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
BARRABA M. HENLEY, Princess Anne – District 7
N. D. “ROCKY” HOLCOMB, Kempsville – District 2
LOUIS R. JONES, 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 – RONALD D. AGNOR
CITY AUDITOR – LYNDON S. REMIAS
CITY CLERK – AMANDA BARNES

CITY COUNCIL AGENDA
January 4, 2022

MAYOR ROBERT M. “BOBBY” DYER
PRESIDING

I. CITY MANAGER’S BRIEFING
   - City Council Chamber - 3:00 PM
   A. PENDING PLANNING ITEMS
      Robert J. Tajan, Director – Planning and Community Development

II. CITY COUNCIL LIAISON REPORTS

III. CITY COUNCIL DISCUSSION/ INITIATIVES/COMMENTS 3:30 PM

IV. CITY COUNCIL AGENDA REVIEW 4:15 PM

V. INFORMAL SESSION
   - City Council Chamber - 4:30 PM
   A. CALL TO ORDER – Mayor Robert M. “Bobby” Dyer

   B. CITY COUNCIL ROLL CALL

   C. RECESS TO CLOSED SESSION
VI. FORMAL SESSION

A. CALL TO ORDER – Mayor Robert M. "Bobby" Dyer

B. INVOCATION

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 December 7, 2021
2. SPECIAL SESSION December 7, 2021
3. INFORMAL and FORMAL SESSIONS December 14, 2021

G. PUBLIC HEARING

1. CAFÉ FRANCHISE AGREEMENT
   27th Atlantic, LLC t/a Oscars Oceanfront at 2613 Atlantic Avenue re boardwalk café

H. FORMAL SESSION AGENDA

1. CONSENT AGENDA

I. ORDINANCES

1. Ordinances to AMEND City Code:
   a. Section 2-6 re Resort Advisory Commission (RAC) re composition requirements
      (Requested by Council Member Tower)
   b. Sections 5-531, 21-303, 23-7.1, 23-7.5, 27-7 and 38-5 and REPEAL Section 21-221
      re law enforcement officers (Requested by Sheriff’s Office)
   c. Section 7-66 re designation of City highways for golf cart operation

2. Ordinance to GRANT a five (5) year Franchise Agreement to 27th Atlantic, LLC t/a Oscars
   Oceanfront at 2613 Atlantic Avenue re outdoor boardwalk café in the Resort Area
   DISTRICT 6 – BEACH

3. Ordinance to AUTHORIZE a temporary encroachment into a portion of City right-of-way
   known as Kempsville Road (formerly Great Bridge Road) at the front of 720 Kempsville
   Road re construct and maintain a concrete driveway
   DISTRICT 2 – KEMPSVILLE

4. Ordinance to DONATE crushed and reclaimed concrete to Lynnhaven River NOW re
   creating a sanctuary reef in the Western Branch of the Lynnhaven River

5. Ordinance to AUTHORIZE longevity and college incentives for the sworn employees of
   the Sheriff’s Office and TRANSFER up to $570,000 from vacancy savings within the
   General Fund to the Sheriff’s Special Revenue Fund (Request by Sheriff Stolle)
6. Ordinance to ADJUST appropriated funding for Capital Project 100159, “Elbow Road Extended Phase II-C,” with a net increase of $2,937,087 COUNCIL DISTRICTS 1 – CENTREVILLE and 7 – PRINCESS ANNE

7. Ordinances to ACCEPT and APPROPRIATE:

   a. $18,603 from Edward Byrne Justice Assistance Grant (JAG) to the FY 2021-22 Police Operating Budget and to AUTHORIZE a local match (25% of the provided federal funds) re purchase eight (8) replacement automated external defibrillators, sixteen (16) defibrillator pads, twelve (12) mounted patrol helmets, and twelve (12) protective horse nose guards with visors

   b. $64,000 from the Department of Criminal Justice Services to the Police Department re certification of “Restrictive Justice Facilitators”

   c. $333,990 for three (3) grant awards from the Virginia Department of Emergency to the FY 2021-22 Emergency Management Operating Budget re purchase a Regional Urban Area Security Operations Trailer, build security training sites on police training grounds and support active threat joint simulation training and exercise

8. Ordinances to TRANSFER:

   a. $122,000 from the FY 2021-22 Human Services Operating Budget to CIP Project #100100, “Human Services Comprehensive Health Records System” re replacement of the healthcare records system

   b. $162,347 from the FY 2021-22 Public Works Operating Budget to Capital Project #100364 “Schilling Point Neighborhood Dredging” DISTRICT 5 – LYNNHAVEN

   c. $32,260 from vacancy savings in the General Fund to the FY 2021-22 Commissioner of the Revenue Operating Budget and APPROVE pay range increases for the Deputy and Chief Deputy position series (Requested by the Commissioner of the Revenue and City Treasurer)

J. PLANNING

1. VIRGINIA BEACH RACQUET CLUB NORTH ASSOCIATES, LP for a Change of Zoning from R-20 for a Residential District to R-40 Residential District re redevelop with three (3) single family dwellings and a Variance to Section 4.4(b) of the Subdivision Regulations re street line frontage at 1951 Thomas Bishop Lane DISTRICT 5 – LYNNHAVEN

   RECOMMENDATION: APPROVAL

2. SAMET PROPERTIES, LLC / TAYLOR FARMS LAND COMPANY, LLC for a Conditional Change of Zoning from AG-1 & AG-2 Agricultural Districts to Conditional I-1 Light Industrial District re increase ten (10) acres on site for additional stormwater storage in an above ground pond at 2097 Harpers Road DISTRICT 6 – BEACH

   RECOMMENDATION: APPROVAL
3. **PLATINUM MANAGEMENT, LLC / 5429 GREENWICH ROAD, VA, LLC**
   Conditional Change of Zoning from I-1 Light Industrial to Conditional A-36 Apartment redevelop the property with a 315-unit multi-family residential community at 5429 Greenwich Road DISTRICT 2 – KEMPSVILLE

   RECOMMENDATION: **APPROVAL**

4. **MONET FREEMAN / SHOPPES I, LLC** for a Conditional Use Permit re tattoo parlor at 4380 Holland Plaza Shopping Center DISTRICT 3 – ROSE HALL

   RECOMMENDATION: **APPROVAL**

5. **TRAYA’NA MILLS / PROVIDENCE SQUARE OFFICE PARK ASSOCIATES** for a Conditional Use Permit re tattoo parlor at 1017 Kempsville Road DISTRICT 2 – KEMPSVILLE

   RECOMMENDATION: **APPROVAL**

6. **KEVIN & KEISHA MERCER / RT VIRGINIA HOLDINGS, LLC** for a Conditional Use Permit re assembly use at 5300 Kempsriver Drive, Suite 126 DISTRICT 2 – KEMPSVILLE

   RECOMMENDATION: **APPROVAL**

7. **JODIE CALCAGNO / H C D PROPERTIES, LC** for a Conditional Use Permit re assembly use at 4752 Euclid Road DISTRICT 4 – BAYSIDE

   RECOMMENDATION: **APPROVAL**

8. **MICHAEL D. SIFEN, INC./VIRGINIA BEACH INVESTMENT CO.** for a Conditional Use Permit re mini warehouse /self-storage at the southwest intersection of College Park Boulevard and Providence Road DISTRICT 1 – CENTERVILLE

   RECOMMENDATION: **APPROVAL**

9. Resolution to ADOPT and AMEND the Virginia Beach Comprehensive Plan 2016 re Stormwater Impacts for Discretionary Land Use Applications (Deferred from December 7, 2021)

   RECOMMENDATION: **STAFF-APPROVAL**
   PLANNING COMMISSION – DENIAL
K. APPOINTMENTS
2040 VISION TO ACTION COMMUNITY COALITION
AGRICULTURAL ADVISORY COMMITTEE
ARTS AND HUMANITIES COMMISSION
BAYFRONT ADVISORY COMMISSION
BEACHES AND WATERWAYS ADVISORY COMMITTEE
BIKEWAYS AND TRAILS ADVISORY COMMITTEE
BOARD OF BUILDING CODE APPEALS
CITIZEN OVERSIGHT BOARD
COMMUNITY ORGANIZATION GRANT (COG) REVIEW AND ALLOCATION COMMITTEE
COMMUNITY POLICY AND MANAGEMENT TEAM
GREEN RIBBON COMMITTEE
HEALTH SERVICES ADVISORY BOARD
HISTORICAL REVIEW BOARD
INDEPENDENT CITIZEN REVIEW BOARD
MINORITY BUSINESS COUNCIL
OCEANA LAND USE CONFORMITY COMMITTEE
OPEN SPACE ADVISORY COMMITTEE
PARKS AND RECREATION COMMISSION
RESORT ADVISORY COMMISSION
TRANSITION AREA/INTERFACILITY TRAFFIC AREA CITIZENS ADVISORY COMMITTEE
URBAN AGRICULTURE ADVISORY COMMITTEE
WETLANDS BOARD

L. UNFINISHED BUSINESS

M. NEW BUSINESS

N. 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=e3821d09a839981d94dd08988294a4d0d

2. Register with the City Clerk’s Office by calling 757-385-4303 prior to 5:00 p.m. on
   January 4, 2022.
I. CITY MANAGER’S BRIEFING - City Council Chamber - 3:00 PM

A. PENDING PLANNING ITEMS
   Robert J. Tajan, Director – Planning and Community Development

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- City Council Chamber -

4:30 PM

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

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C. RECESS TO CLOSED SESSION
VI. FORMAL SESSION

- City Council Chamber -

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

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F. MINUTES

1. INFORMAL and FORMAL SESSIONS
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3. INFORMAL and FORMAL SESSIONS

December 7, 2021
December 7, 2021
December 14, 2021
G. PUBLIC HEARING

1. CAFÉ FRANCHISE AGREEMENT
   27th Atlantic, LLC t/a Oscars Oceanfront at 2613 Atlantic Avenue re boardwalk café
PUBLICATION

The Virginia Beach City Council will hold a PUBLIC HEARING at 6:00 P.M. on Tuesday, January 4, 2022, in the City Council Chamber regarding a proposed café franchise agreement for City-owned property located at the following location:

2613 Atlantic Avenue to 27th Atlantic, LLC, t/a Oscars Oceanfront, for a Boardwalk Café.

The purpose of the hearing will be to obtain public comment on the proposed franchise agreement on City property. Copies of the franchise agreement are on file in the City Clerk's office. The City Council Chamber is located on the second floor of the City Hall building (Building #1) at 2401 Courthouse Drive, Virginia Beach, Virginia 23456. Any questions concerning the above-referenced franchise should be directed to Kathleen Warren, Strategic Growth Areas Office, by calling (757) 385-2900.

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/registration.g.php?MTID=e3821b09a839981d9a460ce8c72444d01
2. Register with the City Clerk's Office by calling 757-385-4303 prior to 5:00 p.m. on January 4, 2022.

If you are physically disabled or visually impaired and need assistance at this meeting, please call 385-4303. Hearing impaired, TDD-711.

All interested parties are invited to participate.

Amanda Barnes
City Clerk

BEACON – DECEMBER 26, 2021
H. FORMAL SESSION AGENDA

1. CONSENT AGENDA

I. ORDINANCES

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   a. Section 2-6 re Resort Advisory Commission (RAC) re composition requirements (Requested by Council Member Tower)
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   c. $32,260 from vacancy savings in the General Fund to the FY 2021-22 Commissioner of the Revenue Operating Budget and APPROVE pay range increases for the Deputy and Chief Deputy position series (Requested by the Commissioner of the Revenue and City Treasurer)
ITEM: An Ordinance to Amend Section 2-6 of the City Code Pertaining to the Resort Advisory Commission

MEETING DATE: January 4, 2022

Background: City Code § 2-6 sets forth the membership of the Resort Advisory Commission (RAC), and it currently provides that the membership shall include a representative of the Virginia Beach Council of Civic Organizations (VBCCO). The VBCCO representative has resigned from the RAC, and the VBCCO President informed the RAC Chair that the VBCCO is on hiatus and therefore needs no representative on the RAC.

Considerations: The attached ordinance removes the VBCCO from the list of organizations from which a member must be appointed to the RAC. If the VBCCO or a successor organization becomes active in the future, the City Council would have the option of appointing a representative from that entity, even if that entity is no longer listed in the City Code as a mandatory appointment.

Public Information: This item will be advertised in the same manner as other agenda items.

Attachments: Ordinance; Letter from VBCCO President

Requested by Councilmember Tower
REQUESTED BY COUNCILMEMBER TOWER

AN ORDINANCE TO AMEND SECTION 2-6
OF THE CITY CODE PERTAINING TO THE
RESORT ADVISORY COMMISSION

SECTION AMENDED: § 2-6

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

That Section 2-6 of the Code of the City of Virginia Beach, Virginia, is hereby
amended and reordained to read as follows:

Sec. 2-6. - Resort advisory commission.

(a) There is hereby created the resort advisory commission. The members of the
commission shall be appointed by the city council to serve terms of three (3) years. A
chair and a vice-chair shall be elected from the commission by its members. All
members shall be residents of the city.

(b) The governance and administration of the commission shall be in accordance
with its bylaws, incorporated by reference herein, which bylaws shall not be amended
without the prior approval of city council.

(c) The commission shall consist of at least eleven (11), but not more than
nineteen (19), members. In selecting members of the commission, the city council shall
appoint at least one (1) representative from each of the following organizations: Virginia
Beach Hotel Association, Virginia Beach Restaurant Association, and Virginia Beach
Division of the Hampton Roads Chamber of Commerce, and Virginia Beach Council of
Civic Organizations. The commission shall also include a resort retailer. The city
council shall also appoint to the commission at least three (3) design professionals
having expertise in the fields of architecture, urban design, land use planning,
landscape architecture, transportation planning, or other design fields relevant to the
purposes for which the commission was created.

In the event of a conflict between the provisions of this subsection and any other
ordinance or bylaw, the provisions of this subsection shall control.

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

APPROVED AS TO CONTENT:  
Strategic Growth Area Office

APPROVED AS TO LEGAL SUFFICIENCY:

City Attorney's Office

CA15661
R-2 December 22, 2021
September 2021

TO:     BJ Baumann, Chair of the Resort Advisory Commission
FROM:  Heather Malaby, President of the Virginia Beach Council of Civic Organizations
RE:    RAC Representative

Thank you for contacting us regarding a presence of a VBCCO member on the Resort Advisory Commission.

At this time, the VBCCO is in a hiatus and therefore needs no representative present to represent the neighborhoods of Virginia Beach.

We will contact the commission when the situation changes.

Sincerely,

Heather Malaby
President, VBCCO
757.689.2820
vbccosecretary@gmail.com
ITEM: An Ordinance to Amend Sections 5-531, 21-303, 23-7.1, 23-7.5, 27-7 and 38-5 and Repeal Section 21-221 of the City Code Pertaining to Law Enforcement Officers

MEETING DATE: January 4, 2022

Background: In Virginia, felony crimes are set forth solely in the state code, but localities may adopt ordinances with respect to non-felony offenses such as misdemeanors and traffic offenses. If an offense is charged under a local ordinance, fines are returned to the locality instead of being retained by the state. The Virginia Beach Sheriff's Office has been assisting the Virginia Beach Police Department with law-enforcement issues at the Oceanfront and for certain events when requested by the Police Department. Although some City Code provisions currently provide for enforcement by "law enforcement officers," several other City Code sections currently limit enforcement to police officers.

Considerations: This ordinance amends several City Code provisions to replace references to police officers with "law enforcement officer" so sheriff's deputies also may issue summonses for those offenses under the City Code. This ordinance also repeals City Code § 21-221, because it is a duplicate of City Code § 23-7.5.

Public Information: Public information will be handled through the normal Council agenda process.

Attachment: Ordinance

REQUESTED BY THE SHERIFF'S OFFICE
AN ORDINANCE TO AMEND SECTIONS 5-531, 21-303, 23-7.1, 23-7.5, 27-7 AND 38-5 AND REPEAL SECTION 21-221 OF THE CITY CODE PERTAINING TO LAW ENFORCEMENT OFFICERS


SECTION REPEALED: § 21-221

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

That Sections 5-531, 21-303, 21-221, 23-7.1, 27-7 and 38-5 of the Code of the City of Virginia Beach, Virginia, are hereby amended and ordained to read as follows, and Section 23-7.5 is repealed:

Sec. 5-531. Keeping dogs under restraint; leash law.

(a) It shall be unlawful for the owner or custodian of any dog to permit the dog to go upon any city park, public street, sidewalk or right-of-way, excluding the public beaches of the city, unless it is kept firmly secured by a physical leash or lead attached to a collar or harness and under the control of a responsible person capable of physically restraining the dog.

(b) Any person who does not restrain his dog, in accordance with this section, whether such person be the owner or custodian of such dog, shall be guilty of a class 4 misdemeanor. The animal control officer or police officer law enforcement officer may issue a summons to any person he finds in violation of this section.

(c) For the purpose of this section "city park" means any city-owned and operated property open to the public for general recreational use, including, but not limited to traditional park areas, canoe and kayak launch areas, and the disabled children's beach playground known as Grommet Park.

(d) Exceptions.

(1) This section shall not apply to any person who uses a dog under his direct supervision while lawfully hunting, while engaged in a supervised formal obedience training class or show, or during formally sanctioned field trials.

(2) This section shall not apply to any person south of the trace line beginning at the intersection of Elbow Road and the Chesapeake-Virginia Beach City boundary line; thence northeastwardly along Elbow Road to Salem Road; thence southeasterly along Salem Road to North Landstown Road; thence northeastwardly along Landstown Road to Princess Anne Road; thence southeasterly along Princess Anne Road to Sandbridge Road; thence...
eastwardly along Sandbridge Road to its intersection with the Atlantic Ocean; with the exception of any areas zoned for residential use.

Sec. 21-303. General parking prohibitions; penalties for violation.

(a) No person shall park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer law enforcement officer or traffic-control device, in any of the following places:

1) Within any designated fire lane.

2) At any place so as to block any fire department connection.

3) Within seventy-five (75) feet of the driveway entrance to any fire station if properly posted, or on the side of a street opposite the entrance to any fire station.

4) In front of a public driveway.

5) On the roadway side of any vehicle parked at the edge or curb of a street a tunnel.

7) On the left-hand side of roadway of a two-way street. The provisions of this sub-section exclude those city vehicles operated by city employees executing official duties that require repeated vehicle exit and entry.

8) At any place so as to impede or render dangerous the use of any street or highway.

(b) No person shall park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer law enforcement officer or traffic-control device, in any of the following places:

1) On a sidewalk.

2) On a crosswalk.

3) Within twenty (20) feet of a marked crosswalk at an intersection.

4) Within thirty (30) feet upon the approach to any flashing beacon, stop sign or traffic-control signal located at the side of a roadway.

5) Between a safety zone and the adjacent curb or within thirty (30) feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by official signs or markings.

6) Within fifty (50) feet of the nearest rail of a railroad grade crossing.

7) Alongside or opposite any street excavation or obstruction, when such parking would obstruct traffic.

8) At any place where official signs prohibit, reserve or restrict parking.
(9) In a residential or apartment district (area), if such vehicle is a commercial vehicle in excess of twenty (20) feet in length and/or seven (7) feet in height. This restriction shall not apply to commercial vehicles parked while engaged in the normal conduct of business or in the delivery or provision of goods or services in a residential or apartment district (area).

(10) At any place so as to prevent the use of a curb ramp located on public property or on privately owned property open to the public.

(11) At any place, angle parked or perpendicular to a curb, unless street markings permit.

(12) In a cul-de-sac other than close to and parallel to the edge of the curb or roadway, except in parking spaces approved and marked by the City or where a lawfully erected sign otherwise permits.

(13) On any street or highway or any city parking lot or other city-owned property for the purpose of selling or offering the vehicle for sale or rent. Factors that shall be considered in determining the purpose for which a vehicle is parked shall include, but not be limited to (i) the number, size and placement of signs offering the vehicle for sale or rent; (ii) the length of time the vehicle is parked; and (iii) the manner in which the vehicle is parked.

(c) No person shall park on any street or highway, or on any city parking lot, any vehicle which fails to display valid and current state license plates.

(d) Penalties.

(1) When a notice or citation is attached to a vehicle found parked in violation of any provision of this section or section 21-1 incorporating the provisions of Title 46.2 of the Code of Virginia, the owner of the vehicle may pay to the city treasurer, in satisfaction of any such violation, a penalty fine as listed below when such payment is postmarked or received by the city treasurer within fourteen (14) calendar day after issuance of such a notice or citation. Such payment shall constitute a plea of guilty to the violation in question.

(i) A penalty fine of thirty-five dollars ($35.00) for all parking violations citing City Code section 21-1 incorporating the parking provisions of Title 46.2 of the Code of Virginia.

(ii) A penalty fine of thirty-five dollars ($35.00) for a violation of any provision of subsection (a), except (a)(1), for each hour or fraction thereof during which such vehicle was unlawfully parked.

(iii) A penalty fine of twenty dollars ($20.00) for a violation of any provision of subsection (b) for each hour or fraction thereof during which such vehicle was unlawfully parked.

(iv) A penalty fine of thirty-five dollars ($35.00) for a violation of subsection (c) for each day or fraction thereof during which such vehicle was unlawfully parked.
(v) A penalty fine of fifty dollars ($50.00) for a violation of subsection (a)(1) for each hour or fraction thereof during which such vehicle was unlawfully parked.

(2) If such payment is not postmarked or received by the city treasurer within fourteen (14) calendar days after issuance of such notice or citation, the penalty fine shall increase to double that indicated above.

(3) For failure to respond to notices or citations within thirty (30) days, refer to subsection 21-312(b) below.

.....

Sec. 21-221. Duty to obey traffic signs and signals and orders of police officers.

Pedestrians shall obey signs and signals erected on highways or streets for the direction and control of travel and traffic and they shall obey the orders of police officers engaged in directing travel and traffic on the highways and streets. Violations of this section shall be punished by a fine not exceeding two hundred dollars ($200.00) for each offense.

....

Sec. 23-7.1. Providing identification to police officer law enforcement officer.

It shall be unlawful and a Class 1 misdemeanor for any person at a public place or place open to the public to refuse to identify himself by name and address at the request of a uniformed police officer law enforcement officer or of a properly identified police officer law enforcement officer not in uniform, or to provide false information in response to such a request, if the surrounding circumstances are such as to indicate to a reasonable man that the public safety requires such identification.

....

Sec. 23-7.5. Duty to obey traffic signs and signals and orders of police officers law enforcement officers.

Pedestrians shall obey signs and signals erected on highways or streets for the direction and control of travel and traffic and they shall obey the orders of police officers law enforcement officers engaged in directing travel and traffic on the highways and streets. Violations of this section shall be punished by a fine not exceeding two hundred dollars ($200.00) for each offense.

....

Sec. 27-7. Interference with police law enforcement animals.

Any person who willfully torments, beats, kicks, strikes, injures or otherwise mistreats an animal owned by the department of police or sheriff's office, or who willfully interferes with the lawful performance of such animal in a police law enforcement activity shall be guilty of a Class 2 misdemeanor. Any person who willfully touches such
animal in any manner after being directed not to do so by a police officer law
enforcement officer shall be guilty of a Class 4 misdemeanor.

Sec. 38-5. Pointing or brandishing firearm or object similar in appearance.

(a) It shall be unlawful and a Class 1 misdemeanor for any person to point or brandish
any firearm or any object similar in appearance to a firearm, whether capable of
being fired or not, in such manner as to reasonably induce fear in the mind of
another, or hold a firearm in a public place in such a manner as to reasonably
induce fear in the mind of another of being shot or injured; however, this section
shall not be applicable to any person engaged in justified or excusable self-
defense.

(b) Any police officer law enforcement officer, in the performance of his duty in making
an arrest under the provisions of this section shall not be civilly liable in damages
for injuries or death resulting to the person being arrested if he had reason to
believe that the person being arrested was pointing, holding or brandishing a
firearm or object which was similar in appearance to a firearm, with intent to induce
fear in the mind of another.

(c) For purposes of this section, the word "firearm" shall mean any weapon in which
ammunition may be used or discharged by explosion or pneumatic pressure. The
word "ammunition," as used herein, shall mean cartridge, pellet, ball, missile or
projectile adapted for use in the firearm.

Adopted by the City Council of the City of Virginia Beach, Virginia, on this ___
day of ____________________, 2022.

APPROVED AS TO CONTENT:

[Signature]
Sheriff's Office

APPROVED AS TO LEGAL SUFFICIENCY:

[Signature]
City Attorney's Office

CA15545
R-4
December 23, 2021
ITEM:  An Ordinance to Amend Section 7-66 of the City Code Pertaining to Designation of City Highways for Golf Cart Operation

MEETING DATE:  January 4, 2022

- **Background:** On October 26, 2004, pursuant to the authority granted in Virginia Code Section 46.2-916.2, the City Council approved an ordinance permitting the use of golf carts on designated public highways within the City, and it has authorized the inclusion of streets in several neighborhoods since then. Currently, streets in the Heron Ridge Estates, Lago Mar, Chubb Lake west of Pleasure House Road, Ashville Park, and Chesapeake Bay neighborhoods are included in the City Code section that authorizes the operation of golf carts on City streets.

- **Considerations:** The 4900 block of Ocean View Avenue is part of the Chub Lake neighborhood, but it is a private shared easement created by deed and is not a public highway. The residents of the 4900 block of Ocean View Avenue have requested the block be removed from the City Code section. This ordinance makes that change, and it also corrects a typographical error in the spelling of Coronet Avenue, which is part of the Chesapeake Bay neighborhood.

- **Public Information:** Public information will be provided through the normal Council agenda process.

- **Recommendations:** Adopt amendment to ordinance.

- **Attachments:** Ordinance.

Recommended Action: Approval

Submitting Department/Agency: Public Works

City Manager: [Signature]
AN ORDINANCE TO AMEND SECTION 7-66
OF THE CITY CODE PERTAINING TO
DESIGNATION OF CITY HIGHWAYS FOR
GOLF CART OPERATION

SECTION AMENDED: § 7-66

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

That Section 7-66 of the Code of the City of Virginia Beach, Virginia, is hereby
amended and reordained to read as follows:

Sec. 7-66. Designation of City highways for golf cart operation; posting of signs.

(a) Pursuant to Section 46.2-916.2 of the Code of Virginia, city council may authorize by
ordinance, the operation of golf carts on designated public highways within the City
after (i) considering the speed, volume, and character of motor vehicle traffic using
such highways, and (ii) determining that golf cart operation on particular highways is
compatible with state and local transportation plans and consistent with the
Commonwealth's statewide pedestrian policy. No City highway shall be designated
for use by golf carts if such golf cart operations will impede the safe and efficient flow
of motor vehicle traffic, or if the highway's posted speed limit is greater than twenty-
five (25) miles per hour.

(b) All requests made to have specific highways designated for golf cart use shall be
directed to the Traffic Engineering Office of Public Works.

(c) Any City highway designated for golf cart operations shall be posted with signs
indicating this designation. The organization, individual or entity requesting a highway
designation allowing golf cart operations shall reimburse the City its actual cost for
the installation and continued maintenance of such signs.

(d) The following City streets located in the specified neighborhoods are approved for
golf cart operation in accordance with the provisions of this Article:

1) Heron Ridge Estates—Couples Court, Heron Ridge Lane, Heron Ridge
Drive, Lynx Drive, Lynx Court and Ryan Court.

2) Chubb Lake West of Pleasure House Road—Beaufort Avenue, West Chubb
Lake Avenue, Chubb Lake Avenue, Lauderdale Avenue (4800-5100
Blocks), Athens Boulevard, Creek Cove Court, Sunny Circle, Bradpointe
Lane, Leathersneck Road, Lookout Road (4800-4900 Blocks), Bradford
Point, Bayview Avenue, Guy Avenue, Ocean View Avenue (4900 Block);
Lee Avenue (4800 Block), Zivo Court and Lake Drive (4800 Block);

3) Lago-Mar—Atwoodtown Road, Costa Grande Drive, Camino Real South,
Camino Court, Rota Circle, Santa Marta Court, Santa Clara Court, Cinta
Court, Granada Court, San Jose Court, San Miguel Court, Sevilla Court,
Acapulco Court, Casa Court, Estrella Court, Rio Grande Drive, Rio Grande Court, Pinon Court, Corrente Lane, Escorial Court, La Mirage Court, Los Conaes Way, Trevino Court, Rio Bravo Bend, Santiago Point, Toledo Place, Infanta Circle, Costa Grande Drive, Malaga Lane, Malaga Court, Alcon Court, Soria Circle, Tres Lane, Vaso Court, Toro Court, Amigo Court, Tono Court, Los Colonies Drive, Las Brisas Drive, Baja Court, Sonora Court, Morado Court, La Tierra Court, La Tierra Circle, Las Corrales Court, Brasileno Drive, Brasileno Court, Valiente Court, Esquiana Court, Verano Court, Verano Circle, Belleza Court, Torero Court, Entrada Drive, Ranchero Road, Cordova Court, San Marco Road, San Marco Circle and San Marco Court;

(4) Ashville Park: Ashville Park Boulevard (from Lubao Lane to 1868 Ashville Park Blvd), Emelita Drive, Lubao Lane, Blythe Drive, Wilshire Drive, Benecia Drive, Camarillo Lane, Kitttridge Drive, Aldea Circle, Keokirk Lane;

(5) Chesapeake Bay - East of Northampton Blvd: Ocean View Avenue, Lauderdale Avenue, Pleasure Avenue, Guam Street, Lee Avenue, Cornet Avenue, Lake Drive, Fentress Avenue, Seavew Avenue, Mortons Road, and Lee Court.

Adopted by the City Council of the City of Virginia Beach, Virginia, on this ___ day of ________, 2022.

APPROVED AS TO CONTENT:  

APPROVED AS TO LEGAL SUFFICIENCY:

Public Works

City Attorney's Office

CA15665
R-1
December 15, 2021
ITEM: An Ordinance Granting a Franchise Agreement for an Outdoor Café in the Resort Area

MEETING DATE: January 4, 2022

Background: City Council adopted revised regulations for outdoor café franchises ("Revised Regulations") on October 20, 2020. The Revised Regulations simplify the outdoor café franchise program and allow more flexibility for outdoor café owners and operators to keep pace with current standards in construction, design and materials. The City has developed a franchise agreement for the regulation of outdoor cafés, which the grantees are required to execute as a condition of the grant. The City Council has traditionally granted initial franchises for one-year terms. If an outdoor café is successfully operated during the initial one-year term, the franchisee may return to Council upon the expiration of the one-year term and request a five-year franchise agreement.

Considerations: 27th Atlantic, LLC, t/a Oscars Oceanfront Café was granted a one-year franchise agreement for the operation of a Boardwalk Café at 2613 Atlantic Avenue on January 19, 2021, and successfully operated Oscars Oceanfront Café for the past year. 27th Atlantic, LLC is now seeking a five-year franchise agreement for Oscars Oceanfront Café.

Public Information: A public notice was published in The Beacon on December 26, 2021.

Attachments: Ordinance, Disclosure Form, Café Location Map, and Café Photo

Recommended Action: Adopt Ordinance

Submitting Department/Agency: Strategic Growth Area Office

City Manager: [Signature]
AN ORDINANCE GRANTING A FRANCHISE
AGREEMENT FOR AN OUTDOOR CAFÉ IN
THE RESORT AREA

WHEREAS, City Council adopted revised regulations for outdoor café franchises
(“Revised Regulations”) on October 20, 2020; and

WHEREAS, the Revised Regulations simplify the outdoor café franchise program
and allow more flexibility for outdoor café owners and operators to keep pace with
current standards in construction, design and materials; and

WHEREAS, the City has developed a franchise agreement for the regulation of
outdoor cafés, which the grantees are required to execute as a condition of the grant;
and

WHEREAS, the City Council has traditionally granted initial franchises for one-
year terms; and

WHEREAS, if an outdoor café is successfully operated during the initial one-
year term, the franchisee may return to Council and request a five-year franchise
agreement; and

WHEREAS, 27th Atlantic, LLC, t/a Oscars Oceanfront Café was granted a one-
year franchise agreement for operation of a Boardwalk Café at 2613 Atlantic Avenue on
January 19, 2021; and

WHEREAS, 27th Atlantic, LLC successfully operated Oscars Oceanfront Café
pursuant to the one-year franchise agreement and is now seeking a five year franchise
agreement for Oscars Oceanfront Café; and

WHEREAS, the Strategic Growth Area Office recommends that the above-
named entity be granted a five-year franchise agreement.

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

That the City Council hereby grants 27th Atlantic, LLC, t/a Oscars Oceanfront
Café, a five-year franchise agreement for the operation of a Boardwalk Café at 2613
Atlantic Avenue.

Adopted by the City Council of Virginia Beach, Virginia on this ___ day of
January 2022.
DISCLOSURE STATEMENT FORM

The completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council or a board, commission, or other body appointed by the City Council. Such applications and matters include, but are not limited to, the following:

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

The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law.

SECTION 1 / APPLICANT DISCLOSURE

FOR CITY USE ONLY / All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the application(s)
☐ Check here if the APPLICANT IS NOT a corporation, partnership, firm, business, or other unincorporated organization.

☒ Check here if the APPLICANT IS a corporation, partnership, firm, business, or other unincorporated organization.

(A) List the Applicant’s name: 27th Atlantic, LLC
If an LLC, list all member’s names:
A. Russell Kirk, Daniel A. Hoffler, Bruce B. Smith & 27th Street Holdings, LLC
Managers: A. Russell Kirk, Daniel A. Hoffler, Bruce B. Smith (*see attached)

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

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

See next page for information pertaining to footnotes

SECTION 2 / PROPERTY OWNER DISCLOSURE

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

☐ Check here if the PROPERTY OWNER IS NOT a corporation, partnership, firm, business, or other unincorporated organization.

☒ Check here if the PROPERTY OWNER IS a corporation, partnership, firm, business, or other unincorporated organization, AND THEN, complete the following.

(A) List the Property Owner’s name: Sea Oaks Corporation of Virginia
If an LLC, list the member’s names:
If a Corporation, list the names of all officers, directors, members, trustees, etc. below: (Attach list if necessary)

Chris Theodosiou - President/Treasurer/Director (deceased)
Christina J. Voliva - Vice President/Secretary

(B) List the businesses that have a parent-subsidiary 1 or affiliated business entity 2 relationship with the Property Owner: (Attach list if necessary)

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

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

SECTION 3. SERVICES DISCLOSURE

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPERATELY
<table>
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<th>YES</th>
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<th>PROVIDER (use additional sheets if needed)</th>
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<td>Accounting and/or preparer of your tax return</td>
<td>Beatty Harvey Coco Architects, LLP</td>
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<td>Architect / Landscape Architect / Land Planner</td>
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<td>Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers</td>
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<td>Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)</td>
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<td>Construction Contractors</td>
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<td>Engineers / Surveyors / Agents</td>
<td>vhb; Kimley Horn &amp; Associates</td>
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<td>Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)</td>
<td>Virginia Housing Development Authority</td>
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<td>Legal Services</td>
<td>Faggert &amp; Frieden, P.C.</td>
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<td>Real Estate Brokers / Agents / Realtors for current and anticipated future sales of the subject property</td>
<td>S.L. Nusbaum Realty Co.</td>
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**SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE**

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<th>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?</th>
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<td>If yes, what is the name of the official or employee and what is the nature of the interest?</td>
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Page 4 of 7
CERTIFICATION:
I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

[Signature]

APPLICANT'S SIGNATURE

A. Russell Kirk

PRINT NAME

12-9-21

DATE
### SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

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<td>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?</td>
</tr>
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If yes, what is the name of the official or employee and what is the nature of the interest?
CERTIFICATION:
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<tr>
<td>[Signature]</td>
<td>Vincent J. Martin</td>
<td>12/13/21</td>
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# 27th ATLANTIC, LLC

[ a Virginia limited liability company ]

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<th>Daniel A. Hoffer</th>
<th>A. Russell Kirk</th>
<th>Bruce B. Smith</th>
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<td>69.162500% [Member]</td>
<td>5.903125% [Member/Manager]</td>
<td>17.709375% [Member/Manager]</td>
<td>7.225000% [Member/Manager]</td>
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## Members

- Daniel A. Hoffer 27th Street Hotel Family Trust
date 06/17/2015
- Daniel A. Hoffer
- A Russell Kirk 27th Street Hotel Family Trust
- A. Russell Kirk
- Neo Family RE, LLC
- Bruce B. Smith
- Dr. William R. Harvey
- Divers 27th Street, LLC
- Michael Standing
- Eric E. Apperson
- John C. Davis
- W. Christopher Harvey
- Hampton University
- Robert L. Hughes

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27th Atlantic LLC

t/a Oscars Oceanfront Café
ITEM: An Ordinance to Authorize a Temporary Encroachment into a Portion of City Right-of-Way Known as Kempsville Road (formerly Great Bridge Road), located at the front of 720 Kempsville Road

MEETING DATE: January 4, 2022

Background:
Tracey Langford (the "Applicant") has requested permission to construct and maintain an additional 22' x 39', 7" thick concrete driveway (the "Encroachment") into City-owned right-of-way known as Kempsville Road (formerly Great Bridge Road), located in front of her property at 720 Kempsville Road (GPIN: 1466-75-1989).

Considerations:
City staff reviewed the Encroachment and recommended approval of same, subject to certain conditions outlined in the Agreement.

Public Information:
Public notice will be provided via the normal City Council agenda process.

Alternatives:
Deny the Encroachment or add conditions as desired by Council.

Recommendations:
Approve the request subject to the terms and conditions of the Agreement.

Attachments:
Ordinance, Exhibit, Agreement, Location Map, and Disclosure Statement Form.

Recommended Action: Approval

Submitting Department/Agency: Public Works/Real Estate

City Manager:
AN ORDINANCE TO AUTHORIZE A TEMPORARY ENCROACHMENT INTO A PORTION OF CITY RIGHT-OF-WAY KNOWN AS KEMPSVILLE ROAD (FORMERLY GREAT BRIDGE ROAD), LOCATED AT THE FRONT OF 720 KEMPSVILLE ROAD

WHEREAS, Tracey Langford ("Langford") has requested permission to construct and maintain a 22' x 39', 7" thick concrete driveway (the "Encroachment") within the City's right-of-way known as Kempsville Road (formerly Great Bridge Road), located in front of her property at 720 Kempsville Road (GPIN: 1466-75-1989); and

WHEREAS, City Council is authorized pursuant to §§ 15.2-2009 and 15.2-2107, Code of Virginia, 1950, as amended, to authorize temporary encroachments upon the City's right-of-way subject to such terms and conditions as Council may prescribe.

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

That pursuant to the authority and to the extent thereof contained in §§ 15.2-2009 and 15.2-2107, Code of Virginia, 1950, as amended, Langford, her heirs, assigns and successors in title are authorized to construct and maintain the Encroachment within the City's right-of-way as shown on the map entitled: "ENCROACHMENT EXHIBIT SHOWING PROPOSED DRIVEWAY ON LOT 7, KEMPSVILLE COLONY, SECTION TWO (M.B. 36, P. 23) VIRGINIA BEACH, VIRGINIA FOR TRACEY LANGFORD," having a Scale of 1" = 25', dated June 28, 2021, and prepared by Rouse-Sirine Associates, Ltd., a copy of which is attached hereto as Exhibit A, and on file in the Department of Public Works and to which reference is made for a more particular description;

BE IT FURTHER ORDAINED, that the Encroachment is expressly subject to those terms, conditions and criteria contained in the agreement between the City of Virginia Beach and Langford (the "Agreement"), an unexecuted copy of which has been presented to the Council in its agenda, and will be recorded among the records of the Clerk's Office of the Circuit Court of the City of Virginia Beach;

BE IT FURTHER ORDAINED, that the City Manager or his authorized designee is hereby authorized to execute the Agreement; and

BE IT FURTHER ORDAINED, that this Ordinance shall not be in effect until such time as Langford and the City Manager or his authorized designee execute the Agreement.
Adopted by the Council of the City of Virginia Beach, Virginia, on the __________ day of __________, 2022.

APPROVED AS TO CONTENT:

[Signature]

PUBLIC WORKS, REAL ESTATE

APPROVED AS TO LEGAL SUFFICIENCY AND FORM:

[Signature]

DANA R. HARMeyer
SENIOR CITY ATTORNEY

CA15398
R-1
Prepared: 12/2/2021

i:vbgov.com/dfs1/applications/citylaw/cycom32/wpdocs/id006i/p037i/00768474.doc
GENERAL NOTES:
1. THIS SURVEY IS BASED ON A PLAT RECORDED IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF THE CITY OF VIRGINIA BEACH, VIRGINIA IN MAP BOOK 36, PAGE 23.
2. THIS IS TO CERTIFY THAT I, ON JUNE 28, 2021, SURVEYED THE PROPERTY SHOWN ON THIS PLAT, AND THAT THE TITLE LINES AND THE WALLS OF THE BUILDINGS ARE AS SHOWN ON THIS PLAT.
3. THE BUILDINGS STAND STRICTLY WITHIN THE TITLE LINES AND THERE ARE NO ENCROACHMENTS OF OTHER BUILDINGS ON THE PROPERTY, EXCEPT AS SHOWN.
4. THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND MAY OR MAY NOT SHOW ALL MATTERS OF TITLE AFFECTING PROPERTY SHOWN HEREO.

