



Planning Commission Agenda

June 8, 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, June 8, 2022 at 12:00 p.m. in the Council Chamber at City Hall, 2nd Floor at 2403 Courthouse Drive (Old City Hall), Building 3, 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=e1e4dd6c7153ab01e643e4ff5346c22c9>
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 June 7, 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.

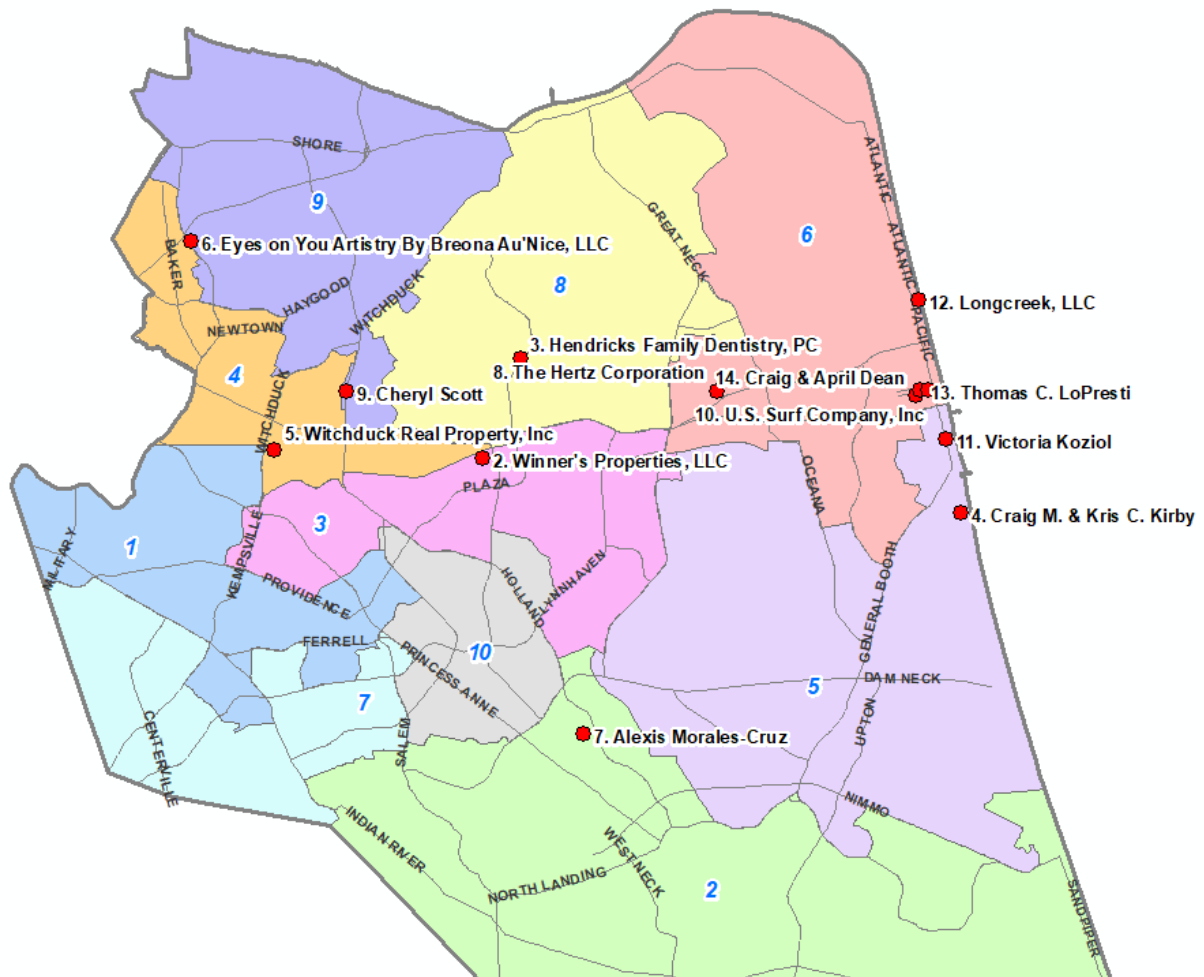
Planning Commission Hearing Procedures

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.

JUNE 8, 2022 PLANNING COMMISSION AGENDA



JUNE 8, 2022 PLANNING COMMISSION AGENDA

A. COMMENTS BY DIRECTOR OF PLANNING AND CHAIR OF COMMISSION

B. BRIEFINGS

Lighting Ordinance by Hannah Sabo, Zoning Administrator

12:00 P.M. – PUBLIC HEARING

1.

Joyce Nelson, Shelley Gray Sweitzer & Suzanne Gray (Applicants & Property Owners)

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

Address: 2748 West Landing Road

GPIN(s): 1492620072

Council District: District 2, formerly Princess Anne

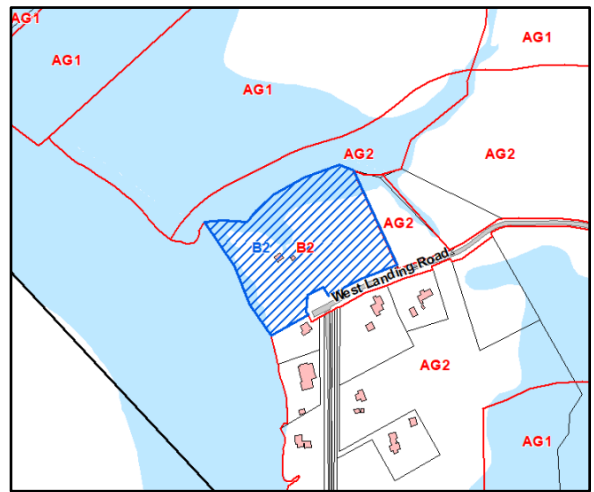
Accela Record(s): 2022-PCCC-00088

SGA: No

Overlay: No

Staff Planner: Hoa N. Dao

Request to rezone a 6.23-acre parcel from Conditional B-2 to AG-2.



2.

Winner's Properties, LLC (Applicant)

Evergreen Virginia, LLC (Property Owner)

Modification of Conditions

Address: 3700 Sentara Way

GPIN(s): 1487523853

Council District: District 2, formerly Rosemont

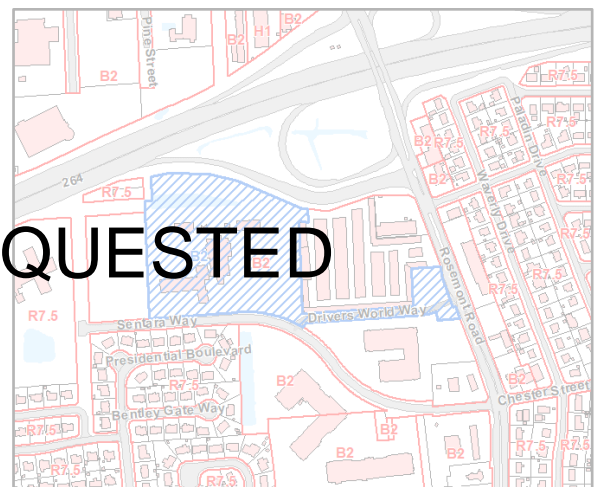
Accela Record: 2022-PCCC-00065

SGA: Yes – Rosemont

Overlay: No

Staff Planner: Hoa N. Dao

Request to modify an existing Conditional Use Permit to add a 12,000 sf sales showroom to the site.



DEFERRAL REQUESTED

3.

Hendricks Family Dentistry, PC (Applicant)
Clayborn Properties, LLC (Property Owner)

Change in Nonconformity

Address: 737 Little Neck Road

GPIN(s): 1488803791

Council District: District 8, formerly Lynnhaven

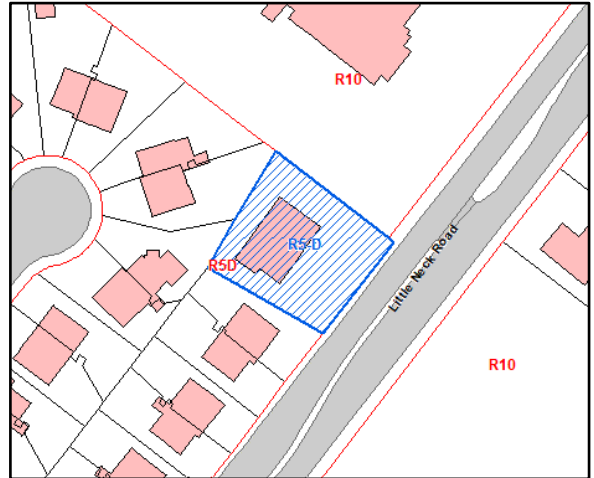
Accela Record(s): 2022-PCCC-00059

SGA: No

Overlay: No

Staff Planner: Marchelle Coleman

Request to expand an existing nonconforming dental office by approximately 533 square feet.



4.

Craig M. & Kris C. Kirby (Applicants)

Street Closure

Address: 7.5-foot by 75-foot of an unimproved alley adjacent to 631 Vanderbilt Avenue

Adjacent GPIN(s): 2426384565

Council District: District 5, formerly Beach

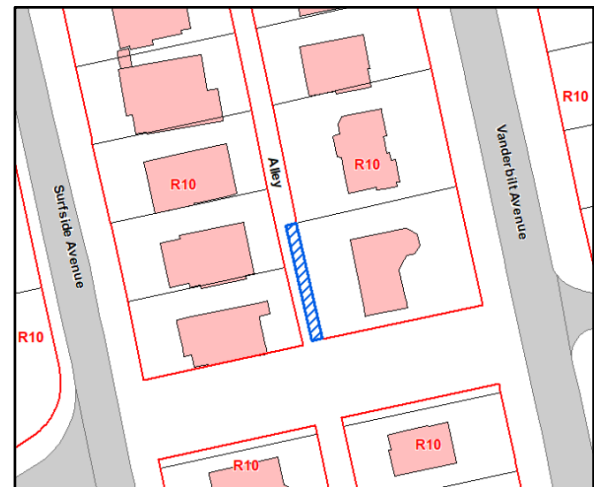
Accela Record(s): 2022-PCCC-00084

SGA: Yes – Resort Area

Overlay: No

Staff Planner: Marchelle Coleman

Request to close approximately 562.5 square feet of the 15-foot-wide alley in the Croatan Beach Subdivision.



5.

Witchduck Real Property, Inc (Applicant & Property Owner)

Conditional Rezoning (I-2 Heavy Industrial District to Conditional A-36 Apartment District)

Address: 122 Mac Street

GPIN(s): 1467837448

Council District: District 4, formerly Bayside

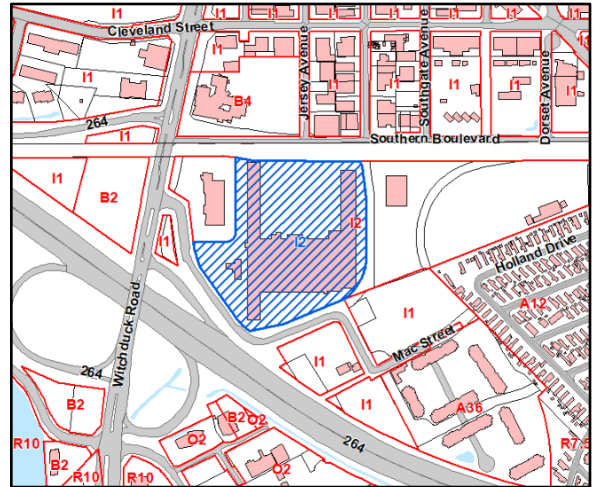
Accela Record(s): 2022-PCCC-00095

SGA: Yes – Pembroke

Overlay: No

Staff Planner: Marchelle Coleman

Request to rezone approximately 12.26 acres from I-2 to Conditional A-36 for development of 438 apartment units at a density of 35.72 units per acre.



6.

Eyes On You Artistry By Breona Au'nice, LLC (Applicant)

Diamond Springs Shoppes Associates, LLP (Property Owner)

Conditional Use Permit (Tattoo Parlor)

Address: 1270 Diamond Springs Road, Suite 113

GPIN(s): 1469201140

Council District: District 9, formerly Kempsville

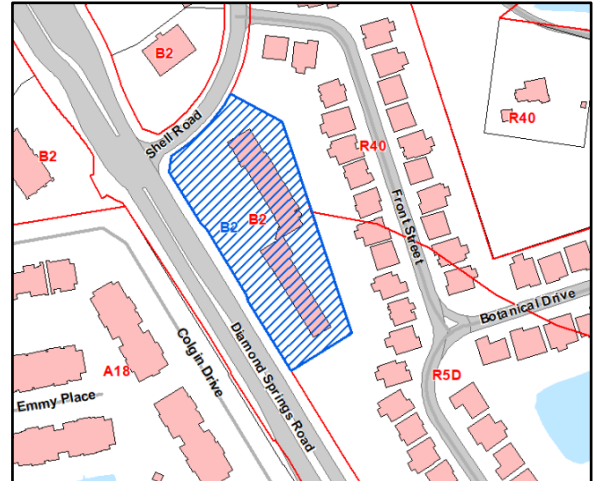
Accela Record(s): 2022-PCCC-00090

SGA: No

Overlay: No

Staff Planner: Elizabeth Nowak

Request to operate a Tattoo Parlor within an 800 square foot unit in the Diamond Springs shopping center.



7.

Alexis Morales-Cruz (Applicant)

Edwin & Alexis Cruz (Property Owners)

Conditional Use Permit (Family Day-Care Home)

Address: 3049 Barberry Lane

GPIN(s): 1495304965

Council District: District 2, formerly Kempsville

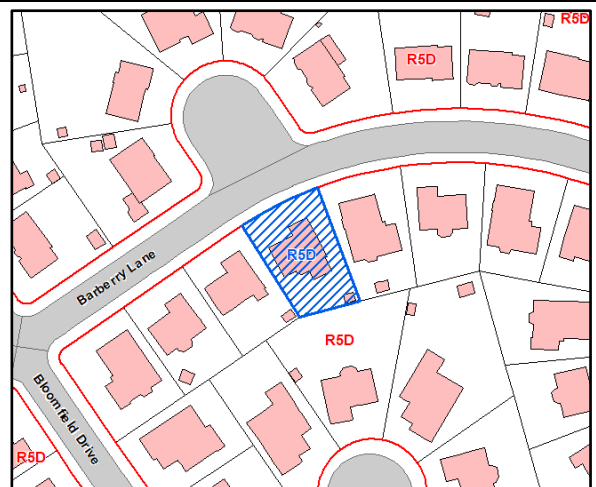
Accela Record(s): 2022-PCCC-00085

SGA: No

Overlay: No

Staff Planner: Michaela McKinney

Request to operate a Family Day-Care within a residential home.



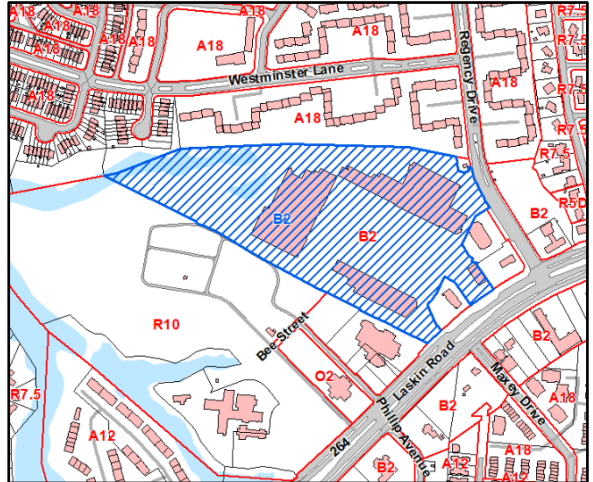
8.

The Hertz Corporation (Applicant)
Regency Hilltop Associates (Property Owner)

Conditional Use Permit (Motor Vehicle Rentals)

Addresses: 1940 Laskin Road, Suite 308
GPIN(s): 2407387103
Council District: District 6, formerly Beach
Accela Record(s): 2022-PCCC-00089
SGA: Yes – Hilltop
Overlay: No
Staff Planner: Michaela McKinney

Request to operate a vehicle rental business within a unit of the Regency Shopping Center.



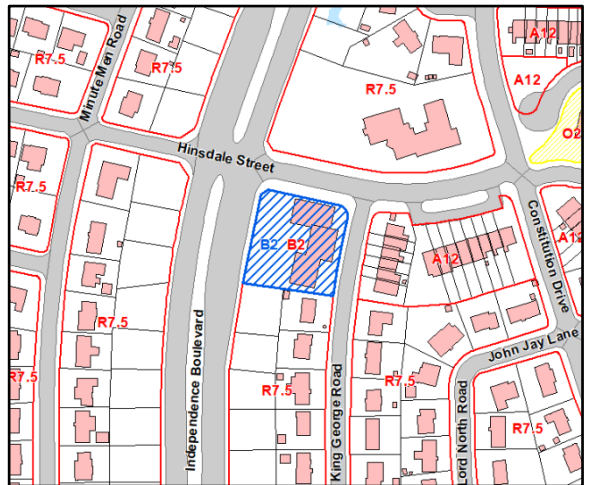
9.

Cheryl Scott (Applicant)
Pembroke North Associates, LLC (Property Owner)

Conditional Use Permit (Tattoo Parlor)

Address: 544 Independence Boulevard
GPIN(s): 1477485260
Council District: District 9, formerly Bayside
Accela Record(s): 2022-PCCC-00080
SGA: No
Overlay: No
Staff Planner: Michaela McKinney

Request to operate a Tattoo Parlor for microblading (application of permanent make up) within an existing hair salon.



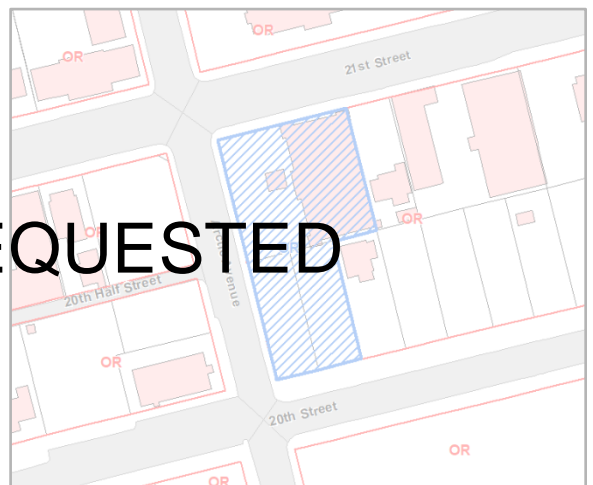
10.

U.S. Surf Company, Inc (Applicant)
Sunsations Reality, LLC (Property Owner)

Alternative Compliance (Outdoor Recreational Facility & Recurring Special Events)

Addresses: 2017 Arctic Avenue, 317 20th Street
GPIN(s): 2427088204, 2427055351, 2424308180
Council District: District 6, formerly Beach
Accela Record(s): 2022-PCCC-00127
SGA: Yes – Resort
Overlay: No
Staff Planner: Brandon Hackney

An after-the-fact request to operate an Outdoor Recreation Facility (skate ramps) and Recurring Special Events.



DEFERRAL REQUESTED

SHORT TERM RENTALS

11.

Victoria Koziol (Applicant & Property Owner)

Conditional Use Permit (Short Term Rental)

Address: 901 Pacific Avenue, Unit C

GPIN(s): 24272444110950

Council District: District 6, formerly Beach

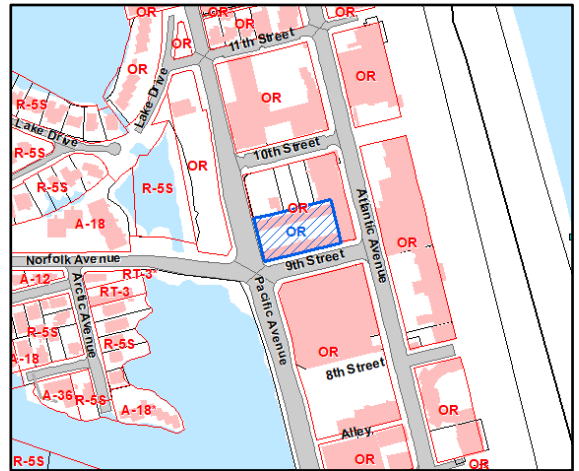
Accela Record(s): 2022-PCCC-00069

SGA: Yes – Resort Area

Overlay: OR STR

Staff Planner: Hank Morrison

Request for a 2-bedroom Short Term Rental.



12.

Longcreek, LLC (Applicant & Property Owner)

Conditional Use Permit (Short Term Rental)

Address: 4005 Atlantic Avenue, Unit 218

GPIN(s): 2428051448

Council District: District 6, formerly Beach

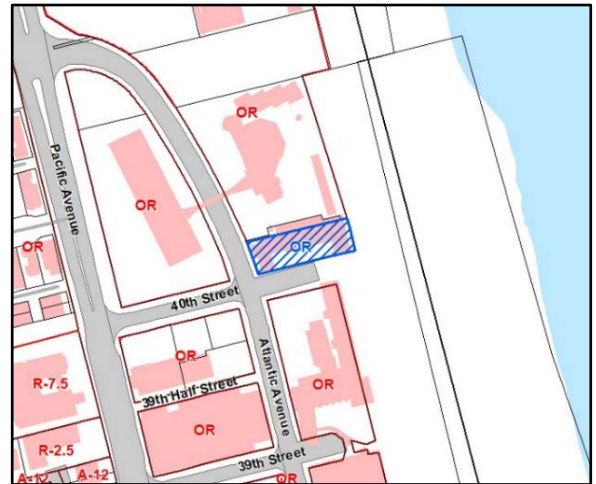
Accela Record(s): 2022-PCCC-00079

SGA: Yes – Resort Area

Overlay: OR STR

Staff Planner: Hank Morrison

Request for a 1-bedroom Short Term Rental.



13.

Thomas C. LoPresti (Applicant & Property Owner)

Conditional Use Permit (Short Term Rental)

Address: 425 21st Street

GPIN(s): 2427082313

Council District: District 6, formerly Beach

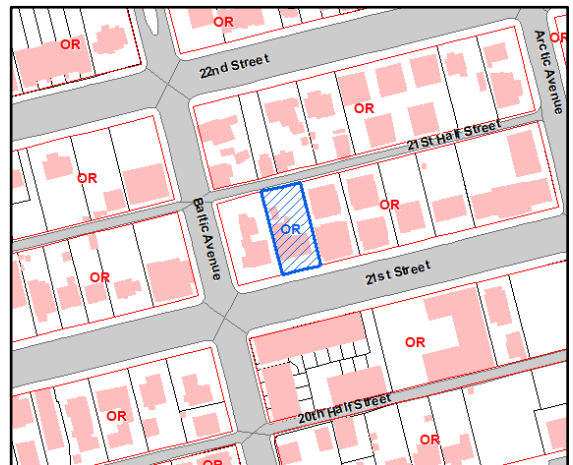
Accela Record(s): 2022-PCCC-00066

SGA: Yes – Resort Area

Overlay: OR STR

Staff Planner: Levi Luckenbach

Request for a 4-bedroom Short Term Rental.



14.

Craig & April Dean (Applicants & Property Owners)

Conditional Use Permit (Short Term Rental)

Address: 515 20th Street

GPIN(s): 2417979808

Council District: District 6, formerly Beach

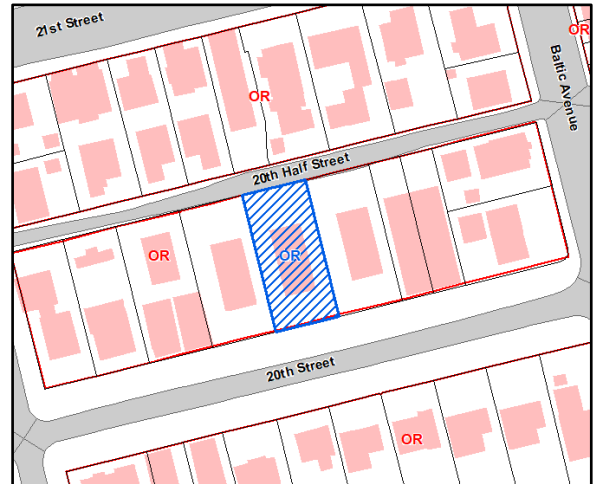
Accela Record(s): 2022-PCCC-00082

SGA: Yes – Resort Area

Overlay: OR STR

Staff Planner: Levi Luckenbach

Request for a 2-bedroom Short Term Rental.



Request

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

Staff Recommendation

Denial

Staff Planner

Hoa N. Dao

Location

2748 West Landing Road

GPIN

1492620072

Site Size

6.23 acres

AICUZ

70-75 dB DNL

Watershed

Southern Rivers

Existing Land Use and Zoning District

Former marina / Conditional B-2 Community Business

Surrounding Land Uses and Zoning Districts

North

North Landing River Inlet

South

West Landing Road

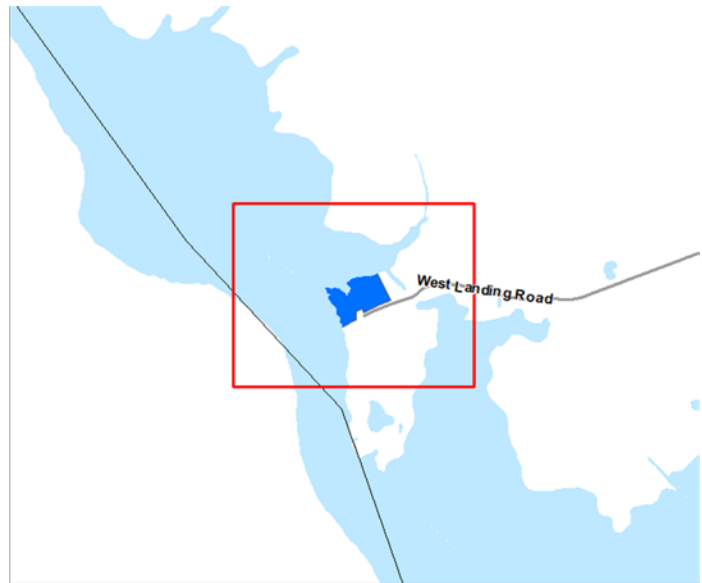
Single-family dwelling / AG-2 Agricultural

East

Vacant lot / AG-2 Agricultural

West

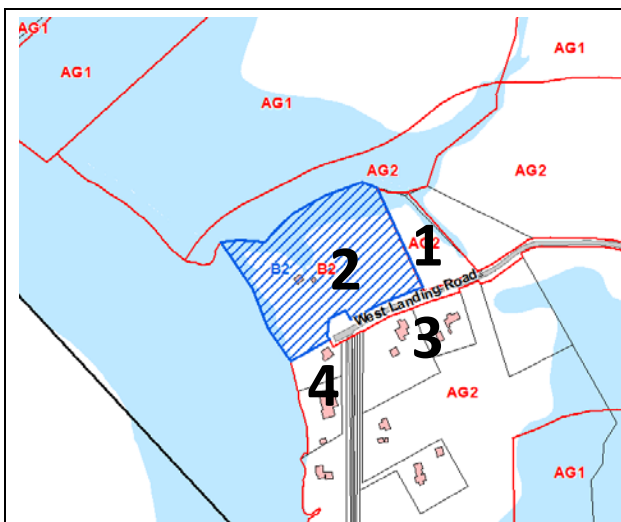
North Landing River



Background & Summary of Proposal

- The applicant seeks to rezone the 6.23-acre parcel from Conditional B-2 Community Business to AG-2 Agricultural District.
- In 1997, City Council approved a rezoning from AG-2 Agricultural District to Conditional B-2 Community Business District and a Conditional Use Permit for a boat storage facility, pier, and boat ramp. This approval provided the property owner the opportunity to operate a marina where customers could launch boats, store up to 50 boats on the site, and operate a small marina store.
- In 2011, an application was filed to that would allow for storage and launching of jet skis from the site; however, that application was never considered by the Planning Commission as it was ultimately withdrawn due to opposition in large part associated with environmental impacts of jet ski activity in the North Landing River.
- The property is located within the 70-75 dB DNL of the Air Installations Compatible Use Zones (AICUZ).
- Below is a list of some uses that are permitted (P) in the AG-2 Agricultural District and compatibility with the AICUZ noise zone. The complete list of uses can be found in Sections 401 and 1804 of the Zoning Ordinance.

