



Planning Commission Agenda

September 13, 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 www.virginiabeach.gov - Media Center webpage. 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, September 13, 2023 at 12:00 p.m. in the Council Chamber at City Hall, 2nd Floor at 2401 Courthouse Drive Building 1, Virginia Beach, VA 23456**. Members of the public will be able to observe the Planning Commission meeting through livestreaming on www.virginiabeach.gov, 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=m6a88d9129a86871936b30b213aa25200>
2. Register with the Planning Department by calling 757-385-4621 or via email at mbharris@vbgov.com prior to 5:00 p.m. on September 12, 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. For information call 757-385-4621. Staff Reports will be available on the webpage 5 days prior to the meeting.

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

Please check our website at www.virginiabeach.gov/planningcommission for the most updated meeting information.

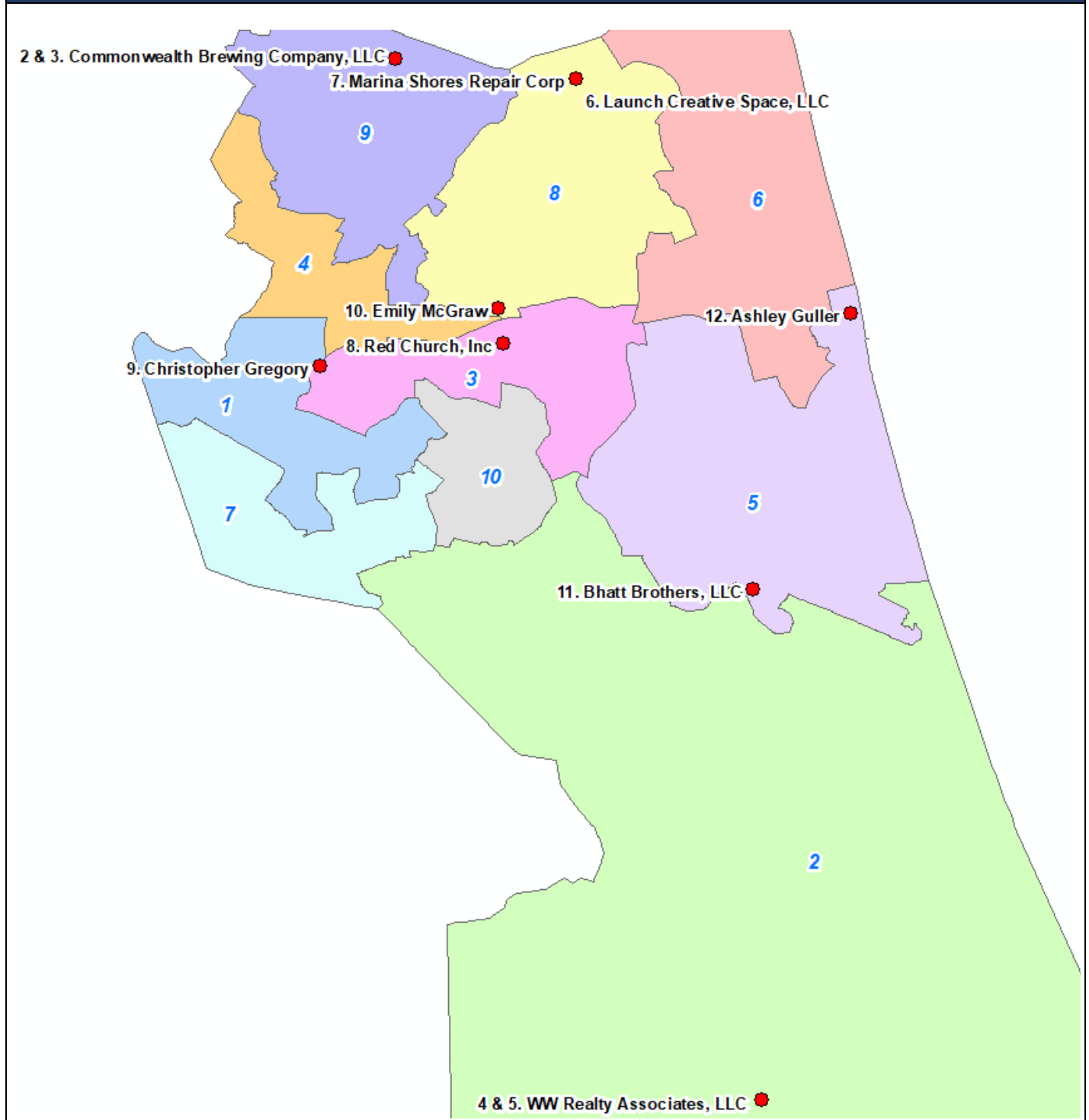
Planning Commission Hearing Procedures

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.

SEPTEMBER 13, 2023 PLANNING COMMISSION AGENDA



PLANNING COMMISSION AGENDA

A. COMMENTS BY DIRECTOR OF PLANNING AND CHAIR OF COMMISSION

B. BRIEFINGS

Family Day-Care Home Licensing Process, Patricia Meyer, Licensing Administrator, Virginia Department of Education

12:00 P.M. – PUBLIC HEARING

1. City of Virginia Beach

A Resolution to adopt and incorporate into the Virginia Beach Comprehensive Plan, 2016, the Virginia Beach Historic Preservation Plan, 2023 which will supersede the Historic Resources Management Plan, 1994

2. Commonwealth Brewing Company, LLC (Applicant) **Commonwealth Brewing Company, LLC & City of Virginia Beach** (Property Owners)

Street Closure

Adjacent Address: Portion of the 50-foot right-of-way of Lake Drive, east of Pleasure House Road

Adjacent GPIN(s): 1570502725

City Council: District 9

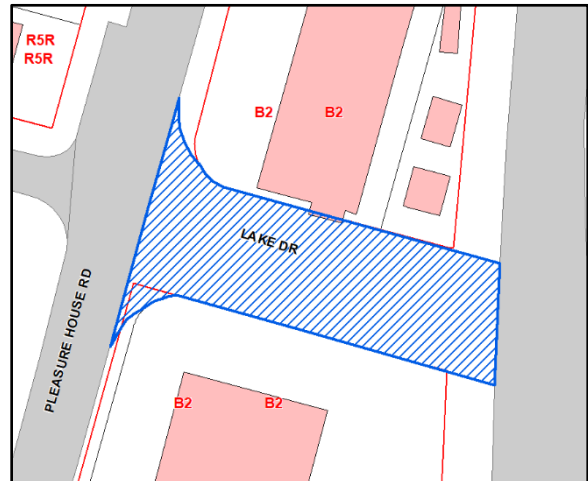
Accela Record(s): 2023-PCCC-00067

SGA: No

Overlay: Shore Drive

Staff Planner: Hoa N. Dao

Request for closure of a portion of the improved Lake Drive that is east of Pleasure House Road.



3.

Commonwealth Brewing Company, LLC

(Applicant & Property Owner)

Modification of Conditions

Addresses: 2440 & 2444 Pleasure House Road

GPIN(s): 1570501631, 1570502725

City Council: District 9

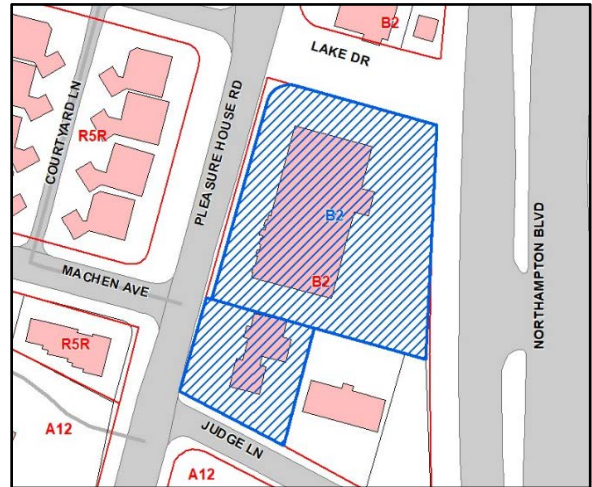
Accela Record(s): 2023-PCCC-00066

SGA: No

Overlay: Shore Drive

Staff Planner: Hoa N. Dao

Request to modify previous approval to expand the brewery and associated parking area.



4. & 5.

W.W. Realty Associates, LLC & Frank T. Williams

(Applicants & Property Owners)

Modification of Conditions

Subdivision Variance (Section 4.4(b) of the Subdivision Regulations)

Addresses: 5309 Morris Neck Road & adjoining western parcel

GPIN(s): 2319321690, 2319223560

City Council: District 2

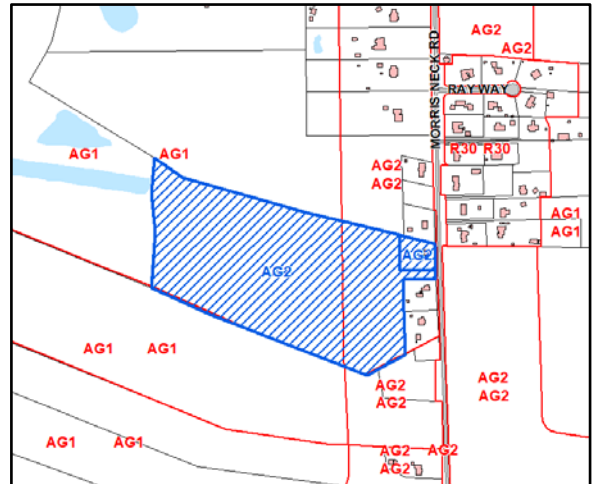
Accela Record(s): 2023-PCCC-00113, 2023-PCCC-00114

SGA: No

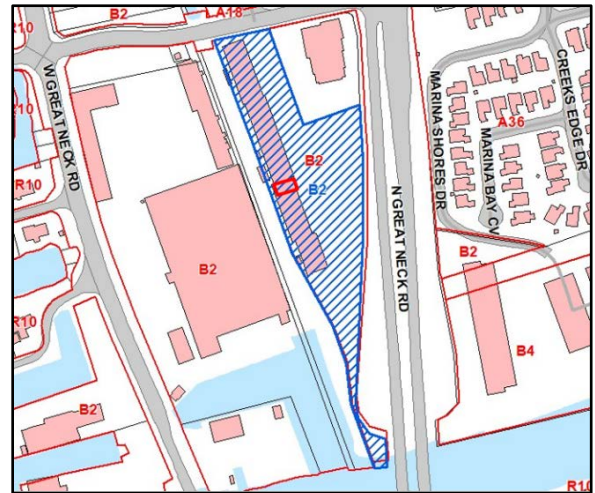
Overlay: No

Staff Planner: Marchelle Coleman

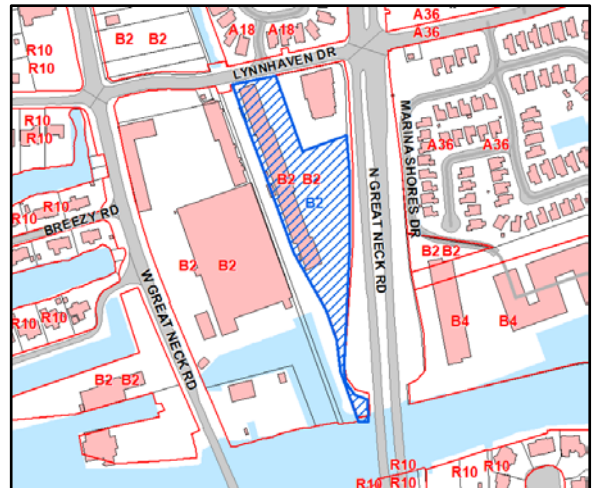
Request to modify the previous CUP approved in 2001 and reconfigure the property lines of two existing parcels.



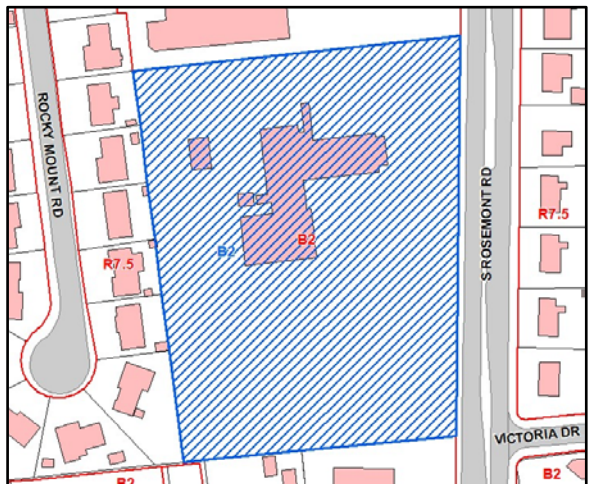
6.
Launch Creative Space, LLC (Applicant)
Marina Shores Repair Corp (Property Owners)
Conditional Use Permit (Assembly Use)
Address: 2865 Lynnhaven Drive, Suite C1
GPIN(s): Portion of 1499389741
City Council: District 8
Accela Record(s): 2023-PCCC-00062
SGA: No
Overlay: Shore Drive
Staff Planner: Marchelle Coleman
Request to operate an event venue within a unit at the Marina Shores Shoppes.



7.
Marina Shores Repair Corp (Applicant & Property Owner)
Conditional Use Permit (Bulk Storage Yard)
Address: 2865 Lynnhaven Drive
GPIN(s): 1499389741
City Council: District 8
Accela Record(s): 2023-PCCC-00122
SGA: No
Overlay: Shore Drive
Staff Planner: Elizabeth Nowak
A Bulk Storage Yard request for landscaping materials associated with Taylors Do It Center.



8.
Red Church, Inc (Applicant & Property Owner)
Modification of Conditions (Religious Use)
Address: 245 South Rosemont Road
GPIN(s): 1487614114
City Council: District 3
Accela Record(s): 2023-PCCC-00065
SGA: No
Overlay: No
Staff Planner: Elizabeth Nowak
Request to modify previous approval to expand the existing church by 15,750 square feet.



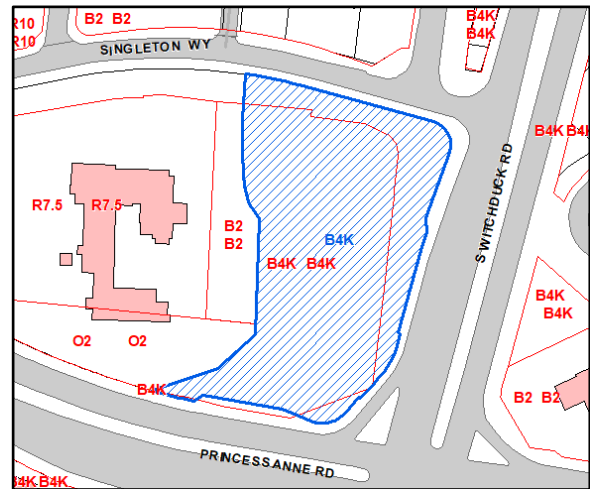
9.

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

Modification of Conditions

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

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



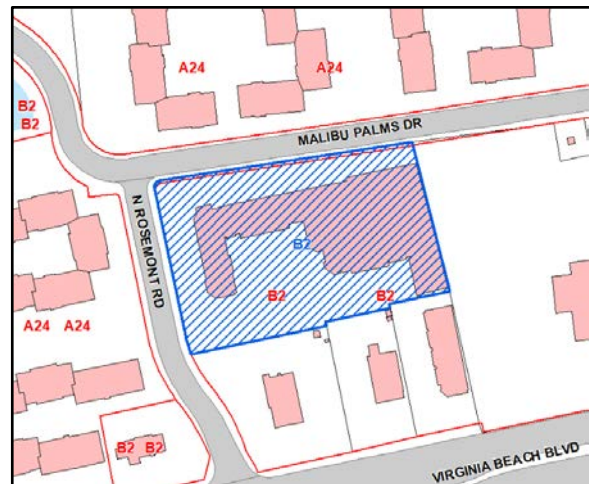
10.

Emily McGraw (Applicant)
VB Regatta Center Associates, LLC (Property Owner)

Conditional Use Permit (Tattoo Parlor)

Addresses: 3636 Virginia Beach Boulevard, Suite 110
GPIN(s): 1487548860
City Council: District 8
Accela Record(s): 2023-PCCC-00119
SGA: Rosemont
Overlay: No
Staff Planner: Michaela McKinney

Request to operate a Tattoo Parlor for the application of permanent makeup within the Regatta Bay shoppes.



11.

Bhatt Brothers, LLC (Applicant)
Red Mill West, LLC (Property Owner)

Conditional Use Permit (Tattoo Parlor)

Address: 1169 Nimmo Parkway, Suite 224

Adjacent GPIN(s): 2414261130

City Council: District 5

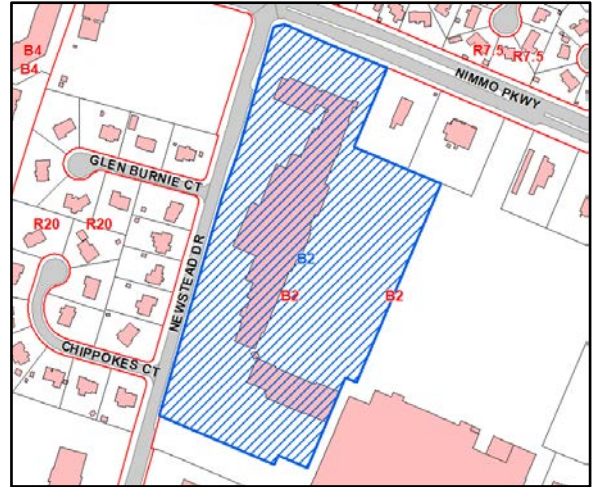
Accela Record(s): 2023-PCCC-00123

SGA: No

Overlay: No

Staff Planner: Michaela McKinney

Request to operate a Tattoo Parlor for the application of permanent makeup within an existing salon at the Red Mill Commons Shopping Center.



SHORT TERM RENTALS

12.

Ashley Guller (Applicant & Property Owner)

Conditional Use Permit (Short Term Rental)

Address: 921 Pacific Avenue, Unit B

GPIN(s): 24272444111130

City Council: District 5

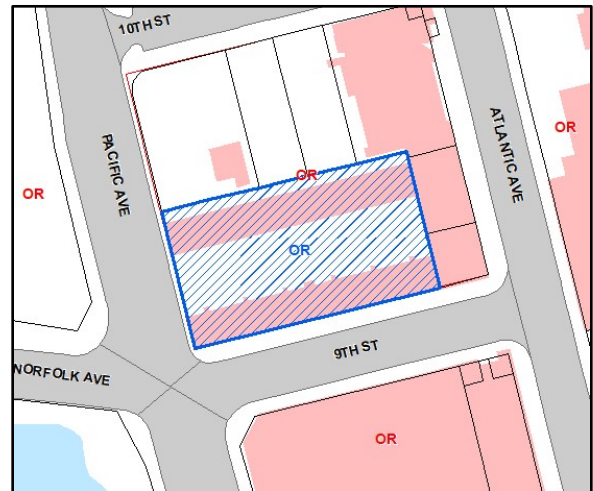
Accela Record(s): 2023-PCCC-00125

SGA: Yes – Resort Area

Overlay: OR Overlay

Staff Planner: Pamela Witham

Request to operate a 1-bedroom Short Term Rental.





Applicant **City of Virginia Beach**
Planning Commission Public Hearing **September 13, 2023**
The Virginia Beach Historic Preservation Plan, 2023

Agenda Item

1

Request

A Resolution to adopt and incorporate into the Virginia Beach Comprehensive Plan, 2016 the Virginia Beach Historic Preservation Plan, 2023, which will supersede the Historic Resources Management Plan, 1994.

Summary of Request

The City of Virginia Beach, in partnership with the Virginia Department of Historic Resources (DHR), and involvement of the public, developed a Historic Resources Management Plan in 1994 to provide a long-range framework for the management of the City's extensive and varied historic resources. The 1994 plan was developed after completion of city-wide projects to identify, inventory, and survey cultural and historic resources. Although not on a steady trajectory, the majority of the goals and objectives of the Historic Resources Management Plan have been achieved in the nearly 30 years since it was developed.

The Virginia Beach City Council established a Historic Preservation Commission in 2008 to advise them and City departments on all issues related to the preservation of historic buildings, structures, and sites located in Virginia Beach.

In 2016 the National Park Service (NPS) designated Virginia Beach as a Certified Local Government (CLG) based upon it having established key elements of a sound local preservation program. The CLG designation also established an important partnership for the City with the State Historic Preservation Office (SHPO) and NPS. One of the areas for improvement identified in the 2016 CLG agreement between the City and the SHPO was the development of a preservation plan. The Virginia Beach Historic Preservation Plan, 2023 fulfills that requirement and commitment.

The City, through the Historic Preservation Commission's leadership, completed city-wide projects to update the identification, inventory, and survey of cultural and historic resources in 2020.

In partnership with DHR (which is also the SHPO), the City developed a Historic Preservation Plan to replace the Historic Resources Management Plan, 1994. The Historic Preservation Plan, 2023 provides an updated and improved framework for managing Virginia Beach's historic resources, establishes guiding principles, and creates objective areas and related actions that build on the current program's strengths and successes while addressing areas of future need and concern. The Plan was prepared by Commonwealth Preservation Group, a firm that meets and exceeds the Secretary of the Interior's Standards for Historic Preservation. The project to develop the planning document was managed through the SHPO to ensure that it meets all state and federal standards for historic preservation planning.

Staff briefed the Planning Commission on the Historic Preservation Plan at their August 9, 2023 meeting.

The Virginia Beach Historic Preservation Plan, 2023 is proposed to be adopted by reference and incorporated into the City of Virginia Beach Comprehensive Plan, 2016. It is proposed to supersede the Historic Resources Management Plan, 1994 as a reference document.

Recommendation

Staff recommends approval of this Resolution to adopt and incorporate the Virginia Beach Historic Preservation Plan, 2023 into the Comprehensive Plan, 2016 and replace the Historic Resources Management Plan, 1994. The existing planning document is outdated and should be replaced with a document that meets current standards and addresses current issues and concerns.

Public Outreach Information

- Due to COVID restrictions no in-person public meetings were held.
- An online survey via publicinput.com was created by the City of Virginia Beach and was available for public participation in April and May 2021. There were 1,038 participants recorded for the survey. The public was informed about the survey on the City's website and social media.
- Virtual public meetings were held on February 23, 2021, and June 29, 2021. Information on the meetings was disseminated via press release, the City's website, and social media.
- Historic Preservation Plan drafts, including the final Plan, were posted on the City's web site via the Historic Preservation Commission's web page throughout the process.

