



# Planning Commission Agenda

## July 12, 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, July 12, 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.vbgov.com](http://www.vbgov.com), broadcast on VBTv, and via WebEx. Citizens who wish to speak can sign up to speak either in-person at the Council Chamber or virtually via WebEx by completing the two-step process below. A Staff briefing session will be held at 9:00 a.m.. All interested parties are invited to observe.

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

1. Register for the WebEx at:  
<https://vbgov.webex.com/vbgov/j.php?MTID=m02417c177570645556a5b03e9b82e626>
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 July 11, 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.vbgov.com](http://www.vbgov.com) and Facebook Live.

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

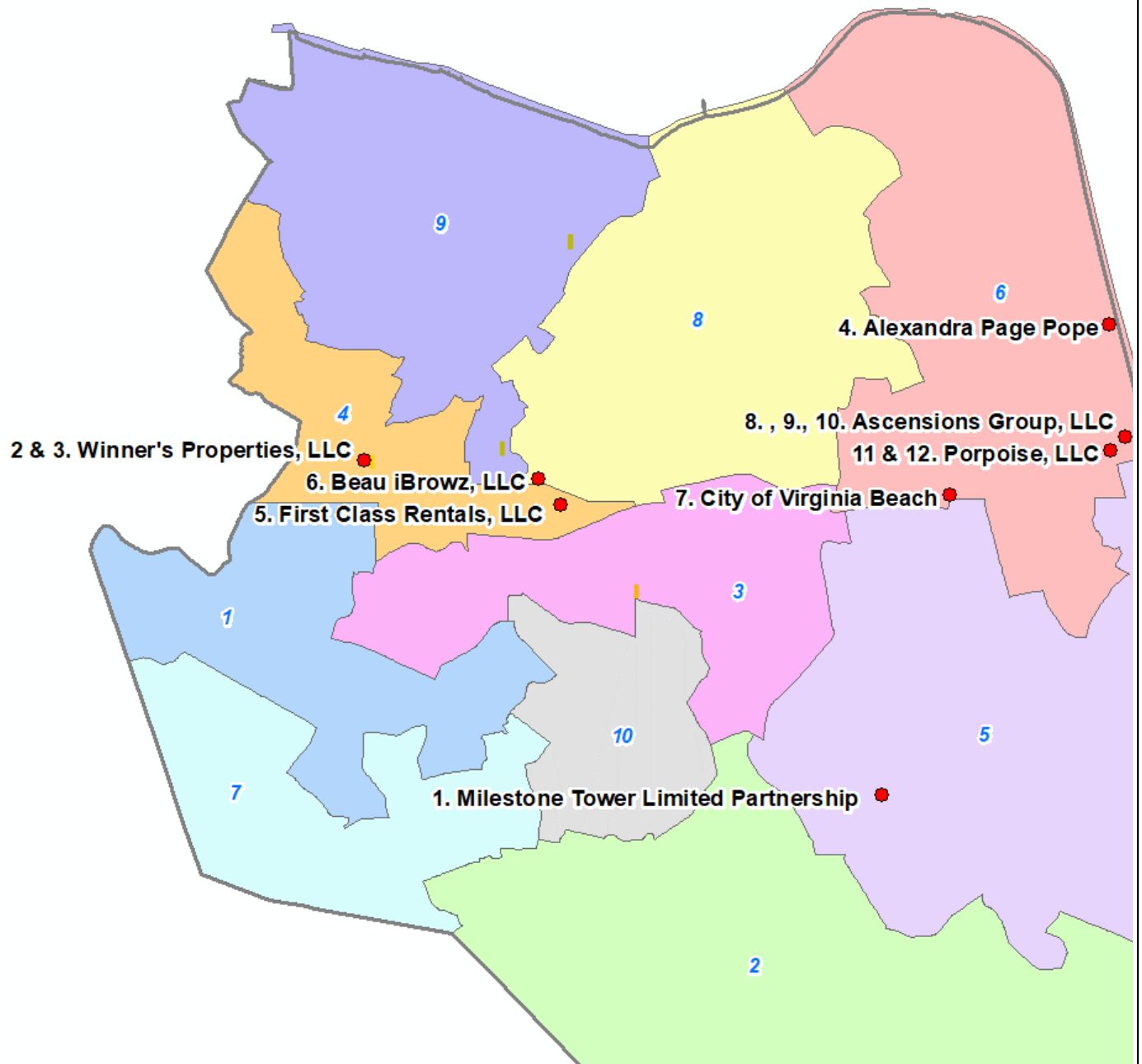
# Planning Commission Hearing Procedures

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.**

JULY 12, 2023  
PLANNING COMMISSION AGENDA





## PLANNING COMMISSION AGENDA

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

### B. BRIEFINGS

1. Annual Report of the Planning Commission – FY 2023, Kaitlen Alcock, Interim Planning Administrator
2. Comprehensive Plan Updates, Hank Morrison, Comprehensive Planning Administrator
3. FOIA & COIA – Roderick Ingram, Deputy City Attorney

## 12:00 P.M. – PUBLIC HEARING

1.

### **Milestone Tower Limited Partnership-IV, a Delaware limited partnership (d/b/a Milestone Towers)** (Applicant)

**Paul S. Brown Family, LLC** (Property Owner)

**Conditional Use Permit** (Communication Tower)

**Address:** Portion of parcel on the east side of Harpers Road & north of London Bridge Road

**GPIN(s):** 2405332394

**City Council:** District 5

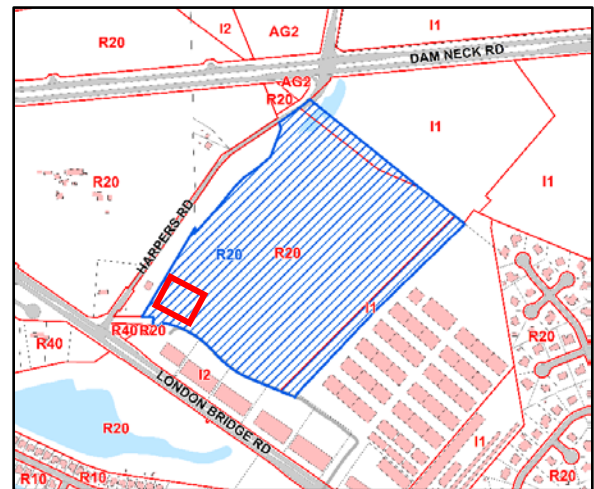
**Accela Record(s):** 2023-PCCC-00075

**SGA:** No

**Overlay:** No

**Staff Planner:** Marchelle Coleman

*Request to construct a 152-foot monopole communication tower.*



2. & 3.

### **Winner's Properties, LLC** (Applicant & Property Owner)

**Modification of Proffers** (to 2015 CRZ)

**Modification of Conditions** (Motor Vehicle Sales & Service)

**Address:** 5200 Virginia Beach Boulevard

**GPIN(s):** 1467760828

**City Council:** District 4

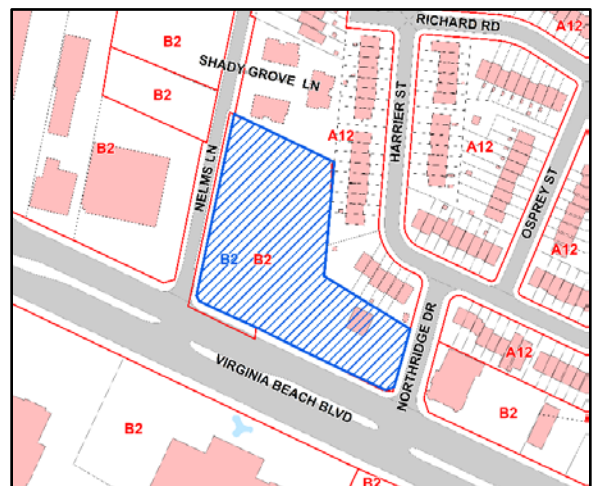
**Accela Record(s):** 2023-PCCC-00081

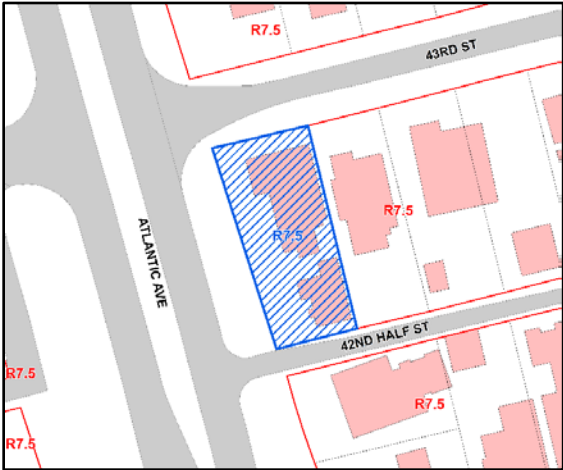
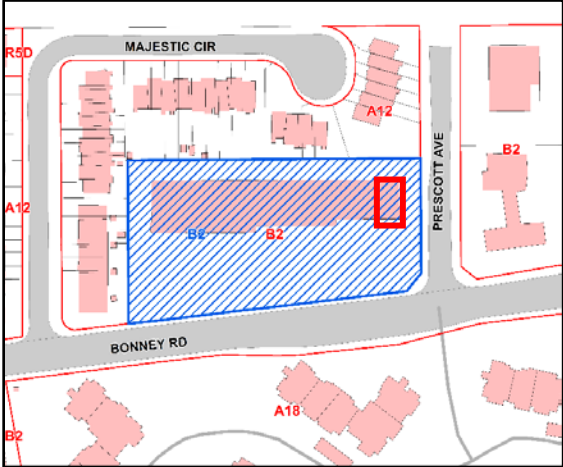
**SGA:** No

**Overlay:** No

**Staff Planner:** Marchelle Coleman

*Request to amend previous proffers and conditions associated with the 2015 Conditional Rezoning &*



<p><i>Conditional Use Permit approvals to modify the site layout and building design.</i></p>	
<p><b>4.</b>  <b><u>Alexandra Page Pope, Trustee of the Alexandra Pope Trust, dated October 30, 2017</u></b>          (Applicant &amp; Property Owner)</p> <p><b>Change in Nonconformity</b> (Modification to the Principal Dwelling)</p> <p><b>Address:</b> 4205 &amp; 4207 Atlantic Avenue  <b>GPIN(s):</b> 2418963455  <b>City Council:</b> District 6  <b>Accela Record(s):</b> 2023-PCCC-00082  <b>SGA:</b> No  <b>Overlay:</b> No  <b>Staff Planner:</b> Elizabeth Nowak</p> <p><i>Request to modify &amp; expand the footprint of the principal dwelling.</i></p>	
<p><b>5.</b>  <b><u>First Class Event Rentals, LLC</u></b> (Applicant)  <b>W. E. Sams Properties, LLC</b> (Property Owner)</p> <p><b>Conditional Use Permit</b> (Assembly Use)</p> <p><b>Address:</b> 4020 Bonney Road, Suite 101  <b>GPIN(s):</b> 1487038750  <b>City Council:</b> District 4  <b>Accela Record(s):</b> 2023-PCCC-00079  <b>SGA:</b> Rosemont  <b>Overlay:</b> No  <b>Staff Planner:</b> Michaela McKinney</p> <p><i>Request to operate an event venue within a unit at the Thalia Bay Shoppes.</i></p>	

6.

**Beau iBrowz, LLC** (Applicant)

**Willis Realty Corporation** (Property Owner)

**Conditional Use Permit** (Tattoo Parlor)

**Address:** 4224 Virginia Beach Boulevard, Suite 104

**GPIN(s):** 1477953769

**City Council:** District 8

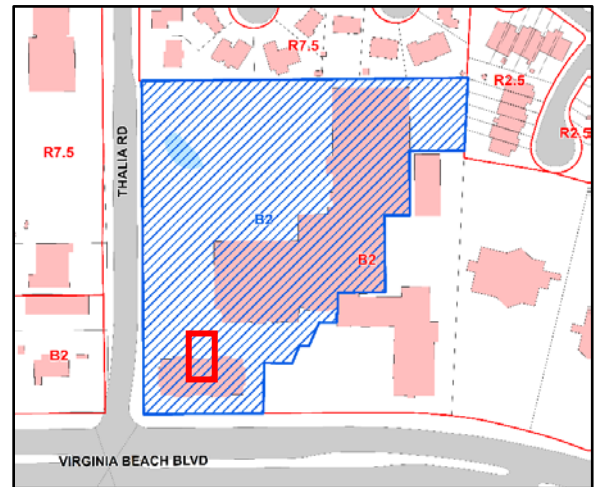
**Accela Record(s):** 2023-PCCC-00080

**SGA:** No

**Overlay:** No

**Staff Planner:** Michaela McKinney

*Request to operate a Tattoo Parlor for the application of permanent make-up within a suite at the Wayside Village Shoppes.*



7.

**City of Virginia Beach** (Applicant)

**Street Closure**

**Address:** Portion of New York Avenue between S First Colonial Road & Oceana Boulevard

**Adjacent GPIN(s):** 2407841479, 2407842571, 2407843468, 2407844543, 2407845500, 2407845543, 2407845498, 2407845609, 2407844644, 2407843689, 2407843731, 2407842602

**City Council:** District 6

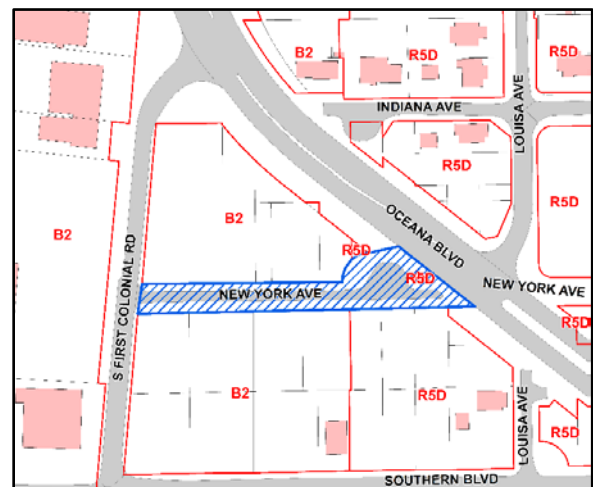
**Accela Record(s):** 2023-PCCC-00086

**SGA:** No

**Overlay:** Hilltop

**Staff Planner:** Michaela McKinney

*Request to close approximately 21,072 square feet portion of New York Avenue.*



## SHORT TERM RENTALS

**8. & 9.**

**Ascensions Group, LLC** (Applicant)  
**GJD, 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

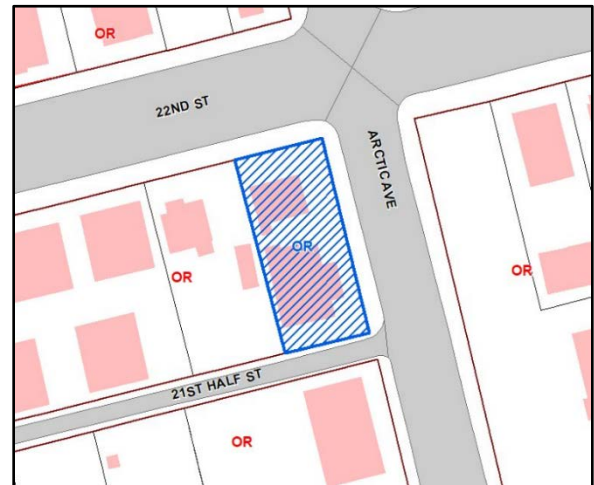
**Accela Record(s):** 2023-PCCC-00083, 2023-PCCC-00085

**SGA:** Yes – Resort Area

**Overlay:** OR Overlay

**Staff Planner:** Pamela Witham

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



**10.**

**Ascensions Group, LLC** (Applicant)  
**George & Joan Georghiou** (Property Owners)

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

**Address:** 402 22<sup>nd</sup> Street

**GPIN(s):** 2427085505

**City Council:** District 6

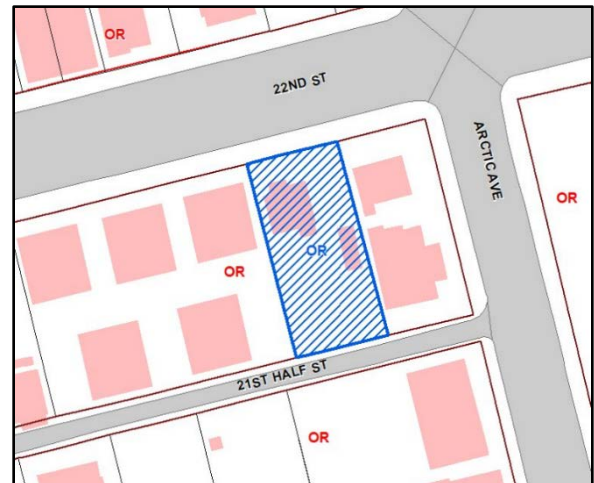
**Accela Record(s):** 2023-PCCC-00084

**SGA:** Yes – Resort Area

**Overlay:** OR Overlay

**Staff Planner:** Pamela Witham

*Request to operate a 3-bedroom Short Term Rental.*



**11.**

**Porpoise, LLC** (Applicant & Property Owner)

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

**Address:** 604 20<sup>th</sup> Street

**GPIN(s):** 2417974595

**City Council:** District 6

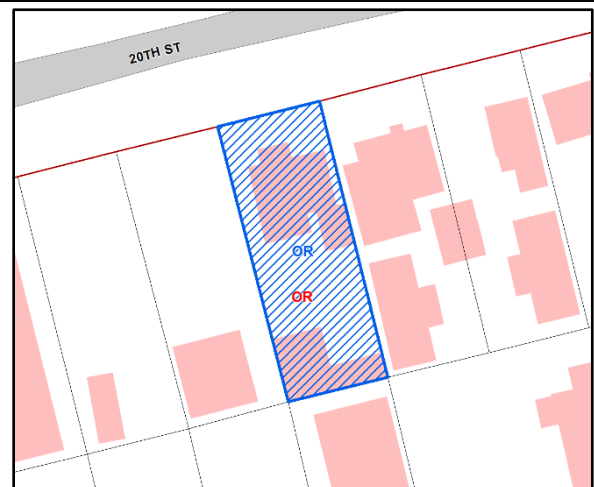
**Accela Record(s):** 2023-PCCC-00090

**SGA:** Yes – Resort Area

**Overlay:** OR Overlay

**Staff Planner:** Pamela Witham

*Request to operate a 3-bedroom Short Term Rental.*



12.

**Porpoise, LLC** (Applicant & Property Owner)

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

**Address:** 606 20<sup>th</sup> Street, Unit A

**GPIN(s):** 2417974544

**City Council:** District 6

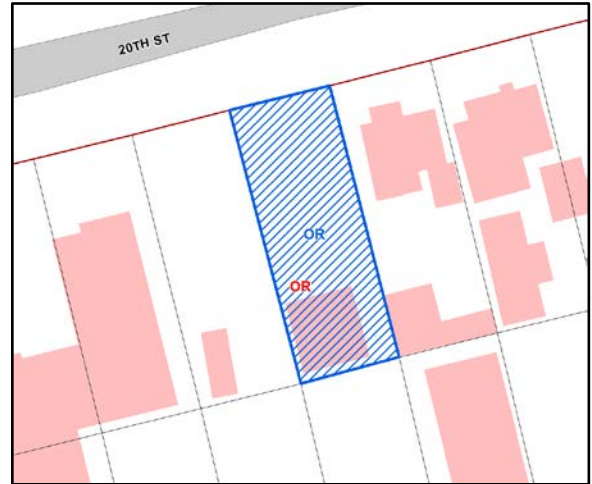
**Accela Record(s):** 2023-PCCC-00095

**SGA:** Yes – Resort Area

**Overlay:** OR Overlay

**Staff Planner:** Pamela Witham

*Request to operate a 2-bedroom Short Term Rental.*







**Request**

**Conditional Use Permit** (Communication Tower)

**Staff Recommendation**

Approval

**Staff Planner**

Marchelle Coleman

**Location**

Portion of parcel on the east side of Harpers Road & north of London Bridge Road

**GPIN**

Portion of 2405332394

**Site Size**

46.98 acres (2,500 square foot lease area)

**AICUZ**

Greater than 75 dB DNL, 70-75 dB DNL

**Watershed**

Southern Rivers

**Existing Land Use and Zoning District**

Undeveloped lot / R-20 Residential

**Surrounding Land Uses and Zoning Districts**

**North**

Undeveloped lot / I-1 Light Industrial

**South**

Storage / I-2 Heavy Industrial

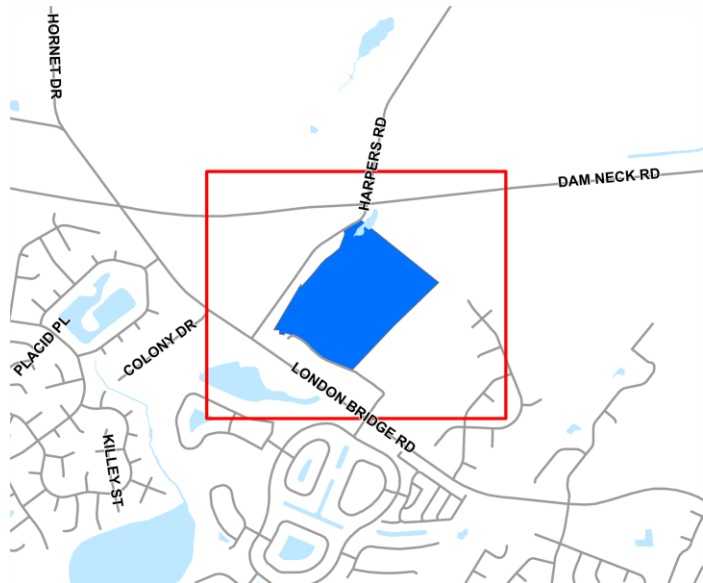
**East**

Self-storage / I-1 Light Industrial

**West**

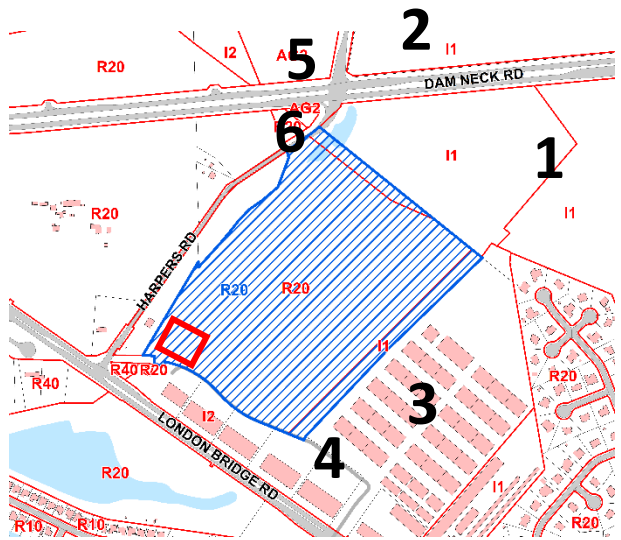
Harpers Road

Single-family dwellings / R-20 Residential



## Background & Summary of Proposal

- The applicant is requesting a Conditional Use Permit to construct a Communication Tower on a portion of the property that is zoned R-20 Residential District. The 46.98-acre parcel is currently vacant.
- The applicant is proposing to construct a 150-foot wireless communication tower with a two-foot lightning rod for a total height of 152 feet. The tower will be monopole tower with full antenna array and will accommodate up to four carriers.
- The monopole tower will be the standard light grey color with antennas pulled closer to the pole, helping to mitigate the visual impact to the surrounding area.
- A portion of the site is located in the Floodplain Subject to Special Restrictions and within the floodway. To protect these environmentally sensitive features, the tower and compound equipment will be located outside of these areas.
- Access to the site will be by way of a public right-of-way off of Harpers Road and through a 10-foot-wide gravel access drive adjacent to a private street, Castleton Commerce Way.
- The outdoor cabinets and equipment will be located within a 50-foot by 50-foot chain-link fenced compound within a 2,500 square foot lease area.
- As required in Section 232 of the Zoning Ordinance, the proposed tower will meet the 50-foot minimum side and rear yard setbacks, as well as the 50-foot minimum setback from the street measured at the base of the tower.
- The site is located in both the 70-75 dB DNL and the greater than 75 dB DNL noise zone and a portion of the site is encumbered by a Navy Restrictive Easement. A specific easement compliance review by Navy Staff will occur during the site plan review process.

