

The background of the entire page is a photograph showing several dolphins leaping from the ocean's surface, creating white splashes. In the distance, a city skyline with various buildings is visible under a clear sky. The text 'Planning Commission Agenda' is overlaid on the upper right portion of the image in a large, white, serif font with a blue outline.

# Planning Commission Agenda

April 12, 2023



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, April 12, 2023 at 12:00 p.m. in the Council Chamber at City Hall, 2<sup>nd</sup> Floor at 2401 Courthouse Drive Building 1, Virginia Beach, VA 23456**. Members of the public will be able to observe the Planning Commission meeting through livestreaming on [www.vbgov.com](http://www.vbgov.com), broadcast on VBTv, and via WebEx. Citizens who wish to speak can sign up to speak either in-person at the Council Chamber or virtually via WebEx by completing the two-step process below. A Staff briefing session will be held at 9:00 a.m.. All interested parties are invited to observe.

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

1. Register for the WebEx at:  
<https://vbgov.webex.com/vbgov/j.php?MTID=maaf7820ae8939406de31a7680cf5fcf5>
2. Register with the Planning Department by calling 757-385-4621 or via email at [mbharris@vbgov.com](mailto:mbharris@vbgov.com) prior to 5:00 p.m. on April 11, 2023.

Copies of the proposed plans, ordinances, amendments and/or resolutions are on file and may be examined by appointment in the Planning Department at 2875 Sabre St, Suite 500, Virginia Beach, VA 23452 or online at [www.vbgov.com/pc](http://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](http://www.vbgov.com) and Facebook Live.

Please check our website at [www.vbgov.com/pc](http://www.vbgov.com/pc) for the most updated meeting information.



# Planning Commission Hearing Procedures

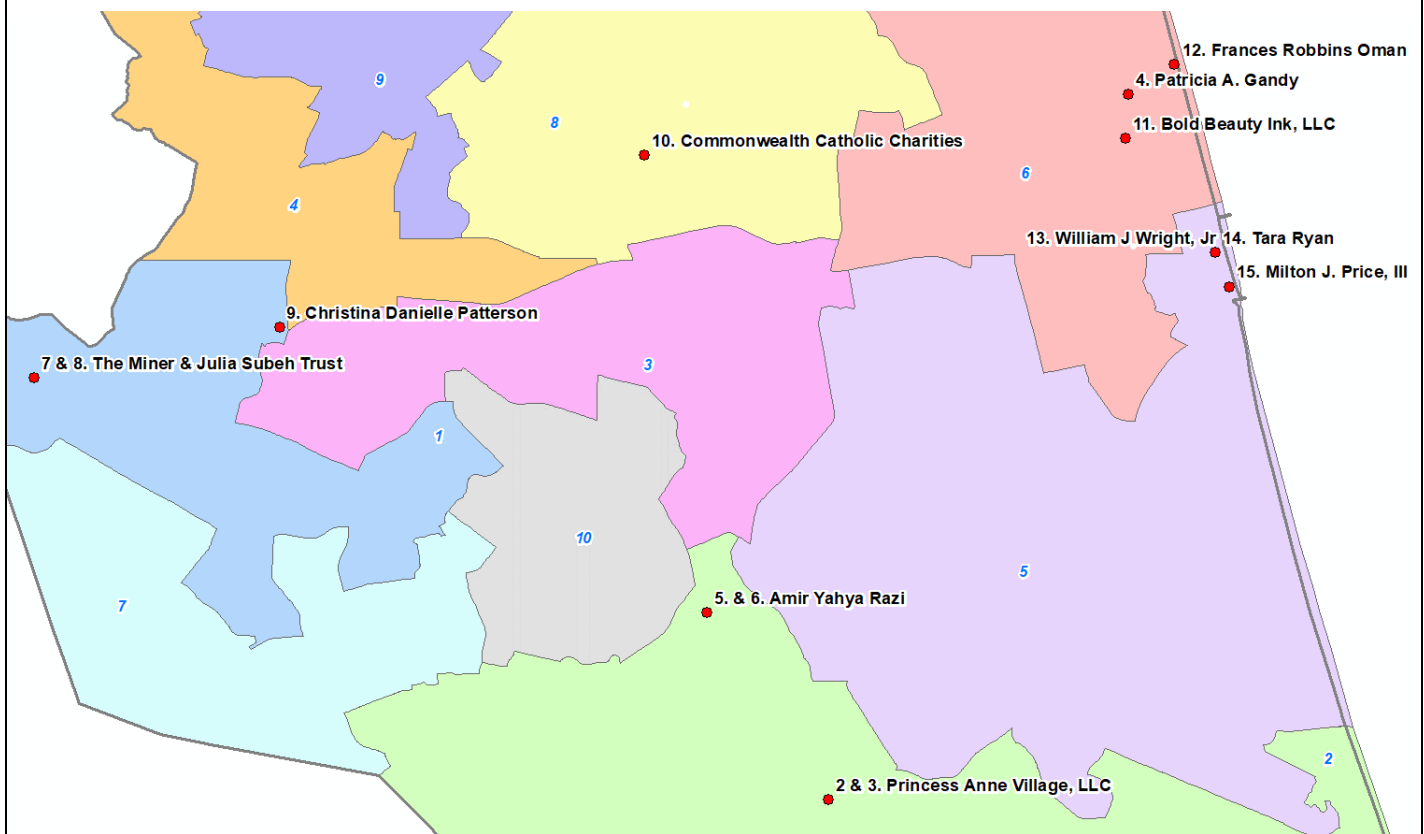
The following describes the order of business for the Public Hearing.

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.**



# APRIL 12, 2023 PLANNING COMMISSION AGENDA





## PLANNING COMMISSION AGENDA

### A.

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

### B.

### BRIEFINGS

1. Western Campus District Overlay – Hannah M. Sabo, Zoning Administrator
2. Zoning Ordinance Amendment for Measuring Height in the Flood Zone – Hannah M. Sabo, Zoning Administrator
3. Resolution to amend the City of Virginia Beach Comprehensive Plan 2016 by incorporating the Commercial Area Pattern Book and Flood Resiliency Toolkit into the “Documents Adopted by Reference” section of the Reference Handbook – Hank Morrison, Comprehensive Planning Administrator

## 12:00 P.M. – PUBLIC HEARING

### 1.

#### **City of Virginia Beach**

An Ordinance to amend Section 5.3.7 of the Oceanfront Resort Form-Based Code Pertaining to Temporary Commercial Parking Lots.

### 2 & 3.

#### **Princess Anne Village, LLC** (Applicant)

**Princess Anne Village, LLC, City of Virginia Beach**  
(Property Owners)

**Conditional Rezoning** (AG-2 Agricultural District to PD-H2 Planned Unit Development (R-10 Residential District))

#### **Modification of Proffers**

**Addresses:** 2369, 2373, 2375, 2377, 2381, 2385 Princess Anne Road & 2393, 2401, 2413 North Landing Road, Parcel between 2393 North Landing Road & 2385 Princess Anne Road

**GPIN(s):** 1494926240, 2404012707, 1494927384, 2404031158, 2403293752, 1494928455, 2404023254, 2404030056, 2404024848, 2404035242, 2404036378

**City Council:** District 2, formerly Princess Anne

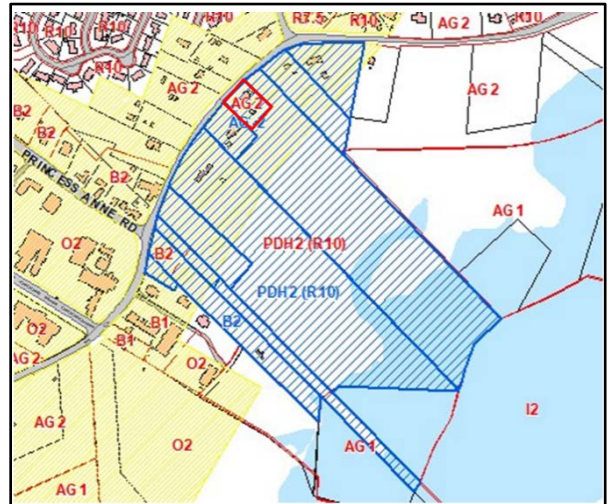
**Accela Record(s):** 2023-PCCC-00025, 2023-PCCC-00026

**SGA:** No

**Overlay:** Transition Area, Princess Anne County Courthouse/Whitehurst House

**Staff Planner:** Marchelle Coleman

*Requests to rezone an 0.88-acre parcel and incorporate it into the Planned Unit Development for a total of 77 single-family dwelling lots with up to 93 dwelling units, resulting in a density of 2.50 units/acre.*





4.

**Patricia A. Gandy** (Applicant)

**Scott M. & Patricia A. Gandy** (Property Owners)

**Conditional Use Permit** (Home-Based Wildlife Rehabilitation Facility)

**Address:** 102 Willow Drive

**GPIN(s):** 2418733619

**City Council:** District 6, formerly Beach

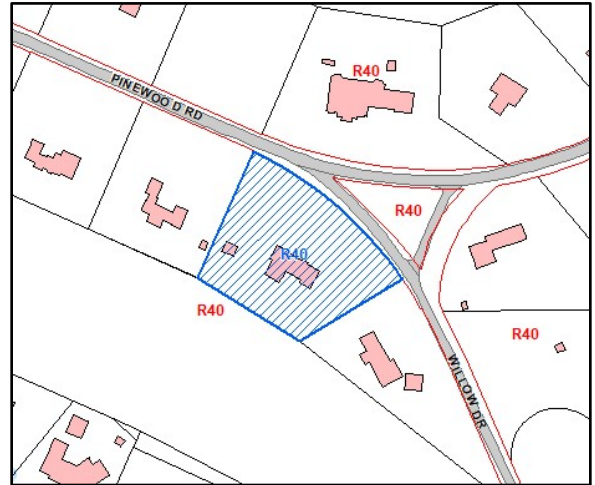
**Accela Record(s):** 2023-PCCC-00018

**SGA:** No

**Overlay:** No

**Staff Planner:** Elizabeth Nowak

*Request to operate a Home-Based Wildlife Rehabilitation Facility for young and infant mammals, birds, waterfowl, & reptiles until released at an appropriate location off-site.*



5. & 6.

**Amir Yahya Razi** (Applicant & Property Owner)

**Conditional Rezoning** (AG-2 Agricultural District to Conditional B-2 Community Business District)

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

**Address:** Parcel on Holland Road, between 2989 & 3005 Holland Road

**GPIN(s):** 1495235225

**City Council:** District 2, formerly Princess Anne

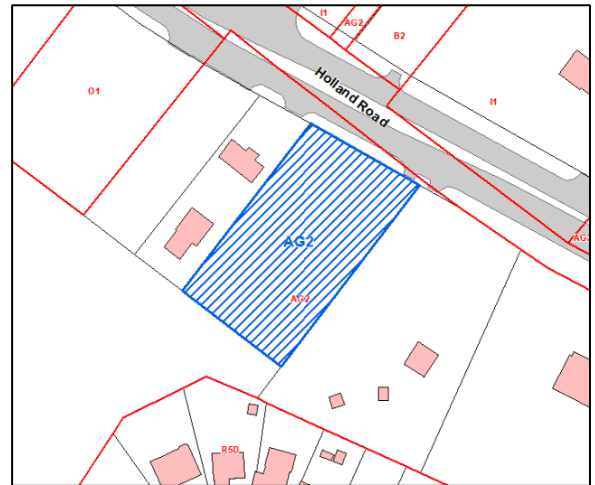
**Accela Record(s):** 2022-PCCC-00223 & 2022-PCCC-00224

**SGA:** No

**Overlay:** No

**Staff Planner:** Elizabeth Nowak

*Request to rezoning 0.9 acres from AG-2 to Conditional B-2 along with a Conditional Use Permit request to operate an Automobile Repair Garage.*





**7. & 8.**

**The Minwer & Julia Subeh Revocable Joint Trust**  
**dtd. 8/29/2013** (Applicant & Property Owner)

**Rezoning** (B-2 Community Business District to I-1 Light Industrial District)

**Conditional Use Permit** (Bulk Storage Yard)

**Address:** 728 S Military Highway

**GPIN(s):** 1456279020

**City Council:** District 1, formerly Kempsville

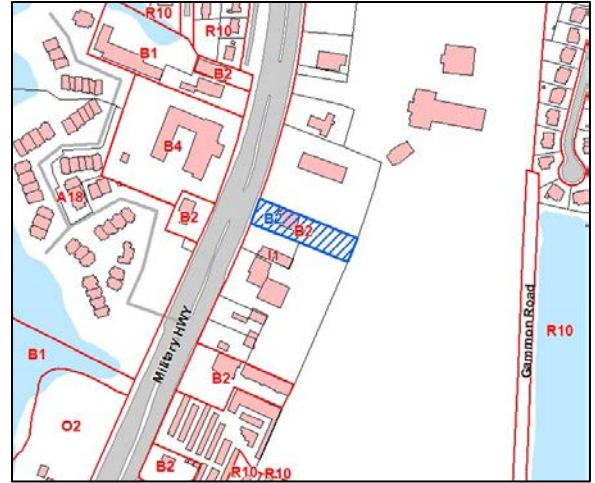
**Accela Record(s):** 2022-PCCC-00078, 2023-PCCC-00048

**SGA:** No

**Overlay:** No

**Staff Planner:** Elizabeth Nowak

*Request to rezone a property from B-2 Community Business to I-1 Light Industrial along with a Conditional Use Permit request to operate a Bulk Storage Yard.*



**9.**

**Christina Danielle Patterson** (Applicant)  
**JN & RBD, LLC** (Property Owner)

**Conditional Use Permit** (Tattoo Parlor)

**Address:** 328 Office Square Lane, Suite 203

**GPIN(s):** 1466793843

**City Council:** District 1, formerly Kempsville

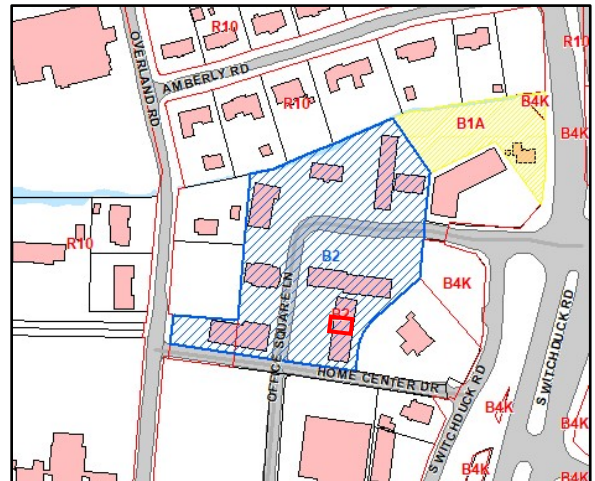
**Accela Record(s):** 2023-PCCC-00013

**SGA:** No

**Overlay:** Historic Kempsville

**Staff Planner:** Michaela D. McKinney

*Request to operate a Tattoo Parlor for the application of permanent make-up.*



**10.**

**Commonwealth Catholic Charities** (Applicant)  
**Catholic Diocese of Richmond** (Property Owner)

**Modification of Conditions** (Group Home)

**Address:** 642 North Lynnhaven Road

**GPIN(s):** 1488805079

**City Council:** District 8, formerly Lynnhaven

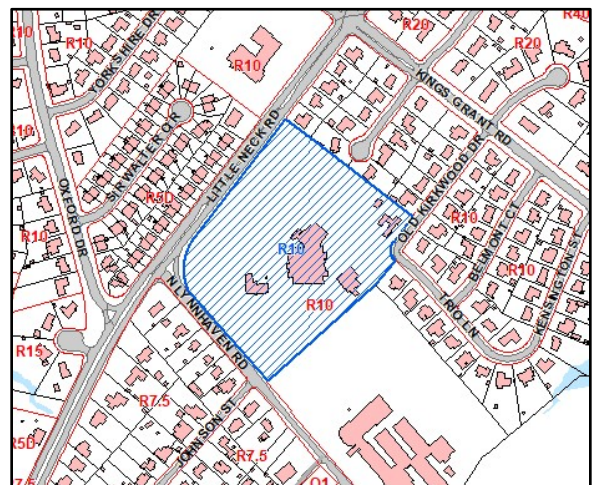
**Accela Record(s):** 2023-PCCC-00023

**SGA:** No

**Overlay:** No

**Staff Planner:** Michaela D. McKinney

*Request to amend previous approval to extend the length of time a resident can be housed on-site from two weeks to 90 days.*





11.

**Bold Beauty Ink, LLC** (Applicant)  
**Alvin J. Lanese Trust** (Property Owner)

**Conditional Use Permit** (Tattoo Parlor)

**Address:** 968 South Oriole Drive, Suite 100

**GPIN(s):** 2418711141

**City Council:** District 6, formerly Beach

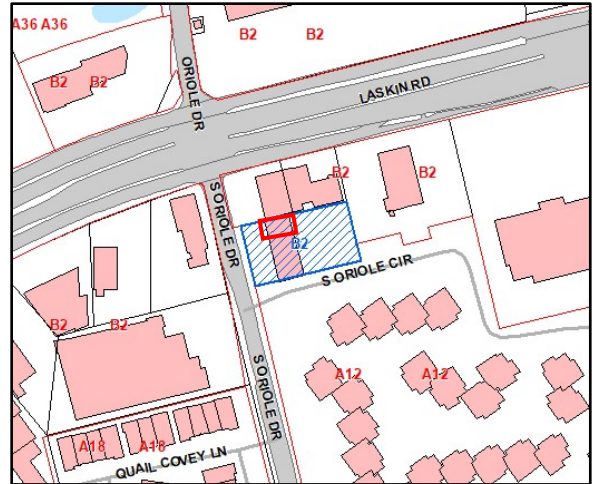
**Accela Record(s):** 2023-PCCC-00015

**SGA:** Yes - Resort Area

**Overlay:** No

**Staff Planner:** Madison B. Eichholz

*Request to operate a Tattoo Parlor for the application of permanent make-up.*



## SHORT TERM RENTALS

12.

**Frances Robbins Oman** (Applicant & Property Owner)

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

**Address:** 4005 Atlantic Avenue, Unit 217

**GPIN(s):** 24280514484090

**City Council:** District 6, formerly Beach

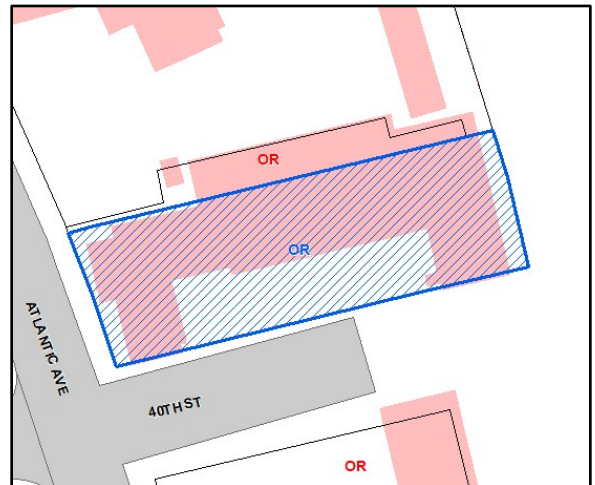
**Accela Record(s):** 2023-PCCC-00014

**SGA:** Yes – Resort Area

**Overlay:** OR Overlay

**Staff Planner:** Garek Hannigan

*Request for a 1-bedroom Short Term Rental.*



13.

**William J Wright, Jr** (Applicant)  
**Beach Front Financing, LLC** (Property Owner)

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

**Address:** 911 Pacific Avenue, Unit C

**GPIN(s):** 24272444111035

**City Council:** District 5, formerly Beach

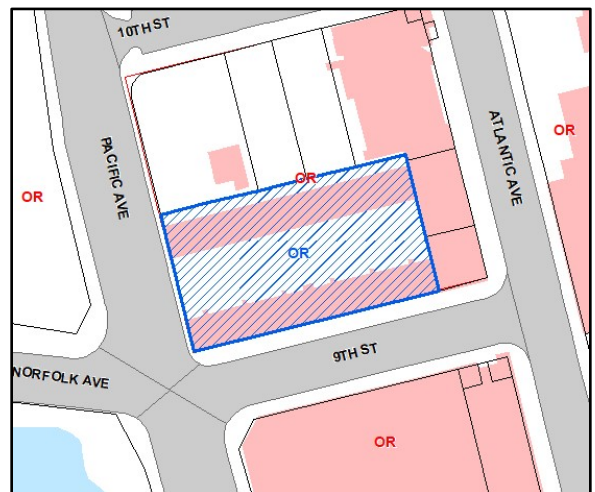
**Accela Record(s):** 2022-PCCC-00294

**SGA:** Yes – Resort Area

**Overlay:** OR Overlay

**Staff Planner:** Garek Hannigan

*Request for a 2-bedroom Short Term Rental.*





14.

**Tara Ryan** (Applicant)

**Pacific Air 3, LLC** (Property Owner)

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

**Address:** 925 Pacific Avenue

**GPIN(s):** 24272444111145

**City Council:** District 5, formerly Beach

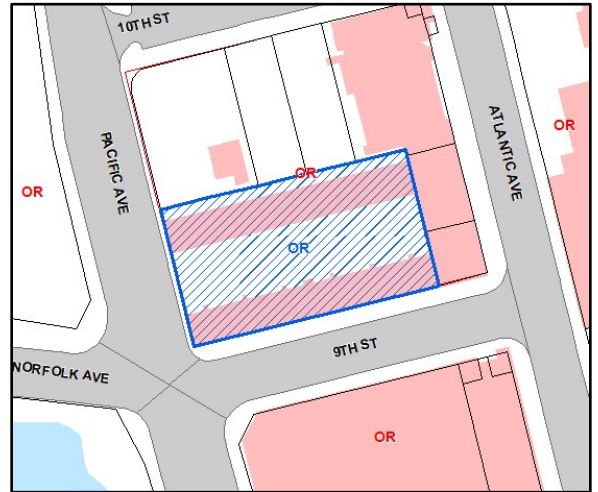
**Accela Record(s):** 2023-PCCC-00016

**SGA:** Yes – Resort Area

**Overlay:** OR Overlay

**Staff Planner:** Garek Hannigan

*Request for a 1-bedroom Short Term Rental.*



15.

**Milton J. Price, III** (Applicant & Property Owner)

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

**Address:** 303 Atlantic Avenue, Unit 603

**GPIN(s):** 24273224031780

**City Council:** District 5, formerly Beach

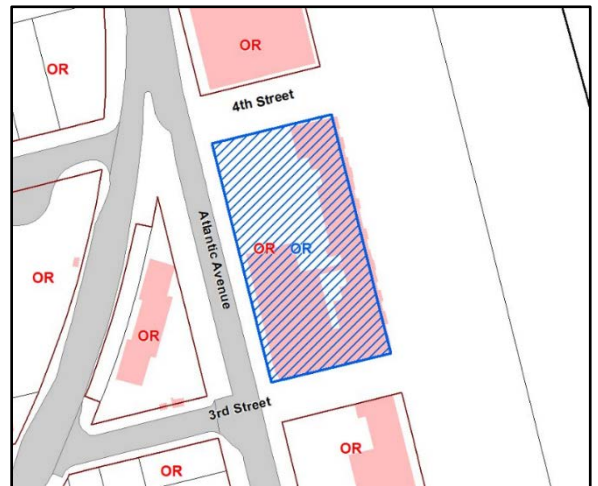
**Accela Record(s):** 2022-PCCC-00295

**SGA:** Yes – Resort Area

**Overlay:** OR Overlay

**Staff Planner:** Garek Hannigan

*Request for a 2-bedroom Short Term Rental.*











## Request

An Ordinance to amend Section 5.3.7 of the Oceanfront Resort Form-Based Code pertaining to Temporary Commercial Parking Lots.

## Summary of Request

This ordinance proposes to amend the Oceanfront Resort Form-Based Code to permit up to two (2), one-year extensions for temporary commercial parking lots through 2026.

Temporary commercial parking lots are only permitted as a limited use in specific areas of the Oceanfront Resort District. More specifically, temporary commercial parking lots are not permitted:

- North of Pinewood Road/32nd Street and west of Pacific Avenue;
- South of Virginia Beach Boulevard/17th Street, west of Pacific Avenue, and north of 14th Street;
- North of 22nd Street, west of Pacific Avenue, and south of 28th Street (as extended to Baltic Avenue); and
- East of Atlantic Avenue.

Perimeter landscaping for temporary commercial parking lots must meet the requirements of Section 5A of the Site Plan Ordinance. Surface treatment in accordance with Section 203(b)(5) must be provided.

As currently written, the ordinance limits the operation of temporary commercial parking lots to one year. No extensions are currently permitted.

This ordinance amendment seeks to provide a solution for the temporary reduction in parking in the resort area expected through 2026 due to construction associated with the Atlantic Park project.

This amendment originally proposed to amend the Oceanfront Resort Form-Based Code to allow the Director of Planning to permit up to two (2), one-year extensions for temporary commercial parking lots with approval from the Resort Management Office. After meeting with the Resort Advisory Commission's Transportation, Parking, Pedestrian Committee (TPPC) and the Planning & Design Review Committee (PDRC), staff updated the ordinance to permit up to two (2), one-year extensions for temporary commercial parking lots through December 31, 2026; after which date, no extensions would be granted. This date is based on the anticipated of construction for Atlantic Park, after which additional public parking will be available.

This ordinance aims to balance the parking needs in the resort area over the next three years with the desire for quality-built parking by allowing the operation of temporary parking lots to be extended beyond the one year currently permitted, but no longer than December 31, 2026.

This amendment would not change where temporary commercial parking lots are permitted or the landscaping requirements for such lots.



This ordinance would also update the sections referenced for requirements for surface treatment based on updates to those reference documents. No substantive changes to the requirements for surface treatment are proposed.

If approved, this amendment would amend the Oceanfront Resort Form-Based Code to permit up to two (2), one-year extensions for temporary commercial parking lots through 2026.

## **Recommendation**

Staff recommends approval of this Ordinance as it will allow additional parking solutions in the Oceanfront Resort District.



AN ORDINANCE TO AMEND SECTION 5.3.7  
OF THE OCEANFRONT RESORT FORM-  
BASED CODE PERTAINING TO  
COMMERCIAL PARKING LOTS,  
TEMPORARY

Section Amended: § 5.3.7 of the Oceanfront  
Resort Form-Based Code

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 5.3.7 of the Oceanfront Resort Form-Based Code is hereby  
amended and reordained to read as the following:

**Sec. 5.3.7 Commercial Parking Lot, Temporary**

A temporary commercial parking lot is permitted as a limited use in accordance with the  
following:

A. Temporary commercial parking lots are not permitted:

1. North of Pinewood Road/32nd Street and west of Pacific Avenue;
2. South of Virginia Beach Boulevard/17th Street, west of Pacific Avenue,  
and north of 14th Street;
3. North of 22nd Street, west of Pacific Avenue, and south of 28th Street (as  
extended to Baltic Avenue); and
4. East of Atlantic Avenue.

B. Perimeter landscaping meeting the requirements of Sec. 5A of the Site Plan  
Ordinance ~~and the Public Works Standard Manual~~ must be installed, and  
temporary surface treatment in accordance with ~~the standards for temporary  
parking lots in the Public Works Standards Manual~~ Section 203(b)(5) of the  
Zoning Ordinance must be provided.

