

# Planning Commission Agenda

## August 9<sup>th</sup>, 2023



**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 9, 2023 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.virginiabeach.gov](http://www.virginiabeach.gov), 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/j.php?MTID=mf47d437710350207891053159ef5948c>
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 8, 2023.

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.virginiabeach.gov/planningcommission](http://www.virginiabeach.gov/planningcommission). 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.virginiabeach.gov](http://www.virginiabeach.gov) and Facebook Live.

Please check our website at [www.virginiabeach.gov/planningcommission](http://www.virginiabeach.gov/planningcommission) for the most updated meeting information.



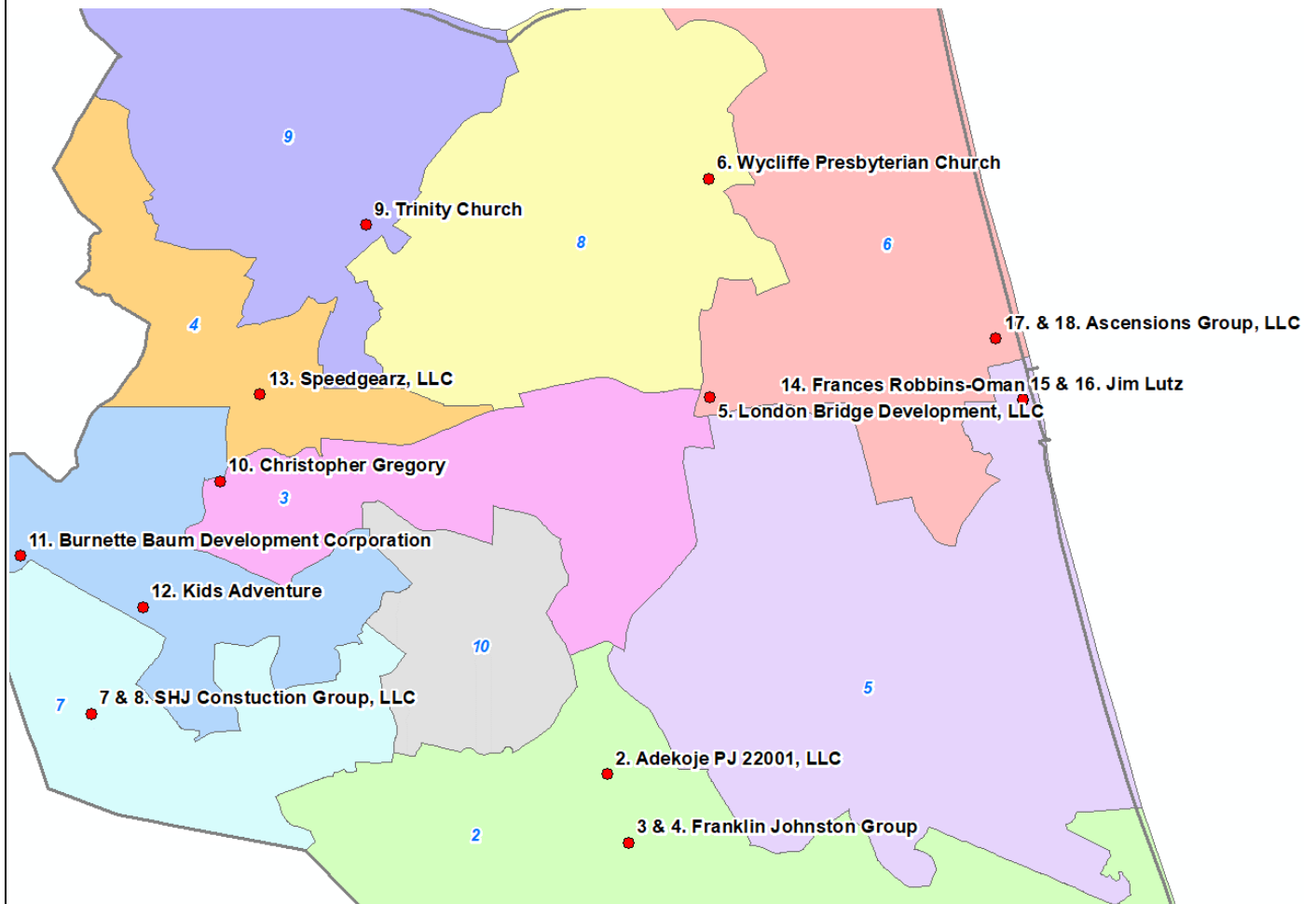
# Planning Commission Hearing Procedures

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.**

# AUGUST 9, 2023 PLANNING COMMISSION AGENDA



## PLANNING COMMISSION AGENDA

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

### B. BRIEFINGS

1. Agricultural Advisory Commission, David Trimmer, Director of Department of Agriculture
2. Virginia Beach Historic Preservation Plan, Mark Reed, Historic Preservation Planner

## 12:00 P.M. – PUBLIC HEARING

### 1. **APPROVAL**

#### City of Virginia Beach

Vote on the 2022 – 2023 Annual Report.

### 2. **DEFERRED**

**Adekoje PJ 22001, LLC** (Applicant & Property Owner)

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

**Addresses:** Parcels west of Bluegrass Lane & east of 2044 Aloma Drive

**GPIN(s):** 1494389822, 1494389445, 1494480354

**City Council:** District 2

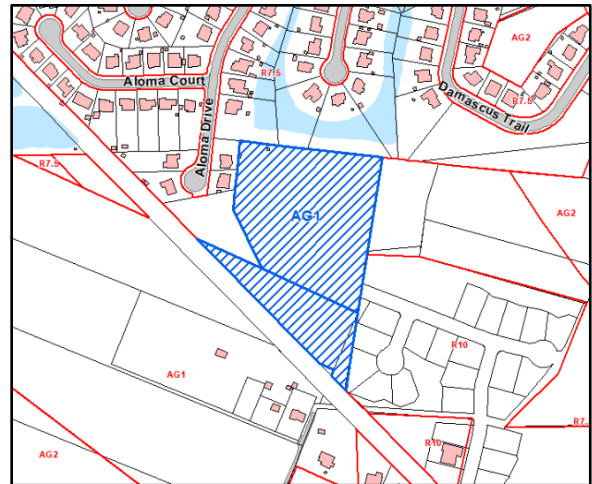
**Accela Record(s):** 2022-PCCC-00196

**SGA:** No

**Overlay:** No

**Staff Planner:** Hoa N. Dao

*Request to rezone a 7.50-acre parcel for the construction of ten (10) single-family dwellings, resulting in a density of 1.69 units/acre.*



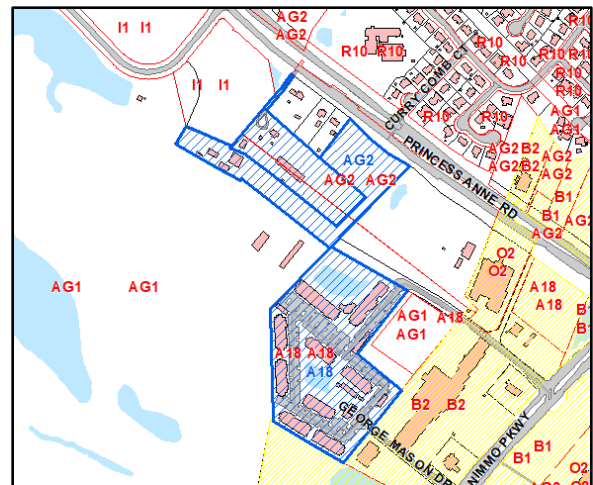
### 3. & 4. **APPROVAL (Council on September 5)** **Franklin Johnston Group Management & Development, LLC** (Applicant)

**Addie S. Vandermel Revocable Trust & et al, William E. & Phyllis H. Sawyer, Keelingwood Apartments, LLC** (Property Owners)

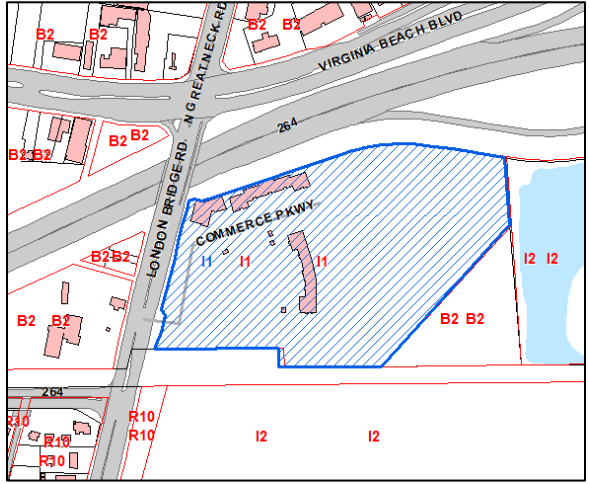
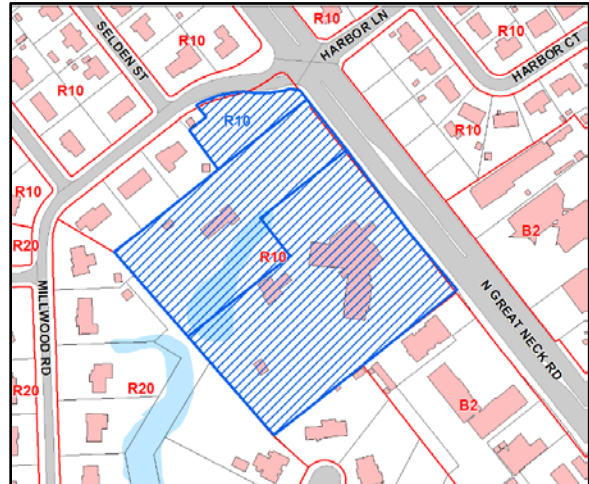
**Conditional Rezoning** (AG-1 & AG-2 Agricultural Districts to Conditional A-18 Apartment District w/ Workforce Housing Overlay District)

#### **Modification of Proffers**

**Addresses:** Portions of 2737 Princess Anne Road & eastern adjoining parcel, 2520 Allie Nicole Circle





<p><b>GPIN(s):</b> Portion of 1494547938, portion of 1494543861, 1494534876  <b>City Council:</b> District 2  <b>Accela Record(s):</b> 2023-PCCC-00109, 2023-PCCC-00118  <b>SGA:</b> No  <b>Overlay:</b> Yes – TA/ITA  <b>Staff Planner:</b> Hoa N. Dao</p> <p><i>Request to rezone ~6.26 acres from AG-1 &amp; AG-2 to Conditional A-18 and amend the previous rezoning request to add 176 apartment units, resulting in a overall density of 18.94 units per acre.</i></p>	
<p><b>5. APPROVAL (Council on September 5)</b>  <b><u>London Bridge Development, LLC</u></b> (Applicant &amp; Property Owner)</p> <p><b>Conditional Use Permit</b> (Bulk Storage Yard)</p> <p><b>Address:</b> 130 London Bridge Road  <b>GPIN(s):</b> 2407048646  <b>City Council:</b> District 6  <b>Accela Record(s):</b> 2023-PCCC-00117  <b>SGA:</b> Lynnhaven  <b>Overlay:</b> No  <b>Staff Planner:</b> Hoa N. Dao</p> <p><i>Request to operates a temporary laydown site for the Coastal Virginia Offshore Wind project.</i></p>	
<p><b>6. DENIAL (Council on September 19)</b>  <b><u>Wycliffe Presbyterian Church</u></b> (Applicant &amp; Property Owner)</p> <p><b>Modification of Conditions</b> (Religious Use)</p> <p><b>Addresses:</b> 1445 North Great Neck Road, 2307 Millwood Road, parcel between 2307 &amp; 2309 Millwood Road  <b>GPIN(s):</b> 2408098544, 2408098375, 2408191128  <b>City Council:</b> District 8  <b>Accela Record(s):</b> 2023-PCCC-00108  <b>SGA:</b> No  <b>Overlay:</b> No  <b>Staff Planner:</b> Marchelle Coleman</p> <p><i>Request to reduce the boundary of the church.</i></p>	

**7. & 8. APPROVAL (Council on September 5)**

**SHJ Construction Group, LLC** (Applicant)  
**Atlantic Shores Baptist Church** (Property Owner)

**Modification of Conditions** (Religious Use)

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

**Address:** 1861 Kempsville Road

**GPIN(s):** 1455825955

**City Council:** District 7

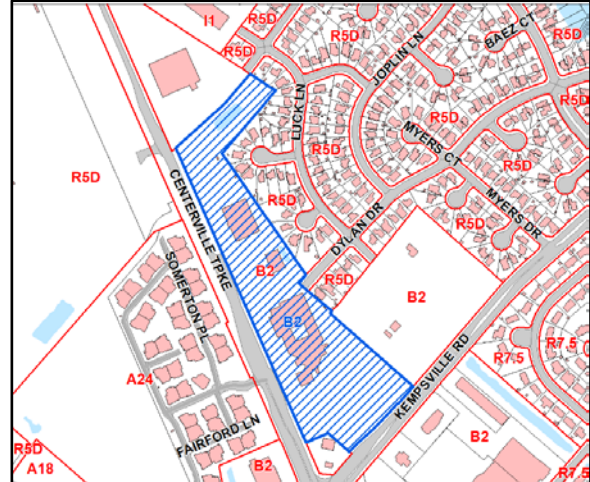
**Accela Record(s):** 2023-PCCC-00104, 2023-PCCC-00105

**SGA:** Yes – Centerville

**Overlay:** No

**Staff Planner:** Marchelle Coleman

*Requests to reduce the boundary of the church site and to construct and operate a single-bay automated Car Wash Facility.*



**9. DEFERRED**

**Trinity Church** (Applicant)

**Brook Baptist Church, Inc** (Property Owner)

**Conditional Use Permit** (Religious Use)

**Address:** 4397 Wishart Road

**GPIN(s):** 1478763388

**City Council:** District 9

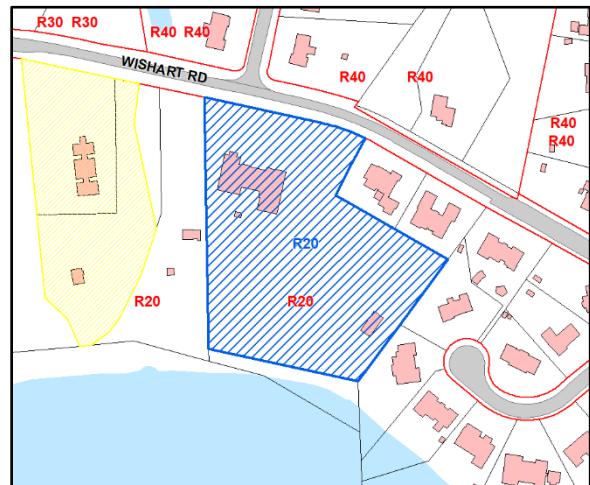
**Accela Record(s):** 2023-PCCC-00100

**SGA:** No

**Overlay:** No

**Staff Planner:** Elizabeth Nowak

*Request to construct a church with ~515 seat.*



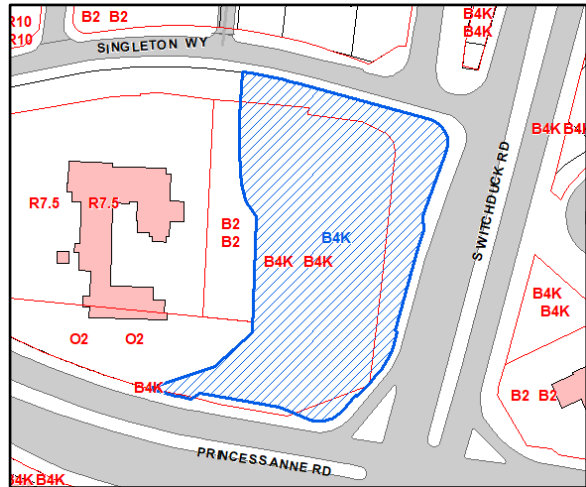
**10. DEFERRED**

**Christopher Gregory** (Applicant)  
**Princess Anne/Witchduck Associates 1, LC**  
c/o Robinson Development Group (Property Owner)

**Modification of Conditions**

**Addresses:** 5152 Princess Anne Road & 5168 Princess Anne Road  
**GPIN(s):** 1466783953  
**City Council:** District 3  
**Accela Record(s):** 2023-PCCC-00116  
**SGA:** No  
**Overlay:** No  
**Staff Planner:** Elizabeth Nowak

*Request to install two freestanding monument signs at the Shoppes at Kemps Landing.*



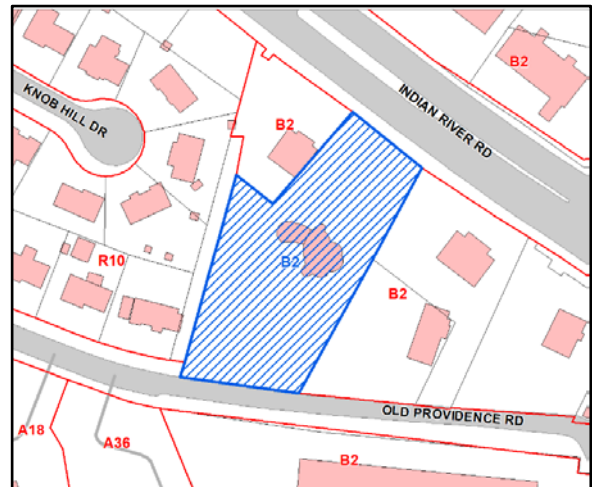
**11 APPROVAL (Council on September 19).**

**Burnette Baum Development Corporation**  
(Applicant)  
**Virginia Beach Investment Company**  
(Property Owner)

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

**Address:** 6213 Indian River Road  
**GPIN(s):** 1456336782  
**City Council:** District 1  
**Accela Record(s):** 2023-PCCC-00103  
**SGA:** No  
**Overlay:** No  
**Staff Planner:** Elizabeth Nowak

*Request to operate a single-bay automated Car Wash Facility.*





**12. APPROVAL (Council on September 19)**

**Kids Adventure** (Applicant)

**Sikiru Adedoyin** (Property Owner)

**Conditional Use Permit** (Family Day-Care Home)

**Address:** 5408 Larissa Court

**GPIN(s):** 1466201213

**City Council:** District 1

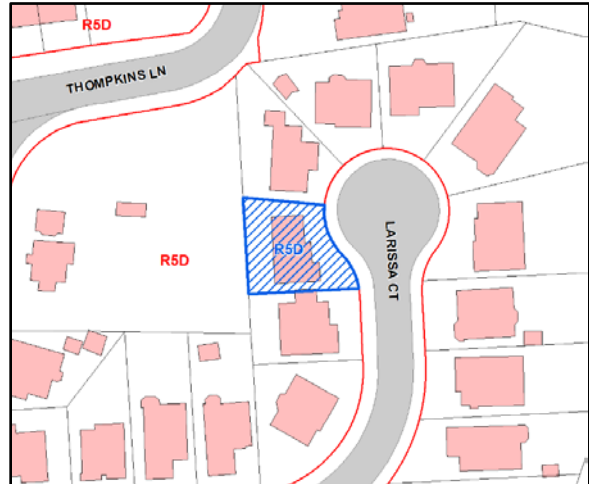
**Accela Record(s):** 2023-PCCC-00094

**SGA:** No

**Overlay:** No

**Staff Planners:** Michaela D. McKinney / Sadie McNaughton

*Request to operate a Home Day-care with up to 12 children.*



**13. APPROVAL (Council on September 5)**

**Speedgearz, LLC** (Applicant)

**Covington Family Trust** (Property Owner)

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

**Address:** 212 Dorset Ave

**GPIN(s):** 1477041749

**City Council:** District 4

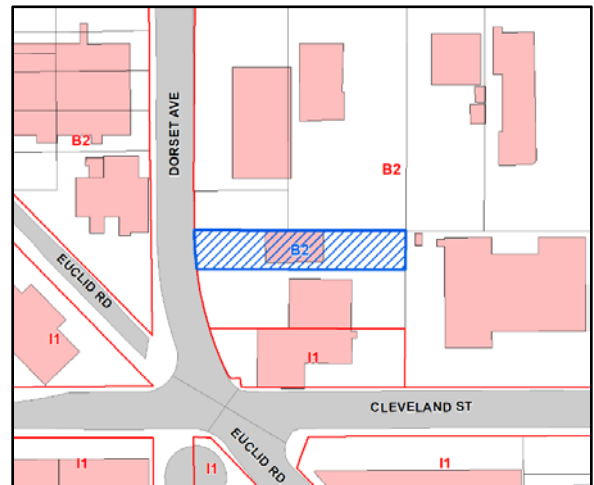
**Accela Record(s):** 2023-PCCC-00092

**SGA:** Pembroke

**Overlay:** No

**Staff Planners:** Michaela D. McKinney / Sadie McNaughton

*Request to operate a repair & customization facility for motorcycle.*



## SHORT TERM RENTALS

### 14. **APPROVAL (Council on September 19)**

**Frances Robbins-Oman** (Applicant)

**Frances Robbins-Oman & Kyle R. Oman**  
(Property Owners)

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

**Address:** 907 Pacific Avenue

**GPIN(s):** 24272444111000

**City Council:** District 5

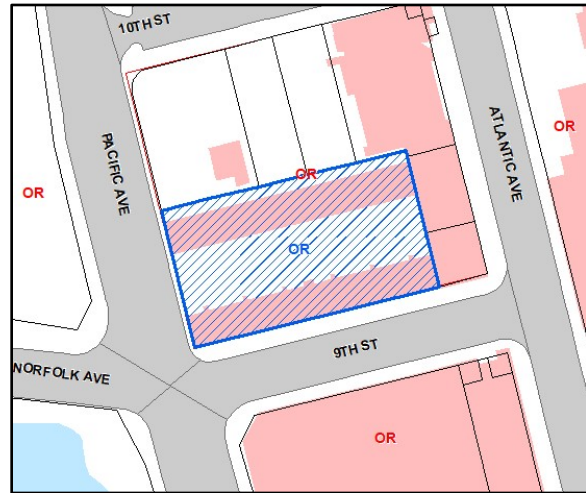
**Accela Record(s):** 2023-PCCC-00091

**SGA:** Yes – Resort Area

**Overlay:** OR Overlay

**Staff Planner:** Pamela Witham

*Request to operate a 1-bedroom Short Term Rental.*



### 15. & 16. **APPROVAL (Council on September 19)**

**Jim Lutz** (Applicant)

**Lulu 1, LLC** (Property Owner)

**Conditional Use Permits** (Short Term Rentals)

**Addresses:** 921 Pacific Avenue, Unit A & 915 Pacific Avenue, Unit B

**GPIN(s):** 24272444111125 & 2427444111070

**City Council:** District 5

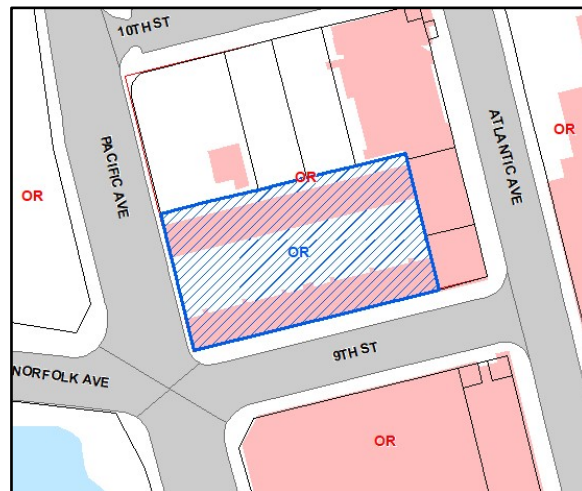
**Accela Record(s):** 2023-PCCC-00061, 2023-PCCC-00093

**SGA:** Yes – Resort Area

**Overlay:** OR Overlay

**Staff Planner:** Pamela Witham

*Request to operate two, 1-bedroom Short Term Rentals.*



**17. & 18. APPROVAL (Council on September 19)**

**Ascensions Group, LLC** (Applicant)  
**AG The Wave, LLC** (Property Owner)

**Conditional Use Permits** (Short Term Rentals)

**Addresses:** 400 22<sup>nd</sup> Street, 2106 Arctic Avenue

**GPIN(s):** 2427085567

**City Council:** District 6

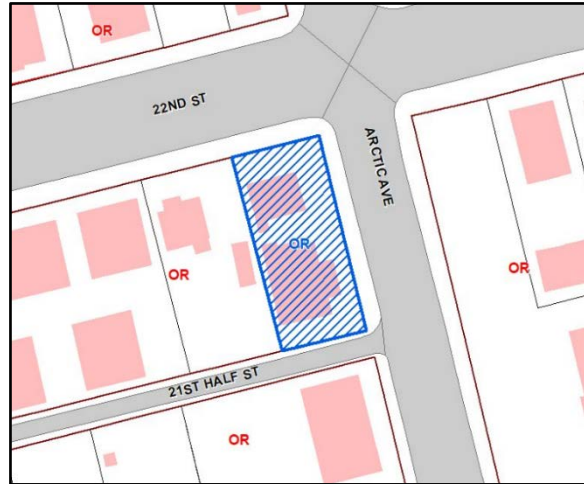
**Accela Record(s):** 2023-PCCC-00083, 2023-PCCC-00085

**SGA:** Yes – Resort Area

**Overlay:** OR Overlay

**Staff Planner:** Pamela Witham

*Request to operate two, 4-bedroom Short Term Rentals.*





**Request**

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

**Staff Recommendation**

Denial

**Staff Planner**

Hoa N. Dao

**Location**

Parcels west of Bluegrass Lane & east of 2044 Aloma Drive

**GPINs**

1494389822, 1494389445, 1494480354

**Site Size**

7.50 acres

**AICUZ**

65-70 dB DNL; Sub-Area 2

**Watershed**

Southern Rivers

**Existing Land Use and Zoning District**

Wooded / AG-1 Agricultural

**Surrounding Land Uses and Zoning Districts**

**North**

Single-family dwellings / R-7.5 Residential

**South**

Wooded / AG-1 Agricultural

**East**

Bluegrass Lane

Single-family dwellings, wooded / R-10 Residential, AG-1 Agricultural

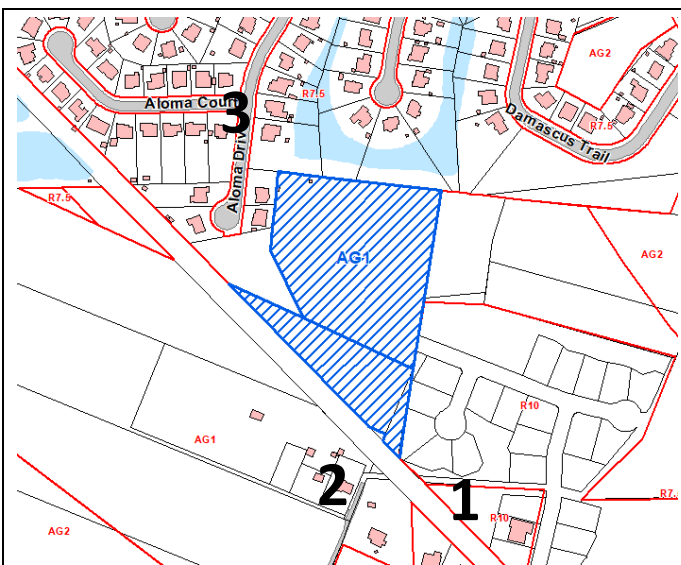
**West**

Single-family dwellings, wooded / R-7.5 Residential



## Background & Summary of Proposal

- The applicant seeks to rezone three parcels totaling 7.50 acres from AG-1 Agricultural District to Conditional R-10 Residential District for the development of ten single-family residential lots, resulting in a density of 1.69 units per acre.
- Access to the site will be via the extension of Bluegrass Lane from the Princess Anne Meadows neighborhood to the east.
- The Master Transportation Plan (MTP), a component of the Comprehensive Plan, shows a 300-foot wide roadway “Southeastern Parkway and Greenbelt” through this site. As depicted on the Conceptual Subdivision Plan, the applicant proposes to reserve a 140-foot wide easement for the Coastal Virginia Offshore Wind project (CVOW) instead of the 300-foot reservation required by the MTP.
- The site is located within the 65-70 dB DNL, Sub-Area 2 of the Air Installations Compatible Use Zones (AICUZ). On August 23, 2022, the applicant met with the Joint Review Process (JRP) Group to discuss the proposed project. The Zoning Ordinance states that applications for rezonings for residential uses may be approved if they are at a density that is similar to or lower than that of surrounding properties and that conform to the applicable provisions of the Comprehensive Plan. While the proposal does not conform with the recommendations of the MTP, it does conform with the density of the surrounding area. Since the JRP Group mainly reviews matters related to density and compatible uses, the JRP Group does not object to this request.
- The proffered building designs depict a modern tyle with exterior façades consisting primarily of EIFS, stone veneer, board and batten siding, and glass.
- According to the applicant, each dwelling will be built to meet green energy design standards, including rooftop solar panels.
- A six-foot tall monument style sign with a stone veneer base is proposed at the entrance of the community on Bluegrass Lane. It will be appropriately landscaped as required by the Zoning Ordinance.
- Proposed on-site amenities include a pedestrian trail around the stormwater management pond and a small playground.



### Zoning History

#	Request
1	MDP Approved 11/20/2018 CRZ (AG-1 to Conditional R-10) Approved 11/20/2018 CRZ (AG-1 & AG-2 to Conditional R-10) Approved 01/05/2016
2	SVR Approved 01/09/2007
3	CRZ (AG-2 to Conditional R-6) Approved 06/08/1987

### 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

Staff is recommending denial of this rezoning request as proposed since it does not align with the recommendations of the Comprehensive Plan. While the proposed density of 1.69 units per acre is compatible with the surrounding residential density as required for property located within the 65-70 dB DNL, Sub-Area 2 of the Air Installations Compatible Use Zones (AICUZ), the proposed development does not conform with recommendations of the Comprehensive Plan, specifically the Master Transportation Plan (MTP). The MTP, a component of the Comprehensive Plan, calls for a 300-foot wide roadway reservation for the construction of the Southeastern Parkway and Greenbelt (SEPG) through this site. While Staff and the City Council has acknowledged that there is no need for the construction of the SEPG as it is currently included on the City's Master Transportation Plan, Public Works has determined this portion of the SEPG alignment should be retained for a future two-lane roadway alignment from Indian River Road to Holland Road with an active transportation component. The Dominion Energy Coastal Virginia Offshore Wind (CVOW) project is anticipated to use part of the 300-foot right-of-way alignment and the remaining portion of the alignment would be needed for the future roadway. As depicted on the Conceptual Subdivision Plan, the applicant plans to only reserve a 140-foot wide reservation easement for the CVOW project with no additional area for future roadway, which poses a significant issue if the City intends to preserve the SEPG corridor as a future transportation corridor.

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

The proffered Conceptual Subdivision Plan shows two stormwater retention ponds on the eastern side of the development. A Preliminary Drainage Study was submitted for review and Staff agrees it has the ability to successfully comply with the stormwater requirements. Final design will be made during site plan submittal to ensure conformance with all requirements set forth in the Public Works Design Standards Manual.

As there is a public need to retain the entire 300-foot reservation to accommodate the future roadway and CVOW easement and construction of the homes would impede the City's ability to accommodate a two-lane arterial roadway and shared use path through this site, Staff is recommending denial of this request. Should the Planning Commission contemplate an approval recommendation, a list of proffers is provided below for consideration.

## Proffers

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

### Proffer 1:

When the Property is subdivided and developed, it shall have the entrance, neighborhood identification sign, street section, street trees, minimum front yard building setbacks, neighborhood playground, and open spaces substantially as depicted and described on the exhibits entitled, "Green Park Conceptual Master Plan, Virginia Beach, Virginia" dated September 9, 2022, prepared by Adekoje Architects, LLC, and "Signage Plan & Elevations, A2.0" dated June 15, 2022, prepared by Adekoje Architects, LLC, copies of which have been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning (hereinafter collectively, the "Conceptual Subdivision Plans").



**Proffer 2:**

When the Property is developed, it will be subdivided into no more than ten (10) single-family residential building lots. The ten (10) new homes will be built with a crawlspace or a raised slab foundation and they will contain a minimum of 3,000 square feet of living area and a two (2) car garage. The homes constructed on Lots 1 through 10 as designated on the Conceptual Subdivision Plan shall have their front entry facing the street with the architectural features and exterior building materials substantially as depicted and designated on the exhibits designated “Green Park Home Elevations pages A1.0, A1.1, A1.2, and A1.3” dated July 20, 2022, prepared by Adekoje Architects, LLC, which have been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning (hereinafter collectively “Home Elevations”).

**Proffer 3:**

When the Property is developed, the party of the first part shall record a Declaration submitting the Lots, parcels, and where applicable any easements outside the public rights of way to a mandatory membership Home Owners’ Association which shall be responsible for maintaining all open spaces, park areas, common areas, including any improvements and equipment thereon, entrance feature signage and other improvements on the Property as depicted on the Conceptual Subdivision Plan.

**Proffer 4:**

The final stormwater management plan submitted to the Development Services Center (DSC) shall be in substantial conformance with the Preliminary Drainage Study and shall comply with the Stormwater Management Ordinance.

**Proffer 5:**

Further conditions may be required by the Grantee during detailed Subdivision review and administration of application 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 should the City Council choose to approve the proposal.

## Comprehensive Plan Recommendations

The Comprehensive Plan recognizes this site as being within the Suburban Focus Area (SFA) 2.1 – North Courthouse, which calls for developments to complement the Municipal Center to the south, with significant landscape buffers and open space as part of the site design. The site lies within the 65-70 dB noise zone and Sub-Area 2 of the AICUZ. The proposal conflicts with the Comprehensive Plan’s Master Transportation Plan, which shows a 300-foot wide segment of the Southeastern Parkway and Greenbelt passing through the subject property. Constructing homes within the alignment would conflict with the city’s ability to accommodate a planned two-lane arterial roadway, shared use path, and wind energy utility corridor in the future.

## 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.

No historical or cultural resources would be affected by this proposal.

## Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Bluegrass Lane	No Data Available		Existing Land Use <sup>2</sup> – 10 ADT Proposed Land Use <sup>3</sup> – 100 ADT
Princess Anne Road	30,878 ADT <sup>1</sup>	39,700 ADT <sup>1</sup> (LOS <sup>4</sup> “D”)	
<sup>1</sup> Average Daily Trips	<sup>2</sup> as defined by a single-family dwelling	<sup>3</sup> as defined by ten single-family dwellings	<sup>4</sup> LOS = Level of Service

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

Bluegrass Lane is a two-lane residential street in the Princess Anne Meadows subdivision that currently terminates at the eastern edge of the subject property. The subdivision is proposed to extend Bluegrass Lane so that all ten homes would have access from this extension. The Princess Anne Meadows subdivision has only one access point at Princess Anne Road.

Princess Anne Road has a four-lane divided typical section with parallel multi-use trails. There are no projects in the CIP to improve Princess Anne Road in the area of this rezoning application.

A portion of the subject property is located within the 300-foot wide alignment for the Southeastern Parkway and Greenbelt (SEPG). While City Council has acknowledged that there is no need for the construction of the full SEPG as it is currently included on the City’s Master Transportation Plan, Public Works has determined this portion of SEPG right-of-way alignment should be retained for a future two-lane roadway with an active transportation component. The Dominion Energy Wind Energy (CVOW) project is anticipated to use part of the 300-foot SEPG right-of-way alignment, and the Applicant has reserved this area as shown on the Conceptual Plan. This proposed development as shown on the Conceptual Plan would hinder the City's ability to preserve the SEPG corridor as a future transportation corridor.

## Stormwater Impacts

### Project Stormwater Design Staff Summary

This project consists of the construction of a single family subdivision, including 10 lots. In addition to the lots, this project will include associated right-of-way improvements and a stormwater management facility to support the proposed development.

Stormwater runoff from the site currently sheet flows east towards an existing public drainage ditch. Stormwater runoff from the proposed buildings and right-of-way improvements will be collected into a wet pond that will treat for both water quality and water quantity before discharging into the existing public drainage ditch to the east. 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 MSA in the Preliminary Drainage Study, 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. More detailed project stormwater information is listed below.

### Project Information

**Total project area:** 7.50 acres

**Pre-Development impervious area:** 0.00 acres

**Post-Development impervious area:** 2.17 acres

## Stormwater Management Facility Design Information

**Type of facility proposed:** Wet pond

**Description of outfall:** Stormwater runoff from the site that enters into the Stormwater Management Facility will discharge into the existing public drainage ditch to the east.

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

## Public Utility Impacts

### Water

City water must be extended to service the proposed lots. There are eight-inch City water mains along Bluegrass Lane and Aloma Drive.

### Sewer

City sanitary sewer must be extended to service the proposed lots. There are eight-inch City sanitary sewer gravity main along Bluegrass Lane and Aloma Drive.

## School Impacts

School	Current Enrollment	Capacity	Generation <sup>1</sup>	Change <sup>2</sup>
Christopher Farms Elementary	651 students	669 students	3 students	2 students
Landstown Middle	1,338 students	1,424 students	1 student	1 student
Landstown High	2,185 students	2,354 students	2 students	2 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 10, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, July 26, 2023 and August 2, 2023.
- 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 24, 2023.
- This Staff report, as well as all reports for this Planning Commission’s meeting, was posted on the Commission’s webpage of [www.virginiabeach.gov/pc](http://www.virginiabeach.gov/pc) on August 3, 2023.

**GREEN PARK**  
Conceptual Master Plan  
5 Bluegrass Lane, Virginia Beach VA 234453

5 Bluegrass Lane, Virginia Beach VA 23453

**SITE DATA:**

GPIN: 14943898220000

14944803540000

14944803540000

**Total Site Area:** ±7.50 a.c

Site Area	Excluding Easement Area	±5.92 a.c.
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Current Zoning: AG1

Proposed Zoning R-10

**Proposed Use:** Single Family Residential

Min Lot Area: 10,000 s.f.

Min I of Width- 80"

Front Satchel: 30"

Side Cathank: 10"

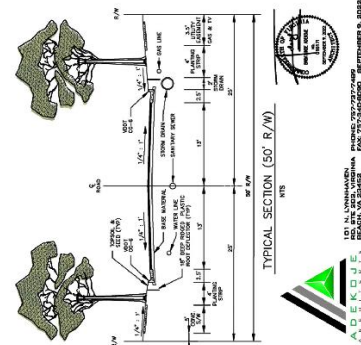
Page 666

7-4-11-4-200004	10
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Open Space Provided:  
±1.23 a.c or 20.77%  
(Includes 1 a.c. SWMF to the south and playground.)

Density 1.69

Wetlands ±1.14 Acres Total





# Subdivision Plan w/ 300' SEPG

## GREEN PARK Conceptual Master Plan

5 Bluegrass Lane, Virginia Beach VA 23463

### SITE DATA:

CPN: 1494389220000  
1494389445000  
1494483540000

Total Site Area: ±7.50 a.c.

Site Area Excluding Easement Area ±5.92 a.c.

Current Zoning: AG1

Proposed Zoning: R-10

Proposed Use: Single Family Residential

Min Lot Area: 10,000 s.f.

Min Lot Width: 80'

Front Setback: 30'

Side Setback: 10'

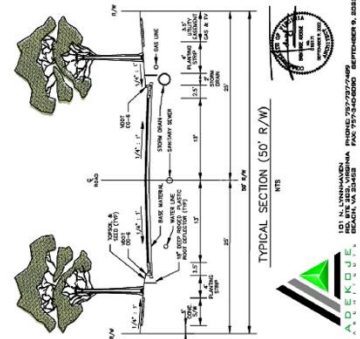
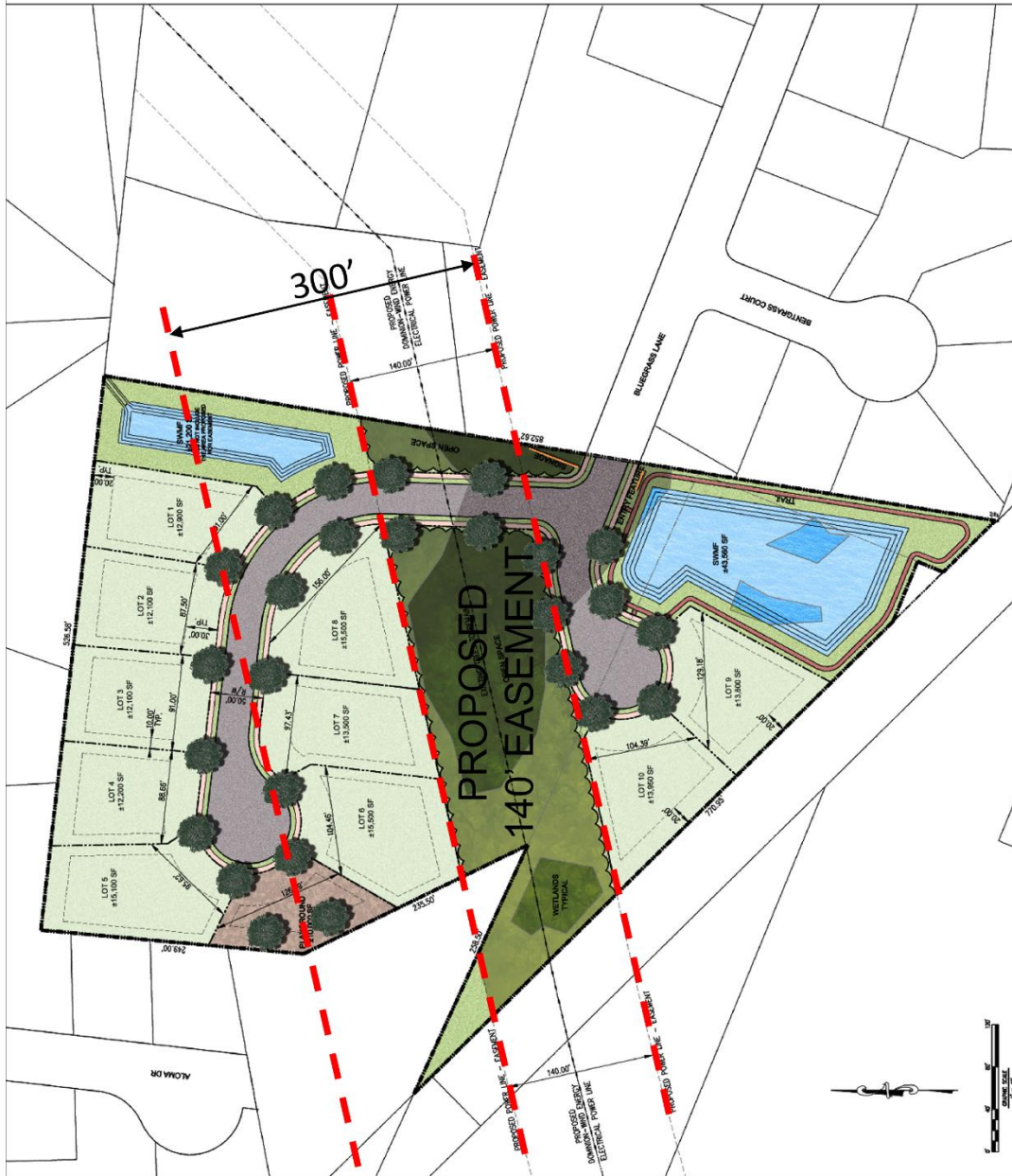
Rear Setback: 20'

Total Lot Proposed: 10

Open Space Provided: ±1.23 a.c. or 20.77%  
(Includes 1 ac. SWME to the south and playground.)

