

A photograph of a person surfing on a wave. The surfer is wearing a red shirt and blue shorts, and is in a dynamic pose with arms outstretched. The wave is breaking, creating white foam. The background is a clear blue sky.

# Planning Commission Agenda

## August 10, 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, August 10, 2022 at 12:00 p.m. in the Council Chamber at City Hall, 2<sup>nd</sup> Floor at 2401 Courthouse Drive, Building 1, Virginia Beach, VA 23456**. Members of the public will be able to observe the Planning Commission meeting through livestreaming on [www.vbgov.com](http://www.vbgov.com), broadcast on VBTv, and via WebEx. Citizens who wish to speak can sign up to speak either in-person at the Council Chamber or virtually via WebEx by completing the two-step process below. A Staff briefing session will be held at 9:00 a.m.. All interested parties are invited to observe.

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

1. Register for the WebEx at:  
<https://vbgov.webex.com/vbgov/onstage/g.php?MTID=e11fb38c13855bd66c18727157af1d872>
2. Register with the Planning Department by calling 757-385-4621 or via email at [mbHarris@vbgov.com](mailto:mbHarris@vbgov.com) prior to 5:00 p.m. on August 9, 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](http://www.vbgov.com/pc). For information call 757-385-4621. Staff Reports will be available on the webpage 5 days prior to the meeting.

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

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



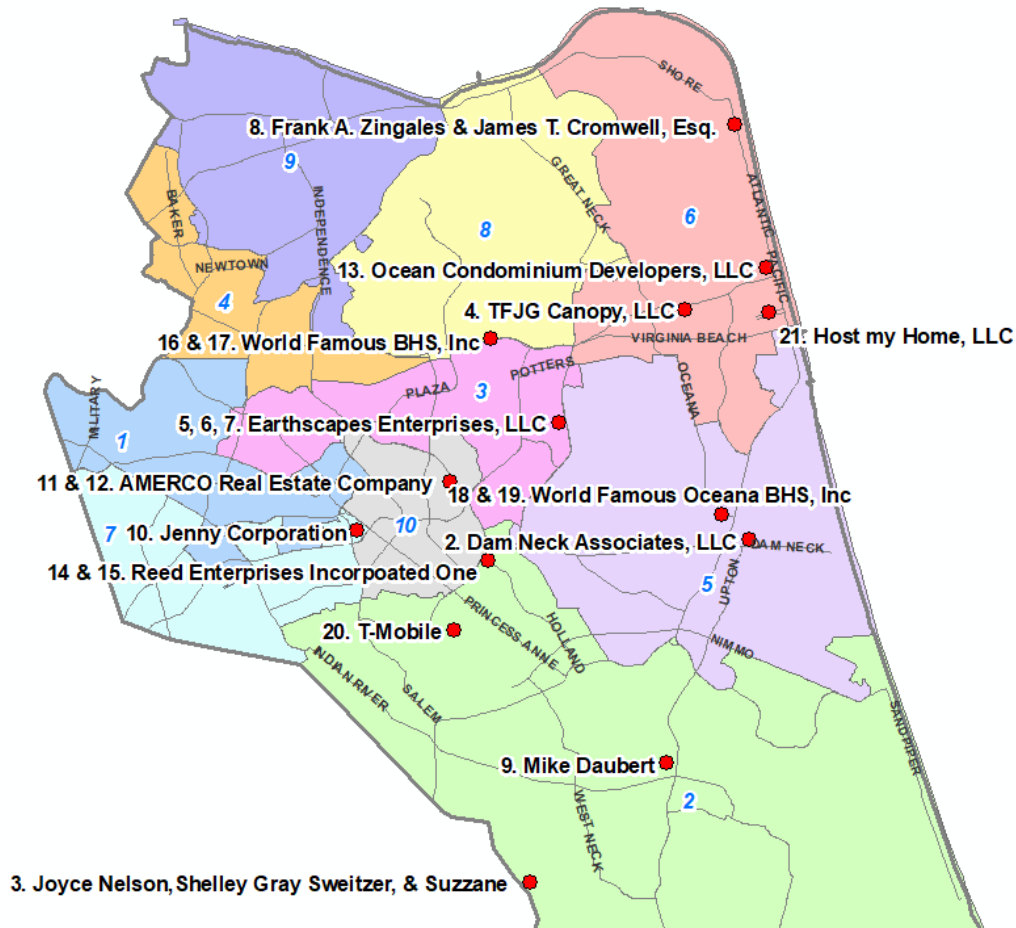
# Planning Commission Hearing Procedures

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.**

# AUGUST 10, 2022 PLANNING COMMISSION AGENDA



# AUGUST 10, 2022 PLANNING COMMISSION AGENDA

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

### B. BRIEFINGS

Virginia Beach Commercial Areas Pattern Book & Bow Creek Area Neighborhood Resiliency Guidelines – Ross Cannon & Peter Johnston with Work Program Architects

## 12:00 P.M. – PUBLIC HEARING

### 1.

#### City of Virginia Beach

An Ordinance to add Sections 250, 251, 252, 253, and 254 to the City Zoning Ordinance pertaining to lighting requirements.

### 2.

**Dam Neck Associates, LLC** (Applicant & Property Owner)

#### **Modification of Proffers**

**Address:** 872 Dam Neck Road

**GPIN(s):** 2415757941

**Council District:** District 5, formerly Princess Anne

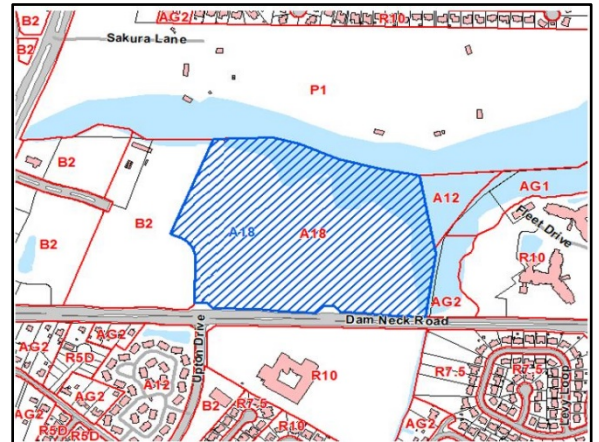
**Accela Record(s):** 2022-PCCC-00151

**SGA:** No

**Overlay:** No

**Staff Planner:** Hoa N. Dao

*Request to modify previously approved plan for development of 612 apartment units at a density of 18 units per acre.*



### 3.

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

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

**Address:** 2748 West Landing Road

**GPIN(s):** 1492620072

**Council District:** District 2, formerly Princess Anne

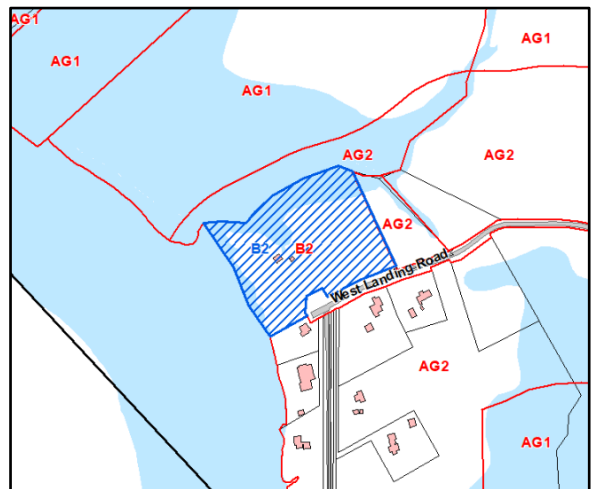
**Accela Record(s):** 2022-PCCC-00168

**SGA:** No

**Overlay:** No

**Staff Planner:** Hoa N. Dao

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



4.

**TFJG Canopy, LLC** (Applicant & Property Owner)

**Conditional Rezoning** (A-12 Apartment District to Conditional B-4 Mixed-Use District)

**Address:** 1413 Laskin Road

**GPIN(s):** 2417183772

**Council District:** District 6, formerly Beach

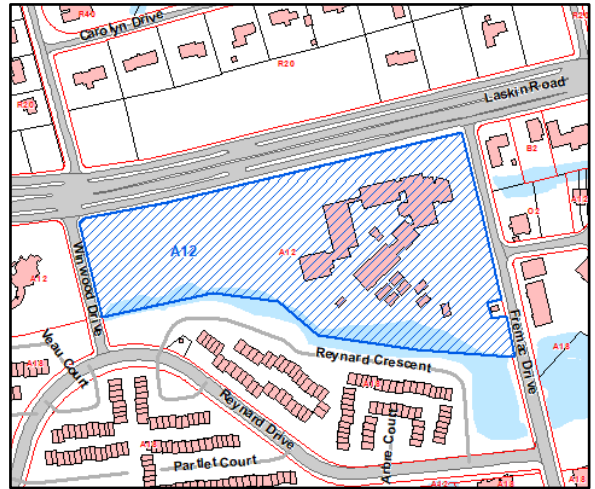
**Accela Record(s):** 2022-PCCC-00094

**SGA:** Yes – Hilltop

**Overlay:** No

**Staff Planner:** Hoa N. Dao

*Request to rezone 12.41 acres from A-12 to Conditional B-4 for development of mixed retail, office, & up to 132 apartment units at a density of 10.64 units per acre.*



5, 6, & 7.

**Earthscapes Enterprises, LLC** (Applicant)

**Valianos Properties, LLC & JEM, LLC** (Property Owners)

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

**Conditional Use Permits** (Mini-Warehouse & Bulk Storage Yard)

**Address:** 619 & 623 London Bridge Road

**GPIN(s):** Portion of 1496878501, 1496974509

**Council District:** District 3, formerly Beach

**Accela Record(s):** 2022-PCCC-00146, 2022-PCCC-00147, 2022-PCCC-00148

**SGA:** No

**Overlay:** No

**Staff Planner:** Marchelle Coleman

*Requests to rezone 1.46 acres from I-1 & B-2 to Conditional B-2 for development of a self-storage facility and bulk storage yard.*



DEFERRAL REQUESTED



8.

**Frank A. Zingales & James T. Cromwell, Esq.**  
**Receiver for Shore Realty Corporation, a Defunct Corporation** (Applicant)

**Street Closure**

**Address:** Portion of the unimproved right-of-way between 200, 202 & 204 76<sup>th</sup> Street

**Adjacent GPIN(s):** 2419672161, 24196710781840, 24196710781850

**Council District:** District 6, formerly Lynnhaven

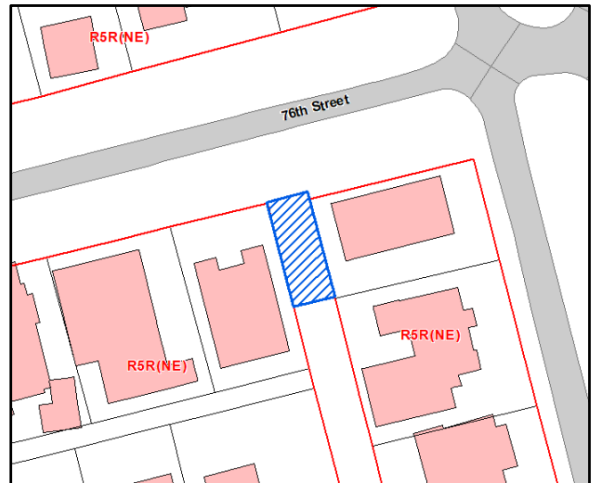
**Accela Record(s):** 2022-PCCC-00140

**SGA:** No

**Overlay:** No

**Staff Planner:** Marchelle Coleman

*Request for closure of 750 square feet of an unimproved right-of-way.*



9.

**Mike Daubert** (Applicant)

**Back Bay Farms, Inc** (Property Owner)

**Conditional Use Permit** (Assembly Use)

**Address:** 1833 Princess Anne Road

**GPIN(s):** Portion of 240393733

**Council District:** District 2, formerly Princess Anne

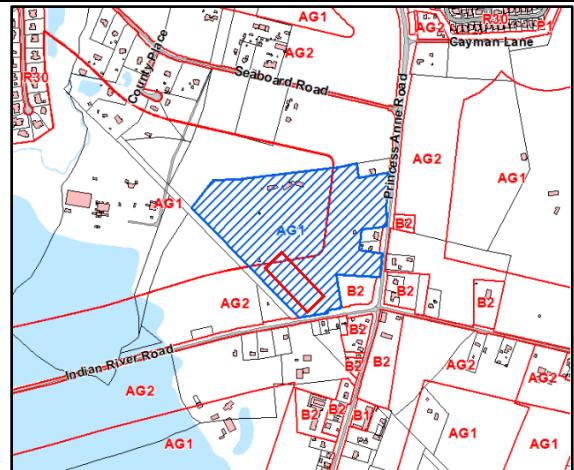
**Accela Record(s):** 2022-PCCC-00092

**SGA:** No

**Overlay:** No

**Staff Planner:** Elizabeth Nowak

*A request to operate an event venue for events such as weddings, etc.*



10.

**Jenny Corporation** (Applicant)

**Elias Property Salem Crossing, LLC** (Property Owner)

**Conditional Use Permit** (Tattoo Parlor)

**Address:** 2029 Lynnhaven Parkway, Suite 200

**GPIN(s):** 1475868600

**Council District:** District 7, formerly Rose Hall

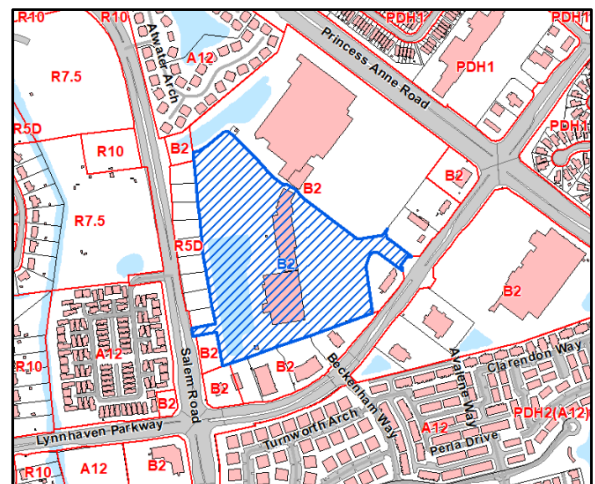
**Accela Record(s):** 2022-PCCC-00136

**SGA:** No

**Overlay:** No

**Staff Planner:** Elizabeth Nowak

*Request to operate a tattoo parlor for permanent makeup known as microblading within a unit of the Salem Crossing Shopping Center.*



11. & 12.

**AMERCO Real Estate Company** (Applicant)  
**Thomas Brill Trust** (Property Owner)

**Conditional Use Permits** (Truck & Trailer Rentals & Mini-Warehouse)

**Address:** Parcel on the southern corner of Holland Road & Stoneshore Road, directly west of 3427 Holland Road

**GPIN(s):** 1486810742

**Council District:** District 10, formerly Rose Hall

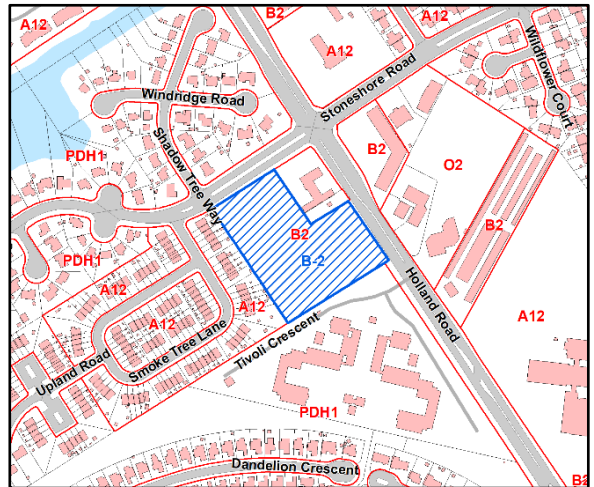
**Accela Record:** 2022-PCCC-00003, 2022-PCCC-00004

**SGA:** No

**Overlay:** No

**Staff Planner:** Elizabeth Nowak

*Requests to operate a mini-warehouse/self-storage facility & a truck & trailer rental business.*



13.

**Ocean Condominium Developers, LLC, a Virginia Limited Liability Company** (Applicant)  
**ORP Ventures, LLC** (Property Owner)

**Modification of Conditions** (Non-Conforming Use)

**Address:** 404 34<sup>th</sup> Street

**GPIN(s):** 2418923981

**Council District:** District 6, formerly Beach

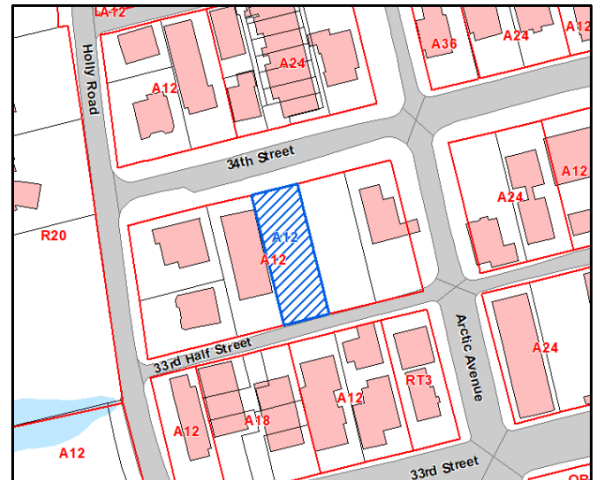
**Accela Record(s):** 2022-PCCC-00143

**SGA:** No

**Overlay:** No

**Staff Planner:** Elizabeth Nowak

*Request to modify previously approved plan to change the building design from a quad-plex to two duplexes.*



14. & 15.

**Reed Enterprises Incorporated One, a Virginia Corporation & Liberty Transmission & Auto Care, Inc, a Virginia Corporation** (Applicants)  
**Reed Enterprises Incorporated One, a Virginia Corporation** (Property Owner)

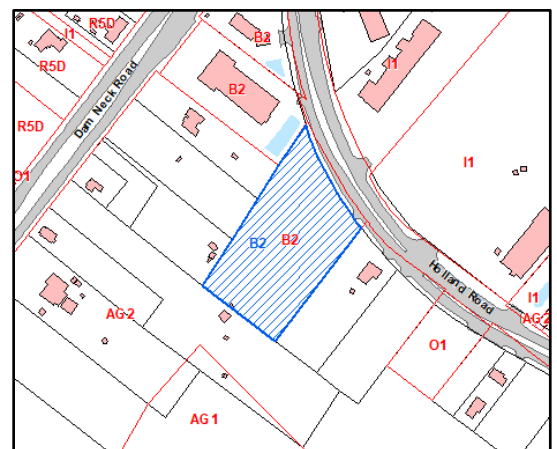
**Modification of Proffers**

**Conditional Use Permit** (Automobile Repair Garage)

**Address:** 3041 Holland Road

**GPIN(s):** 1495138628

**Council District:** District 2, formerly Princess Anne



**Accela Record:** 2022-PCCC-00157, 2022-PCCC-00098  
**SGA:** No  
**Overlay:** No  
**Staff Planner:** Elizabeth Nowak

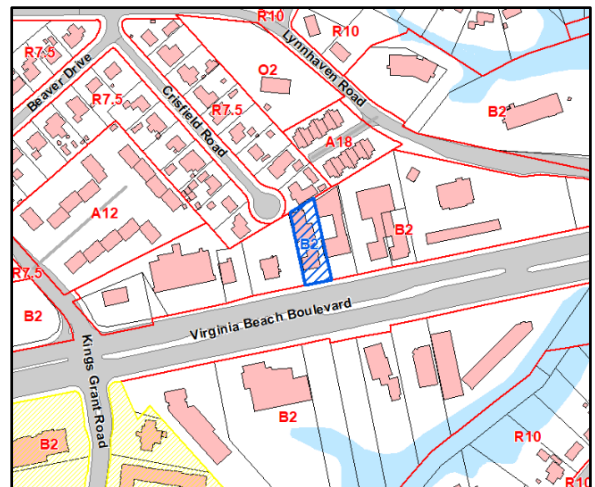
*Requests to amend proffers that were approved in 2013 and 2015 and to operate an automobile repair garage.*

**16 & 17.**  
**World Famous BHS, Inc** (Applicant)  
**Lynnhaven Investment Partners** (Property Owner)

**Conditional Use Permits** (Tattoo Parlor & Body Piercing Establishment)

**Address:** 2980 Virginia Beach Boulevard  
**GPIN(s):** 1497251963  
**Council District:** District 8, formerly Lynnhaven  
**Accela Record(s):** 2022-PCCC-00134, 2022-PCCC-00156  
**SGA:** Yes – Lynnhaven  
**Overlay:** No  
**Staff Planner:** Michaela D. McKinney

*Request to operate a tattoo parlor for both traditional tattooing as well as permanent makeup known as microblading. Request to also operate a body piercing establishment.*

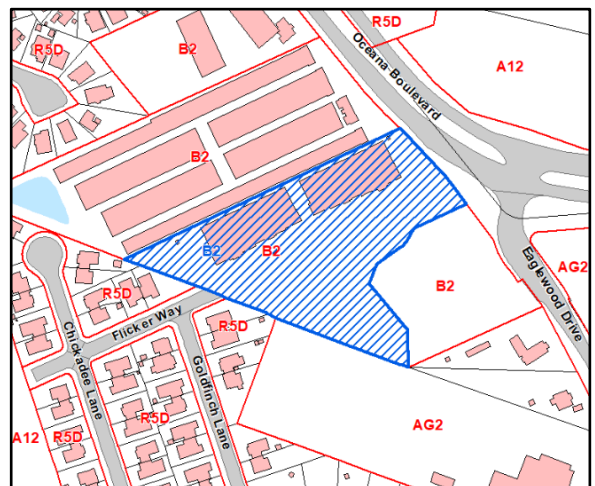


**18 & 19.**  
**World Famous Oceana BHS, Inc** (Applicant)  
**Oceana Crossings, LLC** (Property Owner)

**Conditional Use Permits** (Tattoo Parlor & Body Piercing Establishment)

**Address:** 1375 Oceana Boulevard, Unit 118  
**GPIN(s):** 2415489273  
**Council District:** District 5, formerly Beach  
**Accela Record(s):** 2022-PCCC-00135, 2022-PCCC-00166  
**SGA:** No  
**Overlay:** No  
**Staff Planner:** Michaela D. McKinney

*Request to operate a tattoo parlor for both traditional tattooing as well as permanent makeup known as microblading. Request to also operate a body piercing establishment.*



20.

**T-Mobile** (Applicant)

**City of Virginia Beach** (Property Owner)

**Conditional Use Permit** (Communication Tower)

**Address:** 2068 Landstown Centre Way

**GPIN(s):** Portion of 1484869245

**Council District:** District 2, formerly Princess Anne

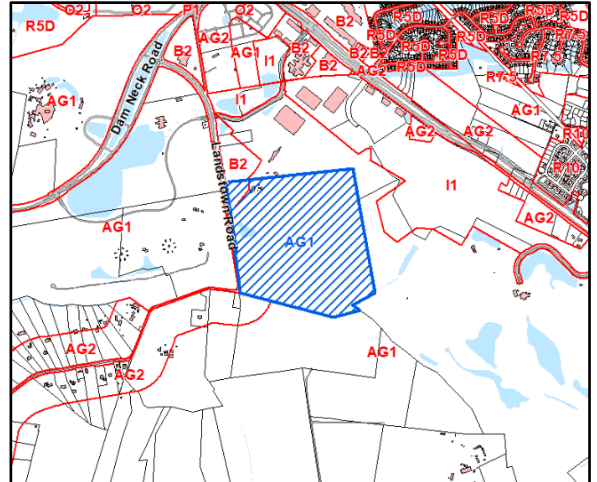
**Accela Record(s):** 2022-PCCC-00129

**SGA:** No

**Overlay:** No

**Staff Planner:** Michaela D. McKinney

*Request to add antennas to an existing 126-foot-tall light pole with equipment at the base.*



## SHORT TERM RENTALS

21.

**Host my Home, LLC** (Applicant)

**David Dowdy** (Property Owner)

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

**Address:** 529 22<sup>nd</sup> Street

**GPIN(s):** 2417986545

**Council District:** District 2, formerly Beach

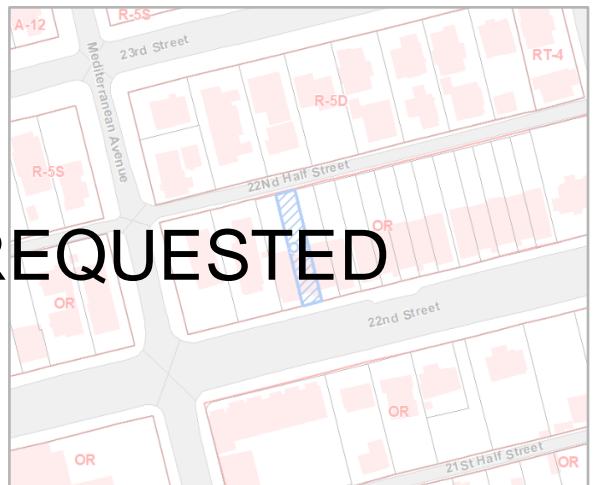
**Accela Record(s):** 2022-PCCC-00133

**SGA:** Yes – Resort Area

**Overlay:** OR STR

**Staff Planner:** Levi Luckenbach

*Request for a 4-bedroom Short Term Rental.*



**WITHDRAWAL REQUESTED**





## Request

An Ordinance to add Section 250, 251, 252, 253 and 254 of the City Zoning Ordinance pertaining to lighting requirements.

## Summary of Request

Work on a lighting ordinance began a number of years ago and was sponsored by Council Member Henley. The existing ordinance only requires parking areas to have all sources of illumination shielded to prevent any glare toward adjacent properties where residential, apartment, or hotel uses are permitted. This proposed ordinance adds additional regulations to protect neighborhoods, the environment, and the night sky from non-vehicular light sources by providing standards for outdoor lighting which facilitate night-time safety, utility, security, productivity, enjoyment, and commerce. Outdoor lighting will be regulated through defining the directionality and cutoff of lighting fixtures, setting illumination levels found at a site's property lines, and limiting the height of lighting fixtures. A photometric plan and an inspection with light meter readings will be required to confirm compliance with this proposed ordinance.

The proposed ordinance exempts certain types of lighting, if they are deemed to not be a hazard to public health, safety, or welfare:

- Lighting for public art, monuments, and statuary, when directed toward the public art, monument, or statuary;
- FAA-mandated lighting associated with a utility tower or airport;
- Lights required for Air Navigation Safety by the FAA;
- Lighting as part of a bona fide agricultural activity;
- Lighting solely for signage (lighting for signs is regulated by the Sign Ordinance);
- Temporary lighting for special events and construction sites – provided such lighting is discontinued upon the completion of the special event or construction activity;
- Underwater lighting in swimming pools, fountains, and other water features;
- Temporary seasonal lighting;
- Lighting only used under emergency conditions – provided such lighting is discontinued upon abatement of the emergency situation;
- Lighting located within the public Right of Way or on City owned property when approved by City Council or Public Works;
- Lighting approved by the Planning Director as recommended by the Virginia Beach Police Department;
- Lighting specified or approved with a specific city council action; and
- Lighting exempt under federal, commonwealth or city laws or regulations

The proposed ordinance prohibits the following types of lighting due to their negative impacts on neighboring properties and their hazardous impacts to public health, safety, and welfare:

- Light fixtures that imitate any official highway or traffic control light or sign;
- Light fixtures in the direct line of site with any traffic control light or sign;
- Light fixtures impairing the vision of vehicles traveling on any public right-of-way;

- Privately owned light fixtures located in the public right-of-way, without an encroachment agreement approved by City Council;
- Searchlights, and other high-intensity narrow-beam fixtures, except when used by the Federal, Commonwealth, or city authorities; and
- Light types of limited spectral emission, such as low-pressure sodium or mercury vapor lights. Light sources shall be color-correct types such as halogen, LED or metal halide.

The proposed ordinance requires most fixtures to be full cut off, which is defined in the ordinance:

a luminaire (lighting fixture) from which no light is emitted at or above a horizontal plane drawn through the lowest light-emitting portion of the luminaire and no more than ten percent (10) of the lamp's intensity is emitted at or above an angle ten (10) degrees below that horizontal plane, at all lateral angles around the luminaire. A full-cutoff luminaire, by definition, also is "fully shielded".

The proposed ordinance limits the maximum illumination onto neighboring properties or city right of way based on the neighboring use, from 0.5 foot-candles to 5.0 foot-candles. Foot-candle is defined in the ordinance as:

a unit of light density incident on a plane (assumed to be horizontal unless otherwise specified), and measurable with an illuminance meter, a.k.a. light meter.

Additional regulations are included in the proposed ordinance such as: lighting fixtures are limited in height based on their distance from the property line; special allowances for sports and performance areas; and special allowances for alternative designs.

Site plans for uses other than one- and two- family development and discretionary applications are required to submit a lighting plan to ensure compliance with the standards of this proposed ordinance. The requirement for a lighting plan can be waived by the Planning Director in certain cases. Light meter readings can be done on-site by a Zoning Inspector to confirm compliance with the proposed ordinance.

## Public Outreach Information

During the drafting of this amendment staff reached out to internal and external stakeholders for input. Including:

Virginia Beach City Public Schools

Virginia Beach Fire Department

Virginia Beach Police Department

Coastal Virginia Builders Association

## Recommendation

Staff recommends approval of this Ordinance as it will ensure standardized, consistent, and predictable site lighting for developments, in addition to facilitating the safety and enjoyment of outdoor spaces after dark within the City.

AN ORDINANCE TO ADD SECTIONS 250, 251,  
252, 253 and 254 OF THE CITY ZONING  
ORDINANCE PERTAINING TO LIGHTING  
REQUIREMENTS

Sections Added: §§ 250, 251, 252, 253, and  
254 of the City Zoning Ordinance

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

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

That Sections 250, 251, 252, 253 and 254 of the City Zoning Ordinance are  
hereby added and reordained to read as follows:

ARTICLE 2. GENERAL REQUIREMENTS AND PROCEDURES APPLICABLE TO ALL  
DISTRICTS

....

**I. LIGHTING REQUIREMENTS**

**Sec. 250. Legislative Intent.**

The purpose of this ordinance is to establish comprehensive regulations for  
outdoor lighting throughout the City of Virginia Beach that will:

- a) Provide for and control outdoor lighting that is necessary for night-time  
safety, utility, security, productivity, enjoyment and commerce;
- b) Protect pedestrians and drivers from glare of non-vehicular light sources;
- c) Protect neighbors, the environment and the night sky from  
nuisance glare and light trespass from improperly selected,  
placed, aimed, applied, maintained or shielded light sources;
- d) Help protect the natural environment from the adverse effects of night  
lighting from gas or electric sources; and
- e) Promote energy efficient lighting design and operation.

**Sec. 251. Definitions.**

The following terms shall be defined as set forth herein:

- (a) "Floodlight" is a large, powerful light used to illuminate a field or the exterior of a building.
- (b) "Footcandle" is a unit of light density incident on a plane (assumed to be horizontal unless otherwise specified), and measurable with an illuminance meter, a.k.a. light meter.
- (c) "Full cutoff" is an attribute of a luminaire from which no light is emitted at or above a horizontal plane drawn through the lowest light-emitting portion of the luminaire and no more than ten percent (10) of the lamp's intensity is emitted at or above an angle ten (10) degrees below that horizontal plane, at all lateral angles around the luminaire. A full-cutoff luminaire, by definition, also is "fully shielded."
- (d) "Fully shielded" is an attribute of a luminaire from which no light is emitted at or above a horizontal plane drawn through the lowest light-emitting portion of the luminaire.
- (e) "Glare" is excessive brightness in the field of view that is sufficiently greater than that to which the eyes are adapted, causing annoyance or loss in visual performance and visibility, so as to jeopardize health, safety, or welfare.
- (f) "Illuminance" is the quantity of incident light, measured in footcandles.
- (g) "Light trespass" is light emitted by a luminaire or lighting installation, which is cast beyond the boundaries of the property on which the lighting installation is sited.
- (h) "Lumen" as used in the context of this Ordinance, is the light-output rating of a lamp (light bulb).
- (i) "Luminaire" is a complete lighting fixture assembly consisting of ballast, lamp(s), lamp holder, electrical components, light directing devices and lens or diffuser.
- (j) "Searchlight" is an outdoor electric light with a concentrated beam that can be turned in a required direction.

**Sec. 252. General Lighting Requirements.**

- a) Conformance with All Applicable Codes. All outdoor lighting fixtures shall be installed and maintained in conformance with the provisions of this Ordinance, and in conjunction with any applicable requirements from the



National Fire Protection Association (NFPA), Energy Codes and Statewide Building Code.

- b) Applicability. Except for the exemptions described below, light fixtures installed after the effective date of this ordinance ( ) shall comply with the requirements of this ordinance. This includes, but is not limited to, new lighting, replacement lighting, lighting for safety and security purposes, and any other lighting whether attached to structures, poles, the ground, or any other location. This article does not apply to properties governed by the requirements of the Oceanfront Resort District Form Based Code in regard to lighting. Lighting fixtures installed prior to the effective date of this ordinance ( ) may come into compliance with this article or continue to comply with Section 203(b)(5) which states:

Parking surfaces shall be constructed of concrete, asphalt or other suitable material approved by the Planning Director. Where parking areas are illuminated, all sources of illumination shall be so shielded as to prevent any direct reflection toward adjacent premises where the zoning allows residential, apartment, or hotel use.

The following are exempt from the provisions of this section so long as they are not deemed to be a hazard to public health, safety and welfare:

- 1) Lighting for public art, monuments, and statuary, when directed toward the public art, monument, or statuary;
- 2) FAA-mandated lighting associated with a utility tower or airport;
- 3) Lights required for Air Navigation Safety by the FAA;
- 4) Lighting as part of a bona fide agricultural activity;
- 5) Lighting solely for signage (lighting for signs is regulated by the Sign Ordinance);
- 6) Temporary lighting for special events and construction sites – provided such lighting is discontinued upon the completion of the special event or construction activity;
- 7) Underwater lighting in swimming pools, fountains, and other water features;
- 8) Temporary seasonal lighting;

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- 9) Lighting only used under emergency conditions – provided such lighting is discontinued upon abatement of the emergency situation;
  - 10) Lighting located within the public Right of Way or on City owned property when approved by City Council or Public Works;
  - 11) Lighting approved by the Planning Director as recommended by the Virginia Beach Police Department;
  - 12) Lighting specified or approved with a specific city council action; and
  - 13) Lighting exempt under federal, commonwealth or city laws or regulations.
- c) Prohibited Lighting. The following exterior lighting is prohibited:
- 1) Light fixtures that imitate any official highway or traffic control light or sign;
  - 2) Light fixtures in the direct line of site with any traffic control light or sign;
  - 3) Light fixtures impairing the vision of vehicles traveling on any public right-of-way;
  - 4) Privately owned light fixtures located in the public right-of-way, without an encroachment agreement approved by City Council;
  - 5) Searchlights, and other high-intensity narrow-beam fixtures, except when used by the Federal, Commonwealth, or city authorities; and
  - 6) Light types of limited spectral emission, such as low-pressure sodium or mercury vapor lights. Light sources shall be color-correct types such as halogen, LED or metal halide.
- d) Outdoor lighting requirements. Outdoor site lighting must primarily be used to provide safety, while secondarily accenting key architectural elements and to emphasize landscape features. All lighting fixtures designed or placed to illuminate any portion of a site must meet the following requirements:
- 1) In order to direct light downward and minimize the amount of light

185 spill into the night sky and onto adjacent properties, all  
186 lighting fixtures shall be full cutoff fixtures to eliminate glare.  
187 The light source must be concealed and must not be visible  
188 from any street right-of-way or adjacent properties.  
189

190 a. Floodlights are not required to be full cutoff fixtures  
191 on properties on which the primary use is a one or  
192 two family dwelling.  
193

194 2) Unless otherwise required by Federal or State requirements,  
195 exempted by this ordinance, or approved by City Council, all  
196 exterior lighting shall be designed and located so that the  
197 maximum illumination levels shall not exceed:  
198

199 (i) 0.5 foot-candles at any property line adjacent to a  
200 residential, preservation, or agricultural use;  
201

202 (ii) 1.0 foot-candle at any property line adjacent to a  
203 multi-family or civic use;  
204

205 (iii) 5.0 foot-candles at any other property line, including  
206 adjacent to a commercial use, mixed use, or a city  
207 right of way.  
208

209 3) Light Fixture Height  
210

211 i. Lighting poles for commercial parking areas located  
212 within twenty (20) feet of a single-family residential  
213 property line shall be limited to landscape bollard style  
214 lighting with full cut-offs and shall be no taller than four  
215 (4) feet in height;  
216

217 ii. Lighting fixtures located within fifty (50) feet of a  
218 residential or apartment district may not exceed fourteen  
219 (14) feet in height;  
220

221 iii. The maximum height for any parking lot light poles and  
222 lighting fixtures for any site adjacent to a residential or  
223 apartment use shall not exceed twenty (20) feet in height  
224 between fifty (50) and one hundred (100) feet of the  
225 property line, unless otherwise specified by city council;  
226

227 iv. In no case shall lighting fixtures exceed 30 feet in height  
228 in parking areas;  
229

- v. In no case shall lighting fixtures be less than nine (9) feet or more than fifteen (15) feet in height above the sidewalk in pedestrian areas.

**Sec. 253 Lighting Design Standards for Specific Uses and Site Features**

In addition to complying with all applicable standards in Section 252, General Lighting Requirements, the uses and site features identified in this section shall comply with the standards established for that type of use or site feature.

- (a) Sports and performance areas shall be equipped with an existing glare control package (e.g., louvers, shields, or similar devices) and focused so that the beams are directed and fall within the primary playing, seating, or performance area.
- (b) Wall pack lights on the exterior of the building shall be fully shielded and shall be aimed at least 45 degrees from the horizontal.
- (c) Landscape lighting shall be forward throw fixtures, which direct light toward the interior of the site
- (d) Lighting for piers shall be full cut off fixtures unless required by State or Federal navigation requirements

**Sec. 252. Lighting System Documentation Requirements.**

- a) To ensure compliance with the standards of this section, a lighting plan demonstrating how the exterior lighting will comply with the standards of this ordinance shall be included as part of any of the following:
  - 1) Site Plans which propose lighting as part of the development for all uses other than one- and two- family development unless waived by the Planning Director;
  - 2) Discretionary applications, when requested by staff due to potential impacts on neighboring properties
- b) Alternatives to the requirements in Section 252 and 253 may be approved by the Director of Planning when the intent of the ordinance is met through an alternative design.
- c) A lighting plan prepared by a registered engineer, surveyor or other persons duly licensed by the Commonwealth of Virginia to practice as such shall be submitted and include:
  - 1) Photometric plans with point-by-point, calculated lighting levels shown in foot candles;



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- 2) An information sheet including calculations measured at grade in a 10' x10' grid covering the entirety of the lighted area with ten (10) feet spacing between points, and ten (10) feet beyond the property line with ten (10) feet spacing between points; and
- 3) The type and style shall be provided for all proposed lighting fixtures. Additional information, to include the manufacturing specifications for lighting fixtures, may be required upon request.