PROPERTY APPEARS TO FALL WITHIN ZONE X (UNSHADDED) (AREA DETERMINED TO BE OUTSIDE 0.2% ANNUAL CHANCE FLOODPLAIN), AS SHOWN ON NATIONAL FLOOD INSURANCE PROGRAM MAP FOR THE CITY OF VIRGINIA BEACH, VIRGINIA. MAP NUMBER 5103710085, DATED JANUARY 15, 2015.

CONSTRUCTION NOTES:
1. THE OWNER IS RESPONSIBLE FOR RAISING THE EXISTING METER BOX AND SANITARY SEWER CLEANOUT TO PROPOSED GRADE IF NECESSARY.
2. THE RESIDENT MUST BE AWARE THAT THEY WILL BE RESPONSIBLE FOR THE REMOVAL AND REPLACEMENT OF THE DRIVEWAY IF CITY MAINTENANCE NEEDS TO ACCESS THE MAINTENANCE EASEMENT.
3. AN EXISTING 15" STORM DRAIN PIPE IS LOCATED UNDER THE SOUTH WESTERN PORTION OF THE PROPOSED DRIVEWAY ENCROACHMENT. ENSURE THE STORM DRAIN SYSTEM IS NOT COMPROMISED BY THE DRIVEWAY INSTALLATION. THE OUTERMOST EDGE OF THE APRON IS SLIGHTLY OVER THE EXISTING STORM PIPE, CAUTION SHALL BE EXERCISED WHEN INSTALLING OVER CITY INFRASTRUCTURE. THE OWNER WILL BE FULLY RESPONSIBLE FOR ALL DAMAGES INCURRED FOR THE DRIVEWAY INSTALLATION.
4. IF THE DRIVEWAY CAUSES ANY FUTURE NEGATIVE IMPACTS TO ADJACENT LOTS DRAINAGE, THE OWNER WILL BE RESPONSIBLE FOR ADDRESSING THESE ISSUES.

SCALE: 1" = 25' JUNE 28, 2021
ROUSE-SIRINE ASSOCIATES, LTD.
LAND SURVEYORS, MAPPING CONSULTANTS & S.U.E QUALITY LEVELS "A-D"
WWW.ROUSE-SIRINE.COM
333 OFFICE SQUARE LANE
VIRGINIA BEACH, VIRGINIA 23462
TEL.(757)490-2300
FAX.(757)499-9156
311 JAMESTOWN ROAD
WILLIAMSBURG, VIRGINIA 23185
TEL.(757)903-4695
FAX.(757)903-4696

J.O. #13800-21-341 ACAD:KEMPSVILLE COLONY LOT 7 SEC 2 PS DWG
THIS AGREEMENT, made this 6th day of December, 2021, by and between the CITY OF VIRGINIA BEACH, VIRGINIA, a municipal corporation of the Commonwealth of Virginia, Grantor, "City", and TRACEY LANGFORD, HER HEIRS, ASSIGNS AND SUCCESSORS IN TITLE, "Grantee."

WITNESSETH:

WHEREAS, the Grantee is the owner of that certain lot, tract, or parcel of land designated and described as "Lot 7," as shown on that certain plat entitled: "SECTION TWO SUBDIVISION OF KEMPSVILLE COLONY PRINCESS ANNE CO, VA," Scale: 1" = 100', dated February 10, 1954, prepared by JNO M Baldwin and R S Baldwin, which said plat is recorded in the Clerk's Office of the Circuit Court of the City of Virginia Beach, Virginia in Map Book 36, at page 23, and being further designated, known, and described as 720 Kempsville Road, Virginia Beach, Virginia 23464;

WHEREAS, it is proposed by the Grantee to construct and maintain an additional 22' x 39', 7" thick concrete driveway, the "Temporary Encroachment", in the City of Virginia Beach; and

WHEREAS, in constructing and maintaining the Temporary Encroachment, it is necessary that the Grantee encroach into a portion of an existing City Right-of-Way known as Kempsville Road (formerly Great Bridge Road) the "Encroachment Area"; and

GPIN: CITY RIGHT OF WAY KNOWN AS KEMPSVILLE ROAD (NO GPIN) 1466-75-1989 (720 KEMPSVILLE ROAD)
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: "ENCROACHMENT EXHIBIT SHOWING PROPOSED DRIVEWAY ON LOT 7, KEMPSVILLE COLONY, SECTION TWO (M.B. 36, P. 23) VIRGINIA BEACH, VIRGINIA FOR TRACEY LANGFORD," having a scale of 1" = 25', dated June 28, 2021, and prepared by Rouse-Sirine Associates, Ltd., 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 and agreed that the Grantee must submit and have approved a traffic control plan before commencing work in the Encroachment Area.

It is further expressly understood and agreed that the Grantee agrees that no open cut of the public roadway will be allowed except under extreme circumstances. Requests for exceptions must be submitted to the Highway Operations Division of the Department of Public Works, for final approval.
It is further expressly understood and agreed that the Grantee must obtain a permit from the Civil Inspections Division of the Department of Planning prior to commencing any construction within the Encroachment Area (the “Permit”).

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, Tracey Langford, the said Grantee, has caused this Agreement to be executed by her signature. 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
________________, 202__, 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.

__________________________ (SEAL)
Notary Public

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
________________, 202__, 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.

__________________________ (SEAL)
Notary Public

Notary Registration Number: ________________
My Commission Expires: ____________________
GRANTEE:

Tracey Langford

STATE OF
CITY/COUNTY OF VIRGINIA Beach

The foregoing instrument was acknowledged before me this 6th day of
December, 2021, by Tracey Langford.

(SEAL)
Notary Public

Notary Registration Number: 7520158
My Commission Expires: 12/31/2023

APPROVED AS TO CONTENTS

APPROVED AS TO LEGAL
SUFFICIENCY AND FORM

PUBLIC WORKS/REAL ESTATE

CITY-ATTORNEY

SHANNON M HUGHES
NOTARY PUBLIC
REG. #7520158
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES 12/31/2023
GENERAL NOTES:
1. THIS SURVEY IS BASED ON A PLAT RECORDED IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF THE CITY OF VIRGINIA BEACH, VIRGINIA IN MAP BOOK 36, PAGE 23.
2. THIS IS TO CERTIFY THAT I, ON JUNE 28, 2021, SURVEYED THE PROPERTY SHOWN ON THIS PLAT, AND THAT THE TITLE LINES AND THE WALLS OF THE BUILDINGS ARE AS SHOWN ON THIS PLAT. THE BUILDINGS STAND STRICTLY WITHIN THE TITLE LINES AND THERE ARE NO ENCROACHMENTS OF OTHER BUILDINGS ON THE PROPERTY, EXCEPT AS SHOWN.
3. THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND MAY OR MAY NOT SHOW ALL MATTERS OF TITLE AFFECTING PROPERTY SHOWN HEREIN.
4. PROPERTY APPEARS TO FALL WITHIN ZONE X (UNSHADED) (AREA DETERMINED TO BE OUTSIDE 0.2% ANNUAL CHANCE FLOODPLAIN), AS SHOWN ON NATIONAL FLOOD INSURANCE PROGRAM MAP FOR THE CITY OF VIRGINIA BEACH, VIRGINIA. MAP NUMBER 5155100830, DATED JANUARY 15, 2015.

CONSTRUCTION NOTES:
1. THE OWNER IS RESPONSIBLE FOR RAISING THE EXISTING METER BOX AND SANITARY SEWER CLEANOUT TO PROPOSED GRADE IF NECESSARY.
2. THE RESIDENT MUST BE AWARE THAT THEY WILL BE RESPONSIBLE FOR THE REMOVAL AND REPLACEMENT OF THE DRIVEWAY IF CITY MAINTENANCE NEEDS TO ACCESS THE MAINTENANCE EASEMENT.
3. AN EXISTING 18" STORM DRAIN PIPE IS LOCATED UNDER THE SOUTH WESTERN PORTION OF THE PROPOSED DRIVEWAY ENCROACHMENT. ENSURE THE STORM DRAIN SYSTEM IS NOT COMPROMISED BY THE DRIVEWAY INSTALLATION. THE OUTERMOST EDGE OF THE APRON IS SLIGHTLY OVER THE EXISTING STORM PIPE; CAUTION SHALL BE EXERCISED WHEN INSTALLING OVER CITY INFRASTRUCTURE. THE OWNER WILL BE FULLY RESPONSIBLE FOR ALL DAMAGES INCURRED FOR THE DRIVEWAY INSTALLATION.
4. IF THE DRIVEWAY CAUSES ANY FUTURE NEGATIVE IMPACTS TO ADJACENT LOTS' DRAINAGE, THE OWNER WILL BE RESPONSIBLE FOR Addressing THESE ISSUES.
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: Tracey Langford

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-subsidiary or affiliated business entity relationship with the applicant. (Attach a list if necessary)

---

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

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

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.
   ROUSE-SIRINE ASSOCIATES, LTD

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

Applicant Signature

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

[Signature]

Tracey Langford

Print Name and Title
Tracey Langford

Date 8/10/2021

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 Signature

Print Name
ITEM: An Ordinance to Donate Crushed and Reclaimed Concrete to Lynnhaven River NOW for the Purpose of Creating a Sanctuary Reef in the Western Branch of the Lynnhaven River

MEETING DATE: January 4, 2022

Background: Lynnhaven River NOW is building a 3.5-acre sanctuary reef in the Western Branch of the Lynnhaven River. This proposed sanctuary reef will support a healthy coastal ecosystem. As part of its effort to build this reef, Lynnhaven River Now has requested a donation from the City of crushed concrete in an amount of approximately 2,500 cubic yards and an additional 5,000 cubic yards of reclaimed concrete.

The City Council approved a donation of up to 9,000 cubic yards of reclaimed concrete for this purpose in February 2019. Due to availability of equipment in 2020, Public Works began a crushing operation of the reclaimed concrete, and larger size pieces were screened/separated out for future use by Lynnhaven River Now. More than half of the pile was reduced to "Crusher Run" to be used as base material by Public Works. There is a substantial difference in the value of crushed concrete and reclaimed concrete, so the City staff is bringing forward a request to donate the crushed concrete. The current market value of crushed concrete is around $35.50 per ton, so this donation is valued at approximately $100,000. The size and quality of the crushed concrete is not frequently used by the Department of Public Works, so there is no internal need for this material.

Considerations: The City collects and stockpiles reclaimed concrete from maintenance projects of replacing sidewalks, curb and gutter, and other concrete demolition. When the City repurposes this material, it is typically used for roadbed and road stabilization. The stockpiled material is located at Potters Pit and Landfill II.

The reclaimed and crushed concrete would be provided in its current condition. Lynnhaven River NOW will be fully responsible for any additional processing, cleaning, further crushing, and transporting of the material, so the ordinance notes these materials are provided in "as is, where is" condition.

Public Information: Normal City Council agenda process.

Recommendations: Adopt the attached ordinance.

Attachments: Ordinance; Disclosure Form

Recommended Action: Approval
Submitting Department/Agency: Public Works
City Manager: __________________________
AN ORDINANCE TO DONATE CRUSHED AND
RECLAIMED CONCRETE TO LYNNHAVEN RIVER
NOW FOR THE PURPOSE OF CREATING A
SANCTUARY REEF IN THE WESTERN BRANCH OF
THE LYNNHAVEN RIVER

WHEREAS, in February 2019, the City Council authorized a donation of up to
9,000 cubic yards of reclaimed concrete;

WHEREAS, Lynnhaven River NOW has requested additional reclaimed concrete
and crushed concrete for purposes of building a sanctuary reef; and

WHEREAS, the proposed sanctuary reef will support a healthy coastal ecosystem
in the Western Branch of the Lynnhaven River;

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

The City Council hereby authorizes a donation of up to 2,500 cubic yards of
crushed concrete and up to 5,000 additional cubic yards of reclaimed concrete to
Lynnhaven River NOW. The donated materials are provided in “as is, where is” condition.

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

APPROVED AS TO CONTENT: APPROVED AS TO LEGAL SUFFICIENCY:

[Signatures]

Budget and Management Services City Attorney's Office

CA15670
R-1
December 22, 2021
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: Lynnhaven River Now

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:

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<th>SERVICE</th>
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<td></td>
<td>Accounting and/or preparer of your tax return</td>
<td>Mike Hall and Stanley Accounting</td>
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<td>Financial Services (include lending/banking institutions and current mortgage holders as applicable)</td>
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<td>Broker/Contractor/Engineer/Other Service Providers</td>
<td>Towne Investment Group, Raymond James Financial Services – Andrew Rivenbark</td>
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</table>

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.

Karen Forget 12/23/21

APPLICANT'S SIGNATURE | PRINT NAME | DATE
ITEM: An Ordinance to Authorize Longevity and College Incentives for the Sworn Employees of the Virginia Beach Sheriff's Office and to Transfer Funds in Furtherance Thereof

MEETING DATE: January 4, 2022

- **Background:** In April 2018, the City Council adopted an ordinance (the "Pay Parity Ordinance") that committed the City to pursuing pay parity between the employees of the Virginia Beach Sheriff's Office (the "VBSO") and the Virginia Beach Police Department (the "VBPD") if the study of the roles and responsibilities of each agency were found to be similar. The Pay Parity Ordinance sought to eliminate total compensation pay discrepancies and to maintain pay parity thereafter, and the definition of "total compensation" in the Pay Parity Ordinance includes "all salary and fringe benefits available to the employees including such benefits that are generally classified as an incentive." The FY 2021-22 Operating Budget Appropriation Ordinance authorized a longevity and college incentive, but this incentive was only provided to "sworn law enforcement officers within the VBPD."

Council was briefed by the Sheriff on August 17th, and the Sheriff indicated that he would attempt to manage the costs of education and longevity incentives within existing Appropriations, but he may need additional funding. By memorandum issued on December 15, 2021, the Sheriff requests Council action to provide additional funding for education ($250,000) and longevity ($320,000) incentives for his sworn staff.

- **Considerations:** This ordinance will authorize and approve the inclusion of the Sheriff's Office in the education and longevity incentives afforded to the VBPD in the FY 2021-22 budget, and transfer funding into the Sheriff's Office's FY 2021-22 Operating Budget. The total estimated funding needed is $570,000, which includes $452,000 for the incentives and $118,000 to cover fringes. The funding source for this transfer will be attrition savings from a General Fund department. The exact transfer amount will be determined after the incentives are implemented by Human Resources, but the total transfer amount for this purpose will not exceed $570,000.

If approved by the City Council at the January 4th meeting, unless directed otherwise, the cost of continuing this program will be reflected in the City Manager's FY 2022-23 Proposed Operating Budget.

- **Public Information:** Normal Council Agenda notification process.

- **Attachment:** Ordinance, Pay Parity Ordinance (adopted April 17, 2018); Memo from Sheriff (dated December 15, 2021)

REQUESTED BY SHERIFF STOLLE
REQUESTED BY SHERIFF STOLLE

AN ORDINANCE TO AUTHORIZE LONGEVITY AND COLLEGE INCENTIVES FOR THE SWORN EMPLOYEES OF THE VIRGINIA BEACH SHERIFF’S OFFICE AND TO TRANSFER FUNDS IN FURTHERANCE THEREOF

WHEREAS, in April 2018, the City Council adopted an ordinance (the “Pay Parity Ordinance”) that committed the City to studying the roles and responsibilities of employees of the Virginia Beach Sheriff’s Office (the “VBSO”) and the Virginia Beach Police Department (the “VBPD”), and, if such study supported pay parity, to pursue pay parity between the employees of the VBSO and VBPD;

WHEREAS, the Pay Parity Ordinance sought to eliminate total compensation pay discrepancies and to maintain pay parity thereafter;

WHEREAS, the definition of “total compensation” in the Pay Parity Ordinance includes “all salary and fringe benefits available to the employees including such benefits that are generally classified as an incentive;”

WHEREAS, the FY 2021-22 Operating Budget Appropriation Ordinance authorized a longevity and college incentive, but this incentive was only provided to “sworn law enforcement officers within the Virginia Beach Police Department;” and

WHEREAS, to honor the intent of the Pay Parity Ordinance, the Sheriff requests a similar longevity and college incentive be authorized for employees of the VBSO;

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

1. Longevity and college incentives are hereby authorized for the sworn employees of the VBSO to be provided in similar amounts and fashioned in a similar manner to the longevity and college incentive authorized for officers within the VBPD as part of the adopted FY 2021-22 Operating Budget.

2. To provide the incentive authorized herein, up to $570,000 is hereby authorized to be transferred from vacancy savings within the General Fund to the Sheriff’s Special Revenue Fund.

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

APPROVED AS TO CONTENT:     APPROVED AS TO LEGAL SUFFICIENCY:

Budget & Management Services  City Attorney’s Office

CA15668 / R-1 December 21, 2021
REQUESTED BY MAYOR SESSOMS, VICE MAYOR JONES AND COUNCILMEMBERS DAVENPORT, KANE, HENLEY, WILSON AND WOOD

AN ORDINANCE TO STUDY PAY DISPARITIES AND TO ESTABLISH A POLICY OF PAY PARITY FOR THE VIRGINIA BEACH SHERIFF'S OFFICE

WHEREAS, in 2003, the City Council adopted an ordinance that committed to maintaining starting salaries for the Virginia Beach Sheriff's Office (the "VBSO") to at least 90% of the starting salaries for comparable Police positions; and

WHEREAS, in the intervening fifteen years, the Commonwealth's funding of the VBSO has not kept up with the funding the City provides to the Police Department (the "VBPD"); and

WHEREAS, the City Council sees the VBSO as an equal partner in the Public Safety Community of the City of Virginia Beach; and

WHEREAS, the City Council desires to address pay disparities between the employees of the VBSO and the VBPD; and

WHEREAS, to do a proper study of pay disparities, such study must take into account the total compensation available to the employee, and for purposes of this ordinance, "total compensation" shall mean all salary and fringe benefits available to the employees including such benefits that are generally classified as an incentive.

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

1. Paragraph 2 of Ordinance #2773E, attached hereto as Exhibit A, stating the City's intent to maintain starting salaries for the VBSO to at least 90% of the starting salaries of comparable Police positions is hereby repealed.

2. The Council directs the City Manager to initiate a study comparing the total compensation of employees of the VBSO and the VBPD with such study reviewing both time of service and time in rank. The study shall provide an analysis of comparable ranks and job titles, and the comparison shall include job requirements such as education, experience, and other requirements such as certificates or licensures. If one office does not have a comparable rank or job title, the study should include findings regarding such conclusions. The City Manager shall provide a written report and public briefing of the results of such study to the Council no later than December 31, 2018.
3. As of July 1, 2019 the VBSO shall be on the same pay plan as the VBPD such that hiring pay is the same, the pay ranges are the same, and the pay increases are the same provided the study described in section 2, supra, concludes such ranks or job titles are comparable.

4. If the study identifies a pay disparity between the total compensation for employees of the VBSO and the VBPD, the City Council desires the closing of such pay disparity, which is to occur, subject to annual appropriation of sufficient funds by the Council, over a period of four-years with each fiscal year addressing 25% of such disparity. Once pay parity is achieved, the Council desires to maintain pay parity thereafter.

Adopted by the Council of the City of Virginia Beach, Virginia on the 17th day of April 2018.

APPROVED AS TO LEGAL SUFFICIENCY:

Dana Harmeyer
Office of the City Attorney

CA14115
R-3
March 29, 2018
OFFICE OF THE SHERIFF
CITY OF VIRGINIA BEACH

Memorandum

To: Patrick A. Duhaney, City Manager

From: Kenneth W. Stolle, Sheriff

Date: December 15, 2021

Subject: Follow up to Incentives Discussion

I came before City Council on August 17th to inform them of our desire to be included in the funding for Longevity and Education incentives afforded to the Police Department in the FY22 budget.

In order to afford my sworn appointees the same incentive opportunities and institute these incentives into their retirement benefits, I am seeking Council action to approve and appropriate the changes into the Sheriff’s Office budget for FY22 to make my sworn appointees whole. We have also entered these incentives into our FY23 budget proposal as a reminder for negotiations. We do not see a way to promote these incentives into the retirement benefits of my staff except through Council action.

Cc: Portia Easter, Budget and Management Services
ITEM: An Ordinance to Adjust Appropriated Funding for Capital Project # 100159, “Elbow Road Extended Phase II-C,” with a Net Increase of $2,937,087

MEETING DATE: January 4, 2022

Background: The Highway Infrastructure Program (HIP) is a federally funded program intended to help local sponsors fund regionally significant highway and transit projects with a focus on arterial roadways. The HIP is a subgroup of the Regional Surface Transportation Program (RSTP) and is part of the core federal-aid highway program. The HIP is not a grant program, and funds are only available on a reimbursement basis with a varying split between federal and state funds. The HIP program does not require a local match.

Prior to the expiry of the FAST Act, Congress adopted a one-year extension of the FAST Act in Spring 2021, which provided funding for an additional year. While the original FAST Act provided for annual growth in its programs, the extension and federal appropriations did not include the anticipated growth rate. The Virginia Department of Transportation reduced the FY22 through FY27 RSTP funding allocations on multiple projects to balance the FY22 Six-Year Improvement Program (SYIP) and reflect “no RSTP growth.”

HIP funds were recently made available through the 2021 Coronavirus Response and Relief Supplement Act (CRRSA) to be allocated to current, eligible RSTP projects. The Hampton Roads Transportation Planning Organization Board recently allocated HIP funds to off-set projects impacted by the RSTP FAST Act reductions.

Considerations: The combined FY22 and FY23 RSTP funding allocations on Elbow Road Extended Phase II-C (Project # 100159) were reduced by a total of $3,937,087:

- $1,000,000 in previously appropriated FY22 funding (20% State / 80% Federal);
- and
- $2,937,087 in allocated FY23 funding (20% State / 80% Federal).

To off-set the RSTP funding reductions, the City has received $3,937,087 ($3,529,984 Federal and $407,103 State) of surplus FY22 HIP-CRRSA funds for Elbow Road Extended Phase II-C, which is an active, existing RSTP project impacted by the RSTP FAST Act reductions and, therefore, is eligible to accept the CRRSA HIP funds.

The Project will improve Elbow Road by providing two additional westbound lanes of Elbow Road Phase II, including the two additional bridge lanes, and the full four-lane section from the proposed intersection with Indian River Road to Salem Road. A location map is attached hereto.
Public Works Engineering requests the following modifications to the Federal and State appropriations for Elbow Road Extended Phase II-C:

- Remove $800,000 of previously appropriated Federal RSTP allocations (FY22)
- Remove $200,000 of previously appropriated State RSTP allocations (FY22)
- Add $3,529,984 of FY22 Federal HIP-CRRSA allocations
- Add $407,103 of FY22 State HIP-CRRSA allocations

The total net change of this action is an increase of $2,937,087 to the project. Of this amount $207,103 is an increase in funding from the Commonwealth, and $2,729,984 is an increase from the federal government. Appropriating this additional funding now will accelerate funding to the project ahead of the FY 2022-23 CIP.

- **Public Information:** Normal City Council agenda process.
- **Attachments:** Ordinance, Location Map, CIP Detail Sheet

**Recommended Action:** Approval

**Submitting Department/Agency:** Public Works

**City Manager:**

[Signature]
AN ORDINANCE TO ADJUST APPROPRIATED FUNDING
FOR CAPITAL PROJECT #100159, “ELBOW ROAD
EXTENDED PHASE II-C,” WITH A NET INCREASE IN
APPROPRIATIONS OF $2,937,087

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

1. $800,000 of previously appropriated Federal Regional Surface Transportation
Program allocations are hereby reduced for Capital Project (the “Project”)
#100159, “Elbow Road Extended Phase II-C;”
2. $200,000 of previously appropriated Commonwealth Regional Surface
Transportation Program allocations are hereby reduced for the Project;
3. $3,529,984 of FY22 Federal Highway Infrastructure Program - Coronavirus
Response and Relief Supplement Act allocations are hereby accepted and
appropriated to the Project, with federal revenues increased accordingly; and
4. $407,103 of FY22 State Highway Infrastructure Program - Coronavirus
Response and Relief Supplement Act allocations are hereby accepted and
appropriated for the Project, with revenue from the Commonwealth increased
accordingly.

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:

Kaitlynn Jones
Budget and Management Services

City Attorney's Office

CA15662
R-1
December 15, 2021
Fiscal Years FY22 through FY27 Capital Improvement Program

**Project: PG100159  Title: Elbow Road Extended Phase II-C**

**Category: Roadways  Department: Public Works  Status: Approved**

**Project Type:** New Facility Construction/Expansion

**Project Location:** Centerville, Princess Anne

**Programmed Funding**

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<tr>
<td>FY25</td>
<td>39,747</td>
<td>-</td>
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</tr>
</tbody>
</table>

**Description and Scope**

VDOT UPC #112317. This project will provide the additional two westbound lanes of Elbow Road Phase II, including the two additional bridge lanes, and the full four-lane section from the proposed intersection with Indian River Road to Salem Road. The construction of the additional two lanes will complete the ultimate four-lane divided roadway on Elbow Road for a distance of approximately 1.1 miles. The typical roadway section includes an 8-foot wide sidewalk, a dedicated on-road bike lane, LED street lights, median, and landscaping. The project also includes the completion of the realigned bridge crossing North Landing River.

**Purpose and Need**

This project will provide an alternate route for traffic using Princess Anne Road, Independence Boulevard, Lynnhaven Parkway, and North Landing Road. Traffic volumes currently range from 12,500 to 16,000 vehicles per day and are expected to reach 31,000 to 36,000 vehicles per day by 2040. Without this project, traffic will overcrowd Lynnhaven Parkway and Princess Anne Road. The road's current geometry is sub-standard and there is a history of crashes along the route. Additionally, the existing bridge needs of replacement. This project will provide geometrically acceptable roadway and a new bridge for two of the road's four lanes.

**History and Current Status**

Based on a needs analysis as a backlogged project, the overall "Elbow Road Phase II" first appeared in the FY 1985-86 CIP as a City administered project. It re-appeared in the FY 1991-92 CIP. In FY 1995-96, the project was accepted as a VDOT project. In the FY 1997-98 CIP, this project was reduced in scope with the City constructing a two-lane portion of the ultimate four-lane section, "Elbow Road Extended-Phase I." to meet the projected opening date of the New Castle Elementary School. In FY 2002-03, "Elbow Road Extended-Phase II-A" was created to facilitate advance construction of a two-lane road connection between Salem Road and Princess Anne Road. In FY 2003-04, the City assumed all project responsibilities from VDOT. The current "Elbow Road Phase II-C" project first appeared in the FY 2017-18 CIP and Appropriations to Date have been entirely funded with RSTP funds.

**Operating Budget Impact Comments**

<table>
<thead>
<tr>
<th>FY22</th>
<th>FY23</th>
<th>FY24</th>
<th>FY25</th>
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**Total Operating Budget Impacts**: 24,834,137

**Total FTE**: 0

**Means of Financing**

<table>
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<th>Funding Subclass</th>
<th>Amount</th>
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<td>19,867,310</td>
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<tr>
<td>State Contribution</td>
<td>4,966,827</td>
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</table>

**Total Funding**: 24,834,137
ITEM: An Ordinance to Accept and Appropriate Byrne Justice Assistance Grant Funds and to Authorize a Local Match

MEETING DATE: January 4, 2022

Background: The Virginia Department of Criminal Justice Services has awarded an additional amount of Byrne Justice Assistance Grant funds to the Virginia Beach Police Department. This grant supports training and equipment for a broad range of activities to prevent and control crime based on local needs and conditions.

Considerations: The grant provides $18,603 in federal funding. There is a 25% local match requirement. The funds will be used to purchase eight replacement automated external defibrillators, sixteen defibrillator pads, twelve mounted patrol helmets, and twelve horse protective nose guard and visors. The Police Department has capacity to make this grant match without additional resources.

Public Information: Normal Council Agenda process.

Recommendations: Approve the attached ordinance.

Attachments: Ordinance

Recommended Action: Approval

Submitting Department/Agency: Police Department

City Manager: [Signature]
AN ORDINANCE TO ACCEPT AND APPROPRIATE BYRNE JUSTICE ASSISTANCE GRANT FUNDS AND TO AUTHORIZE A LOCAL MATCH

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

1. $18,603 is hereby accepted from the Virginia Department of Criminal Justice Services and appropriated, with federal revenue increased accordingly, to the FY2021-22 Operating Budget of the Police Department to purchase eight replacement automated external defibrillators, sixteen defibrillator pads, twelve mounted patrol helmets, and twelve horse protective nose guards and visors.

2. The local grant match (25% of the provided federal funds) is to be provided by in-kind resources within the FY2021-22 Operating Budget of the Police Department.

3. The Mayor, in his capacity as chief elected official, is hereby authorized to execute, on behalf of the City of Virginia Beach, all necessary agreements, certifications, and assurances as instructed and required by the U.S. Department of Justice.

4. The replacement of the above items purchased with these grant funds is conditioned upon receipt of future grant funding.

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:

[Signatures]

Budget & Management Services  City Attorney's Office

CA15669
R-1
December 22, 2021
ITEM: An Ordinance to Accept and Appropriate Grant Funds to the Virginia Beach Police Department for Juvenile Justice and Delinquency Prevention

MEETING DATE: January 4, 2022

Background: The Department of Criminal Justice Services is making funds available for programs and initiatives that support the uplifting of youth development. The Juvenile Justice and Delinquency Prevention grant seeks to support restorative justice programming. This program seeks to divert youth from the criminal justice system and potentially offer alternative programs following minor offenses.

Considerations: The grant provides $64,000 in federal pass-through funding. There is no local match required. The funds will be utilized for City employees to attend an in-person learning class on restorative justice and participate in in-service facilitating/co-facilitating, which will lead to certain employees being certified as "Restorative Justice Facilitators." The program period for this grant is January 1, 2021 through June 30, 2023.

Public Information: Normal Council Agenda process.

Recommendations: Approve the attached ordinance.

Attachments: Ordinance

Recommended Action: Approval

Submitting Department/Agency: Police Department

City Manager:
AN ORDINANCE TO ACCEPT AND APPROPRIATE GRANT
FUNDS TO THE VIRGINIA BEACH POLICE DEPARTMENT
FOR JUVENILE JUSTICE AND DELINQUENCY
PREVENTION

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

$64,000 is hereby accepted from the Department of Criminal Justice Services and
appropriated, with federal revenue increased accordingly, to allow for city employees to
attend in-person classes on restorative justice facilitating, which will lead to certain
employees being certified as "Restorative Justice Facilitators."

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:

[Signature]
Budget and Management Services

APPROVED AS TO LEGAL SUFFICIENCY:

[Signature]
City Attorney’s Office

CA15666
R-1
December 21, 2021
ITEMS: An Ordinance to Accept and Appropriate Grant Awards in the Total Amount of $333,990 for the Office of Emergency Management

MEETING DATE: January 4, 2022

Background: The objective of the Urban Area Security Initiative (UASI) and the State Homeland Security Grant Program (SHSGP) is to assist state and local preparedness activities that address high-priority preparedness gaps across core capabilities that support terrorism preparedness. All supported investments are based on capability targets and gaps identified by a Threat and Hazard Identification and Risk Assessment process and assessed in the State Preparedness Report.

The City of Virginia Beach was awarded three grant allocations on October 01, 2021, totaling $333,990 from the Virginia Department of Emergency Management (VDEM). Two grant allocations are UASI, and one is SHSGP.

The UASI grants total $250,000. Of this amount, $200,000 is to purchase a regional Urban Area Security Operations Trailer, and $50,000 is to build Urban Area Security training sites on fire and police training grounds. The obligation period for both of these grants is October 1, 2021 to July 31, 2023.

The SHSGP grant is $83,990. This grant supports Active Threat Joint Simulation Training and Exercise.

Considerations: The total grant amount is $333,990 with a program period end date on July 31, 2023. The three separate grants will be administered by the Office of Emergency Management. These are federal grants with no cash match required by the City.

Public Information: Normal Council agenda process.

Recommendations: Adopt the attached ordinance.

Attachments: Ordinance

Recommended Action: Approval

Submitting Department/Agency: Office of Emergency Management

City Manager: [Signature]
AN ORDINANCE TO ACCEPT AND APPROPRIATE GRANT
AWARDS IN THE TOTAL AMOUNT OF $333,990 FOR THE
OFFICE OF EMERGENCY MANAGEMENT

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

$333,990 is hereby accepted from the Virginia Department of Emergency
Management and appropriated, with revenue increased accordingly, to the FY 2021-22
Operating Budget of the Office of Emergency Management for the following purposes:

1) $200,000 Urban Area Security Initiative Grant to purchase a regional Urban
Area Security Operations Trailer;

2) $50,000 Urban Area Security Initiative Grant to build Urban Area Security
training sites on fire and police training grounds; and

3) $83,990 State Homeland Security Grant Program to support Active Threat Joint
Simulation Training and Exercise from the United States Department of

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:

Kathy Jones  City Attorney’s Office
Budget and Management Services

CA15663
R-1
December 20, 2021
ITEM: An Ordinance to Transfer $122,000 to Capital Project # 100100, “Human Services Comprehensive Health Records System”

MEETING DATE: January 4, 2022

Background: On August 2, 2016, the City Council approved an ordinance to create a capital project to replace the electronic healthcare records system used by the Department of Human Services. At that point, the prior information system was more than ten years old, support was being phased out by the technology vendor, and the system was becoming inadequate for the reporting requirements of the state and federal governments.

After an unsuccessful contracting process was terminated in May 2021, a new contract was executed in August 2021 with Cerner to implement the Cerner Integrated Community Behavioral Health System, Millennium. Cerner operates the current system and intends to retire that system in the coming months. The new system will need to be in place by June 30, 2022.

Due to the implementation delays and funds expended on work related to the original contract award, the current capital project, # 100100, “Human Services Comprehensive Health Records System,” requires additional funds to achieve implementation of the new system by June 30, 2022. These funds relate to contracted manpower for program management. Due to the size and complexity of the new suite of applications in Millennium, contracted technical expertise is necessary to provide solutions architecture, project management, and optimization of the new system.

Considerations: The amount of funds needed for the contracted manpower is $122,000. Waiting until the FY 2022-23 budget process would not provide the funds in sufficient time to meet the deadline imposed by the vendor. Therefore, Human Services has identified funds from present vacancies within the department’s operating budget that can be transferred to the project to address the needed contracted manpower.

Public Information: Normal Council Agenda process.

Recommendations: Approve the attached ordinance

Attachments: Ordinance, CIP Detail Sheet

Recommended Action: Approval

Submitting Department/Agency: Human Services

City Manager: [Signature]
AN ORDINANCE TO TRANSFER $122,000 TO CAPITAL
PROJECT # 100100, "HUMAN SERVICES COMPREHENSIVE
HEALTH RECORDS SYSTEM"

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

$122,000 is hereby transferred from the FY 2021-22 Operating Budget of the
Department of Human Services to Capital Project # 100100, "Human Services
Comprehensive Health Records," within the Information Technology Section of the Capital
Improvement Program for the replacement of the Department's healthcare records system.

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

APPROVED AS TO CONTENT:  

APPROVED AS TO LEGAL SUFFICIENCY:

______________________________  
Budget and Management Services

______________________________  
City Attorney's Office

CA15659
R-1
December 15, 2021
**Project: PG100100**

**Title:** CIT - Human Services Comprehensive Health Records System

**Category:** Information Technology

**Department:** Human Services

**Project Type:** Technology

**District:** Citywide

### Programmed Funding

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</thead>
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<td>FY24</td>
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<td>FY27</td>
</tr>
<tr>
<td>Total</td>
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</table>

### Future Funding

- Total Operating Budget Impacts: 1,374,168
- Total FTE

### Description and Scope

This project provides funding for the replacement of the Department of Human Services legacy Electronic Health Records (EHR) system. The replacement Comprehensive Healthcare Records (CHR) system provides timely access to comprehensive healthcare information that addresses an individual’s physical and behavioral care.

### Purpose and Need

The software replacement is needed to remain compliant with the federal Centers for Medicare & Medicaid Services’ Meaningful Use Program and to provide data, reporting, and analytics to meet the ever-changing demands for data reporting from the State’s Department of Behavioral Health and Developmental Services (DBHDS). Remaining compliant with Meaningful Use not only means ensuring an incentive revenue stream for the next several years, more importantly, it provides a more comprehensive and effective health benefit to individuals accessing Community Services Board (CSB) services. The new EHR will provide data and analytics for evidenced based decisions regarding demand for services.

### History and Current Status

This project first appeared in the FY 2017-18 CIP. The existing Human Services EHR has been in use for over 10 years and is a third-party hosted software application that stores client demographic data, schedules and records clinical services provided to individuals served by the Community Services Board; reports performance data to the DBHDS; and bills for reimbursements from Medicaid, other service providers, and individuals. On August 2, 2016, Council established and authorized funding for this project. This project first appeared in the FY 2017-18 CIP and was previously titled Human Services Client Information System II. In the FY 2020-21 CIP, the scope of this project was modified to reflect additional activities to be funded.

### Operating Budget Impact Comments

Operating and maintenance support of the replacement electronic health records system to be determined.

### Schedule of Activities

<table>
<thead>
<tr>
<th>Project Activities</th>
<th>From - To</th>
<th>Amount</th>
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<tbody>
<tr>
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### Means of Financing

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<tr>
<td>Local Funding</td>
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</tr>
</tbody>
</table>

**Total Funding:** 1,374,168

**NO MAP REQUIRED**
ITEM: An Ordinance to Transfer $162,347 to Capital Project #100364 "Schilling Point Neighborhood Dredging"

MEETING DATE: January 4, 2022

- **Background:** In coordination with several waterfront neighborhoods, the City has established eight neighborhood dredging special service districts (SSDs), where waterfront property owners within a community petition the City Council to have SSD levies imposed upon their properties to fund dredging projects. The City provides project management, including design, permitting, real estate acquisition, construction, and monitoring.

In June 2019, the City Council adopted two ordinances to establish the Schilling Point Neighborhood Dredging Special Service District. One ordinance established the district and the SSD levy. The other ordinance established a capital project to manage the various costs incurred in project execution. When Shilling Point was established, the estimated total project cost was $381,456. Of this amount, $307,850 was for the actual dredging, and $73,696 was for design and permitting work. To get the project started, the General Fund provided advanced funding of $137,718 to allow Public Works to initiate the design, permitting, and acquisition. These amounts will be repaid through SSD levies over the anticipated 16-year program.

Although the City estimated $307,850 for the first dredging cycle, the low bid for this project is $470,197. An additional appropriation of $162,347 is requested to award the contract. Because the SSD has not yet generated sufficient revenue to transfer additional funds to the project from the SSD fund directly, a transfer from the General Fund is needed in order to execute this contract and begin the dredging cycle. This amount will be repaid to the General Fund over the course of the 16-year SSD cycle along with the original General Fund advance of $137,718. The source of this transfer is vacancy savings from the Department of Public Works.

- **Considerations:** The amounts provided from General Fund sources will be recouped through the SSD tax levy. The City staff provide quadrennial reviews of the SSD levies to allow the levy to support the anticipated costs of the program. When this review occurs, the City staff generally seek input from the relevant community regarding the anticipated three cycles of dredging over the 16-year period.

- **Public Information:** Public information will be handled through the normal Council Agenda process. Public Works staff has informed the Shilling Point SSD community leadership of the increase in project cost, and they are supportive of moving forward with execution of the contract and first dredging cycle.
Alternatives: Do not award the contract at this time and rebid it in the future.

Recommendations: Adopt the attached ordinance.

Attachments: Ordinance, CIP Detail Sheet

Recommended Action: Approval

Submitting Department/Agency: Public Works Engineering

City Manager: [Signature]
AN ORDINANCE TO TRANSFER $162,347 TO CAPITAL PROJECT #100364 "SCHILLING POINT NEIGHBORHOOD DREDGING"

WHEREAS, by ordinance, the City Council established the Schilling Point Neighborhood Special Services District;

WHEREAS, the initial rate of special service district levy included an anticipated cost to construct the dredging project; and

WHEREAS, actual construction cost exceeds original estimates and appropriations by $162,347.

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

$162,347 is hereby transferred from the FY 2021-22 Operating Budget of the Department of Public Works to Capital Project #100364, "Schilling Point Neighborhood Dredging."

BE IT FURTHER ORDAINED, THAT:

It is the intent of City Council that the funds transferred herein will be repaid to the City's General Fund in future years through special service district levies in the Shilling Point Neighborhood Dredging Special Service District.