C. Where allowed and approved, a temporary commercial parking lot may ~~only~~ be  
permitted for one calendar year. ~~No extensions are allowed. Up to two (2) one-  
year extensions may be granted by the Planning Director until December 31,  
2026, at which point no extensions may be granted.~~

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



APPROVED AS TO CONTENT:

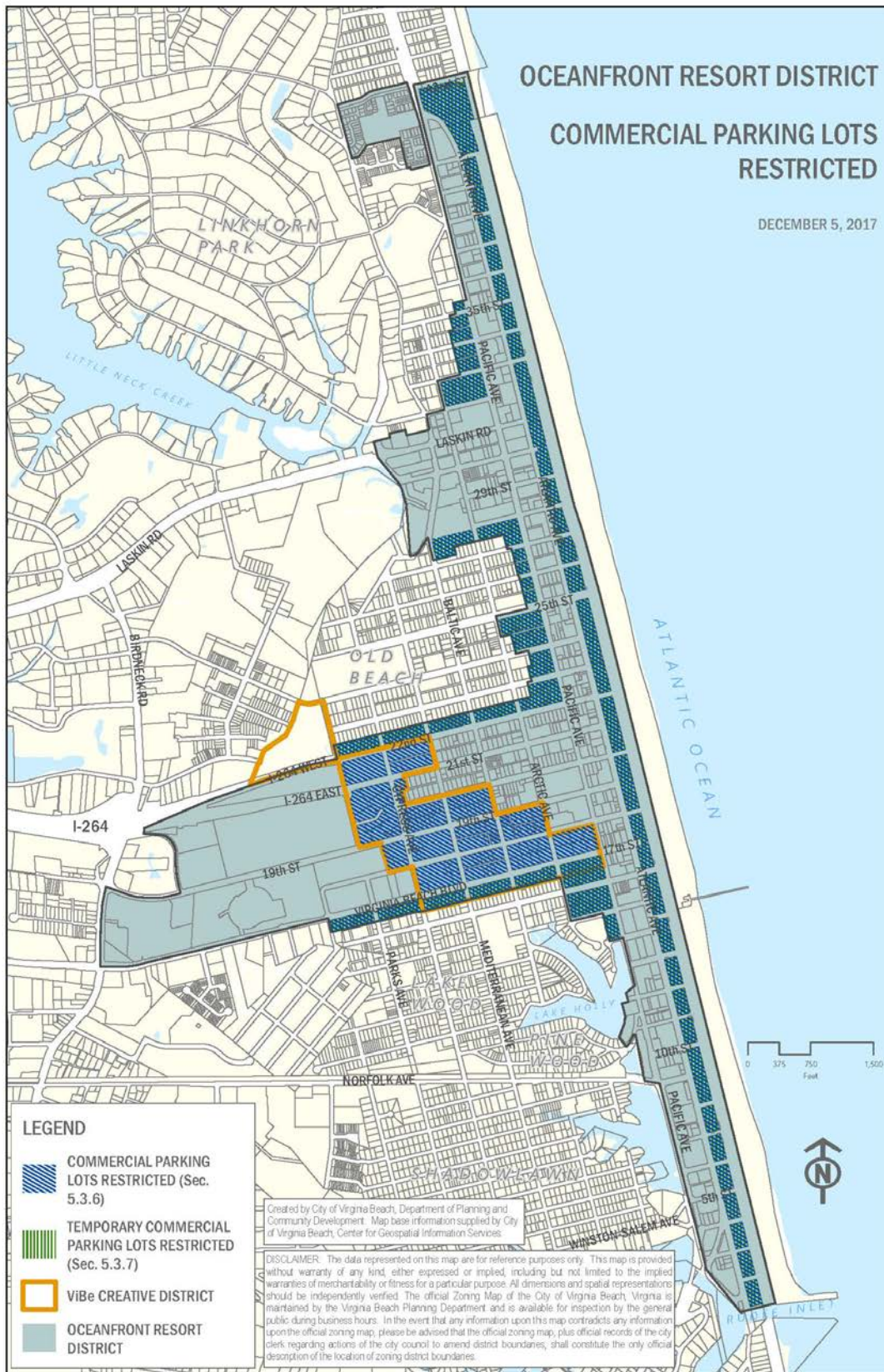
APPROVED AS TO LEGAL SUFFICIENCY:

\_\_\_\_\_  
Planning Department

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

CA16122  
R-3  
April 4, 2023











### Requests

**#2 - Conditional Rezoning** (AG-2 Agricultural District to Conditional PD-H2 Planned Unit Development (R-10 Residential District))

**#3 - Modification of Proffers**

### Staff Recommendation

Approval

### Staff Planner

Marchelle Coleman

### Location

2369, 2373, 2375, 2377, 2381, 2385 Princess Anne Road & 2393, 2401, 2413 North Landing Road, Parcel between 2393 North Landing Road & 2385 Princess Anne Road

### GPINs

2404031158, 1494926240, 2404012707, 1494927384, 2403293752, 1494928455, 2404023254, 2404030056, 2404024848, 2404035242, 2404036378

### Site Size

56.45 acres

### AICUZ

65-70 dB DNL; Sub-Area 2

### Watershed

Southern Rivers

### Existing Land Use and Zoning District

Single-family dwellings, undeveloped / AG-2 Agricultural, PD-H2 Planned Unit Development (R-10) Residential

### Surrounding Land Uses and Zoning Districts

#### North

Princess Anne Road  
Single-family dwellings, office, automotive repair / O-2 Office, B-2 Community Business, AG-2 Agricultural

#### South

Wooded, West Neck Creek, office/warehouse / AG-1 Agricultural, I-2 Heavy Industrial

#### East

Single-family dwelling, wooded / AG-1 & AG-2 Agricultural

#### West

Princess Anne Road, North Landing Road  
Shopping center, wooded / B-1 Neighborhood Business, AG-1 Agricultural





## Background & Summary of Proposal

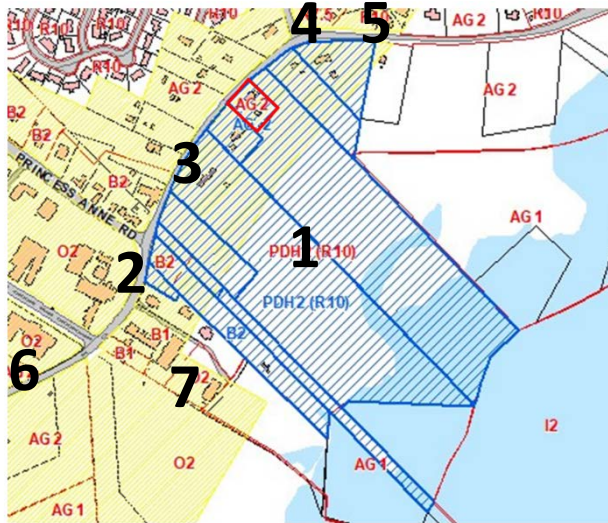
- The applicant seeks to rezone a 0.88-acre parcel (2377 Princess Anne Road) from AG-2 Agricultural District to Conditional PD-H2 Planned Unit Development (R-10 Residential District) and to amend proffers associated with the Conditional Rezoning approved by City Council on January 18, 2022 to rezone 55.57± acres from AG-1 and AG-2 Agricultural District and B-2 Community Business to Conditional PD-H2 with an R-10 overlay and Conditional B-2 Community Business.
- With the 2022 Conditional Rezoning approval, the applicant proffered that the development would be constructed in substantial conformance with the conceptual site layout plan exhibited to City Council. At that time, the owner of the 0.88-acre parcel was not interested in selling their property to be incorporated into the Princess Anne Village Community. The applicant has since purchased the parcel and seeks to incorporate it into this development.
- The 2022 proffered conceptual plan depicts 89 dwelling units (73 lots with 16 garage apartments) and one commercial parcel, resulting in an overall density of 2.45 units per acre. With the incorporation of this new lot, 93 dwelling units are proposed (77 lots with 16 garage apartments) and one commercial parcel, resulting in an increase in density to 2.50 units per acre. While the overall site is 56.45 acres, since a portion of the land is within a utility easement and within City-defined wetlands, only 37.15 acres of the site can be used to calculate the allowable residential density. As such, the density of 2.50 units per acre is based on the 93 dwelling units proposed on 37.15 acres rather than the total area of 56.45 acres.
- While the conceptual plan has changed slightly with the additional lot, in keeping with the previous plan, each dwelling is proposed to be rear-loading and accessed by a one-way alley. With the previous plan, four lot types were identified. With this modified plan, dwellings will be located on one of three lot types identified as either “Large Single-Family,” “Medium Single-Family,” or “Cottage.” The “Extra-Large Single-Family” lots shown in the proffered plan have been removed. As stated previously, up to 16 garage apartments are planned as accessory units. Below is the proposed break down of dwelling types.

Lot Type	Minimum Lot Size (Square Feet)	Number of Lots
Large Single-Family	3,400	19
Medium Single-Family		45
Cottage		13
*Up to 16 Garage Apartments are also requested to be located throughout the community.		

- The five open space areas that were depicted on the previous plan will remain and will be available for use by the residents as private parks.
- The proposed house styles reflect the Tidewater vernacular and rural architecture. The three proposed home styles include “Colonial”, “Farm House”, and “Craftsman”. All exteriors will feature fiber cement brick. Each dwelling will have a front porch and varied rooflines and are consistent with the Courthouse Historic & Cultural District Overlay, as well as the Transition Area Design Guidelines.
- The parcel to be incorporated into this development is located within the Courthouse Historic & Cultural District Overlay. As such, the applicant appeared before the Historical Review Board and received a Certificate of Appropriateness to demolish the existing structures on the site and for the proposed new construction. A copy of the Certificate of Appropriateness is included on pages 25-26 of this Staff report.



- This site is located within the 65-70 dB DNL noise zone, Sub-area 2. On May 22, 2018, the applicant met with the Joint Review Process (JRP) Group to discuss the proposed project. Since the proposal was at density similar to, and in some cases, lower than the surrounding properties and conformed to the provisions of the Comprehensive Plan, the JRP did not object to the request. The applicant met with the JRP group again on March 15, 2023, to discuss the increased density associated with the addition of the 0.88-acre parcel. The JRP group determined that the increase in density to 2.50 units per acre is still in keeping with the standards of Section 1804 (c)(2) and thus raised no objections to the request.
- The applicant appeared before the Transition Area/Interfacility Traffic Area Citizen's Advisory Committee (TA/ITA) on March 2, 2023, to brief the Committee on the proposal. The Committee found the proposal to be consistent with the Transition Area Guidelines and is supportive of the request.
- The applicant and the City have entered into an Exchange Agreement to exchange property. The Exchange Agreement requires the applicant to construct a 10-foot asphalt or an 8-foot concrete trail within a 20-foot wide easement to be dedicated to the City. The design and location of the trail will be reviewed during Site Plan review and shall be to the satisfaction of the Department of Parks & Recreation, as specified in the Exchange Agreement. The Modification of Proffers request does not supersede the terms of the Exchange Agreement.

	<h3>Zoning History</h3> <table><tr><th>#</th><th>Request</th></tr><tr><td>1</td><td>CRZ (AG-1, AG-2, &amp; B-2 to Conditional PD-H2 (R-10) &amp; Conditional B-2) Approved 01/18/2022</td></tr><tr><td>2</td><td>CUP (Specialty Shop) Approved 09/07/2016 CRZ (B-1 to Conditional B-2) Approved 06/11/1996 CRZ (AG-1 to Conditional B-1) Approved 01/28/1992 REZ (AG-2 to B-1) Approved 01/09/1986</td></tr><tr><td>3</td><td>SVR Approved 08/27/2013 CRZ (B-1, B-2 &amp; AG-2 to Conditional B-2) Approved 12/09/2003 CUP (Communication Tower) Approved 07/09/1996 REZ (AG-2 to B-1) Approved 01/09/1986 REZ (AG-2 to B-1) Approved 01/25/1982</td></tr><tr><td>4</td><td>CRZ (AG-2 to PD-H2 (R-7.5)) Approved 07/02/2013</td></tr><tr><td>5</td><td>CRZ (AG-1&amp;2 to R-10) Approved 10/23/2001</td></tr><tr><td>6</td><td>CUP (Group Home) Approved 05/24/1994</td></tr><tr><td>7</td><td>REZ (AG-2 to O-1) Approved 10/21/1985</td></tr></table>			#	Request	1	CRZ (AG-1, AG-2, & B-2 to Conditional PD-H2 (R-10) & Conditional B-2) Approved 01/18/2022	2	CUP (Specialty Shop) Approved 09/07/2016 CRZ (B-1 to Conditional B-2) Approved 06/11/1996 CRZ (AG-1 to Conditional B-1) Approved 01/28/1992 REZ (AG-2 to B-1) Approved 01/09/1986	3	SVR Approved 08/27/2013 CRZ (B-1, B-2 & AG-2 to Conditional B-2) Approved 12/09/2003 CUP (Communication Tower) Approved 07/09/1996 REZ (AG-2 to B-1) Approved 01/09/1986 REZ (AG-2 to B-1) Approved 01/25/1982	4	CRZ (AG-2 to PD-H2 (R-7.5)) Approved 07/02/2013	5	CRZ (AG-1&2 to R-10) Approved 10/23/2001	6	CUP (Group Home) Approved 05/24/1994	7	REZ (AG-2 to O-1) Approved 10/21/1985
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## Evaluation & Recommendation

The requests to rezone 2377 Princess Road from AG-2 Agricultural District to Conditional PD-H2 Planned Unit Development (R-10 Residential District) and the Modification of Proffers to incorporate this parcel into the Princess Anne Village development are acceptable. The proposed Neo-traditional residential community meets the recommendations of the Comprehensive Plan by providing a variety of dwelling styles that are compatible with the surrounding area and consistent with the Courthouse Historic & Cultural District, and open space amenities that connect to public trails.



The applicant's proposal to amend the residential density from 2.45 units per acre to 2.50 units per acre for the development of four additional lots is consistent with other residential developments in the immediate area, approved in recent years. The 2023 Modification of Proffers will supersede the original 2022 proffers to reflect the amended Conceptual Site Layout, the Princess Anne Village Residential Development Criteria, and to incorporate this parcel into the development. Proffers 11 – 16, associated with the commercial B-2 zoned site, will remain in effect, as noted in the Modification of Proffers agreement.

The applicant appeared before the Historical Review Board (HRB) on February 15, 2023, and was issued a Certificate of Appropriateness which permitted the demolition of the existing structures at 2377 Princess Anne Road and the proposed new construction. On July 18, 2018, and August 18, 2021, Certificates of Appropriateness were also issued that permitted the demolition of the existing structures on all the parcels associated with this development and approval of the Colonial, Farm House, and Craftsman architectural styles and exterior building materials proposed for the overall development, which will also remain in effect with these applications.

As recommended by the Comprehensive Plan, the applicant submitted a preliminary drainage study to the Development Services Center (DSC) outlining their proposed stormwater strategy for this development with the previous approval. As a result of that review, Staff agreed that the proposed conceptual stormwater strategy has the potential to successfully comply with the stormwater requirements. Since the subject rezoning and modification is minor in scale to the overall development of the site, an additional preliminary stormwater analysis was not deemed necessary by Staff. Further review will take place during the site plan approval process.

As the proposal appears to meet the majority of the components of the Transition Area Design Guidelines, and the incorporation of this parcel into the overall development is minimal in scale while allowing for the completion of the linear park proposed along Princess Anne Road, deficient with the previous plan, Staff recommends approval of these requests subject to the proffers listed below.

### Proffers for Conditional Rezoning

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 when developed shall be incorporated into the adjacent development known as Princess Anne Village and shall be subject to the Proffers for Princess Anne Village as approved and recorded in the Clerk's Office of the Circuit Court of the City of Virginia Beach in 2023, and as may be amended.

**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 for Modification of 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 developed, the lot dimensions, setbacks, height and other development criteria set forth in the City Zoning Ordinance shall be as set out in the Princess Anne Village Residential Development Criteria dated February 27, 2023 (the "Development Criteria"), a copy of which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning. The Development Criteria shall be in lieu of all corresponding criteria in the Virginia Beach Zoning Ordinance applicable to the R-10 zoning district.

**Proffer 2:**

When developed, the project shall be developed in substantial conformity with the conceptual site plan consisting of 3 pages entitled a "Conceptual Site Plan with Context", "Conceptual Site Plan" and "Program and Parking" dated January 31, 2023, (the "Concept Plan"), a copy of which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning.

**Proffer 3:**

When developed, the number of single family residential homes located on the Property shall not exceed a total of 77 homes and 16 Garage Apartments.

**Proffer 4:**

Residential structures constructed on the Property shall be in substantial conformity with the conceptual architectural renderings consisting of 2 pages entitled Home Styles, Princess Anne Village, "Elevations", a copy of which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning and which have been approved by the Virginia Beach Historical Review Board on July 18, 2018.

**Proffer 5:**

When developed, access to the Property from North Landing Road shall be landscaped and contain a monument-styled free standing sign substantially as shown on exhibit entitled "Monument Sign", a copy of which has been exhibited to the Virginia Beach City Council and is on file unless modified by the Virginia Beach Historical Review Board with the Virginia Beach Department of Planning.

**Proffer 6:**

When developed the entrance open space areas shall be in substantial conformity with the elevation entitled "Entrance Way" dated June 4, 2021, a copy of which has been exhibited a copy of which has been exhibited to the Virginia Beach City Council and is on file unless modified by the Virginia Beach Historical Review Board with the Virginia Beach Department of Planning.

**Proffer 7:**

When developed, there should be a pedestrian trail system on the Property and that will connect to the adjacent City trail system as shown on the concept plan.

**Proffer 8:**

When developed, a linear open space area along Princess Anne Road within the residential zones will be subdivided as shown on the elevation site plan entitled "Linear Open Space", dated June 4th, 2021, a copy of which has been exhibited to the Virginia Beach City Council and is on file unless modified by the Virginia Beach Historical Review Board with the Virginia Beach Department of Planning.

**Proffer 9:**

When developed, the Applicant will construct turn lanes at the vehicular entrance to Princess Anne Village substantially as shown on the Concept Plan.



**Proffer 10:**

When developed, the street widths, curb heights, centerline radii, rear lane, rear alley street signage and trail widths shall be developed in substantial conformity with the 3-page exhibit entitled "Thoroughfare Types" dated January 31, 2023, a copy of which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning.

**Proffers Relating to the Conditional B-2 Portion of Princess Anne Village to Remain:****Proffer 11:**

Vehicular access to the portion of the Property zoned Conditional B-2 shall be from the road system within Princess Anne Village and not directly from the North Landing Road.

**Proffer 12:**

When developed, only the following uses shall be permitted on the Property zoned Conditional B-2: Restaurants with no drive-through, office, and retail.

**Proffer 13:**

The height of any principal structure on the Property zoned Conditional B-2 shall not exceed 45 feet. The exterior design and building materials shall be complimentary to the building materials and architectural designs of the homes in Princess Anne Village and shall be subject to approval by the Virginia Beach Historic Review Board.

**Proffer 14:**

Any freestanding sign on the portion of the Property zoned Conditional B-2 shall be a monument style sign, externally lit, and shall not exceed 8 feet in height. The final design and building materials of any freestanding sign shall be subject to approval of the Virginia Beach Historic Board.

**Proffer 15:**

Further conditions lawfully imposed by applicable development ordinances may be required by Grantee during detailed site plan and/or subdivision review and administration of applicable City Codes by all relevant City agencies and departments to meet all applicable City Code requirements.

**Proffer 16:**

All references hereinabove to zoning districts and to applicable regulations refer to the Zoning Ordinance of the City of Virginia Beach, in force as of the date the conditional zoning amendment is approved by Grantee.

**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.

**Previous Proffers from 2022 Agreement**

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

**Proffer 1:**

When developed, the lot dimensions, setbacks, height and other development criteria set forth in the City Zoning Ordinance shall be as set out in the attached exhibit entitled Princess Anne Village Residential Development Criteria dated

Princess Anne Village, LLC

Agenda Items 2 & 3

Page 6



August 25, 2021 (the “Development Criteria”), a copy of which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning. The Development Criteria shall be in lieu of all corresponding criteria in the Virginia Beach Zoning Ordinance applicable to the R-10 zoning district.

**Proffer 2:**

When developed, the project shall be developed in substantial conformity with the conceptual site plan consisting of 3 pages entitled “Conceptual Site Plan with Context”, “Conceptual Site Plan” and “Program and Parking” dated May 28<sup>th</sup>, 2021, (the “Concept Plan”), a copy of which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning.

**Proffer 3:**

When developed, the number of single family residential homes located on the Property shall not exceed a total of 73 homes and 16 Garage Apartments.

**Proffer 4:**

Residential structures constructed on the Property shall be in substantial conformity with the conceptual architectural renderings consisting of 2 pages entitled Home Styles, Princess Anne Village, “Elevations”, a copy of which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning and which have been approved by the Virginia Beach Historical Review Board on July 18, 2018.

**Proffer 5:**

When developed, access to the Property from North Landing Road shall be landscaped and contain a monument-styled free standing sign substantially as shown on exhibit entitled “Monument Sign”, a copy of which has been exhibited to the Virginia Beach City Council and is on file unless modified by the Virginia Beach Historical Review Board with the Virginia Beach Department of Planning.

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**Proffer 9:**

When developed, the Applicant will construct turn lanes at the vehicular entrance to Princess Anne Village substantially as shown on the Concept Plan.

**Proffer 10:**

When developed, the street widths, curb heights, centerline radii, rear lane, rear alley street signage and trail widths shall be developed in substantial conformity with the 3 page exhibit entitled “Thoroughfare Types” dated May 28<sup>th</sup>, 2021, a copy of which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning.



## **Proffers Relating to the Conditional B-2 Portion of Princess Anne Village:**

### **Proffer 11:**

Vehicular access to the portion of the Property zoned Conditional B-2 shall be from the road system within Princess Anne Village and not directly from the North Landing Road.

### **Proffer 12:**

When developed, only the following uses shall be permitted on the Property zoned Conditional B-2: Restaurants with no drive-through, office, and retail.

### **Proffer 13:**

The height of any principal structure on the Property zoned Conditional B-2 shall not exceed 45 feet. The exterior design and building materials shall be complimentary to the building materials and architectural designs of the homes in Princess Anne Village and shall be subject to approval by the Virginia Beach Historic Review Board.

### **Proffer 14:**

Any freestanding sign on the portion of the Property zoned Conditional B-2 shall be a monument style sign, externally lit, and shall not exceed 8 feet in height. The final design and building materials of any freestanding sign shall be subject to approval of the Virginia Beach Historic Board.

### **Proffer 15:**

Further conditions lawfully imposed by applicable development ordinances may be required by Grantee during detailed site plan and/or subdivision review and administration of applicable City Codes by all relevant City agencies and departments to meet all applicable City Code requirements.

### **Proffer 16:**

All references hereinabove to zoning districts and to applicable regulations refer to the Zoning Ordinance of the City of Virginia Beach, in force as of the date the conditional zoning amendment is approved by Grantee.

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

## **Comprehensive Plan Recommendations**

The Comprehensive Plan identifies this site as being located within multiple "districts." The Interfacility Traffic Area and Vicinity Master Plan (ITA Plan), which is adopted by the Comprehensive Plan, identifies the site as being located in the Historic Princess Anne Center. The ITA Plan calls for "lining of streets and spaces with low-rise mixed-use buildings of two and three stories," within the Historic Princess Anne Center. It also calls for attention on appropriate streetscaping elements including street lamps, planters and benches and emphasis on developing architecture consistent with areas such as Williamsburg. The property also borders the Municipal Center district as identified by the ITA Plan which recommends as an area with planned land uses, both public and private, and, where appropriate, may include residential, office, retail, service, hotel and institutional uses. It calls for the introduction of a mix of residential units into the district to enliven the complex around the clock.

Finally, the site is also located at the extreme edge of the Transition Area which calls for uses in this area should be limited to low-impact, low-density residential, low-intensity non-residential, open space and recreation, and agricultural, including row-crop farming and equestrian uses. For residential development, a maximum average of up to and no more than one unit per developable acre can be earned through demonstrated conformance with the Transition Area Design Guidelines. Minimum lot sizes of 15,000 square feet are preferred; however, lot sizes of less than 15,000 square



feet are appropriate if additional active open space location recommendations as set forth in the Transition Area Design Guidelines are incorporated into the site design. The Plan calls for open space areas to be deliberately included and designed as a site amenity in all development. Open space should comprise a minimum of 50 percent of the developable area for residential development and 30 percent for non-residential development and should provide a balance of both “active” and “passive” open space areas.

## 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. A majority of the site is impacted by the Floodplain Subject to Special Restrictions (FSSR). The applicant has obtained a Letter of Map Amendment (LOMA) from the Federal Emergency Management Agency that officially adjusted the areas located within the Floodplain Subject to Special Restrictions. In addition, a large portion of the site includes both City-defined, and United States Army Corps of Engineers defined wetlands. Likewise, the Southern Rivers Buffer Area also exists within the southwestern portion of the site. No development is proposed in any of the southwestern areas. The site is located within the Courthouse Historic and Cultural Overlay District. All projects proposed within the District must respect the heritage and reinforce the integrity of the district’s historic character. The scale, placement, massing and proportion of buildings, additions and architectural details should be designed in a way that is consistent with the historic character of the district. New development should employ high quality site and building designs that complement the classic Neo-Georgian architecture of the Municipal Center. Historical siting’s indicate that there may be human remains on or surrounding these properties, as required by State Law, an easement will need to be established and noted on the plat.

## Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Princess Anne Road	6,600 ADT <sup>1</sup> 13,700 ADT <sup>1b</sup>	12,500 ADT <sup>1</sup> (LOS <sup>4</sup> “D”)	Existing Land Use <sup>2</sup> – 10 ADT Proposed Land Use <sup>3</sup> – 1,407 ADT
<sup>1</sup> Average Daily Trips (James Madison to Princess Anne Road) <sup>1b</sup> Average Daily Trips (Princess Anne Road to Holland Road)	<sup>2</sup> as defined by a single-family dwelling	<sup>3</sup> as defined by 77 single-family dwellings and 16 garage apartment units and a 5,000 square foot restaurant	<sup>4</sup> LOS = Level of Service

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

Princess Anne Road is a two-lane undivided minor arterial roadway. There are no roadway CIP projects slated for this portion of the roadway.

## Public Utility Impacts

### Water

There is an existing 16-inch City water main along Princess Anne Road and North Landing Road. A City water main designed to Public Utilities Standards must be extended to serve the proposed development. Each proposed parcel must connect to City water with a separate and exclusive water service line and meter.



## Sewer

There is an existing eight-inch city sanitary sewer gravity main along Princess Anne Road and North Landing Road that terminates at Holland Road, a six-inch city sanitary sewer force main fronting the property on Princess Anne Road, and a six-inch city sanitary sewer vacuum main along Princess Anne Road east of Holland Road. This vacuum main currently may not have capacity to support additional connections. A City sanitary sewer pump station and gravity collection system designed to Public Utilities Standards must be installed to serve the proposed development. Each proposed parcel must connect to City sanitary sewer with a separate and exclusive sanitary sewer lateral and cleanout.

## School Impacts

School	Current Enrollment	Capacity	Generation <sup>1</sup>	Change <sup>2</sup>
Princess Anne Elementary	675 students	703 students	19 students	16 students
Princess Anne Middle	1,395 students	1,315 students	13 students	12 students
Kellam High	1,875 students	2,093 students	18 students	17 students

<sup>1</sup>“Generation” represents the number of students that the development will add to the school.  
<sup>2</sup>“change” represents the difference between the number of potential or actual students generated under the existing zoning and the number generated under the proposed zoning. The number can be positive (additional students) or negative (fewer students).

## Public Outreach Information

### Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on March 13, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, March 26, 2023 and April 2, 2023.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on March 27, 2023.
- This Staff report, as well as all reports for this Planning Commission’s meeting, was posted on the Commission’s webpage of [www.vbgov.com/pc](http://www.vbgov.com/pc) on April 6, 2023.



**Princess Anne Village  
Residential Development Criteria  
FEBRUARY 27, 2023**

- |  |   |
|--|---|
| 1. Density:  | When developed, the number of single family residential homes located on the Property shall not exceed a total of 77 homes and 16 Garage Apartments |
| 2. Minimum lot area in square feet:  | 3,400 square feet   |
| 3. Minimum lot area outside of water marsh, or wetlands:   | 3,400 square feet   |
| 4. Minimum lot width in feet:  | 35'   |
| 5. Minimum front yard setback in feet:   | 8' Front yards within Princess Anne Village shall be where the front facade of the home is facing rather than the alley.                            |
| 6. Minimum front yard setback when adjacent to a 40-foot right-of-way created in accordance with section 4.1 (m) of the subdivision ordinance in feet: | 8' Front yards within Princess Anne Village shall be where the front facade of the home is facing rather than the alley                             |
| 7. Except as provided in subdivision (6.1), minimum side yard setback except when adjacent to a street in feet:  | 5   |



- |   |    |   |
|---|----|---|
| in feet:  | 5' |   |
| 8. Minimum side yard setback for accessory structures no larger than 150 square feet in area and with an eave height no greater than 8 feet except when adjacent to a street or for a garage apartment as an accessory structure: |    |   |
| 9. Minimum side yard setback adjacent to a street in feet:  | 6' |   |
| 10. Minimum side yard setback when adjacent to a 40-foot right-of-way created in accordance with section 4.1(m) of the subdivision ordinance in feet:   | 6' |   |
| 11. Minimum rear yard setback except for accessory structures in feet:  |    | 3' The rear yard shall be the portion of the lot opposite the front yard. |
| 12. Except as provided in subdivision (10.1), minimum rear yard setback for accessory structures in feet:   |    | 3' The rear yard shall be the portion of the lot opposite the front yard. |
| 13. Minimum rear yard setback:  |    | 3' The rear yard shall be the portion of the lot opposite the front yard. |



back for accessory structures no larger than 150 square feet in area and with an eave height no greater than 8 feet except when adjacent to a street for a garage apartment as an accessory structure.

14. Minimum setback on through lots for accessory structures that are physically located to the rear of the principal structure in feet: 3'
15. Maximum lot coverage in percent: 60%
16. Maximum total of building floor area for garage apartments: 800 square feet – no separate power or gas meters shall be permitted for the garage apartments
17. Maximum building height: 45'
18. Mechanical equipment, generators and chimneys setback in side and rear yards: 3'
19. Parking should be required for all uses and structures. Parking within a garage or an enclosed or covered space shall be counted toward meeting off-street parking requirements for dwelling units. One additional onsite parking space shall be provided for any garage apartment.



