



Planning Commission Agenda

December 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, December 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=mcf059599b840ad587b983098667ca56d>
2. Register with the Planning Department by calling 757-385-4621 or via email at mbharriseichholz@vbgov.com prior to 5:00 p.m. on December 13, 2022.

Copies of the proposed plans, ordinances, amendments and/or resolutions are on file and may be examined by appointment in the Planning Department at 2875 Sabre St, Suite 500, Virginia Beach, VA 23452 or online at www.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.

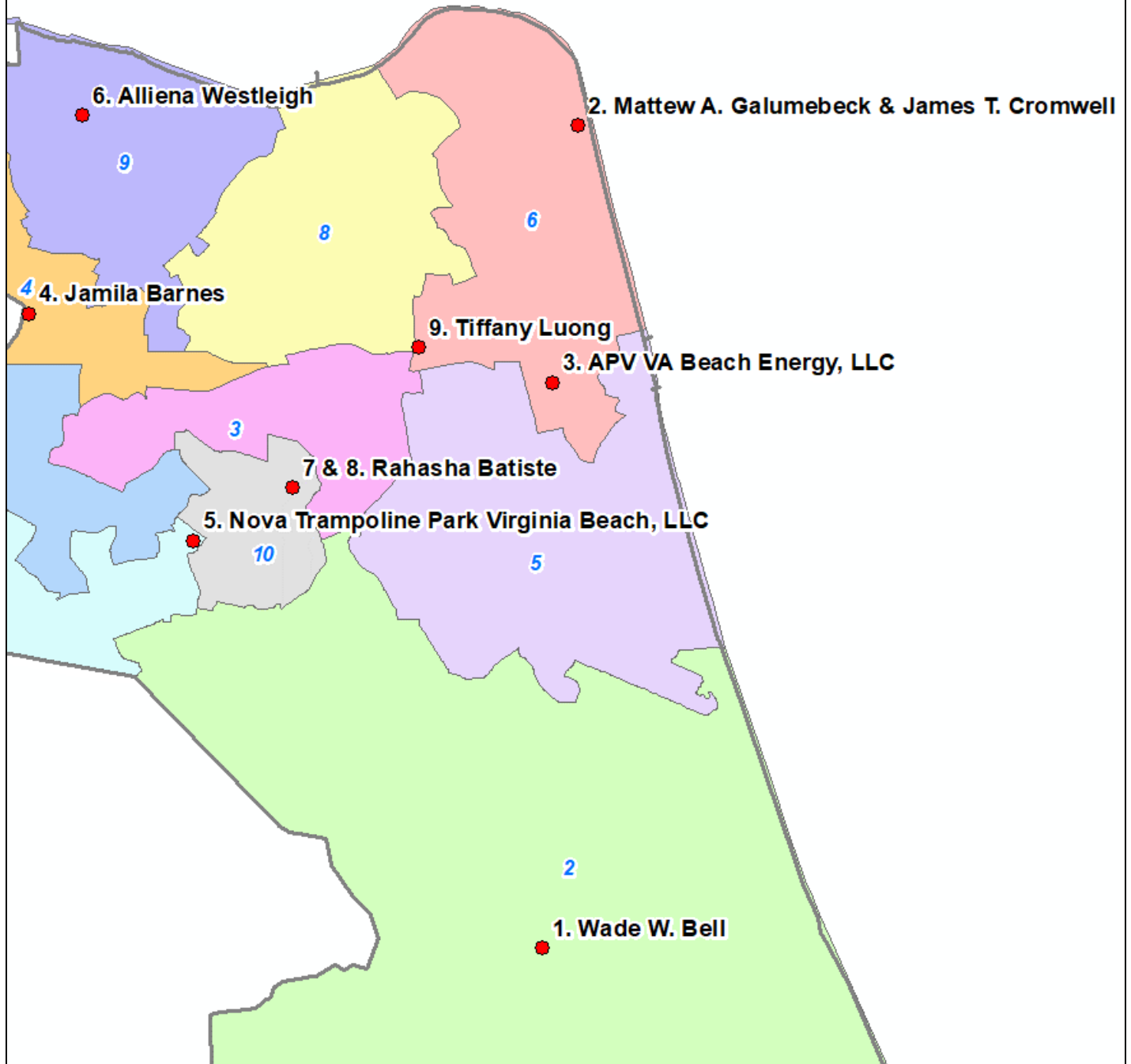
Planning Commission Hearing Procedures

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.

DECEMBER 13, 2023
PLANNING COMMISSION AGENDA



PLANNING COMMISSION AGENDA

A. COMMENTS BY DIRECTOR OF PLANNING AND CHAIR OF COMMISSION

B. BRIEFINGS

1. Update on Comprehensive Plan Update Progress, Hank Morrison, Comprehensive Planning Administrator

12:00 P.M. – PUBLIC HEARING

- A. Election of Planning Commission Officers for 2024.
- B. Resolution to adopt Planning Commission public hearing dates for 2024.
- C. Recognition of Commissioner Horsley.

1.

Wade W. Bell (Applicant & Property Owner)

Subdivision Variance

Addresses: 3957, 3961, 3969 Dawley Road, & parcel between 3957 & 3961 Dawley Road

GPIN(s): 2411277361, 2411278385, 2411278241, 2411278120

City Council: District 2

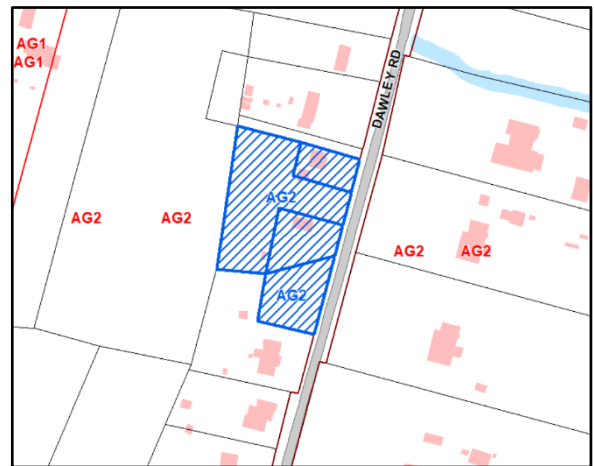
Accela Record(s): 2023-PCCC-00177

SGA: No

Overlay: No

Staff Planner: Hoa N. Dao

Request to reconfigure four nonconforming lots into three lots, where the proposed lots are deficient in lot width, street line frontage, and lot area for property zoned AG-2.



2.

Matthew A. Galumbeck & James T. Cromwell,
Receiver for Shore Realty Corporation, a
Defunct Corporation (Applicant)

Street Closure

Adjacent Addresses: 7502 & 7504 Atlantic Avenue, 202 & 204 76th Street

Adjacent GPIN(s): 2419672076, 2419671078

City Council: District 6

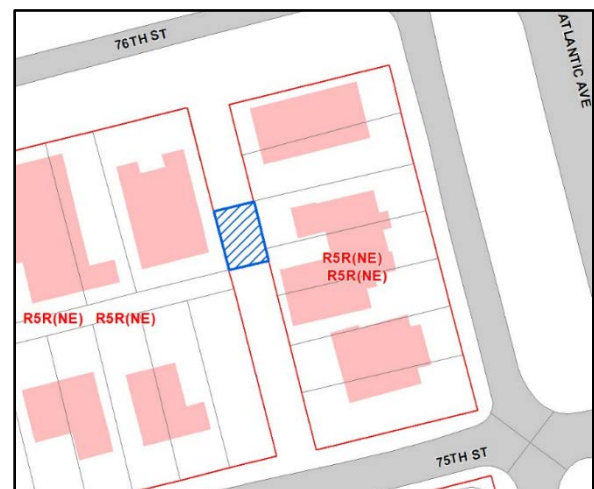
Accela Record(s): 2023-PCCC-00172

SGA: No

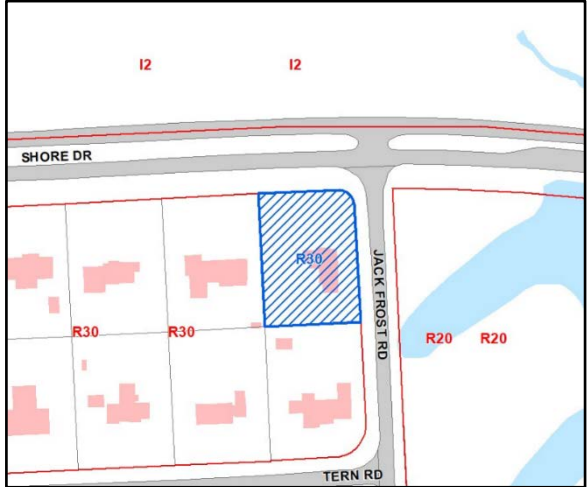
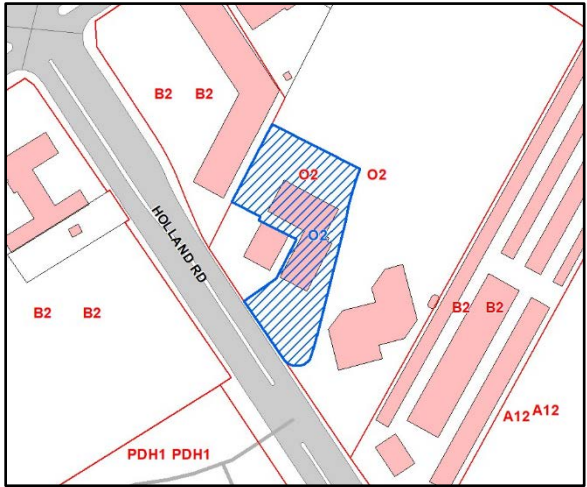
Overlay: North End

Staff Planner: Marchelle Coleman

Request for closure of a 525 square-foot portion of an unnamed, unimproved lane.



APV VA Beach Energy, LLC (Applicant)
Sykes Real Properties, LLC (Property Owner)

<p><i>Request to amend the 2013 Conditional Use Permit approval to operate a 55,046 square feet Indoor Recreational Facility at the Salem Crossing Shopping Center.</i></p>	
<p>6. Alliena Westleigh (Applicant) SAW Contracting, LLC (Property Owner) Conditional Use Permit (Residential Kennel) Addresses: 5205 Shore Drive GPIN(s): 1469880062 City Council: District 9 Accela Record(s): 2023-PCCC-00168 SGA: No Overlay: No Staff Planner: Michaela D. McKinney</p> <p><i>Request to keep up to 5 dogs on a residential property.</i></p>	
<p>7 & 8. Rahsha Batiste (Applicant) Vicinity Holdings, LLC (Property Owner) Rezoning (O-2 Office District to B-2 Community Business District) Conditional Use Permit (Tattoo Parlor) Address: 3396 Holland Road GPIN(s): 1486815934 City Council: District 10 Accela Record(s): 2023-PCCC-00153 & 2023-PCCC-00154 SGA: No Overlay: No Staff Planner: Michaela D. McKinney</p> <p><i>Request to rezone 0.69-acre from O-2 to B-2 & a Conditional Use Permit request to operate a Tattoo Parlor for permanent make-up.</i></p>	

9.

Tiffany Luong (Applicant)

Chambord Commons, LLC (Property Owner)

Conditional Use Permit (Tattoo Parlor)

Address: 332 North Great Neck Road, Suites 103 & 104

GPIN(s): 2407065012

City Council: District 6

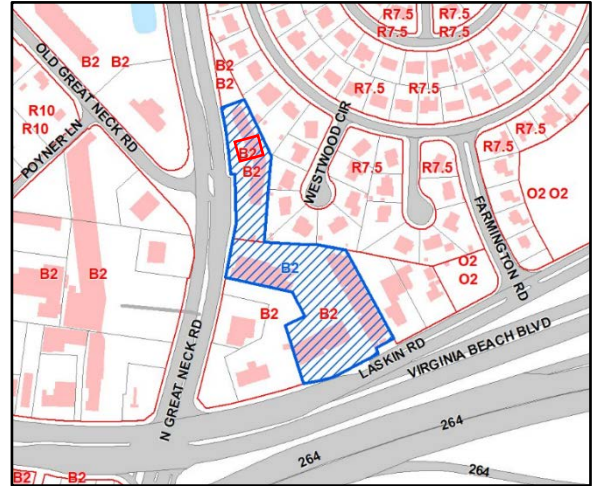
Accela Record(s): 2023-PCCC-00165

SGA: Yes - Lynnhaven

Overlay: No

Staff Planner: Madison Eichholz

Request to operate a Tattoo Parlor for permanent makeup at the Chambord Commons.



Request

Subdivision Variance (Reconfigure 4 non-conforming lots into 3 non-conforming lots)

Staff Recommendation

Approval

Staff Planner

Hoa N. Dao

Location

3957, 3961, 3969 Dawley Road, parcel between 3957 & 3961 Dawley Road

GPINs

2411278385, 2411277361, 2411278241, 2411278120

Site Size

1.52 acres

AICUZ

Less than 65 dB DNL

Watershed

Southern Rivers

Existing Land Use and Zoning District

Single-family dwelling, vacant lots / AG-2 Agricultural

Surrounding Land Uses and Zoning Districts

North

Single-family dwelling / AG-2 Agricultural

South

Single-family dwelling / AG-2 Agricultural

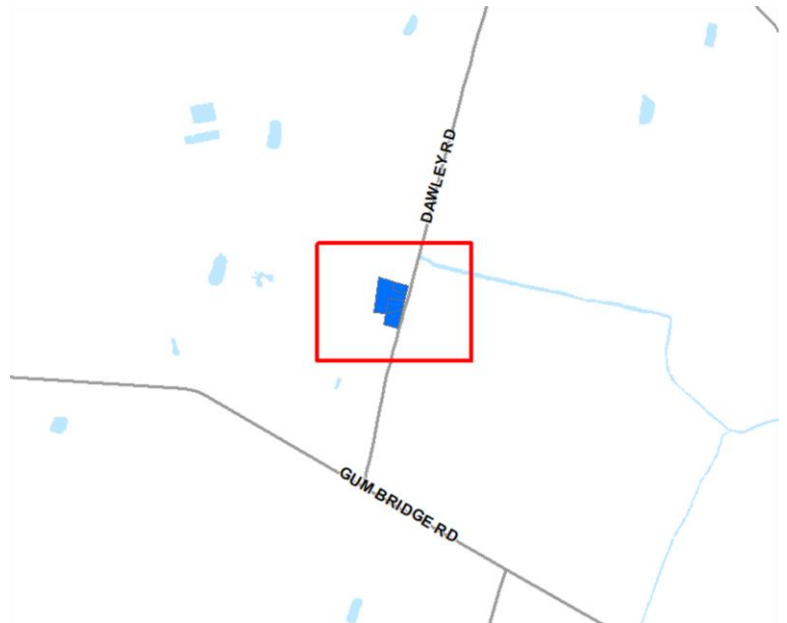
East

Dawley Road

Single-family dwellings / AG-2 Agricultural

West

Cultivated field / AG-2 Agricultural



Background & Summary of Proposal

- The applicant seeks to reduce and reconfigure four (4) lots that were improperly created by deed between 1955 and 1974 into three (3) lots. All four existing lots are substandard with regards to the dimensional requirements for property zoned AG-2 Agricultural District. As the lots were deeded after the adoption of the Princess Anne County Subdivision Ordinance in 1953 which required lots be subdivided via recorded plat, a Subdivision Variance is required.
- History:

Existing Lot	GPIN	Deeded (Yr)	Structure (Yr)
Lot A	2411-27-8385	1955	Single-Family Dwelling (1940)
Lot B	2411-27-8241	1958	Single-Family Dwelling (1940)
Lot C	2411-27-8120	1956	No Record Found
Lot D	2411-27-7361	1974	No Record Found

- Dimensional Standards:

Existing Lot	Existing Lot Area (sq. ft.)	Existing Lot Width (ft)	Existing Street Line Frontage (ft)	Existing Side Yard (ft)	Existing Rear Yard (ft)
Lot A	7,360	64	64	0	8.89
Lot B	10,821.45	94.78	68.47	0	18.59
Lot C	12,402.54	115.92	140.26	n/a	n/a
Lot D	34,240.72	68.58	68.58	n/a	n/a
Proposed Lot	Proposed Lot Area (sq. ft.)	Proposed Lot Width (ft)	Proposed Street Line Frontage (ft)	Proposed Side Yard (ft)	Proposed Rear Yard (ft)
Lot 3	26,192 *	113.94 *	113.94 *	0 *	136.63
Lot 2	24,459 *	113.94 *	113.94 *	17.83 *	130.50
Lot 1	15,659 *	115.92 *	113.95 *	n/a	n/a
For Single-Family in AG-2	Required Lot Area (sq. ft.)	Required Lot Width (ft)	Required Street Line Frontage (ft)	Required Side Yard (ft)	Required Rear Yard (ft)
	43,650	150	120	20	20
* Variance Requested					

- While the proposed three lots will remain substandard in lot area, lot width, street line frontage, and side yard setback for properties zoned AG-2 Agricultural District, the proposed reconfiguration of these lots will improve the degree of non-conformity.
- The applicant currently resides on Lot A (proposed Lot 3) and intends to sell proposed Lots 1 and 2 to be developed with single-family dwellings.

- The proposed subdivision exhibit shows a 10-foot wide right-of-way dedication along Dawley Road.



Zoning History

#	Request
1	CUP (Horse Riding Academy) Approved 04/22/2008
2	CUP (Horse Riding Academy) Approved 08/09/2005 CUP (Boarding Horses) Approved 10/24/1995

Application Types

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

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

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

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

Evaluation & Recommendation

The request to reconfigure four non-conforming lots to make three lots that are more conforming with regards to lot area, lot width, street line frontage, and building setback, is, in Staff's opinion, acceptable. It was common practice in the past for property owners to deed a small portion of their land to a family member, which was the case in this instance. These lots are owned by the Bell family and two of the four lots have been developed with single-family dwellings since 1940. Once reconfigured, the proposed lots will be similar in size and shape to the lots immediately to the north and south of this site.

Section 9.3 of the Subdivision Regulations indicates that City Council shall not approve a Subdivision Variance unless specific findings can be made. A brief analysis of each required finding is provided below.

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

- A. Strict application of the ordinance would produce undue hardship.

Staff Analysis: *These properties are substandard and were established after the adoption of the Subdivision Regulations. However, they were developed with single-family dwellings in the 1940's, prior to the adoption of the Subdivision Regulations.*

- B. 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.