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

APPROVED AS TO CONTENT:                APPROVED AS TO LEGAL SUFFICIENCY:

Budget and Management Services               City Attorney's Office

CA15664
R-2
December 22, 2021
Fiscal Years FY22 through FY27 Capital Improvement Program

Project: PG100364  
Title: Schilling Point Neighborhood Dredging  
Status: Approved

Category: Coastal  
Department: Public Works

Project Type: Rehabilitation/Replacement  
District: Lynnhaven

Programmed Funding

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<tr>
<td>381,546</td>
<td>137,718</td>
<td>243,828</td>
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Description and Scope

This project is for the construction of a neighborhood navigation channel system in the Schilling Point area. The system will include: a City-funded spur channel leading from the Eastern Branch Lynnhaven River channel; a Neighborhood Dredging Special Service District (NDSSD) that will fund a neighborhood channel to provide access for all NDSSD participants; and elective, individual access basins for each participant. The estimated cost of the initial construction of the individual access basins (to be paid by participants prior to construction) has been included in the project cost. Work includes design, permitting, property acquisition (if necessary), dredging, navigation aids, and monitoring. Beginning in the FY 2019-20 CIP, future City funded spur channels will be funded in project 100274, Neighborhood Dredging Spur Channels.

Purpose and Need

For well over a decade, the difficulties of removing accumulated sediment have negatively impacted the City's waterfront homeowner's ability to optimize the use of their property and to reclaim necessary navigation channels within the Lynnhaven River. Water quality and habitat have also been severely impacted due to the siltation of the bottomland of the City's water resources. Removal of these shoaling sediments (sands, silts, clays, and organic) will have a very positive, multi-beneficial effect. This project was established after 80% of the affected residents agreed to pay an increased real estate tax rate to address the affected channels as part of the Schilling Point Neighborhood Dredging SSD to address the affected area channels.

History and Current Status

This project first appeared in the FY 2020-21 CIP document. The SSD and this CIP project were established by City Council ordinance on June 18, 2019. The NDSSD will run for sixteen (16) years, during which three (3) cycles of dredging are anticipated (in FY 2021-22, FY 2027-28, and FY 2034-35). The SSD rate will be re-evaluated every four (4) years to ensure that all neighborhood channel costs are paid by the end of the 16-year period. Currently, this project is in the "Pre-Execution" phase, which includes the acquisition of all necessary permits and the development of a final design. The projected funding needed for the second and third dredging cycles will be adjusted based on the final cost of the first dredging cycle. The Schilling Point Dredging SSD tax rate is 40.4 cents per $100 of valuation.

Operating Budget Impact Comments

<table>
<thead>
<tr>
<th>FY22</th>
<th>FY23</th>
<th>FY24</th>
<th>FY25</th>
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<tr>
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</table>

Project Map

Schedule of Activities

<table>
<thead>
<tr>
<th>Project Activities</th>
<th>From - To</th>
<th>Amount</th>
</tr>
</thead>
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<td>Design</td>
<td>09/19 - 06/22</td>
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Means of Financing

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<th>Amount</th>
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<tr>
<td>Total Funding:</td>
<td>381,546</td>
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Fiscal Year 2021-2022 346 Capital Projects
ITEM: An Ordinance to Transfer $32,260 to the Operating Budget of the Commissioner of the Revenue and to Approve Position Pay Range Increases Requested by the Commissioner of the Revenue and the City Treasurer

MEETING DATE: January 4, 2022

Background: The Commissioner of the Revenue and the City Treasurer (collectively, the “Offices”) have submitted a joint request to the Director of Human Resources to increase the pay ranges for their Deputy and Chief Deputy position series. The request was initiated by the two offices to seek alignment with the mid-management positions in other departments with a similar organizational structure that have higher position grade classifications.

The request is to move the Chief Deputy positions for the Offices up two pay grades. The Commissioner and the Treasurer have conducted their own internal analysis indicating that the Assistant Real Estate Assessor’s pay grade is higher than the current level of their Chief Deputy positions. The Offices have pointed out the significant difference in workloads, the number of IT systems utilized, and public contact as major factors supporting their request. The existing and the proposed pay ranges are reflected in the following table:

<table>
<thead>
<tr>
<th>Position</th>
<th>Existing Range</th>
<th>Proposed Range</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chief Deputy Commissioner of the Revenue</td>
<td>$77,480 - $117,437</td>
<td>$85,467 - $129,542</td>
</tr>
<tr>
<td>Chief Deputy Treasurer</td>
<td>$77,480 - $117,437</td>
<td>$85,467 - $129,542</td>
</tr>
</tbody>
</table>

In addition, the Offices have proposed their Deputy positions series be moved up two pay ranges and the Deputy Treasurer-Collections up a single pay range. Using again the Real Estate Assessor’s Office as a comparison, it was noted that the Real Estate Appraiser Supervisor positions are compensated at a higher grade. Given the workloads, multiple types of taxes/fees, the amount of technical oversite and public contact, the Offices believe there is no reason their Deputy positions should be compensated at a lower level. The existing and the proposed pay ranges are reflected in the following table:

<table>
<thead>
<tr>
<th>Position</th>
<th>Existing Range</th>
<th>Proposed Range</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deputy Commissioner of the Revenue</td>
<td>$60,528 - $91,748</td>
<td>$66,810 - $101,275</td>
</tr>
</tbody>
</table>
The information below shows the total number of employees for the Offices and the Real Estate Assessor and the number of positions for each series.

<table>
<thead>
<tr>
<th>Department</th>
<th>Number of FTEs</th>
<th>Assistant/Deputy Series</th>
<th>Supervisor/Deputy Series</th>
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</thead>
<tbody>
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<td>City Real Estate Assessor</td>
<td>35.00 FTE</td>
<td>Assistant Assessor – 1 FTE</td>
<td>Real Estate Appraiser</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>Supervisor – 5 FTE</td>
</tr>
<tr>
<td>Commissioner of Revenue</td>
<td>63.93 FTE</td>
<td>Chief Deputy – 1 FTE</td>
<td>Deputy Commissioner of Revenue</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>– 5 FTE</td>
</tr>
<tr>
<td>City Treasurer</td>
<td>76.00 FTE</td>
<td>Chief Deputy – 1 FTE</td>
<td>5 Deputy Treasurer – 5 FTE</td>
</tr>
</tbody>
</table>

- **Considerations:** While the Department of Human Resources and the City Manager have the authority to revise the pay grades of these positions, this request for approval is presented to the City Council for consideration based on an analysis of the Commissioner of the Revenue’s expenditures showing that they may not be able to absorb this increase in salaries within their existing budget and will require additional funding for payroll. Also, the request comes ahead of the findings of the Market Salary Survey related to these positions, which is expected to be available late February.

Initial calculations show that the annual salary increase for the Commissioner of the Revenue will be approximately $64,520 and for the Treasurer’s Office, the additional expenses will be about $56,180. While the Treasurer likely can cover this increase through vacancy savings for the remainder of the FY 2021-22, the Commissioner likely will not be able to absorb all of the increase, necessitating the need for a transfer of $32,260 for the remainder of the current fiscal year.

The source of this transfer will be vacancy savings from other General Fund departments. If adopted, the annualization of this increase will be included in the FY 2022-23 budget if this ordinance is approved.

- **Public Information:** Normal City Council Agenda Process.

- **Attachments:** Ordinance

REQUESTED BY THE COMMISSIONER OF THE REVENUE AND CITY TREASURER
REQUESTED BY THE COMMISSIONER OF THE REVENUE AND THE CITY TREASURER

AN ORDINANCE TO APPROVE POSITION PAY RANGE INCREASES REQUESTED BY THE COMMISSIONER OF THE REVENUE AND THE CITY TREASURER AND TO TRANSFER $32,260 TO THE OPERATING BUDGET OF THE COMMISSIONER OF THE REVENUE

WHEREAS, the Commissioner of the Revenue and City Treasurer have submitted a joint request to the Director of Human Resources to increase pay ranges for their Deputy and Chief Deputy position series;

WHEREAS, this request comes ahead of the findings of the Market Salary Survey;

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

1. The City Council hereby approves the pay range increases as requested by the Commissioner of the Revenue and the City Treasurer and the City Manager is to include such pay ranges in the assembly of the Proposed FY 2022-23 Operating Budget.

2. The City Council approves a transfer of $32,260 from vacancy savings in the General Fund to the FY 2021-22 Operating Budget of the Commissioner of the Revenue for implementation of the requested pay range increases.

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

APPROVED AS TO CONTENT: ____________________________

APPROVED AS TO LEGAL SUFFICIENCY: ____________________________

Kathleen Cost
Budget and Management Services

City Attorney's Office

CA15667
R-1
December 21, 2021
1. VIRGINIA BEACH RACQUET CLUB NORTH ASSOCIATES, LP for a Change of Zoning from R-20 for a Residential District to R-40 Residential District to redevelop with three (3) single family dwellings and a Variance to Section 4.4(b) of the Subdivision Regulations re street line frontage at 1951 Thomas Bishop Lane DISTRICT 5—LYNNHAVEN

RECOMMENDATION: APPROVAL

2. SAMET PROPERTIES, LLC / TAYLOR FARMS LAND COMPANY, LLC for a Conditional Change of Zoning from AG-1 & AG-2 Agricultural Districts to Conditional I-1 Light Industrial District re increase ten (10) acres on site for additional stormwater storage in an above ground pond at 2097 Harpers Road DISTRICT 6—BEACH

RECOMMENDATION: APPROVAL

3. PLATINUM MANAGEMENT, LLC / 5429 GREENWICH ROAD, VA, LLC Conditional Change of Zoning from I-1 Light Industrial to Conditional A-36 Apartment re redevelop the property with a 315-unit multi-family residential community at 5429 Greenwich Road DISTRICT 2—KEMPSVILLE

RECOMMENDATION: APPROVAL

4. MONET FREEMAN / SHOPPES I, LLC for a Conditional Use Permit re tattoo parlor at 4380 Holland Plaza Shopping Center DISTRICT 3—ROSE HALL

RECOMMENDATION: APPROVAL

5. TRAYA’NA MILLS / PROVIDENCE SQUARE OFFICE PARK ASSOCIATES for a Conditional Use Permit re tattoo parlor at 1017 Kempsville Road DISTRICT 2—KEMPSVILLE

RECOMMENDATION: APPROVAL

6. KEVIN & KEISHA MERCER / RT VIRGINIA HOLDINGS, LLC for a Conditional Use Permit re assembly use at 5300 Kempsriver Drive, Suite 126 DISTRICT 2—KEMPSVILLE

RECOMMENDATION: APPROVAL

7. JODIE CALCAGNO / H C D PROPERTIES, LC for a Conditional Use Permit re assembly use at 4752 Euclid Road DISTRICT 4—BAYSIDE

RECOMMENDATION: APPROVAL

8. MICHAEL D. SIFEN, INC. / VIRGINIA BEACH INVESTMENT CO. for a Conditional Use Permit re mini warehouse/self-storage at the southwest intersection of College Park Boulevard and Providence Road DISTRICT 1—CENTERVILLE

RECOMMENDATION: APPROVAL

9. Resolution to ADOPT and AMEND the Virginia Beach Comprehensive Plan 2016 re Stormwater Impacts for Discretionary Land Use Applications (Deferred from December 7, 2021)

RECOMMENDATION: STAFF-APPROVAL

PLANNING COMMISSION—DENIAL
NOTICE OF PUBLIC HEARING

A Public Hearing of the Virginia Beach City Council will be held on Tuesday, January 4, 2022 at 6:00 p.m. in the Council Chamber at City Hall, Building 1, 2nd Floor at 2401 Courthouse Drive, 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=e3821d09a839a9823a6a4d0d
2. Register with the City Clerk’s Office by calling 757-385-4303 prior to 5:00 p.m. on January 4, 2022.

The following requests are scheduled to be heard:

Virginia Beach Racquet Club North Associates, LP (Applicant & Property Owner) Rezoning (R-20 Residential District to R-40 Residential District) Subdivision Variance (Section 4.4(b) of the Subdivision Regulations) Address: 1951 Thomas Bishop Lane GPIN(s): 149469576 Council District Lynnhaven


Monet Freeman (Applicant) Shoppes I, LLC (Property Owner) Conditional Use Permit (Tattoo Parlor) Address: 4380 Holland Plaza Shopping Center GPIN(s): 1476955691 Council District: Rose Hall

Platinum Management, LLC (Applicant) 5429 Greenwich Rd, VA, LLC (Property Owner) Conditional Rezoning (I-1 Light Industrial to Conditional A-36 Apartment for construction of 335 dwelling units at a density of approximately 29.41 units per acre) Address: 5429 Greenwich Road GPIN(s): 1467449257 Council District: Kempsville

Traya’na Mills (Applicant) Providence Square Office Park Associates (Property Owner) Conditional Use Permit (Tattoo Parlor) Address: 1017 Kempsville Road GPIN(s): 1468536222 Council District: Kempsville

Kevin & Keisha Mercer (Applicants) RT Virginia Holdings, LLC (Property Owner) Conditional Use Permit (Assembly Use) Address: 5300 Kempsville Crv, Suite 126 GPIN(s): 1466306381 Council District: Kempsville

Jodie Calcaigno (Applicant) H C D Properties, LLC (Property Owner) Conditional Use Permit (Assembly Use) Address: 4752 Euclid Road GPIN(s): 1477325444 Council District: Bayside

Michael D. Sifen, Inc. (Applicant) Virginia Beach Investment Co. (Property Owner) Conditional Use Permit (Self Storage/Mini Warehouse) Address: Parcel at the southwest intersection of Providence Road & College Park Boulevard GPIN(s): 1486221655 Council District: Centerville

CITY OF VIRGINIA BEACH - A Resolution to amend the City of Virginia Beach Comprehensive Plan, 2016 to address City-wide stormwater impacts for discretionary land use applications.

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. 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
City Clerk
Background:
The subject lot is zoned R-20 Residential District and R-40 Residential District and is currently developed with tennis courts and an asphalt parking lot. To remove the split zoning on the property, the applicant is requesting to rezone a portion of the property from R-20 Residential District to R-40 Residential District.

In addition to the rezoning request, the applicant is seeking to subdivide the property to create three residential lots. All lots will meet the dimensional requirements for lot width and lot area for properties in the R-40 Residential District; however, proposed Lot 1C will be deficient in the 100 foot street line frontage requirement. As only 32.60 feet of street line frontage is depicted on the submitted plan, Subdivision Variance to Section 4.4(b) of the Subdivision Regulations is required.

Considerations:
These requests to rezone the property from R-20 Residential District to R-40 Residential District and the Subdivision Variance request to address the reduction in street line frontage for Lot 1C are deemed acceptable by Staff and the Planning Commission concurs. The subdivision of this property into three residential parcels is consistent with the Comprehensive Plan's vision for the Suburban Area. The creation of these lots will remove underutilized, private tennis courts and a parking lot and redeveloped the site with three single-family dwellings that will be complementary to the existing neighborhood. Though the proposed lot 1C will be deficient in the 100 foot street line frontage on a public street, the proposed lot fronts on a private drive which provides access to the lot.

A variance request was considered and approved by the Chesapeake Bay Preservation Area Board (CBPA) for encroachment into the Resource Protection Area (RPA) buffer for the three residential lots on November 1, 2021. The CBPA approved the variance includes a limitation of 30 percent impervious cover of the development of the single-family dwellings, assurance that the existing benefits of
the RPA buffer remain, and preservation of existing vegetation to the maximum extent practical. The request limits the need to extend Thomas Bishop Lane which lessens the impacts on water quality and reduces the amount of encroachment into the environmentally sensitive areas of the property.

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 December 8, 2021, the Planning Commission placed this item on the Consent Agenda, passing a motion by a recorded vote of 10-0, to recommend approval of this request.

1. The applicant/owner shall submit a subdivision plat to the City of Virginia Beach, subject to the review and approval of the Department of Planning & Community Development prior to recordation, which shall be in substantial conformance to the submitted exhibit entitled "REZONING EXHIBIT FOR VIRGINIA BEACH RACQUET CLUB NORTH ASSOCIATES, THOMAS BISHOP LANE, VIRGINIA BEACH, VA," prepared by Timmons Group, dated September 30, 2021, a copy of which has been exhibited to the Virginia Beach City Council and is on file with the Department of Planning & Community Development.

2. When the property is developed, the residential dwellings constructed shall vary in size and design and shall be of high quality materials and architectural features that are compatible with the surrounding development, as determined by the Planning Director.

**Attachments:**
Staff Report and Disclosure Statements
Location Map
Minutes of Planning Commission Hearing

**Recommended Action:** Staff recommends Approval. Planning Commission recommends Approval.

**Submitting Department/Agency:** Planning Department

**City Manager:**

[Signature]
Requests

**Rezoning** (R-20 Residential District to R-40 Residential District)

**Subdivision Variance** (Section 4.4(b) of the Subdivision Regulations)

**Staff Recommendation**
Approval

**Staff Planner**
Marchelle Coleman

**Location**
1951 Thomas Bishop Lane

**GPIN**
1499469576

**Site Size**
2.81 acres

**AICUZ**
Less than 65 dB DNL

**Watershed**
Chesapeake Bay

**Existing Land Use and Zoning District**
Tennis court, parking lot / R-20 Residential, R-40 Residential

**Surrounding Land Uses and Zoning Districts**

**North**
Undeveloped lot, tennis court / R-40 Residential

**South**
Single-family dwelling / R-20 Residential

**East**
Thomas Bishop Lane
Single-family dwellings, undeveloped lot, community clubhouse, tennis courts / R-40 Residential, R-30 Residential, R-20 Residential

**West**
Wetlands, creek / R-40 Residential
Background & Summary of Proposal

- The subject lot is zoned R-20 Residential District and R-40 Residential District and is currently developed with tennis courts and an asphalt parking lot, which has been owned by the Virginia Beach Racquet Club for decades.

- To remove the split zoning on the property, the applicant is requesting to rezone a portion of the property from R-20 Residential District to R-40 Residential District.

- In addition to removing the split zoning on the property, the applicant seeks to subdivide the property to create three residential lots. While one of the three proposed lots, Lot 1C, will meet the lot width requirement of 125 feet at the front yard setback, it will not meet the minimum street frontage requirement of 100 feet for properties zoned R-40 Residential District. Therefore, a variance to Section 4.4(b) of the Subdivision Regulations is required.

- A variance request was considered by the Chesapeake Bay Preservation Area Board (CBPA) for an encroachment into the Resource Protection Area (RPA) buffer for these three residential lots on November 1, 2021. The CBPA Board approved the variance request to allow the encroachment into the RPA and limited the impervious cover of the development of the single-family dwellings to a maximum of 30 percent.

- As shown on the exhibit on page six of this report and the table below, the proposed lots, Lots 1A, 1B, and Lot 1C, will all exceed the minimum lot area requirement of 40,000 square feet and lot width requirement of 125 feet at the setback. However, Lot 1C will be shy of the minimum street frontage requirement by 67.4 feet.

<table>
<thead>
<tr>
<th>Proposed Lot</th>
<th>Required Minimum Lot Width in R-40 (feet)</th>
<th>Proposed Lot Width (feet)</th>
<th>Required Minimum Street Frontage in R-40 (feet)</th>
<th>Proposed Street Frontage (feet)</th>
<th>Required Lot Area (square feet)</th>
<th>Proposed Lot Area (square feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot 1A</td>
<td>125</td>
<td>138.35</td>
<td>100</td>
<td>150.6</td>
<td>40,000</td>
<td>46,160</td>
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<tr>
<td>Lot 1B</td>
<td>125</td>
<td>183.23</td>
<td>100</td>
<td>194.14</td>
<td>40,000</td>
<td>40,048</td>
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<tr>
<td>Lot 1C</td>
<td>125</td>
<td>179.69</td>
<td>100</td>
<td>32.60*</td>
<td>40,000</td>
<td>40,041</td>
</tr>
</tbody>
</table>

*Variance Requested
Section 9.3 of the Subdivision Regulations states:

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

A. Strict application of the ordinance would produce undue hardship.
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 request to rezone the property from R-20 Residential District to R-40 Residential District to ensure that all newly created lots have one zoning classification is recommended for approval. The Subdivision Variance request to address the reduction in street line frontage for Lot 1C, in Staff’s opinion, is also acceptable.

These requests are consistent with the Comprehensive Plan’s vision for the Suburban Area. Development within this area focuses on creating and maintaining great neighborhoods. Achieving this goal reflects on the ability for developments to maintain and enhance the existing neighborhood, to be compatible with surroundings, and provide quality and attractive buildings with effective buffering and livability. In Staff’s view and in conformance with the Comprehensive Plan, the proposed single-family dwellings will improve the aesthetics for the adjoining property owners by demolishing the underutilized tennis courts and parking lot, and will be compatible with the surrounding residential homes along Thomas Bishop Lane. Condition 2 is recommended to ensure that the design and exterior building materials of the new homes will be complementary to the existing neighborhood. The resulting number of average daily
trips along Thomas Bishop Lane will also likely decrease with the replacement of the tennis courts with single-family dwellings.

As stated previously, it is the intent of the applicant to subdivide the 2.81-acre site into three lots for the development of three single-family dwellings, one of which requires a variance to the street frontage requirement of 100 feet. Proposed Lots 1A & 1B meet all the dimensional requirements of the Zoning Ordinance for the R-40 Residential District. Lot 1C meets all dimensional requirements in the R-40 Residential District, except for the street frontage requirement. Although Lot 1C is deficient by 67.4 feet, the lot physically fronts on a private roadway that is utilized for access to the lots to the north, which were also approved through the Subdivision Variance process.

On November 1, 2021, the applicant received a CBPA Board Variance for encroachment into the RPA. It was determined by Staff that this environmentally sensitive parcel, with the amount of impervious surfaces and the amount of encroachment into the Resource Protection Area (the most stringently regulated portion of the Chesapeake Bay Preservation Area) should be kept to a minimum in order to meet the intent of the Chesapeake Bay Preservation Area Ordinance. The three proposed residential lots will be similar to the adjacent lots encumbered by the Chesapeake Bay Resource Protection Area. The subdivision, as proposed, will maintain a functional RPA buffer, will limit land disturbance to the area, and will preserve the existing vegetation to the maximum extent. This request limits the need to extend Thomas Bishop Lane which lessens the impacts on water quality and reduces the amount of encroachment into the environmentally sensitive areas of the property.

In Staff’s opinion, the protections in place associated with the CBPA Board variance approval and the conditions recommended below that are designed to ensure compatibility with the neighborhood will ensure no negative impacts to surrounding properties as a result of these actions. Staff recommends approval of these requests with the conditions listed below.

**Recommended Conditions**

1. The applicant/owner shall submit a subdivision plat to the City of Virginia Beach, subject to the review and approval of the Department of Planning & Community Development prior to recordation, which shall be in substantial conformance to the submitted exhibit entitled “REZONING EXHIBIT FOR VIRGINIA BEACH RACQUET CLUB NORTH ASSOCIATES, THOMAS BISHOP LANE, VIRGINIA BEACH, VA,” prepared by Timmons Group, dated September 30, 2021, a copy of which has been exhibited to the Virginia Beach City Council and is on file with the Department of Planning & Community Development.

2. When the property is developed, the residential dwellings constructed shall vary in size and design and shall be of high quality materials and architectural features that are compatible with the surrounding development, as determined by the Planning Director.

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.
The Comprehensive Plan recognizes this property as being within the “Suburban Area.” Guiding principles have been established in the Comprehensive Plan to guard against possible threats to the stability of the Suburban Area and to provide a framework for neighbors and places that are increasingly vibrant and distinctive. The Plan’s primary guiding principle for the Suburban Area is to create “Great Neighborhoods,” and to support those neighborhoods with complementary non-residential uses in such a way that working together the stability and sustainability of the Suburban Area is ensured for now and the future.

Natural & Cultural Resources Impacts

The site is located in the Chesapeake Bay watershed. The site has highly erodible soils and wetlands. The site is encumbered by the Resource Protection Area, the more stringently regulated and environmentally sensitive portion of the Chesapeake Bay Preservation Area.

Traffic Impacts

<table>
<thead>
<tr>
<th>Street Name</th>
<th>Present Volume</th>
<th>Present Capacity</th>
<th>Generated Traffic</th>
</tr>
</thead>
<tbody>
<tr>
<td>Thomas Bishop Lane</td>
<td>No Data Available</td>
<td>9,900 ADT (^1) (LOS (^4) “D”)</td>
<td>Existing Land Use (^2) – 180 ADT</td>
</tr>
<tr>
<td>North Great Neck Road</td>
<td>29,700 ADT (^1)</td>
<td>36,900 ADT (^1) (LOS (^4) “D”)</td>
<td>Proposed Land Use (^3) – 30 ADT</td>
</tr>
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</table>

\(^1\) Average Daily Trips \(^2\) as defined by a six outdoor tennis courts \(^3\) as defined by a three single family dwellings \(^4\) LOS = Level of Service

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

Thomas Bishop Lane is a two-lane undivided local street. It is not shown on the MTP and is not the subject of any CIP project.

Great Neck Road is a suburban major arterial that has a divided four-lane typical section in front of the subject site. The MTP shows Great Neck Road as a divided facility with a bikeway in a 12-foot wide right-of-way. There are no roadway CIP projects in the vicinity.

Public Utility Impacts

Water

Each proposed lot must connect to City water with an individual and exclusive water service line and meter. There is an eight-inch that reduces to a four-inch City water main fronting the property along Thomas Bishop Lane.

Sewer

Each proposed lot must connect to City sanitary sewer and can be served with an individual and exclusive private grinder pump and force main. Connection to the existing 1.5-inch private sanitary sewer force main fronting a portion of the property along Thomas Bishop lane would require:

- A Private Sewer Maintenance Agreement
- A Public Utility variance
- Calculations showing adequate capacity of shared force main
Public Outreach Information

Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on November 8, 2021.

- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, November 21, 2021 and November 28, 2021.

- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on November 22, 2021.

- 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 December 2, 2021.

City Council

- As required by City Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, December 19, 2021 and December 26, 2021.

- 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 December 20, 2021.

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: Virginia Beach Racquet Club North Associates, LP

Does the applicant have a representative? ☐ Yes    ☐ No

- If yes, list the name of the representative.
  R. Edward Bourdon, Jr., Esq., Sykes, Bourdon, Ahern & Levy, P.C.

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

- If yes, list the names of all officers, directors, members, trustees, etc. below. (Attach a list if necessary)
  Harvey H. Shiflet, III, General Partner

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

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

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

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

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.
   Roger Rodriguez, Timmons Group

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.
   C. Torrey Breeden
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.

   Roger Rodriguez, Timmons Group

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./Howard R. Sykes, Jr., 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.

Virginia Beach Racquet Club North Associates, LP

By: Harvey H. Shiflet, III, General Partner

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

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<tr>
<td>□</td>
<td>No changes as of</td>
<td>Date</td>
<td>Signature</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Marchelle L. Coleman</td>
</tr>
</tbody>
</table>

Revised 11/05/2020

Marchelle L. Coleman

Virginia Beach Racquet Club North Associates, LP
Agenda Items 1 & 2
Page 12
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
December 8, 2021 Public Meeting
Agenda Items #1 & 2

Virginia Beach Racquet Club North Associates, LP [Applicant & Property Owner]

Rezoning (R-20 Residential District to R-40 Residential District)
Subdivision Variance (Section 4.4(b) of the Subdivision Regulations)

1951 Thomas Bishop Lane

RECOMMENDED FOR APPROVAL – CONSENT

Jack Wall:
Okay. Thank you, Mr. Chairman. We have 26 items on the consent agenda today, on the regular consent agenda, including short term rentals. The first item is agenda items one and two. Virginia Beach Racquet Club North Associates, both applicant and property owner, for Rezoning from R20 to R40 and a Subdivision Variance at 1951 Thomas Bishop Lane in the Lynnhaven District. Is there a representative for this item.

Eddie Bourdon:
Thank you, Mr. Vice Chair, Mr. Chairman, members of the Commission. For the record, Eddie Bourdon, Virginia Beach Attorney representing the Racquet Club, Dr. Shifflett and his family, on these applications. Appreciate Marchelle’s work on this application and being on the consent agenda. The two conditions recommended are acceptable.

Eddie Bourdon:
I did want to follow on some of Commissioner Wall’s inquiries this morning in the informal. I apologize. I’ll try to be brief. Thomas Bishop Lane, as it runs through this property, you can see that little dotted line that goes all the way up to the far end. That’s a power easement that ran along the original Great Neck Road. Great Neck Road ran right through here, where Thomas Bishop Lane is now, way back in the day. I think it was actually, the new one, was dedicated, I believe, in the mid-60s. So the Shifflett’s’, knowing that they were going to move this bubble where the tennis courts are now, that was the indoor, over to a new one, about over 10 years ago, started planning for this property.

Eddie Bourdon:
Three lots were created on the Long Creek Canal with the Subdivision Variance and with Bay Board approval. And it was everybody’s consensus at the time not to extend a road and put a cul-de-sac. Because it’s more environmentally friendly to do some flag lots. Three flag lots were created. The first one has a house on it. The second one is shown there with the little box. The third one is where the box would’ve been. And then there was more land to the west and then all the way down. They planned on having five other lots that would’ve all been served by the same easement that already exists.
Eddie Bourdon:
Instead, we're just creating three. The third lot of the original three has been incorporated into the rest of the property. And that's that three plus acre piece that will remain as one piece. Two less slots than were originally anticipated. And the road note, there's no new improvements. What is there will continue to be the road under the existing easement that exists today. Sorry for the length, but I thought it would be helpful to everybody to understand.

Jack Wall:
Okay. Thank you.

Eddie Bourdon:
Thank you.

Jack Wall:
Yep. Is there any opposition for this item being placed on the consent agenda? Hearing none, the Planning Commission has asked Mr. Graham to read this into the record.

Whitney Graham:
Thank you, Mr. Wall. This application for Virginia Beach Racquet Club North Associates LP for the Rezoning of R20 Residential District to R40 Residential District, as well as a Subdivision Variance of the Subdivision Regulations. The property is located 1951 Thomas Bishop Lane. The subject lot is zoned R20 Residential and R40 Residential District and is currently developed with tennis courts and an asphalt parking lot, which has been owned by the Virginia Beach Racquet Club for decades.

Whitney Graham:
To remove the split zoning on the property, the applicant is requesting to rezone a portion of the property from R20 Residential District to R40 Residential District. This will create three lots, all of which are in excess of 40,000 square feet. The applicant has also received approval from the Chesapeake Bay Preservation Area Board to encroach into the RPA, and have limited impervious coverage of, approximately, a maximum of 30%. Staff, again, supports this project, and we recommend approval.

Jack Wall:
Is there any opposition for agenda items 18 through 27 being placed on the consent agenda? All right. Hearing none, Mr. Chairman I make a motion that we approve agenda items 1 and 2, 3, 4, 5, 7, 8, 9, 10, 11, 12 through 17, 18, and 19 through 27.

David Weiner:
All right. We have a motion for approval. Do we have a second?

Donald Horsley:
Second.
David Weiner:
A second.

David Weiner:
Okay. Now, disclosures. Yeah, I know. We're going there. We got the motion. We got the second. Now we have the disclosures. Okay, go. You start, Whitney.

Whitney Graham:
Thank you, Mr. Chairman. Pursuant to the Conflicts of Interest Act, Virginia Code Section 2.2-3115F, I have a letter on file to this as well. I make the following declarations, the following agenda items on today's agenda have some financing by Towne Bank, which I serve on one of the Boards at Towne Bank, but I don't make any decisions for loans or anything like that.

Whitney Graham:
So anyway, these are items one and two Virginia Beach Racquet Club North Associates LP, 1951 Thomas Bishop Lane, number 10, Jody Calcagno, 4752 Euclid Road, agenda items 12 through 17, 2508 Pacific Avenue LLC for 2510, 2514, 2518, 2522, 2526, 2530 Pacific Avenue, agenda item number 18, ORF Ventures LLC, 603 20th Street, agenda items 19 through 27 ORF Ventures LLC, 410 19th Street units 101, 102, 103, 201, 202. And this is at 412 19th Street units 101, 102, 201 and 202. Sorry about the length of that. Thank you.

David Weiner:
All right. Next, Mr. Redmond.

Dave Redmond:
Yeah, I'm not going to do any of that. I will say that I have a letter, myself, on file with the City Attorney's Office, which prevents me from voting on all the short-term rentals. I have a client in the travel industry, and I therefore do not vote on any of the individual short term rental applications, nor on any of the ordinances that govern short term rentals. So while I will be voting in favor of the consent agenda, I'm specifically abstaining from those items, which I have down as number 12 to 27 on short term rentals. Thank you, Kay. And thank you, Mr. Chairman.

David Weiner:
Mr. Inman.

Mike Inman:
Yes, I have to make a disclosure regarding items financing by Towne Bank. I serve on Advisory Board, as does Mr. Graham, that does not make any loan decisions, but disposing with regard to agenda items one and 2, 10, 18, and 19 through 27, without going into the same detail that Mr. Graham did. I believe I can participate in these decisions fairly and objectively, and I will participate in voting on those items.
Mike Inman:
Next, I'm making a disclosure with regard to item number three, Samet Properties. One of my partners represents the applicant Taylor Farms Land Company. And I'm not involved in that representation, nor do I represent the owner. And I have no financial interest on. Having made this disclosure, I believe I can participate in this vote objectively, fairly, and in the public interest.

Mike Inman:
Last but not least, with regard to item seven Hunt Club Condominium, I represent that applicant otherwise, not here today, obviously Mr. Bourdon did, and I will therefore abstain from item number seven.

David Weiner:
Okay. Mr. Graham, do you want to add something?

Whitney Graham:
Yes, sir, Mr. Chairman. I apologize. In my disclosure, I want to add that I do plan to participate in today's vote, and that I feel that I can do so fairly and objectively in the public's interest. Thank you.

David Weiner:
Anyone else? Okay. We have a motion for approval by Mr. Wall, a second by Mr. Horsley.

Madam Clerk:
Okay. Vote is open. By recorded vote of 10 in favor, zero against, agenda items one and 2, 3, 4, 5, 8, 9, 10, and 11 have been recommended for approval by consent. Agenda item number seven, by recorded vote of nine in favor, zero against with one abstention, has been recommended for approval by consent. And agenda items 12 through 17, 18, 19 through 27 through recorded vote of nine in favor, zero against with one abstention, have been recommended for approval by consent.

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CONDITIONS:

1. The applicant/owner shall submit a subdivision plat to the City of Virginia Beach, subject to the review and approval of the Department of Planning & Community Development prior to recordation, which shall be in substantial conformance to the submitted exhibit entitled "REZONING EXHIBIT FOR VIRGINIA BEACH RACQUET CLUB NORTH ASSOCIATES, THOMAS BISHOP LANE, VIRGINIA BEACH, VA," prepared by Timmons Group, dated September 30, 2021, a copy of which has been exhibited to the Virginia Beach City Council and is on file with the Department of Planning & Community Development.

2. When the property is developed, the residential dwellings constructed shall vary in size and design and shall be of high quality materials and architectural features that are compatible with the surrounding development, as determined by the Planning Director.

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.
ITEM: SAMET PROPERTIES, LLC [Applicant] TAYLOR FARMS LAND COMPANY, LLC [Property Owner] Conditional Change of Zoning (AG-1 & AG-2 Agricultural Districts to Conditional I-1 Light Industrial District) for the property located at 2097 Harpers Road (GPIN 2405655160). COUNCIL DISTRICT – BEACH

MEETING DATE: January 4, 2022

- **Background:**
  The applicant is seeking to rezone a portion of this property from AG-1, AG-2 Agricultural Districts to Conditional I-1 Light Industrial District. On September 7, 2021, a Conditional Rezoning was granted on this property, as well as a Conditional Use Permit for a Bulk Storage Yard, to construct a 221,000 square foot distribution center with associated parking and designated storage areas for the company’s delivery vans. The previous approval proposed two stormwater management facilities and underground storage below the proposed parking lot. The applicant is now seeking to increase the stormwater management facilities for the site by an additional 10 acres to install additional storage in an above ground pond. To accomplish this, the 10 acres north of the previously approved site will be rezoned, thereby increasing the total site acreage of the storage and distribution center to just over 77 acres.

- **Considerations:**
  This request is in keeping with the policies and goals set forth in the Comprehensive Plan for the South Oceana Special Economic Growth Area, as this area is envisioned to be of high-quality employment, corporate parks, and light industrial uses with attractive building designs. The proposed industrial use of the site as a stormwater management facility to support the stormwater for the proposed distribution and warehouse facility with accessory office space is found to be appropriate for the subject property and conforms to the recommended uses within the South Oceana Special Economic Growth Area. The property is encumbered by a Navy restrictive easement. The Department of the Navy reviewed the proposal and deemed it to be consistent with the terms of easement on the property and provided a favorable easement compliance review for the project. 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 December 8, 2021, the Planning Commission placed this item on the Consent Agenda, passing a motion by a recorded vote of 10-0, to recommend approval of this request.

Attachments:
Staff Report and Disclosure Statements
Location Map
Proffer Agreement
Minutes of Planning Commission Hearing

Recommended Action: Staff recommends Approval. Planning Commission recommends Approval.

Submitting Department/Agency: Planning Department

City Manager:
Request
Conditional Rezoning (AG-1 & AG-2 Agricultural District to Conditional I-1 Light Industrial)

Staff Recommendation
Approval

Staff Planner
Marchelle Coleman

Location
2097 Harpers Road

GPIN
2405665160

Site Size
10.0 acres

AICUZ
Greater than 75 dB DNL

Watershed
Southern Rivers

Existing Land Use and Zoning District
Undeveloped parcel, farm, borrow pit / AG-1 & AG-2 Agricultural

Surrounding Land Uses and Zoning Districts
North
Single-family dwelling, cultivated field / AG-2 Agricultural, B-2 Community Business

South
Dam Neck Road
Undeveloped parcel / AG-1 Agricultural & I-1 Light Industrial

East
School / AG-1 Agricultural

West
Harpers Road
NAS Oceana / I-2 Heavy Industrial
On September 7, 2021, a Conditional Rezoning from AG-1, AG-2 Agricultural Districts and I-1 Light Industrial District to Conditional I-1 Light Industrial District, as well as a Conditional Use Permit for a Bulk Storage Yard was granted by City Council to construct a 221,000 square foot distribution center with associated parking and designated storage areas for the company's delivery vans.

With the previously approved applications, the applicant proposed two stormwater management facilities and underground storage below the proposed parking lot to address stormwater quality and quantity control for the site. The applicant is now seeking to increase the stormwater management facilities for the site by an additional 10-acres to install additional storage in an above ground pond.

To accomplish this, the applicant is requesting to rezone an additional 10 acres, north of the approved site, from AG-1 and AG-2 Agricultural Districts to Conditional I-1 Light Industrial District to accommodate for additional aboveground storage on the site. This increases the total site acreage of the storage and distribution center to just over 77.0 acres.

The site is located in the greater than 75dB DNL Noise Zone and is encumbered by a Navy restrictive easement. On June 30, 2021, the applicant received a letter from the Department of Navy stating that the proposed use appears to be compliant with the language of the restrictive easement and is, therefore, an appropriate use for this site. This correspondence is on page 10 of this report.
Zoning History

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Application Types

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

Evaluation & Recommendation

In Staff’s opinion, this request to conditionally rezone a 10-acre portion of the parcel to construct an above ground stormwater management facility to support the already approved industrial use is acceptable.

This site is located within the Special Economic Growth Area 3 – South Oceana. The Special Economic Growth Area 3 (SEGA-3) is a tract of land encompassing properties on both sides of Dam Neck Road, between Holland Road and Corporate Landing Parkway. Portions of this area are impacted by high noise zones, accidental potential zones, and Navy restrictive easements. The proposed distribution center is compatible with the AICUZ provisions set forth in the Zoning
As stated previously, the Navy has provided a favorable easement compliance review letter noting that the use is consistent with the terms of the easement.

As recommended in the Comprehensive Plan, the underdeveloped tracts east of the South Oceana Special Economic Growth Area are envisioned to be of high-quality employment, corporate parks, and light industrial uses with attractive building designs. The 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 industrial use of the site as a stormwater management facility to support the stormwater for the proposed distribution and warehouse facility with accessory office space is found to be appropriate for the subject property and conforms to the recommended uses within the South Oceana Special Economic Growth Area.

As indicated in the Proffer 3 of the Conditional Rezoning agreement, the applicant shall dedicate additional necessary right-of-way, if any, to facilitate the right-of-way improvements to Harpers Road, as depicted on page 11 of this report. With the previous approval, the applicant submitted the Harpers Road Delivery Station Traffic Impact Study (TIS), dated June 30, 2021 to Staff for review. As depicted on the proposed Harpers Road Improvements Exhibit, significant improvements will be made to Harpers Road in the vicinity of this site. With the addition of the 10-acre stormwater management facility, further right-of-way may be deemed appropriate, and this need will be determined during the site plan review process. The applicant is aware of this potential need for a dedication.

