



Planning Commission Agenda

March 8, 2023

VB City of
Virginia Beach

The Virginia Beach Planning Commission Public Hearing is carried LIVE on VBTv, which is available on Cox Cable Channel 48, Verizon Cable Channel 45 and on VBgov.com's Media Center webpage at <http://www.vbgov.com/media/pages/videos.aspx>. The meeting is recast on Cox Channel 48 and Verizon Channel 45 the following morning at 9 a.m. and on Cox Channel 47 and Verizon Cable Channel 47 at 7 p.m. on the two consecutive Fridays following the live meeting. The meeting will also be available on the Media Center webpage for two months beginning the Friday after the live hearing.

Planning Commission Hearing Procedures

A Public Hearing of the Virginia Beach Planning Commission will be held on **Wednesday, March 8, 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.vbgov.com, broadcast on VBTv, and via WebEx. Citizens who wish to speak can sign up to speak either in-person at the Council Chamber or virtually via WebEx by completing the two-step process below. A Staff briefing session will be held at 9:00 a.m.. All interested parties are invited to observe.

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

1. Register for the WebEx at:
<https://vbgov.webex.com/vbgov/onstage/g.php?MTID=eac1b74b8a6648b2c8e3140340df053e7>
2. Register with the Planning Department by calling 757-385-4621 or via email at mbharris@vbgov.com prior to 5:00 p.m. on March 7, 2023.

Copies of the proposed plans, ordinances, amendments and/or resolutions are on file and may be examined by appointment in the Planning Department at 2875 Sabre St, Suite 500, Virginia Beach, VA 23452 or online at www.vbgov.com/pc. For information call 757-385-4621. Staff Reports will be available on the webpage 5 days prior to the meeting.

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

Please check our website at www.vbgov.com/pc for the most updated meeting information.

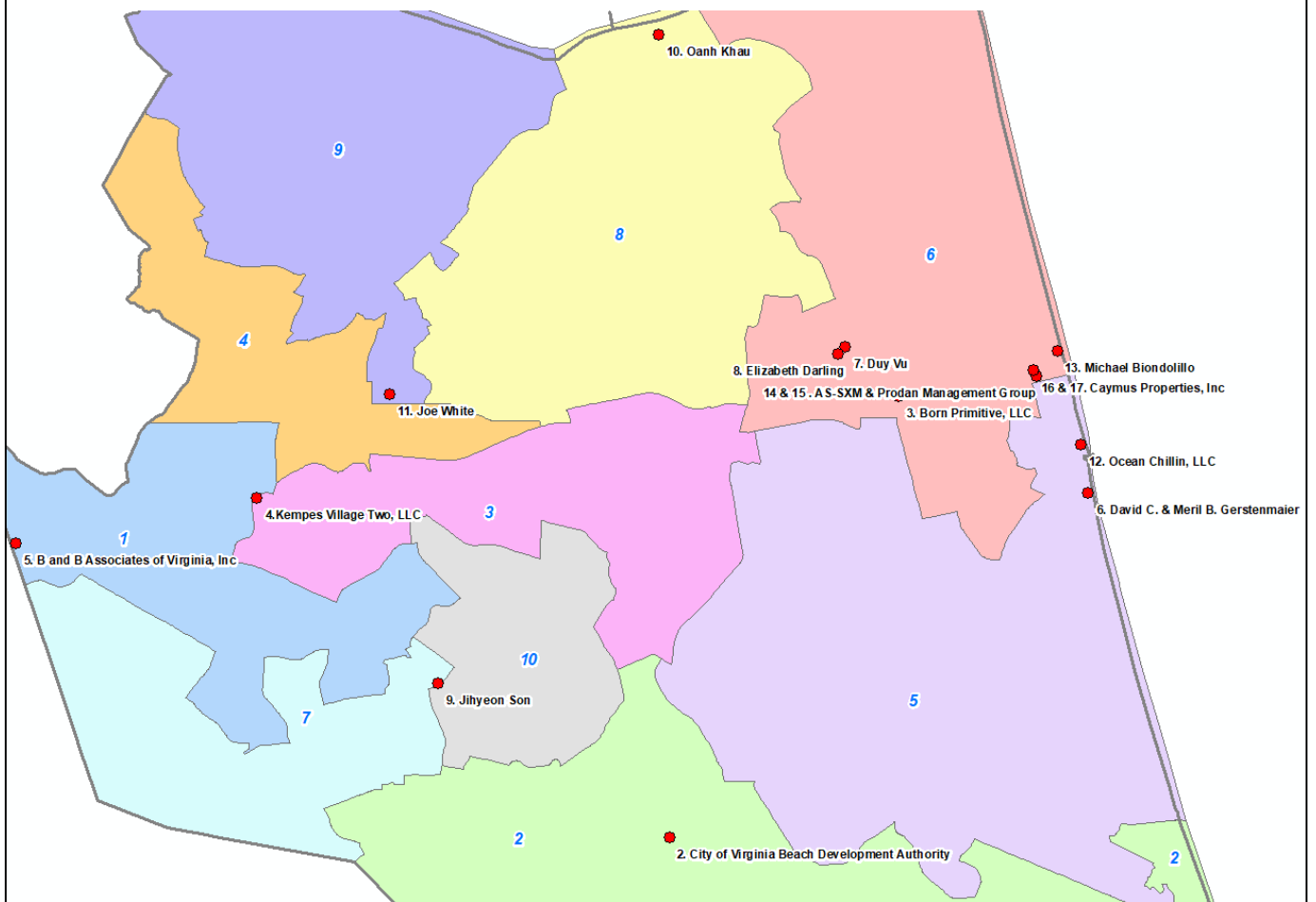
Planning Commission Hearing Procedures

The following describes the order of business for the Public Hearing.

1. **Withdrawals and Deferrals:** The first order of business is the consideration of withdrawals or requests to defer an item. The Commission will ask those who are signed up to speak at the hearing if there are any requests to withdraw or defer an item that is on the agenda. **Please note the requests that are made, as one of the items being withdrawn or deferred may be the item that you have an interest in.** Please confine your remarks to the deferral or withdrawal request and do not address the issues of the application – in other words, please let the Commission know why deferring or withdrawing the application is unacceptable rather than discussing what your specific issue is with the application.
2. **Consent Agenda:** The second order of business is consideration of the “consent agenda.” The consent agenda contains those items that the Planning Commission believes are unopposed and which have a favorable Staff recommendation. If an item is placed on the Consent Agenda, that item will be heard with other items on the agenda that appear to be unopposed and have a favorable staff recommendation. The Commission will vote on all of the items at one time. Once the Commission has approved the item as part of the Consent Agenda, it is deemed approved and will not be discussed any further.
3. **Regular Agenda:** The Commission will then proceed with the remaining items on the agenda, according to the following process:
 - a. The applicant or applicant’s representative will have 10 minutes to present its case.
 - b. Next, those who wish to speak in support to the application will have 3 minutes to present their case.
 - c. If there is a spokesperson for the opposition, he or she will have 10 minutes to present their case.
 - d. All other speakers not represented by the spokesperson in opposition will have 3 minutes.
 - e. The applicant or applicant’s representative will then have 3 minutes for rebuttal of any comments from the opposition.
 - f. There is then discussion among the Commission members. No further public comment will be heard at that point.
 - g. The Commission does not allow slide or computer generated projections other than those prepared by the Planning Department Staff.
 - h. The Commission asks that speakers not be repetitive or redundant in their comments. Petitions may be presented and are encouraged. If you are part of a group, the Commission requests, in the interest of time, that you use a spokesperson.

Planning Commission action is not a final determination regarding the application, but only a recommendation to the City Council of the viewpoint of the Planning Commission. Final determination of the application will be made by City Council at a later date after public notice in the Virginian Pilot/Beacon.

MARCH 8, 2023 PLANNING COMMISSION AGENDA



PLANNING COMMISSION AGENDA

A. COMMENTS BY DIRECTOR OF PLANNING AND CHAIR OF COMMISSION

B. BRIEFINGS

1. Temporary Parking Lots in the OR Amendment, Hannah M. Sabo – Zoning Administrator

12:00 P.M. – PUBLIC HEARING

1. City of Virginia Beach

An Ordinance to amend Section 104 of the City Zoning Ordinance pertaining to the use of civil penalties.

2. City of Virginia Beach Development Authority (Applicant) City of Virginia Beach Development Authority & YCH, LLC (Property Owners)

Modification of Proffers

Address: Parcels between 2009 Hudome Way to Tournament Drive & parcel on the southeast corner of Princess Anne Road & Tournament Drive

GPIN(s): 1494459345, Portion of 1494170763, 1494086398

City Council: District 2, formerly Princess Anne

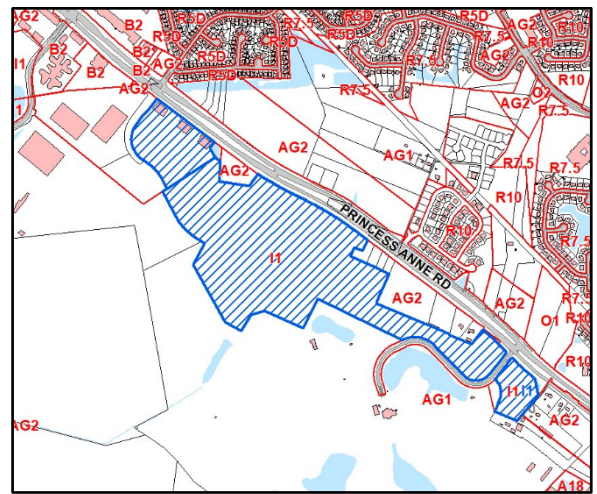
Accela Record(s): 2023-PCCC-00006

SGA: No

Overlay: ITA Overlay

Staff Planner: Hoa N. Dao

Request to amend the Design and Development Guidelines.



3. Born Primitive, LLC (Applicant) Modern Savage Investments, LLC (Property Owner) Modification of Proffers

Address: Southeastern corner of the intersection of Virginia Beach Boulevard & North Oceana Boulevard

GPIN(s): 2417057714, 2417150755, 2417059705, 2417152724, 2417154801

City Council: District 6, formerly Beach

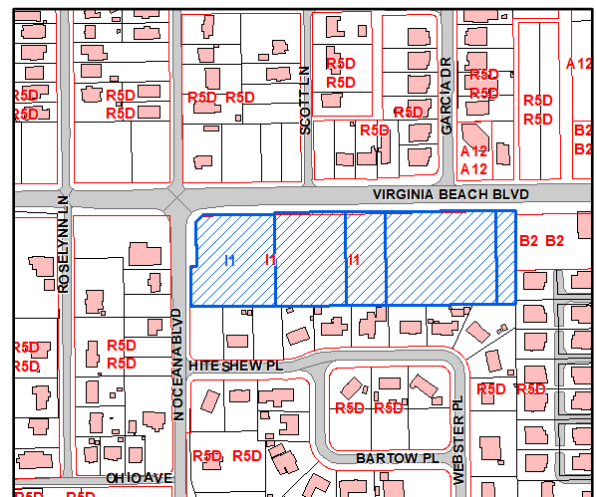
Accela Record(s): 2023-PCCC-00005

SGA: No

Overlay: No

Staff Planner: Marchelle Coleman

Request to amend the site layout and building design that was previously proffered.



4.

Kempes Village Two, LLC (Applicants & Property Owners)

Modification of Conditions

Address: East of the intersection at Oakmears Crest & Princess Anne Road

GPIN(s): 1466684796, 1466686587, 1466689305, 1466782352

City Council: District 3, formerly Kempsville

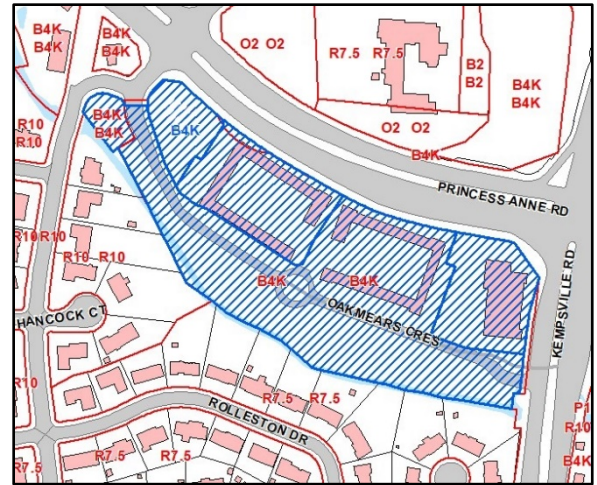
Accela Record(s): 2022-PCCC-00302

SGA: No

Overlay: Historic Kempsville

Staff Planner: Elizabeth Nowak

Request to amend previous approval to eliminate the non-residential use component and to increase the maximum number of dwellings allowed from 170 to 186 units, resulting in a density of 18.6 units/acre.



5.

B and B Associates of Virginia, Inc (Applicant)
Indian River Apartments, LLC (Property Owner)

Change in Nonconformity (Expansion of Apartment Complex)

Address: 1008 Mineola Drive

GPIN(s): 1446959553

City Council: District 1, formerly Kempsville

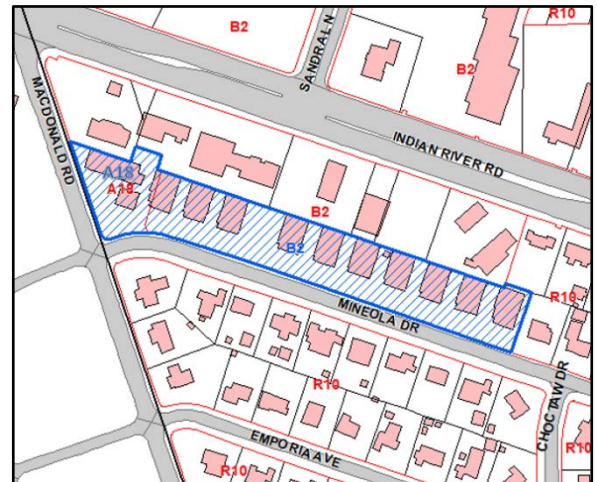
Accela Record(s): 2022-PCCC-00290

SGA: No

Overlay: No

Staff Planner: Michaela D. McKinney

Request to construct a 1,700 square foot building for a leasing office and fitness facility.



David C. & Meril B. Gerstenmaier (Applicant)

9.

Jihyeon Son (Applicant)
SCI Lynnhaven Fund, LLC (Property Owner)

Conditional Use Permit (Tattoo Parlor)

Addresses: 2077 Lynnhaven Parkway, Suite 103

GPIN(s): Portion of 1475859946

Council District: District 7, formerly Rose Hall

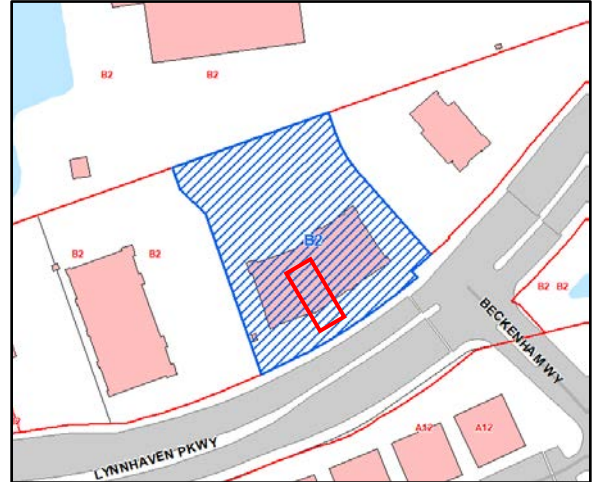
Accela Record(s): 2022-PCCC-00286

SGA: No

Overlay: No

Staff Planner: Michaela D. McKinney

Request to operate a tattoo parlor within a unit of the Salem Crossing Shopping Center.



10.

Oanh Khau (Applicant)
Sam Cape Henry Plaza, LLC (Property Owner)

Conditional Use Permit (Tattoo Parlor)

Address: 2817 Shore Drive, Suite 112

GPIN(s): 1590401698

City Council: District 8, formerly Lynnhaven

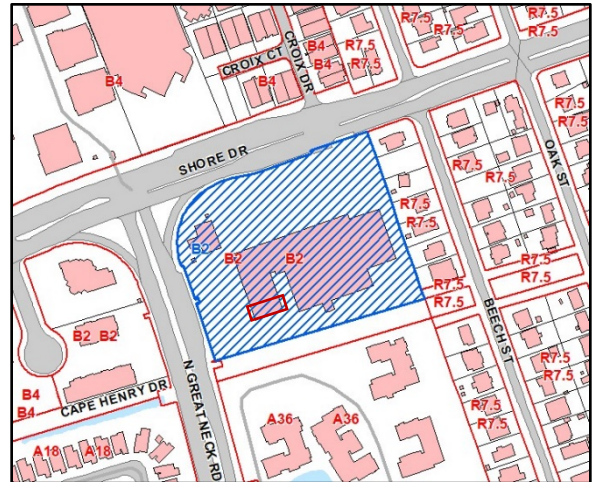
Accela Record(s): 2022-PCCC-00300

SGA: No

Overlay: Shore Drive

Staff Planner: Madison B. Eichholz

Request to operate a Tattoo Parlor for the application of permanent make-up within a unit of the Cape Henry Plaza Shopping Center.



11.

Joe White (Applicant)
Pembroke Square Associates, LLC (Property Owner)

Alternative Compliance

Addresses: 4564 Virginia Beach Boulevard

GPIN(s): 1477554898

City Council: District 9, formerly Bayside

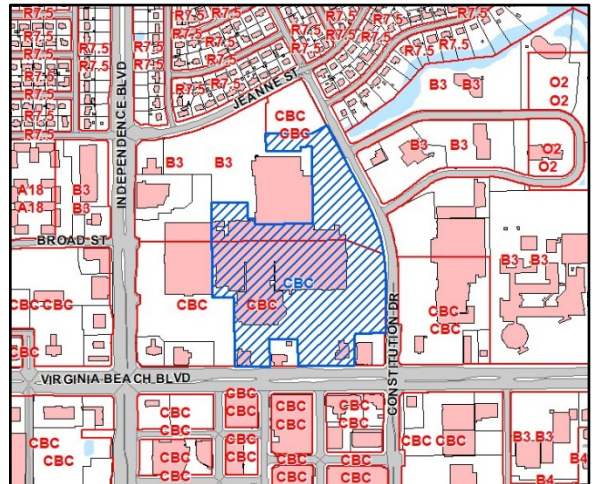
Accela Record(s): 2022-PCCC-00291

SGA: Yes - Pembroke

Overlay: No

Staff Planner: Brandon Hackney

Request to install an illuminated sign.



SHORT TERM RENTALS

12.

Ocean Chillin, LLC (Applicant & Property Owner)

Conditional Use Permit (Short Term Rental)

Address: 303 Atlantic Avenue, Unit 300

GPIN(s): 24273224031510

City Council: District 5, formerly Beach

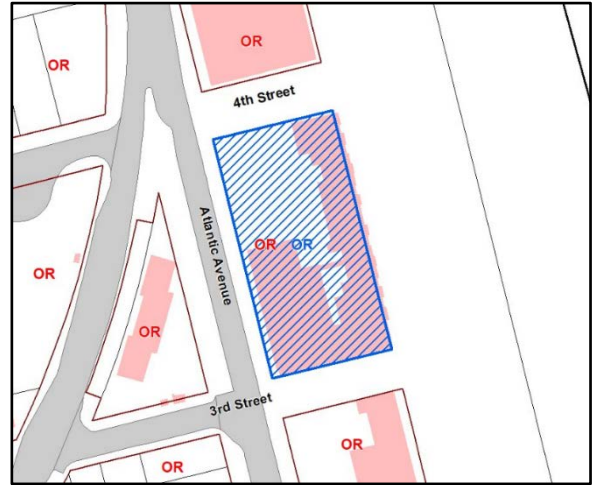
Accela Record(s): 2022-PCCC-00301

SGA: Yes – Resort Area

Overlay: OR Overlay

Staff Planner: Garek Hall Hannigan

Request for a 3-bedroom Short Term Rental.



13.

Michael Biondolillo (Applicant)

Helen A. Lewis (Property Owner)

Conditional Use Permit (Short Term Rental)

Address: 2113 Atlantic Avenue, Unit 2C

GPIN(s): 24271868788240

City Council: District 6, formerly Beach

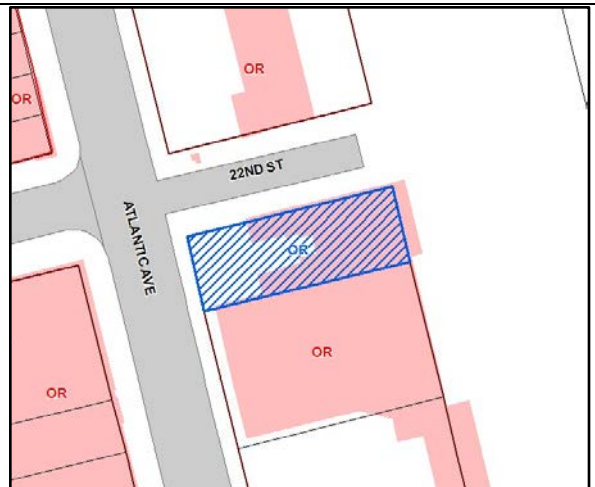
Accela Record(s): 2022-PCCC-00294

SGA: Yes – Resort Area

Overlay: OR Overlay

Staff Planner: Garek Hall Hannigan

Request for a 2-bedroom Short Term Rental.



14.

AS-SXM, LLC (Applicant & Property Owner)

Conditional Use Permit (Short Term Rental)

Address: 1800 Baltic Avenue

GPIN(s): 2427072197

City Council: District 6, formerly Beach

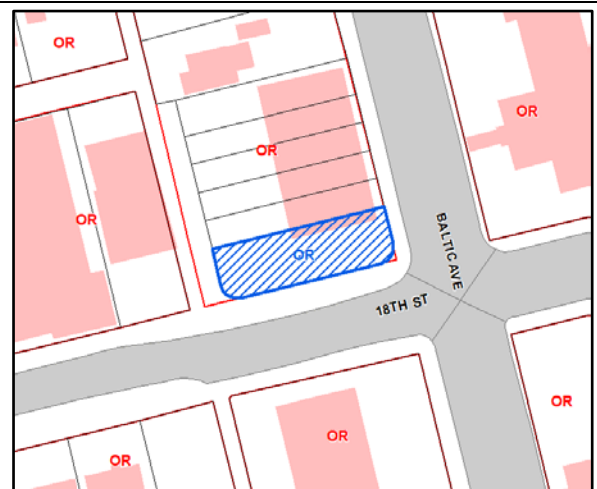
Accela Record(s): 2023-PCCC-00002

SGA: Yes – Resort Area

Overlay: OR Overlay

Staff Planner: Garek Hall Hannigan

Request for a 2-bedroom Short Term Rental.



15.

Prodan Management Group, LLC (Applicant & Property Owner)

Conditional Use Permit (Short Term Rental)

Address: 503 18th Street

GPIN(s): 2427072197

City Council: District 6, formerly Beach

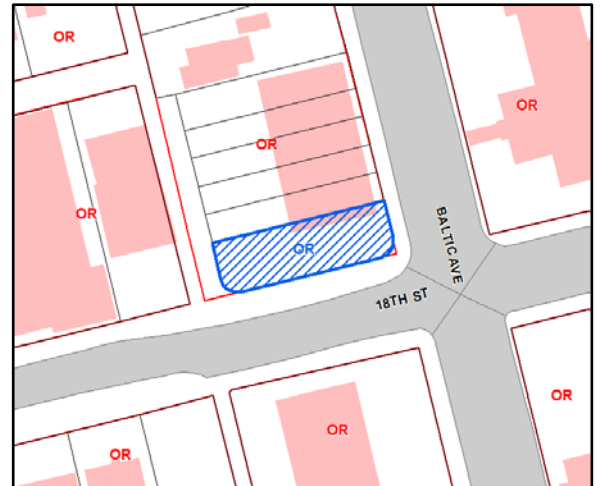
Accela Record(s): 2023-PCCC-00003

SGA: Yes – Resort Area

Overlay: OR Overlay

Staff Planner: Garek Hall Hannigan

Request for a 2-bedroom Short Term Rental.



16. & 17.

Caymus Properties, Inc (Applicant & Property Owner)

Conditional Use Permit (Short Term Rental)

Addresses: 509 19th Street & 511 19th Street

GPIN(s): 2427070524, 2417979583

City Council: District 6, formerly Beach

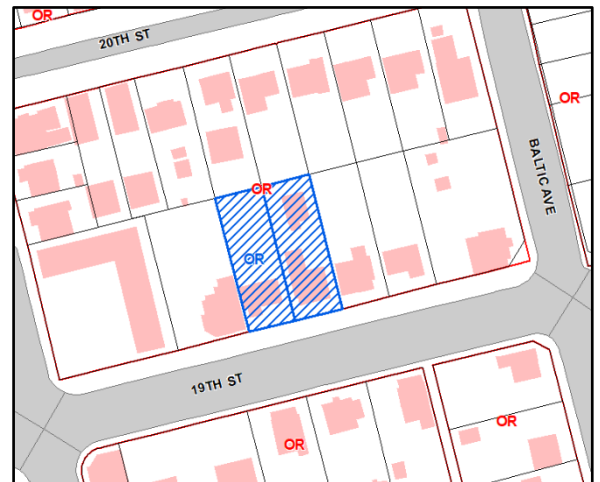
Accela Record(s): 2022-PCCC-00296, 2022-PCCC-00299

SGA: Yes – Resort Area

Overlay: OR Overlay

Staff Planner: Garek Hall Hannigan

Requests for two, 3-bedroom Short Term Rentals.





Request

An Ordinance to amend Section 104 of the City Zoning Ordinance pertaining to the use of civil penalties.

Summary of Request

This amendment proposes to amend Section 104 of the City Zoning Ordinance, which prescribes how violations and penalties of the Ordinance are assessed. Most zoning violations are criminal misdemeanors. Section 104(b) lists specific sections of the ordinance for which a civil penalty can be assessed, specifically those sections relating to signage and short term rentals. A zoning civil penalty is assessed at two hundred dollars (\$200.00) for the initial summons and not more than five hundred dollars (\$500.00) for each additional summons. When such civil penalties total five thousand dollars (\$5,000.00) or more, the violation may be prosecuted as a criminal misdemeanor.

Through the enforcement of short term rentals, Staff identified changes to section 104(b) that would streamline the process by clarifying the sections that could be assessed as a civil penalty. The proposed amendment has the following updates:

- Language added to include any section that applies to the use of property as a short term rental as a civil penalty
- Remove section 1903 which was a typographical error in the original adopted ordinance

If approved section 104(b) would continue to allow staff to enforce the short term rental ordinances as civil penalties.

Recommendation

Staff recommends approval of this Ordinance as it will streamline the process for enforcing short term rentals as civil penalties.

AN ORDINANCE TO AMEND SECTION 104 OF
THE CITY ZONING ORDINANCE PERTAINING TO
THE USE OF CIVIL PENALTIES

Section Amended: § 104 of the City Zoning
Ordinance

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

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

That Section 104 of the City Zoning Ordinance is hereby amended and
reordained to read as follows:

Sec. 104. Violations and penalties.

....

(b) Any person who violates any provision of Part B of Article 2, section 241.2, or
section ~~4903~~ 2303, or the use regulations regarding only short term rentals, of the
City Zoning Ordinance hereof shall be assessed a civil penalty in the amount of two
hundred dollars (\$200.00) for the initial summons and not more than five hundred
dollars (\$500.00) for each additional summons. The assessment of a civil penalty
shall not preclude the institution of a civil action by the zoning administrator
pursuant to section 103(a) of this ordinance, but no such violation shall, unless it
results in injury to any person, be prosecuted as a criminal misdemeanor, provided
however that when such civil penalties total five thousand dollars (\$5,000.00) or
more, the violation may be prosecuted as a criminal misdemeanor.

....

Adopted by the Council of the City of Virginia Beach, Virginia, on the _____ day
of _____, 2023.

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL SUFFICIENCY:

Planning Department

City Attorney's Office

CA15978
R-2
January 30, 2023

Request

Modification of Proffers (To Amend the Design and Development Guidelines)

Staff Recommendation

Approval

Staff Planners

Hoa N. Dao & Marchelle Coleman

Location

Parcels between 2009 Hudome Way to Tournament Drive, & parcel on the southeast corner of Princess Anne Road and Tournament Drive

GPINs

1494459345, Portion of 1494170763,
1494086398

Site Size

+/- 113 acres

AICUZ

65-70 dB DNL, 70-75 dB DNL

Watershed

Southern Rivers

Existing Land Use and Zoning District

Cultivated field, wooded areas, office (approved site plan) / I-1 Light Industrial

Surrounding Land Uses and Zoning Districts

North

Princess Anne Road

Single-family dwellings, wooded parcels / AG-2 Agricultural, R-10 Residential O-1 Office

South

Cultivated field, golf course / AG-1 Agricultural

East

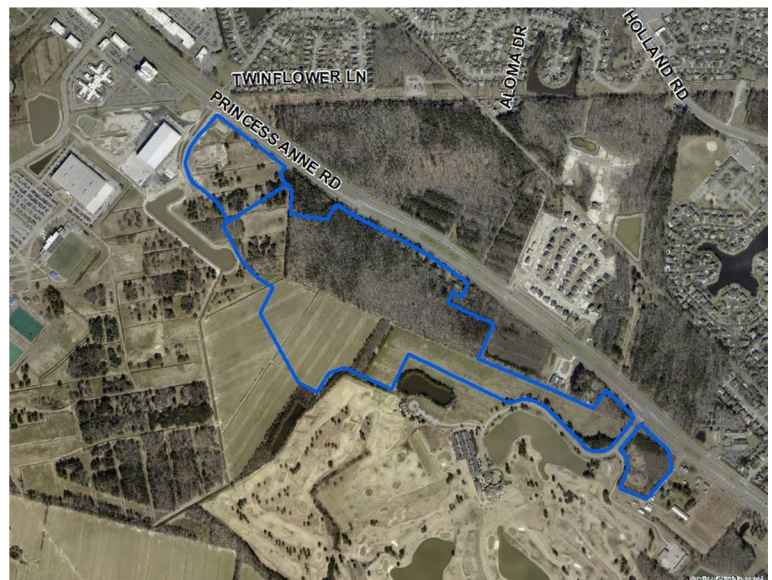
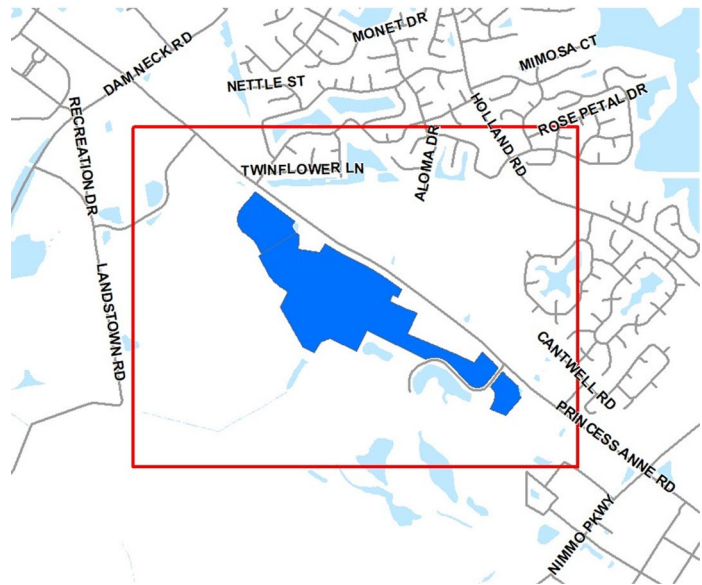
Tournament Drive

Single-family dwellings / AG-2 Agricultural

West

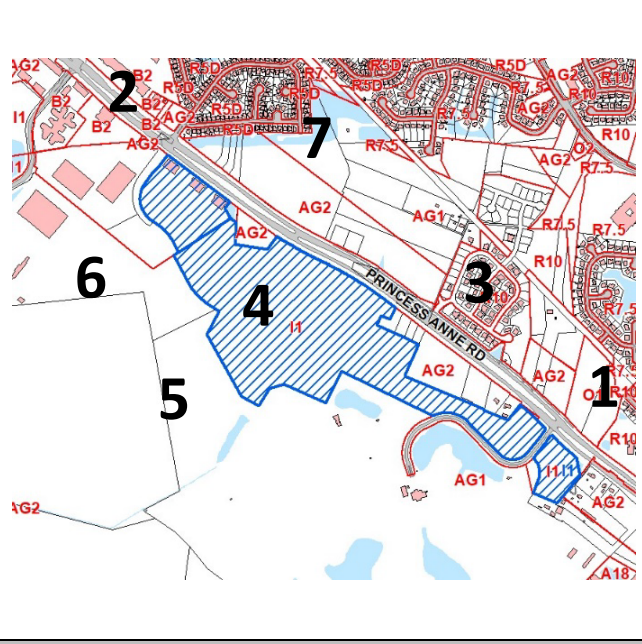
Hudome Way

Manufacturer, medical office / I-1 Light Industrial, B-2 Community Business



Background & Summary of Proposal

- In December 2016, City Council approved a rezoning request of approximately 146 acres from AG-1 & AG-2 Agricultural Districts to Conditional I-1 Industrial District for the establishment of the Princess Anne Commons Biomedical Park (Park). It was envisioned that the rezoning of the property would assist the Virginia Beach Development Authority (VBDA) in marketing the site as the “VA Beach Bio Research Park” (Bio Park) to support medical and research institutions. As part of this Conditional Rezoning Agreement, the applicant established Design and Development Guidelines to ensure the Park would be attractive and developed cohesively. Ultimately, the planned Bio Park did not align with market demands, leaving the majority of the Park vacant.
- In response to recent growth in other industry sectors, the applicant seeks to amend the Proffer Agreement and Design and Development Guidelines to expand the Park’s focus to research, education, technology, manufacturing, finance, business, and other commercial uses.
- The proposed revision to the Design and Development Guidelines would apply to approximately 113 of the total 146 acres as depicted in the Site Layout Plan on Page 9 of this report. The remaining portion of the Park would remain under the 2016 Guidelines.
- The new Design & Development Guidelines seek to:
 - change the name of the Park from “Princess Anne Commons Biomedical Park” to “Innovation Park”,
 - update photos/illustrations,
 - reduce redundancy and better align the document with current codes and requirements,
 - permit more flexibility with new and innovative materials and construction methods, and
 - provide more guidance on light industrial and advanced manufacturing building types.
- Letters were mailed to property owners within the Park to allow them an opportunity to be party to this application. One property owner, YCH, LLC, accepted.
- The Park is located within the 65-70 and 70-75 dB DNL noise zone of the AICUZ and within the Interfacility Traffic Area (ITA).
- The applicant appeared before the Transition Area / Interfacility Traffic Area Committee (TA/ITA) on March 2, 2023, to brief the Committee on the proposal. The Committee raised concerns over the changes to the Design Criteria and Development Guidelines and the overall change in the vision for the Park. No definitive decision was made, and no vote was taken.

	Zoning History	
	#	Request
	1	CRZ (AG-1&2 to Conditional O-1) Approved 10/18/2022 CUP (Housing for Seniors) Approved 10/18/2022
	2	CUP (Tattoo Parlor) Approved 02/15/2022 CUP (Outdoor Recreational Facility) Approved 02/28/2012 CUP (Indoor Recreational Facility) Approved 11/23/2010 CRZ (AG-1&2 to Conditional B-2) Approved 08/22/2006
	3	MDP Approved 11/20/2018 CRZ (AG-1 to Conditional R-10) Approved 11/20/2018 CRZ (AG-1&2 to Conditional R-10) Approved 01/05/2016
	4	CRZ (AG-1&2 to Conditional I-1) Approved 12/13/2016
	5	CRZ (AG-1 to Conditional B-2) Approved 02/03/2009 CUP (Recreational Facilities) Approved 02/03/2009 CUP (Outdoor Recreational Facility) Approved 03/14/2000 REZ (O-2, B-2, R-10, P-1, H-1 to Conditional AG-1) Approved 05/27/1997
	6	CUP (Outdoor Recreational Facilities) Approved 05/27/1997
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 update the Design and Development Guidelines for Innovation Park, formerly Bio Park, in Staff's opinion, is acceptable. The current Design and Development Guidelines are outdated and no longer align with the development pattern originally envisioned for the Park. Other property owners within the Park were informed of the request to update the design guidelines and chose not to be included with this request. Those properties will remain under the existing Design Guidelines adopted in 2016.

Overall, the new Design and Development Guidelines provide improved screening requirements and allow greater flexibility with building materials, while retaining guidelines to ensure the Park develops into an attractive "park-like" setting with continuity of open spaces from the surrounding Princess Anne Commons.