Staff Analysis: *The surrounding area consists of single-family dwellings. The proposed single-family developments would not be detrimental or adversely affect the character of the area as it will continue the established pattern of development.*

- C. 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.

Staff Analysis: *The proposal is not recurring in nature; an amendment to the Ordinance is not required.*

- D. 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.

Staff Analysis: *The hardship is not self-inflicted. These properties were deeded by previous property owners and the proposed reconfiguration of these lots will make them more conforming.*

- E. 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.

Staff Analysis: *The hardship is created by the requirements of the Ordinance. The four existing lots are substandard in lot area, lot width, street line frontage, and building setbacks. The proposed reconfiguration will reduce the number of lots to three and make all lots more conforming in dimensional standards for properties zoned AG-2 Residential District.*

The Rural Development Guidelines set forth in the City of Virginia Beach Comprehensive Plan recommend a minimum 50-foot wide, vegetative buffer be installed between proposed residential structures and abutting agricultural operations. As there is active cultivation operation on the adjacent western parcel at this time, it is recommended that this buffer be required. Staff also recommends a condition that requires the newly constructed dwelling to contain some elements of the architectural design that are consistent with the recommendations in the Rural Area Design Guidelines, such as a front porch, pitched roof lines, board and batten siding, and a side-loading garage.

Based on these considerations, Staff recommends approval of the request subject to the conditions and deviation as noted.

Recommended Conditions

1. When redeveloped, a maximum of one (1) dwelling unit shall be permitted on each lot. The architectural design of any new dwelling shall reflect the recommendations found in the Rural Area Design Guidelines.
2. Construction of new single-family dwellings shall meet the minimum required building setbacks on each lot.
3. Approval from the Virginia Beach Department of Public Health Department shall be required for development on each lot.
4. The 50-foot wide, vegetative buffer set forth in the Rural Area Development Guidelines of the Comprehensive Plan shall be required along property lines abutting agricultural operations.
5. A subdivision plat shall be required to be recorded prior to release of the first building permit. The lots shall be in substantial conformance with the conceptual subdivision plan entitled "Re-Subdivision Exhibit of Property Owned by Wade W. Bell", dated October 23, 2023, and prepared by Parrish Layne Design Group, a copy of which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning and are incorporated herein by this reference.

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 Rural Area. The Rural Area is located in the southern half of the city, south of Indian River and Sandbridge Roads. It is characterized as low, flat land with wide floodplains and altered drainage with a presence of agricultural and rural-related activities including traditional and specialty crop cultivation, tree farms, equestrian facilities, wetland banks, fish farms and other similar uses. It is an important objective to protect and sustain all of our valuable environmental, scenic, and agricultural resources against inappropriate activities and intense growth. Successful rural residential developments do not dominate, but rather, complement the setting and showcase the attractiveness of the natural surrounding countryside.

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 cultural resources associated with the site.

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Dawley Road	No Data Available	No Data Available	Existing Land Use ² – 10 ADT Proposed Land Use ³ – 30 ADT
¹ Average Daily Trips	² as defined by a single-family dwelling	³ as defined by three single-family dwellings	⁴ LOS = Level of Service

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

This portion of Dawley Road is considered a two-lane rural roadway. There is no CIP project slated for this roadway.

Public Utility Impacts

Water & Sewer

City water & sanitary sewer service is not available for connection. The proposed lots will be required to obtain approval from the Department of Public Health for well water and on-site septic system.

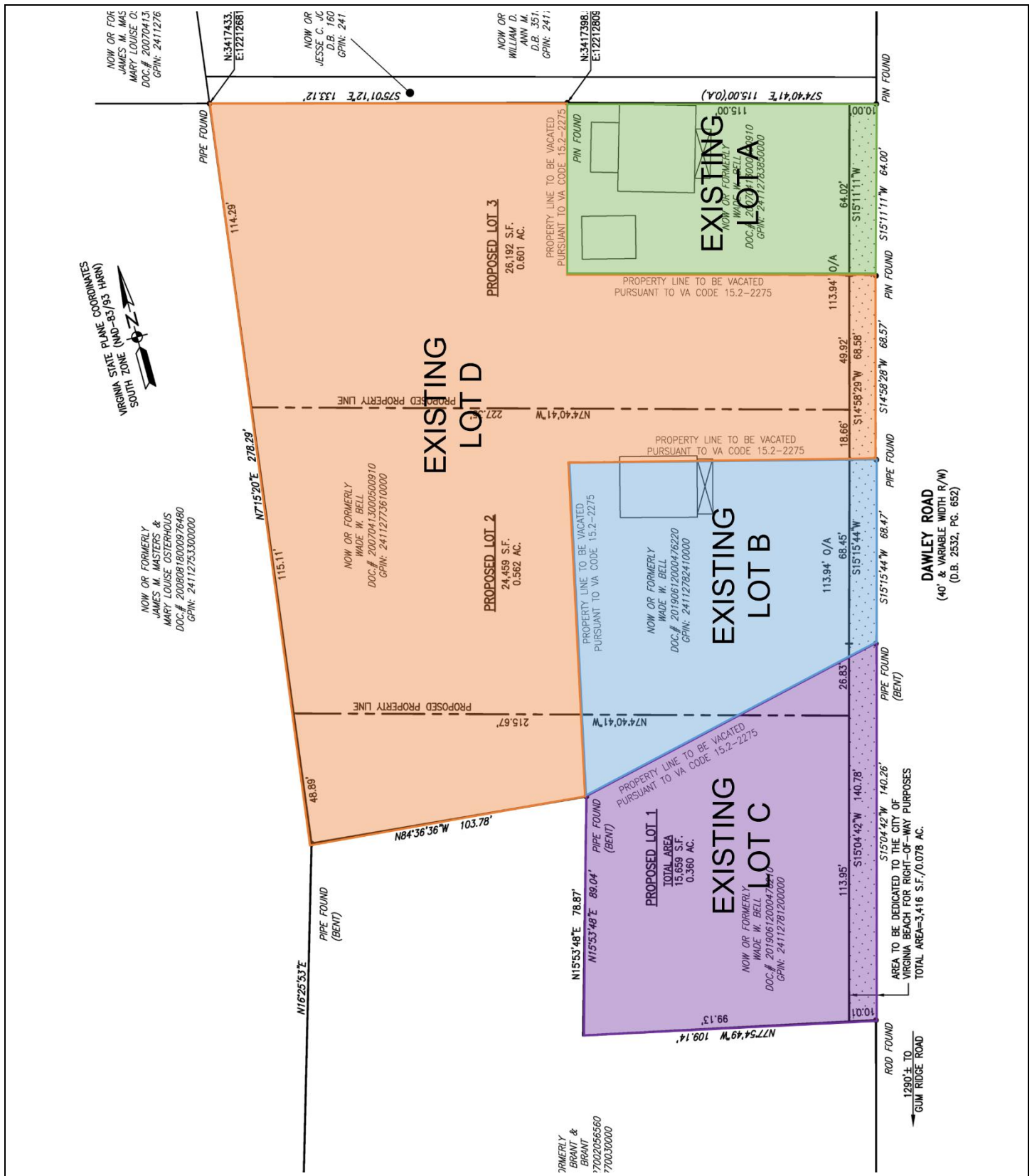
Public Outreach Information

Planning Commission

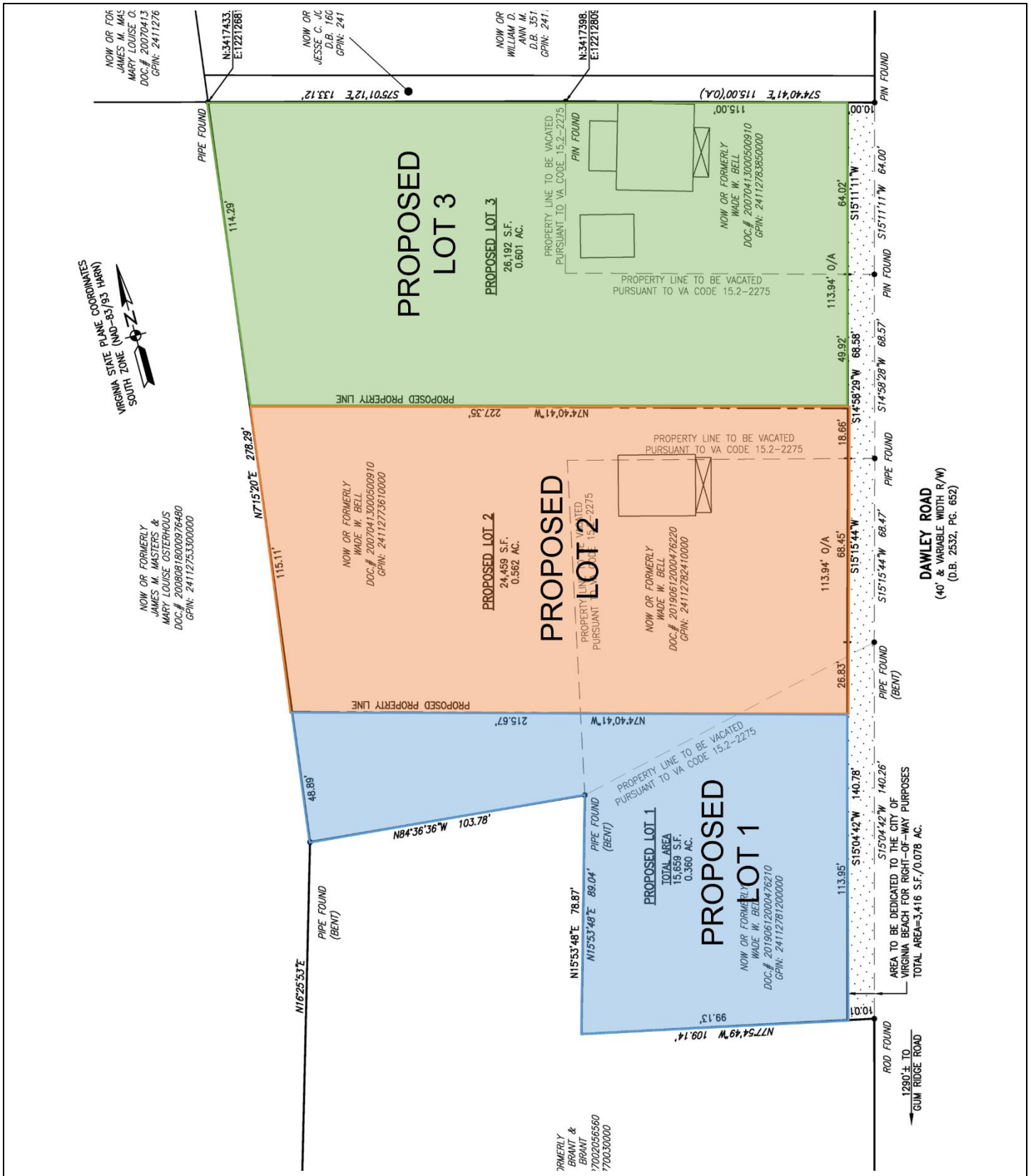
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on November 13, 2023.

- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, November 29, 2023 and December 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 November 27, 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 December 7, 2023.

Existing Configuration



Proposed Reconfiguration



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 Wade W. Bell

Does the applicant have a representative? ☒ Yes ☒ No

- If yes, list the name of the representative.

Pettrey Law, PLC Kevin Pettrey

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

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

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

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

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

Disclosure Statement

Disclosure Statement



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

☐ Yes ☒ No

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

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

☐ Yes ☒ No

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

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.

Parrish/Lane Design Group Engineer-Surveyors-Planners

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.

Parrish / Lane Design Group Engineer-Surveyors-Planners

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.

Pettrey Law, PLC , Kevin Pettrey

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.

Wade W. Bell

Applicant Signature

Wade W. Bell

Print Name and Title

October 2 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 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 757-385-5692.
- Please note that further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.
- The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.

Request

Street Closure

Staff Recommendation

Approval

Staff Planner

Marchelle Coleman

Location

Portion of the unimproved right-of-way
between 7502 & 7504 Atlantic Avenue and 202
& 204 76th Street

GPINS

2419672076, 2419671078

Site Size

525 square feet

AICUZ

Less than 65 dB DNL

Watershed

Atlantic Ocean

Existing Land Use and Zoning District

Unimproved lane

Surrounding Land Uses and Zoning Districts

North

Unimproved lane

South

Unimproved lane

East

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

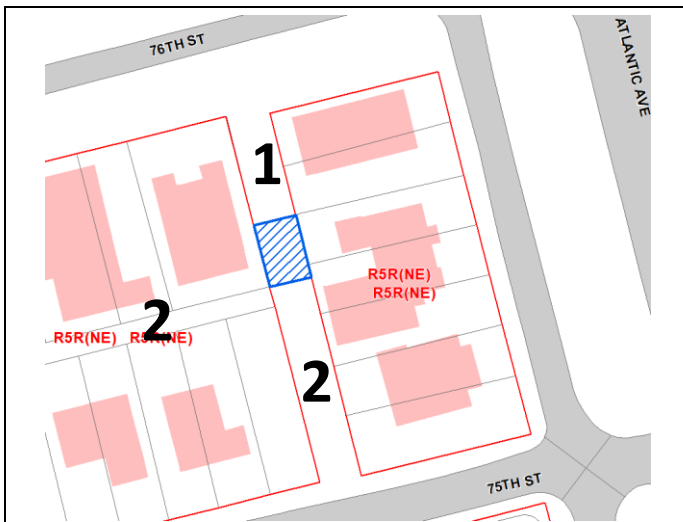
West

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



Background & Summary of Proposal

- The applicant is requesting to close a portion of the unimproved lane adjacent to the rear lot line of the duplex dwelling at 7502 and 7504 Atlantic Avenue and the side lot line of the duplex at 202 and 204 76th Street. As shown on the submitted street closure exhibit, the proposal includes closure of a 15-foot wide by 35-foot-long portion of the unimproved lane, totaling 525 square feet, and incorporating that land into the existing adjacent residential lot to the east addressed 7502 and 7504 Atlantic Avenue and as identified as Lots 11 & 12, Shore Realty Corp. on the submitted survey. The property owner of the duplex at 202 and 204 76th Street is not interested in purchasing half of the lane.
- On September 15, 2020, the City Council approved the closure of a portion of the southern half of this lane adjacent to Lots 8, 9, 10, 46 and the southern 15 feet of Lot 11. The northern half of this lane adjacent to Lots 13 & 14 was approved for closure on September 15, 2022. At that time, the applicant (Matthew A. Galumbeck) was one of the property owners along this lane who was not party to the application.
- The underlying fee title in the area proposed for closure is vested in Shore Realty Corporation, a defunct corporation. In 2020 & 2022, the property owners of the residential lots adjacent to the area proposed for closure joined together to petition the court to have a Receiver appointed for the purpose of making application for closure of the alley and lanes between 75th and 76th Streets. By Court order entered on August 1, 2022, James T. Cromwell was appointed Receiver for Shore Realty Corporation and received approval to convey the fee interest of the lane to the respective adjoining property owner for this proposed street closure request.



Zoning History

#	Request
1	STC (Portion of unimproved lane) Approved 09/15/2022
2	STC (Portion of unimproved lane between 75 th & 76 th Streets) Approved 09/15/2020

Application Types

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

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

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

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

Evaluation & Recommendation

As required by City Code, a Viewers' Meeting was held on October 20, 2023, that included City Staff from the Departments of Public Works, Planning and Community Development, and the Office of the City Attorney, to consider this request.

The Viewers determined that the proposed closure will not result in a public inconvenience; therefore, closure of this portion of right-of-way is deemed acceptable.

Matthew A. Galumbeck & James T. Cromwell, Receiver for Shore Realty Corporation, a defunct corporation

Agenda Item 2

Page 2

This portion of the unimproved lane (15-foot wide by 35-ft long) does not provide pedestrian or vehicular access to any waterway, recreation area, or residence; therefore, no vehicular or pedestrian connectivity would be lost with this closure request. There are no public utilities within this lane, as indicated by the Department of Public Utilities; however, the Department of Public Works has specified a need for a drainage easement over the proposed closed area to be included on the resubdivision plat, as recommended in Condition 2.

As stated previously, on September 15, 2020 and September 15, 2022, the City Council approved the closure of a portion of the alleys and lanes between 75th and 76th Streets. Similar closures have been approved in this area before and have not resulted in any public inconvenience.

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

Recommended Conditions

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

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

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

Natural & Cultural Resources Impacts

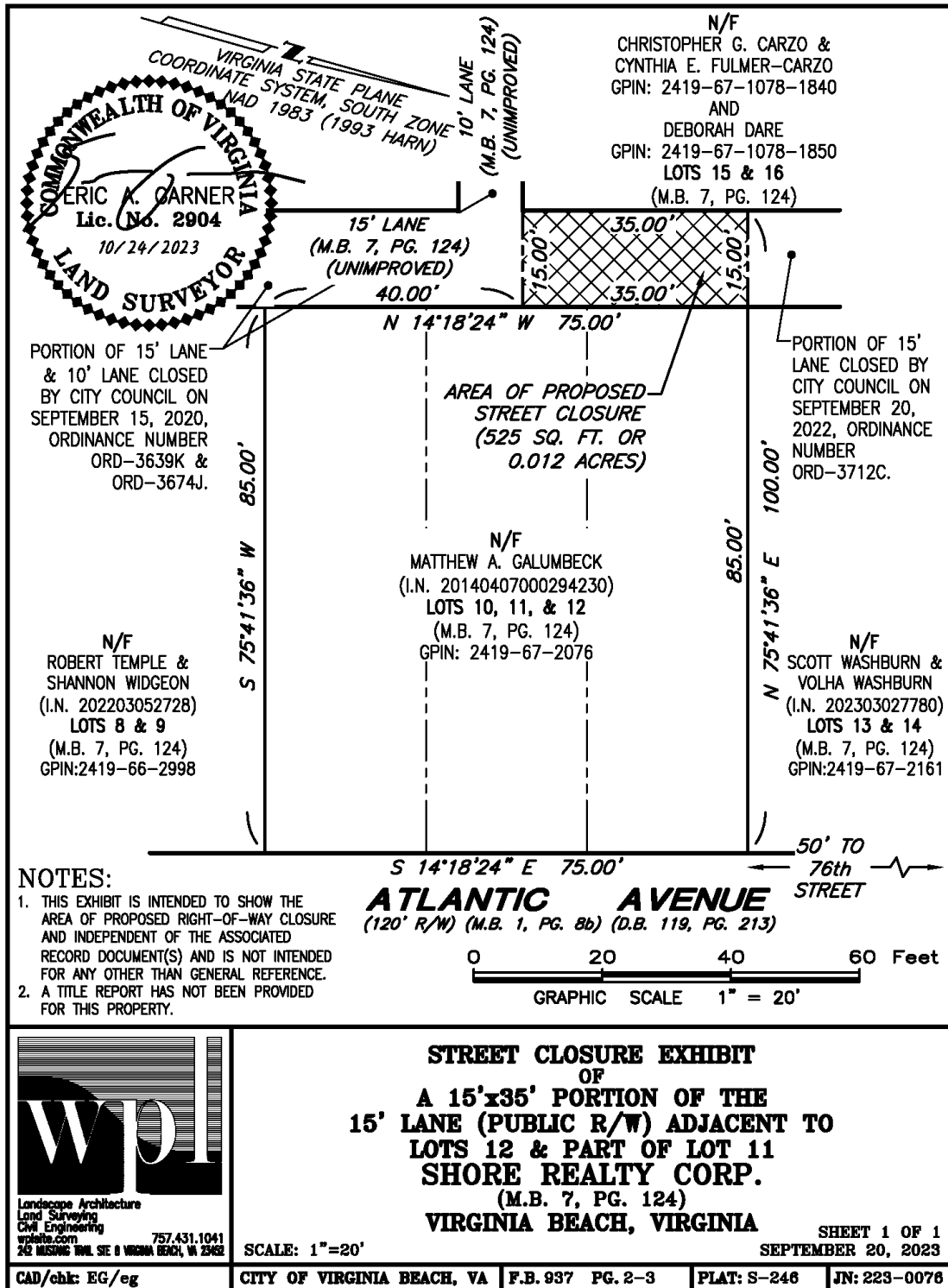
The site is located in the Atlantic Ocean watershed. There does not appear to be significant natural or cultural resources associated with the site.