	<h3>Zoning History</h3> <table><tr><th>#</th><th>Request</th></tr><tr><td>1</td><td><b>REZ</b> (AG-1 &amp; Conditional I-1 to I-1) Approved 06/07/2022 <b>CRZ</b> (AG-1 &amp; AG-2 to Conditional I-1) Approved 08/04/2015 <b>CUP</b> (Bulk Storage Yard) Approved 08/04/2015</td></tr><tr><td>2</td><td><b>CRZ</b> (AG-1 &amp; AG-2 to Conditional I-1) Approved 01/04/2022 <b>CRZ</b> (AG-2 &amp; AG-2 to Conditional I-1) Approved 09/07/2021</td></tr><tr><td>3</td><td><b>MDP</b> Approved 12/11/2007 <b>CRZ</b> (AG-2 to Conditional I-2) Approved 05/23/2005</td></tr><tr><td>4</td><td><b>STC</b> Approved 11/25/2003</td></tr><tr><td>5</td><td><b>CUP</b> (Communication Tower) Approved 08/08/2000 <b>CUP</b> (Communication Tower) Approved 02/11/1997 <b>CUP</b> (Bulk Storage Yard) Approved 06/22/1987</td></tr><tr><td>6</td><td><b>CUP</b> (Bulk Storage Yard) Approved 06/22/1987</td></tr></table>	#	Request	1	<b>REZ</b> (AG-1 & Conditional I-1 to I-1) Approved 06/07/2022 <b>CRZ</b> (AG-1 & AG-2 to Conditional I-1) Approved 08/04/2015 <b>CUP</b> (Bulk Storage Yard) Approved 08/04/2015	2	<b>CRZ</b> (AG-1 & AG-2 to Conditional I-1) Approved 01/04/2022 <b>CRZ</b> (AG-2 & AG-2 to Conditional I-1) Approved 09/07/2021	3	<b>MDP</b> Approved 12/11/2007 <b>CRZ</b> (AG-2 to Conditional I-2) Approved 05/23/2005	4	<b>STC</b> Approved 11/25/2003	5	<b>CUP</b> (Communication Tower) Approved 08/08/2000 <b>CUP</b> (Communication Tower) Approved 02/11/1997 <b>CUP</b> (Bulk Storage Yard) Approved 06/22/1987	6	<b>CUP</b> (Bulk Storage Yard) Approved 06/22/1987
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<h3>Application Types</h3> <table><tr><td>CUP – Conditional Use Permit</td><td>MDC – Modification of Conditions</td><td>STC – Street Closure</td><td>SVR – Subdivision Variance</td></tr><tr><td>REZ – Rezoning</td><td>MDP – Modification of Proffers</td><td>FVR – Floodplain Variance</td><td>LUP – Land Use Plan</td></tr><tr><td>CRZ – Conditional Rezoning</td><td>NON – Nonconforming Use</td><td>ALT – Alternative Compliance</td><td>STR – Short Term Rental</td></tr></table>		CUP – Conditional Use Permit	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		
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## Evaluation & Recommendation

Staff finds this application for a Conditional Use Permit for the construction of a 152-foot monopole communication tower acceptable.

The site is located within the Special Economic Growth Area 3 – South Oceana. The Special Economic Growth Area 3 (SEGA-3) is a tract of land encompassing properties on both sides of Dam Neck Road, between Holland Road and Corporate Landing Parkway. Portions of this area are impacted by high noise zones, accidental potential zones, and Navy Restrictive Easements. The proposed communication tower is compatible with the AICUZ provisions set forth in the Zoning Ordinance.

Due to the tower's proximity to residentially zoned properties, Staff recommended that a more compact design be utilized to lessen the visual impact on the adjacent property owners. The applicant agreed and changed the traditional monopole design originally proposed to a more compact stealth design. The submitted plans are stamped and signed by a professional engineer thereby meeting the requirement that necessitates certification of the communication tower to comply with all applicable regulations promulgated by the Federal Communications Commission.

While not required, the applicant provided photo simulations depicting the view of the proposed tower from various locations surrounding the site. The proposed location for the tower is setback nearly 182 feet from the nearest property line and 470 feet from the nearest residential dwelling.

The applicant examined several alternatives to enhance and supplement wireless coverage in the vicinity of the proposed location. Before determining that a new tower was necessary, the applicant searched for existing towers or other tall structures to collocate. Finding none, the applicant chose this vacant site to construct the proposed monopole tower. While the site is mostly surrounded by industrial uses, the property is currently zoned R-20 Residential and there are residential properties to the west along Harpers Road. The applicant held an online community outreach meeting with the adjacent property owners to discuss the details of the proposal and to receive feedback, via Zoom on Wednesday, June 21, 2023 at 6:00 p.m.

Information provided by the applicant and confirmed by Staff indicates that an intermodulation study is not required, as the site is not within one mile of a public safety communication facility, radio site or within 200 feet of the City's microwave paths. A RF Safety FCC Compliance Reports was provided indicating that the antenna arrays will comply with all regulatory agencies and standards.

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

Based on the evaluation of the proposed Communication Tower in accordance with the standards set forth in Section 232 of the Zoning Ordinance, Staff recommends approval of the application subject to the conditions listed below.

## Recommended Conditions

1. The Communication Tower shall be located within the lease area and developed substantially in conformance with the submitted plan entitled "LONDON BRIDGE SITE – CASTLETON COMMERCE WAY – VIRGINIA BEACH, VA 23456,

and dated 03/31/2023, prepared by Entrex Communication Services, Inc., which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development.

2. A full structural report shall be submitted during detailed site plan review.
3. A depiction of the location of the required FCC hazard safety signage on the site, if any, and sign diagrams shall be required during detailed site plan review.
4. Subject to federal law, the maximum height of the tower shall be 152 feet above ground level, inclusive of the lighting rod.
5. As required by Section 202 of the City Zoning Ordinance, the applicant shall obtain a Determination of No Hazard (DNH) to Air Navigation from the Federal Aviation Administration/ Obstruction Evaluation Office (FAA/OE) and shall submit a copy during detailed site plan review. No building permit shall be issued until the tower is determined to be a non-hazard to air navigation.
6. No signs indicating the location of this facility are allowed.
7. In the event that the antennae on the tower are inactive for a period of two years, the tower, antennas, and related equipment shall be removed at the applicant's expense.
8. 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.*

## Comprehensive Plan Recommendations

The Comprehensive Plan designates this area of the city as being within the Special Economic Growth Area 3 – South Oceana. Portions of the area are impacted by high noise zones, accident potential zones and Navy Restrictive Easements.

The SEGAs are located adjacent to NAS Oceana and have significant economic value and growth potential, targeting land uses compatible with military uses. The City supports development of and redevelopment of the SEGAs consistent with AICUZ provisions and the City's economic growth strategy.

The Comprehensive Plan designates the SEGAs as an area where high-quality employment, corporate parks and light industrial uses are recommended. The Comprehensive Plan recommends that measures to mitigate negative impacts on adjoining stable residential areas, including adequate screening. The change in design to a monopole tower is more in keeping with the Comprehensive Plan recommendations that the traditional tower originally proposed.

## 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 wireless communication compound, including telecommunication equipment, monopole, and a gravel base. In addition to the compound, this project will include a new gravel access driveway. The entire project includes less than 4,000 square feet of proposed impervious cover.

Stormwater runoff from the site currently sheet flows towards a public ditch to the west of the project area, and stormwater runoff from the proposed development will continue to sheet flow towards the same ditch. The applicant intends to meet water quantity regulations through underground gravel storage and sheet flow criteria. The purchase of offsite nutrient credits will be utilized for water quality pollutant load reduction requirements.

Based on the information provided by Wetland Studies and Solutions, Inc. 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:** 0.15 acres

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

**Post-Development impervious area:** 0.09 acres

### Stormwater Management Facility Design Information

**Type of facility proposed:** Underground storage and sheet flow

**Description of outfall:** Stormwater runoff from the site will discharge directly into the existing public drainage ditch onsite that outfalls south towards London Bridge Road.

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

## Public Outreach Information

### Planning Commission

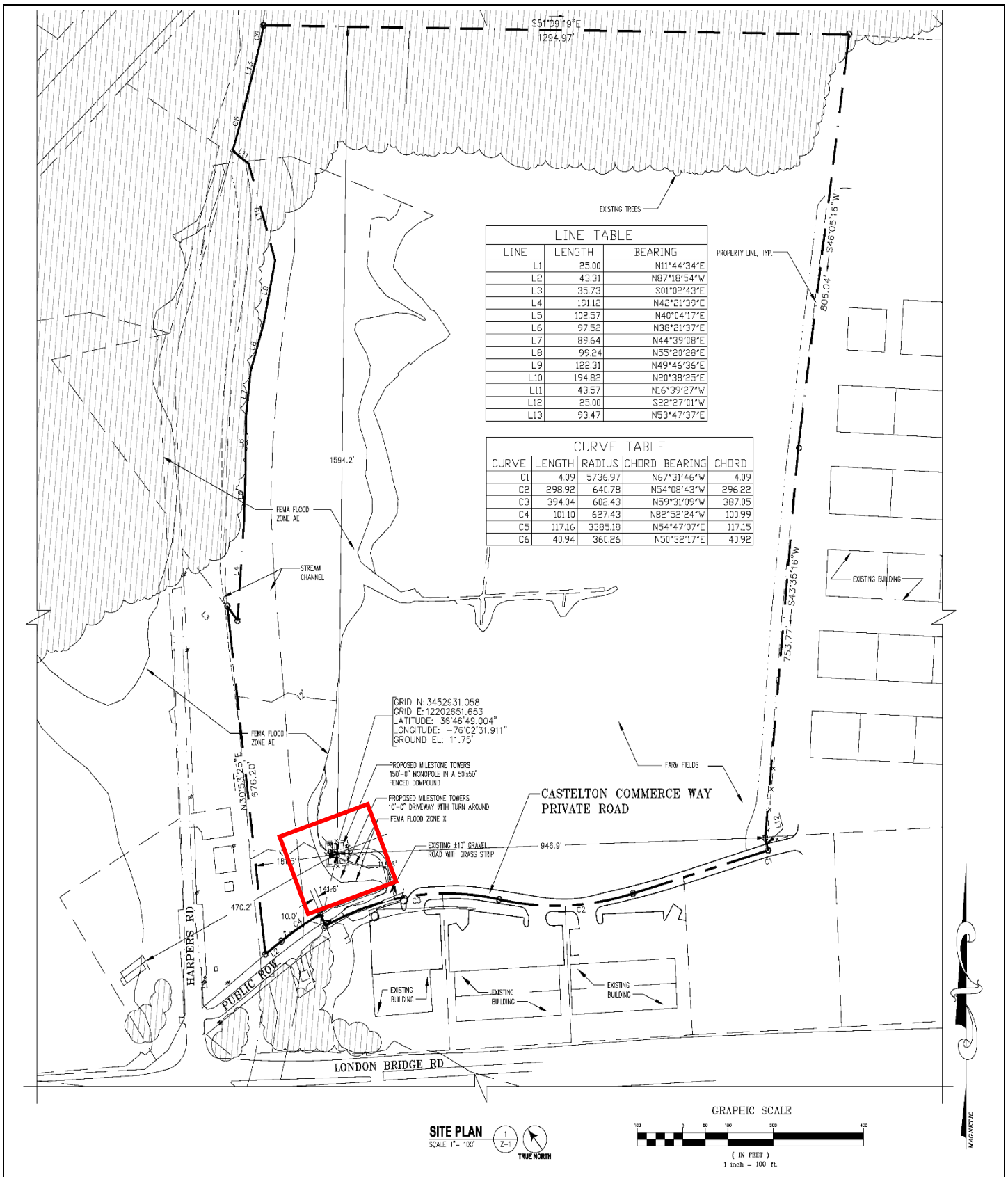
- The applicant reported that they held an online town hall meeting via Zoom on June 21<sup>st</sup> at 6:00 p.m. to discuss the details of the request and to answer questions. Per the applicant, five people were in attendance. As a result of that meeting, there were some concerns raised regarding potential health concerns from the tower and the

location of the tower on the property. Overall, the concerns were addressed and no objections to the proposed tower was raised. Two letters of support was received.

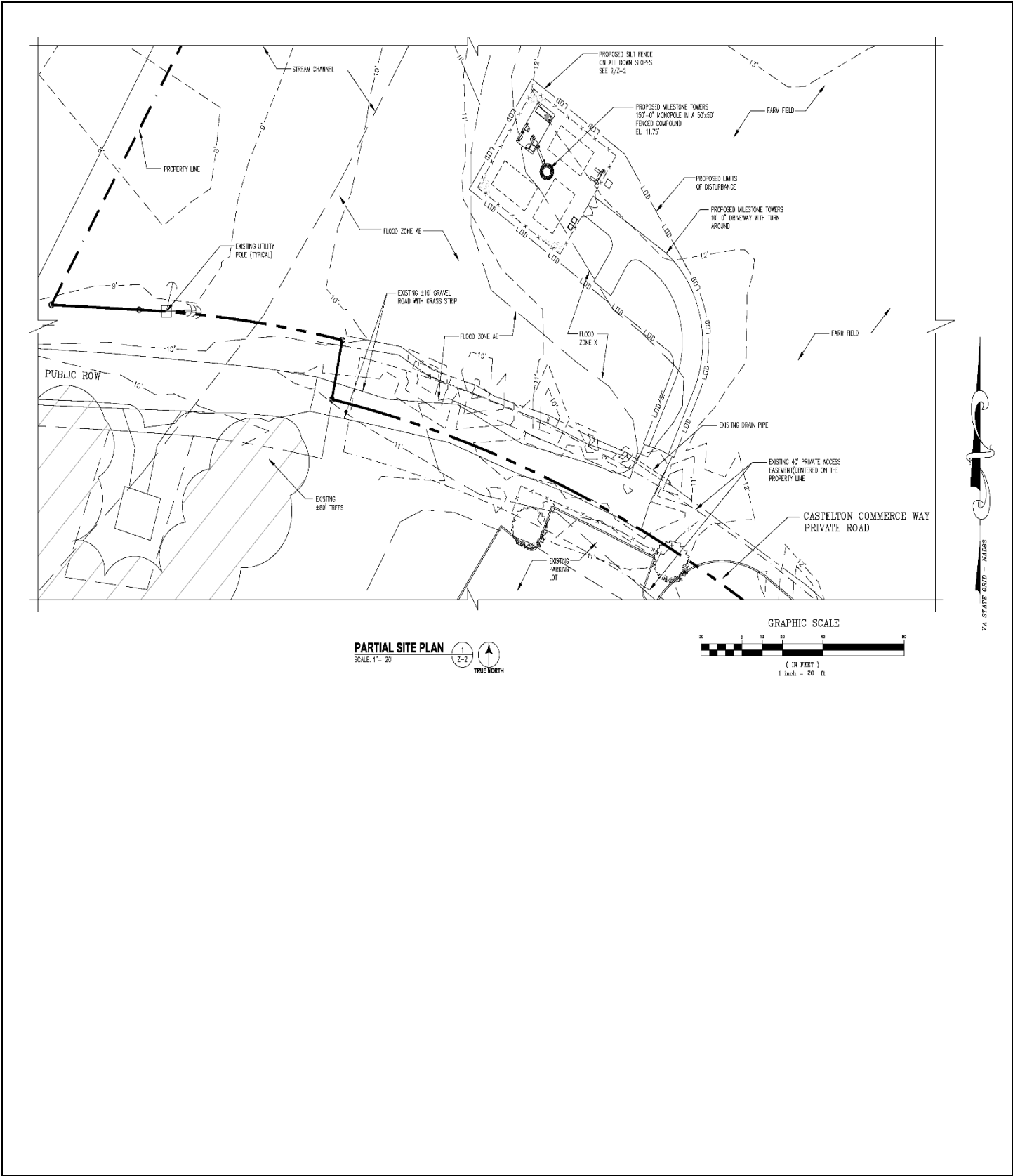
- The applicant mailed notices to all adjacent property owners within ½ mile radius of the site inviting them to attend the Zoom call meeting. In addition, a website (<https://www.castletoncommercewireless.com/>) was created and as of June 1, 2023, there were 106 visitors and 209 page views.
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on June 12, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, June 28, 2023 and July 5, 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 June 26, 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/planning](http://www.viriniabeach.gov/planning) on July 6, 2023.



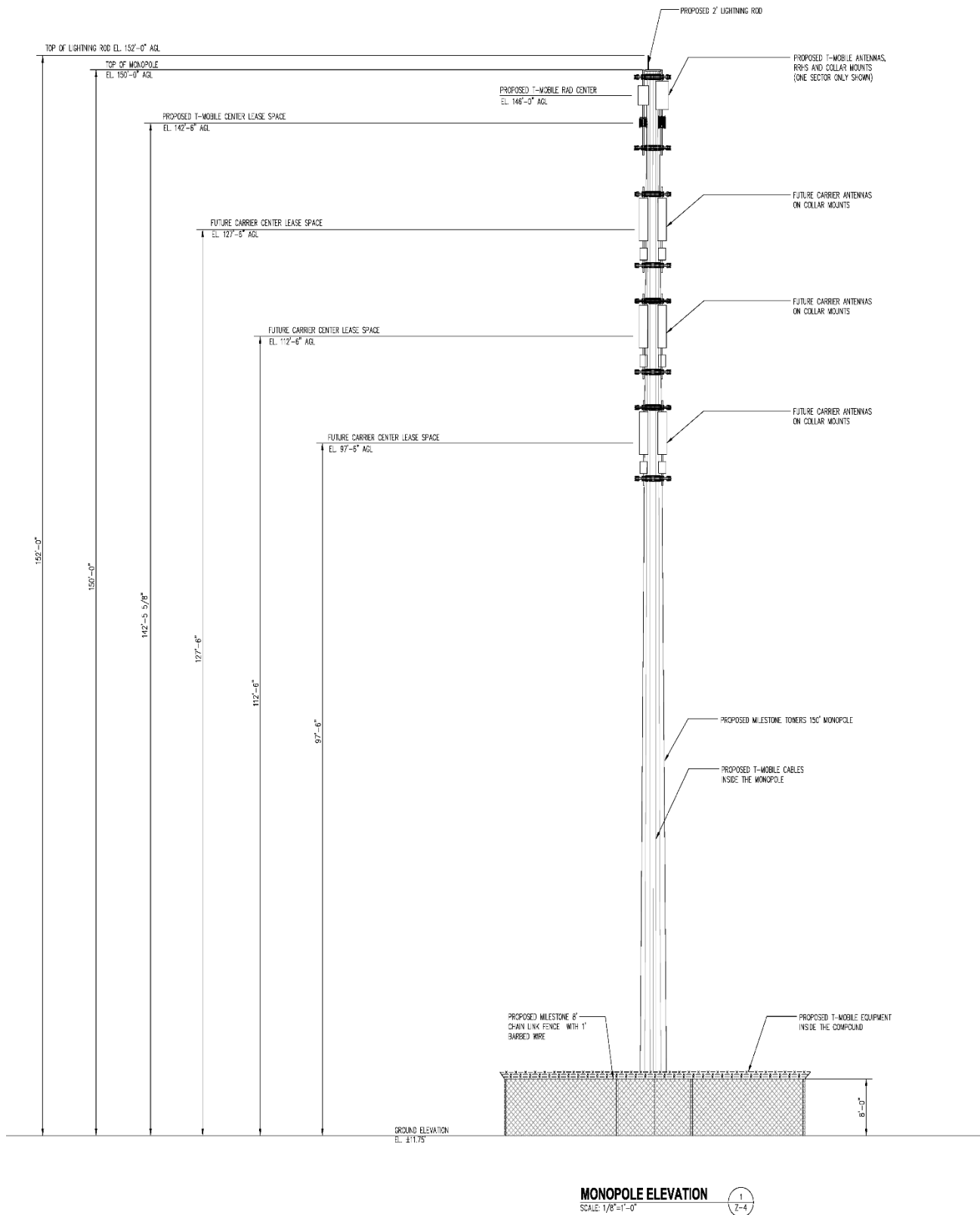
# Proposed Conceptual Site Layout



# Proposed Conceptual Site Layout



# Proposed Monopole Tower Elevation



## Photo Simulations – Visibility Map

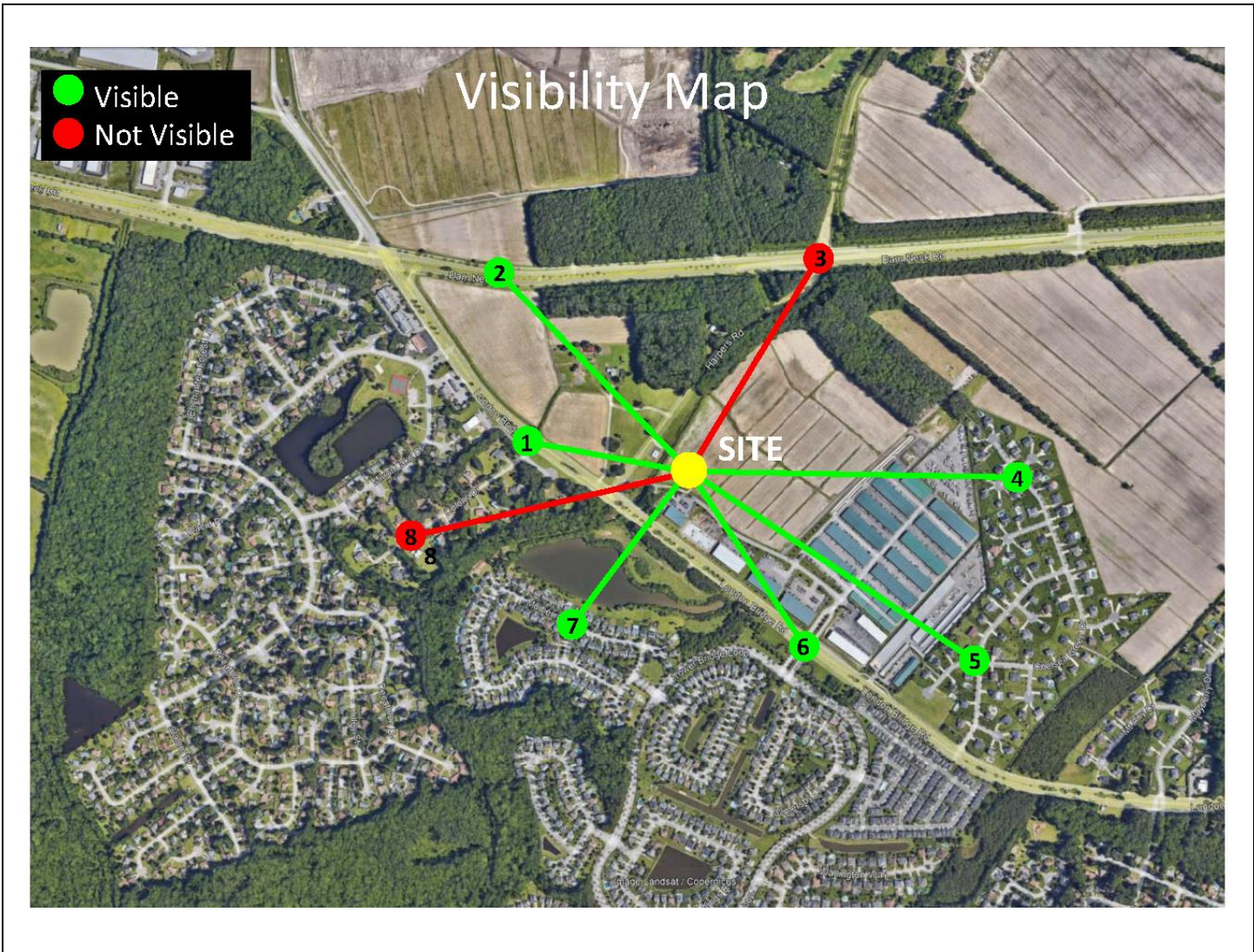




Photo Simulations





Photo Simulations





Photo Simulations





## Photo Simulations





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** Milestone Tower Limited Partnership-IV (d/b/a Milestone Towers)

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

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

Stephen Romine and/or Williams Mullen

**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)

Milestone Communications Management IV, Inc. (General Partner)

- Officers and Directors of Milestone Communications Management IV, Inc: Leonard Forkas Jr. (Sole Director, President, and CEO)

Matt Penning (Vice President), Oswaldo Reyes Chica (Treasurer), and Alice Mahoney (Secretary).

