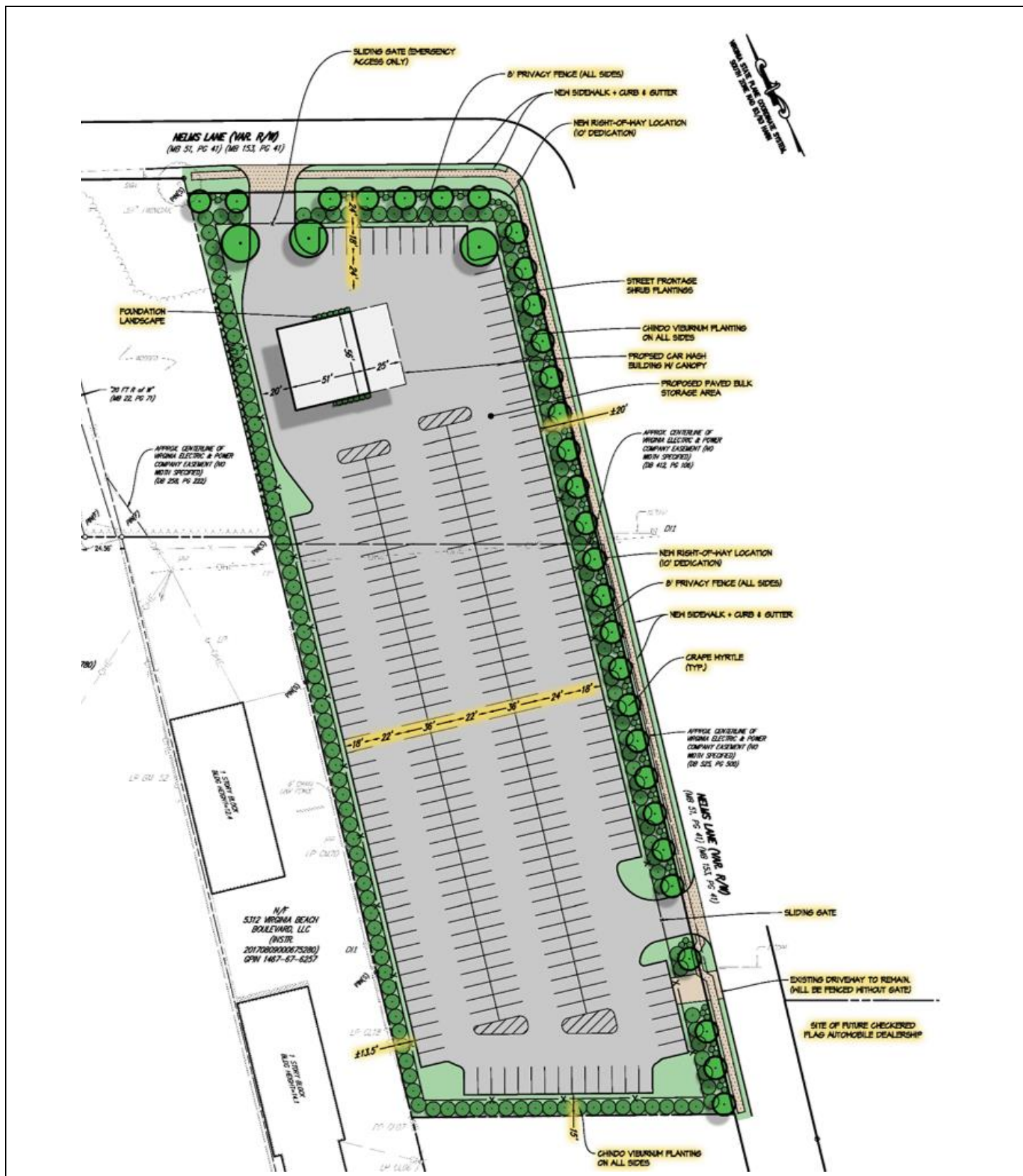
### Planning Commission

- One letter of support has been received by Staff.
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on June 14, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, June 27, 2021 and July 4, 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 June 28, 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](http://www.vbgov.com/pc) on July 8, 2021.

## Proposed Site Layout Plan – Phase I

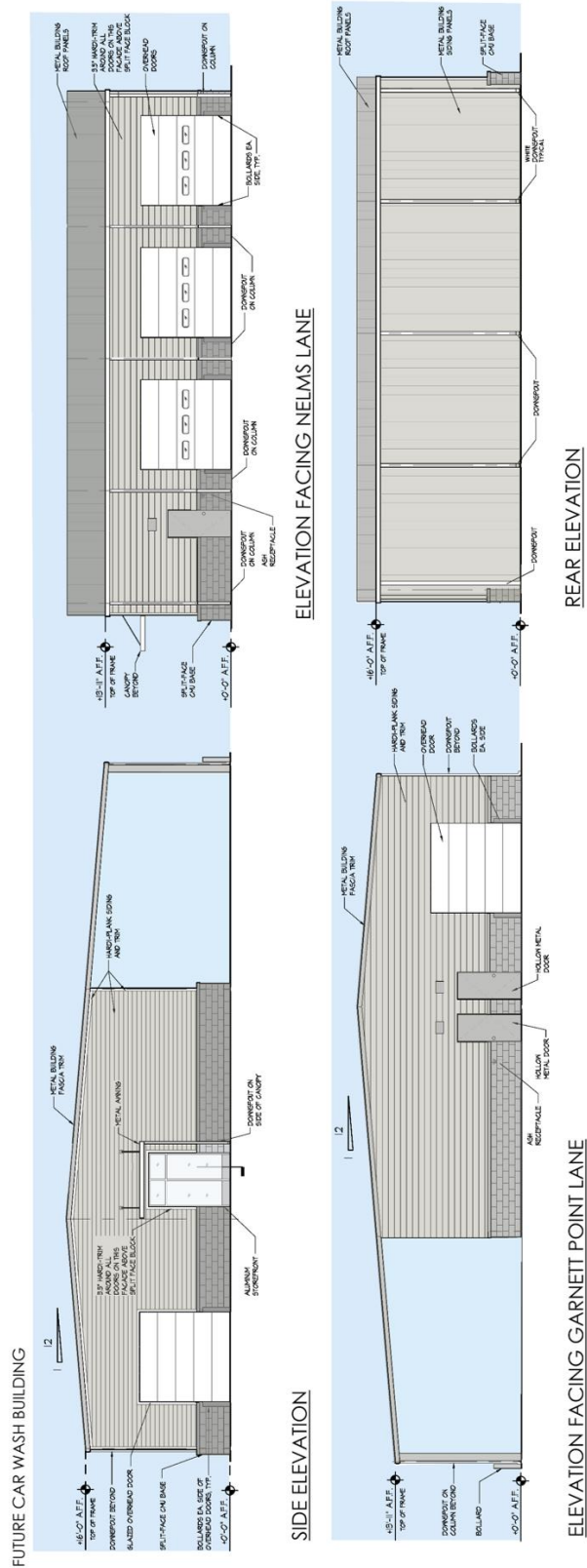


## Proposed Site Layout Plan – Phase II

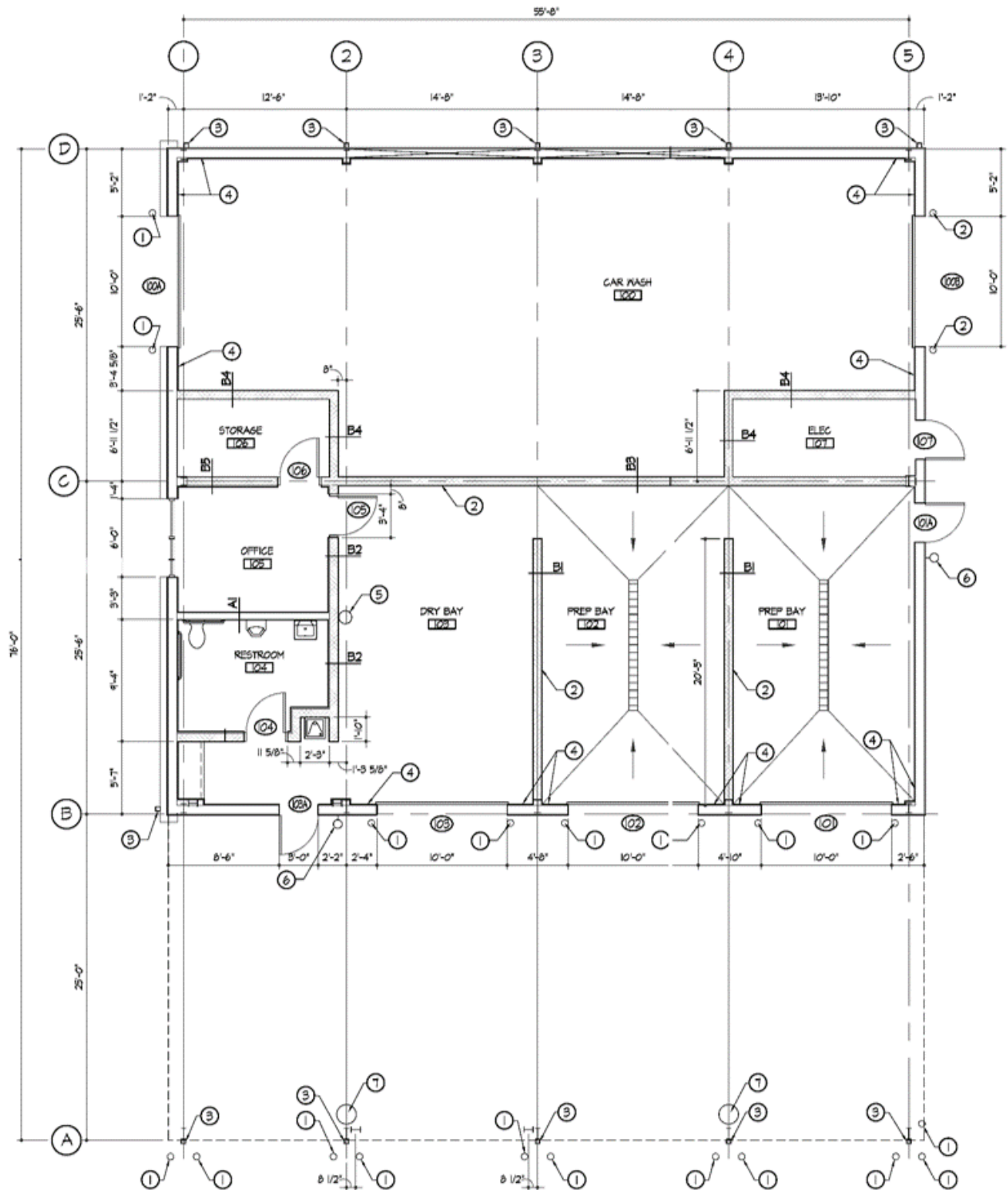




## Proposed Car Wash Facility Elevation Plan



## Proposed Car Wash Facility Floor Plan



SCHEMATIC FUTURE CARWASH BUILDING

## Proposed Lighting Plan





## Site Photos





## Site Photos





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** Winner's Properties, LLC

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

- If yes, list the name of the representative.

Kyle D. Korte, Esq.

**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)

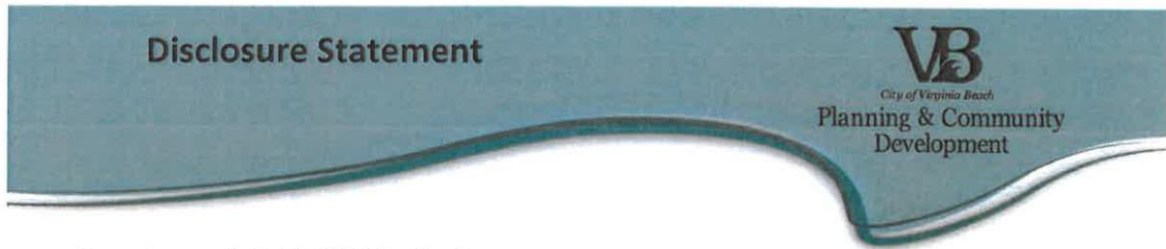
Stephen M. Snyder, Sole Member

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

Please See Document Attached as Exhibit "A."

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

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



### **Known Interest by Public Official or Employee**

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

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

### **Applicant Services Disclosure**

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

☒ Yes ☐ No

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

TowneBank

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

☐ Yes ☒ No

- If **yes**, identify the 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.

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 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.

1: MSA, P.C.; 2: Billy Garrington

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.

Wolcott Rivers Gates, P.C.

### Applicant Signature

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

Applicant Signature

Stephen Snyder, Manager

Print Name and Title

4-29-2021

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



## Disclosure Statement



### Owner Disclosure

**Owner Name** Haynes Furniture Company, Incorporated

**Applicant Name** Winner's Properties, LLC

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

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

Please See Document Attached As Exhibit "B."

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

Please See Document Attached As Exhibit "C."

### Known Interest by Public Official or Employee

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

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

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

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### Owner Services Disclosure

1. Does the Owner have **any existing financing (mortgage, deeds of trust, cross-collateralization, etc)** or are they considering any **financing** in connection with the subject of the application or any business operating or to be operated on the property?  
☐ Yes ☒ No  
  - If **yes**, identify the financial institutions providing the service.
2. Does the Owner have a **real estate broker/agent/realtor** for current and anticipated future sales of the subject property?  
☐ Yes ☒ No  
  - If **yes**, identify the company and individual providing the service.
3. Does the Owner have services for **accounting and/or preparation of tax returns** provided in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No  
  - If **yes**, identify the firm and individual providing the service.
4. Does the Owner have services from an **architect/landscape architect/land planner** provided in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No  
  - If **yes**, identify the firm and individual providing the service.
5. Is there any other **pending or proposed purchaser** of the subject property? ☐ Yes ☒ No  
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  - If **yes**, identify the firm and individual providing the service.

## Disclosure Statement



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

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

Willcox & Savage, P.C.

### 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

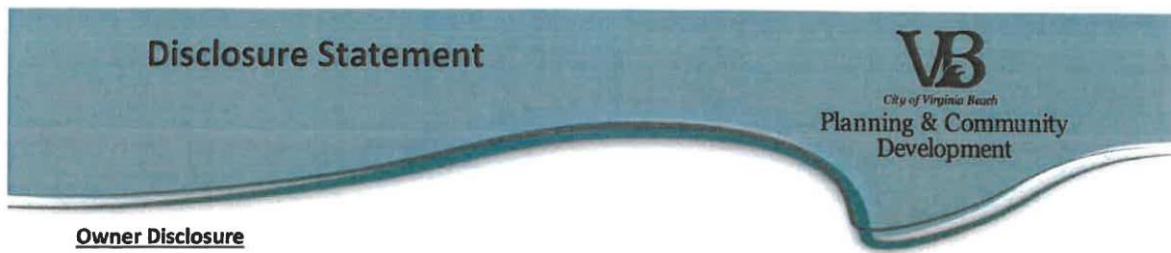
Bruce Breedlove, SVP-CFO, Haynes Furniture Company Inc.

Print Name and Title

4/29/21

Date

## Disclosure Statement



### Owner Disclosure

Owner Name C H & B Associates, L.L.P.

Applicant Name Winner's Properties, LLC

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

- If yes, list the names of all officers, directors, members, trustees, etc. below. (Attach a list if necessary)  
Please See Document Attached As Exhibit "D."

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

Please See Document Attached As Exhibit "E."

### Known Interest by Public Official or Employee

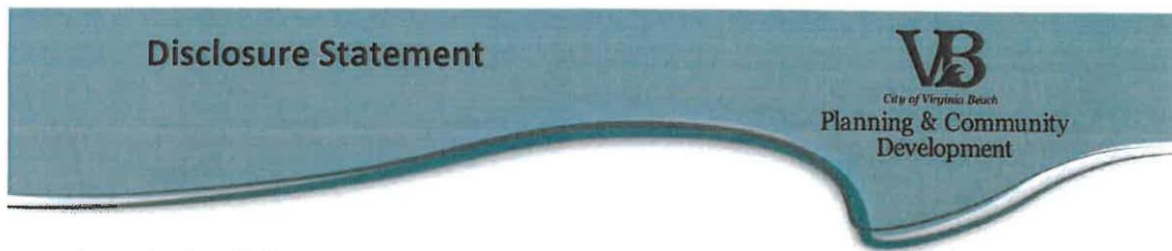
Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action? ☐ Yes ☒ No

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

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### Owner Services Disclosure

1. Does the Owner have **any existing financing (mortgage, deeds of trust, cross-collateralization, etc) or are they considering any financing** in connection with the subject of the application or any business operating or to be operated on the property?  
☐ Yes ☒ No  
• If yes, identify the financial institutions providing the service.  

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2. Does the Owner have a **real estate broker/agent/realtor** for current and anticipated future sales of the subject property?  
☐ Yes ☒ No  
• If yes, identify the company and individual providing the service.  

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3. Does the Owner have services for **accounting and/or preparation of tax returns** provided in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No  
• If yes, identify the firm and individual providing the service.  

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4. Does the Owner have services from an **architect/landscape architect/land planner** provided in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No  
• If yes, identify the firm and individual providing the service.  

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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.  

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6. Does the Owner have a **construction contractor** in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No  
• If yes, identify the company and individual providing the service.  

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

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## Disclosure Statement

### Disclosure Statement



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

#### Owner Signature

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

By: Lawrence Fleder

Owner Signature

Lawrence Fleder manager

Print Name and Title

April 27, 2021

Date

### **Exhibit A**

#### *List of Winner's Properties, LLC Affiliated Entities*

- CHECKERED FLAG MOTOR CAR COMPANY, INC.
- CHECKERED FLAG STORE #1, L.L.C.
- CHECKERED FLAG STORE #2, L.L.C.
- CHECKERED FLAG STORE #3, L.L.C.
- CHECKERED FLAG STORE #4, L.L.C.
- CHECKERED FLAG STORE #5, L.L.C.
- CHECKERED FLAG STORE #6, L.L.C.
- CHECKERED FLAG STORE #7, L.L.C.
- CHECKERED FLAG STORE #8, L.L.C.
- CHECKERED FLAG STORE #9, L.L.C.
- CHECKERED FLAG STORE #10, L.L.C.
- CHECKERED FLAG STORE #11, L.L.C.
- CHECKERED FLAG STORE #12, L.L.C.

**Exhibit B**

*Officers of Haynes Furniture Company, Incorporated*

**E. J. Strelitz**  
President/CEO and Director

**Bruce Breedlove**  
Senior Vice President  
Chief Financial Officer  
Secretary

**Bonnie Stelitz Brand**  
Director and Vice President

**Brian L Strelitz**  
Director and Vice President

**Randi R. Strelitz**  
Executive Vice President  
Director

**Other Officers (Vice Presidents):**

Mike LaVelle  
Bryan Bach  
Stephanie Mallette  
Rebecca Whidden  
Jim Theobald  
Brian Hostetler



**Exhibit C**

*Affiliated Business Entities of Haynes Furniture Company, Incorporated*

**Haynes Distribution, L.L.C.**

**Haynes Chippenham Plaza, L.L.C.**

**5324 GP, Inc.**

**5324 VBB, L.L.C.**

**Strelitz Advertising Agency**

**Jefferson Avenue Properties, L.L.C.**

**New Venture Holdings, L.L.C.**

**Capitol Associates L.L.C.**

**Columbia Military, L.L.C.**

**Strelitz Brook Road, L.L.C.**

**West Broad Street, L.L.C.**

**Oaks 422, L.L.C.**

**Texas Forty-Five North, L.L.C.**

**Sidney Marcus Blvd., L.L.C.**

**Tempe Eliot Road, L.L.C.**

**Highland Lombard, L.L.C.**

**Waukegan Road, L.L.C.**

**Exhibit D**

*Members of C H & B Associates, L.L.P.*

**Lawrence E. Fleder**

Manager of C H & B Associates, L.L.P.

**The Caplan Family Trust 1976**

**Hecht Family 1976 Trust Partnership**

**The Fleder Family Trust 1976**

**Exhibit E**

*Affiliated Business Entities of C H & B Associates, L.L.P.*

**Chapts, L.L.C.**

**Brenneman Lakes Apartments, L.L.C.**

**CH & B Birchwood, L.L.C.**

**Cleveland Interstate Associates, L.L.C.**

**CPA Shoppers, L.L.C.**

**Mach One, L.L.C.**

**South Plaza Apartment Land, L.L.C.**

## 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 Rezoning** (A-12 Apartment District to Conditional O-1 Office District)

**Staff Recommendation**

Approval

**Staff Planner**

Hoa N. Dao

**Location**

4501 North Witchduck Road

**GPIN**

1478539304

**Site Size**

1 acre

**AICUZ**

Less than 65 dB DNL

**Watershed**

Chesapeake Bay

**Existing Land Use and Zoning District**

Office / A-12 Apartment

**Surrounding Land Uses and Zoning Districts**

**North**

North Witchduck Road

Hospital / O-2 Office

**South**

Multi-family dwellings / A-12 Apartment

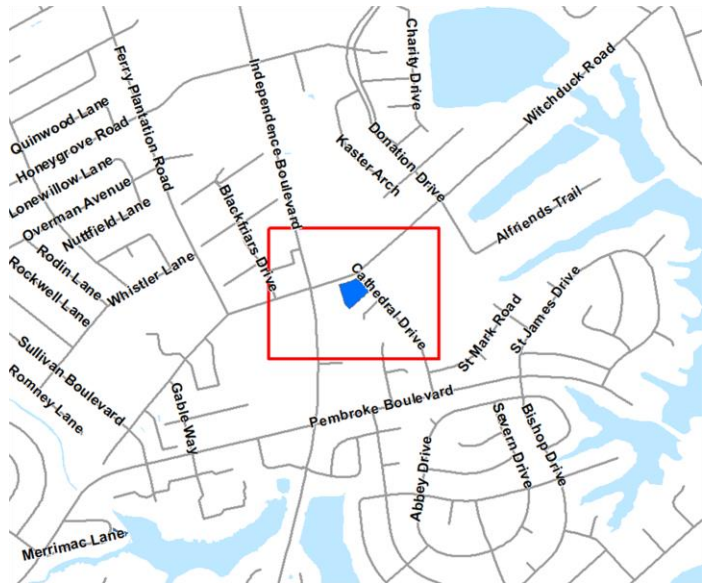
**East**

Cathedral Drive

Church / R-20 Residential, P-1 Preservation

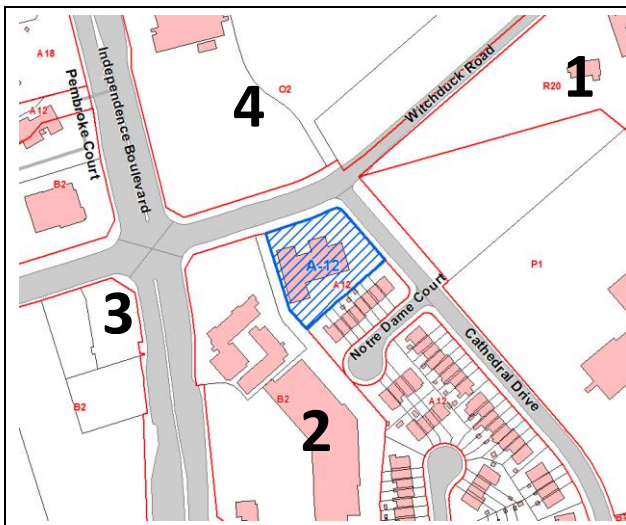
**West**

Office / B-2 Community Business



## Background & Summary of Proposal

- The one-acre property, zoned A-12 Apartment District, is developed as a medical office building that was permitted by Conditional Use Permit in 1975. The applicant seeks to rezone the property to Conditional O-1 Office District and has proffered limitations on the use of the property to only office-type uses.
- Under current zoning regulations, an office use is not permitted as either a principle or a conditional use. In order to remove the legal nonconformity associated with the office use in the apartment district zoning, a rezoning of the property is requested.
- There are five office suites within the existing single-story office building.
- There are no changes or alterations to the existing building associated with this rezoning request.



### Zoning History

#	Request
1	CUP (Religious Use) Approved 03/20/2018
2	CUP (Religious Use) Approved 05/11/2010
3	CUP (Car Wash Facility) Approved 07/01/1997
4	CUP (Hospital Expansion) Approved 04/26/1994

### 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 to rezone the parcel for office uses, in Staff's opinion, is appropriate and in character with the surrounding area. The site has been utilized for medical offices for the past 46 years and as proffered, only office type uses will be permitted on the property.

Directly across North Witchduck Road to the north is the Sentara Bayside Hospital on property zoned O-2 Office District. South of the property is a townhouse community that is zoned A-12 Apartment District. Section 803 of the Zoning Ordinance requires a ten-foot buffer yard with Category I landscaping between the O-1 Office District and A-12 Apartment District. In an effort to meet this requirement, a six-foot tall vinyl fence is proposed to screen the office building from the townhouses. Due to the 24-foot wide drive aisle that is necessary to ensure fire apparatus access, there is deficient area to accommodate the required ten-foot wide buffer. The applicant seeks to substitute the ten-foot buffer yard with Category I landscaping with a six-foot tall privacy vinyl fence. Staff finds this deviation acceptable as the six-foot tall privacy fence will provide a solid screen thereby mitigating any impacts to the adjacent property.

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

## Proffers

The following are proffers submitted by the applicant as part of a Conditional Zoning Agreement (CZA). The applicant, consistent with Section 107(h) of the City Zoning Ordinance, has voluntarily submitted these proffers in an attempt to “offset identified problems to the extent that the proposed rezoning is acceptable,” (§107(h)(1)). Should this application be approved, the proffers will be recorded at the Circuit Court and serve as conditions restricting the use of the property as proposed with this change of zoning.

### Proffer 1:

The Property shall remain developed substantially as shown on the exhibit entitled “Physical Survey of L’Academy Motessurie Site Subdivision of Parcel D-1, Plat No. 1 Survey of a Portion of the Estate of J.C. Hudgins Virginia Beach, Virginia”, prepared by Ward M. Holmes Land Surveyor, P.C., dated March 13, 2017, which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning & Community Development (hereinafter “Site Survey”).

### Proffer 2:

The architectural design and exterior building materials of the existing one-story office building depicted on the Site Survey will remain substantially as depicted on the photographic five (5) exhibits labeled “Existing Office Building @ 4501 N. Witchduck Rd,” #1, #2, #3, #4, #5, dated April 28, 2021, which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning & Community Development.

### Proffer 3:

All outdoor lighting shall be shielded, deflected, shaded and focused to direct light down onto the premises and away from adjoining property.

### Proffer 4:

The freestanding sign depicted on the Site Survey shall remain suspended between two (2) brick pillars, no greater than six feet (6’) in height as depicted on the exhibit entitled “Office Building Sign @ 4501 N. Witchduck Rd” dated April 28, 2021, which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning & Community Development.

### Proffer 5:

Only the following uses shall be permitted on the Property:

- a. Business offices;
- b. Finance agency offices, banks;
- c. Government offices;
- d. Medical, optical and dental offices and clinics; legal, engineering, architectural and similar professional offices, accounting, auditing and bookkeeping offices;
- e. Office of miscellaneous business services; and
- f. Office of non-profit organizations.

### Proffer 6:

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

**Staff Comments:** The medical office building will remain a compatible use with the surrounding area and the building is consisting of high-quality materials with brick veneer and fiber cement lap exterior. Staff has reviewed the Proffers

listed above and finds them acceptable. The City Attorney's Office has reviewed the agreement and found it to be legally sufficient and in acceptable legal form.

## Comprehensive Plan Recommendations

The Comprehensive Plan designates the subject property as Suburban Area, which encompasses the preservation and protection of the overall character, economic value, and aesthetic quality of the existing surrounding neighborhoods. Preserving neighborhood quality and characteristic requires that all new development or redevelopment projects to maintain or enhance the existing characteristics of the area. Rezoning the subject property would help further preserve the existing office uses on the subject property and thus, is found to conform to the Comprehensive Plan.

## Natural & Cultural Resources Impacts

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

## Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
North Witchduck Road	1,400 ADT <sup>1</sup>	8,700 ADT <sup>1</sup> (LOS <sup>4</sup> "D")	Existing Land Use <sup>2</sup> – 455 ADT Proposed Land Use <sup>3</sup> – 455 ADT
<sup>1</sup> Average Daily Trips	<sup>2</sup> as defined by a 13,100 square feet medical office building	<sup>3</sup> as defined by a 13,100 square feet medical office building	<sup>4</sup> LOS = Level of Service

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

North Witchduck Road is a two lane minor collector roadway. This portion of the roadway is not on the MTP and there are currently no CIP projects scheduled for this segment.

## Public Utility Impacts

### Water & Sewer

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

## Public Outreach Information

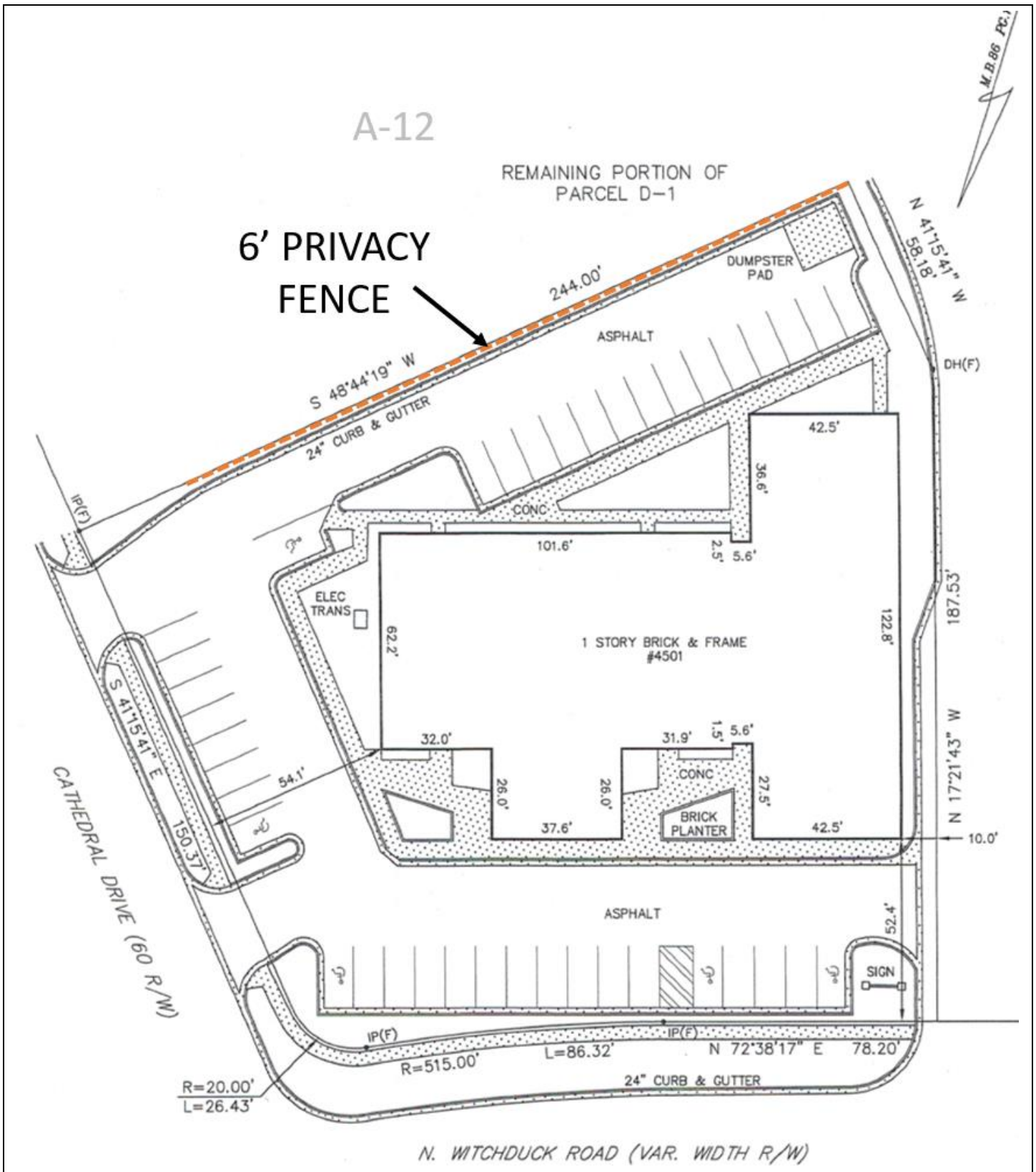
### Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on June 14, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, June 27, 2021 and July 4, 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 June 28, 2021.

