

Planning Commission Agenda

November 10, 2021

VB City of
Virginia Beach

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

Planning Commission Hearing Procedures

A Public Hearing of the Virginia Beach Planning Commission will be held on **Wednesday, November 10, 2021 at 12:00 p.m. in the Council Chamber at City Hall, Building 1, 2nd Floor at 2401 Courthouse Drive, Virginia Beach, VA 23456**. Members of the public will be able to observe the Planning Commission meeting through livestreaming on 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=e9a6943f5f94a6d55941dc159e4a9a059>
2. Register with the Planning Department by calling 757-385-4621 or via email at niGarrido@vbgov.com prior to 5:00 p.m. on November 9, 2021.

Copies of the proposed plans, ordinances, amendments and/or resolutions are on file and may be examined by appointment in the Planning Department at 2875 Sabre St, Suite 500, Virginia Beach, VA 23452 or online at www.vbgov.com/pc. For information call 757-385-4621. Staff Reports will be available on the webpage 5 days prior to the meeting.

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

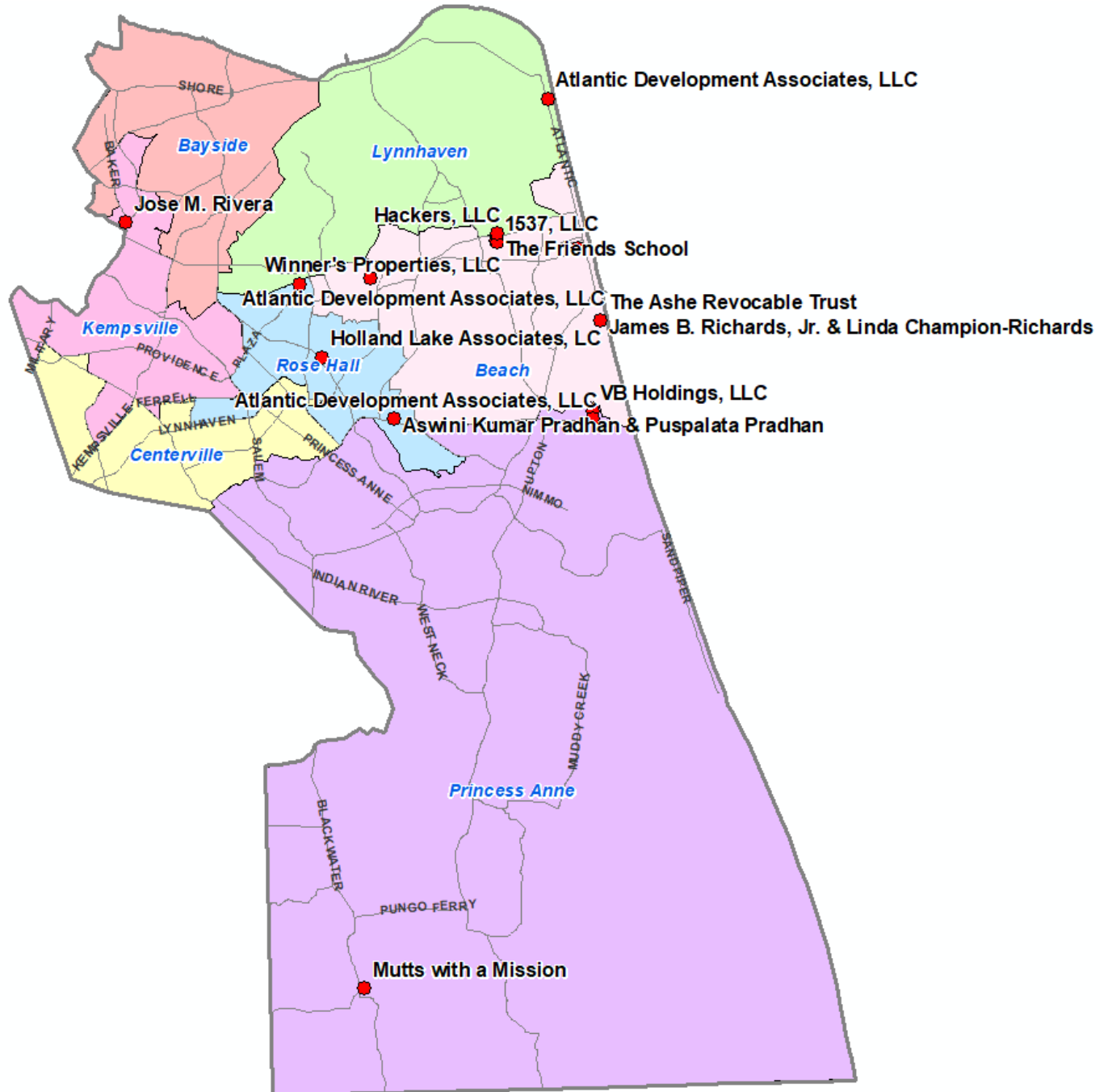
Please check our website at www.vbgov.com/pc for the most updated meeting information.

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.

NOVEMBER 10, 2021 PLANNING COMMISSION AGENDA



NOVEMBER 10, 2021 PLANNING COMMISSION AGENDA

A. COMMENTS BY DIRECTOR OF PLANNING AND CHAIR OF COMMISSION

B. BRIEFINGS

Historic and Cultural District Design Guidelines – Mark Reed, Historic Preservation Planner

12:00 P.M. – PUBLIC HEARING

1. **City of Virginia Beach** – A Resolution to amend the City of Virginia Beach Comprehensive Plan, 2016 to address City-wide stormwater impacts for discretionary land use applications.

2. **The Friends School** (Applicant & Property Owner)

Modification of Conditions

Address: 1537 Laskin Road

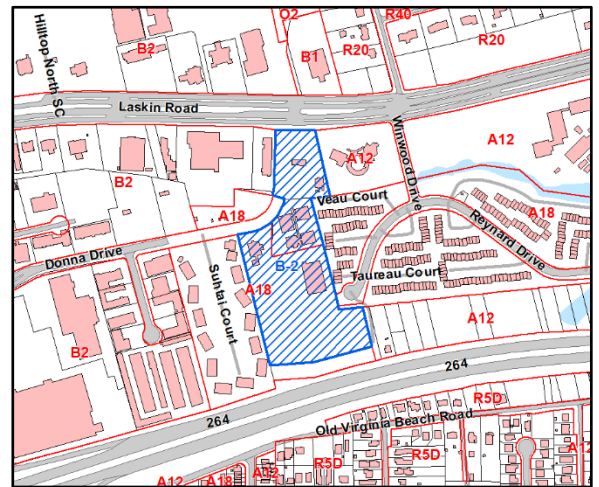
GPIN(s): 2417081307, 2417081734, 2417081031

Council District: Beach

Accela Record: 2021-PCCC-00222

Staff Planner: Marchelle Coleman

Proposal to reduce acreage associated with existing Private School and perform renovations to existing buildings and add additional buildings and improvements to the property.



3. **1537, LLC** (Applicant & Property Owner)

Modification of Conditions

Address: 1537 Laskin Road

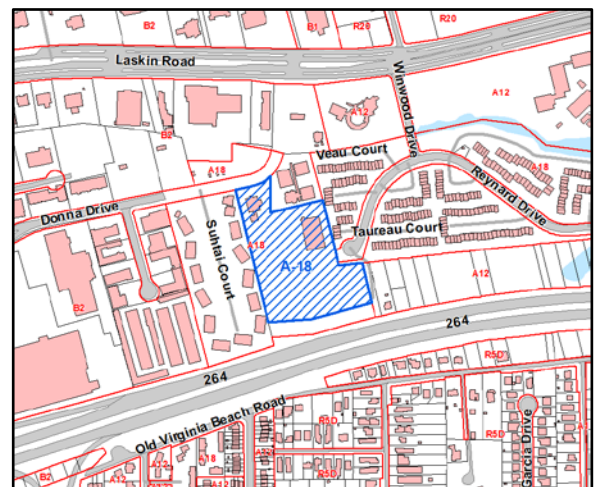
GPIN(s): 2417081031

Council District: Beach

Accela Record: 2021-PCCC-00203

Staff Planner: Marchelle Coleman

Modification to existing Conditional Use Permit for Private School to remove property from Permit in order to construct apartments in up to 5 buildings which is consistent with the existing zoning of property of A-18 Apartment District.



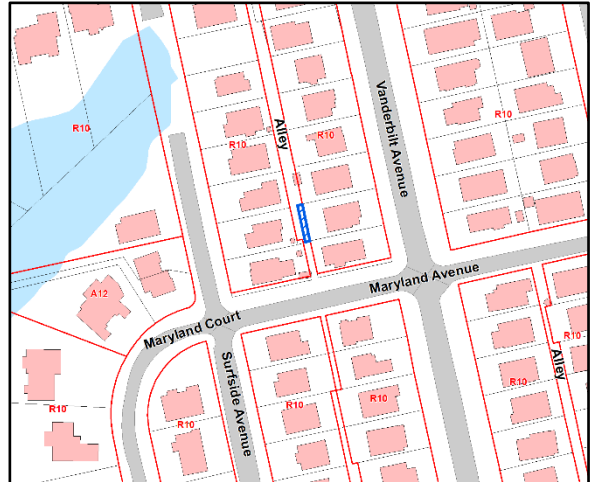
4.

James B. Richards, Jr. & Linda Champion-Richards (Applicants & Property Owners)

Street Closure

Adjacent Address: 7.5-foot by 50-foot portion of an unimproved alley adjacent to 733 Vanderbilt Avenue
Adjacent GPIN(s): 2426385075
Council District: Beach
Accela Record: 2021-PCCC-00218
Staff Planner: Marchelle Coleman

Proposal to close half (375 square feet) of 15-foot wide unimproved alley.



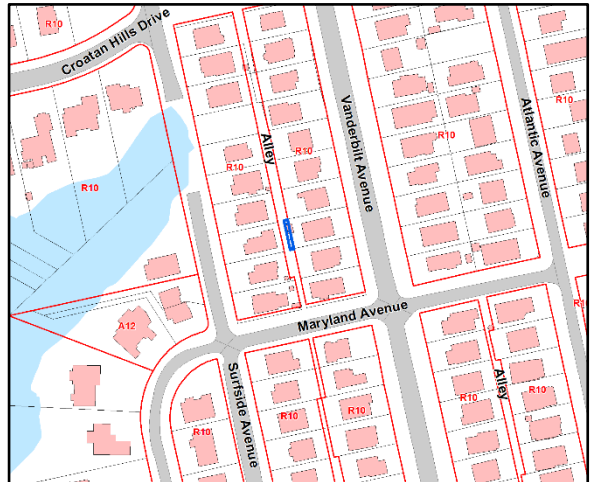
5.

The Ashe Revocable Trust (Applicant)
Michael I. & Mitzi S. Ashe (Property Owners)

Street Closure

Adjacent Address: 7.5-foot by 50-foot portion of an unimproved alley adjacent to 729 Vanderbilt Avenue
Adjacent GPIN(s): 2426385180
Council District: Beach
Accela Record: 2021-PCCC-00219
Staff Planner: Marchelle Coleman

Proposal to close half (375 square feet) of a 15-foot wide unimproved alley.



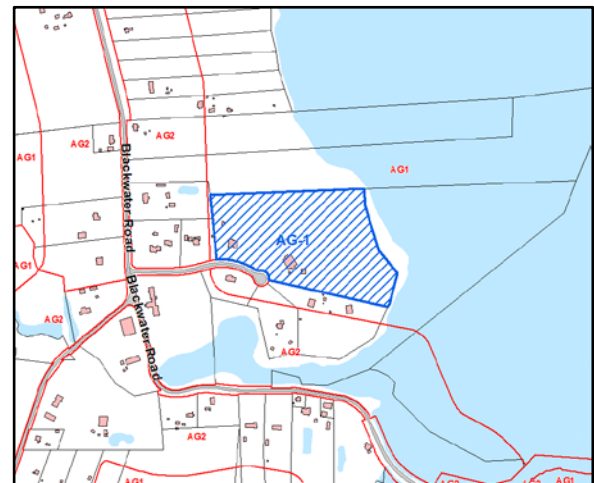
6.

Mutts with a Mission (Applicant & Property Owner)

Conditional Use Permit (Commercial Kennel)

Address: 2700 Shirley Landing Drive
GPIN(s): 1398326447
Council District: Princess Anne
Accela Record: 2021-PCCC-00177
Staff Planner: Marchelle Coleman

Request to operate a commercial kennel for over 50 dogs.



7.

VB Holdings, LLC (Applicant & Property Owner)

Modification of Conditions

Address: 608 Dam Neck Road

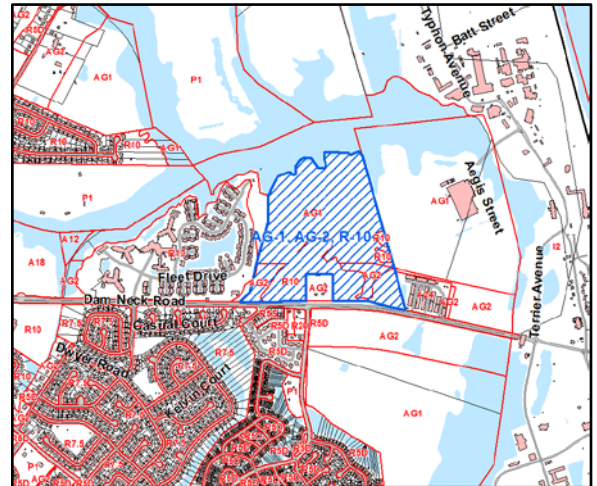
GPIN(s): 2425266489

Council District: Princess Anne

Accela Record: 2020-PCCC-00333

Staff Planner: Marchelle Coleman

Request to remove a portion of the property associated with an existing Conditional Use Permit for a Retirement Community and to rezone the property to Conditional A-12 in order to construct up to 92 townhouse units at a density of 1.2 units/acre.



8.

Atlantic Development Associates, LLC (Applicant)

Martha Fisher Huerta, VB Holdings, LLC (Property Owners)

Conditional Rezoning (AG-1 & AG-2 Agricultural & R-10 Residential District to Conditional A-12 Apartment District to construct 92 units at a density of approximately 1.2 units per acre)

Address: 580 & 608 Dam Neck Road

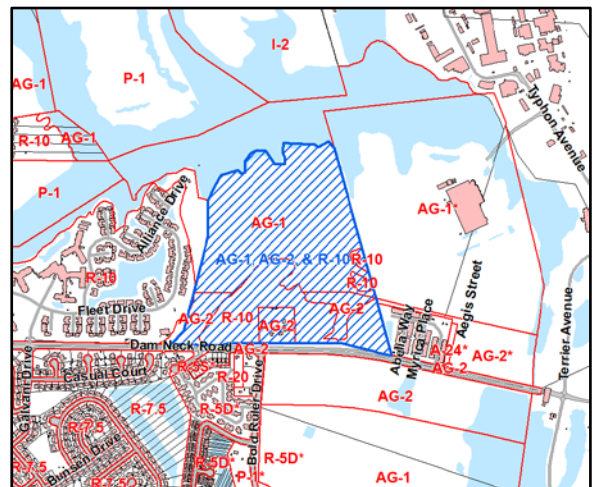
GPIN(s): 2425255531, 2425266489

Council District: Princess Anne

Accela Record(s): 2019-PCCC-00221, 2020-PCCC-00213

Staff Planner: Marchelle Coleman

A request to conditionally rezone the property to construct a 92 unit residential condominium community.



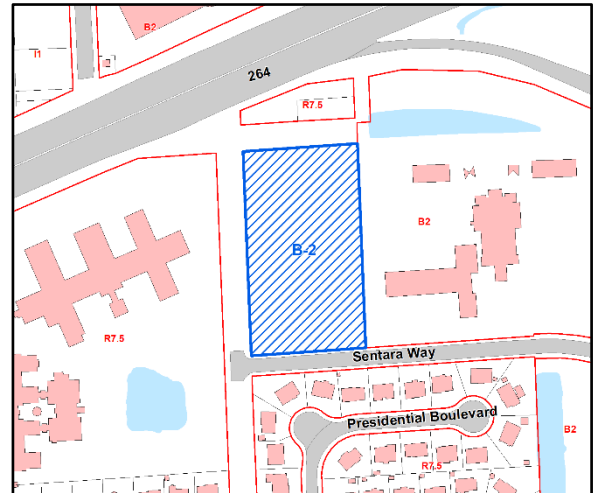
9.

Winner's Properties, LLC (Applicant)
The Runnymede Corporation (Property Owner)

Conditional Use Permit (Motor Vehicle Sales & Service)

Address: 3736 Sentara Way
GPIN(s): 1487428775
Council District: Beach
Accela Record: 2021-PCCC-00220
Staff Planner: Hoa N. Dao

Request to operate car sales dealership and service facility.



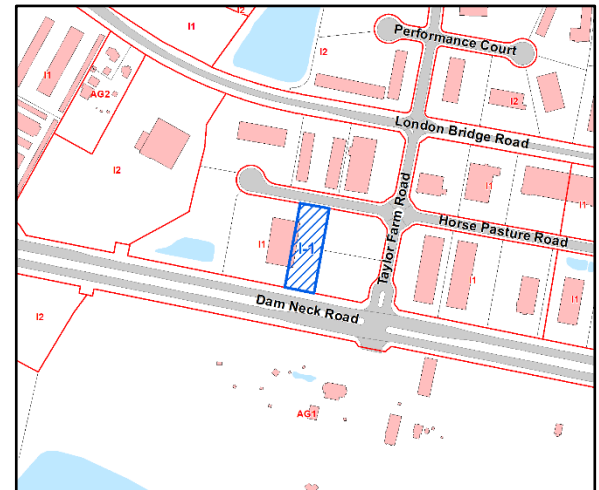
10.

Aswini Kumar Pradhan & Puspallata Pradhan
(Applicants & Property Owners)

Modification of Proffers

Address: Along Horse Pasture Road, between 1521 Taylor Farm Road and 2617 Horse Pasture Road
GPIN(s): 1495750349
Council District: Rose Hall
Accela Record: 2021-PCCC-00233
Staff Planner: Hoa N. Dao

Proposal to change side yard setback requirement in proffers of 30 feet to 15 feet, exclusively for this site.



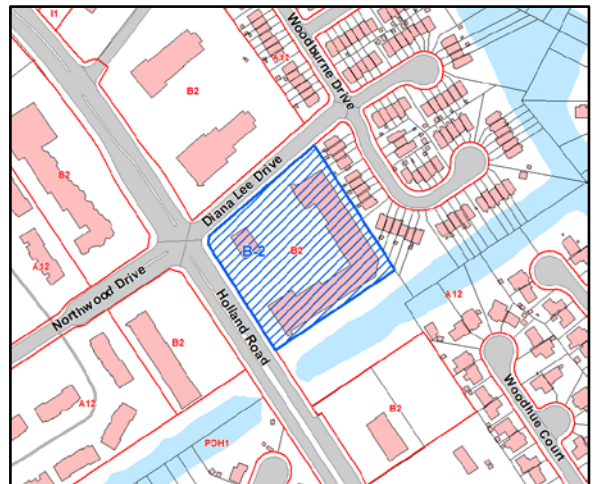
11.

Holland Lakes Associates, LC (Applicant & Property Owner)

Conditional Use Permit (Mini-Warehouse/Self-Storage)

Address: 3478 Holland Road
GPIN(s): 1486737186
Council District: Rose Hall
Accela Record: 2021-PCCC-00195
Staff Planner: Hoa N. Dao

Request to construct a 3-story, 130,284 sq. ft., climate controlled storage facility.

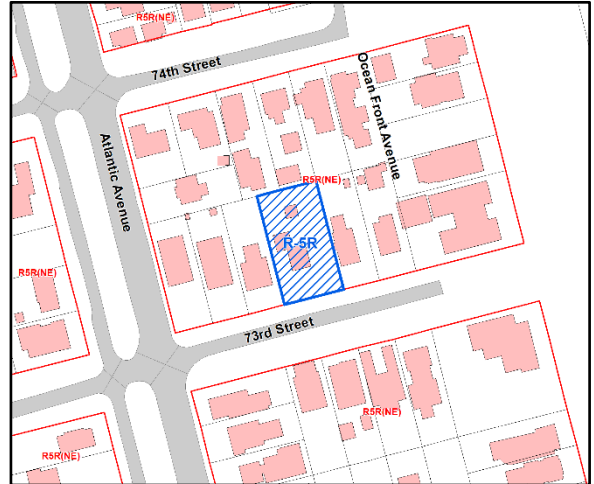


Atlantic Development Associates, LLC (Applicant)
The Sara T. Atherholt Revocable Trust (Property Owner)

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

Address: 111 73rd Street
GPIN(s): 2419667586
Council District: Lynnhaven
Accela Record: 2021-PCCC-00223
Staff Planner: Aubrey Trebilcock

Request to construct 2 single-family dwellings rather than 1 duplex with 2 units on existing site.

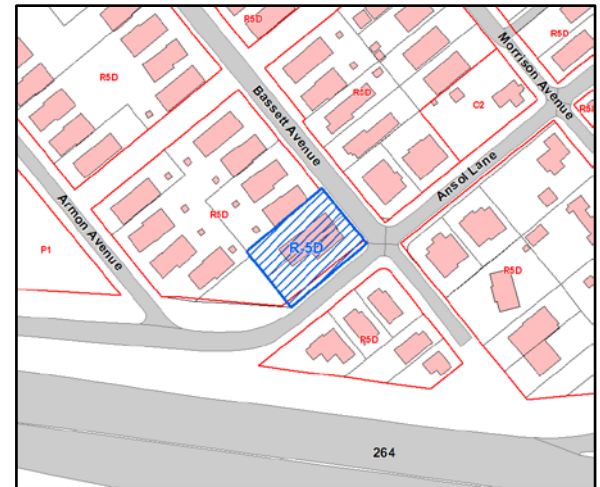


Atlantic Development Associates, LLC (Applicant & Property Owner)

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

Address: 2744 Ansol Lane & 153 Basset Avenue
GPIN(s): 1497430562, 1497430478
Council District: Beach
Accela Record: 2021-PCCC-00224
Staff Planner: Aubrey Trebilcock

Request to construct 3 single-family dwellings on 3 separate lots, 1 lot which will not meet lot area for a corner lot or lot width, where potentially 2 duplexes with 4 units could be constructed by-right.

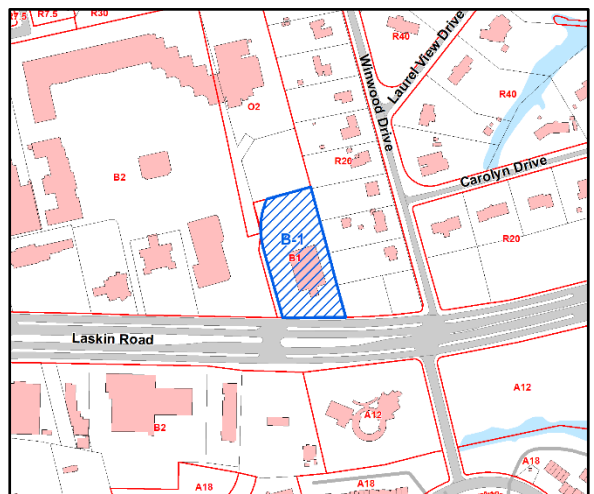


Hackers, LLC (Applicant)
Potter Properties Group, LLC (Property Owner)

Conditional Rezoning (B-1 Business District to Conditional B-2 Business District)

Address: 1532 Laskin Road
GPIN(s): 2417091256
Council District: Lynnhaven
Accela Record: 2021-PCCC-00225
Staff Planner: Hank Morrison

Request to rezone the property in order to renovate existing building and add indoor golf simulators within the restaurant.



15.

Jose M. Rivera (Applicant)
K & P Enterprises, LLC (Property Owner)

Conditional Use Permit (Tattoo Parlor)

Address: 549 Newtown Road, Suite 109

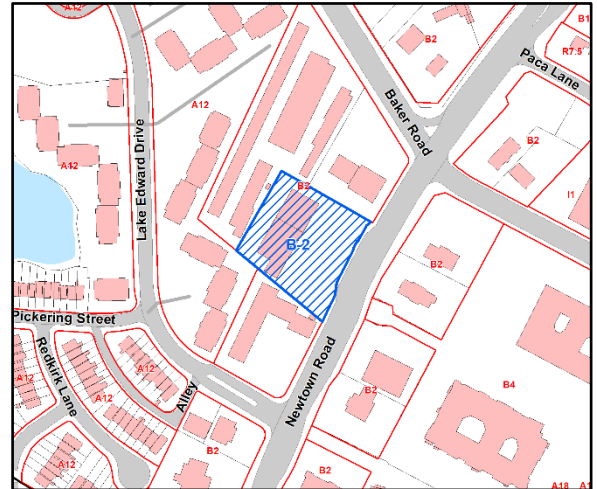
GPIN(s): 1468206651

Council District: Kempsville

Accela Record: 2021-PCCC-00229

Staff Planner: Antionette Fowlkes

Request for microblading services for permanent make up application in unit 109 (1,500 sf) within existing shopping center.



SHORT TERM RENTALS

16.

James D. White Revocable Living Trust (Applicant & Property Owner)

Conditional Use Permit (Short Term Rental)

Address: 407 18th Street, Unit A

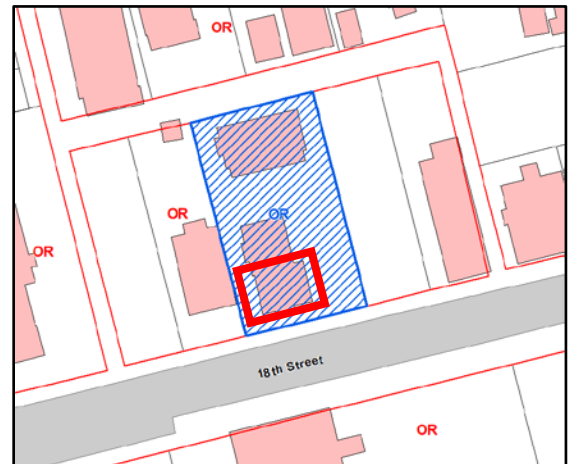
GPIN(s): 24270763310001

Council District: Beach

Accela Record(s): 2021-PCCC-00146

Staff Planner: Brandon Hackney

Request for a 3-bedroom Short Term Rental.





Applicant **City of Virginia Beach**

Planning Commission Public Hearing **November 10, 2021**

Amendment to the City of Virginia Beach Comprehensive Plan, 2016 to address stormwater impacts for discretionary applications

Agenda Item

1

Request

A Resolution to amend the Environmental Stewardship Framework of the City of Virginia Beach Comprehensive Plan, 2016, to address stormwater impacts for discretionary applications. This amendment is to be in compliance with the Resolution passed by City Council on September 7, 2021.

Summary of Referred Ordinances

The purpose of this amendment is to fulfill the components of the stormwater bond referendum approved by the citizens of Virginia Beach on November 2, 2021. The amendment will require rezoning and conditional rezoning applications to demonstrate no stormwater impact upstream or downstream of the proposed project or to current or planned stormwater and sea level rise resiliency projects included in the referendum. To show compliance with this policy, all rezoning and conditional rezoning applications will be required to provide a preliminary stormwater analysis similar to what is currently recommended for discretionary applications in the Southern Watershed. Staff envisions that the preliminary stormwater engineering analysis should include plans and calculations that demonstrate stormwater facilities have been adequately designed and sized to ensure no off-site impacts. This simplified analysis should be combined with a potential volunteered proffer stating the site plan will conform to all applicable state and local stormwater management regulation at the time of plan submittal and will not create and impact on upstream or downstream properties or stormwater systems. Alternatively, if a proffer is not volunteered, a more comprehensive stormwater analysis to include stormwater modeling will need to be completed prior to receiving favorable recommendation from staff. By having no impact on the stormwater infrastructure, the City can continue to be resilient to future storms and still allow for new development where appropriate.

The amendment also removes references in the Comprehensive Plan to the "Integrated Site Design" document which was a proposal to address resiliency through required site design elements. This document was never adopted by City Council and is not a policy that can be implemented at this time.

Recommendation

Staff recommends approval of this Resolution to amend the Comprehensive Plan as it will protect the City's investment in stormwater infrastructure and will meet the requirements of the Resolution to support the Bond Referendum adopted by City Council on September 7, 2021.

1 A RESOLUTION TO ADOPT AND AMEND INTO THE
2 VIRGINIA BEACH COMPREHENSIVE PLAN 2016 THE
3 STORMWATER IMPACTS FOR DISCRETIONARY LAND
4 USE APPLICATIONS

5
6 WHEREAS, the public necessity, convenience, general welfare and good zoning
7 practice so require;

8
9 WHEREAS, the Resolution adopted by City Council on September 7, 2021 in
10 regard to the approval/disapproval of discretionary applications for land use, was
11 passed to insure that the projects financed by the referendum passed on November 2,
12 2021 are not nullified by further discretionary land use applications;

13
14 WHEREAS, the changes required by the Resolution should be incorporated into
15 the Comprehensive Plan 2016, and are in conformity with the proposed revisions to the
16 Comprehensive Plan, attached hereto; and

17
18 WHEREAS, these changes should be adopted and incorporated as part of the
19 Comprehensive Plan 2016.

20
21 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
22 VIRGINIA BEACH, VIRGINIA:

23
24 That the Comprehensive Plan 2016 of the City of Virginia Beach be, and hereby
25 is, amended and reordained by:

26
27 The adoption and amendment of the changes required by the resolution dated
28 September 7, 2021 in regard to stormwater discretionary land use applications. Such
29 documents are attached hereto and made a part hereof, having been exhibited to the
30 City Council and placed on file in the Department of Planning and Community
31 Development.

32
33 Adopted by the Council of the City of Virginia Beach, Virginia, on this _____
34 day of _____, 20__.

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL SUFFICIENCY:

Planning Department

City Attorney's Office

CA15564/R-2/November 1, 2021

be taken to ensure consistency between the Comprehensive Plan and the *Regional Hazard Mitigation Plan*, especially related to strategies to mitigate recurrent flooding and sea level rise.

Recommended Policies: Sea Level Rise, Recurrent Flooding, and Hazard Mitigation

- Concentrate new development at higher elevations outside special flood hazard areas.
- Use alternative construction techniques to minimize fill in the Floodplain Subject to Special Restrictions.
- Wherever possible in the development approval process, avoid developing inside special flood hazard areas, especially in the Southern Watershed Area, which is characterized by limited relief and a minimal hydraulic gradient.

Agenda for Future Action Recommendations: Sea Level Rise, Recurrent Flooding, and Hazard Mitigation

- Develop a program to educate the public on the beneficial functions and values of floodplains.
- Implement the findings and recommendations of the Sea Level Wise Response Strategy.
- Preserve and enhance beaches and dunes along the City's Atlantic Ocean and Chesapeake Bay shorelines.
- Implement the recommendations of the *Regional Hazard Mitigation Plan*.

LAND DEVELOPMENT AND STORMWATER MANAGEMENT

Land is a precious resource, limited in amount, highly valued and often exploited, a commodity that is constantly being sold, developed, or redeveloped. As the City matures, its land inventory becomes even scarcer. Management of land in its natural state demands that we employ wise management and stewardship practices to safeguard the City's natural heritage. Similarly, developed land should be used in a sustainable manner so that its value to present and future generations is maintained or enhanced. On November 2, 2021, the citizens of Virginia Beach passed a bond referendum to initiate a comprehensive financial plan to pay for the debt related to significant City-wide stormwater and flood protection flood control projects. The goal of these projects is to provide for the long-term flood mitigation needs of the City.

Based on the resolution passed by City Council on September 7, 2021, it is the intent of City Council to require all rezoning and conditional rezoning requests have no impact on the current and planned future stormwater infrastructure that will help protect the City from recurrent flooding and sea level rise. Similar to the current policy for the Southern Watershed, all rezoning and conditional rezoning applications must prove no impact to the stormwater infrastructure upstream and downstream and this information shall be provided, amongst other planning considerations, to obtain a positive recommendation from staff. Integrated Site Design and stormwater management are key techniques that can be used to enable responsible and more sustainable land development practices.

Comprehensive Plan Amendment

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

November 20, 2018



"Filterra" stormwater treatment system draining a parking lot at new suburban development site

The City has recently drafted an *Integrated Site Design Guide* as the latest in a series of initiatives intended to help developers accomplish sustainable development in the city. While this effort is designed to update the City's current *Landscaping Guide*, which was published in 2002 and revised in 2009, it is not an attempt to increase current landscape requirements or costs related to landscaping and stormwater management. The Guide seeks to maintain the beneficial landscaping strategies that have been successful in beautifying Virginia Beach over the last 20 years. The Guide will be the tool box from which landscape architects and designers, civil engineers, planners, developers, business owners, and even homeowners will combine landscape techniques with design components to meet the City site plan review requirements. The draft plan can be viewed at: http://www.vbgov.com/government/offices/eco/Documents/isdg_2014.pdf.

Environmental Stewardship Framework/2-58

~~Stormwater management regulations were passed by the General Assembly after many years of assembling diverse stakeholder input. This landmark decision has more recently devolved from state agency to local government implementation and enforcement without additional resources to local governments. As a result, the City of Virginia Beach adopted new stormwater management regulations and fees, which became effective July 1, 2014. Perhaps more than anything else in recent years, these state-mandated regulations have changed the way development projects are designed and approved in Virginia Beach. In addition, since adoption of the 2009 Comprehensive Plan, the City of Virginia Beach prepared a Comprehensive Stormwater Management Plan that was approved by the Department of Environmental Quality.~~

Southern Watershed Subject to “Special Drainage Considerations”

In addition, the Southern Watershed (see Southern Watershed map in Chapter 1, Section 1.5 – Rural Area) is subject to “special drainage considerations.” Drainage in the Southern Watershed is highly impacted by the presence of high ground water, poorly draining soils, and high water surface elevations in downstream receiving waters. Therefore, it is recommended that the developer of any property in the Southern Watersheds understand and evaluate these factors prior to undertaking the project and properly account for these factors in the project design. Receiving waters in the Southern Watersheds are subject to wind driven tidal influences. High ground water elevations and poorly draining soils can result in increased runoff, can limit the capacity of stormwater conveyance systems, and can counter the use of certain Best Management Practices, such as infiltration.

All of these effects must be fully considered and evaluated in the analysis and design of drainage systems in the Southern Watersheds. Accordingly, it is strongly recommended that the developer has a preliminary drainage study prepared by a qualified professional engineer in advance of any request to approve a discretionary (versus by-right) development application that involves land disturbance in the Southern Watershed. The drainage study should fully and accurately evaluate the effects of the foregoing factors on the planned development and on upstream and downstream areas. The proposed drainage system for the planned development would provide positive drainage that meets City standards and does not result in flooding within the planned development or to upstream or downstream areas.

Recommended Policies: Land Development and Stormwater Management

- “Low Impact Development” design features should be incorporated into the City’s major buildings and parking area projects and in all private development plans.
- All waterfront development proposals in the Strategic Growth Areas (SGAs) should be coordinated with the City’s Parks and Recreation Department for potential public water access (e.g., canoe/kayak put in, parkland, plaza, etc.) in accordance with adopted SGA Master Plans.

~~Agenda for Future Action Recommendations: Land Development and Stormwater Management~~

- ~~Complete and adopt the Integrated Site Design Guide as a component of Planning’s Design Specifications and Standards.~~

REQUESTED BY COUNCILMEMBERS MOSS AND TOWER

**A RESOLUTION MAKING CERTAIN COMMITMENTS
REGARDING THE COMPREHENSIVE FLOOD MITIGATION
BOND REFERENDUM**

WHEREAS, changing weather patterns and sea level rise as validated by National Oceanic and Atmospheric Administration (NOAA 2020), the Massachusetts Institute of Technology and the Sea Level Wise Adaptation Study have demonstrated that the in-place drainage capacity, even in like new condition is: (i) severely inadequate to protect the city from structures being flooded on a city-wide basis; (ii) insufficient to preclude the future downgrade of the City's bond rating based on economic loss of even single one-hundred-year flooding event and recovery time; and (iii) the path to stagnant economic growth as investors pass us by;

WHEREAS, the Sea Level Wise Adaptation Study and the City's modeling of four watersheds and 15 drainage basins have validated the drainage capacity required to discharge the water of a one-hundred year storm event (a storm event with a 1% annual exceedance probability) to prevent flooding of homes and businesses accounting for 1.5 feet of sea level rise and a high tide of 2.3 feet over mean average high tide of 1.8;

WHEREAS, the City staff has sufficiently scoped out the engineering material solution for a referendum quality cost estimate for eliminating the backlog in maintenance of legacy ponds, ditches, and canals and the installation of 21 named projects on the bond referendum question;

WHEREAS, at the end of the ten-year period in 2032, eight percent of the City will qualify for preferred FEMA flood insurance risk due to completion of the twenty-one named projects in the bond referendum question and elimination of the backlog in the maintenance of the City's legacy ditches, canals, and ponds;

WHEREAS, at the ten-year build out, Phase Two will commence to achieve Virginia Beach high and dry in 2045;

WHEREAS, meeting the existential threat of flooding will improve the quality of life for residents, and a competitive advantage for a growing economy will be sustained; and

WHEREAS, the City Council previously directed the City Manager to create a dedicated webpage on the City's website that includes each of the Phase 1 projects and the progress – by dollar amount spent and by milestone achieved – toward completion of such projects and to provide quarterly reports to the City Council providing updates regarding the execution of the projects if the referendum question is answered in the affirmative;

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

City Council Resolution

The City Council urges the residents to carefully consider the issue of flood mitigation and plan to vote in November. To assist in the residents' deliberations, the City Council makes the following commitments, which with the exception of #4, will be delivered within three weeks if the residents approve the referendum question in November:

1. The City Council will adopt a comprehensive financial plan to pay for the authorized \$567,500,000 of general obligation debt, which will include the following:
 - a. The authorized debt to be repaid by a real estate tax increase of 4.3 cents for twenty-year debt based on an average annual increase of three percent in the City's taxable real estate based on the 1 July 2021 land book.
 - b. The financial plan shall create a single appropriation unit into which all bond proceeds are deposited and a single appropriation unit into which all revenue derived from the increase in real estate taxes are deposited. Such fund shall provide all deposit and withdrawal information with sufficient granularity for oversight by the City Council and the Citizen Oversight Board.
 - c. In furtherance of the long-term flood mitigation needs of the City, the general obligation bonding capacity created by the retirement of the debt authorized by the November 2021 referendum shall be reserved exclusively for the issuance of bonds to finance Phase 2 of the City's flood mitigation program and subsequent sea level rise projects.
2. The establishment of a Citizen Oversight Board composed of seven members that shall have access to all financial, contract documents, acceptance and deliverable testing and certifications documentation, and shall receive a monthly briefing from the City Manager, Quality Assurance Officer, and the Contractor's program manager and quality assurance officer and shall give a public brief to the City Council every two months on the twenty-one named projects in the bond referendum question and the elimination of the backlog in the maintenance of the City's legacy ditches, canals, and ponds.
3. An amendment to the City's Comprehensive Land Use Plan that will recommend denial for any project or development that generates a net increase in water discharge demand in any watershed or in any drainage system in watershed over the capacity of net of margin to meet the modeled discharge baseline of the drainage system at build-out, and further requiring the Planning Department to recommend denial of any submission that does not conform to the former.
4. The City Manager is to develop and present to the City Council an acquisition strategy that seeks to streamline and expedite design and construction of the twenty-one flood mitigation projects, including using a single prime contractor,

City Council Resolution

watershed bundling, and project bundling. The City Manager is to also acquire a separate contractor bonded to conduct quality assurance and recommend deliverable acceptance.