Proposed Conceptual Site Layout



Princess Anne Village

Conceptual Site Plan with Context

MICHAEL WATKINS ARCHITECT, LLC  
January 31, 2023



## Proposed Conceptual Site Layout



MICHAEL WATKINS ARCHITECT, LLC  
January 31, 2023

## Conceptual Site Plan

Princess Anne Village<sup>2</sup>



Proposed Parking Layout



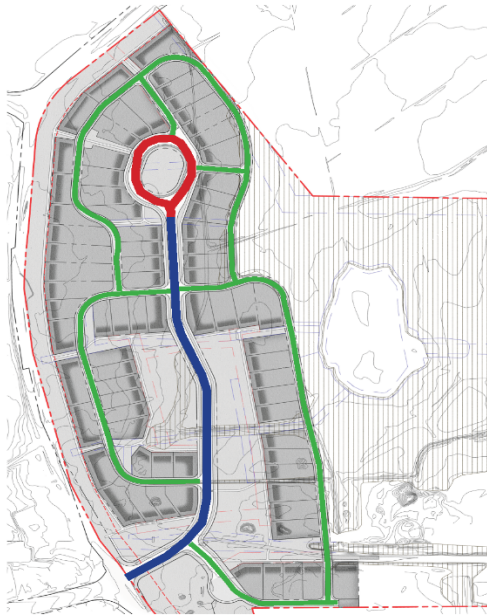
Princess Anne Village  
3

Program & Parking

MICHAEL WALKINS ARCHITECT, LLC  
January 31, 2023



# Proposed Thoroughfare Types

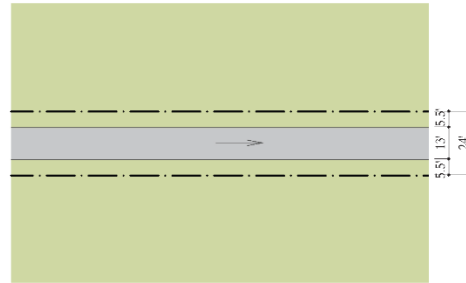


**Thoroughfare Type**  
 FL Fire Access Lane  
 PT Path  
 RA Rear Alley  
 ST Street  
 TR Trail

**Right-of-Way Width**  
 XX - # - #

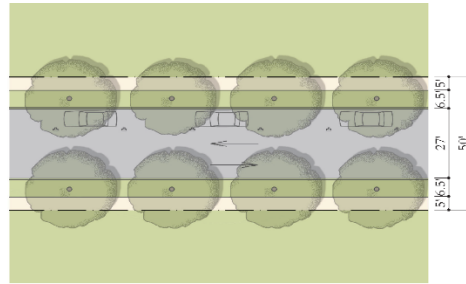
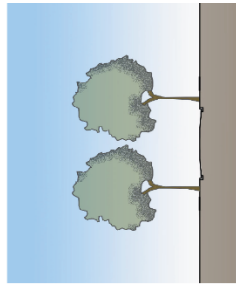
**Pavement Width**

Note: When developed, the street widths, curb heights, centerline radii, rear lane, rear alley street signage and trail widths shall be developed in substantial conformity with the 2-page exhibit entitled "Thoroughfare Types" dated May 28th, 2021, a copy of which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning.



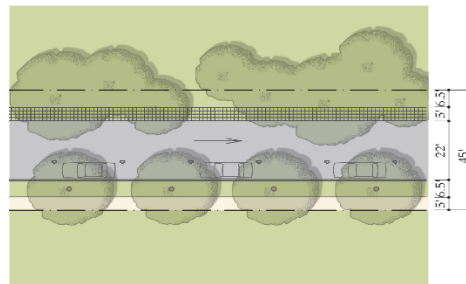
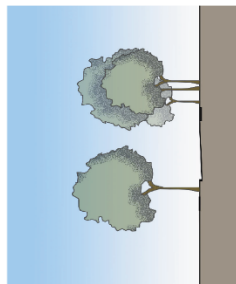
RA - 24 - 13

Thoroughfare Type
Rear Alley
T3, T4, T5
24' ROW
13' Pavement
Slow Movement
One Way Traffic
No Parking
25' Radius at Alley, Apron at Street
Inverted Crown, or Straight Slope
5.5' Lawn
Varies
No Sidewalk



ST - 50 - 27

Thoroughfare Type
Street
T3, T4, T5
50' ROW
27' Pavement
Slow Movement
Two Way Traffic
Parking One Side
25' Curb Radius
4" Header Curb
6.5' Tree Lawn
Allee, 30' o.c.
5' Sidewalk One Side



ST - 45 - 22

Thoroughfare Type
Street
T3, T4, T5
45' ROW
22' Pavement, 5' Graspave or Cobble
Slow Movement
One Way Traffic
Parking One Side
25' Curb Radius
4" Header Curb
6.5' Tree Lawn
Allee, 30' o.c.
5' Sidewalk One Side

Notes

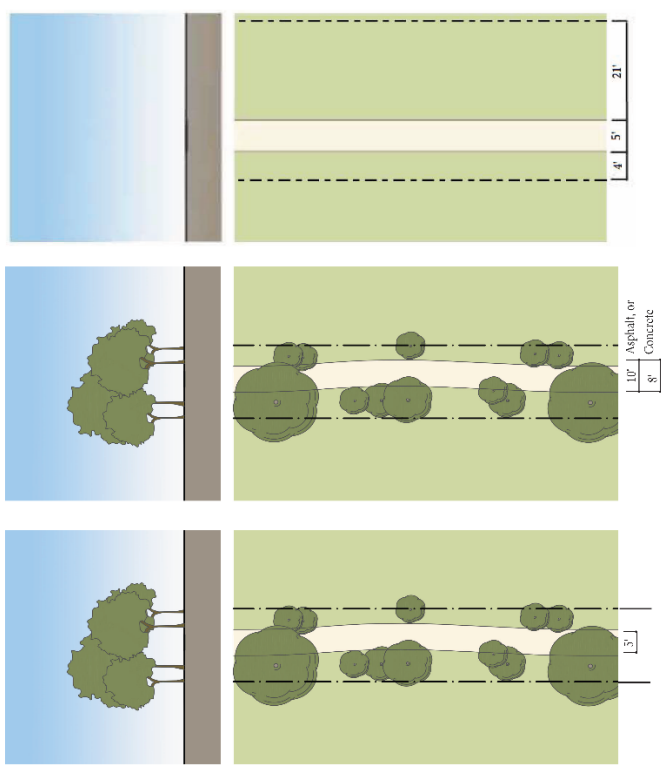
## Thoroughfare Types

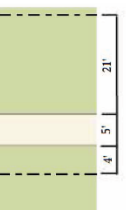
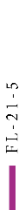
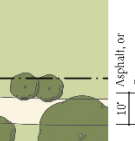

Princess Anne Village  
4

MICHAEL WATKINS ARCHITECT, LLC  
January 31, 2023



## Proposed Thoroughfare Types



	<b>P-T - V - 5</b>		<b>P-T - V - 5</b>		
	Path		Bike Path		
	T3, T4		T1, T2, T3		
	Private		20' Secondary and Easement **		
	5' min.		10' Asphalt or 8' Concrete		
	N/A		Pedestrian		
	N/A		N/A		
	N/A		N/A		
	N/A		N/A		
	N/A		N/A		
	Varies		Varies		
	Trees, ground cover, shrubs, lawn		Trees & Shrubs (min. of 1 Tree per 35 linear feet)		
	N/A		ADA Asphalt or Concrete Trail		

\*Notes: path may accommodate vehicles

## Thoroughfare Types



HOME STYLES

COLONIAL



FARM HOUSE



PRINCESS ANNE VILLAGE  
VIRGINIA BEACH, VIRGINIA



HOME STYLES

CRAFTSMAN



PRINCESS ANNE VILLAGE

VIRGINIA BEACH, VIRGINIA



## Proposed Monument Sign





## Renderings

Entranceway

June 4, 2021



Linear Open Space

June 4, 2021





## Renderings











DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT  
HISTORICAL REVIEW BOARD

## City of Virginia Beach

**VBgov.com**  
2875 SABRE ST. SUITE 500  
VIRGINIA BEACH, VA 23452

February 16, 2023

Princess Anne Village, LLC  
PO Box 55202  
Virginia Beach, VA 23471

RE: Certificate of Appropriateness Application #23-01 – Princess Anne Village, LLC –  
Demolition & New Construction – 2377 Princess Anne Road - GPIN 2404031158 -  
Courthouse Historic & Cultural Overlay District

Dear Princess Anne Village, LLC:

On February 15, 2023 a Certificate of Appropriateness was issued by the Historical Review Board for demolition and new construction at 2377 Princess Anne Road subject to the following conditions and exhibits:

1. Prior to demolition, the existing house shall be documented with high-resolution photographs showing all four exterior elevations and a wide angle view of the building relative to Princess Anne Road. Photographs shall be labeled with the date and short description and submitted to Historical Review Board Staff (e.g. 2023-02-15\_North Elevation). Photographs may be submitted digitally.
2. The same conditions of approval established under Certificate of Appropriateness #18-07 shall apply to the redevelopment of 2377 Princess Anne Road.
3. Once construction is complete, the applicant shall submit photographs of the finished buildings to Historical Review Board Staff. Photographs shall be labeled with the date and short description (e.g., 2023-02-15\_North Elevation). Photographs may be submitted digitally.
4. In the event of unanticipated archaeological discoveries, contact the Historical Review Board at (757)-385-3066 or (757)-385-8573 prior to continuing work.
5. Contact the Historical Review Board Prior to making any changes to the proposed design, location, configuration, or materials that are subject to the issuance of a Certificate of Appropriateness.


Issuance of the Certificate of Appropriateness by the Historical Review Board does not imply approval of any applicable City ordinances or discretionary approvals. Please attach this letter and the accompanying attachments to any permit or Development Services Center submissions.



Princess Anne Village, LLC  
COA #23-01

If you need further assistance, please contact Elizabeth Nowak at 757-385-3066 or by email at [enowak@vbgov.com](mailto:enowak@vbgov.com).

Sincerely,



Elizabeth Nowak  
Planner II

CC: RJ Nutter, Applicant Representative  
Lewis R. Mikesell & Michele T. Mikesell, Property Owner  
Building File

Attachments (2)  
Annotated Demolition Exhibit from COA #18-07 (1 page)  
COA #18-07 (Previous Approval Letter; 11 pages)





**JOINT CITY-NAVY REVIEW PROCESS GROUP FINDINGS**

PER THE 2008 MEMORANDUM OF UNDERSTANDING BETWEEN  
NAVAL AIR STATION OCEANA & CITY OF VIRGINIA BEACH



**Applicant:** Princess Anne Village, LLC

**Meeting Date:** March 15, 2023

**Meeting Location:** 2875 Sabre Street, Suite 500

**Attending:** **Applicant & Representatives:**  
RJ Nutter

**Joint Navy-City Staff Group:**  
John Lauterbach, NAS Oceana / Aviation- AICUZ Technical Advisor  
Carrie Bookholt, City of Virginia Beach / Planning  
Kaitlen Alcock, City of Virginia Beach / Planning  
Marchelle Coleman, City of Virginia Beach / Planning  
Beverly Wilson, City Attorney's Office







Joint Review Process Group

Princess Anne Village, LLC

Page 2 of 5

GPINs 2404031158, 1494926240, 2404012707, 1494927384, 2403293752, 1494928455, 2404023254, 2404030056, 2404024848, 2404035242, 2404036378

### BACKGROUND

2377 Princess Anne Road

**Site Location:** 2369, 2373, 2375, 2381, 2385 Princess Anne Road & 2393, 2401, 2413 North Landing Road, Parcel between 2393 North Landing Road & 2385 Princess Anne Road

**AICUZ:** 65-70 dB DNL; Sub-Area 2

**Existing Zoning:** AG-2 Agricultural (2377 Princess Anne Road) PD-H2 Planned Unit Development (R-10 Residential) (Princess Anne Village, LLC)

**Proposed Zoning:** PD-H2 Planned Unit Development (R-10 Residential)

**Existing Use:** Single-family dwelling

**Proposed Use:** Single-family dwellings

**Request:** Rezoning of property at 2377 Princess Anne Road from AG-2 Agricultural to PD-H2 Planned Unit Development (R-10 Residential) and incorporation into development with a total of 93 dwelling units (77 lots with 16 garage apartments) with a density of 2.50 units per acre.

*"As part of the Virginia Beach Zoning Ordinance, the administration of Article 18, Special Regulations in Air Installations Compatible Use Zones (AICUZ), is wholly the responsibility of City of Virginia Beach staff. Participation in the Joint Review Process Group by U.S. Navy personnel assigned to Naval Air Station Oceana is limited to providing technical advice on matters such as the U.S. Navy AICUZ Instruction, from which Article 18 is derived, and questions pertaining to naval air operations. All conclusions and opinions with respect to an application's adherence to the requirements of Article 18 are solely those of the City of Virginia Beach staff."*

### RELEVANT FACTS ASSOCIATED WITH PROPOSAL

The applicant is requesting to rezone the 0.88 parcel at 2377 Princess Anne Road from AG-2 Agricultural District to PD-H2 Planned Unit Development (R-10 Residential) and incorporate it into the Princess Anne Village Development. Princess Anne Village was approved by City Council on January 18, 2022 for 89 dwelling units (73 lots and 16 garage apartments) at a density of 2.45 units per acre. By incorporating this parcel into the development, four additional lots are proposed, increasing from 89 to 93 dwellings units



Joint Review Process Group

Princess Anne Village, LLC

GPINs 2404031158, 1494926240, 2404012707, 1494927384, 2403293752, 1494928455, 2404023254, 2404030056, 2404024848, 2404035242, 2404036378

Page 3 of 5

(77 lots and 16 garage apartments). The overall density will increase from 2.45 units per acre to 2.50 units per acre. The site is located within the 65 to 70 dB DNL AICUZ, Sub-Area 2. Section 1804(c) of the Zoning Ordinance establishes regulations that apply to discretionary development applications for residential uses with this AICUZ.

---

### APPLICABLE ZONING ORDINANCE PROVISIONS

#### Sec. 1803(a) - Applicability

The provisions of this Article [18] shall apply to discretionary development applications for any property located within an Accident Potential Zone (APZ) or 65-70 dB DNL, 70-75 dB DNL, or >75 dB DNL Noise Zone, as shown on the official zoning map, that have not been approved or denied by the city council as of the date of adoption of this Article. For purposes of this Article, discretionary development applications shall include applications for:

- 1) Rezoning, including conditional zonings;
- 2) Conditional use permits for new uses or structures, or for alterations or enlargements of existing conditional uses where the occupant load would increase;
- 3) Conversions or enlargements of nonconforming uses or structures, except where the application contemplates the construction of a new building or structure or expansion of an existing use or structure where the total occupant load would not increase; and
- 4) Street closures where the application contemplates the construction of a new building or structure or the expansion of a use or structure where the total occupant load is increased.

#### Sec. 1804(c)(2) – Discretionary development applications; city council policy

For property within Sub-area 2 of the 65—70 dB DNL Noise Zone, discretionary development applications for residential uses may be approved only if the city council finds that the proposed development:

- (i) Is at a density similar to or lower than that of surrounding properties having a similar use and no greater than recommended by the Comprehensive Plan; and
  - (ii) Conforms to the applicable provisions of the Comprehensive Plan, including, without limitation, the Princess Anne Corridor Study, Princess Anne Commons Design Guidelines, or Mixed Use Development Guidelines.
-



Joint Review Process Group

Princess Anne Village, LLC

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GPINs 2404031158, 1494926240, 2404012707, 1494927384, 2403293752, 1494928455, 2404023254, 2404030056, 2404024848, 2404035242, 2404036378

### EVALUATION

The Joint Review Process Group (JRP) evaluated this request for compliance with the above provisions of Section 1804(c)(2) of the City Zoning Ordinance.

With regard to the first criteria provided in Section 1804(c)(2) of the Zoning Ordinance pertaining to density, the proposed density of 2.50 units per acre for the Princess Anne Village is less than the densities of the surrounding residential communities which include Holland Crossing at 2.98 units per acre, Courthouse Forest at 2.71 units per acre, Highcourt at 3.02 units per acre and Courthouse Green at 3.82 units per acre. Directly across Princess Anne Road are five single-family dwellings on large lots. These homes are not included within any of the surrounding homeowners' associations or civic leagues and were not considered as part of the evaluation.

With regard to Section 1804(c)(2) of the Zoning Ordinance pertaining to conformance with the Comprehensive Plan, the proposed development is located within multiple "districts." The Interfacility Traffic Area and Vicinity Master Plan (ITA Plan), which is adopted by the Comprehensive Plan, identifies the site as being located in the Historic Princess Anne Center, and along the boundary of the Municipal Center. The ITA Plan calls for the "lining of streets and spaces with low-rise mixed-use buildings of two and three stories," within the Historic Princess Anne Center. The property also borders the Municipal Center district as identified by the ITA Plan which recommends as an area with planned land uses, both public and private, and, where appropriate, may include residential, office, retail, service, hotel and institutional uses. Finally, the site is also located at the extreme edge of the Transition Area which states "For residential development, a maximum average calculated density of up to and no more than one unit per developable acre can be earned through demonstrated conformance with the Transition Area Design Guidelines." Although the proposed density of 2.50 is higher than that which is called for in the Transition Area, its location within multiple districts that call for increased residential development where permitted, and its geographic separation from much of the Transition Area by West Neck Creek, in the JRP Group's opinion, gives the recommendations for the other districts more weight.

It is the opinion of the Joint Review Process Group that the proposed residential density of 2.50 units per acre meets both Section 1804(c)(2)(i) and 1804(c)(2)(ii). It is lower than the densities of similar residential neighborhoods in the immediate area and is a density that is consistent with the recommendations for this area as outlined in the Comprehensive Plan.





Joint Review Process Group  
Princess Anne Village, LLC  
GPINs 2404031158, 1494926240, 2404012707, 1494927384, 2403293752, 1494928455, 2404023254,  
2404030056, 2404024848, 2404035242, 2404036378

Page 5 of 5

For the City-Navy Joint Review Process Group –

Kaitlen S. Alcock  
Interim Planning Administrator  
Department of Planning and Community Development



## 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** Princess Anne Village, LLC

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

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

R.J. Nutter, Esq., Troutman Pepper, LLP

**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)

Richard Burroughs; Charles F. Burroughs, III

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

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

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



### Disclosure Statement



#### Known Interest by Public Official or Employee

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

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

#### Applicant Services Disclosure

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

☐ **Yes** ☒ **No**

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

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

☐ **Yes** ☒ **No**

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

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

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

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

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

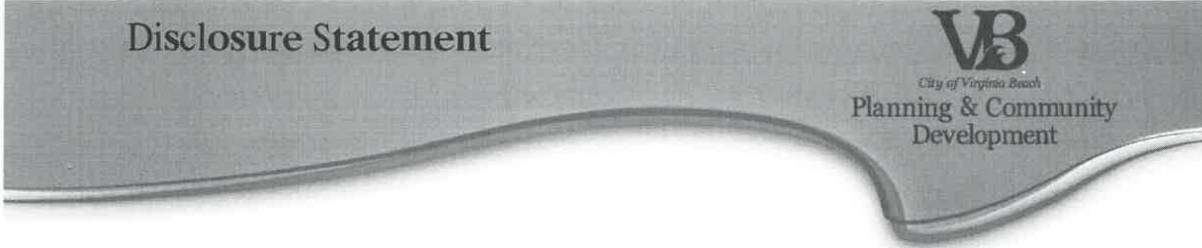
Frye Properties - Michael Watkins, Architect

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.
- Kimley Horn - Laurence Benson; Kellam Gerwitz Engineering - Bob Kellam

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 - R.J. Nutter

### 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

CHARLES F. BURROUGHS III MANAGER

Print Name and Title

JAN 11 2023

Date

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

Yes as to all parcels except GPIN  
24040311580000

- 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** (Home-Based Wildlife Rehabilitation Facility)

**Staff Recommendation**

Approval

**Staff Planner**

Elizabeth Nowak

**Location**

102 Willow Drive

**GPIN**

2418733619

**Site Size**

1.27 acres

**AICUZ**

70-75 dB DNL

**Watershed**

Chesapeake Bay

**Existing Land Use and Zoning District**

Single-family dwelling / R-40 Residential

**Surrounding Land Uses and Zoning Districts**

**North**

Willow Drive, Pinewood Drive

Single-family dwelling, vacant lot / R-40 Residential

**South**

Golf course / R-40 Residential

**East**

Willow Drive

Single-family dwelling / R-40 Residential

**West**

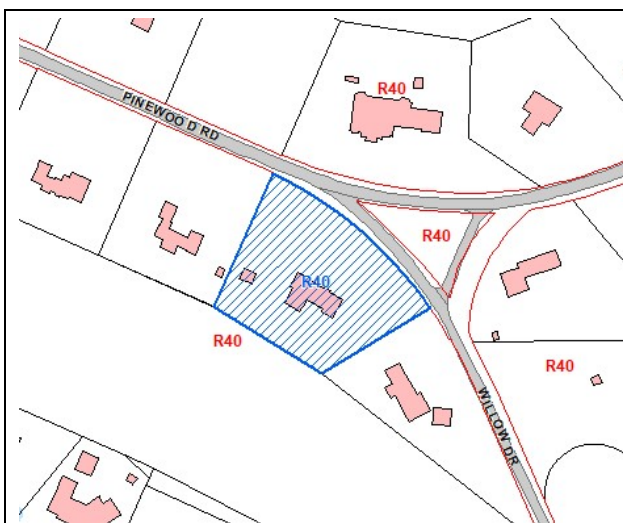
Single-family dwelling / R-40 Residential





## Background & Summary of Proposal

- The applicant is requesting a Conditional Use Permit for a Home-Based Wildlife Rehabilitation Facility to care for infant and juvenile small mammals, birds, waterfowl, and reptiles on a 1.27 acre parcel zoned R-40 Residential in the Linkhorn Bay subdivision.
- According to the applicant, wildlife will be rehabilitated indoors in an attached garage in enclosures appropriate for the type of animals and care required. The applicant intends to provide rehabilitation care for an average of 10 or fewer animals at any one time and has also stated that the intent is to provide short term stays.
- The primary goal of care will be for wildlife to be returned to their natural habitats as quickly as possible, typically after weaning.
- Wildlife will primarily be received from Evelyn's Wildlife Refuge. As indicated on the application, animals will typically be picked up by the applicant or by a transporter in the wildlife network. Typical hours of receiving will be between 8:00 a.m. and 6:00 p.m.
- The applicant is currently licensed with the Virginia Department of Wildlife Resources (VDWR) as a Category IV Wildlife Rehabber and works under the supervision of a Category II Wildlife Rehabber. The applicant will apply for a Category I Wildlife Rehabber license following approval of this Conditional Use Permit. Per Section 242.3 of the Zoning Ordinance, Category I or II licenses from VDWR are required for operation of a Home-Based Wildlife Rehabilitation Facility.
- Animals will not be left outside unsupervised or overnight and will remain indoors until their final release by a VDWR Wildlife Rehabber. No animals will be released directly from the residence or in the neighborhood.
- The property is located in the 70-75 dB DNL noise zone of the AICUZ. Home-Based Wildlife Rehabilitation Facilities are considered a Miscellaneous Use under Table 1 of Section 1804 of the Zoning Ordinance; Miscellaneous Uses are compatible in this noise zone.



**No Zoning History to Report**

### 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 proposed Conditional Use Permit for a Home-Based Wildlife Rehabilitation Facility is, in Staff's opinion, consistent with the policies and goals set forth in the Comprehensive Plan for the Suburban Area. Achieving this goal requires that all land use activities either maintain or enhance the existing neighborhood through compatibility with their surroundings, including the quality and attractiveness of structures. Additionally, uses should provide effective buffering with respect to the surrounding uses. The proposed wildlife rehabilitation facility is in-keeping with these principles, as the applicant will house rescued wildlife within an enclosed garage that provides sufficient screening and buffering from the adjacent properties. No exterior changes are proposed. During the site visit, Staff found the property to be very organized and well-kept, successfully promoting the policies intended to ensure the maintenance and sustainability of great neighborhoods. No records of violation through Animal Control were found and the use is compatible with the 70-75 dB DNL noise level of the AICUZ.

The applicant is aware of the standards outlined in Section 242.3 of the City Zoning Ordinance for Home-Based Wildlife Rehabilitation Facilities and currently works as part of an existing wildlife rehabilitation network. As a Category I Wildlife Rehabilitator, the applicant will be primarily working with orphaned animals. Staff believes that this request adequately addresses the requirements set for Home-Based Wildlife Rehabilitation Facilities and that the applicant will be compliant with State requirements. As such, Staff recommends approval of the application subject to the conditions included in this report.

## Recommended Conditions

1. The applicant shall comply with all the provisions of Section 242.3 of the City Zoning Ordinance pertaining to a Home-Based Wildlife Rehabilitation Facility.
2. The applicant shall comply with all provisions established for wildlife rehabilitation by the Virginia Department of Wildlife Resources.
3. The application shall comply with all rabies immunization protocols as established for wildlife rehabilitation by the Virginia Department of Wildlife Resources.
4. No animals shall be dropped-off between the hours of 10:00 p.m. and 7:00 a.m.
5. No animals shall be released at the subject site or within the neighborhood.
6. Animal waste shall be removed daily in a lawful manner.
7. All animals shall be properly and humanely contained either in the dwelling unit or within the pre-release structure. Animals shall not be allowed to roam freely out of these structures at any time. If any animal does escape, the City of Virginia Beach Animal Control Department shall be notified immediately.

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

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



## Comprehensive Plan Recommendations

The subject site is located in the Suburban Area of the city, which recommends the development and support of Great Neighborhoods. A low-impact use like the one proposed should not have a negative impact on the surrounding residential character.

## Natural & Cultural Resources Impacts

The site is located in the Chesapeake Bay Watershed.

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

## Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Willow Drive	No Data Available	9,900 ADT <sup>1</sup> (LOS <sup>4</sup> "D")	Existing Land Use <sup>2</sup> – 10 ADT Proposed Land Use <sup>3</sup> – No Data
<sup>1</sup> Average Daily Trips	<sup>2</sup> as defined by a single-family home	<sup>3</sup> Trip data does not exist for a home-based wildlife rehabilitation facility	<sup>4</sup> LOS = Level of Service

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

In the vicinity of this application, Willow Drive is considered a two-lane residential street. No CIPs are slated for this area.

## Public Utility Impacts

### Water

The site currently connects to City water. The existing 1-inch domestic meter can be used for this proposed use.

### Sewer

The site currently connects to City sanitary sewer.

## Public Outreach Information

### Planning Commission

- The applicant reported that they spoke with some surrounding property owners. Two letters of support have been received by Staff noting the applicant's experience with and education in wildlife rescue.
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on March 13, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, March 26, 2023 and April 2, 2023.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on March 27, 2023.



- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of [www.vbgov.com/pc](http://www.vbgov.com/pc) on April 6, 2023.



Proposed Site Layout





Site Photos





## Typical Enclosures to be Used







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** Patricia A. Gandy

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

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

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

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

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

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



### Disclosure Statement



#### Known Interest by Public Official or Employee

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

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

#### Applicant Services Disclosure

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

☐ Yes ☒ No

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

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

☐ Yes ☒ No

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

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

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

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

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

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

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



## Disclosure Statement

### Disclosure Statement



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

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

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

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

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

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

#### Applicant Signature

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

*P. A. Gandy*

Applicant Signature

Patricia A Gandy

Print Name and Title

Patricia A. Gandy

Date

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

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

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

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



## Next Steps

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



### Requests

**#5 - Conditional Rezoning** (AG-2 Agricultural to Conditional B-2 Community Business)

**#6 - Conditional Use Permit** (Automobile Repair Garage)

### Staff Recommendation

Approval

### Staff Planner

Elizabeth Nowak

### Location

Parcel on Holland Road, between 2989 & 3005 Holland Road

### GPIN

1495235225

### Site Size

39,611 square feet

### AICUZ

Greater than 75 dB DNL; APZ-2

### Watershed

Southern Rivers

### Existing Land Use and Zoning District

Undeveloped / AG-2 Agricultural

### Surrounding Land Uses and Zoning Districts

#### North

Holland Road

Single-family dwelling, retail / Conditional I-1  
Light Industrial, Conditional B-2 Community Business

#### South

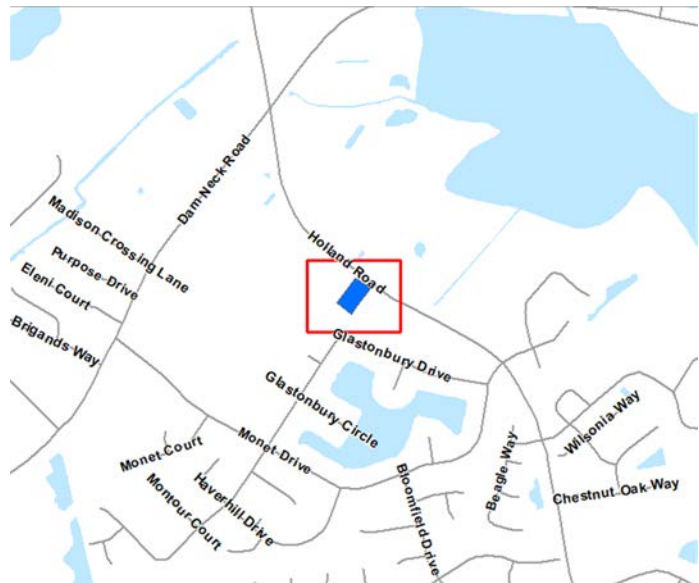
Single-family dwellings, undeveloped parcel / R-5D Residential, AG-2 Agricultural

#### East

Single-family dwelling, religious use / AG-2 Agricultural

#### West

Single-family dwelling, bulk storage yard / AG-2 Agricultural

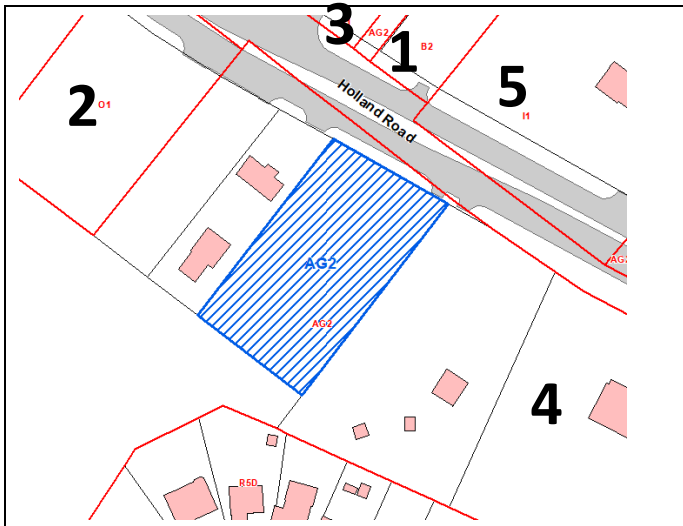




## Background & Summary of Proposal

- The applicant is requesting a Conditional Rezoning of an undeveloped 39,611 square-foot property on Holland Road from AG-2 Agricultural District to Conditional B-2 Community Business District. The applicant is also requesting a Conditional Use Permit to develop and operate an Automobile Repair Garage on the property.
- This corridor of Holland Road falls within the greater than 75 dB DNL noise zone of the Air Installation Compatibility Use Zone (AICUZ) and is within the Accident Potential Zone-2 (APZ-2). This site is also located in the Southern Rivers Watershed.
- The applicant proposes to construct a 7,050 square-foot building and will dedicate half of the building (3,525 square feet) for use as an Automobile Repair Garage. The other half of the building (3,525 square feet) will be a related retail use. The Automobile Repair Garage will be located in the rear half of the building and the retail space will front Holland Road. This is illustrated in the concept site plan included on page eight of this report.
- The proposed retail/repair garage building will be rectangular with overhead garage doors at the rear. Aluminum storefront systems will provide customer access to the building and similar aluminum windows are proposed along the north and south elevations. Exterior cladding material will be a mix of red brick and EIFS in a neutral, tan tone.
- 24 parking spaces, including two ADA accessible spaces, will be provided. Four spaces are required for the proposed Automobile Repair Garage, according to Section 203(b)(16), and 14 spaces are required for the retail area per Section 203(b)(29), thereby exceeding the parking requirement for this site by six spaces.
- Elevations submitted by the applicant depict proposed building signs on the south elevation and a monument sign is proposed near the northeast corner of the parcel along Holland Road.
- The building will be clad with red brick veneer and neutral-colored EIFS. Green awnings will cover aluminum storefront systems and will provide some visual relief to the elevations. Overhead garage doors will be located on the north and south elevations in the rear half of the building.
- A bioretention BMP is proposed parallel to Holland Road as part of the stormwater management plan for the development.
- As part of the Conditional Rezoning application, the applicant is proffering the proposed site layout, concept landscape plan, building elevations, lighting, signage, and a list of prohibited uses consistent with the incompatible land use list identified in the AICUZ use table found in Article 18 of the City's Zoning Ordinance.
- The proposed hours of operation for the auto repair service will be between 8:00 a.m. and 6:00 p.m., Monday through Saturday. While the applicant intends to employ four employees initially, that number is expected to increase to up to 10 employees in the future. The proposed hours of operation for retail are currently planned to be between 9:00 a.m. and 9:00 p.m. daily; however, depending on the retail tenant, the closing time may be earlier.