- 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.

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.

Marc Marzullo, Extrex Communication Services, Inc.

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

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

Stephen Romine and/or Williams Mullen

#### Applicant Signature

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

*Matt Penning*

Applicant Signature

Matt Penning, Vice President of Milestone Communications Management IV, Inc., General Partner of Milestone Tower LP-IV

Print Name and Title

4/20/23

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	

## Disclosure Statement



### Owner Disclosure

**Owner Name** Paul S. Brown Family, L.L.C., a Virginia limited liability company

**Applicant Name** Milestone Tower Limited Partnership-IV (d/b/a Milestone Towers)

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)

R. Edward Bourdon, Jr., Managing Member; Paul S. Bourdon and Howard R. Sykes, Jr., Trustee of the Betty Brown Bourdon Trust, Members

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

### Known Interest by Public Official or Employee

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

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

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

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

### Disclosure Statement



#### Owner Services Disclosure

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

☐ Yes ☒ No

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

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.

Mark DesRoches, DesRoches & Company

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.

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

### Owner Signature

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

Paul S. Brown Family, L.L.C.

By  Managing member

Owner Signature  
R. Edward Bourdon, Jr., Managing Member

Print Name and Title

Date 5/10/2023

## Next Steps

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







Applicant & Property Owner **Winner's Properties, LLC**  
Planning Commission Public Hearing **July 12, 2023**  
City Council **District 4**

Agenda Items

**2 & 3**

### Requests

**#2 - Modification of Proffers**

**#3 - Modification of Conditions** (Motor Vehicle Sales & Service)

### Staff Recommendation

Approval

**Staff Planner**

Marchelle Coleman

### Location

5200 Virginia Beach Boulevard

### GPIN

1467760828

### Site Size

2.54 acres

### AICUZ

Less than 65 dB DNL

### Watershed

Chesapeake Bay

### Existing Land Use and Zoning District

Auto dealership / B-2 Community Business

### Surrounding Land Uses and Zoning Districts

#### North

Multi-family dwellings, townhomes / A-12 Apartment

#### South

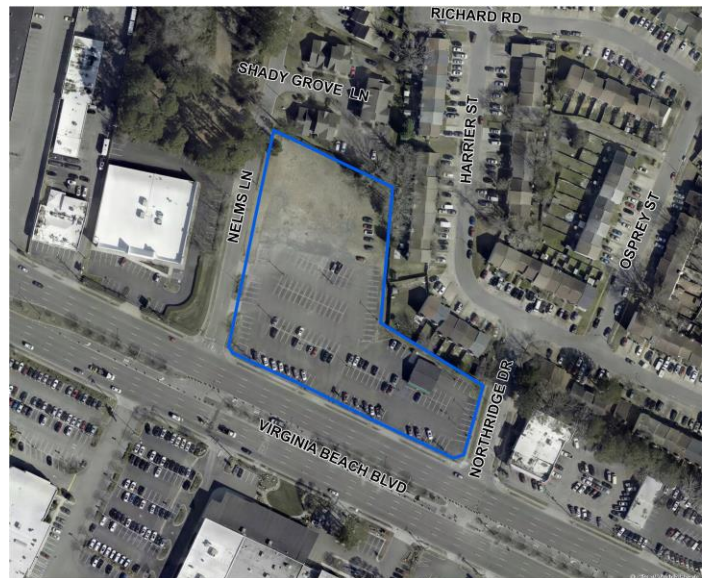
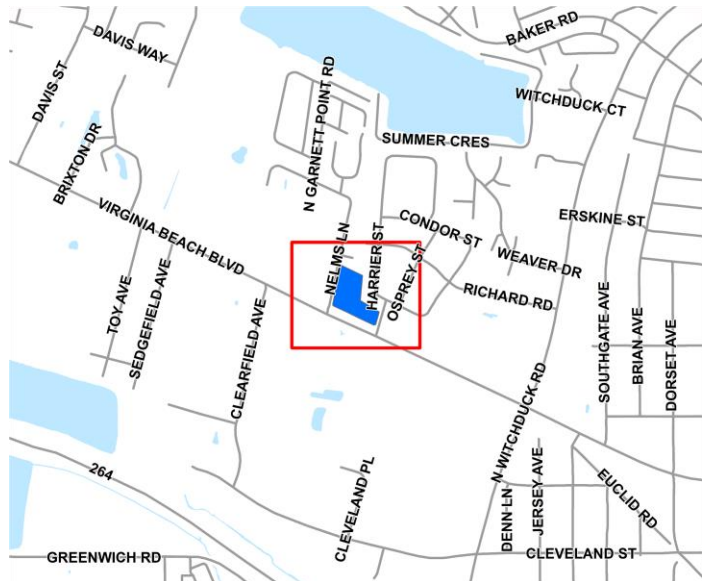
Virginia Beach Boulevard  
Retail / B-2 Community Business

#### East

Northridge Drive  
Retail, townhomes / B-2 Community Business, A-12 Apartment

#### West

Nelms Lane  
Retail / B-2 Community Business



## Background & Summary of Proposal

- The applicant seeks to amend proffers and conditions associated with a Conditional Rezoning and Conditional Use Permit approved by City Council on January 20, 2015, to rezone the property from A-12 Apartment and B-2 Community Business to Conditional B-2 Community Business for a Motor Vehicle Sales and Service business. At that time, the applicant proffered, and Staff conditioned that the development would be constructed in substantial conformance with the submitted conceptual site plan, landscape plan, and building elevations.
- The applicant is now requesting to modify the original proffers and conditions to revise the conceptual site plan, conceptual landscape plan, and the building elevations to suit their business needs.
- In the 2015 approval, the conceptual site plan showed only one proposed curb cut along Nelms Lane, a smaller building footprint of 22,000 square feet, and a 15-foot-wide Category IV landscape screening with a six-foot tall all-weather solid fence to be installed along the property lines adjacent to the apartments to the north and east of this site.
- The applicant is now proposing to modify the conceptual site plan and building elevations to:
  - add a second curb cut along Nelms Lane,
  - remove the requirement to install a six-foot tall all-weather solid fence along the property lines adjacent to the Apartment Districts, as the adjacent properties have existing eight-foot-tall privacy fences already installed,
  - increase the overall building footprint from 22,000 square feet to 33,273 square feet, and
  - add an approximately 1,105 square foot canopy in the rear of the building to be used for the cleaning and prepping of vehicles.
- The proposed building elevations depict an exterior façade to be constructed with aluminum composite metal panels, silver corrugated metal panels, and glass. At the tallest point, the building will be 25 feet and 4 inches in height.
- The conceptual site plan depicts a total of 92 parking spaces, of which 39 are designated for display area spaces. As proposed, the parking provided on site exceeds the parking requirement by 16 spaces.
- A 12-foot-tall freestanding monument sign with the required landscaping around the base is proposed along Virginia Beach Boulevard, thereby meeting the sign height requirements in the B-2 Community Business District.
- The proposed hours of operation for Sales are from 9:00 a.m. to 8:00 p.m., Monday through Friday, and 9:00 a.m. to 7:00 p.m. on Saturdays. Service and Parts hours of operations is from 7:00 a.m. to 6:00 p.m., Monday through Saturday.

	<b>Zoning History</b>			
	#	Request		
	1	CRZ (A-12 & Conditional B-2 to Conditional B-2) Approved 08/17/2021 CUP (Auto Storage Yard & Car Wash Facility) Approved 08/17/2021		
	2	CRZ (A-12 & B-2 to Conditional B-2) Approved 01/20/2015 CUP (Motor Vehicle Sales & Service) Approved 01/20/2015 CUP (Motor Vehicle Sales) Approved 09/25/2007 CUP (Motor Vehicle Sales & Service) Approved 10/13/1992		
	3	CUP (Bulk Storage Yard) Approved 11/20/2018		
	4	CUP (Car Wash Facility) Approved 09/13/2011 MDC Approved 10/24/2006 MDC Approved 04/25/2006 MDC Approved 03/08/2005 CRZ (R-7.5 to Conditional B-2) Approved 03/08/2005 CUP (Motor Vehicle Sales) Approved 04/10/2002 CUP (Motor Vehicle Sales & Service) Approved 10/23/2001 CRZ (R-7.5 to Conditional B-2) Approved 10/23/2001 CUP (Motor Vehicle Sales & Service) Approved 10/10/1994 CRZ (R-7.5 to Conditional B-2) Approved 10/10/1994 CUP (Parking Lot & Storage) Approved 05/25/1993 CUP (Motor Vehicles Sales & Service) Approved 05/23/1988		
	5	CRZ (A-12 to Conditional B-2) Approved 02/27/2001		
	<b>Application Types</b>			
	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

These requests for a Modification of Proffers and Modification of Conditions are, in Staff’s opinion, acceptable. The request is consistent with the policies and goals set forth in the Comprehensive Plan for the Suburban Area, as the auto sales business provides a service to the surrounding area and is compatible with the number of automobile related service uses along Virginia Beach Boulevard.

Section 5A.4 of the Site Plan Ordinance requires a minimum of 12 percent of the display area to be planted, which equates to approximately 2,210 square feet for the proposed development. As shown on the submitted Conceptual Plan, the proposal exceeds this requirement by approximately 118 square feet. In addition, the street frontage plantings proposed along both rights-of-way, building foundation plantings, interior parking lot trees, and the required 15-foot-wide Category IV landscape buffer meets, and in some instances, exceeds the requirements set forth in the City’s Zoning Ordinance. As mentioned, the previous approval required the installation of a six-foot tall all-weather privacy fence adjacent to the apartment districts to provide additional screening for the residences to the north and east. The applicant is requesting that the condition be removed, as there is an existing eight-foot-tall privacy fence installed in the rear of those adjacent properties. Staff is amenable to this request but has recommended a condition which states that

if the adjacent property owner's privacy fences are ever removed, the property owner of the dealership must install a six-foot tall solid all-weather privacy fence on the subject property. Also, to ensure adequate screening is provided for the residences to the north and east of the property, the applicant has agreed that the plantings within the 15-foot-wide Category IV buffer will be installed at a height of six to eight feet and maintained at a minimum of 25 feet, as noted in condition 5.

The Conceptual Site Plan, previously approved by City Council, will change slightly to increase the size of the building from 22,000 square feet to 33,273 square feet and the construction of the proposed 1,105 square foot canopy for the cleaning and prepping of vehicles during inclement weather. In Staff's opinion, the installation of the canopy in the rear of the building will eliminate the visibility of the preparation of vehicles from the public right-of-way and should not cause any adverse impacts to the surrounding properties.

The traffic generated by this Motor Vehicle Sales and Service business will result in a total of 733 average daily trips. As mentioned previously, the applicant is proposing to provide an additional ingress/egress access point along Nelms Lane, increasing the number of curb cuts on this property from two to three. Staff has no objection to the new proposed curb cut along Nelms Lane, as it meets commercial standards of a 30-foot width.

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

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

## Proffers

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

### **PROFFER 1:**

When the Property is developed, it shall be developed substantially as shown on the exhibit entitled "Conceptual Site Layout Plan of Checkered Flag - Audi" (the "Concept Plan") prepared by Orbis Landscape Architects dated May 26, 2023, which Concept Plan has been exhibited to the City Council and is on file in the Department of Planning.

### **PROFFER 2:**

When the Property is developed, it shall be landscaped substantially as shown on the exhibit entitled "Conceptual Site Layout Plan of Checkered Flag - Audi" (the "Landscape Plan") prepared by Orbis Landscape Architects dated May 26, 2023, which Landscape Plan has been exhibited to the City Council and is on file in the Department of Planning.

### **PROFFER 3:**

When the Property is developed, the building elevations will be as depicted on the exhibit entitled "New Building for Checkered Flag Audi, 5220 Virginia Beach Boulevard, Virginia Beach, VA 23462" (the "Elevations") prepared by Covington Hendrix Anderson Architects dated March 14, 2023, which Elevations have been exhibited to the City Council and is on file in the Department of Planning.

**PROFFER 4:**

When the Property is developed, the design of the signage will be as depicted on the exhibit entitled “Audi Virginia Beach, Exterior Package” (the “Signage”) prepared by Blair Image Elements dated January 23, 2023, which Signage has been exhibited to the City Council and is on file in the Department of Planning.

**PROFFER 5:**

All exterior lighting shall be low intensity and residential in character and shall overlap and be uniform throughout the parking area. Per §237 of the City Zoning Ordinance, all outdoor lights shall be shielded to direct light and glare onto the auto sales & service premises; said lighting and glare shall be deflected, shaded, and focused away from all adjoining property. Any outdoor lighting fixtures shall not need be erected any higher than 14 feet. A Lighting Plan and/or Photometric Diagram Plan shall be submitted during detailed site plan review. Said plan shall include the location of all pole-mounted and building mounted lighting fixtures, and the listing of lamp type, wattage, and type of fixture. All lighting on the site shall be consistent with those standards recommended by the Illumination Engineering Society of North America. The plan shall include provisions for implementing low-level security for non-business hours.

**PROFFER 6:**

The use of the Property shall be for automobile sales and service, display and showroom, rentals and/or accessory parking.

**PROFFER 7:**

Vehicular ingress and egress shall be limited to three (3) entrances, with one (1) entrance for ingress and egress from and to Virginia Beach Boulevard and two (2) entrances for ingress and egress from and to Nelms Lane.

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

## Recommended Conditions

1. All conditions attached to the previous Conditional Use Permit granted on January 20, 2015, are hereby deleted, and superseded by the following conditions.
2. When the property is redeveloped, it shall be in substantial conformance with the concept plan entitled “Conceptual Site Layout Plan of Checkered Flag - Audi”, prepared by Orbis Landscape Architects, dated May 26, 2023, 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 at the time of final site plan review reflective of the location and plant material depicted on the conceptual site plan exhibit referenced in Condition 2 above, 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 building shall be in substantial conformance with the appearance, size, color, and materials shown on the submitted elevations entitled “New Building for Checkered Flag Audi - 5220 Virginia Beach Boulevard, Virginia Beach, VA 23462, prepared by Covington Hendrix Anderson Architects, dated March 14, 2023, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
5. The plantings within the 15-foot-wide Category IV Landscape buffer shall be six to eight feet in height at installation and maintained at a minimum of 25 feet.



6. If the adjacent property owner's privacy fences are ever removed, the property owner must replace it with a six-foot tall solid all-weather privacy fence to be installed on the subject property.
7. All signage on the site shall meet the requirements of the Zoning Ordinance. A separate sign permit shall be obtained from the Department of Planning & Community Development for the installation of any new signage.
8. All garage doors shall remain closed other than for the maneuvering of vehicles in and out of the service bays.
9. All automotive repair work shall be conducted inside the building.
10. There shall be no storage of tires, merchandise, or debris of any kind outside of the building.
11. No vehicles for sale or rent shall be parked within any portion of the public rights-of-way.
12. No vehicles shall be displayed on raised platforms, earthen berms, landscape islands, or any other structure designated to display a vehicle higher than the elevation of the main parking lot.
13. No loud speakers, outdoor paging system, outdoor speaker system or outdoor sound amplification system shall be permitted on site.
14. There shall be no signs which contain or consist of pennants, ribbons, streamers, spinners, strings of light bulbs, or other similar moving devices on the site or on the vehicles. There shall be no signs which are painted, pasted, or attached to the windows, utility poles, trees, or fences, or in an unauthorized manner to walls or other signs. There shall be no portable or nonstructural signs, or electronic display signs on the site. There shall be no neon or electronic display signs, or accents installed on any wall area of the exterior of the building, in or on the windows, or on the doors. No window signage shall be permitted.
15. All outdoor lights shall be shielded to direct light and glare onto the premises, said lighting and glare shall be deflected, shaded, and focused away from all adjoining properties. A Lighting Plan and/or Photometric Diagram Plan shall be submitted during detailed site plan review.

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

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

## **Previous Proffers from 2015 Agreement**

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



**PROFFER 1:**

When the Property is developed, it shall be developed substantially as shown on the exhibit entitled, "Conceptual Site Layout and Landscape Plan of Checkered Flag – Land Rover/Jaguar, Virginia Beach, Virginia," dated August 25, 2014, prepared by MSA, Inc., Virginia Beach, Virginia, which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning (hereinafter "Site Plan").

**PROFFER 2:**

When the Property is developed, it shall be landscaped substantially as shown on the exhibit entitled, "Conceptual Site Layout and Landscape Plan of Checkered Flag – Land Rover/Jaguar, Virginia Beach, Virginia," dated August 25, 2014, prepared by MSA, Inc., Virginia Beach, Virginia, which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning (hereinafter "Landscape Plan").

**PROFFER 3:**

When the Property is developed, the building elevations will be as depicted on the exhibits entitled, "Checkered Flag Jaguar Land Rover, dated September 24, 2014, prepared by Lyall Design Architects which have been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning (hereinafter "Elevations").

**PROFFER 4:**

When the Property is developed, the design of the signage will be in substantial conformance with the sign exhibits entitled, "Multibrand 8, Jaguar Portico Logo Face Mounted, Land Rover Landmark Tower," herein exhibited to the Virginia Beach City Council and on file with the Virginia Beach Department of Planning (hereinafter "Signage").

**PROFFER 5:**

All exterior lighting shall be low intensity and residential in character and shall overlap and be uniform throughout the parking area. Per Section 237 of the City Zoning Ordinance, all outdoor lights shall be shielded to direct light and glare onto the auto sales and service premises; said lighting and glare shall be deflected, shaded, and focused away from all adjoining property. Any outdoor lighting fixtures shall not be erected any higher than 14 feet. A Lighting Plan and/or Photometric Diagram Plan shall be submitted during detailed site plan review. Said plan shall include the location of all pole-mounted and building-mounted lighting fixtures, and the listing of lamp type, wattage, and type of fixture. All lighting on the site shall be consistent with those standards recommended by the Illumination Engineering Society of North America. The plan shall include provisions for implementing low-level security lighting for non-business hours.

**PROFFER 6:**

The use of the Property shall be for automobile sales and service, display and showroom, rentals and/or accessory parking.

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

## Previous Conditions from 2015 CUP

1. With the exception of any modifications required by any of these conditions or as a result of development site plan review, the site shall be developed substantially in conformance with the exhibit entitled, "Conceptual Site Layout & Landscape Plan of Checkered Flag – Land Rover/Jaguar, Virginia Beach, Virginia," prepared by MSA, P.C., dated 08/25/14, which has been exhibited to the Virginia Beach City Council and is on file in the Planning Department.
2. The proposed building shall be constructed substantially in accordance with the submitted elevations. Said

elevations have been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Planning Department.

3. A landscape plan shall be prepared by a landscape professional and submitted for Development Services Center review and shall depict an all-weather solid fence, minimum height of six (6) feet to be installed along all property lines adjacent to the A-12 Apartment District.
4. Any existing “nonconforming” free-standing signs shall be removed. The freestanding sign (pylon sign as identified on the plan referenced in Condition 1 above) shall be as depicted on the exhibit entitled, “Multibrand 8,” and shall be limited to eight feet in height.
5. All garage doors shall remain closed other than for the maneuvering of vehicles in and out of service bays.
6. All parking lot lighting shall be directed inward and shall not reflect toward the adjacent properties and city streets. A photometric plan shall be submitted for Development Services Center review.
7. No loud speakers, outdoor paging system, outdoor speaker system or outdoor sound amplification system shall be permitted on site.
8. No vehicles for sale or rent shall be parked within any portion of the public rights-of-way.
9. No outside storage of parts, equipment, or vehicles wrecked or in a state of obvious disrepair shall be permitted. If vehicles in this condition require storage, such vehicles shall be stored within the building.
10. All automotive repair work shall be conducted inside the building.
11. All existing chain link and barbed wire fencing shall be removed from the property. The use of chain link and/or barbed wire shall be prohibited from use along any property line adjacent to the A-12 Apartment District zoning or if visible from any right-of-way.