1 A RESOLUTION TO ADOPT AND INCORPORATE INTO
2 THE VIRGINIA BEACH COMPREHENSIVE PLAN, 2016
3 THE VIRGINIA BEACH HISTORIC PRESERVATION PLAN,
4 2023 WHICH WILL SUPERSEDE THE HISTORIC
5 RESOURCES MANAGEMENT PLAN, 1994
6

7 WHEREAS, the public necessity, convenience, general welfare and good zoning
8 practice so require;
9

10 WHEREAS, the Virginia Beach Historic Preservation Plan, 2023 has been
11 developed with extensive input from the community and stakeholders, including three
12 stakeholder groups, two public meetings and an online public survey; and
13

14 WHEREAS, the revisions to the Historic Preservation Plan were necessary to
15 bring the Historic Resources Management Plan into compliance with the current
16 standards and practices; and
17

18 WHEREAS, the Virginia Beach Historic Preservation Plan, 2023 should be
19 adopted and incorporated as part of the Comprehensive Plan 2016.
20

21 NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF
22 VIRGINIA BEACH, VIRGINIA:
23

24 That the Comprehensive Plan 2016 of the City of Virginia Beach be, and hereby
25 is, amended and reordained by:
26

27 The adoption by City Council of the City of Virginia Beach of the Virginia Beach
28 Historic Preservation Plan 2023 and its incorporation into the Comprehensive Plan
29 2016. Such document is attached hereto and made a part hereof, having been
30 exhibited to the City Council and placed on file in the Department of Planning and
31 Community Development.
32

33 Adopted by the Council of the City of Virginia Beach, Virginia, on this _____
34 day of _____, 2023.
35

APPROVED AS TO CONTENT:

Planning Department

CA16224
R-2
August 7, 2023

APPROVED AS TO LEGAL SUFFICIENCY:

City Attorney's Office



VIRGINIA BEACH HISTORIC PRESERVATION PLAN

MARCH 2, 2023

**The complete Virginia Beach Historic Preservation Plan, 2023 can be found at <https://planning.virginiabeach.gov/boards-commissions/historic-preservation-commission>.*



Applicant **Commonwealth Brewing Company, LLC**
Property Owners **Commonwealth Brewing Company, LLC, City of Virginia Beach**
Planning Commission Public Hearing **September 13, 2023**
City Council **District 9**

Agenda
Items

2 & 3

Requests

#2 - Street Closure (Lake Drive)

#3 - Modification of Conditions (Craft Brewery)

Staff Recommendation

Approval

Staff Planner

Hoa N. Dao

Location

Portion of the 50-foot right-of-way of Lake Drive that is east of Pleasure House Road, 2440 & 2444 Pleasure House Road

GPINs

1570501631, 1570502725

Site Sizes

7,130 square feet (STC)

43,866 square feet (MDC)

AICUZ

Less than 65 dB DNL

Watershed

Chesapeake Bay

Existing Land Use and Zoning District

Craft brewery, eating & drinking establishment, public pump station, improved City right-of-way / B-2 Community Business

Surrounding Land Uses and Zoning Districts

North

Office, City Pump Station / B-2 Community Business

South

Judge Lane

Single-family dwelling, multi-family dwellings / B-2 Community Business, A-12 Apartment

East

Northampton Boulevard

West

Pleasure House Road

Single-family dwellings, Duplex / R-5R Residential



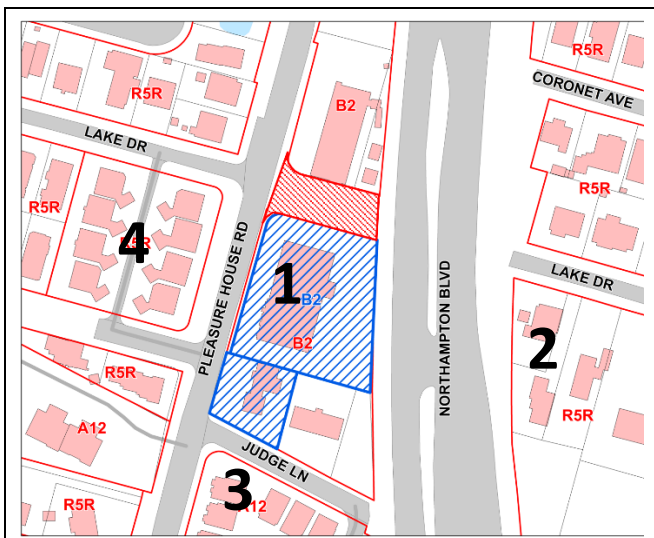
Commonwealth Brewing Company, LLC

Agenda Items 2 & 3

Page 1

Background & Summary of Proposal

- The applicant has operated a Craft Brewery on property zoned B-2 Community Business District since 2015 and is seeking, through these requests for a Street Closure and Modification of Conditions, to expand their business to accommodate additional outdoor seating and parking spaces.
- The Street Closure request is for closure of the entire portion of Lake Drive (approximately 7,130 square feet) located between Pleasure House Road and Northampton Boulevard. The area proposed for closure will be incorporated into the applicant's adjoining parcels and the City's pump station parcel.
- The Modification of Conditions request is required for an after-the-fact expansion to the Craft Brewery, specifically expansion of its outdoor seating areas and parking lots.
- The property is located within the Shore Drive Corridor Overlay District. The applicant appeared before the Bayfront Advisory Commission (BAC) on June 15, 2023, to share details of the requests. The BAC is supportive of the street closure and the expanded outdoor seating.
- As depicted on the concept plan, outdoor seating areas are located on the western and southern sides of the building. Overhead shade sails are proposed to be installed over the outdoor seating area that is located south of the building.
- Multiple Notice of Violations were issued to the property owner since the required improvements associated with the 2014 Conditional Use Permit approval for the Craft Brewery have not been completed and expansion to the craft brewery was done without obtaining the proper permits.
- Section 203 of the Zoning Ordinance requires one parking space per every 100 square feet of area open to the public for drinking, eating, and congregating, one parking space per employee on the maximum working shift, and one parking space per every 400 square feet of floor area for wholesaling and distribution operation. With the added outdoor seating areas, a total of 83 parking spaces are required; 73 parking spaces are provided on-site, including three motorcycle parking spaces. A parking study was submitted to and approved by the Zoning Administrator pursuant to Section 203(b)(11) of the Zoning Ordinance to allow a reduction to the parking requirement.
- The Craft Brewery hours of operation are Monday through Friday from 5:00 AM to 2:00 PM, while the eating and drinking establishment, a by-right use in the B-2 District, operates Monday through Thursday from 8:00 AM to 10:00 PM, Friday and Saturday from 8:00 AM to midnight, and Sundays from 8:00 AM to 9:00 PM.



Zoning History

#	Request
1	CUP (Craft Brewery) Approved 12/09/2014
2	SVR (Section 4.4(b)) Approved 10/12/2004
3	CRZ (A-18 & B-2 to PD-H2 (A-12)) Approved 11/26/2002
4	CRZ (B-2 to PD-H2 (R-5R)) Approved 11/23/1999

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's request to close a portion of Lake Drive and to expand the footprint of the Craft Brewery to accommodate additional outdoor seating and parking, in Staff's opinion, are acceptable. The Craft Brewery has been operating since converting the former volunteer fire station building in 2015. The proposed street closure and expansion to the parking lot will provide additional on-site parking for patrons. This site is located in the Suburban Area of the City, within the Shore Drive Overlay. The Comprehensive Plan calls for reuse and revitalization of existing commercial properties in this area, as such, this proposal and use is supported by the Comprehensive Plan. Furthermore, the proposed street closure would not negatively affect the Master Transportation Plan or transit routes.

For Street Closure:

As required by City Code, a Viewers' Meeting was held on April 27, 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 the 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. As this portion of the right-of-way is improved, a super majority vote from City Council will be required to approve the closure request.

City Pump Station #302 is adjacent to this site and accessed from Lake Drive. A portion of the closure area, depicted as "Area 2" on the street closure exhibit, will be conveyed ~~retained~~ by the City for future expansion of the pump station. Staff recommends Conditions 3, 4, and 5 to establish a public drainage and utilities easements over the closed portion of the street and to provide access to the pump station. Condition 6 is recommended to ensure that any impediment into any easement is approved by the City to ensure adequate maintenance of the pump station.

For Modification of Conditions:

As previously stated, this is an after-the-fact request as the applicant already expanded the outdoor seating area and parking lot without obtaining the proper approvals and permits. Approval of this request would require the applicant to construct and install all required improvements, such as curb and gutter, paved parking, and sidewalks to bring the site into conformance with the Public Works Design Standards Manual.

The applicant also owns the adjoining parcel (2456 Pleasure House Road) to the north. With the exception of the 1,000 square foot unit that is used by the applicant for a wholesale and distribution operation requiring three parking spaces, the applicant is proposing to designate the remaining 21 parking spaces on this parcel to accommodate required parking for the brewery. The applicant has agreed that the building will not be occupied by another use that requires additional parking spaces. Condition 7 is recommended to address this request. Despite the additional parking spaces on the adjacent parcel, the Craft Brewery is deficient in parking by 10 spaces. Consistent with the provisions of Section 203 of the Zoning Ordinance, a parking study was submitted to support the applicant's request for a reduction in the minimum number of parking spaces required. Section 203(b)(11) allows the Zoning Administrator to reduce the parking requirement when a "substantial number of patrons are pedestrians or arrive by means of public transportation or by bicycle." As required, the Zoning Administrator determined that while 83 spaces are typically required for the craft brewery, eating and drinking establishment, and wholesale and distribution operation, the reduction to the minimum number of required parking spaces from 83 to 73 spaces is justified. A field observation conducted by McPherson Consulting during peak operation hours showed a maximum parking occupancy of 63 vehicles on site. The site is within a half-mile distance from Chic's Beach and is a destination for pedestrians visiting the beach. In addition, it was observed that patrons often arrived/departed via app-based transportation services such as Uber or Lyft.

The applicant acquired the corner parcel at Judge Lane and Pleasure House Road (2440 Please House Road) in 2018 and added gravel to the site for parking and an outdoor seating area. The applicant seeks to maintain the gravel parking surface in this area until the applicant can acquire the adjoining eastern parcel (4704 Judge Lane) and further expand the parking area. The use of gravel for alternative parking surface has been considered and approved by the Director of Planning and Community Development per Section 203(b)(5) of the Zoning Ordinance. Condition 6 is recommended to address this request.

Pleasure House Road is currently under capacity and can accommodate the small increase in traffic volume generated by this proposed brewery expansion. As depicted on the concept plan, the applicant intends to provide right-of-way dedication and installation of a sidewalk along Pleasure House Road. This is consistent with the City's future plan to widen Pleasure House Road.

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

Recommended Conditions for STC

1. The City Attorney's Office will make the final determination regarding ownership of the underlying fee. The purchase price to be paid to the City of Virginia Beach shall be determined according to the "Policy Regarding Purchase of City's Interest in Streets Pursuant to Street Closures," approved by City Council.
2. The applicant, or the applicant's successors or assigns shall resubdivide the property and vacate internal lot lines to incorporate the closed area into the adjoining parcels. The resubdivision plat must be submitted and approved for recordation prior to the final street closure approval. Said plat must include the dedication of (a) a public utility easement over the entire "Area 1" of the Right-of-Way; and (b) a public drainage easement over the entire "Area 1" of the Right-of-Way, which easements are subject to approval of the Department of Public Utilities and Department of Public Works, respectively, and the City Attorney's Office, and which easements shall include a right of reasonable ingress and egress.
3. The applicant or the applicant's successors or assigns shall convey "Area 2" of the closed portion of the right-of-way to the City of Virginia Beach.
4. The applicant or the applicant's successors or assigns shall verify that no private utilities exist within "Area 1" of the right-of-way proposed for closure. If private utilities do exist, easements satisfactory to the utility company must be provided and shall be recorded after the final resubdivision plat is recorded with the Clerk of Circuit Court.
5. Prior to the finalization of the street closure, if any improvements are to remain or be constructed in the public utility and drainage easements to be dedicated over Area 1 of the Right-of-Way or within Area 2 of the Right-of-Way to be conveyed to the City of Virginia Beach, the Applicants shall apply for an encroachment agreement with the City for the improvements located or to be located in the public utility and drainage easements over Area 1 of the Right-of-Way and within Area 2 of the Right-of-Way.
6. 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 (1) year of the City Council vote to close the rights-of-way, this approval shall be considered null and void.

Recommended Conditions for MDC

1. All conditions attached to the existing Conditional Use Permits approved by the Virginia Beach City Council on December 9, 2014 shall be null and void and replaced with the conditions listed below.
2. The site shall be developed in substantial conformance with the submitted plan entitled “Commonwealth Brewing Company – Conceptual Site Plan” dated August 27, 2023, by John Sandow Engineering, LLC, which has been exhibited to the Virginia Beach City Council and is on file with the Department of Planning & Community Development.
3. Prior to final site plan approval, the applicant, or the applicant’s successors or assigns, shall resubdivide the properties and vacate internal lot lines to consolidate the lots. The plat must be submitted and approved for recordation by the Department of Planning & Community Development.
4. The applicant shall submit a site plan to the Department of Planning & Community Development, Development Services Center, within 90 days from the date of City Council approval of this request and have permits in hand to begin work within one year.
5. The existing trees and shrubs along Northampton Boulevard shall remain to screen the use from the highway. The existing row of evergreen shrubs along the southern lot line shall remain to screen the use from the adjoining residence.
6. All designated parking areas shall be paved and striped to meet City Code requirements. Except the parking area designated as “Parking Area E” on the Conceptual Site Plan may use gravel as an alternative parking surface for a maximum period of five (5) years from the date of City Council approval of this request. Upon expiration of the five-year period or until the applicant acquired the adjoining parcel (4704 Judge Lane), whichever the earlier, the applicant shall pave and stripe “Parking Area E” in accordance with City Code requirements.
7. Prior to final site plan approval, a Lighting Plan in accordance to Section 252 of the Zoning Ordinance, or as amended, shall be submitted to the Department of Planning and Community Development for review and approval. All lighting on the site shall conform to the standards set forth in Section 252 of the Zoning Ordinance.
8. Prior to final site plan approval, the applicant shall submit a Shared Parking Agreement to the Department of Planning & Community Development for review and approval for properties addressed 2444 and 2456 Pleasure House Road. The Shared Parking Agreement shall state: With the exception of the 1,000 square foot unit at 2456 Pleasure House Road that is leased for wholesaling and distribution and only operates from 5:00 AM to 3:00 PM, Monday through Thursday with one (1) employee onsite, no other space within the building at 2456 Pleasure House Road shall be leased, licensed or permitted to be used for any purpose that requires the provision of any parking and results in the Craft Brewery not meeting the minimum onsite parking required by the Zoning Administrator under Section 203(b)(11).
- ~~9. The use of amplified sound outdoors shall be prohibited.~~
- ~~10. Live entertainment will only be allowed inside the establishment when all the doors and windows are closed. No outdoor live entertainment will be permitted. Except on those limited occasions where a Special Event Permit is granted, which may permit live entertainment/amplified sound outdoors after 10:00 AM and no later than 8:00 PM, live entertainment and the use of amplified sound will only be allowed inside the building when all the doors and windows are closed.~~
- ~~11~~ 10. Deliveries shall only occur from 8:00 a.m. to 5:00 p.m. The size of the truck shall be limited such that no portion of the truck shall encroach into the public right-of-way while parked on-site.

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

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

Conditions from 2014 CUP

1. The site shall be developed in substantial conformance with the submitted plan entitled "Site Plan Commonwealth Brewing Upfit, 2444 Pleasure House Rd, Virginia Beach, VA" dated 11/04/2014, which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning.
2. The building elevations shall be developed in substantial conformance with the submitted elevations entitled "Rendered Building Elevations Commonwealth Brewing Upfit, 2444 Pleasure House Rd, Virginia Beach, VA" dated 08/29/2014, which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning.
3. Deliveries shall only occur from 8:00 a.m. to 5:00 p.m. The size of the truck shall be limited such that no portion of the truck shall encroach into the public right-of-way while parked on-site.
4. The existing trees and shrubs along Northampton Boulevard shall remain to screen the use from the highway. The existing row of evergreen shrubs along the southern lot line shall remain to screen the use from the adjoining residence.
5. Parking space #11 shall be used for motorcycle parking only.
6. All signage on site shall conform to the Sign Regulations of the City of Virginia Beach.

Comprehensive Plan Recommendations

The Comprehensive Plan designates the subject property as being within the Suburban Area and Shore Drive Corridor Overlay District. The general planning principles for the Suburban Area focus on preserving and protecting the overall character, economic value, and aesthetic quality of stable neighborhoods. Achieving the goals of preserving neighborhood quality requires that all new developments or redevelopment, whether residential or non-residential, either maintain or enhance the overall area. This is accomplished through compatibility with surroundings, attractiveness of site and buildings, environmental responsibility, livability, and effective buffering of residential from other residential and non-residential with respect to type, size, intensity, and relationship to the surrounding uses.

Natural & Cultural Resources Impacts

The site is located in the Chesapeake Bay Preservation Area. There does not appear to be any cultural features on the site.

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Pleasure House Road	7,200 ADT ¹	12,500 ADT ¹ (LOS ⁴ “D”)	Existing Land Use ² – 617 ADT Proposed Land Use ³ – 617 ADT *No Data Available
¹ Average Daily Trips	² as defined by a 10,229 square feet brewery	³ as defined by a 10,229 square feet indoor brewery. *No information available in the ITE Trip Generation Manual for outdoor seating area	⁴ LOS = Level of Service

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

This segment of Pleasure House Road is considered a two-lane undivided collector/local street. The Pleasure House Road Street Improvements Phase II Capital Improvement Program (CIP) project is slated for this section of roadway. This project will provide street and safety improvements, along with bike accommodations and a five-foot sidewalk. Construction is scheduled to begin in late 2029 with a completion date of July 2031.

Public Utility Impacts

Water & Sewer

The subject property is connected to City water and sanitary sewer services.

Public Outreach Information

Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on August 14, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, August 30, 2023 and September 6, 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 August 28, 2023.
- This Staff report, as well as all reports for this Planning Commission’s meeting, was posted on the Commission’s webpage of www.virginiabeach.gov/pc on September 7, 2023.

Proposed Street Closure Exhibit


REFERENCES:

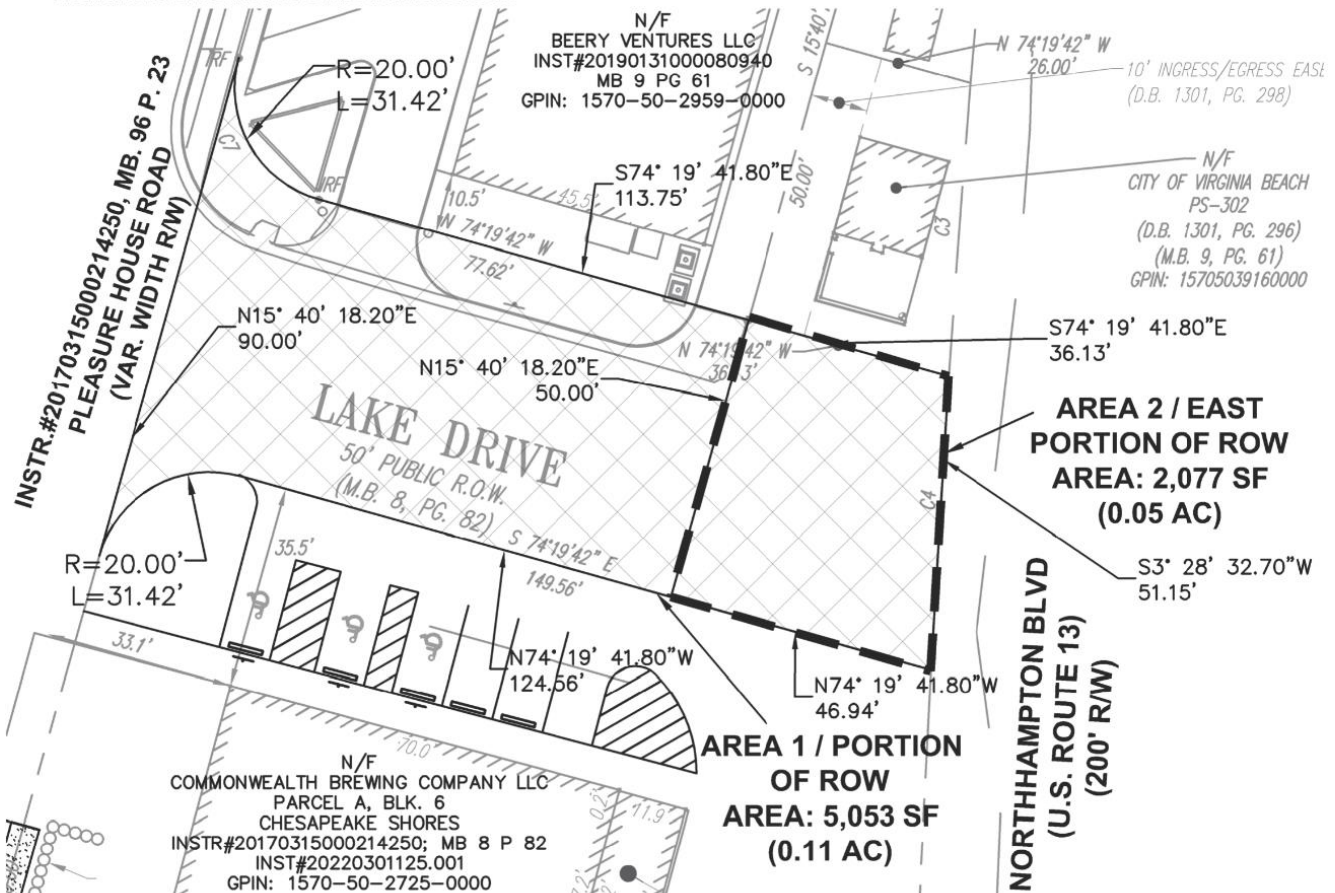
1. BOUNDARY INFORMATION TAKEN FROM BOUNDARY AND TOPOGRAPHIC SURVEY PREPARED BY MID-ATLANTIC SURVEYING AND LAND DESIGN AND DATED 06/23/2021.

NOTES:

1. THIS EXHIBIT IS INTENDED TO SHOW THE INTENDED LOCATION AND NATURE OF THE EXTENT OF THE PROPOSED ROAD CLOSURE AND EASEMENTS INDICATED RELATIVE TO THE OTHER ITEMS SHOWN.