A preliminary stormwater management analysis was reviewed by the Development Services Center (DSC) outlining the proposed stormwater strategy for this site with the previous approval. Due to the extensive work done during this process and the fact that the site is currently under site plan review, DSC Staff deemed that a preliminary stormwater analysis was not required for the additional 10-acre stormwater management facility proposed.

Based on the considerations above, Staff recommends approval of this request subject to the proffers listed below.

**Proffers**

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

**Proffer 1:**

When the property is developed, it must be assembled with and incorporated by subdivision into one (1) parcel with that adjoining property containing approximately 67.15 acres which is subject to those Proffered Covenants, Restrictions and Conditions recorded in the above referenced Office of the Clerk as Instrument Number 202103073597.

**Proffer 2:**

When the Property is developed, it shall be improved with a stormwater retention pond and related infrastructure for the capture, retention and discharge of stormwater associated with the development of the balance of assembled parcel substantially as depicted with the exhibit entitled "PROJECT DOOR BMP EXPANSION AREA", dated September 29, 2021, prepared by Kimley-Horn and Associates which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning and Community Development (hereinafter "BMP Expansion Plan").

**Proffer 3:**

When the Property is developed, the party of the first part, Grantor, shall dedicate additional necessary right of way, if any, to facilitate those right of way improvements to Harpers Road substantially in accordance with the exhibit entitled, "PROJECT DOOR HARPERS ROAD IMPROVEMENTS EXHIBIT" dated July 20, 2021 and prepared by Kimley-Horn and
Associates which have been exhibited to the Virginia Beach City Council and area on file with the Virginia Beach Department of Planning and Community Development (hereinafter the “Right of Way Improvements”).

Proffer 4:
Further conditions may be required by the Grantee during detailed Site Plan review and administration of applicable City Codes by all cognizant City agencies and departments to meet all applicable City Code requirements.

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

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

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

Comprehensive Plan Recommendations
The Comprehensive Plan designates this area of the City as being within the Special Economic Growth Area 3 – South Oceana. Portions of the area are impacted by high noise zones, accident potential zones and Navy restrictive easements. All proposed land uses in this area must align with the City’s AICUZ provisions and Oceana Land Use Conformity program. The western region of this area is planned for non-residential uses to include a mix of light industrial, low-rise office and limited retail use.

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

Traffic Impacts

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<td>Existing Zoning ³–1,598 ADT</td>
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<td>39,700 ADT ¹ (LOS ⁵ “D”)</td>
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¹Average Daily Trips ²as defined by vacant land ³as defined by a 16.9 acres of AG-2 zoned land 31.48 acres of AG-1 zoned land and 18.77 acres of I-1 zoned land ⁴as defined by a 221,000 distribution center ⁵LOS = Level of Service
Master Transportation Plan (MTP) and Capital Improvement Program (CIP)
This site is located at the intersection of Dam Neck Road and Harpers Road. In the vicinity of the site, Dam Neck Road is a four-land divided, access controlled, major suburban arterial, with 165-foot right-of-way width. It is designated in the MTP as a six-lane roadway. Harpers Road is a two-lane collector with a variable right-of-way width and is designated in the MTP as a four-lane collector with 100-foot right-of-way width. No CIP Projects are planned for this section of Dam Neck Road and Harpers Road.

Public Utility Impacts

Water
The site is must connect to City water. Connection to be made to a 12-inch plugged service main line from Dam Neck Road in accordance with the site plan currently under review (DSC File # J10-014231).

Sewer
The site must connect to City sanitary sewer. Connection to be made to a 12-inch plugged sanitary sewer force main from Dam Neck Road in accordance with the site plan currently under review (DSC File # J10-014231).

Public Outreach Information

Planning Commission
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on November 8, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, November 21, 2021 and November 28, 2021.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on November 22, 2021.
- 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 December 2, 2021.

City Council
- As required by City Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, December 19, 2021 and December 26, 2021.
- 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 December 20, 2021.
Proposed Rezoning Exhibit

**Area 1**
5.56 AC±

- TAYLOR FARM PARCEL A
- COR: 2405653.0 LINE: 0000000

**Area 2**
4.44 AC±

- TAYLOR FARM PARCEL A
- COR: 2405653.0 LINE: 0000000

**Additional 10 Acres to Be Rezoned to Conditional I-1.**

**Original Lot 1 Parcel Previously Rezoned**

Navy Restrictive Easement

**Point of Beginning Area 1**

**Point of Beginning Area 2**
Proposed Harpers Road Improvements
Mr. Brian Hall  
Samet Properties  
309 Gallimore Dairy Road  
Suite 102  
Greensboro, NC 27409

Dear Mr. Hall,

SUBJECT: REQUEST FOR EASEMENT COMPLIANCE REVIEW

Thank you for your request for an easement compliance review for the proposed use of property located at 2097 Harpers Road, Virginia Beach, Virginia, further identified as GPIN number 24056651600000.

I reviewed an analysis prepared by a Navy Real Estate Contracting Officer and I agree with the conclusion the majority of the area to be used for the proposed project is subject to restrictions resulting from a Grant of Easement acquired by the United States of America. Enclosed is a copy of the Review and Findings for your convenience.

Accordingly, the proposed use of the property, described as warehousing, distribution, office and vehicle parking and storage, appears to comply with terms of the Grants of Easement and is therefore permitted, provided that no portion of the property is used for retail sales.

Be aware that we based our determination on the representations of the use and location of the property that you provided. If you believe that there is additional relevant information, please contact my point of contact identified below. 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 for my comments 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.moomaw@navy.mil.

Sincerely,

J. W. HEWITT  
Captain, U.S. Navy  
Commanding Officer

Enclosure: 1. Real Estate Contracting Officer’s Review and Findings

Copy to: NAVFAC MIDLANT (Codes ARRA12)
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: Samet Properties, LLC, a North Carolina limited liability company

Does the applicant have a representative?  ■ Yes  □ No

- If yes, list the name of the representative.
  R. Edward Bourdon, Jr., Esq., Sykes, Bourdon, Ahern & Levy, P.C.

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

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

  Members: Arthur Samet; Brian Hall

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

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

2 “Affiliated business entity relationship” means “a relationship, other than parent-subsidiary relationship, that exists when (I) one business entity has a controlling ownership interest in the other business entity, (II) a controlling owner in one entity is also a controlling owner in the other entity, or (III) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person owns or manages the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities.” See State and Local Government Conflict of Interests Act, VA. Code § 2.2-3101.
Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

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

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

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

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

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

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

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

Bruce Morris, Prime Engineering

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 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.
   Rick Davenport, Samet Corporation

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.
   Randy Royal, Kimley-Horn & Associates

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.

Samet Properties, LLC
By: ________________________________

Applicant Signature
Arthur Samet, Member

Print Name and Title

Date: 9/28/2021

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: 12/14/2021  
Signature: ___________________________
Print Name: Marchelle L. Coleman

Revised 11.09.2020
Disclosure Statement

Owner Disclosure

Owner Name: Taylor Farms Land Company, LLC, a Virginia limited liability company

Applicant Name: Samet Properties, LLC, a North Carolina limited liability company

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

- If yes, list the names of all officers, directors, members, trustees, etc. below. (Attach a list if necessary)
  Linda T. Chappell, Sole Member & Manager

- If yes, list the businesses that have a parent-subsidiary 5 or affiliated business entity 6 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?

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

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

**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.
   Citizens & Farmers Bank; Barbara T. Creech

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.
   Robert R. Beasley, Broker, Harvey Lindsay Commercial Real Estate

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.
   DesRoches & Company, CPAs, PC, David J. DesRoches

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

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

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

7. Does the Owner have an engineer/surveyor/agent in connection with the subject of the application or any business operating or to be operated on the property? Yes    No
   - If yes, identify the firm and individual providing the service.
8. Is the Owner receiving legal services in connection with the subject of the application or any business operating or to be operated on the property? □ Yes □ No
   - If yes, identify the firm and individual providing legal the service.
   Thomas E. Snyder, Esq., Inman & Strickler, PLC

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
Linda T. Chappell, Taylor Farms Land Company, LLC, Manager Member

Print Name and Title
Oct. 1, 2021

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.
SAMET PROPERTIES, LLC, a North Carolina limited liability company  
TAYLOR FARMS LAND COMPANY, LLC, a Virginia limited liability company  

TO (PROFERRED COVENANTS, RESTRICTIONS AND CONDITIONS)  

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

THIS AGREEMENT, made this 24th day of September, 2021, by and between SAMET PROPERTIES, LLC, a North Carolina limited liability company, Grantor, party of the first part; TAYLOR FARMS LAND COMPANY, LLC, a Virginia limited liability company, Grantor, party of the second part; and THE CITY OF VIRGINIA BEACH, a municipal corporation of the Commonwealth of Virginia, Grantee, party of the third part.  

WITNESSETH:  

WHEREAS, the party of the second part is the owner of a certain parcel of property located in the Beach District of the City of Virginia Beach, Virginia, containing 328.260 acres designated as “PARCEL A” on that plat entitled “RESUBDIVISION OF THE TAYLOR FARM, VIRGINIA BEACH, VIRGINIA”, dated July 24, 2009, and duly recorded in the Clerk’s Office of the Circuit Court of the City of Virginia Beach, Virginia, as Instrument Number 20091023001239560; and  

WHEREAS, the party of the first part has contracted to acquire from the party of the second part a 10 acre portion of “PARCEL A” which is described in Exhibit “A” attached hereto and incorporated herein by this reference. This 10 acre parcel as described in Exhibit “A” is hereinafter referred to as the “Property”; and  

WHEREAS, the party of the first part as contract purchaser of the Property has initiated a conditional amendment to the Zoning Map of the City of Virginia Beach, Virginia, by petition addressed to the Grantee so as to change the Zoning Classifications of the Property from AG-1 

GPIN: Part of 2405-66-5160-0000

Prepared by:  
R. Edward Bourdon, Jr., Esq., VSB #22160  
Sykes, Bourdon, Ahern & Levy, P.C.  
4429 Bonney Road  
Suite 500  
Virginia Beach, Virginia 23462
Agricultural District and AG-2 Agricultural District to Conditional I-1 Light Industrial District; and

WHEREAS, the Grantee's policy is to provide only for the orderly development of land for various purposes through zoning and other land development legislation; and

WHEREAS, the Grantors acknowledge 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 Grantors' 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 Grantors' rezoning application gives rise; and

WHEREAS, the party of the first part, with the consent of the party of the second part, Grantor, has voluntarily proffered, in writing, in advance of and prior to the public hearing before the Grantee, as a part of the proposed amendment to the Zoning Map with respect to the Property, in addition to the regulations provided for in the I-1 Light Industrial District by the existing Zoning Ordinance, 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 has a reasonable relation to the rezoning and the need for which is generated by the rezoning; and

WHEREAS, by Proffered Covenants, Restrictions and Conditions dated July 21, 2021 and recorded in the Office of the Clerk of the Circuit Court of the City of Virginia Beach, Virginia on September 14, 2021 as Instrument Number 202103073597, the Grantors herein conditioned the development of an adjoining 67.15 acre portion "PARCEL A", to adherence to six (6) enumerated conditions which are not amended or modified by this proffered amendment to the Zoning Ordinance.

NOW, THEREFORE, the Grantors, for themselves, their successors, personal representatives, 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 make the following declaration of conditions and restrictions which shall restrict and govern the physical development, operation, and use of the Property and hereby covenant and agree that this declaration 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 Grantors, their successors, personal representatives, assigns, grantees, and other successors in interest or title:

1. When the Property is developed, it must be assembled with and incorporated by subdivision into one (1) parcel with that adjoining property containing approximately 67.15 acres which is subject to those Proffered Covenants, Restrictions and Conditions recorded in the above referenced Office of the Clerk as Instrument Number 202103073597.

2. When the Property is developed, it shall be improved with a stormwater retention pond and related infrastructure for the capture, retention and discharge of stormwater associated with the development of the balance of assembled parcel substantially as depicted with the exhibit entitled “PROJECT DOOR BMP EXPANSION AREA”, dated September 29, 2021, prepared by Kimley-Horn and Associates which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning and Community Development (hereinafter “BMP Expansion Plan”).

3. When the Property is developed, the party of the first part, Grantor, shall dedicate additional necessary right of way, if any, to facilitate those right of way improvements to Harpers Road substantially in accordance with the exhibit entitled, “PROJECT DOOR HARPERS ROAD IMPROVEMENTS EXHIBIT” dated July 20, 2021 and prepared by Kimley-Horn and Associates which have been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning and Community Development (hereinafter the “Right of Way Improvements”).

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

All references hereinabove to the AG-1 and AG-2 Districts and to the requirements and regulations applicable thereto refer to the Comprehensive 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 the Grantors and allowed and accepted by the Grantee as part of the amendment to the Zoning Ordinance, 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
new 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, 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 the Grantee 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.

The Grantors covenant and agree that:

(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, the Grantors 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
of the Circuit Court of the City of Virginia Beach, Virginia, and indexed in the names of the
Grantors and the Grantee.
WITNESS the following signature and seal:

Grantor:

Samet Properties, LLC,
a North Carolina limited liability company

By: [Signature]
Arthur Samet, Member

STATE OF NORTH CAROLINA
CITY/COUNTY OF Guilford, to-wit:

The foregoing instrument was acknowledged before me this 26th day of September, 2021, by Arthur Samet, Member of Samet Properties, a North Carolina limited liability company, Grantor.

[Signature]
Notary Public

My Commission Expires: 3/26/2023
Notary Registration Number: 30050790088
WITNESS the following signature and seal:

Grantor:

Taylor Farms Land Company, LLC,
a Virginia limited liability company

By: Linda T. Chappell, Manager

Commonwealth of Virginia
City of Virginia Beach, to-wit:

The foregoing instrument was acknowledged before me this 1 day of October, 2021, by Linda T. Chappell, Manager of Taylor Farms Land Company, LLC, a Virginia limited liability company, Grantor.

Notary Public

My Commission Expires: 6/30/2025
Notary Registration Number: 7935026
EXHIBIT "A"

LEGAL DESCRIPTION

Commencing at a point at the northeasterly intersection of Dam Neck Road (Variable Width Right-of-Way) and the Eastern Right of Way line of Harpers Road (Variable Width Right of Way) thence following the Eastern right of way line of Harpers Road in a northeasterly direction a distance of approximately 1,632.65 feet to a point being the: TRUE POINT OF BEGINNING; thence South 57° 31' 39" East, 24.63 feet to a point; thence South 32° 28' 21" West, 90.33 feet to a point of non-tangency; thence South 79° 58' 29" East, 1193.7 feet to a point of non-tangency; thence North 10° 01' 31" East, 384.4 feet to a point of non-tangency; thence North 79° 58' 29" West, 1057.24 feet to a point on the eastern right of way line of Harpers Road; thence following the eastern right of way line of Harpers Road South 33° 11’ 34” West, 317.09 feet to the TRUE POINT OF BEGINNING. HAVING AN AREA OF TEN (10) ACRES and being a part of Parcel A.

GPIN: 2405-66-5160-0000
Virginia Beach Planning Commission  
December 8, 2021 Public Meeting  
Agenda Item #3

Samet Properties, LLC [Applicant]  
Taylor Farms Land Company, LLC [Property Owner]

Conditional Rezoning (AG-1 & AG-2 Agricultural Districts to Conditional I-1 Light Industrial District)

2097 Harpers Road

RECOMMENDED FOR APPROVAL – CONSENT

Jack Wall:
Okay, thank you. The next item on the agenda is agenda item number three, Samet Properties LLC is the applicant. And Taylor Farms Land Company LLC is the property owner. It's a Conditional Rezoning AG1 and AG2 to I1 Light Industrial at 2097 Harpers Road, in the Beach District. Is there a representative to speak on this item?

Eddie Bourdon:
Again, thank you, Commissioner Wall, Chairman, members of the Commission, Eddie Bourdon, Virginia Beach attorney representing Samet Properties. Pretty simple application. Appreciate being on the consent agenda and appreciate staff's help and Marchelle's help on the application. Thank you.

Jack Wall:
Thanks. Okay, thank you. Is there any opposition to this being placed on the consent agenda? Hearing none, the Planning Commission's asked Mr. Alcaraz to read this into the record.

George Alcaraz:
Thank you. Again, it is a simple application, but I'll just be real short with the details. Conditional Rezoning from AG1 to AG2, Agriculture District to Conditional I1 Light Industrial. Staff is recommending approval. Location is 2097 Harpers Road. On September 7th, 2021, Conditional Rezoning for AG1 to AG2 Agricultural Districts. An I1 Light Industrial District to Conditional I1 Light Industrial District. Excuse me. As well as a Conditional Use Permit for Bulk Storage was granted by City Council to construct a 221,000 square foot distribution center and associated parking.

George Alcaraz:
With that application, the applicant proposed two stormwater management facilities in underground storage below the proposed parking lot to address the stormwater quality and quality control for the site. The applicant is now seeking to increase the stormwater management facilities for the site by an additional 10 acres to install additional storage in the above ground pod. To accomplish this, the applicant is requesting to rezone an additional 10
acres north of the approved site from AG1 to AG2 to Conditional 11 to accommodate for the additional aboveground storage for this site.

George Alcaraz:
The Planning Commission is recommending this item for consent agenda for approval.

Jack Wall:
Is there any opposition for agenda items 18 through 27 being placed on the consent agenda?
All right. Hearing none, Mr. Chairman I make a motion that we approve agenda items 1 and 2, 3, 4, 5, 7, 8, 9, 10, 11, 12 through 17, 18, and 19 through 27.

David Weiner:
All right. We have a motion for approval. Do we have a second?

Donald Horsley:
Second.

David Weiner:
A second.

David Weiner:
Okay. Now, disclosures. Yeah, I know. We're going there. We got the motion. We got the second. Now we have the disclosures. Okay, go. You start, Whitney.

Whitney Graham:
Thank you, Mr. Chairman. Pursuant to the Conflicts of Interest Act, Virginia Code Section 2.2-3115F, I have a letter on file to this as well. I make the following declarations, the following agenda items on today's agenda have some financing by Towne Bank, which I serve on one of the Boards at Towne Bank, but I don't make any decisions for loans or anything like that.

Whitney Graham:
So anyway, these are items one and two Virginia Beach Raquet Club North Associates LP, 1951 Thomas Bishop Lane, number 10, Jody Calcagno, 4752 Euclid Road, agenda items 12 through 17, 2508 Pacific Avenue LLC for 2510, 2514, 2518, 2522, 2526, 2530 Pacific Avenue, agenda item number 18, ORF Ventures LLC, 603 20th Street, agenda items 19 through 27 ORF Ventures LLC, 410 19th Street units 101, 102, 103, 201, 202. And this is at 412 19th Street units 101, 102, 201 and 202. Sorry about the length of that. Thank you.

David Weiner:
All right. Next, Mr. Redmond.

Dave Redmond:
Yeah, I'm not going to do any of that. I will say that I have a letter, myself, on file with the City Attorney's Office, which prevents me from voting on all the short-term rentals. I have a client in
the travel industry, and I therefore do not vote on any of the individual short term rental applications, nor on any of the ordinances that govern short term rentals. So while I will be voting in favor of the consent agenda, I'm specifically abstaining from those items, which I have down as number 12 to 27 on short term rentals. Thank you, Kay. And thank you, Mr. Chairman.

David Weiner:
Mr. Inman.

Mike Inman:
Yes, I have to make a disclosure regarding items financing by Towne Bank. I serve on Advisory Board, as does Mr. Graham, that does not make any loan decisions, but disposing with regard to agenda items one and 2, 10, 18, and 19 through 27, without going into the same detail that Mr. Graham did. I believe I can participate in these decisions fairly and objectively, and I will participate in voting on those items.

Mike Inman:
Next, I'm making a disclosure with regard to item number three, Samet Properties. One of my partners represents the applicant Taylor Farms Land Company. And I'm not involved in that representation, nor do I represent the owner. And I have no financial interest on. Having made this disclosure, I believe I can participate in this vote objectively, fairly, and in the public interest.

Mike Inman:
Last but not least, with regard to item seven Hunt Club Condominium, I represent that applicant otherwise, not here today, obviously Mr. Bourdon did, and I will therefore abstain from item number seven.

David Weiner:
Okay. Mr. Graham, do you want to add something?

Whitney Graham:
Yes, sir, Mr. Chairman. I apologize. In my disclosure, I want to add that I do plan to participate in today's vote, and that I feel that I can do so fairly and objectively in the public's interest. Thank you.

David Weiner:
Anyone else? Okay. We have a motion for approval by Mr. Wall, a second by Mr. Horsley.

Madam Clerk:
Okay. Vote is open. By recorded vote of 10 in favor, zero against, agenda items one and 2, 3, 4, 5, 8, 9, 10, and 11 have been recommended for approval by consent. Agenda item number seven, by recorded vote of nine in favor, zero against with one abstention, has been recommended for approval by consent. And agenda items 12 through 17, 18, 19 through 27 through recorded vote of nine in favor, zero against with one abstention, have been recommended for approval by consent.
PROFFERS:

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

Proffer 1:
When the property is developed, it must be assembled with and incorporated by subdivision into one (1) parcel with that adjoining property containing approximately 67.15 acres which is subject to those Proffered Covenants, Restrictions and Conditions recorded in the above referenced Office of the Clerk as Instrument Number 202103073597.

Proffer 2:
When the Property is developed, it shall be improved with a stormwater retention pond and related infrastructure for the capture, retention and discharge of stormwater associated with the development of the balance of assembled parcel substantially as depicted with the exhibit entitled "PROJECT DOOR BMP EXPANSION AREA", dated September 29, 2021, prepared by Kimley-Horn and Associates which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning and Community Development (hereinafter "BMP Expansion Plan").

Proffer 3:
When the Property is developed, the party of the first part, Grantor, shall dedicate additional necessary right of way, if any, to facilitate those right of way improvements to Harpers Road substantially in accordance with the exhibit entitled, "PROJECT DOOR HARPERS ROAD IMPROVEMENTS EXHIBIT" dated July 20, 2021 and prepared by Kimley-Horn and Associates
which have been exhibited to the Virginia Beach City Council and area on file with the Virginia Beach Department of Planning and Community Development (hereinafter the "Right of Way Improvements").

**Proffer 4:**
Further conditions may be required by the Grantee during detailed Site Plan review and administration of applicable City Codes by all cognizant City agencies and departments to meet all applicable City Code requirements.

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

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.
Background:
The applicant is requesting to rezone a 10.73-acre parcel from I-1 Light Industrial to Conditional A-36 Apartment District to redevelop the property with a 315-unit multi-family residential community. The 10.73-acre property is located within the Newtown Strategic Growth Area (SGA) and is currently developed with the Virginian-Pilot newspaper production and distribution facility. All existing buildings on the property will be removed in conjunction with the proposed redevelopment of the site.

The proffered concept plan depicts three multi-family buildings, four stories in height, with a clubhouse. The proposed apartments will have an extensive amenity package consisting of courtyards with fire pits, exterior fireplaces, a resort-style pool, grilling stations, and fitness facilities within a clubhouse. The proposed internal circulation pattern reflects a traditional suburban layout with drive aisles lined with street trees, pedestrian lights, and sidewalks. The minimum parking requirement is met and exceeded by 36 spaces, with 16 covered bicycle spaces, as required by the City’s Zoning Ordinance.

The proffered building elevations depict an urban building style with materials consisting of brick, fiber cement siding, and split face concrete masonry unit (CMU). Streetscape plantings along Greenwich Road with interior parking and building foundation plantings are proposed, as required.

Considerations:
While the subject property is designated within the Newtown SGA, there is no specific envisioned land use designation for the site. Directly to the west, east, and north of the site, properties are identified in the Plan for future office use, specifically referred to as “Eastern Office Developments.” Previous City Council actions in this area of the Newtown SGA include rezonings of the properties to the north for an Outdoor Recreation Facility (Top Golf) and to the east for a multi-family
apartment complex. The request is compatible with the neighboring use and will not negatively impact properties in the area.

The proposed development embodies the envisioned characteristics of the SGAs and properly integrates the development guidelines for multi-family residential development stipulated in the Newtown SGA Plan and the Comprehensive Plan's Special Area Development Guidelines for Urban Areas.

A Traffic Signal Warrant Analysis was conducted and provided to Public Works/Traffic Engineering Staff for a determination of whether a traffic signal will be required at the intersection of Greenwich Road and Cleveland Street. Staff concur with the findings of the analysis that a traffic signal is not warranted. Since the counts were conducted in the area of the then under construction I-264, further review and new counts will be taking during the site plan process to determine if a traffic signal bond will be required. The applicant is aware of this additional consideration. Right-of-way improvements such as pavement widening, sidewalk, curb and gutter, streetlights, and drainage will be installed along Greenwich Road to coincide with the adjacent development.

The receiving gravity system along Greenwich Road does not have adequate capacity to accommodate the peak sewer flows from the proposed 315 apartment units. Multiple sections of sanitary sewer pipe will need to be replaced and upsized as part of the site development. The applicant is aware, and the updated sewer pipe system will be reviewed in more detail during site plan review. 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 December 8, 2021, the Planning Commission placed this item on the Consent Agenda, passing a motion by a recorded vote of 10-0, to recommend approval of this request.

**Attachments:**
Staff Report and Disclosure Statements
Location Map
Proffer Agreement
Minutes of Planning Commission Hearing

**Recommended Action:** Staff recommends Approval. Planning Commission recommends Approval.

**Submitting Department/Agency:** Planning Department

**City Manager:** [Signature]
Request
Conditional Rezoning (I-1 Light Industrial District to Conditional A-36 Apartment District)

Staff Recommendation
Approval

Staff Planner
Marchelle Coleman

Location
5429 Greenwich Road
GPIN
1467449257
Site Size
10.73 acres
AICUZ
Less than 65 dB DNL
Watershed
Chesapeake Bay

Existing Land Use and Zoning District
Warehousing / I-1 Light Industrial

Surrounding Land Uses and Zoning Districts
North
Greenwich Road
Outdoor recreation facility / I-1 Light Industrial
South
School, single-family dwellings / R-10
Residential
East
Multi-family dwellings / A-36 Apartment
West
Warehousing / I-1 Light Industrial
The applicant is requesting to rezone a 10.73-acre parcel from I-1 Light Industrial District to Conditional A-36 Apartment District to redevelop the property with a 315-unit multi-family residential community.

The 10.73-acre property is located within the Newtown Strategic Growth Area (SGA) and is currently developed with the Virginian-Pilot newspaper production and distribution facility. The two existing buildings on the property will be removed in conjunction with the proposed redevelopment of the site.

The submitted Conceptual Site Layout depicts three multi-family buildings, four stories in height, with a clubhouse. The proposed apartments will have an extensive amenity package consisting of courtyards with fire pits, exterior fireplaces and exclusive seating, a resort-style pool, grilling stations, and fitness facilities within the clubhouse.

The proposed internal circulation pattern reflects a traditional suburban layout with drive aisles lined with street trees, pedestrian lights, and sidewalks. The proposed parking spaces depicted on the Conceptual Site Layout exceeds the minimum parking requirement by 36 spaces. As required by the City's Zoning Ordinance, 16 covered bicycle spaces are also provided on site.

The building elevations, as depicted on pages 10 and 11 of this report, display an urban building style with materials consisting of brick, Hardie plank siding, and split face concrete masonry unit (CMU).

As shown on the Conceptual Site Layout plan, streetscape plantings along Greenwich Road and interior parking and building foundation plantings are proposed as required. The proposed landscaping appears to meet the requirements of the Zoning Ordinance; however, a more detailed review of all screening and planting requirements will occur during final site plan review.

A Phase I Environmental Site Assessment was provided by McCallum Testing Laboratories, dated September 18, 2020. The Phase I reported one Recognized Environmental Concern (REC). The REC was a release of ink beneath the slab of the building in November of 1998 in the southwestern portion of the former Virginia Pilot Production Plant, which was cleaned up to the extent practical by Industrial Marine Services. A Phase II Environmental Site Assessment was also provided by McCallum Testing Laboratories, dated April 1, 2021, to determine if any remaining contamination exists due to this prior release. The Phase II Environmental Site Assessment indicated there was no groundwater contamination detected and there was a low-level of petroleum hydrocarbon concentrations detected in the soils. Based on this study, the results indicate that the risk of petroleum vapor intrusion into on-site buildings is considered to be low. The applicant will need to mitigate these conditions in conjunction with the redevelopment of this site.
In Staff’s opinion, this request to conditionally rezone this 10.73-acre parcel from I-1 Light Industrial District to Conditional A-36 Apartment District for the construction of up to 315 multi-family dwelling units is acceptable.

Though the subject property, currently zoned I-1 Light Industrial District, is designated within the Newtown SGA boundary, there is no specific envisioned land use designation for the site. Per the Newtown SGA Plan, directly west, east, and north of the site are properties envisioned for office use that would be one of the key development initiatives referred to as Eastern Office Developments. Recognizing the projected office use of the said development, the request to rezone and redevelop the subject site with residential uses would be incompatible to such a designation. However, it is important to recognize the present uses, north and east of the subject property, by City Council action represent a deviation from the envisioned office use designation. To the north is an Outdoor Recreation Facility (Top Golf) and to the east is a multi-family development. In Staff’s view, the previous City Council approvals enable the reassessment or reconsideration of the area’s envisioned land use. This application is proposing a similar request as the previously approved multi-family development directly to the east of the subject property. Based on this reasoning, Staff is in support of the request for multi-family development as it is compatible with the neighboring use and will not negatively impact properties in the area.

Accordingly, the proposed development embodies the envisioned characteristics of the SGAs and properly integrates the development guidelines for multi-family residential development stipulated in the Newtown SGA Plan and the Comprehensive Plan’s Special Area Development Guidelines for Urban Areas.

The Special Area Development Guidelines for Urban Areas include design recommendations that address setbacks and building location, access and circulation, parking areas, landscaping, natural features, stormwater management as landscaping features, lighting, signs, and outdoor art. A summary of how the proposal addresses each Guideline is provided below.
Setbacks and Building Location – This Guideline recommends buildings be located close to the pedestrian street with off-street parking behind or beside buildings. Consistent with the Guidelines, the front buildings are placed close to the pedestrian street, which helps to reinforce pedestrian circulation. Street frontage plantings will be installed to provide an attractive screening along the right-of-way.

Access and Circulation – This Guideline addresses the ease by which one can leisurely walk throughout the area whereby reliance on automobiles is reduced. The site layout for this project is designed to allow pedestrians to easily enter and exit the site using the sidewalks, as depicted on the Conceptual Site Layout plan the proposed layout is consistent with this Guideline.

Parking Areas – As indicated in this Guideline, parking areas should not dominate the frontage of streets. Off-street parking areas should be located behind buildings and should create an internal circulation network that minimizes or eliminates curb cuts. To address this Guideline, the parking lot, as depicted on the Conceptual Site Layout Plan, is located behind and on the side of the buildings and are not easily visible from the right-of-way. While the two existing curbs will not be eliminated with this proposal, no additional curb cuts are proposed, ultimately providing a safe ingress and egress for residents and guests. The Guidelines call for bicycle rack parking to be encouraged inside parking structures, as depicted on Conceptual Layout bicycle racks are located within the building and are covered.

Landscaping – This Guideline emphasizes that the need for quality landscaping is essential to the built urban environment. The importance of street trees and planters should be recognized and planned into the design. As depicted on the Conceptual Site Layout Plan, streetscape plantings along Greenwich Road include large evergreen trees and evergreen shrubs within a 10-foot wide planting bed. In addition, interior parking and building foundation plantings are proposed, as well dumpster enclosure screening plantings to enhance the aesthetics of the site.

Natural Features – This Guideline recommends that undisturbed natural areas and important natural features be identified during the design process. Since the site is entirely impervious, there are no known natural features on this site that are proposed to be protected.

Stormwater Management as Landscaping Features – This Guideline encourages whenever possible, stormwater retention and detention systems be designed as open space or landscape amenities. In this instance, stormwater ponds are not proposed for this development, instead an underground stormwater management facility will be utilized.

Lighting – This Guideline indicates that site lighting be designed to reduce light trespass and glare. Lighting for pedestrians should be provided using indirect illumination from the building. The proposed site is deemed to be consistent with the lighting Guideline, as lighting is proposed to reduce glare and trespass in the internal parking lot areas, around buildings, and will prevent spillover onto adjacent properties, as indicated in proffer six.

Signs – As indicated in this Guideline, signs should primarily serve to identify the name and street number. The color and theme of signs should be consistent with the primary building and surrounding area and should be in compliance with the Zoning Ordinance. The signage as proposed appears to meet the intent of this Guideline with regard to color, theme and identification content.

Outdoor Art – This Guideline encourages the incorporation of outdoor art into the overall design of a project. Despite this, at this time, the proposed Conceptual Layout Plan does not indicate any outdoor art for this development.

In synopsis, the applicant submitted a quality Conceptual Site Layout and Landscaping Plan that integrates the design characteristics identified in both the Newtown SGA plan and the Special Area Development Guidelines for Urban Areas.

Additionally, the applicant submitted a Traffic Signal Warrant Analysis, dated November 2021, to Staff for review. The Traffic Signal Warrant Analysis shows a very detailed investigation of the possible need for a traffic signal on Greenwich Road at Cleveland Street, in association with the proposed development. Upon review by Traffic Engineering, Staff...
agrees with the conclusion that a traffic signal is not expected to be warranted at the new stop-controlled intersection at Greenwich Road and Cleveland Street. However, due to the fact that the Cleveland Street and Greenwich Road intersection was still under construction when traffic counts were taken for this study, a traffic signal bond may be required at the site plan stage for a potential signal at Cleveland Street and Greenwich Road. Once the construction is completed in early 2022, Traffic Engineering will collect new traffic counts for the completed roadway to confirm the results of the Traffic Signal Warrant Analysis. If the new counts are significantly higher, the traffic signal bond requirement will be evaluated at that time. It is the opinion of Staff that the traffic generated by this multi-family development will result in 2,341 average daily trips. The proposed development will have one ingress/egress point on Greenwich Road, with a second right-in/right-out only access point west of the main entrance. Right-of-way improvements such as pavement widening, sidewalk, curb and gutter, streetlights, and drainage will be required along Greenwich Road to coincide with the adjacent development. Additional detailed comments will be provided during the site plan review process.

The applicant is aware that the receiving gravity system along Greenwich Road does not have adequate capacity to accommodate the peak sewer flows from the proposed 315 apartment units. Multiple sections of sanitary sewer pipe will need to be replaced and upsized as part of the site development plan. During the site plan review process, the site plan must show the design for the replacement of the gravity sewer main segments in Greenwich Road with larger pipes. The pipe replacement will be constructed at the same time as the apartment complex and must be completed and accepted by Public Utilities before the water meter and the Certificate of Occupancy is issued.

Information provided by the Virginia Beach City Public School Staff indicates that the proposed development is within the threshold for increases in student population. Only the elementary school data indicates a student population above capacity. The 9.40% over capacity is within the acceptable utilization range of greater or less than 10% of optimum capacity. Based on this, the redevelopment proposal is not expected to negatively impact the current student enrollment.

Based on these considerations above, Staff recommends approval of the request subject to the proffers below.

## Proffers

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

### Proffer 1:
The Property shall be developed in substantial conformity with the conceptual site plan entitled "5429 Greenwich Road, Virginia Beach, VA — Conceptual Layout", prepared by Timmons Group dated September 7, 2021 ("Conceptual Site Plan"), which has been exhibited to the Virginia Beach City Council ("City Council") and is on file with the Virginia Beach Department of Planning ("Planning Department").

### Proffer 2:
The architectural design and building materials of the multi-family dwelling units built on the Property shall be substantially compatible with the architectural style and materials depicted on the building elevation plans entitled "Society at Gateway", dated July 20, 2021 and September 7, 2021, prepared by Poole and Poole Architecture, LLC, which have been exhibited to City Council and are on file with the Planning Department.
Proffer 3:
There shall be no more than three hundred fifteen (315) multi-family dwelling units on the Property.

Proffer 4:
Parking will be provided in the approximate locations depicted on the Conceptual Site Plan; however, the total number of spaces provided will be the number required pursuant to Section 203 of the Zoning Ordinance, based on the final number of multi-family dwelling units constructed on the Property.

Proffer 5:
Open space shall be provided in the approximate locations depicted on the Conceptual Site Plan.

Proffer 6:
All lighting on the Property shall be limited to that necessary for security purposes and to comply with applicable laws and shall be shielded to prevent glare and spillover onto adjacent properties.

Proffer 7:
An HVAC unit for each dwelling unit will be located on the roof of the applicable building in which such dwelling unit is located and will be concealed in wells or behind walls.

Proffer 8:
Further conditions lawfully imposed by development ordinances may be required by the GRANTEE during detailed site plan review and administration of applicable City Codes by City agencies and departments to meet all applicable City Code requirements.

Proffer 9:
The freestanding community identification sign shall be located substantially in the location identified on the Conceptual Site Plan.

Proffer 10:
All onsite signage shall meet the requirements of the City Zoning Ordinance, unless otherwise approved by the Board of Zoning Appeals. The proposed sign package will be submitted to the Zoning Administrator for review and approval prior to the issuance of a sign permit.

Proffer 11:
Dumpsters shall be located substantially in the locations identified on the Conceptual Site Plan and shall be enclosed with a solid wall on three (3) sides comprised of materials and colors that match the buildings.

Proffer 12:
The Effective Date of this Agreement shall be the date this Agreement is approved by City Council.

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

Comprehensive Plan Recommendations

The Comprehensive Plan designates the subject property as being located within the Newtown Strategic Growth Area, which the Comprehensive Plan designates as one of the eight urban areas in the City that envisions a vertical mix of urban uses, urban streetscapes, pedestrian connectivity, mobility and transit alternatives, urban gathering places, land use patterns that foster economic growth through efficient use and reuse of land, neighborhood protection, "green"
building and infrastructure opportunities, and a variety of civic, commercial, artistic, and ethnically diverse areas. Transformation of underutilized commercial properties into a series of mixed-use development opportunities and public infrastructure improvements are key initiatives in the Newtown SGA Master Plan. As noted in the analysis, this property is identified as a future office use in the Newtown SGA.

Natural & Cultural Resources Impacts

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

Traffic Impacts

<table>
<thead>
<tr>
<th>Street Name</th>
<th>Present Volume</th>
<th>Present Capacity</th>
<th>Generated Traffic</th>
</tr>
</thead>
<tbody>
<tr>
<td>Greenwich Road</td>
<td>3,000 ADT</td>
<td>9,900 ADT (LOS 4° D)</td>
<td>Existing Land Use 2° – No Data Available</td>
</tr>
</tbody>
</table>

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

Greenwich Road in the vicinity of this application is considered a two-lane undivided local dead end street. The Virginia Department of Transportation (VDOT) has a project in the vicinity of this development. The I-64/I-264 Interchange Improvement project is for the construction of collector-distributor roads from westbound I-64 to eastbound I-264 and roadway improvements at the Newtown Road and Witchduck Road interchanges. The project is scheduled to be completed early in 2022. As part of the interchange improvements, a flyover has been built over I-264 from Greenwich Road to Cleveland Street and Greenwich Road no longer connects to Witchduck Road east of the site. Therefore, all traffic from this site is redirected west to a stop-controlled T-intersection with Cleveland Street and Greenwich Road.

Public Utility Impacts

Water

The site is currently connected to City water. There is an existing 48-inch City water transmission main located onsite along the southern property line and an existing eight-inch City raw water line along Greenwich Road.

Sewer

The site is currently connected to City sanitary sewer. There is an existing 24-inch HRSD sanitary sewer force located onsite within a 30-foot HRSD Easement along the southern property line. There is an existing eight-inch City sanitary sewer main along Greenwich Road.

School Impacts

<table>
<thead>
<tr>
<th>School</th>
<th>Current Enrollment</th>
<th>Capacity</th>
<th>Generation 1</th>
<th>Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Point O'View Elementary</td>
<td>689 students</td>
<td>630 students</td>
<td>35 students</td>
<td>35 students</td>
</tr>
<tr>
<td>Larkspur Middle</td>
<td>1,563 students</td>
<td>1,647 students</td>
<td>14 students</td>
<td>14 students</td>
</tr>
<tr>
<td>Kempsville High</td>
<td>1,786 students</td>
<td>2,060 students</td>
<td>16 students</td>
<td>16 students</td>
</tr>
</tbody>
</table>

1 "Generation" represents the number of students that the development will add to the school.
2 "change" represents the difference between the number of potential or actual students generated under the existing zoning and the number generated under the proposed zoning. The number can be positive (additional students) or negative (fewer students).
Public Outreach Information

Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on November 8, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, November 21, 2021 and November 28, 2021.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on November 22, 2021.
- 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 December 2, 2021.

