

OCEAN PARK BAPTIST CHURCH

TO (PROFFERED COVENANTS, RESTRICTIONS AND CONDITIONS)

CITY OF VIRGINIA BEACH, a municipal corporation of the commonwealth of Virginia

THIS AGREEMENT (“Agreement” or “Declaration”) made this day June 25th of 2024, by and between OCEAN PARK BAPTIST CHURCH; (“GRANTORS”), Grantors for indexing purposes, and THE CITY OF VIRGINIA BEACH, a municipal corporation of the Commonwealth of Virginia, being referred to herein as “GRANTEE”.

WITNESSETH:

WHEREAS, GRANTOR is the owner of that certain parcel of real property located in the City of Virginia Beach, Virginia, described as Lots 5 – 8, Block 15, Ocean Park, commonly known as 3624 Dupont Circle, Virginia Beach, VA 23455, GPIN # 14894887400000, more particularly described in Exhibit A attached hereto and incorporated herein by reference (“Property”);

WHEREAS, GRANTOR has initiated a conditional amendment to the Zoning Map of the City of Virginia Beach, Virginia, by Petition addressed to GRANTEE so as to change the Zoning Classification of the Property from R-5R (with a conditional use permit for religious use) to conditional B-1A, with a conditional use permit for assembly use

WHEREAS it is GRANTEE’s policy to provide only for the orderly development of land for various purposes through zoning and other land development legislation;

WHEREAS, GRANTOR acknowledges that the competing and sometimes incompatible development of various types of uses conflict and that in order to permit differing types of uses on and in the area of the Property, and at the same time to recognize the effects of change that will be created by the proposed rezoning, certain reasonable conditions governing the use of the Property for the protection of the community that are not generally applicable to land similarly zoned are needed to resolve the situation to which the proposed rezoning gives rise; and

WHEREAS, GRANTOR has voluntarily proffered, in writing in advance of and prior to the public hearing before GRANTEE, as part of the proposed amendments to the Zoning Map of the City of Virginia Beach, Virginia “(Zoning Map”) with respect to the Property, the following reasonable conditions related to the physical development, operation and use of the Property to be adopted as a part of said amendment to the Zoning Map relative and applicable to the property, which have a reasonable relation to the proposed rezoning and the need for which is generated by the proposed rezoning.

NOW, THEREFORE, the GRANTOR and its successors, assigns, grantees and other successors in title or interest, voluntarily and without any requirement by or exaction from the GRANTEE or its governing body, and without any element of compulsion or quid pro quo for zoning, rezoning, site plan, building permit, or subdivision approval, hereby makes the

GPIN# 14894887400000

following declaration of covenants and restrictions which shall restrict and govern the physical development, operation and use of the Property and hereby covenants and agrees that these proffers shall constitute covenants running with the Property, which shall be binding upon the Property and upon all parties and persons claiming under or through the GRANTOR and its successors, assigns, grantees and other successors in interest or title:

1. The Property shall be maintained and utilized in substantial conformity with that certain survey prepared by Jeffrey D. Williams of Rouse-Sirine and Associates, dated February 28, 2024, which has been exhibited to the Virginia Beach City Council ("City Council") and is on file with the Virginia Beach Department of Planning ("Planning Department"), which survey is incorporated herein by reference.
2. The architectural design and building materials of the buildings presently existing on the Property shall be maintained and any exterior renovations and repairs shall be substantially compatible with the architectural design and building materials presently existing on the structures.
3. The Property is currently landscaped and shall be maintained in substantial conformity with the conceptual landscape plan entitled "Ocean Park Baptist Church", Virginia Beach, Virginia, prepared by Jess Nelson for Painted Fern, dated April 3rd, 2024, which has been exhibited to City Council and is on file with the Planning Department, which landscape plan is incorporated herein by reference.