USE	AG-2	Compatible w/in the 70-75 dB DNL of AICUZ
Agricultural, aquacultural and horticultural operations, including orchards, vineyards, nurseries and the raising and grazing of livestock, poultry and swine and the keeping of bees	P	Y
Dwellings, single-family, except as specified in section 405(a)	P	N
Fish hatcheries and fish ponds	P	Y
Public elementary, intermediate and high schools, colleges and universities; day nurseries in connection with public or private elementary schools or religious uses	P	Y
Public parks, recreational areas, botanical and zoological gardens, golf courses, marinas and other public buildings and uses	P	Y
Recreational and amusement activities, as specified in and subject to the provisions of subsection (c)	P	Y



Zoning History

#	Request
1	SVR (Lot Area) Approved 08/17/2021
2	CRZ (AG-2 to Conditional B-2) Approved 10/14/1997 CUP (Commercial Marina & Boat Storage) Approved 10/14/1997
3	SVR (Lot Area & Lot Width) Approved 01/09/1996
4	SVR (Lot Area & Lot Width) Approved 04/25/1995

Application Types

CUP – Conditional Use Permit	MDC – Modification of Conditions	STC – Street Closure	SVR – Subdivision Variance
REZ – Rezoning	MDP – 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 proposal to rezone this parcel to AG-2 Agricultural District, in Staff’s review, is not acceptable due to the fact that the unconditional rezoning could result in uses on the site that are not deemed compatible with the standards set forth in Article 18 – Special Regulations in Air Installations Compatible Use Zones (AICUZ) - of the Zoning Ordinance. One such example is that once this property is rezoned to the AG-2 Agricultural District, at least one single-family dwelling can be constructed on the site as a matter of right, thereby resulting in a use that is not compatible with the 70-75 dB DNL noise zone per Article 18 of the Zoning Ordinance.

Section 1804(a) of the Zoning Ordinance states: “It shall be the policy of the City Council that no application ... shall be approved unless ... the City Council finds that no reasonable use designated as compatible under the applicable table or tables can be made of the property. In such cases, the City Council shall approve the proposed use of property at the lowest density or intensity of development that is reasonable.”

Following protocols established for review of proposed development actions that are incompatible with the AICUZ, on April 27, 2022, the applicant presented the merits of the request to the Joint Review Process Group (JRP). The JRP includes Staff from both NAS Oceana and the City of Virginia Beach and meets for the primary purpose to determine whether proposed discretionary applications comply with the applicable provisions of the AICUZ Overlay Ordinance and to report those findings to the Planning Commission and City Council.

Subsequent to the April meeting, at the request of the JRP and in accordance with Section 1804 of the Zoning Ordinance the applicant submitted a letter outlining their position that a reasonable use exception should be considered for this specific situation. The letter is included on pages 10 through 12 of this report.

On May 18, 2022, the JRP reconvened to consider the merits presented within the reasonable use exception letter provided by the applicant and the unconditional rezoning to the AG-2 Agricultural District is not supportable. Staff noted that, while limited, a reasonable use of the property exists under the current B-2 zoning designation which allows for the operation of a marina with a boat ramp, pier, accessory picnic area, boat storage yard, and a 400 square foot retail store. While a modification to the proffer agreement would be required, the Staff also noted that there may be other uses within the current zoning of B-2 that could be pursued. Alternatively, the applicant could also request to rezone this parcel to Conditional AG-2 Agricultural District where incompatible uses would be prohibited in order to be in compliance with Article 18 of the Zoning Ordinance.

In sum, Staff finds that the request is not in compliance with Article 18 of the Zoning Ordinance and the applicant has not demonstrated that “no reasonable use designated as compatible under the applicable table or tables can be made of the property”; therefore, Staff recommends denial of this rezoning request.

Comprehensive Plan Recommendations

The Comprehensive Plan states that “control over land use and development in areas neighboring the airfields ultimately is the responsibility of local governments. The Navy, through its AICUZ Program, encourages local governments to plan for compatible development.” Article 18 of the Zoning Ordinance identify residential uses that are within noise zone of 70 dB or higher to be incompatible uses.

Natural & Cultural Resources Impacts

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

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
West Landing Road	No Data Available	9,900 ADT ¹ (LOS ⁴ "D")	Existing Land Use ^{2a} – 0 ADT Proposed Land Use ^{3a} – No Data Available Proposed Land Use ^{3b} – 10 ADT
¹ Average Daily Trips	^{2a} As defined by a vacant parcel	^{3a} No use is proposed ^{3b} When developed with a single-family dwelling	⁴ LOS = Level of Service

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

West Landing is a two-lane local street. It is not listed in the MTP and there are no roadway CIP projects slated for this area.

Public Utility Impacts

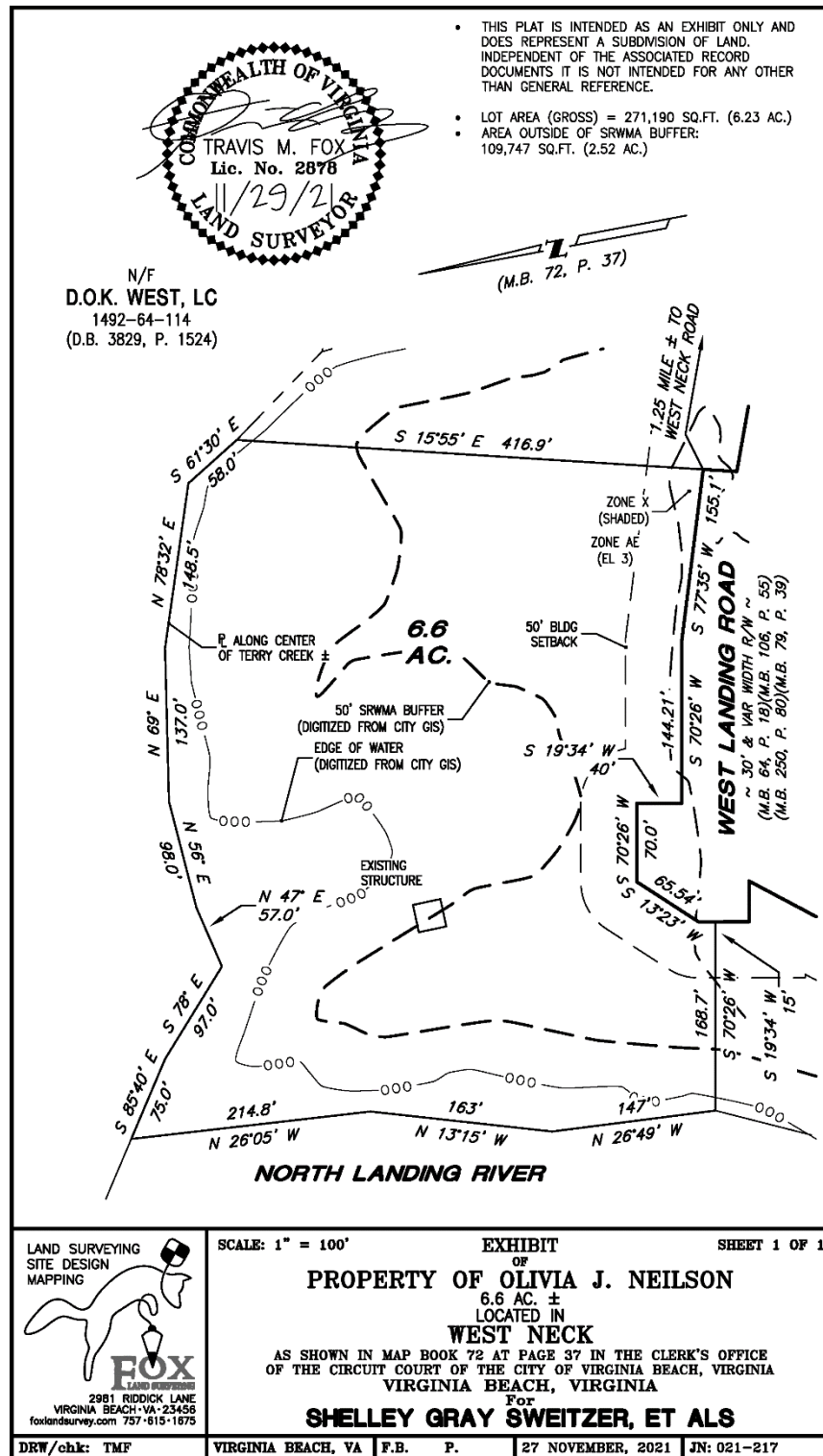
Water & Sewer

City water & sewer is not available to the property. Health Department approval is required for private wells and septic systems.

Public Outreach Information

Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on May 9, 2022.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, May 22, 2022 and May 29, 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 May 23, 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 June 2, 2022.



Site Photos



Site Photos





City of Virginia Beach

VBgov.com

PLANNING DEPARTMENT & COMMUNITY DEVELOPMENT
ZONING DIVISION
(757) 385-8074
FAX (757) 385-5667

2875 SABRE STREET, SUITE 500
VIRGINIA BEACH, VA 23452-7385

May 27, 2022

R. Edward Bourdon Jr. Esquire
4429 Bonny Rd.
Virginia Beach, Virginia 23462

Re: Request for Reasonable Use Exception at 2748 West Landing Road [GPIN: 1492-62-0072-0000]

Dear Mr. Bourdon,

I am in receipt of your reasonable use exception request to rezone 2748 West Landing Road [The Property] to AG-2 to allow construction of a single-family dwelling. The property is a 6.6 acre parcel located within the 70-75 dB AICUZ Aircraft Noise Level.

Section 1803 of the City of Virginia Beach Zoning Ordinance states that any discretionary development for any property located within an Accident Potential Zone (APZ) or 65-70 dB DNL, 70—75 dB DNL or >75 dB DNL Noise Zone shall have review against Article 18 and the "Land Use Compatibility in Noise Zones" Table. This section lists rezonings, including conditional rezonings, as "discretionary development applications".

Table 1 – "Land Use Compatibility in Noise Zones", lists multiple uses which may be permitted by-right in the AG-2 zoning district as **not compatible** within the 70-75 dB AICUZ Aircraft Noise Level zone. Those uses include: all residential and related uses; nursing homes; nature exhibits; and public assembly halls.

Section 1804 of the Virginia Beach Zoning Ordinance states the City Council policy regarding discretionary development applications within the AICUZ:

- (a) *City council policy.* Except as otherwise provided in this Article, it shall be the policy of the city council that no application included within the provisions of Section 1803 shall be approved unless the uses and structures it contemplates are designated as compatible under Table 1 below and, if

Page 2
Reasonable Use Exception- 2748 West Landing Road
May 27, 2022

applicable, Table 2, **unless the city council finds that no reasonable use designated as compatible under the applicable table or tables can be made of the property.** In such cases, the City Council shall approve the proposed use of property at the lowest density or intensity of development that is reasonable.

In order for City Council to approve the rezoning of the property to AG-2 to allow incompatible uses, it would have to be found that "no reasonable use designated as compatible under the applicable table or tables can be made of the property." While the Joint Review Process Group is generally supportive of the rezoning of the property to AG-2, which is in line with the surrounding properties, not all uses within AG-2 are listed as compatible within the 70-75 dB noise contour. Due to this application being a rezoning to unconditional AG-2, the Joint Review Process Group cannot support the rezoning as incompatible uses would be permitted as a matter of right.

The property is currently zoned B-2 with proffers which limit the use to "no more than a boat ramp, pier, accessory picnic area, boat storage yard, and four hundred square foot retail store. The store to be developed on the property shall be for the indoor sale of boating accessories and supplies, and convenience items such as pre-packaged snack foods." In 2011 an application was submitted to modify the proffers to allow jet ski storage and a jet ski launch. The application was generally opposed by surrounding neighbors and the application was withdrawn before City Council's action on the request.

At this time there have been no other applications or submittals showing that none of the uses compatible within the 70-75 dB AICUZ Aircraft Noise Level zone are reasonable on this property. It is for the reasons listed and in accordance with Section 1804(a) of the Virginia Beach Zoning Ordinance, the Joint Review Process Group finds that the criteria that **"no reasonable use designated as compatible under the applicable table or tables can be made of the property"** has not been met and cannot support a rezoning application to unconditional AG-2 at 2748 West Landing Road.

Further zoning and/or use requirements can be found at the following website:
www.vbgov.com/government/departments/planning/zoning

If I can be of further assistance, please contact me at (757) 385-8548 or email at HSabo@vbgov.com.

Sincerely,



Hannah Sabo
Zoning Administrator, City of Virginia Beach

Reasonable Use Request Letter



4429 BONNEY ROAD
SUITE 500
VIRGINIA BEACH, VIRGINIA 23462
TELEPHONE: 757-499-8971
FACSIMILE: 757-456-5445

May 9, 2022

JON M. AHERN
R. EDWARD BOURDON, JR.
JAMES T. CROMWELL
ASHLEY M. EICK
L. STEVEN EMMERT
MARK R. GARRETT
MOLLY R. KISER
KIRK B. LEVY
MICHAEL J. LEVY*
HOWARD R. SYKES, JR.
DAVID M. ZOBEL

*Admitted in Virginia and Washington DC

Via Email: rtajan@vbgov.com

Robert J. Tajan, Planning Director on behalf of
Joint City – Navy Staff (M.O.U.) Group
Department of Planning & Community Development – Current Planning
2875 Sabre Street
Suite 500
Virginia Beach, Virginia 23452
Attn: Hoa Dao
Attn: Captain John Lauterbach

Re: "REQUEST FOR REASONABLE USE EXCEPTION"
2748 West Landing Road; 6.6± acre parcel near the western terminus of West Landing Road
spot zoned Conditional B-2 in October 1997 (Proffer Agreement recorded D.B. 3800, Pg.
0747); GPIN: 1492-62-0072-0000

Dear Director Tajan:

As discussed in the meeting on April 27, 2022, the subject property is the only property within miles of the western terminus of West Landing Road which is not within the AG-1/AG-2 Agricultural Zoning District and there are no City sewer or City water services available in this area, nor are these services likely to exist in this area in any of our lifetimes.

Most critically, the only reason this property was able to obtain the unique Spot Zoning Approval to Conditional B-2 in 1997, was the very tightly limited utilization of the land as specified in the approved proffers.

Because this property is situated on the western bank of the North Landing River the family which has owned it for decades expressly proffered ("Paragraph 1") to utilize it as a boat launch and boat storage yard with small pier, a very small bait, tackle and boating supply store with "convenience items such as pre-packaged snack foods".

Proffer number 2 states: "the Grantors shall not put the Property to any use except for the normal use of the facilities as described in Paragraph 1".

No in water dockage is permitted, no food preparation or sale of prepared food is permitted, no sale of gas is permitted and the simple launching of jet skis is not permitted. When the family tried to get approval to simply allow jet skis to be stored (in the "boat storage yard") and launched (using the "boat launch") in 2011, they were strongly



Robert J. Tajan, Planning Director
May 9, 2022
Page 2 of 3

opposed by many neighbors and by the City. Their request was withdrawn in deference to the neighboring property owners' opposition.

Simply put, the small family business venture, as so strictly limited, was not able to compete and survive financially. The family has tried unsuccessfully to sell the property due to the lack of any feasible use for it as it is currently zoned.

Because this site is unquestionably rural, located well below the "Blue Line" in our agricultural southern half, there is no viable commercial use permitted in the B-2 Zoning District that could be viable financially, environmentally desirable and compatible with the surrounding properties. That is precisely why the Spot Zoning for this land use, which was not contemplated then, or now, under the City's Comprehensive Land Use Plan, was expressly limited to no other "use except for normal use of the facilities as described in Paragraph 1".

There simply is no other potentially permissible use of this property in the B-2 Zoning District that is (a) recommended for this area under the City's Comprehensive Plan; (b) compatible with use of surrounding properties; (c) environmentally compatible; and (d) financially feasible and sustainable. This is true regardless of whether the use is compatible or incompatible under the AICUZ tables.

Article 18 of our CZO was adopted following the BRAC/MOU process over eight (8) years after this property was conditionally rezoned "to regulate, in a manner consistent with the rights of individual property owners and the requirements of Military operations at NAS Oceana, development of uses and structures that are incompatible with NAS Oceana."

The Application Form for "Reasonable Use Exception For Incompatible Uses" in the AICUZ >70 dbn area contemplates a zoning change which would permit a use of greater intensity or density. Attempting to revise the proffers attached to the present B-2 Zoning is clearly inconsistent with our Comp Plan and basic land use and zoning principles and clearly not feasible. The same is true with respect to attempting to rezone this property for an economically viable use under any other Zoning District except Agriculture.

Conversely, downzoning the property back to Agriculture, like every other property which surrounds this property within a very, very substantial surrounding land area cannot conceivably be deemed "unreasonable". Thus, basic logic and common sense dictates that downzoning this parcel back to Agriculture as it had been zoned from 1953 until 1997 and as all the land around it has been zoned from 1953 to 2022 constitutes a

Reasonable Use Request Letter



Robert J. Tajan, Planning Director
May 9, 2022
Page 3 of 3

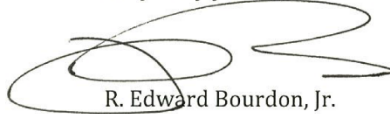
"Reasonable Use Exception". To conclude otherwise is akin to a condemnation by regulatory taking.

While one (1) home may be built upon this 6.6 acre parcel that was created in 1967, when downzoned back to AG-1, to suggest that such a result is anything but reasonable under these facts and circumstances presented in this case would call into serious question the legitimacy of the above cited and highlighted intentions expressed in the first paragraph of Article 18, by City Council in 2005 when they adopted Article 18 into our CZO.

Please feel free to contact me if you have any questions or wish to discuss.

With kind regards, I am

Very truly yours,



R. Edward Bourdon, Jr.

REBjr/arhm
cc: Shelley G. Sweitzer
Travis Fox, Fox Land Surveys
H:\AM\~Rezone\Sweitzer\Tajan_Ltr 5-09-2022.docx

Disclosure Statement

Disclosure Statement



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

Applicant Disclosure

Applicant Name Joyce Nelson, Shelley Gray Sweitzer and Suzanne Gray

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

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

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

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

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

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

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

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

Disclosure Statement

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.

Previously listed with Paul Fuqua, Rose & Womble Realty

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

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

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

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

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

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

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.

Travis Fox, Fox Land Surveying

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

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

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

Applicant Signature

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

A handwritten signature in blue ink that reads 'Shelley G. Sweitzer'. The signature is written in a cursive, flowing style.

Applicant Signature

Shelley G. Sweitzer

Print Name and Title

Date

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

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

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

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

Next Steps

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



Applicant **Winner's Properties, LLC**
 Property Owner **Evergreen Virginia, LLC**
 Planning Commission Public Hearing **June 8, 2022** (Deferred on May 11, 2022)
 City Council District **District 3**, formerly Rose Hall

Agenda Item

2

The applicant is requesting a deferral of this application to the July Planning Commission public hearing to work with Staff to refine the application.

Request

Modification of Conditions

Staff Recommendation

Deferral

Staff Planner

Hoa N. Dao

Location

3700 Sentara Way

GPIN

1487523853

Site Size

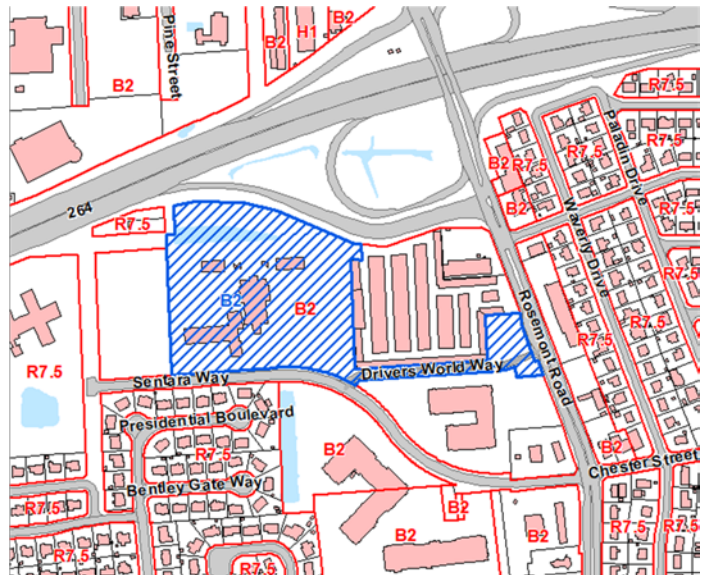
11.56 acres

AICUZ

Less than 65 dB DNL

Watershed

Chesapeake Bay



Request

Change in Nonconformity (Expansion of Dental Office)

Staff Recommendation

Approval

Staff Planner

Marchelle Coleman

Location

737 Little Neck Road

GPIN

1488803791

Site Size

14,679 square feet

AICUZ

Less than 65 dB DNL

Watershed

Chesapeake Bay

Existing Land Use and Zoning District

Dentist office / R-5D Residential

Surrounding Land Uses and Zoning Districts

North

Church / R-10 Residential

South

Single-family dwelling / R-5D Residential

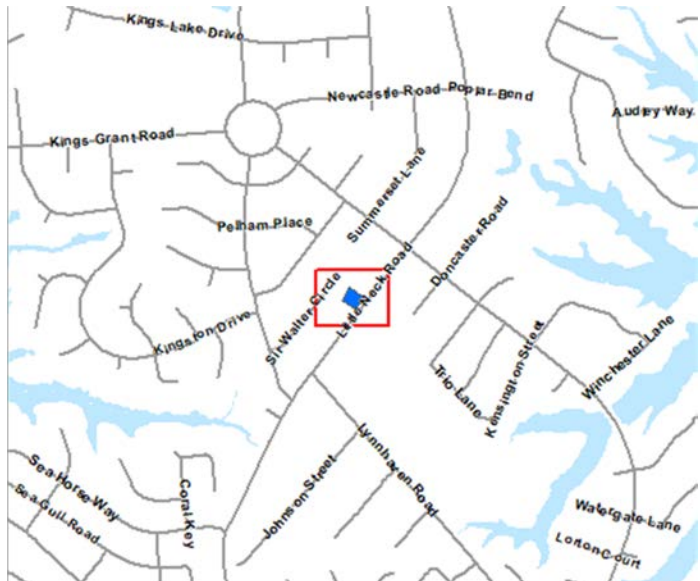
East

Little Neck Road

Church / R-10 Residential

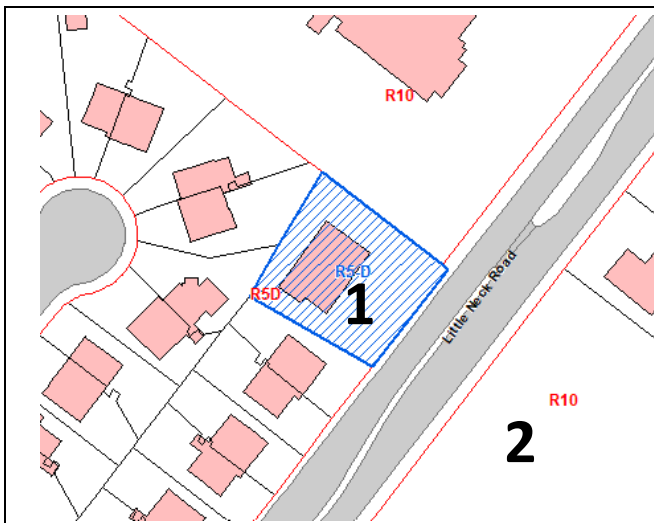
West

Single-family dwelling / R-5D Residential



Background & Summary of Proposal

- Since 1966, this 14,679 square foot R-5D Residential District-zoned parcel has been developed with a dental office. The applicant proposes to continue this use; however, is requesting an expansion of the building. Since the use is nonconforming, the proposed expansion requires City Council action.
- On January 23, 2007, City Council granted an expansion of this nonconforming use to expand the rear of the building and to renovate the exterior of the building to blend better with the surrounding residential area.
- The applicant is now seeking an additional expansion of the dentist office to construct a one-story, 533 square foot addition to the north side of the building. The building addition will include two additional operating rooms, office space, and a small utility closet.
- The building elevations depict a façade that will match the existing building with exterior materials consisting of stucco, azek fascia, and veneer stone.
- No other changes are proposed on site. All existing signage will remain, and no new signage is proposed.
- Per Section 203 of the Zoning Ordinance, one parking space is required for every 330 square feet of floor area. As the office is 3,210 square feet and there are 10 parking spaces on the site, the parking requirement is met.