5. The City Attorney shall prepare an ordinance that freezes the Stormwater management fee through 2028.

BE IT FURTHER RESOLVED, THAT:

The City Council is in agreement that the following reflects the course of action to be pursued if the November referendum is answered in the negative:

1. The City will prioritize funding to eliminate the backlog in the maintenance of ponds, ditches, and canals and sustaining the required maintenance cycles;
2. The City will continue the planned increases in the Stormwater management fee and issuance of revenue bonds for stormwater projects, such fees to be increased as necessary to support the authorized projects and additional bond costs associating with revenue bonds;
3. While flood risk remains, the Phase 1 projects will be pursued over the following forty years, and the perils and risks associated with this timeline include severe weather events, increased flood insurance premiums, companies locating and relocating elsewhere, potential reduction in the City's bond rating, and home values adjusted to reflect the cost of flood insurance;
4. The work associated with the Phase 1 projects will increase over time as cost of construction increases, and the borrowing costs may not be as favorable as today; and
5. Rainfall events will continue to happen during the longer forty-year delivery schedule for the Phase 1 projects with the probable outcome of flooding to homes and businesses.

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

APPROVED AS TO LEGAL SUFFICIENCY:


City Attorney's Office

CA15526
R-3
September 1, 2021

Request

Modification of Conditions

Staff Recommendation

Approval

Staff Planner

Marchelle Coleman

Location

1537 Laskin Road

GPINs

2417081307, 2417081734, 2417081031

Site Size

11.05 acres

AICUZ

Greater than 75 dB DNL

Watershed

Chesapeake Bay

Existing Land Use and Zoning District

Private school / B-2 Community Business, A-18
Apartment

Surrounding Land Uses and Zoning Districts

North

Laskin Road

Shopping center / B-2 Community Business

South

I-264

East

Laskin Road

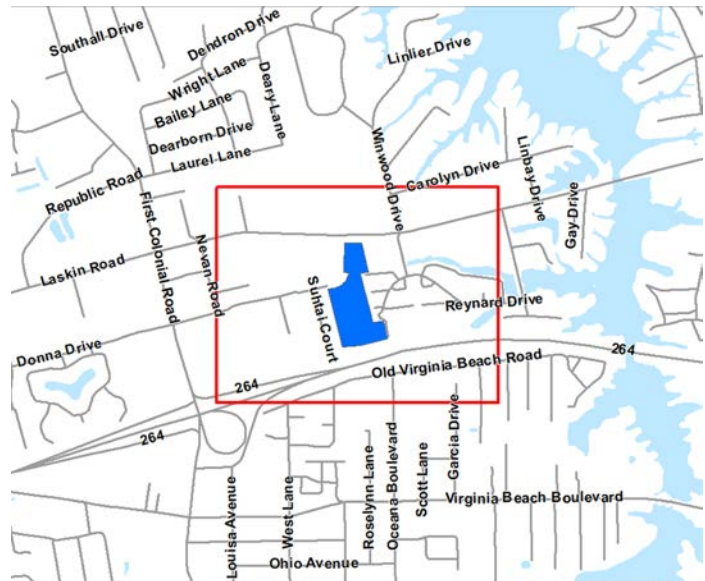
Church, multi-family dwellings / A-12

Apartment, A-18 Apartment

West

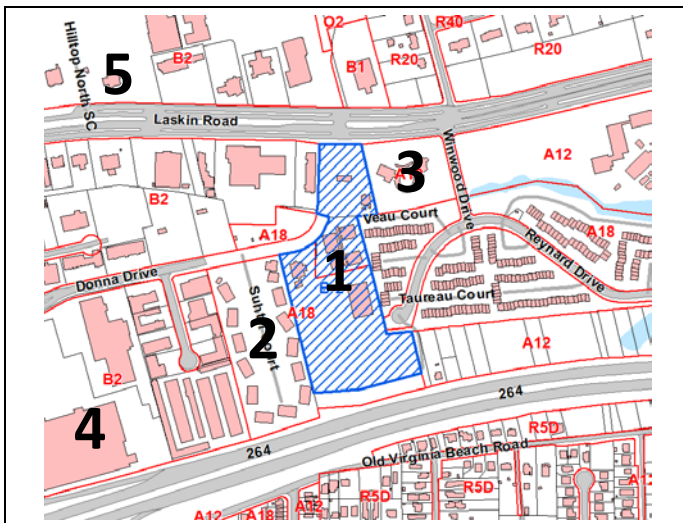
Laskin Road, Donna Drive

Office, multi-family dwellings / B-2 Community
Business, A-18 Apartment



Background & Summary of Proposal

- Located in the Hilltop SGA and zoned B-2 Community Business and A-18 Apartment Districts, the Friends School has existed on this property since 1956. Subsequently in 1996 and 1999, the City Council approved expansions of the school.
- The applicant is now seeking to reduce the acreage of the site, as the rear portion of the property has been sold. Approximately 6.63-acres will be removed from the existing Friends School property and approximately 4.42-acres will remain. Agenda Item 3 reflects the new property owner's desire to redevelop that portion of the site with apartments, which is a permitted use by-right.
- In addition to the reduction in the area covered by the Conditional Use Permit, additions to the site are also proposed. As depicted on the Conceptual Site Layout, the applicant is proposing to install a new building addition to the existing administration building, an outdoor stage, outdoor classrooms, and an outdoor shaded art patio. The new building addition will include additional classrooms, a kitchen, a multi-purpose room, restrooms, and storage rooms for equipment. In the future, the applicant proposes to remove the existing fox building (Building 13 on the Conceptual Site Layout) to create an additional open lawn area and to install right-of-way improvements along Donna Drive to include a 36-foot wide roadway section with curb and gutter with a five-foot wide sidewalk and a turnaround at the northern end of Donna Drive. The applicant will request a modification in the future to address these proposed right-of-way improvements.
- While the new additions are being constructed, the applicant is proposing to temporarily install modular classrooms in order to provide the necessary space for students during construction. The modular classrooms will be removed upon completion of construction, as noted in Condition 5 below.
- As this B-2 zoned property will be adjacent to apartments within the A-18 Apartment District, a 15-foot wide buffer with Category IV screening is required. The applicant is seeking a deviation to that requirement and proposes to install a 10-foot wide buffer with Category VI landscaping. Category VI includes the installation of a solid, six-foot tall privacy fence with plant material outboard of the fence. The applicant is requesting that this deficiency be addressed through the provisions of Section 221(i) of the Zoning Ordinance, which allows City Council to grant deviations from required landscaping if "for good cause shown upon a finding that there will be no significant detrimental effects on surrounding properties."
- The proposed new building addition will consist of a red brick veneer with a standing seam metal roof to match the existing two-story classroom and administration building on site, as depicted on page nine of this report.
- Per the Zoning Ordinance, 27 parking spaces are required for this use and has been exceeded by three parking spaces.



Zoning History

#	Request
1	CUP (Expansion of School) Approved 09/14/1999 CUP (Expansion of School) Approved 05/28/1996
2	REZ (B-2 to A-18) Approved 08/09/1992
3	CUP (Expansion to Church) Approved 11/28/1983
4	CUP (Bulk Storage Yard) Approved 08/21/2018
5	CUP (Tattoo Parlor) Approved 05/07/2019 CUP (Indoor Recreation Center) Approved 02/09/1993

Application Types

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

MODC – Modification of Conditions
MODP – Modification of Proffers
NON – Nonconforming Use

STC – Street Closure
FVR – Floodplain Variance
ALT – Alternative Compliance

SVR – Subdivision Variance
LUP – Land Use Plan
STR – Short Term Rental

Evaluation & Recommendation

This request for a Modification of Conditions for this Private School, in Staff's Opinion, is acceptable. As mentioned previously, the applicant is seeking to modify the existing Conditional Use Permit to reduce the acreage of the school, as a portion of the school's property has been sold, and to add modifications to the school. The request remains in keeping with the policies and goals set forth in the Comprehensive Plan for the Hilltop SGA, as the property is designated for institutional use, specifically for the existing Friends School.

This site is located in the greater than 75 dB Ldn noise zone. During the Navy's review of the school's expansion in the late 1990s, a condition of approval was included to limit the maximum enrollment to 400 students. This condition will remain, and the enrollment will not change with this Modification of Conditions request.

Per the City Zoning Ordinance, a 15-foot wide landscape buffer with Category IV landscaping (a mix of evergreen trees and shrubs) is required along property lines abutting Residential or Apartment Districts. However, the applicant proposes to install a 10-foot wide landscape buffer instead of the 15-foot wide buffer, but with the addition of a six-foot tall solid cedar wood fence with cap and evergreen plantings reaching a minimum of 10 feet in height. Staff is supportive of the proposed deviation.

It is evident that the applicant is seeking to reduce the footprint of the school and will continue to operate at full capacity. The parking will continue to be met on site, exceeding this requirement by three spaces, and enrollment will not be increased. Improvements to the site include increased landscaping with a six-foot tall privacy fence and Category VI plantings reaching a minimum height of 10 feet, improved circulation with a newly constructed roundabout feature with a proposed focal point art display, a building addition to the existing administration building, outdoor classroom areas, and a shaded art patio for enhanced outside learning. In Staff's opinion, this modification request to reduce the school's footprint with the additional on-site improvements are acceptable and will not negatively impact adjacent property owners.

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

Recommended Conditions

1. All previous conditions attached to the Conditional Use Permit approvals of May 28, 1996 and September 14, 1999 shall be voided and replaced with the following conditions below.
2. A 10-foot wide landscape buffer with Category VI landscaping is proposed for this site. This is a deviation to the 15-foot wide landscape buffer with Category IV landscaping, as required by the City Zoning Ordinance.
3. When the property is redeveloped, it shall be in substantial conformance with the Conceptual Site Layout entitled "MASTER PLAN – PHASE 1, VIRGINIA BEACH FRIENDS SCHOOL, Virginia Beach, Virginia," prepared by WPL, dated October 14, 2021, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
4. The exterior of the proposed building addition shall substantially adhere in appearance, size, and materials to the submitted elevations entitled "VIRGINIA BEACH FRIENDS SCHOOL – EXTERIOR RENDERING," prepared by HBA, dated October 14, 2021, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
5. The modular classrooms shall be located on the site as depicted on the diagram entitled "TEMPORARY MODULAR CLASSROOM SITE DIAGRAM – VIRGINIA BEACH FRIENDS SCHOOL, Virginia Beach, Virginia," prepared by WPL, dated August 16, 2021. The modular classrooms shall be limited to a five year time frame from the date of City Council action or within six months following final occupancy approval by the Building Official's Office, or whichever is sooner.
6. The student enrollment of the school, including all future facility expansions, shall not exceed 400 students.
7. All on-site signage must meet the requirements and regulations of the Zoning Ordinance. A separate permit from the Department of Planning & Community Development is required for any new signage installed on the site.

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

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

Comprehensive Plan Recommendations

This property is located in the Hilltop Strategic Growth Area, as identified by the Comprehensive Plan, and the Hilltop SGA Master Plan. The SGA Plan recommends an institutional use of the existing Friends School institution.

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 this site.

Public Utility Impacts

Water & Sewer

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

Public Outreach Information

Planning Commission

-
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on October 11, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, October 24, 2021 and October 31, 2021.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on October 25, 2021.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.vbgov.com/pc on November 4, 2021.

Existing Site Layout

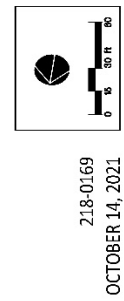


EXISTING CONDITIONS
VIRGINIA BEACH FRIENDS SCHOOL
VIRGINIA BEACH, VIRGINIA
WPL | LANDSCAPE ARCHITECTS | LAND SURVEYORS | CIVIL ENGINEERS

218-0169
NOVEMBER 05, 2018



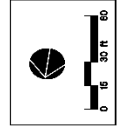
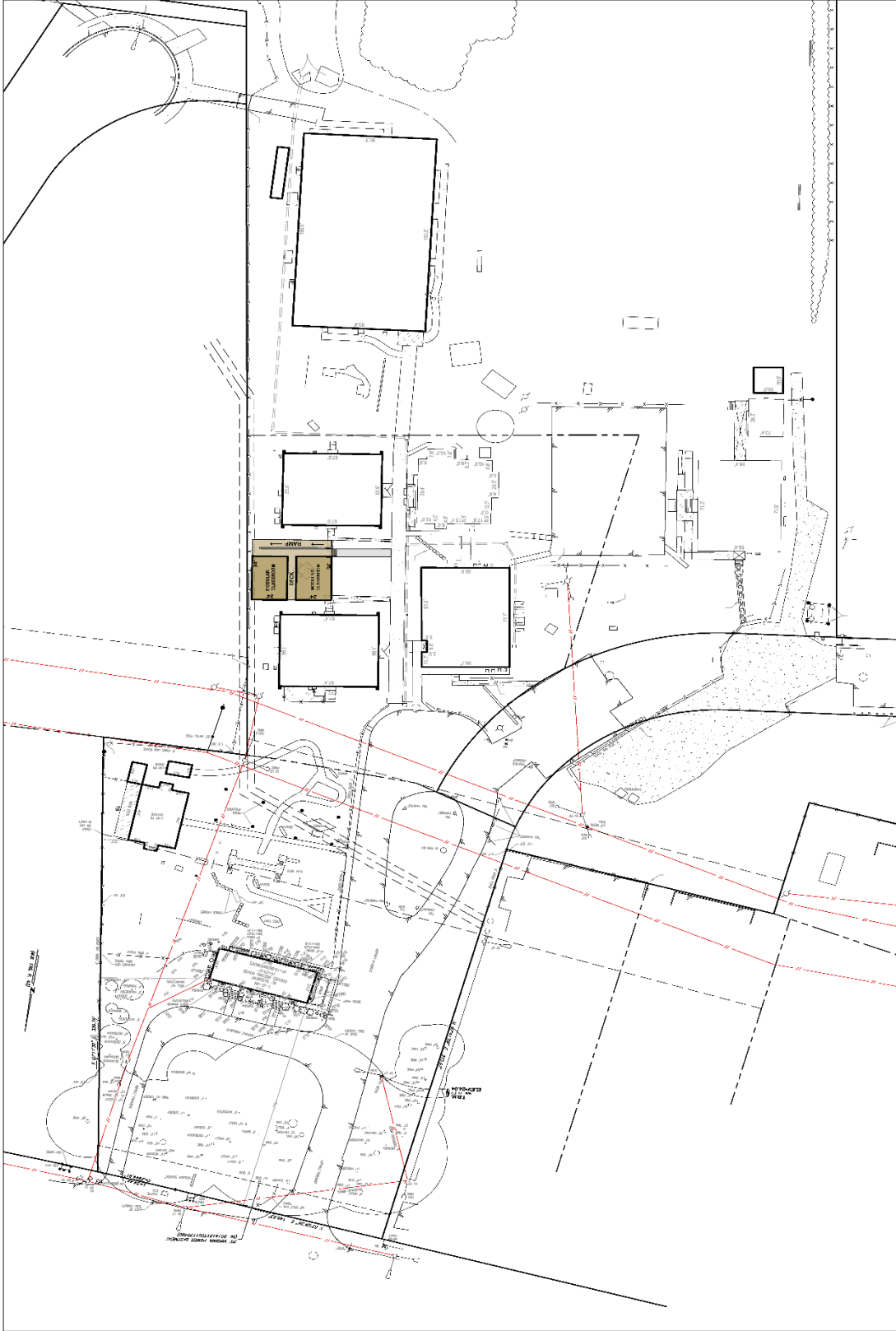
Proposed Conceptual Site Layout



MASTER PLAN - PHASE 1
VIRGINIA BEACH FRIENDS SCHOOL
VIRGINIA BEACH, VIRGINIA
WPI | LANDSCAPE ARCHITECTS | LAND SURVEYORS | CIVIL ENGINEERS



Proposed Modular Classroom Site Diagram

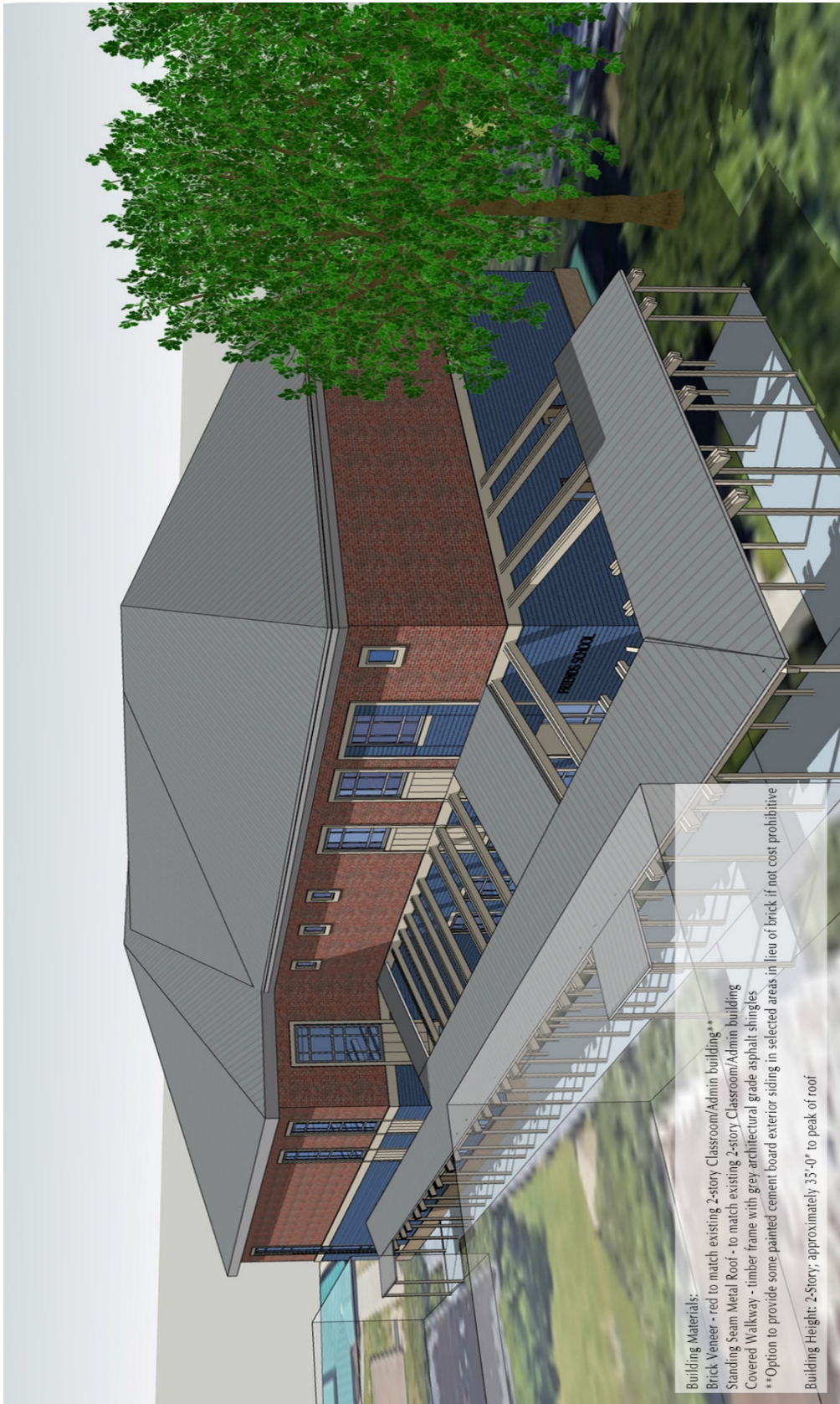


218-0169
AUGUST 16, 2021

TEMPORARY MODULAR CLASSROOM SITE DIAGRAM
VIRGINIA BEACH FRIENDS SCHOOL
VIRGINIA BEACH, VIRGINIA
WPL | LANDSCAPE ARCHITECTS | LAND SURVEYORS | CIVIL ENGINEERS



Proposed Building Elevation



VIRGINIA BEACH FRIENDS SCHOOL - EXTERIOR RENDERING

OCTOBER 14, 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 The Friends School

Does the applicant have a representative? ☒ Yes ☐ No

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

J. Bryan Plumlee attorney with Poole Brooke Plumlee PC, 4705 Columbus Street, Virginia Beach, VA 23462

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)

The applicant is a private school and nonstock corporation. Jean Crawford, Pres./Clerk and Dir.; Patrick Goold Recording Clerk and Dir.; Hank Ghittino, VP, Asst. Clerk and Dir.; Michael Barclay, Director.

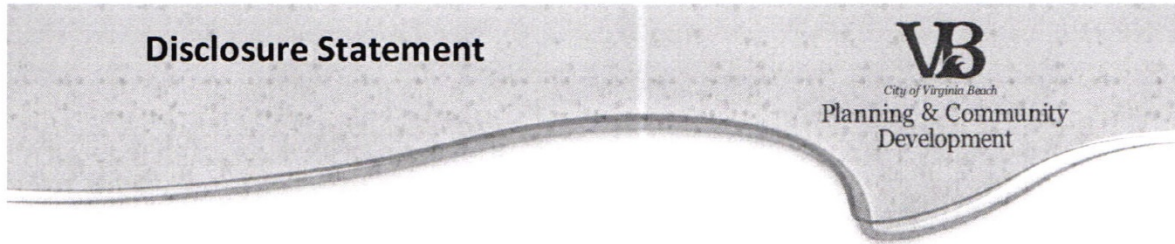
- If **yes**, list the businesses that have a parent-subsiary¹ or affiliated business entity² relationship with the applicant. (Attach a list if necessary)

Virginia Beach Monthly Meeting of Friends, an unincorporated association ("The Meeting"). *While it does not meet the exact definition of "Affiliated Business", The Meeting and TFS are intertwined historically. The Meeting leased a portion of its parcel connecting to Laskin Rd. to TFS. Since TFS began, The Meeting has continually permitted TFS to park vehicles and use the ingress and egress to Laskin Rd. TFS's parcel was transferred from The Meeting.

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

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

Disclosure Statement



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

☐ Yes ☒ No

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

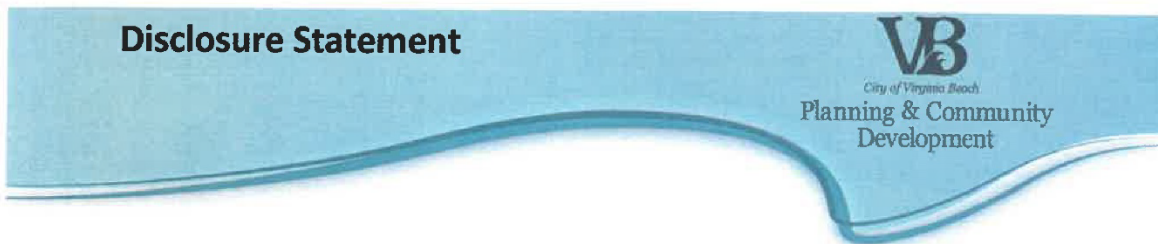
- If **yes**, identify the firm and individual providing the service.

WPL, Principal landscape architect William D. Almond, 242 Mustang Trail, Suite 8, Virginia Beach, VA 23452

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.

S.B. Ballard

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.

AES, Mark Ricketts


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.

Poole Brooke Plumlee PC - J. Bryan Plumlee, 4705 Columbus St., Virginia Beach, VA 23462

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

Michael Barzman, Director
Print Name and Title

9/13/21
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 checked="" type="checkbox"/>	No changes as of	Date	Signature	
			Print Name	

Disclosure Statement

Disclosure Statement



Owner Disclosure

Owner Name The Friends School (approximately 1/3 of the affected parcel under 1999 CUP).

Applicant Name The Friends School

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

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

A nonstock corporation. Jean Crawford, Pres., Clerk and Dir.; Patrick Goold Recording Clerk and Dir.; Hank Ghittino, VP, Asst. Clerk and Dir. and Michael Barclay, Dir.

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

Virginia Beach Monthly Meeting of Friends, an unincorporated association ("The Meeting"). *While it does not meet the exact definition of "Affiliated Business", The Meeting and TES are intertwined historically.

Known Interest by Public Official or Employee

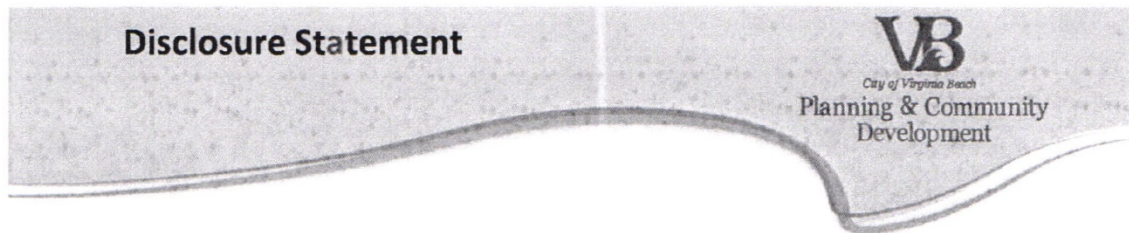
Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action? ☐ Yes ☒ No

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

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

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

Disclosure Statement



Owner Services Disclosure

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

☐ Yes ☒ No

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

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

☐ Yes ☒ No

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

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

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

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

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

WPL, Principal landscape architect William D. Almond, 242 Mustang Trail, Suite 8, Virginia Beach, VA 23452

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.

S.B. Ballard

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.

AES, Mark Ricketts

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.

Poole Brooke Plumlee PC, J. Bryan Plumlee, 518-5615, 4705 Columbus St., VB, VA 23462

Owner Signature

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

Owner Signature

Print Name and Title

Date

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

Staff Recommendation

Approval

Staff Planner

Marchelle Coleman

Location

1537 Laskin Road

GPIN

2417081031

Site Size

6.63 acres

AICUZ

Greater than 75 dB DNL

Watershed

Chesapeake Bay

Existing Land Use and Zoning District

Private school / A-18 Apartment

Surrounding Land Uses and Zoning Districts

North

Laskin Road

Private school / A-18 Apartment

South

I-264

East

Multi-family dwellings / A-18 Apartment

West

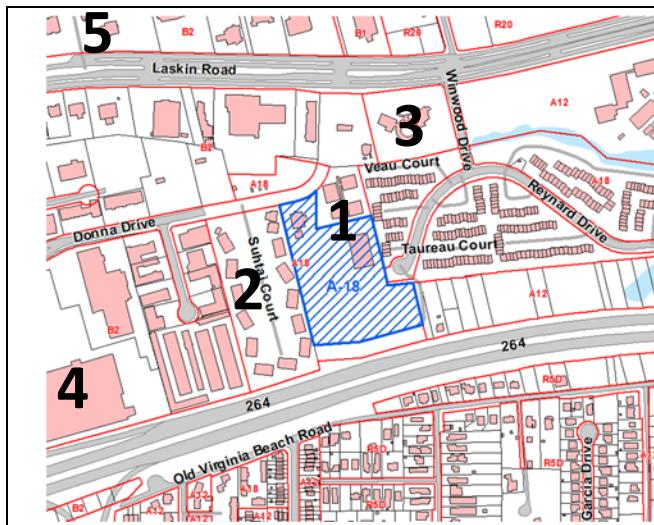
Donna Drive

Multi-family dwellings / A-18 Apartment



Background & Summary of Proposal

- Located in the Hilltop SGA and zoned A-18 Apartment District, the Friends School has existed on this property since 1956. Subsequently in 1996 and 1999, the City Council approved expansions of the school.
- The applicant is now seeking to modify the previously approved Conditional Use Permits to remove the 6.63-acre property from the permit in order to construct a five building multi-family development. The proposed use is consistent with the existing zoning of the property and can be developed as a permitted use by-right in this zoning district.



Zoning History

#	Request
1	CUP (Expansion of School) Approved 09/14/1999 CUP (Expansion of School) Approved 05/28/1996
2	REZ (B-2 to A-18) Approved 08/09/1992
3	CUP (Expansion to Church) Approved 11/28/1983
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5	CUP (Tattoo Parlor) Approved 05/07/2019 CUP (Indoor Recreation Center) Approved 02/09/1993

Application Types

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

Evaluation & Recommendation

This request for a Modification of Conditions to remove this property from the previously approved Conditional Use Permits, in Staff's Opinion, is acceptable. The request is in keeping with the policies and goals set forth in the Comprehensive Plan for the Hilltop SGA. While the Hilltop SGA designates this property for an institutional use, the proposed multi-family development is found to be more consistent with the designated zoning of A-18 Apartment District and is in keeping with the adjacent uses to the west and east of the site. Although the property is located within the >75 dB DNL noise zone where residential uses are considered incompatible uses, the existing zoning of the property allows for residential dwelling units at a density of 18 units per acre and, because it is the current zoning of the property, is permitted to be developed with residential uses.

Staff does not anticipate any negative impacts from a reduction in the property associated with the school, as the school's enrollment will not increase and all required parking on the site will be met and exceeded by four parking spaces.

Based on these considerations, Staff is recommending approval of this Modification of Conditions request.

Comprehensive Plan Recommendations

This property is located in the Hilltop Strategic Growth Area, as identified by the Comprehensive Plan, and the Hilltop SGA Master Plan. The Hilltop SGA plan designates the subject property for institutional use of the existing Friends School institution.

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 this site.

Public Utility Impacts

Water & Sewer

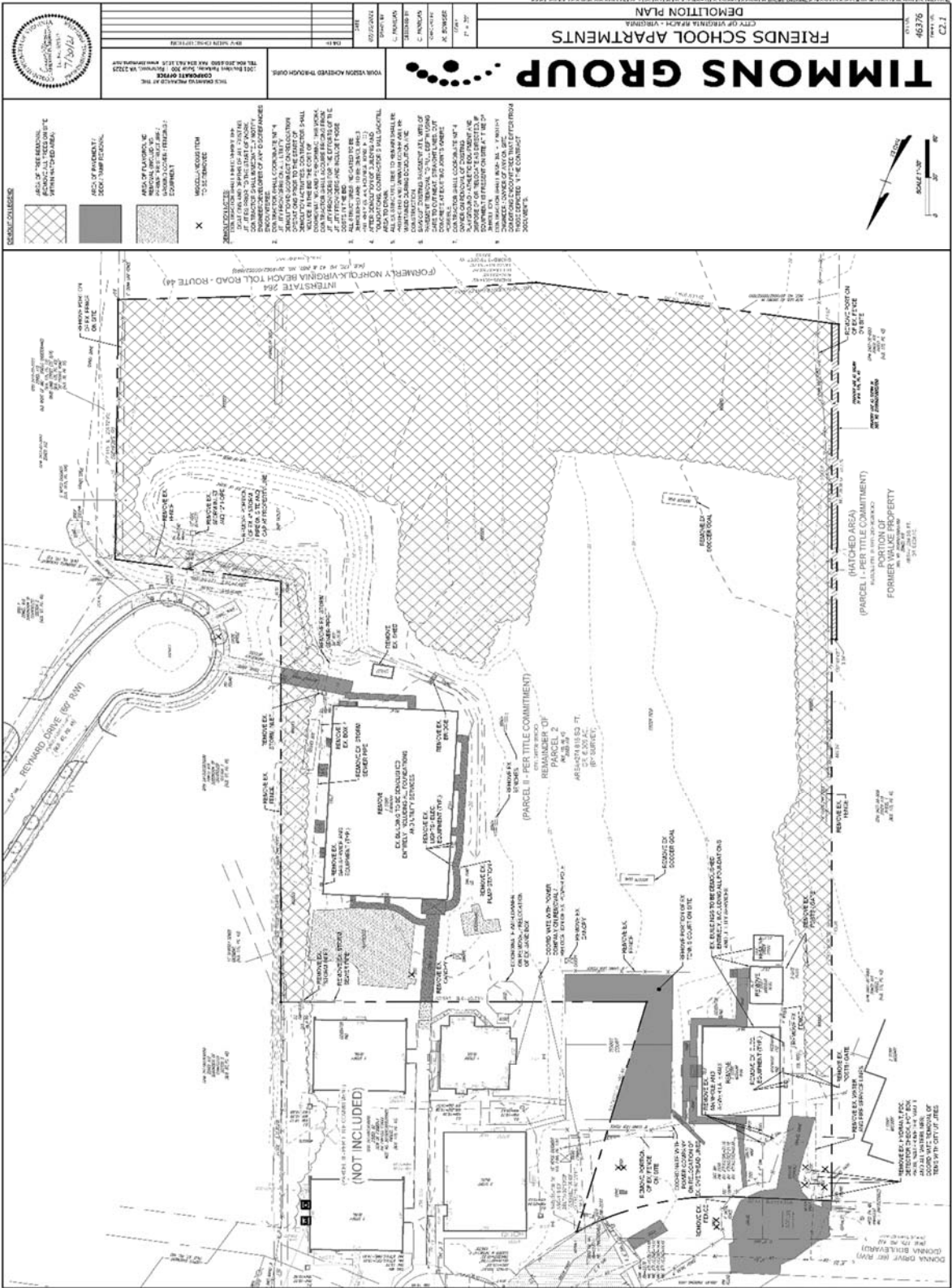
The site is currently connected to both City water and sanitary sewer.

Public Outreach Information

Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on October 11, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, October 24, 2021 and October 31, 2021.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on October 25, 2021.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.vbgov.com/pc on November 4, 2021.

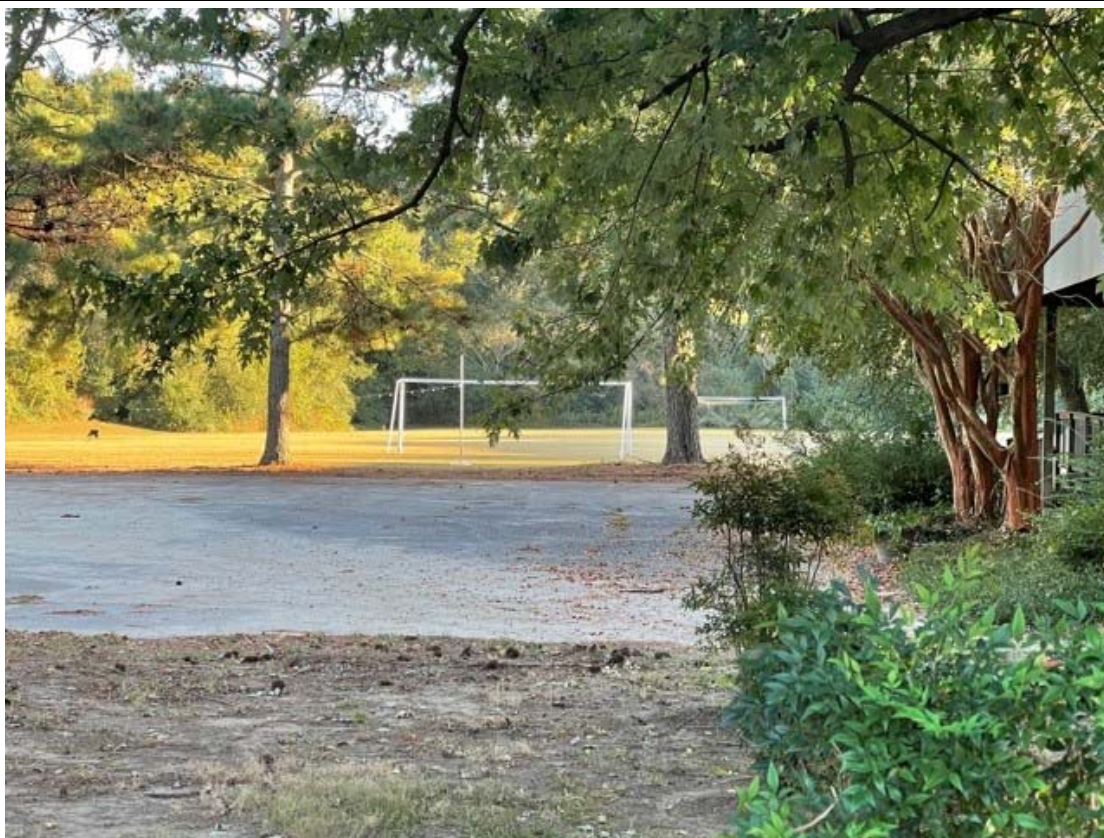
Proposed Demolition Plan



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 1537, LLC

Does the applicant have a representative? ☒ Yes ☐ No

- If yes, list the name of the representative.

