



Planning Commission Agenda

March 9, 2022

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, March 9, 2022 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=eb4070ceaf39878d151fb4738b86aec4>

2. Register with the Planning Department by calling 757-385-4621 or via email at mbharris@vbgov.com prior to 5:00 p.m. on March 8, 2022.

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.

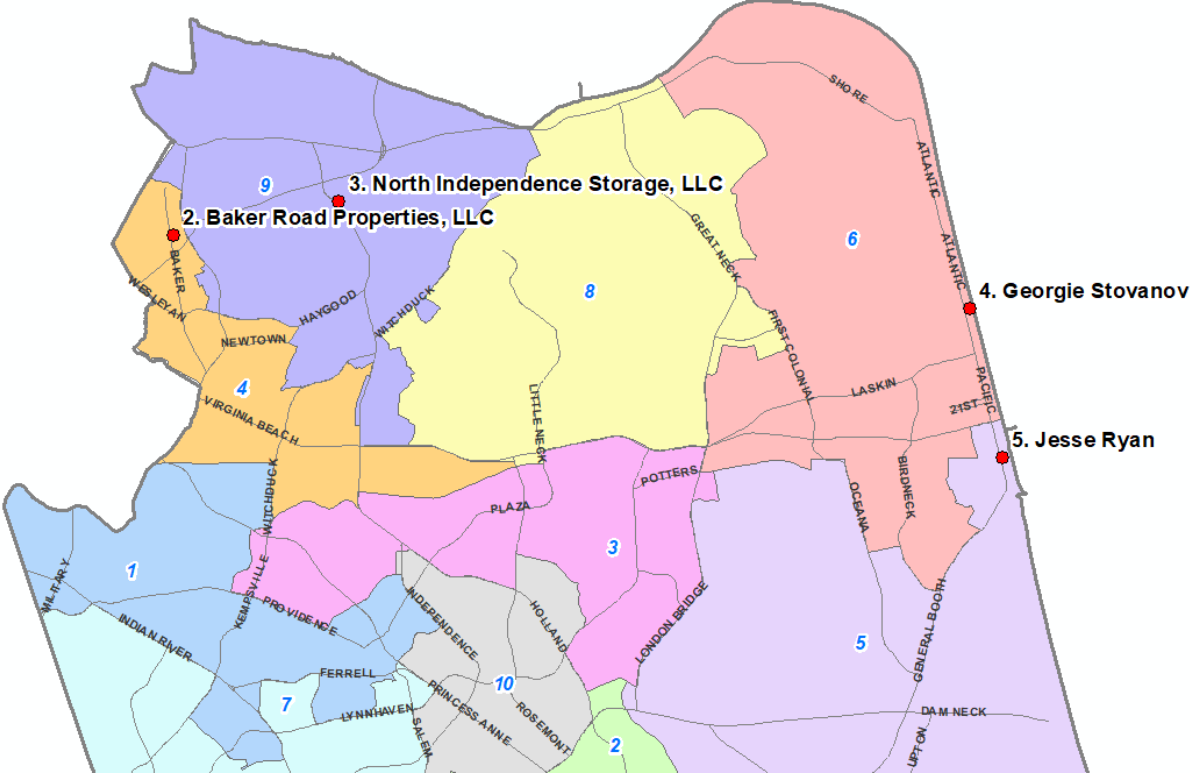
Please check our website at www.vbgov.com/pc for the most updated meeting information.

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.

FEBRUARY 9, 2022
PLANNING COMMISSION AGENDA



MARCH 9, 2022 PLANNING COMMISSION AGENDA

A. COMMENTS BY DIRECTOR OF PLANNING AND CHAIR OF COMMISSION

B. BRIEFING

2021 Planning Commission Year End Report by Hoa N. Dao, Planning Evaluation Coordinator

12:00 P.M. – PUBLIC HEARING

1.

City of Virginia Beach

An Ordinance to amend Section 111 of the City Zoning Ordinance to add terms related to energy storage facilities. An Ordinance to add Section 225.02 to the City Zoning Ordinance to add requirements to energy storage facilities. An Ordinance to amend Sections 1001 of the City Zoning Ordinance to include energy storage facility as a use permitted with a Conditional Use Permit in the I-1 and I-2 Industrial Districts.

2.

Baker Road Properties, LLC (Applicant & Property Owner)

Conditional Rezoning (I-1 Light Industrial District to Conditional A-36 Apartment District)

Address: 1276 Baker Road

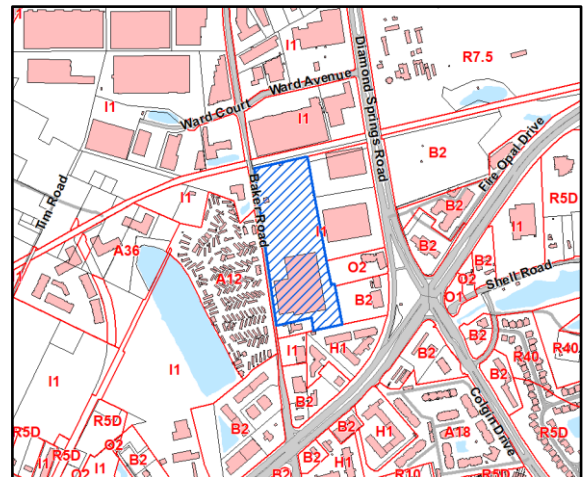
GPIN(s): 1469014169

Council District: District 4, formerly Bayside

Accela Record: 2021-PCCC-00346

Staff Planner: Marchelle Coleman

Request to redevelop property with up to 524 apartment units at a density of approximately 35.67 units per acre.



3.

North Independence Storage, LLC (Applicant)
Wells Fargo (Property Owner)

Conditional Use Permit (Mini-Warehouse)

Address: 1612 Independence Boulevard

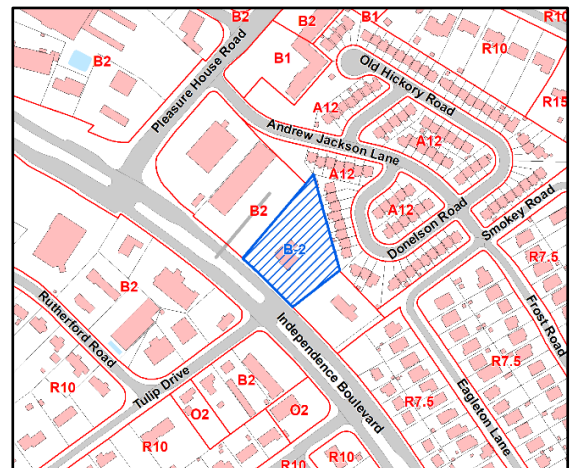
GPIN(s): 1479239414

Council District: District 9, formerly Bayside

Accela Record: 2022-PCCC-00002

Staff Planner: Marchelle Coleman

Request for a 3-story, 90,000 square foot self-storage facility.



SHORT TERM RENTALS

4.

Georgi Stoyanov (Applicant & Property Owner)

Conditional Use Permit (Short Term Rental)

Address: 4005 Atlantic Avenue, Unit 115

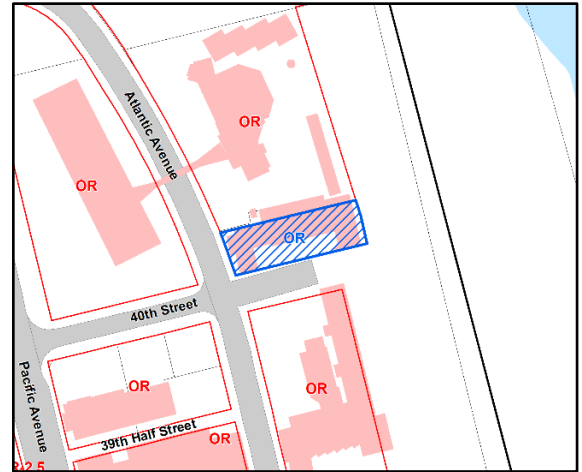
GPIN(s): 24280514483890

Council District: District 6, formerly Beach

Accela Record: 2021-PCCC-00374

Staff Planner: Hank Morrison

Request for a 1-bedroom short term rental.



5.

Jesse Ryan (Applicant & Property Owner)

Conditional Use Permit (Short Term Rental)

Address: 909 Pacific Avenue, Unit C

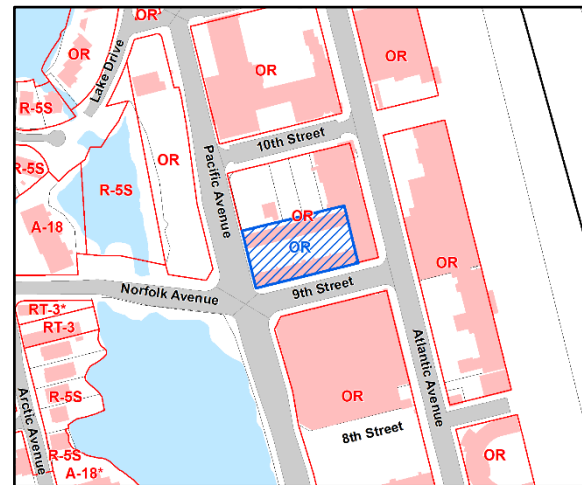
GPIN(s): 24272444111015

Council District: District 5, formerly Beach

Accela Record: 2021-PCCC-00382

Staff Planner: Hank Morrison

Request for a 2-bedroom short term rental.





Request

An Ordinance to amend Section 111 of the City Zoning Ordinance to add terms related to energy storage facilities. An Ordinance to add Section 225.02 to the City Zoning Ordinance to add requirements to energy storage facilities. An Ordinance to amend Sections 1001 of the City Zoning Ordinance to include energy storage facility as a use permitted with a Conditional Use Permit in the I-1 and I-2 Districts.

Summary of Request

This amendment is sponsored by Vice Mayor Wilson. The purpose of this ordinance to add energy storage facility as a Conditional Use in the I-1 District (Light Industrial) and in the I-2 District (Heavy Industrial). Energy Storage Facility will be added to Section 111 of the Zoning Ordinance defined as “Energy storage equipment or technology that can absorb energy, store such energy for a period of time, and redeliver energy after it has been stored. This term includes battery storage facilities.” Special Requirements will be added as follows:

- Unsafe or abandoned facilities determined to be unsafe by the City Building Official shall be required to be repaired or be removed
- Decommissioning plan will be required
- A 100 foot setback will be required along all lot lines
- Category VI landscape screening shall be required within the setback

Economic Development has received unsolicited requests to place energy storage facilities within the city. Energy Storage Facilities are currently not permitted as the use is not defined within the Zoning Ordinance. With the various renewable energy projects within the city, energy storage facilities are necessary to achieve maximum performance of these facilities.

Recommendation

Staff recommends approval of this Ordinance as the battery storage facility use is necessary to support the offshore wind projects that will come into the City.

1 AN ORDINANCE TO AMEND SECTION 111
2 OF THE CITY ZONING ORDINANCE TO ADD
3 TERMS RELATED TO ENERGY/BATTERY
4 STORAGE FACILITIES, TO ADD SECTION
5 225.02 FOR REQUIREMENTS FOR
6 ENERGY/BATTERY STORAGE FACILITIES
7 AND TO AMEND SECTION 1001 TO
8 INCLUDE ENERGY/BATTERY STORAGE
9 FACILITIES IN THE I-1 AND I-2 ZONING
10 DISTRICTS

11
12 Sections Amended: §§ 111 and 1001 of the
13 City Zoning Ordinance

14
15 Section Added: § 225.02 of the City Zoning
16 Ordinance

17
18 WHEREAS, the public necessity, convenience, general welfare and good zoning
19 practice so require;

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

23
24 That Sections 111 and 1001 of the City Zoning Ordinance are hereby amended
25 and Section 225.02 is hereby added and reordained to read as follows:

26
27 **Sec. 111. Definitions.**

28
29 For the purpose of this ordinance, words used in the present tense shall include
30 the future; words used in the singular number include the plural and the plural the
31 singular; the use of any gender shall be applicable to all genders; the word "shall" is
32 mandatory; the word "may" is permissive; the word "land" includes only the area
33 described as being above mean sea level; and the word "person" includes an individual,
34 a partnership, association, or corporation.