Adopted by the Council of the City of Virginia Beach, Virginia, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL SUFFICIENCY:

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

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

CA14632  
R-4  
June 7, 2022



**Request**

**Modification of Proffers**

**Staff Recommendation**

Approval

**Staff Planner**

Hoa N. Dao

**Location**

872 Dam Neck Road

**GPIN**

2415757941

**Site Size**

41.42 acres

**AICUZ**

70-75 dB DNL, Greater than 75 dB DNL

**Watershed**

Southern Rivers

**Existing Land Use and Zoning District**

Single-family dwelling, cultivated field / P-1  
Preservation

**Surrounding Land Uses and Zoning Districts**

**North**

Redwing Lake

Red Wing Park / P-1 Preservation

**South**

Dam Neck Road

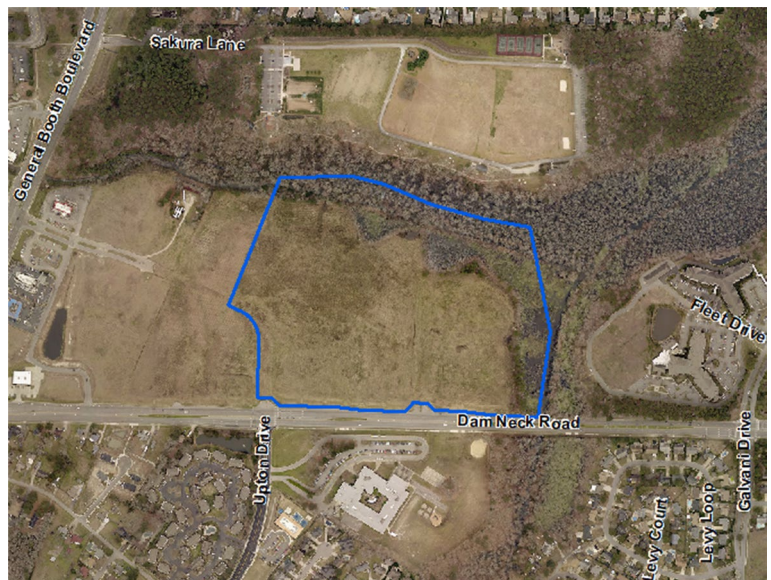
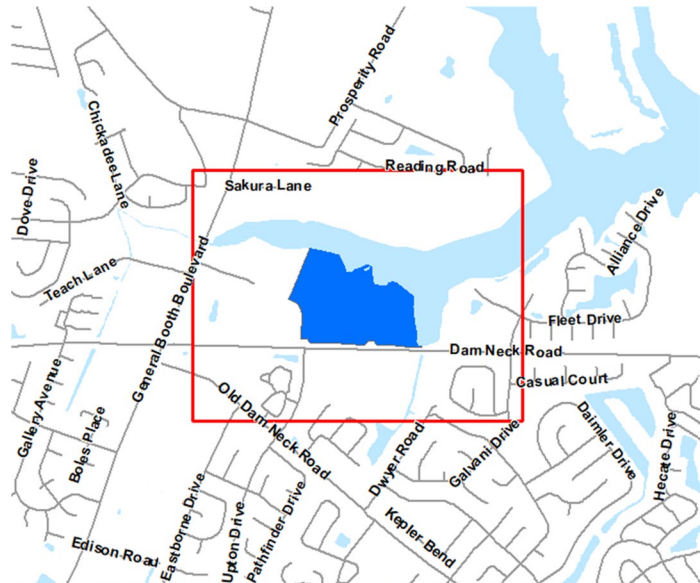
School / R-10 Residential

**East**

Undeveloped parcel / AG-2 Agricultural, R-10  
Residential

**West**

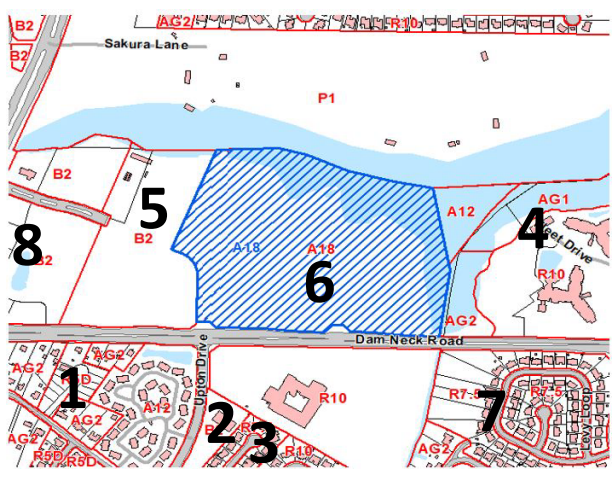
Undeveloped parcel / B-2 Community Business



## Background & Summary of Proposal

- This is a request for a Modification of Proffers associated with a conditional rezoning approved by City Council in 1994. As the applicant desires to alter the proffered site layout and building design, the modification is necessary.
- In 1994, City Council approved two rezoning applications that supported a concept of commercial uses radiating from the northeast corner of General Booth Boulevard and Dam Neck Road and an adjacent multi-family development along Dam Neck Road from A-12 Apartment to Conditional A-18 Apartment that allows for the development of up to 612 apartment units with a resulting density of 17.98 units per acre. While up to 612 units was proposed and approved, it was estimated that up to 629 units could be developed by right under the current A-12 zoning designation for these parcels. The approved 1994 rezoning proffered exhibit is shown on page 15 of this report.
- While the 1994 rezoning record indicates the parcel was 43.36 acres in size, an error was discovered when the subdivision plat was recorded in 2004 that the parcel is actually only 41.42 acres. While the applicant proposes to maintain the same number of units approved in 1994, further review of the acreage discrepancy may result in an adjustment to the ultimate number of units, which can be accomplished administratively, to ensure compliance with the Zoning Ordinance. A recent wetlands delineation revealed the expanded presence of wetlands, thereby further impacting the development. The current site layout does reflect the updated environmental conditions and minimizes disturbance to the wetland areas through modifications to the site layout and building massing. The proposal includes a clubhouse building and nine apartment buildings of varying heights of three to five stories, none of which to exceed a maximum height of 75 feet. As the A-18 Apartment District limits height to 35 feet, the applicant seeks a deviation to the building height requirement.
- The submitted Conceptual Site Plan depicts construction of the full project to be accomplished in two phases. Phase 1 will be on the eastern half of the parcel consisting of five apartment buildings, the clubhouse, and the stormwater management facility. Phase 2 will consist of four apartment buildings and the completion of the connection of Dam Neck Station Road between General Booth Boulevard and Dam Neck Road.
- As shown in the proffered Conceptual Site Plan, encroachment into the 30-foot front yard setbacks along Dam Neck Road and Dam Neck Station Road are depicted for Buildings A1, A2, A3, and B2. As these buildings do not meet the minimum setback, a deviation is also sought from 30 feet to 10 feet from these property lines.
- The proffered exterior building materials feature a neutral color scheme with a mix of high quality fiber cement siding, stone veneer, and fiberglass shingles.
- While there is no minimum open space requirement for properties with Apartment District zoning, the proffered Conceptual Site Plan indicates approximately 21.3 acres or 51% of the site is dedicated to open space. This open space includes a community clubhouse, a fitness center, an outdoor swimming pool, and multi-purpose paths with pedestrian bridges that connect to Redwing Park. The property abuts Redwing Lake and Red Wing Park to the north and is impacted by wetlands and floodplains. Pedestrian pathways are proposed to connect the development to Red Wing Park. All improvements are proposed outside of the Southern Watersheds buffer and floodplain areas.
- Two vehicular ingress/egress points are proposed, one along Dam Neck Road and one along Dam Neck Station Road. The latter will be for emergency vehicle access only until such time a Traffic Signal Analysis is approved by City Staff. Only then can it be utilized as a full vehicular access point.
- Right-of-way improvements depicted on the proffered Conceptual Site Plan include installation of sidewalk along the entire length of the Dam Neck Road and Dam Neck Station Road frontages, and the construction of the remaining portion of Dam Neck Station Road to provide a connection between General Booth Boulevard and Dam Neck Road.

- A parking study was submitted consistent with the provisions of Section 203 of the Zoning Ordinance that permits a reduction in the minimum number of parking spaces subject to an indication that a substantial number of patrons are pedestrians or arrive by means of public transportation or by bicycle. While 1,084 parking spaces are typically required for a multi-family development of this size, the parking study indicates that the proposed 918 parking spaces provided (ratio of 1.50 spaces per unit) will meet the needs of the residents. Additionally, 24 bike spaces are also provided within the buildings on the site, while 22 are minimally required per the Zoning Ordinance.
- The proffered Conceptual Site Plan also depicts the required streetscape, foundation, and interior parking lot plantings. Additional details regarding the landscape plan will be reviewed during the final site plan submission.

	Zoning History	
	#	Request
	1	CRZ (AG-2 to Conditional R-5D) Approved 09/20/2016 NON Approved 06/16/2016
	2	CRZ (AG-2 to Conditional B-2) Approved 12/09/2014 CUP (Childcare Education Center) Approved 05/23/2006
	3	CRZ (AG-2 & R-10 to Conditional R-7.5) Approved 02/10/2004
	4	MDC Approved 12/18/2001 MDC Approved 03/11/1998 CUP (Retirement Community) Approved 03/12/1990 CRZ (AG-2 & R-10 to Conditional R-6) Approved 07/13/1987
	5	CRZ (A-12 Conditional B-2) Approved 06/14/1994
	6	CRZ (A-12 Conditional A-18) Approved 06/14/1994
	7	CRZ (AG-2 Conditional R-6) Approved 12/06/1985
	8	CRZ (A-1 Conditional B-2) Approved 01/28/1985
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 multi-family development is in concert with the guiding principles of the Suburban Area by locating near a major intersection, close to commercial uses and transit, which emphasize sustainability, stability, and quality. The development features include the extension of Dam Neck Station Road to Dam Neck Road, which complies with the Master Transportation Plan, a component of the Comprehensive Plan. The proposal also conforms with the Suburban Area Design Guidelines by incorporating natural features on the site, locating parking areas behind the buildings, providing internal pedestrian pathways, and utilizing quality materials.

The property is impacted by wetlands and high noise zones (70-75 dB and greater than 75 dB) of the AICUZ. Since the 1994 rezoning approval, the boundaries of the wetlands have expanded. The applicant wishes to minimize disturbance to those wetland areas and that is reflected in the proffered layout. The number of buildings with the current proposal decreased to 10 buildings compared to the 32 buildings that were originally proffered in 1994. In order to maintain the same number of dwelling units that were approved in 1994 while avoiding the environmentally sensitive areas of the site, an increase in the building height above the 35 foot maximum is requested. As noted above, the concept includes buildings as tall as 75 feet in height, proposing to build vertically to avoid impacts to wetlands rather than spread out horizontally. In addition, the applicant seeks to reduce the front yard setback along Dam Neck Road and the future right of way, Dam Neck Station Road, from 30 feet to be as low as 10 feet. In Staff's view, the proposed building height and building setback deviations will not result in any detrimental effects to the surrounding properties or negatively impact the aesthetics of the area. The property is surrounded by a City Park to the north, a retirement community to the east with several high rise buildings, a school to the south across Dam Neck Road, and a vacant commercially zoned property



to the west. Furthermore, the adjacent Atlantic Shores Retirement Community does have a building height of approximately 80 feet tall.

Based on the amount of developable land area that can be counted toward density, Staff is uncertain that 612 units can ultimately be development on this parcel under the current regulations. Per Section 200 of the Zoning Ordinance, only acreage located outside of water, marsh, and wetlands can be counted towards residential density. As in this instance only 31.32 acres are located outside of water, marsh, and wetlands, resulting in a density of 19.54 units per acre, exceeding the maximum density for unit per acreage allowed in the A-18 Apartment District. The maximum number of units allow for this site will be reviewed at Site Plan submittal to ensure it meets all applicable regulations. The applicant is aware of this requirement.

Consistent with the provisions of Section 203 of the Zoning Ordinance, a parking study was submitted to support the applicant's request for a reduction in the number of parking spaces minimally required. Section 203(b)(11) allows the Zoning Administrator to reduce the parking requirement when a "substantial number of patrons are pedestrian or arrive by means of public transportation or by bicycle." As required, the Zoning Administrator determined that while 1,084 spaces are typically required for a multi-family development of this size, the final parking ratio of 1.50 spaces per unit and the reduction to the minimum number of required parking spaces from 1,084 to 918 spaces is justified. The site is within a half mile distance to shopping centers, retail establishments, schools, and parks, all of which are connected via sidewalks. In addition, the site is in close proximity to Hampton Roads Transit Route 33 which provides service to Tidewater Community College, Atlantic Avenue, and 68th Street. Multiple bus stops are located within the area along General Booth Boulevard, with the closest stops immediately to the north and south of Dam Neck Road.

While a Traffic Impact Study (TIS) is typically warranted for a project of this magnitude, Staff agreed to postpone this requirement until Phase II of the project is brought to the site plan stage because the existing improvements on Dam Neck Road is adequate to handle the additional traffic volume generated by this development during Phase I. During site plan review for Phase II of the development, Dam Neck Station Road will be designed and built to connect to Dam Neck Road at Upton Drive and General Booth Boulevard. The traffic impact study will define the required typical section for Dam Neck Station Road, including signalization details at both Dam Neck Road and potentially at General Booth Boulevard.

Information provided by the Virginia Beach City Public Schools Staff indicates that all effected schools are under capacity and the additional students will be within the acceptable threshold for increases in student population.

The proffered Conceptual Site Plan shows a large stormwater retention pond on the northern side of the development. Staff reviewed the conceptual stormwater management strategy and agrees it has the potential to successfully comply with the stormwater requirements. Final design and detailed updates will be made during site plan submittal to ensure conformance with all requirements set forth in the Public Works Design Standards Manual.

Based on the consideration described, Staff recommends approval of the Modification of Proffers request.

## Proffers

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



**Proffer 1:**

Proffer Number 1 of the Original Proffers is hereby deleted and replaced with the following:

“When developed, the improvements and landscaping on the Property shall be developed in substantial conformity with the conceptual site plan entitled “The Farm at Dam Neck and General Booth”, dated June 24, 2022, and prepared by Timmons Group (the “Concept Plan”), a copy of which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning.”

**Proffer 2:**

Proffer Number 9 of the Original Proffers is hereby deleted in its entirety.

**Proffer 3:**

Proffer Number 10 of the Original Proffers is hereby deleted and replaced with the following:

“The maximum permitted height of the residential buildings located on the Property shall be seventy-five feet (75’), in lieu of the thirty-five feet (35’) otherwise required under Section 604(a) of the Zoning Ordinance.”

**Proffer 4:**

Proffer Number 11 of the Original Proffers is hereby amended by the addition of the following sentence at the beginning of such Proffer:

“The quality of architectural design and materials of the residential buildings constructed on the Property, when developed, shall be in substantial conformity with the exhibit prepared by Cox, Kliewer & Company, P.C., entitled “APARTMENTS at THE FARM”, and dated June 27, 2022 (the “Elevation”), a copy of which is on file with the Department of Planning and has been exhibit to the Virginia Beach City Council.”

**Proffer 5:**

Proffer Number 13 is hereby added to the Original Proffers, and will read in its entirety as follows:

“Grantor will submit a traffic impact analysis prepared by a licensed traffic engineer to the City Public Works Department as part of the site plan review process for the development of that portion of the Property identified as ‘Phase 2’ on the Concept Plan.”

**Proffer 6:**

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

**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.

## Approved Proffers of 1994 Rezoning

**Proffer 1:**

The “Conceptual Site Plan and Rezoning Exhibit” prepared by Talbot Group, dated February 28, 1994, which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning, shall be substantially adhered to so that there shall be coordinated design and development of the site in terms of vehicular, pedestrian and bike access, circulation, parking, landscaping, best management practices, as landscape features, and recreational amenities to better foster a sense of community.

**Proffer 2:**

Vehicular Ingress and Egress shall be limited to two (2) entrances from Dam Neck Station Road and one (1) existing entrance from Dam Neck Road.

**Proffer 3:**

A Community Building, including rental and maintenance offices, a recreational swimming pool serving the residents and child play areas (tot lots) shall be constructed in the areas depicted on the Conceptual Site Plan.

**Proffer 4:**

A multi-purpose (jogging, walking, biking) path and seating areas shall be constructed around the perimeter of the lake, with the path being connected to the jogging/bike path along Dam Neck Road.

**Proffer 5:**

A multi-purpose path and foot bridge shall be constructed across the natural area to Redwing Park as depicted on the Conceptual Site Plan, if all necessary permits are approved.

**Proffer 6:**

Sidewalks shall be constructed along the internal collector streets and shall connect with those along Dam Neck Station Road and Dam Neck Road.

**Proffer 7:**

All landscaping along Dam Neck Station Road and Dam Neck Road as depicted on the Conceptual site Plan shall meet the requirements for Standard B Scenic Easements as described in Article 3.5 of the Landscaping, Screening and Buffering Specifications and Standards of the City of Virginia Beach as adopted by City Council on April 18, 1988.

**Proffer 8:**

Gateway treatments shall be constructed at one entrance from Dam Neck Station Road and entrance from Dam Neck Road, with monument style signage externally illuminated from ground level.

**Proffer 9:**

Two (2) multi-purpose green spaces shall be located adjacent to the Community Building as depicted on the Conceptual Site Plan and all areas designated as floodway or non-tidal wetlands shall be preserved for passive recreational uses.

**Proffer 10:**

The buildings shall be a mix of two (2) story, three (3) story and combination two (2) and three (3) story elements. Those buildings located adjacent to Dam Neck Road and Dam Neck Station Road shall contain a combination of two (2) and three (3) story elements, with the two (2) story elements located at the ends of the buildings.

**Proffer 11:**

Exterior surfaces of all buildings shall be in an earth tone color. On those structures located along Dam Neck Road and Dam Neck Station Road, no more than thirty percent (30%) of the exterior building material (excluding roofing) may be vinyl.

**Proffer 12:**

The total number of living units permitted to be constructed on the Property shall not exceed six hundred and twelve (612).

## Comprehensive Plan Recommendations

The proposal is located in the Suburban Area, as designated by the Comprehensive Plan. The general planning principles for the Suburban Area focus on preserving and protecting the overall character, economic value, and aesthetic quality of stable neighborhoods. Achieving the goals of preserving neighborhood quality requires that all new development or redevelopment, whether residential or non-residential, either maintain or enhance the overall area. This is accomplished through compatibility with surroundings, attractiveness of site and buildings, environmental responsibility, livability, and effective buffering of residential from other residential and non-residential 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. The applicant has provided a preliminary stormwater analysis for their proposal, which is discussed in detail below.

The property abuts Redwing Lake and Red Wing Park to the north and is impacted by wetlands and floodplains. Pedestrian pathways are proposed to connect the development to Red Wing Park. All apartment buildings are proposed outside of the Southern Watersheds buffer and floodplain areas.

There are no known cultural resources on this site.

## Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Dam Neck Road	31,800 ADT <sup>1</sup>	39,700 ADT <sup>1</sup> (LOS <sup>4</sup> "D")	Existing Land Use <sup>2a</sup> – 0 ADT Existing Zoning <sup>2b</sup> – 4,124 ADT Proposed Land Use <sup>3a</sup> – 2,116 ADT Proposed Land Use <sup>3b</sup> – 4,124 ADT
<sup>1</sup> Average Daily Trips	<sup>2a</sup> as defined by a vacant parcel  <sup>2b</sup> as defined by a 612 multi-family dwelling that was approved in 1994	<sup>3a</sup> as defined by 314 multi-family dwelling units in Phase I  <sup>3b</sup> as defined by 612 multi-family dwelling units in Phases I & II	<sup>4</sup> LOS = Level of Service

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

This portion of Dam Neck Road is a four-lane divided major suburban arterial. There are no plans in the current CIP to improve this section of Dam Neck Road.

## Stormwater Impacts

### Project Stormwater Design Staff Summary

This project consists of the construction of apartment buildings, clubhouse, associated parking and stormwater pond on vacant land at the corner of Dam Neck Road and General Booth Boulevard.

Stormwater runoff from the site currently drains to the existing creek on the north and east sides of the property. Stormwater runoff from the proposed improvements will be collected into a wet pond that will treat for both water quality and water quantity before discharging offsite into an existing drainage ditch.

Based on the information provided by Timmons Group in the Preliminary Stormwater Analysis, the DSC agrees that the proposed conceptual stormwater management strategy can successfully comply with all stormwater regulations. The developer of this project chose to complete a simplified Preliminary Stormwater Analysis providing calculations that demonstrate a reduction in post-development flow rates. Final design and detailed updates will be made during site plan submittal to ensure conformance with requirements set forth in the Public Works Design Standards Manual. More detailed project stormwater information is listed below.

## Project Information

**Total project area:** 31.28 acres

**Pre-Development impervious area:** 1.60 Acres

**Post-Development impervious area:** 20.01 Acres

**Does the analysis utilize the City of Virginia Beach Master Drainage Model:** No

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

## Stormwater Management Facility Design Information

**Type of facility proposed:** Wet Pond

**Total storage volume provided in proposed stormwater management facilities:** 1,246,272 cf

**Description of outfall:** Stormwater runoff from the site that enters into the wet pond will discharge directly into an existing large drainage ditch that runs along the northern boundary of the property.

**Downstream conveyance path:** This site is part of the Dam Neck Drainage Basin. Drainage from this site drains into Redwing Lake, through Ashville Bridge Creek, and ultimately into Back Bay. Back Bay drains through the Currituck Sound and into the Atlantic Ocean.

## Stormwater Quality Compliance Design Information

**Pounds of phosphorus removal per year (lb/yr) required:** 5.02 lb/yr

**Method of treatment proposed:** Wet Pond

## Stormwater Quantity Compliance Design Information

**2-year storm peak flow rate comparison:** Pre-development = 122.18cfs / Post-development = 85.90cfs.

**10-year storm peak flow rate comparison:** Pre-development = 189.64cfs / Post-development = 106.39cfs.

**100-year storm peak flow rate comparison:** Pre-development = 201.20cfs / Post-development = 313.37cfs.

## Public Utility Impacts

### Water

The proposed development must connect to City water. There is a 12-inch City water main along Dam Neck Road and an eight-inch City water main along Dam Neck Station Road.

### Sewer

The proposed development must connect to City sanitary sewer. There is a 16-inch City gravity sanitary sewer main at the intersection of Dam Neck Road and Upton Drive and an eight-inch City gravity sewer main along Dam Neck Station Road.

Extension of public gravity sanitary sewer from Upton Drive and connection to the existing public sanitary sewer in Dam Neck Station Road will be required with this development, as was planned and previously bonded. Given the proposed phasing of the project, the extension of public sanitary sewer can be installed to the limits of the road extension for Phase I with full extension and connection to the existing upstream public sanitary sewer in Phase II. After connecting the upstream public sanitary sewer, the existing temporary private pump station must also be abandoned.

## School Impacts

School	Current Enrollment	Capacity	Generation <sup>1</sup>	Change <sup>2</sup>
Ocean Lakes Elementary	575 students	670 students	61 students	0 students
Corporate Landing Middle	1,083 students	1,219 students	25 students	0 students
Ocean Lakes High	1,962 students	2,348 students	28 students	0 students

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

<sup>2</sup>“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).

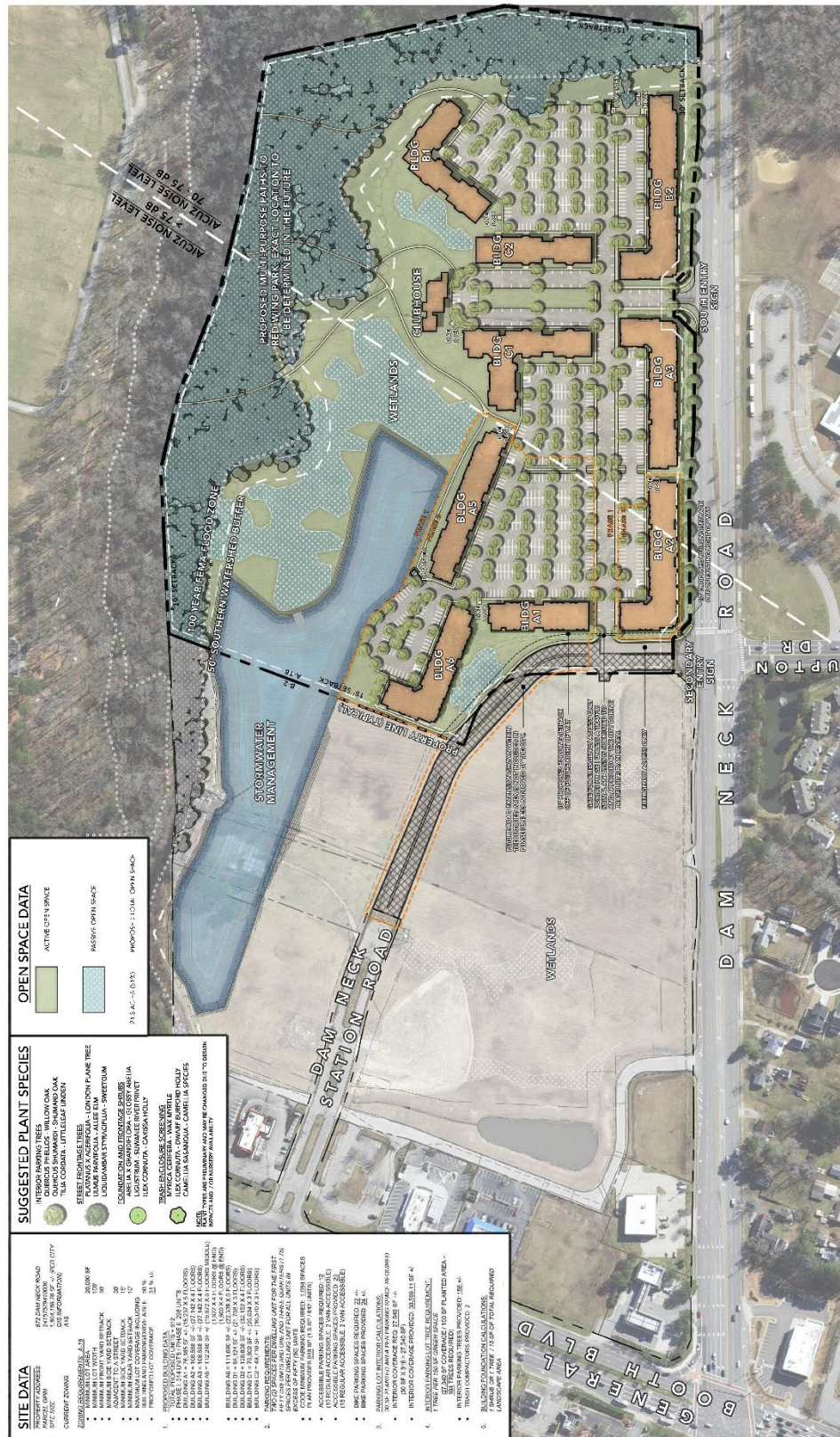
## Public Outreach Information

### Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on July 11, 2022.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, July 24, 2022 and July 31, 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 July 25, 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](http://www.vbgov.com/pc) on August 4, 2022.



## Proposed Site Layout



**THE FARM AT DAM NECK AND GENERAL BOOTH - Virginia Beach, VA**  
CONCEPTUAL SITE PLAN - June 24, 2022



**TIMMONS GROUP**  
YOUR VISION ACHIEVED THROUGH OURS.

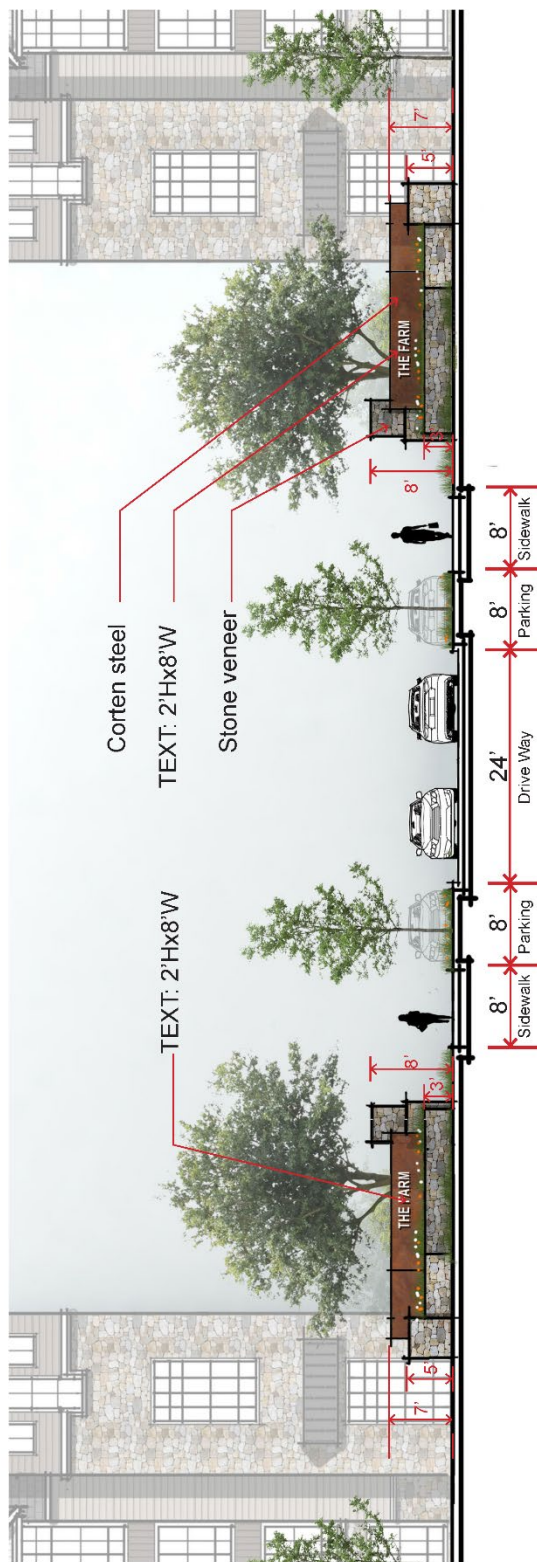
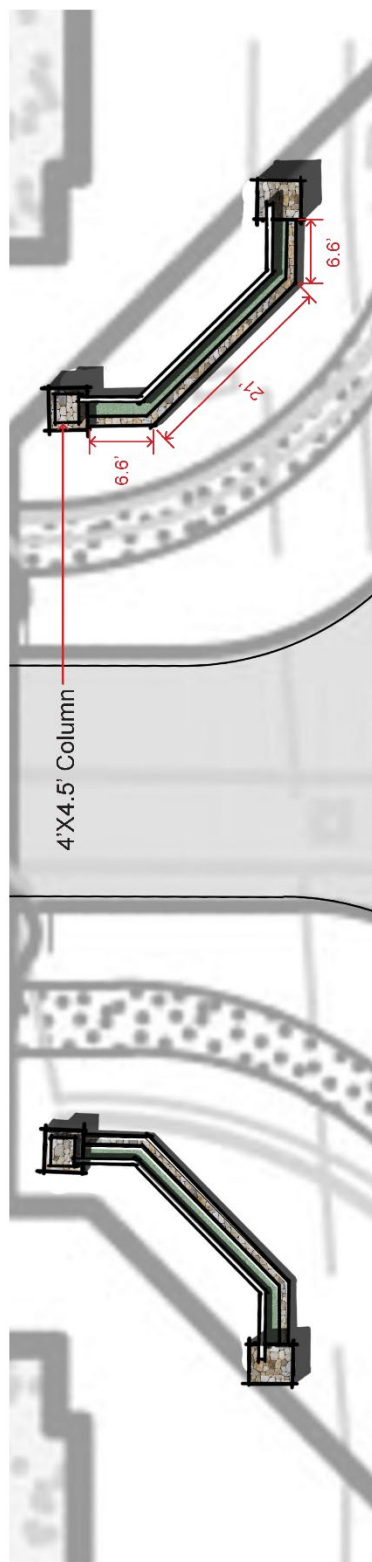
SCALE: 1" = 100 km

## Proposed Elevation Plan

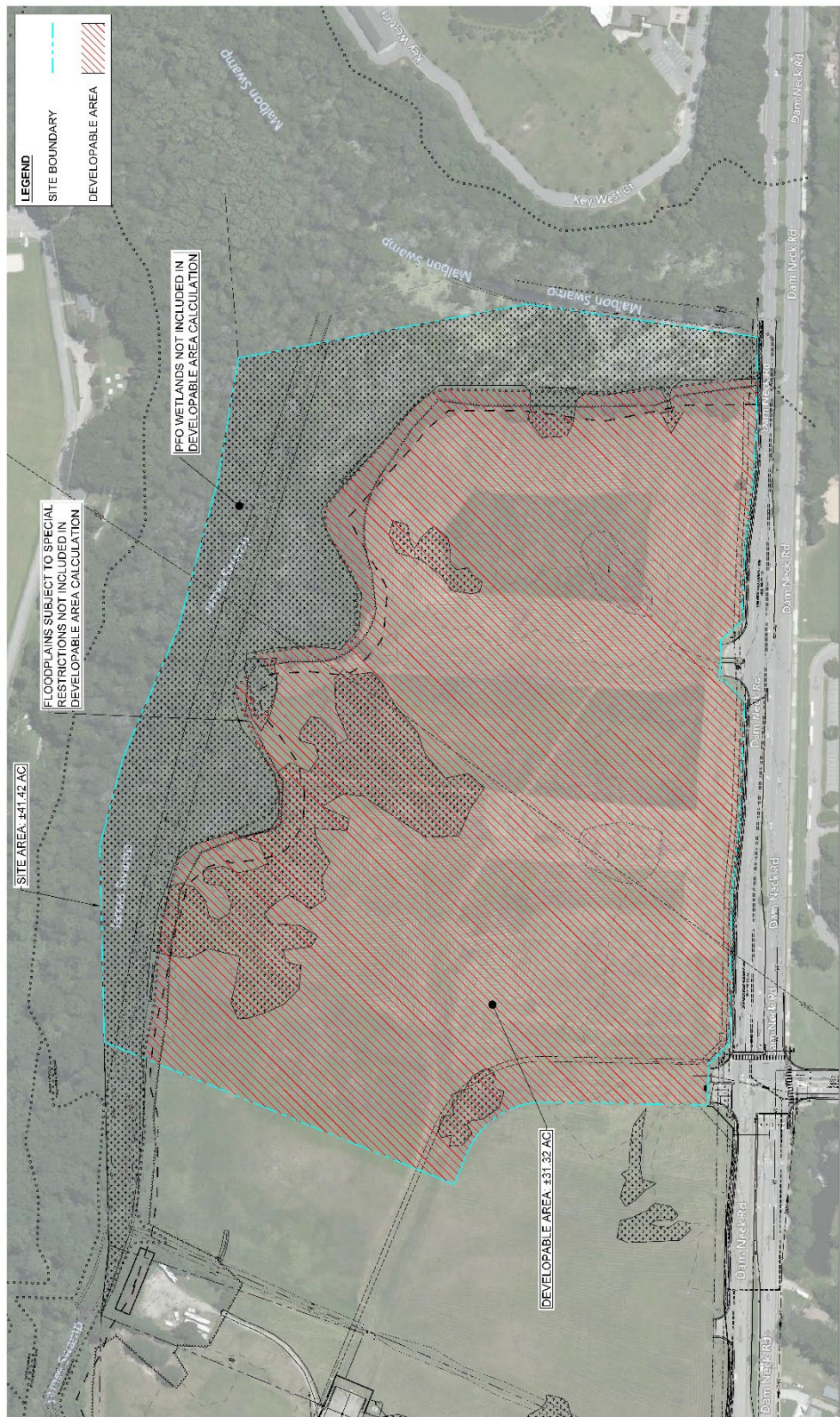




# GATEWAY SOUTH ENTRY SIGNAGE



Developable Area Exhibit Per Section 200



**THE FARM AT DAM NECK AND GENERAL BOOTH - DEVELOPABLE AREA**  
VIRGINIA BEACH, VIRGINIA - July 15, 2022

**TIMMONS GROUP**  
YOUR VISION. OUR PASSION. THEIR DREAMS.

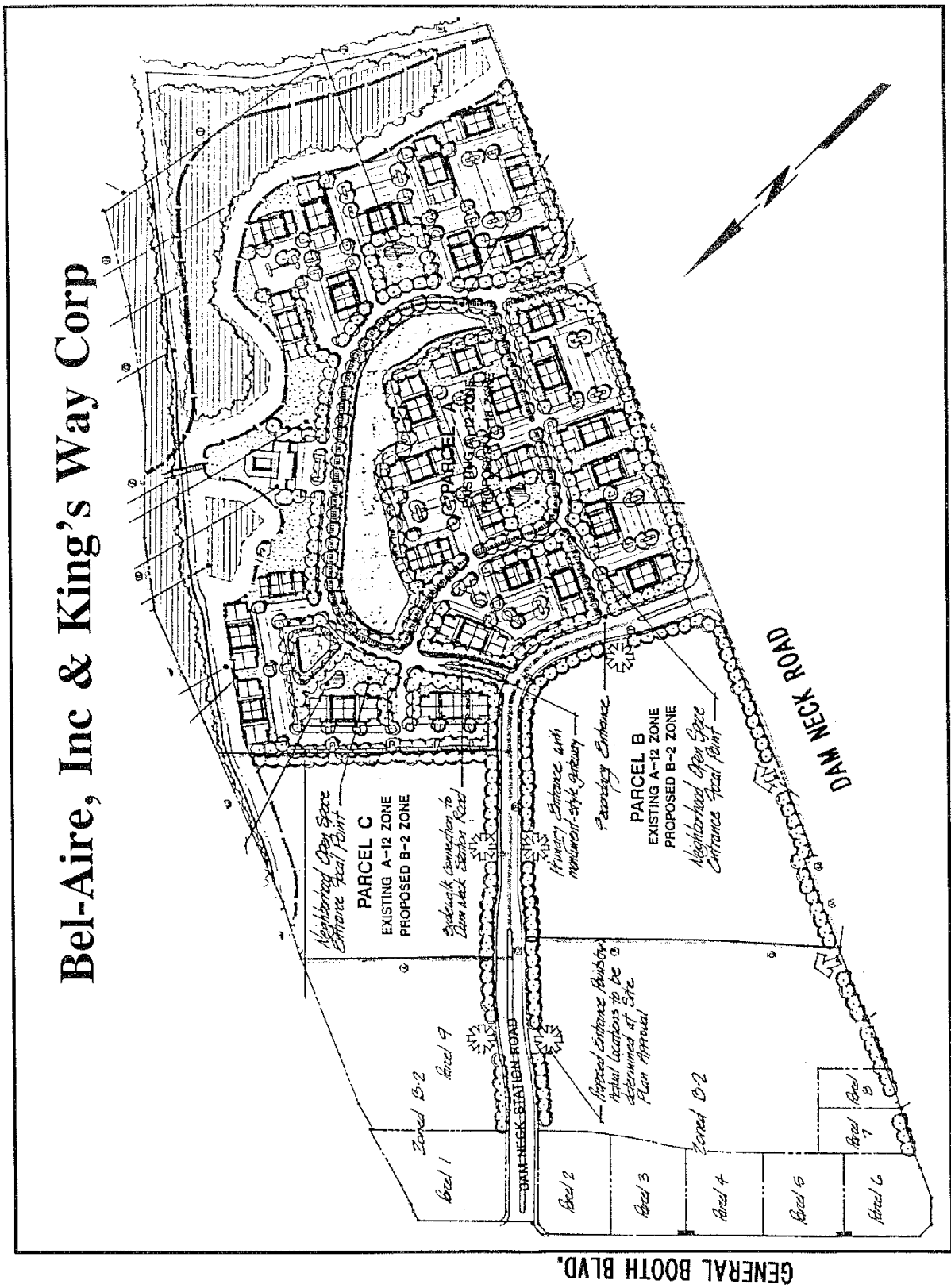


Site Photos





# Bel-Aire, Inc & King's Way Corp



### 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** Dam Neck Associates, LLC

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

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

Bryan Cuffee, Vice President of Development

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

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

Members: Red Wing Associates, LLC; BA-GB, LLC - both are Virginia LLCs.