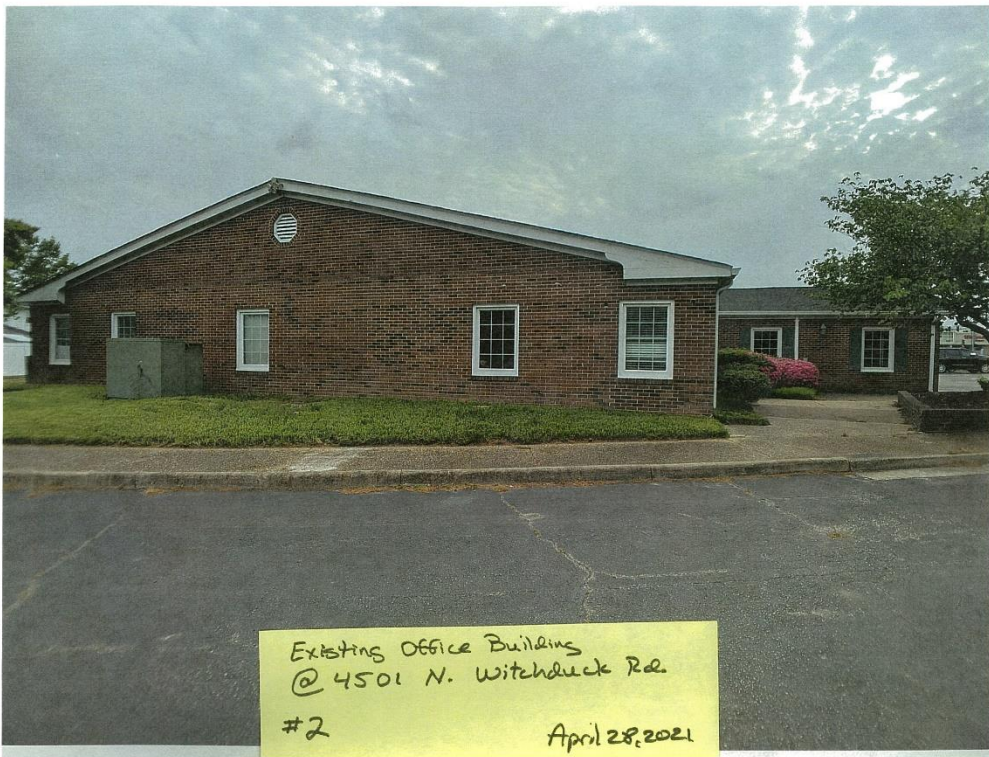
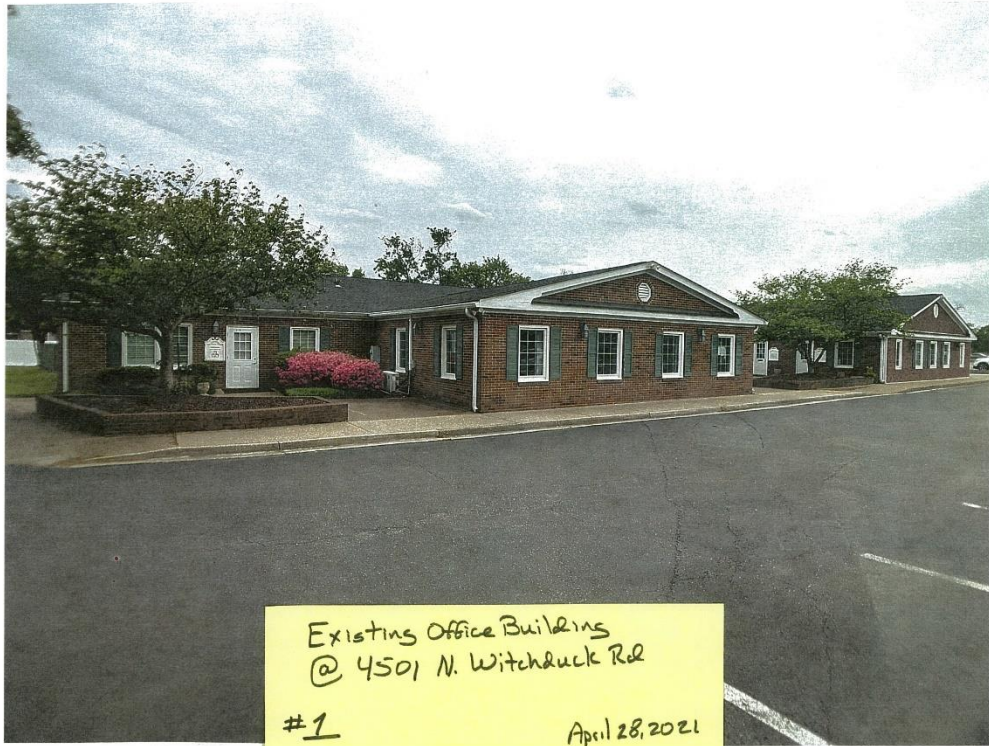


- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of [www.vbgov.com/pc](http://www.vbgov.com/pc) on July 8, 2021.

# Site Layout Plan

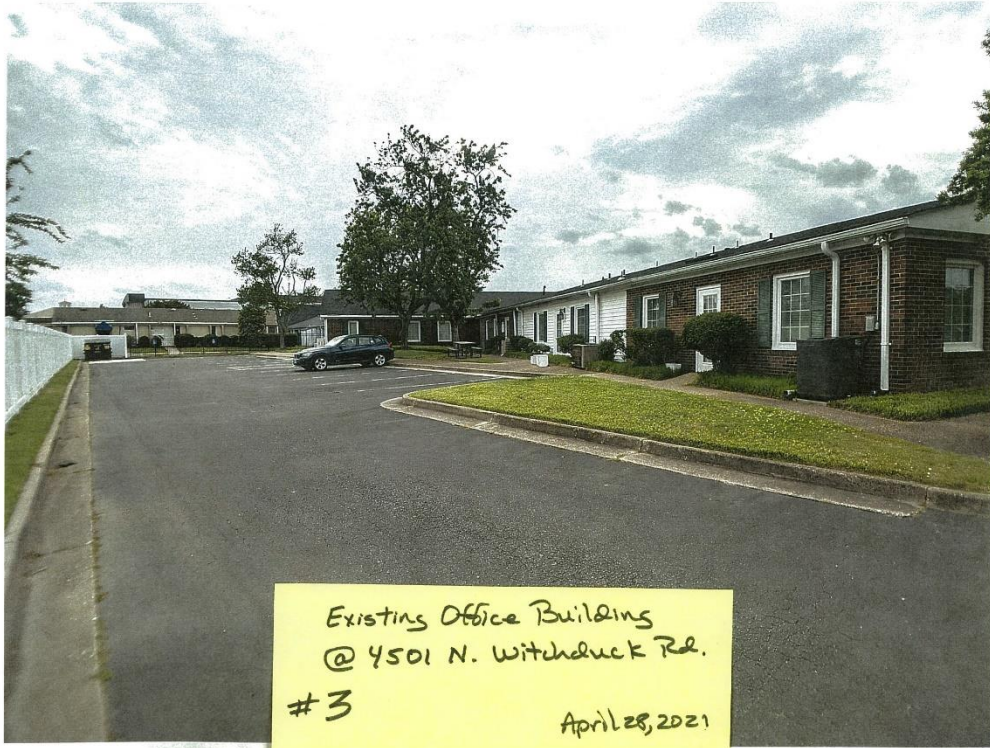


## Proffered Building Façade



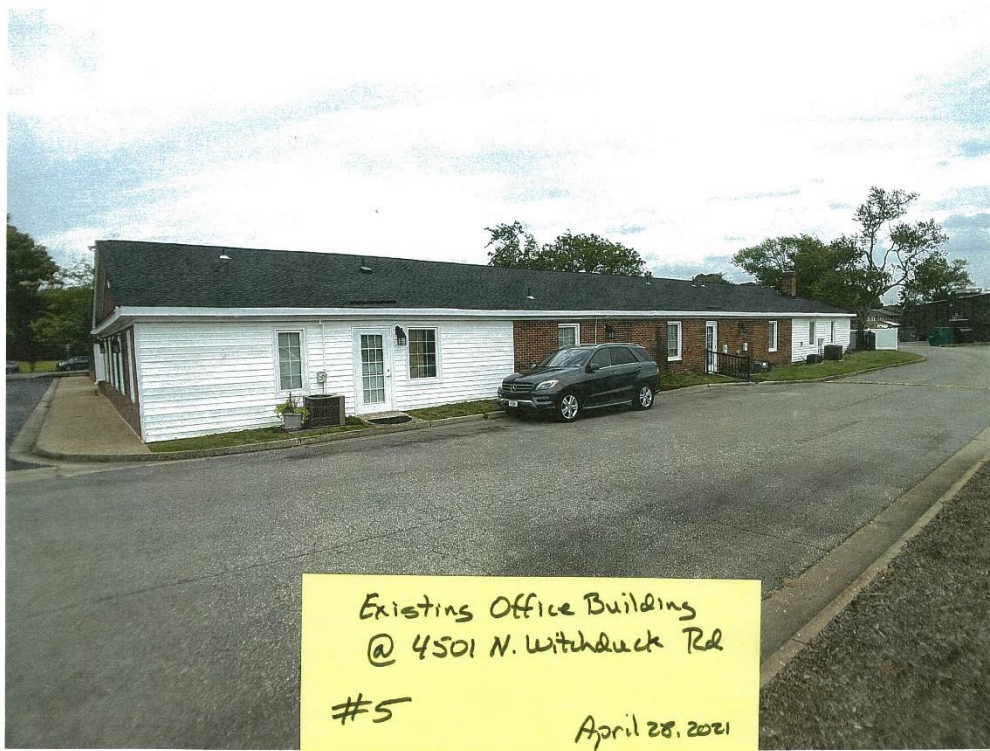


## Proffered Building Façade





## Proffered Building Façade



## Proffered Freestanding Sign





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 Witchduck Medical Associates, LLC

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)

Members/Managers: Gregory Meyer; Saileela Venkatesan

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

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

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

### Disclosure Statement



#### Known Interest by Public Official or Employee

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

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

#### Applicant Services Disclosure

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

☒ Yes ☐ No

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

Southern Bank

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

☐ Yes ☒ No

- If **yes**, identify the 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.

Daniel Hargrave, CPA

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

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

Ward M. Holmes Land Surveyor, P.C.

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.

Witchduck Medical Associates, LLC

By:

*Gregory Meyer*

Applicant Signature

Gregory Meyer, Manager

Print Name and Title

4/28/2021

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	

## 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** (Redevelopment of Nonconforming Duplex)

**Staff Recommendation**

Approval

**Staff Planner**

Hoa N. Dao

**Location**

2416 Seaview Avenue

**GPIN**

1570619098

**Site Size**

8,390 square feet

**AICUZ**

Less than 65 dB DNL

**Watershed**

Chesapeake Bay

**Existing Land Use and Zoning District**

Duplex / R-10 Residential (SD)

**Surrounding Land Uses and Zoning Districts**

**North**

Single-family dwelling / B-1 Neighborhood Business (SD)

**South**

Single-family dwelling / R-10 Residential (SD)

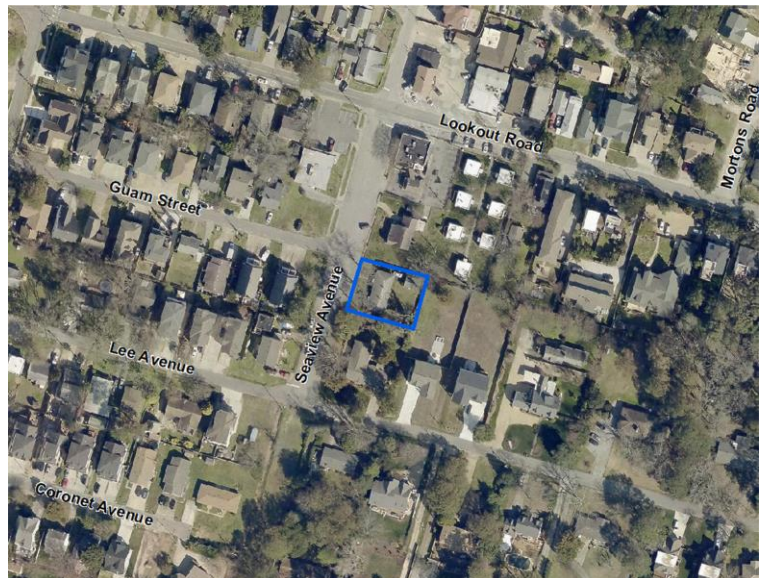
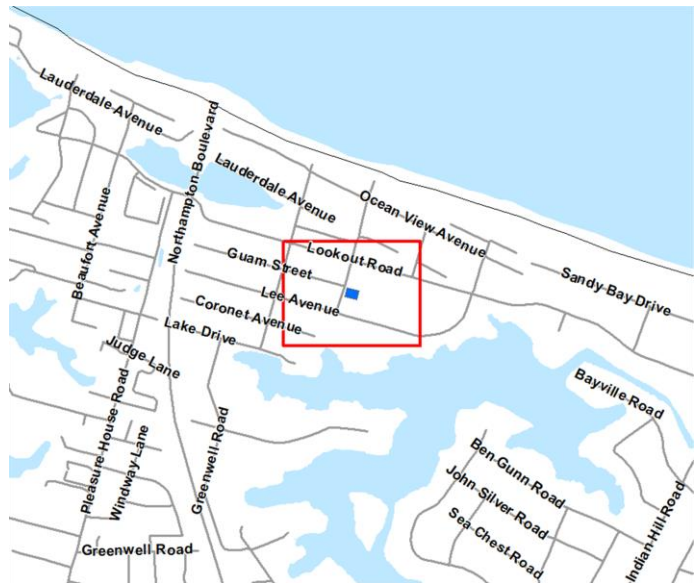
**East**

Single-family dwelling / R-10 Residential (SD)

**West**

Seaview Avenue

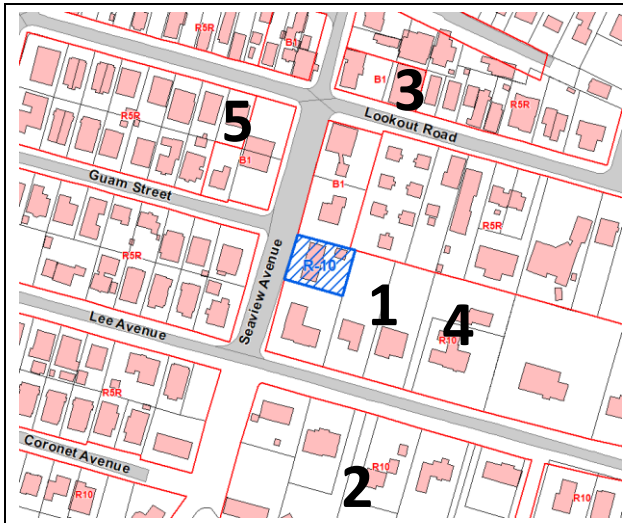
Single-family dwelling / R-5R Residential (SD)



## Background & Summary of Proposal

- The property is zoned R-10 Residential District, within the Shore Drive Overlay, and is developed with a duplex. As the R-10 Residential District does not permit more than one dwelling unit per parcel, the existing use on this site of a duplex with two dwelling units is considered nonconforming.
- The applicant seeks a Change of Nonconformity in order to redevelop the existing 1,445 square foot nonconforming duplex with a taller and larger 2,510 square feet duplex.
- The applicant is requesting to utilize Section 105(d) of the Zoning Ordinance to allow for the nonconforming structure to be “enlarged, extended, reconstructed, or structurally altered” by resolution of City Council.
- The elevations of the three-story structure depict a coastal-inspired architecture with architectural roof shingles, hardie plank lab siding, black metal roof, and vinyl windows.
- The existing and proposed lot coverage, living area, building height and setback are provided in the table below.

	LOT AREA (sq. ft.)	LOT COVERAGE (sq. ft.)	LIVING AREA (sq. ft.)	BUILDING HEIGHT (ft.)	FRONT SETBACK (ft.)
Development Standards	10,000	2,517	n/a	35	30
Existing Duplex	8,390	1,440	1,440	20	24.33
Proposed Duplex	8,390	2,510	5,542	34.83	31



### Zoning History

#	Request
1	SVR (Lot Width) Approved 11/15/2016
2	NON (Expansion) Approved 05/05/2015
3	NON (Expansion) Approved 02/09/2010
4	SVR (Lot Width) Approved 09/09/2003
5	REZ (B-1 to R-5R) Approved 01/11/2000

### 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 proposal to replace the existing nonconforming duplex with a new nonconforming duplex, in Staff's opinion, is acceptable. While the proposal increases the lot coverage from 1,440 square feet to 2,510 square feet and building height from 20 feet to 34.83 feet, it meets the development standards of the R-10 Residential District which permits a maximum lot coverage of 30 percent and a maximum building height of 35 feet. The redevelopment will bring the

building's setbacks into conformance with current setback requirements of the Zoning Ordinance. Specifically, the existing duplex is setback 24.33 feet from Seaview Avenue, thereby not meeting the required 30 feet front yard setback. The proposed duplex will be setback 31 feet from Seaview Avenue. In addition, on-site parking is not provided for the duplex and residents of this parcel are parking within the right-of-way in front of the property. The redevelopment includes four on-site parking spaces, thereby meeting the parking requirement and eliminating this existing nonconformity.

Section 105(d) of the City Zoning Ordinance states that "it is the intent of the Ordinance to allow nonconformities to continue until they are removed, but not to allow them to become enlarged, expanded, extended, or relocated except upon a resolution of the City Council...based upon its finding that the proposed use is equally appropriate or more appropriate to the district than is the existing nonconformity." Staff finds the redevelopment to be appropriate and compatible with the character of the surrounding area in terms of setbacks, building height, parking, and architectural style.

As the property is within the Shore Drive Overlay, the Bayfront Design Committee reviewed the proposal. Based on suggestions by the Committee, adjustments to the building's design and the exterior building materials were made to ensure compliance with the Shore Drive Corridor Design Guidelines. Based on these changes, the Bayfront Advisory Commission supports the application.

While the redevelopment does increase the degree of nonconformity with the increase to the building size, it still meets the development standards of the R-10 Residential Districts. In addition, the redevelopment will bring the site into conformance with the setback and parking requirements. The redevelopment of the property will also result in the replacement of an aging structure that has no historical significance with an attractive structure designed with a coastal theme. Based on all of these considerations, Staff recommends approval of this request subject to the conditions listed below.

## Recommended Conditions

1. When the property is redeveloped, it shall be in substantial conformance with the submitted concept plan entitled, "Concept Plan – The Northern 83.9' of Lot 19, Block 2", prepared by WPL, revised June 18, 2021, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
2. When the property is redeveloped, the architectural design and exterior building materials shall substantially adhere in appearance, size and materials to the elevations and renderings from pages 6 through 9 of this report, which has been exhibited to the Virginia Beach City Council and is on file in 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 identifies this site as being in Suburban Focus Area 1 – Shore Drive Corridor. 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.

One of the guiding development principles of Suburban Areas is the creation of “Great Neighborhoods,” which depicts a stable and sustainable neighborhood supported by complimentary non-residential uses. New developments can achieve the “Great Neighborhoods” principle with careful consideration to the mix of land uses, site and building design, multimodal transportation, and environmental responsiveness.

The Comprehensive Plan describes the residential density in the Suburban Area to be low to medium density and should be consistent with the character of the residential uses in the surrounding area. The guideline acknowledges strategies to building location and setback, access and circulation, parking, landscaping, natural features, stormwater management, lighting, signage, outdoor amenities, building design, exterior building materials, scale, and streetscape amenities. Ultimately, proposed building designs should be sensitive to the surrounding built and natural conditions, with respect to the scale, height, and configuration.

## Natural & Cultural Resources Impacts

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

## Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Seaview Avenue	No Data Available	9,900 ADT <sup>1</sup> (LOS <sup>4</sup> “D”)	Existing Land Use <sup>2</sup> – 15 ADT Proposed Land Use <sup>3</sup> – 15 ADT
<sup>1</sup> Average Daily Trips	<sup>2</sup> as defined by a duplex	<sup>3</sup> as defined by a duplex	<sup>4</sup> LOS = Level of Service

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

Seaview Avenue is a two-lane local residential street with a 70-foot right-of-way width. It is not included in the City’s Master Transportation Plan, and there are no current CIP projects planned for this portion of the roadway.

## Public Utility Impacts

### Water & Sewer

The property is connected to City water and sanitary sewer services.

## Public Outreach Information

### Planning Commission

- Two letters of support have been received by Staff.



- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on June 14, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, June 27, 2021 and July 4, 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 June 28, 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](http://www.vbgov.com/pc) on July 8, 2021.

1                   A RESOLUTION AUTHORIZING AN EXPANSION OF  
2                   NONCONFORMING USE ON PROPERTY LOCATED AT  
3                   2416 SEAVIEW AVENUE  
4

5                   WHEREAS, Design by Eleni, Inc. (the "Applicant") has made application to the City  
6                   Council for authorization to demolish, rebuild and expand the nonconforming duplex at  
7                   2416 Seaview Avenue and zoned R-10 (SD) Residential Zoning District with the  
8                   demolition of the existing duplex and the reconstruction of a larger duplex.;

9  
10                  WHEREAS, this parcel currently contains a duplex which is not allowed in the R-  
11                  10 Zoning District, but the duplex was built prior to the adoption of the applicable zoning  
12                  regulations and is therefore nonconforming;

13  
14                  WHEREAS, the Planning Commission of the City of Virginia Beach recommended  
15                  approval of this application on July 14, 2021; and

16  
17                  WHEREAS, pursuant to Section 105 of the City Zoning Ordinance, the demolition,  
18                  rebuilding and expansion of nonconforming structures is unlawful in the absence of a  
19                  resolution of the City Council authorizing such action upon a finding that the proposed  
20                  structure as demolished, rebuilt and expanded will be equally appropriate or more  
21                  appropriate to the zoning district than is the existing structure.

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 structure as demolished,  
27                  rebuilt and expanded, will be equally appropriate to the district as is the existing  
28                  nonconforming duplex under 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 demolition, rebuilding and expansion of the nonconforming duplex is  
34                  hereby authorized, upon the following conditions:

- 35  
36                  1.       When the property is redeveloped, it shall be in substantial conformance with  
37                           the submitted concept plan entitled, "Concept Plan—The Northern 83.9' of Lot  
38                           19, Block 2", revised June 18, 2021, and prepared by WPL, which has been  
39                           exhibited to the Virginia Beach City Council and is on file in the Department of  
40                           Planning and Community Development.  
41  
42                  2.       When the property is redeveloped, the architectural design and exterior building  
43                           materials shall substantially adhere in appearance, size and materials to the  
44                           submitted elevations and renderings from pages 6 through 9 of this report,  
45                           which has been exhibited to the Virginia Beach City Council and is on file in the  
46                           Department of Planning and Community Development.  
47

48

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

APPROVED AS TO CONTENT:



Planning and Community  
Development

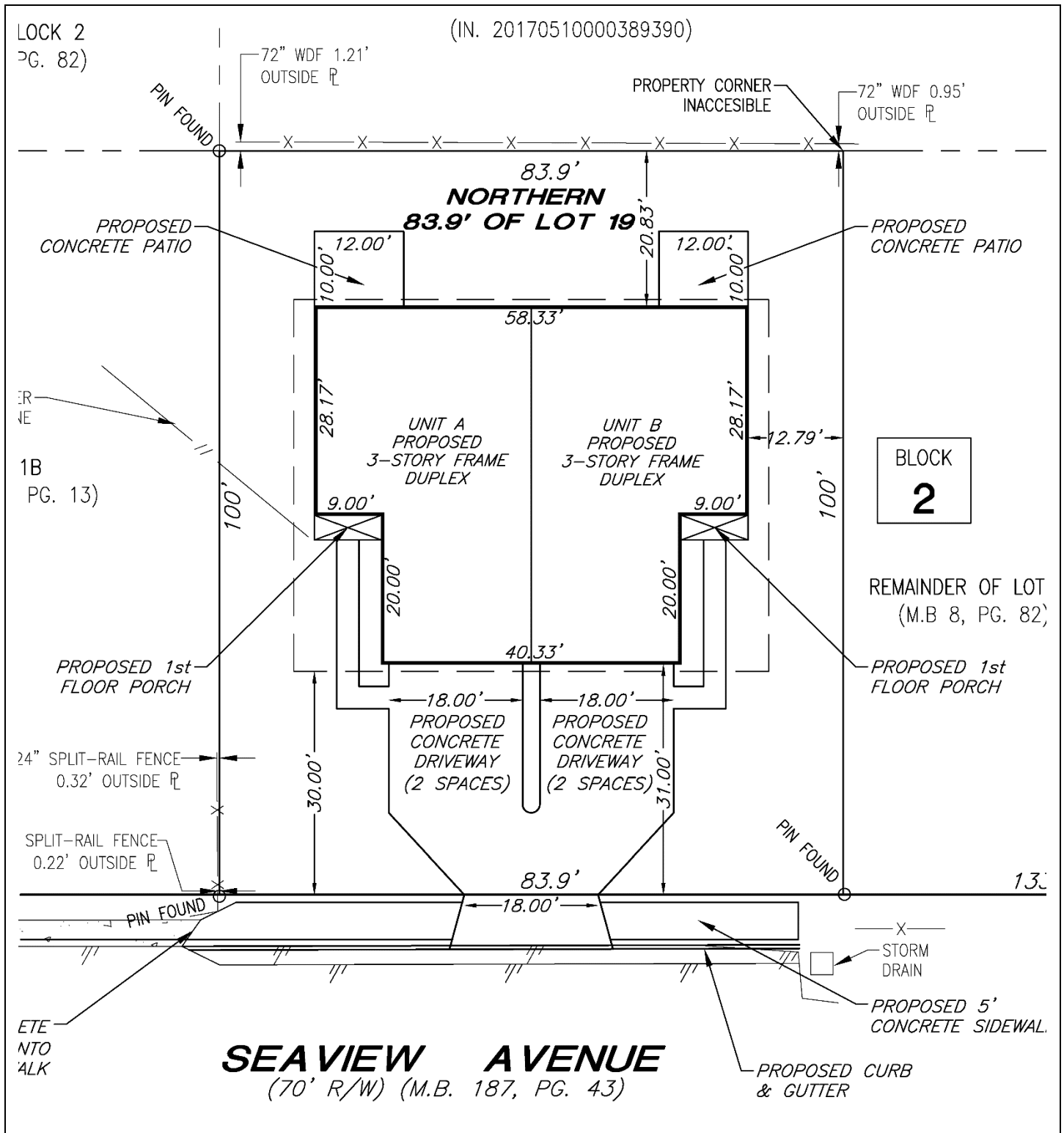
CA15495  
R-2  
July 9, 2021

APPROVED AS TO LEGAL SUFFICIENCY:



City Attorney's Office

# Proposed Site Layout





## Proposed Renderings



## Proposed Renderings





Proposed Elevation Plan



Proposed Elevation Plan



REAR ELEVATION



RIGHT SIDE ELEVATION



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** Design by Eleni, Inc, A Virginia Corporation

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

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

Billy Garrington, GPC, Inc

**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)

Eleni Kopassis, President

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

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

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

### Disclosure Statement



#### Known Interest by Public Official or Employee

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

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

#### Applicant Services Disclosure

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

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

WPL

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.

Kopassis Construction

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

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

WPL

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

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

#### 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

*Ekey*  
Eleni Kopassis President

Print Name and Title

3/1/21

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.





Applicant for Items 14 & 15 JTR, LLC  
 Property Owners for Items 14 & 15 JTR, LLC; Bayliner Building, LLC;  
**Shore Drive Area Properties, LLC**  
 Applicant for Items 16 & 17 MP Shore, LLC  
 Property Owners for Items 16 & 17 JTR, LLC; Bayliner Building, LLC;  
**Shore Drive Area Properties, LLC; City of Virginia Beach**  
 Planning Commission Public Hearing **July 14, 2021** (Deferred June 9, 2021)  
 City Council Election District **Bayside**

Agenda Items  
**14, 15,  
 16, 17**

The applicant is requesting a 60-day deferral in order to continue working with the community to address concerns.

