

CITY OF VIRGINIA BEACH

"COMMUNITY FOR A LIFETIME"

CITY COUNCIL

MAYOR ROBERT M. "BOBBY" DYER, At Large
VICE MAYOR ROSEMARY WILSON, At Large
MICHAEL F. BERLUCCHI, Rose Hall – District 3
LINWOOD O. BRANCH, Lynnhaven – District 5
BARBARA M. HENLEY, Princess Anne – District 7
N. D. "ROCKY" HOLCOMB, Kempsville – District 2
DELCENO C. MILES, Bayside – District 4
JOHN D. MOSS, At Large
AARON R. ROUSE, At Large
GUY K. TOWER, Beach – District 6
SABRINA D. WOOTEN, Centerville – District 1



CITY COUNCIL APPOINTEES

CITY MANAGER – PATRICK A. DUHANEY
CITY ATTORNEY – MARK D. STILES
CITY ASSESSOR – SUE CUNNINGHAM
CITY AUDITOR – LYNDON S. REMIAS
CITY CLERK – AMANDA BARNES

CITY COUNCIL AGENDA

December 6, 2022

CITY HALL BUILDING 1
2401 COURTHOUSE DRIVE
VIRGINIA BEACH, VIRGINIA 23456
PHONE: (757) 385-4303
FAX (757) 385-5669
EMAIL: CITYCOUNCIL@VBGOV.COM

MAYOR ROBERT M. "BOBBY" DYER PRESIDING

- | | | |
|---|---------------------------|----------------|
| I. CITY COUNCIL'S BRIEFINGS | - Conference Room- | 2:00 PM |
| A. QUARTERLY PUBLIC HEALTH UPDATE
Dr. Caitlin Pedati, District Director | | |
| B. RESORT ADVISORY COMMISSION ANNUAL REPORT
BJ Baumann, Chair | | |
| C. NOISE ORDINANCE UPDATE
Mark Stiles, City Attorney | | |
| II. CITY COUNCIL LIAISON REPORTS | | 3:30 PM |
| III. CITY COUNCIL DISCUSSION/INITIATIVES/COMMENTS | | 3:45 PM |
| IV. CITY COUNCIL AGENDA REVIEW | | 4:00 PM |
| V. INFORMAL SESSION | - Conference Room- | 4:15 PM |
| A. CALL TO ORDER | | |
| B. CITY COUNCIL ROLL CALL | | |
| C. RECESS TO CLOSED SESSION | | |

VI. FORMAL SESSION

- City Council Chamber -

6:00 PM

A. CALL TO ORDER – Mayor Robert M. “Bobby” Dyer

B. INVOCATION Pastor Hamin “Daniel” Jung
Tidewater Korean Baptist Church

C. PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

D. ROLL CALL OF CITY COUNCIL

E. CERTIFICATION OF CLOSED SESSION

F. MINUTES

- | | |
|---------------------------------|-------------------|
| 1. INFORMAL and FORMAL SESSIONS | November 15, 2022 |
| 2. FORMAL SESSION | November 22, 2022 |

G. MAYOR'S PRESENTATION

1. **RESOLUTION - 75TH ANNIVERSARY**
Princess Anne Courthouse Volunteer Rescue Squad and Fire Department
Chief Andrew Rabideau

H. PUBLIC HEARINGS

1. FY2022-23 VIRGINIA BEACH CITY PUBLIC SCHOOLS OPERATING BUDGET AND CAPITAL IMPROVEMENT PROGRAM (CIP) AMENDMENTS –
Appropriation of Reversion funding
2. PROPOSED TAX EXEMPTIONS FROM REAL AND PERSONAL PROPERTY TAXES
- a. The Princess Anne Crew Club Auxiliary
 - b. Little Christian Academy
 - c. Coastal Virginia Building Industry Association, Inc.
 - d. Junior Achievement of Greater Hampton Roads, Inc.
3. DECLARATION AND CONVEYANCE OF EXCESS CITY PROPERTY
Approximately 2.25 acres of City-owned property on Upton Drive near the intersection of Nimmo Parkway

I. FORMAL SESSION AGENDA

1. CONSENT AGENDA

J. ORDINANCES/RESOLUTION

1. Ordinance to **AMEND** City Code 18-5.2 re **business license fees and taxes and provide revenue offsets:**
Option 1 (\$200,000 Threshold Version)
Option 2 (\$300,000 Threshold Version)
Option 3 (\$500,000 Threshold Version)
(Requested by Council Members Moss, Tower and Wooten)

2. Ordinance to **AMEND** City Code Section Chapter 23, Article II re **noise** (Requested by Council Members Moss and Tower) Deferred from October 18, 2022
3. Ordinance to **ADD** Article XVI to City Code Chapter 35 re **establish disposable plastic bag tax** Deferred from September 6, 2022 (Requested by Council Member Tower - **COUNCIL MEMBER TOWER REQUESTS WITHDRAWAL**)
4. Ordinance to **ACCEPT** the recommendations of the **Citizens Committee on Boards and Commissions** (Requested by Council Members Berlucchi and Henley)
5. Resolution to **REQUEST** the Virginia Beach Development Authority (VBDA) to continue forbearance on the loan to **Vanguard Landing, LLC** (Requested by Council Member Henley)
6. Ordinance to **APPROPRIATE** \$100,000 of the Tourism Investment Program (TIP) fund to the FY 2022-23 Convention and Visitors Bureau Operating Budget and **INCREASE** the Annual Grant re **Neptune Festival** (Requested by Council Members Berlucchi and Branch)
7. Ordinance to **DECLARE** City-owned property at **3000 Barberry Lane** to be in **EXCESS** of the City's needs and **AUTHORIZE** the City Manager to sell same to **Joseph P. and Amy L. Heilman**
8. Ordinance to **AUTHORIZE** acquisition of property in fee simple and the acquisition of temporary and permanent easements, either by agreement or condemnation re **Shore Drive Corridor Improvements - Phase III Project, CIP 100381 (formerly CIP 2-117)**
9. Ordinance to **AUTHORIZE** temporary encroachments into a portion of City right-of-way known as **Windsor Crescent** re **maintain existing stone patios, stone walls, PVC fence, brick steps, fire pit, wood fence and grassy area** at the rear of 3868 Jefferson Boulevard (District 9, Formerly District 4 – Bayside)
10. Ordinance to **AUTHORIZE** temporary encroachments into a portion of City-owned Property known as **West Canal** re **maintain an existing vinyl bulkhead, construct and maintain a vinyl bulkhead, wharf, and four (4) pile boat lift** at the rear of 2304 Windward Shore Drive (District 8, Formerly District 5 – Lynnhaven)
11. Ordinance to **APPROPRIATE** \$2-Million of the Tourism Investment Program (TIP) fund and **AUTHORIZE** the City Manager to **EXECUTE** a Sponsorship Agreement re **Something in the Water, LLC**
12. Ordinance to **ACCEPT** and **APPROPRIATE** \$3,575,692 from the Virginia Department of Transportation (VDOT) for **roadway work** to CIP Projects 100425 "Traffic Signal Rehabilitation Project Phase II" and 100401 "Street Reconstruction Phase II" and FY2022-23 Public Work Operating Budget re **purchase a bucket truck and street light parts**
13. Ordinance to **ACCEPT** and **APPROPRIATE** \$750,000 from the Commonwealth Opportunity Fund to Virginia Beach Development Authority (VBDA) re **award for the Acoustical Sheetmetal Project**
14. Ordinance to **ACCEPT** and **APPROPRIATE** \$562,485 from the Virginia Department of Criminal Justice Services to the Virginia Beach City Public Schools as a grant subrecipient re **15 Security Officers and/or Security Assistants**

15. Ordinance to **ACCEPT** and **APPROPRIATE** \$440,000 from the Department of Behavioral Health and Development Services to the FY2022-23 Human Services Operating Budget re **support substance use disorder programs**
16. Ordinance to **ACCEPT** and **APPROPRIATE** \$214,809.75 from the Virginia Department of Agriculture and Consumer Services to the FY2022-23 Agricultural Reserve Program (ARP) Special Revenue Fund Operating Budget re **reimburse City for a portion of cost to acquire preservation easement**
17. Ordinance to **ACCEPT** and **APPROPRIATE** \$146,220 from the Department of Behavioral Health and Development Services to the FY2022-23 Human Services Operating Budget re **Project LINK support services**

K. PLANNING

1. **ATLANTIC DEVELOPMENT ASSOCIATES, LLC & WPL VENTURES, LLC** for a Variance to Section 4.4(b) of the Subdivision Regulations re **subdivide two (2) lots** at 111 73rd Street DISTRICT 6 (formerly District 5-Lynnhaven) Deferred from August 9, 2022

RECOMMENDATION:

APPROVAL

2. **PRINCESS ANNE COUNTRY CLUB / PRINCESS ANNE COUNTRY CLUB & EXPANSION ONE, LLC** for a Change of Nonconformity (Expansion of Non-Conforming Use) re **one-story dwelling for event space and overnight lodging** at 3901 Holly Road, 488 Linkhorn Drive, 3800 Pacific Avenue DISTRICT 6 (formerly District 6-Beach)

RECOMMENDATION:

APPROVAL

3. **SXCW PROPERTIES II, LLC** for a Conditional Use Permits re **car wash facility & automotive service station** at 3264 Holland Road DISTRICT 3 (Formerly District 3-Rose Hall)

RECOMMENDATION:

APPROVAL

4. **EARTHSCAPES ENTERPRISES, LLC / VALIANOS PROPERTIES, LLC & JEM, LLC** for a Conditional Use Permit re **bulk storage yard** at 619 & 623 London Bridge Road DISTRICT 3 (formerly District 6-Beach)

RECOMMENDATION:

APPROVAL

5. **FANTASY TATTOO COMPANY / WCSC, LLC** for a Conditional Use Permit re **tattoo parlor** at 1920 Centerville Turnpike, Suite 118 DISTRICT 7 (formerly District 1-Centerville)

RECOMMENDATION:

APPROVAL

L. APPOINTMENTS

2040 VISION TO ACTION COMMUNITY COALITION
ACTIVE TRANSPORTATION ADVISORY COMMITTEE
ADVERTISING ADVISORY COMMITTEE
AGRICULTURAL ADVISORY COMMISSION
ATLANTIC COMMUNITY DEVELOPMENT AUTHORITY
AUDIT COMMITTEE

BAYFRONT ADVISORY COMMISSION
BEACHES AND WATERWAYS ADVISORY COMMISSION
BOARD OF BUILDING CODE APPEALS
BOARD OF ZONING APPEALS
CHESAPEAKE BAY PRESERVATION AREA BOARD
CLEAN COMMUNITY COMMISSION
COMMUNITY SERVICES BOARD
DEFERRED COMPENSATION BOARD
EASTERN VIRGINIA MEDICAL SCHOOL BOARD
GREEN RIBBON COMMITTEE
HAMPTON ROADS PLANNING DISTRICT COMMISSION
HEALTH SERVICES ADVISORY BOARD
HISTORIC PRESERVATION COMMISSION
HOUSING ADVISORY BOARD
INDEPENDENT CITIZEN REVIEW BOARD
IN-HOUSE PHARMACY EXPLORATORY COMMITTEE
MILITARY ECONOMIC DEVELOPMENT ADVISORY COMMITTEE
OPEN SPACE ADVISORY COMMITTEE
PARKS AND RECREATION COMMISSION
PLANNING COMMISSION
PROCESS IMPROVEMENT STEERING COMMITTEE
RESORT ADVISORY COMMISSION
SOCIAL SERVICES ADVISORY BOARD
TA/ITA CITIZENS ADVISORY COMMITTEE
TRANSPORTATION DISTRICT COMMISSION OF HAMPTON ROADS
URBAN AGRICULTURE ADVISORY COMMITTEE
VIRGINIA BEACH CANNABIS ADVISORY TASK FORCE
WETLANDS BOARD

M. UNFINISHED BUSINESS

N. NEW BUSINESS

O. ADJOURNMENT

OPEN DIALOGUE

Non-Agenda Items

Each Speaker will be allowed 3 minutes

If you are physically disabled or visually impaired
and need assistance at this meeting,
please call the CITY CLERK'S OFFICE at 385-4303

The Agenda (including all backup documents) is available at <https://www.vbgov.com/government/departments/city-clerk/city-council> under the eDocs Document Archive. If you would like to receive by email a list of the agenda items for each Council meeting, please submit your request to TChelius@vbgov.com or call 385-4303.

Citizens who wish to speak can sign up either in-person or virtually via WebEx. Anyone wishing to participate virtually, must follow the **two-step process** provided below:

1. Register for the WebEx at:
<https://vbgov.webex.com/vbgov/onstage/g.php?MTID=e4223ccbc43457b0de2a434e079f33d9f>
2. Register with the City Clerk's Office by calling 757-385-4303 prior to 5:00 p.m. on December 6, 2022.

- | | | | |
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| | C. NOISE ORDINANCE UPDATE | | 3:00 PM |
| | Mark Stiles, City Attorney | | |
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V. INFORMAL SESSION

- Conference Room-

4:15 PM

A. CALL TO ORDER

B. CITY COUNCIL ROLL CALL

C. RECESS TO CLOSED SESSION

VI. FORMAL SESSION

- City Council Chamber -

6:00 PM

A. CALL TO ORDER – Mayor Robert M. “Bobby” Dyer

B. INVOCATION Pastor Hamin “Daniel” Jung
Tidewater Korean Baptist Church

C. PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

D. ROLL CALL OF CITY COUNCIL

E. CERTIFICATION OF CLOSED SESSION

F. MINUTES

1. INFORMAL and FORMAL SESSIONS
2. FORMAL SESSION

November 15, 2022
November 22, 2022

G. MAYOR'S PRESENTATION

1. RESOLUTION - 75TH ANNIVERSARY

Princess Anne Courthouse Volunteer Rescue Squad and Fire Department
Chief Andrew Rabideau



RESOLUTION

WHEREAS: In the early days of the 20th century, Princess Anne County was comprised almost entirely of farmland and was known as Courthouse Station did not have its own fire department. If a medical emergency were to arise or a fire started in the county, the closest fire station was at the oceanfront outside the Princess Anne County limits. This left some areas in the county nearly isolated; and

WHEREAS: In April 1947, twelve residents of the Princess Anne Court House area banded together to solve this crucial issue that faced the community. Thus, forming the Princess Anne Court House Volunteer Fire Department.

WHEREAS: In November 1947, the squad was officially chartered by the Commonwealth of Virginia State Corporation Commission, with Roland West, Herman Bartee, Harry Sawyer, Moses Flanagan, Luke Hill, S. Paul Brown, David "Johnny" Vaughan, Oscar Chaplain and Frank W. Kellam listed as the charter members.

WHEREAS: As the Princess Anne Court House Volunteer Fire Department sought to provide resources and safety to their community they were met with some challenges. The first being the acquisition of a fire engine. Though their appeals to the National Guard requesting a fire engine were not met, local politician Frank Kellam, stepped up to help. With their determination and the support of the community, they were able to raise the funds to purchase a used fire engine.

WHEREAS: The fire engine was housed in a local barn until the purchase and construction of the Courthouse Fire Station, which was located just north of the County Jail Lodge (across the street from the modern-day Shell Station at the Municipal Center); and

WHEREAS: In late 1949, the hard work and dedication from these volunteers did not cease. The new station was built by the volunteers themselves and served as a multipurpose space for the community to congregate; and

WHEREAS: In 1950, Chief West purchased 7 helmets and the station purchased their first, used but new to them, Cadillac Station Wagon to serve as an ambulance. The volunteers continued to go above and beyond by raising funds to properly equip and stock the ambulance to better serve the community; and

WHEREAS: The volunteer Fire Departments soon began receiving communication equipment from Princess Anne County. The order in which the systems were scheduled to be installed would determine their station number. Princess Anne Courthouse was the 5th station to receive their equipment; and

WHEREAS: In 1963, Princess Anne County merged with the Town of Virginia Beach to create the Independent City of Virginia Beach. The area surrounding Station 5 would become the Virginia Beach Municipal Center; and

WHEREAS: The Courthouse Volunteers would soon modernize with the purchase of a "Big Engine" in 1967 and a built-to-order ambulance in the 1970's. As the City grew, a single paid fireman was added to the Monday through Friday 9 a.m. – 5 p.m. shift to assist the volunteers. Shortly after, the department would enhance their skills with educational programs and certifications; and

WHEREAS: By 1988, thirty-three members collectively volunteered thirty-eight hundred hours serving the forty-five hundred families residing in their immediate response area; and

WHEREAS: Fast forward a few years, the station would be responsible for larger events such as the Pungo Strawberry Festival and the events held at the newly constructed Virginia Beach Amphitheater. The station would continue to grow and meet the needs of the surrounding area as it expanded and welcomed new residents; and

WHEREAS: Station 5 would soon become the third largest volunteer rescue squad among the other 10 operating in the area; and

WHEREAS: Princess Anne Courthouse Volunteer Rescue Squad celebrates 75 years of operation this month; and

WHEREAS: While we reflect on the contributions this organization has made to our community, we would also like to take a moment to reflect on their rich history. The foundation of this department was built on the needs of the community. Residents took it upon themselves to take care of one another. As the department grew those core values never faded; and

NOW, THEREFORE, BE IT RESOLVED: That the City Council congratulates Princess Anne Courthouse Volunteer Rescue Squad and Fire Department on its anniversary and long-lasting commitment to the City; and

BE IT FURTHER RESOLVED: Given by the Council of the City of Virginia Beach, Virginia the 6th day of December 2022 and present this Resolution duly signed by each Member of the Virginia Beach City Council.

Council Member Michael F. Berfucchi

Council Member Linwood O. Branch

Council Member Barbara M. Henley

Council Member N.D. "Rocky" Holcomb

Council Member Delceno C. Miles

Council Member John D. Moss

Council Member Aaron R. Rouse

Council Member Guy K. Tower

Council Member Sabrina D. Wooten

Vice Mayor Rosemary Wilson

Mayor Robert M. "Bobby" Dyer

H. PUBLIC HEARINGS

1. FY2022-23 VIRGINIA BEACH CITY PUBLIC SCHOOLS OPERATING BUDGET AND CAPITAL IMPROVEMENT PROGRAM (CIP) AMENDMENTS –
Appropriation of Reversion funding
2. PROPOSED TAX EXEMPTIONS FROM REAL AND PERSONAL PROPERTY TAXES
 - a. The Princess Anne Crew Club Auxiliary
 - b. Little Christian Academy
 - c. Coastal Virginia Building Industry Association, Inc.
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3. DECLARATION AND CONVEYANCE OF EXCESS CITY PROPERTY
Approximately 2.25 acres of City-owned property on Upton Drive near the intersection of Nimmo Parkway



**AMENDMENTS TO THE VIRGINIA
BEACH CITY PUBLIC SCHOOLS FY
2022-23 OPERATING BUDGET AND
CAPITAL IMPROVEMENT PROGRAM:**

**Appropriate \$48,294,167 in School
Reversion Funding**

On Tuesday, December 6, 2022, at 6:00 p.m. in the City Council Chamber on the second floor of the City Hall Building, 2401 Courthouse Drive, Virginia Beach, Virginia, the Virginia Beach City Council will hold a Public Hearing on proposed amendments to the FY 2022-23 Operating and Capital Improvement Program budgets for the Virginia Beach City Public Schools. This appropriation request was adopted by resolution of the School Board, and because it exceeds 1% of the FY 2022-23 Operating Budget, a public hearing is necessary.

The request of the School Board is for an appropriation of \$48,294,167 in the amounts and for the purposes set forth below:

1. A total of \$35,294,167 to be appropriated to the FY 2022-23 Capital Improvement Program in the form of pay-as-you-go funding:
 - a. \$3,746,765 with a corresponding reduction in authorized but unissued Public Facility Revenue Bonds
 - b. \$5,572,862 to offset state construction grants revenue under budget as estimated in the Adopted FY 2022-23 CIP
 - c. Project 1-015 Princess Anne High School Replacement - \$10,547,220
 - d. Project 1-028 B.F. Williams/Bayside 6th (Grade 4-6) School Replacement - \$7,547,220
 - e. Project 1-029 Bayside High School Replacement - \$4,880,100
 - f. Project 1-030 Payroll System Replacement- \$3,000,000;
2. \$11,000,000 to be appropriated to School Reserve Special Revenue Fund to be set-aside for project 1-018 Renovations and Replacement- HVAC Phase III (\$9,200,000) and I-019 Renovations – Roofing (\$1,800,000) for use in the FY 2023-24 Capital Improvement Program; and
3. \$2,000,000 to be re-appropriated to the Risk Management fund.

AMB -

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

1. Register for the WebEx at:
<https://vbgov.webex.com/vbgov/onstage/g.php?MTID=e4223cchc43457b0de2a434e079f33d9f>
2. Register with the City Clerk's Office by calling 757-385-4303 prior to 5:00 p.m. on December 6, 2022.

All interested parties are invited to participate.
Amanda Barnes, MMC
City Clerk

BEACON: NOVEMBER 27, 2022



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance to Appropriate \$48,294,167 of School Reversion and Revenue Sharing Funds

PUBLIC HEARING: December 6, 2022

MEETING DATE: December 13, 2022

■ **Background:** The current City and Schools revenue sharing policy (the "Policy") has been in place since 2019. Section 6 of the Policy outlines the process for the School Board to request lapsed funds and overperformance of certain revenues. In accordance with the Policy, the School Board adopted a Resolution on November 9, 2022, which is attached hereto. The total amount that the School Board is requesting to be appropriated by City Council is \$48,294,167.

Comprising the total amount is \$15,680,703 of School Operating reversion funds, \$3,746,765 of unspent debt service from the FY 2021-22 budget, \$938,410 of additional revenue over the appropriated budget, \$296,396 of reverted funds from the Athletics fund, \$409,492 of reverted funds from the Green Run Collegiate Charter School fund, and \$27,222,401 due to the overperformance of revenues that comprise the Revenue Sharing Formula.

The School Board has requested funds be appropriated in the following manner:

1. A total of \$35,294,167 to be appropriated to the FY 2022-23 CIP Fund, transferred in the form of pay-as-you-go funding:
 - a. \$3,746,765 with a corresponding reduction in authorized but unissued Public Facility Revenue Bonds;
 - b. \$5,572,862 to offset state construction grants revenue under budget as estimated in the Adopted FY 2022-23 CIP;
 - c. Project 1-015 Princess Anne High School Replacement - \$10,547,220;
 - d. Project 1-028 B.F Williams/Bayside 6th (Grade 4-6) School Replacement - \$7,547,220;
 - e. Project 1-029 Bayside High School Replacement - \$4,880,100;
 - f. Project 1-030 Payroll System Replacement- \$3,000,000;
2. \$11,000,000 to be appropriated to School Reserve Special Revenue Funds to be set-aside for Capital Project #1-018 Renovations and Replacement- HVAC Phase III (\$9,200,000) and Capital Project #1-019 Renovations – Roofing (\$1,800,000) for use in the FY 2023-24 Capital Improvement Program; and
3. \$2,000,000 to be appropriated to the Risk Management fund.

■ **Considerations:** The attached ordinance presents to the City Council the proposed use of funds by the School Board. As required by the Policy, the Department of Budget and Management Services has prepared an ordinance for the City Council to consider the School Board's request.

■ **Public Information:** Public information will be provided through the normal City Council agenda process. In addition, the amount of the appropriation request exceeds 1% of the Operating Budget, so a public notice was placed in the November 27, 2022, Beacon for a public hearing to be held on December 6, 2022.

■ **Attachments:** Ordinance, School Board Resolution

Requested by the School Board of the City of Virginia Beach

REQUESTED BY THE SCHOOL BOARD OF THE CITY OF VIRGINIA BEACH

**AN ORDINANCE TO APPROPRIATE \$48,294,167 OF
SCHOOL REVERSION AND REVENUE SHARING FUNDS**

WHEREAS, the School Board of the City of Virginia Beach adopted a Resolution Regarding FY 2021-21 Reversion and Revenue Sharing Formula Reconciliation on November 9, 2022; and

WHEREAS, a public hearing was held on December 6, 2022 to meet the statutory requirement of a budget amendment that exceeds 1% of the City's FY 2022-23 Operating Budget;

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

1. \$48,294,167 in reversion and revenue sharing funds are hereby appropriated for the following purposes:
 - a. \$11,000,000 to be appropriated to the School Reserve Special Revenue fund to be set-aside for use in the FY 2023-24 Capital Improvement Program;
 - b. \$35,294,167 to be appropriated to the Schools' CIP fund:
 - \$3,746,765 as pay-go with a corresponding reduction in authorized but unissued Public Facility Revenue Bonds;
 - \$5,572,862 with a corresponding reduction in estimated state construction grant revenue;
 - Project 1-015 Princess Anne High School Replacement - \$10,547,220;
 - Project 1-028 B.F Williams/Bayside 6th (Grade 4-6) School Replacement - \$7,547,220;
 - Project 1-029 Bayside High School Replacement - \$4,880,100;
 - Project 1-030 Payroll System Replacement- \$3,000,000; and
2. \$2,000,000 to be appropriated to the Schools' Risk Management Fund.

Adopted by the Council of the City of Virginia Beach, Virginia, on the _____ day of _____, 2022.

Requires an affirmative vote by a majority of all of the members of City Council.

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL SUFFICIENCY:

Budget and Management Services

City Attorney's Office



VIRGINIA BEACH CITY PUBLIC SCHOOLS

CHARTING THE COURSE

School Board Services

Carolyn T. Rye, Chair
District 5 - Lynnhaven

Kimberly A. Melnyk, Vice Chair
District 7 – Princess Anne

Beverly M. Anderson At-Large	Sharon R. Felton District 6 – Beach	Jennifer S. Franklin District 2 – Kempsville
Dorothy M. Holtz At-Large	Laura K. Hughes At-Large	Victoria C. Manning At-Large
Jessica L. Owens District 3 – Rose Hall	Trenace B. Riggs District 1 – Centerville	Carolyn D. Weems District 4 - Bayside

Aaron C. Spence, Ed.D., Superintendent

Budget Resolution Regarding FY 2021/22 Reversion and Revenue Sharing Formula Reconciliation

WHEREAS, on September 27, 2022, the School Board was presented with a summary of the unaudited financial statements for FY 2021/22 (year-ending June 30, 2022), showing the reversion amount to the city's General fund; and

WHEREAS, \$15,680,703 is the amount of School Operating reversion funds available (excluding debt service and revenues over/under budget); and

WHEREAS, \$3,746,765 is the amount remaining in debt service from the FY 2021/22 budget due to the timing of bond sales, increasing the School Operating reversion amount to \$19,427,468; and

WHEREAS, \$938,410 came in as additional revenue over the appropriated budget, increasing the School Operating reversion amount to \$20,365,878; and

WHEREAS, \$296,396 reverted from the Athletics fund and \$409,492 reverted from the Green Run Collegiate Charter School fund; and

WHEREAS, the current total amount available for re-appropriation is \$21,071,766; and

WHEREAS, the city is currently indicating an FY 2021/22 revenue actual over budget of \$27,222,401 based on the Revenue Sharing Formula; and

WHEREAS, the total amount available for re-appropriation is \$48,294,167; and

WHEREAS, the Administration recommends the following for the available funds in the amount of \$48,294,167:

- \$35,294,167 to be re-appropriated to the FY 2022/23 Capital Improvement Program
 - \$3,746,765 to be transferred in the form of pay-as-you-go funding with a corresponding reduction in authorized but unissued Public Facility Revenue Bonds
 - \$5,572,862 to be transferred in the form of pay-as-you-go funding to offset state construction grants revenue under budget

Put Students First • Seek Growth • Be Open to Change • Do Great Work Together • Value Differences



VIRGINIA BEACH CITY PUBLIC SCHOOLS CHARTING THE COURSE

Page 2

Budget Resolution Regarding FY 2021/22 Reversion and Revenue Sharing Formula Reconciliation (continued)

- \$10,547,220 to be transferred in the form of pay-as-you-go funding for project 1-015 Princess Anne High School Replacement
- \$7,547,220 to be transferred in the form of pay-as-you-go funding for project 1-028 B.F. Williams/Bayside 6th (Grades 4-6) Replacement
- \$4,880,100 to be transferred in the form of pay-as-you-go funding for project 1-029 Bayside High School Replacement
- \$3,000,000 to be transferred in the form of pay-as-you-go funding for project 1-030 Payroll System Replacement
- \$11,000,000 to be re-appropriated to the School Reserve Special Revenue fund to be set-aside for projects 1-018 Renovations and Replacements - HVAC Phase III (\$9,200,000) and 1-019 Renovations and Replacements - Reroofing (\$1,800,000) for use in the FY 2023/24 Capital Improvement Program
- \$2,000,000 to be re-appropriated to the Risk Management fund

NOW, THEREFORE, BE IT

RESOLVED: That the School Board of the City of Virginia Beach approves the recommended uses of the FY 2021/22 Reversion and Revenue Sharing Formula Reconciliation funds as presented by the Administration; and be it

FURTHER RESOLVED: That the School Board requests that the City Council approve the re-appropriation of FY 2021/22 Reversion and Revenue Sharing Formula Reconciliation funds shown above; and be it

FINALLY RESOLVED: That a copy of this resolution be spread across the official minutes of this Board, and the Clerk of the Board is directed to deliver a copy of this resolution to the Mayor, each member of the City Council, the City Manager, and the City Clerk.

Adopted by the School Board of the City of Virginia Beach this 9th day of November 2022.



Attest:


Regina M. Toneatto, Clerk of the Board


Carolyn T. Rye, School Board Chair

Put Students First • Seek Growth • Be Open to Change • Do Great Work Together • Value Differences



**NOTICE OF PUBLIC HEARING
Proposed Exemptions from
Local Property Taxation by Designation**

On Tuesday, December 6, 2022 at 6:00 pm in City Council Chambers, which is 2401 Courthouse Drive, the City Council of the City of Virginia Beach will hold a public hearing on ordinances to exempt from local property taxes (all amounts rounded to the nearest dollar): **The Princess Anne Crew Club Auxiliary**, which has a personal property assessment of \$8,042 and personal property taxes assessed against such property at \$141 annually; **Little Christian Academy**, which has a personal property assessment of \$2,056 and personal property tax assessed against such property at \$82 annually; **Coastal Virginia Building Industry Association, Inc.**, which has a personal property assessment of \$18,506 and personal property taxes assessed against such property at \$740 annually; **Junior Achievement of Greater Hampton Roads, Inc.**, which has a personal property assessment of \$4,277 and personal property taxes assessed against such property at \$171 annually.

Copies of a proposed ordinances are on file in the office of the City Clerk. All interested persons are welcome to appear at the hearing and present their views on the proposed exemptions. Individuals desiring to provide written comments may do so by contacting the City Clerk's office at 385-4303. If you are physically disabled or visually impaired and need assistance at this meeting, please call 385-4303; hearing impaired, call Virginia Relay at 1-800-828-1120.

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/jnstage/g.php?MTID=e4223c0bc43457b0de2a434e079f33d9f>
2. Register with the City Clerk's Office by calling 757-385-4303 prior to 5:00 p.m. on December 6, 2022.

All interested parties are invited to participate.

Amanda Barnes, MMC
City Clerk

BEACON: NOVEMBER 27, 2022



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEMS: Ordinances to Designate The Princess Anne Crew Club Auxiliary, Little Christian Academy, Coastal Virginia Building Industry Association, Inc., and Junior Achievement of Greater Hampton Roads, Inc. as Being Exempt from Local Property Taxation

PUBLIC HEARING DATE: December 6, 2022

MEETING DATE: December 13, 2022

■ **Background:** Article X, Section 6 (a)(6) of the Virginia Constitution provides that property used by its owner for religious, charitable, patriotic, historical, benevolent, cultural, or public park and playground purposes may be exempted from taxation by classification or designation by an ordinance adopted by the local governing body.

Section 58.1-3651 of the Virginia Code sets forth the process for designating specific organizations as being exempt from local taxation and a list of factors for the local governing body to consider is set forth. They are:

1. Whether the organization is exempt from taxation pursuant to § 501 (c) of the Internal Revenue Code of 1954;
2. Whether a current annual alcoholic beverage license for serving alcoholic beverages has been issued by the Virginia Alcoholic Beverage Control Board to such organization, for use on such property;
3. Whether any director, officer, or employee of the organization is paid compensation in excess of a reasonable allowance for salaries or other compensation for personal services which such director, officer, or employee actually renders;
4. Whether any part of the net earnings of such organization inures to the benefit of any individual, and whether any significant portion of the service provided by such organization is generated by funds received from donations, contributions, or local, state or federal grants;
5. Whether the organization provides services for the common good of the public;
6. Whether a substantial part of the activities of the organization involves carrying on propaganda, or otherwise attempting to influence legislation and whether the organization participates in, or intervenes in, any political campaign on behalf of any candidate for public office;
7. The revenue impact to the locality and its taxpayers of exempting the property; and
8. Any other criteria, facts and circumstances that the governing body deems pertinent to the adoption of such ordinance.

The City Council adopted a revised policy regarding applications for Tax Exemption by Designation on May 6, 2008 (attached).

■ **Considerations:** The Commissioner of the Revenue has received four applications for tax exemption by designation, which are presented for the City Council's action. The Commissioner has reviewed the applications presented for formal action and finds each meets the City Council policy for Tax Exemption by Designation. Each of these applicants is seeking exemption from personal property not real property.

■ **Alternative:** City Council is not required to approve exemption requests.

■ **Public Information:** A public hearing for these items was held on December 6, 2022, during the Council Formal Session. An advertisement for the public hearing appeared in the *Beacon* more than five days prior to that hearing as required by statute. Also, this item will be advertised in the normal Council Agenda Process.

■ **Attachments:** Ordinances (4); Commissioner of Revenue Summary of the Applications (4); Disclosure Forms (4); Council Policy

Submitted pursuant to City Council Policy adopted May 6, 2008.

1 AN ORDINANCE TO DESIGNATE THE PRINCESS ANNE
2 CREW CLUB AUXILIARY AS BEING EXEMPT FROM
3 LOCAL PROPERTY TAXATION
4

5 WHEREAS, in accordance with § 58.1-3651 of the Code of Virginia, the City Council has
6 advertised and conducted a public hearing on the issue of granting an exemption from local
7 personal property taxes to The Princess Anne Crew Club Auxiliary;
8

9 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
10 VIRGINIA BEACH, VIRGINIA:
11

12 1. That the Council of the City of Virginia Beach, Virginia, hereby designates The
13 Princess Anne Crew Club Auxiliary a charitable organization within the context of § 6(a)(6) of
14 Article X of the Constitution of Virginia and §58.1-3651 of the Code of Virginia.
15

16 2. That personal property owned by The Princess Anne Crew Club Auxiliary located
17 within the City of Virginia Beach that is used exclusively for charitable purposes on a nonprofit
18 basis is hereby exempt from local property taxation.
19

20 3. This exemption is contingent on the following:
21

22 (a) continued use of the property by The Princess Anne Crew Club Auxiliary for
23 exclusively charitable purposes;
24

25 (b) that each July 1, The Princess Anne Crew Club Auxiliary shall file with the
26 Commissioner of the Revenue a copy of its most recent federal income tax
27 return, or if no such return is required, it shall certify its continuing tax exempt
28 status to the Commissioner of the Revenue;
29

30 (c) that every three years, beginning on January 1, 2025, The Princess Anne Crew
31 Club Auxiliary shall file an exemption application with the Commissioner of the
32 Revenue as a requirement for retention of the exempt status of the property; and
33

34 (d) that The Princess Anne Crew Club Auxiliary cooperate fully with the
35 Commissioner of the Revenue with respect to audit of its financial records and
36 compliance with the terms of this ordinance.
37

38 4. That the effective date of this exemption shall be January 1, 2023.

Adopted by the Council of the City of Virginia Beach, Virginia, on the _____ day
of _____, 2022.

Requires an affirmative vote of three-fourths of the members of the City Council.

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL
SUFFICIENCY:

Commissioner of the Revenue
CA15974/R-1/November 8, 2022

City Attorney's Office

OVERVIEW OF NONPROFIT APPLICATION FOR EXEMPTION

ENTITY NAME: **The Princess Anne Crew Club Auxiliary**

Website: <https://pacrew.com>

SUMMARY OF NONPROFIT BUSINESS ACTIVITY

The Princess Anne Crew Club Auxiliary's mission is to provide access to any high school student in Virginia Beach to a sport that many students could not be able to afford to get involved in due to the exorbitant costs. They accept rowers from any school, public or private, as well as homeschool students. Their student athletes learn leadership skills as well as the lifelong benefits of physical fitness, grit, determination, and teamwork.

TAX IMPACT

Real Property Parcel	Assessment:	None
	Tax:	None

Personal Property	Assessed Value:	\$8,042.00
	Tax:	\$140.53

RELEVANT INFORMATION

IRS Granted 501 (c) 3 status – February 2, 2011

DISCLOSURE STATEMENT FORM

The completion and submission of this form is required for all applications wherein such applicant may utilize certain service providers or financial institutions, and the City seeks to know of the existence of such relationships in advance of any vote upon such application.

SECTION 1 / APPLICANT DISCLOSURE

Organization name: Princess Anne High School Crew Club

SECTION 2. SERVICES DISCLOSURE

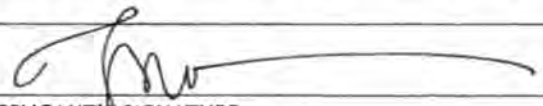
Are any of the following services being provided in connection with the applicant? If the answer to any item is YES, please identify the firm or individual providing the service:

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Accounting and/or preparer of your tax return	—
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Financial Services (include lending/banking institutions and current mortgage holders as applicable)	Truist Bank provides banking services
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Legal Services	—
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Broker/Contractor/Engineer/Other Service Providers	—

CERTIFICATION:

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand I am responsible for updating the information provided herein if it changes prior to the Council action upon this Application.

 APPLICANT'S SIGNATURE	Leslie Walters PRINT NAME	6/6/22 DATE
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1 AN ORDINANCE TO DESIGNATE LITTLE CHRISTIAN
2 ACADEMY AS BEING EXEMPT FROM LOCAL PROPERTY
3 TAXATION
4

5 WHEREAS, in accordance with § 58.1-3651 of the Code of Virginia, the City Council has
6 advertised and conducted a public hearing on the issue of granting an exemption from local
7 personal property taxes to Little Christian Academy;
8

9 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
10 VIRGINIA BEACH, VIRGINIA:
11

12 1. That the Council of the City of Virginia Beach, Virginia, hereby designates Little
13 Christian Academy a charitable organization within the context of § 6(a)(6) of Article X of the
14 Constitution of Virginia and §58.1-3651 of the Code of Virginia.
15

16 2. That personal property owned by Little Christian Academy located within the City of
17 Virginia Beach that is used exclusively for charitable purposes on a nonprofit basis is hereby
18 exempt from local property taxation.
19

20 3. This exemption is contingent on the following:
21

22 (a) continued use of the property by Little Christian Academy for exclusively
23 charitable purposes;
24

25 (b) that each July 1, Little Christian Academy shall file with the Commissioner of the
26 Revenue a copy of its most recent federal income tax return, or if no such return
27 is required, it shall certify its continuing tax exempt status to the Commissioner
28 of the Revenue;
29

30 (c) that every three years, beginning on January 1, 2025, Little Christian Academy
31 shall file an exemption application with the Commissioner of the Revenue as a
32 requirement for retention of the exempt status of the property; and
33

34 (d) that Little Christian Academy cooperate fully with the Commissioner of the
35 Revenue with respect to audit of its financial records and compliance with the
36 terms of this ordinance.
37

38 4. That the effective date of this exemption shall be January 1, 2023.

Adopted by the Council of the City of Virginia Beach, Virginia, on the _____ day
of _____, 2022.

Requires an affirmative vote of three-fourths of the members of the City Council.

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL
SUFFICIENCY:

Commissioner of the Revenue
CA15975/R-1/November 8, 2022

City Attorney's Office

OVERVIEW OF NONPROFIT APPLICATION FOR EXEMPTION

ENTITY NAME: Little Christian Academy

Website: <https://www.facebook.com/warriorschristian>

SUMMARY OF NONPROFIT BUSINESS ACTIVITY

Little Christian Academy's mission is to provide a safe, loving, and nurturing environment sensitive to each child's emotional, intellectual, physical, and social needs. They empower students using the word of God through age centered devotionals. They are open to children ages 6 weeks to 12 years.

TAX IMPACT

Real Property Parcel	Assessment:	None
	Tax:	None

Personal Property	Assessed Value: \$2,056.00
	Tax: \$82.24
	Vehicle:

RELEVANT INFORMATION

IRS Granted 501 (c) 3 status – September 15, 2020

DISCLOSURE STATEMENT FORM

The completion and submission of this form is required for all applications wherein such applicant may utilize certain service providers or financial institutions, and the City seeks to know of the existence of such relationships in advance of any vote upon such application.

SECTION 1 / APPLICANT DISCLOSURE

Organization name: Little Christian Academy
Little Warrior Christian Academy

SECTION 2. SERVICES DISCLOSURE

Are any of the following services being provided in connection with the applicant? If the answer to any item is YES, please identify the firm or individual providing the service:

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	James P. Harris
<input type="checkbox"/>	<input type="checkbox"/>	Financial Services (include lending/banking institutions and current mortgage holders as applicable)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Legal Services	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Broker/Contractor/Engineer/Other Service Providers	

CERTIFICATION:

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand I am responsible for updating the information provided herein if it changes prior to the Council action upon this Application.

APPLICANT'S SIGNATURE	Denise Joyner PRINT NAME	12-7-2020 DATE
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1 AN ORDINANCE TO DESIGNATE COASTAL VIRGINIA
2 BUILDING INDUSTRY ASSOCIATION, INC. AS BEING
3 EXEMPT FROM LOCAL PROPERTY TAXATION
4

5 WHEREAS, in accordance with § 58.1-3651 of the Code of Virginia, the City Council has
6 advertised and conducted a public hearing on the issue of granting an exemption from local
7 personal property taxes to Coastal Virginia Building Industry Association, Inc.;

8
9 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
10 VIRGINIA BEACH, VIRGINIA:

11
12 1. That the Council of the City of Virginia Beach, Virginia, hereby designates Coastal
13 Virginia Building Industry Association, Inc. a charitable organization within the context of §
14 6(a)(6) of Article X of the Constitution of Virginia and §58.1-3651 of the Code of Virginia.

15
16 2. That personal property owned by Coastal Virginia Building Industry Association, Inc.
17 located within the City of Virginia Beach that is used exclusively for charitable purposes on a
18 nonprofit basis is hereby exempt from local property taxation.

19
20 3. This exemption is contingent on the following:

21
22 (a) continued use of the property by Coastal Virginia Building Industry Association,
23 Inc. for exclusively charitable purposes;

24
25 (b) that each July 1, Coastal Virginia Building Industry Association, Inc. shall file with
26 the Commissioner of the Revenue a copy of its most recent federal income tax
27 return, or if no such return is required, it shall certify its continuing tax exempt
28 status to the Commissioner of the Revenue;

29
30 (c) that every three years, beginning on January 1, 2025, Coastal Virginia Building
31 Industry Association, Inc. shall file an exemption application with the
32 Commissioner of the Revenue as a requirement for retention of the exempt
33 status of the property; and

34
35 (d) that Coastal Virginia Building Industry Association, Inc. cooperate fully with the
36 Commissioner of the Revenue with respect to audit of its financial records and
37 compliance with the terms of this ordinance.

38
39 4. That the effective date of this exemption shall be January 1, 2023.

Adopted by the Council of the City of Virginia Beach, Virginia, on the _____ day
of _____, 2022.

Requires an affirmative vote of three-fourths of the members of the City Council.

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL
SUFFICIENCY:

Commissioner of the Revenue
CA15976/R-1/November 8, 2022

City Attorney's Office

OVERVIEW OF NONPROFIT APPLICATION FOR EXEMPTION

ENTITY NAME: Coastal Virginia Building Industry Association Inc.

Website: cvbia.com

SUMMARY OF NONPROFIT BUSINESS ACTIVITY

A member trade organization representing more than 500 companies in Southeastern Virginia involved in residential home building, commercial construction and property management. Their mission is to improve the climate for quality housing for all incomes; promote the growth and development of the shelter industry; promote excellence and professionalism among members through educational and networking opportunities; and support and enhance the community through charitable projects.

TAX IMPACT

Real Property Parcel	Assessment:	None
	Tax:	None
Personal Property	Assessed Value:	\$18,505.60
	Tax:	\$740.24

RELEVANT INFORMATION

IRS Granted 501 (c) 6 status – July 1955

DISCLOSURE STATEMENT FORM

The completion and submission of this form is required for all applications wherein such applicant may utilize certain service providers or financial institutions, and the City seeks to know of the existence of such relationships in advance of any vote upon such application.

SECTION 1 / APPLICANT DISCLOSURE

Organization name: Coastal Virginia Building Industry Association

SECTION 2. SERVICES DISCLOSURE

Are any of the following services being provided in connection with the applicant? If the answer to any item is YES, please identify the firm or individual providing the service:

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	Wall, Einhorn & Chernitzer P.C.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Financial Services (include lending/banking institutions and current mortgage holders as applicable)	Towne Bank
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Legal Services	Kaufman & Canoles
<input type="checkbox"/>	<input type="checkbox"/>	Broker/Contractor/Engineer/Other Service Providers	

CERTIFICATION:

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand I am responsible for updating the information provided herein if it changes prior to the Council action upon this Application.

Claudia K. Cotton

APPLICANT'S SIGNATURE

CLAUDIA K. COTTON

PRINT NAME

7.21.2022

DATE

1 AN ORDINANCE TO DESIGNATE JUNIOR ACHIEVEMENT
2 OF GREATER HAMPTON ROADS, INC. AS BEING
3 EXEMPT FROM LOCAL PROPERTY TAXATION
4

5 WHEREAS, in accordance with § 58.1-3651 of the Code of Virginia, the City Council has
6 advertised and conducted a public hearing on the issue of granting an exemption from local
7 personal property taxes to Junior Achievement of Greater Hampton Roads, Inc.;

8
9 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
10 VIRGINIA BEACH, VIRGINIA:
11

12 1. That the Council of the City of Virginia Beach, Virginia, hereby designates Junior
13 Achievement of Greater Hampton Roads, Inc. a charitable organization within the context of §
14 6(a)(6) of Article X of the Constitution of Virginia and §58.1-3651 of the Code of Virginia.
15

16 2. That personal property owned by Junior Achievement of Greater Hampton Roads,
17 Inc. located within the City of Virginia Beach that is used exclusively for charitable purposes on
18 a nonprofit basis is hereby exempt from local property taxation.
19

20 3. This exemption is contingent on the following:
21

22 (a) continued use of the property by Junior Achievement of Greater Hampton
23 Roads, Inc. for exclusively charitable purposes;
24

25 (b) that each July 1, Junior Achievement of Greater Hampton Roads, Inc. shall file
26 with the Commissioner of the Revenue a copy of its most recent federal income
27 tax return, or if no such return is required, it shall certify its continuing tax exempt
28 status to the Commissioner of the Revenue;
29

30 (c) that every three years, beginning on January 1, 2025, Junior Achievement of
31 Greater Hampton Roads, Inc. shall file an exemption application with the
32 Commissioner of the Revenue as a requirement for retention of the exempt
33 status of the property; and
34

35 (d) that Junior Achievement of Greater Hampton Roads, Inc. cooperate fully with the
36 Commissioner of the Revenue with respect to audit of its financial records and
37 compliance with the terms of this ordinance.
38

39 4. That the effective date of this exemption shall be January 1, 2023.

Adopted by the Council of the City of Virginia Beach, Virginia, on the _____ day
of _____, 2022.

Requires an affirmative vote of three-fourths of the members of the City Council.

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL
SUFFICIENCY:

Commissioner of the Revenue
CA15647/R-1/November 8, 2022

City Attorney's Office

OVERVIEW OF NONPROFIT APPLICATION FOR EXEMPTION

ENTITY NAME: Junior Achievement of Greater Hampton Roads Inc.

Website: hamptonroads.ja.org

SUMMARY OF NONPROFIT BUSINESS ACTIVITY

Junior Achievement is an organization dedicated to educating students K-12 about workforce readiness, entrepreneurship, and financial literacy through hands on programs. Volunteers serve as role models helping to positively impact young people's perceptions about the importance of education, as well as critical life skills. Junior Achievement's mission is to inspire and prepare young people to succeed.

TAX IMPACT

Real Property Parcel	Assessment:	None
	Tax:	None
Personal Property	Assessed Value:	\$4,277.11
	Tax:	\$171.08
	Vehicle:	

RELEVANT INFORMATION

IRS Granted 501 (c) 3 status – January 1994

DISCLOSURE STATEMENT FORM

The completion and submission of this form is required for all applications wherein such applicant may utilize certain service providers or financial institutions, and the City seeks to know of the existence of such relationships in advance of any vote upon such application.

SECTION 1 / APPLICANT DISCLOSURE

Organization name: **Junior Achievement of**
Greater Hampton Roads, Inc._____

SECTION 2. SERVICES DISCLOSURE

Are any of the following services being provided in connection with the applicant? If the answer to any item is YES, please identify the firm or individual providing the service:

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	Hobson Business Solutions & Barnes, Brock, Cornwell, and Painter, PLC
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Financial Services (include lending/banking institutions and current mortgage holders as applicable)	Bank of America TowneBank
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Legal Services	Williams Mullen
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Broker/Contractor/Engineer/Other Service Providers	Payday Payroll, ADP, CoxCommunications, USBank Equipment Finance, Pitney Bowes, ESI/Xerox, and USI

CERTIFICATION:

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand I am responsible for updating the information provided herein if it changes prior to the Council action upon this Application.

Jamie Henry	Jamie Henry	10.18.22
APPLICANT'S SIGNATURE	PRINT NAME	DATE



City Council Policy

Title: City Council Policy Regarding Applications for Tax Exemption by Designation		
Date of Adoption: February 3, 2004	Dates of Revisions: May 6, 2008	Page 1 of 4

1.0 Purpose and Need

Purpose: To establish criteria for approval of resolutions by City Council to exempt, by designation, local nonprofit organizations from real and personal property taxes.

Need: City Council has requested guidance as to criteria for considering exemptions as well as a procedure for reviewing requests for exemption from local property taxes. The Commissioner of the Revenue has offered revisions to Council's policy adopted on February 2, 2004 in an effort to streamline the exemption review process for local nonprofit organizations and provide necessary analysis and oversight of the application process.

Legislative Background: The Virginia Constitution provides that, after January 1, 2003, local governments may, by designation, exempt the real and personal property of nonprofit organizations from local property taxes if used exclusively for religious, charitable, patriotic, historical, benevolent, cultural, or public park and playground purposes. However, as provided in Virginia Code § 58.1-3651, the local governing body must adopt an ordinance to exempt the property.

2.0 Policy

The City Council is not required to designate any organization properly applying for exemption from taxation, and every designation of an organization is conditioned upon compliance with the terms of this policy and any ordinance granting the exemption. If an organization does not comply with these requirements, the City Council may revoke the tax exemption after providing notice and a hearing to the organization. Any revocation of an exemption shall be effective at the beginning of the tax year during which the revocation occurs.

The applicant or a representative of the applicant shall provide the Commissioner of the Revenue detailed information necessary to determine the benefits to the public that will result from granting tax exemption. In considering applications, the Commissioner of the Revenue shall employ the following guidelines:

Title: City Council Policy Regarding Applications for Tax Exemption by Designation		
Date of Adoption: February 3, 2004	Dates of Revisions: May 6, 2008	Page 2 of 4

1. The organization must be exempt from federal income tax pursuant to Internal Revenue Code § 501(c).
2. Personal or real property for which an exemption is sought cannot be used by any member of the organization or other persons except for non-profit purposes benefiting the non-profit organization applying for exemption.
3. The organization must be in compliance with all City ordinances and regulations (including but not limited to building, property maintenance, and zoning codes) and all applicable tax obligations.
4. The organization must provide a service to the residents of the City that results in a benefit to the public (tangible or intangible).

The following requirements apply to each entity exempted from local property taxes by the City Council:

1. Upon obtaining exemption, the organization must annually submit (by July 1 of each year) its Internal Revenue Service Form 990 or 990 EZ to the Commissioner of the Revenue. If not required to file Form 990 or 990 EZ, then the organization must annually certify on form(s) prescribed by the Commissioner of the Revenue its continuing tax exempt status. Loss of 501(c) status must immediately be reported to the Commissioner of the Revenue and City Attorney, and is grounds for revocation of tax exempt status.
2. Pursuant to Virginia Code § 58.1-3605, each entity exempted from local property taxes shall, every three years, file an exemption application with the Commissioner of the Revenue as a requirement for retention of the exempt status of the property. The application form shall be approved as to form by the City Attorney.
3. Each entity exempted from local property taxes must cooperate fully with the Commissioner of the Revenue with respect to audit of its financial records, compliance with the terms of this policy, and compliance with any ordinance granting tax exemption.

3.0 Procedure to Accomplish Policy

1. Organizations applying for exemption must request a determination from the Commissioner of the Revenue as to whether the organization is or may be tax-exempt by classification, pursuant to Article 2 (§58.1-3606 et seq.) or Article 3 (§58.1-3609 et seq.) of Title 58.1 of the Virginia Code. If the organization is not exempt, but meets the criteria of organizations that can be exempted by designation (see Virginia Code §58.1-3651), the organization will receive

Title: City Council Policy Regarding Applications for Tax Exemption by Designation	
Date of Adoption: February 3, 2004	Dates of Revisions: May 6, 2008
	Page 3 of 4

an application from the Commissioner of the Revenue. The application form shall request all information required by Virginia Code §58.1-3651 and be approved as to form by the City Attorney.

2. Applications for exemption shall be considered quarterly. Applications for exemption must be submitted to the Commissioner of the Revenue. Applications shall be submitted no later than October 1 of the year preceding the effective date of the exemption. Based on the criteria set forth in section 2.0 of this policy, the Commissioner of the Revenue will review each application and make a report to City Council regarding whether an organization qualifies for exemption under law and City policy. The Commissioner of the Revenue will not submit applications he deems incomplete to City Council for a determination.
3. The Commissioner of the Revenue shall forward copies of the applications along with his written findings to the City Attorney. The City Attorney shall prepare the necessary ordinances for City Council and coordinate with the City Clerk to ensure that the applications are properly advertised and placed on the City Council's agenda for a public hearing and formal consideration.
4. The City Council will conduct a public hearing and consider the criteria set forth in Virginia Code §58.1-3651, section 2.0 of this policy, and the findings of the Commissioner of the Revenue.
5. Any exemptions granted shall be effective as of the next January 1.
6. Exemptions, as well as any departure from these guidelines, shall require approval by three-fourths (3/4) of the members of City Council.

4.0 Responsibility and Authority

Responsibility for initiating application for exemption and timely providing any information or application required by the Commissioner of the Revenue shall rest with the organization seeking exemption. Responsibility for making available information, application for exemption, verifying submitted tax information and reporting on the initial and continuing status of the taxpayer shall rest with the Commissioner of the Revenue.

Responsibility for preparing required ordinances, arranging for the advertising of public hearings, and placing items on the City Council's agenda for a vote on proposed exemptions shall rest with the City Attorney. Responsibility for the final determination of the public benefits resulting from tax exemption shall rest exclusively with the City Council.

Title: City Council Policy Regarding Applications for Tax Exemption by Designation		
Date of Adoption: February 3, 2004	Dates of Revisions: May 6, 2008	Page 4 of 4

5.0 Definitions

PUBLIC BENEFIT- Any benefit or advantage expected to be realized by the public, whether tangible or intangible, which may accompany the tax exemption.

LOCAL PROPERTY TAXES- Ad valorem taxes levied by the City of Virginia Beach on real estate or tangible personal property.

6.0 Specific Requirements

In addition to the procedures and responsibilities set forth in paragraphs 3.0 and 4.0, respectively, documentation forwarded to the City Council shall include submission of an application form in form and substance substantially as presented in the attached Exhibit A, as well as any additional information that the applicant wishes to present to the City Council.



PUBLIC HEARING

DECLARATION AND CONVEYANCE OF EXCESS CITY PROPERTY

The Virginia Beach City Council will hold a **PUBLIC HEARING** on **Tuesday, December 6, 2022, at 6:00 p.m.**, in the Council Chamber, City Hall - Bldg. 1, Municipal Center, 2401 Courthouse Drive, Virginia Beach, Virginia 23456. The purpose of this hearing will be to obtain public input to determine whether the following property should be declared in excess of the City's needs and conveyed to Hospice House of Hampton Roads.

The subject property is currently under contract after being declared excess in 2017, however the prior ordinance has expired.

Approximately 2.25 acres of City-owned property located on Upton Drive near the intersection of Nimmo Parkway (GPIN: 2414-47-2012)

If you are physically disabled or visually impaired and need assistance at this meeting, please call the CITY CLERK'S OFFICE at 757-385-4303; Hearing impaired, call 711 (Virginia Relay - Telephone Device for the Deaf).

Any questions concerning this matter should be directed to the Dept. of Public Works / Real Estate Division, 2473 N. Landing Road, Bldg. 23, Virginia Beach, Virginia 23456, (757) 385-4161, (pwrealestate@vbgov.com).

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/joinstage/g.php?MTID=e4223ccbc43457b00e2a434e079f33d9f>
2. Register with the City Clerk's Office by calling 757-385-4303 prior to 5:00 p.m. on December 6, 2022.

All interested parties are invited to participate.

Amanda Barnes, MMC
City Clerk

BEACON: NOVEMBER 27, 2022



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance Re-declaring 2.25+/- acres of City Property Located on Upton Drive to be in Excess of the City's Needs and Authorizing the City Manager to Execute the Documents Necessary to Complete the Conveyance of the Property to Hospice House of Hampton Roads

HEARING DATE: December 6, 2022

MEETING DATE: December 13, 2022

- **Background:** On August 15, 2017, by Ordinance ORD-3515G, City Council declared a 2.25+/- acre parcel (GPIN 2414-47-2012) located on Upton Drive near the intersection of Nimmo Parkway (the "Property") to be in excess of the City's needs and authorized the Property's conveyance to Hospice House of Hampton Roads, formerly known as Hospice House of South Hampton Roads, Inc. ("Hospice House"), a non-profit 501(c)(3) organization. City Council authorized the conveyance for Hospice House to construct and operate an approximately 12,000 sq. ft., 12-bed hospice care facility (the "Facility"). The Facility would be the first free-standing inpatient hospice care facility in the Hampton Roads region. The City had acquired the Property in 1985 through condemnation proceedings as part of the Transportation Safety Improvement Project, CIP 2-024, which project has been completed.

Pursuant to Ordinance ORD-3515G, the City and Hospice House entered into a development agreement, dated April 26, 2022 (the "Development Agreement"), to convey the Property to Hospice House once Hospice House met certain conditions necessary to close, including obtaining a conditional use permit and site plan approval. Ordinance ORD-3515G included an expiration date of June 5, 2022 to encourage intentional pursuit of their fundraising and permit approvals, but despite diligent efforts, the conveyance did not occur before the ordinance expired.

Hospice House has represented that it is ready and willing to close on the conveyance of the Property. Hospice House has been persistent in meeting all necessary conditions to close, including securing financing, obtaining a conditional use permit, and receiving conditional site plan approval in order to construct the Facility. City staff recommends ratifying the Development Agreement and conveying the Property to Hospice House, pursuant to the terms of the Development Agreement, a summary of which is attached to the Ordinance as Exhibit B.

- **Considerations:** Because the Property was acquired through condemnation, a minimum of three-fourths of all City Council members must vote in favor of the conveyance.
 - **Public Information:** A public hearing was advertised in The Virginian-Pilot on November 27, 2022 and will be held on December 6, 2022. Public information will also be provided through the normal City Council agenda process. A public hearing was also held in 2017 prior to the adoption of Ordinance ORD-3515G.
 - **Recommendation:** Approve the Ordinance
 - **Alternatives:** Deny
 - **Attachments:** Ordinance, Summary of Terms, Location Map, Disclosure Statement
-

Recommended Action: Approval of the Ordinance

Submitting Department/Agency: Public Works/Real Estate *1/21*

City Manager: *L. H. Oh for PAD*

1 AN ORDINANCE RE-DECLARING 2.25+/- ACRES
2 OF CITY PROPERTY LOCATED ON UPTON
3 DRIVE TO BE IN EXCESS OF THE CITY'S NEEDS
4 AND AUTHORIZING THE CITY MANAGER TO
5 EXECUTE THE DOCUMENTS NECESSARY TO
6 COMPLETE THE CONVEYANCE OF THE
7 PROPERTY TO HOSPICE HOUSE OF HAMPTON
8 ROADS
9

10 WHEREAS, the City of Virginia Beach (the "City") is the owner of that certain
11 2.25+/- acres of land on Upton Drive (GPIN: 2414-47-2012) (the "Property"), and more
12 particularly described on Exhibit A, attached hereto and made a part hereof;
13

14 WHEREAS, the City acquired the Property in 1985 as part of the Transportation
15 Safety Improvement Project, CIP 2-024, which project has been completed;
16

17 WHEREAS, on August 15, 2017, by Ordinance ORD-3515G, City Council
18 declared the Property to be in excess of the City's needs and authorized the
19 conveyance of the Property to Hospice House of Hampton Roads, formerly known as
20 Hospice House of South Hampton Roads, Inc. ("Hospice House"), a non-profit 501(c)(3)
21 organization, to construct and operate an approximately 12,000 sq. ft., 12-bed hospice
22 care facility (the "Facility");
23

24 WHEREAS, pursuant to Ordinance ORD-3515G, the City and Hospice House
25 entered into a development agreement, dated April 26, 2022 (the "Development
26 Agreement"), to convey the Property to Hospice House once Hospice House met
27 certain conditions necessary to close;
28

29 WHEREAS, Ordinance ORD-3515G contained an automatic expiration date for
30 the conveyance of the Property to Hospice House, which date has passed;
31

32 WHEREAS, Hospice House has diligently pursued meeting the conditions,
33 however, due to various circumstances, conveyance of the Property has not yet
34 occurred and Ordinance ORD-3515G has expired;
35

36 WHEREAS, Hospice House has represented that it is ready and willing to close
37 on the conveyance of the Property, and City staff desires to complete the conveyance of
38 the Property to Hospice House as contemplated by the Development Agreement;
39

40 WHEREAS, Hospice House intends to close on the Property pursuant to the
41 terms of the Development Agreement, a summary of which are attached hereto and
42 made a part hereof as Exhibit B (the "Summary of Terms of Development Agreement");
43 and
44

45 WHEREAS, the City Council finds that the Property is still in excess of the needs
46 of the City of Virginia Beach, and conveyance of the Property to Hospice House to
47 support the construction of a hospice facility would provide a benefit of the community.

48 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
49 VIRGINIA BEACH, VIRGINIA:

50
51 1) That the 2.25+/- acres of City Property located on Upton Drive (GPIN: 2414-
52 47-2012), as shown on Exhibit A attached hereto and made a part hereof, is hereby
53 declared to be in excess of the needs of the City of Virginia Beach; and
54

55 2) That the City Manager is hereby authorized to execute any documents
56 necessary to ratify the Development Agreement and to complete the conveyance of the
57 Property to Hospice House of Hampton Roads in accordance with the Summary of
58 Terms as shown on Exhibit B, and such other terms, conditions or modifications as may
59 be acceptable to the City Manager and in a form deemed satisfactory by the City
60 Attorney.

61
62 Adopted by the Council of the City of Virginia Beach, Virginia, on this _____ day
63 of _____, 2022.

Requires an affirmative vote by three-fourths (3/4) of all members of City Council.

APPROVED AS TO CONTENT:



PUBLIC WORKS/REAL ESTATE

APPROVED AS TO LEGAL
SUFFICIENCY:



CITY ATTORNEY'S OFFICE

CA15819

\\vbgov.com\dfs1\applications\citylaw\cycom32\wpdocs\ld021\p046\00845775.docx

R-1

November 23, 2022

EXHIBIT A

ALL THAT certain lot, tract or parcel of land, situate, lying and being in the City of Virginia Beach, Virginia, designated and described as "PARCEL 'Y'" on that certain plat entitled "SUBDIVISION OF LOT 1393A RESUBDIVISION OF PROPERTY LOT 1393 SUBDIVISION OF RED MILL FARM SECTION 23 / SOUTH SHORE ESTATE (M.B. 279, PG. 92) AND RESIDUAL PARCELS A & B PROPERTY OF CITY OF VIRGINIA BEACH (D.B. 2466, PGS. 1258 & 1259) M.B. 279, PG. 92", dated April 24, 2019 and revised through May 7, 2021, prepared by City of Virginia Beach, Department of Public Works, Engineering Group, Survey Bureau, which plat is duly recorded in the Clerk's Office of the Circuit Court of the City of Virginia Beach, Virginia as Instrument Number 202107000121.

LESS AND EXCEPT AND RESERVING TO the City any easements required for utilities, traffic control, communication facilities, drainage, maintenance, and access to accommodate any existing facilities for which an easement has not yet been identified as designated and described in a forthcoming plat (specific location and square footages to be determined by plat).

LESS AND EXCEPT AND RESERVING TO the City that certain permanent easement designated as "PROPOSED 30' PUBLIC DRAINAGE EASEMENT" as shown on the aforesaid plat and as further described in a forthcoming plat (specific location and square footages to be determined by plat).

LESS AND EXCEPT AND RESERVING TO the City all right, title, and interest of City in and to any and all easements, rights-of-way, private roads, and other rights of access, ingress and/or egress adjacent to, appurtenant to, or in any way benefitting the above-described property.

IT BEING a part of the same property acquired by the City of Virginia Beach by Certificate of Condemnation dated April 4, 1985, recorded in the Clerk's Office of the Circuit Court of the City of Virginia Beach at Deed Book 2401, Page 1838 (now Instrument Number 198508170328), as amended by Amended Certificate of Condemnation dated December 26, 1985, recorded in the aforementioned clerk's office at Deed Book 2467, Page 1845 (now Instrument Number 198508123161), title vesting by Final Order of the Circuit Court of the City of Virginia Beach, dated December 30, 1985, recorded in the aforementioned clerk's office at Deed Book 2473, Page 1279 (now Instrument Number 198608280491).

EXHIBIT B

SUMMARY OF TERMS OF DEVELOPMENT AGREEMENT

CONVEYANCE OF EXCESS CITY PROPERTY

GRANTOR: City of Virginia Beach (the "City")

GRANTEE: Hospice House of Hampton Roads ("Hospice House")

PROPERTY: 2.25+/- acres of City property (GPIN: 2414-47-2012) located on Upton Drive near the intersection of Nimmo Parkway (the "Property")

CONSIDERATION: To be conveyed on the condition that the property be used as a hospice care facility serving the City of Virginia Beach.

CONDITIONS OF CONVEYANCE:

- Hospice House will build a 12-bed hospice facility of approximately 12,000 sq. ft., expected to include a family kitchen, chapel, staff lounge, volunteer room, executive and administrative support offices, conference room, and covered and screened porches (the "Facility").
- Hospice House will be responsible for all costs associated with designing, constructing, and equipping the Facility.
- The Property will be conveyed to Hospice House "as is", and subject to all existing easements and encumbrances of record.
- Hospice House will obtain financing and secure an income stream, that, in the opinion of the City, is sufficient to build and maintain the Facility and sustain its hospice program. Hospice House will be responsible for all future operating, maintenance, and replacement costs associated with the Property and the Facility.
- The Property shall be used only for non-profit purposes consistent with the mission of Hospice House. The Property may not be sold or otherwise conveyed to another entity unless approved by the City.
- If settlement does not occur on or before July 1, 2024, the City has the option of terminating the Development Agreement, in which case neither party will have any further rights, liabilities, or obligations to the other.
- If Hospice House has not begun construction of the Facility by November 1, 2024, the City will have the option of reclaiming the Property at no cost to the City.

LOCATION MAP

CONCEPTUAL SITE LAYOUT & LANDSCAPE PLAN OF

SOUTH HAMPTON ROADS HOSPICE HOUSE

UPTON DRIVE & NIMMO PARKWAY
VIRGINIA BEACH, VA



Site Data

GPN: 2414-46-2943
Site Area (existing): 4.82 Ac
Site Area (proposed): 4.82 Ac
Parcel 'A': 3.25 Ac
Parcel 'B': 1.73 Ac
Existing Zoning: R-7.5
Proposed Zoning: R-7.5

Existing Building Size: N/A
Proposed Building Size: 12,000 SF (12 Beds)

Site Data

Parking Required:
(1 Space/Bed): 12 Spaces
Parking Provided: 28 Spaces

DATE: 12/07/16

THIS DRAWING IS CONCEPTUAL AND HAS BEEN PREPARED WITHOUT BENEFIT OF A SITE SURVEY. THEREFORE, PROPERTY LINES, NEIGHBORHOODS, AND OTHER SITE SPECIFIC DATA ARE APPROXIMATE. CONCEPT DRAWINGS ARE GENERAL IN NATURE AND ARE INTENDED ONLY TO ILLUSTRATE THE DEVELOPMENT POTENTIAL FOR A PROPERTY. THEY SHOULD NOT BE RELIED UPON AS THE SOLE BASIS FOR ANY FINANCIAL OR LEGALLY BINDING TRANSACTION.

0 40 80
1 INCH = 40 FT



MSA, P.C.
Environmental Sciences • Planning • Surveying
Civil & Environmental Engineering • Landscape Architecture

5033 Rouse Drive, Virginia Beach, VA 23462
757-490-9264 (Off) 757-490-0634 (Fax)
www.msaonline.com

MSA PROJ # 16251

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 Hospice House of Hampton Roads

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

- If yes, list the name of the representative.

Mark Borst

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

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

See attached list

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

None

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

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

Disclosure Statement



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

☒ **Yes** ☐ **No**

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

Mike Kos, Southern Bank

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

☐ **Yes** ☒ **No**

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

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

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

Westminster-Canterbury on Chesapeake Bay

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.

Duff Kliewer with Cox, Kliewer & Associates

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.

Chad Brochard, Whiting Turner

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.

Scott Acey, MSA

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.

Hugh Patterson & Stephen Brewer

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.

David B. Myers

Applicant Signature

David B. Myers, CFO

Print Name and Title

11/28/22

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	

Continue to Next Page for Owner Disclosure

Disclosure Statement



Owner Disclosure

Owner Name _____

Applicant Name Hospice House of Hampton Roads

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

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

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

Known Interest by Public Official or Employee

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

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

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

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

Disclosure Statement



Owner Services Disclosure

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

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

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

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

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

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

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

Disclosure Statement



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

Owner Signature

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

Owner Signature

Print Name and Title

Date

HHHR BOD ROSTER

Executive Director - Lynn Clements - 757-651-4832

Director	Committee/Position	Phone Number	Email
Ms. Cindy Curtis	Building, Exec, Treasurer Finance and Audit, Chair	757-373-7336	cindycurtisvt1@aol.com
Dr. Marissa Galicia-Castillo	Medical Advisor	757-839-1155	galiciacastillo.smc@gmail.com
Dr. Paul Conkling	<i>Director</i>	757-286-1463	paul.conkling@usoncology.com
Mr. Patrick Gill	Building, Co-Chair, Fundraising, Nominating	757-672-9391	patrick.gill@colliers.com
Dr. Terry Jenkins	Fundraising	757-214-5561	ljenkins37@gmail.com
Mr. John Langlois	<i>Director</i>	757-681-7202	john@televideoproductions.com
Mrs. Paula Miller	Fundraising	757-773-8787	paulamiller87@msn.com
Mr. Jim Oliver	Fundraising	757-235-1889	ndjimoliver@gmail.com
Ms. Mary Parker	Fundraising	757-407-3277	parkers4125@cox.net
Mr. Hugh Patterson, Esq.	Legal Counsel, Fundraising, Honorary Chair	757-422-1345	hpatterson@wilsav.com
Mr. Chick Robison, III	Building, Co-Chair Fundraising, Nominating, Chair	757-630-7444	cdrobison3@cox.net
Dr. Amelia Ross-Hammond	<i>Director</i>	(757) 270-4658	anrphd@aol.com
Dr. Paul Schellhammer	Exec, Chair Fundraising	757-287-0860	pfschellhammer@gmail.com
Mr. Jim Spore	Building, Finance & Audit, Fundraising	757-961-8181	james.k.spore@gmail.com
Mr. Martin Thomas	Exec, Vice Chair Fundraising Finance and Audit	757-622-3317	mthomas@decklaw.com
Ms. Barbara Unkle	Exec, Secretary Building, Finance & Audit, Fundraising	817-676-5049	barbara.unkle@gmail.com

HHHR BOD ROSTER

Mr. Alvin Wall	Finance & Audit	757-285-7286	awall@wec-cpa.com
Mr. Mark Warden	Fundraising	757-623-3676	mark.warden@wstam.com

I. FORMAL SESSION AGENDA

1. CONSENT AGENDA

J. ORDINANCES/RESOLUTION

1. Ordinance to **AMEND** City Code 18-5.2 re **business license fees and taxes and provide revenue offsets:**
Option 1 (\$200,000 Threshold Version)
Option 2 (\$300,000 Threshold Version)
Option 3 (\$500,000 Threshold Version)
(Requested by Council Members Moss, Tower and Wooten)
2. Ordinance to **AMEND** City Code Section Chapter 23, Article II re **noise** (Requested by Council Members Moss and Tower) Deferred from October 18, 2022
3. Ordinance to **ADD** Article XVI to City Code Chapter 35 re **establish disposable plastic bag tax** Deferred from September 6, 2022 (Requested by Council Member Tower - **COUNCIL MEMBER TOWER REQUESTS WITHDRAWAL**)
4. Ordinance to **ACCEPT** the recommendations of the **Citizens Committee on Boards and Commissions** (Requested by Council Members Berlucchi and Henley)
5. Resolution to **REQUEST** the Virginia Beach Development Authority (VBDA) to continue forbearance on the loan to **Vanguard Landing, LLC** (Requested by Council Member Henley)
6. Ordinance to **APPROPRIATE** \$100,000 of the Tourism Investment Program (TIP) fund to the FY 2022-23 Convention and Visitors Bureau Operating Budget and **INCREASE** the Annual Grant re **Neptune Festival** (Requested by Council Members Berlucchi and Branch)
7. Ordinance to **DECLARE** City-owned property at **3000 Barberry Lane** to be in **EXCESS** of the City's needs and **AUTHORIZE** the City Manager to sell same to **Joseph P. and Amy L. Heilman**
8. Ordinance to **AUTHORIZE** acquisition of property in fee simple and the acquisition of temporary and permanent easements, either by agreement or condemnation re **Shore Drive Corridor Improvements - Phase III Project, CIP 100381 (formerly CIP 2-117)**
9. Ordinance to **AUTHORIZE** temporary encroachments into a portion of City right-of-way known as **Windsor Crescent** re **maintain existing stone patios, stone walls, PVC fence, brick steps, fire pit, wood fence and grassy area** at the rear of 3868 Jefferson Boulevard (District 9, Formerly District 4 – Bayside)
10. Ordinance to **AUTHORIZE** temporary encroachments into a portion of City-owned Property known as **West Canal** re **maintain an existing vinyl bulkhead, construct and maintain a vinyl bulkhead, wharf, and four (4) pile boat lift** at the rear of 2304 Windward Shore Drive (District 8, Formerly District 5 – Lynnhaven)
11. Ordinance to **APPROPRIATE** \$2-Million of the Tourism Investment Program (TIP) fund and **AUTHORIZE** the City Manager to **EXECUTE** a Sponsorship Agreement re **Something in the Water, LLC**

12. Ordinance to **ACCEPT** and **APPROPRIATE** \$3,575,692 from the Virginia Department of Transportation (VDOT) for **roadway work** to CIP Projects 100425 "Traffic Signal Rehabilitation Project Phase II" and 100401 "Street Reconstruction Phase II" and FY2022-23 Public Work Operating Budget re **purchase a bucket truck and street light parts**
13. Ordinance to **ACCEPT** and **APPROPRIATE** \$750,000 from the Commonwealth Opportunity Fund to Virginia Beach Development Authority (VBDA) re **award for the Acoustical Sheetmetal Project**
14. Ordinance to **ACCEPT** and **APPROPRIATE** \$562,485 from the Virginia Department of Criminal Justice Services to the Virginia Beach City Public Schools as a grant subrecipient re **15 Security Officers and/or Security Assistants**
15. Ordinance to **ACCEPT** and **APPROPRIATE** \$440,000 from the Department of Behavioral Health and Development Services to the FY2022-23 Human Services Operating Budget re **support substance use disorder programs**
16. Ordinance to **ACCEPT** and **APPROPRIATE** \$214,809.75 from the Virginia Department of Agriculture and Consumer Services to the FY2022-23 Agricultural Reserve Program (ARP) Special Revenue Fund Operating Budget re **reimburse City for a portion of cost to acquire preservation easement**
17. Ordinance to **ACCEPT** and **APPROPRIATE** \$146,220 from the Department of Behavioral Health and Development Services to the FY2022-23 Human Services Operating Budget re **Project LINK support services**



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance to Amend Section 18-5.2 of the City Code Pertaining to Business License Fees and Taxes and to Provide Revenue Offsets

MEETING DATE: December 6, 2022

■ **Background:** As discussed in December 2021 and at the Workshop on November 22, 2022, the Commissioner of the Revenue has proposed providing business license tax relief by increasing the thresholds below which a business pays a flat fee for a business license.