Description of Change(s)	2016 Design Guidelines Reference Page Number(s)	Updated Design Guidelines Reference Page Number(s)
Updated: Business Park name change from "Princess Anne Commons Biomedical Park" to the "Innovation Park"	Cover	Cover
Updated: <i>Imagery & Document Design</i> New and updated photos to better illustrate the current developments in Princess Anne and the Innovation Park. More user-friendly, visually compelling, and organized document.	all	all
Updated: Table of Contents Page	Three sections: <ul style="list-style-type: none"> • Introduction • Site Planning • Building Design 	Four sections: <ul style="list-style-type: none"> • Introduction • Site Design • Building Design • Review by VBDA

Updated: <i>Princess Anne Commons Map and Innovation Park Map</i>	1-2 and 1-3	4 and 5
SEC. 1 INTRODUCTION New: 1.1 <i>Innovation Park</i> specific background and introduction for the Innovation Park New: 1.3 <i>Improvements by VBDA</i> The Innovation Park offers shovel-ready sites, roadway access, water, sewer and electric utilities within the right-of-way and stormwater treatment of up to 60% of the impervious site coverage. Removed: References to several sets of guidelines for different types of development and activities envisioned in Princess Anne Commons and references to the park as the “VA Beach Bio Research Park” or ‘BioPark’.	1-1, 1-2 and 1-3	3, 6
New: 1.6 <i>Applicable Codes</i> names the Virginia Beach Development Authority (VBDA) as the Park owner and lists the current zoning and design and engineering standards that govern land development in the Park.	N/A	6
SEC. 2 SITE DESIGN Section renamed from “Site Planning” to “Site Design” & reorganized	2-1 through 2-6	8-10
2.4 <i>Landscape and Plantings:</i> Edited for clarity and consistency with what is expected above and beyond the City of Virginia Beach’s Landscape Ordinance within the Innovation Park. Much of Appendix A was incorporated into section’s text.	2-1 & Appendix A (2-16 through 2-21)	9 & 10
<i>Access and Circulation</i> Removed: Diagram on page 2-2 and topics organized into body of text	2-1, 2-2 and 2-3	8
<i>Parking</i> New: “Buildings with views from or with frontage along Princess Anne Road should generally be oriented to the front of the site closest to Princess Anne Road with parking areas located in the rear.” Removed: “Landscaping for the parking area should be strategically located to provide visual relief, shading of the lot, green areas, and screening while ensuring that lines-of-sight are maintained, both at the time of planting and when the plants have matured.”	2-4 & 2-6	8
New: 2.3 <i>Fencing</i> Perimeter fencing is a crucial physical security element to certain facilities in order to funnel visitors to designated entry points. Fencing should be limited to side and rear yards and coupled with planting. When fencing fronts any primary public roadways it should be located behind a landscape screen, making the plantings the most visible feature from the street or adjacent parcels. Fencing in front yards should be decorative use only and should not visually	N/A	9

obstruct the building. Metal fencing with neutral color is preferred.		
New: Outdoor Amenity Areas Outdoor amenity areas, such as entry courtyards, break areas, patios and pavilions, for employees and visitors to the businesses within the Park are highly encouraged.	N/A	10
New: Signage All signage in the Innovation Park must comply with the Sign Regulations of the City of Virginia Beach zoning ordinance, as amended. In addition, 10 other conditions are listed for signs to conform to within the Innovation Park.	N/A	10
SEC. 3 BUILDING DESIGN	2-7 through 2-15	11-14
New: Building Façade “The front face(s) of buildings should incorporate higher levels of architectural articulation... continuity of design is encouraged on the side and rear faces” Replaced: Joint Use Library modern design example with multiple contemporary and light industrial/advance manufacturing examples from around the country	2-8 & 2-9	12
New: Exterior Materials and Palette “Exterior building materials should be of high quality, durable, aesthetically pleasing, and sustainable, including, but not limited to, brick, stone, concrete, masonry, glass and metal panels.”	2-9 & 2-10	12
New: Outdoor Storage, Staging & Services Areas Loading/service, outdoor storage and staging areas are permitted in the Park but must be concealed from public right-of-way view to the greatest extent possible and located at the rear of the building. Year-round screening may consist of walls and plant materials. Wall screening materials must be compatible with the primary structure. Access to these areas should be minimized and arranged so that maneuvering is avoided on public streets.	2-12	13 & 14
Removed: Parking Structures Section Density within the Innovation Park is not anticipated to ever require a parking structure.	2-12 through 2-15	N/A
New: Review by VBDA Section Added to clarify and provide guidance on the approval process.	N/A	15
Edited and Relocated: Appendix A, Sections A-C Appendix A was edited for clarity and consistency with what is expected above and beyond the City of Virginia Beach’s Landscape Ordinance within the Innovation Park. Appendix A was incorporated into the main document’s “Landscape and Plantings” Section.	2-16 through 2-19	9, 10
Edited and Relocated: Appendix A, Section D Edited for current lighting technologies and incorporated into main document text of “Exterior Building Lighting” section.	2-19	14
Replaced: Appendix A, Section E	2-20 & 2-21	10

The “Site Furniture” section of Appendix A was replaced by the “Outdoor Amenity Areas” section on page 10. The various screening requirements and planting diagrams in Appendix A were replaced with Figures 2.5 & 2.6 on page 10.		
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As the proposed revisions to the Design and Development Guidelines will simplify the review process for developments within the Park and aligns with current codes and regulations, Staff recommends approval of this request subject to the proffers below.

Proffers

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

Proffer 1:

The Property is hereby removed and released from the Existing Proffers and said Property will now be subject to the proffers contained herein.

Proffer 2:

Excluding the Property specifically described on Exhibit A, the remaining parcels of land located within the Innovation Park and not owned by the Applicants shall remain subject to the Existing Proffers, which remain in full force and affect.

Proffer 3:

Further conditions may be required by the City during detailed Site Plan review and administration of applicable City codes by all City agencies and departments.

Proffer 4:

Fencing on the Property, other than for screening purposes and where it is necessary for the security of certain facilities or necessary to funnel visitors to designated entry points, is prohibited. The VBDA shall approve all proposed fences for material, color, location, coupled plantings and overall impact.

Proffer 5:

Temporary facilities, other than construction related facilities, shall not be permitted within the front yards and when located in the rear yards, shall be removed immediately upon completion of the permanent facility.

Proffer 6:

All loading/service, refuse, outdoor storage and staging areas must be concealed from public right-of-way view to the greatest extent possible and located at the rear of the building. Year-round screening may consist of walls and plant materials. Wall screening materials must be compatible with the primary structure. The extent of the screen wall and plantings shall be subject to VBDA approval.

Proffer 7:

Those uses permitted in I-1 are permitted on the Property. Those uses requiring a Conditional Use Permit from City Council shall continue to do so.

Proffer 8:

The Innovation Park Design and Development Guidelines, dated January 2023, is attached hereto as Exhibit B and incorporated herein by reference for additional specifications, conditions and requirements related to design requirements, improvements by VBDA, site design, parking, fencing, landscape and plantings, signage, building design, building materials and palette, and exterior lighting in the Innovation Park.

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

2016 Proffers that Remain in Effect for the Remainder of the Park

Proffer 1:

The following, which are listed in Section 1001(a) of the Zoning Ordinance as principal and conditional uses in the I-1 Light Industrial District, shall be the only uses permitted on the Property. Any principal or conditional use listed in Section 1001(a), but not listed below, shall not be permitted on the Property:

- a. Building-mounted antennas, as specified in Section 1001(a);
- b. Business, medical, financial, nonprofit, professional and similar office buildings;
- c. Communication towers, as specified in Section 1001(a);
- d. Fiber-optics transmission facilities;
- e. Manufacturing, processing, extracting, packaging or fabricating establishments; provided that the following uses shall not be allowed: (i) Explosive manufacturing, storage and distribution; (ii) petroleum processing; (iii) processing or outside storage of salvage, scrap or junk;
- f. Printing, lithographic or publishing establishments;
- g. Public buildings and grounds;
- h. Public schools, colleges and universities, and private schools, colleges and universities having similar academic curriculums;
- i. Public utilities installations and substations including offices, as specified in Section 1001(a);
- j. Public utility transformer stations and major transmission lines and towers (fifty thousand (50,000) volts or more);
- k. Radio or television transmission and relay stations;
- l. Small wireless facilities, as specified in Section 1001(a);
- m. Vocational, technical, industrial and trade schools;
- n. Wholesaling, warehousing, storage or distribution establishments; and
- o. Wind energy conversion systems, as specified in Section 1001(a).

Proffer 2:

Accessory structures and uses shall be permitted as set forth in Section 1001(b) of the Zoning Ordinance.

Proffer 3:

The architectural style, exterior building materials, and site design shall be substantially in accordance with the "Design and Development Guidelines – Princess Anne Commons Biomedical Park."

Comprehensive Plan Recommendations

The Comprehensive Plan designates this area of the city as being within the Princess Anne Special Economic Growth Area and the Interfacility Traffic Area. Since the Property is impacted by the AICUZ high noise zones, all proposed land uses in this area must align with the City's AICUZ provisions and Oceana Land Use Conformity program.

Natural & Cultural Resources Impacts

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

Public Outreach Information

Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on February 6, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, February 19, 2023 and February 26, 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 February 20, 2023.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.vbgov.com/pc on March 2, 2023.

Modification of Proffers Request for
VBDA-Owned Property and YCH, LLC



Site Photos



INNOVATION PARK

DESIGN AND DEVELOPMENT GUIDELINES

January 2023



CONTENTS

SEC. I INTRODUCTION 3

- 1.1 INNOVATION PARK
- 1.2 PRINCESS ANNE COMMONS
- 1.3 IMPROVEMENTS BY THE VBDA
- 1.4 PURPOSE OF THESE GUIDELINES
- 1.5 THE 'DESIGN VOCABULARY' OF PRINCESS ANNE COMMONS
- 1.6 APPLICABLE CODES

SEC. 2 SITE DESIGN 8

- 2.1 ACCESS AND CIRCULATION
- 2.2 PARKING
- 2.3 FENCING
- 2.4 LANDSCAPE AND PLANTINGS
- 2.5 SIGNAGE
- 2.6 OUTDOOR AMENITY AREAS

SEC. 3 BUILDING DESIGN 11

- 3.1 BUILDING PLACEMENT AND ARCHITECTURAL STYLE
- 3.2 FORM AND BUILDING MASSING
- 3.3 BUILDING FAÇADE
- 3.4 EXTERIOR MATERIALS AND PALETTE
- 3.5 BUILDING SCREENING
- 3.6 EXTERIOR BUILDING LIGHTING

SEC. 4 REVIEW BY THE VBDA 15

- 4.1 DEVELOPMENT PROCEDURES
- 4.2 SUBMITTAL REQUIREMENTS
- 4.3 BASIS OF APPROVAL
- 4.4 REVIEW TIME

SEC. I INNOVATION PARK INTRODUCTION

1.1 INNOVATION PARK

The Innovation Park was established in 2016 as a magnet for high-quality, technological, innovative, advanced manufacturing businesses within the Princess Anne Commons Special Economic Growth Area (SEGA). The Park, controlled by the Virginia Beach Development Authority (VBDA), is approximately 150 acres and is zoned as I-1 (Light Industrial).

This document provides design and development guidance for the "Innovation Park," formerly known as the VABeachBio Research Park, that is developing within North Princess Anne Commons (see FIGURES 1.1 and 1.2).

The Innovation Park was originally envisioned to house medical research and office buildings; however, recently the City has seen a growth in other industry sectors in this area and has expanded the Park's focus to research, education, technology, manufacturing, finance, business, and other commercial uses while still supporting the field of scientific innovations. Such growth befitted the area to be renamed *Innovation Park*.

1.2 PRINCESS ANNE COMMONS

The Princess Anne Commons SEGA is nearly 3,000 acres (see FIGURE 1.1). It is identified in the City's Comprehensive Plan, 2017 Interfacility Traffic Area Plan (ITA) and other related development regulations to protect Naval Air Station (NAS) Oceana and Naval Auxiliary Landing Field (NALF) Fentress from future developments. The ITA overlay district consists of areas within the Air Installations Compatible Use Zones (AICUZ) with aircraft noise levels greater than 65 dB DNL, a level that is not preferable for residential uses.

Princess Anne Commons SEGA has been recognized for its economic development opportunities in medical, research, and recreation. The Innovation Park will further augment and diversify the City's economy by enhancing the industries in Princess Anne Commons.

Comprehensive Plan Recommendations:

A primary focus of Princess Anne Commons is to provide locations for campus-like development that may not be suitable in a more urban setting. The Comprehensive Plan provides the following general recommendations for Princess Anne Commons as they are applicable to the Innovation Park:

- Strive to achieve extensive open space connectivity throughout the Commons
- Protect the most sensitive land
- Low-impact campus style development for work, education, research, and recreation
- Create guidelines for building types to ensure appropriate quality and character
- Provide public amenity areas for walking, cycling, and recreation
- High-quality roadways with landscaped edges, multi-modal pathways, and adequate lighting

1.3 IMPROVEMENTS BY VBDA

The Innovation Park offers shovel-ready sites, roadway access, water, sewer and electric utilities within the right-of-way and stormwater treatment of up to 60% of the impervious site coverage.



Image of the existing access road: Hudome Way

3

Special Economic Growth Area
PRINCESS ANNE COMMONS

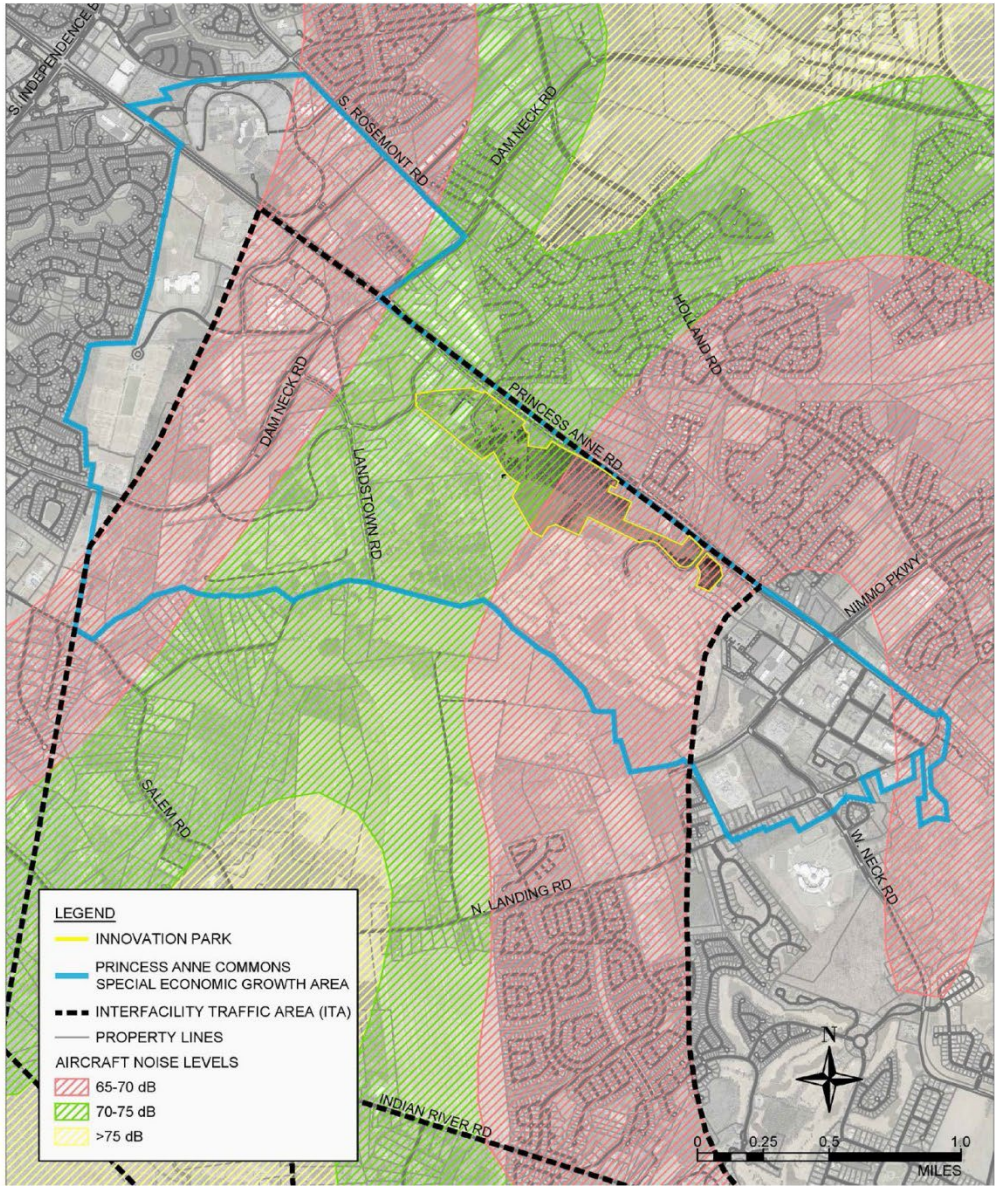


FIGURE 1.1 Princess Anne Commons

INNOVATION PARK

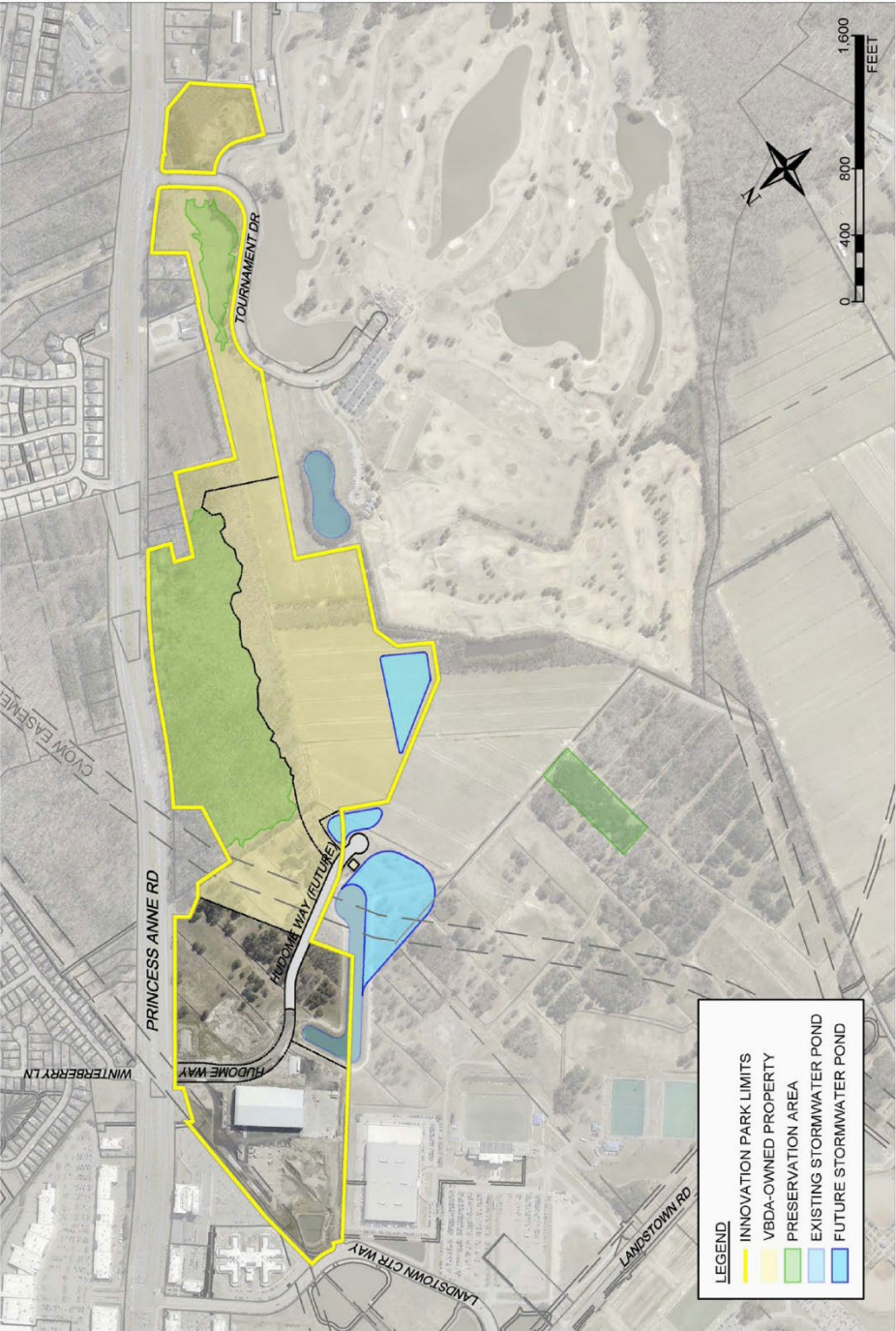


FIGURE 1.2 Innovation Park Boundary

1.4 PURPOSE OF THESE GUIDELINES

The Innovation Park will support innovation in the fields of medicine, research, finance, technology, advanced manufacturing and more. To do so, it is critical that the physical structures supporting these uses also depict innovation by design. These guidelines follow the Comprehensive Plan's general recommendations for Princess Anne Commons and provide guidance on site and building design for development within the Innovation Park to:

- Assist property owners and developers regarding appropriate design
- Encourage innovation and creativity
- Harmonize and enhance the visual appeal of the Innovation Park developments and the general ambiance of Princess Anne Commons

1.5 THE 'DESIGN VOCABULARY' OF PRINCESS ANNE COMMONS

As the Innovation Park grows, its development should harmonize with the surrounding Princess Anne Commons environs. See FIGURES 1.3-1.13 for common site and building design, form, materials, colors, and landscape foundation precedent.

1.6 APPLICABLE CODES

At the time of this document's adoption, the majority of the land within the Innovation Park is owned by the Virginia Beach Development Authority. Development of land within the Innovation Park is governed by the following requirements and restrictions but not limited to:

- The recorded zoning proffers of the VBDA
- The City of Virginia Beach Zoning and Subdivision ordinances, as amended
- The City of Virginia Beach Public Works Design Standards Manual, as amended

It is the responsibility of the individual site developer to verify and conform to all requirements of governing agencies and obtain and maintain all necessary permits.

Contemporary Shapes and Forms



FIGURE 1.3 Virginia Beach Parks and Recreation Administration

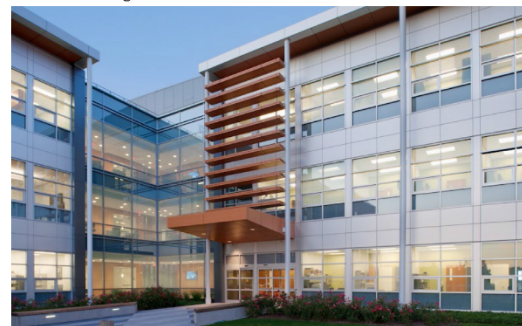


FIGURE 1.4 Regional Health Professions Center, Tidewater Community



FIGURE 1.5 Sentara Princess Anne Hospital



FIGURE 1.6 Children's Hospital of The King's Daughters

Building Materials and Color Palette



FIGURE 1.7 LifeNet Health



FIGURE 1.8 Joint-Use Library

Planting and Outdoor Spaces



FIGURE 1.10 Landstown Centre Outdoor Spaces



FIGURE 1.11 Landstown Commons Courtyard

Water Features



FIGURE 1.12 Sentara Courtyard Fountain

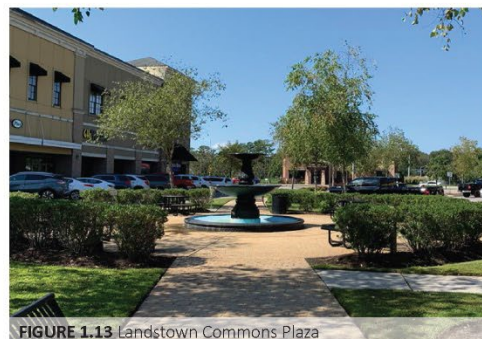


FIGURE 1.13 Landstown Commons Plaza

SEC. 2 INNOVATION PARK

SITE DESIGN

2.1 ACCESS AND CIRCULATION

Pathways and Crossings: Where appropriate, pedestrian pathways not necessarily associated with the public roadways fronting the property should be provided in developments. Pedestrian pathways should be located within a planted or natural area that may consist of a significant stand of trees, unusual topographic conditions, natural drainage patterns, or other natural features.

Pathways should be constructed of a durable, low-maintenance material such as asphalt or concrete.

Access: Clearly mark and efficiently place vehicular and non-vehicular access to all new developments during the planning and development process. Vehicular and pedestrian access should be distinct and clearly separated. Coordinate access with or provide access from the secondary street system or by cross-parcel easements whenever possible.

Circulation: There should be an internal circulation system that provides safe and convenient access to uses within the development site. Where compatible land uses adjoin one another, access from the internal circulation system to surrounding properties should be provided.

Entrances and Driveways: Entrances and driveways should permit safe and convenient pedestrian crossings where they intersect sidewalks and other pedestrian access ways.

To minimize traffic conflicts, entrances and exits to a development should be consolidated to the greatest extent possible and be located a sufficient distance away from street intersections.

2.2 PARKING

Buildings with views from or with frontage along Princess Anne Road should generally be oriented to the front of the site closest to Princess Anne Road with parking areas located in the rear.



FIGURE 2.1 Regional Health Professions Center at Virginia Beach designed with surface parking located at the rear of the site and well connected internal circulation system.



FIGURE 2.2 Existing multi-modal pathway in the Innovation Park.

To the greatest extent possible, parking areas should be well planted and broken up into separate sub-areas to avoid the 'sea of asphalt' appearance.

Access: Access between parking areas on separate lots should be accomplished through use of shared-access easements, which join the lots. Individual curb cuts for each parking area onto roadways is discouraged. Internal circulation roads on a parcel should be designed with stubs to adjoining undeveloped parcels that will provide future shared access.

Bicycle Parking: As required by Sec. 203(b) of the City Code, areas for the parking of bicycles and motorcycles must be provided on site with ready access to the pedestrian/bicycle pathway system.

2.3 FENCING

Perimeter fencing is a crucial physical security element to certain facilities in order to funnel visitors to designated entry points. Therefore fencing is permitted where it is necessary for security and screening purposes only.

Fencing should be limited to side and rear yards and coupled with planting. When fencing fronts any primary public roadways it should be located behind a landscape screen, making the plantings the most visible feature from the street or adjacent parcels. Fencing in front yards should be decorative use only and should not visually obstruct the building. Metal fencing with neutral color is preferred.



FIGURE 2.3 An example of planted buffer at the Park.



FIGURE 2.4 Metal perimeter fencing with neutral color is preferable.
Source: [Lang+Fulton](#)

2.4 LANDSCAPE AND PLANTINGS

The Innovation Park is intended to have a park-like setting with continuity of open spaces from the surrounding Princess Anne Commons. Therefore, in addition to adherence to the City of Virginia Beach Landscape Ordinance for plant species, parking lot and foundation landscaping, screening and tree planting specification standards, the following additional requirements apply within the Innovation Park:

1. Existing natural characteristics, such as the site's topography, hydrology, soils, vegetation, natural drainage patterns and wetlands, should be identified and conserved. Building design placement should be configured to work with these natural site conditions.
2. Building entrances, utility transformers, loading, refuse and outdoor storage areas, parking lots and entry drives should all be well landscaped with a combination of trees, shrubs and ground covers above and beyond what is required in the City of Virginia Beach Landscape Ordinance, as amended.
3. Sod, rather than seeding is required within 50' of the front of the building; all adjoining roads should have sod along the entire property line for a minimum of 30'. All other lawn areas not receiving sod may be seeded.
4. All planting beds should be covered with a 3" layer of shredded hardwood mulch.
5. Street trees shall be placed along all roadways within the Park at a minimum of one shade tree every 35' of the property line that abuts the roadway. The spacing of all new required street trees should tie into existing trees and maintain the 35' spacing on center.
6. Flowering trees should be provided in front of buildings and along main entryways.
7. An irrigation system is required for all new planting and sod areas up to the property line. The irrigation system should be adequate to maintain healthy plant life.

8. Continuous evergreen screening should be required around any visible loading, storage, staging or refuse area. The minimum height of shrubs at installation should be three feet with maximum spacing of three feet on center. The minimum height of evergreen trees should be four to five feet in height with maximum spacing of eight feet on center. A planted landscape berm may be substituted and should be a minimum height of three feet.
9. All site utilities should be screened with evergreen shrubs with maximum spacing of three feet on center. The height of shrubs at installation should be a minimum height of four to five feet.

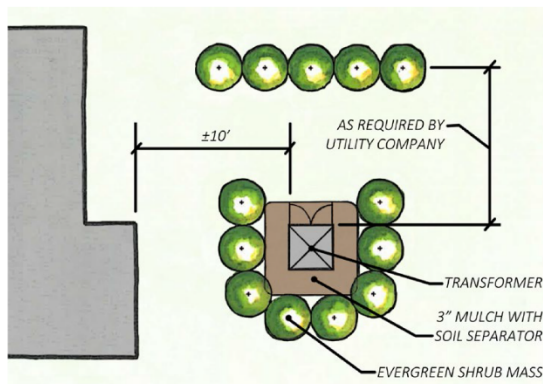


FIGURE 2.5 Example transformer screening plan

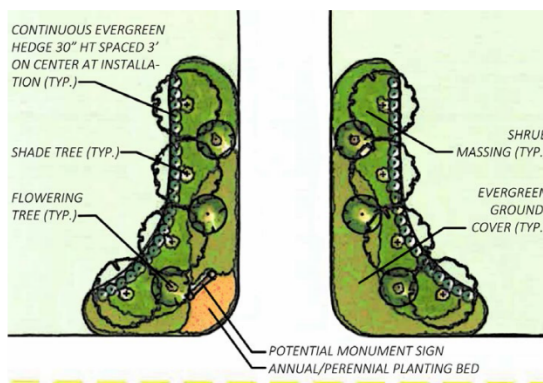


FIGURE 2.6 Example entry drive planting plan
Note: The landscape architect shall respond to all visibility triangle requirements for intersections.

2.5 SIGNAGE

All signage in the Innovation Park must comply with the Sign Regulations of the City of Virginia Beach zoning ordinance, as amended. In addition, the following sign regulations apply:

1. Plastic letters shall not be permitted for building-mounted signs.
2. The size, location on the façade, color, material and finish of the letters and/or logo shall be compatible with the building architecture.
3. All conduits, raceways and transformers shall be concealed so that they are not visible.
4. In multi-tenant buildings where storefront entrances are used, sign information shall be limited to the company name, company logo and suite number.
5. Maintenance of all signs is required and the responsibility of the tenant/owner. Signs shall be kept clean and in a state of good repair at all times.
6. Temporary signs are only permitted during active construction of the permanent facility and shall be removed upon issuance of the Certificate of Occupancy by the City of Virginia Beach.
7. All temporary signs shall be ground mounted.
8. Only one project construction sign located on site shall be permitted.
9. Only one real estate sign shall be permitted per building and shall be allowed for six months maximum.
10. Violations and/or non-compliance with the above will allow the VBDA to remove the non-conforming signs at the expense of the owner/tenant.

2.6 OUTDOOR AMENITY AREAS

Outdoor amenity areas, such as entry courtyards, break areas, patios and pavilions, for employees and visitors to the businesses within the Park are highly encouraged. When provided, the outdoor amenity area must be well lit, connected to the Park circulation system, well maintained and provide shade and low-maintenance durable site furniture designed for outdoor use.

SEC. 3 INNOVATION PARK BUILDING DESIGN

The relationship of buildings to the public and private spaces is critical to the overall success of the Innovation Park's site development. A building's architectural elements provide an environment that ensures quality and a sense of place.

Building placement, massing, and appearance define this relationship. Each building's architectural style, form, architectural details, exterior materials, textures, and color work together to provide an environment that ensures quality and a sense of place.

3.1 BUILDING PLACEMENT AND ARCHITECTURAL STYLE

The following provides general guidelines about the placement and design of buildings on a site for corporate, research, medical facilities, light industrial, office, advanced manufacturing and academic facilities. Construction of such facilities are governed by the City of Virginia Beach Zoning Ordinance and the Virginia Statewide Building Code, latest amended edition.

- Building designs shall express a unified theme by means of architectural style, materiality, colors, form and scale.
- Building placement and architectural style shall be a development of one-story or multi-story buildings (dependent on use), set in a landscaped environment, maintaining an aesthetic continuity.
- Building design's individuality and creativity shall be expressed and integrated into the design context of the surrounding area.
- All building designs will be subject to the approval of the City (through the Proffers of the Conditional Zoning Agreement) and the VBDA.



FIGURE 3.1 Illuminated glass façade strategically creates a unique focal feature to a building's facade. Image: Regional Health Professions Center, Tidewater Community College; Source: [EYP Architecture + Engineering](#).



FIGURE 3.2 Building facade shall include a well-integrated, defined focal entry. Image: Franklin Square Hospital Center



FIGURE 3.3 Varying building massing is encouraged to break-up large building footprints; Source: [Cal Valley Contractors Inc.](#)

3.2 FORM AND BUILDING MASSING

Massing influences the sense of space which the building encloses, and helps define both the interior space and the exterior shape of the building. Employing horizontal and vertical elements can help organize building massing forms. Breaking the footprint of a large building into smaller parts and varying a building's height is a valuable concept when designing large projects.

3.3 BUILDING FAÇADE

Building façade plays an integral role in providing a unifying element along the streetscape and continuity. The front face(s) of buildings should incorporate higher levels of architectural articulation

such as cornices, expression of structural or architectural bays, recessed windows or doors, material or material module changes, color and/or texture differences, or strongly expressed mullions. Continuity of design is encouraged on the side and rear faces.

3.4 EXTERIOR MATERIALS AND PALETTE

Exterior building materials should be of high quality, durable, aesthetically pleasing, and sustainable, including, but not limited to, brick, stone, concrete masonry, glass, and metal panels. Combination of compatible materials is preferred.



FIGURE 3.4 Facility with vertical/horizontal facade articulation and unifying material, such as glazing. Image: Motorola Campus in Libertyville, Illinois; Source: [Blue Water Builders](#)



FIGURE 3.6 Offsets and cantilevered elements can create a unique building facade and focal feature. Image: Entertainment and Sports Arena, Washington, DC; Source: [Events DC](#)



FIGURE 3.5 Exterior building materials shall vary by unifying colors and materiality. Image: Tacoma Recovery and Transfer Center (LEED® Gold Certified); Source: [Architect Magazine](#)



FIGURE 3.7 Use of color is encouraged to enhance focal points and serve as an accents to the structure. Image: Haydon Building Corporation Headquarters, Phoenix, Arizona; Source: [Haydon Building Corp.](#)

However, use of one type of materiality is also acceptable, provided that layering of varying colors or shapes or similar techniques thereof are employed along the building face(s) adjacent to primary right-of-ways to maintain an articulated facade and avoid a monolithic appearance. Bare or painted concrete as the only exterior façade material is strongly discouraged. Exterior insulated finishes (EIFs) should not be used below the first-floor elevation except when used as soffits.

An identifiable break should be provided between a building's ground or second floor and the upper floors. These breaks may consist of material or fenestration changes or similar means. Employing such design contributes to a better articulated building facade.

Colors, materials, finishes, and architectural features shall be coordinated in a consistent manner on all elevations and complement one another. Bright colors shall be used as building accents only to provide visual interest.



FIGURE 3.8 Proper integration of masonry and glass



FIGURE 3.9 Use of metal panels for light industrial use facilities is acceptable. Layering of the same material or with other compatible materials is preferred. Image: Tacoma Recovery and Transfer Center (LEED® Gold Certified)



FIGURE 3.10 Subtle use of color and proper integration with natural colored building materials. Image: Regional Health Professions Center, Tidewater Community College; Source: [Greenmun Engineering](#)

3.5 BUILDING SCREENING

A side or rear fence or wall system may be used to screen dumpsters, loading areas, storage, staging or mechanical or similar equipment from view from the public right-of-way of any street more than twenty (20) feet in width. Such screening shall be made of the same or compatible material and color of the principal structure.

Mechanical Equipment: Ground level mechanical equipment that cannot be located inside the building should be screened with an enclosure or structure incorporated into the main building. The design, materials, and colors of such screening should be complementary with the main building.

Rooftop mechanical equipment (including elevator rooms) should be screened so as to not be visible from the ground level or areas adjacent to the building. Horizontal (flat) roof forms should be screened by extensions of the building wall planes (parapet).



FIGURE 3.11 Ground level mechanical equipment must be screened from public view. Source: [Industrial Louvers, Inc.](#)

Outdoor Storage, Staging and Services Areas

Loading/service, outdoor storage and staging areas are permitted in the Park but must be concealed from public right-of-way view to the greatest extent possible and located at the rear of the building. Year-round screening may consist of walls and plant materials. Wall screening materials must be compatible with the primary structure. Access to these areas should be minimized and arranged so that maneuvering is avoided on public streets.

3.6 EXTERIOR BUILDING LIGHTING

Each project should develop a system or family of lighting with layers that contribute to the night-time experience, including façade uplighting, sign and display window illumination, landscape, parking area, security, and pedestrian lighting.



FIGURE 3.12 If visible from public view, rooftop mechanical equipment should be screened. Source: [ADCO Roofing and Waterproofing](#)



FIGURE 3.13 Dumpster areas must be enclosed from public views.

Outdoor site lighting must primarily be used to provide safety, accentuate architectural elements, and emphasize landscape features. Light fixtures must be designed as an integral design element complementing the project design by color and style. Site and building lighting shall meet the following conditions:

- Accent lighting of buildings and signage is required.
- Low bollard fixtures or landscape lighting is recommended for walkways and building entries.
- Lighting in parking lots, walkways, signage and on all buildings shall be LED. Lights spillage onto adjacent properties and the right-of-way shall be minimized.
- All lighting adjacent to residential areas will be placed in such a way to prevent glare or overflow lighting into these areas.
- All lighting fixtures must be shielded and directed downward to minimize the amount of light spill into the night sky. Designs to meet Dark Sky compliance are encouraged.
- Integrate security lighting into the architectural and landscape lighting system. Security lighting should not be distinguishable from the project's overall lighting system. Building-mounted flood lights will not be permitted, except in completely internalized service courts.