Density: 1.69

Wetlands: ±1.14 Acres Total





# Proposed Community Signage

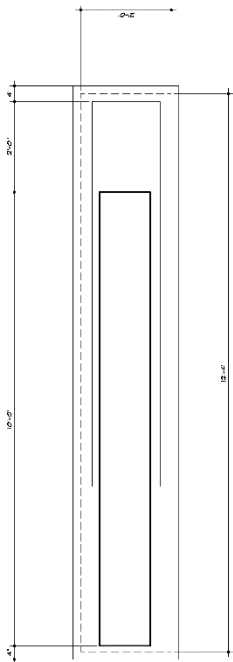


101 N LYNNHAVEN  
SUITE 100  
VIRGINIA BEACH, VA 23453  
PHONE: 757-237-7489  
FAX: 757-340-8090

23453  
BLUEGRASS LANE,  
VIRGINIA BEACH, VA

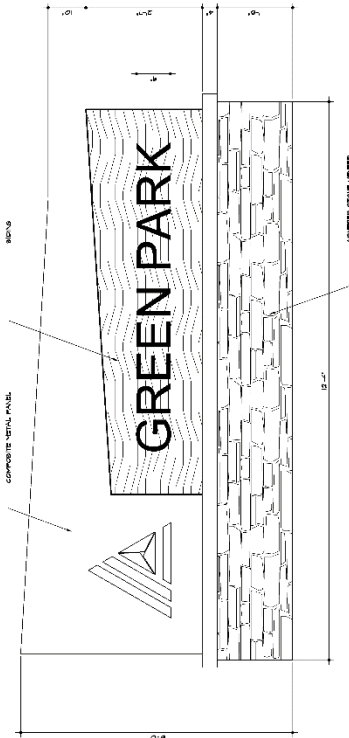
ARCHITECT'S JOB  
NO: 22001.0  
JUNE 15, 2022  
SHEET CONTENT:  
ELEVATIONS  
ELEVATIONS

A20  
ARCHITECTURE  
PRELIMINARY DRAWINGS



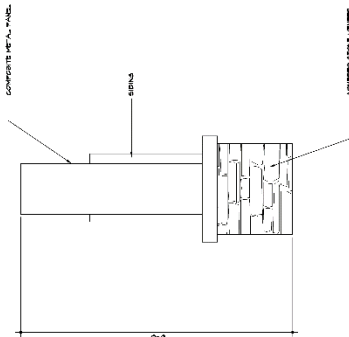
SIGNAGE- FLOOR PLAN

1" = 1'-0"



SIGNAGE- FRONT ELEVATION

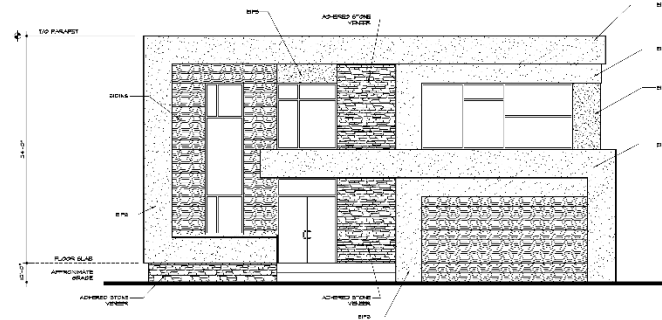
1" = 1'-0"



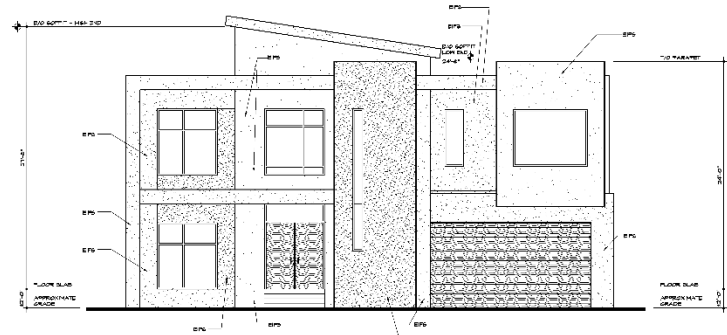
SIGNAGE- SIDE ELEVATION

1" = 1'-0"

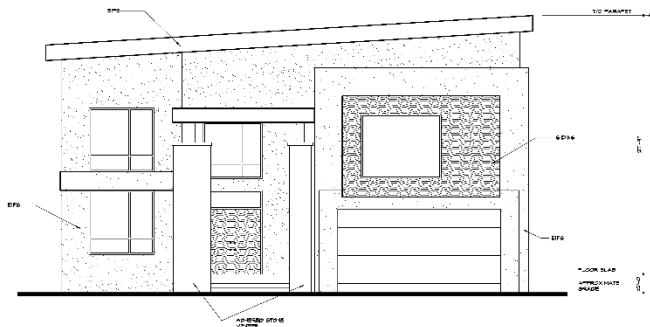
# Proposed Elevation Plans



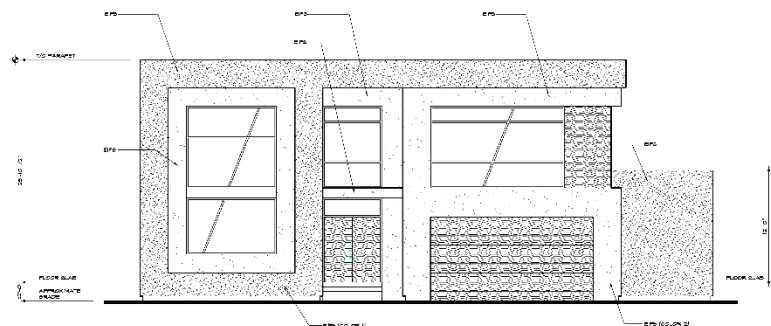
FRONT ELEVATION - HOUSE 1  
1/4" = 1'-0"



FRONT ELEVATION - HOUSE 2  
1/4" = 1'-0"

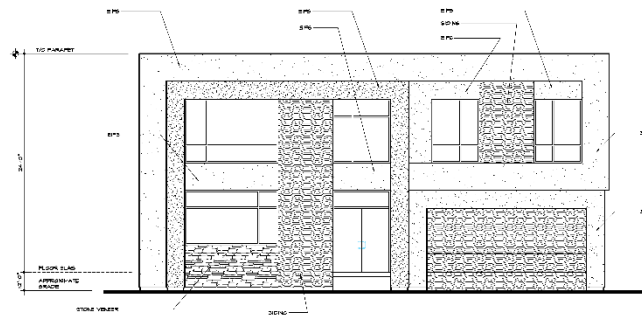


FRONT ELEVATION - HOUSE 3  
1/4" = 1'-0"



FRONT ELEVATION - HOUSE 4  
1/4" = 1'-0"

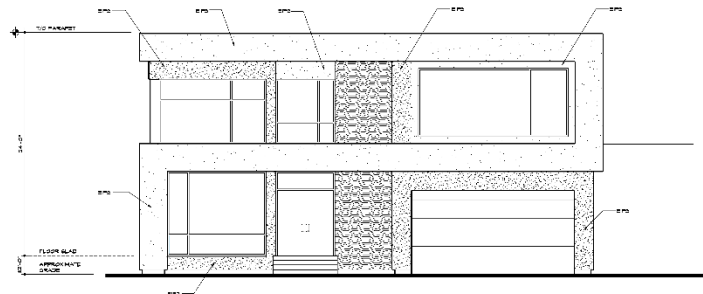
# Proposed Elevation Plans



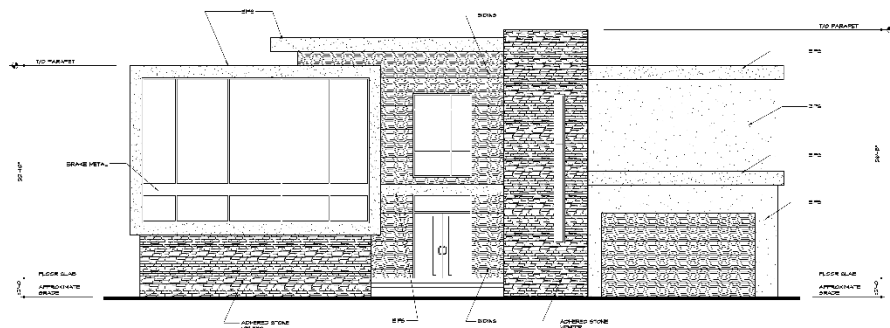
FRONT ELEVATION - HOUSE 5  
1/4" = 1'-0"



FRONT ELEVATION - HOUSE 6  
1/4" = 1'-0"



FRONT ELEVATION - HOUSE 7  
1/4" = 1'-0"



FRONT ELEVATION - HOUSE 8  
1/4" = 1'-0"

Proposed Renderings





Proposed Renderings





Proposed Renderings





## Proposed Renderings



## Site Photo





### Disclosure Statement



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

#### Applicant Disclosure

**Applicant Name** Adekoje PJ 22001, LLC

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

- If yes, list the name of the representative.

Mark R. Garrett, Jr. Esq.

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

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

BABATUNDE ADEKOJE - Member, OLUGBENGA MAXWELL ADEKOJE - Member, ADEDIMEJI OMIKUNLE - Member, DUKE K.

QUARSHIE - Member, CANDICE K. BARNES - Member

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

<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.

Adekoje Architects LLC, Babatunde Adekoje, President

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.

Adekoje Construction LLC, Babatunde Adekoje, President

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.

MSA, P.C., C. Scott Acey, PE, NSPE

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

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

Sykes, Bourdon, Ahern & Levy, P.C., Mark R. Garrett, Esq.

#### Applicant Signature

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

Applicant Signature

Babatunde Adekoje, President

Print Name and Title

8/26/2022

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.

### Requests

**#3 - Conditional Rezoning** (AG-1 & AG-2 Agricultural to Conditional A-18 Apartment w/ Workforce Housing Overlay District)

**#4 - Modification of Proffers** (to expand and add 176 additional units)

### Staff Recommendation

Approval

### Staff Planner

Hoa N. Dao

### Location

Portions of 2737 Princess Anne Road & eastern adjoining parcel, 2520 Allie Nicole Circle

### GPINs

Portion of 1494547938, portion of 1494543861, 1494534876

### Site Size

21.96 acres

### AICUZ

65-70 dB DNL, Less than 65 dB DNL

### Watershed

Southern Rivers

### Existing Land Use and Zoning District

Multi & single-family dwellings, cultivated field, / A-18 Apartment, AG-1 & AG-2 Agricultural

### Surrounding Land Uses and Zoning Districts

#### North

Princess Anne Road

Single-family dwellings, religious use / R-10

Residential, AG-1 & AG-2 Agricultural

#### South

Golf course / AG-1 Agricultural

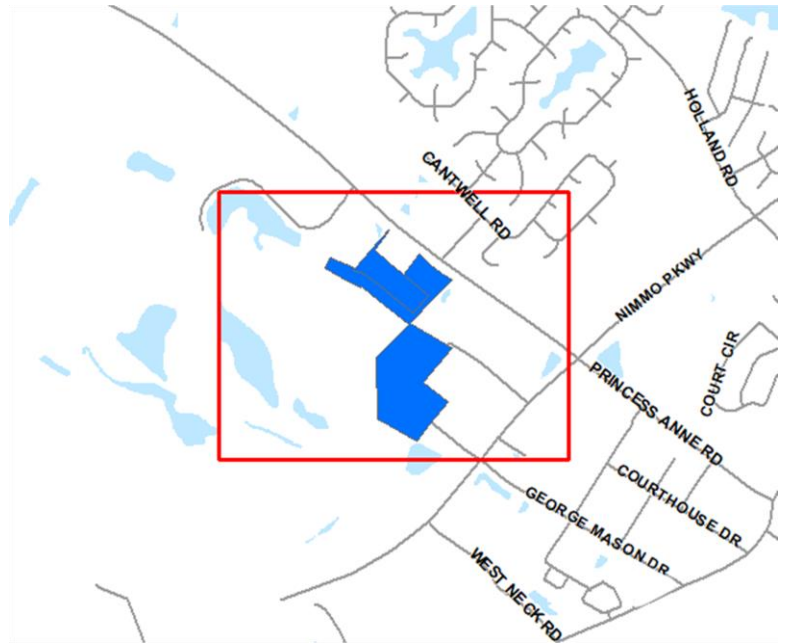
#### East

George Wythe Drive, George Mason Drive

Religious use, shopping center, undeveloped parcel / B-2 Community Business, AG-1 & AG-2 Agricultural

#### West

Single-family dwellings, golf course / AG-1 & AG-2 Agricultural



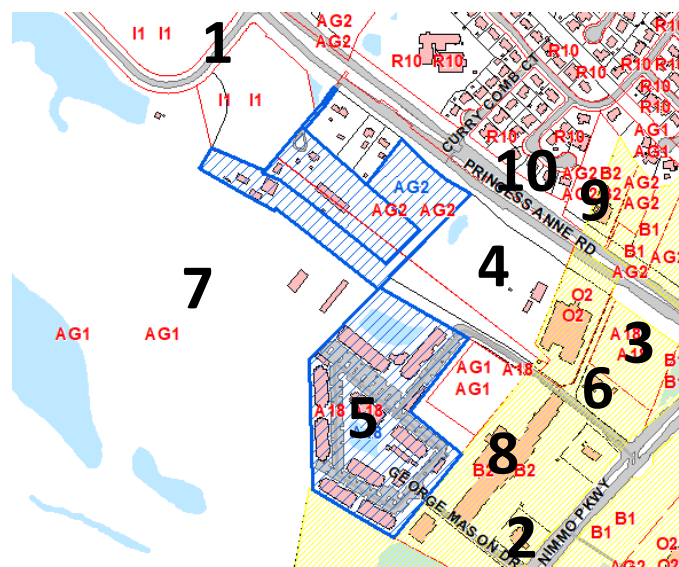
## Background & Summary of Proposal

- The applicant seeks to rezone 6.26 acres from AG-1 and AG-2 Agricultural to Conditional A-18 Apartment with Workforce Housing Overlay District along with a Modification of Proffers request to expand the existing Southern Pines Apartments with an additional 176 units.
- The existing Southern Pines development was approved in 2014 for the construction of 240 multi-family dwellings on 15.7 acres for a density of 15.29 units per acre. The site layout and building design of the existing development will not be modified; however, the applicant is proposing new proffers to include the addition of 6.26 acres for the construction of an additional 176 multi-family units.
- The 176 additional multi-family dwelling units will result in an overall density of 18.94 units per acre. The development will include a Workforce Housing (WFH) component which allows for a 30 percent density bonus per Section 2106 of the City Zoning Ordinance.
- Density Calculation:

	Acreage	Maximum Units Permitted under A-18	Workforce Housing Bonus	Maximum Units Permitted (including Workforce Housing)	Number of Units Proposed
Phase 1	15.70	282	-	282	240
Phase 2	6.26	112	33	145	176
Total	21.96	394	33	427	416
Total Proposed Density (units/acre)					18.94

- Primary access to the new phase is proposed from George Wythe Drive. A secondary, right-in/right-out, access is proposed from Princess Anne Road. Should the City Council approve the access from Princess Anne Road, a right-turn lane would be required, as depicted on the proffered plan.
- The proffered Concept Plan and elevations depict five, four-story apartment buildings each with a height of ~~559.67~~ feet. The apartment building fronting Princess Anne Road is proposed to be three-story with a height of 48 feet. The exterior façade is comprised of brick, vinyl lap siding, cementitious panels, asphalt shingles, and metal roofing. The proposed two-story clubhouse will feature similar exterior materials and is proposed to be 32.58 feet in height. Similar to the 2014 approval, the applicant is requesting a deviation to allow an increase in the height from the 35-foot maximum permitted in the A-18 zoning district to a maximum height of ~~559.67~~ feet. The existing three-story apartment buildings in Phase 1 were granted a deviation to allow for a maximum height of 48-feet.
- The site is partially located within the Interfacility Traffic Area (ITA). The applicant appeared before the Transition Area/Interfacility Traffic Area Citizen's Advisory Committee (TA/ITA CAC) on July 6, 2023, to share details of the project. The TA/ITA CAC voted to recommend denial of the proposal, finding the proposed density and building height to be incompatible with the surrounding area.
- The proffered plan proposes a variety of amenities to include an outdoor swimming pool, as well as a clubhouse with a fitness center. Grilling stations may also be provided; however, the specific details will be finalized during the final site plan review process.
- 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 741 parking spaces are typically required for a multi-family development of this size, the parking study indicates that the proposed 724 parking spaces provided (ratio of 1.74 spaces per unit) will meet the needs of the residents.





### Zoning History

#	Request
1	MDP Approved 06/20/2023
2	CUP (Automobile Service Station) Approved 12/13/2022 MDP Approved 12/13/2022
3	CRZ (B-2 to A-18) Approved 01/07/2020
4	MDC Approved 09/06/2016 MDC Approved 05/24/2011 MDC Approved 02/12/2008 CUP (Religious Use) Approved 12/03/1996 MDC Approved 09/27/1994 CUP (Religious Use) Approved 10/26/1993
5	CRZ (AG-1 to A-18) Approved 07/08/2014 CUP (Religious Use) Approved 06/10/1997
6	CUP (Automobile Service Station) Approved 05/10/2011 MDP Approved 05/10/2011 CUP (Automobile Service Station) Approved 03/27/2007 MDP Approved 03/27/2007
7	CUP (Recreational Facility) Approved 02/03/2009 CUP (Outdoor Recreational Facility) Approved 05/27/1997
8	CRZ (AG-1, AG-2, B-1 to B-2) Approved 06/08/2004 CRZ (AG-1 to B-1) Approved 02/02/1978
9	CUP (Transmission Facility) Approved 09/22/1998
10	SVR Approved 10/13/1992

## Evaluation & Recommendation

The proposal to rezone 6.26 acres along with a Modification of Proffers request to incorporate the 6.26 acres into the existing multi-family development to allow for the construction of 176 additional multi-family dwellings, in Staff's opinion, are acceptable.

*The City Council may, for good cause shown and upon a finding that there will be no significant detrimental effects on surrounding properties, accept proffered conditions reasonably deviating from the setback, lot coverage, landscaping and minimum lot area requirements and height restrictions ... otherwise applicable to the proposed development. No such deviation shall be in conflict with the applicable provisions of the Comprehensive Plan.*



The 6.26-acre property is partially located within the Princess Anne Commons/Interfacility Traffic Area. The applicant appeared before the TA/ITA CAC on July 6, 2023, to share details of the proposal. While the Committee agreed that the building design reflects the vernacular tidewater and rural architecture of the area, they felt the proposed building height and density were not compatible to that of the surrounding area. As such, the Committee voted to recommend denial of the proposal.

While the ITA Plan states that for the most part, residential density within the ITA should be limited to one unit per 15 acres for residential development (page 16), the plan also recommends that residential growth should be concentrated around existing developed areas including the Municipal Center and Princess Anne Commons (page 5). The Comprehensive Plan also prioritizes strengthening the development nodes along the Princess Anne Corridor, noting that more dense development should remain clustered along Princess Anne Road at the Municipal Center and North Princess Anne Commons. The Plan further recognizes the benefit of incorporating residential uses outside of the AICUZ to create vibrant, mixed-use districts where people can live, work, and recreate within walking distance to services and gathering spaces.

Two such nodes, referred to as “Initiative Areas” in the ITA Plan, are the Historic Princess Anne Center and the Municipal Center, both of which are in close proximity to the subject site. One of the key recommendations of the ITA Plan for the Municipal Center is the need to introduce a mix of residential units into the district to enliven the complex around the clock, to create a consistent pedestrian network, and provide attainable housing for City workers. The ITA plan calls for multi-family residential within the core of the Municipal Center along George Mason Drive. While the ITA Plan recommends a maximum density of up to and no more than one dwelling unit per 15 acres, the policies of the ITA Plan, as described in a previous paragraph, encourage a greater density for the purpose of increasing housing choices in close proximity to the Municipal Center, where infrastructure is available and the AICUZ allows such development.

While Staff recognizes the total proposed density of 18.94~~1~~ units per acre exceeds the maximum allowable density of 18 units per acre for property zoned A-18 Apartment District, the slight overage is due to the inclusion of workforce housing in the development. The provisions of Section 2106 of the City Zoning Ordinance state that developments that designate at least 17 percent of the proposed dwelling units for workforce housing would be eligible for a 30 percent density bonus. The Workforce Housing Overlay District would only be applied to the 6.26-acre parcel and not the existing Southern Pines development, since the workforce housing units are only included in Phase 2 of the development. Of the 176 additional units proposed, a minimum of ~~30~~<sup>17</sup> percent, or ~~53~~<sup>30</sup> units in this instance, would be designated for Workforce Housing. According to the applicant, the units designated for workforce housing will be leased at approximately 25 percent below the rental market rate.

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 minimum number of parking spaces required. Section 203(b)(11) allows the Zoning Administrator to reduce the parking requirement when a “substantial number of patrons are pedestrians or arrive by means of public transportation or by bicycle.” As required, the Zoning Administrator determined that while 741 spaces are typically required for a multi-family development of this size, the final parking ratio of 1.74 spaces per unit and the reduction to the minimum number of required parking spaces from 741 to 724 spaces is justified. The site is within a half-mile distance of shopping centers, retail establishments, and parks, all of which are connected via sidewalks and a shared multi-use path. In addition, the site is near multiple bus stops along Princess Anne Road including Route 33 which runs from Tidewater Community College to the oceanfront.

The proffered Concept Plan shows an access point on Princess Anne Road; however, this segment of Princess Anne Road is designated as “access controlled” in the City’s Master Transportation Plan, a component of the Comprehensive Plan, thus new direct access to the roadway from private access points is not permitted. The applicant has stated that it would be unreasonable for access to the property to be provided solely from George Wythe Drive, which currently serves as an access point for Phase 1 of the development. The applicant has also stated that without access to Princess Anne Road, it would be a “significant inconvenience” for residents and create “confusion” for visitors, delivery drivers, and others who visit the property. While Staff does not support the access point from Princess Anne Road due to the inconsistency with

the recommendations of the Comprehensive Plan as well as negative effects on the roadway capacity and safety, should the access be approved, Staff recommends that the existing right turn lane on Princess Anne Road be extended to provide the required deceleration length and taper for this site. Extension to the turn lane is depicted on the proffered Concept Plan.

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

A stormwater retention pond is proposed in the center of the development. Staff reviewed the conceptual stormwater management strategy and agreed 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 these requests, with the elimination of the access point on Princess Anne Road, deviation to the building height, reduction to the minimum required parking, and subject to the proffers listed below.

## Proffers

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

The following proffered conditions are hereby added to the Original Proffers (2014) with respect to the Added Property, and shall be the proffered conditions applicable to the Added Property (but shall not affect the Original Property):

### **Proffer 1:**

When developed, the Added Property shall be developed in substantial conformity with the conceptual site plan entitled “The Silo at Southern Pines Conceptual Development Plan”, dated May 31, 2023, 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 multifamily residential buildings constructed on the Added Property, when developed, shall be in substantial conformity with the exhibit prepared by Cox, Kliewer & Company, P.C., entitled “The Silo at Southern Pines Conceptual Elevations” and dated May 31, 2023 (the “Elevations”), 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 Added Property, when developed, shall not exceed a total of one hundred seventy-six (176). Not less than ~~thirtyseven~~ thirtyseven (3017) percent of the total number of residential units developed on the Added Property will be “workforce housing units” as defined in Section 2102 of the Zoning Ordinance.

### **Proffer 4:**

Landscaping installed on the Added Property, when developed, shall be in substantial conformity with that shown on the exhibit prepared by Timmons Group, entitled “The Silo at Southern Pines Conceptual Planting Plan”, and dated May 31, 2023 (the “Landscape Plan”), a copy of which is on file with the Department of Planning and has been exhibited to the

Virginia Beach City Council. The exact species of the various types of landscaping shall be determined at final site plan review.

**Proffer 5:**

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

**Proffer 6:**

The final stormwater management plan submitted to the Development Services Center (DSC) during the site plan review process for the development of the Added Property shall comply with applicable City Stormwater Management Ordinance(s).

**Proffer 7:**

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.

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

**Comprehensive Plan Recommendations**

The Comprehensive Plan designates the subject property as being located partially within an area designated as the Interfacility Traffic Area / Princess Anne Special Economic Growth Area (SEGA 4). More specifically, the subject site lies within the Historic Princess Anne Center, which includes the Virginia Beach Municipal Center / Court Complex, the Princess Anne Historic and Cultural Zoning Overlay District, and the surrounding area. Historic Princess Anne Center is planned to expand its role as a highly attractive destination with a balanced blend of residential, commercial, and open spaces to complement the form and function of the municipal center, court complex, and historic district. Planned land uses, both public and private, should be compatible with those found in the municipal center and court complex and, where appropriate, may include residential, office, retail, service, hotel, and institutional 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 groundwater, poorly draining soils, and high-water surface elevations in downstream receiving waters.

**Traffic Impacts**

Street Name	Present Volume	Present Capacity	Generated Traffic
Princess Anne Road	29,560 ADT <sup>1</sup>	39,700 ADT <sup>1</sup> (LOS <sup>4</sup> “D”)	Existing Land Use <sup>2</sup> – 0 ADT Proposed Land Use <sup>3</sup> – 1,106 ADT
Nimmo Parkway	18,900 ADT <sup>1</sup>	31,100 ADT <sup>1</sup> (LOS <sup>4</sup> “D”)	
<sup>1</sup> Average Daily Trips	<sup>2</sup> as defined by a 6.4-acre vacant parcel	<sup>3</sup> as defined by 176 apartment units	<sup>4</sup> LOS = Level of Service

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

Princess Anne Road and Nimmo Parkway are both four-lane suburban major arterials. There are no CIP projects scheduled for either Princess Anne Road or Nimmo Parkway in the vicinity of this application.

This segment of Princess Anne Road is designated as "Access Controlled" in the Master Transportation Plan. Certain roads, due to their function in the overall roadway network, need a higher level of access control than roads whose function is to provide more direct access. Roads designated "Access Controlled" have restricted direct access to and from that roadway segment for new developments. Private direct access is not permitted on these roadway segments, except when the property in question has no other reasonable access to the circulation system. In this case, the proposed development has reasonable access in the form of a public roadway, George Wythe Drive, which was built as a reverse frontage roadway so that individual developments would not need direct access to Princess Anne Road.

The Princess Anne Corridor Study (PACS), which was adopted by City Council in December 2009, recommends that properties adjacent to the Virginia Beach National Golf Course, within the Interfacility Traffic Area and south of the Southeastern Parkway that front on Princess Anne Road should "utilize reverse frontage access with internal roadway links to existing points of access on Princess Anne Road or, where available, by connecting to other tracts of land that afford access to Nimmo Parkway". The PACS also states that "no new access points to Princess Anne Road are recommended for properties that develop in this unified fashion."

## Stormwater Impacts

### Project Stormwater Design Staff Summary

This project consists of the construction of 176 apartment units within 5 buildings, a clubhouse building, and a parking area. In addition to the lots, this project will include associated right-of-way improvements and a stormwater management facility to support the proposed development.

Stormwater runoff from the site currently sheet flows in two directions, towards the public drainage system in Princess Anne Road, and towards the existing Southern Pines Apartments wet pond. Stormwater runoff from the proposed buildings and surface parking lot will be collected into a wet pond and underground storage chambers that will treat for water quantity before discharging into the existing Southern Pines Apartments wet pond. StormTech Isolator Row and other Manufactured Treatment Devices will be used for water quality pollutant load reduction requirements.

Based on the information provided by Timmons Group in the Preliminary Drainage Study, 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. More detailed project stormwater information is listed below.

### Project Information

**Total project area:** 6.26 acres

**Pre-Development impervious area:** 0.00 acres

**Post-Development impervious area:** 4.50 acres

### Stormwater Management Facility Design Information

**Type of facility proposed:** Wet pond, underground storage chambers, isolator row

**Description of outfall:** Stormwater runoff from the site that enters into the Stormwater Management Facility will discharge directly into the existing Southern Pines Apartments wet pond.



**Downstream conveyance path:** This site is part of the Upper North Landing River Drainage Basin. Drainage from this site drains through a series of interconnected ponds on Virginia Beach National Golf Club, through roadside ditches to Salem Canal, into the North Landing River, and ultimately into Back Bay. Back Bay drains through the Currituck Sound and into the Atlantic Ocean.

## Public Utility Impacts

### Water

City water is available for connection. There is an existing 12-inch City water main along George Wythe Drive and a 20-inch main along Princess Anne Road.

### Sewer

City sanitary sewer is available for connection. There is an existing eight-inch City sanitary sewer gravity main along George Wythe Drive and Princess Anne Road.

## School Impacts

School	Current Enrollment	Capacity	Generation <sup>1</sup>	Change <sup>2</sup>
North Landing Elementary	451 students	495 students	20 students	20 students
Landstown Middle	1,267 students	1,415 students	8 students	8 students
Kellam High	1,875 students	2,093 students	9 students	9 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

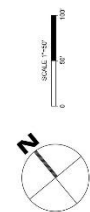
### Planning Commission

- Six letters of opposition have been received by Staff noting concerns related to building height, density, and parking deficiency.
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on July 10, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, July 26, 2023 and August 2, 2023.
- 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 24, 2023.
- This Staff report, as well as all reports for this Planning Commission’s meeting, was posted on the Commission’s webpage of [www.viriniabeach.gov/pc](http://www.viriniabeach.gov/pc) on August 3, 2023.

### City Council

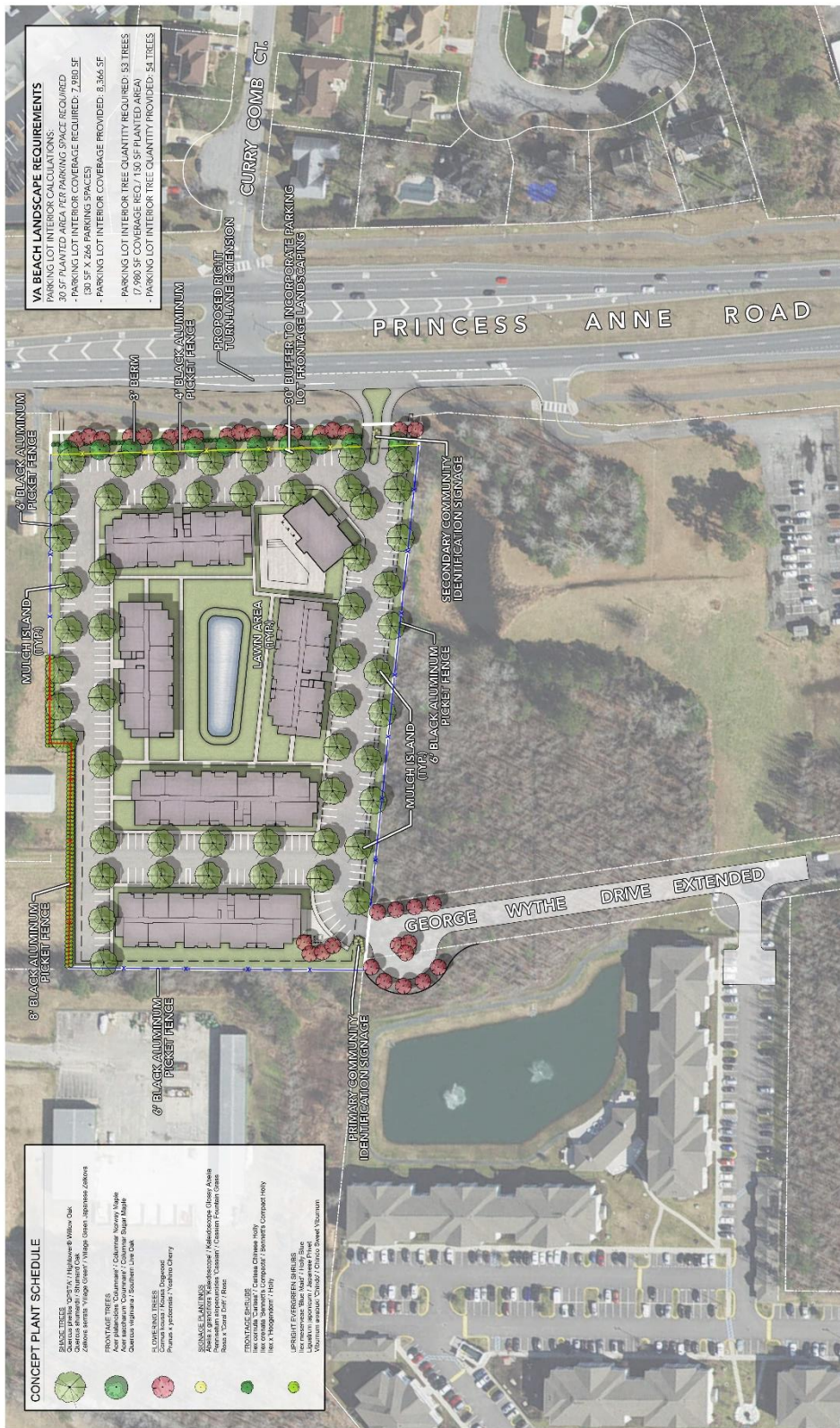
- As required by City Code, this item was advertised in the Virginian-Pilot on Tuesdays, August 22, 2023 and August 29, 2023.

- As required by City Code, the adjacent property owners were notified regarding both the request and the date of the City Council's public hearing on August 21, 2023
- The City Clerk's Office posted the materials associated with the application on the City Council website of <https://clerk.virginiabeach.gov/city-council> on September 1, 2023.

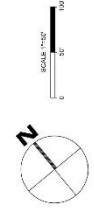


**THE SILO AT SOUTHERN PINES**  
 Conceptual Development Plan - May 31, 2023





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



## THE SILO AT SOUTHERN PINES

Conceptual Planting Plan - May 31, 2023



Clubhouse Front



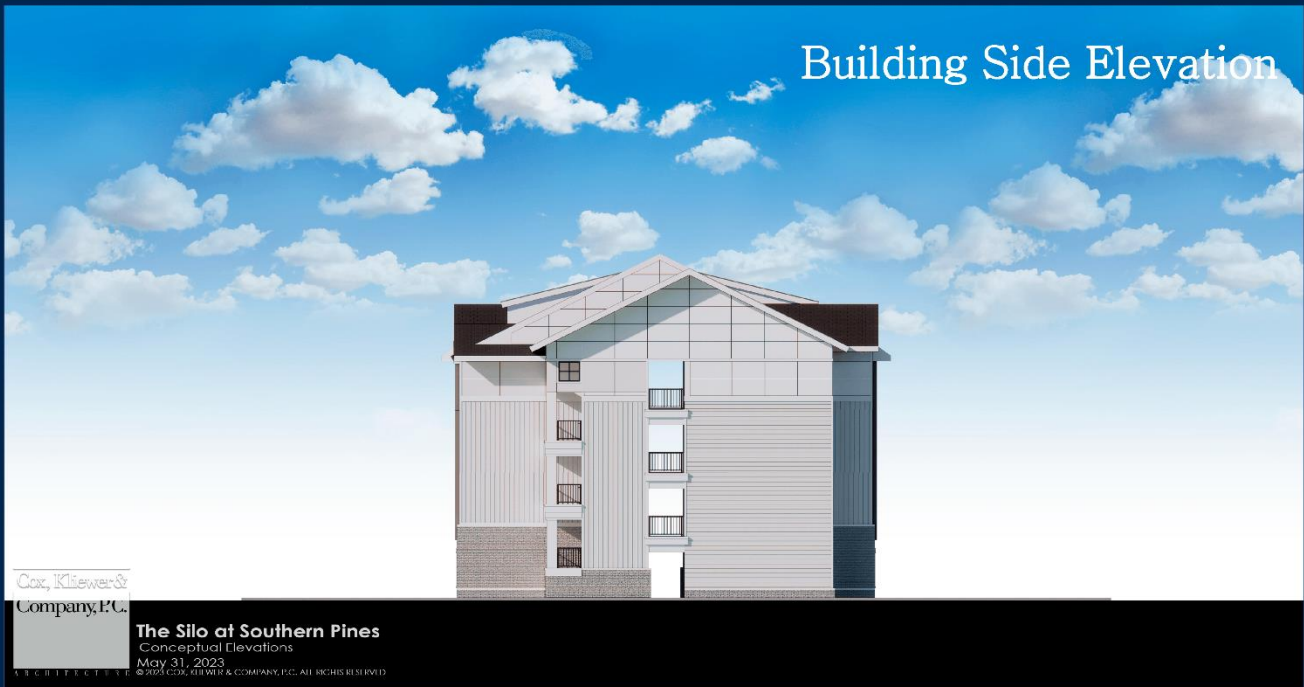
View Along Princess Anne Road



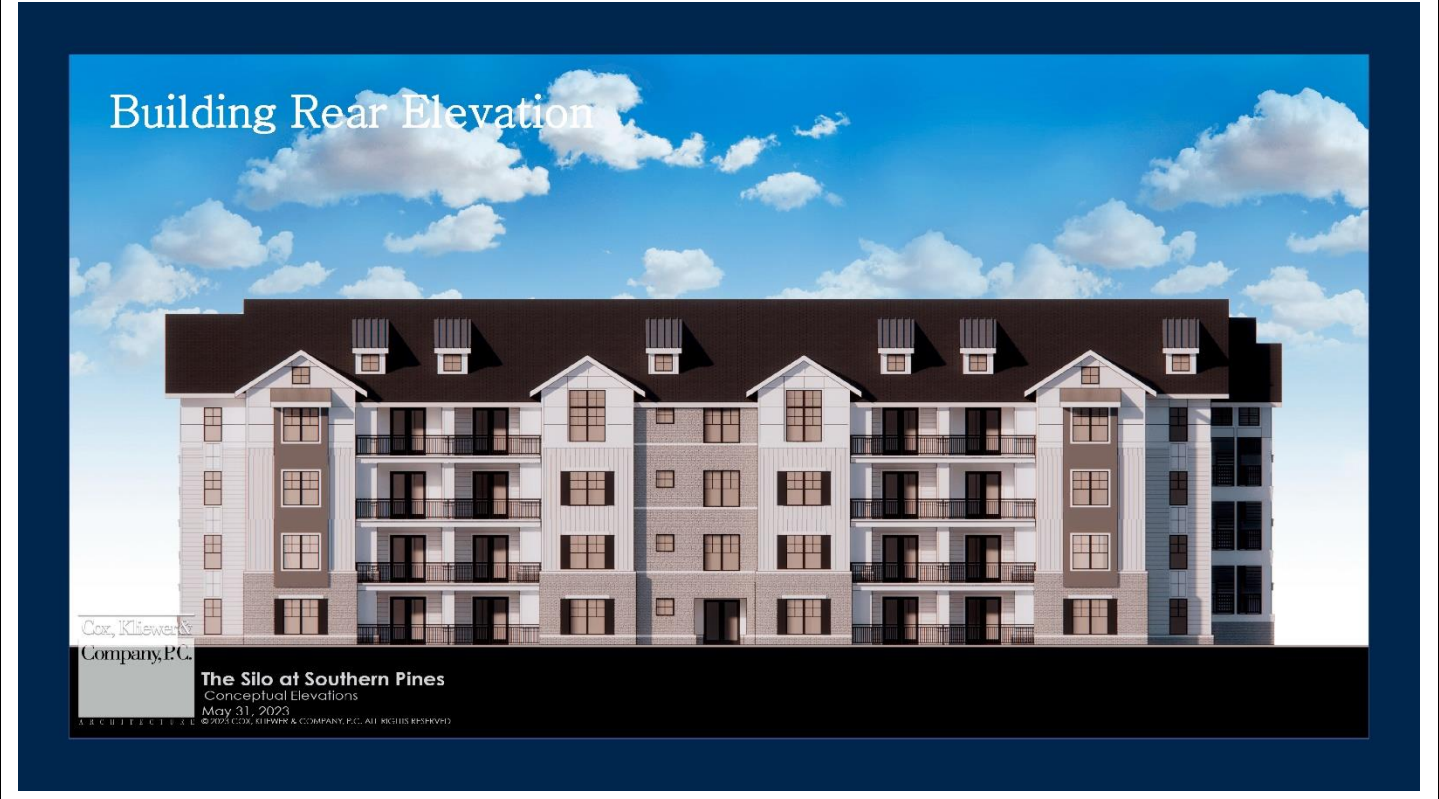
Building Front Elevation



Building Side Elevation







## Clubhouse Front Elevation

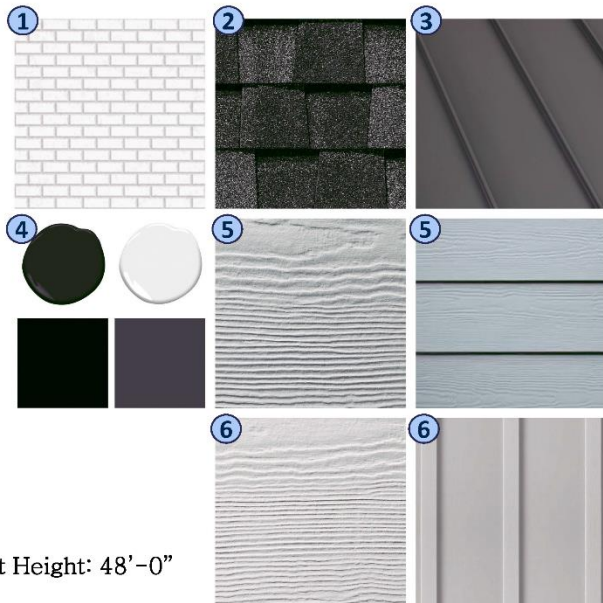
Cox, Kiewit &  
Company, P.C.

The Silo at Southern Pines  
Conceptual Elevations  
May 31, 2023  
© 2023 COX, KIEWIT & COMPANY, P.C. ALL RIGHTS RESERVED

## Building Materials & Height



- |                             |                           |
|-----------------------------|---------------------------|
| 1. Brick Masonry            | 4. Interior Color Palette |
| 2. Asphalt Shingle          | 5. Vinyl Lap Siding       |
| 3. Metal Architectural Roof | 6. Cementitious Panels    |
- 4-Story Apartment Height: 55'-0" • 3-Story Apartment Height: 48'-0"  
Clubhouse Max Height: 32'-7"





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** FRANKLIN JOHNSTON GROUP MANAGEMENT & DEVELOPMENT, LLC

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

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

TROUTMAN PEPPER, ROBERT P. BEAMAN III

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

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

\* SEE ATTACHED LIST

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

\* SEE ATTACHED LIST

<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.

COX KIEWER & COMPANY, PC, HERB SHARTLE

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, ROBERT P. BEAMAN III

#### Applicant Signature

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

Applicant Signature

*W. Taylor Franklin*  
W. Taylor Franklin, Manager

Print Name and Title

5/31/2023

Date

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

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

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

<input checked="" type="checkbox"/>	No changes as of	Date	2023.08.17	Signature	<i>Hoa N. Dao</i>
				Print Name	Hoa N. Dao

**Re-Zoning Application of Franklin Johnston Group  
Management & Development, 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: Franklin Johnston Group Management & Development, LLC
  2. Managers of Franklin Johnston Group Management & Development, LLC:
    - a. Wendell C. Franklin
    - b. W. Taylor Franklin
    - c. Thomas M. Johnston
  3. Members of Franklin Johnston Group Management & Development, LLC:
    - a. Beach One, LLC
    - b. Stephen W. Cooper
    - c. Johnston Family Group, LLC
    - d. Chris McKee
- (B) List the businesses that have a parent-subsidary or affiliated business entity relationship with the Applicant:
- a. TFJG Canopy, 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

157311732v1

## Disclosure Statement

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  
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

157311732v1

## Disclosure Statement

### Disclosure Statement



PARCEL ONE: GPIN: 1494-54-7938-0000

#### **Owner Disclosure**

JOYCE VANDERMEL WASSUM, INDIVIDUALLY, and

**Owner Name** JOYCE V. WASSUM, AS CO-TRUSTEE OF ADDIE S. VANDERMEL REVOCABLE TRUST 1/16/2014

**Applicant Name** FRANKLIN JOHNSTON GROUP MANAGEMENT & DEVELOPMENT, 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-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

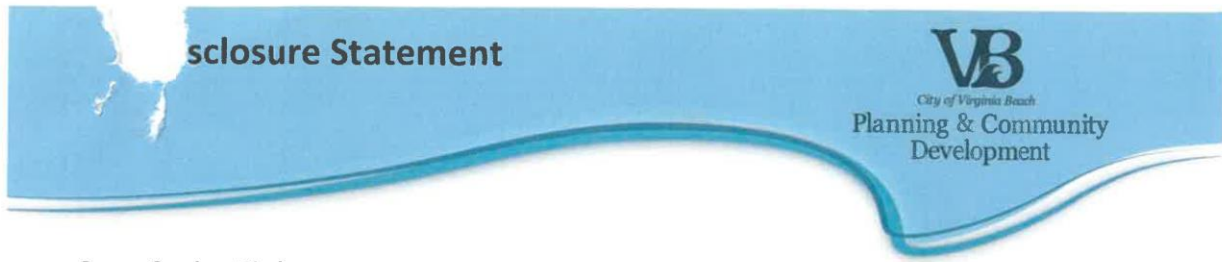
- If yes, what is the name of the official or employee and what is the nature of the interest?