Currently, a business with \$25,000 or less in gross receipts would pay \$40, and a business with \$25,001 to \$100,000 would pay \$50. There are three proposals for the City Council to consider:

- Option 1 (“\$200,000 Threshold Version”) would provide businesses with \$25,000 or less in gross receipts would pay \$25, a business with \$25,001 to \$100,000 would pay \$40, and a business with \$100,001 to \$200,000 would pay \$50. This change will require identification of revenue offsets in the amount of \$1,059,792.
- Option 2 (“\$300,000 Threshold Version”) would provide businesses with \$25,000 or less in gross receipts would pay \$25, a business with \$25,001 to \$100,000 would pay \$40, and a business with \$100,001 to \$300,000 would pay \$50. This change will require identification of revenue offsets in the amount to \$1,953,880.
- Option 3 (“\$500,000 Threshold Version”) would provide businesses with \$25,000 or less in gross receipts would pay \$25, a business with \$25,001 to \$100,000 would pay \$40, and a business with \$100,001 to \$500,000 would pay \$50. This change will require identification of revenue offsets in the amount of \$3,653,309.

■ **Considerations:** The anticipated revenue offset for the business license program will require a contribution from both the City and the Schools. As proposed, the Schools’ portion will be subject to reservation while the City waits for the School Board to enact a resolution to identify the Schools’ offset. The City offset is proposed to be from attrition savings.

■ **Public Information:** Normal Council agenda process.

■ **Attachments:** Ordinance (3 options presented)

Requested by Councilmembers Moss, Tower and Wooten

REQUESTED BY COUNCILMEMBERS MOSS, TOWER AND WOOTEN

\$200,000 Threshold Version

AN ORDINANCE TO AMEND SECTION 18-5.2 OF THE CITY CODE PERTAINING TO BUSINESS LICENSES FEES AND TAXES AND TO PROVIDE REVENUE OFFSETS

SECTION AMENDED: § 18-5.2

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

1. That Section 18-5.2 of the Code of the City of Virginia Beach, Virginia, is hereby amended and reordained to read as follows:

Sec. 18-5.2. License fees and taxes.

Effective January 1, 1997, every person required by section 18-5 of this chapter to have a business license shall pay the following license fees and taxes, as applicable, unless specifically provided otherwise:

(a) Businesses with gross receipts during the preceding calendar year of twenty-five thousand dollars (\$25,000.00) or less shall pay a fee of twenty-five ~~forty~~ dollars (~~\$25.00~~ ~~40.00~~);

(b) Businesses with gross receipts during the preceding calendar year of between twenty-five thousand and one dollars (\$25,001.00) and one hundred thousand dollars (\$100,000.00) shall pay a fee of forty ~~forty~~ dollars (~~\$40.00~~ ~~50.00~~);

(c) Businesses with gross receipts during the preceding calendar year of between one hundred thousand and one dollars (\$100,001.00) and two hundred thousand dollars (\$200,000.00) shall pay a fee of fifty dollars (\$50.00);

(d) ~~(e)~~ Businesses with gross receipts during the preceding calendar year of greater than two ~~one~~ hundred thousand dollars (~~\$200,000.00~~ ~~400,000.00~~) shall pay a license tax on gross receipts. Such license tax shall be calculated by applying the specific percentage rate provided in this chapter for each different classification of business to the amount of a business' gross receipts; and

(e) ~~(d)~~ For purposes of this section, the term "gross receipts" shall include, but not be limited to, the following: gross receipts, gross sales, gross commissions, gross contracts or orders.

2. To provide offsets totaling \$1,059,792 for this ordinance, \$564,339 for the City portion is hereby provided from attrition savings in the General Fund to the revenue

44 anticipated from business license taxes. The City Manager is hereby directed to put a
45 reservation of \$495,453 in the fiscal year amounts provided to the Virginia Beach City
46 Public Schools to allow the School Board to enact a resolution providing the offset
47 required by the City Schools Revenue Sharing Policy.
48

49 3. This ordinance shall apply for business license years on or after January 1, 2023.

Adopted by the City Council of the City of Virginia Beach, Virginia, on this ____
day of _____, 2022.

APPROVED AS TO LEGAL SUFFICIENCY:



City Attorney's Office

CA15502
R-2 (200k)
November 30, 2022

REQUESTED BY COUNCILMEMBERS MOSS, TOWER AND WOOTEN

\$300,000 Threshold Version

AN ORDINANCE TO AMEND SECTION 18-5.2 OF THE CITY CODE PERTAINING TO BUSINESS LICENSES FEES AND TAXES AND TO PROVIDE REVENUE OFFSETS

SECTION AMENDED: § 18-5.2

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

1. That Section 18-5.2 of the Code of the City of Virginia Beach, Virginia, is hereby amended and reordained to read as follows:

Sec. 18-5.2. License fees and taxes.

Effective January 1, 1997, every person required by section 18-5 of this chapter to have a business license shall pay the following license fees and taxes, as applicable, unless specifically provided otherwise:

(a) Businesses with gross receipts during the preceding calendar year of twenty-five thousand dollars (\$25,000.00) or less shall pay a fee of twenty-five ~~forty~~ dollars (\$25.00 ~~\$40.00~~);

(b) Businesses with gross receipts during the preceding calendar year of between twenty-five thousand and one dollars (\$25,001.00) and one hundred thousand dollars (\$100,000.00) shall pay a fee of forty ~~fifty~~ dollars (\$40.00 ~~\$50.00~~);

(c) Businesses with gross receipts during the preceding calendar year of between one hundred thousand and one dollars (\$100,001.00) and three hundred thousand dollars (\$300,000.00) shall pay a fee of fifty dollars (\$50.00);

(d) ~~(e)~~ Businesses with gross receipts during the preceding calendar year of greater than three ~~one~~ hundred thousand dollars (\$300,000.00 ~~\$100,000.00~~) shall pay a license tax on gross receipts. Such license tax shall be calculated by applying the specific percentage rate provided in this chapter for each different classification of business to the amount of a business' gross receipts; and

(e) ~~(d)~~ For purposes of this section, the term "gross receipts" shall include, but not be limited to, the following: gross receipts, gross sales, gross commissions, gross contracts or orders.

2. To provide offsets totaling \$1,953,880 for this ordinance, \$1,040,441 for the City portion is hereby provided from attrition savings in the General Fund to the revenue

44 anticipated from business license taxes. The City Manager is hereby directed to put a
45 reservation of \$913,439 in the fiscal year amounts provided to the Virginia Beach City
46 Public Schools to allow the School Board to enact a resolution providing the offset
47 required by the City Schools Revenue Sharing Policy.
48

49 3. This ordinance shall apply for business license years on or after January 1, 2023.

Adopted by the City Council of the City of Virginia Beach, Virginia, on this ____
day of _____, 2022.

APPROVED AS TO LEGAL SUFFICIENCY:



City Attorney's Office

CA15502
R-2 (300k)
November 30, 2022

REQUESTED BY COUNCILMEMBERS MOSS, TOWER AND WOOTEN

\$500,000 Threshold Version

AN ORDINANCE TO AMEND SECTION 18-5.2 OF THE CITY CODE PERTAINING TO BUSINESS LICENSES FEES AND TAXES AND TO PROVIDE REVENUE OFFSETS

SECTION AMENDED: § 18-5.2

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

1. That Section 18-5.2 of the Code of the City of Virginia Beach, Virginia, is hereby amended and reordained to read as follows:

Sec. 18-5.2. License fees and taxes.

Effective January 1, 1997, every person required by section 18-5 of this chapter to have a business license shall pay the following license fees and taxes, as applicable, unless specifically provided otherwise:

(a) Businesses with gross receipts during the preceding calendar year of twenty-five thousand dollars (\$25,000.00) or less shall pay a fee of twenty-five ~~forty~~ dollars (~~\$25.00~~ ~~40.00~~);

(b) Businesses with gross receipts during the preceding calendar year of between twenty-five thousand and one dollars (\$25,001.00) and one hundred thousand dollars (\$100,000.00) shall pay a fee of forty ~~forty~~ dollars (~~\$40.00~~ ~~50.00~~);

(c) Businesses with gross receipts during the preceding calendar year of between one hundred thousand and one dollars (\$100,001.00) and five hundred thousand dollars (\$500,000.00) shall pay a fee of fifty dollars (\$50.00);

(d) ~~(e)~~ Businesses with gross receipts during the preceding calendar year of greater than five ~~one~~ hundred thousand dollars (~~\$500,000.00~~ ~~100,000.00~~) shall pay a license tax on gross receipts. Such license tax shall be calculated by applying the specific percentage rate provided in this chapter for each different classification of business to the amount of a business' gross receipts; and

(e) ~~(d)~~ For purposes of this section, the term "gross receipts" shall include, but not be limited to, the following: gross receipts, gross sales, gross commissions, gross contracts or orders.

2. To provide offsets totaling \$3,653,309 for this ordinance, \$1,945,387 for the City portion is hereby provided from attrition savings in the General Fund to the revenue

44 anticipated from business license taxes. The City Manager is hereby directed to put a
45 reservation of \$1,707,922 in the fiscal year amounts provided to the Virginia Beach City
46 Public Schools to allow the School Board to enact a resolution providing the offset
47 required by the City Schools Revenue Sharing Policy.
48

49 3. This ordinance shall apply for business license years on or after January 1, 2023.

Adopted by the City Council of the City of Virginia Beach, Virginia, on this ____
day of _____, 2022.

APPROVED AS TO LEGAL SUFFICIENCY:



City Attorney's Office

CA15502
R-2 (500k)
November 30, 2022



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance to Amend Chapter 23, Article II of the City Code, Pertaining to Noise

MEETING DATE: December 6, 2022

■ **Background:** In 2009, the City Council adopted the current version of the noise ordinance after the Virginia Supreme Court declared the City's previous noise ordinance unconstitutionally vague. The current noise ordinance relies on sound pressure levels measured by noise meters.

■ **Considerations:** The proposed changes to the noise ordinance would streamline enforcement with reduced reliance on specialized sound meter equipment. The ordinance would establish a hybrid penalty structure, imposing civil penalties for some violations while preserving criminal penalties for repeat or severe violations.

A key change in the ordinance is the addition of a "plainly audible" standard, where certain sounds that are plainly audible inside an individual's home or beyond a specified distance from its source would constitute violations. Sound is plainly audible if it can be heard by the human ear with or without a medically approved hearing aid or device. A violation of the plainly audible standard would result in a civil violation punishable by a fine of \$250 for a first offense. Excessive noise as determined by decibel readings will continue to be violations under the proposed ordinance and may result in misdemeanor charges.

The ordinance was updated to address concerns raised by the Council during its May 24, 2022, workshop, such as clarifying the procedure to serve process on a business, reconciling the evening enforcement time, and defining "noise" and "noise source." It also incorporates other clarifying changes proposed by staff, including the combining of largely duplicative provisions in Sections 23-66(a) and (b) and inserting language that makes clear that plainly audible sound that is contained on the private property where the noise source is located would not give rise to a civil violation.

■ **Public Information:** Proposed amendments to the noise ordinance were briefed during the City Council Workshop on May 24, 2022. The ordinance was posted on the City's website with information on the Public Comment Session and how the public could provide input. Public comment was received by the City Council on June 7, 2022, on which date the Council deferred the item so additional public input could be received at a workshop that was held on June 28, 2022, and copies of the comments received during that community meeting were provided to the City Council. On July 12, 2022, the City Council deferred this item to October 18, 2022, to allow for additional public engagement.

Citizens and stakeholders provided additional comments and input via an online survey that opened on September 12 and closed on September 30, 2022. The ordinance was updated based upon comments received during the survey and posted on the City's

website with a spreadsheet summarizing the survey comments and staff analysis of the suggestions. The City's website provided information on two additional Public Comment Sessions and how the public could provide input until November 13, 2022. To allow for additional public engagement, the City Council deferred this item from October 18 to December 6, 2022.

On November 16, 2022, the sponsoring councilmembers held two community meetings where the survey suggestions were discussed, and members of the public provided additional feedback. Changes to the latest draft of the ordinance after public comment include an exception for generators during electricity outages, starting evening enforcement at 10:00 p.m., except at the Oceanfront and at Town Center, and minor technical changes for clarity.

REQUESTED BY COUNCILMEMBERS MOSS AND TOWER

REQUESTED BY COUNCILMEMBERS MOSS AND TOWER

AN ORDINANCE TO AMEND CHAPTER 23, ARTICLE II OF
THE CITY CODE, PERTAINING TO NOISE

SECTIONS AMENDED: §§ 23-63, -64, -65, -66, -67, -68, -69, -70,
AND -71

SECTIONS REPEALED: §§ 23-72 AND -73

WHEREAS, certain noise is a hazard to public health, welfare, peace and safety
and the quality of life of the citizens of Virginia Beach; and

WHEREAS, the residents of and visitors to the City of Virginia Beach are entitled
to and should be ensured of an environment free from noise that jeopardizes public
health, welfare, peace and safety or degrades the quality of life; and

WHEREAS, it is the policy of the City of Virginia Beach to protect the health,
welfare, peace and safety of its residents and visitors and to promote an environment free
from sound and noise disruptive of peace and good order;

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

That Sections 23-63, -64, -65, -66, -67, -68, -69, -70, and -71 of the Code of the
City of Virginia Beach, Virginia, are hereby amended and ordained to read as follows:

Chapter 23. OFFENSES

ARTICLE I. MISCELLANEOUS OFFENSES

....

ARTICLE II. NOISE

Sec. 23-63. Declaration of findings and policy.

The city City council hereby finds and declares that certain excessively loud noise
~~excessive sound~~ is a serious hazard to the public health, welfare, peace and safety and
the quality of life of the residents of, and the visitors to, Virginia Beach; ~~that a substantial~~
~~body of science and technology exists by which excessive sound may be substantially~~
~~abated~~; that the people have a right to and should be ensured of an environment free
from noise ~~excessive sound~~ that ~~may jeopardize~~ jeopardizes the public health, welfare,

peace and safety or degrades the quality of life; and that it is the public policy of the city council to prevent such ~~noise excessive sound~~ to the extent such action is not inconsistent with state or federal law or Constitutional ~~a citizen's First Amendment~~ rights.

Sec. 23-64. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

A-weighted sound level means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A) or dBA.

~~*Audible and discernable* means the sound can be heard by the human ear, and the sound is sufficiently distinct such that its source can be clearly identified.~~

~~*Background noise level* shall mean the aggregate of all sound sources impacting at the place where a specific sound generation is measured or evaluated, excluding the specific sound generation itself.~~

Central Business Core District means the area designated by that name on the Official Zoning Map.

Decibel (dB) means a unit for measuring the volume of a sound, equal to twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micropascals (twenty (20) micronewtons per square meter).

Dwelling unit means one (1) or more rooms arranged, designed, or intended to be occupied as living quarters, on a permanent or temporary basis, having rigid exterior wall structures.

~~*Emergency* means any occurrence or set of circumstances involving actual or imminent physical injury or illness or property damage that requires immediate action.~~

Emergency and public safety work means any work performed for the purpose of preventing or alleviating the physical injury, or illness, or property damage threatened or ~~caused by an emergency~~, or work performed by public and private service companies constructing, inspecting, and repairing utilities, repairing and maintaining roads, bridges, and highways, providing snow removal, and the operation of public safety and emergency vehicles.

Enclosed dwelling unit means the dwelling unit has its doors and windows closed.

Enclosed vehicle means a vehicle with all operable doors, windows, sunroof, and other openings closed.

~~Gross vehicle weight rating (GVWR) means the value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separable, the gross combination weight rating (GCWR), which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle, shall be used.~~

~~Instrument, machine or device means and refers to any musical instrument, radio, phonograph, compact disc player, cassette tape player, amplifier or any other machine or device for producing, reproducing or amplification of sound.~~

~~Medical care facility is defined as set forth in Section 32.1-102.1 of the Code of Virginia, 1950, as amended.~~

~~Motor carrier vehicle engaged in interstate commerce means any vehicle for which regulations apply pursuant to section 18 of the Federal Noise Control Act of 1972 (P.L. 92-574), as amended, pertaining to motor carriers engaged in interstate commerce.~~

~~Motorcycle means any motor vehicle designed to travel on not more than three (3) wheels in contact with the ground and any four wheeled vehicle weighing less than five hundred (500) pounds and equipped with an engine of less than six (6) horsepower, excepting farm tractors.~~

~~Motor vehicle means every vehicle defined as a motor vehicle by § 46.2-100 of Code of Virginia (1950), as amended any self-propelled device or device designed for self-propulsion, upon or by which any person or property is or may be drawn or transported upon a street or highway, except devices moved by human power or used exclusively upon stationary wheels or tracks.~~

~~Noise means the intensity, frequency, duration, or character of sounds from one or more sources any audible sound which disturbs or tends to disturb humans or which causes or tends to cause an adverse psychological or physiological effect on humans.~~

~~Noise source means any equipment, facility, motor vehicle, conduct, activity or operation, whether human, animal, mechanical, electronic or other, and whether continuous, intermittent or sporadic, and whether stationary or ambulatory in nature, which produces, broadcasts, or results in an audible sound.~~

~~Oceanfront Resort District means the area designated by that name on the Official Zoning Map.~~

~~Person means any individual, corporation, cooperative, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state or any legal successor, representative, agent or agency of the foregoing.~~

~~Plainly audible means any sound or noise that can be heard by the human ear with or without a medically approved hearing aid or device. Specific words or phrases need~~

not be discernible. The detection of bass reverberations is sufficient to constitute a plainly audible sound. The sound must not be so faint that its source cannot be identified.

Private property of another means any privately owned property other than the property where the noise source is located.

Public area means any real property owned by the government, including, but not limited to, public rights-of-way, sidewalks, parks, and buildings.

Residential dwelling means any building or other structure in which one or more persons resides on a permanent or temporary basis, including, but not limited to, houses, apartments, condominiums, hotels, and motels.

Restaurant means any building or structure where in the normal course of business food or drink is available for eating on the premises, in consideration for payment. For purposes of this chapter, the term restaurant includes, but is not limited to, bars, lounges, taverns, coffee shops and cafes.

School means a public school subject to Title 22.1 of the Code of Virginia, 1950, as amended, a private school serving children in one (1) or more grades between kindergarten and grade twelve (12), a school for students with disabilities as that term is defined in Section 22.1-319 of the Code of Virginia, 1950, as amended, a child day care center as that term is defined in Section 63.2-100 of the Code of Virginia, 1950, as amended, and any public or private institution of higher learning, as those terms are defined in Section 23.1-100 of the Code of Virginia, 1950, as amended.

Sound means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

Sound amplifying equipment means any machine or device for the amplification of the human voice, music or any other sound. This term shall not include warning devices on authorized emergency vehicles, or horns or other warning devices on other vehicles used only for traffic safety purposes.

Sound generation means any conduct, activity or operation, whether human, mechanical, electronic or other, and whether continuous, intermittent or sporadic, and whether stationary or ambulatory in nature, which produces or results in an audible sound.

Sound level means the weighted sound pressure level obtained by the use of a sound level meter and the A-frequency weighting network, as specified in American National Standards Institute specifications for sound level meters.

Sound level meter means an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter and weighting networks used to measure sound pressure levels.

Sec. 23-65. Administration and enforcement.

- (a) The department of police shall be charged with administering and enforcing the provisions of this article and may be assisted by other city departments as directed by the city manager. Enforcement of civil violations under Section 23-66 may be undertaken by a private party pursuant to a contract with the City provided that the contract shall not base the compensation payable to the contractor on the number of citations issued or fines received. The police department may issue a summons for enforcement of the noise control program established by this article and may be assisted by other city departments as required.
- (b) Any person operating, permitting, or controlling a source of noise shall be guilty of, or liable for, any violation caused by that source. If the person operating, permitting, or controlling the noise source cannot be identified, or the noise source is a business entity or premises, any owner, tenant, resident, or manager physically present on the property where the noise source is located may be charged with a violation of § 23-66 or § 23-67 if the circumstances establish their dominion and control over the noise source. In instances where businesses offer live entertainment that is the source of noise in violation of this chapter, any owner(s) or manager of such business who is on site at the time of the violation shall be rebuttably presumed to be the person operating, permitting, or controlling the noise source in cases where the violation is brought pursuant to the provisions of § 23-66. Nothing in this section shall preclude a private citizen from obtaining a magistrate's summons based upon a probable cause determination by the magistrate's office.
- (c) Whenever an authorized enforcement officer has reason to believe that a violation of any provision of this article has occurred, the enforcing officer may issue a notice of violation to the person operating, permitting, or controlling the source of the noise. In addition, in cases where the enforcing officer has reason to believe that the offending noise may re-occur, such officer may also issue to the owner or manager of the business or premises a written order requiring the owner or manager to take such corrective measures as are necessary to remedy the offending noise and to prevent such re-occurrence. The written order to cease and abate may be directed to any owner, manager, officer, director, or registered agent of such business or premises. The notice and order shall be in writing and shall be hand-delivered to the person to whom directed, or if not found, by mailing a copy thereof by certified mail to his or her usual place of abode and conspicuously posting a copy at the premises affected by notice and order, if any. Any owner or manager to whom a written order to cease and abate any violation of this Chapter is issued and who fails thereafter to timely remedy the violation or prevent re-occurrence of additional violations may be charged in accordance with the provisions of § 23-69(c)(2).
- (d) Nothing in this article shall prevent an authorized enforcement officer from making efforts to obtain voluntary compliance through warning, conference or any other appropriate means.

Sec. 23-66. Specific Prohibitions (Civil Violations).

Subject to the exceptions provided in Section 23-70, any of the following acts, or the causing or permitting thereof, is declared to be a civil violation of this Article without any requirement of scientific measurement of sound levels by a sound level meter or any similar device. This enumeration shall not be construed to limit, in any way, the general prohibitions contained in Section 23-67:

(a) Radios, television sets, musical instruments, loudspeakers, amplifiers and similar devices. Using, operating, playing or permitting the operation or playing of any radio, audio system in a motor vehicle, television, record, tape or compact disc player, drum, musical instrument, loudspeaker, communication system, amplifier, or any device capable of producing, reproducing or amplifying sound, or similar device in such a manner or with such volume or duration that it is plainly audible (i) inside the confines of another person's enclosed dwelling unit; or (ii) on private property of another or on any public property at a distance of 100 or more feet in any direction from the noise source between the hours of 7:00 a.m. and 10:00 p.m. ("the Daytime Hours"); or (iii) on private property of another or on any public property at a distance of 50 or more feet in any direction from the noise source between the hours of 10:00 p.m. and 7:00 a.m. ("the Night-time Hours"). Notwithstanding the foregoing, in the Oceanfront Resort District and the Central Business Core District, the Daytime Hours for purposes of this section shall be between 7:00 a.m. and 11:00 p.m., and the Night-time Hours shall be 11:00 p.m. to 7:00 a.m. -Any person who violates any provision of this article shall be deemed to be guilty of a Class 3 misdemeanor for a first offense. Any person who violates a provision of this article within one (1) year after a previous conviction under this article shall be guilty of a Class 2 misdemeanor.

(b) Vehicle horns, signaling devices and similar devices. Sounding or permitting the sounding of any horn, whistle, signaling device, or similar device on any automobile, motorcycle or other vehicle on any right-of-way or in any public space continuously or intermittently for more than ten (10) consecutive seconds, except when the sounding of any such device is intended as a danger warning. The person operating or controlling a noise source shall be guilty of any violation caused by that source. If that cannot be determined, any owner, tenant, resident or manager physically present on the property where the violation is occurring is rebuttably presumed to be operating or controlling the noise source.

(c) Non-emergency signaling devices. Sounding or permitting the sounding of any amplified signal continuously or intermittently from any bell, chime, siren, whistle or similar device intended primarily for non-emergency purposes from any one location for more than ten (10) consecutive seconds in any hourly period; provided, however, that this subsection shall not apply to the sounding of such devices by religious uses or by public bodies or agencies for testing, traffic control or other public purposes. In addition to and not in lieu of the penalties prescribed in this section, the city may apply to the circuit court for an injunction against the continuing violation of any of the provisions of this article and may seek any other remedy or relief authorized by law.

- (d) Emergency signaling devices, security, burglar and fire alarms, etc. Sounding or permitting the continuous or intermittent sounding outdoors of any emergency signaling device, or any security, burglar or fire alarm, siren, whistle, or similar device, including without limitation any motor vehicle security alarm, siren, whistle, or similar device, for a period in excess of ten (10) minutes in any residential area and fifteen (15) minutes in any other area, except in response to a burglary, attempted burglary, fire, or other emergency after giving notice and a reasonable opportunity for the owner or person in possession of the premises served by any such alarm to turn off the alarm.
- (e) Explosive, fireworks and similar devices. Using or firing any explosives, fireworks or similar devices which create impulsive sound in such a manner as to be plainly audible (i) inside the confines of another person's enclosed dwelling unit; or (ii) on private property of another or on any public property at fifty (50) or more feet from the noise source. An exception to this subsection may be granted by the City Manager through a fireworks permit.
- (f) Yelling, shouting, etc. Yelling, shouting, whistling or singing between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to permit sound to be plainly audible (i) inside the confines of another person's enclosed dwelling unit; or (ii) on private property of another or on any public property at fifty (50) or more feet from the noise source.
- (g) Social gatherings and parties. Allowing any noise between 10:00 p.m. and 7:00 a.m. generated from a gathering of two (2) or more people that is plainly audible (i) inside the confines of another person's enclosed dwelling unit; or (ii) on private property of another or on any public property, at fifty (50) or more feet from the gathering.
- (h) Schools, public buildings, places of worship, and hospitals. The creation of any noise on the grounds of or on any street adjacent to any school, court, public building, place of worship, hospital, nursing home, or assisted-living facility while the same is in use in a manner that is plainly audible within such building while it is use and interferes with the operation of the institution.
- (i) Vehicles. Operation of a motor vehicle or operation of a motorcycle within the city with a gutted muffler, muffler cutout, straight exhaust, or without an exhaust system in good working order, as provided by Code of Virginia, §§ 46.2-1047 and 46.2-1049.
- (j) Construction equipment, pneumatic hammer, chain saw, etc. The operation of any bulldozer, crane, backhoe, front loader, pile driver, jackhammer, pneumatic drill, pneumatic hammer, chain saw, steam shovel, derrick, steam or electric hoist, or other appliance or other construction equipment between the hours of 10:00 p.m. and 7:00 a.m. except as provided in section 23-70 below, or as specifically deemed necessary and authorized by a written document issued by the city manager or his designee.
- (k) Animals. Allowing any animal or bird to create sound or noise that is plainly audible at least once a minute for twenty (20) consecutive minutes (i) inside the confines of another person's enclosed dwelling unit; or (ii) on private property of another or on

any public property at a distance of fifty (50) feet or more from the animal or bird.
This subsection shall not apply to any bona fide agricultural activity.

(l) Commercial vehicle and trash collection vehicle operation. The operation of a trash, refuse, waste, or recycling collection vehicle, or other commercial vehicle between the hours of 10:00 p.m. and 7:00 a.m., in such a manner as to be plainly audible inside the confines of another person's enclosed dwelling unit.

(m) Lawn care activities. Creating any sound or noise plainly audible inside the confines of another person's enclosed dwelling unit between 10:00 p.m. and 7:00 a.m. in connection with lawn care, leaf removal, gardening, tree maintenance or removal or other landscaping, lawn or timbering activities.

Sec. 23-67. Noise violations measured by sound level meter; maximum permitted levels (Criminal Violations)-Exceptions.

~~No provisions of this article shall apply to (1) the emission of sound for the purpose of alerting persons to the existence of an emergency; (2) the emission of sound in the performance of emergency work; (3) activities sponsored by the city; (4) activities authorized by a permit issued pursuant to sections 4-1 or 24-6; or (5) activities for which the regulation of noise has been preempted by federal law.~~ In addition to the specific prohibitions of Sections 23-66 above, certain other sounds or noises shall be regulated on a decibel basis as measured by a sound level meter. Subject to the exceptions provided in Section 23-70, any of the following acts, or the causing or permitting thereof, is declared to be a criminal violation of this Article:

(a) Operating, permitting, or causing any source of sound or noise to create a sound level inside the confines of another person's enclosed dwelling unit between the hours of 10:00 p.m. and 7:00 a.m. ("Night-time Hours") in excess of fifty-five (55) dBA, or between the hours of 7:00 a.m. and 10:00 p.m. ("Daytime Hours") in excess of sixty-five (65) dBA, when measured inside the enclosed dwelling unit at least four (4) feet from the wall nearest the source, with doors and windows to the receiving area closed.

(b) Operating, permitting, or causing any source of sound or noise to create a sound level that when measured in any public area, including but not limited to any public street or sidewalk, or from other private property, between the hours of 10:00 p.m. and 7:00 a.m. ("Night-time Hours") exceeds sixty-five (65) dBA, or between the hours of 7:00 a.m. and 10:00 pm ("Daytime Hours") exceeds seventy-five (75) dBA.

(c) Notwithstanding the foregoing, in the Oceanfront Resort District and the Central Business Core District, the Daytime Hours for purposes of this section shall be between 7:00 a.m. and 11:00 p.m., and the Night-time Hours shall be 11:00 p.m. to 7:00 a.m.

Sec. 23-68. Sound level meter measurement procedures (Criminal Violations)-Use of sound level meters.

(a) The decibel level of any sound or noise regulated on a decibel basis by this article shall be measured by a sound level meter. Such measurements shall be accepted as prima facie evidence of the level of sound or noise at issue in any court or legal proceeding to enforce the provisions of this article. The accuracy of the sound level meter may be tested by a calibrator. Any sworn report of the results of any test of the calibrator for the accuracy of a sound level meter shall be admissible in court in any criminal or civil proceeding, as evidence of the facts therein stated. The test results shall be prima facie evidence if administered in accordance with Code of Virginia § 19.2-270.7. In order to implement and enforce this article effectively, the chief of police shall promulgate standards and procedures for using and testing sound level meters used in the enforcement of this article.

(b) An individual operating a sound level meter pursuant to the provisions of this article shall issue a certificate to indicate:

(1) That the sound level meter used to take the decibel level reading was operated in accordance with the manufacturer's specifications;

(2) That the city has on file a sworn report which states that the sound level meter has been tested within the past twelve (12) months and has been found to be accurate;

(3) The name of the accused;

(4) The location of the sound or noise;

(5) The date and time that the reading was made; and

(6) The decibel level reading.

(c) Such certificate, when attested by the operator taking the decibel level reading, shall be admissible in court in any proceeding as evidence of the facts therein stated and of the decibel level reading. A copy of the certificate shall be delivered to the accused upon request.

Sec. 23-69. Violations and Penalties ~~Maximum sound levels and residential dwellings.~~

(a) Civil Violations. Any person who commits, permits, or assists in any violation of Section 23-66 of this article, whether by act or omission, shall be liable for a civil violation as follows:

(1) The first violation by such person shall be punished by a civil penalty in the amount of \$250.

- (2) The second violation, and any subsequent violation, committed by such person within one year of any previous violation shall be punished by a civil penalty in the amount of \$500.

(b) Procedures for Civil Violations.

- (1) If an authorized enforcement officer determines that a civil violation of this article has occurred, the officer may cause a notice of the violation to be hand-delivered to any or all persons committing, permitting, or assisting in such violation, or if not found, by mailing a copy thereof by certified mail to his or her usual place of abode and conspicuously posting a copy at the premises which is the source of the noise, if any, in accordance with § 23-65.
- (2) The notice shall provide that the person charged with a violation may elect to make an appearance in person, or in writing by mail, to the treasurer of the city, and admit liability for or plead no contest to the violation, abate the violation, and pay the civil penalty established for the violation, all within the time period fixed in the notice.
- (3) If a person charged with a civil violation does not elect to admit liability or plead no contest, and abate the violation, the violation shall be tried in the Virginia Beach General District Court upon a warrant in debt or motion for judgment, with the same right of appeal as provided for civil actions at law.
- (i) In the event the violation exceeds the jurisdictional limits of the General District Court, the violation shall be tried in the Virginia Beach Circuit Court.
- (4) A finding or admission of liability or a plea of no contest to a civil violation shall not be deemed evidence of a criminal violation for any purpose.
- (5) A notice of civil violation as provided in this section may be issued or had, notwithstanding that no prior notice of violation and ordering of corrective measures as provided in Section 23-65 has been given.

(c) Criminal Violations.

- (1) Any person who commits, permits, or assists in any violation of Section 23-67 of this article, whether by act or omission, shall be guilty of a misdemeanor as follows:
- (i) The first violation by such person shall constitute a class 2 misdemeanor.
- (ii) The second violation, and any subsequent violation, committed by such person within one year of any previous violation shall constitute a class 1 misdemeanor.

(2) Any person who knowingly refuses or neglects to comply with any injunction order issued by a Court of competent jurisdiction or any written order to cease or abate any violation of this article, issued by an authorized enforcement officer pursuant to Section 23-65(c), shall be guilty of a misdemeanor as follows:

(i) The first violation by such person shall constitute a class 2 misdemeanor.

(ii) The second violation, and any subsequent violation, committed by such person within one year of any previous violation shall constitute a class 1 misdemeanor.

(d) Injunction. In addition to and not in lieu of the penalties prescribed in this section, the city may apply to the Virginia Beach Circuit Court for an injunction against the continuing, repeated, or intermittent violation of any of the provisions of this article and may seek any other remedy or relief authorized by law.

(e) Each hour of a continued, repeated, or intermittent violation shall constitute a separate offense, whether civil or criminal, under this article.

~~(a) *Nighttime.* No person shall permit, operate or cause any source of sound to create a sound level that can be heard in another person's residential dwelling during the hours between 10:00 p.m. and 7:00 a.m. in excess of 55 dBA when measured inside the residence at least four (4) feet from the wall nearest the source, with doors and windows to the receiving area closed.~~

~~(b) *Daytime.* No person shall permit, operate or cause any source of sound to create a sound level in another person's residential dwelling during the hours between 7:00 a.m. and 10:00 p.m. in excess of 65 dBA when measured inside the residence at least four (4) feet from the wall nearest the source, with doors and windows to the receiving area closed.~~

~~(c) *Measurements in multifamily dwellings or mixed use structures.* In a structure used as a multifamily dwelling or a mixed use structure, the police department may take measurements to determine sound levels from indoor common areas or other dwelling units within the structure, when requested to do so by a residential occupant in possession and control thereof. Such measurement shall be taken at a point at least four (4) feet from the wall, ceiling or floor nearest the noise source, with doors and windows to the receiving area closed.~~

~~(d) *Exemptions.* The following activities or sources of noise shall be exempt from the daytime prohibition set forth in subsection (b) of this section:~~

~~(1) Band performances or practices, athletic contests or practices and other school-sponsored activities on the grounds of public or private schools, colleges, or universities.~~

~~(2) Athletic contests and other officially sanctioned activities in city parks or facilities.~~

- 484 ~~(3) Activities related to the construction, repair, maintenance, remodeling or~~
485 ~~demolition, grading or other improvement of real property.~~
- 486 ~~(4) Gardening, lawn care, tree maintenance or removal, and other landscaping~~
487 ~~activities.~~
- 488 ~~(5) Agricultural activities.~~
- 489 ~~(6) Church bells, carillons, or calls to worship by other sound-producing devices.~~
- 490 ~~(7) Religious or political gatherings to the extent that those activities are protected~~
491 ~~by the First Amendment to the United States Constitution.~~
- 492 ~~(8) Public transportation, refuse collection and sanitation services.~~

493
494 **Sec. 23-70. Exceptions ~~Motor vehicle maximum sound levels; amplified sound~~**
495 **~~from vehicles.~~**
496

497 The prohibitions found in Sections 23-66 and 23-67 shall not apply to:

- 498 (a) Noise created for purposes of alerting persons to the existence of an emergency,
499 provided such noise ceases once any such threat is no longer imminent.
- 500 (b) Noise created in the performance of emergency and public safety work or law
501 enforcement activities, including radios, sirens, horns, and bells on police, fire, or
502 other emergency response vehicles.
- 503 (c) Noise created by and as a result of events or activities sponsored by the City.
- 504 (d) Activities permitted by law for which a specific license or permit has been granted
505 by the city, state or federal government; including, but not limited to, noise generated
506 by and necessary for the conduct of public festivals, parades, special events, and
507 celebrations of recognized federal, state and local holidays.
- 508 (e) Noise or sound produced by a horn or warning device of a vehicle when used as a
509 warning device, including back-up alarms for trucks and other equipment.
- 510 (f) Clocks, bells, and carillons between the hours of 7:00 a.m. and 10:00 p.m., provided
511 that any such sounds do not occur for more than five (5) consecutive or non-
512 consecutive minutes in any one (1) hour.
- 513 (g) Locomotives and other railroad equipment, and aircraft.
- 514 (h) Military activities of the Commonwealth of Virginia or of the United States of America.
- 515 (i) Activities for which the regulation of noise has been preempted by federal law.
- 516 (j) Agricultural activities conducted between the hours of 7:00 a.m. and 10:00 p.m. in
517 an area zoned Agricultural and engaged in bonafide agricultural activity.
- 518 (k) Band performances or practices, athletic contests or practices and other school-
519 sponsored activities on the grounds of public or private schools, colleges, or
520 universities.

(l) Normal and customary use of outdoor recreational facilities owned or leased by the city.

(m) Normal and customary use of open-air venues for which a conditional use permit or a special exception pursuant to the Alternative Compliance Provisions has been issued pursuant to the City Zoning Ordinance.

(n) Noise created by the use of a generator used to provide electricity to homes and commercial buildings during periods when the electric utility is unable to supply electricity to the area in which the home or commercial building is located or during the testing of such generator, provided the testing does not exceed 15 minutes in duration and occurs no more frequently than once per week and between the hours of 7:00 a.m. and 10:00 p.m.

~~(a) No person shall operate or cause to be operated a public or private motor vehicle or motorcycle on a public right-of-way at any time in such a manner that the sound level emitted by the operation of the motor vehicle or motorcycle, when measured at a distance of one hundred (100) feet or more is audible and discernable or exceeds the level set forth in the following table:~~

Vehicle Class	Sound level in dBA	
	Speed limit 35 MPH or less	Speed limit over 35 MPH
All motor vehicles of GVWR or GCWR of 6,000 lbs. or more	86	90
Any motorcycle	82	86
Any other motor vehicle or any combination of vehicles towed by any motor vehicle	76	82

~~(b) This section shall not apply to any motor carrier vehicle engaged in interstate commerce.~~

~~(d) Notwithstanding any other provisions of this section or article, it shall be unlawful for any person to play or operate, or permit the playing, use or operation of, any radio, tape player, compact disc player, loud speaker or other electronic device used for the amplification of sound, which is located within a motor vehicle being operated or parked on public or private property within the city, including any public or private street or alley, in such a manner as to be audible and discernable at a distance of one hundred (100) or more feet from the vehicle in which it is located.~~

~~The provisions of this subsection shall not apply to motor vehicles driven in a duly authorized parade, nor to motor vehicle alarms or other security devices, nor to the emission of sound for the purpose of alerting persons to the existence of an emergency or the emission of sound in the performance of emergency work.~~

Sec. 23-71. Severability Specific Prohibitions.

A determination of invalidity or unconstitutionality by a court of competent jurisdiction of any clause, sentence, paragraph, section or part of this article shall not affect the validity of the remaining parts thereto.

~~The following acts are declared to be violations of this article. This enumeration shall not be construed to limit, in any way, the general prohibitions contained in section 23-69:~~

~~(a) *Vehicle horns, signaling devices and similar devices.* Sounding any horn, signaling device, or similar device on any automobile, motorcycle or other vehicle on any right-of-way or in any public space continuously or intermittently for more than ten (10) consecutive seconds, except when the sounding of any such device is intended as a danger warning.~~

~~(b) *Nonemergency signaling devices.* Sounding or permitting the sounding of any amplified signal continuously or intermittently from any bell, chime, siren, whistle or similar device intended primarily for nonemergency purposes from any one location for more than ten (10) consecutive seconds in any hourly period; provided, however, that this subsection shall not apply to the sounding of such devices by religious uses or by public bodies or agencies for testing, traffic control or other public purposes.~~

~~(c) *Emergency signaling devices, security, burglar and fire alarms, etc.* Sounding or permitting the continuous or intermittent sounding outdoors of any emergency signaling device, or any security, burglar or fire alarm, siren, whistle, or similar device, including without limitation any motor vehicle security alarm, siren, whistle, or similar device, for a period in excess of ten (10) minutes in any residential area and fifteen (15) minutes in any other area, except in response to a burglary, attempted burglary, fire, or other emergency.~~

~~(d) *Audio and audio-visual devices, musical instruments, amplified sound etc., excluding those in motor vehicles.* The playing or operation of any television, boombox, stereo, phonograph, radio, tape player, compact disc player, MP3 player, video player, musical instrument, drum, amplifier or any other device that produces, reproduces or amplifies sound except for those located in motor vehicles, where the sound, when measured in any public area including but not limited to any public street or sidewalk, or from other private property between the hours of 7:00 a.m. and 11:00 p.m. exceeds eighty (80) dB(A), or between the hours of 11:00 p.m. and 7:00 a.m. exceeds seventy-five (75) dB(A); provided, however that the provisions of this subsection shall not apply to any outdoor performance, parade, gathering, dance, concert, show, sporting event, or other event sponsored by the city or for which the city has granted a permit.~~

~~(e) *Noise sensitive areas.* The making of any unreasonably loud and raucous noise within two hundred (200) feet of any school, place of worship, court, hospital, nursing home, or assisted living facility while the same is being used as such, that substantially interferes with the workings of the institution.~~

598 ~~(f) Construction equipment. The operation of any bulldozer, crane, backhoe, front~~
599 ~~loader, pile driver, jackhammer, pneumatic drill, or other construction equipment~~
600 ~~between the hours of 9:00 p.m. and 7:00 a.m. except as provided in section 23-~~
601 ~~67 above, or as specifically deemed necessary and authorized by a written~~
602 ~~document issued by the city manager or his designee.~~

603 **Sec. 23-72. Sound levels; restaurants.**

604
605 No person shall permit, operate or cause any source of sound to create a sound level
606 emanating from a restaurant during the hours between 7:00 a.m. and 11:00 p.m. in excess
607 of eighty (80) dB(A), or between 11:00 p.m. and 7:00 a.m. in excess of seventy-five (75)
608 dB(A) when measured from any public area including, but not limited to, any public streets
609 or sidewalks, or other private property.

610
611 **Sec. 23-73. Severability.**

612
613 A determination of invalidity or unconstitutionality by a court of competent jurisdiction
614 of any clause, sentence, paragraph, section or part of this article shall not affect the
615 validity of the remaining parts thereto.

Adopted by the Council of the City of Virginia Beach, Virginia, on the _____ day of
_____, 2022.

APPROVED AS TO LEGAL SUFFICIENCY:


City Attorney's Office

CA15515
R-9
November 28, 2022



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance to Add Article XVI to Chapter 35 of the City Code to Establish a Disposable Plastic Bag Tax

MEETING DATE: December 6, 2022

■ **Background:** The General Assembly has adopted enabling legislation to allow localities to impose a tax upon disposable plastic bags provided to customers in grocery stores, convenience stores, and drugstores. The tax is in the amount of five cents for each disposable plastic bag. This tax is administered by the Virginia Department of Taxation, and the applicable grocery store, convenience store, and drugstore will retain one cent of the amount collected as a “retailer discount.” The tax does not apply to bags used solely to avoid contamination or damage of ice cream, meat and perishable food.

■ **Considerations:** While this tax will generate revenue, it is generally intended to discourage the use of disposable plastic bags, which often end up in waterways, parks, and streets. The use of generated revenue is statutorily limited to “environmental cleanup, providing education programs designed to reduce environmental waste, mitigating pollution and litter, or providing reusable bags to recipients of Supplemental Nutrition Assistance Program (SNAP) or Women, Infants, and Children Program (WIC) benefits.” (Va. Code § 58.1-1745(B))

The proposal for a disposable plastic bag tax was brought forward from a group of supporters including Lynnhaven River Now, the Chesapeake Bay Foundation, TFC Recycling, Surfrider Foundation, Virginia League of Conservation Voters, and the Virginia Beach Green Ribbon Committee, Clean Community Commission, Parks and Recreation Foundation, and Aquarium Foundation.

The previous draft of this item had the tax effective January 1, 2023. State law requires three-month notice to the Tax Commissioner prior to the implementation of the tax, so this ordinance includes an effective date of April 1, 2023.

This item was deferred by the City Council during its July 5 and September 6, 2022 meetings.

■ **Public Information:** This tax concept was briefed to the City Council on June 7, 2022. The City Council received public comment during its June 21, 2022 meeting. Because this would be a new tax, a statutorily required public hearing was held on July 5, 2022. The City Council received a briefing on industry and community listening sessions during its August 23, 2022 Workshop.

■ **Attachments:** Ordinance

Initially requested by Councilmember Tower. Councilmember Tower has further advised that he believes this item requires further public education and discussion and should be withdrawn. Because the City Council, as a body deferred it to December 6, 2022, it will be placed on the Agenda.

REQUESTED BY COUNCILMEMBER TOWER

AN ORDINANCE TO ADD ARTICLE XVI TO CHAPTER 35
OF THE CITY CODE TO ESTABLISH A DISPOSABLE
PLASTIC BAG TAX

SECTIONS ADDED: 35-300; 35-301; 35-302; and 35-303

WHEREAS, a public hearing upon the imposition of a plastic bag tax was held at
the July 5, 2022 City Council meeting;

WHEREAS, the City Council hereby finds it appropriate to impose a plastic bag
tax and utilize the proceeds therefrom in accordance with Virginia Code § 58.1-1745;

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

1. Article XVI of Chapter 35 is hereby added to the City Code to read as follows:

Chapter 35 – Taxation

...

ARTICLE XVI. – DISPOSABLE PLASTIC BAG TAX

Sec. 35-300. – Levy; tax rate.

Pursuant to Va. Code § 58.1-1745, as amended, the City imposes a tax in the amount of five cents (\$0.05) for each disposable plastic bag provided to a consumer of tangible personal property by retailers in grocery stores, convenience stores, or drugstores. This tax shall be collected whether or not such disposable plastic bag is provided free of charge to the consumer.

Sec. 35-301. – Administration; collection; enforcement; appropriation.

(a) The tax on disposable plastic bags imposed pursuant to this Article shall be collected by the retailer, along with the purchase price and all other fees and taxes, at the time the consumer pays for such tangible personal property. The state Tax Commissioner shall then collect, administer, and enforce this tax from the retailer in accordance with Virginia law and distribute the tax revenue to the City in accordance with Virginia law and the applicable guidelines adopted by the state Tax Commissioner in accordance with Va. Code § 58.1-1748, as amended.

(b) All revenues accruing to the City from the tax imposed by this Article shall be subject to the appropriation limitation set forth in Virginia Code § 58.1-1745, as amended.

45
46 **Sec. 35-302. – Retailer discount.**
47

- 48 (a) Beginning January 1, 2023, every retailer that collects the tax imposed under this
49 Article shall be allowed to retain one cent (\$0.01) from the tax collected on each
50 disposable plastic bag.
51
52 (b) Any retailer that retains a discount pursuant to this Section shall account for it in
53 the form of a deduction when submitting its tax return and payment to the Virginia
54 Department of Taxation.
55

56 **Sec. 35-303. – Exemptions.**
57

58 The tax imposed under this Article shall not apply to the following:
59

- 60 (a) Durable plastic bags with handles that are specifically designed and manufactured
61 for multiple reuse and that are at least four mils thick;
62 (b) Plastic bags that are solely used to wrap, contain, or package ice cream, meat,
63 fish, poultry, produce, unwrapped bulk food items, or perishable food items in order
64 to avoid damage or contamination;
65 (c) Plastic bags used to carry dry cleaning or prescription drugs; and
66 (d) Multiple plastic bags sold in packages and intended for use as garbage, pet waste,
67 or leaf removal bags.
68

69 2. The effective date of this ordinance is April 1, 2023.
70

71 3. The City Manager is hereby directed to assemble a plan for the proposed use of
72 the revenue resulting from this ordinance. As provided in Virginia Code § 58.1-1745, the
73 appropriation of such funds is limited to "environmental cleanup, providing education
74 programs designed to reduce environmental waste, mitigating pollution and litter, or
75 providing reusable bags to recipients of Supplemental Nutrition Assistance Program
76 (SNAP) or Women, Infants, and Children Program (WIC) benefits."

Adopted by the Council of the City of Virginia Beach, Virginia on the ____ day of
_____, 2022.

Requires an affirmative vote by a majority of all of the members of City Council.

APPROVED AS TO LEGAL SUFFICIENCY:



City Attorney's Office

CA5782
R-2
November 21, 2022



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance Accepting the Recommendations of the Citizens Committee on Boards and Commissions

MEETING DATE: December 6, 2022

■ **Background:** On November 19, 2019, the City Council reestablished the Citizens Committee on Boards and Commissions ("Citizens Committee") to identify potential improvements to the appointment process for the City's boards and commissions and best practices for board operations. The Citizens Committee surveyed the chairs and staff liaisons of the City's boards and commissions; re-examined the 2003 recommendations of the previously appointed Citizens Committee; reviewed policies and procedures used by other localities in Hampton Roads and throughout the nation; received and incorporated advice and input from members of the City Council, the City Clerk's Office, the City Attorney's Office, the Office of Performance and Accountability (previously known as the STiR Office), and the Office of Volunteer Resources; developed model forms and templates for use by applicants and staff; and drafted a report with more than 200 recommendations and best practices. The Citizens Committee presented its 47-page Final Report to City Council of the Citizens Committee on Boards and Commissions ("Final Report") to the City Council in writing in June and during a televised Council Workshop in July.

■ **Considerations:** The ordinance provides that the City Council accepts the Final Report, which will replace the 2003 recommendations of the prior Citizens Committee. Implementation of the more than 200 recommendations will take time. The ordinance tasks the City Clerk, with the assistance of the City Manager, the City Attorney, and their employees, with implementing the recommendations from the Final Report. Instead of the City Council establishing an implementation board as contemplated by the Final Report, the ordinance directs the City Clerk to provide semi-annual status update reports to the City Council regarding steps taken to implement the recommendations.

■ **Public Information:** The Chair of the Citizens Committee provided a public briefing regarding the recommendations during the City Council's informal session on July 12, 2022. Additional public information will be provided through the normal Council agenda process.

■ **Attachments:** Ordinance and Final Report

Requested by Councilmembers Berlucchi and Henley

REQUESTED BY COUNCILMEMBERS BERLUCCHI AND HENLEY

**AN ORDINANCE ACCEPTING THE
RECOMMENDATIONS OF THE CITIZENS
COMMITTEE ON BOARDS AND
COMMISSIONS**

WHEREAS, the City Council values the vital role of its boards and commissions in making certain that the voices of the City's citizens are heard, because citizen input and participation with local government are critical to our quality of life;

WHEREAS, on November 19, 2019, the City Council reestablished the Citizens Committee on Boards and Commissions ("Citizens Committee") to identify potential improvements to the appointment process for the City's boards and commissions and best practices for board operations;

WHEREAS, following a delay necessitated by the COVID-19 Pandemic, the dedicated appointees who served on the Citizens Committee met 29 times and logged more than 500 volunteer hours from November 2020 to May 2022, while they carefully analyzed all aspects of the City's boards and commissions;

WHEREAS, the Citizens Committee surveyed the chairs and staff liaisons of the City's boards and commissions; re-examined the 2003 recommendations of the previously appointed Citizens Committee; reviewed policies and procedures used by other localities in Hampton Roads and throughout the nation; received and incorporated advice and input from members of the City Council, the City Clerk's Office, the City Attorney's Office, the Office of Performance and Accountability (previously known as the STiR Office), and the Office of Volunteer Resources; developed model forms and templates for use by applicants and staff; and drafted a report with more than 200 recommendations and best practices; and

WHEREAS, in June 2022, the Citizens Committee presented its 47-page Final Report to City Council of the Citizens Committee on Boards and Commissions ("Final Report") to the City Council in writing, and the Chair provided a public briefing on the recommendations during the Council Workshop on July 12, 2022;

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

1. The City Council hereby accepts the Final Report, which replaces the 2003 recommendations of the prior Citizens Committee.

2. The City Council expresses its deepest gratitude to the members of the Citizens Committee for their comprehensive report and their volunteer service to our City.

44 3. The City Clerk, with the assistance of the City Manager, the City Attorney,
45 and their employees, shall take the steps necessary to implement the recommendations
46 from the Final Report, but instead of the City Council establishing an implementation
47 board as contemplated in the Implementation section of the Final Report, the City Clerk
48 is directed to provide semi-annual status update reports to the City Council regarding
49 implementation of the recommendations.

50
51 Adopted by the City Council of the City of Virginia Beach, Virginia on the _____
52 day of _____, 2022.

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL SUFFICIENCY:



City Clerk's Office



City Attorney's Office

CA15994
R-2
November 29, 2022



City of Virginia Beach

Final Report to City Council

CITIZENS COMMITTEE ON BOARDS AND COMMISSIONS

June 3, 2022

EXECUTIVE SUMMARY

Dear Mayor Dyer, Vice Mayor Wilson, and Members of City Council,

In 2003 City Council appointed the first Citizens Committee on Boards and Commissions. That Committee made recommendations regarding all aspects of the City's Boards and Commissions, which Council adopted. In the nearly twenty years since, the City has taken great steps to implement many of those recommendations, but some were either not implemented or not uniformly enforced, new challenges arose, and the evolution of technology has significantly changed expectations and opportunities.

On November 19, 2019, City Council adopted the Resolution to "Re-establish the Citizens Committee on Boards and Commissions." Our Committee was tasked with identifying potential improvements to the appointment process and best practices for board operations and staffing, and advising City Council on these matters. Our assigned scope of work was limited to organizations with members appointed by City Council; Mayor's Commissions and committees convened by others were not addressed. Following an extensive review process beginning in November 2020 and culminating in May 2022, we respectfully provide the enclosed report and recommendations for City Council's consideration. We have also developed and included nine Exhibits containing forms and tools to accelerate implementation, rather than leaving that work to be performed later by City staff.

In developing these recommendations, our Committee met 29 times and logged over 500 volunteer hours. As a starting point, at our very first meeting the Committee was presented with a list of nearly 60 topics and questions compiled by the City Clerk's Office for evaluation. The Committee reviewed an extensive array of materials, including recommendations from the predecessor Committee, current City Ordinances, information from the City Clerk's website, print materials used to market opportunities on Boards and Commissions, and individual agency digital platforms. We examined procedures and materials from nearly 100 other localities from our neighboring localities in Hampton Roads to cities big and small all over the United States. In addition, we conducted two surveys: one among the chairs of the Boards and Commissions and one among the staff liaisons. Committee members also applied their extensive experience gathered from serving on numerous City Boards and Commissions.

Our Committee's work was not without its challenges. The COVID-19 pandemic delayed our first meeting by eight months and prolonged our efforts with virtual meetings and occasional cancellations. In addition, like many other City Boards and Commissions we were not immune to quorum and attendance issues. Indeed, our Committee started with eleven members and now concludes with seven members. The Court's Redistricting ruling also impacted the work of the Committee, causing us to re-examine some of our recommendations. Ultimately though, these challenges proved to be integral to many of our recommendations as they highlighted areas where City processes should be improved. Moreover, they suggested to us that consistent re-evaluation through a standing committee would be beneficial to the City and avoid recurrence of implementation problems the prior committee's work experienced.

During the course of our work the Committee also achieved a number of beneficial outcomes that have already impacted Boards and Commissions in the City. We assisted the Clerk's office

in revising the Boards and Commissions Pamphlet and revising the City website. We drafted and tested many proposed forms and procedures, including within our own Committee's operations. We efficiently engaged the City Attorney's Office to evaluate and assist with resolving policy concerns that have since been applied to multiple agencies. We also encouraged the addition of student members on Boards and Commissions and have seen several such opportunities added. Additionally, we significantly increased knowledge and best practices among staff, staff liaisons, and Board and Commission chairs.

Ultimately, the Committee identified three primary areas ripe for important improvements:

1. Public Engagement
2. Efficiency of Operation
3. Mission Fulfillment / Effectiveness

We believe the enclosed recommendations present significant opportunities for improving these three critical concerns. As you can imagine, after nearly two years of work, these recommendations were subjected to significant discussion and review wherein we weighed public interest, administrative simplicity, and sustainability. Our key recommendations include:

- Implementing software and new technologies to streamline many processes;
- Developing and providing simple, standard training for appointees and staff liaisons;
- Revamping attendance and quorum policies and providing for enforcement;
- Implementing easier and more effective Annual Report and work product methods; and
- Standardizing operating procedures.

Finally, we would be remiss not to recognize the work of the individual members of the Committee, Council Members Berlucchi and Henley who served as Council Liaisons and the staff liaisons who provided expertise and wisdom throughout the process:

Appointed Committee Members:

James B. (Jimmy) Wood, Chairman
Walter T. Camp, Vice Chairman
Lawrence (Larry) Dotolo
Douglas (Doug) McLiverty
Bernice Pope
Stacey Shiflet
Sylvia Nery-Strickland

Staff Liaisons:

Amanda Barnes, City Clerk
Terri Chelius, Chief Deputy City Clerk
Roderick Ingram, Deputy City Attorney
Neva White, Chief Strategy Officer
Melissa Zibutis, Asst. to the City Manager
Mary Katherine Zimmerman, Volunteer
Resources Administrative Technician

Without question, this process highlighted how many wonderful volunteers our city is fortunate to have and how lucky we are to have such a dedicated, efficient, and productive professional staff. Our recommendations should make their efforts easier and more effective.

We look forward to the opportunity to brief you on our work and recommendations.

Respectfully submitted,

James B. (Jimmy) Wood
Chairman

Walter T. Camp
Vice Chairman

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MISSION STATEMENT



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: A Resolution to Reestablish the Citizens Committee on Boards and Commissions

MEETING DATE: November 19, 2019

■ **Background:** The City has been well-served by the hundreds of citizen volunteers who comprise the City's boards, commissions, committees, authorities, councils and other advisory bodies. In 2003, a City Council-appointed Citizens Committee on Boards and Commissions made recommendations regarding all aspects of the City's boards and commissions. Since then, most of the recommendations have been implemented, but the boards and commissions could benefit from a fresh look aimed at identifying potential improvements to the appointment process and best practices for board operations and staffing.

■ **Considerations:** The committee shall serve in an advisory capacity to the City Council, and the City Council shall appoint its members. The Committee shall consist of up to eleven members and should include residents who have served on a City board or commission, including a designee of the Process Improvement Steering Committee. Staff support shall be provided by the City Clerk's Office, the Office of Volunteer Resources, the STiR Office, and the City Attorney's Office.

■ **Public Information:** Via the normal Council agenda process.

■ **Attachments:** Resolution.

Requested by Mayor Dyer

REQUESTED BY MAYOR DYER

**A RESOLUTION TO REESTABLISH THE
CITIZENS COMMITTEE ON BOARDS AND
COMMISSIONS**

WHEREAS, the City has been well-served by the hundreds of citizen volunteers who comprise the City's boards, commissions, committees, authorities, councils and other advisory bodies;

WHEREAS, in 2003, a City Council-appointed Citizens Committee on Boards and Commissions made recommendations regarding all aspects of the City's boards and commissions. Since then, most of the recommendations have been implemented, but the boards and commissions could benefit from a fresh look aimed at identifying potential improvements to the appointment process and best practices for board operations and staffing;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VIRGINIA BEACH, VIRGINIA, THAT:

1. The City Council hereby reestablishes the Citizens Committee on Boards and Commissions.
2. The committee shall serve in an advisory capacity to the City Council, and the City Council shall appoint its members.
3. The Committee shall consist of up to eleven members and should include residents who have served on a City board or commission, including a designee of the Process Improvement Steering Committee.
4. Staff support shall be provided by the City Clerk's Office, the Office of Volunteer Resources, the STiR Office, and the City Attorney's Office.

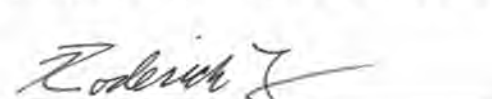
Adopted by the City Council of the City of Virginia Beach, Virginia on the 19th day of November, 2019.

APPROVED AS TO CONTENT:



City Clerk's Office

APPROVED AS TO LEGAL SUFFICIENCY:



City Attorney's Office

CA14929
R-1
November 8, 2019

GENERAL RECOMMENDATIONS

1. City Council should reaffirm that citizen input and participation with local government are critical to quality of life and to ensure Virginia Beach as a "Community for a Lifetime."
2. City Council and City Staff should stress the vital role of Appointive Agencies¹ in making certain that the voices of citizens are heard.
3. As many other localities its size have already done, the City of Virginia Beach should implement Appointive Agency software to significantly increase public engagement, efficiency, and agency effectiveness while reducing administrative burden.
4. To increase public engagement significantly, to allow more choices of meeting places and times, and to reduce staff burden the City should better equip more rooms to easily and effectively accommodate hybrid meetings of Appointive Agencies involving both in-person and remote participation. Such facilities would also benefit City agencies and staff.
5. Future legislative agendas of the City of Virginia Beach should continue to seek greater opportunities for local advisory Appointive Agencies and their individual appointees to participate in meetings remotely. This recommendation does not extend to Appointive Agencies that are quasi-judicial or grant-making in nature, that render decisions on property rights, or to independent or regional agencies.

RECRUITING AND MARKETING

1. City Council and City Staff shall make citizens aware of opportunities to serve on Appointive Agencies.
2. Membership on each Appointive Agency should reflect the geographic, gender, age, ethnic, and occupational diversity of the City. City Council should reaffirm a commitment to appoint Virginia Beach **residents**, except those appointed by virtue of their position, to the Appointive Agencies.
3. City Council should place an emphasis on public information outreach to inform the public and build interest in serving on Appointive Agencies.

¹ Please note, we have chosen to utilize the term "Appointive Agencies" throughout these recommendations in lieu of "Boards and Commissions," "Committees," "Authorities," "Councils," "Panels," "Task Forces," and other terms presently in use for organizations with one or more citizen-members appointed by the Virginia Beach City Council.

4. City Council shall direct the necessary stakeholders to develop and implement a public relations campaign to enhance participation and membership within the City of Virginia Beach Appointive Agencies.
5. The City Clerk shall work with the Communications Office to identify modern media and communication outlets to utilize for advertising volunteer opportunities with the City's Appointive Agencies.
 - a. The City Clerk shall periodically meet with the Communications Office to ensure the most current modern media and communication outlets are being effectively utilized.
 - b. As needed, the City Clerk shall utilize the Communications Office to advertise specific hard-to-fill Appointive Agency positions (e.g., those requiring specific educational backgrounds or specific licensure).
6. The City Clerk shall continue to maintain its Appointive Agencies pamphlet in hard copy. The City Clerk will also work to maintain an electronic version of the Appointive Agencies pamphlet easily accessible by the public.
 - a. Every City office with a public-facing desk should be provided with copies of the Appointive Agencies pamphlet including Libraries and Recreation Centers (or another document directing the public to the electronic version of the pamphlet).
 - b. Each year the City Clerk shall identify community organizations that may have members interested in serving on Appointive Agencies and ensure that these organizations are provided with the Appointive Agencies pamphlet.
 - c. Each year the City Clerk shall identify under-represented communities' organizations that may have members interested in serving on Appointive Agencies and ensure that these organizations are provided with the Appointive Agencies pamphlet.
 - d. The City Clerk shall ensure the Appointive Agencies pamphlets are made available to each member of City Council, so that City Council members may continue recruiting efforts at their community meetings and events.
7. The City's website should be enhanced to create a more vibrant, accessible, and informative "landing spot" for information on Appointive Agencies.
 - a. This should include at a minimum:
 - i. A full listing of all Appointive Agencies.
 - ii. Links to the individual webpages and other digital platforms for each specific Appointive Agency.
 1. The staff liaison for each Appointive Agency should maintain a current membership listing with appointed terms on their individual webpage including information on the meeting schedule and frequency.
 - iii. Vacancies for each Appointive Agency.
 1. The number of vacancies, including Student positions, should be listed at the beginning of each calendar year based on the number of open seats on each Appointive Agency, as

- well as the number of seats not specifically vacant, but whose term expires during that calendar year.
- iv. Adult and Student Talent Bank Application forms with online submittal capability, as described later in this report.
- v. Training materials described later in this report, enabling prospective applicants to become better prepared for service and providing convenient centralized access for current appointees.
- b. Adoption of Appointive Agency software would facilitate more efficient and standardized implementation of this recommendation and enable enhancements beyond the minimum, increasing public engagement.

SOCIAL MEDIA POLICY

1. Appointive Agencies should be encouraged to use existing departmental and City platforms for reaching the public rather than establishing new platforms.
2. Appointive Agencies should annually evaluate the utilization, effectiveness, and resources required to maintain social media platforms and make appropriate changes to ensure efficiency.
3. Staff liaisons shall report all existing Appointive Agency social media platforms to the offices of the City Attorney and City Clerk.
 - a. This recommendation is made at the request of the City Attorney's Office, which identified having a centralized registry of such sites as a best practice.
4. The City Clerk's webpage should include links to all Appointive Agency digital platforms.
5. Social media platforms for Appointive Agencies should be registered to the City of Virginia Beach following City procedures, and not be registered to private individuals.
6. Departments supporting Appointive Agencies should post social media content, which may be supplied by appointees, on their behalf.
7. Social media posts for Appointive Agencies should provide information, align with the agency's mission, and inform the public of meetings, events, and service opportunities.
8. The Commission's training recommendations include providing guidance for appointees on personal social media posts related to their City position.

YOUTH INVOLVEMENT

1. Appointive Agencies should be encouraged to identify and create opportunities for student involvement designed to support the agency's mission. This may include both formal participation on the Appointive Agency or informal participation on sub-committees, events, programs, etc.
 - a. In the event an Appointive Agency seeks formal student involvement on the Appointive Agency, then the membership status of the student members (e.g., voting member or non-voting member, term of office, etc.) should be decided by City Council on a case-by-case basis based on input from the requesting Appointive Agency.
2. The City Clerk shall ensure information regarding opportunities for student/youth involvement with the Appointive Agencies is maintained on the City's website.
3. The City Clerk shall work with local schools, including private schools, home school organizations, and the Virginia Beach City Public Schools, to provide information on opportunities for student/youth involvement and Student Talent Bank Applications to these groups.

PROSPECTIVE APPOINTEES

1. Prospective appointees should be encouraged to:
 - a. Attend Appointive Agency meetings to learn about the group's mission and operations;
 - b. Engage with the Appointive Agency by participating in its events and programs;
 - c. Consider any opportunities to support the Appointive Agency's mission through Volunteer Office programs; and
 - d. Prepare themselves for service by taking the online training proposed herein.

TALENT BANK APPLICATION

1. The City Clerk shall implement the standard Talent Bank Application and Student Talent Bank Application attached to these recommendations. Please find the proposed Talent Bank Application attached as Exhibit A and the proposed Student Talent Bank Application attached as Exhibit B.
2. The City should explore the utilization of a software-driven online system for collecting applications to serve on Appointive Agencies, increasing efficiency and enabling greater reporting capabilities.
 - a. In the interim, the City Clerk should implement a method to submit the Talent Bank Application electronically.

3. There should be no limit on the number of Appointive Agencies on which an individual can serve. Council should consider concurrent appointments, but they should not be the final decision criterion. A list of all Appointive Agencies on which a nominee currently serves should be provided to the Council before a new appointment or re-appointment is made. This is also incorporated into the (re)appointment application and request forms.

CONFLICT OF INTEREST REQUIREMENTS

1. All appointees shall comply with state laws related to conflict of interest filing if the Appointive Agency on which they serve is subject to such requirements under state law.
2. All members of Appointive Agencies shall be required to acknowledge "The Principles of Service" statement, which is incorporated into the Talent Bank Application, Student Talent Bank Application, and Reappointment Request Form (see Exhibits A, B and F).

BACKGROUND CHECK / BADGE ACCESS

1. In general, no background check should be required to serve on Appointive Agencies, except as specifically required by City Council, state law, or another governing authority.
2. Appointive Agencies should advise City Council of new circumstances that may warrant re-evaluation of specific background check requirements.
3. Appropriate access privileges for members of Appointive Agencies should be determined by professionals responsible for the security and safety of municipal facilities, rather than by a general ordinance.
 - a. Those currently holding access badges should continue until otherwise determined by City security and safety authorities.
 - b. Those desiring additional access privileges should make a request to the City Council liaison for evaluation by City security and safety authorities.

PRE-APPOINTMENT INTERVIEWS AND RECOMMENDATIONS

1. City Council shall decide whether pre-appointment interviews are a requirement for each Appointive Agency on an individualized basis. Ultimate authority to make appointments does and should continue to rest with City Council.
 - a. City Council may delegate authority to interview applicants for appointment to an Appointive Agency to the specific Appointive Agency.

2. If provided for by law or ordinance or with the consent of the appropriate City Council liaison, an Appointive Agency may conduct interviews to make recommendations for appointment to the Appointive Agency.
 - a. Interviews shall comply with applicable public meeting laws.
 - b. The Appointive Agency should seek guidance in advance from the City Attorney's Office on appropriate procedures for conducting interviews.
3. If an Appointive Agency, through its chair, wishes to make recommendations for appointment, the City Clerk may be consulted regarding interested applicants and for review of talent bank applications in the City Clerk's office.
 - a. The City Clerk may provide the chair with basic contact information for applicants to the Appointive Agency, but shall not distribute talent bank applications, unless otherwise provided for by ordinance.
 - b. Recommendations for appointment should be sent by the chair to the Appointive Agency's City Council liaison, or to the Vice Mayor if no liaison exists, with a copy to the City Clerk.
4. Changes in applicants' status.
 - a. Talent Bank applicants shall be responsible for updating their applications, particularly with regard to changes in residency, criteria required for appointment such as current licensure, and ongoing availability/interest in appointment.
 - b. Prior to appointment, and especially for Talent Bank applications on file for more than one year, efforts should be made either by the Clerk's Office, Appointive Agency chair, or staff liaison as appropriate, to contact the prospective appointee for confirmation of residency, required criteria, and ongoing availability/interest.

TRAINING PROGRAMS

1. Create Training Programs for Appointive Agency Members and Staff Liaisons
 - a. Take greater advantage of technology
 - b. Simplify training into topic modules rather than a single, long course
 - i. Easier for trainees to complete as time allows
 - ii. Easier for the City to update portions as needed
 - c. Enable training to be delivered online, preferably at a self-directed pace
 - d. Reduce key training points into corresponding Training Handbooks (digital)
 - e. Create a short introductory video from Mayor, Vice Mayor and/or City Manager
 - f. Review training topics bi-annually and modify as the City's needs evolve
 - g. To avoid burdensome administrative work, standard software (which the City may already use or which may be part of a municipal Appointive Agency package) should be considered to track training completion.
2. Appointive Agency Member Training
 - a. Four short modules, shown on Exhibit C, are suggested for initial training program
 - b. Timing of Training

- i. Until training tracking software is implemented, new Appointive Agency appointees should make reasonable efforts to take training prior to, or within 30 days after, appointment.
 - ii. Current Appointive Agency appointees should make reasonable efforts to take training prior to, or within 30 days after, re-appointment.
 - iii. Opportunities and encouragement should also be offered for current appointees to take training as it becomes available, rather than waiting until reappointment nears.
 - iv. These recommendations should be revisited when automated tracking solutions become available, or during the bi-annual training program review noted above.
 - c. Retraining or Supplemental Training
 - i. To be considered as new matters arise (e.g., adoption of new laws, ordinances, policies, or circumstances such as COVID)
 - ii. May be utilized as part of solutions for resolving appointee issues
 - d. Make training available digitally to the general public via website delivery
 - i. Talent Bank applicants may take early & note as a "Plus" factor
 - ii. Promote civic knowledge & engagement, including potential use by students
 - e. Information specific to the appointee's Appointive Agency should be provided soon after the chair and staff liaison are notified of the appointment. This orientation shall include times and places of meetings, ongoing projects, special events, operating procedures, and all related ordinances and resolutions.

3. Staff Liaison Training

- a. Topics shown on Exhibit D are suggested for initial training program
- b. Topics were determined in part from needs identified during surveys of Virginia Beach Appointive Agency staff liaisons
- c. Staff liaison training should include Appointive Agency Member Training modules
 - i. To reduce creation of redundant materials
 - ii. To better enable staff liaisons to reinforce Appointive Agency Member Training
- d. Timing of Training
 - i. Equipping staff liaisons with uniform administrative tools and training will greatly facilitate successful Appointive Agency operations
 - ii. Training should be implemented as a priority for all existing & new staff liaisons
- e. Periodic refresher training in group setting of existing liaisons should be conducted in coordination with the City Clerk, City Attorney and Office of Volunteer Resources to:
 - i. Raise awareness of best practices and methods for resolving common challenges
 - ii. Identify issues to leadership

ATTENDANCE

1. To fulfill their duties, the City's Appointive Agencies rely upon the active participation of appointees. The chair of each Appointive Agency shall encourage attendance and enforce the City's Appointive Agency attendance policies.
2. Attendance at each Appointive Agency meeting shall be recorded in the Minutes.
3. The chair and staff liaison shall classify attendance according to the City's attendance policies.
4. When technology permits, meeting attendance should be promptly uploaded online by the staff liaison so the Clerk's office will have continuous access to current information.
5. Until technology allows ongoing reporting online, staff liaisons shall maintain a standard Appointive Agency Attendance Report (see Exhibit E) and promptly provide it to the chair, City Clerk, or Council liaison upon request. This Report should be provided to the City Clerk promptly after the last meeting of the calendar year, and it should also be included in the Appointive Agency's Annual Report.
6. City Council should consider attendance records when making (re)appointments.