Lisa M. Murphy

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 list.

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

See attached list.

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

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

Disclosure Statement



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

☒ Yes ☐ No

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

Private entity - non-public

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.

Breeden Realty, 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.

Sherman, Spero & Safarino/KPMG

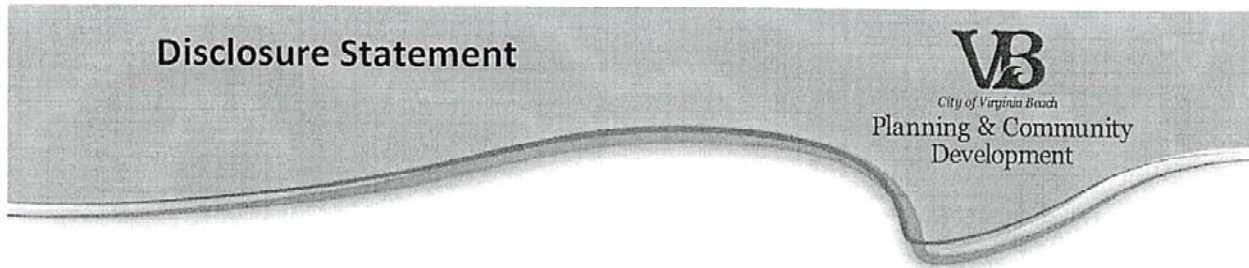
4. Does the applicant have services from an architect/landscape architect/land planner provided in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

- 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.

Breeden Construction, LLC

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.

Hoggard-Eure Associates, P.C./The 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.

Willcox & Savage, P.C., Thomas G. Johnson, Jr., Gregory D. Lydon & Lisa M. Murphy

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.

1537, LLC

By: 1537 Manager, LLC, its Manager

By: Terry M. Marshall, J.P.

Applicant Signature

Terry M. Marshall, J.P.

Print Name and Title

9-16-2021

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 - 1537 LLC

1537 LLC

Members: Ramon W. Breeden, Jr.
C. Torrey Breeden

Manager: 1537 Manager, LLC

Members: Ramon W. Breeden, Jr.
C. Torrey Breeden

Officers of 1537 Manager, LLC

Ramon W. Breeden, Jr.

C. Torrey Breeden

Tim Faulkner

Terry Marshall

Larry Dunn

Frank Willey

Brian Revere

Affiliated Business Entities

BREEDEN INVESTMENT PROPERTIES, INC.

BREEDEN COMPANY, INC

BREEDEN REALTY, LLC

BREEDEN CONSTRUCTION, LLC

BREEDEN DEVELOPMENT CORP

(Additional Affiliated Business Entities provided upon request)

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

Street Closure

Staff Recommendation

Approval

Staff Planner

Marchelle Coleman

Location

7.5-foot by 50-foot portion of an unimproved alley adjacent to 733 Vanderbilt Avenue

Adjacent GPIN

2426385075

Site Size

375 square feet

AICUZ

Less than 65 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 / R-10 Residential

South

Single-family dwelling / R-10 Residential

East

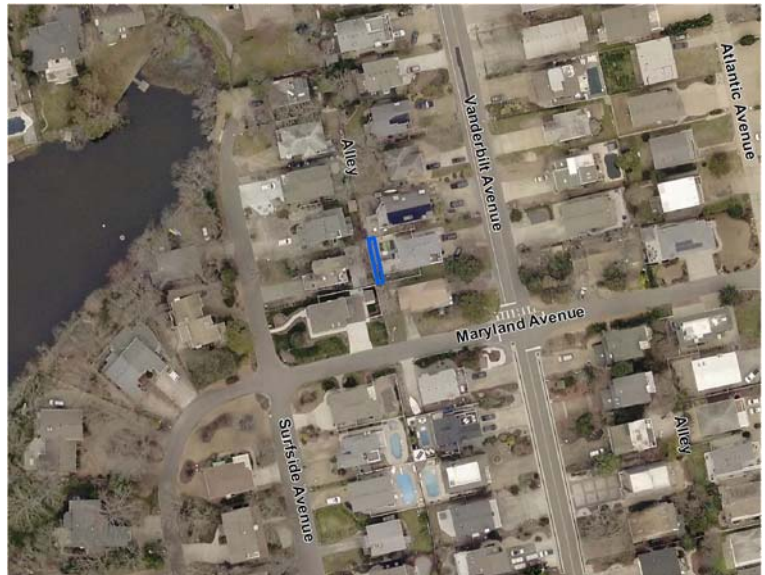
Vanderbilt Avenue

Single-family dwelling / R-10 Residential

West

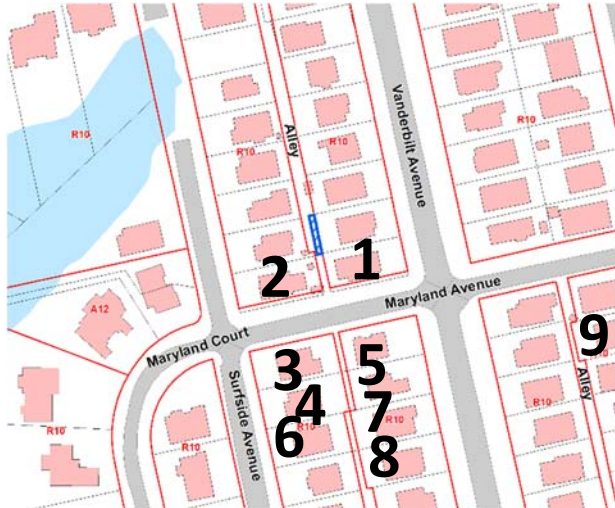
Surfside Avenue

Single-family dwelling / R-10 Residential



Background & Summary of Proposal

- The applicants are requesting to close a portion of the platted, unnamed, and unimproved alley that is adjacent to the rear lot line of 733 Vanderbilt Avenue. 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 12, Block 16, 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 06/01/2021	
	2	STC (Portion of 15-foot wide alley) Approved 05/22/2007	
	3	STC (Portion of 15-foot wide alley) Approved 05/27/2008	
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Application Types			
CUP – Conditional Use Permit REZ – Rezoning CRZ – Conditional Rezoning	MODC – Modification of Conditions MODP – Modification of Proffers NON – Nonconforming Use	STC – Street Closure FVR – Floodplain Variance ALT – Alternative Compliance	SVR – Subdivision Variance LUP – Land Use Plan STR – Short Term Rental

Evaluation & Recommendation

As required by City Code, a Viewers' Meeting was held on September 27, 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 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 in the event that the property is required in the future for drainage of public water.

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.

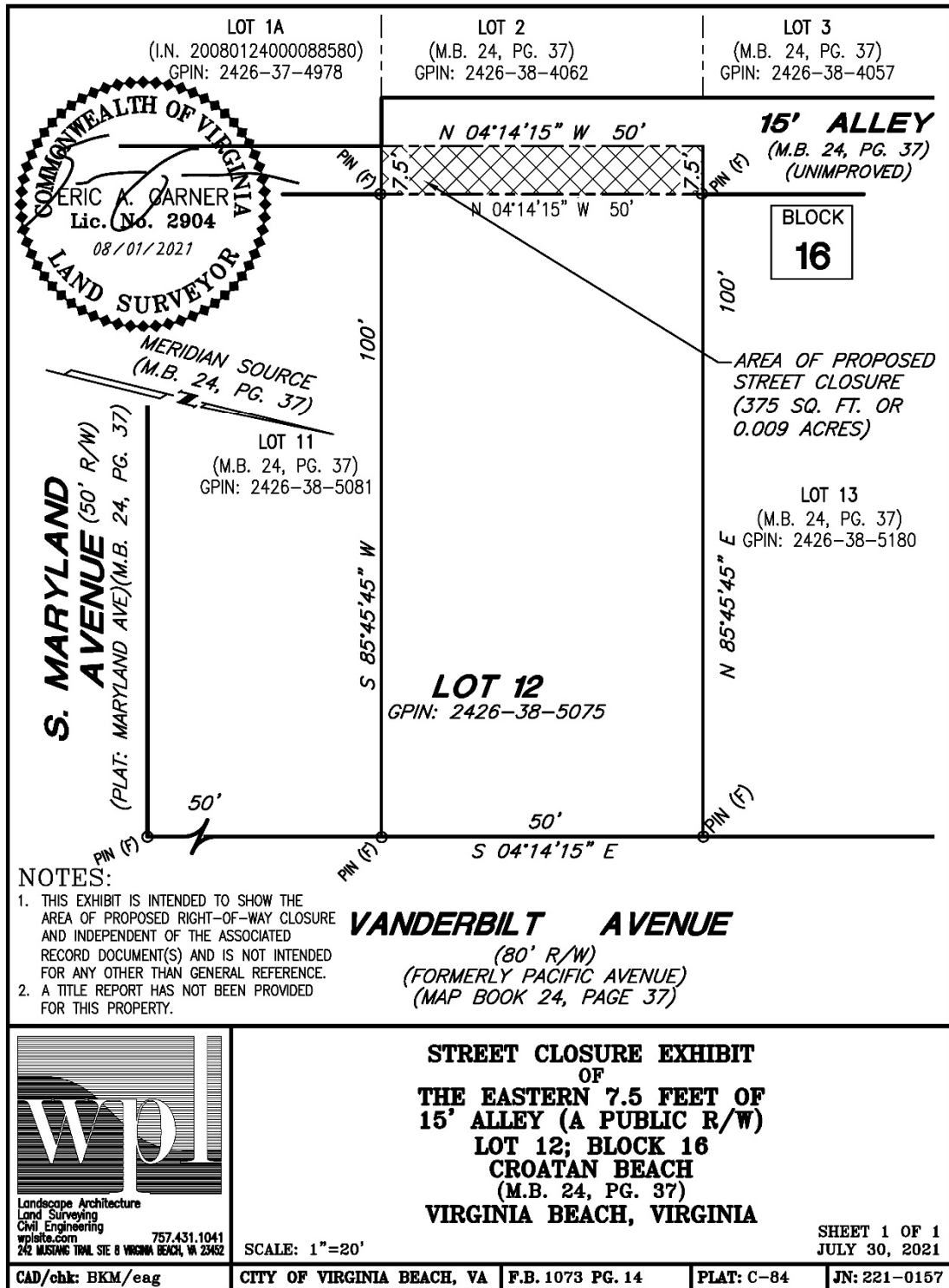
Public Outreach Information

Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on October 11, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, October 24, 2021 and October 31, 2021.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on October 25, 2021.

- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.vbgov.com/pc on November 4, 2021.

Proposed Site Layout



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 James B. Richards, Jr. & Linda Champion-Richards

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

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

R. Edward Bourdon, Jr., 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)

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

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

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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?

*Note: Mr. Richards is a retired engineer who did work for the City

Applicant Services Disclosure

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

☒ Yes ☐ No

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

Wells Fargo Bank, N.A.

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.

Jeff Leonard, Jeff Inc.

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.

Eric Garner, WPL

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

• If **yes**, identify the 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.

James B. Richards Jr. Linda Champion-Richards

Applicant Signature

James B. Richards, Jr.

Linda Champion-Richards

Print Name and Title

August 23, 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.
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Request

Street Closure

Staff Recommendation

Approval

Staff Planner

Marchelle Coleman

Location

7.5-foot by 50-foot portion of an unimproved alley adjacent to 729 Vanderbilt Avenue

Adjacent GPIN

2426385180

Site Size

375 square feet

AICUZ

Less than 65 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 / R-10 Residential

South

Single-family dwelling / R-10 Residential

East

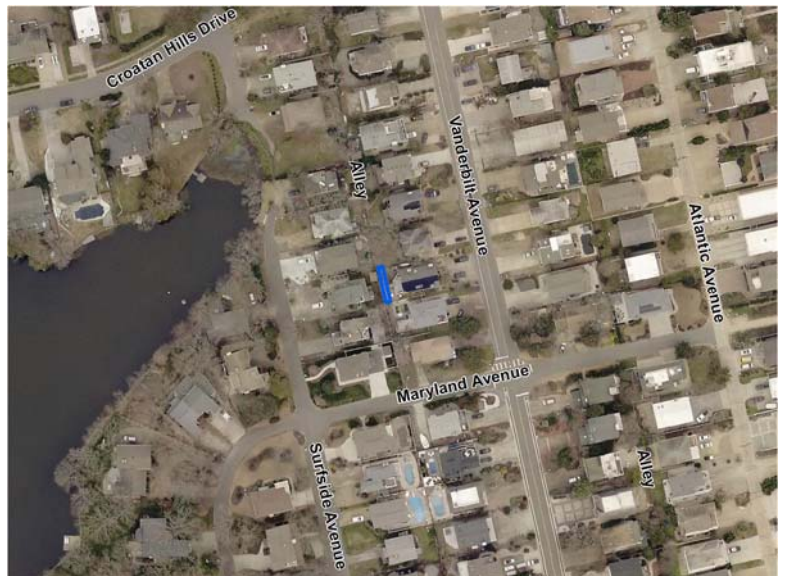
Vanderbilt Avenue

Single-family dwelling / R-10 Residential

West


Surfside 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 of 729 Vanderbilt Avenue. 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 13, Block 16, 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.

	<h3>Zoning History</h3> <table><tr><th>#</th><th>Request</th></tr><tr><td>1</td><td>STC (Portion of 15-foot wide alley) Approved 06/01/2021</td></tr><tr><td>2</td><td>STC (Portion of 15-foot wide alley) Approved 05/22/2007</td></tr><tr><td>3</td><td>STC (Portion of 15-foot wide alley) Approved 05/27/2008</td></tr><tr><td>4</td><td>STC (Portion of 15-foot wide alley) Approved 11/25/2008</td></tr><tr><td>5</td><td>STC (Portion of 15-foot wide alley) Approved 05/22/2012</td></tr><tr><td>6</td><td>STC (Portion of 15-foot wide alley) Approved 02/22/2011</td></tr><tr><td>7</td><td>STC (Portion of 15-foot wide alley) Approved 10/26/2004</td></tr><tr><td>8</td><td>STC (Portion of 15-foot wide alley) Approved 02/27/2007</td></tr><tr><td>9</td><td>STC (Portion of 15-foot wide alley) Approved 03/01/2016</td></tr></table>			#	Request	1	STC (Portion of 15-foot wide alley) Approved 06/01/2021	2	STC (Portion of 15-foot wide alley) Approved 05/22/2007	3	STC (Portion of 15-foot wide alley) Approved 05/27/2008	4	STC (Portion of 15-foot wide alley) Approved 11/25/2008	5	STC (Portion of 15-foot wide alley) Approved 05/22/2012	6	STC (Portion of 15-foot wide alley) Approved 02/22/2011	7	STC (Portion of 15-foot wide alley) Approved 10/26/2004	8	STC (Portion of 15-foot wide alley) Approved 02/27/2007	9	STC (Portion of 15-foot wide alley) Approved 03/01/2016
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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.
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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.
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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.

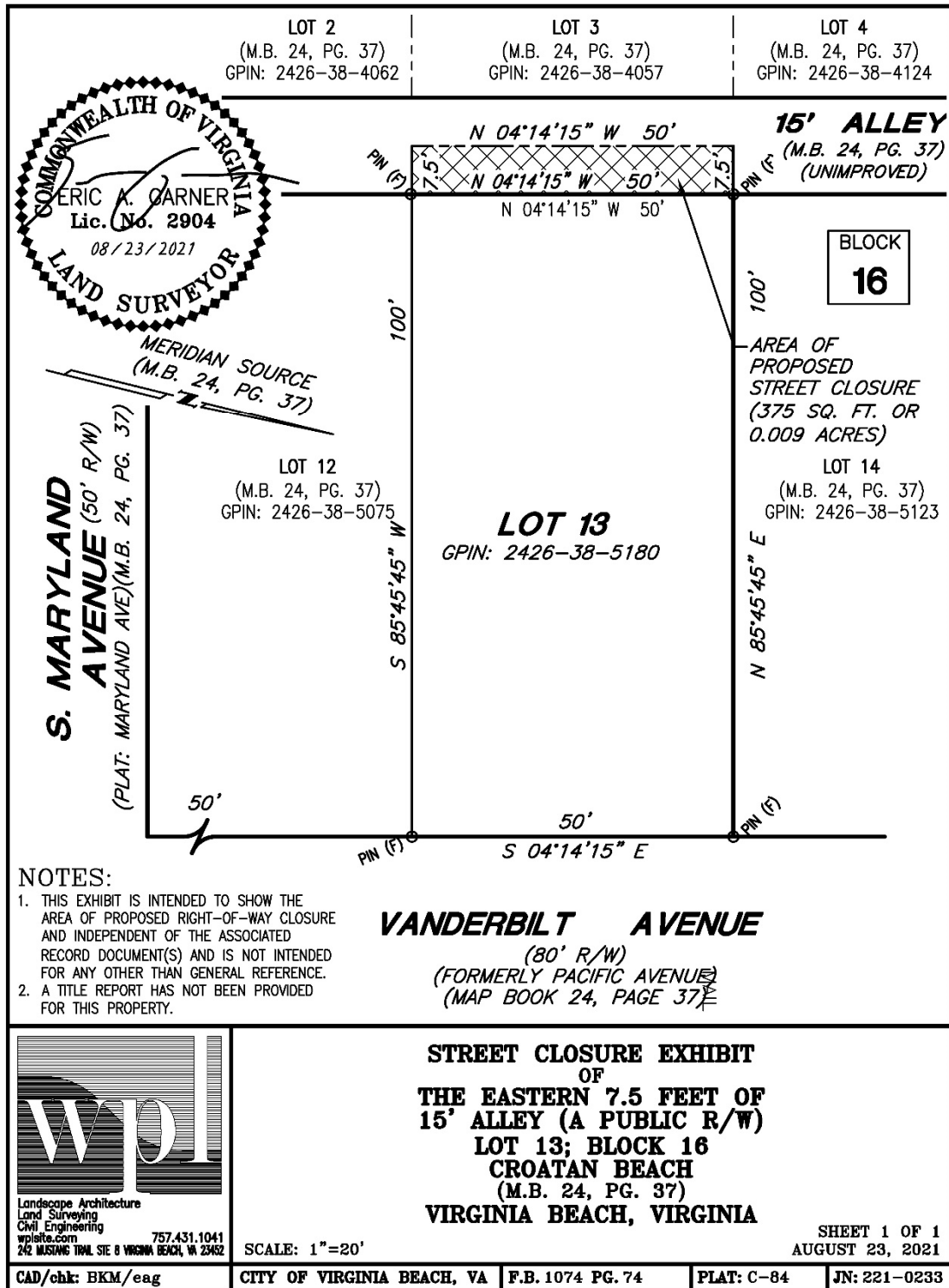
Public Outreach Information

Planning Commission

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Proposed Site Layout



Site Photos



Disclosure Statement

Disclosure Statement



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

Applicant Disclosure

Applicant Name The Ashe Revocable Trust, dated November 10, 2015

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

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

R. Edward Bourdon, Jr., 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)

Michael I. Ashe and Mitzi S. Ashe, Trustees

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

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

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

Disclosure Statement



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

☐ Yes ☒ No

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

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

☐ Yes ☒ No

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

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

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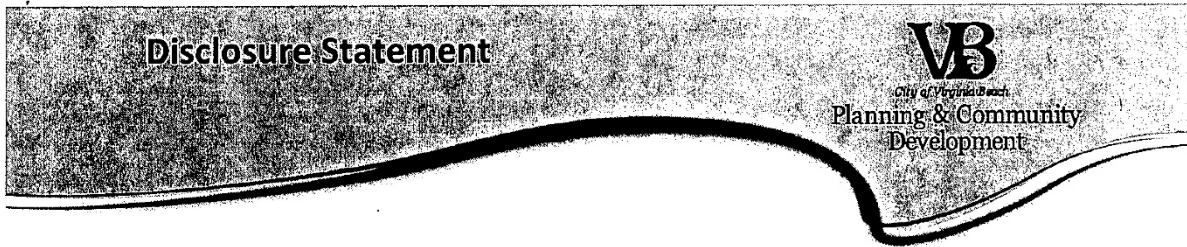
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5. Is there any other **pending or proposed purchaser** of the subject property? ☐ Yes ☒ No

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

Disclosure Statement



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

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

Eric Garner, WPL

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

• If yes, identify the 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.

The Ashe Revocable Trust dated November 10, 2015

By: Michael I. Ashe, Trustee

Applicant Signature

Michael I. Ashe, Trustee

Mitzi S. Ashe, Trustee

Mitzi S. Ashe, Trustee

Print Name and Title

August 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.
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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 (Commercial Kennel)

Staff Recommendation

Approval

Staff Planner

Marchelle Coleman

Location

2700 Shirley Landing Drive

GPIN

1398326447

Site Size

20.33 acres

AICUZ

Less than 65 dB DNL

Watershed

Southern Rivers

Existing Land Use and Zoning District

Single-family dwelling, horse farm / AG-1
Agricultural

Surrounding Land Uses and Zoning Districts

North

Undeveloped lot / AG-1 & AG-2 Agricultural

South

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

East

Marsh, wetlands / AG-1 & AG-2 Agricultural

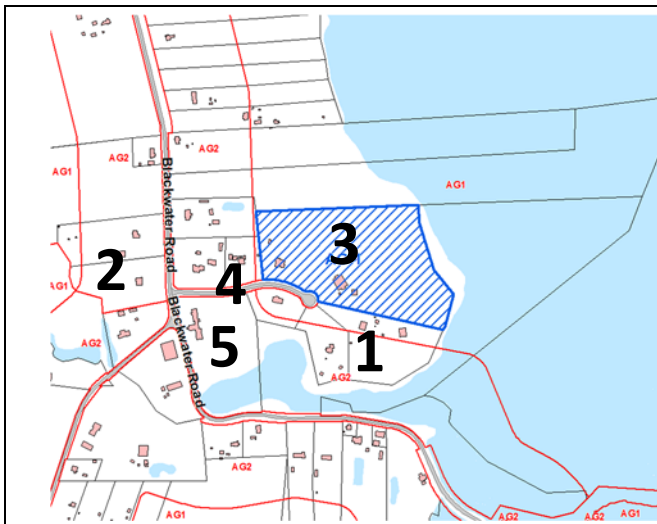
West

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



Background & Summary of Proposal

- On December 5, 2000, a Conditional Use Permit was granted on this site by City Council for a Riding Academy and Horses for Boarding. The applicant would like to keep the previous Conditional Use Permit active, in the event that an opportunity arises for the use to be active on this property again. This new applicant and property owner is requesting a Conditional Use Permit for a Commercial Kennel for over 50 dogs on the 20.33-acre property located in the southern part of the city and zoned AG-1 Agricultural District.
- The property currently contains an existing single-family dwelling, a 6,063 square foot horse barn, a tractor shed, and a fenced-in training yard.
- The applicant, a non-profit, 501 (c)(3) organization, intends to have over 50 dogs at any one time in their ownership and within their training program to provide service dogs for veterans, law enforcement officers, first responders, and federal agents with service-connected or line of duty disabilities. While they may have over 50 dogs, the majority will live off-site with “puppy raisers” who partner with the applicant. Currently, the organization has 27 dogs in training, with 26 of the dogs living with puppy raisers off-site.
- The existing single-family dwelling on the property will be occupied by a kennel manager and family. In addition, dogs associated with the training program will be kenneled from time-to-time overnight within the existing home. This structure is located approximately 217 feet from the nearest residence and will remain air conditioned and heated. While breeding occurs off-site, female dogs will whelp and raise their litter for up to eight weeks within the house until it is time for the puppies to transition to an off-site puppy raiser's home. The puppy raisers will raise the puppies off-site and will bring the puppies back for routine service dog training. The applicant aims to have one litter at a time within the single-family home, so they can spend the appropriate amount of time and training with each litter. While the number of litters may vary per year, the most litters that they would expect per year would be six.
- The existing 6,063 square foot barn will be used as an indoor training facility for the dogs. No dogs will stay overnight within the training facility (barn), and Condition 5 is recommended to reinforce this. The existing horse barn is approximately 265 feet from the closest residence. Both the single-family dwelling and the indoor training facility are over 100 feet from the property line, which meets the requirement set forth in Section 223 of the Zoning Ordinance.
- As depicted on the conceptual site plan, the applicant will utilize the existing buildings on site to conduct daily activities.
- The typical hours of operation are proposed as 10:00 a.m. to 4:00 p.m., Monday through Friday. With some evening hours available for puppy raisers who are not available during the typical hours of operation. On a case by case basis, puppy raisers will, by-appointment only, request an evening training session that would likely be between the hours of 6:00 p.m. to 8:00 p.m.
- The applicant also intends to host events of up to 250 people for service dog graduation ceremonies, fundraisers, and open house events. These events would be permitted through the Special Permits Office, which limits these events to up to four per year.
- There will be two full-time employees, one part-time employee, and two-part time remote employees who run the day-to-day operations of the organization.



Zoning History

#	Request
1	CUP (Residential Kennel) Approved 07/03/2012
2	CUP (Alternative Residential Development) Approved 08/10/1999
3	CUP (Riding academy, horses for hire and boarding) Approved 12/05/2000
4	SVR Approved 08/10/1999 CUP (Alternative Residential Development) Approved 08/10/1999
5	CUP (Church) Approved 08/17/1981

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 under certain conditions. In Staff's opinion, this kennel, which is located on an over 20-acre site, is an appropriate activity in the rural area. Section 223 of the Zoning Ordinance requires that kennel structures be within 100 feet of the property line of any adjacent lot, except where animals are kept in soundproof, air-conditioned buildings. In this instance, the training facility and the single-family dwelling meet this requirement, as they are both over 100 feet from any property line. As mentioned previously, the closest residences are more than 217 feet from the existing single-family dwelling and over 265 feet from the training facility. The outdoor play and training areas will be located within the fenced-in areas on the site. There are no outdoor kennels proposed on this site, as all the dogs who stay overnight will be housed inside of the single-family dwelling.

Many of the adjacent property owners' concerns are related to increase in traffic along Shirley Landing Drive and Blackwater Road. Many of the neighbors believe that the increase in traffic will negatively impact the safety of the children and residences who often walk and ride their bikes on Shirley Landing Drive. According to Traffic Engineering Staff, there is no trip generation data available for kennel facilities. As mentioned previously, the majority of the traffic will occur periodically throughout the day for the puppies being brought to and from the site for training. The most intense increase to traffic will occur during the infrequent special events that will be reviewed and approved by the Special Events Office. While there is no trip generation data available for the larger events, Traffic Engineering Staff believes that there would be a very short traffic congestion on Blackwater Road and Shirley Landing Drive during the ingress and egress periods for the special events proposed for up to four times per year.

Staff is recommending a condition to limit the number of dogs allowed on the property at any time to no more than 20 dogs in order to reduce impacts to adjacent residents. The applicant's request for over 50 dogs on-site at one time is too intense for a residential street. While the applicant can still train and own over 50 dogs in association with this operation, as the majority of the dogs will live off-site with puppy raisers and will only be on-site for training during operating hours or by appointment only, Staff believes that the reduction in the number to 20 is reasonable and consistent with similar requests reviewed and approved by City Council in the rural area. According to the applicant, people visiting the site on a day-to-day basis and those attending the special events will utilize the existing parking area

on the site adjacent to the existing barn. If necessary, and for special events only, the space around the building and the public street in front of the property can be utilized as a last resort effort.

According to the applicant, solid waste is picked up daily or as it occurs and is disposed of in a sealed waste can. The bags are tied and then placed into a commercial trash container that is emptied regularly by the employees. For odor control and liquid waste, the employees utilize mops and buckets with the either bleach, OdoBan, or Wysiwah to disinfectant and control waste on the site. The applicant will be required to ensure that all dog waste is collected and disposed of in a lawful manner.

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

Recommended Conditions

1. There shall be no more than 20 dogs on the property at any time.
2. All dogs, when outside, shall be supervised at all times, and shall not be a nuisance to any other property owners or residents.
3. The dog kennel and dog training area shall be maintained in a safe and sanitary condition.
4. All dogs shall be kenneled within the single-family dwelling between the hours of 9:00 p.m. to 7:00 a.m., with an exception to breaks for urination and defecation.
5. No dogs shall be kenneled within the indoor training facility (barn).
6. All signage on the site must be in accordance with sign regulations of the Zoning Ordinance.
7. All animal waste from the dog kennel shall be collected and disposed of in a lawful manner on a daily basis.
8. The applicant shall ensure that all dogs are properly vaccinated and immunized and are licensed through the City of Virginia Beach.
9. Dog shows shall be prohibited.
10. There shall be no breeding of dogs on this site.
11. All Special Events on the site shall be permitted by the Special Events Office and be restricted to up to four events per year or as deemed appropriate by the Special Events Office.
12. The applicant shall comply with Section 223 of the Zoning Ordinance.

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

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

Comprehensive Plan Recommendations

The Comprehensive Plan designates the subject property as being in the Rural Area. The Rural Area is located in the southern half of Virginia Beach, south of Indian River and Sandbridge Roads. It is characterized as low, flat land with wide floodplains and altered drainage with a presence of agricultural and rural related activities including traditional and specialty crop cultivation, tree farms, equestrian facilities, wetland banks, fish farms, and other similar uses. An important objective of the Plan for the Rural Area is to protect and sustain all of Virginia Beach's valuable environmental, scenic, and agricultural resources in the Rural Area against inappropriate activities and intense growth pressures. (p. 1-120)

Natural & Cultural Resources Impacts

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

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Shirley Landing Drive	No Data Available	9,900 ADT ¹ (LOS ⁴ "D")	Existing Land Use ² —10 ADT Proposed Land Use ³ — No Data Available
Blackwater Road	1,450 ADT ¹	12,000 ADT ¹ (LOS ⁴ "D")	
¹ Average Daily Trips	² as defined by a single-family dwelling on an AG-1 zoned parcel	³ No information available in the ITE Trip Generation Manual for kennel facilities	⁴ LOS = Level of Service

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

The site is located off Shirley Landing Drive on the east side of Blackwater Road. Shirley Landing Drive is a local two-lane residential roadway. Blackwater Road is a rural two-lane highway, and this segment is not shown on the MTP Map. There are no CIP projects in this vicinity.

Public Utility Impacts

Water & Sewer

City water and sewer is not available to the property. The Health Department has approved the private wells and septic systems on this site.

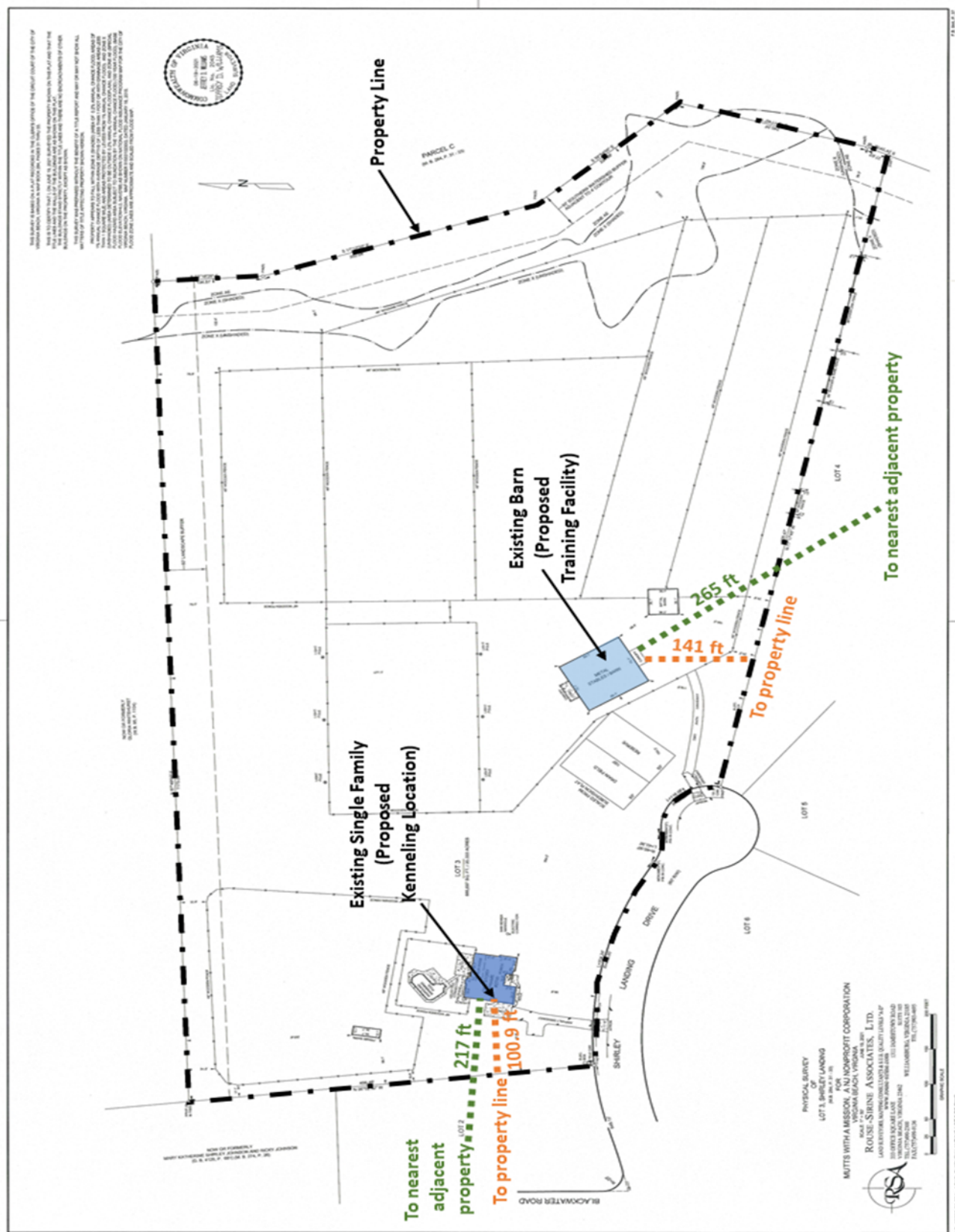
Public Outreach Information

Planning Commission

- 53 letters of support were received by Staff. Seven letters of opposition have been received by Staff noting concerns related to increase in traffic, noise, litter and trash, reduction in property values, and concern with the number of dogs allowed on site. A petition with 14 signatures has been received by Staff noting opposition to this request.

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on October 11, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, October 24, 2021 and October 31, 2021.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on October 25, 2021.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.vbgov.com/pc on November 4, 2021.

Proposed Conceptual Site 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 Mutts with a Mission

Does the applicant have a representative? ☒ Yes ☐ No

- If yes, list the name of the representative.

Brooke Corson, Executive Director

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)

Renice Zimmerman: Board of Director-President; Allen Miller: Board of Director-Vice President; Beverly Havlik: Board of Director-Secretary; Robert Tutewohl: Board of Director-Treasurer (Becca Kalina is a stand in while Robert Tutewohl is deployed with the US Navy); Brooke Corson: Board of Director/Founder/Executive Director

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

n/a

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☒ Yes ☐ No

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

BB&T

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CWDL, Dan Johnson

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VIA Design; Scott Campbell

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Disclosure Statement

Disclosure Statement



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

Virginia Beach Law Group; David Johnson

Applicant Signature

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

A handwritten signature in black ink that reads 'Brooke A. Corson'.

Applicant Signature

Brooke Corson; Executive Director

Print Name and Title

A handwritten date in black ink that reads '07-01-2021'.

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

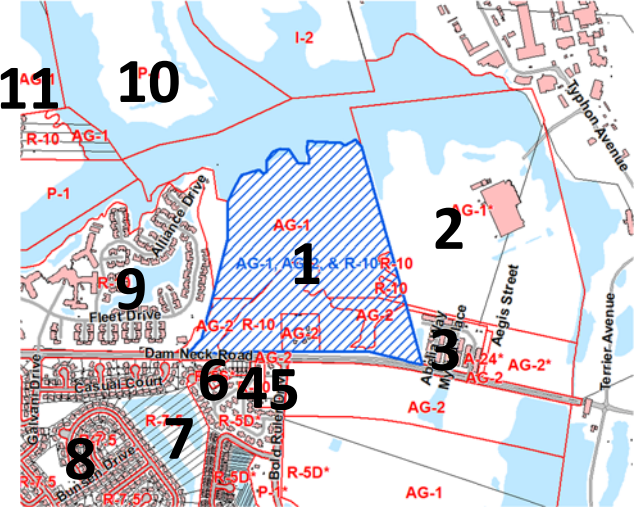
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- The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this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

Background & Summary of Proposal

- On March 24, 1998, a Conditional Use Permit was granted by City Council for a retirement community for up to 760 units on 194.66 acres zoned AG-1 & AG-2 Agricultural Districts and R-10 Residential District.
- The Conditional Use Permit was later modified in December 2001 which designated 696 units on the property's western 101-acre parcel, Parcel A-1. The remaining 64 units were reserved for the eastern 93-acre portion of the site, later known as Parcel A-2.
- In 2007, Parcel A-1 was developed with the Atlantic Shores retirement community; however, Parcel A-2 was never developed. In 2008, Atlantic Shores conveyed Parcel A-2 to the applicant subject to a restrictive covenant that expressly prohibited any age-restricted residential use on Parcel A-2.
- The applicant is now seeking to develop Parcel A-2 with a 92-unit townhome community without regard to the age of the occupants. A Conditional Rezoning application from AG-1 & AG-2 Agricultural and R-10 Residential Districts to Conditional A-12 Apartment District as well as a modification to the Conditional Use Permit to remove any restriction related to age, hence removal of the Conditional Use Permit for Senior Housing from Parcel A-2, have been submitted. The rezoning request has been submitted under separate cover by Atlantic Development Associates, LLC, while this report solely addresses the modification of the 2001 Conditional Use Permit.