## Comprehensive Plan Recommendations

The Comprehensive Plan recognizes this property as being within the Suburban Area of the city but is adjacent to the Pembroke Strategic Growth Area. Guiding principles have been established in the Comprehensive Plan to guard against possible threats to the stability of the Suburban Area and to provide a framework for neighborhoods and places that are increasingly vibrant and distinctive. The Plan’s primary guiding principle for the Suburban Area is to create “Great Neighborhoods,” and to support those neighborhoods with complementary non-residential uses in such a way that working together the stability and sustainability of the Suburban Area is ensured for now and the future. The addition of an overhang on the rear of the building should not have a major impact on the overall development of this site, but the general height and massing of the new building should be considered so it does not negatively impact the adjacent residential uses, particularly in terms of blocking sunlight and nuisance noise issues associated with auto-related uses.

## Natural & Cultural Resources Impacts

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

## Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Virginia Beach Boulevard	37,480 ADT <sup>1</sup>	39,940 ADT <sup>1</sup> (LOS <sup>4</sup> "C") 64,260 ADT <sup>1</sup> (LOS <sup>4</sup> "E")	Existing Land Use <sup>2</sup> – 288 ADT Proposed Land Use <sup>3</sup> – 733 ADT
Nelms Lane	No Data Available	9,900 ADT <sup>1</sup> (LOS <sup>4</sup> "D")	
<sup>1</sup> Average Daily Trips	<sup>2</sup> as defined by a 2.54-acre B-2 zoned parcel	<sup>3</sup> as defined by a 33,273 square foot auto dealership	<sup>4</sup> LOS = Level of Service

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

Virginia Beach Boulevard in the vicinity is considered an eight-lane divided major urban arterial. The MTP proposes an eight-lane facility within a 155-foot right-of-way. Nelms Lane is considered a two-lane undivided local street. It is not included in the MTP. No roadway CIP projects are slated for these streets in the vicinity of this application.

## Public Utility Impacts

### Water

There is an existing 16-inch and 20-inch City water transmission main along Virginia Beach Boulevard and an existing 8-inch City water main along Nelms Lane. The site must connect to City water.

### Sewer

There is an existing 8-inch and 10-inch City gravity sanitary sewer main and an existing 6-inch City sanitary sewer force main along Virginia Beach Boulevard. There is an existing 10-inch City gravity sanitary sewer main and an existing 4-inch sanitary sewer force main along Nelms Lane. The site must connect to City sewer.

## Public Outreach Information

### Planning Commission

- The applicant reported that they sent a letter of notification to the Garnett Point Lake Condominium Association to inform them of the proposal and to answer any questions. At this time, no objections have been raised.
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on June 12, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, June 28, 2023 and July 5, 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 June 26, 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/planning](http://www.virginiabeach.gov/planning) on July 6, 2023.

# Proposed Site Layout

## CONCEPTUAL SITE LAYOUT PLAN OF CHECKERED FLAG - AUDI VIRGINIA BEACH, VIRGINIA

**Site Data**  
 ± 2.54 AC  
 Site Area:  
 CPIN: 14677608280000  
 B-2  
 Zoning:  
 Vehicle Sales  
 Use:

PARKING REG. REQ'D	155275 SF
PROPOSED BUILDING SIZE	155275 SF
PARKING REG. REQ'D (1 SF/400 SF)	388 SF
TOTAL REQUIRED	155663 SF
TOTAL PROVIDED	155663 SF
DISPLAY AREA PROVIDED	155663 SF
GREENSPACE REG. REQ'D	155663 SF
PARKING LOT (ST SPACES)	155663 SF
GREEN SPACE REQUIRED	155663 SF
ST SPACES X 50 SF	155663 SF
GREEN SPACE PROVIDED	155663 SF
TREE REQUIRED	155663 SF
TREES PROVIDED	155663 SF
DISPLAY AREA (1.84 FT SF)	155663 SF
GREEN SPACE REQUIRED	155663 SF
GREEN SPACE PROVIDED	155663 SF
TREES REQUIRED	155663 SF
TREES PROVIDED	155663 SF



DATE: 05.26.2023





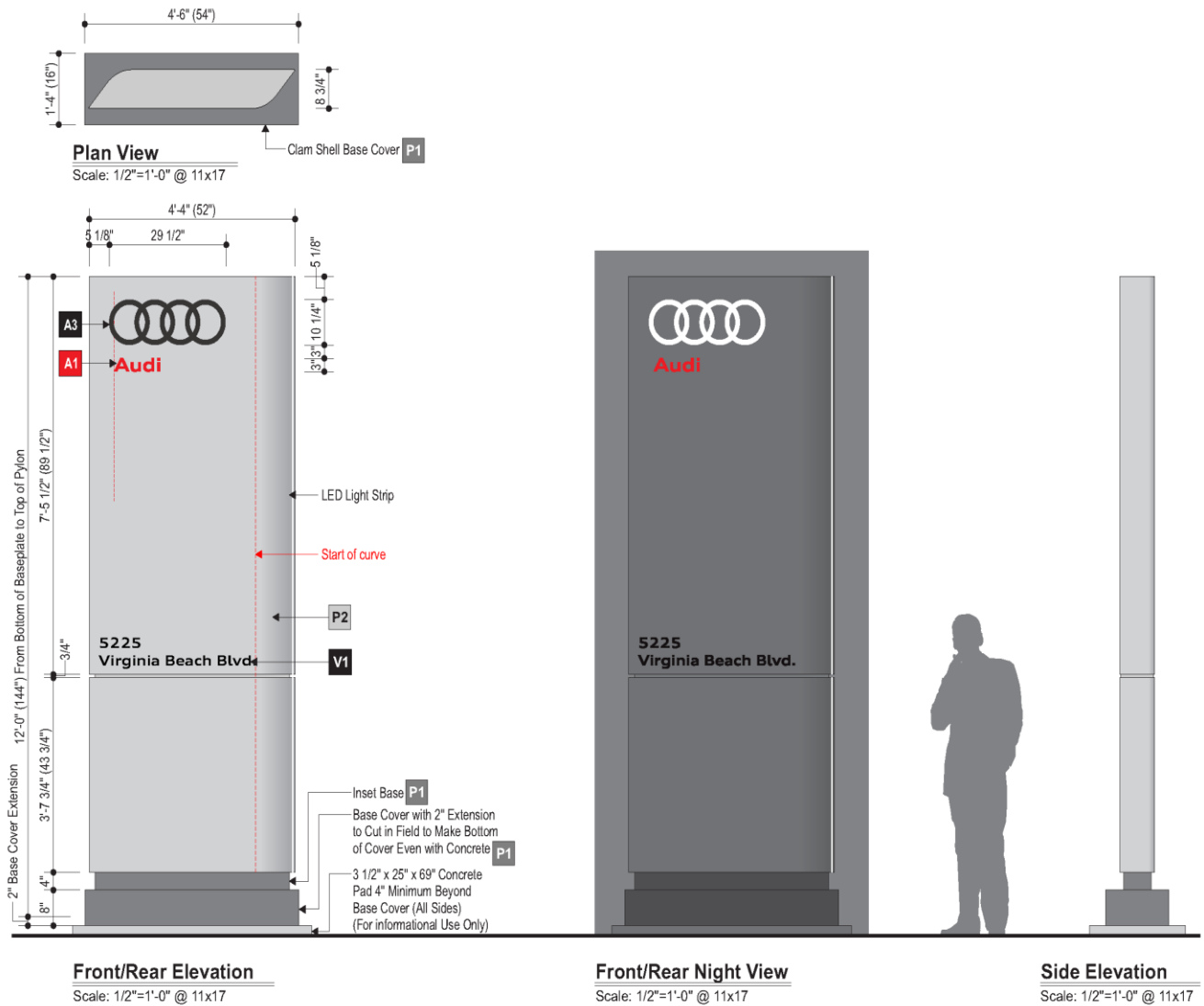


## Proposed Building Rendering





# Proposed Freestanding Sign





## Site Photos



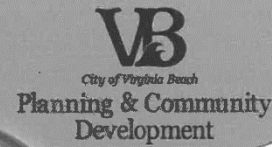


## Site Photos



## 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** WINNER'S PROPERTIES, LLC

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

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

KYLE D. KORTE, ESQ., WOLCOTT RIVERS P.C.; and Billy Garrington

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

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

Stephen M. Snyder, William Snyder, and Benjamin Snyder

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

Please see attached Exhibit "A"

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

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

### Disclosure Statement



#### Known Interest by Public Official or Employee

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

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

N/A

#### Applicant Services Disclosure

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

☒ Yes ☐ No

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

TowneBank

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

☐ Yes ☒ No

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

N/A

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.

N/A

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

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

Covington Hendrix Anderson Architects (Jerry Smith & Robert Antonio); Orbis Landscape Architecture (Nathan Lahy)

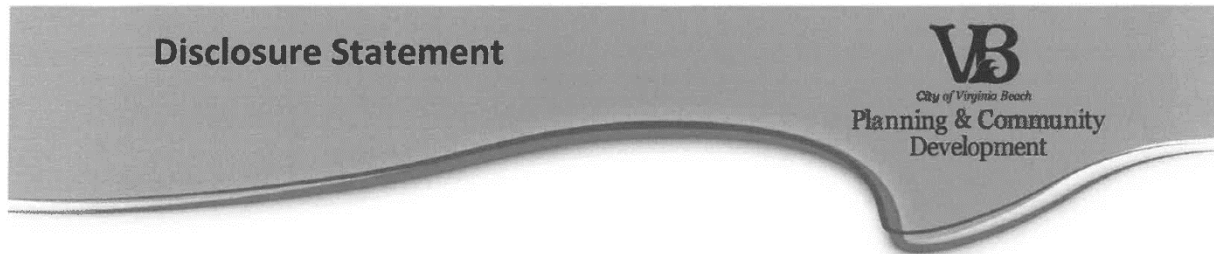
5. Is there any other **pending or proposed purchaser** of the subject property? ☐ Yes ☒ No

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

N/A



## 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.

Hourigan

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., Scott Acey

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

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

Wolcott Rivers P.C., Kyle D. Korte, 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

Stephen Snyder

Print Name and Title

5-1-2023

Date

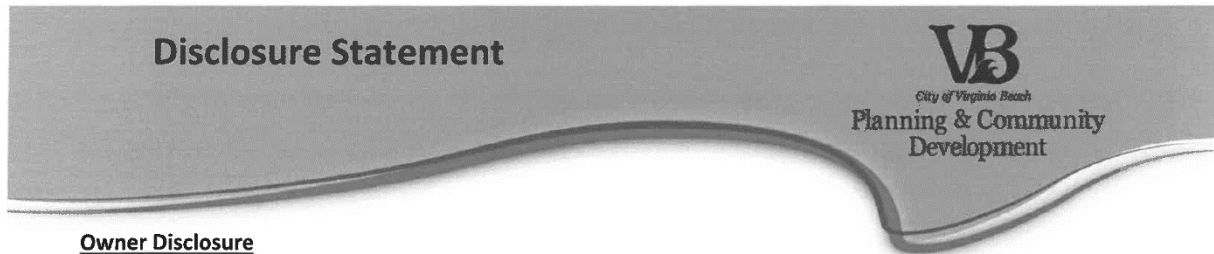
- Is the applicant also the owner of the subject property? ☒ **Yes** ☐ **No**

- 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** WINNER'S PROPERTIES, LLC

**Applicant Name** WINNER'S PROPERTIES, LLC

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

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

Stephen M. Snyder, William Snyder, and Benjamin Snyder

- 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)

See attached Exhibit "A"

### Known Interest by Public Official or Employee

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

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

N/A

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

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### Disclosure Statement



#### Owner Services Disclosure

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

☒ **Yes**   ☐ **No**

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

TowneBank

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.

N/A

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.

N/A

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.

Covington Hendrix Anderson Architects (Jerry Smith & Robert Antonio); Orbis Landscape Architecture (Nathan Lahy)

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

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

N/A

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.

Hourigan

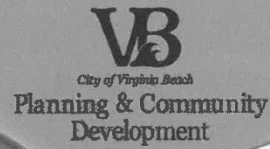
7. Does the Owner have an **engineer/surveyor/agent** in connection with the subject of the application or any business operating or to be operated on the property? ☒ **Yes**   ☐ **No**

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

MSA, P.C., Scott Acey

## 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.

Wolcott Rivers P.C., Kyle D. Korte, Esq.

#### Owner Signature

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

A handwritten signature in black ink, appearing to read 'Stephen Snyder'.

Owner Signature

*Stephen Snyder, President*

Print Name and Title

*5-1-2023*

Date



### **Exhibit A**

*List of Winner's Properties, LLC Affiliated Entities*

- CHECKERED FLAG MOTOR CAR COMPANY, INC.
- CHECKERED FLAG STORE #1, L.L.C.
- CHECKERED FLAG STORE #2, L.L.C.
- CHECKERED FLAG STORE #3, L.L.C.
- CHECKERED FLAG STORE #4, L.L.C.
- CHECKERED FLAG STORE #5, L.L.C.
- CHECKERED FLAG STORE #6, L.L.C.
- CHECKERED FLAG STORE #8, L.L.C.
- CHECKERED FLAG STORE #9, L.L.C.
- CHECKERED FLAG STORE #10, L.L.C.
- CHECKERED FLAG STORE #11, L.L.C.
- CHECKERED FLAG STORE #12, L.L.C.
- EVERGREEN VIRGINIA, LLC
- CHECK LEASE, LLC
- CAVALIER PROPERTY, LLC
- PATRICK HENRY PROPERTY, LLC
- CENTRAL DRIVE PROPERTY, LLC
- 1801 VB BLVD, LLC
- 2697 DEAN DRIVE, LLC
- 4525 SOUTH BLVD, LLC
- 4560 SOUTH BOULEVARD, LLC

*As of 04/19/2023*

## 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**

**Change in Nonconformity** (Modify Principal Dwelling)

**Staff Recommendation**

Approval

**Staff Planner**

Elizabeth Nowak

**Location**

4205 & 4207 Atlantic Avenue

**GPIN**

2418963455

**Site Size**

8,560 square feet

**AICUZ**

65-70 dB DNL; Sub-Area 1; 70-75 dB DNL

**Watershed**

Atlantic Ocean

**Existing Land Use and Zoning District**

Single-family dwellings / R-7.5 Residential

**Surrounding Land Uses and Zoning Districts**

**North**

43rd Street

Single-family dwelling / R-7.5 Residential

**South**

42nd ½ Street

Single-family dwelling / R-7.5 Residential

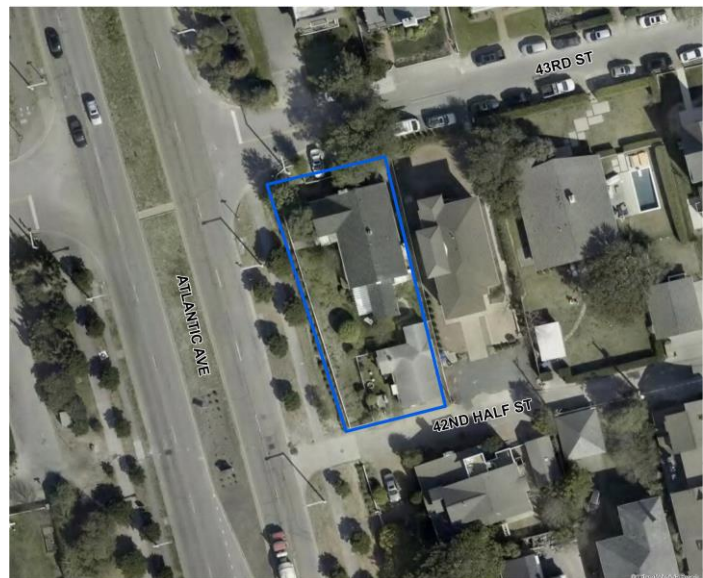
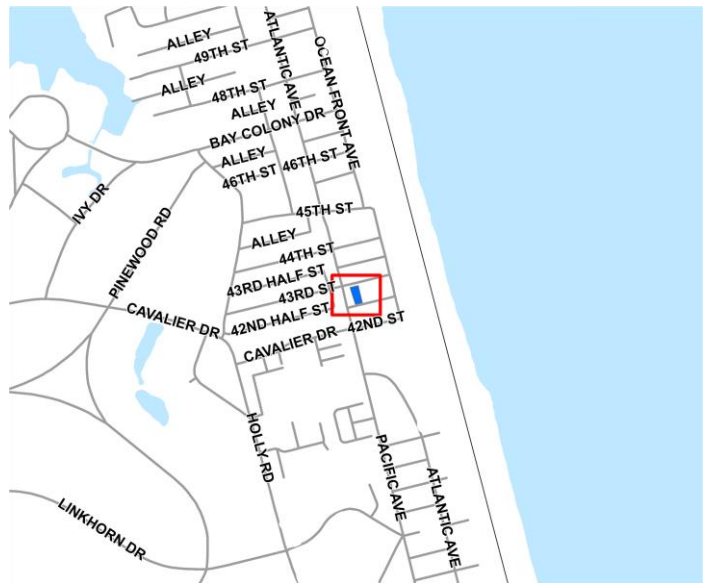
**East**

Single-family dwelling / R-7.5 Residential

**West**

Atlantic Avenue

Single-family dwellings / R-7.5 Residential

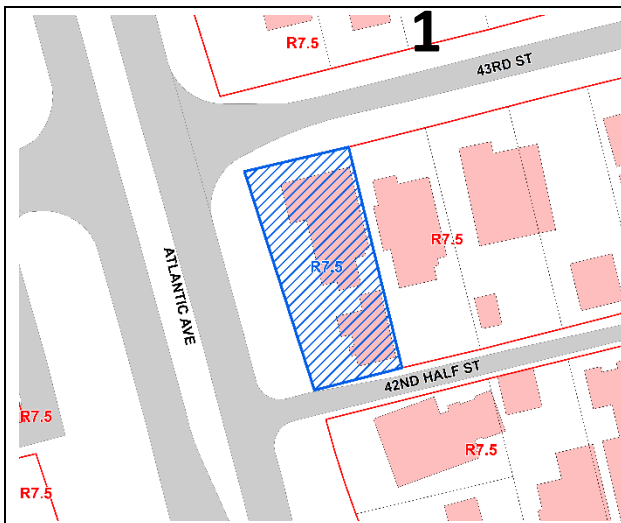


## Background & Summary of Proposal

- The applicant is requesting a Change in Nonconformity in order to expand the principal dwelling at 4207 Atlantic Avenue. This 8,560 square-foot property is zoned R-7.5 Residential and is located in the Cavalier Shores neighborhood.
- Cavalier Shores was developed in the early twentieth century, primarily from the late 1920s through the 1950s and before the adoption of a Zoning Ordinance in Virginia Beach. In 2019, Cavalier Shores Historic District was listed in the National Register of Historic Places for its association with the residential development of the Virginia Beach oceanfront area. Many parcels in Cavalier Shores were developed with two dwelling units, which is a defining historical characteristic of the area. The R-7.5 Residential zoning classification no longer permits multiple dwellings on individual properties.
- There are two single-family dwellings located on the subject property that were constructed in 1951; both are identified as contributing resources in the Cavalier Shores Historic District. 4207 Atlantic Avenue, a one-and-one-half-story house, is located towards the northern half of the lot and has frontage on 43<sup>rd</sup> Street. It is considered the principal dwelling on this lot. 4205 Atlantic Avenue is located towards the southern half of the lot and has frontage on 42<sup>nd</sup> 1/2 Street. The applicant's renovation plans are limited to 4207 Atlantic Avenue.
- The applicant will add a covered porch and steps on the north elevation to accommodate new entrances to the dwelling. Shed dormers with standing seam metal roofs will be added to the west and east elevations to accommodate additional head height in bedrooms. A new room on the south elevation will require construction of a new 9.9-foot by 13-foot area and removal of an approximate 13.3-foot by 7-foot interior area and a porch on the west elevation. An existing pergola on the west elevation facing Atlantic Avenue, a utility chimney in the center of the building, and a utility area on the east elevation will also be removed.
- The following summarizes the nonconformities associated with this parcel:

	Current R-7.5 Requirements	Existing Conditions	Proposed Conditions
Front Yard Setback when adjacent to a 40-foot ROW	30 feet	11.7 feet	11.7 feet
Side Yard Setback when adjacent to a street	35 feet	15.1 feet	15.1 feet
Rear Yard Setback	20 feet	2.4 feet	2.4 feet
Minimum Lot Width for a Corner Lot	85 feet	58 feet	58 feet
Maximum Lot Coverage	35%	36.1%	36.2%
Number of Dwellings	1	2	2





### Zoning History

#	Request
1	<b>NON</b> (Expansion of Principal Dwelling) Approved 06/06/2023

### 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 Change in Nonconformity is acceptable. One of the policies in the Comprehensive Plan is to preserve and protect historic resources in Virginia Beach. While the proposed alterations will alter some of the character of 4207 Atlantic Avenue, the overall changes preserve the scale and general outline of the building, as well as some of the key elements of the building's Minimal Traditional architectural style. The original form of the house will still be visible through the alterations, which helps to preserve the integrity of the Cavalier Shores Historic District. The continued use of the building as a single-family residence also supports Comprehensive Plan goals to create and sustain Great Neighborhoods.

As stated earlier, there are several nonconforming conditions on this lot, including deficient setbacks and lot coverage which exceeds the maximum allowed in the R-7.5 Residential zoning classification. These conditions have been present since at least 1951 and the proposed renovation plan will have minimal change to these conditions. While the existing building setbacks will remain the same, the separation between the two residential dwellings will be increased with the proposed change to the southern addition. The alteration of that area will result in a net increase of approximately 16 square feet for the building, which increases the lot coverage of the site from 36.1% to 36.2%. In Staff's opinion, this increase is nominal and will not have an adverse effect. As deficient dimensional standards can be addressed in the Change of Nonconformity review process, Staff is recommending Conditions 5 and 6 to formalize the existing setbacks and lot coverage on the property.

Staff's traffic analysis indicates that there will be no change in traffic as a result of this development. Staff is unaware of any opposition to the proposal and the applicant has provided a letter of support from the North Virginia Beach Civic League Zoning Review Committee. As such, Staff is recommending approval of this request subject to the conditions and exhibits in this report.

## Recommended Conditions

1. The Site shall be developed substantially in accordance with the submitted concept site layout entitled "Exhibit of Lot 7," prepared by WPL and dated 4/28/2023, which has been exhibited to the City Council and is on file in the Department of Planning & Community Development.

Alexandra Page Pope, Trustee dated October 30, 2017

Agenda Item 4

Page 3

2. The Site shall be developed substantially in accordance with the submitted elevations by Battaglia Designs and dated July 12, 2023, which has been exhibited to the City Council and is on file in the Department of Planning & Community Development.
3. The maximum number of dwelling units on the subject Site shall not exceed two (2).
4. The height of the buildings' ridgelines shall not exceed 22 feet and four inches.
5. The minimum building setbacks for the subject Site shall be as follows: the east yard setback shall be 4 feet; the south yard setback shall be 4.9 feet; the west yard setback shall be 15.1 feet; and the north yard setback shall be 11.5 feet. This is a deviation from the Zoning Ordinance.
6. The maximum lot coverage for the subject Site shall be 36.2%. This is a deviation from the Zoning Ordinance.