#### Requests

- 14 - Street Closure** (Portion of Clipper Bay Drive)
- 15 - Street Closure** (Portion of Ocean Tides Drive)
- 16 - Conditional Rezoning** (PD-H1 Planned Development & B-2 Community Business to Conditional B-4 Mixed Use (SD))
- 17 - Conditional Use Permit** (Multi-Family Dwellings)

#### Staff Recommendation

Deferral

#### Staff Planner

Hoa N. Dao

#### Location

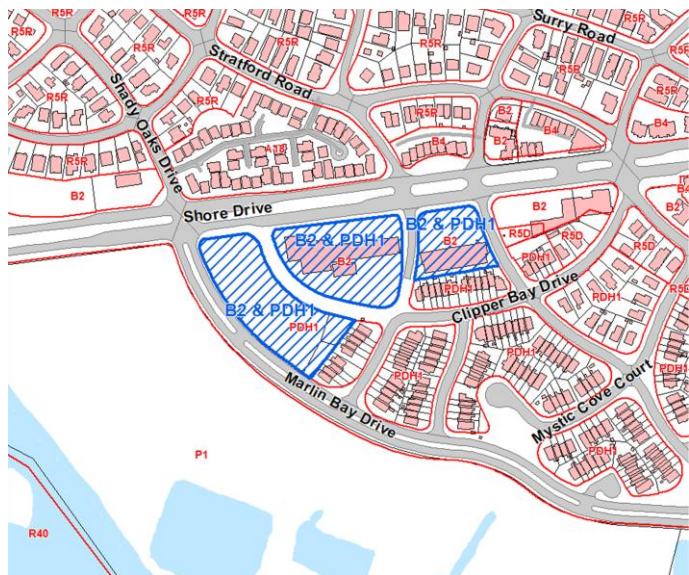
Portions of Ocean Tides Drive & Clipper Bay Drive; 3829 & 3785 Shore Drive; adjacent parcels between Marlin Bay Drive & 3829 Shore Drive

#### GPINs

1489286485, 1489288247, 1489289308,  
 1489289631, 1489382674

#### Site Size

6.20 acres







**Request**

**Street Closure**

North side of 18<sup>th</sup> Street between Pacific & Arctic Avenues

**Staff Recommendation**

Approval

**Staff Planner**

Ashby Moss

**Location**

18<sup>th</sup> Street between Arctic & Pacific Avenues, adjacent to GPINs 2427172611, 2427170516

**Site Size**

1.34 acres

**AICUZ**

65-70 dB DNL; Sub-Area 1

**Watershed**

Atlantic Ocean & Chesapeake Bay

**Existing Land Use and Zoning District**

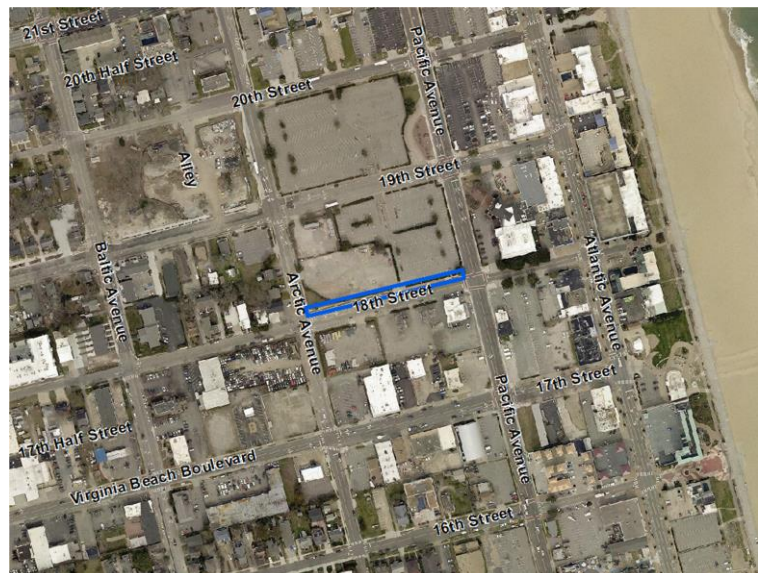
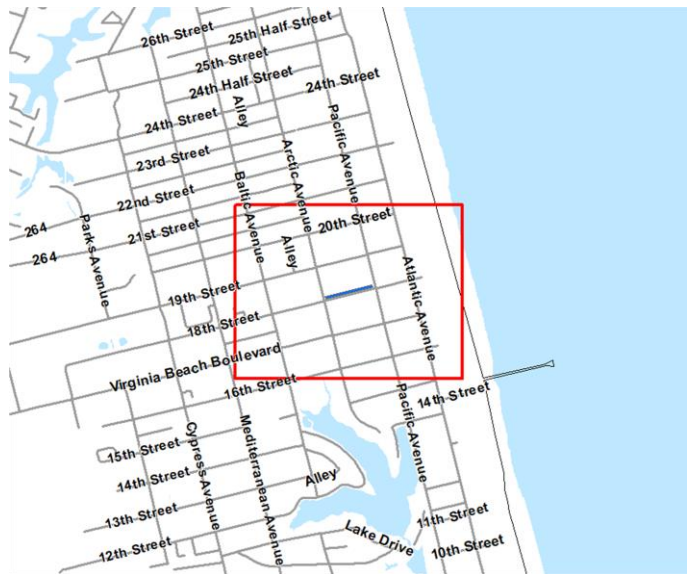
Improved public street / OR Oceanfront Resort

**Surrounding Land Uses and Zoning Districts**

**North** Municipal parking lot and vacant land temporarily used for construction layout

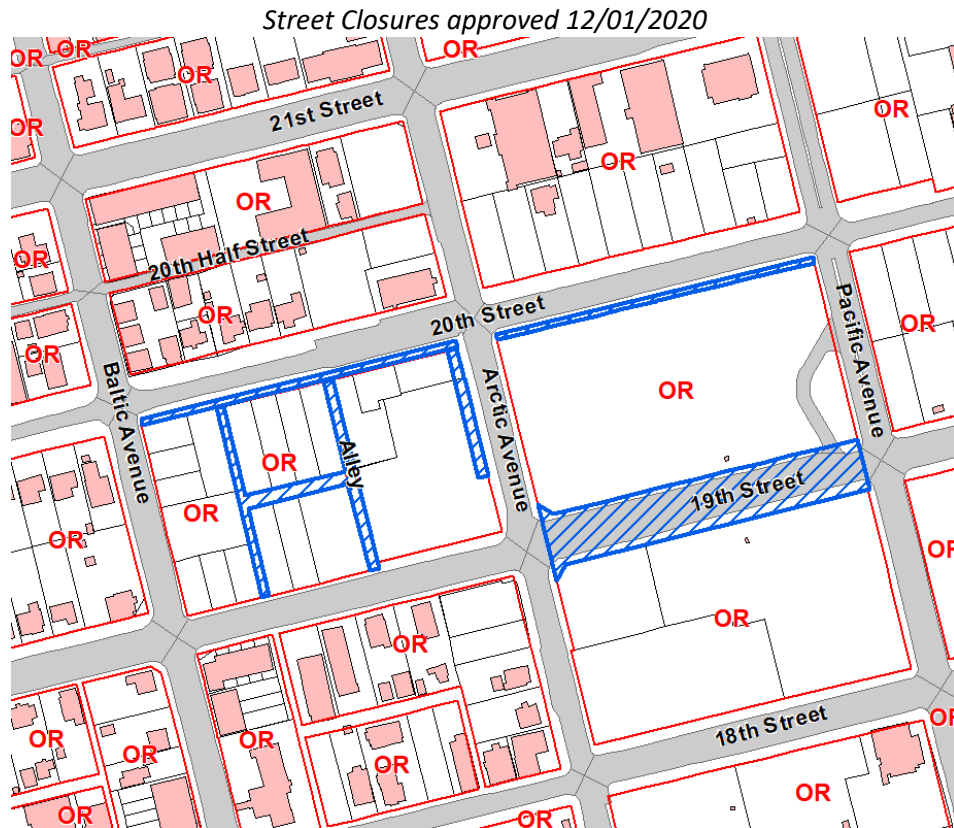
**South** Remainder of 18<sup>th</sup> Street, Dominion Power substation, vacant lot, restaurant

All zoned OR Oceanfront Resort



## Background & Summary of Proposal

- The applicant is requesting to close a portion of 18<sup>th</sup> Street to be incorporated into an assemblage of property owned by the City of Virginia Beach Development Authority. This assemblage, which has been referred to as the “Dome Site,” consists of the two blocks between 18<sup>th</sup> and 20<sup>th</sup> Streets and Pacific to Arctic Avenues and the block between 19<sup>th</sup> and 20<sup>th</sup> Streets and Arctic to Baltic Avenues.
- Additional street closure requests were approved by City Council on December 1, 2020. These included all of 19<sup>th</sup> Street between Pacific and Arctic Avenues, all alleys within the block surrounded by Arctic and Baltic Avenues and 19<sup>th</sup> and 20<sup>th</sup> Streets, a portion of the south side of 20<sup>th</sup> Street between Pacific and Baltic Avenues, and a portion of the west side of Arctic Avenue between 19<sup>th</sup> and 20<sup>th</sup> Streets.



- A Special Exception for Alternative Compliance for the project as a whole is also currently under review for Planning Commission and City Council consideration.
- Similar to the previously approved closures for 20<sup>th</sup> Street and Arctic Avenue, the proposed street closure for 18<sup>th</sup> Street includes an area to be fully closed (above and below ground) where proposed buildings overlap the right-of-way, and a subjacent closure (underground only) beyond that to accommodate underground foundations and pilings. The ground and air above the subjacent closures will remain public right-of-way.
- The City of Virginia Beach Development Authority owns the fee interest in this right-of-way proposed for closure. If approved, the closed right-of-way will become property of the City of Virginia Beach Development Authority, who will then enter into a long-term lease of the combined “Dome Site” property with the developer.

Description	Full Closure	Subjacent (Underground) Closure Only	Total Area
North side of 18th Street between Pacific and Arctic Avenues	22 feet 11,000 square feet (0.25 acres)	5 feet 2,500 square feet (0.06 acres)	27 feet 13,500 square feet (0.31 acres)

Zoning History	
#	Request
1	STC (portion of 19 <sup>th</sup> Street, 20 <sup>th</sup> Street, Arctic Avenue, alleys) Approved 12/01/2020
2	CUP (Church Addition) Approved 05/12/1998 CUP (Church Expansion) Approved 05/25/2010
3	CUP (Short Term Rental) Approved 06/10/2020
4	CUP (Commercial Parking Lot) Approved 04/09/2002
5	SVR & ALT (Alley Frontage) Approved 10/08/2013
6	CUP (3 Short Term Rentals) Approved 07/15/2020
7	CUP (4 Short Term Rentals) Approved 08/26/2020
8	CUP (Commercial Parking Lot) Approved 12/09/1985

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

## Evaluation & Recommendation

As required by City Code, a Viewers' Meeting was held on February 16, 2021, that included City Staff from the Departments of Public Works, Public Utilities, Planning and Community Development, and the Office of the City Attorney, to consider these requests. At 80 feet in width, this section of 18<sup>th</sup> Street and other east/west streets in the vicinity are significantly wider than the typical 60-foot wide north/south streets. If the request is approved, the remaining 53 feet of right-of-way plus five feet at ground level will be sufficient to achieve a fully functioning street design with two-way traffic, sidewalks, and other streetscape amenities sought in the resort area. The Viewers recognize that additional detailed studies and analyses are needed to determine what roadway and infrastructure improvements will be required to support the proposed development. These studies include, but are not limited to, a Traffic Impact Study (TIS), sight distance analyses, and detailed site plan review. Therefore, the recommended conditions below require the applicant to provide these studies and the improvements deemed necessary, by the City, based on the information the studies provide. If necessary, the applicant may be required to adjust or modify the areas proposed for closure. If the applicant cannot fulfill the conditions, the street closure approval is considered null and void.

With these added conditions, the Viewers determined that the proposed closure will not result in a public inconvenience, and therefore, deem closure of this portion of the right-of-way acceptable. Accordingly, Staff recommends approval of the proposed Street Closure subject to the conditions listed below.

## Recommended Conditions

1. The City Attorney's Office will make the final determination regarding ownership of the underlying fee. The purchase price to be paid to the City is normally determined according to the "Policy Regarding Purchase of City's Interest in Streets Pursuant to Street Closures," approved by City Council. However, no purchase price shall be charged for this street closure because the City of Virginia Beach Development Authority is an applicant seeking this street closure.
2. The applicant, or the applicant's successors or assigns, shall resubdivide the properties and vacate internal lot lines to incorporate the closed areas into the adjoining parcel. The resubdivision plat must be submitted and approved for recordation prior to the final street closure approval. Said plat shall include the dedication of a public drainage easement over the closed portion of the street to the City of Virginia Beach if it is determined by the Department of Public Works to be necessary, subject to the approval of the Department of Public Works, and the City Attorney's Office, which easement shall include a right of reasonable ingress and egress.
3. The applicant shall submit a Sight Distance Analysis to be reviewed by the Traffic Engineer for the Department of Public Works prior to the final approval of the street closure. Based upon the results of the Traffic Engineer's analysis of the Traffic Impact Analysis and Sight Distance Analysis, the applicant shall, if necessary, adjust or modify the areas proposed for closure to areas no greater than what is described herein and shown on the exhibit attached hereto, subject to the approval by the Department of Public Works.
4. The applicant shall cause to be relocated public water and sanitary sewer infrastructure adjacent to the area to be closed along or within 18<sup>th</sup> Street if determined by the City that said infrastructure will be impacted by the street closure in a way that causes the location of the infrastructure, in relation to improvements proposed by the applicant, to present an unacceptable risk to the City or the City's ability to maintain said infrastructure.
5. The applicant or the applicant's successors or assigns shall verify that no private utilities exist within the rights-of-way proposed for the closure. If private utilities do exist, easements satisfactory to the utility company, must be provided.
6. Closure of the rights-of-way shall be contingent upon compliance with the above stated conditions within 365 days of approval by City Council. If the conditions noted above are not accomplished and the final plats are not approved for recordation within one year of the City Council vote to close the rights-of-way, this approval shall be considered null and void.

*Further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.*

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

## Comprehensive Plan Recommendations

The subject property is within the Resort Strategic Growth Area (SGA) as designated by the Comprehensive Plan. Adopted by City Council on June 2, 2020, *RASAP 2030* is a strategic plan that establishes new goals for the Resort SGA in the next decade. The vision for the Resort SGA is to identify and implement public amenities and infrastructure



improvements and update codes, guidelines, and city review processes to encourage private development, enabling the Virginia Beach Resort Area to become a diverse, world-class, year-round coastal community for residents and visitors.

The subject site is in the Central Beach District, which encompasses the 21<sup>st</sup> Street Gateway, the growing ViBe Creative District, the Virginia Museum of Contemporary Art (MOCA) and 19<sup>th</sup> Street (which is planned to be a key multimodal corridor). Since “The Dome” was razed in 1994, the City has identified this site as a prime location for a major entertainment or recreational venue. *RASAP 2030* lists the Dome Site as one of a handful of impactful projects that will benefit the Resort Area and the City of Virginia Beach (p. 52), and the applicants’ concept plan in particular is described on p. 47.

## **Traffic Impacts**

Traffic Engineering is reviewing the submitted Traffic Impact Study (TIS) in order to identify roadway improvements that will be necessary to adequately manage the additional traffic generated by the Atlantic Park development and to mitigate the impacts of the proposed closure of 18<sup>th</sup> Street. The TIS assesses the impacts on surrounding streets of this and previously approved street closures and identifies recommended improvements to mitigate these closures. While the TIA is still considered a draft report, Traffic Engineering is comfortable with the study methodology, assumptions, results, and the major study area roadway improvement recommendations. As with any major development project such as Atlantic Park, minor changes to the scope of the project are expected and the TIA will be updated accordingly before it is considered final.

Traffic Engineering will require a sight distance analysis to be completed by the applicant to ensure that there is adequate sight distance at the intersections within the area of the development. With the closing of right-of-way to bring the buildings closer to the roadway, this analysis is critical to making sure that the intersection sight distance can be safely maintained.

## **Public Utility Impacts**

### **Water & Sanitary Sewer**

There is an existing 12” City water main and a 6” City gravity sanitary sewer main in the 18th Street right of way to be closed. A survey showing the location of these two mains and the associated water and sanitary sewer infrastructure with respect to the proposed area for closure is requested.

It is expected that relocation of both mains will be necessary if this street closure is approved in order to provide physical separation from proposed structures for maintenance. The length of utilities to be relocated will depend on the aforementioned survey.

## **Emergency Services Impacts**

The Virginia Beach Fire Department supports two-way traffic on 18th Street to facilitate emergency response to surrounding area.

## **Stormwater Impacts**

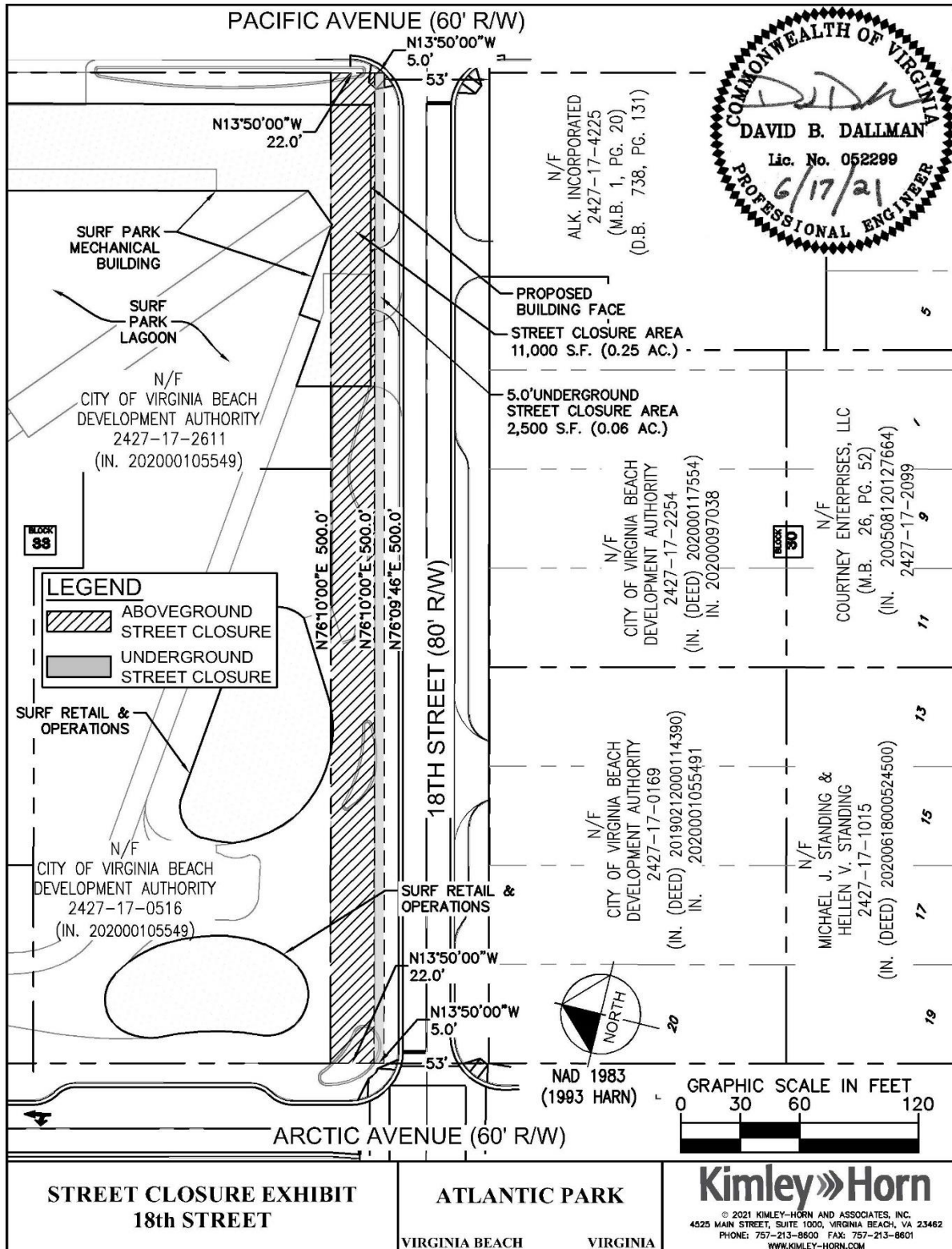
The proposed development will require extensive stormwater improvements which will be determined during detailed site plan review. The proposed street closure has no impact on the ultimate stormwater infrastructure design.

## Public Outreach Information

### Planning Commission

- As required by the Zoning Ordinance, the public notice signs were placed on the property on or before June 14, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, June 27, 2021 and July 4, 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 June 28, 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](http://www.vbgov.com/pc) on July 8, 2021.

# Street Closure Exhibit



## Site Photos

**18<sup>th</sup> & Pacific Looking West**



**18<sup>th</sup> & Pacific Looking NW**





## Site Photos

**18<sup>th</sup> & Arctic Looking South**



**18<sup>th</sup> & Arctic Looking East**



### 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?

City of Virginia Beach Development Authority is owner.

#### 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.

Applicant anticipates securing financing (capital provider has not been selected)

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.

Venture Realty Group

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.

BDO

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.

Cooper Carry, Hanbury, WPL, Kimley Horn

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.

W.M. Jordan

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/Kimley Horn

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.

Kaufman + Canoles

#### 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.

VENTURE WAVES LLC

A handwritten signature in blue ink, appearing to be 'M. Christopher AGR', written over a horizontal line.

Applicant Signature

M. Christopher AGR

Print Name and Title

10-1-20

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	

Atlantic Park, Inc.  
Venture Realty Group  
Venture Realty Group 1, LLC  
Venture Waves, LLC  
Donna MacMillan-Whitaker  
Michael A. Culpepper  
John L. Gibson, III  
Bruce A. Berlin  
Elizabeth Matulenas  
Matthew L. Lafler  
Steven D. Green  
**W.M. Jordan Company**  
John R. Lawson  
**H2O Investments, LLC**  
Joe LaMontagne  
**The Costen Companies**  
Tim Costen  
Pharrell Williams  
**Bishard Development Corp.**  
Steven W. Bishard  
John K. Bishard  
Robert A. Deacon



## 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** The City of Virginia Beach Development Authority.

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

- If **yes**, list the name of the representative.  
Office of the City Attorney

**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)  
Applicant is a political subdivision of the Commonwealth of Virginia. Attached is a list of the current Commissioners of the VBDA
- If **yes**, list the businesses that have a parent-subsidary<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the applicant. (Attach a list if necessary)  
N/A

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

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

### Disclosure Statement



#### **Known Interest by Public Official or Employee**

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

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

#### **Applicant Services Disclosure**

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- 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**

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

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

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

## 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.

WM Jordan & Sons has been identified as the general contractor for the project.

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

- If **yes**, identify the engineer/surveyor/agent.

Kimley Horn has been retained to provide engineering services.

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.

Singer Davis (Steve Davis is outside counsel to VBDA)

#### 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.

By: Lisa Murphy  
Applicant Signature  
Lisa Murphy / Chair  
Print Name and Title  
10/14/20  
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	

CITY OF VIRGINIA BEACH DEVELOPMENT AUTHORITY COMMISSIONERS

David L. Bernd (Secretary)

Dr. William Brown

William Brunke (Treasurer)

Nneka Chiazor

W. Taylor Franklin (Assistant Secretary)

Penny Morgan

Lisa M. Murphy (Chair)

Michael J. Standing

Joseph E. Strange (Vice Chair)

Guenter H. Weissenseel

Dorothy L. Wood



## 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

**Alternative Compliance** (Maximum building height, building setbacks, and several conditional uses)

### Staff Recommendation

Approval

### Staff Planner

Ashby Moss

### Location

Block bordered by Arctic and Baltic Avenues and 19th and 20th Streets  
Double block bordered by Pacific and Arctic Avenues and 18th and 20th Streets

### GPINs

2427079524, 2427074883,  
2427073669, 2427170853, 2427073711,  
2427075737, 2427073536, 2427074802,  
2427073767, 2427073660, 2427074517,  
2427076808, 2427076990, 2427073705,  
2427074757, 2427077707, 2427072890,  
2427170516, 2427172611

### Site Size

+/- 11 acres

### AICUZ

65-70 dB DNL; Sub-Area 1

### Watershed

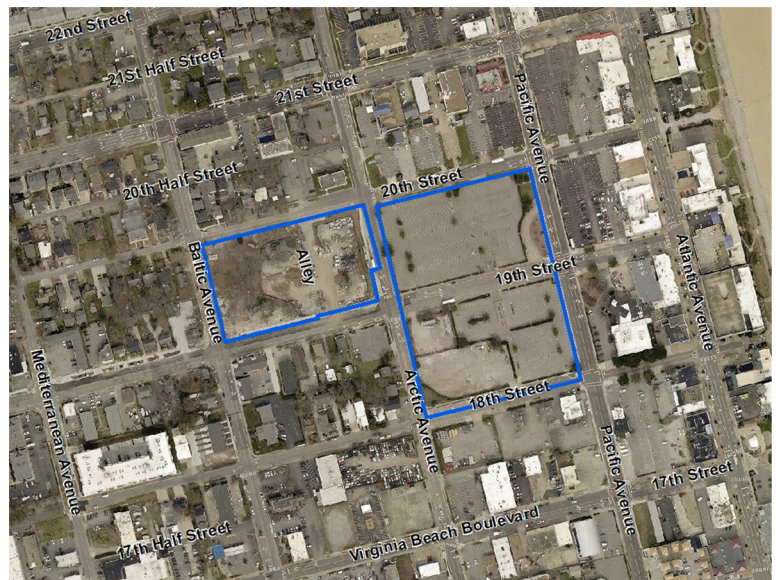
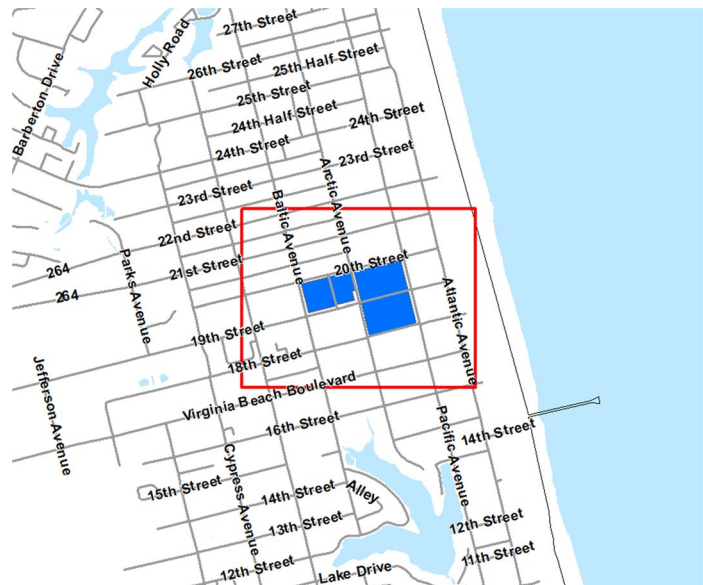
Chesapeake Bay and Atlantic Ocean

### Existing Land Use and Zoning District

Municipal parking lots; vacant land temporarily used for construction layout / OR Oceanfront Resort

### Surrounding Land Uses and Zoning Districts North/South/East/West

Residential dwellings; commercial uses; church; commercial parking lots / OR Oceanfront Resort



## Background & Summary of Proposal

The Atlantic Park development proposal consists of two mixed-use buildings with residential, commercial, structured parking, an indoor/outdoor entertainment venue, and an outdoor “Surf Park.” Additional retail and mechanical buildings surround the Surf Park lagoon.

The development project is anticipated to house a variety of uses, some of which ordinarily require a conditional use permit. These include an outdoor recreation facility (Surf Park), open air markets (food trucks, Farmer’s Markets, etc.), assembly (indoor component of entertainment venue), and recurring outdoor special events (outdoor component of entertainment venue and other outdoor events). While the full range of commercial uses has not been finalized and will likely vary over time, additional anticipated conditional uses include bars/nightclubs and craft breweries/distilleries/wineries.

This request for Alternative Compliance includes the uses listed above and deviations from form requirements as described below.

### Northwest Block

- The Northwest Block is bounded by Arctic and Baltic Avenues and 19<sup>th</sup> and 20<sup>th</sup> Streets. The mixed-use building on this block is proposed to have 125 residential units, 28,106 square feet of retail space, an 8-level structured parking garage with 1,052 spaces, and an indoor/outdoor entertainment and event venue with an occupancy load of 3,500 indoors plus 1,500 outdoors.
- The applicant is seeking Alternative Compliance to exceed the 75-foot maximum height limit on the south half of the block and the 45-foot height limit on the north half. The parking garage component on the northwest corner of the proposed building is approximately 98 feet in height from grade, and the mixed use component lining the south side with residential and retail is approximately 71 feet. The northeast corner of the building contains the entertainment venue, which is approximately 57 feet at its highest point.
- In addition, the applicant proposes to encroach into the five foot minimum building setback on this block. As proposed, the building is placed on the property line along 20<sup>th</sup> Street and Arctic Avenue, resulting in a 0-foot setback instead of the standard 5-foot setback.

### North Block

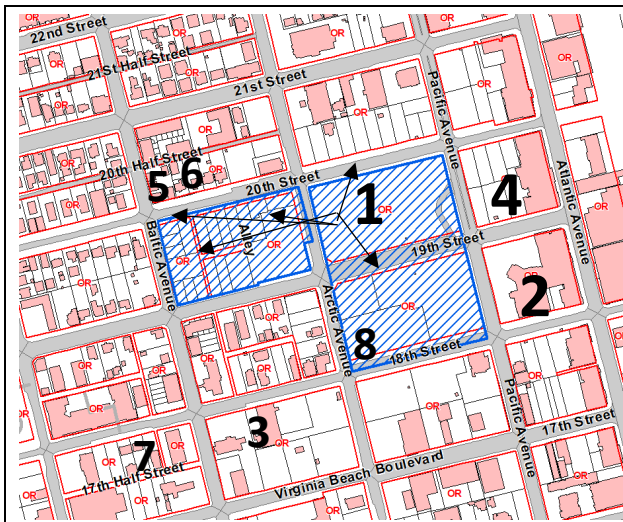
- The North Block is bordered by Pacific and Arctic Avenues and 20<sup>th</sup> Street. The mixed-use building on this block is proposed to have 36,107 square feet of retail space, 23,151 square feet of office space, 168 residential units, and a parking garage with 420 spaces.
- Similar to the Northwest Block, the applicant is seeking Alternative Compliance to exceed the 75-foot maximum height limit on the south half of the block and the 45-foot height limit on the north half. The proposed building is approximately 84 feet from grade on the north side and steps down in height on the south side.
- As with the Northwest Block, the applicant proposes to place the building on the property line, encroaching into the required 5-foot building setback on 20<sup>th</sup> Street and Arctic Avenue.

### Surf Block

- The Surf Block is bordered by Pacific and Arctic Avenues and 18<sup>th</sup> Street and incorporates the former 19<sup>th</sup> Street right-of-way, which was approved for closure in December 2020. The surf lagoon dominates the majority of this block. A one-story building is proposed along Pacific Avenue wrapping around to the eastern part of Arctic Avenue to house mechanical equipment. Additional one story “Retail Pavilions” are proposed on Arctic Avenue.
- The applicant is seeking Alternative Compliance to construct one-story “commercial” building types on two “Beach” frontage types (18<sup>th</sup> Street and Arctic Avenue).



- In addition, the applicant proposes to place the mechanical building on the property line, encroaching into the required 5-foot building setback on 18<sup>th</sup> Street.