City Council

- As required by City Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, December 19, 2021 and December 26, 2021.
- 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 December 20, 2021.
Proposed Courtyard Examples
Proposed Monument Sign

ONE SIDED SIGN
RAISED METALLIC LETTERS w/ LOGO
LOGO YTD
SPLIT FACE MASONRY BLOCK TO MATCH BUILDINGS
METAL REET PANEL TO MATCH HARDSCE-PLANK IRON GRAY SIDING

PLATINUM MANAGEMENT, LLC
AGENDA ITEM 5
PAGE 14
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: Platinum Management, LLC (Contract Purchaser)

Does the applicant have a representative? [ ] Yes  [ ] No

- If yes, list the name of the representative.
  Lisa M. Murphy, Esq., Willcox Savage

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)
  Bradley J. Witten
  Dennis R. Dennis

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

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

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

Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

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.

   [Signature]

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.

   [Signature]

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 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.

     John Raszewski, PE, Timmons Group

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.

     Howard Sykes, Jr., Sykes, Bourdon, Ahern, and Lenny, P.C.

Applicant Signature

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

Applicant Signature

Bradley J. Whitten, Manager

Print Name and Title

6/16/21

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 12/14/2021

Signature

Print Name Marchelle L. Coleman

Revised 11.09.2020
Disclosure Statement

Affiliates of Platinum Management, LLC:

1. WTRZ MS, LLC;
2. Dennis R. Deans Irrevocable Trust;
3. Afton Associates, LLC;
4. Archers Green II, LLC;
5. BBD, Inc.;
6. BKW, LLC;
7. Bribra Baker, Inc.;
8. Bribra Building Corporation;
9. Bribra Cahoon, Inc.;
10. Bribra Deep Creek, Inc.;
11. Bribra Hillpoint Corporation;
12. Bribra NP Corp.;
13. D & B Automotive Investors, LLC;
14. Debrhiba, LLC;
15. HCA Services, Inc.;
16. Apartment Flooring Solutions, LLC;
17. IWC Residential, Inc.;
18. Mola, LLC;
19. Mowill, LLC;
20. Murray Wholesale Drug, Corp.;
21. Ocean Bay Homes, Inc.;
22. Oceana Partnership I;
23. Parker Crossing, LLC;
24. Platinum Homes, Inc.;
25. Rodie Builders, Inc.;
26. Rudee Investment; LLC;
27. Rudee Management, LLC;
28. SC Holdings, LLC;
29. Signature Management, Corp.;
30. Platinum Management, Corp.;
31. Mopow, LLC;
32. Silver Hill, LLC;
33. Volvo Brookside Associates, LLC;
34. Waitzsp, LLC;
35. Moyork, LLC;
36. Dakota Investment Group, LLC;
37. Chazdak, LLC;
38. BJW Fam, LLC;
39. Bribra Acquisitions Corp.;
40. Edwin S. Waitzer, Bradley J. Waitzer, Trustees, Waitzer 2012 Grandchildren Trust, DBA as Professional Centers, Medical Arts Building, Commercial Place;
41. BJW Legacy, LLC;
42. BJON Holdings, LLC;
43. The Pearl at Marina Shores, LLC;
44. MS Renaissance, A Condominium;
45. BWGM Holdings, LLC;
46. Richard M. Waitzer Irrevocable Trust;
47. Leah and Richard Waitzer Foundation;
48. Leah W. Waitzer Revocable Trust;
49. Silver Hill at Thalia, LLC;
50. D and B Automotive Investments, LLC;
51. D and E Family Partnership I;
52. D and E Family Partnership II;
Disclosure Statement

Owner Disclosure

Owner Name: Heritage Holdings
5429 Greenwich Road, VA, LLC

Applicant Name: PLATINUM MANAGEMENT, 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)
  See attached

- If yes, list the businesses that have a parent-subsidiary or affiliated business entity relationship with the Owner. (Attach a list if necessary)
  Twenty Lake Holdings, LLC
  Heritage Holdings, LLC

Known Interest by Public Official or Employee

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

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

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

6 "Affiliated business entity relationship" means "a relationship, other than parent-subsidiary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person owns or manages 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.

Revised 11.09.2020

Platinum Management, LLC
Agenda Item 5
Page 22
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  [x] 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  [x] 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  [x] 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  [x] 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  [x] No
   - If yes, identify the purchaser and purchaser’s service providers.

   PLATINUM MANAGEMENT LLC is the purchaser.

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  [x] 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  [x] No
   - If yes, identify the firm and individual providing the service.

Revised 11.09.2020
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, VREDA, CEPA, Wetlands Board or any public body or committee in connection with this application.

Owner Signature

Print Name and Title

Date

Revised 11.09.2020

7 | Page
List of Officers, Directors, Members, Trustees for 5429 Greenwich Road VA, LLC:

Joseph M. Miller, President

Heath Freeman, EVP and Treasurer

Joshua Kleban, EVP and Secretary

Jay Yang, Authorized Signatory and VP

Heritage Holdings RE, LLC a Delaware limited liability company is the sole member of the property owner entity.
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.
PLATINUM MANAGEMENT LLC, a Virginia limited liability company

TO (PROFFERED COVENANTS, RESTRICTIONS AND CONDITIONS)

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

THIS AGREEMENT (“Agreement” or “Declaration”) is made and entered into as of the Effective Date (as such date is defined in this Agreement), by and between PLATINUM MANAGEMENT LLC, a Virginia limited liability company (“Platinum”), Grantor for indexing purposes, and 5429 Greenwich Road, VA, LLC, a Delaware limited liability company as successor in interest to VIRGINIAN-PILOT MEDIA COMPANIES, LLC, a Virginia limited liability company (“Owner”), Grantor for indexing purposes, (Platinum and Owner are collectively referred to herein as “GRANTOR”), and THE CITY OF VIRGINIA BEACH, a municipal corporation of the Commonwealth of Virginia, being referred to herein as (“GRANTEE”).

WITNESSETH:

WHEREAS, Owner is the owner of that certain 10.7 acre parcel of improved real property located in the City of Virginia Beach, Virginia, commonly referred to as GPIN: 1467-44-9257-0000, located at 5429 Greenwich Road, more particularly described in Exhibit A, attached hereto and incorporated herein by reference (“Property”);

WHEREAS, Platinum has entered into an agreement with the Owner to purchase the 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 I-1 Light Industrial to Conditional A-36 Apartment District;

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 GPIN: 1467-44-9257-0000

Prepared by: Lisa M. Murphy, Esquire (VSB #39111)
Willcox & Savage, P.C.
440 Monticello Avenue, Suite 2200
Norfolk, Virginia 23510
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 rezonings and the need for which is generated by the proposed rezonings.

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 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 developed in substantial conformity with the conceptual site plan entitled “5429 Greenwich Road, Virginia Beach, VA – Conceptual Layout”, prepared by Timmons Group dated September 7, 2021 (“Conceptual Site Plan”), which has been exhibited to the Virginia Beach City Council (“City Council”) and is on file with the Virginia Beach Department of Planning (“Planning Department”).

2. The architectural design and building materials of the multi-family dwelling units built on the Property shall be substantially compatible with the architectural style and materials depicted on the building elevation plans entitled “Society at Gateway”, dated July 20, 2021 and September 7, 2021, prepared by Poole and Poole Architecture, LLC, which have been exhibited to City Council and are on file with the Planning Department.

3. There shall be no more than three hundred fifteen (315) multi-family dwelling units on the Property.

4. Parking will be provided in the approximate locations depicted on the Conceptual Site Plan; however, the total number of spaces provided will be the number required pursuant to Section 203 of the Zoning Ordinance, based on the final number of multi-family dwelling units constructed on the Property.

5. Open space shall be provided in the approximate locations depicted on the Conceptual Site Plan.

6. All lighting on the Property shall be limited to that necessary for security purposes and to comply with applicable laws and shall be shielded to prevent glare and spillover onto adjacent properties.
7. An HVAC unit for each dwelling unit will be located on the roof of the applicable building in which such dwelling unit is located, and will be concealed in wells or behind walls.

8. Further conditions lawfully imposed by development ordinances may be required by the GRANTEE during detailed site plan review and administration of applicable City Codes by City agencies and departments to meet all applicable City Code requirements.

9. The freestanding community identification sign shall be located substantially in the location identified on the Conceptual Site Plan.

10. 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.

11. Dumpsters shall be located substantially in the locations identified on the Conceptual Site Plan and shall be enclosed with a solid wall on three (3) sides comprised of materials and colors that match the buildings.

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

All references herein to the A-36 Apartment 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 new 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 recording 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 of the GRANTOR and GRANTEE.
WITNESS the following signature and seal.

GRANTOR:

PLATINUM MANAGEMENT LLC
a Virginia limited liability company

By: (SEAL)

Name: Bradley J. Waitzer
Title: Manager

COMMONWEALTH OF VIRGINIA
CITY OF Virginia Beach to wit:

The foregoing instrument was acknowledged before me this 29th day of June, 2021 by Bradley J. Waitzer, as Manager of Platinum Management LLC, a Virginia limited liability company, on behalf of said company.

[SEAL]

CYNTHIA PACIULLI LANE
Notary Public
Registration No: 7168077
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES DECEMBER 31, 2024

My Commission Expires: Dec 31, 2024
WITNESS the following signature and seal.

GRANTOR:

5429 Greenwich Road, VA, LLC,
a Delaware limited liability company

By: [Signature] (SEAL)
Name: Jay Yang
Title: Authorized Signatory

STATE OF NEW YORK
COUNTY OF Suffolk, to wit:

The foregoing instrument was acknowledged before me this 22 day of June, 2021 by
Jay Yang, as Authorized Signatory of 5429 Greenwich Road VA, LLC,
a Delaware limited liability company, on behalf of said company.

Notary Public
Registration No: 0166400101
My Commission Expires: 11-4-2023

[Signature Page to Proffered Covenants, Restrictions and Conditions]
Exhibit A  

to  
Proffered Covenants, Restrictions and Conditions  

Legal Description of the Property  

ALL THAT certain tract of land with the improvements thereon, belonging and situate in the Bayside Borough in the City of Virginia Beach, Virginia and designated as PARCEL "1" on that certain plat entitled "AMENDED RESUBDIVISION OF PARCEL 'A-1' AND PARCEL 'C', SURVEY OF PROPERTY FOR LANDMARK COMMUNICATIONS, INC.' (MB 78, PAGE 31), VIRGINIA BEACH, VIRGINIA", made by MSA, P.C., dated April 17, 2008, which plat is duly recorded in the Clerk's Office of the Circuit Court of the City of Virginia Beach, Virginia, as Instrument Number 20080430000501660.

IT BEING the same property conveyed to 5429 Greenwich Road, VA, LLC, a Delaware limited liability company, by special warranty deed from Virginian-Pilot Media Companies, LLC, a Virginia limited liability company, dated May 25, 2021 and recorded May 27, 2021 in Instrument Number 202103043985.
Virginia Beach Planning Commission
December 8, 2021 Public Meeting
Agenda Item # 5

Platinum Management, LLC [Applicant]
5429 Greenwich Road, VA, LLC [Property Owner]

Conditional Rezoning (I-1 Light Industrial to Conditional A-36 Apartment for construction of 315 dwelling units at a density of approximately 29.41 units per acre)

5429 Greenwich Road

RECOMMENDED FOR APPROVAL – CONSENT

Jack Wall:
Okay, thank you. The next item on the consent agenda is agenda item number five, Platinum Management LLC is the applicant and 5429 Greenwich Road. Virginia LLC is the property owner. Conditional Rezoning from I1 Light Industrial to Conditional A36 Apartments for construction of 315 dwelling units at a density of approximately 29.41 units per acre at 5429 Greenwich Road in the Kempsville District. Is there a representative to speak on this item?

Lisa Murphy:
Good afternoon, Chairman, Vice Chairman, members of the Planning Commission. For the record, my name is Lisa Murphy, local zoning attorney. And I'm here on behalf of Platinum Management LLC. We appreciate all of Marchelle Coleman's work on this project and being placed on the consent agenda. And I thank you for your time.

Jack Wall:
Thank you. Thank you. Is there any opposition for this item being placed on the consent agenda? Hearing none, the Commission has asked Mr. Redmond to read this into the record.

Dave Redmond:
Thank you, Mr. Wall. This is an application by Platinum Management LLC at 5429 Greenwich Road for a Conditionally Rezoning from I1 Light Industrial, Conditional A36 Apartment. The applicant is requesting to rezone a 10.73 acre parcel from I1 Light Industrial District to Conditional A36 Apartment District to redevelop the property with a 315-unit multifamily residential community. The property is located within the Newtown Strategic Growth Area, and is currently developed with the Virginia Pilot Newspaper Production and Distribution Facility.

Dave Redmond:
The two existing buildings on the property will be removed in conjunction with the proposed redevelopment of the site. The submitted conceptual site plan depicts three multifamily buildings, four stories in height, with a clubhouse. The proposed apartments will have an extensive amenity package consisting of courtyard with fire pits, exterior fireplaces, and exclusive seating at a resort style pool, grilling stations, and fitness facilities within the clubhouse.
Dave Redmond:
If you are familiar with this property, and I don't know how you could not be familiar with this property, it is quite iconic. It is in close proximity to the Top Golf Entertainment Facility, as well as another apartment building in very close proximity of the same height and similar density. This is a redeveloping corridor. There's obviously a gigantic transportation project that surrounds it. The staff has laid out a number of conditions that adequately serve the public interest.

Dave Redmond:
The Planning Commission agrees not just with their judgements, recognizes that there is no public opposition, and also believes that this is a very appropriate re-development project and moves the city and its people forward. And therefore, we concur with the staff's recommendation and place it on consent. Mr. Wall.

Jack Wall:
Is there any opposition for agenda items 18 through 27 being placed on the consent agenda? All right. Hearing none, Mr. Chairman I make a motion that we approve agenda items 1 and 2, 3, 4, 5, 7, 8, 9, 10, 11, 12 through 17, 18, and 19 through 27.

David Weiner:
All right. We have a motion for approval. Do we have a second?

Donald Horsley:
Second.

David Weiner:
A second.

David Weiner:
Okay. Now, disclosures. Yeah, I know. We're going there. We got the motion. We got the second. Now we have the disclosures. Okay, go. You start, Whitney.

Whitney Graham:
Thank you, Mr. Chairman. Pursuant to the Conflicts of Interest Act, Virginia Code Section 2.2-3115F, I have a letter on file to this as well. I make the following declarations, the following agenda items on today's agenda have some financing by Towne Bank, which I serve on one of the Boards at Towne Bank, but I don't make any decisions for loans or anything like that.

Whitney Graham:
So anyway, these are items one and two Virginia Beach Raquet Club North Associates LP, 1951 Thomas Bishop Lane, number 10, Jody Calcagno, 4752 Euclid Road, agenda items 12 through 17, 2508 Pacific Avenue LLC for 2510, 2514, 2518, 2522, 2526, 2530 Pacific Avenue, agenda item number 18, ORF Ventures LLC, 603 20th Street, agenda items 19 through 27 ORF
Ventures LLC, 410 19th Street units 101, 102, 103, 201, 202. And this is at 412 19th Street units 101, 102, 201 and 202. Sorry about the length of that. Thank you.

David Weiner:
All right. Next, Mr. Redmond.

Dave Redmond:
Yeah, I'm not going to do any of that. I will say that I have a letter, myself, on file with the City Attorney's Office, which prevents me from voting on all the short-term rentals. I have a client in the travel industry, and I therefore do not vote on any of the individual short-term rental applications, nor on any of the ordinances that govern short-term rentals. So while I will be voting in favor of the consent agenda, I'm specifically abstaining from those items, which I have down as number 12 to 27 on short-term rentals. Thank you, Kay. And thank you, Mr. Chairman.

David Weiner:
Mr. Inman.

Mike Inman:
Yes, I have to make a disclosure regarding items financing by Towne Bank. I serve on Advisory Board, as does Mr. Graham, that does not make any loan decisions, but disposing with regard to agenda items one and 2, 10, 18, and 19 through 27, without going into the same detail that Mr. Graham did. I believe I can participate in these decisions fairly and objectively, and I will participate in voting on those items.

Mike Inman:
Next, I'm making a disclosure with regard to item number three, Samet Properties. One of my partners represents the applicant Taylor Farms Land Company. And I'm not involved in that representation, nor do I represent the owner. And I have no financial interest on. Having made this disclosure, I believe I can participate in this vote objectively, fairly, and in the public interest.

Mike Inman:
Last but not least, with regard to item seven Hunt Club Condominium, I represent that applicant otherwise, not here today, obviously Mr. Bourdon did, and I will therefore abstain from item number seven.

David Weiner:
Okay. Mr. Graham, do you want to add something?

Whitney Graham:
Yes, sir, Mr. Chairman. I apologize. In my disclosure, I want to add that I do plan to participate in today's vote, and that I feel that I can do so fairly and objectively in the public's interest. Thank you.
David Weiner:
Anyone else? Okay. We have a motion for approval by Mr. Wall, a second by Mr. Horsley.

Madam Clerk:
Okay. Vote is open. By recorded vote of 10 in favor, zero against, agenda items one and 2, 3, 4, 5, 8, 9, 10, and 11 have been recommended for approval by consent. Agenda item number seven, by recorded vote of nine in favor, zero against with one abstention, has been recommended for approval by consent. And agenda items 12 through 17, 18, 19 through 27 through recorded vote of nine in favor, zero against with one abstention, have been recommended for approval by consent.

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**PROFFERS:**

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

**Proffer 1:**
The Property shall be developed in substantial conformity with the conceptual site plan entitled "5429 Greenwich Road, Virginia Beach, VA – Conceptual Layout", prepared by Timmons Group dated September 7, 2021 ("Conceptual Site Plan"), which has been exhibited to the Virginia Beach City Council ("City Council") and is on file with the Virginia Beach Department of Planning ("Planning Department").

**Proffer 2:**
The architectural design and building materials of the multi-family dwelling units built on the Property shall be substantially compatible with the architectural style and materials depicted on the building elevation plans entitled "Society at Gateway", dated July 20, 2021 and September 7, 2021, prepared by Poole and Poole Architecture, LLC, which have been exhibited to City Council and are on file with the Planning Department.
Proffer 3:
There shall be no more than three hundred fifteen (315) multi-family dwelling units on the Property.

Proffer 4:
Parking will be provided in the approximate locations depicted on the Conceptual Site Plan; however, the total number of spaces provided will be the number required pursuant to Section 203 of the Zoning Ordinance, based on the final number of multi-family dwelling units constructed on the Property.

Proffer 5:
Open space shall be provided in the approximate locations depicted on the Conceptual Site Plan.

Proffer 6:
All lighting on the Property shall be limited to that necessary for security purposes and to comply with applicable laws and shall be shielded to prevent glare and spillover onto adjacent properties.

Proffer 7:
An HVAC unit for each dwelling unit will be located on the roof of the applicable building in which such dwelling unit is located and will be concealed in wells or behind walls.

Proffer 8:
Further conditions lawfully imposed by development ordinances may be required by the GRANTEE during detailed site plan review and administration of applicable City Codes by City agencies and departments to meet all applicable City Code requirements.

Proffer 9:
The freestanding community identification sign shall be located substantially in the location identified on the Conceptual Site Plan.

Proffer 10:
Al onsite signage shall meet the requirements of the City Zoning Ordinance, unless otherwise approved by the Board of Zoning Appeals. The proposed sign package will be submitted to the Zoning Administrator for review and approval prior to the issuance of a sign permit.

Proffer 11:
Dumpsters shall be located substantially in the locations identified on the Conceptual Site Plan and shall be enclosed with a solid wall on three (3) sides comprised of materials and colors that match the buildings.

Proffer 12:
The Effective Date of this Agreement shall be the date this Agreement is approved by City Council.

**Staff Comments:** Staff has reviewed the Proffers listed above and finds them acceptable. The City Attorney's Office has reviewed the agreement and found it to be legally sufficient and in acceptable legal form.
ITEM: MONET FREEMAN [Applicant] SHOPPES I, LLC [Property Owner] Conditional Use Permit (Tattoo Parlor) for the property located at 4380 Holland Plaza Shopping Center (GPIN 1476963891). COUNCIL DISTRICT — ROSE HALL

MEETING DATE: January 4, 2022

- **Background:**
The applicant is requesting a Conditional Use Permit to operate a Tattoo Parlor, specifically for the application of permanent makeup, known as microblading. The use will occur with an existing 472 square foot unit in the Holland Plaza Shopping Center. The typical hours of operation will be between 9:00 a.m. to 7:30 p.m., Tuesday through Saturday. No exterior changes are proposed to the building.

- **Considerations:**
The proposed request is compatible with the other existing commercial businesses within the Holland Plaza Shopping Center and along this section of Holland Road. No additional parking is required within the shopping center, as it was designed to accommodate a variety of commercial uses. 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 December 8, 2021, the Planning Commission placed this item on the Consent Agenda, passing a motion by a recorded vote of 10-0, 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 to ensure consistency with the provisions of Chapter 23 of the City Code.

2. This Conditional Use Permit for a Tattoo Parlor shall be limited to only microblading, a tattooing technique used in the application of permanent makeup. No other form of tattooing shall be permitted.

3. 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.
4. Any on-site signage for the establishment shall meet the requirements of the City Zoning Ordinance, and there shall be no neon, electronic display or similar sign installed on the exterior of the building or in any window, or on the doors. Building signage designed to be a "box sign" and signage for windows shall not be permitted. A separate sign permit shall be obtained from the Planning Department for installation of any new signs.

Attachments:
Staff Report and Disclosure Statements
Location Map
Minutes of Planning Commission Hearing

Recommended Action: Staff recommends Approval. Planning Commission recommends Approval.

Submitting Department/Agency: Planning Department

City Manager:
Applicant Monet Freeman
Property Owner Shoppes I, LLC
Planning Commission Public Hearing December 8, 2021
City Council Election District Rose Hall

Request
Conditional Use Permit (Tattoo Parlor)

Staff Recommendation
Approval

Staff Planner
Marchelle Coleman

Location
4380 Holland Plaza Shopping Center
GPIN
1476963891
Site Size
155,000 square feet
AICUZ
Less than 65 dB DNL
Watershed
Chesapeake Bay

Existing Land Use and Zoning District
Shopping center / B-2 Community Business

Surrounding Land Uses and Zoning Districts
North
Shopping center / B-2 Community Business
South
Holland Road
Shopping center / PD-H1 Planned Unit Development
East
Automobile service station / B-2 Community Business
West
Shopping center / B-2 Community Business
Background & Summary of Proposal

- The applicant is requesting a Conditional Use Permit for a Tattoo Parlor, specifically for the application of permanent makeup, known as microblading. The operation will occur within a 472 square foot unit in the Holland Plaza Shopping Center. The property is zoned B-2 Community Business.

- The proposed operation currently has one employee with the potential to add two additional employees in the future. The typical hours of operation will be between 9:00 a.m. to 7:30 p.m., Tuesday through Saturday.

- No exterior changes to the building are proposed, as well as no new signage.

Zoning History

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<td>CUP (Motor Vehicle Rentals) Approved 8/14/1996</td>
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<td>MOD LUP — (Amendment to PD-H1 to add Indoor Recreational Facility over 7,500 SF) Approved 6/19/2019</td>
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Application Types

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<td>NON — Nonconforming Use</td>
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STC — Street Closure
FVR — Floodplain Variance
ALT — Alternative Compliance
SVR — Subdivision Variance
LUP — Land Use Plan
STR — Short Term Rental

Evaluation & Recommendation

The request for the Conditional Use Permit is, in Staff’s opinion, acceptable given that the use will be compatible with the other existing commercial businesses within the Holland Plaza Shopping Center and along this section of Holland Road.

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 requirements of Chapter 23 of the City Code. This section of the codes 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.

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

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

2. This Conditional Use Permit for a Tattoo Parlor shall be limited to only microblading, a tattooing technique used in the application of permanent make-up. No other form of tattooing shall be permitted.

3. 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.

4. Any on-site signage for the establishment shall meet the requirements of the City Zoning Ordinance, and there shall be no neon, electronic display or similar sign installed on the exterior of the building or in any window, or on the doors. Building signage designed to be a “box sign” and signage for windows shall not be permitted. A separate sign permit shall be obtained from the Planning Department for installation of any new signs.

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

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

Comprehensive Plan Recommendations

The Comprehensive Plan recognizes this property as being within the “Suburban Area.” Guiding principles have been established in the Comprehensive Plan to guard against possible threats to the stability of the Suburban Area and to provide a framework for neighbors and places that are increasingly vibrant and distinctive. The Plan’s primary guiding principle for the Suburban Area is to create “Great Neighborhoods,” and to support those neighborhoods with complementary non-residential uses in such a way that working together the stability and sustainability of the Suburban Area is ensured for now and the future.

Natural & Cultural Resources Impacts

This site is located in the Chesapeake Bay watershed. There does not appear to be any significant natural resources or cultural features associated with the site as it is fully developed with a shopping center and parking lot.
Traffic Impacts

<table>
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<tr>
<th>Street Name</th>
<th>Present Volume</th>
<th>Present Capacity</th>
<th>Generated Traffic</th>
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</thead>
<tbody>
<tr>
<td>Holland Road</td>
<td>37, 100 ADT$^1$</td>
<td>32,700 ADT$^1$ (LOS$^2$ &quot;D&quot;)</td>
<td>No Change Anticipated$^3$</td>
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<tr>
<td>S. Plaza Trail</td>
<td>8,740 ADT$^1$</td>
<td>32,700 ADT$^1$ (LOS$^2$ &quot;D&quot;)</td>
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$^1$Average Daily Trips  
$^2$LOS = Level of Service  
$^3$average daily trips not expected to change

Master Transportation Plan (MTP) and Capital Improvement Program (CIP)
Holland Road in the vicinity of this application is considered a four-lane divided minor urban arterial. The existing infrastructure currently resides within a variable width right-of-way. The MTP proposes a six-lane facility within a 165 foot right-of-way. There are currently no CIP projects to upgrade this section of Holland Road at this time.

S. Plaza Trail in the vicinity of this application is considered a four-lane divided minor suburban arterial. The existing infrastructure currently resides in an 80 foot right-of-way. The MTP proposes a four-lane facility within a 115 foot right-of-way. There are currently no CIP projects to upgrade this roadway at this time.

Public Utility Impacts

Water & Sewer
The site is currently connected to both City water and sanitary sewer service.

Public Outreach Information

Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on November 8, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, November 21, 2021 and November 28, 2021.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on November 22, 2021.
- 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 December 2, 2021.

City Council

- As required by City Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, December 19, 2021 and December 26, 2021.
- 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 December 20, 2021.
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**

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-subsidiary\(^1\) or affiliated business entity\(^2\) relationship with the applicant. (Attach a list if necessary)

---

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

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

Date: 10/1/21

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: 12/14/2021

Signature: ________________________________
Print Name: Marchelle L. Coleman
Disclosure Statement

Owner Disclosure

Owner Name: Shoppes 1, LLC
Applicant Name: Monet T Freeman

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 subsidiary or affiliated business entity 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?

1 "Parent subsidiary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, VA Code § 22.1-3101

2 "Affiliated business entity relationship" means "a relationship, other than parent subsidiary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va Code § 22.1-3101.
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.

---

Monet Freeman
Agenda Item 4
Page 12
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

Michael D. Newbome - Owner Mgr.

Print Name and Title

Date

November 4, 2021

Monet Freeman

Agenda Item 4 
Page 13
• 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.
Monet Freeman [Applicant]
Shoppes I, LLC [Property Owner]

Conditional Use Permit (Tattoo Parlor)

4380 Holland Plaza Shopping Center

RECOMMENDED FOR APPROVAL – CONSENT

Jack Wall:
Okay, thank you. The next item on the consent agenda is agenda item number four, Monet Freeman as the applicant. Shoppes One LLC as the property owner. It's for a Conditional Use Permit for a Tattoo Parlor at 4380 Holland Plaza Shopping Center in the Rose Hall District. Is there a representative to speak on this item?

Madam Clerk:
Mr. Wall, Monet Freeman is virtual. She's WebEx. So, Ms. Freeman, if you would wait two to three seconds, we're going to unmute your mic. Please state your name, and then state whether or not you agree with conditions of your application. You're on the consent agenda.

Monet Freeman:
Monet Freeman here. And yes, I do agree.

Jack Wall:
Is there any opposition for this item to be placed on the consent agenda? Hearing none, the Planning Commission has asked Ms. Klein to read this into the record.

Robyn Klein:
The applicant is requesting a Conditional Use Permit for a Tattoo Parlor, specifically for the application of permanent makeup, known as microblading. The operation will occur within a 472 square foot unit in the Holland Plaza Shopping Center. The property is zoned B2, Community Business. Staff recommends approval of this application, and it is placed on the consent agenda.

Jack Wall:
Is there any opposition for agenda items 18 through 27 being placed on the consent agenda? All right. Hearing none, Mr. Chairman I make a motion that we approve agenda items 1 and 2, 3, 4, 5, 7, 8, 9, 10, 11, 12 through 17, 18, and 19 through 27.

David Weiner:
All right. We have a motion for approval. Do we have a second?
Donald Horsley:
Second.

David Weiner:
A second.

David Weiner:
Okay. Now, disclosures. Yeah, I know. We're going there. We got the motion. We got the second. Now we have the disclosures. Okay, go. You start, Whitney.

Whitney Graham:
Thank you, Mr. Chairman. Pursuant to the Conflicts of Interest Act, Virginia Code Section 2.2-3115F, I have a letter on file to this as well. I make the following declarations, the following agenda items on today's agenda have some financing by Towne Bank, which I serve on one of the Boards at Towne Bank, but I don't make any decisions for loans or anything like that.

Whitney Graham:
So anyway, these are items one and two Virginia Beach Raquet Club North Associates LP, 1951 Thomas Bishop Lane, number 10, Jody Calcagno, 4752 Euclid Road, agenda items 12 through 17, 2508 Pacific Avenue LLC for 2510, 2514, 2518, 2522, 2526, 2530 Pacific Avenue, agenda item number 18, ORF Ventures LLC, 603 20th Street, agenda items 19 through 27 ORF Ventures LLC, 410 19th Street units 101, 102, 103, 201, 202. And this is at 412 19th Street units 101, 102, 201 and 202. Sorry about the length of that. Thank you.

David Weiner:
All right. Next, Mr. Redmond.

Dave Redmond:
Yeah, I'm not going to do any of that. I will say that I have a letter, myself, on file with the City Attorney's Office, which prevents me from voting on all the short-term rentals. I have a client in the travel industry, and I therefore do not vote on any of the individual short term rental applications, nor on any of the ordinances that govern short term rentals. So while I will be voting in favor of the consent agenda, I'm specifically abstaining from those items, which I have down as number 12 to 27 on short term rentals. Thank you, Kay. And thank you, Mr. Chairman.

David Weiner:
Mr. Inman.

Mike Inman:
Yes, I have to make a disclosure regarding items financing by Towne Bank. I serve on Advisory Board, as does Mr. Graham, that does not make any loan decisions, but disposing with regard to agenda items one and 2, 10, 18, and 19 through 27, without going into the same detail that Mr. Graham did. I believe I can participate in these decisions fairly and objectively, and I will participate in voting on those items.
Mike Inman:
Next, I'm making a disclosure with regard to item number three, Samet Properties. One of my partners represents the applicant Taylor Farms Land Company. And I'm not involved in that representation, nor do I represent the owner. And I have no financial interest on. Having made this disclosure, I believe I can participate in this vote objectively, fairly, and in the public interest.

Mike Inman:
Last but not least, with regard to item seven Hunt Club Condominium, I represent that applicant otherwise, not here today, obviously Mr. Bourdon did, and I will therefore abstain from item number seven.

David Weiner:
Okay. Mr. Graham, do you want to add something?

Whitney Graham:
Yes, sir, Mr. Chairman. I apologize. In my disclosure, I want to add that I do plan to participate in today's vote, and that I feel that I can do so fairly and objectively in the public's interest. Thank you.

David Weiner:
Anyone else? Okay. We have a motion for approval by Mr. Wall, a second by Mr. Horsley.

Madam Clerk:
Okay. Vote is open. By recorded vote of 10 in favor, zero against, agenda items one and 2, 3, 4, 5, 8, 9, 10, and 11 have been recommended for approval by consent. Agenda item number seven, by recorded vote of nine in favor, zero against with one abstention, has been recommended for approval by consent. And agenda items 12 through 17, 18, 19 through 27 through recorded vote of nine in favor, zero against with one abstention, have been recommended for approval by consent.

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CONDITIONS:

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

2. This Conditional Use Permit for a Tattoo Parlor shall be limited to only microblading, a tattooing technique used in the application of permanent make-up. No other form of tattooing shall be permitted.

3. 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.

4. Any on-site signage for the establishment shall meet the requirements of the City Zoning Ordinance, and there shall be no neon, electronic display or similar sign installed on the exterior of the building or in any window, or on the doors. Building signage designed to be a "box sign" and signage for windows shall not be permitted. A separate sign permit shall be obtained from the Planning Department for 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.
ITEM: TRAYA'NA MILLS [Applicant] PROVIDENCE SQUARE OFFICE PARK ASSOCIATES [Property Owner] Conditional Use Permit (Tattoo Parlor) for the property located at 1017 Kempsville Rd (GPIN 1466538222 ). COUNCIL DISTRICT – KEMPSVILLE

MEETING DATE: January 4, 2022

Background:
The applicant is requesting a Conditional Use Permit to operate a Tattoo Parlor, specifically for the application of permanent makeup known as microblading. The use will occur within an existing 910 square foot unit in a shopping center along Kempsville Road. No exterior changes are proposed to the building.

Considerations:
The proposed request is an acceptable use in this location as the property is surrounded by commercial properties. No additional parking is required within the shopping center, as it was designed to accommodate a variety of commercial uses. The existing signage located on the door and the window of the establishment will remain and has been conditioned as such. If the signs are removed in the future, they cannot be replaced, and the new signage must meet the requirements set forth in the City's Zoning Ordinance. 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 December 8, 2021, the Planning Commission passed a motion to recommend this item on the Consent Agenda, passing a motion by a recorded vote of 10-0, 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 to ensure consistency with the provisions of Chapter 23-51 of the City Code.

2. This Conditional Use Permit for a Tattoo Parlor shall be limited to only microblading, a tattooing technique used in the application of permanent makeup. No other form of tattooing shall be permitted.
3. The actual application of permanent make-up shall not be visible from the exterior of the establishment or from the waiting and sales area within the establishment.

4. All signage on the site must be in accordance with the sign regulations of the Zoning Ordinance. A separate sign permit shall be obtained from the Planning Department for the installation of any new signs.

5. The existing signage on the door and window of the business, as depicted in the site photos on page 6 of this report, shall be allowed. No additional signage shall be added to any doors or windows of this business. If the existing signage on the window and door is removed for any reason, it shall not be replaced.

Attachments:
Staff Report and Disclosure Statements
Location Map
Minutes of Planning Commission Hearing

Recommended Action: Staff recommends Approval. Planning Commission recommends Approval.

Submitting Department/Agency: Planning Department

City Manager:
Applicant Traya’na Mills
Property Owner Providence Square Office Park Associates, LLC
Planning Commission Public Hearing December 8, 2021
City Council Election District Kempsville

Request
Conditional Use Permit (Tattoo Parlor)

Staff Recommendation
Approval

Staff Planner
Michaela D. McKinney

Location
1017 Kempsville Rd
GPIN
1466538222
Site Size
2.42 acres
AICUZ
Less than 65 dB DNL
Watershed
Chesapeake Bay

Existing Land Use and Zoning District
Shopping center / B-2 Community Business

Surrounding Land Uses and Zoning Districts
North
Shopping center / B-2 Community Business
South
Single-family dwellings / R-2.5 Residential
East
Kempsville Road
Single-family dwellings / R-10 Residential
West
Townhomes / A-12 Apartment
Background & Summary of Proposal

- The applicant is requesting to operate a Tattoo Parlor for permanent makeup, known as microblading, within an existing 910 square feet salon. The unit is located within the Providence Square Shopping Center along Kempsville Road zoned B-2 Community Business District.

- According to the applicant, four employees are anticipated.

- The typical hours of operation are 10:00 a.m. to 5:00 p.m., Monday through Friday and 10:00 a.m. to 2:00 p.m. on Saturdays.

- No exterior changes to the building are proposed, as well as no new signage.

Zoning History

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<td>CUP (Open Air Market) Approved 02/26/2013</td>
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<td>2</td>
<td>CUP (Wireless Communications Facility) Approved 05/08/1998</td>
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Application Types

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<th>CUP – Conditional Use Permit</th>
<th>MODC – Modification of Conditions</th>
<th>STC – Street Closure</th>
<th>SVR – Subdivision Variance</th>
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<td>MODP – Modification of Proffers</td>
<td>FVR – Floodplain Variance</td>
<td>LUP – Land Use Plan</td>
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<td>NON – Nonconforming Use</td>
<td>ALT – Alternative Compliance</td>
<td>STR – Short Term Rental</td>
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Evaluation & Recommendation

The proposed request for a Conditional Use Permit for a Tattoo Parlor, in Staff's opinion, is acceptable given that the use will be compatible with the other existing commercial businesses in the area. The Tattoo Parlor will be for the application of permanent makeup, rather than traditional tattooing.

Prior to operation on the site, the applicant must obtain a business license and the Health Department must verify that the business meets all the requirements of Chapter 23 of the City Code. Chapter 23 mentions the 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.

As mentioned previously, the applicant is not proposing any new signage on the building of this establishment. However, there is existing signage on the window and door which provides the name of the business, hours of operation, and services provided, as depicted in the site photo on page 6 of this report. The existing signage located in the door and window of the business, in Staff's opinion, is neat and attractive. To ensure that the window and door signage does not become disorderly over time, condition 5 has been recommended to prohibit any additional signage on any windows or doors and if the existing signage is removed for any reason it shall not be replaced.
A Tattoo Parlor is considered to be a normal shopping center commercial use. Therefore, there will be no significant traffic impact anticipated with the addition of this use into the existing strip shopping center.

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

**Recommended Conditions**

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

2. This Conditional Use Permit for a Tattoo Parlor shall be limited to only microblading, a tattooing technique used in the application of permanent make-up. No other form of tattooing shall be permitted.

3. The actual application of permanent make-up shall not be visible from the exterior of the establishment or from the waiting and sales area within the establishment.

4. All signage on the site must be in accordance with the sign regulations of the Zoning Ordinance. A separate sign permit shall be obtained from the Planning Department for the installation of any new signs.

5. The existing signage on the door and window of the business, as depicted in the site photos on page 6 of this report, shall be allowed. No additional signage shall be added to any doors or windows of this business. If the existing signage on the window and door is removed for any reason, it shall not be replaced.

*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 recognizes this property as being within the “Suburban Area.” Guiding principles have been established in the Comprehensive Plan to guard against possible threats to the stability of the Suburban Area and to provide a framework for neighbors and places that are increasingly vibrant and distinctive. The Plan’s primary guiding principle for the Suburban Area is to create “Great Neighborhoods,” and to support those neighborhoods with complementary non-residential uses in such a way that working together the stability and sustainability of the Suburban Area is ensured for now and the future.

**Natural & Cultural Resources Impacts**

The site is located in the Chesapeake Bay Watershed. There does not appear to be any significant natural resources or cultural features associated with the site as it is fully developed with a shopping center and parking lot.
Traffic Impacts

<table>
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<th>Present Volume</th>
<th>Present Capacity</th>
<th>Generated Traffic</th>
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<tr>
<td>Kempsville Road</td>
<td>29,500 ADT¹</td>
<td>32,700 ADT² (LOS² &quot;D&quot;)</td>
<td>No Change Anticipated³</td>
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</table>

¹ Average Daily Trips  
² LOS= Level of Service  
³ average daily trips not expected to change

Master Transportation Plan (MTP) and Capital Improvement Program (CIP)
Kempsville Road is a four-lane divided minor urban arterial road in the vicinity of this site. The MTP proposes a six-lane divided facility with an ultimate right-of-way of 150 feet.

Public Utility Impacts

Water & Sewer
This site is currently connected to both City water and gravity sewer service.

Public Outreach Information

Planning Commission
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on November 8, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, November 21, 2021 and November 28, 2021.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on November 22, 2021.
- 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 December 2, 2021.

City Council
- As required by City Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, December 19, 2021 and December 26, 2021.
- 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 December 20, 2021.
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 Traya'na Mills

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-subsidiary or affiliated business entity relationship with the applicant. (Attach a list if necessary)

---

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

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

Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

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

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

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

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

Applicant Signature

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

[Signature]

Print Name and Title

[Name] Trayana Mills

Date

09/27/2021

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

[Signature] Michaela D. McKinney

Print Name

Michaela D. McKinney

No changes as of Date Dec 14, 2021
Disclosure Statement

Owner Disclosure

Owner Name: Providence Square Associates, LLC

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)

Manager: BDC Manager, LLC

Officers: Terri W. Breedon, Jr., C. Terry Breedon, Terri M. Marshall

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

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

[Signature]

Owner Signature

[Signature]

Print Name and Title

10/1/21

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
December 8, 2021 Public Meeting
Agenda Item # 8

Traya'na Mills [Applicant]
Providence Square Office Park Associates [Property Owner]

Conditional Use Permit (Tattoo Parlor)
1017 Kempsville Road

RECOMMENDED FOR APPROVAL – CONSENT

Jack Wall:
Okay. Thank you. Next item on the consent agenda is agenda item number eight. Traya'na Mills is the applicant and Providence Square Office Park Associates as the property owner for a Conditional Use Permit for Tattoo Parlor at 1017 at Kempsville Road in the Kempsville District. Is there a representative for this application?