### Zoning History

#	Request
1	CRZ (AG-2 to Conditional B-2) Approved 01/22/2013
2	MDP Approved 10/09/2012 CUP (Bulk Storage Yard) Approved 01/12/1999 CRZ (AG-2 to Conditional I-1) Approved 01/12/1999
3	CRZ (AG-2 to Conditional O-1) Approved 03/11/2008
4	MDC Approved 10/23/2007 CUP (Religious Use) Approved 06/10/1997 CUP (Religious Use) Approved 04/11/1995 CUP (Religious Use) Approved 05/12/1992
5	MDP Approved 02/12/2002 CUP (Building Contractor's Yard) Approved 01/09/2001 CRZ (AG-1 & AG-2 to Conditional I-1) Approved 01/09/2001

### Application Types

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

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

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

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

## Evaluation & Recommendation

The requests for a Conditional Rezoning to B-2 Community Business District and a Conditional Use Permit for Automobile Repair Garage are, in Staff's opinion, acceptable. While this general area of the city is recommended as a Suburban Focus Area in the Comprehensive Plan, the site's location in the highest noise zone of the AICUZ and the APZ-2 limits uses and development that might otherwise be encouraged. Given the incompatibility of residential uses and most uses that gather people in one place (such as restaurants, hospitals, etc.), this site is ideal for neighborhood service oriented development, such as the proposed Automobile Repair Garage and associated retail. The use will provide a needed service for nearby residents and is compatible with other automobile service and repair businesses in the immediate area. The proposed building plans will use quality materials and the design, color, and scale are compatible with planned and existing developments along this section of Holland Road. During review of these applications, it was discovered that this lot was not properly platted, and Condition 10 is recommended to rectify this oversight. The existing parcel exceeds the required dimensional standards for the proposed B-2 Community Business District.

Proffers from the applicant, listed below, will ensure the site is developed as proposed. The applicant also has included a proffer that would exclude certain by-right uses in the B-2 Community Business zoning district that are identified in Article 18 of the Zoning Ordinance as being incompatible with the high noise zone and APZ-2, ensuring that any future redevelopment remains consistent with the City's joint goals with the Navy for compatible development in sensitive areas.

The proposed building and site design are consistent with the scale, material quality, and overall character of development on Holland Road. The proposed bioretention area and associated plantings will soften the site as viewed from the street. Hedge shrubs proposed along the north and south property lines will help provide a visual buffer from adjacent properties. Sufficient street frontage, parking lot, and dumpster enclosure plantings are shown on the submitted concept landscape plan.

Staff notes that there is an existing neighborhood to the rear of this site. The subject parcel; however, does not immediately abut any of these properties. A sliver of an irregularly shaped AG-2 Agriculture parcel lies between the rear parcel line of the subject site and the rear parcel lines of nearby residential properties. Between the proposed 15-foot rear yard, the proposed drive aisle, and the interceding AG-2 property, the rear wall of the proposed Automobile Repair



Garage will be more than 75 feet from the closest rear residential property line. Given the overall distance between the service and residential uses, the retention of some of the mature vegetation at the rear of the parcel, and the intervening property, Staff has minimal concern about this development negatively affecting the residential area to the south.

A traffic analysis conducted by Staff indicates that there will be no adverse impact on traffic with this proposed development. Per the Zoning Ordinance, 18 parking spaces are required for the 3,025 square feet of Automobile Repair Garage and the 3,025 square feet of retail space. A total of 24 spaces are provided in the concept layout, which satisfies this requirement.

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

Given these reasons, Staff is recommending approval of the request for a Conditional Rezoning to B-2 Community Business and for a Conditional Use Permit for an Automobile Repair Garage subject to the proffers and conditions provided 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 shall be developed in substantial conformity with the conceptual site plan entitled “Cogent Center Preliminary Development Plan, Virginia Beach, Virginia”, prepared by AES Consulting Engineers dated February 23, 2023 (“Conceptual Site Plan”), which has been exhibited to the Virginia Beach City Council (“City Council”) and is on file with the Virginia Beach Department of Planning (“Planning Department”).

### **Proffer 2:**

The architectural design and building materials of the building built on the Property shall be substantially compatible with the architectural design and building materials depicted on the building elevation plan entitled “Cogent Center, Virginia Beach, Virginia”, dated November 1, 2022, prepared by CL Pincus Jr. & Co., which has been exhibited to City Council and is on file with the Planning Department.

### **Proffer 3:**

The Property shall be landscaped in substantial conformity with the conceptual landscape plan entitled “Cogent Center Conceptual Landscape Plan, Virginia Beach, Virginia” prepared by AES Consulting Engineers dated February 23, 2023, which has been exhibited to City Council and is on file with the Planning Department.

### **Proffer 4:**

The following uses otherwise permitted by right or permitted with a conditional use permit in the B-2 Community Business District shall be prohibited: (i) animal hospitals and veterinary establishments, pounds, shelters, commercial



kennels; (ii) assembly uses; (iii) bars, nightclubs, wine tasting rooms and eating and drinking establishments (as principle or accessory uses); (iv) business and vocational schools; (v) colleges and universities; (vi) child-care education centers; (vii) hospitals and sanitariums; (viii) medical and dental offices and clinics; (ix) open air markets; (x) outdoor cafes; (xi) outdoor plazas; (xii) riding academies; (xiii) recreational campgrounds; and (xiv) recreational and amusement facilities of an outdoor nature; provided, however, recreational and amusement facilities, which are partially or temporarily enclosed on a seasonal basis may be permitted with approval of City Council, with sufficient safeguards to preserve and protect the existing character of adjacent properties.

**Proffer 5:**

All onsite signage shall meet the requirements of the City Zoning Ordinance, unless otherwise approved by the Board of Zoning Appeals. The proposed sign package will be submitted to the Zoning Administrator for review and approval prior to the issuance of a sign permit.

**Proffer 6:**

The final stormwater management plan submitted to the Development Services Center (DSC) shall be in substantial conformance with the preliminary stormwater analysis provided by AES Consulting Engineers dated October 27, 2022 and shall utilize the same basis of design.

**Proffer 7:**

All lighting on the Property shall be limited to that necessary for security purposes and to comply with applicable laws and shall be shielded to prevent glare and spillover onto adjacent properties.

**Proffer 8:**

The Effective Date of this Agreement shall be the date this Agreement is approved by City Council.

**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.

### Recommended Conditions for Conditional Use Permit

1. All automobile repairs must take place inside the building.
2. No outside storage of equipment, parts, or materials shall be permitted, including tires.
3. The development of the site shall substantially conform to the site layout entitled Cogent Center Preliminary Development Plan, Virginia Beach, Virginia", prepared by AES Consulting Engineers dated February 23, 2023 ("Conceptual Site Plan").
4. The site shall be landscaped in substantial conformity with the conceptual landscape plan entitled "Cogent Center Conceptual Landscape Plan, Virginia Beach, Virginia" prepared by AES Consulting Engineers dated February 23, 2023, which has been exhibited to City Council and is on file with the Planning Department. The street frontage screening, interior parking lot coverage and foundation screening shall meet or exceed the minimum requirements of the City's Zoning Ordinance. A landscape plan shall be submitted during site plan review for review and approval.
5. The architectural design and materials of the building shall be substantially compatible with the architectural design and building materials depicted on the building elevation plan entitled "Cogent Center, Virginia Beach, Virginia", dated November 7, 2022, prepared by CL Pincus Jr. & Co., which has been exhibited to City Council and is on file with the Planning Department.



6. No outside storage of vehicles in a state of obvious disrepair shall be permitted. If vehicles in this condition require storage, then such vehicles shall be stored within the building.
7. The freestanding monument sign to be erected on the Property as designated on the Site Plan shall not exceed a height of eight feet (8') and shall be constructed with materials compatible to the proposed building.
8. The freestanding monument sign referenced in Condition 7 shall be landscaped per the landscape and screening requirements in the Zoning Ordinance.
9. A photometric plan for the exterior portions of the property shall be provided as part of the final site plan submittal. All exterior lighting shall be no taller than 14 feet in height and all lighting shielded and directed down and inward to the property and away from adjacent properties.

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

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

## Comprehensive Plan Recommendations

The subject property is located in the Suburban Area of the city. One of the guiding development principles of the Suburban Area is the creation and maintenance of “Great Neighborhoods,” which are stable and sustainable, and supported by complementary non-residential uses. Preserving neighborhood quality and characteristics requires non-residential uses to maintain or enhance the existing characteristics of surrounding residential areas. The use is compatible with AICUZ regulations, and a service business in the vicinity of a suburban residential area is compatible with the vision of the Comprehensive Plan.

The proposed development should pay special consideration to the potential noise, sight, and safety impacts on the nearby residential districts, and use appropriate mitigation strategies, like landscape buffering, to maintain the stability and quality of these neighborhoods. Furthermore, special attention should be paid to the preservation of existing natural characteristics on the site and the appropriateness of the proposed buildings’ massing and scale to its surroundings. Specifically, the Special Area Development Guidelines for the Suburban Area suggest the entrances and driveways provide a change in paving material where they intersect the sidewalk, to make the driver aware of the pedestrian crossing, and within reason, the guidelines call for existing trees and groundcover to be preserved and integrated into the overall design of the development. Clearing on the site should be confined to the absolute minimum to accommodate signage, driveways, and utilities.

## 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. The applicant has provided a preliminary stormwater analysis for their proposal, which is discussed below.

There are no historical or cultural resources present on this site.



## Stormwater Impacts

### Project Stormwater Design Staff Summary

This project consists of the construction of an auto repair facility. In addition to the building, this project will include associated parking areas and a stormwater management facility to support the proposed development.

Stormwater runoff from the site currently sheet flows towards the front and rear of the property. Stormwater runoff from the proposed buildings and surface parking lot will be collected into a combined above ground detention basin and underground storage facility that will treat for water quantity before discharging into the existing public storm sewer system in Holland Road. The project involves less than 1 acre of land disturbance, and as such, does not require compliance with water quality pollutant load reduction requirements.

Based on the information provided by AES in the Preliminary Stormwater Analysis, the DSC agrees that the proposed conceptual stormwater management strategy can successfully comply with the stormwater requirements. Final design and detailed updates will be made during site plan submittal to ensure conformance with all requirements set forth in the Public Works Design Standards Manual. The developer of this project chose to complete a simplified Preliminary Stormwater Analysis providing calculations that demonstrate a reduction in post-development flow rates and has volunteered a condition that states all stormwater regulations will be complied with during final design. More detailed project stormwater information is listed below.

### Project Information

**Total project area:** 0.92 acres

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

**Post-Development impervious area:** 0.56 Acres

**Does the analysis utilize the City of Virginia Beach Master Drainage Model:** No

**Does the analysis incorporate into design updated rainfall amounts (NOAA plus 20%) and account for 1.5' SLR:** Yes

### Stormwater Management Facility Design Information

**Type of facility proposed:** Above Ground Detention Basin with Underground Storage Facility

**Total storage volume provided in proposed stormwater management facilities:** 12,523 cf

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

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

### Stormwater Quality Compliance Design Information

**Pounds of phosphorus removal per year (lb/yr) required:** 0 lb/yr

**Method of treatment proposed:** N/A

### Stormwater Quantity Compliance Design Information

**2-year storm peak flow rate comparison:** Pre-development = 1.37cfs / Post-development = 0.79cfs.

**10-year storm peak flow rate comparison:** Pre-development = 2.80cfs / Post-development = 1.45cfs.

**100-year storm peak flow rate comparison:** Pre-development = 5.68cfs / Post-development = 4.54cfs.



## Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Holland Road	18,260 <sup>1</sup>	31,100 ADT <sup>1</sup> (LOS <sup>4</sup> "D")	Existing Land Use <sup>2</sup> – 10 ADT Proposed Land Use <sup>3</sup> – 117 ADT
<sup>1</sup> Average Daily Trips	<sup>2</sup> as defined by a .94 acre parcel zoned AG-2	<sup>3</sup> as defined by a 7,050 square-foot auto service center	<sup>4</sup> LOS = Level of Service

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

Holland Road in the vicinity of this application is a four-lane minor urban arterial. There are no projects to widen this portion of Holland Road in the current CIP.

## Public Utility Impacts

### Water

City water is available via an existing 16-inch City water main along Holland Road.

### Sewer

City sanitary sewer is available via an existing eight-inch City sanitary sewer force main along Holland Road.

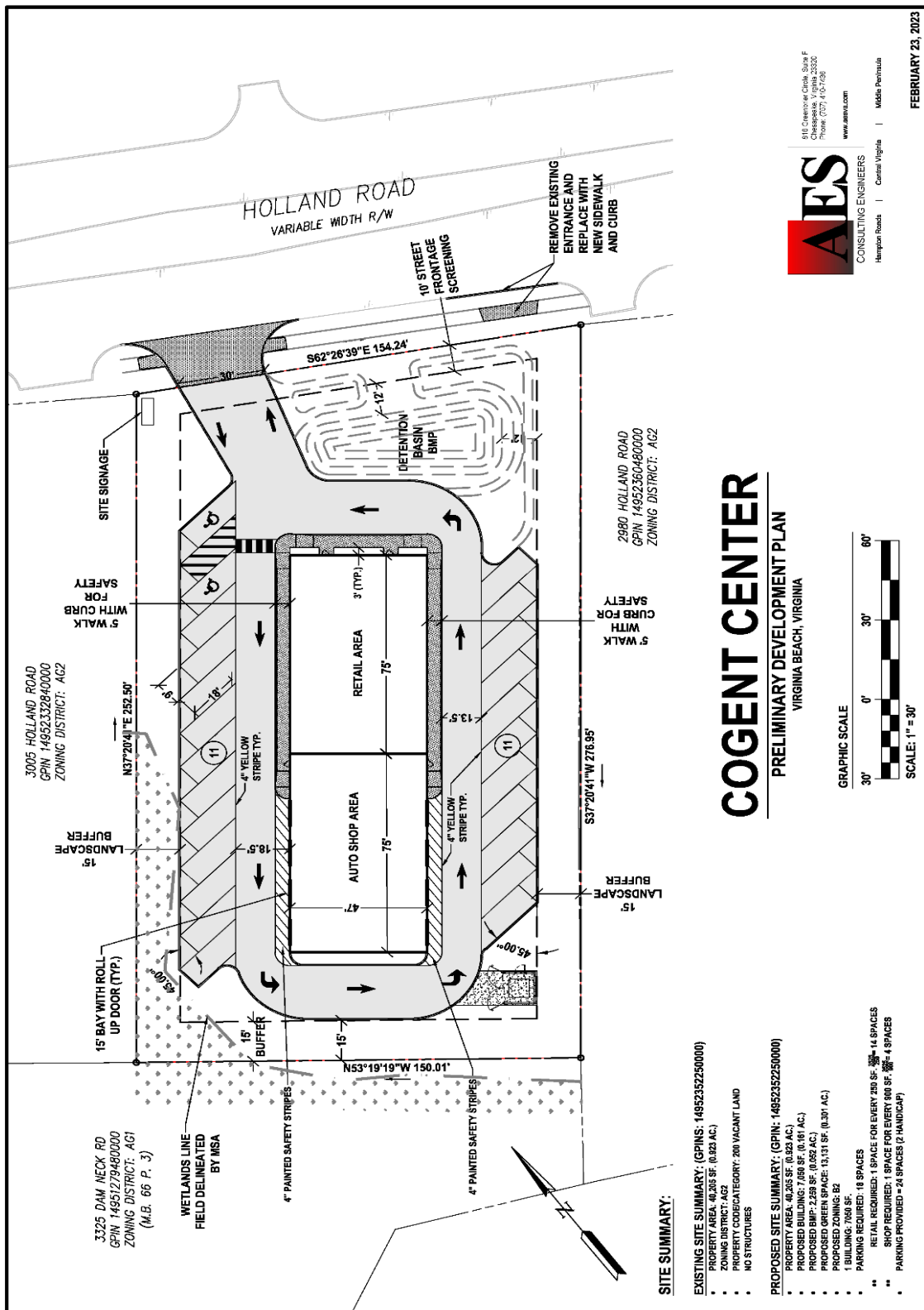
## Public Outreach Information

### Planning Commission

- As required by the Zoning Ordinance, the public notice signs were placed on the property on March 13, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, March 26, 2023 and April 2, 2023.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on March 27, 2023.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of [www.vbgov.com/pc](http://www.vbgov.com/pc) on April 6, 2023.



## Proposed Site Layout





## Proposed Elevation Plan

**CLP**  
INCUS JR. & CO.  
GENERAL CONTRACTORS

C.L. Pincus Jr. & Co.  
2700 Sonic Drive  
Virginia Beach, VA 23453  
(757) 468-5100  
www.clpincus.com

ISSUE  
11-01-2022

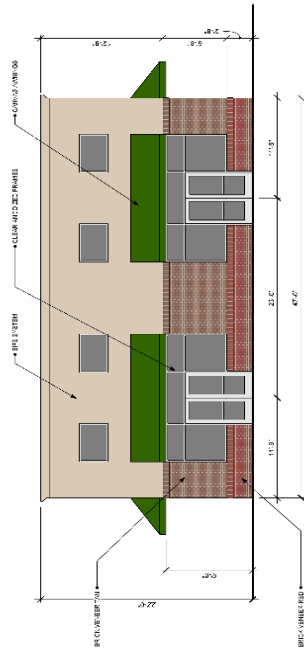
PROJECT NO. CLP22-055  
DESIGNED BY S. PINCUS

**COGENT CENTER**  
VIRGINIA BEACH, VA  
**PROPOSED ELEVATION**

NOTES ON COPYRIGHTS

A

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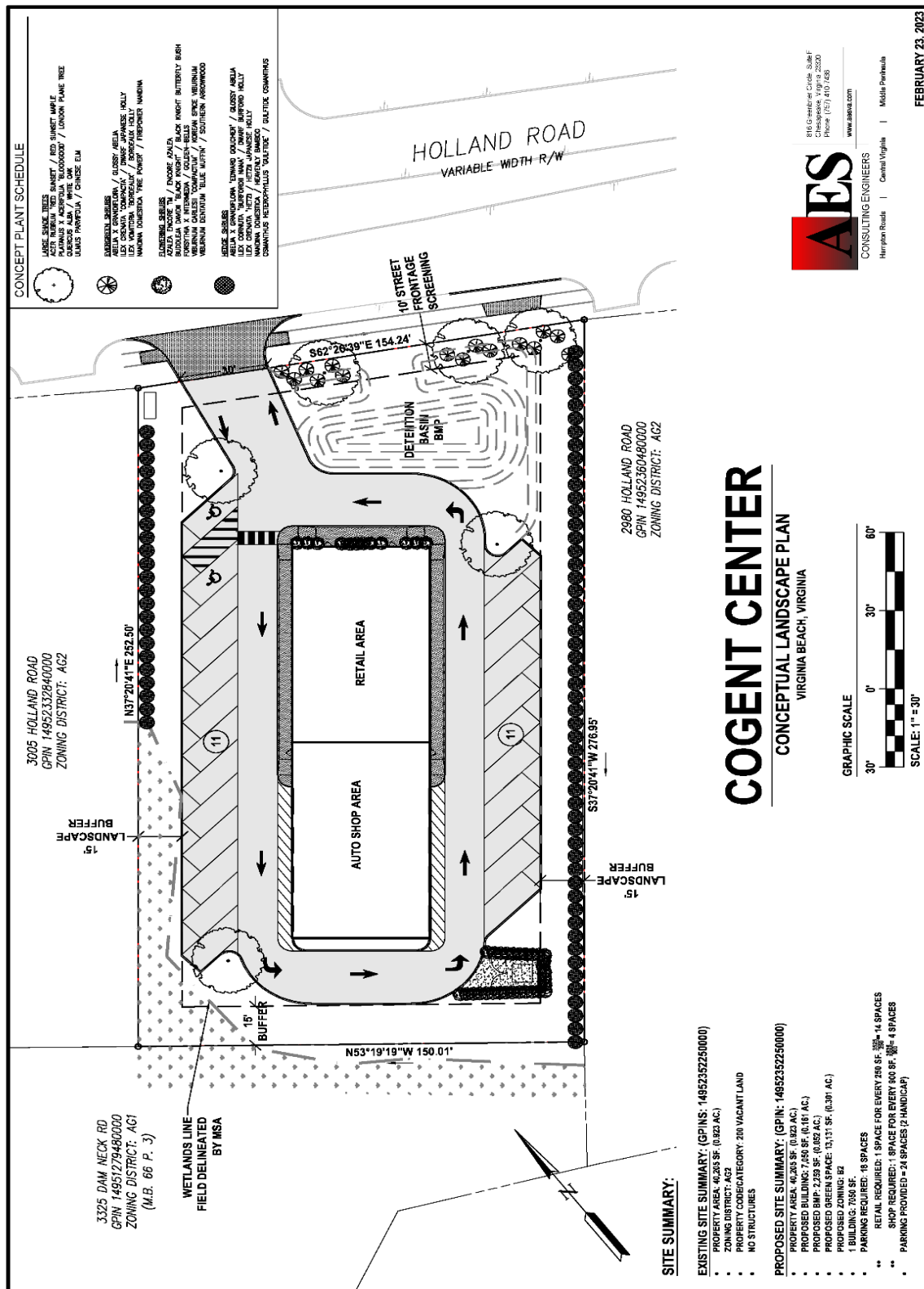
A-1	FRONT ELEVATION
001	Scale: 3/16" = 1'

NOTE: LEFT AND RIGHT ELEVATIONS ARE SYMMETRICAL



**A-1 ::SIDE ELEVATION**  
002 scale: 3/16"=1'







Site Photos





## Site Context 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** Amir Yahya Razi

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

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

Lisa M. Murphy, Esq.

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

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

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

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

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



### Disclosure Statement



#### Known Interest by Public Official or Employee

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

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

#### Applicant Services Disclosure

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

☐ Yes ☒ No

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

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

☒ Yes ☐ No

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

Cheyney Cole/ S.L. Nusbaum Realty Co.

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

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

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

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

Stephen Pincus & David Brown/CL Pincus Jr. & Co. & Larry Barry & Jason Seas/AES Consulting Engineers

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.

The Owner plans to transfer the property to a not-yet-formed wholly-owned limited liability company prior to development.



## 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.

Stephen Pincus & David Brown/CL Pincus Jr. & Co.

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.

Larry Barry & Jason Seas/AES Consulting Engineers

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

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

Lisa M. Murphy, Esq./Willcox & Savage, 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

Amir Yahya Razi

Print Name and Title

September 1, 2022

Date

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

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

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

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



## Next Steps

- Upon receiving a recommendation from Planning Commission, this request will be scheduled for a City Council public hearing. Staff will inform the applicant and/or their representative of the date of the hearing in the upcoming days.
- Following City Council's decision, the applicant will receive a decision letter from Staff.
- Once the conditions of approval are in place and/or completed, the applicant must contact the Zoning Division of the Planning Department to obtain verification that the conditions have been met. Contact the Zoning Division at 757-385-8074.
- If the request requires land disturbance and/or a subdivision of property, please contact the Development Services Center (DSC) to discuss next steps for site plan/plat review. Contact the DSC at 757-385-4621 or the Development Liaison Team at 757-385-8610.
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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.







**Requests**

**#7 - Rezoning** (B-2 Community Business to I-1 Light Industrial District)

**#8 - Conditional Use Permit** (Bulk Storage Yard)

**Staff Recommendation**

Approval

**Staff Planner**

Elizabeth Nowak

**Location**

728 S Military Highway

**GPIN**

1456279020

**Site Size**

40,421 square feet

**AICUZ**

Less than 65 dB DNL

**Watershed**

Chesapeake Bay

**Existing Land Use and Zoning District**

Former night club, pawn shop / B-2 Community Business

**Surrounding Land Uses and Zoning Districts**

**North**

Equipment rental, bulk storage yard / I-1 Light Industrial

**South**

Automobile repair garage / I-1 Light Industrial

**East**

Bulk storage yard / I-1 Light Industrial

**West**

S Military Highway

Multi-family dwelling, auto service / A-18

Apartment, B-2 Community Business, B-4

Mixed-Use

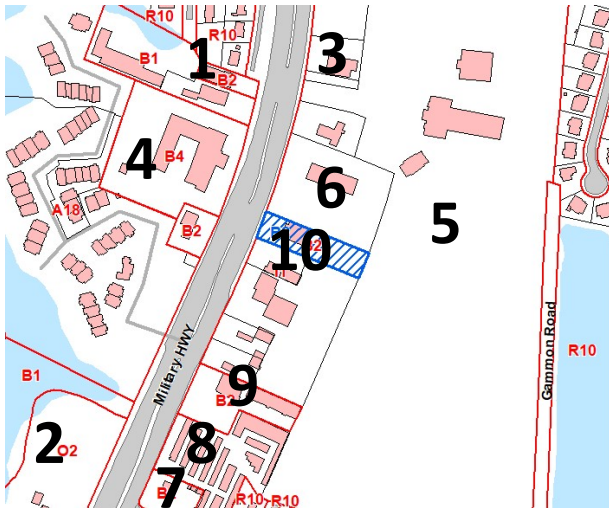




## Background & Summary of Proposal

- The applicant is requesting to rezone the property at 728 S Military Highway from B-2 Community Business to I-1 Light Industrial, as well as a Conditional Use Permit for a Bulk Storage Yard. The property is presently developed with a parking lot and a commercial building that has been used as a night club, pawn shop, and restaurant in the past.
- The applicant desires to rezone this property and receive a Conditional Use Permit for a Bulk Storage Yard as they are working with Herc Rentals, the adjoining lot (716 S Military Highway), to expand Herc Rentals's business onto this parcel. Herc Rentals has been operating a heavy equipment sales and rental business on the adjacent property for several years. Herc Rentals presently has a Conditional Use Permit for a Bulk Storage Yard as part of their operations at 716 S Military Highway.
- The subject property has been owned by the same owner for decades. In 1992, the property owner applied to rezone 728 S Military Highway from I-1 Light Industrial to B-2 Community Business. The rezoning was approved by City Council on March 24, 1992. Since that time, several different commercial businesses have been located on the site.
- Redevelopment of this property to accommodate the expansion of the adjacent Bulk Storage Yard and heavy equipment sales and rental business will include demolition of the existing building. The lot will be repaved and 12 parking spaces will remain on site.
- The applicant is proposing to enclose the Bulk Storage Yard with a minimum six-foot tall, opaque fence, and Category IV plantings as required per Section 228 of the Zoning Ordinance. Natchez Crape Myrtles and holly shrubs will be planted along the property line to provide additional screening of the site from S Military Highway.