### Zoning History

#	Request
1	STC (portion of 19 <sup>th</sup> Street, 20 <sup>th</sup> Street, Arctic Avenue, alleys) Approved 12/01/2020
2	CUP (Church Addition) Approved 05/12/1998 CUP (Church Expansion) Approved 05/25/2010
3	CUP (Short Term Rental) Approved 06/10/2020
4	CUP (Commercial Parking Lot) Approved 04/09/2002
5	SVR & ALT (Alley Frontage) Approved 10/08/2013
6	CUP (3 Short Term Rentals) Approved 07/15/2020
7	CUP (4 Short Term Rentals) Approved 08/26/2020
8	CUP (Commercial Parking Lot) Approved 12/09/1985

### 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 Oceanfront Resort District Form-Based Code (FBC) provides flexibility through the Alternative Compliance process to accommodate certain uses and design features that will be essential in creating the character and ambiance envisioned by the City. The proposed development will require certain departures from the provisions of the Form-Based Code to create a visually interesting environment with a unique sense of place. Though the design proposal is of the type envisioned as an end result by the FBC, there are elements of the overall design that do not meet the prescribed forms of the FBC regulations. In such cases, the FBC provides two other sets of provisions under which property may be developed that provide greater flexibility as necessary. The first is “Optional Forms of Development (OFD),” which is a by-right option administered by the City staff that can be applied when the purpose of a prescribed form is fulfilled to an equal or greater degree by a different design solution. The second is “Alternative Compliance (AC),” which requires approval by the City Council and allows for an even higher degree of flexibility than Optional Forms of Development.

Section 7.3.3 of the FBC provides the ‘Review Standards’ for these applications:

- A. Applications for Alternative Compliance shall be evaluated for consistency with the following standards, and the City Council, in deciding whether to allow Alternative Compliance, shall consider the extent to which the proposed development, taken as a whole:
  1. Advances the stated goals and objectives of the Resort Area Strategic Action Plan and this Code, and specifically, the extent to which the proposed development:
    - a. **Promotes modes of transportation other than the automobile, including walking and transit.** *Staff Comments: The development will accommodate alternative modes of transportation, including rideshare drop-offs, bicycle parking, and ample sidewalks and connectivity for pedestrians.*
    - b. **Creates a built environment that is in scale with pedestrian-oriented activities and provides visual interest and orientation for pedestrians.** *Staff Comments: This site will include a pedestrian promenade from Baltic Avenue to Pacific Avenue, expansive open space and a network of pedestrian-scale sidewalks*

and hardscaping. The project includes dramatic, modern architecture and an expansive surf lagoon that will create a very unique and memorable sense of place for pedestrians.

- c. **Contributes to a mix of uses in the area that are compatible with each other and work together to create a memorable and successful place.** *Staff Comments:* The project will include a mix of entertainment, retail, recreation, food and beverage, parking, office, and residential uses arranged in a manner that will create an interesting and unique experience for users of the site. The facility will draw visitors year round, directly addressing one of the most challenging goals of the long range plan for this area, RASAP 2030.
2. **Is consistent with the intent of the regulations applicable to the street frontage in which it is located, as set forth in Sec. 2.1 of this code.** *Staff Comments:* The interior of the site fronts on 19<sup>th</sup> Street, which is considered a “Shopping Frontage” by the FBC and is intended to promote pedestrian movement and activity. The project features a large pedestrian promenade to improve east-west mobility along the storefronts that will line this corridor. Arctic Avenue, a “Beach Frontage” street in the FBC, bisects the project site. Because Beach frontages are intended to be quieter, pedestrian areas, the project proposes a large lawn area and traffic calming measures along this corridor to slow vehicular traffic and promote pedestrian activity.
3. **Is physically and functionally integrated with the built environment in which it is located.** *Staff Comments:* The setback and height alternatives allow the project to conserve a greater amount of land for open space and accessibility on the site, allowing the site to function well and provide an interesting and welcoming aesthetic for residents, patrons, and passers by. The mixed use buildings are laid out on an east-west axis, meaning that the adjacent residential uses will not be negatively effected by shade from new buildings. Additionally, this building orientation minimizes direct sunlight exposure on the buildings, helping to keep the building cooler in the summer and warmer in the winter.
4. **Advances the goals and objectives of the parking strategy for the District.** *Staff Comments:* The parking garages constructed with this development will house approximately 1,422 centrally located parking spaces. Unlike commercial properties on the blocks between Atlantic and Pacific Avenues, employees and residents of the proposed development will not be eligible to receive parking passes from the Residential Parking Permit Program. This will mitigate impacts of parking in the surrounding residential-only neighborhoods.
5. **The City Council shall also consider the potential impacts of the proposed deviation on surrounding properties and the extent to which any adverse impacts from such deviation can be mitigated.** *Staff Comments:*

*Maximum Building Height:* Sec. 7.3 of the Oceanfront Form-Based Code specifies that the City Council may allow an increase to maximum building height if the applicant demonstrates that no increase in density will result from the additional height. This is evident in that the surf lagoon occupies more than a block of otherwise buildable area at a height of 75 feet. Further, the buildings are designed to step down, giving them a more human scale for the pedestrians that will utilize the promenade.

*Building Setback:* The proposed deviation from the FBC would permit the buildings on 20<sup>th</sup> Street, 18<sup>th</sup> Street, and Arctic Avenue to have a 0 foot setback, meaning that the edge of the building would be flush with the property line. The purpose of the setback requirement is “to avoid overmassing of buildings and provide additional space for improvements that contribute to the public realm and a comfortable pedestrian environment” (p. 7-4 ORDFBC). The code deviation is further mitigated by new and refreshed outdoor amenity spaces throughout the site and generous landscape buffers between the parking lots and streets.

*Commercial Building Type on Beach Frontage Type:* The proposed deviation from the FBC would permit one-story buildings on 18<sup>th</sup> Street and Arctic Avenue. The purpose of this building type restriction is to reserve Beach frontage types for quieter frontages with high pedestrian activity associated with movement from residential areas down to the beach. The proposed one-story building on 18<sup>th</sup> Street will house mechanical equipment needed to operate the surf lagoon. The smaller, one-story retail buildings will be compatible with surrounding uses and architecture.

Based on the conclusion that the proposed use and associated structures satisfy the standards above to the greatest extent possible, Staff recommends approval of the request for Alternative Compliance to the Form-Based Code.

## Recommended Conditions

1. The project will be developed in substantial conformance to the exhibit package entitled “Atlantic Park – Conceptual Massing” by Gensler and Venture Realty Group dated 06/16/2021, which has been exhibited to the City Council and is on file with the Planning Department.
2. Roadway improvements as identified in the Atlantic Park Traffic Impact Analysis, once finalized, that are not to be constructed by the City shall be constructed by the applicant and incorporated into the applicant’s construction sequencing plan for the overall project.
3. The applicant shall submit a Sight Distance Analysis to be reviewed by the Traffic Engineer for the Department of Public Works prior to the final approval of the site plan.
4. The applicant shall work with the Resort Management Office to develop a traffic management plan to be implemented during events at the entertainment venue, including but not limited to events involving the closure of Arctic Avenue.
5. All streetscapes bordering and within the development project shall include sidewalks, street trees, and pedestrian lights. Dimensional details will be determined during site plan review.
6. No outdoor amplified music is permitted between 11:00 p.m. and 10:00 a.m.
7. No merchandise, produce, or food shall be displayed or sold along any public right-of-way.
8. Small structures used for the sale or display of merchandise, produce, food, or other wares shall be placed at least five feet from any public right-of-way. The structures shall be oriented so that the customer activity is on the street-facing façade.

*Further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.*

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

## Comprehensive Plan Recommendations

The subject property is within the Resort Strategic Growth Area (SGA), one of eight SGAs designated by the Comprehensive Plan. The original Resort Area Strategic Action Plan (RASAP), adopted in 2008, identified eight top priorities, most of which have been completed. One of the outstanding items, “Develop Dome Site as major entertainment venue,” has continued support in the recently updated plan, *RASAP 2030*. Adopted by City Council on June 2, 2020, *RASAP 2030* establishes new goals for the Resort SGA in the next decade while continuing support for the outstanding priorities.

The restated vision established in *RASAP 2030* is to “identify and implement public amenities and infrastructure improvements and update codes, guidelines, and city review processes to encourage private development, enabling the Virginia Beach Resort Area to become a diverse, world-class, year-round coastal community for residents and visitors” (p. 10). Continuing the theme from the previous plan, further distinguishing multiple sub-districts with their own unique character will be key to creating a diverse resort area with something for everyone to enjoy year round.



*The Dome (1958 – 1994)*

The subject site is in the Central Beach District, home to the Virginia Beach Convention Center and Sports Center, the growing ViBe Creative District, and the Virginia Museum of Contemporary Art (MOCA). 19<sup>th</sup> Street, which is planned to be a major multi-modal corridor, connects the subject site to these established entertainment and recreational destinations (p. 11). Since “The Dome” was razed in 1994, the City has identified this site as a prime location for a major entertainment or recreational venue. *RASAP 2030* lists the Dome Site as one of a handful of impactful projects that will benefit the Resort Area and the City of Virginia Beach (p. 52), and the applicants’ concept plan in particular is described on p. 47.

## Traffic Impacts

### Traffic Impact Analysis (TIA)

The City of Virginia Beach Public Works Traffic Engineering and Strategic Growth Area (SGA) Office staff have worked closely with the engineering firm Kimley Horn to develop the draft version of the Atlantic Park Traffic Impact Analysis (TIA), dated June 2021. While the TIA is still considered a draft report, Traffic Engineering is comfortable with the study methodology, assumptions, results, and the major study area roadway improvement recommendations. As with any major development project such as Atlantic Park, minor changes to the scope of the project are expected and the TIA will be updated accordingly before it is considered final.

The new vehicular trips generated by the Atlantic Park development will create the need for roadway modifications in and around the Atlantic Park site. The TIA has identified what these roadway improvements entail and includes some improvements that are needed due to existing traffic conditions. A condition is proposed that requires the roadway improvements listed in the TIA must be constructed by the Applicant if the improvements are not to be constructed by the City of Virginia Beach.

The draft TIA report includes the following major roadway improvements to accommodate the Atlantic Park development traffic:

- New traffic signal and intersection improvements at the Pacific Avenue/20th Street intersection.
- Traffic signal modifications at the Baltic/19th Street intersection.
- Intersection geometry modifications for Baltic Avenue and 20th Street, Arctic Avenue and 20th Street and Arctic Avenue and 18th Street.
- Roadway segment geometry modifications for 20th Street between Pacific Avenue and Arctic Avenue and Arctic Avenue between 19th Street and 20th Street.
- Traffic signal removal and intersection geometry modifications at Pacific Avenue and 19th Street and Arctic Avenue and 19th Street.
- Road closure of 19th Street from Arctic Avenue to Pacific Avenue.
- Corridor traffic signal retiming for Pacific Avenue, 21st Street and 22nd Street.

An important note for this TIA is that these roadway improvements were developed to mitigate the traffic impacts associated with the Atlantic Park development, but it did not include the traffic associated with an event at the proposed 3,500 seat entertainment venue that is part of the development. The TIA states that “During events at the entertainment

Atlantic Park, Inc.

Agenda Item 19

Page 6



venue, special event management plans will be needed to facilitate those peak times during the approximate hour before the start time and hour after the event ends to safely move vehicles and pedestrians throughout the area.”

### **Site Distance Analysis**

Traffic Engineering will require a sight distance analysis to be completed by the applicant to ensure that there is adequate sight distance at the intersections within the area of the development. With the closing of right-of-way to bring the buildings closer to the roadway, this analysis is critical to making sure that the intersection sight distance can be safely maintained.

### **Resort Area Mobility Plan (RAMP)**

The City is currently finalizing the RAMP project as recommended by the Resort Area Strategic Action Plan updated last year (RASAP 2030). This mobility plan for the Resort Area will address traffic flow, transit services, parking, shared-ride services, micro mobility options, curbside management and active transportation. An extensive public outreach with residents, businesses and visitors will be needed to identify priorities and ensure the mobility plan outcomes will generate a net gain for the community. The mobility planning process will include citizen input, data collection, traffic studies, and collaboration with other government agencies (for example, VDOT) in order to identify potential funding strategies, action items, and project and policy recommendations. This plan is scheduled to be completed in early 2022.

### **Capital Improvement Program (CIP)**

A number of CIP projects are in various stages of planning and implementation in the vicinity of this development. These projects will include traffic improvements to address existing conditions as well future impacts generated in part by the proposed Atlantic Park development. The Atlantic Park Traffic Impact Analysis has factored these planned improvements into its analysis.

## **Stormwater Impacts**

Extensive stormwater improvements will be required for the proposed development in order to meet current stormwater regulations. Specific improvements will be determined during detailed site plan review.

## **Public Utility Impacts**

### **Water & Sanitary Sewer**

There is an existing 12” City water main and a 6” City gravity sanitary sewer main in the 18th Street right of way to be closed. A survey is necessary to show the location of these two mains and the associated water and sanitary sewer infrastructure with respect to the proposed area for closure. It is expected that relocation of both mains will be necessary if this street closure is approved in order to provide physical separation from proposed structures for maintenance. The length of utilities to be relocated will be determined based on the aforementioned survey.

## **Public Outreach Information**

### **Resort Advisory Commission (RAC)**

- The applicant presented the proposed conceptual plans and renderings to the RAC Planning Design Review Committee on November 3, 2020, and the committee voted unanimously in support of the project. An updated briefing was presented to the RAC on July 1, 2021.

## Planning Commission

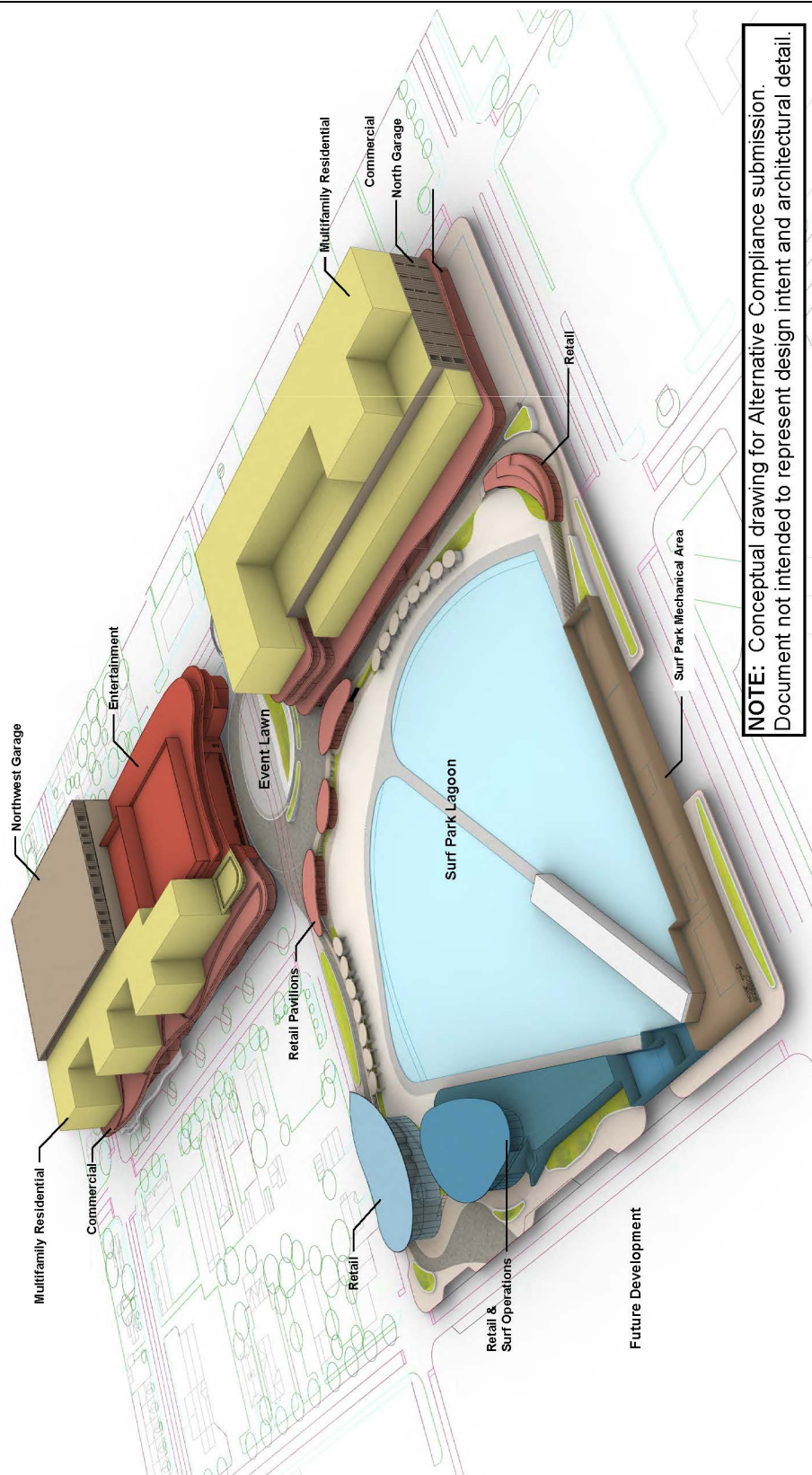
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on June 14, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, June 27, 2021 and July 4, 2021.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on June 28, 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](http://www.vbgov.com/pc) on July 8, 2021.

06/16/2021



Gensler

# Atlantic Park - Conceptual Massing



**NOTE:** Conceptual drawing for Alternative Compliance submission.  
Document not intended to represent design intent and architectural detail.

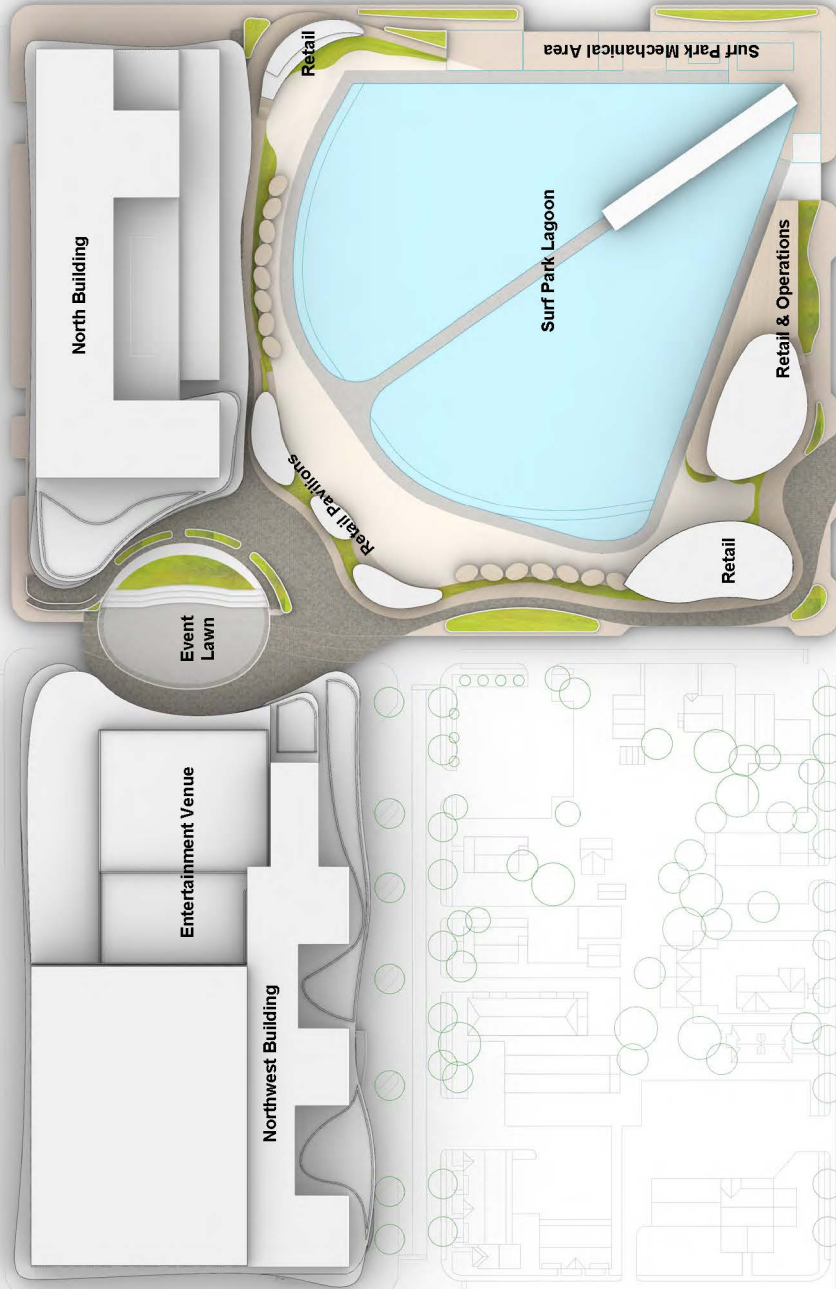
# Proposed Conceptual Massing & Site Plan

06/16/2021

VENTURE  
REALTY GROUP

Gensler

Atlantic Park - Conceptual Site Plan

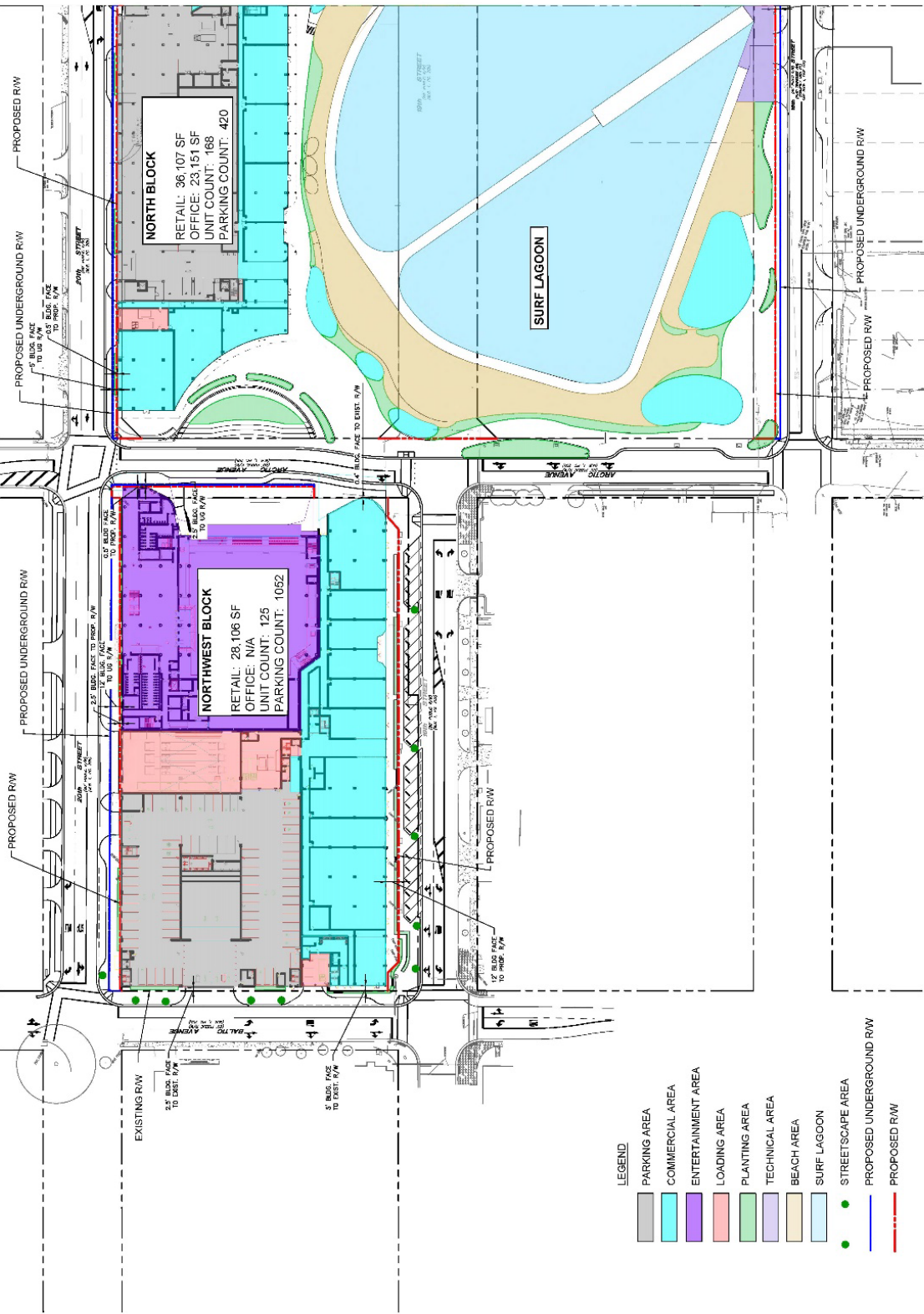


**NOTE:** Conceptual drawing for Alternative Compliance submission.  
Document not intended to represent design intent and architectural detail.



## Proposed Conceptual Massing & Site Plan

**NOTE:** Conceptual drawing for Alternative Compliance submission.  
Document not intended to represent design intent and architectural detail.



## ALTERNATIVE COMPLIANCE CONCEPT PLAN

ATLANTIC PARK



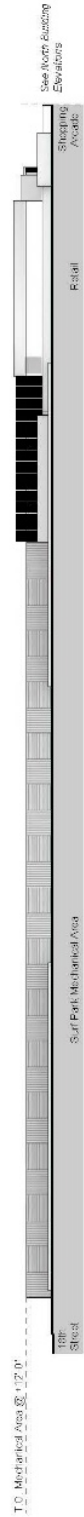
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# Atlantic Park - Conceptual Surf Block

**Gensler** **VENTURE**  
REALTY GROUP

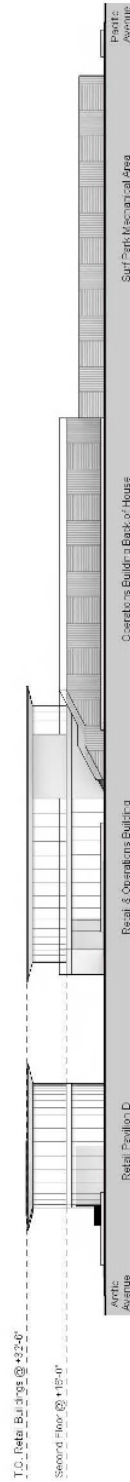
06/16/2021

## East Elevation - Pacific Avenue



**NOTE: Conceptual drawing for Alternative Compliance submission.  
Document not intended to represent design intent and architectural detail.**

## South Elevation - 18th Street

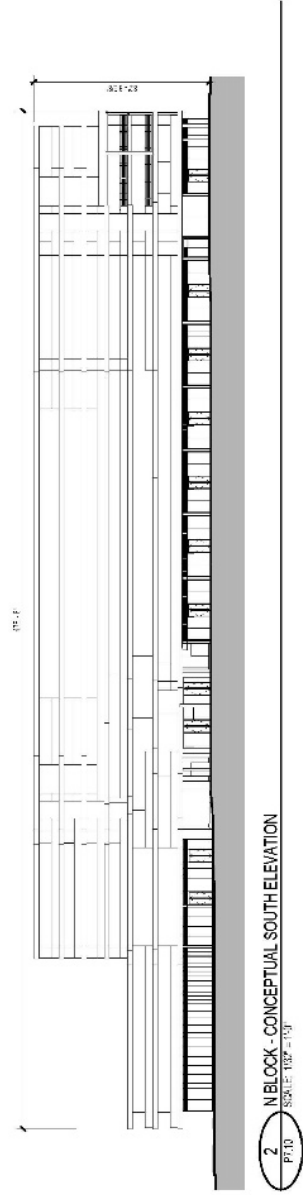
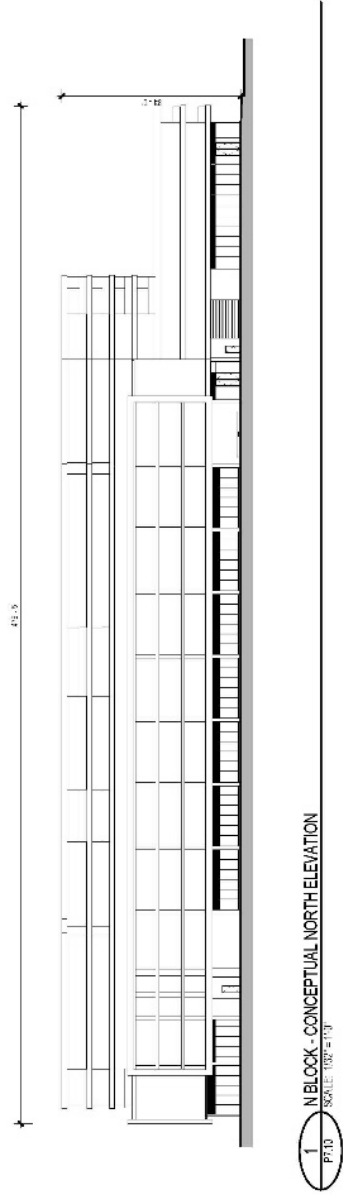


## West Elevation - Arctic Avenue



# Proposed Elevation Plan

**NOTE:** Conceptual drawing for Alternative Compliance submission.  
Document not intended to represent design intent and architectural detail.