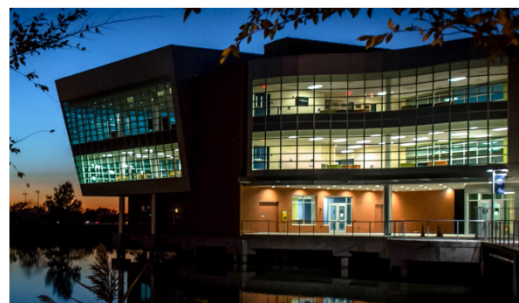


FIGURE 3.14 Example of lighting fixtures at Tidewater Community College Virginia Beach Student Center

SEC. 4 INNOVATION PARK

REVIEW BY THE VBDA

The Innovation Park is governed by the recorded zoning proffers of the VBDA. Each potential buyer and site developer shall be responsible for verification of all code requirements at the time purchase and development. This section details the review and approval process of the VBDA. The requirements contained in these guidelines do not supersede a separate and independent review and approval process that will be required from the Department of Planning and Community Development.

4.1 DEVELOPMENT PROCEDURES

Prior to the commencement of project design, the project owner and the design professionals are required to review the Design Guidelines. They shall be publicly available on the VBDA website and provided upon request from a VBDA representative.

Prior to the commencement of any site improvements such as construction or building modifications, paving, drainage or any other permanent improvements, the owner, lessee, or occupant of any site within the Innovation Park shall first submit plans of the improvements for VBDA's review and approval.

4.2 SUBMITTAL REQUIREMENTS

The VBDA requires one complete digital set of plans be submitted at:

1. The concept stage before permits for the work are sought or a site plan is submitted.
2. The final approval stage prior to final site plan approval or building permit approval.
3. As-built drawings once the construction is complete for VBDA records.

All submittals shall include:

- Property lines
- The building location and overall dimensions
- Site circulation and parking

- Anticipated stormwater management practices
- Location of loading, utility and service areas
- Elevations in color with materials described
- Landscape and planting areas

If plan submittals are not sufficient, complete, or are otherwise inadequate, the VBDA shall reject the submittal until requirements are met. Any revisions, additions or alterations to any portion of the approved plans shall be subject to review and approval.

4.3 BASIS OF VBDA APPROVAL

Review of plans shall be performed by VBDA's Department of Economic Development arm and/or VBDA's architectural, engineering and landscape consultants, who herein afterward shall be referred to as "the Staff".

Approval of plans must be given by the Staff prior to commencement of any construction. Approval of any design will be good for a one (1) year period. After which time, if construction has not started the developer may be required to resubmit.

Variations to the Design Guidelines not encompassed by the proffers of the affected property may be considered upon receiving a written recommendation from the VBDA as to whether the plans submitted should be approved or rejected. Final determination to deviate from the Design Guidelines shall rest solely with the Director of Planning and Community Development.

4.4 REVIEW TIME

The VBDA staff shall receive proposals for review a minimum of fourteen (14) days prior to the third Tuesday of each month. The review comments shall be available from the VBDA staff within two weeks of the third Tuesday.



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 City of Virginia Beach Development Authority (VBDA)

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

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

Emily Archer, VB Economic Development

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

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

VBDA is a political subdivision of the Commonwealth of Virginia. Attached is a list of the Board of Commissioners of the VBDA.

- 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.

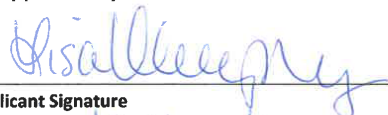
Kimley-Horn, Vanasse Hangen Brustlin, Inc (VHB) and MBP (McDonough Bolyard Peck)

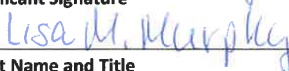
8. Is the applicant receiving **legal services** in connection with the subject of the application or any business operating or to be operated on the property? ☒ Yes ☐ No
- If **yes**, identify the firm and individual providing the service.

Singer Davis / Hunton Andrews Hurth

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

Lisa M. Murphy, Chair

Date 2/2/23

- 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	

**CITY OF VIRGINIA BEACH DEVELOPMENT AUTHORITY
BOARD OF COMMISSIONERS**

David Bernd (Secretary)
William P. Brown
William Brunke (Treasurer)
Nneka Chiazor
W. Taylor Franklin (Assistant Secretary)
Penny Morgan
Lisa M. Murphy (Chair)
Ronnie L. Parker
Michael J. Standing
Joseph E. Strange (Vice Chair)
Guenter Weissenseel

Disclosure Statement

Disclosure Statement



Owner Disclosure

Owner Name YCH, LLC

Applicant Name City of Virginia Beach Development Authority (VBDA)

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)

Anthony Disilvestro, President

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

Ynot Italian

Known Interest by Public Official or Employee

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

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

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

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

Disclosure Statement



Owner Services Disclosure

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

☒ Yes ☐ No

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

Towne Bank, Kathy Forebee

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.

Riddle, Rob Riddle

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.

Dickson Hughs, Pa Schuler

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

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

Covington Hendrix, John Covington

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.

RRMM, Steve Childs

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

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

Kimley Horn, Randy Royal

Disclosure Statement

Disclosure Statement



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

Owner Signature

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


Owner Signature

Print Name and Title

Anthony DiSilvestro, *PRESIDENT*

Date *2/2/23*

Next Steps

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

Request

Modification of Proffers

Staff Recommendation

Approval

Staff Planner

Marchelle Coleman

Location

Southeastern corner of the intersection of Virginia Beach Boulevard & North Oceana Boulevard

GPINs

2417057714, 2417150755, 2417059705,
2417152724, 2417154801

Site Size

4.40 acres

AICUZ

Greater than 75 dB DNL; APZ-1

Watershed

Chesapeake Bay

Existing Land Use and Zoning District

Undeveloped lots / Conditional I-1 Light Industrial

Surrounding Land Uses and Zoning Districts

North

Virginia Beach Boulevard
Vacant lots, single-family dwellings, duplex, multi-family dwellings / R-5D Residential, A-12 Apartment District

South

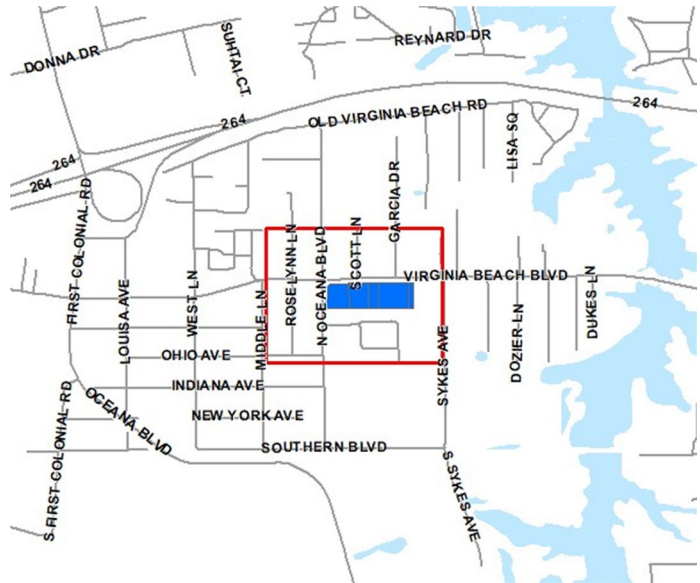
Single-family dwellings / R-5D Residential

East

Gas station, single-family dwellings/ B-2 Community Business, R-5D Residential

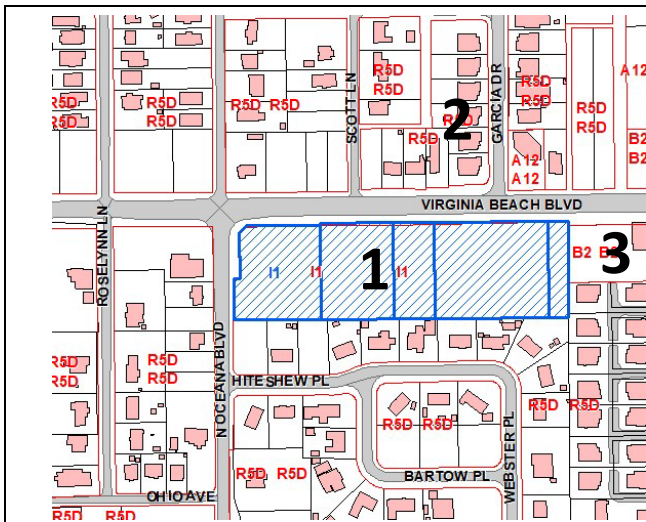
West

North Oceana Boulevard
Religious use, single-family dwelling / R-5D Residential



Background & Summary of Proposal

- The applicant seeks to amend proffers associated with a Conditional Rezoning approved by City Council on February 24, 2004 to rezone this property from O-2 Office District and R-5D Residential Duplex District to Conditional I-1 Light Industrial District for the construction of an office warehouse. At that time, the applicant proffered that the development would be constructed in substantial conformance with the submitted conceptual site plan, landscape plan and building elevations. No development has occurred on this property since the approval in 2004.
- The current applicant, an athleisure activewear company, is now requesting to modify the original proffers to revise the conceptual site layout, conceptual landscape plan, and building elevations to suit their business needs.
- In the 2004 approval, the proffered plan showed two buildings with brick veneer, aluminum glazing, and glass, reaching a maximum height of 19 feet. 32 flex suite office/warehouse units were proposed in the two buildings.
- The applicant is now proposing to develop the site with one building, consisting of a 34,313 square-foot warehouse facility with 7,004 square feet of ancillary office space. The modified plans depict a proposed stormwater management facility similar to the previous plan to address stormwater quality and quantity control for the site.
- In the modified proffered building elevations, the office portion of the warehouse facing N. Oceana Boulevard will be comprised of red, white, and blue metal panels to align with the company's branding. The side and rear elevations will be clad with gray metal panels. The north elevation that fronts Virginia Beach Boulevard will include a gray stone veneer along the base of the structure. The highest point of the building is 26 feet.
- The proffered Conceptual Landscape Plan shows the required building foundation, interior parking lot coverage, and street frontage plantings. A 25-foot-wide buffer with Category II landscape plantings is also proposed, as required, to screen the site from the residentially zoned properties to the south and east. A drainage ditch runs parallel to the eastern property line; therefore, additional plantings cannot be installed within this area. The drainage ditch will remain as is, utilized as a portion of the proposed 25-foot buffer with additional plantings and an eight-foot tall vinyl privacy fence to be installed outside of the ditch and directly east of the proposed stormwater management facility, as shown on the Conceptual Landscape Plan.
- Per Section 203 of the Zoning Ordinance, one space per employee on a maximum working shift is required, along with one space per 330 square feet of floor area for the ancillary office space. The applicant currently employs 67 employees, with 30 employees on a maximum shift. The company is expected to hire additional employees as they continue to expand the business, with up to as many as 85 persons at full capacity. The Conceptual Site Layout depicts 92 parking spaces, thereby exceeding the parking requirement.
- The property is located within the greater than 75 dB DNL noise zone and the Accidental Potential Zone 1 (APZ-1) of the Air Installations Compatible Use Zones (AICUZ).
- The proposed hours of operation are 9:00 a.m. to 6:00 p.m. daily.



Zoning History

#	Request
1	CRZ (O-2 & R-5D to Conditional I-1) Approved 02/24/2004
2	CUP (Church Expansion) Approved 03/28/2000 CUP (Church) Approved 04/23/1991 CUP (Church) Approved 1/19/1976
3	REZ (R-8 to B-2) Approved 02/14/1983 CUP (Gas Station) Approved 02/14/1983

Application Types

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

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

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

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

Evaluation & Recommendation

This request to modify the proffers to amend the conceptual site layout, landscape plan, and building elevations to develop the site with an office warehouse is, in Staff's opinion, acceptable. The office warehouse is generally consistent with the Comprehensive Plan's land use policies for the Suburban Area. A guiding principle for the Suburban Area is to create "great neighborhoods," which are stable and sustainable. In Staff's opinion, the proposed office warehouse is a low intensity use that will have minimal customer traffic and generally operates with little to no noise. As stated previously, operating hours are typically between the hours of 9:00 a.m. to 6:00 p.m., which will have minimal impact on the surrounding residential properties.

The property is located within the greater than 75 dB DNL noise zone and the APZ-1. The proposed office warehouse use is consistent with the Comprehensive Plan's land use policies for this area and is compatible with Naval flight operations. As indicated in Proffer 4, the use of the property shall only be developed as an office warehouse operation.

The Special Area Development Guidelines for the Suburban Area recommend that building materials and colors reflect and complement the character of the surrounding area. The guidelines specifically indicate that colors used for the building should accent and not define the building. While the proposed building elevation uses branded colors, this is limited to the west elevation that will be utilized as the ancillary office space, which is narrow in comparison to the elevation facing Virginia Beach Boulevard. While the office space will face existing residential structures along N. Oceana Boulevard, the remainder of the building uses a neutral palette that is enhanced along the Virginia Beach Boulevard elevation with a stone veneer foundation. Although the proposed colors for the office portion of the building may not be in full keeping with the Special Area Development Guidelines, Staff is amendable to the proposed design, as the majority of the building will be neutral in color, and thus more in character with the surrounding properties.

As this 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. According to the applicant, the usage of underground storage and a BMP will address water quality and quantity on site. An in-depth review of the stormwater management strategy to ensure that it complies with all stormwater regulations and that no negative impacts will occur upstream and downstream as a result of this development will take place during the site plan review process.

Based on these considerations, Staff recommends approval of this request with proffers listed below.

Proffers

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

Proffer 1:

When the Property is developed, it shall be developed substantially as shown on the exhibit entitled, "CONCEPTUAL SITE LAYOUT FOR BORN PRIMITIVE WAREHOUSE VIRGINIA BEACH, VIRGINIA", dated 01/03/23, prepared by TRC Engineers, Inc., which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning (hereinafter "Concept Plan").

Proffer 2:

When the Property is developed, it shall be landscaped substantially as depicted on the exhibit entitled "CONCEPTUAL PLANTING PLAN & SCHEDULE FOR BORN PRIMITIVE WAREHOUSE, VIRGINIA BEACH, VIRGINIA", dated 01/03/2023, which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning (hereinafter "Landscape Plan").

Proffer 3:

When the Property is developed, the exterior of the warehouse with ancillary office area shown on the Concept Plan shall be substantially similar in appearance to and shall utilize the external building materials and architectural features as depicted on the exhibit entitled "NEW WAREHOUSE FOR BORN PRIMITIVE, OCEANA COMMERCE CENTER, VIRGINIA BEACH, VA", dated 01/03/23, prepared by Covington, Hendrix, Anderson Architects, which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning (hereinafter referred to as the "Elevations").

Proffer 4:

When the Property is developed as depicted on the Concept Plan, Landscape Plan and Elevations, its use shall be for office/warehouse.

Proffer 5:

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

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

Proffers from 2004 CRZ

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

Proffer 1:

When the Property is developed, it shall be developed substantially as shown on the exhibit entitled "CONCEPT PLAN 'OCEANA COMMERCE PARK', A JOHN S. WALLER PROJECT, VIRGINIA BEACH, VIRGINIA", dated October 20, 2003 prepared by Gallup Surveyors & Engineers, Ltd., which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning (hereinafter "Site Plan").

Proffer 2:

When the Property is developed, it shall be landscaped substantially as depicted on the exhibit entitled "PROPOSED SITE PLAN, OCEANA COMMERCE PARK, VIRGINIA BEACH, VIRGINIA" dated September 24, 2003, which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning (hereinafter Landscape Plan").

Proffer 3:

When the Property is developed, the elevations shall be as depicted on elevation plan exhibit entitled "OCEANA COMMERCE PARK, VIRGINIA BEACH, VIRGINIA, JOHN S. WALLER F.T.P. ", dated September 24, 2003, which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning (hereinafter Elevation Plan").

Proffer 4:

The use of the Property shall be an Office/Warehouse operation as depicted on the exhibits heretofore exhibited to the Virginia Beach City Council.

Proffer 5:

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

Comprehensive Plan Recommendations

The Comprehensive Plan recognizes this property as being within the "Suburban Area." Guiding principles have been established in the Comprehensive Plan to guard against possible threats to the stability of the Suburban Area and to provide a framework for neighbors and places that are increasingly vibrant and distinctive. The Plan's primary guiding principle for the Suburban Area is to create "Great Neighborhoods," and to support those neighborhoods with complementary non-residential uses in such a way that ensures the stability and sustainability of the Suburban Area now and the future. Compatible infill development is encouraged, as long as the use is appropriate, and the building is in scale with the surrounding area. Special Area Development Guidelines calls for buildings to be oriented to the street and designed to encourage pedestrian movement. Building massing and height should be appropriate to the surrounding area, as well as provide visual and architectural interest through staggered building placement and varied rooflines.

Natural & Cultural Resources Impacts

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

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Virginia Beach Boulevard	20,850 ADT ¹	25,100 ADT ¹ (LOS ⁴ "D")	Existing Land Use (vacant I-1 zoned parcel) – 0 ADT Existing Zoning ² – 114 ADT Proposed Land Use ³ – 102 ADT
N. Oceana Boulevard	No Data Available	9,900 ADT ¹ (LOS ⁴ "D")	
¹ Average Daily Trips	² as defined by 48,000 square feet of warehouse, existing approved use	³ as defined by 40,600 square of warehouse/office	⁴ LOS = Level of Service

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

Virginia Beach Boulevard, in the vicinity of this site, is a four-lane minor arterial urban roadway. Virginia Beach Boulevard has a variable width right-of-way, and the MTP shows a divided roadway with an ultimate right-of-way width of 100 feet. N. Oceana Boulevard is a two lane local roadway. There are no CIP projects located in the vicinity of this site.

Public Utility Impacts

Water

There are two 12-inch City water mains along Virginia Beach Boulevard and a six-inch and 12-inch water main along N. Oceana Boulevard. Since there are multiple water service connections fronting the site, any unused water services must be abandoned in accordance with Public Utilities Design Standards Manual Section 4.9.

Sewer

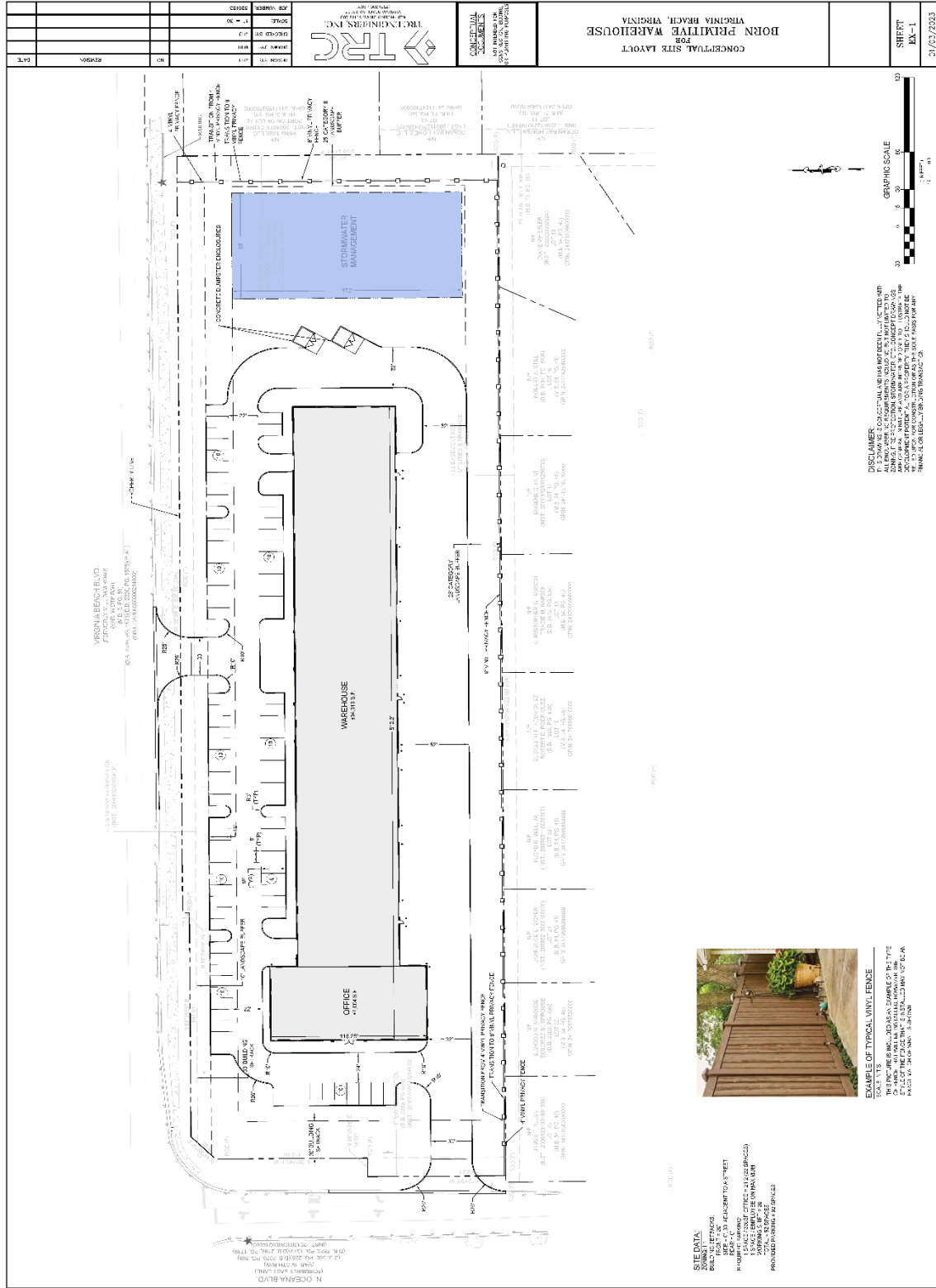
There are two eight-inch City sanitary sewer gravity mains along Virginia Beach Boulevard and an eight-inch along N. Oceana Boulevard. Since there are multiple sewer service connections fronting the site, any unused sanitary sewer laterals must be abandoned in accordance with Public Utilities Design Standards Manual Section 3.9.

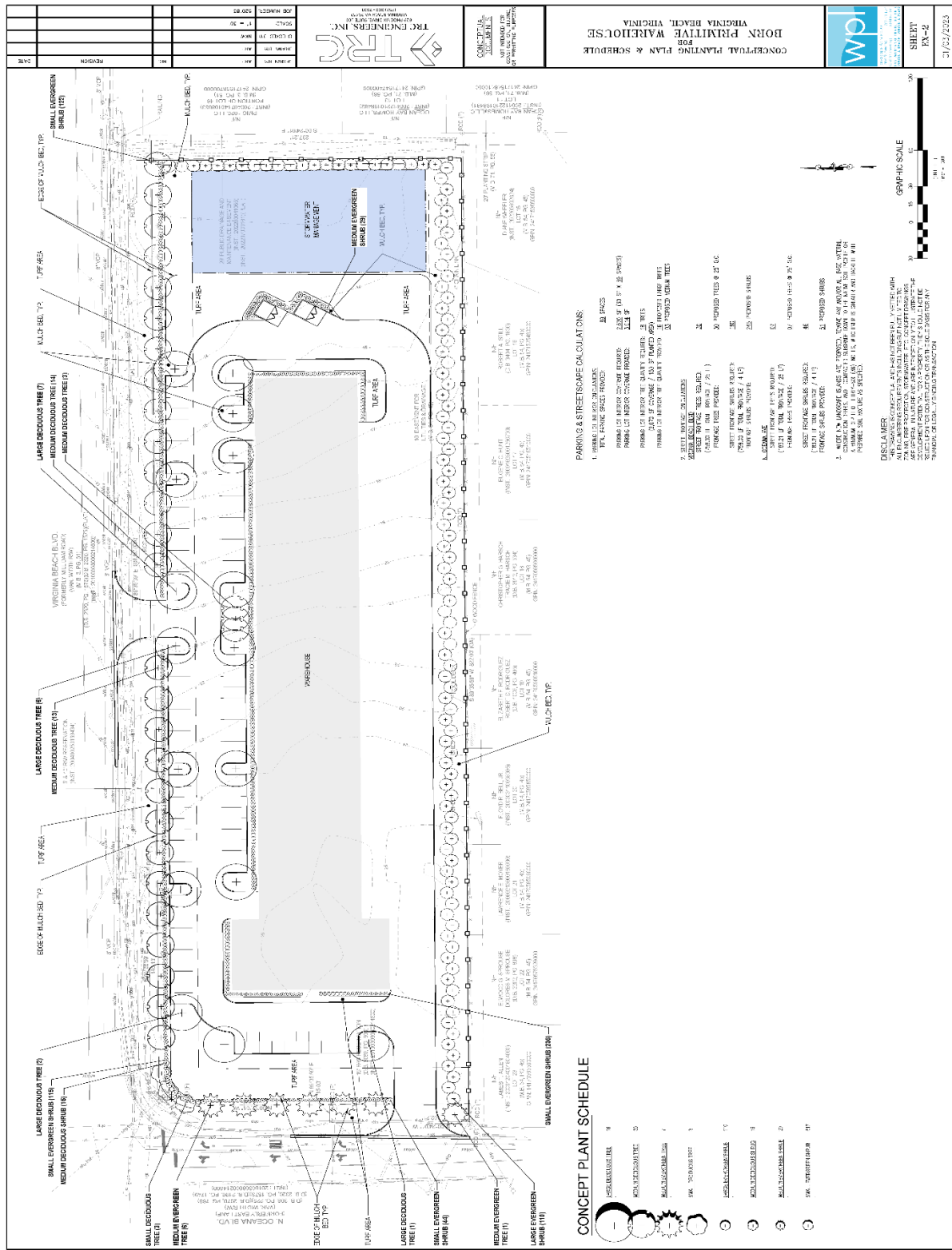
Public Outreach Information

Planning Commission

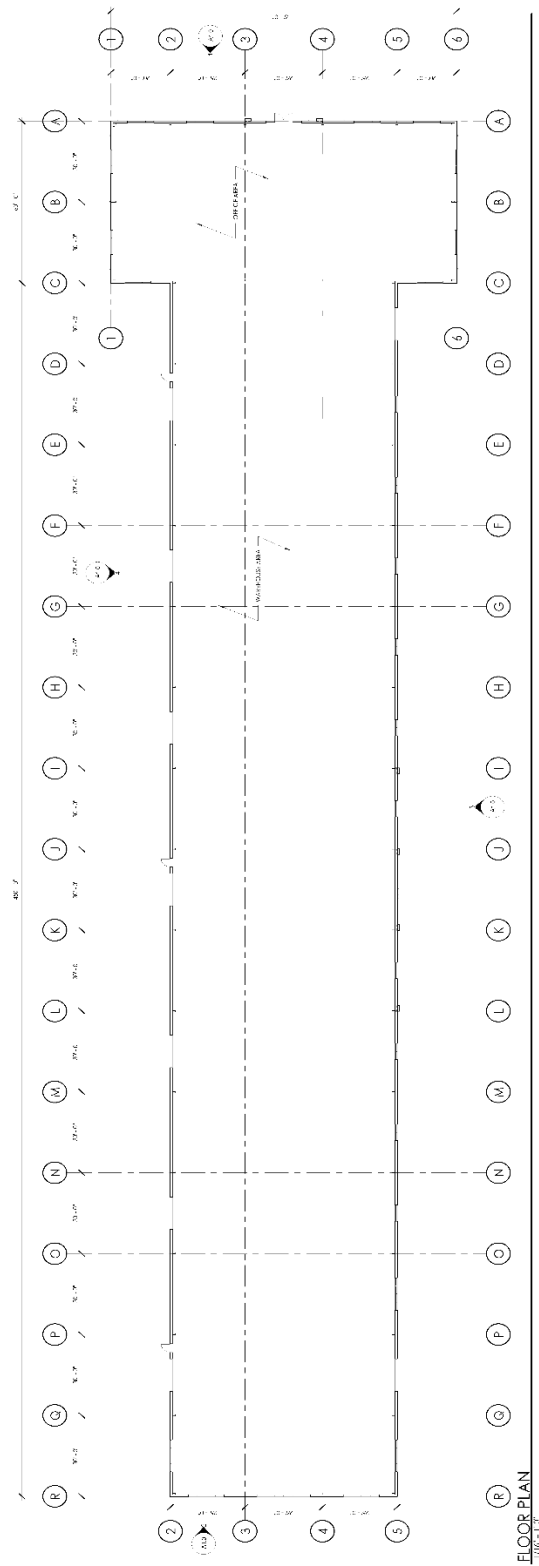
- The applicant/applicant's representative sent a notice to the surrounding property owners inviting them to a meeting that took place on Monday, February 20, 2023 to discuss the details of the request. According to the applicant, one person attended this meeting, and no objections were raised.
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on February 6, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, February 19, 2023 and February 26, 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 February 20, 2023.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.vbgov.com/pc on March 2, 2023.

Proposed Conceptual Site Layout



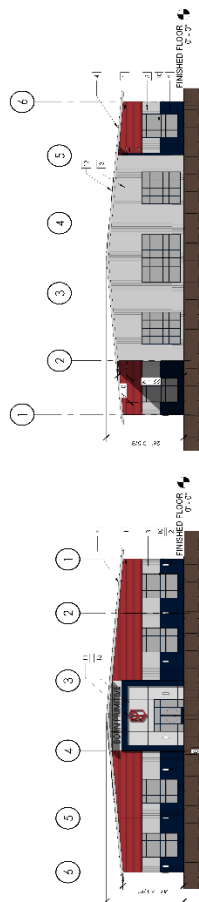


Proposed Building Elevations



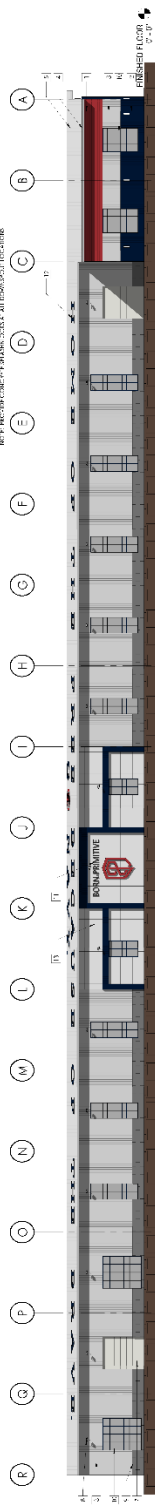
EXTERIOR MATERIAL SELECTIONS

1. **PLANNING** - CHALLENGE: **TIME** AND **TECHNOLOGY** RISK
2. **PLANNING** - CHALLENGE: **TIME** AND **TECHNOLOGY** RISK
3. **PLANNING** - CHALLENGE: **TIME** AND **TECHNOLOGY** RISK
4. **PLANNING** - CHALLENGE: **TIME** AND **TECHNOLOGY** RISK
5. **PLANNING** - CHALLENGE: **TIME** AND **TECHNOLOGY** RISK
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11. **PLANNING** - CHALLENGE: **TIME** AND **TECHNOLOGY** RISK
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15. **PLANNING** - CHALLENGE: **TIME** AND **TECHNOLOGY** RISK
16. **PLANNING** - CHALLENGE: **TIME** AND **TECHNOLOGY** RISK
17. **PLANNING** - CHALLENGE: **TIME** AND **TECHNOLOGY** RISK
18. **PLANNING** - CHALLENGE: **TIME** AND **TECHNOLOGY** RISK
19. **PLANNING** - CHALLENGE: **TIME** AND **TECHNOLOGY** RISK
20. **PLANNING** - CHALLENGE: **TIME** AND **TECHNOLOGY** RISK

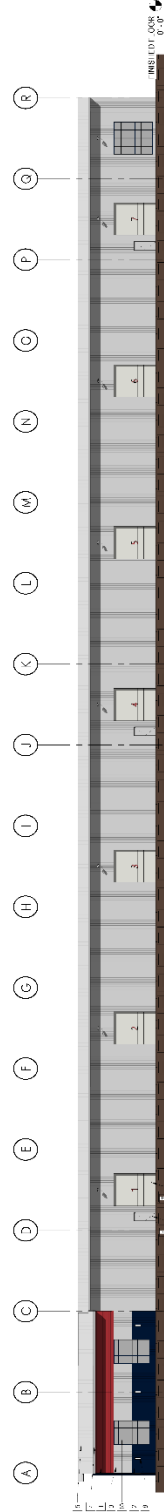


FRONT ELEVATION

REAR ELEVATION



3 LEFT SIDE ELEVATION

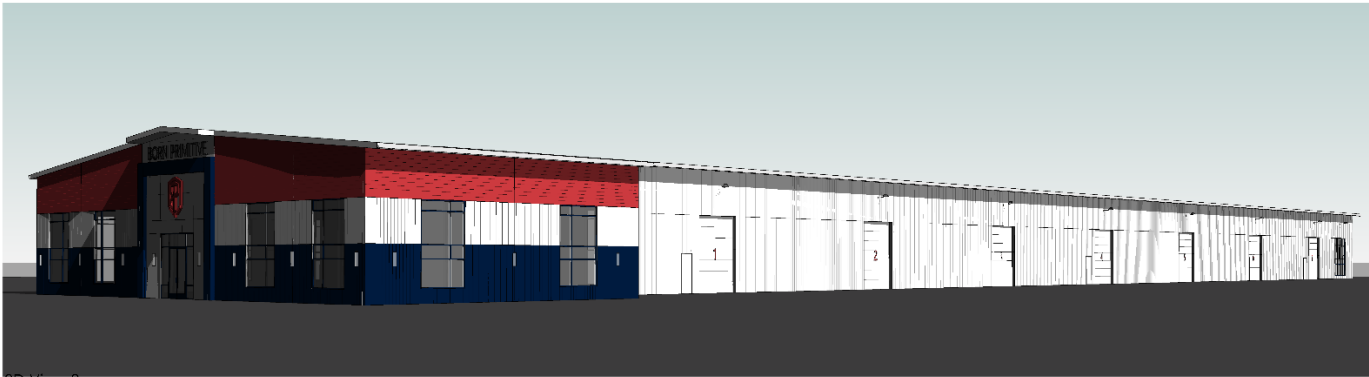


RIGHT SIDE ELEVATION

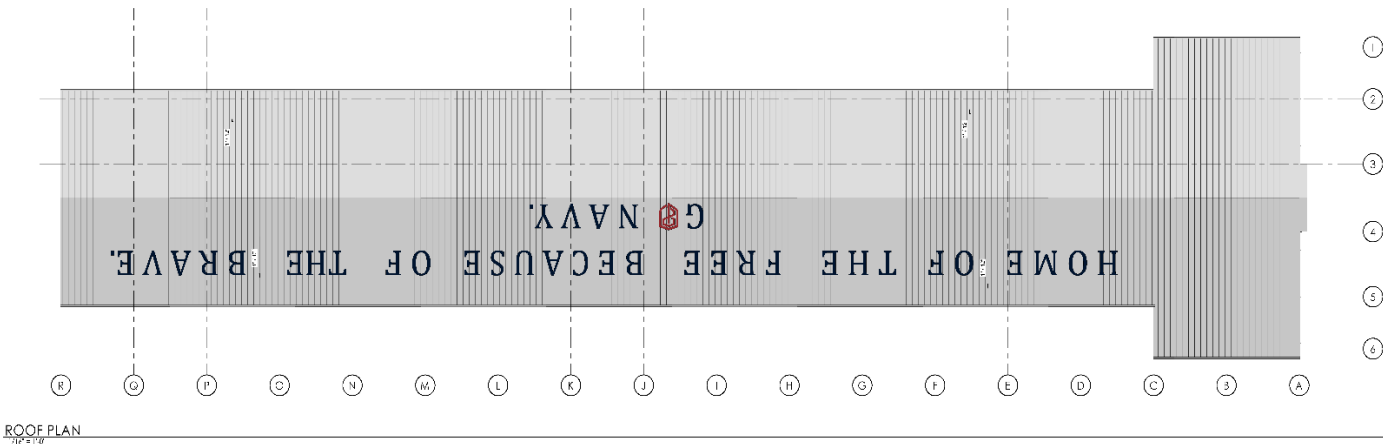
Proposed Building Renderings & Roof Sign



3D View 1



3D View 2



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 Born Primitive, LLC, a Virginia limited liability company

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)

Timothy Handlon, C.E.O.; Mallory Riley, C.O.O.

- 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.

Blue Ridge Bank

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

☐ Yes ☒ No

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

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

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

Kevin Stewart. Stewart & Company

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.

Jonathan Covington, Covington, Hendrix & Anderson 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.

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.

Anthony Cataldo, Cataldo Builders, Inc.

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.

Joe Bushey, TRC Engineers, Inc.

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

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

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

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.

Born Primitive LLC

By:

Applicant Signature

Print Name and Title

Date

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

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

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

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

Disclosure Statement

Disclosure Statement



Owner Disclosure

Owner Name Modern Savage Investments, LLC, a Virginia limited liability company

Applicant Name Born Primitive, LLC, a Virginia limited liability company

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

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

Timonty Handlon, C.E.O.; Mallory Riley, C.O.O.

- 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.

Blue Ridge Bank

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

☐ **Yes** ☒ **No**

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

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

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

Kevin Stewart, Stewart & Company

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

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

Jonathan Covington, Covington, Hendrix & Anderson 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.

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.

Anthony Cataldo, Cataldo Builders, Inc.

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.

Joe Bushey, TRC Engineers, Inc.