EXPIRATION OF TERM / REAPPOINTMENTS

1. The staff liaison shall give 90 days advance notice to any member of an Appointive Agency whose term is expiring.
 - a. The staff liaison shall notify the member of their term expiration in writing (until technology permits a more streamlined process), including the Reappointment Request Form (see Exhibit F), with a copy to the chair and City Council liaison. The staff liaison shall inquire as to whether the member is interested in continuing their service with the appointive agency for an additional appointment period. The staff liaison shall also instruct the appointee to return the Reappointment Request Form at least 60 days in advance of their term's expiration.
 - b. The chair of such Appointive Agency should also communicate with the member to determine the member's interest in continuing to serve on the Appointive Agency.
 - c. The member should provide notice to the City Clerk as soon as possible (and at least 60 days in advance of the expiration of their term) regarding their desire to be re-appointed, utilizing the Reappointment Request form attached as Exhibit F.
 - d. If a member eligible for reappointment does not timely return the Reappointment Request form, then the City Clerk should provide that information to Council for their consideration in the reappointment process. While it would be helpful to have the form returned, a failure to do so should not disqualify an individual from reappointment.

2. The staff liaison shall provide the City Clerk and City Council liaison with all measurable information and data related to members who are up for reappointment, including attendance and other concurrent appointments.
3. The chair of an Appointive Agency may provide recommendations to the City Council liaison, or to the Vice Mayor if no liaison exists or is available, and to the City Clerk for appointments and reappointments to the Appointive Agency. The City Clerk will provide any recommendations made by the chair to City Council for the Council's consideration.
4. The City Clerk should provide City Council with a list of the various Appointive Agency members whose terms are expiring 60 days in advance of such expiration date.
5. Appointments and reappointments of members to Appointive Agencies should occur thirty (30) days prior to the expiration of terms.
6. Council should continue its recently adopted practice of considering appointments at the conclusion of its workshop sessions in addition to regular business meetings, which has been effective in minimizing Appointive Agency vacancies.
7. Appointments beyond term limits.
 - a. Staff liaison training recommendations described in this report shall include best practices related to communications with Appointive Agency members whose terms are expiring, and who have reached their maximum term limit, on the City Code provision allowing for additional terms in certain circumstances.
 - b. Retain the current City Code provision (City Code § 2-3(b)) that enables the City Council, by an affirmative vote of a majority of all Council Members, to reappoint a person to one or more additional terms beyond those permitted by City Code § 2-3(a) when, by virtue of the unique qualifications of the position or other extenuating circumstances, doing so would serve the best interests of the City.
 - c. City Council should provide a rationale when reappointing anyone beyond the term limits as set forth in Section 2-3(a).
8. Consider changing the term limits for Appointive Agencies that have specific membership requirements that are difficult to meet, as was done in City Code § 2-3(c) for appointees to the Board of Building Code Appeals. Such circumstances should be identified by the Clerk's Office, in Appointive Agency annual reports, and in the periodic procedural review process recommended elsewhere in this report.
9. An individual who previously served on an Appointive Agency shall not be deemed to have a consecutive appointment if three or more months have passed since the appointee's most recent term with the same Appointive Agency has concluded.
10. Letters of appointment and reappointment should include the appointee's obligation to self-report the loss of certification/license, change of residency, or other changes to factors upon which their appointment is conditioned.

APPOINTMENTS HELD BY VIRTUE OF POSITION

1. Government Positions. Unless otherwise specified by Ordinance, law, or bylaws approved by City Council, appointments of members to Appointive Agencies by virtue of concurrent service in a specific elected, appointed, or employed government position (Federal, State or local) shall terminate if an incumbent ceases to hold or is suspended from such position. Absent other action by City Council, their authorized successor in that government position, acting or permanent, shall also assume appointment to such Appointive Agency seats ordained as secondary assignments for their office, subject to subsequent confirmation by City Council.
2. Non-Government Positions. Unless otherwise specified by Ordinance, law, or bylaws approved by City Council, appointments of members to Appointive Agencies by virtue of concurrent service in a non-governmental position shall terminate if an incumbent ceases to hold or is suspended from such position. The Appointive Agency seat previously held by the incumbent shall be vacant until City Council appoints a successor.
3. Inter-Agency City Liaisons. When Council desires one Appointive Agency to coordinate with another, consideration should be given to allowing the agency providing a liaison to designate which of its members should serve rather than requiring Council itself to appoint a specific individual member as the liaison.
 - a. This recommendation is intended to increase attendance by inter-Agency liaisons by allowing more responsive designation changes as individual availability and workloads change.
 - b. Backup inter-Agency liaisons, which do not exist now, could also be readily designated by the Agency itself, furthering Council's goals by reducing attendance gaps, communications breakdowns, and failures to coordinate.

CIRCUMSTANCES TO REMOVE AN APPOINTEE

Failure to Take Oath of Office (Lapse of Appointment)

1. A limited number of appointees are required to take an Oath of Office, typically by State Law.
2. Appointment letters for such positions should indicate service is conditioned upon taking the Oath.
3. An appointee who fails to take an Oath as required allows their conditional appointment to lapse and forfeits the opportunity to serve.
4. The Clerk should promptly notify the appointee their appointment has lapsed and notify Council the position remains vacant and requires a new appointment.

Excessive Absences

1. Attendance is directly correlated to Appointive Agency participation and thereby to the success of the organization in furthering its mission. Creating and maintaining a culture that expects the participation of its members in productive meetings will increase the engagement of the Appointive Agency. Engaged appointees are an Appointive Agency's most valuable assets.
2. Recommended procedures for recording attendance, and thereby identifying excessive absenteeism, are noted elsewhere in this report.
3. The staff liaison will notify the Appointive Agency chair after a member has had two unexcused absences. The chair shall contact the member to determine why the member is missing meetings and remind the member of the City's attendance policy, and if applicable, the Agency's remote participation policy.
4. If a member accumulates three or more absences in a calendar year, or is absent from more than one-fourth of the total number of meetings held during the calendar year, for any reason other than personal illness, the illness or death of a relative, or other circumstances beyond the member's control (as determined by the chair), the staff liaison shall notify the City Clerk's office in writing, with a copy to the chair, and advise the City Clerk of the name of the member of who has accumulated absences beyond those allowed by the City Code. The notification should reference the attendance policy set forth in City Code § 2-3.1 and indicate it was sent on behalf of the chair.
5. Given that City Code § 2-3.1 provides that absences due to personal illness, the illness or death of a relative, or other circumstances beyond the member's control are excused absences, and given the option for members of Appointive Agencies to participate in meetings from a remote location if the Appointive Agency has adopted a remote participation policy as authorized by the Virginia Freedom of Information Act and City Council Policy, **the City Code requirement and procedures for removal of appointees due to excessive unexcused absences should be strictly enforced.**

Failure to File Financial Disclosure Form

1. Recommendations elsewhere in this report significantly limit the number of appointees required to file a Financial Disclosure form.
2. In most cases, consequences for failure to file a Financial Disclosure form will be determined by State law.
3. If an appointee is required to file a Financial Disclosure but is not subject to State law consequences for failure to do so:
 - a. Their appointment letter should note filing is a requirement for continued service;
 - b. Failure to timely file should result in a prompt letter from the City Clerk allowing 30 additional days; and

- c. Failure to file by the extended deadline should result in automatic termination of the appointment, carried out by written notice from the City Clerk in the same manner provided in § 2-3.1 for termination due to excessive unexcused absences.
4. Given the limited number of positions impacted by this recommendation, the public transparency objective of the filing requirement, the well-communicated requirement to file, and provisions to remedy an initial lapse in timely filing, if allowed by state law, **this policy should be strictly enforced.**

Other Circumstances

1. A variety of other circumstances may impair an appointee's ability to serve effectively or may impair their Appointive Agency's ability to fulfill its mission.
2. When such circumstances arise the appointee should notify the chair, who in turn should notify the Council liaison or Vice Mayor (in the absence or unavailability of a Council liaison), as appropriate.
3. These situations should be evaluated on a case-by-case basis.
4. City Council should continue to exercise its authority to remove appointees as it determines best for the welfare of the City and the Appointive Agencies.
5. Circumstances which could, but would not necessarily, lead to Council's review for potential termination of an appointment may involve violation of the Principles of Service or certain criminal convictions.
6. Council should provide for an appointee Leave of Absence (LOA) where legally permissible as an intermediate step to facilitate Appointive Agency operations during such circumstances.
 - a. Such LOAs should be for a defined, limited term – perhaps up to three (3) months.
 - b. Such LOAs could be requested by the appointee or imposed.
 - c. Power to grant an LOA should vest in the agency's Council liaison, or the Vice Mayor in the absence or unavailability of a Council liaison.
 - d. Appointive Agency quorums should not include appointees on an LOA.
 - e. Appointee absences during a properly granted LOA should be considered "Excused."
 - f. Such LOAs would not be for personal medical or family medical reasons already addressed by City ordinance.

RECOGNITION

1. Appropriate opportunities for recognition of appointees should be identified using the City's Office of Volunteer Services as a resource.
2. The City Manager should be encouraged to recognize outstanding performance by staff liaisons supporting Appointive Agencies, as appropriate.
3. The nature and timing of such recognition should be periodically re-evaluated to ensure effectiveness and efficiency.

COUNCIL LIAISONS

1. City Council should consider selecting two of its own members to serve as Liaisons or Contacts to each Appointive Agency.
 - a. The second Council Liaison/Contact may choose to serve in a limited, backup capacity or in a full capacity.
 - b. For Appointive Agencies with quasi-judicial powers or other reasons why Council Members should not act as full liaisons or attend meetings, City Council Members should be designated as "City Council Contacts" with more limited roles.
 - c. If neither City Council Liaisons nor Contacts are currently designated for an Appointive Agency, the Vice Mayor shall serve as the agency's point of contact with City Council.
2. City Council's current practice of reviewing liaison/contact assignments annually and when the composition of Council changes is endorsed as a helpful practice.
3. Familiarity with the missions and work of the City's Appointive Agencies and attendance at their programs and special events should be encouraged for all Council Members.
4. City Council liaisons can help Appointive Agencies succeed and fulfill their missions in the following ways:
 - a. Refer relevant matters to Appointive Agencies, inform Appointive Agencies of Council initiatives, and advise Agencies of Council's perspectives on matters relevant to their mission.
 - b. Use Liaison Reports to inform Council and the public of Appointive Agency issues, achievements, and events.
 - c. Actively engage with assigned Appointive Agencies and be available to chairs for coordination.
 - d. Facilitate Appointive Agency communications to Council, including reports and presentations.
 - e. Provide guidance on desired work products and assignments from Council, and provide acknowledgement and feedback to the Appointive Agency after receiving and considering their reports.
 - f. Advise the City Manager of circumstances appropriate for his consideration and execution for facilitating the success of Appointive Agencies.

- g. When recruiting, filling, or reappointing to open seats on Appointive Agencies:
 - i. Give consideration to recommendations from the Appointive Agency;
 - ii. Coordinate with District Council Members on Appointive Agencies with geographic composition requirements.
- h. Promote coordination when advice from more than one Appointive Agency is sought, such as when the same or related issue is referred to both a geographic Appointive Agency such as RAC and a general government service Commission such as Parks & Recreation.
- i. Sponsor Appointive Agency recommendations for consideration by Council, including changes in size, composition, liaisons and student members.
- j. Provide fellow City Council Members with context and information when evaluating the Appointive Agency's Annual Report and other work products, as described elsewhere in these recommendations.

STAFF LIAISONS

- 1. Staff liaisons shall be expected to perform all duties identified in the Staff Liaison Training program.
- 2. The City Manager should be directed to ensure supervisors are aware of Appointive Agency staff liaison duties so workloads can be appropriately planned, performance can be evaluated, and provisions for staff liaison succession and backup can be made.
- 3. Staff liaisons shall maintain current and orderly files for assigned Appointive Agencies, including meeting agendas, meeting minutes, and attendance records.
- 4. Staff liaisons shall file all necessary public meeting notices for their assigned Appointive Agency.
- 5. Staff liaisons shall promptly notify the chair, City Council liaison, and City Clerk's office of any changes in appointee membership status, eligibility to serve, or contact information.
- 6. Staff liaisons should inform supporting department leaders and appropriate staff about matters being considered by the Appointive Agency.
- 7. Staff liaisons should coordinate with Appointive Agency chairs when opportunities arise for the City's professional staff to assist appointees with making informed evaluations and recommendations.
- 8. Staff liaisons shall promptly provide newly appointed members and all liaisons orientation materials.

9. Staff liaisons shall coordinate webpage postings and if applicable, social media postings, for the Appointive Agency

ANNUAL REPORTS

1. An Appointive Agency's Annual Report is perhaps the most important and underutilized tool for enabling City Council's evaluation of each agency's mission, effectiveness, and opportunities for service. Efforts should be prioritized to ensure Appointive Agency annual reports are easy to prepare and submit, standardized with key content valued by Council, and expected on a timely basis.
2. The chair of each Appointive Agency, other than Independent or Regional Agencies, shall file an Annual Report to City Council with the City Clerk's office no later than sixty (60) days after fiscal year-end, unless otherwise specified.
 - a. City Budget. Submission of Annual Reports on this timetable is intended to facilitate timely consideration of recommendations related to resources early in the City's budget development cycle, with all Agency requests presented at the same time. Council has often requested such timing.
 - b. City Policies. The timing is also intended to enable consideration of policy recommendations early in the development cycle for legislative agendas involving other levels of government.
3. The Annual Report shall cover the period July 1 – June 30 of the fiscal year just ended, unless otherwise specified.
4. A simple, standard Annual Report template showing minimum requirements is included as Exhibit G. Appointive agencies may choose to provide additional material, but all annual reports shall include each of the minimum required sections.
5. Appointive Agencies will differ in the types of information they report, depending on their mission.
 - a. Advisory Appointive Agencies may choose to focus on programs and projects.
 - b. Quasi-judicial Appointive Agencies may choose to focus on statistics and processes related to the matters they evaluate.
6. The chair and staff liaison should collaborate to draft the Annual Report.
7. Annual Reports should be approved by the Appointive Agency prior to filing with the City Clerk for distribution to Council.
8. An Annual Report should be filed even if no other meetings were held or no business was conducted in the prior year. The report should indicate the reason for these circumstances to assist City Council in their annual evaluation of the Appointive Agency and its mission.

9. Online completion and filing of Annual Reports should be part of the future City Appointive Agency software, significantly reducing reparation time, enabling tracking without administrative burden, and increasing access to information.
10. Appointive Agency Annual Reports should be made available to the public via online posting.
11. The opportunity for Appointive Agencies to periodically brief City Council should continue to be afforded as an important process for public awareness, fulfillment of the citizen-advisory role, and two-way engagement with the majority of Council who are often not otherwise focused on the agency.

APPOINTIVE AGENCY MISSION, ESTABLISHMENT AND SUNSETTING

1. City Council should consider assigning matters to Appointive Agencies in this order of preference and priority:
 - a. First, to one or more existing agencies, augmenting their mission if necessary;
 - b. Second, to a new temporary Appointive Agency with a defined sunset provision;
 - c. Third, to a newly established standing Appointive Agency.
2. The City Attorney's Office should maintain model ordinances for establishing new temporary and standing Appointive Agencies containing a list of elements for City Council to determine such as: mission, membership composition, terms of appointment and term limits, supporting City Department(s), budget (if any), sunset provision (if temporary), and any governance matters, powers or limitations that differ from default City standards for Appointive Agencies.
3. Each existing Appointive Agency shall review its mission statement and present any recommended changes to City Council in conjunction with its Annual Report.
4. City Council should direct the City Manager to maintain a current master organizational chart indicating the City Departments supporting each Appointive Agency, and to provide this chart to the City Clerk for public posting on the Appointive Agencies webpage.
5. When considering each Appointive Agency's Annual Report City Council should evaluate:
 - a. The Agency's own recommendations for changes to its mission;
 - b. New or changed issues City Council wishes the Appointive Agency to address;
 - c. The effectiveness of the Agency in accomplishing its mission;
 - d. Policy, Agency composition, or resource changes to improve Appointive Agency mission fulfillment. Inter-Agency liaisons should be considered as an alternative to appointing additional full voting members where appropriate;

- e. The balance of agency support workloads across City departments;
- f. Opportunities for consolidation or sunseting of Appointive Agencies.

TERMS OF OFFICE FOR ALL APPOINTIVE AGENCIES

1. The City Council should define the terms of office (period of time) for members serving on all Appointive Agencies. Specifically, the City Council should make this determination when establishing an Appointive Agency, or when adding new classes of members such as students, or when designating new liaison positions.
2. If City Council chooses not to define all terms of office, then the City should enact an appropriate ordinance to apply a default one-year term to those otherwise undefined.
3. The City Council should amend any current ordinance for any existing Appointive Agencies lacking established terms of office in order to establish appropriate terms.

BYLAWS

1. The majority of appointive Agencies are not required to maintain individual bylaws and generally should be discouraged from adopting bylaws to avoid conflicts with ordinances of general applicability subsequently adopted by Council, consumption of staff and volunteer resources required to train on and maintain unique bylaws rather than focusing on mission fulfillment, and redundancy with determinations made solely by Council.
2. In general, only Appointive Agencies that make grants, are independent or regional agencies, or are otherwise required to do so, should consider maintaining Bylaws. All other Appointive Agencies, including those who serve as advisory bodies to City Council, should consider alternatives to Bylaws.
3. Appointive Agencies should consider the utilization of policies in lieu of bylaws, including policies related to the election of officers.
4. Appointive Agencies that choose or are required to implement Bylaws should consider utilizing the standard template attached as Exhibit H.
5. Appointive Agencies that adopt Bylaws will be expected to follow, enforce, and maintain their Bylaws.
6. Appointive Agencies shall have all Policies, Bylaws, proposed Bylaws and/or amendments to Bylaws reviewed by the City Attorney's Office.
7. To provide uniform fallback procedures, to resolve subjects of frequent ambiguity, and to minimize adoption of separate Bylaws by multiple agencies, the following default policy should be adopted by Council for all City Appointive Agencies:

- a. Unless otherwise specified by Ordinance, law, or bylaws, Appointive Agencies shall elect a chair and a vice chair from among their members annually. The chair shall plan and conduct meetings of the Appointive Agency and perform other duties assigned and reserved to chairs by Council, ordinance, or law. The vice chair shall temporarily perform the duties of the chair when the chair is unavailable. Any subcommittee established by an Appointive Agency shall be advisory to the full agency and shall adhere to all laws governing public meetings including notice, attendance records, and minute-keeping.
 - b. In the absence of specific laws, ordinances, or bylaws to the contrary a majority of the Appointive Agency's current membership shall constitute a quorum, subject to a minimum quorum size of three.
8. Where appropriate for the uniform functioning of City government, Council should adopt ordinances of general applicability to Appointive Agencies, with exceptions if needed, rather than awaiting individual Appointive Agencies to individually adopt policies or bylaw amendments to achieve the same purpose.

MEETING REQUIREMENTS

1. Public notices for all Appointive Agency meetings shall be posted online, on the Public Notice Meeting Board near City Council Chamber, and in the office of the department that provides the Agency with staff support, and in any other designated places, in accordance with state law.
2. Staff liaisons and chairs should remind appointees about public meeting law compliance when subcommittees are formed and when gatherings outside of regular meetings are anticipated.
3. Appointive Agencies should meet a minimum of once per year to approve their Annual Report to City Council, confirm the status and availability of members, elect officers (if applicable), perform financial functions (if applicable), and perform other such duties, even if no other meetings were held or no business was conducted in the prior year.
4. Barriers should be reduced for individuals who may want to participate in or observe meetings, including if appropriate: diversifying meeting places and times, conducting hybrid in-person/online meetings, and streaming meetings via digital technology.
5. Training should inform appointees and liaisons that a properly-noticed public meeting may be called to order even if a quorum is not present, unless otherwise prohibited by law. No votes may be taken unless a quorum is present, but minutes and attendance shall be taken, unless the chair cancels the meeting prior to calling it to order.
6. Meeting agendas should be distributed to Appointive Agency members and liaisons at least three days prior to the meeting date. Appointive Agencies should adopt a process

to capture meeting minutes ensuring compliance with applicable laws and regulations. Please find a suggested template attached as Exhibit I.

IMPLEMENTATION

1. The City Council should establish a standing or permanent Appointive Agency to work with the City Clerk and the City Attorney to implement the recommendations embodied in this document.
2. The newly established Appointive Agency shall ensure that the proposals and recommendations in this document are prioritized correctly and amended as needed to comply with the spirit of the proposed recommendations. This new Appointive Agency shall also continue the mission of providing advice and recommendations to City Council regarding the City's various Appointive Agencies and the appointment processes.
3. City Code Section 2-451 which lists and categorizes Appointive Agencies is inaccurate and should be revised in a manner that reflects current directives by Council and does not render it frequently out of date in the future.

EXHIBIT A – TALENT BANK APPLICATION

Talent Bank Application City Council Appointive Agencies

**Instructions**

You may attach your own resume or other supporting data. Each application is retained on file for five years and may be updated at any time by contacting the City Clerk at 385-4304 or 385-4036. Each applicant must be a resident of Virginia Beach.

Thank you for completing this application and for your interest in serving the City of Virginia Beach.

Contact Information

Name (last, first MI.)	
Provide previous names used	
Home Address	
City ZIP Code	
Phone	
E-Mail Address	
Applicant's District (circle one)	1 / 2 / 3 / 4 / 5 / 6 / 7 / 8 / 9 / 10 /
Registered Voter? (circle one)	Yes / No
How long have you been a resident?	
Are you currently serving on a City Council Appointed Agency (circle one)	Yes / No If Yes, list the name of City Council Appointed Agency:

Education

High School	
College	
Technical	
Military	
Graduate / Professional	
Degrees or Certifications	

Current Occupation

Firm Name	
Address	
Title	
Describe Duties	

Please state your interest and/or reason to seek City Council's appointment to any Appointive Agency:

--

Please provide experience you have that relates to the Appointive Agency you wish to serve on:

--

Please share any volunteer or community service in your background that would make you a good candidate for appointment:

--

References (Optional)

1. Name (last, first MI.)	
Relationship to Applicant	
Phone	
E-Mail Address	
2. Name (last, first MI.)	
Relationship to Applicant	
Phone	
E-Mail Address	
3. Name (last, first MI.)	
Relationship to Applicant	
Phone	
E-Mail Address	

Interests:

Please rank up to five Appointive Agencies you are interested in (1 being most interested):

- ___ 2040 Vision to Action Community Coalition
- ___ Advertising Advisory Committee
- ___ Agricultural Advisory Committee
- ___ Arts and Humanities Commission
- ___ Audit Committee
- ___ Bayfront Advisory Commission
- ___ Beaches and Waterways Advisory Commission
- ___ Bikeways and Trails Advisory Committee
- ___ Board of Building Code Appeals
- ___ Board of Zoning Appeals
- ___ Chesapeake Bay Preservation Area Board
- ___ Clean Community Commission
- ___ Community Organization Grant Review and Allocation Committee (Minority Grants)
- ___ Community Policy and Management Team (CSA-At Risk)
- ___ Community Services Board
- ___ Development Authority
- ___ Eastern Virginia Medical School
- ___ Green Ribbon Committee
- ___ Health Services Advisory Board
- ___ Historic Preservation Commission
- ___ Historical Review Board
- ___ Housing Advisory Board
- ___ Human Rights Commission

- ___ Military Economic Development Advisory Committee
- ___ Minority Business Council
- ___ Oceana Land Use Conformity Committee
- ___ Old Beach Design Review Committee
- ___ Open Space Advisory Committee
- ___ Parks and Recreation Commission
- ___ Personnel Board
- ___ Planning Commission
- ___ Process Improvement Steering Committee
- ___ Public Library Board
- ___ Resort Advisory Commission
- ___ Senior Services of Southeastern Virginia (Regional)
- ___ Social Services Advisory Board
- ___ Southeastern Tidewater Opportunity Project (Regional)
- ___ Stormwater Appeals Board
- ___ Tidewater Community College Board (Regional)
- ___ Tidewater Youth Services Commission (Regional)
- ___ Transition Area/Interfacility Traffic Area Citizens Advisory Committee
- ___ Towing Advisory Board
- ___ Urban Agricultural Advisory Committee
- ___ Virginia Beach Community Development Corporation
- ___ Wetlands Board

Agreement and Signature

By my signature to this application, I affirm that the facts set forth in it are true and complete. I understand that if I am accepted as a volunteer, any false statements, omissions, or other misrepresentations made by me on this application may result in my immediate dismissal. I affirm my willingness to complete the City of Virginia Beach Board and Commissions Training Program and I acknowledge the Principles of Service. I further affirm my willingness to fulfill my commitment to actively attend and participate if appointed and to comply with the Virginia Financial Disclosure requirements, if applicable.

Full Name (printed)	
Signature	
Date	

Please submit this application via U.S. Mail or Email to:

Amanda Barnes, MMC, City Clerk
 2401 Courthouse Drive, Suite 281
 Virginia Beach, VA. 23456
abarnes@vb.gov

City of Virginia Beach Principles of Service

These principles shall guide appointees to Boards and Commissions while acting in their official capacity:

- To place the best interests of the City above all other interests.
- To uphold all laws, regulations, and policies.
- To take no action for personal benefit.
- To make every effort to avoid a real or perceived conflict of interest.
- To avoid disclosure of confidential information obtained in the performance of my duties or in my official capacity.
- To exercise prudence and good judgment at all times.
- To faithfully and impartially perform my duties, acting with integrity and accountability.
- To treat other officials, staff, and the public with respect.
- To ensure City resources are used solely for the benefit of the City, and City staff are not given unauthorized directives.
- To participate in training and adhere to guidance provided for my role by the City.

EXHIBIT B – STUDENT TALENT BANK APPLICATION

High School Student Talent Bank Application City Council Appointive Agencies

**Instructions**

You may attach your own resume or other supporting data. Each application is retained on file for one year and may be updated at any time by contacting the City Clerk at 385-4036 or 385-4303. Each applicant must be a resident of Virginia Beach.

Thank you for completing this application and for your interest in serving the City of Virginia Beach.

Contact Information

Name (last, first MI.)	
Street Address	
City Zip Code	
Phone	
E-Mail Address	
Applicant's District (circle one)	1 / 2 / 3 / 4 / 5 / 6 / 7 / 8 / 9 / 10 /

Academic Information

Name of High School	
Current Grade	
Graduation Date	

Please list any extracurricular activities you are involved in

--

Please state your interest and/or reason to seek City Council's appointment to any Appointive Agencies:

--

References (Optional)

1. Name (last, first MI.)	
Relationship to Applicant	
Phone	
E-Mail Address	
2. Name (last, first MI.)	
Relationship to Applicant	
Phone	
E-Mail Address	
3. Name (last, first MI.)	
Relationship to Applicant	
Phone	
E-Mail Address	

Interests:

Please rank up to five Appointive Agencies you are interested in (1 being most interested):

— **CLEAN COMMUNITY COMMISSION**

Responsible for promoting litter prevention, recycling, beautification and general environmental awareness through educational projects designed to reach all segments of the community.

Meetings are held the second Thursday each month at 6:30 pm

— **GREEN RIBBON COMMITTEE**

Serves in an advisory capacity to City Council on matters relating to the improvement of water quality in the City's waterways, including means of developing property and supporting infrastructure that minimize the use of natural resources, reduce harmful effects on water quality and create healthier environments for people.

Meetings are held the fourth Thursday each month from 2:30 to 4 pm

— **HISTORIC PRESERVATION COMMISSION**

Advises City Council on issues related to the preservation of historic buildings, structures and sites located in the City of Virginia Beach. Members work to preserve, protect and maintain the historic identity of Virginia Beach and the former Princess Anne County.

Meetings are held the first Wednesday each month at 5 pm

— **HUMAN RIGHTS COMMISSION**

Serves as an advisory agency to the City Council with the following duties, powers and functions: (1) to institute, conduct, and engage in educational programs; (2) to serve as a forum for the discussion of human rights issues, and to conduct studies and propose solutions for the improvement of human relations in the city; and (3) to provide assistance to persons who believe their rights have been violated by identifying the appropriate federal, state or local agency to address the complaint and referring such persons to that agency.

Meetings are held the second Thursday each month at 4 pm

— **PARKS AND RECREATION COMMISSION**

Serves as an advisory body by acting as a liaison between City Council, City Manager and Director of the Department of Parks and Recreation and citizens of the City concerning matters affecting parks and recreation policies, programs, finances and the acquisitions and disposal of lands and properties and holding public meetings and exercising influence throughout the City to improve and expand recreational opportunities.

Meetings are held the first Thursday each month at 3 pm

— **PUBLIC LIBRARY BOARD**

The Public Library Board has been in existence since the incorporation of the City of Virginia Beach in 1965. The Board is responsible for making recommendations to the Director of Libraries and also to City Council on all phases of library strategic planning, policies and issues critical to community goals and aspirations.

Meetings are held the second Monday each month at 5 pm

Agreement and Signature

By my signature to this application, I affirm that the facts set forth in it are true and complete. I understand that if I am accepted as a volunteer, any false statements, omissions, or other misrepresentations made by me on this application may result in my immediate dismissal. I affirm my willingness to complete the City of Virginia Beach Board and Commissions Training Program and I acknowledge the Principles of Service. I further affirm my willingness to fulfill my commitment to actively attend and participate if appointed and to comply with the Virginia Financial Disclosure requirements, if applicable.

Full Name (printed)	
Signature	
Date	

Please submit this application via U.S. Mail or Email to:

Amanda Barnes, MMC, City Clerk
2401 Courthouse Drive, Suite 281
Virginia Beach, VA. 23456
abarnes@vbgov.com

City of Virginia Beach Principles of Service

These principles shall guide appointees to Boards and Commissions while acting in their official capacity:

- To place the best interests of the City above all other interests.
- To uphold all laws, regulations, and policies.
- To take no action for personal benefit.
- To make every effort to avoid a real or perceived conflict of interest.
- To avoid disclosure of confidential information obtained in the performance of my duties or in my official capacity.
- To exercise prudence and good judgment at all times.
- To faithfully and impartially perform my duties, acting with integrity and accountability.
- To treat other officials, staff, and the public with respect.
- To ensure City resources are used solely for the benefit of the City, and City staff are not given unauthorized directives.
- To participate in training and adhere to guidance provided for my role by the City.

EXHIBIT C – TRAINING MODULES FOR APPOINTEES

City of Virginia Beach

Citizens Committee on Boards and Commissions

Proposed Training Modules for Appointive Agency Members

The CCBC has identified topics where training would increase the effectiveness of the City's Appointive Agencies. Surveys of Agency chairs, liaisons, and of localities across the nation, and especially those similar in population size to Virginia Beach, have generated topics that are needed or commonly the subject of such training. Modular training units, often offered online, group related topics together and break the overall training into short sessions.

The following outline is a starting point for implementing such a program in Virginia Beach. Whether ultimately delivered via live presentation, online using PowerPoint and/or recorded video, digitally or in writing as a Handbook, or by other methods, the outline may assist City staff in developing content (or repurposing existing materials) by organizing the CCBC's recommendations for training modules, rather than leaving work to begin from a blank slate. Over time sub-topics may be added, changed, or eliminated as the City's needs evolve.

a. Virginia Beach Appointive Agency Orientation

1. City Organization
2. Roles of Appointive Agencies (*including types*)
3. Interacting with City Council
4. Interacting with City Staff & Staff Liaison Role
5. Interacting with the Public

b. Public Information

1. Freedom of Information Act
2. Open Meetings
3. Public Records
4. Confidential Information
5. Board advice, City positions & personal opinions (*i.e. Media & Social Media*)

c. Serving with Integrity

1. Ethics Pledge
2. Conflicts of Interest (*perceived & actual*), and Gifts
3. Disclosures & Abstention
4. City Resources (*including use of City Indicia*)
5. Solicitation & Nonprofit Supporting Organizations
6. How to Obtain Guidance

d. Responsibilities & Procedures

1. Completing Pre-Service Requirements
2. Attendance (*in-person and remote participation*)
3. Engagement and Preparation
4. Effective Meeting Conduct (*including expression of divergent views*)
5. Roles reserved to the Chair
6. Required Periodic Filings, and Reporting Changes (*contact info, residency, loss of certification/licensure, etc.*)
7. Terms of Service, Reappointment, and Ending Service

EXHIBIT D – TRAINING MODULES FOR STAFF LIAISONS

City of Virginia Beach

Citizen's Committee on Boards and Commissions

Proposed Training Topics for Appointive Agency Staff Liaisons

City personnel designated to serve as Staff Liaisons to Appointive Agencies shall participate in training provided by the City Clerk and the City Attorney. The following are examples of training topics:

- A. The same training given to Appointive Agency appointees, including these modules:
 - a. Orientation to Virginia Beach Appointive Agencies
 - b. Public Information
 - c. Serving with Integrity
 - d. Responsibilities and Procedures for Appointees
- B. Roles & Duties
 - a. Clerk's Office
 - b. Appointive Agency Chair
 - c. Council Liaison or Contact
 - d. Liaisons to Other Appointive Agency
 - e. Staff Liaison (incl coordination with supporting Department leadership)
- C. Meetings & Events
 - a. Public Notice
 - b. Agendas & Standard Meeting Elements
 - c. Quorums
 - d. Minutes
 - e. Procedures for Appointive Agency events other than business meetings
- D. Appointive Agency Recordkeeping
 - a. Council Ordinances for Appointive Agency (incl Mission & Special Requirements)
 - b. Bylaws & Policies Adopted by Appointive Agency
 - c. Maintaining Complete and Orderly Files (incl presentations & handouts)
 - d. Record Retention & Destruction Policies
 - e. Attendance
 - i. Policy Review (incl Remote Participation)
 - ii. Standard Attendance Record Chart & Data to be in Minutes
 - iii. Assisting the Chair with Policy Enforcement
 - f. Volunteer Hours
- E. Annual Report
 - a. Due Date
 - b. Format
 - c. Delivery Procedures
 - d. Council Presentations

- F. Correspondence and Recommendations (formats, cc's, delivery method, etc.)
 - a. to City Council
 - b. to City Departments, Offices, or other Appointive Agency
 - c. to External Agencies
- G. Appointment Lifecycle
 - a. Recruiting Applicants & Talent Bank Application
 - b. Chair Recommendations of Nominees
 - c. Council Appointment Process
 - d. Post-Appointment Requirements (Oath, Financial Disclosure, etc.)
 - e. Orienting A New Appointee
 - f. Term Lengths, Term Limits & Re-appointment Procedures
 - g. Resignation Procedures
 - h. Student Appointees
 - i. Appointed Liaisons
- H. Best Practices & Resolving Common Challenges
- I. Specialized Matters Pertaining to their Specific Appointive Agency
- J. Obtaining Guidance & Assistance
 - a. City Clerk's Office
 - b. City Attorney's Office
 - c. Other Resources

City of Virginia Beach
[Board/Commission Name]
2021 Attendance Record

Name	Term Expires on:	Jan 11th	Feb 25th	Mar 8th	Apr 22nd	May 15th	Jun 22nd	Jul 5th	Aug 10th	Sep 24th	Oct 14th	Nov 28th	Dec 12th	Total Present
Commissioner	5/31/2022	P	P	C	A	A	P	P/V	P/V	P	P	P	P	9/11
Commissioner	5/31/2022	P	P	C	P/V	P/V	P	A	A	P	P	P	E	8/11
Commissioner	5/31/2024	P	P	C	P	P/V	P	E	P	P	P	P	P	10/11
Commissioner	5/31/2021	P	P	C	P	A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	3/4
Commissioner	5/31/2024	P	P	C	P	P	P	A	P	P/V	P/V	P/V	A	9/11
Commissioner	5/31/2023	A	P	C	P	P	P	P/V	P	P	P	P/V	P	10/11
Commissioner	5/31/2026	N/A	N/A	C	N/A	P	P	P	P	P	P	P	P	8/8
Commissioner	5/31/2026	P	P	C	P	P	P	P	P	E	P	P	P	10/11
This row indicates if there was a quorum; total number of members in person/total number of appointed members		6/7	7/7	C	5/7	4/8*	7/7	2/7*	5/7	5/7	6/7	5/7	5/7	
City Council Liaisons/Department Staff Liaisons														
Council Member Liaison	P			C	P/V	P/V	P/V		P/V	P/V				6
Council Member Liaison	P	P		C	P	P/V								4
Staff Liaison	P	P/V		C	P	P	P	P	P	P	P	P	P	10
Staff Liaison	P	P		C	P	P	P	P	P			P	P	9
Staff Liaison	P/V	P/V		C	P/V				P/V	P/V	P/V	P/V	P	8

Key: Present (P) Present/Virtually (P/V) Absent (A) Resigned (R) Excused Absence (E) Cancelled (C)

City Council and Staff Liaisons should be marked either P or P/V, if not in attendance, the block should be blank

If Commissioners participate P/V, it must be annotated in the Minutes where they remotely participated from and the reason – does not apply to City Council or Staff Liaisons.

Meetings lacking a quorum of Members attending in-person should be designated with an asterisk (*)

EXHIBIT F – REAPPOINTMENT REQUEST

City Council Appointive Agencies Reappointment Request



Instructions

The Reappointment Request ensures your desire to serve an additional term is known to City Council for their consideration. This request is due to the City Clerk 60 days prior to the expiration of your current term and should be completed entirely.

Contact Information

Name (Last, First MI): _____

Residential Address: _____

Voting District you live in (1-10): _____

Cell Phone: _____ Email: _____

City Council Appointed Agency Information

Are you seeking reappointment? Yes ☐ No ☐ If yes, please complete questions below:

Name of City Council Appointive Agency you are seeking reappointment to:

Are you currently serving on any other City Council Appointive Agency? If so, provide the name:

If your appointment requires you to have a specific certification/license, residential district, position or role, do you still maintain that requirement?

What is the specific requirement? (i.e., licensed engineer/architect, president or member of a specific association or organization, residential district, employment, citizen, specific knowledge/experience)

Agreement and Signature

By my signature to this form, I affirm that the facts set forth in it are true and complete. I understand that if I am reappointed, any false statements, omissions, or other misrepresentations made by me may result in my immediate dismissal. I affirm my willingness to complete the City of Virginia Beach Appointive Agency Training Program and I acknowledge the Principles of Service. I further affirm my willingness to fulfill my commitment to actively attend and participate and comply with the Virginia Financial Disclosure requirements, if applicable.

Signature: _____ Date: _____

City of Virginia Beach Principles of Service

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- To uphold all laws, regulations, and policies.
- To take no action for personal benefit.
- To make every effort to avoid a real or perceived conflict of interest.
- To avoid disclosure of confidential information obtained in the performance of my duties or in my official capacity.
- To exercise prudence and good judgment at all times.
- To faithfully and impartially perform my duties, acting with integrity and accountability.
- To treat other officials, staff, and the public with respect.
- To ensure City resources are used solely for the benefit of the City, and City staff are not given unauthorized directives.
- To participate in training and adhere to guidance provided for my role by the City.

EXHIBIT G – ANNUAL REPORT TEMPLATE

ANNUAL REPORT TEMPLATE



City of Virginia Beach

_____ [Appointive Agency Name]

20____-20____ Annual Report to City Council

Chair: _____ [Name]

Date: _____ [Date – due by August 31, unless otherwise specified]

Executive Summary

During the fiscal year covering the period of July 1, [YEAR] – June 30, [YEAR] the [Appointed Agency] volunteers and liaisons

- o met _____ [number] times
- o [if applicable] held _____ additional events and activities

Our most significant accomplishments are detailed below, along with recommendations for your consideration.

Mission Statement

[insert the agency's mission statement here].

Accomplishment of Goals and Objectives

Over the past fiscal year the agency, through its appointed volunteers and its liaisons, worked on the following key matters in furtherance of its mission: *[include all assignments from Council and a summary of duties performed as required by law]*

1. Insert Topic #1
 - a. Insert data about the plan/project/program, its goal, and its relation to the mission
 - b. If incomplete, explain the status and reasons
 - c. Attach any reports or supplemental materials as an exhibit
2. Insert Topic #2
 - a. Insert data about the plan/project/program, its goal, and its relation to the mission
 - b. If incomplete, explain the status and reasons
 - c. Attach any reports or supplemental materials as an exhibit

3. Insert Topic #3
 - a. Insert data about the plan/project/program, its goal, and its relation to the mission
 - b. If incomplete, explain the status and reasons
 - c. Attach any reports or supplemental materials as an exhibit

Membership and Attendance

[Insert the standard membership roster here, including all who served during the Fiscal Year and all liaisons]

[insert the standard attendance reports here for the two calendar years covering this reports Fiscal Year]

[Insert volunteer hours report]

Financial Report (if applicable)

[insert the fiscal year financial report here]

Goals and Objectives for the Coming Year

[insert bullet points & relate to the Mission]

Recommendations to City Council

[insert bullet points listing specific actions your agency wants City Council to consider regarding your agency, its mission, its effectiveness, addressing its challenges, serving the public in a better manner, changes to laws or regulations, specific plans or projects, and opportunities for consolidation or sunseting. Include a brief reason for each recommendation.]

Additional Information (if desired)

[Insert anything else your agency wishes City Council and the public to know.]

Closing

Should you have any questions or desire a formal City Council briefing from our agency, please contact [INSERT CHAIR and STAFF LIAISON CONTACT INFO].

EXHIBIT H – BYLAWS TEMPLATE

BY-LAWS

INSERT APPOINTIVE AGENCY NAME

ARTICLE I NAME

The Name of the Organization shall be _____ as established by Section _____ of the City Code of the City of Virginia Beach.

ARTICLE II

PURPOSE

INSERT PURPOSE ESTABLISHED BY CITY COUNCIL

ARTICLE III

OFFICERS

INSERT INFORMATION ON OFFICERS OF ORGANIZATION AND THEIR DUTIES

ARTICLE IV

ELECTIONS

INSERT INFORMATION ON NOMINATION AND ELECTION PROCESS FOR OFFICERS. ALSO INCLUDE INFORMATION ON TERMS OF OFFICE AND HOW VACANCIES ARE FILLED.

ARTICLE V

QUORUM

INSERT INFORMATION ON THE QUOROM REQUIREMENTS.

ARTICLE VI

AMENDMENT OF BY-LAWS

INSERT INFORMATION ON THE AMENDMENT PROCESS.

ARTICLE VII

OPERATIONS AND AUTHORITY

INSERT INFORMATION ON THE OPERATIONS FOR THE ORGANIZATION

Adopted _____

Approved by City Council _____

EXHIBIT I – MEETING MINUTES TEMPLATE

MEETING MINUTES TEMPLATE

The regular meeting of the Insert Name of Agency was held on Insert Date at Insert Time a./p.m., at the Insert Location of the Meeting.

MEMBERS PRESENT: Insert Names

MEMBERS ABSENT: Insert Names

LIAISONS PRESENT: Insert Names & Titles

CITY STAFF PRESENT: Insert Names & Titles

COUNCIL and AGENCY LIAISONS PRESENT: Insert Names

CALL TO ORDER

Insert name and title called the meeting to order at Insert time.

****MINUTES SHOULD BE PREPARED AND FOLLOW IN SAME ORDER AS THE AGENDA**

MOTION TO APPROVE THE MINUTES FROM INSERT DATE(S) MEETING

A motion was made by Insert Member Name, seconded by Insert Member Name, to approve the minutes from the INSERT DATE(S) meeting.

The motion passed Insert Vote count or "unanimously".

*if vote was not unanimous list members grouped by how they voted

Members Voting Aye: Insert Members Voting Aye

Members Voting Nay: Insert Members Voting Nay

Members Abstaining: Insert Members Abstaining

A motion was made by Insert Member Name, seconded by Insert Member Name, to Insert Action of Motion.

The motion passed Insert Vote count or "unanimously".

*if vote was not unanimous list members grouped by how they voted

Members Voting Aye: Insert Members Voting Aye

Members Voting Nay: Insert Members Voting Nay

Members Abstaining: Insert Members Abstaining

CONTINUE MINUTES IN SAME ORDER AS THE AGENDA

ADJOURNMENT

There being no further business, the meeting was adjourned at Insert time.

Insert Signature

Insert Signature

Type Name of who calls meeting to order Type Name of who prepares Minutes

Title

Title

ATTACHMENTS

Attach a copy of any presentations, policies or resolutions that were discussed or approved, and any disclosure or abstention letters submitted by a member (see below).

ADDITIONAL INFORMATION TO BE INCLUDED IN THE MINUTES IN CERTAIN CIRCUMSTANCES

ABSTENTIONS AND DISCLOSURES

If a member **abstained from a vote or made a disclosure** about his or her interest in a matter that was the subject of a vote, the minutes should include information about the abstention or disclosure. If the member contacts the City Attorney's Office in advance or within 24 hours of the vote, the City Attorney's Office may prepare a disclosure or abstention letter for the member. If the member submits such a letter, the letter should be referenced in the minutes and included as an attachment. If instead the member orally discloses, for example, that she is abstaining because she has a financial interest in the business or land that is the subject of the vote, the minutes need to include the address of the company's primary business location or the address or GPIN of the land.

REMOTE PARTICIPATION

If the agency has adopted a remote participation policy that enables a member to participate in a meeting via video conferencing or conference call, and a member participates remotely pursuant to that adopted policy, the minutes must include all the information required by the policy, including but not limited to the location from which the member spoke and the reason for the remote participation.

VIRTUAL MEETINGS

Fully virtual meetings (without a quorum of the membership assembled in a meeting room open to the public) only are allowed by the Virginia Freedom of Information Act in limited circumstances. If the City Attorney's Office has advised that a meeting may be conducted virtually, ensure that the minutes contain all the information that is required by the law(s) that authorized the virtual meeting. Questions may be directed to the Public Policy Attorney or the attorney who advises the agency.





CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: A Resolution Requesting the City of Virginia Beach Development Authority To Continue Forbearance on the Loan to Vanguard Landing, Inc.

MEETING DATE: December 6, 2022

■ **Background:** On December 10, 2013, the City Council appropriated \$2,910,000 to the City of Virginia Beach Development Authority (the "VBDA") for the purpose of the VBDA making a loan (the "Loan") to Vanguard Landing, Inc. ("VL") of funds sufficient to allow VL to acquire approximately 74.54 acres of property off Princess Anne Road (the "Property") for the construction of a project that provides residential and employment opportunities for persons with intellectual disabilities (the "Project").

The VBDA authorized the Loan on December 17, 2013 and the Loan was made on February 13, 2014 in the amount of \$2,850,406. The Loan was evidenced by a promissory note and secured by a recorded deed of trust creating first priority lien against the Property (each dated February 13, 2014, and respectively, the "Note" and "Deed of Trust").

Repayment of the Note was to be in seven annual installments of \$114,016.24, commencing on February 13, 2022, with a final balloon payment of \$2,052,292.40 on February 13, 2029. The Note required, among other things, that VL complete construction of at least one residential building on or before February 13, 2019 or the VBDA could declare a default and accelerate all sums outstanding.

To date, while VL has sought site plan approval, including a lengthy stormwater process, construction on the Project has not commenced and no residential buildings have been completed. On March 21, 2021, the VBDA notified VL of the default under the Note and agreed to forbear collection for sixty (60) days. That forbearance was extended to the June 15, 2021 meeting at which time the VBDA adopted a Resolution extending the forbearance for one year on the condition that VL make a \$500,000 principal payment and submit quarterly progress reports. VL has timely complied with those requirements.

Although VL diligently sought approval of its site plan and is working with Virginia Housing to obtain financing for the Project, VL requested a further forbearance from the VBDA at the June 21, 2022 VBDA meeting. The VBDA agreed to extend its forbearance until December 31, 2022 on the condition that VL obtain financing sufficient for the Project and sufficient to pay the Note in full.

VL received conditional site plan approval on December 1, 2022, but will not close on its financing before December 31, 2022.

■ **Considerations:** The attached Resolution requests that the VDBA (i) continue forbearance until the latter of six months after site plan approval (to give time to close on its financing with Virginia Housing) or December 31, 2023, (ii) reinstate the original payment terms of the Note, and (iii) subordinate the lien of the Deed of Trust to the interest of Virginia Housing.

■ **Public Information:** Public notice provided via the normal City Council agenda process.

■ **Attachments:** Resolution

Requested by Councilmember Henley

REQUESTED BY COUNCILMEMBER HENLEY

1 A RESOLUTION REQUESTING THE CITY OF
2 VIRGINIA BEACH DEVELOPMENT AUTHORITY
3 TO CONTINUE FORBEARANCE ON THE LOAN
4 TO VANGUARD LANDING, INC.
5

6 WHEREAS, on September 10, 2013, Deputy City Manager Cindy Curtis presented
7 the Vanguard Landing Development Proposal to the City Council and the request that the
8 City assist in the initial procurement of approximately seventy-five acres to build a
9 residential and employment center for individuals with intellectual disabilities;
10

11 WHEREAS, on November 26, 2013, Deputy City Manager Curtis further
12 presented to City Council recommended actions and next steps to further the Vanguard
13 Landing Development Proposal;
14

15 WHEREAS, on December 10, 2013, City Council unanimously adopted an
16 ordinance to appropriate \$2,910,000 from the fund balance of the general fund to the City
17 of Virginia Beach Development Authority (the "Authority") to allow the Authority to lend
18 funds to Vanguard Landing, Inc., a Virginia non-profit corporation, in furtherance of a
19 project that provides residential and employment opportunities for persons with
20 intellectual difficulties (the "Project");
21

22 WHEREAS, on December 17, 2013, the Authority approved a loan (the "Loan") to
23 Vanguard Landing to allow Vanguard Landing to finance the acquisition of approximately
24 74.54 acres of property off Princess Anne Road (the "Property") for the Project;
25

26 WHEREAS, the Loan, made on February 13, 2014, is evidenced by a promissory
27 note in the principal amount of \$2,850,406 (the "Note") and secured by a first priority lien
28 on the Property evidenced by a deed of trust held by the Authority (the "Deed of Trust");
29

30 WHEREAS, the Loan included Repayment Terms that the Loan would be repaid
31 on a twenty-five (25) year amortization schedule with payments commencing at the
32 beginning of year eight (8) and a final balloon payment due at the end of year fifteen (15).
33 Borrower to repay only the purchase price of the property and not the amount attributed
34 to rollback taxes;
35

36 WHEREAS, the Note contained events of default (the "Events of Default")
37 providing that all sums will be immediately due and payable if (i) no residential buildings
38 are complete (as evidenced by a certificate of occupancy) within five (5) years from the
39 date of the Loan, or (ii) Borrower fails to apply for and diligently pursue all necessary
40 licenses and permits for the operation of the Project, or (iii) the Property is not used in a
41 manner consistent with the proposed Project;
42

43 WHEREAS, on March 11, 2014, the City Council unanimously adopted by
44 consent, applications of Vanguard Landing at Princess Anne Road for a Conditional
45 Change of zoning from AG-1 and AG-2, to Conditional B-1A on a portion of its Property
46 and Conditional Use Permits re: housing for disabled, commercial kennel, assembly use,
47 indoor/outdoor recreational facilities and horses for hire/boarding, and further authorized

48 and directed the City Manager to execute a Deed of Release and Exchange of an
49 Agricultural Lands Preservation (ARP) easement to Vanguard Landing, Inc., re mixed-
50 use facility at 2020 and 2036 Princess Anne Road;

51
52 WHEREAS, in keeping with the proposed timeline, Vanguard Landing continued
53 its capital campaign, renovated the main house on the property and removed the
54 secondary house; employed the McGladrey Group to conduct a business feasibility study
55 of the proposed business plan, began conversations with the State Department of
56 Behavioral Health and held informational meetings with groups of parents;

57
58 WHEREAS, also in 2014 the City of Virginia Beach began extensive studies of
59 stormwater models and sea level rise;

60
61 WHEREAS, in the Summer of 2016, a series of storms culminating in Hurricane
62 Matthew extensively flooded areas throughout the City of Virginia Beach, with particular
63 flooding occurring in the subdivisions of Ashville Park and Sherwood Lakes, neighboring
64 communities to the proposed Vanguard Landing project;

65
66 WHEREAS, the engineering firm representing Vanguard Landing had direct
67 involvement and firsthand knowledge of the flooding problems and stormwater
68 infrastructure design deficiencies which the flooding in these neighboring communities
69 revealed. Consequently, Vanguard Landing was sagely advised by its engineers that the
70 design of the stormwater system and site plan preparation be halted until the new
71 stormwater design ordinances could be developed;

72
73 WHEREAS, although the main farmhouse had been renovated and has continued
74 to be used as the headquarters for Vanguard Landing, no new structures could have been
75 responsibly built without the benefit of the new stormwater permit requirements;

76
77 WHEREAS, even though, because of unforeseen circumstances, new
78 construction could not occur, Vanguard Landing proceeded with plans necessary to
79 acquire licensure, loan funding applications, and capital fundraising to further prepare to
80 use the property in the manner for which it had been acquired;

81
82 WHEREAS, even though the 2020 pandemic served to provide further unforeseen
83 circumstances that hampered all non-profits in their operations, Vanguard Landing
84 continued its efforts to be ready to proceed when the stormwater ordinances were
85 adopted;

86
87 WHEREAS, on March 21, 2021, the Authority gave Vanguard Landing notice that
88 failure to construct a residential building on the Property on or before February 19, 2021
89 constituted an Event of Default under the Loan, but the Authority agreed to forbear
90 collection efforts for sixty (60) days;

91
92 WHEREAS, on May 19, 2021 the Authority agreed to continue its forbearance until
93 after the June 15, 2021 Authority meeting;

94
95 WHEREAS, on June 15, 2021, the Authority agreed to continue its forbearance for
96 twelve months on the condition that (i) Vanguard Landing make a \$500,000.00 payment

of principal to the Authority within sixty days of June 15, 2021, and (ii) Vanguard Landing submit quarterly written reports regarding its site plan approval and financing efforts (collectively, the "2021 Forbearance Conditions");

WHEREAS, Vanguard Landing made the first required principal payment of \$114,016.24 prior to February 13, 2022, as required by the Note;

WHEREAS, on June 21, 2022, the Authority agreed to further continue its forbearance until December 31, 2022 to allow Vanguard Landing to (i) obtain site plan approval, and (ii) obtain debt financing, and (iii) raise equity sufficient to meet debt requirements, and (iv) using debt and equity obtained to pay the debt to the Authority in full at closing (collectively, the "2022 Forbearance Conditions");

WHEREAS, Vanguard Landing has complied with the 2021 Forbearance Conditions but has yet to satisfy the site plan approval condition of the 2022 Forbearance;

WHEREAS, current principal owed on the Promissory Note is \$2,236,389.76;

WHEREAS, Vanguard Landing's site plan was conditionally approved on December 1, 2022, and based upon its development loan commitment from Virginia Housing it expects to be in a position to close on its financing to construct the Project soon after final approval; and

WHEREAS, Council is of the opinion that Vanguard Landing should be given additional time to obtain site plan approval and secure funding from Virginia Housing, and should have the original repayment terms of the Note reinstated, and that subordination of the Authority's lien to Virginia Housing is reasonable.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VIRGINIA BEACH, VIRGINIA, THAT

The City Council requests and recommends that the Authority (i) continue forbearance of the Promissory Note until six months after site plan approval or December 31, 2023, whichever first occurs, and (ii) reinstate the Promissory Note's original payment schedule, attached hereto as Exhibit A, and (iii) consent to the subordination of the Deed of Trust to a lien held by Virginia Housing.

Adopted by the City Council of the City of Virginia Beach, Virginia, on this ____ day of _____, 2022.

APPROVED AS TO LEGAL
SUFFICIENCY:



City Attorney's Office

CA15820

R-1

December 1, 2022

EXHIBIT A

PAYMENT SCHEDULE

<u>Date:</u>	<u>Payment Due:</u>
February 13, 2023	\$114,016.24
February 13, 2024	\$114,016.24
February 13, 2025	\$114,016.24
February 13, 2026	\$114,016.24
February 13, 2027	\$114,016.24
February 13, 2028	\$114,016.24
February 13, 2029	\$1,552,292.32*

(*Note: the \$500,000 paid in August of 2021
is reflected in the balloon payment)



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance to Appropriate \$100,000 of Fund Balance in the Tourism Investment Program Fund and to Increase the Annual Grant to the Neptune Festival

MEETING DATE: December 6, 2022

■ **Background:** The Virginia Beach Neptune Festival is operated by Virginia Beach Events Unlimited, Inc., a Virginia nonstock corporation. The Festival's mission is to provide a quality, safe, and diverse mix of events and activities that contribute to the charitable, educational, cultural, recreational, and economic development of the Hampton Roads region. The Neptune Festival produces more than 40 events per year and hosts the well-known Neptune Festival Boardwalk Weekend which begins on the last Friday in September of each year. The 2022 Neptune Festival Boardwalk Weekend marked the 48th anniversary of the Virginia Beach Neptune Festival.

■ **Considerations:** The City currently provides an annual grant for the Neptune Festival from the Tourism Investment Program (TIP) Fund in the amount of \$275,000. The Neptune Festival has requested an increase of funding. The funding request letter is attached. There is capacity in the fund balance of the TIP Fund to support this request. The letter also requests additional increases in the next two fiscal years as the Festival moves toward its 50th Anniversary in 2024.

■ **Public Information:** Normal Council agenda process.

■ **Attachments:** Ordinance; Disclosure Form; Funding Request Letter

Requested by Councilmembers Berlucchi and Branch

REQUESTED BY COUNCILMEMBERS BERLUCCHI AND BRANCH

1 AN ORDINANCE TO APPROPRIATE \$100,000 OF FUND
2 BALANCE IN THE TOURISM INVESTMENT PROGRAM
3 FUND AND TO INCREASE THE ANNUAL GRANT TO THE
4 NEPTUNE FESTIVAL
5

6 BE IT ORDAINED BY THE COUNCIL OF THE CITY OF VIRGINIA BEACH,
7 VIRGINIA, THAT:
8

- 9 1. \$100,000 from the fund balance of the Tourism Investment Program Fund is
10 hereby appropriated, with revenue increased accordingly, to the Operating
11 Budget of the Convention and Visitors Bureau.
12
13 2. The annual grant to support the Neptune Festival is hereby increased by
14 \$100,000.

Adopted by the Council of the City of Virginia Beach, Virginia on the ____ day of
_____, 2022.

Requires an affirmative vote by a majority of all the members of City Council.

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL SUFFICIENCY:


Budget and Management Services


City Attorney's Office

CA15982
R-2
November 29, 2022

DISCLOSURE STATEMENT FORM

The completion and submission of this form is required for all applications wherein such applicant may utilize certain service providers or financial institutions, and the City seeks to know of the existence of such relationships in advance of any vote upon such application.

SECTION 1 / APPLICANT DISCLOSURE

Organization name: Virginia Beach Neptune Festival

SECTION 2. SERVICES DISCLOSURE

Are any of the following services being provided in connection with the applicant? If the answer to any item is YES, please identify the firm or individual providing the service:

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	White & Ambrose, PC
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Financial Services (include lending/banking institutions and current mortgage holders as applicable)	TowneBank
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Legal Services	Williams Mullan
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Broker/Contractor/Engineer/Other Service Providers	

CERTIFICATION:

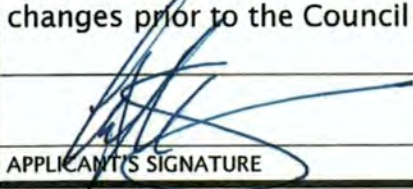
I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand I am responsible for updating the information provided herein if it changes prior to the Council action upon this Application.

APPLICANT'S SIGNATURE

PRINT NAME

DATE



Christopher W. Chappé

11/21/22



Mr. Patrick A. Duhaney
City Manager, City of Virginia Beach
Municipal Center
Virginia Beach, VA 23456

Dear Mr. Duhaney,

The City of Virginia Beach and the Virginia Beach Neptune Festival partnership is one that has been very successful for both parties for 48 years. Over 400,000 citizens and visitors come together each year under the Neptune Festival banner to celebrate our wonderful City.

Over the course of this partnership, the Neptune Festival has requested few increases or adjustments from the City, the most recent of which occurred in 2013. Since that time, our schedule of events has expanded significantly, and as a result, our economic return to the City has increased exponentially.

On the other hand, the costs of producing events and the Festival, including City service fees, have increased considerably.

Therefore, the Virginia Beach Neptune Festival is requesting City funding for a three year period as follows:

FY 2022-2023	\$375,000
FY 2023-2024	\$450,000
FY 2024-2025	\$500,000

These funds will allow us to move towards our 50th Anniversary in 2024 in a manner that befits our title of the City's "Official Celebration". A three-year funding ladder will permit both parties to budget properly as we look forward to a brighter future for our community. Enclosed, we have detailed our economic and civic contributions to the City and its citizens, as well as a look at what is to come.

We are proud to grow in our service to the City and its citizens. Our partnership with the City is one of mutual trust, cooperation, and benefit. We thank the City of Virginia Beach for its continued support and assistance.

Sincerely,

Nancy A. Creech
President

David Burton
Chairman of the Board



CITY OF VIRGINIA BEACH x NEPTUNE

A CONTINUED PARTNERSHIP

The Neptune Festival is an organization whose sole mission is to serve the City of Virginia Beach, its citizens, and its visitors as the City's "Official Celebration".

We are an organization that listens to the wants and needs of our community, and one that will continue to be a source of joy, tradition, and economic support for our City.

FESTIVAL ADDITIONS

In 2013, the Neptune Festival was awarded an increase in funding from the City. Since then, we were able to:

Exponentially grow and enhance Neptune's International Sandsculpting Championship - *extending the event from just 1 weekend to 10 days, and bringing world-class sculptors from over 11 countries to Virginia Beach*

Expand our demographic reach with the addition of wildly popular annual events such as: *Neptune's Coastal Craft Beer Festival, Neptune's Healthy Haven: A Beach Yoga & Fitness Experience, Poseidon's Playground: A Free Family Fun Zone, Neptune's 8k Race rejuvenation, a Symphony by the Sea summer concert series, and more*

Promote City endeavors and public relations campaigns, including but not limited to: *Police-to-Public outreach on the boardwalk and in our sand venue, VB Strong sandsculpture and ceremony, free sand tickets for City Employees, and an annual celebration of our Hometown Heroes*

LOOKING AHEAD

The requested increases to our funding will allow us to take real steps towards a spectacular 50th Anniversary in 2024, and be able to:

Secure larger acts and stage entertainment to compete with surrounding cities and regions

Enhance existing and develop new events, particularly in the shoulder months, *including the return of our Seniors Gala*

Significantly expand our marketing and outreach programs, and continue to survive in a world of ever-increasing costs





VIRGINIA BEACH NEPTUNE FESTIVAL ECONOMIC IMPACT

BOARDWALK WEEKEND ECONOMIC IMPACT SUMMARY

In 2018, an economic impact study was conducted, compiled, and analyzed by Choice Communications Systems, Inc. The following numbers reflect the Executive Summary of that study. These figures only continue to grow, as we add and expand to our current slate of events.

- **\$23.5 million economic impact** by the Neptune Festival Boardwalk Weekend, *in just 3 days*
- **\$16.9 million in direct impact** by Neptune Festival attendees
- **\$1.19 million in tax impact** by Neptune Festival attendees
- **405,400 attendees** over Neptune Festival Boardwalk Weekend
- **52% of attendees** are visitors from outside of Virginia Beach
- **26,500 room nights** generated by overnight hotel attendees
- **\$170 per day** spent by overnight hotel attendees
- **1 in 4 residents** visit the Neptune Festival at least one day
- **80% of attendees** have visited the Neptune Festival in the past
- **8 average past visits** attendees have made to the Neptune Festival
- **98% of attendees** say they will return or may return next year
- **4 in 5 visitors** came to Virginia Beach specifically to attend the Neptune Festival

RETURN ON INVESTMENT

The Neptune Festival deeply values its partnership with the City of Virginia Beach, and is proud of the sustained, robust economic value that the City earns from this alliance. In both overall economic impact and direct tax revenue, the investment return is clear evidence of how an annual special event like the Neptune Festival is a significant positive factor.

ECONOMIC BENEFIT FROM TOTAL SPENDING

CITY INVESTMENT: \$1.00 → FESTIVAL RETURN: \$85.00

ECONOMIC BENEFIT FROM DIRECT TAXES (CASH)

CITY INVESTMENT: \$1.00 → FESTIVAL RETURN: \$4.25



VIRGINIA BEACH NEPTUNE FESTIVAL

COMMUNITY IMPACT

NEPTUNE FESTIVAL OVERVIEW

For the past 48 years, the Neptune Festival has hosted both residents and visitors for over 40 events throughout the year, culminating in a three day Boardwalk Weekend celebration that attracts over 400,000 people. As a private, non-profit 501(c)(3) organization, it is governed by a volunteer board of directors and is funded by corporate sponsorships, admission tickets, merchandise sales and site revenues.



The Neptune Festival is the premier event of the Commonwealth of Virginia, and is recognized as the City's "Official Celebration". ***In acknowledgment of the Festival's enduring impact and dedication to the residents of Virginia Beach, a 34-foot bronze Neptune statue stands on the edge of the beach at Neptune's Park.*** The Neptune Statue has become the icon of Virginia Beach and is recognized across the country. Funded entirely through private contributions raised within the Neptune Festival family, construction of the statue did not require public solicitations or a dime of City money. The Neptune Statue was dedicated to the City of Virginia Beach residents and visitors in 2005; a gift equivalent to over \$750,000.

The Neptune Festival is a year-round event business with a \$2.1 million operating budget, employing 8 full-time and 3 part-time workers. A loyal volunteer base of over 800 citizens helps the organization plan and execute its events each year, cultivating a strong sense of place and community for those living in Virginia Beach.

By investing in and partnering with other local and regional businesses whenever possible, the Neptune Festival spends approximately \$1,000,000 with local businesses, service providers, vendors and suppliers annually.



Neptune Festival events are a carefully crafted blend of world-class attractions and activities that welcome participation by all. There is no other event that crosses the lines of age, religion, race, social status and income level to provide something for everyone to participate in or attend.

Whether it is the senior citizen attending the Seniors Gala, the teenager competing in the surf contest, the visitor drawn by the works of art in the Sandsculpting Championship, or the professional artist displaying their craft on the Boardwalk...from golfers to yogis, craft beer to wine lovers, the Neptune Festival has been welcoming all to Celebrate the Beach Life since 1974.

BEYOND THE BOARDWALK: COMMUNITY OUTREACH

REVENUE SHARING PROGRAMS

The Neptune Festival has established and maintained a distinctive program of cooperation with local charitable organizations - acting as a force multiplier for good by providing unique exposure and fundraising opportunities. Each year, participating non-profits earn much needed funds and exposure through their direct affiliation with the Festival. In 2021, the Neptune Festival was proud to partner with:

- **EQUI-KIDS, EQUI-VETS**
- **Governor's School for the Arts**
- **Toby's Dream Foundation**
- **Virginia Beach Lifesaving Service**
- **Virginia Beach Police Foundation**
- **Town Center Kiwanis Club**
- **Virginia Beach Rotary**
- **Virginia Musical Theatre, and so many more!**

MARKETING SPACE PROGRAMS

The Neptune Festival helps other non-profit organizations promote their cause to over 400,000 attendees by providing booth space free of charge during Boardwalk Weekend. Organizations given space on the boardwalk have much to gain - animals adopted, donations received, and awareness raised! In 2019 and 2021, the Neptune Festival was proud to share space with:

- Al-Anon Family Groups of Tidewater
- Asian Community Service Center
- Atlantic Wildfowl Heritage Museum
- Automotive Coalition for Traffic Safety
- Collars for Causes
- Equi-KIDS/Equi-VETS
- Every Snout Counts
- Give Thanks For Life
- Marine Corps League
- National Alliance on Mental Illness
- Pugs U Gotta Save
- Samaritan House
- Sierra Club
- Southeastern VA Golden Retriever Rescue
- StandUp for Kids, Hampton Roads
- Thousand Tree Fund/Planting Shade
- VFW Post 4809
- Virginia Beach SPCA
- VisitNorfolk
- Weighted Angels

RECOGNITION

Within the tourism industry, the Neptune Festival Boardwalk Weekend celebration has brought positive recognition to Virginia Beach. It has been recognized as one of the Top 50 Events in the United States (and #1 in Virginia) by the Travel Channel, one of the Top 100 Events in North America by the ABA, and among the Top 20 Events in the Southeastern US by the Southeast Tourism Society. ***The Neptune Festival Art & Craft Show is consistently ranked in the Top 5 Fine Art & Design Shows in the country by Sunshine Artist Magazine, and its signature event - Neptune's International Sandsculpting Championship- is world renowned for its quality of art and its ability to attract the best competitors.*** Through local, regional, and national promotional and marketing efforts, the Neptune Festival continues to bring positive recognition and exposure to the City of Virginia Beach and the region.



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance Declaring City-Owned Property Located at 3000 Barberry Lane to be in Excess of the City's Needs and Authorizing the City Manager to Sell same to Joseph P. Heilman and Amy L. Heilman

PUBLIC HEARING DATE: November 15, 2022

MEETING DATE: December 6, 2022

■ **Background:** In 2005, the City of Virginia Beach (the "City") purchased a parcel located at the corner of Holland Road and Barberry Lane commonly known as 3000 Barberry Lane (GPIN: 1495-41-1172) (the "Lot"), as part of the Holland Road Ph VI Project, CIP 2-158 (the "Project"). The Lot was zoned R5D and consisted of 8,204 sq. ft. The Project was administered by VDOT and the purpose of the Project was to widen Holland Road to accommodate increased traffic. As part of the Project, 2,162 sq. ft. of the Lot was dedicated as right-of-way, Barberry Lane was closed off from Holland Road, a sound barrier wall was constructed, a sidewalk and public utilities were installed in the right-of-way, and several easements for the maintenance of the expanded right-of-way and related improvements (the "Maintenance Easements") were reserved on the Lot. In addition to closing off the Lot's access to Holland Road, the Project also reduced road frontage for the Lot along Barberry Lane to approximately 37.62', and a 1' no ingress/egress easement was reserved on the Lot to restrict access to the Lot. After the Project's completion, the residue of the Lot now contains 6,042 sq. ft. of vacant land, much of which is encumbered by the Maintenance Easements and access restrictions (the "Property").

Joseph P. Heilman and Amy L. Heilman (the "Heilmans") own 3004 Barberry Lane, the parcel that is adjacent to the Property, and have expressed interest in purchasing the Property to be able to build onto their existing home. Although the Property is assessed at \$81,000, its appraised value is \$9,000, accounting for the Maintenance Easements and deed and access restrictions that will not allow a separate principal dwelling to be constructed on the Property. The Heilmans are offering to purchase the Property for the appraised value of \$9,000.

■ **Considerations:** City staff reviewed this request and determined that the Property should be sold to the Heilmans. The City will reserve easements for maintenance, utilities, drainage, and access as a part of any sale of the Property. The Property will not be allowed ingress or egress onto Barberry Lane or Holland Road and the Heilmans will be required to resubdivide the Property into their adjacent property to eliminate interior lot lines and create one parcel. The sale will also include a deed restriction that prevents any separate primary dwelling unit from being constructed on the Property. The proceeds from the sale of the Property will be deposited in CIP 100423 (Transportation Safety Improvements).

■ **Public Information:** Advertisement for public hearing as required by Section 15.2-1800 Code of Virginia and via the normal City Council agenda process.

■ **Alternatives:** Deny the request or add conditions as desired by Council.

■ **Recommendations:** Approval

■ **Attachments:** Ordinance, Exhibit A (Legal Description), Exhibit B (Summary of Terms), Location Map and Disclosure Statement.

Recommended Action: Approval

Submitting Department/Agency: Public Works/Real Estate 

City Manager: 

1 AN ORDINANCE DECLARING CITY-OWNED
2 PROPERTY LOCATED AT 3000 BARBERRY LANE
3 TO BE IN EXCESS OF THE CITY'S NEEDS AND
4 AUTHORIZING THE CITY MANAGER TO SELL
5 SAME TO JOSEPH P. HEILMAN AND AMY L.
6 HEILMAN
7

8 WHEREAS, in 2005, the City of Virginia Beach (the "City") purchased an
9 8,204 sq. ft. parcel located at 3000 Barberry Lane (GPIN: 1495-41-1172) (the "Lot");
10

11 WHEREAS, the City acquired the Lot for the Holland Road Phase VI
12 Project, CIP 2-158, which was a Virginia Department of Transportation (VDOT) funded
13 and managed project to widen Holland Road (the "Project");
14

15 WHEREAS, as a result of the Project, 2,162 sq. ft. of the Lot was
16 dedicated as right-of-way for road widening and installation of related improvements,
17 and the 6,042 sq. ft. of the Lot that remains, as more particularly described on Exhibit
18 "A" attached hereto and made a part hereof (the "Property"), is largely encumbered by
19 easements to maintain the expanded right-of-way and related improvements;
20

21 WHEREAS, Joseph P. Heilman and Amy L. Heilman (the "Heilmans") own
22 3004 Barberry Lane, which is adjacent to the Property;
23

24 WHEREAS, the appraised value of the Property is \$9,000;
25

26 WHEREAS, the Heilmans intend to build onto their existing home and
27 therefore, desire to purchase the Property for its appraised value of \$9,000 in
28 accordance with the Summary of Terms attached hereto as Exhibit "B" and made a part
29 hereof; and
30

31 WHEREAS, the Project is completed and City Council is of the opinion
32 that the Property is in excess of the needs of the City of Virginia Beach.
33

34 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY
35 OF VIRGINIA BEACH, VIRGINIA:
36

37 That the Property is hereby declared to be in excess of the needs of the
38 City of Virginia Beach and that the City Manager is hereby authorized to execute any
39 documents necessary to convey the Property to the Heilmans in accordance with the
40 Summary of Terms and such other terms, conditions or modifications as may be
41 acceptable to the City Manager and in a form deemed satisfactory by the City Attorney.
42

43 Further, that the revenue from the sale of the Property in the amount of
44 \$9,000 shall be received and deposited in CIP 100423 (Transportation Safety
45 Improvements).
46

47 This Ordinance shall be effective from the date of its adoption.
48
49 Adopted by the Council of the City of Virginia Beach, Virginia, on the
50 ____ day of ____, 2022.

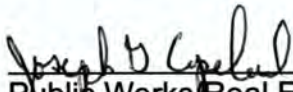
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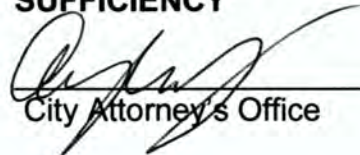
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APPROVED AS TO CONTENT



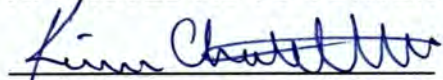
Public Works/Real Estate

**APPROVED AS TO LEGAL
SUFFICIENCY**



City Attorney's Office

APPROVED AS TO CONTENT



Budget & Management Services

EXHIBIT "A"

LEGAL DESCRIPTION

3000 BARBERRY LANE; GPIN: 1495-41-1172:

ALL THAT certain lot, tract or parcel of land together with improvements thereon belonging, lying, situated and being in the City of Virginia Beach, Virginia and designated and described as "PROPERTY OF CITY OF VIRGINIA BEACH INST. NO. 20050725001138380 D.B. 2578, PG. 704 – (PLAT) GPIN: 1495-41-1172 LOT 347" and further described as "RESIDUAL LOT 347 6,042 SQ. FT. OR 0.13871 AC.," as shown on that certain plat entitled "PLAT SHOWING PROPOSED EASEMENTS AND PROPERTY HEREBY ESTABLISHED AS RIGHT-OF-WAY FOR LOT 347 LANDSTOWN MEADOWS, SECTION FOUR PROPERTY OF CITY OF VIRGINIA BEACH," Scale: 1" = 20', dated April 20, 2021, which plat is recorded in the Clerk's Office of the Circuit Court of the City of Virginia Beach, Virginia as Instrument Number 202207000088, to which reference is made for a more particular description.