Zoning History

#	Request
1	NON (Expansion of Use) Approved 01/23/2007
2	CUP (Day care) Approved 09/23/2003 MODC (Columbarium) Approved 08/26/2003 CUP (Columbarium) Approved 04/08/2003

Application Types

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

MDC – Modification of Conditions
MDP – Modification of Proffers
NON – Nonconforming Use

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

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

Evaluation & Recommendation

Section 105 of the City Zoning Ordinance regulates nonconforming uses and structures. Section 105(d) states that it is the intent of the Zoning Ordinance to allow nonconformities to continue until they are removed, but not to allow them to become enlarged, expanded, extended, or relocated “except upon a resolution of the City Council authorizing such conversion, based upon its finding that the proposed use is equally appropriate or more appropriate to the district than is the existing nonconforming use.”

In Staff's opinion, the applicant's request to expand the nonconforming use on the property is reasonable and acceptable. The proposed 533 square foot one-story addition is minor in scale and will not detrimentally alter the use of the site. The property only has vehicular access from Little Neck Road and any increase in vehicular traffic will not impact the adjacent residential properties. Ultimately, the request is in keeping with the policies and goals set forth in the Comprehensive Plan for the Suburban Area, as the dental office provides a service to the community and the modifications will not detract from the existing desirable characteristics of the surrounding residential area.

As mentioned previously, even with the increase in floor area, the minimum parking requirement is met on site. As depicted on the conceptual site plan, three of the parking spaces will be restriped and provided in front of the newly proposed building addition. One of the parking spaces will be in front of the roll-out dumpster enclosure. Staff has proposed, and the applicant concurs, that the dumpster will only be emptied before and after business hours, so that it will not interfere with the parking on site. To ensure potential noise, sight, and safety impacts are adequately addressed, conditions are recommended related to screening and trash removal that were crafted with the residential properties in the vicinity in mind.

Based on these considerations, Staff concludes that the proposed expansion is appropriate for the existing nonconformity and recommends approval of this request with the conditions listed below.

Recommended Conditions

1. All conditions attached to the previous Nonconforming Use application granted on January 23, 2007, are hereby deleted and superseded by the following conditions.
2. The proposed enlargement shall be developed substantially as depicted on the conceptual site plan entitled "OFFICE EXPANSION – Dr. A. Clayborn Hendricks, D.D.S", dated October 4, 2021, prepared by Gallup Surveyors & Engineers, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
3. The exterior of the proposed building expansion shall substantially adhere in appearance, size, materials to the submitted elevations entitled "Hendricks Family Dentistry – 737 Little Neck Road", dated August 31, 2021, prepared by Hendrix & Anderson Architects, which has been exhibited to the Virginia Beach City Council is on file in the Department of Planning & Community Development.
4. The roll-out dumpster on the property shall be dumped only between the hours of 7:30 a.m. and 8:30 a.m. and after business hours between the hours of 5:30 p.m. and 8:00 p.m., when the dental office is closed for business.
5. All existing landscape screening on the property shall be maintained.

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.

Previous Conditions – Approved 1/23/2007

1. The proposed enlargement shall be developed substantially as depicted on the site plan entitled “Concept Plan, Office Expansion for Dr. A. Clayborn Hendricks, D.D.S.”, dated September 27, 2006, a copy of which has been exhibited to the City Council and is on file in the Planning Department.
2. The architectural design of the addition to the existing structure shall be substantially as depicted on the submitted elevation drawing entitled “Renovation and New Construction, Clay Hendricks Dentistry, Virginia Beach, Virginia”, a copy of which has been exhibited to the City Council and is on file in the Planning Department.
3. Signage for the site and building shall be limited to a wall sign not to exceed two (2) square feet in size and a monument style freestanding sign. The monument style sign shall be as depicted on the submitted elevation drawing entitled, “New Sign for A. Clayborn Properties, 737 Little Neck Road”, a copy of which has been exhibited to the City Council and is on file in the Planning Department. The monument style sign shall not exceed seven (7) feet in length, two (2) feet in depth and five feet-six inches (5’6”) in height.

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
Little Neck Road	15,000 ADT ¹	28,200 ADT ¹ (LOS ⁴ “C”)	Existing Land Use ² – 90 ADT Proposed Land Use ³ – 116 ADT
¹ Average Daily Trips	² as defined by a 2,677 square foot dentist office	³ as defined by a 2,677 square foot dentist office with a 533 square foot addition	⁴ LOS = Level of Service

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

Little Neck Road in the vicinity of this application is considered a four-lane divided minor suburban arterial. There is no current CIP to upgrade this roadway at this time.

Public Utility Impacts

Water & Sewer

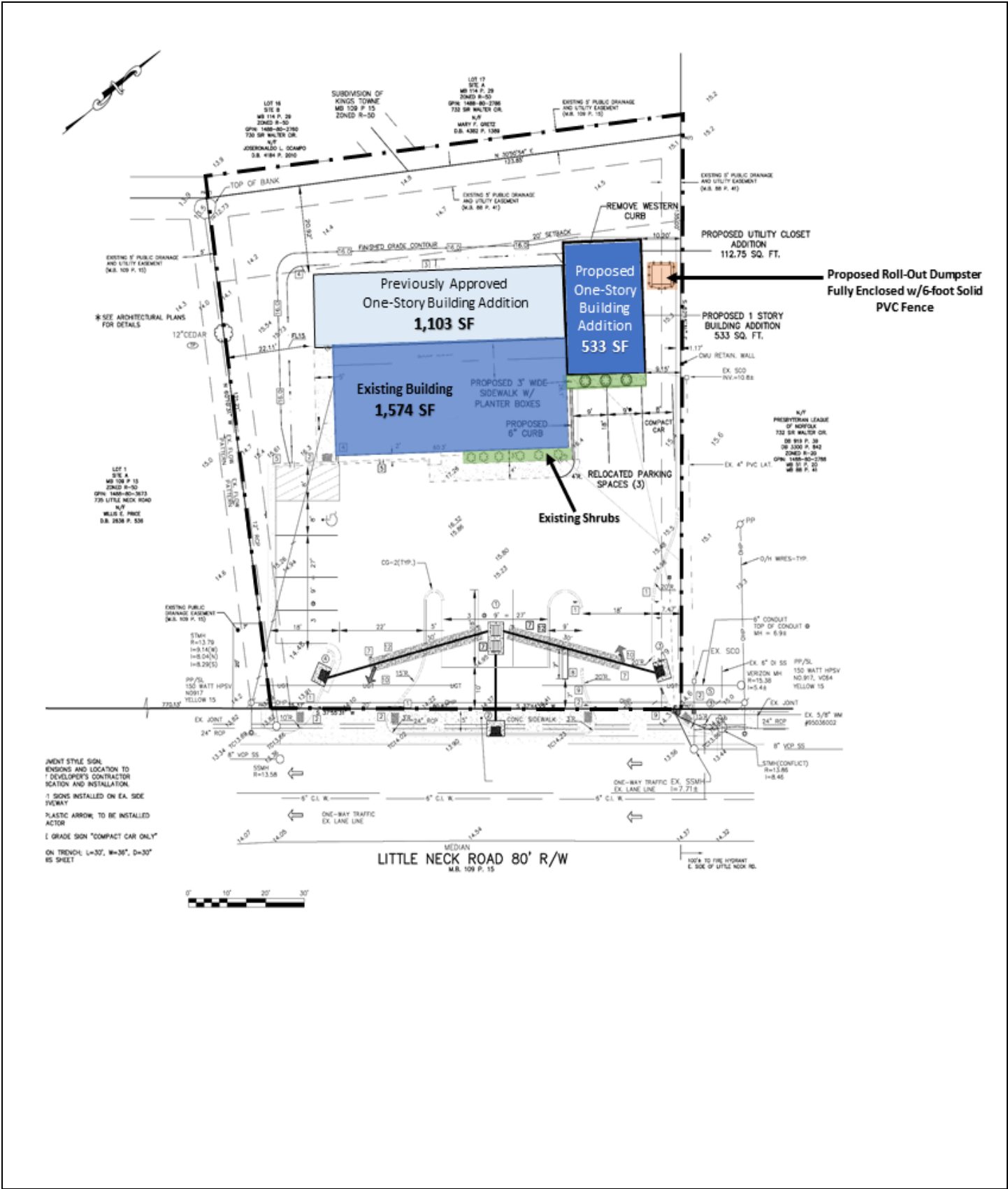
The site is currently connected to both City water and sanitary sewer service.

Public Outreach Information

Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on May 9, 2022.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, May 22, 2022 and May 29, 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 May 23, 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 June 2, 2022.

Proposed Site Layout



Proposed Elevation Plans



PARTIAL EAST ELEVATION
 SCALE: $\frac{1}{4}" = 1'-0"$
 HENDRICKS FAMILY DENTISTRY
 737 LITTLE NECK ROAD
 AUG. 31, 2021



NORTH ELEVATION
 SCALE: $\frac{1}{4}" = 1'-0"$

HENDRICKS FAMILY DENTISTRY
 737 LITTLE NECK ROAD
 AUG. 31, 2021

1 A RESOLUTION AUTHORIZING AN EXPANSION OF A
2 NONCONFORMING USE ON PROPERTY LOCATED AT
3 737 LITTLE NECK ROAD
4

5 WHEREAS, Hendricks Family Dentistry, PC (the "Applicant") has made application
6 to the City Council for authorization to expand the structure containing the dental practice
7 at 737 Little Neck Road and zoned R-5D Residential Zoning District with the expansion
8 of the structure containing the dental practice;
9

10 WHEREAS, this parcel currently contains a structure which contains a dental
11 practice, which is not allowed in the R-5D Zoning District, but the use was started prior to
12 the adoption of the applicable zoning regulations making it illegal and is therefore
13 nonconforming;
14

15 WHEREAS, the Planning Commission of the City of Virginia Beach recommended
16 approval of this application on June 8, 2022; and
17

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

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

26 That the City Council hereby finds that the proposed structure containing the dental
27 practice as expanded, will be equally appropriate to the district as is the existing structure
28 containing the dental practice under the conditions of approval set forth herein below.
29

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

33 That the expansion of the structure containing the dental practice is hereby
34 authorized, upon the following conditions:
35

- 36 1. All conditions attached to the previous Nonconforming Use application granted
37 on January 23, 2007, are hereby deleted and superseded by the following
38 conditions.
39
- 40 2. The proposed enlargement shall be developed substantially as depicted on the
41 conceptual site plan entitled "OFFICE EXPANSION – Dr. A. Clayborn Hendricks,
42 D.D.S", dated October 4, 2021, prepared by Gallup Surveyors & Engineers,
43 which has been exhibited to the Virginia Beach City Council and is on file in the
44 Department of Planning & Community Development.
45

- 46 3. The exterior of the proposed building expansion shall substantially adhere in
47 appearance, size, materials to the submitted elevations entitled "Hendricks
48 Family Dentistry—737 Little Neck Road," dated August 31, 2021, prepared by
49 Hendrix & Anderson Architects, which has been exhibited to the Virginia Beach
50 City Council and is on file in the Department of Planning & Community
51 Development.
52
53 4. The roll-out dumpster on the property shall be dumped only between the hours of
54 7:30 a.m. and 8:30 a.m. and after business hours between the hours of 5:30 p.m.
55 and 8:00 p.m., when the dental office is closed for business.
56
57 5. All existing landscape screening on the property shall be maintained.

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


APPROVED AS TO CONTENT:



Planning and Community
Development

CA15852
R-1
June 3, 2022

APPROVED AS TO LEGAL SUFFICIENCY:



City Attorney's Office

Site Photos



Site Photos



Disclosure Statement



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Applicant Disclosure

Applicant Name Hendricks Family Dentistry, PC, a Division of Atlantic Dental Care, PLC

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

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

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

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

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

Harlan Kent Hendricks, DDS; A. Clayborn Hendricks, DDS

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

Clayborn Properties, 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.

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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

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

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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.

To be Determined

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.

David Yates, CPA, Zuckerman & Associates

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

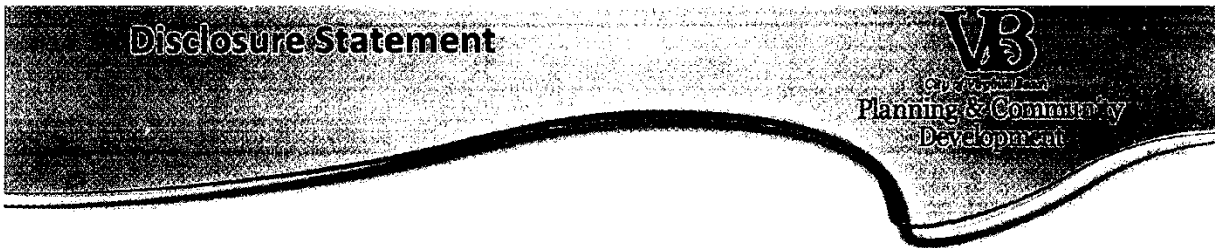
- If **yes**, identify the firm and individual providing the service.

Wayne Anderson, Covington, Hendrix & Anderson Architects

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

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

Disclosure Statement



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

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

To be Determined

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.

David Butler, Gallup Surveyors & Engineers, Ltd.

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

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

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

Applicant Signature

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

Handwritten signature
sig

Handwritten signature: Harlan Kent Hendricks, DDS

Applicant Signature

Handwritten: Harlan Kent Hendricks, DDS - Practice Owner Dentist

Print Name and Title

Handwritten: 2/23/22

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	

Disclosure Statement

Disclosure Statement



Owner Disclosure

Owner Name Clayborn Properties, LLC, a Virginia limited liability company

Applicant Name Hendricks Family Dentistry, PC, a Division of Atlantic Dental Care, PLC

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

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

A. Clayborn Hendricks, DDS, President

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

Hendricks Family Dentistry, a Division of Atlantic Dental Care, PLC

Known Interest by Public Official or Employee

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

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

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

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



Owner Services Disclosure

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

☐ Yes ☒ No

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

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

☐ Yes ☒ No

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

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

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

David Yates, CPA, Zuckerman & Associates

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

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

Wayne Anderson, Covington, Hendrix & Anderson Architects

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

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

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

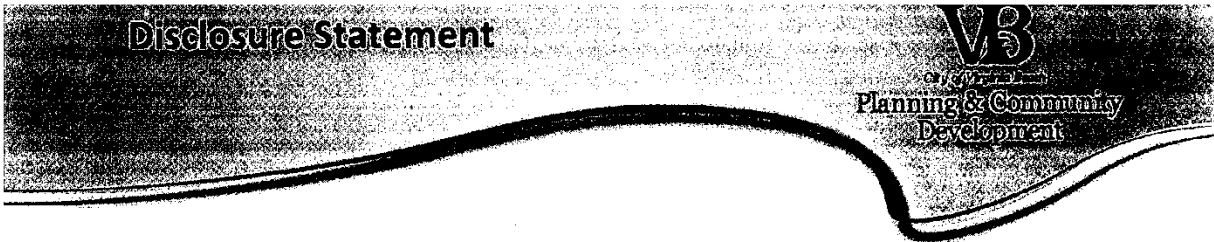
- If yes, identify the company and individual providing the service.

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

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

David Butler, Gallup Surveyors & Engineers, Ltd.

Disclosure Statement



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

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

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

Owner Signature

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

A. Clayborn Hendricks, D.D.S.
Owner Signature

A. Clayborn Hendricks, D.D.S.
Print Name and Title

2/23/22
Date

Next Steps

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

Request

Street Closure

Staff Recommendation

Approval

Staff Planner

Marchelle Coleman

Location

7.5-foot by 75-foot of an unimproved alley adjacent to 631 Vanderbilt Avenue

Adjacent GPIN

2426384565

Site Size

563 square feet

AICUZ

65-70 dB DNL

Watershed

Atlantic Ocean

Existing Land Use and Zoning District

Single-family dwelling / R-10 Residential

Surrounding Land Uses and Zoning Districts

North

Single-family dwellings / R-10 Residential

South

Aqua Lane

Unimproved right-of-way, single-family dwellings / R-10 Residential

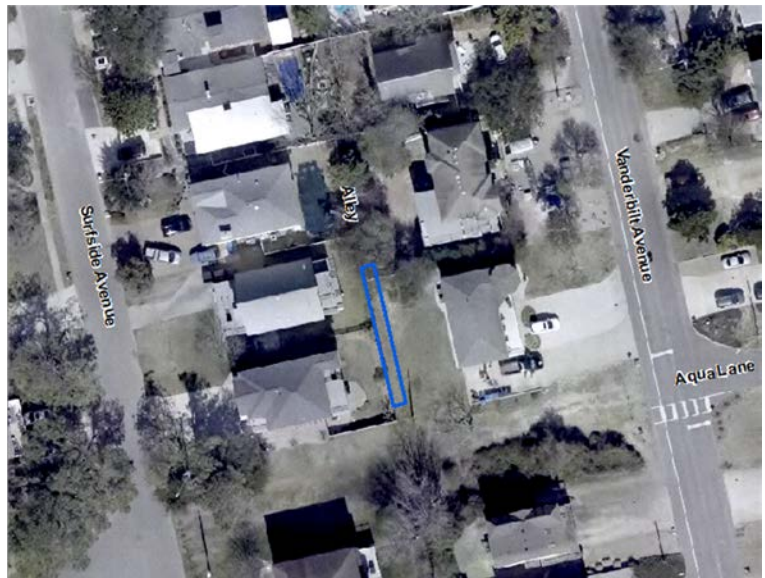
East

Vanderbilt Avenue

Single-family dwellings / R-10 Residential

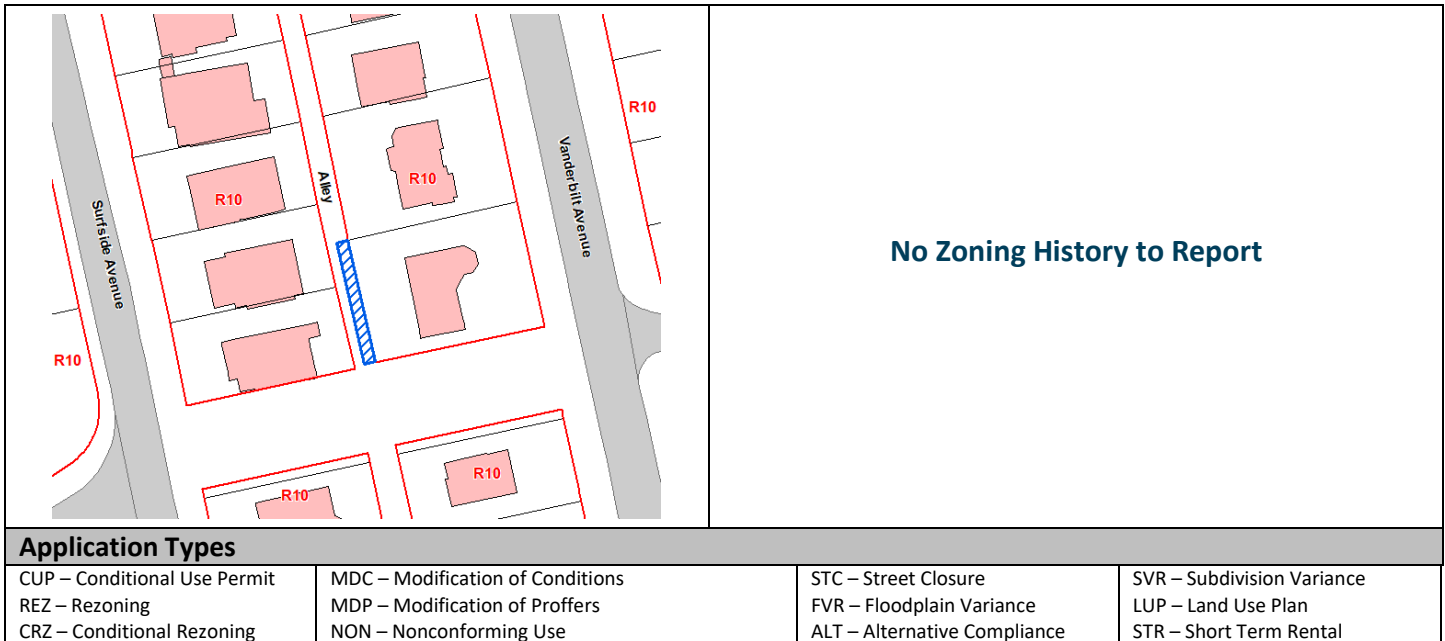
West

Unimproved alley, single-family dwellings / R-10 Residential



Background & Summary of Proposal

- The applicant is requesting to close a portion of the platted, unnamed, and unimproved alley that is adjacent to the rear lot line. As shown on the submitted street closure exhibit, the proposal includes closure of half of the 15-foot wide alley, totaling 563 square feet, and incorporating that land into their adjacent residential lot, identified as Lot 13A, Resubdivision of Lot 13 & Southern ½ of Lot 14, Block 18, Croatan Beach.
- The site is developed consistent with other residential lots in the Croatan neighborhood with a single-family home and a fenced in back yard. Currently, the area proposed to be closed is fenced in and has been used and maintained by the applicant.



Evaluation & Recommendation

As required by City Code, a Viewers' Meeting was held on April 22, 2022, that included City Staff from the Departments of Public Works, Public Utilities, Planning & Community Development, and the Office of the City Attorney, to consider this request. The Viewers determined that the proposed closure will not result in any public inconvenience; therefore, closure of this portion of the right-of-way is deemed acceptable.

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

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

Recommended Conditions

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

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

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

Comprehensive Plan Recommendations

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

Natural & Cultural Resources Impacts

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

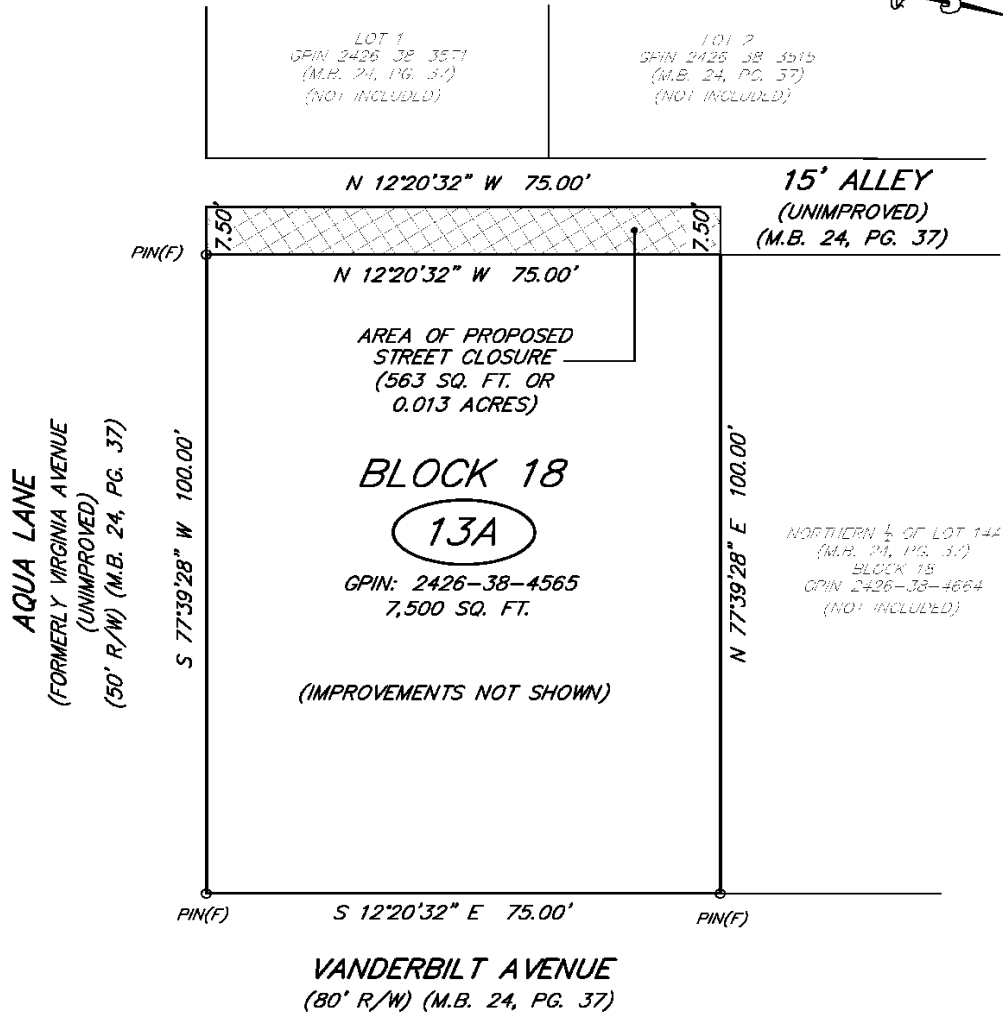
Public Outreach Information

Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on May 9, 2022.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, May 22, 2022 and May 29, 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 May 23, 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 June 2, 2022.

Street Closure Exhibit

THIS EXHIBIT IS INTENDED TO SHOW THE AREA OF PROPOSED RIGHT-OF-WAY CLOSURE AND INDEPENDENT OF THE ASSOCIATED RECORD DOCUMENTS AND IS NOT INTENDED FOR ANY OTHER THAN GENERAL REFERENCE.



THE PROPERTY HEREIN IS LOCATED IN ZONE 'A' AS SCALED FROM COMMUNITY PLAN #20080722000859-110 DATED 01/16/2015. THIS IS TO CERTIFY THAT THIS PLAN MEETS THE REQUIREMENTS OF THE PLAT ACT AS SET FORTH BY PLAT #20080722000859-110 AND RECORDED IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF VIRGINIA BEACH, VIRGINIA IN INSTRUMENT #20080722000859-110.

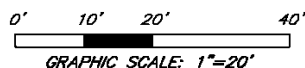
STREET CLOSURE EXHIBIT
OF
THE EASTERN 7.50' OF 15' ALLEY
(A PUBLIC R/W)
LOT 13A
RESUBDIVISION OF LOT 13 &
SOUTHERN 1/2 OF LOT 14
BLOCK 18
SUBDIVISION OF
CROATAN BEACH
VIRGINIA BEACH, VIRGINIA
(INSTR. #20080722000859410)



ADDRESS: 631 VANDERBILT AVENUE

W.O. #52695-2

DATE: 03/04/2022



HASSELL & FOLKES, P.C.
ENGINEERS-SURVEYORS-PLANNERS
325 VOLVO PARKWAY
CHESAPEAKE, VIRGINIA 23320
PHONE: (757) 547-9531 FAX: (757) 547-9481

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 Craig M. & Kris C. Kirby

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

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

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

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

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

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

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

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

Disclosure Statement



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

☒ Yes ☐ No

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

Mortgage Electronic Registration Systems, Inc.