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.**

Modern Savage Investments, LLC

By:

Owner Signature

Print Name and Title

Date

Next Steps

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

Request

Modification of Conditions

Staff Recommendation

Approval

Staff Planner

Elizabeth Nowak

Location

Adjacent to intersection of Oakmeads Crescent
 and Princess Anne Road

GPIN

1466684796

Site Size

0.65 acres (10.06 acres for entire development)

AICUZ

Less than 65 dB DNL

Watershed

Chesapeake Bay

Existing Land Use and Zoning District

Vacant parcel / B-4K Historic Kempesville Area
 Mixed Use

Surrounding Land Uses and Zoning Districts

North

Princess Anne Road

Office / B-4K Historic Kempesville Area Mixed
 Use

South

Oakmeads Crescent

Single-family dwelling / R-10 Residential

East

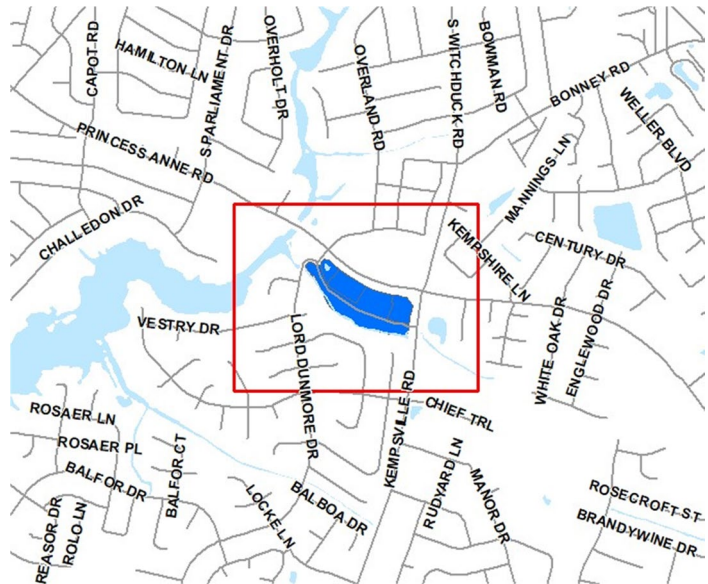
Oakmeads Crescent, Lord Dunmore Drive

Multi-family dwelling / B-4K Historic Kempesville
 Area Mixed Use

West

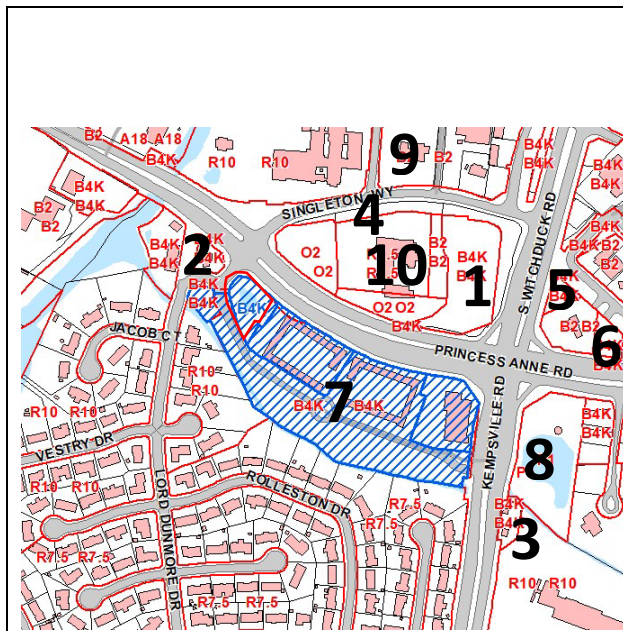
Kempesville Road

Single-family dwelling, park / B-4K Historic
 Kempesville Area Mixed Use; R-10 Residential



Background & Summary of Proposal

- The applicant is seeking a Modification of Conditions to a Conditional Use Permit for Multi-family Housing within the B-4K Historic Kempsville Area Mixed Use District. This Conditional Use Permit was approved by City Council on April 10, 2012. The applicant plans to alter the previously approved site layout, increase the overall number of dwelling units, and revise the previously proposed mixed-use buildings.
- The plans submitted with the Conditional Use Permit in 2012 proposed a mixed-use development fronting Princess Anne Road and Kempsville Road. It included the proposed adaptive reuse of Kempsville High School, construction of two additional apartment buildings, and construction of two, two-story buildings called “The Cottages” at the corner of Lord Dunmore Drive and Princess Anne Road. The Cottages were proposed to be mixed-use with up to six apartments in each building and office space on lower stories. The applicant reserved the option to use the buildings solely as offices. As proposed, The Cottages were the only buildings in the development to have a non-residential use.
- Up to 170 multi-family units were approved with the request in 2012 and 168 units have been constructed to date.
- The applicant currently seeks to revise their concept for The Cottages. Instead of two, two-story mixed-use buildings, the applicant proposes one three-story apartment building that will have 18 apartment units. It will be L-shaped with frontage on Oakmeads Crescent and Princess Anne Road. The proposed modification will result in a total of 186 multi-family units with a density of 1.86 units per acre for the entire development.
- The proposed apartment building will use the same elevation design, materials, and color palette as the two existing apartment buildings.
- A monument style sign is proposed near the intersection of Oakmeads Crescent and Princess Anne Road. This sign, as proposed, will be a duplicate of a brick monument style sign that was installed on the east side of the site.
- With the revised site layout, the applicant proposes to expand a portion of an existing parking lot to provide an additional 32 parking spaces for the new apartment building. The applicant is proposing a ratio of 1.7 parking spaces per unit for this development and submitted a parking study to the Zoning Administrator that demonstrates there will be sufficient parking for the development at a ratio less than what is required per Section 203(a)(12).
- Part of the property falls within the Resource Protection Area (RPA) of the Chesapeake Bay Protection Area (CBPA). A variance was obtained from the CBPA Board in 2012 for the previous development plan for the site. The variance permitted a certain amount of impervious cover to be installed on the site. The revised proposal was presented to CBPA Staff for consideration and Staff determined that the proposed modification is in substantial conformance to the 2012 variance approval.



Zoning History

#	Request
1	CUP (Eating & Drinking Establishment with Drive-Through) Approved 03/03/2020 CUP (Drive-Through Associated with a Drugstore) Approved 10/21/2014 REZ (B-2, Conditional B-2, O-2, R-7.5 to B-4K) 08/27/2013
2	STC 09/19/2017 REZ (O-2, B-1A to B-4K) Approved 04/10/2012 FVR Approved 02/28/2012
3	REZ (R-10, B-2, O-2, R-5D, AG-1 to B-4K) 06/21/2016
4	STC 04/22/2014
5	REZ (B-2, Conditional B-2, O-2, R-7.5 to B-4K) 08/27/2013
6	REZ (B-2, Conditional B-2, O-2, R-7.5 to B-4K) 08/27/2013
7	REZ (R-7.5, O-2, B-1A to B-4K) Approved 04/10/2012 CUP (Multi-family Dwelling) Approved 04/10/2012
8	REZ (R-10 (HK) to P-1(HK)) 02/28/2012
9	CUP (Religious Use) Approved 12/11/2001
10	CUP (Religious Use) Approved 01/11/2000

Application Types

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

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

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

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

Evaluation & Recommendation

In Staff's opinion, this request for a Modification of Conditions to a Multi-Family Conditional Use Permit is acceptable. The Comprehensive Plan recommends residential uses with a central village green for this area of Kempsville. Though the original proposal included a mixed-use element that will be removed with this modification, Staff still finds the overall proposal to be in-keeping with the vision of the Comprehensive Plan by providing multi-family housing immediately adjacent to major thoroughfares and the developing commercial node at the intersection of Kempsville Road and Princess Anne Road. Sufficient landscaping is provided per the submitted concept landscaping plan, and the applicant has added planting along the edge of the parking lot that will be near the sidewalk on Princess Anne Road. The additional plantings will help to soften and screen the parking area.

As the proposed building will be constructed with the same building elevation design and materials as the existing apartment buildings, the overall development will remain cohesive. The "L" shape of the new building neatly bookends the block, mirroring the adapted Kempsville Highschool building, and providing building frontage on all public rights-of-way. The new building is proposed to be the same height as the existing buildings. While this is an increase in building height compared to the previously approved two-story buildings, Staff finds it to be an acceptable change as a consistent height reinforces the overall sense of cohesion of the development. The Fairfield Civic League and Historic Kempsville Citizen Advisory Committee both provided letters of support for the application, including the new building height.

There is a proposed amendment to the Zoning Ordinance that would increase the maximum residential density in B-4K Mixed Use from 18 units per acre to 24 units per acre. This amendment is scheduled to be heard at the March 7, 2023 City Council hearing. If this amendment is adopted, the proposed density of the site will be below the maximum density for the B-4K Mixed Use zoning district. The proposed density of the development as revised will be 18.06 units per acre.

The proposed changes will not further affect the Chesapeake Bay Resource Management Area or the Chesapeake Bay Resource Protection Area. The revisions are within the level of impact as assessed under the previously approved Chesapeake Bay Protection Area Board variance, granted in 2012.

Typically, parking for multi-family dwelling developments follow Section 203(12) at a ratio of two spaces for the first 50 dwelling units and a ratio of 1.75 spaces for each remaining unit. Across the entire residential development, there will be 186 units, including the 18 proposed with this revised plan. While 338 parking spaces are required, 316 spaces will be provided. The applicant has submitted a parking plan to the Zoning Administrator that illustrates that a reduced ratio of 1.7 spaces per unit in the development will provide sufficient parking. The Zoning Administrator reviewed a parking study dated February 10, 2023 and determined that the proposed parking ratio of 1.7 spaces per unit can reasonably accommodate the development as the owner has experienced no significant regular parking problems with the existing community at a reduced parking ratio of 1.7 spaces per unit; there is an existing Hampton Roads Transit stop located along the property frontage; several multi-purpose paths are proposed with this project improving connectivity with adjacent residential and commercial areas, as well as Kempes Landing Park and Patriot's Park.; and the project is within two miles of the existing Light Rail stop at Newtown Road.

When the Conditional Use Permit was initially approved in 2012, a condition of approval included the requirement that the applicant complete a Traffic Impact Study. That study was completed, and various traffic improvements have been made since that time, including completion of the widening of Witchduck Road and the signalization of the intersection of Lord Dunmore Drive and Princess Anne Road. With these improvements and with the reduction in the number of trips generated by removing the proposed office use, Staff does not anticipate any adverse traffic impact as a result of this modification.

Based on information provided by the Virginia Beach Public Schools Staff, there will be a negligible impact on school enrollment in the nearby schools. The elementary, middle, and high schools in this area all have enrollment below their optimum capacity and only two elementary school students are anticipated to be generated with the additional apartment units and one student each for the middle school and high school. This change in number of students is well within the current capacities of the school system.

In sum, Staff recommends approval of this request subject to the conditions and exhibits included in this staff report.

Recommended Conditions

1. All conditions attached to the existing Conditional Use Permits approved by the Virginia Beach City Council on April 10, 2012 shall be null and void and replaced with the conditions listed below.
2. The site shall be developed substantially as shown on the submitted Site Plan, entitled "Overall Development of 525 Kempesville", prepared by AES Consulting Engineers, and dated January 17, 2023, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development.
3. The maximum number of dwelling units shall not exceed 186.
4. The applicant shall provide parking per the parking evaluation submitted by AES Consulting Engineers dated February 13, 2023 and as approved by the Zoning Administrator on February 20, 2023.
5. Exterior building materials and colors for the buildings to be constructed on the site shall be substantially as shown on the submitted elevations entitled "Historic Kempesville Apartments, Virginia Beach, Virginia," prepared by TS3 Architecture, and dated January 26, 2023, which have been exhibited to the Virginia Beach City Council and are on file in the Department of Planning and Community Development.
6. Site and building identification signs shall be substantially as shown on Sheet A-7 submitted with the 2012 Conditional Use Permit application and entitled "Hampton Roads Housing Company and Ripley Heatwole Company,

Inc.” and dated January 26, 2011, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development.

7. The additional monument-style sign to be installed along Princess Anne Road shall be substantially as shown on the exhibit entitled “Brick Monument with Cement Caps”, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development.
8. The applicant shall provide for public pedestrian connectivity via the “Nature Trail,” as depicted on the Site Plan referenced in Condition 1.
9. The conditions of the Chesapeake Bay Preservation Area Board approval on February 27, 2012 shall remain in effect and shall be met

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.

2012 Approved Conditions

1. The site shall be developed substantially as shown on the submitted Site Plan, entitled “Kempes Village Site Plan E, prepared for Hampton Roads Housing Company and Ripley Heatwole Company, Inc.”, and dated February 29, 2012, except as modified below by Condition 2.
2. The maximum number of dwelling units located on the site shall not exceed 170. The applicant shall provide between 5,000 and 15,000 square feet of non-residential use within either the Cottages building(s) or the Schoolhouse building; however, the applicant shall provide the required number of parking spaces for such use per Section 203 of the City Zoning Ordinance.
3. The buildings to be constructed on the site shall be substantially as shown on Sheets A-4 through A-6 submitted with the Conditional Use Permit application and entitled “Hampton Roads Housing Company and Ripley Heatwole Company, Inc.” and dated January 26, 2012.
4. Exterior building materials and colors for the buildings to be constructed on the site shall be substantially as shown on Sheet A-8 submitted with the Conditional Use Permit application and entitled “Hampton Roads Housing Company and Ripley Heatwole Company, Inc.” and dated January 26, 2012.
5. Site and building identification signs shall be substantially as shown on Sheet A-7 submitted with the Conditional Use Permit application and entitled “Hampton Roads Housing Company and Ripley Heatwole Company, Inc.” and dated January 26, 2012.
6. The applicant shall conduct a Traffic Impact Study (TIS) and submit said study to the Department of Public Works / Traffic Engineering for review and approval. The applicant shall then collaborate with Traffic Engineering pertaining to any recommendations from the TIS regarding improvements to the adjacent roadways that the TIS concludes are directly attributable to the development project.
7. The applicant shall provide for public pedestrian connectivity via the “Nature Trail,” as depicted on the Site Plan referenced in Condition 1.

8. The applicant shall cause an Archaeological Survey to be conducted of the site prior to any land disturbance.
9. None of the above conditions relieve the applicant of meeting the conditions of the Chesapeake Bay Preservation Area Board approval on February 27, 2012.

Comprehensive Plan Recommendations

This proposal is located in the Suburban area of the city, within the Historic Kempsville Overlay District and Historic Kempsville Suburban Focus Area. The Comprehensive Plan recommends residential uses with a village green and secondary non-residential uses in this part of Historic Kempsville. The overall vision for this area is to recreate a village setting, building on the natural setting and historic character and importance of the area. To reach these outcomes, developments should create a distinct sense of place, provide safe pedestrian movement, and be designed to be compatible with the surrounding area while not generating significant traffic increases to the area. According to the proposed elevations, the new development will be a continuation of the existing architectural style, which is in keeping with the Architectural Design Guidelines within in the Historic Kempsville Plan and would be supported by the Comprehensive Plan.

Natural & Cultural Resources Impacts

The site is located in the Chesapeake Bay Watershed in the vicinity of the Chesapeake Bay Resource Protection Area.

The site is also located in the Historic Kempsville Overlay District, a zoning overlay intended to enhance the appearance of the area and to guide development in a historically significant location in Virginia Beach. There are no historical or cultural resources located on this parcel that will be affected by this project.

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Princess Anne Road	27,700 ¹	32,700 ADT ¹ (LOS ⁴ "D")	Existing Land Use ² – 1,290 ADT Proposed Land Use ³ – 1,254 ADT
Oakmeads Crescent	Not Available	9,900 ADT ¹ (LOS ⁴ "D")	
¹ Average Daily Trips	² as defined by 170 multi-family dwelling units and 10,000 SF of office space	³ as defined by 186 multi-family dwelling units	⁴ LOS = Level of Service

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

In the vicinity of this application, Princess Anne Road is classified as a four-lane minor urban arterial. Oakmeads Crescent is a two-lane local roadway. There are currently no CIP projects scheduled for this section of Princess Anne Road.

Public Utility Impacts

Water

There is an existing six-inch City water main along Princess Anne Road and an eight-inch City water main along Oakmeads Crescent. The site must connect to City water.

Sewer

There is an existing eight-inch City sanitary sewer gravity main along Princess Anne Road. The site must connect to City sewer.

School Impacts

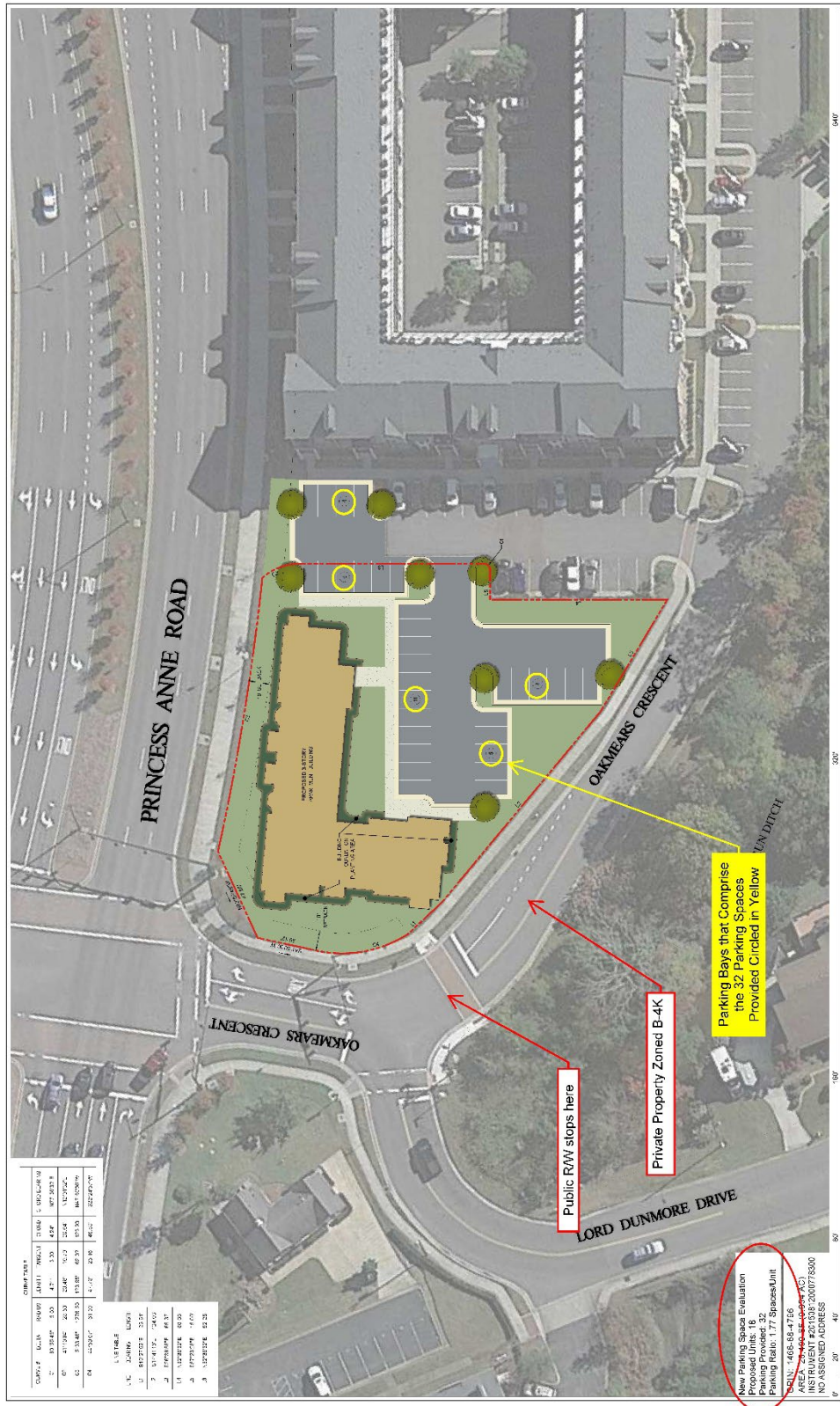
School	Current Enrollment	Capacity	Generation ¹	Change ²
Fairfield Elementary	475 students	572 students	2 students	2 students
Kempsville Middle	736 students	865 students	1 student	1 student
Kempsville High	1,963 students	2,083 students	1 student	1 student
¹ “Generation” represents the number of students that the development will add to the school. ² “Change” represents the difference between the number of potential or actual students generated under the existing zoning and the number generated under the proposed zoning. The number can be positive (additional students) or negative (fewer students).				

Public Outreach Information

Planning Commission

- The applicant/applicant’s representative met with the Historic Kempsville Citizen Advisory Committee and the Fairfield Civic League in 2022 to discuss the details of the request. Letters of support were provided to Staff by both organizations as a result of the applicant’s outreach.
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on February 6, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, February 19, 2023 and February 26, 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 February 20, 2023.
- This Staff report, as well as all reports for this Planning Commission’s meeting, was posted on the Commission’s webpage of www.vbgov.com/pc on March 2, 2023.

Proposed Site Plan



AIDS
CONSULTING ENG'NFRS

Principles • Research • Control • Analysis • Multiple Perspectives

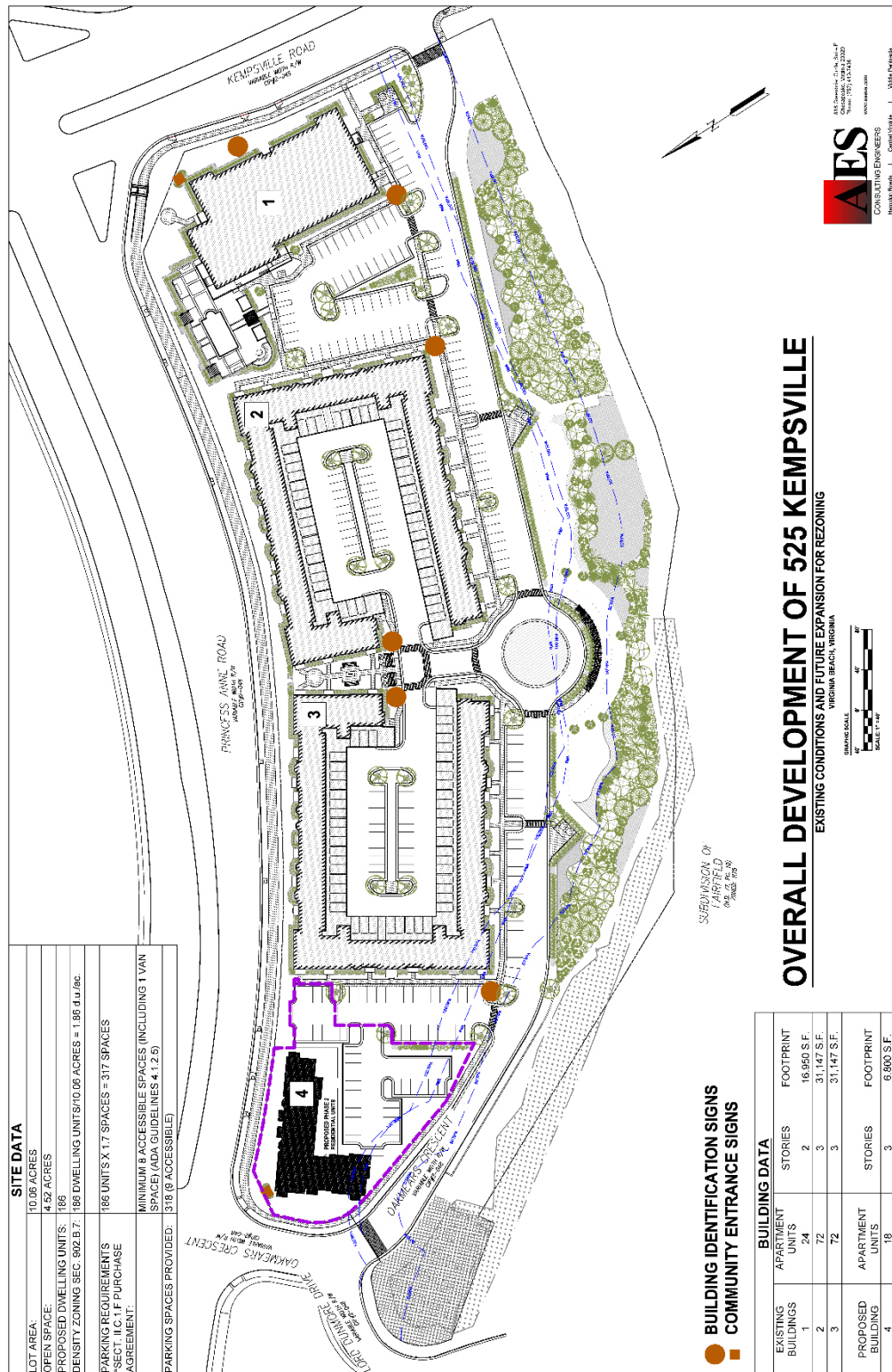
1175 Chambers at Circle, Suite 200
Chattanooga, TN 37402
Phone: 423-262-2222
Fax: 423-262-2222
Website: www.aids-eng.com

RENDERED CONCEPTUAL LAYOUT
525 HISTORIC KEMPSTON APTS, PHASE II
VIRGINIA BEACH, VIRGINIA
(AAS PROJECT # H1225-10 - AAS PROJECTS CONSULTING, LLC)



DATE: SEPTEMBER, 2022
SCALE: 1"=20'
SHEET 1 of 1

Proposed Site Plan – Overall Development



Proposed Elevation Plan

RENDERING:

ELEVATION



PRINCESS ANNE ELEVATION

Historic Kempsville Apartments
Virginia Beach, Virginia
01.28.23



Proposed Elevation Plan

RENDERING:

ELEVATION



OAKMEADS CRESCENT ELEVATION

Historic Kempsville Apartments
Virginia Beach, Virginia
01.28.23



TS921033.00

Proposed Monument Sign



BRICK MONUMENT WITH CEMENT CAPS
1-1/2" THICK HDU SIGN RECESSED INTO BRICK



1-1/2" THICK HDU SIGN
ROUTED BACKGROUND WITH RAISED TEXT/LOGO



1" THICK HDU SIGN
ROUTED BACKGROUND WITH RAISED ADDRESS

COLORS



BLACK



SILVER/GREY

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 Kempes Village Two, L.L.C.

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

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

Robert P. Beaman III

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

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

SEE "EXHIBIT A" ATTACHED

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

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

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

Disclosure Statement



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

☒ Yes ☐ No

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

Construction of the proposed improvements will require financing, most likely with a local or regional lending institution.

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.

Wall Einhorn & Chernitzer, P.C. (Miranda Franks)

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.

TS3 Architects, PC (Thomas Smith)

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

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

Disclosure Statement



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

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

RH Builders, Inc. (Scott Ripley)

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.

AES Consulting Engineers (Mark Ricketts)

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

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

Troutman Pepper - Robert P. Beaman III (zoning assistance) / Faggert & Frieden - Michael H. Nuckols (general legal services)

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

Daniel B. Heatwole, Manager (12.20.2022)

Date

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

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

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

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

EXHIBIT A

<u>Member Name & Address</u>	<u>Initial Capital Contribution</u>	<u>Interest</u>
RONALD C. RIPLEY Ripley Heatwole Company, Inc. 808 Newtown Road Virginia Beach, VA 23462	\$ 375.00	18.75%
F. SCOTT RIPLEY Ripley Heatwole Company, Inc. 808 Newtown Road Virginia Beach VA 23462	\$ 425.00	21.25%
F. ANDREW HEATWOLE Ripley Heatwole Company, Inc. 808 Newtown Road Virginia Beach, VA 23462	\$ 400.00	20.00%
DANIEL B. HEATWOLE Ripley Heatwole Company, Inc. 808 Newtown Road Virginia Beach, VA 23462	\$ 100.00	5.00%
DOUGLAS J. RIPLEY Ripley Heatwole Company, Inc. 808 Newtown Road Virginia Beach, VA 23462	\$ 125.00	6.25%
MATTHEW S. RIPLEY Ripley Heatwole Company, Inc. 808 Newtown Road Virginia Beach, VA 23462	\$ 75.00	3.75%
HAMPTON ROADS HOUSING COMPANY 214 44 th Street Virginia Beach, VA 23451	\$ 20.00	1.00%
KEMPES LANDING, L.L.C. 214 44 th Street Virginia Beach, VA 23451	\$ 480.00	24.00%
	<hr/> \$2,000.00	<hr/> 100.00%

Next Steps

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

Request

Change in Nonconformity (Expansion of Apartment Complex)

Staff Recommendation

Approval

Staff Planner

Michaela McKinney

Location

1008 Mineola Drive

GPIN

1446959553

Site Size

2.53 acres

AICUZ

Less than 65 dB DNL

Watershed

Chesapeake Bay

Existing Land Use and Zoning District

Apartment Complex / A-18 Apartment, B-2 Community Business

Surrounding Land Uses and Zoning Districts

North

Shopping Center & Restaurant / B-2 Community Business

South

Mineola Drive

Single-family dwellings / R-10 Residential

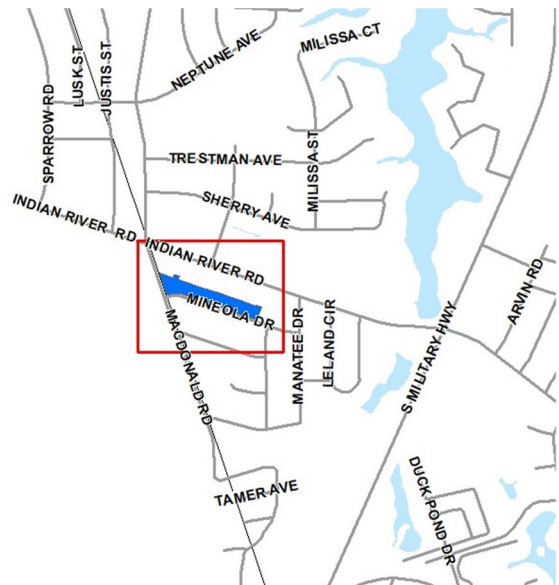
East

Single-family dwellings / R-10 Residential

West

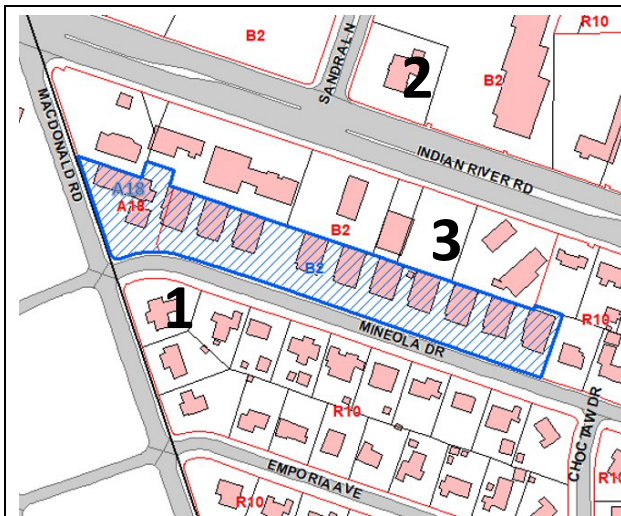
MacDonald Road

Limit of City of Chesapeake



Background & Summary of Proposal

- This is a request to expand a nonconforming use to add an additional building to the Indian River Apartments and Townhomes complex. The new building will be used as a leasing office and amenity space for the complex. Presently, the leasing office is located within a storage unit and the applicant intends to convert this space back to a storage unit after construction of the new leasing office building.
- The proposed amenities include an outdoor patio area and a fitness facility.
- This apartment complex was constructed in 1964. When constructed, the property was zoned CL-1, Limited Commercial, which permitted residential development. When the Zoning Ordinance was updated in 1973, the zoning classification for this property was changed to B-2 Community Business, which does not allow residential uses. Since residential uses are not permitted in the B-2 zoning district, this use is considered a legal nonconforming use.
- Building materials will consist of beige siding, white trim, brick veneer, and a charcoal asphalt shingle roof.
- The leasing office will be open from 8:00 a.m. to 5:30 p.m., Monday through Saturday.



Zoning History

#	Request
1	CUP (Private School/Daycare) Approved 03/10/2009
2	CUP (Church) Approved 08/12/2003
3	CUP (Motor Vehicle Rentals (trucks)) Approved 07/12/1995

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 Change in Nonconformity to construct a new 1,700 square-foot building is acceptable. This expansion will serve as a benefit to the residents by providing additional space for amenities and service area. The design of the leasing office is in scale with the surrounding area and is consistent with the existing units within the complex. While residential uses are not permitted in B-2 zoning district, the request to expand the use is supported by the Comprehensive Plan by keeping the design and scale consistent with the surrounding area.

Section 203(12) requires two parking spaces per unit for the first 50 dwelling units and 1.75 spaces per dwelling unit in excess of 50 units. Currently there are a total of 67 dwelling units and 97 parking spaces on site. Based on the number of existing units, a total of 130 parking spaces would be required, thus the complex is deficient 33 spaces. Upon review

by the previous Zoning Administrator, an interpretation was made that additional parking would not be required for two reasons: (1) the apartments have been operating as a legally nonconforming use for several decades, and (2) it was determined that the number of parking spaces on site, initially met the parking requirements of the CL-1 zoning district when it was constructed in 1964.

Additional plantings will be installed surrounding the leasing office, as shown on the conceptual landscape plan. The proposed leasing office will be located in an area that is currently utilized as open space. Current building foundation and parking lot plantings meet the landscape requirements set forth in the Site Plan Ordinance. A six-foot-tall privacy fence located at the back of the property will remain to continue to screen the property from the adjacent commercial development. The dumpster will be relocated into an existing parking space and will be properly screened by plantings and a 6 feet tall fence that is compatible with the existing fence. As mentioned previously, the leasing office will include amenities to better serve residents; including a fitness facility and an outdoor patio area enclosed by a four-foot-tall black aluminum ornamental fence.

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

Recommended Conditions

1. The proposed expansion shall be developed substantially as depicted on the conceptual site plan entitled “Indian River Apartments- Leasing Office 1008 Mineola Drive”, prepared by AES Consulting Engineers, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
2. The exterior of the proposed building expansion shall substantially adhere in appearance, size, and materials to the submitted elevations entitled “Indian River Garden Apartments-Exterior Elevations”, dated December 9, 2022, prepared by Beacon Architecture and Design, which has been exhibited to the Virginia Beach City Council is on file in the Department of Planning & Community Development.
3. A Landscape Plan shall be submitted to the Development Services Center of the Department of Planning and Community Development for review and ultimate approval prior to the issuance of a Certificate of Occupancy. The Landscaping Plan shall address all requirements of the Landscaping Guide including, but not limited to, the installation of street frontage plantings, building foundation plantings, and interior display plantings. All landscaping shall be maintained on-site in accordance with the approved Landscape Plan.
4. A Lighting Plan and/or Photometric Diagram Plan shall be submitted during detailed site plan review. Said plan shall include the location of all lighting fixtures mounted on buildings and poles as well as the listing of lamp type, wattage, and type of fixture.

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" which are stable and sustainable.

Natural & Cultural Resources Impacts

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

Traffic Impacts

The proposed leasing and amenities building will not generate any additional traffic and there are no traffic counts available for Mineola Drive, as it is a two lane local roadway.

Public Utility Impacts

Water

The site currently connects to City of Virginia Beach water system.

Sewer

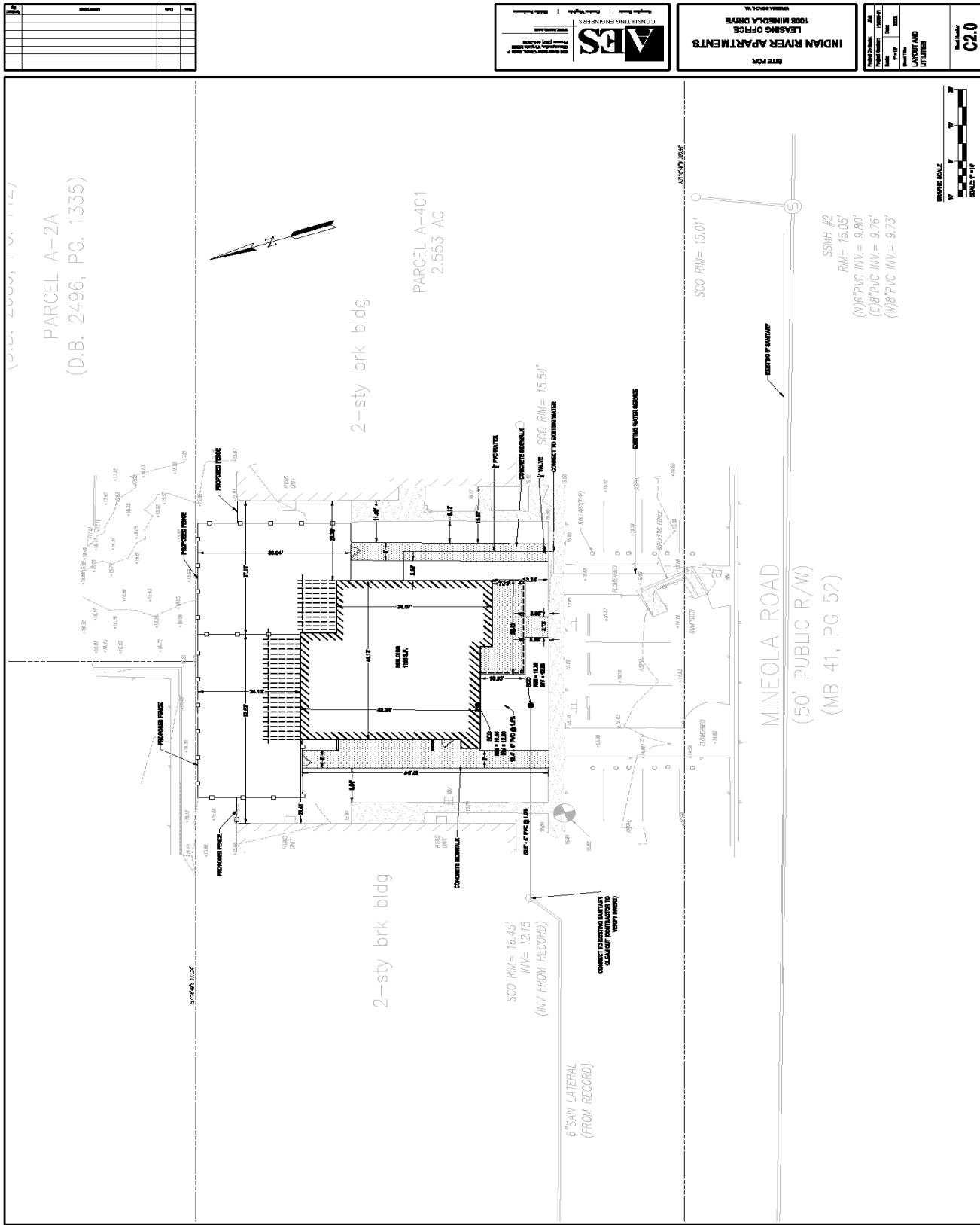
The site currently connects to the City of Chesapeake sanitary sewer system.