Public Outreach Information

Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on November 13, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, November 29, 2023 and December 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 November 27, 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 December 7, 2023.

Street Closure Exhibit



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 Matthew A. Galumbeck & James T. Cromwell, Receiver for Shore Realty Corporation,
a defunct corporation

Does the applicant have a representative? ☒ Yes ☐ No

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

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

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

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

- 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.

MERS; TowneBank

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

☐ **Yes** ☒ **No**

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

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.

Jeff Leonard

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

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

Eric Garner, WPL

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

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

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

Applicant Signature

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

A handwritten signature in dark ink, appearing to read 'Matthew A. Galumbeck', written over a horizontal line.

Applicant Signature

Matthew A. Galumbeck

Print Name and Title

September 29, 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 Matthew A. Galumbeck

Applicant Name Matthew A. Galumbeck & James T. Cromwell, Receiver for Shore Realty Corporation,

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

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

- If **yes**, list the businesses that have a parent-subsiary³ 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-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.

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

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

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

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

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

Disclosure Statement

Disclosure Statement



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

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

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

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.**

Shore Realty Corporation, a defunct corporation

By


Owner Signature

James T. Cromwell, Receiver

Print Name and Title

James T. Cromwell 9/29/23

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 757-385-5692.
- 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 (Battery Energy Storage System)

Staff Recommendation

Approval

Staff Planner

Marchelle Coleman

Location

Parcel between 221 & 301 South Birdneck Road and the adjoining western parcel

GPINs

2417328009, 2417427222

Site Size

11.38 acres

AICUZ

Greater than 75 dB DNL; APZ-2

Watershed

Chesapeake Bay

Existing Land Use and Zoning District

Undeveloped lots / I-1 Light Industrial,
Conditional I-1 Light Industrial

Surrounding Land Uses and Zoning Districts

North

Single-family dwelling, cemetery / R-10
Residential

South

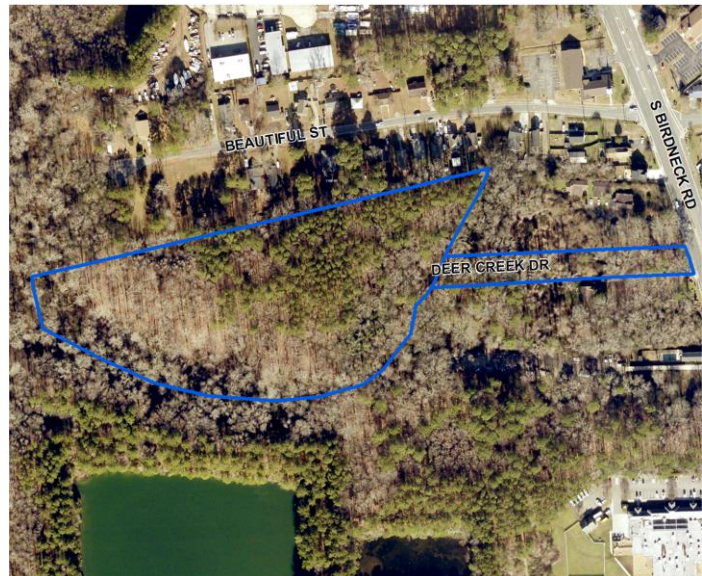
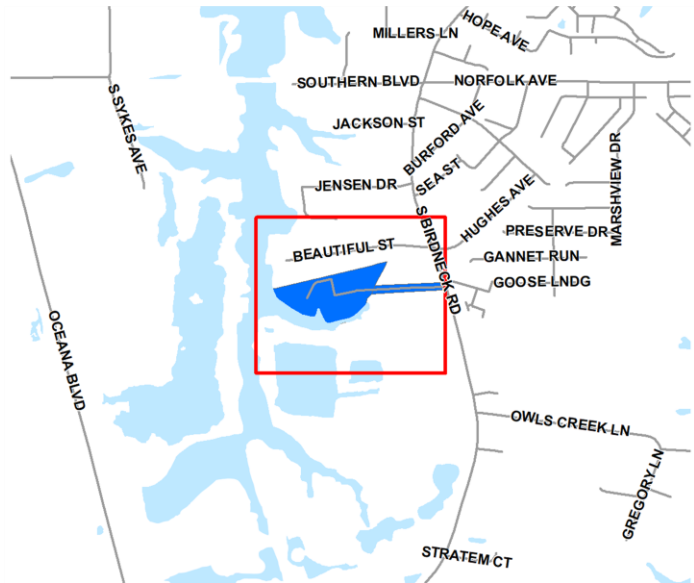
Single-family dwelling, undeveloped lots / R-10
Residential, I-1 Light Industrial

East

S. Birdneck Road
Single-family dwellings, multi-family dwellings /
R-10 Residential, A-12 Apartment

West

Undeveloped city-owned wooded lot / I-1 Light
Industrial



Background & Summary of Proposal

- The applicant is requesting a Conditional Use Permit to operate a Battery Energy Storage System (BESS) on an approximately 11.38-acre parcel zoned I-1 Light Industrial District and located in the Historic Seatack neighborhood.
- Access to the site will be from the adjoining Conditional I-1 Light Industrial District parcel along S. Birdneck Road.
- The applicant is proposing to construct a 40-megawatt (MW) alternating current (AC) Battery Energy Storage System Facility consisting of battery containers and associated equipment within a fenced-in, secure compound. A Dominion Substation, shown on the Conceptual Site Plan, is not a part of the subject proposal, but will be developed to support the operations of the BESS.
- The BESS is designed to strengthen the electrical grid reliability and speed in order to support the development of clean and renewable sources of electricity to the Virginia bulk power transmission system, serving the needs of electric utilities and their customers. The BESS will store electricity from the electric grid during off-peak periods and dispatch the electricity onto the electric grid during times of peak demand. The facility will have a maximum output of 40-megawatts over a four-hour period for a total of 160 megawatt hours.
- The batteries on site will be 9 feet and 6 inches in height and will be charged through an interconnection to the local VA Power (Dominion) Electrical Grid. These lithium-ion batteries are stored and transported at a recommended state of charge of around 50%. The batteries are expected to be charged and discharged once per day.
- As required in Section 225.02 of the Zoning Ordinance, the applicant submitted a Decommissioning Plan, dated May 2023, which states that the project is anticipated to operate for 25-40 years. When the operation ceases, a full site decommissioning will take place to include the removal and proper disposal of equipment and facilities within 365 days following the date of final operation, unless an extension of the decommissioning period is requested by the owner/operator and approved by the City Council. The batteries on the site; however, will be disconnected from the electrical grid and unplugged from any power source at the beginning of the decommissioning process and will be physically removed from the site within 180 days, as noted in Condition 7. Restoration of the property will include soil stabilization and revegetation of ground cover disturbed by the facility within 365 days.
- The conceptual landscape plan depicts a 100-foot-wide buffer with a six-foot tall solid composite fence. The area located within the 100-foot buffer will remain forested to the greatest extent possible. It is anticipated that a limited amount of the understory vegetation will need to be removed to allow for the installation of the fence and construction. An access road will be constructed to provide access to the batteries, control building, collector substation, and the proposed Dominion Substation, as depicted on the Conceptual Site Plan.
- As depicted on the Electrical Equipment Elevations, the exterior façade of the proposed control building for the BESS will be constructed with a galvanized metal roofing system and metal siding. At the tallest point, the building will be 14 feet in height.
- No signage is proposed on the property.
- The site is located in the greater than 75 dB DNL noise zone, the Accident Potential Zone 2, and a portion of the site is encumbered by a Navy Restrictive Easement. The proposed Battery Energy Storage System is a compatible use, as designated in Section 1804 of the Zoning Ordinance. Since there is a Navy Restrictive Easement on the property, the property owner is responsible for securing a compliance letter from the Navy prior to development.

Zoning History

#	Request
1	CRZ (R-10 & I-1 to Conditional I-1) Approved 04/16/2019
2	CUP (Bulk Storage Yard) Approved 01/15/2019 CRZ (R-10 to Conditional I-1 & R-10) 01/15/2019
3	CRZ (I-1 & R-2.5 to Conditional I-1) Approved 12/05/2017
4	CRZ (R-10 to Conditional I-1) Approved 12/11/2007
5	CUP (Bulk Storage Yard) Approved 12/11/2007 CUP (Outdoor Recreational Facility) Approved 02/09/1987
6	REZ (R-10 & I-1 to I-1) Approved 10/24/2006
7	CUP (Church Expansion) Approved 12/10/1991
8	SVR Approved 03/28/1988

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 to operate a Battery Energy Storage System is acceptable.

The property is located within the greater than 75 dB DNL noise zone and within the Accident Potential Zone-2 (APZ-2) surrounding NAS Oceana. The property is also encumbered by a restrictive easement owned by the United States Navy that limits the use and development of the site. The property is also identified in the Comprehensive Plan as being within the Historic Seatack Suburban Focus Area. The Comprehensive Plan supports development of this area consistent with the provisions of the City's AICUZ Ordinance. The types of uses deemed compatible in the >75 dB noise zone and the APZ-2 as listed in the Land Use Compatibility tables found in the AICUZ Ordinance are more industrial in nature, including manufacturing, warehousing, storage, and utilities. The proposed Battery Energy Storage System is consistent with the City's desire to develop properties with uses that are compatible with Naval flight operations.

As mentioned previously, the site meets all the requirements of Section 225.02 of the Zoning Ordinance. Adequate buffering is provided to include a six-foot tall privacy fence and landscaping. There will be 50 feet of mature trees and vegetation to remain on the property between the northern property line and the proposed fence. An additional 50-foot buffer will also be provided between the six-foot tall fence and the battery storage facility, which will screen the use from the view of adjacent property owners. At the recommendation of Staff, the required fence was changed from wood to a composite material, that will be more durable when exposed to weather, UV rays, and other environmental factors. Special considerations were made to the site layout due to the existence of residential properties to the north and the environmental constraints on the property. In fact, the design of the site was revised, moving the facilities and proposed fence to protect residential properties while also permitting the applicant to use the property in a manner compatible with Naval flight operations.

Due to the property's proximity to residential properties to the north, the applicant conducted several public engagement meetings which were held on November 14, 2022; January 20, 2023; May 11, 2023; and September 18, 2023, to inform the community about the battery energy storage technology, address concerns, and answer questions. During these engagement meetings, the applicant presented information and answered questions related to potential health and safety impacts to the surrounding community. While the presentation by the applicant indicated that there are safety risks involved with the potential overheating of batteries that could cause a fire, the chances of that occurring with today's technology and design are extremely low. The battery technology provides the following:

- Newer, more efficient battery technology that generates less heat than previous generation batteries and testing of batteries before being placed in service.
- More advanced Battery Management Systems (BMS) control technology that ensures batteries are charged within safe parameters.
- Smaller modular battery containers that are spaced farther apart and “designed for failure” meaning if a fire were to occur in a single battery unit, it would not spread to other battery units.
- Multiple failsafe design elements are built into today’s modular battery designs including control technology and construction with more fire-resistant materials both on interior components as well as the exterior unit casing.

A noise study, dated July 26, 2023, was conducted by Hessler Associates, Inc. summarizing the modeling methodology, sound source derivations, and the expected sound emissions from the facility. The report indicates sound emissions from the project will fully comply with the City of Virginia Beach Noise Ordinance. The modeling indicates that the facility sound levels at the closest residences will be less than 45 dBA, within the allowable limits specified in the Noise Ordinance. Overall, the report anticipates that there will be no noise disturbance to the surrounding community.

The average traffic generation anticipated for an 11.38-acre I-1 Light Industrial zoned property is 873 average daily trips. There is no trip generation data available for a battery energy storage system; however, it is the opinion of Staff that the traffic generated by this use will likely be lower than the average anticipated trips generated with a by-right, I-1 Light Industrial use. The access point on S. Birdneck Road is proposed to shift to the south so that the north side radius does not overlap the adjacent property line. The entrance will also meet the Public Works Standards for a commercial entrance, as depicted on the Conceptual Site Plan. Additional detailed comments will be provided to the applicant during the site plan review process.

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

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

Recommended Conditions

1. When the property is developed, it shall be in substantial conformance with the conceptual site plan entitled “AMERICAN POWER VENTURES – VIRGINIA BEACH BESS PROJECT – SITE PLAN - SHEET C1-1”, prepared by Power Engineers, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
2. A Landscape Plan shall be submitted to the Development Services Center of the Department of Planning & Community Development for review and ultimate approval prior to the issuance of a Certificate of Occupancy that is in substantial conformance to the conceptual landscape plan entitled “APV VIRGINIA BEACH ENERGY, LLC – VIRGINIA BEACH ENERGY PROJECT – CONCEPTUAL LAYOUT PLAN, SHEET C3-2”, prepared by Power Engineers, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
3. As depicted on the Conceptual Landscape Plan, a 50-foot buffer of existing mature trees and vegetation shall remain on site in the designated areas. Clearing of trees shall be kept to the absolute minimum necessary to operate the battery storage facility.
4. The exterior of the proposed building shall substantially adhere in appearance, size, and materials to the elevations entitled “AMERICAN POWER VENTURES – VIRGINIA BEACH BESS PROJECT – ELECTRICAL EQUIPMENT ELEVATIONS,

SHEET SKE-001", prepared by Power Engineers, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.

5. When developed, a photometric plan for the exterior portions of the property shall be provided as part of the final site plan submittal. All exterior lighting shall be no taller than 14 feet in height and all lighting shielded and directed down and inward to the property and away from adjacent properties.
6. The proposed six-foot-tall composite fence shall be in substantial conformance with the fence rendering depicted on page 12 of this Staff Report.
7. When the project ceases to operate, a full site decommissioning shall take place to include the removal and proper disposal of equipment and facilities within 365 days following the date of final operation unless it is extended upon request of and approval by the City Council. The batteries on the site; however, shall be disconnected from the electrical grid and unplugged from any power source at the beginning of the decommissioning process and shall be physically removed from the site within 180 days.

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 located in the Suburban Area of the City, in the Historic Seatack Suburban Focus Area. All new developments in this area must adhere to the AICUZ regulations within the zoning ordinance and should be compatible with the surrounding historic neighborhood. Significant landscape screening buffers should be established between existing residential areas and new non-residential development to mitigate adverse visual and noise impacts. One of the guiding principles is that new developments use porous materials for driveways, walkways, and other surfaces to reduce impervious surface in the area. Clearing of trees in the area should be confined to the absolute minimum to accommodate driveways and utilities. This proposal is in keeping with the mix of land uses in this area.

Natural & Cultural Resources Impacts

The site is located in the Chesapeake Bay watershed with portions in the Resource Protection Area (RPA), the most stringently regulated portion of the Chesapeake Bay Preservation Area (CBPA). A Chesapeake Bay Preservation Area variance for an industrial park was granted on this property in July 2007. An administrative approval of this plan has been granted, as the current plan represents a significant reduction in the amount of both impervious surface and encroachment into the RPA buffer onsite.

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
S. Birdneck Road	14,300 ADT ¹	32,700 ADT ¹ (LOS ⁴ “D”)	Existing Land Use ² – 873 ADT Proposed Land Use ³ – No Data Available
¹ Average Daily Trips	² as defined by a 11.38-acre zoned I-1 property	³ No information available in the ITE Trip Generation Manual for battery energy storage system	⁴ LOS = Level of Service

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

In the vicinity of this application, South Birdneck Road is a four-lane divided minor suburban arterial with a variable-width right-of-way. The City’s MTP map indicates an ultimate six-lane roadway section for this section of South Birdneck Road; however, no CIP projects are currently scheduled for this roadway.

Public Utility Impacts

Water

There is an existing 30-inch City water transmission main and an existing 12-inch water main along S. Birdneck Road. The site may connect to City water, if needed.