35
36

37
38 *Day-care center.* Any facility, other than a family day-care home, operated for the
39 purpose of providing care, protection and guidance during a part of the twenty-four-hour
40 day to a group of: (1) children separated from their parents or guardians; (2) adults
41 sixty-two (62) years of age or older; or (3) persons under a disability during a part of the
42 twenty-four-hour day.

43
44 Decommissioning. The removal and proper disposal of equipment, facilities, or
45 devices on real property, including restoration of the real property upon which
46 equipment, facilities, or devices are located. Restoration of the real property shall

include soil stabilization, and revegetation of the ground cover of the real property disturbed by the installation of such equipment, facilities, or devices.

....

Eleemosynary or philanthropic institution. A charitable or benevolent operation qualifying for tax exemption under section 501 of the Internal Revenue Code of 1954, as amended.

Energy storage facility. Energy storage equipment or technology that can absorb energy, store such energy for a period of time, and redeliver energy after it has been stored. This term includes battery storage facilities

....

Sec. 225.02. Battery storage facilities/energy storage facilities.

(a) Application. Each application for a conditional use permit for a battery storage facility shall include the following general information:

(1) Decommissioning Plan. As part of the project application, the applicant shall submit a decommissioning plan, which shall include the following:

- a. The anticipated life of the project;
- b. Contact information for the party responsible for site decommissioning;
- c. Timeline for, and written description of, decommissioning procedures which shall include, but not limited to, removal of any above and below ground tanks, cables, fencing, debris, buildings, structures or equipment, to include foundations and pads, related to the facility and restoration land and related disturbed areas to a natural condition or other approved state. At time of approval, the City Council may approve and condition a request by an applicant to have certain items intended to be utilized to serve a permitted use on the site to remain, provided site plan approval is obtained;
- d. "Natural condition" shall be taken to mean the stabilization of soil to a depth of three (3) feet and restoration of site vegetation and topography to its pre-existing condition, provided that the exact method and final site restoration plan shall be subject to site plan review giving, among other things, consideration to impacts upon future site use, environmental and adjacent property impacts. The Director of Planning or their designee may approve a request by the landowner for alternatives to site restoration to allow roads,

- 93 pads or other items which will serve a future permitted site use to
94 remain. Where applicable, if the Director of Planning or their
95 designee determines that a restoration plan significantly deviates
96 from the description and conditions approved by the City Council
97 such plan shall require amendment of the conditions by City
98 Council.
99
- 100 (2) Project Description. A narrative identifying the applicant, owner, and
101 operator, and describing the proposed battery storage facility, including an
102 overview of the project, its location, and maintenance plan for the project;
103 approximate rated capacity of the battery storage facility; a description of
104 ancillary facilities, if applicable; and analysis of the beneficial and adverse
105 impacts of the proposed project on natural and historic resource, prime
106 agricultural soils, or forest lands.
107
- 108 (3) Site Plan. The site plan shall conform to the preparation and submittal
109 requirements of the City Site Plan Review process, including supplemental
110 plans and submissions, and shall include the following information:
111
- 112 a. Existing and proposed buildings and structures, including
113 preliminary location(s) of all proposed equipment.
114
- 115 b. Existing and proposed access roads, drives, turnout locations, and
116 parking;
117
- 118 c. Location of any substations, electrical cabling, ancillary equipment,
119 buildings, and structures (including those within any applicable
120 setbacks).
121
- 122 d. Fencing or other methods of ensuring public safety.
123
- 124 (b) Special requirements.
125
- 126 (1) When the owner or other responsible party decommissions a battery
127 storage facility, they shall handle and dispose of the equipment and other
128 project components in conformance with Federal, State, and local
129 requirements.
130
- 131 (2) At such time that a battery storage facility is scheduled to be abandoned,
132 the owner or operator shall notify the City Manager or his/her designee.
133
- 134 (3) Within 365 days of the date of abandonment, the owner or operator shall
135 complete the physical removal of the battery storage facility. This period
136 may be extended at the request of the owner or operator, upon approval
137 of the City Council.
138

- 139 (4) A one hundred (100) foot setback shall be required along all lot lines.
 140
 141 (5) Category VI landscape screening shall be required within the setback. No
 142 other uses or structures shall be permitted in the setback.
 143
 144 (c) Factors relating to approval. Before issuing any conditional use permit for a
 145 battery storage facility, the City Council shall give due consideration to the
 146 following factors; among others:
 147
 148 (1) The visual impact of the project, in conjunction with landscaping and
 149 screening plans.
 150
 151 (2) Impacts to protected environmental features.
 152
 153 (d) Bonding requirements. The City Council may require a bond or letter of credit in
 154 an amount and with surety satisfactory to the department of planning, securing to
 155 the city compliance with the conditions and limitations set forth in the conditional
 156 use permit.
 157
 158

159
 160 **Sec. 1001. Use regulations.**
 161

- 162 (a) *Principal and conditional uses.* The following chart lists those uses permitted within
 163 the I-1 and I-2 Industrial Districts. Those uses and structures in the respective
 164 industrial districts shall be permitted as either principal uses indicated by a "P" or as
 165 conditional uses indicated by a "C." Uses and structures indicated by an "X" shall be
 166 prohibited in the respective districts. No uses or structures other than as specified
 167 shall be permitted.
 168

Use	I-1	I-2
....		
<u>Battery Storage Facility/Energy Storage Facility, subject to the</u> <u>provisions of section 225.02(b).</u>	<u>C</u>	<u>C</u>
....		

Adopted by the Council of the City of Virginia Beach, Virginia, on the _____ day
 of _____, 2022.

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL SUFFICIENCY:

Planning Department

City Attorney's Office

CA15700/R-2/February 21, 2022

Request

Conditional Rezoning (I-1 Light Industrial District to Conditional A-36 Apartment District)

Staff Recommendation

Approval

Staff Planner

Marchelle Coleman

Location

1276 Baker Road

GPIN

1469014169

Site Size

14.69 acres

AICUZ

Less than 65 dB DNL

Watershed

Chesapeake Bay

Existing Land Use and Zoning District

Unfinished sports complex / I-1 Light Industrial

Surrounding Land Uses and Zoning Districts

North

Abandoned Railroad

Warehouse / I-1 Light Industrial

South

Towing service, warehouse / I-1 Light Industrial

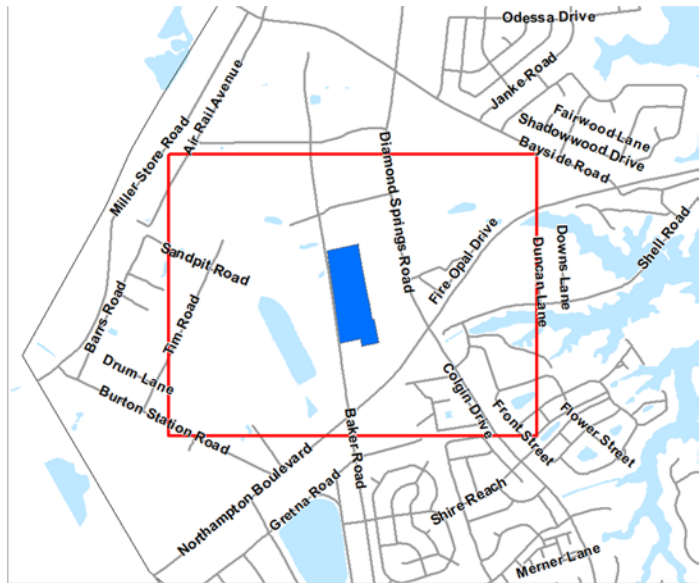
East

Warehouse, office, automobile repair garage / I-1 Light Industrial, O-2 Office, B-2 Community Business

West

Baker Road

Mobile Home Park / A-12 Apartment



Background & Summary of Proposal

- The applicant is requesting to rezone a 14.69-acre parcel from I-1 Light Industrial District to Conditional A-36 Apartment District to redevelop the property with a 524-unit multi-family residential community, with a resulting density of 35.67 units per acre.
- The 14.69-acre property is located within the Burton Station Strategic Growth Area (SGA) and is currently developed with the vacant and unfinished DLH Sports Complex. The site currently consists of a football field with support buildings, a paved parking lot, an unpaved gravel area, and a large unfinished structure on the southern portion of the property. The existing buildings and infrastructure will be completely demolished in conjunction with the redevelopment of the site.
- The submitted Conceptual Site Plan depicts two multi-family buildings, four stories in height. Each building will have an extensive amenity package consisting of a courtyard with a swimming pool, clubhouse, fitness facilities, and a six-foot asphalt path surrounding both of the proposed stormwater management facilities.
- The proposed development requires 930 spaces. The Conceptual Site Plan shows 479 spaces for Building One and 471 spaces for Building Two, exceeding the minimum parking requirement by 20 spaces. There will be 34 covered bicycle spaces in each building, as shown on the Conceptual Site Plan.
- The building elevations, as depicted on page 10 of this report, display an urban building style with materials consisting of fiber cement vertical panel siding, brick veneer, cast stone accents, and simulated-wood fiber cement siding. The Special Area Development Guidelines for Urban Areas include design recommendations that address setbacks and building location, access and circulation, parking areas, landscaping, natural features, stormwater management as landscaping features, lighting, signs, and outdoor art. A summary of how the proposal addresses each guideline is provided below in the Evaluation section of this report.
- As shown on the Conceptual Landscape Plan, streetscape plantings along Baker Road and interior parking and building foundation plantings are proposed as required. In addition, a 15-foot wide landscape buffer with Category IV plantings is proposed along the northern, southern, and eastern property lines. 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.
- A Phase I Environmental Site Assessment was provided by Bay Environmental, Inc., dated March 1, 2021. The Phase I Environmental Site Assessment revealed that there is no evidence of Recognized Environmental Conditions (REC) or Historical Recognized Environmental Conditions on this property.

	<h3>Zoning History</h3> <table><thead><tr><th>#</th><th>Request</th></tr></thead><tbody><tr><td>1</td><td>CRZ (Conditional I-1 to Conditional O-2) Approved 02/26/2013 CUP (Single Room Occupancy Facility) Approved 02/26/2013 MODP Approved 03/13/2007 CUP (Hotel) Approved 03/13/2007 CRZ (B-2 to Conditional I-1) Approved 02/28/2006</td></tr><tr><td>2</td><td>CUP (Automobile Repair Garage) Approved 12/08/1998</td></tr><tr><td>3</td><td>CRZ (B-2 to Conditional I-1) Approved 01/14/1997</td></tr><tr><td>4</td><td>CUP (Tattoo Parlor) Approved 11/15/2016 CUP (Vocational School) Approved 08/19/2014</td></tr><tr><td>5</td><td>CRZ (B-2 to Conditional A-36) Approved 08/19/2014</td></tr><tr><td>6</td><td>CRZ (O-2 to Conditional O-1) Approved 09/27/2005</td></tr><tr><td>7</td><td>CUP (Truck Rentals) Approved 05/22/2012 CUP (Church) Approved 06/14/2005</td></tr><tr><td>8</td><td>LUP Approved 07/29/1983</td></tr><tr><td>9</td><td>CUP (Automobile Service Station) Approved 07/12/2005</td></tr><tr><td>10</td><td>CUP (Car Wash Facility) Approved 09/26/2006</td></tr><tr><td>11</td><td>CRZ (B-2 & I-1 to Conditional A-18) Approved 11/22/2011</td></tr><tr><td>12</td><td>CUP (Self-Storage Facility) Approved 02/12/2013</td></tr><tr><td>13</td><td>CUP (Automobile Service Station) Approved 06/27/2000</td></tr><tr><td>14</td><td>SVR (Variance to Lot Width) Approved 04/26/1994</td></tr><tr><td>15</td><td>CUP (Contractor's Storage Yard) Approved 09/13/2005</td></tr><tr><td>16</td><td>CUP (Expansion to Electric Transformer Substation) Approved 10/07/2014</td></tr><tr><td>17</td><td>REZ (I-1 to A-1) Approved 08/03/1987 CUP (Mobile Home Park) Approved 08/03/1987</td></tr><tr><td>18</td><td>CUP (Truck Wash, Motel, Bulk Storage Yard) Approved 09/10/1996 CUP (Mini-Warehouse) Approved 06/28/2011</td></tr><tr><td>19</td><td>CRZ (R-5D to Conditional A-36) Approved 07/11/2017</td></tr><tr><td>20</td><td>REZ (R-5D to I-1) Approved 06/21/2016</td></tr><tr><td>21</td><td>CUP (Truck & Trailer Rentals) Approved 09/16/2014</td></tr></tbody></table>				#	Request	1	CRZ (Conditional I-1 to Conditional O-2) Approved 02/26/2013 CUP (Single Room Occupancy Facility) Approved 02/26/2013 MODP Approved 03/13/2007 CUP (Hotel) Approved 03/13/2007 CRZ (B-2 to Conditional I-1) Approved 02/28/2006	2	CUP (Automobile Repair Garage) Approved 12/08/1998	3	CRZ (B-2 to Conditional I-1) Approved 01/14/1997	4	CUP (Tattoo Parlor) Approved 11/15/2016 CUP (Vocational School) Approved 08/19/2014	5	CRZ (B-2 to Conditional A-36) Approved 08/19/2014	6	CRZ (O-2 to Conditional O-1) Approved 09/27/2005	7	CUP (Truck Rentals) Approved 05/22/2012 CUP (Church) Approved 06/14/2005	8	LUP Approved 07/29/1983	9	CUP (Automobile Service Station) Approved 07/12/2005	10	CUP (Car Wash Facility) Approved 09/26/2006	11	CRZ (B-2 & I-1 to Conditional A-18) Approved 11/22/2011	12	CUP (Self-Storage Facility) Approved 02/12/2013	13	CUP (Automobile Service Station) Approved 06/27/2000	14	SVR (Variance to Lot Width) Approved 04/26/1994	15	CUP (Contractor's Storage Yard) Approved 09/13/2005	16	CUP (Expansion to Electric Transformer Substation) Approved 10/07/2014	17	REZ (I-1 to A-1) Approved 08/03/1987 CUP (Mobile Home Park) Approved 08/03/1987	18	CUP (Truck Wash, Motel, Bulk Storage Yard) Approved 09/10/1996 CUP (Mini-Warehouse) Approved 06/28/2011	19	CRZ (R-5D to Conditional A-36) Approved 07/11/2017	20	REZ (R-5D to I-1) Approved 06/21/2016	21	CUP (Truck & Trailer Rentals) Approved 09/16/2014
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<h3>Application Types</h3> <table><tr><td>CUP – Conditional Use Permit</td><td>MODC – Modification of Conditions</td><td>STC – Street Closure</td><td>SVR – Subdivision Variance</td></tr><tr><td>REZ – Rezoning</td><td>MODP – Modification of Proffers</td><td>FVR – Floodplain Variance</td><td>LUP – Land Use Plan</td></tr><tr><td>CRZ – Conditional Rezoning</td><td>NON – Nonconforming Use</td><td>ALT – Alternative Compliance</td><td>STR – Short Term Rental</td></tr></table>				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																																	
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CRZ – Conditional Rezoning	NON – Nonconforming Use	ALT – Alternative Compliance	STR – Short Term Rental																																													