RESERVING UNTO THE CITY that certain public drainage easement designated and described as "PROPOSED PUBLIC DRAINAGE EASEMENT (STATE HWY. PROJECT U000-134-145,RW-201,C-501)(69 SQ. FT OR 0.00158 AC.)" and further described as "PROPOSED PUBLIC DRAINAGE EASEMENT 69 SQ. FT. OR 0.00158 AC.," as shown on the aforesaid plat.

RESERVING UNTO THE CITY that certain sound barrier maintenance easement designated and described as "PROPOSED SOUND BARRIER MAINTENANCE EASEMENT (STATE HWY. PROJECT U000-134-145,RW-201,C-501) (386 SQ. FT. OR 0.00886 AC.) and further described as "PROPOSED SOUND BARRIER MAINTENANCE EASEMENT 386 SQ. FT. OR 0.00886 AC.," as shown on the aforesaid plat.

RESERVING UNTO THE CITY that certain 20' public drainage, maintenance and access easement designated and described as "PROPOSED 20' PUBLIC DRAINAGE MAINTENANCE AND ACCESS EASEMENT 1,998 SQ. FT. OR 0.04587 AC." as shown on the aforesaid plat.

RESERVING UNTO THE CITY that certain variable width public utility easement designated and described as "PROPOSED VARIABLE WIDTH PUBLIC UTILITY EASEMENT 893 SQ. FT. OR 0.02051 AC." as shown on the aforesaid plat.

SUBJECT TO that certain variable width Verizon South, Inc. easement as shown on the aforesaid plat.

SUBJECT TO that certain 1' no ingress/egress easement established on the aforesaid plat.

SUBJECT TO that certain residual permanent sign easement established in Deed Book 2578, at page 704 and as further shown on the aforesaid plat.

SUBJECT TO any and all encumbrances and easements of record whether or not listed herein.

RESERVING UNTO THE CITY all right, title and interest of the City in and to any and all easements, rights of way, private roads and other rights of access, ingress and/or egress adjacent to, appurtenant to or in any way benefiting the City and/or public.

IT BEING a portion of the same property conveyed to the City of Virginia Beach by Deed from John A. Anderson and Beverly L. Anderson dated July 19, 2005 and recorded in the aforesaid Clerk's Office as Instrument Number 200507250113838.

EXHIBIT "B"

SUMMARY OF TERMS

SALE OF EXCESS PROPERTY

SELLER: City of Virginia Beach

PURCHASERS: Joseph P. Heilman and Amy L. Heilman

PROPERTY: 3000 Barberry Lane; GPIN: 1495-41-1172, consisting of 6,042 square feet (0.13871 acres), more particularly described on **Exhibit A**

SALE PRICE: \$9,000.00

CONDITIONS OF SALE:

- The Property is purchased "AS IS, WHERE IS," and will be conveyed by Special Warranty Deed.
- The Purchasers shall provide a \$5,000.00 earnest money deposit upon full execution of the Agreement, and the balance shall be paid by the Purchasers at the time of Settlement.
- The Purchasers shall, at their expense, resubdivide the Property to incorporate the Property into their adjacent property at 3004 Barberry Lane.
- The Purchasers shall reimburse the City of Virginia Beach for the cost of the appraisal of the Property.
- The Property will be restricted at sale to prevent additional principal structures or driveways from being constructed upon the Property.
- The Purchasers shall adhere to all zoning ordinances and City Code requirements.
- The Purchasers shall be responsible for their own closing costs, recording fees, and attorney's fees.
- The Purchasers shall be responsible for all costs associated with the abandonment and removal of the water and sewer taps from the Property. Payment of those costs shall be made to the City of Virginia Beach/Department of Public Utilities.
- Approval of this sale shall be revoked if closing has not occurred on or before December 31, 2024, unless extended by City Council prior to such date.



Potential Purchaser's Property

See Insert

Legend

- 1495-41-1172
- 1495-41-1101
- City Properties
- Variable Width Utility Easement
- Public Drainage Easement
- 20' Drainage and Maintenance Easement
- Sound Barrier Maintenance Easement
- Easement Lines

Note: This property is located in AICUZ Noise Zone ≥ 70 dB and < 75 dB

GPIN	OWNER	ZONING	ADDRESS
1495-41-1172	City of Virginia Beach	R5D	3000 Barberry Lane
1495-41-1101	JOSEPH P. & AMY L. HEILMAN	R5D	3004 Barberry Lane

HOLLAND RD

BARBERRY LN

Variable Width Verizon South, Inc. Easement

10' Public Drainage Easement

5' Public Drainage Easement

1' No Ingress/ Egress Easement

Insert
Scale: 1" = 25'

LOCATION MAP
EXCESS CITY PROPERTY
3000 BARBERRY LANE
GPIN: 1495-41-1172

0 25 50 100 Feet



Potential Purchaser's Property

See Insert

HOLLAND RD

BARBERRY LN

Legend

- 1495-41-1172
- 1495-41-1101
- City Properties
- Variable Width Utility Easement
- Public Drainage Easement
- 20' Drainage and Maintenance Easement
- Sound Barrier Maintenance Easement
- Easement Lines

Note: This property is located in AICUZ Noise Zone ≥ 70 dB and < 75 dB

GPIN	OWNER	ZONING	ADDRESS
1495-41-1172	City of Virginia Beach	R5D	3000 Barberrry Lane
1495-41-1101	JOSEPH P. & AMY L. HEILMAN	R5D	3004 Barberrry Lane

Variable Width Verizon South, Inc. Easement

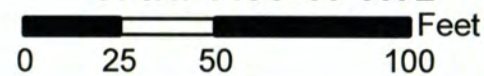
5' Public Drainage Easement

10' Public Drainage Easement

1' No Ingress/ Egress Easement

Insert
Scale: 1" = 25'

LOCATION MAP
EXCESS CITY PROPERTY
3000 BARBERRY LANE
GPIN: 1495-41-1172



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 Joe & Amy Heilman

Does the applicant have a representative? ☐ Yes ☒ No

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

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

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

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

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

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

Disclosure Statement



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

☐ Yes ☒ No

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

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

☐ Yes ☒ No

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

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

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

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

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

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

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

Disclosure Statement



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

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

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

Applicant Signature

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

Applicant Signature

Print Name and Title

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

Continue to Next Page for Owner Disclosure

Disclosure Statement



Owner Disclosure

Owner Name _____

Applicant Name _____

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

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

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

Known Interest by Public Official or Employee

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

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

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

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

Disclosure Statement



Owner Services Disclosure

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

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

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

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

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

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

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

Disclosure Statement



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

Owner Signature

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

Owner Signature

Print Name and Title

Date



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance to authorize acquisition of property in fee simple for the Shore Drive Corridor Improvements - Phase III Project, CIP 100381 (formerly CIP 2-117), and the acquisition of temporary and permanent easements, either by agreement or condemnation

PUBLIC HEARING DATE: November 15, 2022

MEETING DATE December 6, 2022

■ **Background:** The Shore Drive Corridor Improvements - Phase III Project (the "Project") has been designed to improve safety for motorists, pedestrians, and bicyclists. The Project includes bike lanes, sidewalks, and crosswalks. Property entrances will be consolidated and oriented to the side streets where practical. In areas of known flooding, the roadway profile will be raised. New drainage pipes and structures will be added. Overhead utilities will be relocated underground at intersections and mid-block crossings to improve visibility as well as aesthetics. New streetlights and lower-level pedestrian lighting will be provided. Existing signalized intersections will be upgraded with new uniform mast arm signal equipment. The corridor will remain a four-lane, divided arterial facility with a raised median, with a 35 MPH speed limit.

A 5-foot-wide on-street bike lane and a 5-foot-wide concrete sidewalk will be provided along both sides of the roadway within Project limits. The exception is at the west end of the Project, where there will be a 10-foot-wide shared-use path from the Lesner Bridge to Jade Street, to provide a connection to the Cape Henry Trail.

The Project first appeared in the FY 2007-08. To prevent construction delays, the City will use fund balance on this Project in place of delayed revenue collection from the Commonwealth until such time as VDOT's new Six-Year Improvement Program is adopted that restores the full amount of revenue sharing to this Project.

■ **Considerations:** The Project will require property and easements from 53 privately-owned parcels, one of which has already been secured. Two vacant parcels will be total acquisitions. No residences or businesses are anticipated to be displaced by the Project.

■ **Public Information:** Citizen information meetings have been held with various groups, including Bayfront Advisory Committee, Cape Henry Towers owners, Westminster Canterbury, Shore Drive Community Coalition, and Lynnhaven Colony Civic League. A public hearing will be held on November 15, 2022, and public notice will be provided via the normal City Council agenda process.

■ **Alternatives:** Deny the Ordinance, which will delay the Project.

■ **Recommendations:** Approval of the Ordinance

■ **Attachments:** Ordinance and Location Map

Recommended Action: Approval of the Ordinance

Submitting Department/Agency: Public Works/Real Estate 

City Manager: 

1 AN ORDINANCE TO AUTHORIZE
2 ACQUISITION OF PROPERTY IN FEE SIMPLE
3 FOR THE SHORE DRIVE CORRIDOR
4 IMPROVEMENTS - PHASE III PROJECT, CIP
5 100381 (FORMERLY CIP 2-117), AND THE
6 ACQUISITION OF TEMPORARY AND
7 PERMANENT EASEMENTS, EITHER BY
8 AGREEMENT OR CONDEMNATION
9

10 WHEREAS, in the opinion of the Council of the City of Virginia Beach, Virginia, a
11 public necessity exists for the construction of this important roadway project to improve
12 transportation and safety within the City and for other related public purposes for the
13 preservation of the safety, health, peace, good order, comfort, convenience, and for the
14 welfare of the people in the City of Virginia Beach.
15

16 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
17 VIRGINIA BEACH, VIRGINIA:
18

19 Section 1. That the City Council authorizes the acquisition by purchase or
20 condemnation pursuant to Sections 15.2-1901, et seq., Sections 33.2-1007, et seq., and
21 Title 25.1 of the Code of Virginia of 1950, as amended, of all that certain real property in fee
22 simple, including temporary and permanent easements and entire tracts upon which such
23 rights-of-way or easements shall be located, within the limitations and conditions of Section
24 33.2-1007 of the Code of Virginia of 1950, as amended (the "Property"), as shown on the
25 plans entitled "SHORE DRIVE CORRIDOR IMPROVEMENTS - PHASE III CIP # 2-117
26 AND #7-409 PWCN-11-0192; UPC #102739 STATE PROJECT NO. 0060-134-R67" (the
27 "Project"), and more specifically described on the acquisition plats for the Project (plats and
28 plans collectively referred to as the "Plans"), the Plans being on file in the Engineering
29 Division, Department of Public Works, City of Virginia Beach, Virginia.
30

31 Section 2. That the City Manager is hereby authorized to make or cause to be made
32 on behalf of the City of Virginia Beach, to the extent that funds are available, a reasonable
33 offer to the owners or persons having an interest in said Property. If refused, the City
34 Attorney is hereby authorized to initiate, prosecute and settle or resolve proceedings to
35 condemn said Property.
36

37 Adopted by the Council of the City of Virginia Beach, Virginia, on the _____ day of
38 _____, 2022.

PREPARED: 10/20/2022
CA15811
R-1

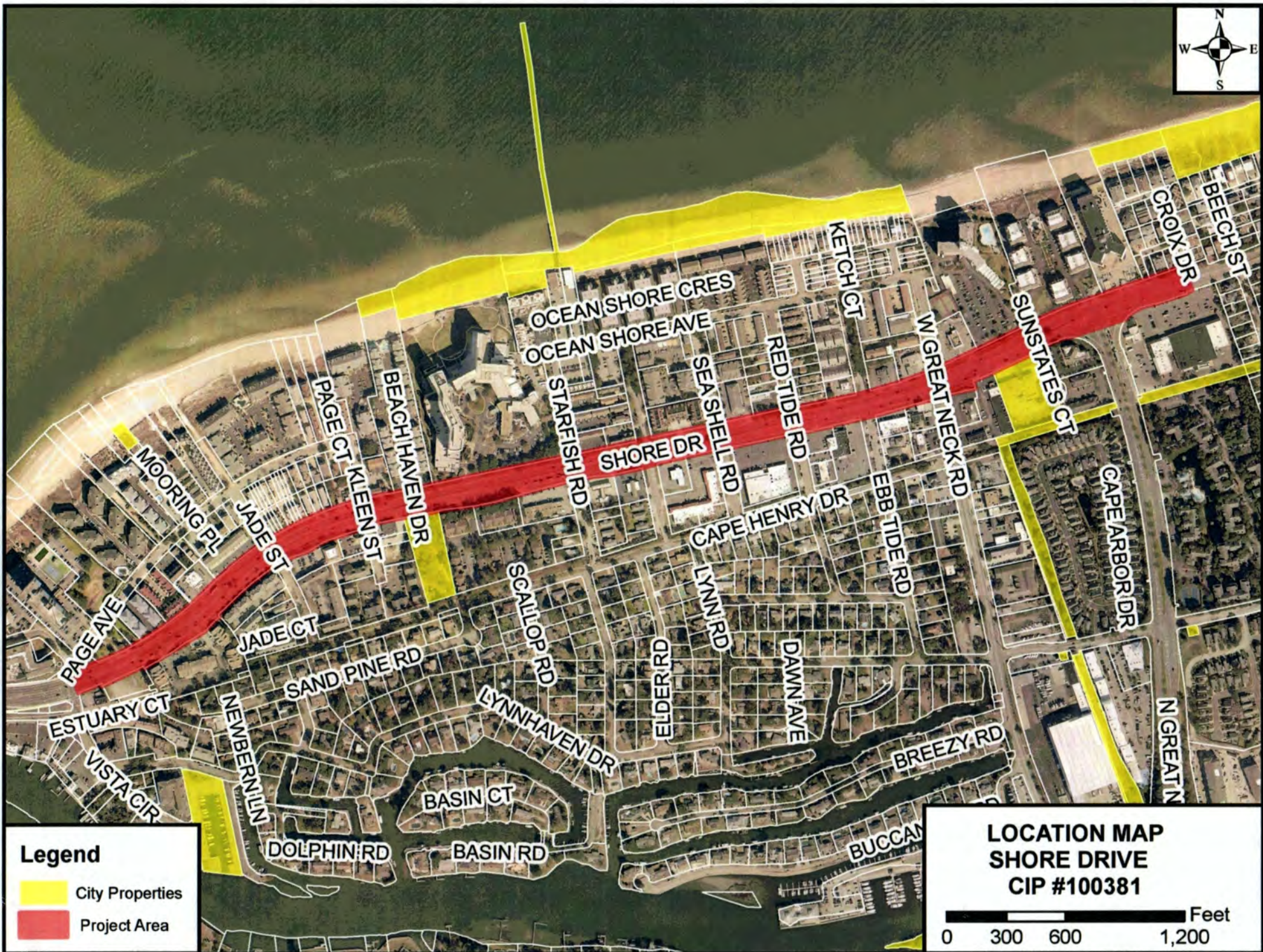
APPROVED AS TO CONTENTS


PUBLIC WORKS/REAL ESTATE

APPROVED AS TO LEGAL
SUFFICIENCY AND FORM


CITY ATTORNEY







CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance to Authorize Temporary Encroachments into a Portion of City Right-of-Way Known as Windsor Crescent, Located at the Rear of 3868 Jefferson Boulevard

MEETING DATE: December 6, 2022

- **Background:** Craig L. Mytelka and Margaret A. Mytelka (the "Applicants") have requested permission to maintain an existing 50 square foot stone patio, an 11 linear foot stone wall, 230 square feet of grassy area, a 49 linear foot 48" PVC fence, a 120 square foot stone patio and fire pit, a 44 linear foot 60" PVC fence, a 56 linear foot 12" stone wall, a 14 linear foot 17" stone wall, 16 square foot brick steps, a 12 linear foot 36" PVC fence, a 10.4 linear foot 27.5" stone wall, 15 square foot stone steps and a 19 linear foot 72" wood fence (the "Temporary Encroachments") within a portion of the City right-of-way known as Windsor Crescent (a paper street containing a beach access), at the rear of their property located at 3868 Jefferson Boulevard (GPIN 1580-20-0169). The Applicants purchased the property in November of 2018 with the encroaching items already existing in their current location.

- **Considerations:** City staff has reviewed the requested Temporary Encroachments and has recommended approval of same, subject to certain conditions outlined in the Agreement.

There are currently similar encroachments within the rights-of-way located in the Ocean Park neighborhood, which is where the Temporary Encroachments are located.

- **Public Information:** Public notice will be provided via the normal City Council agenda process.
- **Alternatives:** Deny the Temporary Encroachments or add conditions as desired by Council.
- **Recommendations:** Approval
- **Attachments:** Ordinance, Exhibit, Agreement, Photos, Location Map and Disclosure Statement

Recommended Action: Approval

Submitting Department/Agency: Public Works/Real Estate 

City Manager:  for PRO

1 Requested by Department of Public Works

2
3 AN ORDINANCE TO AUTHORIZE TEMPORARY ENCROACHMENTS
4 INTO A PORTION OF CITY RIGHT-OF-WAY KNOWN AS WINDSOR
5 CRESCENT LOCATED AT THE REAR OF 3868 JEFFERSON
6 BOULEVARD
7

8 WHEREAS, Craig L. Mytelka and Margaret A. Mytelka (the "Applicants")
9 desire to maintain an existing 50 square foot stone patio, an 11 linear foot stone wall, 230
10 square feet of grassy area, a 49 linear foot 48" PVC fence, a 120 square foot stone patio
11 and fire pit, a 44 linear foot 60" PVC fence, a 56 linear foot 12" stone wall, a 14 linear foot
12 17" stone wall, 16 square foot brick steps, a 12 linear foot 36" PVC fence, a 10.4 linear foot
13 27.5" stone wall, 15 square foot stone steps and a 19 linear foot 72" wood fence
14 (collectively, the "Temporary Encroachments") within a portion of the City right-of-way
15 known as Windsor Crescent, at the rear of their property located at 3868 Jefferson
16 Boulevard; and
17

18 WHEREAS, City Council is authorized pursuant to §§ 15.2-2009 and 15.2-
19 2107, Code of Virginia, 1950, as amended, to authorize temporary encroachments upon
20 the City's property subject to such terms and conditions as Council may prescribe.
21

22 NOW, THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
23 VIRGINIA BEACH, VIRGINIA:
24

25 That pursuant to the authority and to the extent thereof contained in §§ 15.2-
26 2009 and 15.2-2107, Code of Virginia, 1950, as amended, the Applicants, their heirs,
27 assigns and successors in title are authorized to maintain the Temporary Encroachments in
28 the City's right-of-way known as Windsor Crescent, as shown on the map entitled: "EXHIBIT
29 A ENCROACHMENT EXHIBIT OF LOT 6A, BLOCK 57 OCEAN PARK, SECTION C
30 (INSTRUMENT NUMBER 20100819000859920) VIRGINIA BEACH, VIRGINIA", dated 9-
31 2-2022, prepared by MSA, P.C., a copy of which is attached hereto as Exhibit A and on file
32 in the Department of Public Works and to which reference is made for a more particular
33 description;
34

35 BE IT FURTHER ORDAINED, that the Temporary Encroachments are
36 expressly subject to those terms, conditions and criteria contained in the agreement
37 between the City of Virginia Beach and the Applicants (the "Agreement"), an unexecuted
38 copy of which has been presented to the Council in its agenda, and will be recorded among
39 the records of the Clerk's Office of the Circuit Court of the City of Virginia Beach;
40

41 BE IT FURTHER ORDAINED, that the City Manager or his authorized
42 designee is hereby authorized to execute the Agreement; and
43

44 BE IT FURTHER ORDAINED, that this Ordinance shall not be in effect until
45 such time as Craig L. Mytelka and Margaret A. Mytelka and the City Manager or his
46 authorized designee execute the Agreement.

47 Adopted by the Council of the City of Virginia Beach, Virginia, on the _____
48 day of _____, 2022.

APPROVED AS TO CONTENT:


PUBLIC WORKS, REAL ESTATE

APPROVED AS TO LEGAL
SUFFICIENCY AND FORM:


DANA R. HARMEYER
SENIOR CITY ATTORNEY

CA15402

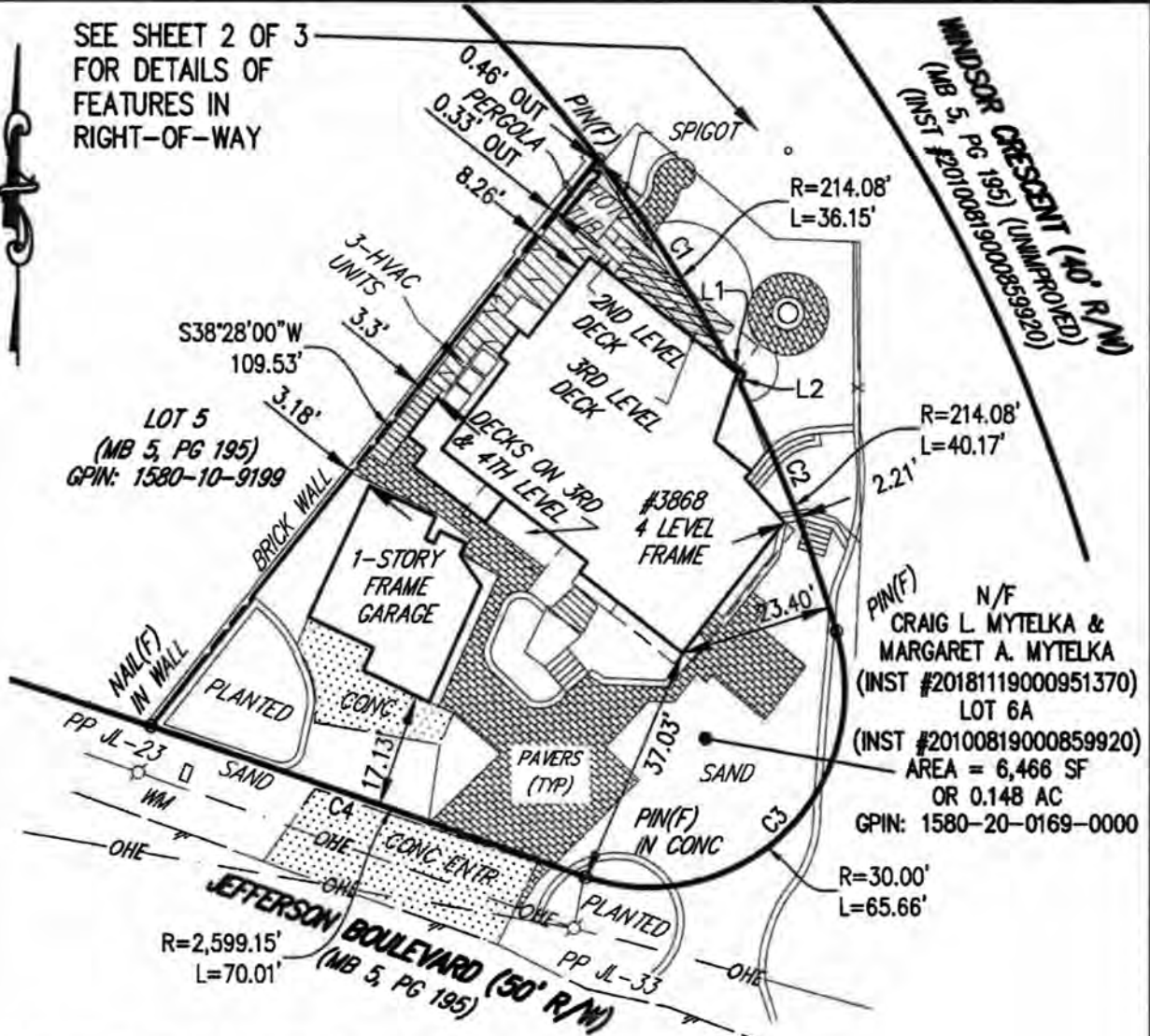
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R-1

November 8, 2022

VIRGINIA STATE PLANE COORDINATE SYSTEM,
SOUTH ZONE, NAD 1983/1993 (HARN)

SEE SHEET 2 OF 3
FOR DETAILS OF
FEATURES IN
RIGHT-OF-WAY



THIS IS TO CERTIFY THAT ON DECEMBER 17, 2020, 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.

- 1) SEE SHEET 3 OF 3 FOR NOTES, LINE TABLE AND CURVE TABLE.



MSA, P.C.

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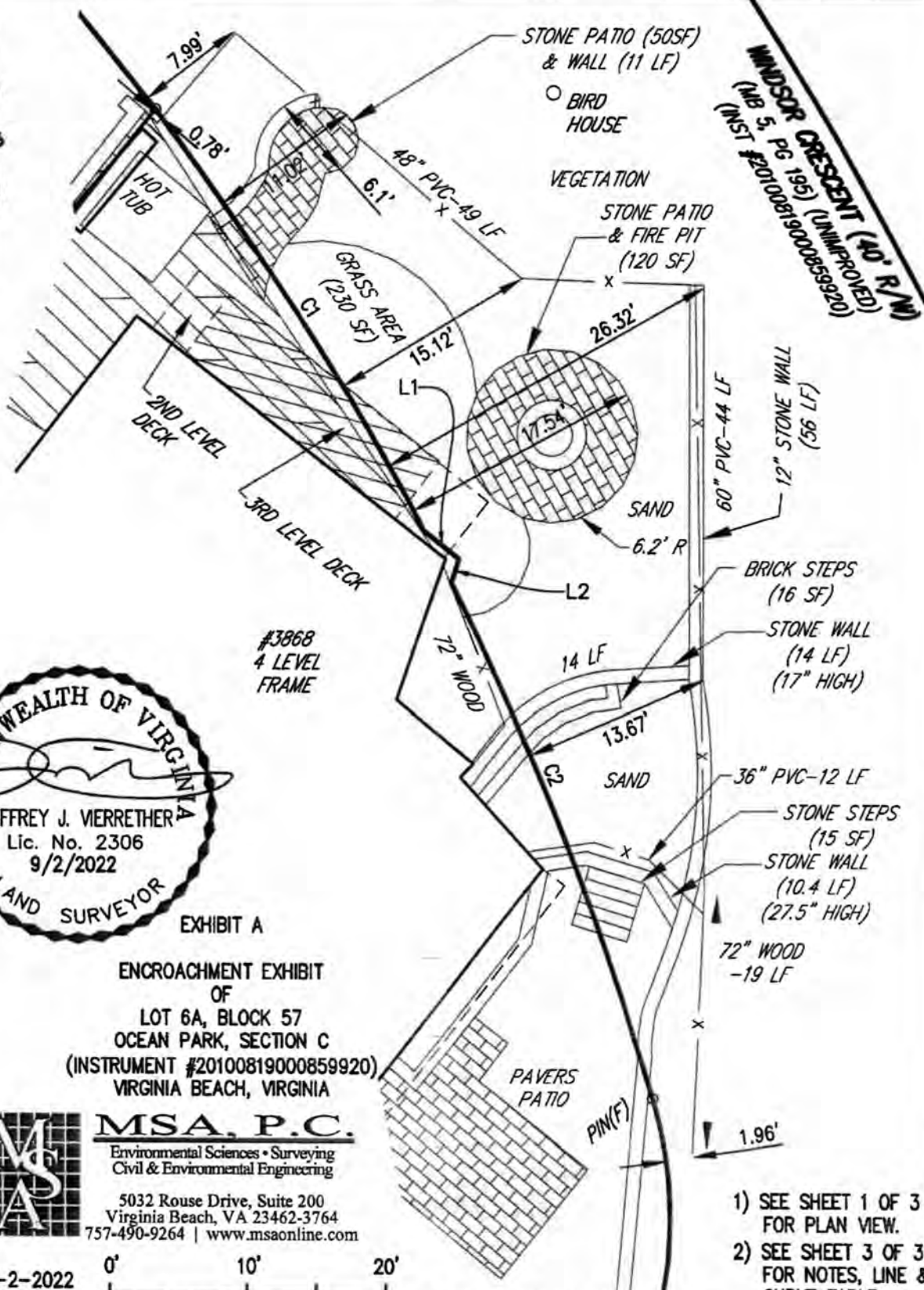
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Virginia Beach, VA 23462-3764
757-490-9264 | www.msaonline.com



PROJ NO. 20272

SHEET 1 OF 3
DATE: 9-2-2022
DRAWN BY: KCR
CHK'D BY: JJV
FB: CS717, PG 58

VIRGINIA STATE PLANE COORDINATE SYSTEM,
SOUTH ZONE, NAD 1983/1993 (HARN)



MUNDOR CRESCENT (40' R/W)
(MB 5, PG 195) (UNIMPROVED)
(INST #20100819000859920)



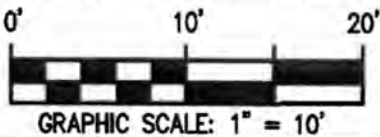
EXHIBIT A

ENCROACHMENT EXHIBIT
OF
LOT 6A, BLOCK 57
OCEAN PARK, SECTION C
(INSTRUMENT #20100819000859920)
VIRGINIA BEACH, VIRGINIA



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DATE: 9-2-2022
DRAWN BY: KCR
CHK'D BY: JJV
FB: CS717, PG 58



ENCROACHMENT DETAIL
SCALE: 1" = 10'

- 1) SEE SHEET 1 OF 3 FOR PLAN VIEW.
- 2) SEE SHEET 3 OF 3 FOR NOTES, LINE & CURVE TABLE

SHEET 2 OF 3
PROJ NO. 20272

LINE TABLE			CURVE TABLE						
LINE #	DIRECTION	LENGTH	CURVE	RADIUS	LENGTH	TANGENT	CHORD	BEARING	DELTA
L1	S 51°14'47" E	3.23'	C1	214.08'	36.15'	18.12'	36.11'	S32° 52' 24"E	9°40'33"
L2	S 17°45'13" W	1.83'	C2	214.08'	40.17'	20.14'	40.11'	S21° 31' 27"E	10°45'01"
			C3	30.00'	65.66'	58.13'	53.32'	S45° 47' 43"W	125°24'14"
			C4	2599.15'	70.01'	35.01'	70.01'	N70° 58' 34"W	1°32'36"

NOTES:

1. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT AND MAY NOT SHOW ANY/ALL EASEMENTS OR RESTRICTIONS THAT MAY AFFECT SAID PROPERTY AS SHOWN. PROPERTY IS SUBJECT TO RIGHTS-OF-WAY, EASEMENTS, COVENANTS AND ALL MATTERS OF PUBLIC RECORD.
2. THIS PROPERTY APPEARS TO FALL IN FLOOD ZONE 'X' AS SHOWN ON PANEL 00366 OF THE FLOOD INSURANCE RATE MAPS FOR THE CITY OF VIRGINIA BEACH, COMMUNITY NO.: 515531, DATED 1-16-2015. FLOOD ZONE INFORMATION SHOWN HEREON IS NOT GUARANTEED AND WAS APPROXIMATELY SCALED FROM THE FLOOD INSURANCE RATE MAPS FOR THE CITY INDICATED. MSA, P.C. IS NOT A PARTY IN DETERMINING THE REQUIREMENTS FOR FLOOD INSURANCE ON THE PROPERTY SHOWN. FOR FURTHER INFORMATION AND TO CONFIRM THE FLOOD ZONE FOR THIS PROPERTY, CONTACT THE LOCAL COMMUNITY FLOOD OFFICIAL. FLOOD ZONE DETERMINATION IS BASED ON THE FLOOD INSURANCE RATE MAPS AND DOES NOT IMPLY THAT THIS PROPERTY WILL OR WILL NOT BE FREE FROM FLOODING OR DAMAGE.
3. CURRENT OWNERS PER CITY OF VIRGINIA BEACH TAX ASSESSOR ARE CRAIG L. MYTELKA AND MARGARET A. MYTELKA. SOURCE OF TITLE IS INSTRUMENT #20181119000951370.
4. THIS SURVEY DOES NOT ADDRESS THE EXISTENCE OR NONEXISTENCE OF WETLANDS, ENVIRONMENTAL HAZARDS, CEMETERIES OR ANY UNDERGROUND STRUCTURE NOT OBSERVED DURING THE COURSE OF THE SURVEY.
5. THE PURPOSE OF THIS ENCROACHMENT EXHIBIT IS TO SHOW THE EXISTING FEATURES LOCATED ON LOT 6A AND THE FEATURES THAT ARE ENCROACHING ONTO THE RIGHT-OF-WAY OF WINDSOR CRESCENT.



DATE: 9-2-2022
 DRAWN BY: KCR
 CHK'D BY: JJV
 FB: CS717, PG 58

- 1) SEE SHEET 1 OF 3 FOR PLAN VIEW.
- 2) SEE SHEET 2 OF 3 FOR ENCROACHMENT DETAIL.



EXHIBIT A
 ENCROACHMENT EXHIBIT
 OF
 LOT 6A, BLOCK 57
 OCEAN PARK, SECTION C
 (INSTRUMENT #20100819000859920)
 VIRGINIA BEACH, VIRGINIA

MSA, P.C.

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SHEET 3 OF 3
 PROJ NO. 20272

PREPARED BY VIRGINIA BEACH
CITY ATTORNEY'S OFFICE (BOX 31)

EXEMPTED FROM RECORDATION TAXES
UNDER SECTION 58.1-811(C) (4)

THIS AGREEMENT, made this 18TH day of OCTOBER, 2022, by and between the **CITY OF VIRGINIA BEACH, VIRGINIA**, a municipal corporation of the Commonwealth of Virginia, Grantor, "City", and **CRAIG L. MYTELKA and MARGARET A. MYTELKA**, husband and wife, THEIR HEIRS, ASSIGNS AND SUCCESSORS IN TITLE, collectively "Grantee", even though more than one.

WITNESSETH:

WHEREAS, the Grantee is the owner of that certain lot, tract, or parcel of land designated and described as "LOT 6A" as shown on that certain plat entitled: "RESUBDIVISION OF LOT 6 AND CLOSED PORTION OF WINDSOR CRESCENT R/W BLOCK 57 OCEAN PARK SECTION C M.B. 5, P. 195 VIRGINIA BEACH, VIRGINIA", Scale 1" = 25', dated March 4, 2010, prepared by Gallup Surveyors & Engineers, Ltd., which plat is recorded in the Clerk's Office of the Circuit Court of the City of Virginia Beach, Virginia as Instrument Number 20100819000859920, and being further designated, known, and described as 3868 Jefferson Boulevard, Virginia Beach, Virginia 23455;

WHEREAS, it is proposed by the Grantee to maintain an existing 50 square foot stone patio, an 11 linear foot stone wall, 230 square feet of grassy area, a 49 linear foot 48" PVC fence, a 120 square foot stone patio and fire pit, a 44 linear foot 60" PVC fence, a 56 linear foot 12" stone wall, a 14 linear foot 17" stone wall, 16 square foot brick steps, a 12 linear foot 36" PVC fence, a 10.4 linear foot 27.5" stone wall, 15 square foot stone steps and a 19 linear foot 72" wood fence, collectively, the "Temporary Encroachment", in the City of Virginia Beach; and

GPIN: (WINDSOR CRESCENT - CITY RIGHT OF WAY, NO GPIN ASSIGNED)
GPIN: 1580-20-0169 (3868 JEFFERSON BOULEVARD)

WHEREAS, in maintaining the Temporary Encroachment, it is necessary that the Grantee encroach into a portion of an existing City right-of-way known as Windsor Crescent, the "Encroachment Area"; and

WHEREAS, the Grantee has requested that the City permit the Temporary Encroachment within the Encroachment Area.

NOW, THEREFORE, for and in consideration of the premises and of the benefits accruing or to accrue to the Grantee and for the further consideration of One Dollar (\$1.00), cash in hand paid to the City, receipt and sufficiency of which are hereby acknowledged, the City hereby grants to the Grantee permission to use the Encroachment Area for the purpose of constructing and maintaining the Temporary Encroachment.

It is expressly understood and agreed that the Temporary Encroachment will be constructed and maintained in accordance with the laws of the Commonwealth of Virginia and the City of Virginia Beach, and in accordance with the City's specifications and approval and is more particularly described as follows, to wit:

A Temporary Encroachment into the Encroachment Area as shown on that certain exhibit plat entitled: "EXHIBIT A ENCROACHMENT EXHIBIT OF LOT 6A, BLOCK 57 OCEAN PARK, SECTION C (INSTRUMENT NUMBER 20100819000859920) VIRGINIA BEACH, VIRGINIA", dated 9-2-2022, prepared by MSA, P.C., a copy of which is attached hereto as Exhibit "A" and to which reference is made for a more particular description.

Providing however, nothing herein shall prohibit the City from immediately removing, or ordering the Grantee to remove, all or any part of the Temporary Encroachment from the Encroachment Area in the event of an emergency or public necessity, and Grantee shall bear all costs and expenses of such removal.

It is further expressly understood and agreed that the Temporary Encroachment herein authorized terminates upon notice by the City to the Grantee, and that

within thirty (30) days after the notice is given, the Temporary Encroachment must be removed from the Encroachment Area by the Grantee; and that the Grantee will bear all costs and expenses of such removal.

It is further expressly understood and agreed that the Grantee shall indemnify, hold harmless, and defend the City, its agents and employees, from and against all claims, damages, losses and expenses, including reasonable attorney's fees, in case it shall be necessary to file or defend an action arising out of the construction, location or existence of the Temporary Encroachment.

It is further expressly understood and agreed that nothing herein contained shall be construed to enlarge the permission and authority to permit the maintenance or construction of any encroachment other than that specified herein and to the limited extent specified herein, nor to permit the maintenance and construction of any encroachment by anyone other than the Grantee.

It is further expressly understood and agreed that the Grantee agrees to maintain the Temporary Encroachment so as not to become unsightly or a hazard.

It is further expressly understood that any existing encroachments referenced in the Exhibit or this Agreement are the ongoing maintenance obligation of the Grantee and the City disclaims any ownership interest or maintenance obligation of such encroachments.

It is further expressly understood and agreed that the Grantee must obtain and keep in effect liability insurance with the City as a named insured in an amount not less than \$500,000.00 per person injured and property damage per incident, combined, with the City listed as an additional insured. The company providing the insurance must be registered and licensed to provide insurance in the Commonwealth of Virginia. The Grantee will provide endorsements providing at least thirty (30) days written notice to the City prior to the cancellation or termination of, or material change to, any of the insurance

policies. The Grantee assumes all responsibilities and liabilities, vested or contingent, with relation to the construction, location, and/or existence of the Temporary Encroachment.

It is further expressly understood and agreed that the Temporary Encroachment must conform to the minimum setback requirements, as established by the City.

It is further expressly understood and agreed that the City, upon revocation of such authority and permission so granted, may remove the Temporary Encroachment and charge the cost thereof to the Grantee, and collect the cost in any manner provided by law for the collection of local or state taxes; may require the Grantee to remove the Temporary Encroachment; and pending such removal, the City may charge the Grantee for the use of the Encroachment Area, the equivalent of what would be the real property tax upon the land so occupied if it were owned by the Grantee; and if such removal shall not be made within the time ordered hereinabove by this Agreement, the City may impose a penalty in the sum of One Hundred Dollars (\$100.00) per day for each and every day that the Temporary Encroachment is allowed to continue thereafter, and may collect such compensation and penalties in any manner provided by law for the collection of local or state taxes.

IN WITNESS WHEREOF, Craig L. Mytelka and Margaret A. Mytelka, the said Grantee, have caused this Agreement to be executed by their signatures. Further, that the City of Virginia Beach has caused this Agreement to be executed in its name and on its behalf by its City Manager and its seal be hereunto affixed and attested by its City Clerk.

(THE REMAINDER OF THIS PAGE WAS INTENTIONALLY LEFT BLANK)

CITY OF VIRGINIA BEACH

By _____ (SEAL)
City Manager/Authorized
Designee of the City Manager

STATE OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

The foregoing instrument was acknowledged before me this _____ day of _____, 2022, by _____, CITY MANAGER/AUTHORIZED DESIGNEE OF THE CITY MANAGER OF THE CITY OF VIRGINIA BEACH, VIRGINIA, on its behalf. He/She is personally known to me.

Notary Public (SEAL)

Notary Registration Number: _____
My Commission Expires: _____

(SEAL)
ATTEST:

City Clerk/Authorized
Designee of the City Clerk


STATE OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

The foregoing instrument was acknowledged before me this _____ day of _____, 2022, by _____, CITY CLERK/AUTHORIZED DESIGNEE OF THE CITY CLERK OF THE CITY OF VIRGINIA BEACH, VIRGINIA, on its behalf. She is personally known to me.

Notary Public (SEAL)

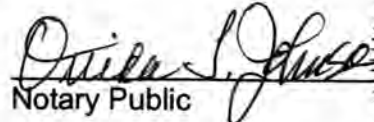
Notary Registration Number: _____
My Commission Expires: _____


CRAIG L. MYTELKA, Owner


MARGARET A. MYTELKA, Owner

STATE OF VIRGINIA
CITY/COUNTY OF VIRGINIA BEACH, to-wit:

The foregoing instrument was acknowledged before me this 18th day of
OCTOBER, 2022, by CRAIG L. MYTELKA.


Notary Public



Notary Registration Number: 291524
My Commission Expires: 8/31/2024

STATE OF VIRGINIA
CITY/COUNTY OF VIRGINIA BEACH, to-wit:

The foregoing instrument was acknowledged before me this 18th day of
OCTOBER, 2022, by MARGARET A. MYTELKA.


Notary Public



Notary Registration Number: 291524
My Commission Expires: 8/31/2024

APPROVED AS TO CONTENT


SIGNATURE

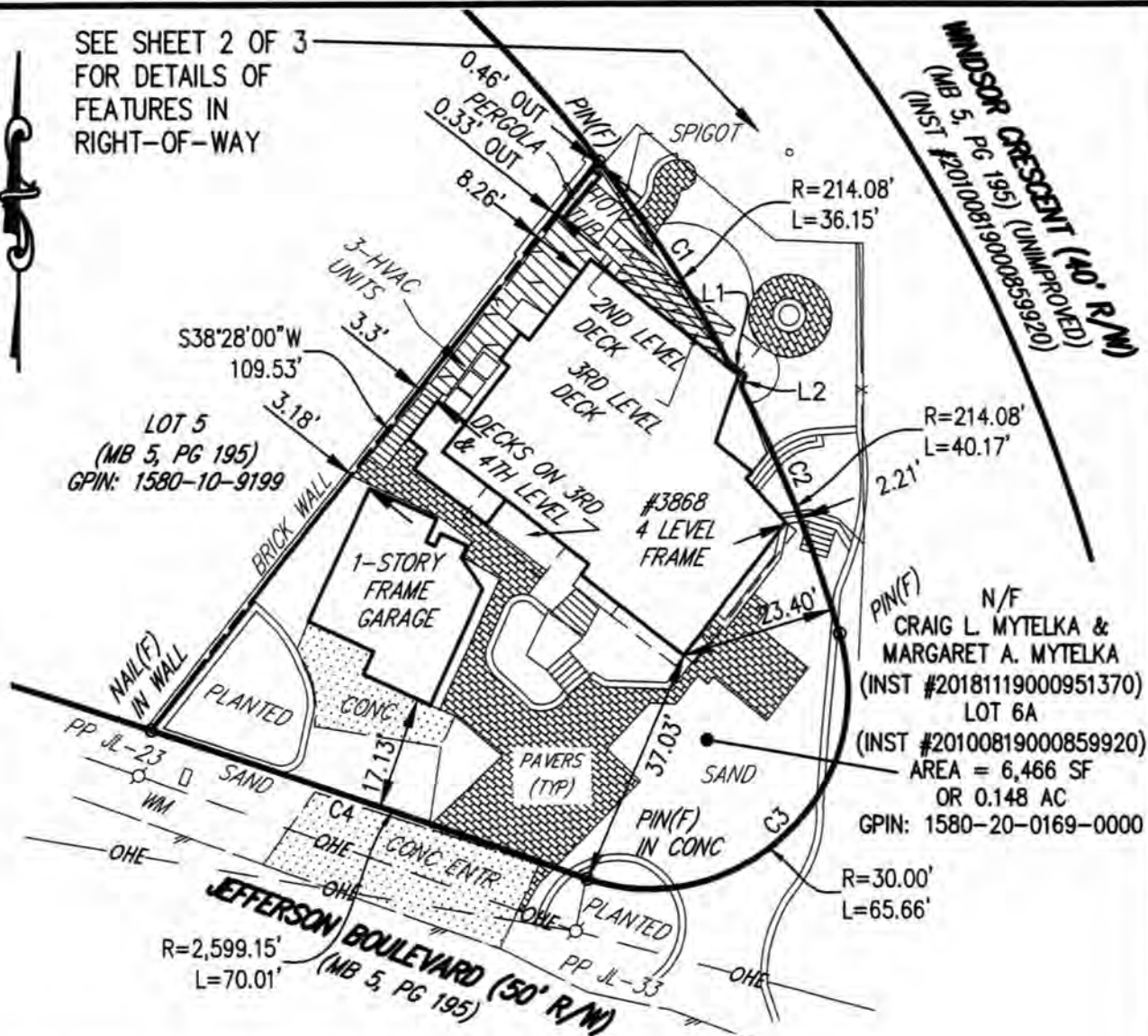

DEPARTMENT

**APPROVED AS TO LEGAL
SUFFICIENCY AND FORM**

DANA R. HARMEYER
SENIOR CITY ATTORNEY

VIRGINIA STATE PLANE COORDINATE SYSTEM,
SOUTH ZONE, NAD 1983/1993 (HARN)

SEE SHEET 2 OF 3
FOR DETAILS OF
FEATURES IN
RIGHT-OF-WAY



THIS IS TO CERTIFY THAT ON DECEMBER 17, 2020, 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.

- 1) SEE SHEET 3 OF 3 FOR NOTES, LINE TABLE AND CURVE TABLE.

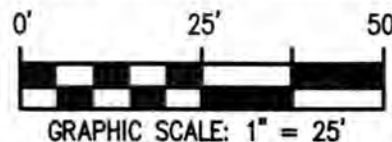


MSA, P.C.

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SHEET 1 OF 3
DATE: 9-2-2022
DRAWN BY: KCR
CHK'D BY: JJV
FB: CS717, PG 58



PROJ NO. 20272

VIRGINIA STATE PLANE COORDINATE SYSTEM,
SOUTH ZONE, NAD 1983/1983 (HARN)



WINDSOR CRESCENT (40' R/W)
(MB 5, PG 195) (UNIMPROVED)
(INST #20100819000859920)

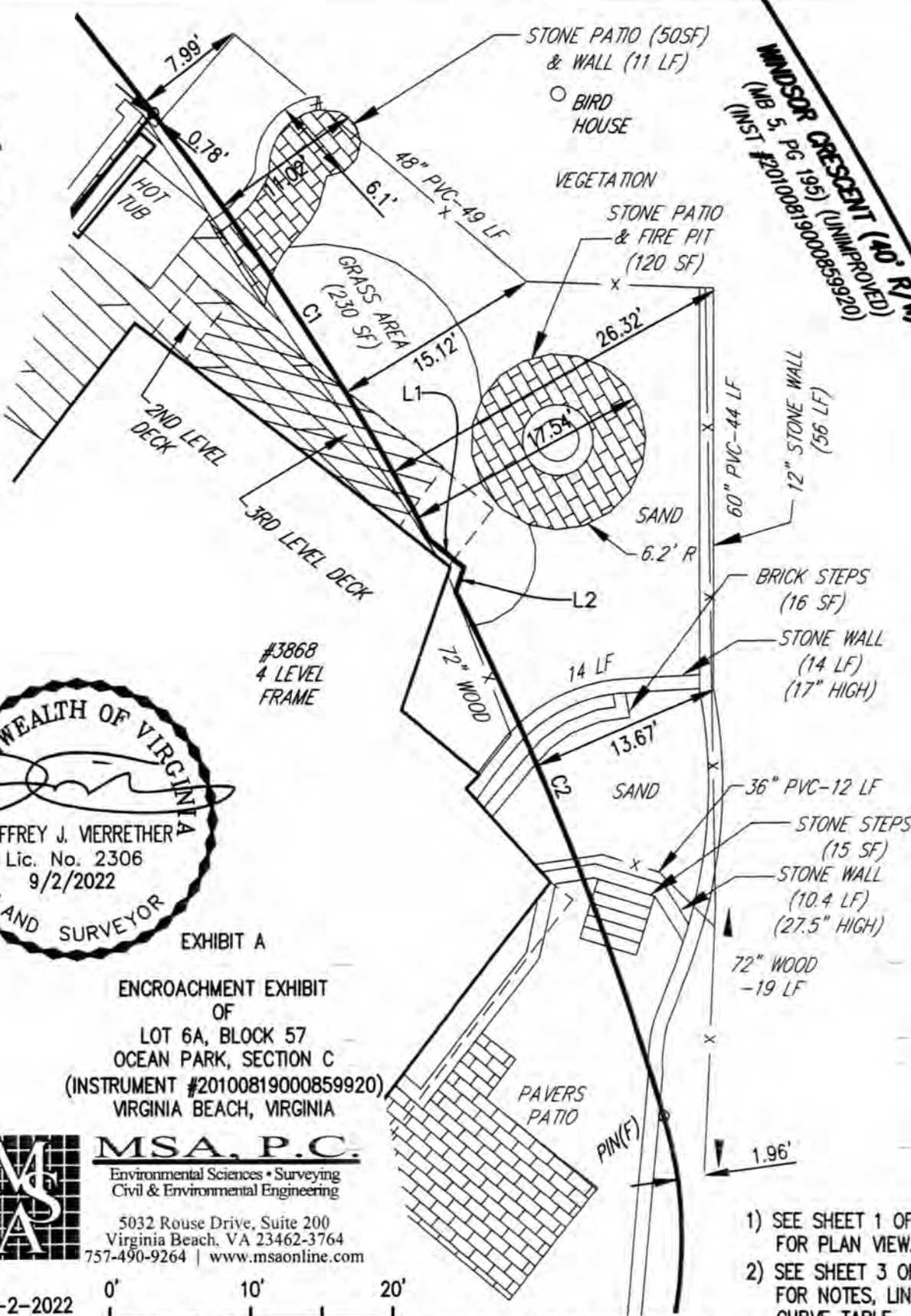


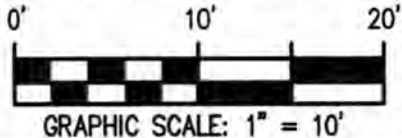
EXHIBIT A

ENCROACHMENT EXHIBIT
OF
LOT 6A, BLOCK 57
OCEAN PARK, SECTION C
(INSTRUMENT #20100819000859920)
VIRGINIA BEACH, VIRGINIA



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DATE: 9-2-2022
DRAWN BY: KCR
CHK'D BY: JJV
FB: CS717, PG 58



ENCROACHMENT DETAIL
SCALE: 1" = 10'

- 1) SEE SHEET 1 OF 3 FOR PLAN VIEW.
- 2) SEE SHEET 3 OF 3 FOR NOTES, LINE & CURVE TABLE

SHEET 2 OF 3
PROJ NO. 20272

LINE TABLE			CURVE TABLE						
LINE #	DIRECTION	LENGTH	CURVE	RADIUS	LENGTH	TANGENT	CHORD	BEARING	DELTA
L1	S 51°14'47" E	3.23'	C1	214.08'	36.15'	18.12'	36.11'	S32° 52' 24"E	9°40'33"
L2	S 17°45'13" W	1.83'	C2	214.08'	40.17'	20.14'	40.11'	S21° 31' 27"E	10°45'01"
			C3	30.00'	65.66'	58.13'	53.32'	S45° 47' 43"W	125°24'14"
			C4	2599.15'	70.01'	35.01'	70.01'	N70° 58' 34"W	1°32'36"

NOTES:

1. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT AND MAY NOT SHOW ANY/ALL EASEMENTS OR RESTRICTIONS THAT MAY AFFECT SAID PROPERTY AS SHOWN. PROPERTY IS SUBJECT TO RIGHTS-OF-WAY, EASEMENTS, COVENANTS AND ALL MATTERS OF PUBLIC RECORD.
2. THIS PROPERTY APPEARS TO FALL IN FLOOD ZONE 'X' AS SHOWN ON PANEL 0036G OF THE FLOOD INSURANCE RATE MAPS FOR THE CITY OF VIRGINIA BEACH, COMMUNITY NO.: 515531, DATED 1-16-2015. FLOOD ZONE INFORMATION SHOWN HEREON IS NOT GUARANTEED AND WAS APPROXIMATELY SCALED FROM THE FLOOD INSURANCE RATE MAPS FOR THE CITY INDICATED. MSA, P.C. IS NOT A PARTY IN DETERMINING THE REQUIREMENTS FOR FLOOD INSURANCE ON THE PROPERTY SHOWN. FOR FURTHER INFORMATION AND TO CONFIRM THE FLOOD ZONE FOR THIS PROPERTY, CONTACT THE LOCAL COMMUNITY FLOOD OFFICIAL. FLOOD ZONE DETERMINATION IS BASED ON THE FLOOD INSURANCE RATE MAPS AND DOES NOT IMPLY THAT THIS PROPERTY WILL OR WILL NOT BE FREE FROM FLOODING OR DAMAGE.
3. CURRENT OWNERS PER CITY OF VIRGINIA BEACH TAX ASSESSOR ARE CRAIG L. MYTELKA AND MARGARET A. MYTELKA. SOURCE OF TITLE IS INSTRUMENT #20181119000951370.
4. THIS SURVEY DOES NOT ADDRESS THE EXISTENCE OR NONEXISTENCE OF WETLANDS, ENVIRONMENTAL HAZARDS, CEMETERIES OR ANY UNDERGROUND STRUCTURE NOT OBSERVED DURING THE COURSE OF THE SURVEY.
5. THE PURPOSE OF THIS ENCROACHMENT EXHIBIT IS TO SHOW THE EXISTING FEATURES LOCATED ON LOT 6A AND THE FEATURES THAT ARE ENCROACHING ONTO THE RIGHT-OF-WAY OF WINDSOR CRESCENT.

EXHIBIT A

ENCROACHMENT EXHIBIT
OF
LOT 6A, BLOCK 57
OCEAN PARK, SECTION C
(INSTRUMENT #20100819000859920)
VIRGINIA BEACH, VIRGINIA



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SHEET 3 OF 3
PROJ NO. 20272



DATE: 9-2-2022
DRAWN BY: KCR
CHK'D BY: JJV
FB: CS717, PG 58

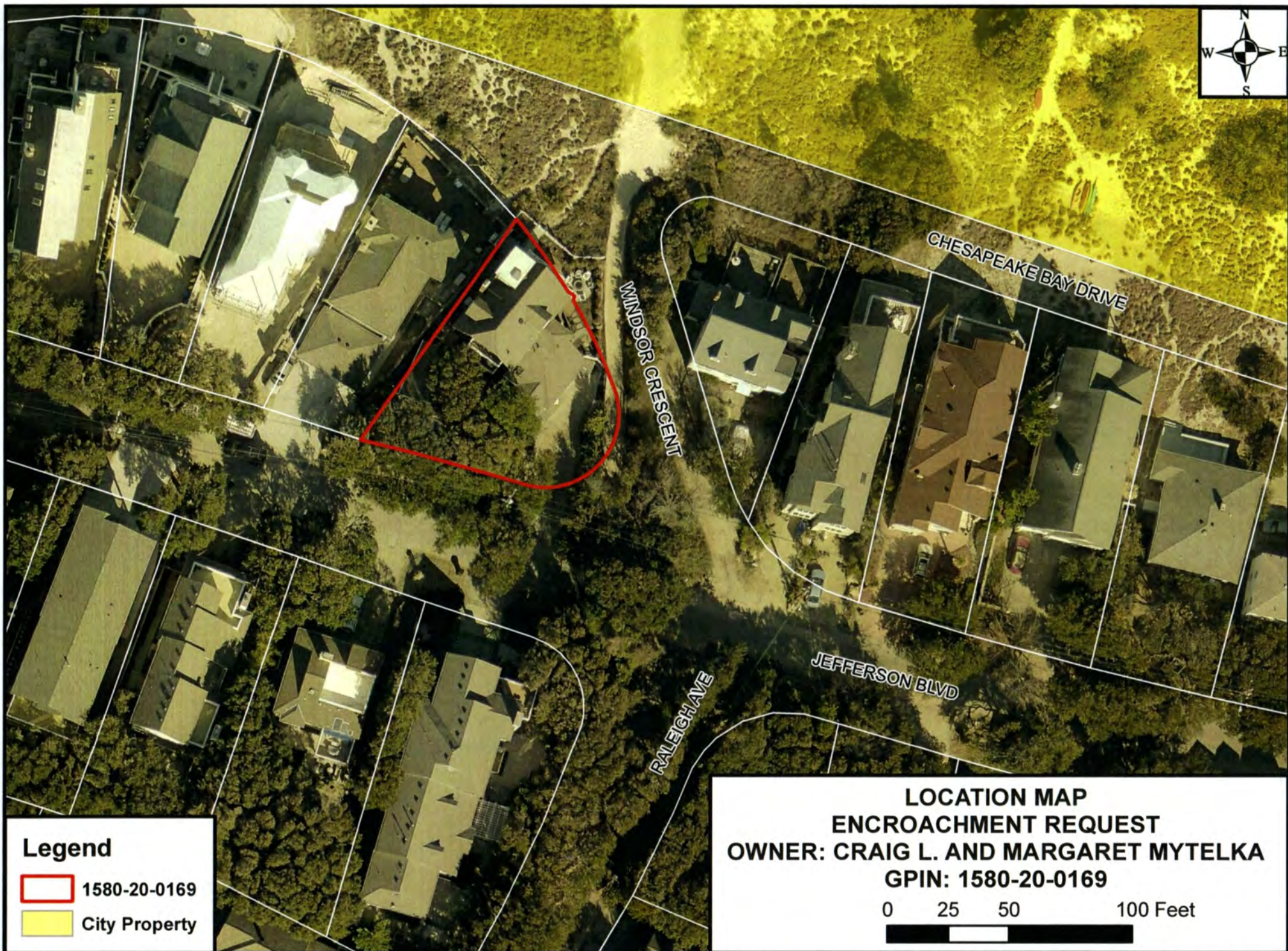
- 1) SEE SHEET 1 OF 3 FOR PLAN VIEW.
- 2) SEE SHEET 2 OF 3 FOR ENCROACHMENT DETAIL.

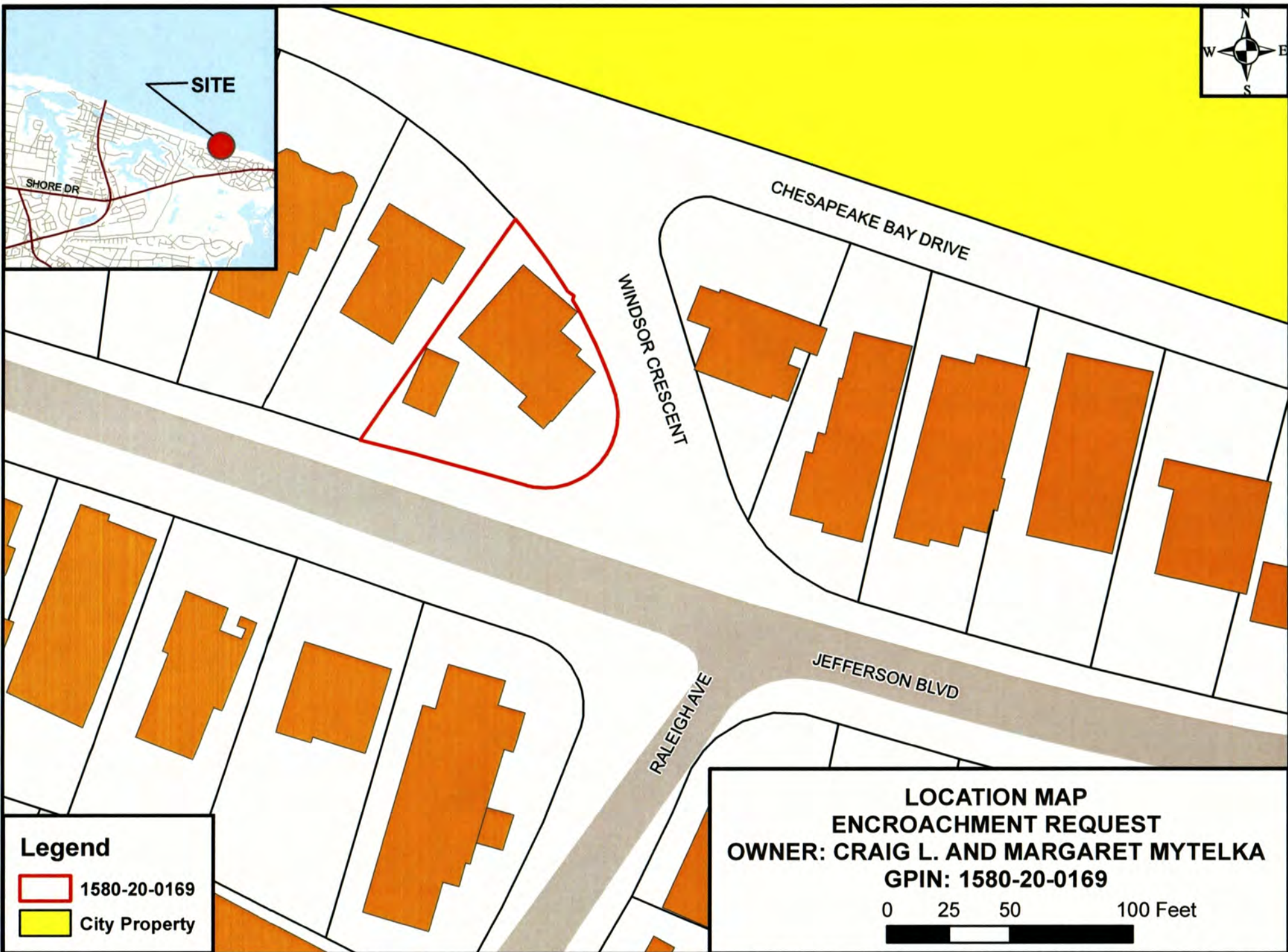
• **Encroachment Request – Applicant: Mytelka Craig L . & Margaret A.**



Encroachment Request – Applicant: Mytelka Craig L. & Margaret A.







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 Craig and Margaret Mytelka

Does the applicant have a representative? ☐ Yes ☒ No

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

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

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

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

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

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

Disclosure Statement



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.

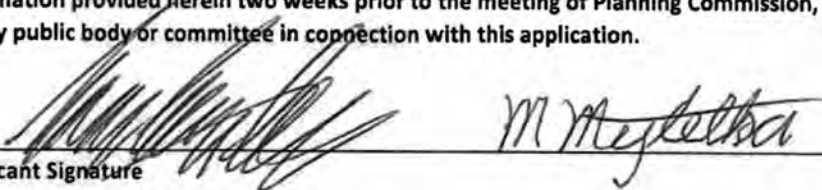
MSA, P.C.

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

Williams Mullen

Applicant Signature

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


Applicant Signature

Craig and Margaret Mytelka, Owners

Print Name and Title

November 7, 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

Continue to Next Page for Owner Disclosure

Disclosure Statement



Owner Disclosure

Owner Name City of Virginia Beach

Applicant Name Craig and Margaret Mytelka

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

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

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

Known Interest by Public Official or Employee

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

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

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

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

Disclosure Statement



Owner Services Disclosure

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

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

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

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

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

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

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

- MSA, P.C.
-

Disclosure Statement



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

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

Williams Mullen

Owner Signature

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


Owner Signature

Craig & Margaret Mytelka


Print Name and Title

November 7, 2022

Date



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance to Authorize Temporary Encroachments into a portion of City-owned property known as West Canal, located at the rear of 2304 Windward Shore Drive

MEETING DATE: December 6, 2022

■ **Background:**

Steven P. Donovan and Betty Donovan (the "Applicants") have requested permission to maintain the existing vinyl bulkhead, to construct and maintain a vinyl bulkhead, wharf, and four pile boat lift (collectively, the "Encroachments") into City-owned property known as West Canal, located at the rear of their property at 2304 Windward Shore Drive (GPIN: 2409-08-2917).

■ **Considerations:**

City Staff has reviewed the Encroachments and recommends approval of same, subject to certain conditions outlined in the Agreement.

There are similar encroachments in West Canal, which is where the Applicants have requested to encroach.

■ **Public Information:**

Public notice will be provided via the normal City Council agenda process.

■ **Alternatives:**

Deny the Encroachments or add conditions as desired by Council.

■ **Recommendations:**

Approve the request subject to the terms and conditions of the Agreement.

■ **Attachments:**

Ordinance, Exhibit, Agreement, Pictures, Location Map, and Disclosure Statement Form

Recommended Action: Approval

Submitting Department/Agency: Public Works/Real Estate

City Manager: 

1 Requested by Department of Public Works

2
3 AN ORDINANCE TO AUTHORIZE
4 TEMPORARY ENCROACHMENTS INTO
5 A PORTION OF CITY-OWNED
6 PROPERTY KNOWN AS WEST CANAL,
7 LOCATED AT THE REAR OF 2304
8 WINDWARD SHORE DRIVE
9

10 WHEREAS, Steven P. Donovan and Betty Donovan (the "Donovans") have
11 requested permission to maintain the existing 160 LF of vinyl bulkhead, to construct and
12 maintain 160 LF of vinyl bulkhead, a 6' x 40' wharf, and a 13' x 13' four pile boat lift
13 (collectively, the "Encroachments") within the City's property known as West Canal, located
14 at the rear of their property at 2304 Windward Shore Drive (GPIN: 2409-08-2917); and
15

16 WHEREAS, City Council is authorized pursuant to §§ 15.2-2009 and 15.2-
17 2107, Code of Virginia, 1950, as amended, to authorize temporary encroachments upon
18 the City's property subject to such terms and conditions as Council may prescribe.
19

20 NOW, THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
21 VIRGINIA BEACH, VIRGINIA:
22

23 That pursuant to the authority and to the extent thereof contained in §§ 15.2-
24 2009 and 15.2-2107, Code of Virginia, 1950, as amended, the Donovans, their heirs,
25 assigns and successors in title are authorized to construct and maintain the
26 Encroachments within the City's property as shown on the map entitled "EXHIBIT 'A'
27 ENCROACHMENT REQUEST FOR AN EXISTING BULKHEAD, PROPOSED BULKHEAD,
28 WHARF, & FOUR PILE BOAT LIFT FOR: STEVEN P. & BETTY DONOVAN LOT 48,
29 SECTION 1, BAY ISLAND 2304 WINDWARD SHORE DRIVE M.B. 45, PG. 37," having a
30 Scale of 1" = 40', dated May 4, 2022, and prepared by Waterfront Consulting, Inc., a copy
31 of which is attached hereto as Exhibit A, and on file in the Department of Public Works and
32 to which reference is made for a more particular description;
33

34 BE IT FURTHER ORDAINED, that the Encroachments are expressly subject
35 to those terms, conditions and criteria contained in the agreement between the City of
36 Virginia Beach and the Donovans (the "Agreement"), an unexecuted copy of which has
37 been presented to the Council in its agenda, and will be recorded among the records of the
38 Clerk's Office of the Circuit Court of the City of Virginia Beach;
39

40 BE IT FURTHER ORDAINED, that the City Manager or his authorized
41 designee is hereby authorized to execute the Agreement; and
42

43 BE IT FURTHER ORDAINED, that this Ordinance shall not be in effect until
44 such time as the Donovans and the City Manager or his authorized designee execute the
45 Agreement.

46
47 Adopted by the Council of the City of Virginia Beach, Virginia, on the _____
48 day of _____, 20__.

APPROVED AS TO CONTENT:



PUBLIC WORKS, REAL ESTATE

APPROVED AS TO LEGAL
SUFFICIENCY AND FORM:



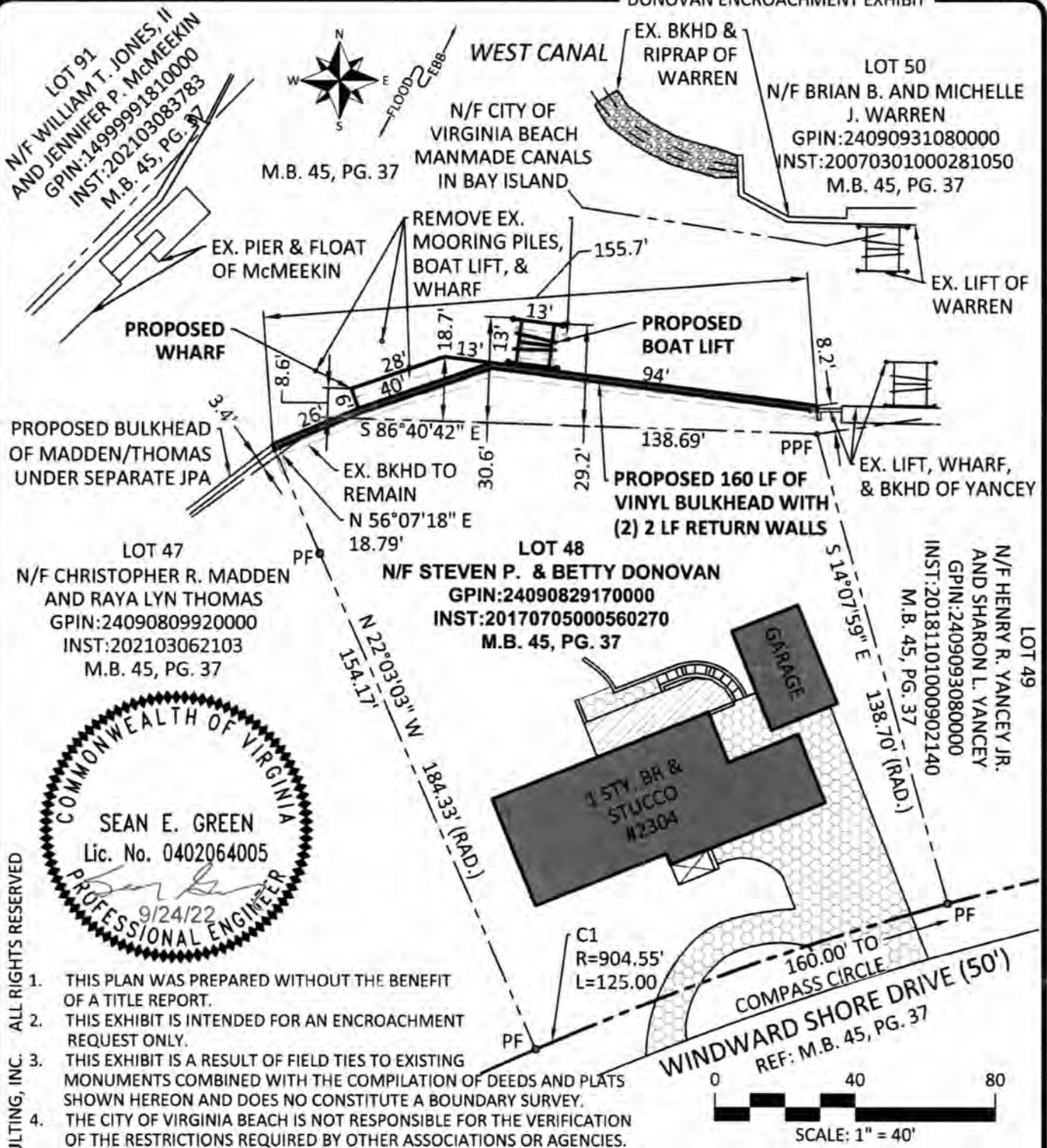
DANA R. HARMeyer
SENIOR CITY ATTORNEY

CA15585

R-1

Prepared: 10/31/22

c:\users\ccvaughan\appdata\local\microsoft\windows\inetcache\content.outlook\2r8psed8\00840735.doc



WATERFRONT CONSULTING, INC.

2589 QUALITY COURT, SUITE 323
VIRGINIA BEACH, VA 23454
PHONE: (757) 619-7302

ENGINEERING SERVICES PROVIDED BY:
STONE GREEN CONSULTING, LLC

4014 MEDINA ROAD #1015, AKRON, OH 44333 LOT 48, SECTION 1, BAY ISLAND 2304 WINDWARD SHORE DRIVE
(330) 883-2117

CURVE	CHORD	CHORD BEARING	DELTA
C1	124.89'	N 71°54'28" E	07°55'02"

**EXHIBIT 'A' - ENCROACHMENT REQUEST
FOR AN EXISTING BULKHEAD, PROPOSED
BULKHEAD, WHARF & FOUR PILE BOAT LIFT**

FOR: STEVEN P. & BETTY DONOVAN

M.B. 45, PG. 37

MAY 4, 2022

PREPARED BY VIRGINIA BEACH
CITY ATTORNEY'S OFFICE (BOX 31)

EXEMPTED FROM RECORDATION TAXES
UNDER SECTION 58.1-811(C) (4)

THIS AGREEMENT, made this 18 day of October, 2022 by and between the **CITY OF VIRGINIA BEACH, VIRGINIA**, a municipal corporation of the Commonwealth of Virginia, Grantor, "City", and **STEVEN P. DONOVAN and BETTY DONOVAN**, husband and wife, THEIR HEIRS, ASSIGNS AND SUCCESSORS IN TITLE, collectively, "Grantee" even though more than one.

WITNESSETH:

WHEREAS, the Grantee is the owner of that certain lot, tract, or parcel of land designated and described as Lot "48" as shown on that certain plat entitled: "SUBDIVISION OF BAY ISLAND SECTION ONE PRINCESS ANNE CO., VA. LYNNHAVEN MAGISTERIAL DISTRICT," Scale: 1" = 100', dated February, 1958, and prepared by Frank D. Tarrall, Jr. & Associates, which plat is recorded in the Clerk's Office of the Circuit Court of the City of Virginia Beach, Virginia in Map Book 45, at page 37, and being further designated, known, and described as 2304 Windward Shore Drive, Virginia Beach, Virginia 23451;

WHEREAS, it is proposed by the Grantee to maintain the existing 160 LF of vinyl bulkhead, to construct and maintain 160 LF of vinyl bulkhead, a 6' x 40' wharf, and 13' x 13' four pile boat lift, collectively, the "Temporary Encroachment", in the City of Virginia Beach; and

**GPIN: NO GPIN ASSIGNED (CITY PROPERTY KNOWN AS WEST CANAL)
2409-08-2917 (2304 WINDWARD SHORE DRIVE)**

WHEREAS, in constructing and maintaining the Temporary Encroachment, it is necessary that the Grantee encroach into a portion of City property known as West Canal, the "Encroachment Area", and

WHEREAS, the Grantee has requested that the City permit the Temporary Encroachment within the Encroachment Area.

NOW, THEREFORE, for and in consideration of the premises and of the benefits accruing or to accrue to the Grantee and for the further consideration of One Dollar (\$1.00), cash in hand paid to the City, receipt and sufficiency of which are hereby acknowledged, the City hereby grants to the Grantee permission to use the Encroachment Area for the purpose of constructing and maintaining the Temporary Encroachment.

It is expressly understood and agreed that the Temporary Encroachment will be constructed and maintained in accordance with the laws of the Commonwealth of Virginia and the City of Virginia Beach, and in accordance with the City's specifications and approval and is more particularly described as follows, to wit:

A Temporary Encroachment into the Encroachment Area as shown on that certain exhibit plat entitled: "EXHIBIT 'A' ENCROACHMENT REQUEST FOR AN EXISTING BULKHEAD, PROPOSED BULKHEAD, WHARF & FOUR PILE BOAT LIFT FOR: STEVEN P. & BETTY DONOVAN LOT 48, SECTION 1, BAY ISLAND 2304 WINDWARD SHORE DRIVE M.B. 45, PG. 37," having a Scale of 1" = 40', dated May 4, 2022, and prepared by Waterfront Consulting, Inc., a copy of which is attached hereto as Exhibit A and to which reference is made for a more particular description.