	<h3>Zoning History</h3> <table><tr><th>#</th><th>Request</th></tr><tr><td>1</td><td>CUP (Assembly Use) Approved 02/7/2023 CUP (Assembly Use) Approved 03/17/2021</td></tr><tr><td>2</td><td>MDC (Religious Use) 01/16/2019 CUP (Religious Use) 01/05/2016</td></tr><tr><td>3</td><td>CUP (Automobile Service Station) Approved 08/04/2015 CUP (Automobile Service Station) Approved 05/13/1998 CRZ (I-1 to B-2) Approved 05/13/1998</td></tr><tr><td>4</td><td>MDP (Approved 05/13/2014 CRZ (B-1 &amp; H-1 to Conditional B-4) Approved 12/04/2012</td></tr><tr><td>5</td><td>MDC (Bulk Storage Yard) 12/7/2010 CUP (Automotive Repair Garage) Approved 11/14/2006 CUP (Bulk Storage Yard) Approved 11/14/2006 CUP (Bulk Storage Yard) Approved 12/12/2002 CUP (Temporary Recycling Operation) Approved 01/09/1994 CUP (Bulk Storage Yard) Approved 06/08/1994</td></tr><tr><td>6</td><td>CUP (Bulk Storage Yard) 10/23/2007</td></tr><tr><td>7</td><td>CUP (Motor Vehicle Sales) 08/09/2000 CUP (Mobile Home Sales) 02/08/1994</td></tr><tr><td>8</td><td>CUP (Truck Rentals) 03/10/1999</td></tr><tr><td>9</td><td>CUP (Bulk Storage Yard) 05/10/1995</td></tr><tr><td>10</td><td>CUP (Bulk Storage Yard) Approved 06/22/1987 REZ (AG-2 to I-1) Approved 06/22/1987</td></tr></table>			#	Request	1	CUP (Assembly Use) Approved 02/7/2023 CUP (Assembly Use) Approved 03/17/2021	2	MDC (Religious Use) 01/16/2019 CUP (Religious Use) 01/05/2016	3	CUP (Automobile Service Station) Approved 08/04/2015 CUP (Automobile Service Station) Approved 05/13/1998 CRZ (I-1 to B-2) Approved 05/13/1998	4	MDP (Approved 05/13/2014 CRZ (B-1 & H-1 to Conditional B-4) Approved 12/04/2012	5	MDC (Bulk Storage Yard) 12/7/2010 CUP (Automotive Repair Garage) Approved 11/14/2006 CUP (Bulk Storage Yard) Approved 11/14/2006 CUP (Bulk Storage Yard) Approved 12/12/2002 CUP (Temporary Recycling Operation) Approved 01/09/1994 CUP (Bulk Storage Yard) Approved 06/08/1994	6	CUP (Bulk Storage Yard) 10/23/2007	7	CUP (Motor Vehicle Sales) 08/09/2000 CUP (Mobile Home Sales) 02/08/1994	8	CUP (Truck Rentals) 03/10/1999	9	CUP (Bulk Storage Yard) 05/10/1995	10	CUP (Bulk Storage Yard) Approved 06/22/1987 REZ (AG-2 to I-1) Approved 06/22/1987
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## Evaluation & Recommendation

This property is located in the Military Highway Corridor Suburban Focus Area (SFA), an area envisioned in the Comprehensive Plan as a commercial and residential corridor with a mix of office and service uses and different housing types. While the requests to rezone this property to I-1 Light Industrial and for a Conditional Use Permit for a Bulk Storage Yard differ from the primary goal of the Military Highway Corridor SFA, it is Staff's opinion that these requests are still acceptable and appropriate for the area given the site's history, the current trends in the area, the site's relationship to other properties in the Military Highway SFA, and the lot size.

The uses of 728 S Military Highway have been relatively consistent over the past 30 years. A night club/bar operated here for many years, as well as a pawn shop. A Conditional Use Permit was granted in 2000 for a period of one year for a Bulk Storage Yard to store semi-tractor trailer vehicles with the intention to sell the vehicles from the adjoining truck sales establishment, a request very similar to the applicant's current proposal. The description of surrounding uses in the 2000 staff report were very similar to those in 1992 and today and noted that the request was compatible with the overall high intensity commercial uses within the corridor. When this property was rezoned to B-2 Community Business in 1992, it was also noted that most of the surrounding properties were zoned I-1 Light Industrial. The Comprehensive Plan at that time recommended this area for "retail/service uses[s]." While properties west across S Military Highway and further south along the corridor have slowly transitioned to office and other retail uses, the parcels immediately adjacent to the subject property and those northward along the east side of S Military Highway have remained I-1 Light



Industrial. Many of these light industrial businesses have been successfully operating here for decades and there is no apparent shift in this trend impending.

Staff finds the consistency of the character of 728 S Military Highway and its adjacent properties notable in evaluating this request. The subject property is surrounded on three sides by properties zoned I-1 Light Industrial, several of which are presently operating as bulk storage yards. As it is likely that these uses will remain into the near future, it is similarly unlikely that this parcel will attract the kind of redevelopment interest recommended in the Comprehensive Plan. The proposed site layout will remove an aging, vacant building and replace it with new asphalt. Additional beautification of the site will be achieved through new landscaping. Natchez Crape Myrtles and holly bushes will be planted along the property line parallel with S Military Highway. Such screening has been lacking for many years. The Bulk Storage Yard will also be screened as required in Section 228 with an opaque privacy fence and additional Category IV plants. Bulk Storage Yards are relatively passive uses and would allow for the site to be easily redeveloped in the future.

In summary, Staff recommends approval of these requests given the overall consistency of the use and character with this portion of the Military Highway Corridor SFA, the overall size of the property, and the improvements that will be gained with this development. Staff's recommendation for approval includes the recommended conditions and attachments as listed below.

### Recommended Conditions for Conditional Use Permit

1. The bulk storage yard shall be enclosed with Category VI screening, as required by the City's Landscaping Guide and as shown in the conceptual landscape plan titled "HERC RENTALS – 728 SOUTH MILITARY HIGHWAY" prepared by WPL and dated February 28, 2023.
2. As noted on the concept landscape plan titled "HERC RENTALS – 728 SOUTH MILITARY HIGHWAY" prepared by WPL and dated February 28, 2023, fencing used at 728 S Military Highway shall be at least six feet in height and shall be opaque. No chain link fencing with or without slats shall be used to screen the bulk storage yard on 728 S Military Highway.
3. The site shall be landscaped in accordance with the City's Landscaping Guide and as shown in the conceptual landscape plan titled "HERC RENTAL – 728 SOUTH MILITARY HIGHWAY" prepared by WPL and dated February 28, 2023, including the required street frontage landscaping.
4. This Conditional Use Permit will be valid so long as the bulk storage yard is being operated in tandem with the operator on the adjacent property known as 716 S Military Highway. In the event the tandem operation should cease, a new Conditional Use Permit shall be required.
5. There shall be no signs which contain or consist of pennants, ribbons, streamers, spinners, strings of light bulbs, or other similar moving devices on the site or the vehicles. There shall be no signs which are pasted or attached to utility poles, trees, or fences, or in an unauthorized manner to walls or other signs. There shall be no portable or nonstructural signs, or electronic display signs on the site.
6. Signage on the site must be in accordance with sign regulations outlined in the Zoning Ordinance.

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

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



## Comprehensive Plan Recommendations

The Comprehensive Plan designates this area of the city as the Military Highway Corridor Suburban Focus Area (SFA). Recommendations for any changes of land use in this corridor located near or adjacent to existing stable neighborhoods must be compatible uses and employ appropriate buffering features. The overall goal of the Military Highway Corridor SFA is to transition uses in this area way from industrial activities to more compatible uses such as medium density residential, office, hotel, or institutional uses. It is also recommended that access points be reduced when possible, with greater reliance on access management, inter-parcel access, and shared parking. Beautification of the corridor through landscaping is also strongly encouraged.

## Natural & Cultural Resources Impacts

The property is located in the Chesapeake Bay watershed.

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

## Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Military Highway	44,900 ADT <sup>1</sup>	74,000 ADT <sup>1</sup> (LOS <sup>4</sup> "D")	Existing Land Use <sup>2</sup> – 227 ADT Proposed Land Use <sup>3</sup> – 38 ADT
<sup>1</sup> Average Daily Trips	<sup>2</sup> as defined by a .51 acre of B-2-zoned property	<sup>3</sup> as defined by a .51 acre of I-1-zoned property	<sup>4</sup> LOS = Level of Service

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

In the vicinity of this application, Military Highway is considered an eight-lane major urban arterial. The MTP proposes a divided facility within a 150-foot right-of-way. No CIPs are slated for this area.

## Public Utility Impacts

### Water

The site currently connects to City water.

### Sewer

The site currently connects to City sewer.

## Public Outreach Information

### Planning Commission

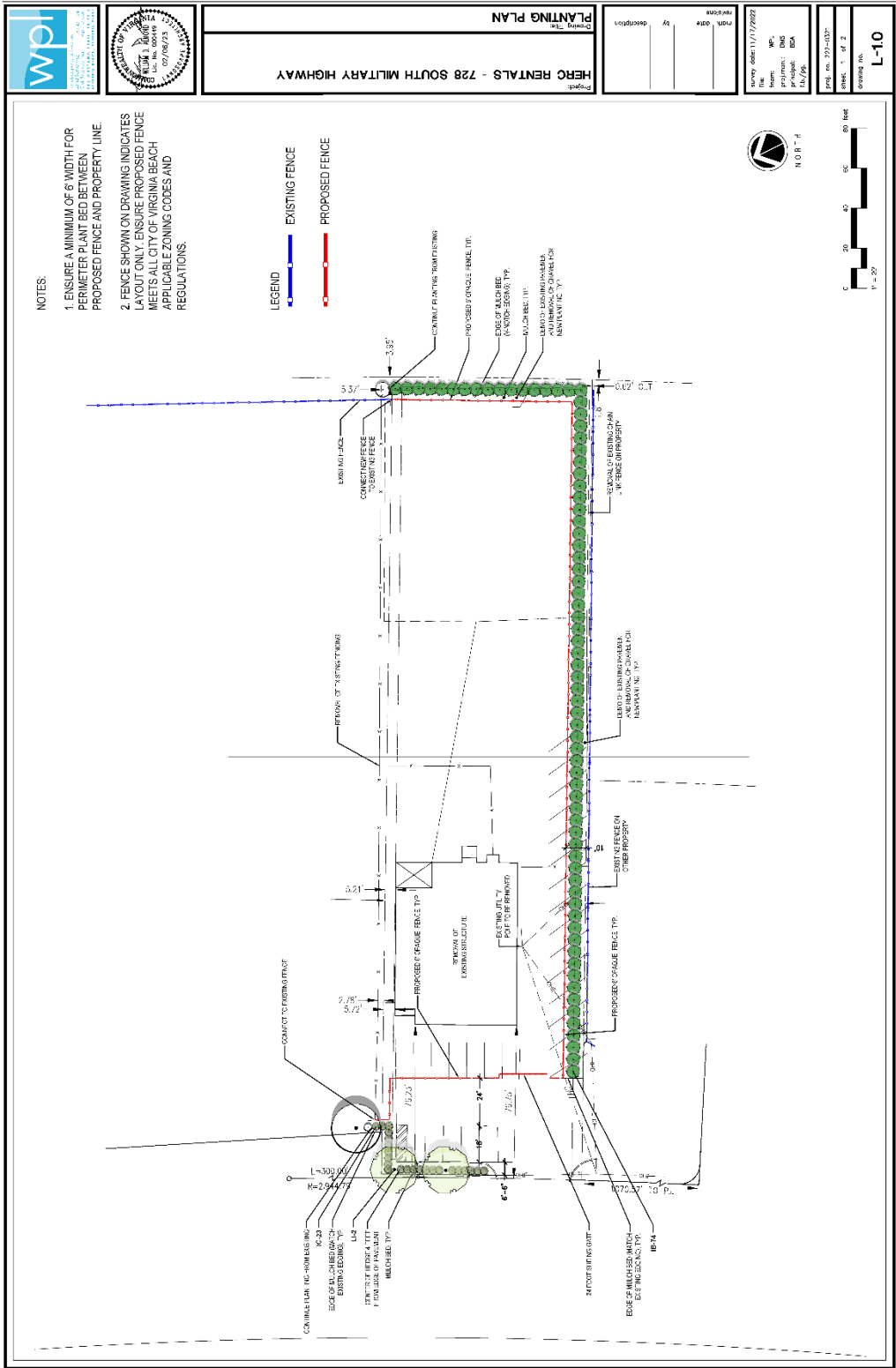
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on March 13, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, March 26, 2023 and April 2, 2023.



- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on March 28, 2022.
- 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](http://www.vbgov.com/pc) on April 6, 2023.



## Concept Landscape Plan – 728 S Military Highway

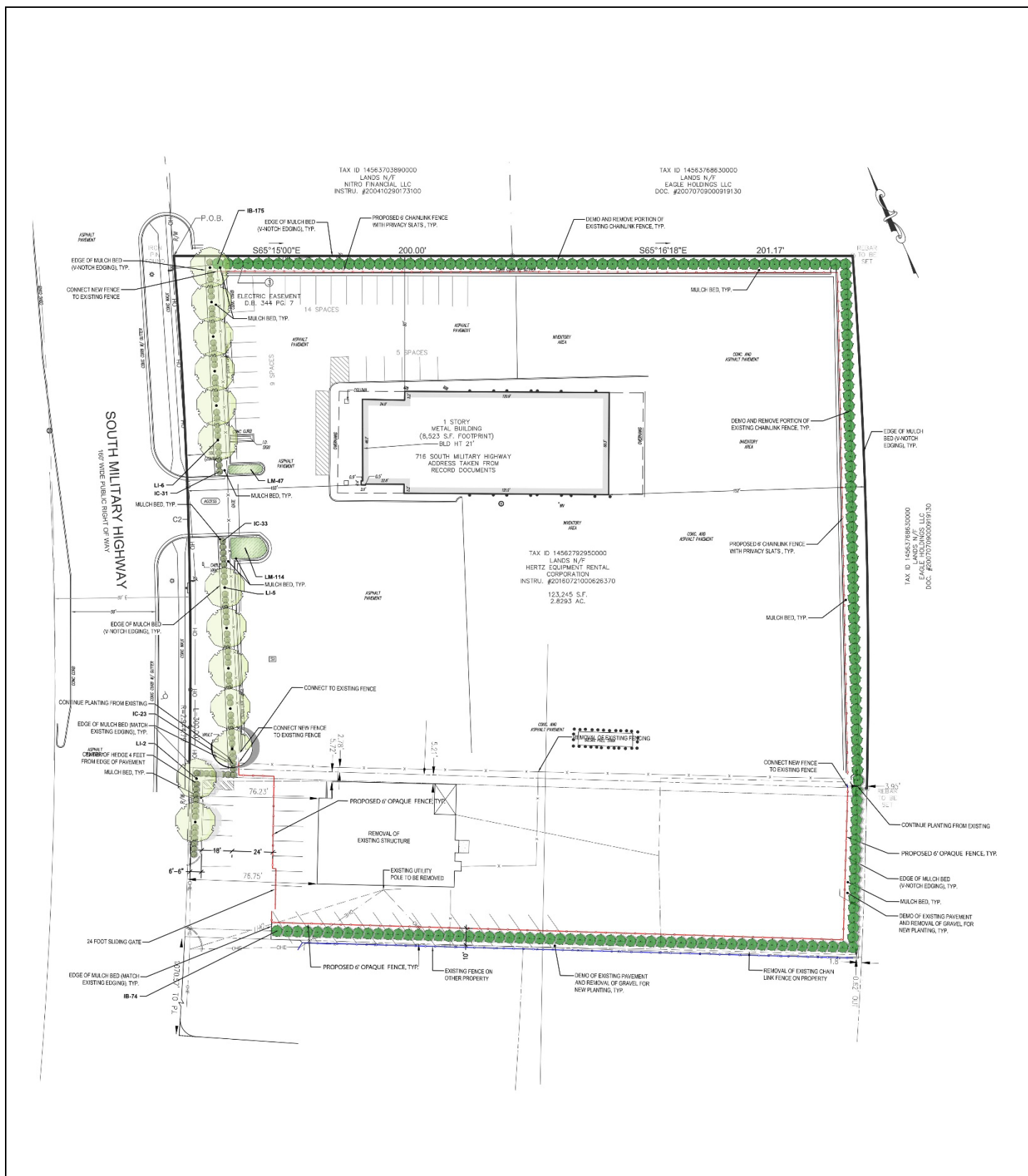




## SITE PLAN



## Concept Landscape Plan – 716 & 728 S Military Highway

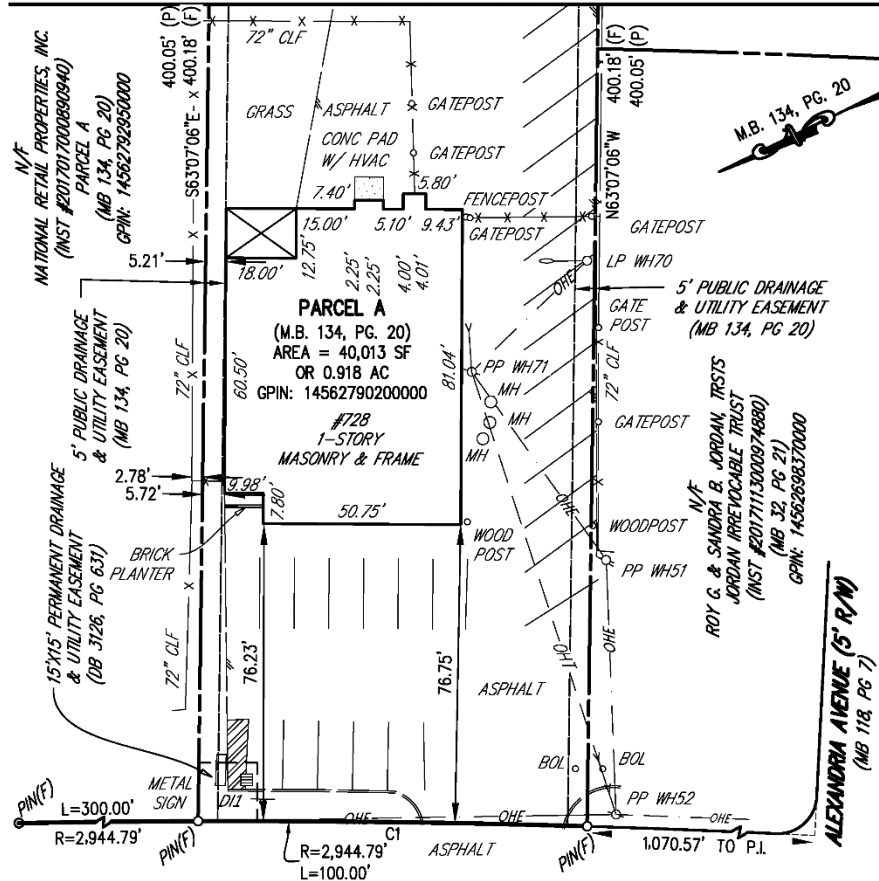




THIS IS TO CERTIFY THAT ON APRIL 21, 2022, WE SURVEYED THE PROPERTY SHOWN ON THIS PLAT AND THAT THE TITLE LINES AND PHYSICAL IMPROVEMENTS ARE AS SHOWN ON THIS PLAT. THE IMPROVEMENTS STAND STRICTLY WITHIN THE TITLE LINES AND THERE ARE NO ENCROACHMENTS OR VISIBLE EASEMENTS EXCEPT AS SHOWN.

MSA, P.C.

MATCHLINE - SEE SHEET 2 OF 2



**SOUTH MILITARY HIGHWAY (160' R/W)**  
(SHP 0013-134-101, PE 101, RW-201, C-501)  
(MB 134, PG 20) (ROUTE 13)

PHYSICAL SURVEY  
OF  
**PARCEL A**  
(M.B. 134, PG. 230)  
"SUBDIVISION OF PROPERTY OF  
E.V. WILLIAMS COMPANY INCORPORATED AND  
BENTLEY B. INMAN SOUTH MILITARY HIGHWAY"  
VIRGINIA BEACH, VIRGINIA  
FOR  
**MORRIS H. FINE**

**MSA, P.C.**  
Environmental Sciences • Surveying  
Civil & Environmental Engineering

5032 Rouse Drive, Suite 200  
Virginia Beach, VA 23462-3764  
757-490-9264 | www.msonline.com



SEE SHEET 2 OF 2  
FOR NOTES

DWN BY: KCR  
FB: CS719, PG 68



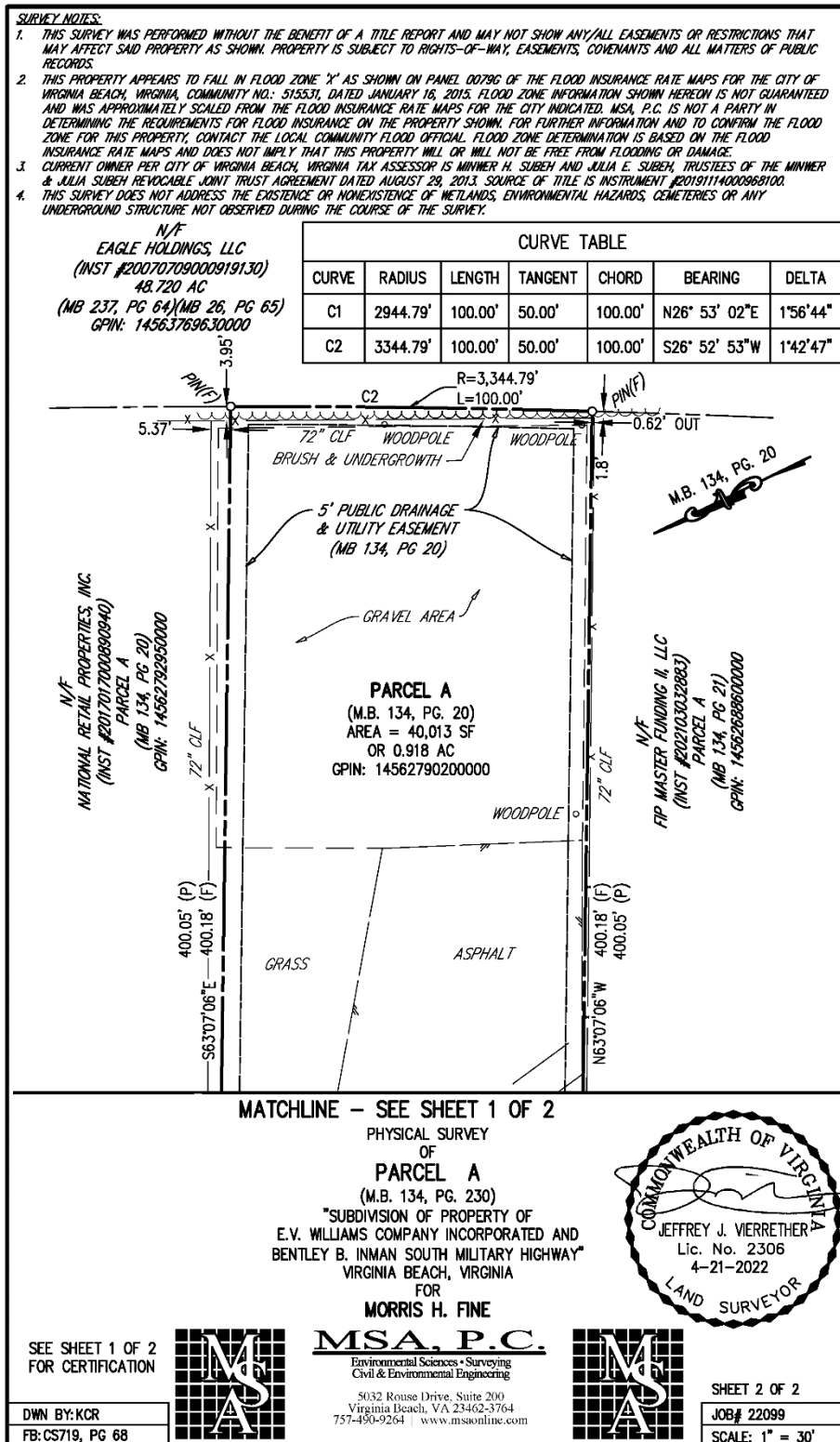
SHEET 1 OF 2

JOB# 22099

SCALE: 1" = 30'



# Property Survey





## Site Photos





## Adjacent Property 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** The Minwer & Julia Subeh Revocable Living Trust, Minwer H. Subeh Trustee dtd 8/29/2013

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

- If yes, list the name of the representative.

Morris H. Fine, Attorney

**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)

Minwer H. Subeh and Julia Subeh, Trustees

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

n/a

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

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





### 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.

Pending Ground Lease Tenant



## 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.

*Morris A. Fine of Fine, Fine, Legum & McCracken*

### 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.

*[Handwritten Signature]*

Applicant Signature

*MINWER H. SUBEH OWNER*

Print Name and Title

*03-09-22*

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	



## 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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- 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**

328 Office Square Lane, Suite 203

**GPIN**

1466793843

**Site Size**

21,500 square feet (1,000 square-foot suite)

**AICUZ**

Less than 65 dB DNL

**Watershed**

Chesapeake Bay

**Existing Land Use and Zoning District**

Office Condominiums / B-2 Community  
Business

**Surrounding Land Uses and Zoning Districts**

**North**

Office Condominiums / B-2 Community  
Business

**South**

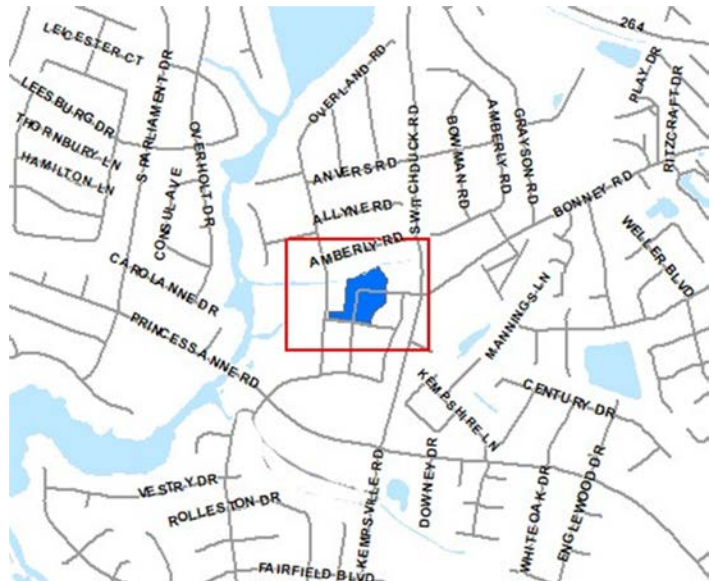
Home Center Drive  
Retail / B-2 Community Business

**East**

South Witchduck Road  
Restaurant / B-2 Community Business

**West**

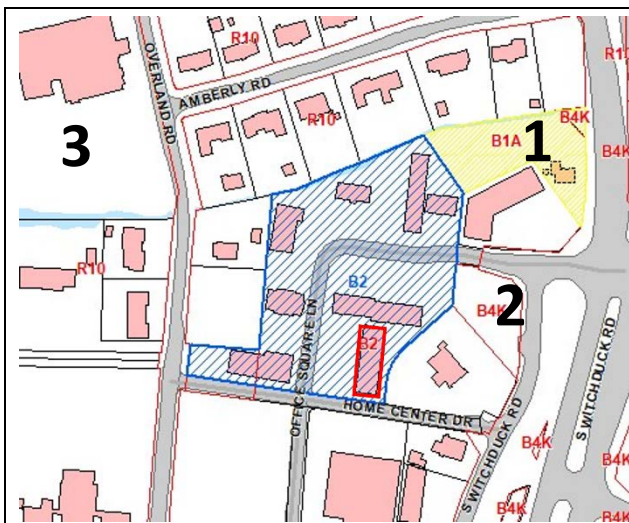
Office Square Lane  
Office / B-2 Community Business





## 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 office suite at the Kempsville Commons Condominium. The applicant intends to operate a vocational school to teach the application of permanent makeup, as well as offer paid services to the public. The offices are located along Office Square Lane and Home Center Drive on property zoned B-2 Community Business District.
- Application of permanent makeup will take place within the unit, in private rooms. This space will operate as a salon during select hours and a vocational school that will teach up to 3 students during select hours. The salon and school hours will not overlap.
- According to the applicant, two employees are anticipated that will also serve as instructors.
- The typical hours of operation proposed are 10:00 a.m. to 5:00 p.m., Monday through Friday. Hours of Operation for the vocational school are 10:00 a.m. to 2:00 p.m., Wednesdays and 5:00 p.m. to 9:00 p.m., Thursdays. Clients will be scheduled by appointment only.
- No exterior changes to the building are proposed, as well as no new signage.
- The Kempsville Commons Condominium has 30 parking spaces for the 9,500 square foot office space, which meets the minimum parking requirements as set in Section 203(a)(24).