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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

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

ATCOASTAL REALTY, STACI WILLIAMS

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.

FRANKLIN JOHNSTON GROUP MANAGEMENT & DEVELOPMENT, LLC

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.

COLEMAN & COLEMAN PLC, AS CLOSING SETTLEMENT AGENT

#### Owner Signature

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

X Joyce V Wassum TRUSTEE Joyce V Wassum

Owner Signature

JOYCE V. WASSUM, AS CO-TRUSTEE OF ADDIE S. VANDERMEL REVOCABLE TRUST 1/16/2014 JOYCE VANDERMEL WASSUM

Print Name and Title

5-25-23

Date

5-25-23

Date

## Disclosure Statement

**Disclosure Statement**



PARCEL ONE: GPIN: 1494-54-7938-0000

**Owner Disclosure** VIRGINIA VANDERMEL PAULEY, INDIVIDUALLY, and

**Owner Name** VIRGINIA V. PAULEY, AS CO-TRUSTEE OF ADDIE S. VANDERMEL REVOCABLE TRUST 1/16/2014

**Applicant Name** FRANKLIN JOHNSTON GROUP MANAGEMENT & DEVELOPMENT, 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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### Disclosure Statement



#### Owner Services Disclosure

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☐ Yes ☒ No

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

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ATCOASTAL REALTY, STACI WILLIAMS

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FRANKLIN JOHNSTON GROUP MANAGEMENT & DEVELOPMENT, LLC

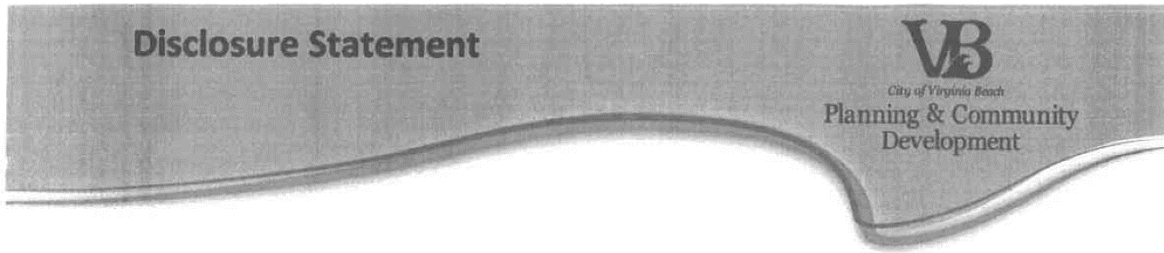
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- If **yes**, identify the firm and individual providing the service.

## Disclosure Statement



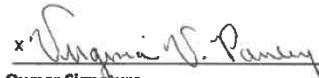
8. Is the Owner receiving **legal services** in connection with the subject of the application or any business operating or to be operated on the property? ☒ **Yes** ☐ **No**

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

COLEMAN & COLEMAN PLC, AS CLOSING SETTLEMENT AGENT

### Owner Signature

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

x 

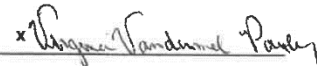
Owner Signature

VIRGINIA V. PAULEY, AS CO-TRUSTEE OF ADDIE S. VANDERMEL REVOCABLE TRUST 1/16/2014 --- VIRGINIA VANDERMEL PAULEY

Print Name and Title

5-23-2023

Date

x 

5-23-2023

Date

## Disclosure Statement



PARCEL ONE: GPIN: 1494-54-7938-0000

### Owner Disclosure

**Owner Name** SUSAN VANDERMEL GODWIN

**Applicant Name** FRANKLIN JOHNSTON GROUP MANAGEMENT & DEVELOPMENT, 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.



### 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.

ATCOASTAL REALTY, STACI WILLIAMS

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.

FRANKLIN JOHNSTON GROUP MANAGEMENT & DEVELOPMENT, LLC

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.

COLEMAN & COLEMAN PLC, AS CLOSING SETTLEMENT AGENT

### 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


SUSAN VANDERMEL GODWIN

Print Name and Title

5/25/23

Date

## Disclosure Statement

<h1 style="margin: 0;">Disclosure Statement</h1>	 <p style="margin: 0;">City of Virginia Beach Planning &amp; Community Development</p>
PARCEL ONE: GPIN: 1494-54-7938-0000	

### Owner Disclosure

Owner Name AMY VANDERMEL SHEPARD

Applicant Name FRANKLIN JOHNSTON GROUP MANAGEMENT & DEVELOPMENT, 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-subsidary<sup>3</sup> or affiliated business entity<sup>4</sup> relationship with the Owner. (Attach 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-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 Interest 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 **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.

ATCOASTAL REALTY, STACI WILLIAMS

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.

FRANKLIN JOHNSTON GROUP MANAGEMENT & DEVELOPMENT, LLC

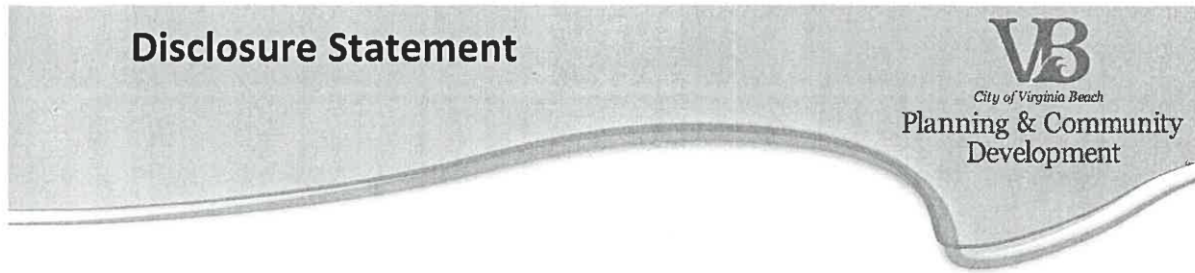
6. Does the Owner have a **construction contractor** in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

- 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.

COLEMAN & COLEMAN PLC, AS CLOSING SETTLEMENT AGENT

### 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 Boa or any public body or committee in connection with this application.**

Amy Shepard  
Owner Signature

AMY VANDERMEL SHEPARD

Print Name and Title

5/24/23  
Date



## Disclosure Statement

**Disclosure Statement**



City of Virginia Beach  
Planning & Community  
Development

PARCEL ONE: GPIN: 1494-54-7938-0000

### Owner Disclosure

**Owner Name** WILLIAM EVERETT SAWYER

**Applicant Name** FRANKLIN JOHNSTON GROUP MANAGEMENT & DEVELOPMENT, 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-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?

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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.

<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.

ATCOASTAL REALTY, STACI WILLIAMS

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.

FRANKLIN JOHNSTON GROUP MANAGEMENT & DEVELOPMENT, LLC

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.

COLEMAN & COLEMAN PLC, AS CLOSING SETTLEMENT AGENT

#### 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.

*William Everett Sawyer*

Owner Signature

WILLIAM EVERETT SAWYER

Print Name and Title

*William Everett Sawyer*

Date

*5/24/2023*

## Disclosure Statement

<h3>Disclosure Statement</h3>	
PARCEL ONE: GPIN: 1494-54-7938-0000	

#### Owner Disclosure

**Owner Name** ELGIA EASTER, AS TRUSTEE OF ELGIA AND MARY EASTER DECLARATION OF TRUST 7/16/2015

**Applicant Name** FRANKLIN JOHNSTON GROUP MANAGEMENT & DEVELOPMENT, 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

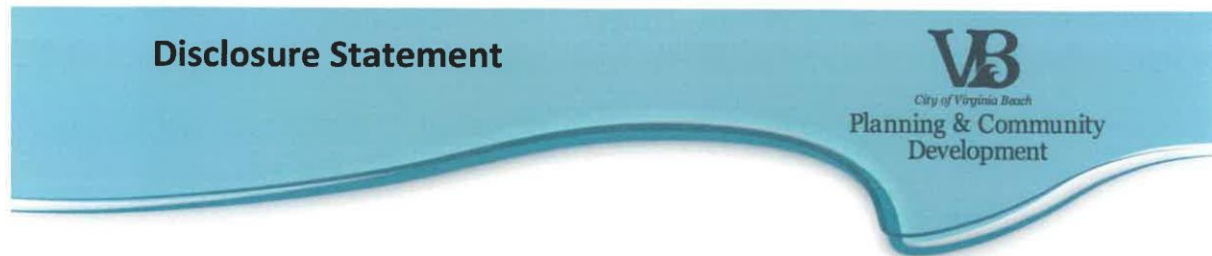
- If yes, what is the name of the official or employee and what is the nature of the interest?

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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.





### 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.

ATCOASTAL REALTY, STACI WILLIAMS

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.

FRANKLIN JOHNSTON GROUP MANAGEMENT & DEVELOPMENT, LLC

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.

COLEMAN & COLEMAN PLC, AS CLOSING SETTLEMENT AGENT

#### 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 'Elgia Easter', written over a horizontal line.

Owner Signature

ELGIA EASTER, AS TRUSTEE OF ELGIA AND MARY EASTER DECLARATION OF TRUST 7/16/2015

Print Name and Title

5-23-2023

Date

## Disclosure Statement

**Disclosure Statement**



City of Virginia Beach  
Planning & Community  
Development

PARCEL ONE: GPIN: 1494-54-7938-0000

### Owner Disclosure

**Owner Name** GRACE SAWYER WOODY

**Applicant Name** FRANKLIN JOHNSTON GROUP MANAGEMENT & DEVELOPMENT, 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.

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### Owner Services Disclosure

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

☐ Yes ☒ No

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

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

☒ Yes ☐ No

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

ATCOASTAL REALTY, STACI WILLIAMS

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.

FRANKLIN JOHNSTON GROUP MANAGEMENT & DEVELOPMENT, LLC

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

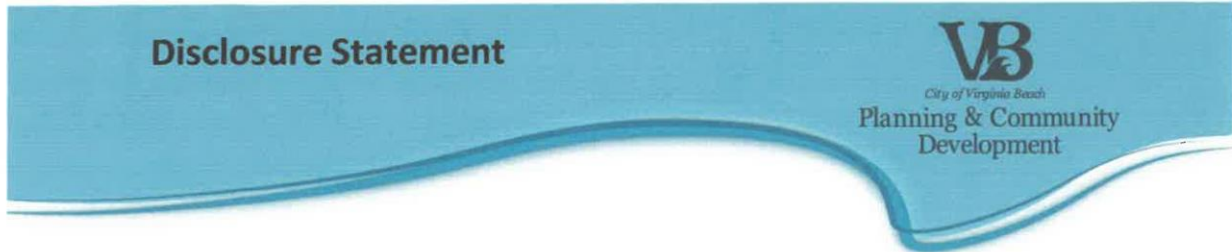
- If **yes**, identify the company and individual providing the service.

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.

COLEMAN & COLEMAN PLC, AS CLOSING SETTLEMENT AGENT

### 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.

Grace S. Woody

Owner Signature

GRACE SAWYER WOODY

Print Name and Title

5-23-2023

Date

## Disclosure Statement

### Disclosure Statement



PARCEL TWO: GPIN: 1494-54-3861-0000

#### Owner Disclosure

**Owner Name** WILLIAM E. SAWYER and PHYLISS H. SAWYER

**Applicant Name** FRANKLIN JOHNSTON GROUP MANAGEMENT & DEVELOPMENT, 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-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?

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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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### 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.

Existing financing: Credit Line Deed of Trust dated Feb. 19, 1987 with Sovran Bank, NA

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.

ATCOASTAL REALTY, STACI WILLIAMS

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.

FRANKLIN JOHNSTON GROUP MANAGEMENT & DEVELOPMENT, LLC

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.

COLEMAN & COLEMAN PLC, AS CLOSING SETTLEMENT AGENT

#### Owner Signature

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

x William E. Sawyer

Owner Signature

WILLIAM E. SAWYER

x Phyllis H. Sawyer

PHYLISS H. SAWYER

Print Name and Title

William E. Sawyer

Date 5/24/2023

PHYLISS H. SAWYER

Date 5/29/2023



**Re-Zoning Application of Franklin Johnston Group  
Management & Development, LLC**

**List of Property Owners**

**GPIN Number 1494-54-7938-0000**

1. JOYCE VANDERMEL WASSUM, Co-Trustee of the Addie S. Vandermel Revocable Trust dated January 16, 2014;
2. VIRGINIA VANDERMEL PAULEY, Co-Trustees of the Addie S. Vandermel Revocable Trust dated January 16, 2014;
3. VIRGINIA VANDERMEL PAULEY;
4. SUSAN VANDERMEL GODWIN;
5. JOYCE VANDERMEL WASSUM;
6. AMY VANDERMEL SHEPARD;
7. WILLIAM EVERETT SAWYER;
8. ELGIA EASTER, as Trustee of the Elgia and Mary Easter Declaration of Trust dated July 16, 2015; and
9. GRACE SAWYER WOODY.

**GPIN Number 1494-54-3861-0000**

1. WILLIAM E. SAWYER; and
2. PHYLLIS H. SAWYER.

## 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** (Bulk Storage Yard)

**Staff Recommendation**

Approval

**Staff Planner**

Hoa N. Dao

**Location**

130 London Bridge Road

**GPIN**

2407048646

**Site Size**

18.25 acres

**AICUZ**

Greater than 75 dB DNL; APZ-1

**Watershed**

Chesapeake Bay

**Existing Land Use and Zoning District**

Vacant parcel / I-1 Light Industrial

**Surrounding Land Uses and Zoning Districts**

**North**

Interstate 264

**South**

Abandoned railroad

Cultivated land, undeveloped parcel / I-2 Heavy Industrial, R-10 Residential

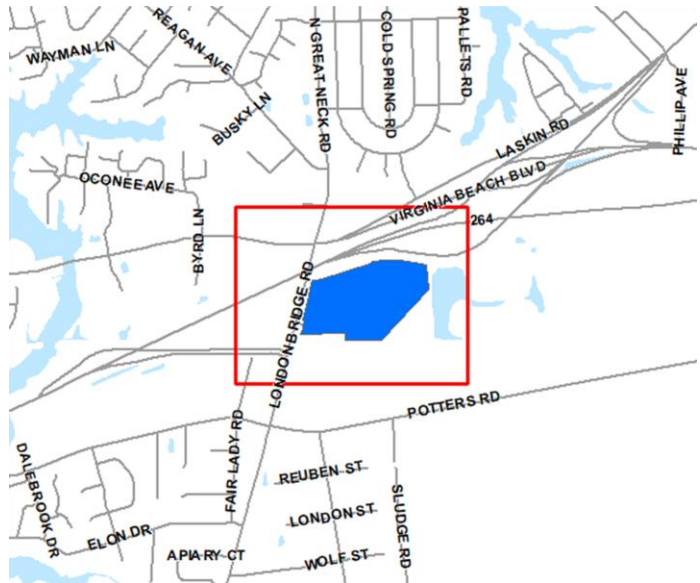
**East**

Wooded parcels / B-2 Community Business, I-2 Heavy Industrial

**West**

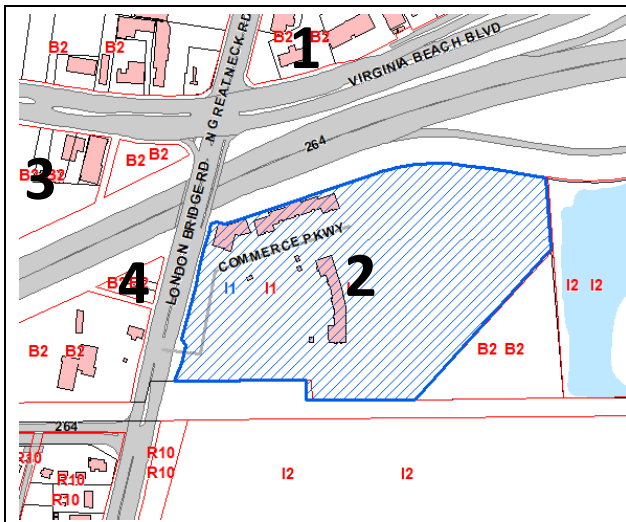
London Bridge Road

Plant nursery / B-2 Community Business



## Background & Summary of Proposal

- The applicant seeks a Conditional Use Permit for a Bulk Storage Yard to operate a temporary laydown yard to support the construction of the Coastal Virginia Offshore Wind (CVOW) project. The 18.25-acre property is zoned I-1 Light Industrial District and is located within the Lynnhaven Strategic Growth Area (SGA).
- Materials such as manholes, cable reels, PVC conduit, vibratory caissons, transmission poles, and operational vehicles, like forklifts and crane trucks, will be stored on the property.
- This site recently received site plan approval for construction of an office/warehouse complex, which will begin construction upon expiration of the laydown yard. The durational need of the proposed laydown yard is estimated to be for three years with option to extend it for two additional years.
- Access to the site is from an existing single access point along London Bridge Road.



### Zoning History

#	Request
1	CUP (Tattoo Parlor) Approved 02/15/2022
2	CRZ (B-2 to Conditional I-1) Approved 01/20/2015 CUP (Indoor Recreational Facility) Approved 01/25/2005 CUP (Outdoor Recreational Facility) Approved 06/10/1997 CUP (Religious Use) Denied 06/28/1994
3	CUP (Motor Vehicle Sales) Approved 10/12/1993
4	CRZ (R-5 to Conditional B-2) Approved 10/10/1980

### 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

This proposal for a temporary laydown yard to support the operations of Dominion Energy and the CVOW project, in Staff's opinion, is acceptable. It is Staff's opinion that the use will be minimally intrusive to adjacent property owners. The site is bounded by Interstate 264 to the north, an abandoned railroad to the south, wooded parcels owned by the United States Navy to the east, and London Bridge Road to the west. As previously stated, this is a temporary use of the site for a maximum of five years, after which it will be developed as an office/warehouse complex.

All materials are proposed to be stored in the interior of the site to minimize the visibility of the materials from London Bridge Road with operational vehicles to be parked in the existing paved parking area. Section 228 of the Zoning Ordinance requires Bulk Storage Yards to be fully enclosed by a privacy fence and Category VI landscaping. As this is a temporary use and the site is well screened by existing vegetation to the north, east, and south, the applicant seeks to deviate from Section 228 requirements. Instead of the required perimeter fencing and Category VI landscaping, the applicant proposes to replace the existing six-foot chain-link fence along London Bridge Road with a six-foot privacy fence as depicted on the Conceptual Site Layout. Staff is agreeable with the requested deviation. In addition, the



applicant recently collaborated with the City to clear out a homeless encampment on the property. Due to concern of potential crimes and reoccurrence of the homeless encampments, the Police Department has requested to delay the installation of the privacy fence until a later date, which is addressed in Condition 4 below.

Access to the site will be from the existing entrance on London Bridge Road. Flexible posts that are affixed to the pavement are proposed to be installed to prohibit left turns onto London Bridge Road. Staff is agreeable to utilizing flexible posts for this temporary use. While London Bridge Road is already overcapacity, the proposed use is not expected to generate significant traffic volume. Stormwater review has been completed for the future buildout of this site for an office/warehouse complex and the proposed temporary laydown yard does not meet the threshold for a stormwater impact analysis.

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

## Recommended Conditions

1. Operation of the site shall be in substantial conformance with the submitted Conceptual Site Layout exhibit entitled, "Conceptual Site Layout – London Bridge Laydown Yard," dated June 22, 2023, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development.
2. This Conditional Use Permit shall remain valid for a period of three years from the date of City Council approval. Prior to the 3-year expiration period, the applicant, upon written request to the Director of Planning, may request a one-year extension of the Conditional Use Permit approval. Approval of such extension shall be subject to the review and approval of the Director of Planning. No more than two, one-year extensions shall be granted.
3. Except as depicted on the Conceptual Site Layout, perimeter fencing and Category VI landscaping shall not be required. This is a deviation to Section 228 of the Zoning Ordinance.
4. A 6-foot tall privacy fence, depicted on the Conceptual Site Layout, shall be installed at a time agreeable to both the Virginia Beach Police Department and the Department of Planning and Community Development, at which time the existing chain-link fence along London Bridge Road shall be removed.
5. The applicant shall install flexible posts that are affixed to the pavement or a method approved by the Department of Public Works on Commerce Parkway to prevent motorized vehicles from making left turns onto London Bridge Road. The posts shall be maintained for the duration of this use.

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

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

## Comprehensive Plan Recommendations

The Comprehensive Plan recognizes this property as being within the Lynnhaven Strategic Growth Area (SGA). The Comprehensive Plan designates this as one of the eight urban areas in the City that is envisioned to accommodate future growth and adopt a more urban style in the City. The land use plan for the subject area is designated for industrial use, in the “innovation zone” of the SGA. A temporary storage and laydown yard would be in keeping with the vision of this area.

## Natural & Cultural Resources Impacts

This site is located in the Chesapeake Bay watershed.

No historical or cultural resources will be affected by this project.

## Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
London Bridge Road	38,040 ADT <sup>1</sup>	32,700 ADT <sup>1</sup> (LOS <sup>4</sup> “D”)	Existing Land Use <sup>2a</sup> – 0 ADT Existing Zoning <sup>2b</sup> – 1,390 ADT Proposed Land Use <sup>3</sup> – No Data Available
<sup>1</sup> Average Daily Trips	<sup>2a</sup> as defined by a vacant 18.25-acre parcel  <sup>2b</sup> as defined by an 18.25-acre parcel zoned I-1	<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)

London Bridge Road is a divided four-lane Major Suburban Arterial roadway and is included on the Master Transportation Plan as a future divided roadway with a bikeway on a 120-foot right-of-way section.

## Public Utility Impacts

### Water

City water is available to the site. There is an existing 12-inch City water main along London Bridge Road and eight-inch City water main that has been extended to the property.

### Sewer

City sanitary sewer is available to the site. There is an existing 16-inch HRSD force main along London Bridge Road and six-inch City force main that has been extended to the property.

## Public Outreach Information

### Planning Commission

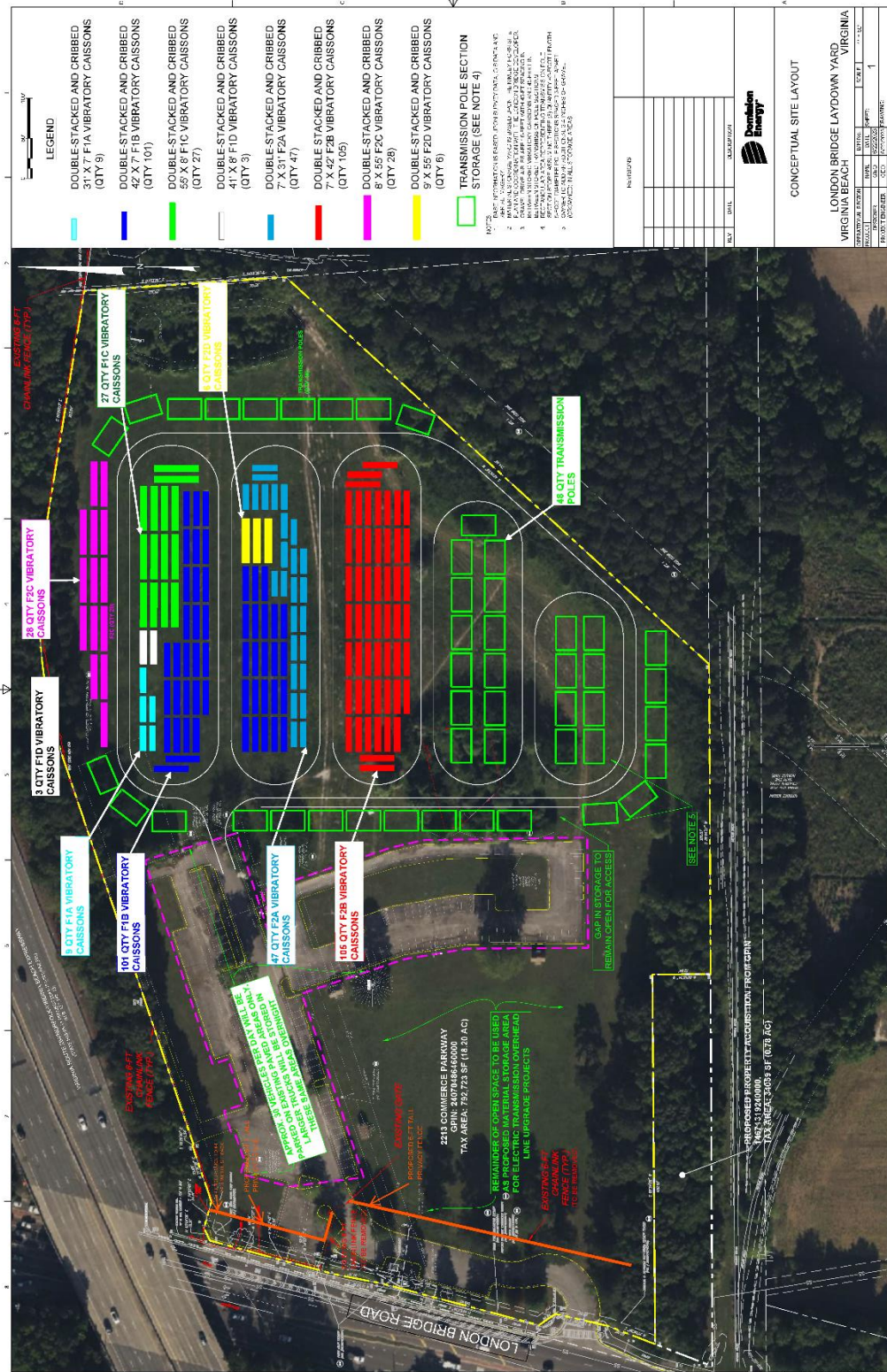
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on July 10, 2023.

- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, July 26, 2023 and August 2, 2023.
- 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 24, 2023.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of [www.viriniabeach.gov/pc](http://www.viriniabeach.gov/pc) on August 3, 2023.

### **City Council**

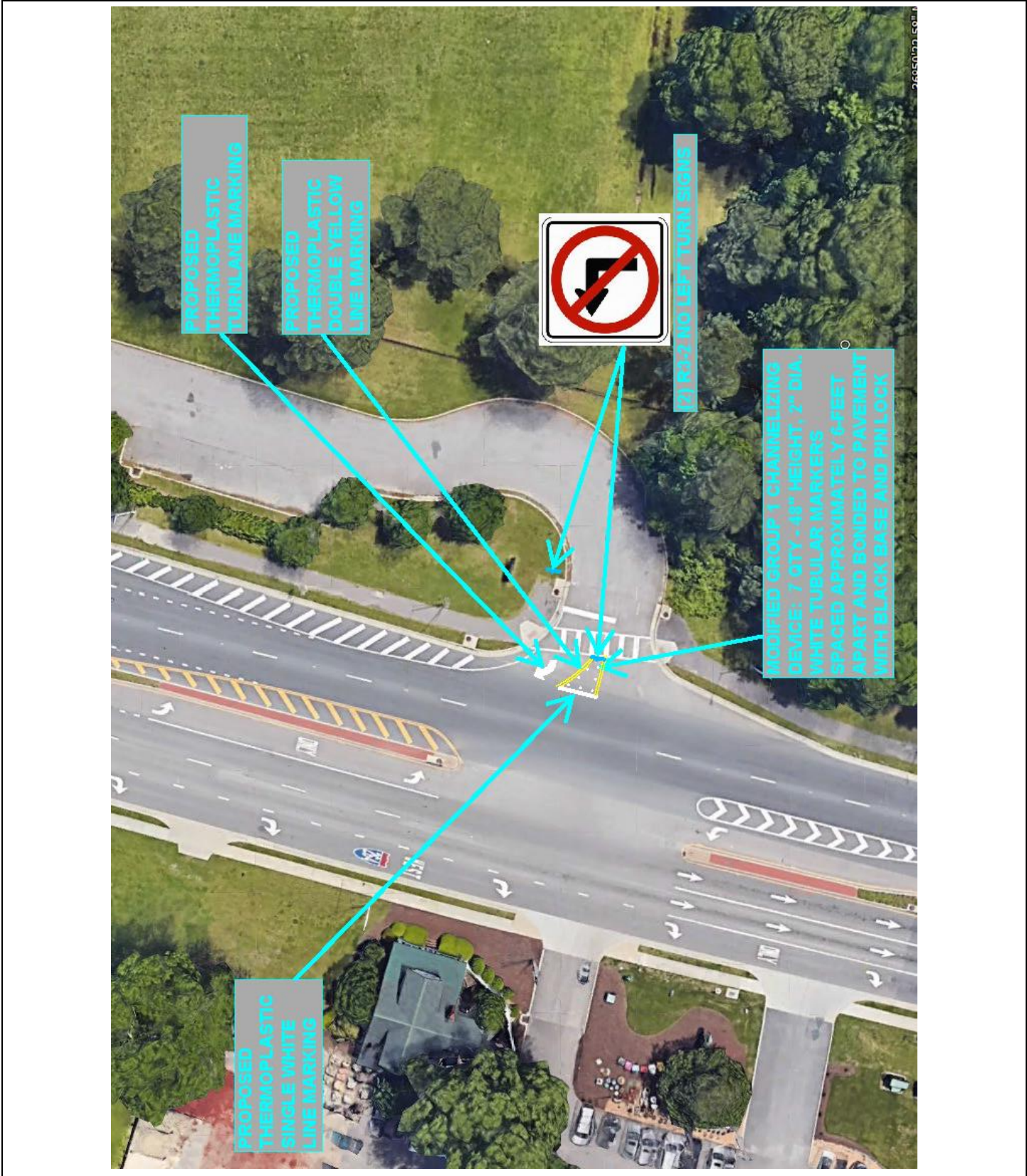
- As required by City Code, this item was advertised in the Virginian-Pilot on Tuesdays, August 22, 2023 and August 29, 2023.
- As required by City Code, the adjacent property owners were notified regarding both the request and the date of the City Council's public hearing on August 21, 2023
- The City Clerk's Office posted the materials associated with the application on the City Council website of <https://clerk.viriniabeach.gov/city-council> on September 1, 2023.

# Proposed Site Layout





Proposed Site Layout





Site Photos





Site Photos



### Disclosure Statement



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

#### Applicant Disclosure

**Applicant Name** London Bridge Development, LLC

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

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

William "Bill" DeSteph

**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)

Bill DeSteph - Managing Partner

- 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)

No

<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.

Cherry Bekaert LLP

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.

Robyn Niss - Kimley Horn

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

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

## Disclosure Statement

### Disclosure Statement



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

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

Bay Legacy Construction

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

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

Kimley Horn - Robyn Niss

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

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

#### Applicant Signature

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

A handwritten signature in blue ink, appearing to read 'William R DeSteph', written over a horizontal line.

Applicant Signature

William R DeSteph

Print Name and Title

16 June 2023

Date

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

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

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

<input checked="" type="checkbox"/>	No changes as of	Date	2023.08.23	Signature	
				Print Name	Hoa N. Dao

## 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** (Religious Use)

**Staff Recommendation**

Approval

**Staff Planner**

Marchelle Coleman

**Location**

1445 North Great Neck Road, 2307 Millwood Road, parcel between 2307 & 2309 Millwood Road

**GPINs**

2408098544, 2408098375, 2408191128

**Site Size**

8.01 acres

**AICUZ**

Less than 65 dB DNL

**Watershed**

Chesapeake Bay

**Existing Land Use and Zoning District**

Religious use / R-10 Residential

**Surrounding Land Uses and Zoning Districts**

**North**

N. Great Neck Road

Undeveloped lots, restaurant, office / R-10

Residential, B-2 Community Business District

**South**

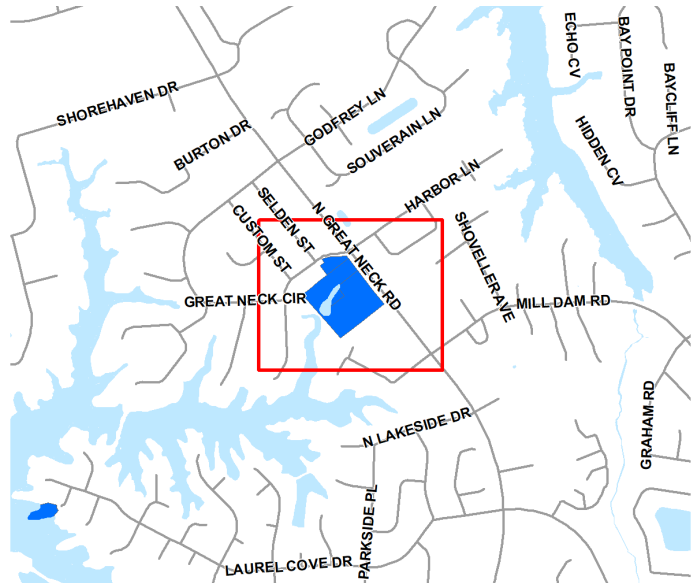
Single-family dwellings / R-20 Residential

**East**

Office, single-family dwellings / B-2 Community Business, R-10 Residential

**West**

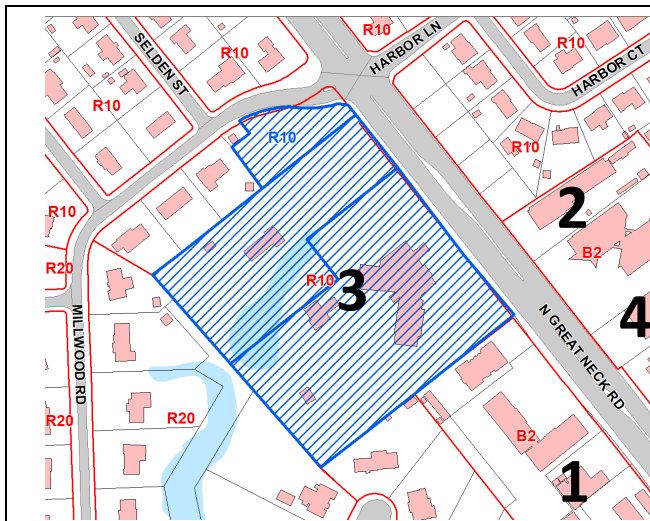
Single-family dwellings / R-10 Residential





## Background & Summary of Proposal

- Wycliffe Presbyterian Church has existed on these R-10 Residential zoned parcels since the 1960s. A Conditional Use Permit for a religious use was granted by the City Council on August 3, 1966 and a separate Conditional Use Permit was approved for a Pump Station on a 0.045 acre portion of the property on October 15, 1973. Subsequently in 1988 and 2000, the City Council approved a childcare education center and a church addition.
- The applicant intends to sell an approximately 3.88 acre portion of the property that has not been used for any religious purpose for decades, thus necessitating the Modification of Conditions.
- With the removal of approximately 3.88 acres, approximately 4.13 acres of land, including the church facilities and parking, will remain under the church's ownership. The 4.13 acres remaining with the church exceeds the required three-acre lot area requirement for religious uses, as identified in Section 240.1 of the Zoning Ordinance.



### Zoning History

#	Request
1	SVR (Lot Width Reduction) Approved 10/05/2021 CUP (Vocational School) Approved 10/05/2021
2	CUP (Tattoo Parlor) Approved 01/21/2020
3	MDC (Church Addition) Approved 12/12/2000 MDC (Child Care Education Center) Approved 12/19/1988 CUP (Pump Station) Approved 10/15/1973 CUP (Church) Approved 08/03/1966
4	CUP (Automobile Repair Garage) Approved 06/09/1992

### 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

This request for a Modification of Conditions to remove approximately 3.88-acres from the previously approved Conditional Use Permits, in Staff's Opinion, is acceptable. The request is consistent with the policies and goals set forth in the Comprehensive Plan for the Suburban Area, as the existing church complements the existing uses in the area and provides much needed services to the surrounding community.

Staff does not anticipate any negative impacts from a reduction in the property associated with the church as all the required parking will continue to be met on the site, and the church will continue to operate as it has for the past several decades with the same facilities, access, and parking to accommodate parishioners and guests.

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

## Recommended Conditions

1. All previous conditions attached to the Conditional Use Permit approvals of August 3, 1966 and October 15, 1973, as well as the Modification of Condition approvals of December 19, 1988 and December 12, 2000 shall remain in effect and Condition 2, as indicated below, shall be added.
2. The applicant/owner shall submit a resubdivision plat to the City of Virginia Beach, subject to the review and approval of the Department of Planning & Community Development prior to the recordation, which shall be in substantial conformance to the submitted resubdivision plat entitled "RESUBDIVISION PLAT OF PARCEL B-1-A AND PARCEL B-2-A (INSTRUMENT # 20141218001186080) (D.B. 1355 PG.661) AND LOT 1, BLOCK B GREAT NECK ESTATES, SECTION ONE (M.B.43 PG.28) (D.B. 1826 PG 516) VIRGINIA BEACH, VIRGINIA FEBRUARY 03, 2023," dated 02/03/2023, prepared by Gaddy Engineering Services, LLC, a copy of which has been exhibited to the Virginia Beach City Council and is on file with the Department of Planning & Community Development.

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

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

## Previous Conditions from 1966 CUP

1. Standard site plan requirements.
2. An additional 25-foot dedication for the widening of Great Neck Road.

## Previous Conditions from 1973 CUP

1. Standard site plan requirements (Engineering).

## Previous Conditions from 1988 MDC

1. The utilization of Best Management Practices for controlling stormwater runoff which are reasonably applicable to the development of the site.

## Previous Conditions from 2000 MDC

1. Land disturbance for the addition shall be kept at a minimum. Any removal of existing mature trees shall be replaced at a 3:1 ratio. The replacement trees shall be a minimum 2-1/2 inch to 3 inch caliper.
2. The building addition shall be constructed substantially in accordance with the submitted elevation titled "WYCLIFFE PRESBYTERIAN CHURCH, Virginia Beach, VA.", dated 22 August 2000, prepared by Tymoss & Moss Architects, that is on file in the City of Virginia Beach Planning Department.

## Comprehensive Plan Recommendations

The Comprehensive Plan identifies this site as being located within the Suburban Area. The general planning principles for the Suburban Area focus on creating and maintaining great neighborhoods through stability and sustainability; protecting and enhancing open spaces and places of cultural and historical significance; and creating and maintaining a transportation system that provides connectivity and mobility. Achieving these goals requires that all land use activities either maintain or enhance the existing neighborhood through compatibility with surroundings, quality and attractiveness of site and buildings, improved mobility, environmental responsibility, livability, and effective buffering with respect to type, size, intensity, and relationship to the surrounding uses. The proposal to subdivide the parcel would not create any conflicts with the Comprehensive Plan.

## Natural & Cultural Resources Impacts

The site is located in the Chesapeake Bay watershed and there are no known significant cultural resources associated with this site.

## Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
N. Great Neck Road	38,800 ADT <sup>1</sup>	55,000 ADT <sup>1</sup> (LOS <sup>4</sup> “D”)	Existing Land Use <sup>2</sup> –0 ADT Proposed Land Use <sup>3</sup> – 117 ADT
Millwood Road	No Data Available		
<sup>1</sup> Average Daily Trips	<sup>2</sup> as defined by a vacant 3.9-acre parcel	<sup>3</sup> as defined by a 3.9-acre R-10 zoned parcel	<sup>4</sup> LOS = Level of Service

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

N. Great Neck Road is a six-lane suburban arterial in the vicinity of this site. N. Great Neck has a variable right-of-way width and the MTP shows a divided highway with a bikeway and an ultimate right-of-way width of 120 feet. There are currently no CIP projects scheduled for this segment of N. Great Neck Road. Millwood Road is a two-lane residential roadway that intersects with N. Great Neck Road at a unsignalized intersection.

## Public Utility Impacts

### Water

There is an existing 16-inch City water main along N. Great Neck Road and an existing eight-inch city water main along Millwood Road. The parcels are currently connected to City water.

### Sewer

There is an existing eight-inch City sanitary sewer gravity main along N. Great Neck Road. There is an existing 12-inch City sanitary gravity main and an existing eight-inch City sanitary sewer force main along Millwood Road. The parcels are currently connected to City sanitary sewer services.

## Public Outreach Information

### Planning Commission

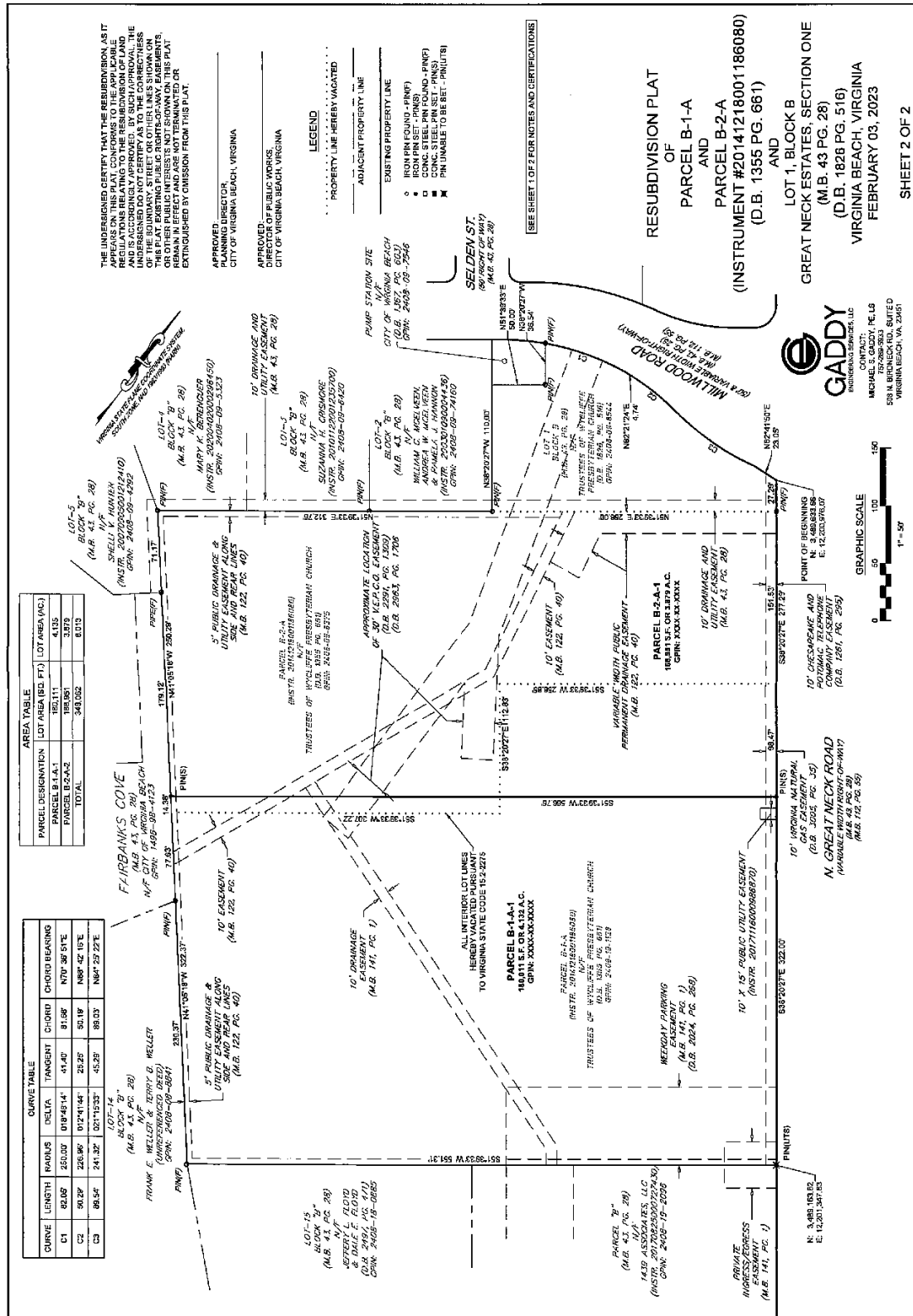
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on July 10, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, July 26, 2023 and August 2, 2023.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on July 24, 2023.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of [www.viriniabeach.gov/pc](http://www.viriniabeach.gov/pc) on August 3, 2023.