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

McLeskey, Gold Key PHR, The Franklin Johnston Group

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

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

### Disclosure Statement



#### Known Interest by Public Official or Employee

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

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

#### Applicant Services Disclosure

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

☐ Yes ☒ No

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

Not at this time

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

☒ Yes ☐ No

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

Divaris Real Estate - Gerald Divaris, CEO (for commercial leasing)

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.

Dixon Hughes Goodman LLP, Patrick Shuler, CPA

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

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

EDSA (Kona Gray & Craig Stoner), Cox Kliewer (Herb Shartle & Lawrence "Duff" Kliewer)

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.

Not 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.

Timmons Group - Mark Richardson, Principal & John Zaszewski, Group Leader

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.J. Nutter, Partner, Troutman Pepper

#### 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.

Dam Neck Associates, LLC

Applicant Signature

Robert M. Howard, authorized signatory of Red Wing Associates, LLC, Member of Dam Neck Associates, LLC

Print Name and Title

June 28, 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	

### Addendum to Disclosure Statement

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#### **Dam Neck Associates, LLC**

**Members:**

BA-GB, LLC

Red Wing Associates, LLC

**Officers:**

There are no officers in Dam Neck Associates, LLC.

Dam Neck Associates, LLC is member-managed. Red Wing Associates, LLC is authorized to sign on behalf of Dam Neck Associates, LLC as a member-manager.

---

#### **Red Wing Associates, LLC**

**Members:**

TFJG Red Wing, LLC

Bruce L. Thompson

Ruffin Dam Neck, LLC

Hospitality Investment Associates – Dam Neck, LLC

**Officers:**

There are no officers in Red Wing Associates, LLC.

The manager of Red Wing Associates, LLC is Professional Hospitality Resources, Inc. This is provided in the operating agreement for Red Wing Associates, LLC. Professional Hospitality Resources, Inc., is a non-member manager. Bob Howard, as Chief Investment Officer of Professional Hospitality Resources, Inc., is authorized to sign on behalf of Professional Hospitality Resources, Inc.



## Next Steps

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

**Request**

**Conditional Rezoning** (Conditional B-2 Community Business District to Conditional 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

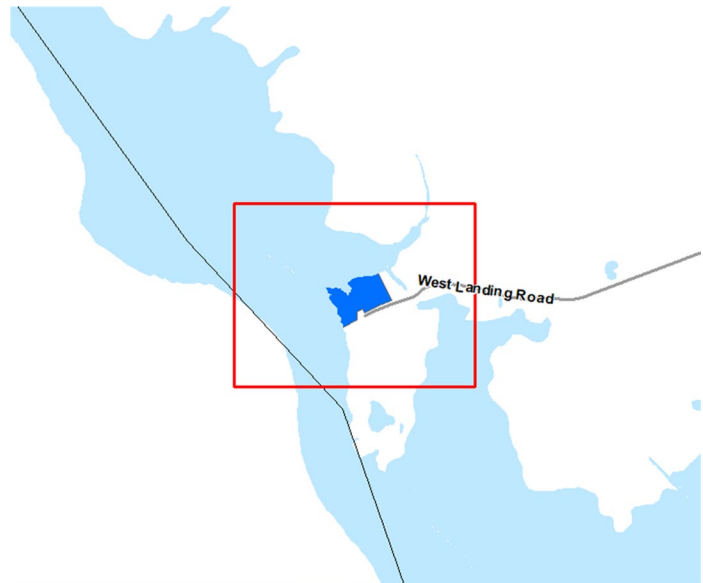
Single-family dwelling / AG-2 Agricultural

**East**

Vacant lot / AG-2 Agricultural

**West**

North Landing River

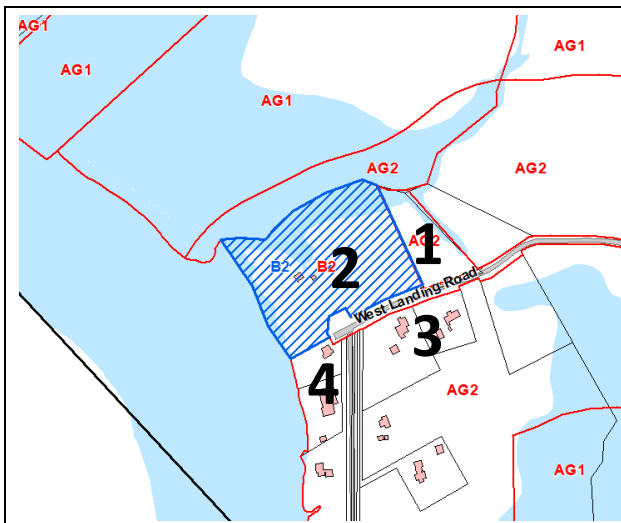


## Background & Summary of Proposal

- The applicant submitted a unconditional rezoning request that was deferred at the June 8, 2022 Planning Commission public hearing and withdrawn at the July 13, 2022 hearing. This conditional rezoning request replaces the unconditional rezoning application that was withdrawn.
- The applicant seeks to rezone the 6.23-acre parcel from Conditional B-2 Community Business to Conditional 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

- 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 11 through 13 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 for the unconditional rezoning to the AG-2 Agricultural District and deemed it not supportable. Subsequent to this, the applicant withdrew the unconditional rezoning application.



### 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  
 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 proposal to rezone this parcel to Conditional AG-2 Agricultural District with the proffers as provided, in Staff's review, is not acceptable due to the fact that the rezoning could result in a use on the site that is not deemed compatible with the standards set forth in Article 18 – Special Regulations in Air Installations Compatible Use Zones (AICUZ) of the Zoning Ordinance. As proffered, at least one single-family dwelling could be constructed on the site, 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."

While the applicant has changed the request from an unconditional rezoning to conditional rezoning, staff does not support the application. Staff contends 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 to change use of the property from any of these aforementioned uses to a new AICUZ compatible use permitted in the B-2 District, this could be pursued. Alternatively, the applicant could also request to rezone this parcel to Conditional AG-2 Agricultural District where incompatible uses, such as residential, 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.

## 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 only be used for one (1) or more of the following principal uses as permitted in the Zoning District:

- a. Agricultural, aquacultural and horticultural operations;
- b. A rural single family dwelling;
- c. Fish hatcheries and fish ponds;
- d. Forests and forestry;
- e. Home based wildlife rehabilitation.

### Proffer 2

The Property shall not be used for any principal uses other than as specified in proffer number 1 and it shall not be used for any conditional use as defined in the Use Regulations for the AG-2 Agricultural District in the Grantee’s Zoning Ordinance.

### Proffer 3

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

**Staff Comments:** Staff has reviewed the Proffers listed above and cannot accept the proffers as offered since it allows for uses that are not compatible with the AICUZ regulations. The City Attorney’s Office has reviewed the agreement and found it to be legally sufficient and in acceptable legal form subject to City Council finding that no reasonable use designated as compatible under the applicable table or tables of Article 18 can be made of the property.

## 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 <sup>1</sup> (LOS <sup>4</sup> "D")	Existing Land Use <sup>2a</sup> – 0 ADT Proposed Land Use <sup>3a</sup> – 10 ADT
<sup>1</sup> Average Daily Trips	<sup>2a</sup> As defined by a vacant parcel	<sup>3a</sup> Based on highest ADT of counts available for proffered uses as 1 single-family dwelling	<sup>4</sup> 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

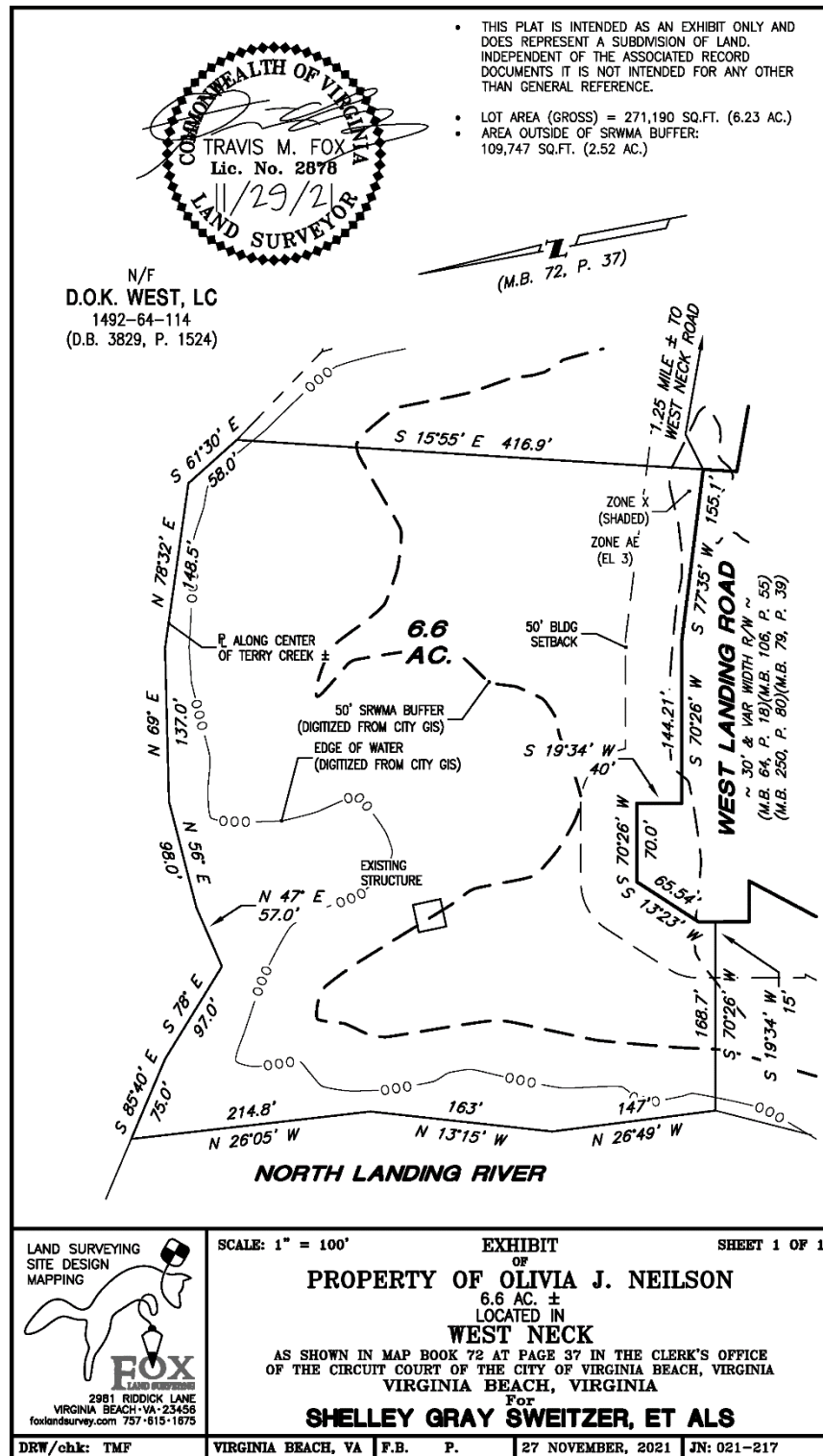
### Water & Sewer

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 July 11, 2022.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, July 24, 2022 and July 31, 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 July 25, 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](http://www.vbgov.com/pc) on August 4, 2022.



## Site Photos





Site Photos





## City of Virginia Beach

[VBgov.com](http://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](http://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](mailto: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](mailto: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

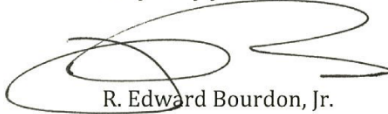
"Reasonable Use Exception". To conclude otherwise is akin to a condemnation by regulatory taking.

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)

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

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

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

### Disclosure Statement



#### Known Interest by Public Official or Employee

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

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

#### Applicant Services Disclosure

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

☐ Yes ☒ No

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

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

☐ Yes ☒ No

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

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.





**Request**

**Conditional Rezoning** (A-12 Apartment District to Conditional B-4 Mixed Use District)

**Staff Recommendation**

Approval

**Staff Planner**

Hoa N. Dao

**Location**

1413 Laskin Road

**GPIN**

2417183772

**Site Size**

12.41 acres

**AICUZ**

Greater than 75 dB DNL

**Watershed**

Chesapeake Bay

**Existing Land Use and Zoning District**

Virginia Beach City Public Schools Laskin Road Annex / A-12 Apartment

**Surrounding Land Uses and Zoning Districts**

**North**

Laskin Road

Single-family dwelling, vacant / R-20

Residential

**South**

Marsh, multi-family dwellings / A-18

Apartment

**East**

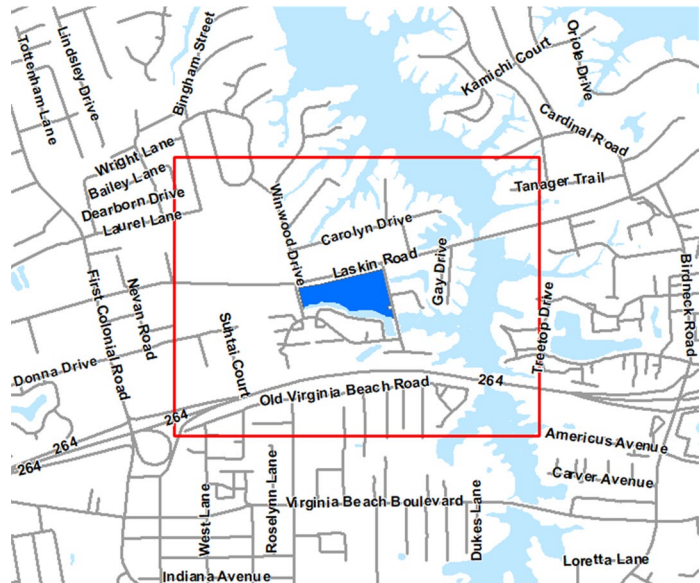
Fremac Drive

Day care, office, multi-family dwellings / O-2

Office, A-18 Apartment

**West**

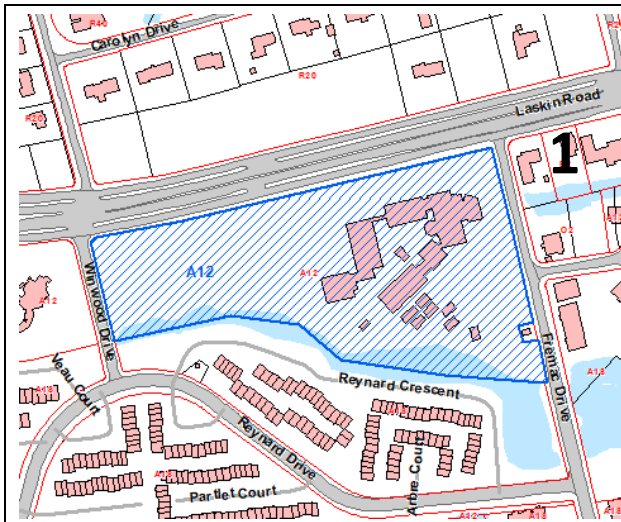
Religious use / A-12 Apartment



## Background & Summary of Proposal

- This request was deferred at the July 13, 2022 Planning Commission public hearing at the applicant's request. Since the deferral, the applicant provided Staff with a revised Concept Plan that include the addition of a 6,000 square foot building at the corner of Laskin Road and Winwood Drive for a restaurant.
- Located in the Hilltop Strategic Growth Area (SGA), this 12.41-acre site along Laskin Road presently contains the 55,470 square foot Virginia Beach City Public Schools Laskin Road Annex building. On April 26, 2022, the School Board voted to sale the property for the proposed redevelopment and on May 3, 2022, City Council voted to approve the sale of the School Board property.
- The property is located within the greater than 75 dB DNL, the highest noise zone, where residential uses are deemed incompatible. However, the current zoning of this property of A-12 Apartment District allows for up to 12 dwelling units per developable acre. The applicant is proposing to rezone the parcel to the B-4 Mixed Use District for the redevelopment of the property with up to 132 multifamily dwelling units, 50,000 square feet of office space, 10,000 square feet of destination retail, and 15,000 square feet of restaurant. The resulting density will be 11.96 units per acre on 11.04 acres of developable land.
- The proposal meets the requirements of redevelopment per section of 1804(d) of the AICUZ regulations in the Zoning Ordinance. The Planning Liaison of Naval Air Station Oceana concurred on April 29, 2022, and no formal Joint Review Process (JRP) group review was required.
- The applicant proposes to demolish the existing structures, abate existing known asbestos, and redevelop the site with a mix of office, retail, residential, structured parking, and open space.
- The proffered elevations depict a four to six-story structure of a contemporary design style at a height of 97.5 feet with the exterior façade comprised of brick, high quality fiber cement, aluminum cladding, and glass. The exterior façade of the single-story 6,000 square feet building for a restaurant is proposed to be comprised of brick, glass, wood cladding and metal panel roofing.
- Setback reduction of 3 feet from Laskin Road and 10 feet from Winwood Drive are requested.
- As required, the proposed landscape plan reflects streetscape and foundation plantings. A more detailed review of the planting requirements will be done during final site plan review.
- ~~Two~~ Three vehicular ingress/egress points are proposed along Laskin Road, Winwood Drive, and ~~one vehicular ingress/egress point along~~ Fremac Drive.
- Parking for the proposed development will be provided with ~~200~~ 238 structured parking spaces and ~~193~~ 229 surface parking spaces. A parking study was submitted with the application as a deviation to the minimum parking standard is requested. Per the Zoning Ordinance, a total of ~~525~~ 585 parking spaces are required. Based on the findings in the parking study, ~~393~~ 467 parking spaces are proposed and deemed sufficient to support the proposal.
- Outdoor amenities are planned that may include pedestrian trails and grilling stations. The specific details will be finalized during the final site plan review process. Also indicated on the proffered plan is an outdoor swimming pool, as well as a clubhouse with a fitness center. In addition, the rooftop of the parking structure will be covered with a green roof to create an additional amenity for the office and residential users.
- The property contains 1.37 acres of wetlands and is adjacent to a tributary of the Linkhorn Bay.

- According to the application, the proposed stormwater management strategy includes the collection and infiltration of stormwater focused along the southern edge of the property.



### Zoning History

#	Request
1	MDP Approved 09/02/2014 CRZ (O-2 to Conditional B-2) Approved 01/23/2001

### 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 proposal to rezone the 12.41-acre parcel for the redevelopment of up to 132 multi-family dwellings as well as office and retail/restaurant space, in Staff's opinion, is acceptable. The property is located within the Hilltop SGA that calls for non-residential mixed-use development with a maximum height of three stories for this area. While the proposed six-story buildings exceed the recommended height, the Comprehensive Plan allows for flexibility with building heights based on market demands. While there are no buildings in the vicinity area that exceed the 3-story height limit, the proposal complies with the several of the key design principles recommended in the SGA Plan that support the height increase. This include providing a mix of retail, restaurant, and office uses; providing trails and sidewalks, and reducing land area devoted to parking. The proposed redevelopment will reduce the amount of impervious surface that encroaches into the Resource Protection Area, the most environmentally sensitive portion of the property within the Chesapeake Bay Preservation Area.

Consistent with the provisions of Section 203 of the Zoning Ordinance, a parking study was submitted for consideration to an adjustment to the minimum number of parking spaces required. Section 203(b)(10) of the Zoning Ordinance allows the Zoning Administrator to reduce the parking requirement by the use of shared parking. The parking study shows the peak demand for apartments are in the evening while the retails and office spaces are during typical business hours. The Zoning Administrator reviewed the study and determined that while 5285 spaces are typically required for this development, the reduction in the minimum required parking of ~~393~~ 467 spaces is warranted.

Through the provision of Sections 107(i) and 283 of the Zoning Ordinance, the applicant seeks to reduce the setback to three feet from Laskin Road and ten feet from Winwood Drive for the 6,000 square foot restaurant building, where a setback of 35 feet is required. As the property is located within the Hilltop SGA, a reduced setback from the right-of-way is encouraged. Staff is supportive of the setback reduction and finds that it will not have a detrimental effect on the surrounding properties.



As the number of vehicular trips during the peak hour did not meet the minimum threshold, a Traffic Impact Study was not warranted. A Traffic Signal Warrants Analysis was completed and shows that a traffic signal is warranted for the intersection of Laskin Road and Winwood Drive. Traffic Engineering Staff is not in favor of the construction of a traffic signal at this intersection because there is an existing traffic signal located 500 feet west on Laskin Road and the minimum spacing of traffic signals on arterial roadways is 1200 feet. However, the applicant is proposing to design and install a traffic signal at the intersection. This will be reviewed in more detail during the final site plan review process.

Construction is underway to widen this portion of Laskin Road to a six-lane roadway that is estimated to be completed in 2023. As shown in the table below, the improvements to Laskin Road would easily accommodate the additional vehicular trips generated by the proposed uses.

As stated earlier, City Council and the School Board approved the sale of this property earlier this year. As part of that purchase agreement, the applicant agreed and has proffered to dedicate a 50-foot by 45-foot area north of the existing pump station along Fremac Drive for maintenance and future replacement of the pump station and to reserve a 15-foot wide public utility easement along the eastern property line for maintenance of the water and sanitary sewer systems.

In sum, Staff recommends approval of the rezoning application. The majority of the components of the Hilltop SGA Plan appear to be met. This includes recommendations related to providing mixed uses, open space, pedestrian connectivity, and reducing land area devoted to parking. Finally, the roadway is well under capacity and the information provided by the Virginia Beach City Public Schools Staff indicates that additional students will be within an acceptable threshold for increases in student population.

## Proffers

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

### Proffer 1

When developed, the improvements and landscaping on the Property shall be developed in substantial conformity with the conceptual site plan entitled “The Canopy — Conceptual Site and Landscape Plan”, dated March 24, 2022, and prepared by Timmons Group (the “Concept Plan”), a copy of which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning.

### Proffer 2

The quality of architectural design and materials of the mixed-use buildings constructed on the Property, when developed, shall be in substantial conformity with the exhibit prepared by EDSA, entitled “Mixed Use Building Design Concept”, and dated March 24, 2022 (the “Mixed Use Elevation”), a copy of which is on file with the Department of Planning and has been exhibited to the Virginia Beach City Council.

### Proffer 3

The number of multifamily residential units located on the Property, when developed, shall not exceed a total of one hundred thirty two (132).

### Proffer 4

Freestanding signage located on the Property shall be monument-style, no larger than eight feet (8') in height and shall be constructed of materials compatible with those used for the buildings located on the Property.

**Proffer 5**

Any dumpster located on the Property will be screened from adjacent public streets by an enclosure constructed of materials compatible with those used for the buildings located on the Property.

**Proffer 6**

If requested by the City Department of Public Works during the site plan review process, Grantor will dedicate a maximum twenty foot (20') wide public drainage easement over existing stormwater drainage facilities located in the northeastern portion of the Property (as the same may be relocated with the agreement of the City Public Works Department).

**Proffer 7**

If requested by the City Utilities Department during the site plan review process, Grantor will dedicate a maximum fifteen foot (15') wide public utility easement along the eastern boundary of the Property and along the southern boundary of the proposed pump station site (as shown on the Concept Plan) in locations acceptable to the City Utilities Department.

**Proffer 8**

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

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

## Comprehensive Plan Recommendations

This proposal is located within the Hilltop Strategic Growth Area (SGA). This particular portion of Laskin Road calls for non-residential mixed-use development with a maximum height of three stories with flexibility to increase the building height based on market demands. The Plans also encourage development to locate the building closer to the street, while providing parking to the rear and side of the building. The proffered plan shows the building is setback approximately 62 feet from Laskin Road with parking located between the building and streets. Otherwise, the proposal complies with the several of the key design principles laid out in the SGA Plan, including providing a mix of retail restaurant, and office uses; building on existing adjacent recreational assets; improving multi-modal connections from adjacent neighborhoods; providing trails and sidewalks, and reducing land area devoted to parking.

## Natural & Cultural Resources Impacts

The site is located in the Chesapeake Bay watershed and specifically within the Resource Protection Area (RPA), which is the more stringently regulated portion of the Chesapeake Bay Preservation Area (CBPA).

There do not appear to be any cultural resources on the property.

## Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Laskin Road	27,800 ADT <sup>1</sup>	36,900 ADT <sup>1</sup> (LOS <sup>4</sup> "D") – existing 4-lane road 55,500 ADT <sup>1</sup> (LOS <sup>4</sup> "D") – future 6-lane road (2023)	Existing Land Use <sup>2a</sup> – 0 ADT Existing Zoning <sup>2b</sup> – 910 ADT Former Land Use <sup>2c</sup> – 950 ADT Proposed Land Use <sup>3</sup> – 2,388 ADT
Winwood Drive	No Data Available		
<sup>1</sup> Average Daily Trips	<sup>2a</sup> as defined by a vacant school facility  <sup>2b</sup> as defined by a 12.41-acre parcel zoned A-12  <sup>2c</sup> as defined by a 66,000 square feet of school administrative office	<sup>3</sup> as defined by 132 multi-family units, 50,000 square feet of office, 10,000 square feet of retail, 15,000 square feet of restaurant	<sup>4</sup> LOS = Level of Service

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

This portion of Laskin Road is considered a four-lane divided major urban arterial. In addition to the existing four-lane section of road, there are two, two-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. The existing infrastructure currently resides in a 160-foot wide right-of-way.

There is a roadway CIP project under construction on Laskin Road in the vicinity of this site. Laskin Road – Phase IA (CIP 2-156) is for the construction of an eight-lane divided highway in a 160-foot wide right-of-way from Republic Road to Winwood Drive and a six-lane divided highway in a 150-foot wide right-of-way from Winwood Drive to Oriole Drive with multi-use path and sidewalk. These limits include the intersections at First Colonial Road and First Colonial Road from I-264 to Laurel Lane. Construction is estimated to be completed in 2023.

Winwood Drive is a two-lane undivided local collector roadway. It is not listed in the MTP and there is no CIP slated for this portion of the roadway.

## Public Utility Impacts

### Water

The site is currently connected to City water. There is a 12-inch and a 36-inch (transmission) City water main along Laskin Road, a six-inch City water main along Fremac Drive, and an eight-inch City water main along Winwood Drive.

### Sewer

The site is currently connected to City sanitary sewer. There is a 16-inch City sanitary sewer gravity main along Laskin Road, an 18-inch City sanitary gravity sewer main along Fremac Drive, and an 42-inch HRSD sewer force main along Fremac Drive.

## School Impacts

School	Current Enrollment	Capacity	Generation <sup>1</sup>	Change <sup>2</sup>
Linkhorn Park Elementary	506 students	598 students	15 students	15 students
Virginia Beach Middle	609 students	671 students	5 students	5 students
First Colonial High	1,725 students	1,621 students	7 students	7 students

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

<sup>2</sup>“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 July 11, 2022.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, July 24, 2022 and July 31, 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 July 25, 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](http://www.vbgov.com/pc) on August 4, 2022.



## Proposed Site & Landscape Plan



## CONCEPTUAL SITE AND LANDSCAPE PLAN



A vertical scale bar labeled "Feet" with markings at 0, 50, and 100.



**TIMMONS GROUP**  
YOUR VISION ACHIEVED THROUGH OURS.

OFFICE OF THE ATTORNEY GENERAL • 1001 N. 1ST AVE. SUITE 1000 • TAMPA, FL 33602 • TEL: 813.271.2000 • FAX: 813.271.2001

Proposed Elevations





Proposed Elevations



# Proposed Elevations





Site Photos





Site Photos



### Disclosure Statement



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

#### Applicant Disclosure

**Applicant Name** TFJG Canopy, LLC

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

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

Troutman Pepper Hamilton Sanders LLP - R.J. Nutter, II, Esq.

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

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

Please see attached.

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

Please see attached.

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

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

### Disclosure Statement



#### Known Interest by Public Official or Employee

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

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

N/A

#### 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.

Cox, Kliever & Company; EDSA Herb Shartle (CKC); Kona Gray, Craig Stoner, Chunling Wu (EDSA)

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

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



## Disclosure Statement

### Disclosure Statement



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

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

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

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

Timmons Group (John Zaszewski)

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

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

Troutman Pepper Hamilton Sanders LLP (R.J. Nutter, Rob Beaman)

#### Applicant Signature

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

Applicant Signature

Print Name and Title

Date

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

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

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

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

## Disclosure Statement



### Owner Disclosure

**Owner Name** School Board of the City of Virginia Beach, Virginia

**Applicant Name** TFJG Canopy, LLC

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

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

N/A

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

N/A

### Known Interest by Public Official or Employee

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

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

N/A

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

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### Disclosure Statement



#### 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.

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

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

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

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### 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.

Owner Signature

Print Name and Title

Date



### Conditional Re-Zoning Application of TFJG Canopy, LLC

#### Applicant Disclosures

- (A) List the Applicant's name followed by the names of all officers, directors, members, trustees, partners, etc., below:
1. Applicant's Name: TFJG Canopy, LLC
  2. Managers of TFJG Canopy, LLC:
    - a. Wendell C. Franklin
    - b. W. Taylor Franklin
    - c. Thomas M. Johnston
- (B) List the businesses that have a parent-subsidary or affiliated business entity relationship with the Applicant:
- a. Franklin Johnston Group Management & Development, LLC
  - b. 925 Apts. I, LP
  - c. 925 Apts, II, LP
  - d. F & J Developers, LLC
  - e. Shorehaven Developers, LLC
  - f. Pickett Farms Developers, LLC
  - g. GreenPlain Properties, LLC
  - h. Aquia Apts., LLC
  - i. Aquia GP, LLC
  - j. Aquia Developers, LLC
  - k. Kellingwood Apartments, LLC
  - l. Franklin Johnston Associates, LLC
  - m. Southern Pine One, LLC
  - n. Quill Developers, LLC
  1. South Riding Apts LP
  - m. South Riding GP, LLC
  - n. Arbor Lakes LP
  - o. Arbor Lakes GP, LLC
  - p. Belleharbour Apts. LP
  - q. BelleHarbour GP, LLC
  - r. Fountain Park Apts LP
  - s. Fountain Park GP, LLC
  - t. South Riding II LP
  - u. South Riding II GP, LLC
  - v. SLN 5100 LP
  - w. SLN 5100 GP, LLC
  - x. Heritage Forrest II GP, LLC
  - y. I Square Apartments LP
  - z. I Square Apts., LP
  - aa. Edward Street LLC
  - bb. Dunlop Farms LLC
  - cc. Belleville Seniors Apts LP
  - dd. Belleville Seniors GP, LLC
  - ee. Pickett Farms Apts LP

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## Disclosure Statement

ff. Pickett Farms GP, LLC  
gg. Quill GP, LLC  
hh. River House Apts., LLC  
ii. Shorehaven Apts LP  
jj. Shorehaven GP, LLC  
kk. Southwind Apts LP  
ll. Southwind GP, LLC  
mm. Spring Water, LLC  
nn. Summerland Heights LP  
oo. Summerland Heights GP, LLC  
pp. Tanglewood Lake Apts LLC  
qq. Woodberry Forest Apts LLC  
rr. TFJG Price Street Apts. I, LP  
ss. TFJG Price Street GP I, LLC  
tt. FS Renaissance III, LLC  
uu. Renaissance Apts. GP I, LLC  
vv. Renaissance Apts. GP II, LLC  
ww. Renaissance Apts. III, LLC  
xx. Renaissance I Developers, LLC  
yy. Renaissance II Developers, LLC  
zz. Renaissance Apts. I, L.P.  
aaa. Renaissance Apts. II, L.P.  
bbb. TFJG Wesleyan Holdings, LLC  
ccc. TFJG Wesleyan Developers, LLC  
ddd. TFJGWesleyan, LLC  
eee. TFJG Price Street Apts. II, LP  
fff. TFJG Price Street GP II, LLC  
ggg. Clairmont Associates I, LP  
hhh. Clairmont Associates II, LP  
iii. Clairmont Associates I GP, LLC  
jjj. Clairmont Associates GP II, LLC  
kkk. Franklin Asset Management  
lll. Curlew Apts. I., LP  
mmm. Curlew Apts. GP I, LLC  
nnn. Summerland Heights II, LP  
ooo. Summerland Heights II GP, LLC

110176279v1 243538.000080

## 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 **Earthscapes Enterprises, LLC**  
Property Owners **Valianos Properties, LLC & JEM, LLC**  
Planning Commission Public Hearing **August 10, 2022**  
City Council District **District 3**, formerly Beach

Agenda Items  
**5, 6, &  
7**

The applicant is requesting a 30-day deferral of this application to refine the details of the proposal.

#### Request

**#5 Conditional Rezoning** (I-1 Light Industrial District & B-2 Community Business District to Conditional B-2 Community Business District)  
**#6 Conditional Use Permit** (Mini-Warehouse)  
**#7 Conditional Use Permit** (Bulk Storage Yard)

#### Staff Recommendation

Approval

#### Staff Planner

Marchelle Coleman

#### Location

619 & 623 London Bridge Road

#### GPINS

Portion of 1496878501, 1496974509

#### Site Size

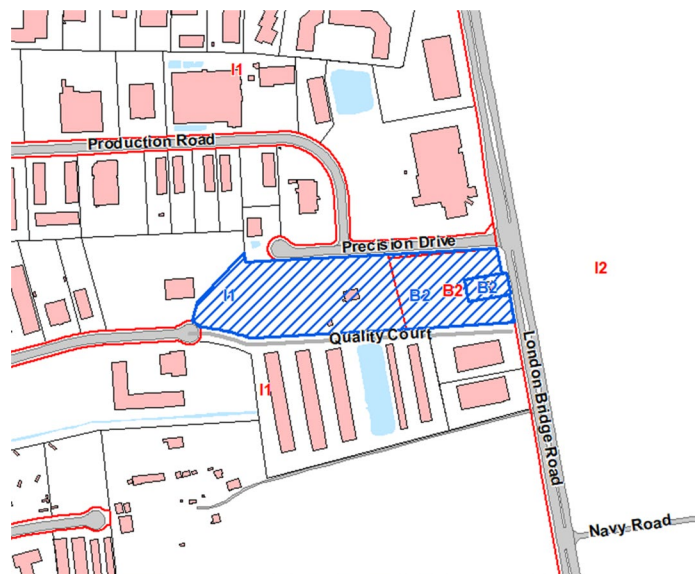
8.21 acres

#### AICUZ

Greater than 75 dB DNL; APZ-2

#### Watershed

Chesapeake Bay







**Request**

**Street Closure**

**Staff Recommendation**

Approval

**Staff Planner**

Marchelle Coleman

**Location**

Portion of the unimproved right-of-way  
between 200, 202 & 204 76th Street

**GPINs**

2419672161, 24196710781840,  
24196710781850

**Site Size**

750 square feet

**AICUZ**

Less than 65 dB DNL

**Watershed**

Atlantic Ocean

**Existing Land Use and Zoning District**

Unimproved lane

**Surrounding Land Uses and Zoning Districts**

**North**

76<sup>th</sup> Street

Duplexes, single-family dwellings / R-5R (NE)  
Residential (North End Overlay)

**South**

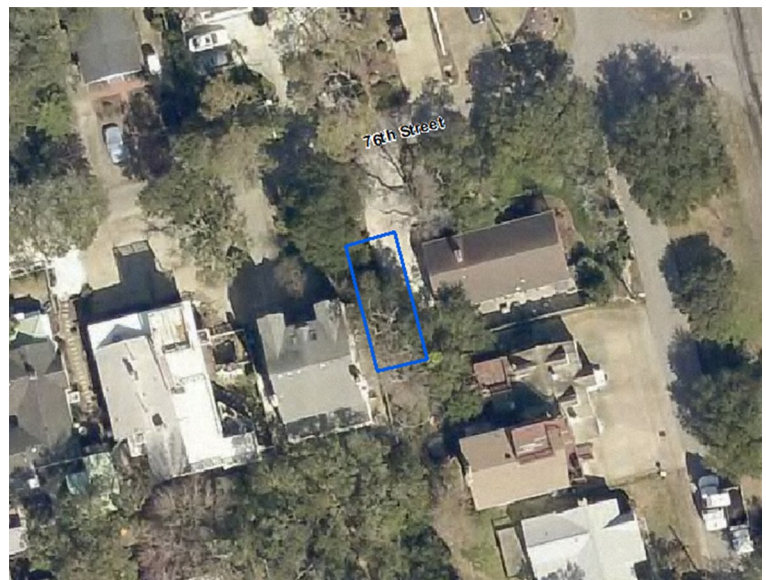
Unimproved lane

**East**

Single-family dwelling / R-5R (NE) Residential  
(North End Overlay)

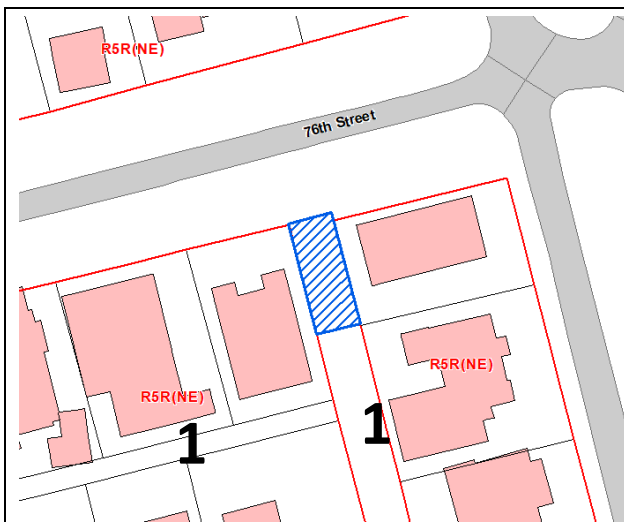
**West**

Duplex / R-5R (NE) Residential (North End  
Overlay)



## Background & Summary of Proposal

- The applicant is requesting to close a portion of the unimproved lane that is adjacent to the rear lot line of the single-family dwelling at 200 76<sup>th</sup> Street as well as adjacent to the side lot line of the duplex at 202 and 204 76<sup>th</sup> Street. As shown on the submitted street closure exhibit, the proposal includes closure of a 15-foot wide by 50-foot long portion of the unimproved lane, totaling 750 square feet, and incorporating that land into the existing adjacent residential lot to the east addressed as 200 76<sup>th</sup> Street and as identified as Lots 13 & 14, Shore Realty Corp. on the submitted survey. The property owner of the duplex at 202 and 204 76<sup>th</sup> Street has relinquished their rights to purchase of their half of this lane.
- On September 15, 2020, the City Council approved the closure of a portion of the southern half of this lane adjacent to Lots 8, 9, 10, 46 and the southern 15 feet of Lot 11. At that time, the applicant (Frank A. Zingales) was one of the property owners along this lane who was not party to that application.
- The underlying fee title in the area proposed for closure is vested in Shore Realty Corporation, a defunct corporation. In 2020, the property owners of the residential lots adjacent to the area proposed for closure joined together to petition the court to have a Receiver appointed for the purpose of making application for closure of the alley and lanes between 75<sup>th</sup> and 76<sup>th</sup> Streets. By Court order entered on August 1, 2022, James T. Cromwell was appointed Receiver for Shore Realty Corporation and received approval to convey the fee interest of the lane to the respective adjoining property owner for this proposed street closure request.



### Zoning History

#	Request
1	STC (Portion of unimproved lane between 75 <sup>th</sup> & 76 <sup>th</sup> Streets) Approved 09/15/2020

### 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

As required by City Code, a Viewers' Meeting was held on June 15, 2022, that included City Staff from the Departments of Public Works, Planning and Community Development, and the Office of the City Attorney, to consider this request. The Viewers determined that the proposed closure will not result in a public inconvenience; therefore, closure of this portion of right-of-way is deemed acceptable.