LEGEND AND ABBREVIATIONS:

BSL	BUILDING SETBACK LINE
ESMT	EASEMENT
ROW	RIGHT OF WAY
	DENOTES TOTAL AREA OF ROW TO BE CLOSED (7,130 SF (0.16 AC))
AREA 1	5,053 SF / 0.11 AC
AREA 2	2,077 SF / 0.05 AC



STREET CLOSURE EXHIBIT SHOWING:

PORTION OF LAKE DRIVE BETWEEN BLOCKS 6 AND 11,
CHESAPEAKE SHORES (MB. 8, P. 82, MB. 9, P. 61 AND
INSTR.#201731500021 4250) TO BE CLOSED
VIRGINIA BEACH, VIRGINIA

JULY 18, 2023 / SCALE: 1" = 30'
DB: JS CB: JS JSE PROJECT #: 0662101



John Sandow Engineering, LLC

4104 Clintwood Lane
Virginia Beach, VA 23452
Phone: 757-377-6971

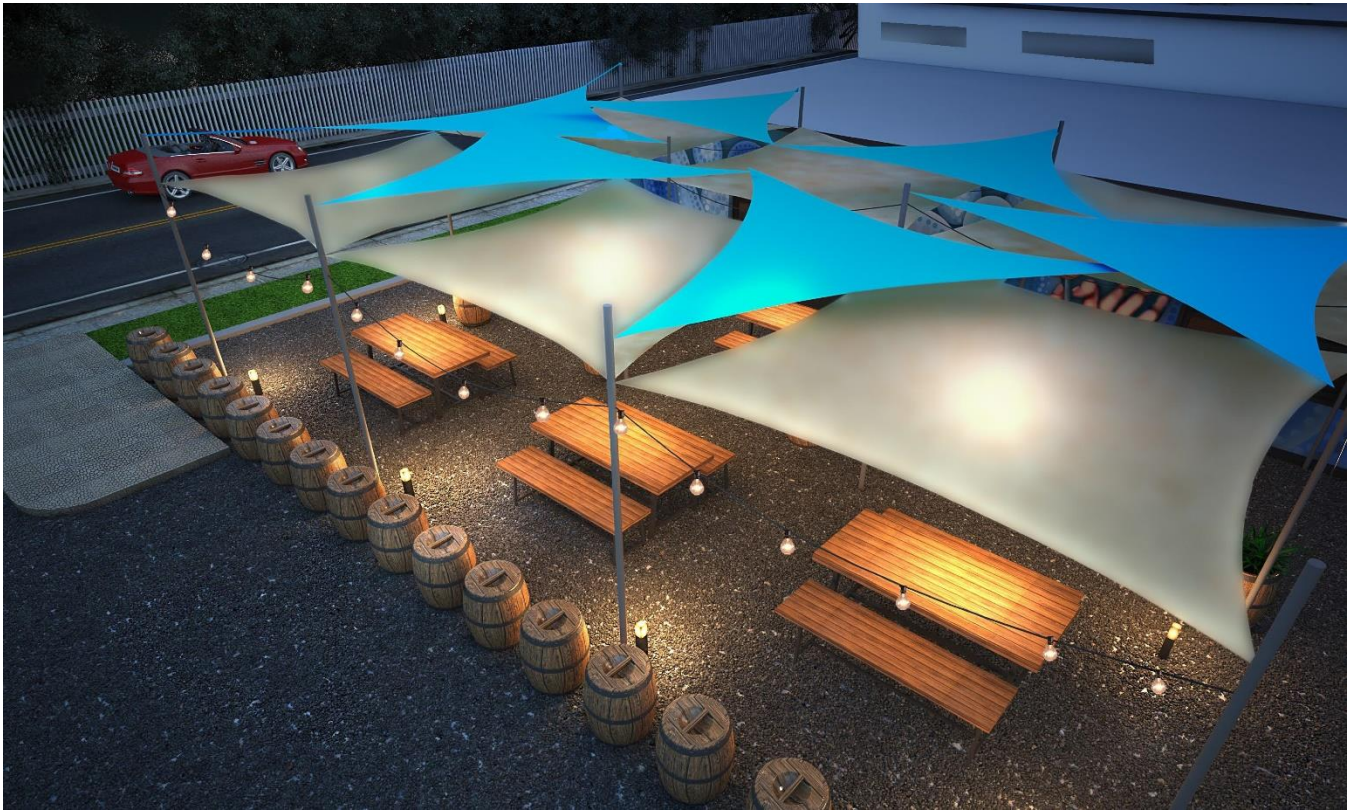
www.johnsandowengineering.com



SCALE: 1" = 30'

[illegible]

Proposed Shade Sails



Site Photos



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 Commonwealth Brewing Company, LLC

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

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

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

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

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

Jeremy Biggie, President

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

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

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

Disclosure Statement



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

☒ Yes ☐ No

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

Chesapeake Beach Volunteer Fire and Rescue Department, Inc.; Navy Federal Credit Union; US Small Business Administration

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.

Ginger Pickett, 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.
- John Sandow, John Sandow Engineering, LLC

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.

Commonwealth Brewing Company, LLC

By:

Applicant Signature

Jeremy Biggie, President

Print Name and Title

Date

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

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

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

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

Next Steps

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

Requests

#4 - Modification of Conditions (Alternative Rural Residential Development)

#5 - Subdivision Variance (Section 4.4(b) of the Subdivision Regulations)

Staff Recommendation

Approval

Staff Planner

Marchelle Coleman

Location

5309 Morris Neck Road & adjoining western parcel

GPINs

2319321690, 2319223560

Site Size

30.99 acres

AICUZ

Less than 65 dB DNL

Watershed

Southern Rivers

Existing Land Use and Zoning District

Single-family dwelling, cultivated field / AG-1 Agricultural, AG-2 Agricultural

Surrounding Land Uses and Zoning Districts

North

Single-family dwelling, cultivated field / AG-1 Agricultural, AG-2 Agricultural

South

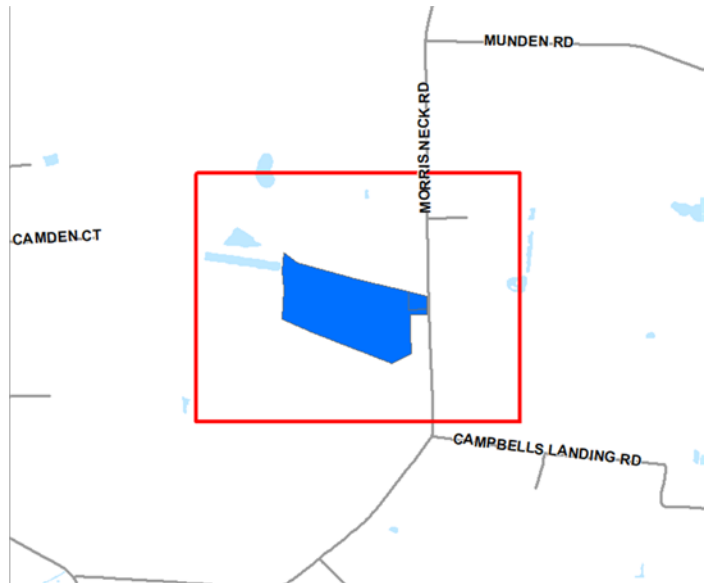
Single-family dwelling, cultivated field / AG-1 Agricultural, AG-2 Agricultural

East

Morris Neck Road
Wooded parcel / AG-2 Agricultural

West

Cultivated field / AG-1 Agricultural

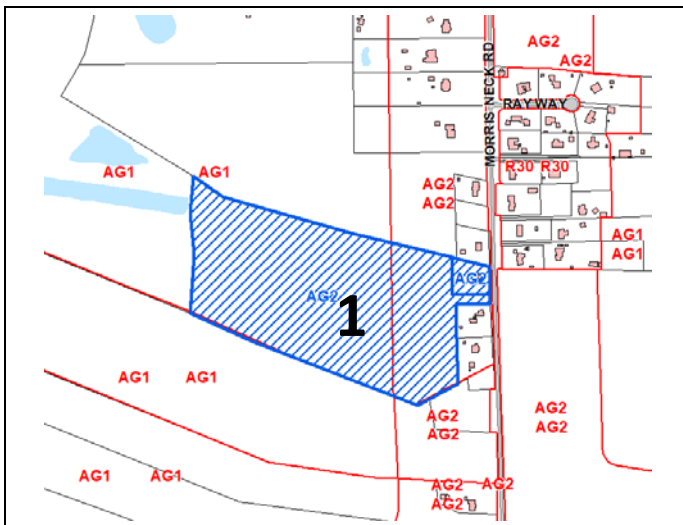


Background & Summary of Proposal

- On January 9, 2001, the City Council approved a Conditional Use Permit for Alternative Rural Residential Development on property west of this site. As noted in Condition 1 of that approval, an easement covering the subject property will restrict the use to open space and agricultural uses, except for the 46 single-family lots. Approximately 400 acres of the applicant's farm (formerly known as Parcel A), was covered by this Agricultural/Open Space Preservation Easement (Instrument # 200407270115274), which surrounds a 0.56-acre parcel at 5309 Morris Neck Road.
- In 2013, a Subdivision Variance was granted to reconfigure the subject parcels (Parcels A-1 and C-1) to the configuration that exists today.
- The applicant now seeks to modify Condition 1 of the 2001 Conditional Use Permit approval to change the boundaries of the easement to reflect the changes in the boundaries that were modified on the 2021 resubdivision plat by way of a Subdivision Variance that was approved by City Council in 2013. Due to an oversight, the boundaries of the easement were not modified during the 2013 Subdivision Variance request. This modification and the requested Subdivision Variance, as described below, will correct this error. With these applications, the easement will be modified to encumber all of the proposed Parcel D-1 (formerly Parcel A-1), as originally intended.
- As stated previously, the applicant is also requesting a Subdivision Variance to resubdivide the two existing adjoining parcels, now known as Parcel C and Parcel D on the 2021 Resubdivision Plat. With the proposed realignment of the property lines, the proposed Parcel D-1 will not meet the minimum lot width and street line frontage requirements for properties zoned Agricultural, which necessitates the need for a variance.
- The previous 2013 Subdivision Variance layout can be found on page eight of this report. With the previous approval, the parcels were to be resubdivided to add sufficient lot area to the adjoining Parcel C-1, ultimately bringing the single-family lot into compliance with the one-acre minimum lot area requirement in the Agricultural District. The 30-acre parcel to the west of Parcel C-1, formerly known as Parcel A-1 (now Parcel D-1), was deficient in the lot width and street line frontage requirements.
- The applicant is now seeking to reconfigure the property lines to shift Parcel C-1 to the south and to adjust lot lines to remove a portion of the lot from Parcel D, as it currently encroaches onto the cultivated field. The .56-acre portion to the south of the proposed Parcel C-1 will be released from the easement and the .56-acre portion on the north side will be added back to the easement on the proposed Parcel D-1.
- Parcel C-1 will be redeveloped with a new single-family dwelling for the applicant's granddaughter and family. Parcel C-1 will maintain the one-acre lot area requirement, meeting all dimensional requirements within the AG-2 Agricultural District. The access point to Parcel D-1 will shift to the north of Parcel C-1 and will be reduced from 60 feet to 50 feet in lot width.

	Required Lot Width in AG (feet)	Proposed Lot Width in AG (feet)	Required Street Line Frontage in AG (feet)	Proposed Street Line Frontage in AG (feet)	Required Lot Area in AG (acre)	Proposed Lot Area in AG (acre)
Parcel C-1	150 feet	187 feet	120 feet	173.68	1 acre	1 acre
Parcel D-1	150 feet	50 feet*	120 feet	50 feet*	1 acre	30.99 acres

*Variance required



Zoning History

#	Request
1	SVR (Lot Width Reduction) Approved 03/26/2013 CUP (Alternative Rural Residential Development) Approved 01/09/2001 SVR (Minimum Pavement Width) Approved 01/09/2001

Application Types

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

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

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

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

Evaluation & Recommendation

These requests for a Modification of Conditions to modify the boundaries of the Agricultural/Open Space Preservation Easement and for a Subdivision Variance to Section 4.4(b) of the Subdivision Regulations for lot width and street line frontage are acceptable, as Staff finds the proposals to be consistent with the principles of the Comprehensive Plan for the Rural Area. Since there will be no increase in residential density, the proposals align with the goals and recommendations of the Comprehensive Plan.

Since the boundary for the Agricultural/Open Space Preservation Easement should have been modified with the 2013 Subdivision Variance request, to include all of Parcel D (formerly Parcel A), the proposed request corrects that oversight. This modification will not cause negative impacts to the surrounding property and will in-fact restrict the entire 30-acre parcel for only agricultural and open space uses.

Section 9.3 of the Subdivision Regulations states:

No variance shall be authorized by the Council unless it finds that:

- Strict application of the ordinance would produce undue hardship.
- The authorization of the variance will not be of substantial detriment to adjacent property, and the character of the neighborhood will not be adversely affected.
- The problem involved is not of so general or recurring a nature as to make reasonably practicable the formulation of general regulations to be adopted as an amendment to the ordinance.
- The hardship is created by the physical character of the property, including dimensions and topography, or by other extraordinary situation or condition of such property, or by the use or development of property immediately adjacent thereto. Personal or self-inflicted hardship shall not be considered as grounds for the issuance of a variance.
- The hardship is created by the requirements of the zoning district in which the property is located at the time the variance is authorized whenever such variance pertains to provisions of the Zoning Ordinance incorporated by reference in this ordinance.

While the proposed reconfiguration of the existing parcels will further increase the degree of nonconformity, Staff is amendable to the variance to reduce the lot width and street line frontage of Parcel D-1. Staff believes that the 50-foot lot width and street line frontage provides adequate ingress/egress for the existing cultivated field and sufficient road frontage. The site is also encumbered by an easement restricting the use of the parcel to Agricultural and Open Space only. Under this easement, Parcel D-1 cannot be developed for residential use. Access to the cultivated field (Parcel D-1) is currently utilized through a path on the existing Parcel C, ultimately causing no adverse impacts to the surrounding community or a change in character.

Staff also finds that shifting Parcel C-1 to the south and Parcel D-1 to the north will not be detrimental to the adjacent properties or adversely change the character of the neighborhood. The new single-family dwelling proposed on the new lot, Parcel C-1, will be compatible with the adjacent homes to the south along Morris Neck Road and will meet all the dimensional requirements for properties zoned AG-2 Agricultural.

Currently, there is a single-family dwelling developed on Parcel C. The existing single-family dwelling will be demolished, prior to the resubdivision plat being recorded, as a new home will be constructed on the new Parcel C-1. Condition 2 has been added to ensure this.

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

Recommended Conditions for MDC

1. All previous conditions attached to the Conditional Use Permit for Alternative Rural Residential Development approved on January 9, 2001, shall remain in effect and Condition 2, as indicated below, shall be added.
2. The modification to the boundaries of the Agricultural/Open Space Preservation Easement shall encumber all of Parcel D-1, as depicted on the exhibit entitled "RE-SUBDIVISION PLAT OF PARCEL C & PARCEL D (INSTR. NO. 202100000013) VIRGINIA BEACH, VIRGINIA", prepared by MSA, dated February 2, 2023, which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning and Community Development.

Recommended Conditions for SVR

1. When the Property is developed, it shall be developed substantially as shown the exhibit entitled "RE-SUBDIVISION PLAT OF PARCEL C & PARCEL D (INSTR. NO. 202100000013) VIRGINIA BEACH, VIRGINIA", prepared by MSA, dated February 2, 2023, which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning and Community Development.
2. The existing single-family dwelling on Parcel C shall be demolished prior to the recording of the Resubdivision Plat.
3. The proposed Parcel C-1 shall only be developed with one single-family residence.
4. A note shall be added to resubdivision plat establishing that Parcel D-1 is encumbered by an Agricultural/Open Space Preservation Easement (INSTR. NO. 200407270115274) which restricts the use of the parcel to open space and agricultural uses only.

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

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

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

Previous Conditions from 2001 CUP

1. An easement covering the subject outside of the area shown for the 46 lots shall be submitted as a component of the final subdivision plat and shall be recorded in the Clerk's Office of the Circuit Court. The easement shall restrict the use of these areas to open space and agricultural uses. The content and form of such instrument shall be acceptable to the City Attorney.
2. The existing dwelling on the subject property fronting Morris Neck Road must be removed prior to the recordation of the 46 new lots. If fewer lots are created, the existing dwelling may remain. However, in no event shall more than 46 dwellings exist on the subject property.
3. Offsite drainage easements must be provided prior to the subdivision approval.
4. A 50-foot vegetated buffer shall be installed along all residential property lines where they abut an active agricultural operation. Such buffer shall consist of a row of Virginia pines and a row of wax myrtle shrubs. The required buffers shall be planted prior to occupancy of the residential lots.
5. The street frontage buffer along Princess Anne Road should consist of the landscape features and berm depicted on the plan entitled "Conceptual Landscape Plan of Pungo Ferry Landing" by Porterfield Design Center, dated 10-11-00. The buffer shall continue along the southern property line to the wood line as shown on the plan.
6. The divided entrance shall be landscaped as depicted on the landscape plan entitled, "Landscape Plan" by Carlton Goodwin dated June 20, 2000.
7. The 10-foot pedestrian ingress/egress easement shall be provided along the main access road as depicted on the preliminary subdivision plan.
8. Intersection improvements shall be installed as depicted on the preliminary subdivision plan entitled, "Pungo Ferry Landing", by Gallup Surveyors and Engineers dated November 8, 2000.
9. A one-foot no ingress/egress easement is required along Princess Anne Road with the exception of the access point for the development.
10. These conditions shall be noted on the final plat, construction plans and individual site plans.
11. To the extent permissible by the Department of Public Health, those lots which do not qualify for a standard septic system (one acre lots) and would otherwise use a land management wastewater treatment system, shall instead use an on-site secondary wastewater treatment system using a peat medium (such as PuraFlo) or similar system allowing the use of small lot sizes (below two acres). Except in those instances where land management wastewater treatment must be used because a PuraFlo or similar Health Department approved system is not permissible, all lots shall be 2 acres or less in size.

Comprehensive Plan Recommendations

The Comprehensive Plan designates the subject property as being located within the Rural Area. The Rural Area lies south of Indian River Road from North Landing Road to Muddy Creek and Back Bay and extends to the North Carolina Border. The physical character of this area is low, flat land with wide floodplains and altered drainage. It is a place that still contains working farms, farm related businesses, and limited non-residential areas along with some scattered housing sites. There is a significant presence of existing agriculture and rural-based economic activities in this part of Virginia Beach. The vision for this area is to remain rural into the foreseeable future by preserving the agricultural economy and reinforcing rural heritage. The proposal to resubdivide these parcels would not conflict with the guidance of the Comprehensive Plan.

Natural & Cultural Resources Impacts

The site is located in the Southern Rivers Watershed and there are no known significant cultural resources associated with this site. Drainage in the Southern Rivers Watershed is highly impacted by the presence of high ground water, poorly draining soils, and high water surface elevations in downstream receiving waters.

Public Utility Impacts

Water & Sewer

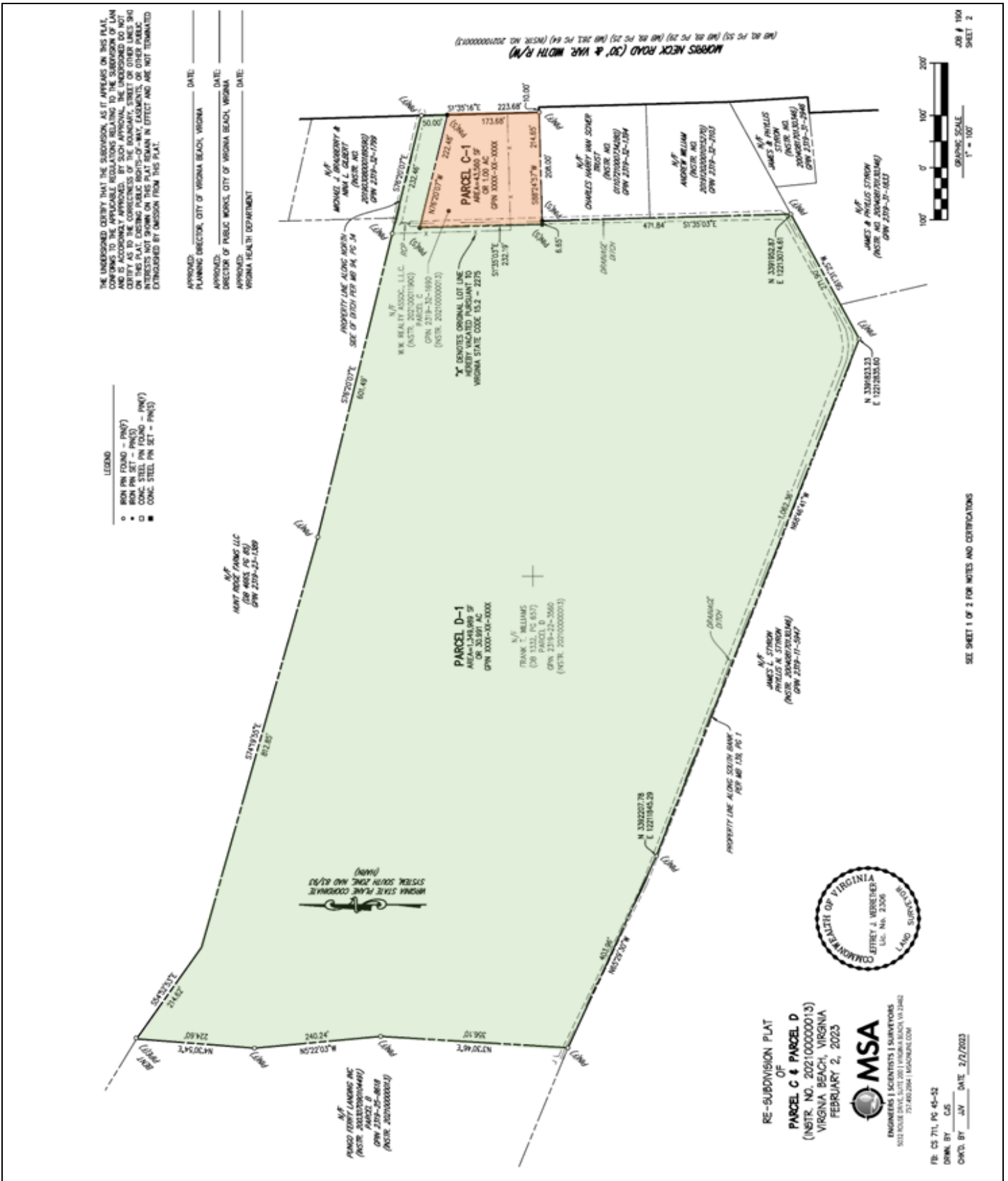
No public utility impacts are anticipated as the parcel will need to be served by a private well and private on-site sanitary sewage system.