### Zoning History

#	Request
1	<b>CRZ</b> (Conditional B-2 to Conditional B-1A) Approved 08/16/2017 <b>MDP</b> (AG-2 to Conditional B-2) Approved 11/28/2006
2	<b>CRZ</b> (B-2, Conditional B-2, O-2, R-7.5 to B-4K; B-2 to B-4K; R-5D, B-2, O-2, to B-4K) Approved 08/27/2013
3	<b>MDC</b> Approved 01/12/2010 <b>MDC</b> Approved 02/13/2007 <b>CUP</b> (Church Expansion) Approved 12/10/1997

### 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 for a Conditional Use Permit for a Tattoo Parlor, specifically for the application of permanent makeup, in Staff's opinion, is acceptable since the use is compatible with the other existing commercial businesses located in the vicinity and within this part of the suburban area. The application of permanent makeup within an existing beauty salon



is not expected to negatively impact other uses within the shopping center or the vicinity. Since the suite is less than 7,500 square feet, the vocational school is permitted by-right, thus an additional conditional use permit is not required.

Parking for the office condominium exceeds the minimum number of spaces required by the Zoning Ordinance, and is, in Staff's opinion, adequate to meet the needs of the existing office and proposed tattoo parlor/vocational school use.

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

## Recommended Conditions

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

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

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

## Comprehensive Plan Recommendations

This site is located in the Suburban Area, within the Historic Kempsville Suburban Focus Area (SFA). In the Northeast Quadrant of the SFA, the Comprehensive Plan calls for medical services, senior housing, and public safety and support activities. Adding a permanent makeup use into an existing salon would comply with the vision of support activities in this area.



## 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
Office Square Lane	No Data Available <sup>1</sup>	9,900 ADT <sup>1</sup> (LOS <sup>3</sup> "D")	No Change Anticipated <sup>2</sup>
<sup>1</sup> Average Daily Trips	<sup>2</sup> as defined by a Tattoo Parlor	<sup>3</sup> Level of Science	

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

This site is located along Office Square Lane. Office Square Lane is a two-lane local commercial street with a variable-width right-of-way. No CIP projects are currently scheduled for this roadway.

## Public Utility Impacts

### Water & Sewer

This site is connected to City Water and City Sewer.

## Public Outreach Information

### Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on March 13, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, March 26, 2023 and April 2, 2023.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on March 27, 2023.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of [www.vbgov.com/pc](http://www.vbgov.com/pc) on April 6, 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 Christina Danielle Patterson

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)

Christina Danielle Patterson

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

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

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



## Disclosure Statement

### Disclosure Statement



#### Known Interest by Public Official or Employee

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

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

#### Applicant Services Disclosure

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

☐ Yes ☒ No

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

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

☐ Yes ☒ No

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

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

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

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

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

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

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



## Disclosure Statement

### Disclosure Statement



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

#### Applicant Signature

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

Christina Danielle Patterson  
Applicant Signature

Christina Danielle Patterson  
Print Name and Title

12/30/22  
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 JN & RBD, LLC

Applicant Name Christina Danielle Patterson

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)

Richard B. Drehoff & John Nogosek

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

None

### Known Interest by Public Official or Employee

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

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

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

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



### Disclosure Statement



#### Owner Services Disclosure

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

☐ Yes ☒ No

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

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 real estate broker/realtor.

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 or 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 or 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 construction contractor.

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 engineer/surveyor/agent.



## 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 name of the attorney or firm providing legal services.

### Owner Signature

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

A handwritten signature in blue ink, appearing to read "R. B. Drehoff", is written over a horizontal line.

Owner Signature

R. B. Drehoff

Print Name and Title

1/3/2023

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**

**Modification of Conditions** (Group Home)

**Staff Recommendation**

Approval

**Staff Planner**

Michaela McKinney

**Location**

642 N Lynnhaven Road

**GPIN**

1488805079

**Site Size**

12.00 acres

**AICUZ**

Less than 65 dB DNL

**Watershed**

Chesapeake Bay

**Existing Land Use and Zoning District**

Religious Use / R-10 Residential

**Surrounding Land Uses and Zoning Districts**

**North**

Little Neck Road

Single-family dwellings / R-5D Residential

**South**

Elementary school, single-family dwellings / R-10 Residential

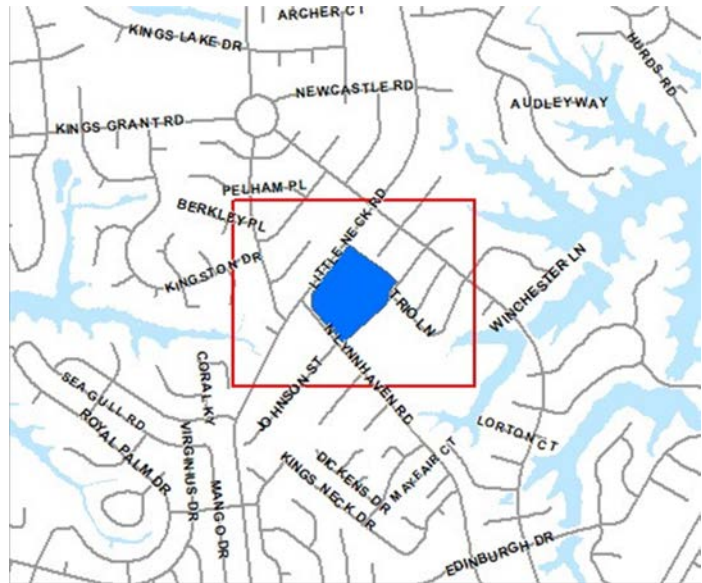
**East**

Single-family dwellings / R-10 Residential

**West**

North Lynnhaven Road

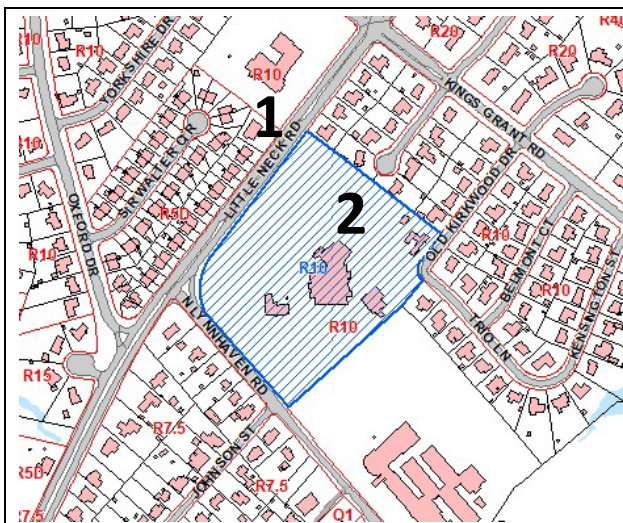
Single-family dwellings / R-7.5 Residential





## Background & Summary of Proposal

- The applicant is requesting to modify the conditions associated with a Conditional Use Permit for a Group Home, approved by City Council in 1984. Specifically, the applicant is seeking a modification to Condition 3 to extend the amount of time residents can be housed on site from two weeks to 90 days.
- A former group home operated in this space between 1984 to 2021 and was operated by Mother Seton, a different entity not owned by the church. This proposed group home use will be operated by the St. Nicholas Catholic Church, located on the property. The previous group home served runaway teen girls who were below the legal age to emancipate themselves. Each resident was allotted a stay of up to two weeks in the group home. The current building has been vacant for a total of two years and the applicant seeks to re-establish the group home to serve unaccompanied minors, ranging from 5 to 17 years old who have crossed the border and are seeking to be united with their families. The applicant seeks to increase the maximum amount of time each resident can stay on site to 90 days. During the residents stay, efforts will be made by the applicant and Customs and Border Patrol to reconnect each resident with their parents or family members.
- This use will go into an existing 5,000 square foot building on-site. Originally, this building served as a group home for up to 20 children and will be modified to accommodate 10 to 15 residents on-site. The facility will include offices, classroom space, a dining area and recreation space on the first floor. The second ~~floor~~ and ~~third floors~~ will include a mix of individual and shared bedrooms to accommodate siblings. It is the applicant's intent that the facility will operate 24 hours a day, 7 days a week with 10 full-time staff and 4 part-time employees to ensure a staff member is on-site at all times
- As depicted on the submitted building elevations on page ~~10~~ 9, only minor cosmetic improvements are proposed to the structure.





received any complaints related to the use. The Group Home will continue to provide a needed service that will support its community and residents. The existing building will undergo minor cosmetic changes to the exterior while interior renovations will be done to better accommodate residents.

According to the 1984 Conditional Use Permit, Condition 1 required a sprinkler inspection that meets the approval of the Fire Inspection engineer. A sprinkler systems inspection was conducted on November 11, 2022, that found the current system satisfactory.

Although the applicant was requesting to increase the maximum length of stay for residents of the facility to a finite amount of time (90-days), staff has decided not to condition the length of stay ~~but rather just remove Condition 3 entirely~~. Since the Zoning Ordinance does not restrict the amount of time an individual can reside within a group home, and since the use has been operating without issue for the last 37 years, ~~s~~Staff does not believe conditioning the length of stay is necessary for this application. Given that the use is not changing, ~~s~~Staff does not anticipate a significant increase in traffic volume with this modification, given that the building is closed to the general public. Based on the considerations above, Staff recommends approval of this request subject to the conditions below.

## Recommended Conditions

1. All conditions attached to the previous Conditional Use Permit granted on February 6, 1964, are hereby deleted, and superseded by the following conditions.
2. The proposed building shall be improved in substantial conformance with the submitted architectural renderings entitled "ST NICHOLAS BUILDING PLANS", prepared by R.P. Morgan. Said elevations have been exhibited to the City of Virginia Beach City Council and are on file in the Department of Planning & Community Development.
3. All existing landscaping on the property shall be retained and maintained.
4. The number of children associated with this conditional use permit shall be limited to 20 children or as determined by the occupancy load set by the Building Official's Office for this Group Home, whichever count is lower
5. The applicant shall obtain all necessary permits and inspections from the Department of Planning & Community Development/Permits and Inspections Division. The applicant shall secure a Certificate of Occupancy from the Building Official prior to the occupancy of the Group Home.
6. All on-site signage must meet the requirements and regulations of the Zoning Ordinance, unless otherwise approved by the Board of Zoning Appeals. A separate permit from the Department of Planning & Community Development is required for any new signage installed on site.
7. All outdoor lights shall be shielded to direct light and glare onto the premises, said lighting and glare shall be deflected, shaded, and focused away from all adjoining property. Any outdoor lighting fixtures shall not be erected any higher than fourteen (14) feet.

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



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

Conditions of 1984 CUP Approval

- 1. Installation of automatic sprinkler and fire alarm systems meeting the approval of the Fire Protection Engineer.
- 2. Limitation of twenty children, each to be housed for a maximum of two weeks.

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. A change in the length of time a resident can be housed would not negatively impact the surrounding area and would be supported by the Comprehensive Plan.

Natural & Cultural Resources Impacts

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

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
N Lynnhaven Road	2,800 ADT <sup>1</sup>	8,700 ADT <sup>1</sup> (LOS <sup>3</sup> “D”)	No Change Anticipated <sup>2</sup>
<sup>1</sup> Average Daily Trips	<sup>2</sup> as defined by a Group Home	<sup>3</sup> LOS= Level of Science	

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

N. Lynnhaven Road in the vicinity of this application is a two-lane undivided collector street. There are no plans to improve this portion of N. Lynnhaven Road.

Public Utility Impacts

Water & Sewer

This site is connected to City sanitary sewer and City Water.



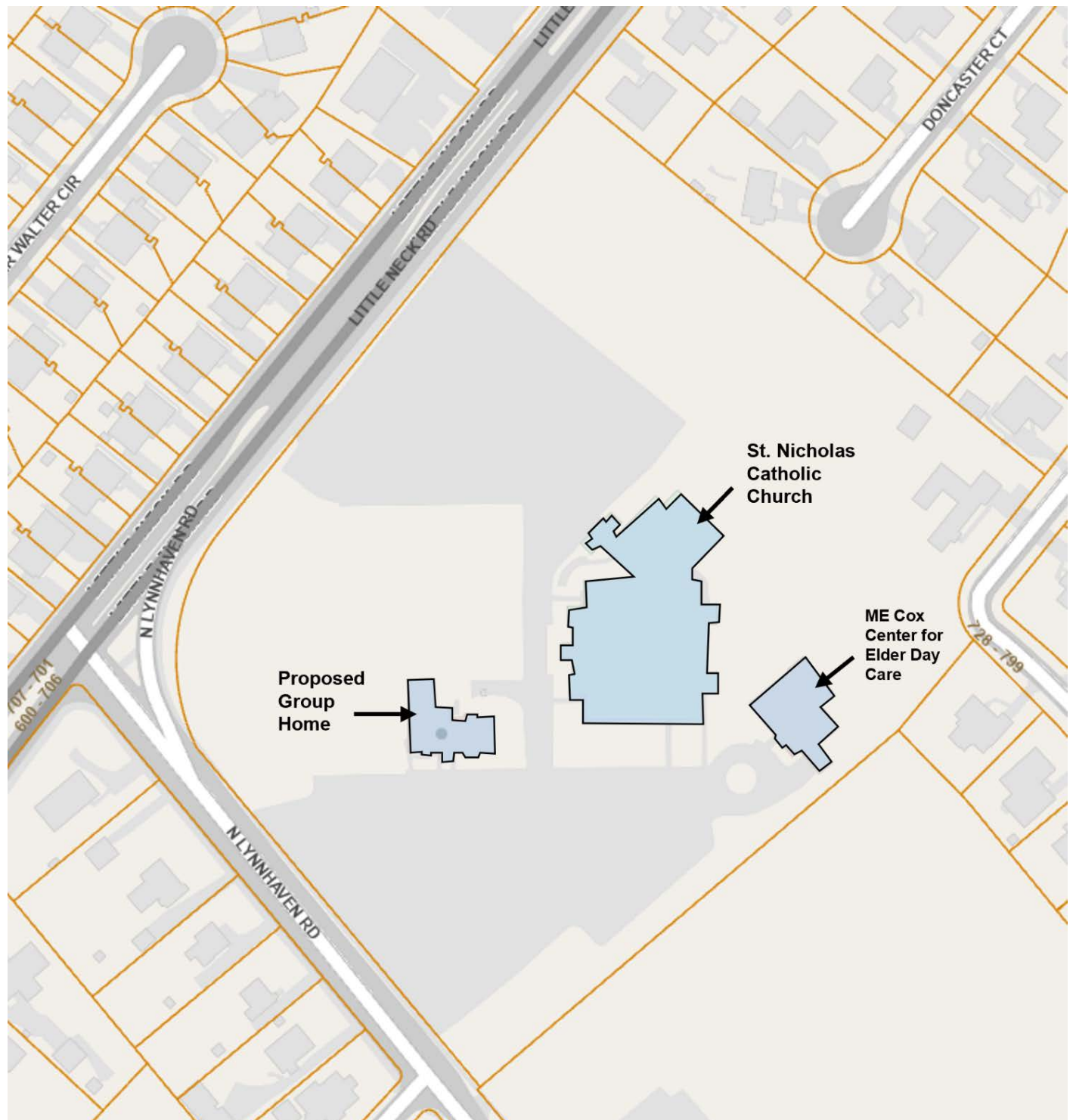
## Public Outreach Information

### Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on March 13, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, March 26, 2023 and April 2, 2023.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on March 27, 2023.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of [www.vbgov.com/pc](http://www.vbgov.com/pc) on April 6, 2023.

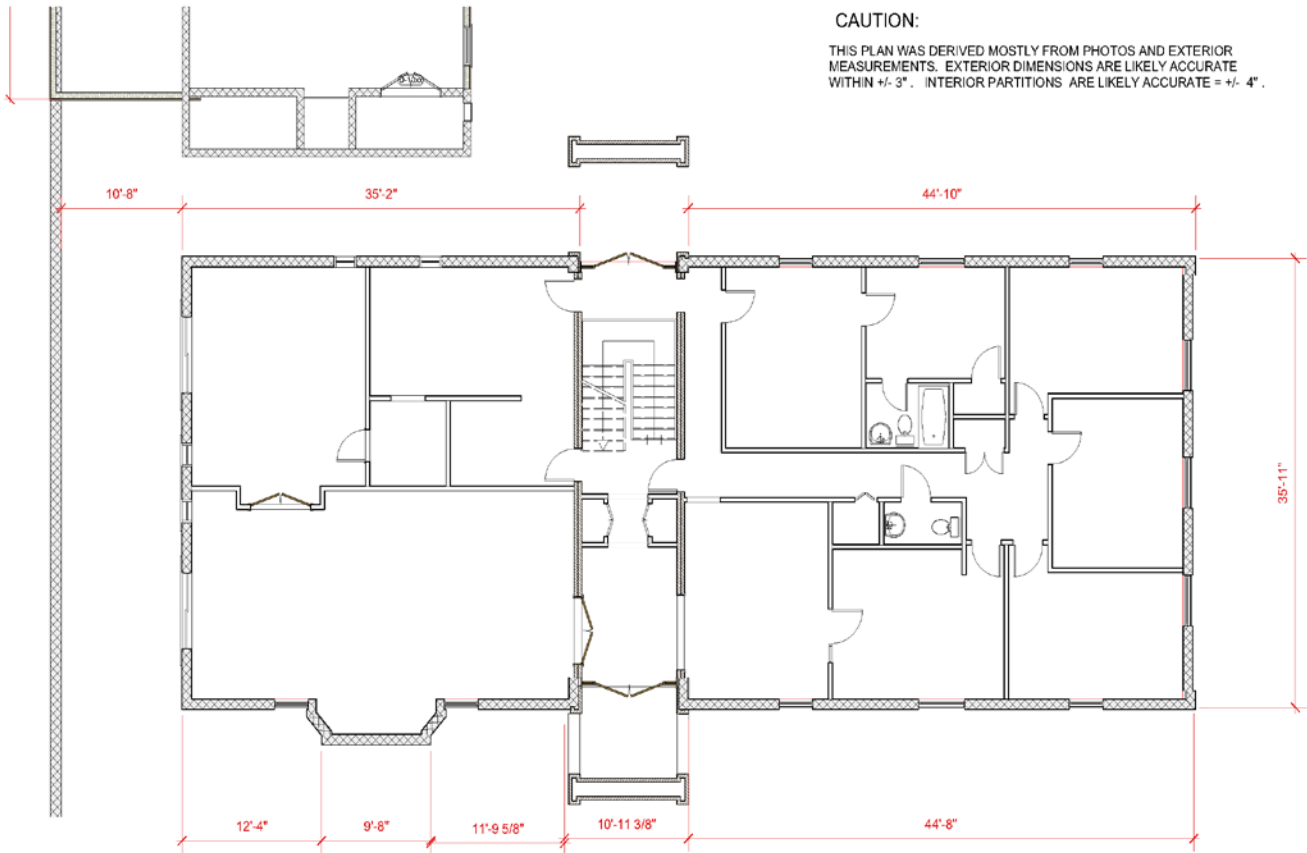


## Existing Site Layout





## Proposed Floor Plan



1 OLD RECTORY --- FIRST FLOOR PLAN  
Scale: 1/8" = 1'-0"

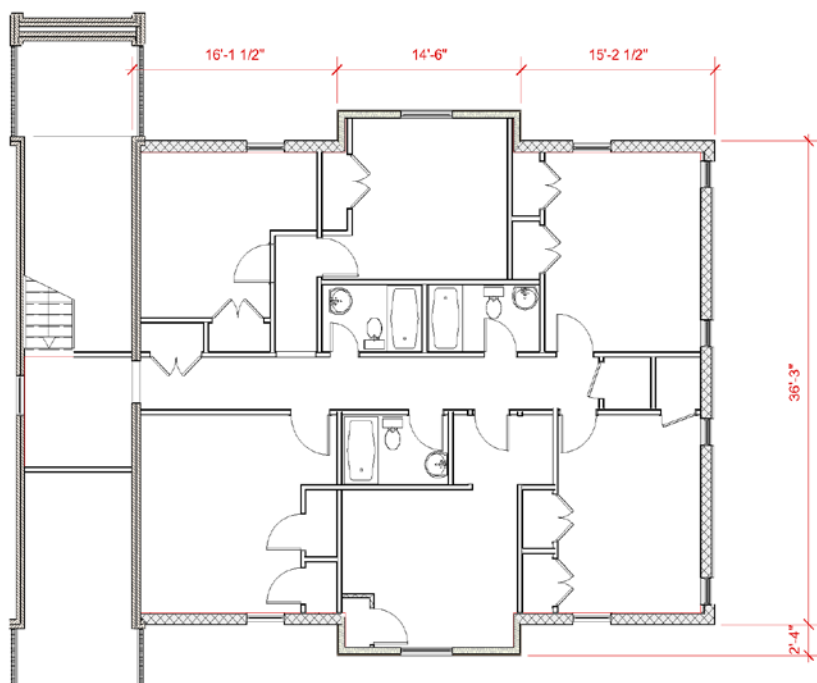
0 5 10 15 20 FT



## Proposed Floor Plan

### CAUTION:

THIS PLAN WAS DERIVED MOSTLY FROM EXTERIOR MEASUREMENTS  
EXTERIOR DIMENSIONS ARE LIKELY ACCURATE WITHIN  $\pm 3"$ .  
INTERIOR PARTITIONS ARE LIKELY ACCURATE  $\pm 4"$ .



1

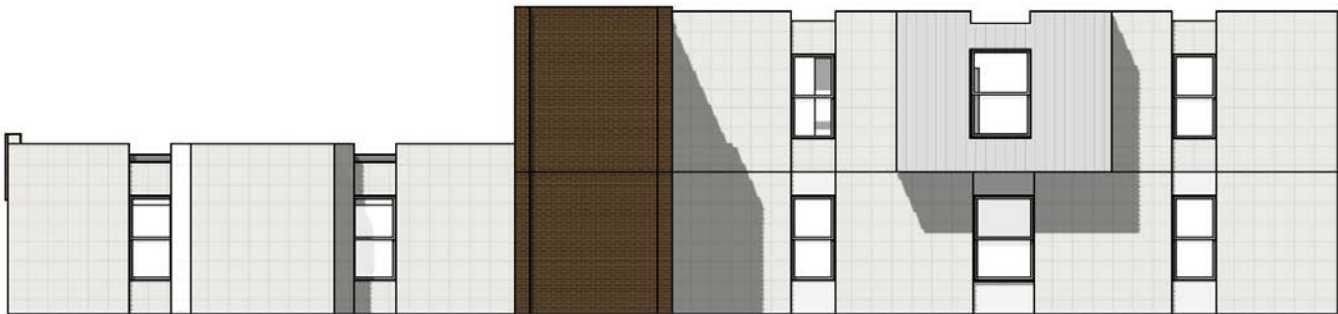
### OLD RECTORY --- SECOND FLOOR PLAN

Scale:  $1/8" = 1'-0"$

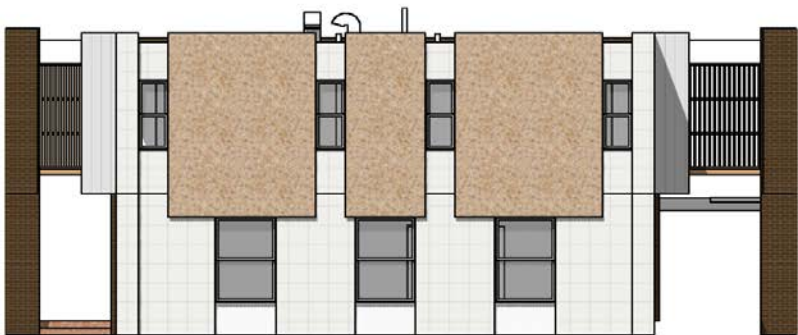
0 5 10 15 20 FT



Building Elevation



1 SOUTH ELEVATION  
3 Scale: 1/8" = 1'-0"



2 EAST ELEVATION  
3 Scale: 1/8" = 1'-0"



Site Photos





Site Photos





### Disclosure Statement



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

#### Applicant Disclosure

**Applicant Name** Commonwealth Catholic Charities

**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)

Jay Brown, CEO; Anita Wallen, COO; Lori James CAO

Attached list of Board members

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

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

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### Known Interest by Public Official or Employee

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

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

### Applicant Services Disclosure

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

☐ Yes ☒ No

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

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**

Anita Wallen, Chief Operating Officer

### **Print Name and Title**

01-31-2023

### **Date**

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

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

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

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





### Owner Disclosure

Owner Name Catholic Diocese of Richmond

Applicant Name Commonwealth Catholic Charities

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

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

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

---

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### Known Interest by Public Official or Employee

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

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

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

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



### Disclosure Statement



#### Owner Services Disclosure

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

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

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

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

---



### Disclosure Statement



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

#### Owner Signature

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

A handwritten signature in black ink, appearing to read 'Rev. Venancio R. Balarote, Jr.'.

Owner Signature

Rev. Venancio R. Balarote, Jr., Pastor

Print Name and Title

1/31/2023

Date





CATHOLIC DIOCESE OF RICHMOND

*Finance Office*

7800 Carousell Lane ♦ Richmond, Virginia 23294-4201

Telephone  
(804) 359-5661  
Fax  
(804) 358-9159

March 27, 2023

Dear Sir or Madam:

This is to certify that St. Nicholas, 712 Little Neck Rd., Virginia Beach, Virginia is a parish of the Catholic Diocese of Richmond. Rev. Venancio R. Balarote, Jr. is the Pastor of the Parish. Under the provisions of Code Section 57-17, Code of Virginia and the Code of Canon Law, Rev. Balarote is the fiscal agent of the Bishop of Richmond in regard to ordinary administration of the St. Nicholas Parish's financial affairs.

Accordingly, he has the authority and must be the signatory on all leases, construction contracts and permits in the name of St. Nicholas Parish as they relate to ordinary administration. For acts of extraordinary administration as defined in the Code of Canon Law, Rev. Balarote has the authority to be the signatory on such documents once he has obtained the requisite approvals from the Bishop of Richmond. The Bishop of Richmond has consented to the lease of the premises located at 642 N. Lynnhaven Road, Virginia Beach, Virginia.

Kindly see that Rev. Balarote is the primary signatory on all parish activities that involve this real property, construction contracts, and permits with the City of Virginia Beach in regards to the property located at 642 N. Lynnhaven Road, Virginia Beach, Virginia.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael J. McGee".

Michael J McGee  
Chief Financial Officer

Cc: Rev. Venancio R. Balarote, Jr., Pastor  
St. Nicholas, Virginia Beach, VA



## 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**

968 South Oriole Drive, Suite 100

**GPIN**

2418711141

**Site Size**

17,161 square feet (208 square feet unit)

**AICUZ**

Greater than 75 dB DNL; APZ-2

**Watershed**

Chesapeake Bay

**Existing Land Use and Zoning District**

Shopping Center / B-2 Community Business

**Surrounding Land Uses and Zoning Districts**

**North**

Laskin Road

Retail / B-2 Community Business

**South**

South Oriole Circle

Apartment complex / A-12 Apartment

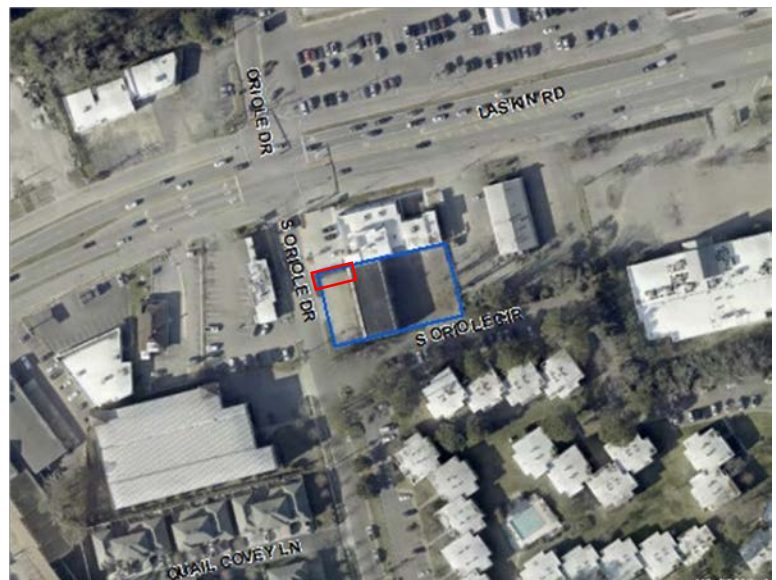
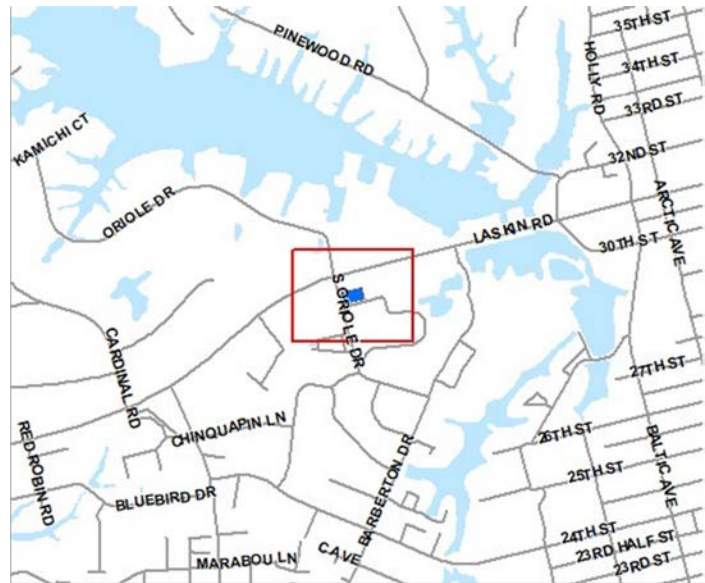
**East**

Restaurant / B-2 Community Business

**West**

South Oriole Drive

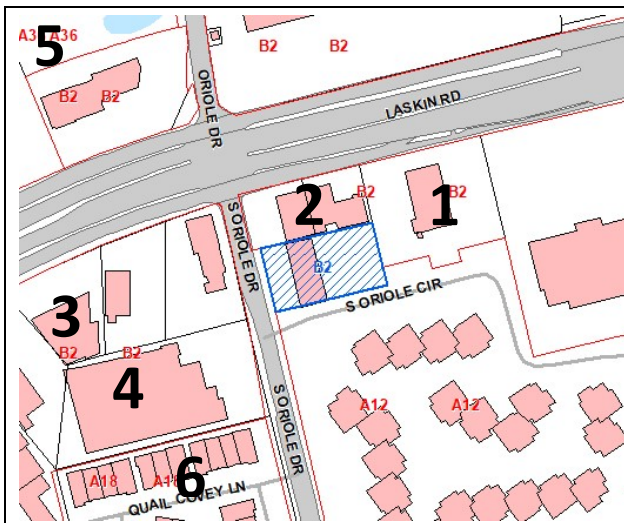
Restaurant, Retail / B-2 Business District





## 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 in an existing Shopping Center. The shopping center is located along South Oriole Drive on property zoned B-2 Community Business District.
- Microblading will take place in a private 208 square foot room located within the existing suite.
- According to the applicant, one employee is anticipated.
- The typical hours of operation proposed are 9:00 a.m. to 3:00 p.m., Monday through Friday.
- No exterior changes to the building are proposed except for a 12" x 19" acrylic sign with the business logo. This will be attached to the building on the left side of the suite door.