This portion of the unimproved lane (15-foot wide by 50-foot long) does not provide pedestrian or vehicular access to any waterway, recreation area, or residence; therefore, no vehicular or pedestrian connectivity would be lost with this

Frank A. Zingales & James T. Cromwell, Esq., Receiver for Shore Realty Corporation, a defunct corporation

Agenda Item 8

Page 2

closure request. There are no public utilities within this lane, as indicated by the Department of Public Utilities. However, the Department of Public Works has specified a need for a drainage easement over the proposed closed area to be included on the resubdivision plat, as recommended in Condition 2.

As stated previously, on September 15, 2020, City Council approved closure of a portion of the alleys and lanes between 75<sup>th</sup> and 76<sup>th</sup> Streets. These types of closures have been done in this area before and has not resulted in any public inconvenience. If this request is approved, a 15-foot wide by 35-foot long portion along this lane will remain unclosed, as those property owners are not interested in acquiring this section of the unimproved lane abutting their properties at this time.

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

### Recommended Conditions

1. The City Attorney's Office will 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 the 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 lots. 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 lane 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 or the applicant's successors or assigns 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 the City Council. If the conditions noted above are not accomplished and the final plat is not approved for recordation within one year of the City Council vote to close the right-of-way this approval shall be considered null and void.

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

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

### Natural & Cultural Resources Impacts

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

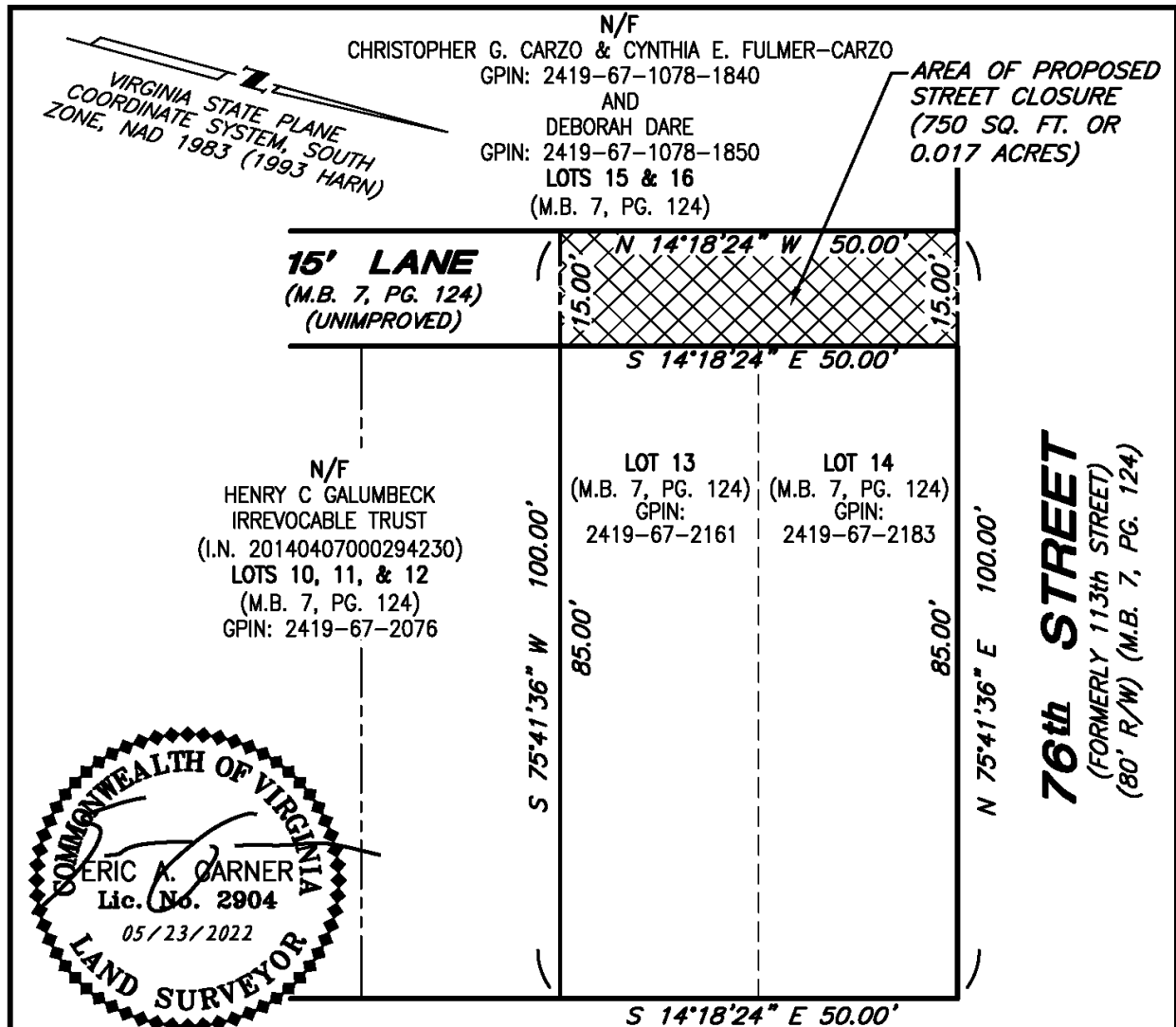


## Public Outreach Information

### Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on July 11, 2022.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, July 24, 2022 and July 31, 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 July 25, 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](http://www.vbgov.com/pc) on August 4, 2022.

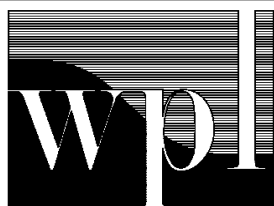
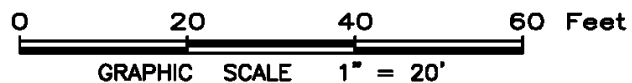
# Street Closure Exhibit



## NOTES:

1. THIS EXHIBIT IS INTENDED TO SHOW THE AREA OF PROPOSED RIGHT-OF-WAY CLOSURE AND INDEPENDENT OF THE ASSOCIATED RECORD DOCUMENT(S) AND IS NOT INTENDED FOR ANY OTHER THAN GENERAL REFERENCE.
2. A TITLE REPORT HAS NOT BEEN PROVIDED FOR THIS PROPERTY.

**ATLANTIC AVENUE**  
(120' R/W) (M.B. 1, PG. 8b) (D.B. 119, PG. 213)



Landscape Architecture  
Land Surveying  
Civil Engineering  
wplsite.com 757.431.1041  
242 HUSKINS TRAIL, SUITE 200 VIRGINIA BEACH, VA 23462

**STREET CLOSURE EXHIBIT  
OF  
A 15'x50' PORTION OF THE  
15' LANE (PUBLIC R/W) ADJACENT TO  
LOTS 13 & 14  
SHORE REALTY CORP.  
(M.B. 7, PG. 124)  
VIRGINIA BEACH, VIRGINIA**

SCALE: 1"=20'

SHEET 1 OF 1  
MAY 20, 2022

CAD/chk: BKM/eag

CITY OF VIRGINIA BEACH, VA

F.B. 937 PG. 2-3

PLAT: S-246

JN: 222-0125



## 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** Frank A. Zingales & James T. Cromwell, Esq., Receiver for Shore Realty Corporation,  
a defunct corporation

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

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

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

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

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

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

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

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



## Disclosure Statement

### 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

- 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.

WPL / Eric A. Garner

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

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

Sykes, Burdow, Allen & Levy, P.C. MR. R. EDWARD BURDOW, JR.

### Applicant Signature

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

Applicant Signature

Frank A. Zingales

Print Name and Title

4-11-2022

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	

## Disclosure Statement



### Owner Disclosure

**Owner Name** Frank A. Zingales

**Applicant Name** Frank A. Zingales & James T. Cromwell, Esq., Receiver for Shore Realty Corporation,  
a defunct 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)

---

---

---

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

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### Known Interest by Public Official or Employee

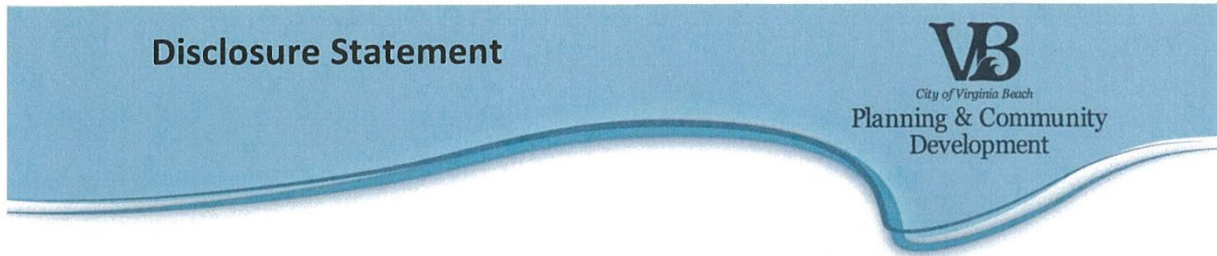
Does an **official or employee of the City of Virginia Beach** have an interest in the subject land or any proposed development contingent on the subject public action? ☐ Yes ☒ No

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

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### Owner Services Disclosure

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

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

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4. Does the Owner have services from an **architect/landscape architect/land planner** provided in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No  
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5. Is there any other **pending or proposed purchaser** of the subject property? ☐ Yes ☒ No  
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6. Does the Owner have a **construction contractor** in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No  
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7. Does the Owner have an **engineer/surveyor/agent** in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No  
  - If **yes**, identify the firm and individual providing the service.

---



## Disclosure Statement

### Disclosure Statement



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

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

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

#### Owner Signature

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

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

Owner Signature

James T. Cromwell, Esq., Receiver

Print Name and Title

A handwritten date '5/31/22' in black ink, written over a horizontal line.

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.
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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** (Assembly Use)

**Staff Recommendation**

Approval

**Staff Planner**

Elizabeth Nowak

**Location**

1833 Princess Anne Road

**GPIN**

2403937330

**Site Size**

68.25 acres entire parcel; 3 acres for CUP

**AICUZ**

Less than 65 dB DNL; 65-70 dB DNL

**Watershed**

Southern Rivers

**Existing Land Use and Zoning District**

Horse farm / AG-1 & AG-2 Agricultural

**Surrounding Land Uses and Zoning Districts**

**North**

Cultivated field / AG-1 Agricultural

**South**

Indian River Road

Single-family dwelling, agricultural operation /  
AG-2 Agricultural

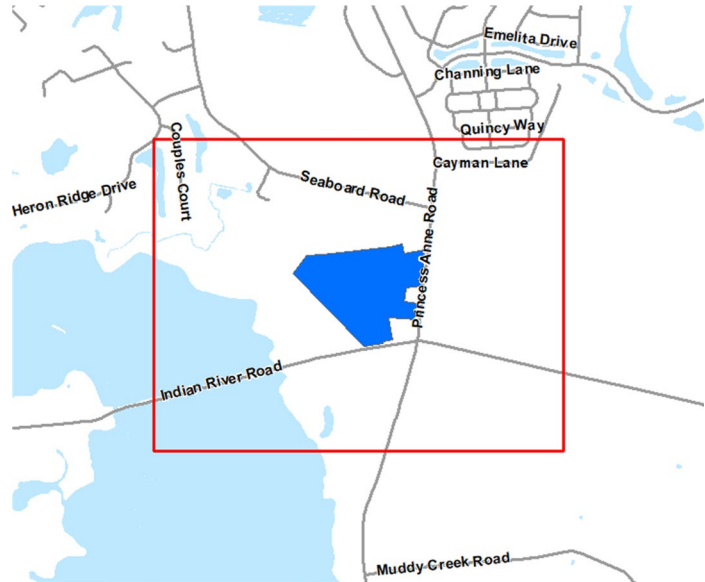
**East**

Princess Anne Road

Single-family dwelling, cultivated field, former  
airfield / AG-2 Agricultural, B-2 Community  
Business

**West**

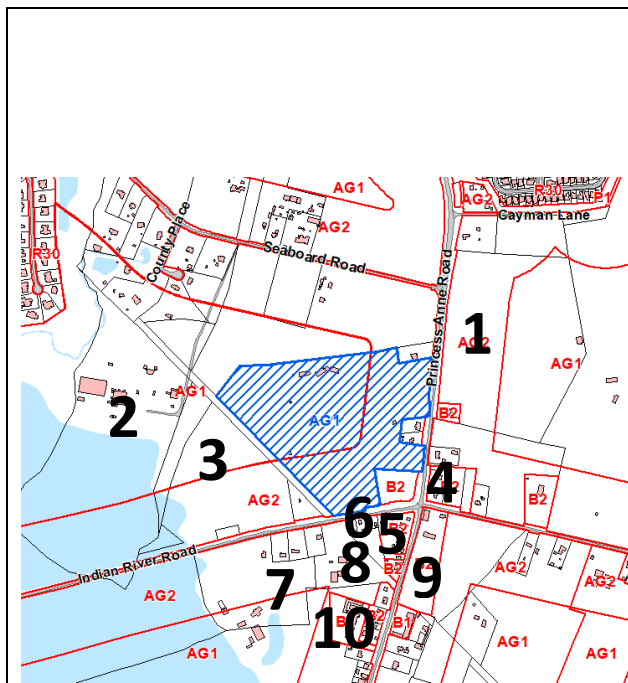
Former railroad right-of-way, cultivated field /  
AG-1 & AG-2 Agricultural





## Background & Summary of Proposal

- The applicant intends to develop and operate an event venue on a three-acre portion of 1833 Princess Anne Road, also known as Back Bay Farms. The property is zoned AG-2 Agricultural District, which allows for Assembly Use with a Conditional Use Permit. Specifically, the applicant is requesting a Conditional Use Permit for an Assembly Use to host weddings and other events on the site.
- The subject site is located near the intersection of Princess Anne Road and Indian River Road commonly referred to as Downtown Pungo. This area in the southern part of the city as well as this property have long been associated with the city's agricultural history, evidenced by the continued presence and agricultural uses on this site and adjacent properties. Modern residential development can be found north of this site, while south of this area has maintained a rural character. The Princess Anne Road and Indian River Road intersection has also been identified as a historical crossroad with possible eligibility for listing in the National Register of Historic Places for its role as a commercial node in this otherwise agrarian setting.
- The applicant has signed a 50-year ground lease agreement with the current property owner for approximately three acres of the subject parcel. This agreement allows the applicant to construct improvements (including the proposed venue building, parking lot, etc.), the ability to subdivide the property, and an easement over the Master Parcel for the proposed activities that will be recorded prior to the lease commencement date. While the stated intent of the applicant and the ground lease agreement is to adhere to the general three-acre area as exhibited in the conceptual site layout, according to the applicant there is agreement with the property owner to finalize the lease boundaries following City Council approval of the site design. This is reflected in Section 10 of the ground lease agreement, which has been exhibited to Staff and on file in the Planning Department and is intended to provide flexibility for any required revisions during the site plan review process.
- The proposed event venue will include the construction of an approximate 9,500 square-foot building with associated parking lot, a stormwater management pond, parking lot, access road and other associated site improvements. Development will include the construction of a new vehicular access point along Indian River Road and will also include the removal of an existing horse pasture.
- As depicted on page 10 of this report, the design of the proposed building will draw on the existing agricultural character of the vicinity. Designed similarly to a large barn, the new building will have white board and batten fiber cement cladding and large multi-light windows. A large, first-floor porch that will span most of the east elevation and a brick-faced two-story chimney on the north elevation will be major character-defining features. The venue has been designed to accommodate events up to 350 people and will provide kitchens and interior storage onsite.
- While the applicant will likely host different types of events, they are proposing this facility primarily as a wedding venue and have identified some key strategies for managing events and traffic on site. For example, the applicant has stated that weddings will be required to have a professional wedding planner for at least the day of the event, efficiently route catering staff and guests to avoid bottlenecking; and a site coordinator and facilities director will be employed to manage the site and events.
- The applicant is proposing that use of the venue will occur throughout the year. Start times for events will be arranged on an individual basis, but the applicant has indicated that they expect most events will typically begin in the mid-afternoon. The applicant has stated that all weddings will be required to end by 11:00 p.m.
- A gravel parking lot will be developed to provide onsite parking for the venue. The parking lot has been sized to provide 95 parking spaces, as required for an event venue of this size per Section 203(b)(5) of the Zoning Ordinance.



## Zoning History

#	Request
1	<b>MDC</b> (Outdoor Recreation) Approved 09/24/2013 <b>CUP</b> (Recreational Facility of an Outdoor Nature) Approved 07/07/2009 <b>CUP</b> (Mulch Facility) Approved 07/07/2009 <b>CUP</b> (Firewood Preparation Facility) Approved 08/10/1993
2	<b>CUP</b> (Recreational Facility of an Outdoor Nature - Golf Course) Approved 07/08/1997 <b>MDC</b> (Golf Course) Approved 06/28/1994 <b>CUP</b> (Golf Course) Approved 09/28/1993
3	<b>CUP</b> (Commercial Pet Kennel) Approved 12/09/1997 <b>CUP</b> (Animal Hospital) Approved 07/07/1992
4	<b>CUP</b> (Car Wash Facility) Approved 07/11/2004
5	<b>CUP</b> (Open-Air Market) Approved 10/18/2016 <b>CUP</b> (Assembly Use) Approved 10/18/2016
6	<b>CUP</b> (Museum and Art Gallery) Approved 10/14/2003
7	<b>CUP</b> (Single-family Dwelling) Approved 07/07/1992 <b>CUP</b> (Boarding of Horses) Approved 07/07/1992
8	<b>CUP</b> (Assembly Use) Approved 02/21/2017
9	<b>CUP</b> (Auto Service Station) Approved 04/24/2012 <b>CRZ</b> (B-2 and AG-2 to Conditional B-2) Approved 04/24/2012
10	<b>CUP</b> (Sale of Low Speed Vehicles) Approved 07/10/2007 <b>MDP</b> Approved 07/10/2007 <b>CUP</b> (Self-storage Facility) Approved 06/22/2004 <b>CRZ</b> (AG-2 to Conditional B-2) Approved 06/22/2004
11	<b>SVR</b> Approved 09/23/1997

## 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

In Staff's opinion, this request for a Conditional Use Permit for an Assembly Use is acceptable. The Comprehensive Plan places an emphasis on the preservation and promotion of the agricultural economy and heritage of the Rural Area and in the Transition Area, where this property is located. The Pungo crossroad area, at the intersection of Princess Anne Road and Indian River Road, is and has historically been the largest and most populated crossroad in the southern half of Virginia Beach. This makes it an appropriate location for non-residential uses that are at an appropriate scale and design in relation to the rural part of the City. The design of the proposed building is harmonious with the existing architectural character of this area and will leverage the existing field, pasture, and wooded setting to be used as a backdrop for events. By incorporating the bucolic setting into the overall experience of the venue, this proposal furthers recommendations for preserving and promoting the agricultural heritage of the Rural Area.

As the site is located within the Transition Area, below is a summation of Staff's review for conformance with the Comprehensive Plan's Transition Area Design Guidelines.

- The design of the proposed building is inspired by historical barns and buildings south of the Green Line. The design has simple, clean lines, using color and a mixture of materials to provide interest, rather than heavy ornamentation.

- The building does not exceed 10,000 square feet and incorporates traditional rooflines, features such as the chimney, and expressed fenestration.
- The building is nestled near a back corner of the parcel, away from Indian River Road, preserving the character of the streetscape along Indian River Road and providing an attractive streetscape view from adjacent roadways.
- Though the proposed parking area is sited between Indian River Road and the proposed building, this configuration retains the established pattern of open fields between roadways and agricultural buildings found in this part of the city.
- The existing open-style fencing will be retained, maintaining a sense of open space.

As recommended by the Comprehensive Plan, the applicant submitted a preliminary drainage study to the Development Services Center (DSC) outlining their proposed stormwater strategy for the subject site. As a result of the review, the Staff finds that the proposed conceptual stormwater strategy has the potential to successfully comply with the stormwater requirements of this site; however, this review is not a formal approval of the submitted stormwater plan. More details will be required, and a formal review will take place during the site plan review process.

Similarly, Staff anticipates minimal impact on the historical setting of the Pungo crossroad area. The proposed layout places the new building approximately 730 feet from Indian River Road and will be of a size and scale compatible with other agricultural buildings in Pungo, is designed to maintain the established character in the area and minimize potential adverse effects on the historical setting.

No trip generation data is available for an event facility such as the one proposed. Staff, however, anticipates no significant effect on peak hour traffic on Princess Anne Road or Indian River Road as it seems that most events will be held on weekends and during evenings. Current traffic volumes of both roads are within their existing capacities with Indian River Road using about one-third of its current capacity. Comments regarding required right-of-way improvements and access point geometrics for the proposed access point on Indian River Road will be made during site plan review. Staff does note that any future development of this site will necessitate a comprehensive traffic impact study that is based on a master plan of development to ensure that such development.

The applicant presented this proposal to the Agricultural Advisory Committee and the Transitional Area/Interfacility Traffic Area Citizen Advisory Committee (TA/ITA CAC); both bodies expressed general support for the proposed use.

Due to the reasons stated above, Staff recommends approval of this request subject to the recommended conditions in this report.

## Recommended Conditions

1. When the site is developed, it shall be in substantial conformance with the submitted concept plan entitled "SITE LAYOUT" dated 4/29/2022 and prepared by Timmons Group, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development.
2. The exterior of the proposed building shall substantially adhere in appearance, size and materials to the elevations entitled "EXTERIOR ELEVATIONS" dated 4/29/2022 and prepared by Hanbury, which has been which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development.
3. Events shall be limited to between the hours of 8:00 a.m. and 11:00 p.m.
4. The maximum number of attendees and the occupancy load shall be determined by the City of Virginia Beach Fire Marshal.
5. No outdoor amplified music shall be permitted after 10:00 p.m.

6. All parking for the Assembly Use shall be on the property.
7. Handicap spaces shall be provided adjacent to the event area in accordance with all ADA requirements.
8. No less than one trash receptacle per 1,000 square feet of sales area shall be provided. All trash receptacles shall be emptied regularly so as not to overflow, and litter and debris shall not be allowed to accumulate.
9. Any outdoor storage of stalls or other materials is prohibited.
10. A Certificate of Occupancy and all applicable approvals from the Fire Prevention Bureau must be obtained for use.
11. Prior to each event, the applicant shall notify the Police Department, the Fire Prevention Bureau, the Health Department and Emergency Medical Services of the event's time, size, and scope of activities.
12. The final stormwater plan submitted to the Development Services Center (DSC) shall be in substantial conformance with the preliminary stormwater analysis, unless otherwise approved by the DSC, using the same basis of design that includes increased rainfall amounts and consideration for sea level rise.
13. Virginia Beach Health Department approval as required of well and/or septic systems shall be obtained during site plan review.

*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 proposal is located in Transition Area at the northwest corner Princess Anne Road and Indian River Road in Pungo Village. Development policies for the Transition Area are not intended to be a continuation of the higher density development patterns and form found in the Suburban and Urban Areas to the north and should provide an apparent visual shift to rural development character and form as one travels from north to south. Development in the Transition Area should reflect a noticeable transitional pattern with contiguous and unified open space throughout, also in keeping with the accompanying Transition Area Design Guidelines. When developing in proximity to a designated "Special Place" (e.g. Pungo Village), design elements that are contextually relevant to that Place should be incorporated elements to ensure compatibility with the surrounding area. This area is also identified as a rural village as per the Rural Area section of the Comprehensive Plan. These areas are meant to provide support and services for the local community and the greater rural area.

## 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. The applicant has provided a preliminary stormwater analysis for their proposal, which is discussed below.



The City's 2020 Architectural Survey of the Southern Half of Virginia Beach identifies properties in this part of Pungo as being potentially eligible for listing in the National Register of Historic Places as a historic district. While no buildings or structures on the subject property are identified in the survey, the site's pastoral character and history contribute to the overall integrity of the historical setting of the area. Pungo, according to the survey, remains the largest crossroad in the southern half of Virginia Beach with a significant collection of historic buildings.

## Stormwater Impacts

### Project Stormwater Design Staff Summary

This project consists of the construction a 9,500 square foot building that will serve as an event venue for weddings and other similar uses. In addition to the building, this project will include a gravel parking lot, sidewalks, and a stormwater management facility to support the proposed development.

Stormwater runoff from the site currently sheet flows towards the existing low-lying wetland areas on the west and northwest sides of the property. Stormwater runoff from the proposed building and surface parking lot will be collected into a wet pond that will treat for both water quality and water quantity before discharging offsite. The purchase of offsite nutrient credits will be utilized for any remaining water quality pollutant load reduction requirements not treated by the onsite wet pond.

Based on the information provided by Timmons Group in the Preliminary Stormwater Analysis, the DSC agrees that the proposed conceptual stormwater management strategy can successfully comply with the stormwater requirements. Final design and detailed updates will be made during site plan submittal to ensure conformance with all requirements set forth in the Public Works Design Standards Manual. The developer of this project chose to complete a simplified Preliminary Stormwater Analysis providing calculations that demonstrate a reduction in post-development flow rates and has volunteered a condition that states all stormwater regulations will be complied with during final design. More detailed project stormwater information is listed below.

### Project Information

**Total project area:** 10.91 acres

**Pre-Development impervious area:** 0.58 Acres

**Post-Development impervious area:** 3.33 Acres

**Does the analysis utilize the City of Virginia Beach Master Drainage Model:** No

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

### Stormwater Management Facility Design Information

**Type of facility proposed:** Wet Pond

**Total storage volume provided in proposed stormwater management facilities:** 544,781 cf

**Description of outfall:** Stormwater runoff from the site that enters into the wet pond will discharge through shallow ditches or wetland areas before either infiltrating into the soil or draining to West Neck Creek.

**Downstream conveyance path:** This site is part of the Upper West Neck Creek Drainage Basin. Drainage from this site drains into West Neck Creek, into North Landing River, and ultimately into Back Bay. Back Bay drains through the Currituck Sound and into the Atlantic Ocean.

### Stormwater Quality Compliance Design Information

**Pounds of phosphorus removal per year (lb/yr) required:** 5.85 lb/yr

**Method of treatment proposed:** Wet Pond, Offsite Nutrient Credits

## Stormwater Quantity Compliance Design Information

**2-year storm peak flow rate comparison:** Pre-development = 42.33cfs / Post-development = 26.69cfs.

**10-year storm peak flow rate comparison:** Pre-development = 64.97cfs / Post-development = 33.81cfs.

**100-year storm peak flow rate comparison:** Pre-development = 109.03cfs / Post-development = 50.16cfs.

## Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Princess Anne Road	11,950 ADT <sup>1</sup>	15,400 ADT <sup>1</sup> (LOS <sup>4</sup> "D")	Existing Land Use <sup>2</sup> – 10 ADT Proposed Land Use <sup>3</sup> – No Data Available
Indian River Road	5,950 ADT	12,500 ADT (LOS "D")	Existing Land Use <sup>2</sup> – 10 ADT Proposed Land Use <sup>3</sup> – No Data Available
<sup>1</sup> Average Daily Trips	<sup>2</sup> as defined by a single-family house on a parcel zoned AG-1 Agriculture.	<sup>3</sup> No information available in the ITE Trip Generation Manual for event venues	<sup>4</sup> LOS = Level of Service

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

Princess Anne Road and Indian River Road near this project location are considered two-lane undivided minor suburban arterials. There are no plans to improve either roadway in the current CIP.

## Public Utility Impacts

### Water

City water is not available to the property.

### Sewer

City sanitary sewer is not available to the property.

The proposed lease parcel could be served by well and septic systems, but future development of the overall property may require connection to public water and sanitary sewer. Virginia Beach Health Department approval is required for any well or septic system proposed to service the venue.

## Public Outreach Information

### Planning Commission

- The applicant met with the Agricultural Advisory Committee on April 11, 2022 to discuss the details of the request. According to the applicant, no major concerns with the proposal were shared at that meeting and the Agricultural Advisory Committee expressed support for the project. In late July, the applicant shared a progress update with the Chair of the Agricultural Advisory Committee.
- The applicant met with the Transitional Area/Interfacility Traffic Area Citizen Advisory Committee (TA/ITA CAC) on May 5, 2022 to present the details of the request. No formal action was taken by the TA/ITA CAC at this meeting; however, comments shared by the Committee expressed general support for this proposal.

- As provided in the supplemental packet, Staff has received 18 letters of support for this project by the printing of this staff report. These letters expressly support the establishment of the event venue and how it will be an asset for the community at large.
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on July 24, 2022.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, July 24, 2022 and July 31, 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 July 25, 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](http://www.vbgov.com/pc) on August 4, 2022.

## Proposed Site Layout





# Proposed Elevation Plan



Site Photos





Site Photos





Authentisign ID: 1EA8263E-56B1-EC11-997E-501AC586CB79

## 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** Mike Daubert

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

- If yes, list the name of the representative.

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

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

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

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

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



Authentisign ID: 1EA8263E-56B1-EC11-997E-501AC586CB79

## 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.

The applicant - Mike Daubert - is a licensed real estate agent in Virginia, however he is not providing any realty services for himself or the owner in this matter.

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.

Mulkey & Co / Ryan Gore

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.

Hanbury Architects / Adam Schultz

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.

Mike Daubert

## Disclosure Statement

Authentisign ID: 1EA8263E-56B1-EC11-997E-501AC586CB79

### Disclosure Statement



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

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

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

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

Timmons Group Engineering / John Zaszewski

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.

Hanger Law / Sean Reilly & John Napier

#### 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.

Authentisign  
A handwritten signature in black ink that reads 'Michael Daubert'.

#### Applicant Signature

Mike Daubert / Leaseholder and Venue Owner/Operator

#### Print Name and Title

03/31/22

#### 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 Gene Hansen / Back Bay Farms, Inc.

Applicant Name Mike Daubert

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)

EUGENE W. HANSEN, PRES. & OWNER

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

N/A

#### Known Interest by Public Official or Employee

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

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

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

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

### Disclosure Statement



#### Owner Services Disclosure

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

☐ Yes ☒ No

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

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

☐ Yes ☒ No

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

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

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

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

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

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

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

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

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

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

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




## 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.**

  
Owner Signature

*EUGENE W. HANSEN, PRES. & OWNER*  
Print Name and Title

*4/1/22*  
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**

**Conditional Use Permit** (Tattoo Parlor)

**Staff Recommendation**

Approval

**Staff Planner**

Elizabeth Nowak

**Location**

2029 Lynnhaven Parkway, Suite 200

**GPIN**

1475868600

**Site Size**

1,200 square feet

**AICUZ**

Less than 65 dB DNL

**Watershed**

Southern Rivers

**Existing Land Use and Zoning District**

Shopping center / Conditional B-2 Community Business

**Surrounding Land Uses and Zoning Districts**  
**North**

Shopping center and multi-family dwelling / A-12 Apartment, Conditional B-2 Community Business

**South**

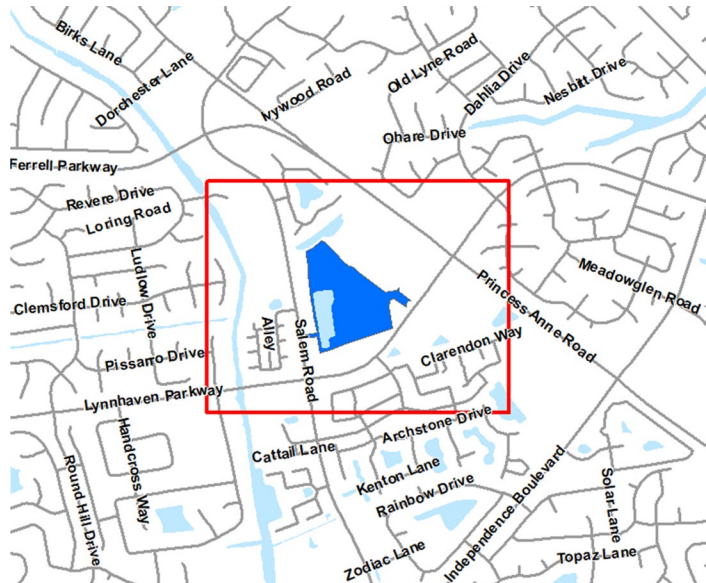
Lynnhaven Parkway  
Commercial retail / Conditional B-2 Community Business

**East**

Shopping center / Conditional B-2 Community Business

**West**

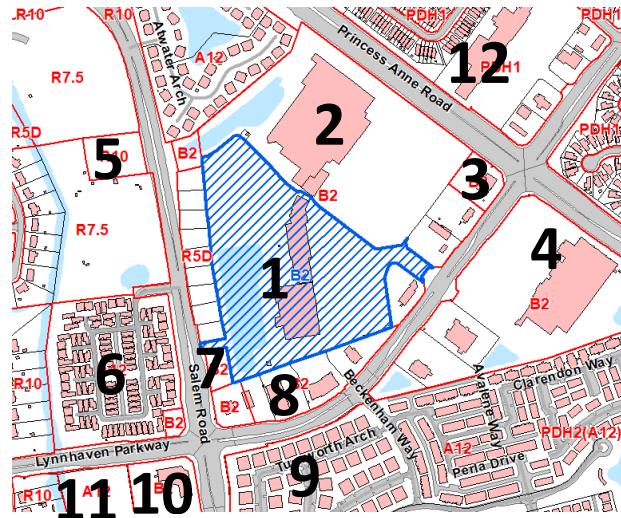
Salem Road  
Multi-family dwelling, park / A-12 Apartment, R-7.5 Residential





## Background & Summary of Proposal

- The applicant is requesting a Conditional Use Permit to allow the addition of permanent makeup, known as micro-blading, to a list of offered services at an existing nail and beauty salon. The salon is located in a 1,200 square-foot suite of the Salem Crossing Shopping Center.
- Permanent makeup services will be provided by appointment only, Tuesday through Saturday. Current hours of operation for the salon are between 9:00 a.m. and 7:00 p.m.
- The applicant intends to have one permanent makeup artist operate in the salon.
- No new signage or other exterior alterations are proposed with this application.
- There are no other tattoo parlors within a 600-foot radius of this site.



## Zoning History

#	Request
1	CUP (Indoor Commercial Recreation Facility) Approved 09/10/2013 CUP (Indoor Commercial Recreation Facility) Approved 10/11/2011 MDC Approved 02/27/1996 CRZ (R-5D to Conditional B-2) Approved 07/11/1995
2	MDP Approved 2/16/2021 CUP (Bulk Storage Yard) 08/21/2018 CUP (Bulk Storage Yard) 09/20/2016 MDC Approved 02/27/1996 CRZ (R-5D to Conditional B-2) Approved 07/11/1995
3	MDP Approved 2/16/2021 CRZ (R-5D to Conditional B-2) Approved 07/11/1995
4	CUP (Bulk Storage Yard) Approved 03/25/2003 CUP (Drive-Through Seasonal Sales) Approved 03/25/2003 CRZ (R-5D to Conditional B-2) Approved 06/22/1999
5	CUP (Home for the Aged) Approved 01/20/1987
6	REZ (R-10 to A-12 with a PD-H Overlay) Approved 09/22/1998
7	CRZ (R-5D to Conditional B-2) Approved 08/27/2002
8	MDP Approved 2/16/2021 CRZ (AG-2 to Conditional R-10) Approved 10/14/2003 CUP (Fuel Sales and Convenience Store) Approved 09/25/2001 MDC Approved 09/25/2001 CRZ (R-5D to Conditional B-2) Approved 07/14/1998 CUP (Religious Use) Approved 04/14/1986
9	CRZ (R-5D and R-10 to Conditional A-36, Conditional B-4, and Conditional A-12 with PD-H2 Overlay) Approved 06/26/2007
10	CUP (Mini-warehouse) (PCCC-00009) CUP (Automobile Service Station) CRZ (R-10 to Conditional B-2) 07/01/1997
11	CRZ (Conditional B-2 to Conditional A-12) Approved 03/22/2011 FVR Approved 03/22/2011 CRZ (R-10 to Conditional B-2) 07/01/1997
12	MDP Approved 2/16/2021 STR Approved 2/4/2019 CUP (Indoor Recreational Facility) Approved 8/6/2011 CUP (Automobile Repair Garage) Approved 12/8/1998

## 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 Salem Crossing Shopping Center is part of a well-established commercial node near the intersection of Lynnhaven Parkway and Princess Anne Road and abuts nearby multi-family and single-family residential developments.

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 the application of permanent makeup. 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. 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. Preserving neighborhood quality and characteristics requires non-residential uses to maintain or enhance the existing characteristics of surrounding residential areas.

## Natural & Cultural Resources Impacts

The site is located in the Southern Rivers Watershed. There are no apparent natural or cultural resources associated with this site.

## Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Lynnhaven Parkway	26,000 ADT <sup>1</sup>	Up to 36,900 ADT (LOS <sup>2</sup> “D”)	No change anticipated.
Princess Anne Road	41,800 ADT	Up to 74,000 ADT (LOS “D”)	
<sup>1</sup> Average Daily Trips <sup>2</sup> LOS = Level of Service			

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

The MTP lists this segment of Lynnhaven Parkway as a four-lane minor arterial and Princess Anne Road as an eight-lane major arterial. There are no CIP projects in the area.

## Public Utility Impacts

### Water

The site currently connects to City water.

### Sewer

The site currently connects to City sewer.

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

## Public Outreach Information

### Planning Commission

- As required by the Zoning Ordinance, the public notice signs were placed on the property on July 11, 2022.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, July 24, 2022 and July 31, 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 July 25, 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](http://www.vbgov.com/pc) on August 4, 2022.



## Site Photos



## Site Photos





## Disclosure Statement

### Disclosure Statement



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

#### Applicant Disclosure

**Applicant Name** Jenny Corporation

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

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

My Huong Nguyen and Thay Ha

**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)

My Huong Nguyen

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

n/a

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

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

### Disclosure Statement



#### Known Interest by Public Official or Employee

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

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

#### Applicant Services Disclosure

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

☐ Yes ☒ No

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

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

☐ Yes ☒ No

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

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

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

Paul Chung / CHH Tax & Accounting Service

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

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

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

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



## Disclosure Statement

### Disclosure Statement



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

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

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

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

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

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

#### Applicant Signature

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

  
Applicant Signature

Print Name and Title

My Huong Nguyen

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

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

Owner Name Elias Properties Salem Crossing, LLC

Applicant Name Jenny 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)  
Martin Elias, Managing Member; Brett Elias, SB Trust Member; Sean Elias, SB Trust Member  
\_\_\_\_\_  
\_\_\_\_\_
- If yes, list the businesses that have a parent-subsidary<sup>3</sup> or affiliated business entity<sup>4</sup> relationship with the Owner. (Attach a list if necessary)  
Elias Properties Virginia Beach Lynnhaven, LLC; Elias Properties Virginia Beach Centerville, LLC;  
Elias Properties Virginia Beach Independence, 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?  
\_\_\_\_\_

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


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

Revised 11.09.2020

5 | Page

## Disclosure Statement

### 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.  
Trachtenberg & Pauker, LLP; Mr. Marty Pauker  
\_\_\_\_\_

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.  
\_\_\_\_\_  
\_\_\_\_\_

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### 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.

Troutman Pepper Hamilton Sanders LLP; Mr. Robert P. Beaman III

#### Owner Signature

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

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

Owner Signature

Martin Elias, Managing Member

Print Name and Title

July 29, 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.