Jack Wall:
Okay. No? Okay. Okay. All right. Seeing that there's none, we're going to move on. Is there any opposition for this item to be placed on the consent agenda? Hearing none, the Planning Commission's asked Mr. Inman to read this into the record.

Jack Wall:
Is there any opposition for agenda items 18 through 27 being placed on the consent agenda? All right. Hearing none, Mr. Chairman I make a motion that we approve agenda items 1 and 2, 3, 4, 5, 7, 8, 9, 10, 11, 12 through 17, 18, and 19 through 27.

David Weiner:
All right. We have a motion for approval. Do we have a second?

Donald Horsley:
Second.

David Weiner:
A second.

David Weiner:
Okay. Now, disclosures. Yeah, I know. We're going there. We got the motion. We got the second. Now we have the disclosures. Okay, go. You start, Whitney.

Whitney Graham:
Thank you, Mr. Chairman. Pursuant to the Conflicts of Interest Act, Virginia Code Section 2.2-3115F, I have a letter on file to this as well. I make the following declarations, the following
agenda items on today's agenda have some financing by Towne Bank, which I serve on one of the Boards at Towne Bank, but I don't make any decisions for loans or anything like that.

Whitney Graham:
So anyway, these are items one and two Virginia Beach Raquet Club North Associates LP, 1951 Thomas Bishop Lane, number 10, Jody Calcagno, 4752 Euclid Road, agenda items 12 through 17, 2508 Pacific Avenue LLC for 2510, 2514, 2518, 2522, 2526, 2530 Pacific Avenue, agenda item number 18, ORF Ventures LLC, 603 20th Street, agenda items 19 through 27 ORF Ventures LLC, 410 19th Street units 101, 102, 103, 201, 202. And this is at 412 19th Street units 101, 102, 201 and 202. Sorry about the length of that. Thank you.

David Weiner:
All right. Next, Mr. Redmond.

Dave Redmond:
Yeah, I'm not going to do any of that. I will say that I have a letter, myself, on file with the City Attorney's Office, which prevents me from voting on all the short-term rentals. I have a client in the travel industry, and I therefore do not vote on any of the individual short term rental applications, nor on any of the ordinances that govern short term rentals. So while I will be voting in favor of the consent agenda, I'm specifically abstaining from those items, which I have down as number 12 to 27 on short term rentals. Thank you, Kay. And thank you, Mr. Chairman.

Mike Inman:
Next, I'm making a disclosure with regard to item number three, Samet Properties. One of my partners represents the applicant Taylor Farms Land Company. And I'm not involved in that representation, nor do I represent the owner. And I have no financial interest on. Having made this disclosure, I believe I can participate in this vote objectively, fairly, and in the public interest.

Mike Inman:
Last but not least, with regard to item seven Hunt Club Condominium, I represent that applicant otherwise, not here today, obviously Mr. Bourdon did, and I will therefore abstain from item number seven.

David Weiner:
Okay. Mr. Graham, do you want to add something?
Whitney Graham:
Yes, sir, Mr. Chairman. I apologize. In my disclosure, I want to add that I do plan to participate in today's vote, and that I feel that I can do so fairly and objectively in the public's interest. Thank you.

David Weiner:
Anyone else? Okay. We have a motion for approval by Mr. Wall, a second by Mr. Horsley.

Madam Clerk:
Okay. Vote is open. By recorded vote of 10 in favor, zero against, agenda items one and 2, 3, 4, 5, 8, 9, 10, and 11 have been recommended for approval by consent. Agenda item number seven, by recorded vote of nine in favor, zero against with one abstention, has been recommended for approval by consent. And agenda items 12 through 17, 18, 19 through 27 through recorded vote of nine in favor, zero against with one abstention, have been recommended for approval by consent.

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CONDITIONS:

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

2. This Conditional Use Permit for a Tattoo Parlor shall be limited to only microblading, a tattooing technique used in the application of permanent make-up. No other form of tattooing shall be permitted.

3. The actual application of permanent make-up shall not be visible from the exterior of the establishment or from the waiting and sales area within the establishment.

4. All signage on the site must be in accordance with the sign regulations of the Zoning Ordinance. A separate sign permit shall be obtained from the Planning Department for the installation of any new signs.
5. The existing signage on the door and window of the business, as depicted in the site photos on page 6 of this report, shall be allowed. No additional signage shall be added to any doors or windows of this business. If the existing signage on the window and door is removed for any reason, it shall not be replaced.

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.
ITEM: KEVIN & KEISHA MERCER [Applicants] RT VIRGINIA HOLDINGS LLC [Property Owner] Conditional Use Permit (Assembly Use) for the property located at 5300 Kempsriver Drive, Suite 126 (GPIN 1466306381). COUNCIL DISTRICT – KEMPSVILLE

MEETING DATE: January 4, 2022

Background:
The applicant is requesting a Conditional Use Permit for an Assembly Use to operate an event rental space for small gatherings within a 1,950 square foot unit in the Kemps Corner Shoppes shopping center. Specifically, the applicant proposes to rent the venue to the public for birthday parties, baby showers, and retirement parties. The maximum number of guests is anticipated at 105 people; however, the maximum occupant load will ultimately be determined by the Building Official and Fire Marshall’s Office. There will be no amplified music or use of speakers outside of the building. There will be no significant modifications to the site or to the exterior of the building. All events will be limited to the operating hours of 10:00 a.m. – 2:00 a.m., Monday through Saturday.

Considerations:
The proposed Conditional Use Permit is acceptable given that it is consistent with the Comprehensive Plan’s vision for the Suburban Area. The assembly use helps to maintain great neighborhoods by providing an affordable amenity to the community for the use of gatherings and social events. The minimum parking requirement is exceeded by 29 spaces and will not generate an extensive amount of traffic, as most of the events will take place during off-peak traffic periods. 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 December 8, 2021, the Planning Commission passed a motion to recommend this item on the Consent Agenda, passing a motion by a recorded vote of 10-0, to recommend approval of this request.

1. A business license for the Assembly Use shall not be issued to the applicant without the approval of the Health Department to ensure consistency with the provisions of Chapter 23 of the City Code.
2. The applicant shall obtain all necessary permits and inspections from the Department of Planning & Community Development/Permits and Inspections Division prior to occupancy. The applicant shall secure a Certificate of Occupancy from the Building Official's Office for use of the existing building as an Assembly Use prior to operation.

3. The maximum number of occupants within the Assembly Use shall not exceed the maximum number as required by applicable building codes, noted on the Certificate of Occupancy, and posted by the Fire Marshal.

4. Any on-site signage for the establishment shall meet the requirements of the City Zoning Ordinance, and there shall be no neon, electronic display or similar sign installed on the exterior of the building or in any window, or on the doors. A separate sign permit shall be obtained from the Department of Planning & Community Development for the installation of any new signs.

5. All event activities shall occur within the building. Outdoor events shall be prohibited unless specifically permitted with a Special Event permit.

6. No amplification of music or use of speakers or monitors shall be permitted except within the enclosed building.

Attachments:
Staff Report and Disclosure Statements
Location Map
Minutes of Planning Commission Hearing

Recommended Action: Staff recommends Approval. Planning Commission recommends Approval.

Submitting Department/Agency: Planning Department

City Manager:
Request
Conditional Use Permit (Assembly Use)

Staff Recommendation
Approval

Staff Planner
Michaela D. McKinney

Location
5300 Kempsriver Drive, Suite 126

GPIN
1466306381

Site Size
2.24 acres

AICUZ
Less than 65 dB DNL

Watershed
Chesapeake Bay

Existing Land Use and Zoning District
Shopping center / B-2 Community Business

Surrounding Land Uses and Zoning Districts
North
Single-family dwellings / R-7.5 Residential

South
Post Office / B-2 Community Business

East
Single-family dwellings / R-7.5 Residential

West
Shopping center / B-2 Community Business
The applicant is requesting a Conditional Use Permit for an Assembly Use for a banquet hall and event space within a 1,950 square foot unit of the Kemps Corner Shoppes shopping center zoned B-2 Community Business District. Per the Zoning Ordinance, an event venue is classified as an Assembly Use, and as such, a Conditional Use Permit is required.

The applicant estimates the number of guests at any event will range from 10 to 105. However, the maximum occupant load of the event space will ultimately be determined by the Building Official’s Office and the Fire Marshal.

The proposed hours of operation are 10:00 a.m. to 2:00 a.m., Monday through Saturday. However, the applicant anticipates that most of the events will occur in the evenings and on the weekends, during off-peak hours.

The event space will be used for private celebratory events, such as but not limited to baby showers, bridal showers, and retirement parties. All events will take place inside of the unit, as noted in Condition 5.

Per the Zoning Ordinance (203(a)(c)), one parking space is required per 150 square feet of floor area for a Shopping Center. The parking is met on site and is exceeded by 29 spaces.

There will be no significant modifications to the site or to the exterior of the building. However, the applicant proposes to change the existing sign above the door to display the business name, similar to the letter styled signs used by the other businesses within the shopping center. A separate sign permit will be obtained from the Department of Planning & Community Development to ensure it meets all zoning requirements.

The request for a Conditional Use Permit for an Assembly Use, in Staff’s opinion, is acceptable. This use is consistent with the Comprehensive Plan’s vision for the Suburban Area as it will provide a complementary use that will serve the surrounding neighborhoods and businesses. Development within the Suburban Area focuses on creating great

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Evaluation & Recommendation

The request for a Conditional Use Permit for an Assembly Use, in Staff’s opinion, is acceptable. This use is consistent with the Comprehensive Plan’s vision for the Suburban Area as it will provide a complementary use that will serve the surrounding neighborhoods and businesses. Development within the Suburban Area focuses on creating great

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Application Types

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

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Zoning History

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neighborhoods by sustaining and stabilizing existing neighborhood with non-residential uses. The site's location is surrounded by both commercial and residential uses, from which the applicant hopes to draw clients.

The applicant indicates that all activities and music will remain indoors. A condition to prohibit outdoor amplified music, or outdoor use of speakers or monitors is recommended in Condition 6.

The shopping center exceeds the minimum parking requirement, as defined in Section 203 of the Zoning Ordinance, by 29 spaces. Based on Staff's review, the event space is not large enough to generate an extensive amount of traffic to this site, and most of the events will take place during off-peak traffic periods. The applicant expects weekday events to occur after 4:00 p.m. to 12:00 a.m. Weekend events are expected to occur 11:00 a.m. to 12:00 a.m. It is anticipated that any traffic impact will be minimal given that the majority of the events will occur during off-peak hours and weekends.

The proposed request for the Conditional Use Permit for an Assembly Use, in the staff's opinion, is acceptable subject to the conditions below.

**Recommended Conditions**

1. A business license for the Assembly Use shall not be issued to the applicant without the approval of the Health Department to ensure consistency with the provisions of Chapter 23 of the City Code.

2. The applicant shall obtain all necessary permits and inspections from the Department of Planning & Community Development/Permits and Inspections Division prior to occupancy. The applicant shall secure a Certificate of Occupancy from the Building Official’s Office for use of the existing building as an Assembly Use prior to operation.

3. The maximum number of occupants within the Assembly Use shall not exceed the maximum number as required by applicable building codes, noted on the Certificate of Occupancy, and posted by the Fire Marshal.

4. Any on-site signage for the establishment shall meet the requirements of the City Zoning Ordinance, and there shall be no neon, electronic display or similar sign installed on the exterior of the building or in any window, or on the doors. A separate sign permit shall be obtained from the Department of Planning & Community Development for the installation of any new signs.

5. All event activities shall occur within the building. Outdoor events shall be prohibited unless specifically permitted with a Special Event permit.

6. No amplification of music or use of speakers or monitors shall be permitted except within the enclosed building.

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 recognizes this property as being within the “Suburban Area.” Guiding principles have been established in the Comprehensive Plan to guard against possible threats to the stability of the Suburban Area and to provide a framework for neighbors and places that are increasingly vibrant and distinctive. The Plan’s primary guiding principle for the Suburban Area is to create “Great Neighborhoods,” and to support those neighborhoods with complementary non-residential uses in such a way that working together the stability and sustainability of the Suburban Area is ensured for now and the future.

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

<table>
<thead>
<tr>
<th>Street Name</th>
<th>Present Volume</th>
<th>Present Capacity</th>
<th>Generated Traffic</th>
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<tr>
<td>Kempsriver Drive</td>
<td>10,900 ADT</td>
<td>19,500 ADT (LOS 4 “D”)</td>
<td>Existing Land Use 2 – 75 ADT</td>
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<tr>
<td></td>
<td>² Average Daily Trips</td>
<td>³ No information available in the ITE Trip Generation Manual for event venues</td>
<td>Proposed Land Use ³ – No Data Available</td>
</tr>
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</table>

Master Transportation Plan (MTP) and Capital Improvement Program (CIP)
Kempsriver Drive in the vicinity of this application is considered a four-lane undivided collector roadway. This roadway is not included on the MTP. There are no roadway CIP projects planned for this section of Kempsriver Drive.

Public Utility Impacts

Water & Sewer
The site is currently connected to both City water and sanitary sewer services.

Public Outreach Information

Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on November 8, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, November 21, 2021 and November 28, 2021.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on November 22, 2021.
- 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 December 2, 2021.
City Council

- As required by City Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, December 19, 2021 and December 26, 2021.

- 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 December 20, 2021.

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: Kevin & Keisha Mercer

Does the applicant have a representative? ✔ Yes □ No
  • If yes, list the name of the representative.
    Kevin Mercer

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-subsidiary or affiliated business entity relationship with the applicant. (Attach a list if necessary)
  
  
  
  
---

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

2 “Affiliated business entity relationship” means “a relationship, other than parent-subsidiary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person owns or manages 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.
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.
   
   Mercer Ventures LLC will be doing the renovations inside the building

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.

Keisha Mercer
Keisha Mercer

Print Name and Title
8/29/21

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

Michaela D. McKinney

Print Name: Michaela D. McKinney

Revised 11.09.2020

3 | Page
Disclosure Statement

Owner Disclosure

Owner Name: RT Virginia Holdings, LLC
Applicant Name: Kevin & Keisha Mercer

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

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

Walter Tang, member
Karen Tang, manager

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

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

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, CRPA, Wetlands Board or any public body or committee in connection with this application.

[Signature]

Owner Signature
Judy Tang Member

Print Name and Title
9/6/2021

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.
Jack Wall:
The next item on the consent agenda is Kevin and Keisha Mercer as the applicant and RT Virginia Holdings LLC as the property owner for a Conditional Use Permit for Assembly Use at 5300 Kemps River Drive in the Kempsville District. Is there a representative to speak on this application?

Jack Wall:
Welcome, please state your name.

Keisha Mercer:
Thank you. Good afternoon. My name is Keisha Mercer. I represent Venue 1225. I am seeking a space for individuals to have celebratory events. And I thank you all for your time and consideration.

Jack Wall:
Okay. Thanks. Are the about the six conditions acceptable?

Keisha Mercer:
Yes.

Jack Wall:
Okay. Thank you. Okay. I appreciate it. Thanks. Thank you. Is there any opposition for this application to be placed on the consent agenda?

Jack Wall:
Is there any opposition for agenda items 18 through 27 being placed on the consent agenda? All right. Hearing none, Mr. Chairman I make a motion that we approve agenda items 1 and 2, 3, 4, 5, 7, 8, 9, 10, 11, 12 through 17, 18, and 19 through 27.

David Weiner:
All right. We have a motion for approval. Do we have a second?
Donald Horsley:
Second.

David Weiner:
A second.

David Weiner:
Okay. Now, disclosures. Yeah, I know. We're going there. We got the motion. We got the second. Now we have the disclosures. Okay, go. You start, Whitney.

Whitney Graham:
Thank you, Mr. Chairman. Pursuant to the Conflicts of Interest Act, Virginia Code Section 2.2-3115F, I have a letter on file to this as well. I make the following declarations, the following agenda items on today's agenda have some financing by Towne Bank, which I serve on one of the Boards at Towne Bank, but I don't make any decisions for loans or anything like that.

Whitney Graham:
So anyway, these are items one and two Virginia Beach Raquet Club North Associates LP, 1951 Thomas Bishop Lane, number 10, Jody Calcagno, 4752 Euclid Road, agenda items 12 through 17, 2508 Pacific Avenue LLC for 2510, 2514, 2518, 2522, 2526, 2530 Pacific Avenue, agenda item number 18, ORF Ventures LLC, 603 20th Street, agenda items 19 through 27 ORF Ventures LLC, 410 19th Street units 101, 102, 103, 201, 202. And this is at 412 19th Street units 101, 102, 201 and 202. Sorry about the length of that. Thank you.

David Weiner:
All right. Next, Mr. Redmond.

Dave Redmond:
Yeah, I'm not going to do any of that. I will say that I have a letter, myself, on file with the City Attorney's Office, which prevents me from voting on all the short-term rentals. I have a client in the travel industry, and I therefore do not vote on any of the individual short term rental applications, nor on any of the ordinances that govern short term rentals. So while I will be voting in favor of the consent agenda, I'm specifically abstaining from those items, which I have down as number 12 to 27 on short term rentals. Thank you, Kay. And thank you, Mr. Chairman.

David Weiner:
Mr. Inman.

Mike Inman:
Yes, I have to make a disclosure regarding items financing by Towne Bank. I serve on Advisory Board, as does Mr. Graham, that does not make any loan decisions, but disposing with regard to agenda items one and 2, 10, 18, and 19 through 27, without going into the same detail that Mr. Graham did. I believe I can participate in these decisions fairly and objectively, and I will participate in voting on those items.
Mike Inman:
Next, I'm making a disclosure with regard to item number three, Samet Properties. One of my partners represents the applicant Taylor Farms Land Company. And I'm not involved in that representation, nor do I represent the owner. And I have no financial interest on. Having made this disclosure, I believe I can participate in this vote objectively, fairly, and in the public interest.

Mike Inman:
Last but not least, with regard to item seven Hunt Club Condominium, I represent that applicant otherwise, not here today, obviously Mr. Bourdon did, and I will therefore abstain from item number seven.

David Weiner:
Okay. Mr. Graham, do you want to add something?

Whitney Graham:
Yes, sir, Mr. Chairman. I apologize. In my disclosure, I want to add that I do plan to participate in today's vote, and that I feel that I can do so fairly and objectively in the public's interest. Thank you.

David Weiner:
Anyone else? Okay. We have a motion for approval by Mr. Wall, a second by Mr. Horsley.

Madam Clerk:
Okay. Vote is open. By recorded vote of 10 in favor, zero against, agenda items one and 2, 3, 4, 5, 8, 9, 10, and 11 have been recommended for approval by consent. Agenda item number seven, by recorded vote of nine in favor, zero against with one abstention, has been recommended for approval by consent. And agenda items 12 through 17, 18, 19 through 27 through recorded vote of nine in favor, zero against with one abstention, have been recommended for approval by consent.

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<th>NAY 0</th>
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CONDITIONS:
1. A business license for the Assembly Use shall not be issued to the applicant without the approval of the Health Department to ensure consistency with the provisions of Chapter 23 of the City Code.

2. The applicant shall obtain all necessary permits and inspections from the Department of Planning & Community Development/Permits and Inspections Division prior to occupancy. The applicant shall secure a Certificate of Occupancy from the Building Official's Office for use of the existing building as an Assembly Use prior to operation.

3. The maximum number of occupants within the Assembly Use shall not exceed the maximum number as required by applicable building codes, noted on the Certificate of Occupancy, and posted by the Fire Marshal.

4. Any on-site signage for the establishment shall meet the requirements of the City Zoning Ordinance, and there shall be no neon, electronic display or similar sign installed on the exterior of the building or in any window, or on the doors. A separate sign permit shall be obtained from the Department of Planning & Community Development for the installation of any new signs.

5. All event activities shall occur within the building. Outdoor events shall be prohibited unless specifically permitted with a Special Event permit.

6. No amplification of music or use of speakers or monitors shall be permitted except within the enclosed building.

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.
ITEM: JODIE CALCAGNO [Applicant] HCD PROPERTIES, LC [Property Owner]  
Conditional Use Permit (Assembly Use) for the property located at 4752 Euclid Rd (GPIN 1477325444). COUNCIL DISTRICT – BAYSIDE

MEETING DATE: January 4, 2022

- **Background:**
The applicant is requesting a Conditional Use Permit for an Assembly Use to operate a 3,400 square foot 'Boutique' event rental space for gatherings within an existing 12,000 square foot building. Specifically, the applicant proposes to rent the venue to the public for bridal showers, baby showers, and business retreats. The maximum occupant load will ultimately be determined by the Building Official and Fire Marshal’s Office.

As conditioned, there will be no amplified music or use of speakers outside of the building from 10:00 p.m. to 11:00 a.m. No significant modifications to the site or to the exterior of the building are planned.

- **Considerations:**
The proposed Conditional Use Permit is acceptable given that it is consistent with the Comprehensive Plan’s vision for the Pembroke Strategic Growth Area. The assembly use helps to maintain great neighborhoods by providing an affordable amenity to the community for the use of small gatherings and social events.

A minimum of 34 parking spaces is required. The concept plan depicts 38 spaces, exceeding the parking requirement by four spaces. To ensure adequate parking is available for all uses on the site, the applicant proposes to limit hours of operation to off-peak hours of the existing office uses in the structure. The proposed hours will be 6:00 p.m. to 11:00 p.m., Monday through Friday, and 12:00 noon to 11:00 p.m. on Saturdays and Sundays.

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 December 8, 2021, the Planning Commission passed a motion to recommend this item on the Consent Agenda, passing a motion by a recorded vote of 10-0, to recommend approval of this request.
1. The Assembly Use shall be limited to 3,400 square feet of the first floor to include the outdoor patio, as depicted on the floor plan entitled "LA GALLERIA – VIRGINIA BEACH, VIRGINIA, prepared by WALLER, TODD, & SADLER ARCHITECTS, INC., dated January 5, 1987, which has been exhibited to the Virginia Beach City Council and is on file with the Department of Planning & Community Development.

2. A business license for the Assembly Use shall not be issued to the applicant without the approval of the Health Department to ensure consistency with the provisions of Chapter 23 of the City Code.

3. The applicant shall obtain all necessary permits and inspections from the Department of Planning & Community Development/Permits and Inspections Division. The applicant shall secure a Certificate of Occupancy from the Building Official's Office for a 3,400 square foot portion of the existing building as an Assembly Use. The floor plans submitted during the building permit process must show hard markings to include doors, walls, etc. to differentiate the assembly use space from the rest of the building.

4. The maximum number of occupants within the Assembly Use shall not exceed the maximum number as required by applicable building codes, noted on the Certificate of Occupancy, and posted by the Fire Marshal.

5. 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. A separate sign permit shall be obtained from the Department of Planning & Community Development for the installation of any new signs.

6. The hours of operation for the assembly use shall be limited to 6:00 p.m. to 11:00 p.m., Monday through Friday and 12:00 p.m. to 11:00 p.m. on Saturdays and Sundays.

7. No amplification of music or use of speakers or monitors shall be permitted between the hours of 10:00 p.m. to 11:00 a.m.

**Attachments:**
- Staff Report and Disclosure Statements
- Location Map
- Minutes of Planning Commission Hearing
**Recommended Action**: Staff recommends Approval. Planning Commission recommends Approval.

**Submitting Department/Agency**: Planning Department

**City Manager**
Request

Conditional Use Permit (Assembly Use)

Staff Recommendation

Approval

Staff Planner

Michaela D. McKinney

Location

4752 Euclid Road
GPIN
1477325444
Site Size
33,588 square feet
AICUZ
Less than 65 dBA DNL
Watershed
Chesapeake Bay

Existing Land Use and Zoning District
Office / B-2 Community Business

Surrounding Land Uses and Zoning Districts

North
Single-family dwellings / R-7.5 Residential

South
Undeveloped lot, hotel / B-2 Community Business, H-1 Hotel

East
Euclid Road
Retail / B-2 Community Business

West
Single-family dwellings, undeveloped lot / R-7.5 Residential, B-2 Community Business
Background & Summary of Proposal

- The applicant is proposing to convert a portion of the first floor of an existing 12,600 square foot office building into a "boutique event venue." Events such as these are classified in the Zoning Ordinance as Assembly Uses, thereby necessitating a Conditional Use Permit in the B-2 Community Business District.

- The 3,400 square foot event space will consist of three party rooms and an outdoor patio. The applicant plans to host bridal and wedding showers, as well as business retreats.

- The second floor of the existing building will remain office space with 11 units.

- The maximum occupant load of the event space will ultimately be determined by the Building Official’s Office and the Fire Marshal.

- The typical hours of operation for the office use are 9:00 a.m. to 5:00 p.m., Monday through Friday. The proposed hours of the assembly use will be 6:00 p.m. to 11:00 p.m., Monday through Friday and 12:00 noon to 11:00 p.m. on Saturdays and Sundays.

- Per the Zoning Ordinance, one parking space is required per 100 square feet of floor area for an Assembly Use. As the total floor area of the proposed venue is 3,400 square feet, a minimum of 34 parking spaces is required just for this use. The remaining 9,200 square feet of office space requires a minimum of 28 parking spaces. As the site provides only 38 parking spaces, the applicant proposes to only allow the assembly use to take place after the office use’s business hours.

### Zoning History

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### Application Types

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

### Evaluation & Recommendation

The applicant’s request for the Conditional Use Permit for Assembly Use, in Staff’s opinion, is acceptable. This use is consistent with the Comprehensive Plan’s vision for the Pembroke Strategic Growth Area. Development within this area aims to accommodate future growth and adopt a more urban style in the City. This assembly use helps to maintain great neighborhoods by providing an affordable amenity to the community for the use of small gatherings and social events.

Jodie Calcagno
Agenda Item 10
Page 2
As stated previously, to ensure that the parking on site is met, the applicant is proposing to limit the square footage allowed for renting of the space for events, as well as the hours of operation. There are 38 parking spaces on the site. The office space, which consists of various businesses, operates during typical business hours of 9:00 a.m. to 5:00 p.m., Monday through Friday. The applicant is proposing to limit the assembly use to no more than 3,400 square feet on the first floor of the building, which includes the outdoor patio space. In addition to limiting the square footage allowed for renting, the hours of operation will also be limited to 6:00 p.m. to 11:00 p.m., Monday through Friday and 12:00 noon to 11:00 p.m. on Saturdays and Sundays, after the office businesses are closed. With this business plan, the parking on site for the office space is met and exceeded by 10 spaces and the assembly use will be met and exceeded by four spaces. In Staff's view, limiting the square footage and the hours of operation for the assembly use is an appropriate plan for this site to ensure there are no conflicts in regard to parking.

Given the site's close proximity to the residential neighborhood to the north of the subject site, Staff recommends a condition to prohibit amplified music, use of speakers, or use of monitors outside of the building between the hours of 10:00 p.m. to 11:00 a.m. The applicant is agreeable to this condition.

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

**Recommended Conditions**

1. The Assembly Use shall be limited to 3,400 square feet of the first floor to include the outdoor patio, as depicted on the floor plan entitled "LA GALLERIA – VIRGINIA BEACH, VIRGINIA, prepared by WALLER, TODD, & SADLER ARCHITECTS, INC., dated January 5, 1987, which has been exhibited to the Virginia Beach City Council and is on file with the Department of Planning & Community Development.

2. A business license for the Assembly Use shall not be issued to the applicant without the approval of the Health Department to ensure consistency with the provisions of Chapter 23 of the City Code.

3. The applicant shall obtain all necessary permits and inspections from the Department of Planning & Community Development/Permits and Inspections Division. The applicant shall secure a Certificate of Occupancy from the Building Official's Office for a 3,400 square foot portion of the existing building as an Assembly Use. The floor plans submitted during the building permit process must show hard markings to include doors, walls, etc. to differentiate the assembly use space from the rest of the building.

4. The maximum number of occupants within the Assembly Use shall not exceed the maximum number as required by applicable building codes, noted on the Certificate of Occupancy, and posted by the Fire Marshal.

5. 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. A separate sign permit shall be obtained from the Department of Planning & Community Development for the installation of any new signs.

6. The hours of operation for the assembly use shall be limited to 6:00 p.m. to 11:00 p.m., Monday through Friday and 12:00 p.m. to 11:00 p.m. on Saturdays and Sundays.

7. No amplification of music or use of speakers or monitors shall be permitted between the hours of 10:00 p.m. to 11:00 a.m.

*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 within the Pembroke Strategic Growth Area (SGA), which the Comprehensive Plan designates as one of the eight urban areas in the City that envisions to accommodate future growth and adopt a more urban style in the City. The Pembroke SGA Plan has identified creating more cultural venues as an opportunity in the Pembroke Area.

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

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<tr>
<th>Street Name</th>
<th>Present Volume</th>
<th>Present Capacity</th>
<th>Generated Traffic</th>
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<tbody>
<tr>
<td>Euclid Rd</td>
<td>5,020 ADT&lt;sup&gt;1&lt;/sup&gt;</td>
<td>12,500 ADT&lt;sup&gt;1&lt;/sup&gt; (LOS&lt;sup&gt;4&lt;/sup&gt; &quot;D&quot;)</td>
<td>Existing Land Use&lt;sup&gt;2&lt;/sup&gt; = 116 ADT</td>
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<td></td>
<td></td>
<td></td>
<td>Proposed Land Use&lt;sup&gt;3&lt;/sup&gt; = 58 ADT</td>
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<sup>1</sup>Average Daily Trips  
<sup>2</sup>as defined by a General Office  
<sup>3</sup>No information available in the ITE Trip Generation Manual for event venues  
<sup>4</sup>LOS = Level of Service

Master Transportation Plan (MTP) and Capital Improvement Program (CIP)
Euclid Road in the vicinity of this application is considered a two-lane undivided minor urban arterial and it is not included on the MTP. No roadway CIP projects are scheduled for this section of Euclid Road.

Public Utility Impacts

Water & Sewer
The site is currently connected to both City water and sanitary sewer services.

Public Outreach Information

Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on November 8, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, November 21, 2021 and November 28, 2021.
• As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on November 22, 2021.

• 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 December 2, 2021.

City Council
• As required by City Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, December 19, 2021 and December 26, 2021.

• 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 December 20, 2021

• 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 30, 2021.
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: **Jodie Calcagno**

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-subsidiary or affiliated business entity relationship with the applicant. (Attach a list if necessary)

---

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

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

Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

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.
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

________________________
Jodie Calcagno, Founder/CEO of THE VILLA

Date

02.09.21

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 application.

No changes as of Date: Dec 20, 2021

Signature: Michaela D. McKinney
Print Name: Michaela D. McKinney

Revised 11.09.2020
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)

Chris Calcagno, Sole Proprietorship

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

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

9-30-2021
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.
Jack Wall:
The next item is agenda item number 10, Jodie Calcagno as the applicant and HCD Properties LLC as the property owner for a Conditioned Use Permit for Assembly Use at 4752 Euclid Road in the Bayside District. Is there a representative for this application? Welcome.

Jodie Calcagno:
Thank you, Chairman, Vice Chairman, and members of the Planning Commission. My name is Jody Michelle Calcagno, and I'm representing 4752 Euclid Road. Thank you, Michaela, for your guidance during this process. And thank you for including me on the consent agenda today. I accept all terms.

Jack Wall:
Okay. So the seven conditions are acceptable?

Jodie Calcagno:
They are. Yes. Thank you.

Jack Wall:
All right. Thank you. Is there any opposition for this item to be placed on the consent agenda? Hearing none, the Planning Commission's asked Mr. Redmond to read this into the record.

Dave Redmond:
Thank you, Mr. Wall. This is an application by Jodie Calcagno, who we just saw, for Conditional Use Permit for an Assembly Use. The applicant is proposing to convert a portion of the first floor of an existing 12,600 square foot office building into a boutique event venue. Events such as these are classified in the Zoning Ordinance as Assembly Uses, thereby necessitating a Conditional Use Permit in the B2 Community Business District. The 3,400 square foot event space will consist of three party rooms and an outdoor patio. The applicant plans to host bridal and wedding showers, as well as business retreats.

Dave Redmond:
The second floor of the existing building will remain office space with 11 units. You can see a picture of the building here. It's appropriate for this kind of use. I'm very familiar with this
building. I work right around the corner. There was some concern about the amount of parking, and parking availability for the office uses and for this event venue. The applicant has proposed to manage her events in such a way in hours, so as not conflict with the business use in this building. So they are utilizing a shared parking arrangement, in a way, which is in and of itself a positive thing, more parking, less asphalt. Everybody's needs and uses get met. It's an appropriate use in this location. The staff supports it. We're unaware of any opposition, and the commission agrees, then, with the staff by consent. Thank you, Mr. Wall.

Jack Wall:
Is there any opposition for agenda items 18 through 27 being placed on the consent agenda? All right. Hearing none, Mr. Chairman I make a motion that we approve agenda items 1 and 2, 3, 4, 5, 7, 8, 9, 10, 11, 12 through 17, 18, and 19 through 27.

David Weiner:
All right. We have a motion for approval. Do we have a second?

Donald Horsley:
Second.

David Weiner:
A second.

David Weiner:
Okay. Now, disclosures. Yeah, I know. We're going there. We got the motion. We got the second. Now we have the disclosures. Okay, go. You start, Whitney.

Whitney Graham:
Thank you, Mr. Chairman. Pursuant to the Conflicts of Interest Act, Virginia Code Section 2.2-3115F, I have a letter on file to this as well. I make the following declarations, the following agenda items on today's agenda have some financing by Towne Bank, which I serve on one of the Boards at Towne Bank, but I don't make any decisions for loans or anything like that.

Whitney Graham:
So anyway, these are items one and two Virginia Beach Raquet Club North Associates LP, 1951 Thomas Bishop Lane, number 10, Jody Calcagno, 4752 Euclid Road, agenda items 12 through 17, 2508 Pacific Avenue LLC for 2510, 2514, 2518, 2522, 2526, 2530 Pacific Avenue, agenda item number 18, ORF Ventures LLC, 603 20th Street, agenda items 19 through 27 ORF Ventures LLC, 410 19th Street units 101, 102, 103, 201, 202. And this is at 412 19th Street units 101, 102, 201 and 202. Sorry about the length of that. Thank you.

David Weiner:
All right. Next, Mr. Redmond.

Dave Redmond:
Yeah, I'm not going to do any of that. I will say that I have a letter, myself, on file with the City Attorney's Office, which prevents me from voting on all the short-term rentals. I have a client in the travel industry, and I therefore do not vote on any of the individual short-term rental applications, nor on any of the ordinances that govern short-term rentals. So while I will be voting in favor of the consent agenda, I'm specifically abstaining from those items, which I have down as number 12 to 27 on short-term rentals. Thank you, Kay. And thank you, Mr. Chairman.

David Weiner:
Mr. Inman.

Mike Inman:
Yes, I have to make a disclosure regarding items financing by Towne Bank. I serve on Advisory Board, as does Mr. Graham, that does not make any loan decisions, but disposing with regard to agenda items one and 2, 10, 18, and 19 through 27, without going into the same detail that Mr. Graham did. I believe I can participate in these decisions fairly and objectively, and I will participate in voting on those items.

Mike Inman:
Next, I'm making a disclosure with regard to item number three, Samet Properties. One of my partners represents the applicant Taylor Farms Land Company. And I'm not involved in that representation, nor do I represent the owner. And I have no financial interest on. Having made this disclosure, I believe I can participate in this vote objectively, fairly, and in the public interest.

Mike Inman:
Last but not least, with regard to item seven Hunt Club Condominium, I represent that applicant otherwise, not here today, obviously Mr. Bourdon did, and I will therefore abstain from item number seven.

David Weiner:
Okay. Mr. Graham, do you want to add something?

Whitney Graham:
Yes, sir, Mr. Chairman. I apologize. In my disclosure, I want to add that I do plan to participate in today's vote, and that I feel that I can do so fairly and objectively in the public's interest. Thank you.

David Weiner:
Anyone else? Okay. We have a motion for approval by Mr. Wall, a second by Mr. Horsley.

Madam Clerk:
Okay. Vote is open. By recorded vote of 10 in favor, zero against, agenda items one and 2, 3, 4, 5, 8, 9, 10, and 11 have been recommended for approval by consent. Agenda item number seven, by recorded vote of nine in favor, zero against with one abstention, has been recommended for approval by consent. And agenda items 12 through 17, 18, 19 through 27
through recorded vote of nine in favor, zero against with one abstention, have been recommended for approval by consent.

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CONDITIONS:

1. The Assembly Use shall be limited to 3,400 square feet of the first floor to include the outdoor patio, as depicted on the floor plan entitled "LA GALLERIA – VIRGINIA BEACH, VIRGINIA, prepared by WALLER, TODD, & SADLER ARCHITECTS, INC., dated January 5, 1987, which has been exhibited to the Virginia Beach City Council and is on file with the Department of Planning & Community Development.

2. A business license for the Assembly Use shall not be issued to the applicant without the approval of the Health Department to ensure consistency with the provisions of Chapter 23 of the City Code.

3. The applicant shall obtain all necessary permits and inspections from the Department of Planning & Community Development/Permits and Inspections Division. The applicant shall secure a Certificate of Occupancy from the Building Official's Office for a 3,400 square foot portion of the existing building as an Assembly Use. The floor plans submitted during the building permit process must show hard markings to include doors, walls, etc. to differentiate the assembly use space from the rest of the building.

4. The maximum number of occupants within the Assembly Use shall not exceed the maximum number as required by applicable building codes, noted on the Certificate of Occupancy, and posted by the Fire Marshal.

5. 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. A separate sign permit shall be obtained from the Department of Planning & Community Development for the installation of any new signs.

6. The hours of operation for the assembly use shall be limited to 6:00 p.m. to 11:00 p.m., Monday through Friday and 12:00 p.m. to 11:00 p.m. on Saturdays and Sundays.
7. No amplification of music or use of speakers or monitors shall be permitted between the hours of 10:00 p.m. to 11:00 a.m.

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.
Background:
The applicant is requesting a Conditional Use Permit for a Mini-Warehouse on the 2.89-acre parcel zoned B-2 Community Business District. The climate-controlled facility is designed to resemble the appearance of an office building rather than a traditional storage facility. The proposed 165,680 square foot, four-story building will have an exterior of brick veneer, smooth finished insulated metal panel veneer, and a standing seam metal roof in a neutral color palette.

A 15-foot wide landscape buffer with Category VI landscaping (a mix of evergreen trees and shrubs) is proposed as required along property lines abutting residential and apartment districts. The proposed 12 parking spaces on site exceeds the required parking by three spaces.

A deviation is proposed to the 45-foot maximum building height that is required within 100 feet of an apartment district. The proposed building is 130 feet from property zoned A-24 Apartment District. The proposed building height is 47 feet and six inches. In addition to the deviation to the building height, the applicant also seeks to deviate from the required six-foot tall solid privacy fence along the southern property line. An eight-foot tall black aluminum ornamental fence is proposed instead.

Considerations:
In Staff's view and the Planning Commission concurred, the development is in keeping with the policies and goals set forth in the Comprehensive Plan for the Suburban Focus Area 8 - Military Highway Corridor as the use is compatible with surrounding uses and will provide a service to the surrounding businesses and residences.

Both, the Planning Commission and Staff support the applicant's request to deviate from the building height and screening requirements. The additional building height will screen the rooftop mechanical elements and the building is situated more than
190 feet to the apartment building with parking lot and buffering between the buildings. While not on the applicant’s property, there is an existing six-foot tall solid privacy fence that separates the residential and commercial uses. The eight-foot-tall black aluminum ornamental fence will be attractive. A condition is recommended that if the adjacent existing six-foot tall privacy fence is ever removed, the applicant will be required to replace the proposed eight-foot tall aluminum ornamental fence along the southern property line with a six-foot tall solid privacy fence.

Further details pertaining to the application, as well as Staff’s evaluation, are provided in the attached Staff Report. One letter of support was received from the adjacent apartment complex. There is no known opposition to this request.

**Recommendation:**

On December 8, 2021, the Planning Commission passed a motion to recommend this item on the Consent Agenda, passing a motion by a recorded vote of 10-0, to recommend approval of this request.

1. The building height shall be no higher than 47 feet and six inches. This is a deviation to the City Zoning Ordinance.

2. An eight-foot tall black aluminum ornamental fence along the southern and western property lines shall be installed. This is a deviation to the required six-foot solid privacy fence, as required by the City Zoning Ordinance. The eight-foot tall black aluminum ornamental fence shall substantially adhere in appearance, size, and materials to the submitted rendering entitled “College Park Square Storage-Fence Detail, dated November 22, 2021, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.