Public Outreach Information

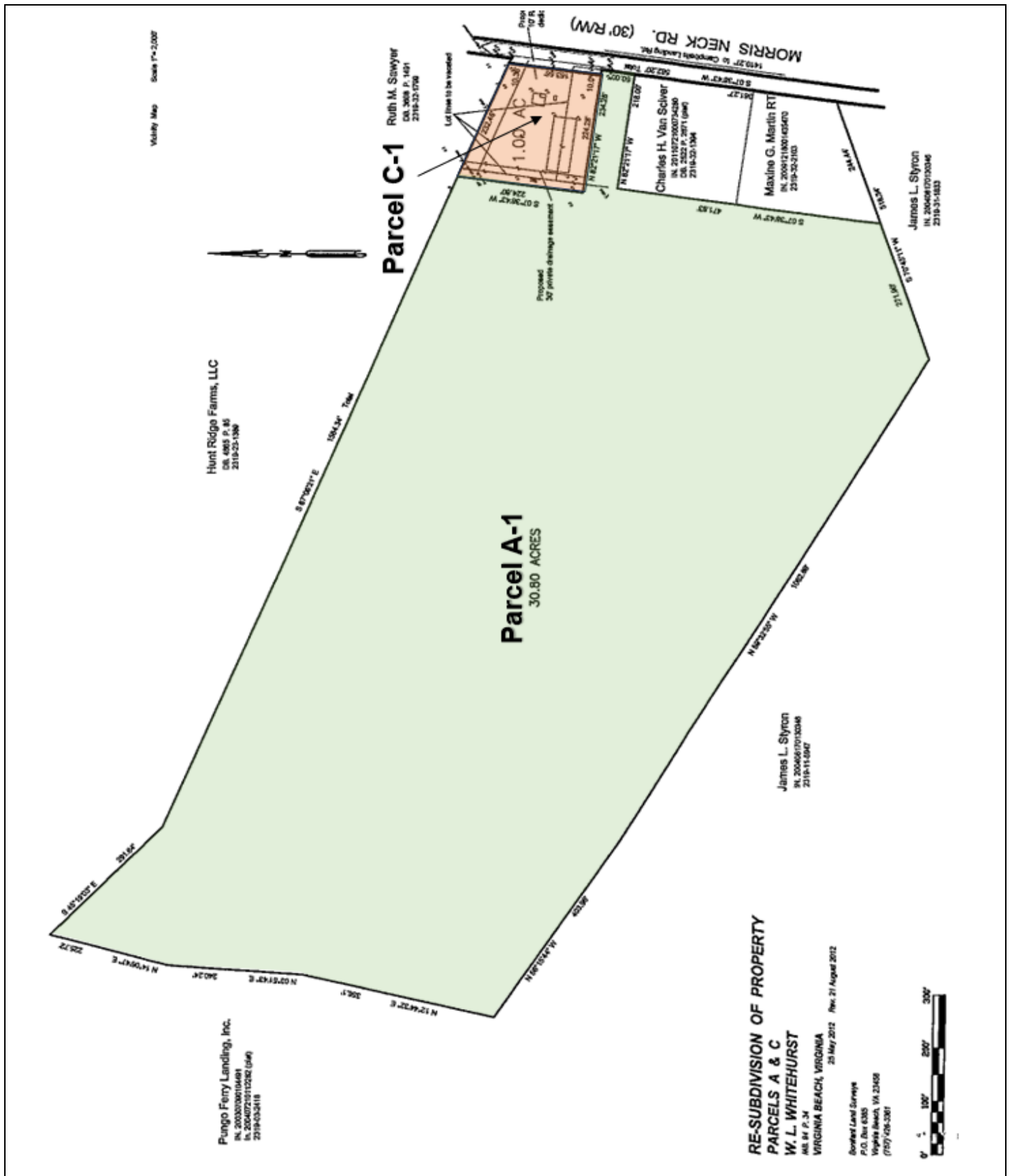
Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on August 14, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, August 30, 2023 and September 6, 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 August 28, 2023.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.viriniabeach.gov/pc on September 7, 2023.

Proposed Site Layout



Previous 2013 Subdivision Variance Layout



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 W.W. Realty Associates, LLC

Does the applicant have a representative? ☒ Yes ☐ No

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

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

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

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

Frank T. Williams, Sole Member

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

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

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

Disclosure Statement



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

☐ Yes ☒ No

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

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

☐ Yes ☒ No

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

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

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

Kevin Allison, Corbin & Company, P.C.

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.
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Disclosure Statement



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

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

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

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

Applicant Signature

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

Frank T Williams

Applicant Signature

Frank T. Williams

Print Name and Title

5/01/23

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	

Revised 11.09.2020

3 | Page

Disclosure Statement

Disclosure Statement



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Applicant Disclosure

Applicant Name Frank T. Williams

Does the applicant have a representative? ☒ Yes ☐ No

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

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

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

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

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

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Kevin Allison, Corbin & Company, P.C.

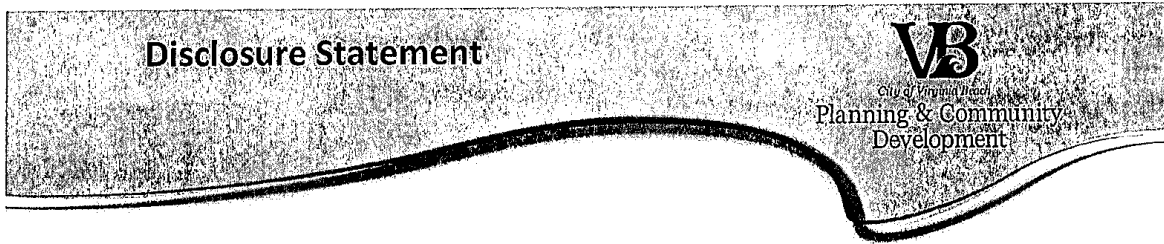
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Disclosure Statement



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Applicant Signature

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W.W. Realty Associates, LLC

By: Frank T. Williams

Applicant Signature

Frank T. Williams, Sole Member

Print Name and Title

5/01/23

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

Marchelle Coleman

Location

2865 Lynnhaven Drive, Suite C1

GPIN

Portion of 1499389741

Site Size

3.25 acres (1,500 square foot unit)

AICUZ

Less than 65 dB DNL

Watershed

Chesapeake Bay

Existing Land Use and Zoning District

Shopping center / B-2 Community Business
(Shore Drive Overlay District)

Surrounding Land Uses and Zoning Districts

North

Lynnhaven Drive
Townhomes, retail, restaurants / A-18
Apartment, B-2 Community Business (Shore
Drive Overlay District)

South

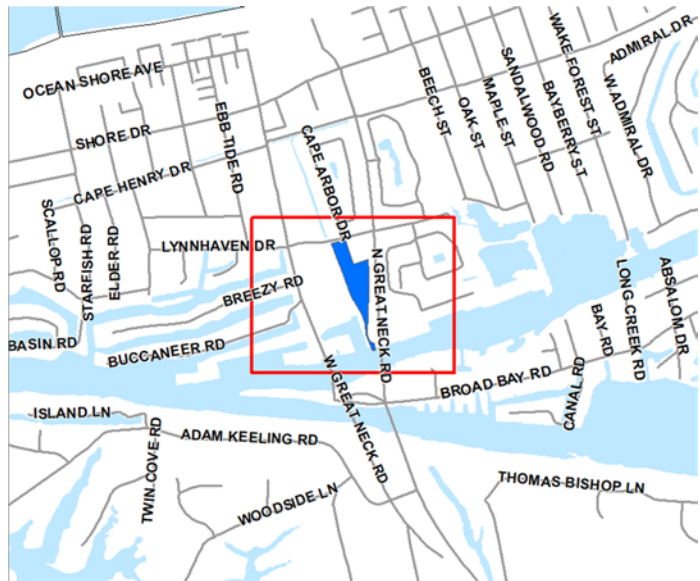
Lynnhaven River

East

N. Great Neck Road
Multi-family housing, marina / A-36 Apartment,
B-4 Mixed Use (Shore Drive Overlay District)

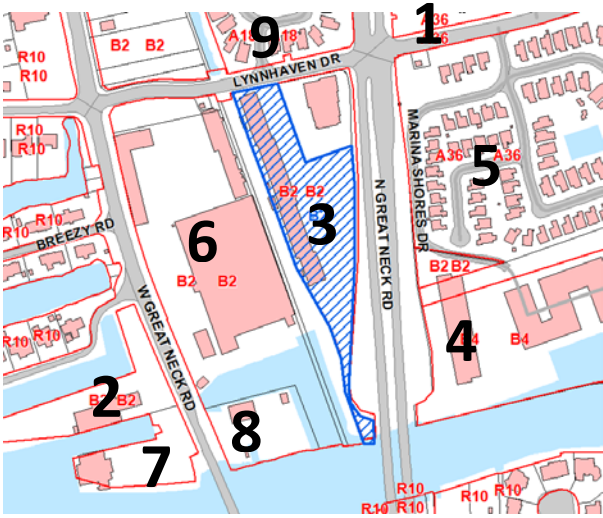
West

Marina, boat storage / B-2 Community Business
(Shore Drive Overlay District)



Background & Summary of Proposal

- The applicant is proposing to operate an event rental space within a 1,500 square foot unit in the Marina Shores Shoppes shopping center. The property is zoned B-2 Community Business and is within the Shore Drive Overlay District. Per the Zoning Ordinance, an event venue is classified as an Assembly Use, and as such, a Conditional Use Permit is required.
- Specifically, the applicant proposes to rent the venue to the public for small gatherings, such as birthday parties, baby showers, corporate events, and small business vendor collaborations. All events will be held indoors.
- Those renting the venue will be responsible for bringing prepackaged or pre-prepared foods, as there will not be a kitchen onsite.
- The applicant intends to host a maximum of 50 guests at any one time; however, the maximum occupant load will be determined by the Building Official/Fire Marshal.
- According to the applicant, the scheduling of events will vary, as it is difficult to predict times of service for any future event. However, the applicant is proposing hours of operation and the availability of private events to be limited to 8:00 a.m. to 8:00 p.m., Monday through Sunday.
- Per the Zoning Ordinance, the site meets the criteria of a shopping center and as such, parking is required at a rate of one space per 250 square feet of floor area. Based on the total floor area of the shopping center, including the building on the outparcel at the northwest corner of the site, a minimum of 178 parking spaces are required. There are 262 parking spaces on site, exceeding the minimum parking requirement by 84 spaces.
- There will be no significant modifications to the site or to the exterior of the building. A sign has been installed above the suite. A rendering has been provided by the applicant and is shown on page 7 of this report.

		<h3>Zoning History</h3> <table><tr><th>#</th><th>Request</th></tr><tr><td>1</td><td>MDP Approved 3/16/2021</td></tr><tr><td>2</td><td>CUP (Assembly Use) Approved 02/18/2020</td></tr><tr><td>3</td><td>CUP (Outdoor Recreation) Approved 05/21/2019 CUP (Assembly Use) Approved 05/21/2019 CUP (Yoga Studio) Approved 03/24/2009</td></tr><tr><td>4</td><td>CUP (Multi-Family Development) Approved 11/21/2017 CUP (Marina) Approved 11/21/2017 CRZ (B-2 & R-7.5 to B-4 & P-1) Approved 11/21/2017</td></tr><tr><td>5</td><td>CUP (Home Occupation) Approved 10/17/2017</td></tr><tr><td>6</td><td>CUP (Dry Storage Boatel) Approved 12/14/2000</td></tr><tr><td>7</td><td>CUP (Marina) Approved 03/23/1999</td></tr><tr><td>8</td><td>CUP (Marina) Approved 05/13/1997</td></tr><tr><td>9</td><td>CRZ (B-2 to A-18 with PD-H2 Overlay) Approved 01/04/1993</td></tr></table>		#	Request	1	MDP Approved 3/16/2021	2	CUP (Assembly Use) Approved 02/18/2020	3	CUP (Outdoor Recreation) Approved 05/21/2019 CUP (Assembly Use) Approved 05/21/2019 CUP (Yoga Studio) Approved 03/24/2009	4	CUP (Multi-Family Development) Approved 11/21/2017 CUP (Marina) Approved 11/21/2017 CRZ (B-2 & R-7.5 to B-4 & P-1) Approved 11/21/2017	5	CUP (Home Occupation) Approved 10/17/2017	6	CUP (Dry Storage Boatel) Approved 12/14/2000	7	CUP (Marina) Approved 03/23/1999	8	CUP (Marina) Approved 05/13/1997	9	CRZ (B-2 to A-18 with PD-H2 Overlay) Approved 01/04/1993
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Evaluation & Recommendation

The applicant's request for a Conditional Use Permit to operate an Assembly Use is, in Staff's opinion, acceptable. The use is compatible with the other commercial uses along this section of N. Great Neck Road and is consistent with the Comprehensive Plan's vision for the Suburban Area. Development within this area focuses on creating and maintaining great neighborhoods by enhancing the existing neighborhood through compatibility with surroundings. This assembly use helps to maintain great neighborhoods by providing an affordable amenity to the community for small gatherings and social events.

As previously mentioned, the shopping center exceeds the minimum parking requirement, as defined in Section 203 of the Zoning Ordinance. Based on Staff's analysis of the potential traffic impacts, the size of the event space will not generate a significant amount of traffic to the site.

While the applicant indicated that all events and music will be conducted indoors, a condition to reinforce that no amplified music, use of speakers, or monitors for the Assembly Use will be permitted outside of the building is recommended.

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

Recommended Conditions

1. 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 from the Building Official's Office for use of the existing building as an Assembly Use.
2. The maximum number of attendees shall not exceed fifty (50) or the occupancy load determined by the City of Virginia Beach Fire Marshal, whichever is less.
3. Any on-site signage for the establishment shall meet the requirements of the City Zoning Ordinance, and there shall be no neon, electronic display or similar sign installed on the exterior of the building or in any window, or on the doors. A separate sign permit shall be obtained from the Department of Planning & Community Development for the installation of any new signs.
4. All event activities shall occur within the building.
5. No amplification of music or use of speakers shall be permitted except within the enclosed building.
6. Any outdoor storage of materials associated with the Assembly Use shall be prohibited.

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

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

Comprehensive Plan Recommendations

The Comprehensive Plan recognizes this property as being within the Suburban Area within the Shore Drive Overlay District. 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. A goal of the Shore Drive Corridor Plan is to encourage development and redevelopment of the corridor as an attractive residential community. If new signage is proposed, the designs should follow the recommendations laid out in the Shore Drive Corridor Design Guidelines to ensure that the aesthetics of the corridor are maintained. Adding a new use to an existing commercial center is generally appropriate and as such the Bayfront Advisory Commission did not feel it was necessary for the Commission to review the application and provide input.

Natural & Cultural Resources Impacts

The site is located in the Chesapeake Bay watershed and is partially within the Resource Protection Area. The majority of the site is impervious, as it is developed with an existing shopping center and an asphalt parking lot.

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Lynnhaven Drive	2,750 ADT ¹	9,900 ADT ¹ (LOS ⁴ "D")	Existing Land Use ² —80 ADT Proposed Land Use ³ — No Data Available
N. Great Neck Road	26,350 ADT ¹	36,900 ADT ¹ (LOS ⁴ "D")	
¹ Average Daily Trips	² as defined by a 1,500 square foot event venue in shopping center	³ No information available in the ITE Trip Generation Manual for event venues	⁴ LOS = Level of Service

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

Lynnhaven Drive, in the vicinity of this application, is considered a two-lane undivided local street. No CIP projects are planned for this area.

North Great Neck Road, in the vicinity of this application, is considered a four-lane divided major suburban arterial. The MTP proposes a divided facility with bikeway within a 120-foot right-of-way. No CIP Projects are planned in the vicinity of this site.

Public Utility Impacts

Water & Sewer

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

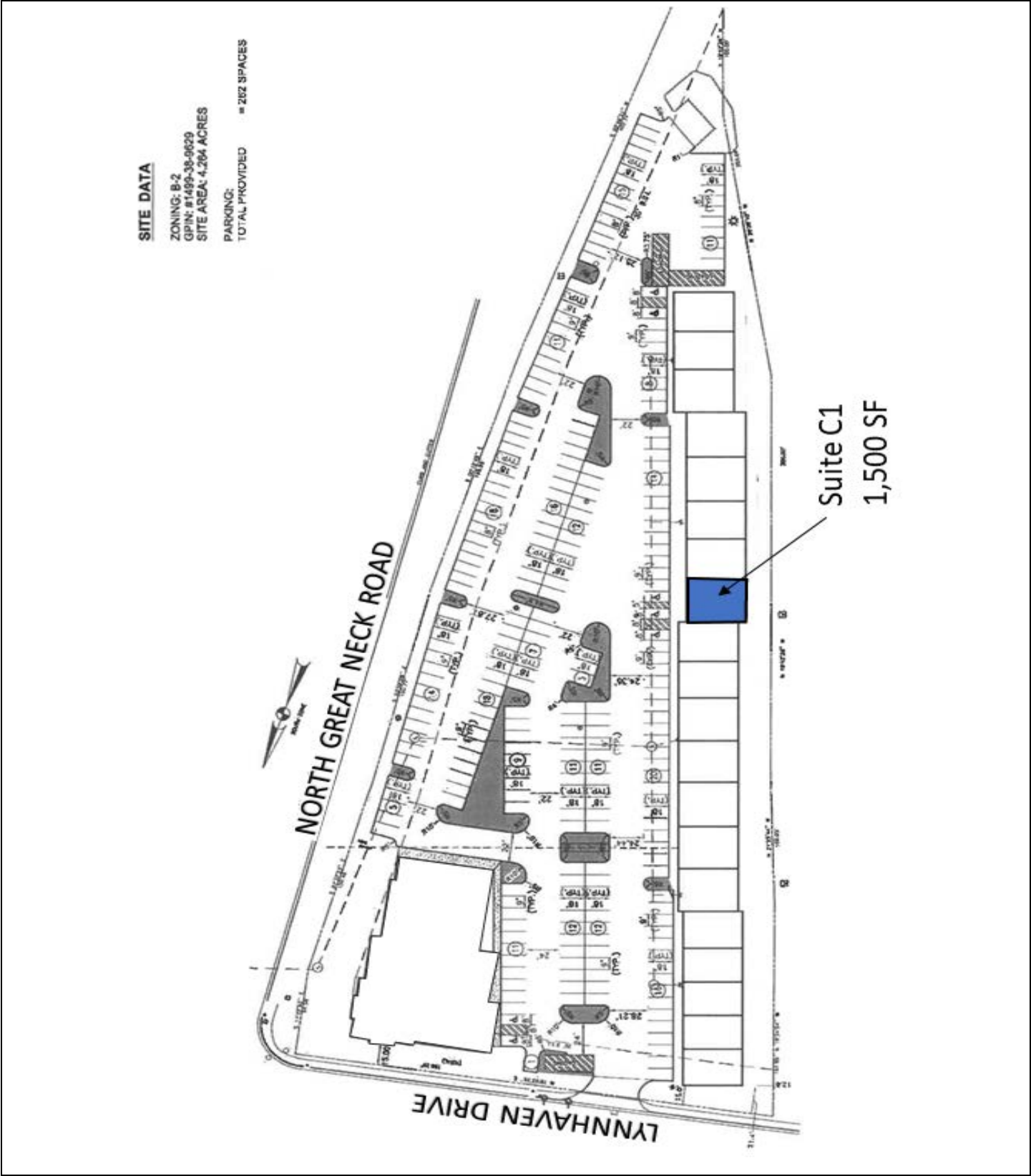
Public Outreach Information

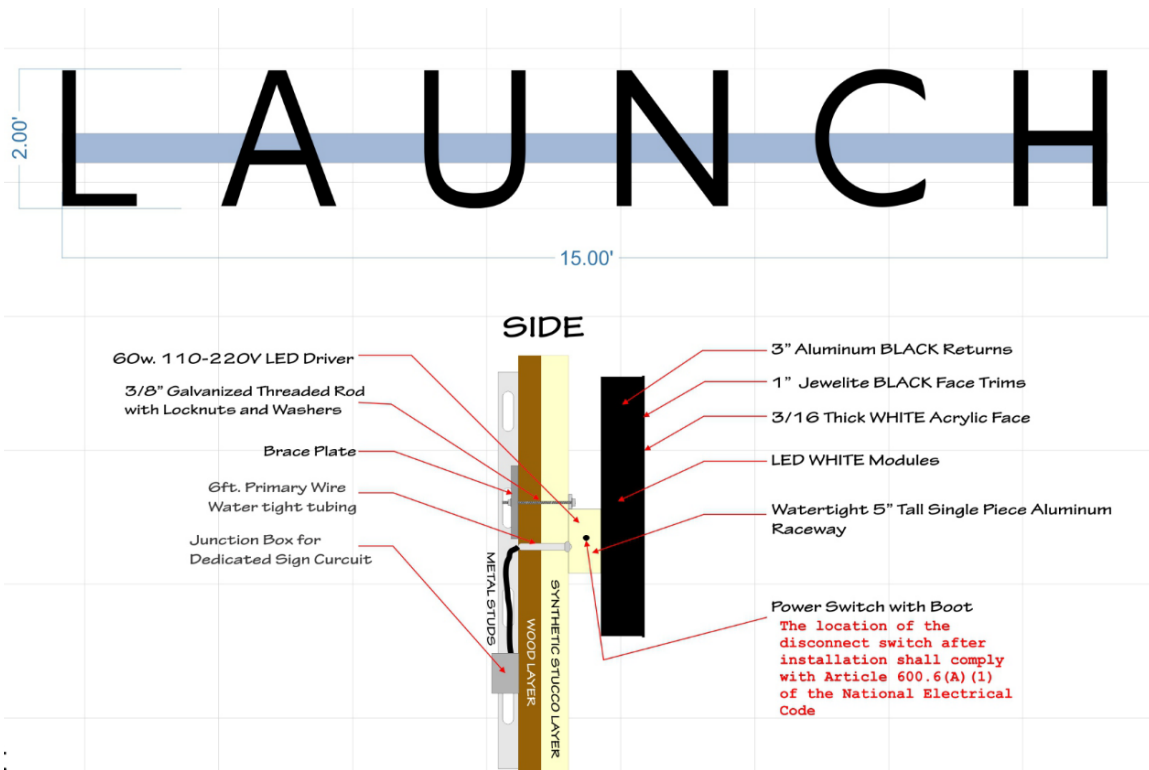
Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on August 14, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, August 30, 2023 and September 6, 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 August 28, 2023.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.virginiabeach.gov/pc on September 7, 2023.

Site Layout

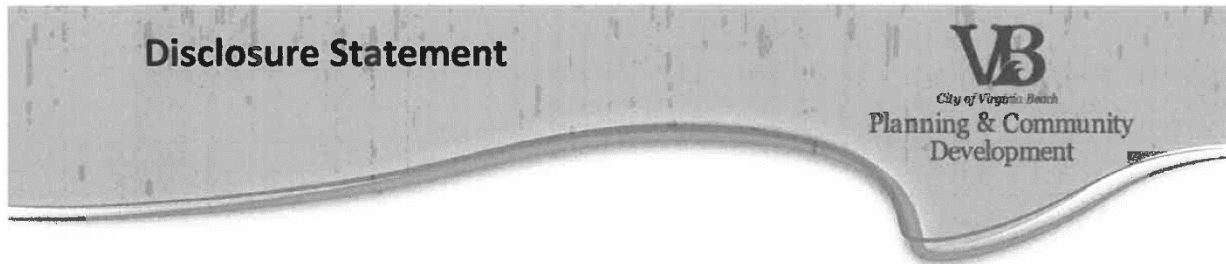




Site Photos



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Applicant Disclosure

Applicant Name Bronte Outerbridge, Launch creative space LLC

Does the applicant have a representative? ☒ Yes ☐ No

- If yes, list the name of the representative.