### City Council

- As required by City Code, this item was advertised in the Virginian-Pilot on Tuesdays, September 5, 2023 and September 12, 2023.
- As required by City Code, the adjacent property owners were notified regarding both the request and the date of the City Council's public hearing on September 1, 2023.
- The City Clerk's Office posted the materials associated with the application on the City Council website of <https://clerk.viriniabeach.gov/city-council> on September 15, 2023.



## Proposed Resubdivision Plat



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** Wycliffe Presbyterian Church

**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)

David Gangwer & David G. Carney, Co-Trustees

- 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.

John Profilet, S.L. Nusbaum Realty Co.

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.

Bishard Development Corporation

## 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.

Mike Gaddy, Gaddy Engineering

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.

Wycliffe Presbyterian Church

By:

Applicant Signature

Print Name and Title

Date

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

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

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

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

## Next Steps

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

### Requests

**#8 - Modification of Conditions** (Religious Use)

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

### Staff Recommendation

Approval

### Staff Planner

Marchelle Coleman

### Location

1861 Kempsville Road

### GPIN

1455825955

### Site Size

14.3 acres (1.98 acres Car Wash Facility site)

### AICUZ

Less than 65 dB DNL

### Watershed

Southern Rivers

### Existing Land Use and Zoning District

Religious Use / B-2 Community Business

### Surrounding Land Uses and Zoning Districts

#### North

U.S. Post Office/ B-2 Community Business

#### South

Kempsville Road

Restaurant, shopping center/ B-2 Community Business

#### East

Craft Brewery, assembly use / B-2 Community Business

#### West

Centerville Turnpike

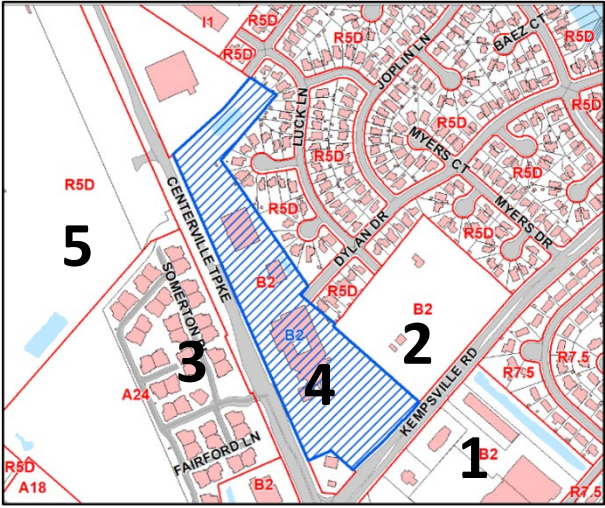
Multi-family dwellings / A-24 Apartment





## Background & Summary of Proposal

- Three Conditional Use Permits have been approved for this property: one on January 11, 1988, for religious use, the second on September 28, 1999, for a parking lot expansion, and the third on March 26, 2002, for an expansion to the religious use.
- The applicant is now requesting to modify the conditions of the previously approved Conditional Use Permits to reduce the acreage of the site in order to sell excess property for the construction of a single-bay automated car wash facility. As required per the Zoning Ordinance, a Conditional Use Permit is also being requested for the Car Wash Facility on a 1.98-acre portion of this B-2 Community Business zoned parcel.
- A subdivision of the property is proposed to create a separate lot for this development. The submitted Conceptual Site Plan depicts ingress/egress from a private driveway that is accessible from both Centerville Turnpike and Kempsville Road. To ensure proper access to the property, an ingress/egress easement will be recorded with the City of Virginia Beach Circuit Court Clerk's Office during the subdivision plat review process.
- As shown on the Conceptual Site Plan, a 3,600 square-foot, single-bay car wash building is proposed on a separate 1.98-acre lot.
- The Conceptual Landscape Plan reflects the required streetscape, building foundation, and interior parking lot plantings, as well as the required landscaping surrounding the proposed dumpster enclosure and freestanding monument sign.
- The proposed building elevations depict an exterior façade to be constructed of cultured stone veneer, beige split face block, tan stucco/EIFS, a dark bronze prefinished metal roof, black exposed structural steel, and glass. At the tallest point, the building will be 21 feet and seven inches in height.
- An eight-foot-tall freestanding monument sign with a stone veneer base to match the car wash building is proposed along Kempsville Road.
- The Conceptual Site Plan depicts 37 parking spaces, of which 32 are designated for vacuum stations and five are designated for employee and ADA parking. The parking provided satisfies the parking requirements for Car Wash Facilities as set in Section 228.1 of the Zoning Ordinance.
- The proposed hours of operation for the Car Wash Facility are 8:00 a.m. to ~~9:00~~ 8:00 p.m., daily.

		<b>Zoning History</b>	
#	Request	1	<b>CUP</b> (Tattoo Parlor) Approved 12/06/2022 <b>CUP</b> (Indoor/Outdoor Recreation Facility) Approved 02/05/2019 <b>CUP</b> (Bingo Hall) Approved 09/23/2008
2	<b>CRZ</b> (O-2 to Conditional B-2) Approved 06/07/2016 <b>CUP</b> (Craft Brewery, Assembly Use, Open-Air Market) Approved 06/07/2016	3	<b>CRZ</b> (B-2 to Conditional A-24) Approved 07/01/2003 <b>MDC</b> (Borrow Pit) Approved 11/12/1996 <b>CUP</b> (Borrow Pit) Approved 02/23/1993
4	<b>CUP</b> (Expansion of Religious Use) Approved 03/26/2002 <b>CUP</b> ((Parking Lot Expansion) Approved 09/28/1999 <b>CUP</b> (Religious Use) Approved 01/11/1988	5	<b>MDC</b> (Borrow Pit) Approved 09/26/1995 <b>CUP</b> (Borrow Pit) Approved 03/26/1990
<b>Application Types</b>			
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

These requests for a Modification of Conditions to reduce the acreage of the church’s property and a Conditional Use Permit for a Car Wash Facility, in Staff’s opinion, are acceptable. These requests are in keeping with the policies and goals set forth in the Comprehensive Plan, as it provides a service use to the surrounding properties, and as the proposal contributes to the quality of the surrounding area by providing a site layout and building that reflects the recommendations of the Centerville Strategic Growth Area (SGA) and the Special Area Development Guidelines for the Urban Areas. Given that the property will be located along Kempsville Road, the elements of building design, site layout, pedestrian orientation, and landscaping have been taking into consideration and incorporated into the conceptual plans and the architectural design. The plan depicts a reduced front yard setback from 35 feet to 10 feet along Kempsville Road through provisions of Section 283 of the Zoning Ordinance. The reduced setback is consistent with the Guidelines, as the car wash building has been placed closer to the street with off-street parking located behind the building.

The Special Area Development Guidelines for Urban Areas also calls for quality landscaping that is essential to the built environment. As depicted on the Conceptual Landscape Plan, interior parking, building foundation, and streetscape plantings are provided. In addition, five evergreen trees will be installed off-site north of the private driveway on the church’s property to provide additional screening from the adjoining property.

It is the opinion of Staff that the traffic generated by the proposed Car Wash Facility will result in a total of 500 average daily trips. Ultimately, the proposed use will likely generate lower traffic volumes than other commercial uses that are permitted by-right in the B-2 Community Business District. Additional detailed comments will be provided to the applicant during the site plan review process.

As recommended by Staff, the applicant has submitted a preliminary drainage study to the Development Services Center (DSC) outlining their proposed stormwater strategy for this site. The DSC has reviewed the narrative and based on their findings, is confident that the submitted strategy has the potential to successfully comply with the stormwater regulations for this site. Upstream and downstream impacts will be more closely reviewed during site plan review for

this project to ensure that negative impacts will not occur upstream and downstream as a result of this development. More detailed information can be found in the Stormwater Impacts section of this report.

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

### **Recommended Conditions (MDC)**

1. All previous conditions attached to the Conditional Use Permit approvals of January 11, 1988, September 28, 1999, and March 26, 2002, shall remain in effect, and Condition 2, as indicated below, shall be added.
2. The applicant/owner shall submit a Resubdivision plat to the City of Virginia Beach, subject to the review and approval of the Department of Planning & Community Development prior to recordation, to show the reduction of the acreage of the church's property and creation of the separate lot. The plat shall be in substantial conformance to the submitted exhibit entitled "TIDAL WAVE AUTO SPA – 1861 Kempsville Road – Virginia Beach, Virginia – EXISTING SITE PLAN, SHEET C-100", prepared by Paulson Mitchell Incorporated". Said plat shall be subject to the review and approval of the Department of Planning & Community Development, and plat shall be recorded with the City of Virginia Beach Circuit Court Clerk's Office within 365 days from the date of the City Council action.

### **Recommended Conditions (CUP)**

1. The applicant/owner shall submit a Resubdivision plat to the City of Virginia Beach, subject to the review and approval of the Department of Planning & Community Development prior to recordation, to show the reduction of the acreage of the church's property and creation of the separate lot. The plat shall be in substantial conformance to the submitted exhibit entitled "TIDAL WAVE AUTO SPA – 1861 Kempsville Road – Virginia Beach, Virginia – EXISTING SITE PLAN, SHEET C-100", prepared by Paulson Mitchell Incorporated. Said plat shall be subject to the review and approval of the Department of Planning & Community Development, and plat shall be recorded with the City of Virginia Beach Circuit Court Clerk's Office within 365 days from the date of the City Council action.
2. When the property is developed, it shall be in substantial conformance with the conceptual site plan entitled "TIDAL WAVE AUTO SPA – 1861 Kempsville Road – Virginia Beach, Virginia – SITE ON SURVEY, SHEET C-100", prepared by Paulson Mitchell Incorporated, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
3. A Landscape Plan shall be submitted to the Development Services Center of the Department of Planning & Community Development for review and ultimate approval prior to the issuance of a Certificate of Occupancy that is in substantial conformance to the conceptual landscape plan entitled "TIDAL WAVE AUTO SPA – 1861 Kempsville Road – Virginia Beach, Virginia – LANDSCAPE PLAN, SHEET LA-100", prepared by Paulson Mitchell Incorporated, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
4. The exterior of the proposed building shall substantially adhere in appearance, size, materials to the elevations entitled "NEW TIDAL WAVE AUTO SPA – Kempsville Road – Virginia Beach, VA 23464, SHEET PR.1 and PR.2", prepared by M. Todd Albritton Architect, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
5. The car wash vacuum enclosure, pay canopy, prep canopy, vacuum canopy, and dumpster enclosure shall substantially adhere in appearance, colors, and materials to the exhibit entitled "NEW TIDAL WAVE AUTO SPA – Kempsville Road – Virginia Beach, VA 23464, SHEET PR.4", prepared by M. Todd Albritton Architect, which has been

exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.

6. The freestanding sign shall substantially adhere in appearance, size, and materials to the submitted freestanding sign exhibit entitled "Monument Sign – 8' Tidal Wave – Double Faced Illuminated Monument Sign", prepared by Clayton Signs, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
7. Signage for the site shall be limited to:
  - a. Directional signs
  - b. Pricing board signs
  - c. One (1) monument-style freestanding sign, no more than eight (8) feet in height, set on a base to match the materials of the building and two (2) building and/or canopy signs.
  - d. Any onsite signage shall meet the requirements of the City Zoning Ordinance, unless otherwise approved by the Board of Zoning Appeals, and there shall be no neon, other than individual channel letters lighted with internal neon and as approved by the Zoning Administrator, or electronic display signs or accents, installed on any wall area of the exterior of the building, in or on the windows, or on the doors. There shall be no window signage permitted. The building signage shall not be a "box sign" and a separate permit from the Department of Planning & Community Development is required for all signage installed on the site.
8. When developed, a photometric plan for the exterior portions of the property shall be provided as part of the final site plan submittal. All exterior lighting shall be no taller than 14 feet in height and all lighting shielded and directed down and inward to the property and away from adjacent properties.
9. No water produced by activities at the facility lot shall be permitted to fall upon or drain across public streets or sidewalks or adjacent properties.
10. The hours of operation of the Car Wash Facility shall be limited to the hours of 8:00 a.m. to ~~9:00~~ 8:00 p.m., daily.
11. The final stormwater management plan submitted to the Development Services Center (DSC) shall be in substantial conformance with the Preliminary Drainage Study and shall comply with the City's Stormwater Management 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.*

## Previous Conditions from 2002 CUP

1. The site development shall be in accordance with the submitted site development plan exhibited to City Council and titled "CUP Application Atlantic Shores Baptist Church", dated 1/11/02 and prepared by PHR&A, PC, which is on file with the Department of Planning.



2. The new sanctuary shall substantially adhere to the submitted elevation exhibited to City Council and titled "Atlantic Shores Baptist Church Future Sanctuary" prepared by Ivy Architectural Innovations, which is on file with the Department of Planning.
3. The family life center, future office building and future education building shall substantially adhere to the submitted elevation exhibited to City Council and titled "Atlantic Shores Baptist Church New Family Life Center, Future Office Building, Future Adult Classroom" prepared by Ivy Architectural Innovations, which is on file with the Department of Planning, except that all three buildings shall have brick (matching the front of the building) extended to the first floor level on both sides and the rear of the buildings.
4. The landscaping along Centerville Turnpike shall substantially adhere to the rendering exhibited to City Council and titled "Centerville Turnpike, Atlantic Shores Baptist Church," which is on file with the Department of Planning.
5. A resubdivision plat vacating all interior property lines shall be recorded prior to the release of any approved site plans. The applicant shall also execute a right-of-way reservation agreement for Centerville Turnpike with the City and submit the agreement with the final resubdivision plat for this development.
6. Phase One improvements shall include the following items:
  - a. Family Life Center and parking lot.
  - b. 1,570 square foot classroom addition to main sanctuary
  - c. Category IV buffer north of Dylan Drive along the eastern property boundary.
  - d. Installation of the 20-foot-wide landscape buffer along Centerville Turnpike for a distance of 400 feet (starting at the area in front of the music ministry building and running along the new parking lot improvements).
  - e. Installation of landscape plantings in the grassy area east of the Kempsville Road entrance that will sufficiently screen the portable trailers. Landscape plantings shall be subject to approval by the Planning Director.
  - f. Entrance revisions to Centerville Turnpike as shown on the master plan, to include installation of right turn lanes.
  - g. Removal of the two portable trailers fronting Centerville Turnpike. Removal of the trailers shall be accomplished prior to a certificate of occupancy being issued for the Family Life Center and/or the 1,570 square foot classroom addition.
7. Phase Two improvements will include the following items:
  - a. New sanctuary and parking lot.
  - b. Installation of a 30-foot-wide landscape buffer along Kempsville Road, similar to the buffer provided on Centerville Turnpike. Landscape planting will be subject to the approval by the Planning Director.
  - c. Renovation of the existing sanctuary to accommodate additional classrooms.
  - d. Removal of the four portable trailers on the east side of the sanctuary. Removal of the trailers shall be accomplished prior to a certificate of occupancy being issued for the new sanctuary or the renovations to the existing sanctuary.
8. Foundation landscape plantings shall be provided for the church office building to be constructed as Phase Three.
9. When the education building shown as Phase Four is constructed, Category IV landscaping along the eastern property line, south of Dylan Drive shall be installed where the subject property abuts residential use (a distance of approximately 150 feet).
10. A modification of this use permit will be required for any changes to the phasing of this development as outlined in conditions 6-9 above.

## Previous Conditions from 1999 CUP

1. Approval is for the expansion of the parking lot ONLY at this time. It is understood that the rest of the proposed expansion will not go forward until proposed renderings and landscape plans have been received and all issues pertaining to the portable trailers and semi-truck trailers located on the site have been addressed.

## Previous Conditions from 1998 CUP

1. A variable width right-of-way dedication is required along the frontage of this site on Centerville Turnpike.
2. Category IV landscaping in accordance with the proposed landscaping, screening and buffering specifications and standards shall be installed along the northeastern boundary where the subject site abuts residential property.
3. The existing curb cut on Centerville Turnpike nearest the intersection shall be eliminated.
4. The second curb cut on Centerville Turnpike shall be relocated to align with the main entrance to the proposed shopping center to the west and the median opening.
5. The northernmost curb cuts on Centerville Turnpike is acceptable.
6. No additional curb cuts will be permitted on Kempsville Road.

## Comprehensive Plan Recommendations

This site is located within the Centerville Strategic Growth Area (SGA). The plan recommends reviving existing development areas, improving the pedestrian environment, and incorporating open spaces on commercial sites to serve both customers and nearby residents. Development standards for commercial sites in this area seek to prioritize the street experience, provide shaded circulation, reduced setbacks, and create large sidewalks for pedestrian walkability, outdoor seating, adequate lighting, signage and landscaping, and proper screening that is reflective of the site and street-facing facades. The proposed use is in keeping with this vision of this area to continue to develop both residential and service retail uses. The proposal meets the intent of the design guidelines in regard to building and site design and would be supported by the Comprehensive Plan. Given the location along Kempsville Road, street trees should be incorporated into the design along the length of the property, to meet the development standards of providing shaded circulation and improve walkability. Street furnishings, such as benches on the sidewalk, trash receptacles, and street lighting should also be included.

## Natural & Cultural Resources Impacts

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

## Stormwater Impacts

### Project Stormwater Design Staff Summary

This project consists of the construction of a car wash building and associated parking area.

Stormwater runoff from the site currently drains to an existing onsite storm sewer inlet, which connects to the existing public storm sewer system in Kempsville Road. Stormwater runoff from the proposed buildings and parking area will be collected into an underground detention system that will treat for both water quality and water quantity before discharging into the public storm sewer system in Kempsville Road. Manufactured Treatment Devices will be utilized for any remaining water quality pollutant load reduction requirements not treated by the underground detention system.

Based on the information provided by Paulson Mitchell Incorporated in the Preliminary Drainage Study, 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. More detailed project stormwater information is listed below.

### Project Information

**Total project area:** 2.19 acres

**Pre-Development impervious area:** 0.00 acres

**Post-Development impervious area:** 1.35 acres

### Stormwater Management Facility Design Information

**Type of facility proposed:** Underground Detention and Manufactured Treatment Device

**Description of outfall:** Stormwater runoff from the site that enters the Stormwater Management Facility will discharge directly into the public storm sewer system in Kempsville Road.

**Downstream conveyance path:** This site is part of the Upper North Landing River Drainage Basin. Drainage from this site drains through a series of interconnected canals to Stumpy Lake, into the North Landing River, and ultimately into Back Bay. Back Bay drains through the Currituck Sound and into the Atlantic Ocean.

## Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Centerville Turnpike	19,200 ADT <sup>1</sup>	12,500 ADT <sup>1</sup> (LOS <sup>4</sup> “D”)	Existing Land Use <sup>2a</sup> – 0 ADT Existing Land Use <sup>2b</sup> – 1,100 ADT Proposed Land Use <sup>3</sup> – 500 ADT
Kempsville Road	28,180 ADT <sup>1</sup>	32,700 ADT <sup>1</sup> (LOS <sup>4</sup> “D”)	
<sup>1</sup> Average Daily Trips	<sup>2a</sup> as defined by a vacant 2-acre parcel <sup>2b</sup> as defined by a 2-acre parcel zoned B-2	<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)

Centerville Turnpike in the vicinity of this site is a two-lane minor suburban arterial roadway. Centerville turnpike has a variable width right-of-way, and the master Transportation Plan shows a divided roadway with an ultimate right-of-way width of 150 feet.

Kempsville Rd is a four-lane divided minor urban arterial road in the vicinity of this site. The Master Transportation Plan proposes a six-lane divided facility with an ultimate right-of-way of 150 feet.

There are two capital improvement projects scheduled for this segment of Centerville Turnpike at Kempsville Road. Centerville Turnpike Phase II and III, managed by City of Virginia Beach, will reconstruct Centerville Turnpike from Indian River Road to Chesapeake City line as a four-lane divided highway with bike facilities. Phase II is scheduled for construction beginning in 2025 and Phase III is scheduled for construction beginning in 2027.

## Public Utility Impacts

### Water

There is an existing 12-inch water main along Centerville Turnpike and an existing 8-inch water main along Dylan Drive. There are two existing 20-inch water transmission mains along Kempsville Road. The subdivided lot must connect to City water.

### Sewer

There is an existing eight-inch sanitary sewer gravity main along Dylan Drive and an existing 24-inch HRSD force main along Kempsville Road. The subdivided lot must connect to City gravity sanitary sewer.

## Public Outreach Information

### Planning Commission

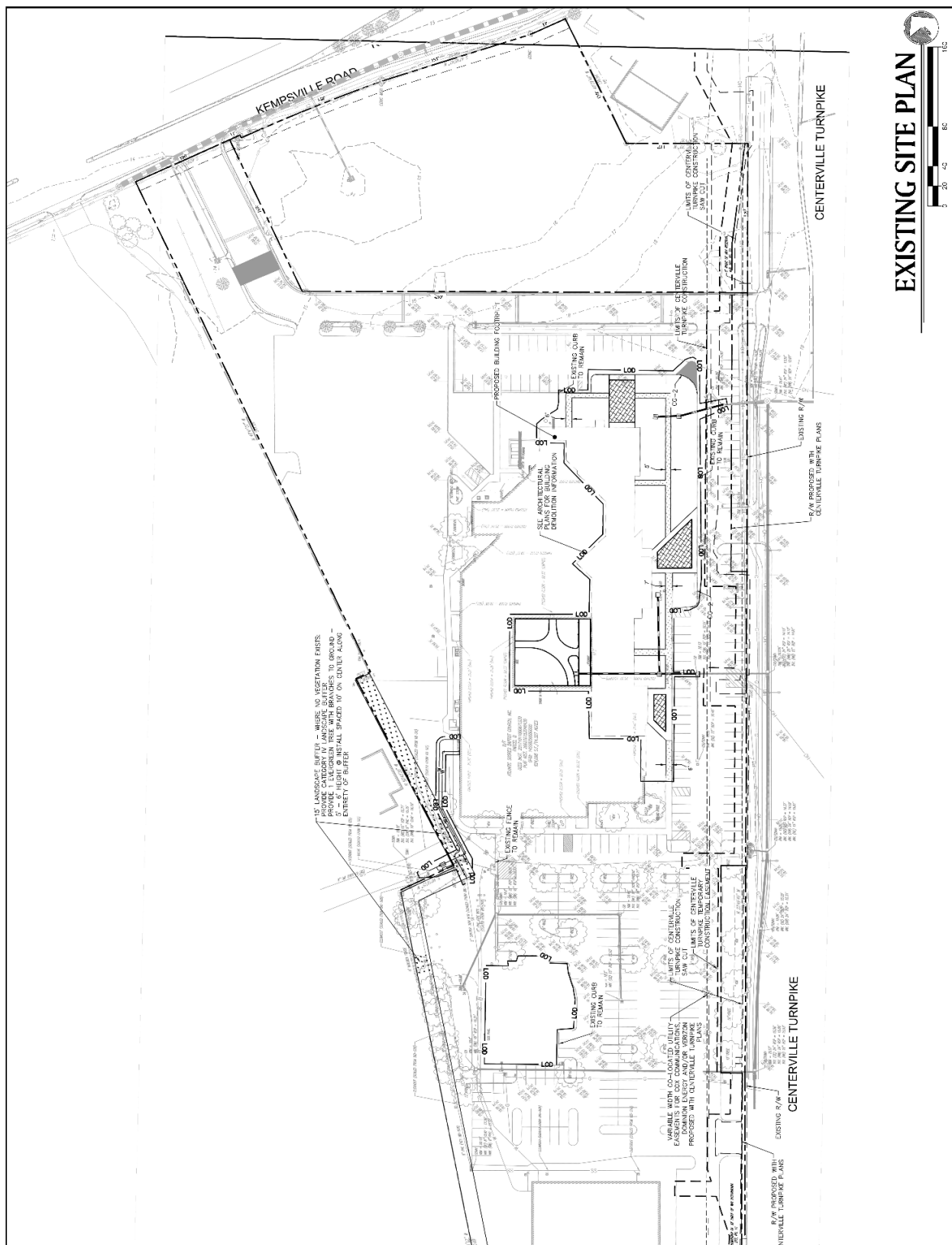
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on July 10, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, July 26, 2023 and August 2, 2023.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on July 24, 2023.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of [www.virginiabeach.gov/pc](http://www.virginiabeach.gov/pc) on August 3, 2023.

### City Council

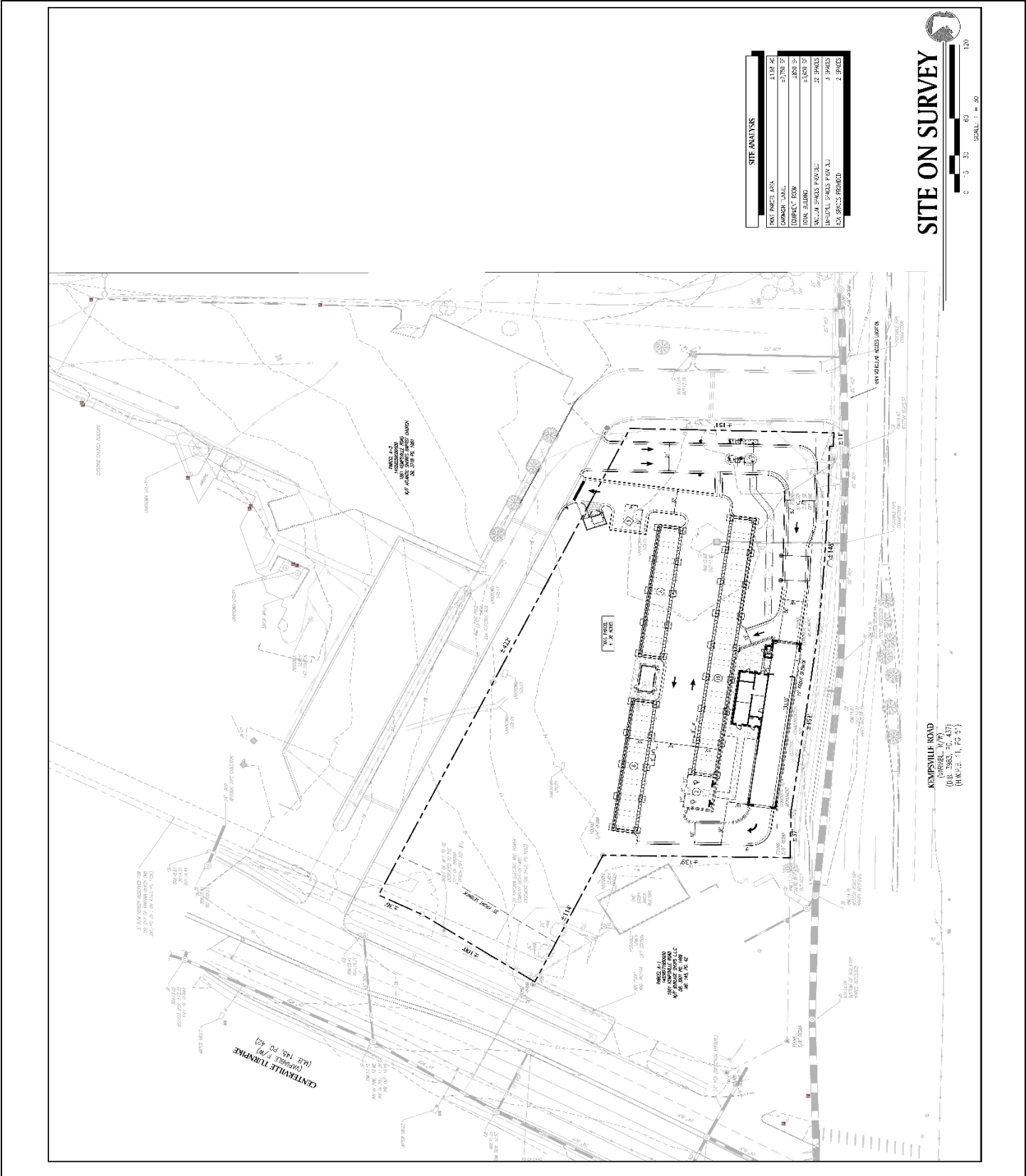
- As required by City Code, this item was advertised in the Virginian-Pilot on Tuesdays, August 22, 2023 and August 29, 2023.
- As required by City Code, the adjacent property owners were notified regarding both the request and the date of the City Council's public hearing on August 21, 2023.
- The City Clerk's Office posted the materials associated with the application on the City Council website of <https://clerk.virginiabeach.gov/city-council> on September 1, 2023.



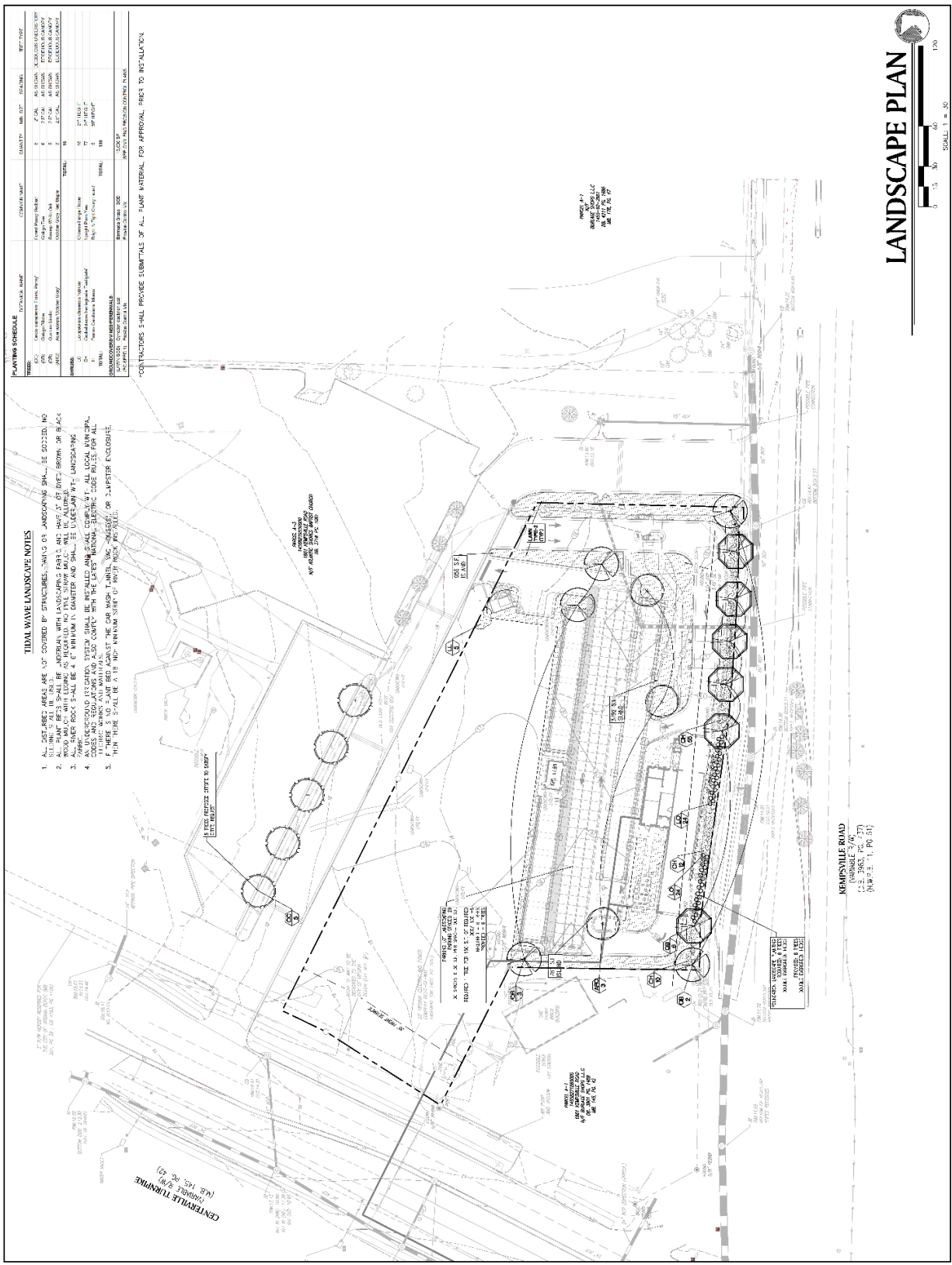
## Existing Site Layout w/ Proposed Subdivision



Proposed Conceptual Site Plan



Proposed Conceptual Landscape Plan



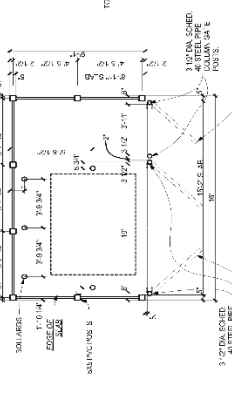
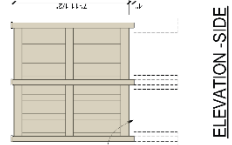
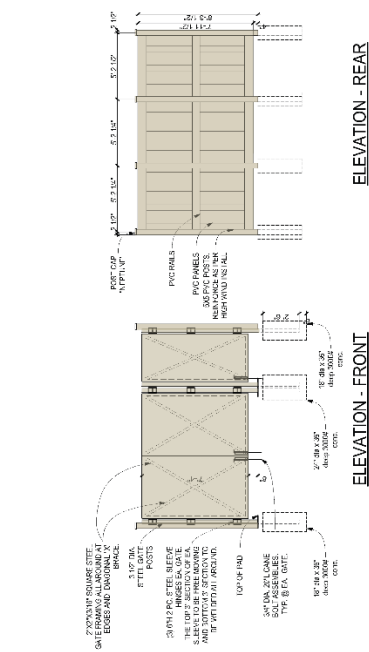
## Proposed Building Elevations







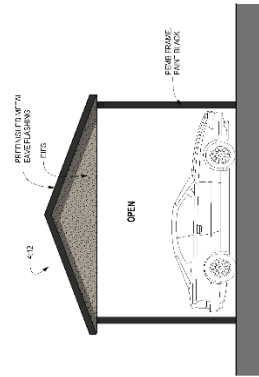
# Proposed Vacuum Enclosure, Canopies & Dumpster Enclosure



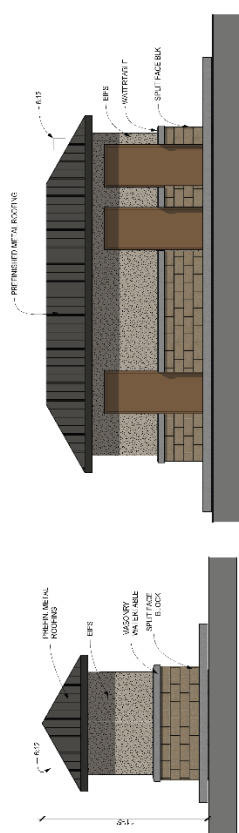
## VINYL PRIVACY FENCE - DUMPSTER ENCLOSURE

ACCESS TO VINYL PRIVACY FENCE PANELS FOR  
REPAIRS AND MAINTENANCE. FENCE PANELS  
SHALL BE INSTALLED TO PROVIDE COMPLETE  
ENCLOSURE. FENCE SHALL BE INSTALLED  
WITH 4" X 4" POSTS AND 4" X 4" RAILS.  
FENCE SHALL BE INSTALLED TO PROVIDE  
COMPLETE ENCLOSURE. FENCE SHALL  
BE INSTALLED TO PROVIDE COMPLETE  
ENCLOSURE. FENCE SHALL BE INSTALLED  
TO PROVIDE COMPLETE ENCLOSURE.

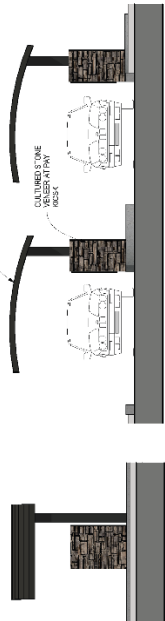
## DUMPSTER ENCLOSURE



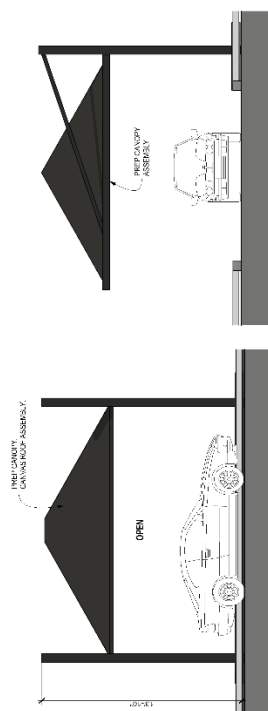
## VAC CANOPY



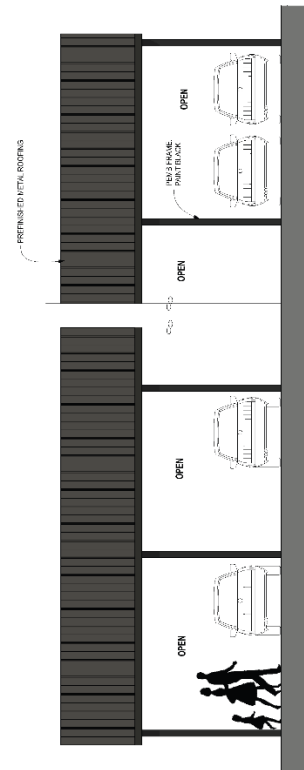
## VAC ENCLOSURE



## PAY CANOPY



## PREP CANOPY



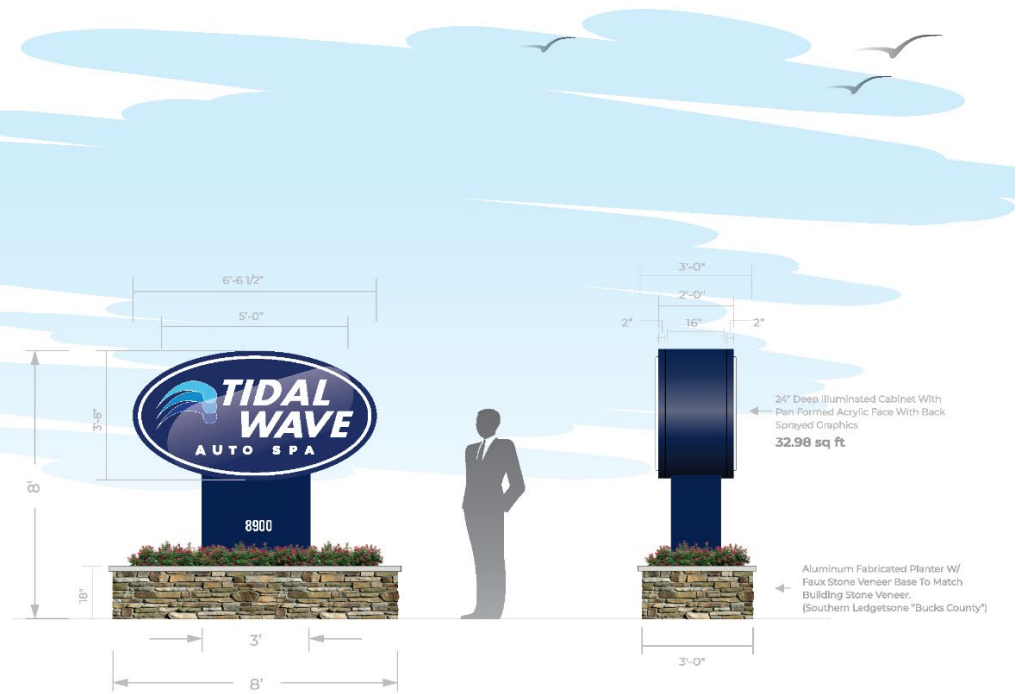
## VAC CANOPY

NOT RELEASED FOR CONSTRUCTION

# Proposed Freestanding Monument Sign

## Monument Sign-8' Tidal Wave

Double Faced Illuminated Monument Sign



## Proposed Building Signage

### Wall Signs

12" LED Illuminated Face-Lit Channel Letters

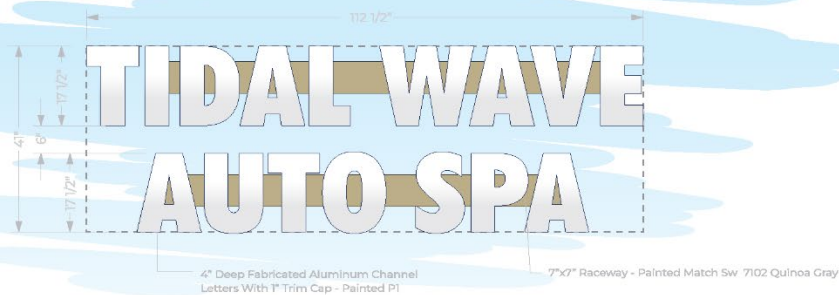


FRONT VIEW



### Wall Signs

LED Illuminated Face-Lit Channel Letters



FRONT VIEW





## 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** SHJ Construction Group, LLC

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

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

Martie Murphy

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

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

See attached

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

See attached

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

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

### Disclosure Statement



#### Known Interest by Public Official or Employee

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

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

#### 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.

M. Todd Albritton Architects (Todd Albritton), Paulson Mitchell Inc. (Josh Russell)

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**.
- Paulson Mitchell Inc. (Josh Russell)

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

#### Applicant Signature

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

A handwritten signature in blue ink that reads 'Martie Murphy'.

Applicant Signature

Martie Murphy - Director of Entitlement

Print Name and Title

06/19/2023

Date

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

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

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

<input checked="" type="checkbox"/>	No changes as of	Date	8/17/2023	Signature	
				Print Name	Marchelle L. Coleman

## Disclosure Statement



### Owner Disclosure

**Owner Name** Atlantic Shores Baptist Church

**Applicant Name** SHJ Construction Group, 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)

Ron Jones, Dan Till, Ivey Walker, Andy Weissinger, SCOTT BUTLER

- 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)

### 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



#### 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.

Union Bank & Trust

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.

Harvey Lindsey - Bob Beasley

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.

Megan Ross, CPA

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.

Equip Studio - **TANNER SHARPE**

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.

Compo Construction - **GEORGE COMPO**

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

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

Kimley-Horn - **LAURENCE BENSON**

## 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.

Basnight, Kinser, Leftwich, & Nuckolls, P.C. - **KIMBERLY HOLT**

#### 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  
**SCOTT BUTLER**

**EXECUTIVE PASTOR**

Print Name and Title

**6.19.23**

Date



**CERTIFICATE OF  
THE SOLE MEMBER  
OF  
SHJ CONSTRUCTION GROUP LLC**

**June 9, 2023**

The undersigned, GLENN M. JARRELL, hereby certifies as follows:

I am the Secretary of New Potato Creek Holding LLC, the Sole Member of SHJ CONSTRUCTION GROUP LLC, a Georgia limited liability company (the "Company") on the date hereof, and in such capacity I have the authority to manage, control, administer and operate the Company's business and affairs, execute any and all documents on behalf of the Company, consummate any and all transactions of the Company and deliver this Certificate in connection with such authority.

1. Attached hereto as Exhibit A is a true and correct copy of the Articles of Organization of the Company as filed with the Secretary of State of Georgia, and all filed amendments, all as in full force and effect on and as of the date hereof, without further modification or amendment in any respect.

2. Attached hereto as Exhibit B is a true and correct copy of the Amended and Restated Company Agreement, as in full force and effect on and as of the date hereof, without further modification or amendment in any respect.

2. Attached hereto as Exhibit C is a true and correct copy of a Certificate of Existence of the Company issued by the Secretary of State of Georgia as of a recent date. Nothing has occurred since the issuance of said Certificate of Status that would result in the Company ceasing to be of good standing as of the date hereof.

3. Attached hereto as Exhibit D is a true, correct, and complete copy of the resolutions taken by the Sole Member of the Company authorizing the Company to grant the Director of Permitting, Martie Murphy, the authority to: (i) apply for demolition, special or conditional use, utility, building, civil, zoning and other permits on behalf of the Company with respect to any real property owned by the Company or real property under contract in the name of the Company; (ii) execute any and all documents required in connection with or related to such permits; (iii) act on behalf of the Company in connection with any planning and zoning matters related to any real property owned by the Company or real property under contract in the name of the Company; and (iv) apply for, obtain and maintain bonds in the name of or for the benefit of the Company.