Evaluation & Recommendation

In Staff's opinion, this request to conditionally rezone this 14.69-acre parcel from I-1 Light Industrial District to Conditional A-36 Apartment District for the construction of up to 524 multi-family dwelling units is acceptable as it complies with the intent of the Burton Station SGA plan. In Staff's view, the proposed request for a multi-family development is compatible with the neighboring properties and will not negatively impact properties in the area. Accordingly, the proposed development embodies the envisioned characteristics of the Strategic Growth Areas (SGAs) and properly integrates the development guidelines for multi-family residential development stipulated in the Burton Station SGA Plan and the Comprehensive Plan's Special Area Development Guidelines for Urban Areas by adapting to a more urban style of development. The redevelopment of this site will provide open space features combined with the stormwater management facilities on the site, as there will be a six-foot wide asphalt path surrounding the facilities for

residents to enjoy. Pedestrians are a major thought in the development of this site, as the buildings are pulled closer to the street with the parking behind and on the side of the buildings, as to not dominate the views along Baker Road. Pedestrians are able to walk easily to and from other businesses, streets, bus stops and sidewalks. As mentioned previously, the buildings are urban in design utilizing high quality and attractive materials. Lastly, the landscaping proposed on site provides extensive buffering to adjacent properties. The proposed landscaping offers an attractive and welcoming development with street frontage, interior parking lot, and building foundation plantings throughout.

The Special Area Development Guidelines for Urban Areas include design recommendations that address setbacks and building location, access and circulation, parking areas, landscaping, natural features, stormwater management as landscaping features, lighting, signs, and outdoor art. A summary of how the proposal addresses each Guideline is provided below.

Setbacks and Building Location – This Guideline recommends buildings be located close to the street to make it more pedestrian friendly with off-street parking behind or beside buildings. Consistent with the Guidelines, the buildings are placed close to the street and off-street parking is located behind the building, which helps to reinforce pedestrian circulation and allows pedestrians to walk along the building rather than along or across the parking lot. Street frontage plantings will be installed to provide an attractive screening along the right-of-way.

Access and Circulation – This Guideline addresses the ease by which one can leisurely walk throughout the area whereby reliance on automobiles is reduced. The site layout for this project is designed to allow pedestrians to easily enter and exit the site using the sidewalks, as depicted on the Conceptual Site Layout plan the proposed layout is consistent with this Guideline.

Parking Areas – As indicated in this Guideline, parking areas should not dominate the frontage of streets. Off-street parking areas should be located behind buildings and should create an internal circulation network that minimizes or eliminates curb cuts. To address this Guideline, the parking lot, as depicted on the Conceptual Site Layout Plan, is located behind and on the side of the buildings. While the three existing curbs will not be eliminated with this proposal, no additional curb cuts are proposed, ultimately providing a safe ingress and egress for residents and guests. The Guidelines call for bicycle rack parking to be encouraged inside parking structures. All bicycle racks will be located within the building and are covered.

Landscaping – This Guideline emphasizes that the need for quality landscaping is essential to the built urban environment. The importance of street trees and planters should be recognized and planned into the design. As depicted on the Conceptual Landscape Plan, streetscape plantings along Baker Road include evergreen trees and evergreen shrubs. In addition, interior parking and building foundation plantings are proposed, as well as a 15-foot buffer area with Category IV plantings along the northern, southern, and eastern property lines.

Natural Features – This Guideline recommends that undisturbed natural areas and important natural features be identified during the design process. There are no known natural features on this site that are proposed to be protected as the site is already fully developed.

Stormwater Management as Landscaping Features – This Guideline encourages whenever possible, stormwater retention and detention systems be designed as open space or landscape amenities. In this instance, two stormwater ponds are proposed for this development. Each stormwater pond will be surrounded by a six-foot wide asphalt path as an open space amenity for residence and guests.

Lighting – This Guideline indicates that site lighting be designed to reduce light trespass and glare. Lighting for pedestrians should be provided using indirect illumination from the building. The proposed site is deemed to be consistent with the lighting Guideline, as lighting is proposed to reduce glare and trespass in the internal parking lot areas, around buildings, and will prevent spillover onto adjacent properties. A Conceptual Lighting Plan has been submitted with this application, as shown on page 12 of this report.

Signs – As indicated in this Guideline, signs should primarily serve to identify the name and street number. The color and theme of signs should be consistent with the primary building and surrounding area and should be in compliance with the Zoning Ordinance. For this proposal, an eight-foot tall monument style sign with materials that match the buildings is proffered.

Outdoor Art – This Guideline encourages the incorporation of outdoor art into the overall design of a project. No outdoor art is planned for this project at this time.

In synopsis, the applicant submitted a quality Conceptual Site Layout and Landscaping Plan that integrates the design characteristics identified in both the Burton Station SGA plan and the Special Area Development Guidelines for Urban Areas.

The applicant is aware that based on the Public Utility sewer analysis, this proposal will require an upgrade of the existing public sanitary sewer mains to provide sufficient capacity for this development. During the site plan review process, the site plan must show the design for the upgrade of the existing public sanitary sewer mains along Baker Road.

The applicant submitted a Traffic Impact Analysis, dated January 27, 2022, to Staff for review. The Traffic Impact Analysis showed that while there will be some increases in vehicular delay for traffic on Baker Road turning onto Northampton Boulevard at the existing signalized intersection, there will be minimal increase to overall intersection vehicular delay during the morning and afternoon peak hours. Therefore, no improvements are recommended at the signalized intersection at Baker Road and Northampton Boulevard. It is the opinion of Staff that the traffic generated by this multi-family development will result in 3,921 average daily trips. Based on the projected number of vehicles generated, the three vehicular ingress/egress access points will be able to accommodate the multi-family development and does not warrant the need for left or right turn lanes on Baker Road. Right-of-way improvements must be installed with this development along Baker Road to include, but not limited to, sidewalks, curb and gutter, and streetlights. 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. Only the elementary school data indicates a student population above capacity. The over capacity is within the acceptable utilization range of greater or less than 10% of optimum capacity. Based on this, the redevelopment proposal is not expected to negatively impact the current student enrollment.

This site is located in the Chesapeake Bay Watershed; therefore, a preliminary stormwater analysis is not required prior to this item being reviewed by Planning Commission and City Council. As indicated on the conceptual site plan, two stormwater management facilities are proposed to address water quality and quantity on site. An in-depth review of the stormwater management strategy to ensure that it complies with all stormwater regulations and that no negative impacts will occur upstream and downstream as a result of this development will take place during the site plan review process.

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

Proffers

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

Proffer 1:

When developed, the Property shall be developed in substantial conformity with the conceptual site plan entitled “Baker Road Apartments”, dated August 30, 2021, and prepared by Vanasse Hangen Brustlin, Inc. (the “Concept Plan”), a copy of which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning.

Proffer 2:

The quality of architectural design and materials of the building constructed on the Property, when developed, shall be in substantial conformity with the exhibits prepared by Cox, Kliever & Company, P.C., entitled “Baker Road Apartments - Elevation at Entrance, Material Key”, dated October 26, 2021, and “Baker Road Conceptual Rendering”, dated October 12, 2021 (together the “Elevations”), copies of which are on file with the Department of Planning and have been exhibited to the Virginia Beach City Council.

Proffer 3:

Landscaping installed on the Property, when developed, shall be in substantial conformity with that shown on the exhibit prepared by Vanasse Hangen Brustlin, Inc., entitled “Conceptual Planting Plan”, and dated September 9, 2021 (the “Landscape Plan”), a copy of which is on file with the Department of Planning and has been exhibited to the Virginia Beach City Council.

Proffer 4:

The community identification sign on the Property shall be a monument-style sign not exceeding eight (8) feet in height, and the design and the materials used for the sign will be compatible with the building materials and design used for the multifamily residential buildings depicted on the Elevations.

Proffer 5:

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

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

Comprehensive Plan Recommendations

The Comprehensive Plan designates the subject property as being located within the Burton Strategic Growth Area, which the Comprehensive Plan designates as one of the eight urban areas in the City that envisions to accommodate future growth and adopt a more urban style in the City. The Burton Station SGA Plan designates this property for mixed-use/multi-use, which offers the broadest range of uses and is intended to absorb both residential and commercial growth “depending on market demand”. Combined stormwater management features with open space and recreation opportunities are also recommended for this property.

The property particularly resides in a development focus area called Northampton/Diamond Springs/Baker Road Corridors in the Burton Station SGA Plan. This area is described with a variety of commercial uses, including retail, restaurant, office, and hotel, as well as residential uses all up to five stories in height. All uses within this area should incorporate open space as properties redevelop to continue green and pedestrian connections. New landscaping and pathways around Burton Station Lake transform this stormwater management facility into an outdoor amenity, attracting employees, customers, and residents.

Natural & Cultural Resources Impacts

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

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Baker Road	6,170 ADT ¹	12,600 ADT ¹ (LOS ⁴ "D")	Existing Land Use ² – No Data Available Existing Zoning (14.7-acre I-1 Zoning) – 1,117 ADT Proposed Land Use ³ – 3,921 ADT
¹ Average Daily Trips	² as defined by an unfinished sports complex	³ as defined by a 524-unit multi-family apartment complex	⁴ LOS = Level of Service

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

Baker Road is a two-line undivided collector road in the vicinity of this site with a variable right-of-way width. This section of Baker Road is included in the MTP as a two-lane minor collector roadway within a 70-foot right-of-way.

Public Utility Impacts

Water

The site is currently connected to City water. There is an existing six-inch City water main along Baker Road.

Sewer

The site is currently connected to City sewer. There is an existing eight-inch City sanitary sewer gravity main and an existing 1.5-inch private sanitary sewer force main along Baker Road.