### Requests

**#11 - Conditional Use Permit** (Mini-Warehouse)

**#12 - Conditional Use Permit** (Truck & Trailer Rental)

### Staff Recommendation

Approval

### Staff Planner

Elizabeth Nowak

### Location

Southern corner of Holland Road & Stoneshore Road, directly west of 3427 Holland Road

### GPIN

1486810742

### Site Size

4.41 acres

### AICUZ

65-70 dB DNL; Sub-Area 3

### Watershed

Chesapeake Bay

### Existing Land Use and Zoning District

Undeveloped / B-2 Community Business

### Surrounding Land Uses and Zoning Districts

#### North

Stoneshore Road

Retail, auto sales, office, single-family dwellings / B-2 Community Business, PD-H1 Planned Unit Development

#### South

Apartments / PD-H1 Planned Unit Development

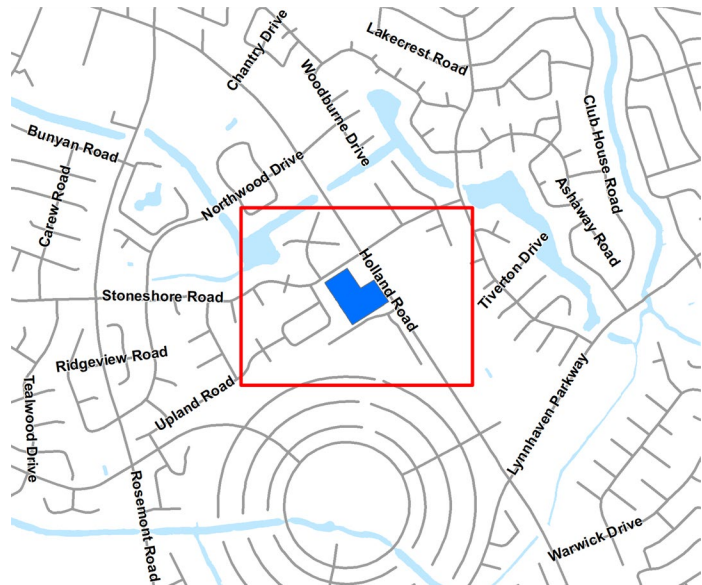
#### East

Holland Road

Office, mixed retail / O-2 Office, B-2 Community Business

#### West

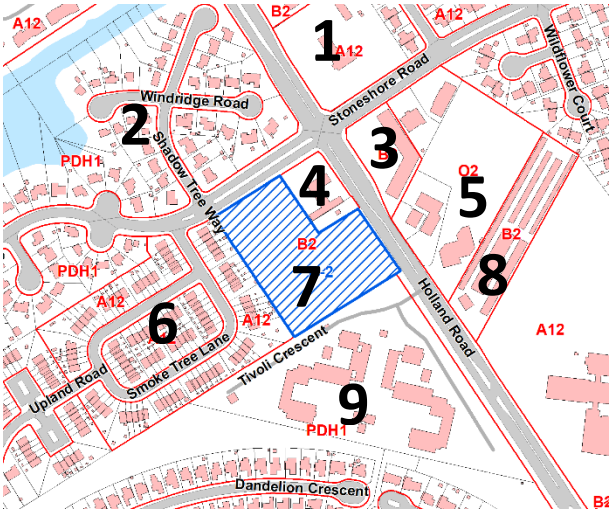
Townhouses / A-12 Apartment



## Background & Summary of Proposal

- The applicant plans to develop a new U-Haul Moving and Storage Store on an undeveloped 4.41-acre parcel. The parcel is L-shaped with frontage on Holland Road and Stoneshore Road. As part of this new development, the applicant is requesting two Conditional Use Permits: one for a Mini-Warehouse and one for Truck and Trailer Rentals.
- Residential development is located in close proximity of the subject site including an apartment complex (the Tivoli Apartments), an adjacent townhome community, and a neighborhood of single-family homes on the opposite side of Stoneshore Road. The adjacent properties on the north side of Holland Road are primarily commercial, including a used car sales lot, a small shopping center, and an office building complex. Just south on Holland Road is another self-storage business operated by Public Storage; this development offers individual storage units that have exterior access to the units.
- For the new U-Haul Moving and Storage Store, the applicant will construct two warehouse buildings: Building A will be an 89,915 square-foot, two-story warehouse building with interior, climate-controlled personal storage units and a lower level and Building B will be a 19,498 square-foot warehouse building intended primarily to store U-Box storage container units. Office and retail space will be located in Building A, as well as interior drive-up storage access. A loading dock is proposed on the east elevation of Building B, near the center of the parcel.
- Both warehouse buildings will be no higher than 35-feet tall at their highest points. To provide interest to the building silhouettes, the cornices of the corner elements are taller than the roofline of the main portion of each building, as shown on the renderings on pages 12 through 17, of this report. The buildings will be clad with insulated metal wall paneling with a mix of finishes for architectural interest. A neutral stucco finish will be used as the primary cladding with dark brown smooth finished, faux woodgrain metal panels and red brick on corner elements. The rear walls of each building will be articulated with changes in material and vertical stripes of color for visual relief of the long walls. Proposed signage will be located on Building A only and will consist primarily of cabinet wall signs.
- As required, buffers and screening will be installed along the property lines adjacent to residential areas. This includes a combination of a 20-foot wide planted buffer adjacent to the townhouse community and a 20-foot wide planted area adjacent to the Tivoli Apartments. A Category VI screen is minimally required, which includes a mix of evergreen shrubs and a solid fence of wall at least six feet tall. Adjacent to the Tivoli Apartments, there is substantial mature vegetation. The applicant indicates that they will retain as much of the healthy, non-invasive vegetation as possible within a 15-foot buffer along the east property line. The details are depicted on the conceptual landscape plan included on page 11 of this report.
- To help direct traffic into the site rather than into the residential neighborhood, the applicant is proposing to install a cut in the existing median on Stoneshore Road to allow a left turn from the street into the site.
- A display area for truck and trailer rental vehicles will be located along the north parcel line fronting Holland Road. Per Section 242.2 of the Zoning Ordinance, a maximum of three vehicles is permitted to be displayed in this area. Trucks or trailers not being displayed for rent will be located in the vehicle shunting area as shown on the conceptual site plan on page 10 of this report. The shunting area will be screened from Holland Road by an existing building on an adjacent parcel and will be screened from Stoneshore Road by a combination of Category IV planting and a six-foot tall, wrought iron-style fence.
- The U-Haul Moving and Storage Store will have a maximum of 10 employees on a shift. 10 parking spaces are provided alongside Building A. Operating hours will be:
  - Monday through Thursday from 7:00 a.m. to 7:00 p.m.
  - Friday from 7:00 a.m. to 8:00 p.m.

- Saturday from 7:00 a.m. to 7:00 p.m.
- Sunday from 9:00 a.m. to 5:00 p.m.
- On a very limited basis, U-Haul may authorize customers with storage units to access the site via key cards and/or PIN numbers outside of typical operating hours. The applicant has stated that they expect little to no access of Building B after 5:00 p.m. as it will be used primarily for storage of mobile storage pods.

	<b>Zoning History</b>																					
	<table><tr><th>#</th><th>Request</th></tr><tr><td>1</td><td>CUP (Religious Use) Approved 04/08/1992</td></tr><tr><td>2</td><td>LUP Approved 12/31/1981 REZ (R6 to A-1) 02/14/1977</td></tr><tr><td>3</td><td>CRZ (B-1A to Conditional B-2) Approved 10/17/2017 CUP (Tattoo Parlor &amp; Body Piercing Establishment) 10/17/2017 MDC (Business &amp; Vocational School) 04/07/2017 CUP (Vocational Use) Approved 03/03/2015 CUP (Child Care Education Center) Approved 02/08/2005 CUP (Religious Use) Approved 11/23/2004 CUP (Religious Use) Approved 11/27/2001 CUP (Religious Use) Approved 10/10/2000 CUP (Religious Use) Approved 11/22/1994</td></tr><tr><td>4</td><td>CUP (Auto Repairs &amp; Services) Approved 08/19/1985</td></tr><tr><td>5</td><td>CUP (Communication Tower) Approved 11/21/2018 CUP (Religious Use) Approved 07/14/2009</td></tr><tr><td>6</td><td>REZ (R-6 to PDH) 03/26/1979 REZ (R-6 to A-1) 02/14/1977</td></tr><tr><td>7</td><td>REZ (R-D1 to O-2) 07/26/1965</td></tr><tr><td>8</td><td>CUP (Mini-warehouse) 01/09/1978 REZ (O-1 to B-2) 01/09/1978</td></tr><tr><td>9</td><td>LUP Approved 12/31/1973</td></tr></table>	#	Request	1	CUP (Religious Use) Approved 04/08/1992	2	LUP Approved 12/31/1981 REZ (R6 to A-1) 02/14/1977	3	CRZ (B-1A to Conditional B-2) Approved 10/17/2017 CUP (Tattoo Parlor & Body Piercing Establishment) 10/17/2017 MDC (Business & Vocational School) 04/07/2017 CUP (Vocational Use) Approved 03/03/2015 CUP (Child Care Education Center) Approved 02/08/2005 CUP (Religious Use) Approved 11/23/2004 CUP (Religious Use) Approved 11/27/2001 CUP (Religious Use) Approved 10/10/2000 CUP (Religious Use) Approved 11/22/1994	4	CUP (Auto Repairs & Services) Approved 08/19/1985	5	CUP (Communication Tower) Approved 11/21/2018 CUP (Religious Use) Approved 07/14/2009	6	REZ (R-6 to PDH) 03/26/1979 REZ (R-6 to A-1) 02/14/1977	7	REZ (R-D1 to O-2) 07/26/1965	8	CUP (Mini-warehouse) 01/09/1978 REZ (O-1 to B-2) 01/09/1978	9	LUP Approved 12/31/1973	
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## Evaluation & Recommendation

Staff finds these requests for Conditional Use Permits for a Mini-Warehouse and Truck and Trailer Rental to be acceptable. The project site is in the Suburban Area of the City according to the Comprehensive Plan, which calls for the development of “Great Neighborhoods” through quality residential development and complementary non-residential uses. Storage and self-storage facilities such as the proposed development provide a needed service to adjacent residents.

For property such as this within Sub-Area 3 of the 65—70 dB DNL Noise Zone, Section 1804 (c)(3) of the Zoning Ordinance notes that “it shall be the policy of the city council that no application for a residential use shall be approved unless the city council finds that no reasonable non-residential use can be made of the property, in which event the city council may allow the proposed residential use of such property at the lowest density that is reasonable.” As there are other uses than residential along this portion of Holland Road that are deemed compatible with Naval flight operations and appropriate adjacent to residential neighborhoods, the opportunity to develop this site with a residential use is extremely minimal.



The proportions and layout of the proposed site and building designs are well-balanced with the character of adjacent residential areas. Design of the site and building direct traffic appropriately to and through the site; employ a neutral and muted color palette that will blend with the surrounding context; and integrate variation of roof lines, color, and high-quality building materials to increase visual interest. The submitted concept landscape plan reflects plant materials and buffer widths beyond the minimum required by the Zoning Ordinance.

While the height of the proposed buildings is taller than surrounding developments, it will be compatible with the surrounding properties along Holland Road. The tallest point on Building A is the corner element parapet wall, which reaches 34 feet. The roofline for the remainder of Building A is 27 feet and 10 inches. Building B is 35 feet tall at its tallest parapet wall on the north elevation and is 30 feet and 6 inches on the south elevation. Most buildings in the surrounding area are two-stories tall, approximately between 24 and 30 feet in height. As a commercial parcel fronting Holland Road and on a parcel that is zoned B-2 Community Business, which has no height restrictions, Staff believes that the proposed heights are an appropriate scale for the transition between the commercial character of the Holland Road corridor and the residential neighborhoods to the south of Holland Road.

Section 242.2 of the Zoning Ordinance requires the following:

“trucks or trailers for rental which are not being displayed as provided for in (b) above shall be located within a building or in a designated area located behind the nearest portion of a building adjacent to a public street. The designated area shall be screened, except for necessary openings for ingress and egress, from any public right-of-way or adjoining residential or apartment zoning district within one hundred (100) feet of the designated area by a fence not less than six (6) feet in height and Category VI landscaping.”

In Staff’s view, these requirements are partially met as the vehicle shunting area is located behind an existing building on the adjacent parcel (screened from Holland Road) and a fence with landscaping will be installed along the east side of the shunting area parallel to Stoneshore Road. Staff is recommending in Conditions 1 and 2 that the proposed planting strip that is shown on the site plan abutting the north elevation of Building B to be moved to define the southern edge of the proposed shunting area. This will provide additional softening and screening from the right-of-way on Stoneshore Road as well as provide relief to otherwise excessive pavement. With this modification to the concept site plan, Staff believes there will be sufficient screening of the shunting area and the vehicles to be stored there.

In addition to the shunting area, the applicant proposes truck and trailer parking along the south elevation of Building A. While this area is close to the residential properties on Smoke Tree Lane, it is Staff’s opinion that parking is a relatively passive activity that will minimally impact the neighboring residents. The applicant is proposing a 20-foot wide rear yard in this area—exceeding the minimum yard setback that is required—and to locate the parking spaces against the building. Staff is also recommending Condition 17 for the Truck & Trailer Rental Conditional Use Permit that moving, parking, and relocating of vehicles in this area only occur between 7:00 a.m. and 8:00 p.m. to minimize noise impacts.

Staff’s analysis indicates that the proposed development generates 163 average daily trips. It is Staff’s opinion that while trips will increase by virtue of development, the adjacent residential areas will not be adversely affected by new traffic and the proposed uses typically generate far fewer trips than the average generated ADT for a B-2 Community Business parcel of this size. To guide customer traffic into the new site rather than into the adjacent neighborhood, the applicant is proposing to install a cut in the median on Stoneshore Road to create a left turn from that street into the site. Staff has conceptually approved the proposed median cut on Stoneshore Road, provided it is designed so that any traffic leaving the site be restricted to a right turn only back onto Stoneshore Road; such a restriction would direct traffic back out towards Holland Road rather than down Stoneshore Road and the neighborhood.

Staff is recommending approval of the request subject to the following conditions.

## Recommended Conditions

### Conditions for Conditional Use Permit for Mini-warehouse:

1. When the property is developed, it shall be in substantial conformance with the concept plan entitled "AMERCO REAL ESTATE COMPANY – PRELIMINARY SITE PLAN", dated 07/29/2022, and prepared by AMERCO REAL ESTATE COMPANY, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development, with the exception that the planting strip shown alongside the north elevation of Building B be moved to define the southern edge of the Shunting Area.
2. A Landscape Plan shall be submitted to the Development Services Center of the Department of Planning and Community Development for review and ultimate approval prior to issuance of a Certificate of Occupancy and shall be developed in substantial conformance with the landscape plan entitled "U-HAUL OF VIRGINIA BEACH", dated 07/29/2022, and prepared by PAINTED FERN LANDSCAPE ARCHITECTURE, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development, with the exception that the planting strip shown alongside the north elevation of Building B be moved to define the southern edge of the Shunting Area.
3. As noted in the landscape plan entitled "U-HAUL OF VIRGINIA BEACH", dated 07/29/2022, and prepared by PAINTED FERN LANDSCAPE ARCHITECTURE, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development, existing healthy and non-invasive vegetation in the 20-foot wide side setback along the southeast parcel line shall be retained and maintained to supplement the Category VI landscape screening.
4. The exterior of the proposed building shall substantially adhere in appearance, size, materials to the submitted elevations entitled "MOVING & STORAGE OF TIDEWATER", 06/01/2022, and prepared by ADVERTISING & MARKETING ASSOCIATES, INC., which have been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development.
5. All signage shall be externally lit and no neon lighting visible from the rights-of-way and from any adjoining property shall be permitted to be placed on the Property. Any freestanding signage shall be monument style no taller than eight feet in height and externally lit with a brick base to match the building.) All signage shall 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.
6. All exterior lighting shall be low intensity and residential in character. All other exterior lighting on the property shall also be building mounted or ground level lighting which is not directly visible from the (main road)/According to Section 237 of the City Zoning Ordinance, all outdoor lights shall be shielded to direct light and glare onto the mini-warehouse premises; said lighting and glare shall be deflected, shaded, and focused away from all adjoining property. Any outdoor lighting fixtures shall not be erected any higher than 14 feet.
7. There shall be no electric or diesel power generator or generator fueled by any other source of energy located outside of any building.
8. The storage units shall be used only for storage of goods. The units shall not be used for office purposes, band rehearsals, residential dwellings, or any other purpose not consistent with the storage of goods.
9. Motorized vehicles for rental on the property shall be limited to trucks and trailers and shall be stored within the designated areas identified as the display area and shunting area on the exhibit entitled "AMERCO REAL ESTATE COMPANY – PRELIMINARY SITE PLAN", dated 07/29/2022, and prepared by AMERCO REAL ESTATE COMPANY, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.

10. The outdoor storage of containers, pods, crates, boxes, or similar mobile storage units shall be prohibited, except, mobile storage units may be placed outside for loading and unloading. In no case shall the mobile storage unit be placed outside for more than a 24 hour period.
11. No loading or unloading of stored goods shall occur in the public right-of-way.
12. No barbed wire, razor wire, or any other fencing devices shall be installed on the roof or walls of the building or on the sliding gate surrounding the loading zone.
13. Alterations to the existing median on Stoneshore Road shall be designed such that those alterations only permit a left turn from Stoneshore Road into the site. Any traffic exiting the site onto Stoneshore Road shall be restricted only to a right turn towards the Holland Road intersection.
14. A subdivision plat shall be submitted to establish boundaries of the lot during site plan review.

**Conditions for Conditional Use Permit for Truck & Trailer Rentals:**

1. When the property is developed, it shall be in substantial conformance with the concept plan entitled "AMERCO REAL ESTATE COMPANY – PRELIMINARY SITE PLAN", dated 07/29/2022, and prepared by AMERCO REAL ESTATE COMPANY, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development, with the exception that the planting strip shown alongside the north elevation of Building B be moved to define the southern edge of the Shunting Area.
2. A Landscape Plan shall be submitted to the Development Services Center of the Department of Planning and Community Development for review and ultimate approval prior to issuance of a Certificate of Occupancy and shall be developed in substantial conformance with the landscape plan entitled "U-HAUL OF VIRGINIA BEACH", dated 07/29/2022, and prepared by PAINTED FERN LANDSCAPE ARCHITECTURE, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development, with the exception that the planting strip shown alongside the north elevation of Building B be moved to define the southern edge of the Shunting Area.
3. As noted in the landscape plan entitled "U-HAUL OF VIRGINIA BEACH", dated 07/29/2022, and prepared by PAINTED FERN LANDSCAPE ARCHITECTURE, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development, existing healthy and non-invasive vegetation in the 20-foot wide side setback along the southeast parcel line shall be retained and maintained to supplement the Category VI landscape screening.
4. The exterior of the proposed building shall substantially adhere in appearance, size, materials to the submitted elevations entitled "MOVING & STORAGE OF TIDEWATER", 06/01/2022, and prepared by ADVERTISING & MARKETING ASSOCIATES, INC., which have been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development. The color of the EIFS shall be a neutral and/or earth tone.
5. All signage shall be externally lit and no neon lighting visible from the rights-of-way and from any adjoining property shall be permitted to be placed on the Property. All on-site signage shall 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.
6. No more than three (3) trucks and trailers for rent shall be displayed in the display area as identified on the Concept Plan. Truck and trailers for rent not on display shall be parked in the area designated as "Vehicle Shunting Area" or the parking area adjacent to the southeast elevation of building a as shown on the concept plan "AMERCO REAL ESTATE COMPANY – PRELIMINARY SITE PLAN", dated 07/29/022, and prepared by AMERCO REAL ESTATE COMPANY.

7. The "Vehicle Shunting Area," as identified on the Concept Plan shall be screen, except for necessary openings for ingress and egress, from any public right-of-way or adjoining residential or apartment zoning district within one hundred (100) feet of the designated area by a fence not less than six (6) feet in height and Category VI landscaping and in substantial conformance with the fencing type exhibited in the Landscape Plan. The fence screening the "Vehicle Shunting Area" adjacent to Stoneshore Road may be as described in the concept landscaping plan as exhibited to the City of Virginia Beach.
8. All exterior lighting (as identified on the exhibit entitled shall be low intensity and residential in character. All other exterior lighting on the property shall also be building mounted or ground level lighting which is not directly visible from the right-of-way. According to Section 237 of the City Zoning Ordinance, all outdoor lights shall be shielded to direct light and glare onto the mini-warehouse premises; said lighting and glare shall be deflected, shaded, and focused away from all adjoining property. Any outdoor lighting fixtures shall not be erected any higher than 14 feet.
9. The site must be improved with all required screening and buffering as required in the Virginia Beach Landscaping Guide, including but not limited to, street frontage landscaping and foundation plantings.
10. Parking spaces and display area spaces must be clearly delineated on site plan and the parking lot must be striped in accordance with the approved plan. Vehicles, including trailers, are to be parked in the designated areas and no vehicles, including trailers, shall be parked within any portion of the public right-of-way.
11. The required foundation landscaping shall be permitted to be established in planter boxes along the front and side portion of the buildings.
12. No vehicle, including trailers, shall be parked, loaded, or unloaded within any portion of the public right-of-way.
13. No neon lighting visible from the rights-of-way and from any adjoining property shall be permitted to be placed on the Property. All on-site signage shall 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.
14. Sale of vehicles shall not be permitted on the site.
15. There shall be no on-site washing, detailing, or maintenance of any motor vehicles or trailers.
16. Alterations to the existing median on Stoneshore Road shall be designed such that those alterations only permit a left turn from Stoneshore Road into the site. Any traffic exiting the site onto Stoneshore Road shall be restricted only to a right turn towards the Holland Road intersection.
17. A subdivision plat shall be submitted to establish boundaries of the lot during site plan review.
18. Moving, parking, or relocating of vehicles to be stored in the parking area adjoining Building A shall be limited to between the hours of 7:00 a.m. and 8:00 p.m.

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

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



## Comprehensive Plan Recommendations

This property is located in the suburban area of the City. One of the guiding principles of suburban areas is the creation of “Great Neighborhoods,” which are stable and sustainable and are supported by complementary non-residential uses. Non-residential uses should enhance or renew existing commercial centers through innovative design and products and services provided to the neighborhoods in which they are located. Such uses should carefully consider their effect on adjacent residential areas and appropriately mitigate noise, visual, and safety impacts through good design choices. Proposed developments should refer to the Comprehensive Plan’s Reference Handbook of Special Area Development Guidelines for the Suburban Area.

## Natural & Cultural Resources Impacts

The site is located in the Chesapeake Bay watershed. No natural or cultural resources will be affected by this project.

## Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Holland Road	28,000 ADT <sup>1</sup>	32,700 ADT <sup>1</sup> (LOS <sup>4</sup> “D”)	Existing Land Use <sup>2</sup> – 0 ADT Proposed Land Use <sup>3</sup> – 163 ADT
Stoneshore Road	Data not available	9,900 ADT (LOS “D”)	
<sup>1</sup> Average Daily Trips		<sup>2</sup> as defined by a vacant lot	<sup>3</sup> as defined by 108,000 sf self-storage; no trip generation data is available for moving truck rental
		<sup>4</sup> LOS = Level of Service	

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

Holland Road near the subject property is considered a four-lane divided minor urban arterial. The MTP proposes a six-lane facility within a 165-foot right-of-way, however, there are currently no CIP projects to upgrade this section of Holland Road.

Stoneshore Road near the subject property is considered a two-lane collector and is not designated in the MTP. There are currently no CIP projects to upgrade this roadway.

Traffic Engineering Staff has conceptually approved the proposed median opening on Stoneshore Drive at the proposed access point to accommodate left turns from Stoneshore Road into the site. At the site plan stage for this site, the access point on Stoneshore Road will be required to be designed so that vehicles leaving the site cannot physically make a left turn onto Stoneshore Road.

## Public Utility Impacts

### Water

The site must connect to City water. There is an existing City water main along Stoneshore Road and an existing City water transmission main along Holland Road. There is also an existing private force main along Stoneshore Road.

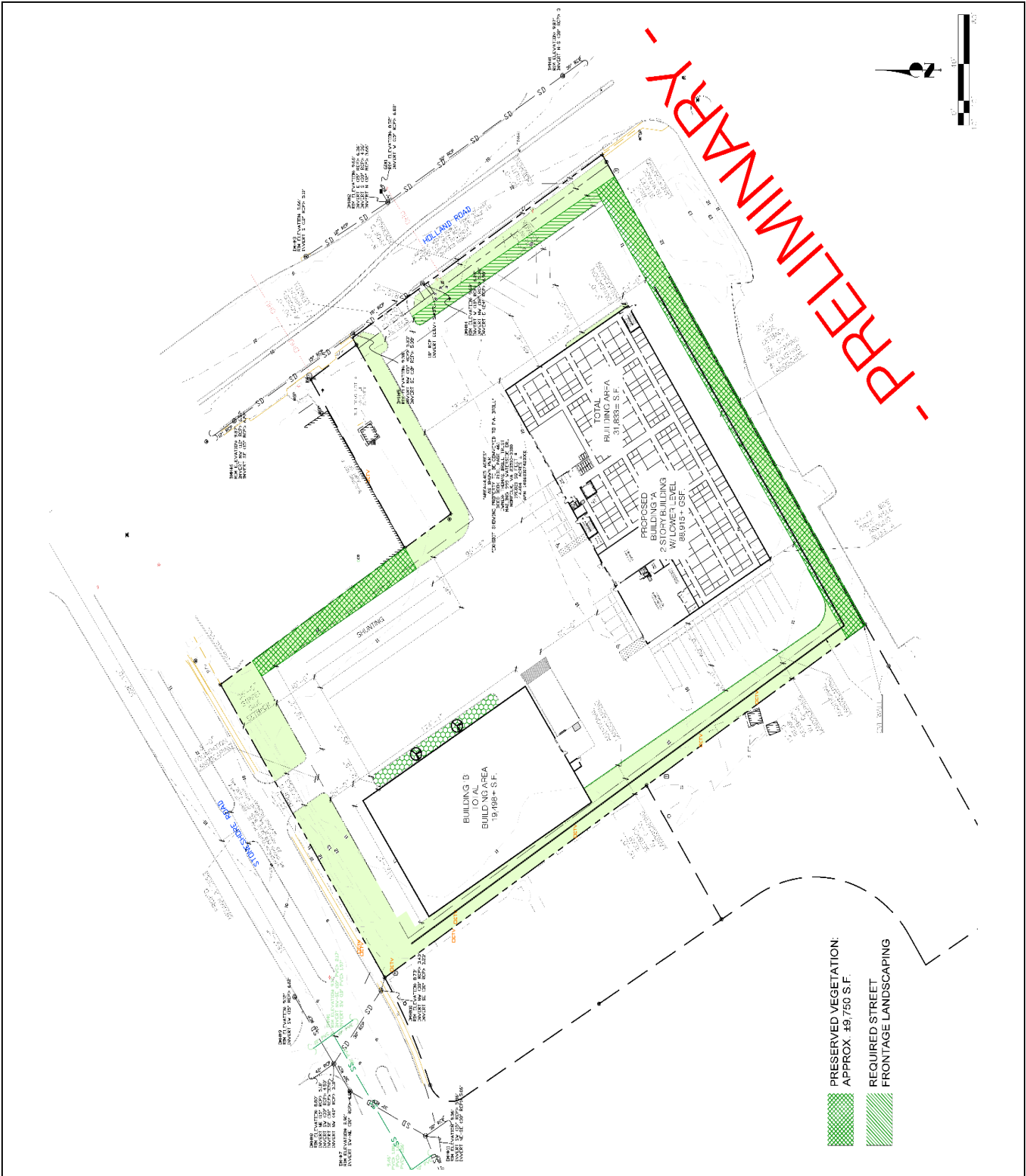
### Sewer

The site must connect to City gravity sanitary sewer. There is an existing City sanitary sewer gravity main near the property line along Stoneshore Road.

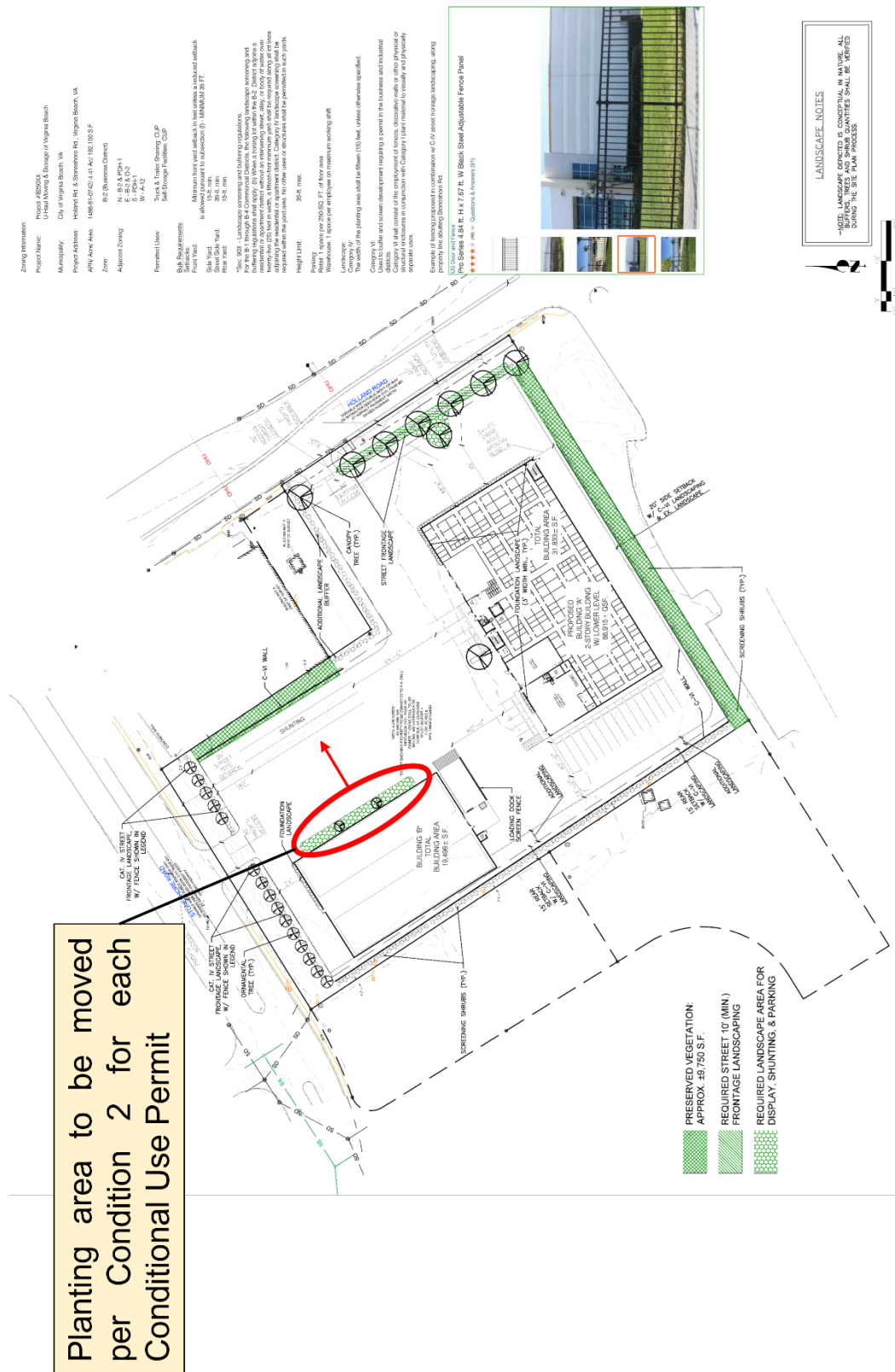
### Planning Commission

- A Marketing Company President from U-Haul informed staff that she personally went door-to-door to speak with residents on Smoke Tree Lane to discuss the proposed development. She approached adjacent residents and business owners once in early February 2022 and once again in early March 2022. The applicant collected signatures of support from neighbors and adjacent business representatives attached to a letter written by the applicant describing their proposal and have been provided in the supplemental packet. The applicant reported receiving no objections from those they spoke with, and Staff is unaware of any opposition to the request.
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on July 11, 2022.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, July 24, 2022 and July 31, 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 July 25, 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](http://www.vbgov.com/pc) on August 4, 2022.

Proposed Site Layout



## Proposed Landscape Plan





**MOVING & STORAGE OF TIDEWATER**  
Holland Rd. & Stone Shore Rd., Virginia Beach, VA 23452



ADVERTISING & MARKETING ASSOCIATES, INC.

ARCHITECTURAL DESIGN & FACILITY IMAGING

February 18, 2022

**UHAUL®**  
**MOVING & STORAGE OF TIDEWATER**  
Holland Rd. & Stone Shore Rd. Virginia Beach, VA 23452



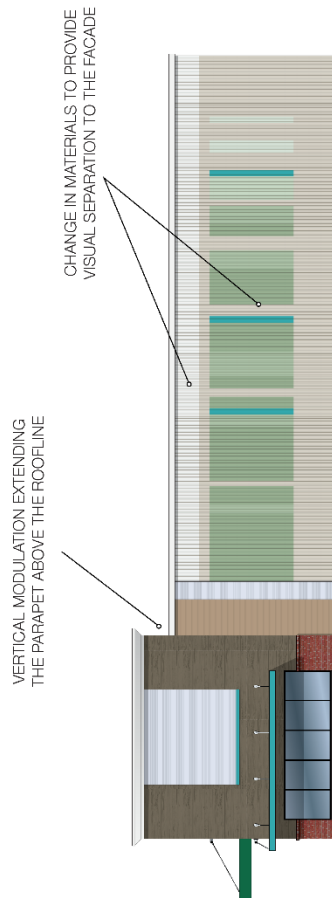
am  
ADVERTISING & MARKETING ASSOCIATES, INC.

ARCHITECTURAL DESIGN & FACILITY IMAGING

February 18, 2022

Proposed Elevation Plan – Building A

**UNHAUL**  
**MOVING & STORAGE OF TIDEWATER**  
Holland Rd. & Stone Shore Rd. Virginia Beach, VA 23452



**WEST ELEVATION: BUILDING A**  
Scale: 1/7/16" = 1'

ARCHITECTURAL ARTICULATION CREATES WALL PROJECTION AND VISUAL INTEREST



**SOUTH ELEVATION: BUILDING A**  
Scale: 1/7/16" = 1'



ADVERTISING & MARKETING ASSOCIATES, INC.  
ARCHITECTURAL DESIGN & FACILITY IMAGING

**February 18, 2022**

## Proposed Elevation Plan – Building B

**LMH&S**  
**MOVING & STORAGE OF TIDEWATER**  
Holland Rd. & Stone Shore Rd. Virginia Beach, VA 23452



ADVERTISING & MARKETING ASSOCIATES, INC.

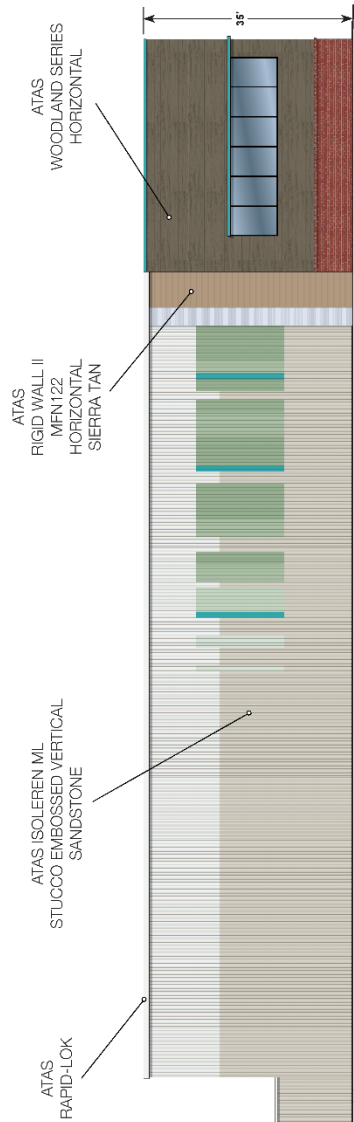
ARCHITECTURAL DESIGN & FACILITY IMAGING

February 18, 2022

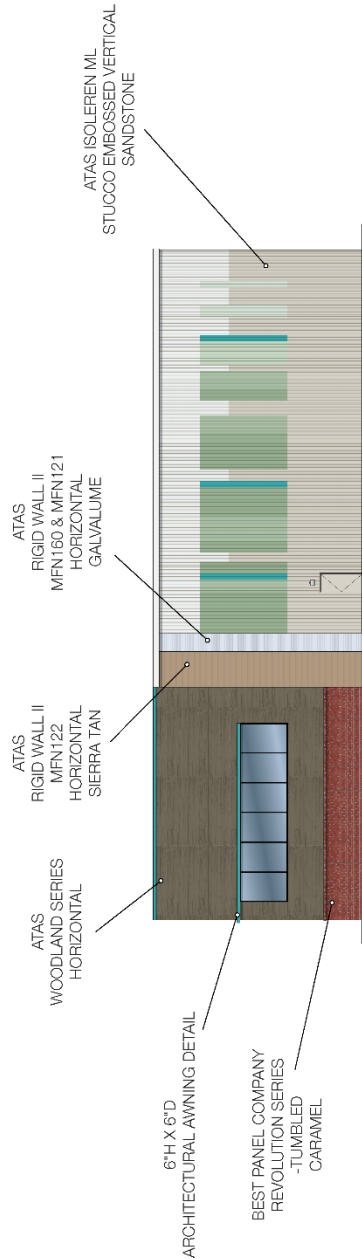


Proposed Elevation Plan – Building B

**MOVING & STORAGE OF TIDEWATER**  
Holland Rd. & Stone Shore Rd. Virginia Beach, VA 23452



**EAST ELEVATION: BUILDING B**  
Scale: 1/16" = 1'



**NORTH ELEVATION: BUILDING B**  
Scale: 1/16" = 1'



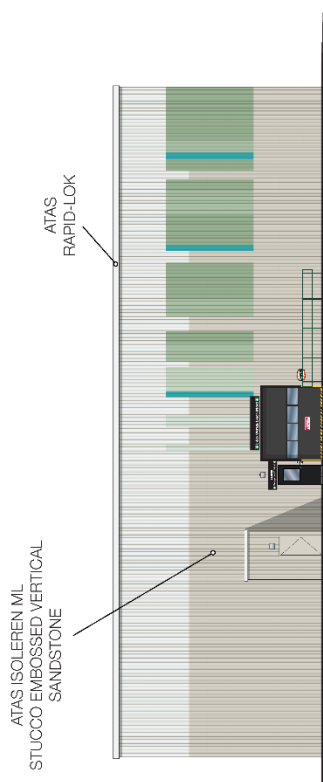
ADVERTISING & MARKETING ASSOCIATES, INC. ARCHITECTURAL DESIGN & FACILITY IMAGING

February 18, 2022

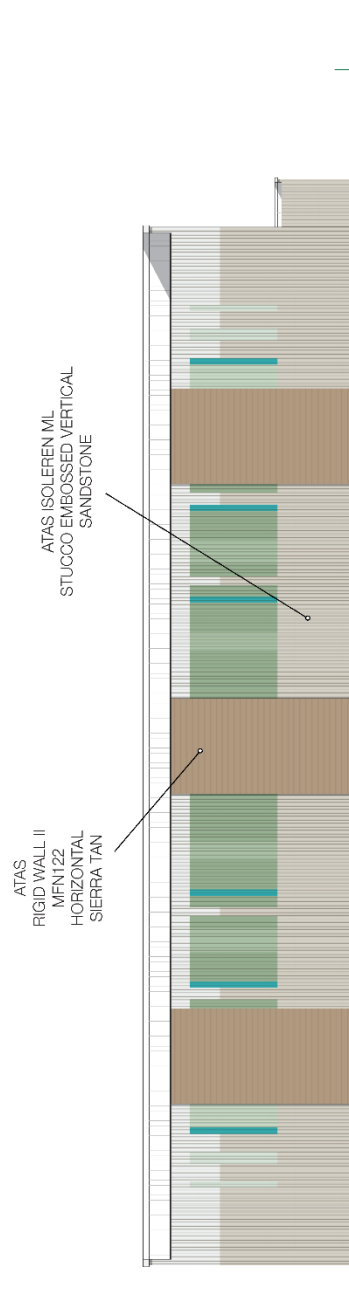
Proposed Elevation Plan – Building B

**MOVING & STORAGE OF TIDEWATER**  
Holland Rd. & Stone Shore Rd. Virginia Beach, VA 23452

UNHAUL



**SOUTH ELEVATION: BUILDING B**  
Scale: 1/16" = 1'



**WEST ELEVATION: BUILDING B**  
Scale: 1/16" = 1'



ADVERTISING & MARKETING ASSOCIATES, INC.  
ARCHITECTURAL DESIGN & FACILITY IMAGING

**February 18, 2022**

## Site Photos





Site Photos





## Disclosure Statement

### Disclosure Statement



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

#### Applicant Disclosure

Applicant Name AMERCO Real Estate Company

Does the applicant have a representative? ☒ Yes ☐ No

- If yes, list the name of the representative.