4. The individual named on Exhibit D constitutes the Director of Permitting of SHJ Construction Group LLC on the date hereof, and the signature of the Director of Permitting of SHJ

## Disclosure Statement

Construction Group LLC set forth on Exhibit E is genuine. Such Director of Permitting of SHJ Construction Group LLC is authorized to execute and deliver any and all documents in furtherance of the matters discussed in this certification on behalf of the Company.

*[Signature Appears on Following Page]*

IN WITNESS WHEREOF, the undersigned has executed this Certificate on the date set forth above.



**GLENN M. JARRELL,**  
Secretary of New Potato Creek Holdings LLC,  
Sole Member of SHJ Construction Group LLC

Control Number : 0502196

## STATE OF GEORGIA

Secretary of State  
Corporations Division  
313 West Tower  
2 Martin Luther King, Jr. Dr.  
Atlanta, Georgia 30334-1530

### CERTIFICATE OF CONVERSION

I, **Brad Raffensperger**, the Secretary of State and the Corporation Commissioner of the State of Georgia, hereby certify under the seal of my office that articles of conversion have been filed on **12/28/2020** converting

**SHJ Construction Group Inc.**  
a Domestic Profit Corporation

to

**SHJ Construction Group, LLC**  
a Domestic Limited Liability Company

The required fees as provided by Title 14 of the Official Code of Georgia Annotated have been paid.

WITNESS my hand and official seal in the City of Atlanta  
and the State of Georgia on **12/29/2020**.



*Brad Raffensperger*

Brad Raffensperger  
Secretary of State



**CERTIFICATE OF CONVERSION  
OF  
SHJ CONSTRUCTION GROUP, INC.**

**DECEMBER 28, 2020**

I.

The name of the corporation is **SHJ CONSTRUCTION GROUP, INC.** (the "Corporation"). and the Corporation is a Georgia corporation, control number 0502196.

II.

The Corporation hereby elects to become a Georgia limited liability company pursuant to the Georgia Limited Liability Company Act (the "LLC Act").

III.

The conversion of the Corporation to a Limited Liability Company shall be effective upon filing.

IV.

The Corporation's election to become a Georgia limited liability company has been approved pursuant to Section 14-2-1109.1 of the Georgia Business Corporation Code, as required by Section 14-11-212(a) of the LLC Act.

V.

Filed with this Certificate of Conversion are Articles of Organization of SHJ Construction Group, LLC, the limited liability company formed pursuant hereto (the "Company"). which are in the form required by Section 14-11-204 of the LLC Act, which set forth a name for the limited liability company that satisfies the requirements of Section 14-11-207 of the LLC Act, and which shall be the Articles of Organization for the Company unless and until modified pursuant to the LLC Act.

VI.

In order to convert the shares of capital stock in the Corporation into interests of the Company (the "Conversion"), at the effective time of the Conversion, without any further action on the part of the Corporation, the Company or any equityholder thereof, the issued and outstanding shares of capital stock in the Corporation, all of which are held by New SHJ Construction Group, Inc., a Georgia corporation, shall be converted collectively into a one hundred percent (100%) limited liability company interest in the Company.

[Signature Page Follows]

1:1809588v3

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Conversion to be effective as of the date first above written.

SHJ CONSTRUCTION GROUP, INC.

By: Scott Blackstock  
Name: Scott Blackstock  
Title: President and Chief Executive Officer

RECEIVED  
SECRETARY OF STATE  
INTAKE DIVISION  
2020 DEC 28 AM 11:06

[SHJ Construction Group, Inc. Certificate of Conversion]

ARTICLES OF ORGANIZATION  
OF  
SHJ CONSTRUCTION GROUP, LLC

RECEIVED  
SECRETARY OF STATE  
INTAKE DIVISION  
2020 DEC 28 AM 11:07

I.

These Articles of Organization of SHJ Construction Group, LLC, dated December 28, 2020, are for the purpose of forming a limited liability company under the Georgia Limited Liability Company Act (O.C.G.A. § 14-11-100 *et seq.*)

II.

The name of the limited liability company is "SHJ Construction Group, LLC".

IN WITNESS WHEREOF, the undersigned has signed these Articles of Organization as of December 28, 2020.

  
Cody Mathis, Organizer

11/18/2020

# Disclosure Statement



Secretary of State

**OFFICE OF SECRETARY OF STATE  
CORPORATIONS DIVISION**  
2 Martin Luther King Jr. Dr. SE  
Suite 313 West Tower  
Atlanta, Georgia 30334  
(404) 656-2817  
sos.ga.gov

SECRETARY OF STATE  
CORPORATIONS DIVISION  
12/28/2020 4:53 PM

## TRANSMITTAL INFORMATION FORM GEORGIA LIMITED LIABILITY COMPANY

**IMPORTANT:** Please provide the entity's primary email address when completing this form.

Primary Email Address: cody.mathis@troutman.com

NOTICE TO APPLICANT: PRINT PLAINLY OR TYPE REMAINDER OF THIS FORM

1.	SHJ Construction Group, LLC			
	LLC Name Reservation Number (If one has been obtained; if articles are being filed without prior reservation, leave this line blank.)			
	LLC Name (List exactly as it appears in articles.)			
2.	Cynthia French			
	Name* of Person Filing Articles of Organization (Certificate will be emailed to this person at address listed below.)			
	600 Peachtree Street NE, Suite 3000	Atlanta	GA	30308
	Address	City	State	Zip Code
	cynthia.french@troutman.com			(404) 885-3569
	Filer's Email Address			Telephone Number
3.	124 E. Thomston Street			
	Principal Office Mailing Address of LLC (Unlike registered office address, this may be a post office box.)			
	Thomaston		GA	30286
	City		State	Zip Code
4.	Scott Blackstock			
	Name* of Registered Agent in Georgia			
	124 E. Thompson Street			
	Registered Office Street Address in Georgia (Post office box or mail drop not acceptable for registered office address.)			
	Thomaston	Upson	GA	30286
	City	County	State	Zip Code
	scott@ssblackstock.com			
	Registered Agent's Email Address			
5.	Name* and Address of Each Organizer (Attach additional sheets if necessary.)			
	Cody Mathis	600 Peachtree Street NE, Suite 3000	Atlanta	GA 30308
	Organizer	Address	City	State Zip Code
	Organizer	Address	City	State Zip Code
6.	Mail the following items to the Secretary of State at the above address:			
	1) This Transmittal Information Form;			
	2) The Articles of Organization; and			
	3) Filing fee of \$110.00 (\$100 filing fee + \$10 paper filing service charge) payable to Secretary of State. Filing fees are non-refundable.			
	I understand that this Transmittal Information Form is included as part of my filing, and the information on this form will be entered in the Secretary of State business entity database. I certify that the above information is true and correct to the best of my knowledge.			
	Signature of Authorized Person		December 28, 2020	
	Cynthia French		Date	
	Print Name*			

\* Enter individual's legal name, i.e. first and last name without use of initials or nicknames. Middle names or initials may be included.

GA0045 - 1/2020 2-10 Walter Kluwer Online

FORM CD 231  
(Rev. 10/2015)



**PLAN OF CONVERSION FOR  
SHJ CONSTRUCTION GROUP, INC.  
DECEMBER 28, 2020**

This Plan of Conversion (this "Plan") is for the purpose of effecting the election of **SHJ CONSTRUCTION GROUP, INC.**, a Georgia corporation (the "Corporation"), to become a Georgia limited liability company pursuant to Section 14-2-1109.1 of the Georgia Business Corporation Code.

**I.**

The name of the Georgia limited liability company to be formed pursuant to the Corporation's election is **SHJ CONSTRUCTION GROUP, LLC** (the "Company").

**II.**

Such election shall be effective upon the filing of the Certificate of Conversion with the Georgia Secretary of State.

**III.**

Articles of Organization of the Company in the form attached hereto as Exhibit A, which are in the form required by Section 14-11-204, shall be filed with the Georgia Secretary of State and shall be the Articles of Organization for the Company unless and until modified pursuant to the Georgia Limited Liability Company Act.

**IV.**

The Operating Agreement of the Company in the form attached hereto as Exhibit B shall be the Operating Agreement for the Company. The sole shareholder's execution of this Plan shall be deemed to be execution of the Operating Agreement of the Company by such sole shareholder.

**V.**

In order to convert the shares of capital stock in the Corporation into interests of the Company (the "Conversion"), at the effective time of the Conversion, without any further action on the part of the Corporation, the Company or any equityholder thereof, the issued and outstanding shares of capital stock in the Corporation, all of which are held by New SHJ Construction Group, Inc., a Georgia corporation, shall be converted collectively into a one hundred percent (100%) membership interest in the Company. The sole shareholder's execution of this Plan shall be deemed to be such sole shareholder's approval of the Corporation's election to convert into the Company.

[Signature Page Follows]

IN WITNESS WHEREOF, the undersigned has executed this Plan as of the date first above written.

By: Scott Blackstock  
Name: Scott Blackstock  
Title: President and Chief Executive Officer

RECEIVED  
CLERK OF STATE  
NOTARY DIVISION  
2020 DEC 28 AM 11:06

[SHJ Construction Group, Inc. Plan of Conversion]

THE MEMBERSHIP INTERESTS REPRESENTED BY THIS LIMITED LIABILITY COMPANY AGREEMENT HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED, OR UNDER ANY OTHER APPLICABLE SECURITIES LAWS. SUCH INTERESTS MAY NOT BE SOLD, ASSIGNED, PLEDGED OR OTHERWISE DISPOSED OF AT ANY TIME WITHOUT EFFECTIVE REGISTRATION UNDER SUCH ACT AND LAWS OR EXEMPTION THEREFROM, AND COMPLIANCE WITH THE OTHER RESTRICTIONS ON TRANSFERABILITY SET FORTH HEREIN.

## LIMITED LIABILITY COMPANY AGREEMENT

OF

### SHJ CONSTRUCTION GROUP, LLC

This Limited Liability Company Agreement (this "Agreement") of SHJ Construction Group, LLC, a Georgia limited liability company (the "Company"), is entered into as of December 28, 2020, by New SHJ Construction Group, Inc., a Georgia corporation, as the sole member of the Company (the "Member").

#### RECITALS

WHEREAS, the Company was formed on December 28, 2020, bearing the name SHJ Construction Group, LLC, as a limited liability company under the Georgia Limited Liability Company Act (O.C.G.A. § 14-11-100, et seq.), as amended from time to time (the "Act"); and

WHEREAS, the Member desires to enter into this Agreement, pursuant to which the rights and obligations of the Member and certain other constituencies of the Company shall be set forth and agreed upon as of the date hereof.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby established, the Member hereby agrees as follows:

#### AGREEMENT

1. **Formation.** The Company has been organized as a Georgia limited liability company by the filing of a Certificate of Formation (the "Certificate") under and pursuant to the Act.

2. **Name.** The name of the Company is "SHJ Construction Group, LLC".

3. **Registered Office; Registered Agent; Principal Office; Other Offices.** The registered office of the Company required by the Act to be maintained in the State of Georgia shall be C1 Corporation System, 289 South Culver Street, Lawrenceville, Georgia 30046 or such other office (which need not be a place of business of the Company) as the Board (as defined below) may designate from time to time in the manner provided by law. The registered agent of the Company in the State of Georgia shall be the initial registered agent named in the Certificate or such other person or persons as the Board may designate from time to time in the manner provided by law. The principal office of the Company shall be at such place as the Board may designate from time to time, which need not be in the State of Georgia, and the Company shall maintain records there.

SHJCS1623

4. **Purposes.** The Company will exist for the object and purpose of, and the nature of the business to be conducted and promoted by the Company is and will be, engaging in any lawful act or activity for which limited liability companies may be formed under the Act and engaging in any and all activities necessary or incidental to the foregoing.

5. **Term.** The existence of the Company commenced on the date the Certificate was filed with the office of the Secretary of State of Georgia and shall continue until the Company is dissolved pursuant to Section 13 of this Agreement.

6. **Member.** The name and the mailing address of the Member are identified on Schedule 1 attached hereto.

7. **Liability of Member.** Except as otherwise required by applicable law and as explicitly set forth in this Agreement, the Member shall not have any personal liability whatsoever in such Member's capacity as a Member, whether to the Company, to the creditors of the Company or to any other third party, for the debts, liabilities, commitments or any other obligations of the Company or for any losses of the Company.

#### 8. Management.

(a) All management powers over the business and affairs of the Company shall be exclusively vested in a board of managers (the "Board") appointed from time to time by the Member, and the Board shall conduct, direct and exercise full control over all activities of the Company. Each member of the Board is referred to herein as a "Manager." The Managers shall be the "managers" of the Company for the purposes of the Act. The Board has the full power on the Company's behalf, in its name, to manage, control, administer and operate its business and affairs and to do or cause to be done anything necessary or appropriate for the Company's business. The Managers are hereby designated as authorized persons, within the meaning of the Act, to execute, deliver and file the certificate of formation of the Company and all other certificates (and any amendments and/or restatements hereof) required or permitted by the Act to be filed in the Office of the Secretary of State of the State of Georgia.

(b) The initial number of Managers shall be three (3). The number of Managers of the Company shall be fixed from time to time by the Member. The initial Managers shall be Scott Blackstock, Beth Trice, and Glenn Jarrell. Each Manager shall hold his office for the term for which he was appointed and thereafter until his successor shall have been appointed, or until his earlier death, resignation or removal. A Manager need not be a Member or a resident of the State of Georgia.

(c) Any Manager position to be filled by reason of an increase in the number of Managers or by any other reason shall be filled by the Member. Any Manager may be removed by the Member at any time. Any Manager may resign at any time. Such resignation shall be made in writing and shall take effect at the time specified therein, or if no time is specified, at the time of its receipt by the remaining Manager(s). The acceptance of a resignation shall not be necessary to make it effective, unless expressly so provided in the resignation.

(d) The Board may act (i) through meetings and written consents pursuant to Section 8(e) and (ii) through any person or persons to whom authority and duties have been delegated pursuant to Section 8(f).

(e) Each Manager shall have one vote on all matters submitted to the Board (whether the consideration of such matter is taken at a meeting, by written consent or otherwise). The affirmative vote of the Managers holding a majority of the votes of the Managers shall be the act of the Board.

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Meetings of the Board shall be held at the principal office of the Company or at such other place as may be determined by the Board. A majority of the Managers, present in person or through their duly authorized attorneys-in-fact, shall constitute a quorum at any meeting of the Board. Business may be conducted once a quorum is present. Regular meetings of the Board shall be held on such dates and at such times as shall be determined by the Board. Special meetings of the Board may be called by a majority of all of the Managers on at least 24 hours' prior written notice to the other Managers, which notice shall state the purpose or purposes for which such meeting is being called. The actions taken by the Board at any meeting, however called and noticed, shall be as valid as though taken at a meeting duly held after regular call and notice if (but not until), either before, at or after the meeting, the Manager as to whom it was improperly held signs a written waiver of notice or a consent to the holding of such meeting or an approval of the minutes thereof. The actions by the Board may be taken by vote of the Board at a meeting of the Managers thereof or by written consent (without a meeting, without notice and without a vote) so long as such consent is signed by at least the minimum number of Managers that would be necessary to authorize or take such action at a meeting of the Board in which all Managers were present. Prompt notice of the action so taken without a meeting shall be given to those Managers who have not consented in writing. Each meeting of the Board shall, at the request of any Manager, be held by conference telephone or similar communications equipment by means of which all individuals participating in the meeting can be heard.

(f) The Board may, from time to time, designate one or more persons to be officers of the Company. No officer need be a resident of the State of Georgia, a Member or a Manager. Any officers so designated shall have such authority and perform such duties as the Board may, from time to time, delegate to them. The Board may assign titles to particular officers. Scott Blackstock shall be the Chief Executive Officer and President, Beth Trice shall be the Chief Administrative Officer, and Glenn Jarrell shall be the General Counsel and Secretary (constituting all of the officers of the Company). Unless the Board otherwise decides, if the title is one commonly used for officers of a business corporation, the assignment of such title shall constitute the delegation to such officer of the authority and duties that are normally associated with that office, subject to any specific delegation of authority and duties made to such officer by the Board. Each officer shall hold office until his successor shall be duly designated and shall qualify or until his death or until he shall resign or shall have been removed in the manner hereinafter provided. Any number of offices may be held by the same individual. Any officer may resign as such at any time. Such resignation shall be made in writing and shall take effect at the time specified therein, or if no time be specified, at the time of its receipt by the Board. The acceptance of a resignation shall not be necessary to make it effective, unless expressly so provided in the resignation. Any officer may be removed as such, either with or without cause, by the Board whenever in its judgment the best interests of the Company shall be served thereby.

(g) Each Manager of the Company may at any time and from time to time engage in and own interests in other business ventures of any and every type and description, independently or with others (including ones in competition with the Company) with no obligation to offer to the Company the right to participate therein.

### 9. Indemnification; Exculpation.

(a) The Company hereby agrees to indemnify and hold harmless any person (each an "Indemnified Person") to the fullest extent permitted under the Act, as the same now exists or may hereafter be amended, substituted or replaced (but, in the case of any such amendment, substitution or replacement only to the extent that such amendment, substitution or replacement permits the Company to provide broader indemnification rights than the Company is providing immediately prior to such amendment), against all expenses, liabilities and losses (including attorneys' fees, judgments, fines, excise taxes or penalties) reasonably incurred or suffered by such person by reason of the fact that such person is

or was a member of the Company, is or was serving as a Manager or an officer of the Company or is or was serving at the request of the Company as an officer, director, principal, member, employee or agent of another corporation, partnership, joint venture, limited liability company, trust or other enterprise; provided that (unless the Board otherwise consents) no Indemnified Person shall be indemnified for any expenses, liabilities and losses suffered that are attributable to such Indemnified Person's gross negligence, willful misconduct or knowing violation of law. Expenses, including attorneys' fees, incurred by any such Indemnified Person in defending a proceeding shall be paid by the Company in advance of the final disposition of such proceeding, including any appeal therefrom, upon receipt of an undertaking by or on behalf of such Indemnified Person to repay such amount if it shall ultimately be determined that such Indemnified Person is not entitled to be indemnified by the Company. The Company may, by action of the Member, provide indemnification to employees and agents of the Company with the same scope and effect as the foregoing indemnification of members, Managers and officers.

(b) Notwithstanding anything contained herein to the contrary, any indemnity by the Company shall be provided out of and to the extent of Company assets only, and the Member shall have no personal liability on account thereof or shall be required to make additional capital contributions to help satisfy such indemnity of the Company.

(c) None of the Indemnified Persons shall be liable to the Member or the Company for mistakes of judgment, or for action or inaction, taken in good faith, or for losses due to such mistakes, action or inaction, or to the negligence, dishonesty, or bad faith of any employee, broker or other agent of the Company, provided that such employee, broker or agent was selected, engaged, or retained with reasonable care. Any party entitled to relief hereunder may consult with legal counsel and accountants in respect of affairs of the Company and be fully protected and justified in any reasonable action or inaction that is taken in good faith in accordance with the advice or opinion of such counsel or accountants, provided that they shall have been selected with reasonable care. Notwithstanding any of the foregoing to the contrary, the provisions of this paragraph shall not be construed so as to relieve (or attempt to relieve) any person of any liability (i) for conduct which is grossly negligent, reckless, or intentionally wrongful or criminally unlawful, provided that such person had no reasonable cause to believe that his or its conduct was unlawful, or (ii) to the extent (but only to the extent) that such liability may not be waived, modified, or limited under applicable law.

(d) The right to indemnification and the advancement and payment of expenses conferred in this Section 9 shall not be exclusive of any other right which an Indemnified Person may have or hereafter acquire under any law (common or statutory), agreement, vote of the Member or otherwise.

**10. Certificates.** The membership interests of the Members shall be uncertificated unless otherwise determined by the Board.

**11. Distributions.** Distributions shall be made to the Members in accordance with their membership interests at the times and in the aggregate amounts determined by the Board.

**12. Allocations of Profits and Losses.**

(a) In the event the Company is treated as a partnership for U.S. federal income tax purposes, the following provisions shall apply:

(i) The Company shall maintain a capital account (each, a "Capital Account") for each Member in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv). For this purpose, the Company may, upon the occurrence of any of the events specified in Treasury Regulations Section 1.704-1(b)(2)(iv)(f), increase or decrease the Capital Accounts in accordance with the rules of such regulation.

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and Treasury Regulations Section 1.704-1(b)(2)(iv)(g) to reflect a revaluation of Company property. Items of Company income, gain, loss, expense or deduction for any fiscal period shall be allocated among the Members in such manner that, as of the end of such fiscal period and to the greatest extent possible, the Capital Account of each Member shall be equal to the respective net amount, positive or negative, which would be distributed to such Member from the Company or for which such Member would be liable to the Company under this Agreement, determined as if the Company were to (x) liquidate the assets of the Company for an amount equal to their book value (determined according to the rules of Treasury Regulation Section 1.704-1(b)(2)(iv)) and (y) distribute the proceeds in liquidation in accordance with Section 13.

(ii) All income, gains, losses and deductions of the Company shall be allocated, for federal, state and local income tax purposes, among the Members in accordance with the allocation of such income, gains, losses and deductions among the Members for computing their Capital Accounts, except that if any such allocation is not permitted by the Internal Revenue Code of 1986, as amended, or other applicable law, the Company's subsequent income, gains, losses, deductions and expenses shall be allocated among the Members so as to reflect as nearly as possible the allocation set forth herein in computing their Capital Accounts. In the event that any property is contributed to the Company by a Member, gain or loss on the disposition of such property, and any losses or deductions with respect to such property, shall first be shared among the Members so as to take into account the variation between the basis of the property to the Company and its fair market value at the time of contribution, all in accordance with Code Section 704(c) and Treasury Regulations thereunder.

(b) In the event that the Company is not treated as a partnership for U.S. federal income tax purposes, no allocation of income, gains, losses and deductions shall be made pursuant to this Section 12.

**13. Dissolution.** The Company shall dissolve, and its affairs shall be wound up upon the first to occur of the following: (a) the written consent of the Member, (b) any time there are no members of the Company unless the Company is continued in accordance with the Act, or (c) the entry of a decree of judicial dissolution under Section 18-802 of the Act. In the event of dissolution, the Company shall conduct only such activities as are necessary to wind up its affairs (including the sale of the assets of the Company in an orderly manner), and the assets or proceeds from the sale of the assets of the Company shall be applied in the manner, and in the order of priority, set forth in Section 18-804 of the Act.

**14. Capital Contributions.** The Member is not required to make any capital contribution to the Company.

**15. Assignments.** The Member may assign in whole or in part its membership interests. If the Member transfers any of its interest in the Company pursuant to this Section 15, the transferee shall be admitted to the Company upon its execution of an instrument signifying its agreement to be bound by the terms and conditions of this Agreement and such other documents and instruments as the Board determines to be necessary or appropriate. If a Member transfers all of its interests in the Company, such admission shall be deemed effective immediately, and immediately following such admission, the transferor Member shall cease to be a member of the Company. Upon assignment, the Board shall amend Schedule 1 without the further vote, act or consent of any other person to reflect such new person as a Member.

**16. Admission of Additional Members.** One or more additional members of the Company may be admitted to the Company with the consent of the Board. In order to be admitted as a member of the Company, such person shall deliver to the Company an instrument signifying its agreement to be bound by the terms and conditions of this Agreement and such other documents and instruments as the Board



determines to be necessary or appropriate. Upon admission, the Board shall amend Schedule J without the further vote, act or consent of any other person to reflect such new person as a Member.

**17. Other Business Opportunities.** The Member and any person or entity affiliated with the Member may engage in or possess an interest in other business opportunities or ventures (unconnected with the Company) of every kind and description, independently or with others, including businesses that may compete with the Company. Neither the Member nor any person or entity affiliated with the Member shall be required to present any such business opportunity or venture to the Company, even if the opportunity is of the character that, if presented to the Company, could be taken by it. Neither the Company nor any person or entity affiliated with the Company shall have any rights in or to such business opportunities or ventures or the income or profits derived therefrom by virtue of this Agreement, notwithstanding any duty otherwise existing at law or in equity. The provisions of this Section shall apply to the Member solely in its capacity as member of the Company and shall not be deemed to modify any contract or arrangement, including without limitation any noncompete provisions, otherwise agreed to by the Company and the Member.

**18. Governing Law.** This Agreement shall be governed by, and construed under, the laws of the State of Georgia, all rights and remedies being governed by said laws.

**19. Amendments.** Except as otherwise provided in this Agreement or in the Act, this Agreement may be amended only by a vote of Members holding a majority of the membership interests.

\* \* \* \* \*



IN WITNESS WHEREOF, the undersigned, intending to be legally bound hereby, has duly executed this Limited Liability Company Agreement as of the date first written above.

**MEMBER:**

**NEW SHJ CONSTRUCTION GROUP, INC.**

By: \_\_\_\_\_  
Name: Scott Blackstock  
Title: President and Chief Executive Officer

RECEIVED  
SECRETARY OF STATE  
INTAKE DIVISION  
2020 DEC 28 AM 11:06

*(SHJ Construction Group, LLC  
Limited Liability Company Agreement)  
112165510v2*

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Schedule 1

Name, Address and Membership Interests of the Members

Name	Membership Interests
New SHJ Construction Group, Inc. c/o Golden Gate Private Equity, Inc. One Embarcadero Center, Suite 3900 San Francisco, CA 94111	100%

112765810v2

**EXHIBIT B**

**AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT**

*[Amended and Restated Operating Agreement Appears on Following Page]*

THE MEMBERSHIP INTERESTS REPRESENTED BY THIS LIMITED LIABILITY COMPANY AGREEMENT HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED, OR UNDER ANY OTHER APPLICABLE SECURITIES LAWS. SUCH INTERESTS MAY NOT BE SOLD, ASSIGNED, PLEDGED OR OTHERWISE DISPOSED OF AT ANY TIME WITHOUT EFFECTIVE REGISTRATION UNDER SUCH ACT AND LAWS OR EXEMPTION THEREFROM, AND COMPLIANCE WITH THE OTHER RESTRICTIONS ON TRANSFERABILITY SET FORTH HEREIN.

### AMENDED & RESTATED LIMITED LIABILITY COMPANY AGREEMENT

OF

### SHJ CONSTRUCTION GROUP, LLC

This Limited Liability Company Agreement (this "Agreement") of SHJ Construction Group, LLC, a Georgia limited liability company (the "Company"), is entered into, as of December 30, 2020, by New Potato Creek Holdings LLC, a Georgia limited liability company, as the sole member of the Company (the "Member").

#### RECITALS

WHEREAS, SHJ Construction Group Inc. converted to a limited liability company on December 28, 2020, bearing the name SHJ Construction Group, LLC, under the Georgia Limited Liability Company Act (O.C.G.A. § 14-11-100, et seq.), as amended from time to time (the "Act"); and

WHEREAS, the Member desires to enter into this Agreement, pursuant to which the rights and obligations of the Member and certain other constituencies of the Company shall be set forth and agreed upon as of the date hereof.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby established, the Member hereby agrees as follows:

#### AGREEMENT

**1. Formation.** The Company has been organized as a Georgia limited liability company by the filing of a Certificate of Formation (the "Certificate") under and pursuant to the Act.

**2. Name.** The name of the Company is "SHJ Construction Group, LLC".

**3. Registered Office; Registered Agent; Principal Office; Other Offices.** The registered office of the Company required by the Act to be maintained in the State of Georgia shall be CT Corporation System, 289 South Culver Street, Lawrenceville, Georgia 30046, or such other office (which need not be a place of business of the Company) as the Board (as defined below) may designate from time to time in the manner provided by law. The registered agent of the Company in the State of Georgia shall be the initial registered agent named in the Certificate or such other person or persons as the Board may designate from time to time in the manner provided by law. The principal office of the Company shall be at such place as the Board may designate from time to time, which need not be in the State of Georgia, and the Company shall maintain records there.

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**4. Purposes.** The Company will exist for the object and purpose of, and the nature of the business to be conducted and promoted by the Company is and will be, engaging in any lawful act or activity for which limited liability companies may be formed under the Act and engaging in any and all activities necessary or incidental to the foregoing.

**5. Term.** The existence of the Company commenced on the date the Certificate was filed with the office of the Secretary of State of Georgia and shall continue until the Company is dissolved pursuant to Section 13 of this Agreement.

**6. Member.** The name and the mailing address of the Member are identified on Schedule 1 attached hereto.

**7. Liability of Member.** Except as otherwise required by applicable law and as explicitly set forth in this Agreement, the Member shall not have any personal liability whatsoever in such Member's capacity as a Member, whether to the Company, to the creditors of the Company or to any other third party, for the debts, liabilities, commitments or any other obligations of the Company or for any losses of the Company.

**8. Management.**

(a) All management powers over the business and affairs of the Company shall be exclusively vested in a board of managers (the "Board") appointed from time to time by the Member, and the Board shall conduct, direct and exercise full control over all activities of the Company. Each member of the Board is referred to herein as a "Manager." The Managers shall be the "managers" of the Company for the purposes of the Act. The Board has the full power on the Company's behalf, in its name, to manage, control, administer and operate its business and affairs and to do or cause to be done anything necessary or appropriate for the Company's business. The Managers are hereby designated as authorized persons, within the meaning of the Act, to execute, deliver and file the certificate of formation of the Company and all other certificates (and any amendments and/or restatements hereof) required or permitted by the Act to be filed in the Office of the Secretary of State of the State of Georgia.

(b) The initial number of Managers shall be one. The number of Managers of the Company shall be fixed from time to time by the Member. The initial Manager shall be Scott Blackstock. Each Manager shall hold his office for the term for which he was appointed and thereafter until his successor shall have been appointed, or until his earlier death, resignation or removal. A Manager need not be a Member or a resident of the State of Georgia.

(c) Any Manager position to be filled by reason of an increase in the number of Managers or by any other reason shall be filled by the Member. Any Manager may be removed by the Member at any time. Any Manager may resign at any time. Such resignation shall be made in writing and shall take effect at the time specified therein, or if no time is specified, at the time of its receipt by the remaining Manager(s). The acceptance of a resignation shall not be necessary to make it effective, unless expressly so provided in the resignation.

(d) The Board may act (i) through meetings and written consents pursuant to Section 8(e) and (ii) through any person or persons to whom authority and duties have been delegated pursuant to Section 8(f).

(e) Each Manager shall have one vote on all matters submitted to the Board (whether the consideration of such matter is taken at a meeting, by written consent or otherwise). The affirmative vote of the Managers holding a majority of the votes of the Managers shall be the act of the Board.

Meetings of the Board shall be held at the principal office of the Company or at such other place as may be determined by the Board. A majority of the Managers, present in person or through their duly authorized attorneys-in-fact, shall constitute a quorum at any meeting of the Board. Business may be conducted once a quorum is present. Regular meetings of the Board shall be held on such dates and at such times as shall be determined by the Board. Special meetings of the Board may be called by a majority of all of the Managers on at least 24 hours' prior written notice to the other Managers, which notice shall state the purpose or purposes for which such meeting is being called. The actions taken by the Board at any meeting, however called and noticed, shall be as valid as though taken at a meeting duly held after regular call and notice if (but not until), either before, at or after the meeting, the Manager as to whom it was improperly held signs a written waiver of notice or a consent to the holding of such meeting or an approval of the minutes thereof. The actions by the Board may be taken by vote of the Board at a meeting of the Managers thereof or by written consent (without a meeting, without notice and without a vote) so long as such consent is signed by at least the minimum number of Managers that would be necessary to authorize or take such action at a meeting of the Board in which all Managers were present. Prompt notice of the action so taken without a meeting shall be given to those Managers who have not consented in writing. Each meeting of the Board shall, at the request of any Manager, be held by conference telephone or similar communications equipment by means of which all individuals participating in the meeting can be heard.

(f) The Board may, from time to time, designate one or more persons to be officers of the Company. No officer need be a resident of the State of Georgia, a Member or a Manager. Any officers so designated shall have such authority and perform such duties as the Board may, from time to time, delegate to them. The Board may assign titles to particular officers. Scott Blackstock shall be the initial Chief Executive Officer and President, Beth Trice shall be the initial Chief Administrative Officer and Glenn Jarrell shall be the initial General Counsel and Secretary (constituting all of the officers of the Company). Unless the Board otherwise decides, if the title is one commonly used for officers of a business corporation, the assignment of such title shall constitute the delegation to such officer of the authority and duties that are normally associated with that office, subject to any specific delegation of authority and duties made to such officer by the Board. Each officer shall hold office until his successor shall be duly designated and shall qualify or until his death or until he shall resign or shall have been removed in the manner hereinafter provided. Any number of offices may be held by the same individual. Any officer may resign as such at any time. Such resignation shall be made in writing and shall take effect at the time specified therein, or if no time be specified, at the time of its receipt by the Board. The acceptance of a resignation shall not be necessary to make it effective, unless expressly so provided in the resignation. Any officer may be removed as such, either with or without cause, by the Board whenever in its judgment the best interests of the Company shall be served thereby.

(g) Each Manager of the Company may at any time and from time to time engage in and own interests in other business ventures of any and every type and description, independently or with others (including ones in competition with the Company) with no obligation to offer to the Company the right to participate therein.

### **9. Indemnification; Exculpation.**

(a) The Company hereby agrees to indemnify and hold harmless any person (each an "Indemnified Person") to the fullest extent permitted under the Act, as the same now exists or may hereafter be amended, substituted or replaced (but, in the case of any such amendment, substitution or replacement only to the extent that such amendment, substitution or replacement permits the Company to provide broader indemnification rights than the Company is providing immediately prior to such amendment), against all expenses, liabilities and losses (including attorneys' fees, judgments, fines, excise taxes or penalties) reasonably incurred or suffered by such person by reason of the fact that such person is



or was a member of the Company, is or was serving as a Manager or an officer of the Company or is or was serving at the request of the Company as an officer, director, principal, member, employee or agent of another corporation, partnership, joint venture, limited liability company, trust or other enterprise; provided that (unless the Board otherwise consents) no Indemnified Person shall be indemnified for any expenses, liabilities and losses suffered that are attributable to such Indemnified Person's gross negligence, willful misconduct or knowing violation of law. Expenses, including attorneys' fees, incurred by any such Indemnified Person in defending a proceeding shall be paid by the Company in advance of the final disposition of such proceeding, including any appeal therefrom, upon receipt of an undertaking by or on behalf of such Indemnified Person to repay such amount if it shall ultimately be determined that such Indemnified Person is not entitled to be indemnified by the Company. The Company may, by action of the Member, provide indemnification to employees and agents of the Company with the same scope and effect as the foregoing indemnification of members, Managers and officers.

(b) Notwithstanding anything contained herein to the contrary, any indemnity by the Company shall be provided out of and to the extent of Company assets only, and the Member shall have no personal liability on account thereof or shall be required to make additional capital contributions to help satisfy such indemnity of the Company.

(c) None of the Indemnified Persons shall be liable to the Member or the Company for mistakes of judgment, or for action or inaction, taken in good faith, or for losses due to such mistakes, action or inaction, or to the negligence, dishonesty, or bad faith of any employee, broker or other agent of the Company, provided that such employee, broker or agent was selected, engaged, or retained with reasonable care. Any party entitled to relief hereunder may consult with legal counsel and accountants in respect of affairs of the Company and be fully protected and justified in any reasonable action or inaction that is taken in good faith in accordance with the advice or opinion of such counsel or accountants, provided that they shall have been selected with reasonable care. Notwithstanding any of the foregoing to the contrary, the provisions of this paragraph shall not be construed so as to relieve (or attempt to relieve) any person of any liability (i) for conduct which is grossly negligent, reckless, or intentionally wrongful or criminally unlawful, provided that such person had no reasonable cause to believe that his or its conduct was unlawful, or (ii) to the extent (but only to the extent) that such liability may not be waived, modified, or limited under applicable law.

(d) The right to indemnification and the advancement and payment of expenses conferred in this Section 9 shall not be exclusive of any other right which an Indemnified Person may have or hereafter acquire under any law (common or statutory), agreement, vote of the Member or otherwise.

**10. Certificates.** The membership interests of the Members shall be uncertificated unless otherwise determined by the Board.

**11. Distributions.** Distributions shall be made to the Members in accordance with their membership interests at the times and in the aggregate amounts determined by the Board.

**12. Allocations of Profits and Losses.**

(a) In the event the Company is treated as a partnership for U.S. federal income tax purposes, the following provisions shall apply:

(i) The Company shall maintain a capital account (each, a "Capital Account") for each Member in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv). For this purpose, the Company may, upon the occurrence of any of the events specified in Treasury Regulations Section 1.704-1(b)(2)(iv)(f), increase or decrease the Capital Accounts in accordance with the rules of such regulation

and Treasury Regulations Section 1.704-1(b)(2)(iv)(g) to reflect a revaluation of Company property. Items of Company income, gain, loss, expense or deduction for any fiscal period shall be allocated among the Members in such manner that, as of the end of such fiscal period and to the greatest extent possible, the Capital Account of each Member shall be equal to the respective net amount, positive or negative, which would be distributed to such Member from the Company or for which such Member would be liable to the Company under this Agreement, determined as if the Company were to (x) liquidate the assets of the Company for an amount equal to their book value (determined according to the rules of Treasury Regulation Section 1.704-1(b)(2)(iv)) and (y) distribute the proceeds in liquidation in accordance with Section 13.

(ii) All income, gains, losses and deductions of the Company shall be allocated, for federal, state and local income tax purposes, among the Members in accordance with the allocation of such income, gains, losses and deductions among the Members for computing their Capital Accounts, except that if any such allocation is not permitted by the Internal Revenue Code of 1986, as amended, or other applicable law, the Company's subsequent income, gains, losses, deductions and expenses shall be allocated among the Members so as to reflect as nearly as possible the allocation set forth herein in computing their Capital Accounts. In the event that any property is contributed to the Company by a Member, gain or loss on the disposition of such property, and any losses or deductions with respect to such property, shall first be shared among the Members so as to take into account the variation between the basis of the property to the Company and its fair market value at the time of contribution, all in accordance with Code Section 704(c) and Treasury Regulations thereunder.

(b) In the event that the Company is not treated as a partnership for U.S. federal income tax purposes, no allocation of income, gains, losses and deductions shall be made pursuant to this Section 12.

**13. Dissolution.** The Company shall dissolve, and its affairs shall be wound up upon the first to occur of the following: (a) the written consent of the Member, (b) any time there are no members of the Company unless the Company is continued in accordance with the Act, or (c) the entry of a decree of judicial dissolution under Section 18-802 of the Act. In the event of dissolution, the Company shall conduct only such activities as are necessary to wind up its affairs (including the sale of the assets of the Company in an orderly manner), and the assets or proceeds from the sale of the assets of the Company shall be applied in the manner, and in the order of priority, set forth in Section 18-804 of the Act.

**14. Capital Contributions.** The Member is not required to make any capital contribution to the Company.

**15. Assignments.** The Member may assign in whole or in part its membership interests. If the Member transfers any of its interest in the Company pursuant to this Section 15, the transferee shall be admitted to the Company upon its execution of an instrument signifying its agreement to be bound by the terms and conditions of this Agreement and such other documents and instruments as the Board determines to be necessary or appropriate. If a Member transfers all of its interests in the Company, such admission shall be deemed effective immediately, and immediately following such admission, the transferor Member shall cease to be a member of the Company. Upon assignment, the Board shall amend Schedule 1 without the further vote, act or consent of any other person to reflect such new person as a Member.

**16. Admission of Additional Members.** One or more additional members of the Company may be admitted to the Company with the consent of the Board. In order to be admitted as a member of the Company, such person shall deliver to the Company an instrument signifying its agreement to be bound by the terms and conditions of this Agreement and such other documents and instruments as the Board



determines to be necessary or appropriate. Upon admission, the Board shall amend Schedule 1 without the further vote, act or consent of any other person to reflect such new person as a Member.

**17. Other Business Opportunities.** The Member and any person or entity affiliated with the Member may engage in or possess an interest in other business opportunities or ventures (unconnected with the Company) of every kind and description, independently or with others, including businesses that may compete with the Company. Neither the Member nor any person or entity affiliated with the Member shall be required to present any such business opportunity or venture to the Company, even if the opportunity is of the character that, if presented to the Company, could be taken by it. Neither the Company nor any person or entity affiliated with the Company shall have any rights in or to such business opportunities or ventures or the income or profits derived therefrom by virtue of this Agreement, notwithstanding any duty otherwise existing at law or in equity. The provisions of this Section shall apply to the Member solely in its capacity as member of the Company and shall not be deemed to modify any contract or arrangement, including without limitation any noncompete provisions, otherwise agreed to by the Company and the Member.

**18. Governing Law.** This Agreement shall be governed by, and construed under, the laws of the State of Georgia, all rights and remedies being governed by said laws.

**19. Amendments.** Except as otherwise provided in this Agreement or in the Act, this Agreement may be amended only by a vote of Members holding a majority of the membership interests.

\* \* \* \* \*

## Disclosure Statement

IN WITNESS WHEREOF, the undersigned, intending to be legally bound hereby, has duly executed this Limited Liability Company Agreement as of the date first written above.

**MEMBER:**

NEW POTATO CREEK HOLDINGS LLC

By: Scott S Blackstock

Name: Scott Blackstock

Title: Manager

*{SHJ Construction Group, LLC -  
Limited Liability Company Agreement}*

S-1

Schedule 1

Name, Address and Membership Interests of the Members

<u>Name</u>	<u>Membership Interests</u>
New Potato Creek Holdings LLC c/o Golden Gate Private Equity, Inc. One Embarcadero Center, Suite 3900 San Francisco, CA 94111	100%

EXHIBIT C

CERTIFICATE OF EXISTENCE

*[Certificate of Existence Appears on Following Page]*



Control Number : 0502196

## STATE OF GEORGIA

Secretary of State  
Corporations Division  
313 West Tower  
2 Martin Luther King, Jr. Dr.  
Atlanta, Georgia 30334-1530

### CERTIFICATE OF EXISTENCE

I, **Brad Raffensperger**, the Secretary of State of the State of Georgia, do hereby certify under the seal of my office that

**SHJ Construction Group, LLC**  
a Domestic Limited Liability Company

was formed in the jurisdiction stated below or was authorized to transact business in Georgia on the below date. Said entity is in compliance with the applicable filing and annual registration provisions of Title 14 of the Official Code of Georgia Annotated and has not filed articles of dissolution, certificate of cancellation or any other similar document with the office of the Secretary of State.

This certificate relates only to the legal existence of the above-named entity as of the date issued. It does not certify whether or not a notice of intent to dissolve, an application for withdrawal, a statement of commencement of winding up or any other similar document has been filed or is pending with the Secretary of State.

This certificate is issued pursuant to Title 14 of the Official Code of Georgia Annotated and is prima-facie evidence that said entity is in existence or is authorized to transact business in this state.

Docket Number : 25549193  
Date Inc/Auth/Filed: 12/31/2004  
Jurisdiction : Georgia  
Print Date : 06/12/2023  
Form Number : 211



*Brad Raffensperger*

Brad Raffensperger  
Secretary of State

**EXHIBIT D**

**RESOLUTION OF SOLE MEMBER**

*[Resolution of the Sole Member Appears on Following Page]*

MINUTES OF ACTION OF  
THE SOLE MEMBER OF  
SHJ CONSTRUCTION GROUP LLC  
TAKEN BY UNANIMOUS WRITTEN CONSENT  
IN LIEU OF MEETING

Effective June 9, 2023

Pursuant to Section 14-11-309 of the Georgia Limited Liability Company Act, the undersigned, NEW POTATO CREEK HOLDINGS LLC, a Georgia limited liability company, being the sole Member of SHJ CONSTRUCTION GROUP LLC, a Georgia limited liability company (the "Company"), does hereby consent to and adopt the following resolutions, which action shall have the same force and effect as if taken by unanimous affirmative vote at a joint meeting of the Member of the Company, duly called and held pursuant to the applicable provisions of the Operating Agreement of the Company and the Georgia Limited Liability Company Act, and direct that this written consent to such action shall be filed with the Minutes of the proceedings of the Member of the Company.