School Impacts

School	Current Enrollment	Capacity	Generation ¹	Change ²
Bayside Elementary	484 students	509 students	41 students	41 students
Bayside Middle	1,090 students	1,216 students	16 students	16 students
Bayside High	1,882 students	1,985 students	18 students	18 students
¹ "Generation" represents the number of students that the development will add to the school. ² "change" represents the difference between the number of potential or actual students generated under the existing zoning and the number generated under the proposed zoning. The number can be positive (additional students) or negative (fewer students).				

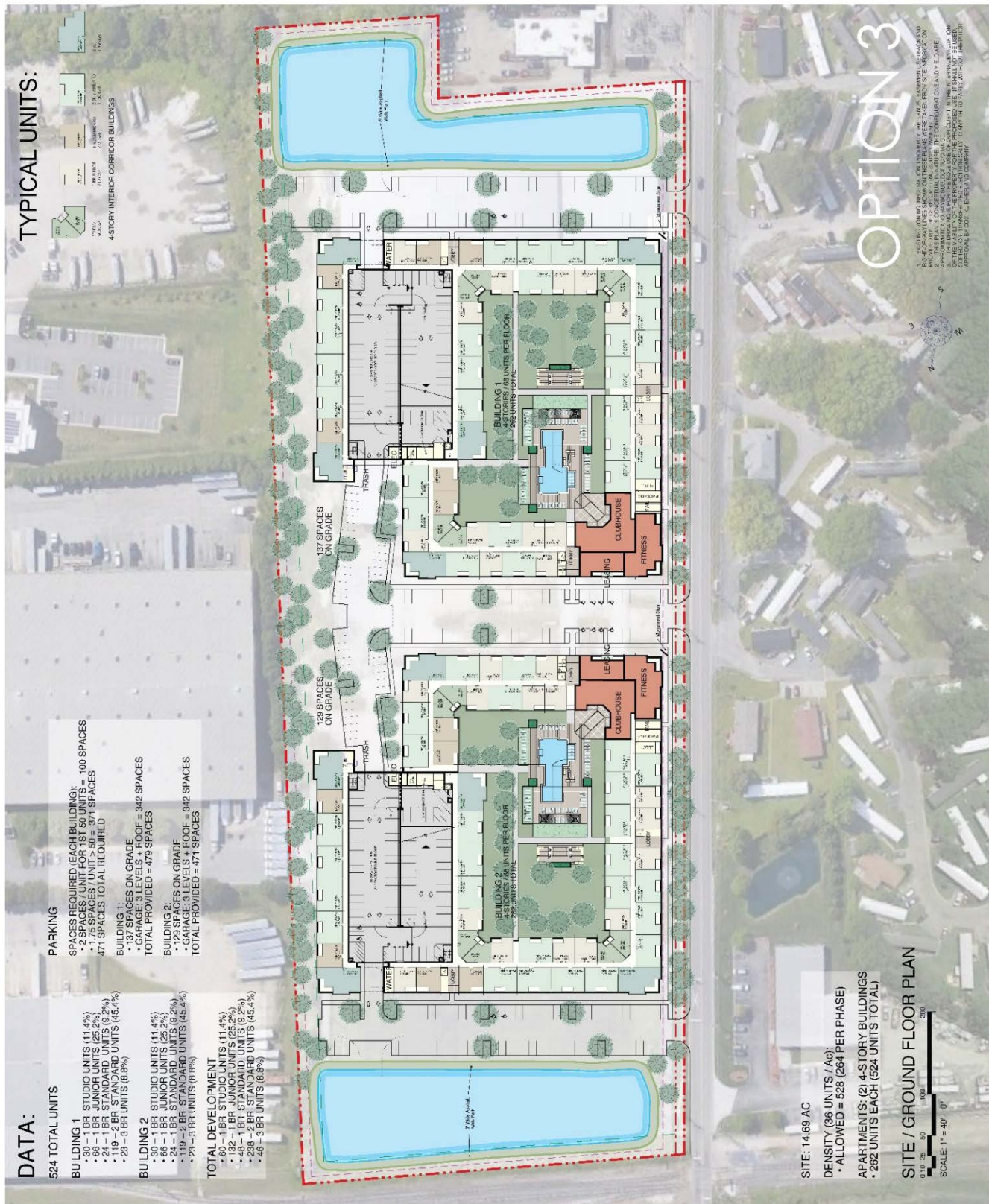
Public Outreach Information

Planning Commission

- The applicant reported that they met with 11 of the surrounding property owners to include the attorney representing the mobile home park to the west of the site. The applicant discussed the details of the request with all of the adjacent property owners, with only one property owner raising concerns related to how the new multi-family development will impact their commercial business. The applicant will be meeting with the concerned property owner to discuss their concerns further. Staff will be updated once the meeting is scheduled, and how the concerns of the property owner have been addressed by the applicant.

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on February 7, 2022.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, February 20, 2022 and February 27, 2022.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on February 21, 2022.
- 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 March 3, 2022.

Proposed Conceptual Site Plan



Proposed Conceptual Landscape Plan



Proposed Building Elevation



ELEVATION AT ENTRANCE
MATERIAL KEY

Proposed Building Rendering



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 Baker Road Properties, LLC

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

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

Rob P. Beaman III - Troutman Pepper Hamilton Sanders LLP

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

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

Frank T. Gadams, Manager

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

Baker OZF LLC; JMS OZ Fund, LLC, Ballison OZ LLC; SPAB LLC

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.

Atlantic Union Bank

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

☐ Yes ☒ No

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

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

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

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

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

Grey Mason - Cox, Kliewer & Company, 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.

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.

Ken Rodman – Vanasse Hangen Brustlin, Inc.

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

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

Rob P. Beaman III – Troutman Pepper Hamilton Sanders LLP

Applicant Signature

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

Applicant Signature

FRANK GADAMS / MANAGER

Print Name and Title

10/28/2021

Date

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

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

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

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

Next Steps

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

Request

Conditional Use Permit (Mini-Warehouse)

Staff Recommendation

Approval

Staff Planner

Marchelle Coleman

Location

1612 Independence Boulevard

GPIN

1479239414

Site Size

1.30 acres

AICUZ

Less than 65 dB DNL

Watershed

Chesapeake Bay

Existing Land Use and Zoning District

Vacant former financial institution / B-2
Community Business

Surrounding Land Uses and Zoning Districts

North

Townhouses / A-12 Apartment

South

Independence Boulevard

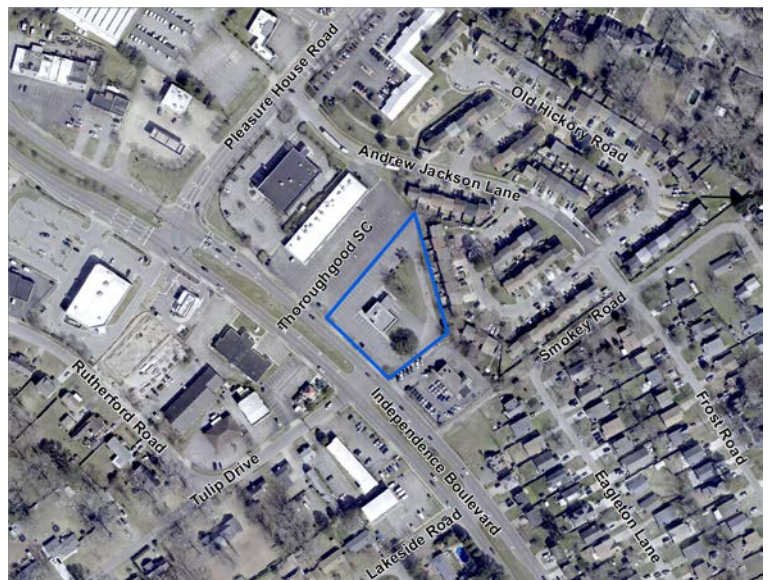
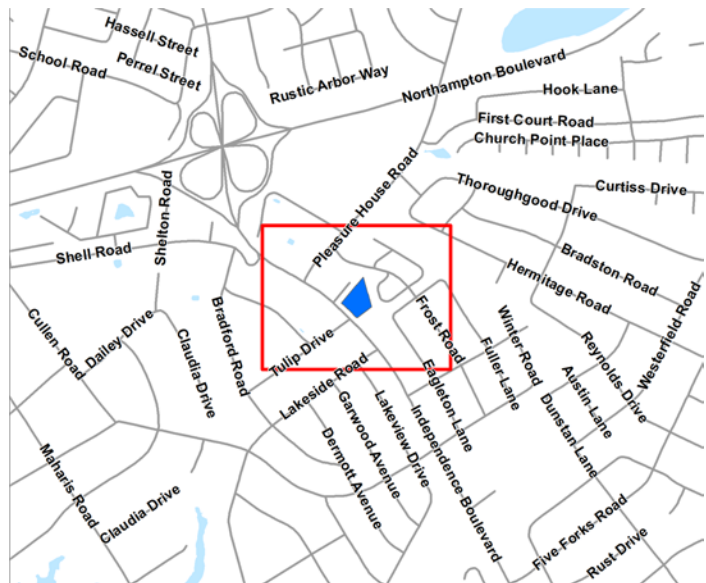
Restaurant, shopping center / B-2 Community
Business

East

Auto sales / B-2 Community Business

West

Shopping center / B-2 Community Business



Background & Summary of Proposal

- The applicant is requesting a Conditional Use Permit for a Mini-Warehouse in order to construct a three-story climate-controlled self-storage facility on a 1.30-acre parcel in the B-2 Community Business District. The property is currently developed with a former Wells Fargo bank building, which will be demolished with the redevelopment of this site.
- The proposed building will have a 30,000 square foot footprint with a total floor area of 90,000 square feet. The building height for the proposed building will vary in size, as described below:
 - 34 feet in height closest to the townhomes to the northeast
 - 35 feet in height to the northwest and southeast
 - 40 feet in height to the southwest along Independence Boulevard
- As depicted on the building elevations and renderings, the façade will consist of a neutral color palette with brick veneer, metal panels, EIFS, simulated wood, and aluminum storefronts. A loading area with an overhead canopy to match the covered building entry is proposed on the front of the building along Independence Boulevard.
- The conceptual landscape plan shows the required building foundation, interior parking lot, and street frontage plantings. Category II plant material, reaching a minimum height of five to six feet at installation and 20 feet at maturity, is proposed to provide enhanced screening for the loading canopy space visible from the public right-of-way. A 15-foot wide buffer with Category IV landscape plantings is also proposed, as required, adjacent to the townhouse's northeast of the site.
- The conceptual site plan depicts 15 parking spaces on-site, which exceeds the maximum of nine spaces for a mini-warehouse with 1,000 square feet of office space by six spaces. The applicant intends to request a deviation for parking in excess of the maximum allowed from the Planning Director, per Section 203(b)(9) of the Zoning Ordinance, during final site plan review.
- A 10-foot tall freestanding monument style-sign is proposed on site. The monument-style sign will have a brick base with simulated wood to match the proposed building materials.
- As depicted on the conceptual site plan, the applicant seeks to retain the two existing ingress/egress access points along Independence Boulevard. This is not supported by Staff.
- Customer access into the building is proposed as 6:00 a.m. to 9:00 p.m., and the office operating hours proposed as 9:00 a.m. to 6:00 p.m., seven days a week, with up to three employees on site.

conform to current landscape requirement standards including the installation of the required streetscape plantings consisting of evergreen and deciduous trees and shrubs, as well as building foundation and interior parking lot plantings.

As mentioned previously, there are two existing ingress/egress access points along Independence Boulevard on this 1.30-acre parcel. The applicant is proposing that these two access points remain; however, Staff is recommending the closure of one of the ingress/egress access points to reduce the number of conflict points for both vehicular and pedestrian traffic. Independence Boulevard is a major urban arterial roadway that carries approximately 39,000 vehicles per day. It is Staff's opinion that by reducing the number of access points from two to one, it will lessen the potential for accidents on this higher speed, highly traveled roadway. The reduction in the number of entrances on this parcel is needed, as it will make for a much safer situation for both motorist and pedestrians accessing or crossing the point of ingress/egress. Condition 5 is recommended for the closure of one of these access points. The applicant is not amendable to this reduction.