Gurnoor Kaur

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

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

see attached

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

N/A

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

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

## Disclosure Statement

### Disclosure Statement



#### Known Interest by Public Official or Employee

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

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

#### Applicant Services Disclosure

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

☐ Yes ☒ No

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

*Painted Fern Landscape Architecture; Jason Thomas, PLA, asla.*

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.

*Blew & Associates, P.A. ; Emily Northcutt*

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.

*Tyler Rosa and Steven Romaine of Williams Mullen*

#### 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 **committees** in connection with this application.

Applicant Signature

Matthew F. Braccia, President (AMERCO Real Estate Company)

Print Name and Title

01.03.2022

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	

## Disclosure Statement

DocuSign Envelope ID: 7C65E706-3940-4E0C-8CD9-1C641DC51DA2

### Disclosure Statement



#### Owner Disclosure

**Owner Name** Thomas Brill Irrevocable Trust

**Applicant Name** AMERCO Real Estate Company

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

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

AMG National Trust, Co-Trustee

Howard E. Gordon, Co-Trustee

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

N/A

#### Known Interest by Public Official or Employee

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

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

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

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



## Disclosure Statement

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### Disclosure Statement



#### Owner Services Disclosure

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

☐ Yes ☒ No

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

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

☒ Yes ☐ No

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

Ryan King of Harvey Lindsay Commercial Real Estate

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.

Revised 11.09.2020

6 | Page

## Disclosure Statement

DocuSign Envelope ID: 7C65E706-3940-4E0C-8CD9-1C641DC51DA2

### 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.

Howard E. Gordon of Williams Mullen

#### Owner Signature

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

DocuSigned by:

Howard E. Gordon, Trustee

A7E60B2A1722486...

DocuSigned by:

Mavis E. McKenley

C0DB2DF7810B40A...

#### Owner Signature

Thomas Brill Irrevocable Trust

#### Print Name and Title

AMG National Trust, Co-Trustee by Mavis E. McKenley, VP, and Howard E. Gordon, Co-Trustee 12/29/2021

Date 12/30/2021

Arizona Corporation Commission - RECEIVED: 7/8/2021  
Arizona Corporation Commission - FILED: 7/1/2021

21070813569477

## 2021 ANNUAL REPORT

### ENTITY INFORMATION

**ENTITY NAME:** AMERCO REAL ESTATE COMPANY  
**ENTITY ID:** F00442315  
**ENTITY TYPE:** Foreign For-Profit (Business) Corporation  
**CHARACTER OF BUSINESS:** REAL ESTATE  
**AUTHORIZED SHARES:** Share Class: COMMON Share Series: Share Total: 20,000,000.00  
Share Class: Preferred Share Series: Share Total: 5,000,000.00  
**ISSUED SHARES:** Share Class: Common Share Series: Share Total: 100,000

### STATUTORY AGENT INFORMATION

**STATUTORY AGENT NAME:** C T CORPORATION SYSTEM  
**PHYSICAL ADDRESS:** 3800 N CENTRAL AVE SUITE 460 , PHOENIX, AZ 85012  
**MAILING ADDRESS:** 3800 N CENTRAL AVE SUITE 460 , PHOENIX, AZ 85012

### KNOWN PLACE OF BUSINESS

% LEGAL DEPT 2721 N CENTRAL AVE, PHOENIX, AZ 85004

### PRINCIPAL OFFICE ADDRESS

2727 N Central Avenue, PHOENIX, AZ 85004

### PRINCIPAL INFORMATION

Director: DANIEL R MULLEN - 2727 N CENTRAL AVE, PHOENIX, AZ, 85004, USA - - Date of Taking Office: 01/07/2008  
Director: Edward J Shoen - 2727 N Central Avenue, PHOENIX, AZ, 85004, USA - - Date of Taking Office: 06/10/1988  
Director: JASON A BERG - 2727 N CENTRAL AVE, PHOENIX, AZ, 85004, USA - - Date of Taking Office: 09/07/2010  
Director: Matthew F Braccia - 2727 N Central Avenue, PHOENIX, AZ, 85004, USA - - Date of Taking Office: 01/07/2019  
Director: RICHARD J HERRERA - 2727 N CENTRAL AVE, PHOENIX, AZ, 85004, USA - - Date of Taking Office: 09/03/2013  
Director: SAMUEL J SHOEN - 2727 N CENTRAL AVE, PHOENIX, AZ, 85004, USA - - Date of Taking Office: 09/07/2010  
Director: Stuart M Shoen - 207 E Clarendon Avenue, PHOENIX, AZ, 85012, USA - - Date of Taking Office: 01/02/2018  
Officer: Kevin J Harte - 5555 Kietzke Lane #100, RENO, NV, 89511, USA - - Date of Taking Office: 12/07/2015  
Officer: Randal W Studer - 2721 N Central Avenue, Phoenix, AZ, 85004, USA - - Date of Taking Office: 09/08/2020  
Officer: Tobias C Bridgeman - 5555 Kietzke Lane #100, RENO, NV, 89511, USA - - Date of Taking Office:

## Disclosure Statement

21070813569477

12/07/2015

Officer: Wesley Chadwick - 2721 N Central Avenue, Phoenix, AZ, 85004, USA - - Date of Taking Office:  
02/03/2020

President: Matthew F Braccia - 2727 N Central Avenue, PHOENIX, AZ, 85004, USA - - Date of Taking Office:  
01/07/2019

Secretary: Laurence J De Respino - 2721 N Central Avenue, PHOENIX, AZ, 85004, USA - - Date of Taking Office:  
07/07/2020

Shareholder: AMERCO - NOT REQUIRED, XX, x, - - Date of Taking Office: 12/31/9999

Treasurer: Jason A Berg - 2727 N Central Avenue, PHOENIX, AZ, 85004, USA - - Date of Taking Office:  
08/01/2016

### **SIGNATURE**

Secretary: Laurence J De Respino - 07/08/2021



## Next Steps

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

**Request**

**Modification of Conditions (Non-Conforming Use)**

**Staff Recommendation**

Approval

**Staff Planner**

Elizabeth Nowak

**Location**

404 34th Street

**GPIN**

2418923981

**Site Size**

7,000 square feet

**AICUZ**

70-75 dB DNL

**Watershed**

Chesapeake Bay

**Existing Land Use and Zoning District**

Undeveloped lot / A-12 Apartment

**Surrounding Land Uses and Zoning Districts**

**North**

34<sup>th</sup> Street

Multi-family dwellings / A-12 & A-24 Apartment

**South**

33 ½ Street

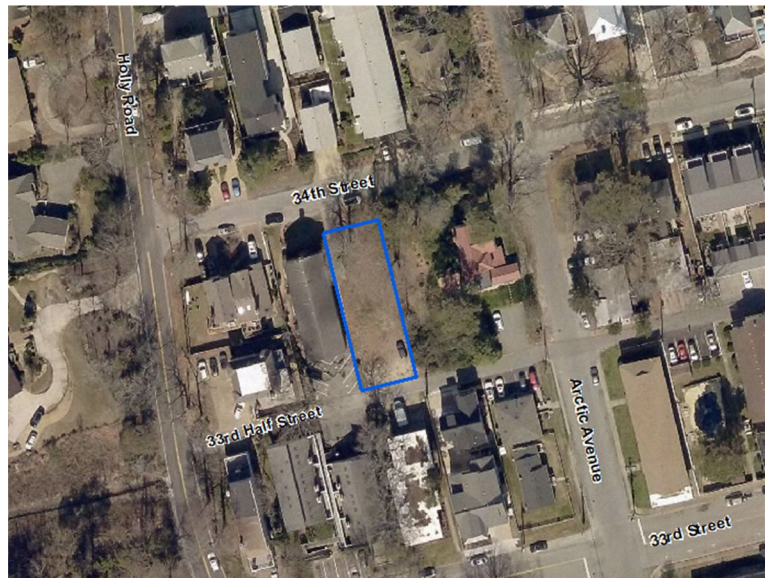
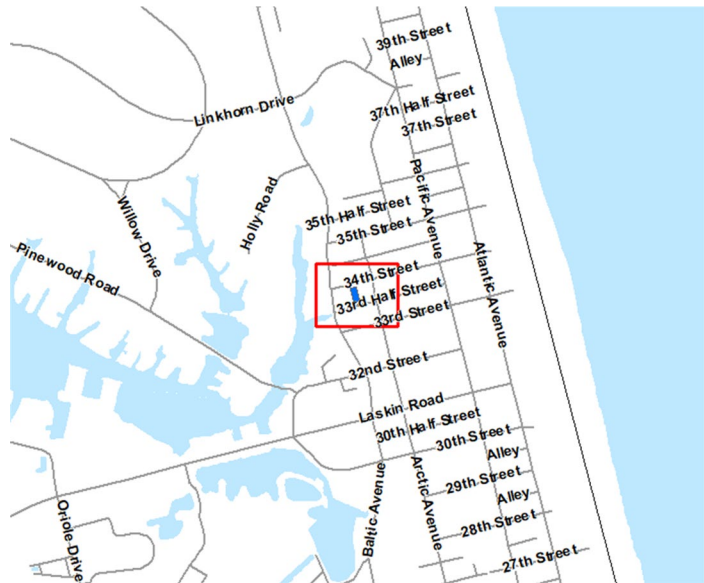
Single-family dwellings, multi-family dwellings / A-12 Apartment, RT-3 Resort Tourist

**East**

Undeveloped lot, single-family dwelling / A-12 Apartment

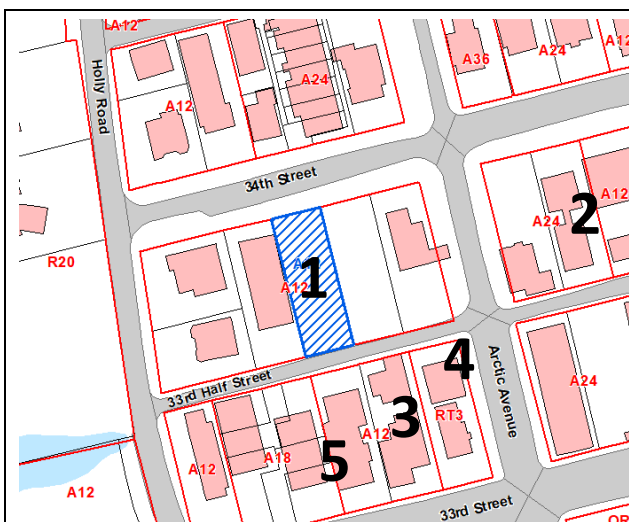
**West**

Multi-family dwellings / A-12 Apartment



## Background & Summary of Proposal

- This 7,000 square foot undeveloped lot is located in Seapines Station, an area identified in the Comprehensive Plan with recommended design guidelines. Seapines Station is characterized by a mix of early twentieth-century buildings and modern infill and redevelopment. Lots that were developed prior to the adoption of the Virginia Beach Zoning Ordinance have certain vested buildable rights, this lot being one of them.
- Prior to 2013, two mid-twentieth century buildings were located here which had a total of six dwelling units. In November 2013, a proposal to remove those structures and replace them with a development with four dwelling units was approved by City Council as a modification to a non-conformity as the six existing units (existing legally nonconforming) and the proposed four units exceeded the maximum density provision for properties in the A-12 Apartment District. Though the original structures were demolished in anticipation of that development, the replacement buildings with the four units were never constructed.
- Today, this applicant is proposing to modify specifically Conditions 1 and 4 of the 2013 approval:
  - Condition 1 refers to the design concept and layout of the previous proposal. The applicant is proposing four dwelling units (which is unchanged from the previously approved plans), but with a new layout and building designs.
  - Condition 4 intends to address design inconsistencies between drawings that had accompanied the previous application. This condition is no longer needed with the new proposal.
- The site will be developed with two duplexes: one will front 34<sup>th</sup> Street while the other will front 33 ½ Street. While the buildings will have the same elevations and configuration, they will be distinguished from each other through a complementary color scheme. The three-story buildings are proposed with a height of 37-feet and 10-inches. Front-loading, slightly recessed, single car garages will provide parking for each unit on the first floor. Entrances will be located on the side elevations of each building and will be inset with shed roofs to provide cover and to identify the entries. Faux wood siding, used as an accent material, will wrap each corner from the primary elevation to the side entrances and will provide architectural interest. Inset balconies will be located on the second and third floors of each building.
- In addition to redeveloping this lot, the applicant is working on by-right redevelopment plans for the two lots east of 404 34<sup>th</sup> Street. Similar design aesthetics, materials, and color will harmonize this multi-lot redevelopment.



### Zoning History

#	Request
1	<b>NON</b> Approved 11/12/2013
2	<b>NON</b> Approved 06/25/2018
3	<b>NON</b> Approved 06/07/2016
4	<b>STR</b> Approved 07/14/2020
5	<b>MOD</b> Approved 09/28/2010 <b>CRZ</b> (R-10 to Conditional A-12) Approved 09/12/2000

### Application Types

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

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

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

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

## Evaluation & Recommendation

The proposed modification to construct two duplexes on this site is, in Staff's opinion, acceptable. The previously approved plans for this site predate the adoption of the Seapines Station Voluntary Design Guidelines. Though the previous plans are compatible with 2013 recommendations for the Suburban Area, the current proposal adheres to several of the primary recommendations in the Seapines Station Voluntary Design Guidelines, a brief evaluation of which is included below:

### Design, Setbacks, Massing

The Guidelines recommend that large-scale structures be "broken up" into separate buildings, and that roof lines and heights be varied in order to reduce the mass of a structure; horizontal planes (i.e. exterior walls) should also have variation and architectural interest; and, in general, stacked box forms should be avoided. The Guidelines also state that the front setback of the buildings should be 10 feet, the side yard setback should be eight feet, and porches should be five feet to support both these recommendations. Front-facing garages should be limited to one-car garages and should be set back at least 36 feet from the right-of-way; parking is encouraged to be located to the rear of properties. Major goals of these guidelines are to create a pedestrian-friendly environment by encouraging interaction between buildings, the sidewalk, the street and through development patterns that are approachable, people-scaled, and architecturally interesting.

While the overall shape of the proposed duplexes are box-like, the following design elements break up the rectangular massing:

- Shed roof projecting bay on the primary elevation
- Double gables on the side elevations
- Band board that wraps the side and rear elevations
- Shed roofs at each unit entrance
- Recessed garage entrances
- Inset balconies

Front-facing garages are single car and driveways will be separated from each other. Though setbacks of the garages are shallower than the Guidelines recommend, they are an improvement over the previously approved parking solution. The previous plans proposed several long driveways and outside-only parking.

### Height

The applicant is proposing a height of 37-feet and 10-inches for these duplexes and requests a deviation to the A-12 Apartment District 35-foot height standard. In addition to the height standard set forth in the Zoning Ordinance, the Guidelines recommend that development in this area of Seapines Station have a maximum height of 35 feet.

In Staff's opinion, a deviation of height for these structures is appropriate for the following reasons:

- The requested difference is minimal at two feet and 10-inches.
- The slight increase in height accommodates a roof pitch that is compatible with adjacent buildings and that follows recommendations in the Seapines Station Voluntary Design Guidelines relating to roofs and massing. The pitch provides interest, shadow, and variation to the buildings that avoids a pure box-like form.
- Buildings on the north side of 34<sup>th</sup> Street opposite to the subject site are constructed on dunes. The change in elevation caused by the dunes on this block of 34<sup>th</sup> Street will minimize the visual impact of the proposed heights.

### Materials

The Guidelines state that siding should include high quality materials that stand up over time to the effects of salt spray and wind. Use of masonry and cement fiberboard is encouraged. The applicant is proposing premium vinyl siding on the façade and trim details. The articulation of exterior materials is balanced and meets the intent of the Guidelines.



## Landscaping

The Guidelines state that landscaping along street fronts should frame, soften and embellish the quality of the residential environment. Planted areas should be designed to aid in stormwater management, where possible. The Guidelines recommend that a minimum five-foot wide evergreen hedge be installed along the length of any driveway that abuts a north/south property line, and that street trees be planted along rights-of-way on infill lots and for redevelopment sites. In the concept landscape plan (provided below), the applicant proposes medium canopy trees at each corner of the lot and a planting buffer between each building and the adjoining property line. In Staff's opinion, this concept plan meets the recommendations in the Seapines Station Voluntary Guidelines.

Prior to this and the 2013 approval for the modification of the non-conformity, six dwelling units had been located on the subject site. Plans approved in 2013 for this site were for the construction of four dwelling units; this application also proposes four dwelling units. Overall, this project continues to reflect a net reduction of residential units, which as the property is located within the 70-75 noise zone, meets the goals of Article 18 of the Zoning Ordinance of minimizing residential units within the higher noise zones. As there is no change in the number of units from the previously approved plans, Staff anticipates no significant change in average daily trips due to this modification.

It is Staff's opinion that the project addresses many of the key Seapines Station Design Guidelines with regard to providing a quality streetscape and built environment that reduces emphasis on parking areas. Based on the considerations above, Staff recommends approval of this Change in Nonconformity request subject to the conditions below.

## Recommended Conditions

1. Except as modified by any condition below, or as necessary to meet City Development Ordinances and Standards, the Site shall be developed substantially in accordance with the submitted concept site layout entitled "Non-conformity exhibit of Lot 13, Block 106 Subdivision of Linkhorn Park," prepared by Align Surveying & Design, P.C. and dated 11/12/2021.
2. Except as modified by any condition below, or as necessary to meet City Development Ordinances and Standards, the Site shall be developed substantially in accordance with the submitted elevations entitled "404 34<sup>th</sup> St. & 405 33.5 St. Duplex," prepared by Land Planning Solutions and dated 7/20/2022.
3. The maximum number of dwelling units on the subject Site shall not exceed four (4).
4. A Landscape Plan shall be submitted to the Development Services Center of the Department of Planning and Community Development for review and ultimate approval prior to issuance of a Certificate of Occupancy and shall be developed in substantial conformance with the landscape plan entitled "Concept Landscape Plan for Lot 13, Block 106", dated 7/26/2022, and prepared by Gaddy Engineering Services LLC, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development.
5. The height of the buildings shall not exceed 38 feet at the ridgeline as exhibited in the submitted elevations entitled "404 34<sup>th</sup> St. & 405 33.5 St. Duplex," prepared by Land Planning Solutions and dated 7/20/2022. This is a deviation to the 35-foot height requirement, as required by the City 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 proposal is located in Seapines Station, near the Oceanfront Resort Area. Voluntary design guidelines exist for this area—the Seapines Station Voluntary Design Guidelines—to encourage a quality streetscape and built environment that reduces emphasis on the garage and parking areas, provides appropriate massing and treatment of buildings, accommodates large porches and increases plant material along street frontages. In sum, the guidelines support the development of quality and compatible infill development.

## Natural & Cultural Resources Impacts

The site is located in the Chesapeake Bay Watershed. There are several significant mature trees on the property that are slated for removal. Staff notes that it would be difficult to redevelop the property with four units without long-term impact to the health of the trees, ultimately resulting in removal of the trees.

In Seapines Station, there are some individual resources that have been identified in the City’s Architectural Survey. Among these resources is the c.1922 Mediterranean Revival house at 3310 Arctic Avenue, which is a rare example of this style of architecture in Virginia Beach. The building is located on the southwest corner of 34<sup>th</sup> Street and Arctic Avenue, two lots east of the subject site. While not directly affected by this application, the building is planned to be demolished as part of a different redevelopment project, which is likely to occur within a similar timeframe as this development.

## Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
34th Street	No available traffic counts		Existing Land Use <sup>1</sup> – 27 ADT <sup>2</sup> Proposed Land Use <sup>3</sup> – 29 ADT
<sup>1</sup> as defined by a 4-unit apartment	<sup>2</sup> Average Daily Trips	<sup>3</sup> as defined by 4 duplex residences	

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

34<sup>th</sup> Street is a two-lane undivided local street. This road is not included in the MTP and there are no CIP projects slated for this area.

## Public Utility Impacts

### Water

City water is available from a six-inch City water main along 34<sup>th</sup> Street.

### Sewer

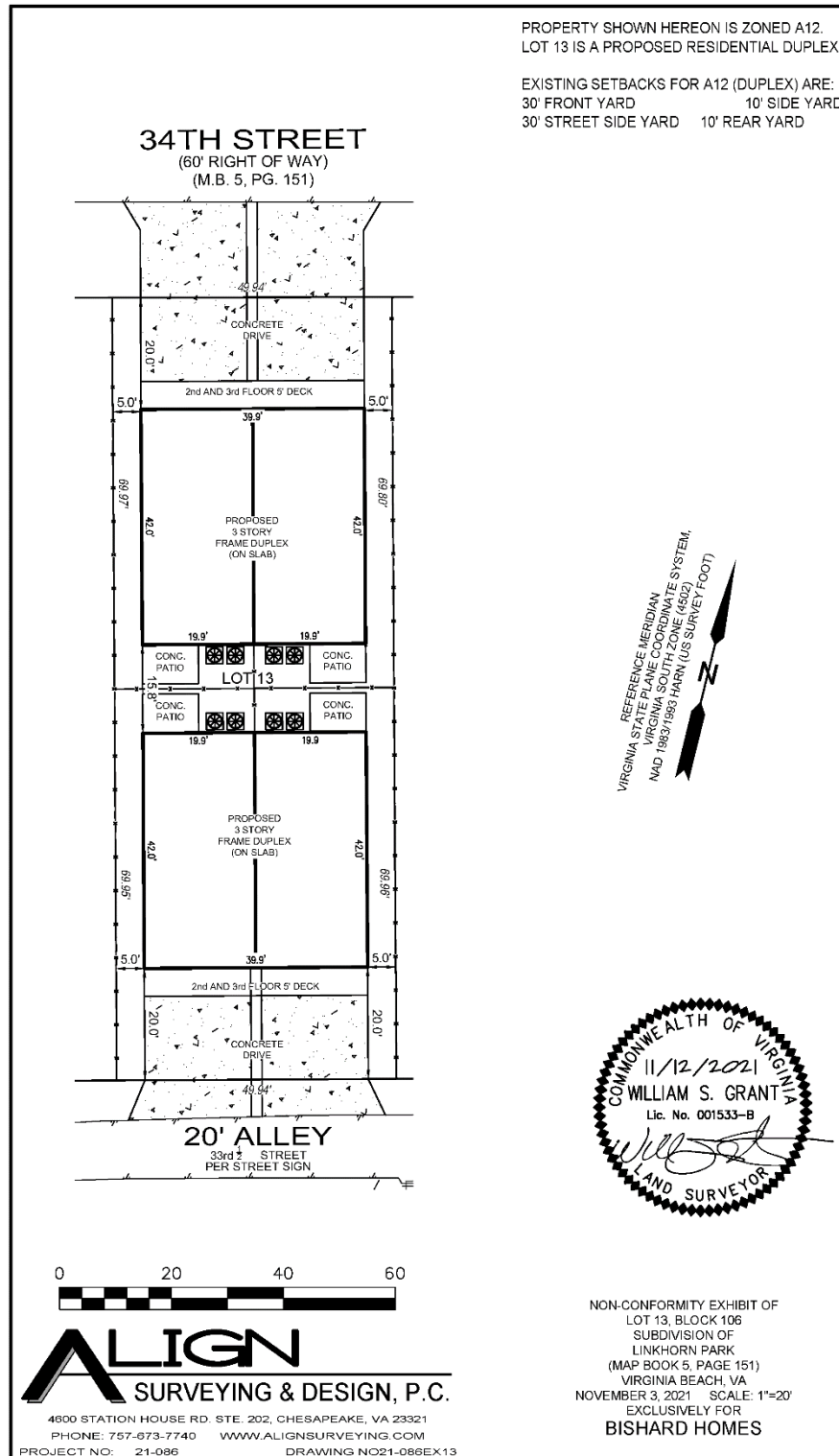
City sanitary sewer service is available from an existing eight-inch City sanitary sewer gravity main along 33<sup>rd</sup> ½ Street.

Each individual unit must connect to City water and sanitary sewer with separate and exclusive service lines, meters, sewer laterals, and cleanouts.

### Planning Commission

- As of the printing of this staff report, Staff has received three letters of support from adjacent property owners.
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on July 5, 2022.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, July 24, 2022 and July 31, 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 July 25, 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](http://www.vbgov.com/pc) on August 4, 2022.

# Proposed Site Layout

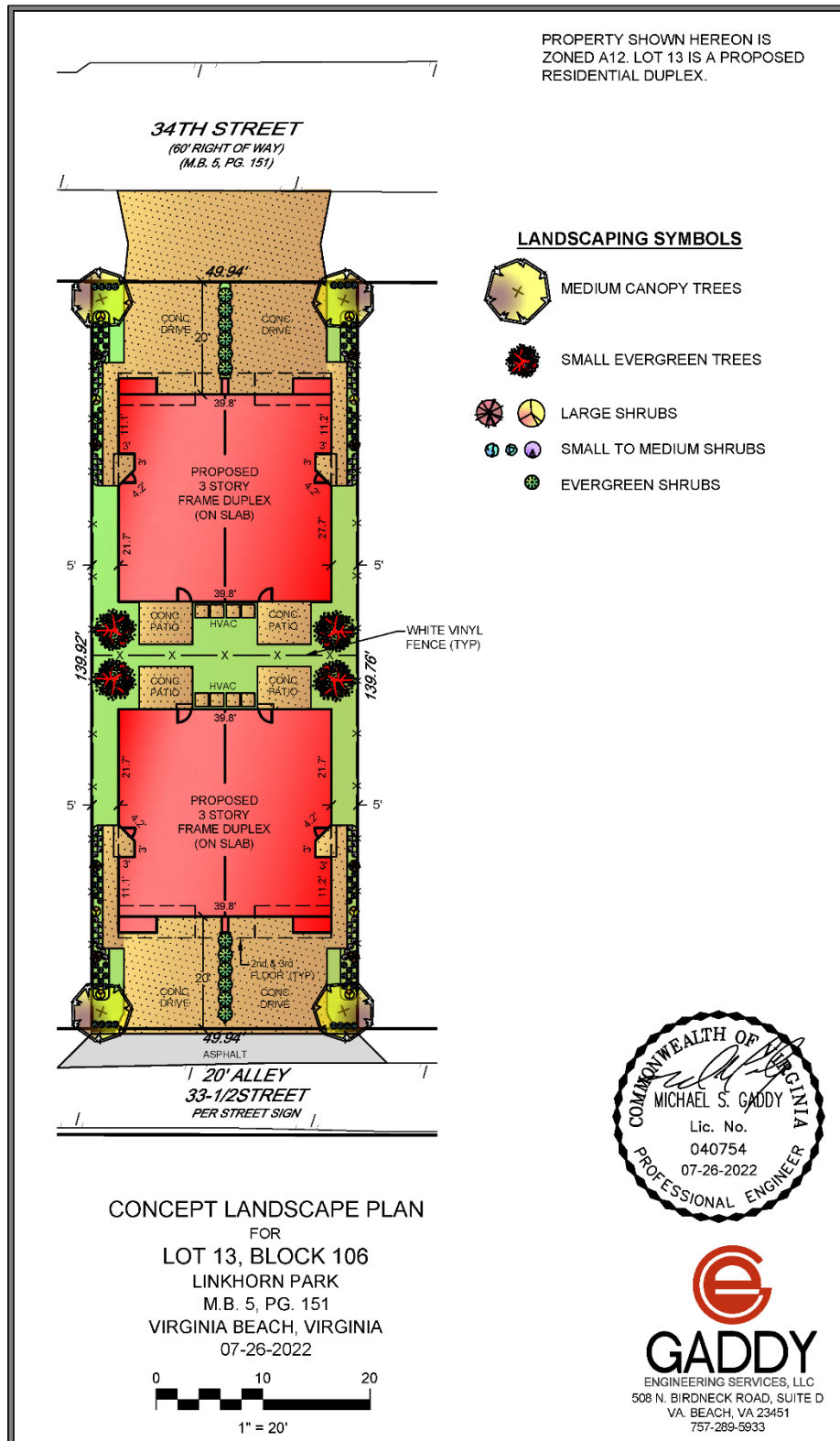


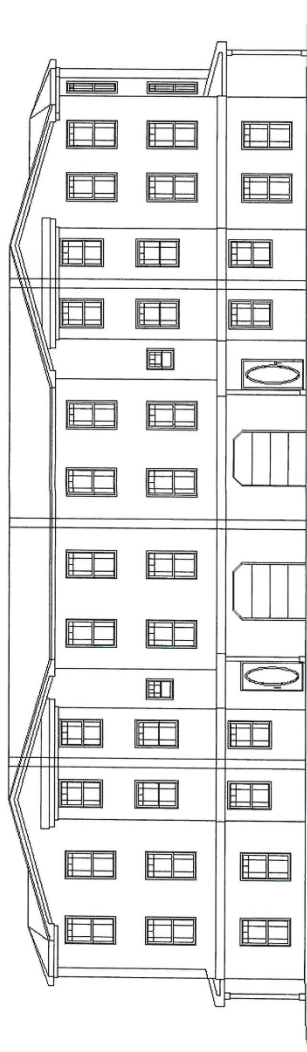


## Proposed Elevation Plan

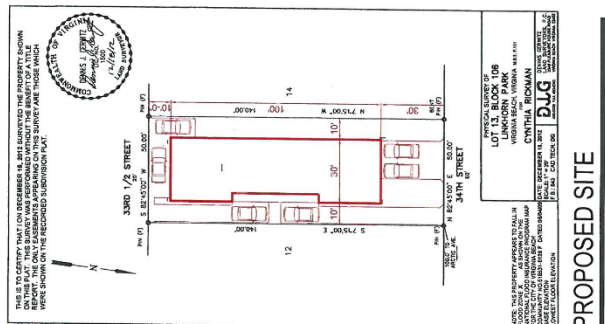


# Concept Landscape Plan

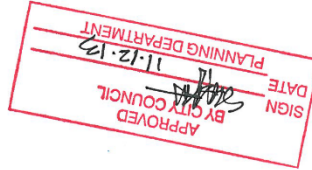




PROPOSED EAST SIDE ELEVATION



PROPOSED 34th STREET ELEVATION



1                   A RESOLUTION TO MODIFY THE CONDITIONS FOR A  
2                   DEMOLITION AND REBUILD OF NONCONFORMING  
3                   STRUCTURES ON PROPERTY LOCATED AT 404 34<sup>TH</sup>  
4                   STREET  
5

6                   WHEREAS, Ocean Condominium Developers, LLC (the "Applicant") has made  
7                   application to the City Council for authorization to modify the conditions for a demolition  
8                   and rebuild of nonconforming dwellings at 404 34<sup>th</sup> Street and zoned A-12 Apartment  
9                   Zoning District;  
10

11                  WHEREAS, this parcel currently is vacant, but contained 6 dwelling units in 2013  
12                  when this parcel received approval to demolish and rebuild 4 dwelling units in compliance  
13                  with the submitted plan. These dwellings were constructed prior to the adoption of the  
14                  applicable zoning regulations and are therefore nonconforming;  
15

16                  WHEREAS, the 2013 submitted plan does not match the plans submitted for this  
17                  condominium project, but they do have only 4 units, so a modification is required to the  
18                  previous conditions;  
19

20                  WHEREAS, the Planning Commission of the City of Virginia Beach recommended  
21                  approval of this application on August 10, 2022; and  
22

23                  WHEREAS, pursuant to Section 105 of the City Zoning Ordinance, the demolition  
24                  and rebuild of nonconforming structures is unlawful in the absence of a resolution of the  
25                  City Council authorizing such action upon a finding that the proposed structures as  
26                  modified be equally appropriate or more appropriate to the zoning district than are the  
27                  existing structures.  
28

29                  NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF  
30                  VIRGINIA BEACH, VIRGINIA:  
31

32                  That the City Council hereby finds that the proposed nonconforming dwellings as  
33                  demolished and rebuilt will be equally appropriate to the district as are the existing  
34                  conditions and dwellings under the conditions of approval set forth herein below.  
35

36                  BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF VIRGINIA  
37                  BEACH, VIRGINIA:  
38

- 39                  1. That the modification of conditions for the nonconforming dwelling units is hereby  
40                  authorized, upon the following conditions: Except as modified by any condition  
41                  below, or as necessary to meet City Development Ordinances and Standards, the  
42                  Site shall be developed substantially in accordance with the submitted concept site  
43                  layout entitled "Non-conformity exhibit of Lot 13, Block 106 Subdivision of Linkhorn  
44                  Park," prepared by Align Surveying & Design, P.C. and dated 11/12/2021.
- 45                  2. Except as modified by any condition below, or as necessary to meet City  
46                  Development Ordinances and Standards, the Site shall be developed substantially



## Resolution

- 47 in accordance with the submitted elevations entitled "404 34<sup>th</sup> St. & 405 33.5 St.  
48 Duplex," prepared by Land Planning Solutions and dated 7/20/2022.
- 49 3. The maximum number of dwelling units on the subject Site shall not exceed four  
50 (4).
- 51 4. A Landscape Plan shall be submitted to the Development Services Center of the  
52 Department of Planning and Community Development for review and ultimate  
53 approval prior to issuance of a Certificate of Occupancy and shall be developed in  
54 substantial conformance with the landscape plan entitled "Concept Landscape Plan  
55 for Lot 13, Block 106", dated 7/26/2022, and prepared by Gaddy Engineering  
56 Services LLC, which has been exhibited to the Virginia Beach City Council and is  
57 on file in the Department of Planning and Community Development.
- 58
- 59 5. The height of the buildings shall not exceed 37 feet at the ridgeline as exhibited in  
60 the submitted elevations entitled "404 34<sup>th</sup> St. & 405 33.5 St. Duplex," prepared by  
61 Land Planning Solutions and dated 7/20/2022. This is a deviation to the 35-foot  
62 height requirement as required by the City Zoning Ordinance.  
63  
64

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

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL SUFFICIENCY:

  
\_\_\_\_\_  
Planning and Community  
Development

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

CA15888  
R-1  
August 3, 2022



## 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** Ocean Condominium Developers, LLC

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

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

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

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

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

Steven W. Bishard & John Bishard, Members

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

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

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



### Disclosure Statement



#### Known Interest by Public Official or Employee

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

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

#### Applicant Services Disclosure

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

☐ **Yes** ☒ **No**

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

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

☐ **Yes** ☒ **No**

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

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

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

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

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

Land Planning Solutions - John Bengtson

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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

### 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.

Steven W. Bishard, Bishard Homes

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.

William Grant, Align Surveying & Design, Inc.

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

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

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

#### Applicant Signature

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

A handwritten signature in black ink, appearing to read 'Steven Bishard'.

Applicant Signature

Steven Bishard, Manager

Print Name and Title

June 1, 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	

## Disclosure Statement

### Disclosure Statement



#### Owner Disclosure

Owner Name ORP Ventures, LLC

Applicant Name Ocean Condominium Developers, LLC

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

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

Steven W. Bishard & John K. Bishard, Managers

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

Ocean Condominium Developers; Bishard Homes, 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?

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

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



### Disclosure Statement



#### Owner Services Disclosure

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



## Disclosure Statement

### Disclosure Statement



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

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

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

#### 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.**

ORP Ventures, LLC

By: 

Owner Signature

Steven W. Bishard, Manager

Print Name and Title

Date

6/16/2022

## 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.

### Requests

**#14 – Modification of Proffers**

**#15 – Conditional use Permit (Automobile Repair Garage)**

### Staff Recommendation

Approval

### Staff Planner

Elizabeth Nowak

### Location

3041 Holland Road

### GPIN

1495138628

### Site Size

3.07 acres

### AICUZ

70-75 dB DNL; APZ-2

### Watershed

Southern Rivers

### Existing Land Use and Zoning District

Undeveloped lot / B-2 Community Business

### Surrounding Land Uses and Zoning Districts

#### North

Holland Road

Office warehouse, animal shelter / I-1 Light Industrial

#### South

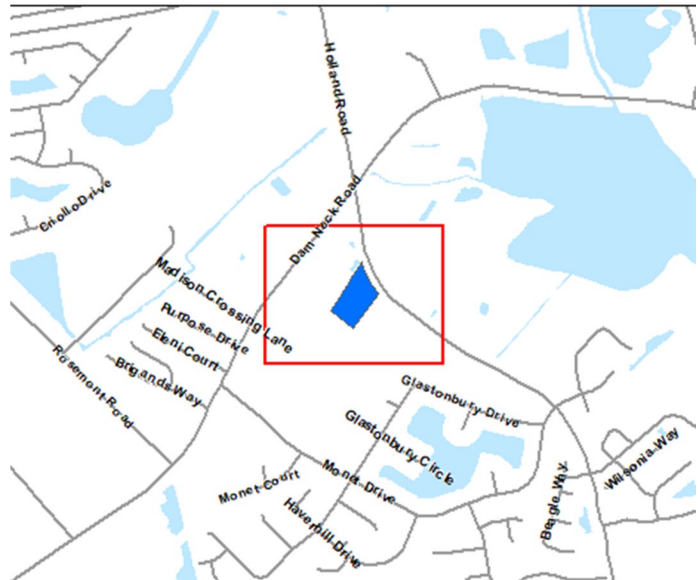
Single-family dwelling/ AG-2 Agricultural

#### East

Single-family dwelling / AG-2 Agricultural

#### West

Single-family dwelling, automobile repair & sales / B-2 Community Business, AG-2 Agriculture



## Background & Summary of Proposal

- These requests for a Modification of Proffers and Conditional Use Permit were previously heard and recommended for approval by Planning Commission on May 11, 2022 and approved by City Council on June 7, 2022. Following these actions, it was discovered that the proffer agreement, advertising, and public notice had identified the incorrect property owner. These requests are being resubmitted to Planning Commission and City Council to correct the property owner name. Aside from this correction, the nature and scope of the proposals remain unchanged.
- Reed Enterprises, Inc. is requesting a Modification of Proffers on this property to amend the proffered site plan, building elevations, and uses on the site. This Modification of Proffers supports a simultaneous request by Liberty Transmission & Auto Care, Inc. for a Conditional Use Permit to develop an Automobile Repair Garage for automotive transmission and small engine repair on the subject property. As part of these dual requests, the applicants are also requesting to rescind a Conditional Use Permit for a Bulk Storage Yard that was previously approved for this site.
- This 3.07-acre parcel is zoned Conditional B-2 Community Business and is presently an undeveloped lot. The property was conditionally rezoned in 2013 from AG-2 Agriculture District to Conditional B-2 Community Business District. Conditional Use Permits for an Automobile Repair Garage and a Bulk Storage Yard were also sought and approved in conjunction with the 2013 conditional rezoning. The site layout, building elevations, and specific uses were all included with the proffers and conditions associated with the rezoning and Conditional Use Permit applications. In 2015, the proffers were modified to relocate the proposed stormwater retention facility.
- In 2017, the owner of this parcel was presented with an opportunity to develop a heavy automotive repair business on another parcel that is adjacent to the subject site. While the appropriate approvals were sought for that property (3249 Dam Neck Road), the owner also submitted a request to rescind the previously approved Conditional Use Permit for an Automobile Repair Garage for this property (3041 Holland Road). The previously proffered site plan and elevations from 2015 were unchanged with this revision and remain in effect.
- With the present requests to modify proffers and to reestablish a Conditional Use Permit for an Automobile Repair Garage, the proposal includes changes to the building's elevations, the layout of the site, and permitted uses. A new lessee—Liberty Transmission & Auto Care Inc.— proposes to operate an Automobile Repair Garage that will offer typical light automotive repair services such as oil and fluid changes and inspections. No heavy automotive repairs, such as body work, engine replacement, or painting, will be offered.
- Along with the proposed change in uses, the applicants are proposing to modify the size of the building and, by extension, the layout of the site. The building footprint is being reduced from 12,525 square feet of mixed shop area and office area to a total size of 5,920 square feet. The outdoor storage area will be removed, and parking spaces will be added at the rear of the building. The previously proposed stormwater management facility will remain in the same approximate location and with the same approximate dimensions. The proposed site layout includes 39 parking spaces, which exceeds the maximum 9 spaces permitted for automotive repair businesses of this square footage per Section 203(a)(16). Excess parking requires approval by the Planning Director per Section 203(b)(9).
- The new T-shaped building will have a red brick and buff color stone façade with large single-pane windows in the primary elevation. Overhead garage doors are located along the east and west elevations of the shop area to allow vehicles to enter and exit. The proposed design is very similar to buildings developed on adjacent properties as shown in site context photos on pages 11 and 12 of this report.
- Wall signs shown in the provided elevations are for illustration purposes only; a sign package will be submitted for review when the applicant applies for appropriate sign permits. In addition to the proposed building signs, there will be a monument sign with a brick base located on the west side of the driveway. The height of the monument sign will not exceed eight feet, as noted in Proffer 3.