Providing however, nothing herein shall prohibit the City from immediately removing, or ordering the Grantee to remove, all or any part of the Temporary

Encroachment from the Encroachment Area in the event of an emergency or public necessity, and Grantee shall bear all costs and expenses of such removal.

It is further expressly understood and agreed that the Temporary Encroachment herein authorized terminates upon notice by the City to the Grantee, and that within thirty (30) days after the notice is given, the Temporary Encroachment must be removed from the Encroachment Area by the Grantee; and that the Grantee will bear all costs and expenses of such removal.

It is further expressly understood and agreed that the Grantee shall indemnify, hold harmless, and defend the City, its agents and employees, from and against all claims, damages, losses and expenses, including reasonable attorney's fees, in case it shall be necessary to file or defend an action arising out of the construction, location or existence of the Temporary Encroachment.

It is further expressly understood and agreed that nothing herein contained shall be construed to enlarge the permission and authority to permit the maintenance or construction of any encroachment other than that specified herein and to the limited extent specified herein, nor to permit the maintenance and construction of any encroachment by anyone other than the Grantee.

It is further expressly understood and agreed that the Grantee agrees to maintain the Temporary Encroachment so as not to become unsightly or a hazard.

It is further expressly understood that any existing encroachments referenced in the Exhibit or this Agreement are the ongoing maintenance obligation of the Grantee and the City disclaims any ownership interest or maintenance obligation of such encroachments.

It is further expressly understood and agreed that the Grantee must obtain and keep in effect liability insurance with the City as a named insured in an amount not less than \$500,000.00 per person injured and property damage per incident, combined, with the City listed as an additional insured. The company providing the insurance must be registered and licensed to provide insurance in the Commonwealth of Virginia. The Grantee will provide endorsements providing at least thirty (30) days written notice to the City prior to the cancellation or termination of, or material change to, any of the insurance policies. The Grantee assumes all responsibilities and liabilities, vested or contingent, with relation to the construction, location, and/or existence of the Temporary Encroachment.

It is further expressly understood and agreed that the Temporary Encroachment must conform to the minimum setback requirements, as established by the City.

It is further expressly understood and agreed that the City, upon revocation of such authority and permission so granted, may remove the Temporary Encroachment and charge the cost thereof to the Grantee, and collect the cost in any manner provided by law for the collection of local or state taxes; may require the Grantee to remove the Temporary Encroachment; and pending such removal, the City may charge the Grantee for the use of the Encroachment Area, the equivalent of what would be the real property tax upon the land so occupied if it were owned by the Grantee; and if such removal shall not be made within the time ordered hereinabove by this Agreement, the City may impose a penalty in the sum of One Hundred Dollars (\$100.00) per day for each and every day that the Temporary Encroachment is allowed to continue thereafter, and may collect such

compensation and penalties in any manner provided by law for the collection of local or state taxes.

IN WITNESS WHEREOF, Steven P. Donovan and Betty Donovan, the said Grantee, have caused this Agreement to be executed by their signatures. Further, that the City of Virginia Beach has caused this Agreement to be executed in its name and on its behalf by its City Manager and its seal be hereunto affixed and attested by its City Clerk.

(THE REMAINDER OF THIS PAGE WAS INTENTIONALLY LEFT BLANK)

CITY OF VIRGINIA BEACH

By _____ (SEAL)
City Manager/Authorized
Designee of the City Manager

STATE OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

The foregoing instrument was acknowledged before me this _____ day of _____, 20__, by _____, CITY MANAGER/AUTHORIZED DESIGNEE OF THE CITY MANAGER OF THE CITY OF VIRGINIA BEACH, VIRGINIA, on its behalf. He/She is personally known to me.

Notary Public (SEAL)

Notary Registration Number: _____
My Commission Expires: _____

(SEAL)
ATTEST:

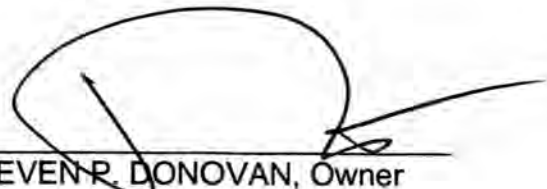
City Clerk/Authorized
Designee of the City Clerk


STATE OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

The foregoing instrument was acknowledged before me this _____ day of _____, 20__, by _____, CITY CLERK/AUTHORIZED DESIGNEE OF THE CITY CLERK OF THE CITY OF VIRGINIA BEACH, VIRGINIA, on its behalf. She is personally known to me.

Notary Public (SEAL)

Notary Registration Number: _____
My Commission Expires: _____

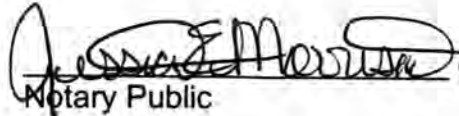

STEVEN P. DONOVAN, Owner


BETTY DONOVAN, Owner

STATE OF Virginia
CITY/COUNTY OF Virginia Beach to-wit:

The foregoing instrument was acknowledged before me this 18 day of
October, 2022 by Steven P. Donovan and Betty Donovan.

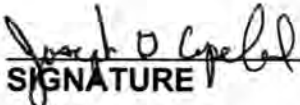


 (SEAL)
Notary Public

Notary Registration Number: 7561600

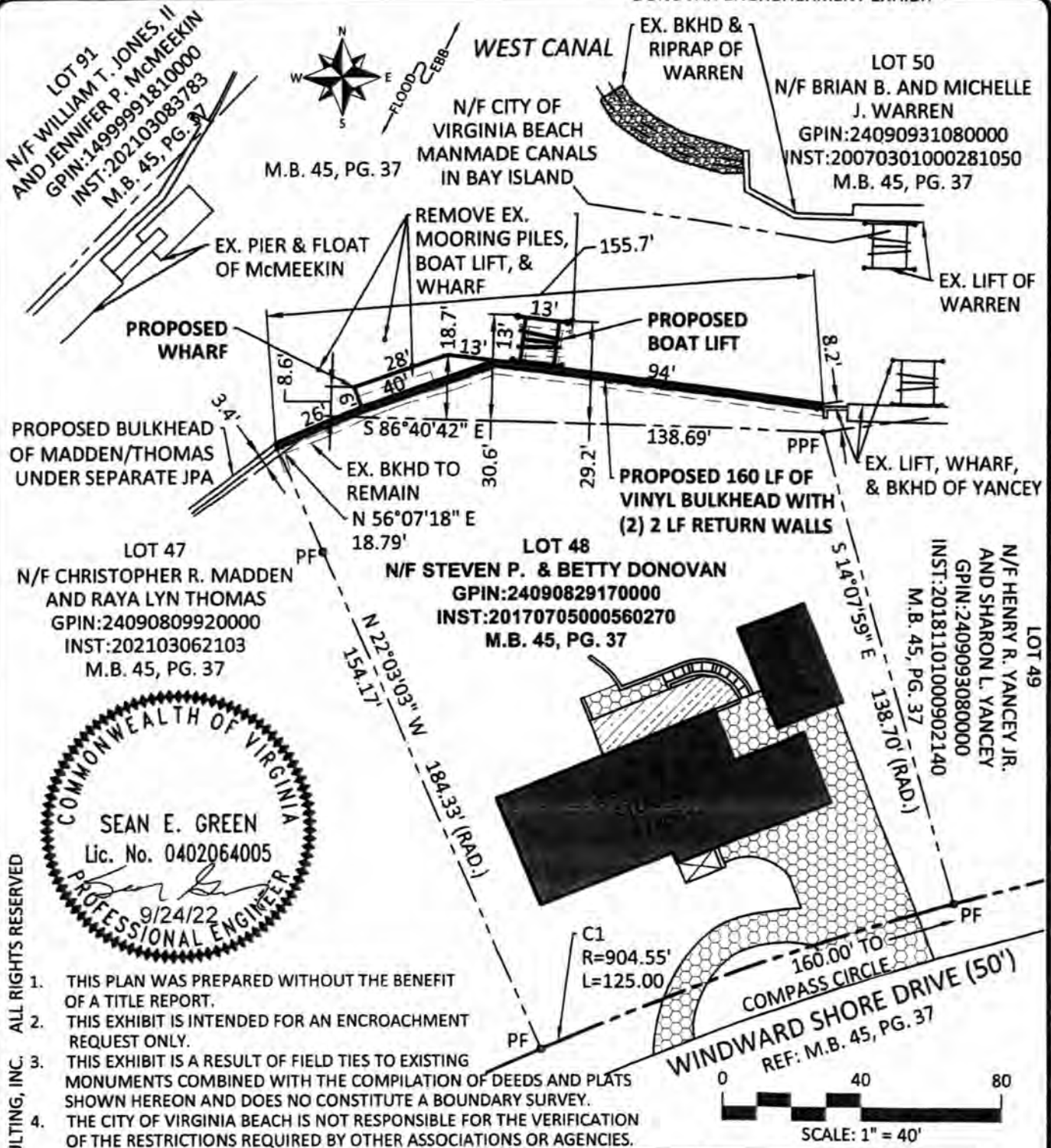
My Commission Expires: 8/31/2024

APPROVED AS TO CONTENT:


SIGNATURE
PW Real Estate
DEPARTMENT

**APPROVED AS TO LEGAL
SUFFICIENCY AND FORM:**


DANA R. HARMeyer
SENIOR CITY ATTORNEY



WATERFRONT CONSULTING, INC.

2589 QUALITY COURT, SUITE 323

VIRGINIA BEACH, VA 23454

PHONE: (757) 619-7302

ENGINEERING SERVICES PROVIDED BY:
STONE GREEN CONSULTING, LLC

4014 MEDINA ROAD #1015, AKRON, OH 44333 LOT 48, SECTION 1, BAY ISLAND 2304 WINDWARD SHORE DRIVE
(330) 883-2117 M.B. 45, PG. 37 MAY 4, 2022

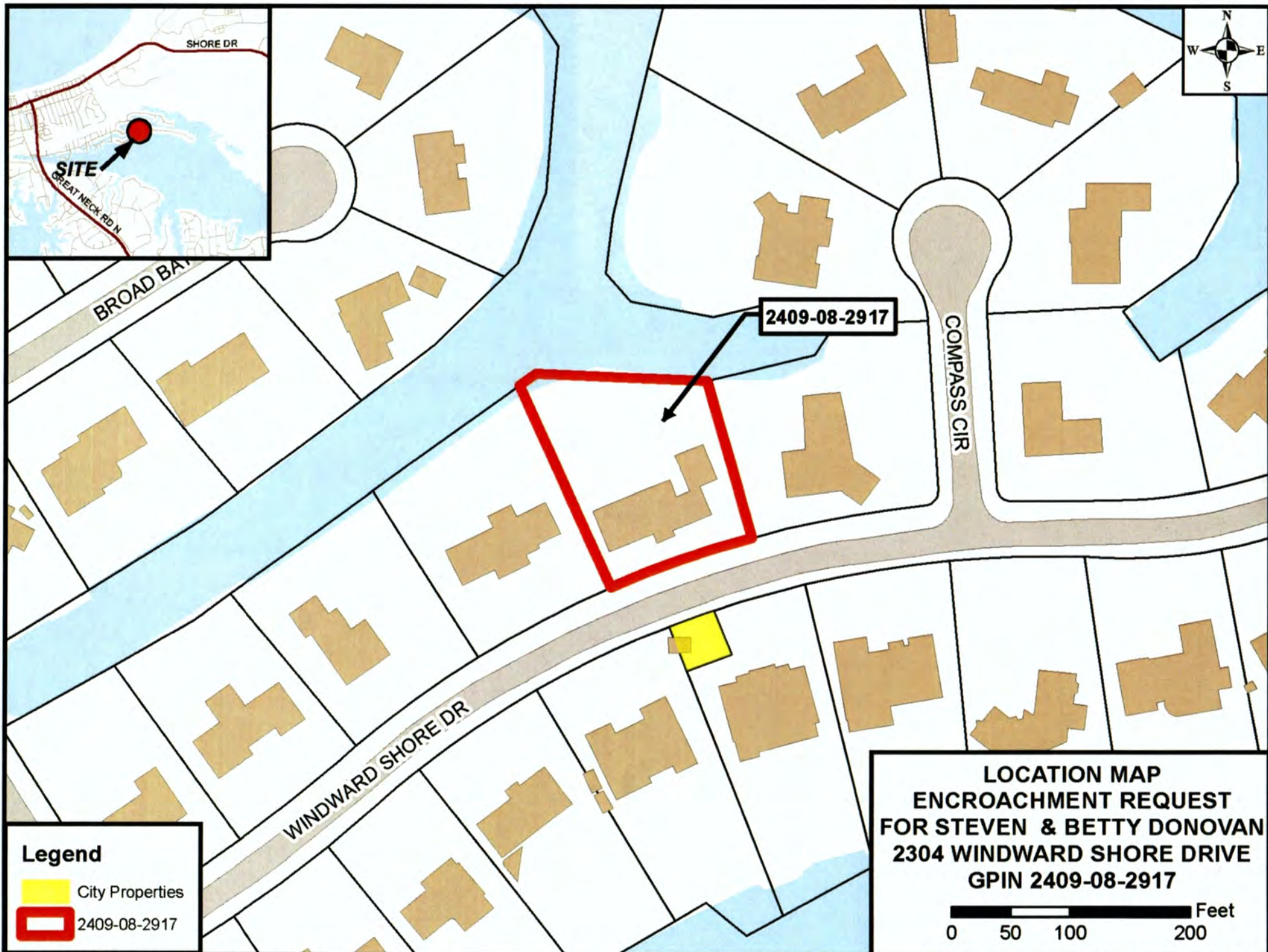
CURVE	CHORD	CHORD BEARING	DELTA
C1	124.89'	N 71°54'28" E	07°55'02"

EXHIBIT 'A' - ENCROACHMENT REQUEST FOR AN EXISTING BULKHEAD, PROPOSED BULKHEAD, WHARF & FOUR PILE BOAT LIFT

FOR: STEVEN P. & BETTY DONOVAN







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 STEVEN P + BETTY DONOVAN

Does the applicant have a representative? ☒ Yes ☐ No

- If yes, list the name of the representative.

ROBERT E. SIMON (WATERFRONT CONSULTING INC.)

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

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

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

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

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

Disclosure Statement



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

☐ Yes ☒ No

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

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.

COLIN MARINE CONSTRUCTION LLC, JOE KEFFLER

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.

WATERFRONT CONSULTING INC. ROBERT SIMON

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

Steve DONOHAN / OWNER

Print Name and Title

OCT 19 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	

Continue to Next Page for Owner Disclosure



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance to Appropriate Fund Balance of the TIP Fund and to Authorize the City Manager to Execute a Sponsorship Agreement with Something in the Water, LLC

MEETING DATE: December 6, 2022

■ **Background:** In 2019, Mr. Pharrell Williams conceptualized and produced a successful inaugural Something in the Water Festival that focused on welcoming visiting college students, local residents, and guests from outside our region to the Virginia Beach Oceanfront. The 2019 Something in the Water Festival was a positive, multi-faceted festival composed of top-tier music performances, in-depth panel discussions on innovation, sports activities, local art, health and wellness. The Festival was held during the last weekend of April, a weekend previously referred to as College Beach weekend.

An economic impact analysis and after-action report were briefed to the City Council in October 2019. The inaugural Something in the Water Festival generated more than \$21.7 million of economic activity and resulted in more than \$1.1 million of tax revenue to the City.

The City and the Festival desire to bring Something in the Water back to Virginia Beach in April 2023. The proposed City financial sponsorship will provide the "but-for" admissions, meals, and local sales taxes to the Festival. Additionally, the City will provide in-kind services to support the Festival. The Summary of Terms for the sponsorship is attached as Exhibit A.

In order to allow the City Manager to execute the sponsorship agreement there is an appropriation of fund balance from the TIP Fund. The actual amount of the financial sponsorship will be determined based on the actual admissions, meals, and local sales taxes generated by the Festival. Therefore, the amount of funds appropriated in the attached ordinance represent a budgetary amount that will be adjusted when the actual performance of the Festival is known.

■ **Considerations:** The Something in the Water Festival presents a unique opportunity to provide positive social programming for visiting and local young adults and elevate Virginia Beach to international prominence as a cultural hub of music, art, technology and more. In addition to economic impact, the Something in the Water Festival has started to show priceless, long-term distinguishing impacts ranging from cultural enrichment to social cohesion to workforce development to positive regional branding. The attached ordinance expresses the Council's support for the Something in the Water Festival in the form of a proposed sponsorship agreement between the City

and Something in the Water, LLC. This arrangement will provide financial, facility, public safety, and operational support for the Festival.

■ **Public Information:** Normal Council Agenda process. This item was subject to a public comment held on November 15, 2022.

■ **Attachments:** Ordinance; Exhibit A (Summary of Terms); Disclosure Form

Recommended Action: Approval

Submitting Department/Agency: Convention and Visitors Bureau

City Manager:  Per PAO

1 AN ORDINANCE TO APPROPRIATE FUND
2 BALANCE OF THE TIP FUND AND TO AUTHORIZE
3 THE CITY MANAGER TO EXECUTE A
4 SPONSORSHIP AGREEMENT WITH SOMETHING IN
5 THE WATER, LLC
6

7 WHEREAS, the City wishes to support the Something in the Water Festival (the
8 "Festival") for April 28-30, 2023 by being a sponsor of the Festival;
9

10 WHEREAS, the City desires to increase its partnership with the Festival above
11 what was provided previously to the Festival to further indicate its support; and
12

13 WHEREAS, the general outline of the sponsorship is set forth in the summary set
14 forth in the attached Exhibit A;
15

16 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
17 VIRGINIA BEACH, THAT:
18

- 19 1. \$2,000,000 is hereby appropriated from the fund balance of the TIP Fund to
20 support the City's financial sponsorship of the Festival consistent with the terms
21 of the sponsorship agreement. The City Manager is authorized to transfer
22 amounts previously appropriated within the TIP Fund in the event the financial
23 sponsorship exceeds this appropriation notwithstanding the transfer limitation in
24 the Annual Appropriation Ordinance. Any such transfer shall be reported to the
25 City Council prior to the end of the month during which the transfer occurred.
26
- 27 2. The City Manager is hereby authorized to execute a sponsorship agreement
28 between the City and Something in the Water, LLC, in a form acceptable to the
29 City Manager and approved by the City Attorney, consistent with the attached,
30 Exhibit A Summary of Terms. The City's monetary sponsorship shall be tied to
31 the performance of the Festival and not the amount appropriated herein.

Adopted by the Council of the City of Virginia Beach, Virginia on the ____ day
of _____, 2022.

Requires an affirmative vote by a majority of all of the members of the City Council.

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL SUFFICIENCY:


Budget and Management Services



Office of the City Attorney

EXHIBIT A

SUMMARY OF SPONSORSHIP

SOMETHING IN THE WATER FESTIVAL 2023

Purpose: To have a multi-cultural, multi-faceted Festival (the “Festival”) the last week of April (April 28-30, 2023) at the Oceanfront from 4th Street to 15th Street.

Parties: City of Virginia Beach (“City”) and
Something in the Water, LLC (“Producer”)

City Financial Sponsorship:

City to provide the “but-for” admissions, meals, and local portion of sales taxes for activities within the footprint of the Festival. The “footprint” includes 4th Street to 15th Street and online ticket sales. The City to provide an advance of \$500,000 to provide support for marketing by Producer, and such amounts to be withheld from the final calculation of the sponsorship. The Producer will provide point of sale information to the City to assist in the calculation of the sponsorship, and such amounts to be paid to Producer after the Festival is completed and the Producer has delivered the agreed-upon program.

City In-Kind Contributions:

Use of various resort stages for concerts

Use of agreed upon public parking lots for direct Festival support and rideshare

City Public Safety and Public Works personnel already programmed for College Beach Weekend

City support of Producer’s request to the School Board for use of buses

Availability of the Convention Center for use by Producer.

Responsibilities of the Producer:

Create a festival with the general outline as follows:

- Where young people will meet others who are pushing business and culture forward
- Where they’ll come to experience music, food, sports, technology, and most importantly, what’s next.
- Where these bright young minds may find their first job out of college, or they will be inspired to start a company of their own

Provide Festival attendance and sponsor information for safety/security and economic impact purposes.

DISCLOSURE STATEMENT FORM

The completion and submission of this form is required for all applications wherein such applicant may utilize certain service providers or financial institutions, and the City seeks to know of the existence of such relationships in advance of any vote upon such application.

SECTION 1 / APPLICANT DISCLOSURE

Organization name: SOMETHING IN THE WATER, LLC

SECTION 2. SERVICES DISCLOSURE

Are any of the following services being provided in connection with the applicant? If the answer to any item is YES, please identify the firm or individual providing the service:

YES	NO	SERVICE <small>Text</small>	PROVIDER (use additional sheets if needed)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	<div style="border: 1px solid black; padding: 2px; font-size: small;"> MKP&B, LLC Matthew Ivanick Account Executive 310-225-6666 mivanick@mkpandb.com </div>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Financial Services (include lending/banking institutions and current mortgage holders as applicable)	<div style="border: 1px solid black; padding: 2px; font-size: small;"> FINANCIAL SERVICES: LIVE NATION WORLDWIDE INC. </div>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Legal Services	<div style="border: 1px solid black; padding: 2px; font-size: small;"> BERKELEY REINHOLD LEGAL FOR SOMETHING IN THE WATER 310-800-3116 INFO@BERKELEYLA </div>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Broker/Contractor/Engineer/Other Service Providers	<div style="border: 1px solid black; padding: 2px; font-size: small;"> INTEGRATED MANAGEMENT GROUP IMGOING EVENTS 757-333-0921 RUNNING POINT WITH VENDORS + CONTRACTORS </div>

CERTIFICATION:

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand I am responsible for updating the information provided herein if it changes prior to the Council action upon this Application.

APPLICANT'S SIGNATURE	KEN MACDONALD PRINT NAME	11/15/22 DATE
OFFICIAL USE ONLY		



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance to Accept and Appropriate State Funding from the Virginia Department of Transportation for Roadway Work

MEETING DATE: December 6, 2022

■ **Background:** The City of Virginia Beach receives funding from the Virginia Department of Transportation (VDOT) annually for the maintenance of roads based on a distribution formula based upon eligible lane miles. The City's share of this FY 2022-23 supplemental payment for overweight permit fee revenue is \$28,804. The approved VDOT reimbursement rates for FY 2022-23 increased the mileage payments for local and collector streets by \$3,546,888. The total combined estimated additional reimbursement revenue from VDOT for FY 2022-23 is \$3,575,692, which brings the total revenue from these programs to \$52,406,757.

■ **Considerations:** The additional \$3,575,692 can only be used for work on roadways eligible for VDOT urban maintenance payments. The proposed use of these funds is as follows:

- Capital Project #100425 "Traffic Signal Rehabilitation II" - \$500,000 (Traffic Signal Maintenance);
- Capital Project #100401 "Street Reconstruction Phase II" - \$2,625,000 (Road Paving);
- The remaining amount of \$450,692 will be directed to Public Works Operating Budget for the following projects:
 - Purchase of a bucket truck - \$275,000; and
 - Purchase of street light parts - \$175,692.

■ **Public Information:** Normal City Council agenda process.

■ **Attachments:** Ordinance

Recommended Action: Approval

Submitting Department/Agency: Public Works

City Manager:  For PAD

1 AN ORDINANCE TO ACCEPT AND APPROPRIATE STATE
2 FUNDING FROM THE VIRGINIA DEPARTMENT OF
3 TRANSPORTATION
4

5 BE IT ORDAINED BY THE COUNCIL OF THE CITY OF VIRGINIA BEACH,
6 VIRGINIA:
7

- 8 1. That \$500,000 in estimated revenue from the Virginia Department of
9 Transportation is hereby accepted and appropriated, with state revenue
10 increased accordingly, to CIP project 100425 "Traffic Signal Rehabilitation II"
11 for traffic signal maintenance; and
12 2. That \$2,625,000 in estimated revenue from the Virginia Department of
13 Transportation is hereby accepted and appropriated, with state revenue
14 increased accordingly, to CIP project 100401 "Street Reconstruction Phase II"
15 for road paving; and
16 3. That \$450,692 in estimated revenue from the Virginia Department of
17 Transportation is hereby accepted and appropriated, with state revenue
18 increased accordingly, to the FY 2022-23 Operating Budget of the Department
19 of Public Works for the purchase of a bucket truck and street light parts.

Adopted by the Council of the City of Virginia Beach, Virginia on the _____ day of
_____, 2022.

Requires an affirmative vote by a majority of all members of the City Council.

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL SUFFICIENCY:


Budget and Management Services


City Attorney's Office

CA15984
R-2
November 23, 2022



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance to Accept and Appropriate a Commonwealth Opportunity Fund Award to the City of Virginia Beach Development Authority

MEETING DATE: December 6, 2022

■ **Background:** ASC Real Estate, LLC, doing business as Acoustical Sheetmetal Company, manufactures sound-reducing and weather-protective enclosures for onsite power generation equipment. Recently, the company expanded with a manufacturing facility at 2009 Hudome Way, which is located in the Innovation Park. This project included a planned capital investment of \$15.8 Million and estimated 200 new jobs over a 36-month period beginning in July 2020. For this project, the company was awarded a \$750,000 Commonwealth Opportunity Fund (COF) incentive award. The COF program offers a cash grant to offset qualifying project-related costs such as site acquisition and development, transportation access, utility extension or capacity development, construction or build-out of buildings, or training.

The Virginia Economic Development Partnership (VEDP) awards COF grants to a locality for qualifying projects. The VEDP requires the locality to enter into a performance agreement setting forth certain project assumptions. As of June 30, 2022, Acoustical Sheetmetal has made over \$16.5 Million in new capital investment and hired 67 of the 200 planned new jobs with an average salary of \$47,908. In addition, the company is completing the buildout of its corporate office, adding an additional 5,000 square feet to the facility.

In accordance with the COF payment procedures, the full \$750,000 will be appropriated to the City of Virginia Beach Development Authority (VBDA). The VBDA will administer the grant as required by the COF process and disburse the incentive payments to Acoustical Sheetmetal Company.

■ **Considerations:** The attached ordinance appropriates the \$750,000 COF award to the VBDA. The VBDA will administer the grant as required by the COF process and disburse the incentive grant payments.

■ **Public Information:** Normal City Council agenda processes.

■ **Attachment:** Ordinance, Disclosure Form

Recommended Action: Approval

Submitting Department/Agency: Economic Development

City Manager:

1 AN ORDINANCE TO ACCEPT AND APPROPRIATE A
2 COMMONWEALTH OPPORTUNITY FUND AWARD TO THE
3 CITY OF VIRGINIA BEACH DEVELOPMENT AUTHORITY
4

5 BE IT ORDAINED BY THE COUNCIL OF THE CITY OF VIRGINIA BEACH,
6 VIRGINIA THAT:
7

8 \$750,000 is hereby accepted from the Commonwealth Opportunity Fund and
9 appropriated, with estimated state revenues increased accordingly, to the City of Virginia
10 Beach Development Authority in furtherance of the purposes of the Commonwealth
11 Opportunity Fund award for the Acoustical Sheetmetal Project.

Adopted by the Council of the City of Virginia Beach, Virginia, on the _____ day
of _____, 2022.

Requires an affirmative vote by a majority of all of the members of City Council.

APPROVED AS TO CONTENT:


Budget and Management Services

APPROVED AS TO LEGAL SUFFICIENCY:


City Attorney's Office

CA15987
R-1
November 22, 2022

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 ASC Real Estate LLC

Does the applicant have a representative? ☐ Yes ☒ No

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

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

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

Young Capital Partners LLC (James Young), ASI Investment LLC (Jeffrey Moore)

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

Affiliated Businesses with same ownership: ASI Real Estate LLC, Acoustical Sheetmetal Company LLC

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

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

Disclosure Statement



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

☒ Yes ☐ No

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

Atlantic Union Bank

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

☐ Yes ☒ No

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

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

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

Elliott Davis

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.

To be determined

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.

To be determined

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.

To be determined

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.

Flora Pettit PC

Applicant Signature

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

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

Applicant Signature

Margaret Shaia, CEO

Print Name and Title

July 25, 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	



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEMS: An Ordinance to Accept and Appropriate Grant Funds for School Security Officers and Security Assistants

MEETING DATE: December 6, 2022

■ **Background:** The School Security Officer (SSO) Grant Program is a grant from the Virginia Department of Criminal Justice Services (DCJS). This is a state program designed to provide funds to local governments to improve security in schools. The City of Virginia Beach Public School (VBCPS) will be the subrecipient of the City's SSO grant award, because the grant program requires the locality to formally accept the award.

The DCJS grant 23-308-A, was approved for a total award of \$562,485. The project period is 10/1/2022 through 6/30/2023. Funds will be distributed to the City for VBCPS.

■ **Considerations:** The SSO grant provides the City with \$562,485 in state funding. Funds will be distributed to the City for VBCPS use in the form of lump sum installments for 15 Virginia Beach School Security Officers and/or Security Assistants. The funds will cover annual salaries and fringe benefits. The grant does not require a local match. The ongoing cost of the FTS's will be funded by VBCPS or additional grants once this grant period ends.

■ **Public Information:** Normal Council agenda notification process.

■ **Recommendations:** Adopt the attached ordinance.

■ **Attachments:** Ordinance

Recommended Action: Approval

Submitting Department/Agency: Virginia Beach City Public Schools

City Manager:

1 AN ORDINANCE TO ACCEPT AND APPROPRIATE GRANT
2 FUNDS FOR SCHOOL SECURITY OFFICERS AND
3 SECURITY ASSISTANTS
4

5 BE IT ORDAINED BY THE COUNCIL OF THE CITY OF VIRGINIA BEACH,
6 VIRGINIA:
7

- 8 1. \$562,485 is hereby accepted from the Virginia Department of Criminal
9 Justice Services and appropriated, with state revenues increased
10 accordingly, to the Virginia Beach City Public Schools as a grant
11 subrecipient for 15 School Security Officers and/or Security Assistants.
12
- 13 2. The City makes no assurances regarding continued funding for such
14 positions, and continued City financial support of such positions is
15 conditioned upon grant funding from the Virginia Department of Criminal
16 Justice Services or other funding sources.

Adopted by the Council of the City of Virginia Beach, Virginia on the _____ day
of _____, 2022.

Requires an affirmative vote by a majority of all members of the City Council.

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL SUFFICIENCY:



Budget and Management Services



City Attorney's Office

CA15977
R-1
November 14, 2022



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance to Accept and Appropriate Grant Funds to the Department of Human Services as Part of the State Opioid Response Grant

MEETING DATE: December 6, 2022

■ **Background:** The Virginia Department of Behavioral Health and Developmental Services has awarded State Opioid Response federal grant funding to the Department of Human Services to support ongoing opioid treatment and recovery services. The funding supports evidence-based Medication Assisted Treatment, such as methadone and suboxone services. The funding is also geared toward recovery initiatives, including managing the Substance Use Disorder Recovery Services Warmline, opioid addiction support groups, community education, service engagement, and community outreach.

■ **Considerations:** This funding award is for the period of September 30, 2022, through September 29, 2023. The total award is \$440,000, with \$342,176 to be used for treatment services and \$97,824 to be used for recovery services. Funding will support services for individuals with opioid addiction and substance use disorders.

■ **Public Information:** Normal Council Agenda process.

■ **Attachment:** Ordinance

Recommended Action: Approval

Submitting Department/Agency: Department of Human Services

City Manager: The signature of the City Manager, followed by the text "FOR PAO".

1 AN ORDINANCE TO ACCEPT AND APPROPRIATE
2 GRANT FUNDS TO THE DEPARTMENT OF HUMAN
3 SERVICES AS PART OF THE STATE OPIOID
4 RESPONSE GRANT
5

6 BE IT ORDAINED BY THE COUNCIL OF THE CITY OF VIRGINIA BEACH,
7 VIRGINIA THAT:
8

9 \$440,000 is hereby accepted from the Virginia Department of Behavioral Health
10 and Development Services and appropriated, with revenue increased accordingly, to the
11 FY 2022-23 Operating Budget of the Department of Human Services to support
12 substance use disorder programs.

Adopted by the Council of the City of Virginia Beach, Virginia on the _____ day
of _____, 2022.

Requires the affirmative vote of a majority of all members of the City Council.

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL SUFFICIENCY:


Budget and Management Services


City Attorney's Office



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance to Accept and Appropriate State Funds for the Agricultural Reserve Program

MEETING DATE: December 6, 2022

■ **Background:** The City and the Virginia Department of Agriculture and Consumer Services (VDACS) are parties to intergovernmental agreements. These agreements provide the opportunity to request state funding through the Office of Farmland Preservation that would match local dollars for easements acquired, not to exceed \$214,809.75. The goal of the agreements is to provide financial assistance for local programs to protect working farm and forested lands. The attached ordinance will provide \$214,809.75 of funding to reimburse costs associated with a recent easement acquisition.

■ **Considerations:** The attached ordinance reimburses the Agricultural Reserve Program (ARP) fund for the maximum permitted amount in the intergovernmental agreement. The City, through the ARP purchased an agricultural easement on the Bonnie Woodhouse Crane property with a value of \$561,680. The Crane farm of 50.17 acres, located at 1808 Nanneys Creek Road, was enrolled in the ARP on March 4, 2022. The appropriation will reimburse a portion of the costs of the US Treasury STRIPS that were purchased to fund the principal payment, as well as the costs of an appraisal, title searches, title insurance, public hearing notices, bond counsel and interest payments.

■ **Public Information:** Public information will be provided though the normal Council Agenda process.

■ **Recommendations:** Approve the attached ordinance.

■ **Attachments:** Ordinance

Recommended Action: Approval

Submitting Department/Agency: Department of Agriculture

City Manager:

A handwritten signature in black ink, appearing to read "L. P. Ch...", is written over the City Manager label. To the right of the signature, the text "For PMO" is written in a smaller, less legible script.

1 AN ORDINANCE TO ACCEPT AND APPROPRIATE
2 STATE FUNDS FOR THE AGRICULTURE RESERVE
3 PROGRAM
4

5 WHEREAS, the City Council has authorized intergovernmental agreements with
6 the Virginia Department of Agriculture and Consumer Services for the reimbursement of
7 a portion of the costs of purchase of certain agricultural preservation easements; and
8

9 WHEREAS, the Commonwealth has authorized partial reimbursement for the
10 Bonnie Woodhouse Crane property.
11

12 NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
13 VIRGINIA BEACH, VIRGINIA, THAT:
14

15 \$214,809.75 is hereby accepted from the Virginia Department of Agriculture and
16 Consumer Services and appropriated, with estimated state revenues increased
17 accordingly, to the FY 2022-23 Operating Budget of the Agriculture Reserve Program
18 Special Revenue Fund to reimburse the City for a portion of the cost to acquire a
19 preservation easement.

Adopted by the Council of the City of Virginia Beach, Virginia on the _____ day
of _____, 2022.

Requires an affirmative vote by a majority of all members of the City Council.

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL SUFFICIENCY:


Budget and Management Services


City Attorney's Office

CA15980
R-1
November 15, 2022



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance to Accept and Appropriate State American Rescue Plan Act Funds to Support Project LINK in the Department of Human Services

MEETING DATE: December 6, 2022

■ **Background:** The Virginia Department of Human Services Behavioral Health and Developmental Services (DBHDS) Division provides services to individuals with mental illness, substance use disorders, and intellectual disabilities. Most services are licensed by the Commonwealth and fall under the DBHDS Performance Contract. The Project LINK program provides an array of services to pregnant and parenting women who have been impacted by substance use. These services can also support children and other members of the family.

DBHDS intends to award American Rescue Plan Act Substance Use Block Grant funds to each Community Services Board that operates a Project LINK program. The funding must be used to increase access to services for the women who need time-sensitive support and coordination of their services through Project LINK.

■ **Considerations:** The one-time funding in the amount of \$146,220 must be obligated by September 30, 2025. Funding will be used to cover the cost of a contract Peer Recovery Specialist and to support general relief needs of Project LINK clients in order to maintain their stability in the community.

■ **Public Information:** Normal Council Agenda process.

■ **Attachment:** Ordinance

Recommended Action: Approval

Submitting Department/Agency: Department of Human Services

City Manager: The signature of the City Manager is written in black ink. It appears to be "L. H. S. Ch. P. M. S." followed by a stylized signature.

1 AN ORDINANCE TO ACCEPT AND APPROPRIATE
2 STATE AMERICAN RESCUE PLAN ACT FUNDS TO
3 SUPPORT PROJECT LINK IN THE DEPARTMENT OF
4 HUMAN SERVICES
5

6 BE IT ORDAINED BY THE COUNCIL OF THE CITY OF VIRGINIA BEACH,
7 VIRGINIA THAT:
8

9 \$146,220 is hereby accepted from the Virginia Department of Behavioral Health
10 and Developmental Services and appropriated, with federal revenue increased
11 accordingly, to the FY 2022-23 Operating Budget of the Department of Human Services
12 to support services provided through Project LINK.

Adopted by the Council of the City of Virginia Beach, Virginia on the _____ day
of _____, 2022.

Requires the affirmative vote of a majority of all members of the City Council.

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL SUFFICIENCY:


Budget and Management Services


City Attorney's Office

K. PLANNING

1. **ATLANTIC DEVELOPMENT ASSOCIATES, LLC & WPL VENTURES, LLC** for a Variance to Section 4.4(b) of the Subdivision Regulations re **subdivide two (2) lots** at 111 73rd Street DISTRICT 6 (formerly District 5-Lynnhaven) Deferred from August 9, 2022

RECOMMENDATION:

APPROVAL

2. **PRINCESS ANNE COUNTRY CLUB / PRINCESS ANNE COUNTRY CLUB & EXPANSION ONE, LLC** for a Change of Nonconformity (Expansion of Non-Conforming Use) re **one-story dwelling for event space and overnight lodging** at 3901 Holly Road, 488 Linkhorn Drive, 3800 Pacific Avenue DISTRICT 6 (formerly District 6-Beach)

RECOMMENDATION:

APPROVAL

3. **SXCW PROPERTIES II, LLC** for a Conditional Use Permits re **car wash facility & automotive service station** at 3264 Holland Road DISTRICT 3 (Formerly District 3-Rose Hall)

RECOMMENDATION:

APPROVAL

4. **EARTHSCAPES ENTERPRISES, LLC / VALIANOS PROPERTIES, LLC & JEM, LLC** for a Conditional Use Permit re **bulk storage yard** at 619 & 623 London Bridge Road DISTRICT 3 (formerly District 6-Beach)

RECOMMENDATION:

APPROVAL

5. **FANTASY TATTOO COMPANY / WCSC, LLC** for a Conditional Use Permit re **tattoo parlor** at 1920 Centerville Turnpike, Suite 118 DISTRICT 7 (formerly District 1-Centerville)

RECOMMENDATION:

APPROVAL



NOTICE OF PUBLIC HEARING

A Public Hearing of the Virginia Beach City Council will be held on **Tuesday, December 6, 2022** at 6:00 p.m. in the **Council Chamber at City Hall, 2nd Floor at 2401 Courthouse Drive, Building 1, Virginia Beach, VA 23456**. Members of the public will be able to observe the City Council meeting through livestreaming on www.vbgov.com, broadcast on VBTv, and via WebEx. Citizens who wish to speak can sign up to speak either in-person at the Council Chamber or virtually via WebEx by completing the two-step process below. All interested parties are invited to observe.

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

1. Register for the WebEx at:
<https://vbgov.webex.com/vbgov/onstage/g.php?MTID=e4223c0bc43457b0de2a434e079f33d9f>
2. Register with the City Clerk's Office by calling 757-385-4303 prior to 5:00 p.m. on December 6, 2022.

The following requests are scheduled to be heard:

Atlantic Development Associates, LLC & WPL Ventures, LLC (Applicants & Property Owners) Subdivision Variance (Section 4.4(b) of the Subdivision Regulations) Address: 111 73rd Street GPIN(s): 2419667586 **City Council District 6**

Princess Anne Country Club (Applicant) Princess Anne Country Club & Expansion One, LLC (Property Owners) Change in Nonconformity (Expansion of Non-Conforming Use) Addresses: 3800 Pacific Avenue, 3901 Holly Road, 488 Linkhorn Drive GPIN(s): 2418942388, 2418659235 & 2418848645 **City Council District 6**

SXCW Properties II, LLC (Applicant & Property Owner) Conditional Use Permits (Car Wash Facility & Automobile Service Stations) Address: 3264 Holland Road GPIN(s): 1495093490 **City Council District 3**

Earthscapes Enterprises, LLC (Applicant) Vallanos Properties, LLC & JEM, LLC (Property Owner) Conditional Use Permit (Bulk Storage Yard) Addresses: 619 & 623 London Bridge Road GPIN(s): Portion of 1496878501, 1496974509 **City Council District 3**

Fantasy Tattoo Company (Applicant) WCSC, LLC (Property Owner) Conditional Use Permit (Tattoo Parlor) Address: 1920 Centerville Turnpike, Suite 118 GPIN(s): 1455914345 **City Council District 7**

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

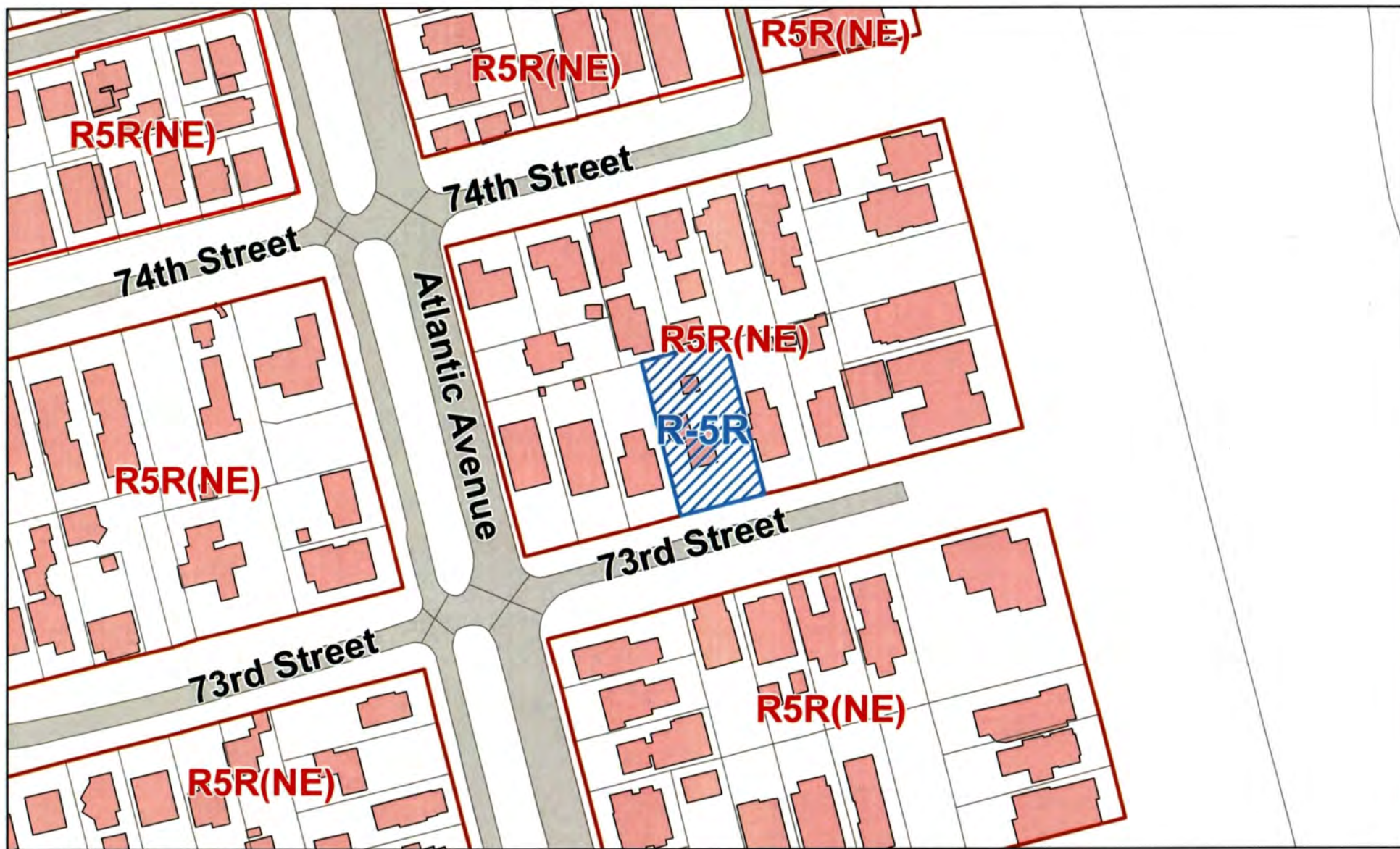
If you require a reasonable accommodation for this meeting due to a disability, please call the City Clerk's Office at 757-385-4303. If you are hearing impaired, you can contact Virginia Relay at 711 for TDD service. The meeting will be broadcast on cable TV, www.vbgov.com and Facebook Live.

Please check our website at www.vbgov.com/government/departments/city-clerk/city-council for the most updated meeting information.

All interested parties are invited to participate.

Amanda Barnes, MMC
City Clerk

**BEACON – NOVEMBER 20, 2022 & NOVEMBER 27, 2022
– 1 TIME EACH**



Site



Property Polygons



Zoning



Building

Atlantic Development Associates, LLC & WPL Ventures, LLC
111 73rd Street



0 25 50 100 150 200 250 300 Feet



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: ATLANTIC DEVELOPMENT ASSOCIATES, LLC & WPL VENTURES, LLC [Applicants & Property Owners] Subdivision Variance (Section 4.4(b) of the Subdivision Regulations) for the property located at 111 73rd Street (GPIN 2419667586). COUNCIL DISTRICT 6, formerly Lynnhaven

MEETING DATE: December 6, 2022 (Deferred on May 17, 2022 and August 9, 2022)

■ **Background:**

This application was deferred by City Council on May 17, 2022 in order for additional research to be conducted regarding the recurring nature of the request and for meetings to be held North End Civic League representatives. The item was then deferred indefinitely on August 9, 2022 to continue discussions. North End Civic League representatives recently reached out to staff on November 16, 2022. Meetings were held with representatives of the North End Civic League regarding development and the regulations within the North End Overlay District. Potential requests for changes to the development regulations were discussed with the representatives, however are not currently proposed.

The two subject lots in the North End were legally created by deed in Deed Book 266, page 556 in 1949, prior to the establishment of the Subdivision Regulations. A single-family dwelling has existed across the shared property line of the two lots since 1935. The proposed lots, Lot 12A and Lot 14A, will each be 6,000 square feet in size, which will exceed the minimum lot area requirement of 5,000 square feet. However, each lot will be only 40 feet in width, 10 feet shy of the 50-foot lot width requirement. As neither lot will meet all dimensional standards required by the Zoning Ordinance for parcels in the R-5R Residential District, a variance to Section 4.4(b) of the Subdivision Regulations is required.

■ **Considerations:**

In the North End Overlay District, lots that meet the minimum dimensional standards for a duplex of 10,000 square feet of lot area and 75 feet of lot width are permitted to construct two single-family dwellings on one lot. As the combination of both lots exceeds these minimums (12,000 square feet of lot area, 80 feet of lot width), both a duplex with two attached units or two single-family dwelling on one lot could easily be constructed as a matter of right. As the proposal includes two lots, each with one single-family dwelling, no increase in density is contemplated with this Subdivision Variance. As the current lots existed prior to the current R-5R zoning regulations, they have the current development potential in total of four dwelling units. A condition is recommended that limits development on each parcel

to just one single-family dwelling. The density stabilization as well as the use of high-quality building materials are in line with the recommendations of the Comprehensive Plan for the North End Suburban Focus Area.

Further details pertaining to the application, as well as Staff's evaluation, are provided in the attached Staff Report. There was one speaker in opposition at the Planning Commission public hearing representing the North End Civic League, who also provided a letter of opposition. The civic league supports development of the properties under the by-right options set forth in the Zoning Ordinance.

On June 9, 2022, City Staff met with Council Member Branch and Billy Almond and Gerrie West from the North End Civic League to discuss zoning ordinance amendments to the R-5R zoning district. Staff provided an analysis of possible options and held a follow up meeting on July 22, 2022. The Civic League is reviewing the options and the process is ongoing and recently reached out to staff on November 16, 2022 to further discussions. None of the proposed changes would impact this applicant's request.

Staff received 10 letters of support for the proposal, many of whom are property owners along this block of 73rd Street, and there were two speakers in support at the Planning Commission public hearing. Those that spoke in support prefer development of these parcels as proposed with one single-family dwelling on each parcel, rather than the by-right option that could result in more units with a different configuration. Staff received a letter from the North End Civic League objecting to the request. The letter noted concerns related to increasing density, parking requirements, utility infrastructure usage, and the smaller size of the lots generally.

■ **Recommendation:**

On April 13, 2022, the Planning Commission passed a motion to recommend approval of this request by a vote of 9 to 0.

1. When the Property is developed, it shall be developed substantially as shown on the exhibit entitled, "Preliminary Concept Resubdivision of Lot 12 & the Eastern 30' of Lot 14, Block 1, Cape Henry Syndicate", prepared by WPL, copies of which have been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning ("Subdivision Plans").
2. The homes to be developed on this site must use attractive, high quality materials capable of withstanding severe weather events as recommended within the North End Suburban Focus Area section of the Comprehensive Plan and as shown on the exhibit entitled, "Single Family Development Exhibit for Lot 12 & the Eastern 30' of Lot 14, Block 1, Cape Henry Syndicate", prepared by WPL, copies of which have been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning ("Elevations").

3. The proposed lots 14A and 12A shall only be developed with one single-family residence on each lot.

■ **Attachments:**

Staff Report and Disclosure Statements
Location Map
Minutes of Planning Commission Hearing
Letters of Support (10)
Letter of Opposition (1)

Recommended Action: Staff recommends Approval. Planning Commission recommends Approval.

Submitting Department/Agency: Planning Department



City Manager:



Request

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

Staff Recommendation

Approval

Staff Planner

Aubrey A. Trebilcock

Location

111 73rd Street

GPIN

24196675860000

Site Size

12,000 square feet

AICUZ

Less than 65 dB DNL

Watershed

Atlantic Ocean

Existing Land Use and Zoning District

Single-family dwelling / R-5R Residential

Surrounding Land Uses and Zoning Districts

North

Single-family dwelling / R-5R Residential

South

73rd Street

Single-family dwelling / R-5R Residential

East

Single-family dwelling / R-5R Residential

West

Single-family dwelling / R-5R Residential




Background & Summary of Proposal

- The applicant is proposing to resubdivide two lots, described as "Lot 12" and "the Eastern 30' of Lot 14," in order to create two lots of equal size within the R-5R Residential District. The dimensional standards for lots in this district require a minimum lot size of 5,000 square feet and a minimum lot width of 50 feet.
- The subject lots were legally created by deed in Deed Book 266, page 556 in 1949, prior to the establishment of the Subdivision Regulations and both can be developed. A single-family home has existed across the shared property line of the two lots since 1935.
- The proposed lots, Lot 12A and Lot 14A, would each be 6,000 square feet in size, which would exceed the minimum lot area requirement of 5,000 square feet. However, they would each be only 40 feet in width, short of the 50-foot lot width requirement. As neither lot will meet all dimensional standards required by the Zoning Ordinance for parcels in the R-5R Residential District, a variance to Section 4.4(b) of the Subdivision Regulations is required.

Proposed Lot	Required Street Line Frontage in R-5R (feet)	Proposed Street Line Frontage (feet)	Required Lot Width (feet)	Proposed Lot Width (feet)	Required Lot Area (square feet)	Proposed Lot Area (square feet)
Lot 12A	40	40	50	40*	5,000	6,000
Lot 14A	40	40	50	40*	5,000	6,000

*Variance requested

	<h3>Zoning History</h3> <table><tr><th>#</th><th>Request</th></tr><tr><td>1</td><td>NON (Expansion of Non-Conforming 2nd Dwelling Unit) Approved 02/23/2010</td></tr><tr><td>2</td><td>NON (Expansion of Non-Conforming Single Family Home) Approved 05/09/2009</td></tr></table>			#	Request	1	NON (Expansion of Non-Conforming 2 nd Dwelling Unit) Approved 02/23/2010	2	NON (Expansion of Non-Conforming Single Family Home) Approved 05/09/2009						
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<h3>Application Types</h3> <table><tr><td>CUP – Conditional Use Permit</td><td>MDC – Modification of Conditions</td><td>STC – Street Closure</td><td>SVR – Subdivision Variance</td></tr><tr><td>REZ – Rezoning</td><td>MDP – Modification of Proffers</td><td>FVR – Floodplain Variance</td><td>LUP – Land Use Plan</td></tr><tr><td>CRZ – Conditional Rezoning</td><td>NON – Nonconforming Use</td><td>ALT – Alternative Compliance</td><td>STR – Short Term Rental</td></tr></table>				CUP – Conditional Use Permit	MDC – Modification of Conditions	STC – Street Closure	SVR – Subdivision Variance	REZ – Rezoning	MDP – Modification of Proffers	FVR – Floodplain Variance	LUP – Land Use Plan	CRZ – Conditional Rezoning	NON – Nonconforming Use	ALT – Alternative Compliance	STR – Short Term Rental
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Evaluation & Recommendation

Section 9.3 of the Subdivision Regulations states:

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

- Strict application of the ordinance would produce undue hardship.

Atlantic Development Associates, LLC & WPL Ventures, LLC

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

The intention of this application is to increase the size of the lot described as "the eastern 30 feet of Lot 14" to reduce its degree of nonconformity and to allow for a larger developable area more in line with the surrounding area. Both lots were legally created by deed and are therefore buildable sites. The 30-foot wide lot is currently substandard in both lot area and width, only being 4,500 square feet and 30 feet wide. In the R-5D Residential District, a minimum lot area of 5,000 square feet and a minimum lot width of 50 feet are required. The proposal would take 10 feet of lot width from the adjacent Lot 12, which is currently 50-feet wide, resulting in two, 6,000 square foot lots with 40 foot lot widths.

Each lot is proposed to be developed with a single-family home. In the North End Overlay District, lots that meet the minimum dimensional standards for a duplex may be developed with two single-family homes. In the R-5R Residential District, the minimum lot size and lot width for a duplex are 10,000 square feet and 75 feet respectively. The area of the subject lots exceeds this with its total area of 12,000 square feet and lot width of 80 square feet. The proposal would therefore not increase residential density beyond what is prescribed within the Zoning Ordinance for the North End Overlay District, nor what could be developed as a matter of right.

The subject property lies within the North End Suburban Focus Area as identified in the Comprehensive Plan, which lists among its goals parcel consolidation of smaller lots, density stabilization, and the reduction of impervious coverage to mitigate recurring stormwater issues. While the lots will not be consolidated under this proposal, it will result in the same number of dwellings units permitted if the lots were to be combined, as mentioned above, thereby providing density stabilization and preventing the potential development of an awkwardly shaped building due to the required eight foot setbacks on each side of the 30 foot wide lot. An additional recommendation of the Comprehensive Plan, as stated above, is mitigating the frequent stormwater issues present within the North End. It is an area that, due to its location, is vulnerable to storms and at the same time has a high level of impervious coverage which exacerbates drainage issues. The submitted plan depicts that the proposal will not exceed the 60% impervious surface coverage maximum, as limited by the Zoning Ordinance, with proposed Lot 12A at 57% and Lot 14A at 60% impervious coverage.

The recommendations for the North End Suburban Focus Area also encourage that attractive, high quality materials capable of withstanding severe weather events be used in new construction. The proposed homes will have an exterior of fiber cement siding (Hardie Shake and Hardie Lap Siding) that should be both durable and appealing. While the limited space onsite for parking accommodations leaves the garages as visual focal points on the ground floor, the second floor porches help to provide a more visually attractive point of interest for the front façade of the homes.

In Staff's view, the overall application does comply with the guidance of the Comprehensive Plan for the North End Suburban Focus Area. While it is unorthodox to support modification of a lot that presently conforms to the existing dimensional requirements, Lot 12, into a nonconforming lot, in this specific case it does provide for development that fits within the character of the North End. The submitted plans also meet the impervious coverage requirement to address pressing drainage concerns and reflect high quality exterior building materials. Staff is therefore in support of the the Subdivision Variance request subject to the conditions provided below.

Recommended Conditions

1. When the Property is developed, it shall be developed substantially as shown on the exhibit entitled, "Preliminary Concept Resubdivision of Lot 12 & the Eastern 30' of Lot 14, Block 1, Cape Henry Syndicate", prepared by WPL, copies of which have been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning ("Subdivision Plans").
2. The homes to be developed on this site must use attractive, high quality materials capable of withstanding severe weather events as recommended within the North End Suburban Focus Area section of the Comprehensive Plan and as shown on the exhibit entitled, "Single Family Development Exhibit for Lot 12 & the Eastern 30' of Lot 14, Block 1, Cape Henry Syndicate", prepared by WPL, copies of which have been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning ("Elevations").
3. The proposed lots 14A and 12A shall only be developed with one single-family residence on each lot.

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

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

Comprehensive Plan Recommendations

The Comprehensive Plan designates the subject property as lying within the North End Suburban Focus Area, which extends from 42nd Street to 89th Street and located on both sides of Atlantic Avenue. The North End SFA is characterized by a compact arrangement of single-family and duplex dwelling units with much of the land zoned Residential Resort District (R-5R). Moreover, the North End area is characterized by a relatively high density of single-family/duplex housing, high impervious surface coverage and problematic topographic conditions, all of which combine to create recurring stormwater drainage problems. The City seeks to implement drainage improvements in the North End area to help alleviate these situations.

As noted in the Comprehensive Plan, recommendations for this area include parcel consolidation, density stabilization and the use of 'Best Management Practices' for stormwater control should be part of reconstruction efforts. Improvement and reconstruction should also use porous materials for driveways, walkways and other similar surfaces, wherever feasible, to achieve a net reduction of impervious coverage. Finally, attractive and high-quality materials capable of withstanding severe weather events should be used.

Natural & Cultural Resources Impacts

The site is located in the Atlantic Ocean Watershed. No wetlands, floodplains subject to special restrictions, or watershed buffer areas lie within the subject site. No negative impact to any natural or cultural resources is anticipated.

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
73rd Street	N/A	9,900 ADT ¹ (LOS ⁴ "D")	Existing Land Use ² – 10 ADT Proposed Land Use ³ – 20 ADT
Atlantic Avenue	14,660 ADT ¹	22,800 ADT ¹ (LOS ⁴ "D")	Existing Land Use ² – 10 ADT Proposed Land Use ³ – 20 ADT
¹ Average Daily Trips	² as defined by 1 single-family residence	³ as defined by 2 single-family residences	⁴ LOS = Level of Service

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

Access to this site is located on 73rd Street. 73rd Street is a two-lane local street with an 80-foot right-of-way width. Atlantic Avenue in the vicinity of this site is a four-lane undivided minor urban arterial with a 120-foot right-of-way width.

Public Utility Impacts

Water

City water is available.

Sewer

City sanitary sewer is available.

Public Outreach Information

Planning Commission

- Ten letters of support have been received by Staff noting their preference for single-family developments within their neighborhood. A letter of opposition has been received from the The North Virginia Beach Civic League Zoning Review Committee with concerns related to increasing density, parking requirements, utility infrastructure usage, and the smaller size of the lots generally.
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on March 14, 2022.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, March 20, 2022 and March 27, 2022.
- 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 on April 7, 2022.

City Council

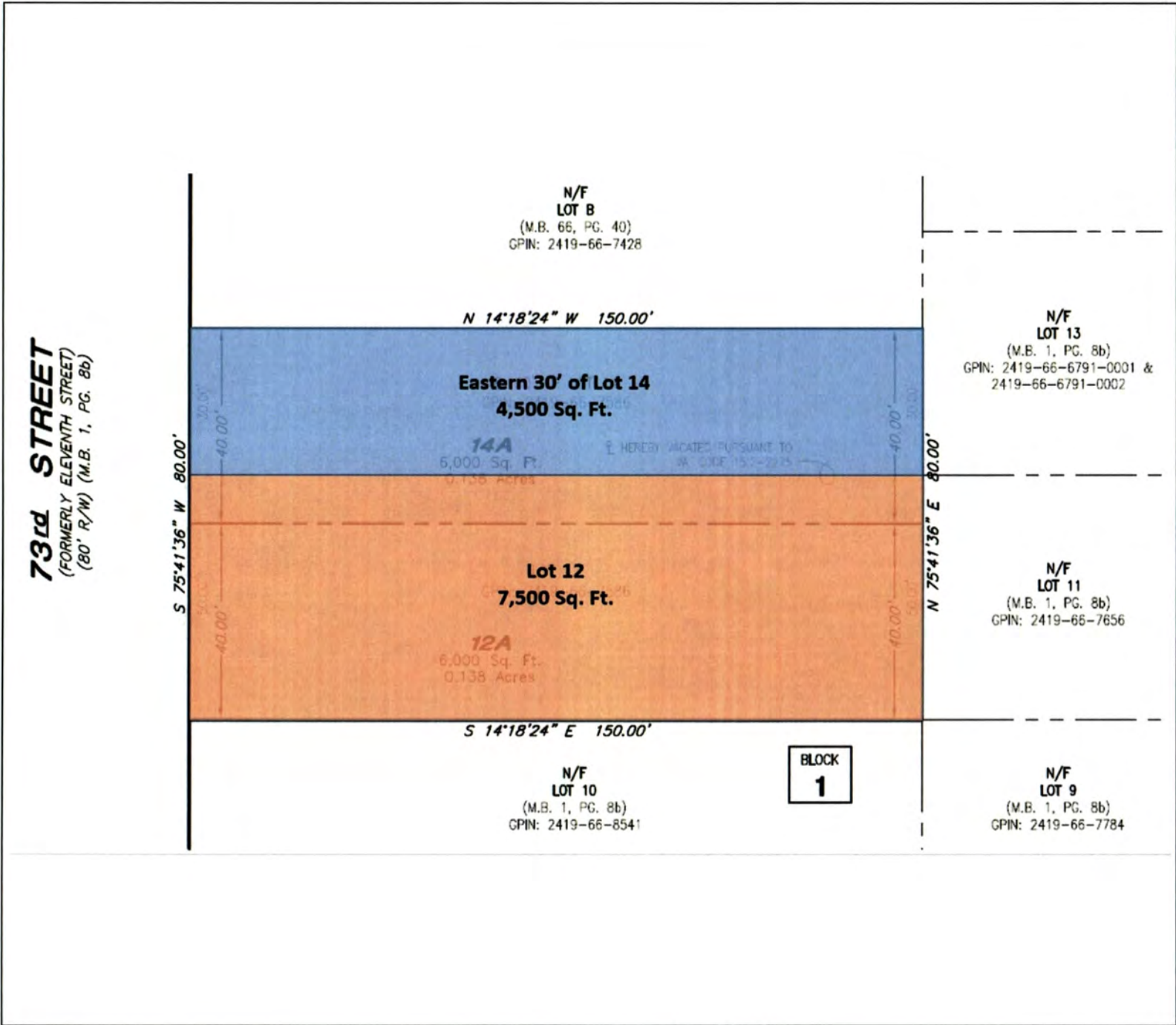
- As required by City Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, November 20, 2022 and November 27, 2022.
- As required by City Code, the adjacent property owners were notified regarding both the request and the date of the City Council's public hearing on November 21, 2022

Atlantic Development Associates, LLC & WPL Ventures, LLC

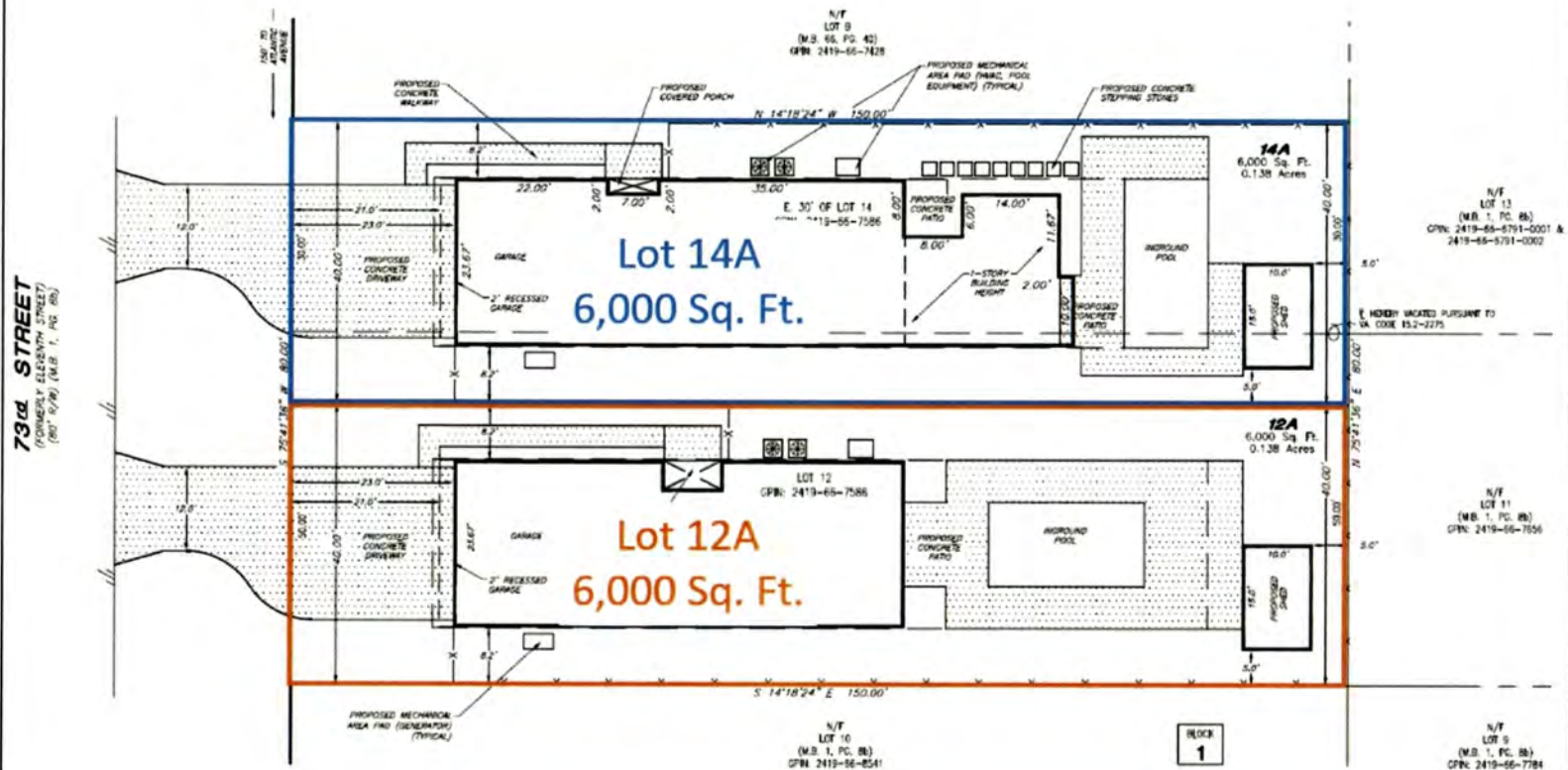
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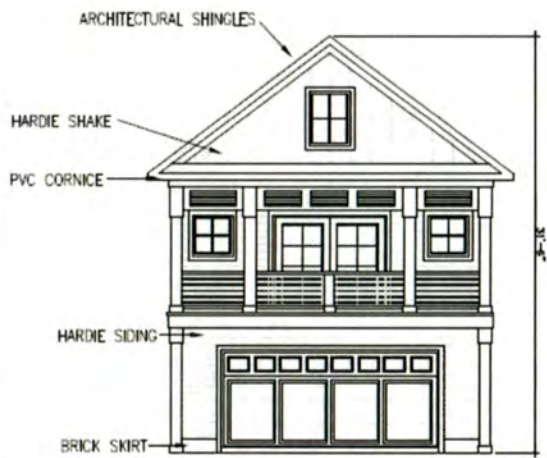
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- The City Clerk's Office posted the materials associated with the application on the City Council website of <https://www.vbgov.com/government/departments/city-clerk/city-council/Documents/BookmarkedAgenda.pdf> on December 2, 2022.

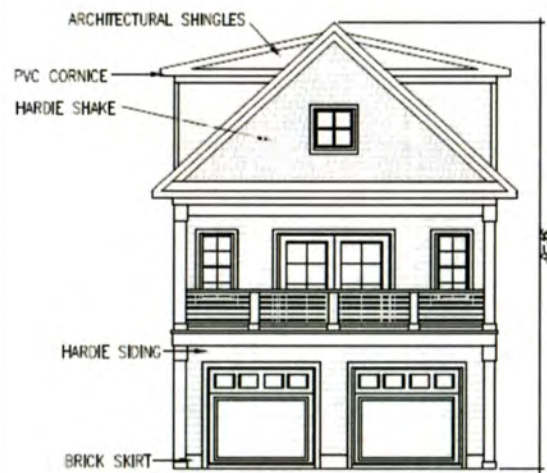


Proposed Subdivision Plan





FRONT ELEVATION - LOT 14A



FRONT ELEVATION - LOT 12A



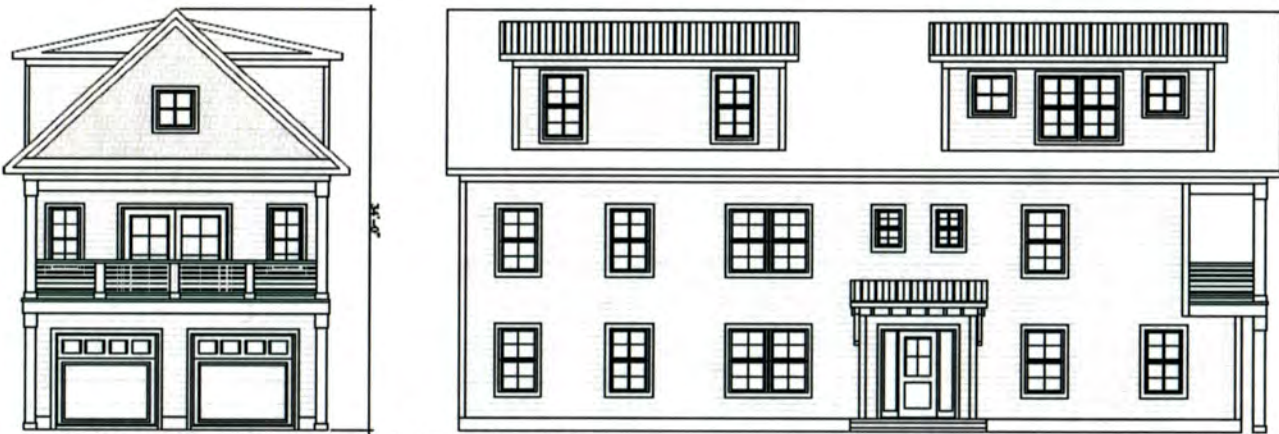
POOL, FENCE & WALL (SIMILAR PHOTO)



POOL & REAR YARD (SIMILAR PHOTO)



FRONT AND SIDE ELEVATION - LOT 14A



FRONT AND SIDE ELEVATION - LOT 12A

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 WPL Ventures, LLC

Does the applicant have a representative? ☒ Yes ☐ No

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

R. Edward Bourdon, Jr., 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)

Brian C. Large, Sole Member

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

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

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

Disclosure Statement

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.

TowneBank

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

☐ Yes ☒ No

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

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

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

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

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

Eric Garner, WPL

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.

Eric Garner, WPL

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

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

Applicant Signature

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

WPL Ventures, L.L.C.

By: 

Applicant Signature

Brian C. Large, Sole Member

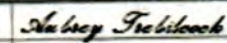
Print Name and Title

Date

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

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

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

<input checked="" type="checkbox"/>	No changes as of	Date	11/16/2022	Signature	
				Print Name	Aubrey Trebilcock

Revised 11/09/2020

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Disclosure Statement

Disclosure Statement



Owner Disclosure

Owner Name Atlantic Development Associates, LLC

Applicant Name WPL Ventures, LLC and Atlantic Development Associates, 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)

Brian C. Large, Sole Member

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

Known Interest by Public Official or Employee

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

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

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

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

Disclosure Statement

Disclosure Statement



Owner Services Disclosure

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

☒ **Yes** ☐ **No**

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

TowneBank

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

☐ **Yes** ☒ **No**

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

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

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

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

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

Eric Garner, WPL

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

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

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

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

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

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

Eric Garner, WPL

Disclosure Statement



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

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

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

Owner Signature

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

Atlantic Development Associates, LLC

By: 

Owner Signature

Brian C. Large, Sole Member

Print Name and Title

Date

Next Steps

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

**Virginia Beach Planning Commission
April 13, 2022, Public Meeting
Agenda Item # 10**

Atlantic Development Associates, LLC & WPL Ventures, LLC [Applicants & Property Owners]

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

Address: 111 73rd Street

RECOMMENDED FOR APPROVAL – HEARD

Madam Clerk:

Mr. Chair, is it okay to call the next item?

Chairman Wall:

Yes, please call the next.

Madam Clerk:

Our next item is agenda item number 10, Atlantic Development Associates, LLC, and WPL Ventures, LLC. An application for Subdivision Variance Section 4.4B of the Subdivision Regulations on property located at 111 73rd Street, located in District six, formerly the Lynnhaven District.

Eddie Bourdon:

Thank you, Ms. Sandloop. Mr. Chairman, members of the Commission, for the record, Eddie Bourdon, Virginia Beach attorney representing the applicant Mr. Brian Large, principal of the applicant with us. So I want to start out with very, very basics to try to clear up any ambiguity or confusion that may have been engendered by the briefing this morning. The subject properties, there are two legal lots that exist today. One is lot 12. It's a 50 foot by 150 foot, 7,500 square lot that was established many, many decades by plat before Princess Anne County adopted its first Subdivision Ordinance and its first Zoning Ordinance in 1952, 1953. This property is now zoned R5R and there was no such thing when this lot was created and not until the '70s was there an R5 zoning district.

Eddie Burdon:

And it is legally nonconforming as to the size for a duplex lot under our current zoning as is the case with 99% of the duplex development that exists at the North End of Virginia Beach. They are almost entirely on nonconforming lots because they're not 80 feet wide and they're not 10,000 square feet. Today, this lot can have built on it by right a duplex and in fact, my client has a duplex plan, it was going to be submitted. I'll get into that. Or it can be developed under the North End Overlay as two detached units on the same lot. So I'm going to repeat, it is a

legally nonconforming duplex lot. It has no architectural mandates or requirements, it has to meet the setbacks, got to meet the lot coverage, the impervious surface in the 35 foot height.

Eddie Bourdon:

If you did two detach units on the 50 foot by 150 foot lot, it would have to meet the architectural under the overlay that was adopted a number of years ago because the feeling is and it's been successful that we're better off with two small or two and a half story cottages or two-story cottages than having a big three-story bulk of a duplex. So either of those can happen on that lot. The second lot, again, legally existing build-able lot on the West side of lot 12 sharing a boundary line with lot 12 and it is 30 by 150 feet containing 4,500 square feet. Just like lot 12, it is legally nonconforming, and it can be developed as a duplex or by two detached single-family homes under the North End Overlay. Both lots can be developed with a single-family home.