PROJECT: 20180478

08/05/18

EXTERIOR ELEVATIONS

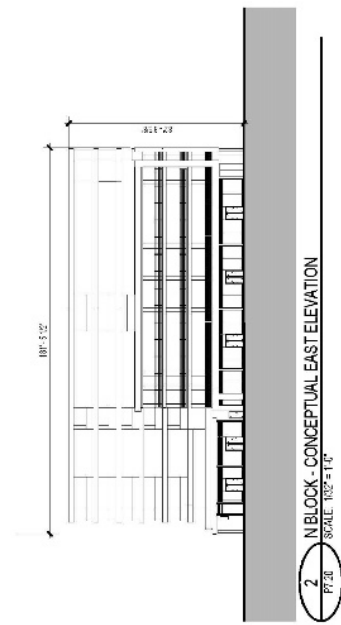
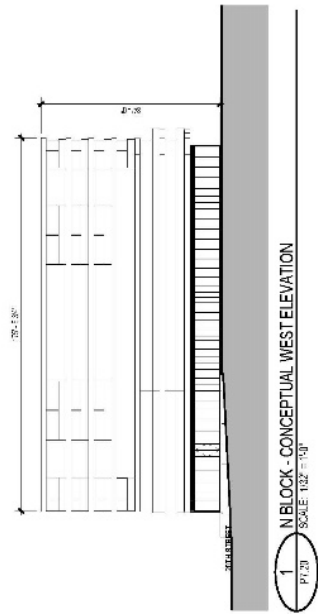
Atlantic Park - North Block  
Intersection of 20th Street and 10th Avenue, Brooklyn, NY 11218



COOPER CARRY

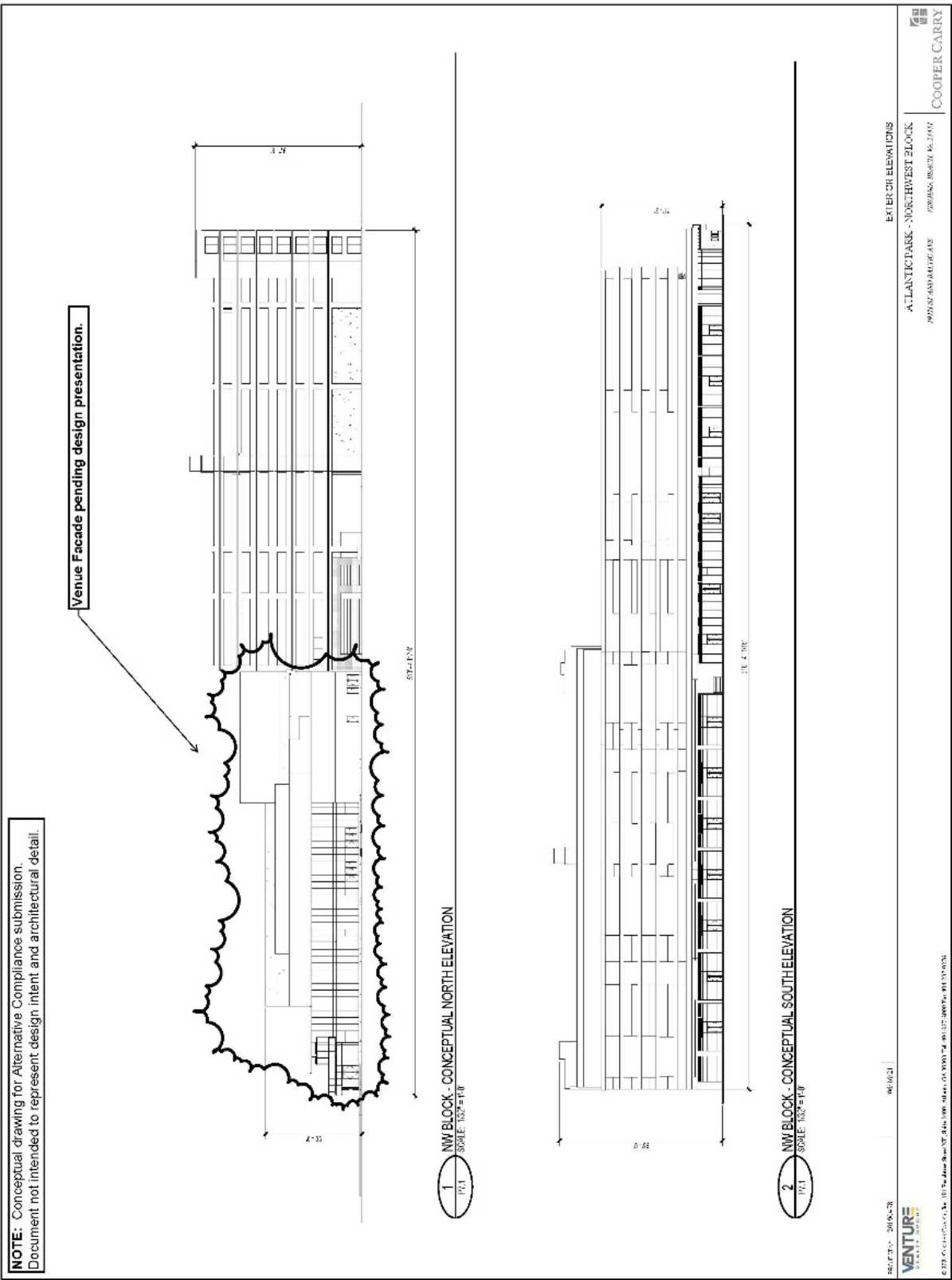
# Proposed Elevation Plan

**NOTE:** Conceptual drawing for Alternative Compliance submission.  
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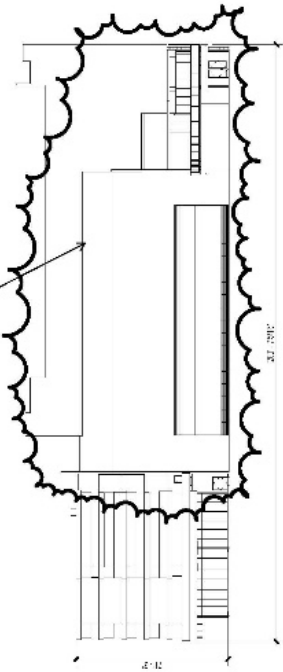
# Proposed Elevation Plan



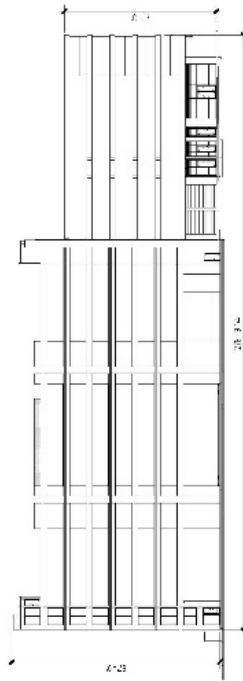
# Proposed Elevation Plan

**NOTE:** Conceptual drawing for Alternative Compliance submission.  
Document not intended to represent design intent and architectural detail.

Venue Facade pending design presentation.



1 NW BLOCK - CONCEPTUAL EAST ELEVATION  
1/4" = 1'-0"



2 NW BLOCK - CONCEPTUAL WEST ELEVATION  
1/4" = 1'-0"

VENTURE  
ARCHITECTS

PROJECT NO. 2019-018

NO. 0024

EXTERIOR ELEVATIONS

ATLANTIC PARK - NORTHWEST BLOCK

9001 ST. AND AULICANE

DESIGNED BY: 2019

COOPER CARRY

**Northeast Block - SW Corner of 20<sup>th</sup> Street & Pacific Avenue**



**Surf Block - 19<sup>th</sup> Street & Pacific Avenue (looking west)**



**Surf Block - SW Corner of 19<sup>th</sup> Street & Pacific Avenue**





## Site Photos

**Surf Block - NW Corner of 18<sup>th</sup> Street & Pacific Avenue**



**Surf Block - NE Corner of 18<sup>th</sup> Street & Arctic Avenue**



**Surf Block - 19<sup>th</sup> Street & Arctic Avenue (looking east)**





## Site Photos

**SW Corner of 20<sup>th</sup> Street & Pacific Avenue**



**19<sup>th</sup> Street & Pacific Avenue (looking west)**



**SW Corner of 19<sup>th</sup> Street & Pacific Avenue**



### 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** Atlantic Park, Inc.

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

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

Michael A. Culpepper

**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)

See attached

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

See attached

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

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

### Disclosure Statement



#### Known Interest by Public Official or Employee

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

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

City of Virginia Beach Development Authority is owner.

#### 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.

Applicant anticipates securing financing (capital provider has not been selected).

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.

Venture Realty Group

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.

BDO

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.

Cooper Carry, Hanbury, WPL, Kimley Horn

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.

W.M. Jordan

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

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

WPL, Kimley Horn

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.

Kaufman + Canoles

#### 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.

ATLANTIC PARK, INC.

*[Signature]*

Applicant Signature

MICHAEL A. CULPIN, PRES

Print Name and Title

2-1-21

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	



**Atlantic Park, Inc.**  
**Venture Realty Group**  
**Venture Realty Group 1, LLC**  
**Venture Waves, LLC**  
Donna MacMillan-Whitaker  
Michael A. Culpepper  
John L. Gibson, III  
Bruce A. Berlin  
Elizabeth Matulenas  
Matthew L. Lafler  
Steven D. Green  
**W.M. Jordan Company**  
John R. Lawson  
**H2O Investments, LLC**  
Joe LaMontagne  
**The Costen Companies**  
Tim Costen  
Pharrell Williams  
**Bishard Development Corp.**  
Steven W. Bishard  
John K. Bishard  
Robert A. Deacon

### Disclosure Statement



#### Owner Disclosure

**Owner Name** City of Virginia Beach Development Authority ("VBDA")

**Applicant Name** Atlantic Park, Inc.

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)

The owner is a political subdivision of the Commonwealth of Virginia. Attached is a list of the current Commissioners of the VBDA

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

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?

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

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

### Disclosure Statement



#### Owner Services Disclosure

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

☐ Yes ☒ No

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

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

☐ Yes ☒ No

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

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

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

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

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

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

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

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

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

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

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

Kimley-Horn, Vanasse Hangen Brustlin, Inc. (VHB), and MBP (McDonough Bolyard Peck)

## Disclosure Statement

### Disclosure Statement



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

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

Singer Davis

#### Owner Signature

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#### Owner Signature

Alexander W. Stiles, Senior City Attorney

#### Print Name and Title

02/11/21

#### Date



CITY OF VIRGINIA BEACH DEVELOPMENT AUTHORITY COMMISSIONERS

David L. Bernd (Secretary)

Dr. William Brown

William Brunke (Treasurer)

Nneka Chiazor

W. Taylor Franklin (Assistant Secretary)

Penny Morgan

Lisa M. Murphy (Chair)

Michael J. Standing

Joseph E. Strange (Vice Chair)

Guenter H. Weissenseel

Dorothy L. Wood

## Next Steps

- Upon receiving a recommendation from Planning Commission, this request will be scheduled for a City Council public hearing. Staff will inform the applicant and/or their representative of the date of the hearing in the upcoming days.
- Following City Council's decision, the applicant will receive a decision letter from Staff.
- Once the conditions of approval are in place and/or completed, the applicant must contact the Zoning Division of the Planning Department to obtain verification that the conditions have been met. Contact the Zoning Division at 757-385-8074.
- If the request requires land disturbance and/or a subdivision of property, please contact the Development Services Center (DSC) to discuss next steps for site plan/plat review. Contact the DSC at 757-385-4621 or the Development Liaison Team at 757-385-8610.
- Please note that further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.
- The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.

**Request**

**Modification of Conditions** (Tattoo Parlor)

**Staff Recommendation**

Approval

**Staff Planner**

Hank Morrison

**Location**

172 S. Plaza Trail, Suite E

**GPIN**

1487826823

**Site Size**

1.6 acres

**AICUZ**

65-70 dB DNL

**Watershed**

Chesapeake Bay

**Existing Land Use and Zoning District**

Shopping Center / B-2 Community Business

**Surrounding Land Uses and Zoning Districts**

**North**

Daytona Drive

Restaurants, mixed retail, multi-family dwellings  
/ B-2 Community Business & A-36 Apartment

**South**

Truck rental, church / B-2 Community Business

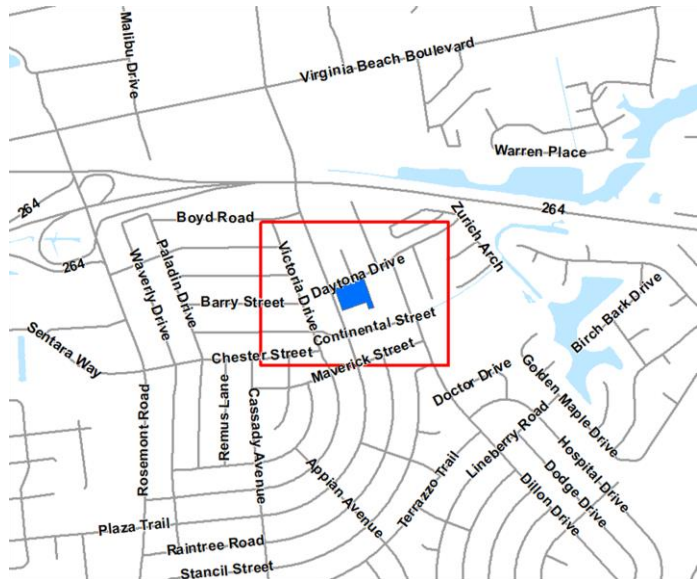
**East**

Multi-family dwellings / A-18 Apartment

**West**

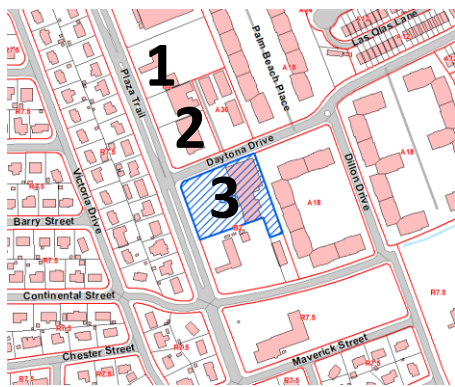
South Plaza Trail

Single-family dwellings / R-7.5 Residential



## Background & Summary of Proposal

- The applicant is requesting to modify the conditions of a previously approved Conditional Use Permit to expand a Tattoo Parlor located in the shopping center at the southeast corner of South Plaza Trail and Daytona Drive.
- The applicant received a Conditional Use Permit in July 2019 to operate a Tattoo Parlor in Suite E of the shopping center. The adjacent suite, Suite F, is now vacant and the applicant proposes to modify the conditions to allow operation of a Tattoo Parlor in both suites.
- The hours of operation are proposed as 10:00 a.m. to 9:00 p.m., seven days per week.
- No exterior changes are proposed to the building.



### Zoning History

#	Request
1	CUP (Mini-Warehouse) Approved 05/09/2001
2	CUP (Church) Approved 05/12/2009 CUP (Bulk storage, auto repair, truck rental) Approved 03/13/2012
3	CUP (Tattoo Parlor) Approved 04/17/2019

### 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
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## Evaluation & Recommendation

The request to modify conditions associated with the existing Conditional Use Permit is acceptable given that the use is compatible with the other existing commercial businesses in the shopping center and the vicinity. No additional parking is required within the shopping center, as it was designed to accommodate a variety of mixed commercial uses. The site is adjacent to other commercial properties and, as required by the Zoning Ordinance, there are no other tattoo parlors within 600 feet of this request.

Prior to operating in Suite F, the Health Department must verify that the business meets all the requirements of Chapter 23 of the City Code. This section of the code establishes standards for disclosure, hygiene, licenses, waivers, proof of age, recordkeeping, inspections, cleanliness, vaccinations, and permitting. A Certificate of Occupancy will not be issued until the requirements of the Health Department are met.

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



## Recommended Conditions

1. A business license for the Tattoo Parlor shall not be issued to the applicant without the approval of the Health Department to ensure consistency with the provisions of Chapter 23 of the City Code.
2. The actual application of tattoos shall not be visible from the exterior of the establishment or from the waiting and sales area within the establishment.
3. Any on-site signage for the establishment shall meet the requirements of the City Zoning Ordinance, and there shall be no neon, electronic display or similar sign installed on the exterior of the building or in any window, or on the doors. A separate sign permit shall be obtained from the Planning Department for the installation of any new signs.

*Further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.*

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

## Comprehensive Plan Recommendations

The subject property is located within the Rosemont Strategic Growth Area (SGA), which the Comprehensive Plan designates as one of the eight urban areas in the City that envisions a vertical mix of urban uses, urban streetscapes, pedestrian connectivity, mobility and transit alternatives, urban gathering places, land use patterns that foster economic growth through efficient use and reuse of land, neighborhood protection, “green” building and infrastructure opportunities, and a variety of civic, commercial, artistic, and ethnically diverse areas.

## Natural & Cultural Resources Impacts

The site is located within 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
South Plaza Trail	11,100 ADT <sup>1</sup>	12,500 ADT <sup>1</sup> (LOS <sup>2</sup> “D”)	No Change is Anticipated
<sup>1</sup> Average Daily Trips		<sup>2</sup> LOS = Level of Service	

## 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 June 14, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, June 27, 2021, and July 4, 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 June 28, 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](http://www.vbgov.com/pc) on July 8, 2021.


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** Wesley D Boyd

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)  
Wesley Boyd, Antonio Almazan, Brandon Weilacher

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

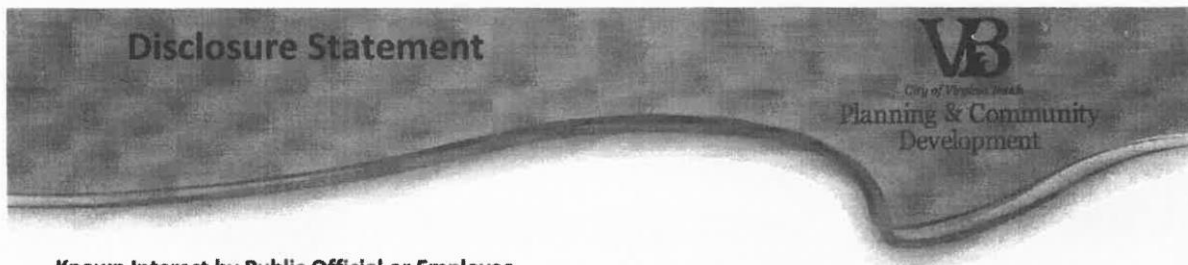
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<sup>1</sup> "Parent-subsidary relationship" means "a relationship that exists when one corporation directly or indirectly owns or controls more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of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

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*Revised 11.09.2020* 1 | Page





### **Known Interest by Public Official or Employee**

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

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

### **Applicant Services Disclosure**

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

☐ **Yes** ☒ **No**

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

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

☐ **Yes** ☒ **No**

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

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

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

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

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

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

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

## Disclosure Statement

### Disclosure Statement



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

#### Applicant Signature

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

#### Applicant Signature

*Wesley Boyd*

#### Print Name and Title

Wesley Boyd, B&W Tattooing LLC President

#### Date


03/13/21

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	7/1/2021	Signature
				<i>Hank Morrison</i>
				Print Name
				Hank Morrison

## Disclosure Statement

<b>Disclosure Statement</b>	
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**Owner Disclosure**

Owner Name Capital Finance, Inc

Applicant Name Wesley D Boyd

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)  
SHANPOR MANGEREPTCH PRS.
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Revised 11.09.2020

## Disclosure Statement

**Disclosure Statement**

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**Owner Services Disclosure**

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

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

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Revised 11.09.2020

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## Disclosure Statement

**Disclosure Statement**

**VB**  
City of Virginia Beach  
Planning & Community  
Development


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

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---

**Owner Signature**

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Owner Signature

shahpor mahgerefteh prs

---

Print Name and Title

3-16-2021

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Date

Revised 11.09.2020

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## 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.
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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.
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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.

### Requests

**#21 - Subdivision Variance** (Section 4.4 (b) of the Subdivision Regulations)

**#22 - Floodplain Variance** (Section 4.10 B. 3 of Floodplain Ordinance)

### Staff Recommendation

Approval

### Staff Planner

Whitney McNamara

### Location

West Landing Road

### GPIN

1492624123

### Site Size

1.4 acres

### AICUZ

70-75 dB DNL

### Watershed

Southern Rivers

### Existing Land Use and Zoning District

Undeveloped / AG-2 Agricultural

### Surrounding Land Uses and Zoning Districts

#### North

North Landing River, non-tidal wetlands / AG-2 Agricultural

#### South

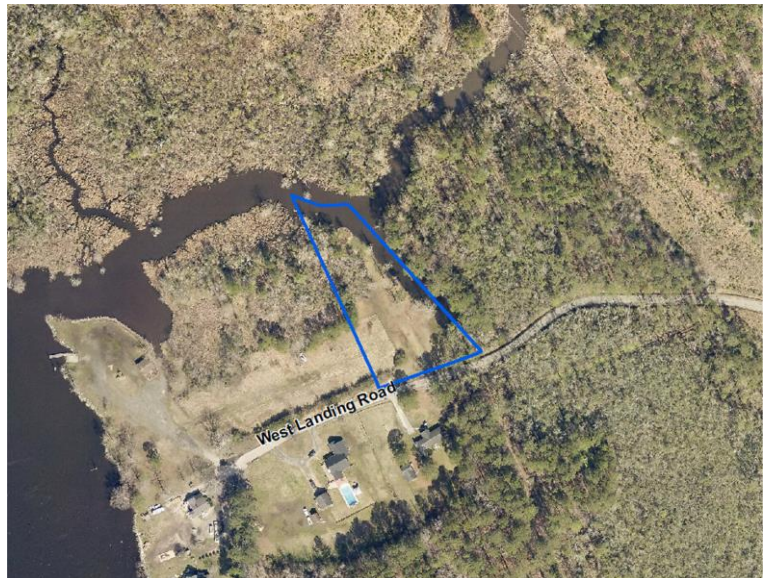
West Landing Road  
Single-family dwellings / AG-2 Agricultural

#### East

Undeveloped forest / AG-2 Agricultural

#### West

Undeveloped, former Marina / B-2 Community Business



## Background & Summary of Proposal

- According to City records, the property was created by Deed in August 1972 (DB 1295, P 54). The Deed is recorded in the land records maintained by the Clerk of the Circuit Court.
- The property contains 1.413 acres with 212.67 feet of road frontage. Despite the fact that the property met all of the A-R Agricultural District requirements when it was established in 1972, and that the City has taxed the lot as configured for over 50 years and assigned it a separate GPIN, it was never recorded by a plat as required.
- The applicant is seeking a Subdivision Variance to allow this lot to be legally created and therefore recognized as a developable parcel. While physically the lot meets the current requirements of Section 402 of the Zoning Ordinance, which requires properties in the Agricultural District to have a minimum lot area of at least one acre and a minimum lot width of 150 feet, the Zoning Ordinance does not allow property within the Floodplain Subject to Special Restrictions to count toward meeting either the lot area or lot width minimum requirements. While the property does meet the required 150 foot lot width, all but 1,300 square feet of this property falls within the Floodplain Subject to Special Restrictions. Therefore, a Subdivision Variance is requested for lot area.

	Minimum Lot Area (square feet)	Existing Gross Lot Area (square feet)	Proposed Lot Area removing Floodplain (square feet)	Minimum Lot Width (feet)	Proposed Lot Width (feet)
<b>Parcel</b>	43,560	61,565	1,300	150	156.37

- A Floodplain Variance is also requested because the applicant desires to develop the property with a single-family dwelling. Section 4.10 B.3 of the Floodplain Ordinance does not allow new residential structures on lots created after October 23, 2001 to be placed in the Floodplain Subject to Special Restrictions. Due to the fact that the majority of the property is located in the Floodplain Subject to Special Restrictions, it would be impossible to develop this lot entirely outside this area.
- Almost 29,000 square feet of non-tidal wetlands are present on the property and the 50-foot Southern Rivers Watershed Management Buffer runs along the north and east sides of the property. The applicant is proposing to avoid development in these areas to limit environmental impacts.

### Zoning History

#	Request
1	<b>MOD</b> (Modification of Conditions) Indefinitely Deferred (3/22/2011) <b>MOD</b> (Modification of Conditions) Denied 10/26/1999 <b>CRZ</b> (AG-2 to Conditional B-2) Approved 11/14/1997 <b>CUP</b> (Commercial Marina) Approved 10/14/1997
2	<b>SVR</b> (Section 4.4(b)) Approved 01/09/1996
3	<b>SVR</b> (Section 4.4(b) and 4.4(d)) Approved 04/25/1995

### 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

### Subdivision Variance

As mentioned above, when the lot was established in 1972, it met all of the Agricultural District requirements; however, the lot was never created by plat as required. It was assigned a unique Geographical Parcel Identificate Number (GPIN), typically assigned to legally established lots, and the City has taxed the parcel as configured for over 50 years. While the property is zoned for agricultural use, there are other single family residences with varying lot sizes around this property, along West Landing Road. The Zoning Ordinance specifically excludes property within the Floodplain Subject to Special Restrictions from counting toward either the minimum lot area or lot width requirements. Because the majority of the lot's land is located in the Floodplain Subject to Special Restrictions, the lot will not meet the minimum lot area requirements of one acre, necessitating a Subdivision Variance to officially record the plat for this parcel. The property technically has 156.37 feet of frontage along West Landing Road, which does meet the lot width requirements in the Zoning Ordinance.

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.

### Floodplain Variance

Section 4.10.B.3 of the City's Floodplain Ordinance prohibits residential dwellings from being constructed in the Floodplain Subject to Special Restrictions on lots created after October 23, 2001. The property does not have ample area outside the Floodplain Subject to Special Restrictions to develop with a residential structure. To minimize fill, the applicant is proposing to limit fill to the installation of the septic system and drainage field, and driveway. The proposed residential structure will be constructed with a pile foundation to eliminate the need for additional fill for the foundation. No mitigation is proposed as the majority of the site is within the Floodplain Subject to Special Restrictions.

Section 6.4 of the Floodplain Ordinance states:

No variance shall be granted unless the following requirements are met:

1. Such variance will not create or result in:
  - a. Unacceptable or prohibited increases in flood heights
  - b. Additional threats to public safety
  - c. Extraordinary public expense
  - d. Nuisances; or
  - e. Fraud or victimization of the public
2. The granting of such variance will not be detrimental to other property in the vicinity.
3. The circumstances giving rise to the variance application are not of a general or recurring nature.

4. Such circumstances arise from the physical character of the property or from the use or development of adjacent property and not from the personal situation of the applicant.
5. Variances shall be the minimum necessary to provide relief.
6. All variances shall meet all of the requirements of the Chesapeake Bay Preservation Area Ordinance (Appendix F) and the Southern Rivers Watershed Management Ordinance (Appendix G), unless a variance therefrom is granted.

In Staff's view, the granting of the Floodplain Variance is acceptable due to the physical characteristics of the property, as opposed to a personal hardship of the applicant. Had the lot been legally platted in 1972 when it was created, a residential structure could be built without a Floodplain Variance. In addition, the property is in the unique situation that it has been taxed by the City for over 50 years as a separate, buildable lot. The proposed development will be required to meet all development standards for properties located within the floodplain as well as be required to be two (2) feet above the base flood elevation (BFE) or the hydraulic grade line (HGL) from the stormwater model, whichever is greater. Due to the location of the property, there may be times where the road and/or driveway to access the property will be flooded.

Based on the above evaluation, Staff recommends approval of the Subdivision Variance and the Floodplain Variance, as conditioned below.

### Recommended Conditions

1. The lot shall be legally recorded substantially as depicted on the submitted exhibit entitled "Boundary Exhibit of Property of Olivia J. Neilson being the remainder of 22 acres, more or less" dated March 29, 2021 and prepared by Fox Land Surveying, which has been exhibited to the Virginia Beach City Council and is on file with the Department of Planning and Community Development.
2. When the property is developed, it shall be in substantial conformance with the exhibit entitled "Boundary Exhibit of Property of Olivia J. Neilson being the remainder of 22 acres, more or less" dated March 29, 2021 and prepared by Fox Land Surveying, which has been exhibited to the Virginia Beach City Council and is on file with the Department of Planning and Community Development.
3. Fill shall be limited to the minimum necessary for placement of the septic system and associated drainage field and driveway, in accordance with the requirements outlined in Section 4.10 B.4 of the Floodplain Ordinance.
4. The residential dwelling shall be elevated using a pile foundation to further minimize the use of fill on the property.

*Further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.*

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

### Comprehensive Plan Recommendations

The Comprehensive Plan recognizes this site to be within the Rural Area, a critical part of the City that encompasses the agricultural industry and economic vitality, rural heritage, and wildlife habitat. The Rural Area supplements the diversity

of the City's character and provides a unique component to the City's tourist industry, while maintaining the rural community that is essential to the overall quality of life for Virginia Beach residents. The vision for the Rural Area is for it to remain rural into the foreseeable future through a commitment to strong planning objectives that emphasize its agricultural and environmental economic value, in an effort to preserve the area for future generations. The variance to the subdivision ordinance does not affect the character of the City's rural area and, thus, is consistent with the Comprehensive Plan.

## Natural & Cultural Resources Impacts

The site is located in the Southern Rivers Watershed and there are no known significant cultural resources associated with this site. Drainage in the Southern Rivers Watershed is highly impacted by the presence of high ground water, poorly draining soils, and high water surface elevations in downstream receiving waters. Due to the property's location along the North Landing River, it is encumbered by the 50 foot Southern Rivers Watershed Buffer, however, no development is proposed in this sensitive area. In addition, the majority of the property is located in the AE Flood Zone (1% annual chance flood) with a Base Flood Elevation of 3, which is considered to be a high risk flood zone, as shown on the Flood Insurance Rate Maps. Because of the property's located in the Southern part of the City, classified by low topography, poorly draining soils, and wind tides, this area is referred to as the Floodplain Subject to Special Restrictions.

## Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
West Landing Road West Landing Road West Landing Road Landing Road	No Data Available No Data Available No Data Available Data Available	No Data Available No Data Available No Data Available No Data Available	Existing Land Use <sup>1</sup> – 1010 ADT Proposed Land Use <sup>2</sup> – 10 ADT
<sup>1</sup> As defined by agricultural use <sup>2</sup> as defined by one single-family dwelling			

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

There are no roadway CIP projects slated for this area.

## Public Utility Impacts

### Water & Sewer

No public utility impacts are anticipated as the parcel will need to construct a private well and private on-site septic system.

## Public Outreach Information

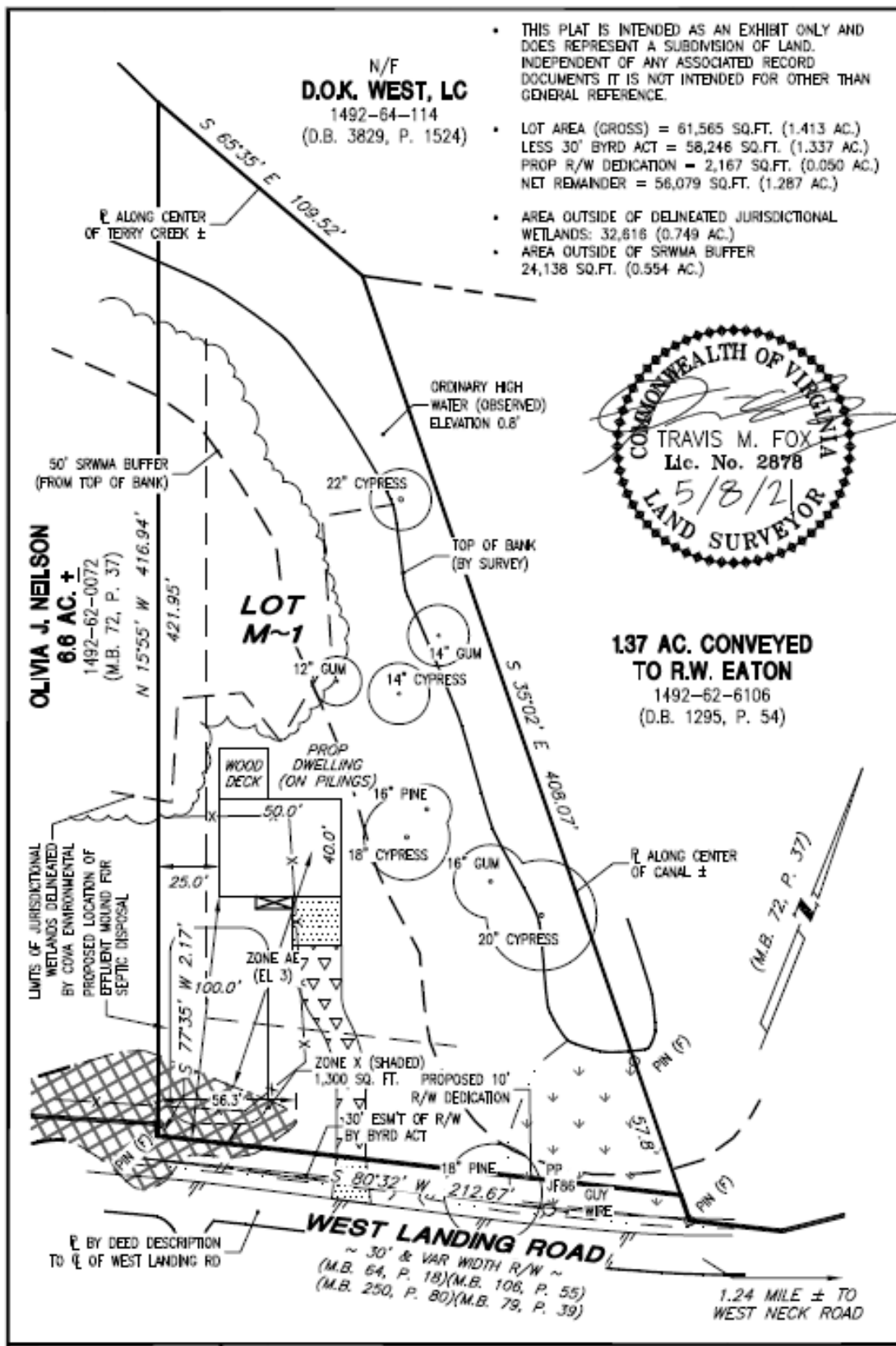
### Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on June 14, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, June 27, 2021 and July 4, 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 June 28, 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](http://www.vbgov.com/pc) on July 8, 2021.