Sewer

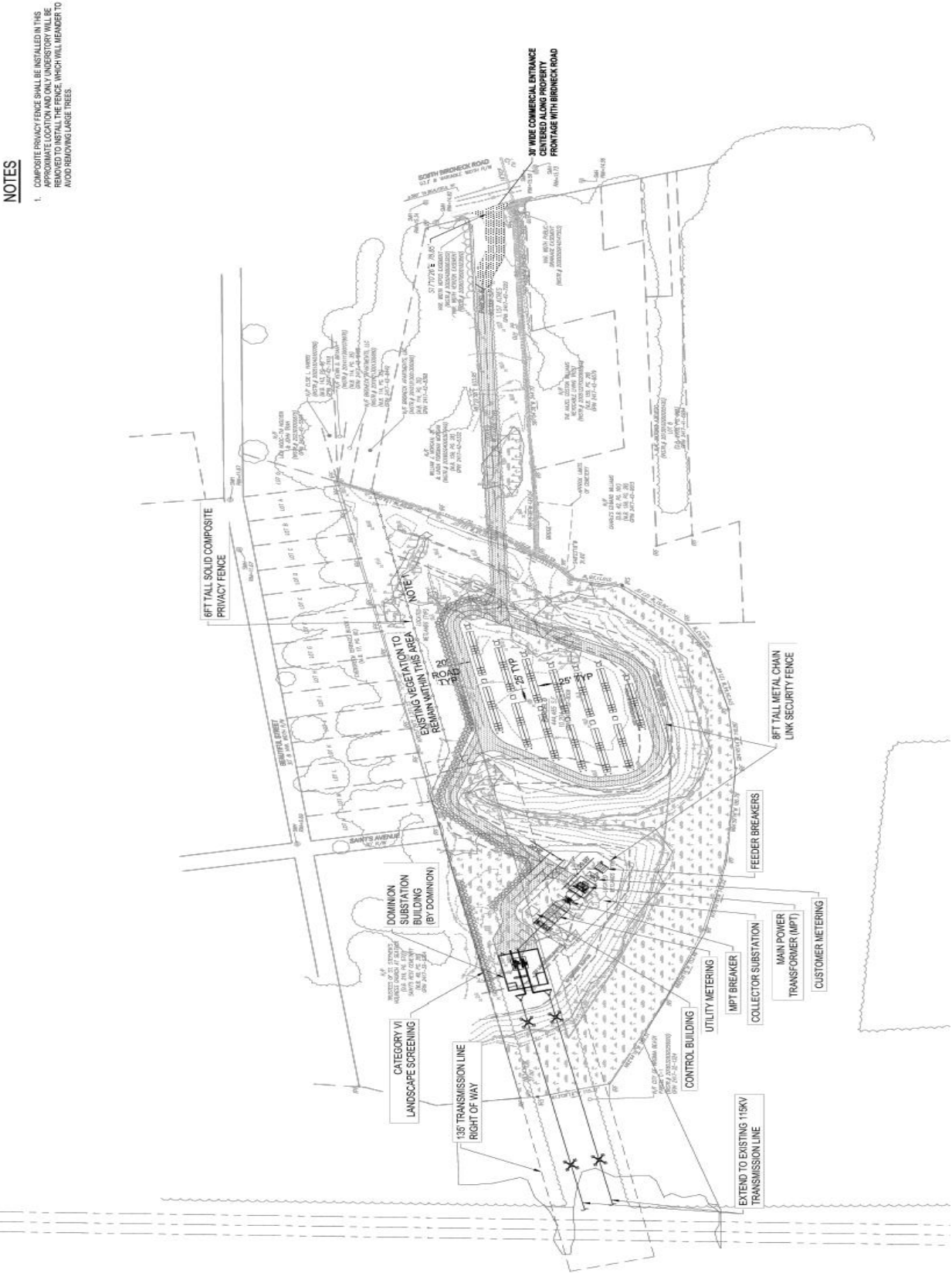
There are two existing eight-inch sanitary sewer gravity mains along S. Birdneck Road. The site may connect to City sewer, if needed.

Public Outreach Information

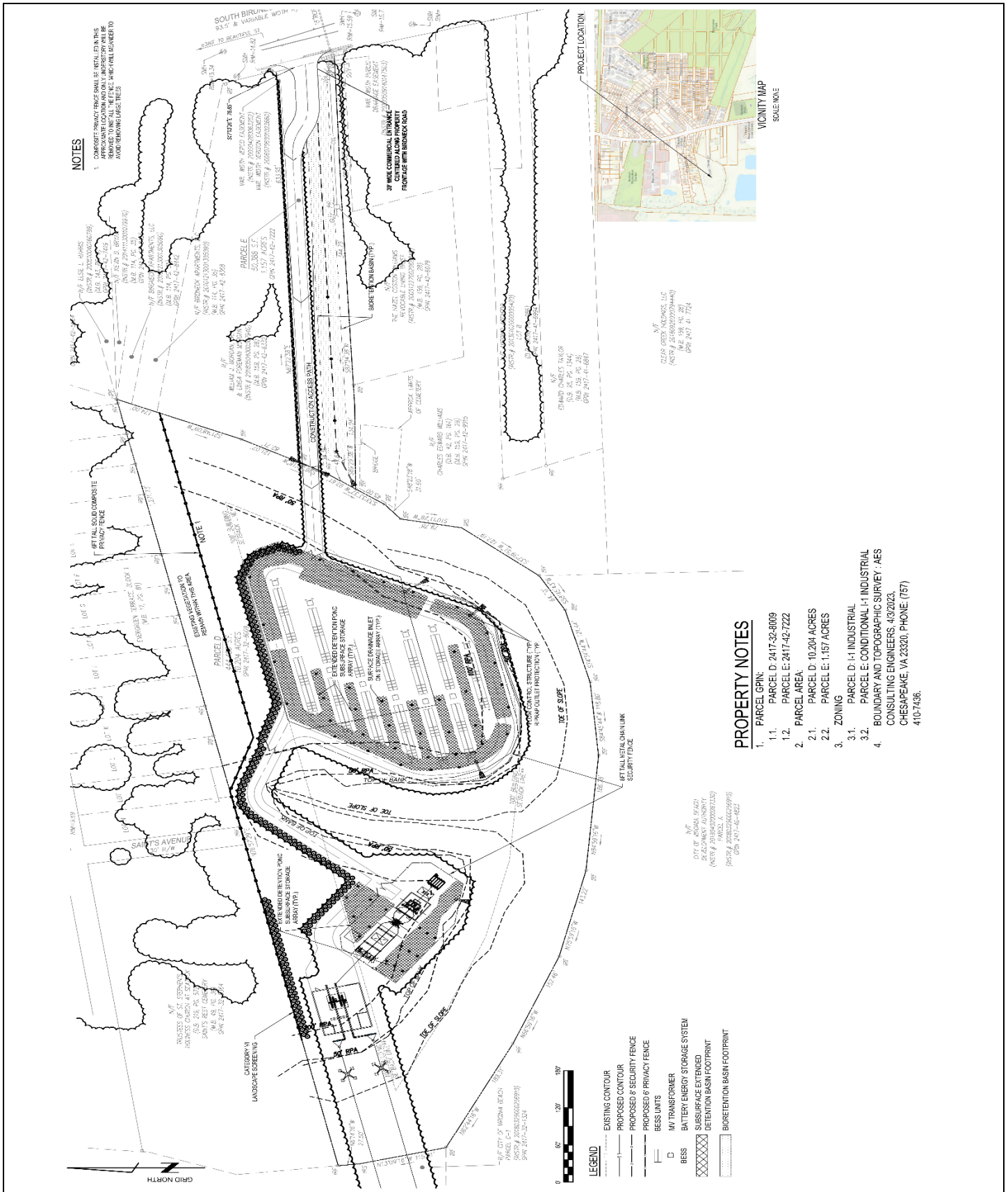
Planning Commission

- The applicant met with the Seatack Community Civic League on November 14, 2022; January 20, 2023; May 11, 2023; and September 18, 2023, to discuss the details of the request. According to the applicant, many of the concerns raised were regarding potential health concerns related to fires, explosions, toxic chemical leaks, and air pollution, as well as the damage to property values and disruption of tranquility within the residential neighborhood.
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on November 13, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, November 29, 2023 and December 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 November 27, 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 December 7, 2023.

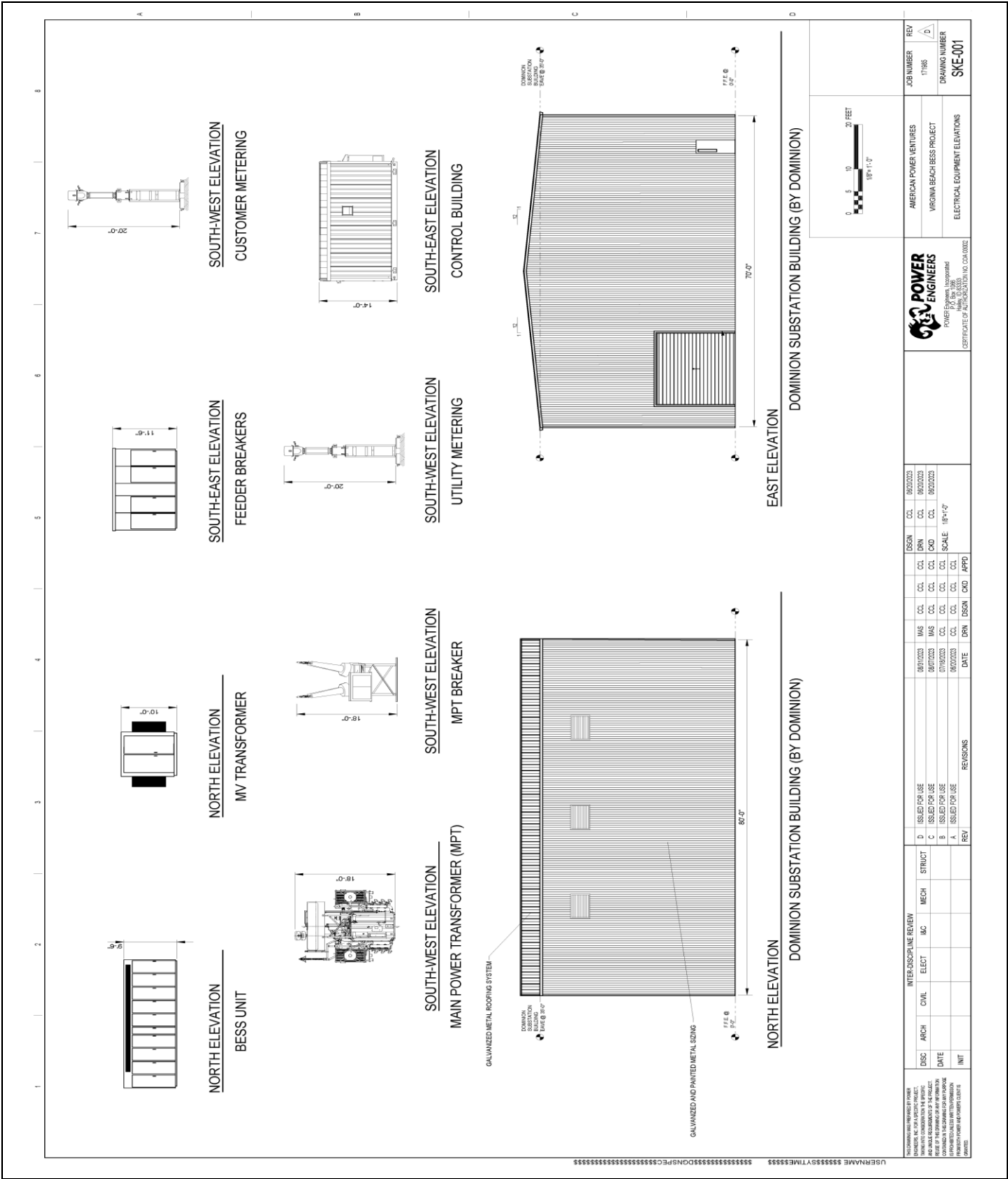
Proposed Conceptual Site Plan



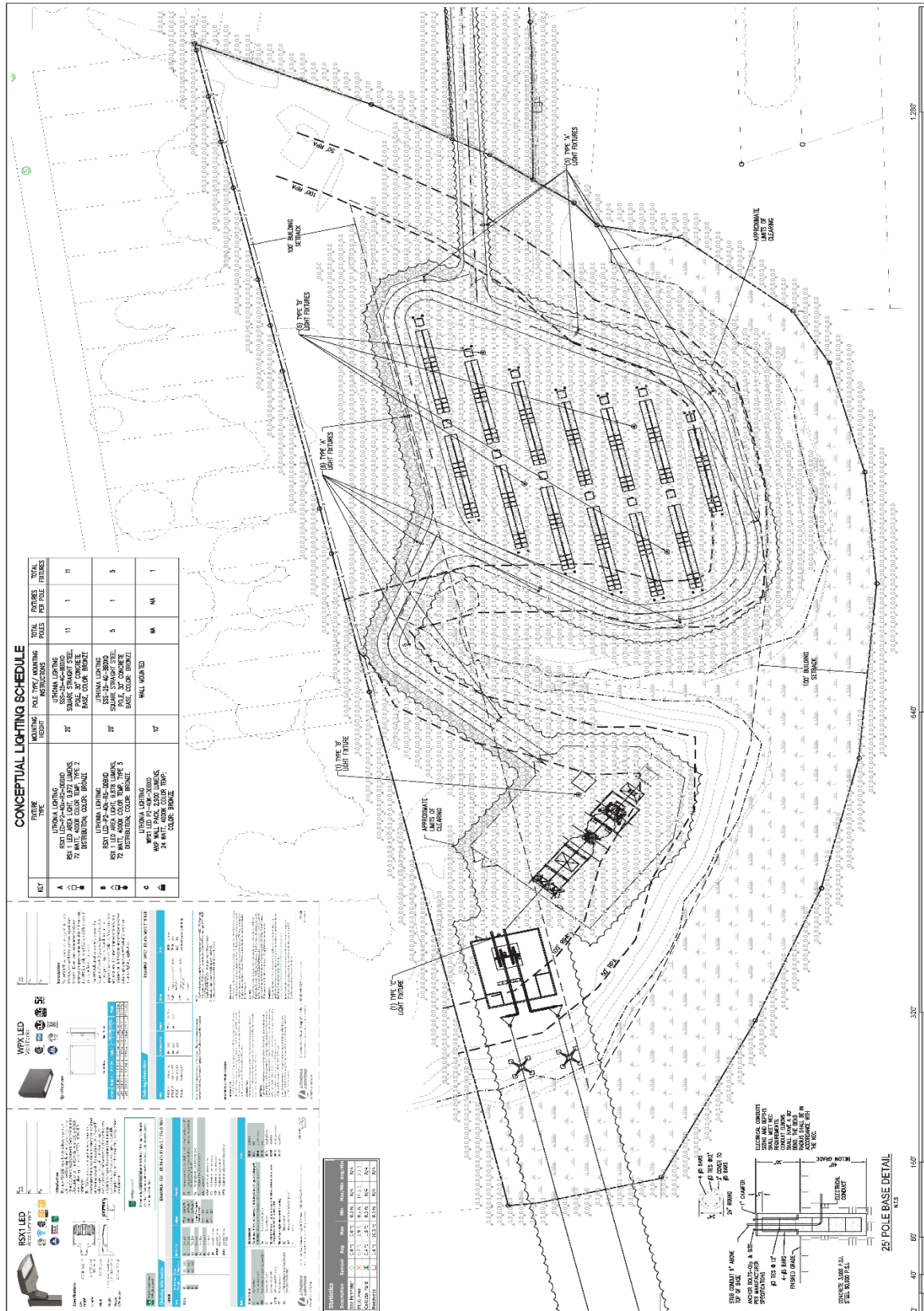
Proposed Landscape Plan



Proposed Equipment & Building Renderings



Proposed Conceptual Lighting Plan



ADS
CONSULTING ENGINEERS

— Bangalore — Chennai — Coimbatore — Hyderabad — Kolkata — Mumbai — New Delhi — Pune — Thiruvananthapuram — Tiruchirappalli — Visakhapatnam

1/1, 2nd Floor, 2nd Main Road,
Chennai - 600 006, INDIA
Phone: 044-2610 0000
Fax: 044-2610 0001
www.adsce.com

CONCEPTUAL LIGHTING PLAN
LASKIN DEV. CORP. - VIRGINIA BEACH BESS PROJECT
VIRGINIA BEACH, VIRGINIA



DATE: JULY 27, 2023
 SCALE: 1"=40'
 SHEET 1 of 1

Proposed Battery Storage Rendering



Proposed Six-foot Tall Fence Rendering



BESS-Specific Decommissioning Plan for
APV VA Beach Energy LLC

**BATTERY ENERGY STORAGE SYSTEM-SPECIFIC
DECOMMISSIONING PLAN**

APV VA Beach Energy LLC

May 2023

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APPENDIX

Appendix 1 – Site Plan

1.0 Introduction

APV VA Beach Energy LLC ("Applicant"), a New Jersey limited liability company, hereby submits this plan for the eventual decommissioning of the Battery Energy Storage System ("BESS") specific materials of the proposed 40 MWac facility ("Project") located on South Birdneck Road, Virginia Beach, VA 23451. The establishment of a Decommissioning Plan ("Plan") for review as part of the Conditional Use Permit Application and Sections 111 and 1001 of the City Zoning Ordinance to add terms related to energy/battery storage facilities to Section 225.02.

A site plan is provided in Appendix 1 for reference.

2.0 Decommissioning Activities

The Project is anticipated to operate for 25-40 years. At the time the Project ceases to operate, Applicant will perform full site decommissioning which shall include the removal and proper disposal of equipment, facilities, or devices on real property including restoration of the real property upon which equipment, facilities, or devices are located. The physical removal of the battery storage facility shall be completed within 365 days following the date of final operation. This period may be extended upon request and approval of the City Council. Restoration of the real property shall include soil stabilization, and revegetation of the ground cover of the real property disturbed by the installation of such equipment, facilities, or devices.

Further, decommissioning procedures which shall include, but not limited to, removal of any above and below ground tanks, cables, fencing, debris, buildings, structures or equipment, to include foundations and pads, related to the facility and restoration land and related disturbed areas to a natural condition or other approved state.

"Natural condition" shall be taken to mean the stabilization of soil to a depth of three (3) feet and restoration of site vegetation and topography to its pre-existing condition, provided that the exact method and final site restoration plan shall be subject to site plan review giving, among other things, consideration to impacts upon future site use, environmental and adjacent property impacts.

The handling and disposal of all battery storage equipment, facilities or devices shall be completed in accordance with all applicable Federal, State and local requirements.

At the end of the Project's useful life, and in the event the Applicant does not seek approval to repower the Project, Applicant will decommission the Project as required under the Citing Zoning Ordinance. Upon completion of decommissioning, Applicant shall seek a certification of completion from the City Council ("City").

3.0 Demolition Instructions

The following is the sequential procedure that should be followed by for removal of the BESS specific items pursuant to this plan. Note that site decommissioning demolition instructions are established in the site decommissioning plan.