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

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

## Comprehensive Plan Recommendations

This proposal is located within the North End Suburban Focus Area. A guiding principle of the Suburban Focus Area is to protect and enhance buildings of cultural and historic significance. Proposed designs and materials should complement the existing structure and surrounding area, as well as preserve character defining features. This change would be supported by the Comprehensive plan. However, due to the high levels of impervious surface coverage and drainage issues in the North End, a recommendation for improvement or reconstruction in this area is to utilize porous materials for driveways, walkways, and other similar surfaces to achieve a net reduction in impervious surface. As proposed, this project increases the amount of lot coverage by a small amount. To be more in keeping with the recommendations of the Comprehensive Plan, the applicant should consider replacing some of the impervious cover on the lot, such as parking areas and walkways, with porous materials to achieve a net reduction in impervious surface.

## Natural & Cultural Resources Impacts

The site is located in the Atlantic Ocean Watershed.

4205 and 4207 Atlantic Avenue are identified as contributing resources in the Cavalier Shores Historic District, a district listed in the National Register of Historic Places. The proposed alterations to 4207 Atlantic Avenue will affect some of the historic fabric of the building. Changes will be made to historic fenestration and exterior cladding materials; however, it is Staff's opinion that as the general form of the building will be retained and alterations will be distinguishable as having been made at a different period than the construction of the house, there will be no significant adverse impact on the historic district.

## Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
43rd Street	No data available		Existing Land Use <sup>2</sup> – 20 ADT Proposed Land Use <sup>2</sup> – No change anticipated
<sup>1</sup> Average Daily Trips	<sup>2</sup> as defined by two single-family residences		

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

The MTP identifies 43<sup>rd</sup> Street as a two-lane local street. There are not CIP projects planned for this area.

## Public Utility Impacts

The site is currently connected to City water and sewer.

## Public Outreach Information

### Planning Commission

- The applicant's representative met with the North Virginia Beach Civic League Zoning Review Committee to discuss the details of the request. A letter of support was provided to Staff by the review committee as a result of this meeting.
- As required by the Zoning Ordinance, the public notice signs were placed on the property on June 12, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, June 28, 2023 and July 5, 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 June 26, 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/planning](http://www.viriniabeach.gov/planning) on July 6, 2023.

1           A RESOLUTION TO ALLOW THE EXPANSION OF A  
2           NONCONFORMING USE AND STRUCTURE ON  
3           PROPERTY LOCATED AT 4205 & 4207 ATLANTIC  
4           AVENUE  
5

6           WHEREAS, the Alexandra Pope Trust, dated October 30, 2017 (the "Applicant")  
7           has made application to the City Council for authorization to expand the nonconforming  
8           principal dwelling at 4205 and 4207 Atlantic Avenue and zoned R7.5 Residential Zoning  
9           District;  
10

11           WHEREAS, this parcel currently contains two (2) single-family dwellings, that do  
12           not meet the current zoning regulations. The principal dwelling is deficient in front yard  
13           setback, side yard setback, rear yard setback, minimum lot width and maximum lot  
14           coverage. The renovations to the principal dwelling are approximately sixteen square  
15           feet additional impervious. The dwellings were constructed prior to the adoption of the  
16           applicable zoning regulations and are therefore nonconforming;  
17

18           WHEREAS, the Planning Commission of the City of Virginia Beach recommended  
19           approval of this application on July 12, 2023; and  
20

21           WHEREAS, pursuant to Section 105 of the City Zoning Ordinance, the expansion  
22           of a nonconforming structure is unlawful in the absence of a resolution of the City Council  
23           authorizing such action upon a finding that the proposed structure as expanded is equally  
24           appropriate or more appropriate to the zoning district than the existing structure.  
25

26           NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF  
27           VIRGINIA BEACH, VIRGINIA:  
28

29           That the City Council hereby finds that the proposed nonconforming structure as  
30           expanded, will be equally appropriate to the district as is the existing structure under the  
31           conditions of approval set forth herein below.  
32

33           BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF VIRGINIA  
34           BEACH, VIRGINIA:  
35

- 36           1. The Site shall be developed substantially in accordance with the submitted concept  
37           site layout entitled "Exhibit of Lot 7", prepared by WPL and dated 4/28/2023, which  
38           has been exhibited to the City Council and is on file in the Department of Planning &  
39           Community Development.
- 40           2. The Site shall be developed substantially in accordance with the submitted  
41           elevations by Battaglia Designs and dated July 12, 2023, which has been exhibited  
42           to the City Council and is on file in the Department of Planning & Community  
43           Development.
- 44           3. The maximum number of dwelling units on the subject Site shall not exceed two (2).



- 45 4. The height of the buildings' ridgelines shall not exceed 22 feet and four inches.
- 46 5. The minimum building setbacks for the subject Site shall be as follows: the east yard  
47 setback shall be 4 feet; the south yard setback shall be 4.9 feet; the west yard  
48 setback shall be 15.1 feet; and the north yard setback shall be 11.5 feet. This is a  
49 deviation from the Zoning Ordinance.
- 50 6. The maximum lot coverage for the subject Site shall be 36.2%. This is a deviation  
51 from the Zoning Ordinance.
- 52  
53 Adopted by the Council of the City of Virginia Beach, Virginia, on the \_\_\_\_\_ day of  
54 \_\_\_\_\_, 2023.

APPROVED AS TO CONTENT:

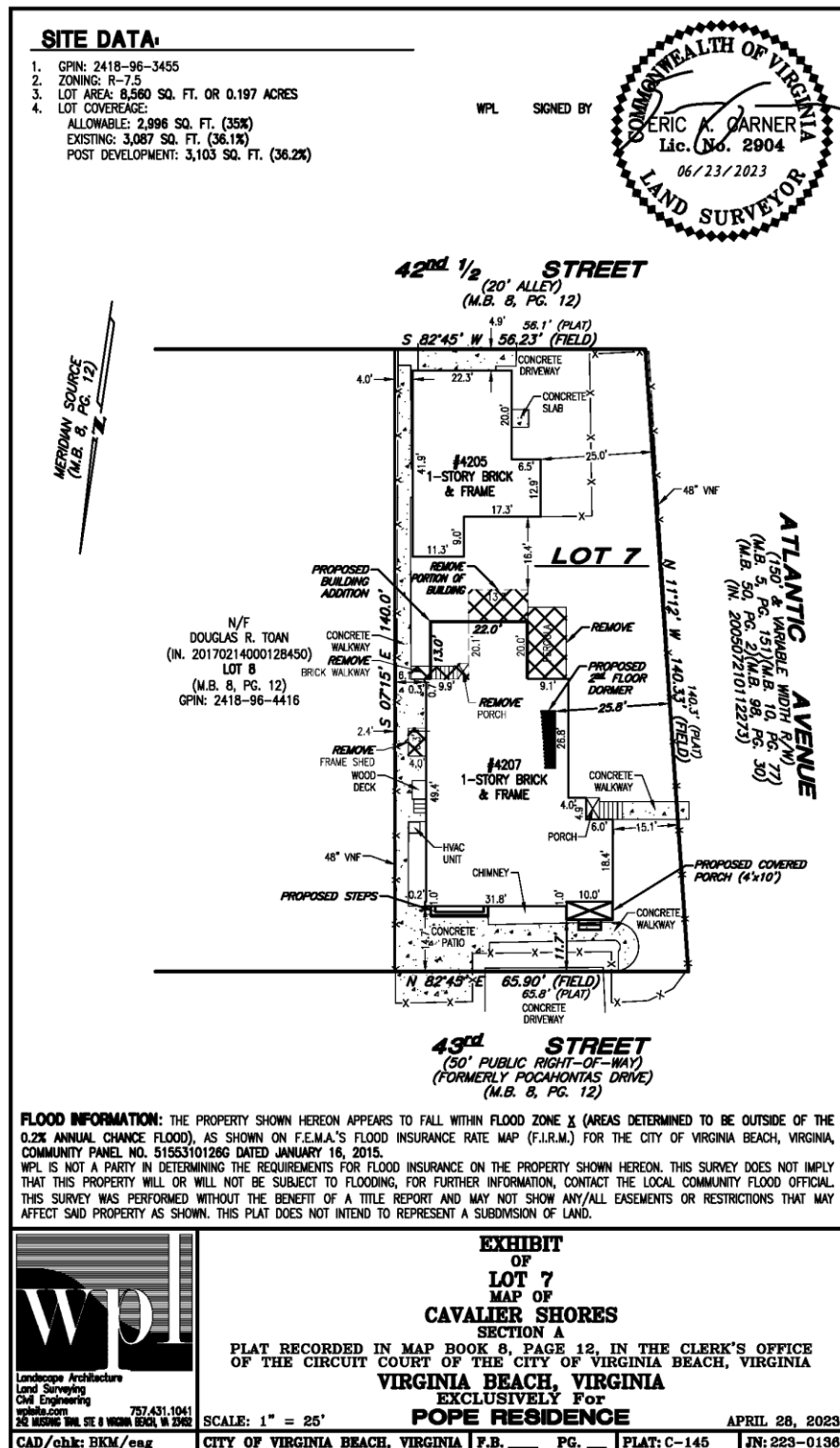
APPROVED AS TO LEGAL SUFFICIENCY:

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

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

CA16201  
R-2  
June 30, 2023

# Proposed Site Layout



# Proposed Elevation Plan

BATTAGLIA  
design



New West Elevation

- 10' 0" MAXIMUM TREE CROWN
- BRICK TO REMAIN & CEDAR SHINGLES ADDED
- ROOF SHINGLES TO REMAIN
- ALL WINDOWS & DOORS REPLACED
- STUPPERS ADDED
- ALL COLORS TO REMAIN AS EXISTING



New North Elevation

- BRICK TO REMAIN
- ROOF SHINGLES TO REMAIN & CEDAR SHINGLES ADDED TO PORCH ROOF
- ALL WINDOWS & DOORS REPLACED
- CEILING SHINGLES TO REMAIN & CEDAR SHINGLES ADDED TO VAULTED CEILING
- ALL COLORS TO REMAIN AS EXISTING

VIRGINIA BEACH, VIRGINIA

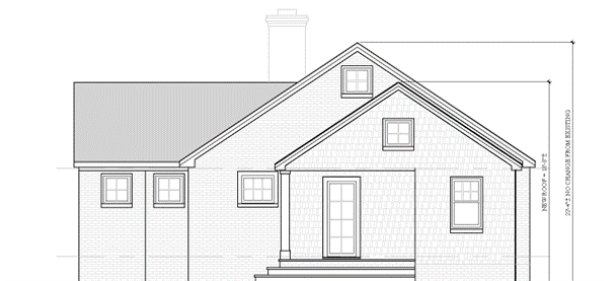
757.713.5899

BATTAGLIA  
design



East Elevation

- VINYL SIDING TO BE REPLACED BY CEDAR SHINGLES
- ROOF SHINGLES TO REMAIN, COVER OR BRICK STANDING SEAM METAL ON NEW DORMER
- ALL WINDOWS & DOORS REPLACED
- ALL COLORS TO REMAIN AS EXISTING



New South Elevation

- BRICK TO REMAIN & CEDAR SHINGLES ADDED
- ROOF SHINGLES TO REMAIN & CEDAR SHINGLES ADDED TO PORCH ROOF
- ALL WINDOWS & DOORS REPLACED
- ALL COLORS TO REMAIN AS EXISTING

© BATTAGLIA

VIRGINIA BEACH, VIRGINIA

757.7

## Existing Elevations

BATTAGLIA  
design



Existing West Elevation



Existing North Elevation

BATTAGLIA  
design



Existing East Elevation



Existing South Elevation



## 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** Alexandra Page Pope, Trustee of the Alexandra Pope Trust, dated October 30, 2017

**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)

Alexandra Page Pope, Trustee

- 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.

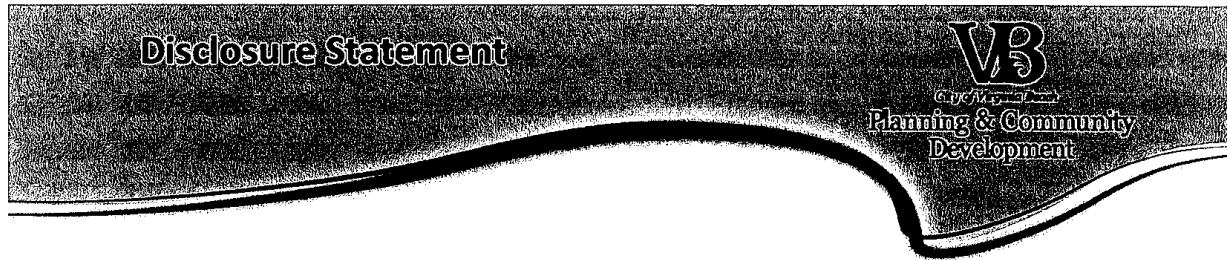
Greg Battaglia, Battaglia Designs

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 (NOT YET)

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

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

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

Eric Garner, WPL

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

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

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

### Applicant Signature

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

The Alexandra Pope Trust, dated October 30, 2017

By:

Applicant Signature

Alexandra Page Pope, Trustee

Print Name and Title

4.27.23

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 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** (Assembly Use)

**Staff Recommendation**

Approval

**Staff Planner**

Michaela McKinney

**Location**

4020 Bonney Road, Suite 101

**GPIN**

1487038750

**Site Size**

1,100 square feet

**AICUZ**

Less than 65 dB DNL

**Watershed**

Chesapeake Bay

**Existing Land Use and Zoning District**

Shopping center / B-2 Community Business

**Surrounding Land Uses and Zoning Districts**

**North**

Townhomes / A-12 Apartment

**South**

Bonney Road

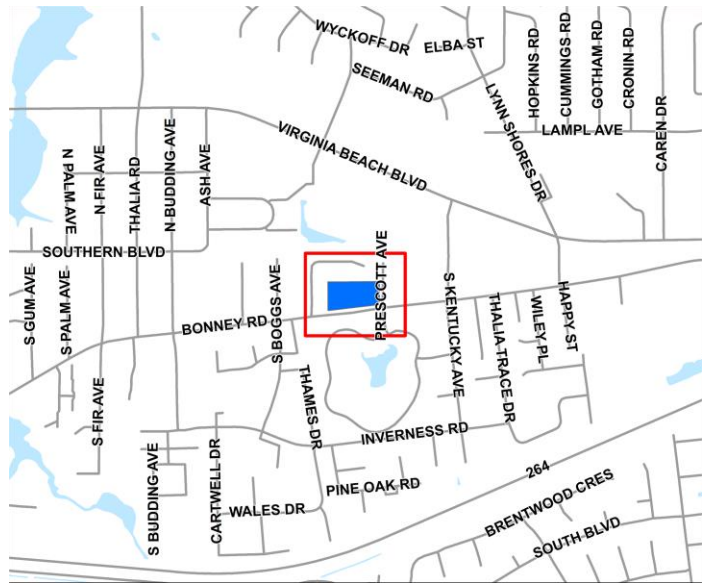
Multi-family dwellings / A-18 Apartment

**East**

Gas station, restaurant / B-2 Community Business

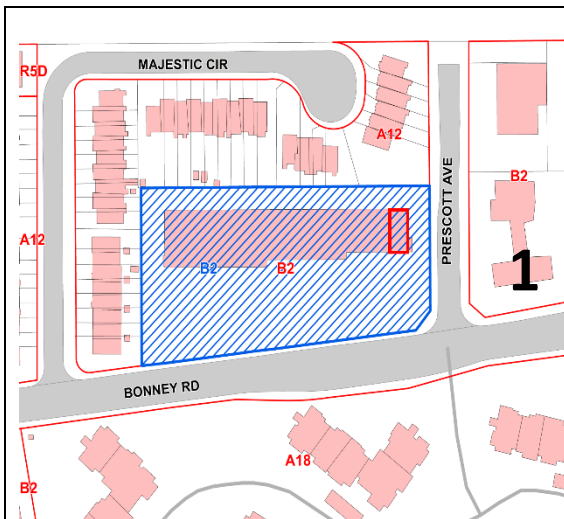
**West**

Townhomes / A-12 Apartment



## Background & Summary of Proposal

- The applicant is requesting a Conditional Use Permit for Assembly Use to operate an alcohol- and tobacco- free venue in suite 101 of the Thalia Shoppes Shopping Center. The shopping center is located along Bonney Road on property zoned B-2 Community Business District. The use will take place in a 1,100 square-foot suite in an existing shopping center.
- The venue, First Class Event Rentals, will host baby showers, pop-up shops, business meetings, and birthday parties. Food will only be prepped and served, as there will be no kitchen onsite. No alcoholic beverages or smoking products will be served or allowed onsite.
- The applicant estimates the number of guests at any event will range from 35 to 40. However, the maximum occupant load of the event space will ultimately be determined by the Building Official and the Fire Marshal.
- Typical hours of operation are 10:00 a.m. to 11:00 p.m., seven days a week.
- Per the Zoning Ordinance, one parking space per 250 square feet of floor area is required for this shopping center. The total floor area of the buildings on site is 24,680 square feet, resulting in the minimum parking requirement of 99 parking spaces. There are 108 parking spaces on the site exceeding the minimum parking requirement by nine spaces.
- The applicant proposes to have building and door signage on the exterior of the building. The existing box signage above the door will be replaced with the applicant's logo, "First Class Event Rentals". Door signage will include the applicant's logo and hours of operation. No significant exterior changes to the building are proposed.



### Zoning History

#	Request
1	CUP (Automobile Service Station) Approved 04/19/2023

### Application Types

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

## Evaluation & Recommendation

In Staff's opinion, this request for a Conditional Use Permit for Assembly Use is acceptable. The use is consistent with the Comprehensive Plan's recommendations for the Rosemont Strategic Growth Area (SGA) and is compatible with the existing shopping center, as it provides a substance free location for community members to gather. As this site is only



accessed from Bonney Road, there should be no vehicular impact on the adjacent residential areas. Due to the business's close proximity to residences to the north and west, all activities and music will take place within the building. Staff has recommended conditions 4 & 5 to ensure all activities take place within the building and that there be no amplification of music or use of speakers outdoors.

The shopping center exceeds the minimum parking requirement, as defined in Section 203 of the Zoning Ordinance, by nine spaces. It is staff's opinion that the proposed assembly use will not result in a significant increase in traffic in this established strip shopping center as the use is consistent with typical strip shopping center uses.

Based on these considerations, Staff recommends approval of the application subject to the following conditions in this report.

## Recommended Conditions

1. A business license for the Assembly Use shall not be issued to the applicant without the approval of the Health Department to ensure consistency with the provision of Chapter 23 of the City Code.
2. The applicant shall obtain all necessary permits and inspections from the Department of Planning & Community Development/Permits and Inspections Division. The applicant shall secure a Certificate of Occupancy for use of the existing building as an Assembly Use.
3. The maximum occupancy load shall not exceed the maximum number as required by applicable building codes, noted on the Certificate of Occupancy, and posted by the Fire Marshal.
4. Any on-site signage for the establishment shall meet the requirements of the City Zoning Ordinance, and there shall be no neon, electronic display or similar sign installed on the exterior of the building or in any window, or on the doors. A separate sign permit shall be obtained from the Department of Planning & Community Development for the installation of any new signs.
5. All event activities shall occur within the building. Outdoor events shall be prohibited unless specifically permitted with a Special Event permit.
6. No amplification of music or use of speakers shall be permitted except within the enclosed building.
7. Hours of operation shall be limited to 10:00 a.m. to 11:00 p.m., Monday through Sunday.

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

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

## Comprehensive Plan Recommendations

The subject property is located within the Rosemont Strategic Growth Area. While this area is designated for townhouse uses in the future, a commercial use going into an existing commercial center would be supported by the Comprehensive Plan.

## Natural & Cultural Resources Impacts

The site is located in the Chesapeake Bay Watershed. There are no known natural or cultural impacts.

## Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Bonney Road	13,500 ADT <sup>1</sup>	25,100 ADT <sup>1</sup> (LOS <sup>2</sup> "D")	No Change Anticipated <sup>3</sup>
<sup>1</sup> Average Daily Trips	<sup>2</sup> as defined by a strip shopping center	<sup>3</sup> LOS= Level of Science	

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

Bonney Road in the vicinity of this application is a four-lane undivided minor urban arterial. It is shown as an undivided facility on a 70 foot R/W on the MTP Map. There are no proposed CIP projects for Bonney Road in the area of this application.

## Public Utility Impacts

### Water & Sewer

This site is connected to City water & sanitary sewer.

## Public Outreach Information

### Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on June 12, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Wednesdays, June 28, 2023 and July 5, 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 June 26, 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/planning](http://www.viriniabeach.gov/planning) on July 6, 2023.

Existing Site Layout,





Site Photos





## Disclosure Statement

### Disclosure Statement



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

#### Applicant Disclosure

Applicant Name FIRST CLASS Event Rentals LLC

Does the applicant have a representative? ☒ Yes ☐ No

- If yes, list the name of the representative.

Adazsha Hawkins

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)

Adazsha Hawkins, Taeshon Miles

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

N/A

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

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

### Disclosure Statement



#### 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



3. 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.  
Howard Helping Hands, Devonte Howard
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.