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

☐ Yes ☒ No

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

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

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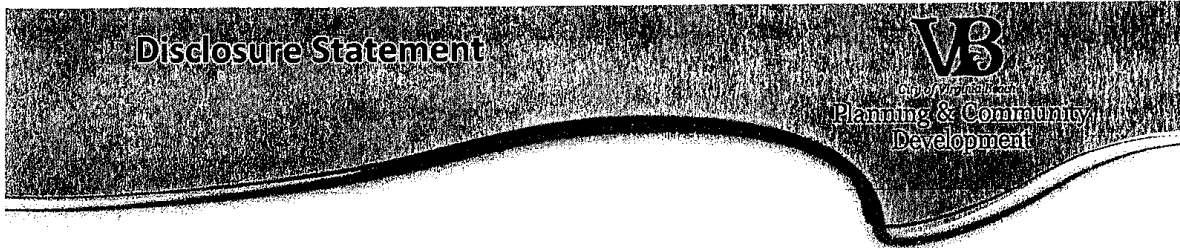
4. Does the applicant have services from an **architect/landscape architect/land planner** provided in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

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

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

Disclosure Statement



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

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

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.

Lynn D. Evans, Hassell & Folkes, P.C.

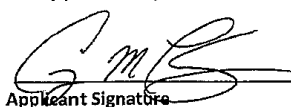
8. Is the applicant receiving **legal services** in connection with the subject of the application or any business operating or to be operated on the property? ☒ Yes ☐ No

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

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

Applicant Signature

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



Applicant Signature

Craig M. Kirby



Kris C. Kirby

Print Name and Title

3/18/22

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

Next Steps

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

Request

Conditional Rezoning (I-2 Heavy Industrial District to Conditional A-36 Apartment District)

Staff Recommendation

Deferral

Staff Planner

Marchelle Coleman

Location

122 Mac Street

GPIN

1467837448

Site Size

12.26 acres

AICUZ

Less than 65 dB DNL

Watershed

Chesapeake Bay

Existing Land Use and Zoning District

Industrial warehouse, scrap materials stockpile / I-2 Heavy Industrial

Surrounding Land Uses and Zoning Districts

North

Southern Boulevard

Office warehouse, warehouse, auto repair, Housing Resource Center / I-1 Light Industrial, B-4 Mixed Use

South

Mac Street, I-264

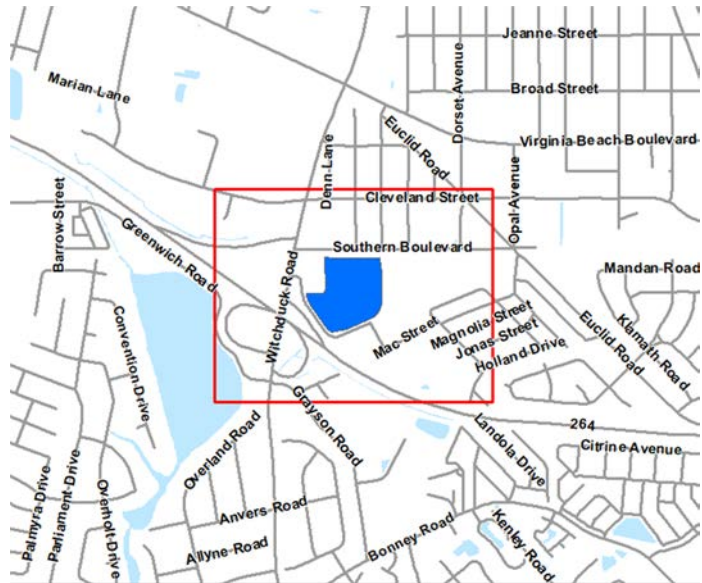
Bulk storage, tow yard / I-1 Light Industrial

East

Asphalt plant / I-2 Heavy Industrial

West

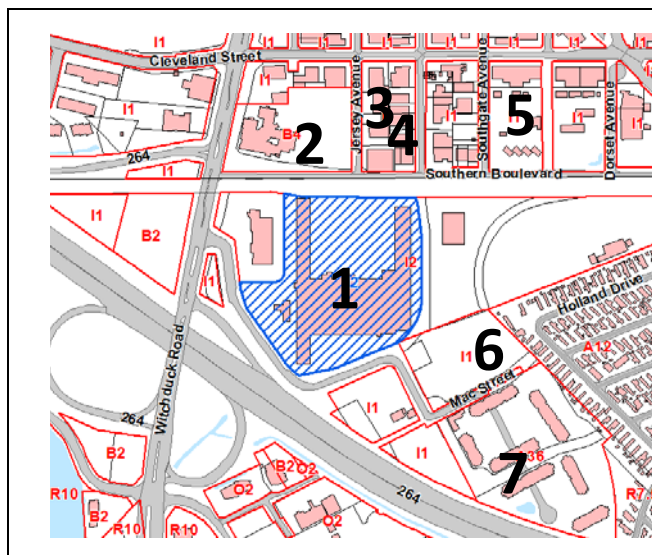
Office warehouse, bulk storage / I-1 Light Industrial



Background & Summary of Proposal

- The applicant is requesting to rezone a 12.26-acre parcel from I-2 Heavy Industrial District to Conditional A-36 Apartment District to redevelop the property with a 438-unit multi-family residential community, with a resulting density of 35.72 units per acre.
- The 12.26-acre property is located within the Pembroke Strategic Growth Area (SGA) and is currently being utilized for heavy industrial activity with multiple uses consisting of an industrial warehouse, scrap materials stockpile, bulk storage, and a recycling center. While the site is located in the Pembroke SGA, the site has been used for industrial uses for decades.
- In 1991, City Council granted a Conditional Use Permit for a recycling center and a Conditional Use Permit for the storage and processing of salvage, scrap or junk materials in 1994. Since the granting of the Conditional Use Permit in 1994, there have been multiple code enforcement issues with the property. In response to the possible revocation of the Conditional Use Permit, the applicant requested a modification of the Conditional Use Permit in an attempt to resolve the issues through more clearly defined conditions. The Modification of Conditions application was designed to ensure compatibility of the use with the uses in the surrounding area, to ensure consistency of the use with City plans and policies, and to bring the site and the building into consistency with applicable site and building codes.
- On May 3, 2019, a Notice of Violation was issued to the property owner outlining the violations of several of the conditions of the modification request including scrap vehicles, salvage, scrap junk, recycle materials and tractor-trailer container units being located outside the west, south, and east side of the building without adhering to the timeframe of during normal business hours and/or the materials being removed by the end of business day, temporary storage of motor vehicles were found outside of the enclosed area as depicted on the site plan, crushing of materials occurring outside in the areas that were prohibited, materials exceeding the height limitation and not being stored in an area enclosed with an opaque screen within the courtyard, storage of tires were not stored within the opaque wall enclosure consistent with applicable City, State, Federal Codes, landscaping and screening was not installed as required, and the overhead garage door on the southern end of the recycling facility was not kept closed during operation, as conditioned.
- On March 10, 2022, Staff inspected the site for compliance with the Modification of Conditions approved on December 6, 2001. Staff observed similar violations, as mentioned above. As evident in the site photos on pages 13 and 14 of this report, several of those violations have still not been resolved as there are large stockpiles of construction debris and scrap material, scraped vehicles, and unscreened stored materials currently on the site, which continues the violation, as the applicant is not able to maintain an orderly site. According to the applicant, the site is in the process of being cleaned up.
- As mentioned previously, the applicant is now seeking to redevelop the site with a multi-family residential community. The proposed proffered Conceptual Site Plan depicts six multi-family buildings, five buildings proposed as five stories in height and one building proposed with one level of podium parking with five stories above. Of the 438 apartment units, 34% will likely be one-bedroom units totaling 151 apartments, 43% will likely be two-bedroom units totaling 187 apartments, and 23% will likely be three-bedroom units totaling 100 apartments.
- The development has an extensive amenity package to include an outdoor swimming pool, clubhouse, dog park, tot lot, walking trails, a corner urban plaza open space area on the northeast corner of Southern Boulevard and Mac Street, and a pedestrian connection to the future publicly accessible Virginia Beach Trail and surrounding sidewalks.
- To address stormwater on-site, the applicant is proposing a combination of on-site underground facilities and the purchase of nutrient credits specific to meeting water quality and quantity requirements.

- The proposed development requires 779 parking spaces. The Conceptual Site Plan depicts 792 parking spaces, exceeding the parking requirement by 13 spaces. The parking plan includes 634 surface parking spaces, 92 garage spaces, and 66 podium garage spaces. In addition, 20 covered bicycle spaces will be provided, as required by the Zoning Ordinance.
- The proffered building elevations, as depicted on pages 11 and 12 of this report, reflect an urban building style with exterior building materials consisting of fiber cement horizontal wood grain siding, cedar mill Hardi panel accents, CMU block and split face block materials, and variations of brick and stucco.
- 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 proffered Conceptual Landscape Plan, streetscape plantings along Southern Boulevard and Mac Street, interior parking, and building foundation plantings are depicted as required per the Zoning Ordinance. The proposed landscaping appears to meet the requirements of the Zoning Ordinance; however, a more detailed review of all screening and planting requirements to ensure compliance with the Zoning Ordinance will occur during final site plan review.
- A Traffic Impact Study was requested but has not been submitted for review.
- A Phase I Environmental Site Assessment (ESA) was provided by TTC Corporation, dated August 24, 2021. The Phase I Environmental Site Assessment revealed that there are no current or pending environmental enforcement activities on the property, as well as no evidence of Recognized Environmental Conditions (REC) or Historical Recognized Environmental Conditions on this property. Due to the continuous heavy industrial-type uses for several decades, site visits conducted by Staff, Staff's historical knowledge of the site, as well as a note provided in the Phase I ESA which states *"The Conclusions and Recommendations are based on a limited review of the site and cannot provide complete assurance that all liabilities were detected. The Conclusions and Recommendations do not reflect variations in site conditions not visually apparent or which could exist intermediate of the sample locations,"* Staff requested that a Phase 2 ESA be provided. To address this recommendation, a proffer has been provided by the applicant whereby the Phase 2 ESA will be provided prior to release of the final site plan and that any remediation required will be completed and written confirmation provided to the Department of Planning & Community Development, prior to the release of any building permits.



Zoning History

#	Request
1	MDC (Storage and processing of salvage, scrap or junk) Approved 04/10/2001 CUP (Storage and processing of salvage, scrap or junk) Approved 12/06/1994 CUP (Recycling Center) Approved 02/26/1991
2	CRZ (I-1 to Conditional B-4) Approved 09/15/2015 CUP (Single-Room Occupancy Facility) Approved 09/15/2015
3	CUP (Bulk Storage Yard) Approved 09/11/2012
4	CUP (Automobile Repair Garage) Approved 05/01/2018
5	CUP (Church) Approved 04/13/2010
6	CUP (Automotive Repair Garage & Transmission Shop) Approved 06/26/2012
7	CUP (I-1 to Conditional A-36) Approved 11/15/2016

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

Evaluation & Recommendation

In Staff’s opinion, this request to conditionally rezone this 12.26-acre parcel from I-2 Heavy Industrial District to Conditional A-36 Apartment District for the construction of up to 438 multi-family dwelling units is acceptable as it complies with the intent of the Pembroke SGA Plan. However, Staff is recommending a deferral of the request until the Traffic Impact Study has been submitted and reviewed by Staff, as Staff is unable to provide any analysis on how this proposed 438-unit multi-family development will impact traffic and associated roadway infrastructure in the surrounding corridor.

The proposed request for a multi-family 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 Pembroke 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, as there will be walking trails and active recreational greenspace surrounding the facilities for residents to enjoy. Pedestrians have been considered 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 Southern Boulevard and the majority of Mac Street. With this redevelopment, 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 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. In synopsis, the applicant submitted a Conceptual Site Layout and Landscaping Plan that integrates the design characteristics identified in both the Pembroke SGA plan and the Special Area Development Guidelines for Urban Areas.

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, under, on the side and behind the buildings, 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 sidewalks and walking trails that provide connectivity to the proposed greenspace urban plaza and sufficient safe non-vehicular access to the future Virginia Beach Trail.

Parking Areas – As indicated in this Guideline, parking areas should not dominate the frontage of streets. Off-street parking areas should be located on the side and behind buildings and should create an internal circulation network that minimizes or eliminates curb cuts. To address this Guideline, the parking areas, as depicted on the Conceptual Site Plan, are located, in some cases, under the building, behind and on the side of the proposed buildings. The two curb cuts proposed will ultimately provide 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 buildings 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 Southern Boulevard and Mac Street include Evergreen trees and evergreen shrubs. In addition, interior parking and building foundation plantings are proposed.

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.

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, the applicant is proposing a combination of on-site underground facilities.

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.

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. A proffer has been provided that indicates that all signage on site, including the proposed freestanding sign, will meet the requirements of the City of Virginia Beach Zoning Ordinance.

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.

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; however, the overage 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 current student enrollment.

Given the location of this property near transit service and its close proximity to employment opportunities in this area, Staff recommended to the applicant that a percentage of the apartment units be available at a mix of income levels. However, the applicant envisions this development to be a “quality, high profile development that does not yield options for affordable or workforce housing opportunities.”

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 previously, the applicant proposes to provide a combination of on-site underground facilities and nutrient credit purchases, as needed, 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.

At this time, Staff is unable to fully support the proposal, specifically as the multi-million dollar investment of the City of Virginia Beach for right-of-way improvements to the Witchduck Road, Southern Boulevard, and Cleveland Street roadway network could be impacted. Staff seeks to ensure that there will be no negative impacts to these

improvements and that any impacts can be addressed by the applicant as part of the redevelopment of this site. Based on this, Staff recommends a deferral until such time that the TIS can be submitted and evaluated and the Planning Commission, City Council, and the community can be provided with a complete analysis of the impacts of this proposal to the surrounding area.

Proffers

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

Proffer 1:

The Property shall be developed in substantial conformity with the conceptual site plan entitled “Breedon Investment Properties, Inc. Architectural Site Plan – Scheme 05, 122 MAC ST, Virginia Beach, VA”, prepared by Humphreys & Partners Architects, L.P. dated May 17, 2022 (“Conceptual Site Plan”), which has been exhibited to the Virginia Beach City Council (“City Council”) and is on file with the Virginia Beach Department of Planning (“Planning Department”).

Proffer 2:

The architectural design and building materials of the multi-family dwelling units built on the Property shall be substantially compatible with the architectural style and materials depicted on the building elevation plans entitled “Breedon Investment Properties, Inc. Elevations – 122 MAC. ST, Virginia Beach, VA”, dated April 11, 2022, prepared by Humphreys & Partners Architects, L.P., which have been exhibited to City Council and are on file with the Planning Department.

Proffer 3:

The Property shall be landscaped in substantial conformity with the conceptual landscape plan entitled “Conceptual Landscape Plan 122 MAC ST. APARTMENTS City of Virginia Beach, Virginia” prepared by AES Consulting Engineers dated May 9, 2022, which has been exhibited to City Council and is on file with the Planning Department.

Proffer 4:

GRANTOR will obtain a phase II environmental site assessment prepared in accordance with ASTM E1903-19 and will provide a copy to the Planning Department prior to site plan approval. If the phase II environmental site assessment recommends contamination remediation, upon completion of the recommended remediation, the GRANTOR will provide the Planning Department with either a copy of a “no further action” letter from the Virginia Department of Environmental Quality (“VDEQ”), or if no such letter or other form of written confirmation is available from VDEQ, an opinion by a licensed engineer confirming that the recommended contamination remediation has been completed, prior to the release of any building permits.

Proffer 5:

There shall be no more than four hundred thirty-eight (438) multi-family dwelling units on the Property.

Proffer 6:

The freestanding community identification sign shall be located at the main entrance to the Property off of Mac Street in approximately the location depicted on the Conceptual Site Plan; however, the orientation will be determined prior to sign package submittal.

Proffer 7:

All onsite signage shall meet the requirements of the City Zoning Ordinance, unless otherwise approved by the Board of Zoning Appeals. The proposed sign package will be submitted to the Zoning Administrator for review and approval prior to the issuance of a sign permit.

Proffer 8:

The Effective Date of this Agreement shall be the date this Agreement is approved by City Council.

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 site is located in an area of the Pembroke Strategic Growth Area referred to as the Central Village District. This district is envisioned by the Pembroke SGA Plan as an eclectic, mid to low-rise commercial and urban-residential area. More specifically a maximum building height of thirty to fifty feet is recommended (pp. 58). Due to the planned high residential density, a great deal of gathering places and open space will be required. The SGA Plan specifically calls out pocket parks and urban plazas as being appropriate in the Central Village District and recommends that twenty percent of the developed area be green space and thirty percent be open space (these spaces may overlap) (pp. 58). To achieve this, on page 54, the Plan recommends incorporating recreational activities as a secondary use of green infrastructure improvements.

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 on the property.

Public Utility Impacts

Water

The site currently connects to City water. There is an existing eight-inch and 12-inch city water main along Mac Street. There is also an existing 42-inch City transmission water main along Southern Boulevard.

Sewer

The site currently connects to a City sanitary sewer manhole along Southern Boulevard. There is an existing eight-inch City sanitary sewer gravity main along Southern Boulevard and an existing 10-inch City sanitary sewer gravity main along Mac Street. There is also an existing 30-inch HRSD sanitary sewer force main along Southern Boulevard.

School Impacts

School	Current Enrollment	Capacity	Generation ¹	Change ²
Point O' View Elementary	743 students	686 students	33 students	33 students
Larkspur Middle	1,555 students	1,694 students	11 students	11 students
Kempsville High	1,897 students	2,026 students	11 students	11 students

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

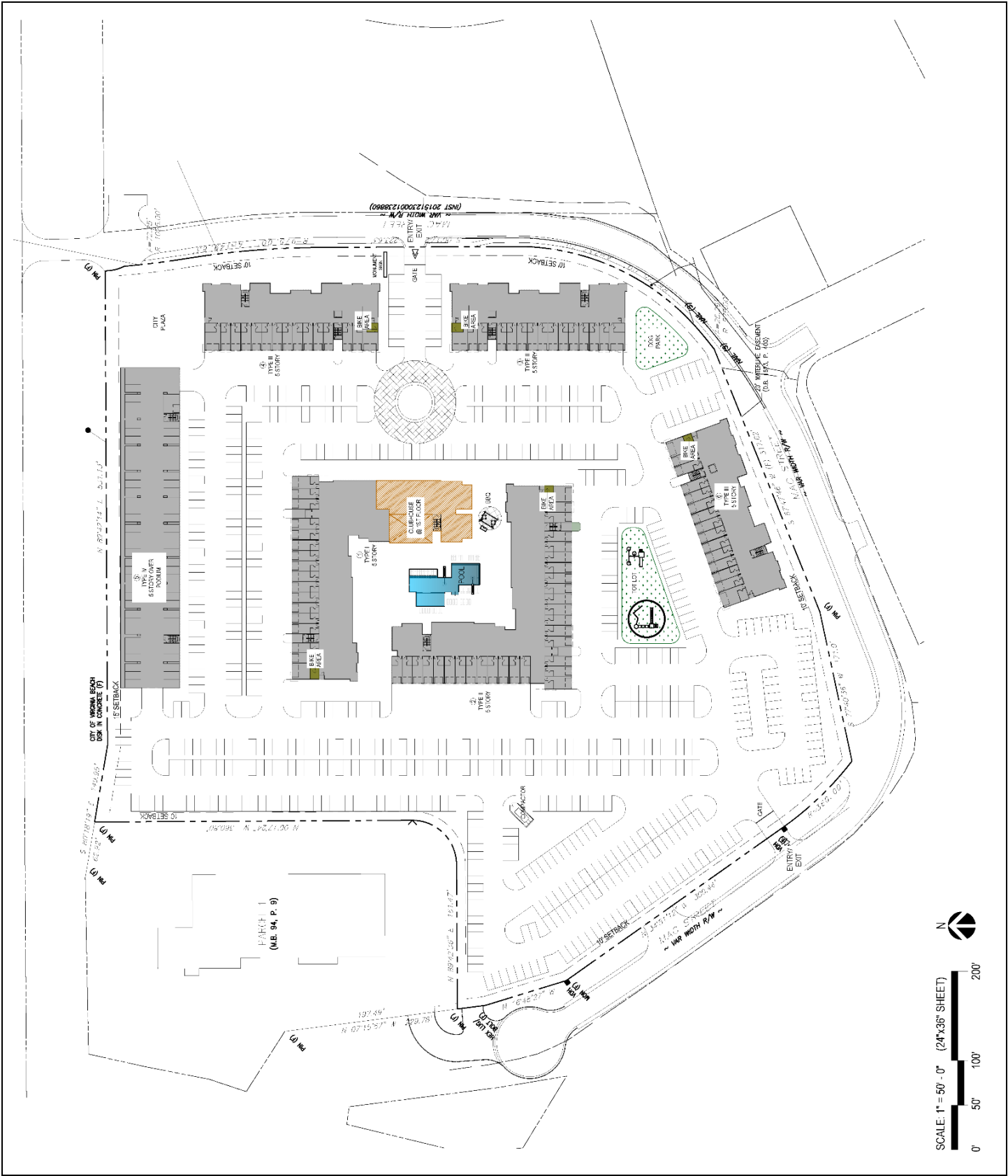
²“change” represents the difference between the number of potential or actual students generated under the existing zoning and the number generated under the proposed zoning. The number can be positive (additional students) or negative (fewer students).

Public Outreach Information

Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on May 9, 2022.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, May 22, 2022 and May 29, 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 May 23, 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 June 2, 2022.

Proposed Conceptual Site Plan



Proposed Conceptual Landscape Plan



Proposed Building Elevations



Proposed Building Elevations



Site Photos



Site Photos



Disclosure Statement



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

Applicant Disclosure

Applicant Name Witchduck Real Property, Inc.

Does the applicant have a representative? ☒ Yes ☐ No

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

John T. Mamoudis

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)

Mark Calcagni, Tony Calcagni, Anne Calcagni and Antonio Calcagni

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

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

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

Disclosure Statement



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

☒ Yes ☐ No

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

TowneBank

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

☒ Yes ☐ No

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

Troy Brinkley/Impera Commercial and Land Company John T. Mamoudis, Agent, Warren Sachs, Agent

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.

William Almond/WPL, Kelly Osburn/Humphreys & Partners Architects, L.P., Larry Barry/AES Engineers

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.

Tommy Johnson/Breeden Investments Properties, Inc., Lisa Murphy/Wilcox Savage

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.
Breedon Investments Properties, Inc./Individual - Unknown at this time
-
7. Does the applicant have an **engineer/surveyor/agent** in connection with the subject of the application or any business operating or to be operated on the property? ☒ **Yes** ☐ **No**
- If **yes**, identify the firm and individual providing the service.
Larry Barry/AES Engineers, John T. Mamoudis/Agent, Warren Sachs/gent
-
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.
John Richardson/Wolcott Rivers, Lisa Murphy/Wilcox Savage
-

Applicant Signature

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

Applicant Signature

Print Name and Title
John T. Mamoudis

Date 5/13/2022

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	

**RESOLUTION OF SHAREHOLDERS AND
DIRECTORS OF
WITCHDUCK REAL PROPERTY, INC.,
A VIRGINIA CORPORATION**

The undersigned, being all of the Shareholders and Directors of Witchduck Real Property, Inc., a Virginia corporation ("**Company**"), authorize, approve and consent to the adoption of the following resolutions and the actions contemplated by the resolutions:

NOW, THEREFORE, BE IT RESOLVED that the Shareholders and Directors deem it to be in the best interest of the Company that the Company actively market for sale that certain parcel of real property owned by the Company located at 122 Mac Street, Virginia Beach, VA 23462 ("**Property**") to a third party purchaser.

RESOLVED that the Company is authorized to enter into any necessary agreements, instruments and documents to effectuate the marketing of the Property ("**Property Marketing**"); and

RESOLVED that Shareholders and Directors of the Company hereby appoint John T. Mamoudis, as Authorized Agent of the Company, and in the name and on behalf of the Company, to negotiate the terms of and to execute any and all documents and other items in connection with Property Marketing, and to take such actions as he deems necessary in connection with the Property Marketing in order to obtain a fully executed sales contract for the Property.

RESOLVED that all actions previously taken by any Shareholder, Director or Officer of the Company on behalf of the Company in connection with the Property Marketing be, and are, in all respects ratified and confirmed.

THE UNDERSIGNED HEREBY CERTIFY that said resolutions are not inconsistent with the Bylaws, Articles of Incorporation and Certificate of Incorporation of the Company, as such documents have been amended from time to time, and that the undersigned are all of the Shareholders and Directors of the Company.