	<h3>Zoning History</h3> <table><tr><th>#</th><th>Request</th></tr><tr><td>1</td><td>REZ (AG-2 to R-6) Approved 07/13/1997 MOD (Retirement Community) Approved 12/18/2001</td></tr><tr><td>2</td><td>REZ (AG-1 to R-8) Approved 09/16/1985 REZ (AG-2 to R-8) Approved 09/16/1985</td></tr><tr><td>3</td><td>CRZ (AG-1/AG-2 to Conditional A-24) Approved 05/24/2005</td></tr><tr><td>4</td><td>CRZ (AG-2 to Conditional R-5D) Approved 02/16/2021 SVR Approved 06/27/1995</td></tr><tr><td>5</td><td>CRZ (B-1A to Conditional R-20) Approved 11/24/1998 REZ (B-1A to R-20) Approved 06/27/1995 CRZ (R-5D (PD-H2) to Conditional B-1A) Approved 02/09/1993</td></tr><tr><td>6</td><td>CRZ (AG-2 to Conditional R-5S) Approved 08/23/2011</td></tr><tr><td>7</td><td>REZ (AG-2 to R-6) Approved 12/16/1985</td></tr><tr><td>8</td><td>LUP (Ocean Lakes) Approved 04/12/1985</td></tr><tr><td>9</td><td>MOD Approved 03/24/1998 MOD Approved 08/27/1990 CUP (Retired Community) Approved 03/12/1990 REZ(AG-1/AG-2 to R-5) Approved 07/13/1987</td></tr><tr><td>10</td><td>FVR Approved 08/10/2004</td></tr><tr><td>11</td><td>MOD (Outdoor Recreation Facility, Paintball Park, & Zip Line Course) Approved 06/20/2017 MOD (Outdoor Recreation Facility) Approved 02/25/2014 CUP (Campground) Approved 05/12/1969</td></tr></table>	#	Request	1	REZ (AG-2 to R-6) Approved 07/13/1997 MOD (Retirement Community) Approved 12/18/2001	2	REZ (AG-1 to R-8) Approved 09/16/1985 REZ (AG-2 to R-8) Approved 09/16/1985	3	CRZ (AG-1/AG-2 to Conditional A-24) Approved 05/24/2005	4	CRZ (AG-2 to Conditional R-5D) Approved 02/16/2021 SVR Approved 06/27/1995	5	CRZ (B-1A to Conditional R-20) Approved 11/24/1998 REZ (B-1A to R-20) Approved 06/27/1995 CRZ (R-5D (PD-H2) to Conditional B-1A) Approved 02/09/1993	6	CRZ (AG-2 to Conditional R-5S) Approved 08/23/2011	7	REZ (AG-2 to R-6) Approved 12/16/1985	8	LUP (Ocean Lakes) Approved 04/12/1985	9	MOD Approved 03/24/1998 MOD Approved 08/27/1990 CUP (Retired Community) Approved 03/12/1990 REZ(AG-1/AG-2 to R-5) Approved 07/13/1987	10	FVR Approved 08/10/2004	11	MOD (Outdoor Recreation Facility, Paintball Park, & Zip Line Course) Approved 06/20/2017 MOD (Outdoor Recreation Facility) Approved 02/25/2014 CUP (Campground) Approved 05/12/1969
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Evaluation & Recommendation

The request for a Modification of Conditions to remove Parcel A-2 from the Conditional Use Permit for a Retirement Community and hence any restriction on age of occupants in Staff's opinion is acceptable. The request to modify the Conditional Use Permit to remove the 93.07-acre site (Parcel A-2) from the property covered by the Conditional Use Permit in order to ultimately develop the site with a 92-unit townhome community is deemed appropriate and consistent with the policies and goals set forth in the Comprehensive Plan for the Suburban Area.

Based on these considerations, Staff recommends approval of this modification of conditions request.

Comprehensive Plan Recommendations

The Comprehensive Plan identifies this site as being located within the Suburban Area. The general planning principles for the Suburban Area focus on creating and maintaining great neighborhoods through stability and sustainability; protecting and enhancing open spaces and places of cultural and historical significance; and creating and maintaining a transportation system that provides connectivity and mobility. Achieving these goals requires that all land use activities either maintain or enhance the existing neighborhood through compatibility with surroundings, quality and attractiveness of site and buildings, improved mobility, environmental responsibility, livability, and effective buffering with respect to type, size, intensity and relationship to surrounding uses. (pp.1-59 to 1-68)

Natural & Cultural Resources Impacts

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

Public Utility Impacts

Water

The site must connect to city water with a single water service and master meter to serve all proposed units. There is an existing 12-inch City water main along Dam Neck Road.

Sewer

City gravity sewer is not directly available to the site. Gravity sewer must be extended from an existing manhole located approximately 250-feet west of the parcel. There is an existing two-inch City sanitary sewer force main along Dam Neck Road.

Public Outreach Information

Planning Commission

- The applicant reported that they met with the Atlantic Shores Retirement Community to the west of the site, and no objections were raised. The applicant has been in communication with the townhouse community to the west of the site, in an effort to set up a meeting (if requested) to discuss the proposal. If a meeting date is determined, the applicant will inform Staff.

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on October 11, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, October 24, 2021 and October 31, 2021.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on October 25, 2021.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.vbgov.com/pc on November 4, 2021.

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 VB Holdings, LLC, a Delaware limited liability company

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

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

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

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

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

National Electrical Benefit Funds, its Managing Member by National Real Estate Advisors, LLC, its Authorized Agent, Jeffery J. Kanne, President & CEO.

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

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

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

Disclosure Statement



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

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

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

☒ Yes ☐ No

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

Robert Thornton, Thalhimer

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.

Atlantic Development Associates, LLC

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

Jeffrey J. Kanne

Print Name and Title

PRESIDENT AND CEO NATIONAL REAL ESTATE ADVISORS ON BEHALF OF
VB HOLDINGS, LLC

Date

NOVEMBER 5, 2020

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

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

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

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

Disclosure Statement



Owner Disclosure

Owner Name Same as Applicant

Applicant Name VB Holdings, LLC, a Delaware limited liability company

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

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

National Electrical Benefit Funds, its Managing Member by National Real Estate Advisors, LLC, its Authorized Agent, Jeffrey J. Janne, President & CEO

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

Known Interest by Public Official or Employee

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

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

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

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

Disclosure Statement



Owner Services Disclosure

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

☐ Yes ☒ No

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

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

☒ Yes ☐ No

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

Robert Thornton, Thalhimer

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

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

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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.

Atlantic Development Associates, LLC

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

Disclosure Statement

Disclosure Statement



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

- If **yes**, identify the name of the attorney or firm providing legal services.

Leslie R. Watson, Esq., Wolcott Rivers Gates

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

Jeffrey J. Kanne

Print Name and Title

PRESIDENT AND CEO NATIONAL REAL ESTATE ADVISOR
ON BEHALF OF VB HOLDINGS, LLC

NOVEMBER 9, 2020

Date

Next Steps

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

Request

Conditional Rezoning (AG-1 & AG-2
Agricultural District & R-10 Residential to
Conditional A-12 Apartment District)

Staff Recommendation

Approval

Staff Planner

Marchelle Coleman

Location

580 & 608 Dam Neck Road

GPINs

2425255531, 2425266489

Site Size

97.11 acres

AICUZ

65-70 dB DNL

Watershed

Southern Rivers

Existing Land Use and Zoning District

Undeveloped lot, single-family dwellings / AG-1
& AG-2 Agricultural

Surrounding Land Uses and Zoning Districts

North

Redwing Lake

South

Dam Neck Road

Single-family dwellings, woods / R-20

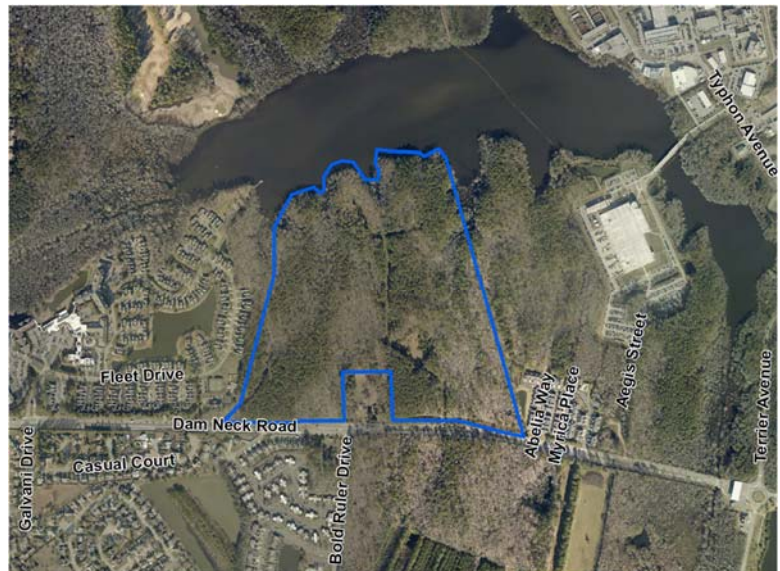
Residential, AG-2 Agricultural

East

Multi-family dwellings, NAS Dam Neck /
Conditional A-24 Apartment, AG-2 Agricultural

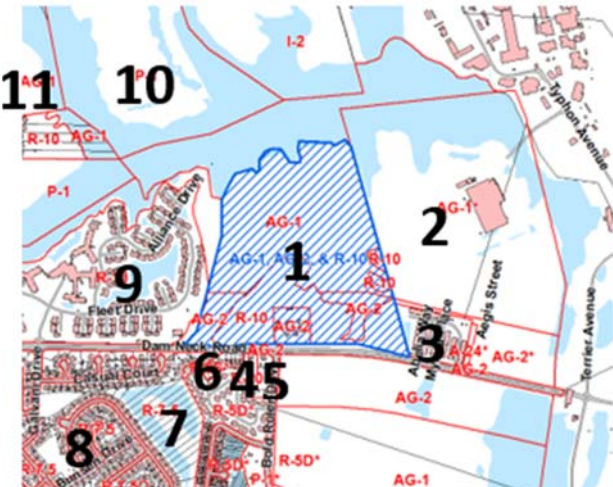
West

Naval Air Station Oceana / AG-1 Agricultural



Background & Summary of Proposal

- The applicant is requesting a Conditional Rezoning from AG-1, AG-2 Agricultural and R-10 Residential Districts to Conditional A-12 Apartment District to construct a 92-unit residential townhouse condominium community.
- The 97.11-acre site is located in close proximity to NAS Oceana Dam Neck Annex and is currently developed with two single-family dwellings. Of the 97 acres, 89.60-acres of the site will remain forested and undeveloped with only 7.50-acres of the site proposed for development.
- The submitted Conceptual Layout depicts 15 three-story multi-family buildings, a one-story clubhouse with an outdoor swimming pool, and a stormwater management facility. Eighty units will have rear loading, two-car garages and 12 units will have front loading one-car garages. Each unit visible from Dam Neck Road will be rear loading with parking internal to the site.
- The building elevations, as depicted on page 11 of this report, will be constructed of premium vinyl siding, PVC columns and railings, architectural shingles, with a parge block or brick skirt. The one-story clubhouse will be of similar design and building materials as the townhome condominium buildings.
- As shown on the Conceptual Layout, interior parking lot and building foundation plantings are proposed along with streetscape plantings consisting of canopy trees and evergreen shrubs along Dam Neck Road. The proposed landscaping appears to meet the requirements of the Zoning Ordinance; however, a more detailed review of all screening and planting requirements will occur during final site plan review.
- Vehicular ingress/egress to the development will be via a proposed signal at the intersection of Dam Neck Road and Bold Ruler Road.
- Per Section 203 of the Zoning Ordinance, two spaces per dwelling unit is required. Each unit will have two parking spaces plus either a one or two car garage. In addition to the required parking, there will be 33 guest parking spaces throughout the community, as depicted on the conceptual layout plan.
- There is a total of 55.34 acres of developable land on the combined properties that is outside of water, marsh, tidal wetlands, and non-tidal wetlands. The applicant has chosen to minimize impacts on these expansively defined upland, non-tidal wetlands with this plan. The property as currently zoned, AG-1 & AG-2 Agricultural and R-10 Residential Districts, was zoned this way to follow the boundary lines for the Floodplain Subject to Special Restrictions in an effort to protect the property. There is a new delineation for the floodplain boundaries and the 92-unit condominium proposal is outside of this floodplain area as shown on the proffered conceptual plan.

			
Zoning History			
#	Request		
1	REZ (AG-2 to R-6) Approved 07/13/1997 MOD (Retirement Community) Approved 12/18/2001		
2	REZ (AG-1 to R-8) Approved 09/16/1985 REZ (AG-2 to R-8) Approved 09/16/1985		
3	CRZ (AG-1/AG-2 to Conditional A-24) Approved 05/24/2005		
4	CRZ (AG-2 to Conditional R-5D) Approved 02/16/2021 SVR Approved 06/27/1995		
5	CRZ (B-1A to Conditional R-20) Approved 11/24/1998 REZ (B-1A to R-20) Approved 06/27/1995 CRZ (R-5D (PD-H2) to Conditional B-1A) Approved 02/09/1993		
6	CRZ (AG-2 to Conditional R-5S) Approved 08/23/2011		
7	REZ (AG-2 to R-6) Approved 12/16/1985		
8	LUP (Ocean Lakes) Approved 04/12/1985		
9	MOD Approved 03/24/1998 MOD Approved 08/27/1990 CUP (Retired Community) Approved 03/12/1990 REZ(AG-1/AG-2 to R-5) Approved 07/13/1987		
10	FVR Approved 08/10/2004		
11	MOD (Outdoor Recreation Facility, Paintball Park, & Zip Line Course) Approved 06/20/2017 MOD (Outdoor Recreation Facility) Approved 02/25/2014 CUP (Campground) Approved 05/12/1969		
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 97.11-acre site from AG-1, AG-2 Agricultural District and R-10 Residential District to Conditional A-12 Apartment District in order to develop 92 condominium townhouse-style units is acceptable.

As this property is located within the 65 to 70 dB DNL AICUZ (Sub-Area 2), on August 26, 2020, the applicant met with the Joint City-Navy Review Process (JRP) Group. Section 1804 (c) of the Zoning Ordinance provides regulations that apply to discretionary development applications for residential uses with this AICUZ. After a compatibility review of densities of surrounding properties, the JRP Group found that 1.2 units per acre is an acceptable density for this property and deemed the proposal to be consistent with the recommendations for the Suburban Area, as identified in the Comprehensive Plan.

As per the Comprehensive Plan, the Suburban Area focuses on creating and maintaining great neighborhoods. Achieving this goal reflects on the ability for developments to maintain and enhance the existing neighborhood, to be compatible with surroundings, and provide quality and attractive buildings that provide effective buffering and livability. Staff finds that the proposed building design and site layout is attractive and of good quality and deems this proposal consistent with the vision of the Comprehensive Plan.

It is the opinion of Staff that the traffic generated by the townhome development will result in 674 average daily trips. Based on the projected number of vehicles generated, only one vehicular ingress/egress will be necessary. The proposed

development will be creating the fourth leg to the existing signalized intersection. The developer will install the fourth signal pole on the southwest corner and any accompanying equipment. By adding the fourth leg at the existing signalized intersection at the entrance of the community along Dam Neck Road, there will be a better flow of traffic with the proposed development. Traffic Engineering Staff will provide more detailed comments during the site plan review process.

Information provided by the Virginia Beach City Public School Staff indicates that the proposed development is within the threshold for increases in student population. Based on this, the proposal is not expected to negatively impact the current student enrollment.

As recommended by Staff, the applicant submitted a preliminary stormwater management analysis to the Development Services Center (DSC) outlining their proposed stormwater strategy for this site. The DSC has reviewed the preliminary stormwater analysis and based on their findings, is confident that the submitted strategy has the potential to successfully comply with stormwater regulations for this site. Upstream and downstream impacts will be more closely reviewed during site plan review for this project to ensure that negative impacts will not occur upstream and downstream as a result of this development. More detailed information can be found in the Stormwater Impacts section of this report.

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

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 community entrance, streets, landscaping, parking and fencing shall be substantially in accordance with the two (2) exhibits titled “CONCEPTUAL LAYOUT JADEN PLACE TOWNHOMES VIRGINIA BEACH, VIRGINIA” C-1.0 and C-2.0, dated 10/28/2019 and the “OVERALL CONCEPTUAL LAYOUT”, dated 10/28/2019, prepared by WPL Engineers, Surveyors and Landscape Architects, which has been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning (“Conceptual Layout” and “Overall Conceptual Layout”).

Proffer 2:

Vehicular Ingress and Egress shall be via one (1) signalized entrance from Dam Neck Road as depicted on the Conceptual Layout. Any freestanding community identification sign shall be a monument style sign, no more than eight feet (8') in height with a brick or parge block base to match the skirt of the buildings.

Proffer 3:

When the Property is developed, there will be no more than ninety-two (92) residential townhome condominium units, within fifteen (15) buildings as depicted on the Conceptual Layout. Eighty (80) of the units will have a rear loading two (2) car garage and twelve (12) units will have a front loading one (1) car garage).

Proffer 4:

When the Property is developed, the residential structures and pool house depicted on the Conceptual Layout shall have the architectural design, features, exterior building materials and colors substantially as depicted and described on the exhibit entitled “ARCHITECTURAL ELEVATIONS – JADEN PLACE TOWNHOMES VIRGINIA BEACH, VIRGINIA”, dated 10/28/2019, prepared by WPL Engineers, Surveyors and Landscape Architects, which has been exhibited to the Virginia

Beach City Council and is on file with the Virginia Beach Department of Planning & Community Development (“Elevations”).

Proffer 5:

When the Property is developed, the party of the first part shall record a Declaration submitting the Property to the Condominium Act of the Commonwealth of Virginia which shall include a restriction prohibiting the rental of any unit for a term of less than thirty (30) days. The Condominium Unit Owners’ Association shall be responsible for maintaining all drive aisles, sidewalks, amenities, open spaces, common areas, landscaping, stormwater management facilities and other improvements on the Property as depicted on the Conceptual Layout. Membership, by all residential unit owners, in the Condominium Association shall be mandatory.

Proffer 6:

The Plan for complying with the Grantee’s Stormwater Regulations submitted to the Development Services Center at Site Plan Review shall be in substantial conformance with the preliminary stormwater plan design and strategy for achieving compliance as submitted and preliminary reviewed by staff, unless otherwise approved by the Development Services Center.

Proffer 7:

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

Staff Comments: Staff has reviewed the Proffers listed above and finds them acceptable.

The City Attorney’s Office has reviewed the agreement and found it to be legally sufficient and in acceptable legal form.

Comprehensive Plan Recommendations

The Comprehensive Plan identifies this site as being located within the Suburban Area. The general planning principles for the Suburban Area focus on creating and maintaining great neighborhoods through stability and sustainability; protecting and enhancing open spaces and places of cultural and historical significance; and creating and maintaining a transportation system that provides connectivity and mobility. Achieving these goals requires that all land use activities either maintain or enhance the existing neighborhood through compatibility with surroundings, quality and attractiveness of site and buildings, improved mobility, environmental responsibility, livability, and effective buffering with respect to type, size, intensity, and relationship to surrounding uses.

Natural & Cultural Resources Impacts

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

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Dam Neck Road	21,540 ADT ¹	39,700 ADT ¹ (LOS ⁴ “D”)	Existing Land Use ² – 238 ADT Proposed Land Use ³ – 674 ADT
¹ Average Daily Trips	² as defined by age restricted residential units	³ as defined by 92 townhome condominium units	⁴ LOS = Level of Service

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

Dam Neck Road in the vicinity of the site is a four-lane divided major suburban arterial. There are no plans in the current CIP to improve this section of Dam Neck Road. The access for this development will be located within the Dam Neck Road/Bold Ruler Drive signalized intersection. The signalized intersection currently operates well under capacity.

Public Utility Impacts

Water

There is an existing 12-inch City water main on Dam Neck Road. The site must connect to City water.

Sewer

There is an existing three-inch private sewer force main on Dam Neck Road. City sewer is not directly available to this site. A public gravity sewer system is located approximately 1,250 feet westward along Dam Neck Road and is available for connection.

School Impacts

School	Current Enrollment	Capacity	Generation ¹	Change ²
Ocean Lakes Elementary	564 students	626 students	8 students	8 students
Corporate Landing Middle	1,170 students	1,322 students	4 students	4 students
Ocean Lakes High	2,011 students	2,642 students	7 students	7 students
¹ "Generation" represents the number of students that the development will add to the school. ² "change" represents the difference between the number of potential or actual students generated under the existing zoning and the number generated under the proposed zoning. The number can be positive (additional students) or negative (fewer students).				

Stormwater Impacts

Project Stormwater Design Staff Summary

The project site consists of a 7.5-acre residential development located on a 97.11-acre parcel along the north side of Dam Neck Road between General Booth Boulevard and NAS Oceana Dam Neck Annex. The proposed development is designed to drain into a proposed onsite stormwater management facility (SWMF) before discharging into an existing ditch that leads into Redwing Lake. The proposed SWMF will treat both water quality and water quantity for the site and will consist of a Level II wet pond that will collect runoff from the private development before discharging into an open channel outfall ditch.

Portions of the site are located within the FEMA Special Flood Hazard Area (flood zone AE) and Floodplains Subject to Special Restrictions. Minimal impacts to the floodplain are anticipated for this project and will mainly consist of the construction of the proposed wet pond's outfall channel to connect into the existing ditch that discharges into Redwing Lake. Fill within the floodplain is not anticipated for this project.

The provided preliminary stormwater management design demonstrates conveyance of the runoff from the proposed development for storms up to and including the 100-year event plus 1.5' of sea-level rise (SLR). The City's Stormwater Master Drainage Model was used in the Preliminary Stormwater Analysis and included an offsite analysis to demonstrate that the development will not have a negative impact or increase flooding levels on the existing stormwater system upstream or downstream.

Based on the information provided by WPL in the Preliminary Stormwater Analysis, the DSC agrees that the proposed conceptual stormwater management strategy has the potential to successfully comply with the stormwater

requirements. Final design and detailed updates will be made during site plan submittal. More detailed project stormwater information is listed below.

Project Information

Total project area: 7.5 Acres

Pre-Development impervious area: 0 Acres

Post-Development impervious area: 4.58 Acres

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

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

Stormwater Management Facility Design Information

Type of facility proposed: Level II Wet Pond

Total storage volume provided in proposed stormwater management facility: 70,200 cf.

Description of outfall: Runoff is proposed to leave the site from the proposed wet pond and into a proposed outfall channel that will discharge into an existing ditch that drains into Redwing Lake.

Downstream conveyance path: Drainage from Redwing Lake is part of the Dam Neck drainage basin which drains into Lake Tecumseh and into Back Bay. Back Bay drains through the Currituck Sound and ultimately out into the Atlantic Ocean.

Stormwater Quality Compliance Design Information

Pounds of phosphorus removal per year (lb/yr) required: 8.54 lb/yr

Method of treatment proposed: 7.59 lb/yr will be removed with a Level II wet pond and the remaining 0.95 lb/yr will be purchased through offsite nutrient credits.

Stormwater Quantity Compliance Design Information

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

Flood protection: Attenuation of peak flow rates with no increase in flooding for 10-year storm in all evaluated stormwater structures upstream and downstream.

100-Year storm evaluation: Stormwater modeling demonstrates project meets requirement of no increase in flooding for 100-year storm in all evaluated structures upstream and downstream.

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

Public Outreach Information

Planning Commission

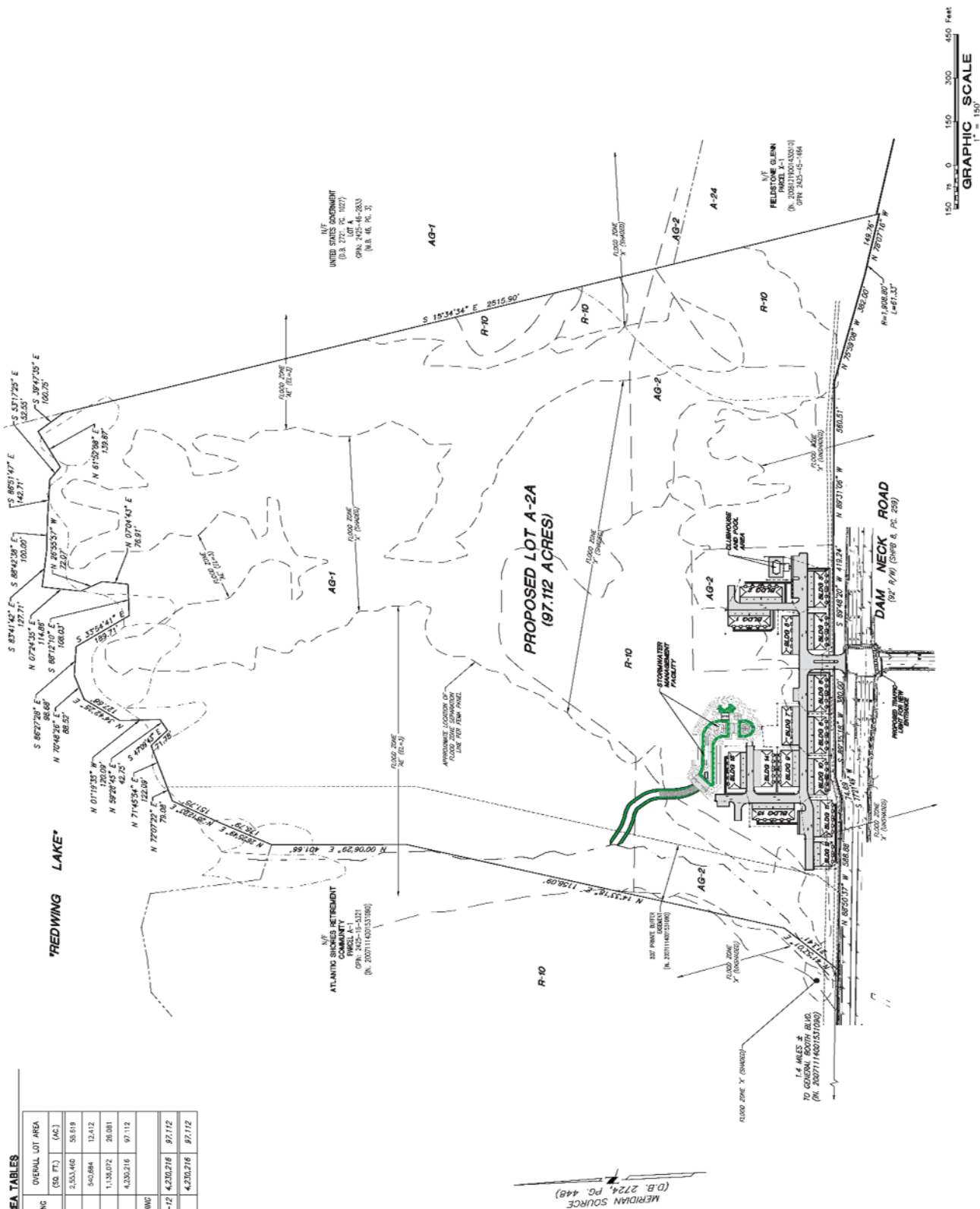
- The applicant reported that they met with the Atlantic Shores Retirement Community to the west of the site, and no objections were raised. The applicant has been in communication with the townhouse community to the west of the site, in an effort to set up a meeting (if requested) to discuss the proposal. If a meeting date is determined, the applicant will inform Staff.
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on October 11, 2021.

- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, October 24, 2021 and October 31, 2021.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on October 25, 2021.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.vbgov.com/pc on November 4, 2021.

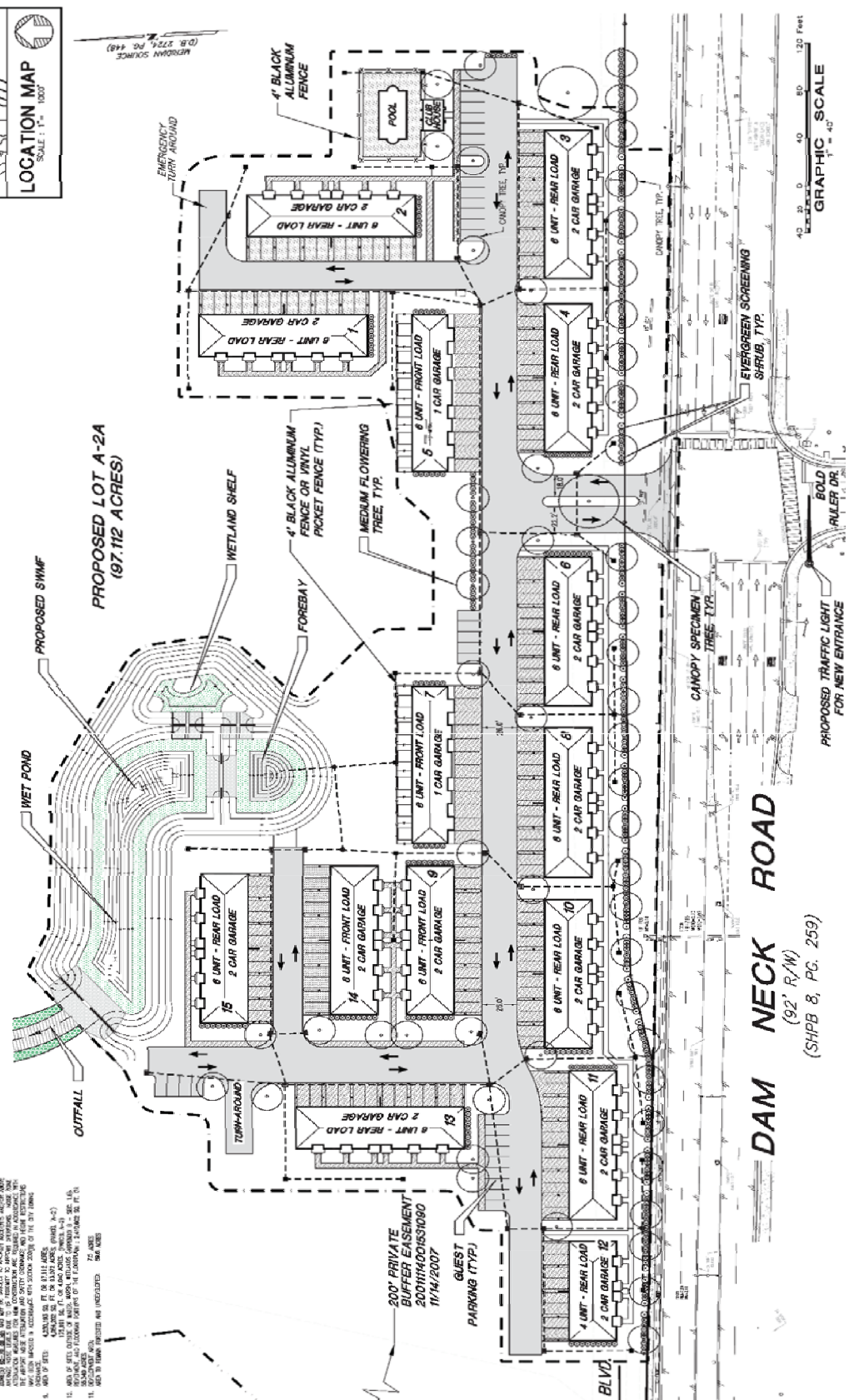
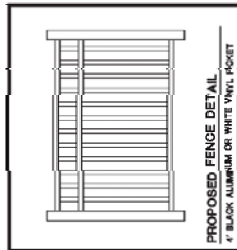
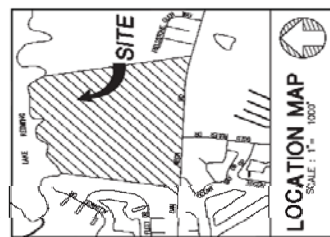
Proposed Overall Conceptual Layout

ZONING AREA TABLES

EXISTING ZONING	OVERALL LOT AREA (SQ. FT.)	(AC.)
R-10	2,553,460	58.818
AG-1	545,684	12.612
AG-2	1,138,072	26.081
TOTAL	4,237,216	97.512
PROPOSED ZONING		
CONDITIONAL A-12	4,237,216	97.512
TOTAL	4,237,216	97.512



Proposed Conceptual Layout



TOTAL UNITS	TOTAL PARKING
2 CAR UNITS - 60	GARAGE PARKING
2 CAR UNITS - 12	2 CAR UNITS - 150
TOTAL UNITS - 92	1 CAR UNITS - 12
(94) BELLINGS	TOTAL GARAGE PARKING - 172
PARKEL A-8	SITE PARKING
64 UNITS	2 CAR UNITS - 150
PARKEL A-2A	1 CAR UNITS - 24
28 UNITS	GUEST SPACES - 33
	TOTAL SITE PARKING - 217
	TOTAL OVERALL PARKING - 386

SITE DATA

- [illegible]

Proposed Building Elevations

ARCHITECTURAL SHINGLES

PREMIUM VINYL SIDING

PARGE BLOCK OR BRICK OR SKIRT

FRONT ELEVATION – DAM NECK ROAD

REAR LOAD PLAN

ARCHITECTURAL SHINGLES

PREMIUM VINYL SIDING

PARGE BLOCK OR BRICK OR SKIRT

FRONT ELEVATION

FRONT LOAD PLAN

POOL & CLUBHOUSE

COLOR PALETTE	
SINK COLORS	
TERRA BRONZE	
CHARCOAL GREY	
HARDEN GREY	
EGGPORE	
WINDMILL TUSILE	
PEREGRINE CLAY	
TUSCAN OLIVE	
ROOF COLOR	
MOORE BLACK	
POST & COLUMNS (PVC)	
WHITE	
SHUTTERS	
BLACK	
WINTER GREEN	
CHARCOAL GREY	
SHADOW GREY	

REAR ELEVATION

FRONT LOAD PLAN

REAR ELEVATION – DAM NECK ROAD

REAR LOAD PLAN

Proposed Roof & Siding Color Palettes

LANDMARK® TL COLOR PALETTE





MASTIC SIDING
COLORS

THE EXTERIOR SOLUTION FOR Color.

The possibilities are endless. The beauty is timeless.

BLACK	DARK BRONZE	HUSKET BROWN	ROYAL BROWN
LONDON BROWN	EVERGREEN	RUSSET RED	CHARCOAL GREY (highlighted)
TERRA BRONZE (highlighted)	HOHTANA SUEDE		JEFFERSON TAN
HARBOR GREY (highlighted)	EVEREST (highlighted)		SCOTTISH THISTLE (highlighted)
PEBBLESTONE CLAY (highlighted)	VICTORIAN GREY		TUSCAN OLIVE (highlighted)
WICKER	SANDTONE		DESERT SAND
ALMOND	CLASSIC CREAM	LINEN	CAMEO
30° WHITE (MEDIUM GLOSS)	80° WHITE (HIGH GLOSS)		



Explore the possibilities.
With our visualizer tool,
you can apply different
combinations of colors
and products to see
how they look. Bring
your vision to life at
mastic.com/getstarted.