Adazsna Hawkins

Applicant Signature

Adazsna Hawkins CO-owner

Print Name and Title

JUNE 23, 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 W. E. Sams Properties, LLC

Applicant Name FIRST CLASS EVENT RENTALS, 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)

William E. SAMS, sole owner

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

#### 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.

TowneBank

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

☐ Yes ☒ No

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

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

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

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

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

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

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

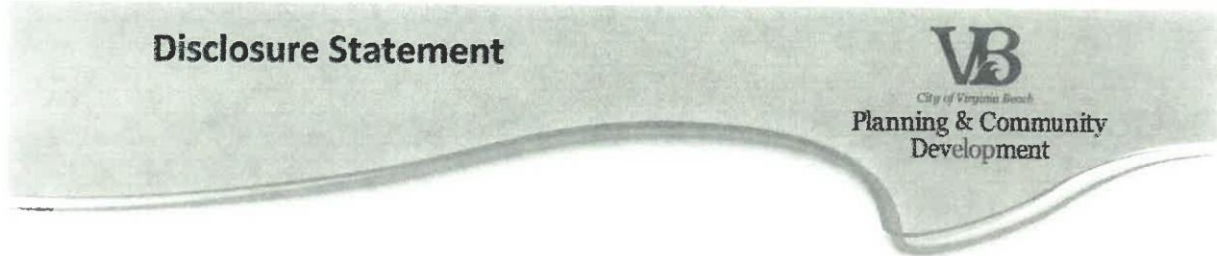
6. Does the Owner have a construction contractor in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

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

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

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

## Disclosure Statement



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

### Owner Signature

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



Owner Signature

Print Name and Title

William E. Sams

Date 4-25-23

## Next Steps

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





**Request**

**Conditional Use Permit** (Tattoo Parlor)

**Staff Recommendation**

Approval

**Staff Planner**

Michaela McKinney

**Location**

4224 Virginia Beach Boulevard, Suite 104

**GPIN**

1477953769

**Site Size**

6.8 acres (1,297 square feet suite)

**AICUZ**

Less than 65 dB DNL

**Watershed**

Chesapeake Bay

**Existing Land Use and Zoning District**

Shopping center / B-2 Community Business

**Surrounding Land Uses and Zoning Districts**

**North**

Single-family dwellings / R-7.5 Residential

**South**

Virginia Beach Blvd

Retail, office / B-2 Community Business

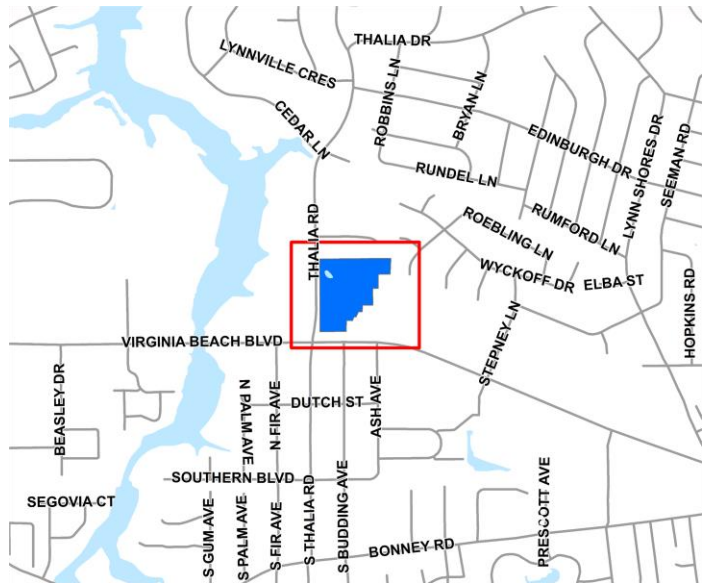
**East**

Retail, VB EMS / B-2 Community Business

**West**

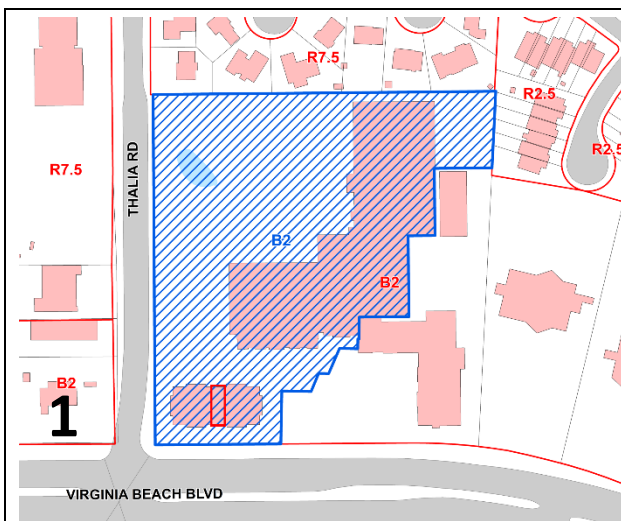
Thalia Road

Auto Repair / B-2 Community Business



## Background & Summary of Proposal

- The applicant is requesting a Conditional Use Permit to operate a Tattoo Parlor, specifically for the application of permanent makeup, known as microblading, within an existing salon at the Wayside Village Shoppes. The shopping center is located along Virginia Beach Boulevard on property zoned B-2 Community Business District.
- Microblading will take place in a small, private room within the existing salon.
- According to the applicant, two employees are anticipated.
- Typical hours of operation are 10:00 a.m. to 8:00 p.m., Monday through Saturday and 11:00 a.m. to 6:00 p.m. on Sundays. All permanent makeup services will be by appointment only.
- No exterior changes to the building or new signage are proposed.



### Zoning History

#	Request
1	CUP (Automobile Repair Garage) Approved 06/20/2018 CUP (Automotive Repair) Approved 07/10/2012 CUP (Automobile Service Station) Approved 12/08/1993

### 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 a Conditional Use Permit for a Tattoo Parlor, specifically for the application of permanent makeup, in Staff's opinion, is acceptable given that the use is compatible with the other existing commercial businesses located in the vicinity and within this part of the suburban area. The application of permanent makeup within an existing salon is not expected to negatively impact other uses within the shopping center or the vicinity.

Prior to commencing operations on the site, the applicant must obtain a business license and the Health Department must verify that the business meets all the requirements of Chapter 23-51 of the City Code. Chapter 23-51 details the standards for disclosure, hygiene, licenses, waivers, proof of age, recordkeeping, inspections, cleanliness, vaccinations, and permitting applicable to such establishment. A Certificate of Occupancy will not be issued until the requirements are satisfied and Health Department approval is obtained. For the reasons stated above, Staff recommends approval of this application, subject to the conditions listed below.

## Recommended Conditions

1. A business license for the Tattoo Parlor shall not be issued to the applicant without the approval of the Health Department to ensure compliance with the provisions of Chapter 23-51 of the City Code.
2. This Conditional Use Permit for a Tattoo Parlor shall be limited to the application of permanent makeup. No other form of tattooing shall be permitted.
3. The actual application of permanent makeup shall not be visible from the exterior of the establishment or from the waiting and sales area within the establishment.
4. Any on-site signage for the establishment shall meet the requirements of the City Zoning Ordinance, and there shall be no neon, electronic display or similar signage installed on the exterior of the building or in any window, or on the doors. Window signage shall not be permitted. A separate sign permit shall be obtained from the Department of Planning & Community Development for the installation of any new signs.

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

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

## Comprehensive Plan Recommendations

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

## Natural & Cultural Resources Impacts

The site is located in the Chesapeake Bay Watershed. There are no known natural or cultural resources.

## Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Virginia Beach Blvd	39,000 ADT <sup>1</sup>	74,000 ADT <sup>1</sup> (LOS <sup>2</sup> "D")	No Change Anticipated <sup>3</sup>
<sup>1</sup> Average Daily Trips	<sup>2</sup> as defined by a tattoo parlor	<sup>3</sup> LOS= Level of Science	

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

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

## **Public Utility Impacts**

### **Water & Sewer**

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

## **Public Outreach Information**

### **Planning Commission**

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on June 12, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, June 28, 2023 and July 5, 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 June 26, 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/planning](http://www.viriniabeach.gov/planning) on July 6, 2023.



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** BEAU iBROWZ LLC

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

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

TRIPTY KAPOOR

**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)

TRIPTY KAPOOR - OWNER

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

N/A

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

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



## Disclosure Statement



### 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.

PURVSHOTTAM VACHHANI, CPA

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

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

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

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



## Disclosure Statement

### Disclosure Statement



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

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

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

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

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

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

#### Applicant Signature

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

  
Applicant Signature

TRIPTI KAPOOR  
Print Name and Title

5.1.2023  
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 WILLIS REALTY CORPORATION

Applicant Name Beauibrowz 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)

BEV WILLIS

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



## 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.

 PRESIDENT

Owner Signature

BEN S WILLIS II, PRESIDENT

Print Name and Title

05/09/2023

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**

**Street Closure**

**Staff Recommendation**

Approval

**Staff Planner**

Michaela McKinney

**Location**

Portion of New York Avenue between S. First Colonial Road & Oceana Boulevard

**Adjacent GPIN(s)**

2407841479, 2407842571, 2407843468,  
2407844543, 2407845500, 2407845543,  
2407845498, 2407845609, 2407844644,  
2407843689, 2407843731, 2407842602

**Site Size**

21,072 square feet

**AICUZ**

Greater than 75 dB DNL; APZ-1; Clear Zone

**Watershed**

Chesapeake Bay

**Existing Land Use and Zoning District**

Improved public right-of-way

**Surrounding Land Uses and Zoning Districts**

**North**

Undeveloped lots / B-2 Community Business

**South**

Undeveloped lots / B-2 Community Business, R-5D Residential

**East**

Oceana Boulevard

Undeveloped lots / R-5D Residential

**West**

S. First Colonial Road

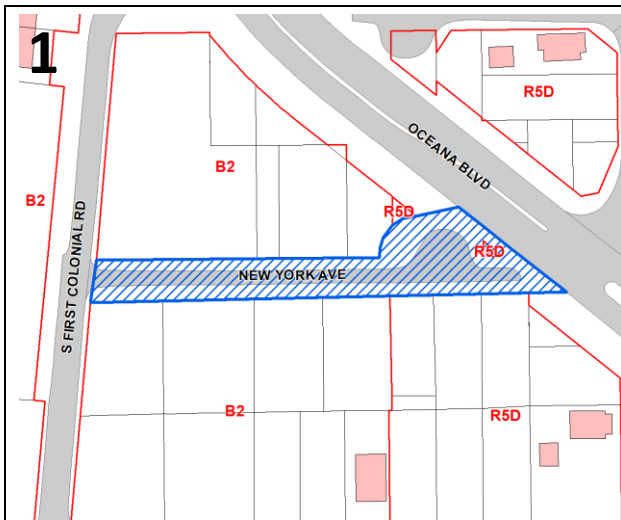
Retail, auto repair, bulk storage / B-2

Community Business



## Background & Summary of Proposal

- The applicant, City of Virginia Beach, is requesting to close a portion of New York Avenue, west of Oceana Boulevard and east of South First Colonial Road. As shown on the submitted street closure exhibit, the proposed area for closure is an approximate 21,072-square-foot portion of New York Avenue.
- The applicant is the owner of all parcels adjacent to the area proposed for closure.
- The public right-of-way and the surrounding lots will be utilized as part of the Flood Protection Program, the land will be improved with a new construction wetland and Best Management Practice (BMP)
- The applicant intends to vacate all interior lot lines for the city-owned parcels in order to consolidate the parcels into one and create the proposed constructed wetland.
- While the applicant owns a majority of parcels in the vicinity of the proposed street closure, 1660 Southern Boulevard and 105 Louisa Avenue remain privately owned and are currently developed with single-family dwellings. The applicant will install a 10-foot-wide landscape buffer to screen the wetland area from the existing residential lots as part of the improvement to this area.



### Zoning History

#	Request
1	CUP (Bulk Storage Yard and Auto Repair Garage) Approved 08/13/2013

### 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

As required by City Code, a Viewers' Meeting was held on May 24, 2023, that included City Staff from the Departments of Public Works, Public Utilities, Planning & Community Development, and the Office of the City Attorney, to consider this request. The Viewers determined that the proposed closure will not result in any public inconvenience; therefore, closure of this portion of the right-of-way is deemed acceptable. Staff also determined that neither a public drainage easement nor a public utilities easement would be required for this proposed closure. As this portion of the right-of-way is improved, a super majority vote from City Council will be required to approve the closure.

Consistent with other Street Closure requests, the applicant will submit a resubdivision plat to the Department of Planning & Community Development to vacate the interior property lines to consolidate the lots for the proposed



wetland and BMP. As noted in Condition 1, because the applicant is both the City and the owner of the underlying fee, no purchase price will be charged in this Street Closure request.

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

## Recommended Conditions

1. The City Attorney's Office shall make the final determination regarding ownership of the underlying fee. The purchase price to be paid to the City shall be determined according to the "Policy Regarding Purchase of City's Interest in Streets Pursuant to Street Closures," approved by City Council. Copies of the policy are available in the Department of Planning & Community Development. However, no purchase price shall be charged in this street closure because the City is both the owner of the underlying fee and the Applicant seeking the closure.
2. The applicant shall resubdivide the property to incorporate the closed area and vacate all internal lot lines into a single parcel. The resubdivision plat must be submitted and approved for recordation prior to the final street closure approval.
3. The applicant shall verify that no private utilities exist within the right-of-way proposed for closure. If private utilities do exist, easements satisfactory to the utility company shall be provided.
4. Closure of the right-of-way shall be contingent upon compliance with the above stated conditions within 365 days of approval by City Council. If the conditions noted above are not accomplished and the final plat is not approved for recordation within one year of the City Council vote to close the rights-of-way this approval shall be considered null and void, unless an extension is granted by City Council.

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

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

## Natural & Cultural Resources Impacts

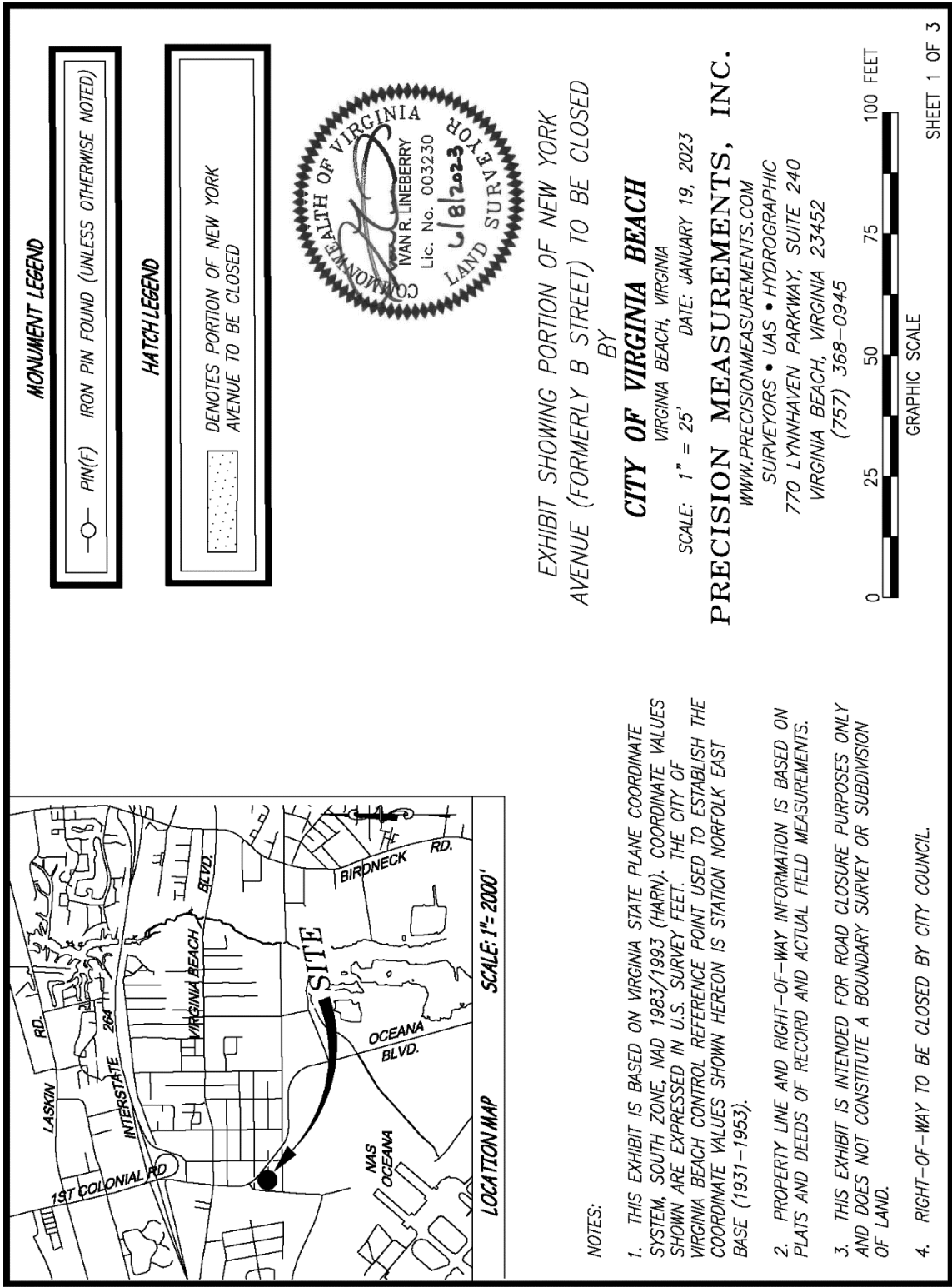
The site is located in the Chesapeake Bay Watershed. There are no natural or cultural resources on this site.

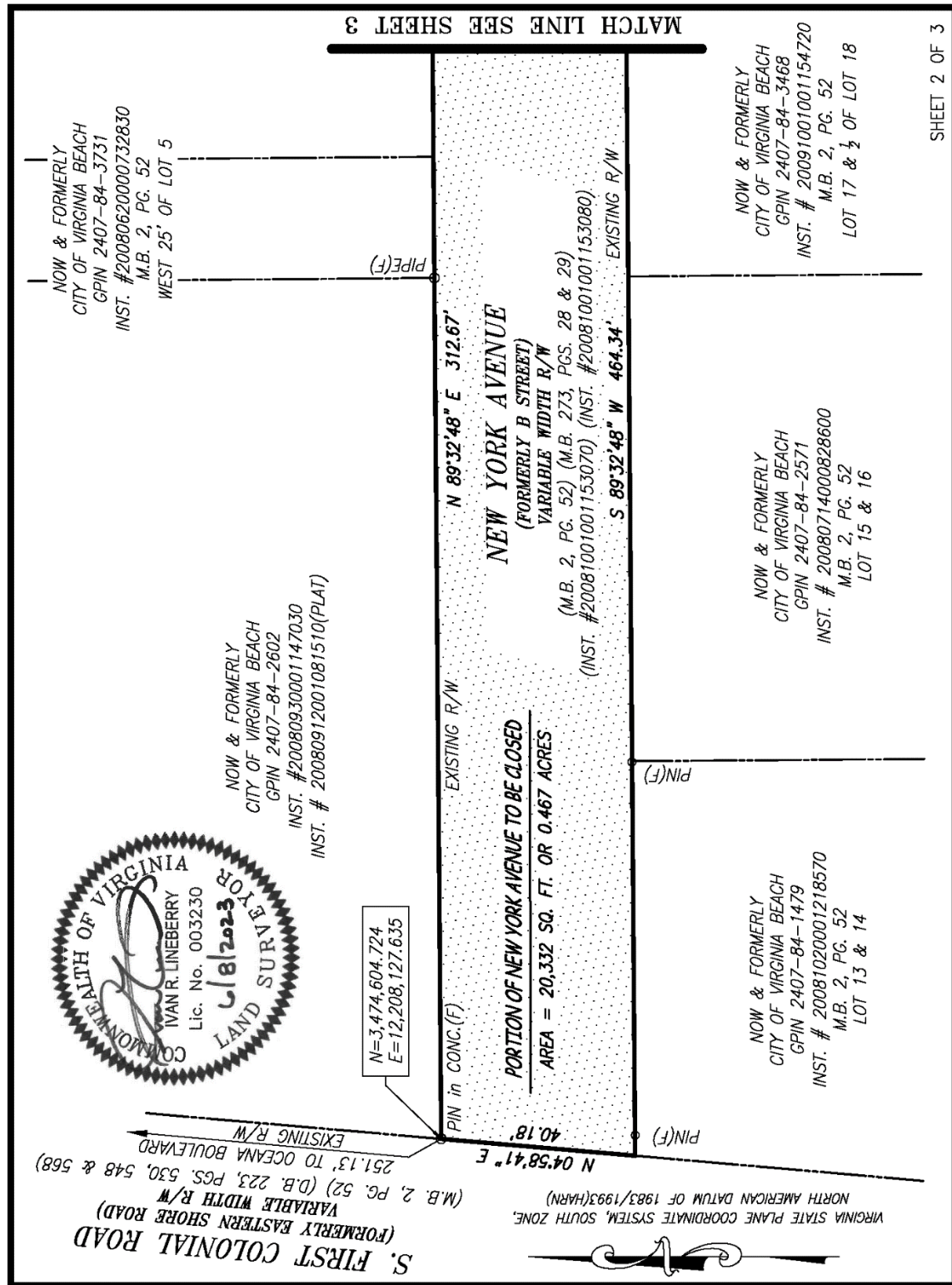
## Public Outreach Information

### Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on June 12, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, June 28, 2023 and July 5, 2023.

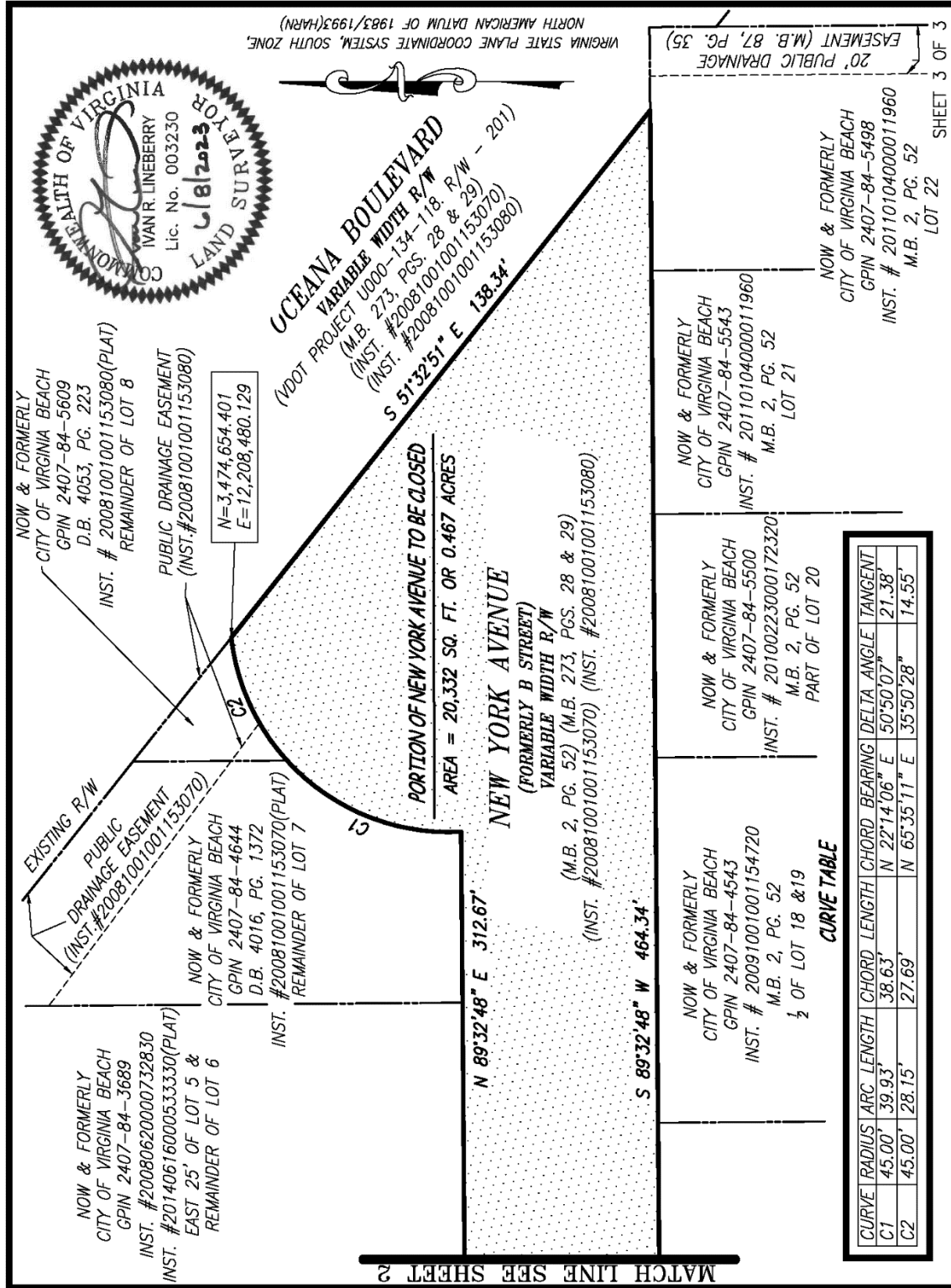
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on June 26, 2023.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of [www.virginiabeach.gov/planning](http://www.virginiabeach.gov/planning) on July 6, 2023.