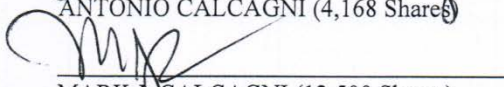
Disclosure Statement

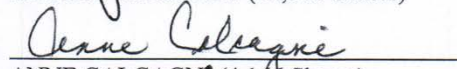
This resolution may be executed simultaneously in one or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

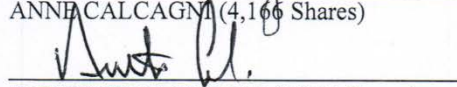
Effective Date: 2/2/2022

SHAREHOLDERS


ANTONIO CALCAGNI (4,168 Shares)


MARK J. CALCAGNI (12,500 Shares)


ANNE CALCAGNI (4,166 Shares)


ANTHONY CALCAGNI (4,166 Shares)

DATE OF EXECUTION:

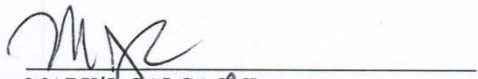
2/4, 2022

2/2/, 2022

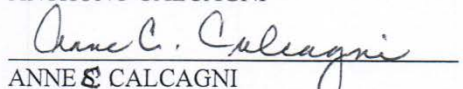
2/4, 2022

2/4, 2022

DIRECTORS


MARK J. CALCAGNI


ANTHONY CALCAGNI


ANNE C. CALCAGNI

DATE OF EXECUTION

2/2/, 2022

2/4, 2022

Feb. 4, 2022

Next Steps

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

Request

Conditional Use Permit (Tattoo Parlor)

Staff Recommendation

Approval

Staff Planner

Elizabeth Nowak

Location

1270 Diamond Springs Road, Suite 113

GPIN

146820114

Site Size

800 square feet

AICUZ

Less than 65 dB DNL

Watershed

Chesapeake Bay

Existing Land Use and Zoning District

Shopping center / B-2 Community Business

Surrounding Land Uses and Zoning Districts

North

Shell Road

Retail, office, single-family dwelling / B-2

Community Business, R-40 Residential

South

Single-family dwelling / R-5D Residential

East

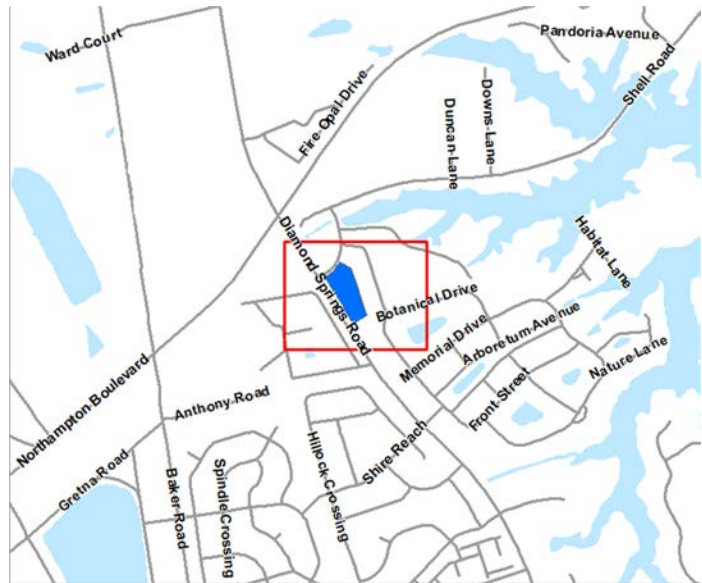
Single-family dwelling / R-40 Residential, R-5D Residential

West

Diamond Springs Road

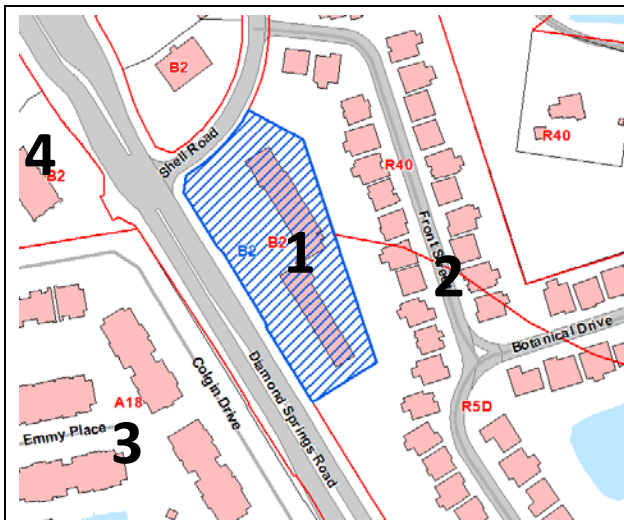
Apartments, retail / A-18 Apartment, B-2

Community Business



Background & Summary of Proposal

- The applicant is requesting a Conditional Use Permit to operate a Tattoo Parlor specifically for the application of permanent makeup, known as microblading, within an existing 800 square-foot suite in the Diamond Springs Shoppes shopping center on Diamond Springs Road. The shopping center property is zoned B-2 Community Business District.
- Services are planned to typically be offered by appointment only. Regular business hours will be between 10:00 a.m. and 5:00 p.m., Monday through Friday, and 9:00 a.m. to 2:00 p.m. on Saturdays
- At present, the applicant is anticipated as the only employee and, as a permanent makeup artist, will provide microblading services.
- The only exterior alteration to the building will be a wall sign.
- Diamond Springs Shoppes has 109 parking spaces for the 19 commercial suites in the center, which meets the minimum parking requirements as set in Section 203(a)(33) of the Zoning Ordinance.



Zoning History

#	Request
1	CUP (Truck Rentals) Approved 05/22/2012 CUP (Religious Use) Approved 06/14/2005 REZ (R-5 to B-2) Approved 3/12/1985
2	REZ (B-2 & I-1 to Conditional A-18) Approved 11/21/1983
3	CRZ (B-2 & I-1 to A-18) Approved 11/22/2011
4	CUP (Car Wash Facility) Approved 9/26/2006 CUP (Auto Service Station) Approved 7/12/2005

Application Types

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

MDC – Modification of Conditions
MDP – Modification of Proffers
NON – Nonconforming Use

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

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

Evaluation & Recommendation

The proposed request for a Conditional Use Permit for a Tattoo Parlor, in Staff's opinion is acceptable. The use will be compatible with the other existing commercial businesses in the area and will be located within an existing shopping center. The Diamond Springs Shoppes are part of a small commercial node in a primarily residential area; the application of permanent makeup is a type of personal service that is compatible with this type of development and proximity to residential areas. As the proposed use is considered a normal shopping center commercial use, there is no anticipated traffic impact with the addition of this use to the strip commercial building. Available parking for the shopping center exceeds the minimum number of spaces required by the Zoning Ordinance, though is within the threshold of maximum parking for this size of development. In Staff's opinion, parking needs are adequately met for the shopping center and this additional use.

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

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

Recommended Conditions

1. A business license for the Tattoo Parlor shall not be issued to the applicant without the approval of the Health Department to ensure consistency with the provisions of Chapter 23-51 of the City Code.
2. This Conditional Use Permit for a Tattoo Parlor shall be limited to only microblading, a tattooing technique used in the application of permanent make-up. No other form of tattooing shall be permitted.
3. The actual application of permanent make-up shall not be visible from the exterior of the establishment or from the waiting and sales area within the establishment.
4. All signage on the site must be in accordance with the sign regulations of the Zoning Ordinance. A separate sign permit shall be obtained from the Planning Department for the installation of any new signs.

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

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

Comprehensive Plan Recommendations

The subject property is located in the Suburban Area of the city, adjacent to the Burton Station Strategic Growth Area. One of the guiding development principles of the Suburban Area is the creation and maintenance of "Great Neighborhoods," which are stable and sustainable, and supported by complementary non-residential uses. Enhancement of existing commercial centers is encouraged by the Comprehensive Plan through means of innovative products, services, and design provided to the neighborhoods in which they are located.

Natural & Cultural Resources Impacts

The site is located in the Chesapeake Bay watershed.

No historical or cultural resources are present on the site nor will be affected by this project.

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Diamond Springs Road	20,300 ADT ¹	32, 700 ADT ¹ (LOS ² "D")	No Change Anticipated ³
¹ Average Daily Trips ² LOS = Level of Service ³ Average daily trips not expected to change			

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

The Master Transportation Plan calls for a six lane major arterial with a right-of-way of 150 feet in the vicinity of this project. Diamond Springs Road is presently a four lane divided minor arterial; however, there are currently no Capital Improvement Projects scheduled for Diamond Springs Road in this area.

Public Utility Impacts

Water

The site is currently connected to City water. There are existing 12-inch City water transmission mains on Diamond Springs Road and Shell Road.

Sewer

The site is currently connected to City sewer. There is an existing eight-inch City sanitary sewer gravity main along the intersection of Diamond Springs Road and Shell Road.

Public Outreach Information

Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on May 9, 2022.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, May 22, 2022 and May 29, 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 May 23, 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 June 2, 2022.

Site Photos

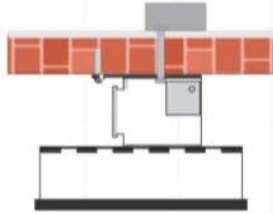


Proposed Sign

Internally Lit LED Channel Letter, Raceway Mounted



SIDE VIEW



INSTALL LOCATION:
1270 Diamond Spring Rd Ste 113
FRONT LINEAR LENGTH: 20 ft

SIGN DIMENSIONS: 3.5 ft x 9 ft
SIGN AREA: 31.5 sqft
SIGN ELEVATION: 10 ft

1 inch : 5.20 ft



This sign is intended to be installed in accordance with the requirements of Article 600 of the National Electrical Code and/or other applicable local codes. This includes proper grounding and bonding of the sign

- ✓ UL Electric Sign Certified ✓ Installation
- ✓ LED Lighting and Drivers
- ✓ County/City Permitting
- ✓ 2- Year Sign Warranty

\$ 1850



ELECTRICAL NOTES
Sign Company DOES NOT provide primary electrical to sign.
Power to the sign must be done by a licensed electrical contractor or licensed electrician.
Each sign must have:
1. A minimum of one dedicated 120V/20A circuit
2. Junction box installed within 8 feet of sign
3. Three wires: Line, Ground, Neutral

Client Name:

EOY

Proof No:

003

Date:

04/29

Acceptance Signature

UPWARD
BUSINESS SOLUTIONS



3133 Magic Hollow Blvd. Virginia Beach, VA 23463
Tel: (757) 222-0224 Email: order@upwardsigns.com
www.upwardsigns.com

Disclosure Statement

Disclosure Statement



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

Applicant Disclosure

Applicant Name

Breona Ridgeway Eyes On You Artistry by Breona Ridgeway Au'Nice LLC.

Does the applicant have a representative? ☐ Yes ☒ No

If yes, list the name of the representative.

Breona Ridgeway

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)

Breona Ridgeway - CEO

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

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

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

Disclosure Statement



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

☐ Yes ☒ No

- If yes, identify the financial institutions 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.

A handwritten signature in black ink, appearing to read 'Breona Ridgeway', written over a horizontal line.

Applicant Signature

Print Name and Title

A handwritten date '3-30-2022' in black ink, written over a horizontal line.

Date

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

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

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

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

Disclosure Statement

Disclosure Statement



Owner Disclosure

Owner Name

Diamond Springs Shoppes Associates, LLP

Applicant Name

Breona A. Ridgeway

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)

Robert Brown, Robert Brown Jr, Brad Brown, Craig Brown, Joe Wharton

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

Robert Brown & Assoc LLC

Known Interest by Public Official or Employee

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

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

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

⁴ "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



Owner Services Disclosure

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

Disclosure Statement



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

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

Owner Signature

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

A handwritten signature in blue ink, appearing to read 'R. K. Brown'.

Owner Signature

Robert K. Brown, Managing General Partner

Print Name and Title

03/30/2022

Date

Next Steps

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

Request

Conditional Use Permit (Family Day-Care Home)

Staff Recommendation

Approval

Staff Planner

Michaela McKinney

Location

3049 Barberry Lane

GPIN

1495304965

Site Size

7,221 square feet

AICUZ

70-75 dB DNL

Watershed

Southern Rivers

Existing Land Use and Zoning District

Single-family dwelling / R-5D Residential

Surrounding Land Uses and Zoning Districts

North

Barberry Lane

Single-family dwelling / R-5D Residential

South

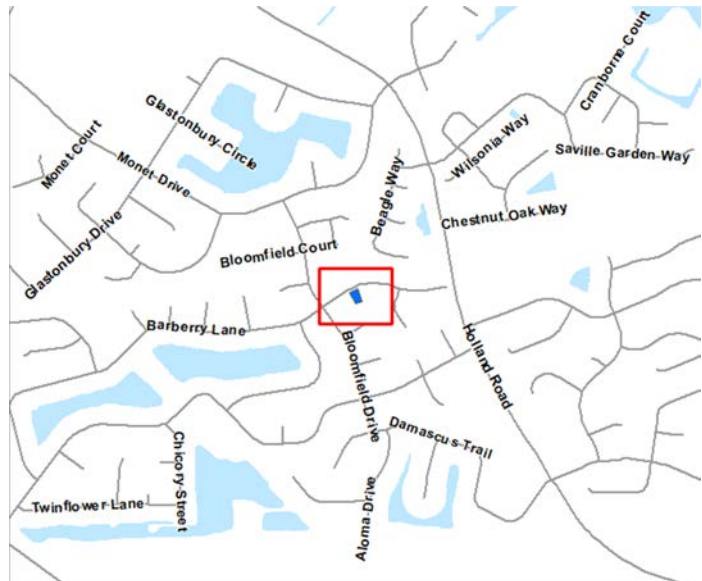
Single-family dwelling / R-5D Residential

East

Single-family dwelling / R-5D Residential

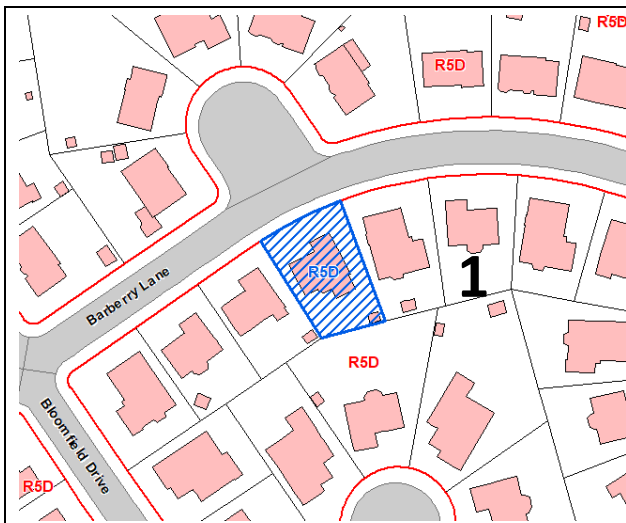
West

Single-family dwelling / R-5D Residential



Background & Summary of Proposal

- The applicant is requesting a Conditional Use Permit to operate a Family Day-Care Home for up to six children within her single-family dwelling in the Lake Placid neighborhood. The 7,221 square foot parcel is zoned R-5D Residential District.
- The applicant has over 12 years of experience caring for children and now she wishes to increase the number above four which requires a Conditional Use Permit.
- The designated outdoor play area is located in the backyard and is enclosed with a six-foot tall, solid privacy fence.
- The proposed hours of operation are 6:00 a.m. to 6:00 p.m.



Zoning History

#	Request
1	LUP (Landstown Meadows) Approved 10/10/1983

Application Types

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

MDC – Modification of Conditions
 MDP – Modification of Proffers
 NON – Nonconforming Use

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

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

Evaluation & Recommendation

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

A Family Day-Care Home with four or less children is permitted by-right in residential districts. When the number of children cared for increases to five or more, excluding the provider's own children and those who reside in the home, both state licensure and a Conditional Use Permit are required. While the applicant intends to care for up to six children, Staff typically recommends approval for up to 12, as over time it has been common for applicants to increase the number of children, thereby requiring a modification and additional consideration by both the Planning Commission and the City Council. The ultimate number will be determined by the Commonwealth of Virginia during the childcare licensing process, due to ages of the children, whether an assistant is employed, and other policies established by the Department of Social Services; however, it is recommended that the number of children not exceed 12.

Staff recommends conditions that pick-up and drop-off times be staggered and to allow only one Home Occupation operating on the property at one time to alleviate the potential for congestion in the right-of-way.

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

Recommended Conditions

1. The Family Day-Care Home shall only operate as an accessory use to the single-family residence.
2. The Family Day-Care Home shall be limited to a total of twelve (12) children, other than children living in the home.
3. The Family Day-Care Home shall have no more than one (1) additional employee/volunteer, who does not reside in the home, or on the premises at any time.
4. Any sign identifying the home occupation shall be non-illuminated, not more than (1) square foot in area and mounted flat against the residence.
5. The arrival and departure times shall be staggered to avoid vehicular congestion.
6. The applicant shall maintain a license with the Commonwealth of Virginia for childcare. Failure to maintain a Family Day-Care Home license will result in revocation of the Family Day-Care Home Conditional Use Permit.
7. When the Family Day-Care Home is not open for business, all play equipment associated with the daycare shall be located behind the front façade of the house.
8. The fence enclosing the outdoor play area shall remain and be maintained for the duration of the Conditional Use Permit while active.
9. The applicant shall obtain all necessary permits and inspections from the City of Virginia Beach. Prior to operation, the applicant shall obtain a Certificate of Occupancy from the Building Official's Office for use of the house as a Family Day-Care Home.

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

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

Comprehensive Plan Recommendations

The Comprehensive Plan identifies this site as being located within the Suburban Area of Virginia Beach. The general planning principles for the Suburban Area focus on creating and maintaining "great neighborhoods" which are sustainable, stable, and supported by complementary non-residential uses. Achieving these goals requires that all land use activities either maintain or enhance the existing neighborhood through compatibility with surroundings, quality and attractiveness of site and buildings, improved mobility, environmental responsibility, livability, and effective buffering with respect to type, size, intensity, and relationship to the surrounding uses.

Natural & Cultural Resources Impacts

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

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Barberry Lane	No Data Available		Existing Land Use ² – 10 ADT Proposed Land Use ³ – 34 ADT
¹ Average Daily Trips	² as defined by a Single Family Dwelling	³ as defined by a Single-family dwelling with Family Day-Care home.	

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

Barberry Lane in the vicinity of this application is considered a two-lane undivided local street. It is not included in the MTP. No roadway CIP projects are slated for this area.

Public Utility Impacts

Water & Sewer

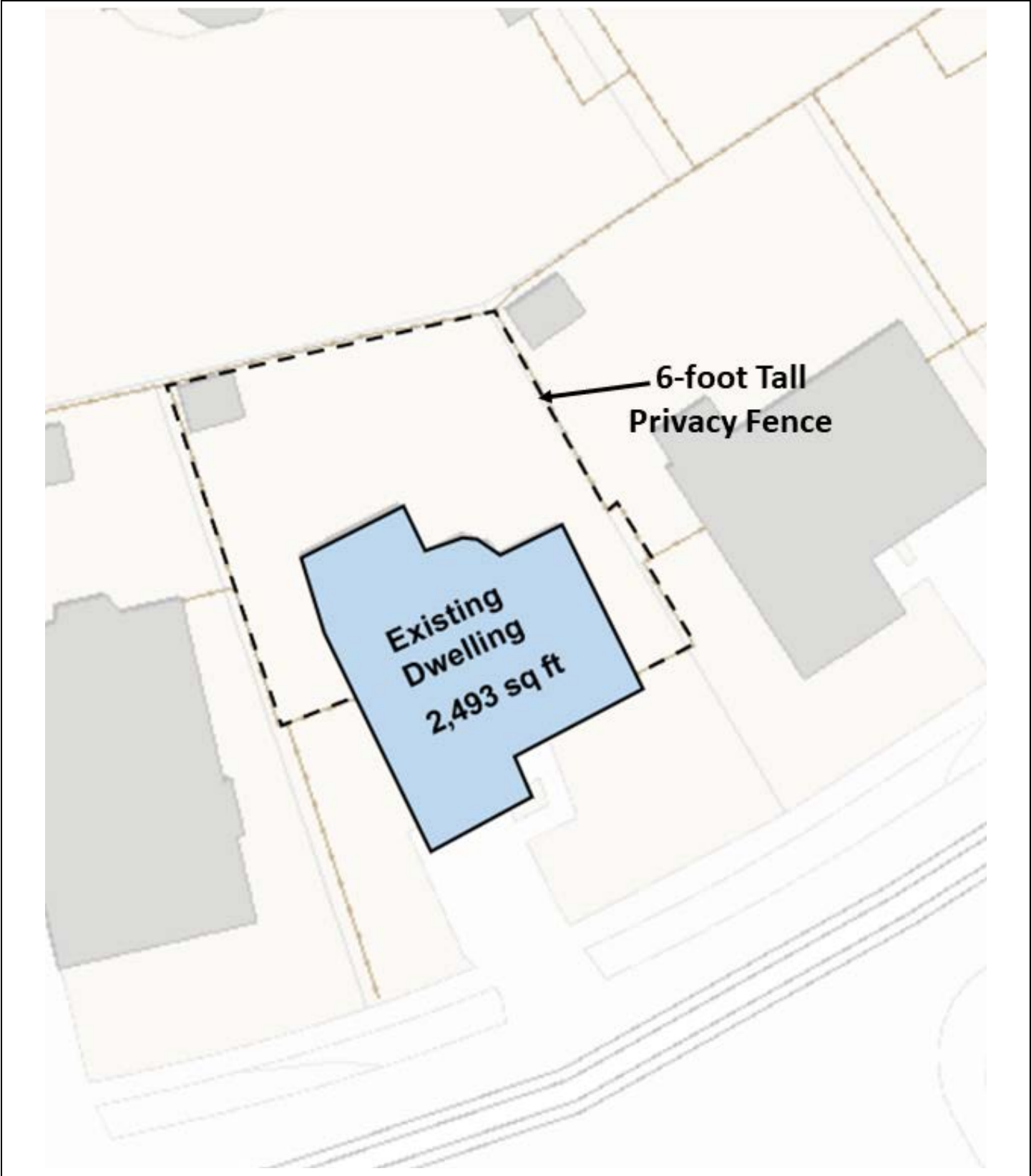
This site is currently connected to both City water and sanitary sewer service.

Public Outreach Information

Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on May 9, 2022.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, May 22, 2022 and May 29, 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 May 23, 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 June 2, 2022.

Site Layout



Site Photos



Disclosure Statement



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Applicant Disclosure

Applicant Name Alexis Morales-Cruz

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.

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Disclosure Statement



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

☒ Yes ☐ No

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

Penny Mac

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

☐ Yes ☒ No

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

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

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

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

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

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

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

Disclosure Statement

Disclosure Statement



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

Applicant Signature

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

Applicant Signature
Alexis Morales-Cruz

Print Name and Title

03/29/2022

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 (Motor Vehicle Rentals)

Staff Recommendation

Approval

Staff Planner

Michaela McKinney

Location

1940 Laskin Road, Suite 308

GPIN

24073871030

Site Size

24 acres (2,400 square foot suite)

AICUZ

Greater than 75 dB DNL; APZ-2

Watershed

Chesapeake Bay

Existing Land Use and Zoning District

Shopping Center / B-2 Community Business

Surrounding Land Uses and Zoning Districts

North

Multi-family dwellings / A-18 Apartment

South

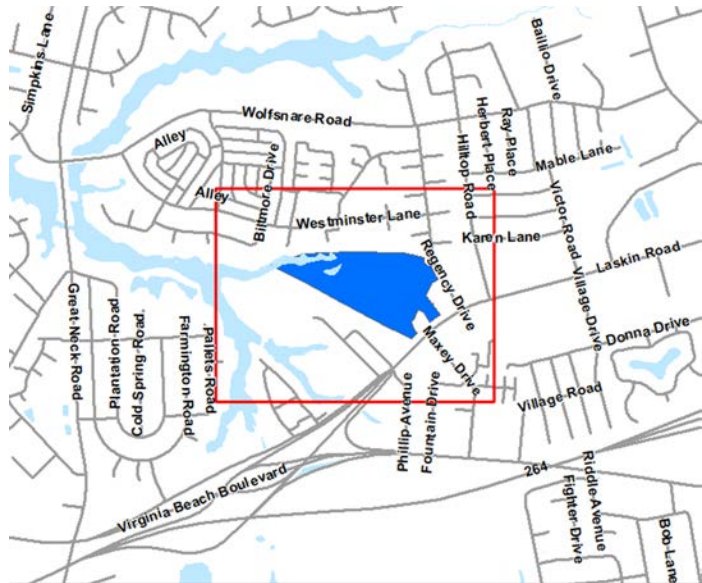
Funeral home, cemetery, religious use / B-2 Community Business R-10 Residential

East

Laskin Road, Regency Drive
Shopping Center / B-2 Community Business

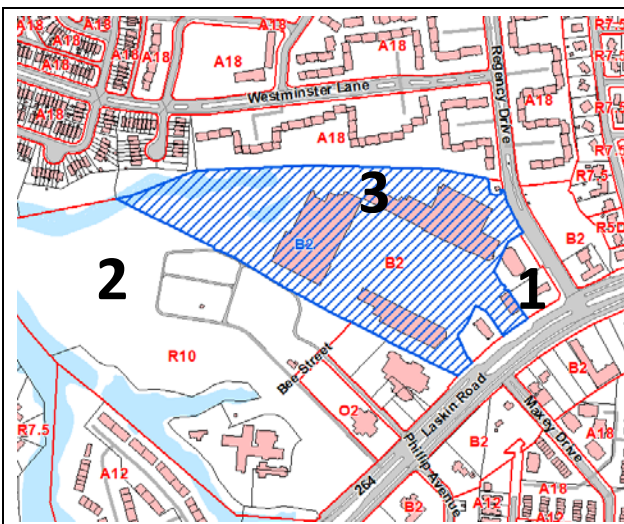
West

Wolfsnare Creek
Multi-family dwellings / A-18 Apartment



Background & Summary of Proposal

- The applicant is requesting a Conditional Use Permit for Motor Vehicle Rentals within an existing 2,400 square foot storefront. This unit is located within the Regency Hilltop Shopping Center along Laskin Road on property zoned B-2 Community Business District.
- The applicant proposes to keep no more than 10 vehicles for rent at any one time on the site. The display areas are located in the far west portion of the shopping center. No automotive repair is proposed, and Staff is recommending a condition to prohibit that activity.
- Typical hours of operation are proposed as 8:00 a.m. to 6:00 p.m., Monday through Friday, and 9:00 a.m. to 12:00 p.m. on Saturdays.
- There will be no significant modifications to the site or to the exterior of the building.



Zoning History

#	Request
1	CUP (Motor Vehicle Repair) Approved 03/17/2015
2	CUP (Cemetery) Approved 08/12/2015
3	CUP (Tattoo Parlor) Approved 03/15/2022

Application Types

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

MDC – Modification of Conditions
 MDP – Modification of Proffers
 NON – Nonconforming Use

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

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

Evaluation & Recommendation

The request for a Conditional Use Permit for Motor Vehicle Rentals, in Staff's opinion, is acceptable given that the use, with limited rental vehicle storage, will be compatible with the other existing commercial businesses in the shopping center and throughout the area.

The property is located within the greater than 75 dB noise zone and Accident Potential Zone 2 (APZ-2) of the Air Installations Compatible Use Zones (AICUZ). Many uses within this AICUZ are restricted, as identified in Article 18 of the Zoning Ordinance; however, retail trade, such as the proposed motor vehicle rental, is considered to be a compatible use.

The Comprehensive Plan specifies that the Hilltop Strategic Growth Area is a regional retail destination featuring home-grown restaurants, a plethora of grocery stores, and a variety of shops, yet introduces more greenspace. While this use is not in conformance with the Hilltop Strategic Growth Area within the Comprehensive Plan, this use is consistent with the existing shopping center and current uses and will provide a service to surrounding residents. The Regency Hilltop

Shopping center includes retail, restaurants, and personal services. As the applicant intends to limit the type of motor vehicles rented at this location to sedans, SUVs and small and medium pickup trucks, and park them out of view of any right-of-way and outside of high traffic customer areas, the use will be less visually impactful than a box truck rental operation. No auto repair is contemplated and Staff recommends a condition to ensure this will be the case. Rental cars will be detailed and washed off-site at a nearby carwash.