As this site is located in the Chesapeake Bay Watershed, a preliminary stormwater analysis is not required prior to this item being reviewed by Planning Commission and City Council. According to the applicant, underground storage is proposed to address water quality and quantity on site. An in-depth review of the stormwater management strategy to ensure that it complies with all stormwater regulations and that no negative impacts will occur upstream and downstream as a result of this development will take place during the site plan review process.

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

Recommended Conditions

1. When the property is developed, it shall be in substantial conformance with the conceptual site plan entitled "OCEAN STORAGE – INDEPENDENCE", dated January 25, 2022, prepared by WPL, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
2. The exterior of the proposed buildings shall substantially adhere in appearance, size, materials to the submitted elevations entitled "OCEAN STORAGE", dated January 25, 2022, prepared by RBA Architects, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
3. A Landscape Plan shall be submitted to the Development Services Center of the Department of Planning & Community Development for review and ultimate approval prior to the issuance of a Certificate of Occupancy that is in substantial conformance to the conceptual landscape plan entitled "OCEAN STORAGE – INDEPENDENCE", dated January 25, 2022, prepared by WPL, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
4. When the property is redeveloped, the existing freestanding sign shall be in substantial conformance with the sign rendering entitled "OCEAN STORAGE", dated January 25, 2022, prepared by RBA Architects, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
5. One of the two existing access points on Independence Boulevard shall be closed and be restored with curb, gutter, and sidewalk installation.
6. All on-site signage must meet the requirements and regulations of the Zoning Ordinance. A separate permit from the Department of Planning & Community Development is required for any new signage installed on the site.
7. All outdoor lights shall 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, except as noted below in c.
 - c. Only motion activated lighting fixtures shall be installed on the rear façade along the northeastern property line that abuts the apartment district and shall be installed no higher on the rear of the building than ten (10) feet from the ground elevation.
8. Parking above the maximum number of parking spaces shall only be permitted with approval by the Planning Director pursuant to Section 203(b)(9) 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 recognizes this property as being within the “Suburban Area.” Guiding principles have been established in the Comprehensive Plan to guard against possible threats to the stability of the Suburban Area and to provide a framework for neighbors and places that are increasingly vibrant and distinctive. The Plan’s primary guiding principle for the Suburban Area is to create “Great Neighborhoods,” and to support those neighborhoods with complementary non-residential uses in such a way that working together the stability and sustainability of the Suburban Area is ensured for now and the future.

Natural & Cultural Resources Impacts

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

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Independence Boulevard	39,000 ADT ¹	36,900 ADT ¹ (LOS ⁴ “D”)	Existing Land Use ² – 252 ADT Proposed Land Use ³ – 135 ADT
¹ Average Daily Trips	² as defined by a 2,500 square foot bank with a drive-thru	³ as defined by a 90,000 square foot mini-warehouse/self-storage facility	⁴ LOS = Level of Service

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

Independence Boulevard, in the vicinity of this application, is considered a four-lane divided major urban arterial. The MTP proposes a six-lane facility within a 150-foot right-of-way. There are no roadway CIP projects planned for this area.

Public Utility Impacts

Water

The site is connected to City water. There is an existing 12-inch City water transmission main along Independence Boulevard.

Sewer

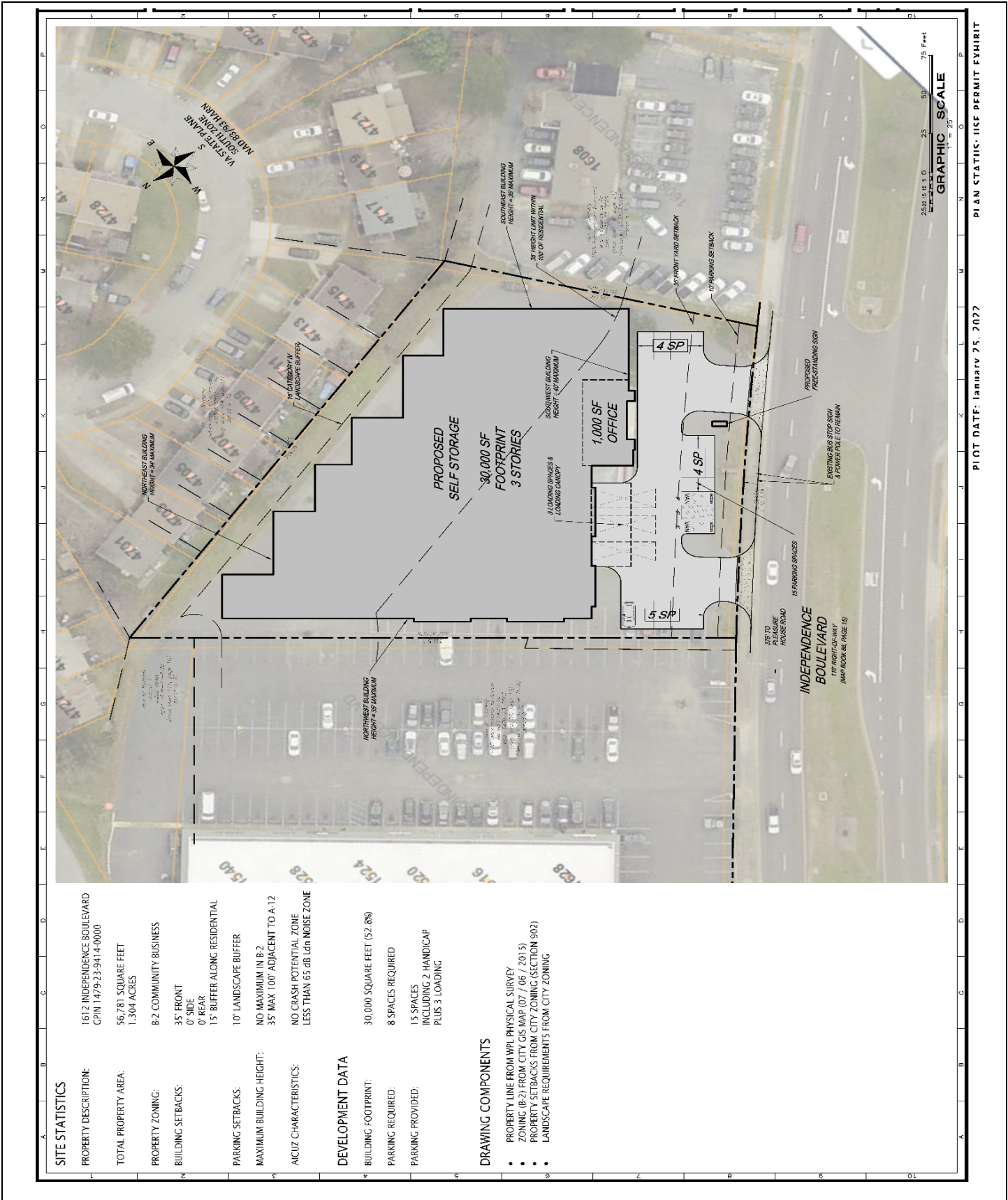
The site is connected to City sanitary sewer. There is an existing eight-inch City sanitary sewer gravity main along Independence Boulevard.

Public Outreach Information

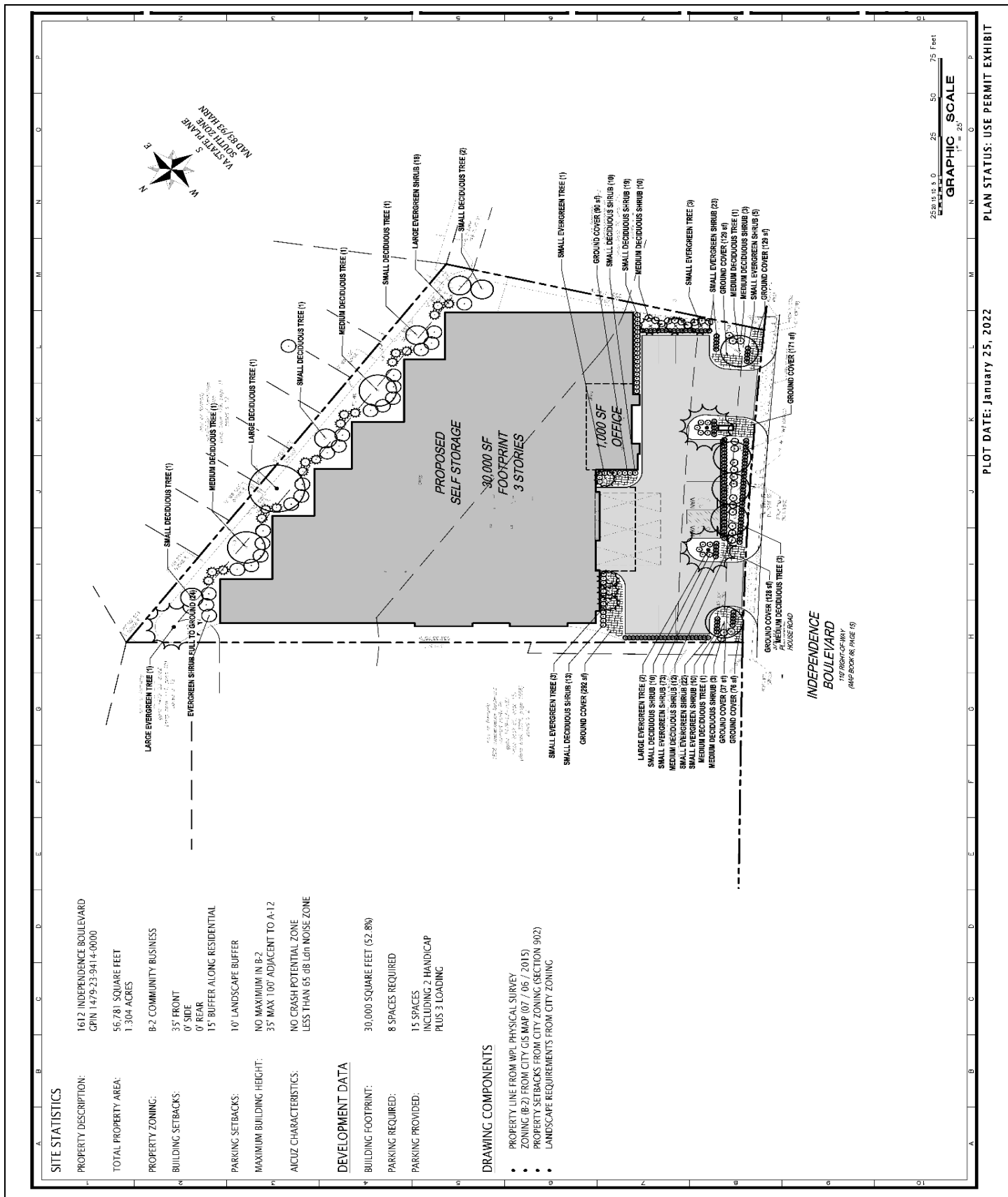
Planning Commission

- The applicant reported that they distributed a flyer to all the townhome residents north of the property, as well as the commercial businesses adjacent to the site. The flyers were distributed door-to-door to all the retailers, and the applicant indicated positive remarks regarding the proposed development. A meet and greet was held on February 1, 2022 at a local restaurant; however, none of the residents or business owners attended. The applicant was contacted by one residential property owner who was seeking additional information and no issues were raised. A meeting was held with the property owner of the Thoroughgood Shopping Center on February 15, 2022 and they provided an email indicating their support of the project.
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on February 7, 2022.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, February 20, 2022 and February 27, 2022.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on February 21, 2022.
- 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 March 3, 2022.