Bronte Outerbridge

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

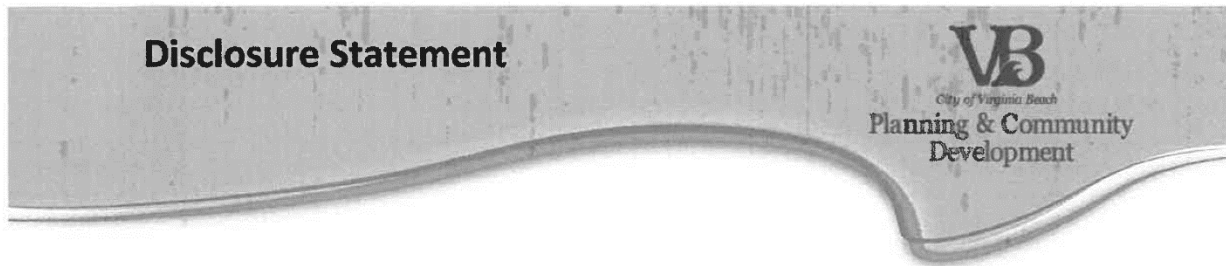
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Bronte Outerbridge - owner

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

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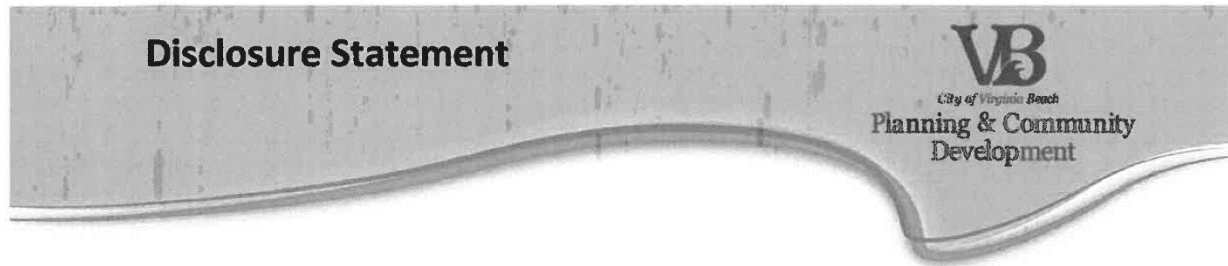
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Disclosure Statement



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Applicant Signature

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Bronte Outbridge

Applicant Signature

Bronte Outbridge, tenant to marina shores/owner of launch

Print Name and Title

March 29, 2023

Date

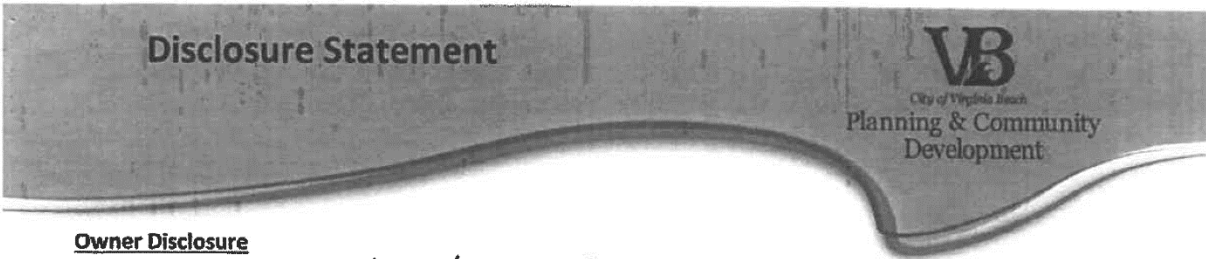
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<input type="checkbox"/>	No changes as of	Date	Signature
			Print Name

Disclosure Statement



Owner Disclosure

Owner Name Marina Shores Repair Corp.

Applicant Name Launch Creative Space 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)

Gale L. Higgs

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

Known Interest by Public Official or Employee

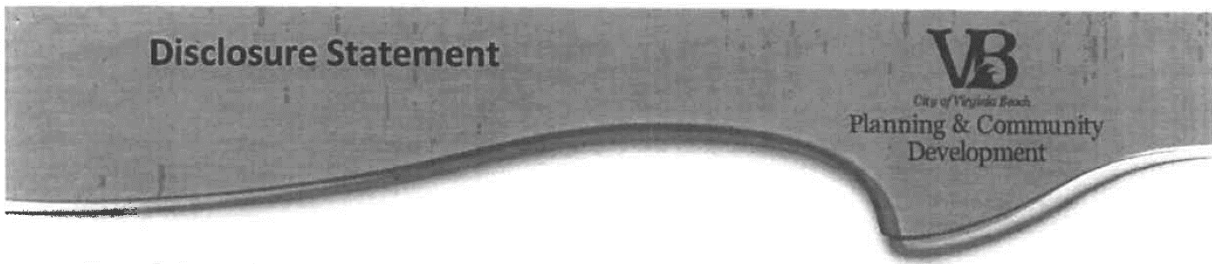
Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action? ☐ Yes ☒ No

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

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

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

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

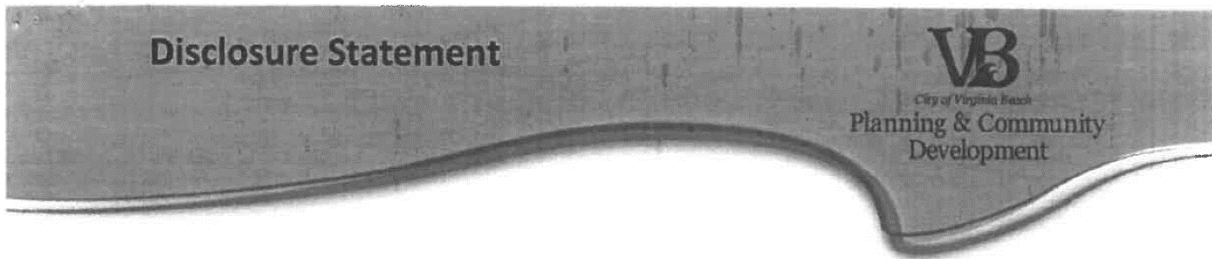
3. Does the Owner have services for accounting and/or preparation of tax returns provided in connection with the subject of the application or any business operating or to be operated on the property? ☒ Yes ☐ No
• If yes, identify the firm and individual providing the service.
BDO - Bill Neice
4. Does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

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.
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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 (Bulk Storage Yard)

Staff Recommendation

Approval

Staff Planner

Elizabeth Nowak

Location

2865 Lynnhaven Drive

GPIN

1499389741

Site Size

3.25 acres

AICUZ

Less than 65 dB DNL

Watershed

Chesapeake Bay

Existing Land Use and Zoning District

Shopping center / B-2 Community Business
(Shore Drive Overlay District)

Surrounding Land Uses and Zoning Districts

North

Lynnhaven Drive
Townhomes, retail, restaurants/ A-18
Apartment, B-2 Community Business (Shore
Drive Overlay District)

South

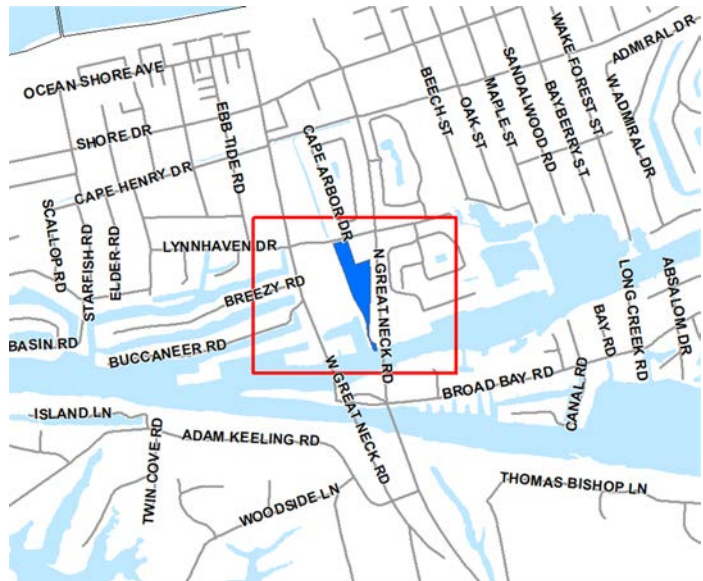
Lynnhaven River

East

N. Great Neck Road
Multi-family housing, marina / A-36 Apartment,
B-4 Mixed Used (Shore Drive Overlay District)

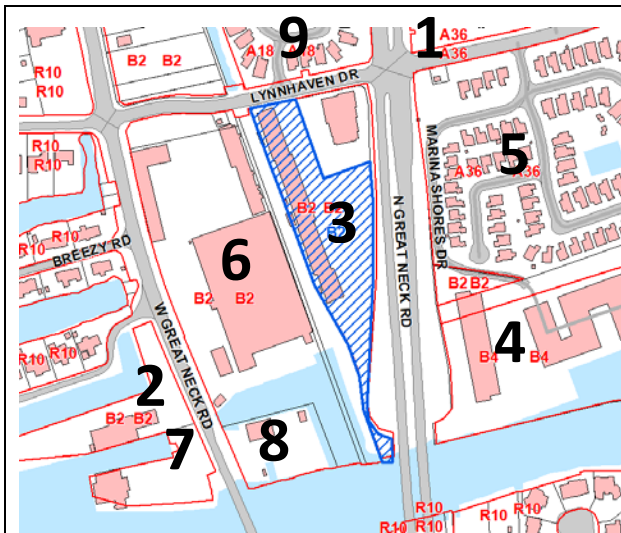
West

Marina, boat storage / B-2 Community Business
(Shore Drive Overlay District)



Background & Summary of Proposal

- The applicant is requesting a Conditional Use Permit for a Bulk Storage Yard to allow a tenant of the Marina Shores Shoppes shopping center—Taylor's Do It Center—to store certain regular and seasonal merchandise in the parking lot.
- The applicant has been storing mulch and seasonal merchandise in the parking lot of the Marina Shores Shopping Center without a Conditional Use Permit for a Bulk Storage Yard. Once the applicant was made aware of the Conditional Use Permit requirement, they submitted an application to the city to continue storing specific merchandise in the parking lot.
- Seasonal items carried by Taylor's Do It Center that require the use of additional space in the parking lot include landscaping materials (e.g., flowers, plants) in the spring and Christmas trees in the winter. Landscaping materials would be stored between March 20th and May 15th annually and Christmas trees would be stored between November 20th and December 15th annually. No vending or sales would occur outdoors. No third-party vendors would store goods or make sales on-site as part of this proposal. Seasonal merchandise would be located underneath a temporary tent, that would occupy approximately eight parking spaces in the parking lot in front of Taylor's Do It Center's storefront.
- In addition to seasonal items, the Taylor's Do It Center also desires to store mulch in the parking lot on a year-round basis. Mulch is presently stored in four parking spaces to the left of the entrance. It would remain in the general location but would be screened with a four-foot, six-inch tall wooden privacy fence with a gate.
- The store's operating hours would remain the same and the storage area would be accessible to staff and customers only during operating hours: Monday through Saturday, 8:00 a.m. to 8:00 p.m. and Sunday, 9:00 a.m. to 6:00 p.m.
- Per Section 228(a), Bulk Storage Yards are required to be screened by a solid fence or wall a minimum of six feet in height (except for necessary openings for ingress and egress) and Category VI landscaping. The applicant is requesting a deviation to this standard to use the proposed tent as the primary means of screening seasonal merchandise without a solid fence or landscaping and a deviation to only install fencing to screen the mulch area.
- Per Section 203(a)(33), one parking space per every 250 square feet of floor area is required for a shopping center. The Marina Shores Shoppes has approximately 44,500 square feet of commercial building between the primary shopping center and the outparcel at the northwest corner, requiring 178 parking spaces. 262 spaces are available on site. A parking agreement between the two owners of the primary parcel and the outparcel provides access to parking spaces for all tenants.



Zoning History

#	Request
1	MDP Approved 3/16/2021
2	CUP (Assembly Use) Approved 02/18/2020
3	CUP (Outdoor Recreation) Approved 05/21/2019 CUP (Assembly Use) Approved 05/21/2019 CUP (Yoga Studio) Approved 03/24/2009
4	CUP (Multi-Family Development) Approved 11/21/2017 CUP (Marina) Approved 11/21/2017 CRZ (B-2 & R-7.5 to B-4 & P-1) Approved 11/21/2017
5	CUP (Home Occupation) Approved 10/17/2017
6	CUP (Dry Storage Boatel) Approved 12/14/2000
7	CUP (Marina) Approved 03/23/1999
8	CUP (Marina) Approved 05/13/1997
9	CRZ (B-2 to A-18 with PD-H2 Overlay) Approved 01/04/1993

Application Types

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

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

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

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

Evaluation & Recommendation

In Staff's opinion, this request for a Conditional Use Permit for a Bulk Storage Yard and the two requested deviations are acceptable. Mulch and seasonal merchandise have been stored this way on the property for several years without reported incident to the city. When the applicant became aware they needed a Conditional Use Permit to store merchandise in this manner, they submitted an application forthwith.

This property is located in the Shore Drive Corridor Overlay District, which is concerned with the overall development of the Shore Drive area. Among the recommendations in the Comprehensive Plan for this corridor is the development of compatible non-residential uses that support residents, such as hardware stores. The proposed storage of merchandise in the parking lot is directly tied to the hardware store in the Marina Shores Shopping Center. Additionally, the parking lot and the general locations identified for merchandise storage have limited visibility from North Great Neck and Lynnhaven Drive. Immediate adjacent uses include marinas and boat storage; residential development is separated from the shopping center by streets.

There are certain site constraints that support the storage of merchandise in the parking lot rather than at the rear of the building. Taylor's Do It Center is located near the midpoint of the strip building. The rear of the site is unimproved and would require the construction of a long, paved driveway to locate merchandise at the rear of the building. This would add pavement to an area immediately adjacent to the Resource Protection Area of the Chesapeake Bay. In Staff's opinion, it is a better option to use existing paved areas that are more conveniently accessed.

The requests to deviate from the requirement to install a minimum six-foot tall solid fence or wall and Category IV plantings are also reasonable. Seasonal merchandise will only be located in the parking lot for a few weeks out of the year and it is acceptable to use the proposed tent as the primary means of delineating and screening those items. The applicant is proposing a reduction in the required fence height to 4.5 feet in order to screen the mulch. Staff is recommending Condition 4 to ensure that the mulch remain at or below the height of the fence. This is to minimize the overall visual impact of the storage area and to keep sight lines open in the parking lot.

Parking for the shopping center will not be adversely affected with the use of up to 12 spaces for storage. Four spaces would be permanently used for storing mulch, while eight spaces would be used a few weeks out of the year. The shopping center provides 262 spaces, an excess of the 178 required. No adverse traffic impacts are anticipated either.

For these reasons, Staff recommends approval of the Conditional Use Permit and the two deviations to the landscape screening requirements subject to the conditions and exhibits below.

Recommended Conditions

1. The location and approximate dimensions of the two areas designated for outdoor storage of merchandise shall substantially conform to the exhibited included in the Staff Report dated September 13, 2023 and that is on file with the Department of Planning and Community Development.
2. Storage of merchandise in the area identified as “Proposed Tent Location” in the exhibit included in the Staff Report dated September 13, 2023 is only permitted between March 20th through May 15th and between November 20th through December 15th per calendar year.
3. A 4-foot 6-inch tall solid wood fence with a latching gate—to be either a slat fence or a shadow box fence—shall be installed to enclose the area identified as “Proposed Mulch Location” in the exhibited included in the Staff Report dated September 13, 2023. Only mulch may be stored in this area.
4. Mulch stored in the identified storage area shall not be stacked higher than the enclosure fence.
5. No sales are permitted in the storage areas; all sales must take place within the interior of the associated storefront.
6. No third-party vending is permitted in the bulk storage area.
7. All merchandise stored in the bulk storage area shall be kept neatly stacked and tidy at all times.
8. The six-foot fencing or Category IV landscaping shall not be required for the “Proposed Tent Location” or the “Proposed Mulch Location.” This is a deviation from the Zoning Ordinance.
9. No additional signage is permitted with this approval for storage of merchandise outdoors.
10. Mulch and seasonal merchandise shall be confined to the identified areas of storage and shall not impede traffic circulation in the parking lot or ADA parking spaces.

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

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

Comprehensive Plan Recommendations

The Comprehensive Plan designates the subject property as being within the Suburban Area of the city and the Shore Drive Corridor. General recommendations for the Suburban Area call for the development of compatible non-residential uses that support the creation and maintenance of Great Neighborhoods, such as hardware stores. This commercial site is not adjacent to Shore Drive, though it is somewhat visible from North Great Neck Road. The Shore Drive Corridor Design Guidelines recommends that screening requirements laid out in the Zoning Ordinance should be met for sites in the overlay district.

Natural & Cultural Resources Impacts

The site is located in the Chesapeake Bay watershed and is partially within the Resource Protection Area. This proposal, however, does not require review or approval from the Chesapeake Bay Review Board.

No known cultural resources will be affected by this request.

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Lynnhaven Drive	2,750 ADT ¹	9,900 ADT ¹ (LOS ⁴ "D")	Existing Land Use ² – 980 ADT Proposed Land Use ³ – No change anticipated
N. Great Neck Road	26,250 ADT ¹	36,900 ADT ¹ (LOS ⁴ "D")	
¹ Average Daily Trips	² as defined by a XXXXXXXX	³ No information available in the ITE Trip Generation Manual for event venues	⁴ LOS = Level of Service

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

Lynnhaven Drive in the vicinity of this application is considered a two-lane undivided local street. No CIP projects are slated for this area.

North Great Neck Road in the vicinity of this application is considered a four-lane divided major suburban arterial. The MTP proposes a divided facility with bikeway within a 120 foot right-of-way. No CIP projects are slated in the vicinity of this site.

Public Utility Impacts

Water & Sewer

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

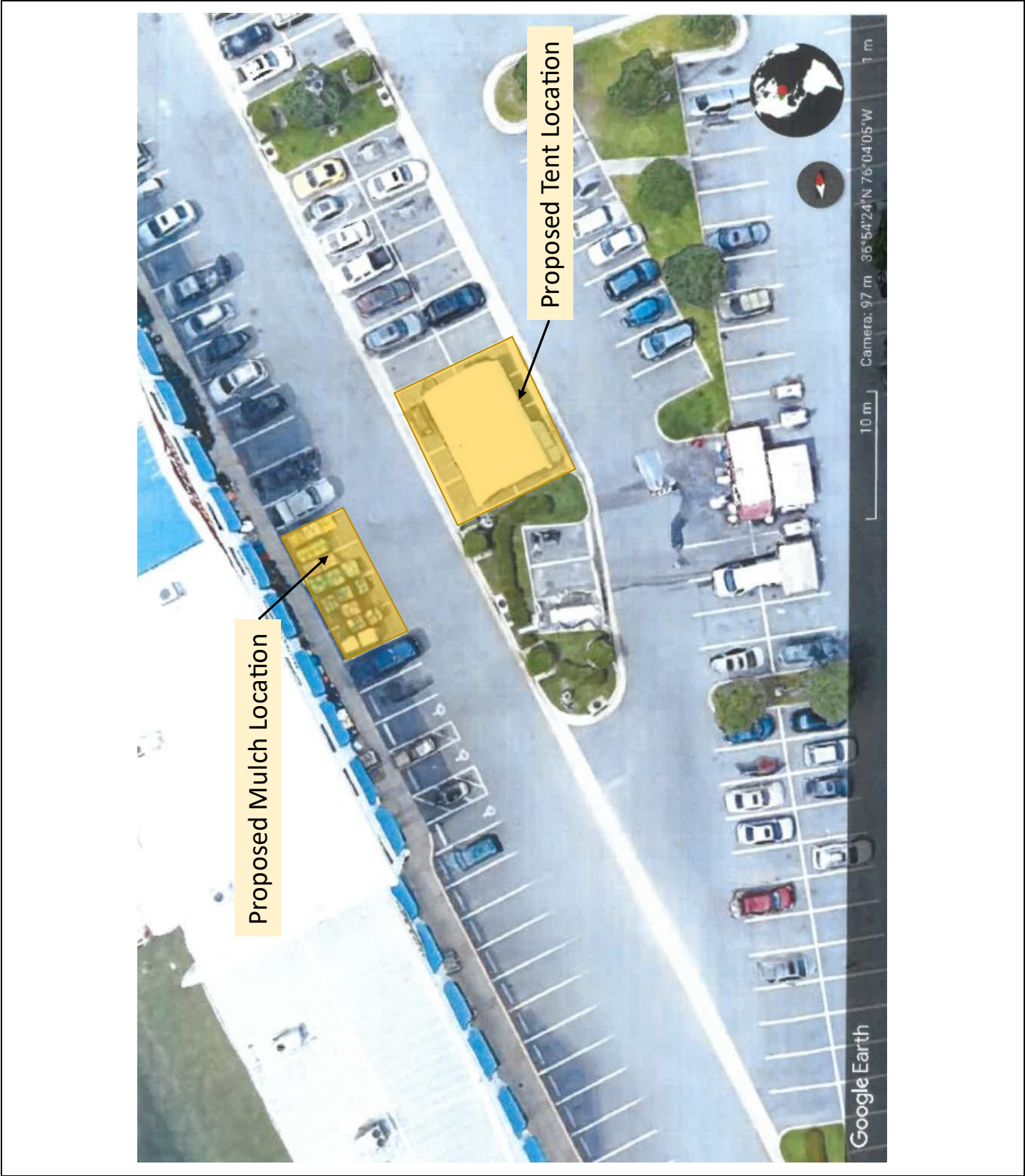
Public Outreach Information

Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on August 14, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, August 30, 2023 and September 6, 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 August 28, 2023.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.virginiabeach.gov/pc on September 7, 2023.

Proposed Site Layout



Site Photos



Site Photos



Disclosure Statement



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

Applicant Disclosure

Applicant Name MARINA SHORES REPAIR CORP

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)

Gale Levine Higgs - President, Secretary, treasurer
Kristen Hadden Robinson - Agent
Jon Malbon - Operations Manager

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

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

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

Disclosure Statement



Known Interest by Public Official or Employee

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

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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.