The existing vegetation provided by the Shopping Center screens the vehicles awaiting rental. No signage is proposed to distinguish the display area parking as the cars are intended to blend in with the regular parking lot. However, the applicant proposes signage to include front lit channel letters consisting of black perforated film and hertz yellow vinyl. A separate sign permit must be obtained from the Department of Planning & Community Development to ensure it meets all zoning requirements.

In sum, the use of Motor Vehicle Rentals is considered to be a compatible one within the shopping center. Staff does not anticipate a significant increase in traffic volume with the addition of this use into the existing shopping center.

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

Recommended Conditions

1. The total number of vehicles displayed for rent shall be limited to a total of 10 cars, SUVs, and small and medium pickup trucks.
2. No more than 10 vehicles for the purpose of renting shall be allowed on the site at any one time. Rental cars shall be located only in the area on the site that has been designated on the exhibit entitled, "Site Plan – Regency Hilltop Shopping Center – Virginia Beach, VA 23454", prepared by S.L. Nusbaum Realty Co., which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning.
3. The rental of box trucks, moving vans, trailers, and heavy duty pickup trucks are prohibited at this site.
4. 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.
5. There shall be no signs which contain or consist of pennants, ribbons, streamers, spinners, strings of light bulbs, or other similar moving devices on the site or on the vehicles. There shall be no signs which are painted, pasted, or attached to the windows, utility poles, trees, or fences, or in an unauthorized manner to walls or other signs. There shall be no portable or nonstructural signs, or electronic display signs on the site.
6. Vehicles shall be parked in the designated parking spaces and no vehicles shall be parked within any portion of the public right-of-way.
7. No maintenance, auto repair, or service of motor vehicles shall be permitted on site.
8. All rental vehicles associated with this request shall not be detailed, washed, or cleaned on-site.
9. There shall be no storage of tires, merchandise, or debris of any kind outside of the building.
10. No outside storage of vehicles in a state of obvious disrepair shall be permitted on the site.
11. There shall be no outside audio speakers for any purpose.

12. All outdoor lights shall be shielded to direct light and glare onto the premises, said lighting and glare shall be deflected, shaded, and focused away from all adjoining properties.

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

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

Comprehensive Plan Recommendations

This property is located within the Hilltop Strategic Growth Area (SGA). Guiding principles for the Hilltop SGA are to build a network of streets to improve traffic flow, provide a mix of retail, restaurants, and office uses, comply with AICUZ land use zoning requirements, and reduce land areas devoted to parking and replace with more productive uses.

Natural & Cultural Resources Impacts

The site is located in Chesapeake Bay Watershed. There are no known natural or cultural resources associated with this site as it is fully developed with a shopping center and parking lot.

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Laskin Road	30,000 ADT ¹	36,900 ADT ¹ (LOS ³ "D")	No Change Anticipated
¹ Average Daily Trips	² average daily trips are not expected to change	³ LOS= Level of Science	

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

Laskin Road in the vicinity of this application is considered a four-lane divided major urban arterial. In addition to the existing four-lane section of road, there are two, 2-lane local access roads parallel to the mainline portion of roadway: one the south side of Laskin Road and one on the north side of Laskin Road.

There is a roadway CIP project for Laskin Road in front of this site. Laskin Road – Phase III is a City managed project for construction of a six-lane divided highway with bike accommodations from Republic Road to just west of Phillip Avenue, a distance of approximately 0.7 miles. The existing service/feeder roads along Laskin Road from Regency Hilltop to Republic Road will also be removed with this project. Aesthetic improvements such as landscaped median and verge areas will be provided to enhance the roadway corridor. This project is scheduled to begin construction in 2032.

There is a roadway CIP project for Laskin Road under construction just outside this parcel's boundaries. Laskin Road – Phase IA (CIP 2-156/CIP 2-126) is a VDOT managed project for the construction of an eight-lane divided highway from Republic Road to Winwood Drive and a six-lane divided highway from Winwood Drive through the Linkhorn Bay Bridge with shared-use path, sidewalk, and wide outside lanes for bicyclists. These limits also include a six-lane divided

highway on First Colonial Road from I-264 to Laurel Lane with full intersection improvements along this corridor within the project limits. This construction is expected to be completed in May 2023.

Public Utility Impacts

Water & Sewer

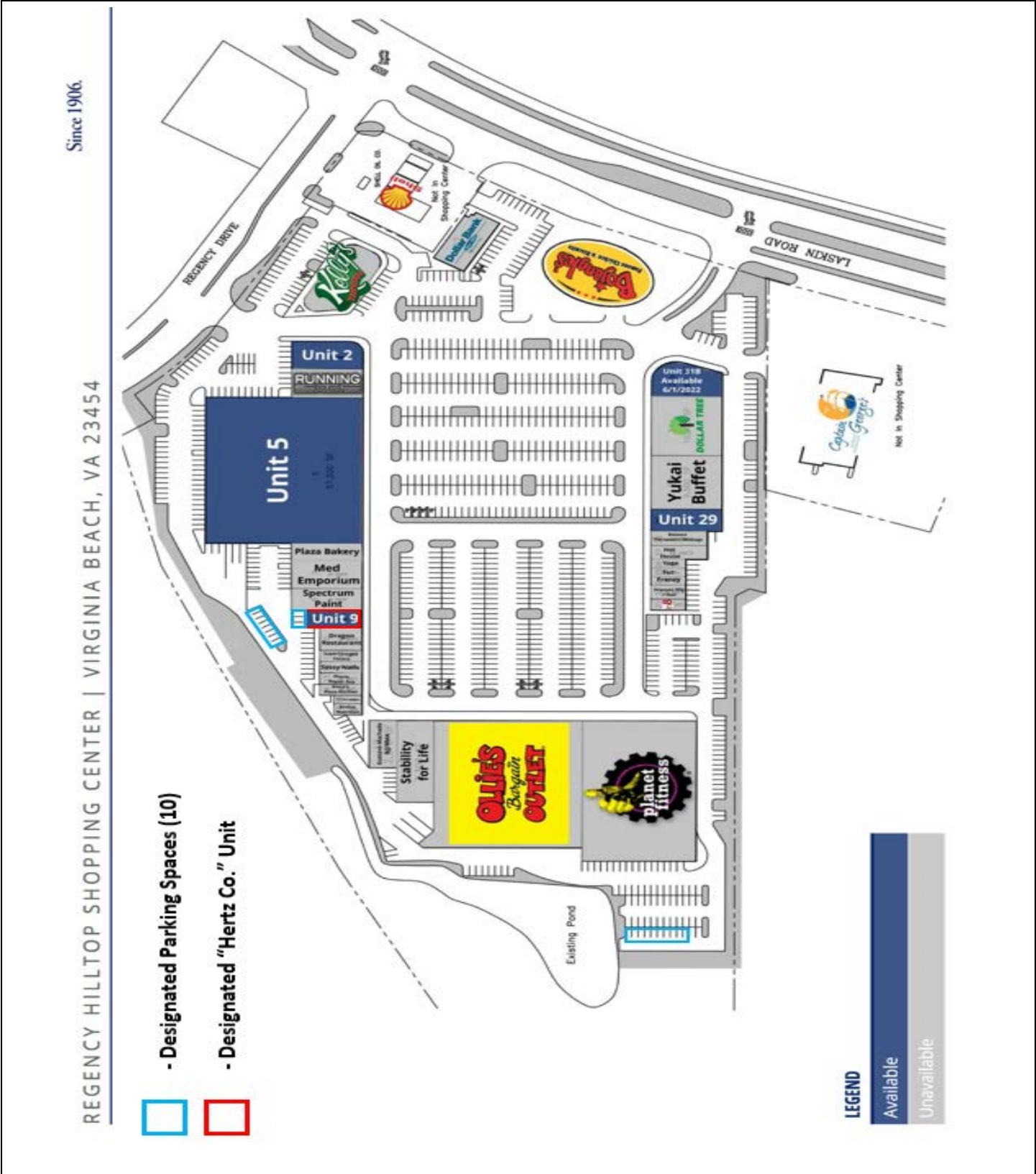
This site is currently connected to both City water and sanitary sewer service.

Public Outreach Information

Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on May 9, 2022.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, May 22, 2022 and May 29, 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 May 23, 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 June 2, 2022.

Conceptual Layout of Shopping Center







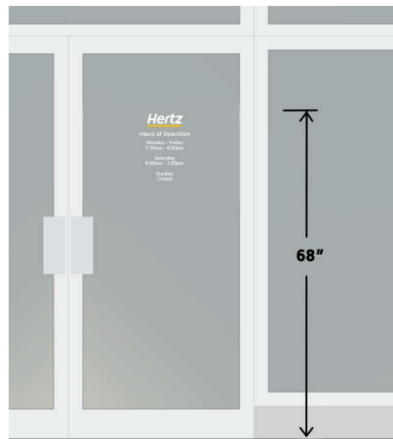
Hours of Operation

Monday - Friday
7:30am - 6:00pm

Saturday
9:00am - 1:00pm

Sunday
Closed

Typical Usage & Placement



Site Photo



Site Photos of Rental Display Areas



Disclosure Statement

Disclosure Statement



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

Applicant Disclosure

Applicant Name The Hertz Corporation

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

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

Jimmie Williams

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

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

Please see attached list

- 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.

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.

Lease is being finalized, once finalized, a construction contract will be awarded.

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

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

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

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

Applicant Signature

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

Applicant Signature

Jimmie Williams

Print Name and Title

Jimmie Williams - Corporate Real Estate Manager

Stephen A. Blum

Stephen A. Blum - SVP Real Estate & Facilities

Date **4/14/2022**

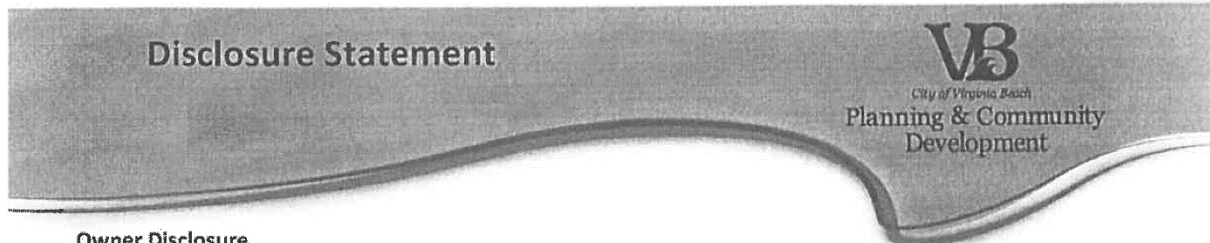
- Is the applicant also the owner of the subject property? ☐ Yes ☒ No

- 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

Regency Hilltop Associates, L.L.P.

Applicant Name

The Hertz Corporation

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)

JM-RH, LLC, Managing Partner - Joseph Mesel, Manager
FWM-RH, L.L.C., Managing Partner - Cheryl McLeskey,
Manager

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

Known Interest by Public Official or Employee

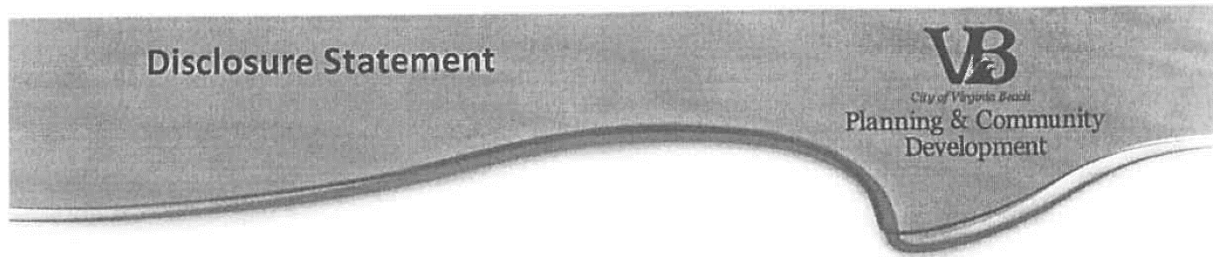
Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action? ☐ Yes ☒ No

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

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

Disclosure Statement



Owner Services Disclosure

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

2. Does the Owner have a real estate broker/agent/realtor for current and anticipated future sales of the subject property?
☒ Yes ☐ No
• If yes, identify the company and individual providing the service.
S.L. Nussbaum Realty Co., Joseph Morsel
3. Does the Owner have services for accounting and/or preparation of tax returns provided in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No
• If yes, identify the firm and individual providing the service.

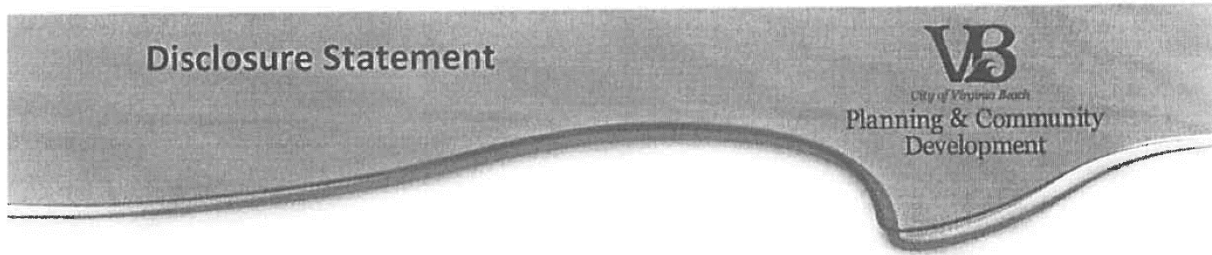
4. Does the Owner have services from an architect/landscape architect/land planner provided in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No
• If yes, identify the firm and individual providing the service.

5. Is there any other pending or proposed purchaser of the subject property? ☐ Yes ☒ No
• If yes, identify the purchaser and purchaser's service providers.

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

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

Disclosure Statement



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

Owner Signature

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

X [Signature]
Owner Signature

Joseph Mersel, Manager of Jm-RH, LLC, Managing Partner
Print Name and Title

3/30/22
Date

X [Signature]
FWM-RH, LLC, Managing Partner - Cheryl McLeskey
3/31/22
Date

Manager

Members List for the Hertz Corporation



Entity Name: The Hertz Corporation

Name	Title
(Smith) Suenon Nestar, Laura C.	Executive Vice President, Global Marketing and Customer Experience
Adams, Jeffrey	Senior Vice President, Remarketing and Transportation Network Company
Allen, Dane	Assistant Secretary
Arrington, Darren	Executive Vice President, Revenue Management & Fleet Acquisition
Barton, Robert	Senior Vice President, Global Franchise Operations
Blum, Stephen A.	Senior Vice President, Real Estate and Facilities
Brav, Angela Iris	President - Hertz International
Brevard, Courtney	Assistant Secretary
Brooks, Alexandra D.	Senior Vice President and Chief Accounting Officer
Burns, John C.	Vice President and Assistant Treasurer
Cangialosi, Mark	Vice President, Fleet Procurement
Cheung, Kenny	Executive Vice President and Chief Financial Officer
Costello, Lesley	Assistant Secretary
Drake, Julie	Vice President, Real Estate and Immigration Law
Dubin, Clark	Vice President, Global Risk Management
Fields, Mark	Interim CEO
Galainena, M David	Executive Vice President, General Counsel and Secretary
Hankins, Lauren	Assistant Secretary
Havis, Marc	Vice President, Global Tax
Honor, Maurice	Vice President, Travel Distribution Sales
Johnson, Mark E.	Senior Vice President and Interim Treasurer
Kennedy, Patrick	Vice President and Assistant Treasurer
Langley-Hawthorne, Tim	Executive Vice President and Chief Information Officer
Lay, Brian	Chief Audit Officer
Leef, Eric	Executive Vice President and Chief Human Resources Officer
McGinley, Dennis	Assistant Secretary
Muracco, Dominick J.	Vice President, Chief Compliance Officer
Nieman, Jeffrey C.	Senior Vice President, Delivery Services
Patel, Jayesh	Senior Vice President, Strategy
Pendleton, Sally	Assistant Secretary
Potalivo, Matthew C	Vice President, Associate General Counsel and Assistant Secretary
Rawlinson, Johann	Vice President, Investor Relations
Schloss, Adam R.	Assistant Secretary
Sell, Monica	Assistant Secretary
Stone, Paul	President and Chief Executive Officer
Timperio, Ronald	Senior Vice President, Procurement
White, Randall	Vice President, Labor and Employment Law

The Hertz Corporation
8501 Williams Road
Estero, FL 33928

Next Steps

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

Request

Conditional Use Permit (Tattoo Parlor)

Staff Recommendation

Approval

Staff Planner

Michaela McKinney

Location

544 Independence Boulevard

GPIN

1477485260

Site Size

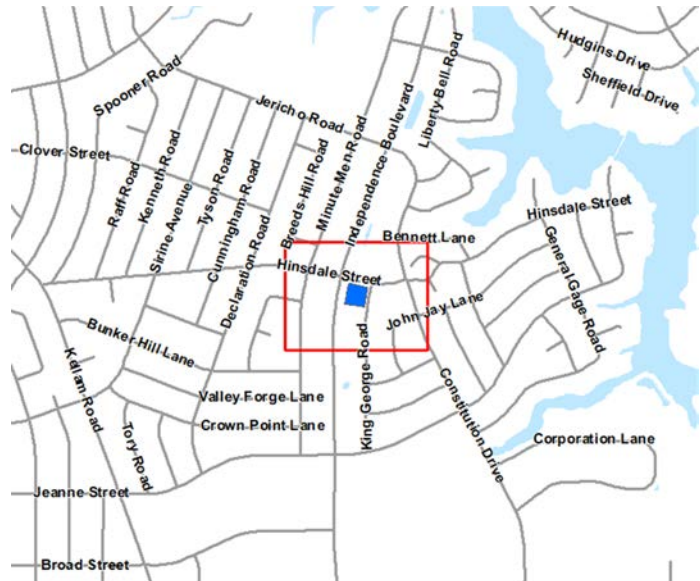
33,078 square feet

AICUZ

Less than 65 dB DNL

Watershed

Chesapeake Bay



Existing Land Use and Zoning District

Shopping Center / B-2 Community Business

Surrounding Land Uses and Zoning Districts

North

Church / R-7.5 Residential

South

Single-family dwelling / R-7.5 Residential

East

King George Road

Townhouses / A-12 Apartment

West

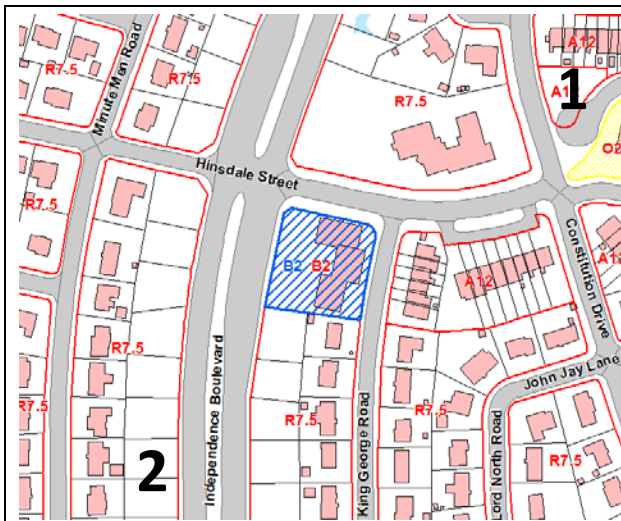
Independence Boulevard

Open space area, single-family dwellings / R-7.5 Residential



Background & Summary of Proposal

- The applicant is requesting a Conditional Use Permit in order to operate a Tattoo Parlor specifically for permanent makeup, known as microblading, within an existing beauty salon. The unit is located within the Pembroke Park Shoppes Shopping Center along Independence Boulevard on property zoned B-2 Community Business District.
- Microblading will take place in a small private room within the hair salon.
- According to the applicant, one employee is anticipated.
- The typical hours of operation are proposed as 10:00 a.m. to 6:00 p.m., Monday through Saturday.
- No exterior changes to the building are proposed, as well as no new signage.



Zoning History

#	Request
1	CRZ (O-2 to A-12) Approved 08/16/2019
2	CRZ (AG-2 to Conditional B-2) Approved 07/07/2009

Application Types

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

MDC – Modification of Conditions
 MDP – Modification of Proffers
 NON – Nonconforming Use

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

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

Evaluation & Recommendation

The request for a Conditional Use Permit for a Tattoo Parlor, in Staff's opinion, is acceptable given that the use will be compatible with the other existing commercial businesses in the area. The Tattoo Parlor will be for the application of permanent makeup, rather than traditional tattooing.

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

The Tattoo Parlor use is considered to be a compatible one within the shopping center. Staff does not anticipate a significant increase in traffic volume with the addition of this use into the existing beauty salon and shopping center.

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

Recommended Conditions

1. A business license for the Tattoo Parlor shall not be issued to the applicant without the approval of the Health Department to ensure consistency with the provisions of Chapter 23-51 of the City Code.
2. This Conditional Use Permit for a Tattoo Parlor shall be limited to only microblading, a tattooing technique used in the application of permanent make-up. No other form of tattooing shall be permitted.
3. The actual application of permanent make-up shall not be visible from the exterior of the establishment or from the waiting and sales area within the establishment.
4. All signage on the site shall be in accordance with the sign regulations of the Zoning Ordinance and all signage on the door and windows of this unit shall be removed unless deemed in compliance with 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

This property is located within the Suburban Area of the city, as designated by the Comprehensive Plan. Guiding principles have been established in the Comprehensive Plan to protect the stability of the Suburban Area and to provide a framework for neighborhoods and places that are visually interesting and that provide memorable character. The Plan's primary guiding principle is to create "Great Neighborhoods," and to support those neighborhoods with complementary non-residential uses in such a way that the stability of the Suburban Area is maintained in a sustainable way.

Natural & Cultural Resources Impacts

The site is located in the Chesapeake Bay Watershed. There are no known natural or cultural resources associated with this site as it is fully developed with a shopping center and parking lot.

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Independence Boulevard	52,500 ADT ¹	55,500 ADT ¹ (LOS ³ "D")	No Change Anticipated
¹ Average Daily Trips	² average daily trips are not expected to change.	³ LOS= Level of Science.	

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

Independence Boulevard in the vicinity of this application is considered a six-lane major urban arterial. The MTP proposes an eight-lane facility within a 150-foot right-of-way. There are no proposed CIP projects for this portion of Independence Blvd.

Public Utility Impacts

Water & Sewer

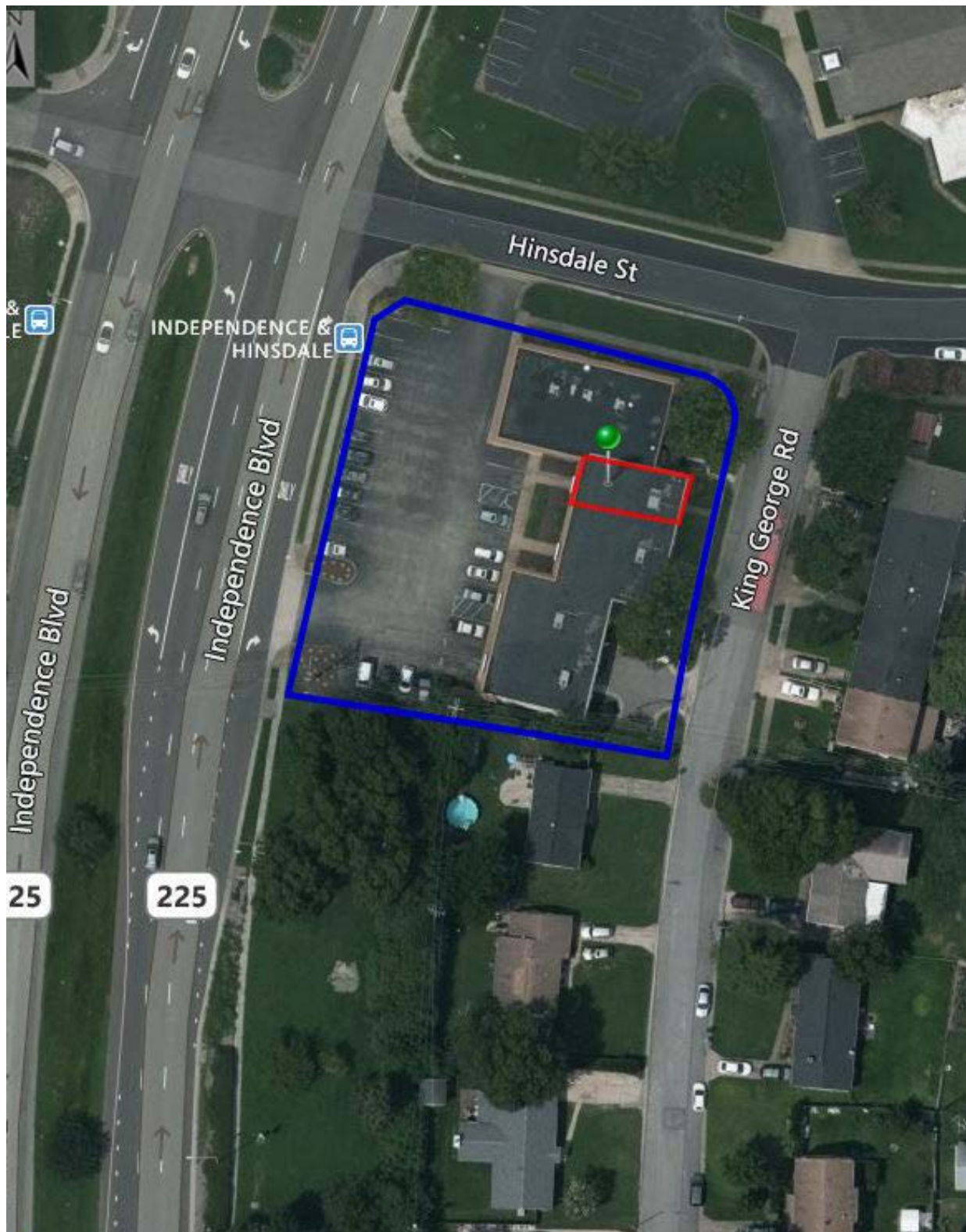
This site is currently connected to both City water and sanitary sewer service.

Public Outreach Information

Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on May 9, 2022.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, May 22, 2022 and May 29, 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 May 23, 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 June 2, 2022.

Existing Site Layout



Site Photos



Disclosure Statement

Disclosure Statement



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

Applicant Disclosure

Applicant Name Cheryl Scott

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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<h2 style="margin: 0;">Disclosure Statement</h2>	
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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.

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



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.

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- 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.