WHEREAS, NEW POTATO CREEK HOLDINGS LLC is the sole Member of the Company;

WHEREAS, the sole Member deem it in the best interest of the Company for the purpose of the efficient operation thereof, to grant Martie Murphy, in his capacity as Director of Permitting for SHJ Construction Group LLC, the authority to: (i) apply for demolition, special or conditional use, utility, building, civil, zoning and other permits on behalf of the Company with respect to any real property owned by the Company or real property under contract in the name of the Company; (ii) execute any and all documents required in connection with or related to such permits; (iii) act on behalf of the Company in connection with any planning and zoning matters related to any real property owned by the Company or real property under contract in the name of the Company; and (iv) apply for, obtain and maintain bonds in the name of or for the benefit of the Company; and

NOW THEREFORE BE IT RESOLVED, that Martie Murphy, in his capacity as Director of Permitting for SHJ Construction Group LLC, the authority to: (i) apply for demolition, special or conditional use, utility, building, civil, zoning and other permits on behalf of the Company with respect to any real property owned by the Company or real property under contract in the name of the Company; (ii) execute any and all documents required in connection with or related to such permits; (iii) act on behalf of the Company in connection with any planning and zoning matters

related to any real property owned by the Company or real property under contract in the name of the Company; and (iv) apply for, obtain and maintain bonds in the name of or for the benefit of the Company;

FURTHER RESOLVED, that Martie Murphy, in his capacity as Director of Permitting of SHJ Construction Group LLC, be and hereby is, authorized, empowered, and directed, in the name and on behalf of the Company, to do all other things and take all other acts and to execute and deliver all other instruments and documents as may be, in his judgment, necessary, proper, or advisable in order to carry out and comply with the purposes and intent of these resolutions, and all of his acts and deeds which are consistent with the purposes and intent of these resolutions shall be, and the same hereby are, in all respects, ratified, approved, confirmed, and adopted as the acts and deeds of the Company;

FURTHER RESOLVED, that any person dealing with any officer, manager, managing member, or authorized person acting for the Company in connection with any of the foregoing matters shall be conclusively entitled to rely upon the authority of such person and by his or her execution of any document, agreement, or instrument, the same shall be a valid and binding obligation of the Company, enforceable in accordance with its terms;

FURTHER RESOLVED, that any action authorized by any of the foregoing resolutions which has been taken prior to the date hereof be, and the same hereby is, ratified and confirmed in all respects; and be it

FURTHER RESOLVED, that any third party dealing with the Company shall be entitled to rely on the copy or facsimile of this Written Consent rather than the original hereof.

*[Signatures Appear on Following Page]*



## Disclosure Statement

IN WITNESS WHEREOF, this Written Consent Action is effective as of the date first set forth above, and it is hereby consented to by the sole Member and Manager as of said date.

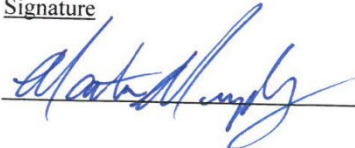
**MEMBER:**

NEW POTATO CREEK HOLDINGS LLC,  
a Georgia limited liability company

By: 

Glenn M. Jarrell, Secretary

EXHIBIT E  
INCUMBENCY

<u>Name</u>	<u>Title(s)</u>	<u>Signature</u>
Martie Murphy	Director of Permitting	

## 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.

The applicant is requesting for indefinite deferral of this application to continue discussion with stakeholders.

**Request**

**Conditional Use Permit** (Religious Use)

**Staff Recommendation**

Indefinite Deferral

**Staff Planner**

Elizabeth Nowak

**Location**

4397 Wishart Road

**GPIN**

1478763388

**Site Size**

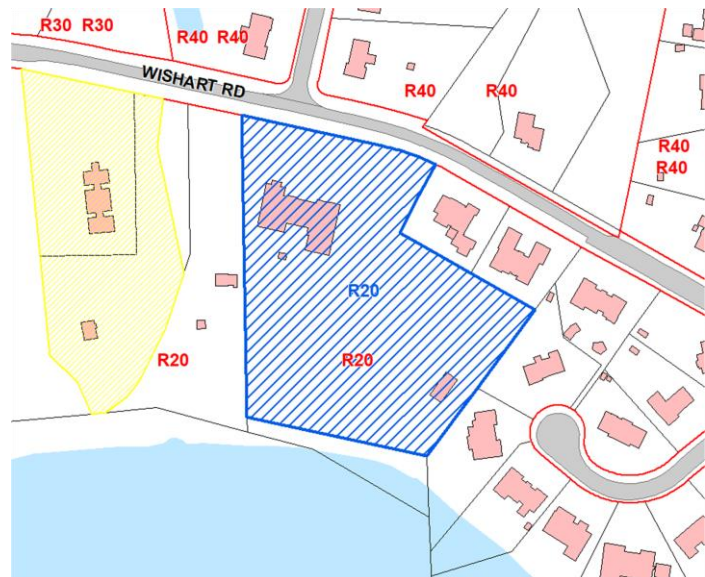
5.35 acres

**AICUZ**

Less than 65 dB DNL

**Watershed**

Chesapeake Bay





**Request**

**Modification of Conditions** (Install Freestanding Signs)

**Staff Recommendation**

Approval

**Staff Planner**

Elizabeth Nowak

**Location**

5152 Princess Anne Road & 5168 Princess Anne Road

**GPIN**

1466783953

**Site Size**

2.8 acres

**AICUZ**

Less than 65 dB DNL

**Watershed**

Chesapeake Bay

**Existing Land Use and Zoning District**

Shopping center / B-4K Historic Kempsville Area  
Mixed Use, Historic Kempsville Overlay District

**Surrounding Land Uses and Zoning Districts**

**North**

Singleton Way

Automobile service station, religious use/ B-2

Community Business, Historic Kempsville Overlay District

**South**

Princess Anne Road

Apartments / B-4K Historic Kempsville Area Mixed Use, Historic Kempsville Overlay District

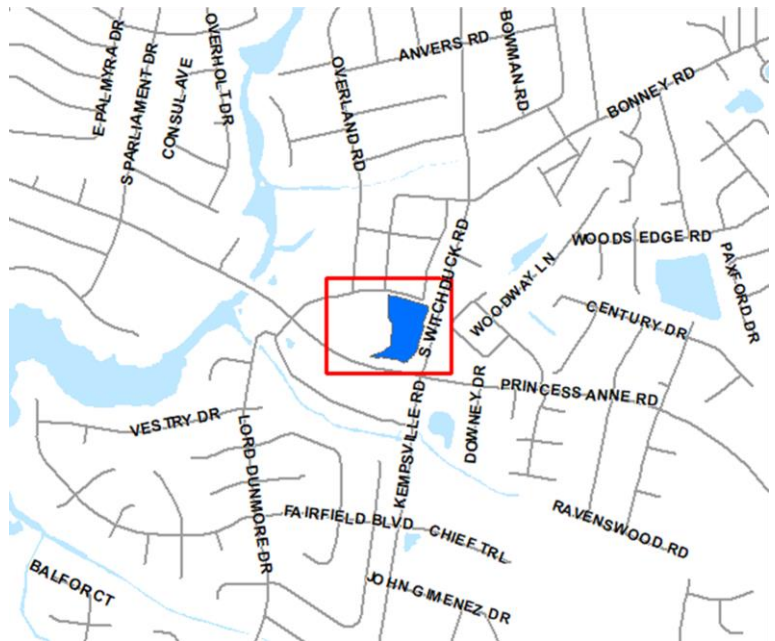
**East**

S. Witchduck Road

Fire rescue station, retail / B-2 Community Business & B-4K Historic Kempsville Area Mixed Use, Historic Kempsville Overlay District

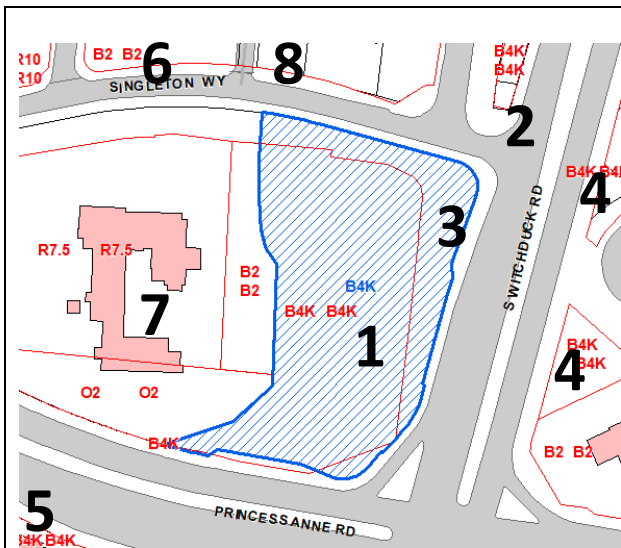
**West**

Religious Use / B-2 Community Business, O-2 Office, R-7.5 Residential, Historic Kempsville Overlay District



## Background & Summary of Proposal

- The applicant is requesting a Modification of Conditions to a Conditional Use Permit for an Eating and Drinking Establishment with Drive-Through Window in order to install two freestanding signs at the new Shoppes at Kemps Landing Shopping Center. This site is approximately 2.8 acres and is zoned B-4K Historic Kempsville Area Mixed Use. It is also in the Historic Kempsville Overlay District.
- The original Conditional Use Permit for a drive-through facility on this site was approved by City Council on October 21, 2014. At that time, a pharmacy with a drive-through window was proposed on site. As development plans for this parcel changed over time, a subsequent Modification of Conditions to the Conditional Use Permit for a drive-through facility was approved by City Council on March 3, 2020. The approval included Condition 1, which stipulated that the property be developed in substantial conformance with the exhibited entitled "Illustrative Site Plan," prepared by Kimley-Horn, dated 11/08/2019. No freestanding signs were included on this site plan.
- Per Section 905(f)(5) of the Zoning Ordinance, all freestanding signs shall be subject to approval by City Council.
- The applicant proposes to install one freestanding sign on the east side of the property perpendicular to S. Witchduck Road and one on the south side of the property perpendicular to Princess Anne Road.
- The signs will be 89 ¼ inches tall and 121 inches wide (approximately seven feet and five inches tall by 10 feet wide).
- The double-sided tenant monument signs will have custom PVC columns with a Colonial Revival profile. They will be all white with black text and internally illuminated with LED lighting.



### Zoning History

#	Request
1	MDC Approved 03/02/2020 CUP (Drive-Through Window associated with a Drugstore) Approved 10/21/2014 REZ (B-2, O-2, R-5D, R-7.5 to B-4K) Approved 8/27/2013
2	REZ (R-10, B-2, O-2, R-5D, AG-1 to B-4K) Approved 06/21/2016
3	STC Approved 04/22/2014
4	REZ (B-2, O-2, R-5D, R-7.5 to B-4K) Approved 8/27/2013
5	REZ (R-7.5, O-2, B-1A to B-4K) Approved 04/10/2012
6	CUP (Religious Use) Approved 12/11/2001
7	CUP (Religious Use) Approved 10/15/1999
8	CUP (Motor vehicle rentals) 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

In Staff's opinion, this request for a Modification of Conditions is acceptable. The proposed signs are compatible with the general Neo-Colonial Revival Style of the Shoppes at Kemps Landing and the greater Historic Kempsville area. There are no specific design guidelines for signs in the B-4K Historic Kempsville Area Mixed Use District or the Historic Kempsville

Christopher Gregory

Agenda Item 10

Page 2

Overlay District. General guidance can be found in recommendations in the Historic Kempsville Area Master Plan design guidelines for “Other Site Elements”:

- Site elements should contribute to the site’s character and not detract from the site’s principal architectural features and should be compatible with adjacent sites in the District.

The proposed signage complements the existing style, scale, materials, and color palette of the Shoppes at Kemps Landing and they meet the size requirements of freestanding signs as set by the Zoning Ordinance. While externally illuminated signage is typically the style recommended in historical and cultural areas, the proposed internal illumination is compatible with the existing internally illuminated wall signage already installed in the shopping center. There are internally illuminated signs throughout the Historic Kempsville Area, though many likely precede the establishment of the district.

Given the design’s overall compatibility with the shopping center design and existing signage, Staff recommends approval of the request subject to the following recommended conditions and exhibits in the staff report.

### Recommended Conditions

1. All previous conditions attached to the Conditional Use Permit approved on March 2, 2020 shall remain in effect and Condition 1 shall be replaced, as indicated in Condition 2 below.
2. When the property is developed, it shall be in substantial conformance with the submitted exhibit entitled, “Retail at Kemps Landing Prepared for Robinson Development Group,” dated 11/11/2021, prepared by Kimley-Horn, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
3. The signs to be installed shall be as those exhibited in the exhibits entitled “Shoppes at Kemps Landing 5152 Princess Anne Road” and “Shoppes at Kemps landing 5168 Princess Anne Road”, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
4. The signs shall be landscaped in accordance with Section 214(c) of the Zoning Ordinance.
5. Sign illumination shall be white light. No colored lighting shall be permitted.

*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.*

## Conditions of the 2020 Request

A Modification of Conditions request to modify the site layout of the shopping center:

1. When the property is developed, it shall be in substantial conformance with the submitted exhibit entitled, "ILLUSTRATIVE SITE PLAN," prepared by Kimley Horn, dated 11/08/19. Said Plan has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
2. The maximum deviation setbacks for the proposed buildings shall be as follows:
  - 5,300 sf building
    - 30 feet from Princess Anne Road
    - 30 feet from S. Witchduck Road
  - 9,800 sf building
    - 190 feet from Princess Anne Road
    - 190 feet from S. Witchduck Road
    - 170 feet from Singleton Way
  - 3,800 sf building
    - 35 feet from S. Witchduck Road
    - 30 feet from Singleton Way
3. At the time of site plan review, a Landscape Plan that reflects Category I landscape buffer between the drive-through lane and the rights-of-way, in addition to all plant material required by the City Zoning and Site Plan Ordinances, shall be submitted for review to the Development Services Center and shall obtain an approval prior to the issuance of a building permit.
4. The drive-through facility shall not utilize exterior speakers that are audible from any property line adjacent to residential uses.
5. The drive-through facility shall be located on the same parcel as the structure within which the principal use for the drive-through is located.
6. The drive-through shall not operate between the hours of 12:00 midnight – 5:00 a.m.
7. The drive-through facility shall be restricted to one lane.
8. There shall be no signs for the drive-through facility on the building or site, with the exception of directional signs not visible from the public rights-of-way. Such signs shall not be internally illuminated.
9. An overhead canopy for the drive-through facility shall be allowed, except that such canopy shall not project more than four (4) feet from the wall of the building above the drive-through window and shall not exceed the width of the drive-through window by more than one (1) foot on each side. In no case, however, shall a drive-through facility have an overhead canopy that extends to cover the total length of the drive-through lane.
10. The architectural design shall conform to the purpose and intent of the Historic Kempsville Area Master Plan.



## Conditions of the 2014 Request

A Conditional Use Permit request to develop a drive-through associated with a drugstore:

1. With the exception of any modifications required by any of these conditions or as a result of Development Site Plan review, the drive-through facility shall be located on the Site substantially in conformance with that shown on the submitted concept Plan, entitled "CONCEPTUAL SITE PLAN SHOWING LOCATION OF PROPOSED DRIVE-THROUGH," dated October 24, 2012, and prepared by WPL. Said Plan has been exhibited to the City Council and is on file with the Department of Planning.
2. The drive-through window shall be located on the building in the location shown and in keeping with the design depicted on the two submitted building renderings, entitled "RENDERING OF REAR OF PROPOSED PHARMACY SHOWING LOCATION AND DESIGN OF PROPOSED DRIVE-THROUGH" and "RENDERING OF REAR AND SOUTH SIDES OF PROPOSED PHARMACY SHOWING LOCATION AND DESIGN OF PROPOSED DRIVE-THROUGH." Said renderings have been exhibited to the City Council and are on file with the Department of Planning.
3. Any loudspeaker or similar voice transmission device shall not be audible at any of the lot lines of the subject parcel.
4. The drive-through facility shall not be available for business between the hours of 10:00 P.M. and 10:00 A.M.
5. There shall be no signs on the building or anywhere on the parcel indicating the availability of drive-through service. Directional signs not visible from a public right-of-way may be utilized; however, such signs shall not be internally illuminated.
6. The 'balcony' canopy shown over the drive-through window in the building renderings referenced in Condition 2 shall not project more than four (4) feet from the wall of the building above the drive-through window and shall not exceed the width of the drive-through window by more than one (1) foot on each side.

## Comprehensive Plan Recommendations

This proposal is located in the Historic Kempsville Overlay District. While there is no specific guidance for signage in the Historic Kempsville Master Plan, the general design criteria call for designs to respect the scale and palette of the desired architectural features for the District. It is recommended that the sign utilize similar materials as the overall development, and avoid unacceptable materials such as shiny metals, aluminum or vinyl, tile, and white mortar. Acceptable materials include brick, wood, or synthetic material that resembles horizontal wood siding. It is also recommended to consult Appendix 2: Recommended Vegetation Lists, in the Historic Kempsville Area Master Plan, for guidance about additional landscaping around the sign.

## Natural & Cultural Resources Impacts

The site is located in the Chesapeake Bay watershed.

The site is also located in the Historic Kempsville Overlay District. The property itself has recently been developed and there are no historic properties that will be affected by this proposal. A replacement Virginia Historical Highway Marker documenting Skirmish at Kems Landing (KV-27) will be reinstalled on the property along S. Witchduck Road. When installed, the marker and the signage shall be aligned so as not to detract from the historical marker.

## Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Princess Anne Road	27,700 ADT <sup>1</sup>	32,700 ADT <sup>1</sup> (LOS <sup>2</sup> “D”)	No change anticipated
Witchduck Road	34,400 ADT <sup>1</sup>	55,500 ADT <sup>1</sup> (LOS <sup>2</sup> “D”)	
<sup>1</sup> Average Daily Trips		<sup>2</sup> LOS = Level of Service	

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

Princess Anne Road in the vicinity of this application is classified as a four lane minor urban arterial. There are currently no CIP projects scheduled for this section of Princess Anne Road. Witchduck Road in the vicinity of this application is classified as a six lane major urban arterial. There are currently no CIP projects scheduled for this section of Witchduck Road.

## Public Utility Impacts

### Water

The site is connected to City water.

### Sewer

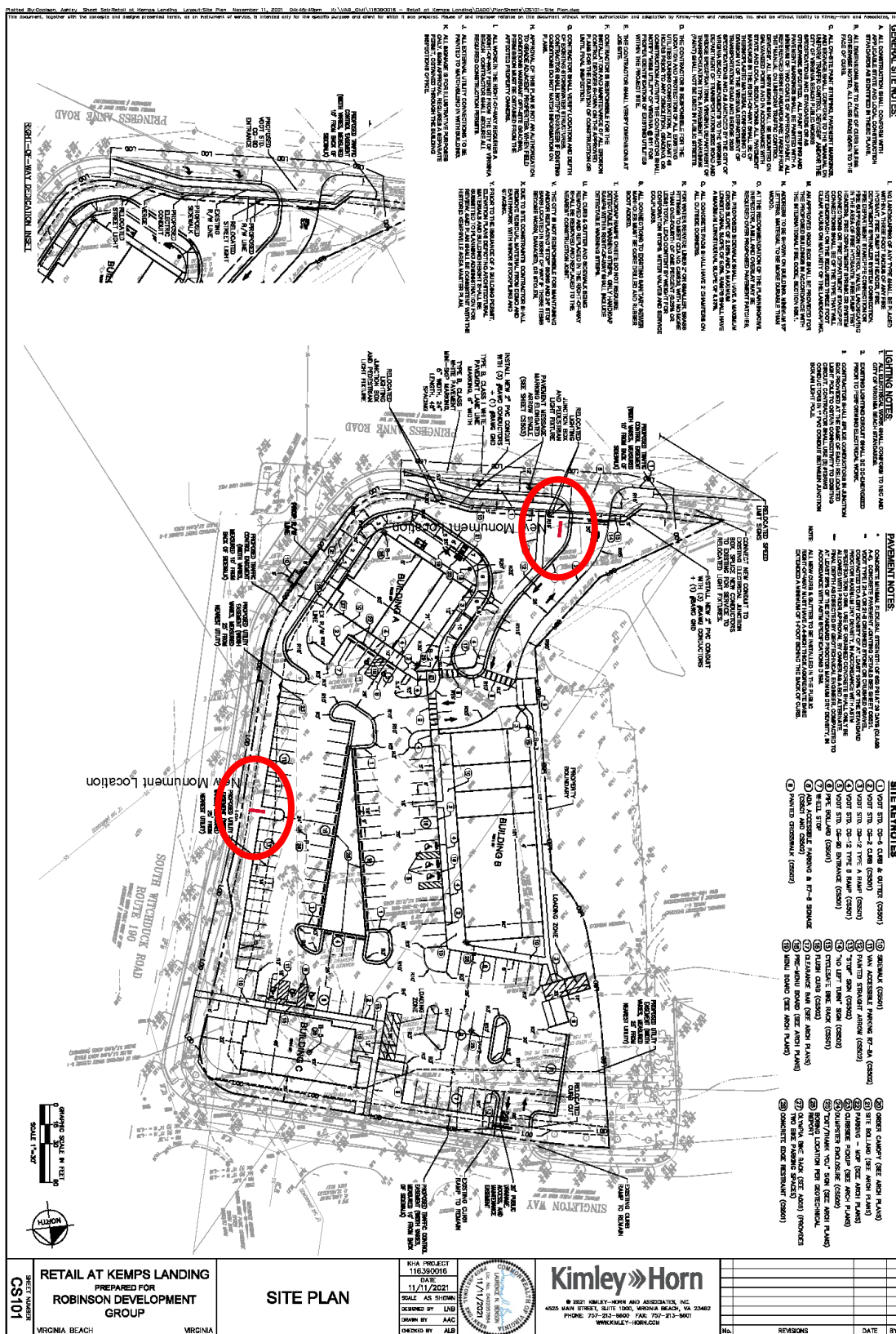
The site is connected to City sewer.

## Public Outreach Information

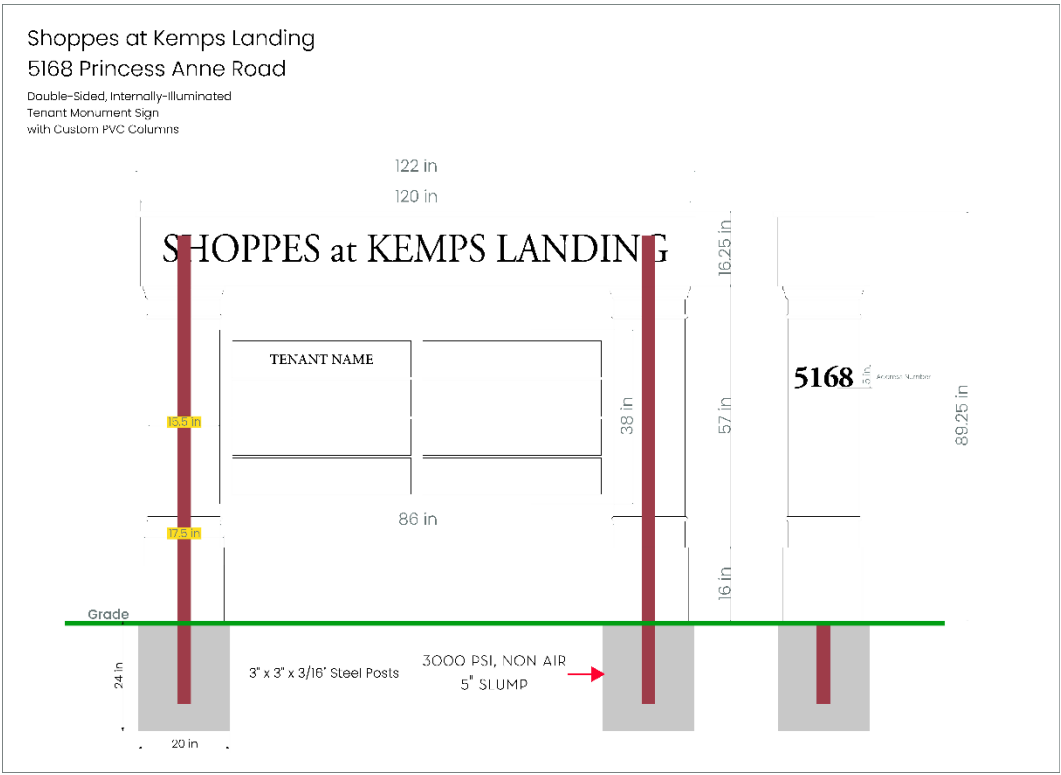
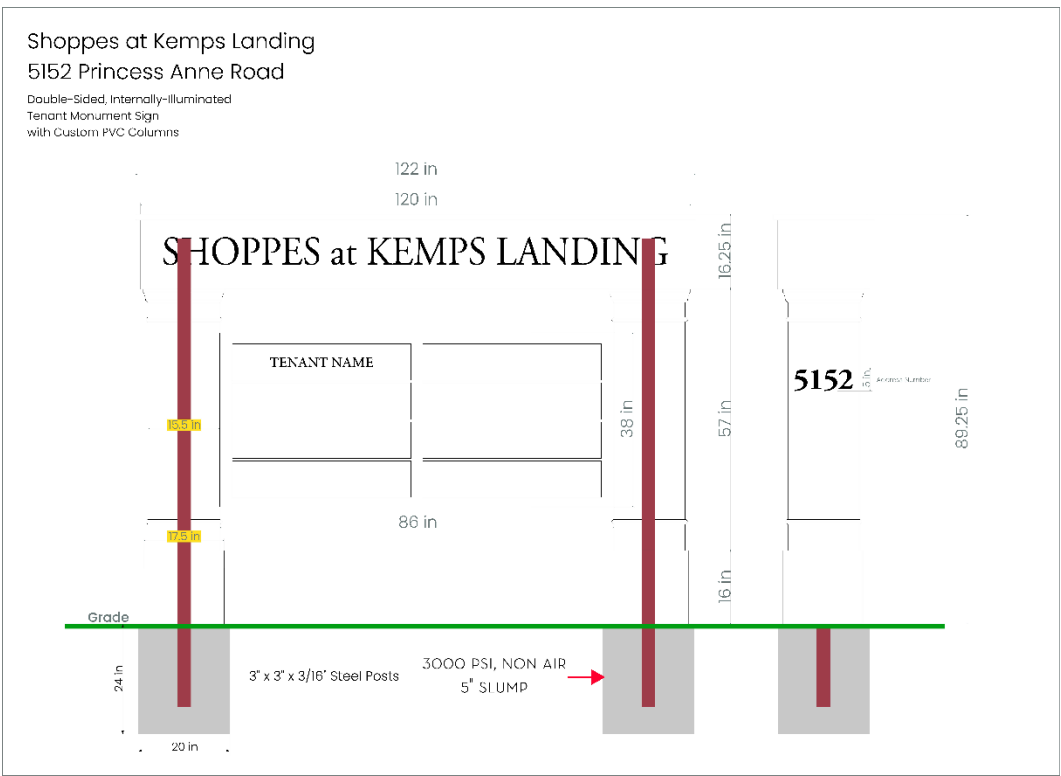
### Planning Commission

- The applicant and their representative were unable to attend the Historic Kempsville Citizen Advisory Committee on July 31, 2023 to discuss the details of the request.
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on July 10, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, July 26, 2023 and August 2, 2023.
- 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 24, 2023.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of [www.virginiabeach.gov/pc](http://www.virginiabeach.gov/pc) on August 3, 2023.

## Proposed Site Layout



Proposed Sign Plan (LED Internal Illumination)





## 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 Christopher Gregory

Does the applicant have a representative? ☐ Yes ☒ No

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

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

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

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

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

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

### Disclosure Statement



#### Known Interest by Public Official or Employee

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

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

#### Applicant Services Disclosure

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

☐ Yes ☒ No

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

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

☐ Yes ☒ No

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

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

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

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

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

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

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



## Disclosure Statement

### Disclosure Statement



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

#### Applicant Signature

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

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

#### Applicant Signature

Christopher Gregory - Director of Production

#### Print Name and Title

05/31/2023

#### 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 Princess Anne/Witchduck Associates 1, LC

Applicant Name Christopher Gregory

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)

Chris Sanders and Tom Robinson

- 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)

Robinson Development Group

### 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.

**Parker Burnell RE Company ; Jay Burnell**

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.

**Kimley Horne; Randy Royal; Laurence Benson**

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.

**PG Harris Construction Co : Paul Harris**

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

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

**Kimley Horne; Randy Royal; Laurence Benson**

## 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.  
Kaufman & Canoles; Charles Land

#### Owner Signature

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

A handwritten signature in blue ink, appearing to read 'Chris Sanders', written over a horizontal line.

Owner Signature

Chris Sanders, Manager

Print Name and Title

June 1, 2023

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** (Car Wash Facility)

**Staff Recommendation**

Approval

**Staff Planner**

Elizabeth Nowak

**Location**

6213 Indian River Road

**GPIN**

1456336782

**Site Size**

1.3 acres

**AICUZ**

Less than 65 dB DNL

**Watershed**

Chesapeake Bay

**Existing Land Use and Zoning District**

Undeveloped lot / B-2 Community Business

**Surrounding Land Uses and Zoning Districts**

**North**

Indian River Road

Shopping center, auto sales / B-2 Community Business

**South**

Old Providence Road

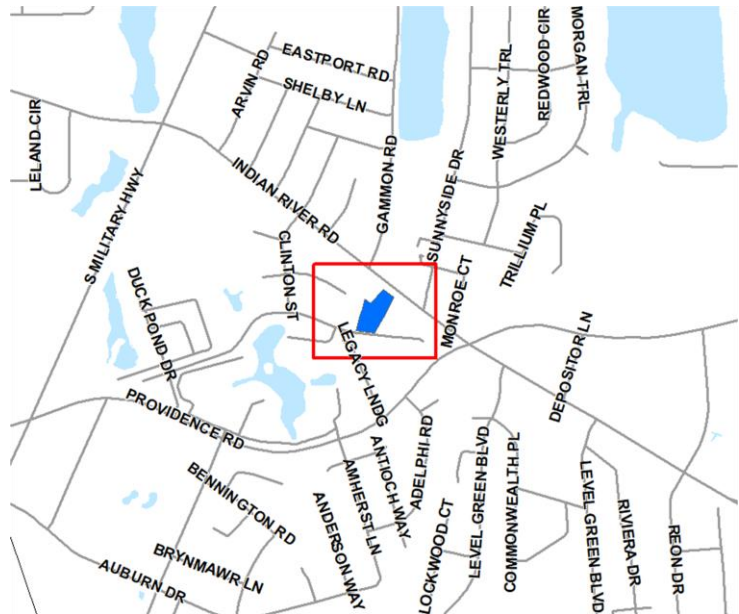
Retail / B-2 Community Business

**East**

Auto sales, automobile repair garage / B-2 Community Business

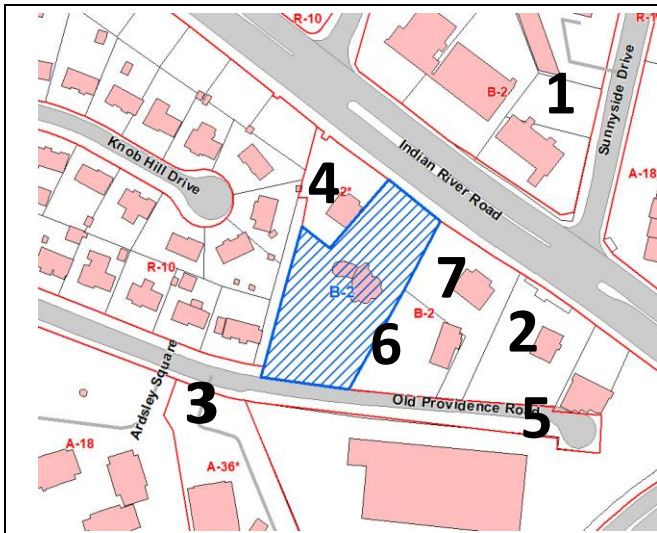
**West**

Retail, single-family dwellings / B-2 Community Business, R-10 Residential



## Background & Summary of Proposal

- The applicant is requesting a Conditional Use Permit for a Car Wash Facility to develop a single-tunnel automatic car wash on a 1.3-acre property zoned B-2 Community Business District. It was previously the location of a drive-thru bank.
- The applicant is proposing to construct an approximately 3,564 square-foot building near the center of the parcel. Customers will enter the site from an existing access point on Indian River Road and will flow around and then through the Car Wash Facility. Exiting the car wash tunnel, customers will either proceed back onto Indian River Road or to vacuum spaces located along the southeast edge of the property.
- The proposed building will have a modern combination of white, gray, and blue cladding. The single-tunnel building will have an anodized aluminum storefront system along the east and west elevations. Blue and white Dryvit Modulite panels will be located above the storefront system. A decorative wave element and columns will provide depth to the facades. The primary and rear elevations, the north and south elevations respectively, will be clad with Belden Alaska White Velour brick to provide some material contrast.
- Three pay lanes and stations will be located on the west side of the building. While the applicant plans to reuse much of the previous circulation pattern from the old bank building, the existing pavement will be expanded to accommodate all three pay aisles. The station closest to the residential neighborhood to the west will be dedicated for member use only. The member-only lane will be restricted via license plate readers which will scan for member details. No traditional payment options will be available at this third station.
- There is an existing 20-foot drainage easement parallel to the northwestern property line. Category IV landscaping, as shown on the exhibited conceptual plan, is placed on the interior side of this easement.
- Three parking spaces are proposed for the single-bay car wash, as required in Section 228.1 of the Zoning Ordinance. Additionally, 20 vacuum spaces are also proposed on site.
- The proposed vacuums will be single turbine units. Such vacuum units have individual motors which turn on while in use. Customers will receive a code for a set amount of vacuum time with the purchase of a car wash service. The vacuums will not be free use; an initial time credit will be provided with purchase of a carwash service, but additional time or standalone vacuum services will require payment.
- A dumpster is proposed at the southwest corner of the property with landscape screening, as required by the Zoning Ordinance.
- The property has an existing access point to Indian River Road and another along Old Providence Road.
- The proposed hours of operation will be from 7:30 a.m. to 8:00 p.m., daily, in the spring, summer, and fall. Winter hours of operation will be between 7:30 a.m. and 7:00 p.m. The facility will employ six full-time employees with two to three employees working on a maximum shift.



## Zoning History

#	Request
1	CUP (Church) Approved 11/23/2007
2	CUP (Church) Approved 03/13/2007
3	CRZ (B-2 to Conditional A-36) Approved 01/23/2007
4	CRZ (R-10 to Conditional B-2) Approved 01/11/2005
5	STC (Portion of Old Providence Road) Approved 01/08/2002
6	CUP (Automobile Repair Garage) Approved 07/8/1998
7	CUP (Motor Vehicle Sales) Approved 04/10/1993

## Application Types

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

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

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

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

## Evaluation & Recommendation

In Staff's opinion, this request for a Conditional Use Permit for a Car Wash Facility is acceptable. The site is located in the Suburban Area of the City as defined by the Comprehensive Plan. In this area, commercial and service-oriented uses should be located along busy thoroughfares that are easily accessed from nearby residents, such as this site along Indian River Road. The Comprehensive Plan also includes recommended Design Guidelines for development in the Suburban Area. The proposed one-story, one-tunnel car wash adheres to most of these guidelines, including its complementary massing and height to adjacent buildings, using color as an accent rather than a major feature, and the proposed circulation of the site to bring activity to the rear and sides of the site. The use is also compatible with other businesses in this portion of Indian River Road.

The proposal seeks to minimize noise from the site as much as possible. While the parcel is adjacent to a residential neighborhood, there is an existing 20-foot drainage easement along the western property line. As the easement must remain clear, this provides additional space between the actual Car Wash Facility and the residential properties. The applicant is proposing to install a 6-foot tall privacy fence along the western property line and plantings along the interior of the fence to both beautify and screen the site. The closest pay lane to the residences will be the Member-Only Lane, which should have fewer customers than the other traditional pay lanes. The tunnel exit, which will have a higher noise impact than the entrance, faces Indian River Road, which has six lanes and a left turn lane near the subject site. The applicant is also proposing individual turbine vacuum stations. Unlike central vacuum stations, each unit operates independently so noise from the turbines is not constant. Lastly, Condition 10 is recommended to limit dumpster service to the hours of 8:00 a.m. and 6:00 p.m. to minimize disruption to adjacent residents.

There are two existing access points to the site: one from Indian River Road and one from Old Providence Road. The site has been designed so that the circulation into and out of the facility will occur at the Indian River Road access. While the access point at Old Providence Road will be retained for fire safety, it will typically be gated off and will not be available for customer or employee use. Staff's analysis of potential traffic impacts, as reported below, indicates that there will be no adverse traffic impact on Indian River Road given the expected number of average daily trips and the current traffic volume in the area.

Given the careful site configuration to minimize impacts on nearby residents and the overall compatibility of the use in this area, Staff recommends approval of this request subject to the recommended conditions and exhibits in this staff report.

## Recommended Conditions

1. The site shall be developed in substantial conformance with the submitted site plan entitled “Cool Wave Car Wash – Virginia Beach, VA Conceptual Development Plan,” dated July 15, 2023, prepared by Timmons Group, and “Cool Wave Car Wash – Virginia Beach, VA Conceptual Landscape Plan,” dated July 15, 2023, prepared by Timmons Group, which have been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
2. The car wash building shall be constructed in substantial conformance with the submitted elevations as prepared by the applicant and as exhibited in the staff report, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development
3. A Category IV landscape buffer shall be installed between pay lanes and the drainage easement as shown on the conceptual landscaping plan.
4. A minimum six-foot tall privacy fence similar in style and material to Sherwood Fence Panels shall be installed as part of the Category IV landscape buffer referenced in Condition 3 and along the southeast property line between the vacuum spaces and adjacent properties.
5. The vacuum stations shall have an all-white assembly with blue hoses, white trash receptacles, and white posts, as depicted in the graphic as exhibited in the staff report and prepared by the applicant, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
6. Vacuums shall be single turbine, not central turbine.
7. No window or outdoor advertising banners, pennants, streamers or other such visual devices beyond those permitted by the City Zoning Ordinance shall be permitted on the property.
8. No water produced by activities at the facility lot shall be permitted to fall upon or drain across public streets or sidewalks or adjacent properties.
9. The vehicular access at the rear of the site onto Old Providence Road shall only be used by emergency vehicles and shall otherwise be blocked for use by vehicles (e.g., gated). Non-emergency vehicular ingress and egress shall only be from the Indian River Road access.
10. Dumpster service shall be limited to the hours between 8:00 a.m. and 6:00 p.m. Dumpster service shall only access the site from Indian River Road.
11. All on-site signage shall meet the requirements of the City Zoning Ordinance. Any freestanding signage shall be limited to one monument-style sign that shall be no taller than eight feet in height and shall be constructed with a base to match the proposed building in terms of color and material. There shall be no signs that contain or consist of pennants, ribbons, streamers, spinners, strings of light bulbs, or other similar moving devices on the site or on the vehicles. There shall be no signs which are painted, pasted, or attached to the windows, utility poles, trees, or fences, or in an unauthorized manner to walls or other signs.



12. Pay station signage shall be constructed in substantial conformance with the submitted drawing as exhibited in the staff report as prepared by the applicant and as exhibited in the staff report, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
13. There shall be no portable or nonstructural signs or electronic display signs on the site.
14. Prior to final site plan approval, a Lighting Plan in accordance to Section 252 of the Zoning Ordinance, or as amended, shall be submitted to the Department of Planning and Community Development for review and approval.
15. All outdoor lights shall have static lighting and shall be natural hues (e.g., white light).

*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 Suburban Area of the City. The Comprehensive Plan recommends a mix of commercial and service-oriented uses be developed along commercial nodes and at edges of residential areas to support the development and maintenance of Great Neighborhoods. It also recommends that adequate measures be taken to properly screen the adjacent residential uses from potential noise issues emanating from the property to ensure compatible development with residential areas.

## Natural & Cultural Resources Impacts

The site is located in the Chesapeake Bay watershed. This property is located outside the Resource Protection Area.

No historical or cultural resources will be affected by this proposed development.

## Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Old Providence Road	No data available	9,900 ADT <sup>1</sup> (LOS <sup>4</sup> "D")	Existing Land Use <sup>2</sup> – 725 ADT Proposed Land Use <sup>3</sup> – 500 ADT
Indian River Road	26,600 ADT <sup>1</sup>	55,500 ADT <sup>1</sup> (LOS <sup>4</sup> "D")	
<sup>1</sup> Average Daily Trips	<sup>2</sup> as defined by a 1.3-acre property zoned B-2 Community Business	<sup>3</sup> as defined by a single-bay automated Car Wash Facility	<sup>4</sup> LOS = Level of Service

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

Old Providence Road is a two-lane local roadway that is not included on the City's MTP. This roadway serves both residential and commercial traffic. Indian River Road in the vicinity of this application is a six-lane major urban arterial street. The MTP shows this section of Indian River Road as an eight-lane roadway in a 155-foot right-of-way. There are no CIP projects the area of this development site.

## **Public Utility Impacts**

### **Water**

This site must connect to City water. There is an existing 20-inch City water transmission main along Indian River Road. There is an existing eight-inch City water main along Old Providence Road.

### **Sewer**

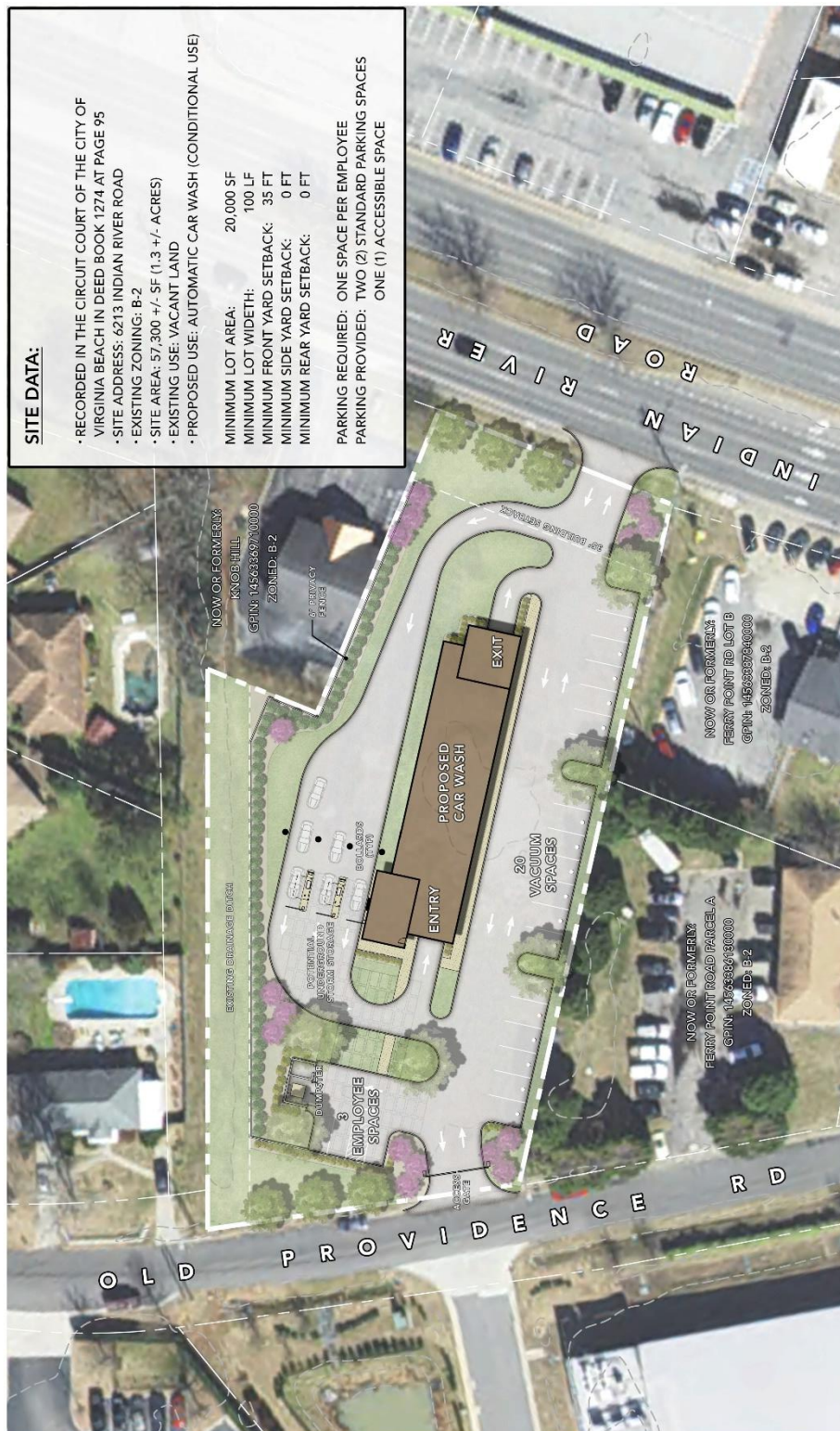
City sanitary sewer is connected to City sewer. There is an eight-inch City sanitary sewer gravity main along Old Providence Road. Sewer and pump station analysis for pump station \$411 is required to determine if future flows can be accommodated.