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

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

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

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

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

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

Disclosure Statement

Disclosure Statement



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

Applicant Signature

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

Applicant Signature

Print Name and Title

Date

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

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

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

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

Next Steps

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

Modification of Conditions (Expand the existing religious use by 15,750 square feet)

Staff Recommendation

Approval

Staff Planner

Elizabeth Nowak

Location

245 S. Rosemont Road

GPIN

1487614114

Site Size

4.9 acres

AICUZ

Less than 65 dB DNL

Watershed

Chesapeake Bay

Existing Land Use and Zoning District

Religious use, daycare / B-2 Community Business

Surrounding Land Uses and Zoning Districts

North

Shopping center / B-2 Community Business

South

Retail, fire station/ B-2 Community Business

East

S. Rosemont Road

Single-family dwellings / R-7.5 Residential

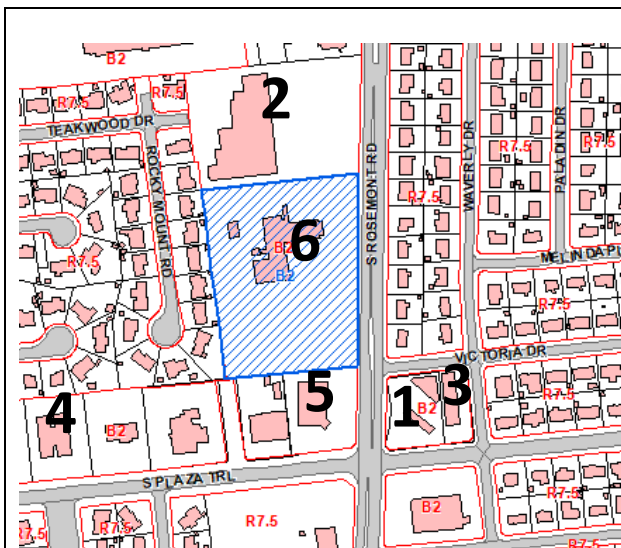
West

Single-family dwellings / R-7.5 Residential



Background & Summary of Proposal

- The applicant is requesting a Modification of Conditions to construct a 15,750 square-foot addition to the existing 16,800 square-foot building at 245 S. Rosemont Road. Currently, Red Church operates here, offering both religious services and a daycare program.
- The proposed addition will accommodate a new, larger sanctuary space for Red Church. Red Church also runs a daycare program out of the same building. The relocation of the sanctuary space will allow for additional space to be used as classrooms.
- This project includes a general renovation of the existing building as well as the construction of the new addition. Updates will be made to the existing red brick building to include removal of the steeple and front-gable porch on the east elevation and addition of complementary design features on the building facades. The new addition will incorporate contemporary materials such as gray-toned EIFs, wood panels, perforated metal accent panels, fabric awnings, corrugated metal panels, and red brick. The color palette combines the bright red of Red Church with several tones of gray to evoke a modern feel. Overhead garage doors, awnings, and an outdoor courtyard activate the pedestrian level.
- The new addition will be two stories, 37-feet and six-inches in height. This matches the height of the existing two-story building. In the new addition, there will be a mezzanine level, primarily for mechanical access.
- The existing sanctuary has 175 seats available. The addition will provide 616 seats total, an increase of 441 seats. Per Section 240.1(b), at least one parking space per five seats in the main auditorium must be provided. For the 616 seats, 123 parking spaces will be required. Per Section 203(a)(6), one parking space per 300 square feet of floor area is required for childcare centers such as the daycare. 48 spaces will be required for the daycare use as there is 14,500 square feet of classroom area, and a total of 172 spaces are needed for both uses. The applicant is proposing 142 spaces on site. A Shared Parking Study was submitted to and approved by the Zoning Administrator to reduce the required parking minimum.
- With this renovation, there will be approximately 16,800 square feet devoted to the daycare program and the remainder for the sanctuary and offices.



Zoning History

#	Request
1	CUP (Automobile Service Station – Fuel Sales with Convenience Store) Approved 08/18/2015 CUP (Motor Vehicle Sales) Approved 07/14/2009 MDC (Automobile Service Station – Fuel Sales with Convenience Store) Approved 01/13/2009 CUP (Automobile Service Station & Repair) Approved 05/25/1999
2	CUP (Truck & Trailer Rentals) Approved 07/02/2013
3	CUP (Church) Approved 12/1/2009 CUP (Church) Approved 09/28/1993
4	CUP (Vocational School) Approved 03/25/2008
5	CUP (Automobile Repair) Approved 04/27/1987
6	CUP (Religious Use) Approved 05/18/1961

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 Modification of Conditions to expand the church is acceptable. The property is located in the Suburban Area of the city as defined in the Comprehensive Plan; recommendations for this area include development of non-residential uses that support day-to-day lives of residents. Such supportive non-residential uses include religious uses, such as churches, and daycare programs. Red Church has been operating its church and daycare program for many years on this site and the religious use on this parcel dates back to 1961, when the original Conditional Use Permit for Religious Use was approved by City Council. The use is complementary to the existing character of the area and aligns with goals of the Comprehensive Plan.

In addition to use recommendations, the Comprehensive Plan also identifies some specific design guidelines for the Suburban Area to ensure that non-residential development is compatible with a residential character. The proposed elevations, in Staff's opinion, are very responsive to the design criteria recommended in the Comprehensive Plan. The addition will be approximately the same height as the existing building and will be set back from S. Rosemont Road. Combined with the rectangular massing of the new addition, these elements ensure that the new enlarged building will not be out of scale with adjacent commercial development, nor will it overshadow the one-story single-family dwellings opposite S. Rosemont Road from Red Church. The proposed materials include red brick, EIFS, and high-quality metal panels and siding. While Red Church will incorporate its signature red color into the elevation design, the color will be used as an accent of the overall design, not as a primary feature. This is in keeping with specific design guidelines recommended in the Comprehensive Plan. Proposed overhead garage doors on the main elevation (east elevation) will allow for congregation in and outside of the building. In Staff's opinion, this area is set back well from S. Rosemont Road, which is a busy thoroughfare. Given the distance that this area will be set back from the residences opposite the church in addition to the relatively high volume of traffic in this area, Staff believes that this function will have no detrimental impact on residents adjacent to the church.

The renovation will reduce signage on site from the existing five signs down to the permitted number of three signs. They will include the retention of the existing freestanding sign on S. Rosemont Road and two new wall signs on the east elevation. The existing painted wall signs on the building will be removed.

The proposed development plan will result in 142 spaces to be used for the daycare program and the church. Section 240.1(b) and Section 203(a)(6) of the Zoning Ordinance require that 123 spaces are required for the church and 48 for the daycare program, respectively. While both uses will operate on-site, their peak use hours will not coincide. As the Zoning Administrator reviewed and approved a shared parking study for the site, Staff is of the opinion that parking for both uses will be adequate. With the increased size of the church, Staff does anticipate an increase in the average daily trips (ADT) for this area from 553 to 1,359 ADT. This increase is within the present capacities of Rosemont Road and South Plaza Trail. Additionally, the applicant completed a traffic evaluation that explored potential traffic impacts and possible mitigation measures. Staff agrees with the conclusions of that report and that the proposed design of the driveways from S. Rosemont Road will sufficiently serve the site.

The existing Conditional Use Permit has a relatively narrow scope and includes no conditions regarding size, operational hours, parking, traffic, or design concerns. Of the existing conditions, Condition 4 relates to parking. With the increase in the number of seats in the sanctuary (increasing from 175 to 616), more parking will be required on-site. This specific condition will be modified, as stated below. Staff is also recommending Conditions 1 and 2 to ensure that the renovation on site will be compatible with the adjacent area and with Comprehensive Plan goals for the Suburban Area.

For these reasons, Staff recommends approval of the request for a Modification of Conditions subject to the conditions and exhibits included below.

Recommended Conditions

1. The site shall be developed in substantial conformance with the submitted site plan entitled “Red Church Addition – Concept Plan”, dated 08/16/2023, prepared by Kimley-Horn, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
2. The structure will be constructed in substantial conformance with the submitted elevation entitled “Red Church”, dated 4/19/2023, prepared by Corbin Design, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development. The proposed structure shall be constructed of a similar type of material, color, and trim as the existing structure.
3. The site shall be landscaped in substantial conformance with the submitted site plan “Red Church Addition – Concept Plan”, dated 8/16/2023, prepared by Kimley-Horn, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
4. The applicant shall obtain all necessary permits and inspections from the Department of Planning & Community Development Permits and Inspections Division, the Health Department, and the Fire Department. The applicant shall obtain a Certificate of Occupancy from the Building Official’s Office prior to commencing operation.
5. An approved Shared Parking Agreement shall be kept on file with the Zoning Administrator to ensure sufficient parking for the religious use and the day care on site. This is deviation to the parking requirement.
6. Approval of the Red Church Traffic Evaluation by Traffic Engineering Staff shall be obtained prior to the final approval of a site plan for the project.
7. Prior to final site plan approval, a Lighting Plan in accordance to Section 254 of the Zoning Ordinance, or as amended, shall be submitted to the Department of Planning and Community Development for review and approval. All lighting on the site shall conform to the standards set forth in Section 252 of the Zoning Ordinance.

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

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

Comprehensive Plan Recommendations

This proposal is located in the Suburban Area of the city. As stated in the Comprehensive Plan, one of the guiding principles for this area is to provide new development that contributes to the day-to-day life of residents. The proposed landscape buffer to the rear and setback from Rosemont Road, the massing and height are acceptable. To provide additional visual relief, screening, and shading, it is recommended that additional trees be added to the parking area as part of the proposed landscape plan. The closure of the southernmost entrance to the parking lot is appropriate, the retention of the northernmost access point as well as the ingress/egress provided on Jericho Road to the rear of the site. Entrances and driveways should permit safe and convenient pedestrian crossing where they intersect sidewalk and

other pedestrian access ways. A change in paving material to make the driver aware of the crossing is encouraged. It is also recommended that pedestrian walkways be established from the parking lot to the building.

Natural & Cultural Resources Impacts

The site is located in the Chesapeake Bay Watershed.

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

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Rosemont Road	38,362 ADT ¹	32,700 ADT ¹ (LOS ⁴ "D")	Existing Land Use ² – 553 ADT on Sundays Proposed Land Use ³ – 1,359 ADT on Sundays
South Plaza Trail	9,655 ADT	12,500 ADT (LOS "D")	
¹ Average Daily Trips	² as defined by a 250-seat religious use	³ as defined by a 615-seat religious use	⁴ LOS = Level of Service

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

Rosemont Road in the vicinity of this application is considered a four-lane divided major urban arterial. The existing infrastructure currently resides in an 80-foot right-of-way. The MTP proposes a six-lane facility within a 165-foot right-of-way. There are no roadway CIP projects slated for this area.

South Plaza Trail in the vicinity of this application is considered a two-lane undivided minor suburban arterial. The existing infrastructure currently resides in an 80-foot right-of-way. The MTP proposes a four-lane facility within a 115-foot right-of-way. An active roadway CIP project is slated for this area. Rosemont & South Plaza Intersection Improvements (Project Number 100423.002) is for roadway improvements to South Plaza Trail on the west side of the Rosemont Road intersection and traffic signal modifications. Roadway improvements include the addition of a dedicated eastbound right turn lane. The traffic signal modifications include new mast arm poles and the addition of Flashing Yellow Arrow signal heads for the eastbound and westbound approaches along South Plaza Trail. The project is currently in the scoping phase.

Public Utility Impacts

Water

The site currently connects to city water. An upgraded meter and service tap will be needed for the addition. There is an existing 16-inch city water transmission main along S. Rosemont Road.

Sewer

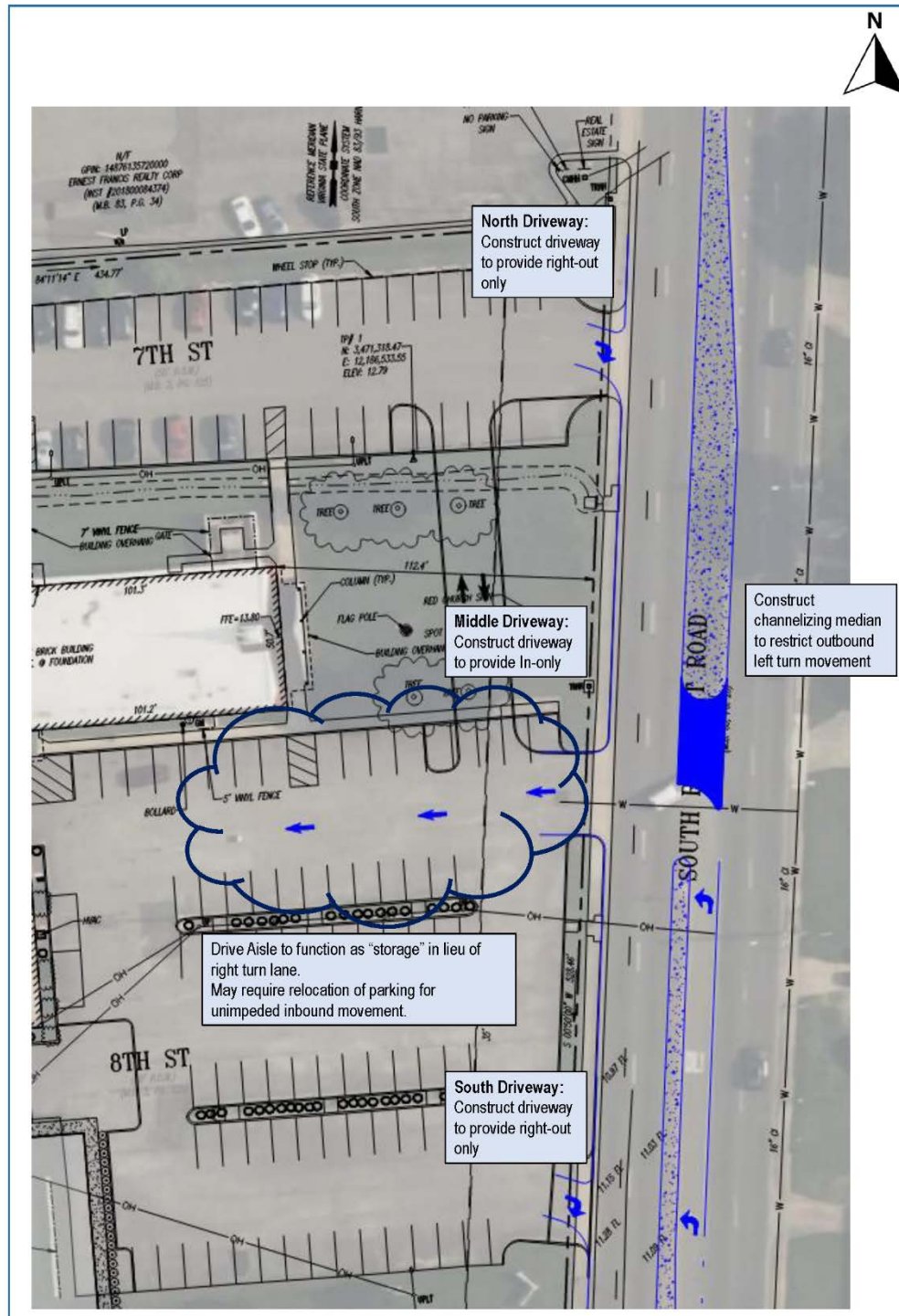
The site must connect to city sewer. There is an existing 10-inch city sanitary sewer gravity main along S. Rosemont Road, as well as a 16-inch and an 18-inch city sanitary sewer force main along S. Rosemont Road. Sewer and pump station analysis for pump station #504 is required to determine if future flows can be accommodated.

Public Outreach Information

Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on August 14, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, August 30, 2023 and September 6, 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 August 28, 2023.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.viriniabeach.gov/pc on September 7, 2023.

Proposed Median Alterations & Traffic Flow

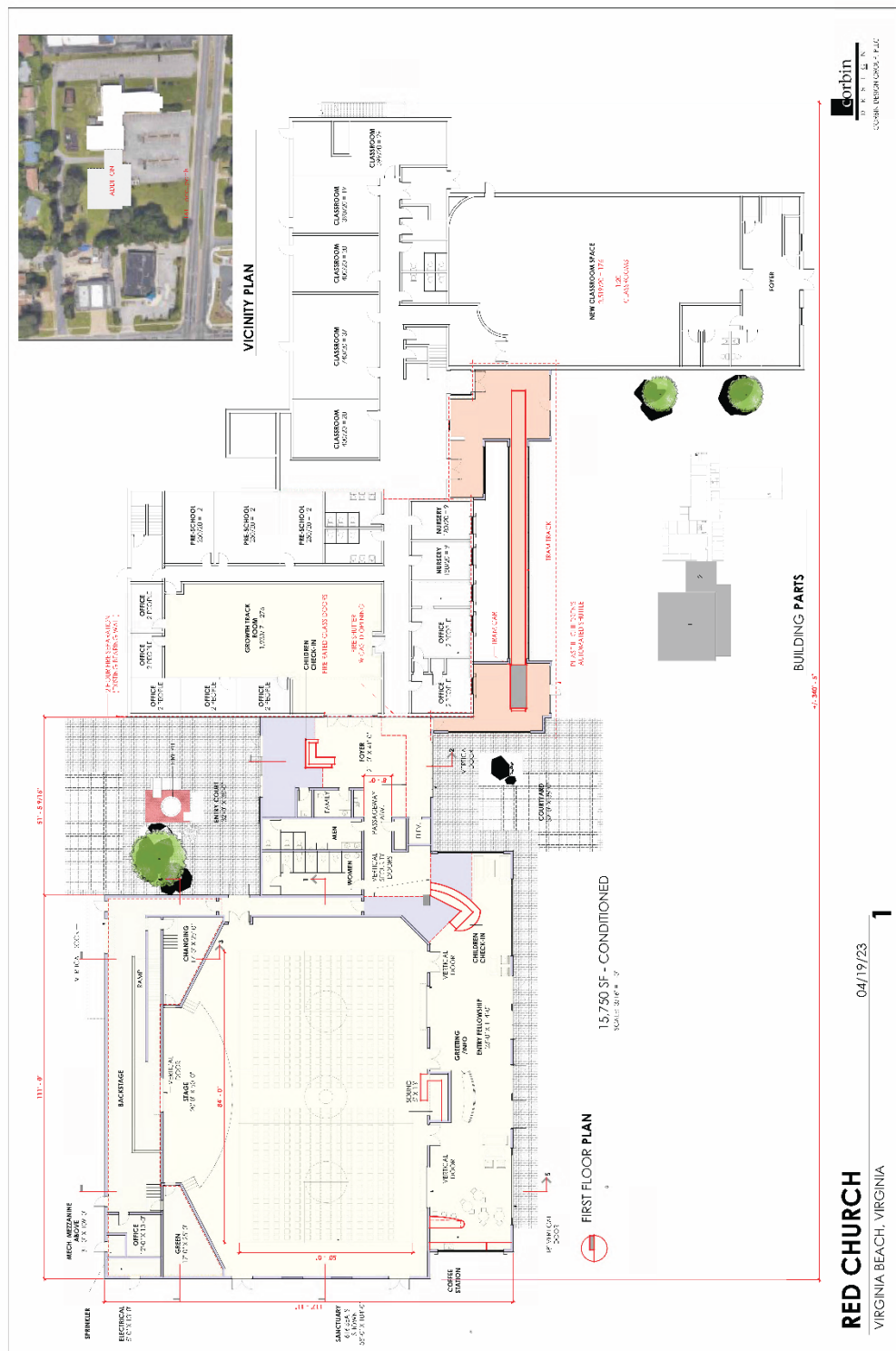


McPherson
CONSULTING

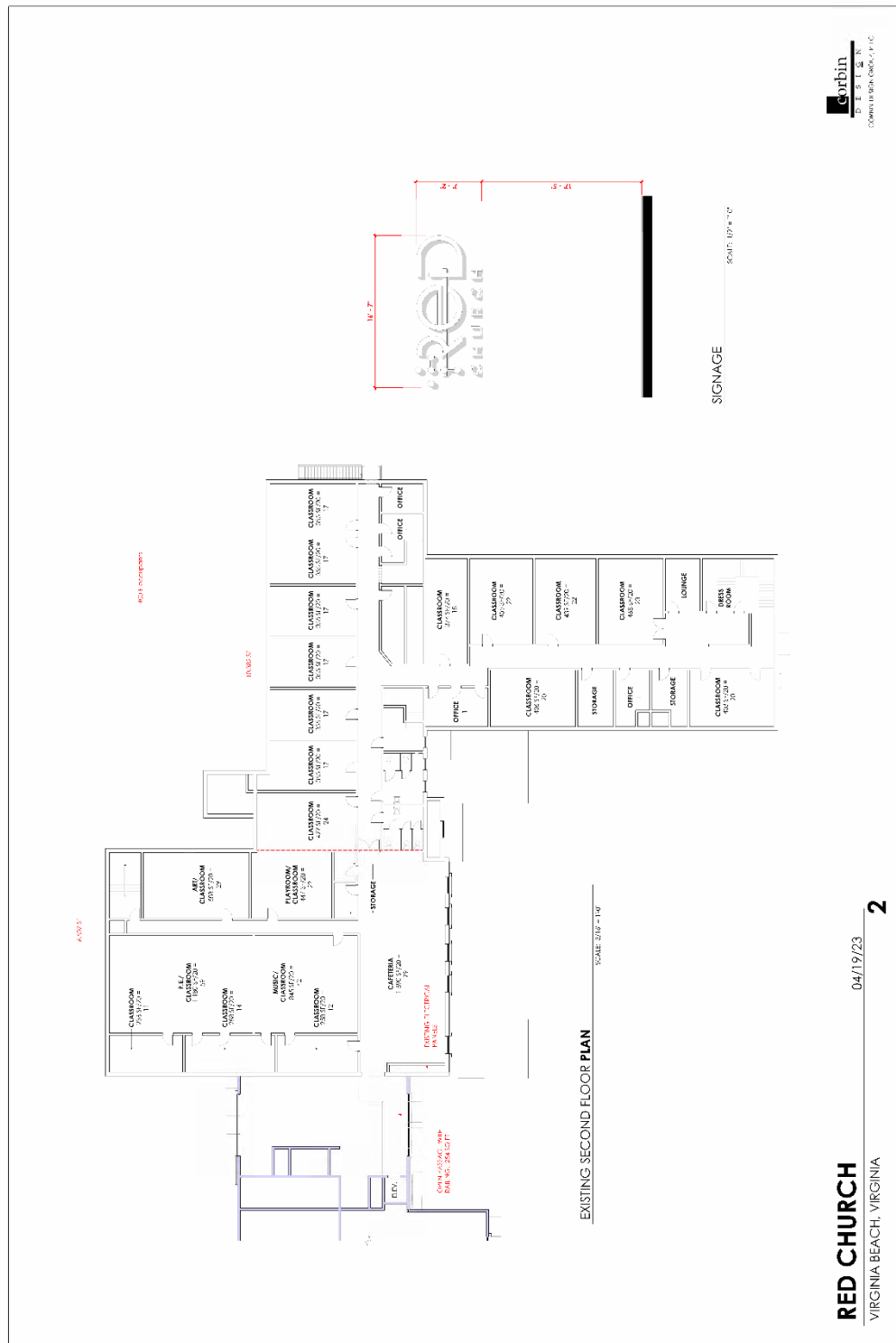
Red Church Access Evaluation – Virginia Beach, VA
Recommended Site Improvements

