

CITY OF VIRGINIA BEACH

"COMMUNITY FOR A LIFETIME"

CITY COUNCIL

MAYOR ROBERT M. "BOBBY" DYER, *At Large*
VICE MAYOR JAMES L. WOOD, *Lynnhaven – District 5*
JESSICA P. ABBOTT, *Kempsville – District 2*
MICHAEL F. BERLUCCHI, *Rose Hall – District 3*
BARBARA M. HENLEY, *Princess Anne – District 7*
LOUIS R. JONES, *Bayside – District 4*
JOHN D. MOSS, *At Large*
AARON R. ROUSE, *At Large*
GUY K. TOWER, *Beach – District 6*
ROSEMARY WILSON, *At Large*
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 SPECIAL FORMAL SESSION AGENDA

October 20, 2020

CITY HALL BUILDING
2401 COURTHOUSE DRIVE
VIRGINIA BEACH, VIRGINIA 23456-9005
PHONE: (757) 385-4303
FAX (757) 385-5669
E-MAIL: CITYCOUNCIL@vb.gov

MAYOR ROBERT M. "BOBBY" DYER PRESIDING

- I. CALL TO ORDER—Mayor Robert M. "Bobby" Dyer—Virginia Beach Convention Center —3:00 PM
 - A. READING OF THE MAYOR'S CALL FOR SPECIAL SESSION
 - B. ROLL CALL OF CITY COUNCIL
- II. CITY COUNCIL'S BRIEFING
 - A. ATLANTA CITIZEN REVIEW BOARD EDUCATIONAL BRIEFING
Samuel Reid, Executive Director
- III. CITY MANAGER'S BRIEFINGS
 - A. LYNNHAVEN MUNICIPAL PARKING USE AGREEMENT
Michael Kirschman, Director – Parks and Recreation
 - B. MOTORIZED SCOOTER FRANCHISE AGREEMENT AMENDMENTS
Brian Solis, Assistant to the City Manager for Special Projects
 - C. CONVENTION AND VISITORS BUREAU MARKETING AND TOURISM UPDATE
Tiffany Russell, Convention, Tourism and Market Administrator
Convention and Visitors Bureau
 - D. INTERIM FINANCIAL UPDATE
Alice Kelly, Director – Finance
 - E. RELEASING FUNDING RESTRICTIONS ON CERTAIN CIP PROJECTS
David Bradley, Deputy City Manager
- IV. COUNCIL LIAISON REPORTS
- V. CITY COUNCIL COMMENTS

VI. CITY COUNCIL AGENDA REVIEW

VII. INFORMAL SESSION - Virginia Beach Convention Center- 5:00 PM

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

B. CITY COUNCIL ROLL CALL

C. RECESS TO CLOSED SESSION

VIII. RECONVENE SPECIAL FORMAL SESSION - Virginia Beach Convention Center - 6:00 PM

A. INVOCATION

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

C. CERTIFICATION OF CLOSED SESSION

D. MINUTES

- | | |
|--------------------------------|--------------------|
| 1. JOINT SPECIAL SESSION | September 8, 2020 |
| 2. INFORMAL and FORMAL SESSION | September 15, 2020 |
| 3. SPECIAL SESSION | September 22, 2020 |
| 4. SPECIAL SESSION | October 13, 2020 |

E. MAYOR’S PRESENTATION

1. RESOLUTION IN RECOGNITION
Erin Sutton

F. PUBLIC COMMENT

1. ALLOCATION OF EDWARD BYRNE JUSTICE ASSISTANCE GRANT
Law Enforcement Purposes
2. 2021 LEGISLATIVE AGENDA

G. PUBLIC HEARINGS

1. **ACQUISITION OF AGRICULTURAL LANDS PRESERVATION (ARP) EASEMENT**
58.22 acres at the 1200 block of Princess Anne Road
2. **PROPOSED CAFÉ FRACHISE AGREEMENT**
Thirsty 24, LLC t/a Atlantic Pints at 2314 Atlantic Avenue
3. **USE OF CITY PROPERTY**
Parking Use Agreement at Lynnhaven Municipal Marina with Chick's Marina Properties, LLC (13 spaces between 4 a.m. - 4 p.m. & 24 spaces between 4 p.m. - 4 a.m.)
4. **LEASE OF CITY PROPERTY**
- a. 1113 Atlantic Avenue (deWitt Cottage)
 - b. 912 Princess Anne Road to the Senior Resource Center, Inc.

H. FORMAL SESSION AGENDA

1. CONSENT AGENDA

I. ORDINANCES/ RESOLUTIONS

1. Resolutions to **REFER** to Planning Commission six (6) Ordinances pertaining to the City Zoning Ordinance (CZO): *(a-e Requested by Vice Mayor Wood, Council Member Jones and Council Member Tower)
 - a. **AMEND** Section 102 re **establish short term rental overlay districts**
 - b. **ADD** Article 23, Sections 2300 to 2303 re **establish regulations and requirements to short term rentals in each overlay district**
 - c. **AMEND** Official Zoning Map by the designation and incorporation of property into short term rental overlay districts re **West Shore Drive, East Shore Drive, North End, and Oceanfront Resort District**
 - d. **AMEND** Sections 401, 501, 506, 601, 901, 1110, 1125, 1521 and 2203 and Section 5.2 of the Oceanfront Resort District Form-Based Code re **requirements and use of short term rentals and overlays**
 - e. **ESTABLISH** transitional rules for the review of short term rental Conditional Use Permits in overlay districts
 - f. **AMEND** Section 241.2 re **establish additional safety requirements to short-term rentals** (Requested by Council Member Henley)
2. Resolution to **MOVE** the **November 3, 2020, Regular Meeting** of the City Council to **November 10, 2020** (Requested by Mayor Dyer and Vice Mayor Wood)
3. Ordinance to **AMEND** City Code Section 2-20 re **location of City Council Meetings**
4. Resolution to formally **RE-ADOPT** the **Virginia Beach Emergency Operations Plan (EOP)**
5. Resolution to **AUTHORIZE** the issuance and sale of **General Obligation Refunding Bond, Series 2020**, in an aggregate principal amount not to **EXCEED** \$3,445,000 and the execution and delivery of certain documents prepared in connection therewith
6. Resolution to **DESIGNATE** Virginia Beach as a **Bee City USA** affiliate
7. Ordinance to **ESTABLISH** new **Capital Improvement Projects** for FY2020-21 and **TRANSFER** \$738,534 from the Capital Project #100423 Traffic Safety Improvements (TSI) IV to the newly created capital projects:
 - a. #100554 Independence Boulevard / Columbus Street Pedestrian Improvements
 - b. #100555 Parliament Drive Sidewalk Phase I
 - c. #100556 Sandbridge Road Sidewalk
8. Ordinance to **ADOPT** revised regulations for Resort Area Outdoor Café Franchise
9. Ordinance to **GRANT** a Franchise Agreement for an Open Air Café in the Resort Area to **Thirsty-24, LLC t/a Atlantic Pints** at 2314 Atlantic Avenue re **Atlantic Avenue Sidewalk Café**

10. Ordinance to **AUTHORIZE**:
 - a. Acquisition of an Agricultural Land Preservation (ARP) easement from **Holly Road, LLC and Ola Hill Krueger** (58.22 +/- acres)
 - b. issuance by the City of its contract obligation in the maximum principal amount of \$681,174; and
 - c. **TRANSFER** funds to purchase U.S. Treasury Strips
11. Ordinance to **AUTHORIZE** the City Manager to **EXECUTE** a Lease of City-owned Property for up to five (5) years with Back Bay Wildfowl Guild, Inc. at 1113 Atlantic Avenue re **the deWitt Cottage**
12. Ordinance to **AUTHORIZE** the City Manager to **EXECUTE** a Building Lease and Cooperative Agreement for up to five up to five (5) years with **Senior Resource Center, Inc.** at 912 Princess Anne Road re **provide support and services to senior citizens residing in the southern part of Virginia Beach**
13. Ordinance to **AUTHORIZE** the acquisition of property in fee simple re **Princess Anne Plaza North London Bridge Creek Pump Station Project, CIP# 7-089** and the acquisition of temporary and permanent easements, either by agreement or condemnation
14. Ordinance to **AUTHORIZE** a temporary encroachment into a portion of City-Owned Property known as **Treasure Canal in Bay Island** adjacent to 2233 Spinnaker Circle re **construct and maintain a proposed boat lift**
15. Ordinance to **AUTHORIZE** a temporary encroachment into a portion of existing, unimproved City right-of-way at the **Corner of Schumann Drive, formerly Old Dam Neck Road, and Firefall Drive** located adjacent to 685 Firefall Drive re **construct and maintain an interpretive park comprised of an asphalt path, bordered with reclaimed brick, five (5) interpretive signs, three (3) benches, trash receptacles and a dog waste station**
16. Ordinance to **RESERVE** Fund Balance within the General Fund for the Pandemic Financial Relief and Assistance and **APPROPRIATE** \$10-Million in grants to the United Way of South Hampton Roads (\$8-Million) and FY2020-21 Emergency Medical Services (EMS) Operating Budget (\$2-Million) re **emergency assistance for residents and nonprofit volunteer rescue squads**
17. Ordinance to **APPROPRIATE** \$2.4-Million of Fund Balance in the General Fund and \$831,851 of Fund Balance in the Waste Management Enterprise Fund re **purchase replacement vehicles and equipment**
18. Ordinances to **ACCEPT** and **APPROPRIATE**:
 - a. \$29,000 from the Virginia Department of Forestry to FY2020-21 Parks and Recreation Operating Budget and **AUTHORIZE** local match re **tree plantings and review / update the Urban Forest Management Plan**
 - b. \$36,000 from Virginia Department of Criminal Justice Services to FY2020-21 Police Department Operating Budget re **purchase of sanitizing equipment**
 - c. \$48,000 from the Department of Motor Vehicles (DMV) to the FY 2020-21 Police Department Operating Budget and **AUTHORIZE** 50% in-kind match re **overtime related to the enforcement of DUI laws**

- d. \$48,200 from the Department of Motor Vehicles (DMV) to the FY2020-21 Police Department Operating Budget and to **AUTHORIZE** 50% in-kind match re **overtime related to the enforcement of seat belt laws**
- e. \$288,975 from the Department of Homeland Security to the FY 2020-21 Police Operating Budget and **TRANSFER** funds within the FY2020-21 Police Operating Budget to provide the required local grant match re **marine patrol equipment**
- f. \$49,000 from the Department of Homeland Security to the FY2020-21 Police Operating Budget re **law enforcement equipment**
- g. \$39,258,497 from the United States Department of Treasury CARES Act Coronavirus Relief Fund to FY2020-21 Grant Fund re **reimbursable expenses**
- h. \$70,991 from the Edward Byrne Justice Assistance Grant (JAG) to the FY2020-21 Sheriff's Office, Police Department and Community Corrections and Pre-Trial Services Division Operating Budgets re **law enforcement purposes**
- i. \$836,401 from the Federal Emergency Management Agency (FEMA) to the FY2020-21 Emergency Management Operating Budget re **Regional Housing Plan Project**
- j. \$2,941,791 from Housing and Urban Development (HUD) in Federal Funding and Program Income to the FY2020-21 Housing and Neighborhood Preservation Operating Budget re **adjustments in Community Development Block Grant, Housing Choice Voucher and HOME Programs**

19. Ordinances to **TRANSFER:**

- a. \$180,000 within the Waste Management Enterprise Fund and **AUTHORIZE** 7.5 temporary part-time positions re **Apprenticeship Program**
- b. \$1.5-Million within the Stormwater Enterprise Fund re **debt service payments**
- c. \$133,703 to Non-Departmental Operating Budget and **AUTHORIZE** the City Manager to enter into a long-term lease with the Commonwealth of Virginia re **Virginia Aquarium parking lot premises**

J. PLANNING

- 1. **64th STREET, LLC** for a Conditional Use Permit re **short term rental** at 205 64th Street DISTRICT 5 – LYNNHAVEN

RECOMMENDATION:

APPROVAL

- 2. **C AND C DEVELOPMENT COMPANY, INC & CJE REAL ESTATE, LLC** for a Conditional Use Permit re **short term rental** at 2416 Arctic Avenue, Unit B DISTRICT 6 – BEACH

RECOMMENDATION:

APPROVAL

3. **STUART & LORI GOLDWAG** for Conditional Use Permits re **short term rental** at 2002 Baltic Avenue:
a. Unit A
b. Unit B
DISTRICT 6 – BEACH

RECOMMENDATION: APPROVAL

4. **JKS PROPONENT PROPERTIES, LLC** for a Conditional Use Permit re **short term rental** at 304 28th Street, Unit 209 DISTRICT 6 – BEACH

RECOMMENDATION: APPROVAL

5. **RACHAEL PANARIELLO** for a Conditional Use Permit re **short term rental** at 911 Pacific Avenue, Unit A DISTRICT 6 – BEACH

RECOMMENDATION: APPROVAL

6. **CAROL DAVIS** for a Conditional Use Permit re **short term rental** at 1305 Chickadee Lane DISTRICT 6 – BEACH

RECOMMENDATION: APPROVAL

7. **OCEAN RENTAL PROPERTIES, LLC** for Conditional Use Permits re **short terms rental** at 516 Norfolk Avenue:
a. Unit 1
b. Unit 2
c. Unit 4
d. Unit 5
COUNCIL DISTRICT 6 – BEACH

RECOMMENDATION: APPROVAL

8. **CHARLIE KIM** for a Conditional Use Permit re **short term rental** at 809 Vanderbilt Avenue DISTRICT 6 – BEACH (Deferred from September 15, 2020)

RECOMMENDATION: APPROVAL

K. APPOINTMENTS

2040 VISION TO ACTION COMMUNITY COALITION
BAYFRONT ADVISORY COMMISSION
BOARD OF BUILDING CODE APPEALS
CHESAPEAKE BAY ALCOHOL SAFETY ACTION PROGRAM
CLEAN COMMUNITY COMMISSION
COMMUNITY ORGANIZATION GRANT REVIEW & ALLOCATION COMMITTEE
COMMUNITY POLICY AND MANAGEMENT TEAM
COMMUNITY SERVICES BOARD
GREEN RIBBON COMMITTEE
HEALTH SERVICES ADVISORY BOARD
HOUSING ADVISORY BOARD
HUMAN RIGHTS COMMISSION

INVESTIGATIVE REVIEW PANEL
MILITARY ECONOMIC DEVELOPMENT ADVISORY BOARD
MINORITY BUSINESS COUNCIL
OCEANA LAND USE CONFORMITY COMMITTEE
OLD BEACH DESIGN REVIEW COMMITTEE
OPEN SPACE ADVISORY COMMITTEE
PARKS AND RECREATION COMMISSION
PUBLIC LIBRARIES BOARD
RESORT ADVISORY COMMISSION
TRANSITION AREA/INTERFACILITY TRAFFIC AREA CITIZENS ADVISORY COMMITTEE
VIRGINIA BEACH COMMUNITY DEVELOPMENT CORPORATION
WETLANDS BOARD

L. UNFINISHED BUSINESS

M. NEW BUSINESS

N. ADJOURNMENT

PUBLIC COMMENT
Non-Agenda Items

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 pmcgraw@vbgov.com or call 385-4303.