## **Public Outreach Information**

### **Planning Commission**

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on July 10, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, July 26, 2023 and August 2, 2023.
- 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 24, 2023.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of [www.virginiabeach.gov/pc](http://www.virginiabeach.gov/pc) on August 3, 2023.

# Proposed Site Layout

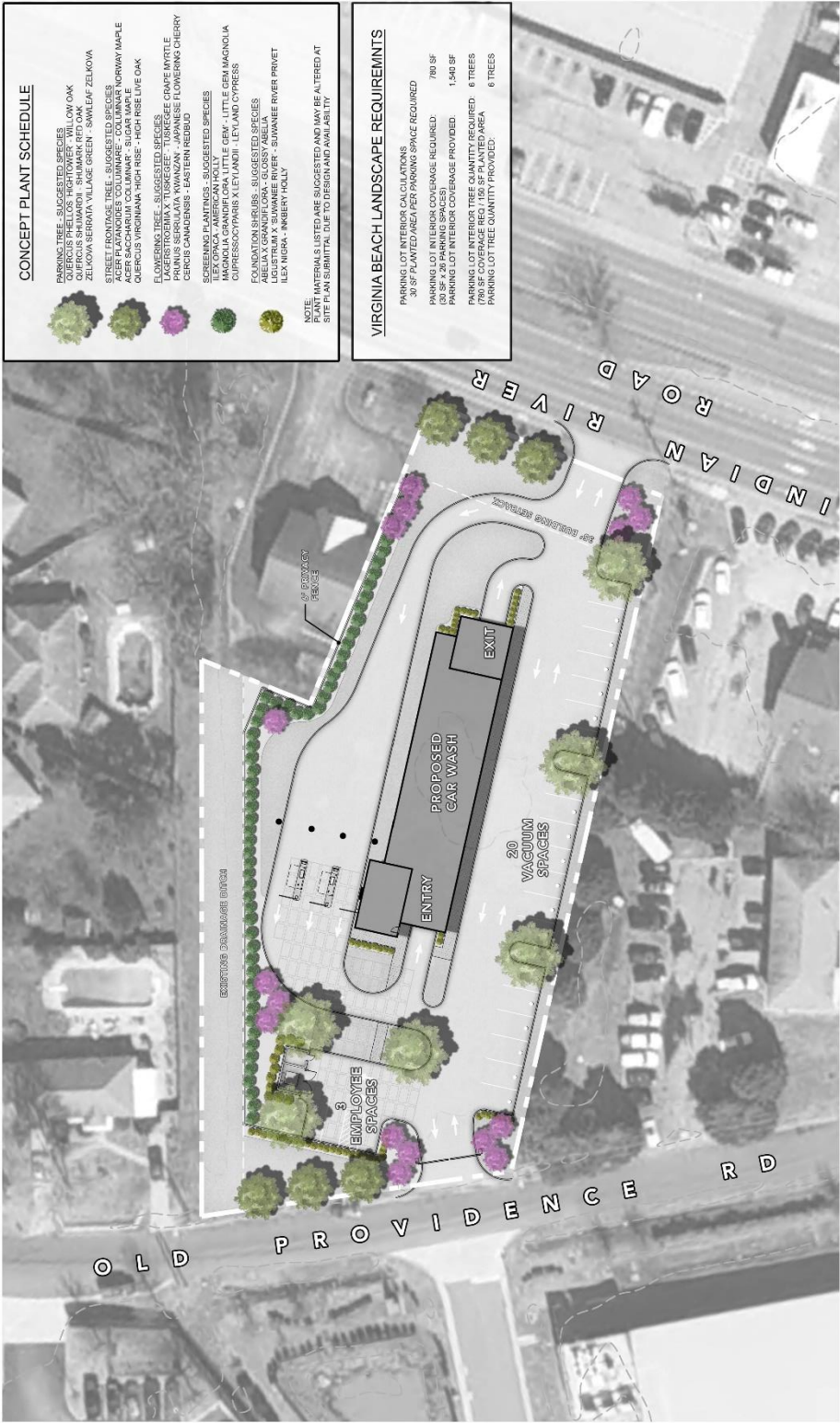


**COOL WAVE CAR WASH - VIRGINIA BEACH, VA**  
 CONCEPTUAL DEVELOPMENT PLAN - July 15, 2023





Proposed Site Landscape Plan

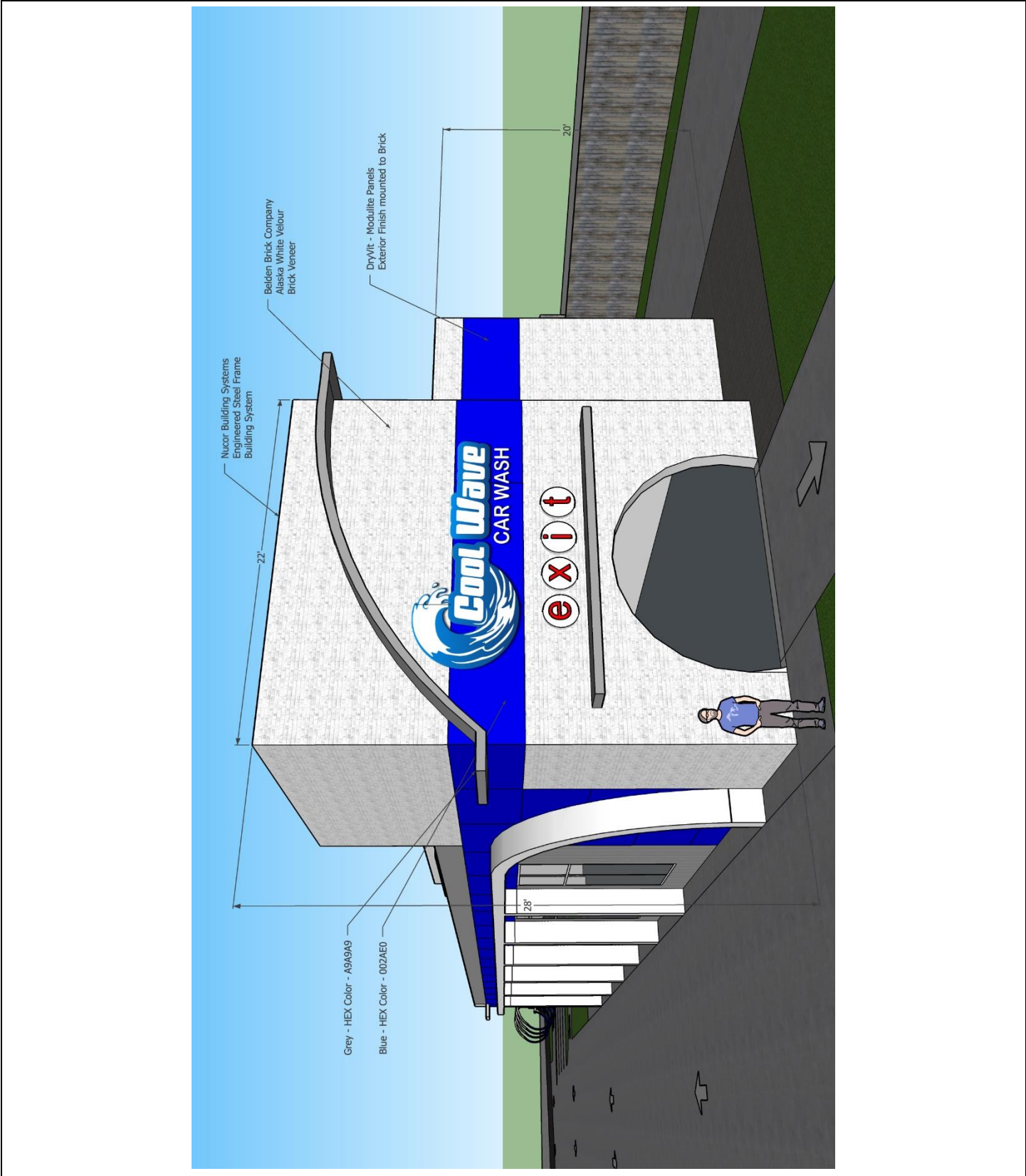


COOL WAVE CAR WASH - VIRGINIA BEACH, VA  
CONCEPTUAL LANDSCAPE PLAN - July 15, 2023

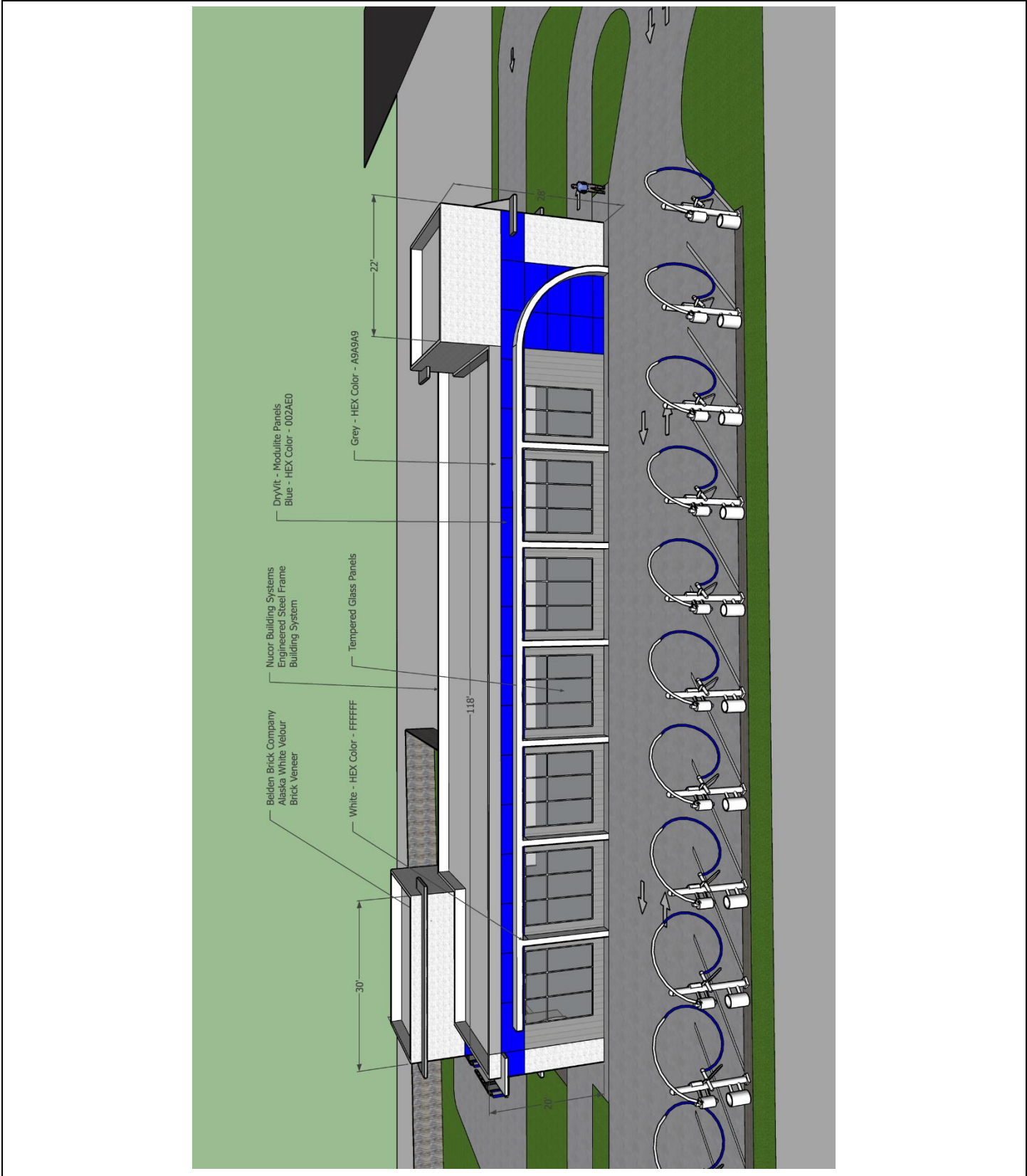




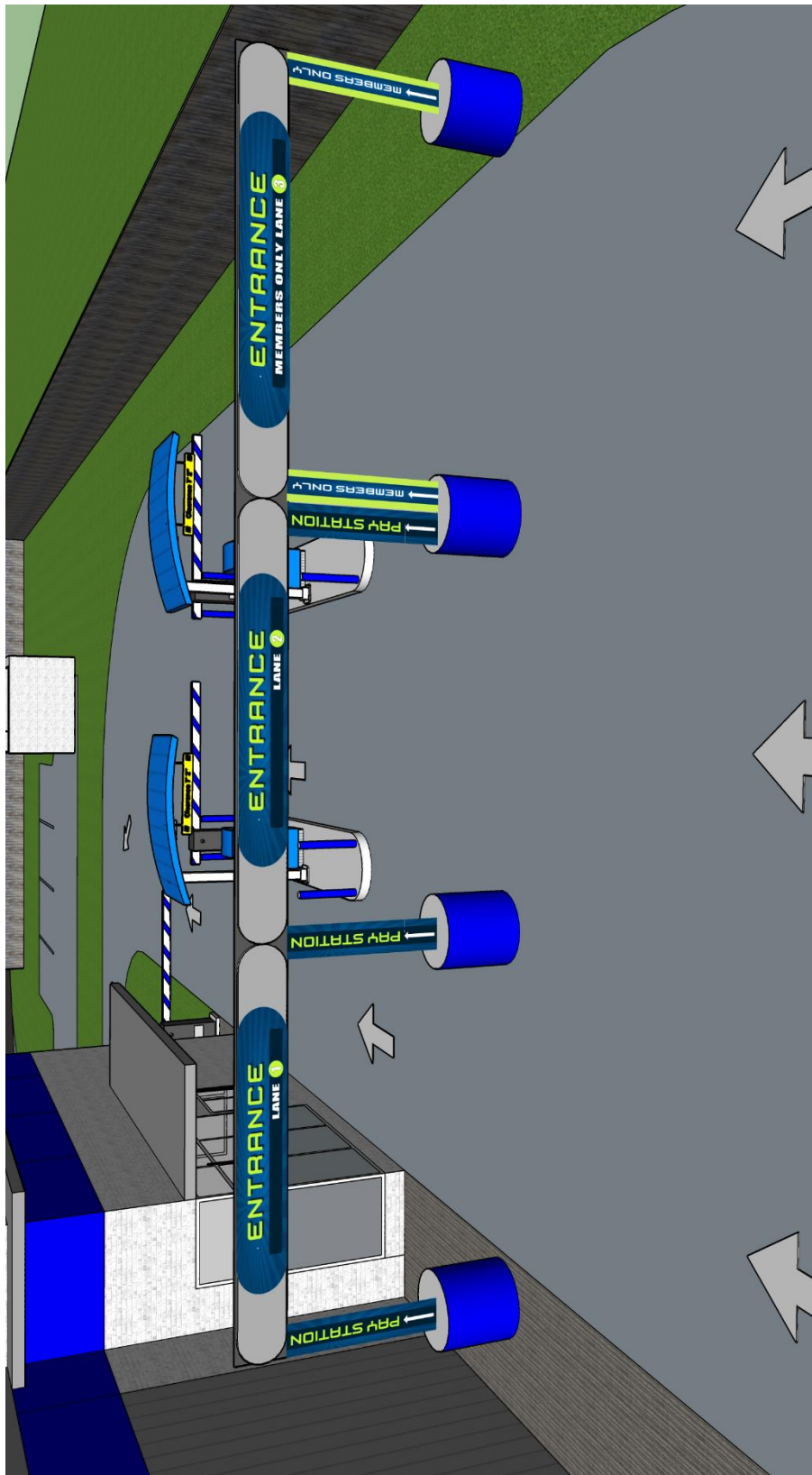
Proposed Elevation Plan



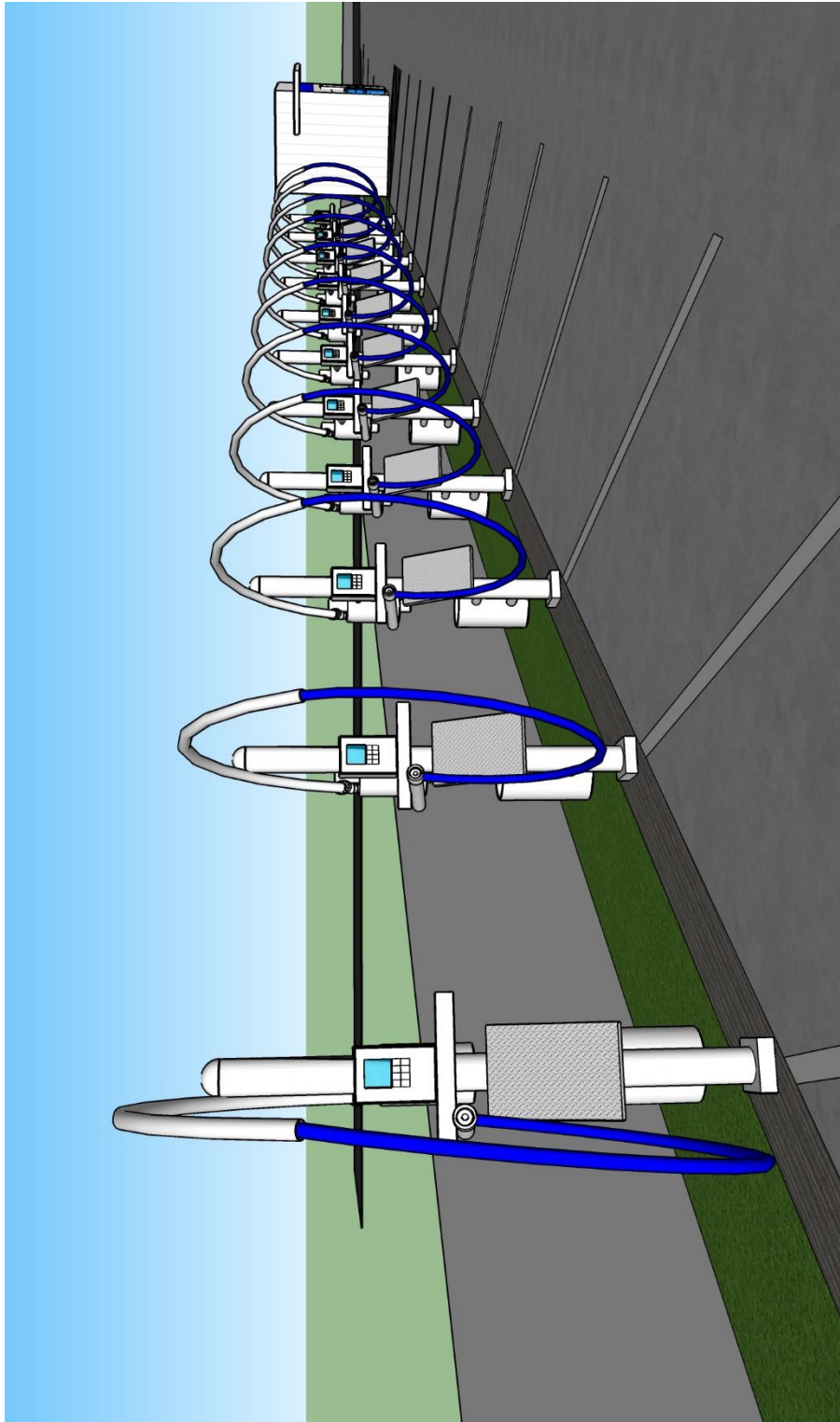
Proposed Elevation Plan



## Proposed Pay Stations



## Proposed Vacuum Stations





Site Photos



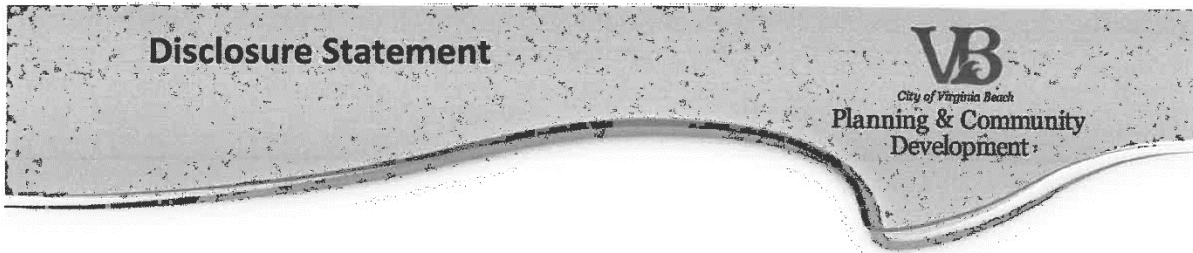


## Site Photos





## 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** Burnette Baum Development Corporation

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

- If yes, list the name of the representative.

Nicholas Baum

**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)

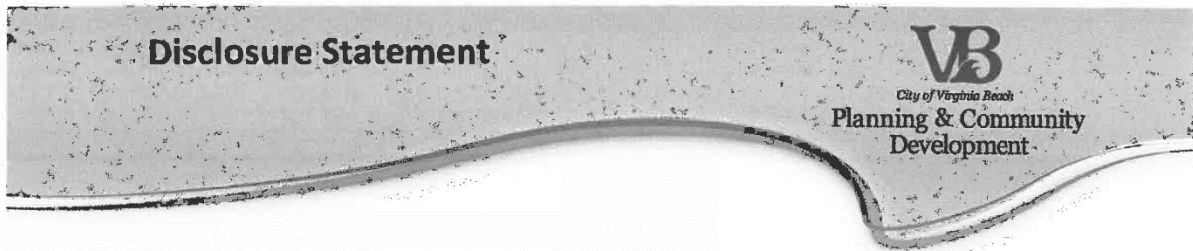
Nicholas Baum and William Burnette

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

N/A

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

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



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

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

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

William Burnette from Baum Burnette Development Corp. is a member of the Virginia Beach Chesapeake Bay Preservation Board

### **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.

Timmons Group Engineering / David Taylor

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.

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.
- Sykes, Bourdon, Ahern & Levy / Eddie Bourdon

### 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.

*Nicholas Baum, President*

### Applicant Signature

Nicholas Baum, President

### Print Name and Title

May 31, 2023

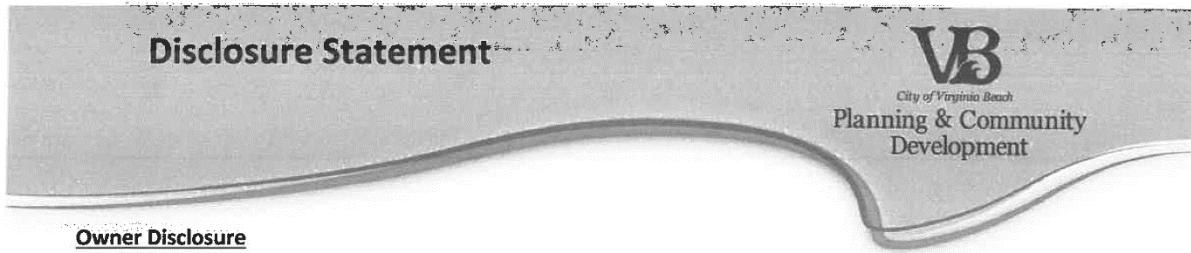
### Date

- 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	



### Owner Disclosure

**Owner Name** Virginia Beach Investment Company LLC

**Applicant Name** Burnette Baum Development 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)

See attached Members of Virginia Beach Investment Company, LLC

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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)

N/A

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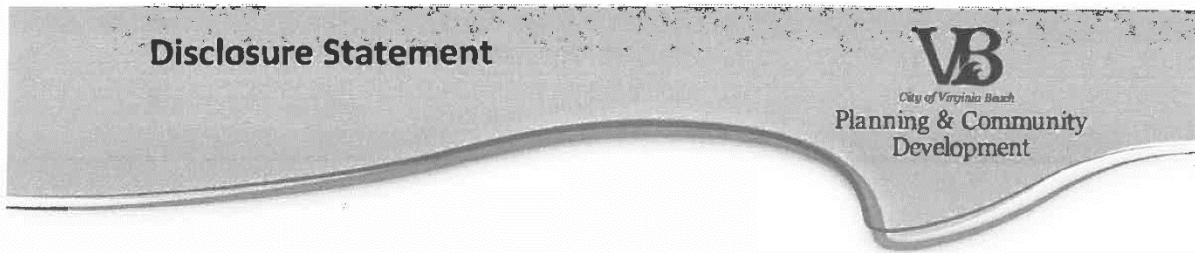
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<sup>3</sup> "Parent-subsiary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict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



### 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.

Larrymore Organization, Inc. - I. William Berger, Broker

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.

Beth Moore & Associates, CPA / Beth Moore

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.

Williams Mullen / Howard Gordon

### 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

I. William Berger, Managing Member

### Print Name and Title

May 31, 2023

### Date



### VIRGINIA BEACH INVESTMENT COMPANY, LLC

6477 College Park Square, Suite 306  
Virginia Beach, VA 23464

#### MEMBERS:

Lawrence J. Goldrich Marital Trust  
Janice T. Goldrich Irrevocable Trust – 2000  
Danielle Pariser  
Allison Weinger  
William Twomey  
Estate of Joseph Twomey  
Estate of Maurice Twomey  
David Ackerman Kyle II  
Bart Malanson Kyle  
Michael Twomey  
Kathleen Schaub  
Mary Kelly  
James Twomey  
Patrick Twomey  
Diane Alson Revocable Trust  
Mathew Firman Revocable Trust U/A dated 5/19/21  
James P. Firman  
Frost Legacy Holdings LP  
Richard K. Friedman Family Trust u/a dated 9/8/2004  
Richard L. Sirow  
Daniel E. Sirow  
Linda Sirow  
Doreen M. Gottstein  
Rhoda J. Joelson, Summer Palace Trust u/a dated 3/16/96  
I. William Berger Inter Vivos Trust u/a dated 6/13/1994  
Danielle B. Pariser Trust U/A of the Gail C. Berger  
Revocable Trust dated 4/9/09  
Allison B. Weinger Trust U/A of the Gail C. Berger  
Revocable Trust dated 4/9/09  
Andrew J. Goldrich Revocable Trust  
Vicki E. Goldrich  
Lauren J. Goldrich

TOTAL: 100.000 %

## Next Steps

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

**Request**

**Conditional Use Permit** (Family Day-Care Home)

**Staff Recommendation**

Approval

**Staff Planner**

Michaela McKinney  
Sadie McNaughton

**Location**

5408 Larissa Court

**GPIN**

1466201213

**Site Size**

5,339 square feet

**AICUZ**

Less than 65 dB DNL

**Watershed**

Chesapeake Bay

**Existing Land Use and Zoning District**

Single-family dwelling/ R-5D Residential

**Surrounding Land Uses and Zoning Districts**

**North**

Single-family dwelling / R-5D Residential

**South**

Single-family dwelling / R-5D Residential

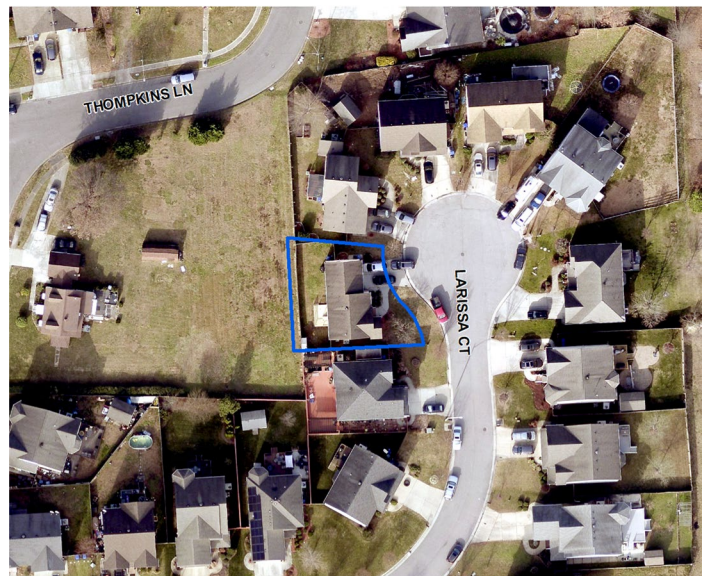
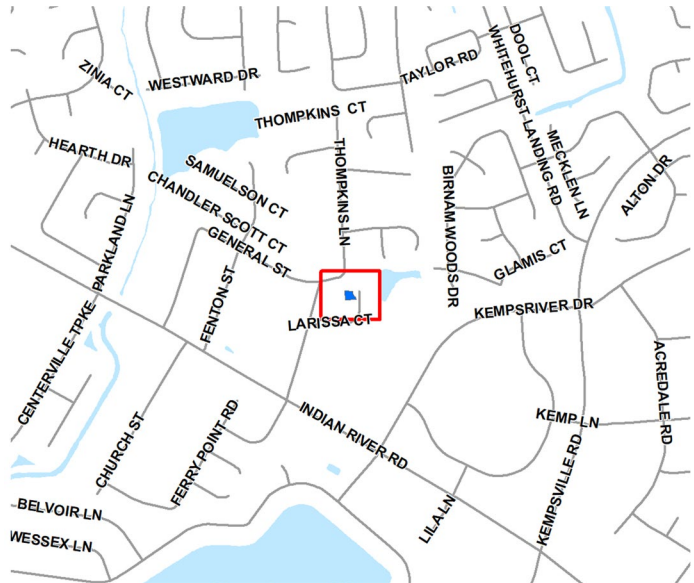
**East**

Larissa Court

Single-family dwelling / R-5D Residential

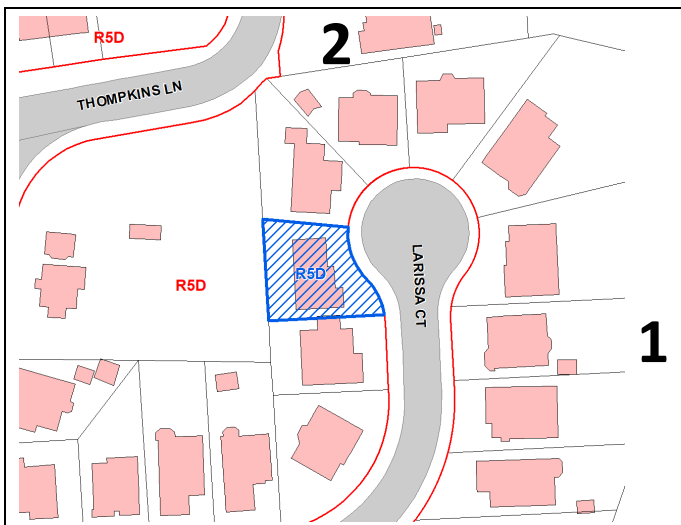
**West**

Single-family dwelling / R-5D Residential



## Background & Summary of Proposal

- The applicant is requesting a Conditional Use Permit to operate a Family Day-Care Home for up to 12 children within a single-family dwelling in the Newlight neighborhood. The 2,318 square-foot parcel is zoned R-5D Residential.
- The pick-up and drop-off time will be staggered between the operating hours of 6:00 a.m. and 8:00 a.m. to avoid traffic congestion in the cul-de-sac.
- The applicant has 12 years of experience caring for children. According to the applicant, the home daycare will provide care for children between one and five years of age.
- The outdoor play area for the children is provided in the rear yard of the home. The back yard is enclosed by a six-foot tall wooden privacy fence, as depicted on the site layout exhibit on page 5 of this report.



### Zoning History

#	Request
1	CUP (Religious Use) Approved 08/24/2004
2	SVR Approved 08/10/1993

### Application Types

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

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

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

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

## Evaluation & Recommendation

The request for Conditional Use Permit for a Family Day-Care Home, in Staff's opinion, is consistent with the policies and goals set forth in the Comprehensive Plan for the Suburban Area. Staff finds the property to be organized and well-kept, successfully promoting the policies intended to ensure the maintenance and substantiality of great neighborhoods. A similar application for a Family Day-Care Home in the adjacent subdivision, Birnam Woods, was approved by City Council in 2021.

A Family Day-Care Home with four or less children is permitted by-right in residential districts. When the number of children cared for increases to five or more, excluding the provider's own children and those who reside in the home, both state licensure and a Conditional Use Permit are required. While the applicant intends to care for up to eight children, Staff typically recommends approval for up to 12, as it has been common for applicants to increase the number of children over time, thereby requiring a modification and additional consideration by both the Planning Commission and the City Council. The ultimate number will be determined by the Commonwealth of Virginia during the childcare licensing process. However, no more than 12 children will be permitted, due to ages of the children and whether an assistant is employed, as well as other policies established by the Department of Education.



Staff is recommending a condition that pick-up and drop-off times be staggered to avoid the potential for congestion in the right-of-way. Additionally, Staff recommends Condition 2 to limit the number of Home Occupations to one to further minimize traffic impacts on the street.

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

## Recommended Conditions

1. Arrival and departure times shall be staggered to avoid vehicular congestion.
2. There shall be only one Home Occupation, the Family Care-Day Home, operating on the property associated with this Conditional Use Permit.
3. The Family Day-Care Home shall be limited to a total of ~~twelve (12)~~ six (6) children, other than children living in the home.
4. No more than one (1) additional employee/volunteer, who does not reside in the home, shall assist with the operation of the Family Day-Care home at any one time.
5. Any sign identifying the home occupation shall be non-illuminated, not more than (1) square foot in area and mounted flat against the residence.
6. The applicant shall maintain a license with the Commonwealth of Virginia for childcare. Failure to maintain a Family Day-Care Home license will result in revocation of the Family Day-Care Home Conditional Use Permit.
7. The fence enclosing the outdoor play area shall remain and be maintained for the duration of the Conditional Use Permit while active.
8. The applicant shall obtain all necessary permits and inspections from the City of Virginia Beach. Prior to operation, the applicant shall obtain a Certificate of Occupancy from the Building Official's Office for use of the house as a Family Day-Care Home.

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

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

## Comprehensive Plan Recommendations

The Comprehensive Plan identifies this site as being located within the Suburban Area of Virginia Beach. The general planning principles for the Suburban Area focus on creating and maintaining "great neighborhoods" which are

sustainable, stable, and supported by complementary non-residential uses. Achieving these goals requires that all land use activities either maintain or enhance the existing neighborhood through compatibility with surroundings, quality, and attractiveness of site and buildings, improved mobility, environmental responsibility, livability, and effective buffering with respect to type, size, intensity, and relationship to the surrounding uses.

## Natural & Cultural Resources Impacts

The site is located in the Chesapeake Bay watershed. There are no known significant cultural resources associated with this site.

## Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Larissa Court	No Data Available <sup>1</sup>		Existing Land Use <sup>2</sup> – 10 ADT Proposed Land Use <sup>3</sup> – 58 ADT
<sup>1</sup> Average Daily Trips	<sup>2</sup> as defined by a single family	<sup>3</sup> as defined by a single-family house and a day care with 12 children	<sup>4</sup> LOS = Level of Service

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

Larissa Court in the vicinity of this application is considered a two-lane undivided local street. It is not included in the Master Transportation Plan. No roadway Capital Improvement Program projects are slated for this area.

## Public Utility Impacts

### Water & Sewer

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

## Public Outreach Information

### Planning Commission

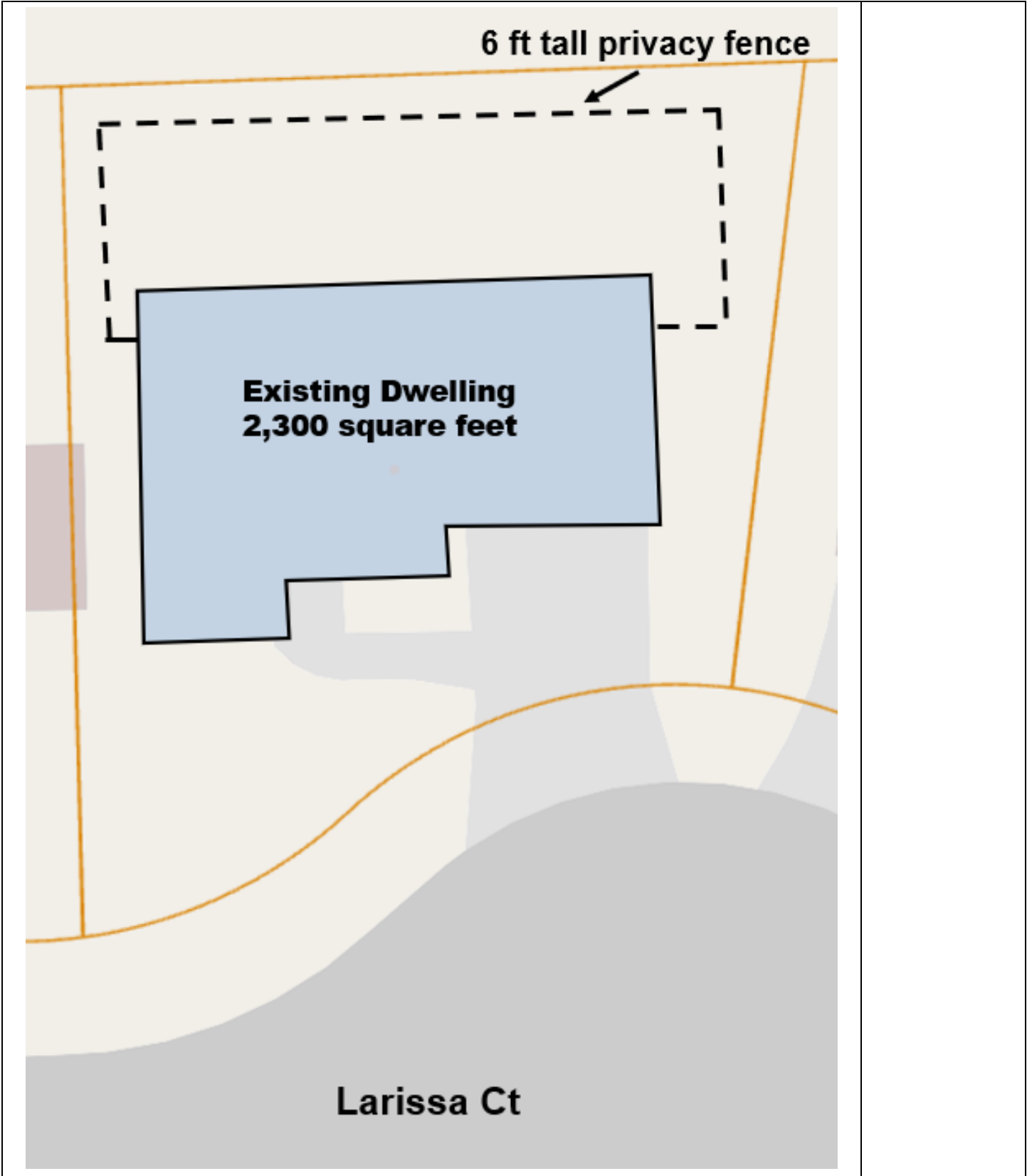
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on July 10, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, July 26, 2023 and August 2, 2023.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on July 24, 2023.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of [www.virginiabeach.gov/pc](http://www.virginiabeach.gov/pc) on August 3, 2023.

### City Council

- As required by City Code, this item was advertised in the Virginian-Pilot on Tuesdays, September 5, 2023 and September 12, 2023.

- As required by City Code, the adjacent property owners were notified regarding both the request and the date of the City Council's public hearing on September 1, 2023
- The City Clerk's Office posted the materials associated with the application on the City Council website of <https://clerk.virginiabeach.gov/city-council> on September 15, 2023.

Existing Site Layout





Site Photo



## Disclosure Statement

### Disclosure Statement



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

#### Applicant Disclosure

Applicant Name KIDS ADVENTURE

Does the applicant have a representative? ☒ Yes ☒ No

- If yes, list the name of the representative.

MODINAT MOYASORE ADEDOLIN

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.

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

☐ Yes ☒ No

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

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

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

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

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

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

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

## Disclosure Statement

### Disclosure Statement



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

#### Applicant Signature

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

Applicant Signature

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

Print Name and Title

Modinat Adedoyin

Date

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

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

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

<input checked="" type="checkbox"/>	No changes as of	Date	08/16/23	Signature	<i>Michaela D. McKinney</i>
				Print Name	Michaela D. McKinney





### Owner Disclosure

Owner Name Sikiru Adedoyin

Applicant Name Kids Adventure

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

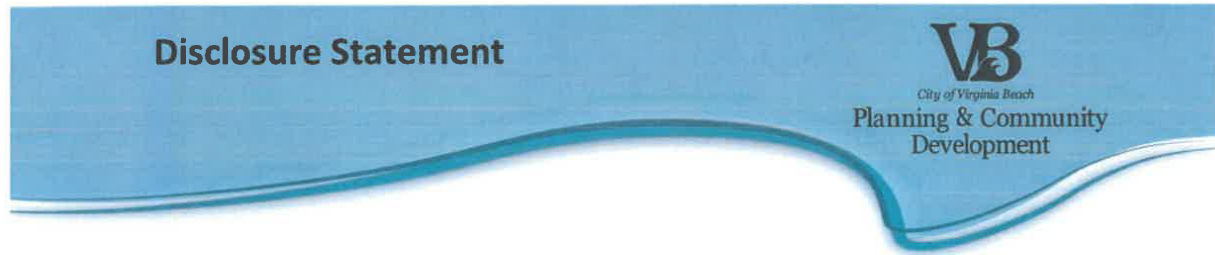
- If **yes**, what is the name of the official or employee and what is the nature of the interest?