## Proposed 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** Robert J. Nelson; Barbara N. Gray; Linda Renee Davis; Kathie K. Davis; Gary Wayne Davis;  
Jean Davis Herbert and Richard A. Davis

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

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

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

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

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

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

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

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





### Known Interest by Public Official or Employee

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

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

### Applicant Services Disclosure

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

☐ Yes ☒ No

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

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

☒ Yes ☐ No

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

Paul S. Fuqua, Rose & Womble Realty

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

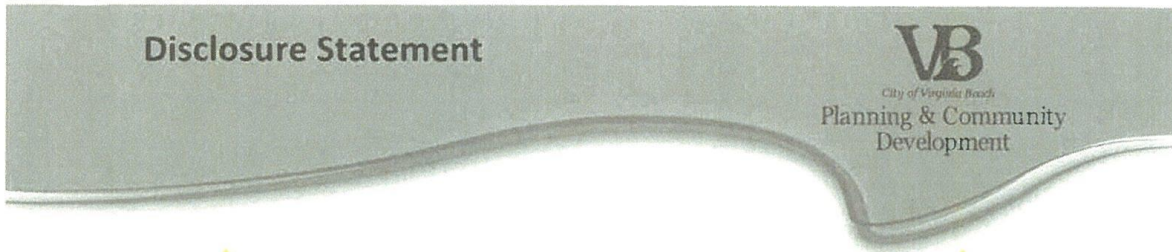
- If **yes**, identify the firm and individual providing the service.

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.

Debbie Brinn Mason and Frank M. Mason

## 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.

Travis Fox, Fox Land Surveying

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.

Dominic P. Lascara, Esq.; R. Edward Bourdon, 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.

  
Applicant Signature

Dominic P. Lascara, Attorney for Robert J. Nelson; Barbara N. Gray; Linda Renee Davis;  
Print Name and Title Kathie K. Davis; Gary Wayne Davis; Jean Davis Herbert and Richard A. Davis  
March 31, 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	

## 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** (Home Occupation-Retail Sales (Firearms))

**Staff Recommendation**

Approval

**Staff Planner**

Antionette Fowlkes

**Location**

1140 Cordova Court

**GPIN**

2414634865

**Site Size**

15,596 square feet

**AICUZ**

Less than 65 dB DNL

**Watershed**

Southern Rivers

**Existing Land Use and Zoning District**

Single-family dwelling / R-15 Residential

**Surrounding Land Uses and Zoning Districts**

**North**

Mirasol Drive

Single-family dwellings / R-15 Residential

**South**

Cordova Court

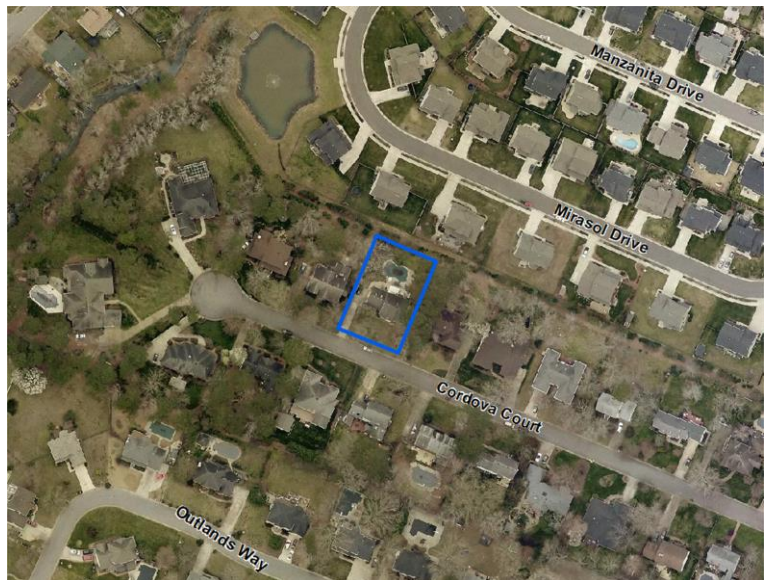
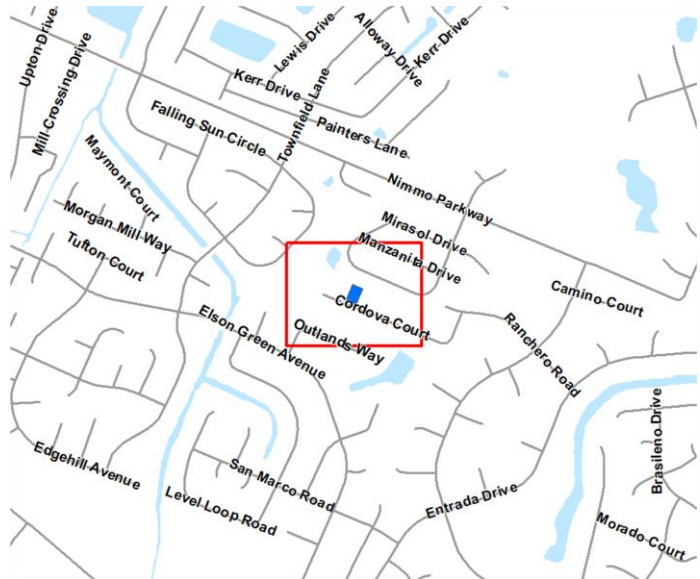
Single-family dwellings / R-15 Residential

**East**

Single-family dwelling / R-15 Residential

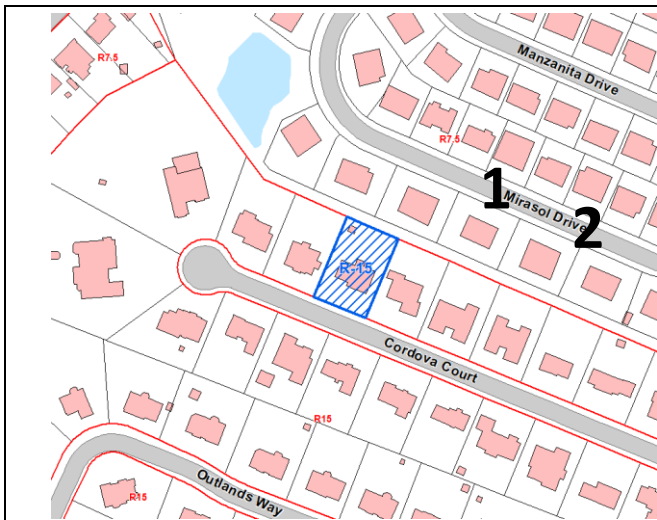
**West**

Single-family dwelling / R-15 Residential



## Background & Summary of Proposal

- The applicant is requesting a Conditional Use Permit for a Home Occupation to facilitate firearm transfers geared towards military, government and police clientele. The applicant will specialize in firearm engravings. All firearm sales will be conducted from the existing single-family dwelling in the Lagomar neighborhood.
- According to the application, all sales will be conducted on a referral basis only. 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 applicant.
- All federally controlled items will be stored in a secured location in the home, within a safe. The applicant plans to install a camera security system on the property.
- The applicant is in the process of obtaining 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, as recommended in the conditions a City of Virginia Beach Police Officer will conduct a security assessment of the home in the presence of the applicant within one month of obtaining a Conditional Use Permit.



### Zoning History

#	Request
1	CRZ (R-15, AG-1, AG-2, B-1 to Conditional R-7.5) Approved 02/28/2012
2	REZ (Conditional R-7.5 to P-1) Approved 07/11/2017

### Application Types

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

MOD – Modification of Conditions or Proffers  
NON – Nonconforming Use  
STC – Street Closure

FVR – Floodplain Variance  
ALT – Alternative Compliance  
SVR – Subdivision Variance

LUP – Land Use Plan  
STR – Short Term Rental

## Evaluation & Recommendation

The proposed request to operate a Home Occupation – Retail Sales (Firearms) within the existing single-family dwelling, in Staff's opinion, is acceptable and is consistent with the Comprehensive Plan. The 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 proposed use is complementary to the residential neighborhood in that the business activity

will be similar as to the level of activity of an average house in the neighborhood and will have no perceptible exterior impact and will operate no differently than the requirements of other Home Occupations.

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 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) employee, 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 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 Southern Rivers Watershed. Drainage in the Southern Rivers watershed is highly impacted by the presence of high ground water, poorly draining soils, and high-water surface elevations in downstream receiving waters. There are no known natural or cultural resources on the site.

## Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Cordova Court	No Data Available <sup>1</sup>	9,900 ADT <sup>1</sup> (LOS <sup>4</sup> "D")	Existing Land Use <sup>2</sup> – 10 ADT Proposed Land Use <sup>3</sup> – 10 ADT
<sup>1</sup> Average Daily Trips	<sup>2</sup> as defined by a single-family dwelling	<sup>3</sup> no change anticipated with a limit of 4 on-site transactions per month	<sup>4</sup> LOS = Level of Service



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

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

### **Public Utility Impacts**

#### **Water**

The site currently connects to city water. The existing 5/8" water meter (City ID #95037486) may be used to accommodate the proposed use. There is an existing 4-inch city water main along Cordova Court.

#### **Sewer**

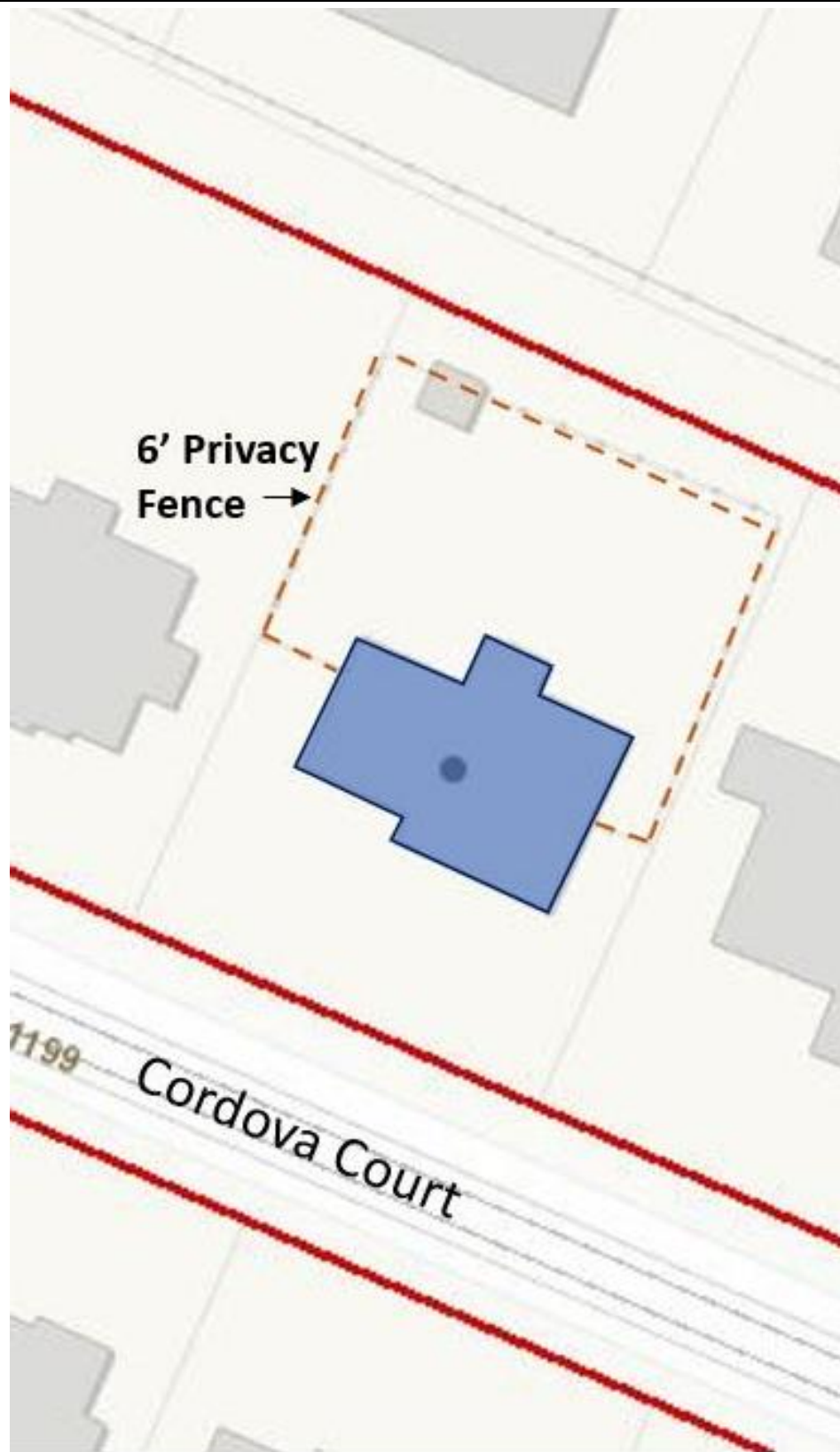
The site currently connects to city sanitary sewer. There is an existing 8-inch city sanitary sewer gravity main along Cordova Court.

### **Public Outreach Information**

#### **Planning Commission**

- The applicant reported that they emailed the surrounding property owners, and three objections were raised. Three letters of opposition have been received by Staff noting concerns related to increased traffic and safety.
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on June 14, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, June 27, 2021 and July 4, 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 June 28, 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](http://www.vbgov.com/pc) on July 8, 2021.

## Proposed Site Layout

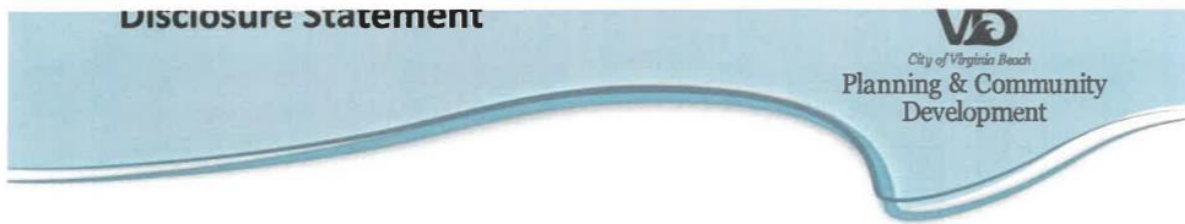


## Site Layout





## Disclosure Statement



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### Applicant Disclosure

**Applicant Name** Jeff Heitkamp

**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)  
Jeff Heitkamp/ President  
Melina Heitkamp/ Vice President

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

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

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



## Disclosure Statement



### **Known Interest by Public Official or Employee**

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

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

### **Applicant Services Disclosure**

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

☐ **Yes** ☒ **No**

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

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

☐ **Yes** ☒ **No**

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

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

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

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

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

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

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

## Disclosure Statement



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

### Applicant Signature

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

  
Applicant Signature

JEFF HEITKAMP - PRESIDENT  
Print Name and Title

3/7/2021  
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 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.
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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.





**The applicant is requesting to withdraw this application as residential kennels are not permitted within the A-12 Apartment District.**

**Request**

**Conditional Use Permit** (Residential Kennel)

**Staff Recommendation**

Withdrawal

**Staff Planner**

Antionette Fowlkes

**Location**

3200 Barlbrough Way

**GPINs**

1495190572

**Site Size**

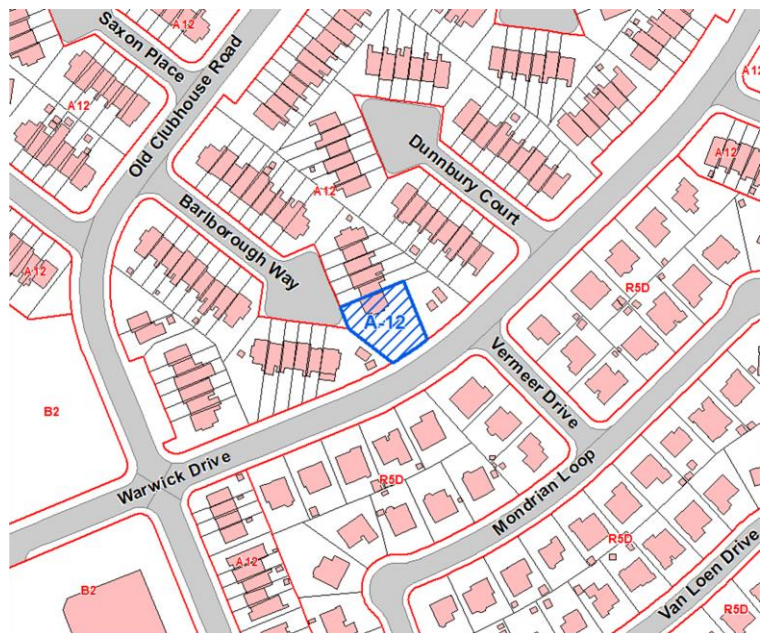
9,140 square feet

**AICUZ**

Greater than 75 dB DNL; APZ-2

**Watershed**

Chesapeake Bay





**Request**

**Conditional Use Permit** (Commercial Kennel)

**Staff Recommendation**

Approval

**Staff Planner**

Antionette Fowlkes

**Location**

503, 505, 507, 511 Central Drive

**GPINs**

14968990030503, 14968990030505,  
14968990030000, 14968970330000

**Site Size**

1.06 acres

**AICUZ**

Greater than 75 dB DNL

**Watershed**

Chesapeake Bay

**Existing Land Use and Zoning District**

Office warehouse / I-1 Light Industrial

**Surrounding Land Uses and Zoning Districts**

**North**

Office warehouse / I-1 Light Industrial

**South**

Central Drive

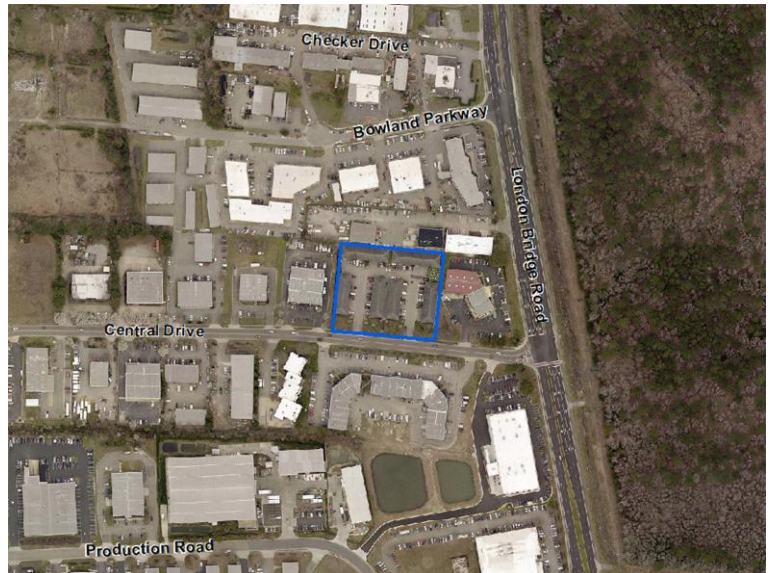
Office and warehouse buildings I-1 Light Industrial

**East**

Office warehouse / I-2 Heavy Industrial

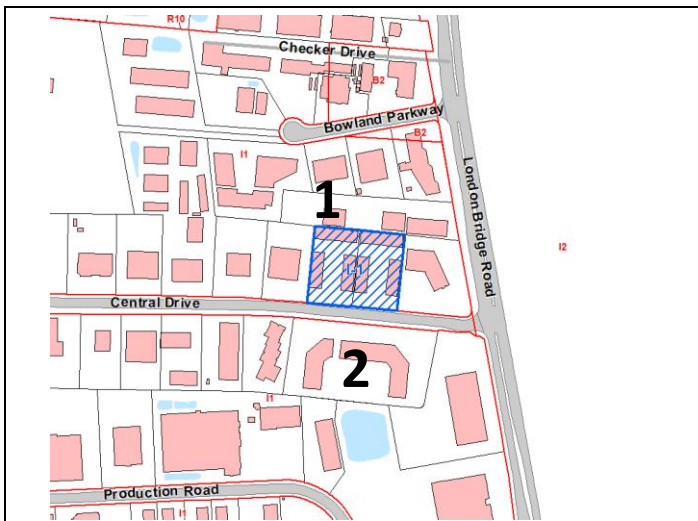
**West**

Office warehouse / I-1 Light Industrial



## Background & Summary of Proposal

- On August 12, 2008, City Council granted a Conditional Use Permit for a Commercial Kennel on the subject site. The applicant is now seeking a Modification of Conditions to expand the existing 2,100 square foot commercial kennel, specifically to three additional units in separate buildings along Central Drive totaling approximately 8,000 square feet of additional space.
- According to the application, there are currently up to 100 dogs at the facility at a given time.
- The additional units would be used as extra space to operate smaller, safer playgrounds for the daycare of dogs. Currently, dogs being boarded overnight are confined to building 505 Central Drive.
- The site is zoned I-1 Light Industrial District and is adjacent to industrial uses. The closest residential zoning district is more than 700 feet from the property.
- The hours of operation are proposed to be modified from 8:00 a.m. to 6:00 p.m., Monday through Friday to 6:00 a.m. to 7:00 p.m., Monday through Friday. Saturday operating hours are proposed to be modified from 10:00 a.m. to 4:00 p.m. to 8:00 a.m. to 4:00 a.m. With the original Conditional Use Permit, the operation was closed on Sundays. The applicant is now seeking permission to be open on Sundays from 10:00 a.m. to 4:00 p.m. for pick-up and drop-off only.
- Approximately 30-35 employees are employed by the applicant, with about 10-12 working at a given time. One employee is onsite 24-hours a day to care for the animals in case of an emergency.



### Zoning History

#	Request
1	CUP (Bulk Storage Yard) Approved 01/31/2007
2	CUP (Bulk Storage Yard) Approved 06/30/2009

### 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

This request for a Conditional Use Permit for a Commercial Kennel is acceptable. In Staff's opinion, this kennel, which is located near London Bridge Road, is compatible with the surrounding uses and is an appropriate activity in the area. Section 223 of the Zoning Ordinance requires that kennel structures within 100 feet of an adjacent property line not be occupied by animals unless the structure is both air-conditioned and soundproofed. The commercial kennel building meets this standard and is an allowable light industrial use that is compatible with the Navy easement and surrounding character



of this area which includes primarily light industrial and office uses. No dog training, however, is permitted based on the terms and conditions of the Grant of Easement owned by the United States Navy.

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

## Recommended Conditions

1. The applicant shall ensure that all dogs are properly vaccinated and immunized and are licensed through the City of Virginia Beach.
2. The dog kennel structure and indoor dog training area shall be maintained in a safe and sanitary condition.
3. All animal waste from the dog kennel shall be collected and disposed of in a lawful manner on a daily basis.
4. All signage on the site must be in accordance with sign regulations of the Zoning Ordinance.
5. All dogs shall be kenneled indoors in the dog kennel structure between the hours of Monday-Friday 6:00 a.m.-7 p.m., Saturday 8:00 a.m.- 4:00 p.m. and Sunday 10:00 a.m.- 4:00 p.m. for pickup and drop off only.
6. All dogs while being escorted shall be leashed at all times unless inside the designated training area.
7. Dog shows shall be prohibited.
8. The applicant shall comply with the terms and conditions of the Grant of Easement governing this property including the following:
  - a. No training (i.e. basic obedience, agility, canine good citizen, free style, fly ball, etc.) shall be conducted on the property;
  - b. Only office space maintained in connection with the allowed use of bulk storage/parking shall be permitted;
  - c. No retail sales shall be conducted, except as an auxiliary function of enterprises permitted;
  - d. No storage, distribution or handling of explosives, petrochemicals or petroleum related products shall be allowed at the facility;
  - e. Nothing on the property shall exceed the height restriction over the property; and
  - f. No unidentified use in violation of any other easement restrictions shall be permitted.
9. The dog kennel structures shall be constructed to be soundproofed and air-conditioned.

*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 a Special Economic Growth Area (SEGA) 2- West Oceana. Much of this area is subject to existing Navy restrictive easements. Recommendations for this area call for corporate office, retail, and other comparable commercial use due to the area's high visibility. Special attention should be given to ensure high quality site, landscape, and building design. The proposed use meets the requirements of the Navy restrictive easements and the expansion provides an opportunity for an existing business to grow.

## 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
Central Drive	4,975 ADT (Year-2019)	9,900 ADT <sup>1</sup> (LOS <sup>4</sup> "D")	Existing Land Use <sup>2</sup> – 60 ADT Proposed Land Use <sup>3</sup> – No Data Available
<sup>1</sup> Average Daily Trips	<sup>2</sup> as defined by a commercial kennel	<sup>3</sup> No information available in the ITE Trip Generation Manual for a commercial kennel	<sup>4</sup> LOS = Level of Service

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

Central Drive is a two lane collector. There are currently no CIP projects scheduled for this roadway.

## Public Utility Impacts

### Water

The sites are already connected to city water. The existing 5/8-inch meters (City ID #20183173 and #20183194) may be used to accommodate the proposed use. If a plumbing permit is required, the water meter size will be evaluated by Public Utilities prior to permit issuance. Depending on the number/type of fixtures and the use within the buildings, the water meter(s) and water service line(s) may need to be upgraded by the property owner.

### Sewer

The sites are already connected to city sanitary sewer.

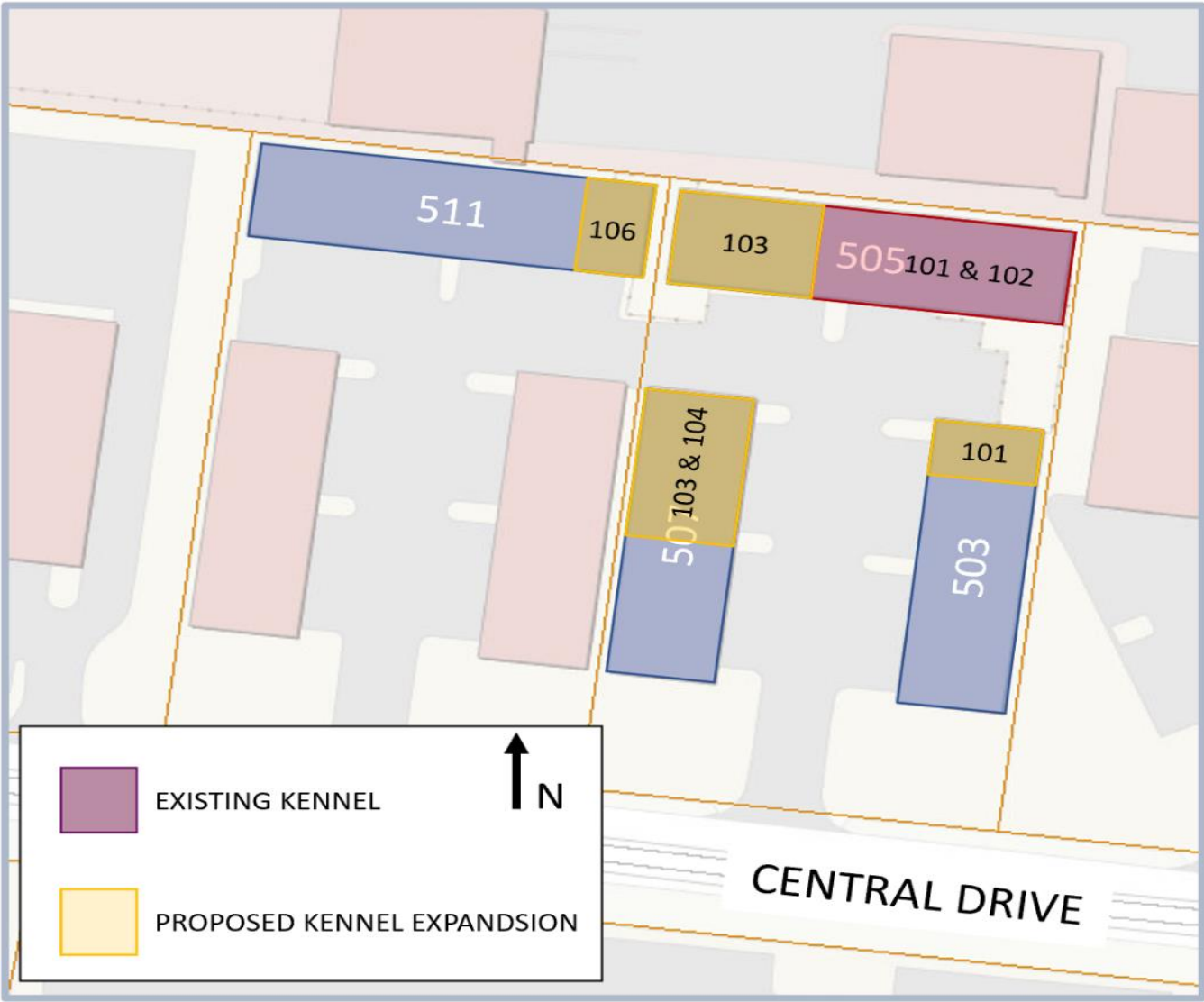
## Public Outreach Information

### Planning Commission

- The applicant reported that they spoke with the surrounding business owners, and six letters of support have been received by staff.
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on June 14, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, June 27, 2021 and July 4, 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 June 28, 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](http://www.vbgov.com/pc) on July 8, 2021.

Proposed Site Layout





## Site Photo



## Site Photo



## Navy Easement Compliance Review



DEPARTMENT OF THE NAVY  
NAVAL AIR STATION OCEANA  
1750 TOMCAT BOULEVARD  
VIRGINIA BEACH, VIRGINIA 23460-2191

IN REPLY REFER TO:

4535  
N4/222  
25 Jun 21

Ms. Nicole Sincavage  
Cosmo's Corner Inc.  
505 Central Drive  
Virginia Beach, VA 23454

Dear Ms. Sincavage:

Thank you for the request for an easement compliance review for the use of a property located at 505 Central Drive, Virginia Beach, Virginia.

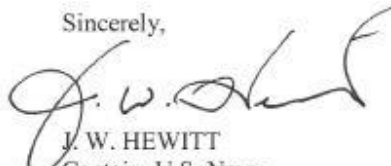
I reviewed an analysis prepared by a Navy Real Estate Contracting Officer and I agree with the conclusion that the properties are subject to restrictions resulting from a Declaration of Taking acquired by the United States of America. Enclosed is a copy of the Review and Findings for your convenience.