ROBERT M. "BOBBY" DYER
MAYOR

City of Virginia Beach

VBgov.com

MUNICIPAL CENTER
BUILDING 1, ROOM 234
2401 COURTHOUSE DRIVE
VIRGINIA BEACH, VA 23456-9000
(757) 385-4581
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BDYER@VBGOV.COM

October 15, 2020

HONORABLE MEMBERS OF CITY COUNCIL

In accordance with the Virginia Beach City Code Section 2-21, and by the authority vested in me as Mayor of the City of Virginia Beach, I hereby call for a **SPECIAL FORMAL SESSION** of the **VIRGINIA BEACH CITY COUNCIL**

Tuesday, October 20, 2020
3:00 P.M.
Virginia Beach Convention Center, Suite 5
1000 19th Street

The purpose of this **SPECIAL FORMAL SESSION** is to allow City Council to hold a regularly scheduled Formal Session at the Convention Center, to adhere to public health measures during the COVID-19 Pandemic.

Citizens may comment either in person or virtually. If you would like to speak in person, please call the City Clerk's office at 757-385-4303 to sign up.

If you wish to make comments virtually on an item, please follow the two-step process provided below:

- Register for the WebEx at:
<https://vbgov.webex.com/vbgov/onstage/g.php?MTID=ee627a0d522bacf90ddba7c5d8347e7ce>
- Register with the City Clerk's Office by calling (757) 385-4303 or via email at ABarnes@vbgov.com prior to 5:00 p.m. on October 20, 2020

The City Council meeting will be streamed live on www.vbgov.com and Facebook Live, and will be recorded for rebroadcast on Cable TV. Citizens are encouraged to submit their comments to the City Council prior to the meeting via email at CityCouncil@vbgov.com.

Sincerely,

Robert M. Dyer
Mayor

Cc: City Manager
City Attorney
City Clerk
Deputy City Managers
FOIA Officer
Communications Office

**MAYOR ROBERT M. "BOBBY" DYER
PRESIDING**

- I. CALL TO ORDER—Mayor Robert M. "Bobby" Dyer—Virginia Beach Convention Center —3:00 PM**
 - A. READING OF THE MAYOR'S CALL FOR SPECIAL SESSION
 - B. ROLL CALL OF CITY COUNCIL

II. CITY COUNCIL'S BRIEFING

- A. ATLANTA CITIZEN REVIEW BOARD EDUCATIONAL BRIEFING
Samuel Reid, Executive Director

III. CITY MANAGER'S BRIEFINGS

- A. LYNNHAVEN MUNICIPAL PARKING USE AGREEMENT
Michael Kirschman, Director – Parks and Recreation
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David Bradley, Deputy City Manager

IV. COUNCIL LIAISON REPORTS

V. CITY COUNCIL COMMENTS

VI. CITY COUNCIL AGENDA REVIEW

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- Virginia Beach Convention Center- 5:00 PM

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D. MINUTES

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E. MAYOR'S PRESENTATION

1. RESOLUTION IN RECOGNITION

Erin Sutton



RESOLUTION

WHEREAS: Erin Sutton has served the City since 2004, and recently as the Director for the newly established Office of Emergency Management;

WHEREAS: She established the Virginia Beach Incident Management Team (VBIMT), composed of emergency management professionals across the City;

WHEREAS: As Director for the Office of Emergency Management, she established a foundation of emergency preparedness in the City by developing the City's Emergency Operations plans with best practices, creating public awareness programs for hurricanes and severe weather, building partnerships in the region, and coordinating numerous trainings and exercises;

WHEREAS: She led the City's response and recovery efforts through numerous disasters and incidents, including but not limited to the Coronavirus Pandemic, May 31st Mass Shooting, Oceana Jet Fuel Spill, and Hurricane Matthew;

WHEREAS: She has also served the City as the Environmental Health Manager, Emergency Planner and Medical Reserve Corps Director for the Department of Public Health;

WHEREAS: She served as a Planning Section Chief on the Hampton Roads Incident Management Team (HRIMT) and deployed to several planned events and disasters across the Commonwealth;

WHEREAS: She has completed numerous certifications and trainings including Master Exercise Practitioner, Certified Floodplain Manager, and Certified Emergency Manager;

WHEREAS: Her work was recognized with the VEMA Emergency Management Professional of the Year award in 2020;

WHEREAS: Her dedication to continued education and training on emergency preparedness practices has helped the City immensely;

WHEREAS: Under Erin's leadership, the City's emergency preparedness has developed and improved, and her work will continue to advance and benefit the City;

WHEREAS: On this day, we honor a public servant who has led the City through some of its most challenging times, and prepared the City to effectively face and recover from any disaster that we may encounter;

NOW, THEREFORE, BE IT RESOLVED: That the Virginia Beach City Council hereby expresses its appreciation to ERIN SUTTON for her outstanding contributions to our City and extends its congratulations on the next chapter in her career.

Given under our hands this 20th day of October, 2020.

Council Member Jessica P. Abbott

Council Member Michael F. Berfucchi

Council Member Barbara M. Henley

Council Member Louis R. Jones

Council Member John D. Moss

Council Member Aaron R. Rouse

Council Member Guy K. Tower

Council Member Rosemary Wilson

Council Member Sabrina D. Wooten

Vice Mayor James L. Wood

Mayor Robert M. "Bobby" Dyer

F. PUBLIC COMMENT

1. ALLOCATION OF EDWARD BYRNE JUSTICE ASSISTANCE GRANT
Law Enforcement Purposes
2. 2021 LEGISLATIVE AGENDA



**DRAFT
LEGISLATIVE AGENDA
GENERAL ASSEMBLY
2021 SESSION**

September 29, 2020

CITY OF VIRGINIA BEACH – CITY COUNCIL

Mayor Robert M. “Bobby” Dyer – At Large

Vice-Mayor James L. Wood – Lynnhaven

Jessica P. Abbott – Kempsville

Michael Berlucchi – Rose Hall

Barbara M. Henley – Princess Anne

Louis R. Jones – Bayside

John D. Moss – At Large

Aaron R. Rouse – At Large

Guy K. Tower - Beach

Rosemary A. Wilson – At Large

Sabrina D. Wooten – Centerville

CITY OF VIRGINIA BEACH – GENERAL ASSEMBLY DELEGATION

Senator Lynwood W. Lewis, Jr. – Senate District 6

Senator Jen A. Kiggans – Senate District 7

Senator William R. DeSteph, Jr. – Senate District 8

Senator John A. Cosgrove, Jr. – Senate District 14

Delegate Kelly K. Convirs-Fowler – House District 21

Delegate C. E. “Cliff” Hayes, Jr. – House District 77

Delegate Barry D. Knight – House District 81

Delegate Jason R. Miyares – House District 82

Delegate Nancy D. Guy – House District 83

Delegate Glenn R. Davis – House District 84

Delegate Alex Q. Askew – House District 85

Delegate Joseph C. Lindsey – House District 90

Delegate Robert S. Bloxom, Jr. – House District 100

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**SECTION 1.1 – CITY OF VIRGINIA BEACH LONG
TERM POLICY POSITIONS**

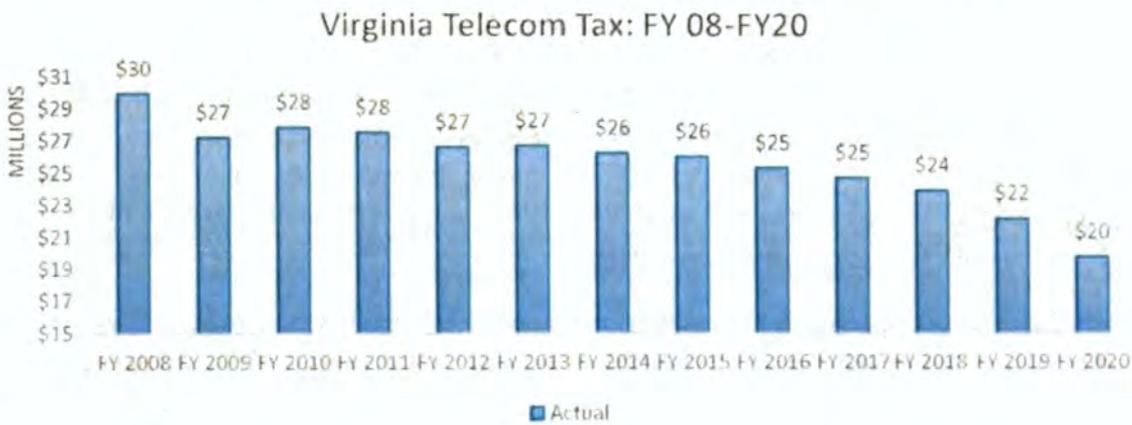


1. COMMONWEALTH OF VIRGINIA COMMUNICATIONS TAX UPDATE

SPONSORED BY CITY COUNCIL

Background Information:

In 2006, the Virginia General Assembly passed legislation to replace state and local taxes and fees on communication services with one statewide Virginia Communications Sales and Use Tax. This statewide tax imposed a 5% fee, which is collected from consumers by service providers and remitted to the state on a monthly basis. After collection by the state, the tax is then distributed to individual localities. Revenues from the Sales and Use Tax are in long-term decline. For example, Virginia Beach now brings in \$10 million less per year than when the tax first went into effect over a decade ago. This \$10 million decline is equal to a 33% loss in revenue over this period. As technology progresses, this revenue gap will only grow wider. The chart below shows actual revenues received by the City. In total, the City averaged a 3.4% per year reduction in Virginia Telecom Tax Revenue between Fiscal Year 2007-08 and Fiscal Year 2019-20.



Consistent with these declines, the City has sizably lowered its budgeted projections for Telecom Tax revenue. Yet, Fiscal Year 2020 actual receipts came in less than the lowered amount budgeted for Fiscal Year 2021. Should the present tax structure continue as is, the City will likely see a decline in this revenue source in Fiscal Year 2022 that would bring the total amount of revenue received by the City to around \$17 million.

FY 2020 Budgeted	FY 2021 Budgeted	FY 2021 Estimate (Using Historic Average)
\$23.4 million	\$20.3 million	\$ 17.5 million

REQUEST: The General Assembly is requested to restore funding to localities consistent with amounts received at the time of the formula’s adoption in 2006.



2. FULL FUNDING FOR THE STEP-VA PROGRAM

SPONSORED BY COUNCILMEMBER MICHAEL BERLUCCHI & THE VIRGINIA BEACH HUMAN RIGHTS COMMISSION

Background Information:

While Virginia's overall ranking in the 2020 State of Mental Health Report released in February 2020 by MH America (MHA) ranked the Commonwealth at 27th nationwide (up from 33rd in 2019), Virginia ranked 42nd for adult mental health (down from 35th in 2019). MHA indicates any state with a ranking of 39-51 indicate that adults have higher prevalence of mental illness and lower rates of access to care. The decrease in our adult mental health ranking means more adults reported they were not able to receive the treatment they needed. Although Virginia's youth mental health ranking improved to 17th, the prevalence of youth with Major Depressive Episode dropped to 24th. Virginia's overall access to mental health care in the 2020 MHA report depicts the greatest challenge for Virginians with a rank of 37th in the nation. Additionally, Virginia has continued to be low while the percentage of inmates with mental disorders in jails has continued to increase annually. (Virginia Compensation Board)

The need for a comprehensive, effective and accessible system of mental health services is quite clear. When individuals are not able to receive the treatment and services they need for the cause of their mental health crisis in their communities, the effect often include: homelessness, suicide, substance use, incarceration, frequent hospitalizations, and use of emergency rooms. The increased need for services due to COVID-19 has been widely reported and are likely to be reflected in the Virginia Department of Behavioral Health and Developmental Services (DBHDS) 2020 statistical reports.