3.1 Project Component Removal

The BESS containers will be removed from their concrete pads. The BESS containers will be removed by crane and set on tractor trailers for transport. The containers will be transported to their manufacturing facility where they will be recycled. The battery recycling estimate is based on an estimate provided by the battery system integrator.

3.2 Concrete Slab Removal

Concrete slabs used for the BESS containers will be broken and removed to a depth of three feet below grade. Clean concrete will be crushed and disposed of off-site and/or recycled and reused either on or off-site. The excavation will be filled with subgrade material found on-site of quality and compacted density comparable to the surrounding area.

3.3 Site Restoration Process

The site consists of approximately 11.4 acres of industrial land. The area containing BESS specific equipment is approximately 130,680 square feet (3.0 acres). Following the decommissioning activities, the sub-grade material, and topsoil from affected areas will be de-compacted and restored to a density and depth consistent with the surrounding areas. All unexcavated areas compacted by used in decommissioning shall be de-compacted in a manner to adequately restore the topsoil and sub-grade material to the proper density consistent and compatible with the surrounding area.

The affected areas will be inspected, thoroughly cleaned, and all construction related debris removed. Disturbed areas will be reseeded to promote the revegetation of the area unless the area is to be immediately redeveloped. In all areas restoration shall include, as reasonably required, levelling, terracing, mulching, and other necessary steps to prevent soil erosion, to ensure the establishment of suitable grasses and forbs, and to control noxious weeds and pests.

4.0 Emergency BESS Decommissioning

In the event of a BESS failure that requires emergency removal (such as a BESS container fire) the Applicant will be responsible for proper removal and disposal of the BESS system and any damaged equipment surrounding the BESS. The BESS equipment will be replaced in kind or equivalent at the Applicant's expense. If an equivalent BESS system is used as replacement the Town will be notified of the equivalent replacement. Additional training for the equivalent BESS system will be required and provided by the Applicant.

Appendix 1

Site Plan





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 APV VA Beach Energy 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)

Can (a/k/a John) Seker - Member & President; Marc Poulson - Chief Executive Officer

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

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

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

Disclosure Statement



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

☐ Yes ☒ No

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

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

☐ Yes ☒ No

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

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

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

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

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

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

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

Disclosure Statement

Disclosure Statement



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

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

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

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

Mark Ricketts, AES Consulting Engineers; Christopher Lesniak, Power Engineers

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.

APV VA Beach Energy, LLC

By: 

Applicant Signature

Marc Poulson - CEO

Print Name and Title

5/30/2023

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 Sykes Real Properties, LLC

Applicant Name APV VA Beach Energy 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)

James M. Sykes, President

- If **yes**, list the businesses that have a parent-subsiary³ 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-subsiary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, VA. Code § 2.2-3101.

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Disclosure Statement

Disclosure Statement



Owner Services Disclosure

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

☒ **Yes** ☐ **No**

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

TowneBank

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

☒ **Yes** ☐ **No**

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

Jon F. Sedel, President, Sedel & Associates, Inc.

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

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

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

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

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

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

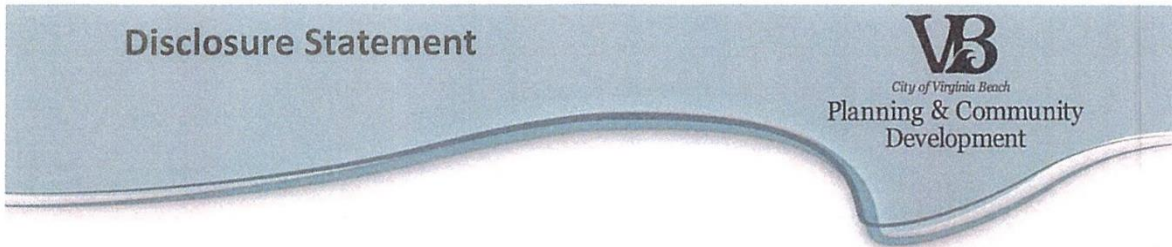
6. Does the Owner have a **construction contractor** in connection with the subject of the application or any business operating or to be operated on the property? ☐ **Yes** ☒ **No**

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

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

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

Disclosure Statement



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

Owner Signature

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

Sykes Real Properties, LLC

By: _____

Owner Signature

James M. Sykes, President

Print Name and Title

5-33-23

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 757-385-5692.
- Please note that further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid.
- The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.

Request

Conditional Use Permit (Tattoo Parlor)

Staff Recommendation

Approval

Staff Planner

Elizabeth Nowak

Location

5608 Virginia Beach Boulevard, Suite 505

GPIN

1467289986

Site Size

17,310 square feet (1,700 square-foot 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

Industrial use, multi-family dwellings / I-2 Heavy

Industrial, A-18 Apartment

South

Virginia Beach Boulevard

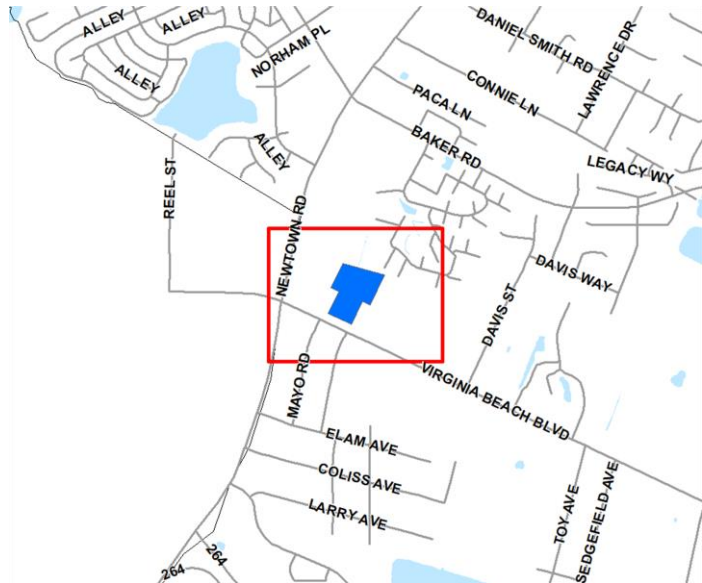
Office Buildings / O-2 Office

East

Vacant lot / B-2 Community Business

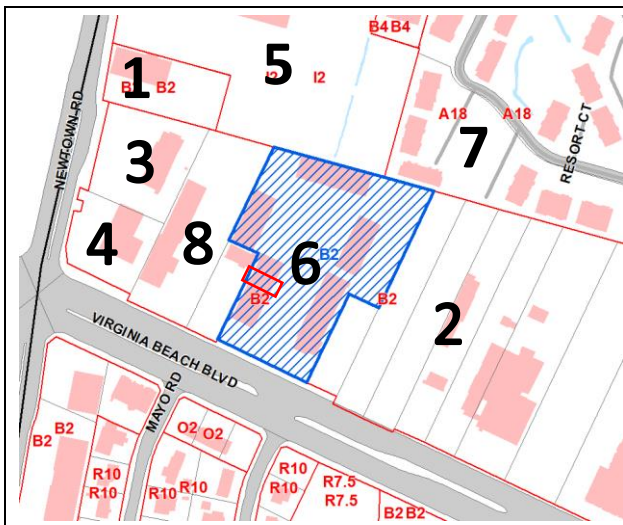
West

Automobile sales and service / B-2 Community Business



Background & Summary of Proposal

- The applicant is requesting a Conditional Use Permit to operate a traditional Tattoo Parlor in a 1,700 square-foot suite of the Executive Cove Center.
- Four to six employees are expected.
- The proposed hours of operation are from 10:00 a.m. to 9:00 p.m., Tuesday through Thursday; 10:00 a.m. to 10:00 p.m. Friday to Saturday; and noon to 6:00 p.m. on Sundays. The parlor will be closed on Mondays.
- A new wall sign and a tenant panel in the shopping center's monument sign will be installed. There will be no other exterior alterations as part of this application.
- Per Section 203(a)(33) of the Zoning Ordinance, one parking space is required for every 250 square feet for a shopping center of this size. This 17,310 square foot shopping center is required to have 69 parking spaces, which are met on site.



Zoning History

#	Request
1	CRZ (I-2 to Conditional B-2) 10/9/2012 CUP (Religious Use) Approved 10/9/2012
2	CUP (Automotive Repair) Approved 07/03/2012
3	CUP (Motor Vehicle Sales & Rentals) Approved 01/23/2001
4	CUP (Motor Vehicle Rentals) Approved 02/24/1998
5	CUP (Communication Tower) Approved 02/27/1996
6	CUP (Indoor Recreational Facility) Approved 01/09/1996
7	SVR Approved 02/11/1992
8	CUP (Sales & Service of Recreational Vehicles, Cars & Trucks) Approved 03/30/1987

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 Tattoo Parlor is acceptable. The business will occupy an existing suite in the Executive Cove Center and Tattoo Parlors are generally considered to be compatible with other retail and service uses like those existing in the center. The application of tattooing within an existing unit is not anticipated to have a negative impact on uses in or near the center. There is sufficient parking available on site for this suite in the existing shopping center.

Prior to commencing operations, 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 an establishment. A Certificate of Occupancy shall not be issued until these requirements are satisfied and Health Department approval is obtained.

For these reasons, 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. The actual application of tattoos shall not be visible from the exterior of the establishment or from the waiting and sales area within the establishment.
3. Any on-site signage for the establishment shall meet the requirements of the City Zoning Ordinance, and there shall be no neon, electronic display or similar 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 designates the subject property as being in the Suburban Area of the city. The vision for the Suburban Area emphasizes suburban patterns of residential development that are supported by residential services and other complementary non-residential uses, such as recreational opportunities. Commercial development, such as shopping centers, should be located near, but not within, residential neighborhoods and should have complementary massing, scale, and overall design. This application proposes no exterior alterations in an existing shopping center and is an expected strip commercial center use.

Natural & Cultural Resources Impacts

The site is located in the Chesapeake Bay watershed. There are no exterior alterations proposed with this application.

The project will affect no historical or cultural resources.

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Virginia Beach Boulevard	37,480 ADT ¹	74,000 ADT ¹ (LOS ² "D")	No Change Anticipated
¹ Average Daily Trips		² LOS = Level of Service	

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

Virginia Beach Boulevard in the vicinity of this site is an eight-lane major urban arterial with a 140-foot right-of-way. The MTP calls for an eight-lane major arterial with an ultimate right-of-way width of 155 feet. There are currently no CIPs scheduled for Virginia Beach Boulevard near this site.

Public Utility Impacts

Water & Sewer

The site is connected to both 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. Two letters of support have been received by Staff.
- As required by the Zoning Ordinance, the public notice sign was placed on the property on November 13, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, November 29, 2023 and December 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 November 27, 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 December 7, 2023.



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 Jamila Barnes

Does the applicant have a representative? ☐ Yes ☒ No

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

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

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

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

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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.**

Jamila Barnes

Applicant Signature

Jamila Barnes

Print Name and Title

9/20/2023

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 Executive Cove, LLC

Applicant Name Jamila Barnes

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)

Tasos Galiotas, Olivia Galiotas, Peter Galiotas,
Sophra Galiotas

- 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

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.

Leasing - Oivaris Real Estate - Lindsay Bangel and Elizabeth Napolitano

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.

Mulkey + Co. Eric Mulkey

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

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

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

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

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

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

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

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

Disclosure Statement

Disclosure Statement



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

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

Willcox & Savage, P.C. - Tasos Galiotas

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 dark ink, appearing to read 'Tasos Galiotas', written over a horizontal line.

Owner Signature

Tasos Galiotas, Manager

Print Name and Title

9/20/23

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.
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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 (Indoor
Commercial Recreational Facility)

Recommendation

Approval

Staff Planner

Elizabeth Nowak

Location

2029 Lynnhaven Parkway

GPIN

1475868600

Site Size

50,046 square feet

AICUZ

Less than 65 dB DNL

Watershed

Southern Rivers

Existing Land Use and Zoning District

Shopping center / B-2 Community Business

Surrounding Land Uses and Zoning Districts

North

Shopping center, multi-family dwellings / B-2
Community Business, A-12 Apartment

South

Shopping center/ B-2 Community Business

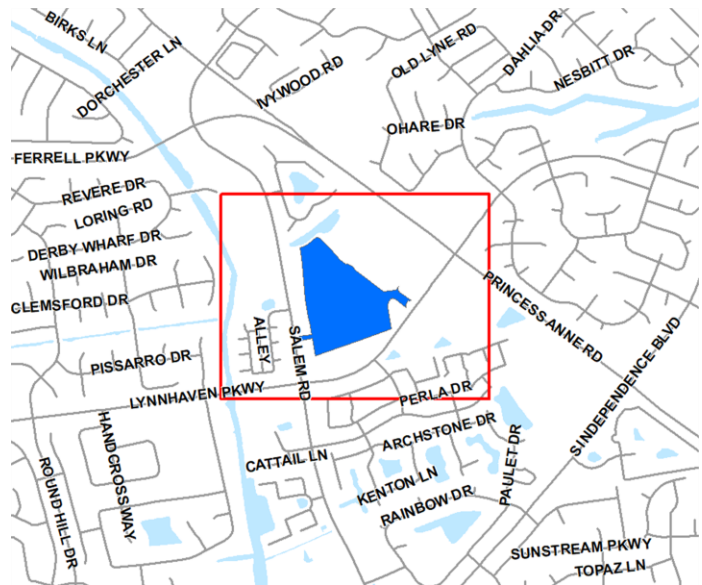
East

Shopping center / B-2 Community Business

West

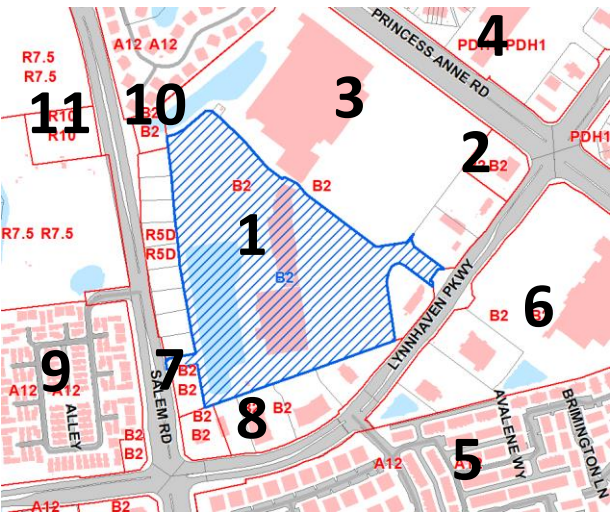
Salem Road

Park, multi-family dwellings / P-1 Preservation,
A-12 Apartment



Background & Summary of Proposal

- The applicant is requesting a Modification of Conditions to a 2013 Conditional Use Permit for an approximate 18,150 square-foot Indoor Commercial Recreation Facility at the Salem Crossing Shopping Center to increase its size to 55,046 square feet and to permit other indoor recreational activities aside from trampolining. Conditional Use Permits are required in the B-2 Community Business district for Indoor Commercial Recreation Facilities greater than 7,500 square feet.
- The applicant intends to combine two suites in the Salem Crossing Shopping Center: the former Sky Zone Trampoline Park and the former Kroger's Formal Training Center. Condition 1 of the current Conditional Use Permit limits the facility to the southernmost unit of the Salem Crossing Shopping Center and will need to be modified to include this second unit.
- Nova Trampoline Park will provide indoor trampolines, arcade and virtual reality games, and similar amusements. Condition 7 of the current Conditional Use Permit limits the facility to trampoline-related activities only. The applicant seeks to remove this condition to permit the other amusements as listed.
- The proposed hours of operation will be 3:00 p.m. to 10:00 p.m., Monday through Thursday; noon to 11:00 p.m. on Friday; 10:00 a.m. to 11:00 p.m. on Saturday; and 10:00 a.m. to 10:00 p.m. on Sunday.
- 25 to 35 employees are expected.
- Per Section 203(a)(33) of the Zoning Ordinance, one parking space is required for every 250 square feet for a shopping center of this size. The Salem Crossing Shopping Center has 531 parking spaces. The shopping center is approximately 93,022 square feet, which requires 372 parking spaces. There is sufficient parking on site.
- Exterior alterations are limited to the installation of new signage.

		Zoning History	
		#	Request
		1	CUP (Tattoo Parlor) Approved 09/06/2022 CUP (Indoor Commercial Recreational Facility) Approved 09/10/2013 CUP (Indoor Recreation) Approved 10/11/2011 MDC Approved 02/27/1996 CRZ (I-1 to B-2) Approved 07/11/1995
		2	MDP Approved 02/16/2021
		3	CUP (Bulk Storage Yard) 08/21/2018 CUP (Bulk Storage Yard) 09/20/2016 MDC Approved 02/27/1996 CRZ (I-1 to B-2) Approved 07/11/1995
		4	CUP (Indoor Recreational Facility) Approved 08/09/2011 LUP (Green Run) Approved 01/01/1974
		5	CRZ (R-5D & R-10 to Conditional A-36, Conditional B-4, Conditional A-12) Approved 06/26/2007
		6	CUP (Bulk Storage Yard) Approved 03/25/2003 CRZ (R-5D to Conditional B-2) Approved 06/22/1999
		7	CRZ (R-5D to Conditional B-2) Approved 08/27/2002
		8	CUP (Fuel Sales w/Convenience Store) Approved 09/25/2001 MDP Approved 09/25/2001 CRZ (R-5D to Conditional B-2) Approved 07/14/1998 CUP (Church) Approved 04/14/1986
		9	CRZ (R-10 to A-12 with PD-H Overlay) Approved 09/22/1998
		10	CRZ (R-5D to Conditional B-2) Approved 02/27/1996
		11	CUP (Home for the Aged) Approved 01/20/1987
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

In Staff's opinion, this request for a Modification of Conditions is acceptable. Large Indoor Recreational Facilities are compatible with larger-scale neighborhood shopping centers, such as Salem Crossing Shopping Center, that have parking available on site and that serve as local destinations. This proposed modification provides a recreational opportunity for residents in an established retail center, which is a complementary non-residential use that is recommended in the overarching goals of the Suburban Area as defined by the Comprehensive Plan. In Staff's opinion, this is a supportable, resident-oriented reuse of the former Kroger Training Facility in this shopping center.