Site Photos



Site Photos





APPLICANT'S NAME Atlantic Development Associates, LLC

DISCLOSURE STATEMENT FORM

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

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

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

SECTION 1 / APPLICANT DISCLOSURE

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

Page 1 of 7

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

Disclosure Statement



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

(A) List the Applicant's name: Atlantic Development Associates
If an LLC, list all member's names:
Brian C. Large, Sole Member/Manager

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

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

See next page for information pertaining to footnotes¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

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

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

(A) List the Property Owner's name: VB Holdings, LLC
If an LLC, list the member's
names: National Electrical Benefit Funds, its Managing Member by National Real

Page 2 of 7



Estate Advisors, LLC, its Authorized Agent, Jeffrey J. Kanne, President & CEO

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

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

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

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

SECTION 3. SERVICES DISCLOSURE

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



APPLICANT

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

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

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

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

Disclosure Statement

**CERTIFICATION:**

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

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

Atlantic Development Associates, LLC

By:

APPLICANT'S SIGNATURE

Brian C. Large, Manager

PRINT NAME

10/31/19

DATE

Disclosure Statement



OWNER

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

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

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


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

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	Jeffrey J. Kanne	12/11/20
PROPERTY OWNER'S SIGNATURE	PRINT NAME	DATE



OWNER

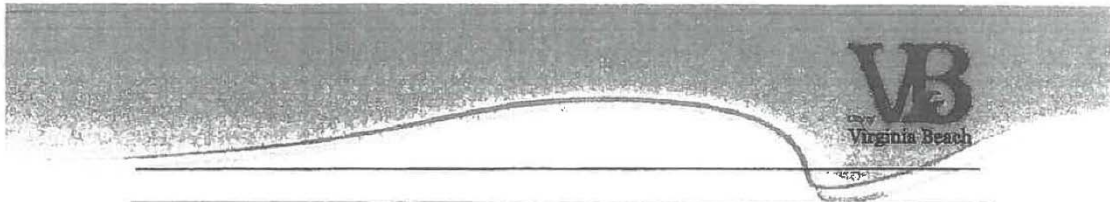
YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Accounting and/or preparer of your tax return	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Architect / Landscape Architect / Land Planner	
<input type="checkbox"/>	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

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

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

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

Disclosure Statement

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

	Mary Fisher Huerta	
PROPERTY OWNER'S SIGNATURE	PRINT NAME	DATE
<i>Mary Fisher Huerta</i>	<i>Mary Fisher Huerta</i>	<i>Dec 3 2019</i>

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 (Motor Vehicle Sales & Service)

Staff Recommendation

Approval

Staff Planner

Hoa N. Dao

Location

3736 Sentara Way

GPIN

1487428775

Site Size

3.22 acres

AICUZ

Less than 65 dB DNL

Watershed

Chesapeake Bay

Existing Land Use and Zoning District

Wooded lot / B-2 Community Business

Surrounding Land Uses and Zoning Districts

North

I-264, Unimproved Right-of-Way

Wooded lot / R-7.5 Residential

South

Sentara Way

Single-family dwellings / R-7.5 Residential

East

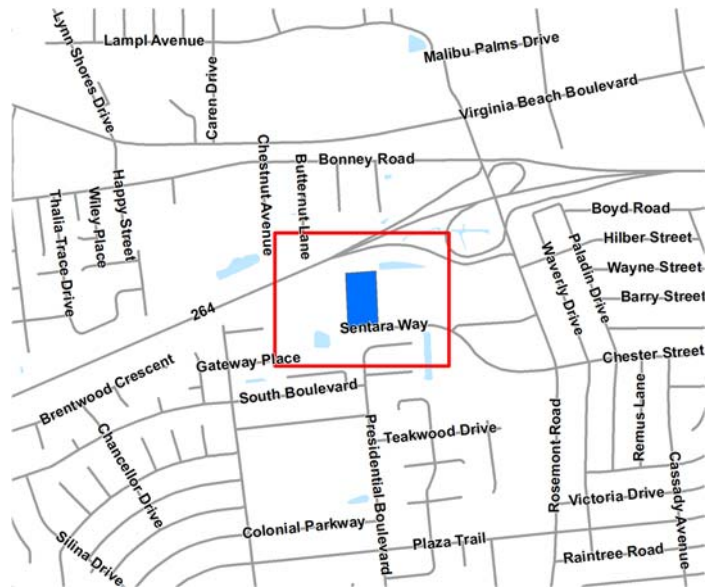
Auto dealership / B-2 Community Business

West

Unimproved Spruce Street

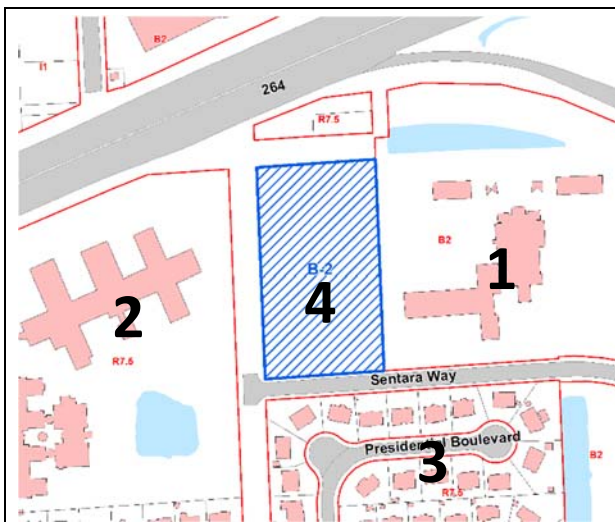
Housing for seniors & disabled persons / R-7.5

Residential



Background & Summary of Proposal

- The applicant is seeking a Conditional Use Permit for Motor Vehicle Sales and Service on a 3.22-acre parcel zoned B-2 Community Business District within the Rosemont Strategic Growth Area (SGA). This proposal is an expansion of the existing dealership operating on the adjacent site.
- In 1997, City Council granted a request to operate an automotive dealership on the adjacent parcel, which included this parcel for an expanded parking area. A Modification to that Conditional Use Permit was granted in 2013 to update the site layout, which removed this parcel from the dealership and resulted in an update to the building's design and exterior materials.
- The submitted concept plan shows a 12,000 square foot dealership and parking lot. The proposed building will be located in close proximity of Sentara Way while the customer and employee parking spaces will be between the building and Sentara Way. The display areas are proposed to the west of the building, adjacent to the unimproved Spruce Street, and in the rear of the site. Display areas will be screened by landscape buffers along the western and southern property lines.
- The renderings on page 7 of this report depicts the building to be of a modern design style with glass and aluminum composite panels (alucobond).
- The proposed size of the dealership requires 14 parking spaces. The proposal exceeds the parking requirement by seven spaces.
- The hours of operation will be from 7:00 a.m. to 9:00 p.m., seven days per week.



Zoning History

#	Request
1	MODC (Motor Vehicle Sales, Services, & Rentals) Approved 11/12/2013 CUP (Automobile Repair) Approved 05/25/2004 CUP (Automotive Service Center) Approved 12/10/2002 CUP (Motor Vehicle Sales, Services, & Rentals) Approved 02/25/1997
2	MODC (Assisted Living & Nursing Home) Approved 12/13/2011 CUP (Assisted Living & Nursing Home) Approved 08/25/1992
3	STC (R-7.5 to B-2) Approved 02/10/1998
4	REZ (R-7.5 to B-2) Approved 02/25/1997

Application Types

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

MODC – Modification of Conditions
MODP – Modification of Proffers
NON – Nonconforming Use

STC – Street Closure
FVR – Floodplain Variance
ALT – Alternative Compliance

SVR – Subdivision Variance
LUP – Land Use Plan
STR – Short Term Rental

Evaluation & Recommendation

In Staff's opinion, the applicant's proposal to expand the use of an automotive dealership (Checkered Flag) onto this property is acceptable. The Rosemont SGA Plan notes that this site should include a transition from an auto-oriented retail strip to a mixed-use transit-oriented neighborhood center at higher densities. While the Comprehensive Plan also

recommends for office use at this location, the proposed development corresponds with the existing pattern of development in the area. As mentioned above, this site was designated as parking area for the dealership in the approved 1997 request. Furthermore, the proposed screening and the conditions as recommended, along with the existence of an unimproved right-of-way will all assist with minimizing impacts to residential properties in the vicinity.

The Sentara Way Flyover road project is shown on the SGA Plan, the City's Master Transportation Plan, and the VDOT I-264 Corridor Study project. Preliminary plans show this roadway on portions of this property; however, there is no road designed, construction timeline, or funding identified for the project at this time. Based on preliminary review, the proposed building has been placed in a similar location to where the building was shown on the SGA Plan.

The proposed modern style building, lot layout, and landscaping buffer will be complementary the existing dealership. Consistent with the existing dealership, the three-foot high berm will be extended onto this site along Sentara Way to help screen the proposed parking and display areas from the adjacent residential dwellings across Sentara Way. A 15-foot wide landscape buffer with enhanced Category IV plantings will be installed along Sentara Way and a 25-foot wide natural vegetated buffer will remain along the western property line. In addition, a six-foot tall privacy fence and a four to five-foot tall black aluminum fence are proposed to enclose the vehicle display area for security purposes.

Staff has determined that the application as presented will result in a reduction in traffic volume when compared to other uses that potentially could be developed as a matter of right in the B-2 zoning district.

Based on the considerations described, Staff recommends approval of this request subject to the conditions listed below that are designed to reduce visual and operational impacts to the surrounding residents.

Recommended Conditions

1. When the property is developed, it shall be in substantial conformance with the submitted plan entitled, "Conceptual Site Layout Plan of Checkered Flag Genesis at Sentara Way", dated September 30, 2021, and prepared by Orbis Landscape Architecture, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development.
2. Prior to Site Plan approval, a Landscape Plan shall be submitted to the Department of Planning and Community Development for review and approval. The Landscape Plan shall be in substantial conformance with the submitted plan entitled, "Conceptual Site Layout Plan of Checkered Flag Genesis at Sentara Way", dated September 30, 2021, and prepared by Orbis Landscape Architecture, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development. Landscape plantings shall be maintained for the duration of the use and shall be subject to the review and approval of the Development and Service Center.
3. All signage on the site shall meet the requirements of the Zoning Ordinance. A separate sign permit shall be obtained from the Planning Department for the installation of any signage.
4. All vehicles for sale or rental shall be located on a paved surface within the designated display area identified on the plan referenced in Condition 1 above. No vehicles shall be displayed on raised platforms, earthen berms, landscape islands, or any other structure designated to display a vehicle higher than the elevation of the main parking lot.
5. There shall be no storage of tires, merchandise, or debris of any kind outside of the building.
6. No outside storage of vehicles in a state of obvious disrepair shall be permitted on the site.
7. There shall be no outside audio speakers for any purpose.

8. There shall be no signs which contain or consist of pennants, ribbons, streamers, spinners, strings of light bulbs, or other similar moving devices on the site or on the vehicles. There shall be no signs which are painted, pasted, or attached to the windows, utility poles, trees, or fences, or in an unauthorized manner to walls or other signs. There shall be no portable or nonstructural signs, or electronic display signs on the site.
9. 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. No window signage shall be permitted.
10. All outdoor lights shall be shielded to direct light and glare onto the premises, said lighting and glare shall be deflected, shaded, and focused away from all adjoining properties.
11. No motor vehicle shall be displayed for sale or rental within the first five (5) feet of any front yard or side yard abutting the right-of-way line of a street to be measured from the property line to any displayed motor vehicle on the premises.

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) that is envisioned to transition from an auto-oriented retail strip to a mixed-use transit-oriented neighborhood center at higher densities. The land use plan for the subject property calls for an office use with maximum permitted height of up to four stories, incorporating water, open space, and stormwater management amenities and building fronting the streets with parking properly screened in the rear. Proposed developments in urban areas should also consider ways to integrate the site and building design guidelines established in the Special Area Development Guidelines for Urban Areas adopted by reference in the Comprehensive Plan.

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 this site.

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Sentara Way	No Data Available	9,900 ADT ¹ (LOS ⁴ "D")	Existing Land Use ^{2a} – 0 ADT Existing Zoning ^{2b} – 1,760 ADT Proposed Land Use ³ – 335 ADT
South Rosemont Road	33,200 ADT ¹ (2018)	32,700 ADT ¹ (LOS ⁴ "D")	
¹ Average Daily Trips	^{2a} as defined by a vacant parcel ^{2b} as defined by a 3.2-acre site zoned B-2	³ as defined by a 12,000 square foot auto dealership	⁴ LOS = Level of Service

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

Sentara Way is a two-lane local street and S. Rosemont Road is a four-lane minor urban arterial roadway. S. Rosemont Road is designated on the MTP to be improved to a six-lane divided arterial with a 165-foot wide right-of-way and a bikeway. There are no roadway CIP projects slated on this portion of Rosemont Road or Sentara Way.

The Sentara Way Flyover road project is shown on the SGA Plan, the City's Master Transportation Plan, and the VDOT I-264 Corridor Study project. Preliminary plans show this roadway cutting through this property; however, there is no construction timeline or funding identified for the project.

Public Utility Impacts

Water

City water is available for connection. There is an existing 8-inch city water main along Sentara Way.

Sewer

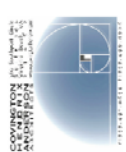
City sanitary sewer is available for connection. There is an existing 8-inch city sanitary gravity main along Sentara Way and a 10-inch city sanitary sewer gravity main within the right-of-way adjacent to the western property line.

Public Outreach Information

Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on October 11, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, October 24, 2021 and October 31, 2021.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on October 25, 2021.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.vbgov.com/pc on November 4, 2021.

Renderings



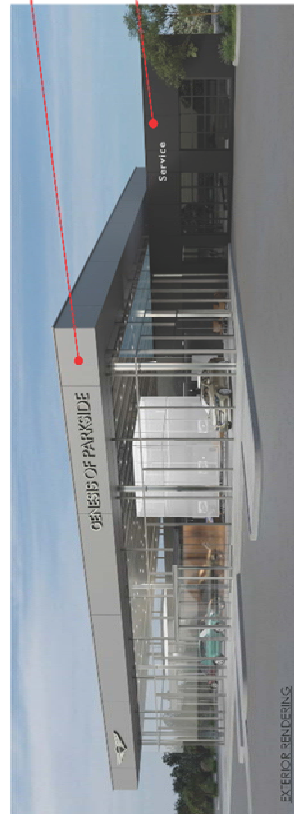
 CHICKENED FLAG

 CHICKEN AT

 SENIATA WAY

 FLOOR PLAN - PROTOTYPE

 EXTERIOR RENDERINGS



2021.10.31

ALL RIGHTS RESERVED
 BY THE ARCHITECT
 ALL RIGHTS RESERVED

ALL RIGHTS RESERVED
 BY THE ARCHITECT
 ALL RIGHTS RESERVED



ALL RIGHTS RESERVED
 BY THE ARCHITECT
 ALL RIGHTS RESERVED



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. and Billy Garrington

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)

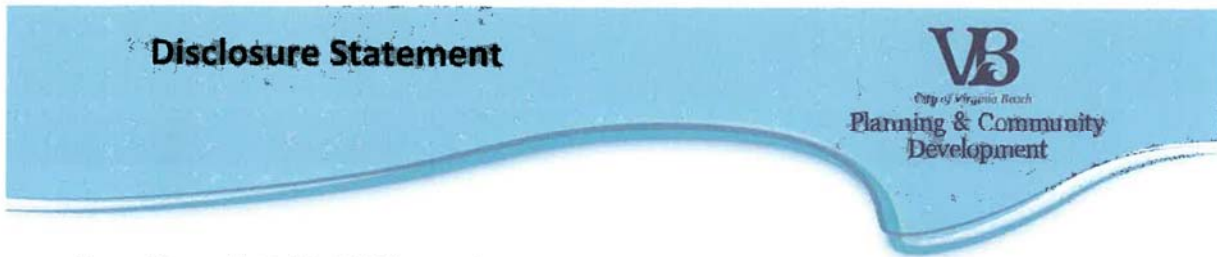
Stephen M. Snyder, Sole Member

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

Please see document attached as Exhibit "A"

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

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



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 (Jerry Smith & Robert Antonio); Orbis Landscape Architecture (Nathan Lahy)

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.

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, 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 M. Snyder, Manager

Print Name and Title

8/30/2021

Date

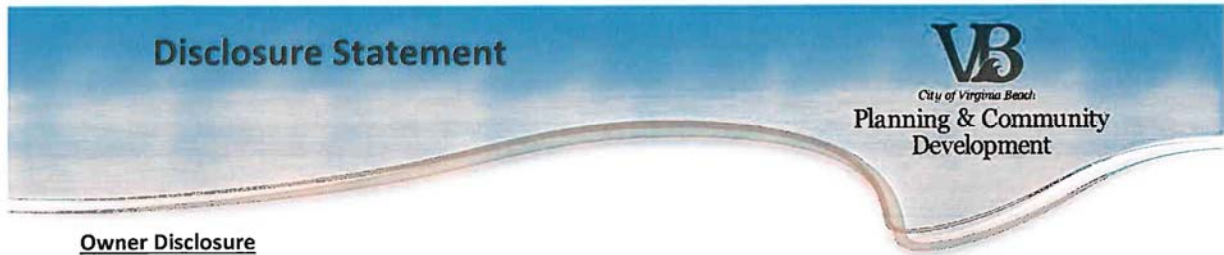
- Is the applicant also the owner of the subject property? ☐ Yes ☒ No

- 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 The Runnymede Corporation

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)

Andrew S Fine, Chairman; Morris H Fine, Co-chairman Secretary; Matthew D Fine, President; Jeffrey S Fine, Vice President

Robert T. Fine, Vice President; Michael G. Finee, Vice President; Donald J Frederick, Vice President and CEO

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

Known Interest by Public Official or Employee

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

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

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

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

Disclosure Statement



Owner Services Disclosure

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

☐ Yes ☒ No

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

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

☐ Yes ☒ No

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

Property is under contract to sell to Winner's Properties, LLC

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.

MSA, P.C.

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

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

No, Winner's Properties, LLC is under contract to purchase

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.

Winner's Properties, LLC, represented by Kyle D. Korte, Esq.

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.

Fine, Fine, Legum, and McCracken, LLP

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

The Runnymede Corporation, Donald J. Frederick, Vice President and CEO

Print Name and Title

30-August-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.

Next Steps

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

Request

Modification of Proffers

Staff Recommendation

Approval

Staff Planner

Hoa N. Dao

Location

Along Horse Pasture Road, between 1521 Taylor Farm Road and 2617 Horse Pasture Road

GPIN

1495750349

Site Size

1-acre

AICUZ

70-75 dB DNL

Watershed

Chesapeake Bay

Existing Land Use and Zoning District

Undeveloped land / I-1 Light Industrial

Surrounding Land Uses and Zoning Districts

North

Horse Pasture Road

Office-warehouse / I-1 Light Industrial

South

Dam Neck Road

Outdoor recreation facility / AG-1 Agricultural

East

Office / I-1 Light Industrial

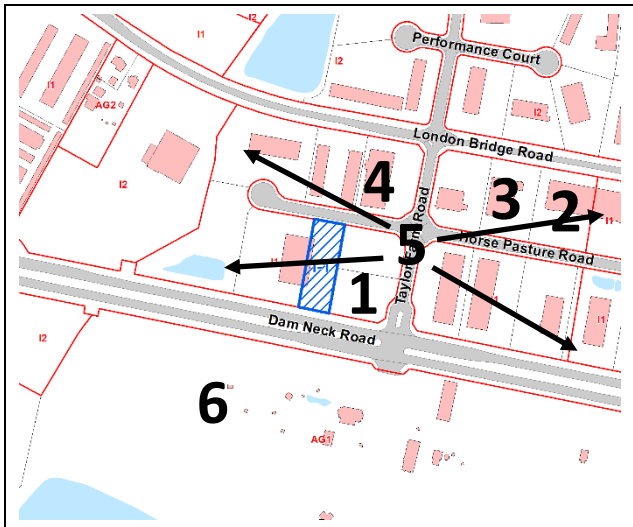
West

Office-warehouse / I-1 Light Industrial



Background & Summary of Proposal

- The subject site is located within the Taylor Farm Commerce Park and was rezoned to Conditional I-1 Light Industrial on May 14, 2002. In 2004, the proffers were amendment that required a minimum side yard setback of 30 feet for lots that abut Dam Neck Road.
- The applicant seeks a Modification of Proffers for just this property to amend Subsection D of Proffer 1 in order to allow for the construction a 16,714 square foot office/warehouse building at the 15-foot side yard setback rather than the 30 feet as required by the 2004 proffer agreement.



Zoning History

#	Request
1	MODP Approved 05/18/2021
2	CUP (Bulk Storage Yard) Approved 12/11/2018
3	CUP (Bulk Storage Yard) Approved 05/01/2018
4	CUP (Craft Brewery) Approved 03/20/2018
5	MODP Approved 09/14/2004 CRZ (AG-1 & AG-2 to Conditional I-1) Approved 05/14/2002
6	CUP (Outdoor Recreational Facility) Approved 09/23/1997

Application Types

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

MODC – Modification of Conditions
 MODP – Modification of Proffers
 NON – Nonconforming Use

STC – Street Closure
 FVR – Floodplain Variance
 ALT – Alternative Compliance

SVR – Subdivision Variance
 LUP – Land Use Plan
 STR – Short Term Rental

Evaluation & Recommendation

In Staff's opinion, the applicant's request to reduce the side yard setback from 30 feet to 15 feet associated with the construction the proposed 16,714 square foot office/warehouse building within the Taylor Farm Commerce Park is acceptable. Due to the narrow width of the parcel, this request is required to accommodate a reasonably sized industrial building with the required parking spaces and drive aisle. As noted in the table below, there is a 0-foot side yard setback requirement for parcels zoned I-1 Light Industrial District. The proposal to adjust the proffer to allow a reduction in the side yard setback from 30 feet to 15 feet will continue to exceed the zoning requirement. The parcel will remain to exceed this minimum standard for properties zoned I-1, as well as exceed minimum requirements for lot area and lot width.

	LOT STANDARD for I-1	LOT 23C
LOT AREA	20,000 square feet	43,560 square feet
LOT WIDTH	100 feet	122.50 feet
FRONT YARD SETBACK	30 feet	30 feet
SIDE YARD SETBACK	0 feet	30 feet (proffered) / 15 feet (proposed)

The elevations depicted on page 7 of this report show the building to be of similar construction materials and architectural designs to other buildings within this Commerce Park. Based on these considerations, Staff recommends approval of the request subject to the proffers listed below.

Proffers

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

Proffer 1:

Proffer numbered “1(d)” is amended to read:

- d) A minimum fifteen foot (15’) side yard building setback shall be required on lot 23c despite it’s a rear property line which abuts Dam Neck Road.

Proffer 2:

All of the terms, conditions, covenants, and agreement set forth in the Proffer, save and except proffer numbered “1(d)” which is amended herein, are ratified, affirmed and remain binding upon the Property and upon all parties and persons claiming under, by or through the Grantor.

Staff Comments: The request to reduce the side yard building setback from 30 feet to 15 feet on this narrow parcel within the industrial park area is acceptable in Staff’s opinion. 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.

2004 Proffers

1. Proffer numbered “2” is amended to read:

The parcels shall be subject to the following mandatory site development guidelines:

- a) A fifty-foot (50’) landscape setback from Dam Neck Road shall be maintained by the Property Owners Association and no improvements shall be located within the landscape setback.
- b) A twenty-foot (20) landscape setback from London Bridge road shall be maintained by the Property Owners Association and no improvements shall be located within the landscape setback.
- c) A minimum fifty-foot (50’) building setback shall be required from London Bridge Road.
- d) A minimum thirty-foot (30’) side yard building setback shall be required on those lots with a rear property line which abuts Dam Neck Road.
- e) A minimum fifteen foot (15’) side yard building setback shall be required on those lots which do not have a property line abutting Dam Neck Road, provided a ten foot (10’) wide Category II Landscape Buffer is maintained along the entire length of the side property line from which the fifteen foot (15’) setback is measured.
- f) No freestanding signage shall be permitted adjacent to either Dam Neck Road or London Bridge Road and all signage shall comply with the “SIGN CRITERIA FOR TAYLOR FARM CORPORATE PARK”, dated March 15, 2002 which are included in the Deed Restrictions described in Proffer number 3.
- g) No onsite vehicular parking, outdoor storage, loading docks or loading areas shall be permitted between Dam Neck Road and any building on a parcel adjacent to Dam Neck Road.
- h) No building shall exceed forty-five feet (45’) in height and the primary exterior surface of all buildings shall be either brick, split face block, painted block, concrete panel, stone, wood, EIFS, or metal and shall be an earth-tone color or colors. The exterior surface of any building on parcels numbered 8 through 14 on the site plan,

which are visible from Dam Neck Road shall be either brick, split face block or stone.” The following are proffers submitted by the applicant as part of a Conditional Zoning Agreement (CZA).

2002 Proffers

1. When the Property is developed, it shall be developed into no more than fourteen (14) parcels substantially as shown on the exhibit entitled “TAYLOR FARM CORPORATE PARK SITE PLAN Virginia Beach, Virginia”, dated 03/11/02 and prepared by Spectra Group, which has been exhibited to the Virginia Beach City WOMACK – CHAPPEL Agenda Item # 19 Page 3 Council and is on file with the Virginia Beach Department of Planning (hereinafter “Site Plan”).
2. The parcels shall be subject to the following mandatory site development guidelines:
 - a) A fifty-foot (50’) Landscape setback from Dam Neck Road shall be maintained by the Property Owners Association and no improvements shall be located within the Landscape setback.
 - b) A twenty-foot (20’) Landscape setback from London Bridge Road shall be maintained by the Property Owners Association and no improvements shall be located within the Landscape setback.
 - c) A minimum fifty-foot (50’) building setback shall be required from London Bridge Road
 - d) A minimum thirty-foot (30’) side yard building setback and rear yard building setback (on non-through lots) shall be required.
 - e) No freestanding signage shall be permitted adjacent to either Dam Neck Road or London Bridge Road and all signage shall comply with the “SIGN CRITERIA FOR TAYLOR FARM CORPORATE PARK” dated March 15, 2002 which are included in the Deed Restrictions described in Proffer #3.
 - f) No onsite vehicular parking, outdoor storage, loading docks or loading areas shall be permitted between Dam Neck Road and any building on any parcel adjacent to Dam Neck Road.
 - g) No building shall exceed forty-five feet (45’) in height and the primary exterior surface of all buildings shall be either brick, split face block, painted block, concrete panel, stone, wood, EIFS or metal and shall be an earth-tone color or colors. The exterior surface of any building on parcels numbered 8 through 14 on the site plan, which is visible from Dam Neck Road shall be either brick, split face block or stone.
3. When the property is subdivided it shall be subject to a recorded Declaration of Protective Covenants, Conditions and Restrictions (“Deed Restrictions”) administered by a mandatory membership Property Owners Association. In addition to the requirements set forth herein, the Deed Restrictions shall include Articles requiring mandatory assessments for maintenance of the landscape buffers and entrance features as well as Architectural Controls. The Deed Restrictions have been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning.
4. Further conditions 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.

Comprehensive Plan Recommendations

The subject property is located within the South Oceana Special Economic Growth Area (SEGA), which the Comprehensive Plan identifies to have significant economic value and growth potential. Developments along key roadways are desired to have attractive and high-quality architectural building materials and designs.

Natural & Cultural Resources Impacts

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

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Dam Neck Road	36,300 ADT ¹	39,700 ADT ¹ (LOS ⁴ "D")	Existing Land Use ² – 0 ADT Proposed Land Use ³ – 30 ADT
Horse Pasture Road	No Data Available	9,900 ADT ¹ (LOS ⁴ "D")	
¹ Average Daily Trips	² as defined by a vacant 1-acre parcel	³ as defined by a 16,714 square foot warehouse/office building	⁴ LOS = Level of Service

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

Horse Pasture Road and Dam Neck Road are in the vicinity of this application. Horse Pasture Road is considered a two-lane collector roadway and Dam Neck Road is considered a four-lane major suburban arterial. There are no CIP roadway projects planned for this area.

Public Utility Impacts

Water

City water is available for connection. There is an 10-inch City water main along Horse Pasture Road.

Sewer

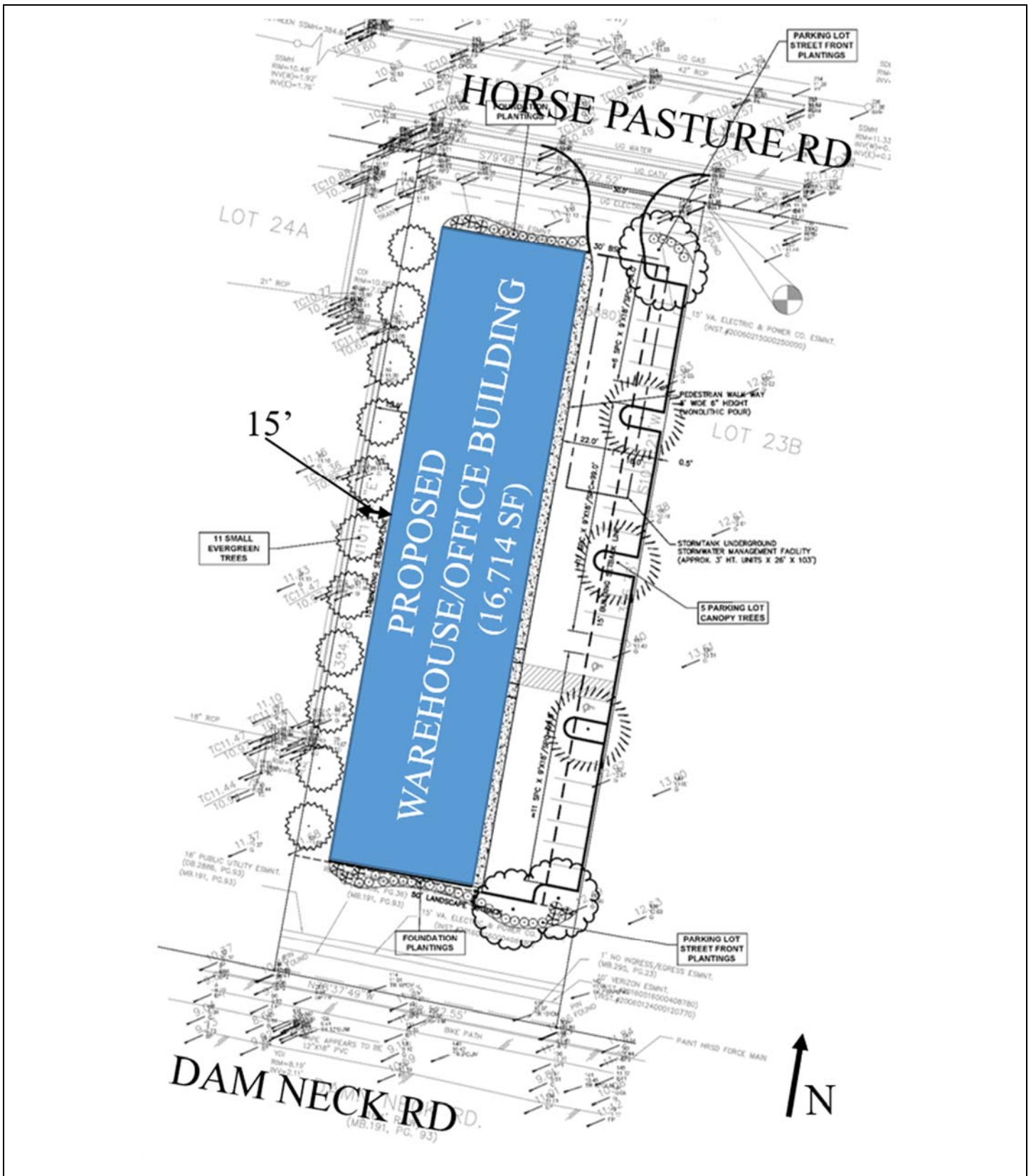
City sanitary sewer is available for connection. There is an 8-inch City sanitary sewer gravity main along Horse Pasture Road.

Public Outreach Information

Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on October 11, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, October 24, 2021 and October 31, 2021.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on October 25, 2021.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.vbgov.com/pc on November 4, 2021.

Proposed Site Layout & Landscape Plan



Proposed Elevations



Site Photos



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
N4/300
13 Oct 21

Dr. Aswini Pradhan
2349 Newstead Drive
Virginia Beach, VA 2345r

Dear Dr. Pradhan:

Thank you for the request for an easement compliance review for the use of a property identified as GPIN 14957503490000, located on Horse Pasture Road, Virginia Beach, Virginia.

I reviewed an analysis prepared by a Navy Real Estate Contracting Officer and I agree with the conclusion that the property is subject to restrictions resulting from two separate Grants of Easement acquired by the United States of America. Enclosed is a copy of the Review and Findings for your convenience.

You have not proposed a use of the property, but have proposed to build a "spec" building, which you describe will be "used primarily warehousing and office". Accordingly, since there is no proposed use of the property, and the structure may or may not be permitted under the terms of the Grant of Easement, the U.S. Navy cannot provide a determination as to whether the use or structure is permitted.

Be aware that our determination is based on the representations of the use and location of the property. Please be advised, you must contact the U.S. Navy whenever a user of the property is identified, so the Government may provide a determination of the use at that time. Failure to request a determination could potentially result in a tenant/user of the building being notified their use is not permitted under the terms of the Grant of Easement. This notification could result in the tenant/user being forced to relocate their business/use.

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.

Sincerely,

A handwritten signature in black ink, appearing to read "R. L. Holmes", is positioned above the printed name.

R. L. HOLMES
Captain, U.S. Navy
Commanding Officer

Enclosure: 1. Real Estate Contracting Officer's Review and Findings

Copy to: NAVFAC MIDLANT (Codes ARRA12)

EI-0395
28 September 2021

REAL ESTATE CONTRACTING OFFICER'S REVIEW AND FINDINGS

Request Received:

On 24 September 2021, I received an easement compliance review request from Dr. Aswini Pradhan, for a property identified as GPIN 14957503490000 on Horse Pasture Road, Virginia Beach, VA.

Property Location:

The subject property is located within P-995, Parcel 500. The United States acquired certain rights over Parcel 453 through a Grant of Easement dated 14 June September 1983. The Navy refers to the GOE covering Parcel 500 as EI-0395.

Proposed Use:

According to the request the property has no identified use. A "spec" building will be built on site and future uses will be determined when tenants are found. The request specifically states:

The property will be used primarily for warehousing and office space. The tenants are undetermined at this time, but the typical operations anticipated by tenants will be racking in warehouse areas for storage, minor packaging to prepare items to be shipped on a low-volume basis, incidental filing/administration/accounting directly associated with the operations in the warehouse, and potential minor refurbishing of equipment. All materials will be received at the proposed location and stored inside the building until they are sold and distributed to retailers. No maintenance or repair of vehicles is proposed as part of this development.

Review of Restrictive Easement(s):

The restrictions begin with paragraph 1. Paragraph 1 prohibits any obstruction extending more than 170 feet above mean sea level. Paragraph 2 states "the property shall not be used for any of the following uses or structures:" and proceeds to list seventeen (17) specific uses. Paragraph 2.k prohibits the manufacturing, storage, handling or distribution of explosives, petrochemicals or petroleum and related products. Paragraph 2.o prohibits offices or office buildings, except those maintained in connection with uses not prohibited in paragraph 2. Paragraph 2.p prohibits retail sales except as an auxiliary function of enterprises and/or uses not prohibited in paragraph 2; the gross building area of any area open to the public and/or showrooms devoted to a permitted retail sale, shall not exceed ten (10) percent of the gross building area.

Paragraph 3 provides for the Government's ingress and egress of the property for purposes of exercising the rights contained within the GOE.

Paragraph 4. States "All uses and structures not prohibited herein above are permitted, including but not limited to the following:" and proceeds to list twenty-six (26) specific uses.

EI-0395
28 September 2021

Conclusions:

Dr. Pradhan proposes to build a “spec” building without any identified tenants or users of the property. The GOE prohibits certain “structures” and “uses”. Without an identified “use” the Government cannot provide a determination as to whether the “use” of the property is compliant with the language in the GOE.

Dr. Pradhan describes the building for “primarily warehousing and office space”. Office space is only permitted if it is maintained in connection with a use that that is not prohibited. Warehousing of explosives, petrochemicals, petroleum and related products is prohibited. The Government cannot provide a determination as to whether the “structure” is compliant with the language in the GOE until uses of the property are proposed



PAUL MOOMAW
Real Estate Contracting Officer

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 Aswini Kumar Pradhan and Puspallata Pradhan

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

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

John Sandow Engineering, LLC (John Sandow)

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

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

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

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

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



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.

John Sadow Engineering, LLC

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.

Steve Pincus, C.L. Pincus Jr. & Co., 2700 Sonic Drive, Virginia Beach, VA 23453 (757) 468-5100

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

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

John Sandow Engineering, LLC

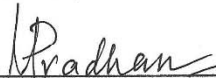
8. Is the applicant receiving **legal services** in connection with the subject of the application or any business operating or to be operated on the property? ☒ **Yes** ☐ **No**

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

Joseph V. Sherman, 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.

 P. Pradhan

Applicant Signature

Aswini Kumar Pradhan and Puspallata Pradhan, Owner

Print Name and Title

09/23/2021

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.
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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 (Mini-Warehouse)

Staff Recommendation

Approval

Staff Planner

Hoa N. Dao

Location

3478 Holland Road

GPIN

1486737186

Site Size

3.12 acres

AICUZ

65-70 dB DNL; Sub-Area 3

Watershed

Chesapeake Bay

Existing Land Use and Zoning District

Shopping center, auto repair / B-2 Community Business

Surrounding Land Uses and Zoning Districts

North

Diana Lee Drive

Auto dealership / B-2 Community Business

South

Drainage channel / A-12 Apartment

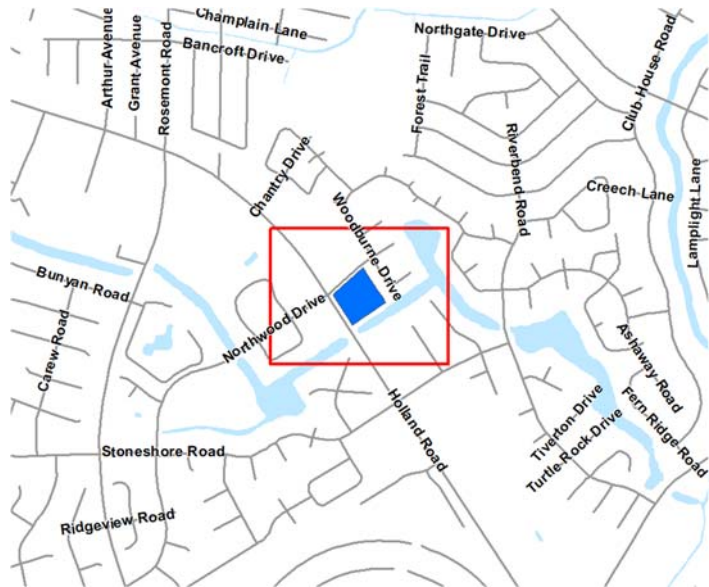
East

Multi-family dwellings / A-12 Apartment

West

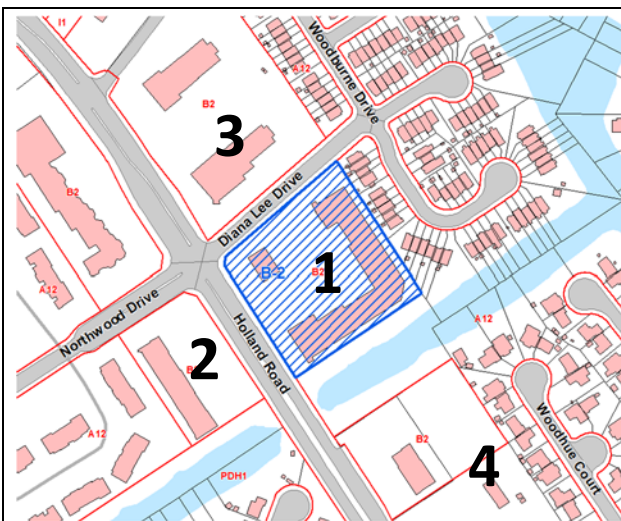
Holland Road

Shopping center / B-2 Community Business



Background & Summary of Proposal

- The applicant seeks a Conditional Use Permit for a 130,000 square foot, three-story, Self-Storage Facility. This will require the redevelopment of a portion of the shopping center which is on property zoned B-2 Community Business District at the corner of Holland Road and Diana Lee Drive.
- Two existing units fronting Holland Road will remain and an additional unit will be added. Also to remain on the property is the tire service center.
- The proposed building elevation on page 8 of this report reflects a contemporary design style with brick veneer, architectural metal panels, “green walls” (walls with vines), and a metal cornice.
- The submitted conceptual landscape plan shows plantings along a portion of Diana Lee Drive, a 10-foot wide landscape buffer along the eastern property line, and foundation and interior parking lot plantings. In addition, an eight-foot tall wood privacy fence along the eastern property line, an eight-foot tall jerith fence along the loading area, and an eight-foot tall black vinyl coated chain-link fence along the southern property line are all proposed.
- The applicant requests the following deviations to the landscaping and planting requirements pursuant to Section 221(i) of the Zoning Ordinance:
 - Reduce the width of the landscape buffer from 15 feet to 10 feet along the eastern property line
 - Reduce the landscape buffer from 15 feet to 0 feet and install a chain-link fence instead of a privacy fence along the southern property line
 - No streetscape plantings along Holland Road and a portion of Diana Lee Drive that is currently developed with parking area
- The existing freestanding sign will be replaced with a more attractive monument-style sign.
- The proposed redevelopment of the property includes a reduction in the number of ingress/egress points along Holland Road and Diana Lee Drive from four to two.
- The proposed office hours are from 9:00 a.m. to 6:00 p.m., Monday through Sunday and patrons can access the facility between 6:00 a.m. to 9:00 p.m. with pass code controlled access.