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## 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  
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\_\_\_\_\_
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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

SIKIRU ADEDOYIN / OWNER

Print Name and Title

22 May 23

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** (Automobile Repair Garage)

**Staff Recommendation**

Approval

**Staff Planner**

Michaela McKinney  
Sadie McNaughton

**Location**

212 Dorset Avenue

**GPIN**

1477041749

**Site Size**

13,386 square feet

**AICUZ**

Less than 65 dB DNL

**Watershed**

Chesapeake Bay

**Existing Land Use and Zoning District**

Automobile Repair Garage / B-2 Community Business

**Surrounding Land Uses and Zoning Districts**

**North**

Retail, Automobile Repair Garage, Used Car Dealer, Bank / B-2 Community Business

**South**

Automobile Repair Garage / B-2 Community Business, I-2 Heavy Industrial

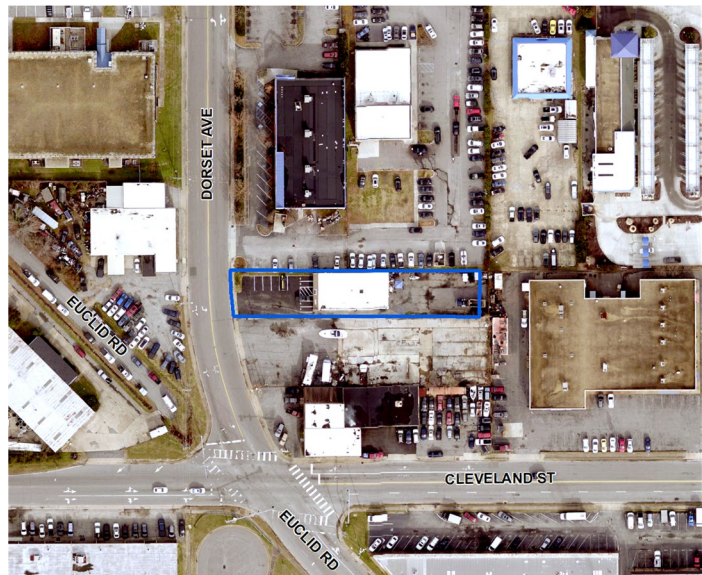
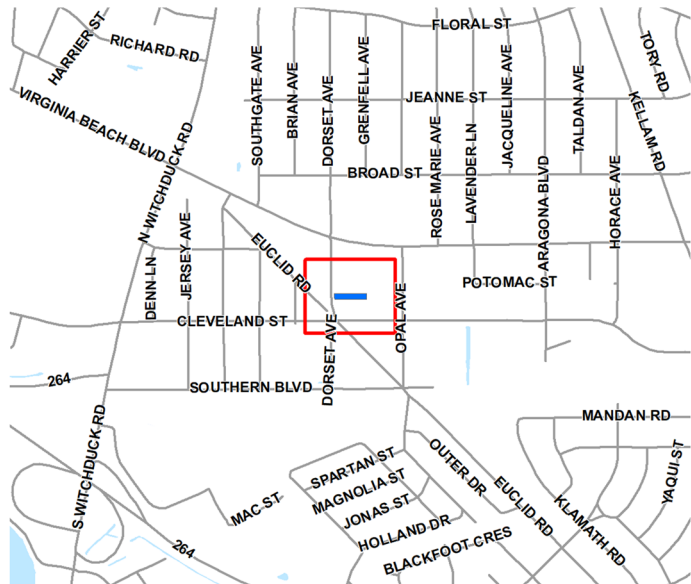
**East**

Retail, Car Wash, Car Dealer / B-2 Community Business

**West**

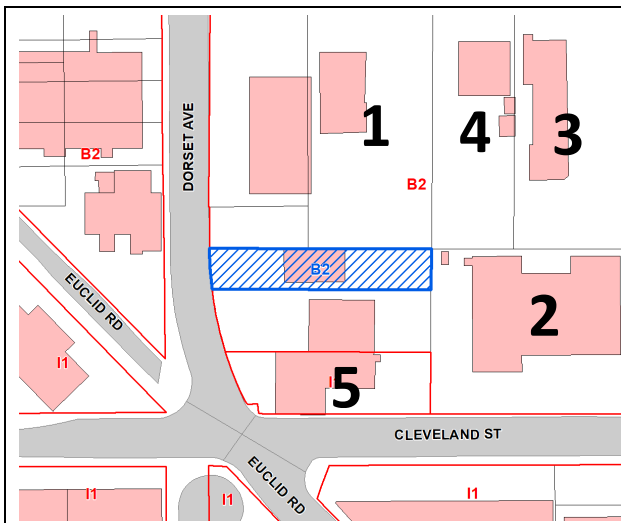
Dorset Avenue

Automobile Repair Garage / B-2 Community Business



## Background & Summary of Proposal

- The applicant is requesting a Conditional Use Permit to operate an Automobile Repair Garage on Dorset Avenue. The 13,386 square foot property is zoned B-2 Community Business.
- The applicant is proposing to operate the Automobile Repair Garage within an existing 2,295 square foot building. The applicant intends to perform standard motorcycle maintenance services such as oil changes. Other motorcycle services, such as repairs, body work and customizations will also be performed. Motorcycle body work includes exterior alterations such as replacing turn signals, the seat, and headlights. Body work does not include heavy duty work such as replacing transmissions or engines. Customizations include enhancing the aesthetic of the motorcycles with aftermarket products such as different color panels and various headlight designs. The applicant anticipates 5 to 10 motorcycles will be serviced daily.
- All work and storage of materials will occur inside the building.
- No alterations to the interior or exterior of the building are proposed with this application. The applicant is, however, proposing to add evergreen shrubs along the drive aisle that divides the property from the adjacent Pharmacy.
- The applicant is keeping the current signage displayed on the building.
- The hours of operation are proposed between the hours of 10:00 a.m. to 6:00 p.m., Tuesday through Friday, and 10:00 a.m. to 5:00 p.m. on Saturday. Three to six employees are anticipated.
- Per Section 203 of the City Zoning Ordinance, one parking space per employee on a maximum working shift is required and three parking spaces per bay door. The Conceptual Site Plan shows nine parking spaces, exceeding the minimum required parking by one space.



### Zoning History

#	Request
1	CUP (Motor Vehicle Sales and Service) Approved 07/03/2012
2	CUP (Tattoo Parlor) Approved 08/14/2001
3	CUP (Automobile Repair and Car Wash) Approved 02/01/2000
4	CUP (Motor Vehicle Sales) Approved 05/26/1992
5	REZ (B-2 to I-1) Approved 11/08/1982

### Application Types

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

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

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

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

## Evaluation & Recommendation

In Staff's opinion, this request for a Conditional Use Permit for an Automobile Repair Garage is acceptable. The proposed use is consistent with the Comprehensive Plan's land use policies for the Central Village District within the Pembroke Strategic Growth Area, as the master plan envisions small businesses being vital in creating a socially- and economically focused area. In Staff's view, the use will provide a convenient and needed service to the community, and it is complementary to other auto-oriented uses nearby.

Multiple zoning violations relating to Bulk Storage were issued to the previous tenant operating within this building, as vehicles were stored on the property without a Conditional Use Permit for a Bulk Storage Yard. The applicant has occupied this building since October 2022 and was made aware of the need for a Conditional Use Permit in December 2022 to operate an Automobile Repair Garage has since been taking steps to improve this site by removing the existing cars and debris in the vacant space located in the back of the building while maintaining the existing landscaping. To improve the aesthetics of the site and to provide additional screening to the adjacent property owners, the applicant is agreeable to Staff's recommendation of additional plantings consisting of shrubs along the drive aisle.

In Staff's opinion, the traffic generated by the proposed motorcycle repair will result in a total of 48 average daily trips. The existing data shows a generation of 48 average daily trips for the one-acre B-2 zoned lot. The proposed use will generate a traffic volume that is consistent with other commercial uses that are permitted by right in the B-2 Community Business District.

In sum, the proposal is consistent with the Comprehensive Plan and is a compatible use with adjacent properties along Dorset Avenue; therefore, Staff is recommending approval of this request subject to the conditions below.

## Recommended Conditions

1. No motor vehicles in a state of obvious disrepair shall be stored outside of the building. All such vehicles shall only be permitted to be stored within the building.
2. No motor vehicle repair work shall take place outside of the building.
3. No motor vehicles associated with the Conditional Use Permit shall be parked within any portion of the public right-of-way.
4. There shall be no outdoor storage of equipment, parts, tires, or materials.
5. All on-site signage shall meet the requirements of the City Zoning Ordinance. There shall be no signs that contain or consist of pennants, ribbons, streamers, spinners, strings of light bulbs, or other similar moving devices on the site or on the vehicles. There shall be no signs which are painted, pasted, or attached to the windows, utility poles, trees, or fences, or in an unauthorized manner to walls or other signs.
6. There shall be no portable or nonstructural signs or electronic display signs on the site.
7. All outdoor lights shall be shielded to direct light and glare onto the premises, said lighting and glare shall be deflected, shaded, and focused away from all adjoining property.

*Further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of*

*Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.*

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

## Comprehensive Plan Recommendations

The Comprehensive Plan designates the subject property as located in the Central Village District of the Pembroke Strategic Growth Area (SGA). The vision for this subarea is to weave a plethora of activities and interests into neighborhoods while supporting small businesses. According to the SGA Plan, small businesses will be a vital element to creating a social and economically focused district.

## Natural & Cultural Resources Impacts

The site is located in the Chesapeake Bay Watershed.

No historical or cultural resources will be affected by this proposal.

## Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Dorset Avenue	3,250 ADT <sup>1</sup>	9,900 ADT <sup>1</sup> (LOS <sup>4</sup> "D")	Existing Land Use <sup>2</sup> – 48 ADT Proposed Land Use <sup>3</sup> – 48 ADT
<sup>1</sup> Average Daily Trips	<sup>2</sup> as defined by an auto repair center	<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)

Access to this site is currently from Dorset Avenue, which connects to Cleveland Street within the limits of the Cleveland Street Phase IV project, which is scheduled to begin construction in 2027.

## Public Utility Impacts

### Water & Sewer

The site is connected to both city water and sanitary sewer services.

## Public Outreach Information

### Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on July 10, 2023.

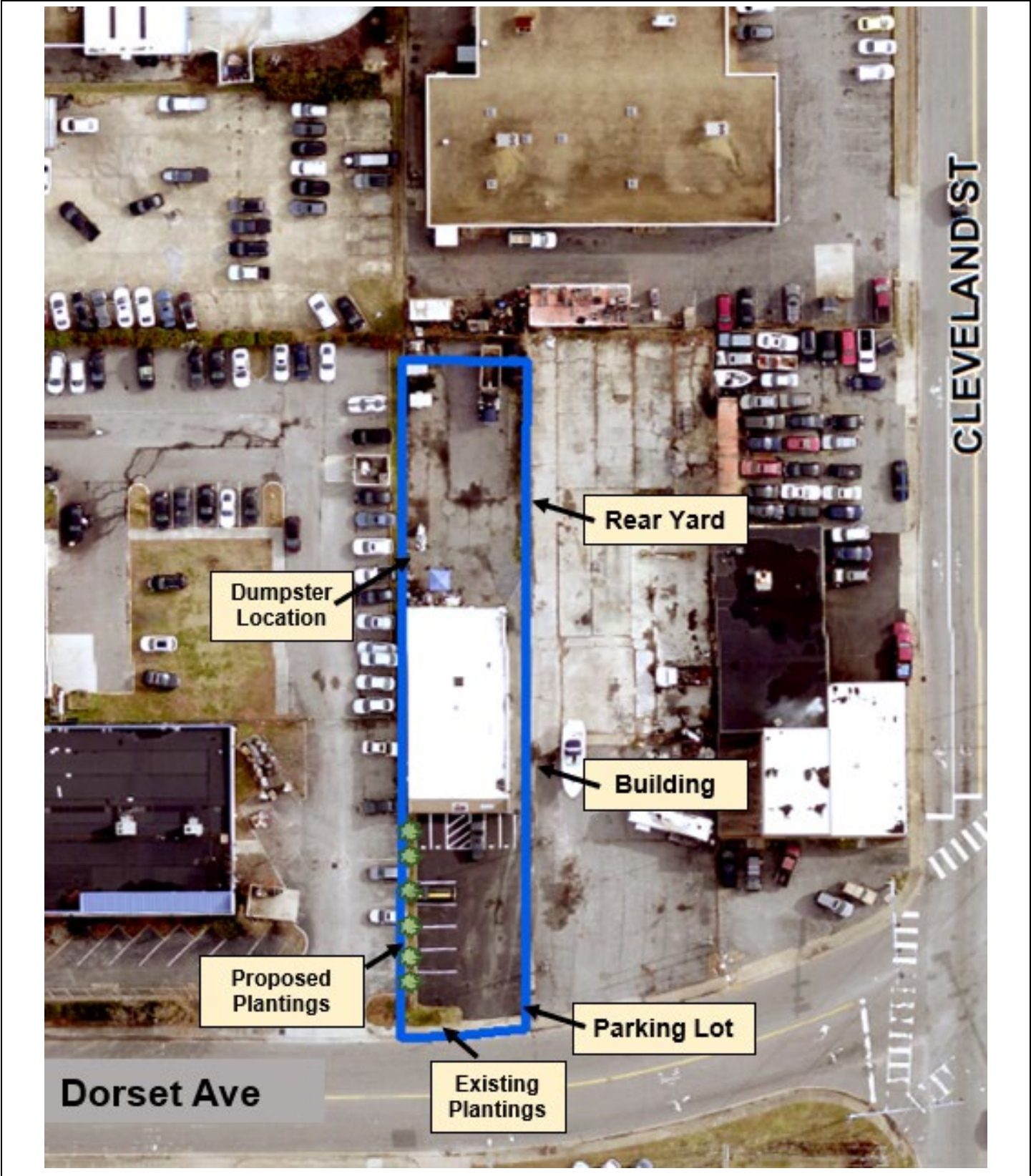


- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, July 26, 2023 and August 2, 2023.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on July 24, 2023.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of [www.virginiabeach.gov/pc](http://www.virginiabeach.gov/pc) on August 3, 2023.

#### **City Council**

- As required by City Code, this item was advertised in the Virginian-Pilot on Tuesdays, August 22, 2023 and August 29, 2023.
- As required by City Code, the adjacent property owners were notified regarding both the request and the date of the City Council's public hearing on August 21, 2023
- The City Clerk's Office posted the materials associated with the application on the City Council website of <https://clerk.virginiabeach.gov/city-council> on September 1, 2023.

Proposed Site Layout





## Site Photos



## Disclosure Statement

### Disclosure Statement



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

#### Applicant Disclosure

Applicant Name Speedgearz, LLC

Does the applicant have a representative? ☒ Yes ☐ No

- If yes, list the name of the representative.

Christopher Heidebur

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

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

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

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

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



### Disclosure Statement



#### Known Interest by Public Official or Employee

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

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

#### Applicant Services Disclosure

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

☐ Yes ☒ No

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

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

☐ Yes ☒ No

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

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

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

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

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

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

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

## Disclosure Statement

### Disclosure Statement



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

Speedgearz LLC  
Applicant Signature  
Christopher Heidebur, owner  
Print Name and Title  
5/5/2023  
Date

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

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

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

<input checked="" type="checkbox"/>	No changes as of	Date	08/22/2023	Signature	Michaela D. McKinney
				Print Name	Michaela D. McKinney



## Owner Disclosure

**Owner Name** Covington Family Trust

**Applicant Name** SpeedGearz, 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)

Gloria H. Covington - 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)

## 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



#### 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

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- 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

Print Name and Title

Date

## Next Steps

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

**Request**

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

**Staff Recommendation**

Approval

**Staff Planner**

Pamela Witham

**Location**

907 Pacific Avenue

**GPIN**

24272444111000

**Site Size**

34,984 square feet

**Existing Land Use and Zoning District**

Multi-Family Dwellings / OR Oceanfront Resort

**Surrounding Land Uses and Zoning Districts**

**North**

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

**South**

9th Street

Municipal parking garage / OR Oceanfront  
Resort

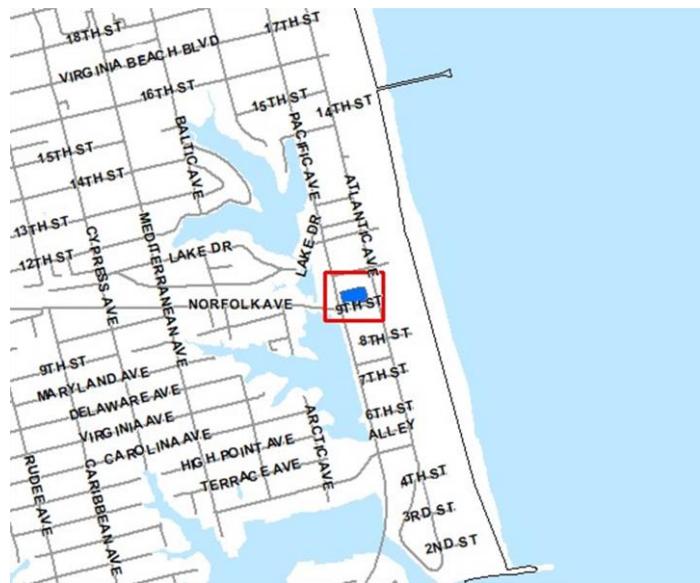
**East**

Retail shops / OR Oceanfront Resort

**West**

Pacific Avenue

Off-street parking lot / OR Oceanfront Resort



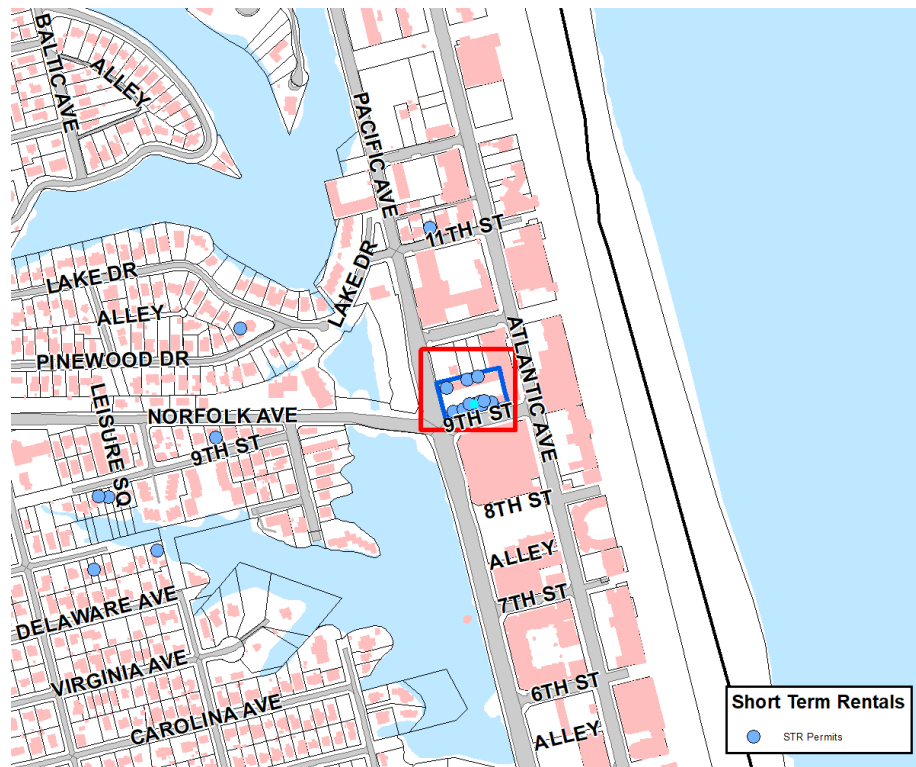
## Background & Summary of Proposal

### Site Conditions and History

- This 34,984 square foot parcel contains the Pacific Place Condominiums and is zoned OR Oceanfront Resort District. According to City records, this multi-family condominium was constructed in 1969.
- There is no on-street parking on Pacific Avenue.
- Thirteen Short Term Rental Conditional Use Permit applications have been approved in this 56-unit condominium development.
- According to the applicant, this property was not used for Short Term Rental purposes prior to July 1, 2018.
- Known Short Term Rental activity as of July 20 , 2023:

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

### Short Term Rentals in the Vicinity





## Summary of Proposal

The applicant is requesting a Conditional Use Permit to operate a short term rental in a one-bedroom, 285 square-foot unit of the Pacific Place Condominium. The regulations for Short Term Rental use are identified in Section 241.2 and 2303 of the City Zoning Ordinance. Specific details pertaining to this application are listed below.

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

## Zoning History

#	Request
1	<p>CUP (Short Term Rental) Approved 07/11/2023</p> <p>CUP (Short Term Rental) Approved 05/16/2023</p> <p>CUP (Short Term Rental) Approved 05/16/2023</p> <p>CUP (Short Term Rental) Approved 06/12/2022</p> <p>CUP (Short Term Rental) Approved 04/05/2022</p> <p>CUP (Short Term Rental) Approved 11/09/2021</p> <p>CUP (Short Term Rental) Approved 03/02/2021</p> <p>CUP (Short Term Rental) Approved 10/20/2020</p> <p>CUP (Short Term Rental) Approved 08/25/2020</p> <p>CUP (Short Term Rental) Approved 08/25/2020</p> <p>CUP (Short Term Rental) Approved 06/09/2020</p> <p>CUP (Short Term Rental) Approved 04/06/2020</p> <p>CUP (Short Term Rental) Approved 02/04/2020</p>
2	<p>CUP (Short Term Rental) Approved 12/13/2022</p> <p>CUP (Short Term Rental) Approved 12/13/2022</p> <p>CUP (Short Term Rental) Approved 12/13/2022</p> <p>CUP (Short Term Rental) Approved 12/13/2022</p> <p>CUP (Short Term Rental) Approved 12/13/2022</p> <p>CUP (Short Term Rental) Approved 12/13/2022</p>

## 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 one-bedroom, 285 square-foot Short Term Rental within the Pacific Place Condominium building. Short Term Rentals are prevalent on this property with a total of 13 approved Conditional Use Permits for the operation of Short Term Rentals.

There is one assigned parking space associated with this unit in the condominium's parking lot. According to the City of Virginia Beach Zoning Ordinance, Appendix A, Article 23, Section 2303, (b), a., ii., "There are certain condominium properties that have historically operated as short term lodging units and have not experienced any inconvenience to guests or the surrounding area without the required one (1) parking space per bedroom. Further, such properties are unable to provide the required parking on-site. For these condominium properties, the Zoning Administrator may, at his discretion, require one (1) parking space per dwelling unit similar to the requirement for lodging uses in the Oceanfront Resort District Form Based Code (ORDFBC). Such properties must provide written evidence of their past use and the

Zoning Administrator shall find that there is no public inconvenience with the current parking design.” Pacific Place Condominiums is one such property granted a historical exception to the Short Term Rental parking requirements of one space per bedroom; therefore, only one parking space is required for the entire unit. All other requirements of Section 241.2 and Section 2303 of the Zoning Ordinance regulating Short Term Rentals can be reasonably met with this application.

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

Based on the considerations above, Staff recommends approval of this request with the conditions listed below.

### Recommended Conditions

1. The following conditions shall only apply to the dwelling unit addressed as 907 Pacific Avenue and the Short Term Rental use shall only occur in the principal structure.
2. An annual 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. The dwelling unit shall comply with all required Fire and Building code requirements.
4. 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.
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 Department of Planning and Community Development; however, the 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 physically 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 Department of Planning and Community Development 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 the 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 the 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 Department of Planning and Community Development permission to inspect the Short Term Rental property annually. Such inspection shall include: 1) At least one fire extinguisher has been installed inside the unit (in the kitchen) and in plain sight 2) Smoke alarms and carbon monoxide detectors are installed in accordance with the building code in effect at the time 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 and Community Development 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 Department of Planning and Community Development 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 Department of Planning and Community Development 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 10, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, July 26, 2023, and August 2, 2023.
- 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 24, 2023.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of [www.viriniabeach.gov/pc](http://www.viriniabeach.gov/pc) on August 3, 2023.



## Site Layout & Parking Plan



## Site Photo



## Disclosure Statement

### Disclosure Statement



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

#### Applicant Disclosure

Applicant Name Frances Robbins-Oman

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)

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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**

- 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.
- 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.
- Does the applicant have services for accounting and/or preparation of tax returns provided in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No
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- 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.
- Is there any other pending or proposed purchaser of the subject property? ☐ Yes ☒ No
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*Revised 11.09.2020*

2 | Page



## 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.

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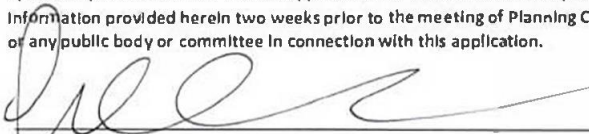
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- If yes, identify the firm and individual providing the service.

#### Applicant Signature

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



Applicant Signature

Frances Robbins Oman Owner

Print Name and Title

6/7/23

Date

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

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

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

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

## Next Steps

- Upon receiving a recommendation from Planning Commission, this request will be scheduled for a City Council public hearing. Staff will inform the applicant and/or their representative of the date of the hearing in the upcoming days.
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- Once the conditions of approval are in place and/or completed, the applicant must contact the Zoning Division of the Department of Planning and Community Development 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 and Community Development / Development Services Center and Department of Planning and Community Development / 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

**#15 - Conditional Use Permit** (Short Term Rental) – 921 Pacific Avenue, Unit A

**#16 - Conditional Use Permit** (Short Term Rental) – 915 Pacific Avenue, Unit B

### Staff Recommendation

Approval

### Staff Planner

Pamela Witham

### Location(s)

921 Pacific Avenue, Unit A

915 Pacific Avenue, Unit B

### GPIN(s)

24272444111125

24272444111070

### Site Size

34,984 square feet

### Existing Land Use and Zoning District

Multi-Family Dwellings / OR Oceanfront Resort

### Surrounding Land Uses and Zoning Districts

#### North

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

#### South

9th Street

Municipal parking garage / OR Oceanfront Resort

#### East

Retail shops / OR Oceanfront Resort

#### West

Pacific Avenue

Off-street parking lot / OR Oceanfront Resort



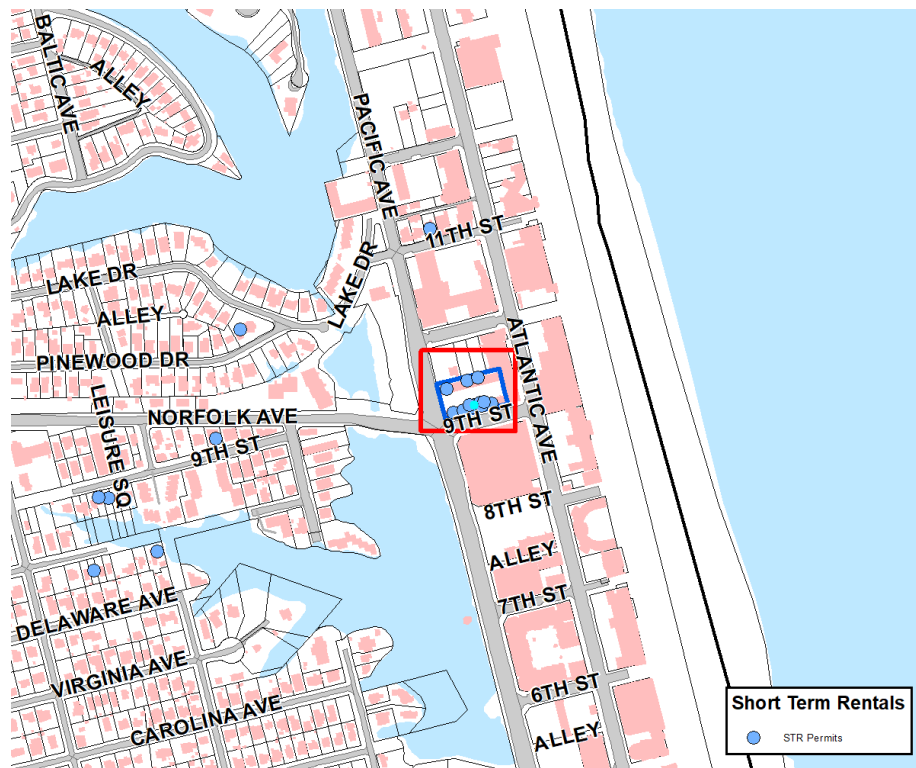
## Background & Summary of Proposal

### Site Conditions and History

- This 34,984 square foot parcel contains the Pacific Place Condominiums and is zoned OR Oceanfront Resort District. According to City records, this multi-family condominium was constructed in 1969.
- There is no on-street parking on Pacific Avenue.
- Thirteen Short Term Rental Conditional Use Permit applications have been approved in this 56-unit condominium development.
- According to the applicant, neither of these properties were used for Short Term Rental purposes prior to July 1, 2018.
- Known Short Term Rental activity as of July 17, 2023:

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

### Short Term Rentals in the Vicinity





## Summary of Proposal

The applicant is requesting a Conditional Use Permit to operate short term rentals within two one-bedroom units on the subject property. Both are 450 square-foot units within the Pacific Place Condominium. The regulations for Short Term Rental use are identified in Section 241.2 and 2303 of the City Zoning Ordinance. Specific details pertaining to this application are listed below.

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

	921 Pacific Avenue, Unit A	915 Pacific Avenue, Unit B
Number of bedrooms in the Short Term Rentals:	1	1
Maximum number of guests permitted on the property after 11:00 pm:	2 - As recommended in condition #17	2- As recommended in condition #17
Number of parking spaces required (1 space per bedroom required):	1	1
Number of parking spaces provided on-site:	1	1

### Zoning History

#	Request
1	CUP (Short Term Rental) Approved 07/11/2023
	CUP (Short Term Rental) Approved 05/16/2023
	CUP (Short Term Rental) Approved 05/16/2023
	CUP (Short Term Rental) Approved 06/12/2022
	CUP (Short Term Rental) Approved 04/05/2022
	CUP (Short Term Rental) Approved 11/09/2021
	CUP (Short Term Rental) Approved 03/02/2021
	CUP (Short Term Rental) Approved 10/20/2020
	CUP (Short Term Rental) Approved 08/25/2020
	CUP (Short Term Rental) Approved 08/25/2020
	CUP (Short Term Rental) Approved 06/09/2020
	CUP (Short Term Rental) Approved 04/06/2020
	CUP (Short Term Rental) Approved 02/04/2020
2	CUP (Short Term Rental) Approved 12/13/2022
	CUP (Short Term Rental) Approved 12/13/2022
	CUP (Short Term Rental) Approved 12/13/2022
	CUP (Short Term Rental) Approved 12/13/2022
	CUP (Short Term Rental) Approved 12/13/2022
	CUP (Short Term Rental) Approved 12/13/2022

### 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 two, one-bedroom, 450 square-foot Short Term Rentals within the Pacific Place Condominium building. Short Term Rentals are prevalent on this property with a total of 13 approved Conditional Use Permits for the operation of Short Term Rentals.

There is one assigned parking space per unit in the condominium's parking lot. According to City of Virginia Beach Zoning Ordinance, Appendix A, Article 23, Section 2303, (b), a., ii., "There are certain condominium properties that have historically operated as short term lodging units and have not experienced any inconvenience to guests or the surrounding area without the required one (1) parking space per bedroom. Further, such properties are unable to provide the required parking on-site. For these condominium properties, the Zoning Administrator may, at his discretion, require one (1) parking space per dwelling unit similar to the requirement for lodging uses in the Oceanfront Resort District Form Based Code (ORDFBC). Such properties must provide written evidence of their past use and the Zoning Administrator shall find that there is no public inconvenience with the current parking design." Pacific Place Condominiums is one such property granted a historical exception to the Short Term Rental parking requirements of one space per bedroom; therefore, only one parking space is required for the entire unit. All other requirements of Section 241.2 and Section 2303 of the Zoning Ordinance regulating Short Term Rentals can be reasonably met with this application.

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

Based on the considerations above, Staff recommends approval of this request with the conditions listed below.

## Recommended Conditions

1. The following conditions shall only apply to the dwelling units addressed as 915 Pacific Avenue, Unit B and 921 Pacific Avenue, Unit A and the Short Term Rental use shall only occur in the principal structure.
2. An annual 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. The dwelling unit shall comply with all required Fire and Building code requirements.
4. 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.
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 Department of Planning and Community Development; however, the 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 physically 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 Department of Planning and Community Development 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 the 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 the 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 Department of Planning and Community Development permission to inspect the Short Term Rental property annually. Such inspection shall include: 1) At least one fire extinguisher has been installed inside the unit (in the kitchen) and in plain sight 2) Smoke alarms and carbon monoxide detectors are installed in accordance with the building code in effect at the time 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 and Community Development 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 Department of Planning and Community Development 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 Department of Planning and Community Development 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 10, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, July 26, 2023, and August 2, 2023.
- 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 24, 2023.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of [www.viriniabeach.gov/pc](http://www.viriniabeach.gov/pc) on August 3, 2023.



## Site Layout & Parking Plan



## Site Photo





## Disclosure Statement

**Disclosure Statement**

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

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 Jim Lutz

Does the applicant have a representative? ☒ Yes ☐ No

- If yes, list the name of the representative.  
Mary Ann Cox

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)  
Jim Lutz

- 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)  
NONE

<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**

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

**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.  
*Dominion Property Management, Jim Lutz*

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

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

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

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


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

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



## Disclosure Statement

### Disclosure Statement



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

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

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

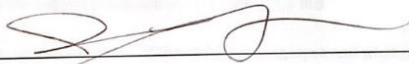
- If yes, identify the firm and individual providing the service.

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

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

**Applicant Signature**

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

  
Applicant Signature

Jim Lutz owner  
Print Name and Title

1/6/23  
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 Department of Planning and Community Development 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 and Community Development / Development Services Center and Department of Planning and Community Development / 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

**#17 - Conditional Use Permit** (Short Term Rental) - 400 22nd Street

**#18 - Conditional Use Permit** (Short Term Rental) - 2106 Artic Avenue

## Staff Recommendation

Approval

## Staff Planner

Pamela Witham

## Location

400 22nd Street, 2106 Artic Avenue

## GPIN

24270855670000

## Site Size

7,525 square feet

## Existing Land Use and Zoning District

Single-family dwelling / OR Oceanfront Resort

## Surrounding Land Uses and Zoning Districts

### North

22<sup>nd</sup> Street

Single-family and multi-family dwellings / OR Oceanfront Resort

### South

21st ½ Street (alley)

Single-family and Multi-family dwellings / OR Oceanfront Resort

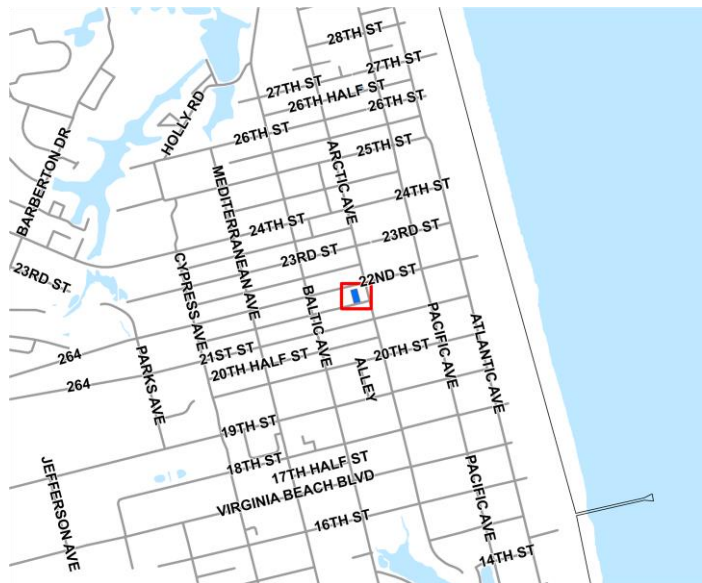
### East

Arctic Ave

Single-family and multi-family dwellings / OR Oceanfront Resort

### West

Single-family and multi-family dwellings, business use / OR Oceanfront Resort



## Background & Summary of Proposal

### Site Conditions and History

- This 7,525 square-foot lot is zoned OR Oceanfront Resort.
- According to City records, both dwellings are 4-bedroom homes constructed in 1956.
- Staff inspected the site on May 24, 2023 to observe site conditions and take photographs for this report.
- On-street parking is not permitted on this portion of 22nd Street and Artic Avenue.
- No past violations and City Council action.
- According to the applicant, this property was not used for Short-Term Rental purposes prior to July 1, 2018.
- Known Short Term Rental activity as of June 20, 2023:

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

#### *Short Term Rentals in the Vicinity*



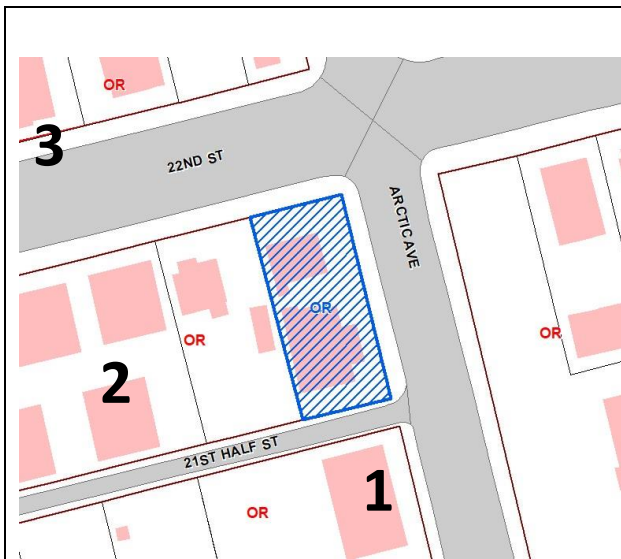


## Summary of Proposal

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

- Number of bedrooms in the Short Term Rental: 4 per unit
- Maximum number of guests permitted on the property after 11:00 pm: 8 per unit
- Number of parking spaces required (1 space per bedroom required): 4 per unit
  - Four of the parking spaces encroach into the right-of-way, but do not encroach into the roadway or block the sidewalk
- Number of off-street parking spaces provided: 4 per unit

	2106 Artic Ave	400 22 <sup>nd</sup> St
Number of bedrooms in the Short Term Rentals:	4	4
Maximum number of guests permitted on the property after 11:00 pm:	8 - As recommended in condition #17	8- As recommended in condition #17
Number of parking spaces required (1 space per bedroom required):	4	4
Number of parking spaces provided on-site:	4	4



### Zoning History

#	Request
1	STR Approved 01/19/2021
2	ALT Approved 03/11/2014
3	NON (Reconstruction of a Nonconforming Use) Approved 04/10/2012

### 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
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## Evaluation & Recommendation

The applicant is requesting to operate two, four-bedroom Short Term Rental units on the subject parcel. The dwellings were constructed in 1956 and are located along 22<sup>nd</sup> Street and Arctic Avenue. Since the site is in the Oceanfront Resort (OR) Short Term Rental Overlay District, Short Term Rental use is expected. The surrounding area is a mixture of multi-family dwellings, single-family dwellings, commercial retail, and other resort-oriented uses.

The units in question have not yet been advertised nor utilized as a Short Term Rental, according to City records and Host Compliance. The applicant has stated that they do not intend to use these units for Short Term Rentals prior to the approval of this application. Based on the information provided by the applicant, the units appear to comply with the STR regulations found in the Zoning Ordinance.

Based on the considerations above, Staff recommends approval of this request with the conditions listed below.

## Recommended Conditions

1. The following conditions shall only apply to the dwelling units addressed as 400 22<sup>nd</sup> Street and 2106 Arctic Avenue and the Short Term Rental use shall only occur in the principal structures.
2. An annual (yearly) STR Zoning Permit must be obtained from the Department of Planning and Community Development (Zoning Administration) before using the dwelling for Short-Term Rental purposes.
3. Off-street parking shall be provided as required by Section 241.2 and 2303(b)(a)(i)(ii) of the City Zoning Ordinance or as approved by City Council.
4. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
5. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1.
6. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes and to be physically present at the Short Term Rental within one (1) hour.
7. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
  - a) A completed Department of Planning and Community Development Short Term Rental Zoning Permit; and
  - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
  - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.

8. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
9. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
10. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
11. Accessory structures shall not be used or occupied as Short Term Rentals.
12. No signage shall be on-site, except that each short term rental shall have one (1) four-square foot sign posted on the building, or other permanent structure or location approved by the Zoning Administrator, that identifies the property as a short term rental and provides the telephone numbers for the Short Term Rental Hotlines in text large enough to be read from the public street.
13. The Short Term Rental shall have no more than one (1) rental contract for every seven (7) consecutive days.
14. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
15. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
16. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom, which number shall not include minors under the age of 16, provided that in no case may the total number of persons staying overnight at the property exceed the number of approved bedrooms multiplied by three (3).
17. The property owner, or their representative, shall provide to the City Planning Department permission to inspect the Short Term Rental property annually. Such inspection shall include: 1) At least one fire extinguisher has been installed inside the unit (in the kitchen) and in plain sight 2) Smoke alarms and carbon monoxide detectors are installed in accordance with the building code in effect at the time of construction and interconnected. Units constructed prior to interconnection requirements must have a minimum of one smoke alarm installed on every floor of the structure and in the areas adjacent to all sleeping rooms, and when activated, be audible in all sleeping rooms, and 3) All smoke alarms and carbon monoxide detectors have been inspected within the last twelve months and are in good working order.

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

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

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

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

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

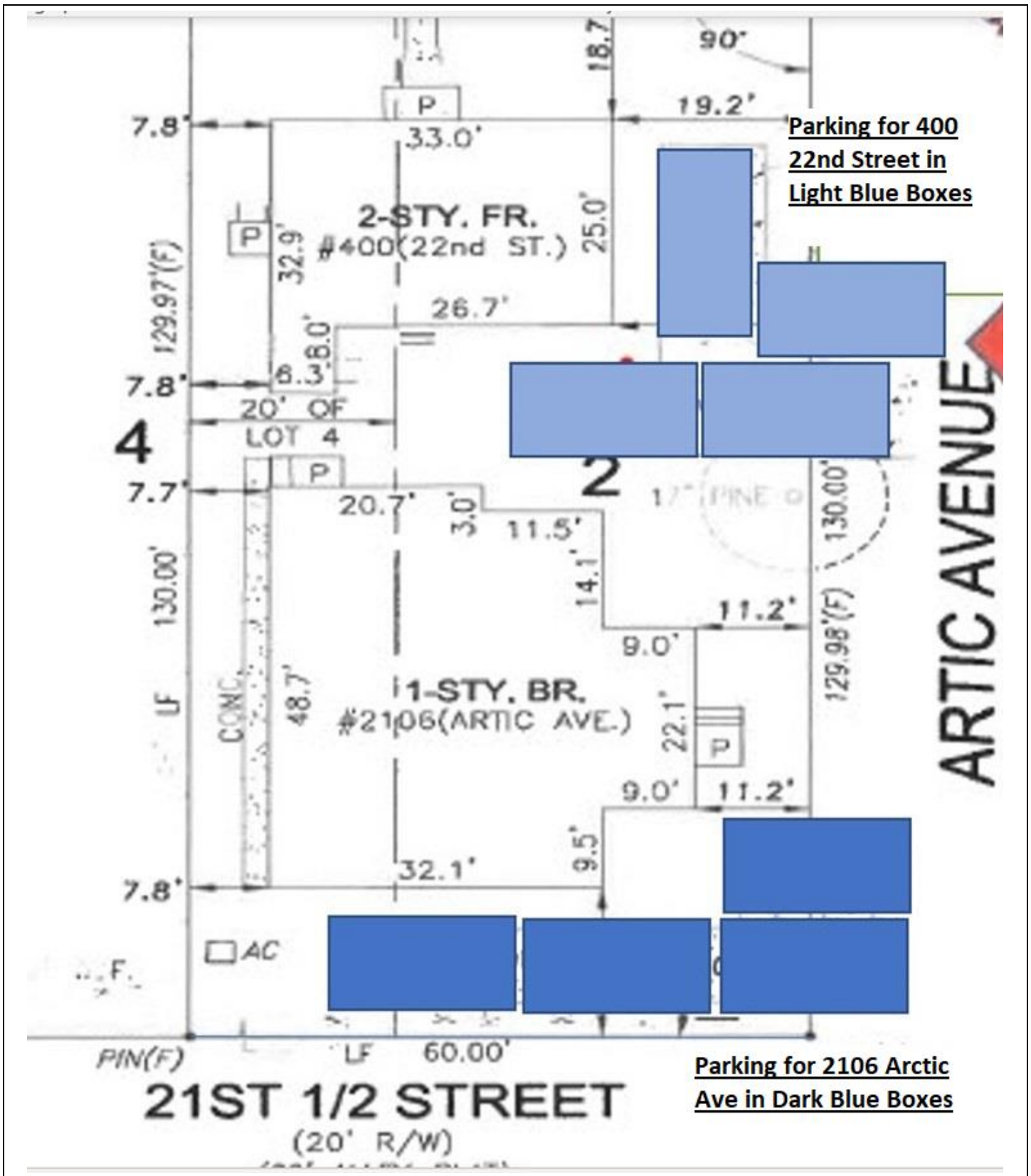
## Public Outreach Information

### Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on July 10, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, July 26, 2023, and August 2, 2023.
- 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 24, 2023.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of [www.viriniabeach.gov/pc](http://www.viriniabeach.gov/pc) on August 3, 2023.



## Site Layout & Parking Plan



Site Photos





## Disclosure Statement

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### 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** Ascensions Group LLC

**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 Sprauer

Peter Labonte

Kyle Florio

- 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.

### 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.

Kyle Florio OWN Realestate

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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.

CPA Margret Taylor

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

- 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.

Brian Meekins KVG

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.

*Christopher Sprauer*

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Applicant Signature

Christopher Sprauer Mgn Mbr

Print Name and Title

30 March 2023

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** AG The Wave LLC

**Applicant Name** Ascensions Group 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)

Christopher Sprauer

Pete Labonte

Kyle Florio

- 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)

#### 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.

Kyle Floiro Own Realestate

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.

CPA Margret Taylor

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.

Brian Meekins KVG

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.**

*Christopher Sprauer*

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04/30/23 7:22 PM EDT  
AKSO-CBPA-PYSD-YNBE

#### Owner Signature

Christopher Sprauer Mgn MBR

#### Print Name and Title

30 March 23

#### 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.