STEP-VA (System Transformation, Excellence and Performance in Virginia) when fully funded will provide the community mental health care system which have been needed for many years. STEP-VA was developed in 2015 through a federal planning grant received by DBHDS to address this systematic delivery approach to providing mental health services by providing quality, access, accountability and consistency across all Community Services Boards. The federal planning grant providing the means to lay the foundation for a behavioral health system that would be standardized in the provision of nine core services:

- Same-day access
- Primary care screenings
- Outpatient behavioral services
- Behavioral health crisis services
- Peer/family support services
- Psychiatric rehabilitation
- Veterans' behavioral health
- Case management for adults and children
- Care coordination

The 2017 General Assembly amended the code to implement the STEP-VA System of nine services by 2021. Same Day Access and Primary Care Screening were fully funded and implemented in 2019 and Outpatient Services and Crisis Services were partially funded.



The 2020 General Assembly provided additional funding for partial implementation of STEP-VA: FY 2021- \$19,704,173; FY 2022 - \$30,151,414.

In April 2020, due to the COVID-19 emergency, these funds were unallocated; a freeze was placed on new spending until economic circumstances improved and revenues could be forecasted again. The 2021 Governor's budget priorities will be outlined in mid-November and the 2021 General Assembly House and Senate Finance and Appropriations Committees will likely be inundated with requests to amend the Governor's budget post-COVID. As a lack of fully funding the mental health needs of our citizens can have a domino effect of many other areas of the state and individual localities budget, restoring the funding levels for STEP-VA must be ranked among the highest of budget priorities.

Request:

The City requests that the General Assembly restore funds allocated by the 2020 General Assembly and provide the remaining funds needed for the full implementation of the STEP VA System throughout the Commonwealth to ensure all nine Core Services are implemented by 2021.



SECTION 1.2 – CITY OF VIRGINIA BEACH NEW POLICY INITIATIVES

DRAFT



3. HEART DISEASE PRESUMPTION FOR SALARIED EMS PERSONNEL

SPONSORED BY VICE-MAYOR JIM WOOD

Background Information:

In Virginia, public safety benefit programs have historically been designed specifically for firefighters and police officers. Most municipal EMS providers were either cross trained as firefighters, volunteers or civilians. There was little attention given to governmental EMS workers. Virginia Beach has the largest with its cadre of medics within the Department of EMS. We currently have 65 officers or medics who are considered full time salary Emergency Medical Technicians for purposes of benefit calculations. However, those workers are not given the same protections of heart disease presumption that Fire and Police have.

Request:

The General Assembly is requested to modify Code of Virginia Title 65.2, Workers' Compensation, Chapter 3: Occupational Diseases §65.2-402(B) as follows:

B. Hypertension or heart disease causing the death of, or any health condition or impairment resulting in total or partial disability of (i) salaried or volunteer firefighters, (ii) members of the State Police Officers' Retirement System, (iii) members of county, city or town police departments, (iv) sheriffs and deputy sheriffs, (v) Department of Emergency Management hazardous materials officers, (vi) city sergeants or deputy city sergeants of the City of Richmond, (vii) Virginia Marine Police officers, (viii) conservation police officers who are full-time sworn members of the enforcement division of the Department of Game and Inland Fisheries, (ix) Capitol Police officers, (x) special agents of the Virginia Alcoholic Beverage Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1, (xi) for such period that the Metropolitan Washington Airports Authority voluntarily subjects itself to the provisions of this chapter as provided in §65.2-305, officers of the police force established and maintained by the Metropolitan Washington Airports Authority, (xii) officers of the police force established and maintained by the Norfolk Airport Authority, (xiii) sworn officers of the police force established and maintained by the Virginia Port Authority, and (xiv) campus police officers appointed under Article 3 (§23.1-1-809 et seq.) and (xv) full-time salaried Emergency Medical Technicians employed by the City of Virginia Beach. Of Chapter 8 of Title 23.1 and employed by any public institution of higher education shall be presumed to be occupational diseases, suffered in the line of duty, that are covered by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary.



4. OBTAINING PRESCRIPTION DRUGS BY FRAUD, DECEIT, OR FORGERY

SPONSORED BY VICE-MAYOR JIM WOOD

Background Information:

Over the past year, the City of Virginia Beach has experienced an increase in the amount of illegally obtained prescription drugs via rogue internet sites that sell prescription drugs without valid prescriptions. These drugs are not FDA approved, and are often adulterated or misbranded. This involves Schedule II narcotics as well as Schedule III – Schedule VI drugs.

Request:

The General Assembly is requested to initiate legislation criminalizing the purchase of prescription drugs or procuring administration of prescription drugs including controlled substances by fraud, deceit, or forgery.

DRAFT



5. SMART SCALE - RESILIENCY

SPONSORED BY COUNCILMEMBER BARBARA HENLEY

Background Information:

According to the Virginia General Assembly, it is in the "public interest that a prioritization process ...be ...implemented to improve the efficiency and effectiveness of the state's transportation system, transportation safety, transportation accessibility for people and freight, environmental quality, and economic development in the Commonwealth" (§33.2-214.1 of the Code of Virginia). This process, known as SMART SCALE, allows the Commonwealth Transportation Board and the Virginia Department of Transportation to score and subsequently award funds to new transportation construction projects throughout the Commonwealth of Virginia. In the forthcoming SMART SCALE Round 4, it is estimated that \$1 billion will be distributed to projects based upon this scoring system.

Despite the existence of categories covering congestion mitigation, economic development, accessibility, safety, and environmental quality, no category considers or evaluates a metric that will define the efficiency and effectiveness of the Hampton Roads and Virginia Beach transportation system in the 21st Century: resiliency. Although resiliency could be accounted for within several of the existing categories, to date, resiliency is not mentioned in their definitions. For example, safety considers crash frequency and rate, while environment scores are based upon sensitive acreage disturbed and air quality.

As a result of this exclusion, Virginia Beach and other localities transportation projects that are in part designed due to the threat of climate change, rising seas, and disruptive weather events score poorly in the SMART SCALE process. Further, projects that score in the existing categories are not given an additional benefit for their potential longevity. Given the critical need for the transportation sector to be part of the City, region, and Commonwealth's response to sea level rise, resiliency must be considered a factor in Round 5 of SMART SCALE and in other future awards of transportation dollars by the Commonwealth Transportation Board and the Virginia Department of Transportation.

Request:

The City Council of the City of Virginia Beach requests that the General Assembly amend §33.2-214.1 to incorporate resiliency. Specifically, the City requests that §33.2-214.1(A) be rewritten to read "The General Assembly declares it to be in the public interest that a prioritization process for projects funded by the Commonwealth Transportation Board be developed and implemented to improve the efficiency and effectiveness of the state's transportation system, transportation safety, transportation accessibility for people and freight, *current and future transportation resiliency*, environmental quality, and economic development in the Commonwealth" and that §33.2-214.1(B)(1) state, "The prioritization process shall be based on an objective and quantifiable analysis that considers, at a minimum, the following factors relative to the cost of the project or strategy: congestion mitigation, economic development, accessibility, safety, and environmental quality, *and resiliency.*"

Furthermore, the City Council requests that the Commonwealth Transportation Board and the Virginia Department of Transportation adopt the following definition of resiliency: "*The ability to anticipate, prepare for, or adapt to conditions; or withstand, respond to, or recover rapidly from disruptions;*



including the impacts of sea level rise, extreme weather events, flooding, or other natural disasters. This resilience should extend to the entire transportation system including all modes and components such as roads, railroads, waterways, runways, power from multiple sources and various fuels, control and communications location systems, consideration of alternative routes. Alternative- especially harden routes for which there are no good alternative, alternative sources and backup system for fuels and backup control, communications, location systems, increased flooding from sea level rise, subsidence, increased occurrence of record storms, increased intensity of hurricanes, winter weather events and other extreme climatological and other climatological occurrences".

Put very simply, a road system is only as good as it's drainage system, or the electrical system for traffic control, etc. For instance, VDOT is now requiring that road and bridge projects take into account projected sea level rise, but no additional credit is given to those added costs.

DRAFT



6. LIMITATION ON THE NUMBER OF BALLOONS THAT MAY BE SET FREE

SPONSORED BY COUNCILMEMBER GUY TOWER

Background Information:

The Virginia Aquarium & Marine Science Center, Clean Virginia Waterways, Christina Trapani Consulting, and Virginia's Coastal Zone Management Program have been monitoring coastal shorelines, water quality, and marine animal health in the state for more than 25 years. During this period, the Virginia Aquarium conducted coastal surveys, responded to stranded animals, and identified and documented the impacts of balloons on the environment. During these surveys, more than 150 balloons and balloon parts (ribbons, plastic closures) were recorded per mile of beach. Balloon litter injures and kills wildlife – more than 30 animal species are known to be impacted by balloons. The Virginia Aquarium's nationally recognized stranding response team has documented numerous balloons ingested by endangered sea turtles and marine mammals.

In Virginia, it is currently legal for any person to release up to 49 balloons within a one-hour period – in essence, it is legal to litter. Released balloons are a particularly insidious form of litter because of the ease with which they travel great distances and impact even remote areas. The Virginia Aquarium studies have documented balloons on Virginia beaches from as far away as Northern Virginia and even other states such as North Carolina, Maryland, New York, West Virginia, and Kansas.

Request:

The General Assembly is requested to support legislation for the prohibition of any person for the deliberate, outdoor release, of any balloon(s). The proposed legislation would include a civil penalty of \$25 per balloon released, to be paid into the Nongame Wildlife Fund of the Virginia Department of Wildlife Resources. The bill would have exceptions for government agencies and releases for approved scientific and meteorological purposes.



7. DEFINITION OF SMALL BUSINESS

SPONSORED BY COUNCILMEMBERS SABRINA WOOTEN & ROSEMARY WILSON

Background Information:

Currently there are multiple definitions for small businesses in the code of Virginia. The one that is utilized most predominantly is in the Virginia Public Procurement Act. This states that a small business means a business independently owned and controlled by one or more individuals who are US citizens or legal resident aliens and together with affiliates has 250 or fewer employees or annual gross receipts of \$10 million or less averaged over the previous three years.

Under this current definition a “small business could have 250 employees and greater than annual gross revenues of \$10 million”. This means that a certified small business could have unlimited annual revenue and receive the benefits of being a small business under the code.

Request:

The General Assembly is requested to amend the code of Virginia section 2.2 – 4310 to substitute the word “and” for “or” in the definition of a small business. This would mean that a small business would be defined as having 250 or fewer employees and annual gross receipts of \$10 million or less averaged over the previous three years. This is thought to provide a truer definition of a small business in Virginia than the current code.

DRAFT



8. DIVERSITY IN JUDICIAL APPOINTMENTS

SPONSORED BY COUNCILMEMBER MICHAEL BERLUCCHI & THE VIRGINIA BEACH HUMAN RIGHTS COMMISSION

Background Information:

Bringing diverse experiences and perspectives to bear, allows judges to make better informed decisions and increases public confidence in their rulings. Given the diversity of the citizenry subject to the power of local courts in Virginia, judges from different backgrounds and experiences help to enrich judicial decision-making by including a variety of voices and perspectives. Despite these important benefits, the City's courts do not reflect the diversity of the City they serve. A recent retirement from this court has exacerbated this problem.

Request:

The City requests that the General Assembly give favorable consideration to judicial candidates who are exceptionally well-qualified, but who also reflect the full diversity of the community they serve, and especially candidates of color, when filling any Virginia Beach court vacancy.

DRAFT



9. RESTORE FUNDING DURING THE 2021 SESSION FOR THE RENOVATION OF BUILDING 2 IN RESPONSE TO THE EVENTS OF MAY 31, 2019

SPONSORED BY CITY COUNCIL

Background Information:

In response to the tragedy of May 31, 2019, City Council has pledged to not require workers previously working from Building 2 to return to those office spaces. The City is planning a total of \$83 million of expenditures to renovate three buildings in order to accommodate the workers from Building 2 into facilities that better serve the public. The displaced employees are working from over 20 different locations throughout the City. \$4 million has been expended for designing the needed renovations. Building 2 would be repurposed as Police headquarters and the first precinct headquarters, the current Police headquarters building, would be renovated at the cost of \$19 million to accommodate some of the workers previously in Building 2. The current City Hall would be renovated at a cost of \$30 million to accommodate the remainder of the displaced workers.

Request:

The General Assembly is requested to appropriate \$10 million during the regular 2021 General Assembly session to the City to assist in renovations to the Building 2 at the City Hall complex made necessary due to the tragedy of May 31, 2019.



10. REQUEST FOR THE GENERAL ASSEMBLY TO RESTORE FUNDING TO K-12 EDUCATION

SPONSORED BY CITY COUNCIL

Background Information:

The General Assembly in its Regular Session of 2020 adopted significant increases in funding for kindergarten through 12th grade education. This additional funding would have provided substantial increases to teachers and other school system employees. Following the realization of the impact of the COVID-19 epidemic, the General Assembly re-allotted over \$2 billion in K-12 funding and subsequent to that defunded that amount. While although the state and the nation as a whole are still suffering under the impacts of COVID-19, impacts on the revenues of the Commonwealth are substantially less severe than envisioned just two months ago. The General Assembly may be in a position in January to restore a substantial amount of the funding that has been reduced for K-12 and other uses.