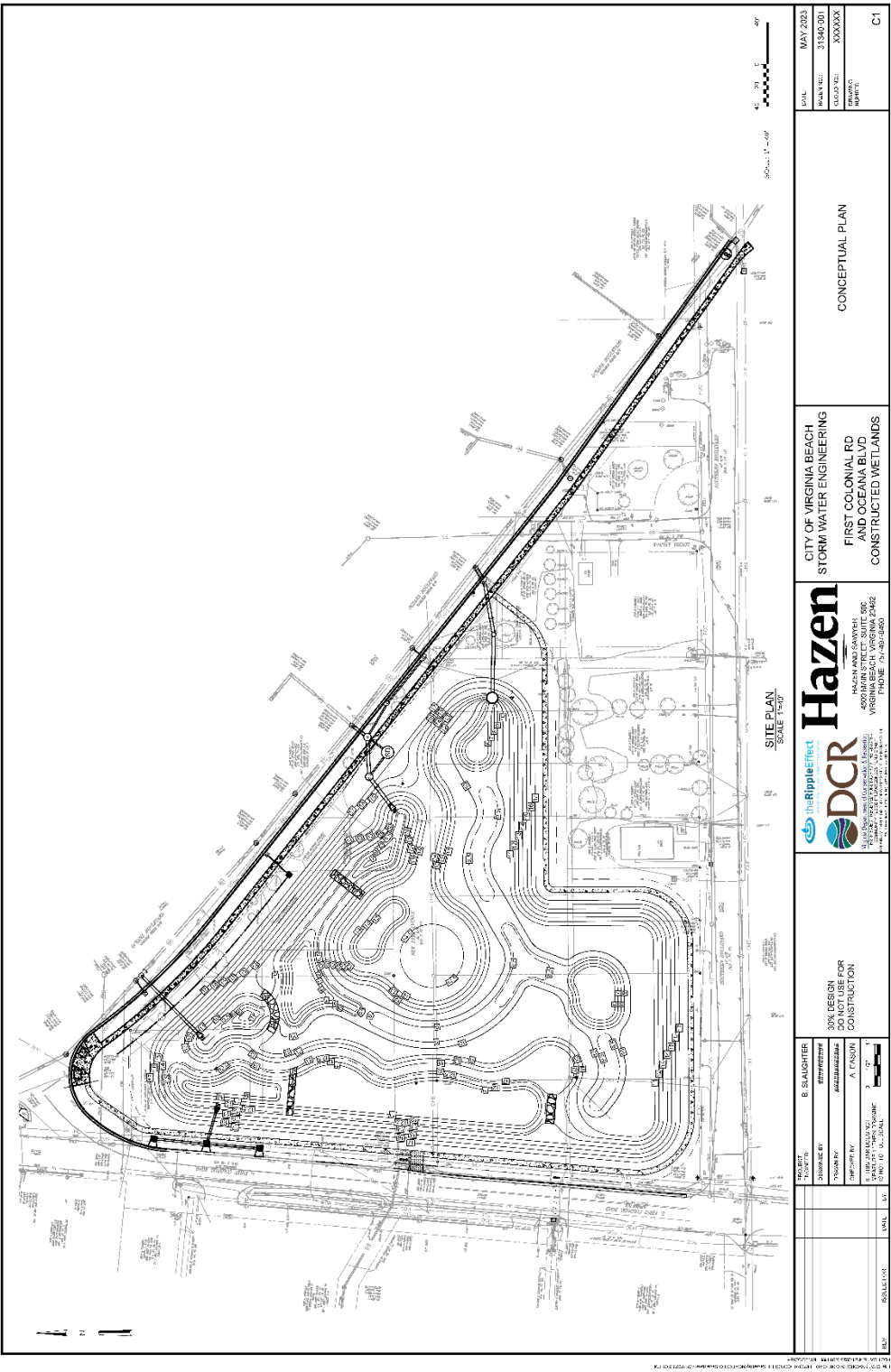




# Street Closure Exhibit



Proposed Concept Plan





Site Photos



## 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**

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

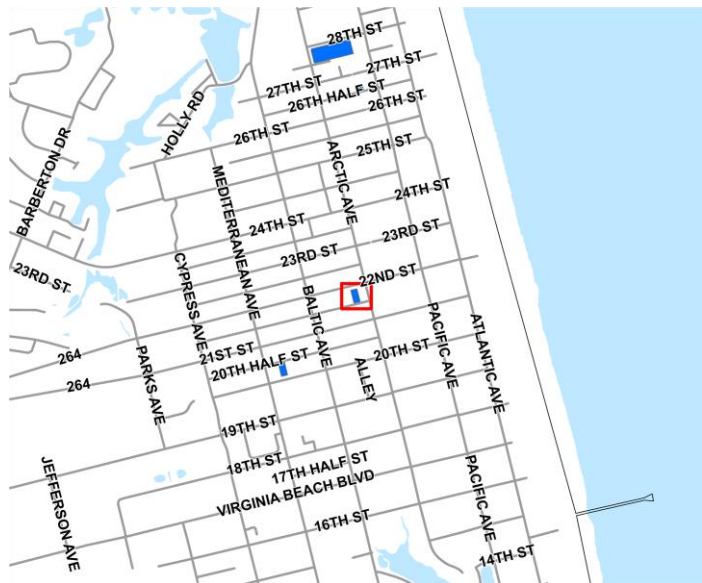
**East**

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

	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 #19	8- As recommended in condition #19
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

## Evaluation & Recommendation

The applicant is requesting to operate two, four-bedroom Short Term Rental units on this 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 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 physical present at the Short Term Rental within one (1) hour.
7. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
  - a) A completed Department of Planning and Community Development Short Term Rental Zoning Permit; and
  - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
  - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.



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

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

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

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

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

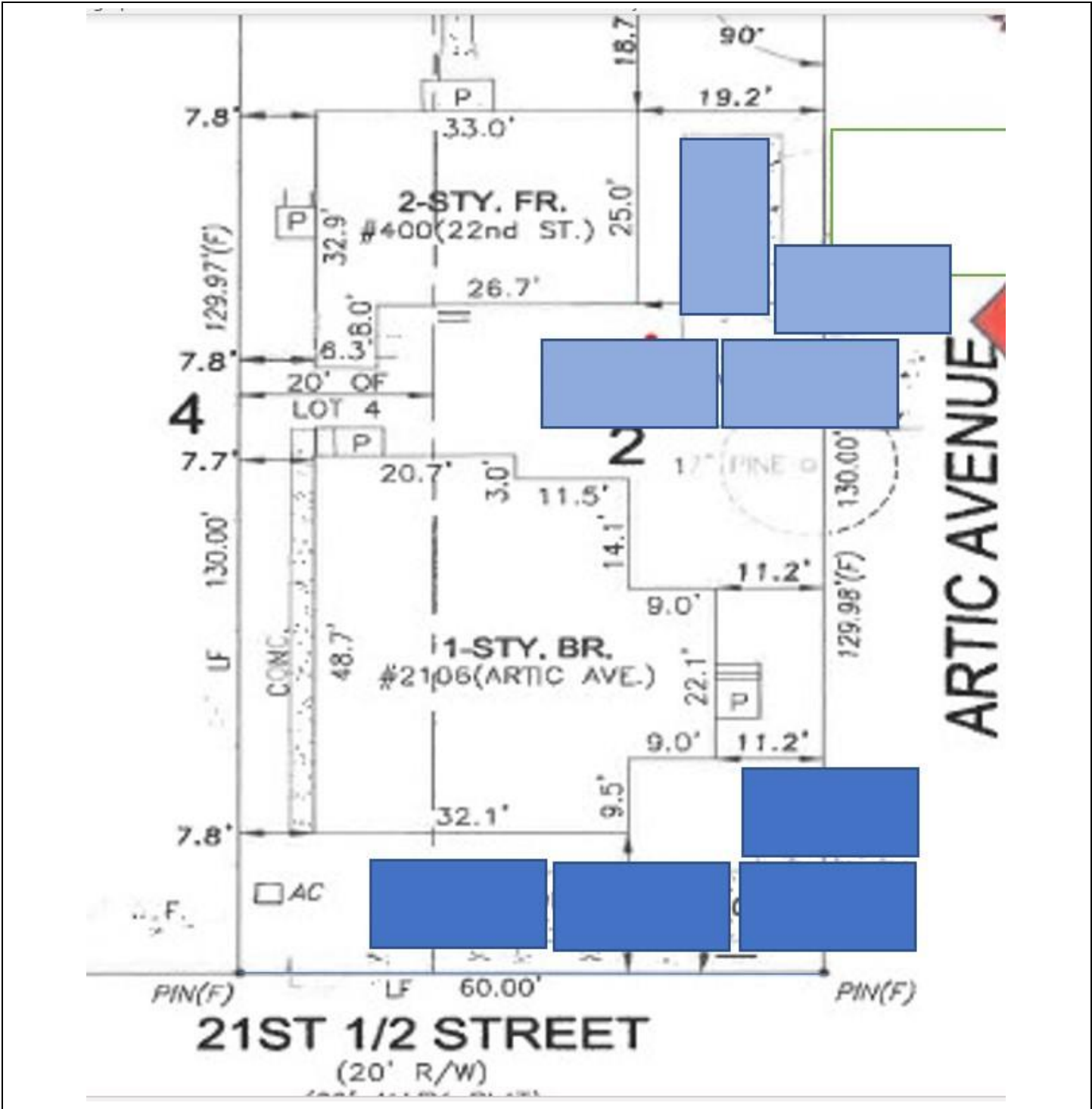
*The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.*

## Public Outreach Information

### Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on June 12, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, June 28, 2023, and July 5, 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 June 26, 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/planning](http://www.viriniabeach.gov/planning) on July 6, 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*

dotloop verified  
04/30/23 7:22 PM EDT  
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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.

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## Disclosure Statement

dotloop signature verification: <https://dotloop.com/verify/2566-02209>

### 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

dotloop signature verification: <https://dotloop.com/verify/25m-Q2pK>

### 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*

dotloop verified  
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.





**Request**

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

**Staff Recommendation**

Approval

**Staff Planner**

Pamela Witham

**Location**

402 22nd Street

**GPIN**

24270855050000

**Site Size**

7,976 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)

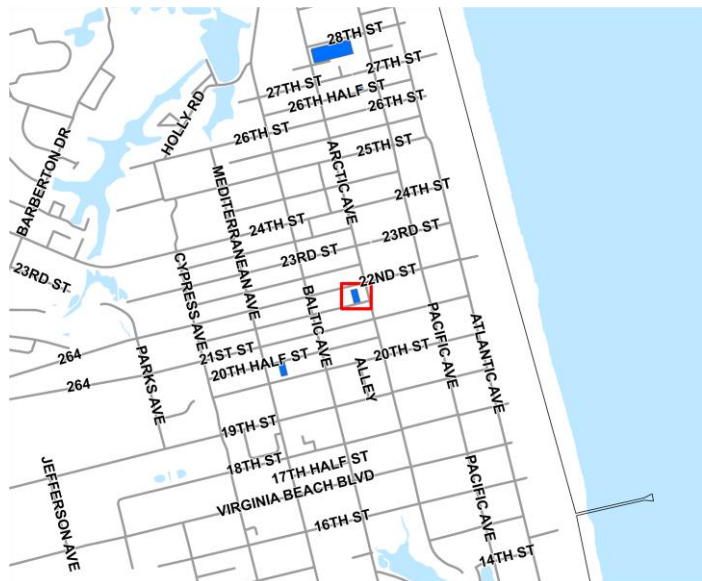
Single-family and Multi-family dwellings / OR Oceanfront Resort

**East**

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

**West**

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



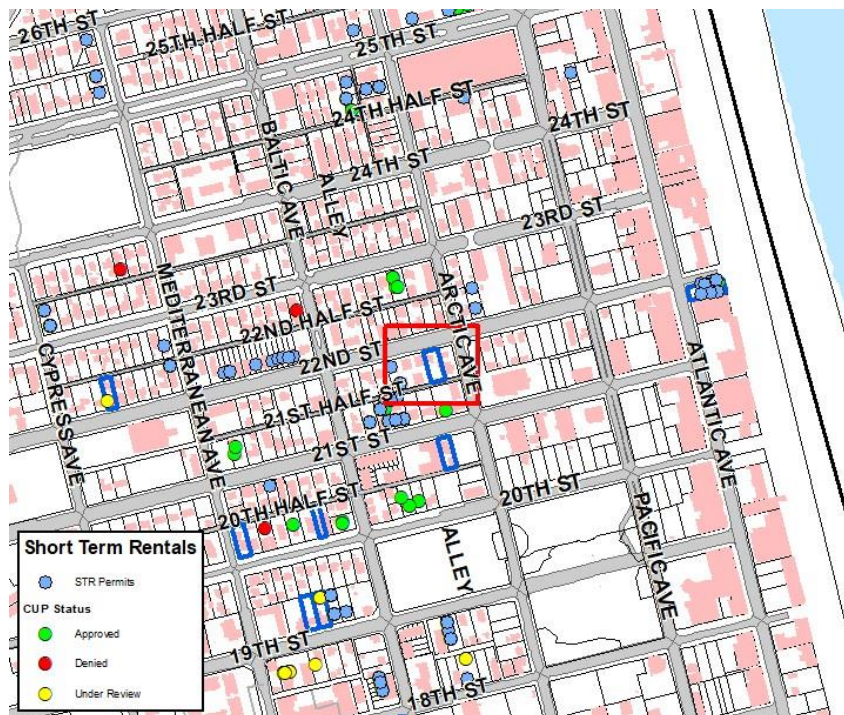
## Background & Summary of Proposal

### Site Conditions and History

- This 7,976 square-foot lot is zoned OR Oceanfront Resort.
- According to City records, the dwelling is a 3-bedroom home constructed in 1940.
- Staff inspected the site on May 24, 2023 to observe site conditions and obtained photographs for this report.
- On-street parking is not permitted on this portion of 22nd Street and Artic Avenue, nor in the alleyway.
- No past violations or 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

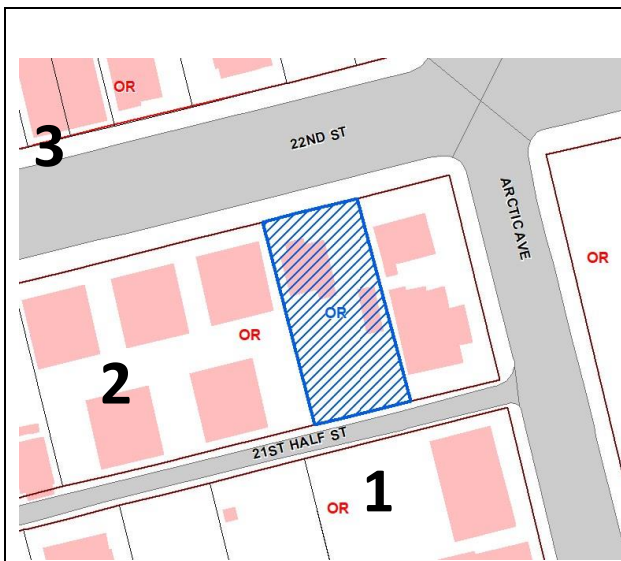
### Short Term Rentals in the Vicinity



## Summary of Proposal

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

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



### 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	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 three-bedroom Short Term Rental unit on this parcel. The dwelling was constructed in 1940 and is 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 unit in question has 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 this unit for Short Term Rentals prior to approval of this application. Based on the information provided by the applicant, the unit appears 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 unit addressed as 402 22<sup>nd</sup> Street and the Short Term Rental use shall only occur in the principal structure.
2. An annual (yearly) STR Zoning Permit must be obtained from the Department of Planning and Community Development (Zoning Administration) before using the dwelling for Short-Term Rental purposes.
3. Off-street parking shall be provided as required by Section 241.2 and 2303(b)(a)(i)(ii) of the City Zoning Ordinance or as approved by City Council.
4. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
5. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1.
6. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes and to be physical present at the Short Term Rental within one (1) hour.
7. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
  - a) A completed Department of Planning and Community Development Short Term Rental Zoning Permit; and
  - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
  - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
8. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
9. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
10. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
11. Accessory structures shall not be used or occupied as Short Term Rentals.
12. No signage shall be on-site, except that each short term rental shall have one (1) four-square foot sign posted on the building, or other permanent structure or location approved by the Zoning Administrator, that identifies the property as a short term rental and provides the telephone numbers for the Short Term Rental Hotlines in text large enough to be read from the public street.



13. The Short Term Rental shall have no more than one (1) rental contract for every seven (7) consecutive days.
14. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
15. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
16. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom, which number shall not include minors under the age of 16, provided that in no case may the total number of persons staying overnight at the property exceed the number of approved bedrooms multiplied by three (3).
17. The property owner, or their representative, shall provide to the City Planning Department permission to inspect the Short Term Rental property annually. Such inspection shall include: 1) At least one fire extinguisher has been installed inside the unit (in the kitchen) and in plain sight 2) Smoke alarms and carbon monoxide detectors are installed in accordance with the building code in affect at the of construction and interconnected. Units constructed prior to interconnection requirements must have a minimum of one smoke alarm installed on every floor of the structure and in the areas adjacent to all sleeping rooms, and when activated, be audible in all sleeping rooms, and 3) All smoke alarms and carbon monoxide detectors have been inspected within the last twelve months and are in good working order.

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

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

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

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

*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.*

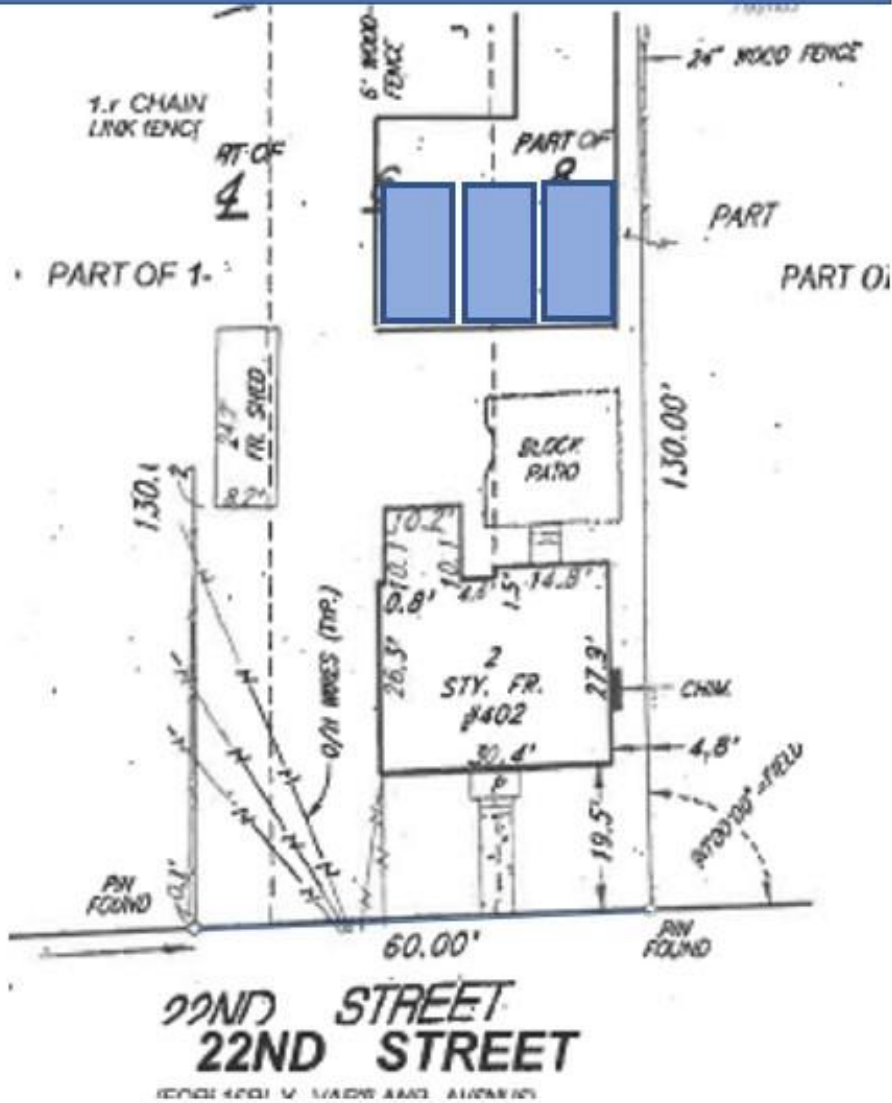
## Public Outreach Information

### Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on June 12, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, June 28, 2023, and July 5, 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 June 26, 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/planning](http://www.viriniabeach.gov/planning) on July 6, 2023.

## Site Layout & Parking Plan

Parking for this location is accessed from the alley at 21<sup>st</sup> ½ Street



## Site Layout & Parking Plan





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** 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.



### 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.

Kyle Florio OWN Realestate

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

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*

dotloop verified  
04/30/23 7:22 PM EDT  
f1c9w49jg-wt28-lgs

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** George Georghiou

**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)

--	--

- 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

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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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### 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

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## 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.**

 dotloop verified  
05/26/23 4:16 PM EDT  
H18W-DBN-IL2R-WHG2

Owner Signature

George Georghiou

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.