Public Outreach Information

Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on February 6, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, February 19, 2023 and February 26, 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 February 20, 2023.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.vbgov.com/pc on March 2, 2023.

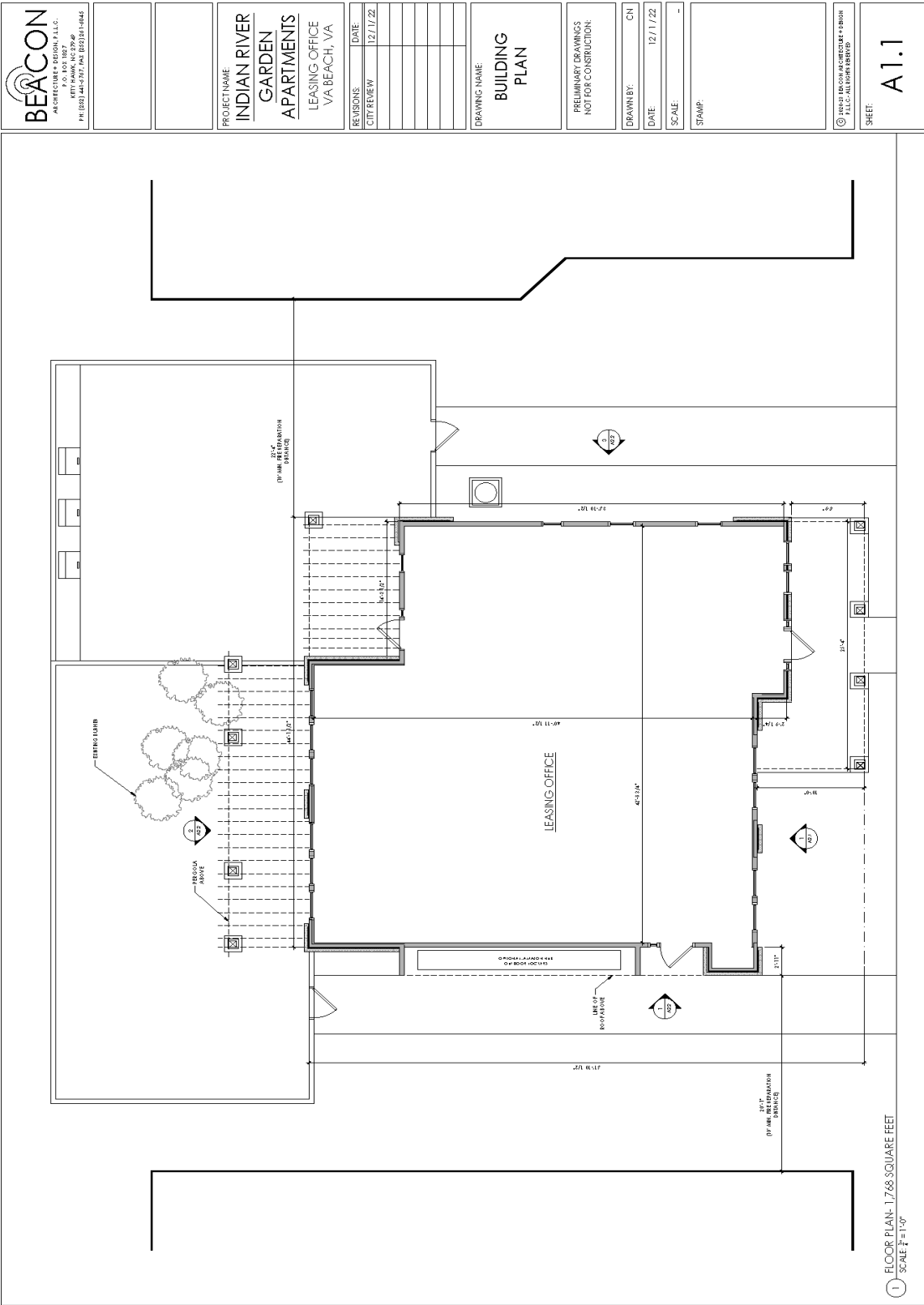
Proposed Conceptual Site Plan



Proposed Conceptual Landscape Plan



Proposed Floor Plan



Proposed Elevation Plan

COLOR LEGEND

- CHARCOAL ASPHALT ROOF
- BRICK
- BEIGE SIDING
- WHITE - SIDING TRIM

PROJECT NAME: INDIAN RIVER GARDEN APARTMENTS
LEASING OFFICE: VA BEACH, VA

REVISIONS:

NO.	DATE	DESCRIPTION
1	12/11/22	CITY REVIEW
2	12/19/22	CLIENT REVIEW

DRAWING NAME: EXTERIOR ELEVATIONS

PRELIMINARY DRAWINGS NOT FOR CONSTRUCTION

DRAWN BY: CN
DATE: 12/11/22
SCALE: 1" = 8'-0"
STAMP:

1 EXTERIOR ELEVATION
NOT TO SCALE

ASPHALT SHINGLE ROOF
ASPHALT SHINGLE OVER CONTINUOUS RIDGE VENT
LINE OF CATHEDRAL CEILING BEYOND
OPTIONAL: FALSE (DECORATIVE) LOWER
12
8
ROWLOCK COURSE AT GRADE
BRICK VENEER (FULL HEIGHT)
SLOPED ROWLOCK BRICK SILL AT WINDOW
SOLDER COURSE BRICK AT WINDOW HEAD
HORIZONTAL VINYL SIDING
BUILDING HEIGHT: 11'-22" (11'-3/8")

Elevation Rendering



1 A RESOLUTION TO ALLOW THE EXPANSION OF A
2 NONCONFORMING USE AND STRUCTURE ON
3 PROPERTY LOCATED AT 1008 MINEOLA DRIVE
4

5 WHEREAS, B and B Associates of Virginia, Inc. (the "Applicant") has made
6 application to the City Council for authorization to expand the nonconforming use and
7 structure at 1008 Mineola Drive and zoned B-2 Community Business Zoning District;
8

9 WHEREAS, this parcel currently contains multi-family dwellings, that do not meet
10 the current zoning regulations. The expansion is for an additional building to house a
11 leasing office and amenities for the multi-family complex. The dwellings were constructed
12 prior to the adoption of the applicable zoning regulations and are therefore
13 nonconforming;
14

15 WHEREAS, the Planning Commission of the City of Virginia Beach recommended
16 approval of this application on March 8, 2023; and
17

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

23 NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF
24 VIRGINIA BEACH, VIRGINIA:
25

26 That the City Council hereby finds that the proposed nonconforming use and
27 structure as expanded, will be equally appropriate to the district as is the existing use and
28 structure under the conditions of approval set forth herein below.
29

30 BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF VIRGINIA
31 BEACH, VIRGINIA:
32

33 1. The proposed expansion shall be developed substantially as depicted on the
34 conceptual site plan entitled "Indian River Apartments- Leasing Office 1008 Mineola
35 Drive", prepared by AES Consulting Engineers, which has been exhibited to the
36 Virginia Beach City Council and is on file in the Department of Planning &
37 Community Development.

38 2. The exterior of the proposed building expansion shall substantially adhere in
39 appearance, size, and materials to the submitted elevations entitled "Indian River
40 Garden Apartments-Exterior Elevations", dated December 9, 2022, prepared by
41 Beacon Architecture and Design, which has been exhibited to the Virginia Beach
42 City Council and is on file in the Department of Planning & Community Development.

43 3. A Landscape Plan shall be submitted to the Development Services Center of the
44 Department of Planning and Community Development for review and ultimate
45 approval prior to the issuance of a Certificate of Occupancy. The Landscaping Plan

46 shall address all requirements of the Landscaping Guide including, but not limited to,
47 the installation of street frontage plantings, building foundation plantings, and interior
48 display plantings. All landscaping shall be maintained on-site in accordance with the
49 approved Landscape Plan.

50 4. A Lighting Plan and/or Photometric Diagram Plan shall be submitted during detailed
51 site plan review. Said plan shall include the location of all lighting fixtures mounted
52 on buildings and poles as well as the listing of lamp type, wattage, and type of
53 fixture.
54

55 Adopted by the Council of the City of Virginia Beach, Virginia, on the _____ day of
56 _____, 2023.

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL SUFFICIENCY:

Planning and Community
Development

City Attorney's Office

CA16097
R-1
February 28, 2023

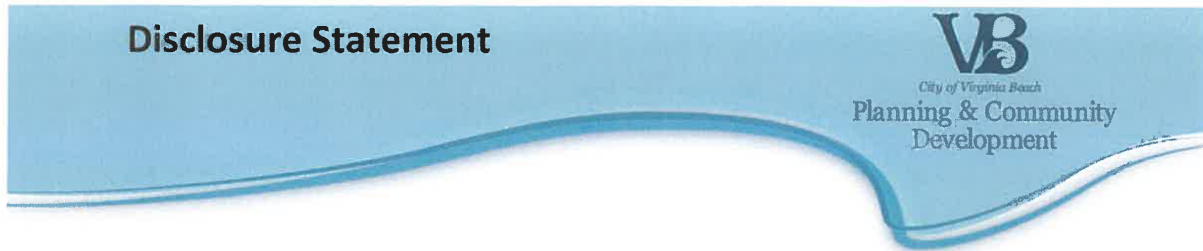
Site Photos



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 B and B Associates of Virginia, Inc.

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

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

Lindsey A. Carney, Esq., Patten, Wornom, Hatten & Diamonstein, LC (757) 223-4535

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)

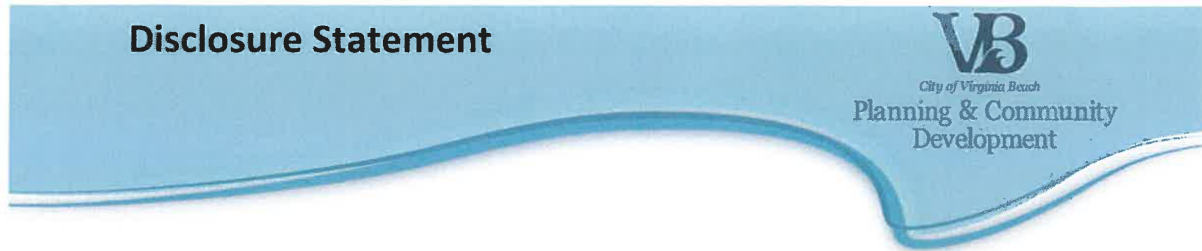
Andrew Fink, Thomas Hill, Gregory Zitkus, Ben Simon and Britt Simon

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

Palms Associates, LLC

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.



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

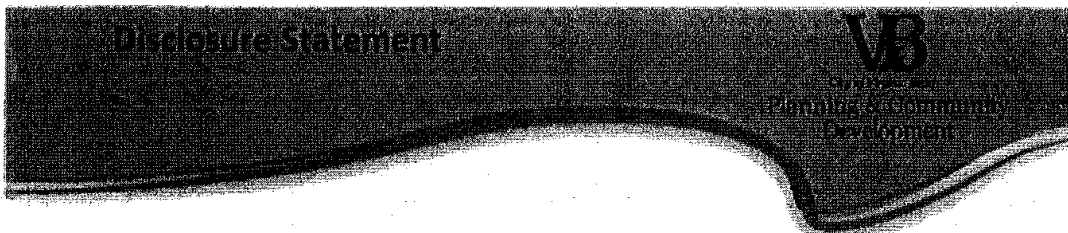
- If **yes**, identify the firm and individual providing the service.

AES Consulting Engineers - Jordan Bristow, Landscape Architect for construction documents

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

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

Disclosure Statement



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

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

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

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

AES Consulting Engineers - Jason Seas, Engineer for construction site plan documents

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.

Lindsey A. Carney, Esq., PWHD - legal counsel and representative for the application

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

Ben Simon
BEN SIMON - President

Print Name and Title

12-1-22

Date

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

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

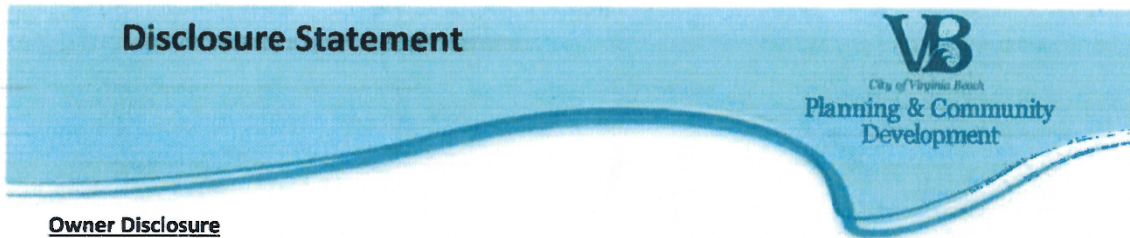
FOR CITY USE ONLY/ All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the applications

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

Revised 11.09.2020

3 | Page

Disclosure Statement



Owner Disclosure

Owner Name Indian River Apartments, LLC

Applicant Name B and B Associates of Virginia, Inc.

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

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

Ben Simon, Britt Simon, Kim Fink
Marilyn Simon Trust, Marvin Simon 1999 CP

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

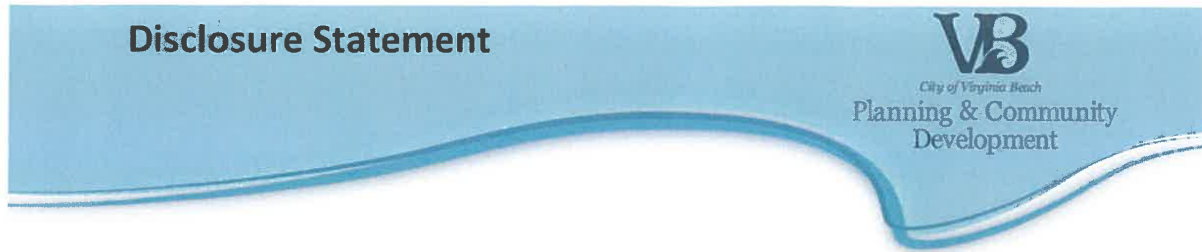
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Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action? ☐ Yes ☒ No

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Owner Services Disclosure

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

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

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

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

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

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

Disclosure Statement

Disclosure Statement



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

Owner Signature

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

Owner Signature

BEN SIMON

Print Name and Title

12-1-22

Date

Next Steps

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

Request

Street Closure

Staff Recommendation

Approval

Staff Planner

Michaela McKinney

Location

15-foot portion of an unimproved alley adjacent to 650 S. Atlantic Ave & Lot 22 in Block 20 of Croatan Beach

Adjacent GPINS

2426398037 & 2426399120

Site Size

750 square feet

AICUZ

65-70 dB DNL; Sub-Area 2

Watershed

Atlantic Ocean

Existing Land Use and Zoning District

Single-family dwelling/ R-10 Residential

Surrounding Land Uses and Zoning Districts

North

Single-family dwelling / R-10 Residential

South

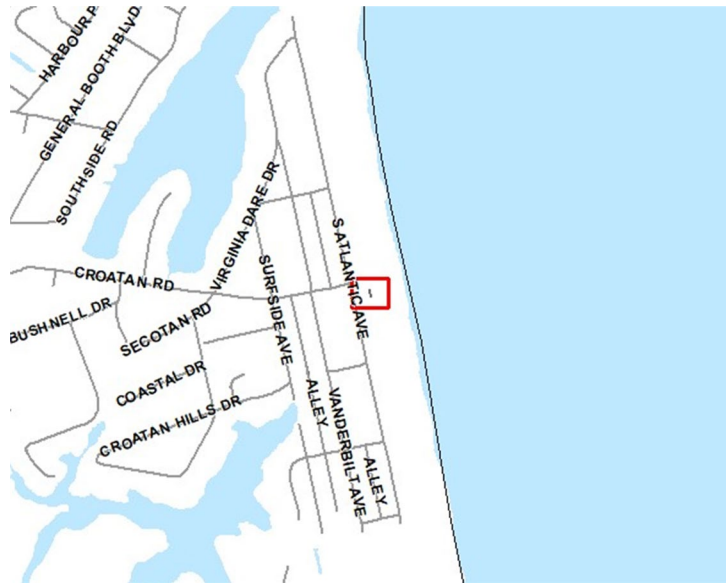
Single-family dwelling / R-10 Residential

East

Vacant / R-10 Residential

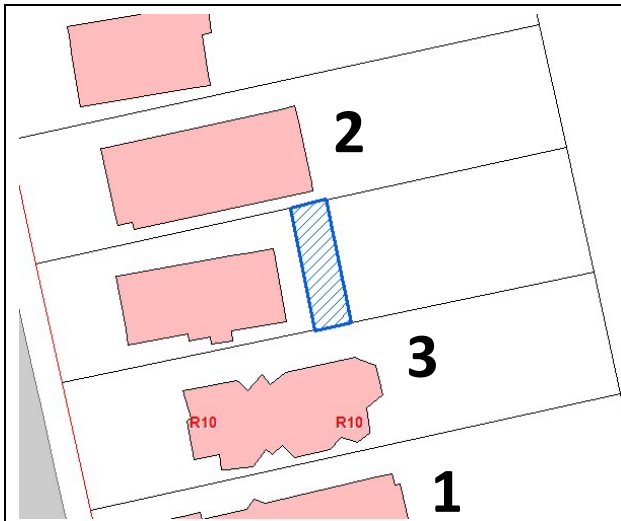
West

South Atlantic Avenue



Background & Summary of Proposal

- The applicants are requesting to close a portion of a public right-of-way of an unnamed and unimproved alley that is between 650 South Atlantic Ave and Lot 22 in Block 20 of Croatan Beach. As shown on the submitted street closure exhibit, the proposal includes closure of the 15-foot-wide alley, totaling 750 square feet, and incorporating that land into their adjacent residential lots, identified as Lot 10 & 22 of Croatan Beach. This paper alley bisects two parcels, Lot 10 & 22. Lot 22 has frontage on the beach and Lot 10 has frontage on South Atlantic Avenue.
- Between 1996 and 2007, City Council approved the closure of all other portions of the alley in this block of South Atlantic Avenue. This section of alley is the only remaining unclosed portion in this block of South Atlantic Avenue.



Zoning History

#	Request
1	STC Approved 02/26/2002
2	STC Approved 07/11/2000
3	STC Approved 07/10/1996

Application Types

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

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

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

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

Evaluation & Recommendation

As required by City Code, a Viewers' Meeting was held on January 25, 2023, that included City Staff from the Departments of Public Works, Public Utilities, Planning & Community Development, and the Office of the City Attorney, to consider this request. The Viewers determined that the proposed closure will not result in any public inconvenience; therefore, closure of this portion of the right-of-way is deemed acceptable. The site is consistent with the other residential lots in the Croatan Neighborhood, consisting of single-family dwellings with backyard access to Croatan Beach.

Many similar requests have been reviewed and approved by City Council for closure of alleys within the Croatan neighborhood. As shown on the Zoning History map above, street closure requests for all adjacent properties to the north and south in this block have been approved. Consistent with the approvals in this block, neither a public drainage easement nor a public utilities easement is required for this closed portion of the alley.

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 City's Interest in Streets Pursuant to Street Closures," approved by City Council. Copies of the policy are available in the Department of Planning and Community Development.
2. The applicant, or the applicant's successors or assigns, shall resubdivide the properties and vacate internal lot lines to incorporate the closed area into the adjoining parcels. The resubdivision plat must be submitted and approved for recordation prior to the final street closure approval.
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 rights-of-way shall be contingent upon compliance with the above stated conditions within 365 days of approval by City Council. If the conditions noted above are not accomplished and the final plats are 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

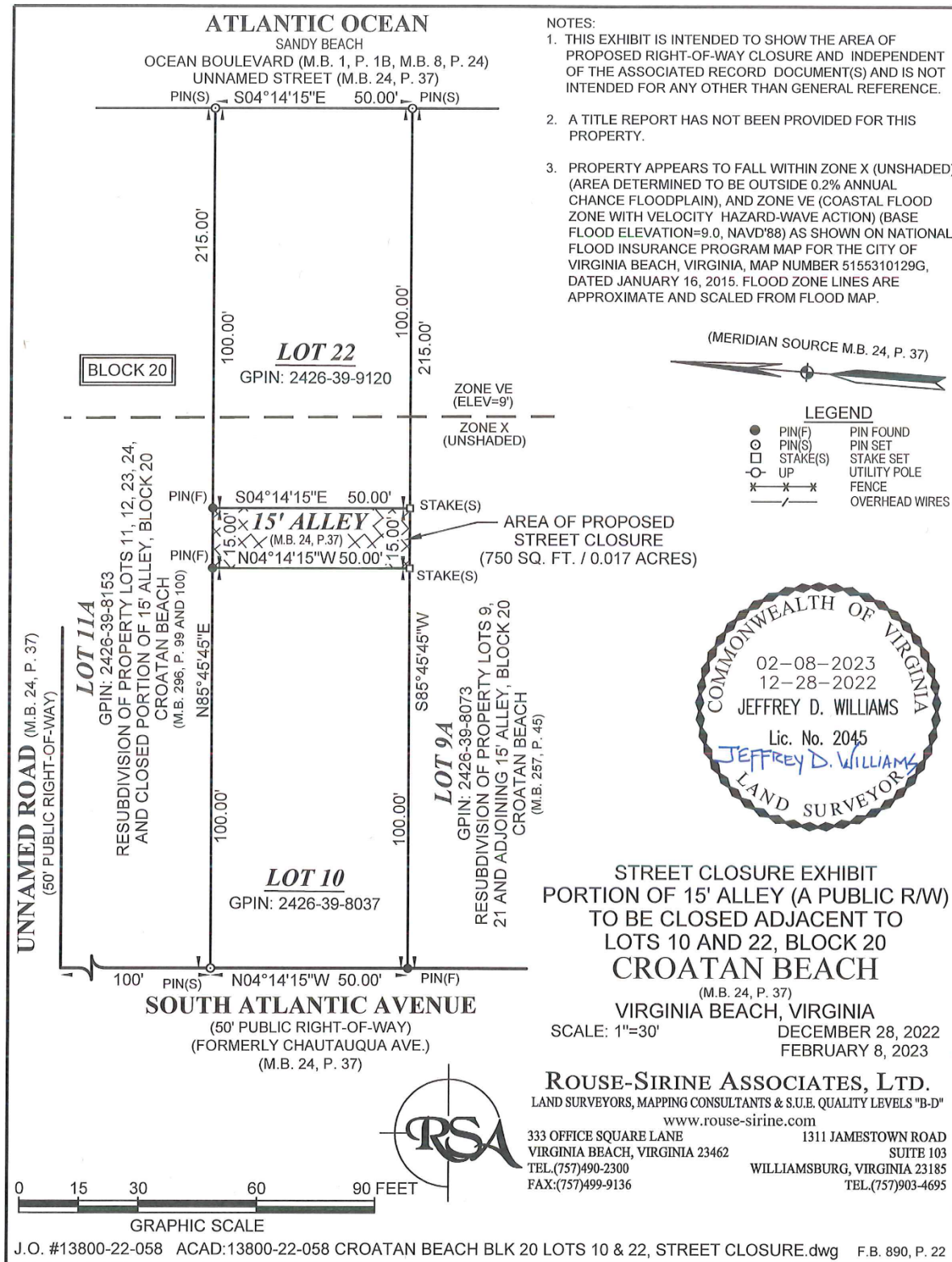
The site is located in the Atlantic Ocean watershed. There do not appear to be significant natural or cultural resources associated with the site.

Public Outreach Information

Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on February 6, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, February 19, 2023 and February 26, 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 February 20, 2023.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.vbgov.com/pc on March 2, 2023.

Proposed Street Closure Exhibit



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 David C. & Meril B. Gerstenmaier

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.

Bank of America/MERS

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.

Jeffrey Williams, Rouse-Sirine Associates, Ltd.

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.

Applicant Signature

D. GERSTENMAIER Meril Gerstenmaier

Print Name and Title

David C. Gerstenmaier Meril B. Gerstenmaier

Date January 3, 2022

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

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

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

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

Next Steps

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

Request

Conditional Use Permit (Tattoo Parlor)

Staff Recommendation

Approval

Staff Planner

Michaela McKinney

Location

737 First Colonial Road, Suite 212

GPIN

2407791187

Site Size

196,000 square feet (4,200 square feet unit)

AICUZ

Greater than 75 dB DNL

Watershed

Chesapeake Bay

Existing Land Use and Zoning District

Shopping Center / B-2 Community Business

Surrounding Land Uses and Zoning Districts

North

Republic Road

Townhomes / A-18 Apartment

South

Laskin Road

Shopping Center / B-2 Community Business

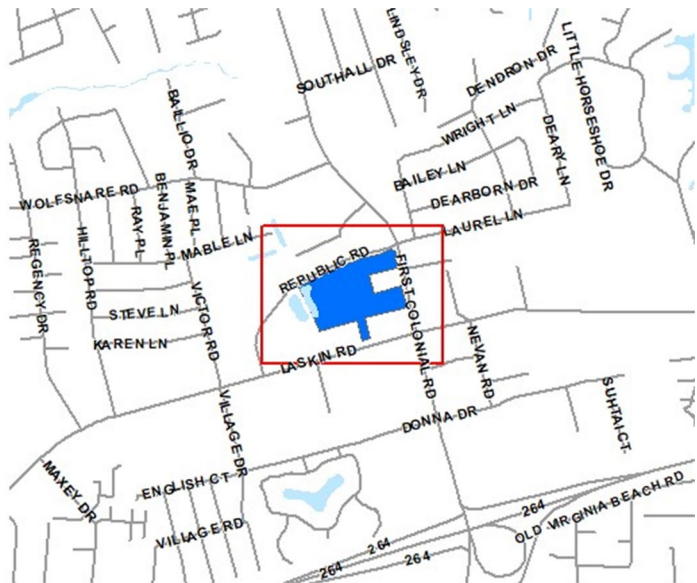
East

First Colonial Road

Fast Food Restaurant / B-2 Community Business

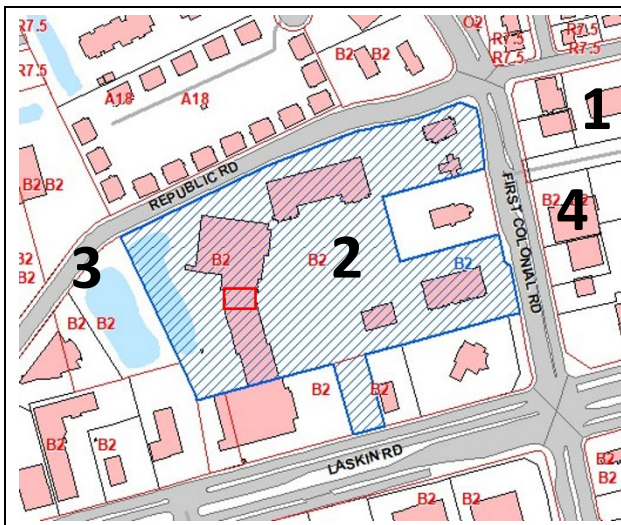
West

Office / 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 at the Marketplace at Hilltop Shopping Center. The shopping center is located along First Colonial Road on property zoned B-2 Community Business District.
- Microblading will take place in a small, private room within the existing spa.
- According to the applicant, one employee is anticipated.
- The typical hours of operation are proposed to be 10:00 a.m. to 6:00 p.m., Monday through Saturday.
- No exterior changes to the building are proposed, as well as no new signage.



Zoning History

#	Request
1	CUP (Tattoo Parlor-Permanent Makeup) Approved 04/21/2017
2	CRZ (R-10 to Conditional B-2) Approved 02/10/1999
3	CRZ (R-10 to B-2) Approved 09/12/1995
4	CUP (Commercial Recreational Facility- Billiards) Approved 10/13/1992

Application Types

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

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

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

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

Evaluation & Recommendation

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

This property is located within the greater than 75 dB noise zone of the Air Installation Compatible Use Zones (AICUZ). Many uses within these noise zones are restricted, as identified in Article 18 of the Zoning Ordinance; however, personal services, such as the proposed tattoo parlor, are considered compatible uses.

Prior to commencing operations on the site, the applicant must obtain a business license and the Health Department must verify that the business meets all the requirements of Chapter 23-51 of the City Code. Chapter 23-51 details the standards for disclosure, hygiene, licenses, waivers, proof of age, recordkeeping, inspections, cleanliness, vaccinations, and permitting applicable to such establishment. A Certificate of Occupancy will not be issued until the requirements are

satisfied and Health Department approval is obtained. For the reasons stated above, Staff recommends approval of this application, subject to the conditions listed below.

Recommended Conditions

1. A business license for the Tattoo Parlor shall not be issued to the applicant without the approval of the Health Department to ensure compliance with the provisions of Chapter 23-51 of the City Code.
2. This Conditional Use Permit for a Tattoo Parlor shall be limited to the application of permanent make-up. No other form of tattooing shall be permitted.
3. The actual application of permanent make-up shall not be visible from the exterior of the establishment or from the waiting and sales area within the establishment.
4. 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 site is located within the Hilltop Strategic Growth Area (SGA). This area of the city is dedicated to a diverse mix of retail, restaurant, office, and healthcare uses. Although within the high noise zone, the Hilltop area is suitable for redevelopment and reinvestment due to its commercial strength. Guiding principles include building on existing healthcare, food, and recreational assets while complying with AICUZ land use zoning requirements. The Comprehensive Plan's long-range vision is to build on the area's strengths and introduce more greenspace.

Natural & Cultural Resources Impacts

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

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
First Colonial Road	28,100 ADT ¹	34,800 ADT ¹ (LOS ³ "D")	No Change Anticipated ²
Laskin Road	25,030 ADT ¹	36,900 ADT ¹ (LOS ³ "D")	
¹ Average Daily Trips	² as defined by a tattoo parlor within a shopping center	³ LOS= Level of Science	

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

First Colonial Road in the vicinity of this application is considered a four-lane divided major urban arterial.

Laskin Road in the vicinity of this application is considered a four-lane divided major urban arterial. In addition to the existing four-lane section of road, there are two, 2-lane local access roads parallel to the mainline portion of roadway: one the south side of Laskin Road and one on the north side of Laskin Road.

Public Utility Impacts

Water & Sewer

This is connected to City water and 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 February 6, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, February 19, 2023 and February 26, 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 February 20, 2023.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.vbgov.com/pc on March 2, 2023.

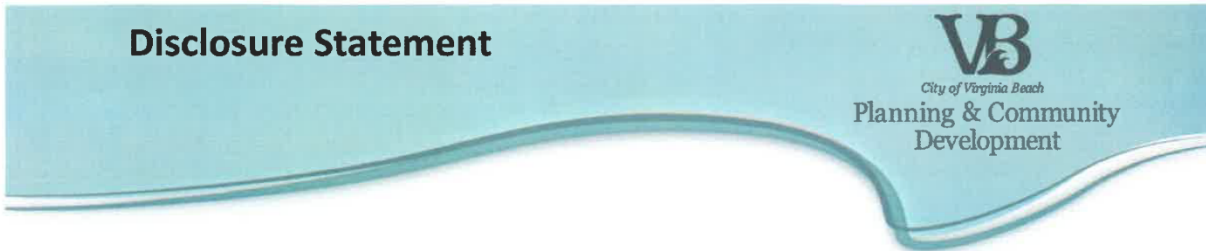
Proposed Site Layout



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 Duy Vu

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

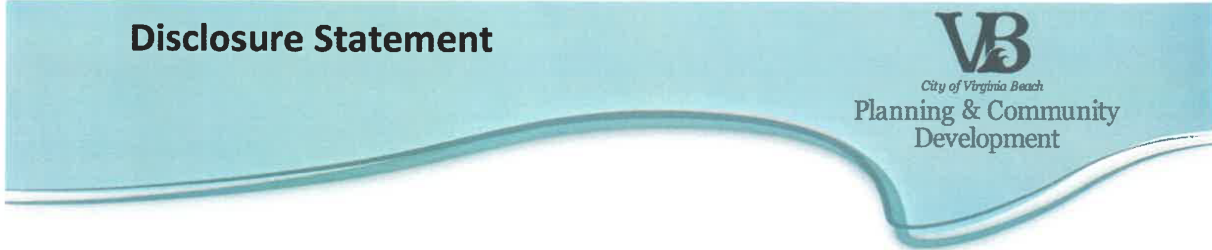
- If yes, list the names of all officers, directors, members, trustees, etc. below. (Attach a list if necessary)

Duy Vu

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

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

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



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

☐ Yes ☒ No

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

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

☐ Yes ☒ No

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

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

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

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

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

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

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

Disclosure Statement

Disclosure Statement



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

Applicant Signature

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

Applicant Signature

Print Name and Title

Date

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

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

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

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

Disclosure Statement

Disclosure Statement



Owner Disclosure

Owner Name Duy Vu

Applicant Name Davisville Properties, LLC

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

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

Winston M Davis Jr., Manager

- 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.

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.

Winston M Davis Jr

Owner Signature

Winston M Davis Jr / Manager Davisville Properties, LLC

Print Name and Title

1-31-23

Date

Next Steps

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

Request

Conditional Use Permit (Tattoo Parlor)

Staff Recommendation

Approval

Staff Planner

Michaela McKinney

Location

1776 Laskin Road, Suite 104

GPIN

2407685699

Site Size

51,424 square feet (1,600 square feet unit)

AICUZ

Greater than 75 dB DNL

Watershed

Chesapeake Bay

Existing Land Use and Zoning District

Shopping Center / B-2 Community Business

Surrounding Land Uses and Zoning Districts

North

Office / B-2 Community Business

South

Laskin Road

Shopping Center / B-2 Community Business

East

Fast Food Restaurant / B-2 Community Business

West

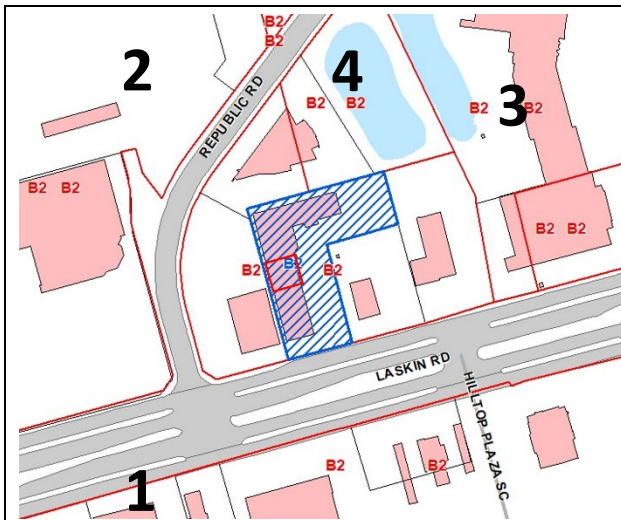
Republic Road

Fast Food Restaurant / B-2 Community Business



Background & Summary of Proposal

- The applicant is requesting a Conditional Use Permit to operate a Tattoo Parlor for traditional tattooing within an existing unit at the Damalas Centre Shopping Center. The shopping center is located along Laskin Road on property zoned B-2 Community Business District.
- This use will take place in a 1,600 square unit within the shopping center
- According to the applicant, one employee is anticipated.
- The typical hours of operation proposed are 9:00 a.m. to 5:00 p.m., Tuesday through Saturday.
- No exterior changes to the building are proposed, as well as no new signage.



Zoning History

#	Request
1	CUP (Craft Brewery) Approved 05/22/2019 CUP (Craft Brewery) Approved 05/05/2015
2	CUP (Automobile Service & Fuel Station) Approved 10/12/2010
3	CRZ (R-10 to Conditional B-2) Approved 02/23/1999
4	CRZ (R-10 to Conditional B-2) Approved 09/12/1995

Application Types

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

Evaluation & Recommendation

The request for a Conditional Use Permit for a Tattoo Parlor, in Staff's opinion, is acceptable given that the use is compatible with the other existing commercial businesses located in the vicinity and within this part of the suburban area. The application of tattooing within an existing unit 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 shall not be issued until these requirements are satisfied and Health Department approval is obtained.

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

Recommended Conditions

1. A business license for the Tattoo Parlor shall not be issued to the applicant without the approval of the Health Department to ensure compliance with the provisions of Chapter 23-51 of the City Code.
2. 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

This site is located within the Hilltop Strategic Growth Area (SGA). This area of the city is dedicated to a diverse mix of retail, restaurant, office, and healthcare uses. Although within the high noise zone, the Hilltop area is a suitable for redevelopment and reinvestment due to its commercial strength. Guiding principles include building on existing healthcare, food, and recreational assets while complying with AICUZ land use zoning requirements. The Comprehensive Plan's long range vision is to build on the area's strengths and introduce more greenspace.