Request:

The General Assembly is requested, to the extent possible, restore the de-allotted funding to K-12 made necessary after the adjournment of the Regular Session of 2020 with revenues much improved over that forecast just a few months ago. The General Assembly may be in a much better position fiscally by the middle of February 2021 when final decisions on the budget must be made.

DRAFT



11. STORMWATER SUPPLEMENTAL FEE TO SUPPORT FLOOD MITIGATION BOND REFERENDUM

SPONSORED BY COUNCILMEMBER JOHN MOSS

Background Information:

Section 15.2-2114 of the Virginia Code authorizes a locality to undertake a stormwater management program. Included in this legislation is the authorization to impose stormwater charges to residents of the City receiving the services provided by the stormwater management program. The City has a two-tier rate structure. The rate structure for residential customers is by a fixed equivalent residential unit or ERU. The rate structure for non-residential customers is based on the impermeable square footage of the relevant parcel.

As the City explores a possible bond referendum for flood mitigation, there is a desire to apportion the costs of flood mitigation projects equally upon all residents of the City. If the City seeks to pay for the debt associated with a flood mitigation referendum through increased real estate taxes, there would be an inequitable distribution of the burden of such debt, so the City desires additional options to structure the repayment of debt for flood mitigation.

Request:

The City Council requests enabling authority to permit the levy of a supplemental stormwater management charge dedicated to flood mitigation upon properties exempted from real estate taxes, and such supplemental stormwater management charge shall be equal to the proportional costs imposed from increased real estate taxes upon taxable properties required for repayment of debt issued pursuant to a bond referendum for flood mitigation.



12. REQUEST FOR A \$10 MILLION APPROPRIATION FOR THE HAMPTON UNIVERSITY PROTON THERAPY CANCER INSTITUTE

SPONSORED BY COUNCILMEMBER SABRINA WOOTEN

Background Information:

The Hampton University Proton Therapy Cancer Institute (HUPTI) is a \$225M state-of-the-art cancer treatment and research facility. HUPTI utilizes innovative precision medicine applications treating cancers of all types. Hampton University's outstanding medical physics program, strong ties to Jefferson Labs and long-standing relationship with the local cancer treatment health community made it uniquely suited to become home to our nation's eighth proton therapy treatment center.

HUPTI treats prostate, lung, breast, head and neck, CNS and brain, pediatric, and gynecological cancers using a state-of-the-art facility.

Most recently, Hampton University is also developing a strong COVID-19 Testing Center and a strategic MRI capability, that allows patients in Virginia's underserved areas to receive much needed diagnosis of lung conditions caused by COVID-19, which is a respiratory virus. Hampton University has been a partner with Virginia Beach for many years and is consistently recognized nationally as one of the finest Historically Black Colleges and Universities (HBCU) in the nation.

Request:

The City Council of Virginia Beach supports the request of Hampton University to the General Assembly, during its 2021 session, to appropriate \$10 million to the Hampton University Proton Therapy Institute so they can expand its cancer therapy outreach and research. In addition to continuing to provide precision medicine via the proton beam while developing the delivery of innovative MRI advanced technology, especially to the underserved populations throughout the Commonwealth. Cancer remains the leading cause of death in Virginia and in the City of Virginia Beach citizens produce is the largest percentage of patients at HUPTI.

G. PUBLIC HEARINGS

1. **ACQUISITION OF AGRICULTURAL LANDS PRESERVATION (ARP) EASEMENT**
58.22 acres at the 1200 block of Princess Anne Road
2. **PROPOSED CAFÉ FRACHISE AGREEMENT**
Thirsty 24, LLC t/a Atlantic Pints at 2314 Atlantic Avenue
3. **USE OF CITY PROPERTY**
Parking Use Agreement at Lynnhaven Municipal Marina with Chick's Marina Properties, LLC (13 spaces between 4 a.m. - 4 p.m. & 24 spaces between 4 p.m. - 4 a.m.)
4. **LEASE OF CITY PROPERTY**
 - a. 1113 Atlantic Avenue (deWitt Cottage)
 - b. 912 Princess Anne Road to the Senior Resource Center, Inc.



**NOTICE OF LOCATION CHANGE
FOR CITY COUNCIL MEETINGS**

Beginning October 13, 2020, all City Council meetings will be held at the **Virginia Beach Convention Center, Suite 5**, located at 1000 19th Street, Virginia Beach, Virginia, until further notice.

Please note that the City Council workshop scheduled for October 13, and the City Council meeting scheduled for October 20, may have been previously advertised as occurring at the City Council Chambers at the Municipal Center. Please disregard the meeting location contained within those advertisements as those meetings have been moved to the Convention Center, Suite 5.

Amanda Barnes
City Clerk

PILOT: 10/10/20 and 10/12/2020



**NOTICE OF PUBLIC HEARING
ON THE EXECUTION AND DELIVERY OF
AN INSTALLMENT PURCHASE
AGREEMENT FOR THE
ACQUISITION OF DEVELOPMENT RIGHTS
ON CERTAIN PROPERTY BY THE CITY OF
VIRGINIA BEACH, VIRGINIA**

Notice is hereby given that the City Council of the City of Virginia Beach, Virginia, will hold a public hearing with respect to the execution and delivery of an Installment Purchase Agreement for the acquisition of an agricultural land preservation easement with respect to 58.22 acres of land located in the 1200 block of Princess Anne Road, in the City of Virginia Beach, Virginia (GPIN: 2401-92-6325), pursuant to Ordinance No. 95-2319, as amended, known as the Agricultural Lands Preservation Ordinance, which establishes an agricultural reserve program for the southern portion of the City designated to (a) promote and encourage the preservation of farmland, (b) preserve open spaces and the area's rural character, (c) conserve and protect environmentally sensitive resources, (d) reduce and defer the need for major infrastructure improvements and the expenditure of public funds for such improvements, and (e) assist in shaping the character, direction and timing of community development. Such easement will be purchased pursuant to an Installment Purchase Agreement for an estimated maximum purchase price of \$681,174.00. The City's obligation to pay the purchase price under the Installment Purchase Agreement is a general obligation of the City, and the full faith and credit and the unlimited taxing power of the City will be irrevocably pledged to the punctual payment of the purchase price and the interest on the unpaid principal balance of the purchase price as and when the same respectively become due and payable. The public hearing, which may be continued or adjourned, will be held by the City Council on **October 20, 2020**, at **6:00 p.m.** in the City Council Chamber located on the 2nd floor of the City Hall Building, 2401 Courthouse Drive, Virginia Beach, Virginia. Any person interested in this matter may appear and be heard.

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

1. Register for the WebEx at:
<https://vbgov.webex.com/vbgov/jnstage/g.php?MTID=ee627a0d522baf90ddba7c5d8347e7ce>
2. Register with the City Clerk's Office by calling 757-385-4303 or via email at abarnes@vbgov.com prior to 5:00 p.m. on October 20, 2020.

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. Please provide the Virginia Relay operator the login information for the WebEx and the operator will login to allow participation for individuals with hearing disabilities. The meeting will be broadcast on cable TV, www.vbgov.com, and Facebook Live.

Amanda Barnes
City Clerk

BEACON: 10/04/20 and 10/11/20



PUBLIC NOTICE

The Virginia Beach City Council will hold a **PUBLIC HEARING** at 6:00 P.M. on **October 20, 2020** in the City Council Chamber regarding a proposed café franchise agreement for City-owned property located at the following location:

2314 Atlantic Avenue to Thirsty-24, LLC, t/a Atlantic Pints, for an Atlantic Avenue Sidewalk Café (15-24).

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.

AMB

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

1. Register for the WebEx at:
<https://vbgov.webex.com/vbgov/ostage/p.php?MTID=ee627a0d522baef90ddb7c5d8347e7ce>
2. Register with the City Clerk's Office by calling 757-385-4303 or via email at abarnes@vbgov.com prior to 5:00 p.m. on October 20, 2020.

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. Please provide the Virginia Relay operator the login information for the WebEx and the operator will login to allow participation for individuals with hearing disabilities. The meeting will be broadcast on cable TV, www.vbgov.com, and Facebook Live.

Amanda Barnes
City Clerk

BEACON: 10/11/20



PUBLIC HEARING

USE OF CITY PROPERTY

The Virginia Beach City Council will hold a **PUBLIC HEARING** on the proposed leasing of City-owned property on **October 20, 2020 at 6:00 p.m.** at the Virginia Beach Convention Center, Suite 5, located at 1000 19th Street, Virginia Beach, Virginia. The purpose of this hearing will be to obtain public comment on the use of the following City-owned property:

24 Parking Spaces at the Lynnhaven Municipal Marina located at 3211 Lynnhaven Drive (GPIN: 1489-98-2246) to Chicks Marina Properties, LLC (a/k/a Chick's Oyster Bar)

If you are **physically disabled** or **visually impaired** and need assistance at this meeting, please call the **City Clerk's Office at 385-4303**; **Hearing impaired** call 711.

Any questions concerning this matter should be directed to the City's Department of Parks & Recreation, 2154 Landstown Road, Virginia Beach, VA 23456 (757) 385-1100.

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

- Register for the WebEx at:
<https://vbgov.webex.com/vbgov/onstage/g.php?MTID=ee627a0d522ba7f90ddba7c5d8347e7ce>

- Register with the City Clerk's Office by calling (757) 385-4303 or via email at ABarnes@vbgov.com prior to 5:00 p.m. on October 20, 2020

All interested parties are invited to attend.

Amanda Barnes
City Clerk

Pilot: October 11, 2020



**CITY OF VIRGINIA BEACH
AGENDA ITEM**

ITEM: An Ordinance Authorizing the City Manager to Execute a Use Agreement for up to Five Years with Chick's Marina Properties, L.L.C. (a/k/a Chick's Oyster Bar) for the Non-Exclusive Use of 24 Parking Spaces Located at the Lynnhaven Municipal Marina

PUBLIC HEARING DATE: October 20, 2020

MEETING DATE: November 17, 2020

- **Background:** The City of Virginia Beach (the "City") owns property located at 3211 Lynnhaven Drive (GPIN: 1489-98-2246), known as the Lynnhaven Municipal Marina (the "Marina Property"). Chick's Marina Properties, L.L.C., a Virginia limited liability company ("Chick's"), owns property located at 2143 Vista Circle (GPIN: 1489-88-9038), known as Chick's Oyster Bar, which is adjacent to the Marina Property.

In 2014, while Chick's parking lot was being renovated, and in 2018, while the City performed bulkhead repairs, Chick's and the City entered into short-term parking agreements for Chick's use of parking spaces at the Marina Property.

In May 2020, Chick's and the City entered into a temporary parking agreement for the use of 24 parking spaces, subject to availability, until a request for a formal agreement could be brought before City Council for consideration. Chick's desires to enter into a formal agreement with the City for the non-exclusive use of 24 parking spaces at the Marina Property (the "Use Agreement"), as shown on Exhibit A attached to the Ordinance.

This item was originally part of the agenda for the City Council's October 6, 2020 formal meeting, but that meeting was cancelled at the recommendation of the Health Department.

- **Considerations:** The Use Agreement would be for an initial term of 6 months (April 2021 through September 2021), with four additional 6-month renewal options (April through September each year thereafter), not to exceed 5 years. The Use Agreement would also include the option for Chick's to expand the initial term (and each renewal term) on a month-to-month basis during the off-season, with the mutual consent of the parties.

Chick's has agreed to pay \$50 per space, per month. Terms and conditions of the Use Agreement are more specifically set forth in the Summary of Terms,

attached to the Ordinance as Exhibit B. The use of the spaces will be non-exclusive and subject to availability.

- **Public Information:** A public hearing will be advertised on October 11, 2020 in *The Virginian-Pilot*. The public hearing will be held on October , 2020. Public notice will be provided via the normal City Council agenda process.
 - **Alternatives:** Approve as presented, modify the terms, or deny.
 - **Recommendations:** Approval
 - **Attachments:** Ordinance, Location Map (Exhibit A), Summary of Terms (Exhibit B), Disclosure Statement Form.
-

Recommended Action: Approval

Submitting Department/Agency: Parks & Recreation

City Manager: 

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AN ORDINANCE AUTHORIZING THE CITY
MANAGER TO EXECUTE A USE AGREEMENT
FOR UP TO FIVE YEARS WITH CHICK'S
MARINA PROPERTIES, L.L.C. (A/K/A CHICK'S
OYSTER BAR) FOR THE NON-EXCLUSIVE
USE OF 24 PARKING SPACES LOCATED AT
THE LYNNHAVEN MUNICIPAL MARINA

WHEREAS, The City of Virginia Beach (the "City") owns property located at 3211
Lynnhaven Drive (GPIN: 1489-98-2246), known as the Lynnhaven Municipal Marina (the
"Marina Property");

WHEREAS, Chick's Marina Properties, L.L.C., a Virginia limited liability company
("Chick's"), owns property located at 2143 Vista Circle (GPIN: 1489-88-9038), known as
Chick's Oyster Bar, which is adjacent to the Marina Property;

WHEREAS, in 2014 and 2018, during various renovation and repair projects,
Chick's and the City entered into short-term parking agreements for Chick's use of parking
spaces at the Marina Property;

WHEREAS, Chick's desires to enter into a formal agreement with the City for the
non-exclusive use of 24 parking spaces at the Marina Property (the "Use Agreement"),
as shown on Exhibit A attached hereto and made a part hereof;

WHEREAS, the Use Agreement would be for a term of 6 months (April through
September), with the option to extend on a month-to-month basis during the off-season,
and would include 4 additional renewal options (April through September) on the mutual
agreement of the parties; and

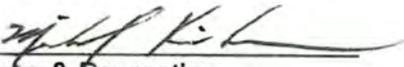
WHEREAS, the terms and conditions of the Use Agreement are more specifically
set forth in the Summary of Terms, attached hereto as Exhibit B and made a part hereof.