Eddie Bourdon:

Both can be developed with a single-family home. The 30-foot lot was created in 1949 by deed legally because there was no subdivision ordinance, and that's the story. That's the only story. There was never any vacating of a property line or any of that stuff that was talked about this morning. It's meaningless talk. It doesn't have any relevance. There are many, many such legally nonconforming lots that exist throughout our city that were created because think of all the subdivision that existed before we had zoning or subdivision ordinance. Thalia, Old Beach, Lakewood off of Rosemont Road area, Chesapeake Beach are some of the areas and at the North End, there are also nonconforming lots, not quite as many, but there are those up there.

Eddie Bourdon:

My client owned this property for many, many years. My client entered a contract to purchase the properties from her and because he develops at the North End a lot, he said, "Let's go in and first of all, eliminate the nonconforming aspect of both of these lots by agreeing, by re-subdividing and agreeing that no duplex, because once you re-subdivide, you can't put a duplex on either one, nor can you do two separate units on either one of the two existing lots, lets re-subdivide and change the nonconforming 30 foot lot," which is nonconforming in lot size and in lot width, "to make it more conforming at 40 feet wide and lot width and totally conforming at 6,000 square feet for a single family home. And in order to do that, we are making lot 12, which is conforming for a single-family home today.

Eddie Bourdon:

And with this, we'll be conforming in every way to a single-family home except the lot width at 40 feet versus 50 feet." At the same time, Proffer proposed a single-family plan that meets all zoning requirements, no variances for anything. And with the exception of not being able to have a side loading garage meets the overlay architectural requirements. And that's what is before you today, and we're not in the overlay. Now, I can get into a lot of answers, some other things, but that's the basis of this. And to make it clear, I gave you all a copy of a variance application that was filed in December to build a single-family house on the 30-foot lot with a

decreased setback to five feet on the interior shared boundary with lot 12. Same boundary that's been there since lot 12 was created back in the early 1900s.

Eddie Bourdon:

And before we went to the Board of Zoning Appeals, we were approached by the residents on 73rd Street, some of whom are here today. Judge Whitlow, I think is signed up to speak and asked, "Do the single family plan. That's what we want. That's what we like and that's why we're here." That BZA variance application for the 30-foot lot, well, I've been doing this for 37 years with the hardship, the variance will be granted if we have to go that direction. That's not the direction we want to go. This is the way we think is best because we know the people on the street prefer it. Single family home. Perfect. I mean, that's what people want. They don't want to live behind somebody else's house. Some people do, but it's a more valuable and it's a better way to develop the property, consistent with the character of the street. Be happy to answer any questions and the conditions is recommended and the staff reporter acceptable to the applicant.

Chairman Wall:

Thank you. Are there any questions for Mr. Bourdon?

George A. Alcaraz:

Mr. Bourdon, the exhibit you've given us that's for single family, but by right, your client could do a duplex, right? If he wanted to fit it?

Eddie Bourdon:

Well, he absolutely can do a duplex on the 50-foot lot, and that's exactly what the alternative is. Two units on lot 12 and that unit on the 30-foot lot. Yes, technically you could do two units on the 30-foot lot. You'd need a greater amount of variance, and you'd have a problem with lot coverage to get four parking spaces on the property. So as a practical matter, legally, yes, practically the 30-foot lot would be one skinny, three story house. It doesn't meet the guidelines of the overlay, doesn't have to, but I'm not going to sit up here and tell you that I think anyone would develop a duplex on that lot.

George A. Alcaraz:

No, I just want to know the potential.

Eddie Bourdon:

Potentially, yes.

George A. Alcaraz:

Okay, that's all I need.

Eddie Bourdon:

But undoubtedly, not even close question, you can put a duplex on lot 12, which is exactly what we were going in that direction at one point and a single family just like is in that application on the 30-foot lot.

George A. Alcaraz:

All right. Thank you.

Chairman Wall:

Anyone else? All right, thank you.

Eddie Bourdon:

Thank you, Mr. Wall.

Chairman Wall:

Madam clerk?

Madam Clerk:

We have three speakers, Mr. Chairman. Chris Arias followed by Morton Whitlow.

Chairman Wall:

Mr. Arias, you've got three minutes when the red light ...

Chris Arias:

Yeah. Thank you.

Chairman Wall:

Please state your name for the record.

Chris Arias:

Yes, my name is Chris Arias and I'm representing the Arias family that owns 112 on 73rd Street directly across the street from the property that's applying for the variance. And I'd like to say, we are very much in favor of the application and the proposed design for two single family homes on the lots. We don't want to see a duplex or the alternative go in, and looking at the lots and the way they're designed. One's very skinny development.

Chris Arias:

There's one very skinny structure going in next to another one does not fit with the context of the neighborhood. Also, looking at congestion and burdens on the infrastructure for our little street and also, just trying to keep the character of the neighborhood. So, yes, I read through the staff's report and we were agreeing with that. So, yeah, we hope you guys approve it.

Chairman Wall:

Okay.

Chris Arias:

That's it. Any questions?

Chairman Wall:

Any questions?

Chris Arias:

Sorry. That's your job. Thanks.

Madam Clerk:

Our next speaker is Morton Whitlow followed by Gerrie West.

Morton Whitlow:

Good afternoon. Thank you. My name is Morton Whitlow. I live at 107 73rd Street. Before I start, I want to thank all of you for your service on the Planning Commission. It's a very, very important civic function and I appreciate your work in that regard. I'm in support of the applicant, our block simply wants two single family homes. It's a predominantly single-family block. Interestingly, over the last 25 years that I've owned my little cottage, almost everybody on the block's had a chance to tear down and start over or remodel. And one by one, two houses were torn down and single-family houses were rebuilt. Nine of us have chosen to rehab or remodel our existing old cottages.

Morton Whitlow:

And so, it stayed a single-family block uniquely, one by one, pretty special in the North End. So we'd like to keep it that way. I'm not aware of any opposition to this by the people on our block. I think you're probably all aware of the emails that have come in from almost every property owner, all in support of these two single family homes on the 40-foot lots. So we hope you'll agree with us. The one thing I note there was a letter was sent in by a representative of the

North End Civic League opposing this application. And first, all of us really appreciate the work of the North End Civic League folks in protecting our community. They do a lot of great volunteer work and we appreciate their efforts. We just respectfully disagree with their position in this case.

Morton Whitlow:

We think it ought be decided on a case-by-case basis. I noted in a letter there's a couple of things, I guess the retired lawyer and retired judge comes out in me when I look at this. So, I have to rebut a couple things that are in the opposition letter. There was some complaint that the houses would be too narrow at 24 feet in width, out of character with the neighborhood. Well, the house right next door at 109, Mr. McCardell's house, his house is exactly 24 feet wide. Same. My little cottage is the smallest house on the block at 107 it's 24 feet wide. So, 24 feet is in character, not out of character. Lastly, there was a mention that perhaps the residents of the 100 block had been misled by the developer. That is simply not accurate. I have not been misled. Thank you very much for your attention to this important issue to us and thank you for your time. If you have any questions, I'll be happy to answer them.

Chairman Wall:

Thank you. Are there any questions for Mr. Whitlow?

Commissioner Oliver:

I have one. Judge, there's a conversation about the design of the house. I'm just curious as to what your thoughts are as far as does it fit in with the street?

Morton Whitlow:

Well, it does. We've got, as I mentioned, two single family homes in the last decade have been torn down, single family homes, rebuilt single family homes, and both of those have front loading garages.

Commissioner Oliver:

Okay.

Morton Whitlow:

It's almost a necessity with these 50-foot lots. I mean, having something other than that is very difficult. It's possible, but difficult. Everybody would love to see a little cute cottage, but the truth is, square footage matters. And so, these houses, they'll be a lot bigger than my house, but they won't be much bigger than all the other houses on the street. And they look to be two and a half stories. I think they'll have some housing on the third level, but the way they appear to be designed, they look like two and a half story houses, which is compatible with our block, we

believe. But all the neighbors up and down the street as you got the emails were supportive of what's proposed.

Commissioner Oliver:

Great. Thank you.

Morton Whitlow:

All right. Thank you for your time.

Chairman Wall:

Anyone else? Thanks.

Gerrie West:

Good afternoon. I'm Gerrie West. I'm here on behalf of the North Virginia Beach Civic League.

Chairman Wall:

Okay. Ms. West?

Gerrie West:

Yes.

Chairman Wall:

I think you have 10 minutes, correct? Okay.

Gerrie West:

Oh, I probably won't need 10 minutes, but thank you. I'm here on behalf of the North End Civic League. We are in opposition, this re-subdivision because we think it sets a dangerous precedent on the North End. One of the things as an architect and a member of the Zoning Review Committee for almost 20 years now that I always ask the group at the beginning, when we're reviewing a variance request is what would the North End be like if everyone was given permission to do this? In this case, I think this is one of the more dangerous places to go. Our zoning codes clearly say that the minimum lot width needs to be 50 feet.

Gerrie West:

That allows for plenty of parking or better parking, I'll say. Everybody knows the North End has a parking issue. It allows for green space for storm water management, and that's the way the neighborhood has traditionally been laid out. A lot of the areas were laid out in 25-foot lots before the zoning code and people would buy 2, 3, 4 of them. So you see these 80-foot-wide

lots, or 100-foot-wide lots or 75-foot-wide lots because they bought the 25-foot ones. And also, some have been subdivided off into the 30-foot lot. They were always subdivided and bought for single family homes until duplexes became a thing. And then, when duplexes came in, the two cottage overlay was made an alternative to the traditional three-story duplexes on 50-foot-wide lots.

Gerrie West:

So I would like to respectfully disagree with Eddie, and I won't use the word legal because I know that's not the right word for this, but that subdividing these lots into two 40-foot-wide lots is making them more conforming. Because we're taking one lot that is already conforming and making it into a nonconforming lot. We are improving the 30-foot-wide lot, but we are not making it conforming. So the thought of making them more conforming is like being a little bit pregnant or not, in my opinion and in the opinion of the Civic League Zoning Review Committee that I am representing today. One of the things, I met with Judge Whitlow and let him know that the applicant can build exactly the same houses that he has in his hands and under the two cottage option without subdividing the lots.

Gerrie West:

There isn't really any difference at all, except that the garage needs to be set back six feet from the main part of the house, the main front of the house. It doesn't have to be side loading. It just has to be six feet back from the front face of the house, so recessed a little bit, otherwise, everything is pretty the same. They would be held to the two and a half stories, but it looks like the design that they have right now is two and a half stories. I haven't looked at it for compliance with some of the more esoteric parts of the design that are in that code, but I feel confident that very nice-looking houses could be built under the two cottage code and not subdivide the lot. The reason that the lot is here to be subdivided is that the developers can make more money on two single family homes, unencumbered by a condo document.

Gerrie West:

If he builds the two cottages on one 80-foot-wide lot, which is what makes the most sense, if you take the 30 foot and the 50 foot and vacate the property line, then you get an 80-foot-wide lot and the two houses can be side by side rather than front and back. They do not have to be front and back. That's what the diagram and the code show, but they do not have to be front and back. They can be side by side if you have a wide enough lot, and they do if you made it an 80-foot-wide lot. So, there would be no difference in the houses if you vacate the property line, then there would if you cut it into two 40-foot-wide lots, except for there would be no condo document. And therefore, greater profits could be reaped by the builder and the applicant.

Gerrie West:

We think it sets a really bad precedent. We have storm water issues and we have parking issues and then, we have what Judge Whitlow calls the traditional-ness of the neighborhood, the small houses and the ones that were developed as beach cottage type things. These two houses that can be built that he's shown meet all of those requirements, except that they would be condo-ed. If you thought ahead and said, "If this sets a precedent," and I believe it will, because there has already been one case of a developer taking three homes on 5 or 6 25 foot lots, I can't remember exactly what it was then and cutting them all up into 40 foot wide lots. So 5 houses now where there used to be 3. We thought that was a bad precedent setter and now we're seeing it come to fruition with this case. There really isn't any reason not to vacate the property line and make an 80 foot wide lot. Any questions?

Chairman Wall:

Okay.

Robyn Klein:

I have a question.

Chairman Wall:

Yep. Ms. Klein.

Robyn Klein:

So it sounds like, and Bobby please correct me, that they could also take the two lots that exist now and build a single family home and a duplex?

Gerrie West:

They could. And that's the fear of the neighbors and by all means, I agree with the neighbors. The preference of finishing off the development on their street with more single family cottage like homes is definitely preferable. But they have been told that it is possible to build a three story duplex on the 50 foot wide one and a skinny 14 foot wide, whatever, it could be a duplex, it could be two cottages like Eddie said, or it could be one single family home, but 14 foot wide without any variances.

Gerrie West:

I'm saying that the value in these two pieces of property is when you combine them and you can have a very nice one single family home, a larger one that's gorgeous, or you can have two smaller ones that are side by side that would also be gorgeous. I think either of those would suit the neighbors, but it is the threat of having that duplex or not the threat, but the ability to do the duplex if the applicant should so choose to do so, that has scared the neighbors into wanting to have it subdivided into two 40 foot wide lots.

Robyn Klein:

So it's not within our power, right? To say that it has to be one lot because it's technically ...

Gerrie West:

No, it's not.

Robyn Klein:

... two lots, right, Bobby? Okay, so is it the opinion of the Civic League that if it is technically two lots and the one lot is not an option that it be two 40 foot lots or one 50 foot lot, and one 30 foot lot?

Gerrie West:

The Civic League does not want to see it divided up into two 40 foot wide lots because that is substandard and it causes issues. If everybody was to do that and more and more, it would happen. If this is passed, you'll have 40 foot wide lots instead of 50 foot wide lots, thereby, creating more homes, more infrastructure needed, water, sewer, storm water management issues will get way worse. The more homes there are, you have to have two onsite parking spaces paved for every home. So you're paving more and more, less trees, less grass, storm water management problems everywhere, parking problems everywhere. So, it's the long-term precedent that we're concerned with.

Robyn Klein:

So if the 80 foot lot is not an option and you don't want to set the precedent of the two 40 foot lots, does that mean that your next best selection is the conforming 50 foot lot and the nonconforming 30 foot lot?

Gerrie West:

Well, combining it into 80, I'm sorry if I don't understand your question, but combining it into 80 would be perfectly fine.

Robyn Klein:

Right.

Gerrie West:

And having two or one homes on that.

Robyn Klein:

Right. But right now there's, two lots.

Gerrie West:

Correct.

Robyn Klein:

Right. So by-right, the developer could have the 50-foot lot and the 30-foot lot.

Gerrie West:

Correct.

Robyn Klein:

So, if the one 80-foot lot is not an option, and it's either two 40s or a 50 and a 30, does the Civic League prefer the 50 and the 30, because at least the 50-

Gerrie West:

Yes.

Robyn Klein:

Is conforming?

Gerrie West:

Yes, that is correct because it wouldn't be setting a precedent for the 40-foot-wide lots.

Commissioner Oliver:

Okay. So Gerri, I might have missed something in all of this because I'm... irregardless of whether we've got two 40s, a 30 and a 50 or an 80, we're still putting two single-family houses on this whole piece of property.

Gerrie West:

Correct.

Commissioner Oliver:

Regardless of how it's- the pie is sliced.

Gerrie West:

Yes.

Commissioner Oliver:

When you mentioned, and I'm maybe I misunderstood you as far of stormwater and infrastructure and stuff. It's still two houses. It's still the same amount of use on the same space of property.

Gerrie West:

Yes.

Commissioner Oliver:

So I'm just trying to figure out that's really not the issue, the amount of use on the piece of property-

Gerrie West:

Correct-

Commissioner Oliver:

Because two houses is two houses.

Gerrie West:

Yes, you're absolutely correct in that respect. It is the danger of having every lot every 80-foot-wide lot-

Commissioner Oliver:

Divided.

Gerrie West:

Divided into two 40-foot-wide lots, which would traditionally not be the case. So, if the majority of the lots started becoming that, then we would have more houses ultimately than we would if people were unable to create the substandard lots.

Commissioner Oliver:

Okay. Okay. It wasn't the amount of use on that-

Gerrie West:

Correct. Not on that specific lot, and that's why I say, we'd be happy if it became an 80-foot lot and had two houses on it. We're not against that, of course.

Commissioner Oliver:

It's the subdividing.

Gerrie West:

It's the subdividing. That's the only issue is the subdividing of the property.

Commissioner Oliver:

Okay. Thank you.

Chairman Wall:

Mr. Weiner:

Commissioner Weiner:

Mrs. West. I got a... well, so we were out there last week and we were standing in front of it and I asked staff to go please look into how many times this has happened in the past. Well, I wouldn't say that. So I've been doing this for a while, and I don't remember three houses becoming five. I don't know where that was-

Gerrie West:

It's between 74th and 75th street on the feeder road.

Commissioner Weiner:

Okay. I don't remember that, but-

Commissioner Oliver:

I do.

Commissioner Weiner:

Okay.

Commissioner Weiner:

So, the staff came back to us with since 1993, twice. This has only happened twice. I personally don't think this is going to set a precedent for the future. That's my opinion. Everybody has their opinion. So, I just don't see this happening as much as you think it's going to happen.

Gerrie West:

I would really hope that was the case. I really would, but we saw it once and now we're seeing it the second time, and what we're seeing is this cyclical pressure to have the homes torn down and rebuilt by developers, as opposed to the traditional, a person buys a lot, or a person buys a lot with this small house on it that's a tear down, or they want a bigger house than what's on the lot. So, they're developing that lot for themselves as opposed to someone coming in and saying,

"How can I make the most money by buying this property that's available?" That's the issue. Yeah.

Chairman Wall:

Anyone else?

Commissioner Frankenfield:

I guess I have question.

Chairman Wall:

Mr. Frankenfield.

Commissioner Frankenfield:

So, I'm just concerned about the form of the house and the relationships. So, if you condo the lot, the discussion has been you can get the same thing. What's the big deal? But the way I see it, you can't get the same thing because if you have to have the garage set back six feet, well then... and since there's no house to come out in front of the garage, that you basically have to set the entire house back six feet.

Gerrie West:

No. No, it's just that the portion of the house that has the garage door... let's say this is the main body of the house.

Commissioner Frankenfield:

Right.

Gerrie West:

The garage is here.

Commissioner Frankenfield:

Right.

Gerrie West:

It just has to be set back six feet from the face of that. So, the face of that one is at wherever you place it.

Commissioner Frankenfield:

So, it could be like a tunnel going back six feet with a garage?

Gerrie West:

Six feet isn't that far. It's like from-

Commissioner Frankenfield:

Well, whatever. Okay. I just-

Gerrie West:

From here to here.

Commissioner Frankenfield:

I'm having a hard time visualizing how it would work I'm not-

Gerrie West:

Well, there's a lot-

Commissioner Frankenfield:

Trying to argue with you. I'm just-

Gerrie West:

Yeah, there's a lot of examples on the north end that have been built that way. So, I know it's too late to go see them now, but-

Commissioner Oliver:

So Gerri, while we have you up, because I know you... so you're asking to follow the guidelines for the North End Overlay for the setbacks-

Gerrie West:

I'm asking this commission not to approve-

Commissioner Oliver:

No-

Gerrie West:

Creating substandard lots. That's what I'm asking.

Commissioner Oliver:

Right. No, no. Okay. You're right. All right. I'll-

Gerrie West:

I don't-

Commissioner Oliver:

No, I'll just move on.

Gerrie West:

I don't have any say so on-

Commissioner Oliver:

Right.

Gerrie West:

What a person decides to build.

Commissioner Oliver:

You're right.

Gerrie West:

So I don't want to presume that that's what you hear me saying. That's not what I'm saying.

Commissioner Oliver:

No, no.

Gerrie West:

Okay.

Commissioner Oliver:

Perfect. Thank you.

Gerrie West:

Okay.

Chairman Wall:

Anybody else? No?

Gerrie West:

Thank you very much.

Chairman Wall:

Okay, Mr. Bourdon?

Eddie Bourdon:

First, of all, I want to thank my good friend Gerrie West for being the one speaking today, so I didn't have to address some of the comments in Mr. Warren's letter, and Gerrie was very careful in the way she worded her comments because this is not a situation in any way, shape, manner or form where anybody's trying to browbeat or twist arms or anything else. In fact, Judge Whitlow called me. I didn't call him.

Eddie Bourdon:

The idea that this sets a dangerous precedent, a lot of the times, if you listen closely to what Gerrie said, she keeps referring to this as an 80-foot lot. It is not an 80-foot lot, and there is no... there are some 80-foot lots at the north end and an 80-foot lot in the north end would never get approved to be divided into two 40-foot lots ever.

Eddie Bourdon:

And I would.. as Mr. Weiner has asked staff, staff can take a look at the subdivision plats of all the blocks at the North End, and with the exception of the two or two and a half blocks that Gerrie lives on that were developed by Shore Realty, which have non-conforming lots, the rest of the North End doesn't have non-conforming lot. So, the idea that this is setting some dangerous precedent is just truly not accurate, just like it wasn't accurate to suggest that we were using a straw man or a boogeyman or whatever, trying to convince people of anything.

Eddie Bourdon:

It's not the city's, it never has been the city's, policy to encourage two-unit condominiums at any point in time. So, let's deal with what's true, and that is that there are two buildable lots, and this is not a subdivision. This is a re-subdivision. The 50-by-150 foot lot is a nonconforming lot. We are making it conforming as to density, and the Comp Plan talks about density. Gerrie's talking about density. That's exactly what we're doing and to... I don't want to get down the weeds, but

it's easier for me to do. If you tried to do the overlay side by side, and Gerrie is absolutely correct that you can do it side by side. This morning, I think it was suggested you couldn't.

Eddie Bourdon:

But the reality is if we did that, the house... and to meet the... you can't do a six-foot setback construction wise. It's very, very difficult for the garage to be set back. To do something under the overlay, what you would do is you'd build a shared driveway to serve both units, and you have 10-foot setbacks on the outside., and your shared driveway has got to be 18 feet wide because it's a shared driveway, and you wind up instead of having a 24-foot wide house, you wind up with a 20 or 21-foot wide house.

Eddie Bourdon:

So it's not exactly the same, and it can't be exactly the same. So, this notion that you're going to dictate how the property develops as a condo, as opposed to two lots, it's not the way this should be handled in any way, shape or form. If I believe for one second, or my client believes for one second, that you could take lots in the North End and just carve them up into 40-foot lots, that's not possible. It isn't possible. It may be possible, but the folks in the Shore Realty subdivision who... part of it who I'm representing all the street closures, they don't want to do that to their properties, and I don't think there are any in there that could even do that at this point.

Eddie Bourdon:

But this does not apply to 90... well, maybe not 90. Maybe 78, 80% of the North End. What Gerrie's saying is a bad precedent doesn't exist. This situation, if it exists anywhere else, I don't know of it, and it wouldn't be, if it did, more than one or two situations. It's not a circumstance that I think will ever be recurring.

Eddie Bourdon:

All we're trying to do is the best job... and it is truly more valuable for everybody concerned to do them a separate single-family homes, and it's easier for the city from a regulatory standpoint. Condos create a lot of additional issues. I'm not going to ask Miss Wilson to testify about that, but I think she'll nod her head. So why would we want to do a condo as opposed to doing two single families when we already have two lots that we can build a duplex and a single family on? I'd be happy to answer any questions.

Chairman Wall:

Okay. Any questions for Mr. Bourdon?

Eddie Bourdon:

Thank you all.

Chairman Wall:

Okay. Thank you. Okay. All right. I close it up for comment and open it up among the Planning Commissioners. Anybody like to start?

George Alcaraz:

I will.

Chairman Wall:

Go ahead.

George Alcaraz:

As I stated in informal, you got a situation where you have a house with a proper line going down the middle and something that Mr. Bourdon just said that just struck me, you got the definition of a subdivision, the definition of a re-subdivision. A subdivision is dividing one lot into two or more. A re-subdivision is changing the lot line, and in this case, they're changing it to the betterment of what's there. So having said that, I'm going to support it.

Chairman Wall:

Okay. Anyone else? Barry? Barry? Okay.

Commissioner Frankenfield:

I support it also, only because I can't figure out a way it would be better to condo the lot. The product that is there with an entrance, each having their own entrance, their own separate driveway, is a better solution than a setback garage or one house behind the other. So, it seems like a better... of all the choices, it seems to me like the best solution.

Chairman Wall:

Okay. Thank you.

Commissioner Weiner:

I'll say something real quick. It's a long time we've been doing this. I've never seen this before. Don't get me wrong. The North End Civic League does a great job with the design... what they do up there, but for everybody on the street to come in in favor of this, I've never seen that before. That means something, too. I'm definitely going to support it.

Chairman Wall:

Okay. Thanks. Yeah, I generally. I like the way it. I like the little cottage and the green space, but barring that, I also highly respect the civic league's opinion. I think that they have very good

input, and their strict adherence to holding on the layouts and dimensional requirements and standards is... I think that's fantastic. However, I think there's great value in the way that it's laid out in a single-family.... the support from the neighborhood, and I think it'll provide value to the neighborhood itself. So, I'm going to support it as well.

Chairman Wall:

Okay. Do we have a motion?

George Alcaraz:

I'll make a motion.

Chairman Wall:

Okay.

Chairman Wall:

Okay. Mr. Alcaraz makes motion for approval. Do we have a second?

Commissioner Frankenfield:

Second.

Chairman Wall:

Okay, Mr. Frankenfield for the second. Are there any abstentions? Okay.

Madam Clerk:

Vote is open.

Madam Clerk:

By recorded vote of nine in favor, zero against agenda item number 10 has been recommended for approval.

Eddie Bourdon:

Thank you all. I hope everybody has a wonderful holiday this weekend. Thank you.

	AYE 9	NAY 0	ABS 0	ABSENT 2
Alcaraz	AYE			
Bradley	AYE			

Coston				ABSENT
Cuellar	AYE			
Frankenfield	AYE			
Horsley	AYE			
Klein	AYE			
Oliver	AYE			
Redmond				ABSENT
Wall	AYE			
Weiner	AYE			

CONDITIONS

1. When the Property is developed, it shall be developed substantially as shown on the exhibit entitled, "Preliminary Concept Resubdivision of Lot 12 & the Eastern 30' of Lot 14, Block 1, Cape Henry Syndicate", prepared by WPL, copies of which have been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning ("Subdivision Plans").
2. The homes to be developed on this site must use attractive, high quality materials capable of withstanding severe weather events as recommended within the North End Suburban Focus Area section of the Comprehensive Plan and as shown on the exhibit entitled, "Single Family Development Exhibit for Lot 12 & the Eastern 30' of Lot 14, Block 1, Cape Henry Syndicate", prepared by WPL, copies of which have been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning ("Elevations").
3. The proposed lots 14A and 12A shall only be developed with one single-family residence on each lot.

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.

From: [Michael Lynch](#)
To: [Aubrey A. Trebilcock](#)
Cc: [Lee Mccardell](#); [Mo Whitlow](#); jlynch@jblmedical.com
Subject: 111 73rd Street Variance Request Case No: 2021-PCCC-00223
Date: Tuesday, April 5, 2022 8:54:00 AM
Attachments: [image056482.png](#)
[image370023.png](#)

CAUTION: This email originated from outside of the City of Virginia Beach. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mr. Tribilcock,

My family and I own and live at 110 73rd Street and are in support of the application to convert 111 73rd St. into two 40ft. lots restricted to one single family house on each lot.

Our block is mostly single-family homes, and we would like to keep it this way. We wish to maintain the character of our block. Let me know if there is anything more I can help with.

Thank you for your time,

Michael and Jessica Lynch



Michael Lynch
Vice President

O: 804.262.0100
D: 804.515.1283
M: 804.641.7326
8050 Kimway Drive | Richmond, VA 23228



From: [Sarah Hamlin](#)
To: [Aubrey A. Trebilcock](#)
Cc: [Lee Mccardell](#); mywhitlow@gmail.com; [F Ladd](#)
Subject: 111 73rd Variance Request Case No: 2021-PCCC-00223
Date: Monday, April 4, 2022 11:07:35 PM

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Dear Aubrey,

Our father, B.W. Armstrong, purchased 7300 Oceanfront Avenue in 1999, more than 23 years ago. Since his passing 11 years ago, my sister and I have proudly owned and maintained this property. All of us have loved and enjoyed the property partially as a result of the nature of the block upon which our home is situated.

Our oceanfront block is predominant single-family homes with 11 of the 13 properties are single family. **As such, we strongly support the application to convert 111 73rd St into two 40 ft. lots, with a restriction to for one single family house on each lot.**

Many of the families that own on our block have owned their homes for multiple generations just as we have. We all wish to maintain the character of our block. We are very disappointed to be out of town for the April 13th hearing at City Hall, otherwise we would both be present.

Thank you for your careful consideration.

Sarah Armstrong Hamlin Frances Armstrong Ladd
7300 Oceanfront Avenue 7300 Oceanfront Avenue
Va. Beach, Virginia 23451 Va. Beach, Virginia 23451
(214)354-6901 (251)605-2203
shamlin217@gmail.com francesladd9@gmail.com

Stuart Taylor
116 73rd Street
Virginia Beach, VA 23451

April 4, 2022

City of Virginia Beach Planning Office

Reference: Case No: 2021-PCCC-00223

Dear Mr. Tribilcock,

The Taylor family has owned 116 73rd Street since the mid 1950's and have cherished several generations while living in single-family homes consistent with the traditional north end living style.

If one single family home cannot remain on the entire referenced property, I support the application to convert 111 73rd St into two 40 ft. lots restricted to one single family house on each lot.

Our oceanfront block is predominant single-family homes as 11 of the 13 properties are single family. Many of the families that own on our block have also owned their homes for multiple generations. We all wish to maintain the character of our block and respectfully ask your support keeping the wishes of all the property owns and residents on the oceanside of our street.

We appreciate your consideration and believe you will do what is best for our little community on this street and approve the variance application.

Thank you kindly,

Stuart Taylor

From: [James Carter](#)
To: [Aubrey A. Trebilcock](#)
Subject: Case Number 2021-PCCC-00223, 111 73rd Street Variance
Date: Monday, April 4, 2022 2:00:58 PM

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Mr. Trebilcock:

My name is James Carter and I reside at 7217 Atlantic Avenue. It is my understanding that there are several variances under consideration for the subject property. When I purchased my residence in 2020, I considered the character of homes on 73rd street, since I am in such close proximity and use this street for beach access. Almost all are single family homes which had a favorable impact on my purchasing decision. Accordingly, I support the application to convert the subject property into two 40 foot lots, providing this variance restricts construction to single family residences, which I feel are more compatible with the other existing homes, and frankly, the preferred residential structure for the North End.

Thanks for your consideration.

James Carter
April 4, 2022
757-636-2359

From: Morton Whitlow
To: Aubrey A. Trebilcock
Subject: 111 73rd Street. 2021PCCC-00223
Date: Monday, April 4, 2022 11:56:32 AM

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Mr Trebilcock, We own 107 73rd Street and are now full time residents. We support the application to convert 111 73rd Street into two 40 foot lots, strictly limited to one single family house on each lot. We wish to preserve the character of the block which is predominantly single family old beach houses of 2 stories in height. I think it would be best to limit the height of the new single family homes to 2 stories. Thank you for helping our neighborhood. If you wish to discuss this matter please call me at 757-477-0238. Mo and Linnea Whitlow

Sent from my iPhone

From: [Chris Arias](#)
To: [Aubrey A. Trebilcock](#)
Cc: [Lee Mccardell](#); [Mo Whitlow](#)
Subject: 111 73rd Street Variance Request Case No: 2021-PCCC-00223
Date: Monday, April 4, 2022 10:03:59 AM

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Dear Planing Commission

Thank you for taking the time to review the proposed variance for 111 73rd street. Our family has had the pleasure of enjoying our home, 112 73rd street, and neighborhood for over 16 years. This house is used all year round and our front porch looks directly at the proposed property. It is of our opinion that the allocation of the 10 feet of yard width to make up two 40' wide lots and to build two single family homes is within keeping with character of the neighborhood. We hope that you agree as well and approve the variance as proposed.

Warm regards
Chris Arias

Chris Arias
chris@ariasllc.com
Arias llc Design + Build Studio
www.ariasllc.com
804-387-5344
Fax 1-800-214-5044

From: [Sara Atherholt](#)
To: [Aubrey A. Trebilcock](#)
Subject: Case No: 2021-PCCC-00223D
Date: Monday, April 4, 2022 10:03:08 AM

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Dear Aubrey,

The Traylor/Atherholt family has owned property on 73rd. St since 1953. At one time we owned 117, 115 and 111.

I still own 115. 115 and 117 were built in the early 70s when duplexes were of normal size. We felt at the time that the buildings would fit in with the character of the street. Now with so much building at the North End, 2 single family houses facing 73rd. Street seems to be the ideal way to preserve the character of the street. I fully support the application to convert 111 73rd. into two 40 foot lots.

I will not be in Virginia Beach on the 13th. so I am unable to attend the meeting.

Please approve the variance request as all of my neighbors are in favor of this proposal.

Thank you.

Sara Traylor Atherholt

From: [James J. Izard, II](#)
To: [Aubrey A. Trebilcock](#)
Cc: [Mo Whitlow](#); [Lee Mccardell](#)
Subject: 111 73rd St Zoning
Date: Monday, April 4, 2022 8:29:02 AM

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Dear Aubrey,

Case No: 2021-PCCC-00223

The Izard family has owned 108 73rd Street since 2015. We purchased on 73rd Street specifically for its single family home character. **I support the application to convert 111 73rd St into two 40 ft. lots restricted to one single family house on each lot.** As 11 of the 13 properties remain single family, the street shares a unique character that should be the norm, rather than the exception, on the north-end of the beach. Many of the families that own on our block have owned their homes for multiple generations. We all wish to maintain the character of our block.

I have a business engagement and will be unable to attend the April 13th hearing at City Hall, otherwise I would be present. Please accept this email in my staunch support of the two lot single family option.
Thank you for your consideration.

Jim & Tricia Izard
108 73rd Street
Virginia Beach, VA 23451
Cell 757-377-0103

James J. Izard, II
Palladium Registered Investment Advisors, LLC
999 Waterside Drive, Suite 1000
Norfolk, VA 23510
Office: (757) 305-1500
Direct: (757) 305-1508
Email: jizard@palladiumllc.com

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From: [May Lynn Mansbach](#)
To: [Aubrey A. Trebilcock](#)
Cc: mvwhtlow@gmail.com; [Lee Mccardell](#)
Subject: 111 73rd St. variance request
Date: Sunday, April 3, 2022 4:46:42 PM

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Dear Aubrey,

Case No:2021-PCCC-00223

The Mansbach family has owned 106 73rd St. since 1997.

We support the application to convert 111 73rd St. into two 40-ft lots restricted to one single family house on each lot.

Our oceanfront block is predominantly single-family homes as 11 of the 13 properties are single family. Many of the families that own on the street have owned their homes for multiple generations. We all wish to maintain the character of our block.

I would attend the April 13th hearing at City Hall but will be traveling on that date. Thank you for your consideration.

May Lynn Mansbach
106 73rd St.
Virginia Beach, VA 23451

From: [Lee McCardell](#)
To: [Aubrey A. Trebilcock](#)
Cc: leemccardell3@gmail.com; [Mo Whitlow](#)
Subject: FW: 111 73rd Street Variance Case No: 2021-PCCC-00223
Date: Sunday, April 3, 2022 10:29:12 AM

CAUTION: This email originated from outside of the City of Virginia Beach. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Aubrey,

Case No: 2021-PCCC-00223

I live directly next door to 111 73rd Street and the McCardell family has owned 109 73rd Street since 1987. This is my primary residency.

I support the application to convert 111 73rd St into two 40 ft. lots restricted to one single family house on each lot.

Our oceanfront block is predominant single-family homes as 11 of the 13 properties are single family.

Many of the families that own on our block have owned their homes for multiple generations. We all wish to maintain the character of our block .

I will be out of town for the April 13th hearing at City Hall, otherwise I would be present.

Thank you for your consideration.

Lee McCardell
109 73rd Street
Virginia Beach, VA 23451
Cell 757-848-6212

**NORTH VIRGINIA BEACH CIVIC LEAGUE
ZONING REVIEW COMMITTEE**

April 4, 2022

MEMO

Members of Planning Commission
City of Virginia Beach

Dear Commissioners

Re: Subdivision Variance Application of Atlantic Development Associates, LLC; Case No.: 2021-PCCC-00223 113-73rd Street, Lynnhaven District.

The North Virginia Beach Civic League (NVBCL) met with the developer's land use attorney, affected residents of 73rd street, and fully understand this request. An existing single-family home currently straddles the existing lots which is the historic development pattern of our North End neighborhood. The developer intends to demolish the existing house to accomplish this subdivision which doubles the density, parking requirements, and utility infrastructure usage of what is currently in place.

The NVBCL fully reviewed all proposed developer options for the building design and site design for the properties as they exist today. A left over small 30ft wide parcel is a part of a larger standard 50' wide single-family parcel which combined results in an 80ft x 150ft, 12,000 sf lot. The resulting combined lot has an 80ft wide frontage. The developer is proposing to subdivide the larger lot option into two (2) **substandard** frontages at 40ft x 150ft / 6,000 sf lots and construct two single family homes no more than 24ft wide which is a full 10ft narrower than the typical 50ft wide lot would yield. The resulting houses are much narrower than those normally found at the North End on the oceanside and is out of character in our neighborhood.

The NVBCL has asked the developer to consider using the full 80ft x 150ft lot to develop a by-right duplex which requires a 10,000-sf lot, or the two detached cottage development option, or an appropriately sized single-family home with associated outdoor amenities. The developer has refused to consider these options even though there are multiple 80ft wide single-family homes at the North End with this same lot condition. Additionally, using the North End's Two-Cottage Overlay development pattern, the developer BY RIGHT can accomplish the same objective by vacating the interior lot line and creating a condominium of two unattached single-family homes on the 80ft wide lot.

Allowing this subdivision into 40' wide lots creates a dangerous precedent, in that ALL developers may then claim the right to do the same, thus doubling the number of homes that can be built, along with the attendant parking problems, stormwater management, and city infrastructure requirements.

The developer has led the 73rd street neighbors to believe that if denied they would build a duplex on the substandard 50ft x 150ft / 7500 sf. lot and a 14ft wide single-family on the substandard 30ft x 150ft / 4500 sf lot. This has made the 73rd Street residents wary of opposing the developer's application. We are disappointed in this approach as the majority of the 73rd Street residents are not familiar with the underlying development standards and feel they have no other option than to support the developer's request to avoid a 14' wide house. As a Civic League we remained concerned with the persuasion strategies employed by developers towards the residents of the North End, as this has happened many times.

We as representatives of the North Virginia Beach Civic League Zoning Review Committee have reviewed hundreds of zoning cases since 1998. We have witnessed the systematic degradation of our neighborhood by developers who do not live at the North End, seek to redevelop it, and at the same time destroy the essence of this historic Virginia Beach community. The consistent street by street destruction of older North End homes unfortunately replaced by mundane prototypical duplexes and average prototypical single-family houses is truly disheartening. The NVBCL wishes at some point that the City of Virginia Beach Department of Planning and Community Development, Economic Development, Strategic Growth Area Office, Planning Commission, and City Council steps up to guide proper and appropriate redevelopment in these older Virginia Beach neighborhoods.

The NVBCL strongly opposes this subdivision request

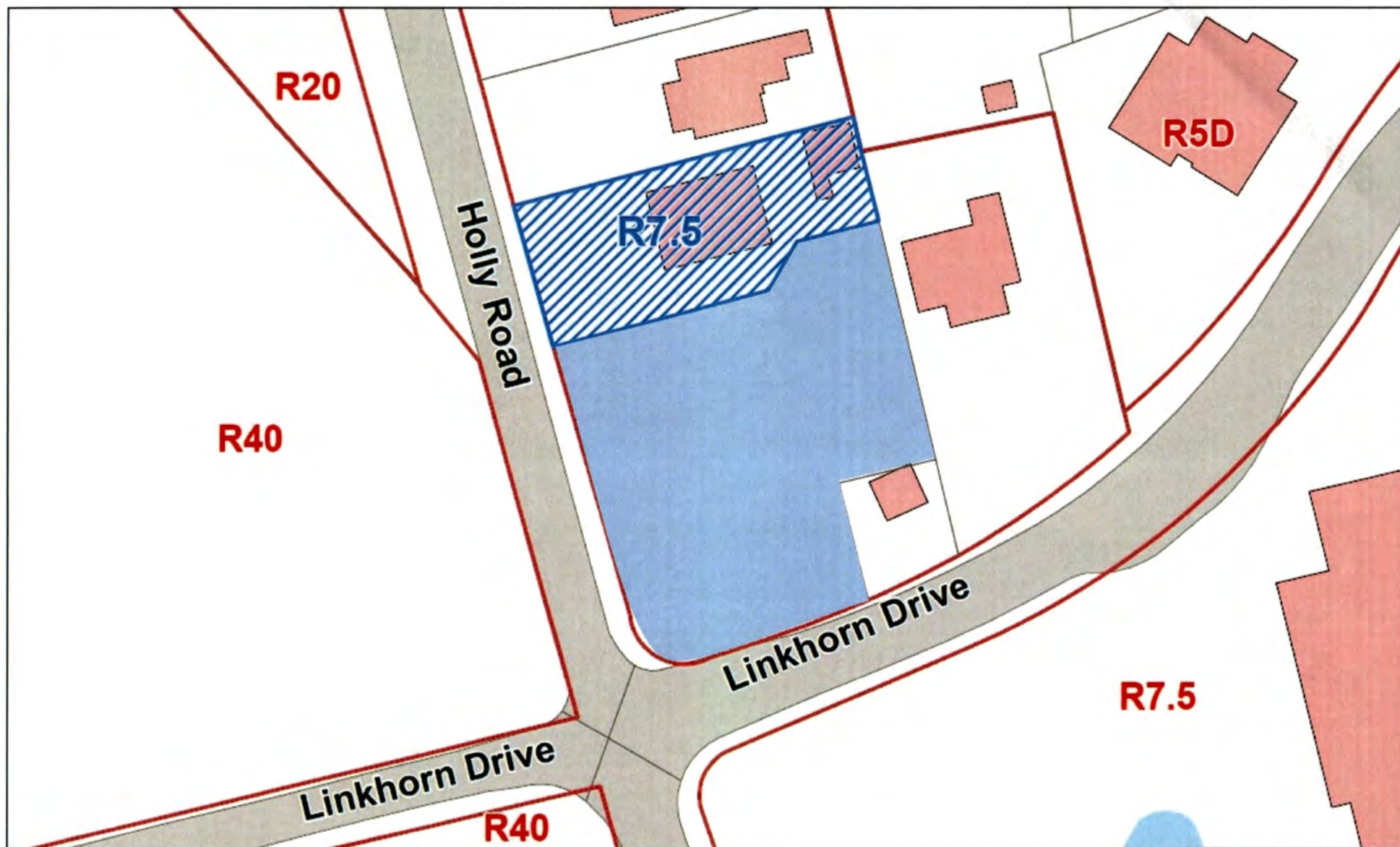
Example: Single family home on an 80ft wide lot at the North End





Members of the NVBCL Zoning Review Committee:

Billy Almond	209 - 70th Street (Abstaining)
John David	410 48 th Street
Willy Fluharty	303 - 49 th Street
Mary Lee Harris	216 - 55 th Street
Dave Jester	200 - 63rd Street
Jo Anne Moore	300 - 55 th Street
Bernice Pope	214 - 44 th Street
Molly Oberst	106 A-65 th Street
Martin Waranch	111 - 66th Street
Gerrie West	217 - 75th Street
Hobie Whitmore	311- 48th Street
Jay Woodard	113 - 85 th Street (Abstaining)



-  Site
-  Property Polygons
-  Zoning
-  Building

Princess Anne Country Club
3800 Pacific Avenue, 3901 Holly Road, 488 Linkhorn Drive



0 10 20 40 60 80 100 120 Feet



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: PRINCESS ANNE COUNTRY CLUB [Applicant] PRINCESS ANNE COUNTRY CLUB & EXPANSION ONE, LLC [Property Owners] Change in Nonconformity (Expansion of Nonconforming Use – Country Club) for the property located at 3901 Holly Road, 488 Linkhorn Drive, 3800 Pacific Avenue (GPINs 2418848645, 2418659235, 2418942388). COUNCIL DISTRICT 6, formerly Beach

MEETING DATE: December 6, 2022

■ **Background:**

The applicant is requesting a Change in Nonconformity to expand the Princess Anne Country Club, which is a nonconforming Country Club, to include the property at 3901 Holly Road. The applicant proposes to allow club members and their guests to use the existing one-story dwelling at 3901 Holly Road as a club amenity. Overnight accommodations at the dwelling would be exclusively available to club members and their guests pursuant to Princess Anne Country Club policies.

No exterior or structural changes to the dwelling or site are proposed with this requested Change in Nonconformity. No signage will be installed. Two dedicated parking spaces are located in the adjoining surface parking lot at 488 Linkhorn Drive, a property also owned by Princess Anne Country Club.

■ **Considerations:**

The Princess Anne Country Club has been operating here for more than 100 years. The first clubhouse at 3800 Pacific Avenue was constructed in 1920 and, for many decades, included overnight guest rooms for members. The club predates a majority of the adjacent residential development, as well as the City's Zoning Ordinance, but the country club and the golf course have operated compatibly with the adjacent residential neighbors. Residential development did coexist with the Princess Anne Country Club when overnight accommodations were provided in the past.

No structural changes or signage are proposed with this request. As the building will remain as it is now, the use will serve as a buffer between more intense activity closer to the clubhouse and the surrounding neighborhood. No adverse traffic impacts are anticipated. Three letters of support for the request have been submitted.

Further details pertaining to the application, as well as Staff's evaluation, are provided in the attached Staff Report. There is no known opposition to this request.

■ **Recommendation:**

On November 9, 2022, the Planning Commission placed this item on the Consent Agenda, passing a motion by a recorded vote of 8-0, to recommend approval of this request.

1. No additions to the dwelling that increase the square footage or alterations deemed substantial by the Planning Director shall be constructed.
2. The subject property shall be placed into common ownership with the Princess Anne Country Club or a single purpose entity owned wholly (100%) by the Princess Anne Country Club.
3. Dedicated, off-street parking for users of the bungalow shall be provided at the existing, adjacent surface parking at 488 Linkhorn Drive.
4. No signage for the bungalow shall be permitted except for the street address.
5. Use of the bungalow shall not be advertised as a short term rental nor on any short term rental platforms.
6. Overnight accommodations and use of the property shall be permitted only for Princess Anne Country Club members and their guests until or unless the building is returned to residential use.

■ **Attachments:**

Resolution
Staff Report and Disclosure Statements
Location Map
Minutes of Planning Commission Hearing
Letters of Support (3)

Recommended Action: Staff recommends Approval. Planning Commission recommends Approval.

Submitting Department/Agency: Planning Department

City Manager:  For PAD



1 A RESOLUTION TO ALLOW THE EXPANSION OF A
2 NONCONFORMING USE ON PROPERTY LOCATED AT
3 3901 HOLLY ROAD, 488 LINKHORN DRIVE, AND 3800
4 PACIFIC AVENUE
5

6 WHEREAS, Princess Anne Country Club (the "Applicant") has made application
7 to the City Council for authorization to expand the nonconforming use (Country club and
8 golf course) at 3901 Holly Road, 488 Linkhorn Drive, and 3800 Pacific Avenue and zoned
9 R-7.5 Residential Zoning District;
10

11 WHEREAS, this parcel currently contains a nonconforming country club and golf
12 course, which has been in operation since 1916. The expansion is to add a single family
13 dwelling built in 1940 to the nonconforming country club, for event space and overnight
14 lodging only for members. The country club and the dwelling were constructed prior to
15 the adoption of the applicable zoning regulations and are therefore nonconforming;
16

17 WHEREAS, the Planning Commission of the City of Virginia Beach recommended
18 approval of this application on November 9, 2022; and
19

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

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

28 That the City Council hereby finds that the proposed nonconforming use as
29 expanded by the nonconforming dwelling will be equally appropriate to the district as are
30 the existing uses and dwelling under the conditions of approval set forth herein below.
31

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

- 35 1. No additions to the dwelling that increase the square footage or alterations deemed
36 substantial by the Planning Director shall be constructed.
- 37 2. The subject property shall be placed into common ownership with the Princess Anne
38 Country Club, or a single purpose entity owned wholly (100%) by the Princess Anne
39 Country Club.
- 40 3. Dedicated, off-street parking for users of the bungalow shall be provided at the
41 existing, adjacent surface parking at 488 Linkhorn Drive.
- 42 4. No signage for the bungalow shall be permitted except for the street address.

- 43 5. Use of the bungalow shall not be advertised as a short term rental nor on any short
44 term rental platforms.
- 45 6. Overnight accommodations and use of the property shall be permitted only for
46 Princess Anne Country Club members and their guests until or unless the building is
47 returned to residential use.

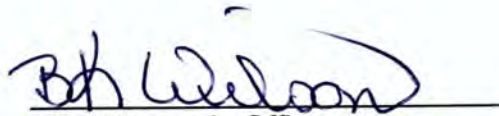
48 Adopted by the Council of the City of Virginia Beach, Virginia, on the _____ day
of _____, 202__.

APPROVED AS TO CONTENT:



Planning and Community
Development

APPROVED AS TO LEGAL SUFFICIENCY:



City Attorney's Office

CA15962
R-2
November 2, 2022

Request

Change in Nonconformity (Expansion of Nonconforming Use – Country Club)

Staff Recommendation

Approval

Staff Planner

Elizabeth Nowak

Location

3901 Holly Road, 488 Linkhorn Drive, 3800 Pacific Avenue

GPIN

2418848645, 2418659235, 2418942388

Site Size

7,644 square feet

AICUZ

70-75 dB DNL

Watershed

Chesapeake Bay

Existing Land Use and Zoning District

Single-family dwelling / R-7.5 Residential

Surrounding Land Uses and Zoning Districts

North

Single-family dwelling / R-7.5 Residential

South

Surface parking lot for Country Club / R-7.5 Residential

East

Single-family dwelling, multi-family housing, religious use / R-5D Residential

West

Holly Road

Golf course / R-40 Residential



Background & Summary of Proposal

- The applicant is requesting a Change in Nonconformity to expand a nonconforming club use to include the property at 3901 Holly Road, which contains a c.1940s one-story bungalow. The Princess Anne Country Club members and their guests will be able to use the house for event space and overnight lodging. This use would be exclusive to club members and guests pursuant to Princess Anne Country Club policies and, as such, is considered an accessory use to the existing club.
- The Princess Anne Country Club was founded in 1916. A clubhouse has been located on property between Holly Road, Linkhorn Drive, and Sea Pines Road since the first clubhouse was opened there in 1920. The current clubhouse was constructed in 2005 and replaced the early twentieth-century building, which was demolished in 2004. Other amenities have been added to the club over time including tennis courts, a pool, a fitness center, and additional parking on the large parcel where the clubhouse is located. The golf course is just west of the current clubhouse and is surrounded by residential development. The size and location of the golf course has remained consistent since its construction.
- The applicant will make no changes to the bungalow at 3901 Holly Road.
- The applicant will install no signage at 3901 Holly Road.
- Two dedicated parking spaces for the house are located at 488 Linkhorn Drive, a parking lot owned by Princess Anne Country Club and intended for use exclusively by its members and their guests.



Zoning History

#	Request
1	CUP (Expansion of Religious Use & Child Care Education Center) Approved 06/14/2000
2	CUP (Golf Cart Storage Facility) Approved 11/12/2002

Application Types

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

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

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

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

Evaluation & Recommendation

The request to expand the legal non-conforming use is, in Staff's opinion, acceptable. Section 105(d)(1) of the Zoning Ordinance states, in part, that:

No nonconforming use shall be increased in magnitude. No nonconforming use shall be enlarged or extended to cover a greater land area than was occupied by the nonconformity on the effective date of this ordinance or amendment thereto. No nonconforming use shall be moved in whole or in part to any other portion of the lot, parcel, or structure not occupied by the nonconformity on the effective date of this ordinance or amendment thereto, and no nonconforming structure shall be moved at all except to come into compliance with the terms of this ordinance. No nonconforming structure shall be enlarged, extended, reconstructed, or structurally altered, if the effect is to increase the nonconformity. As an exception to the above, any condition of development prohibited by this section may be permitted by resolution of the city council based upon its finding that the proposed condition is equally appropriate or more appropriate to the district than is the existing nonconformity. City council may attach such conditions and safeguards to its approval as it deems necessary to fulfill the purposes of this ordinance.

While the proposed expansion of Princess Anne Country Club to include the property at 3901 Holly Road would marginally increase the overall area that operates as the country club, the proposed use, in Staff's opinion, is equally appropriate or more appropriate than the existing nonconformity. The Princess Anne Country Club has been in operation here for over 100 years and has been enveloped over time by compatible residential development, such as the c.1940s one-story bungalow located at 3901 Holly Road. This proposal includes no structural alterations and, given the physical constraints of the site and that the applicant will limit use of the property to members and their guests only, it will generate little traffic or other development impacts on the adjacent neighborhood. Additionally, it is Staff's opinion that the proposed use will create a buffer between residents and more intense activities associated with the country club, such as traffic related to the parking lot immediately adjacent to the lot, which benefits the area overall.

Staff also notes that historically, the Princess Anne Country Club provided on-site overnight accommodations for members. There were over 20 guest rooms available in the historic club house that were removed when that building was replaced with the modern club house. Though this use was interrupted in the early 2000s, that there is a history of this type of use coexisting with the established neighborhood and in a greater intensity gives Staff confidence that there will be little adverse effect in this expansion of the nonconformity.

The Comprehensive Plan identifies this area as part of the Suburban Focus Area, which supports the development of "Great Neighborhoods." These kinds of neighborhoods support diverse, sustainable residential development and complementary non-residential uses. Golf courses and, in this case the associated country club, are complementary non-residential uses. The Princess Anne Country Club provides recreational opportunities to residents of Virginia Beach, as well as an idyllic backdrop for the surrounding neighborhood. The proposed expansion, as stated above, will help buffer club activities from neighboring properties.

For these reasons, Staff is recommending approval of this application subject to the following conditions:

Recommended Conditions

1. No additions to the dwelling that increase the square footage or alterations deemed substantial by the Planning Director shall be constructed.
2. The subject property shall be placed into common ownership with the Princess Anne Country Club or a single purpose entity owned wholly (100%) by the Princess Anne Country Club.
3. Dedicated, off-street parking for users of the bungalow shall be provided at the existing, adjacent surface parking at 488 Linkhorn Drive.

4. No signage for the bungalow shall be permitted except for the street address.
5. Use of the bungalow shall not be advertised as a short term rental nor on any short term rental platforms.
6. Overnight accommodations and use of the property shall be permitted only for Princess Anne Country Club members and their guests until or unless the building is returned to residential use.

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.

Natural & Cultural Resources Impacts

The site is located in the Chesapeake Bay watershed.

The subject property is near several potentially eligible historic resources, including the Princess Anne Country Club Golf Course and Selden's Hall (420 Linkhorn Drive). The requested change in the nonconformity is unlikely to have any adverse effects on these resources.

Traffic Impacts

No change in traffic is expected with this proposal as the size and intensity of the use will remain unchanged.

Public Utility Impacts

Water

The site currently connects to City water. The existing one-inch domestic meter may be used or upgraded to accommodate the proposed use.

Sewer

The site currently connects to City sanitary sewer.

Public Outreach Information

Planning Commission

- The applicant reported that they met with surrounding property owners, and no objections were raised. Three letters of support have been received by Staff from adjacent property owners.
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on October 10, 2022.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, October 23, 2022 and October 30, 2022.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on October 24, 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 on November 3, 2022.

City Council

- As required by City Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, November 20, 2022 and November 27, 2022.
- As required by City Code, the adjacent property owners were notified regarding both the request and the date of the City Council's public hearing on November 21, 2022
- The City Clerk's Office posted the materials associated with the application on the City Council website of <https://www.vbgov.com/government/departments/city-clerk/city-council/Documents/BookmarkedAgenda.pdf> on December 2, 2022.

1 A RESOLUTION TO ALLOW THE EXPANSION OF A
2 NONCONFORMING USE ON PROPERTY LOCATED AT
3 3901 HOLLY ROAD, 488 LINKHORN DRIVE, AND 3800
4 PACIFIC AVENUE
5

6 WHEREAS, Princess Anne Country Club (the "Applicant") has made application
7 to the City Council for authorization to expand the nonconforming use (Country club and
8 golf course) at 3901 Holly Road, 488 Linkhorn Drive, and 3800 Pacific Avenue and zoned
9 R-7.5 Residential Zoning District;

10
11 WHEREAS, this parcel currently contains a nonconforming country club and golf
12 course, which has been in operation since 1916. The expansion is to add a single family
13 dwelling built in 1940 to the nonconforming country club, for event space and overnight
14 lodging only for members. The country club and the dwelling were constructed prior to
15 the adoption of the applicable zoning regulations and are therefore nonconforming;

16
17 WHEREAS, the Planning Commission of the City of Virginia Beach recommended
18 approval of this application on November 9, 2022; and
19

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

24
25 NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF
26 VIRGINIA BEACH, VIRGINIA:
27

28 That the City Council hereby finds that the proposed nonconforming use as
29 expanded by the nonconforming dwelling will be equally appropriate to the district as are
30 the existing uses and dwelling under the conditions of approval set forth herein below.

31
32 BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF VIRGINIA
33 BEACH, VIRGINIA:
34

- 35 1. No additions to the dwelling that increase the square footage or alterations deemed
36 substantial by the Planning Director shall be constructed.
- 37 2. The subject property shall be placed into common ownership with the Princess Anne
38 Country Club, or a single purpose entity owned wholly (100%) by the Princess Anne
39 Country Club.
- 40 3. Dedicated, off-street parking for users of the bungalow shall be provided at the
41 existing, adjacent surface parking at 488 Linkhorn Drive.
- 42 4. No signage for the bungalow shall be permitted except for the street address.

Resolution

- 43 5. Use of the bungalow shall not be advertised as a short term rental nor on any short
44 term rental platforms.
- 45 6. Overnight accommodations and use of the property shall be permitted only for
46 Princess Anne Country Club members and their guests until or unless the building is
47 returned to residential use.

48

Adopted by the Council of the City of Virginia Beach, Virginia, on the _____ day
of _____, 202__.

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL SUFFICIENCY:

Planning and Community
Development

City Attorney's Office

CA15962
R-2
November 2, 2022



: 3901 Holly Road—proposed to be included with club boundaries

: 488 Linkhorn Drive—parking lot for Princess Anne Country Club

Site Photos



Site Photos



Disclosure Statement

Disclosure Statement



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

Applicant Disclosure

Applicant Name Princess Anne Country Club, a Virginia non-stock corporation

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

- If yes, list the name of the representative.

RJ Nutter, Troutman Pepper

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)

Susan T. Pender, President; John Wilson, Vice President; David C. Burton, Secretary; Patrick L. Shuler, Treasurer

Directors: Mike Cowan, Robert R. Beasley III, Amy Wyatt Metzger, Neil Brown, Shannon Poteran, Kelly Disharoon;

Barbara Sessoms; John J. Hawa, Samuel E. Steingold, Nichole Legum & Roger Stroud

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

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

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

Disclosure Statement

Disclosure Statement



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

☐ Yes ☒ No

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

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

☐ Yes ☒ No

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

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

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

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

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

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.
RJ Nutter/Troutman Pepper
-

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 Princess Anne Country Club, a Virginia non-stock corporation

BY:

Print Name and Title

John Wilson, Vice President

Date

8-31-2022

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

* Yes as to Properties (1) & (2); No as to Property (3)

- 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 checked="" type="checkbox"/>	No changes as of	Date	11/18/2022	Signature	
				Print Name	Elizabeth Nowak

Disclosure Statement

Disclosure Statement



Owner Disclosure

Owner Name Expansion One, LLC, a Virginia limited liability company

Applicant Name Princess Anne Country Club, a Virginia non-stock corporation

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

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

Sole Member of Expansion One, LLC, is the Princess Anne Country Club, a Virginia non-stock corporation.

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

Known Interest by Public Official or Employee

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

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

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

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

Disclosure Statement

Disclosure Statement



Owner Services Disclosure

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

☒ **Yes** ☐ **No**

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

TowneBank

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

☐ **Yes** ☒ **No**

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

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

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

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

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

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

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

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

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

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

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

Disclosure Statement

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.

Expansion One, LLC, a Virginia limited liability company

Owner Signature BY: Princess Anne Country Club, a Virginia non-stock corporation, SOLE MEMBER

BY:

Print Name and Title

John Wilson, Manager

Date

8-31-2022

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.

**Virginia Beach Planning Commission
November 9, 2022, Public Meeting
Agenda Item # 7**

Princess Anne Country Club (Applicant)
Princess Anne Country Club & Expansion One, LLC (Property Owners)

Change in Nonconformity (Expansion of Non-Conforming Use)

Addresses: 3800 Pacific Avenue, 3901 Holly Road, 488 Linkhorn Drive

RECOMMENDED FOR APPROVAL – CONSENT

Mr. Weiner: Thank you, Mr. Bradley. Next is item number 7, Princess Anne Country Club and Expansion One, LLC, a Modification of Conditions at 3800 Pacific Avenue and 3901 Holly Road.

Mr. Nutter: Pleasure to be here. Mr. Chairman, and members of the Commission, I'm RJ Nutter to represent the applicant. We appreciate being placed on consent agenda and thank staff. They did a lot of work on this application. It is one little house but took a lot of work. So, we got there, and so thank you, appreciate it as always, and if you have any questions, I'd be happy to answer them.

Mr. Weiner: Thank you. Any opposition to this being placed on the Consent Agenda? Hearing none, Ms. Cuellar volunteered to lead us into the record.

Ms. Cuellar: Yes, the applicant is requesting a change in nonconformity to expand a non-conforming club use to include the property at 3901 Holly Road. It's a 1940's one-story bungalow. The Princess Anne Country Club members and their guests will be able to use the house for event space and overnight lodging. This use would be exclusive to club members and guests pursuant to the Princess Anne Country Club policies, and as such, is considered an accessory use to the existing club. Staff is recommending it, there are no objections. The Commission also recommends it for the consent agenda.

Mr. Weiner: Thank you, Mr. Redmond. Mr. Chairman, I move for approval on the consent agenda. That's the end of our consent agenda. I move for approval on the consent agenda items 4, 7, 10, 11, 13, 14 through 19, 20, 21, 22 through 38.

Mr. Wall: Okay, all right. Thank you. So, Planning Commission places those on the consent agenda. So, the motion is...

Mr. Weiner: The Planning Commission places those agenda items on the consent agenda.

Mr. Wall: So, do I have a motion?

Mr. Weiner: We made it.

Mr. Wall: You made it right, but did you make it on?

Mr. Weiner: Yes.

Mr. Wall: I see that, just checking. So, the motion is made by Mr. Wiener? Is there a second? So, second by Ms. Cuellar. Are there any abstentions? Okay, vote is open.

Madam Clerk: Vote is open. By a vote of 8 to 0 agenda items 4, 7, 10, 11, 13, 14 through 19, 20, 21, and 22 through 38 have all been recommended for approval by consent.

	AYE 8	NAY 0	ABS 0	ABSENT 3
Alcaraz				ABSENT
Bradley	AYE			
Clemons	AYE			
Coston				ABSENT
Cuellar	AYE			
Frankenfield	AYE			
Horsley	AYE			
Oliver				ABSENT
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

CONDITIONS

1. No additions to the dwelling that increase the square footage or alterations deemed substantial by the Planning Director shall be constructed.
2. The subject property shall be placed into common ownership with the Princess Anne Country Club or a single purpose entity owned wholly (100%) by the Princess Anne Country Club.
3. Dedicated, off-street parking for users of the bungalow shall be provided at the existing, adjacent surface parking at 488 Linkhorn Drive.
4. No signage for the bungalow shall be permitted except for the street address.
5. Use of the bungalow shall not be advertised as a short term rental nor on any short term rental platforms.
6. Overnight accommodations and use of the property shall be permitted only for Princess Anne Country Club members and their guests until or unless the building is returned to residential use.

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.

Robert N. Taylor
908 Cavalier Drive
Virginia Beach, VA 23451

October 3, 2022

Mr. Robert Tajan, Director
Planning and Community Development
2875 Sabre Drive, Suite 500
Virginia Beach, VA 23452

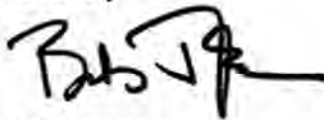
Re: Condition Use amendment application by the Princess Anne Country Club

Dear Mr. Tajan

I am currently serving as the Senior Warden at Galilee Church and lead their Vestry or lay leadership group. Recently, I met with Bill Shonk and representatives from the Princess Anne Country Club who shared with me their plans to use the house the club owns at 3901 Holly Road as an accommodation for members and guests. I have discussed this with Father Buchanan and with our parish administrator Henry Conde and we are all in support of this application.

Galilee Church owns several residential properties that neighbor the 3901 Holly Road address, and we have been impressed by the dramatic improvements the club has made to the residence and how well it has been maintained over the past three years. They have been great neighbors of the church for years, and we are happy to support their application.

Sincerely

A handwritten signature in black ink, appearing to read 'Bob Taylor', with a stylized flourish at the end.

Bob Taylor

October 3rd, 2022

Mr. Robert Tajan, Director
Planning and Community Development
2875 Sabre Drive, Suite 500
Virginia Beach, VA 23452

Re: Condition Use amendment application by the Princess Anne Country Club

Dear Mr. Robert Tajan,

My name is Jackie McAfee and I am writing on behalf of the application for Princess Anne Country Club to amend the conditional use permit to include the property at 3901 Holly Road. I live adjacent to the property and have met with representatives of the Princess Anne Country Club to discuss the permit. I understand that the Club intends to use the Bungalow for Members and their guests. We have family that has stayed as guests at the property in the past. The property has been improved dramatically and very well maintained these past three years. The appearance of the property is consistent with the area and the Club has always been a good neighbor. My husband Tom and I are in full support of the Club's application as to the requested use of the property. Thank you for your time and please let us know if you have any questions.

Sincerely,



Jackie McAfee

October 14th, 2022

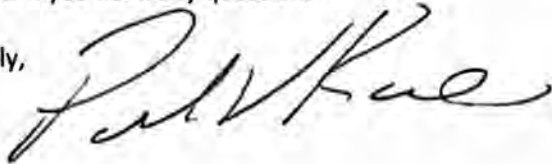
Mr. Robert Tajan, Director
Planning and Community Development
2875 Sabre Drive, Suite 500
Virginia Beach, VA 23452

Re: Condition Use amendment application by the Princess Anne Country Club

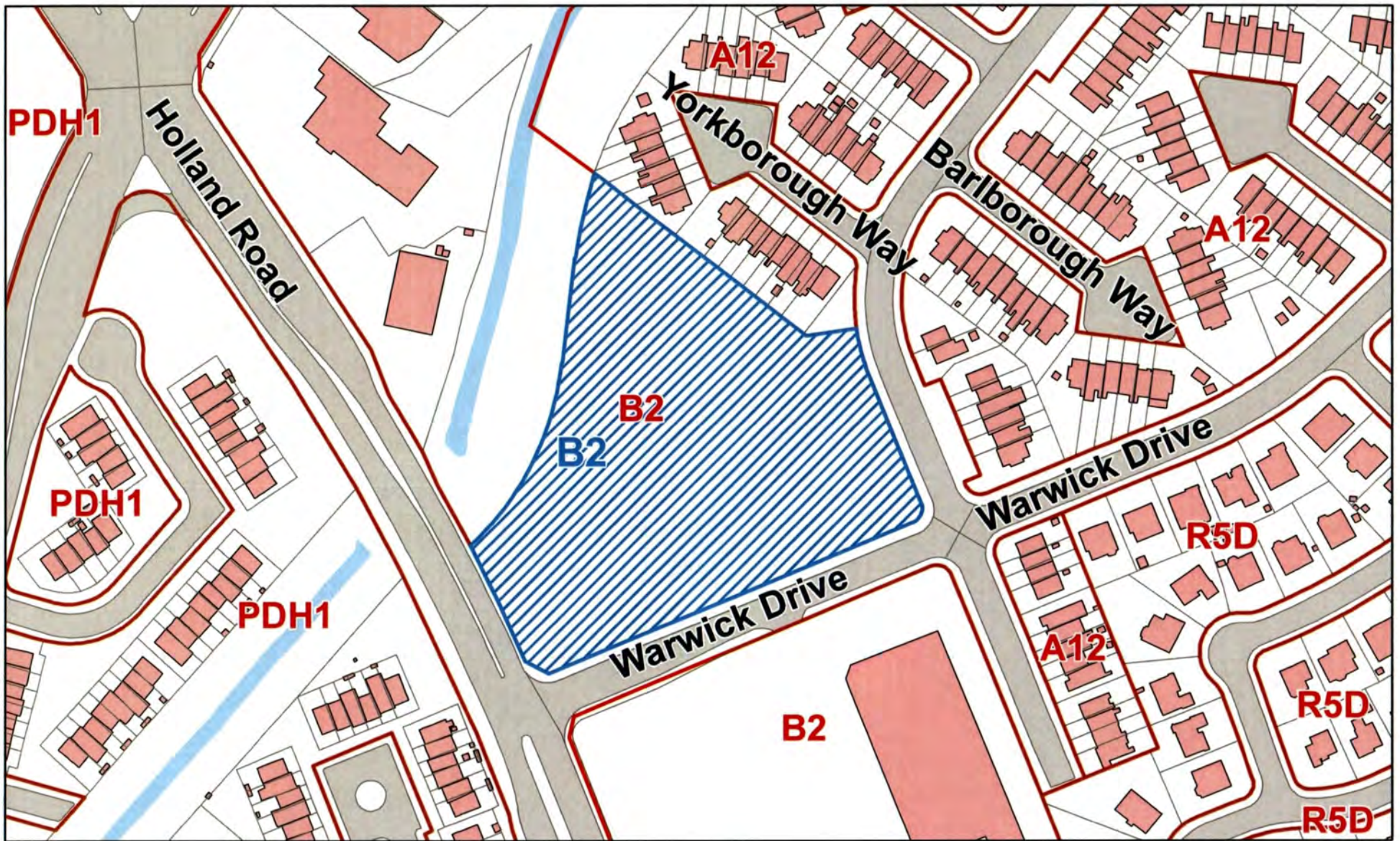
Dear Mr. Robert Tajan,

My name is Paul Kane and I am writing on behalf of the application for Princess Anne Country Club to amend the conditional use permit to include the property at 3901 Holly Road. I live across the property and have met with representatives of the Princess Anne Country Club to discuss the permit. I understand that the Club intends to use the Bungalow for Members and their guests. The property has been improved dramatically and very well maintained these past three years. The appearance of the property is consistent with the area and the Club has always been a good neighbor. I am in full support of the Club's application as to the requested use of the property. Thank you for your time and please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul Kane", written in a cursive style.

Paul Kane



-  Site
-  Property Polygons
-  Zoning
-  Building

SXCW Properties II, LLC
3264 Holland Road



0 35 70 140 210 280 350 420 Feet



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: SXCW PROPERTIES II, LLC [Applicant & Property Owner] Conditional Use Permits (Car Wash Facility & Automobile Service Station) for the property located at 3264 Holland Road (GPIN 1495093490). COUNCIL DISTRICT 3, formerly Rose Hall

MEETING DATE: December 6, 2022

■ **Background:**

The applicant seeks approval of two Conditional Use Permits to operate a 4,115 square foot, single-bay, automated car wash facility and an automobile service station with 12 fuel pumps on property zoned B-2 Community Business District along Holland Road.

A similar request was sought by the applicant in 2017 and received a positive recommendation from the Planning Commission. Ultimately, the applicant withdrew the application in large part due to opposition from the adjacent residential community. A review of the official record indicates that much of the community's concerns centered around having commercial uses at the entrance to the neighborhood. At the time, the Strand Shopping Center, located on the south side of Warwick Drive - which is the right-of-way that provides vehicular access to the neighborhood and also the commercial properties - had not been developed. The existing shopping center was developed by-right under the existing commercial zoning and contains a mix of retail and restaurant uses.

The submitted layout depicts only one point of ingress/egress for the site which will be along Warwick Drive and in line with the existing ingress/egress for the Strand Shopping Center. A 10-foot wide, asphalt, publicly accessible, pedestrian trail with benches are proposed around the perimeter of much of the site that will connect to the sidewalks on Warwick Drive and Holland Road. An easement will be recorded whereby the public will have access to this trail in perpetuity.

The exterior facades of the car wash building are proposed to be constructed with gray color brick, cement stucco, glass, and spandrel panels. The fuel canopy is proposed at the front of the site along Warwick Drive and Holland Road and is designed to be of similar color scheme and materials as the car wash building.

■ **Considerations:**

The proposed site layout locates the most intense use along Holland Road, away from the dwellings. The applicant worked with Staff on the site layout and color scheme for the proposed building and structures. The Planning Commission concurred with Staff that the proposed buildings and structures will be

complementary to the by-right commercial development along Holland Road in the immediate vicinity. In an effort to ensure compatibility with the neighborhood, at the Planning Commission meeting the applicant agreed to increase plantings within the buffer along Old Clubhouse Road adjacent to the townhouse community and to modify the hours of operation of the Car Wash Facility to be open no later than 8:00 p.m. These modifications are reflected below by underlined text in the updated Condition 1 and 10. In addition, as desired by the adjacent neighborhood, the proposed publicly accessible pedestrian trail around the perimeter of the site and the stormwater management pond will become a recreational amenity for the nearby residential community.

A single vehicular access point is proposed on Warwick Drive for the development and is deemed acceptable by Staff. The proposed access point will align with the existing access point of the existing shopping center across Warwick Drive. As required and as depicted on the Conceptual Site Plan, a left-turn lane on Warwick Drive will be installed with the development. The proposed uses would likely generate less traffic volume as compared to other uses, such as a fast food restaurant, that could be developed as a matter of right on property zoned B-2 Community Business District. The site is within the 70-75 dB DNL noise zone and the Accident Potential Zone 2 (APZ-2) of the Air Installations Compatible Use Zones (AICUZ) where these uses are deemed compatible. The proposed parking arrangement and buffers/screening and other required landscaping all satisfy the requirements of the Zoning Ordinance.

Further details pertaining to the application, as well as Staff's evaluation, are provided in the attached Staff Report. The applicant did extensive public outreach including door-to-door visits, an in-person meeting, a virtual meeting, as well as phone calls with identified civic leaders in several of the nearby neighborhoods. Staff received seven letters of opposition and one letter of support. A petition of support with 60 signatures was also provided by a member of the community. There was one speaker in opposition and two speakers in support at the Planning Commission's public hearing. The opposition noted concerns related to increased traffic and crime as well as apprehension regarding children safety.

■ **Recommendation:**

On September 14, 2022, the Planning Commission passed a motion to recommend approval of these requests by a vote of 9 - 1, subject to the following conditions:

Conditions for Car Wash Facility and Automobile Service Station:

1. When the site is developed, it shall be in substantial conformance with the submitted Conceptual Site Plan exhibit entitled, "SXCW – Holland & Warwick – 3264 Holland Road, Virginia Beach, VA," prepared by Eagle Engineering, dated July 24 October 18, 2022, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development.