Natural & Cultural Resources Impacts

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

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Laskin Road	25,030 ADT ¹	36,900 ADT ¹ (LOS ³ "D")	No Change Anticipated ²
¹ Average Daily Trips	² as defined by a tattoo parlor within a shopping center	³ LOS= Level of Science	

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

Laskin Road in the vicinity of this application is considered a four-lane divided major urban arterial. In addition to the existing four-lane section of road, there are two, 2-lane local access roads parallel to the mainline portion of roadway: one the south side of Laskin Road and one on the north side of Laskin Road.

There is a roadway CIP project under construction in this area. Laskin Road – Phase I (CIP 2-156) is for the construction of an eight-lane divided highway in a 160-foot right-of-way from Republic Road to Winwood Drive and a six-lane divided highway in a 150-foot right-of-way from Winwood Drive to Oriole Drive with multi-use path and sidewalk. These limits include the intersections at First Colonial Road and at Birdneck Road. Construction is scheduled to be completed in 2024.

Public Utility Impacts

Water & Sewer

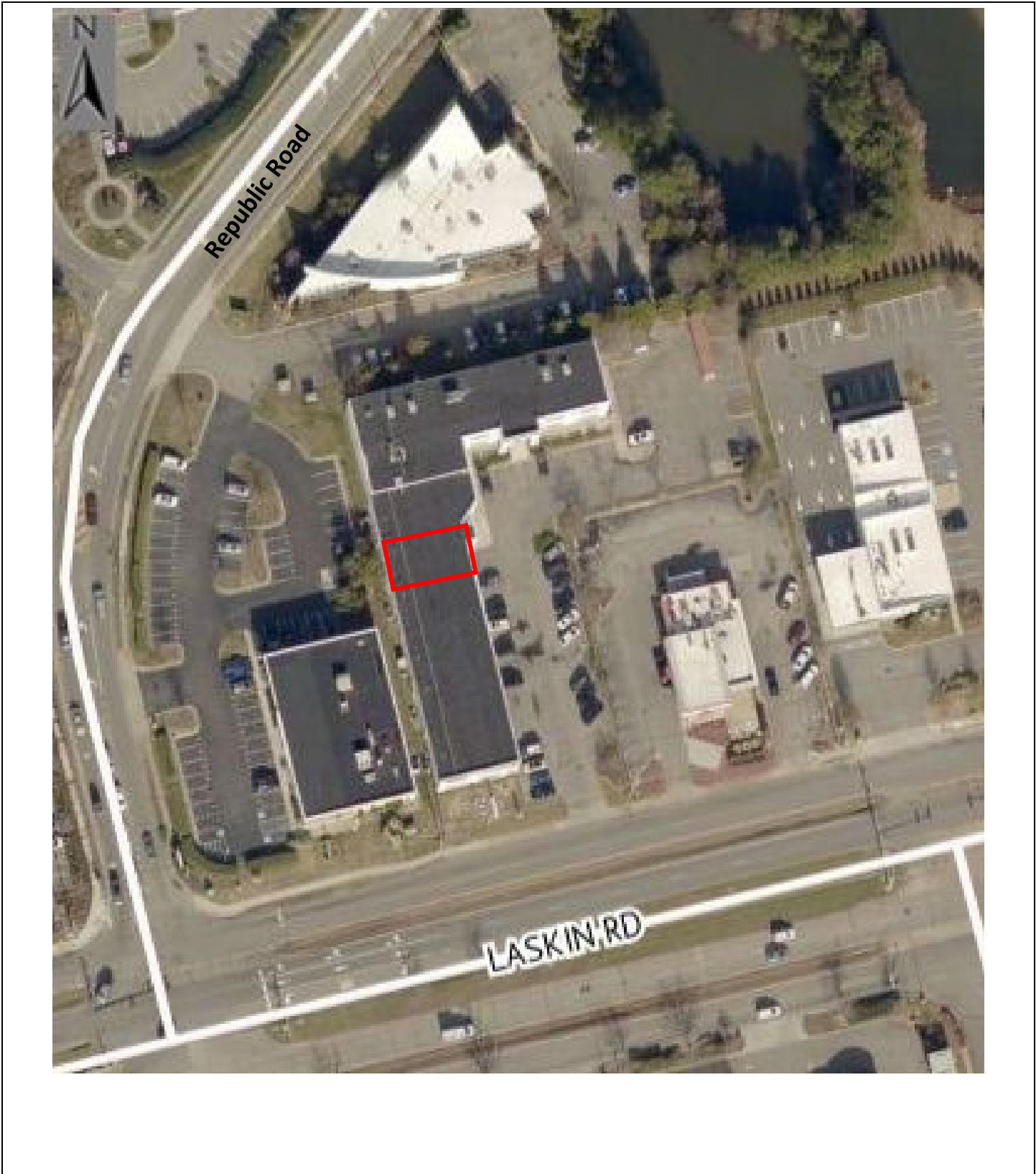
This is connected to City water and City sanitary sewer.

Public Outreach Information

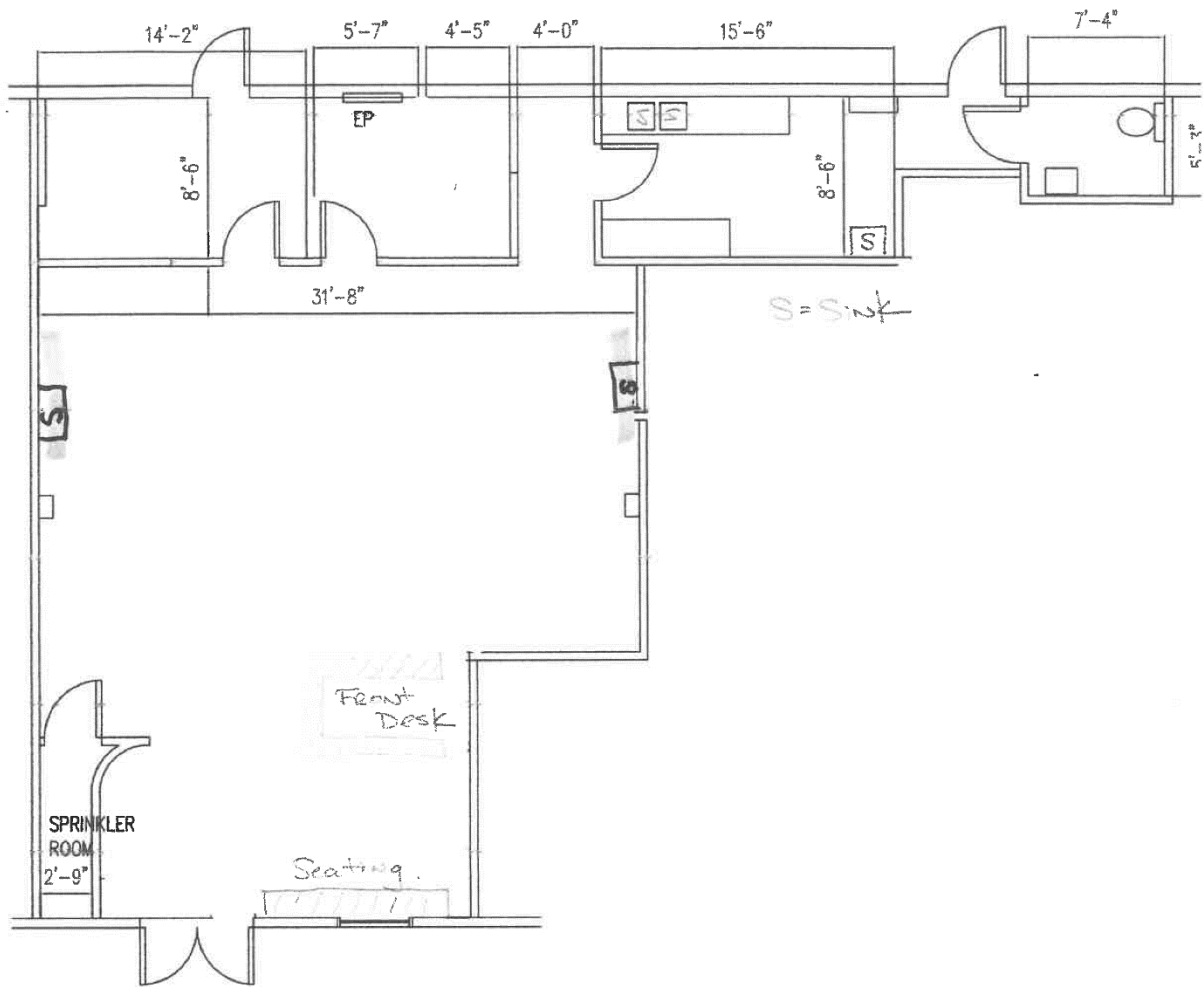
Planning Commission

- The applicant reported that they met with the surrounding tenants, and no objections were raised. One letter of support has been received by Staff.
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on February 6, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, February 19, 2023 and February 26, 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 February 20, 2023.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.vbgov.com/pc on March 2, 2023.

Site Layout



Proposed Conceptual Floor Plan



DAMALAS CENTER - FIRST FLOOR - SUITE 104

PROJECT NAME:	DAMALAS CENTER	REVISION:	
SQUARE FOOTAGE:	1490 USF(not including sprinkler room)	ISSUE DATE:	MAY 21, 2020
PROJECT ADDRESS:	DAMALAS CENTER 1776 LASKIN ROAD VIRGINIA BEACH, VIRGINIA	SCALE:	NTS
PROJECT CONTACT:	TONY DAMALAS - 757-633-0378	SHEET:	A-1

Site Photos



Site Photos – Existing Freestanding Sign



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 Elizabeth Darling

Does the applicant have a representative? ☐ Yes ☒ No

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

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

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

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

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

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



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

☐ Yes ☒ No

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

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

☐ Yes ☒ No

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

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

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

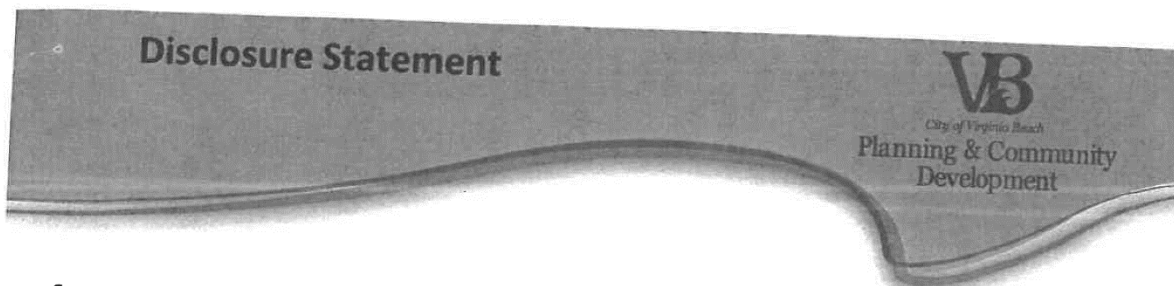
4. Does the applicant have services from an **architect/landscape architect/land planner** provided in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No

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

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

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

Disclosure Statement



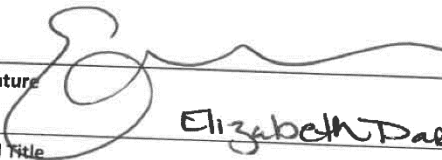
6. Does the applicant have a **construction contractor** in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ No
- If **yes**, identify the company and individual providing the service.

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

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

Applicant Signature

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

Applicant Signature 

Print Name and Title Elizabeth Darling / Landlord

Date 12/7/22

- Is the applicant also the owner of the subject property? ☐ Yes ☒ No
- If **yes**, you do not need to fill out the owner disclosure statement.

FOR CITY USE ONLY/ All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the applications			
<input type="checkbox"/>	No changes as of	Date	Signature
			Print Name

Revised 11.09.2020



Owner Disclosure

Owner Name Procopis John Damalas Family, LLC

Applicant Name Elizabeth Darling

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)
LLC -- Tony P Damalas, managing member

- 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.

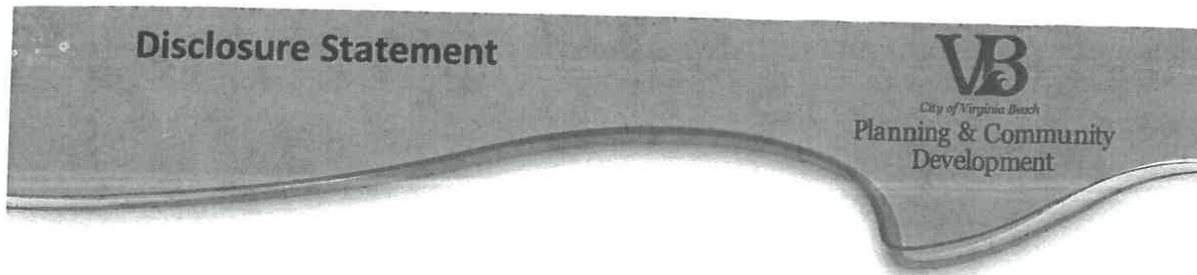
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- If **yes**, identify the firm and individual providing the service.

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.

Owner Signature

Print Name and Title

Date

Next Steps

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

Request

Conditional Use Permit (Tattoo Parlor)

Staff Recommendation

Approval

Staff Planner

Michaela McKinney

Location

2077 Lynnhaven Parkway, Suite 103

GPIN

1475859946

Site Size

10,970 square feet (1,689 square feet Suite)

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 / B-2 Community Business

South

Lynnhaven Parkway

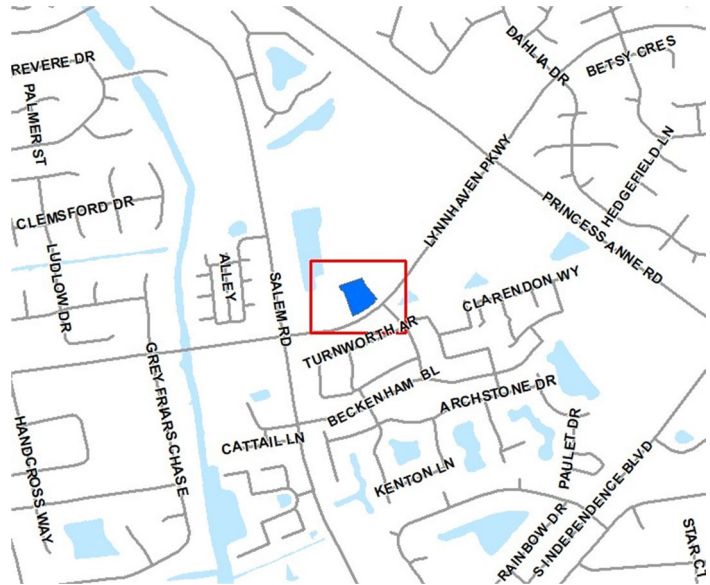
Townhouses / A-12 Apartment

East

Shopping Center / B-2 Community Business

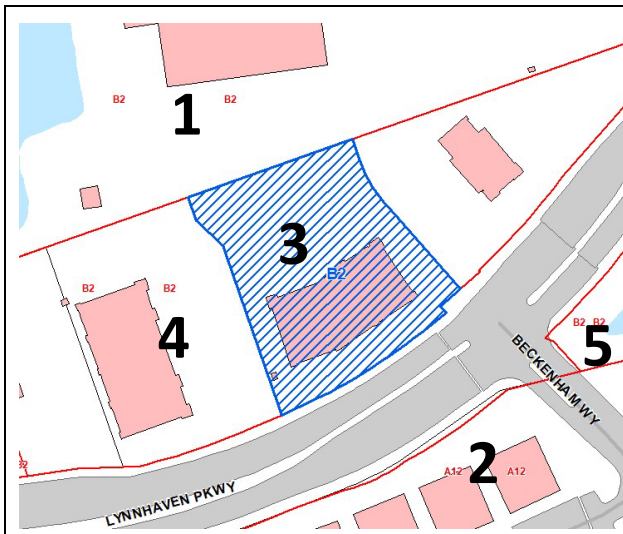
West

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 at the Salem Crossing Shopping Center. The shopping center is located along Lynnhaven Parkway on property zoned B-2 Community Business District.
- Microblading will take place in a small, private room within the existing spa.
- According to the applicant, one employee is anticipated.
- The typical hours of operation proposed are 10:00 a.m. to 6:00 p.m., Monday through Saturday.
- No exterior changes to the building are proposed, as well as no new signage.



Zoning History

#	Request
1	CUP (Tattoo Parlor) Approved 09/06/2022 CUP (Indoor Commercial Recreation Facility) Approved 09/10/2013 CUP (Indoor Recreation) Approved 10/11/2011 CRZ (I-1 to R-5D) Approved 02/14/1996 CRZ (R-5 to B-2) Approved 05/10/1995
2	CRZ (R-5D to R-10) Approved 06/26/2007
3	CRZ (AG-2 to Conditional R-10) Approved 08/14/2003 CRZ (R5D to Conditional B-2) Approved 05/13/1998 CUP (Church) Approved 04/14/1986
4	CRZ (R5-D to Conditional B--2) Approved 09/25/2001 CUP (Fuel Sales; Convenience Store) Approved 09/25/2001
5	CRZ (R-5D to Conditional B-2) Approved 02/14/1996

Application Types

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

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

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

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

Evaluation & Recommendation

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

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

Recommended Conditions

1. A business license for the Tattoo Parlor shall not be issued to the applicant without the approval of the Health Department to ensure compliance with the provisions of Chapter 23-51 of the City Code.
2. This Conditional Use Permit for a Tattoo Parlor shall be limited to the application of permanent make-up. No other form of tattooing shall be permitted.
3. The actual application of permanent make-up shall not be visible from the exterior of the establishment or from the waiting and sales area within the establishment.
4. 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 Southern Rivers Watershed. Drainage in the Southern Rivers watershed is highly impacted by the presence of high ground water, poorly draining soils, and high-water surface elevations in downstream receiving waters. There are no known cultural resources on the site.

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Lynnhaven Parkway	26,000 ADT ¹	36,000 ADT ¹ (LOS ³ "D")	No Change Anticipated ²
¹ Average Daily Trips	² as defined by a tattoo parlor in a shopping center	³ LOS= Level of Science	

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

The MTP lists this segment of Lynnhaven Parkway as 4-lane minor arterial. There are no CIP projects in the area.

Public Utility Impacts

Water & Sewer

This is connected to City water and 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 February 6, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, February 19, 2023 and February 26, 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 February 20, 2023.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.vbgov.com/pc on March 2, 2023.

Proposed Site Layout



Site Photos



Disclosure Statement

Disclosure Statement



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

Applicant Disclosure

Applicant Name Jihyeon Son

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)
Esme Esthetic Studio LLC, Jihyeon Son, Owner

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

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

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



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

☐ **Yes** ☒ **No**

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

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

☐ **Yes** ☒ **No**

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

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

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

Paul Chung CPA, Preparation of Tax returns

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

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

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

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

Disclosure Statement

Disclosure Statement



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

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

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

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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

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Applicant Signature

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

A handwritten signature in black ink, appearing to read 'Jihyeon Son', written over a horizontal dashed line.

Applicant Signature

Jihyeon Son

Print Name and Title

Jihyeon Son / 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	



Owner Disclosure

Owner Name SCI Lynnhaven Fund, LLC

Applicant Name JIHYEON SON

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)

NAS - Managing Member

OLIVER CALZA, Manager of NAS

- 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

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.

DIVARIS Real Estate INC. George Fox

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

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SCI LYNNHAVEN FUND, LLC,

Owner Signature

OLIVER CALZA,

Print Name and Title

JANUARY 24, 2023

Date

Next Steps

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

Request

Conditional Use Permit (Tattoo Parlor)

Staff Recommendation

Approval

Staff Planner

Madison Eichholz

Location

2817 Shore Drive, Suite 112

GPIN

1590401698

Site Size

5.18 acres (1,444 square feet unit)

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

Shore Drive

Apartment Complex & Hotel / B-4 Mixed Use

South

Apartment Complex / A-36 Apartment

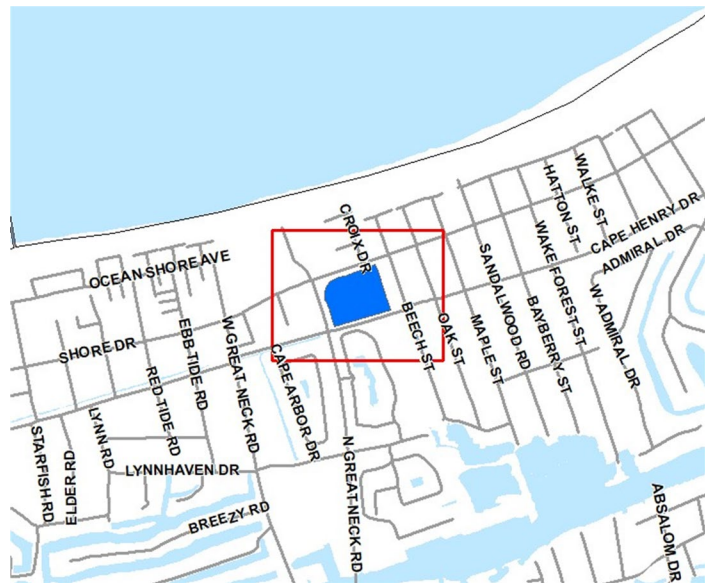
East

Single-family dwellings / R-7.5 Residential

West

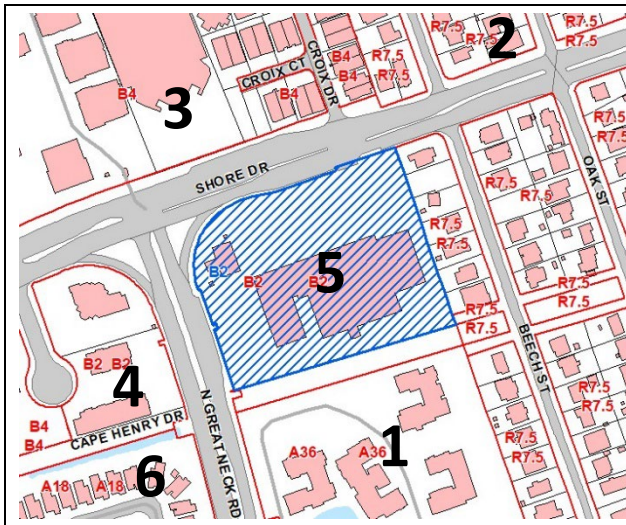
North Great Neck Road

Offices, Business / B-2 Business District



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 at the Cape Henry Plaza Shopping Center. The shopping center is located along Shore Drive on property zoned B-2 Community Business District.
- Microblading will take place in a small, private room within the existing spa.
- According to the applicant, one employee is anticipated.
- The typical hours of operation proposed are 10:00 a.m. to 6:00 p.m., Monday through Saturday.
- No exterior changes to the building are proposed, as well as no new signage.



Zoning History

#	Request
1	MDP Approved 03/16/2021
2	CUP (Short Term Rental) Approved 09/01/2020
3	CUP (Hotel/Motel with Dwelling Units and accessory uses) Approved 10/13/2007 CUP (Outdoor Recreation Facility) Approved 02/13/2007 CUP (Communication Tower) Approved 07/09/1996
4	CUP (Home for the Aged) Approved 06/27/1995
5	CUP (Home for the Aged) Approved 06/27/1995
6	REZ (B-2 to A-18) Approved 01/04/1994 REZ (PD-H2) Approved 01/04/1994

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 make-up, in Staff's opinion, is acceptable given that the use is compatible with the other existing commercial businesses located in the vicinity and within this part of the suburban area. The application of permanent make-up within an existing beauty salon is not expected to negatively impact other uses within the shopping center or the vicinity.

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

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

Recommended Conditions

1. A business license for the Tattoo Parlor shall not be issued to the applicant without the approval of the Health Department to ensure compliance with the provisions of Chapter 23-51 of the City Code.
2. This Conditional Use Permit for a Tattoo Parlor shall be limited to the application of permanent make-up. No other form of tattooing shall be permitted.
3. The actual application of permanent make-up shall not be visible from the exterior of the establishment or from the waiting and sales area within the establishment.
4. 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.

This property is also located within the Shore Drive Corridor Suburban Focus Area. This property meets the goals of the Shore Drive Corridor by encouraging the reuse and revitalization of existing commercial properties.

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
Shore Drive	14,410 ADT ¹	32,700 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)

Shore Drive is a four-lane divided urban major arterial roadway in the vicinity of the site. The Shore Drive Improvements – Phase III CIP project is still under design, with construction scheduled to begin in April 2024.

Public Utility Impacts

Water & Sewer

This is connected to City water and 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 February 6, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, February 19, 2023 and February 26, 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 February 20, 2023.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.vbgov.com/pc on March 2, 2023.

Proposed Site Layout



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 Oanh Khau

Does the applicant have a representative? ☐ Yes ☒ No

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

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

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

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

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

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Disclosure Statement



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Applicant Services Disclosure

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

☐ Yes ☒ No

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

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

☐ Yes ☒ No

- 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.

Gary Pecher .CPA, Gary Pecher, CPA, LLC

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

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

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Disclosure Statement

Disclosure Statement



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

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Oanh Khau
Applicant Signature

OANH KHAI
Print Name and Title

10/11/2022
Date

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

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

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

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

Disclosure Statement



Owner Disclosure

Owner Name SAM CAPE HENRY PLAZA, LLC

Applicant Name Oanh Khanh

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)

J. Christopher, Managing Member; M4M Prop, Member;
Cedar Key Investments, Member; Hot Wheel, LLC, Member;
Rise Park Investments, Member; Spark Wheel, Member;
Thirawheel, Member; Checkersboard Capital, Member

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

Suburban Capital, Inc. - Asset Manager
Suburban Manager, LLC - Sole Manager

Known Interest by Public Official or Employee

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SL Nusbaum, Maggie Spillane

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Disclosure Statement

Disclosure Statement



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Owner Signature

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Owner Signature

Print Name and Title

Date

Next Steps

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

Request

Alternative Compliance (To allow for wall signage larger than what is permitted by the CBC Form-Based Code)

Staff Recommendation

Approval

Staff Planner

Brandon Hackney

Location

4564 Virginia Beach Boulevard

GPIN

1477554898

Site Size

23.88 acres

AICUZ

Less than 65 dB DNL

Watershed

Chesapeake Bay

Existing Land Use and Zoning District

Shopping Center, Retail / CBC Central Business Core

Surrounding Land Uses and Zoning Districts

North

Shopping Center / CBC Central Business Core

South

Virginia Beach Boulevard

Retail, Restaurant, Office / CBC Central Business Core

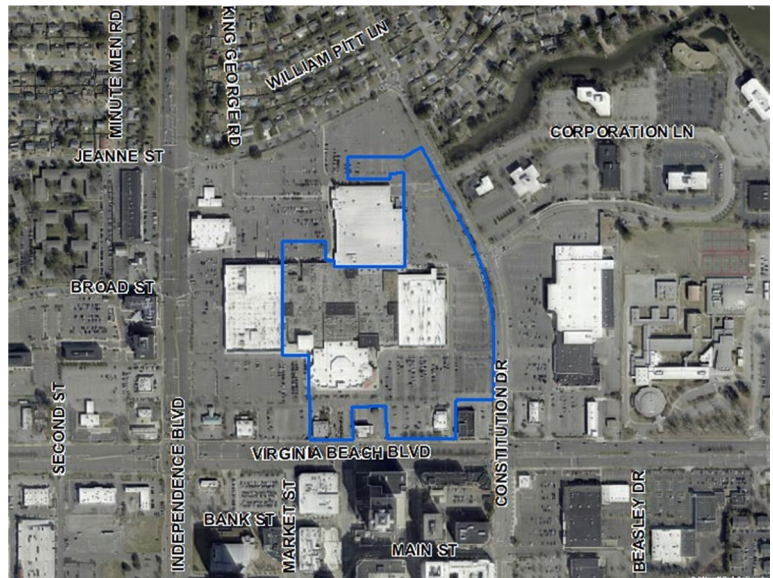
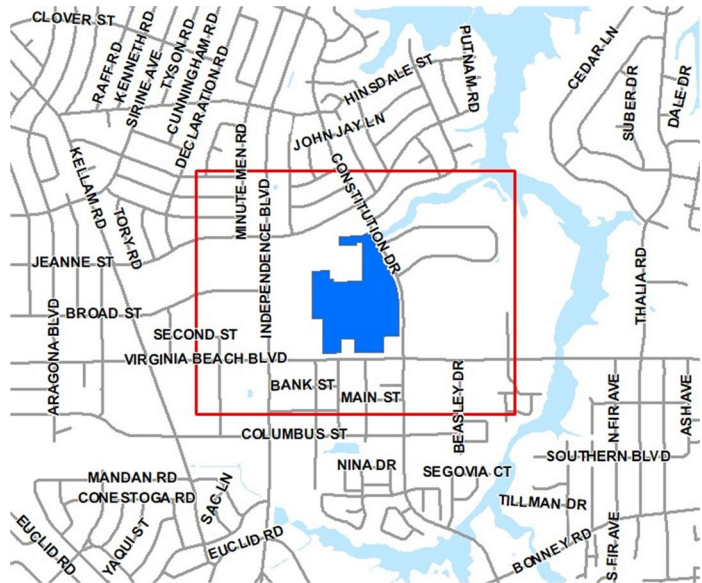
East

Constitution Drive

Shopping Center / CBC Central Business Core

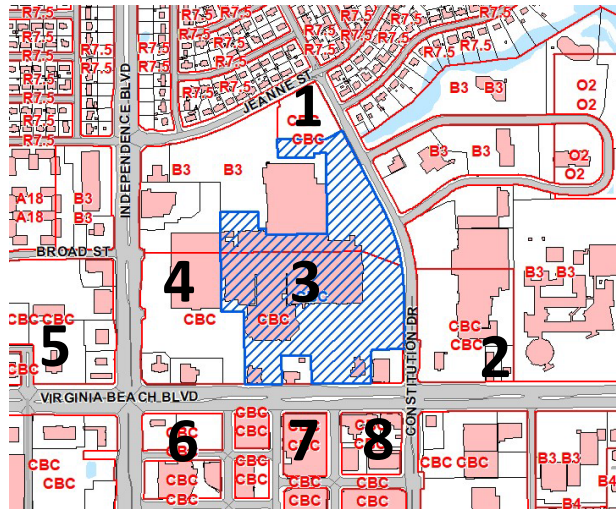
West

Shopping Center / CBC Central Business Core



Background & Summary of Proposal

- The applicant is requesting wall signage larger than the 60 square foot maximum size permitted under the CBC (Central Business Core) zoning regulations. There is an existing 160.1 square foot wall sign on the façade. The applicant is requesting an additional 57.7 square foot sign below the existing sign, which would total 217.8 square feet of wall signage. Section 2205 of the City Zoning Ordinance allows for City Council to grant special exception of alternative compliance for signage that does not conform to the signage regulations of the Central Business Core Form-Based Code.
- The Kohl's store is within the Pembroke Mall, which according to City records, was developed in 1965. Kohl's signage was installed under the previous zoning regulations, prior to the property being rezoned to the Central Business District Form-Based Code. Kohl's has since opened a Sephora section within the store and would like to add the requested "+Sephora" 57.7 square foot sign to the existing wall signage.
- The applicant submitted the proposal to the Central Business District Association's Design Review Committee on November 4th, 2021, which recommended approval.

	<h2>Zoning History</h2> <table><tr><th>#</th><th>Request</th></tr><tr><td>1</td><td>CUP (Indoor Commercial Recreation) Approved 07/06/2021</td></tr><tr><td>2</td><td>ALT (Freestanding Sign) Approved 02/05/2019</td></tr><tr><td>3</td><td>CUP (Indoor Commercial Recreation) Approved 03/17/2015 REZ (B-3 and B-3A to CBC) Approved 02/25/2014 CUP (Religious Use) Approved 02/26/2013</td></tr><tr><td>4</td><td>CUP (Open Air Market) Approved 02/26/2013</td></tr><tr><td>5</td><td>MOD Approved 12/01/2015 CUP (Private School) Approved 01/22/2013 CUP (Automobile Service) Approved 04/08/1997</td></tr><tr><td>6</td><td>REZ (B-3 to B-3A) Approved 05/10/2005</td></tr><tr><td>7</td><td>MOD Approved 01/08/2013 CUP (Private School) Approved 07/11/2006 REZ (B-3 to B-3A) Approved 02/08/2000</td></tr><tr><td>8</td><td>CUP (Multi-family Home) Approved 01/08/2013 REZ (B-3 to B-3A) Approved 10/10/2000</td></tr></table>	#	Request	1	CUP (Indoor Commercial Recreation) Approved 07/06/2021	2	ALT (Freestanding Sign) Approved 02/05/2019	3	CUP (Indoor Commercial Recreation) Approved 03/17/2015 REZ (B-3 and B-3A to CBC) Approved 02/25/2014 CUP (Religious Use) Approved 02/26/2013	4	CUP (Open Air Market) Approved 02/26/2013	5	MOD Approved 12/01/2015 CUP (Private School) Approved 01/22/2013 CUP (Automobile Service) Approved 04/08/1997	6	REZ (B-3 to B-3A) Approved 05/10/2005	7	MOD Approved 01/08/2013 CUP (Private School) Approved 07/11/2006 REZ (B-3 to B-3A) Approved 02/08/2000	8	CUP (Multi-family Home) Approved 01/08/2013 REZ (B-3 to B-3A) Approved 10/10/2000
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1	CUP (Indoor Commercial Recreation) Approved 07/06/2021																		
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3	CUP (Indoor Commercial Recreation) Approved 03/17/2015 REZ (B-3 and B-3A to CBC) Approved 02/25/2014 CUP (Religious Use) Approved 02/26/2013																		
4	CUP (Open Air Market) Approved 02/26/2013																		
5	MOD Approved 12/01/2015 CUP (Private School) Approved 01/22/2013 CUP (Automobile Service) Approved 04/08/1997																		
6	REZ (B-3 to B-3A) Approved 05/10/2005																		
7	MOD Approved 01/08/2013 CUP (Private School) Approved 07/11/2006 REZ (B-3 to B-3A) Approved 02/08/2000																		
8	CUP (Multi-family Home) Approved 01/08/2013 REZ (B-3 to B-3A) Approved 10/10/2000																		
<h2>Application Types</h2> <table><tr><td>CUP – Conditional Use Permit REZ – Rezoning CRZ – Conditional Rezoning</td><td>MDC – Modification of Conditions MDP – Modification of Proffers NON – Nonconforming Use</td><td>STC – Street Closure FVR – Floodplain Variance ALT – Alternative Compliance</td><td>SVR – Subdivision Variance LUP – Land Use Plan STR – Short Term Rental</td></tr></table>		CUP – Conditional Use Permit REZ – Rezoning CRZ – Conditional Rezoning	MDC – Modification of Conditions MDP – Modification of Proffers NON – Nonconforming Use	STC – Street Closure FVR – Floodplain Variance ALT – Alternative Compliance	SVR – Subdivision Variance LUP – Land Use Plan STR – Short Term Rental														
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Evaluation & Recommendation

Section 2205 of the Zoning Ordinance specifies standards to be considered for Alternative Compliance applications in the CBC District. The standards require City Council to evaluate the degree to which the proposal advances the goals and objectives of the Pembroke SGA Plan and Comprehensive Plan and whether the proposal is consistent with the CBC Design Guidelines.

Section 5.18 of the Central Business Core District Design Guidelines provides recommended standards for wall signage. The proposed signage substantially meets the criteria listed, aside from the allowable square footage. The proposed sign

is within a blank area of the façade, placed at a height that is consistent with that of wall signs on the same and adjacent buildings, not on a raceway, and with no background, all which are encouraged in the Design Guidelines.

The total square footage of the proposed and existing signs is the only attribute that does not meet the CBC Design Guidelines. The proposed 57.7 square foot “+ Sephora” sign is within the 60 square foot allowance permitted by the CBC Form-Based Code. The accumulation of the proposed sign and the existing Kohl’s sign is over the allowance; however, the Kohl’s sign was permitted under different zoning regulations and was conforming at the time of installation.

Based on these considerations and the recommendation provided by the Central Business District Association’s Design Review Committee, Staff recommends approval of the application, subject to the conditions listed below.

Recommended Conditions

1. The sign shall be installed substantially as shown in the plan set, entitled “Kohl’s + Sephora”, prepared by Jones Sign Company, and dated August 31, 2021, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development.
2. Existing foundation landscaping shall remain and be maintained. Any modification to the existing landscaping shall be reviewed and approved through the Development Services Center of the Department of Planning and Community Development.

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

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

Comprehensive Plan Recommendations

This proposal is located within the Pembroke Strategic Growth Area. CBC District Design Guidelines exist to provide guidance for signage in this area of Virginia Beach. While the added “+Sephora” is 57.7 square feet, thus complying with the maximum square footage requirement for wall signs, when combined with the existing “Kohls” wall sign, the proposal exceeds the maximum allowance for square footage by 157.81 square feet. Given that the proposal exceeds the maximum square footage for wall signs laid out in the CBC District Design Guidelines and does not comply with the legibility and color guidelines, the Comprehensive Plan does not support this proposal.

Public Outreach Information

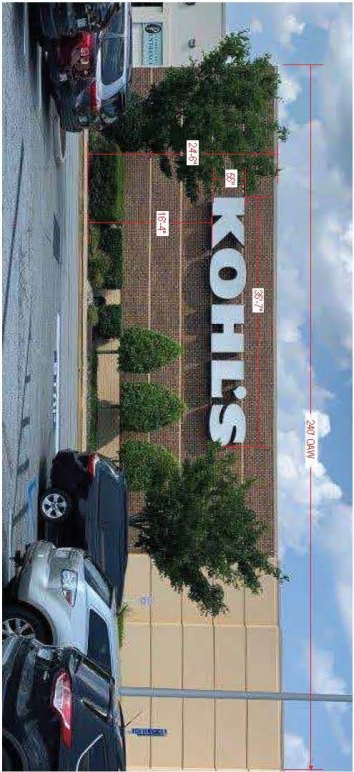
Planning Commission

- The applicant/applicant’s representative submitted the proposal to the Central Business District Association’s Design Review Committee on November 4, 2021 to discuss the details of the request. A letter of support was provided to Staff by the CBDA DRC as a result.