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

That the City Manager, or his designee, is hereby authorized to execute a Use
Agreement with Chick's Marina Properties, LLC, a Virginia limited liability company, for
the non-exclusive use of 24 parking spaces located at the Lynnhaven Municipal Marina
as shown on Exhibit A, attached hereto and made a part hereof, so long as the terms and
conditions are in accordance with the Summary of Terms, attached hereto as Exhibit B,
and made a part hereof, and such other terms, conditions or modifications as may be
acceptable to the City Manager and in a form deemed satisfactory by the City Attorney.

Adopted by the Council of the City of Virginia Beach, Virginia, on the _____ day of
_____, 2020.

APPROVED AS TO CONTENT:


Parks & Recreation

APPROVED AS TO LEGAL
SUFFICIENCY:


City Attorney

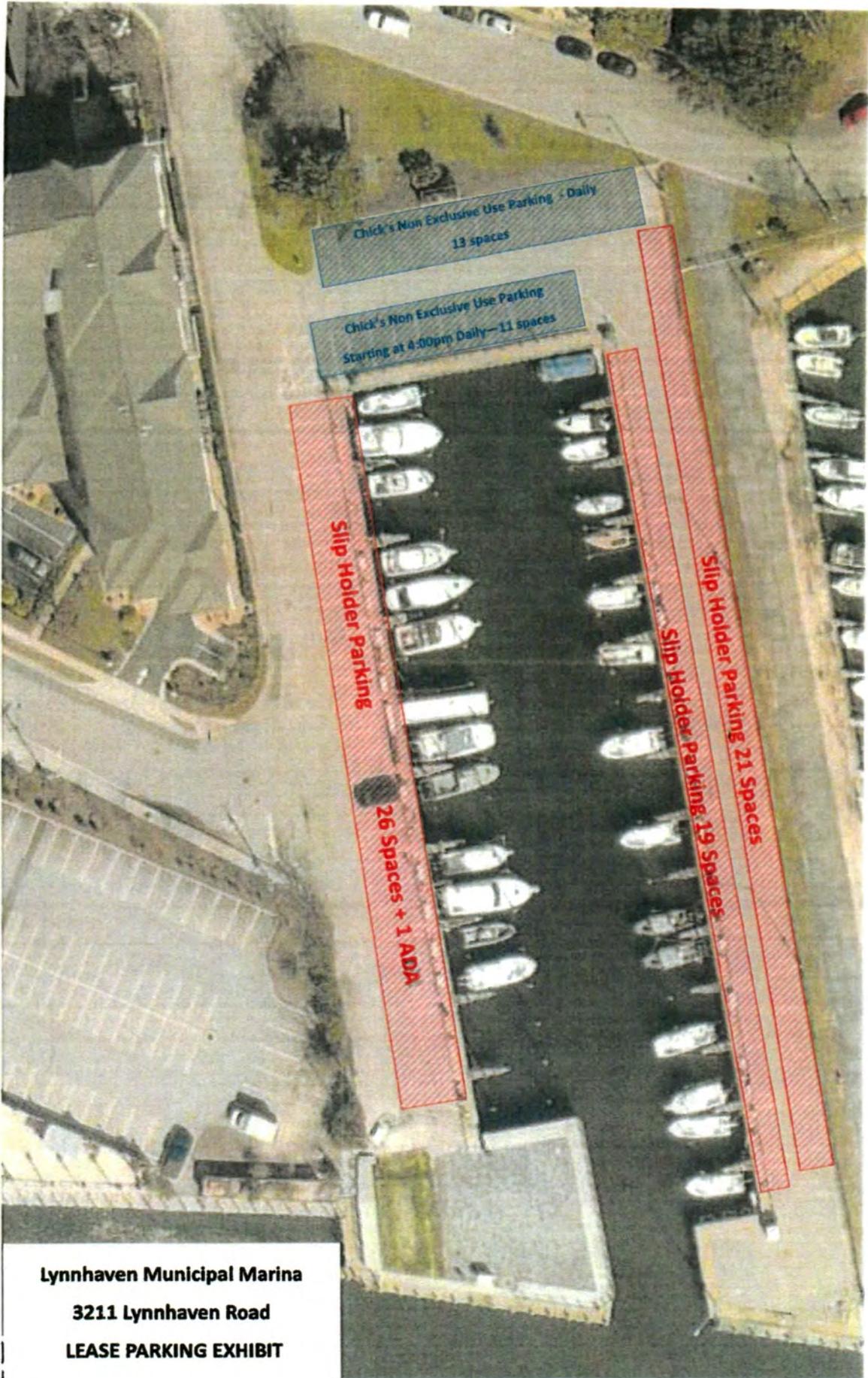
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R-1

September 25, 2020

EXHIBIT A



Lynnhaven Municipal Marina
3211 Lynnhaven Road
LEASE PARKING EXHIBIT

EXHIBIT B

SUMMARY OF TERMS

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

USER: Chick's Marina Properties, L.L.C. (a/k/a Chick's Oyster Bar)

PROPERTY: 24 Parking Spaces Located at the Lynnhaven Municipal Marina (in the locations as shown on Exhibit A)

TERM: April 1, 2021 through September 30, 2021, with the option to renew for (4) additional six-month terms

The Use Agreement will only be effective for the months of April through September of each year, with the User having the option to expand the use on a month-to-month basis, on written request and mutual consent.

USE FEE: \$50.00 per space, per month

RIGHTS AND RESPONSIBILITIES OF USER:

- Parking spaces to be used for vehicle parking for User's employees (only) and for no other purpose
- Use of the spaces to be non-exclusive and subject to availability
- 13 spaces may be used anytime through the day and 11 spaces may be used daily after 4:00 p.m. only.
- Provide a certificate of insurance, naming the City as additional insured, with combined single limit coverage in the amount of \$1,000,000.
- Indemnify and hold the City harmless from of all claims related to the use of the Property.
- Comply with all federal, state and local statutes, ordinances and regulations.
- Keep the Property free of all trash and debris.

RIGHTS AND RESPONSIBILITIES OF THE CITY:

- City will be responsible for normal and routine maintenance of the paved area of the Property.

TERMINATION:

- City may terminate upon giving seven (7) days' written notice to User in the event of default of the terms of the agreement or if the Property is needed for any public purpose.
- User may terminate for any reason upon giving seven (7) days' written notice to the City.



APPLICANT'S NAME CHICK'S MARINA PROPERTIES, L.L.C.

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:

Table with 3 columns: Acquisition of Property by City, Disposition of City Property, Modification of Conditions or Proffers. Rows include items like Alternative Compliance, Economic Development Investment Program, Nonconforming Use Changes, etc.

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

Handwritten entry: No change as of 9/25/20 / [Signature]



- 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: CHICK'S MARINA PROPRTIE!

If an LLC, list all member's names:

MICHAEL S. ATKINSON
CORY R. BEISEL

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-subsidiary¹ or affiliated business entity² relationship with the Applicant: *(Attach list if necessary)*

FIVE-O-1 SEA GRILL, INC. trading as Chick's Oyster Bar

See next page for information pertaining to footnotes¹ and²

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: _____
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)*

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

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

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

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



APPLICANT

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

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

YES	NO	Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	

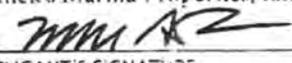
If yes, what is the name of the official or employee and what is the nature of the interest?



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.

Chick's Marina Properties, I.L.C.		
By: 		7.1.20
APPLICANT'S SIGNATURE	PRINT NAME	DATE
Michael S. Atkinson, Member		7.1.20

By: 
Gary R. Beissel, Member



OWNER

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

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

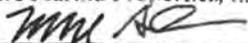
YES	NO	Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	

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

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.

Chick's Marina Properties, I.L.C.		
By: 		7-1-20
PROPERTY OWNER'S SIGNATURE	PRINT NAME	DATE
Michael Atkinson, Member		7-1-20

By: 
Cory R. Beisel, Member



PUBLIC HEARING

LEASE OF CITY PROPERTY

The Virginia Beach City Council will hold a **PUBLIC HEARING** on the proposed leasing of City-owned property on Tuesday, **October 20, 2020 at 6:00 p.m.** at the Virginia Beach Convention Center, Suite 5, located at 1000 19th Street, Virginia Beach, Virginia. The purpose of this hearing will be to obtain public comment on the City's proposal to lease the following property:

1113 Atlantic Avenue, commonly known as the deWitt Cottage (GPIN: 2427-25-5317) to Back Bay Wildfowl Guild, Inc.

If you are physically disabled or visually impaired and need assistance at this meeting, please call the City Clerk's Office at 385-4303; Hearing impaired call 711.

Any questions concerning this matter should be directed to the Department of Public Works - Facilities Management Office, Room 228, Building 18, at the Virginia Beach Municipal Center - (757) 385-5659.

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

- Register for the WebEx at:
<https://vbgov.webex.com/vbgov/onstage/g.php?MTID=ee627a0d522bacf90ddb7c5d8347e7c8>
- Register with the City Clerk's Office by calling (757) 385-4303 or via email at ABarnes@vbgov.com prior to 5:00 p.m. on October 20, 2020

All interested parties are invited to attend.

Amanda Barnes
City Clerk

Pilot: October 11, 2020



PUBLIC HEARING

LEASE OF CITY PROPERTY

The Virginia Beach City Council will hold a **PUBLIC HEARING** on the proposed leasing of City-owned building on **October 20, 2020 at 6:00 p.m.** in the Council Chamber of the City Hall Building (Building #1) at the Virginia Beach Municipal Center, Virginia Beach, Virginia. The purpose of this hearing will be to obtain public comment on the City's proposal to lease the following properties:

The City-owned building located at 912 Princess Anne Road (GPIN: 2400-50-4742), known as the "Old Creeds Library," to Senior Resource Center, Inc.

If you are physically disabled or visually impaired and need assistance at this meeting, please call the City Clerk's Office at 385-4303; Hearing impaired call 711.

Any questions concerning this matter should be directed to the Department of Public Works - Facilities Management Office, Room 228, Building 18, at the Virginia Beach Municipal Center - (757) 385-5659.

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/jstage/g.php?MTID=ee627e0d522bac790ddba7c5d8347e7ce>
2. Register with the City Clerk's Office by calling 757-385-4303 or via email at abarnes@vbgov.com prior to 5:00 p.m. on October 20, 2020.

All interested parties are invited to attend.

Amanda Barnes
City Clerk

BEACON: 10/11/20

H. FORMAL SESSION AGENDA

I. CONSENT AGENDA

I. ORDINANCES/ RESOLUTIONS

1. Resolutions to **REFER** to Planning Commission six (6) Ordinances pertaining to the City Zoning Ordinance (CZO): *(a-e Requested by Vice Mayor Wood, Council Member Jones and Council Member Tower)
 - a. **AMEND** Section 102 re **establish short term rental overlay districts**
 - b. **ADD** Article 23, Sections 2300 to 2303 re **establish regulations and requirements to short term rentals in each overlay district**
 - c. **AMEND** Official Zoning Map by the designation and incorporation of property into short term rental overlay districts re **West Shore Drive, East Shore Drive, North End, and Oceanfront Resort District**
 - d. **AMEND** Sections 401, 501, 506, 601, 901, 1110, 1125, 1521 and 2203 and Section 5.2 of the Oceanfront Resort District Form-Based Code re **requirements and use of short term rentals and overlays**
 - e. **ESTABLISH** transitional rules for the review of short term rental Conditional Use Permits in overlay districts
 - f. **AMEND** Section 241.2 re **establish additional safety requirements to short-term rentals** (Requested by Council Member Henley)
2. Resolution to **MOVE** the **November 3, 2020, Regular Meeting** of the City Council to **November 10, 2020** (Requested by Mayor Dyer and Vice Mayor Wood)
3. Ordinance to **AMEND** City Code Section 2-20 re **location of City Council Meetings**
4. Resolution to formally **RE-ADOPT** the **Virginia Beach Emergency Operations Plan (EOP)**
5. Resolution to **AUTHORIZE** the issuance and sale of **General Obligation Refunding Bond, Series 2020**, in an aggregate principal amount not to **EXCEED** \$3,445,000 and the execution and delivery of certain documents prepared in connection therewith
6. Resolution to **DESIGNATE** Virginia Beach as a **Bee City USA** affiliate
7. Ordinance to **ESTABLISH** new **Capital Improvement Projects** for FY2020-21 and **TRANSFER** \$738,534 from the Capital Project #100423 Traffic Safety Improvements (TSI) IV to the newly created capital projects:
 - a. #100554 Independence Boulevard / Columbus Street Pedestrian Improvements
 - b. #100555 Parliament Drive Sidewalk Phase I
 - c. #100556 Sandbridge Road Sidewalk
8. Ordinance to **ADOPT** revised regulations for Resort Area Outdoor Café Franchise
9. Ordinance to **GRANT** a Franchise Agreement for an Open Air Café in the Resort Area to **Thirsty-24, LLC t/a Atlantic Pints** at 2314 Atlantic Avenue re **Atlantic Avenue Sidewalk Café**