The following potential uses under B-1A zoning which require a Conditional Use Permit are hereby specifically reserved:

-Assembly Uses (event venue)-pursuant to a Conditional Use Permit

-Daycare Center and Childcare Education Centers-pursuant to a Conditional Use Permit

-Religious Uses with a floor area greater than four thousand (4,000) square feet-pursuant to a Conditional Use Permit

4. The following uses ordinarily permitted by right under B-1A zoning which do not require a conditional use permit, and as described and set forth in the City of Virginia Beach zoning ordinance, are reserved: (i) Animal hospital, veterinary establishment, pounds, shelters, commercial kennels, provided all animals shall be kept in soundproofed, air-conditioned buildings; (ii) Bakeries, confectioneries and delicatessens, provided that products prepared or processed on the premises shall be sold only at retail and only on premises; (iii) Business studios, offices and clinics; (iv) Eating and drinking establishments without drive-through windows; (v) Florists, gift-shops and stationary stores; (vi) Green houses and plant nurseries; (vii) Medical and dental offices and clinics; (viii) Museums and Art galleries.

All other uses otherwise permitted by right or permitted with a conditional use permit in the B-1A Community Business District shall be specifically excluded and prohibited, including but not limited to: (i) wind energy conversion systems, freestanding; (ii) recreational and amusement facilities of an outdoor nature, which may be partially or temporarily enclosed on a seasonal basis with approval of city council; (iii) repair and sales for radio and television and other household appliances and small business machines; (iv) public utilities installations and substations provided storage and maintenance facilities shall not be permitted; (v) radio and television broadcasting stations; (vi) newspaper printing and publishing, job and commercial printing; (vii) personal watercraft rentals; (viii) laundry and dry cleaning agencies; (ix) liquor stores, package only; (x) mini warehouses; must comply with the provisions of section 242.2; (xi) housing for seniors and disabled persons or handicapped, including convalescent or nursing; maternity homes; daycare centers other than covered under permitted principal uses hereinabove, provided that the maximum height shall not exceed one hundred sixty-five (165) feet provided, however, that no structure shall exceed the height limit established by section 202(b) regarding air navigation; (xii) grocery stores, carry-out food stores and convenience stores whether or not freestanding, but in a structure of a gross floor area of not less than five thousand (5,000) square feet; (xiii) furniture repair and upholstering, repair services for radio and television and household appliances other than those with gasoline engines; carpet and linoleum laying; tile setting, sign shops and other small service businesses; (xiv) communication towers standard process; (xv) drug stores, beauty shops and barber shops and other similar personal service establishments; (xvi) business and vocational schools which do not involve the operation of woodwork shops, machine shops or other similar facilities, with a maximum floor area of seven thousand five hundred (7,500) square feet; (xvii) colleges and universities, public or private; (xviii) automobile museums; (xix) wine tasting rooms, subject to the provisions of section 209.4..

5. All onsite signage shall meet the requirements of the City Zoning Ordinance, unless otherwise approved by the Board of Zoning Appeals. The proposed sign package will be submitted to the Zoning Administrator for review and approval prior to the issuance of a sign permit.
6. All lighting on the Property shall be limited to that necessary for security purposes and to comply with applicable city zoning ordinance and shall be shielded to prevent any unnecessary glare and spillover onto adjacent properties.
7. All parking for guests shall be limited to onsite parking in paved parking areas. Valet will be required for events over 20 vehicles and Shuttle service required for events over 50 vehicles. City street parking in city right of ways shall not be utilized by guests except for the pickup and drop off of guests, shuttle vehicles, and valet.

8. The church property shall be made available to the community free of charge for civic league events at a minimum of two times a year. Those events will not take place on days that are essential for the success of the event venue.
9. Any alcohol service on the premises shall terminate no later than 9:45 PM on weekends (Friday evening through Sunday). During the week, any alcohol service will end no later than 8:45 PM.
10. All events shall comply with the Virginia Beach Noise Ordinance as currently existing and as revised or amended in the future.

All references herein to the B-1A Community Business District and to the requirements and regulations applicable thereto refer to the City Zoning Ordinance and Subdivision Ordinance of the City of Virginia Beach, Virginia in force as of the date of approval of this Agreement by City Council, which are by this reference incorporated herein.