### Zoning History

#	Request
1	CUP (Craft Brewery) Approved 01/07/2020
2	CUP (Tattoo Parlor) Approved 009/08/2020
3	CUP (Tattoo Parlor) Approved 02/07/2017
4	CUP (Mini-Warehouse) Approved 05/22/2013
5	CRZ (H-1, B-2, B-1, R-40 to A-36) Approved 11/25/2003
6	CRZ (R-5 to A-3) Approved 12/17/1979

### Application Types

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

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

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

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

## Evaluation & Recommendation

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

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

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



## Recommended Conditions

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

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

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

## Comprehensive Plan Recommendations

This site is located within the Resort Strategic Growth Area (SGA). This area of the city is dedicated to extending the energy of the beach into surrounding areas. Guiding principles include providing a safe and comfortable place for residents and visitors, retaining the feel of an oceanside resort, and provide a sense of calm but renewed energy for both residents and visitors. This new use of an existing commercial center helps the area evolve and supports to goal of a walkable year-round coastal community. The Comprehensive Plan's long-range vision of the Laskin Gateway is to create a beautiful tidal backdrop as a gateway to the beach resort area.

## 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
South Oriole Drive	1,020 ADT <sup>1</sup>	9,900 ADT <sup>1</sup> (LOS <sup>3</sup> "D")	No change anticipated <sup>2</sup>
<sup>1</sup> Average Daily Trips <sup>2</sup> as defined by a Tattoo Parlor in an existing Shopping center <sup>3</sup> LOS = Level of Service			



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

South Oriole Drive is a two-lane local/collector street with a variable-width right-of-way. No CIP projects are currently scheduled for this roadway.

### **Public Utility Impacts**

#### **Water & Sewer**

This is connected to City water and City sanitary sewer.

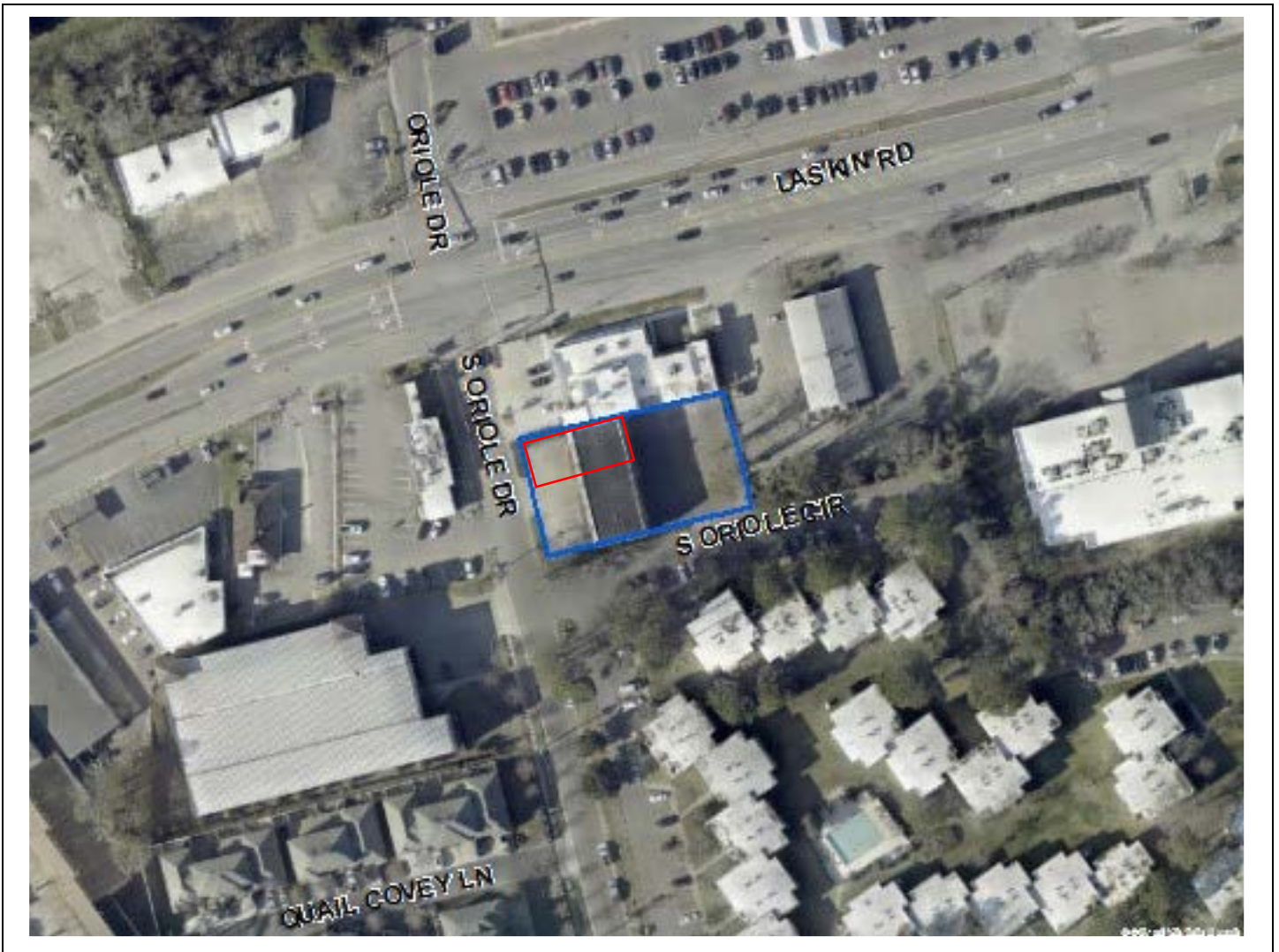
### **Public Outreach Information**

#### **Planning Commission**

- Three letters of support have been received by Staff.
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on March 13, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, March 26, 2023 and April 2, 2023.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on March 27, 2023.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of [www.vbgov.com/pc](http://www.vbgov.com/pc) on April 6, 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** Bold Beauty Ink LLC

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

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

June Tellez

**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)

June Tellez, Sole Member/Owner

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

n/a

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

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



### Disclosure Statement



#### Known Interest by Public Official or Employee

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

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

#### Applicant Services Disclosure

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

☐ Yes ☒ No

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

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

☐ Yes ☒ No

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

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

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

LZTax

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
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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.

Applicant Signature

June Tellez, Sole Member/Owner

Print Name and Title

1-26-2023

Date

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

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

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

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



## Disclosure Statement

### Disclosure Statement



#### Owner Disclosure

Owner Name Alvin J Lanese Trust

Applicant Name Bold Beauty Ink 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)

Alvin Lanese Trust and Mimi Lanese Trust

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

n/a

#### Known Interest by Public Official or Employee

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## Disclosure Statement

### Disclosure Statement



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☐ Yes ☒ No

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

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☒ Yes ☐ No

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

Leland Real Estate Property Management

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

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

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

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Revised 11.09.2020

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## Disclosure Statement

### Disclosure Statement



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

#### Owner Signature

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

Authenticate  
Al Lanese 03/06/23

Owner Signature

ALVIN J. LANESE TRUST

Print Name and Title

03/06/23

Date

Revised 11.09.2020

7 | Page

 CamScanner



## 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 Planner**

Garek Hall Hannigan

**Location**

4005 Atlantic Avenue, Unit 217

**GPIN**

24280514484090

**Site Size**

14,500 square feet

**Existing Land Use and Zoning District**

Multi-family dwellings / OR Oceanfront Resort

**Surrounding Land Uses and Zoning Districts**

**North**

Multi-family dwellings / OR Oceanfront Resort

**South**

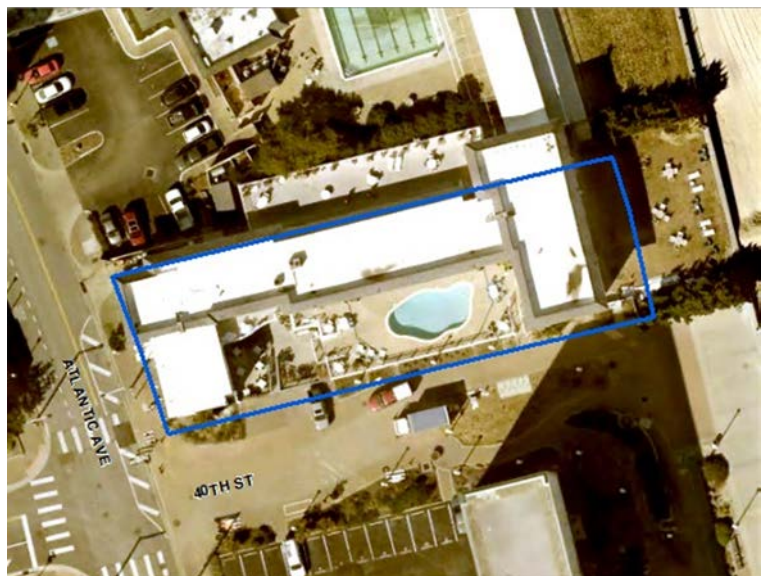
40th Street (pedestrian beach access), hotel /  
OR Oceanfront Resort

**East**

Public beach of the Atlantic Ocean / OR  
Oceanfront Resort

**West**

Atlantic Ocean  
Multi-family dwellings / OR Oceanfront Resort





## Background & Summary of Proposal

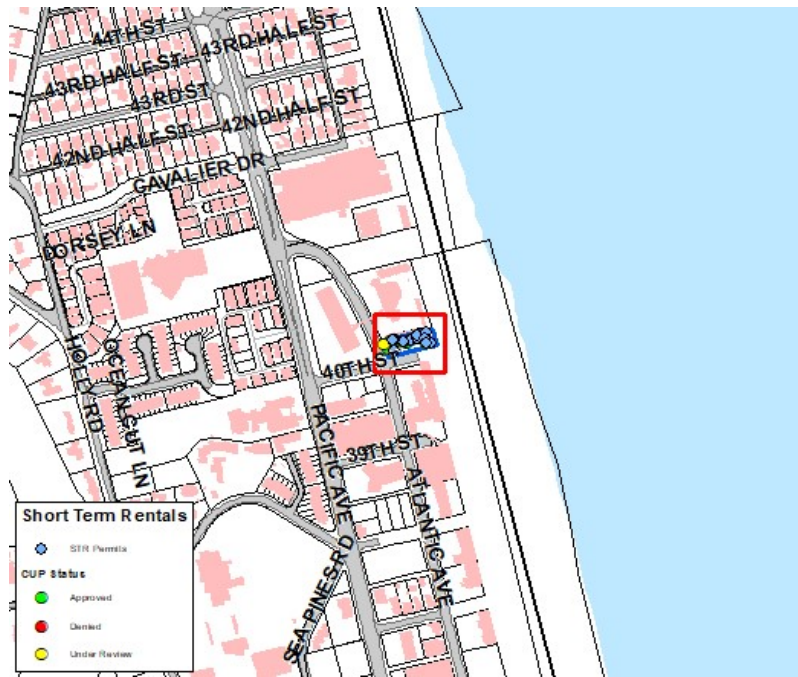
### Site Conditions and History

- This 14,500 square foot parcel contains the Oceans II Condominiums and is located in the Oceanfront Resort District.
- According to City records, Oceans II Condominiums includes 42 condominium units constructed in 1976. However, a portion of the building, previously operated as a motel, was constructed in 1956.
- There are a total of 42 designated parking spaces within walking distance of the property. Twenty-two of these spaces are located in a parking lot across the street (40<sup>th</sup> Street connector park) to the south adjacent to the Holiday Inn. The remaining 20 parking spaces are located in a lot diagonally across the street from the condominium development. Each condominium unit is assigned one parking space.
- On-street parking is not permitted on this portion of Atlantic Avenue.
- Thirteen Conditional Use Permits for Short Term Rentals have been approved on this site by the City Council.
- No past zoning violations were found on this property.
- Known short term rental activity as of March 20, 2023:

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



### *Short Term Rentals in the Vicinity*

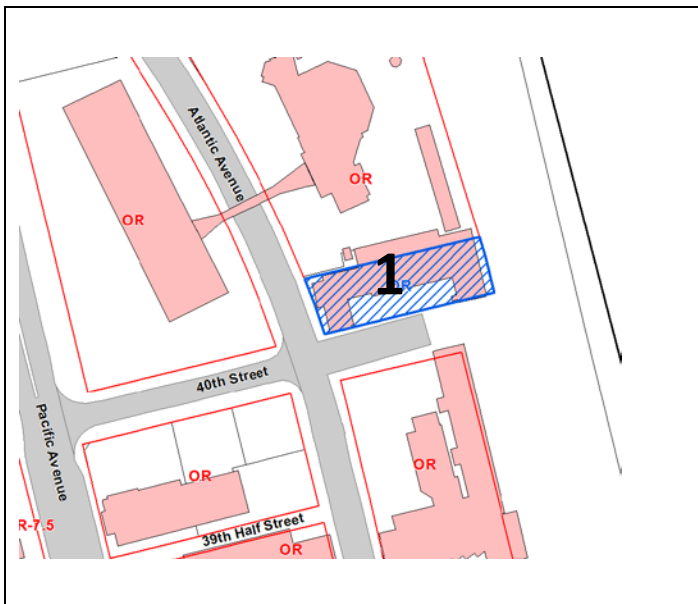


### **Summary of Proposal**

The applicant submitted a Conditional Use Permit request to operate a Short Term Rental on the subject site. The regulations for Short Term Rental use are identified in Section 241.2 and 2303 of the City Zoning Ordinance. Specific details pertaining to this application are listed below.

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





### Zoning History

#	Request
1	CUP (Short Term Rental) Approved 10/18/2022 CUP (Short Term Rental) Approved 07/12/2022 CUP (Short Term Rental) Approved 06/07/2022 CUP (Short Term Rental) Approved 05/17/2022 CUP (Short Term Rental) Approved 03/01/2022 CUP (Short Term Rental) Approved 11/17/2020 CUP (Short Term Rental) Approved 08/25/2020 CUP (Short Term Rental) Approved 08/25/2020 CUP (Short Term Rental) Approved 08/25/2020 CUP (Short Term Rental) Approved 08/25/2020 CUP (Short Term Rental) Approved 08/25/2020 CUP (Short Term Rental) Approved 02/04/2020 CUP (Short Term Rental) Approved 02/04/2020

### 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 proposed Short Term Rental unit is located in the Oceans II Condominiums, directly adjacent to the public beach, and at the northern terminus of the boardwalk, where short term rental use is to be expected. Thirteen Short Term Rental Conditional Use Permits have previously been approved on the property. The surrounding area is a mixture of high-rise multi-family dwellings, hotels and other commercial and resort-oriented uses. 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 resort and will enable the Resort Area to become a more walkable community. Thus, the use of the dwelling as a short term rental helps achieve this goal by providing diverse lodging opportunities for the visitors or travelers wanting the Resort Area experience.

There are two off-site parking lots nearby dedicated to Oceans II Condominiums, as shown on the parking plan provided in this report. The applicant has one assigned parking space in the parking lot, thus, fulfilling the parking requirement. While the required parking space is off-site, per Section 241.2(1) of the City Zoning Ordinance, the Zoning Administrator reviewed the parking plan and deemed it acceptable. 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 4005 Atlantic Avenue, Unit 217 and the Short Term Rental use shall only occur in the principal structure.
2. An annual Short Term Rental Zoning Permit must be obtained from the Department of Planning and Community Development (Zoning Administration) before using the dwelling for Short-Term Rental purposes.



3. The dwelling unit shall comply with all required Fire and Building code requirements.
4. Off-street parking shall be provided as required by Section 241.2 and 2303(b)(a)(i)(ii) of the City Zoning Ordinance or as approved by City Council.
5. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Department of Planning and Community Development; however, the Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
6. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1.
7. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes and to be physical present at the Short Term Rental within one (1) hour.
8. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Department of Planning and Community Development for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
  - a) A completed Department of Planning and Community Development Short Term Rental Zoning Permit; and
  - b) Copies of the Commissioner of the Revenue's Office receipt of registration; and
  - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
9. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of the Revenue's Office and pay all applicable taxes.
10. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
11. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
12. Accessory structures shall not be used or occupied as Short Term Rentals.
13. No signage shall be on-site, except that each Short Term Rental shall have one (1) four-square foot sign posted on the building, or other permanent structure or location approved by the Zoning Administrator, that identifies the property as a short term rental and provides the telephone numbers for the Short Term Rental Hotlines in text large enough to be read from the public street.
14. The Short Term Rental shall have no more than one (1) rental contract for every seven (7) consecutive days.
15. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.



16. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
17. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom, which number shall not include minors under the age of 16, provided that in no case may the total number of persons staying overnight at the property exceed the number of approved bedrooms multiplied by three (3).
18. The property owner, or their representative, shall provide to the Department of Planning and Community Development permission to inspect the Short Term Rental property annually. Such inspection shall include: 1) At least one fire extinguisher has been installed inside the unit (in the kitchen) and in plain sight 2) Smoke alarms and carbon monoxide detectors are installed in accordance with the building code in 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.
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19. A structural safety inspection report shall be provided to the city every three (3) years indicating all exterior stairways, decks, porches, and balconies have been inspected by a licensed design professional qualified to perform such inspection (engineer or architect) and are safe for use. The report must indicate the maximum number of occupants permitted on each level of these structures and placards indicating the maximum number of occupants of all exterior stairways, decks, porches, and balconies must be posted on each level of these structures.

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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.*



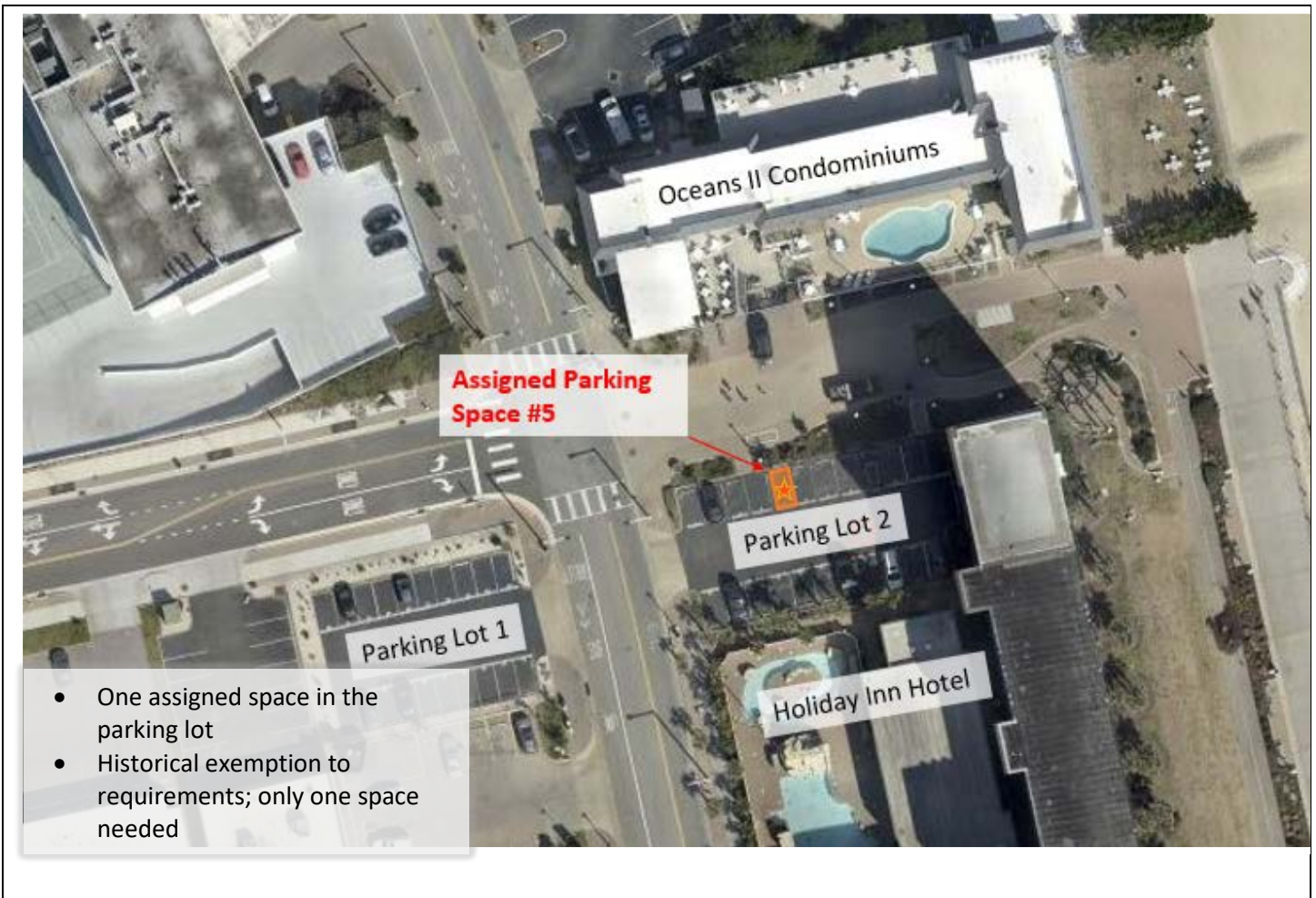
## Public Outreach Information

### Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on March 13, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, March 26, 2023, and April 2, 2023.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on March 27, 2023.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of [www.vbgov.com/pc](http://www.vbgov.com/pc) on April 6, 2023.



## Site Layout & Parking Plan





## Site Photo





## Disclosure Statement

### Disclosure Statement



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

#### Applicant Disclosure

Applicant Name Frances Robbins Oman

Does the applicant have a representative? ☐ Yes ☒ No

- If yes, list the name of the representative.

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

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

N/A

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

N/A

<sup>1</sup> "Parent-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.

<sup>2</sup> "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.

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

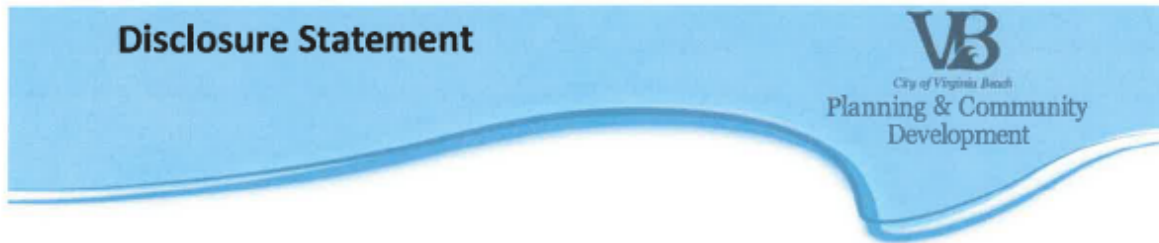
- If yes, identify the firm and individual providing the service.

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

Frances Robbins Oman Owner

Print Name and Title

1/25/23

Date

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

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

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

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



## Next Steps

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









Applicant **William J. Wright, Jr.**  
Property Owner **Beach Front Financing, LLC**  
Planning Commission Public Hearing **April 12, 2023**  
City Council **District 5**, formerly Beach

Agenda Item

**13**

### Request

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

### Staff Recommendation

Approval

### Staff Planners

Garek Hall Hannigan

### Location

911 Pacific Avenue, Unit C

### GPIN

24272444111035

### Site Size

34,984 square feet

### Existing Land Use and Zoning District

Multi-Family Dwellings / OR Oceanfront Resort

### Surrounding Land Uses and Zoning Districts

#### North

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

#### South

9th Street

Municipal parking garage / OR Oceanfront  
Resort

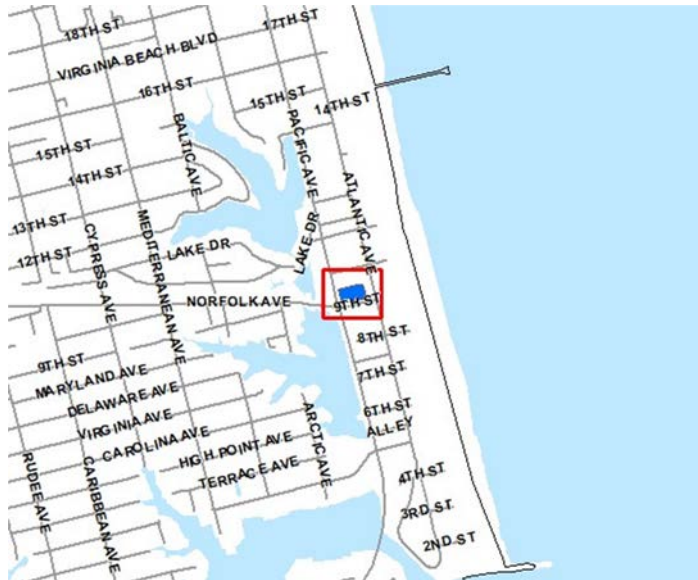
#### East

Retail shops / OR Oceanfront Resort

#### West

Pacific Avenue

Off-street parking lot / OR Oceanfront Resort



William J. Wright, Jr.

Agenda Item 13

Page 1



## Background & Summary of Proposal

### Site Conditions and History

- This 35,000 square foot parcel contains the Retreat-by-the-Sea Condominiums and is zoned OR Oceanfront Resort District. According to City records, this multi-family condominium was constructed in 1969.
- There is no on-street parking on Pacific Avenue.
- Ten Short Term Rental Conditional Use Permit applications have been approved in this condominium development.
- Staff visited the site on March 20, 2023 to observe site conditions for this report.
- There are no past violations for Short Term Rental use associated with this unit, nor has the unit had any prior Short Term Rental activity.
- 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 March 20, 2023:

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

### Short Term Rentals in the Vicinity

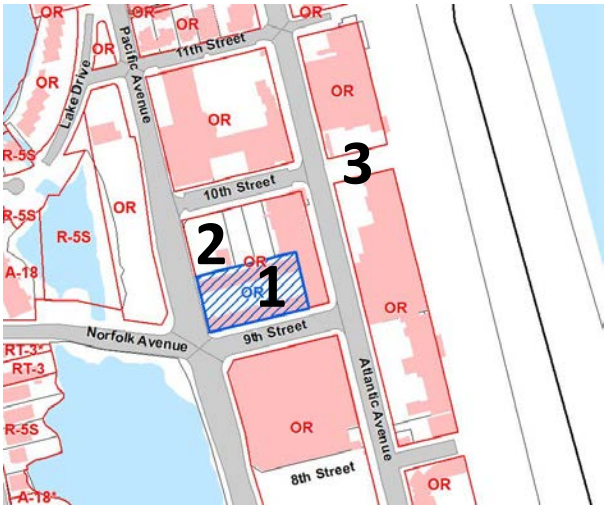




## Summary of Proposal

The applicant submitted a Conditional Use Permit request to operate a short term rental in a two-bedroom, 617 square foot unit on the subject site. The regulations for Short Term Rental use are identified in Section 241.2 and 2303 of the City Zoning Ordinance. Specific details pertaining to this application are listed below.