Cheryl Scott
 Applicant Signature
Cheryl Scott - Owner
 Print Name and Title


3-16-22
 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	

Disclosure Statement

Disclosure Statement		
Owner Disclosure		
Owner Name	<u>Pembroke North Associates, LLC</u>	
Applicant Name	<u>Cheryl Scott</u>	
Is the Owner a corporation, partnership, firm, business, trust or an unincorporated business? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
• If yes, list the names of all officers, directors, members, trustees, etc. below. (Attach a list if necessary)		
<u>See attached list.</u>		
• If yes, list the businesses that have a parent-subsidary ³ or affiliated business entity ⁴ relationship with the Owner. (Attach a list if necessary)		
<u>NONE</u>		
Known Interest by Public Official or Employee		
Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
• If yes, what is the name of the official or employee and what is the nature of the interest?		
<u></u>		
³ "Parent-subsidary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, VA. Code § 2.2-3101.		
⁴ "Affiliated business entity relationship" means "a relationship, other than parent-subsidary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.		
Revised 11.09.2020		5 Page

Disclosure Statement



Owner Services Disclosure

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

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

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

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

5. Is there any other pending or proposed purchaser of the subject property? ☐ Yes ☒ No
• If yes, identify the purchaser and purchaser's service providers.

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

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

6 | Page

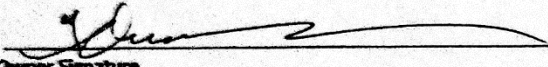
Disclosure Statement

Disclosure Statement	VB <small>City of Virginia Beach</small> Planning & Community Development
-----------------------------	---

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

Owner Signature

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



Owner Signature

Frederick J. Napolitano, Manager

Print Name and Title

3/22/22

Date

Members List

Frederick J. Napolitano Trust 1 (*Frederick J Napolitano*)
Emilio Olivieri Family Company No. 1, L.L.C. (*John Olivieri*)
Richard D. Guy Revocable Trust Agreement dated July 11, 2006 (*Richard D Guy*)
Shenandale Associates, L.L.C. (*Vincent R Olivieri*)
Blue Ridge Associates of Virginia, L.L.C. (*Frederick J Napolitano*)

Next Steps

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

The applicant is requesting for indefinite deferral of this application to provide a Parking Study to address the parking requirements.

Request

Alternative Compliance

Staff Recommendation

Indefinite Deferral

Staff Planner

Brandon Hackney

Location

2017 Arctic Avenue & 317 20th Street

GPINs

2427088204, 2427088131, 2427087180

Site Size

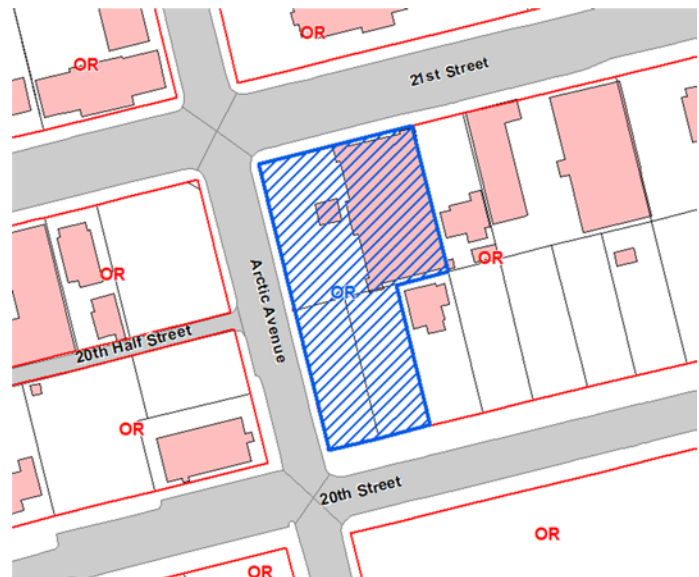
35,066 square feet

AICUZ

65-70 dB DNL; Sub-Area 1

Watershed

Atlantic Ocean



Request

Conditional Use Permit (Short Term Rental)

Staff Recommendation

Approval

Staff Planners

Hank Morrison

Location

901 Pacific Avenue, Unit C

GPIN

24272444110950

Site Size

34,984 square feet

Existing Land Use and Zoning District

Multi-Family Dwellings / OR Oceanfront Resort

Surrounding Land Uses and Zoning Districts

North

Multi-family dwellings, commercial parking lot /
OR Oceanfront Resort

South

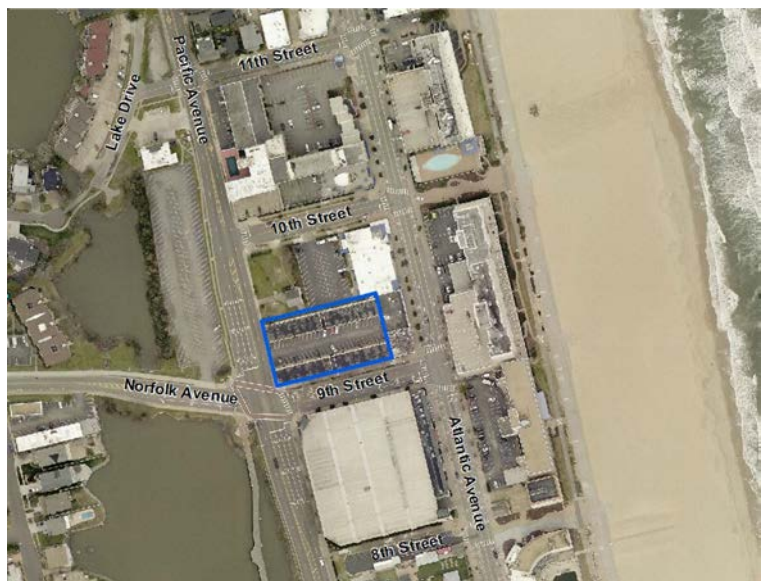
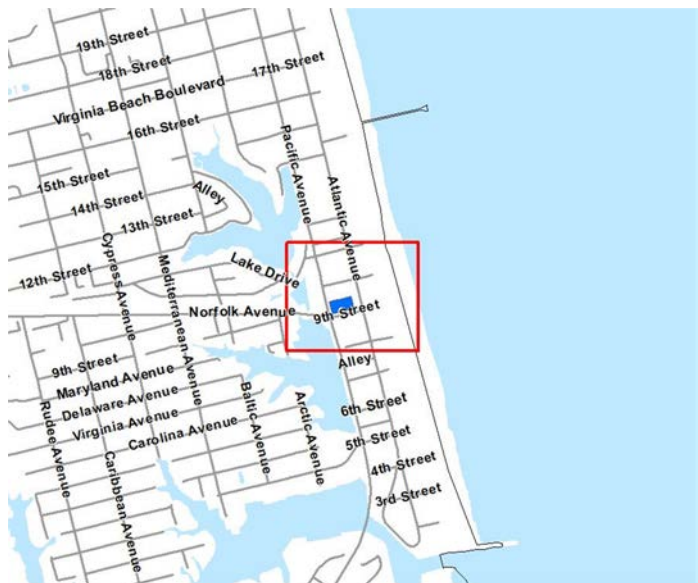
9th Street
Municipal parking garage / OR Oceanfront
Resort

East

Retail shops / OR Oceanfront Resort

West

Pacific Avenue
Off-street parking lot / OR Oceanfront Resort



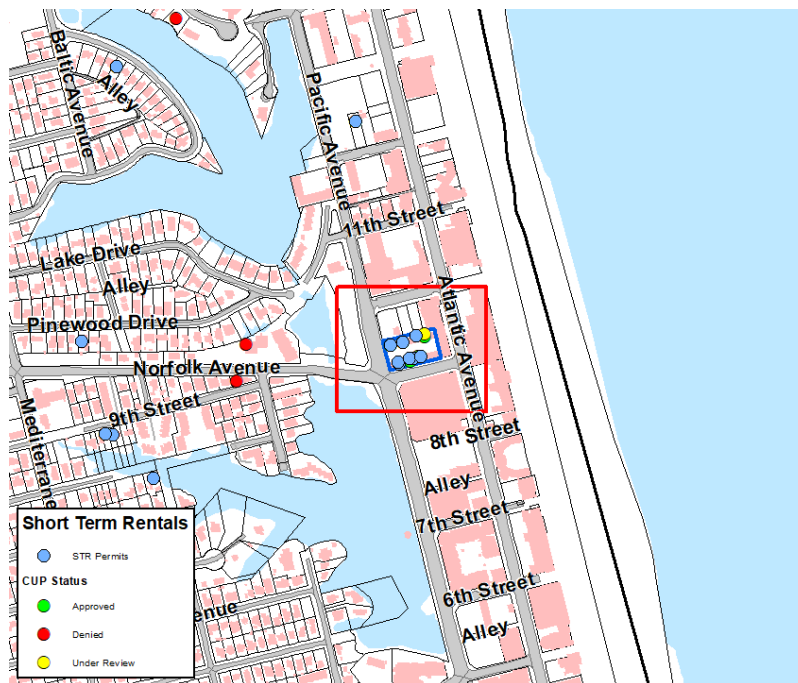
Background & Summary of Proposal

Site Conditions and History

- This 35,000 square foot parcel contains the Retreat-by-the-Sea Condominiums is zoned OR for Oceanfront Resort District. According to City records, this multi-family condominium was constructed in 1969.
- There is no on-street parking on Pacific Avenue.
- Nine Short Term Rental Conditional Use Permit application requests have been approved in this condominium development.
- Staff visited the site on April 26, 2022 to observe site conditions and take photographs for this report.
- Known Short Term Rental activity as of April 26, 2022:

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

Short Term Rentals in the Vicinity

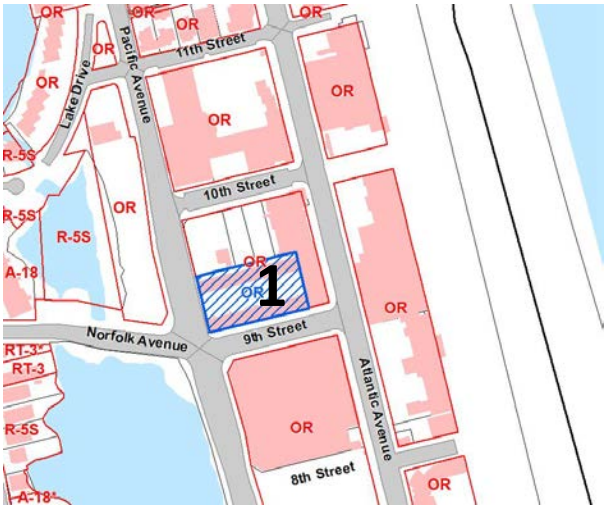


Summary of Proposal

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: 4

- 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 directly across the street from the subject property.

		<h3>Zoning History</h3> <table><tr><th>#</th><th>Request</th></tr><tr><td>1</td><td>CUP (Short Term Rental) Approved 04/05/2022</td></tr><tr><td></td><td>CUP (Short Term Rental) Approved 11/09/2021</td></tr><tr><td></td><td>CUP (Short Term Rental) Approved 03/02/2021</td></tr><tr><td></td><td>CUP (Short Term Rental) Approved 10/20/2020</td></tr><tr><td></td><td>CUP (Short Term Rental) Approved 08/25/2020</td></tr><tr><td></td><td>CUP (Short Term Rental) Approved 08/25/2020</td></tr><tr><td></td><td>CUP (Short Term Rental) Approved 06/09/2020</td></tr><tr><td></td><td>CUP (Short Term Rental) Approved 04/06/2020</td></tr><tr><td></td><td>CUP (Short Term Rental) Approved 02/04/2020</td></tr></table>		#	Request	1	CUP (Short Term Rental) Approved 04/05/2022		CUP (Short Term Rental) Approved 11/09/2021		CUP (Short Term Rental) Approved 03/02/2021		CUP (Short Term Rental) Approved 10/20/2020		CUP (Short Term Rental) Approved 08/25/2020		CUP (Short Term Rental) Approved 08/25/2020		CUP (Short Term Rental) Approved 06/09/2020		CUP (Short Term Rental) Approved 04/06/2020		CUP (Short Term Rental) Approved 02/04/2020
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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 nine 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.

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

13. Accessory structures shall not be used or occupied as Short Term Rentals.
 14. No signage shall be on-site, except 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.
 15. The Short Term Rental shall have no more than one (1) rental contract for every seven (7) consecutive days.
 16. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
 17. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
 18. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom, 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).
 19. 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 effect 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.
20. 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

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on May 9, 2022.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, May 22, 2022, and May 29, 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 May 23, 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 June 2, 2022.

Site Layout & Parking Plan



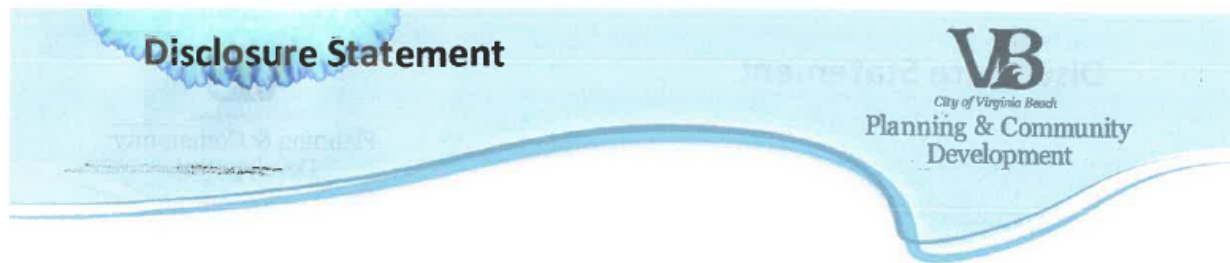
Site Photos



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 Victoria Koziol

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.

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Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

☒ Yes ☐ No

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

mortgage - Truist

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

☐ Yes ☒ No

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

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

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taxes prepared by Leibert Associates

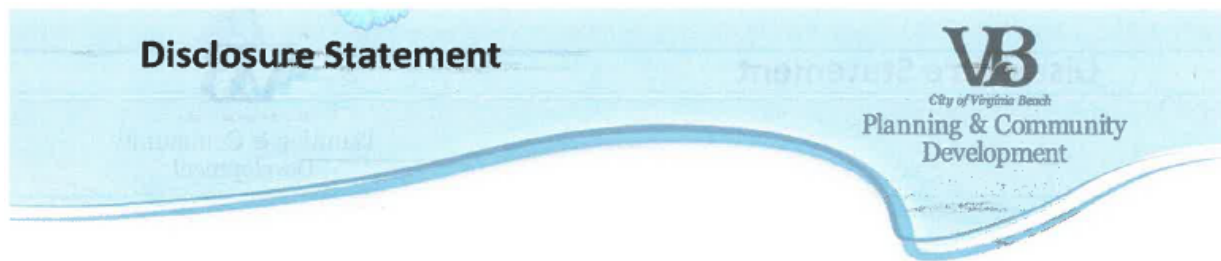
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- If **yes**, identify the firm and individual providing the service.

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

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

Disclosure Statement



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
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Applicant Signature

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Applicant Signature

Victoria Koziol - Owner

Print Name and Title

2.10.2022

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

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

Request

Conditional Use Permit (Short Term Rental)

Staff Recommendation

Approval

Staff Planner

Hank Morrison

Location

4005 Atlantic Avenue, Unit 218

GPIN

2428051448

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



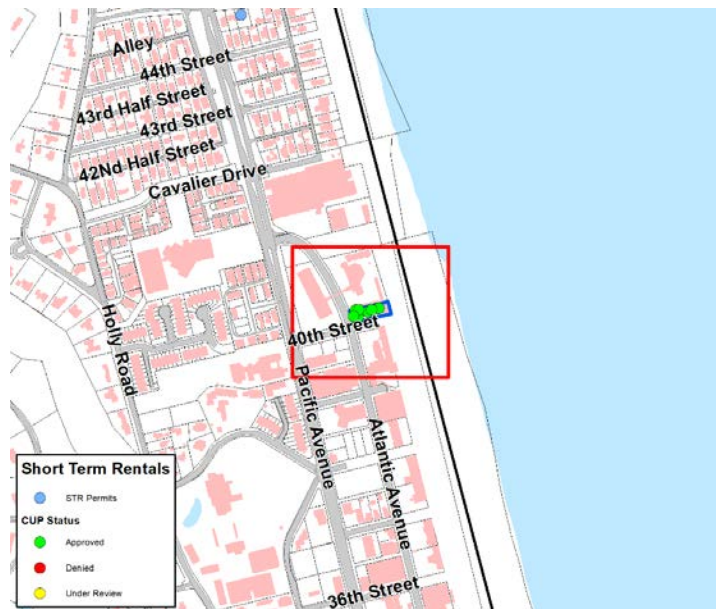
Background & Summary of Proposal

Site Conditions and History

- This 14,500 square foot parcel contains 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.
- Ten 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 April 26, 2022:

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

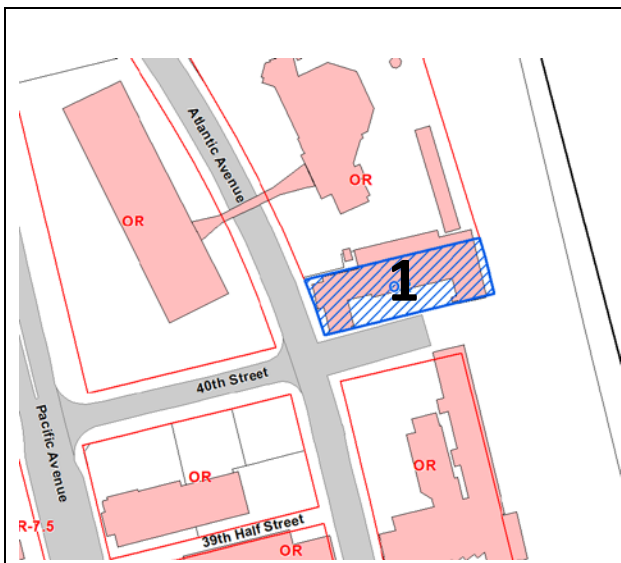
Short Term Rentals in the Vicinity



Summary of Proposal

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

- Number of bedrooms in the Short Term Rental: 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 (Short Term Rental) Approved 05/17/2022 CUP (Short Term Rental) Approved 03/01/2022 CUP (Short Term Rental) Approved 11/17/2020 CUP (Short Term Rental) Approved 08/25/2020 CUP (Short Term Rental) Approved 08/25/2020 CUP (Short Term Rental) Approved 08/25/2020 CUP (Short Term Rental) Approved 08/25/2020 CUP (Short Term Rental) Approved 08/25/2020 CUP (Short Term Rental) Approved 02/04/2020 CUP (Short Term Rental) Approved 02/04/2020

Application Types

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

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

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

LUP – Land Use Plan
STR – Short Term Rental

Evaluation & Recommendation

The proposed Short Term Rental unit is located in the Oceans II Condominiums, directly adjacent to the public beach, where Short Term Rental use is to be expected. Ten 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. According to the Resort Area Strategic Action Plan (RASAP) 2030, residential and mixed-use development in the Resort Area is necessary to achieve the goal of a year-round resort and will enable the Resort Area to become a more walkable community. Thus, the use of the dwelling as a Short Term Rental helps achieve this goal by providing diverse lodging opportunities for the visitors or travelers wanting the Resort Area experience.

There are two nearby 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 (#7) in parking lot 1, 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. 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 218, 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. A second (2nd) parking space, at a location subject to approval by the Zoning Administrator, shall be available for use by the Short Term Rental occupants at all times.
5. For properties located within the boundaries of the Residential Parking Permit Program (RPPP), while the Short Term Rental use is active, parking passes issued for the subject dwelling unit(s) through the RPPP shall be limited to two (2) resident passes only. Guest and temporary passes through the RPPP shall not be permitted.
6. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
7. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1.
8. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes and to be physical present at the Short Term Rental within one (1) hour.
9. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
 - a) A completed Department of Planning and Community Development Short Term Rental Zoning 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.
10. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
11. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.

12. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
13. Accessory structures shall not be used or occupied as Short Term Rentals.
14. No signage shall be on-site, except 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.
15. The Short Term Rental shall have no more than one (1) rental contract for every seven (7) consecutive days.
16. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
17. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
18. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom, 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).
19. 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.

20. 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

- Staff received one letter of opposition to this application, noting concerns of a concentration of short term lodging units in the immediate area.
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on May 9, 2022.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, May 22, 2022, and May 29, 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 May 23, 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 June 2, 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 Longcreek, LLC

Does the applicant have a representative? ☒ Yes ☐ No

- If yes, list the name of the representative.

Randy Tabor

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)

Randall G. Tabor ; Jerry Lynn Tabor

- 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.



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.

Zan DuRoy

2. Does the applicant have a **real estate broker/agent/realtor** for current and anticipated future sales of the subject property? ☐ Yes ☒ No

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

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

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

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

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

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

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

Disclosure Statement



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

Applicant Signature

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

Applicant Signature

Randall G. Tabor Mgr.

Print Name and Title

3/18/2022

Date

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

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

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

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

Next Steps

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

Request

Conditional Use Permit (Short Term Rental)

Staff Recommendation

Approval

Staff Planner

Levi Anthony Luckenbach

Location

425 21st Street

GPIN

24270823130000

Site Size

7,658 square feet

Existing Land Use and Zoning District

Single-Family Dwelling / OR Oceanfront Resort

Surrounding Land Uses and Zoning Districts

North

21st 1/2 Street (Alley)

Single-Family Dwellings, Multi-Family Dwellings,
Duplex Dwellings / OR Oceanfront Resort

South

21st Street

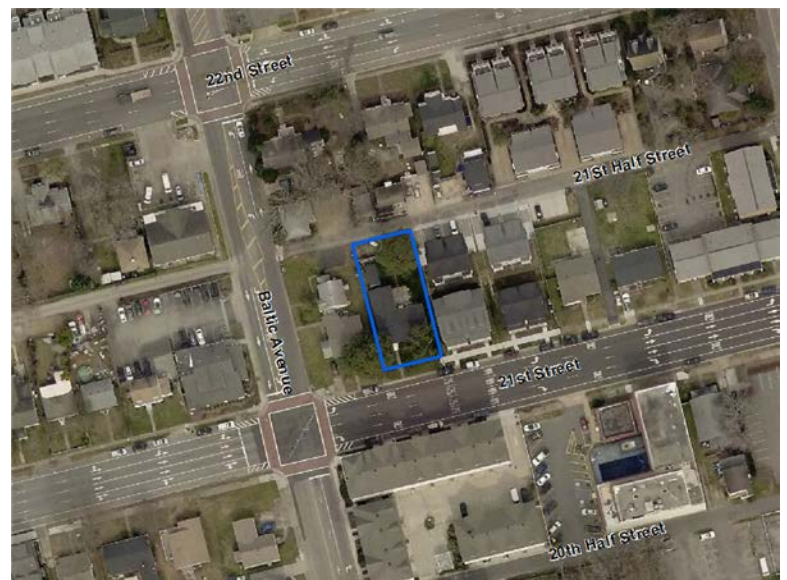
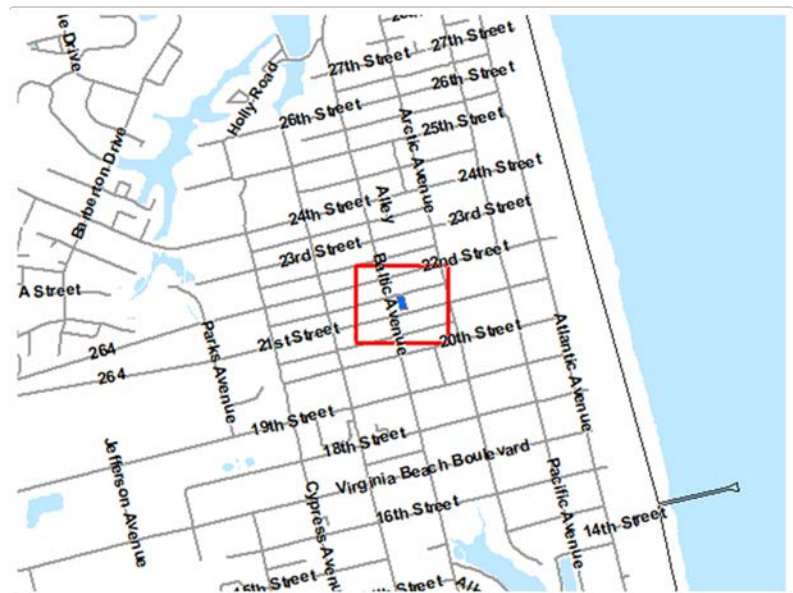
Single-Family Dwellings, Multi-Family Dwellings
/ OR Oceanfront Resort

East

Multi-Family Dwellings, Duplex Dwellings / OR
Oceanfront Resort

West

Duplex Dwellings / OR Oceanfront Resort



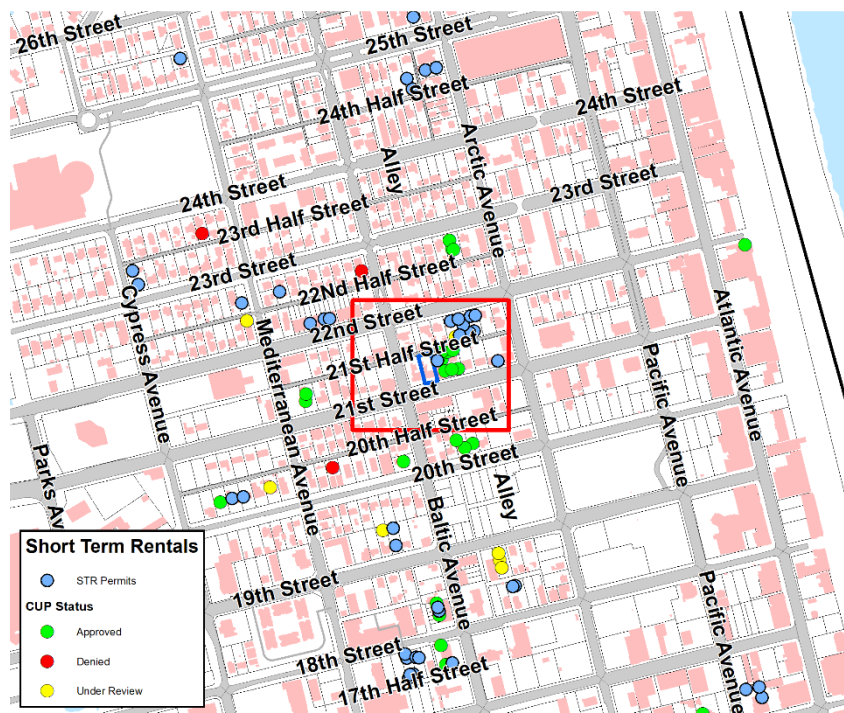
Background & Summary of Proposal

Site Conditions and History

- This 7,658 square-foot lot is zoned OR Oceanfront Resort.
- According to City records, this four-bedroom single-family home was constructed in 1960.
- Staff inspected the site on May 16, 2022 to observe site conditions and take photographs for this report.
- The property lies within the Residential Parking Permit Program boundary, where parking during the evening and overnight hours is limited. Based on this, a condition is recommended that would prohibit the occupants of the Short Term Rental from parking in the street during the restricted hours.
- It was determined that the applicant previously advertised and rented this property on a short-term basis, as shown in the table below. The issuance of a Conditional Use Permit will rectify this issue of noncompliance.
- According to the applicant, this property was not used for Short Term Rental purposes prior to July 1, 2018.
- Known Short Term Rental activity as of May 13, 2022:

CURRENTLY ADVERTISED	LAST KNOWN RENTAL	REGISTERED WITH THE COMMISSIONER OF THE REVENUE
No	May 2022	Yes

Short Term Rentals in the Vicinity



Summary of Proposal

The Applicant submitted a Conditional Use Permit request to operate a four-bedroom, 1,800 square-foot Short Term Rental on the subject site. The regulations for Short Term Rental use are identified in Section 241.2 of the City Zoning Ordinance. Specific details pertaining to this application are listed below.