As the expansion will only occur on the interior of the existing building, there will be no change to the overall size of the shopping center, which, in turn, will require no additional parking on site. As an expected strip commercial center use and as the proposed hours of operation do not begin until later in the afternoon, no significant changes are expected in traffic for the Salem Crossing Shopping Center.

There is no known opposition to this application and Staff recommends approval subject to the following conditions and exhibits.

Recommended Conditions

1. This Conditional Use Permit applies only to the southernmost building (approximately 50,046 square feet) of the Salem Crossing Shopping Center as indicated on the exhibit entitled "Proposed Renovations for Kroger – Training Center," dated April 27, 2023, and prepared by Federal Hill Architect as exhibited to City Council and on file with the Department of Planning & Community Development.
2. The proposed exterior building signage shall comply with the requirements of the Zoning Ordinance for signs.
3. The applicant shall obtain all necessary permits and inspections from the Planning Department/Permit and Inspections Division, Health Department, and Fire Department. The applicant shall obtain a Certificate of Occupancy from the Building Official prior to commencing operation.
4. The facility shall operate only between the hours of 7:00 a.m. and 12:00 a.m. (midnight).
5. "Court Rules for Jumpers" shall be posted within the facility at the main entrance, visible by all who enter the facility, as well as at the entrance of each trampoline court area.
6. All individuals under thirteen (13) years of age shall be accompanied by an adult chaperone.
7. The maximum number of individuals within the facility shall not exceed the maximum number as determined by the Fire Marshal.
8. There shall be a minimum of two (2) staff members on Site at all times that are certified for First Aid and Automated External Defibrillator (AED) training.
9. There shall be no sale of alcohol at this location. There shall be no State ABC License associated with this business.

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.

2013 Conditions

1. This Use Permit applies only to the southernmost building (approximately 18,300 square feet) of the Salem Crossing Shopping Center.
2. The proposed exterior building signage shall comply with the requirements of the Zoning Ordinance for signs.
3. The applicant shall obtain all necessary permits and inspections from the Planning Department/Permit and Inspections Division, Health Department, and Fire Department. The applicant shall obtain a Certificate of Occupancy from the Building Official prior to commencing operation.
4. The facility shall operate only between the hours of 7:00 a.m. and 12:00 a.m. (midnight).

5. "Court Rules for Jumpers," as submitted by the applicant, shall be posted within the facility at the main entrance, visible by all who enter the facility, as well as at the entrance of each trampoline court area.
6. All individuals under thirteen (13) years of age shall be accompanied by an adult chaperone.
7. Recreational trampoline-related activities shall be the only type of indoor recreation allowed.
8. The maximum number of individuals within the facility shall not exceed the maximum number as determined by the Fire Marshal.
9. There shall be a minimum of one (1) staff member on Site at all times that is certified for First Aid and Automated External Defibrillator (AED) training.
10. There shall be no sale of alcohol at this location. There shall be no State ABC License associated with this business.

Comprehensive Plan Recommendations

The Comprehensive Plan identifies this area as being in the Suburban Area of the city. The vision for the Suburban Area emphasizes suburban patterns of residential development that are supported by residential services and other complementary non-residential uses, such as recreational opportunities. Commercial development, such as shopping centers, should be located near, but not within, residential neighborhoods and should have complementary massing, scale, and overall design. This application proposes no exterior alterations in an existing shopping center and will reuse a large, vacant commercial suite for a complementary non-residential use.

Natural & Cultural Resources Impacts

The site is located in the Southern Rivers Watershed. There are no exterior alterations or site disturbance proposed with this application.

The project will affect no historical or cultural resources.

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Lynnhaven Parkway	24,200 ADT ¹	Up to 36,900 ADT ¹ (LOS ⁴ “D”)	No Change Anticipated
Princess Anne Road	46,100 ADT	Up to 74,000 ADT (LOS “D”)	
¹ Average Daily Trips		² LOS = Level of Service	

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

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

Public Utility Impacts

Water & Sewer

The site connects to both City water and sanitary sewer.

Public Outreach Information

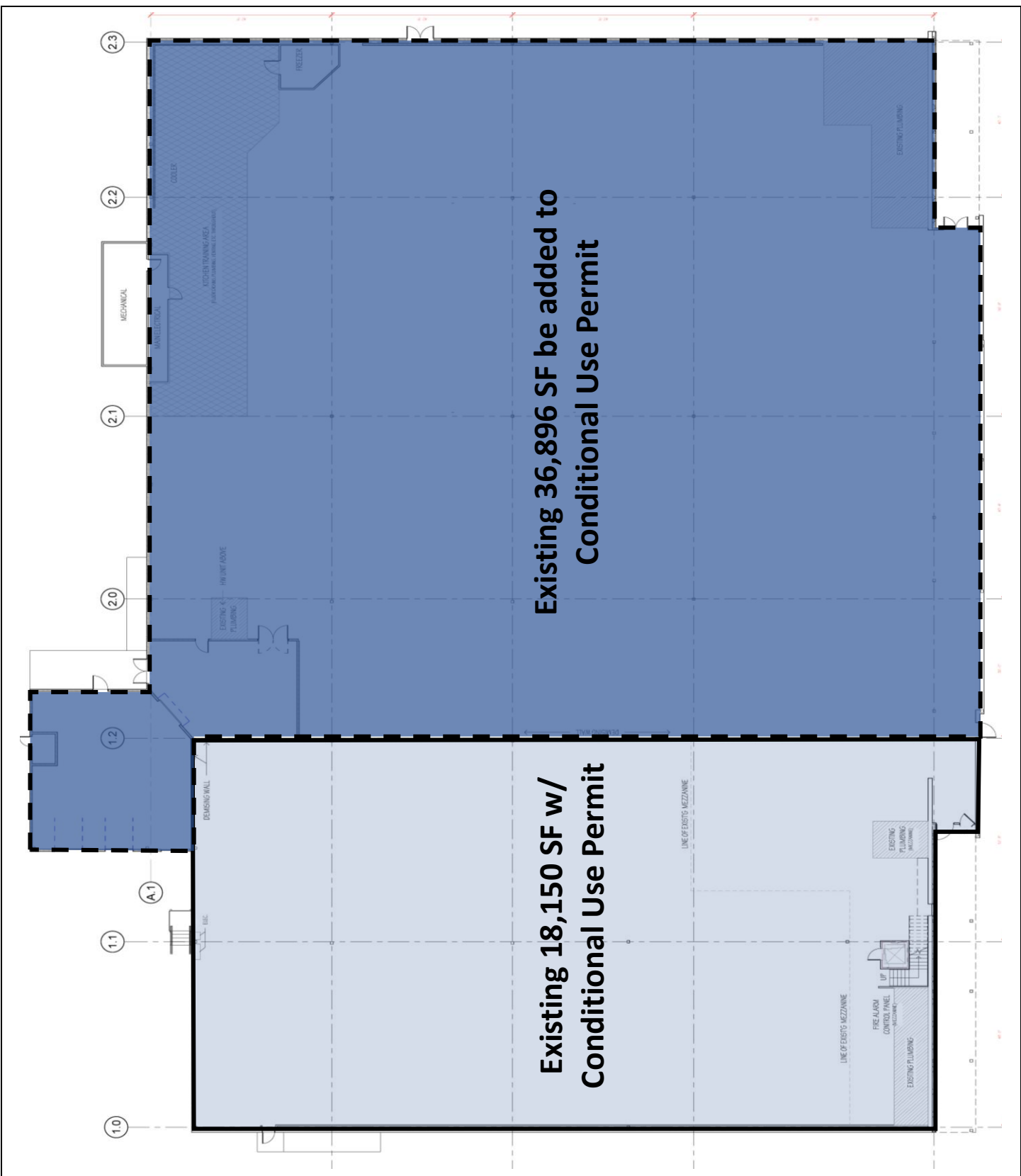
Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on November 13, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, November 29, 2023 and December 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 November 27, 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 December 7, 2023.

Site Location



Proposed Floor Plan

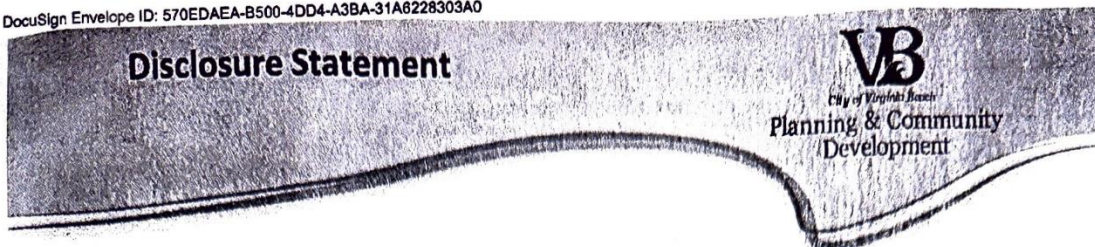


Site Photos



Disclosure Statement

DocuSign Envelope ID: 570EDAEB-B500-4DD4-A3BA-31A6228303A0



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 Nova Trampoline Park

Does the applicant have a representative? ☒ Yes ☐ No

- If yes, list the name of the representative.

Jun Wang

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)

Jiamin chen (owner / manager)

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

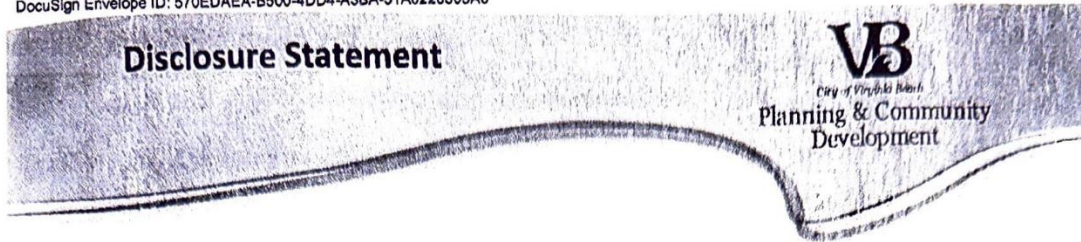
Nova Trampoline Park Rochester, Nova Trampoline Park Plymouth.
Nova Trampoline Park Nashua, Nova Trampoline Park Weymouth

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.

Disclosure Statement

DocuSign Envelope ID: 570EDAEB-B500-4DD4-A3BA-31A6228303A0



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.

Unite express Acc't and Tax Inc.

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.

Federal Hill Group LLC - Architects.

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

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

Revised 11.09.2020

2 | Page

Disclosure Statement

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Disclosure Statement



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

[Signature]
Applicant Signature

Jun Wang / Tenant Representative (Nova Trampoline Park)
Print Name and Title

9-28-23
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

3 | Page

Revised 11.09.2020

Disclosure Statement

DocuSign Envelope ID: 570EDAEB-B500-4DD4-A3BA-31A8228303A0

Disclosure Statement



Owner Disclosure

Owner Name Kroger Limited Partnership I

Applicant Name Jun Wang (Representative of Nova Trampoline Park)

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

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

see attached

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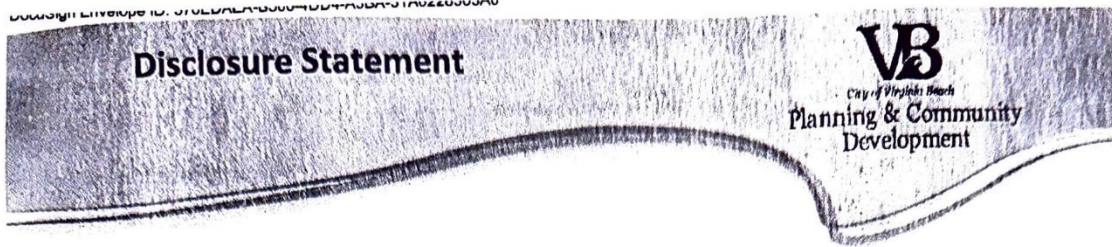
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Revised 11.09.2020

5 | Page

Disclosure Statement



Owner Services Disclosure

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• 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?
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• If yes, identify the company and Individual providing the service.
CBRE Cincinnati for the sublease of property

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

Disclosure Statement



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.

DocuSigned by:

Robert T. Lancaster

Owner Signature

Robert T. Lancaster

Print Name and Title

9/29/23

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.
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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 (Residential Kennel)

Staff Recommendation

Approval

Staff Planner

Michaela McKinney

Location

5205 Shore Drive

GPIN

1469880062

Site Size

30,608 square feet

AICUZ

Less than 65 dB DNL

Watershed

Chesapeake Bay

Existing Land Use and Zoning District

Single-family dwelling / R-30 Residential

Surrounding Land Uses and Zoning Districts

North

Shore Drive

Joint Expeditionary Base / I-2 Heavy Industrial

South

Single-family dwelling / R-30 Residential

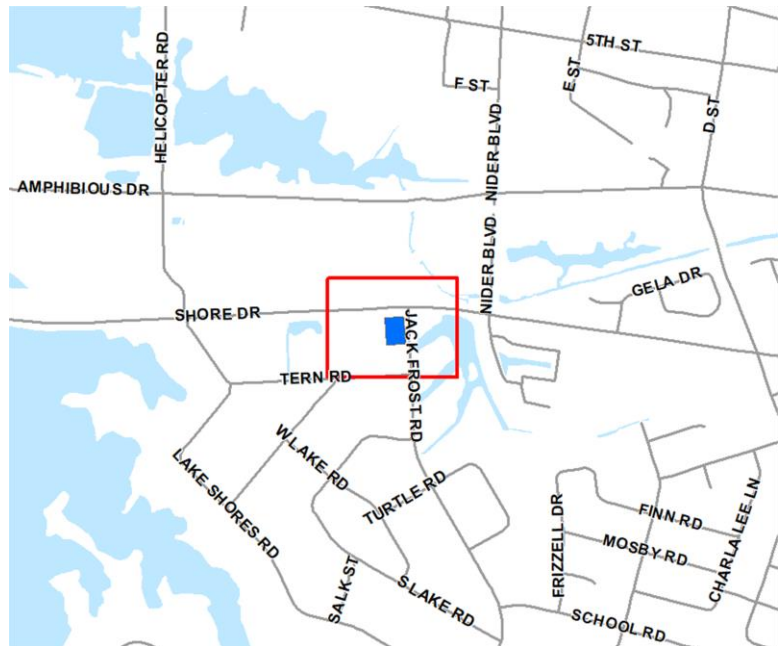
East

Jack Frost Road

Vacant lot/ R-20 Residential

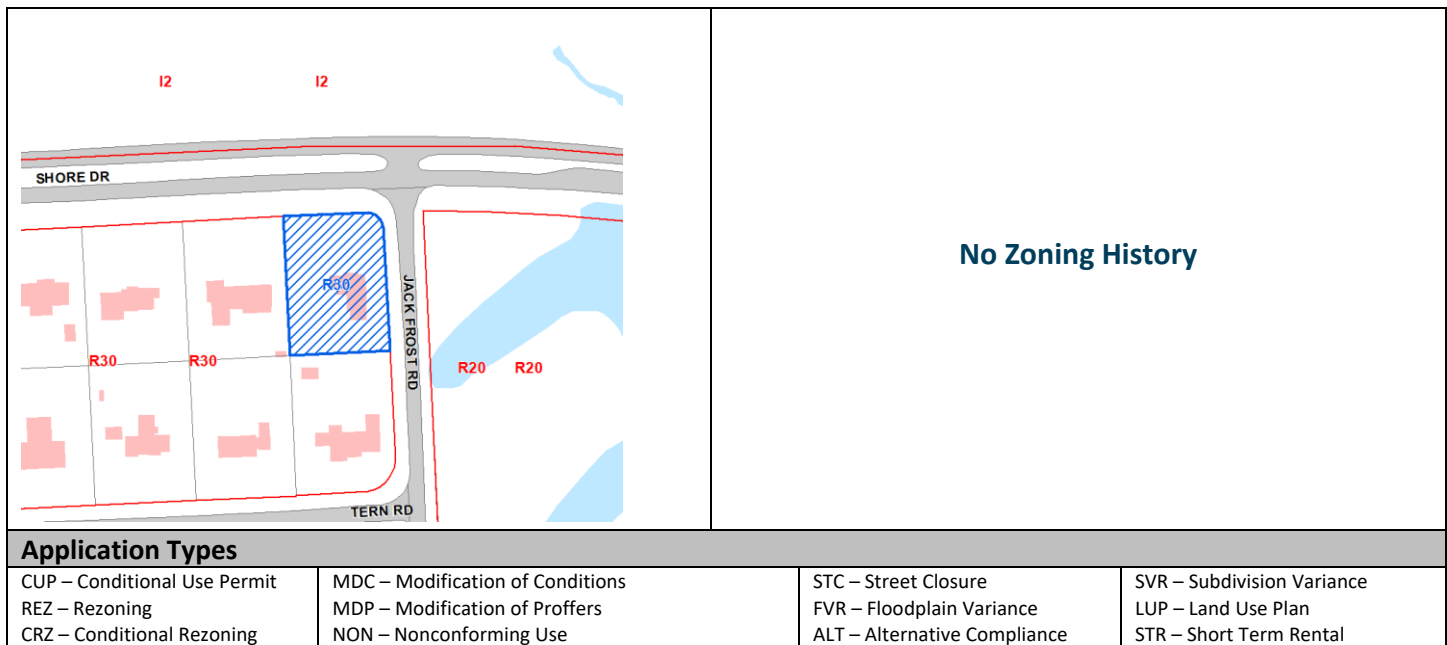
West

Single-family dwelling / R-30 Residential



Background & Summary of Proposal

- The applicant is requesting a Conditional Use Permit for a Residential Kennel to house five personal dogs within the 1,700 square-foot residence in the Lake Shores neighborhood. The Zoning Ordinance allows up to four personal dogs on a property without a Conditional Use Permit.
- The dogs will be kept indoors except for periods of relief and play in the fenced in backyard or daily walks. The applicant's practice of permitting only four dogs outside at any given time and under supervision will continue should this proposal be approved.
- No breeding of animals is proposed. There is no outdoor kennel or structure proposed with this request.
- All animals are vaccinated, microchipped, and registered, per the applicant.



Evaluation & Recommendation

This request for a Conditional Use Permit for a Residential Kennel is acceptable. The property is located within the Suburban Area and the proposed use is considered an appropriate activity for this area. Section 223 of the Zoning Ordinance requires that kennel structures be at least 100 feet from the property line of any adjacent lot, except where animals are kept in soundproof, air-conditioned buildings. There are no outdoor kennels proposed on this site, as all dogs living on the property will be housed inside the single-family dwelling.