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

	<h3>Zoning History</h3> <table><tr><th>#</th><th>Request</th></tr><tr><td rowspan="10">1</td><td>CUP (Short Term Rental) Approved 06/12/2022</td></tr><tr><td>CUP (Short Term Rental) Approved 04/05/2022</td></tr><tr><td>CUP (Short Term Rental) Approved 11/09/2021</td></tr><tr><td>CUP (Short Term Rental) Approved 03/02/2021</td></tr><tr><td>CUP (Short Term Rental) Approved 10/20/2020</td></tr><tr><td>CUP (Short Term Rental) Approved 08/25/2020</td></tr><tr><td>CUP (Short Term Rental) Approved 08/25/2020</td></tr><tr><td>CUP (Short Term Rental) Approved 06/09/2020</td></tr><tr><td>CUP (Short Term Rental) Approved 04/06/2020</td></tr><tr><td>CUP (Short Term Rental) Approved 02/04/2020</td></tr><tr><td rowspan="5">2</td><td>CUP (Short Term Rental) Approved 12/13/2022</td></tr><tr><td>CUP (Short Term Rental) Approved 12/13/2022</td></tr><tr><td>CUP (Short Term Rental) Approved 12/13/2022</td></tr><tr><td>CUP (Short Term Rental) Approved 12/13/2022</td></tr><tr><td>CUP (Short Term Rental) Approved 12/13/2022</td></tr><tr><td>3</td><td>STC Approved 12/07/2004</td></tr></table>			#	Request	1	CUP (Short Term Rental) Approved 06/12/2022	CUP (Short Term Rental) Approved 04/05/2022	CUP (Short Term Rental) Approved 11/09/2021	CUP (Short Term Rental) Approved 03/02/2021	CUP (Short Term Rental) Approved 10/20/2020	CUP (Short Term Rental) Approved 08/25/2020	CUP (Short Term Rental) Approved 08/25/2020	CUP (Short Term Rental) Approved 06/09/2020	CUP (Short Term Rental) Approved 04/06/2020	CUP (Short Term Rental) Approved 02/04/2020	2	CUP (Short Term Rental) Approved 12/13/2022	CUP (Short Term Rental) Approved 12/13/2022	CUP (Short Term Rental) Approved 12/13/2022	CUP (Short Term Rental) Approved 12/13/2022	CUP (Short Term Rental) Approved 12/13/2022	3	STC Approved 12/07/2004
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## Evaluation & Recommendation

The applicant is requesting to operate a two-bedroom, 617 square foot Short Term Rental within the Pacific Place Condominium building. Short Term Rentals are prevalent on this property with a total of 10 approved Conditional Use Permits for the operation of Short Term Rentals.

There is one assigned parking space associated with this unit within the sites parking lot. According to City of Virginia Beach Zoning Ordinance, Appendix A, Article 23, Section 2303, (b), a., ii., “There are certain condominium properties that have historically operated as short term lodging units and have not experienced any inconvenience to guests or the surrounding area without the required one (1) parking space per bedroom. Further, such properties are unable to provide the required parking on-site. For these condominium properties, the Zoning Administrator may, at his discretion, require one (1) parking space per dwelling unit similar to the requirement for lodging uses in the Oceanfront Resort District Form Based Code (ORDFBC). Such properties must provide written evidence of their past use and the Zoning Administrator shall find that there is no public inconvenience with the current parking design.” Pacific Place



Condominiums is one such property granted a historical exception to the Short Term Rental parking requirements of one space per bedroom; therefore, only one parking space is required for the entire unit. All other requirements of Section 241.2 and Section 2303 of the Zoning Ordinance regulating Short Term Rentals can be reasonably met with this application.

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

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

## Recommended Conditions

1. The following conditions shall only apply to the dwelling unit addressed as 911 Pacific Ave, Unit C and the Short Term Rental use shall only occur in the principal structure.
2. An annual Short Term Rental Zoning Permit must be obtained from the Department of Planning and Community Development (Zoning Administration) before using the dwelling for Short-Term Rental purposes.
3. The dwelling unit shall comply with all required Fire and Building code requirements.
4. Off-street parking shall be provided as required by Section 241.2 and 2303(b)(a)(i)(ii) of the City Zoning Ordinance or as approved by City Council.
5. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Department of Planning and Community Development; however, the Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
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7. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes and to be physical present at the Short Term Rental within one (1) hour.
8. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Department of Planning and Community Development for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
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9. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of the Revenue's Office and pay all applicable taxes.
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18. The property owner, or their representative, shall provide to the Department of Planning and Community Development permission to inspect the Short Term Rental property annually. Such inspection shall include: 1) At least one fire extinguisher has been installed inside the unit (in the kitchen) and in plain sight 2) Smoke alarms and carbon monoxide detectors are installed in accordance with the building code in 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.

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such inspection (engineer or architect) and are safe for use. The report must indicate the maximum number of occupants permitted on each level of these structures and placards indicating the maximum number of occupants of all exterior stairways, decks, porches, and balconies must be posted on each level of these structures.

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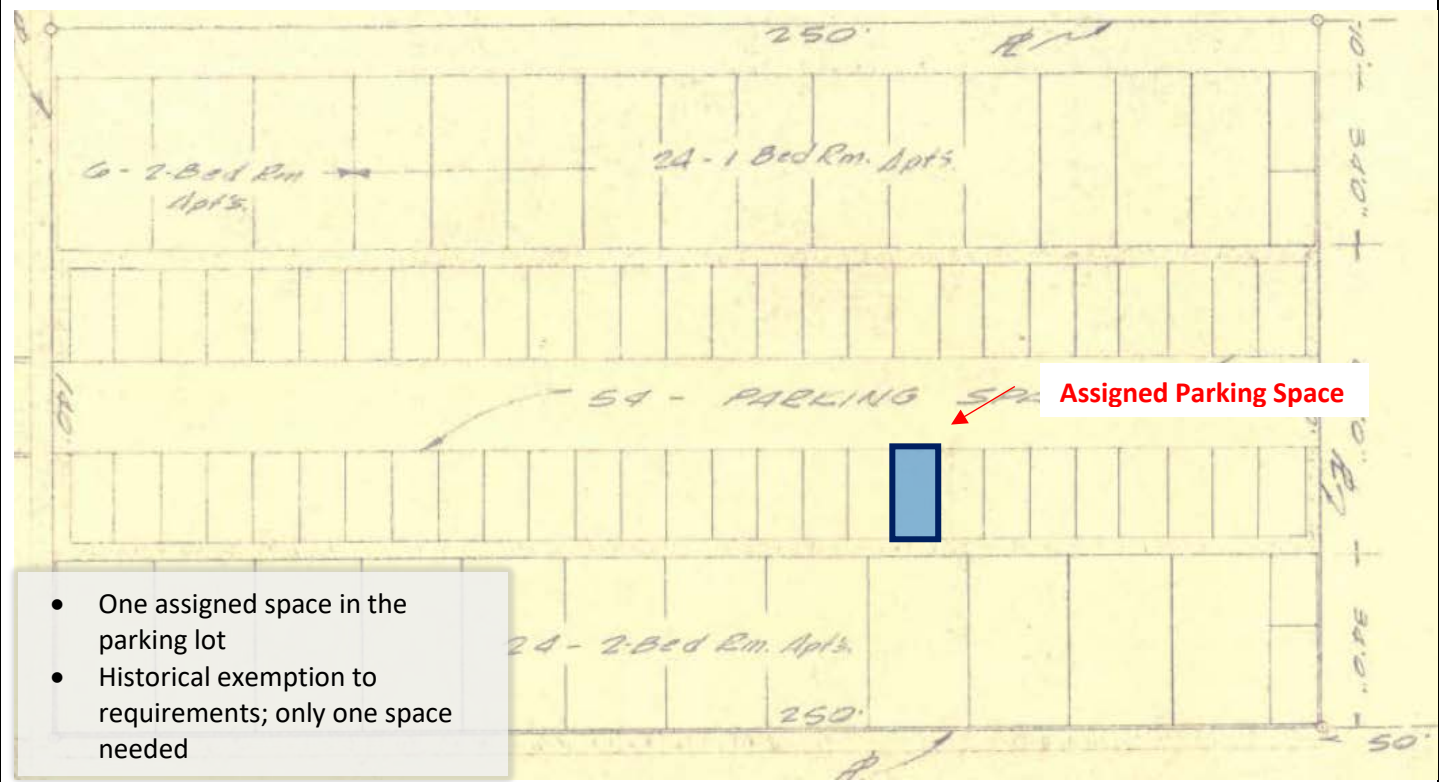
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### Planning Commission

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- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, March 26, 2023, and April 2, 2023.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on March 27, 2023.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of [www.vbgov.com/pc](http://www.vbgov.com/pc) on April 6, 2023.



## Site Layout & Parking Plan



- One assigned space in the parking lot
- Historical exemption to requirements; only one space needed



## Site Photo





## Disclosure Statement

### Disclosure Statement



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

#### Applicant Disclosure

**Applicant Name**

WILLIAM J. WRIGHT, JR.

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)

WILLIAM J. WRIGHT, JR.

MICHAEL D. FREIDLE, JR.

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

NONE

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

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



### Disclosure Statement



#### Known Interest by Public Official or Employee

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

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

#### Applicant Services Disclosure

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

☐ Yes ☒ No

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

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

☐ Yes ☒ No

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

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MATTHEWS & SAUNDERS

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

WILLIAM J. WRIGHT, JR. PRESIDENT

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.



**Request**

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

**Staff Recommendation**

Approval

**Staff Planners**

Garek Hall Hannigan

**Location**

925 Pacific Avenue

**GPIN**

24272444111145

**Site Size**

34,984 square feet

**Existing Land Use and Zoning District**

Multi-Family Dwellings / OR Oceanfront Resort

**Surrounding Land Uses and Zoning Districts**

**North**

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

**South**

9th Street

Municipal parking garage / OR Oceanfront  
Resort

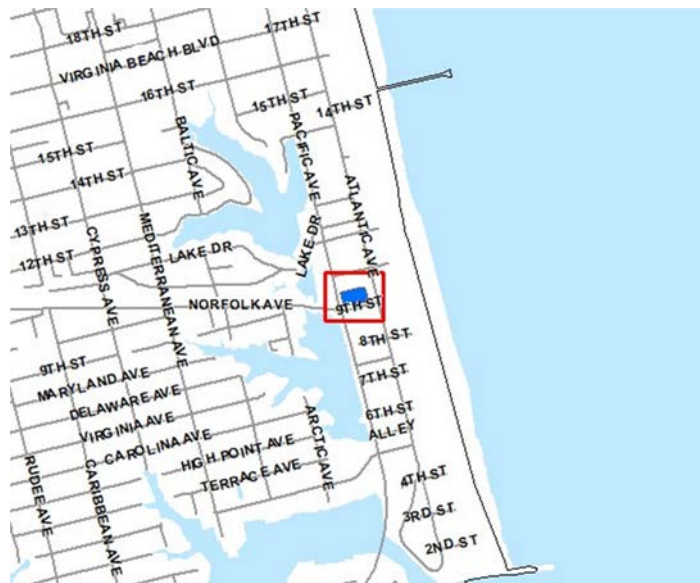
**East**

Retail shops / OR Oceanfront Resort

**West**

Pacific Avenue

Off-street parking lot / OR Oceanfront Resort





## Background & Summary of Proposal

### Site Conditions and History

- This 35,000 square foot parcel contains the Retreat-by-the-Sea Condominiums and is zoned OR Oceanfront Resort District. According to City records, this multi-family condominium was constructed in 1969.
- There is no on-street parking on Pacific Avenue.
- Ten Short Term Rental Conditional Use Permit applications have been approved in this condominium development.
- Staff visited the site on March 20, 2023 to observe site conditions for this report.
- There are no past violations for Short Term Rental use associated with this unit, nor has the unit had any prior Short Term Rental activity.
- 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 March 20, 2023:

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

### Short Term Rentals in the Vicinity

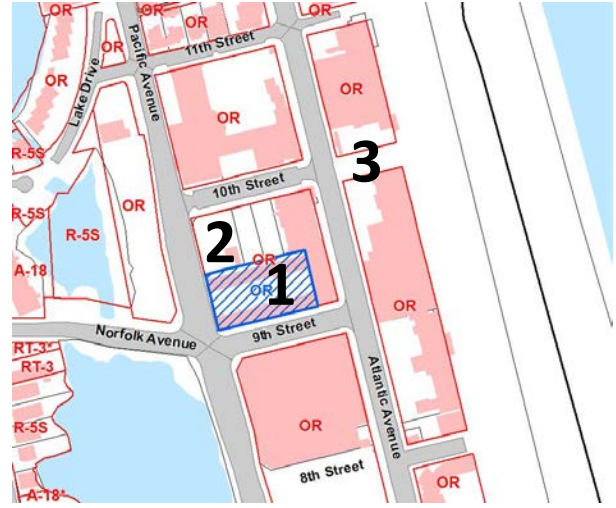




## Summary of Proposal

The applicant submitted a Conditional Use Permit request to operate a one-bedroom, 285 square foot Short Term Rental on the subject site. The regulations for Short Term Rental use are identified in Section 241.2 and 2303 of the City Zoning Ordinance. Specific details pertaining to this application are listed below.

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

	<b>Zoning History</b>	
	#	Request
	1	CUP (Short Term Rental) Approved 06/12/2022 CUP (Short Term Rental) Approved 04/05/2022 CUP (Short Term Rental) Approved 11/09/2021 CUP (Short Term Rental) Approved 03/02/2021 CUP (Short Term Rental) Approved 10/20/2020 CUP (Short Term Rental) Approved 08/25/2020 CUP (Short Term Rental) Approved 08/25/2020 CUP (Short Term Rental) Approved 06/09/2020 CUP (Short Term Rental) Approved 04/06/2020 CUP (Short Term Rental) Approved 02/04/2020
	2	CUP (Short Term Rental) Approved 12/13/2022 CUP (Short Term Rental) Approved 12/13/2022 CUP (Short Term Rental) Approved 12/13/2022 CUP (Short Term Rental) Approved 12/13/2022 CUP (Short Term Rental) Approved 12/13/2022 CUP (Short Term Rental) Approved 12/13/2022
<b>Application Types</b>		
CUP – Conditional Use Permit REZ – Rezoning CRZ – Conditional Rezoning	MDC – Modification of Conditions MDP – Modification of Proffers NON – Nonconforming Use	STC – Street Closure FVR – Floodplain Variance ALT – Alternative Compliance SVR – Subdivision Variance LUP – Land Use Plan STR – Short Term Rental

## Evaluation & Recommendation

The applicant is requesting to operate a one-bedroom, 285 square foot Short Term Rental within the Pacific Place Condominium building. Short Term Rentals are prevalent on this property with 10 Conditional Use Permits for the operation of Short Term Rentals currently approved for the site.

There is one assigned parking space associated with this unit within the sites parking lot. According to City of Virginia Beach Zoning Ordinance, Appendix A, Article 23, Section 2303, (b), a., ii., “There are certain condominium properties that have historically operated as short term lodging units and have not experienced any inconvenience to guests or the surrounding area without the required one (1) parking space per bedroom. Further, such properties are unable to provide the required parking on-site. For these condominium properties, the Zoning Administrator may, at his discretion, require one (1) parking space per dwelling unit similar to the requirement for lodging uses in the Oceanfront Resort District Form Based Code (ORDFBC). Such properties must provide written evidence of their past use and the Zoning Administrator shall find that there is no public inconvenience with the current parking design.” Pacific Place



Condominiums is one such property granted a historical exception to the Short Term Rental parking requirements of one space per bedroom; therefore, only one parking space is required for the entire unit. All other requirements of Section 241.2 and Section 2303 of the Zoning Ordinance regulating Short Term Rentals can be reasonably met with this application.

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

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

## Recommended Conditions

1. The following conditions shall only apply to the dwelling unit addressed as 925 Pacific Avenue and the Short Term Rental use shall only occur in the principal structure.
2. An annual Short Term Rental Zoning Permit must be obtained from the Department of Planning and Community Development (Zoning Administration) before using the dwelling for Short-Term Rental purposes.
3. The dwelling unit shall comply with all required Fire and Building code requirements.
4. Off-street parking shall be provided as required by Section 241.2 and 2303(b)(a)(i)(ii) of the City Zoning Ordinance or as approved by City Council.
5. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Department of Planning and Community Development; however, the Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
6. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1.
7. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes and to be physical present at the Short Term Rental within one (1) hour.
8. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Department of Planning and Community Development for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
  - a) A completed Department of Planning and Community Development Short Term Rental Zoning Permit; and
  - b) Copies of the Commissioner of the Revenue's Office receipt of registration; and
  - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.



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

19. A structural safety inspection report shall be provided to the city every three (3) years indicating all exterior stairways, decks, porches, and balconies have been inspected by a licensed design professional qualified to perform



such inspection (engineer or architect) and are safe for use. The report must indicate the maximum number of occupants permitted on each level of these structures and placards indicating the maximum number of occupants of all exterior stairways, decks, porches, and balconies must be posted on each level of these structures.

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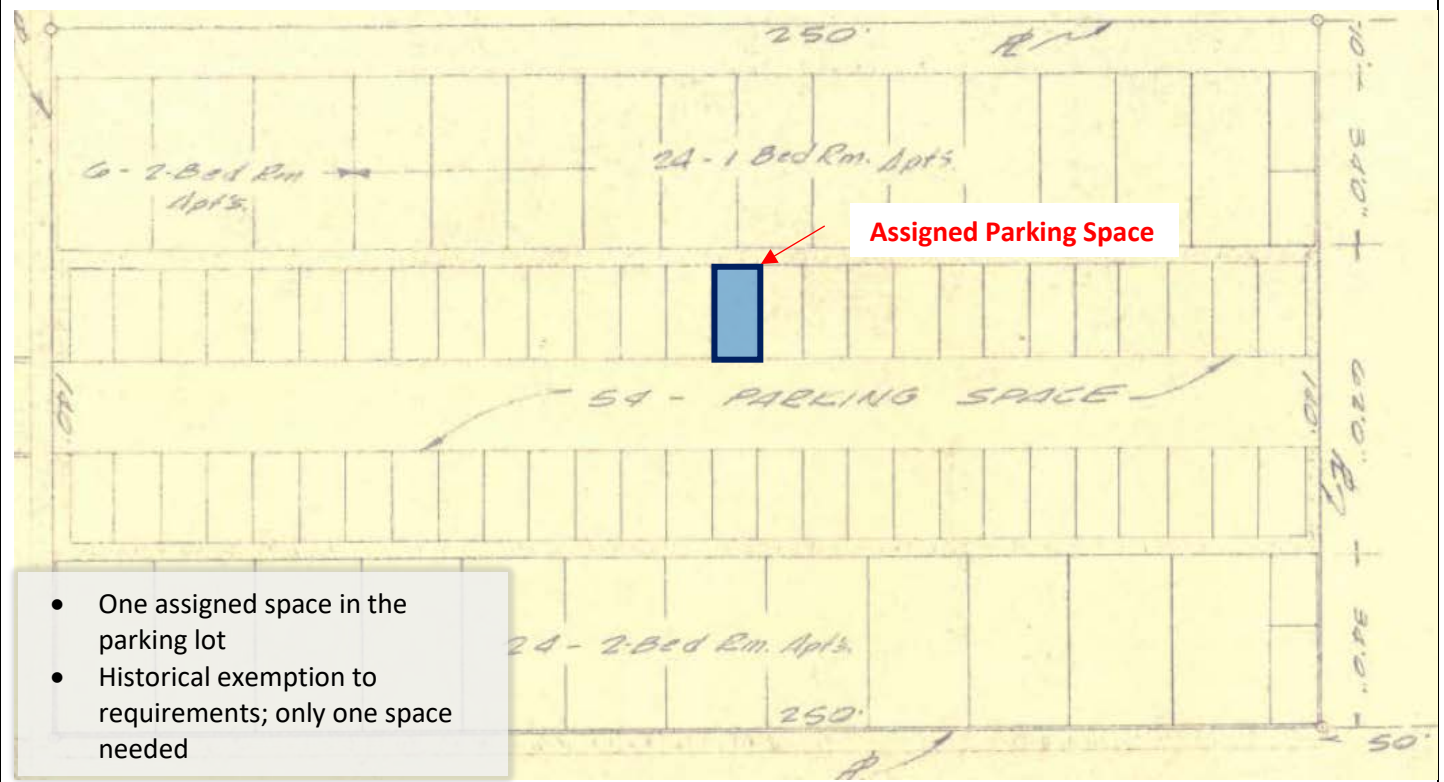
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## Site Layout & Parking Plan





## Site Photo





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#### Applicant Disclosure

Applicant Name Tara Ryan

Does the applicant have a representative? ☐ Yes ☒ No

- If yes, list the name of the representative.

N/A

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

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

N/A

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

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### Disclosure Statement



#### Known Interest by Public Official or Employee

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

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

☐ Yes ☒ No

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

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

☐ Yes ☒ No

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## 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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#### 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.

Tara Ryan  
Applicant Signature

Tara Ryan, owner  
Print Name and Title

1/25/23  
Date

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


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

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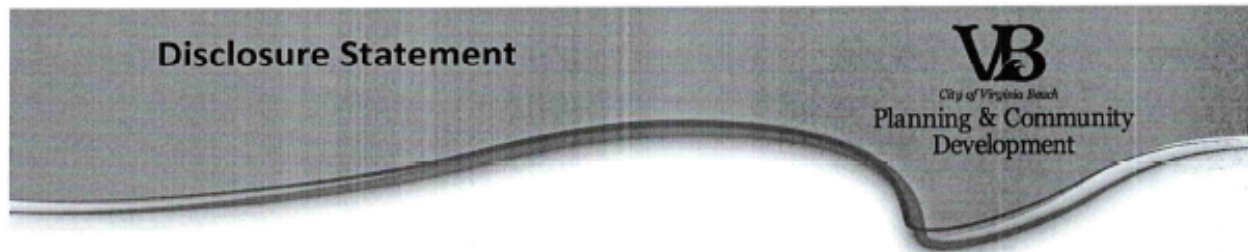
<input type="checkbox"/>	No changes as of	Date	Signature	
			Print Name	



## Disclosure Statement

<h3>Disclosure Statement</h3>	
<hr/>	
<b>Owner Disclosure</b>	
Owner Name	<u>Pacific Air 3 LLC</u>
Applicant Name	<u>Tara Ryan</u>
Is the Owner a corporation, partnership, firm, business, trust or an unincorporated business? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<ul style="list-style-type: none"><li>If yes, list the names of all officers, directors, members, trustees, etc. below. (Attach a list if necessary)</li></ul> <div style="border-bottom: 1px solid black; height: 20px; margin-bottom: 5px;"></div> <div style="border-bottom: 1px solid black; height: 20px; margin-bottom: 5px;"></div> <div style="border-bottom: 1px solid black; height: 20px; margin-bottom: 5px;"></div>	
<ul style="list-style-type: none"><li>If yes, list the businesses that have a parent-subsidary<sup>3</sup> or affiliated business entity<sup>4</sup> relationship with the Owner. (Attach a list if necessary)</li></ul> <div style="border-bottom: 1px solid black; height: 20px; margin-bottom: 5px;"></div> <div style="border-bottom: 1px solid black; height: 20px; margin-bottom: 5px;"></div>	
<b>Known Interest by Public Official or Employee</b>	
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"/> Yes <input checked="" type="checkbox"/> No	
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<small>Revised 11.09.2020</small>	<small>5   Page</small>





### 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?  
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2. Does the Owner have a **real estate broker/agent/realtor** for current and anticipated future sales of the subject property?  
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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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6. Does the Owner have a **construction contractor** in connection with the subject of the application or any business operating or to be operated on the property? ☐ Yes ☒ **No**
  - If **yes**, identify the company and individual providing the service.

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



## Disclosure Statement



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

### Owner Signature

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

Tara Ryan

Owner Signature

Tara Ryan

Print Name and Title

11/25/23

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 Department of Planning and Community Development to obtain verification that the conditions have been met. Contact the Zoning Division at 757-385-8074.
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- The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.







**Request**

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

**Staff Recommendation**

Approval

**Staff Planner**

Garek Hall Hannigan

**Location**

303 Atlantic Avenue, Unit 603

**GPIN**

24273224031780

**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**

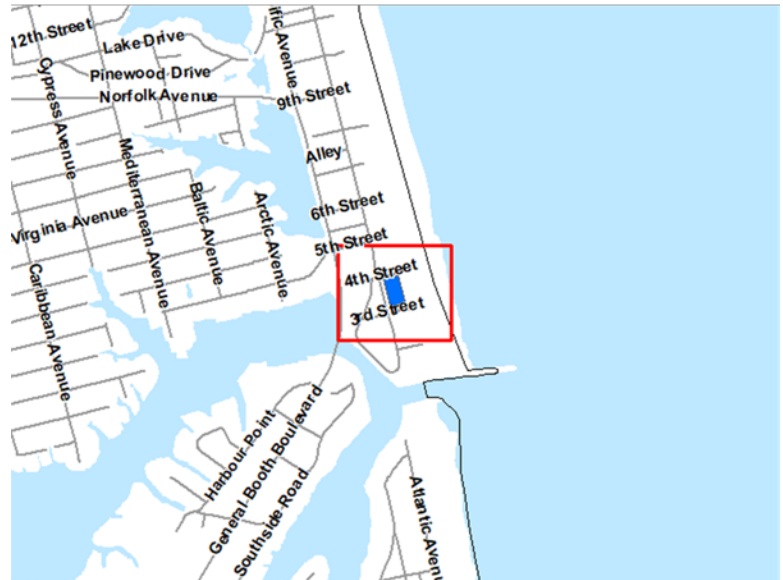
Boardwalk

Atlantic Ocean, Beach

**West**

Atlantic Avenue

Civic Use, Public Use / OR Oceanfront Resort





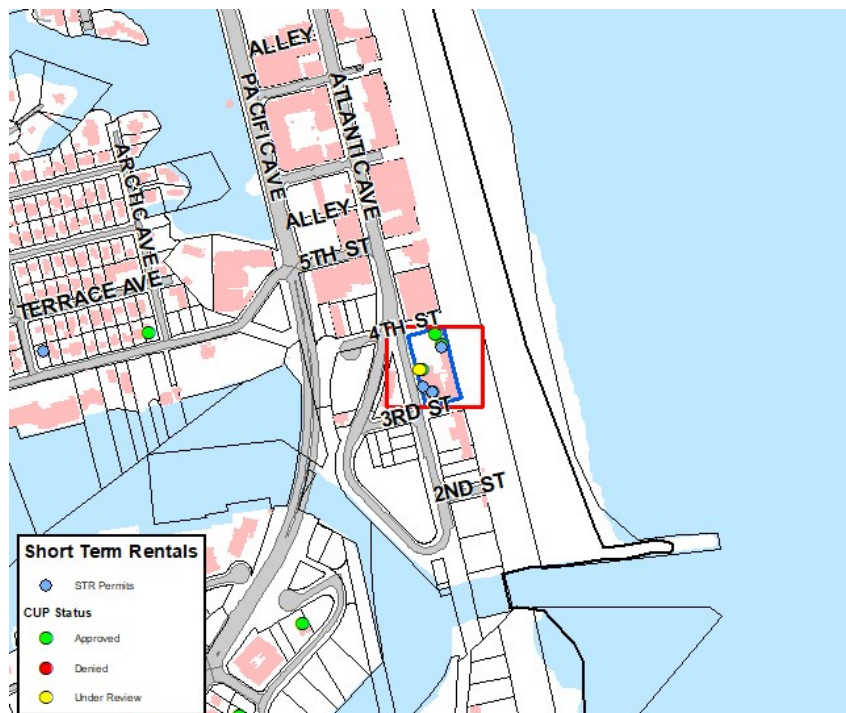
## Background & Summary of Proposal

### 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 March 20, 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 unit, nor has the unit had any prior Short Term Rental activity.
- 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 March 20, 2023:

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

### *Short Term Rentals in the Vicinity*





## Summary of Proposal

The applicant submitted a Conditional Use Permit request to operate a Short Term Rental on the subject site. The regulations for Short Term Rental use are identified in Section 241.2 and 2303 of the City Zoning Ordinance. Specific details pertaining to this application are listed below.

- Number of bedrooms in the Short Term Rental: 2
- Maximum number of guests permitted on the property after 11:00 pm: 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 two-bedroom Short Term Rental in a multi-family residential dwelling unit located within the Dolphin Run Condominium tower. The site was constructed in 1975 and is located 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. Several of the units within the condominium have previously received approvals for Short Term Rentals. The parcel is bounded by the Boardwalk, Beach, and Atlantic Ocean to the east, the 4<sup>th</sup> Street Connector Park to the north, the 3<sup>rd</sup> 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 B-12 on the second 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 603 and the Short Term Rental use shall only occur in the principal structure.
2. An annual Short Term Rental Zoning Permit must be obtained from the Department of Planning and Community Development (Zoning Administration) before using the dwelling for Short-Term Rental purposes.
3. The dwelling unit shall comply with all required Fire and Building code requirements.
4. Off-street parking shall be provided as required by Section 241.2 and 2303(b)(a)(i)(ii) of the City Zoning Ordinance or as approved by City Council.
5. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Department of Planning and Community Development; however, the Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
6. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1.
7. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes and to be physical present at the Short Term Rental within one (1) hour.
8. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Department of Planning and Community Development for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.



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

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

*Further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning 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 March 13, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, March 26, 2023, and April 2, 2023.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on March 27, 2023.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of [www.vbgov.com/pc](http://www.vbgov.com/pc) on April 6, 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** Milton J. Price

Does the applicant have a representative? ☐ Yes ☒ No

- If yes, list the name of the representative.  

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

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

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

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

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

1 | Page



### 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?

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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.

Chase Mortgage

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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.

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

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

BBC & P Chesapeake, VA

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

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

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

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

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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
- 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

Milton J. Price

Date 2/13/2023

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

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

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

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



## Next Steps

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