Accordingly, the proposed use of the property, described as a commercial kennel, auxiliary retail sales and office space, is permitted under the terms of the Declaration of Taking. Please be advised schools and training are not permitted. However, for the purpose of this review, the current business model of keeping high risk dogs in a separate group and charging a higher rate is not considered training. If in the future, you desire to offer "play and train" you will need to request a separate review for that use.

Be aware that our determination is based on the representations of the use and location of the property. Please be advised the U.S. Navy will periodically conduct random reviews in the field, of the properties encumbered by covenants and restrictions to ensure that the interests of the United States are protected.

Thank you for your request on this matter. My point of contact for this matter is Mr. Paul Moomaw, who can be reached at (757) 433-2678 or via e-mail at [paul.moomaw@navy.mil](mailto:paul.moomaw@navy.mil).

Sincerely,



J. W. HEWITT  
Captain, U.S. Navy  
Commanding Officer

Enclosure: 1, Real Estate Contracting Officer's Review and Findings

Copy to: NAVFAC MIDLANT (Codes ARRA12)





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** Cosmo's Corner Inc

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

- If yes, list the name of the representative.

Nicole Sincavage, President

**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)

Nicole Sincavage, President, Paul Sincavage Vice President

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

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

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



### Disclosure Statement



#### Known Interest by Public Official or Employee

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

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

#### Applicant Services Disclosure

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

☐ Yes ☒ No

- If yes, identify the financial institutions 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

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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.

Timothy Trant, Kaufman and Canoles

#### 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.

*Nicole Sincavage*

Applicant Signature

Nicole Sincavage, President

Print Name and Title

04/24/2021

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	

## Disclosure Statement



### Owner Disclosure

**Owner Name** KNRM Enterprises LLC, and Nelson Industries LLC

**Applicant Name** Cosmo's Corner Inc

**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)

Kevin Nelson, President

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

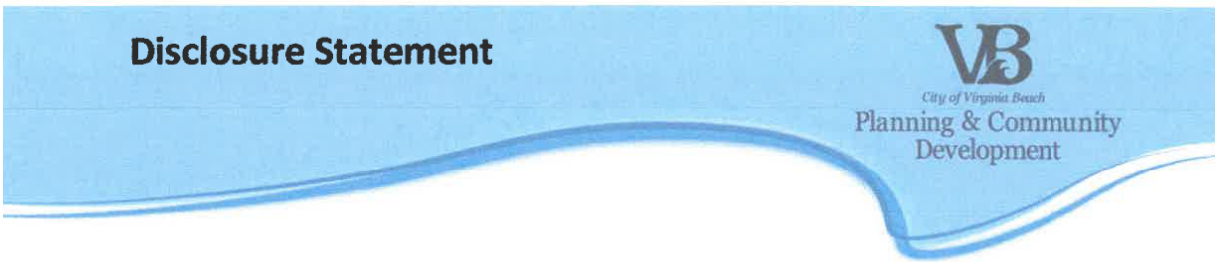
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- If yes, what is the name of the official or employee and what is the nature of the interest?

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## Owner Services Disclosure

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☐ Yes ☒ No

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



### Disclosure Statement



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

#### Owner Signature

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

*Kevin Nelson*

Owner Signature

Kevin Nelson, President

Print Name and Title

04/27/2021

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.
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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**

William Miller

**Location**

319 23rd Street, Unit 1

**GPIN**

2427095132

**Site Size**

7,000 square feet

**Existing Land Use and Zoning District**

Duplex dwelling / A-12 Apartment (Old Beach Overlay)

**Surrounding Land Uses and Zoning Districts**

**North**

Multi-family dwellings/ A-24 Apartment (Old Beach Overlay)

**South**

23rd Street

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

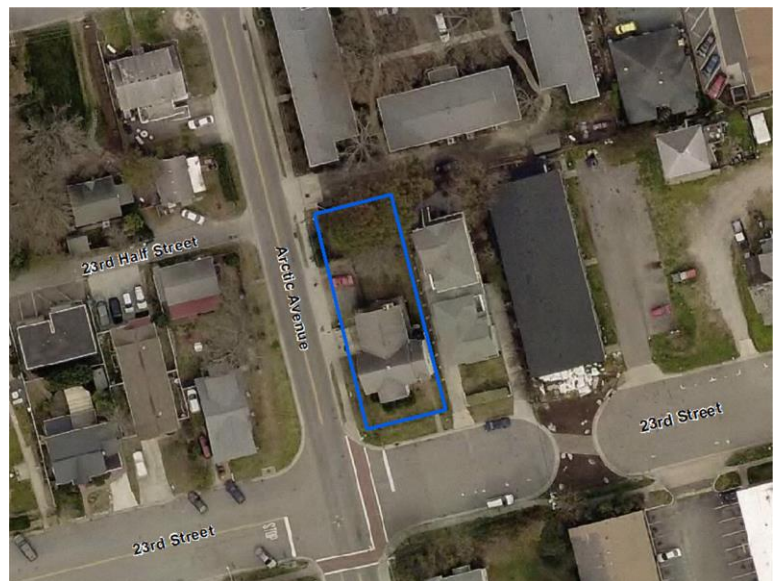
**East**

Duplex dwelling / A-12 Apartment (Old Beach Overlay)

**West**

Arctic Avenue

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



## Background & Summary of Proposal

### Site Conditions and History

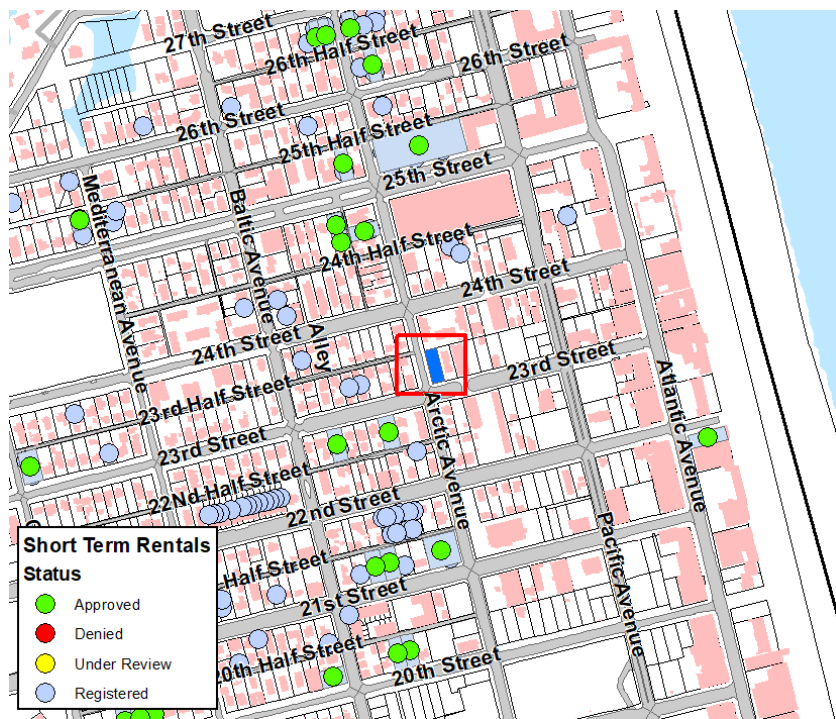
- This 7,000 square foot lot is located within the A-12(OB) Apartment District (Old Beach Overlay) and contains one duplex dwelling.
- The applicant owns both units within the duplex. The applicant does not live on-site.
- According to City records, this duplex building was constructed in 1945 and Unit 1 contains two bedrooms.
- Satellite imagery confirms the gravel parking area in front of the property has been utilized in its present form since at least 2003 (17 years). In addition, the duplex was constructed before the City adopted its first zoning ordinance in the 1950s and compacted gravel was a permitted residential parking material until the 1970s.
- Staff inspected the site on May 20, 2021 to observe site conditions and take photographs for this report.
- On-street parking is not permitted in the 2300 block of Arctic Avenue. Residential Permit Pass Parking (RPPP) are permitted in the 300 block of 23rd Street; however, because the property lies within the RPPP boundary, where parking during the evening and overnight hours is limited, a condition is recommended that prohibits 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 applicants are unaware if the home was used for Short-Term Rental purposes prior to July 1, 2018.
- Known Short Term Rental activity as of June 22, 2021:

CURRENTLY ADVERTISED	LAST KNOWN RENTAL	REGISTERED WITH THE COMMISSIONER OF THE REVENUE
No	N/A	No

- 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

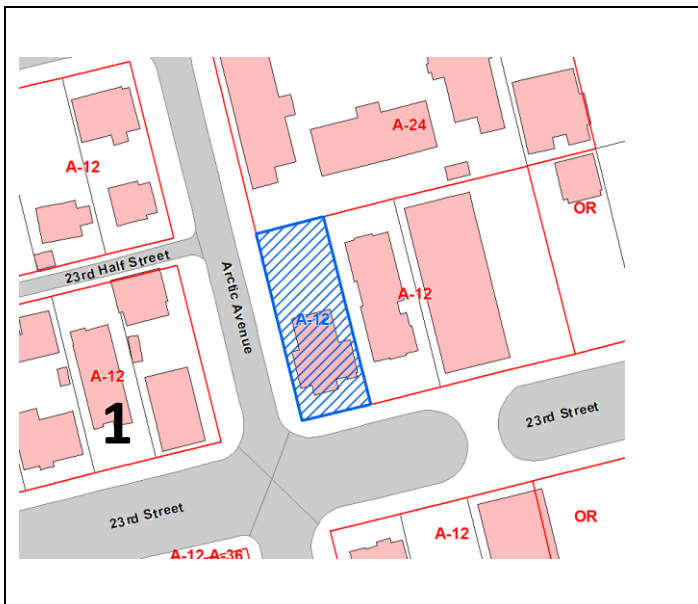


Updated on 06.22.2021

### 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 #16
- Number of parking spaces required (1 space per bedroom required): 2
- Number of parking spaces provided on-site: 2



### Zoning History

#	Request
1	NON (Expansion to a nonconforming use) Approved 05/08/2007

### Application Types

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

The subject property lies within the resort area of the oceanfront and is approximately two blocks west of the public beach of the Atlantic Ocean. The applicant owns both units within this duplex style building; however, only one unit is part of this request, Unit #1.

The applicant's parking plan depicts both required off-street parking spaces within an existing compacted gravel driveway, which contains a concrete entryway apron that connects to Arctic Avenue. As permitted by Article 2, Section 241.2 of the City Zoning Ordinance, the Zoning Administrator approved the submitted parking plan shown in the *Site Layout and Parking Plan* section of this Staff report. Together with the remaining Short Term Rental requirements found in Section 241.2 of the Zoning Ordinance, a condition is recommended that limits the number of Residential Parking Permit Program parking passes to two and prohibits the issuance of guest and temporary passes through the program while the Conditional Use Permit is active.

Based on the considerations above, Staff recommends approval of this request with the conditions listed below. These recommended conditions 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 319 23<sup>rd</sup> Street, Unit 1, and the Short Term Rental use shall only occur in the principal structure.
2. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.

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

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

*Further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.*

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

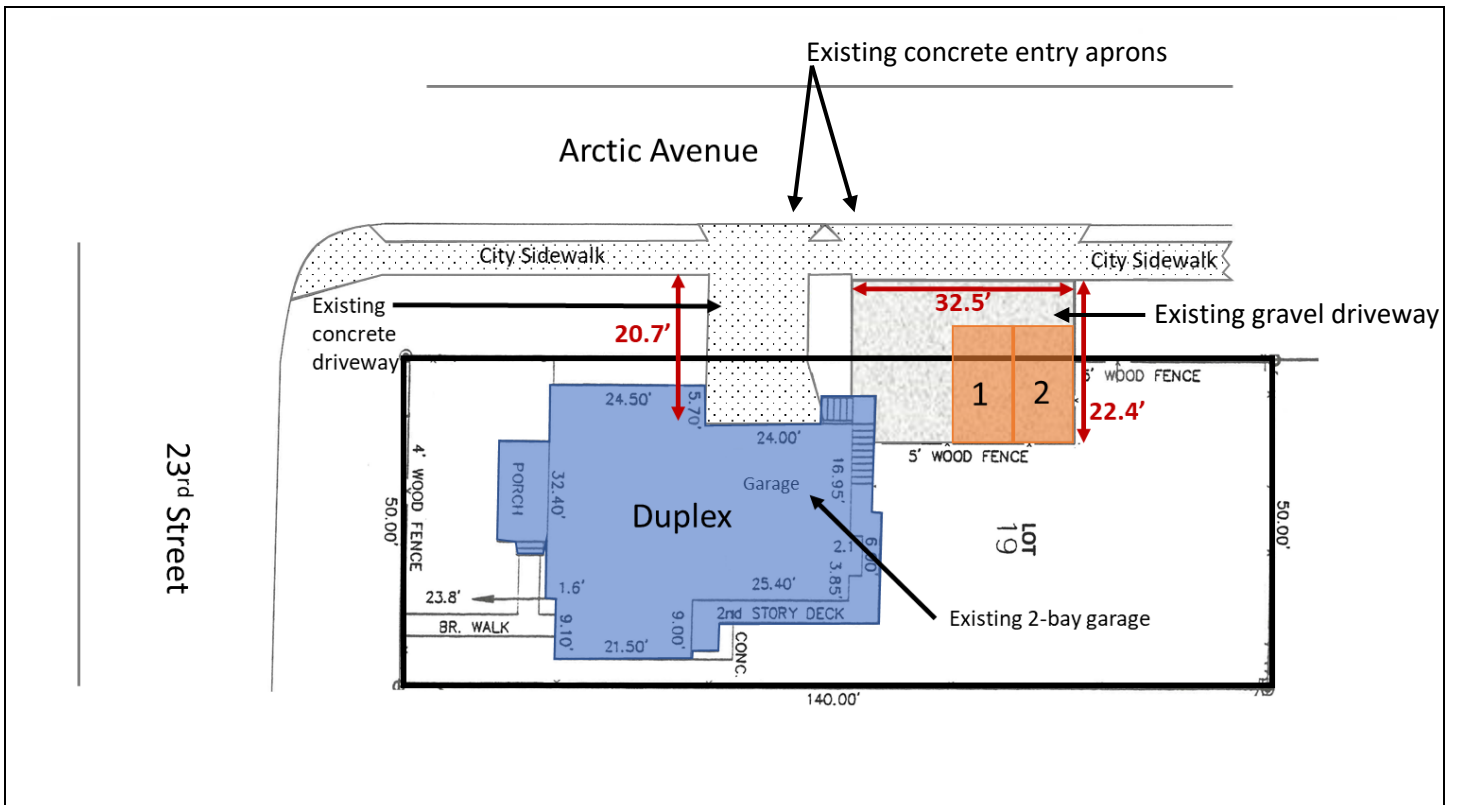
## Public Outreach Information

### Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on June 14, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, June 27, 2021, and July 4, 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 June 28, 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](http://www.vbgov.com/pc) on July 1, 2021.



## Site Layout & Parking Plan



9' x 18' parking area for Unit 1

## Site Photos



319 23rd Street





Site Photos



319 23rd Street



### 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** VINCENT SMITH & DIANA GARCIA

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

- If yes, list the name of the representative.

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

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

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

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

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



### Disclosure Statement



#### Known Interest by Public Official or Employee

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

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

Vincent Smith is a CVB employee and Diana Garcia is a VBPS employee

#### 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.

Towne 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 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.

Richard Werner at Richard T Werner CPA LLC

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

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

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.

VINCENT SMITH IS A VA LICENSED PROFESSIONAL ENGINEER - VA DPOR LIC# 0402053590

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.

Temple Law Group recently provided closing services related to the owner's purchase of the subject property on 5/7/2021

#### 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

VINCENT E. SMITH

Print Name and Title

5/9/21

Date

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

- If yes, you do not need to fill out the owner disclosure statement.

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

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

## Next Steps

- Upon receiving a recommendation from Planning Commission, this request will be scheduled for a City Council public hearing. Staff will inform the applicant and/or their representative of the date of the hearing in the upcoming days.
- Following City Council's decision, the applicant will receive a decision letter from Staff.
- Once the conditions of approval are in place and/or completed, the applicant must contact the Zoning Division of the Planning Department to obtain verification that the conditions have been met. Contact the Zoning Division at 757-385-8074.
- If the request requires land disturbance and/or a subdivision of property, please contact the Development Services Center (DSC) to discuss next steps for site plan/plat review. Contact the DSC at 757-385-4621 or the Development Liaison Team at 757-385-8610.
- Please note that further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.
- The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.





**Request**

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

**Staff Recommendation**

Approval

**Staff Planner**

William Miller

**Location**

2321 Madison Avenue

**GPIN**

1489198278

**Site Size**

4,918 square feet

**Existing Land Use and Zoning District**

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

**Surrounding Land Uses and Zoning Districts**

**North**

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

**South**

Madison Avenue

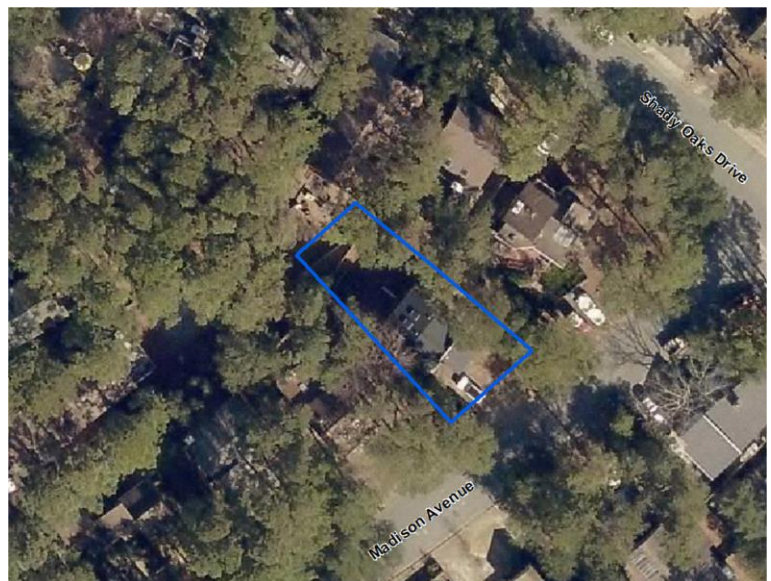
Single-family dwellings / R-5R Residential (Shore Drive Overlay)

**East**

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

**West**

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



## Background & Summary of Proposal

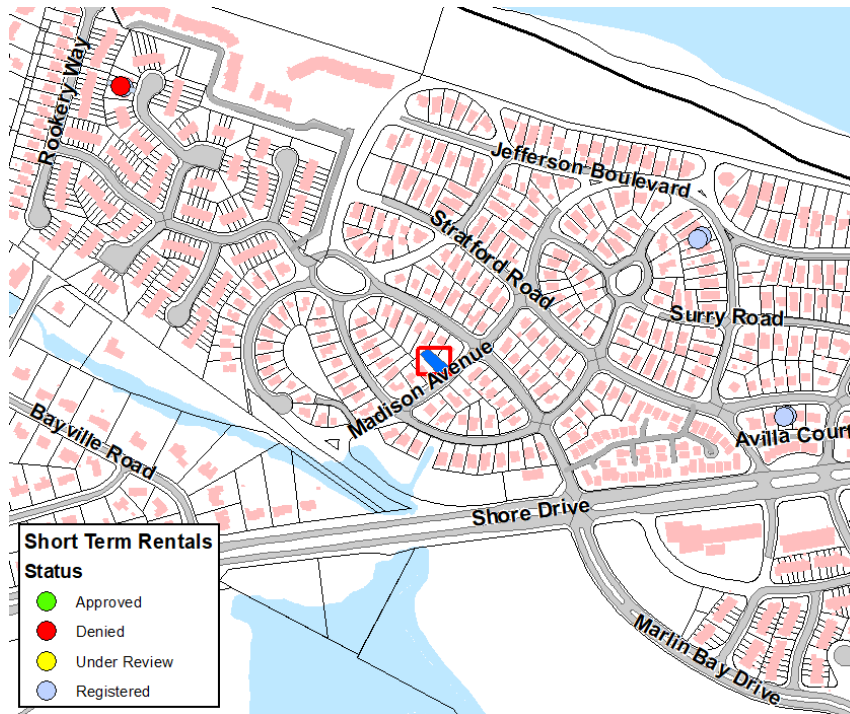
### Site Conditions and History

- This 4,918 square foot lot is zoned R-5R(SD) Residential District (Shore Drive Overlay) and contains one single-family dwelling.
- According to City records, this three-bedroom home was constructed in 1980.
- Staff inspected the site on May 20, 2021 to observe site conditions and take photographs for this report.
- On-street parking is permitted 24-hours per day, therefore any overflow parking beyond the minimum parking spaces required could occur within the public street.
- No records of zoning violations relating to Short Term Rental use were found associated with the subject address.
- According to the applicant, this property was not used for Short-Term Rental purposes prior to July 1, 2018.
- Known Short Term Rental activity as of June 22, 2021:

CURRENTLY ADVERTISED	LAST KNOWN RENTAL	REGISTERED WITH THE COMMISSIONER OF THE REVENUE
Yes	Not listed	No

- The applicant accepts City Council's 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 on 06.22.2021

### 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: 3
- Maximum number of guests permitted on the property after 11:00 pm: 6 - As recommended in condition #16
- Number of parking spaces required (1 space per bedroom required): 3
- Number of parking spaces provided on-site: 2\*

\* The applicant is proposing to place additional concrete parking areas on-site. Such placement will create three total off-street parking spaces.

	<p><b>No Zoning History to Report</b></p>		
<b>Application Types</b>			
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 community of Pelican Dunes, which is comprised of single-family and duplex dwellings situated on lots platted as part of the 1917 Ocean Park subdivision. Pelican Dunes is bordered by a single-family condominium complex and commercial property to the south, the neighborhoods of Aeries on the Bay and Baylake Pines to the west, and Ocean Park to the north and east.

The single-family residence contains three bedrooms therefore three off-street parking spaces are required. In this instance, the existing 18 foot wide by 30 foot long driveway can only accommodate two of the three required 9 foot by 18 foot parking areas. To compensate for the parking space deficiency, the applicant is proposing an expansion to the current driveway. This expansion would allow for the parking of all three required off-street parking spaces on-site. As allowed by Section 241.2(1) of the City Zoning Ordinance, the Zoning Administrator reviewed and approved this proposal; however, condition #3 is recommended to address the matter. The remaining requirements of Section 241.2 of the City Zoning Ordinance pertaining to Short Term Rentals can be reasonably met by the applicant.

Based on the considerations above, Staff recommends approval of this request with the conditions listed below. These recommended conditions 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 2321 Madison 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. On-site parking areas shall be added as illustrated in the *Site Layout and Parking Plan* section of the Staff report. The proposed surface material type shall be brushed concrete, or a substitute material approved by the Zoning Administrator. The driveway addition shall be placed within 90-days of City Council approval. 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. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
5. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1 (8a).
6. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes. Physical response to the site of the Short Term Rental is not required.
7. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
  - a) A completed Department of Planning and Community Development Short Term Rental Zoning permit form; and
  - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
  - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
8. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
9. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
10. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
11. Accessory structures shall not be used or occupied as Short Term Rentals.
12. No signage shall be on-site, except one (1), four (4) square foot sign, may be posted on the building which identifies the Short Term Rental.
13. The Short Term Rental shall have no more than one (1) rental contract during any consecutive seven (7) day period.
14. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
15. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
16. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom.

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

*Further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.*

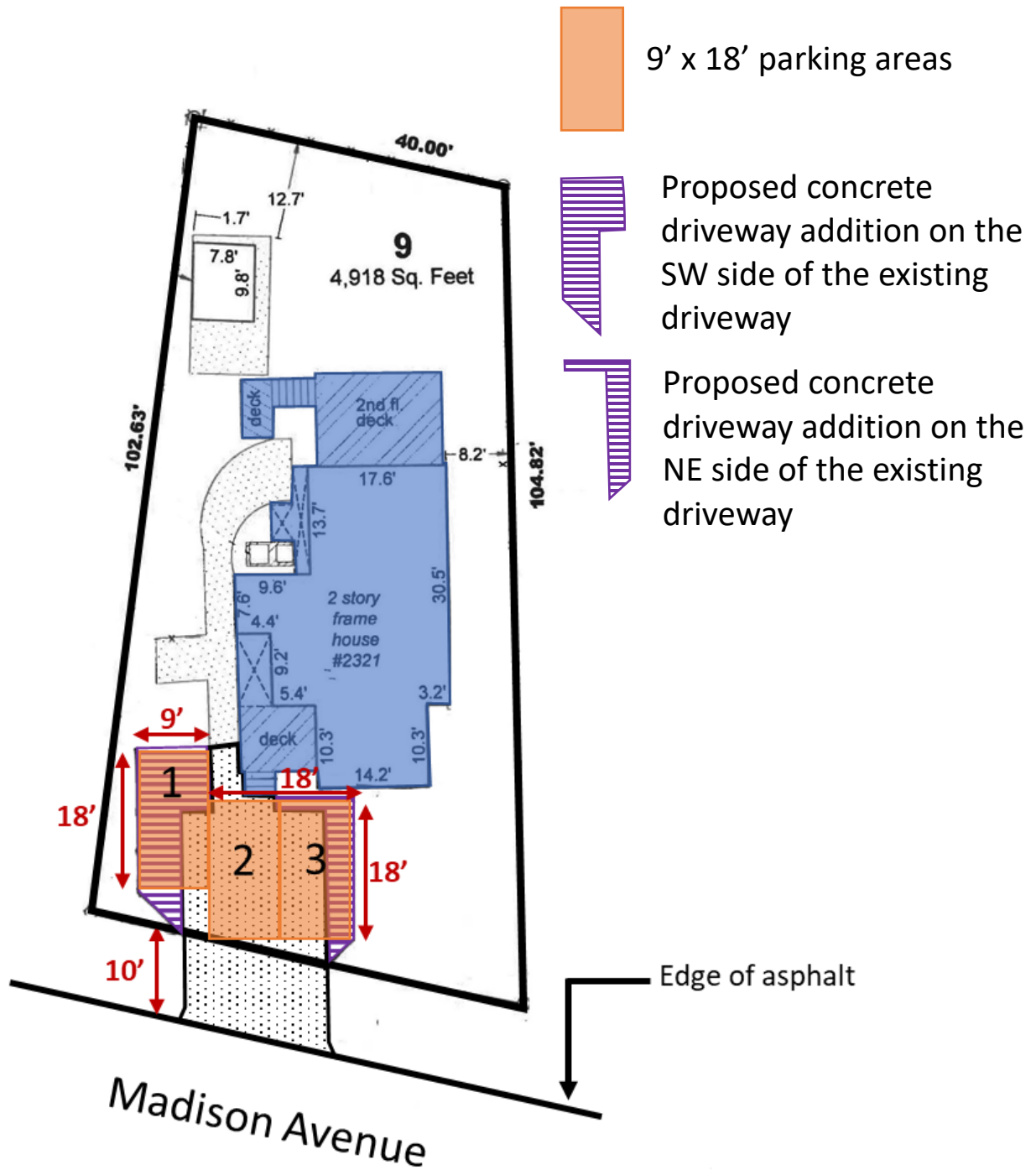
*The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.*

## Public Outreach Information

### Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on June 14, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, June 27, 2021, and July 4, 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 June 28, 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](http://www.vbgov.com/pc) on July 8, 2021.

# Site Layout & Parking Plan



## AREA CALCULATIONS:

LOT AREA: 4,918 SQ. FT.  
 IMPERVIOUS AREA: 1,635 SQ. FT. 33% LOT COVERAGE  
 TOTAL LOT COVERAGE: 1,900 SQ. FT. 45% LOT COVERAGE  
 PROPOSED ADDITIONAL IMPERVIOUS AREA: 1,918 SQ. FT.  
 PROPOSED TOTAL LOT COVERAGE: 49%

## 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 Brad Hibbard

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

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

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## Disclosure Statement



### Known Interest by Public Official or Employee

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

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

### 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.

Lakeview Loan Servicing, LLC

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.

Margaret Taylor @ Liberty Tax

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

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

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

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

## Disclosure Statement

### Disclosure Statement



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

#### Applicant Signature

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

A handwritten signature in black ink, appearing to read 'Brad Hibbard', written over a horizontal line.