Figure
1

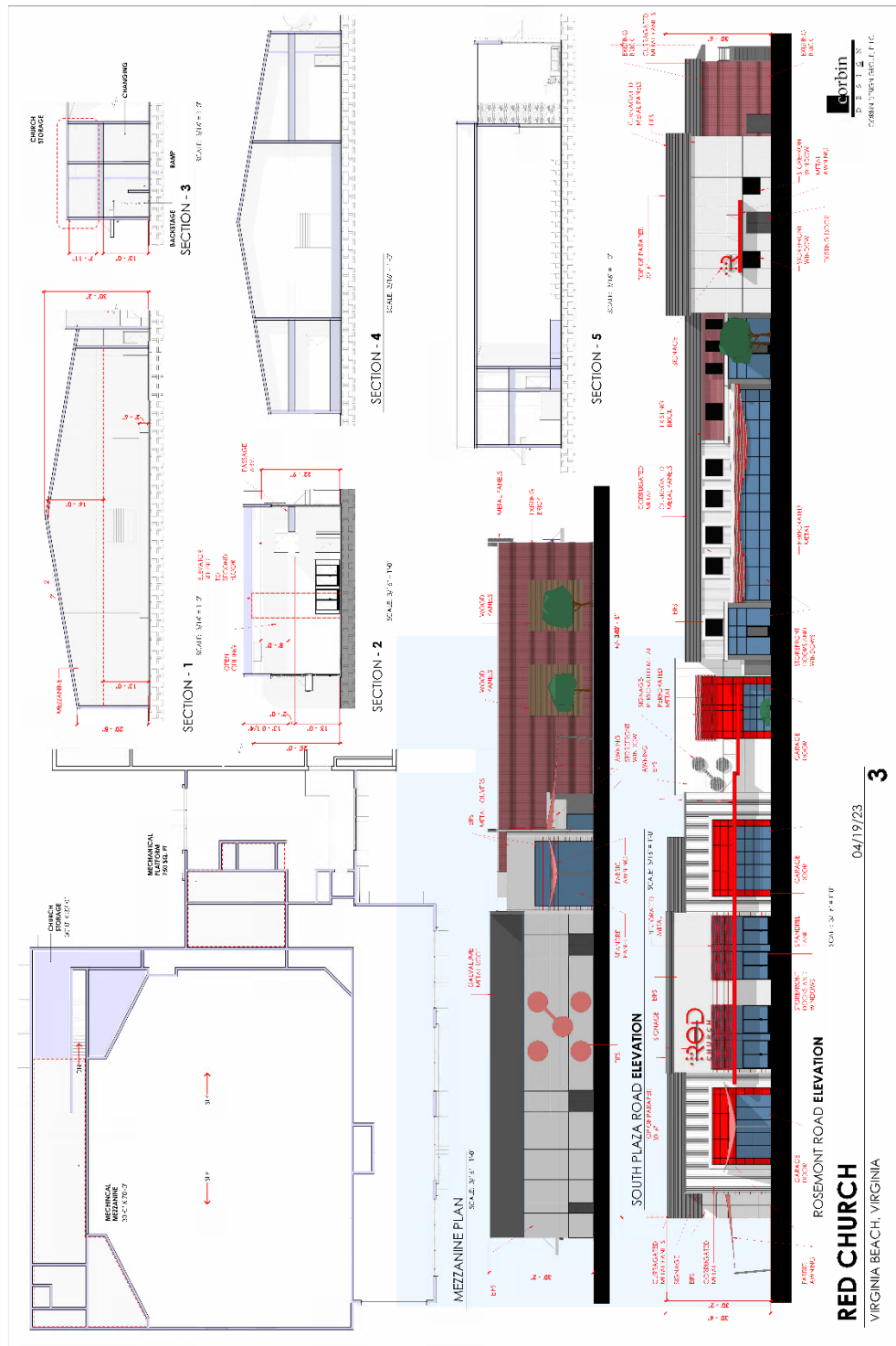
Proposed Floor Plan

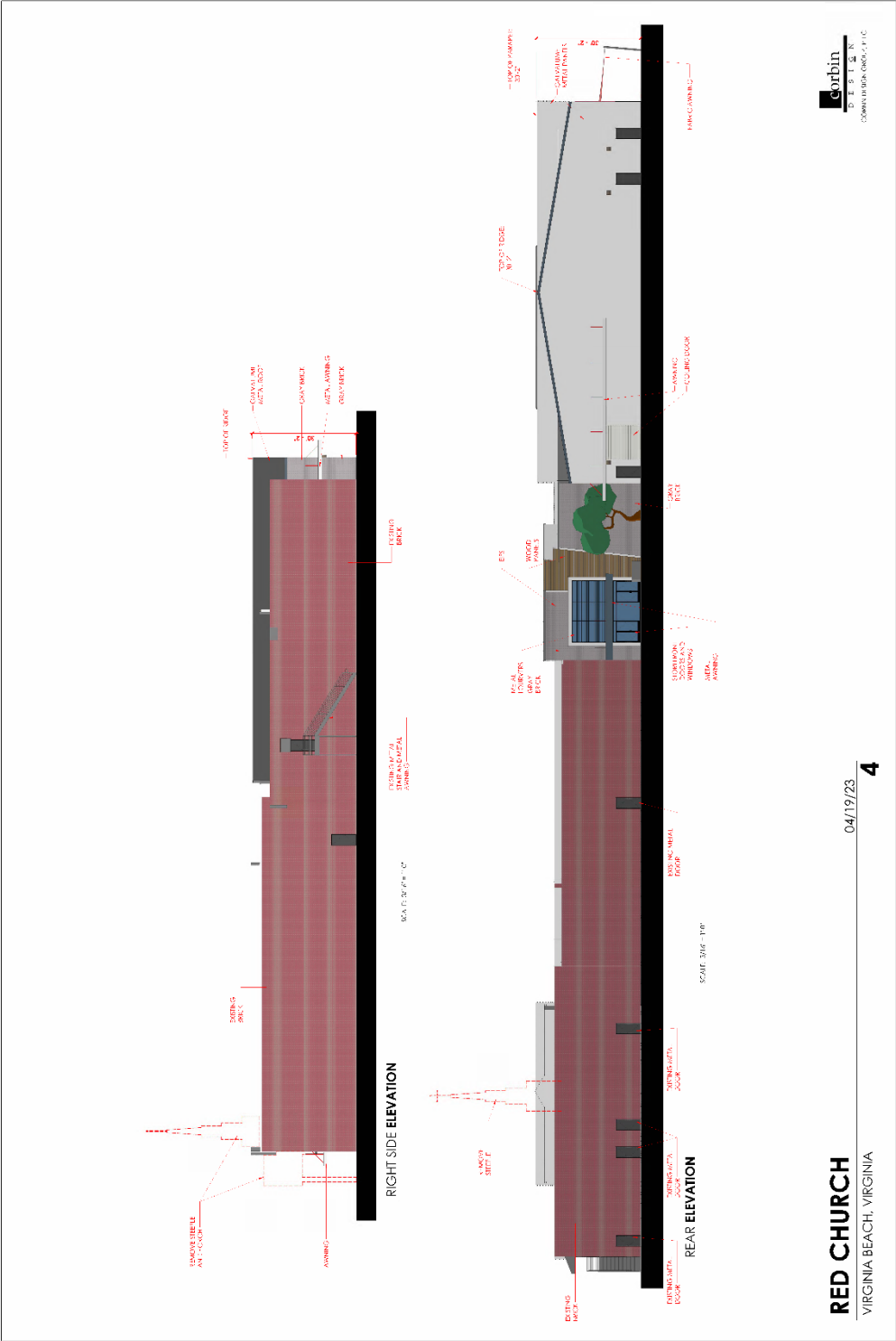



Proposed Floor Plan



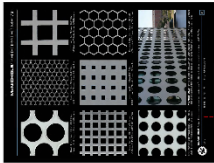
Proposed Elevation Plan









B+C AWNINGS



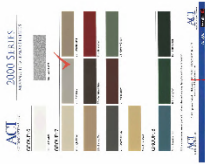
EIFS



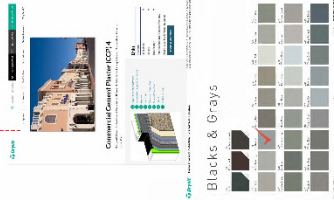
FABRIC AWNING




CORRUGATED METAL




CORRUGATED METAL PANELS




WOOD PANELS



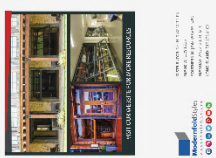
PERFORATED METAL




METAL LOUVRES



GALVALUME METAL PANELS



GARAGE DOORS



AWNINGS

MATERIAL PALETTE

RED CHURCH

VIRGINIA BEACH, VIRGINIA

04/19/23

5


Site Photos



Site Photos



Disclosure Statement

Disclosure Statement	
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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 RED Church, Inc.

Does the applicant have a representative? ☒ Yes ☐ No

- If yes, list the name of the representative.
Pastor Adam Woods ; Glen Trematore

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)

<u>Dr. Joyce O'neal - President</u>	<u>Nathan Schmitt - Treasurer</u>
<u>Erica O'neal - Vice President</u>	<u>Adam Woods - Secretary</u>
- If yes, list the businesses that have a parent-subsidiary¹ or affiliated business entity² relationship with the applicant. (Attach a list if necessary)

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

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

Revised 11.09.2020

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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

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

Applicant Services Disclosure

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

☒ Yes ☐ No

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

Not sure yet. Potential is ~~ATF~~, old Point, Southern Bank, CDF Capital

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.

Alan Pyle - Pyle Realty - 757-491-1600

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.

We do in house tax prep

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.

757-623-3701
Glen Trematore - Through CDS - Church Development Services

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.

757-623-3701

Glen Tremature - CDS - Church Development Services

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.

Ashley Coalson, 757-355-6649 All through CDS / Kimley-Horn & Associates

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

Adam Woods - Pastor

Print Name and Title

3/21/23

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	

Revised 11.09.2020

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Next Steps

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

Request

Modification of Conditions (Install Freestanding Signs)

Staff Recommendation

Approval

Staff Planner

Elizabeth Nowak

Location

5152 Princess Anne Road & 5168 Princess Anne Road

GPIN

1466783953

Site Size

2.8 acres

AICUZ

Less than 65 dB DNL

Watershed

Chesapeake Bay

Existing Land Use and Zoning District

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

Surrounding Land Uses and Zoning Districts

North

Singleton Way

Automobile service station, religious use/ B-2

Community Business (Historic Kempsville Overlay District)

South

Princess Anne Road

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

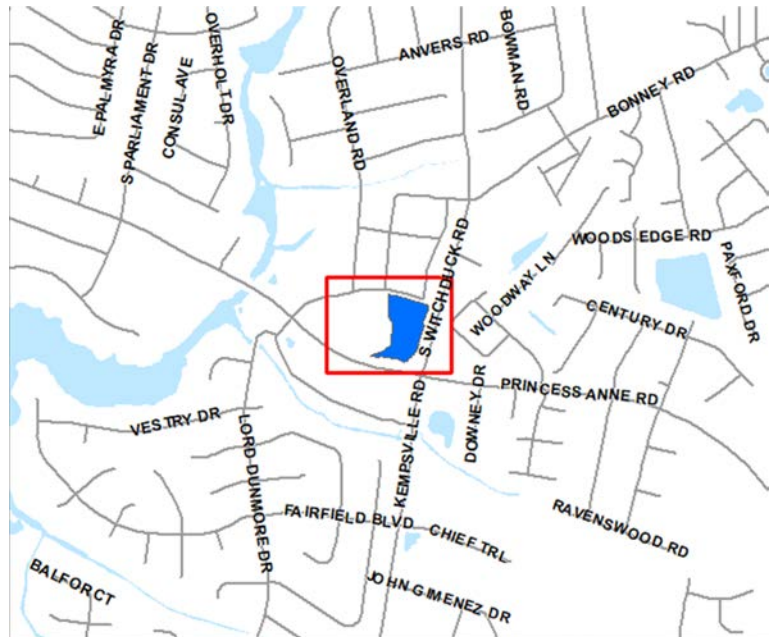
East

S. Witchduck Road

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

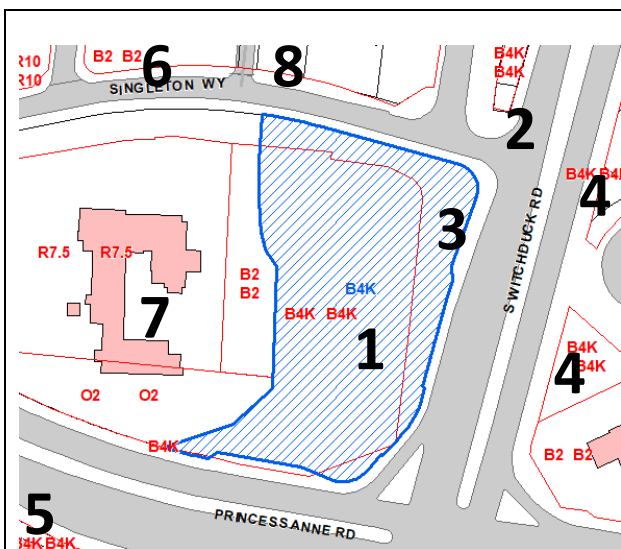
West

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



Background & Summary of Proposal

- This application was initially heard at the August 9, 2023, Planning Commission hearing and was deferred in order for the applicant to provide a new design proposal to include method of illumination.
- The applicant is requesting a Modification of Conditions to a Conditional Use Permit for an Eating and Drinking Establishment with Drive-Through Window in order to install two freestanding signs at the new Shoppes at Kemps Landing Shopping Center. This site is approximately 2.8 acres and is zoned B-4K Historic Kempsville Area Mixed Use. It is also in the Historic Kempsville Overlay District.
- The original Conditional Use Permit for a drive-through facility on this site was approved by City Council on October 21, 2014. At that time, a pharmacy with a drive-through window was proposed on site. As development plans for this parcel changed over time, a subsequent Modification of Conditions to the Conditional Use Permit for a drive-through facility was approved by City Council on March 3, 2020. The approval included Condition 1, which stipulated that the property be developed in substantial conformance with the exhibited entitled "Illustrative Site Plan," prepared by Kimley-Horn, dated 11/08/2019. No freestanding signs were included on this site plan.
- Per Section 905(f)(5) of the Zoning Ordinance, all freestanding signs shall be subject to approval by City Council.
- The applicant proposes to install one freestanding sign on the east side of the property perpendicular to S. Witchduck Road and one on the south side of the property perpendicular to Princess Anne Road.
- The signs will be eight feet tall, including the base, and 10 feet in width.
- The double-sided tenant monument signs will have custom PVC columns with a Colonial Revival profile similar to storefront surrounds of the shopping center. The base of each post will have a red brick veneer to match the brick used in the shopping center. The sign and tenant panels will be cream to match the siding of the buildings in the shopping center with black text.
- The signs will be externally illuminated with up-lighting.



Zoning History

#	Request
1	MDC Approved 03/02/2020 CUP (Drive-Through Window associated with a Drugstore) Approved 10/21/2014 REZ (B-2, O-2, R-5D, R-7.5 to B-4K) Approved 8/27/2013
2	REZ (R-10, B-2, O-2, R-5D, AG-1 to B-4K) Approved 06/21/2016
3	STC Approved 04/22/2014
4	REZ (B-2, O-2, R-5D, R-7.5 to B-4K) Approved 8/27/2013
5	REZ (R-7.5, O-2, B-1A to B-4K) Approved 04/10/2012
6	CUP (Religious Use) Approved 12/11/2001
7	CUP (Religious Use) Approved 10/15/1999
8	CUP (Motor vehicle rentals) Approved 11/08/1995

Application Types

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

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

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

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

Evaluation & Recommendation

In Staff's opinion, this request for a Modification of Conditions is acceptable. The proposed signs are compatible with the general Neo-Colonial Revival Style of the Shoppes at Kemps Landing and the greater Historic Kempsville area. There are no specific design guidelines for signs in the B-4K Historic Kempsville Area Mixed Use District or the Historic Kempsville Overlay District. General guidance can be found in recommendations in the Historic Kempsville Area Master Plan design guidelines for "Other Site Elements":

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

The proposed signage complements the existing style, scale, materials, and color palette of the Shoppes at Kemps Landing and they meet the size requirements of freestanding signs as set by the Zoning Ordinance. Externally-illuminated signage is typically the style recommended in historical and cultural areas.

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

Recommended Conditions

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

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

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

Conditions of the 2020 Request

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

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

Conditions of the 2014 Request

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

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

Comprehensive Plan Recommendations

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

Natural & Cultural Resources Impacts

The site is located in the Chesapeake Bay watershed.

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

Traffic Impacts

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

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

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

Public Utility Impacts

Water & Sewer

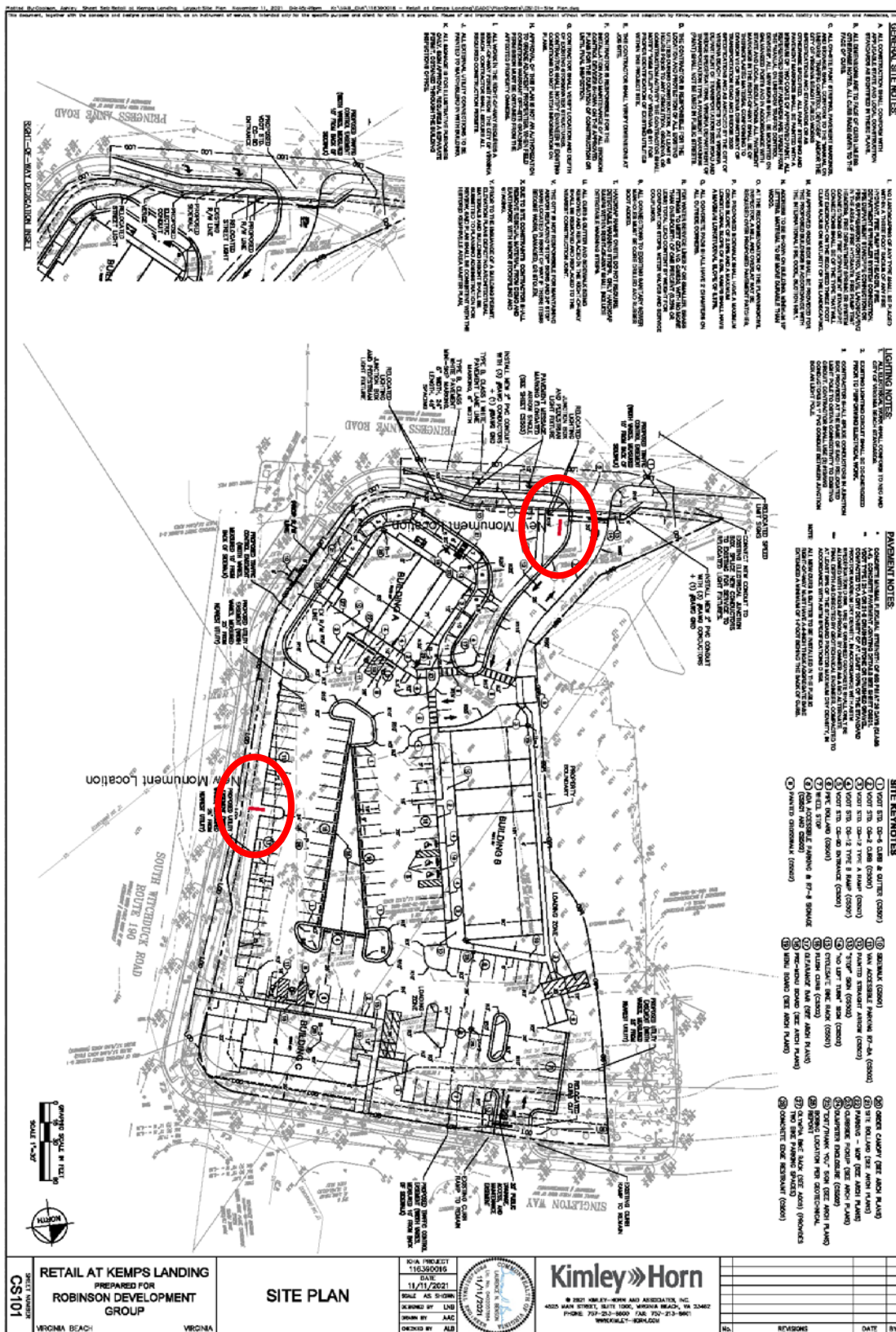
The site is connected to City water and sanitary City sewer.

Public Outreach Information

Planning Commission

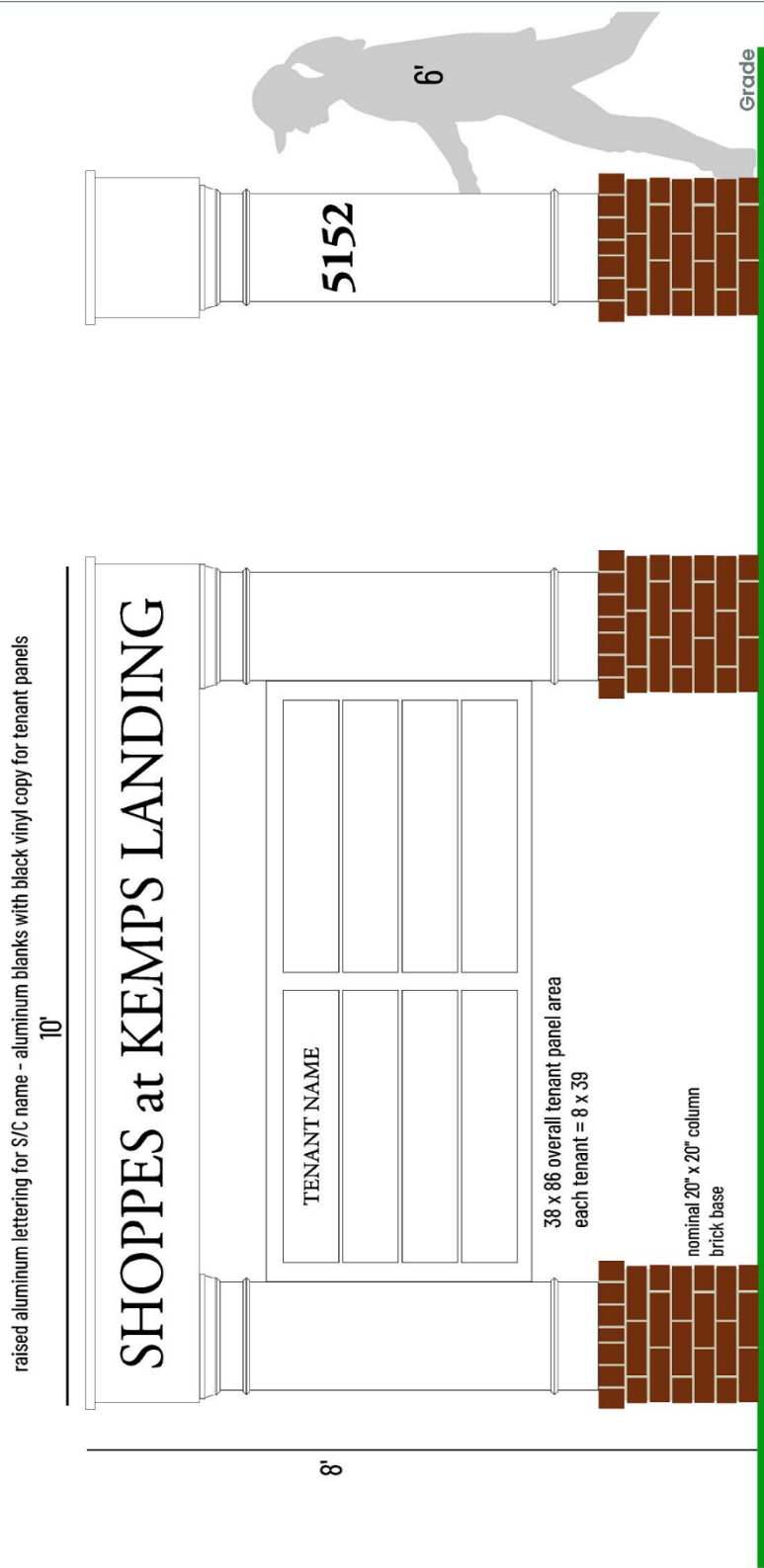
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on August 14, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, August 30, 2023 and September 6, 2023.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on August 28, 2023.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.virginiabeach.gov/pc on September 7, 2023.