Conceptual Site Plan



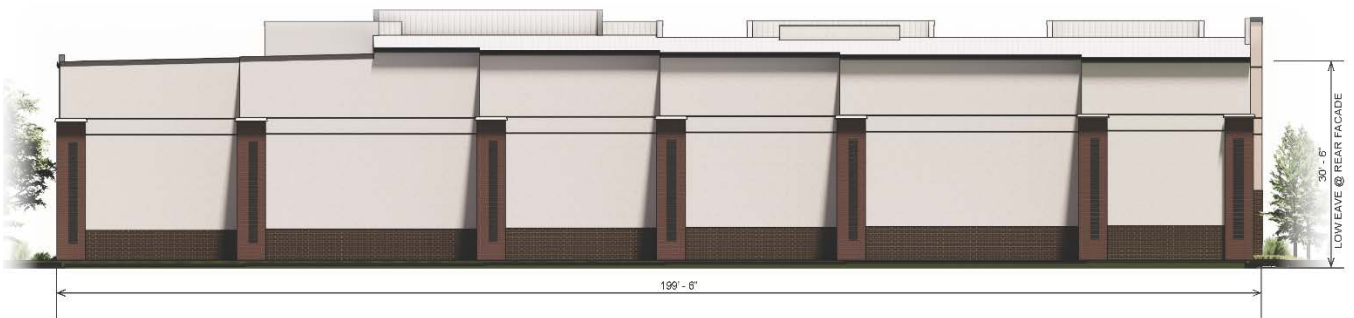
Conceptual Landscape Plan



Proposed Building Elevations



FRONT ELEVATION



REAR ELEVATION



LEFT ELEVATION



RIGHT ELEVATION

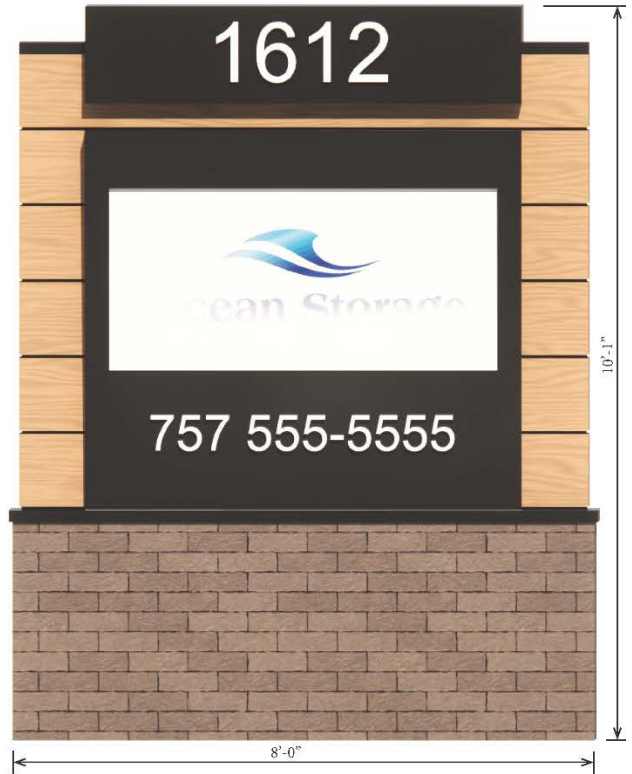
Proposed Building Renderings



Proposed Building Renderings



Proposed Sign Rendering



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 North Independence Storage, LLC

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

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

Troutman Pepper, RJ Nutter

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

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

Thomas Minton, Michael Burnette

- 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.

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.

SL Nusbaum Realty, Matt Nusbaum

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

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

BDO, Jorge Dabul and Daniel Colonna

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.

RBA, Chris Elam and Tom Retnauer

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.

North Independence Storage, 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 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.

WPL, Brad Martin

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.

Williams Mullen - Howard Gordon and Troutman Pepper - RJ Nutter

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 blue ink, appearing to read 'G. M. Minton'.

Applicant Signature

Thomas Minton, Managing Member

Print Name and Title

A handwritten date in blue ink, 'Dec. 15, 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 Wells Fargo

Applicant Name North Independence Storage, 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)

See attached

- If yes, list the businesses that have a parent-subsidiary³ or affiliated business entity⁴ relationship with the Owner. (Attach a list if necessary)

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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

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

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☒ Yes ☐ No

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

Harvey Lindsay Commercial Real Estate, Susan Pender

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

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

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North Independence Storage, LLC

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Disclosure Statement

Disclosure Statement



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Wells Fargo Law Dept. - Julie Larson

Owner Signature

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A handwritten signature in black ink, appearing to read 'R. Pardon'.

Owner Signature

Robert S. Pardon - Vice President

Print Name and Title

12/14/2021

Date

Wells Fargo

(List of Officers)

Muneera S. Carr , EVP, Chief Accounting Officer, and Controller

William M. Daley , Vice Chairman of Public Affairs

Derek A. Flowers , Senior EVP, Chief Risk Officer

Kyle G. Hranicky , Senior EVP, CEO of Commercial Banking

Bei Ling , Senior EVP, Head of Human Resources

Mary T. Mack , Senior EVP, CEO of Consumer & Small Business Banking

Lester J. Owens , Senior EVP, Head of Operations

Ellen R. Patterson , Senior EVP, General Counsel

Scott E. Powell , Senior EVP, Chief Operating Officer

Michael P. Santomassimo , Senior EVP, Chief Financial Officer

Kleber R. Santos , Senior EVP, Head of Diverse Segments, Representation & Inclusion

Julie L. Scammahorn , Senior EVP, Chief Auditor

Charles W. Scharf , Chief Executive Officer and President

Barry Sommers , Senior EVP, CEO of Wealth & Investment Management

Saul Van Beurden , Senior EVP, Head of Technology

Michael S. Weinbach , Senior EVP, CEO of Consumer Lending

Jonathan G. Weiss , Senior EVP, CEO of Corporate & Investment Banking

Ather Williams III , Senior EVP, Head of Strategy, Digital Platform, and Innovation

Robert S. Pardon, Vice President

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 Planners

Jenizza Badua
Hank Morrison

Location

4005 Atlantic Avenue, Unit 115

GPIN

24280514483910

Site Size

14,500 square feet

Existing Land Use and Zoning District

Multi-family dwellings / OR Oceanfront Resort

Surrounding Land Uses and Zoning Districts North

Multi-family dwellings / OR Oceanfront Resort

South

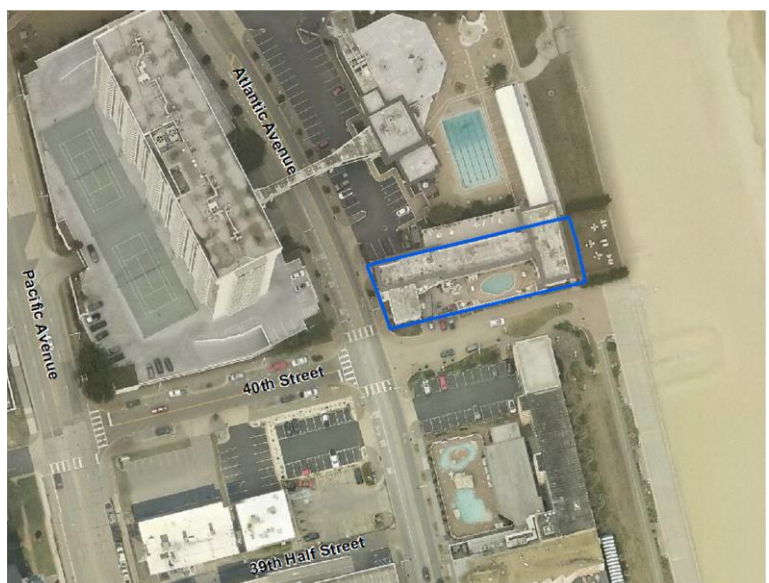
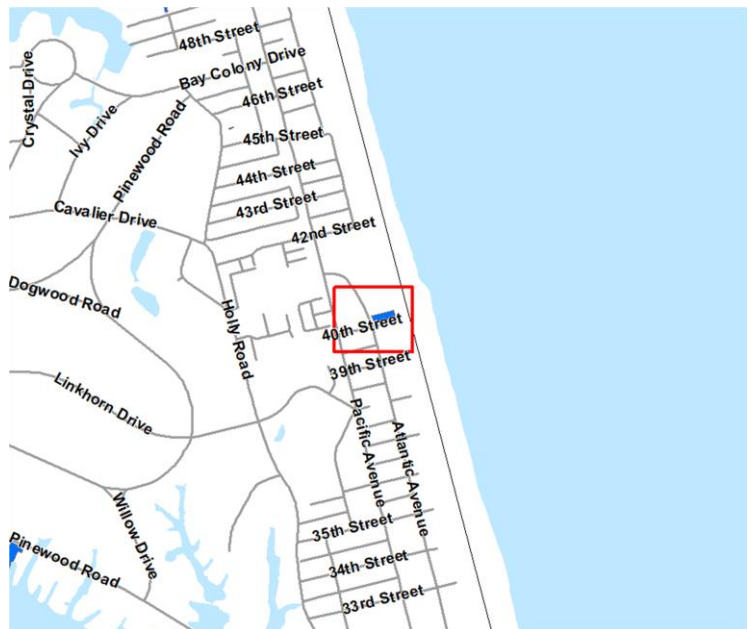
40th Street (pedestrian beach access), hotel /
OR Oceanfront Resort

East

Public beach of the Atlantic Ocean / OR
Oceanfront Resort

West

Atlantic Ocean
Multi-family dwellings / OR Oceanfront Resort



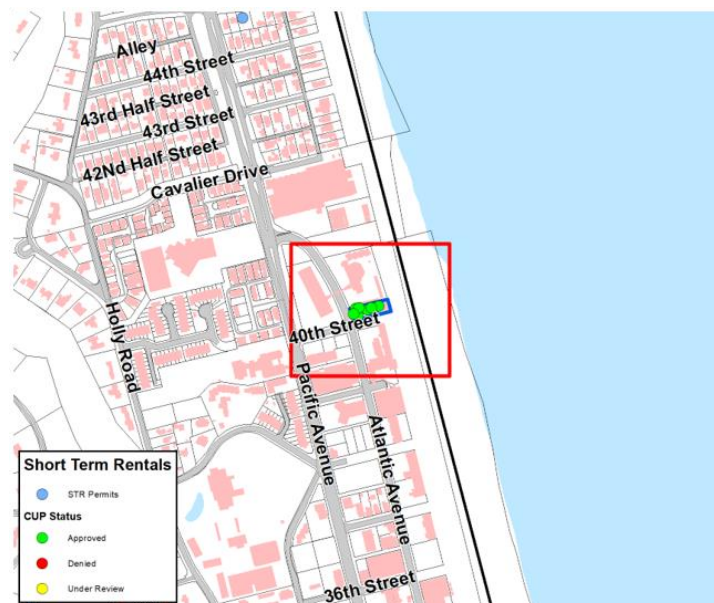
Background & Summary of Proposal

Site Conditions and History

- This 14,500 square foot is the site of the Oceans II Condominiums in the Oceanfront Resort District.
- According to City records, Oceans II Condominiums includes 42 condominium units constructed in 1976. However, part of the building was previously a motel that was constructed in 1956.
- There are 42 off-street and off-site parking spaces within walking distance of the property. Each condominium unit is assigned one parking space. Twenty-two of these spaces are located in a parking lot across the street (40th Street connector park) to the south adjacent to the Holiday Inn. The remaining 20 parking spaces are located in a lot diagonally across the street from the condominium development.
- On-street parking is not permitted on this portion of Atlantic Avenue.
- Nine Conditional Use Permits for Short Term Rentals have been approved on this site by the City Council.
- No past zoning violations were found on this property.
- Known Short Term Rental activity as of March 3, 2022:

CURRENTLY ADVERTISED	LAST KNOWN RENTAL	REGISTERED WITH THE COMMISSIONER OF THE REVENUE
No	10/2021	No

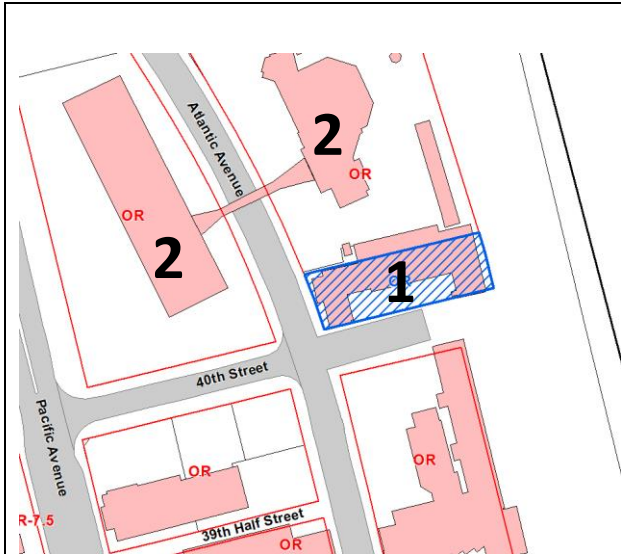
Short Term Rentals in the Vicinity



Summary of Proposal

The applicant submitted a Conditional Use Permit request to operate a one-bedroom, 357 square foot Short Term Rental unit on the subject site. The regulations for Short Term Rental use are identified in Section 241.2 of the City Zoning Ordinance. Specific details pertaining to this application are listed below.