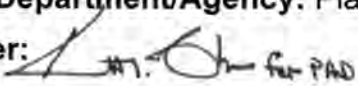
2. The exterior of the proposed building, fuel canopy, vacuum canopy, vending enclosure, and dumpster enclosure shall substantially adhere in appearance, size and materials to the elevations entitled, "Sam's Xpress Car Wash – Color Elevations – Holland Road, Virginia Beach, VA," prepared by Oakline Studio Architecture + Design, and dated August 12, 2022, which have been exhibited to the Virginia Beach City Council and are on file in the Department of Planning and Community Development.
3. The freestanding sign shall be monument style with a brick base that matches the brick exterior of the car wash building and substantially adhere in appearance, size and materials to the submitted freestanding sign exhibit entitled, "SXCW – Holland Rd - Virginia Beach, VA" prepared by ASI Signage Innovation, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development.
4. A Landscape Plan shall be submitted at the time of final site plan review reflective of the location and plant material depicted on the site layout exhibit referenced in Condition 1 above. Said plan shall adhere to all requirements of the Virginia Beach Landscaping Guide.
5. The 15-foot wide landscape buffer adjacent to the existing Apartment District and along Old Clubhouse Road depicted in the Conceptual Site Plan referenced in Condition 1 above shall be planted with material approved by the DSC Landscape Architect. Plantings shall be installed at a minimum of four feet in height and be allowed to grow and be maintained at a height of no less than eight feet. Said plant material shall include a mix of 70% evergreen trees and 30% deciduous trees. Said buffer shall be properly maintained and any dead, diseased or dying plant material shall be replaced.
6. Prior to the issuance of a Certificate of Occupancy, the following easements shall be established:
 - a. A one-foot no ingress/egress easement on the property line adjacent to Holland Road and adjacent to Old Clubhouse Road.
 - b. A public easement to allow pedestrian access on the 10-foot wide trail depicted in the Conceptual Site Plan referenced in Condition 1 above.
 - c. An easement to allow the placement of the Scarborough Square's community sign on this property.
7. The existing freestanding neighborhood sign for Scarborough Square shall be repaired or replaced with a freestanding sign, no taller than eight (8) feet in height and shall be no larger in sign area than the existing sign. Said sign design and placement location shall be subject to the approval by the Planning Director.

8. Outdoor vending machines and/or display of merchandise may be permitted only if fully screened from view from the rights-of-way as approved by the Planning Director.
9. All light poles shall be no taller than 14 feet in height and all lighting shall be shielded to be contained on site.
10. The hours of operation of the Automobile Service Station shall be limited to between the hours of 6:30 a.m. to 10:00 p.m., daily and the Car Wash Facility with associated vacuum stations shall be limited to between the hours of 7:30 a.m. to 8:00 p.m., daily.
11. Signage for the site shall be limited to:
 - a. Directional signs.
 - b. One (1) monument-style freestanding sign, no more than eight (8) feet in height, set on a brick base to match the building brick and two (2) building and/or canopy signs. The community sign for Scarborough Square shall be excluded from this limitation.
 - c. No striping shall be permitted on the fuel canopy. Signage on the canopy shall not be internally or externally illuminated.
 - d. There shall be no other signs, neon signs, or neon accents installed on any wall area of the building, on the windows and/or doors, canopy, light poles or any other portion of the site.
 - e. Any onsite signage shall meet the requirements of the City Zoning Ordinance, unless otherwise approved by the Board of Zoning Appeals, and there shall be no neon, other than individual channel letters lighted with internal neon and as approved by the Zoning Administrator, or electronic display signs or accents, installed on any wall area of the exterior of the building, in or on the windows, or on the doors. There shall be no window signage permitted. The building signage shall not be a "box sign" and the proposed sign package shall be submitted to the Zoning Administrator.

- **Attachments:**
Staff Report and Disclosure Statements
Location Map
Minutes of Planning Commission Hearing
Letter of Support (1)
Petition of Support (60 signatures)
Letters of Opposition (7)
Conceptual Site Plan (11x17)

Recommended Action: Staff recommends Approval. Planning Commission recommends Approval.

Submitting Department/Agency: Planning Department

City Manager:  for PAO



Requests

#3 - Conditional Use Permit (Car Wash Facility)

#4 - Conditional Use Permit (Automobile Service Station)

Staff Recommendation

Approval

Staff Planner

Hoa N. Dao

Location

3264 Holland Road

GPINs

1495093490

Site Size

4.47 acres

AICUZ

70-75 dB DNL; APZ-2

Watershed

Chesapeake Bay

Existing Land Use and Zoning District

Vacant parcel / B-2 Community Business

Surrounding Land Uses and Zoning Districts

North

Townhomes / A-12 Apartment

South

Warwick Drive

Shopping center / B-2 Community Business

East

Old Clubhouse Road

Townhomes / A-12 Apartment

West

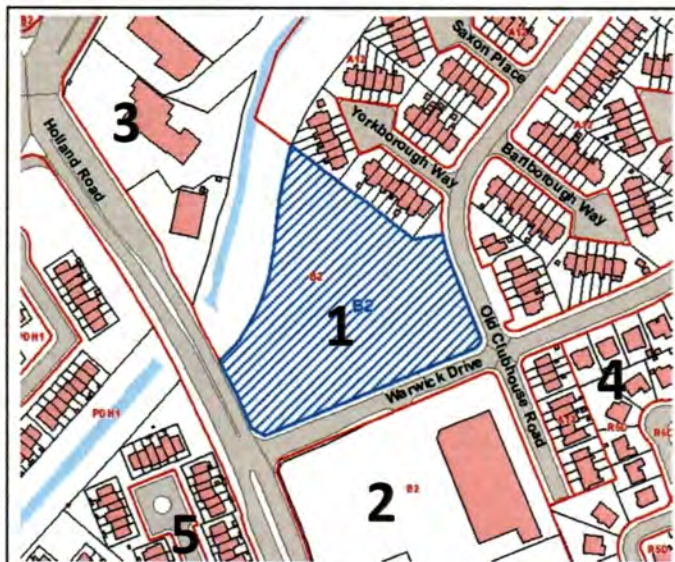
Holland Road

Child day care, townhomes / B-2 Community Business, PD-H1 Planned Unit Development



Background & Summary of Proposal

- The applicant seeks approval of two Conditional Use Permits to operate a 4,115 square foot, single-bay, automated car wash facility and an automobile service station with 12 fuel pumps.
- The property is zoned B-2 Community Business District and is located near the intersection of Lynnhaven Parkway and Holland Road. The site is also within the 70-75 dB DNL noise zone and the Accident Potential Zone 2 (APZ-2) of the Air Installations Compatible Use Zones (AICUZ) associated with Naval Air Station Oceana.
- A similar request was sought by the applicant in 2017 and received a positive recommendation from the Planning Commission. Ultimately, the applicant withdrew the application in large part due to opposition from the adjacent residential community. A review of the official record indicates that much of the community's concerns centered around having commercial uses at the entrance to the neighborhood. At the time, the Strand Shopping Center, located on the south side of Warwick Drive at the entrance to the residences had not been constructed. The existing shopping center was developed by-right under the existing commercial zoning and contains a mix of retail and restaurant uses.
- The submitted layout depicts one ingress/egress point along Warwick Drive, across the street from the Strand Shopping Center's entrance. No additional access is proposed along Holland Road or Old Clubhouse Road. A 10-foot wide asphalt pedestrian trail with benches are proposed around the perimeter of much of the site that will connect to the sidewalks on Warwick Drive and Holland Road. An easement will be recorded whereby the public will have access to this trail in perpetuity.
- The exterior facades of the car wash building are proposed to be constructed with gray color brick, cement stucco, glass, and spandrel panels.
- A 163-foot long by 26-foot wide fuel canopy is proposed at the front of the site along Warwick Drive and Holland Road. The fuel canopy is designed to be of similar color scheme and materials as the car wash building.
- The Conceptual Site Plan depicts 32 parking spaces, of which 23 are designated for the vacuum stations and nine spaces are designated for customer and employee parking. This arrangement satisfies the requirements of the Zoning Ordinance.
- The required streetscape, foundation, and perimeter buffer and screening plantings are depicted on Conceptual Site Plan. As required, a 15-foot wide buffer with Category IV landscaping (a mix of evergreen trees and shrubs) is depicted along the property line shared with the rear yards of the existing adjacent townhouse development.
- Four outdoor vending machines are proposed near the vacuum stations. The vending machines will be screened, as required, and will not be visible from the rights-of-way.
- A freestanding monument sign with a brick base is proposed along Holland Road.
- The existing non-conforming community sign for Scarborough Square will be redesigned to comply with the dimensional standards of the Zoning Ordinance.
- The proposed hours of operation for the Automobile Service Station are 6:30 a.m. to 10:00 p.m. daily and 7:30 a.m. to 9:00 p.m. daily for the Car Wash Facility.



Zoning History

#	Request
1	CUP (Car Wash Facility& Automobile Service Station) Withdrawn 06/05/2018
2	CUP (Automobile Repair Garage) Approved 07/12/2016
3	CUP (Car Wash Facility & Automobile Service Station) Approved 08/24/1999
4	CRZ (A-12 to Conditional R-5D) Approved 10/14/1994
5	LUP Approved 1974

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 requests to develop the site with a car wash and gas station are acceptable. This site is located within the 70-75 dB DNL noise zone and a small portion of the property on the eastern side falls within the Accident Potential Zone 2 (APZ-2) of the Air Installations Compatible Use Zones (AICUZ). The proposed uses are compatible within this noise zone and the site layout shows all structures are proposed to be outside of the APZ-2 area. The proposed site layout, in Staff's opinion, is respectful of the existing neighborhood by locating the most intense use along Holland Road, away from the dwellings. The applicant worked with Staff on the site layout and color scheme for the proposed building and structures. Staff is of the opinion that the proposed building and structures exterior façade will be complementary to the by-right commercial development along Holland Road in the immediate vicinity. In an effort to ensure compatibility with the neighborhood, the applicant agrees to adjust the color scheme on the fuel and vacuum canopies to be more aesthetically pleasing at the entrance into a residential community. A 15-foot wide buffer is also proposed to be planted with evergreen species that will provide both a visual and physical barrier between the site and Old Clubhouse Road and the site and the townhouse community. In addition, as desired by the adjacent neighborhood the proposed publicly accessible pedestrian trail around the perimeter of the site and the stormwater management pond will become a recreational amenity for the nearby residential community. The developer also agrees to either replace or repair the existing non-conforming community identification sign and establish an easement for it to be located on this property. While only one freestanding sign is typically allowed on each property, Section 215(c) of the Zoning Ordinance allow City Council to grant deviation from this requirement for non-conforming signs. The Scarborough Square's community sign has been on this property for decades and with this development, will be replaced or repaired with an easement granted to the community for future maintenance.

Different from the 2017 request, the current proposal does not include the potential of subdividing this parcel into two lots. Instead, the development will occupy the entire parcel and the area that was proposed in 2017 to be subdivided out for another commercial user is designated for the stormwater management pond with recreational amenity for the nearby residential community. The current proposal also includes substantially more landscape buffers through the site, especially along the rights-of-way and adjacent to the townhomes.

A single vehicular access point is proposed on Warwick Drive for the development and is deemed acceptable by Staff. The proposed access point will align with the existing access point of the existing shopping center across Warwick Drive. As required and as depicted on the Conceptual Site Plan, a left-turn lane on Warwick Drive will be installed with the development. The proposed uses would likely generate less traffic volume as compared to other uses, such as a fast food restaurant, that could be developed as a matter of right on property zoned B-2 Community Business District.

Based on the considerations above, Staff recommends approval of these requests with the conditions listed below.

Recommended Conditions for Car Wash Facility & Automobile Service Station

1. When the site is developed, it shall be in substantial conformance with the submitted Conceptual Site Plan exhibit entitled, "SXCW – Holland & Warwick – 3264 Holland Road, Virginia Beach, VA," prepared by Eagle Engineering, dated ~~July 21~~ October 18, 2022, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development.
2. The exterior of the proposed building, fuel canopy, vacuum canopy, vending enclosure, and dumpster enclosure shall substantially adhere in appearance, size and materials to the elevations entitled, "Sam's Xpress Car Wash – Color Elevations – Holland Road, Virginia Beach, VA," prepared by Oakline Studio Architecture + Design, and dated August 12, 2022, which have been exhibited to the Virginia Beach City Council and are on file in the Department of Planning and Community Development.
3. The freestanding sign shall be monument style with a brick base that matches the brick exterior of the car wash building and substantially adhere in appearance, size and materials to the submitted freestanding sign exhibit entitled, "SXCW – Holland Rd - Virginia Beach, VA" prepared by ASI Signage Innovation, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development.
4. A Landscape Plan shall be submitted at the time of final site plan review reflective of the location and plant material depicted on the site layout exhibit referenced in Condition 1 above. Said plan shall adhere to all requirements of the Virginia Beach Landscaping Guide.
5. The 15-foot wide landscape buffer adjacent to the existing Apartment District and along Old Clubhouse Road depicted in the Conceptual Site Plan referenced in Condition 1 above shall be planted with material approved by the DSC Landscape Architect. Plantings shall be installed at a minimum of four feet in height and be allowed to grow and be maintained at a height of no less than eight feet. Said plant material shall include a mix of 70% evergreen trees and 30% deciduous trees. Said buffer shall be properly maintained and any dead, diseased or dying plant material shall be replaced.
6. Prior to the issuance of a Certificate of Occupancy, the following easements shall be established:
 - a. A one-foot no ingress/egress easement on the property line adjacent to Holland Road and adjacent to Old Clubhouse Road.
 - b. A public easement to allow pedestrian access on the 10-foot wide trail depicted in the Conceptual Site Plan referenced in Condition 1 above.
 - c. An easement to allow the placement of the Scarborough Square's community sign on this property.
7. The existing freestanding neighborhood sign for Scarborough Square shall be repaired or replaced with a freestanding sign, no taller than eight (8) feet in height and shall be no larger in sign area than the existing sign. Said sign design and placement location shall be subject to the approval by the Planning Director.

8. Outdoor vending machines and/or display of merchandise may be permitted only if fully screened from view from the rights-of-way as approved by the Planning Director.
9. All light poles shall be no taller than 14 feet in height and all lighting shall be shielded to be contained on site.
10. The hours of operation of the Automobile Service Station shall be limited to between the hours of 6:30 a.m. to 10:00 p.m., daily and the Car Wash Facility with associated vacuum stations shall be limited to between the hours of 7:30 a.m. to 9:00 p.m., daily.
11. Signage for the site shall be limited to:
 - a. Directional signs.
 - b. One (1) monument-style freestanding sign, no more than eight (8) feet in height, set on a brick base to match the building brick and two (2) building and/or canopy signs. The community sign for Scarborough Square shall be excluded from this limitation.
 - c. No striping shall be permitted on the fuel canopy. Signage on the canopy shall not be internally or externally illuminated.
 - d. There shall be no other signs, neon signs, or neon accents installed on any wall area of the building, on the windows and/or doors, canopy, light poles or any other portion of the site.
 - e. Any onsite signage shall meet the requirements of the City Zoning Ordinance, unless otherwise approved by the Board of Zoning Appeals, and there shall be no neon, other than individual channel letters lighted with internal neon and as approved by the Zoning Administrator, or electronic display signs or accents, installed on any wall area of the exterior of the building, in or on the windows, or on the doors. There shall be no window signage permitted. The building signage shall not be a "box sign" and the proposed sign package shall be submitted to the Zoning Administrator.

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

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

Comprehensive Plan Recommendations

The Comprehensive Plan identifies this site as being located within the Suburban Area. The general planning principles for the Suburban Area focus on creating and maintaining great neighborhoods through stability and sustainability; protecting and enhancing open spaces and places of cultural and historical significance; and creating and maintaining a transportation system that provides connectivity and mobility. Achieving these goals requires that all land use activities either maintain or enhance the existing neighborhood through compatibility with surroundings, quality and attractiveness of site and buildings, improved mobility, environmental responsibility, livability, and effective buffering with respect to type, size, intensity and relationship to the surrounding uses.

Natural & Cultural Resources Impacts

The site is located in the Chesapeake Bay watershed. A portion of this site is located in the Resource Protection Area, the most stringently regulated portion of the Chesapeake Bay Preservation Area. No development is proposed in this portion of the site. There do not appear to be any significant cultural resources associated with the site.

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Holland Road	31,800 ADT ¹	32,700 ADT ¹ (LOS ⁴ "D")	Existing Zoning ² – 2,475 ADT Proposed Land Use ³ – 2,064 ADT
Warwick Drive	No Data Available	9,900 ADT ¹ (LOS ⁴ "D")	
¹ Average Daily Trips		² as defined by a 4.5-acre parcel zoned B-2	³ as defined by a car wash facility with 12 fueling pumps
		⁴ LOS = Level of Service	

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

This portion of Holland Road is considered a four-lane divided minor urban arterial. The existing infrastructure currently resides in a 95-foot wide right-of-way. The MTP proposes a six-lane facility within a 165-foot wide right-of-way. There currently is no roadway CIP project slated for this segment of Holland Road.

Warwick Drive in the vicinity of this application is considered a two-lane undivided collector road. The existing infrastructure resides in a 60-foot wide right-of-way. It is not identified in the MTP and there are currently no roadway CIP projects slated for this section of Warwick Drive.

Public Utility Impacts

Water

The development must connect to City water. There is an existing 16-inch City water main along Holland Road, an eight-inch City water main and four-inch plugged water service line along Warwick Drive and a six-inch City water main along Old Clubhouse Road.

Sewer

The development must connect to City sewer. There is an existing eight-inch City gravity sanitary sewer main along Warwick Drive. There is an existing eight-inch City gravity sanitary sewer main along Old Clubhouse Road.

Public Outreach Information

Planning Commission

- The applicant reported that they spoke with the representatives from Scarborough Square Civic League, Holland Farms Civic League, Cardinal Estates Civic League, and the surrounding property owners on Old Clubhouse Road and Yorkborough Way. The vast majority were in support of the proposal with one in opposition of having car wash operation at this location.
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on August 15, 2022.

- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, August 28, 2022 and September 4, 2022.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on August 29, 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 on September 8, 2022.

City Council

- As required by City Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, November 20, 2022 and November 27, 2022.
- As required by City Code, the adjacent property owners were notified regarding both the request and the date of the City Council's public hearing on November 21, 2022
- The City Clerk's Office posted the materials associated with the application on the City Council website of <https://www.vbgov.com/government/departments/city-clerk/city-council/Documents/BookmarkedAgenda.pdf> on December 2, 2022.

EXTERIOR MATERIAL SCHEDULE

MATERIAL	MANUFACTURER	MODEL	COLOR	NOTES
PARAPET WALL COPING	CARLISLE SYNTEC SYSTEMS	SECUREEDGE 300	DOVE GRAY A01	GALVANIZE, PRE-FINISHED, KYMAR 500, 24 GAUGE METAL
RED TRELLIS	T.B.D.		HERITAGE RED PH-18	PROVIDED BY G.C.
GRAY EIFS	STO CORP.	Siotherm C/ Essence INSULATED WALL CLADDING SYSTEM	BRUSHED PENTER FINISH IN StoPoxematt FINE (80248)	INSTALL OVER STICK-BOND LIQUID APPLIED INS. COLOR AND TEXTURE TO BE APPROVED BY OWNER.
DARK GRAY BRICK	TAYLOR CLAY PRODUCTS	322 GRAY	DARK GRAY	RUNNING BOND FACE BRICK, MORTAR COLOR TO BE DETERMINED
LIGHT GRAY BRICK	TAYLOR CLAY PRODUCTS	330 GRAY	LIGHT GRAY	RUNNING BOND FACE BRICK, SOLDIER & BELL COURSE, MORTAR COLOR TO BE DETERMINED
ROLL UP DOOR	WAYNE DALTON	MODEL 400	CLEAR ANODIZED	2" X 5 1/2" FRAMES WITH 1" CLEAR INSULATED GLASS. SEE GLAZING SCHEDULE
ALUMINUM CURTAIN WALL	TUEBITE	SERIES 300	CLEAR ANODIZED	2" X 5 1/2" FRAMES WITH 1" CLEAR INSULATED GLASS. SEE GLAZING SCHEDULE
ALUMINUM STOREFRONT	KANNEER	TRIPAB VS-8RIT 996	CLEAR ANODIZED	SEE GLAZING SCHEDULE
GRAY METAL GLAZING PANEL	CITADEL	GLAZESGUARD 1000	DOVE GRAY	
EMERG. OVERFLOW SPOUT	SEE PLUMBING DRINGS.		DOVE GRAY A01	
STANDING SEAM METAL ROOF (VACUUM CANOPY)	CONSTRUCTION METAL PRODUCTS	SERIES 2000	24 PH-18 HERITAGE RED	12" PRE-FINISHED, SILICONIZED POLYESTER. PAINT UNDERSIDE WHITE EPS-GLOSS.



LIGHT GRAY BRICK IMAGE



BRUSHED PENTER-EFIS



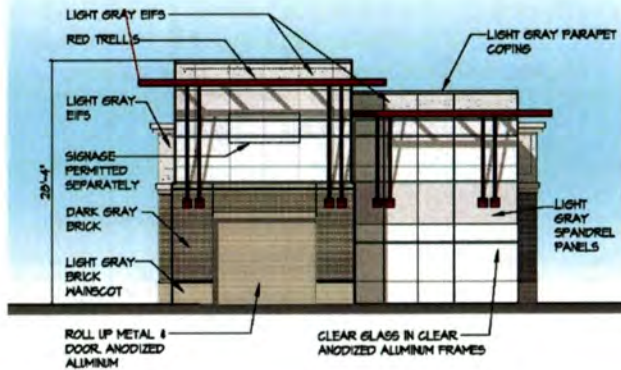
DARK GRAY BRICK IMAGE



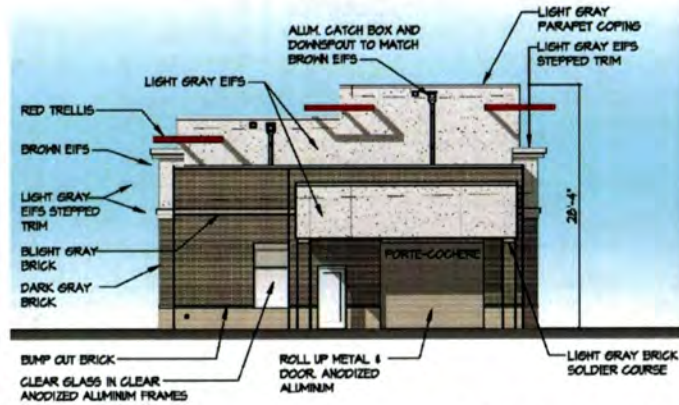
CLEAR ANODIZED ALUMINUM



RED TRELLIS, VENDING ENCLOSURE, VACUUM CANOPY & EQUIPMENT COLOR



2 WEST ELEVATION
SCALE: 3/8" = 1'-0"



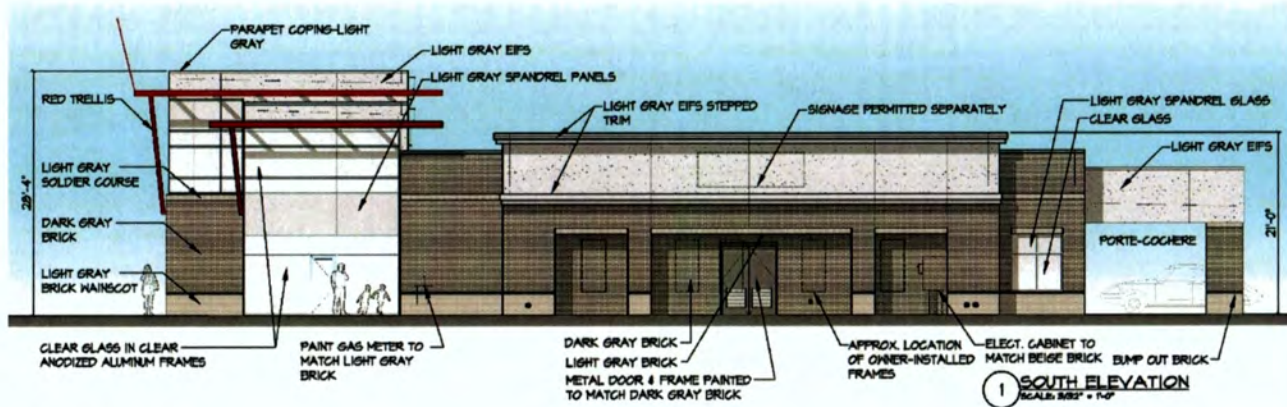
1 EAST ELEVATION
SCALE: 3/8" = 1'-0"

oak|linestudio
architecture + design
407 PINEHURST DRIVE, SUITE 200
CHARLOTTE, NC 28208
TEL: 704.545.0000

SAM'S XPRESS CAR WASH
COLOR ELEVATIONS
HOLLAND ROAD
VIRGINIA BEACH, VA

DATE: 6-17-21
PROJECT #: _____
DRAWN BY: JW
CADD FILE NAME: _____
SHEET
1

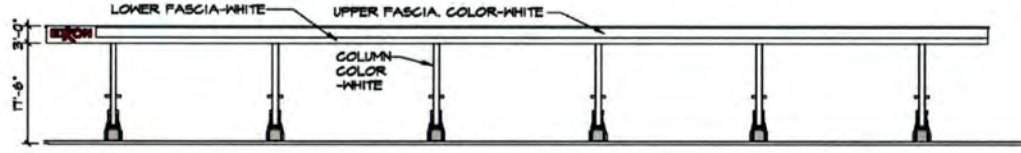
EXTERIOR MATERIALS SCHEDULE AND IMAGES ON PAGE 1



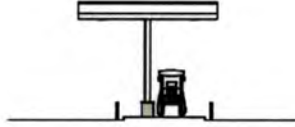
oaklinestudio
architecture + design
101 HANNAH STREET, SUITE 200
CHAMLOTT, MD 20747
TEL: 301.506.0444 OAKLINESTUDIO.COM

SAM'S XPRESS CAR WASH
COLOR ELEVATIONS
HOLLAND ROAD
VIRGINIA BEACH, VA

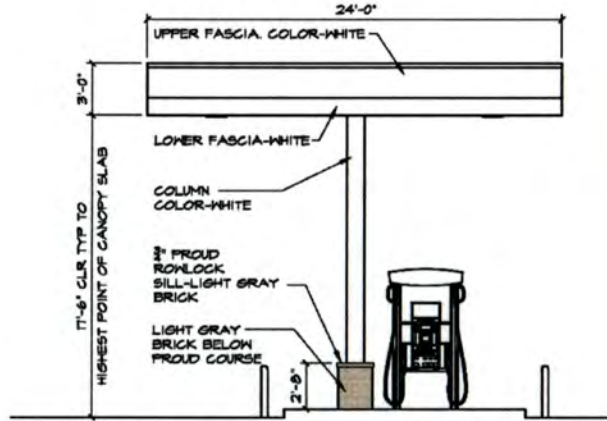
DATE: 8-17-21
PROJECT #: _____
DRAWN BY: WJ
CADD FILE NAME: _____
SHEET
2



3 FUEL CANOPY-FRONT VIEW
SCALE: 1/8" = 1'-0"



2 FUEL CANOPY-SIDE VIEW
SCALE: 1/8" = 1'-0"



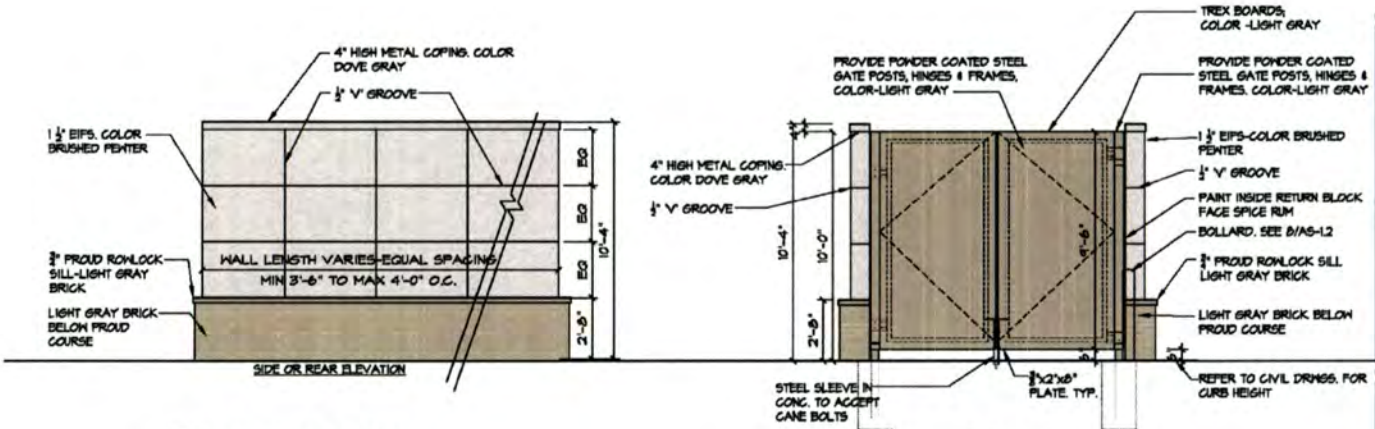
1 FUEL CANOPY-ENLARGED ELEVATION
SCALE: 3/16" = 1'-0"

oaklinestudio
architecture + design
401 HOLLAND ROAD, SUITE 200
DANVILLE, VA 22026
703.375.1902 OAKLINESTUDIO.COM

SAM'S XPRESS CAR WASH
COLOR ELEVATIONS
HOLLAND ROAD
VIRGINIA BEACH, VA

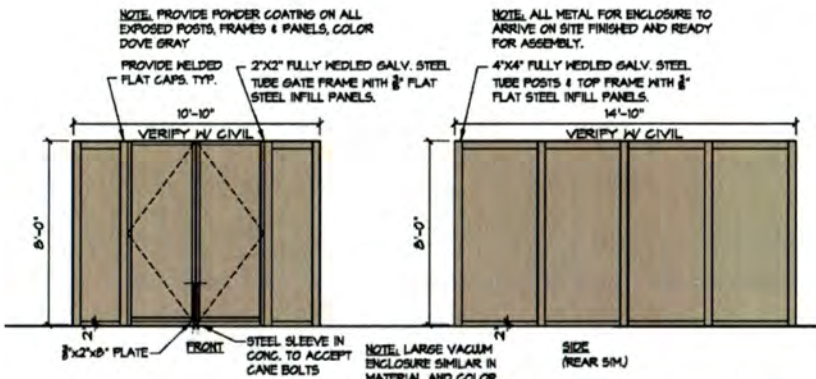
DATE: 6-15-23
PROJECT #: _____
DRAWN BY: VVV
CADD FILE NAME: _____
SHEET
6

Proposed Elevations - Dumpster & Vacuum Canopy

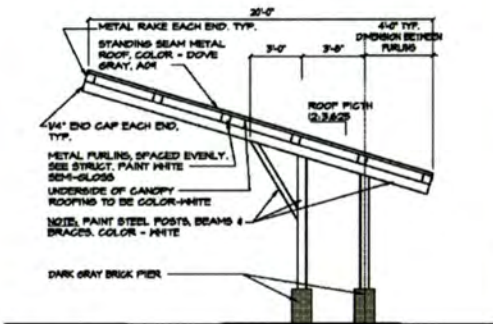


4 DUMPSTER ENCLOSURE
SCALE: 1/4" = 1'-0" VACUUM ENCLOSURE SIMILAR

3 DUMPSTER ENCLOSURE
SCALE: 1/4" = 1'-0" VACUUM ENCLOSURE SIMILAR



2 VACUUM ENCLOSURE ELEVATION
SCALE: 1/4" = 1'-0"



① VACUUM CANOPY
SCALE: 3/16" = 1'-0"

oak|linestudio
architecture - design
421 FENIMAN STREET, SUITE 200
CHARLOTTE, NC 28203
704.378.1800 OAKLINESSTUDIO.COM

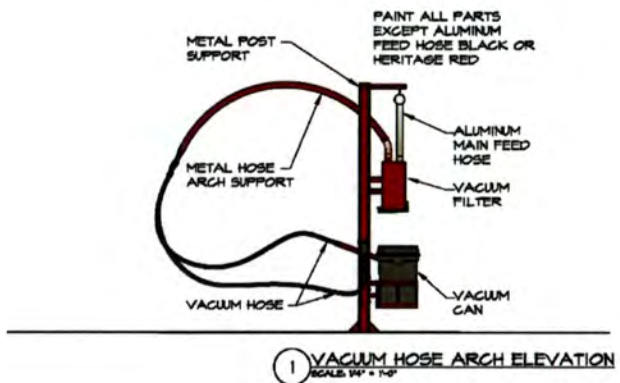
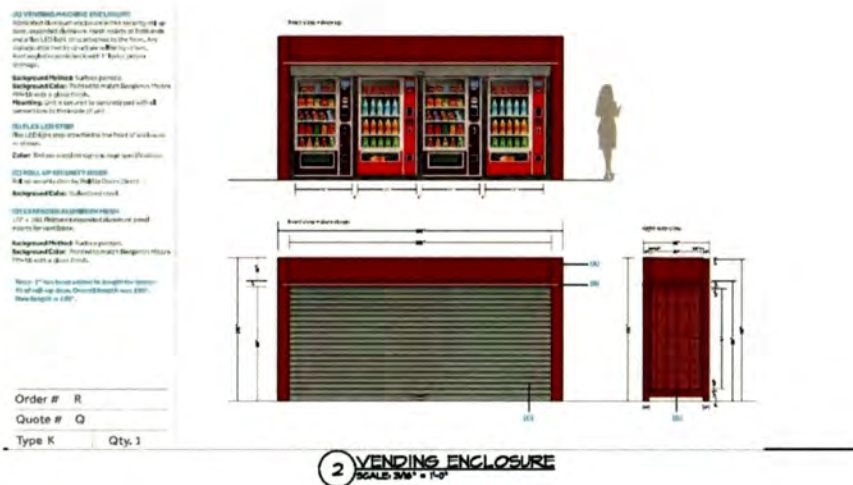
SAM'S XPRESS CAR WASH
COLOR ELEVATIONS
HOLLAND ROAD
VIRGINIA BEACH, VA

DATE: 9-2-77
PROJECT #: _____
DRAWN BY: VJV
CADD FILE NAME:

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Sheet

3



oaklinestudio
architecture + design

421 PENMAN STREET, SUITE 300
CHAMLOTTE, NC 28003
704.373.1600 OAKLINESLUDCO.COM

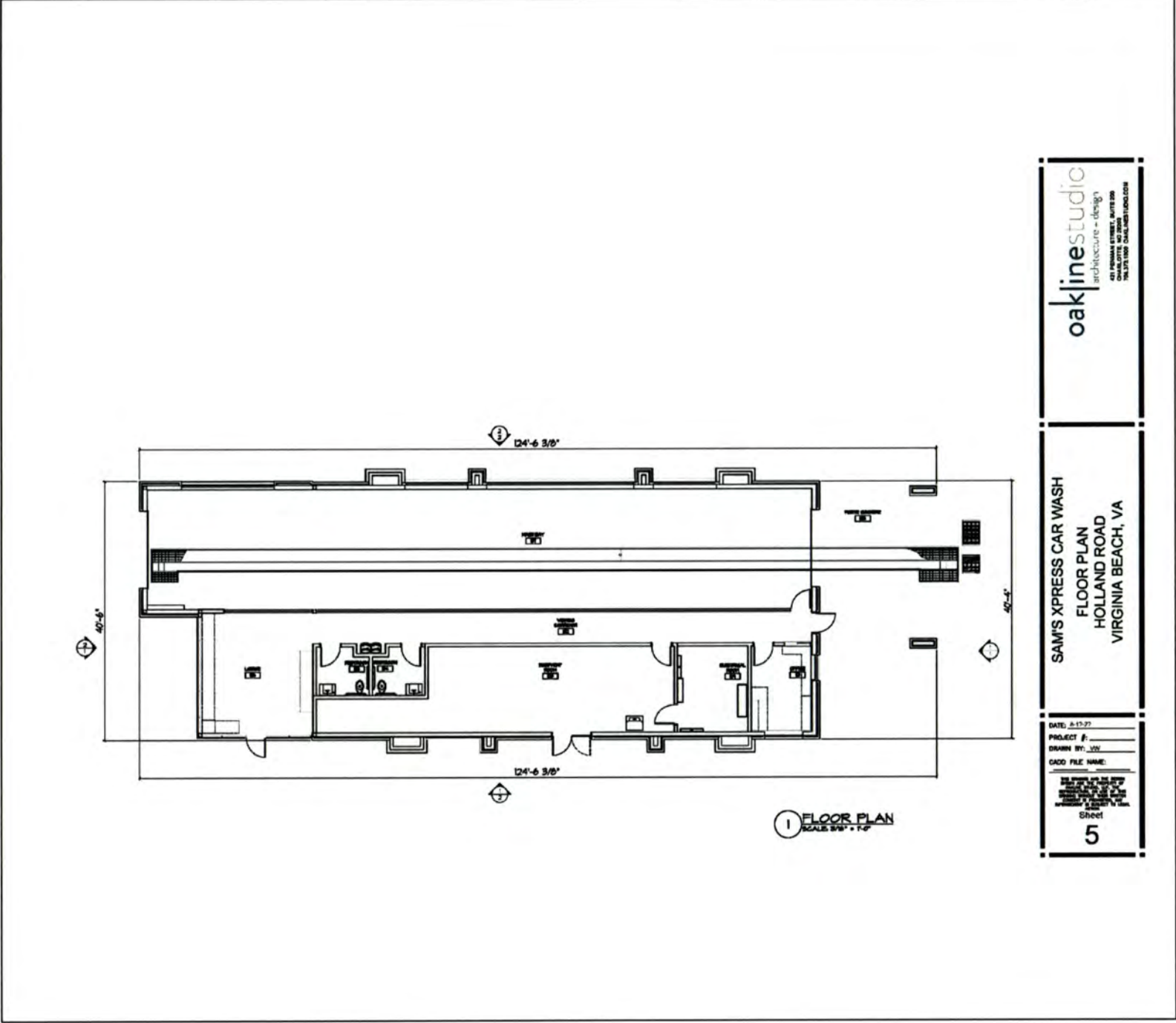
SAM'S XPRESS CAR WASH
COLOR ELEVATIONS
HOLLAND ROAD
VIRGINIA BEACH, VA

DATE: 6-17-27
PROJECT #:
DRAWN BY: WW
CADD FILE NAME:

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4

Proposed Floor Plan - Car Wash Facility



Signage Specifications

[A] LIGHTED ALUMINUM SIGN CABINET

108" x 66" x 20" deep internally lit sign cabinet constructed from aluminum with 1-1/2" aluminum angle retainers and dividers. Retainers constrain the sub surface printed translucent polycarbonate panels and surface painted aluminum panels. All face panels are removable.

Background Method: Surface painted.

Background Color: White with a semi gloss finish.

Mounting: Cabinet with internal sleeves mounts down over two 4" square steel support posts.

[B] & [C] POLYCARBONATE SIGN PANELS

3-1/8" clear polycarbonate face panels with all colors / graphics digitally printed and applied to second surface.

Graphics Method: Second surface digital print.

Letter Style: Per supplied artwork.

Graphics Colors: To match supplied artwork and PMS swatches as shown.

Background Method: Second surface digital print.

Background Color: Colors to match supplied artwork. See color swatches.

[D] ALUMINUM FACE PANELS

1/8" painted aluminum panels with openings for LED display units.

Background Method: Surface painted.

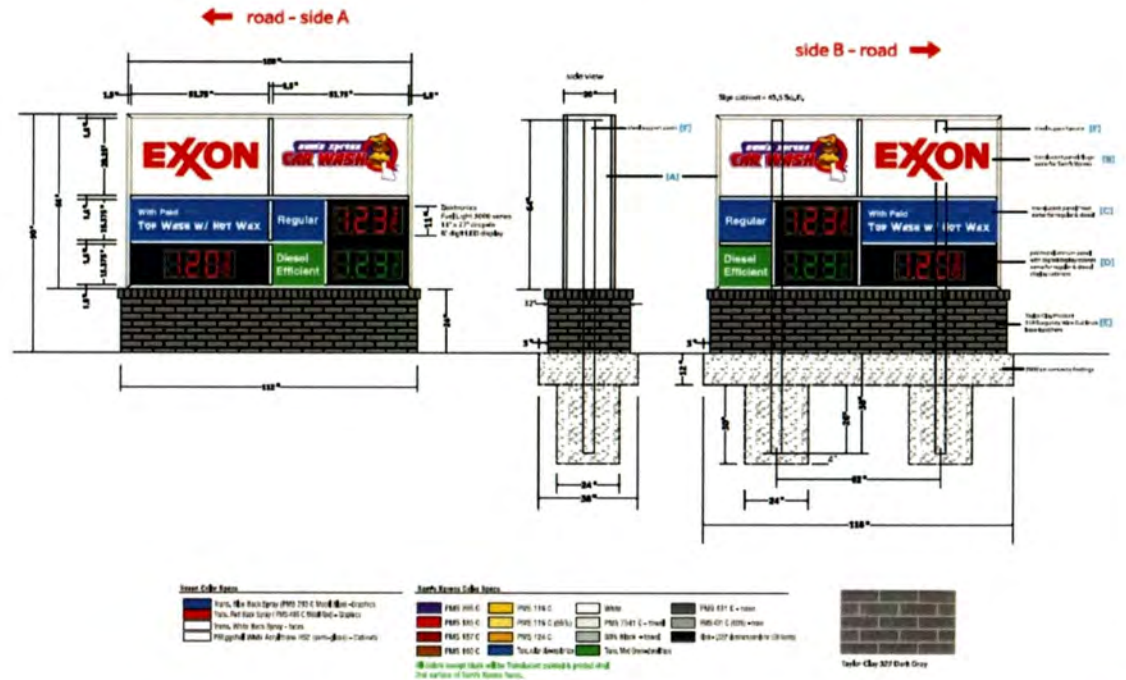
Background Color: Black with a semi gloss finish.

[E] BRICK BASE

Brick base constructed by others using Taylor Clay Product brick to match brick on bldg.

[F] STEEL SUPPORT POSTS

4" x 4" x .1875" x 12'5" length square steel support posts embedded through brick base and 38" into concrete foundation / footings. Posts extend 64" up into sign and mechanically attaches to internal sleeves.

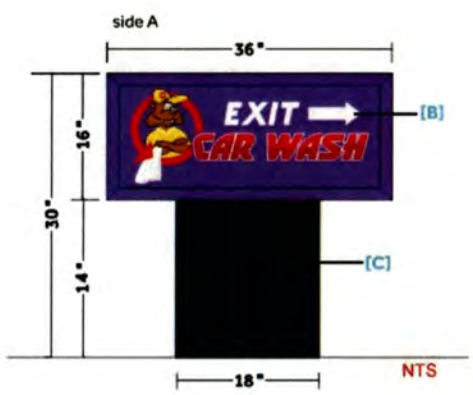


SXCW Holland Rd.
Virginia Beach, VA

Proposed



Proposed Signs – Car Wash Facility



Site Photos



Site Photos



Disclosure Statement

Disclosure Statement



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

Applicant Disclosure

Applicant Name SXCW PROPERTIES II, LLC

Does the applicant have a representative? ☒ Yes ☐ No

- If yes, list the name of the representative.

Leslie R. Watson, Esq. and Christopher A. Pocta, Esq., Wolcott Rivers P.C.

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

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

Sami I Nafisi, Manager and CEO; Sam's Car Wash Holdings, LLC

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

Sam's Car Wash Holdings, LLC

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

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

Disclosure Statement

Disclosure Statement



Known Interest by Public Official or Employee

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

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

N/A

Applicant Services Disclosure

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

☐ Yes ☒ No

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

N/A

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

☐ Yes ☒ No

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

N/A

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

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

N/A

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

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

Eagle Engineering - Jeremy Roberts

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

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

N/A

Disclosure Statement

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.

Construction Contractor is TBD

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.

Eagle Engineering - Jeremy Roberts; JenningsStephenson, PC

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

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

Wolcott Rivers P.C., Leslie R. Watson and Christopher A. Pocta

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

Anthony Warren, Development Director

Print Name and Title

7/14/22

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 checked="" type="checkbox"/>	No changes as of	Date	2022.11.16	Signature	
				Print Name	Hoa N. Dao

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.

**Virginia Beach Planning Commission
September 14, 2022, Public Meeting
Agenda Items # 3 & 4**

SXCW Properties II, LLC (Applicant & Property Owner)

Conditional Use Permits (Car Wash Facility & Automobile Service Stations)

Address: 3264 Holland Road

RECOMMENDED FOR APPROVAL – HEARD

Madam Clerk: Calling the last agenda items, agenda items 3 and 4, SXCW Properties II, LLC. Applications for Conditional Use Permits (carwash facility and automobile service station) at 3264 Holland Road in Council District 3 formerly the Rose Hall District. Would the applicant or the applicant's representative please step to the podium and state your name.

Mr. Wall: Please state your name for the record.

Mr. Pocta: My name is Chris Pocta, local real estate and land use attorney with Wolcott Rivers Gates, and it is a pleasure to be here, and I want to thank the Planning Staff for many hours dedicated to coordinating on this, and resolving some issues, and putting forth this plan. I think Mr. Dao has probably returned more of my phone calls than he intended to and their office has been extremely communicative and helpful, and so I wanted to thank them. I also thank the residents of the nearby Scarborough Square in the adjacent properties. I've had the chance to meet a lot of folks in those neighborhoods, and their insights and opinions, and an input has been really valuable I listened to in developing this project. A little bit of introduction to my client. They're Sam's Carwash, so SXCW Properties II, LLC is the owner of the property, and they operate as Sam's Express Carwash, and they're based out of Matthews, North Carolina. Two of the folks from the corporate office have actually come up here today, travelled about five hours or so to be here. They've met with some of the residents, and they're here to speak as well should any questions arise for them. This is going to be their second site in Virginia Beach. So one was approved a few months ago on Sandbridge, and Fischer Arch, and they look forward to expanding and investing in our community. A few things about them as well, they hire from the local community or in a time where I think hiring is an issue, and in Sam's invests in the local community to provide employment opportunities. They've also contributed a great deal on all their sites, and this one will be no exception to the local communities, non-profits, sports leagues. They've contributed over \$500,000 in the short time that they've been open for the last decade, to non-profits in some of the sites in which they served, and they're very environmentally friendly. They recycle about 90% of the water that they use. They use biodegradable chemicals in their privately owned and operated company. A little bit of background about this particular project, I think it's warranted just sort of based on the history, if you don't mind, but the property has been zoned B-2 for over a decade. There was previously a shopping center that was approved on this site by a different applicant, but back in 2017, this applicant put forward two applications for Conditional Use Permits for a carwash and gas sales like this one, and that was before most of the other shopping center that has the Lidl on it, and

some of the other things had been built out, that is about five years ago. Our clients have since purchased the land, and initially that 2017 application was recommended for approval by this Planning Commission, but the plan then was a bit different than now and I wanted to describe some of those differences because I think they're very relevant, especially with community engagement. Previously, there was an out parcel as part of this proposal that had the option to subdivide a separate, I believe two-acre parcel, for another B-2 use, by right use even, and at that time, some of the residents I should say in the adjacent Scarborough Square, Cardinal Estates and Holland Farms neighborhoods. They expressed some opposition and concern about primarily traffic, but also crime and noise, and so when I went to council, the matter was deferred, and then our client withdrew the application, so to engage the community to get additional feedback to see how the plan could perhaps be revised to meet and address some of the concerns of the community. So that's exactly what they've done. Over the course of the last five years, you will see on the site plan some significant changes. The first and probably the most significant is the removal of that out parcel. It would have, under a previous plan allowed another B-2 use to go in there generating a significant amount of traffic, and in addressing the community's concerns about traffic, that has been removed, it's been replaced with a BMP in the walking trail, and I've personally gone door-to-door, I met several residents, and many of them are very excited about the opportunity to walk or jog or, take their dogs or kids on the walking trail itself, that's a significant change. They've replaced that out part. So as I mentioned, not only with the walking trail, but there's some open space there that wasn't there previously. So benches, there's that BMP and some additional landscaping, so some additional green, and then also they've added a turn lane. So there's a turn lane that's going on to the site from Warwick, and there's no longer any ingress or egress from Holland, so there won't be any ingress or egress from Holland. There's no ingress or egress from old clubhouse, and only a turn in exactly opposite to the other turn into Lidl. This is the turn in from Warwick. We've had the chance, as I mentioned over the course of the last five years to revise a site plan to address some of the community's concerns, but especially over the course of the last couple of months, we've met in person with some residents, we've held a virtual meeting for those who had COVID concerns, to hear some additional concerns or comments about the plan to get some feedback, and as I mentioned, I personally, and some other residents have gone door-to-door to give feedback. In fact, one resident, a resident of Holland Farms, who oversees their Neighborhood Watch, she engaged some residents and had a petition, I think there were about 70 to 75 people that signed that petition in support of the project. We recognize there are ongoing complaints and concerns just as there was in 2017, and our client has done their best and work tirelessly with their engineers with city planning to address those concerns, and I believe has done a very good job of doing so. There were some other questions that have come up with Planning about hours of operation and then also maybe some additional landscaping along Old Clubhouse Road, and so our client has agreed to add some additional landscaping along Old Clubhouse Road. Right now they're presently canopy trees that are along the road there that you'll see, but they're going to further supplement the landscaping there to shield any additional noise or lighting or things like that to address that concern. We also have an agreement as of the last 30 minutes; we've gotten approval from corporate headquarters to reduce the hours to 8 o'clock to be consistent with some of the other neighboring carwashes in the area. However, we've also received some feedback from residents who have said that they would

prefer the carwash to stay open at the original time, which was to close at 9 p.m. So what we'd like to do is to continue engaging the community to see what the preference is there. So again, that's the project, two Conditional Use Permit applications before you all, and I have two members of the team from Sam's Carwash to answer any additional questions, provide any additional feedback, and then obviously I'm here for questions as well.

Mr. Wall: Okay, thank you. Are there any questions for this speaker?

Madam Clerk: Mr. Chairman, we have three speakers signed up for this, two in-person, and one WebEx. I am going to call the in-person speakers first, Linda Russell, followed by Deborah Wilson.

Ms. Russell: I'm Linda Russell, and I live in Cardinal States, but my son moved out of my house in 80, and he lives since Scarborough Square. So I kind of know about both neighborhoods, and I know all of y'all except these three here, and I would like for you to approve this. I think it's a good, I mean, I know I loaded them with emails. I've been there since the beginning, my neighborhood was first and the rest is calm, and I'm okay with all the development, you know, we opened Holland Road, Holland Swamp Road, what it was called when I came and horse and buggies and and all that and a one room schoolhouse that's just been amazing. This has been my journey, and this will close that journey except for right near Ships Corner Road, we have a bunch of trees out there, and what's gonna happen is they're going to put a storage unit up there, and so Barbara Henley and myself and all the parks people, still go out and eat because we're going to use that meal tax to buy that piece. So this will fill up the hole. I've seen it all. These people chose us, okay, we didn't spend, have to spend any money to get them here. It's like and then they bend over backwards, and I hope you all approve it again, and I'm okay with. If it don't light up like a Christmas tree until 9 o'clock, I don't see any reason that they can't stay open until 9 o'clock. It's getting in traffic and getting home and, going out and getting a carwash, you're almost like that, you almost have to have those hours, you know, but that's okay, the traffic is good. When you see down the Holland Road, we are turned down, it's just amazing. It's just time for us to do that, and Holland Road was open for that reason. So let them build, and something you ask about the church because they make a little walkway, you know, the one before for us the church, because them make a walkway into. When we took the break, I went over there and asked them if they could do that, and they said yes. So they would be happy because they have kids in there, you know, kids and seniors much to go together. They have a food bank there.

Mr. Wall: Stick this to the application.

Ms. Russell: But anyway, like I said, I went there and they were okay with it, and if you want to pass that on, you know, to the client or maybe I'll film city council or something. They're happy with that, so if you if you want to like...

Mr. Wall: Alright, Ms. Russell, you're good. We appreciate your comments. Thank you very much.

Ms. Oliver: Thank you, Ms. Russell. It's always nice to see you.

Madam Clerk: Deborah Wilson

Ms. Wilson: Good afternoon ladies and gentleman. My name is Dr. Wilson, and I am going to have 1, 2, 3 items that I am going to discuss with you today. It is going to be brief and short. Number 1, United States is a capitalist society. You have two types of organizations here; you have commercials, and non-commercials. Sam's is a commercial company and that is what a capitalist society is based on. Non-commercial, non-profit organizations, we went for this before several years; I was here several years ago before you. We have not had any non-commercial that came before you that are willing to develop the property. Next we have church; we haven't had any that have come forward and fully. We have government, you, and the city. You could have bought the land that has already been through three different hands, right? You didn't buy it, you haven't suggested to do anything there for the community. So Sam's have suggested they are going to put a carwash and a gas station and it is going to profit our community, so I am in support of that. Number 2, time of operation, almost every business on Holland Road closes at 9 p.m. except Wal-Mart, Wal-Mart close at 11, Food Lion closes at 11, Lidl closes at 9, and all the other businesses, Hardee's, Wendy's that are all built during the course of the time that we have been fighting to build this carwash here, they all closes way past 9 o'clock. In terms of our neighborhood noise control, we have up until 10 o'clock to make noise in our community. If the carwash closes at 10, they are in the limits of the community and what we expect. I've taken the time two days to walk my entire community, the entire Holland and I've had the signatures I think that are produced to you today of many people who are in agreement with have in the company there and that took me a lot of time. That took me a whole tank of gas also, so I need my gas. Last respect for the environment, I think we saw what they're gonna do it a portion of the land, and I love the idea and the community because when I went to every house in Holland Farms in the last 48 hours, everybody agreed and enjoyed the environmental portion, having the trees, having the benches for the kids, having the dog walk, etc. So a lot of people are in agreement and I learned this from Cardinal Estates, she covered Cardinal Estates, I covered Holland Farms, and I covered the exact portion behind which is Yarbrough way, which is behind the carwash, and as you can see, we had about three people going to show up and they're not because they agree with us now.

Mr. Wall: I appreciate, your time is up? Are there any questions for the speaker? Thank you very much for your comments.

Madam Clerk: Our final speaker is WebEx, calling Theodore Jamison, Mr. Jamison, please begin your comments.

Mr. Jamison: [Audio Cut]

Mr. Wall: Okay, thank you. Any there any questions for this speaker? Seeing none, will the applicant please come up?

Mr. Pocta: Just to speak to a few things for Mr. Jamison. First, I wanted to thank him and all the residents who have come out to the meetings over the last couple of weeks and months to express their opinions. There was a concern in 2017 by some folks about traffic and Mr. Jamison has expressed the same thing, and I think a really significant response to that, as a matter of fact, is that there could potentially be

two to three, by right B-2 uses, each of them generating a lot more traffic than this proposed. I think it's a really significant point that ran through in 2017, also rings true today. But we hear Mr. Jamison, and also the residents there, which is why I've myself walked along that street and knocked on doors and talked to folks and this was a concern by a few folks, but there was equally if not more support of the actual plan, primarily because the actual site itself, the carwash facility is 350 feet from the nearest residence, whereas if the property were subdivided, and there were B-2 uses potentially three, there would be construction and building significantly closer to properties. So with that, thank you.

Mr. Wall: Okay, thank you. Are there any questions?

Ms. Oliver: As you, and I've had a couple conversations now, but and I applaud this company, for the location and the BMP, and all the wonderful things that they've done with this piece of property to enhance it as far as outdoor recreation and where they've placed the vacuums, and also the drying mechanism for the carwash. With that though, we have several letters of the neighbourhood, and one of them actually, and I don't know if he's the president of the Civic League, but he does list himself as the Civic League that is an opposition of this, and so even though they're not here, I do. I do read the letters and they do weigh on my decision, probably most of those people in that neighborhood don't have the ability to stop in the middle of the day and come forward and speak. I appreciate the landscaping increase because I think that's warranted with the close proximity of these townhouses with this gas station, and the carwash. All that being said the other car washes in the City of Virginia Beach, even cars, I just looked up the one on the corner of Lynn Haven and Holland, they don't open till 8 a.m., and they do close at 7. The other two applications that we have heard today, they close at 7, which I appreciate the 8 o'clock, but this is a family-owned business, they can certainly close it at 7, and they were really close to these homes, and more than likely that these houses have lots of children in them, and all these people have jobs, and this is a carwash, it's not a grocery store. So it's not availing itself to a daily need of the surrounding neighbourhoods, and I'm just as much as I like this carwash, and the gas stations open till 10. So that's makes itself useful with a convenient store, I assume with vending machines in this, too. But I personally would like to see it just see a sort of follow through with the other car washes that we have in town, and a lot of them are family-owned as well, and so I'd like to see the hours to 7. That's kind of where I'm going with that.

Mr. Pocta: Well, first of all, I appreciate that input we have, and I have been going back to the drawing board, I think multiple times with some of you and also with staff and, and seeing how things can be revised to address some of these concerns. I think the first one is that as far as the hours of operation, our client offers. Well, first of all, say their primary concern is customer service. They want to provide the best customer experience that they can, and from what I've seen, they achieve that, but one of those things that makes them rather unique, I think is that they offer a membership opportunity. So we just had, for example, we had a plan approved for Sandbridge and Fisher Arch, and that's going to be open till 9 p.m., and every single one of their sites is open until 9 p.m., and what they'll do is they'll offer a membership opportunity where you could buy a membership with the company, and that could avail you to a carwash in Sandbridge or Holland Road or up in Richmond or down in North Carolina, and so they've found that that when you vary

as far as company policy and procedures, timing and mechanisms and equipment that they use, it confuses the customer a bit, and obviously their primary objective is customer experience. There are two other car washes within a four mile radius, one's a Grand Slam, and one is an Auto Bell, and they're both open until 8 o'clock. Also 2.5% of their customers only come after 8, and so it's a really reduced amount of customers that are going to the carwash at that time. So there's not a traffic concern at that time, but I will say also, that their model in the service that they provide is very different than, for example, car spa, which is down the street or Auto Bell. They don't have folks out there, you know, trying to vacuum and wash cars after dark, and so that's a significant reason why some of those other companies close up early, because you can't see the car they're washing or vacuuming, after the sunsets. Our applicant has a very different model, and so that's one reason they do that, and I think a final point, which is very important is that, I believe by law, because they offer gas, they have to have folks on site until that gas closes up, and those other companies or some of them at least they have car washes, but no gas, they don't have that additional restriction or that additional requirement, but our folks do. So anyways, that's why what we'd like to do is to continue talking to the neighbors to see if, you know some have expressed that they'd like it open until 9 to see if we can provide the best decision to make for the for the neighbors for the residents, which so far from what we've heard, is only in support of keeping open till 9 and no opposition or complaints from residents about hours being too late.

Ms. Oliver: So I just want to make sure I understand because you referred to well splash as one, car spas another, they're all vacuum stations. Could you have vacuum stations, so who's doing the vacuuming there, the customer or do you have people vacuuming at this gas station?

Mr. Pocta: We do have folks on site, and perhaps I have some additional time...

Ms. Oliver: What I am asking specifically who is doing the vacuuming, the person that owns the car, or is it like Auto Bell where they come outside, and they have employees that are vacuuming and drawing cars.

Mr. Pocta: There are employees on site doing the vacuuming, but I would like for them to further explain the process if they can.

Ms. Oliver: Maybe I misunderstood you, because you said the other ones close at 7 because of daylight and the vacuuming, so what do you have more lights, what makes it so that you are able to stay open or after dark for the vacuums, that why I am confused now.

Mr. Pocta: If I can, I would like to invite Mr. Warren up to speak on that difference, he has a lot more experience inside this particular issue, then I do so, if that is alright with the commission?

Mr. Wall: Sure.

Mr. Warren: Good afternoon. I'm Anthony Warren. I'm the Development Manager with Sam's Express carwash. I have been in the car wash industry since I was 16 years old. I actually used to work for Auto Bell. So I'll tell you a little bit about the differences

in business models. So we are an express self-service carwash. So we have the vacuum stations, where the customers vacuum it themselves. Over half of our customers actually do not vacuum their cars, they go through the carwash and they leave, where at Auto Bell, the car spa right around the corner there what's considered a flex serve or a full serve where the employees are the ones vacuuming the car, they're cleaning the interiors of the vehicles, and so the hours of operations typically are shorter, because if you've ever tried to vacuum a car at night, once it's dark outside, it's very tough, and so for them to maintain quality and customer expectations, you know, you can put all the lighting in the world there, and you're still not going to see in a dark car at night. So for us, half of our customers don't vacuum in an express model. So a lot of our customers come through, they get the car washed, and then off they go, and so that's what makes us a little bit different. The Express model is designed to be three to five minutes curb to curb, you can vacuum it for an hour if you'd like, but majority of our customers are in and out in less than 10 minutes. So it's a little bit different than what you see at the other locations.

Ms. Oliver: So then your model is basically the same as Splash Show, which is the same model?

Mr. Warren: Yes, I'm not familiar with it.

Ms. Oliver: It's the same. It's basically the same thing we just approved one, probably about 30 minutes ago. So it's the same thing. It's an Express, same model, I use it, I have a membership, it's across the street from our business. They close at 7 because you can't vacuum him in the dark.

Mr. Warren: Yes ma'am. Their carwash is one of our competitors in multiple markets and goes right around the corner and goes open too late, and the real reason that we stay open longer is because we sell fuel, we're considered demand fuel station. So we sell Exxon branded fuel, and we're required to be open a certain amount of hours to hold the Exxon brand, and then we're required to by the state to have employees there in case of emergency spills, etc. So because of that, you know, we keep the carwash open till 9, even though very few customers use it after about 8 p.m. just because we're already paying the staff to be there. Rather than just kind of sitting around waiting, watching the people pump gas. We keep the carwash open, we have 40,000 Club plan members, and so it's just a convenient thing for them, you know, they could come in a little bit later, but like Chris spoke to, we're more than happy to dial that back to 8 p.m. and keep the fuel up until 10, and we can get some cleaning done, etc.

Mr. Wall: Okay, thank you. Any other questions for the applicant? I do have one question. The dryers, the vacuums are one thing, but the dryers are something else, and it's much different from one carwash. I think it was Grand Slam was that, the residents didn't necessarily hear the vacuums, but it was the dryer at the end of the tunnel. Can you describe that a little bit?

Mr. Warren: The drying systems drying system is a concern with noise. So this is not the first time we've ran into noise. So we've actually are installing a new drying system. It's the only OSHA compliant drying system that's sold. It's called the International Drying Corporation Stealth Drying System. I provided Chris with the brochure that

actually provides the acoustic decibel levels for the drying system, and it was developed for this specific use in the car wash industry where noise is a concern. So we're installing a new drying system, we've starting at our site in Rock Hill that's under construction currently, and as we're moving forward, we're spending a little more money and investing in it, because it's a better quality car and it's substantially quieter.

Mr. Wall: Okay, do you have the decibels compared to a standard? Like the comparison between the two, like this unique drying system compared to and it is noted that the drying is on the Holland roadside, and that the building I think as measured is 300 feet, so it's a roughly 350 feet. So it's about football field a little bit more.

Mr. Warren: So the system that is proposed is rated at 68 decibels 55 feet from the drying system, and I can be more than happy to get you a little more thorough. Our supplier can get us a little more thorough reports on you distances and the sound associated with it.

Mr. Wall: I do have one question, and this actually gets away from the noise, but it's kind of tied to it. The outfall pipe from the BMP so that is go into the ditch. A standard tree that's parallel to the drainage ditch right there. Looks like the property line stops well short of that, do you know where in relation to that property line, that stand of trees that is parallel to the ditch dislocated?

Mr. Warren: I do not off the top of my head; I would have to consult my civil engineer on that one.

Mr. Wall: It appears that this will help buffer the noise to Holland somewhat, not in a great extent, but it is going to separate the other use, which is the other business and other car wash on the other side of that ditch, but I t looks like that number of trees could be maintained, I am just curious, if you know that?

Mr. Warren: All of the landscaping that we're proposing would fall in to our maintenance and service on our own landscaping due to the contracts we put together. We've actually been landscaping this property for the past five years at a cost of about \$1,000 a month to keep it really nicely maintained, and we do that at all of our facilities. So anything that would fall on the property, the shared space in any of the landscaping we'd be putting in would be taken care of by us.

Mr. Wall: Okay, anything else, any other questions? Alright, thank you all. We're gonna open the floor for discussion.

Mr. Redmond: A couple things. First off, I just looked it up and 70 decibels is about the sound of a washing machine or dishwasher. So it doesn't trouble me a whole lot. I do want to say I think the applicants representative Mr. Pocta did a fine job of explaining the differences between this and a number of other applications that we've seen in the past and some of the improvements that were made, and some of those are driven by storm water requirements that caused a lot of moving of pieces on the chessboard, but there's a lot on here, and typically we're talking about landscape a little bit, there's already a lot of landscaping on this plan. So any addition to landscaping on this would strike me is really very salutary. This hour's thing, I'm a little bit baffled by. There is a life that exists in the commercial sector past 9 p.m.

Bars and restaurants are open past 9 p.m. The idea that you can't wash your car later than 8 p.m. strikes me as kind of a little bit silly, and I'll bet your enterprises throughout the Charlotte area I know you're all over the Charlotte area because I've seen them. Eventually, the vast majority of them are open until 9 p.m., and there's no problem whatsoever with any kind of surrounding business or house or school or place of worship or anything else. So some things I think we really overdo this, I took my daughter to an art class last night, it closes it, it goes from 6 to 8 p.m. Well, I spent those hours between 6 and 8 p.m. doing things. I didn't go home, I went over to the auto parts store and I got some wiper blades and then I pulled some stuff out of the car, and I actually thought about washing my car, but I didn't have enough time, before heading go get her. I wouldn't have been able to have the things open until 7 p.m. for crying out loud. I do things later than 7 p.m. I think the vast majority of people do, his neighbors want to open till 9, and I would too. Surround my house all the time and say I'm bored maybe I want to wash a car. So I think we're way over working this. I think this is a fine plan. I think frankly those hours of these competitors; I think it is demand driven. If they could do business between 7 and 8 or 7 and 9, they'd be open until 7, until 8 o'clock or 9 o'clock. They're not doing business. That's why they close at 7. So I think we're kind of overblown, a lot of this stuff. I do think this is a very appropriate plan. There's demand for these uses. It certainly is an appropriate partial for this kind of, and we've been over a number of times in the years. I think this is about as good as we're gonna get on this parcel, and I think they really have worked pretty hard to check off a lot of those boxes. I hate that cliché, I know we use it all the time, but check off a lot of those things landscaping and you know, and site layout and how they position things that you're just about as good as you're gonna get on this parcel. So I certainly would support it and hope my colleagues do too. Thanks.

Mr. Wall: Okay, thank you. Anybody else? I'd like to mention a few things. So my discussions with people who live next to car washes is that it's almost unliveable, that if they're in close proximity to the carwash that it's an incessant noise, and the thoughts that I've had, not the thoughts, but the discussions that I've had were that, you know, it's not really a liveable situation in the backyard. There living space was no longer a place of refuge. While the carwash is being operated, while the dryer dryers are there, and while the unit and also an inverter, in the case that I'm thinking of you know, was made the made the house not the same value that it was before the carwash was built. So I kind of support these thoughts on the hours, but can we go to the landscaping piece of it? I like your thoughts on enhancing the landscaping buffer, it seemed fairly lights in one row of trees, and it's not even the same as the road that's adjacent to the homes, and so I think it's, you know, a small ask, I think that if we are supportive by the applicant to enhance that. So is there a way to build that into the conditions, it looks like they already have a new landscape, two conditions, condition number four and condition number five, both address in your landscape at the time of the site plan approval, with a 15-foot wide landscape buffer.

Ms. Oliver: They're going to enhance that with some lower, and Dave, to your point, when we were out there, and I understand where you're coming from, and I appreciate that in it. It is a beautiful design with the BMP and walking trails, and without a doubt, but the proximity of these townhouses to this particular carwash, and I know this because we have a business that's close to a carwash, which is further away than these houses are from a carwash. They can be invasive, and in that kind of setting,

regardless of how you do it, they just can be most, and we've just experienced, we're business and it doesn't bother us because we're open late, so it doesn't matter but to this been so close, and that's why I had requested the 7 o'clock and the additional lower landscape on those trees because of where the houses were, they actually face the back of that, they don't face the BMP, this particular row houses face the back of this carwash, and that was why I asked for the lower additional landscaping, was just so that they had a little more privacy from the cars driving, and because they have to come in on that way, and when they come in. It's just not used to it. So I was just trying to make it a little nicer for those homes.

Mr. Redmond: I don't disagree at all. I mean, I'm more landscaping anywhere is the better for me. However, I think it's very unfair to lump all car washes in every single piece of property is different because there are great differences in these businesses. I mean, I just told you 60 70 decibels is the sound of a dishwasher, or a washing machine that I think is 300 feet. You said from the nearest residence, 350 feet from the nearest residence, there's the sound of a dishwasher, we'd have a hard time finding that terribly, you know, impactful and to say car washes are bad, they ruin neighborhoods. So I mean this idea that they're all lumped together in one way. I mean, that seems to me to be very concrete information that we ought to base our decision on, and not some sort of broad generalization about some other brand on some other site, some other neighborhood, on some other part of the city. I mean, we do have specifics on this, and I think we ought to kind of do each one of these applications, specifically on their own merits is the fair way to do that. So 350 feet, 68 decibels strikes me as well, having gotten over the bar.

Mr. Weiner: I completely agree with you on the landscaping. I mean, I think that's wonderful. More landscaping, the better it might be pretty much anywhere.

Mr. Wall: Anybody else? So back to the time, and I appreciate these in a timeframe, but I think they, so they've got 07:30 to 09:0 p.m. daily. I mean, I'd be willing, what are your thoughts on 8 p.m. kind of splitting the difference? I mean, I understand you the distance about the operation. So you are good with 8? We would expect that near the landscaping plan would be revised between now and city council to show possibly an enhanced landscaping plan, but we don't have that in writing. So is there?

Mr. Pocha: In another life, I was a litigator, and I used to be in before a judge and it's a welcome opportunity for me to be before you instead of a judge. I wanted to speak to that landscape plan; we have since revised to include some of the landscaping that's being discussed. So that if you'll see a long old clubhouse, which I think is where we're the folks are talking about, there are canopy trees there now essentially for the purpose of sound barrier, but what we've done is we've also added since as of this morning, additional shrubbery bushes between the canopy trees to provide some additional buffering, and then if I may, further, just on the point of noise, I won't belabor the point, but our clients have engaged the community significantly, and I personally have talked to over 50, maybe 60 residents at this point, and not one of them has expressed any concern about the hours of operation. So I just wanted to point that out because traffic was a concern, and we've worked real hard to remedy that and had hours of operation been an issue for residents that's certainly something that we would have addressed, but it has not been brought up. So I just wanted to bring that to your attention.

Mr. Tajan: Yes, I needed to ask Mr. Pocta a question, Mr. Chair, if that's possible. We just want to hammer out, and finalize the landscape plan that is not shown on the screen right now, and so just want to make sure that we understand how we can put wording to it. This is not the updated landscape? Is that the updated one that Mr. Pocta is referring to? Do you know the width of that landscape plan Mr. Pocta, the width of the existing landscaping if you include. I'm assuming from where this it looks like you have a hedgerow right here now on this plan, you're going to fill that in with additional landscaping going towards old clubhouse road.

Mr. Pocta: That's correct, it runs the length of those canopy trees, and I had sent it to Mr. Down, I'm going to resend that to him.

Mr. Tajan: Just trying to make sure that we can craft the condition addressing that according to the wishes of the planning commission, you know how wide that is to those trees Mr. Pocta?

Mr. Pocta: It was a very recent addition. So I'm going to have to reference it. I'm going to send that to Mr. Down now. I should also mention on the landscaping itself, the houses that are actually in closest proximity to the actual dryer are the ones that are along Yarbrough and not actually the houses that are along Old Clubhouse. So the reason that the planning department, and I, and the client have worked together on the evergreen tree buffer a little more significantly, is because that's actually the buffer that's in closest proximity to the houses.

Mr. Tajan: I think that is good for now, we will work on that.

Mr. Wall: Thank you. I think that should be documented enough once it is received and included for the application between now and Council.

Mr. Redmond: Mr. Chairman, I'm not making up new hours on this thing. These guys submitted an application with ours as 9 p.m. Mr. Pocta says he hasn't heard anything from anybody in all those conversations where people are objecting to those hours, and there are two residents who are here today who prefer 9 p.m. I don't know that I'm going to – I'm not done yet, but I don't know that it's our place to make up new things where a fix what ain't broken? So I mean, they've made an application with 9 p.m., and I'm gonna move that we approve the application.

Mr. Wall: So is that a motion to approve the application?

Mr. Redmond: That is a motion to approve the application as submitted.

Ms. Oliver: So I just want to make sure I'm clear before I make my vote, because I'm not going to support it at 9 o'clock, and that's fine, that's just where you and I differ, but do you want the application to have the landscaping, not have that language?

Mr. Redmond: Absolutely, it does have to be a condition to be decided.

Ms. Oliver: I think it is already. You have to ask Mr. Tajan.

- Mr. Tajan: I think we need to add, just to be clear for Staff, we'll add a condition number 12. If that's okay, Mr. Redmond with your motion that a vegetated landscape buffer from Old Clubhouse Road, approximately 65 feet in width shall be provided by the applicant? I believe it's about 65 feet in width if that's based on the dimensions that I see on the plan. So Mr. Pocta, does that sound about correct based on the existing plan that you have, it looks like the landscape buffer from old clubhouse road that you proposed goes to about 65 feet from Old Clubhouse Road in towards the property where that existing tree line that you're proposing on here is?
- Mr. Pocta: Yes, so the additional landscaping buffer being provided is between the walking trail and the canopy trees, but it runs the length of those canopy trees and actually extends a couple of feet in either direction beyond, so it's a little bit longer than that canopy tree buffer, but it is between the walking trail and those canopy trees.
- Mr. Wall: I see your point trying to define that landscape, but it could have been that landscaping plan is revised on September 14, 2022 is submitted by the applicant?
- Mr. Tajan: Yes, we can do that.
- Mr. Wall: So that vegetated landscape buffer as submitted by the applicant on to be submitted on September 14, 2022. So that is condition number 12, so that is added.
- Mr. Redmond: Just to be clear, so I'm going to move approval of the application with the addition of an additional condition for additional landscaping on old clubhouse road as identified by the landscaping plan submitted on September 14, 2022.
- Mr. Wall: So we have a motion made by Mr. Redmond. Do we have a second? So we have a second by Mr. Coston.
- Ms. Oliver: I am going to make a substitute motion that we go to the hours that they suggested at 8 o'clock. I feel like I am going to go more with the additional landscape.
- Mr. Wall: Do we have to vote on the first one? We will vote on the substitute first.
- Madam Clerk: Vote is open.
- Mr. Wall: Let me clarify for the commission. Ms. Oliver proposed and with a second with Mr. Weiner a substitute motion to revise the hours of operation to 8 p.m. for the carwash and including the landscape condition that was already previously read. So right now on the floor is a motion as a vote to make that the main motion, is that correct Ms. Wilson?
- Ms. Wilson: Yes, that is correct.
- Mr. Wall: So on the floor now, is a motion to make that the main motion?
- Ms. Wilson: We need to vote on that.

Madam Clerk: Now the vote is open. By recorded vote of 6 in favor, 4 against substitute motion made by Commissioner Oliver for modified hours, and landscaping modification as past recommended for approval.

Ms. Wilson: No, that is not what we just did.

Mr. Wall: Do I need to repeat the motion now?

Madam Clerk: This is the main motion.

Mr. Wall: Yes, can you please move again Ms. Oliver and Mr. Weiner.

Ms. Wilson: The motion here is to make Ms. Oliver's motion the main motion.