3. The eight-foot-tall black aluminum ornamental fence along the southern property line is permitted on the condition that the white vinyl privacy fence to the south of the property remains. If the adjacent property owner’s privacy fence is torn down and removed, the eight-foot-tall aluminum ornamental fence along the southern property line must be replaced with a six-foot tall solid privacy fence.

4. When the property is developed, it shall be in substantial conformance with the plan entitled “COLLEGE PARK ROAD STORAGE SCHEMATIC LAYOUT”, prepared by SilverCore Land Development Consultants, dated September 30, 2021, which has been exhibited to the Virginia Beach City Council and is on file with the Department of Planning & Community Development.

5. 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 issuance of a Certificate of Occupancy and shall be in
substantial conformance to the plan entitled "CONCEPTUAL LANDSCAPE PLAN – PROVIDENCE ROAD STORAGE FACILITY – MICHAEL D. SIFEN, INC.", prepared by Frankenfield Design & Development, LLC, dated October 1, 2021 and revised October 25, 2021, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.

6. The exterior of the proposed building shall substantially adhere in appearance, size, and materials to the submitted elevations entitled “MINI PRICE STORAGE — PROVIDENCE ROAD ROAD, VIRGINIA BEACH, VA”, prepared by Finley Design, dated November 1, 2021, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.

7. The freestanding monument style sign shall be no more than eight feet (8’) in height with a brick base to match the materials of the building.

8. All on-site signage must meet the requirements and regulations of the Zoning Ordinance. A separate permit from the Department of Planning & Community Development is required for any new signage installed on the site.

9. Consistent with Section 237 of the City Zoning Ordinance, all outdoor lights shall be shielded to direct light and glare onto the mini-warehouse premises; said lighting and glare shall be deflected, shaded, and focused away from all adjoining property.

Attachments:
Staff Report and Disclosure Statements
Location Map
Minutes of Planning Commission Hearing
Letter of Support (1)

Recommended Action: Staff recommends Approval. Planning Commission recommends Approval.

Submitting Department/Agency: Planning Department

City Manager: [Signature]
Request

**Conditional Use Permit (Mini-Warehouse)**

**Staff Recommendation**
Approval

**Staff Planner**
Michaela D. McKinney

**Location**
Southwest Intersection of College Park Boulevard & Providence Road

**GPIN**
1456221655

**Site Size**
2.85 acres

**AICUZ**
Less than 65 dB DNL

**Watershed**
Chesapeake Bay

**Existing Land Use and Zoning District**
Undeveloped lot / B-2 Community Business

**Surrounding Land Uses and Zoning Districts**

**North**
Providence Road
Multi-family dwellings / A-18 Apartment

**South**
Multi-family dwellings / A-24 Apartment

**East**
College Park Boulevard
Single-family dwellings / R-7.5 Residential

**West**
Office, retail / B-2 Community Business
The applicant is requesting a Conditional Use Permit for a Mini-Warehouse on a 2.89-acre undeveloped parcel zoned B-2 Community Business District at the southwest corner of Providence Road and College Park Boulevard.

The four-story mini-warehouse building will be climate-controlled with a floor area of 165,680 square feet. The façade will consist of a red brick veneer, with aluminum storefront panels, metal canopies, light gray and brown architectural metal panels, and metal cornice.

Per the City Zoning Ordinance, a 15-foot-wide landscape buffer with Category VI landscaping (a mix of evergreen trees and shrubs) is required along property lines abutting Residential or Apartment Districts and the storage facility is required to be enclosed by a six-foot tall privacy fence. A six-foot solid fence exists along the southern property line on the adjacent property. The applicant is proposing to install an eight-foot-tall black aluminum ornamental fence along the southern and western property lines to provide a more aesthetically pleasing fence. The applicant is requesting that this deficiency be addressed through the provisions of Section 221(i) of the Zoning Ordinance, which allows City Council to grant deviations from required landscaping if “for good cause shown upon a finding that there will be no significant detrimental effects on surrounding properties”.

In addition to the request for a deviation to the landscape requirements, the applicant is also requesting a deviation to the building height. Per the City’s Zoning Ordinance, the maximum height for a site adjacent to an Apartment District is 45 feet. As depicted on the building elevations, the proposed height is 47 feet and six inches.

Customer access into the building is proposed between the hours of 6:00 a.m. to 9:00 p.m., seven days a week. The office hours are 9:00 a.m. to 6:00 p.m., seven days a week, with up to three employees on site.

Per the Zoning Ordinance, one space per employee on the maximum working shift is required. The on-site parking requirement is met with the proposed 12 parking spaces, as the applicant indicated that three people will be working per shift.

### Zoning History

<table>
<thead>
<tr>
<th>#</th>
<th>Request</th>
<th>Date</th>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>CRZ (B-2 to Conditional A-24) Approved 12/13/1995</td>
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<tr>
<td>2</td>
<td>CUP (Church) Approved 05/12/1993</td>
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</tr>
<tr>
<td>3</td>
<td>CUP (Automobile Repair Garage) Approved 09/13/1995</td>
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</table>

### Application Types

<table>
<thead>
<tr>
<th>CUP — Conditional Use Permit</th>
<th>MODC — Modification of Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>REZ — Rezoning</td>
<td>MODP — Modification of Proffers</td>
</tr>
<tr>
<td>CRZ — Conditional Rezoning</td>
<td>NON — Nonconforming Use</td>
</tr>
<tr>
<td>STC — Street Closure</td>
<td>FVR — Floodplain Variance</td>
</tr>
<tr>
<td>SVR — Subdivision Variance</td>
<td>LUP — Land Use Plan</td>
</tr>
<tr>
<td>ALT — Alternative Compliance</td>
<td>STR — Short Term Rental</td>
</tr>
</tbody>
</table>
Evaluation & Recommendation

The request for a Conditional Use Permit for a Mini-Warehouse, in Staff's opinion, is acceptable. This use is consistent with the Comprehensive Plan's vision for the Suburban Focus Area 8 – Military Highway Corridor. Development within this area focuses on creating and maintaining great neighborhoods by enhancing the existing neighborhood through compatibility with the surrounding area. The storage facility is surrounded by both commercial and residential uses and provides a service to the surrounding businesses and residences.

To enhance the site, the applicant is proposing a Category VI screening, with plantings reaching a minimum of eight to 10 feet in height. A deviation is requested to the required six-foot solid privacy fence. Instead, the applicant is proposing an eight-foot tall black aluminum ornamental fence along the southern and western property lines. There is an existing six-foot tall white vinyl fence along the southern property line on the adjacent property. The applicant is proposing the eight-foot black aluminum ornamental fence instead of a six-foot solid fence, as required, for a more attractive look. Staff is supportive of this deviation. Condition 3 has been recommended to require the installation of a six-foot foot solid fence along the southern property line should the white vinyl privacy fence on the adjacent property ever be removed.

As stated previously, the applicant is also requesting a deviation to the 45-foot height requirements along the southern property line adjacent to A-24 Apartment District. The submitted building elevations shows the building to be 47 feet and six inches high. According to the applicant, the variable height parapet wall sections are higher, approximately 2-feet and six inches, to provide an architectural and aesthetic enhancement and will also serve as a screen for the rooftop mechanical equipment. In Staff's opinion, the proposed building height is acceptable, as it is more than 190 feet from the property line with parking lots and buffering between the buildings. For these reasons, Staff is supportive of the deviation request to exceed the 45 feet height limitation. Condition 1 is recommended to address this deviation.

The traffic generated by this mini-warehouse building is expected to yield up to 245 average daily trips. This mini-warehouse has a decreased amount of average daily trips than if this 2.85-acre site was developed with either a restaurant or retail shopping center. The proposed entrance-only access along College Park Boulevard must be designed to allow right-in only for the south bound traffic and prohibit the left turns in from northbound traffic, as depicted on the Conceptual Site Layout and the Conceptual Landscape Plan. Traffic Engineering Staff will provide more detailed comments during the site plan review process.

Based on these considerations, Staff recommends approval of this application with the deviations as noted above, and subject to the conditions listed below.

Recommended Conditions

1. The building height shall be no higher than 47 feet and six inches. This is a deviation to the City Zoning Ordinance.

2. An eight-foot tall black aluminum ornamental fence along the southern and western property lines shall be installed. This is a deviation to the required six-foot solid privacy fence, as required by the City Zoning Ordinance. The eight-foot tall black aluminum ornamental fence shall substantially adhere in appearance, size, and materials to the submitted rendering entitled "College Park Square Storage-Fence Detail, dated November 22, 2021, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.

3. The eight-foot-tall black aluminum ornamental fence along the southern property line is permitted on the condition that the white vinyl privacy fence to the south of the property remains. If the adjacent property owner's privacy fence is torn down and removed, the eight-foot-tall aluminum ornamental fence along the southern property line must be replaced with a six-foot tall solid privacy fence.
4. When the property is developed, it shall be in substantial conformance with the plan entitled “COLLEGE PARK ROAD STORAGE SCHEMATIC LAYOUT”, prepared by SilverCore Land Development Consultants, dated September 30, 2021, which has been exhibited to the Virginia Beach City Council and is on file with the Department of Planning & Community Development.

5. 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 issuance of a Certificate of Occupancy and shall be in substantial conformance to the plan entitled “CONCEPTUAL LANDSCAPE PLAN – PROVIDENCE ROAD STORAGE FACILITY – MICHAEL D. SIFEN, INC.”, prepared by Frankenfield Design & Development, LLC, dated October 1, 2021 and revised October 25, 2021, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.

6. The exterior of the proposed building shall substantially adhere in appearance, size, and materials to the submitted elevations entitled “MINI PRICE STORAGE – PROVIDENCE ROAD ROAD, VIRGINIA BEACH, VA”, prepared by Finley Design, dated November 1, 2021, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.

7. The freestanding monument style sign shall be no more than eight feet (8’) in height with a brick base to match the materials of the building.

8. All on-site signage must meet the requirements and regulations of the Zoning Ordinance. A separate permit from the Department of Planning & Community Development is required for any new signage installed on the site.

9. Consistent with Section 237 of the City Zoning Ordinance, all outdoor lights shall be shielded to direct light and glare onto the mini-warehouse premises; said lighting and glare shall be deflected, shaded, and focused away from all adjoining property.

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 in the Military Highway Corridor Suburban Focus Area (SFA), which is characterized with low to medium density residential area to the west and light industrial uses including auto and truck sales, rentals, and repairs, outdoor storage, and warehousing to the east.
Natural & Cultural Resources Impacts

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

Traffic Impacts

<table>
<thead>
<tr>
<th>Street Name</th>
<th>Present Volume</th>
<th>Present Capacity</th>
<th>Generated Traffic</th>
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<tbody>
<tr>
<td>College Park Blvd</td>
<td>5,070 ADT 1</td>
<td>28,900 ADT 1 (LOS 4 &quot;D&quot;)</td>
<td>Existing Land Use 2 — 0 ADT</td>
</tr>
<tr>
<td>Providence Road</td>
<td>15,150 ADT 1</td>
<td>32,700 ADT 1 (LOS 4 &quot;D&quot;)</td>
<td>Existing Zoning (2.85-ac of B-2) — 1,570 ADT</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>Proposed Land Use 3 — 245 ADT</td>
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</table>

1 Average Daily Trips 2 as defined by a undeveloped lot 3 as defined by a 165,680 square foot mini-warehouse building 4 LOS = Level of Service

Master Transportation Plan (MTP) and Capital Improvement Program (CIP)
Providence Road in the vicinity of this application is considered a four-lane divided minor urban arterial. The MTP proposes a four-lane divided facility with bikeway within a 100 foot right-of-way. College Park Boulevard is a four-lane divided collector roadway and this roadway is not included in the MTP. No roadway CIP projects are slated for this part of Providence Road.

Public Utility Impacts

Water & Sewer
The site must connect to City water and sanitary sewer.

Public Outreach Information

Planning Commission

- One letter of support has been received by Staff.
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on November 8, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, November 21, 2021 and November 28, 2021.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on November 22, 2021.
- 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 December 2, 2021.

City Council

- As required by City Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, December 19, 2021 and December 26, 2021.
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 December 20, 2021.

CONCEPTUAL PLANT LIST

<table>
<thead>
<tr>
<th>CANOE</th>
<th>BOTANICAL NAME</th>
<th>COMMON NAME</th>
<th>SIZE</th>
<th>SPACE</th>
</tr>
</thead>
<tbody>
<tr>
<td>36</td>
<td>Lagenopholis indica</td>
<td>Crape Myrtle</td>
<td>5'-8' O.C.</td>
<td>10 O.C.</td>
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<tr>
<td>361</td>
<td>bos revoluta &quot;Nana&quot;</td>
<td>Dwarf Yarrow Holly</td>
<td>15'-20' CONT.</td>
<td>7 O.C.</td>
</tr>
<tr>
<td>48</td>
<td>Persicaria hybridia</td>
<td>Dwarf Fountain Grass</td>
<td>4'-6' CONT.</td>
<td>7 O.C.</td>
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<tr>
<td>3</td>
<td>Prunus cerasus</td>
<td>Carolina Cherry Laurel</td>
<td>5'-6' CONT.</td>
<td>7 O.C.</td>
</tr>
<tr>
<td>12</td>
<td>Quercus prinus</td>
<td>Willow Oak</td>
<td>2'-3' BY PLAN</td>
<td>7 O.C.</td>
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<tr>
<td>148</td>
<td>Raphidespinus &quot;Tibetana&quot;</td>
<td>Elenor Tabor Indian Hawthorn</td>
<td>15'-24'</td>
<td>7 O.C.</td>
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<tr>
<td>31</td>
<td>Rhododendron maxwellianum</td>
<td>Swamp Azalea</td>
<td>24'-36' CONT.</td>
<td>7 O.C.</td>
</tr>
<tr>
<td>73</td>
<td>Vitex agnus-castus</td>
<td>Leather Leaf Viburnum</td>
<td>24'-36' CONT.</td>
<td>7 O.C.</td>
</tr>
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</table>

PLANT LEGEND (SYMBOLS NOT TO SCALE)

- Crape Myrtle
- Dwarf Yarrow Holly
- Dwarf Fountain Grass
- Carolina Cherry Laurel
- Willow Oak
- Elenor Tabor Indian Hawthorn
- Swamp Azalea
- Leather Leaf Viburnum

CONCEPTUAL LANDSCAPE PLAN

PROVIDENCE ROAD STORAGE FACILITY
MICHAEL D. SIFEN INC
OCTOBER 1, 2021

FRANKENFIELD DESIGN + DEVELOPMENT LLC

1. SITE DATA
   - GRN: 14522162
   - ADDRESS: PROVIDENCE ROAD
   - CITY: VIRGINIA BEACH
   - STATE: VA
   - ZIP: 23464

2. ZONING: R-2

3. USE: PROPOSED RETAIL STORAGE FACILITY

4. ACREAGE: 2.86 AC

5. PARKING OFFICES (1 SPACE PER 300 SF OF FLOOR AREA):
   - 1,500 SF = 5 SPACES
   - REQUIRED 12 SPACES PROVIDED

6. STREET FRONTAGE NEW BUILDING COLLEGE PARK AND PROVIDENCE ROAD (12-16 PLANTING BEDS WITH Crape MYRTLE PLANTED 15'-20' O.C. AND INDIAN HAWTHORN HEDGE. ALL BEDS COVERED WITH 2'-4' ORGANIC MULCH. SEE PLANT LIST FOR DETAILS).

7. BUILDING FOUNDATION PLANTING
   - BUILDING PERIMETER PLANTING AREA IS LIMITED BY ACCESS REQUIRED. APPROXIMATELY 45% OF BUILDING PERIMETER PLANTED. BEDS VARY IN SIZE FROM 10'-20' AND INCLUDE A SIGNIFICANT AMOUNT OF PLANTING. ALL BEDS COVERED WITH 2'-4' ORGANIC MULCH. SEE PLANT LIST FOR DETAILS.

8. STREET FRONTAGE PLANTING
   - COLLEGE PARK AND PROVIDENCE ROAD (12-16 PLANTING BEDS WITH Crape MYRTLE PLANTED 15'-20' O.C. AND INDIAN HAWTHORN HEDGE. ALL BEDS COVERED WITH 2'-4' ORGANIC MULCH. SEE PLANT LIST FOR DETAILS)

ACCESS DRIVE PLANTING
- Dwarf Yarrow Holly and Willow Oak
- ALL BEDS COVERED WITH 2'-4' ORGANIC MULCH. SEE PLANT LIST FOR DETAILS.

CATEGORY VI LANDSCAPE BUFFER
- 9'-12' WIDE BEDS WITH 9'-12' wood fencing and a hedge of Leather Leaf Viburnum 4'-6' O.C. ALL BEDS COVERED WITH 2'-4' ORGANIC MULCH. SEE PLANT LIST FOR DETAILS.

CONCEPTUAL LANDSCAPE PLAN

PROVIDENCE ROAD STORAGE FACILITY
MICHAEL D. SIFEN INC
OCTOBER 1, 2021

FRANKENFIELD DESIGN + DEVELOPMENT LLC
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** Michael D. Sifen, Inc., a Virginia corporation

Does the applicant have a representative?  ☐ Yes  ☐ No

- If yes, list the name of the representative:
  R. Edward Bourdon, Jr., Esq., Sykes, Bourdon, Ahern & Levy, P.C.

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

- If yes, list the names of all officers, directors, members, trustees, etc. below. (Attach a list if necessary)
  Michael D. Sifen, President; Donald R. Smith, Vice President; Barry A. Sifen, Vice President/CFO/Secretary

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

---

A parent-subsidiary relationship exists when one corporation directly or indirectly owns shares in another corporation. See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

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

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

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

Applicant Services Disclosure

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

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

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.
   Finley Design & Frankenfield Design & Development

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 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.
   Michael D. Sifen, Inc.

---

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

---

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.

Michael D. Sifen, Inc.

---

**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.

---

**Print Name and Title**

9-28-21

---

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.

---

No changes as of Dec 21, 2021

**Signature**

Michaela D. McKinney

---

Print Name

Michaela D. McKinney
Owner Disclosure

Owner Name: Virginia Beach Investment Company, a General Partnership

Applicant Name: Michael D. Sifen, Inc., a Virginia 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)
  See Attached

- If yes, list the businesses that have a parent-subsidiary or affiliated business entity 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?

---

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

4 "Affiliated business entity relationship" means "a relationship, other than parent-subsidiary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person owns or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, VA. Code § 2.2-3101.
1. 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.
   Patrick Gill, Colliers International

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.
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.
   Gregory D. Lydon, Esq., Willcox & Savage, P.C.; R. Edward Bourdon, Jr. Esq.

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.

Virginia Beach Investment Company

By: [Signature]

Owner Signature

J. William BERGER, Managing Partner

Print Name and Title

Date  [9/26/2021]
ORGANIZATION:

A general partnership, VIRGINIA BEACH INVESTMENT COMPANY was formed March 1, 1963 for the purpose of investing in real property in the College Park area. The general partnership was converted to a limited liability partnership (LLP) on June 13, 2012. The limited liability partnership (LLP) was converted to a limited liability company (LLC) on February 6, 2013.

MEMBERS:

<table>
<thead>
<tr>
<th>Name</th>
<th>% Interests</th>
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<tbody>
<tr>
<td>Lawrence J. Goldrich Revocable Trust</td>
<td>12.0890 %</td>
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<td>Janice T. Goldrich Irrevocable Trust – 2000</td>
<td>5.0000 %</td>
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<td>Danielle Pariser</td>
<td>11.2500 %</td>
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<td>Allison Weinger</td>
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TOTAL: 100.000 %
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  
December 8, 2021 Public Meeting  
Agenda Item # 11

Michael D. Sifen, Inc. [Applicant]  
Virginia Beach Investment Co. [Property Owner]

Conditional Use Permit (Self-Storage/Mini Warehouse)  
Parcel at the southwest intersection of Providence Road & College Park Boulevard  

RECOMMENDED FOR APPROVAL – CONSENT

Jack Wall:
All right. Thank you. The next application is agenda number 11, Michael D Sifen Incorporated as the applicant and Virginia Beach Investment Company as the property owner for Conditional Use Permit for self-storage mini warehouse. Is there a representative for this? Actually, it's in the Centerville... Excuse me. It's in the Centerville District at the corner southwest intersection of Providence Road and College Park Boulevard. Is there a representative for this application?

Eddie Bourdon:
Thank you, Mr. Vice Chair, Mr. Chairman, members of the commission. Again, Eddie Bourdon, Virginia Beach attorney, for the record, representing Michael D Sifen Incorporated. I want to thank Michaela for her extremely good work on this. And I want compliment Mr. Tajan for the new hires that the department. They're excellent additions. All nine conditions, as recommended in the use permit, are acceptable. I want to add one thing. The building is actually designed. It is a 45-foot-tall building roof. The only reason it's above are the parapets, which add to the architectural interest of the building. And also, they shield mechanical equipment that’s on top from view. So, the building was at 45-feet, but it's just for the parapet. Thank you very much.

Jack Wall:
Okay. Thank you. Is there any opposition for this application to be placed on the consent agenda? I'm hearing none. We've asked Ms. Klein to read this into the record.

Robyn Klein:
The applicant is requesting a Conditional Use permit for a mini-warehouse on a 2.89-acre undeveloped parcel zoned B2 Community Business District at the southwest corner of Providence Road and College Park Boulevard. The four-story mini-warehouse building will be climate controlled with a floor area of 165,680 square feet. Staff supports the application, and the Commission places sit on the consent agenda.

Jack Wall:
Okay, thank you. Additionally, we have the short-term rentals, which are now in the regular consent agenda. And the next application is 12 through 17, agenda items 12 through 17, 2508 Pacific Avenue LLC is both the applicant and property owner for Conditional Use Permits for
Jack Wall:
Is there any opposition for agenda items 18 through 27 being placed on the consent agenda?
All right. Hearing none, Mr. Chairman I make a motion that we approve agenda items 1 and 2, 3, 4, 5, 7, 8, 9, 10, 11, 12 through 17, 18, and 19 through 27.

David Weiner:
All right. We have a motion for approval. Do we have a second?

Donald Horsley:
Second.

David Weiner:
A second.

David Weiner:
Okay. Now, disclosures. Yeah, I know. We’re going there. We got the motion. We got the second. Now we have the disclosures. Okay, go. You start, Whitney.

Whitney Graham:
Thank you, Mr. Chairman. Pursuant to the Conflicts of Interest Act, Virginia Code Section 2.2-3115F, I have a letter on file to this as well. I make the following declarations, the following agenda items on today’s agenda have some financing by Towne Bank, which I serve on one of the Boards at Towne Bank, but I don’t make any decisions for loans or anything like that.

Whitney Graham:
So anyway, these are items one and two Virginia Beach Raquet Club North Associates LP, 1951 Thomas Bishop Lane, number 10, Jody Calcagno, 4752 Euclid Road, agenda items 12 through 17, 2508 Pacific Avenue LLC for 2510, 2514, 2518, 2522, 2526, 2530 Pacific Avenue, agenda item number 18, ORF Ventures LLC, 603 20th Street, agenda items 19 through 27 ORF Ventures LLC, 410 19th Street units 101, 102, 103, 201, 202. And this is at 412 19th Street units 101, 102, 201 and 202. Sorry about the length of that. Thank you.

David Weiner:
All right. Next, Mr. Redmond.

Dave Redmond:
Yeah, I’m not going to do any of that. I will say that I have a letter, myself, on file with the City Attorney’s Office, which prevents me from voting on all the short-term rentals. I have a client in the travel industry, and I therefore do not vote on any of the individual short term rental applications, nor on any of the ordinances that govern short term rentals. So while I will be voting in favor of the consent agenda, I’m specifically abstaining from those items, which I have down as number 12 to 27 on short term rentals. Thank you, Kay. And thank you, Mr. Chairman.
David Weiner:
Mr. Inman.

Mike Inman:
Yes, I have to make a disclosure regarding items financing by Towne Bank. I serve on Advisory Board, as does Mr. Graham, that does not make any loan decisions, but disposing with regard to agenda items one and 2, 10, 18, and 19 through 27, without going into the same detail that Mr. Graham did. I believe I can participate in these decisions fairly and objectively, and I will participate in voting on those items.

Mike Inman:
Next, I'm making a disclosure with regard to item number three, Samet Properties. One of my partners represents the applicant Taylor Farms Land Company. And I'm not involved in that representation, nor do I represent the owner. And I have no financial interest on. Having made this disclosure, I believe I can participate in this vote objectively, fairly, and in the public interest.

Mike Inman:
Last but not least, with regard to item seven Hunt Club Condominium, I represent that applicant otherwise, not here today, obviously Mr. Bourdon did, and I will therefore abstain from item number seven.

David Weiner:
Okay. Mr. Graham, do you want to add something?

Whitney Graham:
Yes, sir, Mr. Chairman. I apologize. In my disclosure, I want to add that I do plan to participate in today's vote, and that I feel that I can do so fairly and objectively in the public's interest. Thank you.

David Weiner:
Anyone else? Okay. We have a motion for approval by Mr. Wall, a second by Mr. Horsley.

Madam Clerk:
Okay. Vote is open. By recorded vote of 10 in favor, zero against, agenda items one and 2, 3, 4, 5, 8, 9, 10, and 11 have been recommended for approval by consent. Agenda item number seven, by recorded vote of nine in favor, zero against with one abstention, has been recommended for approval by consent. And agenda items 12 through 17, 18, 19 through 27 through recorded vote of nine in favor, zero against with one abstention, have been recommended for approval by consent.

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CONDITIONS:

1. The building height shall be no higher than 47 feet and six inches. This is a deviation to the City Zoning Ordinance.

2. An eight-foot tall black aluminum ornamental fence along the southern and western property lines shall be installed. This is a deviation to the required six-foot solid privacy fence, as required by the City Zoning Ordinance. The eight-foot tall black aluminum ornamental fence shall substantially adhere in appearance, size, and materials to the submitted rendering entitled “College Park Square Storage-Fence Detail, dated November 22, 2021, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.

3. The eight-foot-tall black aluminum ornamental fence along the southern property line is permitted on the condition that the white vinyl privacy fence to the south of the property remains. If the adjacent property owner’s privacy fence is torn down and removed, the eight-foot-tall aluminum ornamental fence along the southern property line must be replaced with a six-foot tall solid privacy fence.

4. When the property is developed, it shall be in substantial conformance with the plan entitled "COLLEGE PARK ROAD STORAGE SCHEMATIC LAYOUT", prepared by SilverCore Land Development Consultants, dated September 30, 2021, which has been exhibited to the Virginia Beach City Council and is on file with the Department of Planning & Community Development.

5. 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 issuance of a Certificate of Occupancy and shall be in substantial conformance to the plan entitled “CONCEPTUAL LANDSCAPE PLAN – PROVIDENCE ROAD STORAGE FACILITY – MICHAEL D. SIFEN, INC.”, prepared by Frankenfield Design & Development, LLC, dated October 1, 2021 and revised October 25, 2021, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.

6. The exterior of the proposed building shall substantially adhere in appearance, size, and materials to the submitted elevations entitled “MINI PRICE STORAGE – PROVIDENCE ROAD ROAD, VIRGINIA BEACH, VA”, prepared by Finley Design, dated November 1, 2021, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.

7. The freestanding monument style sign shall be no more than eight feet (8') in height with a brick base to match the materials of the building.
8. All on-site signage must meet the requirements and regulations of the Zoning Ordinance. A separate permit from the Department of Planning & Community Development is required for any new signage installed on the site.

9. Consistent with Section 237 of the City Zoning Ordinance, all outdoor lights shall be shielded to direct light and glare onto the mini-warehouse premises; said lighting and glare shall be deflected, shaded, and focused away from all adjoining property.

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.
November 5, 2021

City of Virginia Beach
Planning Commission
2875 Sabre St, Suite 500
Virginia Beach, VA 23452

Re: College Park Boulevard and Providence Road Self Storage

To Whom It May Concern:

Please accept this letter of support on behalf of the Owner of Jamestown Holding Company, LLC, Trading as Jamestown Commons Apartments located at 1025 College Park Boulevard, Virginia Beach, Virginia for the proposed self-storage facility. As the adjacent property owner of the undeveloped 2.85-acre parcel of land having GPIN 1456-22-1655, we feel the proposed development will be welcomed with its enhanced architectural elements and landscaping that Michael D. Sifen, Inc. has incorporated into its design.

Should you have any questions, please feel free to contact me at (757) 222-9410.

Sincerely,

LARRYMORE ORGANIZATION, INC
Managing Agent for Jamestown Commons Apartments

I. William Berger
President

JAMESTOWN HOLDING COMPANY, LLC
T/A Jamestown Commons Apartments

I. William Berger
Owner & Managing Member

1025 College Park Blvd. • Virginia Beach, VA 23464 • Office (757) 361-6900 • Fax: (757) 321-0630
Email: jamestown@larrymore.com
ITEM: A RESOLUTION TO ADOPT AND AMEND INTO THE VIRGINIA BEACH COMPREHENSIVE PLAN 2016 THE STORMWATER IMPACTS FOR DISCRETIONARY LAND USE APPLICATIONS

MEETING DATE: January 4, 2022

Background:
This item was deferred at the December 7, 2021 City Council Hearing. In support of the Stormwater Bond Referendum (Referendum) on the November ballot, City Council passed a resolution on September 7, 2021, that outlined specific commitments to ensure swift action following approval of the referendum question. One such commitment is the delivery to the Planning Commission and City Council an amendment to the City’s Comprehensive Plan (Comp Plan) related to stormwater discharge associated with discretionary land use applications.

As the citizens of Virginia Beach passed the Referendum on November 2, 2021, an amendment to the Comp Plan was drafted and subsequently considered by the Planning Commission on November 10, 2021. The amendment affirms City Council’s intention to require all rezoning applications regardless of the location within the city be required to demonstrate no impact or increase in demand on the public stormwater system as outlined in the City Council adopted resolution.

Considerations:
On September 7, 2021 City Council passed a resolution which required staff to bring forward a Comprehensive Plan amendment which directs staff to recommend denial of any application for a rezoning that will impact the current or future stormwater system. Currently, the Comp Plan recommends applications within the Southern Rivers Watershed and in areas of known flooding submit a preliminary stormwater study. The proposed Comp Plan amendment would require rezoning applications (including conditional rezonings) for properties throughout all of Virginia Beach to include a preliminary stormwater study, while all other discretionary applications such as Conditional Use Permits would be exempt.

While this change would seem to increase the burden on applicants, staff is proposing changes to the study submittal requirements whereby if an applicant voluntarily submits a proffer that the project will abide by all state and local regulations and commits that there will be no impacts upstream or downstream, then a more simplistic version of the study could be submitted to ensure stormwater facilities have been sized appropriately. Contrarily, if an applicant opts
out of submitting such a proffer, then the applicant would need to submit a more
detailed analysis that would likely include stormwater modeling to demonstrate no
impact to the stormwater infrastructure upstream and downstream for staff to
consider a positive recommendation of the application.

A stormwater regulation workgroup with membership of City Council liaisons, City
Staff, professional consulting engineers, and representatives of the development
community have been discussing a variety of stormwater issues facing the city.
One such issue is the contents of a preliminary stormwater study. These
requirements are noted in an internal policy document rather than codified in City
ordinances or within the Comp Plan. Based on this, changes to these submittal
requirements can be made quickly and do not require City Council consideration
or action.

There was one speaker in opposition who expressed concern that expanding the
requirement for a stormwater analysis for all rezonings throughout the city, rather
than generally just within the Southern Rivers Watershed, could lengthen the
discretionary application process. The speaker encouraged changes include Staff
having the ability to use discretion, and that the workgroup find a more balanced
and less prohibitive approach.

Recommendation:
On November 10, 2021, the Planning Commission, while supportive of the concept
within the Comp Plan amendment, voted 11-0 to recommend denial of the
amendment as they believe that additional input from stakeholders is warranted.

Attachments:
Staff Report with Comp Plan Amendment & City Council Resolution
Minutes of Planning Commission Hearing
Draft submittal requirements for Preliminary Stormwater Analysis

Recommended Action: Staff recommends Approval. Planning Commission
recommends Denial.

Submitting Department/Agency: Planning Department

City Manager:
A RESOLUTION TO ADOPT AND AMEND INTO THE
VIRGINIA BEACH COMPREHENSIVE PLAN 2016 THE
STORMWATER IMPACTS FOR DISCRETIONARY LAND
USE APPLICATIONS

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

WHEREAS, the Resolution adopted by City Council on September 7, 2021 in
regard to the approval/disapproval of discretionary applications for land use, was
passed to insure that the projects financed by the referendum passed on November 2,
2021 are not nullified by further discretionary land use applications;

WHEREAS, the changes required by the Resolution should be incorporated into
the Comprehensive Plan 2016, and are in conformity with the proposed revisions to the
Comprehensive Plan, attached hereto; and

WHEREAS, these changes should be adopted and incorporated as part of the
Comprehensive Plan 2016.

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

That the Comprehensive Plan 2016 of the City of Virginia Beach be, and hereby
is, amended and reordained by:

The adoption and amendment of the changes required by the resolution dated
September 7, 2021 in regard to stormwater discretionary land use applications. Such
documents are attached hereto and made a part hereof, having been exhibited to the
City Council and placed on file in the Department of Planning and Community
Development.

Adopted by the Council of the City of Virginia Beach, Virginia, on this ________
day of __________, 20__.  

APPROVED AS TO CONTENT:  
Planning Department  

APPROVED AS TO LEGAL SUFFICIENCY:  
City Attorney’s Office  

CA15564/R-2/November 1, 2021
Request

A Resolution to amend the Environmental Stewardship Framework of the City of Virginia Beach Comprehensive Plan, 2016, to address stormwater impacts for discretionary applications. This amendment is to be in compliance with the Resolution passed by City Council on September 7, 2021.

Summary of Referred Ordinances

The purpose of this amendment is to fulfill the components of the stormwater bond referendum approved by the citizens of Virginia Beach on November 2, 2021. The amendment will require rezoning and conditional rezoning applications to demonstrate no stormwater impact upstream or downstream of the proposed project or to current or planned stormwater and sea level rise resiliency flood control projects included in the referendum. To show compliance with this policy, all rezoning and conditional rezoning applications will be required to provide a preliminary stormwater analysis similar to what is currently recommended for discretionary applications in the Southern Watershed. Staff envisions that the preliminary stormwater engineering analysis should include plans and calculations that demonstrate stormwater facilities have been adequately designed and sized to ensure no off-site impacts. This simplified analysis should be combined with a potential volunteered proffer stating the site plan will conform to all applicable state and local stormwater management regulation at the time of plan submittal and will not create and impact on upstream or downstream properties or stormwater systems. Alternatively, if a proffer is not volunteered, a more comprehensive stormwater analysis to include stormwater modeling will need to be completed prior to receiving favorable recommendation from staff. By having no impact on the stormwater infrastructure, the City can continue to be resilient to future storms and still allow for new development where appropriate.

The amendment also removes references in the Comprehensive Plan to the “Integrated Site Design” document which was a proposal to address resiliency through required site design elements. This document was never adopted by City Council and is not a policy that can be implemented at this time.

Recommendation

Staff recommends approval of this Resolution to amend the Comprehensive Plan as it will protect the City’s investment in stormwater infrastructure and will meet the requirements of the Resolution to support the Bond Referendum adopted by City Council on September 7, 2021.
A RESOLUTION TO ADOPT AND AMEND INTO THE
VIRGINIA BEACH COMPREHENSIVE PLAN 2016 THE
STORMWATER IMPACTS FOR DISCRETIONARY LAND
USE APPLICATIONS

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

WHEREAS, the Resolution adopted by City Council on September 7, 2021 in
regard to the approval/disapproval of discretionary applications for land use, was
passed to insure that the projects financed by the referendum passed on November 2,
2021 are not nullified by further discretionary land use applications;

WHEREAS, the changes required by the Resolution should be incorporated into
the Comprehensive Plan 2016, and are in conformity with the proposed revisions to the
Comprehensive Plan, attached hereto; and

WHEREAS, these changes should be adopted and incorporated as part of the
Comprehensive Plan 2016.

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

That the Comprehensive Plan 2016 of the City of Virginia Beach be, and hereby
is, amended and reordained by:

The adoption and amendment of the changes required by the resolution dated
September 7, 2021 in regard to stormwater discretionary land use applications. Such
documents are attached hereto and made a part hereof, having been exhibited to the
City Council and placed on file in the Department of Planning and Community
Development.

Adopted by the Council of the City of Virginia Beach, Virginia, on this __________
day of ______________, 20__.

APPROVED AS TO CONTENT: 
Planning Department

APPROVED AS TO LEGAL SUFFICIENCY: 
City Attorney's Office

CA15564/R-2/October 1, 2021
be taken to ensure consistency between the Comprehensive Plan and the Regional Hazard Mitigation Plan, especially related to strategies to mitigate recurrent flooding and sea level rise.

Recommended Policies: Sea Level Rise, Recurrent Flooding, and Hazard Mitigation

- Concentrate new development at higher elevations outside special flood hazard areas.
- Use alternative construction techniques to minimize fill in the Floodplain Subject to Special Restrictions.
- Wherever possible in the development approval process, avoid developing inside special flood hazard areas, especially in the Southern Watershed Area, which is characterized by limited relief and a minimal hydraulic gradient.

Agenda for Future Action Recommendations: Sea Level Rise, Recurrent Flooding, and Hazard Mitigation

- Develop a program to educate the public on the beneficial functions and values of floodplains.
- Implement the findings and recommendations of the Sea Level Wise Response Strategy.
- Preserve and enhance beaches and dunes along the City’s Atlantic Ocean and Chesapeake Bay shorelines.
- Implement the recommendations of the Regional Hazard Mitigation Plan.

LAND DEVELOPMENT AND STORMWATER MANAGEMENT

Land is a precious resource, limited in amount, highly valued and often exploited, a commodity that is constantly being sold, developed, or redeveloped. As the City matures, its land inventory becomes even scarcer. Management of land in its natural state demands that we employ wise management and stewardship practices to safeguard the City’s natural heritage. Similarly, developed land should be used in a sustainable manner so that its value to present and future generations is maintained or enhanced. On November 2, 2021, the citizens of Virginia Beach passed a bond referendum to initiate a comprehensive financial plan to pay for the debt related to significant City-wide stormwater and flood protection flood control projects. The goal of these projects is to provide for the long-term flood mitigation needs of the City.

Based on the resolution passed by City Council on September 7, 2021, it is the intent of City Council to require all rezoning and conditional rezoning requests have no impact on the current and planned future stormwater infrastructure that will help protect the City from recurrent flooding and sea level rise. Similar to the current policy for the Southern Watershed, all rezoning and conditional rezoning applications must provide demonstrate by providing a preliminary stormwater analysis no impact to the stormwater infrastructure upstream and downstream and this information shall be provided, amongst other planning considerations, to obtain a positive recommendation from staff. Integrated Site Design and stormwater management are key techniques that can be used to enable responsible and more sustainable land development practices.

Environmental Stewardship Framework/2-57
The City has recently drafted an Integrated Site Design Guide as the latest in a series of initiatives intended to help developers accomplish sustainable development in the city. While this effort is designed to update the City's current Landscaping Guide, which was published in 2003 and revised in 2009, it is not an attempt to increase current landscape requirements or code-related to landscaping and stormwater management. The Guide seeks to maintain the beneficial landscaping strategies that have been successful in beautifying Virginia Beach over the last 20 years. The Guide will be the tool box from which landscape architects and designers, civil engineers, planners, developers, business owners, and even homeowners will combine landscape techniques with design components to meet the City site plan review requirements. The draft plan can be viewed at: http://www.vby.gov/Departments/Office/AgendaDocuments/Code_2014.pdf
Stormwater management regulations were passed by the General Assembly after many years of assembling diverse stakeholder input. This landmark decision has more recently devolved from state agency to local government implementation and enforcement without additional resources to local governments. As a result, the City of Virginia Beach adopted new stormwater management regulations and fees, which became effective July 1, 2014. Perhaps more than anything else in recent years, these state mandated regulations have changed the way development projects are designed and approved in Virginia Beach. In addition, since adoption of the 2009 Comprehensive Plan, the City of Virginia Beach prepared a Comprehensive Stormwater Management Plan that was approved by the Department of Environmental Quality.

Southern Watershed Subject to “Special Drainage Considerations”

In addition, the Southern Watershed (see Southern Watershed map in Chapter 1, Section 1.5 – Rural Area) is subject to “special drainage considerations.” Drainage in the Southern Watershed is highly impacted by the presence of high ground water, poorly draining soils, and high water surface elevations in downstream receiving waters. Therefore, it is recommended that the developer of any property in the Southern Watersheds understand and evaluate these factors prior to undertaking the project and properly account for these factors in the project design. Receiving waters in the Southern Watersheds are subject to wind driven tidal influences. High ground water elevations and poorly draining soils can result in increased runoff, can limit the capacity of stormwater conveyance systems, and can counter the use of certain Best Management Practices, such as infiltration.