Zoning History

#	Request
1	CUP (Religious Use) Approved 12/06/2016 CUP (Religious Use Expansion) Approved 06/10/2003 CUP (Religious Use) Approved 11/13/2001 CUP (Religious Use) Approved 10/12/1999 CUP (Religious Use) Approved 10/13/1998
2	CUP (Motor Vehicle Rental) Approved 09/18/2012
3	CUP (Motor Vehicle Sales & Service) Approved 04/13/1999
4	CUP (Religious Use) Approved 04/08/1992

Application Types

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

In Staff's opinion, the applicant's proposal for a self-storage facility on this site is acceptable. The proposal is consistent with the Comprehensive Plan's objective of renewing commercial centers in order to achieve and maintain "Great Neighborhoods" in the city. Currently, the shopping center has nine units that are in need of repair and the four vacant units represent a vacancy rate of 45 percent. The proposed redevelopment will demolish a portion of the aging shopping center and replace it with a three-story climate controlled self-storage facility. The two units that front Holland Road are operating in good conditions and will remain with one additional unit to be added behind them. Also to remain on the site is the tire service center. During Staff's field visit, it was noted that a trailer was parked behind the tire service center and was utilized to store used tires. This is not permitted by the Zoning Ordinance and condition 7 is recommended that will require the removal of the trailer in order to emphasize this oversight by the applicant. The applicant is agreeable to this condition.

The proposal includes landscape buffers and fencing that will aid in bringing the site closer into compliance with current planting requirements. As the existing shopping center was built prior to the enactment of these requirements, it lacks streetscape plantings along Holland Road and Diana Lee Drive and landscape buffers and screening between commercial and residential uses. This proposal will install required landscape buffers and screenings where none existing today. Due to the location of the existing parking area and drive aisles, the applicant seeks to deviate from the requirement to install streetscape plantings along Holland Road and a portion of Diana Lee Drive. The applicant also seeks to reduce the width of the landscape buffers from 15 feet to 10 feet where the property abuts the A-12 Apartment District to the east due to the 15-foot drainage easement that runs parallel to the eastern property line. Staff is supportive of this request since the adequate screening will be provided with the installation of an eight-foot tall privacy wood fence, a row of evergreen plantings, and innovative planting segments (green walls) on the façade of the building.

The existing parking lot is in need of repairs. This redevelopment proposal will resurface and restripe the existing parking lot. In addition, the existing freestanding sign will be replaced with a more attractive monument style sign along Holland Road.

The applicant is requesting a deviation from the requirement to install the 15-foot wide buffer with Category IV landscaping along the southern property line as a natural buffer already exists. To the south of the property is a drainage canal that is also zoned A-12 Apartment District. While not on the applicant's property, there is mature vegetation along the canal that screens the subject property from the nearby residences. In addition, this portion of the property is not visible from public streets or adjacent properties. Based on this, the applicant is requesting the use of chain-link fencing rather than a solid privacy fence as it will not be highly visible from either residences or the rights-of-way. Staff is agreeable to these requests.

Staff determined that the proposed use will result in a significant reduction in traffic volume, almost three times what is permitted as a matter of right in a typical shopping center. In addition, the number of ingress/egress points will be reduced from four to two, thereby improving traffic movements and safety as potential conflict points are reduced.

Staff finds the deviation request to the landscaping and planting requirements to be acceptable and will not detrimentally effects the surrounding properties. Based on the considerations above, Staff recommends approval of this request with the deviations as noted and subject to the conditions noted below.

Recommended Conditions

1. When the property is redeveloped, it shall be developed substantially as shown on the exhibits entitled, “Holland Lakes Storage Schematic Layout”, dated August 2, 2021, and prepared by Silvercore Land Development Consultants and “Conceptual Landscape Plan, Holland Lakes Storage”, dated October 11, 2021, and prepared by Frankenfield Design + Development, LLC, which have been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning. This is a deviation to the 15 feet landscape buffer, streetscape plantings, and fencing requirements.
2. A Landscape Plan shall be submitted that contains the plantings and screenings references in Condition 1 above that includes but not limited to the following:
 - a. As depicted on the plan as the 10 feet landscape buffer, along adjacent properties that are residentially zoned, evergreen trees shall be installed at a minimum of six (6) feet in height and be allowed to grow and be maintained at a height of no less than ten (10) feet and the required shrubs shall be allowed to grow and be maintained at a height of no less than four feet;
 - b. As depicted on the plan, the “Green Wall” shall be maintained for the duration of the use.
3. The exterior of the building shall be substantially similar in appearance, architectural features and materials as depicted on the exhibit entitled, “Mini Price Storage Holland Road Virginia Beach, VA”, dated September 30, 2021, prepared by Finley Design, which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning.
4. When the property is redeveloped, the existing freestanding sign for the shopping center shall be removed and replaced with a monument style sign that is substantially similar as depicted on the exhibit entitled, “Design No. 30180”, dated October 6, 2021, prepared by Cardinal Sign Corporation, which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning.
5. All outdoor lights shall comply with the following:
 - a. Shall be shielded to direct light and glare onto the premises, said lighting and glare shall be deflected, shaded, and focused away from all adjoining property.
 - b. Lighting fixtures shall not be erected any higher than fourteen (14) feet.
 - c. Only motion activated lighting fixtures shall be installed at a height of no more than ten (10) feet along the easternly and southernly property lines that abuts the apartment district.
6. All on-site signage must meet the requirements and regulations of the Zoning Ordinance. A separate permit from the Department of Planning & Community Development is required for any new signage installed on the site.
7. The trailer on the property shall be removed within 120 days of City Council action.

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 property is located within the Suburban Area. Guiding planning principles of the City’s suburban areas include the establishment of “Great Neighborhoods,” and protection and enhancement of natural opens to promote appropriate and sustainable use of land, and provision of adequate services and utilities to meet existing and future needs. Furthermore, “Great Neighborhoods” should be supported by complimentary non-residential uses and provide a proper balance of commercial uses that will serve the neighborhoods. The Comprehensive Plan encourages the renewal of commercial centers with regard to design, products, and services provided to the neighborhoods where they are located.

Natural & Cultural Resources Impacts

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

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Holland Road	32,990 ADT ¹	32,700 ADT ¹ (LOS ⁴ “D”)	Existing Land Use ² – 1,453 ADT Proposed Land Use ³ – 596 ADT
Diana Lee Drive	No Data Available	9,900 ADT ¹ (LOS ⁴ “D”)	
¹ Average Daily Trips	² as defined by a 38,500 square feet shopping center	³ as defined by a 10,500 square feet shopping center and 130,000 square feet self-storage facility	⁴ LOS = Level of Service

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

Holland Road is considered a four-lane divided minor urban arterial. The MTP proposes a six-lane facility within a 165 foot right-of-way. There are currently no CIP projects to upgrade this section of Holland Road at this time.

Diana Lee Drive is considered a two-lane divided collector. The existing infrastructure currently resides in an 80 foot right-of-way and it is not designated on the MTP. There are currently no CIP projects to upgrade this roadway at this time.

Public Utility Impacts

Water & Sewer

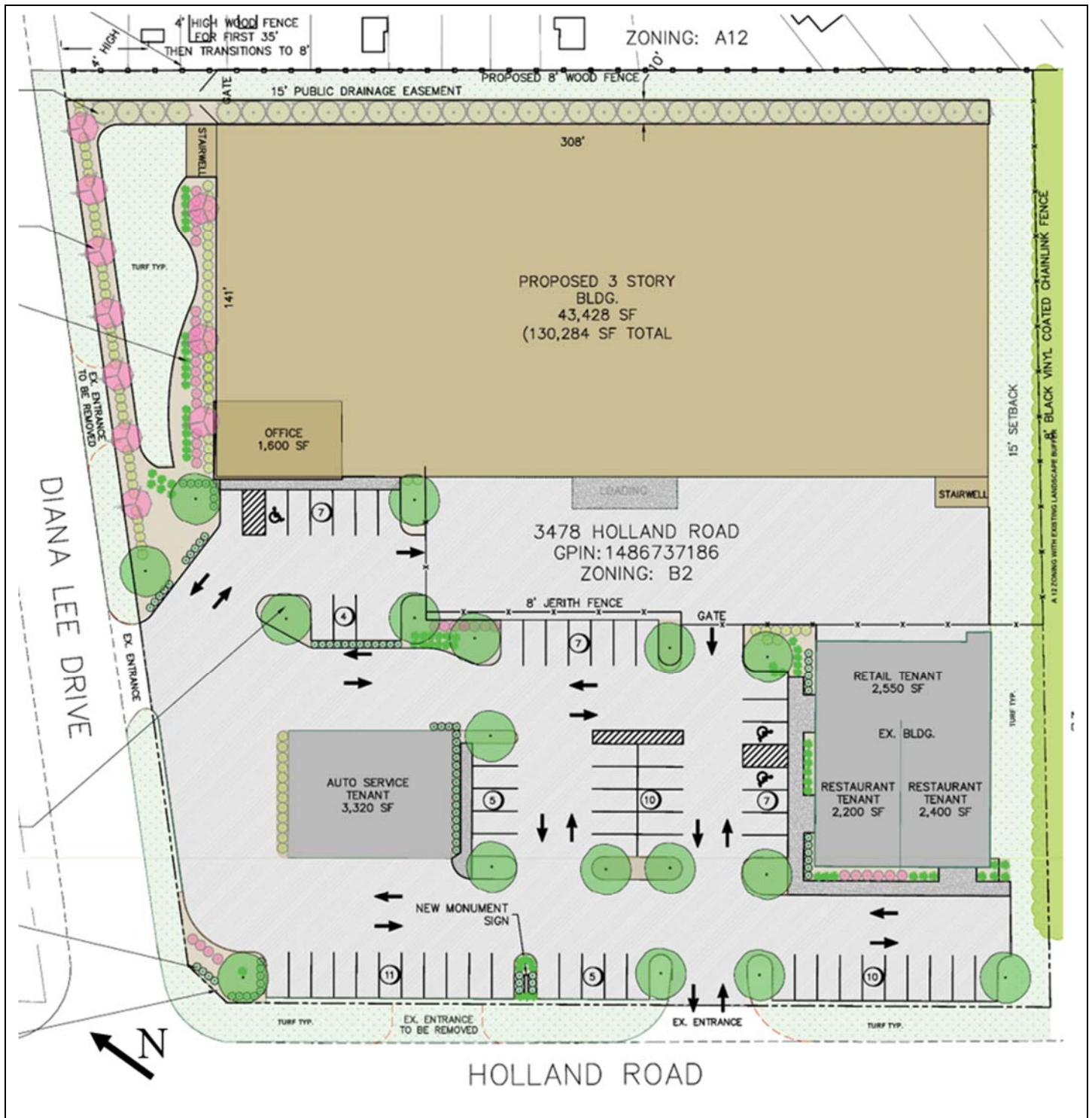
The property is currently connected to City water and sanitary sewer services.

Public Outreach Information

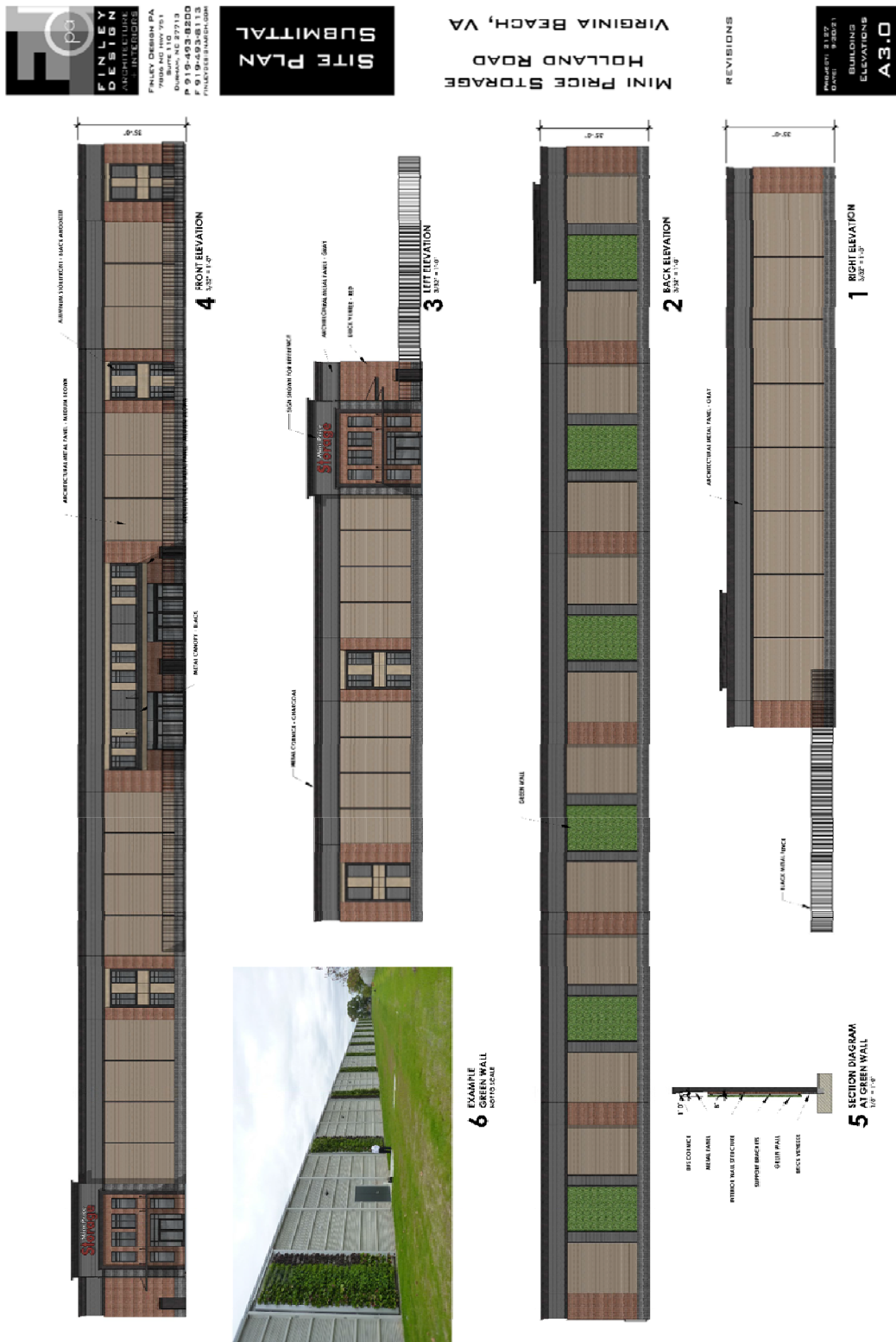
Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on October 11, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, October 24, 2021 and October 31, 2021.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on October 25, 2021.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.vbgov.com/pc on November 4, 2021.

Proposed Concept Plan / Landscape Plan



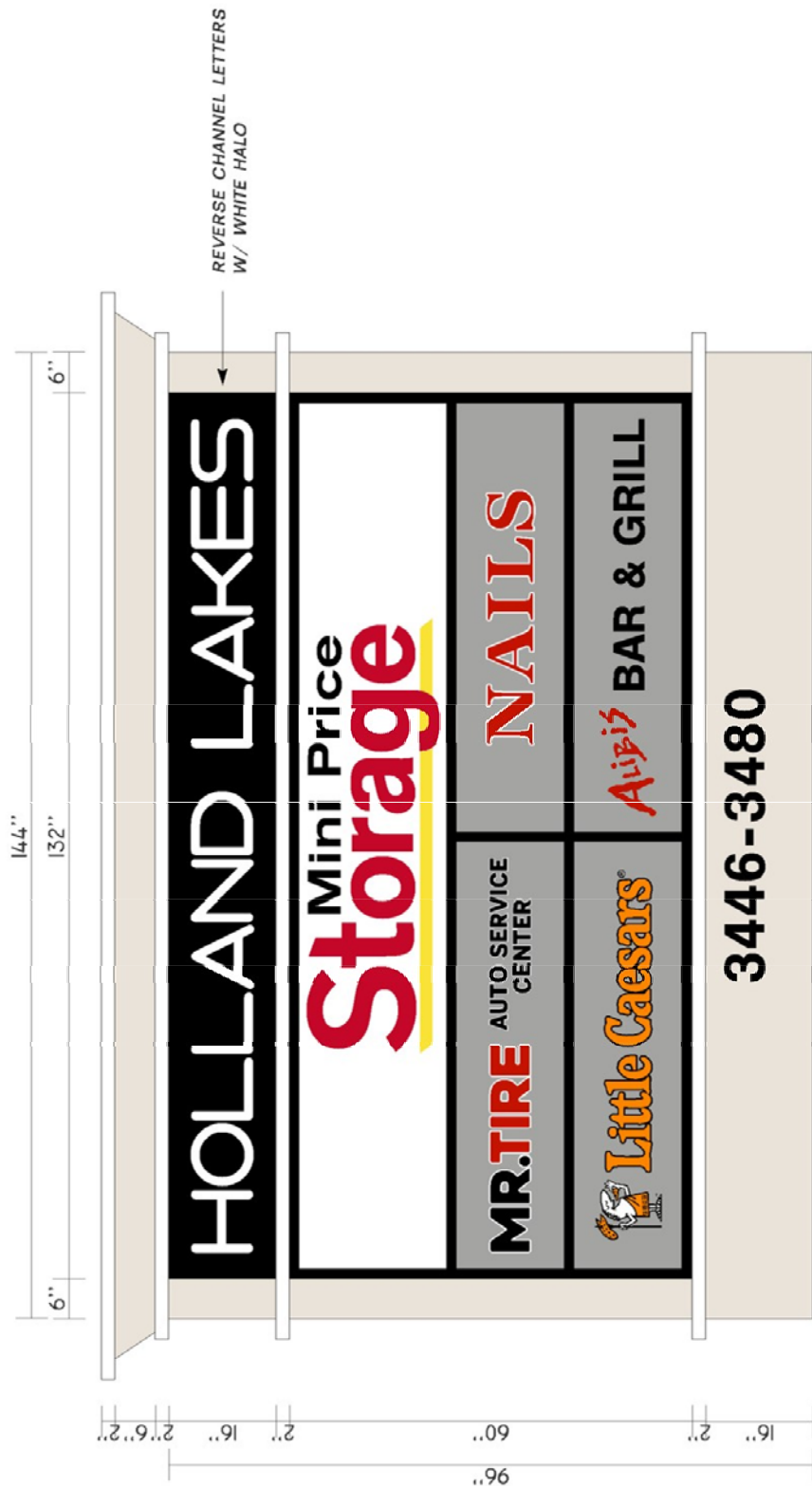
Proposed Elevation Plan



Proposed Renderings



Proposed Monument Sign



D/F LIGHTED SIGN
78" X 132" = 71.5 SF

Site Photos



Site Photos



Disclosure Statement

Disclosure Statement



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Applicant Disclosure

Applicant Name Holland Lakes Associates, L.C., a Virginia limited liability company

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

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

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

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

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

Michael D. Sifen, Sole Member

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

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Disclosure Statement



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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?

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Finley Design Architecture & Interiors

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.
Michael D. Sifen, Inc.
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.
Andrew Bowman, Silvercore Land Development Consultants
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.

Holland Lakes Associates, L.C., a Virginia limited liability company

By: Michael D. Sifen

Applicant Signature

Michael D. Sifen, Sole Member

Print Name and Title

07/30/21

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	

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

Request

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

Staff Recommendation

Denial

Staff Planner

Aubrey A. Trebilcock

Location

111 73rd Street

GPIN

24196675860000

Site Size

12,000 square feet

AICUZ

Less than 65 dB DNL

Watershed

Atlantic Ocean

Existing Land Use and Zoning District

Single-family dwelling / R-5R Residential

Surrounding Land Uses and Zoning Districts

North

Single-family dwelling / R-5R Residential

South

Single-family dwelling / R-5R Residential

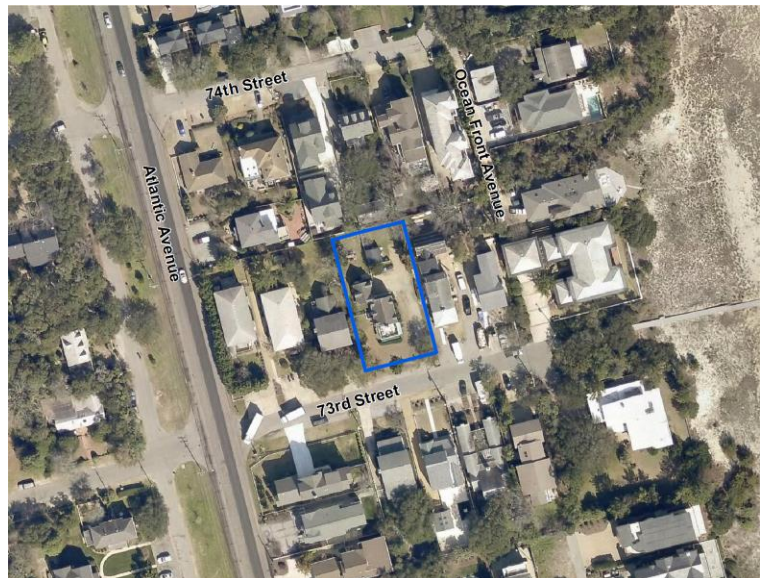
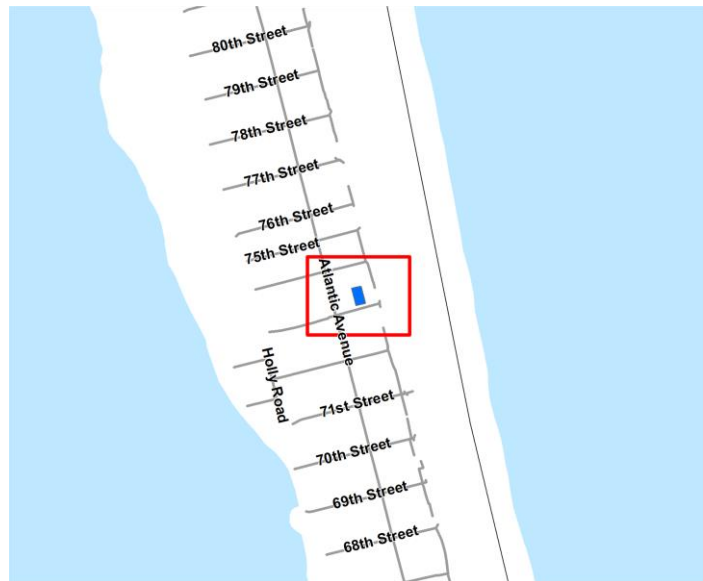
East

Princess Anne Road

Single-family dwelling / R-5R Residential

West

Single-family dwelling / R-5R Residential

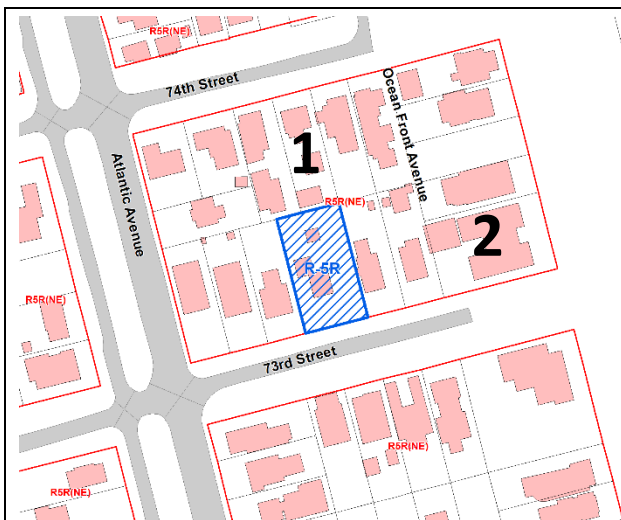


Background & Summary of Proposal

- The applicant is proposing to subdivide a lot, described as “Lot 12 and the Eastern 30’ of Lot 14”, in order to create two lots within the R-5R Residential Zoning District. The dimensional standards for lots in this district require a lot size of at least 5,000 square feet and a minimum lot width of 50 feet for a single-family home or a minimum lot size of at least 10,000 square feet and a minimum lot width of 75 feet minimum for a duplex.
- The subject lot was legally created by Deed prior to the establishment of the Subdivision Regulations. Lot 12 and the eastern 30 feet of Lot 14 have consistently been conveyed and described as a single lot since this time and this is also reflected in the Real Estate Assessor’s records. A single-family home has existed on the lot since 1935.
- The proposed lots, Lot 12A and Lot 14A, would each be 6,000 square feet in size, which would exceed the minimum lot area requirement of 5,000 square feet. However, they would each be only 40 feet in width, short of the 50-foot lot width requirement. As neither lot would not meet all dimensional standards required by the Zoning Ordinance for parcels in the R-5R Residential District, a variance to Section 4.4(b) of the Subdivision Regulations is required.

Proposed Lot	Required Street Line Frontage in R-5R (feet)	Proposed Street Line Frontage (feet)	Required Lot Width (feet)	Proposed Lot Width (feet)	Required Lot Area (square feet)	Proposed Lot Area (square feet)
Lot 12A	40	40	50	40*	5,000	6,000
Lot 14A	40	40	50	40*	5,000	6,000

*Variance requested



Zoning History

#	Request
1	NON (Expansion of Non-Conforming 2 nd Dwelling Unit) Approved 02/23/2010
2	NON (Expansion of Non-Conforming Single Family Home) Approved 05/09/2009

Application Types

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

MODC – Modification of Conditions
 MODP – Modification of Proffers
 NON – Nonconforming Use

STC – Street Closure
 FVR – Floodplain Variance
 ALT – Alternative Compliance

SVR – Subdivision Variance
 LUP – Land Use Plan
 STR – Short Term Rental

Evaluation & Recommendation

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.

In the application package for this request, Lot 12 and the eastern 30 feet of Lot 14 are described as two separate lots. However, they were legally combined by deed and have been conveyed as a single lot since at least 1949. This request would therefore not make one lot less nonconforming, but create two non-conforming single-family lots.

The subject property lies within the North End Suburban Focus Area, which lists among its goals parcel consolidation of smaller lots and the reduction of impervious coverage to mitigate recurring stormwater issues. This proposal would create smaller lot that the North End SFA is seeking to eliminate. The parcels in this case were already consolidated by deed into a single, larger parcel which meets the zoning requirements of the R-5R Residential District. The applicant wishes to subdivide so they can establish two single-family homes, but due to the North End Overlay, this is already possible on lots which meet the minimum dimensional requirements for a duplex lot. The subject lot meets these minimum requirements and so therefore two single-family homes can already be constructed without the need for a subdivision or a variance. In exchange for the additional ability to build two single-family homes on one lot in the North End Overlay, the Zoning Ordinance requires specific design standards for the homes. The proposed homes do not meet these building design criteria as established in Section 506 (c) that address dimensions, height, separation between units, and parking and the incentives offered in Section 506 (d). If this application were to be approved, Staff recommends a condition requiring the residences to meet the requirements of Section 506 (c) and (d) as reviewed and approved by the Zoning Administrator. This condition will assure the development aligns with other developments in the surrounding area that are on smaller lots.

An additional concern, as stated above, is mitigating the frequent stormwater issues present within the North End. It is an area that, due to its location, is vulnerable to storms and at the same time has a high level of impervious coverage which exacerbates drainage issues. Under the current variance proposal, two single-family parcels would be created. While the maximum permitted impervious coverage would remain the same (60% of the lot area), single-family lots, when developed individually, can provide an agreement in lieu of needing to show a detailed Stormwater Management Plan; whereas the current lot would be required to provide a detailed site plan showing stormwater compliance if developing a duplex or two single-family homes on the same lot. Since stormwater mitigation is a stated goal of the North End SFA, Staff's position is that it would be prudent to require a condition, if this application were to be approved, that this development provide site plans for a comprehensive stormwater management plan similar to what would be required if the current lot were developed with two single-family homes on one lot.

As there are already numerous other lots within the North End that have two single-family homes, approval of this request could set precedence for more Subdivision Variance requests to create dimensionally sub-standard lots from conforming lots for a use which is already permitted by the Zoning Overlay. Based on the concerns above, Staff does not

Atlantic Development Associates, LLC

Agenda Item 12

Page 3

support this request as the desired use is already feasible on the existing lot without creating additional lots within the North End.

Recommended Conditions

1. When the Property is developed, it shall be developed substantially as shown on the exhibit entitled, "Preliminary Concept Resubdivision of Lot 12 & the Eastern 30' of Lot 14, Block 1, Cape Henry Syndicate", prepared by WPL, copies of which have been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning (hereinafter, the "Subdivision Plans").
2. When the site plan is submitted for review, the applicant must include plans for Stormwater Management Plan and Erosion and Sediment Control which must satisfy the Public Works Design Standards Manual. An agreement in lieu may not be used in place of this requirement.
3. The homes to be developed on this site must use attractive, high quality materials capable of withstanding severe weather events as recommended within the North End Suburban Focus Area section of the Comprehensive Plan.
4. The lots are required to share one 12-foot wide driveway to remain consistent with what would have been permitted by-right for the existing lot by the Public Works Design Standards.
5. The proposed development shall meet the design requirements as established in Section 502 (c) and (d) of the Zoning Ordinance, as approved by the Zoning Administrator.

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

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

Comprehensive Plan Recommendations

The Comprehensive Plan designates the subject property as lying within the North End Suburban Focus Area, which extends from 42nd Street to 89th Street and located on both sides of Atlantic Avenue. The North End SFA is characterized by a compact arrangement of single-family and duplex dwelling units with much of the land zoned Residential Resort District (R-5R). Moreover, the North End area is characterized by a relatively high density of single-family/duplex housing, high impervious surface coverage and problematic topographic conditions, all of which combine to create recurring stormwater drainage problems. The City seeks to implement drainage improvements in the North End area to help alleviate these situations.

Recommendations for this area include parcel consolidation, density stabilization and the use of 'Best Management Practices' for stormwater control should be part of reconstruction efforts. Improvement and reconstruction should also use porous materials for driveways, walkways and other similar surfaces, wherever feasible, to achieve a net reduction of impervious coverage. Finally, attractive and high quality materials capable of withstanding severe weather events should be used.

Natural & Cultural Resources Impacts

The site is located in the Atlantic Ocean Watershed. No wetlands, floodplains subject to special restrictions, or watershed buffer areas lie within the subject site. No negative impact to any natural or cultural resources is anticipated.

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
73rd Street	N/A	9,900 ADT ¹ (LOS ⁴ "D")	Existing Land Use ² – 15 ADT Proposed Land Use ³ – 20 ADT
Atlantic Avenue	14,660 ADT ¹	22,800 ADT ¹ (LOS ⁴ "D")	Existing Land Use ² – 15 ADT Proposed Land Use ³ – 20 ADT
¹ Average Daily Trips ² as defined by a 2 duplex units ³ as defined by 2 single-family residences ⁴ LOS = Level of Service			

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

Access to this site is located on 73rd Street. 73rd Street is a two-lane local street with an 80-foot right-of-way width. Atlantic Avenue in the vicinity of this site is a four-lane undivided minor urban arterial with a 120-foot right-of-way width.

As a by-right duplex, only one 12 foot wide driveway would have been allowed per Public Works Design Standards. Allowing two driveways with this Variance Request would remove public on-street parking. A condition that the lots share one 12-foot wide driveway has been required to preserve existing on-street parking.

Public Utility Impacts

Water

City water is available.

Sewer

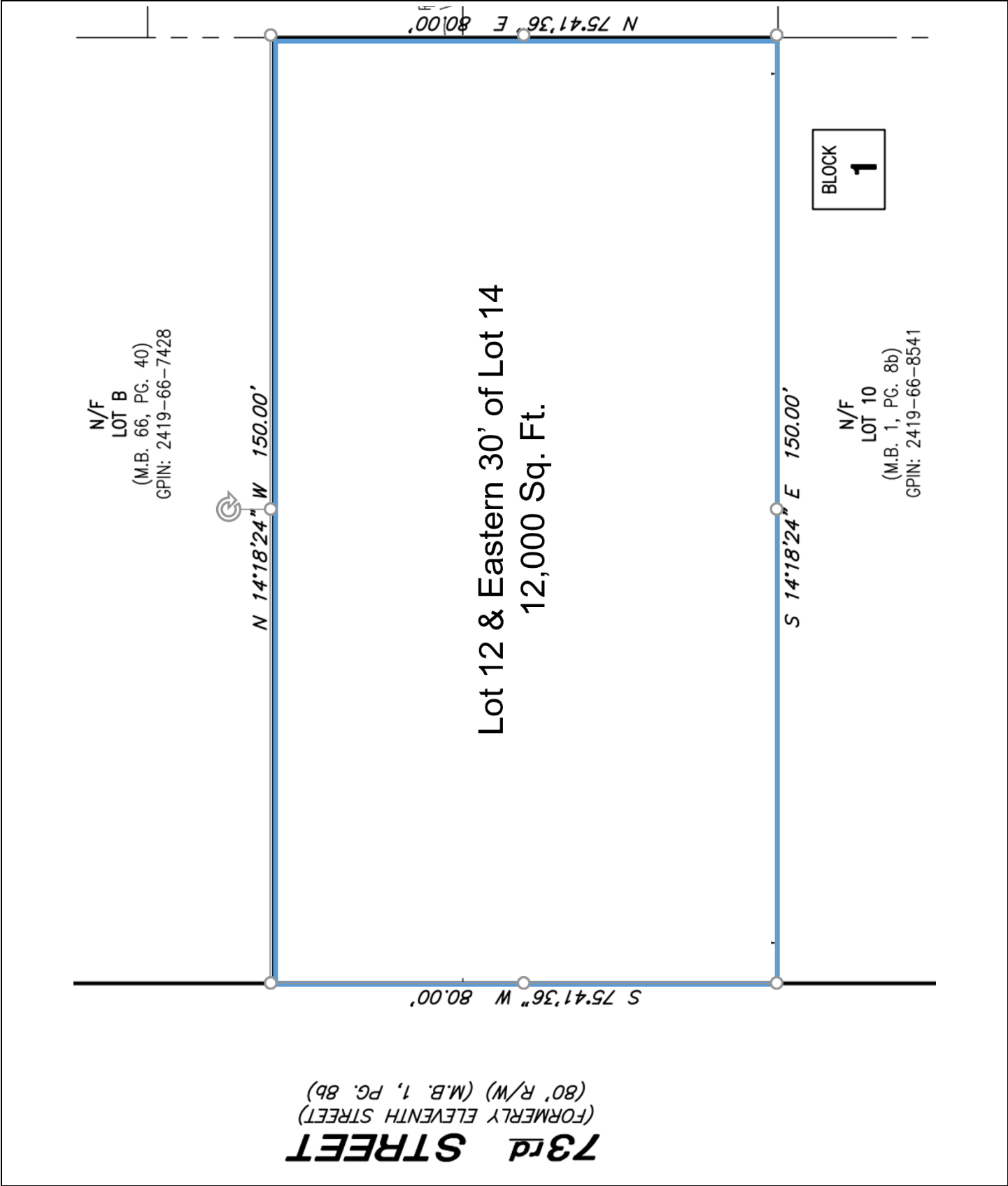
City sanitary sewer is available.