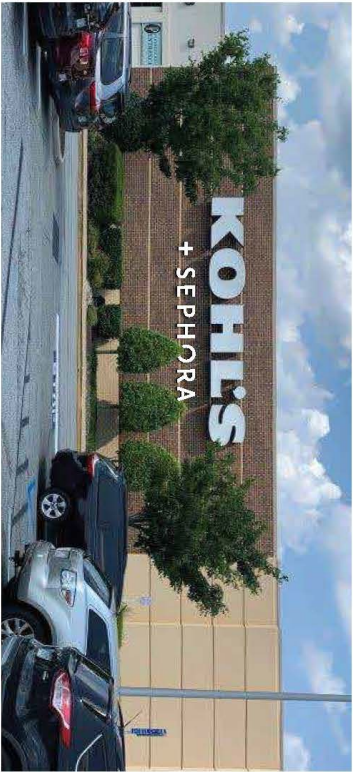
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on February 6, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, February 19, 2023 and February 26, 2023.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on February 20, 2023.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.vbgov.com/pc on March 2, 2023.

Proposed Sign Elevations

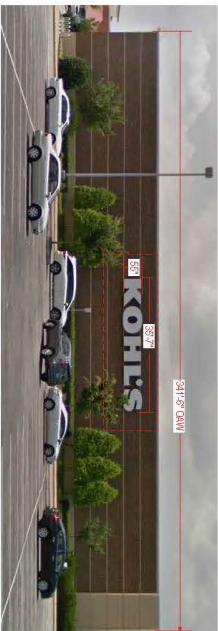
BUILDING ELEVATIONS



EXISTING ELEVATION (VIRGINIA BEACH BLVD)
SCALE: N.T.S.



PROPOSED ELEVATION (VIRGINIA BEACH BLVD)
SCALE: N.T.S.



EXISTING ELEVATION (CONSTITUTION DRIVE)
SCALE: N.T.S.

LEAVE LETTERSET FACING CONSTITUTION DRIVE AS-IS

JONES SIGN Your Vision. Accomplished. WWW.JONESIGN.COM	JOB # 252041.R0		DATE 08/21/21		DESIGNER A. Swanson	SALES REP. M. Bjorklund	PROJECT MGR. C. Jones
	NO.	DATE	BY	DESCRIPTION			
					CLIENT APPROVAL		
					DATE		
					LANDSCAPE APPROVAL		
					DATE		
					KOHL'S + SEPHORA		
					4554 VIRGINIA BEACH BLVD VIRGINIA BEACH, VA 23462		
					SHEET NUMBER		
					0.1		

This is an original, unaltered drawing by Jones Sign Co., Inc. It is for your personal use in connection with a project being designed by Jones Sign Co., Inc. It is not to be shown to anyone outside of your organization, nor is it to be used, reproduced, copied or modified in any fashion. Use of this drawing or the matter contained therein without the express written permission of Jones Sign Co., Inc. is prohibited. If you are unable to pay the balance of up to 50% of the project price of the sign, Jones Sign Co., Inc. reserves the right to cancel the contract and retain the sign. Jones Sign Co., Inc. is not responsible for any damage to the sign or the building caused by fire, theft, vandalism, or any other cause. Jones Sign Co., Inc. is not responsible for any damage to the sign or the building caused by fire, theft, vandalism, or any other cause.

W00003



**Premium 24V LED lighting solution
for small channel letters**



CONFORMS TO UL STD 48
SYNE TYPE (CL) FACE LIT CHANNEL LETTERS



NOTE: INSPECTOR CAN WE RIFY OUR LISTING WITH ELI AT THE FOLLOWING WEBSITE LINKS: DIRECT LINK TO JONES SIGNATURE, ELI SEARCH LINK, ADDITIONALLY VERIFICATION OF CERTIFICATION CAN BE PROVIDED BY ELI AT A/E NO. 348-347-5478 (OR +1 347-660-7407) EMAIL: ELI.DIRECTOR@INTERIER.COM
P.O. BOX 601, ST. INTERIERS, WESITE TO ANSWER ANY ADDITIONAL QUESTIONS: WWW.INTERIER.CO

- 1.063" PRE-FINISH BLACK /WHIT ALUMINUM RETURN
- 2.080" ALUMINUM LETTER BACKS w/ 1" .080" WELDED RETURN/PAINTED P-1

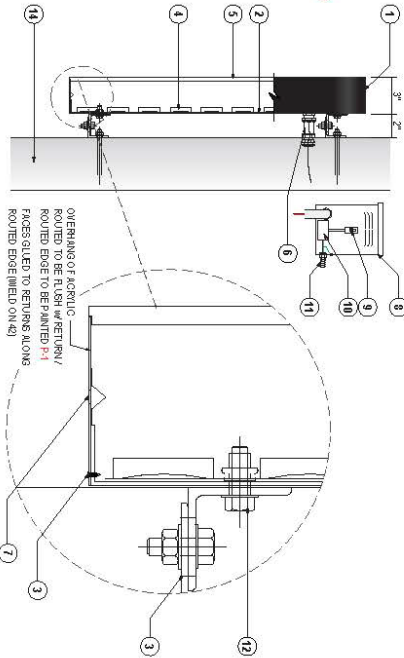
3. CONNECTION SCHEMATIC SHOULD BE PROVIDED.
4. S.O. AND/OR MAINS SUPPLY SHALL BE PROVIDED BY ROOM.
5. 3/4" X 2 1/2" WHITE PLYWOOD PANELS, INSIDE ROUTING EDGE PAINTED P-1/2
6. FACES TO BE LETERED TO IDENTIFY, INSIDE ROUTING FACE TO BE MARKED
7. PORT TO PLANNING ROUTING EDGE
8. 1/2" BELLING CONDUIT (LOCATED AT TOP OF LETTERS)
9. 7/8" NIPPLES WITH INSULATED BUSHES
10. 4" CONDUIT END BLOCK FOR LED POWER SUPPLIES * (101 X 71/2)
11. DISCONNECT SWITCH
12. LED POWER SUPPLIES
13. PRIMARY ELECTRICAL
14. MOUNTING HOLE SPACING AS REQUIRED
15. 2 X 2" ALUMINUM MOUNTING PANELS (PAINTED P-1)
16. EXISTING HOLE

ETL, MANUFACTURER & VOLTAGE/AMPERAGE TAGS ON TOP

- TYPICAL ELECTRICAL LEAD / WHP LENGTH IS 6'-0"
- VOLTAGE: 120V

P-1 SHERWIN WILLIAMS 6990 CAVIAR - MATT FINISH

*+ SEPHORA' SIDE SECTION DETAIL
SCALE: NTS



I/We, the undersigned, _____
 declare that the above information is true and correct to the best of my/our knowledge.
 Signature of the undersigned _____
 Printed name of the undersigned _____
 Title of the undersigned _____
 Institution _____
 Address _____
 City _____ State _____ Zip _____
 Country _____
 Telephone () _____
 Fax () _____
 E-mail _____
 Date _____

 <p>JONES SIGN Your Vision. Accomplished. WWW.JONESIGN.COM</p>			<p>JOB # 25204-R0 DATE 08/31/21 DESIGNER: A. Sorenson SALES REP: M. Ryland PROJECT: C. Smith</p>		
NO.	DATE	BY	DESCRIPTION	CLIENT APPROVAL	DATE
1	08/03/21	XX	XXXXXX	 <p>KOHL'S + SEPHORA</p>	<p>KOHL'S + SEPHORA 4534 VIRGINIA BEACH BLVD VIRGINIA BEACH, VA 23462</p>
2	08/03/21	XX	XXXXXX		
3	08/03/21	XX	XXXXXX		
4	08/03/21	XX	XXXXXX		
5	08/03/21	XX	XXXXXX		
6	08/03/21	XX	XXXXXX		
7	08/03/21	XX	XXXXXX		
8	08/03/21	XX	XXXXXX		
9	08/03/21	XX	XXXXXX		
10	08/03/21	XX	XXXXXX		
<p>CLIENT APPROVAL</p> <p>DATE</p>				<p>SHEET NUMBER</p> <p>1.0</p>	

[illegible]

Site Photos





APPLICANT'S NAME Joe White

DISCLOSURE STATEMENT FORM

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 board, commission, or other body appointed by the City Council. Such applications and matters include, but are not limited to, the following:

Acquisition of Property by City	Disposition of City Property	Modification of Conditions or Proffers
Alternative Compliance, Special Exception for	Economic Development Investment Program (EDIP)	Nonconforming Use Changes
Board of Zoning Appeals	Encroachment Request	Rezoning
Certificate of Appropriateness (Historic Review Board)	Floodplain Variance	Street Closure
Chesapeake Bay Preservation Area Board	Franchise Agreement	Subdivision Variance
Conditional Use Permit	Lease of City Property	Wetlands Board
	License Agreement	

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.

SECTION 1 / APPLICANT DISCLOSURE

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 application(s).

Page 1 of 7

<input type="checkbox"/>	APPLICANT NOTIFIED OF HEARING	DATE:	
<input type="checkbox"/>	NO CHANGES AS OF	DATE:	
<input type="checkbox"/>	REVISIONS SUBMITTED	DATE:	



- ☒ Check here if the **APPLICANT IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- ☐ Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.

(A) List the Applicant's name: Joe White
If an LLC, list all member's names:

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

(B) List the businesses that have a parent-subsiary¹ or affiliated business entity² relationship with the Applicant: *(Attach list if necessary)*

See next page for information pertaining to footnotes¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

Complete Section 2 only if property owner is different from Applicant.

- ☐ Check here if the **PROPERTY OWNER IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- ☒ Check here if the **PROPERTY OWNER IS** a corporation, partnership, firm, business, or other unincorporated organization, **AND THEN**, complete the following.

(A) List the Property Owner's name: Pembroke Square Associates LL
If an LLC, list the member's names:



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

See attached

- (B) List the businesses that have a parent-subsidary¹ or affiliated business entity² relationship with the Property Owner: *(Attach 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.

SECTION 3. SERVICES DISCLOSURE

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPERATELY

PEMBROKE SQUARE ASSOCIATES, LLC

Shenandale Associates, LLC, Vincent R. Olivieri, Manager

John E. Olivieri and Michael V. Olivieri, as Trustees of the Richard E. Olivieri Marital Trust dated September 5, 2018

Emilio Olivieri Family Company No. 1, LLC, John E. Olivieri, Manager

Robert Vincent Olivieri, as Trustee of the Robert Vincent Olivieri Revocable Trust dated December 22, 2004

Blue Ridge Associates of Virginia, LLC, Frederick J. Napolitano, Operating Manager

Vincent A. Napolitano, Frederick J. Napolitano II and John C. Napolitano as Trustees of the Irrevocable Trust Agreement, dated as of January 30, 2002, creating the Frederick J. Napolitano Irrevocable Trust - 2002 for the Benefit of Theresa Napolitano Hudgins

Vincent A. Napolitano, Frederick J. Napolitano II and John C. Napolitano as Trustees of the Irrevocable Trust Agreement, dated as of January 30, 2002, creating the Frederick J. Napolitano Irrevocable Trust - 2002 for the Benefit of Vincent A. Napolitano

Vincent A. Napolitano, Frederick J. Napolitano II and John C. Napolitano as Trustees of the Irrevocable Trust Agreement, dated as of January 30, 2002, creating the Frederick J. Napolitano Irrevocable Trust - 2002 for the Benefit of Frederick J. Napolitano, II

Vincent A. Napolitano, Frederick J. Napolitano II and John C. Napolitano as Trustees of the Irrevocable Trust Agreement, dated as of January 30, 2002, creating the Frederick J. Napolitano Irrevocable Trust - 2002 for the Benefit of John C. Napolitano

10/25/21



APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Accounting and/or preparer of your tax return	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Architect / Landscape Architect / Land Planner	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Construction Contractors	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Engineers / Surveyors/ Agents	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Legal Services	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

YES	NO	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?
<input type="checkbox"/>	<input type="checkbox"/>	

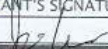
If yes, what is the name of the official or employee and what is the nature of the interest?

Disclosure Statement

**CERTIFICATION:**

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 Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

APPLICANT'S SIGNATURE	PRINT NAME	DATE
	Joe White	12-15-22



OWNER

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Accounting and/or preparer of your tax return	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Architect / Landscape Architect / Land Planner	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Construction Contractors	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Engineers / Surveyors/ Agents	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Legal Services	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	

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YES	NO	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?
<input type="checkbox"/>	<input type="checkbox"/>	


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

Disclosure Statement

**CERTIFICATION:**

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 Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.**

	Frederick J. Napolitano	2/15/23
PROPERTY OWNER'S SIGNATURE	PRINT NAME	DATE

Next Steps

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

Request

Conditional Use Permit (Short Term Rental)

Staff Recommendation

Approval

Staff Planner

Garek Hall Hannigan

Location

303 Atlantic Avenue, Unit 300

GPIN

24273224031510

Site Size

45,000 square feet

Existing Land Use and Zoning District

Multi-Family Dwellings / OR Oceanfront Resort

Surrounding Land Uses and Zoning Districts

North

4th Street (Connector Park)

Multi-Family Dwellings / OR Oceanfront Resort

South

3rd Street (Connector Park)

Hotel / OR Oceanfront Resort

East

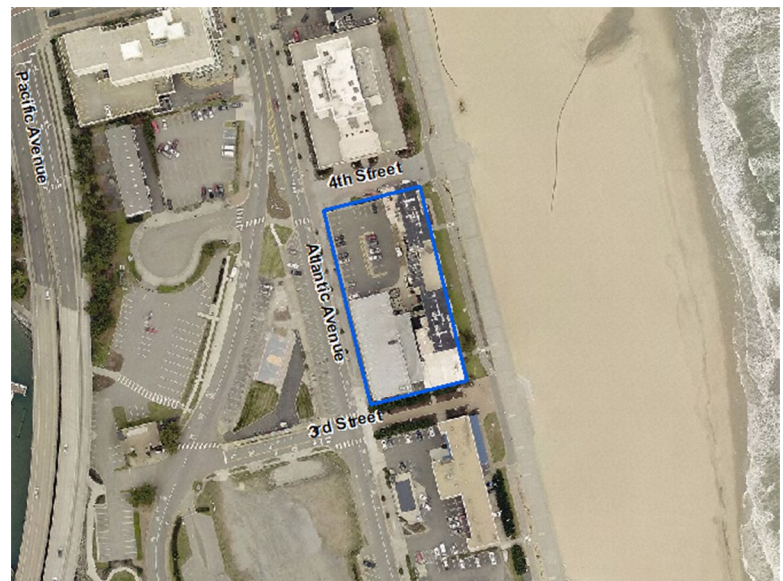
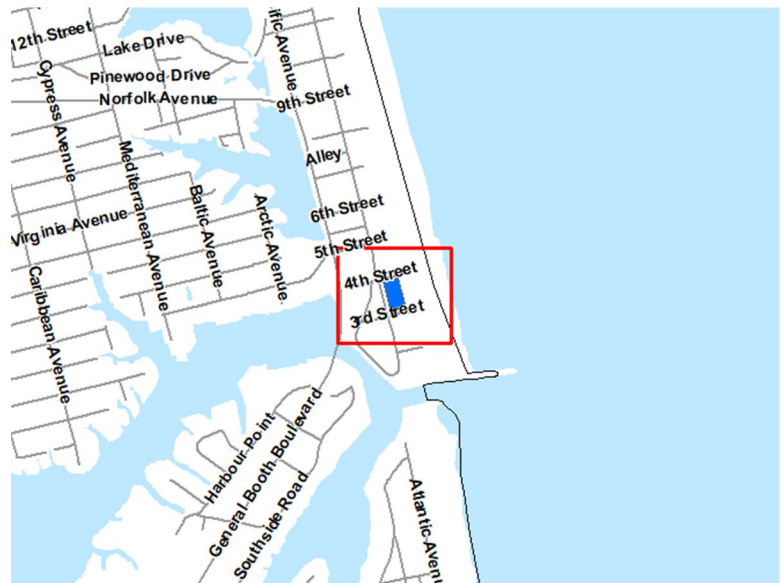
Boardwalk

Atlantic Ocean, Beach

West

Atlantic Avenue

Civic Use, Public Use / OR Oceanfront Resort



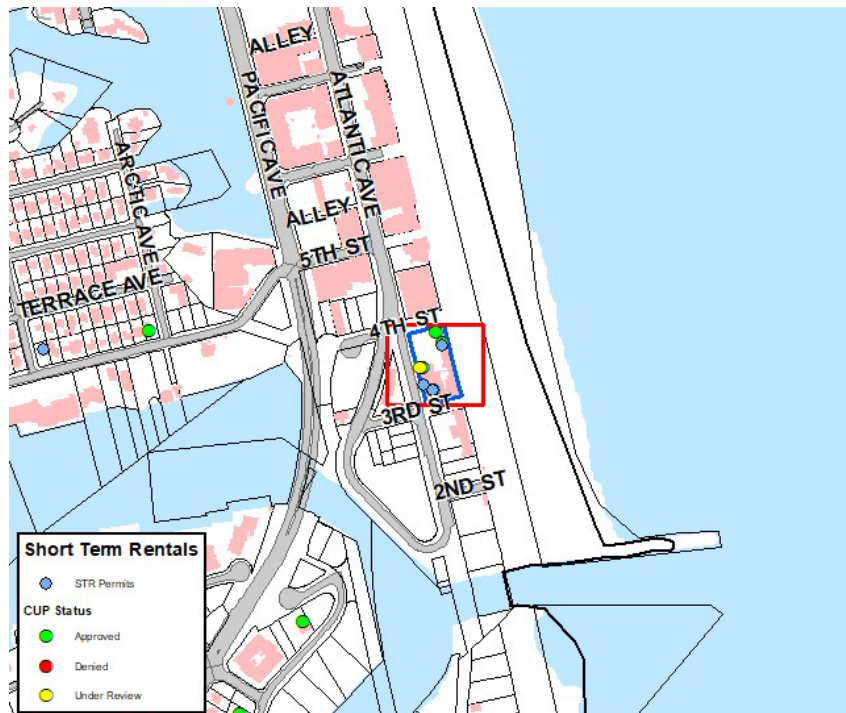
Background & Summary of Proposal

Site Conditions and History

- This 45,000 square-foot lot is zoned OR Oceanfront Resort.
- According to City records, this three-bedroom unit, located within the Dolphin Run condominium tower, was constructed in 1975.
- Staff inspected the site on February 8, 2023 to observe site conditions.
- On-street parking is not permitted on this portion of Atlantic Avenue.
- There are no past violations for Short Term Rental use associated with this property.
- According to the applicant, this property was not used for Short Term Rental purposes prior to July 1, 2018.
- Known Short Term Rental activity as of February 9, 2023:

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

Short Term Rentals in the Vicinity



Summary of Proposal

The applicant submitted a Conditional Use Permit request to operate a Short Term Rental on the subject site. The regulations for Short Term Rental use are identified in Section 241.2 and Article 2300 of the City Zoning Ordinance. Specific details pertaining to this application are listed below.

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

Zoning History

#	Request
1	COA (Colocation of Antennas) Approved 02/20/2017
2	NON (Enlargement of Nonconforming Use) Approved 04/12/2005 NON (Enlargement of Nonconforming Use) Approved 01/12/1993
3	CUP (Outdoor Recreation Facility) Approved 06/08/1999 MOD (Modification of Conditions) Approved 02/14/1995 STC (Street Closure) Approved 02/09/1993 MOD (Modification of Conditions) Approved 06/23/1992 CUP (Outdoor Recreation Facility) Approved 05/26/1992 CUP (Outdoor Recreation Facility) Approved 03/24/1992 REZ (B-5 to H-2) Approved 06/11/1984
4	CUP (Communication Tower) Approved 03/14/1995
5	REZ (B-5 to H-2) Approved 12/17/1984

Application Types

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

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

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

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

Evaluation & Recommendation

The applicant is requesting to operate a three-bedroom Short Term Rental in a multi-family residential dwelling unit located within the Dolphin Run Condominium tower, along Atlantic Avenue near the southern terminus of the Boardwalk and Rudee Loop. Since the site is located in the Oceanfront Resort (OR) Short Term Rental Overlay District, Short Term Rental use is expected. 303 Atlantic Avenue, Unit 300 was constructed in 1975. The unit shares the parcel with other condominium units in the building, several of which have received approvals for Short Term Rental Zoning Permits. The parcel is bounded by the Boardwalk, Beach, and Atlantic Ocean to the east, the 4th Street Connector Park to the north, the 3rd Street Connector Park to the south, and Atlantic Avenue to the west. The surrounding area is a mixture of multi-family dwellings, commercial retail, resort hotels, mixed-use buildings, and other resort-oriented uses.

The subject property lies along the Atlantic Avenue Corridor, which includes the most prominent frontage of resort-oriented uses at the Oceanfront Resort. According to the Resort Area Strategic Action Plan (RASAP) 2030, residential and mixed-use development in the Resort Area is necessary to achieve the goal of a year-round destination, affording a more

walkable, vibrant, engaging community at the Oceanfront Resort. The use of the dwelling as a Short Term Rental helps achieve this goal by providing diverse lodging opportunities for visitors seeking unique travel experiences.

There is one assigned parking space associated with this unit, labeled Space C4 on the third floor of the attached parking deck. According to City of Virginia Beach Zoning Ordinance, Appendix A, Article 23, Section 2303, (b), a., ii., "There are certain condominium properties that have historically operated as short term lodging units and have not experienced any inconvenience to guests or the surrounding area without the required one (1) parking space per bedroom. Further, such properties are unable to provide the required parking on-site. For these condominium properties, the zoning administrator may, at his discretion, require one (1) parking space per dwelling unit similar to the requirement for lodging uses in the Oceanfront Resort District Form Based Code (ORDFBC). Such properties must provide written evidence of their past use and the Zoning Administrator shall find that there is no public inconvenience with the current parking design." Dolphin Run Condominiums is one such property granted a historical exception to the Short Term Rental parking requirements of one space per bedroom; therefore, only one parking space is required for the entire unit. All other requirements of Section 241.2 and Section 2303 of the Zoning Ordinance regulating Short Term Rentals can be reasonably met with this application.

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

Recommended Conditions

1. The following conditions shall only apply to the dwelling unit addressed as 303 Atlantic Avenue, Unit 300 and the Short Term Rental use shall only occur in the principal structure.
2. An annual Short Term Rental Zoning Permit must be obtained from the Department of Planning and Community Development (Zoning Administration) before using the dwelling for Short-Term Rental purposes.
 - a) The dwelling unit shall comply with all required Fire and Building code requirements.
3. Off-street parking shall be provided as required by Section 241.2 and 2303(b)(a)(i)(ii) of the City Zoning Ordinance or as approved by City Council.
4. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Department of Planning and Community Development; however, the Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
5. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1.
6. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes and to be physical present at the Short Term Rental within one (1) hour.
7. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Department of Planning and Community Development for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
 - a) A completed Department of Planning and Community Development Short Term Rental Zoning Permit; and

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

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

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

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

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

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

Public Outreach Information

Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on February 6, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, February 19, 2023, and February 26, 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 February 20, 2023.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.vbgov.com/pc on March 2, 2023.

Site Layout & Parking Plan



Site Photo



Disclosure Statement



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

Applicant Disclosure

Applicant Name Ocean Chillin, LLC

Does the applicant have a representative? ☐ Yes ☒ No

- If yes, list the name of the representative.

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

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

Mark D. Lane, Owner

- 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.

Southern Bank

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

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

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

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

Dale Kanten, Tax preparer for Income Taxes, Dolphin Run Condominium Association for Rental Taxes to City

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

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

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

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

Disclosure Statement

Disclosure Statement



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

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

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

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

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

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

Applicant Signature

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

A handwritten signature in black ink, appearing to read 'M D Lane'.

Applicant Signature

Mark D. Lane, Owner Ocean Chillin LLC

Print Name and Title

1/13/2023

Date

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

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

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

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

Next Steps

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



Applicant **Michael Biondolillo**
Property Owner **Helen A. Lewis**
Planning Commission Public Hearing **March 8, 2023**
City Council District: **District 6**, formerly Beach

Agenda Item

13

Request

Conditional Use Permit (Short Term Rental)

Staff Recommendation

Approval

Staff Planners

Garek Hall Hannigan

Location

2113 Atlantic Avenue, Unit 2C

GPIN

24271868788240

Site Size

8,367 square feet

Existing Land Use and Zoning District

Multi-family dwellings / OR Oceanfront Resort

Surrounding Land Uses and Zoning Districts

North

22nd Street Connector Park

Multi-family dwellings / OR Oceanfront Resort

South

Hotel / OR Oceanfront Resort

East

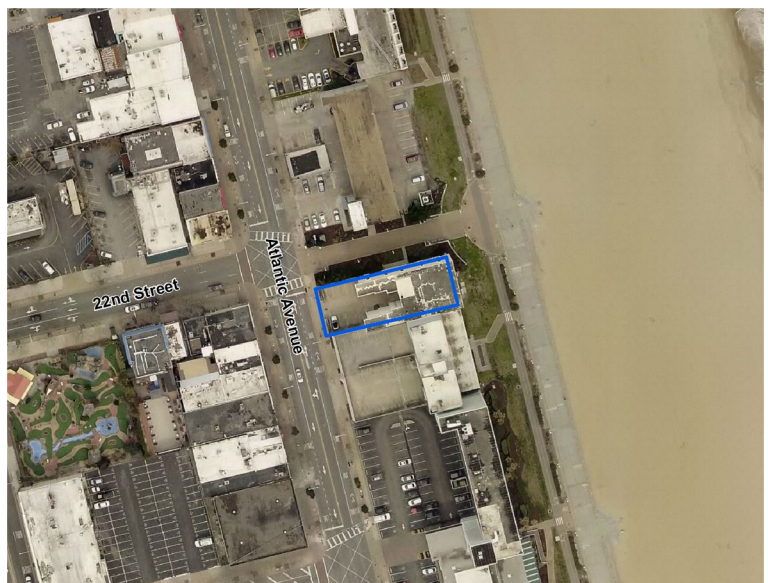
Boardwalk

Resort beach, Atlantic Ocean

West

Atlantic Avenue

Convenience store, retail shops / OR
Oceanfront Resort



Michael Biondolillo

Agenda Item 13

Page 1

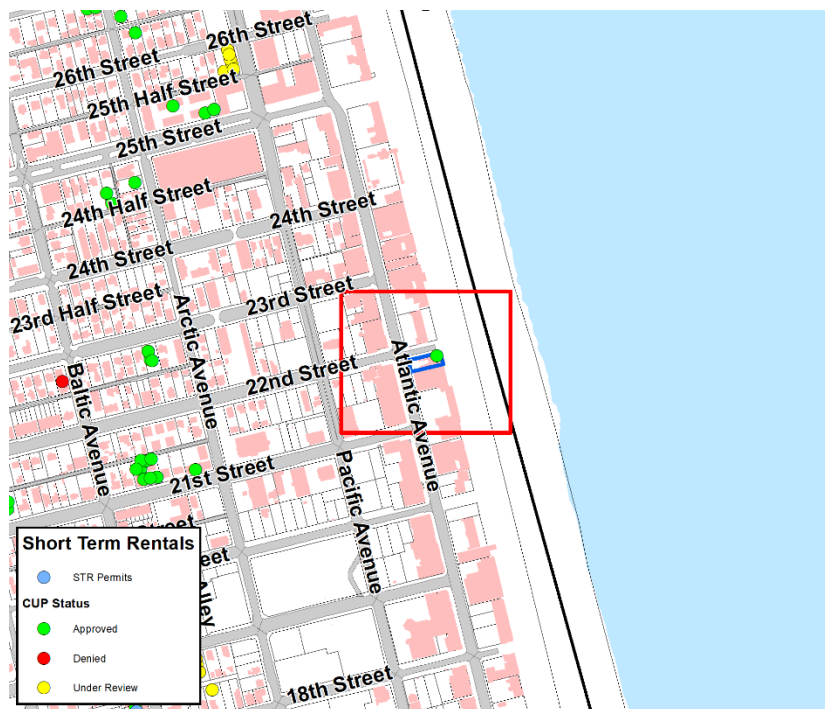
Background & Summary of Proposal

Site Conditions and History

- The subject site is 8,367 square feet in the Oceanfront Resort District.
- The six-story multi-family structure, known as Kamla Condominiums, has 15 two-bedroom units and was constructed in 1984.
- There are 25 parking spaces on site, 15 are reserved for the individual units and the remaining 9 are shared.
- The entrance from Atlantic Avenue is gated, giving access only to owners and their guests.
- Staff inspected the site on February 8, 2023 to observe site conditions.
- On-street parking is not permitted on this portion of Atlantic Avenue.
- No past zoning violations or City Council actions were found for this property.
- Known Short Term Rental activity as of February 8, 2023:

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

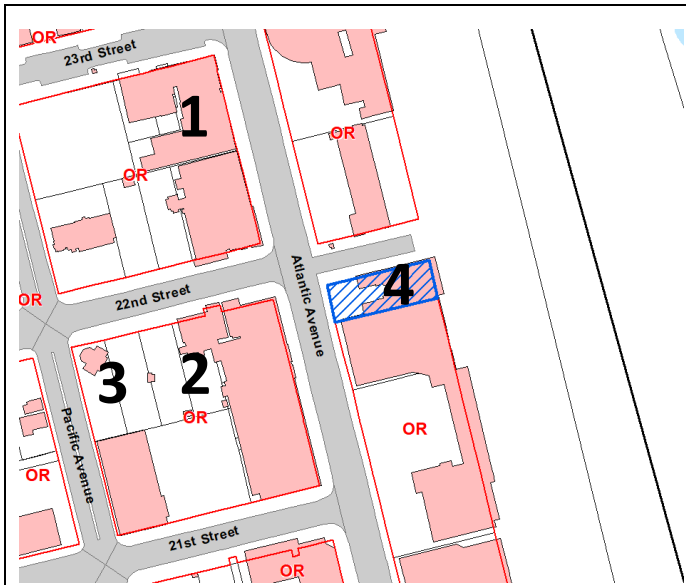
Short Term Rentals in the Vicinity



Summary of Proposal

The applicant submitted a Conditional Use Permit request to operate a two-bedroom, 1,235 square foot Short Term Rental unit on the subject site. The regulations for Short Term Rental use are identified in Section 241.2 and Article 2300 of the City Zoning Ordinance. Specific details pertaining to this application are listed below.

- Number of bedrooms in the Short Term Rental: 2
- Maximum number of guests permitted on the property after 11:00 p.m.: 4
- Number of parking spaces required (1 space per bedroom required; historical exception made): 1
- Number of on-site parking spaces provided: 1



Zoning History

#	Request
1	CUP (Bar/nightclub) Approved 01/14/2003
2	CUP (Outdoor Recreational Facility) Approved 06/13/2000
3	CUP (Outdoor Recreational Facility) Approved 11/28/2000 CUP (Outdoor Recreational Facility) Approved 02/23/1999
4	CUP (Short Term Rental) Approved 11/17/2021

Application Types

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

Evaluation & Recommendation

The applicant is requesting to operate a Short Term Rental in a two-bedroom, 1,235 square foot unit within a 15-unit condominium development located east of Atlantic Avenue. Currently, 13 of the 15 units are used as short term rentals and most have been operating in this manner without incident since the building was constructed in 1984.

Each unit in the building has one reserved parking space and there are nine additional parking spaces available on a first-come, first-served basis. The parking lot is gated, giving access to the property owners, property manager, and approved renters only. Since most renters are families who travel together in one car, this parking arrangement has functioned well for over 30 years. During a typical week, less than half of the occupied units bring two cars. In the event that the lot is full, guests are directed to the nearby 25th Street Municipal Parking Garage, which is within one-quarter mile of the complex. Per Section 241.2(1) and Section 2303 (B)(a)(ii) of the City Zoning Ordinance, the Zoning Administrator has reviewed the parking plan and deemed it acceptable.

Since the site is located east of Atlantic Avenue, where the predominant use is hotel, the proposed Short Term Rental is compatible with the surrounding properties and would not have an adverse impact on residential neighborhoods. The

Michael Biondolillo

Agenda Item 13

Page 3

subject property is also located in the Central Beach District of the Resort Area. The resort-oriented mixed-uses and activities in the Central Beach District plays a key role in achieving the goal of a year-round resort established in the Resort Area Strategic Action Plan (RASAP) 2030. The use of the unit as a Short Term Rental helps achieve this goal by providing diverse lodging opportunities for the visitors or travelers wanting the Resort Area experience.

As the property is under a condominium form of ownership, the board's President's signature, authorizing the application of a Conditional Use Permit for the Short Term Rental, is required and was provided.

The requirements of Section 241.2 and Sections 2303 of the Zoning Ordinance regulating Short Term Rentals can be reasonably met by the applicant. Based on the considerations above, Staff recommends approval of this request with the conditions listed below.

Recommended Conditions

1. The following conditions shall only apply to the dwelling unit addressed as 2113 Atlantic Avenue, Unit 2C and the Short Term Rental use shall only occur in the principal structure.
2. An annual STR Zoning Permit must be obtained from the Department of Planning and Community Development (Zoning Administration) before using the dwelling for Short-Term Rental purposes.
3. Off-street parking shall be provided as required by Section 241.2 and 2303(b)(a) of the City Zoning Ordinance or as approved by City Council.
4. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Department of Planning and Community Development; however, the Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions, or violations of any building, housing, zoning, fire, or other similar codes.
5. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1.
6. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes and to be physical present at the Short Term Rental within one (1) hour.
7. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Department of Planning and Community Development for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
 - a) A completed Department of Planning and Community Development Short Term Rental Zoning Permit; and
 - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
 - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
8. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.

9. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
10. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
11. Accessory structures shall not be used or occupied as Short Term Rentals.
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17. The property owner, or their representative, shall provide to the Department of Planning and Community Development permission to inspect the Short Term Rental property annually. Such inspection shall include: 1) At least one fire extinguisher has been installed inside the unit (in the kitchen) and in plain sight 2) Smoke alarms and carbon monoxide detectors are installed in accordance with the building code in affect at the of construction and interconnected. Units constructed prior to interconnection requirements must have a minimum of one smoke alarm installed on every floor of the structure and in the areas adjacent to all sleeping rooms, and when activated, be audible in all sleeping rooms, and 3) All smoke alarms and carbon monoxide detectors have been inspected within the last twelve months and are in good working order.

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

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

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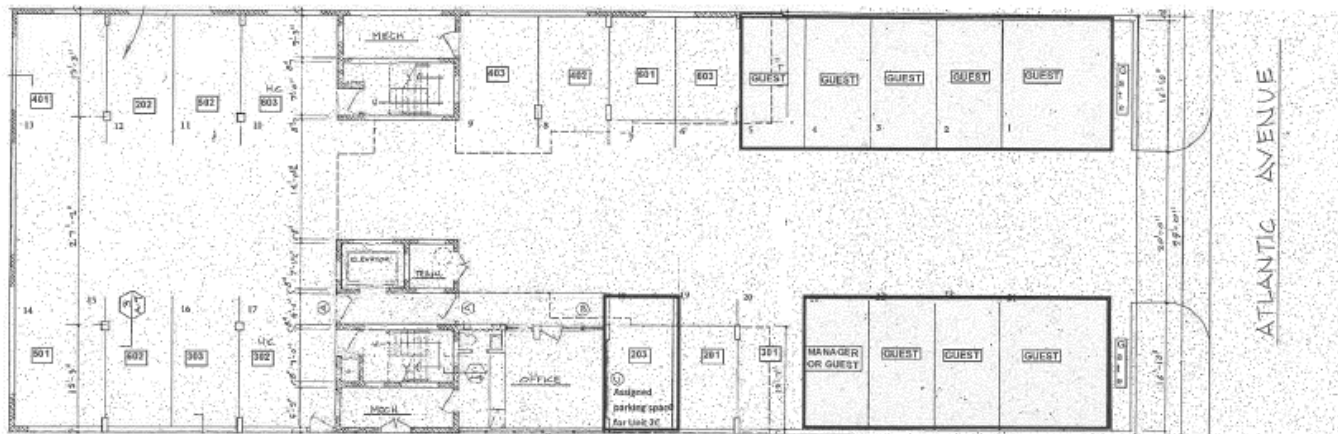
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Planning Commission

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- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, February 19, 2023, and February 26, 2023.
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- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.vbgov.com/pc on March 2, 2023.

Site Layout & Parking Plan



Kamla has a total of 24 parking spaces; each of the 15 units has one assigned parking space.

Each unit has 1 assigned parking space, there are 8 unassigned "guest spaces" and one managers space that can be used if needed.