Proposed Site Layout



Shoppes at Kemps Landing
5152 Princess Anne Road
Double-Sided Tenant Monument Sign
with Custom PVC Columns

8' tall x 10' long - with brick column base
prior version - no brick at 90" tall
external illumination - ground mounted lighting



Site Photos



Disclosure Statement

Disclosure Statement



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

Applicant Disclosure

Applicant Name Christopher Gregory

Does the applicant have a representative? ☐ Yes ☒ No

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

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

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

- If **yes**, list the businesses that have a parent-subsiary¹ or affiliated business entity² relationship with the applicant. (Attach a list if necessary)

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

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

Disclosure Statement



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

☐ Yes ☒ No

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

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

☐ Yes ☒ No

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

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

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

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

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

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

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

Disclosure Statement

Disclosure Statement



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

Applicant Signature

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

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

Applicant Signature

Christopher Gregory - Director of Production

Print Name and Title

05/31/2023

Date

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

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

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

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

Disclosure Statement

Disclosure Statement



Owner Disclosure

Owner Name Princess Anne/Witchduck Associates 1, LC

Applicant Name Christopher Gregory

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

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

Chris Sanders and Tom Robinson

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

Robinson Development Group

Known Interest by Public Official or Employee

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

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

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

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

Disclosure Statement



Owner Services Disclosure

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

☐ Yes ☒ No

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

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

☒ Yes ☐ No

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

Parker Burnell RE Company ; Jay Burnell

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

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

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

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

Kimley Horne; Randy Royal; Laurence Benson

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

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

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

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

PG Harris Construction Co : Paul Harris

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

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

Kimley Horne; Randy Royal; Laurence Benson

Disclosure Statement

Disclosure Statement



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

Owner Signature

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

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

Owner Signature

Chris Sanders , Manager

Print Name and Title

June 1, 2023

Date

Next Steps

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

Request

Conditional Use Permit (Tattoo Parlor)

Staff Recommendation

Approval

Staff Planner

Michaela D. McKinney

Location

3636 Virginia Beach Blvd, Suite 110

GPIN

1487548860

Site Size

2.52 acres (3,200 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

Malibu Palms Drive

Multi-family dwellings / A-24 Apartment

South

Restaurants / B-2 Community Business

East

Funeral Home / B-2 Community Business

West

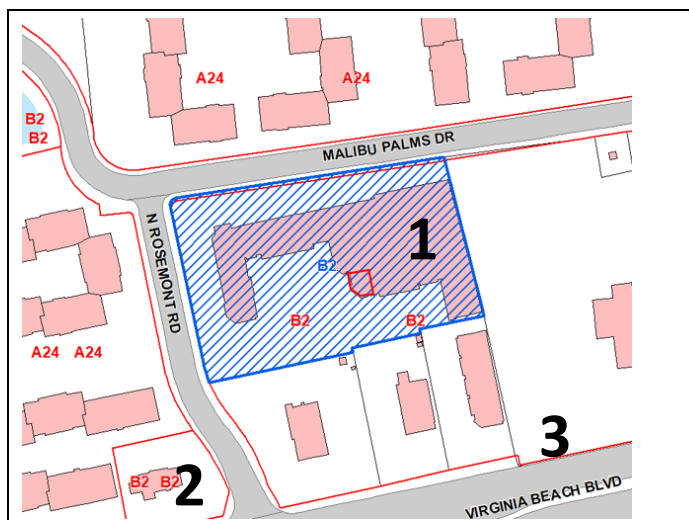
N Rosemont Road

Multi-family dwellings, retail / A-24 Apartment,
B-2 Community Business



Background & Summary of Proposal

- The applicant is requesting a Conditional Use Permit to operate a Tattoo Parlor, specifically for the application of permanent makeup, known as microblading, within an existing salon at the Regatta Center Shopping Center. 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, 10 employees are anticipated.
- Typical hours of operation are 9:00 a.m. to 9:00 p.m., Monday through Saturday. All permanent makeup services will be by appointment only.
- No exterior changes to the building or new signage are proposed.
- Per section 203, one parking space per 250 square feet of floor area is required for a shopping center with one acre or at least four tenants. The site layout shows 129 parking spaces, thus the site is deficient in parking by 16 spaces; however, a parking variance was approved in 2010 by the Board of Zoning Appeals to allow 138 parking spaces instead of 213 parking spaces as required for the proposed Martial Arts Studio. Staff has deemed that this parking variance is acceptable for the proposed use as the variance is for the entire shopping center and not a single suite.



Zoning History

#	Request
1	CUP (Indoor Recreational Facility) Approved 06/9/2009
2	CUP (Motor Vehicle Rental) Approved 11/27/2001
3	CUP (Communication Tower) Approved 08/14/1996

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 Rosemont Strategic Growth 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.

While the shopping center does not meet the minimum parking requirement, as defined in Section 203 of the Zoning Ordinance, since a parking variance was approved by the Board of Zoning Appeals and the proposed use is common

commercial use, staff feels the provided parking is sufficient. Given that the proposed use is similar to other commercial uses in the shopping center, staff is of the opinion that the added use will not cause an adverse effect on traffic related to the shopping center.

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

The Comprehensive Plan identifies this site as being located within the Rosemont Strategic Growth Area (SGA). As a property within an SGA, the property is promoting the guiding principles of the SGA set forth in the Comprehensive Plan by creating a compatible mix of uses in this place of business and maximizing its use of infrastructure by including multiple complementary services in one property. In the Rosemont SGA Master Plan, a priority for Rosemont is to “make a reason for stopping here”. Furthermore, by diversifying and adding an additional use of permanent makeup to this property is aligned with that statement. It is to be noted that this property falls in the Palms Redevelopment Area, but because this CUP is not seeking any physical alterations or a use that is not aligned with the vision or current use of the land, it is appropriate to accept the request. Therefore, the CUP as proposed is in alignment with the standards laid out in the Comprehensive Plan and supporting Rosemont SGA Master 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 Boulevard	48,160 ADT ¹	74,000 ADT ¹ (LOS ⁴ "D")	No Change Anticipated ³
N. Rosemont Road	3,200 ADT ¹	9,900 ADT ¹ (LOS ⁴ "D")	
¹ Average Daily Trips	² as defined by a tattoo parlor in an existing strip commercial center.	³ LOS= Level of Science	

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

Virginia Beach Boulevard is an eight-lane divided urban major arterial. It is shown on the MTP map as a divided roadway in a 120-foot right-of-way. North Rosemont Road is a two-lane local collector roadway. There are no roadway CIP projects in the vicinity.

Public Utility Impacts

Water & Sewer

This site is connected City water and sanitary sewer.

Public Outreach Information

Planning Commission

- The applicant reported that they met with the surrounding tenants, and no objections were raised. Four letters of support have been received by Staff noting this use could increase business to the shopping center and benefit all adjacent businesses.
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on August 14, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, August 30, 2023 and September 6, 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 August 28, 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 on September 7, 2023.

Site Layout



Site Photo



Disclosure Statement



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Applicant Disclosure

Applicant Name Emily McGraw

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

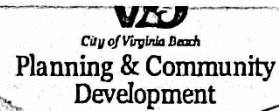
- If yes, list the names of all officers, directors, members, trustees, etc. below. (Attach a list if necessary)

Emily McGraw - Owner - S- Corp

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

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

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



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

☐ Yes ☒ No

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

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.

Pixel Financial - Andrew Spender/Owner

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

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

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

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

Disclosure Statement



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

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

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

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

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

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

Applicant Signature

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

Applicant Signature

Print Name and Title
Emily McGraw / Owner

06/19/23

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

Disclosure Statement



Owner Disclosure

Owner Name VB REGATTA ASSOCIATES LLC

Applicant Name Emily McGraw

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

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

LARRY HILL MEMBER
JACK SNOOK MEMBER
ROBERT JOHNSON MEMBER

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

Known Interest by Public Official or Employee

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

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

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

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Disclosure Statement

Disclosure Statement



Owner Services Disclosure

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

☐ Yes ☒ No

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

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

☒ Yes ☐ No

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

THOMAS JOHN DUFFY

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.

CBH GREG DAVIS

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.

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

Disclosure Statement

Disclosure Statement



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

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

Howard Sykes

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

LARRY R. Hill - owner

Print Name and Title

6/2/23

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.
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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.



Applicant **Bhatt Brothers, LLC**
Property Owner **Red Mill West, LLC**
Planning Commission Public Hearing **September 13, 2023**
City Council **District 5**

Agenda Item

11

Request

Conditional Use Permit (Tattoo Parlor)

Staff Recommendation

Approval

Staff Planner

Michaela D. McKinney

Location

1169 Nimmo Parkway, Suite 224

GPIN

2414261130

Site Size

3.39 acres (5,850 square feet suite)

AICUZ

65-70 dB DNL; Sub-Area 2

Watershed

Southern Rivers

Existing Land Use and Zoning District

Shopping Center / B-2 Community Business

Surrounding Land Uses and Zoning Districts

North

Nimmo Parkway

Single-family dwellings / R-7.5 Residential

South

Shopping Center / B-2 Community Business

East

Shopping Center / B-2 Community Business

West

Newstead Drive

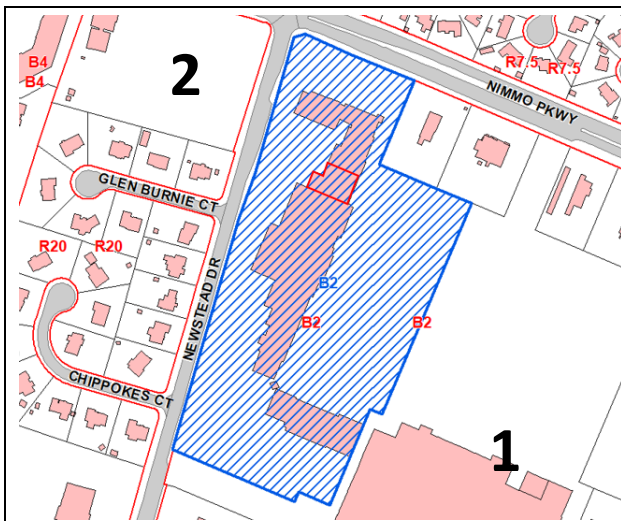
Religious use, single-family dwellings / R-20

Residential



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 Red Mill Commons Shopping Center. The shopping center is located along Nimmo Parkway on property zoned B-2 Community Business District.
- Microblading will take place in 32 separate suites within the salon. Each suite will be rented out by a cosmetology professional.
- Typical hours of operation are 9:00 a.m. to 9:00 p.m., Monday through Saturday. 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 (Bulk Storage Yard) Approved 08/21/2018 CUP (Bulk Storage Yard) Approved 06/20/2016 CUP (Automobile Service Establishment) Approved 12/05/2000
2	MDC Approved 11/09/1987

Application Types

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

Evaluation & Recommendation

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 a beauty 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

According to the Planned Land Use Map, the property is within a Suburban Area. The Envision Virginia Beach 2040 plan states that Virginia Beach strives to be a place where all citizens and businesses can prosper and to promote a diverse workforce. This property is within the Suburban Area. The Comprehensive Plan states that a non-residential property in a Suburban Area should be complementary to creating and maintaining the neighborhood stability and sustainability. The details in the applicant's CUP do not describe any alterations to the property that would otherwise negatively affect the Great Neighborhood principle, natural and cultural spaces, or transportation system. Therefore, the CUP as proposed is in alignment with the standards laid out in the Comprehensive Plan.

Natural & Cultural Resources Impacts

The site is located in the Southern Rivers Watershed. Drainage in the Southern Rivers watershed is highly impacted by the presence of high ground water, poorly draining soils, and high-water surface elevations in downstream receiving waters. There does not appear to be any significant natural or cultural resources associated with the site.

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Nimmo Parkway	25,100 ADT ¹	32,700 ADT ¹ (LOS ² “D”)	No Change Anticipated ³
¹ Average Daily Trips	² as defined by a tattoo studio in an existing strip shopping center.	³ LOS= Level of Science	

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

Nimmo Pkwy in the vicinity of this application is considered a four-lane divided major urban arterial. The existing infrastructure currently resides in a 120 foot right-of-way.

There are no roadway CIP projects slated for this area.

Public Utility Impacts

Water & Sewer

This site is connected to city water and sanitary sewer.

Public Outreach Information

Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on August 14, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, August 30, 2023 and September 6, 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 August 28, 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 on September 7, 2023.

Proposed Site Layout



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 Bhatt Brothers, 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)
Owner/President: Vaibhav Bhatt

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

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

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

Disclosure Statement



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

☒ **Yes** ☐ **No**

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

ApplePie Capital, Inc. Ryan Mirch

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.

Ionic DeZign Studios Inc, Eugene Thompson

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.

Taylor Construction, LLC. , Scott Taylor

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

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

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

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

Applicant Signature

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

Applicant Signature

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

Print Name and Title

Vaibhav Bhatt Owner/President

Date

6/30/2023

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

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

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

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



Owner Disclosure

Owner Name Red Mill West, LLC

Applicant Name Bhatt Brothers, LLC.

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

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

See attached list

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

See attached list

Known Interest by Public Official or Employee

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

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

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

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

Disclosure Statement



Owner Services Disclosure

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

☐ Yes ☒ No

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

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

☒ Yes ☐ No

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

Venture Realty Group, Matt Lafler

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.

Ernst & Young, Various Partners

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.

Francis & Reeve, Sally Reeve

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.

Armada Hoffer Construction Company, James Simonds

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.

PACE Collaborative, James Bedois

Disclosure Statement



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

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

Williams Mullen, Ryan Kenrick; Faggert & Frieden, Scott Seery

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

See attached signature page

Print Name and Title

Date

Members List

OWNER'S NAME: Red Mill West, LLC.

Manager: Armada Hoffler Manager, LLC

Sole Member: Armada Hoffler, L.P.

OWNER'S MANAGER:

Name: Armada Hoffler Manager, LLC

Managers: Louis S. Haddad
Shawn J. Tibbetts
Matthew T. Barnes-Smith

Sole Member: Armada Hoffler, L.P.

OWNER'S MEMBER:

Name: Armada Hoffler, L.P.
[the "Operating Partnership" for the REIT*]

General Partner: The REIT*

Limited Partners: The REIT* which has the controlling interest in the Operating Partnership. There are multiple other fluctuating minority limited partner investors in the Operating Partnership.

THE REIT*:

Name: Armada Hoffler Properties, Inc.

Executive Officers: Louis S. Haddad - Chief Executive Officer
Shawn J. Tibbetts - Chief Operating Officer
Matthew T. Barnes-Smith - Chief Financial Officer

Affiliates/Subsidiaries: The Operating Partnership has numerous affiliates/subsidiaries unrelated to the subject matter of the Application in which it is the sole owner or has a controlling interest.

*The REIT is a publicly traded company.

**Signature Page
Conditional Use Permit Application
Red Mill West, Virginia Beach, Virginia**

IN WITNESS WHEREOF, the Owner has caused this Application to be signed by its duly authorized representative.

OWNER:

RED MILL WEST, LLC,
a Virginia limited liability company

By: ARMADA HOFFLER MANAGER, LLC,
a Virginia limited liability company,
its Manager

By: 
Louis S. Haddad, Manager

Date: July 21, 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

Conditional Use Permit (Short Term Rental)

Staff Recommendation

Approval

Staff Planner

Pamela Witham

Location

901 Pacific Avenue Unit B

GPIN

24272444111130

Site Size

34,984 square feet

Existing Land Use and Zoning District

Multi-Family Dwellings / OR Oceanfront Resort

Surrounding Land Uses and Zoning Districts

North

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

South

9th Street

Municipal parking garage / OR Oceanfront
Resort

East

Retail shops / OR Oceanfront Resort

West

Pacific Avenue

Off-street parking lot / OR Oceanfront Resort



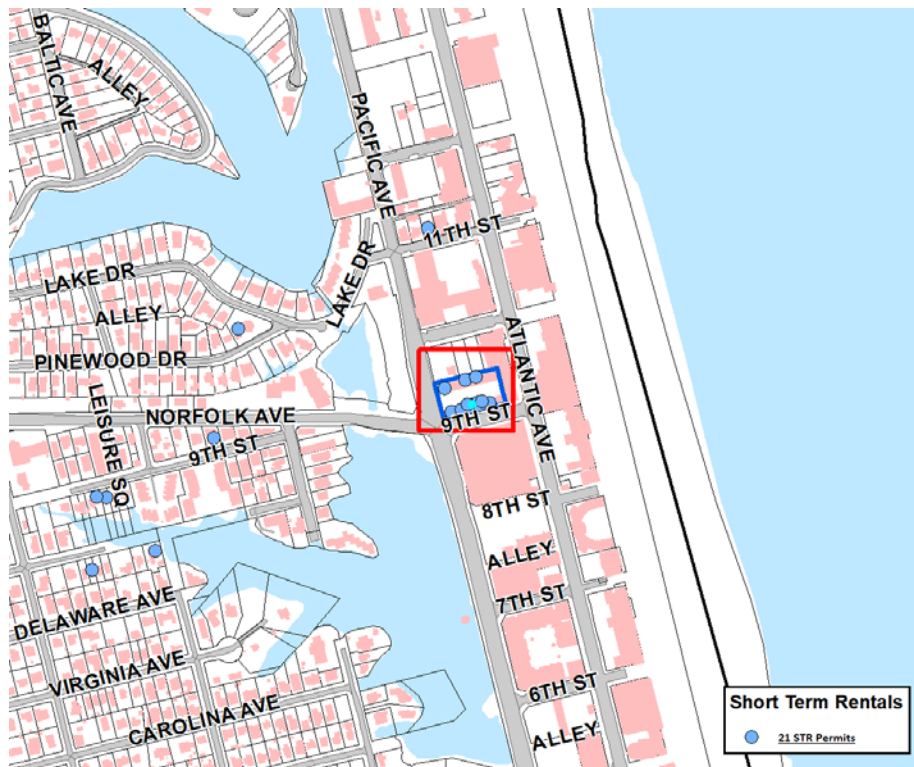
Background & Summary of Proposal

Site Conditions and History

- This 34,984 square foot parcel contains the Pacific Place Condominiums and is zoned OR Oceanfront Resort District. According to City records, this multi-family condominium was constructed in 1969.
- There is no on-street parking on Pacific Avenue.
- Fourteen Short Term Rental Conditional Use Permit applications have been approved in this 56-unit condominium development.
- According to the applicant, this property was not used for Short Term Rental purposes prior to July 1, 2018.
- Known Short Term Rental activity as of August 14, 2023:

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

Short Term Rentals in the Vicinity



Summary of Proposal

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

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

Zoning History

#	Request
1	CUP (Short Term Rental) Approved 08/15/2023 CUP (Short Term Rental) Approved 07/11/2023 CUP (Short Term Rental) Approved 05/16/2023 CUP (Short Term Rental) Approved 05/16/2023 CUP (Short Term Rental) Approved 06/12/2022 CUP (Short Term Rental) Approved 04/05/2022 CUP (Short Term Rental) Approved 11/09/2021 CUP (Short Term Rental) Approved 03/02/2021 CUP (Short Term Rental) Approved 10/20/2020 CUP (Short Term Rental) Approved 08/25/2020 CUP (Short Term Rental) Approved 08/25/2020 CUP (Short Term Rental) Approved 06/09/2020 CUP (Short Term Rental) Approved 04/06/2020 CUP (Short Term Rental) Approved 02/04/2020
2	CUP (Short Term Rental) Approved 12/13/2022 CUP (Short Term Rental) Approved 12/13/2022 CUP (Short Term Rental) Approved 12/13/2022 CUP (Short Term Rental) Approved 12/13/2022 CUP (Short Term Rental) Approved 12/13/2022 CUP (Short Term Rental) Approved 12/13/2022

Application Types

CUP – Conditional Use Permit
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 one-bedroom, 450 square-foot Short Term Rental within the Pacific Place Condominium building. Short Term Rentals are prevalent on this property with a total of 14 approved Conditional Use Permits for the operation of Short Term Rentals.

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

Resort District Form Based Code (ORDFBC). Such properties must provide written evidence of their past use and the Zoning Administrator shall find that there is no public inconvenience with the current parking design.” Pacific Place Condominiums is one such property granted a historical exception to the Short Term Rental parking requirements of one space per bedroom; therefore, only one parking space is required for the entire unit. All other requirements of Section 241.2 and Section 2303 of the Zoning Ordinance regulating Short Term Rentals can be reasonably met with this application.

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

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

Recommended Conditions

1. The following conditions shall only apply to the dwelling unit addressed as 901 Pacific Avenue Unit B and the Short Term Rental use shall only occur in the principal structure.
2. An annual Short Term Rental Zoning Permit must be obtained from the Department of Planning and Community Development (Zoning Administration) before using the dwelling for Short-Term Rental purposes.
3. The dwelling unit shall comply with all required Fire and Building code requirements.
4. Off-street parking shall be provided as required by Section 241.2 and 2303(b)(a)(i)(ii) of the City Zoning Ordinance or as approved by City Council.
5. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Department of Planning and Community Development; however, the Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
6. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1.
7. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes and to be physically present at the Short Term Rental within one (1) hour.
8. If, or when, the ownership of the property changes, it is the seller’s responsibility to notify the new property owner of requirements ‘a’ through ‘c’ below. This information must be submitted to the Department of Planning and Community Development for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
 - a) A completed Department of Planning and Community Development Short Term Rental Zoning Permit; and
 - b) Copies of the Commissioner of the Revenue’s Office receipt of registration; and

c) Proof of liability insurance applicable to the rental activity of at least one million dollars.

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

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

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

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

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

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

Public Outreach Information

Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on August 13, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, August 30, 2023, and September 6, 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 August 28, 2023.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.viriniabeach.gov/pc on September 7, 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 Ashley Guller

Does the applicant have a representative? ☐ Yes ☒ No

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

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

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

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

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

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

Disclosure Statement

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Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

☒ Yes ☐ No

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

Fay Servicing, LLC. 1-800-495-7166

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

☐ Yes ☒ No

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

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

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

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

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

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

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

Disclosure Statement

Disclosure Statement



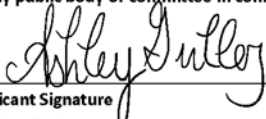
6. Does the applicant have a **construction contractor** in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No
- If **yes**, identify the company and individual providing the service.

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

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

Applicant Signature

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



Applicant Signature
Ashley Guller

Print Name and Title
06-01-2023

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	

Next Steps

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