Public Outreach Information

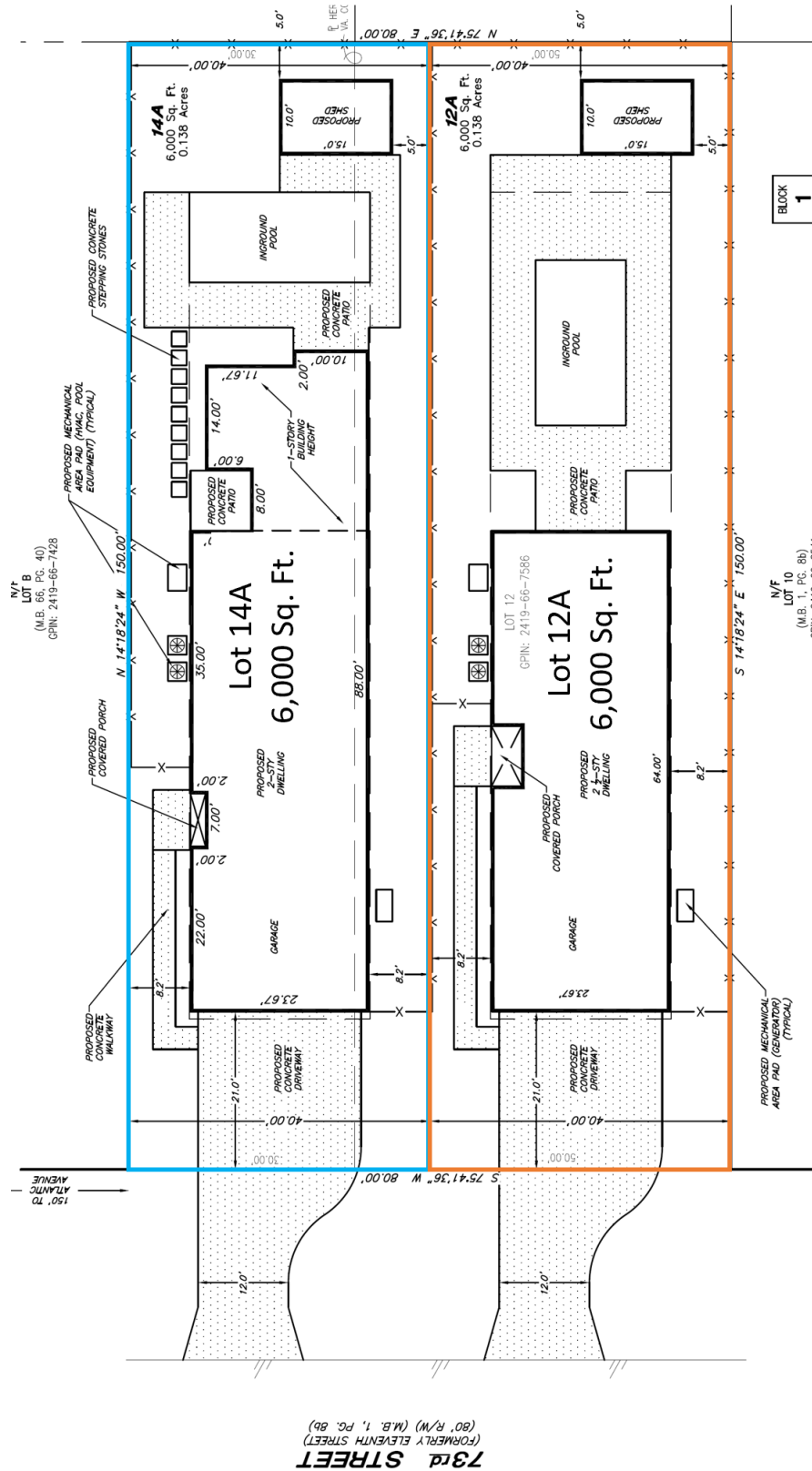
Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on October 11, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, October 24, 2021 and October 31, 2021.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on October 25, 2021.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.vbgov.com/pc on November 4, 2021.

Existing Site Layout

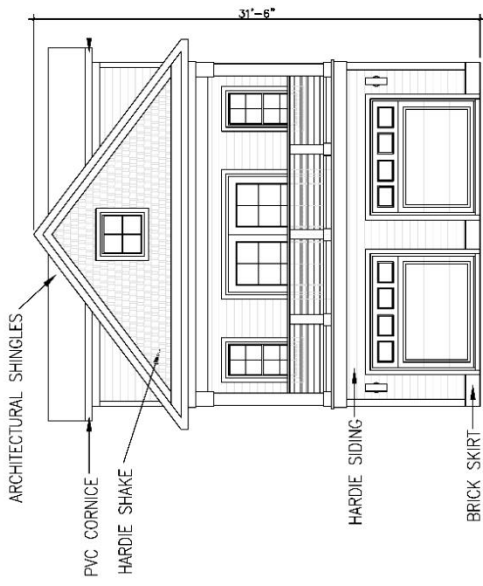


Proposed Subdivision





FRONT ELEVATION - LOT 14A



FRONT ELEVATION - LOT 12A



POOL, FENCE & WALL (SIMILAR PHOTO)



POOL & REAR YARD (SIMILAR PHOTO)

Site Photo



Disclosure Statement



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

Applicant Disclosure

Applicant Name Atlantic Development Associates, L.L.C.

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

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

R. Edward Bourdon, Jr., 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)

Brian C. Large, Sole Member

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

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

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

Disclosure Statement



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

☒ Yes ☐ No

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

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.

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.

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.

Eric Garner, WPL

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

• If **yes**, identify the 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.

Atlantic Development Associates, L.L.C.

By: 

Applicant Signature

Brian C. Large, Sole Member

Print Name and Title

8/31/21

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

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

Staff Recommendation

Approval

Staff Planner

Aubrey A. Trebilcock

Location

2744 Ansol Lane, 153 Bassett Avenue

GPIN

14974305620000, 14974304780000

Site Size

15,000 square feet

AICUZ

Greater than 75 dB DNL

Watershed

Chesapeake Bay

Existing Land Use and Zoning District

Single-family dwelling / R-5D Residential

Surrounding Land Uses and Zoning Districts

North

Single Family Home / R-5D Residential

South

Ansol Lane

Single-family Homes, Duplex / R-5D Residential

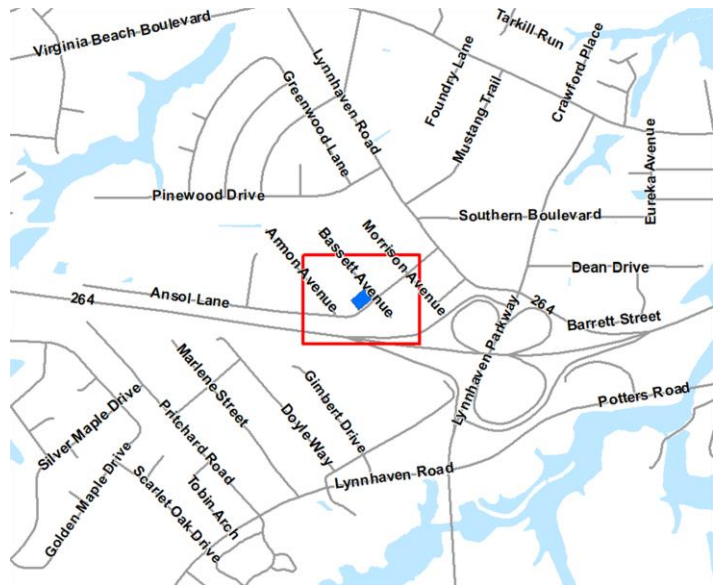
East

Bassett Ave

Duplexes / R-5D Residential

West

Duplex, Vacant Parcel / R-5D Residential

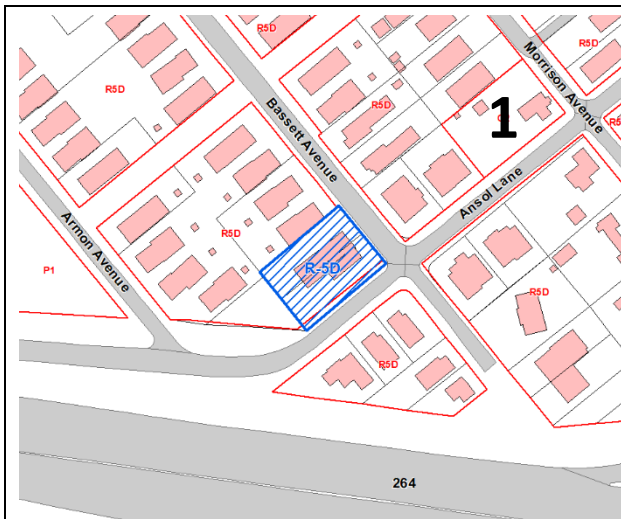


Background & Summary of Proposal

- The applicant is proposing to subdivide two lots, named "Lot 5" and "Lot 6", in order to create a total of three lots within the R-5D Residential Zoning District. The dimensional standards for lots in this district require a lot size of at least 5,000 square feet and a minimum lot width of 50 feet, with an additional 10 feet in width for corner lots.
- Lot 5 and Lot 6 were created by a plat recorded under Map Book 59, Page 8 in 1895. Although a single-family home is currently present across both lots, the property line dividing Lots 5 and 6 was never vacated.
- The proposed three lots, Lot 5A, Lot 6A, and Lot 6B, would all be 5,000 square feet in lot area with 50-foot lot widths. Since proposed Lot 6A has frontage on both Ansol Lane and Bassett Avenue, the proposed 50-foot lot width would not meet the 60-foot lot width requirement for a corner lot. As Lot 6A would not meet all dimensional standards required by the Zoning Ordinance for parcels in the R-5D Residential District, a variance to Section 4.4(b) of the Subdivision Regulations is required.

Proposed Lot	Required Street Line Frontage in R-5D (feet)	Proposed Street Line Frontage (feet)	Required Lot Width (feet)	Proposed Lot Width (feet)	Required Lot Area (square feet)	Proposed Lot Area (square feet)
Lot 5A	40	50	50	50	5,000	5,000
Lot 6A	48	50	60*	50	5,000	5,000
Lot 6B	40	50	50	50	5,000	5,000

*Variance requested



Zoning History

#	Request
1	REZ (R-5D to O-2) Approved 01/20/1975

Application Types

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

Evaluation & Recommendation

Section 9.3 of the Subdivision Regulations states:

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

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

The existing lots were created in 1895 prior to the establishment of the Subdivision Regulations and Zoning Ordinance. According to Section 105(g) of the Zoning Ordinance, "Any conforming principal or accessory use, conditional use or conforming structure housing such use may be enlarged, extended, constructed, located, or moved on any lot created prior to the effective date of this ordinance regardless of the size or dimensions of such lot, provided that other requirements of this ordinance are met." This would include the ability to develop the lots with duplexes as many of the neighboring lots have done. The current dimensional requirements for a duplex lot in the R-5D Residential Zoning District include a 10,000 square foot minimum lot area and a 75-foot lot width. The existing lots each only have 5,000 square feet in lot area and 50 feet in width.

Rather than potentially establish a duplex use which would only half meet the required lot area, the applicant proposes to create three lots which would be limited to single-family homes. Each lot would be able to meet the 5,000 square foot minimum lot area. Lots 5A and 6B will also meet the 50-foot width requirement. Lot 6A will not be able to meet the 60-foot width required of a corner lot, but this would still represent a less extreme deviation from the current requirement than a potential duplex use would on the existing lots.

While duplexes on substandard lots would not necessarily be out of character with the surrounding neighborhood, it would be a positive step to bring the lots closer to conformance with the current Zoning Ordinance. The neighborhood is also within the Lynnhaven Strategic Growth Area and is therefore subject to additional aesthetic review of proposed dwellings. The applicant has worked with Staff to provide renderings to show how they plan to visually improve the neighborhood with architecturally desirable homes.

In modernizing these lots, to both closer meet the Zoning Ordinance and visually adhere to the recommendations of the Lynnhaven SGA, Staff's position is that the variance request will serve to improve the lots as well as the surrounding neighborhood and is in support of the request subject to the conditions provided below.

Recommended Conditions

1. When the Property is developed, it shall be developed substantially as shown on the exhibit entitled, "Single Family Development Exhibit, Lots 5 & 6, Block 12", prepared by WPL, copies of which have been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning (hereinafter, the "Subdivision

Plans”).

2. The applicant shall grant a reservation for the property lines at the southeast corner of Lot 6A, where Ansol Lane and Bassett Avenue intersect, to be rounded with a radius of ten (10) feet as required by Section 4.1(j) of the Subdivision Regulations. This reservation shall then be conveyed to the City of Virginia Beach following the recordation of the plat for the sum of \$1.00.
3. All future development of these lots shall be in conformance with the Lynnhaven Strategic Growth Area Master Plan and in compliance with the Strategic Growth Area’s Guiding Design Principles.

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 in the Lynnhaven Strategic Growth Area. The Lynnhaven SGA seeks to capitalize on existing adjacent assets such as the Lynnhaven River/London Bridge Creek system and healthy neighborhoods. Maintaining the health of a neighborhood can be accomplished by protection of the overall character, economic value, and aesthetic quality of the existing surrounding neighborhoods as well as including efforts to protect the natural environment and the historic and cultural resources.

Natural & Cultural Resources Impacts

The site is located in the Chesapeake Bay Watershed. No wetlands, floodplains subject to special restrictions, or watershed buffer areas lie within the subject site. No negative impact to any natural or cultural resources is anticipated.

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Ansol Lane	N/A ¹	N/A ¹	Existing Land Use ² – 30 ADT ⁴ Proposed Land Use ³ – 30 ADT ⁴
¹ Volume and capacity are not defined for Local Streets ² as defined by a duplex ³ as defined by three single-family homes ⁴ Average Daily Trips			

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

Ansol Lane and Bassett Avenue are both defined as Local Streets. There are no plans to expand either roadway beyond their current use. The Average Daily Trips (ADT) as calculated by the most intense use permitted on each lot, a duplex, would be 30 ADT. The proposed three single family homes would have an equal ADT of 30, therefore; no increase in potential ADT is anticipated.

When a corner lot at the intersection of two local streets is to be subdivided, the Subdivision Regulations require that the corner of the lot nearest to the intersection be rounded with a minimum radius of ten (10) feet. This would cause Lot 6A to be substandard in terms of lot area. A condition has been added allowing a reservation for the corner rounding to be made to the City of Virginia Beach following the subdivision of the property so that it will still meet the minimum lot area at the time of recordation.

Public Utility Impacts

Water

City water is available.

Sewer

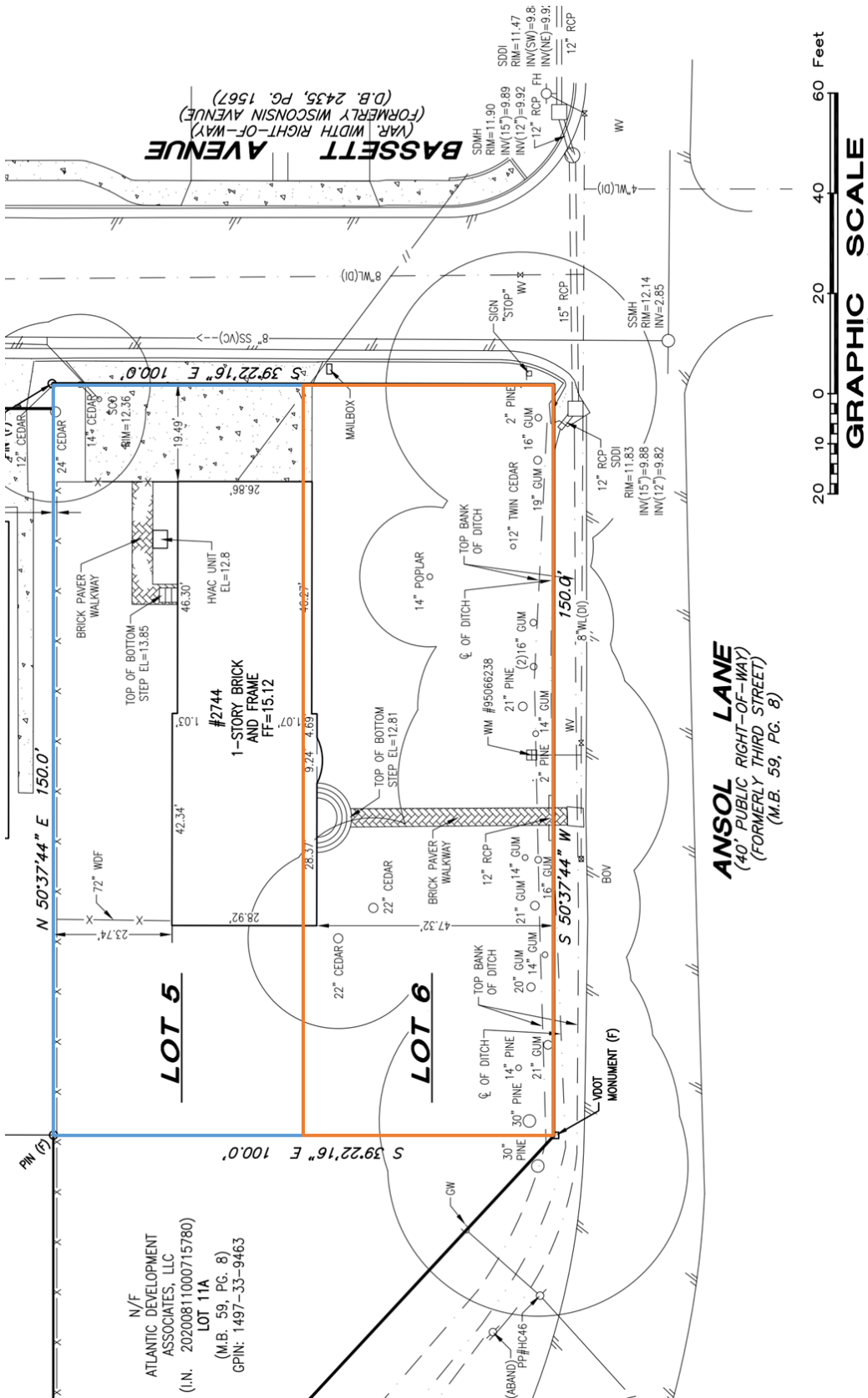
City sanitary sewer is available.

Public Outreach Information

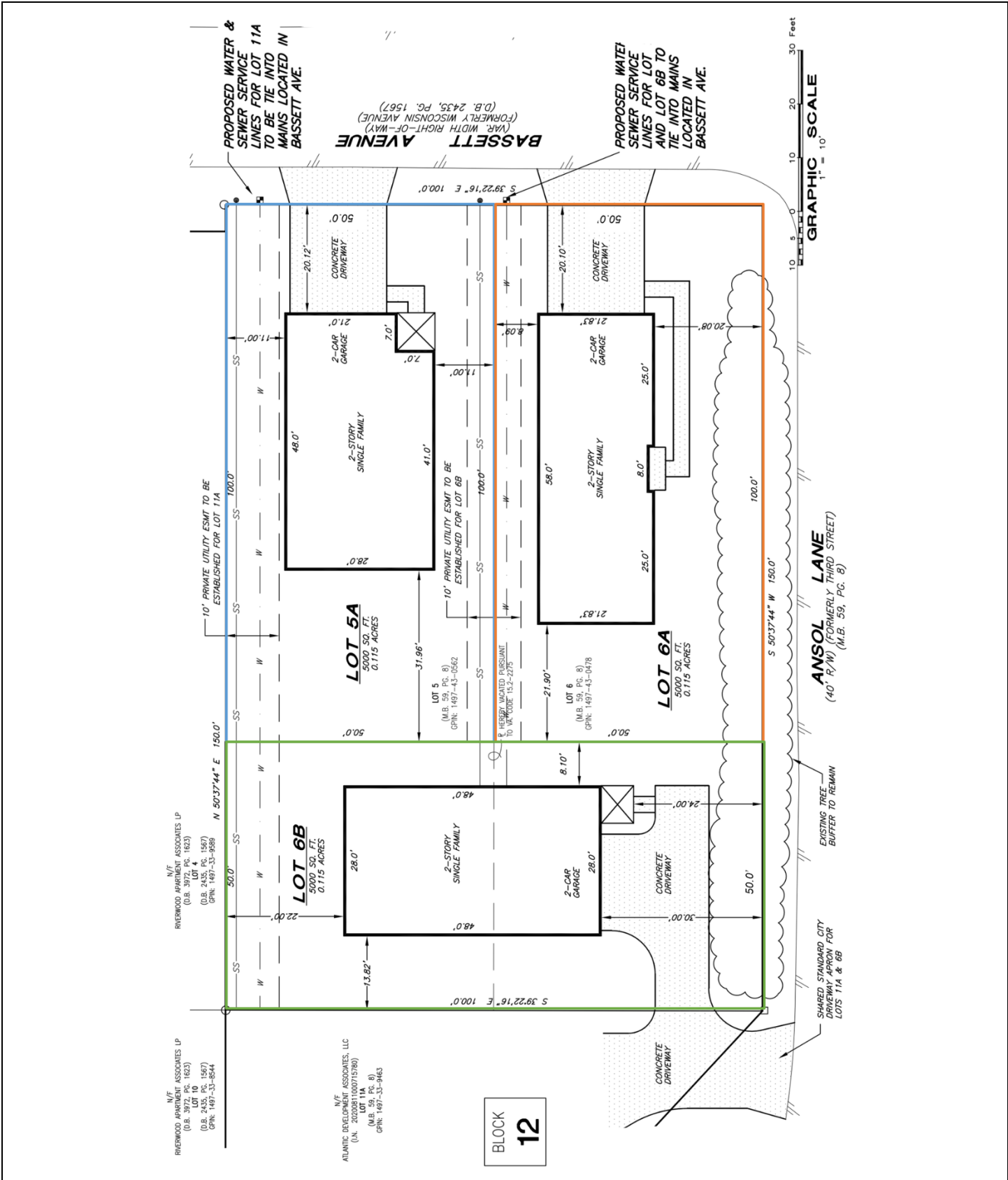
Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on October 11, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, October 24, 2021 and October 31, 2021.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on October 25, 2021.
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Existing Lot Layout



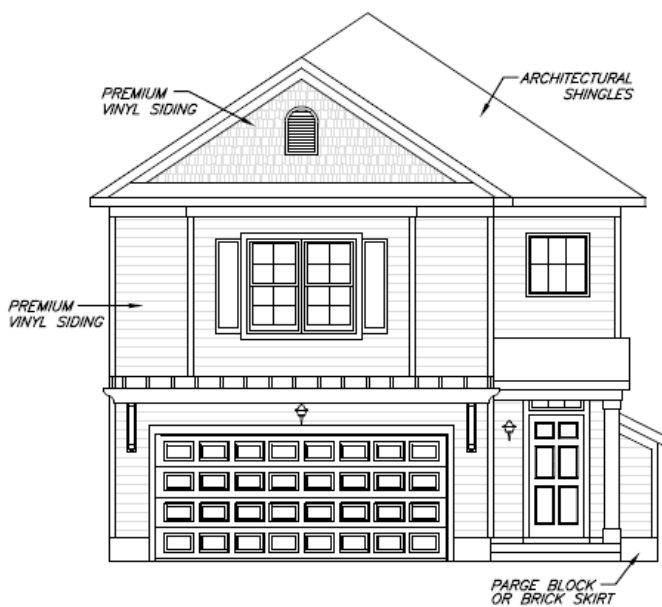
Proposed Subdivision



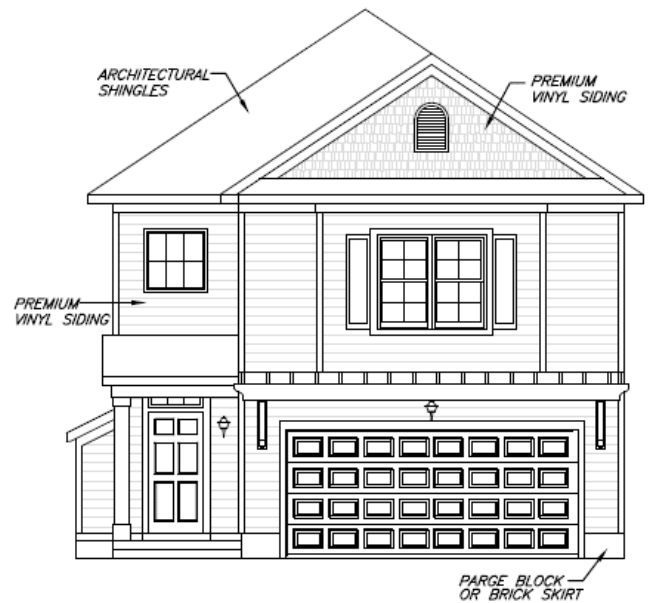
Lot 6A Rendering and Materials



Lots 5A and 6B Renderings and Materials



LOT 6B



LOT 5A

Site Photos



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Applicant Name Atlantic Development Associates, L.L.C.

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

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

R. Edward Bourdon, Jr., 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)

Brian C. Large, Sole Member

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

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

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

Disclosure Statement



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

☒ Yes ☐ No

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

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.

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.

Eric Garner, WPL

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

• If **yes**, identify the 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.

Atlantic Development Associates, L.L.C.

By: 

Applicant Signature

Brian C. Large, Sole Member

Print Name and Title

8/31/21

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 Rezoning (B-1 Neighborhood Business to Conditional B-2 Business District)

Staff Recommendation

Approval

Staff Planner

Hank Morrison

Location

1532 Laskin Road

GPIN

2417091256

Site Size

81,202 square feet

AICUZ

Greater than 75 dB DNL

Watershed

Chesapeake Bay

Existing Land Use and Zoning District

Eating & Drinking Establishment / B-1
Neighborhood Business

Surrounding Land Uses and Zoning Districts

North

Undeveloped / O-2 Office

South

Laskin Road, religious use / A-12 Apartment

East

Single-family dwellings / R-20 Residential

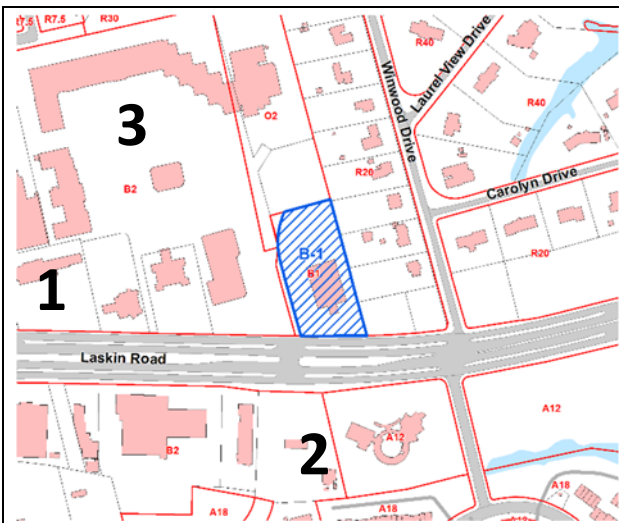
West

Retail / B-2 Community Business



Background & Summary of Proposal

- The applicant is requesting a Conditional Rezoning from B-1 Neighborhood Business to Conditional B-2 Community Business to convert an existing, vacant building into an eating and drinking establishment with virtual golf simulators. While the restaurant has been and could continue to operate without Planning Commission and City Council consideration, the golf simulators are considered “Indoor Recreation” by the Zoning Ordinance, which is not a permitted or a conditional use in the B-1 Zoning District. Thus, a Conditional Rezoning to B-2 is required.
- The 81,202 square foot site is located along Laskin Road, within the Hilltop Strategic Growth Area (SGA), and adjacent to the the Hilltop East Shopping Center. The property is currently developed with a 10,000 square foot restaurant building.
- A 3,000 square foot addition is proposed for the west side of the structure. The exterior of the building will undergo a full renovation, including a redesign of the existing covered drop off area, with new paint, stucco, and a mixture of metal, glazing, and wood materials.
- The dining area will be approximately 9,143 square feet, with approximately 4,075 square feet dedicated to seven private golf simulator rooms and one larger VIP golf simulator room.
- A total of 111 parking spaces are required for the proposed uses. There are 131 spaces depicted on the layout plan.
- The site is adjacent to residential uses. However, there is a six-foot tall vegetated berm along the eastern property line that has created a barrier between the properties, which helps to mitigate potential nuisances such as noise and light emanating from the subject property.



Zoning History

#	Request
1	CUP (Indoor Recreation) Approved 01/13/1993
2	CUP (Private School) Approved 04/10/1996
3	CUP (Flea Market) Approved 02/26/2013

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 to rezone from B-1 Neighborhood Business to Conditional B-2 Business is acceptable. The proposed redevelopment is compatible with the Hilltop Strategic Growth Area (SGA) Plan, which designates this site as

“nonresidential mixed-use.” The Comprehensive Plan encourages the redevelopment of outdated commercial structures; because of the age of the building and its prior history as an eating and drinking establishment, it is a good candidate for redevelopment and reinvestment. Additionally, the substantial earthen berm along the eastern property line will continue to provide separation between, and limit potential negative impacts to, the adjacent residential uses.

After consulting with Traffic Engineering, the applicant has proffered a conceptual site plan that reflects the ongoing and imminent improvements that are planned for the roadway project on Laskin Road. These improvements include closing one of the curb cuts along Laskin Road, which will reduce potential points of conflict and improve traffic and pedestrian safety in the area.

There is a legally nonconforming sign on the property. In discussion with staff, the applicant has agreed to remove the nonconforming sign and replace it with one that conforms to the current standards of the Zoning Ordinance. The proffers will be updated between the Planning Commission Public Hearing and the City Council Public Hearing.

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

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 redeveloped, it shall be developed and landscaped substantially as shown on the exhibit entitled “ARCHITECTURAL SITE PLAN DIAGRAM ADDITION AND RENOVATIONS FOR HACKER’S AT HILLTOP,” dated August 31, 2021, which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning (hereinafter “Site Plan”).

Proffer 2:

The exterior of the building depicted on the Site Plan shall be substantially similar in appearance to the elevations shown on the exhibits labeled, “ADDITIONS AND RENOVATIONS FOR HACKER’S AT HILLTOP SD101 AND SD202,” dated August 31, 2021, prepared by Altruistic Design (“Renderings”) with the exterior building materials being painted stucco, metal, glazing and wood as depicted on the Renderings, which have been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning.

Proffer 3:

The freestanding monument sign designated on the Site Plan shall be internally illuminated using the base material and colors, substantially as depicted on the “Monument Sign Exhibit – Hacker’s at Hilltop,” dated August 31, 2021, which has been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning.

Proffer 4:

The enclosure for the dumpster as designated on the Site Plan shall utilize the material and colors substantially as depicted on the “Dumpster Enclosure Exhibit Hacker’s at Hilltop,” dated August 31, 2021, which has been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning.

Proffer 5:

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

Proffer 6:

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

Staff Comments: Staff has reviewed the Proffers listed above and recommends that the nonconforming sign on the property be removed and replaced with a monument style sign and that all other proposed signage also meet the minimum standards of the Zoning Ordinance. 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 subject property is located in the Hilltop Strategic Growth Area (SGA), which is designated as one of the eight urban areas in the city by the Comprehensive Plan. The Hilltop SGA Plan designates this area as nonresidential mixed-use with a permitted maximum height of five stories.

Natural & Cultural Resources Impacts

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

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Laskin Road	27,800 ADT ¹	36,900 ADT ¹ (LOS ⁴ "D") Future Capacity: 70,400 ADT ¹ (LOS ⁴ "D")	Existing Land Use ² – 1,122 ADT ¹ Proposed Land Use ³ – 1,459 ADT ¹
¹ Average Daily Trips ² as defined by a 10,000 sf restaurant ³ as defined by a 13,000 sf restaurant ⁴ LOS = Level of Service			

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

Laskin Road is a four-lane major urban arterial. The VDOT Laskin Road Phase IA project, which is currently under construction, will widen Laskin Road to eight lanes and remove the feeder road in front of this site. The site will have a direct access point to Laskin Road after completion of this project, which is currently scheduled for May 2023.

Public Utility Impacts

Water and sanitary sewer service must be verified and improved if necessary, so that the proposed development will have adequate water pressure, fire protection, and sanitary sewer service.

Water

The site is currently connected to City water. The existing two-inch domestic meter and six-inch fire meter may be used or upgraded to accommodate the proposed development.

Sewer

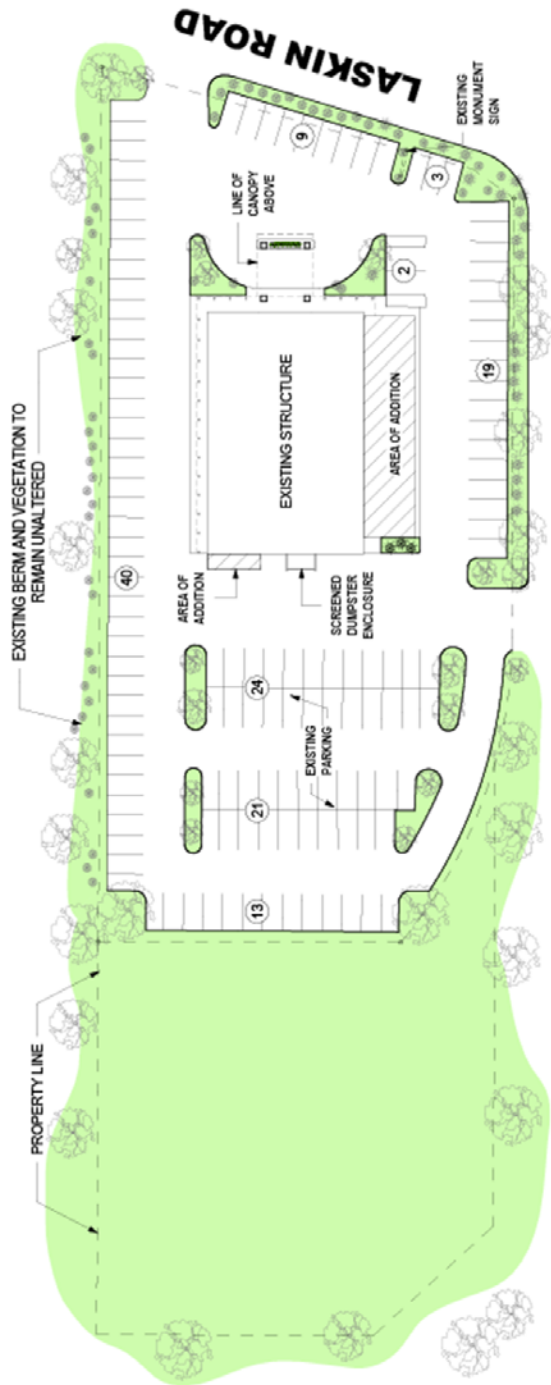
The site is currently connected to the City sanitary sewer.

Public Outreach Information

Planning Commission

- As required by the Zoning Ordinance, the public notice sign was placed on the property on October 11, 2019.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, October 24, 2021 and October 31, 2021.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on October 25, 2021.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.vbgov.com/pc on November 4, 2021.