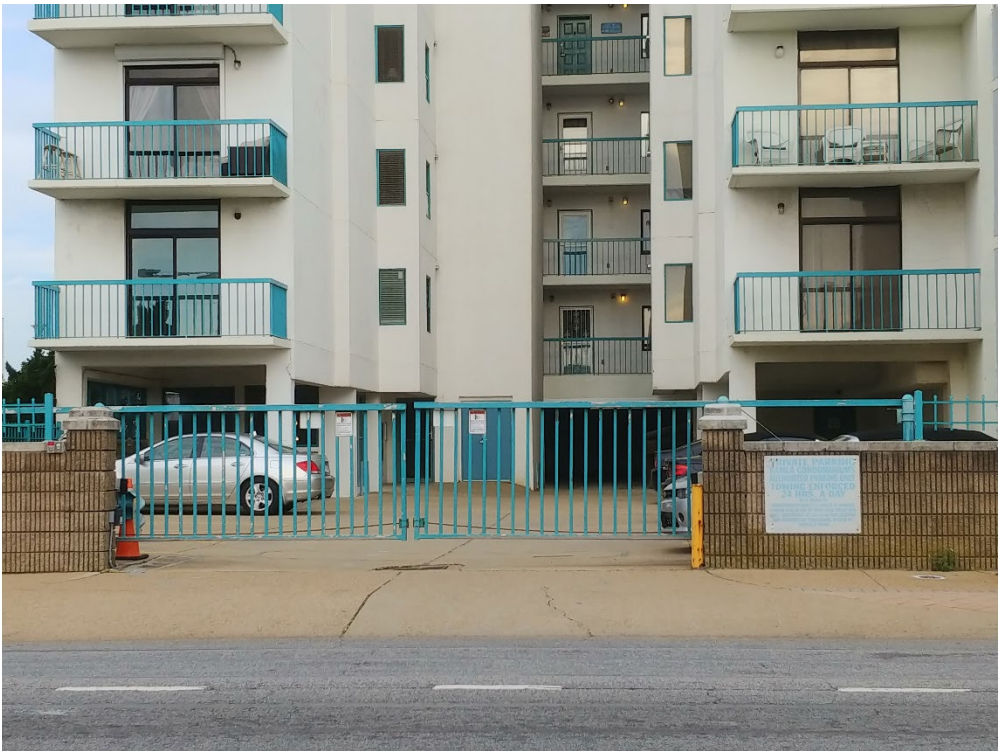
4 units aren't used for short term rentals and if they will be vacant, their parking spaces can be used.

Each unit is limited to having a maximum of two cars in the parking area.

During a typical week, less than half of the occupied units bring two cars.

Saturday's are "turnover" days and property managers/owners are required to give the Association a list of occupants and cars for each unit.

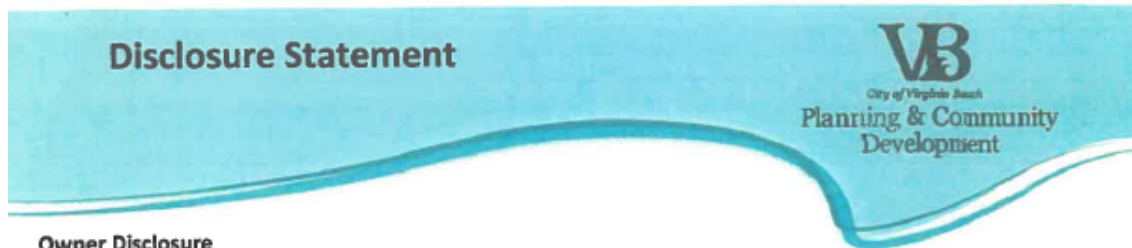
Site Photos



Site Photos



Disclosure Statement



Owner Disclosure

Owner Name

HELEN A. LEWIS

Applicant Name

MICHAEL BIONDOLILLO (POA)

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-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.



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.

ROSEDALE & DAAPALA, INDIVIDUAL IS MICHAEL ROSEDALE

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.



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.

Helen Arline Lewis

Owner Signature

Helen Arline Lewis (Owner)

Print Name and Title

12/5/22

Date

Next Steps

- Upon receiving a recommendation from Planning Commission, this request will be scheduled for a City Council public hearing. Staff will inform the applicant and/or their representative of the date of the hearing in the upcoming days.
- Following City Council's decision, the applicant will receive a decision letter from Staff.
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- The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.

Request

Conditional Use Permit (Short Term Rental)

Staff Recommendation

Approval

Staff Planners

Garek Hall Hannigan

Location

1800 Baltic Avenue

GPIN

2427072197

Site Size

3,689 square feet

Existing Land Use and Zoning District

Townhome/Condominium / OR Oceanfront Resort (Vibe District)

Surrounding Land Uses and Zoning Districts

North

Townhouse Units / OR Oceanfront Resort (Vibe District)

South

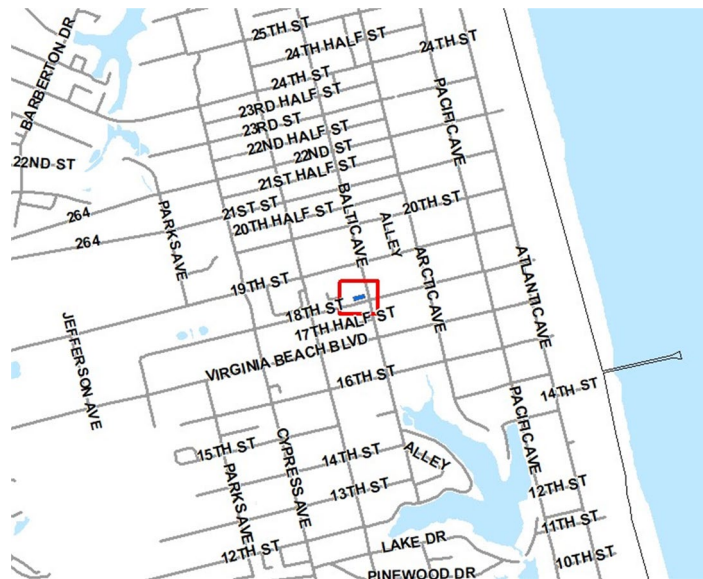
18th Street

East

Baltic Avenue

West

Commercial (Craft Brewery) / OR Oceanfront Resort (Vibe District)



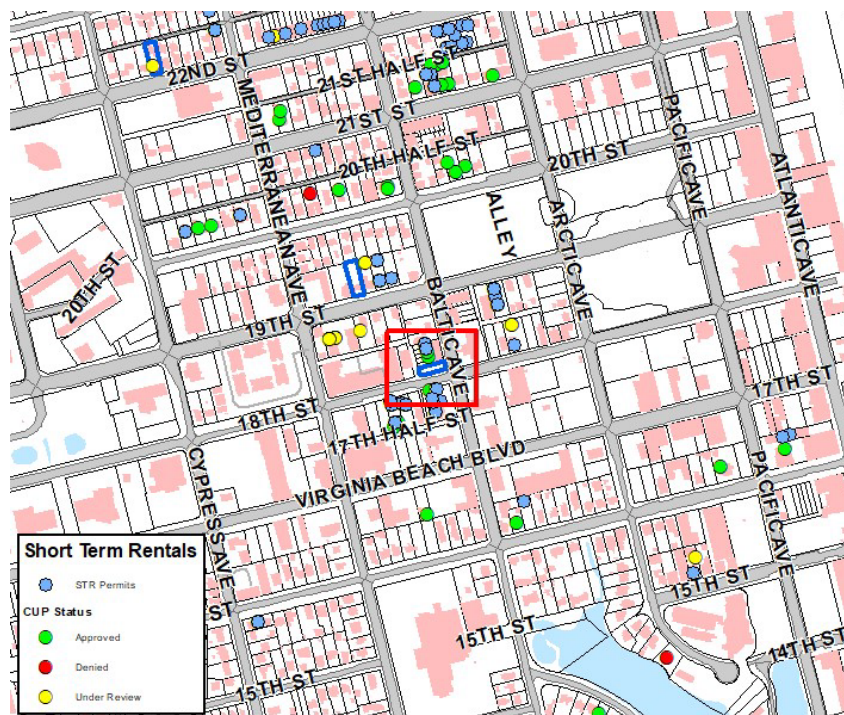
Background & Summary of Proposal

Site Conditions and History

- The subject site is 3,689 square feet in the Oceanfront Resort District and Vibe District.
- A total of two townhome units are located on this lot.
- According to City records, this dwelling was constructed in 2023.
- No previous zoning violations relating to Short Term Rental use were found associated with this address.
- The property lies within the RPPP boundary, where parking during the evening and overnight hours is limited. Based on this, a condition is recommended that would prohibit the issuance of guest and temporary RPPP passes.
- Staff inspected the site on February 8, 2023 to observe site conditions and take photographs for this report.
- Known Short Term Rental activity as of February 8, 2023:

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

Short Term Rentals in the Vicinity



Summary of Proposal

The applicant submitted a Conditional Use Permit request to operate a two-bedroom, Short Term Rental unit on the subject site. The regulations for Short Term Rental use are identified in Section 241.2 and Article 2300 of the City Zoning Ordinance. Specific details pertaining to this application are listed below.

- Number of bedrooms in the Short Term Rental: 2
- Maximum number of guests permitted on the property after 11:00 p.m.: 4
- Number of parking spaces required (1 space per bedroom required): 2
- Number of on-site parking spaces provided: 2

Zoning History

#	Request
1	CUP (Craft Brewery and Open-Air Market) Approved 11/07/17
2	STR (Short Term Rental) Approved 02/04/2020
3	STR (Short Term Rental) Approved 02/04/2020
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6	NON (Expand roof of nonconforming duplex) Approved 04/28/1992
7	STR (Short Term Rental) Approved 08/25/2022

Application Types

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

Evaluation & Recommendation

The applicant is requesting to operate a Short Term Rental in a two-bedroom condominium unit within a 2-unit condominium development.

The site is located within the ViBe Creative District, which is home to a myriad of commercial and residential uses with an emphasis on arts and culture. The surrounding area is a mixture of multi-family dwellings, duplex dwellings, single-family dwellings, and commercial uses. Furthermore, the property is within the resort area of the city and sits four blocks from the public beach of the Atlantic Ocean. The applicant's parking plan depicts two required off-street parking spaces. As permitted by Section 241.2 of the City Zoning Ordinance, the Zoning Administrator reviewed the Parking Plan and deemed it acceptable.

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

Recommended Conditions

1. The following conditions shall only apply to the dwelling unit addressed as 1800 Baltic Avenue and the Short Term Rental use shall only occur in the principal structure.
2. An annual STR Zoning Permit must be obtained from the Department of Planning and Community Development (Zoning Administration) before using the dwelling for Short-Term Rental purposes.
3. Off-street parking shall be provided as required by Section 241.2 and 2303(b)(a) of the City Zoning Ordinance or as approved by City Council.
4. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Department of Planning and Community Development; however, the Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions, or violations of any building, housing, zoning, fire, or other similar codes.
5. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1.
6. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes and to be physical present at the Short Term Rental within one (1) hour.
7. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Department of Planning and Community Development for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
 - a) A completed Department of Planning and Community Development Short Term Rental Zoning Permit; and
 - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
 - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
8. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
9. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
10. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
11. Accessory structures shall not be used or occupied as Short Term Rentals.
12. No signage shall be on-site, except that each short term rental shall have one (1) four-square foot sign posted on the building, or other permanent structure or location approved by the Zoning Administrator, that identifies the property as a short term rental and provides the telephone numbers for the Short Term Rental Hotlines in text large enough to be read from the public street.

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

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

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

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

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

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

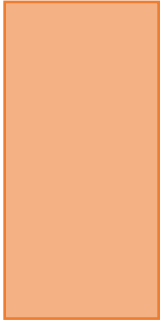
Public Outreach Information

Planning Commission

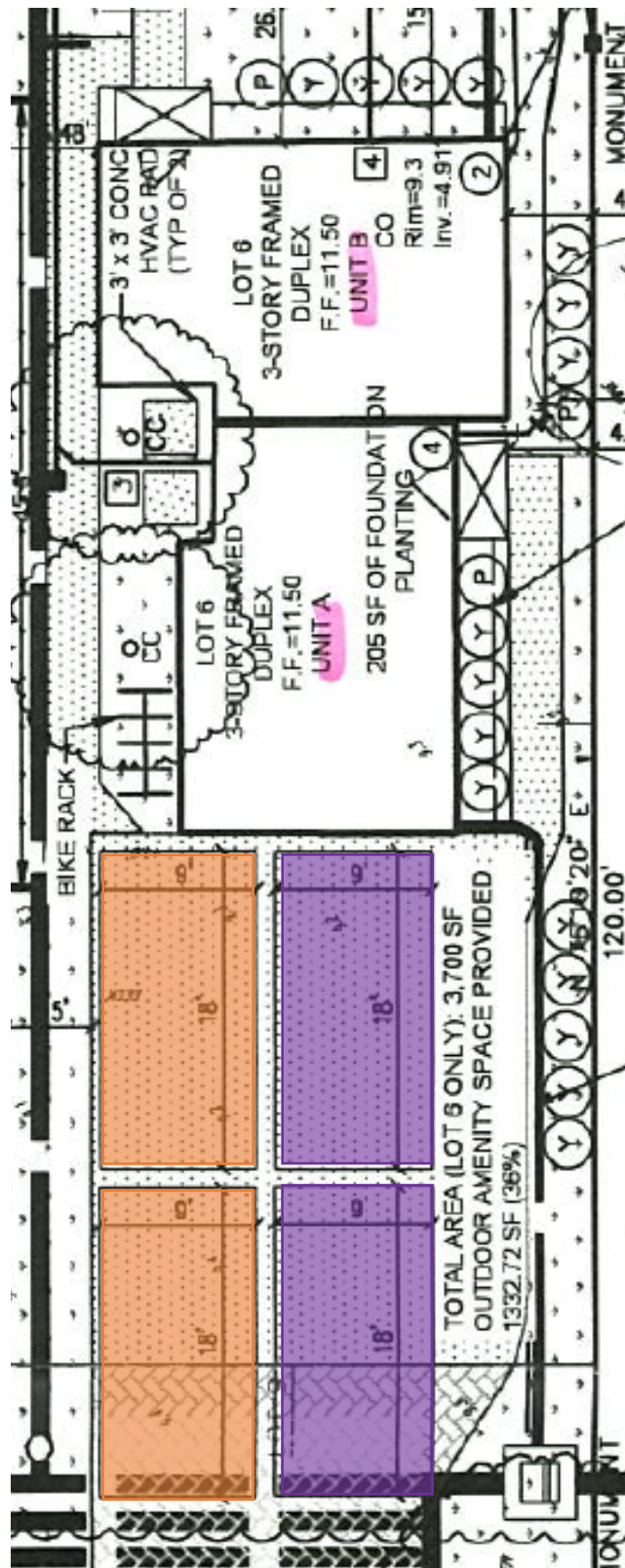
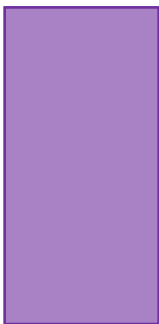
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on February 6, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, February 19, 2023, and February 26, 2023.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on February 20, 2023.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.vbgov.com/pc on March 2, 2023.

Site Layout & Parking Plan

9' x 18' parking
space
For 1800 Baltic Ave



9' x 18' parking
space
For 503 18th St



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 AS-SXM, LLC, a Virginia limited liability company

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)

James Arnhold, Manager

- 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



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.

Jacobson-Brotman, P.C.

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

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

Jeffrey Vierrether, MSA, P.C.

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

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

Disclosure Statement



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

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

Home Associates of Virginia, Inc.

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.

Jeffrey Vierrether, MSA, P.C.

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

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

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

Applicant Signature

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

AS-SXM, LLC

By:

Applicant Signature

James Arnhold, Manager

Print Name and Title

December 26th, 2022

Date

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

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

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

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

Next Steps

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

Conditional Use Permit (Short Term Rental)

Staff Recommendation

Approval

Staff Planners

Garek Hall Hannigan

Location

503 18th Street

GPIN

2427072197

Site Size

3,689 square feet

Existing Land Use and Zoning District

Townhome/Condominium / OR Oceanfront Resort (Vibe District)

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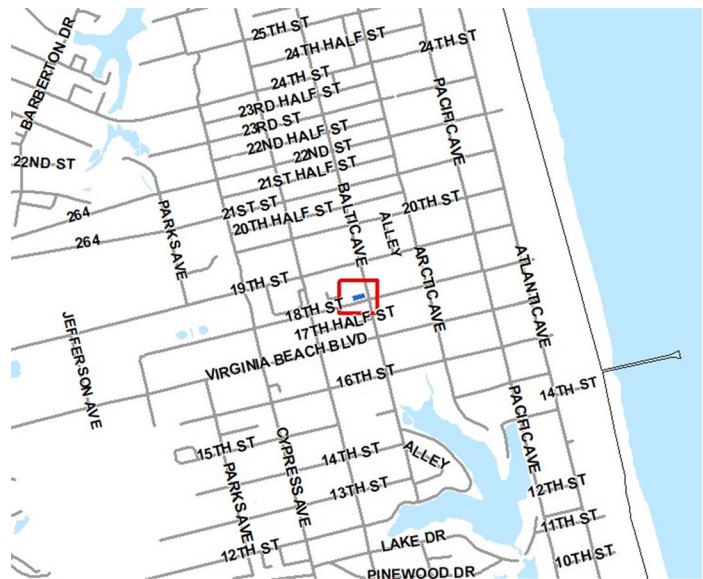
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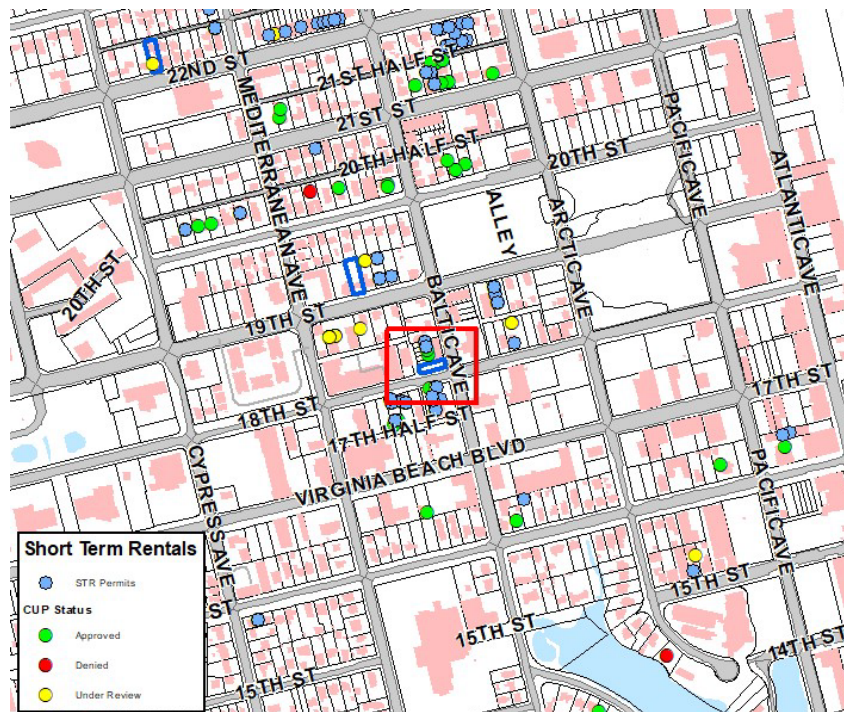
Background & Summary of Proposal

Site Conditions and History

- The subject site is 3,689 square feet in the Oceanfront Resort District and Vibe District.
- A total of two townhome units are located on this lot.
- According to City records, this dwelling was constructed in 2023.
- No previous zoning violations relating to Short Term Rental use were found associated with this address.
- The property lies within the RPPP boundary, where parking during the evening and overnight hours is limited. Based on this, a condition is recommended that would prohibit the issuance of guest and temporary RPPP passes.
- Staff inspected the site on February 8, 2023 to observe site conditions and take photographs for this report.
- Known Short Term Rental activity as of February 8, 2023:

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

Short Term Rentals in the Vicinity



Summary of Proposal

The applicant submitted a Conditional Use Permit request to operate a two-bedroom, Short Term Rental unit on the subject site. The regulations for Short Term Rental use are identified in Section 241.2 and Article 2300 of the City Zoning Ordinance. Specific details pertaining to this application are listed below.

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- Maximum number of guests permitted on the property after 11:00 p.m.: 4
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Zoning History

#	Request
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Evaluation & Recommendation

The applicant is requesting to operate a Short Term Rental in a two-bedroom condominium unit within a 2-unit condominium development.

The site is located within the ViBe Creative District, which is home to a myriad of commercial and residential uses with an emphasis on arts and culture. The surrounding area is a mixture of multi-family dwellings, duplex dwellings, single-family dwellings, and commercial uses. Furthermore, the property is within the resort area of the city and sits four blocks from the public beach of the Atlantic Ocean. The applicant's parking plan depicts two required off-street parking spaces. As permitted by Section 241.2 of the City Zoning Ordinance, the Zoning Administrator reviewed the Parking Plan and deemed it acceptable.

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

Recommended Conditions

1. The following conditions shall only apply to the dwelling unit addressed as 503 18th Street and the Short Term Rental use shall only occur in the principal structure.
2. An annual STR Zoning Permit must be obtained from the Department of Planning and Community Development (Zoning Administration) before using the dwelling for Short-Term Rental purposes.
3. Off-street parking shall be provided as required by Section 241.2 and 2303(b)(a) of the City Zoning Ordinance or as approved by City Council.
4. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Department of Planning and Community Development; however, the Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions, or violations of any building, housing, zoning, fire, or other similar codes.
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 - a) A completed Department of Planning and Community Development Short Term Rental Zoning Permit; and
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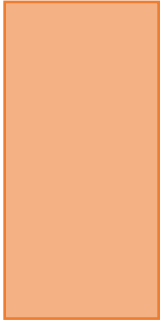
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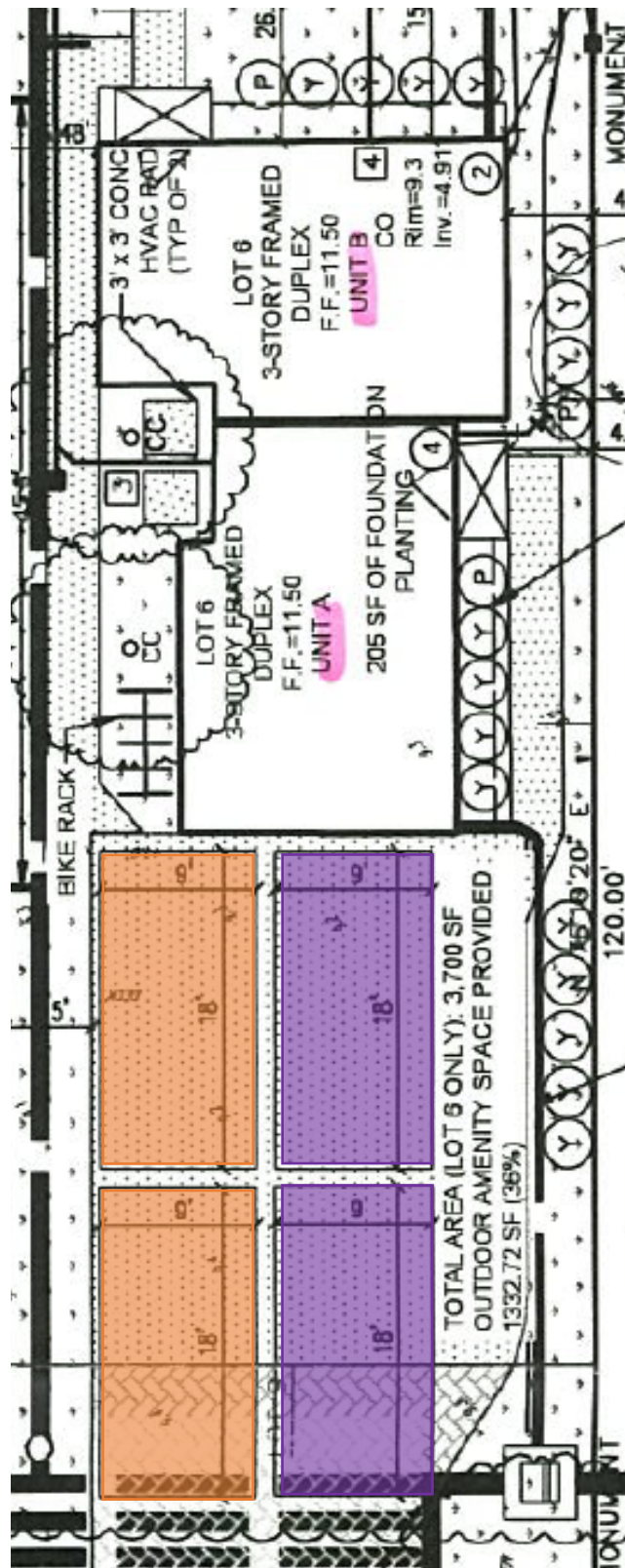
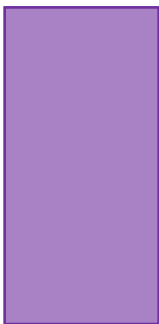
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- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, February 19, 2023, and February 26, 2023.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on February 20, 2023.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.vbgov.com/pc on March 2, 2023.

Site Layout & Parking Plan

9' x 18' parking
space
For 1800 Baltic Ave



9' x 18' parking
space
For 503 18th St



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 Prodan Management Group, LLC, a Virginia limited liability company

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)

Robert L. Prodan, II, Manager; John Prodan, Member

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

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

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

Disclosure Statement



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

☐ Yes ☒ No

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

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

☐ Yes ☒ No

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

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

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

David Brotman, Jacobson-Brotman, P.C.

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

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

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

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

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.

Home Associates of Virginia, Inc.

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.

Jeffrey Vierrether, MSA, P.C.

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

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

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

Applicant Signature

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

Prodan Management Group, LLC

By: 

Applicant Signature

Robert L. Prodan, II, Manager

Print Name and Title

12/22/2022

Date

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

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

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

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

Next Steps

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

Request

Conditional Use Permits (Short Term Rental)

Staff Recommendation

Approval

Staff Planner

Garek Hall Hannigan

Location

509, 511 19th Street

GPIN

2427070524 (509 19th Street)

2417979583 (511 19th Street)

Site Size

7,000 square feet

7,000 square feet

Existing Land Use and Zoning District

Single-family dwelling / OR Oceanfront Resort

Surrounding Land Uses and Zoning Districts

North

Single-family dwellings / OR Oceanfront Resort

South

19th Street

Single-family dwellings / OR Oceanfront Resort

East

Single-family dwellings / OR Oceanfront Resort

West

Office / OR Oceanfront Resort



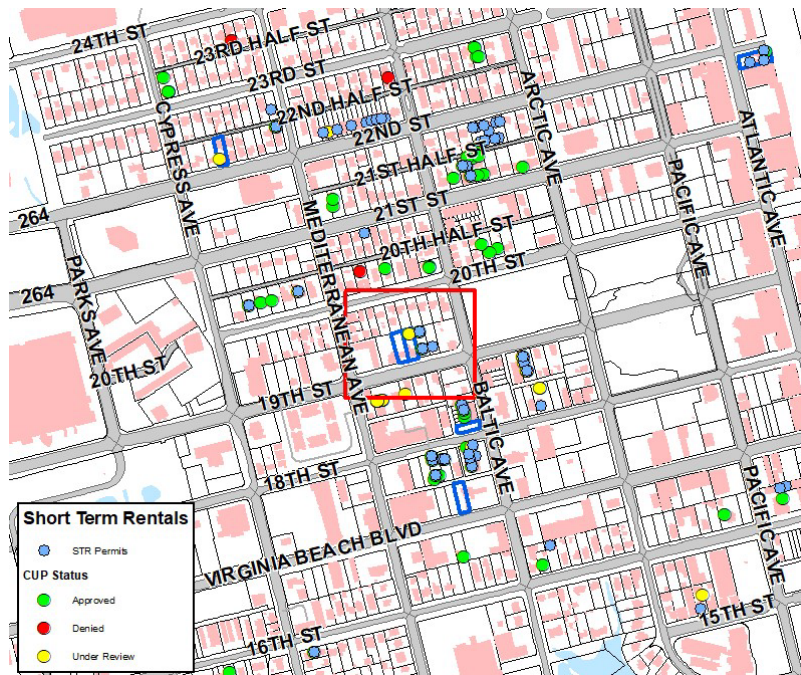
Background & Summary of Proposal

Site Conditions and History

- These two 7,000 square foot lot are zoned OR Oceanfront Resort District and contains one single-family dwelling each.
- According to City records, each lot contains a three-bedroom home, constructed in 1945.
- Staff inspected the site on February 8, 2023 to observe site conditions and take photographs for this report.
- On-street parking is not permitted on this portion of 19th Street.
- No records of zoning violations relating to Short Term Rental use were found associated with the subject address.
- Known Short Term Rental activity as of February 8, 2023:

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

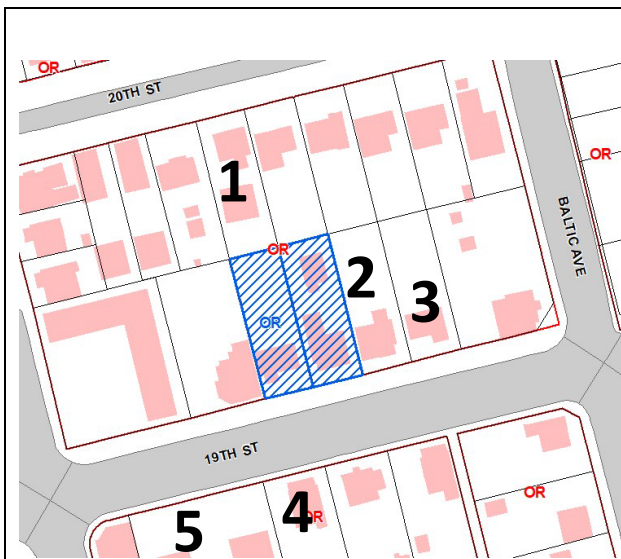
Short Term Rentals in the Vicinity



Summary of Proposal

The applicant submitted Conditional Use Permit requests to operate two, 3-bedroom Short Term Rental on the subject sites. The regulations for Short Term Rental use are identified in Section 241.2 and Article 2300 of the City Zoning Ordinance. Specific details pertaining to this application are listed below.

- Number of bedrooms in each Short Term Rental: 3
- Maximum number of guests permitted on each property after 11:00 pm: 6
- Number of parking spaces required for both dwellings (1 space per bedroom required): 6
- Number of parking spaces provided on-site: 6



Zoning History

#	Request
1	NON (Expansion of a Nonconformity) Approved 04/27/1993
2	STR (Short Term Rental) Approved 07/06/2021
3	STR (Short Term Rental) Approved 03/01/2021
4	STR (Short Term Rental) Approved 12/13/2022
5	STR (Short Term Rental) Approved 12/13/2022 (16 applications)

Application Types

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

MOD – Modification of Conditions or 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 site is located within the ViBe Creative District, which is home to a myriad of commercial and residential uses with an emphasis on arts and culture. In addition, the property lies approximately 1,900 feet, or .3 miles, from the public beach of the Atlantic Ocean. The applicant's parking plan depicts the six required off-street parking spaces, all on the existing impervious surface located in the rear of the 511 19th Street. As permitted by Section 241.2(1) of the City Zoning Ordinance, the Zoning Administrator reviewed the parking plan and deemed it acceptable.

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

Recommended Conditions

1. The following conditions shall only apply to the two, three-bedroom single-family dwellings addressed as 509 and 511 19th Street, and the Short Term Rental use shall only occur in the principal structures of each property.
2. An annual STR Zoning Permit must be obtained from the Department of Planning and Community Development (Zoning Administration) before using the dwelling for Short-Term Rental purposes.
3. Off-street parking shall be provided as required by Section 241.2 and 2303(b)(a) of the City Zoning Ordinance or as approved by City Council.
4. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Department of Planning and Community Development; however, the Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions, or violations of any building, housing, zoning, fire, or other similar codes.
5. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1.
6. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes and to be physical present at the Short Term Rental within one (1) hour.
7. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Department of Planning and Community Development for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
 - a) A completed Department of Planning and Community Development Short Term Rental Zoning Permit; and
 - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
 - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
8. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
9. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
10. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
11. Accessory structures shall not be used or occupied as Short Term Rentals.
12. No signage shall be on-site, except that each short term rental shall have one (1) four-square foot sign posted on the building, or other permanent structure or location approved by the Zoning Administrator, that identifies the property as a short term rental and provides the telephone numbers for the Short Term Rental Hotlines in text large enough to be read from the public street.

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

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

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

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

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

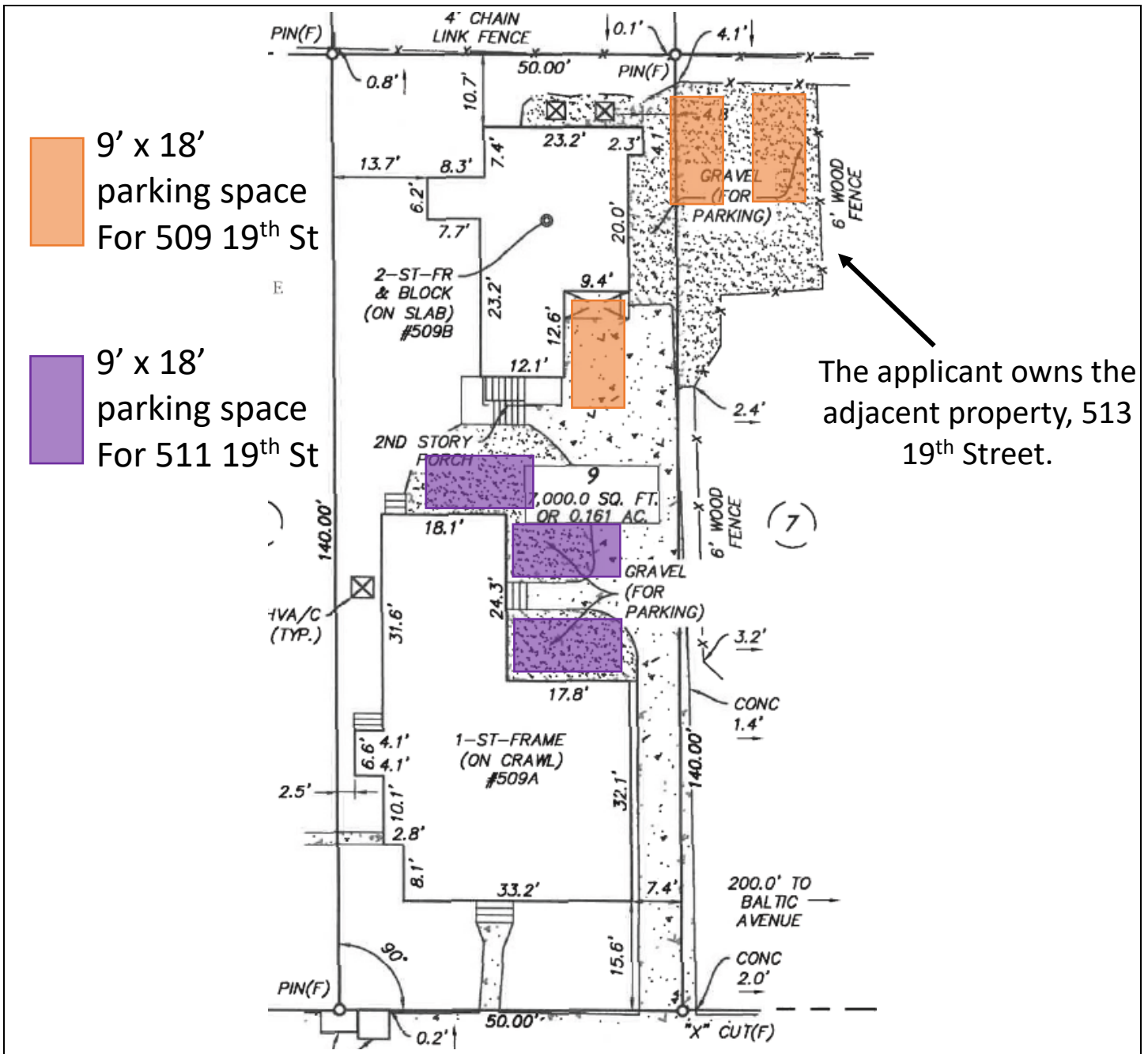
The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.

Public Outreach Information

Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on February 6, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, February 19, 2023, and February 26, 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 February 20, 2023.
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Site Layout & Parking Plan

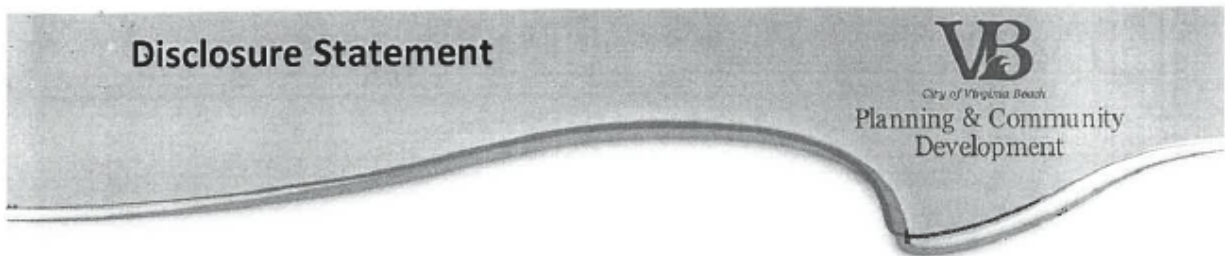


The applicant owns the adjacent property, 513 19th Street.

Site Photos



Disclosure Statement



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Applicant Disclosure

Applicant Name Caymus Properties, Inc

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

- If yes, list the name of the representative.

Anshoo Guliani

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)

Anshoo Guliani or Ranjeev Guliani

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

N/a

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



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.

Private Lender

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.

Neely Elstrodt, Fastax 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.

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

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Disclosure Statement


Disclosure Statement

VB
City of Virginia Beach
Planning & Community
Development

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
Anshoo Guliani (Owner)

Date 11/22/2022

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
		06.15.2021	William Miller
			Print Name
			William Miller

Revised 11.02.2020

3 | Page

Next Steps

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