The above conditions, having been proffered by GRANTOR and allowed and accepted by GRANTEE as part of the amendments to the Zoning Ordinance of the City of Virginia Beach, Virginia, in force as of the date this Agreement, is approved by City Council, shall continue in full force and effect until a subsequent amendment changes the zoning of the Property and specifically repeals such conditions. Such conditions shall continue despite a subsequent amendment to the Zoning Ordinance even if the subsequent amendment is part of a comprehensive implementation of a few or substantially revised Zoning Ordinance until specifically repealed. The conditions, however, may be repealed, amended or varied by written instrument recorded in the Clerk's Office of the Circuit Court of the City of Virginia Beach, Virginia ("Clerk's Office") and executed by the record owner of the Property at the time of recordation of such instrument, provided that said instrument is consented to by the GRANTEE in writing as evidenced by a certified copy of an ordinance or a resolution adopted by the governing body of the GRANTEE, after a public hearing before City Council which was advertised pursuant to the provisions of Section 15.2-2204 of the Code of Virginia, 1950, as amended. Said ordinance or resolution shall be recorded along with said instrument as conclusive evidence of such consent, and if not so recorded, said instrument shall be void.

1. The Zoning Administrator of the City of Virginia Beach, Virginia shall be vested with all necessary authority on behalf of the governing body of the City of Virginia Beach, Virginia, to administer and enforce the foregoing conditions and restrictions, including the authority (a) to order, in writing, that any noncompliance with such conditions be remedied, and (b) to bring legal action or suit to insure compliance with such conditions, including mandatory or prohibitory injunction, abatement, damages, or other appropriate action, suit or proceeding;
2. The failure to meet all conditions and restrictions shall constitute cause to deny the issuance of any of the required building or occupancy permits as may be appropriate;

3. If aggrieved by any decision of the Zoning Administrator, made pursuant to these provisions, GRANTOR shall petition the governing body for the review thereof prior to instituting proceedings in court; and
4. The Zoning Map may show, by an appropriate symbol on the map, the existence of conditions attaching to the zoning of the Property, and the ordinances and the conditions may be made readily available and accessible for public inspection in the office of the Zoning Administrator and in the Planning Department, and they shall be recorded in the Clerk's Office and indexed in the names of each the GRANTOR and GRANTEE.

WITNESS the following signatures and seals:

Lou Paramore

Lou Paramore, Ocean Park Baptist Trustee

7-12-24

Date

Melva Edwards

Melva Edwards, Ocean Park Baptist Trustee

7-12-24

Date

I, Valerie L. Costello, a Notary Public, witness the acknowledgement of the foregoing instrument. Lou Paramore & Melva Edwards appeared before me and was known to me OR produced VA drivers' license as a valid identification.

State/ Commonwealth: Virginia

City/County: Va. Beach

Notary Signature: Valerie L. Costello

My Commission Expires: 3/31/2025

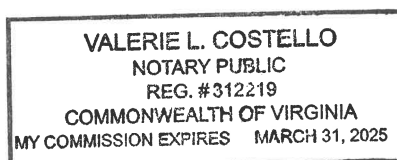


Exhibit A
to
Proffered Covenants, Restrictions and Conditions
Legal Description of Property

ALL THAT certain lot, piece of land, with the buildings and improvements thereon, situate, lying and being in the city of Virginia Beach, Virginia, more particularly described as follows:

KNOWN, numbered and designated as Lots number five (5), six(6), seven (7) and eight (8), in block number fifteen (15), on the plat of Ocean Park, Section A, of record in the Clerks Office of said county map Book 5, page 69; being the same property conveyed to Gertrude M. White by the Seaboard Citizens National Bank of Norfolk, Special Commissioner, by deed dated July 24, 1951, and recorded in said Clerks Office in deed Book 290, page 22; and that property conveyed to Gertrude M. White, formerly Gertrude M. Garred, by Ocean Park corporation by deed dated September 11, 1923, and recorded in said Clerks Office in deed Book 116, page 489, and being part of that property conveyed by Gertrude M. White by deed of March 9, 1931, to Dick L. Garred, said deed being recorded in deed Book 163, at page 144, in said Clerks Office, said property descending upon the death of Dick L. Garred to said Thai Gail Garred and Wendy May Garred.