- Number of bedrooms in the Short Term Rental: 1
- Maximum number of guests permitted on the property after 11:00 pm: 2
- Number of parking spaces required (1 space per bedroom required): 1
- Number of parking spaces provided on-site: 1



Zoning History

#	Request
1	CUP (13 room addition to 30-room motel) Approved 10/08/1973 CUP (Short Term Rentals - 5) Approved 08/25/2020 CUP (Short Term Rentals - 2) Approved 02/04/2020 CUP (Short Term Rentals - 1) Approved 11/17/2020 CUP (Short Term Rentals – 1) Approved 3/1/2022
2	CUP (Condominium) Approved 2/18/1972 NON (Stockbroker's office) Approved 11/10/1980

Application Types

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

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

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

LUP – Land Use Plan
 STR – Short Term Rental

Evaluation & Recommendation

The applicant is requesting to operate a one-bedroom, 357 square foot Short Term Rental unit within the Oceans II Condominiums, where Short Term Rental use is to be expected. Nine Short Term Rental Conditional Use Permits have previously been approved on the property. The condominium building is at the northern terminus of the Oceanfront boardwalk. The surrounding area is a mixture of high-rise multi-family dwellings, hotels and other commercial and resort-oriented uses. The subject property lies on Atlantic Avenue corridor, which serves as the main north-south connector, including Pacific Avenue, in the Resort Area. As identified in the Resort Area Strategic Action Plan (RASAP) 2030, both corridors serve as the area where many Resort Area visitors stay and gather. Therefore, the use of the unit as a Short Term is consistent with this purpose. The unit would further provide diverse lodging opportunities for the visitors and travelers wanting the Resort Area experience.

There are two adjacent off-site parking lots dedicated to Oceans II Condominiums, as shown on the parking plan provided in this report. The applicant has one assigned parking space (#26) in parking lot 2, thus, fulfilling the parking requirement. While the required parking space is off-site, per Section 241.2(1) of the City Zoning Ordinance, the Zoning Administrator reviewed the parking plan and deemed it acceptable. All other requirements of Section 241.2 and Section 2303 of the Zoning Ordinance regulating Short Term Rentals can be reasonably met with this application.

As the property is in a condominium form of ownership, the Board of Oceans II Condominiums' representative has provided verification that the application of a Short Term Rental Conditional Use Permit in the development is permitted.

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 4005 Atlantic Avenue Unit 115, 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. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire, or other similar codes.
5. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1.
6. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes and to be physical present at the Short Term Rental within one (1) hour.
7. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
 - a) A completed Department of Planning and Community Development Short Term Rental Zoning Permit; and
 - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
 - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
8. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
9. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
10. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
11. Accessory structures shall not be used or occupied as Short Term Rentals.
12. No signage shall be on-site, except 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.

13. The Short Term Rental shall have no more than one (1) rental contract during any consecutive seven (7) day period.
14. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
15. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
16. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom, 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).
17. 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.

18. 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.

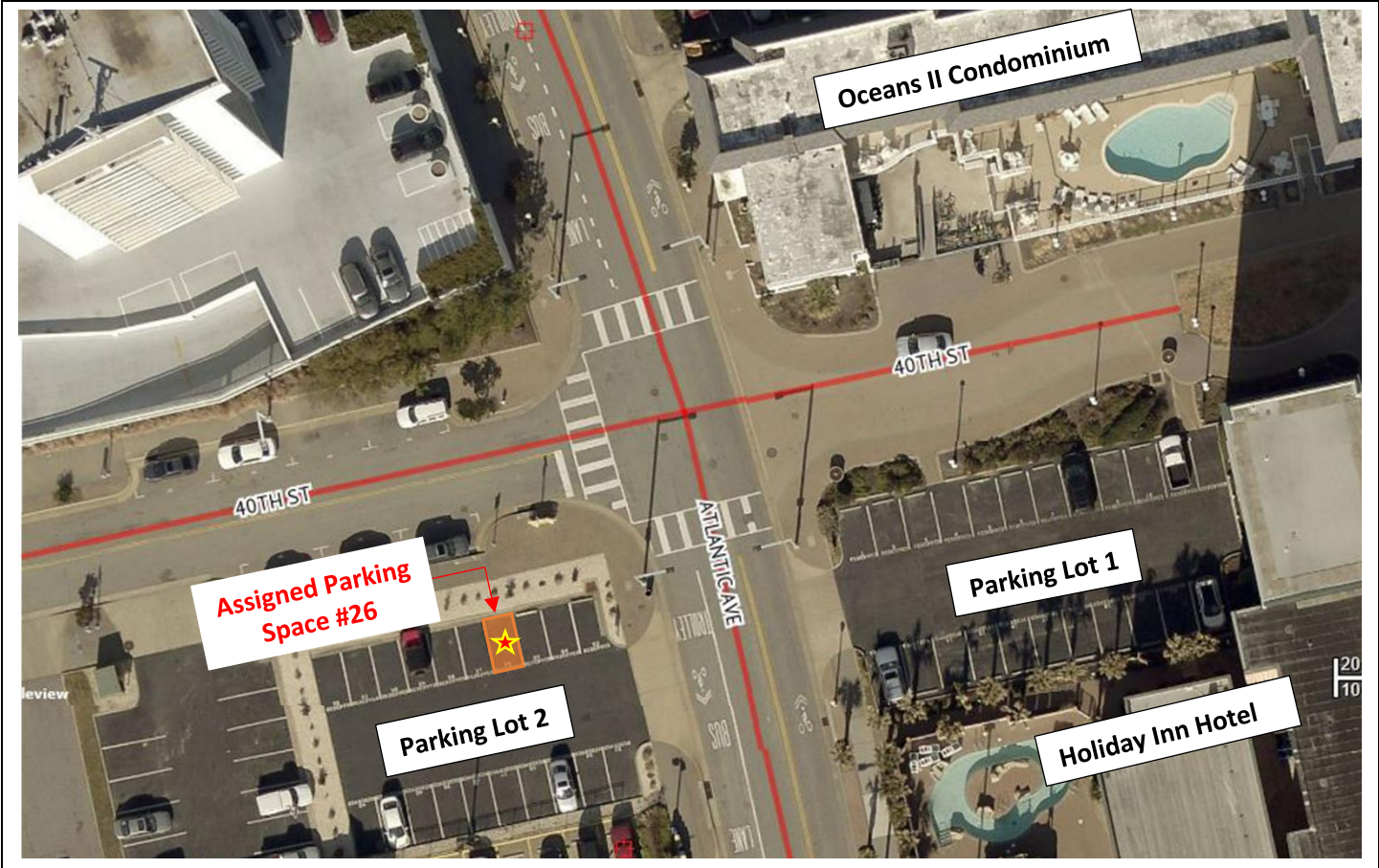
The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.

Public Outreach Information

Planning Commission

- Two letters of opposition has been received by Staff noting concerns related to a concentration of Short Term Rentals in the building and surrounding area and declining property values.
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on February 7, 2022.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, February 20, 2022, and February 27, 2022.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on February 21, 2022.
- 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 March 3, 2022.

Site Layout & Parking Plan



Site Photos



Site Photos



Disclosure Statement



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Applicant Disclosure

Applicant Name Georgi Stoyanov

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)

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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?

☒ Yes ☐ No

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

~~United Wholesale Mortgage~~ Imran Bagwan

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

☐ Yes ☒ No

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Disclosure Statement

Disclosure Statement



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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

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Applicant Signature

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Applicant Signature

Georgi Stoyanov - owner

Print Name and Title

12/1/2021

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	

Revised 11.09.2020

3 | Page

Next Steps

- Upon receiving a recommendation from Planning Commission, this request will be scheduled for a City Council public hearing. Staff will inform the applicant and/or their representative of the date of the hearing in the upcoming days.
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Request

Conditional Use Permit (Short Term Rental)

Staff Recommendation

Approval

Staff Planners

Jenizza Badua
Hank Morrison

Location

909 Pacific Avenue, Unit C

GPIN

24272444111015

Site Size

34,984 square feet

Existing Land Use and Zoning District

Duplex Dwelling / OR Oceanfront Resort

Surrounding Land Uses and Zoning Districts North

Duplex dwellings, commercial parking lot / OR Oceanfront Resort

South

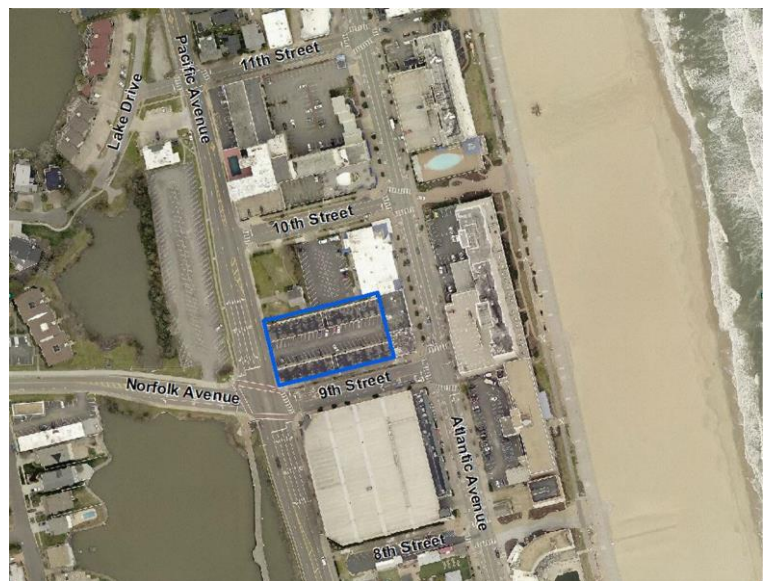
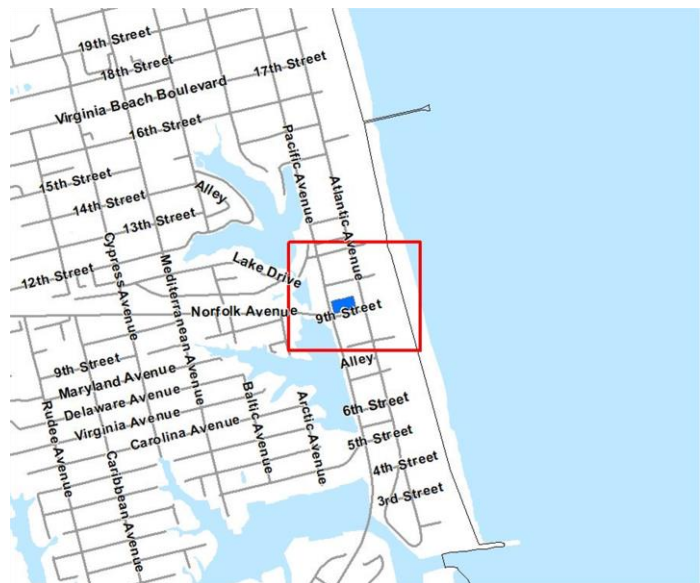
9th Street
Municipal parking garage / OR Oceanfront Resort

East

Retail shops / OR Oceanfront Resort

West

Pacific Avenue
Off-street parking lot / OR Oceanfront Resort



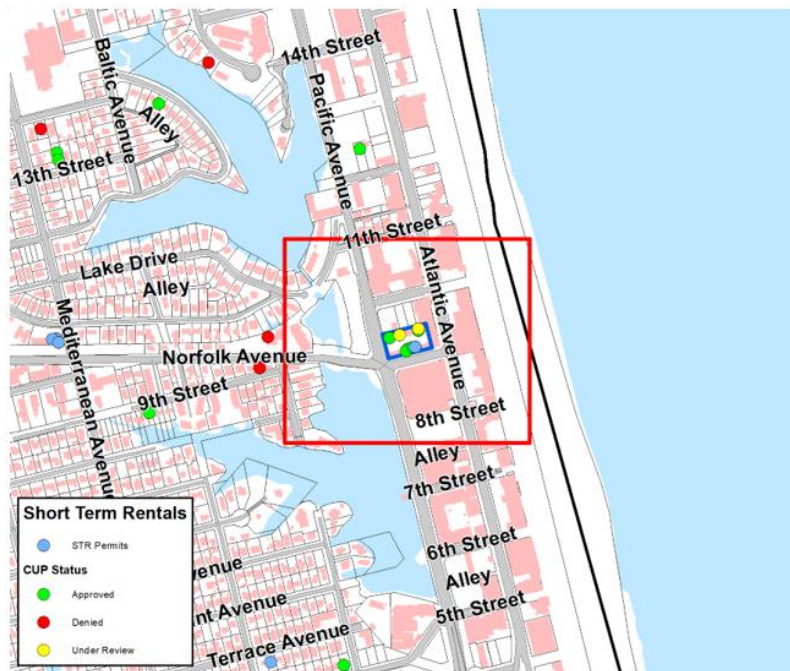
Background & Summary of Proposal

Site Conditions and History

- This 35,000 square foot parcel contains the Retreat by the Sea condominium development and is zoned OR Oceanfront Resort District. According to City records, this multi-family condominium was constructed in 1969.
- There is no on-street parking on Pacific Avenue.
- Eight Short Term Rental Conditional Use Permit application requests have been approved in this condominium development.
- Staff visited the site on January 25, 2022 to observe site conditions and take photographs for this report.
- Known Short Term Rental activity as of March 3, 2022:

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

Short Term Rentals in the Vicinity

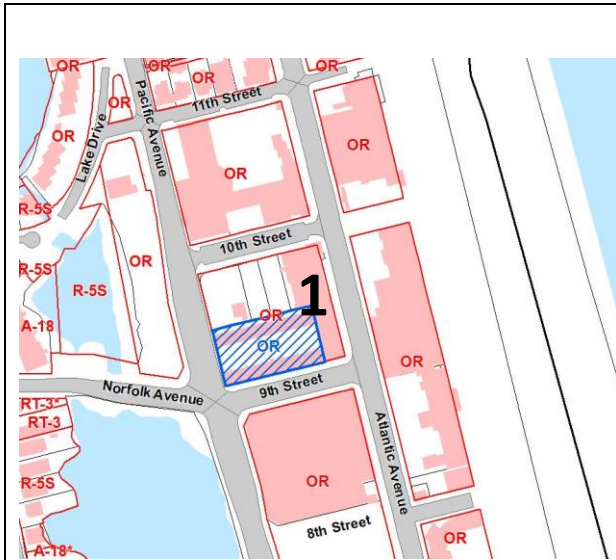


Summary of Proposal

The applicant submitted a Conditional Use Permit request to operate a two-bedroom, 617 square foot Short Term Rental unit on the subject site. The regulations for Short Term Rental use are identified in Section 241.2 of the City Zoning Ordinance. Specific details pertaining to this application are listed below.

- Number of bedrooms in the Short Term Rental: 2
- Maximum number of guests permitted on the property after 11:00 pm: 2

- Number of parking spaces required (1 space per bedroom required): 2
- Number of parking spaces provided on-site: 1
- One parking space is to be leased at the 9th Street Municipal Parking Garage across the street.



Zoning History

#	Request
1	<p>CUP (Short Term Rental) Approved 02/4/2020</p> <p>CUP (Short Term Rental) Approved 06/9/2020</p> <p>CUP (Short Term Rental) Approved 08/25/2020</p> <p>CUP (Short Term Rental) Approved 08/25/2020</p> <p>CUP (Short Term Rental) Approved 10/20/2020</p> <p>CUP (Short Term Rental) Approved 03/02/2021</p> <p>CUP (Short Term Rental) Approved 04/06/2020</p> <p>CUP (Short Term Rental) Approved 11/09/2021</p>

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 applicant is requesting to operate a two-bedroom, 617 square foot Short Term Rental unit within the Retreat by the Sea condominium development. Short Term Rentals are prevalent on this property with currently eight approved Conditional Use Permits for the operation of Short Term Rentals. Two parking spaces are required for this request. The applicant has one designated parking space on-site, and the second parking space will be leased at the 9th Street Municipal Parking Garage, which is directly across the street from the condominium development. The applicant has submitted a Letter of Intent to Lease Form to purchase an annual contract for one unreserved parking space at the 9th Street Municipal Parking Garage once approved by City Council. Per Section 241.2(1) of the City Zoning Ordinance, the Zoning Administrator has reviewed the parking plan and deemed it acceptable. All other requirements of Section 241.2 and Sections 2303 of the Zoning Ordinance regulating Short-Term Rentals can be reasonably met by the applicant.

The subject property lies in the Pacific Avenue corridor, which serves as the main north-south connector, including Atlantic Avenue, in the Resort Area. As identified in the Resort Area Strategic Action Plan (RASAP) 2030, both corridors serve as the area where many Resort Area visitors stay and gather. Therefore, the use of the unit as a Short Term Rental is consistent with this purpose. The unit would further provide diverse lodging opportunities for the visitors and travelers wanting the Resort Area experience.

As the property is in a condominium form of ownership, the condominium representative has provided verification that the application of a Short Term Rental Conditional Use Permit in the development is permitted.

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 909 Pacific Avenue, Unit C 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. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire, or other similar codes.
5. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1.
6. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes and to be physical present at the Short Term Rental within one (1) hour.
7. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
 - a) A completed Department of Planning and Community Development Short Term Rental Zoning Permit; and
 - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
 - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
8. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
9. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
10. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
11. Accessory structures shall not be used or occupied as Short Term Rentals.
12. No signage shall be on-site, except 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.

13. The Short Term Rental shall have no more than one (1) rental contract for every seven (7) consecutive days.
14. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
15. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
16. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom, 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).
17. 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.

18. 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.

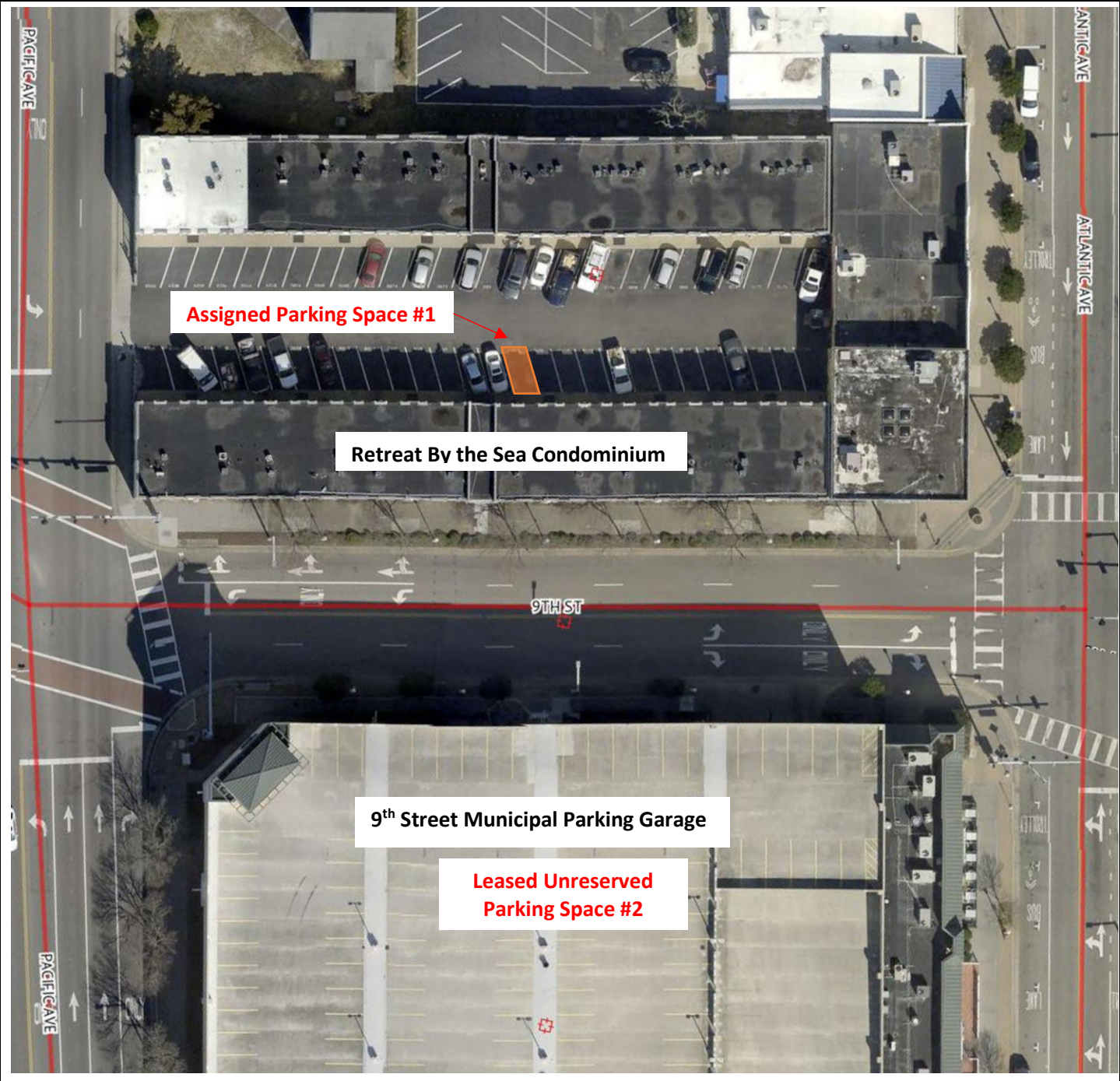
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Public Outreach Information

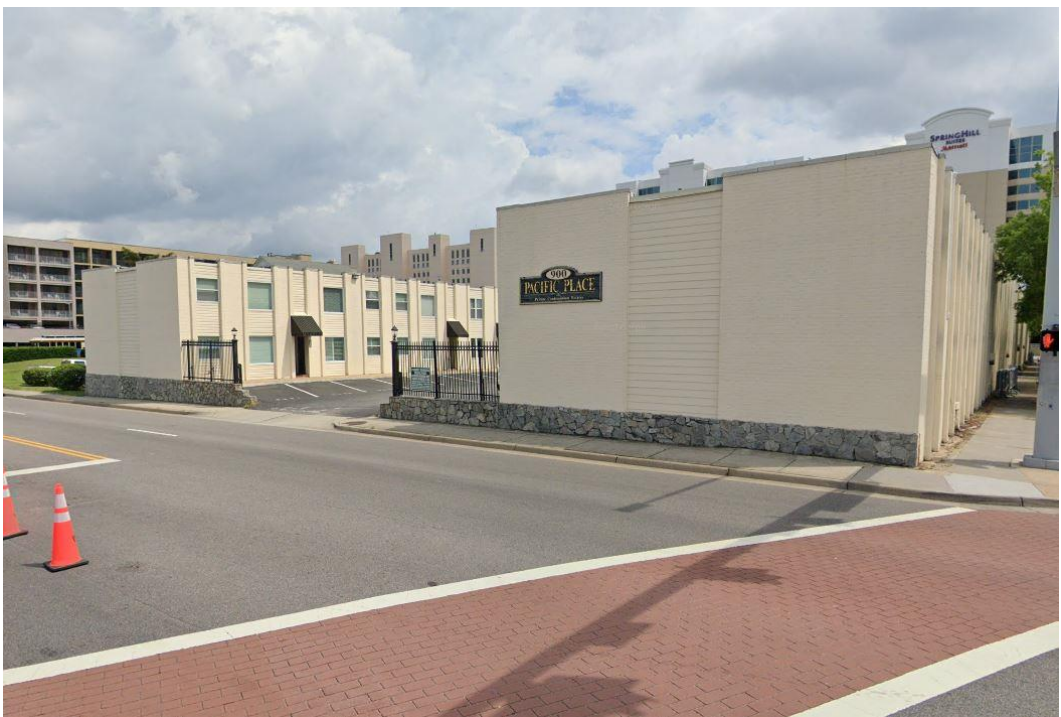
Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on February 7, 2022.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, February 20, 2022, and February 27, 2022.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on February 21, 2022.
- 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 March 3, 2022.

Site Layout & Parking Plan



Site Photos



Site Photos



Disclosure Statement



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

Applicant Disclosure

Applicant Name Jesse Ryan

Does the applicant have a representative? ☐ Yes ☒ No

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

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

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

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

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

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

Disclosure Statement



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

☐ Yes ☒ No

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

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

☐ Yes ☒ No

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

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

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

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

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

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

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

Disclosure Statement

Disclosure Statement



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

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

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

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

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

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

Applicant Signature

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

Jesse Ryan

Applicant Signature

Jesse Ryan Owner

Print Name and Title

1-14-22

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.
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