Proposed Site Layout



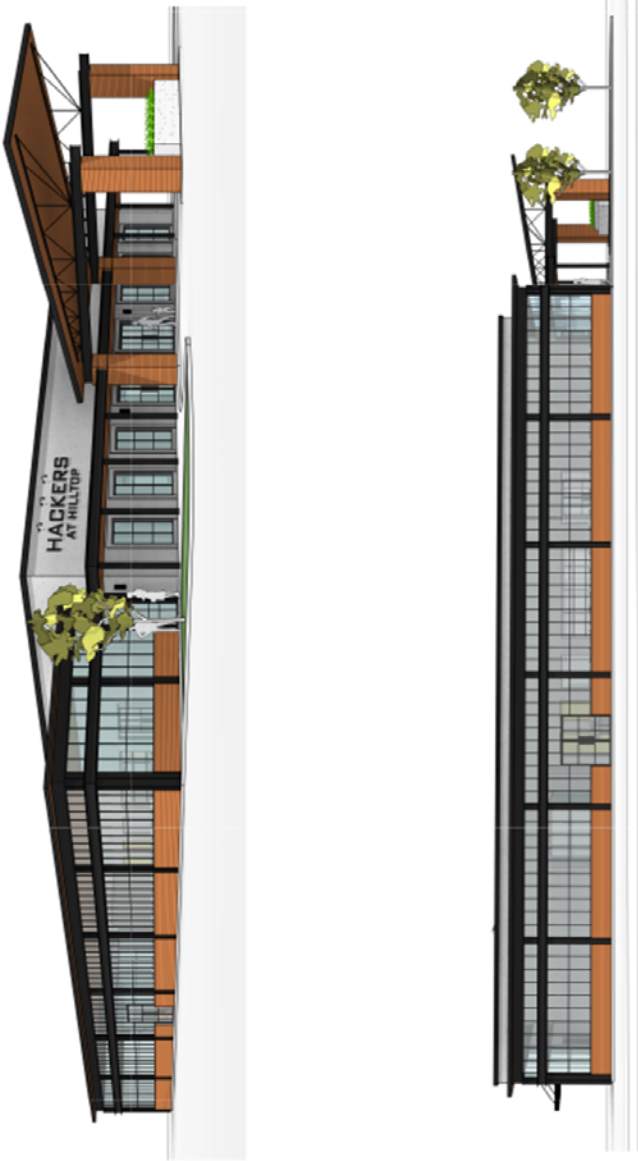
ARCHITECTURAL SITE PLAN DIAGRAM
1" = 50'-0"



SD100
SITE PLAN
08.31.2021

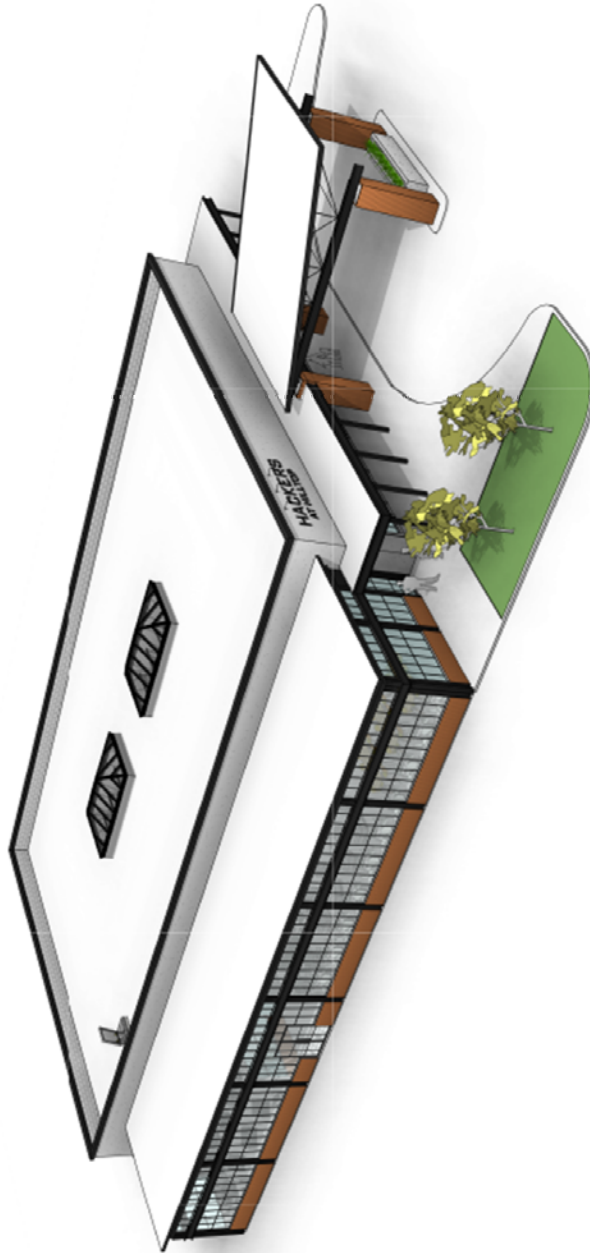
ADDITION AND RENOVATIONS FOR
HACKER'S AT HILLTOP
1532 LASKIN ROAD, VIRGINIA BEACH, VIRGINIA 23451

Proposed Elevation Plan



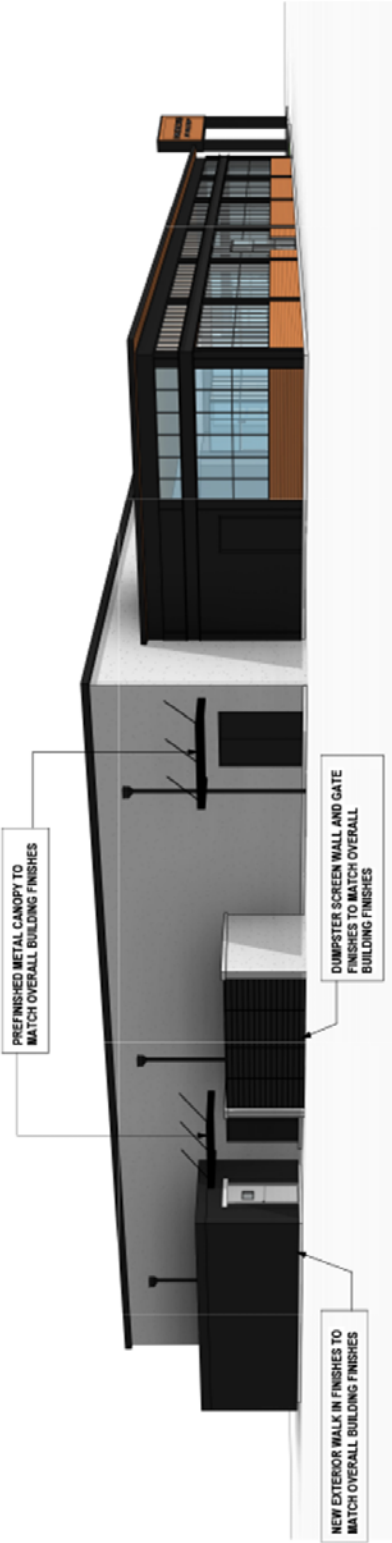
SD201
CONCEPTUAL 3D
VIEWS
08.03.2021

ADDITION AND RENOVATIONS FOR
HACKER'S AT HILLTOP
1532 LASKIN ROAD, VIRGINIA BEACH, VIRGINIA 23451



SD202
CONCEPTUAL 3D
VIEWS
08.03.2021

ADDITION AND RENOVATIONS FOR
HACKER'S AT HILLTOP
1532 LASKIN ROAD, VIRGINIA BEACH, VIRGINIA 23461



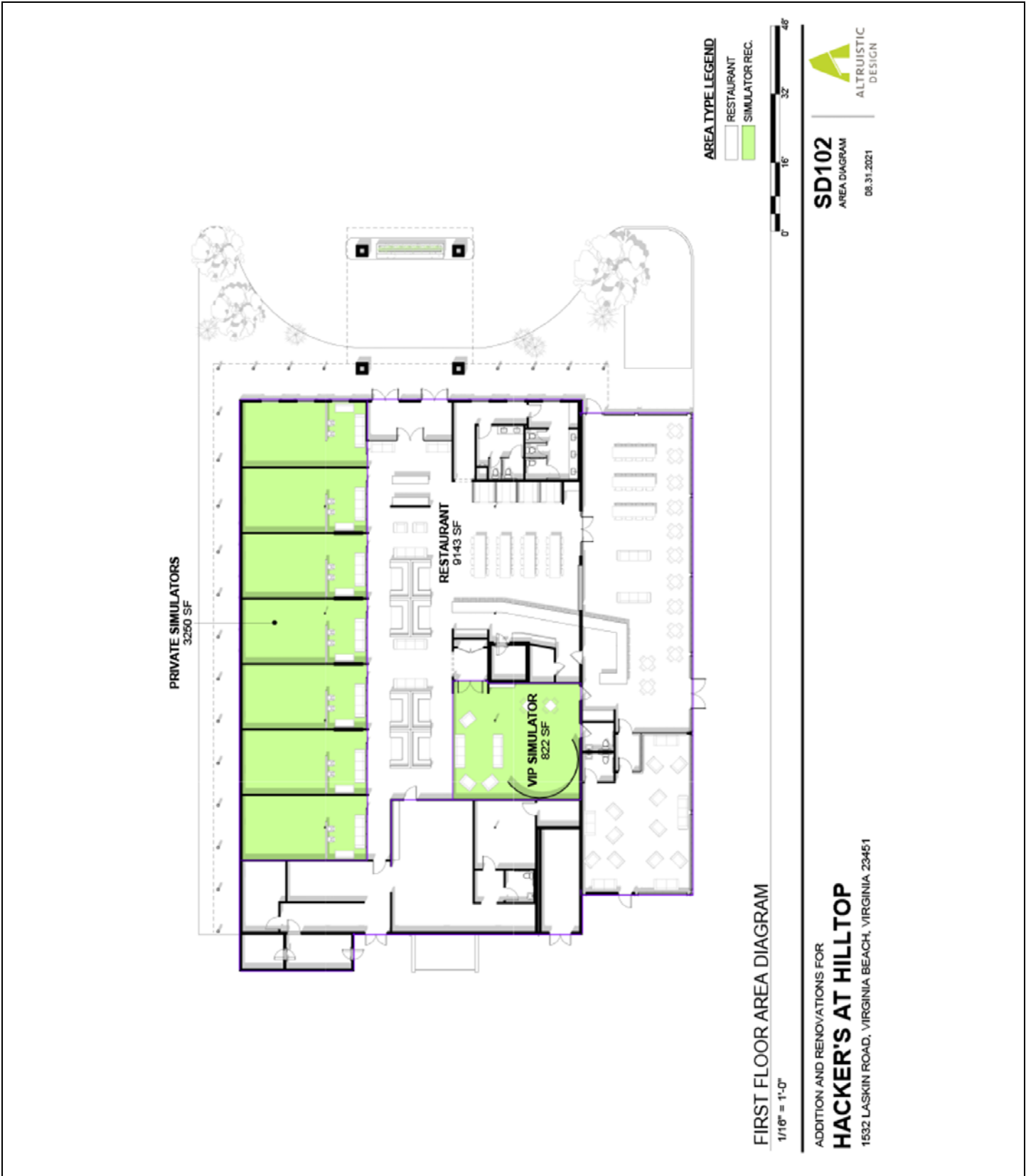
TRASH ENCLOSURE DESIGN
NOT TO SCALE

ADDITION AND RENOVATIONS FOR
HACKER'S AT HILLTOP
1532 LASKIN ROAD, VIRGINIA BEACH, VIRGINIA 23451

SD105
TRASH ENCLOSURE
DESIGN
10.22.2021



Proposed Floor Plan



Site Photos



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 Hackers, LLC, a Virginia limited liability company

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

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

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

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

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

Edward Ore, Manager

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

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

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

Disclosure Statement



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

☐ Yes ☒ No

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

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

☐ Yes ☒ No

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

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

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

Minton CPAs & Associates

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.

Jeremy Maloney, Altruistic Design

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.

Rudolph Construction Partners, LLC

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.

Altruistic Design / Architectural Site Plan Diagram [Building owner provided survey completed by AES Consulting Engineers]

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.; Gabe McCoy, Esq., Pierce McCoy, PLLC

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.

Hackers, LLC

By: Edward B. Ore

Applicant Signature

Edward Ore, Manager Edward B. Ore

Print Name and Title

08/31/21

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	

Disclosure Statement



Owner Disclosure

Owner Name Potter Properties Group, LLC

Applicant Name Hackers, LLC, a Virginia limited liability company

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

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

Walter R. Potter, Manager; Members: Walter R. Potter, Trustee of the John Ray Potter Post 645 Trust; Deane P. Zimmerman, Trustee of the Dean S. Potter, Jr. Family Irrevocable Trust-2012; G. Brock Potter, Jr., Trustee of the Gordon B. Potter Family Irrevocable Trust-2012

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

Known Interest by Public Official or Employee

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

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Disclosure Statement



Owner Services Disclosure

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

☐ Yes ☒ No

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

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

☒ Yes ☐ No

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

Potter & Company

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.

Jones CPA Group

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.

Larry Barry, AES Consulting Engineers

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.

R. Edward Bourdon, Jr., Esq., Sykes, Bourdon, Ahern & Levy, P.C.; Lawrence H. Bryant, Esq., Williams Mullen

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.

Potter Properties Group, LLC

By: 

Owner Signature

Walter R. Potter, Manager

Print Name and Title

8/31/2021

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.
- 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 (Tattoo Parlor)

Staff Recommendation

Approval

Staff Planner

Antionette Fowlkes

Location

549 Newtown Road, Suite 109

GPIN

1468206651

Site Size

1.47 acres

AICUZ

Less than 65 dB DNL

Watershed

Chesapeake Bay

Existing Land Use and Zoning District

Shopping center / B-2 Community Business

Surrounding Land Uses and Zoning Districts

North

Automobile service station / B-2 Community Business

South

Mixed retail, multi-family dwellings / B-2 Community Business, A-12 Apartment

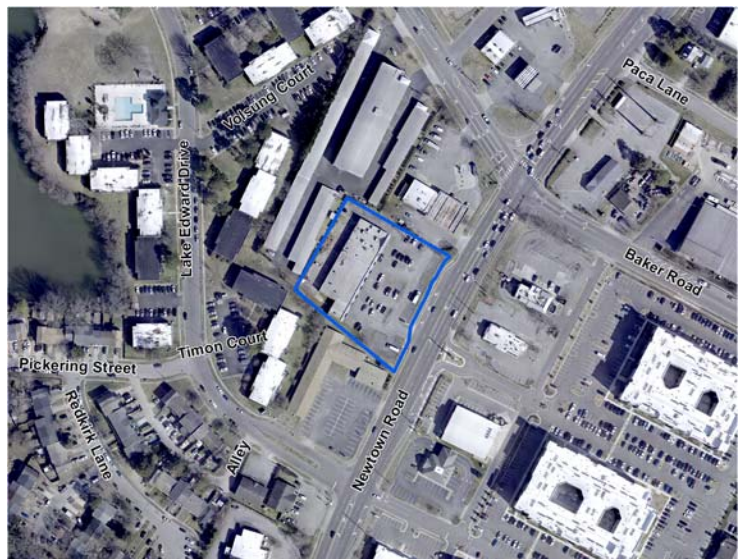
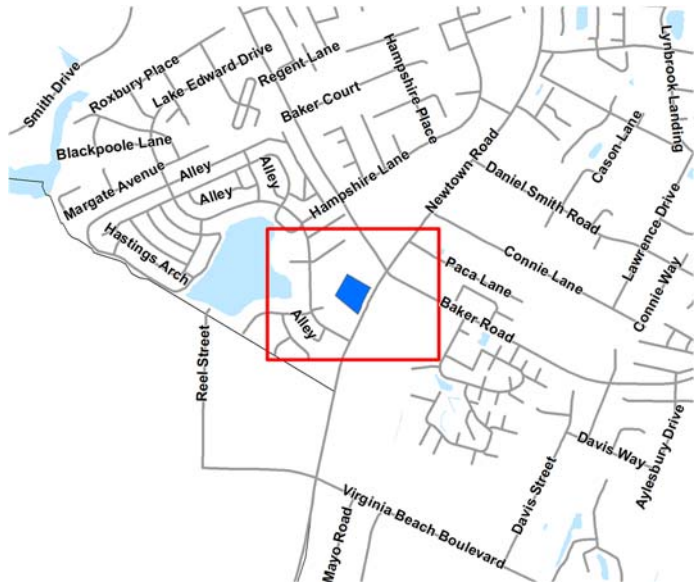
East

Newtown Road

Restaurants, mixed retail, multi-family dwellings/ B-2 Community Business, B-4 Mixed Use

West

Mini-warehouse, multi-family dwellings / B-2 Community Business, A-12 Apartment



Background & Summary of Proposal

- The applicant is requesting to operate a Tattoo Parlor, specifically for the application of permanent makeup, known as microblading. The operation will occur with an existing 8,758 square foot unit in a shopping center along Newtown Road.
- According to the application, only one employee is anticipated.
- The hours of operation are proposed as 8:00 a.m. to 2:00 p.m., Monday through Saturday by appointment.
- No exterior changes are proposed to the building or to the existing signage.



Zoning History

#	Request
1	CUP (Mini Warehouse/Self Storage) Approved 01/10/2021
2	CUP (Church) Approved 03/08/2005
3	CUP (Motor Vehicle Sales) Approved 02/01/2000

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 Conditional Use Permit request for a Tattoo Parlor is, in Staff's opinion, acceptable given that the use will be compatible with the other existing commercial businesses in the area. No additional parking is required within the shopping center, as it was designed to accommodate a variety of mixed retail and service uses.

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

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

Recommended Conditions

1. A business license for the Tattoo Parlor shall not be issued to the applicant without the approval of the Health Department to ensure 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. This Conditional Use Permit for a Tattoo Parlor shall be limited to only microblading, a tattooing technique used in the application of permanent make-up. No other form of tattooing shall be permitted.
4. 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 Comprehensive Plan designates the subject property as Suburban Area. Guiding principles have been established in the Comprehensive Plan to guard against possible threats to the stability of the Suburban Area and to provide a framework for neighborhoods and places that are increasingly vibrant and distinctive. The Plan's primary guiding principle for the Suburban Area is to create "Great Neighborhoods," and to support those neighborhoods with complementary non-residential uses in such a way that working together the stability and sustainability of the Suburban Area is ensured for now and the future.

Natural & Cultural Resources Impacts

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

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Newtown Road	40,532 (Newtown Road-2010) ADT ¹	31, 000 ADT ¹ (LOS ² "D")	No Change is Anticipated
¹ Average Daily Trips		² LOS = Level of Service	

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

Newtown Road, in the vicinity of this application, is considered a four-lane undivided minor suburban arterial. The MTP proposes a divided facility with bikeway within a 150-foot right-of-way. No roadway CIP projects are slated for this roadway surrounding the site.

Public Utility Impacts

Water & Sewer

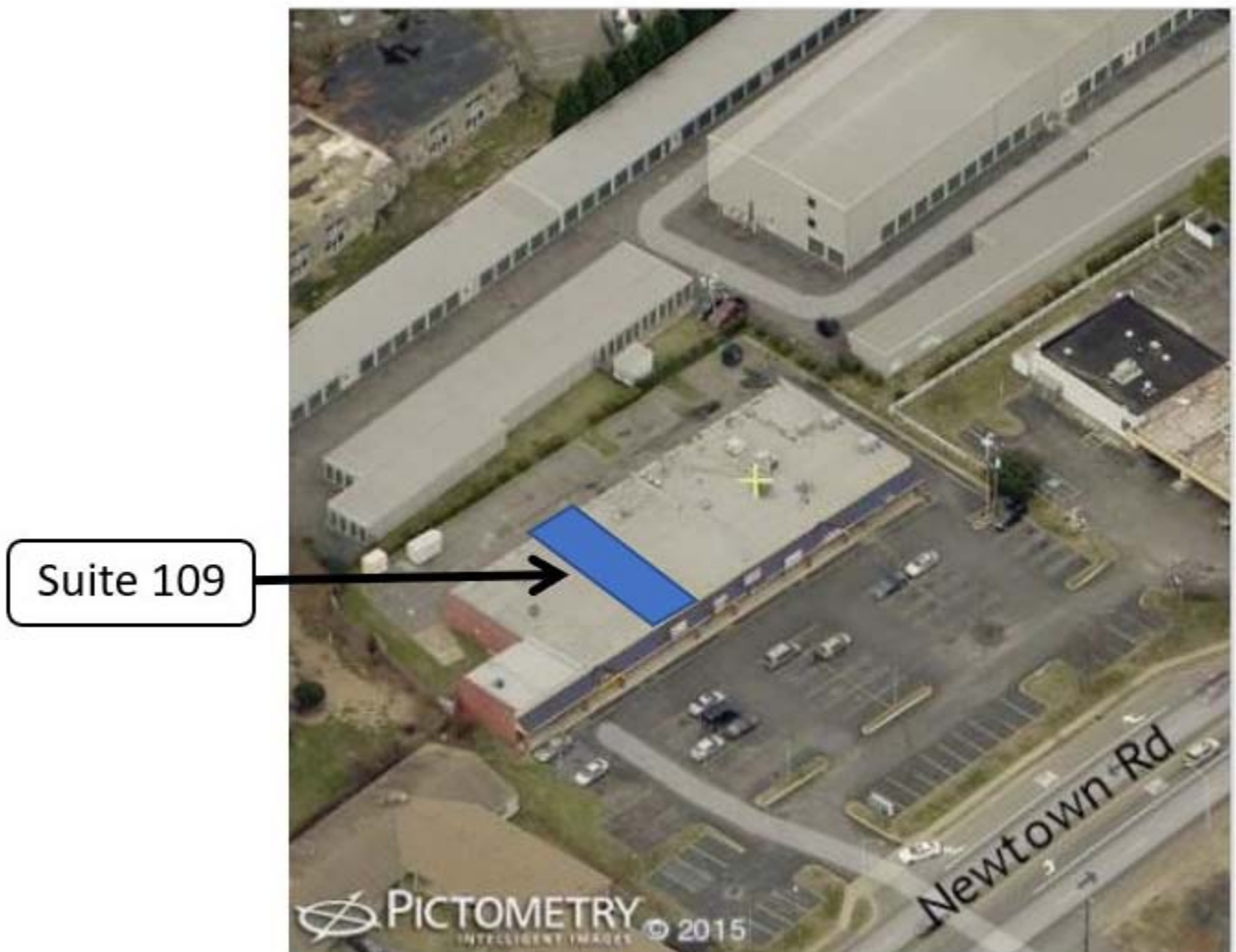
This site is currently connected to both City water and sanitary sewer services. Water and sanitary sewer service must be verified and improved if necessary, so that the proposed development will have adequate water pressure, fire protection and sanitary sewer service.

Public Outreach Information

Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on October 11, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, October 24, 2021 and October 31, 2021.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on October 25, 2021.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.vbgov.com/pc on November 4, 2021.

Proposed Site Layout



Site Photo



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 Jose M. Rivera

Does the applicant have a representative? ☐ Yes ☒ No

- If yes, list the name of the representative.

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

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

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

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

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



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

☐ Yes ☒ No

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

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

☐ Yes ☒ No

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

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

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

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

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

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

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

Disclosure Statement

Disclosure Statement



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

Jose M Rivera / Tenant

Print Name and Title

Jose M. Rivera

Date 9-15-21


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

Disclosure Statement

Disclosure Statement	 City of Virginia Beach Planning & Community Development
K&P ENTERPRISES L.L.C.	
Owner Disclosure	
Owner Name	<u>Sam Phillos</u> <u>SERAPHIM T. PHILLOS (MEMBER)</u>
Applicant Name	<u>Jose M. Rivera</u>
Is the Owner a corporation, partnership, firm, business, trust or an unincorporated business? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
• If yes, list the names of all officers, directors, members, trustees, etc. below. (Attach a list if necessary)	
<u>SERAPHIM T. PHILLOS (MEMBER)</u>	
<u>STEVEN M. KAMSIUK (MEMBER)</u>	
• If yes, list the businesses that have a parent-subsidary ³ or affiliated business entity ⁴ relationship with the Owner. (Attach a list if necessary)	
<u>NONE</u>	
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? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
• If yes, what is the name of the official or employee and what is the nature of the interest?	
<small>³ "Parent-subsidary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, VA. Code § 2.2-3101.</small>	
<small>⁴ "Affiliated business entity relationship" means "a relationship, other than parent-subsidary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.</small>	
5 Page	

Disclosure Statement



Owner Services Disclosure

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

☐ Yes ☒ No

- If yes, identify the financial institutions.

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

☐ Yes ☒ No

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

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

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

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

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

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

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

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

- If yes, identify the construction contractor.

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

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

Disclosure Statement



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

Owner Signature

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

Owner Signature

A handwritten signature in dark ink, appearing to read 'Seraphim T. Phillos'.

Print Name and Title

SERAPHIM T. PHILLOS, MEMBER

Date

2-17-2021

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

Brandon Hackney

Location

407 18th Street, Unit A

GPIN

24270763310001

Site Size

11,124 square feet

Existing Land Use and Zoning District

Multi-family dwelling / OR Oceanfront Resort

Surrounding Land Uses and Zoning Districts

North

Multi-family dwellings / OR Oceanfront Resort

South

18th Street

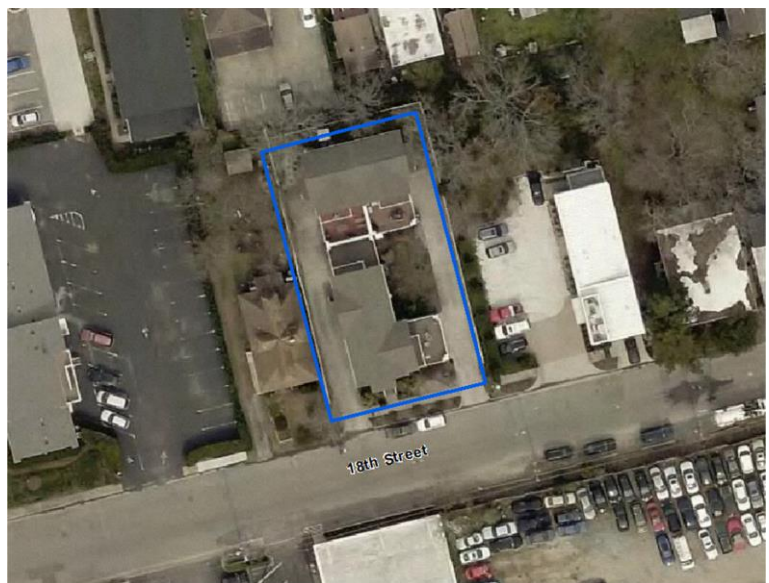
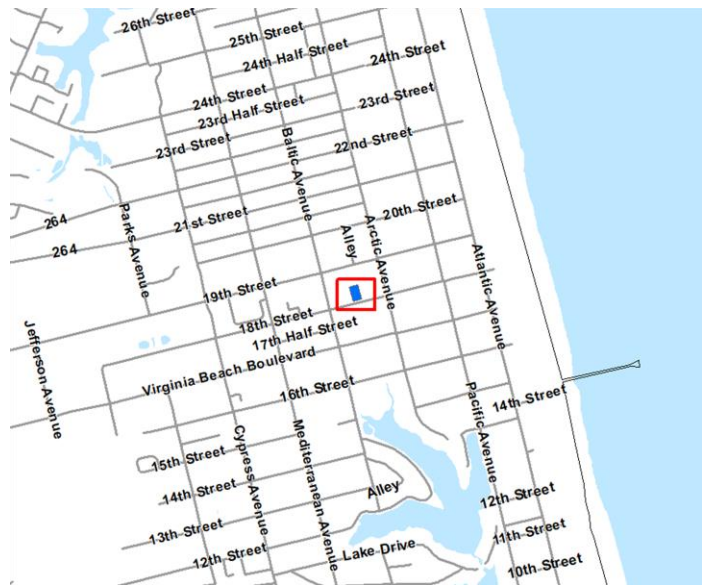
Commercial towing company / OR Oceanfront Resort

East

Office / OR Oceanfront Resort

West

Duplex / OR Oceanfront Resort



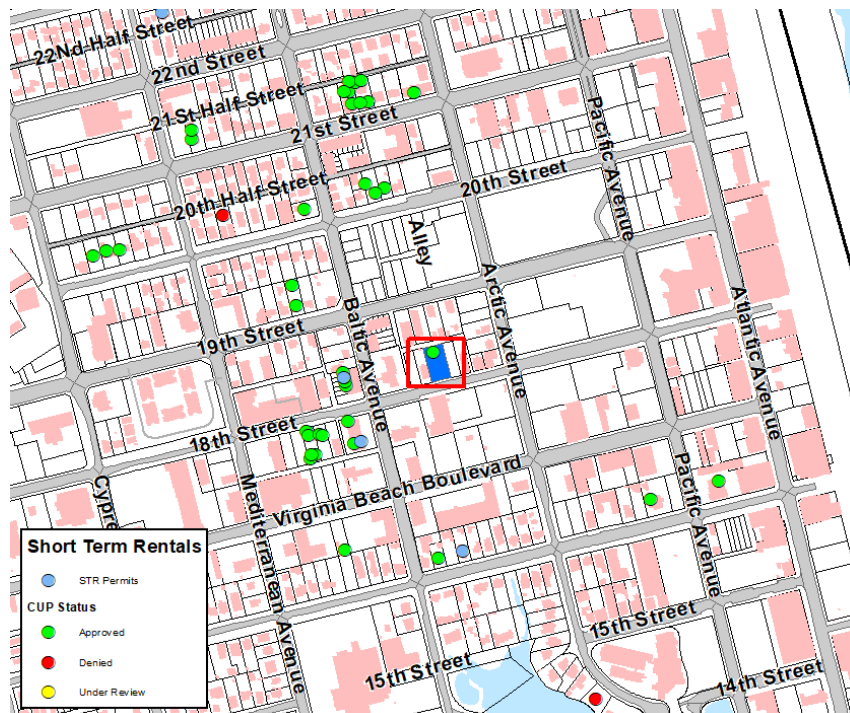
Background & Summary of Proposal

Site Conditions and History

- This parcel is 11,124 square feet and zoned OR Oceanfront Resort.
- According to City records, this three-bedroom home was constructed in 2008.
- Unit A is one of four dwelling units located on the property.
- In 2020, Unit D was approved for a Conditional Use Permit for a four-bedroom Short Term Rental.
- This application is for Unit A, which has three bedrooms.
- This site is located in the ViBe Creative District and is approximately 0.3 miles from a public beach access.
- Staff inspected the site on July 8, 2021 to observe site conditions and take photographs for this report.
- According to the applicant, this property was not used for Short-Term Rental purposes prior to July 1, 2018; therefore, a Conditional Use Permit for the Short Term Rental use is required.
- Known Short Term Rental activity as of 09/12/2021:

CURRENTLY ADVERTISED	LAST KNOWN RENTAL	REGISTERED WITH THE COMMISSIONER OF THE REVENUE
No	N/A	No

Short Term Rentals in the Vicinity

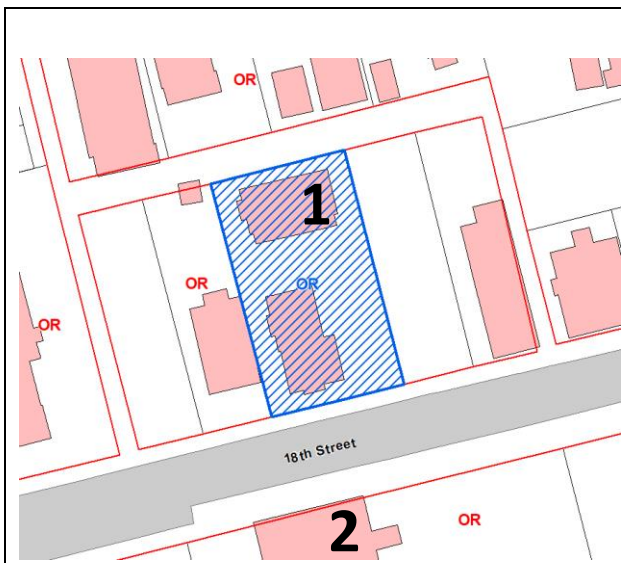


Summary of Proposal

The applicant submitted a Conditional Use Permit request to operate a Short Term Rental on the subject site. The regulations for Short Term Rental use are identified in Section 241.2 of the City Zoning Ordinance. Specific details pertaining to this application are listed below.

- Number of bedrooms in the Short Term Rental: 3
- Maximum number of guests permitted on the property after 11:00 pm: 6 - As required in condition 19
- Number of parking spaces required (1 space per bedroom required): 3
- Number of off-street parking spaces provided: 3*

*2 parking spaces will be leased at the parking lot for Beads and Rocks, located 0.2 miles from the subject property at 335 Virginia Beach Boulevard.



Zoning History

#	Request
1	CUP (Short Term Rental) Approved 06/09/2020
2	CUP (Automobile Museum) Approved 12/07/2010

Application Types

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

Evaluation & Recommendation

The request for a three-bedroom short term rental is acceptable. There are two driveways, one running along each shared property line with the adjacent sites. Units A and D share one driveway, while Units B and C share the other driveway. Since the driveway is shared by two units, no parking on the driveway by the occupants of Unit A is permitted as it would block full driveway access to Unit D. The applicant has submitted a parking plan that depicts one parking space provided for Unit A on-site in the two-car garage, as permitted per Section 203 of the Zoning Ordinance. As a minimum of three parking spaces are required, the applicant also submitted proof of a parking agreement with the property owner of 335 Virginia Beach Boulevard to lease two parking spaces, thus ensuring that the parking requirement is met.

As allowed under the provisions of the Zoning Ordinance, the Zoning Administrator reviewed and approved the use of the two-car garage for one of the three required off-street parking spaces as well as the applicant's proposal to lease the remaining two parking spaces from the property owner of 335 Virginia Beach Boulevard. Thus, the requirements of Section 241.2 and Sections 2303 of the Zoning Ordinance regulating Short-Term Rentals can be reasonably met by the applicant. As the proposed Short Term Rental use is within the boundaries of the Residential Parking Permit Program (RPPP) where parking is limited, a condition is recommended to limit the number of guest and temporary passes while the Conditional Use Permit is active. This program was established to ensure the protection of stable residential neighborhoods while addressing the need for employee parking for businesses at the oceanfront.

Three letters of support have been received from the property owners of the other three units within the multi-family building. Based on the considerations above, Staff recommends approval of this request with the conditions listed below.

Recommended Conditions

1. The following conditions shall only apply to the dwelling unit addressed as 407 18th Street Unit A, and the Short Term Rental use shall only occur in the principal structure.
2. An annual (yearly) STR Zoning Permit must be obtained from the Department of Planning and Community Development (Zoning Administration) before using the dwelling for Short-Term Rental purposes.
3. Off-street parking shall be provided as required by Section 241.2 and 2303(b)(a)(i)(ii) of the City Zoning Ordinance or as approved by City Council.
4. The garage space within the unit must remain a minimum of 9-feet by 18-feet, contain a minimum 8-foot wide vehicle entryway opening, and shall remain free of materials to ensure vehicular accessibility to the Short Term Rental tenants.
5. Two (2) parking spaces, at a location subject to approval by the Zoning Administrator, shall be available for use by the Short Term Rental occupants at all times.
6. For properties located within the boundaries of the Residential Parking Permit Program (RPPP), while the Short Term Rental use is active, parking passes issued for the subject dwelling unit(s) through the RPPP shall be limited to two (2) resident passes only. Guest and temporary passes through the RPPP shall not be permitted.
7. 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.
8. 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.
9. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes and to be physical present at the Short Term Rental within one (1) hour.

10. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
 - a) A completed Department of Planning and Community Development Short Term Rental Zoning Permit; and
 - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
 - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
11. 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.
12. 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.
13. 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.
14. Accessory structures shall not be used or occupied as Short Term Rentals.
15. No signage shall be on-site, except that each short term rental shall have one (1) four-square foot sign posted on the building, or other permanent structure or location approved by the Zoning Administrator, that identifies the property as a short term rental and provides the telephone numbers for the Short Term Rental Hotlines in text large enough to be read from the public street.
16. The Short Term Rental shall have no more than one (1) rental contract for every seven (7) consecutive days.
17. 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.
18. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
19. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom, which number shall not include minors under the age of 16, provided that in no case may the total number of persons staying overnight at the property exceed the number of approved bedrooms multiplied by three (3).
20. The property owner, or their representative, shall provide to the City Planning Department permission to inspect the Short Term Rental property annually. Such inspection shall include: 1) At least one fire extinguisher has been installed inside the unit (in the kitchen) and in plain sight 2) Smoke alarms and carbon monoxide detectors are installed in accordance with the building code in affect at the of construction and interconnected. Units constructed prior to interconnection requirements must have a minimum of one smoke alarm installed on every floor of the structure and in the areas adjacent to all sleeping rooms, and when activated, be audible in all sleeping rooms, and 3) All smoke alarms and carbon monoxide detectors have been inspected within the last twelve months and are in good working order.

Properties managed by Short Term Rental Companies certified by the Department of Planning shall only be required to be inspected every three years. The inspection for compliance with the requirements above shall be performed by the Short Term Rental management company and be documented on a form prescribed by the Planning Department and shall be provided during the yearly permitting process.

Properties may be inspected annually for compliance with the requirements above by certified Short Term Rental Management Companies or Certified Home Inspectors. The compliance inspection shall be documented on a form prescribed by the Planning Department and shall be provided during the yearly permit process.

21. A structural safety inspection report shall be provided to the city every three (3) years indicating all exterior stairways, decks, porches, and balconies have been inspected by a licensed design professional qualified to perform such inspection (engineer or architect) and are safe for use. The report must indicate the maximum number of occupants permitted on each level of these structures and placards indicating the maximum number of occupants of all exterior stairways, decks, porches, and balconies must be posted on each level of these structures.

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

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

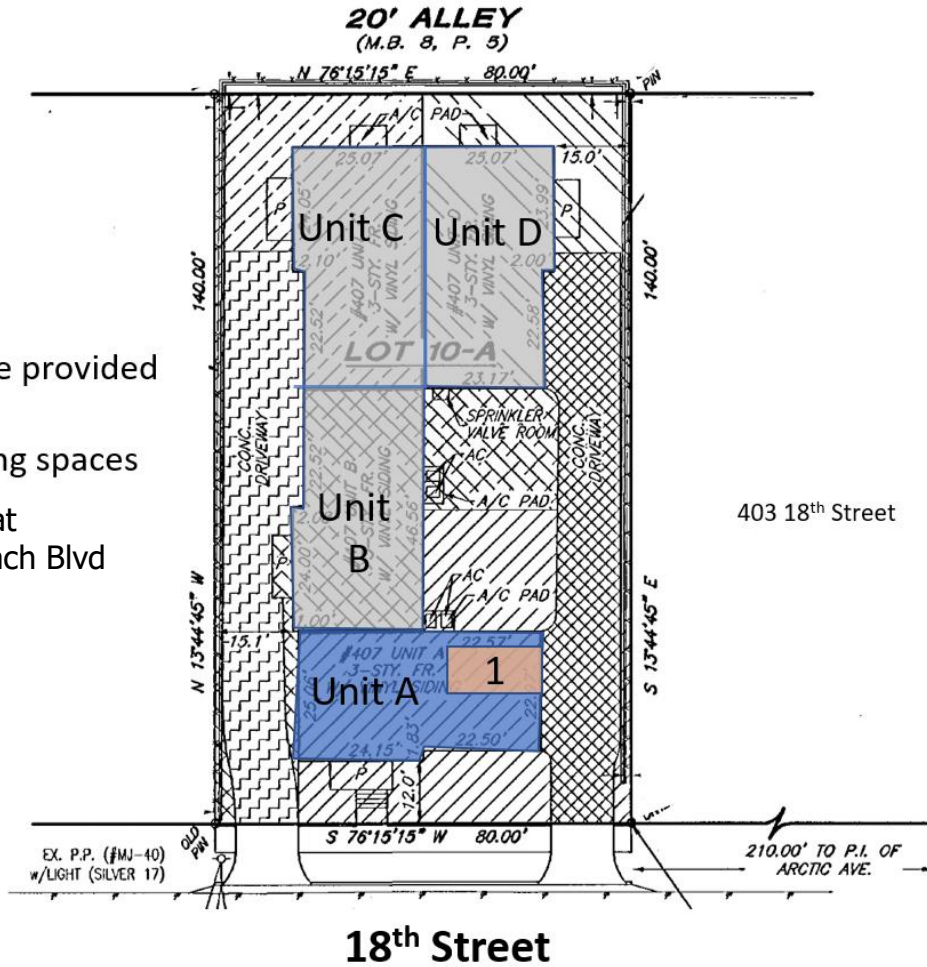
Public Outreach Information

Planning Commission

- The applicant reported that they met with the surrounding property owners, and no objections were raised. 3 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 October 11, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, October 24, 2021, and October 31, 2021.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on October 25, 2021.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.vbgov.com/pc on November 4, 2021.

Site Layout & Parking Plan

- 3-bedroom condominium
- 1 parking space provided on-site
- 2nd & 3rd parking spaces
- Leased off site at 335 Virginia Beach Blvd



Proposed Off-Site Parking

Off Site Parking
335 Virginia Beach Blvd
2 Reserved Parking Spaces



407-A 18th St
STR



Two Off-site parking spaces at
335 Virginia Beach Blvd

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 James D. White Revocable Living Trust

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

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

Krista White

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)

James White, Trustee

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

N/A

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

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

Disclosure Statement

Disclosure Statement



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

☒ Yes ☐ No

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

Wells Fargo / 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.

Jones 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.
-
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 'James White', written over a horizontal line.

Applicant Signature
James White, Trustee

Print Name and Title
5/18/21

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	

- 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.