All of these effects must be fully considered and evaluated in the analysis and design of drainage systems in the Southern Watersheds. Accordingly, it is strongly recommended that the developer has a preliminary drainage study prepared by a qualified professional engineer in advance of any request to approve a discretionary (versus by-right) development application that involves land disturbance in the Southern Watershed. The drainage study should fully and accurately evaluate the effects of the foregoing factors on the planned development and on upstream and downstream areas. The proposed drainage system for the planned development would provide positive drainage that meets City standards and does not result in flooding within the planned development or to upstream or downstream areas.

Recommended Policies: Land Development and Stormwater Management

- “Low Impact Development” design features should be incorporated into the City’s major buildings and parking area projects and in all private development plans.
- All waterfront development proposals in the Strategic Growth Areas (SGAs) should be coordinated with the City’s Parks and Recreation Department for potential public water access (e.g., canoe/kayak put in, parkland, plaza, etc.) in accordance with adopted SGA Master Plans.

Agenda for Future Action Recommendations: Land Development and Stormwater Management

- Complete and adopt the Integrated Site Design Guide as a component of Planning’s Design Specifications and Standards.
REQUESTED BY COUNCILMEMBERS MOSS AND TOWER

A RESOLUTION MAKING CERTAIN COMMITMENTS
REGARDING THE COMPREHENSIVE FLOOD MITIGATION
BOND REFERENDUM

WHEREAS, changing weather patterns and sea level rise as validated by National Oceanic and Atmospheric Administration (NOAA 2020), the Massachusetts Institute of Technology and the Sea Level Wise Adaptation Study have demonstrated that the in-place drainage capacity, even in like new condition is: (i) severely inadequate to protect the city from structures being flooded on a city-wide basis; (ii) insufficient to preclude the future downgrade of the City's bond rating based on economic loss of even single one-hundred-year flooding event and recovery time; and (iii) the path to stagnant economic growth as investors pass us by;

WHEREAS, the Sea Level Wise Adaptation Study and the City's modeling of four watersheds and 15 drainage basins have validated the drainage capacity required to discharge the water of a one-hundred year storm event (a storm event with a 1% annual exceedance probability) to prevent flooding of homes and businesses accounting for 1.5 feet of sea level rise and a high tide of 2.3 feet over mean average high tide of 1.8;

WHEREAS, the City staff has sufficiently scoped out the engineering material solution for a referendum quality cost estimate for eliminating the backlog in maintenance of legacy ponds, ditches, and canals and the installation of 21 named projects on the bond referendum question;

WHEREAS, at the end of the ten-year period in 2032, eight percent of the City will qualify for preferred FEMA flood insurance risk due to completion of the twenty-one named projects in the bond referendum question and elimination of the backlog in the maintenance of the City's legacy ditches, canals, and ponds;

WHEREAS, at the ten-year build out, Phase Two will commence to achieve Virginia Beach high and dry in 2045;

WHEREAS, meeting the existential threat of flooding will improve the quality of life for residents, and a competitive advantage for a growing economy will be sustained; and

WHEREAS, the City Council previously directed the City Manager to create a dedicated webpage on the City's website that includes each of the Phase 1 projects and the progress – by dollar amount spent and by milestone achieved – toward completion of such projects and to provide quarterly reports to the City Council providing updates regarding the execution of the projects if the referendum question is answered in the affirmative;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VIRGINIA BEACH, VIRGINIA, THAT:
The City Council urges the residents to carefully consider the issue of flood mitigation and plan to vote in November. To assist in the residents' deliberations, the City Council makes the following commitments, which with the exception of #4, will be delivered within three weeks if the residents approve the referendum question in November:

1. The City Council will adopt a comprehensive financial plan to pay for the authorized $567,500,000 of general obligation debt, which will include the following:
   a. The authorized debt to be repaid by a real estate tax increase of 4.3 cents for twenty-year debt based on an average annual increase of three percent in the City's taxable real estate based on the 1 July 2021 land book.
   b. The financial plan shall create a single appropriation unit into which all bond proceeds are deposited and a single appropriation unit into which all revenue derived from the increase in real estate taxes are deposited. Such fund shall provide all deposit and withdrawal information with sufficient granularity for oversight by the City Council and the Citizen Oversight Board.
   c. In furtherance of the long-term flood mitigation needs of the City, the general obligation bonding capacity created by the retirement of the debt authorized by the November 2021 referendum shall be reserved exclusively for the issuance of bonds to finance Phase 2 of the City's flood mitigation program and subsequent sea level rise projects.

2. The establishment of a Citizen Oversight Board composed of seven members that shall have access to all financial, contract documents, acceptance and deliverable testing and certifications documentation, and shall receive a monthly briefing from the City Manager, Quality Assurance Officer, and the Contractor's program manager and quality assurance officer and shall give a public brief to the City Council every two months on the twenty-one named projects in the bond referendum question and the elimination of the backlog in the maintenance of the City's legacy ditches, canals, and ponds.

3. An amendment to the City's Comprehensive Land Use Plan that will recommend denial for any project or development that generates a net increase in water discharge demand in any watershed or in any drainage system in watershed over the capacity of net of margin to meet the modeled discharge baseline of the drainage system at build-out, and further requiring the Planning Department to recommend denial of any submission that does not conform to the former.

4. The City Manager is to develop and present to the City Council an acquisition strategy that seeks to streamline and expedite design and construction of the twenty-one flood mitigation projects, including using a single prime contractor,
watershed bundling, and project bundling. The City Manager is to also acquire a separate contractor bonded to conduct quality assurance and recommend deliverable acceptance.

5. The City Attorney shall prepare an ordinance that freezes the Stormwater management fee through 2028.

BE IT FURTHER RESOLVED, THAT:

The City Council is in agreement that the following reflects the course of action to be pursued if the November referendum is answered in the negative:

1. The City will prioritize funding to eliminate the backlog in the maintenance of ponds, ditches, and canals and sustaining the required maintenance cycles;

2. The City will continue the planned increases in the Stormwater management fee and issuance of revenue bonds for stormwater projects, such fees to be increased as necessary to support the authorized projects and additional bond costs associating with revenue bonds;

3. While flood risk remains, the Phase 1 projects will be pursued over the following forty years, and the perils and risks associated with this timeline include severe weather events, increased flood insurance premiums, companies locating and relocating elsewhere, potential reduction in the City's bond rating, and home values adjusted to reflect the cost of flood insurance;

4. The work associated with the Phase 1 projects will increase over time as cost of construction increases, and the borrowing costs may not be as favorable as today; and

5. Rainfall events will continue to happen during the longer forty-year delivery schedule for the Phase 1 projects with the probable outcome of flooding to homes and businesses.

Adopted by the Council of the City of Virginia Beach, Virginia, on the _____ day of ________, 2021.

APPROVED AS TO LEGAL SUFFICIENCY:

[Signature]
City Attorney's Office

CA15526
R-3
September 1, 2021
Virginia Beach Planning Commission
November 10, 2021 Public Meeting
Agenda Item # 1

City of Virginia Beach, a Resolution to amend the City of Virginia Beach Comprehensive Plan 2016 to address the citywide stormwater impacts for discretionary land use applications.

RECOMMENDED FOR DENIAL – HEARD

Madam Clerk: Thank you, Mr. Chair. Our first agenda item is agenda item number one, City of Virginia Beach, a resolution to amend the City of Virginia Beach Comprehensive Plan 2016 to address city-wide stormwater impacts for discretionary land use applications.

David Weiner: Welcome.

Ms. Bookholt: Thank you. Good afternoon, Commissioners. I'm Carrie Bookholt. I'm the Development Services Center Administrator, and I'm here to bring forward a proposed amendment to the Comprehensive Plan, which is necessary to fulfill the components of the recently passed City Council Resolution and Bond Referendum. On September 7th, City Council passed a Resolution that stated should the Bond Referendum pass, the Comprehensive Plan would be revised or amended within three weeks to include language that would essentially require projects that come before you for a discretionary request, not create an impact or increase demand in the stormwater system. Our staff report proposes the language that we would like to amend the Comprehensive Plan, and it states that based on the Resolution by City Council, all rezonings and conditional rezonings should demonstrate no impact on current or future in stormwater infrastructure, and must provide a stormwater analysis, demonstrating this has no impact as part of their Planning Commission application process. The amendment also removes any reference to the Integrated Site Design Guide which is a policy document that was not adopted by City Council and is not in place at this time. The Planning Department and Public Works Department have been hosting a series of storm water workshops with a focus group to include CVBIA, which was the former TBA group, consulting engineers, developers, and two City Council liaisons. And this amendment was discussed at length in those meetings, it was decided that the amendment would only apply to rezonings or conditional rezonings. The City Council staff liaisons were comfortable and staff was comfortable that should a proffer be volunteered for a conditional rezoning project, that a less intense storm water design, preliminary design, could be submitted through our office before receiving a positive recommendation. So with that, we had to act quickly. The resolution that was passed in September, only gave us three weeks to get this before you and to City Council, should the bond referendum pass and it did. So even with us being on the agenda for December 7th for City Council, we're a week behind, but we had to act quickly. We did propose, I do want to reiterate, we sent our proposed language to our stakeholder group, including CVBIA. We received one minor comment back. We amended the proposed language to include their comment. And then we received reassurance that they were on board with the proposed language that we presented in our staff report today. Any questions?
David Weiner: Mr. Redmond?

Dave Redmond: Who gave you that reassurance? I have to tell you I've heard quite otherwise.

Ms. Bookholt: So, Claudia Cotton is the representative that we've been communicating with, as the representative for CVBIA.

Dave Redmond: Okay, well, just so you know, I got a telephone call right after our informal meeting saying, meant to call you earlier about this, but we were very uncomfortable with the speed at which this is moving and feel like this process has been somewhat disingenuous. There are folks who are part of that stakeholder group, that you describe, that don't feel that this has been entirely proper and that it is moving too fast and that they were surprised by the language that I think we were surprised by. So I don't mean to criticize you, but I think the suggestion that everything is copacetic with regard to, that the stakeholder group, which I don't know, other than the person who called me, I don't know anybody who was on it. Nobody from the Planning Commission, I understand, was on it. I think, I have been told something quite different than that and this very morning. So, that gives me great pause and I'm sure that City Council will be hearing comments to that effect. So, certainly is going to, well, we're going to get into this discussion here shortly, but I just wanted to put that on the record. It's not comfortable for me to do it, but that's what I'm hearing and people reaching out to me saying just that.

Ms. Bookholt: Understood.

Dave Redmond: Thank you, Mr. Chairman.

David Weiner: Yes, ma'am?

Madam Clerk: We have one speaker...

David Weiner: Yes, ma'am. Okay. Anybody with the comments?

Dee Oliver: No, I mean, other than, and I guess I can wait for close, but just to reiterate what I had stated earlier this morning, just so that we do have it on the record, so to speak. And again, appreciate all your time and effort presenting all of this and your work on it. But the stakeholder meetings that I think and correct me if I'm mistaken, that you'd said that were weekly for about a month, it's unfortunate that the Planning Commission had not been included in those for something that's getting ready to be put into the Comprehensive Plan, which is something that we haven't seen in three years. Not to mention that along with that, there's a Resolution that was put forth and I'm not quite sure, I haven't been briefed, or I don't know who on the Commission has in more, in-depth of where that resolution that came from one of our council members, I believe it was Mr. Moss. How that speaks to this. And are they still two separate or have they been in integrated because the wording in that was completely different than the wording in this. So, I stand along with Commissioner Redmond on that, that it gives me great pause because I have been in many other board meetings with the same stakeholders and those same people have not expressed thumbs up on this, by any stretch of imagination. So I
would like more time to be briefed on this, so that we have a better understanding of where we are. Because this is extremely important, as we all know going forward.

Ms. Bookholt: And I should clarify that, when I say that we had consensus, it wasn't, as it relates to the Resolution. The Resolution with the language that was included was done at City Council level on September 7th. So the consensus that we achieved last week, via email, as we were passing the language back and forth was the language that's proposed for the Comprehensive Plan. So they're very, well maybe some folks that aren't on board with the Resolution language, but that has already been passed.

Dee Oliver: Right. And so it's just a little not, I'd like to see it a little more straightforward. I'd like to see everything, basically, is when it comes down to it. But again, I appreciate all your effort and hard work.

David Weiner: So I have a question. So the language in that we have here compared to the language that was in the Resolution, put that together for us?

Ms. Bookholt: So the language in the Resolution was written a little bit looser. And so we met with the Council liaisons. We met with Councilman Moss to talk about what that would look like in practice. And in practice, we discussed applying a preliminary storm water analysis requirement to conditional rezonings, or rezonings only, instead of all discretionary applications, since it's those two types of applications that could change the land cover characteristics the most. And it was through those discussions as well, that they agreed that they would be open to a less intense preliminary analysis. And essentially just reiterating that we would not be creating any impact or any demand, that if the City is going to spend half a billion dollars on flood protection projects, that we don't want to rezone out that capacity of the system.

David Weiner: And I got another question. Why did it have to be... Not putting you on the spot or anything, but why did it have to be three weeks? There was a reason why it had to be three weeks after the referendum question?

Ms. Bookholt: That I do not know. That's how it was written in the City Council's Resolution. I'm not sure if the attorney has any other...  

Ms. Wilson: I have no insight.

David Weiner: No. Okay. And I'm just curious...

Ms. Bookholt: That's how it came down to us.

David Weiner: As Mr. Redmond said earlier today, I mean, that's like three seconds or whatever, however you put it. It's crazy to me it's quick. Okay. All right. Just that's good. Yeah, we have one speaker.

Michael A. Inman: I got plenty to say.
Eddie Bourdon: Thank you, Mr. Chairman. For the record, Eddie Bourdon, Virginia Beach attorney, land attorney, been practicing in Virginia Beach for 37 years. First of all, I was at the City Council meeting when this Resolution was adopted, but there was no opportunity for anybody to discuss. And frankly, couldn't be more ecstatic and proud of our City for having approved the referendum 70% plus. And I frankly don't think anybody at that point who cares about the future of the Virginia Beach was going to stand up and start asking questions about what they were doing. So, but this is a different circumstance. This is a deliberative body that is here for the purpose of the Comprehensive Plan. I didn't know anything about these meetings every Friday, either. I obviously know they didn't include anybody on the Planning Commission and, some of this, I'm not opposed to it, but I'm definitely concerned about, there hasn't been enough deliberation and enough input from people who might have a little bit of, and I'm not suggesting that Councilman Moss or Councilman Jones don't, but this has been half baked. The northern part of the City, which is what this applies to, is 95% developed. And there's hardly any zoning up there that's agriculture. And so the idea that we're going to have, well, and let me back up before I get into that, rezonings. Not conditional rezonings, rezonings. No one's done an analysis of the rezonings that have come forward in the last five or 10 years, because I can assure you that there have been almost none and those that have come, they're typically downzonings of already developed properties. So, but I don't understand why we put rezonings in there because if you're going to, to create, I think, Carrie used the word drastically, or even significantly increase impervious surface with a rezoning, I don't think there's been any of those. Now with a conditional rezoning, that's conceivable. Certainly is a case in the southern part of the city, middle part of the city. But I don't think there's been a lot of, I mean any analysis of what the impact of this, basically a moratorium on rezonings might be. And I certainly, I'm not opposed to the idea, although we have to do this anyway. I mean, the site plans got to be done anyway. So you're basically telling somebody who might have a very... And let me back up, Hackers today. And there's another one that recent, oh, Pembroke Mall. They don't have to worry about this because they're reducing their impervious surface by 10%. And that takes it out, you don't have to worry about that. If that came along today, I don't know that that's covered in here, maybe it is. I'm not sure that it is, but they don't have to comply because they're reducing by 10% their impervious surface. So, and you got all these other people who can add on to stuff that's already zoned and they have to do the same thing, go through of the site plan and still comply. So it's like, we're adding an extra layer of handcuffing or because you got to come in and if you want to rezone your property and you don't want to spend thousands of dollars before you can even get here, you have to say, well, we will meet the requirements. Well the word no, is important, no impact. Well, these models are not meant for going in the weeds to that point. And I went on today's agenda, it's taken us a year and a half. And I'll explain that when we get to Atlantic Development, we don't get any credit for saving 89 acres of tree forested land. No, no, at all. And we can't have one 100th of an inch, which isn't even measurable, leave the property. Okay. So no, and if there's not at least the tiniest amount of discretion on the part of our professional staff, we are basically saying we're not open for business and that's what I'm concerned about. And I think there's some ways that this can be, at least, come across as being less prohibitive and more balanced.
David Weiner: Does anybody have any questions for Mr. Bourdon? Any questions?

Eddie Bourdon: Thank you.

David Weiner: Thank you, sir. Appreciate it. Well, I guess we can just close this and get right into it with us. We'll close it and start comments. Who's going first? Mr. Inman.

Michael Inman: Well, as I said, in the informal session, we are taking this on, with virtually no notice. This is the Comprehensive Plan amendment. This is a big deal, but we all know that. The intent of what is going on in this Comprehensive Plan amendment is good. I mean, we all are, we're very aware of the storm management issue. We all want City of Virginia Beach to be open for business. It's getting a reputation of not being open for business, part because of our storm water management implementation. So, it's really important to get this right. And here we've had no invitation to, as a body, to participate in all these deliberations that have taken place. No idea that they were going on, even through a public, we weren't advised that we could even go attend. A Resolution was passed in September by City Council to move forward with this Comprehensive Plan amendment, as I'm understanding it. But not until the referendum passed, if it passed, which thankfully it did. Okay. So then we got three weeks. Who thought of that? I don't know. I mean, it's in the operation of a municipality, the size of Virginia Beach. Making a storm water decision in three weeks seems preposterous to me. I know we're in a hurry. I know it's important. So, we didn't know about the Resolution. We got the language late last week in our package to study and without any real background and the intent is good, but the devil is in the details, we all know that. It's a legal document, it's a Comprehensive Plan. So I can't imagine how we could... I would not be able to vote in favor of it today.

David Weiner: Mr. Redmond?

Dave Redmond: Well, a little bit different from what Mike said. The thing that I struggle with here is I think you're exactly right. And I hate to have to say it, but this City is getting a reputation for not being open for a business, in a lot of different ways. And that I think is probably a conversation where you need to have it. I know we are having it at some levels, but we need to have a bigger one. And this is part of it. But the notion that there is a process for amending the Comprehensive Plan. Now I get that City Council calls the shots around here. No disputing that, right? This is their prerogative, I understand that. The City Council can certainly amend their three week deadline for figuring this out. As I said this morning in the informal session, we're not going to spend 568 million bucks in the next three weeks. All of these projects have an enormous amount of engineering to be done, before they get underway still. And so I just don't understand the rush involved in that. And just today, somebody who was supposedly involved in these discussions, they feel like it has been all together too rushed. So I'm not offended that the Planning Commission isn't involved in a panel or a discussion or something like that. I certainly think that probably would've been preferable, but I mean you don't want to include us. I'm not going to feel like I didn't get invited to prom or something, but I still think like Mike does, that this really could have been done a lot better. And if you've got them with a Comprehensive Plan, there's a process to do that, that's much more deliberative than this. This is the bums rush, trying to do something much more quickly than it needs to be done. And stuff doesn't get done right that way. And so that's my concern about it as well. So, I
think, I would, in Mike's camp as I often am, but I'm in Mike's camp, that I'm not comfortable supporting this today. If you only got two choices, yes and no. I'm a no, for those reasons. So it doesn't make sense, Ms. Wilson, and I respect her too. Ms. Wilson says it doesn't make sense to defer it, in which case we got one or two choices. And I'm just not able, frankly, with those concerns to be able to support it. Thank you.

David Weiner: Mr. Graham?

Whitney Graham: I agree with my fellow Planning Commissioners. I, too, will not support this. I just feel like it was too rushed. I hear all the time that from other developers that feel that City of Virginia Beach is difficult to do business in. The storm water models, it takes forever. You do model after model after model, it's very expensive. It's not just submitting a storm water model. There's back and forth, back and forth, back and forth. And it's expensive. And I'm concerned that it's going to really shut down any redevelopment in the city. I just don't think it was well thought out. And I feel like it's too rushed and I will not support this.

David Weiner: Ms. Bradley?

David Bradley: I got a question for Ms. Bookholt, if it's okay.

David Weiner: Sure. She doesn't mind coming back up, do you?

David Bradley: So just, obviously, 70 plus percent of the voters approved it. So, this is an important issue to our citizens. And I was talking to you a little bit after the informal. So, in the southern part of the city, this process already exists. In the northern part of the city, this is where this would be implemented. But as the previous speaker said, there's probably not much opportunity because it's already fully developed. And I guess, maybe my question is, when you get to site development review, is anything changing because of this? Because that's where I think the rubber really hits the road on implementation of these things.

Ms. Bookholt: Right. The same type of analysis is still required at a site plan level. The type of analysis is not going to change. The only thing that would change is that for projects, if you came across a property where there was capacity in our existing storm water system, which is rare to find, in that case, you would not be able to increase the flooding levels. So, the same process is still going to exist. The only thing that would change is that you would have to hold to that same exact...

David Bradley: Meaning, you have to be able to show that you have no impact on storm water for your individual...

Ms. Bookholt: From your individual project. You haven't increased the demand leaving into our public system from your project. So that'll be required. Yes.

David Bradley: Thank you.
David Weiner: Wait here. I don't think personally, we don't really have a... There's a little bit of an issue of how the process is, but I think more than anything, we're just trying to rush this through and we've never rushed anything through before on a Comprehensive Plan, because this is something we take our time and look at and vette and talk to people and things like that. But one question I wanted to ask you, last speaker said about the 10% pervious and they didn't have to worry... What do they... When it's 10%, they're taking away 10% of pervious parking, what does that do?

Ms. Bookholt: So, that they can satisfy certain storm water requirements by reducing their impervious cover. And even if projects moving forward, if this were to, if the Comprehensive Plan is to be amended, if you reduce the impervious cover on your site, your analysis is much less complicated, and you can satisfy your storm water requirements by providing a reduction in impervious cover.

David Weiner: Okay. So that didn't change at all?

Ms. Bookholt: No.


Ms. Bookholt: Yes.

David Weiner: Any other questions for? Okay. Thank you, ma'am.

Ms. Bookholt: Thank you.

David Weiner: Any other questions or concerns or talk? So, I'm torn, I'm really upset of the fact that we're rushing this through, but the Ordinance already been passed by Council. It's some stuff we already do anyway. I don't think that's the issue. I just don't like the part that it's rushing through. I don't like that. And I think we need to sit back and look on it. So, I'm not going to support it either. So anybody wants to make a motion. Somebody?

Michael Inman: I'll make a motion.

David Weiner: Okay. Make a motion.

Michael Inman: I make a motion that we turn down the Resolution to amend the Comprehensive Plan on item number one.

David Weiner: Right. You have a motion. Have a second?

Whitney Graham: I'll second.

David Weiner: Right. We have a motion by Mr. Inman, a second by Mr. Graham.
Madam Clerk: Okay. The motion is to deny. Vote is open. By recorded vote of 11 in favor and zero against, agenda item number one has been denied, recommended for denial.

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Overview: The guidance below is to be utilized if Preliminary Stormwater Engineering Analysis (PSW Analysis) is submitted in conjunction with a discretionary land use application to be heard before Planning Commission and City Council. The receipt of the PSW Analysis by city engineering staff is necessary so staff can review and understand the potential impacts of the project on the stormwater system and neighboring properties and include those findings in the staff reports to Planning Commission and City Council.

When the PSW Analysis submittal is made, the review is completed by the DSC Civil/Stormwater Engineering team, with an expected review time of three (3) weeks. Any unresolved issues are communicated to the applicant and the design engineer. When the project moves forward to Planning Commission, the staff report will include a narrative regarding the viability of the project from a stormwater design perspective.

Submittal Requirements:

- **Stormwater Management Narrative** to include a description of the existing drainage patterns and the proposed stormwater design.

- **Proposed Preliminary Site Plan** including:
  1. Layout depicting all proposed improvements (buildings, parking, retaining walls, etc.)
  2. Stormwater management facilities (SWMF), outfall (or connection to existing public drainage system), proposed public storm sewer system (when applicable)
  3. Average existing elevations and proposed elevations of the lots, dwellings, and streets
  4. Proposed estimated height and volume of fill needed for the project (if applicable)

- **Supporting Information** including:
  1. Soil analysis – Soil borings to determine potential groundwater impacts are recommended, but not required. At a minimum, provide NRCS soil classification information.
  2. Existing and proposed drainage area maps
  3. Time of concentration and land cover calculations
  4. Water quality calculations (if needed); VRRM spreadsheet

- **Water Quantity Analysis** using one of the following two options for design:
  
  **Option 1** allows for a less detailed preliminary design and may be utilized if a proffer or condition is volunteered by the applicant that states the site plan will conform to all applicable state and local stormwater management regulation at the time of plan submittal and will not create and impact on upstream or downstream properties or stormwater systems.

  1. Demonstrate a reduction in the peak flow rate at the point of analysis from the pre-development to post-development condition based on the following:
     a. Designer may use any design that utilizes the 24-hour design storm.
     b. Staff will provide a variable tailwater from the City’s master drainage study to be used as the starting point for each analysis.
     c. Include analysis of 2-year, 10-year, and 100-year storm events.
**Option 2** requires a more detailed analysis so staff can verify no impact to upstream and downstream properties and to the public stormwater system if a proffer or condition is not volunteered by applicant or if reduction in peak flow rate can not be achieved.

2. Demonstrate requirements for channel protection, flood protection, design storm, and check storm are met
   a. Calculations only need to account for BMP routing and outfall to point of analysis
   b. If using a City Master Drainage Study submodel as basis of design, the following is also required:
      i. Copy of the original provided model files
      ii. Copy of the modified existing condition model files
      iii. Copy of the proposed condition model files
      iv. List of all changes made to the model files, with explanation for each
      v. Drainage area maps to include 3 flow paths for each subcatchment to determine flow width
      vi. Table to summarize peak HGL comparison at each node impacted by the project
K. APPOINTMENTS

2040 VISION TO ACTION COMMUNITY COALITION
AGRICULTURAL ADVISORY COMMITTEE
ARTS AND HUMANITIES COMMISSION
BAYFRONT ADVISORY COMMISSION
BEACHES AND WATERWAYS ADVISORY COMMISSION
BIKEWAYS AND TRAILS ADVISORY COMMITTEE
BOARD OF BUILDING CODE APPEALS
CITIZEN OVERSIGHT BOARD
COMMUNITY ORGANIZATION GRANT (COG) REVIEW AND ALLOCATION COMMITTEE
COMMUNITY POLICY AND MANAGEMENT TEAM
GREEN RIBBON COMMITTEE
HEALTH SERVICES ADVISORY BOARD
HISTORICAL REVIEW BOARD
INDEPENDENT CITIZEN REVIEW BOARD
MINORITY BUSINESS COUNCIL
OCEANA LAND USE CONFORMITY COMMITTEE
OPEN SPACE ADVISORY COMMITTEE
PARKS AND RECREATION COMMISSION
RESORT ADVISORY COMMISSION
TRANSITION AREA/INTERFACILITY TRAFFIC AREA CITIZENS ADVISORY COMMITTEE
URBAN AGRICULTURE ADVISORY COMMITTEE
WETLANDS BOARD
L. UNFINISHED BUSINESS
M. NEW BUSINESS

N. 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/ondstage/g.php?MTID=e3821d09a839981d94dd08988294a4d0d

2. Register with the City Clerk’s Office by calling 757-385-4303 prior to 5:00 p.m. on
   January 4, 2022.
**CITY OF VIRGINIA BEACH**  
**SUMMARY OF COUNCIL ACTIONS**  

**DATE:** 12/14/2021  
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### AGENDA

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#### CITY COUNCIL’S BRIEFINGS

**A. FY21 ANNUAL COMPREHENSIVE FINANCIAL REPORT (ACFR) and GENERAL FUND UPDATE**

Letitia Shelton, Director - Finance

**B. STORMWATER REGULATORY UPDATE**

Robert J. Tajan, Director - Planning and Community Development

**C. STORMWATER PROGRAM OVERVIEW & DISCUSSION**

LJ Hansen, Director - Public Works

### II-IV CERTIFICATION OF CLOSED SESSION

APPROVED 9-0 Y Y A Y Y Y A Y Y Y

### F. MINUTES

1. INFORMAL and FORMAL SESSIONS

RESCHEDULED

#### H.1. Ordinance to TRANSFER $7-Million of existing appropriations in Capital Project #100059, “Resort Parking District” to the Virginia Beach Development Authority re acquisition of two hundred (200) public parking spaces at 35th Street

ADOPTED, BY CONSENT 9-0 Y Y A Y Y Y Y Y Y Y

#### H.2. Ordinances to DESIGNATE as EXEMPT re Real and Personal Property Taxes:

| a. The Cole Academy Preschool, Inc. |
| b. Mutts with a Mission |
| c. Shakyamuni Buddhist Meditation Monastery |
| d. Hampton Roads VegFest |
| e. New Light Community Outreach |
| f. Wild Baby Raccoon Rescue |
| g. Wave College Inc. t/a Wave Leadership College |
| h. Your Wellness Inc. |
| i. Discover Courage |

ADOPTED, BY CONSENT 9-0 Y Y A Y Y Y Y Y Y Y

#### H.3. Ordinance Ordinances to AMEND:

| a. Section 18-5.2 of the City Code re business license fees and taxes and provide Revenue Offsets (Requested by Council Members Tower and Wooten) |
| b. The Calendar Year 2022 Tax Levy on Personal Property and Machinery and Tools and set the tax rate re tangible personal property of a business that qualifies for the business license incentive program for new business and provide Revenue Offsets (Requested by Council Members Tower and Wooten) |
| c. The Calendar Year 2022 Tax Levy on Personal Property and Machinery and Tools and set the tax rate re elderly and disabled persons and provide Revenue Offsets (Requested by Council Members Tower and Wooten) |

DEFERRED TO MAY 10, 2022 6-3 Y Y A Y Y Y A N N Y N

DEFERRED TO MAY 10, 2022 6-3 Y Y A Y Y Y A N N Y N

DEFERRED TO MAY 10, 2022 6-3 Y Y A Y Y Y A N N Y N
**H.4.** Resolution REGARDING Membership of the May 31st Memorial Committee (Requested by Council Members Berlucchi and Wooten)  
ADOPTED, BY CONSENT  
9-0  Y Y A Y Y Y A Y Y Y Y

**H.5.** Ordinances to AUTHORIZE temporary encroachments into a portion of City-Owned:

a. Property known as West Canal located at the rear of 2309 Broad Bay Road to maintain two (2) existing boat lifts, a wooden bulkhead, and to construct and maintain a proposed wooden dock, and vinyl bulkhead  
ADOPTED, BY CONSENT  
9-0  Y Y A Y Y Y A Y Y Y Y

b. Unimproved sections of City rights-of-way known as Fort Raleigh Drive, Christine Drive, and Coastal Drive for Croatan Civic League, Inc to construct a wooden pedestrian bridge  
ADOPTED, BY CONSENT  
9-0  Y Y A Y Y Y A Y Y Y Y

**H.6.** Ordinance to ESTABLISH Capital Project #100609, "Regional BMPs," in the FY2021-22 Capital Improvement Program and TRANSFER $9-Million to Project #100609, and AUTHORIZE the City Manager to EXECUTE the necessary documents  
ADOPTED, BY CONSENT  
9-0  Y Y A Y Y Y A Y Y Y Y

**H.7.** Ordinance to APPROPRIATE $380,000 from Net Assets of the Water and Sewer Enterprise Fund to purchase a replacement sewer cleaner  
ADOPTED, BY CONSENT  
9-0  Y Y A Y Y Y A Y Y Y Y

**H.8.** Ordinances to ACCEPT and APPROPRIATE:

a. $2,107 from the Commonwealth of Virginia to the FY2021-22 Virginia Beach Public Library Operating Budget and AUTHORIZE the City Manager to EXECUTE a Memorandum of Agreement (MOA) for furniture replacement at the Meyera E. Oberndorf Central Library and the Bayside Area Special Services Library  
ADOPTED, BY CONSENT  
9-0  Y Y A Y Y Y A Y Y Y Y

b. $4,021,136.25 from the American Rescue Plan Act (ARPA), Coronavirus State and Local Fiscal Recovery Funds, Municipal Utility Assistance Program to the Department of Public Utilities Operating Budget to provide utility relief assistance for delinquent residential customers  
ADOPTED, BY CONSENT  
9-0  Y Y A Y Y Y A Y Y Y Y

c. $4,486,715 in Federal Funding from the Shuttered Venue Operators Grant, ESTABLISH Capital Project #100608, "Virginia Aquarium Animal Holding Facility Improvements," and APPROPRIATE funding for Project #100608 and the Department of the Virginia Aquarium FY2021-22 Capital Improvement Program  
ADOPTED, BY CONSENT  
9-0  Y Y A Y Y Y A Y Y Y Y

**I.1.** ATLANTIC DEVELOPMENT ASSOCIATES, LLC for a Variance to Section 4.4(b) of the Subdivision Regulations to subdivide two (2) lots to create a total of three (3) lots at 2744 Ansol Lane & 153 Bassett Avenue  
APPROVED/ CONDITIONED, BY CONSENT  
9-0  Y Y A Y A Y Y Y A Y Y Y Y
<table>
<thead>
<tr>
<th>Item #</th>
<th>Subject</th>
<th>Motion</th>
<th>Vote</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.2</td>
<td>James B. Richards, Jr. &amp; Linda Champion-Richards for a Street Closure re 375 square feet of an unimproved alley adjacent to the rear of 733 Vanderbilt Avenue DISTRICT 6 - BEACH</td>
<td>APPROVED/CONDITIONED, BY CONSENT</td>
<td>9-0</td>
</tr>
<tr>
<td>1.3</td>
<td>Michael I. Ashe &amp; Mitzi S. Ashe, Co-Trustees of the Ashe Revocable Trust for a Street Closure re 375 square feet of an unimproved alley adjacent to the rear of 729 Vanderbilt Avenue DISTRICT 6 - BEACH</td>
<td>APPROVED, CONDITIONED, BY CONSENT</td>
<td>9-0</td>
</tr>
<tr>
<td>1.4</td>
<td>VB Holdings, LLC for a Modification of Conditions re senior housing at 608 Dam Neck Road DISTRICT 7 - PRINCESS ANNE (Approved by City Council December 2001)</td>
<td>APPROVED, AS MODIFIED</td>
<td>9-0</td>
</tr>
<tr>
<td>1.5</td>
<td>Atlantic Development Associates, LLC / Martha Fisher Huerta / VB Holdings, LLC, for a Conditional Change of Zoning from AG-1 &amp; AG-2 Agricultural &amp; R-10 Residential to Conditional A-12 Apartment District re develop a ninety-two (92) Unit condominium community at 580 &amp; 608 Dam Neck Road DISTRICT 7 - PRINCESS ANNE</td>
<td>APPROVED AS PROOFFERED</td>
<td>9-0</td>
</tr>
<tr>
<td>1.6</td>
<td>Holland Lakes Associates, LC for a Conditional Use Permit re mini warehouse/self-storage facility at 3478 Holland Road DISTRICT 3 - ROSEHALL</td>
<td>APPROVED, AS CONDITIONED, BY CONSENT</td>
<td>9-0</td>
</tr>
<tr>
<td>1.7</td>
<td>Mutts With A Mission for a Conditional Use Permit re commercial kennel at 2700 Shirley Landing Drive DISTRICT 7 - PRINCESS ANNE</td>
<td>APPROVED/CONDITIONED, AS AMENDED</td>
<td>9-0</td>
</tr>
<tr>
<td>J.</td>
<td>Appointments</td>
<td>RESCHEDULED</td>
<td>B Y C O N S E N S U S</td>
</tr>
</tbody>
</table>
## 5/31 Memorial Committee

<table>
<thead>
<tr>
<th>Name</th>
<th>Role/Representation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sharon Felton</td>
<td>Representing Historic Preservation Commission</td>
</tr>
<tr>
<td>Lawrence Kliewer</td>
<td>Representing Design Professional</td>
</tr>
<tr>
<td>Jason Nison</td>
<td>Representing Family Member</td>
</tr>
<tr>
<td>Tara Reel</td>
<td>Representing Citizen affected by 5/31 tragedy</td>
</tr>
<tr>
<td>George Alcaraz</td>
<td>Representing Citizen</td>
</tr>
<tr>
<td>Cosette Livas</td>
<td>Representing Citizen</td>
</tr>
<tr>
<td>William Almond</td>
<td>Representing Design Professional</td>
</tr>
<tr>
<td>Kurtis Hooks</td>
<td>Representing Mental Health Professional</td>
</tr>
<tr>
<td>Shelby Slutzker</td>
<td>Representing Ex-Officio, non-voting, Family/Survivor Liaison</td>
</tr>
<tr>
<td>Brian Ricardo</td>
<td>Representing Citizen affected by 5/31 tragedy</td>
</tr>
<tr>
<td>Charlotte Zito</td>
<td>Representing Citizen</td>
</tr>
<tr>
<td>Sylvia Strickland</td>
<td>Representing Citizen</td>
</tr>
</tbody>
</table>

### Appointments:
- Sharon Felton - 9-0
- Lawrence Kliewer - 9-0
- Jason Nison - 9-0
- Tara Reel - 9-0
- George Alcaraz - 9-0
- Cosette Livas - 9-0
- William Almond - 9-0
- Kurtis Hooks - 9-0
- Shelby Slutzker - 9-0
- Brian Ricardo - 9-0
- Charlotte Zito - 9-0
- Sylvia Strickland - 9-0

## Bikeways and Trails Advisory Committee

<table>
<thead>
<tr>
<th>Name</th>
<th>Role/Community</th>
</tr>
</thead>
<tbody>
<tr>
<td>Andrew Lewis</td>
<td>Representing Bikes and Trails Community</td>
</tr>
</tbody>
</table>

### Appointments:
- Andrew Lewis - 9-0

## Clean Community Commission

<table>
<thead>
<tr>
<th>Name</th>
<th>Role/Representation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sierra Reid</td>
<td>Representing High School Student</td>
</tr>
<tr>
<td>Cayden Braswell</td>
<td>Representing High School Student</td>
</tr>
</tbody>
</table>

### Appointments:
- Sierra Reid - 9-0
- Cayden Braswell - 9-0
**COMMUNITY ORGANIZATION GRANT (COG) REVIEW AND ALLOCATION COMMITTEE**

- **Appointed:** Dr. Caitlin Pedatic-Ramirez
  - Representing Ex-Officio, Director of Virginia Beach Department of Public Health
  - No Term

- **VOTE:**
  - 9-0
  - Y Y A Y Y Y A Y Y Y Y

**GREEN RIBBON COMMITTEE**

- **Reappointed:**
  - David Weiner
  - Representing Planning Commission
  - 1 Year Term
  - 1/1/2022 – 12/31/2022

- **VOTE:**
  - 9-0
  - Y Y A Y Y Y A Y Y Y Y

**HEALTH SERVICES ADVISORY BOARD**

- **Appointed:** Dr. Caitlin Pedatic-Ramirez
  - Representing Ex-Officio, Director of Virginia Beach Department of Public Health
  - No Term

- **VOTE:**
  - 9-0
  - Y Y A Y Y Y A Y Y Y Y

**HISTORIC PRESERVATION COMMISSION**

- **Appointed:**
  - Glenn Carwell
    - Unexpired Term thru 12/31/2023
  - Derek DuBay
    - 3 Year Term
    - 1/1/2022 – 12/31/2024

- **VOTE:**
  - 9-0
  - Y Y A Y Y Y A Y Y Y Y

**PLANNING COMMISSION**

- **Reappointed:**
  - Dee Oliver
    - Representing At-Large
    - 1 Year Term
    - 1/1/2022 – 12/31/2024

- **VOTE:**
  - 9-0
  - Y Y A Y Y Y A Y Y Y Y

**RESORT ADVISORY COMMISSION**

- **Appointed:**
  - Robert Taylor
    - Unexpired Term thru 12/31/2022
  - + 3 Year Term
  - 1/1/2023 – 12/31/2025
  - Tyler Brown
    - Representing Resort Retailer

- **VOTE:**
  - 9-0
  - Y Y A Y Y Y A Y Y Y Y
**AGENDA ITEM**

<table>
<thead>
<tr>
<th>SUBJECT</th>
<th>MOTION</th>
<th>VOTE</th>
</tr>
</thead>
<tbody>
<tr>
<td>SOUTHEASTERN PUBLIC SERVICE AUTHORITY - SPSA</td>
<td>Nominated for Governor’s Appointment: Thomas Leahy</td>
<td>9-0</td>
</tr>
<tr>
<td>K/L M</td>
<td>ADJOURNMENT</td>
<td>8:22 PM</td>
</tr>
</tbody>
</table>