- Number of bedrooms in the Short Term Rental: 4
- Maximum number of guests permitted on the property after 11:00 pm: 8
- Number of parking spaces required (1 space per bedroom required): 4
- Number of off-street parking spaces provided: 4

Zoning History

#	Request
1	CUP (Short Term Rental) Approved 08/25/2020 CUP (Short Term Rental) Approved 08/18/2020 CUP (Short Term Rental) Approved 07/07/2020 ALT (Special Exception to Form-Based Code) Approved 04/18/2017
2	CUP (Short Term Rental) Approved 07/14/2020 CUP (Short Term Rental) Approved 07/14/2020 CUP (Short Term Rental) Approved 07/14/2020 CUP (Short Term Rental) Approved 07/14/2020 ALT (Special Exception to Form-Based Code) Approved 04/18/2017
3	SVR (Variance of Subdivision Regulations) Approved 09/06/2016
4	ALT (Special Exception to Form-Based Code) Approved 03/11/2014
5	NON (Non-Conforming Use) Approved 11/28/2000

Application Types

CUP – Conditional Use Permit	MDC – Modification of Conditions	STC – Street Closure	SVR – Subdivision Variance
REZ – Rezoning	MDP – 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 four-bedroom, 1,800 square-foot Short Term Rental in a residential dwelling along 21st Street. The parcel is located in the Oceanfront Resort (OR) Short Term Rental Overlay District, where Short Term Rental use is to be expected. 425 21st Street is a single-family home constructed in 1960. The lot is within a city block bounded by 21st ½ Street to the north, Arctic Avenue to the east, 21st Street to the south, and Baltic Avenue to the west. The surrounding area is a mixture of single-family dwellings, duplex dwellings, multi-family dwellings, commercial offices, commercial retail, and other resort-oriented uses.

The subject property is near the eastern terminus of Interstate 264, which serves as a main gateway to the Oceanfront Resort Area. As identified in the Resort Area Strategic Action Plan (RASAP) 2030, the 21st & 22nd Street Gateways serve as a major corridor through Central Beach, providing access to the Boardwalk and the beachfront via the ViBe Creative

District, the Old Beach Neighborhood, and other significant resort destinations. The site's mature trees afford vital urban greenery. Along with the quaint mid-century architecture and the structure's human scale, the use of the property as a Short Term Rental is consistent with the intended goals of the Oceanfront Resort District Form-Based Code Design Guidelines. Additionally, the use would further diversify lodging opportunities for visitors and travelers who frequent the Virginia Beach Oceanfront. Given these considerations, the use of the single-family dwelling as a Short Term Rental is also consistent with this Gateway's purpose to create a sense of welcome and arrival to tourists and residents alike.

There is a parking area along the alleyway at the rear of the property that has historically been used for parking for this site. The parking area exceeds the minimum area necessary to accommodate the four required parking spaces. The applicant is agreeable to laying permeable pavers in the parking area to provide an improved surface. Per Section 2303 of the Zoning Ordinance, parking spaces created to comply with this condition shall not add additional impervious area to the site. 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.

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 425 21st Street and the Short Term Rental use shall only occur in the principal structure.
2. An annual (yearly) Short Term Rental 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. For properties located within the boundaries of the Residential Parking Permit Program (RPPP), while the Short Term Rental use is active, parking passes issued for the subject dwelling unit(s) through the RPPP shall be limited to two (2) resident passes only. Guest and temporary passes through the RPPP shall not be permitted.
5. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
6. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1.
7. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes and to be physical present at the Short Term Rental within one (1) hour.
8. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
 - a) A completed Department of Planning and Community Development Short Term Rental Zoning 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.
9. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
10. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
11. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
12. Accessory structures shall not be used or occupied as Short Term Rentals.
13. No signage shall be on-site, except 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.
14. The Short Term Rental shall have no more than one (1) rental contract for every seven (7) consecutive days.
15. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
16. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
17. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom, 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).
18. 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.

19. 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.

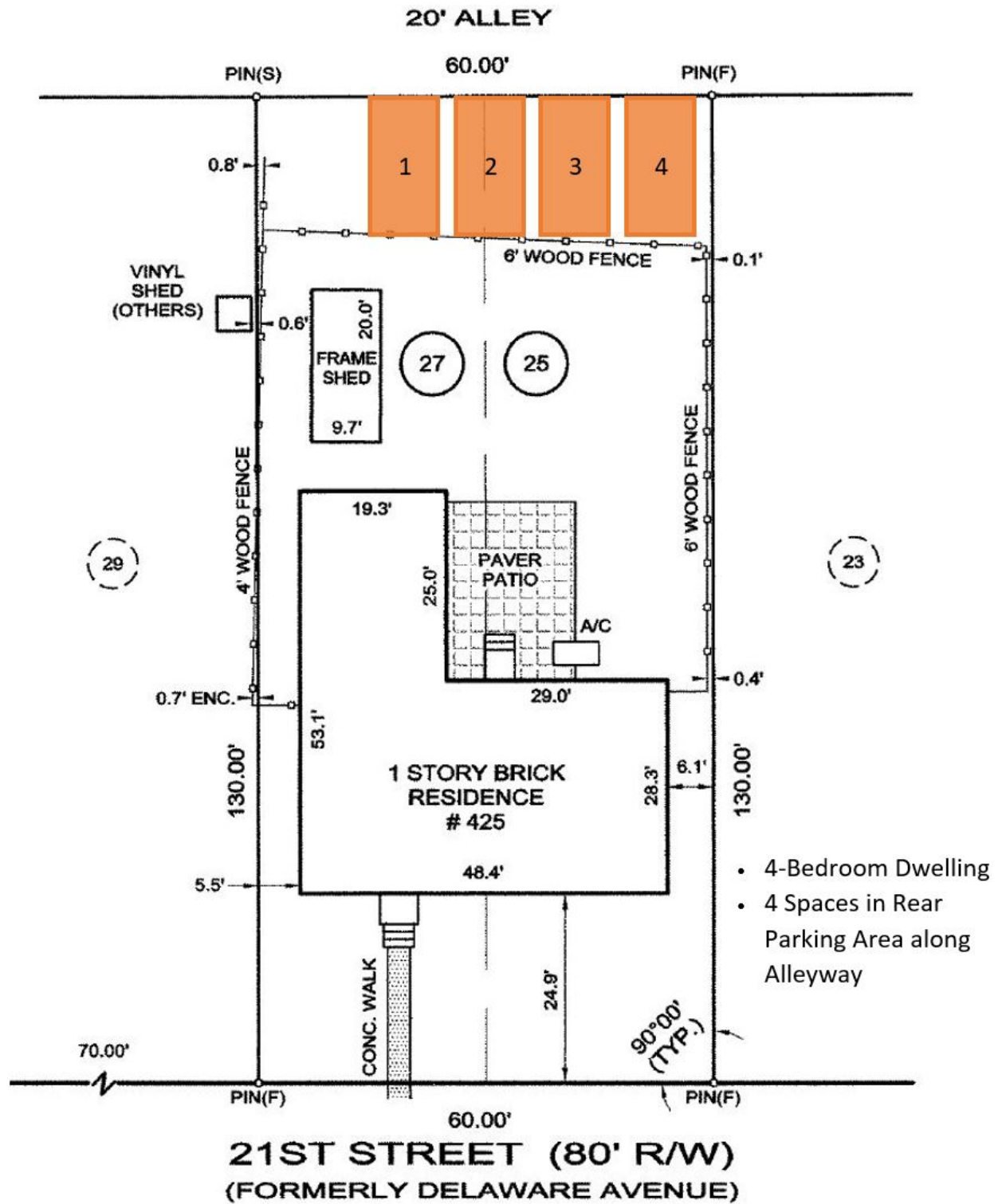
The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.

Public Outreach Information

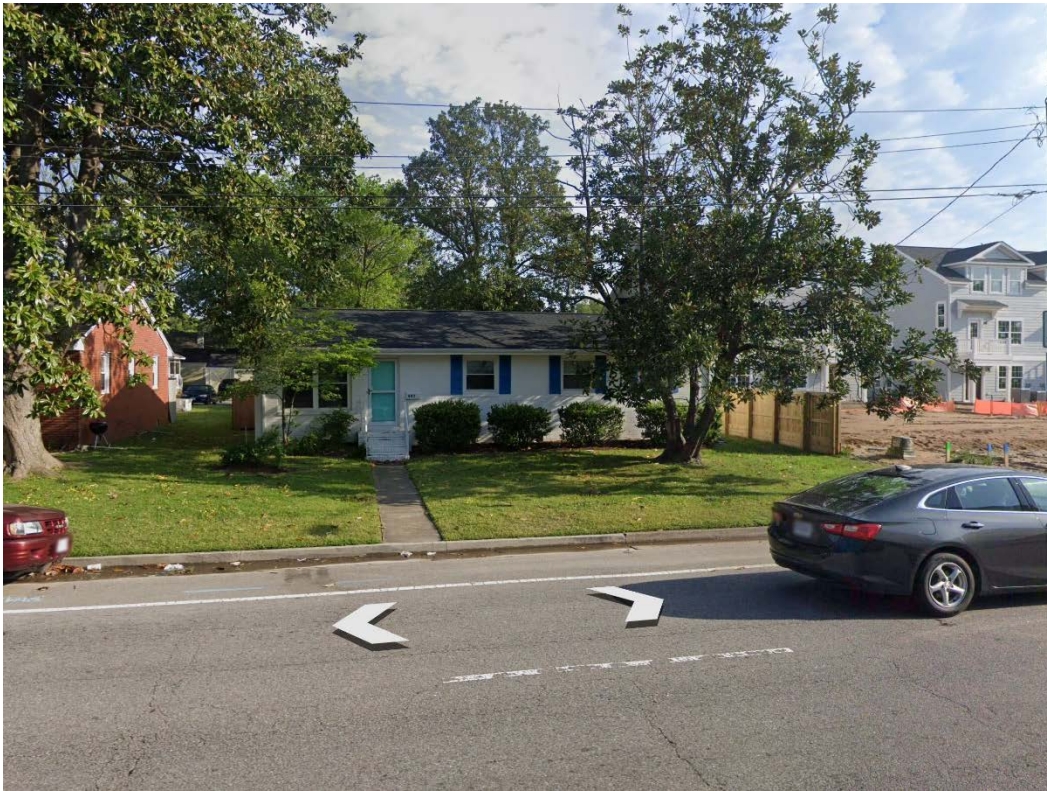
Planning Commission

- Staff received five letters of support for this application.
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on May 9, 2022.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, May 22, 2022, and May 29, 2022.
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Site Layout & Parking Plan



Site Photos





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

Applicant Disclosure

Applicant Name Thomas C. LoPresti

Does the applicant have a representative? ☐ Yes ☒ No

- If yes, list the name of the representative.

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

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

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

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

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



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.

Pennymac Mortgage Services

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

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Zukerman and Associates; Lauren Kane

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

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Disclosure Statement

Disclosure Statement



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

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

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Applicant Signature

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

Applicant Signature

Thomas C. LoPresti

Print Name and Title

Thomas C. LoPresti

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

Request

Conditional Use Permit (Short Term Rental)

Staff Recommendation

Approval

Staff Planner

Levi Anthony Luckenbach

Location

515 20th Street

GPIN

24179798080000

Site Size

7,800 square feet

Existing Land Use and Zoning District

Duplex Dwelling / OR Oceanfront Resort

Surrounding Land Uses and Zoning Districts

North

20th 1/2 Street (Alley)

Single-Family Dwellings, Multi-Family Dwellings,
Duplex Dwellings / OR Oceanfront Resort

South

20th Street

Single-Family Dwellings, Multi-Family Dwellings,
Duplex Dwellings / OR Oceanfront Resort

East

Duplex Dwellings / OR Oceanfront Resort

West

Duplex Dwellings / OR Oceanfront Resort



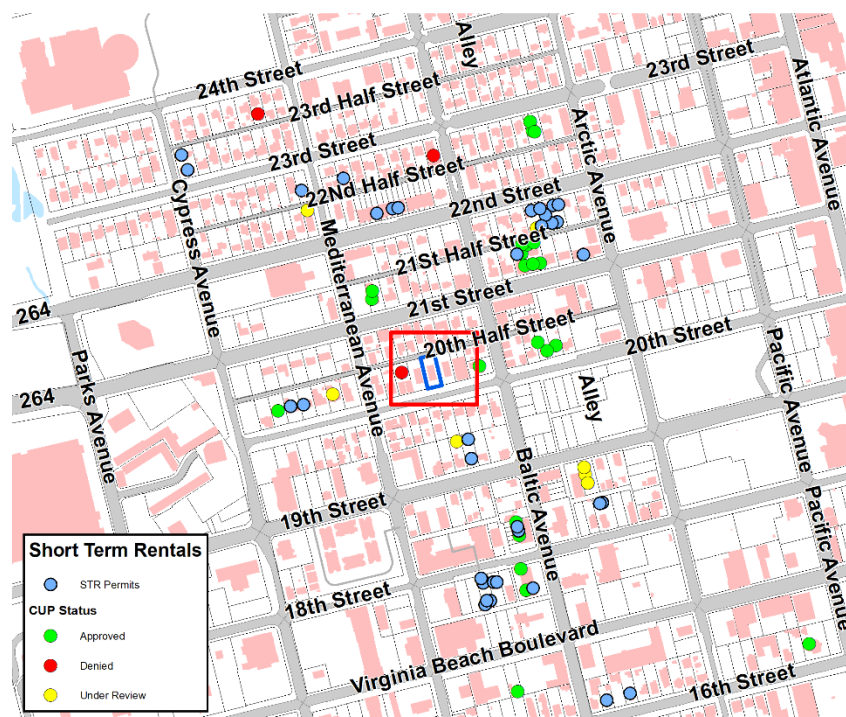
Background & Summary of Proposal

Site Conditions and History

- This 7,800 square-foot lot is zoned OR Oceanfront Resort.
- According to City records, this duplex structure was constructed in 1972.
- Staff inspected the site on May 16, 2022 to observe site conditions and take photographs for this report.
- The property lies within the Residential Parking Permit Program boundary, where parking during the evening and overnight hours is limited. Based on this, a condition is recommended that would prohibit the occupants of the Short Term Rental from parking in the street during the restricted hours.
- It was determined that the applicant previously advertised and rented this property on a short-term basis, as shown in the table below. The issuance of a Conditional Use Permit will rectify this issue of noncompliance.
- According to the applicant, this property was not used for Short Term Rental purposes prior to July 1, 2018.
- Known Short Term Rental activity as of May 13, 2022:

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

Short Term Rentals in the Vicinity



Summary of Proposal

The Applicant submitted a Conditional Use Permit request to operate a two-bedroom, 1,647 square-foot Short Term Rental on the subject site. The regulations for Short Term Rental use are identified in Section 241.2 of the City Zoning Ordinance. Specific details pertaining to this application are listed below.

- Number of bedrooms in the Short Term Rental: 2
- Maximum number of guests permitted on the property after 11:00 pm: 4
- Number of parking spaces required (1 space per bedroom required): 2
- Number of off-street parking spaces provided: 2

Zoning History

#	Request
1	BZA (Variance to Dimensional Requirements) Approved 03/02/2022 ALT (Special Exception to Form-Based Code) Approved 06/07/2016
2	CUP (Short Term Rental) Approved 10/20/2020 CUP (Short Term Rental) Approved 10/20/2020
3	MDC (Modification of Conditions) Denied 07/06/2021 CUP (Short Term Rental) Denied 07/06/2021 ALT (Special Exception to Form-Based Code) Approved 06/19/2018
4	ALT (Special Exception to Form-Based Code) Approved 06/07/2016
5	ALT (Special Exception to Form-Based Code) Approved 09/16/2014

Application Types

CUP – Conditional Use Permit	MDC – Modification of Conditions	STC – Street Closure	SVR – Subdivision Variance
REZ – Rezoning	MDP – 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, 1,647 square-foot Short Term Rental within a duplex structure. The dwelling is located along 20th Street in the Oceanfront Resort (OR) Short Term Rental Overlay District, where Short Term Rental use is to be expected. Constructed in 1972, 515 20th Street occupies the rear portion of the structure, while 513 20th Street is the adjacent unit at the front. The parcel is within a city block bounded by 20th 1/2 Street to the north, Baltic Avenue to the east, 20th Street to the south, and Mediterranean Avenue to the west. The surrounding area is a mixture of single-family dwellings, duplex dwellings, multi-family dwellings, commercial offices, commercial retail, and other resort-oriented uses.

The subject property is near the eastern terminus of Interstate 264, which serves as a main gateway to the Oceanfront Resort Area. As identified in the Resort Area Strategic Action Plan (RASAP) 2030, the 21st & 22nd Street Gateways serve as a major corridor through Central Beach, providing access to the Boardwalk and the beachfront via the ViBe Creative District, the Old Beach Neighborhood, and other significant resort destinations. The site's mature trees afford vital urban

greenery. Along with the quaint mid-century architecture and the structure's human scale, the use of the property as a Short Term Rental is consistent with the intended goals of the Oceanfront Resort District Form-Based Code Design Guidelines. Additionally, the use would further diversify lodging opportunities for visitors and travelers who frequent the Virginia Beach Oceanfront. Given these considerations, the use of the dwelling unit as a Short Term Rental is also consistent with this Gateway's purpose to create a sense of welcome and arrival to tourists and residents alike.

There is a rear parking area along the alleyway which provides area beyond the minimum standard to accommodate the two required parking spaces. 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.

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 515 20th Street, and the Short Term Rental use shall only occur in the principal structure.
2. An annual (yearly) Short Term Rental 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. For properties located within the boundaries of the Residential Parking Permit Program (RPPP), while the Short Term Rental use is active, parking passes issued for the subject dwelling unit(s) through the RPPP shall be limited to two (2) resident passes only. Guest and temporary passes through the RPPP shall not be permitted.
5. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
6. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1.
7. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes and to be physical present at the Short Term Rental within one (1) hour.
8. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
 - a) A completed Department of Planning and Community Development Short Term Rental Zoning 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.

9. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
10. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
11. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
12. Accessory structures shall not be used or occupied as Short Term Rentals.
13. No signage shall be on-site, except 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.
14. The Short Term Rental shall have no more than one (1) rental contract for every seven (7) consecutive days.
15. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
16. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
17. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom, 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).
18. 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.

19. 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.

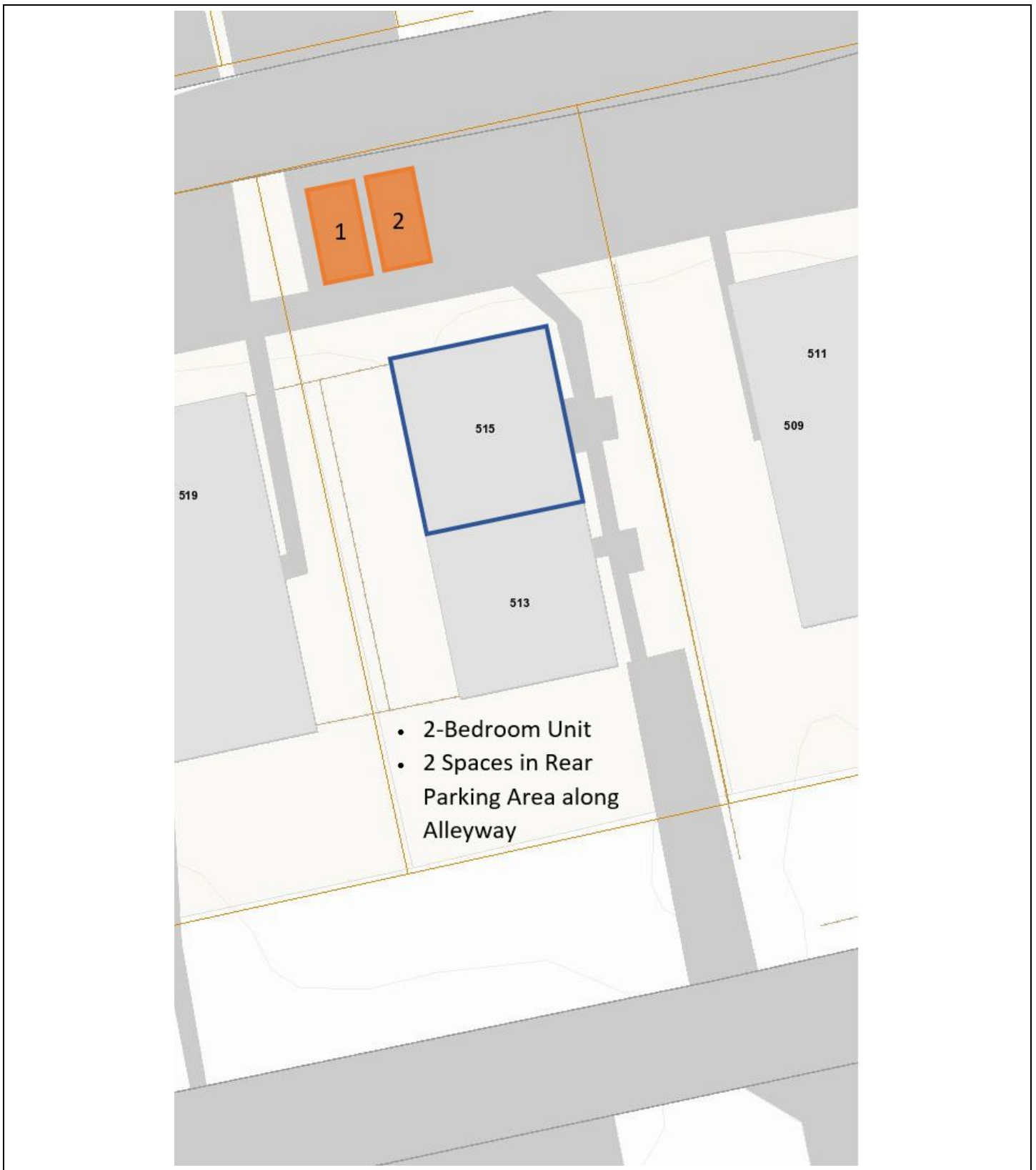
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Public Outreach Information

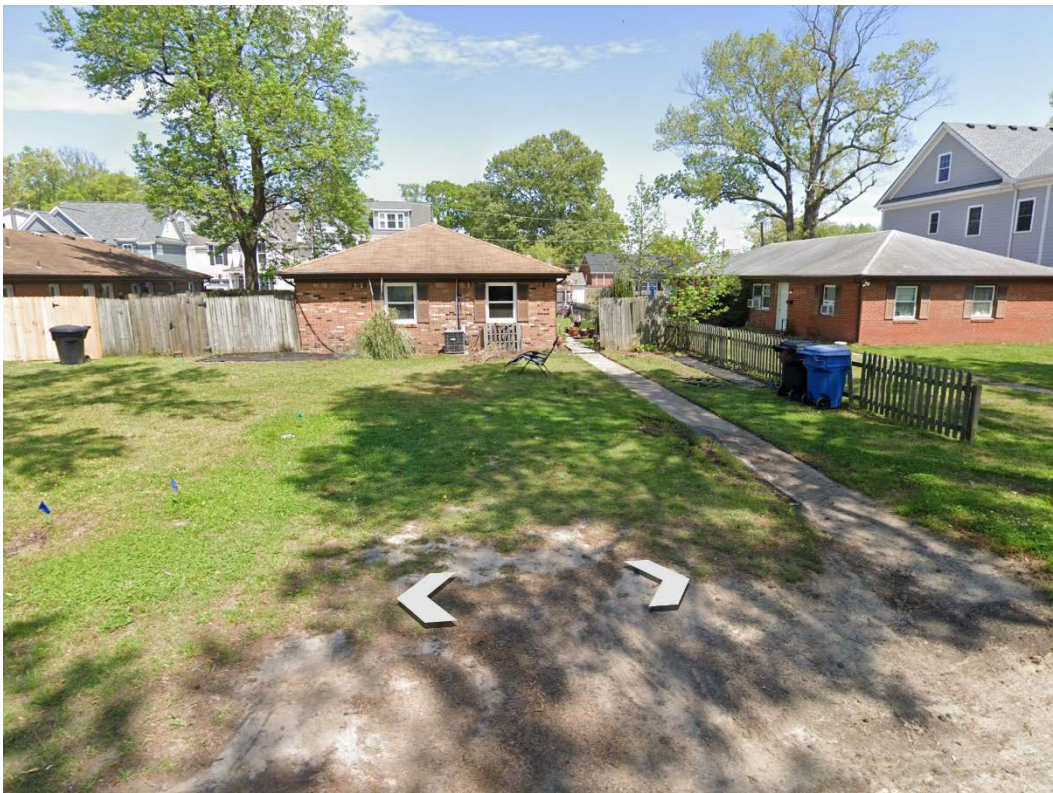
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Applicant Disclosure

Applicant Name

Craig Dean

Does the applicant have a representative? ☐ Yes ☒ No

- If yes, list the name of the representative.

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Finn Gartman Hart Patt Finn CPA
CDA

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Print Name and Title

Date

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