- The business will employ five to eight people. Typical operating hours will be 8:00 a.m. to 6:00 p.m., Monday through Friday.

Zoning History	
#	Request
1	<b>MDC</b> (Automobile Repair Garage) Approved 12/06/2017 <b>CUP</b> (Auto Repair Garage) Approved 05/17/2017 <b>CUP</b> (Motor Vehicle Sales & Rentals) Approved 07/05/2016 <b>CUP</b> (Automobile Repair Establishment) Approved 02/22/2005 <b>CRZ</b> (AG-2 to Conditional B-2) Approved 02/22/2005
2	<b>CUP</b> (Auto Service Station) Approved 07/03/2001 <b>CRZ</b> (AG-2 to Conditional B-2) Approved 07/03/2001
3	<b>REZ</b> (O-2 to I-1) Approved 02/14/1995
4	<b>CUP</b> (Animal Shelter) Approved 05/28/2002
5	<b>MDC &amp; MDP</b> (Auto Repair Garage & Bulk Storage Yard) Approved 12/8/2015 <b>CUP</b> (Auto Repair Garage & Bulk Storage Yard) Approved 10/08/2013 <b>CRZ</b> (AG-2 to Conditional B-2) Approved 10/08/2013
6	<b>CUP</b> (Communication Tower) Approved 06/09/1998 <b>REZ</b> (AG-1 to I-1) Approved 12/05/1983 <b>CUP</b> (Bulk Storage Yard) Approved 12/05/1983
7	<b>CUP</b> (Communication Tower) Approved 02/23/1999
8	<b>CRZ</b> (AG-2 to O-1) Approved 03/11/2008
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, these requests for a Modification of Proffers and for a Conditional Use Permit for an Automobile Repair Garage are acceptable. The site is located in the Suburban Area, as defined by the Comprehensive Plan. One of the major goals for the Suburban Area in the Comprehensive Plan is for the creation of "Great Neighborhoods," which calls for the development and clustering of compatible uses. The properties immediately adjacent to the subject site host compatible auto-service uses with high-quality design of a similar character as the applicant proposes. While in the Suburban Area, this property is also located in the Accident Potential Zone-2 and the 70-75 dB noise area. Together, these overlays limit the possibility of residential development and make this site an ideal location for complementary non-residential uses.

The thoughtful design and high-quality materials of the proffered site plan and building design relate well to existing, adjacent auto-oriented businesses. Large windows increase transparency of the building and open into office space rather than the service area. The proposed plantings along the street frontage and throughout the site will further emphasize the thoughtful design of the building and will provide an attractive visual transition from the Dam Neck Road corridor into the lower intensity corridor along Holland Road.

The site is located in the Southern Rivers Watershed. A site plan was reviewed and approved by the Development Services Center on January 28, 2022 for the previously proffered site concept, including stormwater impact analysis. The current proposal has less impervious surface than the previous design, is located within the same general footprint as the previous proposal and proposes a similar stormwater management strategy for the site. In Staff's opinion, this

design is likely able to meet stormwater impact regulations without an additional preliminary stormwater analysis. Recommended Condition 10 below addresses the need for a final stormwater plan to be submitted at the time of site review.

Finally, it is Staff's opinion that this project will have no adverse impact on traffic on Holland Road. An analysis by Staff estimates that this development will generate 95 average daily trips. As compared with potential development of the site, it could generate up to 1,700 average daily trips based on the overall size of the site as zoned B-2 Community Business. The previously approved development plans that included a 12,525 square-foot building was estimated to generate 200 average daily trips. The current proposal will have a reduced average daily trip count; additionally, Holland Road is currently operating under its maximum traffic volume capacity.

For these reasons, Staff recommends approval of these requests, subject to the proffers and conditions listed below.

## Proffers

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

### **Proffer 1:**

When the Property is developed, it shall be developed substantially as shown on the exhibit entitled, "SITE LAYOUT TRANSMISSION AND AUTO CARE CENTER FOR NEAL REED 3041 HOLLAND ROAD VIRGINIA BEACH, VIRGINIA", prepared by SIA, dated 04-03-2022, which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning (hereinafter "Site Plan").

### **Proffer 2:**

The exterior of the building depicted on the Site Plan shall be substantially similar in appearance and shall utilize the building materials and colors depicted and described on the elevations entitled, "LIBERTY TRANSMISSION & AUTO CARE, INC. 3041 HOLLAND ROAD, VIRGINIA BEACH, VA 23453, dated April 5, 2022, which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning & Community Development (hereinafter "Elevation").

### **Proffer 3:**

The freestanding sign depicted on the Site Plan shall be brick based monument style sign no greater than eight feet (8') in height.

### **Proffer 4:**

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

### **Proffer 5:**

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

### **Proffer 6:**

These conditions supersede and replace those previously proffered conditions numbered 1 through 5 as set forth in the 2013 Proffers as modified by the 2015 Amended Proffers.

**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.

## Recommended Conditions

1. The development of the site shall substantially conform with the site plan entitled "SITE LAYOUT TRANSMISSION AND AUTO CARE CENTER FOR NEAL REED 3041 HOLLAND ROAD VIRGINIA BEACH, VIRGINIA," prepared by SIA and dated 4/3/2022 and with the elevation plans entitled, "LIBERTY TRANSMISSION & AUTO CARE, INC. 3041 HOLLAND ROAD, VIRGINIA BEACH, VA 23453, dated April 5, 2022 and which both have been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning & Community Development.
2. All motor vehicle repairs shall take place inside the building.
3. No outside storage of equipment, parts or materials shall be permitted.
4. No outside storage of vehicles in a state of obvious disrepair shall be permitted.
5. No tires for sale, merchandise or parts shall be displayed or stored outside.
6. All outdoor lighting shall be shielded to direct light and glare onto the premises; said lighting and glare shall be deflected, shaded, and focused away from adjoining property. Any outdoor lighting fixtures shall not be erected any higher than 14 feet.
7. All on-site signage must meet the requirements and regulations of the Zoning Ordinance. A separate permit from the Department of Planning & Community Development is required for any new signage installed on the site.
8. A photometric plan shall be submitted at the time of final site plan review.
9. A Landscape Plan shall be submitted to the Development Services Center of the Department of Planning & Community Development for review and ultimate approval prior to the release of the final site plan.
10. A final stormwater plan shall be submitted to the Development Services Center (DSC) for review and approval.
11. Parking above the maximum number of parking spaces shall only be permitted with approval by the Planning Director pursuant to Section 203(b)(9) of the Zoning Ordinance.

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

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

## Comprehensive Plan Recommendations

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. A primary criterion of creating Great Neighborhoods is to make sure new uses are compatible with 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 historical or cultural resources affected by this project.

## Stormwater Impacts

### Project Stormwater Design Staff Summary

A site plan, along with a stormwater analysis, was approved by the Development Services Center on January 28, 2022 for the 2015 proffered site plan. The proffered modifications to this plan are within the general footprint of what was previously approved for storm water analysis and has less impervious surface. Given this and the recently approved site plan, a new preliminary stormwater analysis was not required at this time.

## Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Holland Road	15,900 ADT <sup>1</sup>	32,700 ADT <sup>1</sup> (LOS <sup>4</sup> "D")	Existing Land Use <sup>2</sup> – 1,700 ADT Proposed Land Use <sup>3</sup> – 95 ADT
<sup>1</sup> Average Daily Trips	<sup>2</sup> as defined by a 3.1 acre parcel zoned B-2 Community Business	<sup>3</sup> as defined by a 5,920 square foot Automobile Repair Garage	<sup>4</sup> LOS = Level of Service

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

There are no current Capital Improvement Projects to improve Holland Road, which is a four-land divided minor suburban arterial roadway.

## Public Utility Impacts

### Water

There is a 16-inch City water transmission main along Holland Road. The project site must connect to City water. Connection should be made to a one-inch water service line from Holland Road in accordance with an approved site plan (DSC File #H10-002623-SP).



## **Sewer**

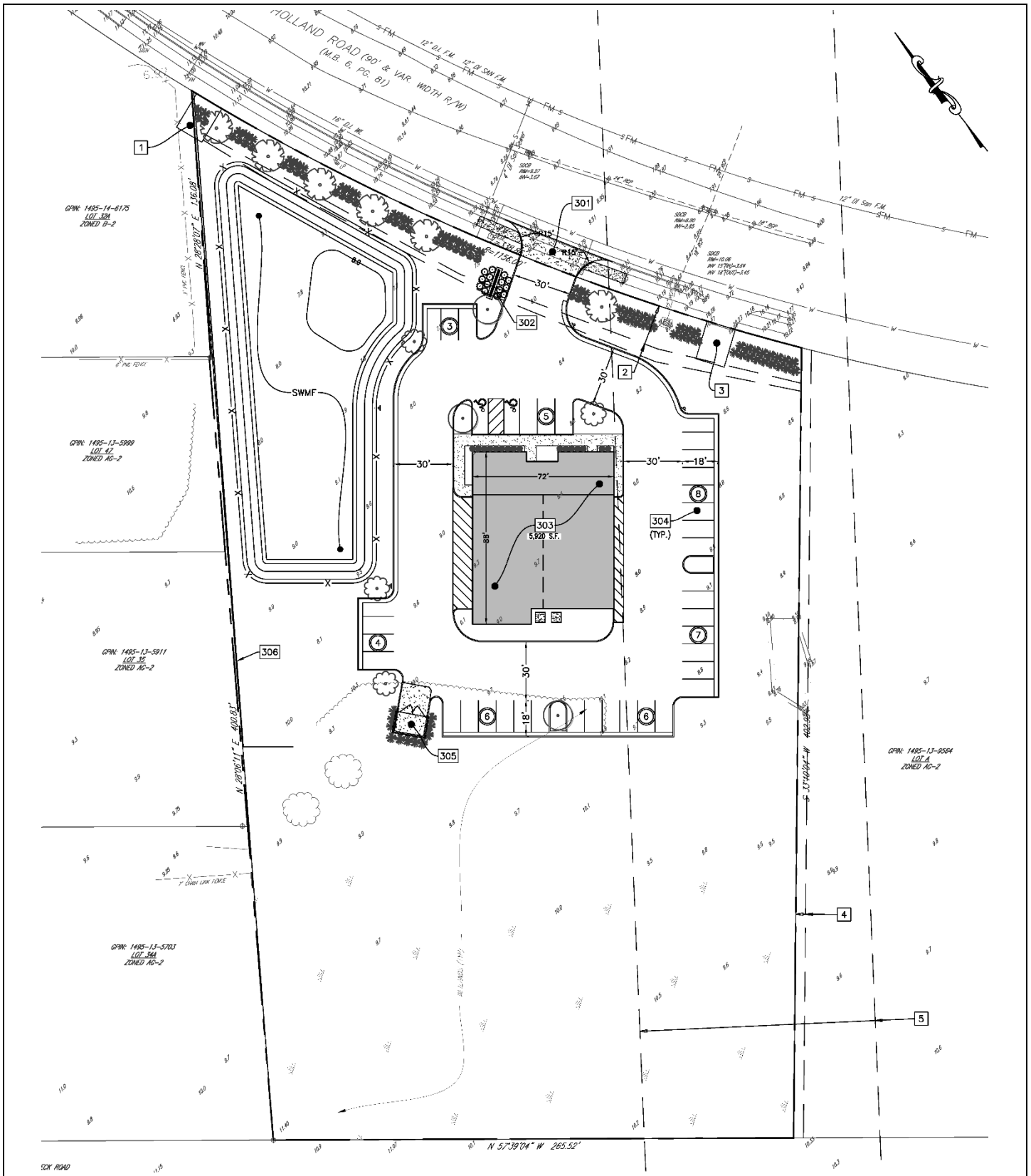
There is an 8-inch City sanitary sewer force main along Holland Road. The project site must connect to City sanitary sewer. Connection should be made to a four-inch plugged sanitary sewer force main from Holland Road in accordance with an approved site plan (DSC File #H10-002623-SP).

## **Public Outreach Information**

### **Planning Commission**

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on July 11, 2022.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, July 24, 2022 and July 31, 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 July 25, 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](http://www.vbgov.com/pc) on August 4, 2022.

## Proposed Site Layout



## Proposed Elevation Plan



Liberty Transmission & Auto Care, Inc.  
3041 Holland Road, Virginia Beach, VA, 23453

Roof:  
Grey Architectural Shingles

Exterior Material:  
Red Brick Veneer

Windows:  
White Vinyl Frames

April 4, 2022

## Proposed Elevation Plan



RIGHT ELEV.



LEFT ELEV.

Liberty Transmission & Auto Care, Inc.  
3041 Holland Road, Virginia Beach, VA, 23453

April 4, 2022

Roof:  
Grey Architectural Shingles

Exterior Material:  
Red Brick Veneer

Windows:  
White Vinyl Frames



## Site Photos



*Subject Site*



*Existing fuel station and carwash adjacent to the subject site with similar design as proposed elevations*



## Site Photos



*Context north across Holland Road from subject site.*

### 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** Liberty Transmission & Auto Care, Inc.

**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)

Curtis Lee Price, II, President; Michelle Price, Secretary/Treasurer

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

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

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

### Disclosure Statement



#### Known Interest by Public Official or Employee

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

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

#### Applicant Services Disclosure

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

☐ Yes ☒ No

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

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

☐ Yes ☒ No

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

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

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

Beverly Jones, CPA

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

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

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

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



## Disclosure Statement

### Disclosure Statement



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

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

~~Reed Enterprises, Inc., Neal Reed~~

Reed Enterprises Incorporated One, Neal Reed

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.

Site Improvements, Claude Lym

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., Sykes, Bourdon Ahern & Levy; Scott Coleman, Coleman & Coleman~~

#### 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.

Liberty Transmission & Auto Care, Inc.

 President

Applicant Signature

Curtis Lee Price, II, President

Print Name and Title

3/01/2022

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	

## 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** Reed Enterprises Incorporated One, a Virginia corporation

**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)

Neal Reed, President; Maurice Reed, Vice President; Manjula P. Reed, Secretary/Treasurer

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

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

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

### Disclosure Statement



#### Known Interest by Public Official or Employee

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

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

#### Applicant Services Disclosure

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

☐ Yes ☒ No

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

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

☐ Yes ☒ No

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

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

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

Ramesh Joshi, CPA

---

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

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

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

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



## Disclosure Statement

### Disclosure Statement



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

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

Reed Enterprises Incorporated One, Neal Reed

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.

Claude Lym, SIA

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.

Reed Enterprises Incorporated One

By:  6/14/22

Applicant Signature

Neal Reed, President

Print Name and Title

6/14/2022

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.





Applicant **World Famous BHS, Inc**  
Property Owner **Lynnhaven Investment Partners, LLC**  
Planning Commission Public Hearing **August 10, 2022**  
City Council District **District 8**, formerly Lynnhaven

Agenda Items

**16 &  
17**

### Requests

**#16 Conditional Use Permit** (Tattoo Parlor)

**#17 Conditional Use Permit** (Body Piercing Establishment)

### Staff Recommendation

Approval

### Staff Planner

Michaela McKinney

### Location

2980 Virginia Beach Boulevard

### GPIN

1497251963

### Site Size

16,487 square feet

### AICUZ

65-70 dB DNL; Sub-Area 3, 70-75 dB DNL

### Watershed

Chesapeake Bay

### Existing Land Use and Zoning District

Retail / B-2 Community Business

### Surrounding Land Uses and Zoning Districts

#### North

Single-family dwelling / R-7.5 Residential

#### South

Virginia Beach Boulevard

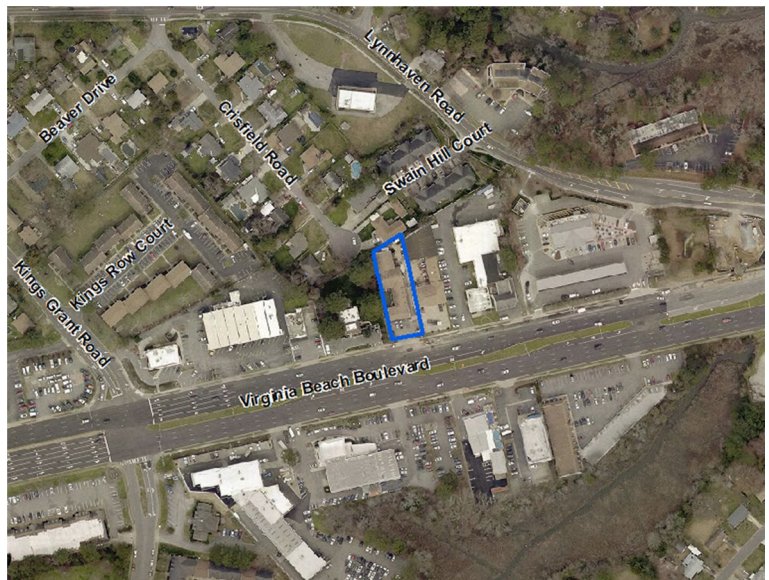
Car dealership / B-2 Community Business

#### East

Retail / B-2 Community Business

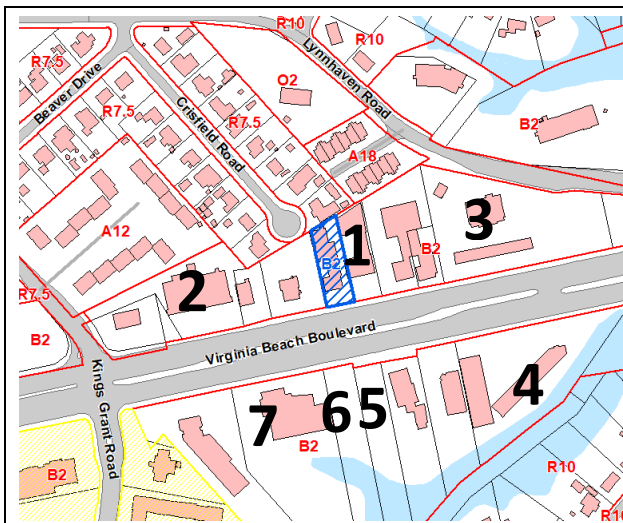
#### West

Veterinary clinic / B-2 Community Business



## Background & Summary of Proposal

- The applicant is requesting Conditional Use Permits for a Tattoo Parlor and a Body Piercing Establishment within an existing 6,480 square foot building. The building is located along Virginia Beach Boulevard on property zoned B-2 Community Business District.
- The typical hours of operation will be 10:00 a.m. to 7:00 p.m., Monday through Sunday.
- The applicant proposes to renovate the entire building and offer individual booth spaces for up to 20 tattoo artists and body piercing specialists.
- Per Section 203(10), 32 spaces are required for the proposed uses in this building. Only two spaces are available on site, which is short the required minimum by 30 spaces. The applicant has entered into a shared parking agreement with two adjacent businesses—Honda Motorcycles of Virginia Beach and Window World—to satisfy the parking requirements. Up to 18 spaces will be shared with Honda Motorcycles and 12 spaces will be shared with Window World of Tidewater.
- The only exterior change to the building will be the installation of new building signage. A freestanding sign is also proposed along Virginia Beach Boulevard. A condition is recommended to limit the height and the materials.



### Zoning History

#	Request
1	CUP (Small Engine Repair & Service) Approved 12/02/2014
2	CUP (Church) Approved 05/26/2009
3	MDC Approved 12/11/2013
4	CUP (Tattoo Parlor) Approved 09/26/2016
5	CUP (Automobile Sales, Repair, & Service) Approved 01/14/1998
6	CUP (Motor Vehicle Sales) Approved 01/12/2000
7	CUP (Car Wash) & MODC (Motor Vehicle Sales, Rentals & Repairs) Approved 08/17/2017

### 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, these requests for Conditional Use Permits for a Tattoo Parlor and Body Piercing Establishment are consistent with the Comprehensive Plan's land use policies for the Lynnhaven Strategic Growth Area (SGA). A tattoo parlor and body piercing establishment going into an existing retail building is consistent with the design principles by building an existing balance of home, goods, and services. In addition, Staff does not anticipate a significant increase in traffic volume with the addition of this use along Virginia Beach Boulevard.

The majority of the property is located within the 70 to 75 dB noise zone of the Air Installation Compatible Use Zones (AICUZ), with a small portion of the northwest corner of the site located within the 65-70 dB, Sub-Area 3. Many uses



within these noise zones are restricted, as identified in Article 18 of the Zoning Ordinance; however, personal services, such as the proposed tattoo parlor and body piercing establishment, are considered to be compatible uses.

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

Section 203(b)(10) describes how shared parking agreements can be used to satisfy parking requirements for separate parcels that are within 500 feet of each other. This section specifies the qualifications of shared parking including no parking required by a use may be used as off-site parking for another use. Shared parking spaces identified in the shared parking agreements are those in excess of the number of spaces minimally required as set forth in the Zoning Ordinance. Given this and as permitted by the Zoning Ordinance, the Zoning Administrator deemed the proposed shared parking arrangements acceptable.

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

### **Recommended Conditions (Tattoo Parlor & Body Piercing Establishment)**

1. A business license for the Tattoo Parlor and Body Piercing Establishment shall not be issued to the applicant without the approval of the Health Department for consistency with the provisions of Chapter 23 of the City Code.
2. The actual application of tattoos and body piercing shall not be visible from the exterior of the establishment or from the waiting and sales area within the establishment.
3. The parking for this use must adhere to the shared parking agreement and parking plan approved by the Zoning Administrator.
4. Any on-site signage for the establishment shall meet the requirements of the City Zoning Ordinance, and there shall be no neon, electronic display or similar sign installed on the exterior of the building or in any window, or on the doors. Window signage shall not be permitted. Any freestanding signage shall be monument style, no higher than eight feet, with a brick base to match the building. A separate sign permit shall be obtained from the Planning Department for the installation of any new signs.

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

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

### **Comprehensive Plan Recommendations**

The Comprehensive Plan designates this site as located in the Lynnhaven Strategic Growth Area. The long-term vision for the Lynnhaven SGA calls for a series of mixed-use and flexible developments. Design principles include enabling flexible

development sites and building types to respond to ever-changing market needs and development programs that are compatible with AICUZ restrictions. The Comprehensive Plan's Special Area Development Guidelines for Urban Areas provide recommendations for site design.

## 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
Virginia Beach Boulevard	33,500 ADT <sup>1</sup>	74,000 ADT <sup>1</sup> (LOS <sup>2</sup> "D")	No Change Anticipated
<sup>1</sup> Average Daily Trips		<sup>2</sup> LOS= Level of Science	

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

Virginia Beach Boulevard is an eight-lane major urban arterial road in the vicinity of this site with an approximate right-of-way width of 150 feet. The MTP shows an eight-lane major arterial with an ultimate right-of-way width of 155 feet. There are no roadway CIP scheduled in the vicinity of this site.

## Public Utility Impacts

### Water & Sewer

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

## Public Outreach Information

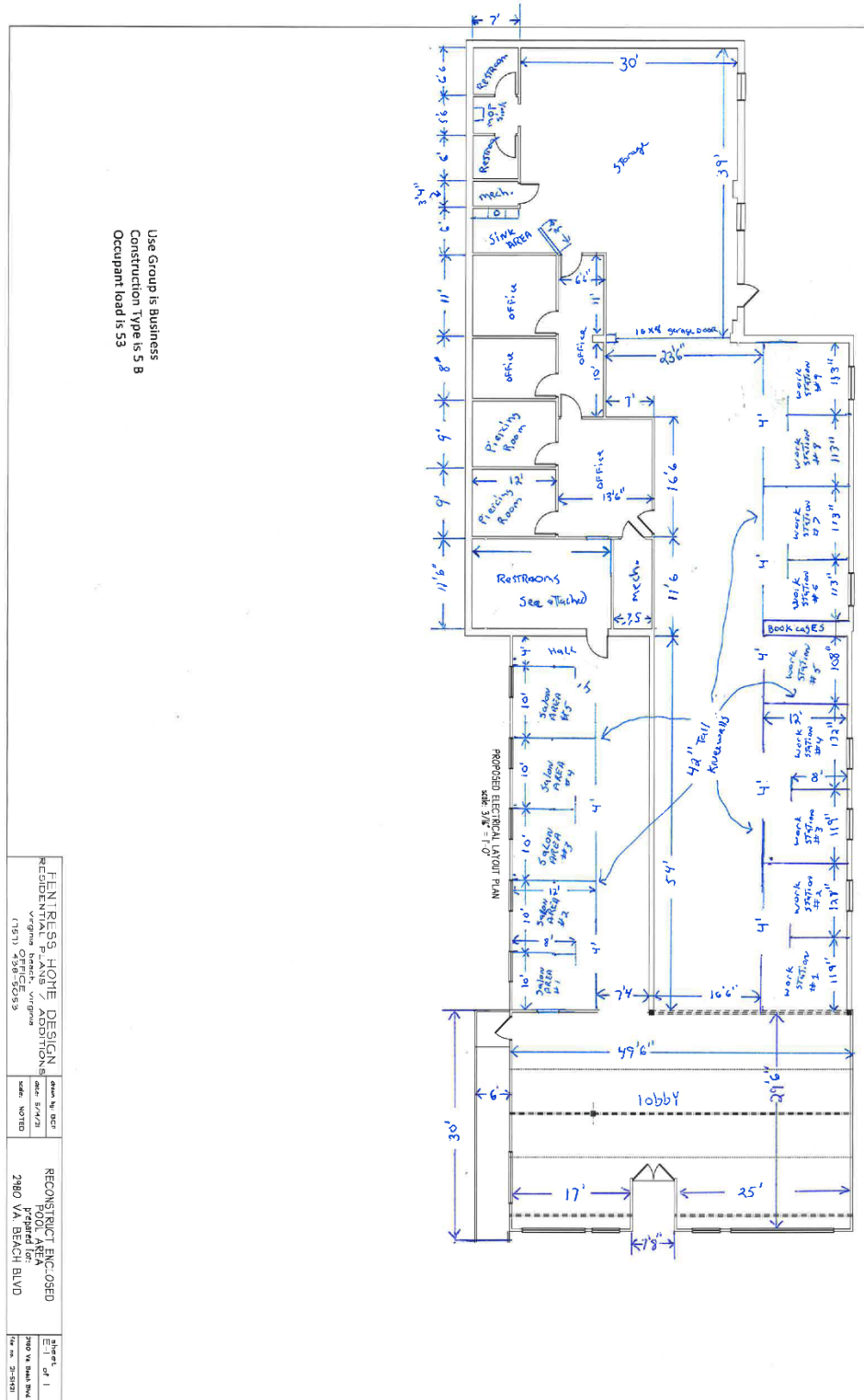
### Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on July 11, 2022.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, July 24, 2022 and July 31, 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 July 25, 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](http://www.vbgov.com/pc) on August 4, 2022.

Site Layout

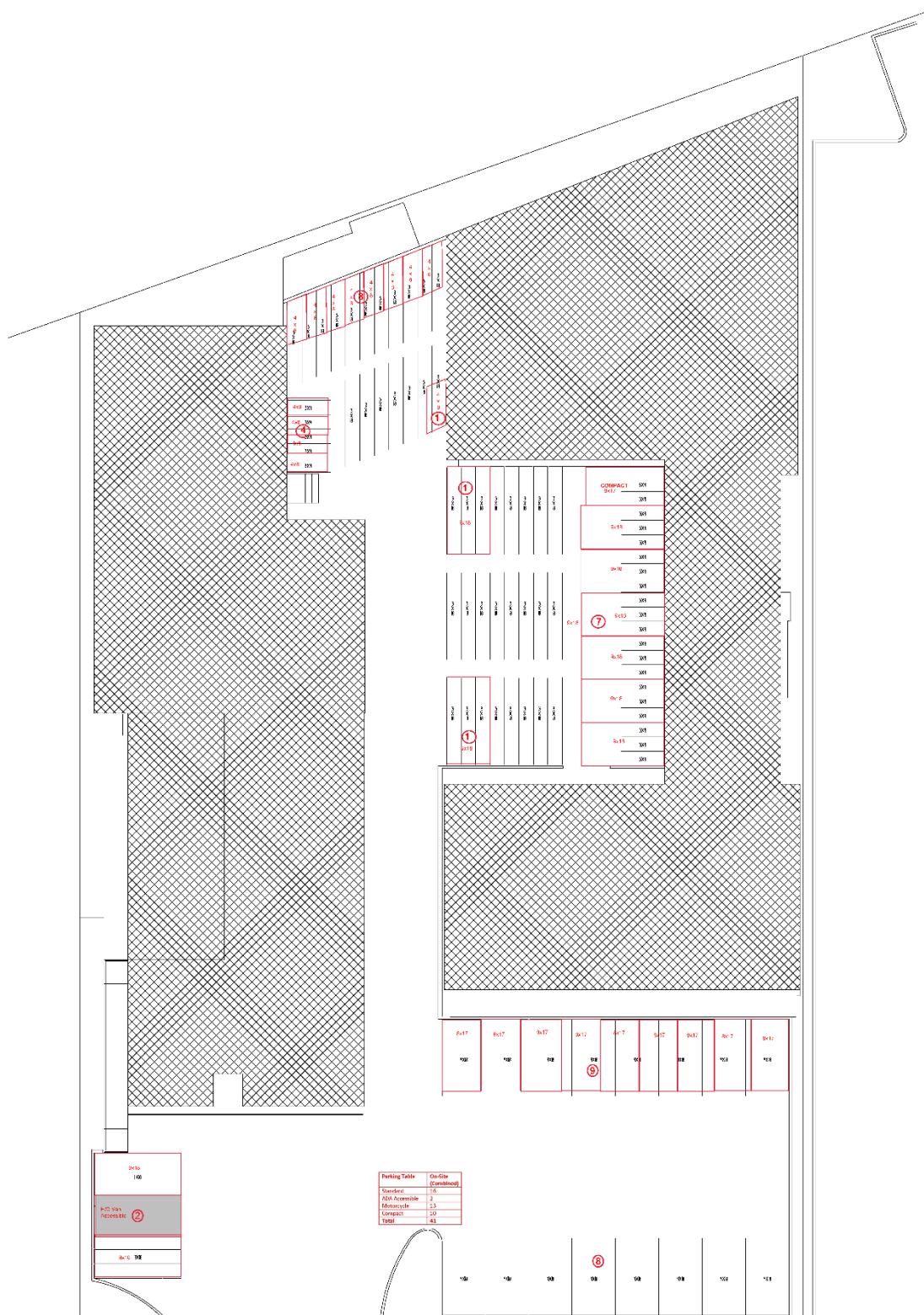


## Proposed Floor Plan





## Proposed Parking Plan



## Site Photos



### Disclosure Statement



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#### Applicant Disclosure

**Applicant Name** World Famous BHS Inc

**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)

Christopher Bowman - President, Justin Merritt - Secretary, John Duffey - Treasurer

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

Blue Horseshoe Tattoo, World Famous Oceana BHS Inc, Hometown Tattoo

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

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



### Disclosure Statement



#### Known Interest by Public Official or Employee

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

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

#### Applicant Services Disclosure

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

☐ Yes ☒ No

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

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

☐ Yes ☒ No

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

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

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

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

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

Hanbury Architects / David Keith

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.

Bay Legacy Construction / Premier Restorations

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.

Hanbury Architects / David Keith

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.

Mike Deering PC, Todd Rothesburger, Poole Brooke & Plumlee

#### Applicant Signature

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

Applicant Signature

Print Name and Title

Date

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

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

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

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

## Disclosure Statement

### Disclosure Statement



#### Owner Disclosure

**Owner Name** Lynnhaven Investment Partners

**Applicant Name** World Famous BHS Inc

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

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

Bill DeSteph, Managing Partner

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

#### Known Interest by Public Official or Employee

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

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

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

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### 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.

Atlantic Union Bank

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

☒ **Yes**   ☐ **No**

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

Colliers / Ricky Anderson

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.

Cherry Bekaert Accounting / Kurt Taves

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.

Hanbury Architecture / David Keith

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.

Bay Legacy Construction / Premier Restorations

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

### 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.**

  
Owner Signature  
William R DeSteph Managing Partner  
Print Name and Title  
6 June 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.



### Requests

**#18 - Conditional Use Permit** (Tattoo Parlor)

**#19 - Conditional Use Permit** (Body Piercing Establishment)

### Staff Recommendation

Approval

### Staff Planners

Sadie McNaughton/Michaela McKinney

### Location

1375 Oceana Boulevard

### GPIN

2415489273

### Site Size

4.12 acres

### AICUZ

Greater than 75 dB DNL

### Watershed

Southern Rivers

### Existing Land Use and Zoning District

Single-family dwelling, cultivated field / B-2  
Community Business

### Surrounding Land Uses and Zoning Districts

#### North

Self-Storage / B-2 Community Business

#### South

Religious Use / AG-2 Agricultural

#### East

Oceana Boulevard

Undeveloped / A-12 Apartment

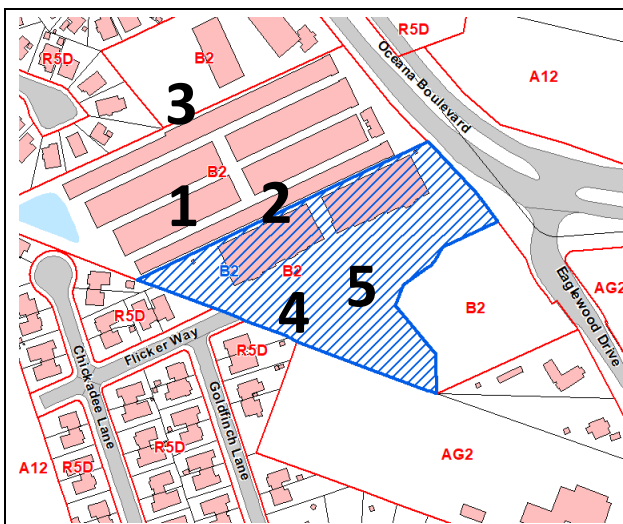
#### West

Duplexes, religious use / R-5D Residential, AG-2  
Agricultural



## Background & Summary of Proposal

- The applicant is requesting a Conditional Use Permit in order to operate a traditional Tattoo Parlor and a Body Piercing Establishment. The operation will be in conjunction with a hair salon which is a by-right use in the B-2 Community Business District. The property is located along Oceana Boulevard just north of the intersection with General Booth Boulevard.
- Tattooing and body piercing will take place in a unit within the building by appointment only.
- According to the applicant, up to 20 employees will be individual contractors and are anticipated on site at any one time.
- The typical hours of operation are proposed as 10:00 a.m. to 10:00 p.m., seven days a week.
- The only exterior change to the building will be the installation of new building signage.



### Zoning History

#	Request
1	CRZ (R-5D to Conditional B-2) Approved 08/26/2003 CUP (Mini-Warehouse) Approved 08/26/2003
2	SVR (Sections 4.4(b) and 4.4(d)) Approved 04/14/1992
3	CRZ (AG-2 to Conditional B-2) Approved 05/09/2006
4	CRZ (AG-2 to Conditional B-2) Approved 05/09/2006 CUP (Fuel Sales) Approved 05/09/2006
5	MDC Approved 04/08/2008 MDP Approved 01/12/2010

### 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, the request for Conditional Use Permits for a Tattoo Parlor and a Body Piercing Establishment is consistent with the Comprehensive Plan's land use policies for the Suburban Area and consistent with the residential and commercial nature of the surrounding properties.

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

The property is located within the Greater than 75 dB noise zone 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, personal services, such as the proposed Tattoo Parlor and Body Piercing Establishment, are considered to be compatible uses.



The operation of a Tattoo Parlor and Body Piercing Establishment is not expected to negatively impact other uses within the shopping center or in the vicinity. Staff does not anticipate a significant increase in traffic volume with the addition of this use at this location.

For the reasons stated above, Staff recommends approval of this application, subject to the conditions 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 for consistency with the provisions of Chapter 23 of the City Code.
2. The actual application of tattoos shall not be visible from the exterior of the establishment or from the waiting and sales area within the establishment.
3. Any on-site signage for the establishment shall meet the requirements of the City Zoning Ordinance, and there shall be no neon, electronic display or similar sign installed on the exterior of the building or in any window, or on the doors. Window signage shall not be permitted. 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. 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. Preserving neighborhood quality and characteristics requires non-residential uses to maintain or enhance the existing characteristics of surrounding residential areas.

### 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
Eaglewood Drive	No Data Available	9,900 ADT <sup>1</sup> (LOS <sup>3</sup> "D")	No Change Anticipated <sup>2</sup>
Oceana Boulevard	29,000 ADT <sup>1</sup>	35,700 ADT <sup>1</sup> (LOS <sup>3</sup> "D")	
<sup>1</sup> Average Daily Trips	<sup>2</sup> Average Daily Trips aren't expected to change	<sup>3</sup> LOS = Level of Service	

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

Eaglewood Drive in the vicinity of this application is considered a two-lane undivided urban collector. The existing infrastructure is within a 60-foot wide and variable width right-of-way, and it is not designated on the MTP. There are presently no roadway CIP projects slated for this segment of Eaglewood Drive.

Oceana Boulevard in the vicinity of this application is considered a four-lane divided minor urban arterial. The existing infrastructure is within a variable width right-of-way. The MTP proposes a four-lane facility within a 145- foot wide right-of-way. There are presently no roadway CIP projects funded for this segment of Oceana Boulevard.