10. Ordinance to **AUTHORIZE**:
 - a. Acquisition of an Agricultural Land Preservation (ARP) easement from **Holly Road, LLC and Ola Hill Krueger** (58.22 +/- acres)
 - b. issuance by the City of its contract obligation in the maximum principal amount of \$681,174; and
 - c. **TRANSFER** funds to purchase U.S. Treasury Strips
11. Ordinance to **AUTHORIZE** the City Manager to **EXECUTE** a Lease of City-owned Property for up to five (5) years with Back Bay Wildfowl Guild, Inc. at 1113 Atlantic Avenue re **the deWitt Cottage**
12. Ordinance to **AUTHORIZE** the City Manager to **EXECUTE** a Building Lease and Cooperative Agreement for up to five up to five (5) years with **Senior Resource Center, Inc.** at 912 Princess Anne Road re **provide support and services to senior citizens residing in the southern part of Virginia Beach**
13. Ordinance to **AUTHORIZE** the acquisition of property in fee simple re **Princess Anne Plaza North London Bridge Creek Pump Station Project, CIP# 7-089** and the acquisition of temporary and permanent easements, either by agreement or condemnation
14. Ordinance to **AUTHORIZE** a temporary encroachment into a portion of City-Owned Property known as **Treasure Canal in Bay Island** adjacent to 2233 Spinnaker Circle re **construct and maintain a proposed boat lift**
15. Ordinance to **AUTHORIZE** a temporary encroachment into a portion of existing, unimproved City right-of-way at the **Corner of Schumann Drive, formerly Old Dam Neck Road, and Firefall Drive** located adjacent to 685 Firefall Drive re **construct and maintain an interpretive park comprised of an asphalt path, bordered with reclaimed brick, five (5) interpretive signs, three (3) benches, trash receptacles and a dog waste station**
16. Ordinance to **RESERVE** Fund Balance within the General Fund for the Pandemic Financial Relief and Assistance and **APPROPRIATE** \$10-Million in grants to the United Way of South Hampton Roads (\$8-Million) and FY2020-21 Emergency Medical Services (EMS) Operating Budget (\$2-Million) re **emergency assistance for residents and nonprofit volunteer rescue squads**
17. Ordinance to **APPROPRIATE** \$2.4-Million of Fund Balance in the General Fund and \$831,851 of Fund Balance in the Waste Management Enterprise Fund re **purchase replacement vehicles and equipment**
18. Ordinances to **ACCEPT** and **APPROPRIATE**:
 - a. \$29,000 from the Virginia Department of Forestry to FY2020-21 Parks and Recreation Operating Budget and **AUTHORIZE** local match re **tree plantings and review / update the Urban Forest Management Plan**
 - b. \$36,000 from Virginia Department of Criminal Justice Services to FY2020-21 Police Department Operating Budget re **purchase of sanitizing equipment**
 - c. \$48,000 from the Department of Motor Vehicles (DMV) to the FY 2020-21 Police Department Operating Budget and **AUTHORIZE** 50% in-kind match re **overtime related to the enforcement of DUI laws**

- d. \$48,200 from the Department of Motor Vehicles (DMV) to the FY2020-21 Police Department Operating Budget and to **AUTHORIZE** 50% in-kind match re **overtime related to the enforcement of seat belt laws**
- e. \$288,975 from the Department of Homeland Security to the FY 2020-21 Police Operating Budget and **TRANSFER** funds within the FY2020-21 Police Operating Budget to provide the required local grant match re **marine patrol equipment**
- f. \$49,000 from the Department of Homeland Security to the FY2020-21 Police Operating Budget re **law enforcement equipment**
- g. \$39,258,497 from the United States Department of Treasury CARES Act Coronavirus Relief Fund to FY2020-21 Grant Fund re **reimbursable expenses**
- h. \$70,991 from the Edward Byrne Justice Assistance Grant (JAG) to the FY2020-21 Sheriff's Office, Police Department and Community Corrections and Pre-Trial Services Division Operating Budgets re **law enforcement purposes**
- i. \$836,401 from the Federal Emergency Management Agency (FEMA) to the FY2020-21 Emergency Management Operating Budget re **Regional Housing Plan Project**
- j. \$2,941,791 from Housing and Urban Development (HUD) in Federal Funding and Program Income to the FY2020-21 Housing and Neighborhood Preservation Operating Budget re **adjustments in Community Development Block Grant, Housing Choice Voucher and HOME Programs**

19. Ordinances to **TRANSFER:**

- a. \$180,000 within the Waste Management Enterprise Fund and **AUTHORIZE** 7.5 temporary part-time positions re **Apprenticeship Program**
- b. \$1.5-Million within the Stormwater Enterprise Fund re **debt service payments**
- c. \$133,703 to Non-Departmental Operating Budget and **AUTHORIZE** the City Manager to enter into a long-term lease with the Commonwealth of Virginia re **Virginia Aquarium parking lot premises**



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: A RESOLUTION REFERRING TO THE PLANNING COMMISSION ORDINANCES TO AMEND THE CITY ZONING ORDINANCE, PERTAINING TO SHORT TERM RENTALS: TO AMEND SECTION 102 OF THE CITY ZONING ORDINANCE ESTABLISHING SHORT TERM RENTAL OVERLAY DISTRICTS—WEST SHORE DRIVE, EAST SHORE DRIVE NORTH END AND OCEANFRONT RESORT; TO ADD ARTICLE 23, CONSISTING OF SECTIONS 2300 TO 2303, (SHORT TERM RENTAL OVERLAY DISTRICTS) TO THE CITY ZONING ORDINANCE ESTABLISHING REGULATIONS AND REQUIREMENTS PERTAINING TO SHORT TERM RENTALS IN EACH OVERLAY DISTRICT; TO AMEND THE OFFICIAL ZONING MAP BY THE DESIGNATION AND INCORPORATION OF PROPERTY INTO SHORT TERM RENTAL OVERLAY DISTRICTS—WEST SHORE DRIVE, EAST SHORE DRIVE, NORTH END AND OR DISTRICT; TO AMEND SECTIONS 401, 501, 506, 601, 901, 1110, 1125, 1521 AND 2203 OF THE CITY ZONING ORDINANCE AND SECTION 5.2 OF THE OCEANFRONT RESORT DISTRICT FORM-BASED CODE PERTAINING TO THE REQUIREMENTS AND USE OF SHORT TERM RENTALS AND OVERLAYS; ESTABLISHING TRANSITIONS RULES FOR THE REVIEW OF CONDITIONAL USE PERMITS FOR SHORT TERM RENTALS IN THE SHORT TERM RENTAL OVERLAYS

MEETING DATE: October 20, 2020

■ **Background:** City Council adopted ordinances for short term rentals in January of 2019. At this time, changes to these ordinances are being considered. The five (5) ordinances are to amend the City Zoning Ordinance to 1) add 4 additional short term rental overlay districts, 2) to establish the conditions for each overlay district, 3) to amend the official zoning map with the 4 overlays, 4) to amend the requirements for short term rentals in each zoning district, and 5) transition rules for the overlays;

The referral was requested by Vice-Mayor Wood and Councilmember Jones.

This item was originally part of the agenda for the City Council's October 6, 2020 formal meeting, but that meeting was cancelled at the recommendation of the Health Department.

■ **Considerations:** The Planning Commission has 100 days to bring its recommendation to City Council.

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

■ **Recommendations:** The referral Resolution should be adopted to allow further discussion of short term rental uses and its effect on residential neighborhoods.

■ **Attachments:** Resolution
Ordinances

Requested by Vice-Mayor Wood and Councilmembers Jones and Tower

REQUESTED BY VICE-MAYOR WOOD AND COUNCILMEMBERS JONES AND TOWER

1 A RESOLUTION REFERRING TO THE PLANNING
2 COMMISSION ORDINANCES TO AMEND THE CITY ZONING
3 ORDINANCE PERTAINING TO SHORT TERM RENTALS: TO
4 AMEND SECTION 102 OF THE CITY ZONING ORDINANCE
5 ESTABLISHING SHORT TERM RENTAL OVERLAY
6 DISTRICTS—WEST SHORE DRIVE, EAST SHORE DRIVE
7 NORTH END AND OCEANFRONT RESORT; TO ADD
8 ARTICLE 23, CONSISTING OF SECTIONS 2300 TO 2303,
9 (SHORT TERM RENTAL OVERLAY DISTRICTS) TO THE
10 CITY ZONING ORDINANCE ESTABLISHING REGULATIONS
11 AND REQUIREMENTS PERTAINING TO SHORT TERM
12 RENTALS IN EACH OVERLAY DISTRICT; TO AMEND THE
13 OFFICIAL ZONING MAP BY THE DESIGNATION AND
14 INCORPORATION OF PROPERTY INTO SHORT TERM
15 RENTAL OVERLAY DISTRICTS—WEST SHORE DRIVE,
16 EAST SHORE DRIVE, NORTH END AND OR DISTRICT; TO
17 AMEND SECTIONS 401, 501, 601, 901, 1110, 1125, 1521 AND
18 2203 OF THE CITY ZONING ORDINANCE AND SECTION 5.2
19 OF THE OCEANFRONT RESORT DISTRICT FORM-BASED
20 CODE PERTAINING TO THE REQUIREMENTS AND USE OF
21 SHORT TERM RENTALS AND OVERLAYS; ESTABLISHING
22 TRANSITIONS RULES FOR THE REVIEW OF CONDITIONAL
23 USE PERMITS FOR SHORT TERM RENTALS IN THE SHORT
24 TERM RENTAL OVERLAYS

25
26 WHEREAS, the public necessity, convenience, general welfare and good zoning
27 practice so require;

28
29 WHEREAS, concern has been expressed that the density of short term rentals is
30 increasing too rapidly and that the number of short term rentals will make the city appear
31 vacant during the off season; and

32
33 WHEREAS, the five (5) ordinances are to amend the City Zoning Ordinance to 1)
34 create four short term rental overlay districts, 2) to establish the conditions for each overlay
35 district, 3) to amend the official zoning map with the four overlays, 4) to amend the

36 requirements for short term rentals in each zoning district, and, 5) provide transition rules for
37 short term rental conditional use permit applications; and

38
39 BE IT RESOLVED BY THE COUNCIL OF THE CITY OF VIRGINIA BEACH,
40 VIRGINIA:

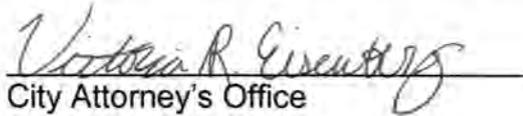
41
42 There are hereby referred to the Planning Commission, for its consideration and
43 recommendation the five (5) ordinances attached hereto.

44
45 BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF VIRGINIA
46 BEACH, VIRGINIA:

47
48 That the Planning Commission be, and hereby is, directed in accordance with Virginia
49 Code Section 15.2-2229 to transmit to the City Council its recommendations concerning the
50 aforesaid amendments no later than one hundred (100) days after the date of the adoption
51 of this Resolution.

Adopted by the City Council of the City of Virginia Beach, Virginia, on the _____ day of
_____, 2020.

APPROVED AS TO LEGAL SUFFICIENCY:


City Attorney's Office

CA15135
R-7
October 6, 2020

REQUESTED BY VICE-MAYOR WOOD AND COUNCILMEMBERS JONES AND TOWER

1 AN ORDINANCE TO AMEND SECTION 102
2 OF THE CITY ZONING ORDINANCE
3 ESTABLISHING SHORT TERM RENTAL
4 OVERLAY DISTRICTS – WEST SHORE
5 DRIVE, EAST SHORE DRIVE, NORTH END
6 AND OCEANFRONT RESORT
7

8 Section Amended: § 102 of the City Zoning
9 Ordinance
10

11 WHEREAS, the public necessity, convenience, general welfare and good zoning
12 practice so require;
13

14 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VIRGINIA
15 BEACH, VIRGINIA:
16

17 That Section 102 of the City Zoning Ordinance is hereby amended and
18 reordained to read as follows:
19

20 **Sec. 102. - Establishment of districts and official zoning maps.**
21

22
23

24 (a1) There are hereby established the following overlay districts:
25

- 26 (1) Shore Drive Corridor Overlay District ("SD");
- 27
- 28 (2) North End Overlay District ("NE");
- 29
- 30 (3) Old Beach Overlay District ("OB");
- 31
- 32 (4) Historic Kempsville Area Overlay District ("HK");
- 33
- 34 (5) Workforce Housing Overlay District ("WF"); and
- 35
- 36 (6) Short Term Rental Overlay District ("STR").

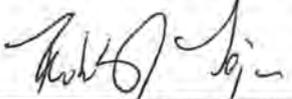
- 37
- 38 a. West Shore Drive ("STR-W")
- 39 b. East Shore Drive ("STR-E")
- 40 c. North End ("STR-NE")
- 41 d. Oceanfront Resort ("STR-OR")
- 42

43 Such districts shall be designated on the official zoning map by an appropriate notation
44 following the designation of the underlying zoning district. As an illustration, property in
45 the Shore Drive Corridor Overlay District and in the B-4 Mixed Use District shall be
46 designated on the official zoning map as having the classification "B-4(SD)."

47
48
49

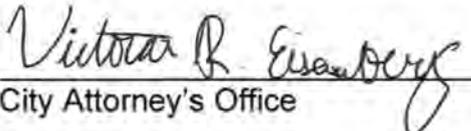
Adopted by the Council of the City of Virginia Beach, Virginia, on the _____ day
of _____, 2020.