Mr. Wall: They have already passed that.

Ms. Wilson: Okay, now are going to do Ms. Oliver's motion, vote on her motion?

Madam Clerk: The vote is open. By recorded a vote of 9 in favor, one against agenda items 3 & 4 are recommended for approval with modified hours and landscape modification.

Mr. Wall: Okay, thank you. Madam Clerk, is that the last? Okay, that is the last agenda item. I appreciate it. Thank you for participating in today's planning commission hearing. Meeting is adjourned.

	AYE 9	NAY 1	ABS 0	ABSENT 1
Alcaraz	AYE			
Bradley	AYE			
Clemons		NAY		
Coston	AYE			
Cuellar	AYE			
Frankenfield	AYE			
Horsley				ABSENT
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

CONDITIONS

1. When the site is developed, it shall be in substantial conformance with the submitted Conceptual Site Plan exhibit entitled, "SXCW – Holland & Warwick – 3264 Holland Road, Virginia Beach, VA," prepared by Eagle Engineering, dated ~~July 24~~ October 18, 2022, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development.
2. The exterior of the proposed building, fuel canopy, vacuum canopy, vending enclosure, and dumpster enclosure shall substantially adhere in appearance, size and materials to the elevations entitled, "Sam's Xpress Car Wash – Color Elevations – Holland Road, Virginia Beach, VA," prepared by Oakline Studio Architecture + Design, and dated August 12, 2022,

which have been exhibited to the Virginia Beach City Council and are on file in the Department of Planning and Community Development.

3. The freestanding sign shall be monument style with a brick base that matches the brick exterior of the car wash building and substantially adhere in appearance, size and materials to the submitted freestanding sign exhibit entitled, "SXCW – Holland Rd - Virginia Beach, VA" prepared by ASI Signage Innovation, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development.
4. A Landscape Plan shall be submitted at the time of final site plan review reflective of the location and plant material depicted on the site layout exhibit referenced in Condition 1 above. Said plan shall adhere to all requirements of the Virginia Beach Landscaping Guide.
5. The 15-foot wide landscape buffer adjacent to the existing Apartment District and along Old Clubhouse Road depicted in the Conceptual Site Plan referenced in Condition 1 above shall be planted with material approved by the DSC Landscape Architect. Plantings shall be installed at a minimum of four feet in height and be allowed to grow and be maintained at a height of no less than eight feet. Said plant material shall include a mix of 70% evergreen trees and 30% deciduous trees. Said buffer shall be properly maintained and any dead, diseased or dying plant material shall be replaced.
6. Prior to the issuance of a Certificate of Occupancy, the following easements shall be established:
 - a. A one-foot no ingress/egress easement on the property line adjacent to Holland Road and adjacent to Old Clubhouse Road.
 - b. A public easement to allow pedestrian access on the 10-foot wide trail depicted in the Conceptual Site Plan referenced in Condition 1 above.
 - c. An easement to allow the placement of the Scarborough Square's community sign on this property.
7. The existing freestanding neighborhood sign for Scarborough Square shall be repaired or replaced with a freestanding sign, no taller than eight (8) feet in height and shall be no larger in sign area than the existing sign. Said sign design and placement location shall be subject to the approval by the Planning Director.
8. Outdoor vending machines and/or display of merchandise may be permitted only if fully screened from view from the rights-of-way as approved by the Planning Director.
9. All light poles shall be no taller than 14 feet in height and all lighting shall be shielded to be contained on site.
10. The hours of operation of the Automobile Service Station shall be limited to between the hours of 6:30 a.m. to 10:00 p.m., daily and the Car Wash Facility with associated vacuum stations shall be limited to between the hours of 7:30 a.m. to ~~9~~ 8:00 p.m., daily.
11. Signage for the site shall be limited to:
 - a. Directional signs.

- b. One (1) monument-style freestanding sign, no more than eight (8) feet in height, set on a brick base to match the building brick and two (2) building and/or canopy signs. The community sign for Scarborough Square shall be excluded from this limitation.
- c. No striping shall be permitted on the fuel canopy. Signage on the canopy shall not be internally or externally illuminated.
- d. There shall be no other signs, neon signs, or neon accents installed on any wall area of the building, on the windows and/or doors, canopy, light poles or any other portion of the site.
- e. Any onsite signage shall meet the requirements of the City Zoning Ordinance, unless otherwise approved by the Board of Zoning Appeals, and there shall be no neon, other than individual channel letters lighted with internal neon and as approved by the Zoning Administrator, or electronic display signs or accents, installed on any wall area of the exterior of the building, in or on the windows, or on the doors. There shall be no window signage permitted. The building signage shall not be a "box sign" and the proposed sign package shall be submitted to the Zoning Administrator.

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.

Hoa N. Dao

From: Linda Russell <lindaproffitt@hotmail.com>
Sent: Sunday, September 11, 2022 11:03 AM
To: Christopher A. Pocta
Cc: Carolyn K. Smith; Hoa N. Dao; City Council; Todd A. Jones; Patrick Duhaney; awarren@samsxpress.com; jlucas@samsxpress.com
Subject: RE: new bussiness

Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION: This email originated from outside of the City of Virginia Beach. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Chris, I'm glad that you have found us all and meetings are set up/done and we are good to go for Wednesdays PC. You give me a lot of credit here but you were the one who hit the pavement in going door to door informing the residents in Scarborough Sq. & Holland Farms of Sam's plans. You not only gave them the correct information but listened to other concerns that they have/had.

My neighborhood of Cardinal Estates was a easy one for you in that you had helped with the closed on a home that was purchased in my neighborhood recently . You knew that my community represents affordable housing in a optimal VB location. You found out from me that this community has been experiencing a much welcomed transformation, where previously it was the wild wild west of trashy, single wide trailers, drug dealers and many slum lords, it has become a family destition with new, manufactured homes on permeant foundations with 30 yr. mortgages . The city departments that patrol my neighborhood, and cite code violations illegal building, trash, unlicensed cars, and our Police department, have done a excellent job to contribute to this transformation. With the changes , I suppose the city has at least doubled the real estate receipts and given many families, many being military Veterans, a better place to live, work and retire.

I do believe that all of the new businesses in The Strand Shopping Center Lidl, Christion Brothers Auto and others have contributed to my success story. With the approval Sam's will complete what this area was meant to be.

I'm including CC & the City Manager on this email in that there are trying to locate those representing our communities. Hopefully this helps them. Linda

Sent from [Mail](#) for Windows 10

From: [Christopher A. Pocta](#)
Sent: Thursday, September 1, 2022 3:53 PM
To: [Linda Russell](#)
Cc: [Carolyn Smith](#); [awarren@samsxpress.com](#); [jlucas@samsxpress.com](#); [michaelberlucchi@yahoo.com](#); [citycouncil@vbgov.com](#); [tjones@vbgov.com](#)
Subject: RE: new bussiness

Thank you, Linda.

You have been extremely helpful throughout this process, and we very much appreciate your ongoing efforts and support!

Respectfully,

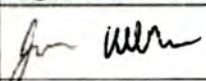
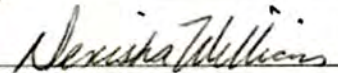

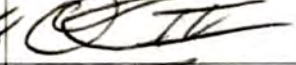

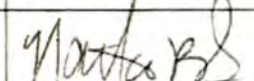
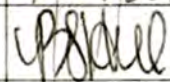

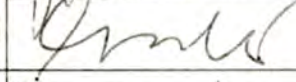
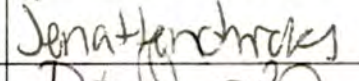
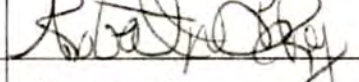


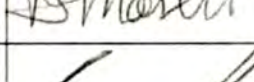


PETITION IN SUPPORT OF CONDITIONAL USE PERMIT


Sam's Xpress Car Wash

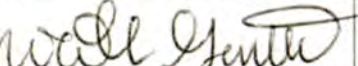

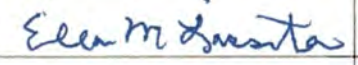











3264 Holland Road, Virginia Beach, VA 23453

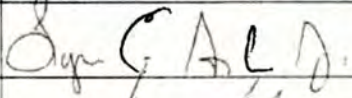
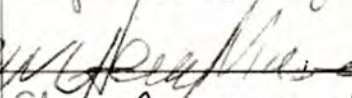
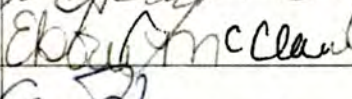
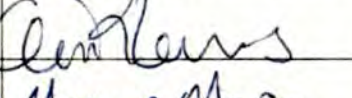
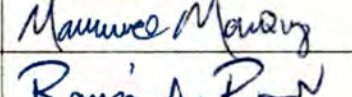
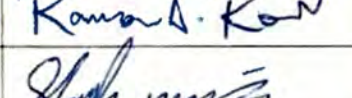
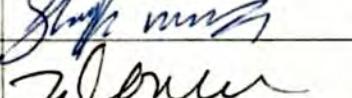
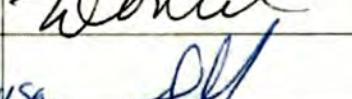

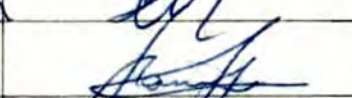
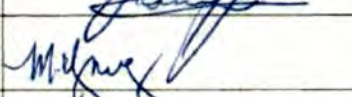
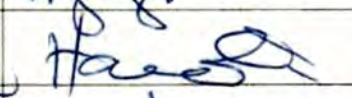


Petition summary and background	Petition in support of proposal by Sam's Xpress Car Wash for conditional use permit to operate car wash and fuel sales at 3264 Holland Road, as shown on the attached site plan.
Action petitioned for	We, the undersigned, are residents of Holland Farms, Scarborough Square, Cardinal Estates, and/or other surrounding neighborhoods and sign this petition in support of support Sam's Xpress Car Wash's application for conditional use permit to operate a car wash and gas sales at intersection of Holland Road and Warwick Drive.

Printed Name	Signature	Address	Comment	Date
Debra Wilson	Debra Wilson	1204 Mondrian Loop VA Bch, VA 23453	I 100% support SAM'S XPRESS	9/12/22
Lisa Matthew Q. Matthews	Lisa Matthews	3212 Mondrian Loop/Ct VA Bch, VA 23453	I support	9/12/22
Jim Torres	Jim Torres	3205 Mondrian Ct VA Bch, VA 23453	I support	9/12/22
Dwayne Thompson	Dwayne Thompson	1213 Mondrian Loop VA Beach, VA 23453	I support	9/12/22
Ritz Yurichko	Ritz Yurichko	1216 Mondrian Loop Va. Bch, VA 23453	I support 100%	9/12/22
Alex Bari	Alex Bari	1221 Mondrian Loop VA B	100% Support	9/12/22
TAYLOR MCMIWA	Taylor McMiwa	1228 MONDRIAN LOOP	YES	9/12/22
Catherine Gregory	Catherine Gregory	1232 Mondrian Loop	@ support +	9/12/22
Curtis Brown	Curtis Brown	1234 Mondrian Loop	I support 100%	9-12-22
Arline Lugo	Arline Lugo	1244 Mondrian Loop	I support	9-12-22
PAUL R. BROWN	Paul R. Brown	1256 MONDRIAN LOOP	YES	9-12-22

Printed Name	Signature	Address	Comment	Date
Joshua Wilsey		1252 Mondrian Loop	N/A	09/12/22
Denisha Williams		1260 Mondrian Loop	N/A	9/12/22.
Lemell Snowden		1268 Mondrian Loop	N/A	9/12/22
Oliver Coleman		1248 MONDRIAN LOOP	N/A	9/12/22.
Tedric Rose		1140 den LOEN DR	N/A	9/12/22
Nathan Bly		1301 Mondrian Loop	N/A	9/12/22
BreAnna Hall		1285 Mondrian Lp	Support!	9/12/22
Denise Loddex		1289 MONDRIAN LOOP	Support!	9/12/22
LARRY GALT		1293 MONDRIAN LOOP	N/A	9/12/22
Jenat Hendricks		1280 mondrian Loop	Support	9/12/22
Robert D. LeRoy		1276 Mondrian loop	Support	9/12/22
Mark Knight		1176 Mondrian Loop	Support	9/12/22
Luz Torres		1184 mondrian loop	100% 100/100	9/12/22
Dana Martin		1116 mondrian loop	D Martin	9/12/22
Luis Alvarado		1168 mondrian loop	Support	9/12/22
Corey Shaw		855 old clubhouse rd	Support	9/12/22

Printed Name	Signature	Address	Comment	Date
Sam Corbett		1201 Mondrian Loop		9/12

Printed Name	Signature	Address	Comment	Date
Nicole Garrette		1201 Mondrian Loop		9/12/22
Freddie Alvarez		3239 York Borough way	Support 100%	9/13/22
Ellen Lasiter		3253 York Borough way	I don't mind	9/13/22
JAMES PHILLIPS		1201 Mondrian Loop	1 support	9/13/22
JENNIFER VANDEWATER		1132 VAN LOEN	SUPPORT	9-13-22
Hanh Tran		1112 Van Loen	Support	9/13/22
Gudula G. Lynasch		1108 Van Loen Drive	Support	9/13/22
RICHARD LEAN		1153 Mondrian Loop	Support	9/13/22
Clinton Howard		1148 Mondrian Loop	Support	9/13/22
Fran Dillard		1149 Mondrian Loop	support 100%	9/13/22
THE BOBE SANCHEZ		1124 Mondrian Loop		9/13/22
Lamon King		1128 Mondrian Loop	support	9/13/22
Jennifer Doherty		3205 Vermeer Drive	Support / Park	9/13/22
MARSHALL RUIZ		3204 VERMEER DR.	Support	9/13/2022

Printed Name	Signature	Address	Comment	Date
Tyrone Artis		3200 Vermeer Dr.	Build it !!	9-13-22
Heary Moore		3201 Vermeer Dr	Support it	9/13/22
Eboni McClain		1305 Mondrian loop	Support!	9-13-22
Adina Lewis		1239 Warwick drive	Support	9-13-22
MARIANO MARQUEZ		1241 WARWICK DRIVE	Support it	9-13-22
Ramon A. Rosado		1243 Warwick Dr.	support it	9/13/22
Shalyn morris		1240 warwick Dr.	Support it	9/13/22
WILFRED CONLEY		1236 ^{warwick} Dr	SUPPORT IT	9/13/22
David Monson		1184 Warwick Dr	Support it	9/15/22
Diane Monson		1184 Warwick Dr	Support it	9/13/22
Roman Khamraiev		1228 Warwick DR	Support it	9/13/22
Michael Updegraff		1218 WARWICK DR	SUPPORT IT	9/13/22
Tina		1216 warwick dr	Support	9/13/22
Zachary Bouty		1180 warwick dr	support	9-13-22

[illegible]

From: M. Lyn Henry <mslynh1@gmail.com>
Sent: Tuesday, September 13, 2022 6:37 AM
To: Elizabeth D. Nowak <ENowak@vbgov.com>
Subject: Re: Follow up to Voice Mail about CUP on Holland Road

CAUTION: This email originated from outside of the City of Virginia Beach. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning

Sorry I missed your call yesterday, I was at work and could not respond. I will not be able to attend the CUP hearing by planning on the 14th, again, I have to work.

I have met with the Sam's Xpress folks and as a community we are once again not in support of this project at this site. We have major concerns with traffic, crime and trash being added to our community.

We were hearing statements like "5 minutes curb to curb" and "car wash in 30 seconds" that concern us. I think the plans are very nice, but this project is not a good fit for Scarborough square. Are you aware we have opposed very similar projects twice before and they were voted down at city council?

I would appreciate hearing from Hoa Dao. We are prepared to fight this again at the city council stage if necessary. I would like to see if any traffic surveys have been done, especially since Lidl was opened. I am pretty sure you will see a big difference and increase in accidents at this intersection on Holland Road. Also, there are school bus stops at the corner of Warwick and Old Clubhouse.

I implore you to please DO NOT approve the CUP for this project.

Sincerely
Lyn Henry
Scarborough Square Civic League

From: Christina Costa <costa.christina76@gmail.com>

Sent: Tuesday, September 13, 2022 10:03 AM

To: Elizabeth D. Nowak <ENowak@vbgov.com>

Subject:

CAUTION: This email originated from outside of the City of Virginia Beach. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Sir/Madam...I live Scarborough way neighborhood area 20 year and already crime area .we don't anymore crimes develop again .pls Stop that car wash business not allow it .We want safely neighborhood not crime neighborhood .Thank-you again pls accept our request .

Sincerely yours,
Christina costa

Hoa N. Dao

From: jimb38@verizon.net
Sent: Tuesday, September 13, 2022 2:40 PM
To: Elizabeth D. Nowak; Hoa N. Dao
Subject: Conditional Use Permit

Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION: This email originated from outside of the City of Virginia Beach. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Planning Commissioners,

I am writing this email to let you know that I strongly oppose this proposed gas station/car wash for the lot at the intersection of Holland Rd. and Warwick Dr. at the entrance to Scarborough Square. I was opposed to it 5 years ago when this same company proposed the same business at this location. Since then there has been additional businesses built across from this location, namely a Lidl grocery store, Hardee's restaurant, Christian Brother's Care Care and several other smaller business's. If you are leaving any of these business's and are driving south on Holland Rd. the only way out is via this intersection at Holland and Warwick. This would have been a traffic nightmare before and since then the congestion at this intersection has gotten worse. Traffic accidents have increased. Traffic backs up during Drive time from the intersection at Holland and Lynnhaven well past Holland and Warwick. That makes departing Scarborough Square very difficult and backs up traffic on Warwick. There is also a school bus stop on Warwick close to this lot. We don't need another car wash on top of the 3 existing one's on Holland and Lynnhaven Pkwy. Please consider this when you make your decision.

Thank You,
James P. Bauer Resident/homeowner
3261 Scarborough Way
Virginia Beach, Va. 23453

Hoa N. Dao

From: Paige Steven <paige.m.steven@gmail.com>
Sent: Tuesday, September 13, 2022 2:51 PM
To: Hoa N. Dao; Elizabeth D. Nowak
Subject: Sam's Car Wash Meeting

Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION: This email originated from outside of the City of Virginia Beach. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello, I was unable to make the meeting last week - but I would like to express my opposition to this project in Scarborough Square. As a resident of this community, we do not need an additional car wash within a mile of 4 others. I think someone could certainly develop that space, but I would like to see something that fills a void in the neighborhood, not adds another service which can be found within a few feet.

Thank you for taking the time to review my email.
Have a great day.
Paige Steven
Creekside Dr. Virginia Beach
757-348-9613

Hoa N. Dao

From: Denise Upson <NYCAVA1@hotmail.com>
Sent: Tuesday, September 13, 2022 3:22 PM
To: Elizabeth D. Nowak; Hoa N. Dao
Subject: Sam's Xpress

CAUTION: This email originated from outside of the City of Virginia Beach. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I am writing this email in regards to the proposed building of a gas station and car wash on Holland Rd. I live in Scarborough Square and am concerned with what this business venture will do to our community. The traffic on Holland Rd gets congested in the and can back up to Shipps Corner. The traffic from Lidl's and the other shops in that shopping center only add to the traffic pile up. There are only two ways in and out of our neighborhood, Warwick to Holland or Shipps Corner. I am opposed to building yet another car wash in close proximity to three other car washes. Another concern is the rise in crime. Sam's Xpress anticipates around 200 cars a day getting a car wash. If the business is successful that amount would increase. It is very disconcerting to think that many cars/strangers are riding through our neighborhood.

I hope city planning is not just looking at this as a business venture but will also consider how this impacts our community. We have families and seniors that would be impacted should a need arise for emergency service and they can't get through because of traffic. The residents right behind Lidl shopping center have already experienced an increase in crime and vandalism.

I can only hope that you take these concerns into consideration when making your decision.

Regards,
Denise Upson

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Hoa N. Dao

From: Bonnie Niemeyer <bpniemeyer@gmail.com>
Sent: Tuesday, September 13, 2022 3:40 PM
To: Michael Berlucchi; Elizabeth D. Nowak; Hoa N. Dao
Subject: Proposed development see attached
Attachments: 20220906_200415.jpg

CAUTION: This email originated from outside of the City of Virginia Beach. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To whom it may concern:

I am writing this email in regards to the proposed conditional use permit for the car wash/gas station at Holland Road and Warwick Road, the entry into Scarborough Square. I live right behind where the development will be located and I oppose this because it will not bring any value into our neighborhood, only trouble with traffic. We have several car washes already in walking distance and more traffic headaches than we can handle. I have attended other meetings and I believe the proposal that SAM's Express is wonderful and wish them the best, but not in our neighborhood. We have so many issues especially trash and traffic and would love to see something more to benefit the neighborhood. I would come to the meeting tomorrow at noon, but currently work in Norfolk and cannot take off work to attend.

Please take our concerns into consideration when you vote tomorrow.

Thank you,
Bonnie Niemeyer
3245 Yorkborough Way
Virginia Beach, VA 23453

Hoa N. Dao

From: Nedra Howard <nqhoward@gmail.com>
Sent: Tuesday, September 13, 2022 6:35 PM
To: Elizabeth D. Nowak; Hoa N. Dao; Michael Berlucchi
Subject: Sam's Express Proposal

Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION: This email originated from outside of the City of Virginia Beach. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good evening,

I am writing to express my disapproval for the proposed conditional use permit for a gas station/car wash at the corner of Warwick and Holland Road. This location currently has an abundance of traffic overloading this intersection on any afternoon. While Sam's Xpress has a nice business plan, the service they provide is readily available in the surrounding area and not beneficial for Scarborough Square. Their plan would increase traffic which could delay EMS and police access during an emergency.

The increased traffic also poses safety concerns for school age children who catch the bus in that area as well as anyone crossing the street at Warwick and Old Clubhouse. This is already a dangerous corner for pedestrian traffic. Adding more traffic at this intersection would increase the potential for pedestrian injury or death.

There is a Car wash two doors over and another around the corner on Lynnhaven as well as one in front of Lowes. There are x3 gas stations @ Ships corner. When seconds count, the last thing we need is more traffic at Holland /Warwick. Imagine a fire or choking infant @4pm on any day. How long will it take EMS to get through the traffic?

With so many deaths d/t Covid since 2020, everything can't be about \$. Is there a need for the service? No. How will it benefit our community? Could the logistics delay EMS from an emergency where seconds count? Yes! After 3 minutes of oxygen deprivation, the brain is likely to experience serious damage. After 10 minutes of lack of oxygen, brain damage is imminent, and death of many brain cells and poorer recovery prognoses will result. After 15 minutes, brain damage is permanent and there is little possibility for recovery. We understand business, but this business is not needed or wanted in this location. Please take all of our concerns into consideration before this decision is finalized.

Sincerely,

Nedra Howard, RN, BSN,CPC
SSCL Treasurer
3232 Creekside Drive
VA Beach, VA 23453



#	TYPE	WIDTH (FT)	LENGTH (FT)	AREA (SQ FT)
1	WALKWAY	8	20	80
8	STANDARD	9	18	90
23	WALKWAY	14	20	60
32	TOTAL SPACES			



**EAGLE
ENGINEERING**

FIRM LICENSE # C-0875
2013A Van Duzee Avenue
Indian Trail, NC 28079
(704) 882-4222
www.eagleonline.net



-  Site
-  Property Polygons
-  Zoning
-  Building

Earthscapes Enterprises, LLC
619 & 623 London Bridge Road



0 55 110 220 330 440 550 660 Feet



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: EARTHSCAPES ENTERPRISES, LLC [Applicant] VALIANOS PROPERTIES, LLC & JEM, LLC [Property Owners] Conditional Use Permit (Bulk Storage Yard) for the property located at 619 & 623 London Bridge Road (GPINs Portion of 1496878501, 1496974509). COUNCIL DISTRICT 3, formerly Beach

MEETING DATE: December 6, 2022

■ **Background:**

The applicant is requesting a Conditional Use Permit to operate a Bulk Storage Yard on a 2.45-acre portion of the parcel within the London Bridge Industrial Park. The applicant is also proposing to develop a by-right office building for the applicant's landscaping business. The 8.21-acre parcel will be resubdivided to create a total of three lots (Residual Parcel A, Parcel A-2, and Parcel A-3). Parcel A-3 will be developed with the Bulk Storage Yard to store landscaping materials and equipment and the by-right office building.

As required in Section 228 of the Zoning Ordinance, the Bulk Storage Yard will be fully enclosed with an eight-foot tall solid privacy fence with Category I plantings. The proposed Landscaping plan meets all the requirements of the Zoning Ordinance and will be reviewed in more detail during the final site plan review process.

■ **Considerations:**

The proposal is consistent with the goals set forth in the Comprehensive Plan for the Special Economic Growth Area (SEGA) 2 – West Oceana. SEGAs are viewed as special areas with significant economic value and growth potential. The property is also located within the greater than 75 dB DNL noise zone and the APZ-2 and encumbered by a Navy Restrictive Easement. The applicant received a letter from the Department of Navy indicating that the proposed use is consistent with the language of the restrictive easement and is an appropriate use for this site. In Staff's view and the Planning Commission concurred, the proposed Bulk Storage Yard is consistent with the Comprehensive Plan's land use policies for this area and is compatible with Navy flight operations.

Further details pertaining to the application, as well as Staff's evaluation, are provided in the attached Staff Report. One letter of opposition was received about the request stating concerns that the industrial park should promote and maintain a professional appearance and they do not feel that this proposed landscaping business is ideal or aligns with the existing tenants and owners within the park.

■ **Recommendation:**

On November 9, 2022, the Planning Commission passed a motion to recommend this item on the Consent Agenda, passing a motion by a recorded vote of 8-0, to recommend approval of this request.

1. A Landscape Plan shall be submitted to the Development Services Center of the Department of Planning & Community Development for review and ultimate approval prior to the issuance of a Certificate of Occupancy that is in substantial conformance to the conceptual landscape plan entitled, "Landscape Design", dated June 29, 2022, prepared by Earthscapes Lawn and Land Service, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development.
2. The outdoor storage materials shall not be stacked higher than the privacy fence.
3. The required Category VI screening surrounding the Bulk Storage Yard shall be installed and maintained for the duration of the use of the site as a Bulk Storage Yard.
4. All outdoor lights shall comply with the following:
 - a. 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.
 - b. Lighting fixtures shall not be erected any higher than fourteen (14) feet.

■ **Attachments:**

Staff Report and Disclosure Statements
Location Map
Minutes of Planning Commission Hearing
Letter of Opposition (1)

Recommended Action: Staff recommends Approval. Planning Commission recommends Approval.

Submitting Department/Agency: Planning Department



City Manager:  F. P. AD

Request

Conditional Use Permit (Bulk Storage Yard)

Staff Recommendation

Approval

Staff Planner

Marchelle Coleman

Location

619 & 623 London Bridge Road

GPINs

Portion of 1496878501, 1496974509

Site Size

2.45 acres

AICUZ

Greater than 75 dB DNL; APZ-2

Watershed

Chesapeake Bay

Existing Land Use and Zoning District

Undeveloped lot, bulk storage yard / B-2
Community Business, I-1 Light Industrial

Surrounding Land Uses and Zoning Districts

North

Precision Drive
Office / I-1 Light Industrial

South

Quality Court
Office, warehouse / I-1 Light Industrial

East

London Bridge Road
Naval Air Station Oceana


West

Quality Court
Warehouse / I-1 Light Industrial



Background & Summary of Proposal

- The applicant is requesting a Conditional Use Permit to operate a Bulk Storage Yard on a 2.45-acre portion of a parcel located in the London Bridge Industrial Park west of Naval Air Station Oceana. A by-right office building is also proposed on the property for the applicant's landscaping business.
- The property is comprised of two parcels totaling 8.21-acres that is zoned both I-1 Light Industrial and B-2 Community Business. The applicant intends to resubdivide the parcels to create a total of three lots (Residual Parcel A, Parcel A-2, and Parcel A-3), as depicted on page six of this report.
- A storage facility currently exists on the I-1 zoned portion of the property (Proposed Residual Parcel A) and will remain. There are no immediate plans to develop proposed Parcel A-2, which is currently zoned I-1 and B-2. Proposed Parcel A-3 is zoned B-2 and, as mentioned previously, will be developed by-right with an office building for the applicant's business, a local landscaping company, as well as a Bulk Storage Yard which requires a Conditional Use Permit to store landscaping materials and equipment. The building elevations and renderings for the proposed office building is provided on page nine for illustrative purposes only.
- Section 228 of the Zoning Ordinance requires the Bulk Storage Yard area to be enclosed by Category VI screening. Category VI consists of a minimum six-foot tall solid fence with Category I plantings. The proposed Bulk Storage Yard will be fully enclosed with an eight-foot tall solid privacy fence with Category I plantings, as depicted on the conceptual Landscape Plan thereby meeting this requirement. The conceptual Landscape Plan also depicts the required street frontage, building foundation, and interior parking lot plantings for the by-right business. The conceptual Landscape Plan appears to meet the requirements of the Zoning Ordinance; however, a more detailed review of all screening and planting requirements will occur during the final site plan review.
- The site is located in the highest noise zone of greater than 75 dB DNL and Accident Potential Zone – 2 (APZ-2) of the Air Installations Compatible Use Zones (AICUZ) and is encumbered by a Navy Restrictive Easement that limits use of the property with those compatible with Naval flight operations.

	Zoning History																	
	<table><tr><th>#</th><th>Request</th></tr><tr><td>1</td><td>CUP (Bulk Storage Yard) Approved 08/12/2003 CUP (Contractor's Storage Yard) Approved 02/24/1998</td></tr><tr><td>2</td><td>MDC (Automobile Repair Garage & Contractor's equipment storage) Approved 06/24/2008 CUP (Automobile Repair Garage) Approved 10/13/1992 CUP (Contractor's Equipment Storage) Approved 05/12/1992</td></tr><tr><td>3</td><td>CUP (Automobile Repair Garage & Bulk Storage Yard) Approved 10/29/1996 CUP (Bulk Storage Yard) Approved 05/11/1987</td></tr><tr><td>4</td><td>MOD (Bulk Storage Yard) Approved 02/16/2016 CUP (Bulk Storage Yard) Approved 05/12/1998</td></tr><tr><td>5</td><td>CUP (Bulk Storage Yard) Approved 11/13/1978</td></tr><tr><td>6</td><td>CUP (Automobile Repair Garage) Approved 10/1/2019</td></tr><tr><td>7</td><td>CUP (Equipment Storage yard with Office Warehouse) Approved 07/05/2000</td></tr><tr><td>8</td><td>CUP (Bulk Storage Yard) Approved 03/13/2001</td></tr></table>	#	Request	1	CUP (Bulk Storage Yard) Approved 08/12/2003 CUP (Contractor's Storage Yard) Approved 02/24/1998	2	MDC (Automobile Repair Garage & Contractor's equipment storage) Approved 06/24/2008 CUP (Automobile Repair Garage) Approved 10/13/1992 CUP (Contractor's Equipment Storage) Approved 05/12/1992	3	CUP (Automobile Repair Garage & Bulk Storage Yard) Approved 10/29/1996 CUP (Bulk Storage Yard) Approved 05/11/1987	4	MOD (Bulk Storage Yard) Approved 02/16/2016 CUP (Bulk Storage Yard) Approved 05/12/1998	5	CUP (Bulk Storage Yard) Approved 11/13/1978	6	CUP (Automobile Repair Garage) Approved 10/1/2019	7	CUP (Equipment Storage yard with Office Warehouse) Approved 07/05/2000	8
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Application Types																		
CUP – Conditional Use Permit REZ – Rezoning CRZ – Conditional Rezoning	MDC – Modification of Conditions MDP – Modification of Proffers NON – Nonconforming Use	STC – Street Closure FVR – Floodplain Variance ALT – Alternative Compliance	SVR – Subdivision Variance LUP – Land Use Plan STR – Short Term Rental															

Evaluation & Recommendation

In Staff's opinion, this request for a Conditional Use Permit to operate a Bulk Storage Yard to store landscape materials and equipment is acceptable.

The property is located within the greater than 75 dB DNL noise zone and the APZ-2. The property is also identified in the Comprehensive Plan as within the Special Economic Growth Area (SEGA) 2 - West Oceana. SEGAs are viewed as special areas with significant economic value and growth potential. The Comprehensive Plan supports development and redevelopment of this area consistent with the City's AICUZ Ordinance provisions and the City's economic growth strategy. The proposed Bulk Storage Yard is consistent with the Comprehensive Plan's land use policies for this area, as the majority of the land in the vicinity is zoned for commercial and industrial uses and more specifically, uses that are compatible with Naval flight operations. In Staff's view, the proposed use is compatible with the other industrial uses located within the London Bridge Industrial Park and is deemed compatible with Naval flight operations. While much of this area and the proposed property is subject to a Navy Restrictive Easement, on October 4, 2022, the applicant received a letter from the Department of Navy stating that the proposed use appears to be consistent with the language of the restrictive easement and is, therefore, an appropriate use for this site. This correspondence is provided on page nine of this report.

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

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

Recommended Conditions

1. A Landscape Plan shall be submitted to the Development Services Center of the Department of Planning & Community Development for review and ultimate approval prior to the issuance of a Certificate of Occupancy that is in substantial conformance to the conceptual landscape plan entitled, "Landscape Design", dated June 29, 2022, prepared by Earthscapes Lawn and Land Service, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development.
2. The outdoor storage materials shall not be stacked higher than the privacy fence.
3. The required Category VI screening surrounding the Bulk Storage Yard shall be installed and maintained for the duration of the use of the site as a Bulk Storage Yard.
4. All outdoor lights shall comply with the following:
 - a. 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.
 - b. 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.

Comprehensive Plan Recommendations

This site is located within Special Economic Growth Area (SEGA) 2 - West Oceana. SEGAs are viewed as special areas with significant economic value growth potential, with primary consideration being adjacent to NAS Oceana or within the Interfacility Traffic Area high noise overflight zone. It is recommended that all new or improved development proposals adhere to the City's AICUZ provisions.

Natural & Cultural Resources Impacts

The site is located in the Chesapeake Bay watershed. There are no known significant cultural resources associated with this site.

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
London Bridge Road	34,100 ADT ¹	36,900 ADT ¹ (LOS ⁴ "D")	Existing Land Use (vacant 2.45-acre property)– 0 ADT Existing Zoning ² – 1,210 ADT Proposed Land Use ³ – 99 ADT
Precision Drive	No Data Available	9,900 ADT ¹ (LOS ⁴ "D")	
¹ Average Daily Trips	² as defined by a 2.45-acre B-2 zoned parcel	³ as defined by-right office building with a Bulk Storage Yard	⁴ LOS = Level of Service

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

London Bridge Road is a divided four-lane Major Suburban Arterial roadway and is included on the MTP as a future divided roadway with a bikeway on a 120-foot right-of-way section. No direct access to either of these proposed developments are being proposed and direct access would not be allowed.

Precision Drive is an undivided two-lane local industrial street. It is not shown on the MTP Map. No roadway CIP projects are planned for this section of Precision Drive.

Public Utility Impacts

Water

The site is currently connected to City water. There is an existing 12-inch City water main along London Bridge Road. There is also an existing eight-inch City water main along Precision Drive, and within a variable width public utility easement on adjacent property to the north and along the western property line. Proposed Parcel A-2 and Parcel A-3 must connect to City water with separate services for each parcel.

Sewer

The site is currently connected to City sanitary sewer. There is an existing eight-inch City sanitary sewer gravity main along Precision Drive, and within a variable width public utility easement on adjacent property to the north and along the western property line. Proposed Parcel A-2 and Parcel A-3 must connect to City sanitary sewer with separate services for each parcel.

Public Outreach Information

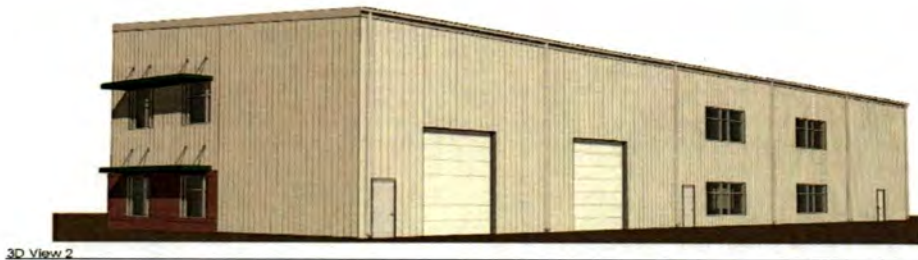
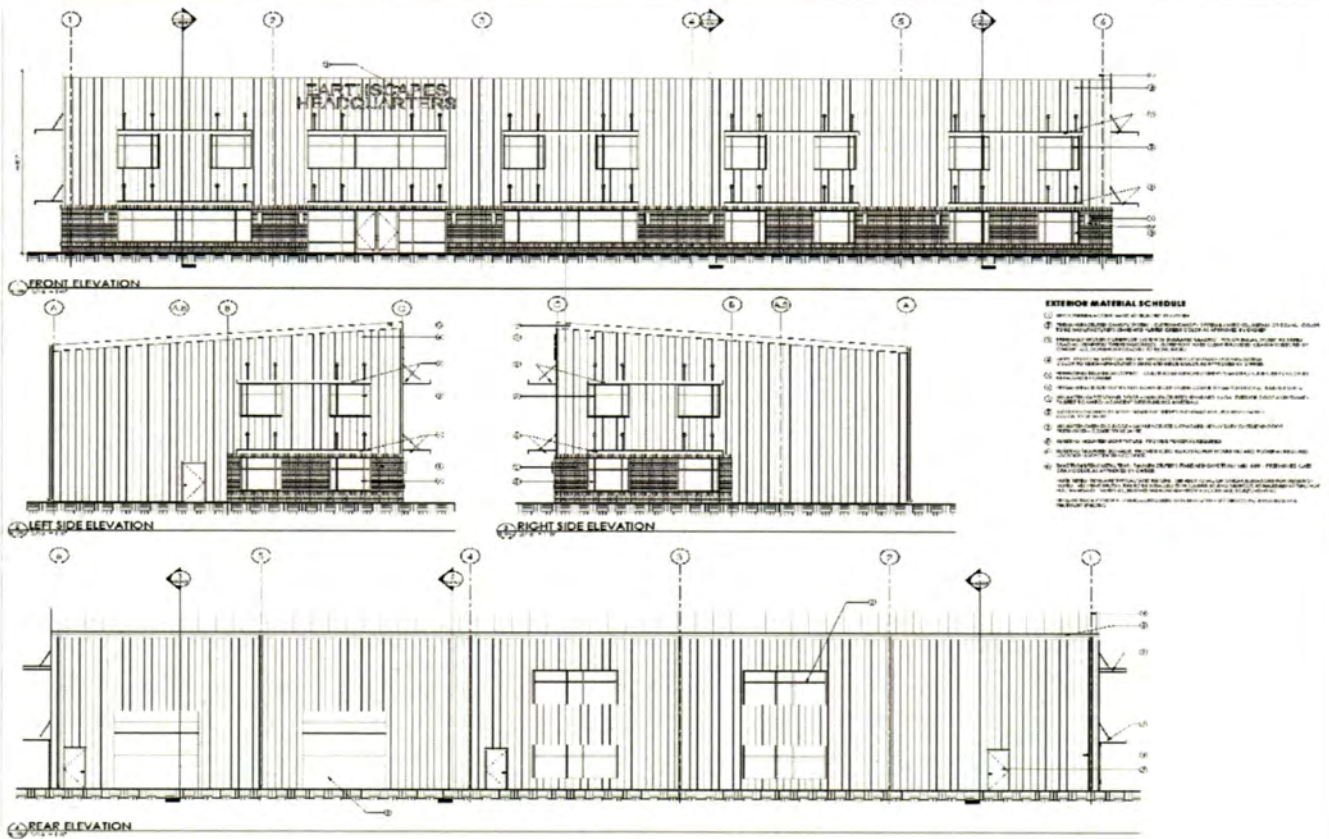
Planning Commission

- One letter of opposition has been received by Staff noting concerns related to the proposed landscaping retail business not aligning with the professional appearance of the industrial park.
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on October 10, 2022.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, October 23, 2022 and October 30, 2022.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on October 24, 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 on November 3, 2022.

City Council

- As required by City Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, November 20, 2022 and November 27, 2022.
- As required by City Code, the adjacent property owners were notified regarding both the request and the date of the City Council's public hearing on November 21, 2022.
- The City Clerk's Office posted the materials associated with the application on the City Council website of <https://www.vbgov.com/government/departments/city-clerk/city-council/Documents/BookmarkedAgenda.pdf> on December 2, 2022.

Proposed Building (By-Right Office Building)



Navy Easement Compliance Review Letter



DEPARTMENT OF THE NAVY
NAVAL AIR STATION OCEANA
1750 TOMCAT BOULEVARD
VIRGINIA BEACH, VIRGINIA 23460-2191

4535
Ser N4/242
October 4, 2022

Mr. Benjamin Hewlett
1929 Thunderbird Drive
Virginia Beach, VA 23454

Dear Mr. Hewitt:

SUBJECT: REQUEST FOR EASEMENT COMPLIANCE REVIEW

Thank you for the request for an easement compliance review for the revised use of the property identified as 619 and 623 London Bridge Road, Virginia Beach, Virginia.

I reviewed an analysis prepared by a Navy Real Estate Contracting Officer and I agree with the conclusion that the property is subject to restrictions resulting from two separate Grants of Easement acquired by the United States of America. Enclosed is a copy of the Review and Findings for your convenience.

Accordingly, the revised proposed use of the property, described as the wholesaling, storing, and distributing of landscape materials, storage garage for the maintenance and storage of vehicles and equipment, the operation of a plant nursery, and office space maintained in connection with the aforementioned uses, is permitted under the terms of the Grants of Easement.

Be aware that our determination is based on your representations of the use and location of the property. Please be advised the U.S. Navy will periodically conduct random reviews in the field, of the properties encumbered by covenants and restrictions to ensure that the interests of the United States are protected.

Thank you for your request on this matter. My point of contact for this matter is Mr. Paul Moomaw, who can be reached at (757) 433-2678 or via e-mail at paul.a.moomaw.civ@us.navy.mil.

Sincerely,

A handwritten signature in blue ink, appearing to read "R. L. Holmes".

R. L. HOLMES
Captain, U.S. Navy
Commanding Officer

Enclosure: 1. Real Estate Contracting Officer's Review and Findings

Copy to: NAVFAC MIDLANT (Codes ARRA12)

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 Earthscapes Enterprises LLC

Does the applicant have a representative? ☒ Yes ☐ No

- If yes, list the name of the representative.

Leslie R. Watson, Esq. and Christopher A. Pocta, Esq., Wolcott Rivers Gates, P.C.

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

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

Josh Eldredge, President; Evan M. Eldredge, Vice President; Edward ("Trey") White, Chief Financial Officer;

Ben Hewlett, Chief Operating Officer

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

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

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

Disclosure Statement



Known Interest by Public Official or Employee

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

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

N/A

Applicant Services Disclosure

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

☒ Yes ☐ No

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

Atlantic Union Bank, Jay Kenslow

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.

Harvey Lindsay Commercial Real Estate, Ryan King

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

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

Gary Pecher, CPA

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

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

Jonathan Covington, Covington Hendrix Anderson Architects

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

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

Applicant is currently under contract to purchase the subject property from the current owners

Disclosure Statement

Disclosure Statement



Planning & Community
Development

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

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

Taylor Construction, Scott Taylor

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

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

Claude Lym, individually; Timothy Fallon, Tim Fallon Land Surveying, PLLC

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

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

Wolcott Rivers P.C., Leslie R. Watson and Christopher A. Pocta

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

Edward White, Chief Financial Officer Earthscapes Lawn and Land Service

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 disclosure must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the application.			
<input checked="" type="checkbox"/>	No changes as of	Date	11/16/2022
		Signature	
		Print Name	Marchelle L. Coleman

Disclosure Statement

Disclosure Statement



Owner Disclosure

Owner Name Valianos Properties, LLC

Applicant Name Earthscapes Enterprises 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)

Jerry E. Valianos

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

Known Interest by Public Official or Employee

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

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

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

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

Disclosure Statement

Disclosure Statement



Owner Services Disclosure

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

☐ Yes ☒ No

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

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

☒ Yes ☐ No

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

Eric Bucklew Berkshire Hathaway

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

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

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

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

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

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

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

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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.

Claude Lym Site Improvement Associates

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.

Amy Harman Kaufman & Condes

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.

Jerry E. Valianos

Owner Signature

Jerry E. Valianos member

Print Name and Title

5-19-22

Date

Disclosure Statement

Disclosure Statement



Owner Disclosure

Owner Name JEM, LLC

Applicant Name Earthscapes Enterprises 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)

Jerry E. Valianos

Ekaterini J. Valianos

Mellie Valianos-Reynolds

Ernest J. Valianos

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

Known Interest by Public Official or Employee

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Disclosure Statement



Owner Services Disclosure

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

☐ Yes ☒ No

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

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

☒ Yes ☐ No

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

Eric Bucklew Berkshire Hathaway

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

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

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

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

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

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

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

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

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

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

Claude Lynn Site Improvements Associates

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.

Amy Harman Kaufman & Canoles

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.

Jerry Valianos

Owner Signature

JERRY VALIANOS Member

Print Name and Title

6-1-22

Date

Next Steps

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

**Virginia Beach Planning Commission
November 9, 2022 Public Meeting
Agenda Item # 4**

Earthscapes Enterprises, LLC (Applicant)
Valianos Properties, LLC & JEM, LLC (Property Owner)

Conditional Use Permit (Bulk Storage Yard)

Addresses: 619 & 623 London Bridge Road

RECOMMENDED FOR APPROVAL – CONSENT

- Mr. Wall: Okay, thank you. The next order of business is the consent agenda, and I'm going to turn that over to Mr. Wiener who is going to be acting as the vice chair in place of Mr. Alcaraz today to run that portion of the meeting.
- Mr. Weiner: Thank you, Mr. Chairman. Though today we have 9 applications on the Consent Agenda. The first one is item number 4 Earthscapes Enterprise, Valianos Properties. Conditional Use Permit for bulk storage yard at 619 & 623 London Bridge Road. Is the applicant available?
- Mr. Pocta: Hello, good afternoon. Mr. Chairman, members of Planning Commission. My name is Chris Pocta. I'm counsel for the applicant Earthscapes Enterprises, LLC. We appreciate being put on the consent agenda, and we also wanted to thank Ms. Coleman for her and her staff's hard work on this project.
- Mr. Weiner: All the conditions acceptable?
- Mr. Pocta: The conditions are acceptable.
- Mr. Weiner: Thank you. Is there any opposition to this being placed on the Consent Agenda? Hearing none, we've asked Mr. Bradley to read this into the record please.
- Mr. Bradley: Thank you. The applicant is requesting a Conditional Use Permit to operate a bulk storage yard on 2.45 acre portion of a parcel located in the London Bridge Industrial Park West of Naval Air Station Oceana, a by-right office building is also proposed on a property for the applicants landscaping business. The property is comprised of two parcels totaling 8.21 acres that is zoned both I-1 Light Industrial and B-2 Community Business. The applicant intends to re-subdivide the parcels to create a total of three lots. Planning staff recommended this, there are no speakers at this meeting. So, the Planning Commission decided to put it on the consent agenda.
- Mr. Weiner: Thank you, Mr. Redmond. Mr. Chairman, I move for approval on the consent agenda. That's the end of our consent agenda. I move for approval on the consent agenda items 4, 7, 10, 11, 13, 14 through 19, 20, 21, 22 through 38.

Mr. Wall: Okay, all right. Thank you, So, Planning Commission places those on the consent agenda. So, the motion is...

Mr. Weiner: The Planning Commission places those agenda items on the consent agenda.

Mr. Wall: So, do I have a motion?

Mr. Weiner: We made it.

Mr. Wall: You made it right, but did you make it on?

Mr. Weiner: Yes.

Mr. Wall: I see that, just checking. So, the motion is made by Mr. Wiener? Is there a second? So, second by Ms. Cuellar. Are there any abstentions? Okay, vote is open.

Madam Clerk: Vote is open. By a vote of 8 to 0 agenda items 4, 7, 10, 11, 13, 14 through 19, 20, 21, and 22 through 38 have all been recommended for approval by consent.

	AYE 8	NAY 0	ABS 0	ABSENT 3
Alcaraz				ABSENT
Bradley	AYE			
Clemons	AYE			
Coston				ABSENT
Cuellar	AYE			
Frankenfield	AYE			
Horsley	AYE			
Oliver				ABSENT
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

CONDITIONS

1. A Landscape Plan shall be submitted to the Development Services Center of the Department of Planning & Community Development for review and ultimate approval prior to the issuance of a Certificate of Occupancy that is in substantial conformance to the conceptual landscape plan entitled, "Landscape Design", dated June 29, 2022, prepared by Earthscapes Lawn and Land Service, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development.
2. The outdoor storage materials shall not be stacked higher than the privacy fence.
3. The required Category VI screening surrounding the Bulk Storage Yard shall be installed and maintained for the duration of the use of the site as a Bulk Storage Yard.
4. All outdoor lights shall comply with the following:
 - a. 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.
 - b. 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.

From: [David Hackbirth](#)
To: [Marchelle L. Coleman](#)
Subject: Earth Enterprise LLC - Conditional Rezoning From L1 Light Industrial to B2 Community Business District 619 & 623 London Bridge Road, VA. Beach.
Date: Tuesday, August 9, 2022 4:53:15 PM
Attachments: [20220803172521210.pdf](#)

CAUTION: This email originated from outside of the City of Virginia Beach. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To whom it may concern:

I am writing to you as a representative and officer of The Miller Group. We own the adjacent property to the requested conditional rezoning request located at 619 & 623 London Bridge Road, VA. Beach. Moreover, we own several properties and are in the process of developing several future properties in the business park and are in opposition of this request. We are of the feeling that this is a designated industrial business park and should continue to promote/maintain a professional appearance. This would be consistent to attract future companies and business in the park.

Several major companies, i.e. ... Amazon, Prufex, JES, and Doma Technologies have invested millions of dollars in this park with the intent of a professional appearance, thus this request would degrade/devalue their investments. By granting B2 Community Business District will create an undesirable retail and traffic issue along London Bridge Road. Specifically, a landscaping retail business would not be the ideal best "sources and uses" of the property, as this request does not align with any existing tenants/owners. Thank you, DH

Thank you,
David W. Hackbirth, Jr.
Senior Vice President

The Miller Group
2649 Production Road
Virginia Beach, VA 23454

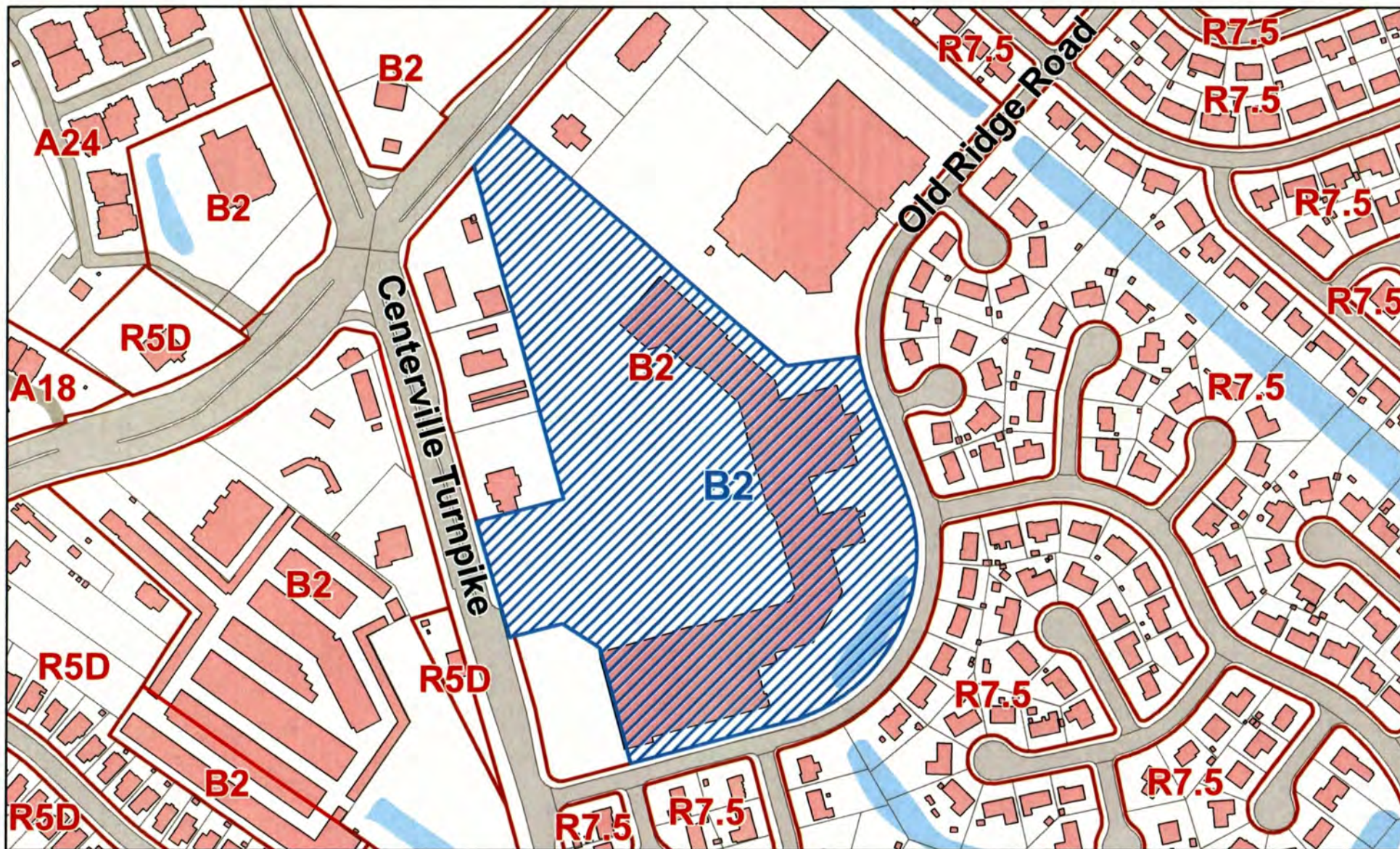
office: 757.452.4603
cell: 757.641.0623
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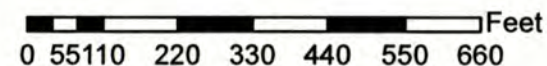
IMPORTANT NOTICE: Cyber criminals are preying on real estate and construction transactions. They will hack email accounts, spoof email addresses, and send emails with fake wiring, fake funds delivery instructions and phone numbers. These emails are convincing and sophisticated. Always

independently confirm wiring and funding instructions over the phone with the authorized party. The Miller Group and our affiliates will not be responsible for misdelivered funds due to third-party fraud.



-  Site
-  Property Polygons
-  Zoning
-  Building

Fantasy Tattoo Company
1920 Centerville Turnpike, Suite 118





CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: FANTASY TATTOO COMAPNY [Applicant] WCSC, LLC [Property Owner] Conditional Use Permit (Tattoo Parlor) for the property located at 1920 Centerville Turnpike, Suite 118 (GPIN 1455914345). COUNCIL DISTRICT 7, formerly Centerville

MEETING DATE: December 6, 2022

■ **Background:**

This is a Conditional Use Permit request to operate a traditional Tattoo Parlor within in the Woods Corner Shopping Center. The property is located along Centerville Turnpike just south of the intersection with Kempsville Road. According to the applicant, up to six artists will rent booth space within the establishment.

■ **Considerations:**

The only exterior change to the building proposed will be the installation of new wall signage. Prior to operating on the site, the applicant is required to obtain a business license and the Health Department must verify that the business meets all the requirements of Chapter 23 of the City Code. This section of the code establishes standards for disclosure, hygiene, licenses, waivers, proof of age, recordkeeping, inspections, cleanliness, vaccinations, and permitting. A Certificate of Occupancy will not be issued until the requirements of the Health Department are met. This retail service will be consistent with other retail establishments in the shopping center.

Further details pertaining to the application, as well as Staff's evaluation, are provided in the attached Staff Report. A petition of support with 11 signatures from the tenants of the shopping center and a letter of support was submitted. There is no known opposition to this request.

■ **Recommendation:**

On November 9, 2022, the Planning Commission passed a motion to recommend this item on the Consent Agenda, passing a motion by a recorded vote of 8-0, to recommend approval of this request.

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

2. The actual application of tattoos shall not be visible from the exterior of the establishment or from the waiting and sales area within the establishment.
3. Any on-site signage for the establishment shall meet the requirements of the City Zoning Ordinance, and there shall be no neon, electronic display or similar sign 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 Planning Department for the installation of any new signs.

■ **Attachments:**

Staff Report and Disclosure Statements
Location Map
Minutes of Planning Commission Hearing
Petition of Support (11)
Letter of Support (1)

Recommended Action: Staff recommends Approval. Planning Commission recommends Approval.

Submitting Department/Agency: Planning Department

AG

City Manager:

L. W. O'Brien for PHD

Request

Conditional Use Permit (Tattoo Parlor)

Staff Recommendation

Approval

Staff Planner

Michaela D. McKinney

Location

1920 Centerville Turnpike, Suite 118

GPIN

1455914345

Site Size

1,486 square feet

AICUZ

Less than 65 dB DNL

Watershed

Southern Rivers

Existing Land Use and Zoning District

Shopping center / B-2 Community Business

Surrounding Land Uses and Zoning Districts

North

Kempsville Road

Religious Use / B-2 Community Business

South

Single-family dwellings / R-7.5 Residential

East

Shopping center, single-family dwellings / B-2

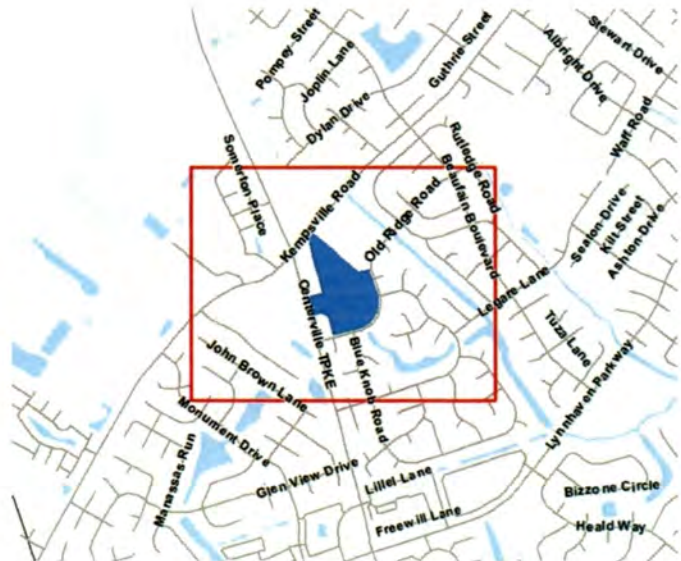
Community Business, R-7.5 Residential

West

Centerville Turnpike


Restaurant, single-family dwelling / B-2

Community Business, R-5D Residential



Background & Summary of Proposal

- The applicant is requesting a Conditional Use Permit to operate a traditional Tattoo Parlor within a suite of the Woods Corner Shopping Center. The property is zoned B-2 Community Business and is located along Centerville Turnpike just south of the intersection with Kempsville Road.
- The Tattoo Parlor will occupy a 1,486 square foot unit.
- According to the applicant, up to six artists will rent booth space within the unit.
- The typical hours of operation are proposed as between 11:00 a.m. to 9:00 p.m., Tuesday through Saturday, by appointment only.
- The only exterior change to the building proposed will be the installation of new wall signage.

	Zoning History																					
	<table><tr><th>#</th><th>Request</th></tr><tr><td>1</td><td>CUP (Bingo Hall) Approved 09/23/2008</td></tr><tr><td>2</td><td>CUP (Automobile Service Station) Approved 12/09/1998</td></tr><tr><td>3</td><td>MDC Approved 10/09/1996</td></tr><tr><td>4</td><td>CUP (Borrow Pit) Approved 01/13/1993 CRZ (R5D to R5D with a PD-H2 Overlay) Approved 12/09/1998 CRZ (R5-D to Conditional A-18) Approved 01/18/2017</td></tr><tr><td>5</td><td>MDC Approved 05/08/2007</td></tr><tr><td>6</td><td>CUP (Automobile Service Station) Approved 01/16/2019</td></tr><tr><td>7</td><td>CUP (Mini-Warehouse) Approved 12/09/2003 MDP Approved 12/09/2003 CRZ (R5-D to Conditional B-2) Approved 12/09/2003 CUP (Mini Warehouse, Office Building, Manager's residence) Approved 02/11/2003</td></tr><tr><td>8</td><td>CUP (Church Expansion) Approved 09/28/1999 CUP (Church Expansion) Approved 04/26/2002</td></tr><tr><td>9</td><td>CRZ (O-2 Office District to Conditional B-2) Approved 06/13/2016 CUP (Craft Brewery) Approved 06/13/2016</td></tr></table>			#	Request	1	CUP (Bingo Hall) Approved 09/23/2008	2	CUP (Automobile Service Station) Approved 12/09/1998	3	MDC Approved 10/09/1996	4	CUP (Borrow Pit) Approved 01/13/1993 CRZ (R5D to R5D with a PD-H2 Overlay) Approved 12/09/1998 CRZ (R5-D to Conditional A-18) Approved 01/18/2017	5	MDC Approved 05/08/2007	6	CUP (Automobile Service Station) Approved 01/16/2019	7	CUP (Mini-Warehouse) Approved 12/09/2003 MDP Approved 12/09/2003 CRZ (R5-D to Conditional B-2) Approved 12/09/2003 CUP (Mini Warehouse, Office Building, Manager's residence) Approved 02/11/2003	8	CUP (Church Expansion) Approved 09/28/1999 CUP (Church Expansion) Approved 04/26/2002	9
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Application Types																						
CUP – Conditional Use Permit	MDC – Modification of Conditions	STC – Street Closure	SVR – Subdivision Variance																			
REZ – Rezoning	MDP – Modification of Proffers	FVR – Floodplain Variance	LUP – Land Use Plan																			
CRZ – Conditional Rezoning	NON – Nonconforming Use	ALT – Alternative Compliance	STR – Short Term Rental																			

Evaluation & Recommendation

In Staff's opinion, the request for a Conditional Use Permit for a Tattoo Parlor is consistent with the Comprehensive Plan's land use policies for the Centerville Area and consistent with the commercial nature of the surrounding properties. This site is located within the Southern Rivers Watershed and will not need to undergo stormwater analysis since there is no new construction proposed. The operation of a Tattoo Parlor is not expected to negatively impact other uses within the shopping center or in the vicinity. The Tattoo Parlor is considered to be a compatible use within the shopping center. Staff does not anticipate a significant increase in traffic volume with the addition of this use at this location.

Prior to operating on the site, the applicant is required to obtain a business license and the Health Department must verify that the business meets all the requirements of Chapter 23 of the City Code. This section of the code establishes standards for disclosure, hygiene, licenses, waivers, proof of age, recordkeeping, inspections, cleanliness, vaccinations, and permitting. A Certificate of Occupancy will not be issued until the requirements of the Health Department are met.

The applicant is proposing to install new wall signage that is similar to the other signs within the shopping center. Given that the applicant is in the early design stages, Staff has included a condition to ensure any future signage be in compliance with the Zoning Ordinance.

The applicant's outreach efforts with surrounding tenants resulted in a petition of support with 10 signatures. That petition will be provided to the Planning Commission in the supplement package.

For the reasons stated above, Staff recommends approval of this application, subject to the conditions 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 for consistency with the provisions of Chapter 23 of the City Code.
2. The actual application of tattoos shall not be visible from the exterior of the establishment or from the waiting and sales area within the establishment.
3. Any on-site signage for the establishment shall meet the requirements of the City Zoning Ordinance, and there shall be no neon, electronic display or similar sign 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 Planning Department 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 Centerville Strategic Growth Area. The vision for the Centerville SGA is that of a mixed-use central village with connected trails to campus life, diverse neighborhoods, office, retail, and open space. The implementation strategies will build on the momentum generated by the impending road expansion to stitch together a cohesive University District.

Natural & Cultural Resources Impacts

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

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Centerville Turnpike	12,800 ADT ¹	12,500 ADT ¹ (LOS ³ "D") 13,200 ADT ¹ (LOS ³ "E")	No Change Anticipated ²
Kempsville Road	28,180 ADT ¹	32,700 ADT ¹ (LOS ³ "D")	
¹ Average Daily Trips		² as defined by a tattoo parlor in a shopping center	
³ LOS= Level of Service			

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

Centerville Turnpike, in the vicinity of this site, is a two-lane minor suburban arterial roadway. Centerville Turnpike has a variable width right-of-way, and the MTP shows a divided roadway with an ultimate right-of-way width of 150 feet.

Public Utility Impacts

Water & Sewer

This site is connected to both City water and sanitary sewer service.

Public Outreach Information

Planning Commission

- The applicant reported that they met with the surrounding ~~property owners~~ tenants. A petition of support with ~~10~~ 11 signatures have been received by Staff.
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on October 10, 2022.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, October 23, 2022 and October 30, 2022.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on October 24, 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 on November 3, 2022.

City Council

- As required by City Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, November 20, 2022 and November 27, 2022.
- As required by City Code, the adjacent property owners were notified regarding both the request and the date of the City Council's public hearing on November 21, 2022

- The City Clerk's Office posted the materials associated with the application on the City Council website of <https://www.vbgov.com/government/departments/city-clerk/city-council/Documents/BookmarkedAgenda.pdf> on December 2, 2022.

Existing Site Layout



Site Photos



Disclosure Statement

Disclosure Statement



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

Applicant Disclosure

Applicant Name Fantasy Tattoo Company

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. Cary IV

Daniel G. Cardona

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

None

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

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

Disclosure Statement

Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

☐ Yes ☒ No

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

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

☒ Yes ☐ No

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

Jay Sloan - Alpha Real Estate Investment Advisors

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.

Star Money Tax Services - Aliya Aminova

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.

All Around Construction - Jon Uransky

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.

Gregory Montero - Inman and Strickler P.L.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

William J. Cary IV - President Daniel G. Cardona - V. President

Print Name and Title

8-12-22

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

☒

No changes as of

Date

11/18/22

Signature

Michaela D. McKinney

Print Name

Michaela D. McKinney

Disclosure Statement

Disclosure Statement



Owner Disclosure

Owner Name WCSC, LLC

Applicant Name Fantasy Tattoo Company

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

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

Mark F Garcea, owner member

Page S. Johnson, II, member

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

Northampton Executive Center, LLC - affiliated business entity

Known Interest by Public Official or Employee

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

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

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

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

Disclosure Statement

Disclosure Statement



Owner Services Disclosure

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

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

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

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

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

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

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

Disclosure Statement

Disclosure Statement



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

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

Owner Signature

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

A handwritten signature in black ink, appearing to read 'Page S. Johnson', written over a horizontal line.

Owner Signature

Page S. Johnson, II Manager

Print Name and Title

8/30/2022

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.

**Virginia Beach Planning Commission
November 9, 2022, Public Meeting
Agenda Item # 11**

Fantasy Tattoo Company (Applicant)
WCSC, LLC (Property Owner)

Conditional Use Permit (Tattoo Parlor)

Address: 1920 Centerville Turnpike, Suite 118

RECOMMENDED FOR APPROVAL – CONSENT

Mr. Weiner: Thank you sir. Next is item number 11, Fantasy Tattoo Company. WCSC, LLC, Conditional Use Permit for tattoo parlor at 1920 Centerville Turnpike. Please state your name for the record.

Mr. Cardona: Good afternoon. Daniel Cardona and this is Jamie Carey. We are partners in Fantasy Tattoo. Thanks so much for hearing us today.

Mr. Weiner: All the conditions are acceptable?

Mr. Cardona: Yes sir.

Mr. Weiner: Okay, great. Any opposition to this being placed on the consent agenda? Hearing none, Mr. Frankenfield has volunteered to read this into the record because he said he always wanted to get a tattoo.

Mr. Frankenfield: This applicant is requesting a Conditional Use Permit to operate a traditional tattoo parlor at the Woods Corner Shopping Center. The property meets all the requirements of staff and city ordinances and has support from 10 other retail operators in the shopping center. So for all those reasons, staff recommended approval and Planning Commission recommends consent. Thank you very much.

Mr. Weiner: Thank you, Mr. Redmond. Mr. Chairman, I move for approval on the consent agenda. That's the end of our consent agenda. I move for approval on the consent agenda items 4, 7, 10, 11, 13, 14 through 19, 20, 21, 22 through 38.

Mr. Wall: Okay, all right. Thank you. So Planning Commission places those on the consent agenda. So the motion is...

Mr. Weiner: The Planning Commission places those agenda items on the consent agenda.

Mr. Wall: So do I have a motion?

Mr. Weiner: We made it.

Mr. Wall: You made it right, but did you make it on?

Mr. Weiner: Yes.

Mr. Wall: I see that, just checking. So the motion is made by Mr. Wiener? Is there a second? So second by Ms. Cuellar. Are there any abstentions? Okay, vote is open.

Madam Clerk: Vote is open. By a vote of 8 to 0 agenda items 4, 7, 10, 11, 13, 14 through 19, 20, 21, and 22 through 38 have all been recommended for approval by consent.

	AYE 8	NAY 0	ABS 0	ABSENT 3
Alcaraz				ABSENT
Bradley	AYE			
Clemons	AYE			
Coston				ABSENT
Cuellar	AYE			
Frankenfield	AYE			
Horsley	AYE			
Oliver				ABSENT
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

CONDITIONS

1. A business license for the Tattoo Parlor shall not be issued to the applicant without the approval of the Health Department for consistency with the provisions of Chapter 23 of the City Code.
2. The actual application of tattoos shall not be visible from the exterior of the establishment or from the waiting and sales area within the establishment.
3. Any on-site signage for the establishment shall meet the requirements of the City Zoning Ordinance, and there shall be no neon, electronic display or similar sign 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 Planning Department 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

Turnpike, suite 118

Printed Name	Signature	Business Name	Contact Number	Date
Brandi	Brandi	Wing King	(757) 479-9404	9/19/22
Valarie Williams	Valarie	Essentials Salon	757-479-8587	
Hoang Treuong	Hoang	Lovely Nails II	(757) 479-5633	9/19/22
Ken Tran	Ken	Sun & Co	757-502-0880	9-9-22
Shelby Wolf	Shelby	Farmhouse Brewing	757-201-0663	9/17/22
Stephanie Ellis	Stephanie Ellis	Bubba-N-Franks	(484) 326-8171	9/16/22
Charlie Wilkins	Charlie	Bubba-N-Franks	(757) 635-4340	
Cristian Aguilera	Cristian	3 Amigos	757) 479-4100	9/21/22
Lavinenda Estlan	Lavinenda	Glory's bakery	757-479-3316	9/21/22
Cheryl Pearce	Cheryl	Brothers Pizza	419-519-5930	9/21/22
Lizzie Roberts	Lizzie Roberts	Kelly's Tavern	(757) 615-9978	9/21/22

L. APPOINTMENTS

2040 VISION TO ACTION COMMUNITY COALITION
ACTIVE TRANSPORTATION ADVISORY COMMITTEE
ADVERTISING ADVISORY COMMITTEE
AGRICULTURAL ADVISORY COMMISSION
ATLANTIC COMMUNITY DEVELOPMENT AUTHORITY
AUDIT COMMITTEE
BAYFRONT ADVISORY COMMISSION
BEACHES AND WATERWAYS ADVISORY COMMISSION
BOARD OF BUILDING CODE APPEALS
BOARD OF ZONING APPEALS
CHESAPEAKE BAY PRESERVATION AREA BOARD
CLEAN COMMUNITY COMMISSION
COMMUNITY SERVICES BOARD
DEFERRED COMPENSATION BOARD
EASTERN VIRGINIA MEDICAL SCHOOL BOARD
GREEN RIBBON COMMITTEE
HAMPTON ROADS PLANNING DISTRICT COMMISSION
HEALTH SERVICES ADVISORY BOARD
HISTORIC PRESERVATION COMMISSION
HOUSING ADVISORY BOARD
INDEPENDENT CITIZEN REVIEW BOARD
IN-HOUSE PHARMACY EXPLORATORY COMMITTEE
MILITARY ECONOMIC DEVELOPMENT ADVISORY COMMITTEE
OPEN SPACE ADVISORY COMMITTEE
PARKS AND RECREATION COMMISSION
PLANNING COMMISSION
PROCESS IMPROVEMENT STEERING COMMITTEE
RESORT ADVISORY COMMISSION
SOCIAL SERVICES ADVISORY BOARD
TA/ITA CITIZENS ADVISORY COMMITTEE
TRANSPORTATION DISTRICT COMMISSION OF HAMPTON ROADS
URBAN AGRICULTURE ADVISORY COMMITTEE
VIRGINIA BEACH CANNABIS ADVISORY TASK FORCE
WETLANDS BOARD

M. UNFINISHED BUSINESS

N. NEW BUSINESS

O. ADJOURNMENT

OPEN DIALOGUE

Non-Agenda Items

Each Speaker will be allowed 3 minutes

If you are **physically disabled** or **visually impaired**
and need assistance at this meeting,
please call the **CITY CLERK'S OFFICE** at 385-4303

The Agenda (including all backup documents) is available at
<https://www.vbgov.com/government/departments/city-clerk/city-council> under the eDocs
Document Archive. If you would like to receive by email a list of the agenda items for each
Council meeting, please submit your request to TChelius@vbgov.com or call 385-4303.

Citizens who wish to speak can sign up either in-person or virtually via WebEx. Anyone wishing to
participate virtually, must follow the **two-step process** provided below:

1. Register for the WebEx at:
<https://vbgov.webex.com/vbgov/onstage/g.php?MTID=e4223ccbc43457b0de2a434e079f33d9f>
2. Register with the City Clerk's Office by calling 757-385-4303 prior to 5:00 p.m. on
December 6, 2022.

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CITY OF VIRGINIA BEACH SUMMARY OF COUNCIL ACTIONS					B E R L U C H I	B R A N C H	D Y E R	H E N L E Y	H O L C O M B	M I L E S	M O S S	R O U S E	T O W E R	W I L S O N	W O O T E N
DATE: 11/15/2022											PAGE: 2				
AGENDA ITEM #	SUBJECT	MOTION	VOTE												

PAGE: 2

VOTE

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CONCLUSIONS

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**CITY OF VIRGINIA BEACH
SUMMARY OF COUNCIL ACTIONS**

DATE: 11/15/2022

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AGENDA

ITEM #

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APPOINTMENTS

2040 VISION TO ACTION COMMUNITY
COALITION
ACTIVE TRANSPORTATION ADVISORY
COMMITTEE
AGRICULTURAL ADVISORY
COMMISSION
BAYFRONT ADVISORY COMMISSION
BEACHES AND WATERWAYS
ADVISORY COMMISSION
BOARD OF BUILDING CODE APPEALS
BOARD OF ZONING APPEALS
CHESAPEAKE BAY PRESERVATION
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COMMUNITY SERVICES BOARD
GREEN RIBBON COMMITTEE
HEALTH SERVICES ADVISORY BOARD
HISTORIC PRESERVATION
COMMISSION
INDEPENDENT CITIZEN REVIEW
BOARD
MILITARY ECONOMIC DEVELOPMENT
ADVISORY COMMITTEE
OPEN SPACE ADVISORY COMMITTEE
PARKS AND RECREATION
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PLANNING COMMISSION
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COMMITTEE
URBAN AGRICULTURE ADVISORY
COMMITTEE
VIRGINIA BEACH CANNABIS
ADVISORY TASK FORCE
WETLANDS BOARD

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