## Public Utility Impacts

### Water & Sewer

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

## Public Outreach Information

### Planning Commission

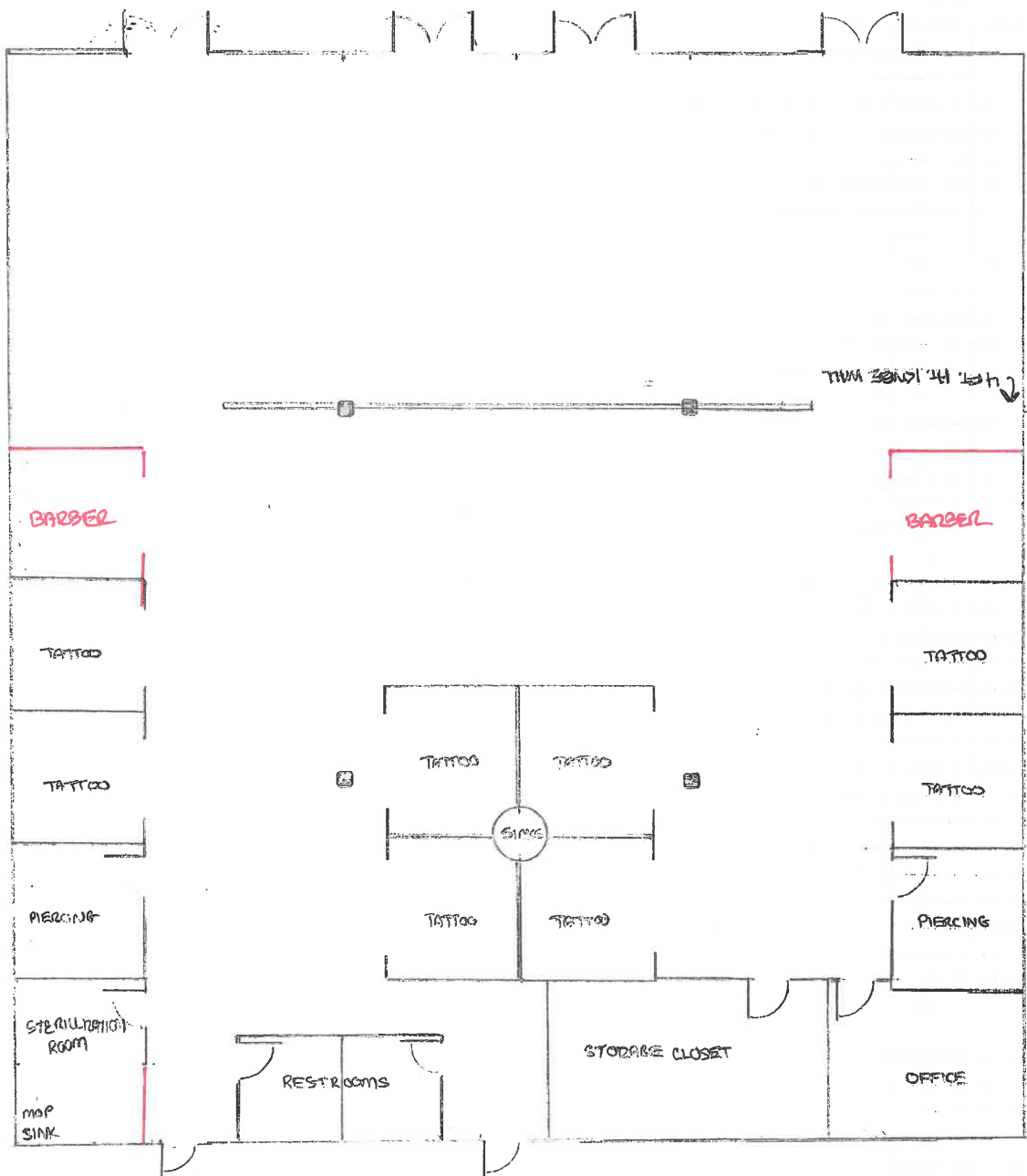
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on July 11, 2022.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, July 24, 2022 and July 31, 2022.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on July 25, 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](http://www.vbgov.com/pc) on August 4, 2022.

Site Layout



Proposed Floor Plan

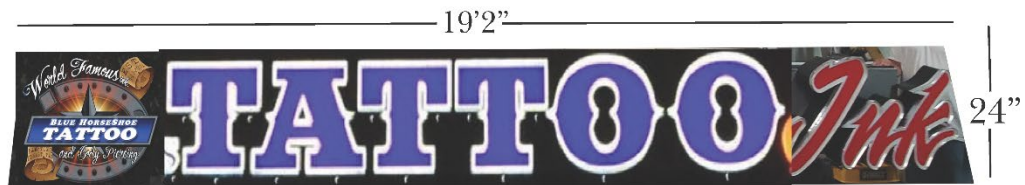
EXHIBIT B



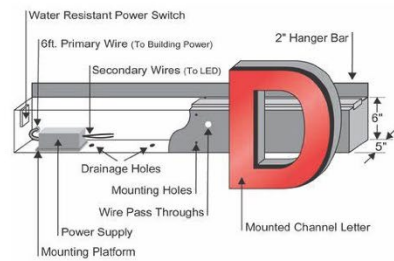
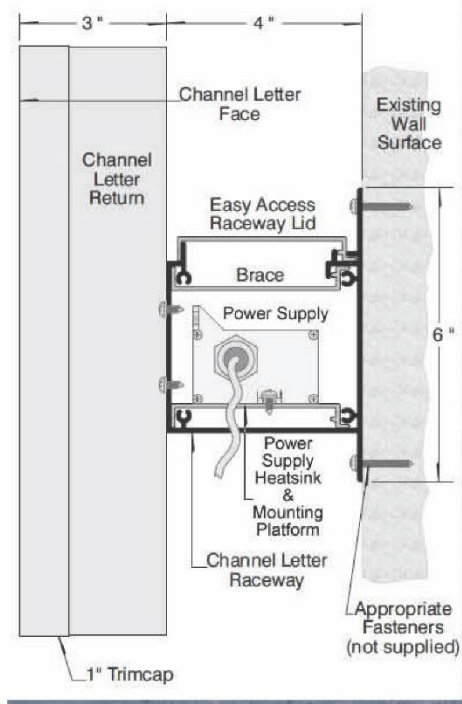


## Proposed Sign Rendering

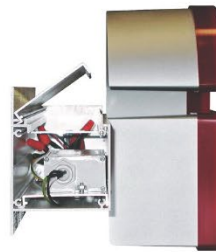
### Channel Letter Raceway LED Illuminated



#### Channel Letter Raceway Detail



#### RACEWAY FRONT VIEW



## 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** World Famous Oceana BHS Inc

**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)

Christopher Bowman - President, Justin Merritt - Secretary, John Duffey - Treasurer

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

World Famous Oceana BHS Inc, Blue Horseshoe Tattoo, World Famous BHS Inc, Hometown Tattoo

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

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

### Disclosure Statement



#### Known Interest by Public Official or Employee

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

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

#### Applicant Services Disclosure

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

☐ Yes ☒ No

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

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

☐ Yes ☒ No

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

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

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

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

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

Hanbury Architects/ David Keith

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.

Hanbury Architects/ David Keith

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

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

#### Applicant Signature

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

Applicant Signature

Print Name and Title

Date

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

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

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

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

## Disclosure Statement

### Disclosure Statement



#### Owner Disclosure

**Owner Name** Oceana Crossings LLC

**Applicant Name** World Famous Oceana BHS Inc

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

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

Tim Costen Managing Member, Elza Mitchum member

\_\_\_\_\_

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

\_\_\_\_\_

#### Known Interest by Public Official or Employee

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

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

\_\_\_\_\_

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

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

### Disclosure Statement



#### Owner Services Disclosure

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

☒ **Yes**   ☐ **No**

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

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

☒ **Yes**   ☐ **No**

- If **yes**, identify the company and individual providing the service.  
Venture/Steve Green

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.  
Cavanaugh Nelson PLC / Mark Nelson

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.  
Hanbury Architects/ David Keith

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

### 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.

Owner Signature

TIM COSTEN MANAGING MEMBER

Print Name and Title

JUNE 15, 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** (Communication Tower)

**Staff Recommendation**

Approval

**Staff Planner**

Michaela D. McKinney

**Location**

2068 Landstown Centre Way

**GPIN**

1484869245

**Site Size**

128.21 acres

**AICUZ**

70-75 dB DNL

**Watershed**

Southern Rivers

**Existing Land Use and Zoning District**

Princess Anne Commons Athletic Field Hockey Complex / AG-1 Agricultural

**Surrounding Land Uses and Zoning Districts**

**North**

Sportsplex / AG-1 Agricultural

**South**

Undeveloped lot / AG-2 Agricultural

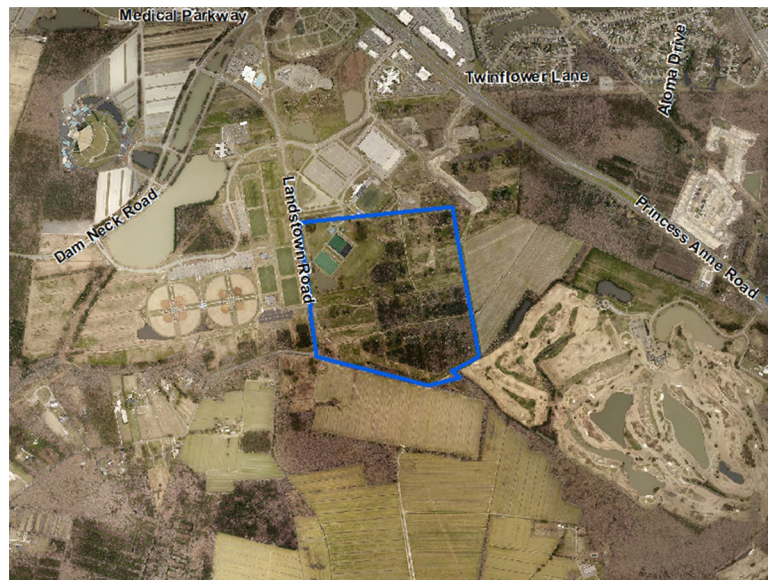
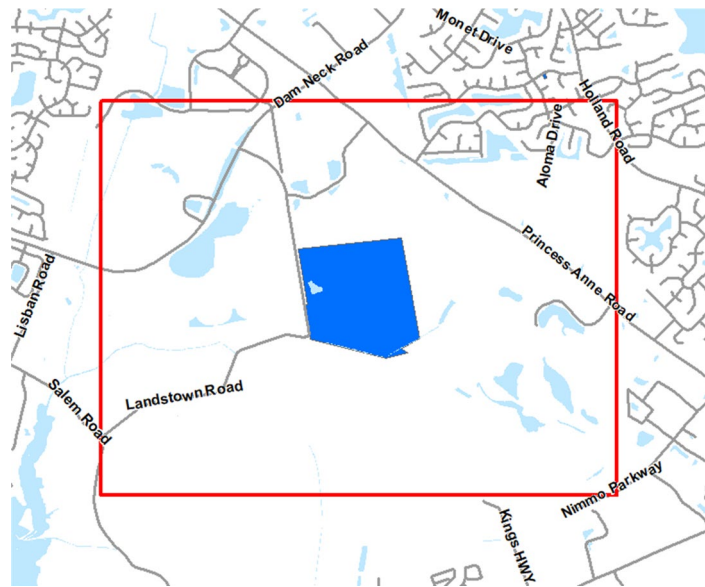
**East**

Princess Anne Road

Princess Anne Commons Athletic Village / AG-1 Agricultural

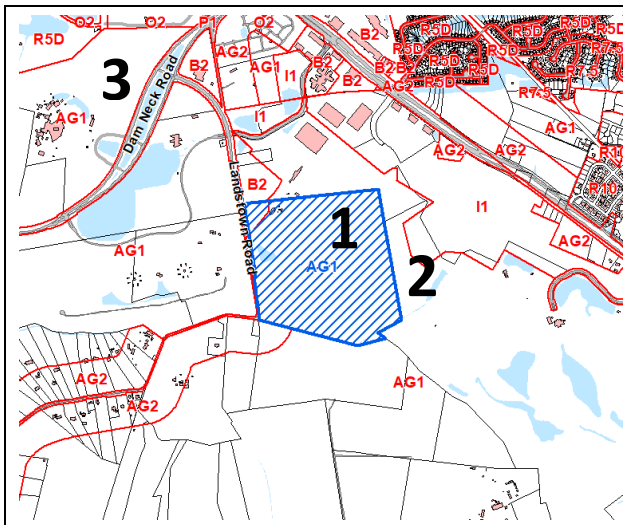
**West**

Princess Anne Athletic Complex / AG-1 Agricultural



## Background & Summary of Proposal

- The applicant is requesting a Conditional Use Permit for the installation of a Communication Tower on an existing 126-foot-tall light pole located on an AG-1 Agricultural District zoned parcel within the Princess Anne Commons Athletic Field Hockey Complex.
- The applicant seeks to install antennas on the existing 126-foot light pole as well as equipment at the base in order to maintain and increase coverage in the area for T-Mobile users. Since the applicant is adding antennas to the light pole that will serve as a communication tower, a Conditional Use Permit is required.
- As depicted on the tower elevation on page five of this report, the T-Mobile antennas will be installed at 120 feet. The graphic also depicts the proposed 88 square foot generator to be installed within a 300 square foot lease area. An eight-foot-tall chain link fence with black vinyl slats will be installed for security and screening.



### Zoning History

#	Request
1	CRZ (O-2 to Conditional B-2) Approved 05/14/1997 CRZ (AG-1 to Conditional B-2) Approved 02/03/2009 CUP (Recreational Facilities) Approved 02/03/2009
2	CRZ (O-2, B-2, R-10, P-1, & H-1 to AG-1) Approved 05/14/1997 CUP (Golf Course) Approved 01/12/2000 CUP (AG-1 to Conditional B-2) Approved 02/03/2009 CRZ (Recreational Facilities) Approved 02/03/2009
3	MDC Approved 09/24/2013 CRZ (AG-2 to Conditional O-2) Approved 11/08/1995 CUP (Private Club, Lodge, Social Center, Eleemosynary Establishment, Athletic Club) Approved 11/08/1995

### Application Types

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

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 232 of the City Zoning Ordinance regulates Communication Towers. This section of the Ordinance favors the use of public property when such use minimizes the potential adverse visual and other impacts of communication towers, where it does not adversely affect the operation of public facilities such as public safety, and when towers conform to applicable requirements pertaining to the use of public property for purposes of communication tower siting. In Staff's view, the proposal adheres to these provisions through utilization of an existing light pole within the Princess Anne Commons Athletic Field Hockey Complex out of view from the right-of-way in an area that will not detract from the characteristics or activities of the surrounding area, and no known interference with existing emergency networks.

The applications submission included the required RF Emissions Compliance Report, a structural report, and a Radio Frequency Interference Analysis Report. All documents indicated that the proposal meets applicable engineering standards and practices. The coverage maps submitted with the application indicate a gap in coverage for T-Mobile users in the area and the additional antennas will address this issue. The location of the existing pole is approximately 170 feet from the nearest property line and over 3,000 feet (0.60 miles) from the nearest residential neighborhood. IT determined that there is no interference with the City of Virginia Beach's microwave system and the proposed tower is



not within one mile of the City of Virginia Beach's radio sites or critical public safety communications. Staff believes that the addition of the antennas to the light pole will not create any inconsistencies with the recommendations found in the Comprehensive Plan and specifically the Princess Anne Commons/Interfacility Traffic Area and the Princess Anne Commons Special Economic Growth Area.

Based on these considerations and the evaluation of the proposed Communication Tower in accordance with the standards set forth in Section 232 of the Zoning Ordinance, Staff recommends approval of this request subject to the conditions listed below.

## Recommended Conditions

1. The tower shall be constructed substantially in adherence to the site plans entitled "VA70801B VIRGINIA BEACH SPORTSPLEX", prepared by BM Architect Engineering and dated March 8, 2022, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
2. The communication tower shall not exceed 126 feet in height.
3. In the event interference with any City emergency communications facilities results from the use of this tower and antennas, the user(s) shall take all measures reasonably necessary to correct and eliminate the interference. If the interference cannot be eliminated within a reasonable time, the user shall immediately cease operation to the extent necessary to stop the interference.
4. As required by Section 232(r)(4) of the City Zoning Ordinance, should the antennas cease to be used for a period of more than one (1) year, the applicant shall remove the tower, antennas, and related equipment from the property within ninety (90) days.
5. No signage shall be permitted on the communication tower.

*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 Princess Anne Commons/Interfacility Transition Area and the Princess Anne Commons Special Economic Growth Area (SEGA). The vision for the Princess Anne Commons/Interfacility Area is to reflect the area's history, be sensitive to the environment, and acknowledge existing assets already in place for portions of the special area. Recommended Policies for the Special Economic Growth Area 4 is to strive to achieve extensive open space connectivity throughout the Commons.

## 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.

## Public Outreach Information

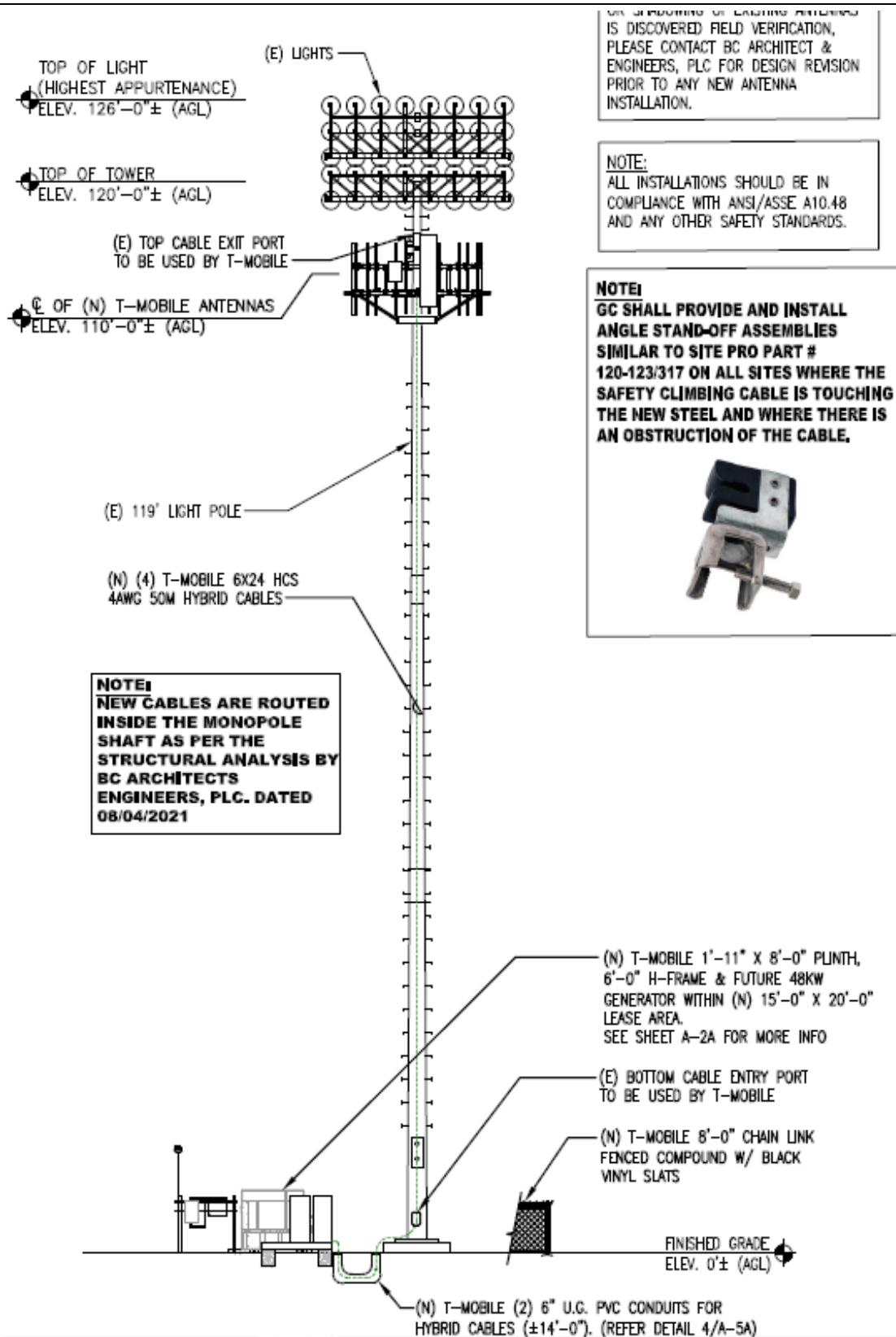
### Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on July 11, 2022.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, July 24, 2022 and July 31, 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 July 25, 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](http://www.vbgov.com/pc) on August 4, 2022.

## Site Layout



## Tower Elevation





Site Photos



## Disclosure Statement

### Disclosure Statement



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#### Applicant Disclosure

Applicant Name T-Mobile

Does the applicant have a representative? ☒ Yes ☐ No

- If yes, list the name of the representative.

B. Forhan

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

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

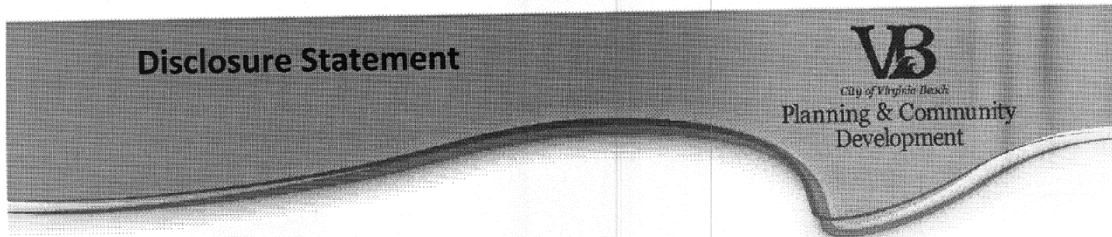
see Attached

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

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

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## Disclosure Statement



### Known Interest by Public Official or Employee

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

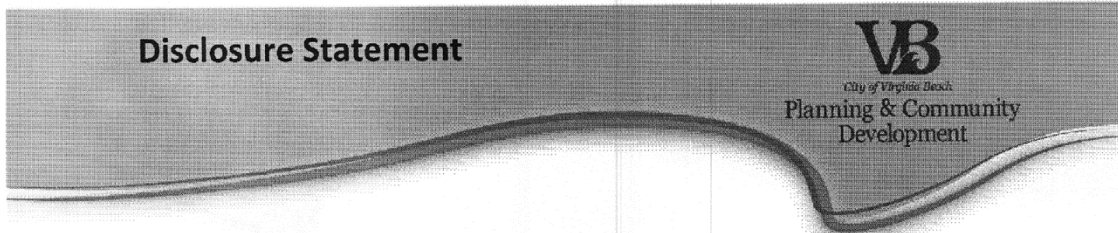
- If **yes**, what is the name of the official or employee and what is the nature of the interest?

### Applicant Services Disclosure

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



## Disclosure Statement



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

### Applicant Signature

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

Applicant Signature

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	



## Disclosure Statement

### Disclosure Statement



#### Owner Disclosure

Owner Name City of Virginia Beach Parks and Recreation

Applicant Name TMobile c/o C.E. Forehand

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)

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

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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?

---

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

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

### Disclosure Statement



#### Owner Services Disclosure

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

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

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



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 black ink, appearing to read 'Michael Kirschman', written over a horizontal line.

Owner Signature

Michael Kirschman - Virginia Beach Parks and Recreation Director

Print Name and Title

06/28/2022

Date

## T-Mobile Members List

Timotheus Höttges | Chairman of the Board

Marcelo Claure

Srikant M. Datar

Dr. Christian P. Illek

Raphael Kübler

Letitia A. Long

Thorsten Langheim

Dominique Leroy



## T-Mobile Authorization Letter

**Michaela D. McKinney**

---

**From:** CE Forehand <CE@fcitowers.com>  
**Sent:** Thursday, July 28, 2022 11:16 AM  
**To:** Michaela D. McKinney  
**Subject:** FW: CUP for antenna site at 2068 Landstown Centre Way - VA70801A

**CAUTION:** This email originated from outside of the City of Virginia Beach. Do not click links or open attachments unless you recognize the sender and know the content is safe.

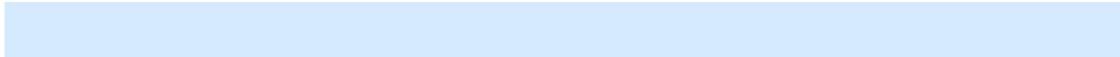
Here is from tmobile.

---

**From:** Greer, Angie <Angela.Beach@t-mobile.com>  
**Sent:** Friday, July 22, 2022 2:36 PM  
**To:** Matt Winstead <mwinstead@fcitowers.com>  
**Cc:** CE Forehand <CE@fcitowers.com>  
**Subject:** RE: CUP for antenna site at 2068 Landstown Centre Way - VA70801A

To Whom it may concerns, T-Mobile has given C.E Forehand (acting agent for T-Mobile) the authority to sign the zoning application for the above referenced site. If you have any questions or need any additional information, please feel free to contact me.

Thank you,  
Angie Greer



## 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**

Denial

**Staff Planner**

Levi Anthony Luckenbach

**Location**

529 22nd Street

**GPIN**

24179865450000

**Site Size**

2,795 square feet

**Existing Land Use and Zoning District**

Townhouse Dwelling / OR Oceanfront Resort

**Surrounding Land Uses and Zoning Districts**

**North**

22nd 1/2 Street (Alley)

Multi-Family Dwellings, Duplex Dwellings / OR  
Oceanfront Resort

**South**

22nd Street

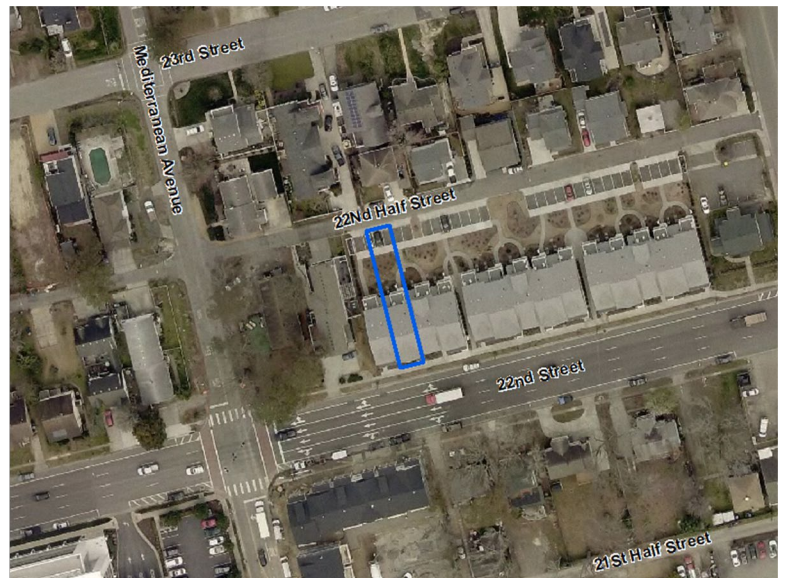
Single-Family Dwellings, Multi-Family Dwellings,  
Duplex Dwellings / OR Oceanfront Resort

**East**

Townhouse Dwellings, Attached Dwellings / OR  
Oceanfront Resort

**West**

Townhouse Dwellings, Attached Dwellings / OR  
Oceanfront Resort



## Background & Summary of Proposal

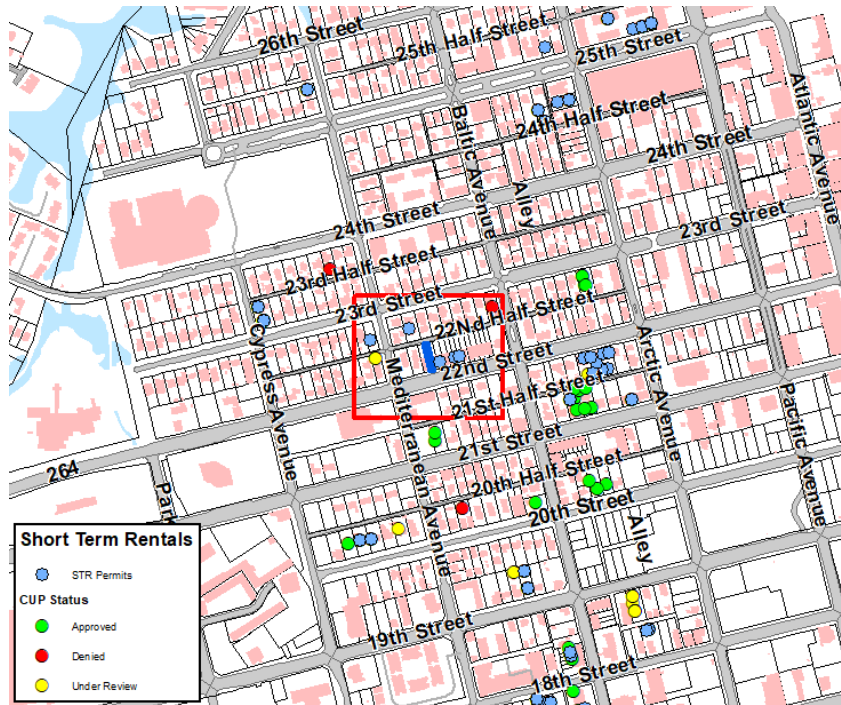
### Site Conditions and History

- This 2,795 square-foot lot is zoned OR Oceanfront Resort.
- According to City records, this four-bedroom home was constructed in 2017.
- Staff inspected the site on July 11, 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.
- According to the applicant, this property was not used for Short Term Rental purposes prior to July 1, 2018, and therefore is not considered Grandfathered for such use.
- The property was previously registered with the Commissioner of the Revenue as a Short Term Rental, though registration expired on July 31, 2020 and was not renewed.
- It was determined that the applicant previously advertised and rented this property on a short-term basis, as shown in the table below. The listings have been removed and reposted several times since Intake of the Conditional Use Permit Application on June 3, 2022. The listing was most recently removed on July 19, 2022 and is not currently advertised. The issuance of a Conditional Use Permit will rectify this issue of noncompliance.
- Known Short Term Rental activity as of August 3, 2022:
  - Date Rental Listing First Advertised: March 7, 2018
  - Listing Activity Since Conditional Use Permit Application Received:
    - Total June 2022 Host Compliance Documented Stays: 4
      - June 5, 2022: Listing Reposted
      - June 9, 2022: Listing Removed
      - June 12, 2022: Listing Reposted
      - June 17, 2022: Listing Removed
      - June 21, 2022: Listing Reposted
      - June 26, 2022: Listing Removed
      - June 30, 2022: Listing Reposted
    - Total July 2022 Host Compliance Documented Stays: 0
      - July 3, 2022: Listing Removed
      - July 3, 2022: Listing Reposted
      - July 19, 2022: All Listings Removed

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

### *Short Term Rentals in the Vicinity*

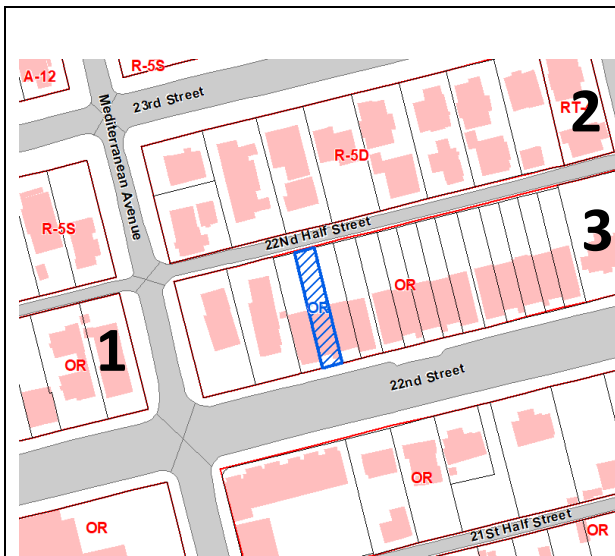




## **Summary of Proposal**

The applicant is requesting a Conditional Use Permit to operate a four-bedroom, 2,621 square-foot Short Term Rental on the subject site. The regulations for Short Term Rental use are identified in Section 241.2 and Article 2300 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	MDC (Communication Tower) Approved 06/21/2022
2	CUP (Short Term Rental) Denied 08/25/2020
3	CRZ (A-12 to Conditional RT-3) Approved 12/09/2008

### 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, 2,621 square-foot Short Term Rental in a residential townhome dwelling along 22nd Street. The parcel is located in the Oceanfront Resort (OR) Short Term Rental Overlay District, where Short Term Rental use is to be expected. Constructed in 2017, the structure at 529 22nd Street lies on a city block bounded by 22nd 1/2 Street to the north, Baltic Avenue to the east, 22nd Street to the south, and Mediterranean Avenue to the west. The surrounding area is composed of single-family dwellings, duplex dwellings, multi-family dwellings, commercial offices, commercial retail, hotel resorts, 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 21<sup>st</sup> & 22<sup>nd</sup> 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 manicured appearance and structure's coastal modern farmhouse architecture align well with the intended goals of the Oceanfront Resort District Form-Based Code Design Guidelines. Additionally, the proposed 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 consistent with this Gateway's purpose to create a sense of welcome and arrival to tourists and residents alike.

Parking is provided via two assigned spaces at the rear, off of the 22<sup>nd</sup> ½ Street alleyway, along with two additional spaces leased off-site on an annual basis.

Staff has not received any official letters of opposition but has received a number of complaints pertaining to the continued operation of the property as a Short Term Rental without the required Conditional Use Permit and subsequent Zoning Permit. As shown in the summary above, the listing was removed and reposted several times after Staff cited the property owner for operating a Short Term Rental without the required approvals or permits. Section 241.2 (16) describes that the Planning Department is required to notify City Council of a Short Term Rental prior to the five (5) year administrative renewal of the Conditional Use Permit when "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.” This specific application is not for the administrative renewal of a Conditional Use Permit; however, it is Staff’s position that these standards could be applied towards the consideration of this applicant’s future performance and compliance with the requirements found within the Zoning Ordinance for Short Term Rentals and any conditions imposed by a Conditional Use Permit. The applicant is agreeable to discussing additional provisions to mitigate future noncompliance.

The requirements of Section 241.2 and Section 2303 of the Zoning Ordinance regulating Short Term Rentals can be reasonably met with this application, though due to the factors mentioned above, Staff recommends denial of this request. If Planning Commission chooses to recommend approval of the application, Staff recommends the conditions listed below.

## Recommended Conditions

1. The following conditions shall only apply to the dwelling unit addressed as 529 22nd 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.*

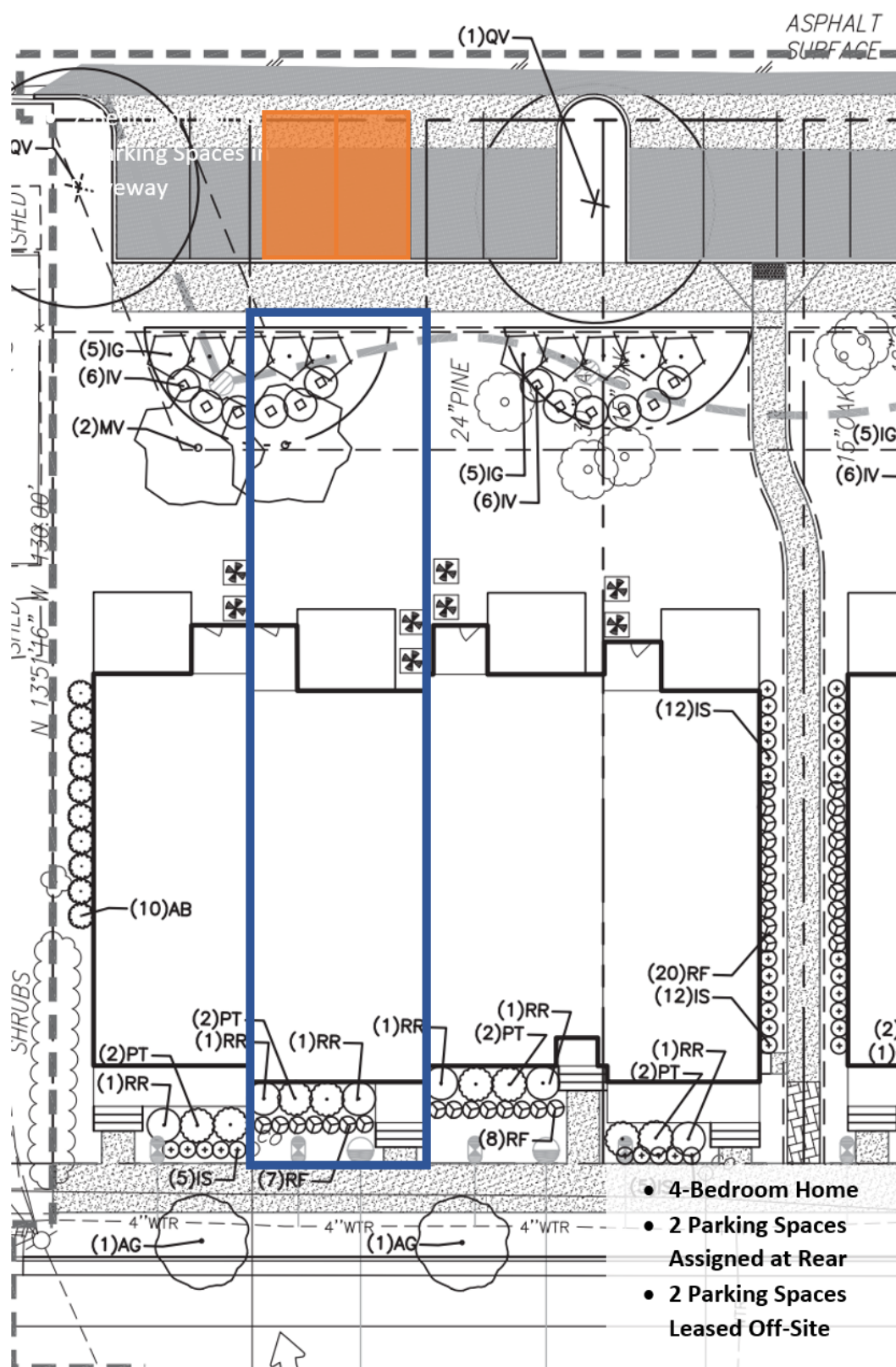
*The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.*

## Public Outreach Information

### Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on July 11, 2022.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, July 24, 2022, and July 31, 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 July 25, 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](http://www.vbgov.com/pc) on August 4, 2022.

## Site Layout & Parking Plan



Site Photos





## Disclosure Statement

dotloop signature verification: dtdp.us/XwYv pSSf eowe

### 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 Host my Home LLC

Does the applicant have a representative? ☒ Yes ☐ No

- If yes, list the name of the representative.

Sierra Alderman

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)

Sierra Alderman- Owner

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

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

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dotloop signature verification: [dotloop.us/XwYv-p5Sf-eowe](https://dotloop.us/XwYv-p5Sf-eowe)

### 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.

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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

dotloop signature verification: [dtdp.us/XwYv-pSSf-eoww](https://dtdp.us/XwYv-pSSf-eoww)

### 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.**

*Sierra Alderman* dotloop verified  
04/28/22 12:56 PM  
EDT  
JAE5-4QV1-WBJB-ILUZO

#### Applicant Signature

Sierra Alderman, Owner

#### Print Name and Title

4/28/22

#### 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

dotloop signature verification: [dotloop.us/XwVv-pSSf-eowe](https://dotloop.us/XwVv-pSSf-eowe)

### Disclosure Statement



#### Owner Disclosure

Owner Name David Dowdy

Applicant Name Host my Home LLC

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

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

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

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#### 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?

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

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

## Disclosure Statement

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### Disclosure Statement



#### Owner Services Disclosure

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

☒ **Yes**   ☐ **No**

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

Sierra Pacific Mortgage

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.



## Disclosure Statement

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### 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.**

*David Dowdy*

dotloop verified  
04/28/22 1:00 PM EDT  
G6EA-AIHV-BLY5-0JSQ

**Owner Signature**

David Dowdy

**Print Name and Title**

4/28/22

**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.