The applicant has installed a six-foot tall wooden privacy fence on the southern portion of the property and a four-foot-tall privacy fence on the northern portion of the property to fully enclose the backyard. As previously indicated, only four dogs will be allowed outside at any given time to mitigate noise. Condition 6 is recommended to address this.

Staff is recommending a condition to limit the number of dogs allowed on the property at any time to no more than 5 dogs as that is the number requested by the applicant. Staff also believes this will help reduce impacts to the adjacent residents. The applicant has also hired a company to treat the yard on a weekly basis to thoroughly remove waste. In addition, the applicant has hired pest services to come out to spray the yard and home for fleas and ticks.

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

Recommended Conditions

1. The Conditional Use Permit shall be limited to a maximum of five (5) adult dogs.
2. All animal waste from the dogs shall be collected and disposed of in a lawful manner on a weekly basis.
3. The applicant shall ensure that all dogs are properly vaccinated and immunized and are licensed through the City of Virginia Beach.
4. There shall be no breeding of dogs on the site.
5. Day Care, Training, and Boarding services for monetary consumption are not permitted on this site.
6. No more than four (4) dogs shall be permitted to be outdoors at one time and the dogs shall remain under the supervision of the caretaker at all times and shall not be a nuisance to any other property owners or residents.

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

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

Comprehensive Plan Recommendations

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

Natural & Cultural Resources Impacts

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

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Shore Drive	23,450 ADT ¹	32,700 ADT ¹ (LOS ⁴ “D”)	Existing Land Use ² – 10 ADT Proposed Land Use ³ – No Data Available
Jack Frost Road	1,265 ADT ¹	9,900 ADT ¹ (LOS ⁴ “D”)	
¹ Average Daily Trips	² as defined by a single family dwelling	³ No information available in the ITE Trip Generation Manual for dog kennels	⁴ LOS = Level of Service

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

Shore Drive in the vicinity of this application is considered a four-lane divided major suburban arterial. The Master Transportation Plan proposes a six-lane divided facility within a 150 foot right-of-way. Jack Frost Road in the vicinity of this application is a two-lane undivided local street and this street is currently in Phase 3 of the City’s Traffic Calming Program because of speeding on this roadway. Access to this property is from Jack Frost Road. It is not included in the MTP. No roadway CIP projects are slated for this area.

Public Utility Impacts

Water & Sewer

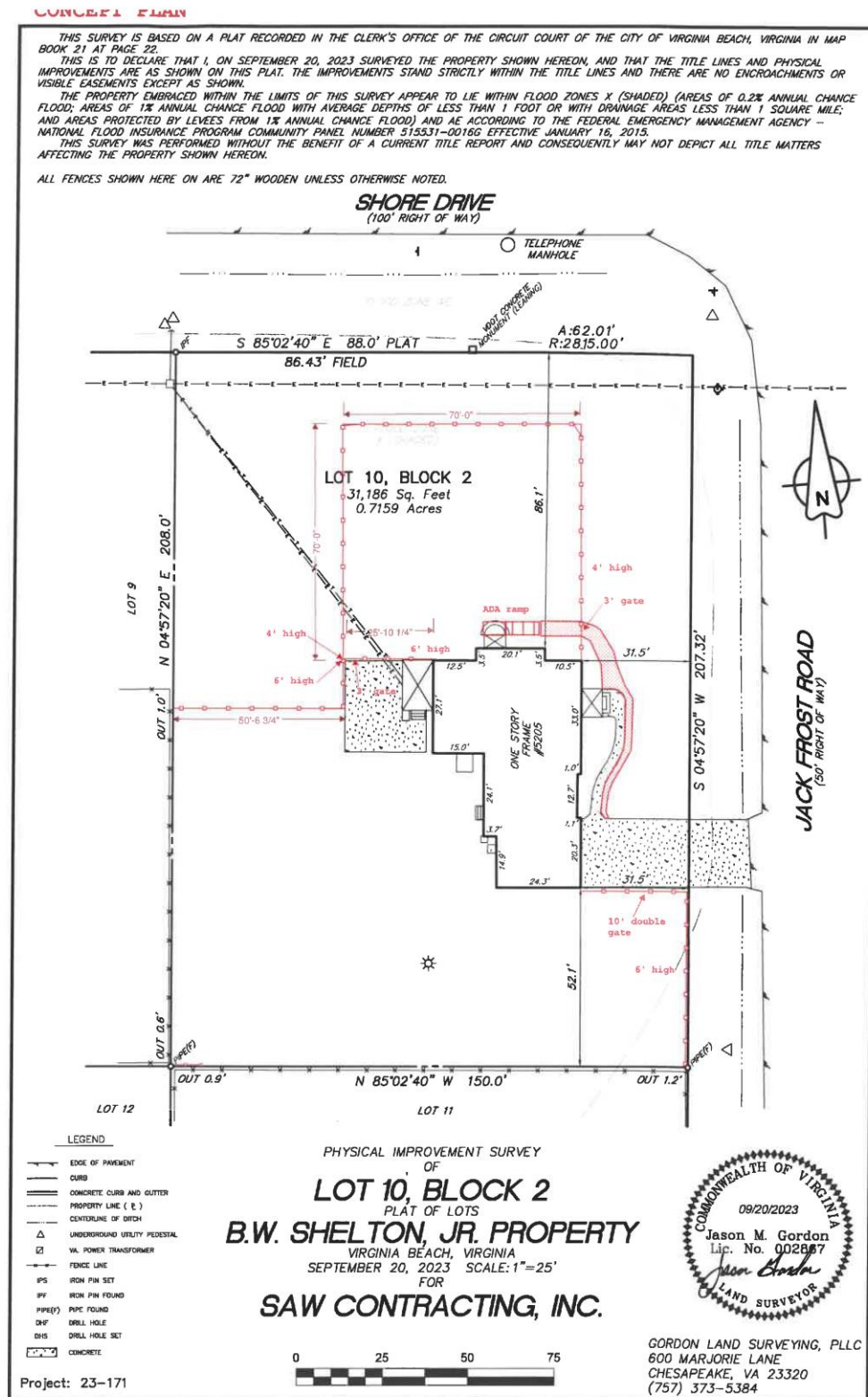
This site connects to City water and sanitary sewer.

Public Outreach Information

Planning Commission

- Two letters of support have been received by Staff noting the applicant’s passion for dogs and ability to provide a loving environment for the animals.
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on November 13, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, November 29, 2023 and December 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 November 27, 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 December 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 Alliena Westleigh

Does the applicant have a representative? ☐ Yes ☒ No

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

Alliena Westleigh

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)

N/A

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

N/A

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.


Applicant Signature

Print Name and Title

Alliena Westleigh, Sole Owner

Date 09-27-2023

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	

Disclosure Statement



Owner Disclosure

Owner Name SAW Contracting, Inc.

Applicant Name Alliena Westleigh

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)

S. Anthony Williams, President

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

N/A

Known Interest by Public Official or Employee

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

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

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.

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Disclosure Statement



Owner Services Disclosure

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

☐ Yes ☒ No

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

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

☐ Yes ☒ No

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

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

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

Lewis and Company PC, Bob Lewis.

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.

McDrake Enterprises, Craig McKown

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.

Gordon Land Surveying, Jason Gordon

Disclosure Statement

Disclosure Statement



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

Owner Signature

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

A handwritten signature in blue ink, appearing to read 'S. Anthony Williams', written over a horizontal line.

Owner Signature

S. Anthony Williams, President

Print Name and Title

A handwritten date '9/29/2023' in blue ink, written over a horizontal line.

Date

Next Steps

- Upon receiving a recommendation from Planning Commission, this request will be scheduled for a City Council public hearing. Staff will inform the applicant and/or their representative of the date of the hearing in the upcoming days.
- Following City Council's decision, the applicant will receive a decision letter from Staff.
- Once the conditions of approval are in place and/or completed, the applicant must contact the Zoning Division of the Planning Department to obtain verification that the conditions have been met. Contact the Zoning Division at 757-385-8074.
- 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 757-385-5692.
- 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

#7 - Rezoning (O-2 Office to B-2 Community Business)

#8 - Conditional Use Permit (Tattoo Parlor)

Staff Recommendation

Approval

Staff Planner

Michaela D. McKinney

Location

3396 Holland Road

GPIN

1486815934

Site Size

0.69 acres (private suite 2,000 square feet)

AICUZ

65-70 dB DNL

Watershed

Chesapeake Bay

Existing Land Use and Zoning District

Office / O-2 Office

Surrounding Land Uses and Zoning Districts

North

Religious Use, Parking Lot / O-2 Office

South

Holland Road

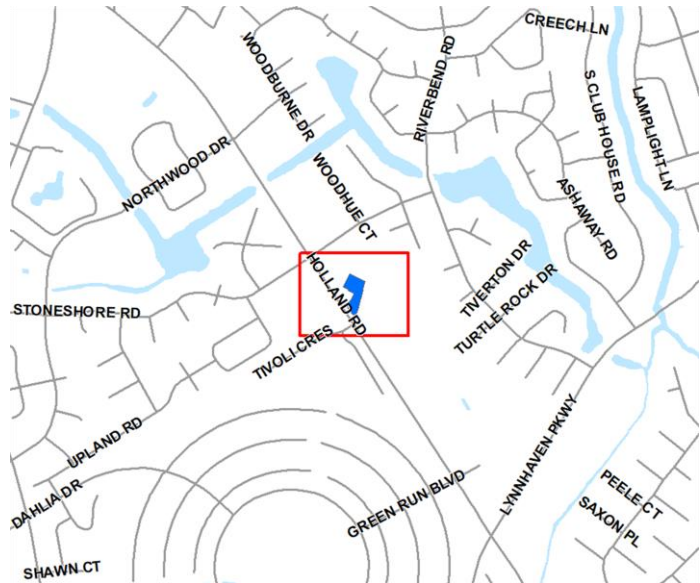
Multi-Family-Apartment, Field / PD-H2 Planned Unit Development, B-2 Community Business

East

Religious Use / O-2 Office

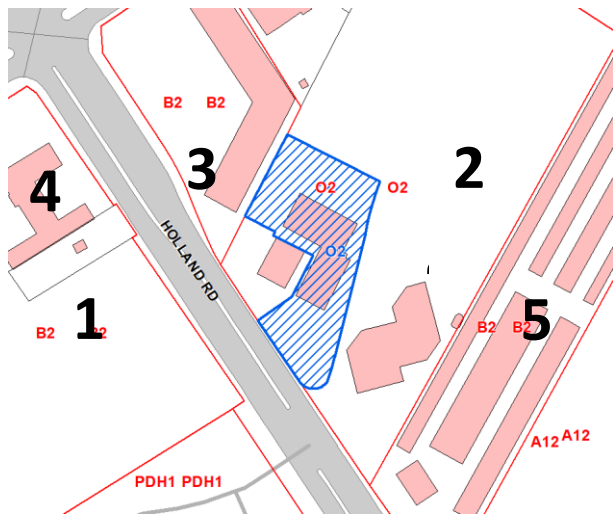
West

Office / B-2 Community Business



Background & Summary of Proposal

- The applicant is requesting to rezone the property at 3396 Holland Road from O-2 Office District to B-2 Community Business, as well as a Conditional Use Permit for a Tattoo Parlor, specifically for the application of permanent makeup. The property is presently developed with a parking lot and an office building.
- The applicant desires to rezone this property in order to operate a beauty spa within two of the existing suites. Services will include facial treatments, and permanent makeup. Proposed hours of operations are 10:00 a.m. to 6:00 p.m., Monday through Saturday. Two employees are anticipated.
- The Zoning Ordinance requires a minimum of 21 parking spaces for this site. This site provides 35 parking spaces, exceeding the minimum parking requirement by 14 spaces. Interior renovations will occur within the building as well as new building signage. The existing parking lot and landscaping will remain.

		<h3>Zoning History</h3> <table><tr><th>#</th><th>Request</th></tr><tr><td>1</td><td>CUP (Truck & Trailer Rentals) Approved 09/20/2022</td></tr><tr><td>2</td><td>CUP (Communication Tower) Approved 11/21/2018 CUP (Religious Use) Approved 07/14/2009</td></tr><tr><td>3</td><td>CRZ (B-1A to Conditional B-2) Approved 10/17/2017 CUP (Tattoo Parlor & Body Piercing Establishment) 10/17/2017 MDC (Business & Vocational School) 04/07/2017 CUP (Vocational Use) Approved 03/03/2015 CUP (Child Care Education Center) Approved 02/08/2005 CUP (Religious Use) Approved 11/23/2004 CUP (Religious Use) Approved 11/27/2001 CUP (Religious Use) Approved 10/10/2000 CUP (Religious Use) Approved 11/22/1994</td></tr><tr><td>4</td><td>CUP (Auto Repairs & Services) Approved 08/19/1985</td></tr><tr><td>5</td><td>CUP (Mini-warehouse) 01/09/1978 REZ (O-1 to B-2) 01/09/1978</td></tr></table>		#	Request	1	CUP (Truck & Trailer Rentals) Approved 09/20/2022	2	CUP (Communication Tower) Approved 11/21/2018 CUP (Religious Use) Approved 07/14/2009	3	CRZ (B-1A to Conditional B-2) Approved 10/17/2017 CUP (Tattoo Parlor & Body Piercing Establishment) 10/17/2017 MDC (Business & Vocational School) 04/07/2017 CUP (Vocational Use) Approved 03/03/2015 CUP (Child Care Education Center) Approved 02/08/2005 CUP (Religious Use) Approved 11/23/2004 CUP (Religious Use) Approved 11/27/2001 CUP (Religious Use) Approved 10/10/2000 CUP (Religious Use) Approved 11/22/1994	4	CUP (Auto Repairs & Services) Approved 08/19/1985	5	CUP (Mini-warehouse) 01/09/1978 REZ (O-1 to B-2) 01/09/1978
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<h3>Application Types</h3>															
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 to rezone this property from O-2 Office to B-2 Community Business and a Conditional Use Permit to operate a Tattoo Parlor is acceptable. This site is located within the Suburban Area and Staff believes that the proposed use is compatible with other existing commercial businesses located in the vicinity. The Comprehensive Plan's guiding principle for the Suburban Area is to create "great neighborhoods," and to support those neighborhoods with complementary non-residential uses in such a way that the stability of the Suburban Area is maintained in a sustainable way. In Staff's opinion, rezoning this site to B-2 Community Business District is complementary to this area as it is immediately adjacent to other properties zoned B-2 Community Business and O-2 Office Districts. For these reasons, Staff believes that the rezoning of this property and the proposed use will not change the character of this community. 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. Given the aforementioned reasons, Staff recommends approval of this application, subject to the conditions listed below.

Recommended Conditions for Conditional Use Permit

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

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

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

Comprehensive Plan Recommendations

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

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
Holland Road	31,000 ADT ¹	32,700 ADT ¹ (LOS ⁴ "D")	Existing Land Use ² – 29 ADT Proposed Land Use ³ – No Data Available
¹ Average Daily Trips	² as defined by an office space	³ No information available in the ITE Trip Generation Manual for permanent makeup/tattoo parlor	⁴ LOS = Level of Service

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

Holland Road in the vicinity of this application is considered a four-lane divided minor urban arterial. The MTP proposes a six-lane facility within a 165-foot right-of-way. There are currently no CIP projects to upgrade this section of Holland Road at this time.

Public Utility Impacts

Water & Sewer

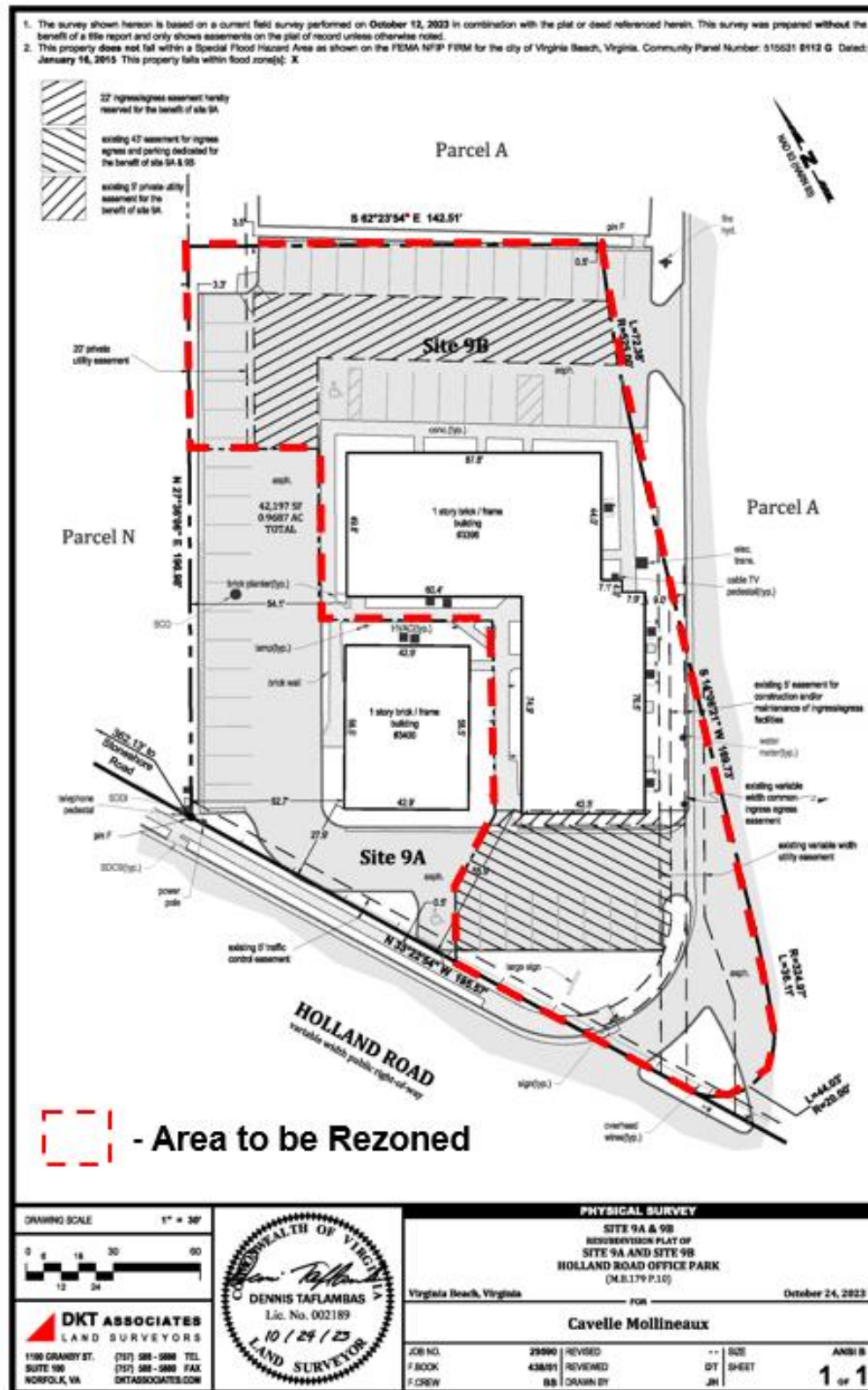
This site is connected to City water and sanitary sewer.