**Request**

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

**Staff Recommendation**

Approval

**Staff Planner**

Pamela Witham

**Location**

604 20th Street

**GPIN**

24179745950000

**Site Size**

6,871 square feet

**Existing Land Use and Zoning District**

Single-family dwelling / OR Oceanfront Resort

**Surrounding Land Uses and Zoning Districts**

**North**

20<sup>th</sup> Street

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

**South**

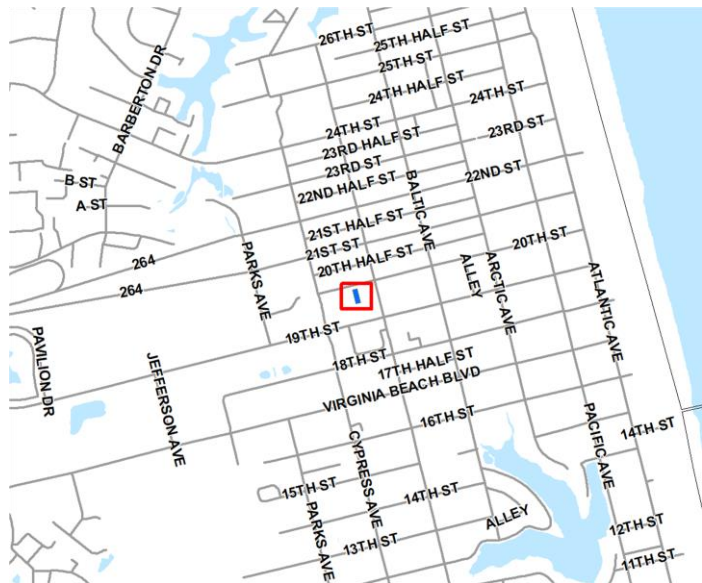
Business and commercial use / OR Oceanfront Resort

**East**

Commercial use, single-family and multi-family dwellings / OR Oceanfront Resort

**West**

Business and commercial use, hotel use / OR Oceanfront Resort



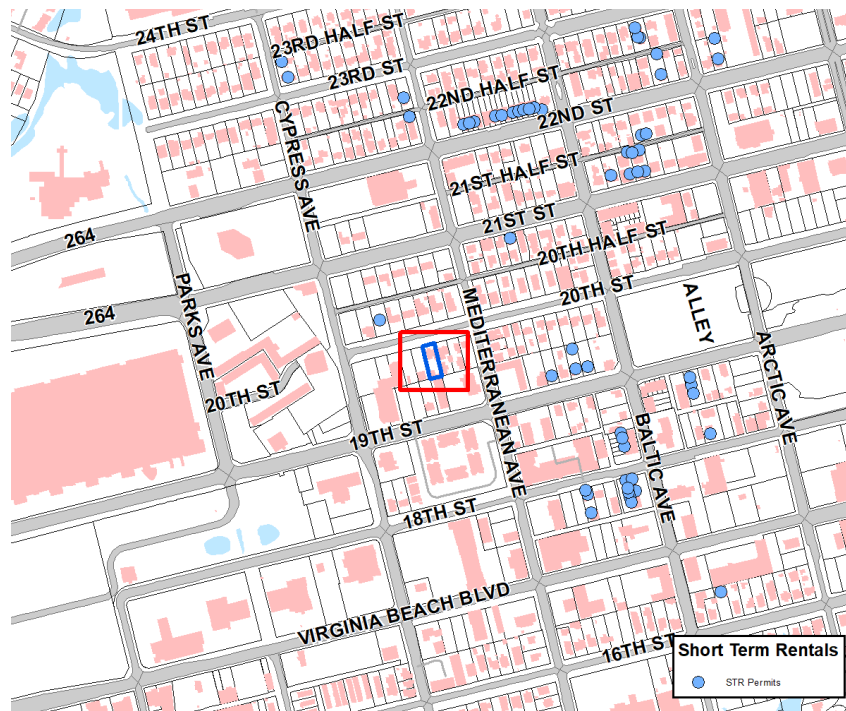
## Background & Summary of Proposal

### Site Conditions and History

- This 6,871 square-foot lot is zoned OR Oceanfront Resort.
- According to City records, this dwelling contains 3-bedrooms and was constructed in 1949.
- Staff inspected the site on May 24, 2023 to observe site conditions and obtained photographs for this report.
- On-street parking is not permitted on this portion of 20th Street.
- One citation for operating a Short Term Rental without a permit was issued on April 4, 2023.
- 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	April 23, 2023	Yes

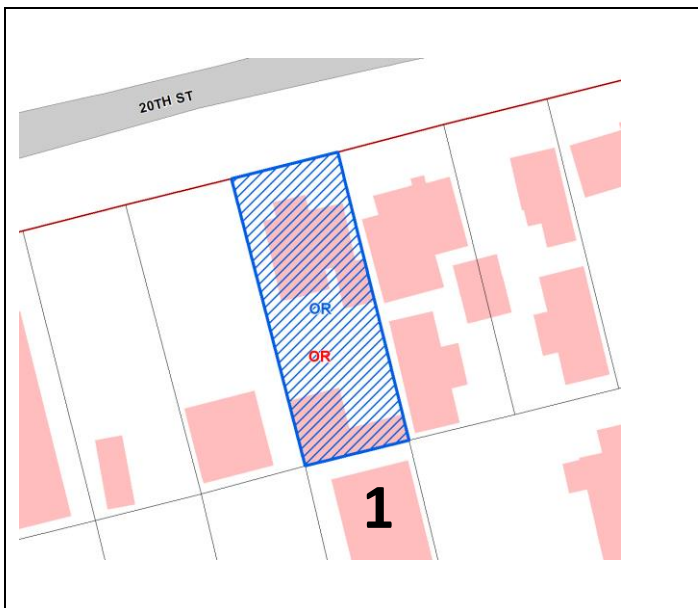
#### *Short Term Rentals in the Vicinity*



## Summary of Proposal

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

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



### Zoning History

#	Request
1	ALT Approved 01/05/2016

### 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 three-bedroom Short Term Rental on this parcel. The site was constructed in 1949 and is located along 20th Street. Since the site is in the Oceanfront Resort (OR) Short Term Rental Overlay District, a Short Term Rental use is expected. The parcel of the surrounding area is a mixture of multi-family dwellings, single-family dwellings, commercial retail, other resort-oriented uses.

The unit in question has previously been advertised and utilized as a Short Term Rental, according to City records and Host Compliance. The applicant has stated that they do not intend to continue using this unit for Short Term Rentals prior to approval of this application. Based on the information provided by the applicant, the unit appears 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 unit addressed as 604 20th Street and the Short Term Rental use shall only occur in the principal structure.
2. An annual (yearly) STR Zoning Permit must be obtained from the Department of Planning and Community Development (Zoning Administration) before using the dwelling for Short-Term Rental purposes.
3. Off-street parking shall be provided as required by Section 241.2 and 2303(b)(a)(i)(ii) of the City Zoning Ordinance or as approved by City Council.
4. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
5. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1.
6. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes and to be physical present at the Short Term Rental within one (1) hour.
7. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
  - a) A completed Department of Planning and Community Development Short Term Rental Zoning Permit; and
  - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
  - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
8. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
9. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
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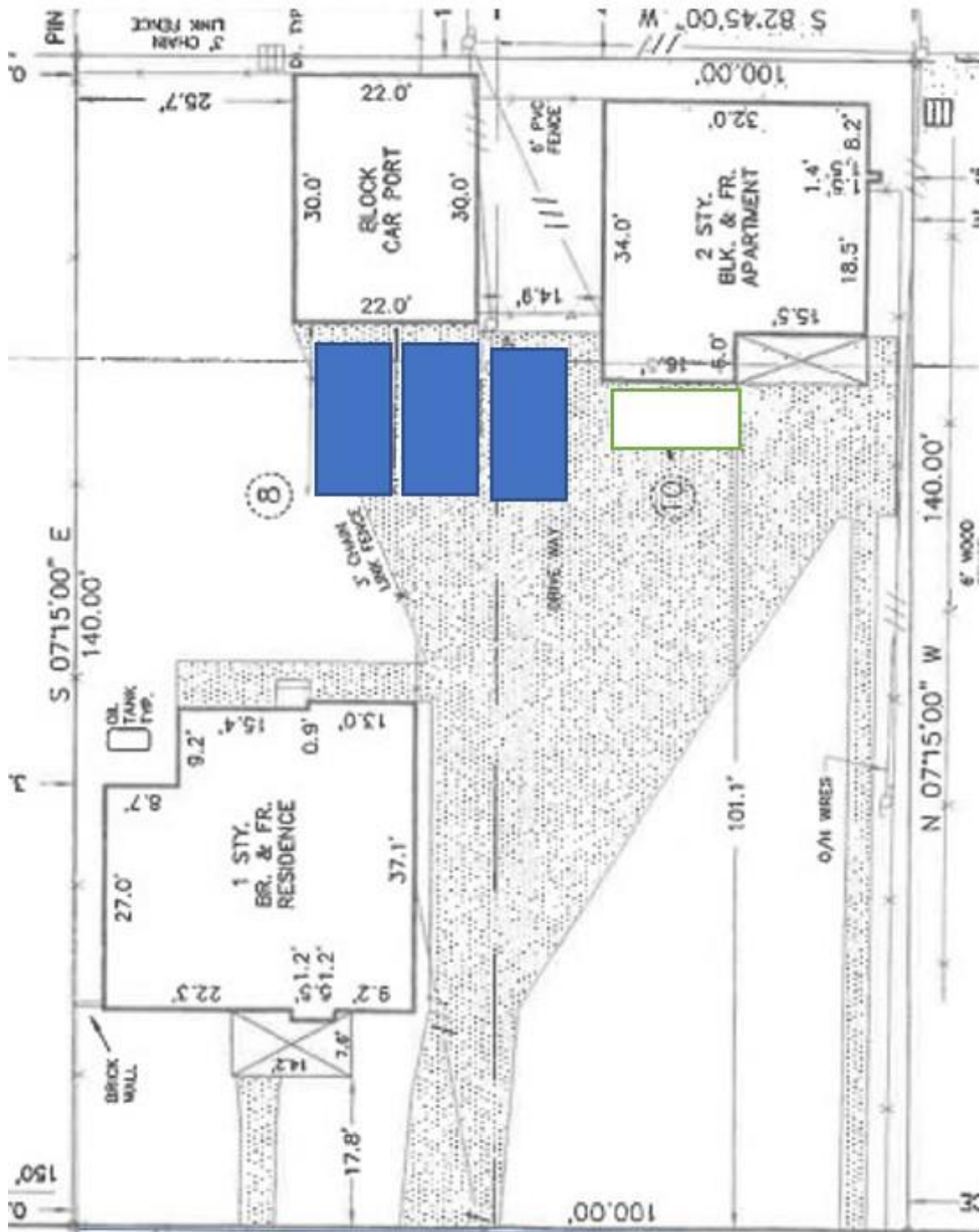
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## Public Outreach Information

### Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on June 12, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, June 28, 2023, and July 5, 2023.
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# Site Layout & Parking Plan



Site Photo





## Disclosure Statement

### Disclosure Statement



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#### Applicant Disclosure

Applicant Name

Porpoise LLC

Does the applicant have a representative? ☒ Yes ☐ No

- If yes, list the name of the representative.

Penny McLeod

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)

Leslie G Shaw Jr

Carley Shaw

Leslie G Shaw III

Joan Shaw

- 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)

US Fiberglass Products Inc  
Northeast LLC

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

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## Disclosure Statement

### 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

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#### 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.

*Tare Bank*

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

☐ Yes ☒ No

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

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

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*GBS George Walsh*

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

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

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

## Disclosure Statement

### Disclosure Statement



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

Teddy Midkiff PLLC - Teddy Midkiff

#### 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.

[Signature]  
Applicant Signature

LG Shaw - President  
Print Name and Title

5/25/25  
Date

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

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

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

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

## Next Steps

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



**Request**

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

**Staff Recommendation**

Approval

**Staff Planner**

Pamela Witham

**Location**

606 20th Street, Unit A

**GPIN**

24179745440000

**Site Size**

6,394 square feet

**Existing Land Use and Zoning District**

Single-family dwelling / OR Oceanfront Resort

**Surrounding Land Uses and Zoning Districts**

**North**

20<sup>th</sup> Street

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

**South**

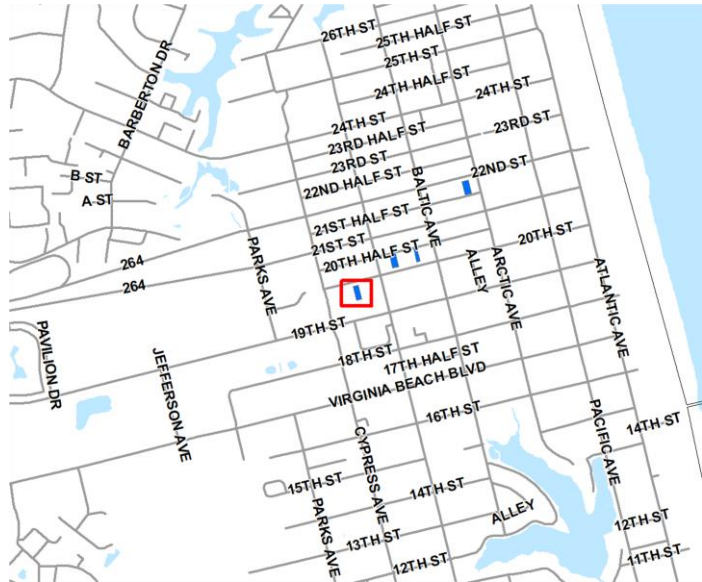
Business and commercial use / OR Oceanfront Resort

**East**

Commercial use, single-family and multi-family dwellings / OR Oceanfront Resort

**West**

Business and commercial use / OR Oceanfront Resort



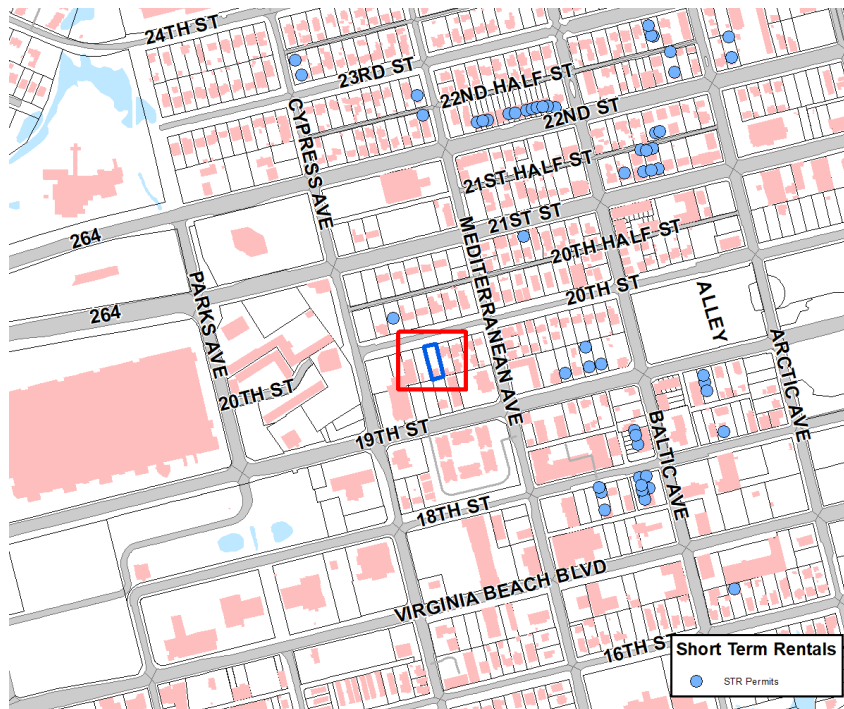
## Background & Summary of Proposal

### Site Conditions and History

- This 6,394 square-foot lot is zoned OR Oceanfront Resort.
- According to City records, this dwelling contains 2-bedrooms and was constructed in 1953.
- Staff inspected the site on May 24, 2023 to observe site conditions and obtained photographs for this report.
- On-street parking is not permitted on this portion of 20th Street.
- 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	May 18, 2021	No

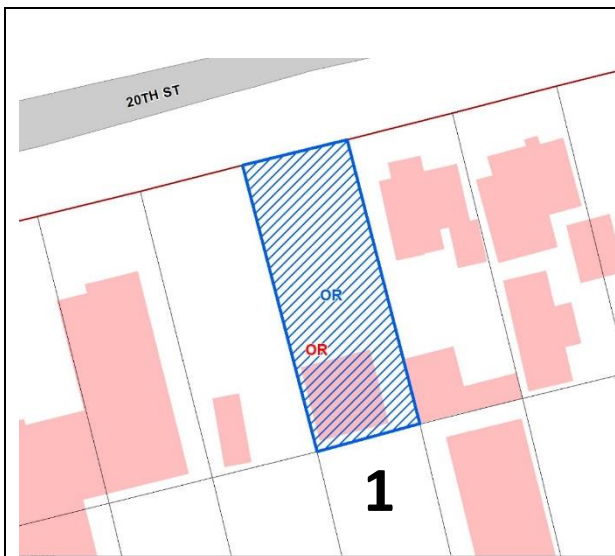
#### *Short Term Rentals in the Vicinity*



## Summary of Proposal

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

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



### Zoning History

#	Request
1	ALT Approved 01/05/2016

### Application Types

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

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

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

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

## Evaluation & Recommendation

The applicant is requesting to operate a two-bedroom Short Term Rental on this parcel. The site was constructed in 1953 and is located along 20th Street. Since the site is in the Oceanfront Resort (OR) Short Term Rental Overlay District, a 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 unit in question has previously been advertised and utilized as a Short Term Rental, according to City records and Host Compliance. The applicant has stated that they do not intend to use this unit for Short Term Rentals prior to approval of this application. Based on the information provided by the applicant, the unit appears 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 unit addressed as 606 20<sup>th</sup> Street and the Short Term Rental use shall only occur in the principal structure.
2. An annual (yearly) STR Zoning Permit must be obtained from the Department of Planning and Community Development (Zoning Administration) before using the dwelling for Short-Term Rental purposes.
3. Off-street parking shall be provided as required by Section 241.2 and 2303(b)(a)(i)(ii) of the City Zoning Ordinance or as approved by City Council.
4. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
5. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1.
6. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes and to be physical present at the Short Term Rental within one (1) hour.
7. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
  - a) A completed Department of Planning and Community Development Short Term Rental Zoning Permit; and
  - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
  - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
8. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
9. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
10. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
11. Accessory structures shall not be used or occupied as Short Term Rentals.
12. No signage shall be on-site, except that each short term rental shall have one (1) four-square foot sign posted on the building, or other permanent structure or location approved by the Zoning Administrator, that identifies the property as a short term rental and provides the telephone numbers for the Short Term Rental Hotlines in text large enough to be read from the public street.



13. The Short Term Rental shall have no more than one (1) rental contract for every seven (7) consecutive days.
14. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
15. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
16. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom, which number shall not include minors under the age of 16, provided that in no case may the total number of persons staying overnight at the property exceed the number of approved bedrooms multiplied by three (3).
17. The property owner, or their representative, shall provide to the City Planning Department permission to inspect the Short Term Rental property annually. Such inspection shall include: 1) At least one fire extinguisher has been installed inside the unit (in the kitchen) and in plain sight 2) Smoke alarms and carbon monoxide detectors are installed in accordance with the building code in affect at the of construction and interconnected. Units constructed prior to interconnection requirements must have a minimum of one smoke alarm installed on every floor of the structure and in the areas adjacent to all sleeping rooms, and when activated, be audible in all sleeping rooms, and 3) All smoke alarms and carbon monoxide detectors have been inspected within the last twelve months and are in good working order.

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

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

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

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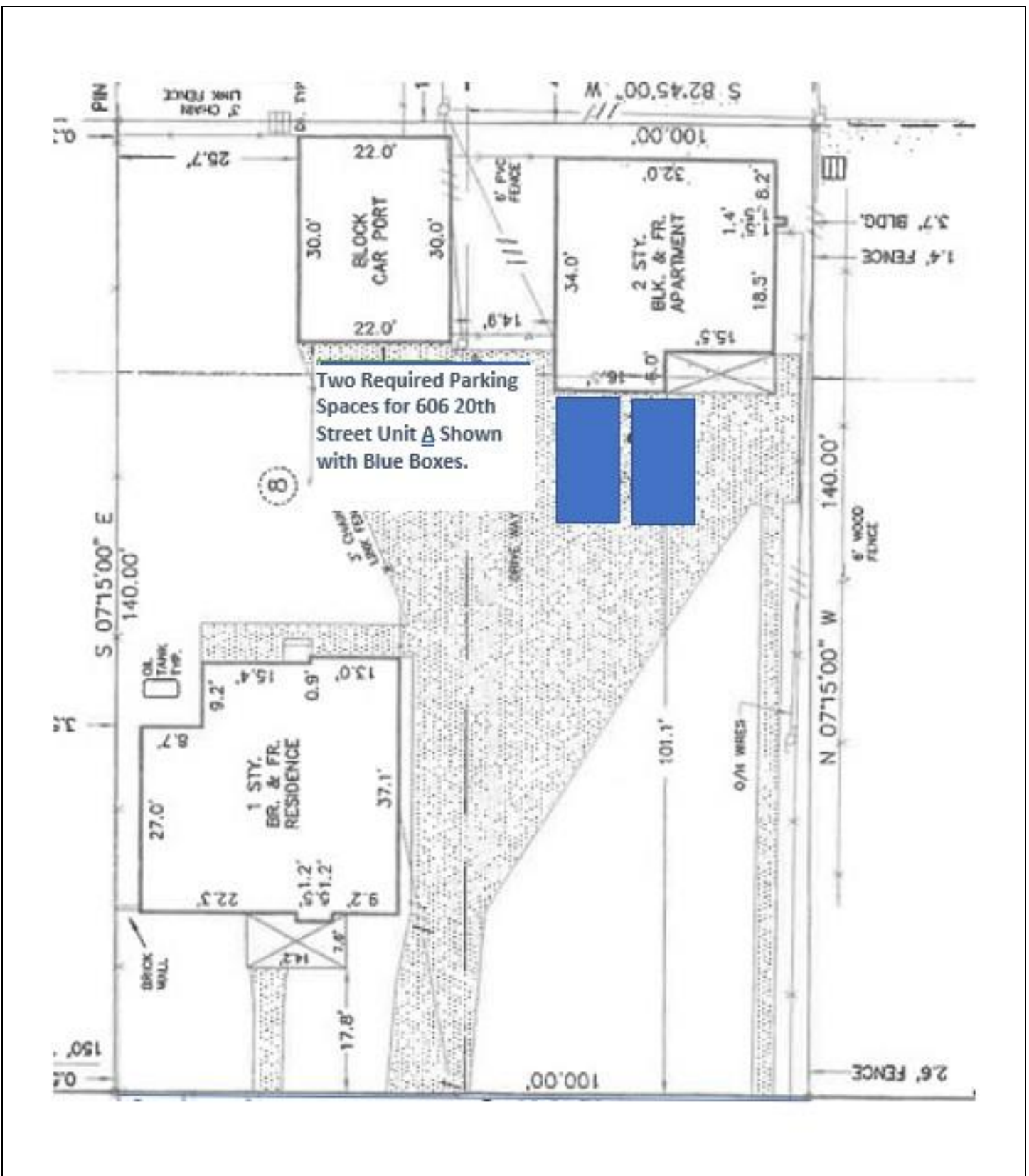
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## Public Outreach Information

### Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on June 12, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, June 28, 2023, and July 5, 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 June 26, 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/planning](http://www.viriniabeach.gov/planning) on July 6, 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 Porpoise LLC

Does the applicant have a representative? ☒ Yes ☐ No

- If yes, list the name of the representative.

Penny McLeod

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)

Leslie G. Shaw Jr. ; Carley Shaw  
Leslie G. Shaw III ; Joan Shaw

- 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)

US Fiberglass Products Inc  
Northeast LLC

<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.

*Tare Bank*

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

☐ Yes ☒ No

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

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

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

*GBS George Walsh*

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
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Teddy Molkiff PLLC - Teddy Molkiff

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Print Name and Title

5/25/25  
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