Applicant Signature

Brad Hibbard

Print Name and Title

4.H.21

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.
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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**

903 Pacific Avenue Unit A

**GPIN**

24272444110960

**Site Size**

34,996 square feet

**Existing Land Use and Zoning District**

Multi-family dwelling / OR Oceanfront Resort

**Surrounding Land Uses and Zoning Districts**

**North**

Duplex dwellings, commercial parking lot / OR Oceanfront Resort

**South**

9th Street

Municipal parking garage / OR Oceanfront Resort

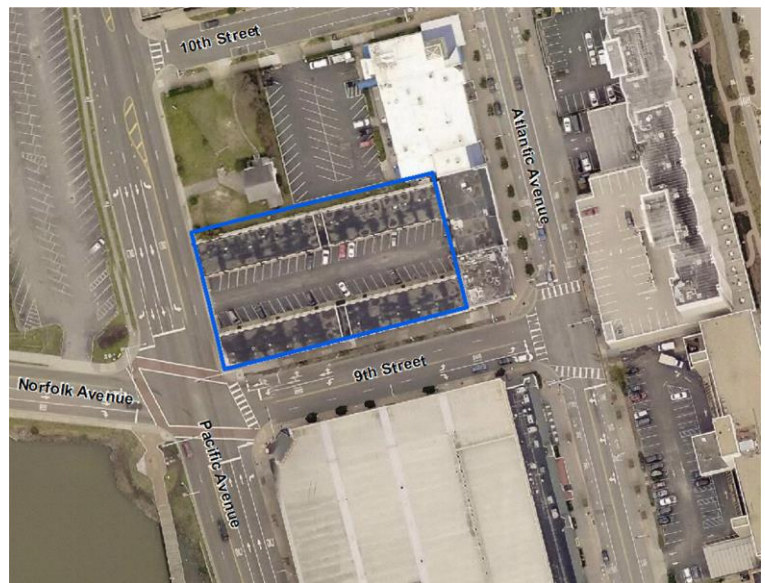
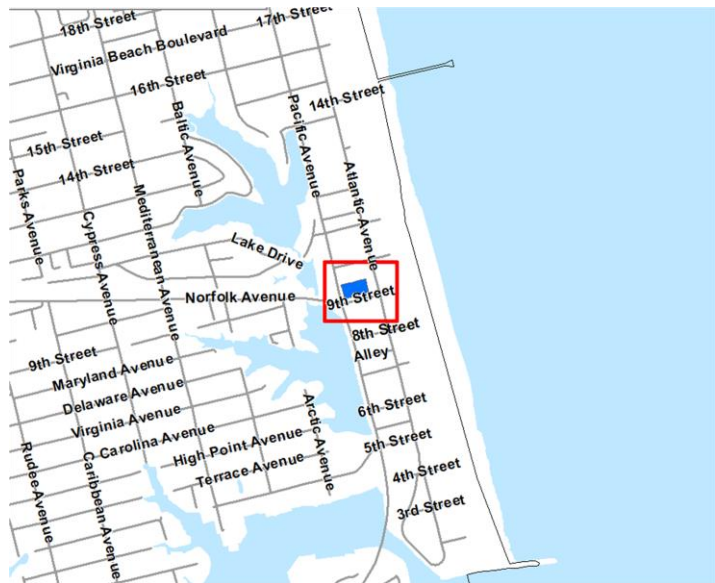
**East**

Retail shops / OR Oceanfront Resort

**West**

Pacific Avenue

Off-site parking lot / OR Oceanfront Resort



## Background & Summary of Proposal

### Site Conditions and History

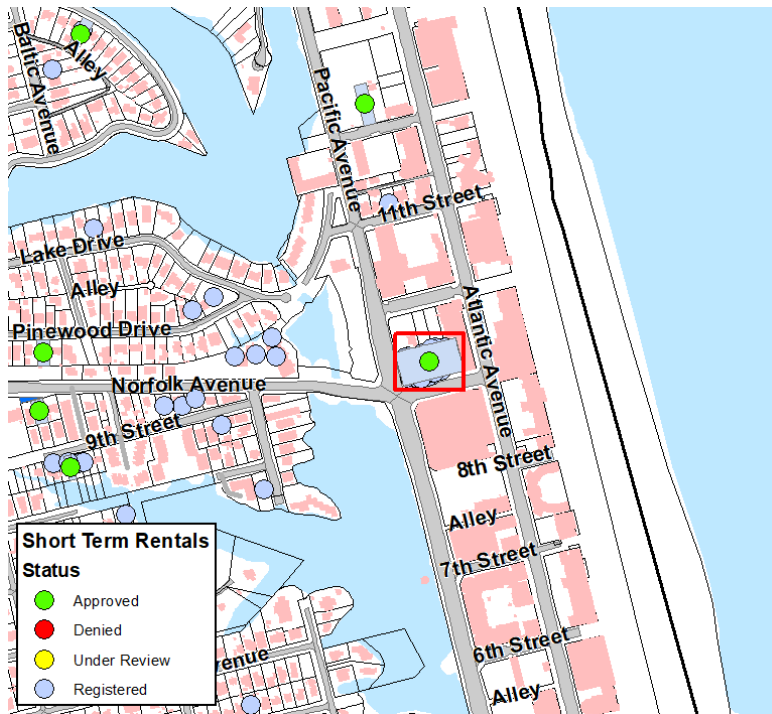
- This 35,000 square foot parcel is zoned OR Oceanfront Resort District.
- According to City records, this 2-bedroom home was constructed in 1969.
- Staff inspected the site on May 18, 2021 to observe site conditions and take photographs for this report.
- There is no on-street parking on this portion of Pacific Avenue
- Six Short Term Rental application requests have been approved within the condominium complex, Retreat by the Sea
- According to the applicant, this property was not used for Short-Term Rental purposes prior to July 1, 2018.
- Known Short Term Rental activity as of 06-22-2021:

CURRENTLY ADVERTISED	LAST KNOWN RENTAL	REGISTERED WITH THE COMMISSIONER OF THE REVENUE
No	N/A	N/A

- 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 16
- Number of parking spaces required (1 space per bedroom required): 2
- Number of parking spaces provided on-site: 1\*

\*Second required parking space within 9<sup>th</sup> Street municipal parking garage

### Zoning History

#	Request
1	STR Approved 02/04/2020 STR Approved 06/09/2020 STR Approved 08/25/2020 STR Approved 08/25/2020 STR Approved 10/20/2020 STR Approved 04/06/2020

### 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

The applicant is requesting to operate a Short Term Rental in a two-bedroom unit within a condominium development located at 903 Pacific Avenue. This site is located one block from the public beaches of the Atlantic Ocean in the resort area of the City; an area where Short Term Rental use is common. The two-bedroom unit is required to have two off-street parking spaces. One space is accommodated on-site in a designated space. To satisfy the second parking space requirement, the applicant has purchased an annual parking pass at the 9<sup>th</sup> Street Municipal Parking Garage, which is located directly across the street. As recommended below in Condition 3, the applicant will be required to submit receipts/proof of availability of a second off-street parking space annually to the Zoning Administrator as long as the Conditional Use Permit is active. The Zoning Administrator has reviewed this alternative parking plan and has deemed it acceptable. Staff believes that all other requirements of Section 241.2 of the Zoning Ordinance pertaining to Short Term Rentals can reasonably be met.

Based on the factors listed 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.

## Recommended Conditions

1. The following conditions shall only apply to the dwelling unit addressed as 903 Pacific Avenue Unit A, and the Short Term Rental use shall only occur in the principal structure.
2. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.

3. A second (2nd) parking space, at a location subject to approval by the Zoning Administrator, shall be available for use by the Short Term Rental occupants at all times.
4. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
5. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1 (8a).
6. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes. Physical response to the site of the Short Term Rental is not required.
7. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
  - a) A completed Department of Planning and Community Development Short Term Rental Zoning permit form; and
  - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
  - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
8. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
9. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
10. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
11. Accessory structures shall not be used or occupied as Short Term Rentals.
12. No signage shall be on-site, except one (1), four (4) square foot sign, may be posted on the building which identifies the Short Term Rental.
13. The Short Term Rental shall have no more than one (1) rental contract during any consecutive seven (7) day period.
14. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
15. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
16. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom.

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

*Further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.*

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

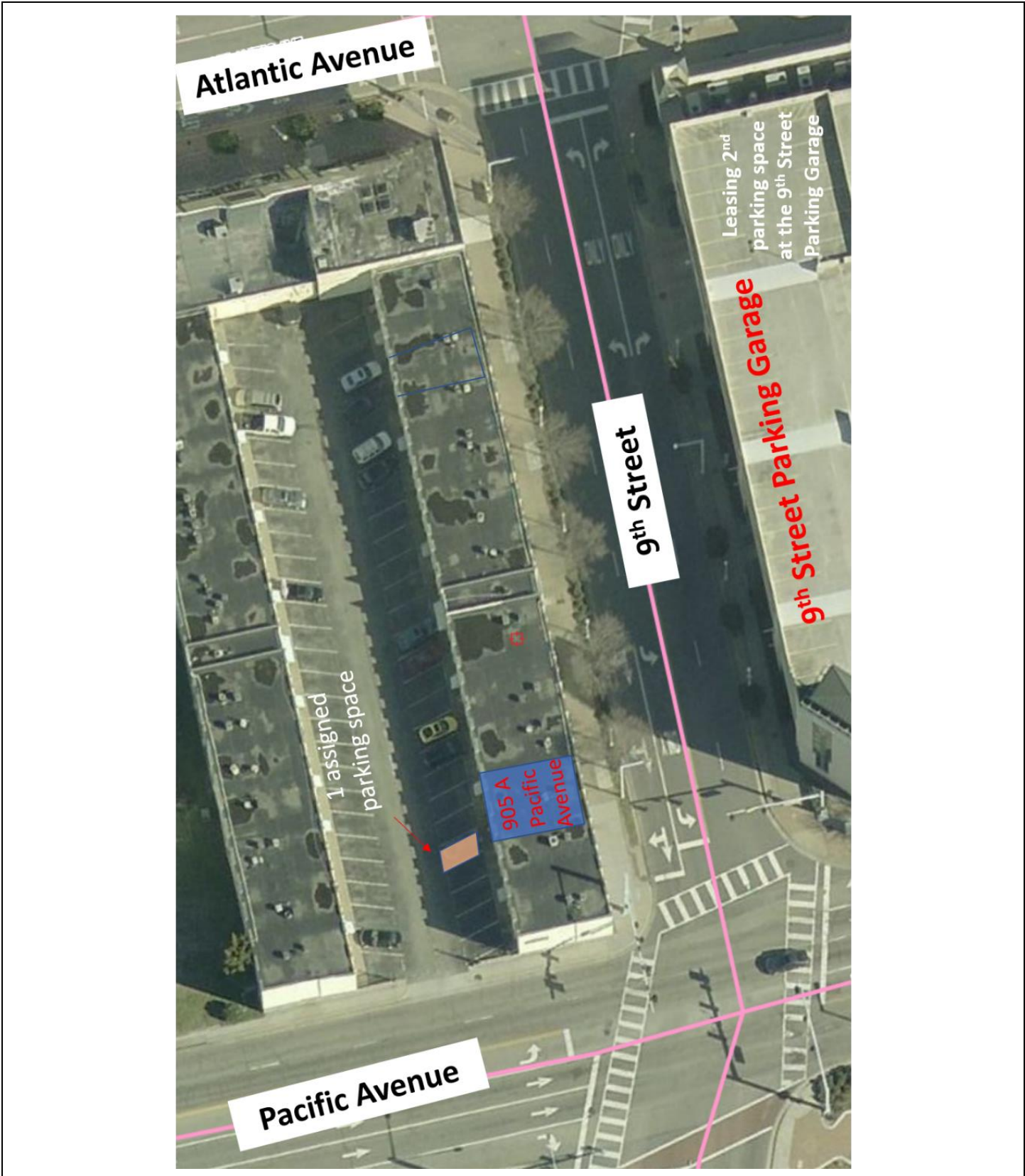
## Public Outreach Information

### Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on June 14, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, June 27, 2021, and July 4, 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 June 28, 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](http://www.vbgov.com/pc) on July 8, 2021.



Site Layout & Parking Plan



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

Bowers & Jones Properties

Does the applicant have a representative? ☒ Yes ☐ No

- If yes, list the name of the representative.

Patrick Bowers

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)

Tammy Jones

Patrick Bowers

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

N/A

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

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

## Disclosure Statement

### Disclosure Statement



#### Known Interest by Public Official or Employee

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

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

#### Applicant Services Disclosure

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

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

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

Date

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

- If **yes**, you do not need to fill out the owner disclosure statement.

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

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

## Next Steps

- Upon receiving a recommendation from Planning Commission, this request will be scheduled for a City Council public hearing. Staff will inform the applicant and/or their representative of the date of the hearing in the upcoming days.
- Following City Council's decision, the applicant will receive a decision letter from Staff.
- Once the conditions of approval are in place and/or completed, the applicant must contact the Zoning Division of the Planning Department to obtain verification that the conditions have been met. Contact the Zoning Division at 757-385-8074.
- If the request requires land disturbance and/or a subdivision of property, please contact the Development Services Center (DSC) to discuss next steps for site plan/plat review. Contact the DSC at 757-385-4621 or the Development Liaison Team at 757-385-8610.
- Please note that further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.
- The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.

**Request**

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

**Staff Recommendation**

Approval

**Staff Planner**

Summer Peebles

**Location**

927 Pacific Avenue Unit A

**GPIN**

24272444111150

**Site Size**

34,996 square feet

**Existing Land Use and Zoning District**

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

**Surrounding Land Uses and Zoning Districts**

**North**

Duplex dwellings, commercial parking lot / OR Oceanfront Resort

**South**

9th Street

Municipal parking garage / OR Oceanfront Resort

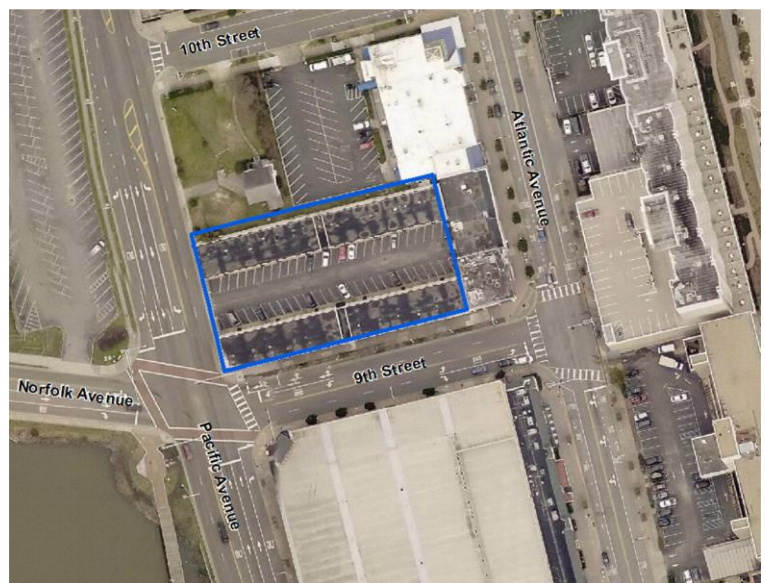
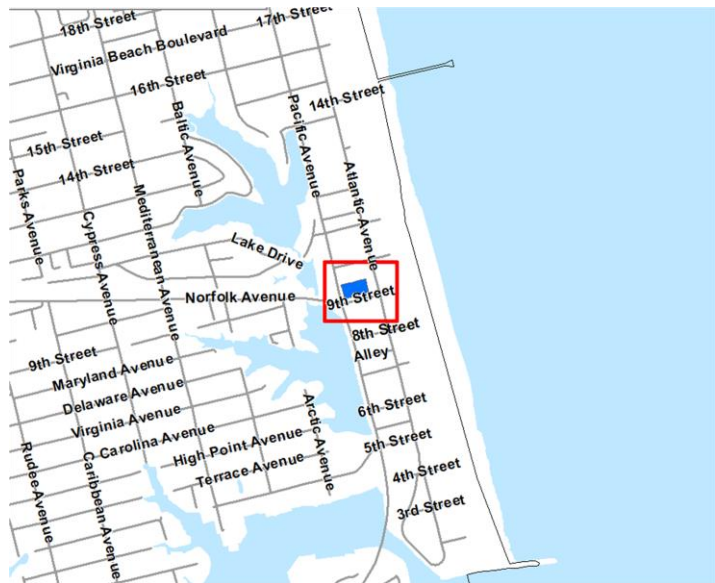
**East**

Retail shops / OR Oceanfront Resort

**West**

Pacific Avenue

Off-street parking lot / OR Oceanfront Resort



## Background & Summary of Proposal

### Site Conditions and History

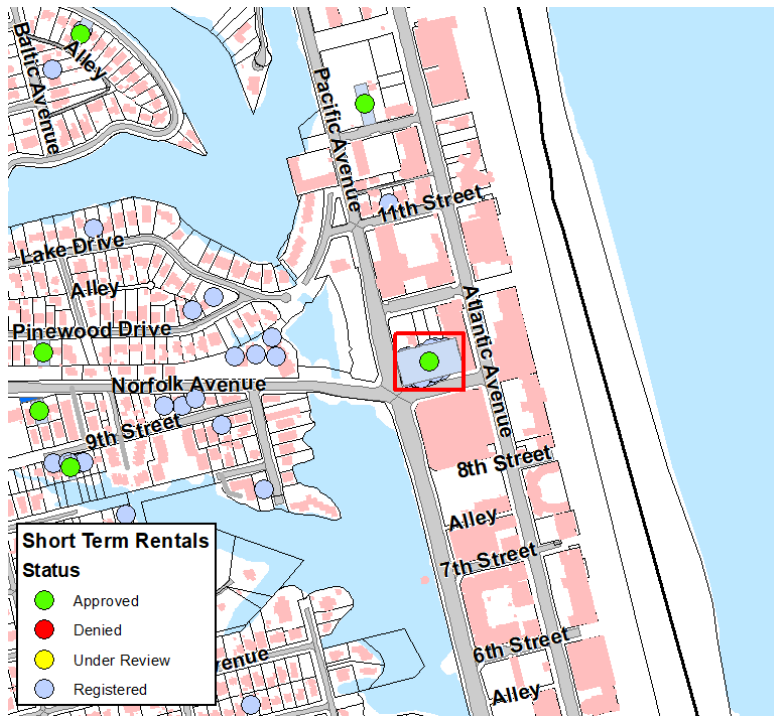
- This 35,000 square foot parcel is zoned OR Oceanfront Resort District
- According to City records, this multi-family condominium was constructed in 1969.
- Staff inspected the site on May 18, 2021 to observe site conditions and take photographs for this report.
- There is no on-street parking on Pacific Avenue
- Six Short Term Rental application requests have been approved within the condominium complex, Retreat by the Sea, thus far
- According to the applicant, this property was not used for Short-Term Rental purposes prior to July 1, 2018.
- Known Short Term Rental activity as of 06-22-2021:

CURRENTLY ADVERTISED	LAST KNOWN RENTAL	REGISTERED WITH THE COMMISSIONER OF THE REVENUE
No	N/A	N/A

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

### Zoning History

#	Request
1	STR Approved 02/4/2020 STR Approved 06/9/2020 STR Approved 08/25/2020 STR Approved 08/25/2020 STR Approved 10/20/2020 STR Approved 04/06/2020

### 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

The applicant is requesting to operate a one-bedroom Short Term Rental unit within the Retreat by the Sea condominium development located at 927 Pacific Avenue, Unit A. One parking space is required and one parking space is provided on-site.

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 927 Pacific Avenue Unit A, and the Short Term Rental use shall only occur in the principal structure.
2. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.
3. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
4. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1 (8a).

5. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes. Physical response to the site of the Short Term Rental is not required.
6. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
  - a) A completed Department of Planning and Community Development Short Term Rental Zoning permit 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 June 14, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, June 27, 2021, and July 4, 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 June 28, 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](http://www.vbgov.com/pc) on July 8, 2021.



## Site Layout & Parking Plan



## 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 Petar Y. Popov

Does the applicant have a representative? ☐ Yes ☒ No

- If yes, list the name of the representative.

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

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

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

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

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## Disclosure Statement

### Disclosure Statement



#### Known Interest by Public Official or Employee

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

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

#### Applicant Services Disclosure

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

☒ Yes ☐ No

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

CAP Center

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

☐ Yes ☒ No

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

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

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

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

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

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

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



## Disclosure Statement

### Disclosure Statement



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

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

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

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

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

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

#### Applicant Signature

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

Applicant Signature

Print Name and Title

Date

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

• If yes, you do not need to fill out the owner disclosure statement.

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

<input 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**

901 Pacific Avenue Unit D

**GPIN**

24272444110955

**Site Size**

34,996 square feet

**Existing Land Use and Zoning District**

Multi-family dwellings / OR Oceanfront Resort

**Surrounding Land Uses and Zoning Districts**

**North**

Duplex dwellings, commercial parking lot / OR Oceanfront Resort

**South**

9th Street

Municipal parking garage / OR Oceanfront Resort

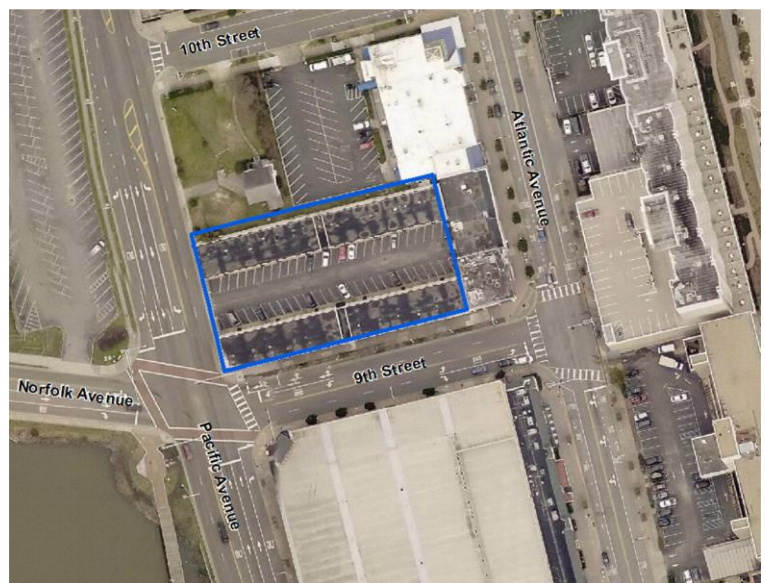
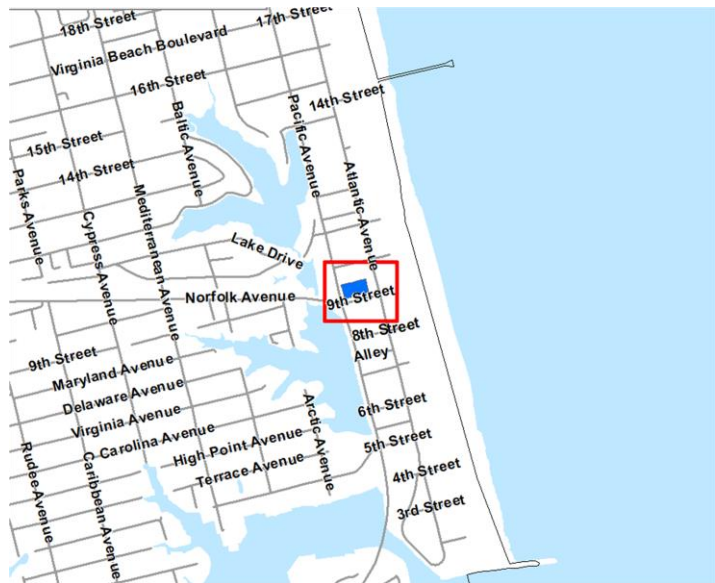
**East**

Retail shops / OR Oceanfront Resort

**West**

Pacific Avenue

Off-site parking lot / OR Oceanfront Resort



## Background & Summary of Proposal

### Site Conditions and History

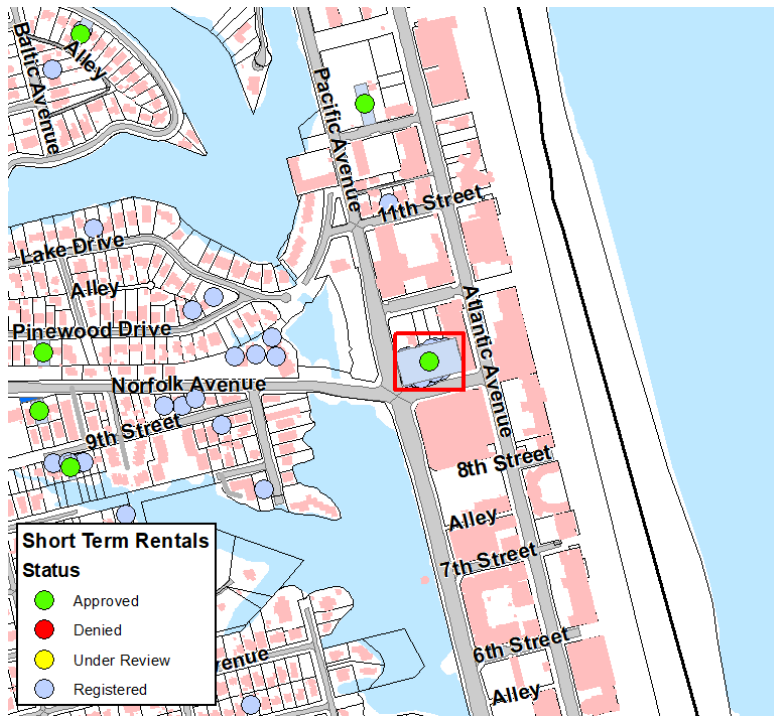
- This 35,000 square foot parcel is zoned OR Oceanfront Resort District.
- According to City records, this multi-family condominium was constructed in 1969.
- Staff inspected the site on May 18, 2021 to observe site conditions and take photographs for this report.
- There is no on-street parking on this portion of Pacific Avenue.
- Six Short Term Rental application requests have been approved within the condominium complex, Retreat by the Sea, thus far.
- According to the applicant, this property was not used for Short-Term Rental purposes prior to July 1, 2018.
- Known Short Term Rental activity as of 06-22-2021:

CURRENTLY ADVERTISED	LAST KNOWN RENTAL	REGISTERED WITH THE COMMISSIONER OF THE REVENUE
Yes	Active	Yes

- 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 16
- Number of parking spaces required (1 space per bedroom required): 2
- Number of parking spaces provided on-site: 1\*

\*Second required parking space within 9<sup>th</sup> Street municipal parking garage

## Zoning History

#	Request
1	STR Approved 02/4/2020 STR Approved 06/9/2020 STR Approved 08/25/2020 STR Approved 08/25/2020 STR Approved 10/20/2020 STR Approved 04/06/2020

## 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

The applicant is requesting to operate a Short Term Rental in a two-bedroom unit within a condominium development located at 901 Pacific Avenue. This site is located one block from the public beaches of the Atlantic Ocean in the resort area of the City; an area where Short Term Rental use is common. The two-bedroom unit is required to have two off-street parking spaces. One space is accommodated on-site in a designated space. To satisfy the second parking space requirement, the applicant has purchased an annual parking pass at the 9<sup>th</sup> Street Municipal Parking Garage, which is located directly across the street. As recommended below in Condition 3, the applicant will be required to submit receipts/proof of availability of a second off-street parking space annually to the Zoning Administrator as long as the Conditional Use Permit is active. The Zoning Administrator has reviewed this alternative parking plan and has deemed it acceptable. Staff believes that all other requirements of Section 241.2 of the Zoning Ordinance pertaining to Short Term Rentals can reasonably be met.

Based on the factors listed 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.

## Recommended Conditions

1. The following conditions shall only apply to the dwelling unit addressed as 901 Pacific Avenue, Unit D, 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 second (2nd) parking space, at a location subject to approval by the Zoning Administrator, shall be available for use by the Short Term Rental occupants at all times.

4. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
5. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1 (8a).
6. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes. Physical response to the site of the Short Term Rental is not required.
7. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
  - a) A completed Department of Planning and Community Development Short Term Rental Zoning registration form; and
  - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
  - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
8. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
9. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
10. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
11. Accessory structures shall not be used or occupied as Short Term Rentals.
12. No signage shall be on-site, except one (1), four (4) square foot sign, may be posted on the building which identifies the Short Term Rental.
13. The Short Term Rental shall have no more than one (1) rental contract during any consecutive seven (7) day period.
14. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
15. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
16. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom.
17. To the extent permissible under state law, interconnected smoke detectors (which may be wireless), a fire extinguisher and, where natural gas or propane is present, carbon monoxide detectors, shall be installed in each Short Term Rental.

*Further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.*

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

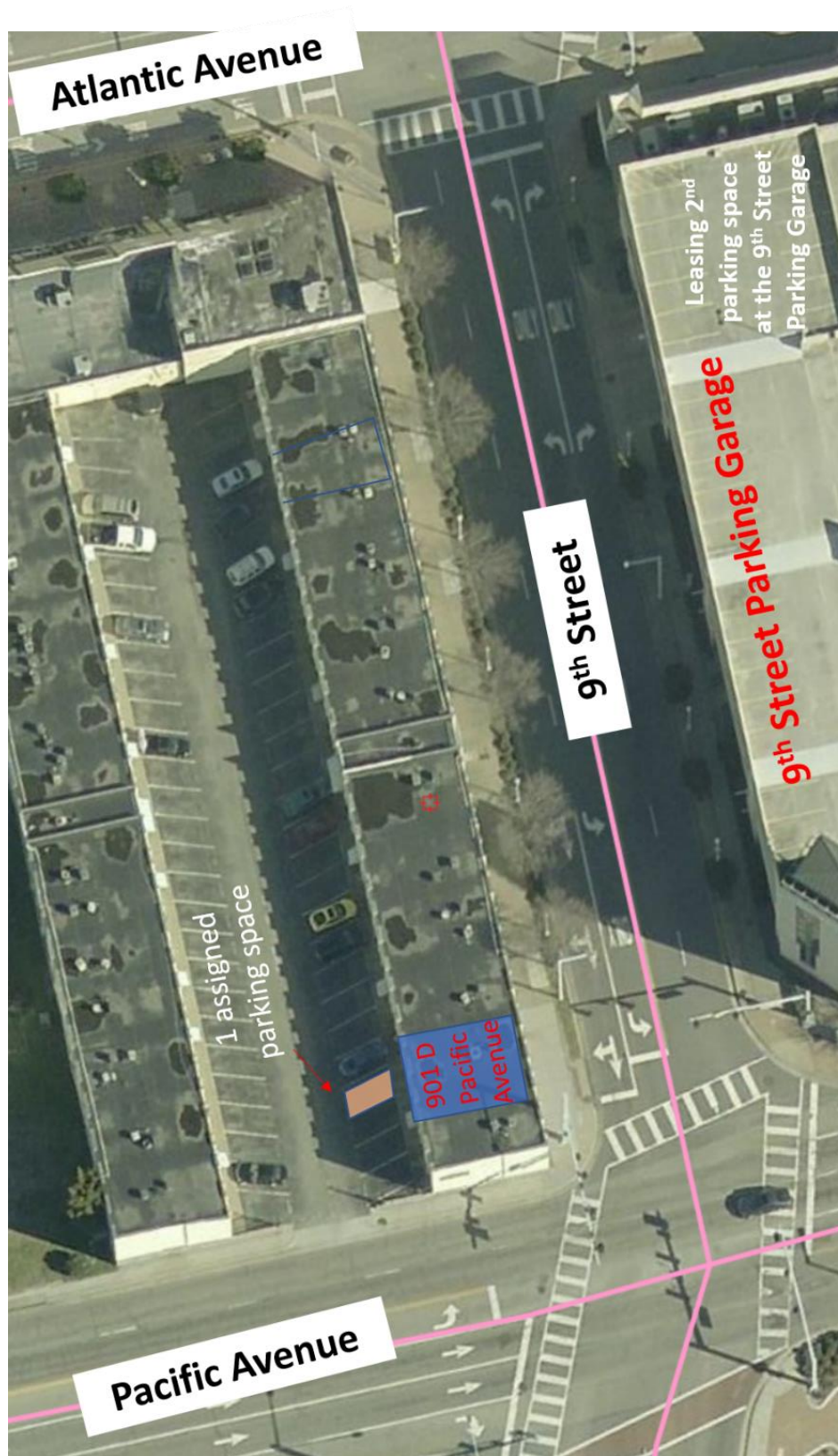
## Public Outreach Information

### Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on June 14, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, June 27, 2021, and July 4, 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 June 28, 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](http://www.vbgov.com/pc) on July 8, 2021.



## Site Layout & Parking Plan



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

Sue W. Kent

Does the applicant have a representative? ☐ Yes ☒ No

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

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

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

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

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

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

## Disclosure Statement

### 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.

*A. Rohm, Smith + Co. PC*

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

Print Name and Title

Date

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

- If **yes**, you do not need to fill out the owner disclosure statement.

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

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

## Next Steps

- Upon receiving a recommendation from Planning Commission, this request will be scheduled for a City Council public hearing. Staff will inform the applicant and/or their representative of the date of the hearing in the upcoming days.
- Following City Council's decision, the applicant will receive a decision letter from Staff.
- Once the conditions of approval are in place and/or completed, the applicant must contact the Zoning Division of the Planning Department to obtain verification that the conditions have been met. Contact the Zoning Division at 757-385-8074.
- If the request requires land disturbance and/or a subdivision of property, please contact the Development Services Center (DSC) to discuss next steps for site plan/plat review. Contact the DSC at 757-385-4621 or the Development Liaison Team at 757-385-8610.
- Please note that further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.
- The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.