Public Outreach Information

Planning Commission

- Five letters of support have been received by Staff noting the need for a Med Spa in the Holland Road area.
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on November 13, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, November 29, 2023 and December 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 November 27, 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 December 7, 2023.

Site Survey



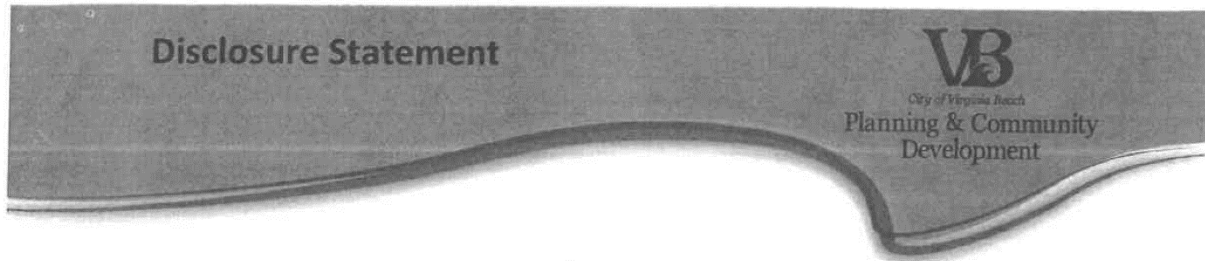
Site Photos



Site Photos



Disclosure Statement



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Applicant Disclosure

Applicant Name

Rahsha Batiste

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

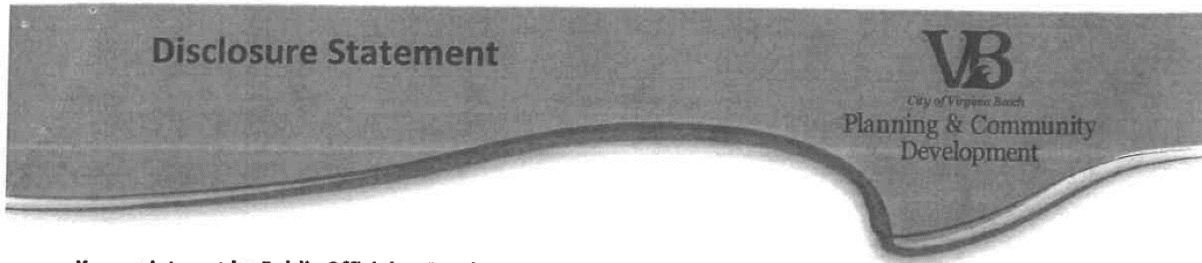
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Disclosure Statement



Known Interest by Public Official or Employee

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

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

N/A

Applicant Services Disclosure

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

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

N/A

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

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

N/A

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

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

N/A

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

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

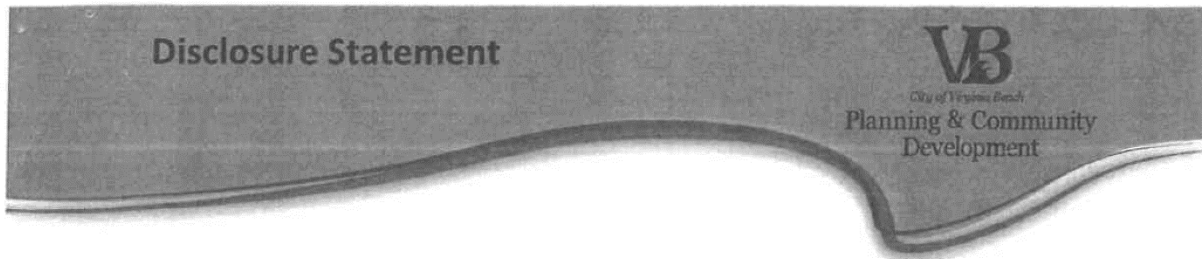
N/A

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

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

N/A

Disclosure Statement



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

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

N/A

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.

N/A


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.

N/A

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

RAHSHA BATISTE / OWNER OF UNIQUE SKIN AND BEAUTY BAR.
Print Name and Title

8/23/23
Date

Date

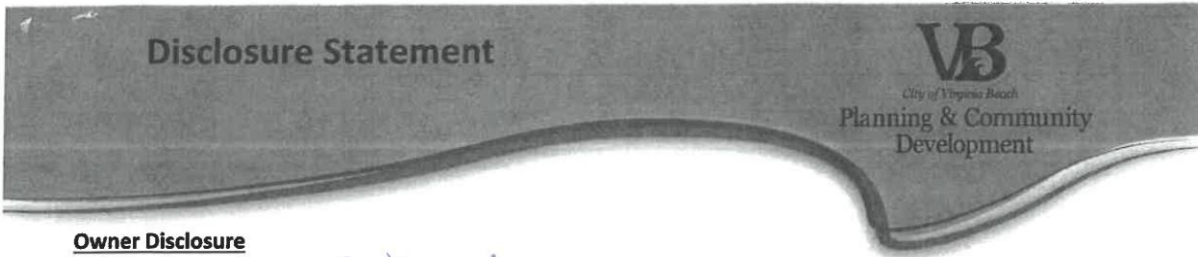
Is the applicant also the owner of the subject property? ☐ Yes ☒ No

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

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

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

Disclosure Statement



Owner Disclosure

Owner Name Vicinity Holdings, LLC

Applicant Name Rahsha Batiste

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)

CAROLLE MOLLINERUX

- 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

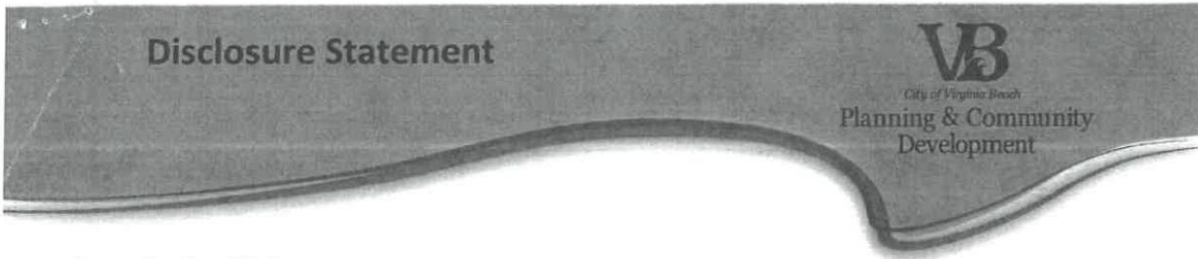
Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action? ☐ Yes ☒ No

- 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.

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

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

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

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

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

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

Disclosure Statement

Disclosure Statement



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

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

Owner Signature

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

A handwritten signature in dark ink, appearing to read 'C. Mollineux'.

Owner Signature

Cavell Mollineux, C.E.O

Print Name and Title

08/31/2023

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)385-5692.
- 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

Madison Eichholz

Location

332 North Great Neck Road, Suite 103

GPIN

2407065012

Site Size

1,200 square feet

AICUZ

Greater than 75 dB DNL; APZ-2

Watershed

Chesapeake Bay

Existing Land Use and Zoning District

Shopping Center / B-2 Community Business

Surrounding Land Uses and Zoning Districts

North

Single-family dwelling / R-7.5 Residential

South

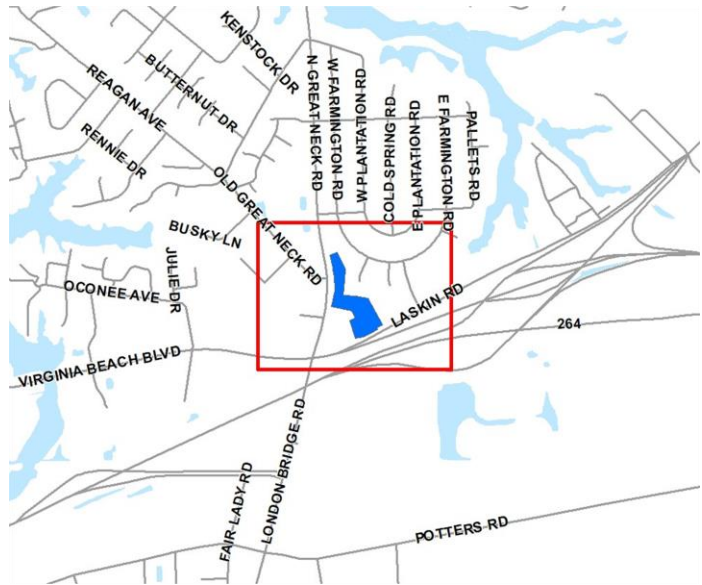
Laskin Road & Virginia Beach Boulevard
Restaurant / B-2 Community Business

East

Single-family dwellings / R-7.5 Residential

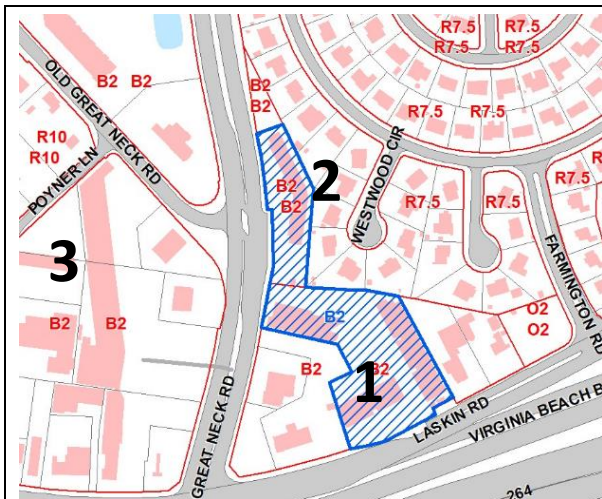
West

North Great Neck Road
Shopping Center / 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 beauty salon in an existing Shopping Center. The shopping center is located along North Great Neck Road on property zoned B-2 Community Business District.
- Microblading will take place in an existing 1,200 square foot suite.
- According to the applicant, one employee is anticipated.
- The typical hours of operation are 10:00 a.m. to 5:30 p.m. Tuesday and Thursday, 10:00 a.m. to 7:00 p.m. Wednesday and Friday, 10:00 a.m. to 2:00 p.m. on Saturday, 10:00 a.m. to 4:00 p.m. on Sunday. The salon will be closed on Mondays.
- No exterior changes to the building are proposed except for the replacement of the signage for the existing suite with the new business logo in the existing monument-style sign as well as replacement of the signage over the suite in a size and style similar to the existing sign.



Zoning History

#	Request
1	CUP (Tattoo Parlor) Approved 02/15/2021
2	CUP (Child Daycare) Approved 03/26/2013
3	CUP (Communication Tower) Approved 02/24/2009

Application Types

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

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

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

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

Evaluation & Recommendation

The request for a Conditional Use Permit for a Tattoo Parlor, 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 Lynnhaven SGA. The application of permanent makeup within an existing commercial space 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. It is staff's opinion that the proposed tattoo parlor will not result in a significant increase in traffic in this established strip shopping center as the use is consistent with typical strip shopping center uses.

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 designates the subject property as located within the Lynnhaven SGA. The applicant is requesting a Conditional Use Permit to operate a permanent makeup salon at 332 North Great Neck Road. The applicant has no intention at this time of altering the exterior building or site layout. As a compatible use that would support the diversity of businesses in an urban area of the City, Comprehensive Planning supports recommendation of this project.

Natural & Cultural Resources Impacts

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

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
North Great Neck Road	39,600 ADT ¹	36,900 ADT ¹ (LOS ³ "D")	No Change Anticipated ²
¹ Average Daily Trips ² as defined by a Tattoo Parlor in an existing Shopping Center ³ LOS = Level of Service			

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

Great Neck Road is a suburban major arterial that has a divided four-lane typical section in front of the subject site. The Master Transportation Plan shows North Great Neck Road as a divided facility with a bikeway in a 120-foot right-of-way. There are no roadway CIP projects in the vicinity.

Public Utility Impacts

Water

This is connected to City water. The existing 1-inch meter may be used or upgraded to accommodate the proposed use. If a plumbing permit is required, the water meter size will be evaluated by Public Utilities prior to permit issuance. Depending on the number/type of fixtures and use within the building(s), the water meter and water service line may need to be upgraded by the property owner.

Sewer

This is connected to City sanitary sewer.

Public Outreach Information

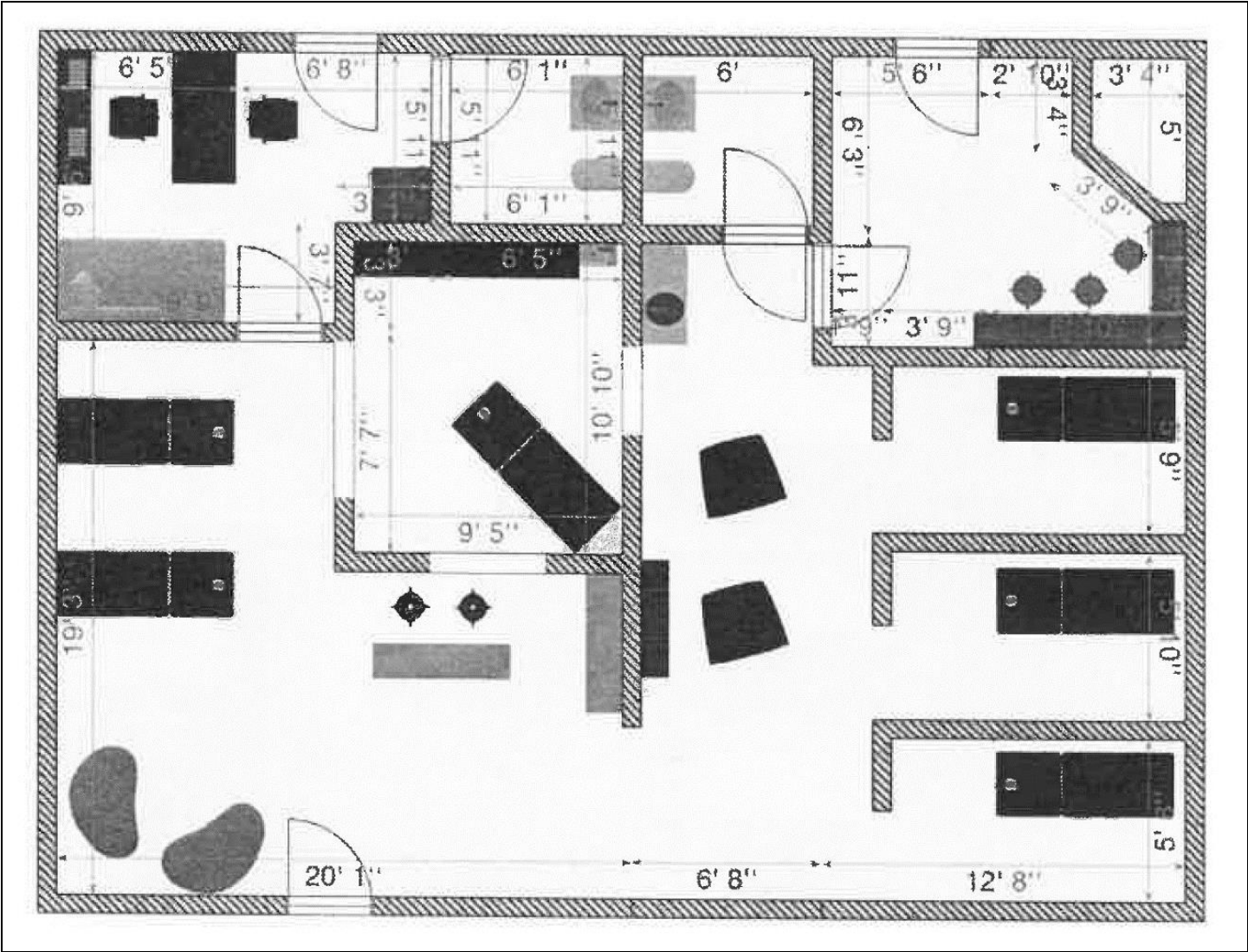
Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on November 13, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, November 29, 2023 and December 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 November 27, 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 December 7, 2023.

Proposed Site Layout



Proposed Floor Plan



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 TIFFANY LUONG

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)

TIFFANY LUONG - OWNER

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

NONE

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

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

Disclosure Statement

Disclosure Statement



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.

INDIVIDUAL: LIEM VU - 845-663-7735

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

TIFFANY LUONG
Print Name and Title

BUSINESS OWNER
Date

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

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

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

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

Disclosure Statement



Owner Disclosure

Owner Name CHAM BORD LLC

Applicant Name TIFFANY LUONG

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)

FRED G. SUMMS III, MANAGING 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



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.

Deed of trust with former partner - Jack Summs. Owner has no financial relationship other than Lease w/ applicant.

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.

No sales currently anticipated. Managing member, Fred G. Summs III is principal broker of Select Realty, Inc.

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.

Jones, Madden & Council, PLC

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.

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Disclosure Statement

Disclosure Statement

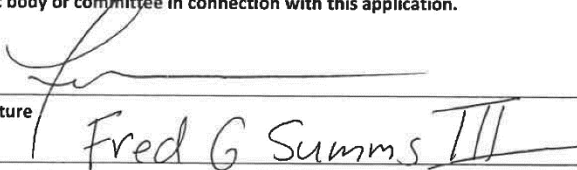


8. Is the Owner receiving **legal services** in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No
- If **yes**, identify the firm and individual providing legal the service.

Owner Signature

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

Owner Signature

A handwritten signature in dark ink, appearing to read 'Fred G Summs III', written over a horizontal line.

Print Name and Title

9/21/23

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.
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