APPROVED AS TO CONTENT:



Planning Department

APPROVED AS TO LEGAL SUFFICIENCY:



City Attorney's Office

CA15136
R-3
October 6, 2020

REQUESTED BY VICE-MAYOR WOOD AND COUNCILMEMBERS JONES AND TOWER

1 AN ORDINANCE TO ADD ARTICLE 23,
2 CONSISTING OF SECTIONS 2300 THROUGH 2303,
3 (SHORT TERM RENTAL OVERLAY DISTRICTS) TO
4 THE CITY ZONING ORDINANCE ESTABLISHING
5 REGULATIONS AND REQUIREMENTS
6 PERTAINING TO SHORT TERM RENTALS IN EACH
7 OVERLAY DISTRICT

8
9 Sections Added: City Zoning Ordinance Sections
10 2300 - 2303

11
12 WHEREAS, the public necessity, convenience, general welfare and good zoning
13 practice so require;

14
15 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VIRGINIA
16 BEACH, VIRGINIA:

17
18 That Article 23 of the City Zoning Ordinance, consisting of Sections 2300 through
19 2303, is hereby added and ordained to read as follows:

20
21 **ARTICLE 23. SHORT TERM RENTAL OVERLAY DISTRICTS**

22
23 **Sec. 2300. Findings; intent.**

24
25 The Virginia General Assembly has directed that short term rentals shall be
26 permitted as a principal use in the area defined as the Sandbridge Special Service
27 District. In addition, the City Council hereby finds that there are certain areas of the City
28 in which residential dwellings are, and historically have been, rented to vacationers or
29 others on a short term basis. In these areas, the City Council finds that such use, when
30 appropriately regulated, may be carried on without adversely affecting the adjacent
31 residential neighborhoods. In other areas of the City, short term rentals are not
32 compatible with the residential use of the surrounding properties and are often the
33 cause of excessive noise, illegal or improper parking, traffic violations, congestion and
34 litter, thereby interfering with the quiet enjoyment of the residential neighborhood in
35 which they occur. The provisions of this Article allow short term rentals, with appropriate
36 restrictions, only in those areas directed by the General Assembly and/or in such other

37 areas in which short term rentals may be carried on without adversely affecting the quiet
38 enjoyment of neighboring properties.

39 The East Shore Drive and West Shore Drive Overlays are an area where multi-
40 family dwellings are common and are located very close to the Chesapeake Bay, where
41 rentals have been long established. Other areas of the Shore Drive Overlay contain
42 more single-family dwellings and are not as compatible with the activities of a short term
43 rental. The North End Overlay is also an area on the Atlantic Ocean that has seen a
44 proliferation of rentals for many years, and where rental of property during the summer
45 is a common experience, that does not increase the problems of strangers in a
46 neighborhood. The OR Overlay is in an area of the City that is more urbanized than
47 other areas. Commercial property and establishments are common, and there are few
48 neighborhoods that would be adversely impacted by short term rentals.

49
50 **Sec. 2301. District boundaries.**

51
52 (a) The Short Term Rental Overlay Districts boundaries shall be as
53 designated on the official zoning map of the city (STR).

54
55 (b) Other identified areas of the City may petition the City Council for an
56 overlay to be created if the identified community is able to gather the signatures of sixty
57 (60) percent of the owners of the properties in the community. Such communities shall
58 be pre-existing, and new community boundaries may not be created for the purpose of
59 meeting the requirements of this section for creation of a short term rental overlay.
60 Nothing in this section shall prohibit a member of the City Council from offering a
61 resolution proposing the creation of an overlay district.

62
63 **Sec. 2302. Application of regulations.**

64
65 The designation of any property as lying within a Short Term Rental Overlay
66 District shall be in addition to, and not in lieu of, the underlying zoning district
67 classification of such property, such that any property situated in a Short Term Rental
68 Overlay District shall also lie within one or more of the zoning districts enumerated in
69 Section 102(a) of this ordinance. All such property shall be subject to the requirements
70 of this Article as well as to all other regulations applicable to it, and to the extent that
71 any provision of this Article conflicts with any other ordinance or regulation, the
72 provision of this Article shall control.

73
74 **Sec. 2303. Use regulations.**

75

76 (a) Subject to general requirements and to the regulations of the underlying
77 zoning district, all uses and structures permitted as principal, conditional or accessory
78 uses in the underlying zoning district in which they are located shall be permitted
79 within the Short Term Rental Overlay Districts.

80
81 (b) Short term rental overlay – West Shore Drive, East Shore Drive, North
82 End and OR

83 a. Short term rental shall be a principal use if it complies with the
84 requirements of Section 241.2 as modified as follows:

85
86 i. Add to condition (1): Parking spaces created to comply with
87 this condition shall not add additional impervious area to the
88 site. Area within a residential garage may be used for no more
89 than one (1) required space provided the available area within
90 the garage meets the dimensional requirements of this
91 ordinance. Driveway area located within the city right of way
92 may be utilized to meet the parking requirement provided there
93 is no traffic impact and the location of the parking space does
94 not block an existing sidewalk.

95 ii. Replacing condition (2): No events associated with the short
96 term rental shall be permitted with more than the allowed
97 number of people who may stay overnight (number of
98 bedrooms times two (2)) on the property where the short term
99 rental is located. This short term rental may not request or
100 obtain a Special Event Permit under City Code Section 4-1
101 (8a).

102 iii. Replacing Condition (3): The owner or operator must provide
103 the name and telephone number of a responsible person, who
104 may be the owner, operator or an agent of the owner or
105 operator, who is available to be contacted and to address
106 conditions occurring at the short term rental within thirty (30)
107 minutes. The owner or agent must be capable of physically
108 responding to the site of the short term rental within thirty (30)
109 minutes at all times while the property is rented.

110 iv. Replacing condition (8): A short term rental shall have no
111 more than fifty-two (52) rental contracts during a calendar year,

112 v. Replacing condition (11): The maximum number of persons on
113 the property after 11:00 p.m. and before 7:00 a.m. (“Overnight
114 Lodgers”) shall be two (2) individuals per bedroom, which
115 number shall not include minors under the age of 16, provided

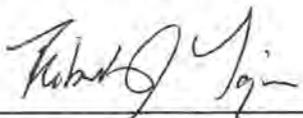
116 that in no event may the total number of persons staying
117 overnight at the property exceed the number of approved
118 bedrooms multiplied by three (3).

119 vi. While the short term rental use is active, parking passes issued
120 for the subject dwelling unit(s) through the Residential Parking
121 Permit Program (RPPP) shall be limited to two resident passes
122 only. Guest and temporary passes through the RPPP shall not
123 be permitted.

124
125 (c) The use regulations of this section shall not apply to short term rentals
126 within a Short Term Rental Overlay District that were grandfathered at the
127 time of adoption of the short term rental ordinance, which properties shall be
128 subject exclusively to the provisions of section 241.2. The use regulations
129 of this section shall also not apply to short term rentals within a Short Term
130 Rental Overlay District that are operating under the provisions of a
131 conditional use permit, which properties are governed by the provisions of
132 section 241.2 and the conditions of the permit.

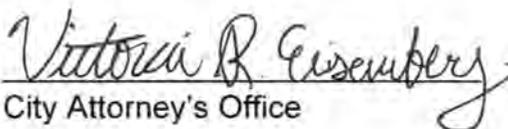
Adopted by the Council of the City of Virginia Beach, Virginia, on the _____ day
of _____, 2020.

APPROVED AS TO CONTENT:



Planning Department

APPROVED AS TO LEGAL SUFFICIENCY:



City Attorney's Office

CA15116
R-6
October 6, 2020

REQUESTED BY VICE-MAYOR WOOD AND COUNCILMEMBERS JONES AND TOWER

1 AN ORDINANCE TO AMEND THE OFFICIAL
2 ZONING MAP BY THE DESIGNATION AND
3 INCORPORATION OF PROPERTY INTO
4 SHORT TERM RENTAL OVERLAY
5 DISTRICTS—WEST SHORE DRIVE; EAST
6 SHORE DRIVE, NORTH END; AND OR
7 DISTRICT
8

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

11
12 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
13 VIRGINIA BEACH, VIRGINIA:

14
15 That the official zoning map of the City of Virginia Beach be, and hereby is,
16 amended by the designation and incorporation of the areas described below:

- 17
- 18 1) That property located in the Shore Drive Overlay District on the west side of
19 the Lesner Bridge and bounded as follows: Starting at the western terminus of
20 the Lesner Bridge heading west along Shore Drive to where the Shore Drive
21 North Eastern property line of the property known as 3336 Baylake Road
22 (GPIN: 14890972370000), heading Northwest along the property lines to the
23 southeast property corner of 2404 Indian Hill Road (14890918910000),
24 heading North 50 feet then heading west 82 feet to Indian Hill Road, then
25 heading North along the rear property lines of properties fronting on Rookery
26 Way to the Chesapeake Bay, heading East to the Lesner Bridge, as depicted
27 by the attached map labeled "Short Term Rental Overlay-West Shore Drive;"
28
 - 29 2) That property located in the Shore Drive Overlay District on the east side of the
30 Lesner Bridge and bounded as follows: from the centerline of Cape Henry Drive
31 and its continuation north along the eastern property line of the property
32 addressed 2817 Shore Drive (GPIN: 15904016980000), to the centerline of
33 Shore Drive, west along the centerline of Shore Drive, then its continuation
34 north along eastern property line of the property addressed 2800 Shore Drive
35 (GPIN: 15903180160000) to the Chesapeake Bay; then its continuation east
36 along the Chesapeake Bay to the western property line of First Landing State
37 Park; then its continuation south along the western property line of First
38 Landing State Park; then it's continuation east along the centerline Cape Henry
39 Drive and depicted by the attached map labeled, "Short Term Rental Overlay-
40 East Shore Drive."
41

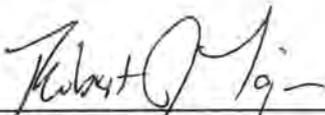
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- 3) That property located in the North End Overlay and depicted as such on the Official City Zoning Map, except for that area located west of the intersection of Holly Road and 58th Street; south to 49th Street as shown by the attached map labeled "Short Term Rental Overlay—North End;"
- 4) That property located in the City of Virginia Beach, zoned as Oceanfront Resort District and depicted as such on the Official City Zoning Map as shown on the attached map labeled "Short Term Rental Overlay—OR District;"

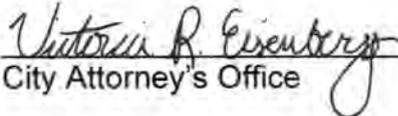
Adopted by the Council of the City of Virginia Beach, Virginia, on the ____ day of _____, 2020.

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL SUFFICIENCY:



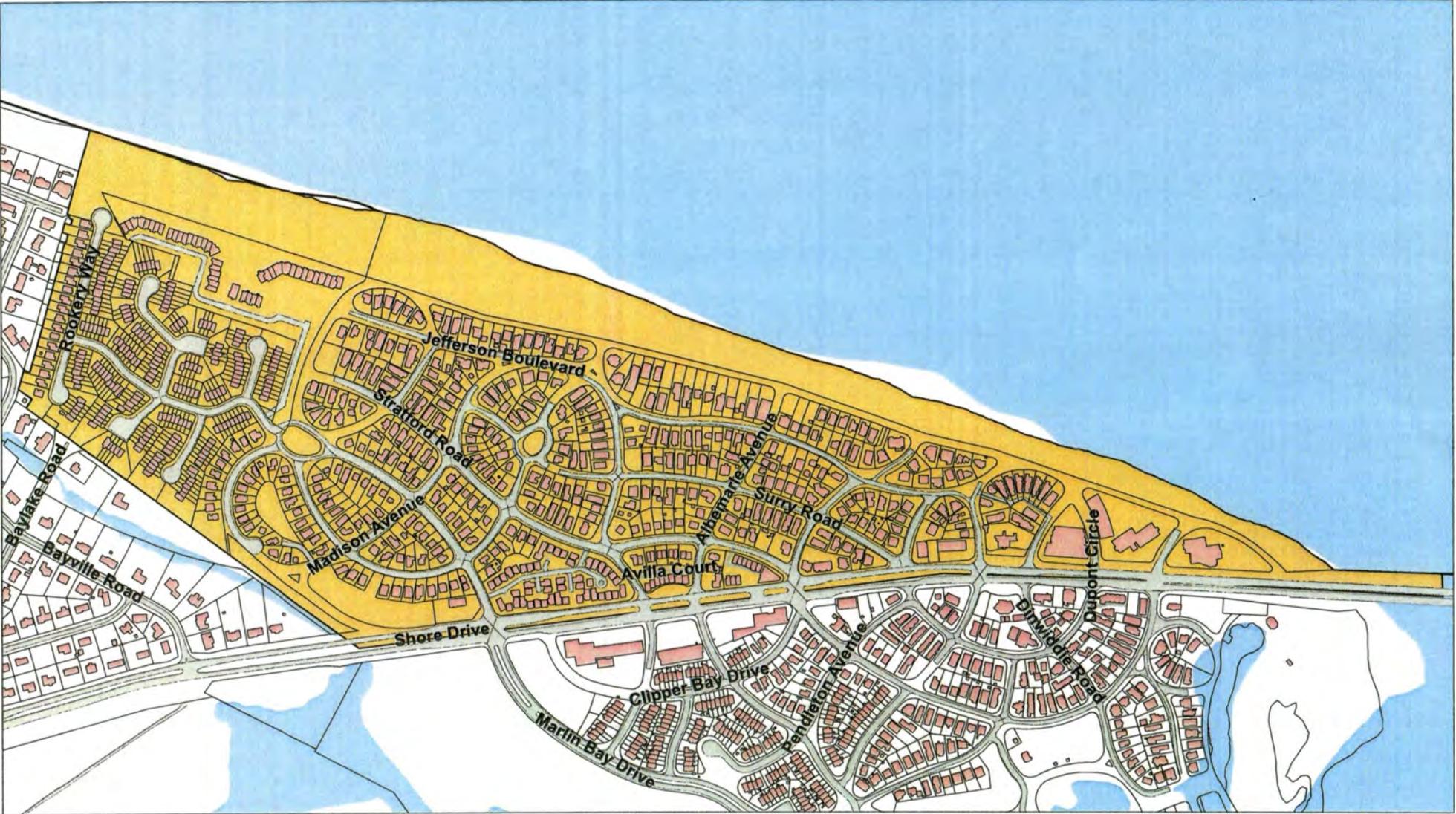
Planning Department



City Attorney's Office

CA15117
R-4
October 6, 2020

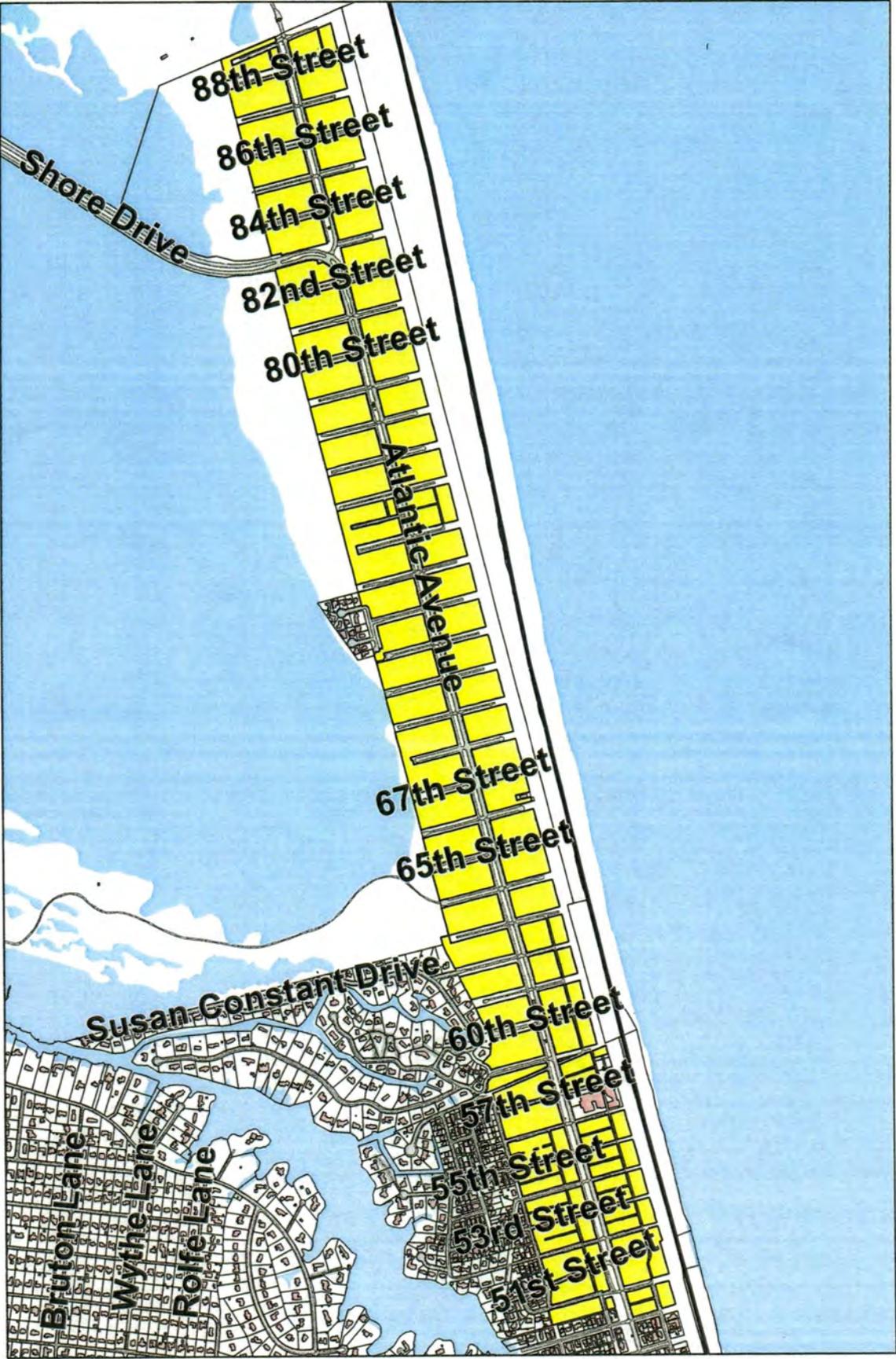
Short Term Rentals Overlay - West Shore Drive

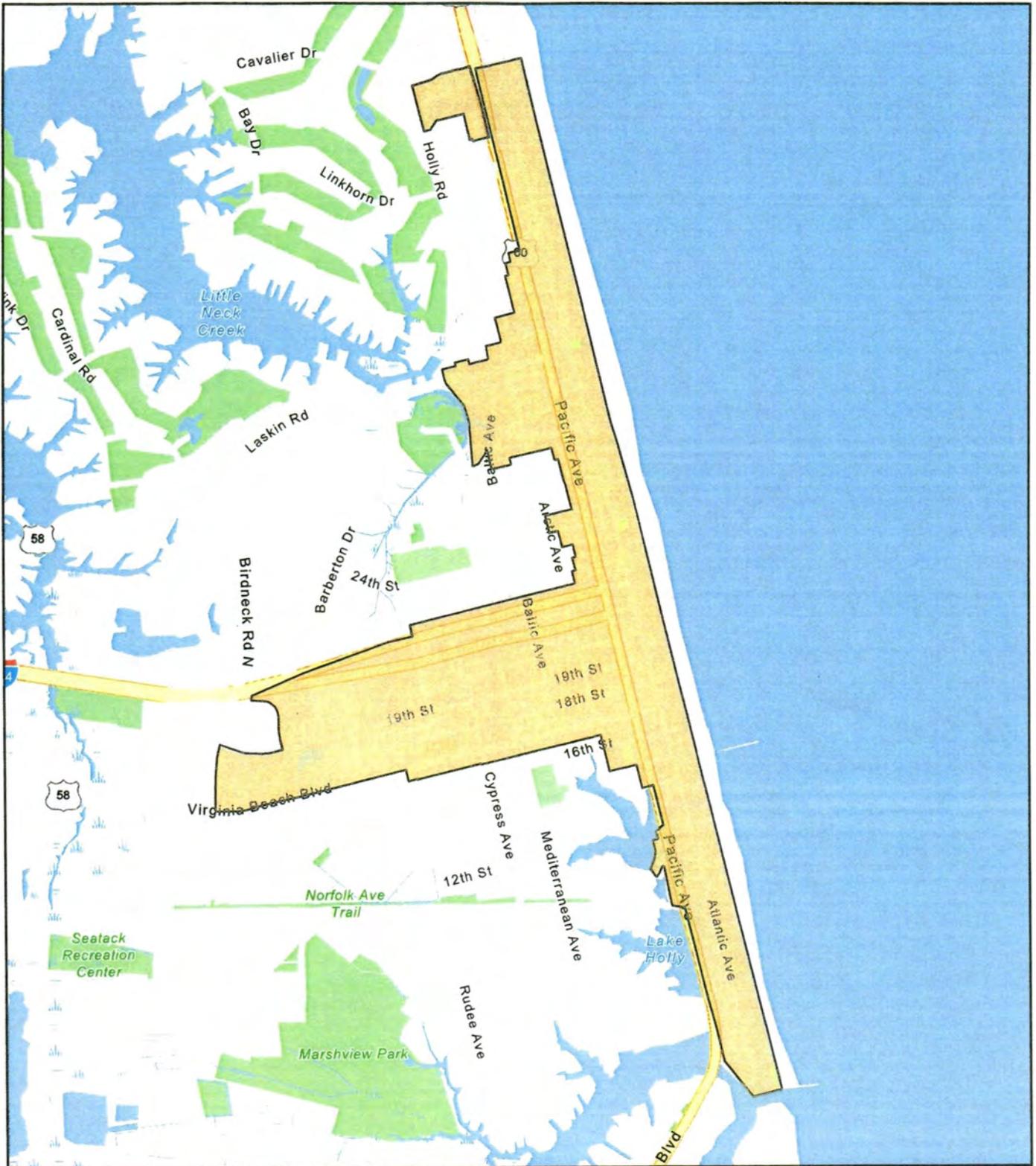


Short Term Rentals Overlay-East Shore Drive



Short Term Rentals Overlay—North End





Oceanfront Resort District Boundary

Sources: Esri, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodatastyrelsen, Rijkswaterstaat, GSA, Geoland, FEMA, Intermap and the GIS user community, Sources: Esri, HERE, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community, City of Virginia Beach Department of Planning & Community Development, City of Virginia Beach Center of Geospatial Information Services

2020



Coordinate System: NAD 1983 HARN StatePlane Virginia South FIPS 4502 Feet

REQUESTED BY VICE-MAYOR WOOD AND COUNCILMEMBERS JONES AND TOWER

1 AN ORDINANCE TO AMEND SECTIONS 401, 501, 601,
 2 901, 1110, 1125, 1521 AND 2203 OF THE CITY ZONING
 3 ORDINANCE AND SECTION 5.2 OF THE OCEANFRONT
 4 RESORT DISTRICT FORM-BASED CODE PERTAINING
 5 TO THE REQUIREMENTS AND USE OF SHORT TERM
 6 RENTALS AND OVERLAYS

7
 8 Sections Amended: City Zoning Ordinance Sections 401,
 9 501, 601, 901, 1110, 1125, 1521, and 2203 and Oceanfront
 10 Resort District Form-Based Code Section 5.2

11
 12 WHEREAS, the public necessity, convenience, general welfare and good zoning
 13 practice so require;

14
 15 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VIRGINIA
 16 BEACH, VIRGINIA:

17
 18 That Sections 401, 501, 601, 901, 1110, 1125, 1521, and 2203 of the City Zoning
 19 Ordinance and Section 5.2 of the Oceanfront Resort District Form-Based Code are
 20 hereby amended and reordained, to read as follows:

21
 22 **ARTICLE 4. - AGRICULTURAL DISTRICTS**

23
 24 **Sec. 401. Use regulations.**

25
 26 (a) *Principal and conditional uses.* The following chart lists those uses permitted
 27 within the AG-1 and AG-2 Agricultural Districts. Those uses and structures in the
 28 respective agricultural districts shall be permitted as either principal uses indicated by a
 29 "P" or as conditional uses indicated by a "C." Uses and structures indicated by an "X"
 30 shall be prohibited in the respective districts. No uses or structures other than as
 31 specified shall be permitted.

32

Use	AG-1	AG-2
....		
Short term rental	C	C
Short term rental within the Sandbridge Special Service District,* <u>meeting all of the requirements of Section 241.2</u>	P	P

Short term rental within an STR Overlay District, meeting all of the requirements of Section 241.2 and, where applicable, Section 2303

P

P

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ARTICLE 5. RESIDENTIAL DISTRICTS.

....

Sec. 501. Use regulations.

(a) *Principal and conditional uses.* The following chart lists those uses permitted within the R-40 through R-2.5 Residential Districts. Those uses and structures in the respective residential districts shall be permitted as either principal uses indicated by a "P" or as conditional uses indicated by a "C." Uses and structures indicated by an "X" shall be prohibited in the respective districts. No uses or structures other than as specified shall be permitted.

Use	R-40	R-30	R-20	R-15	R-10	R-7.5	R-5D	R-5R	R-5S	R-2.5
....										
Short term rental	C X									
Short term rental within the Sandbridge Special Service District,* <u>meeting all of the requirements of Section 241.2</u>	P	P	P	P	P	P	P	P	P	P
Short term rental within an STR Overlay District, <u>meeting all of the requirements of Section 241.2 and, where applicable, Section 2303</u>	P	P	P	P	P	P	P	P	P	P
....										

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ARTICLE 6. - APARTMENT DISTRICTS

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Sec. 601. - Use regulations.

(a) *Principal and conditional uses.* The following chart lists those uses permitted within the A-12 through A-36 Apartment Districts. Those uses and structures in the respective apartment districts shall be permitted as either principal uses indicated by a "P" or as conditional uses indicated by a "C." Uses and structures indicated by an "X" shall be prohibited in the respective districts. No uses or structures other than as specified shall be permitted.

Use	A-12	A-18	A-24	A-36
Short term rental	C X	C X	C X	C X
Short term rental within the Sandbridge Special Service District,* <u>meeting all of the requirements of Section 241.2</u>	P	P	P	P
Short term rental within an STR Overlay District, <u>meeting all of the requirements of Section 241.2 and, where applicable, Section 2303</u>	P	P	P	P
....				

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ARTICLE 9. - BUSINESS DISTRICTS

....

Sec. 901. - Use regulations.

(a) *Principal and conditional uses.* The following chart lists those uses permitted within the B-1 through B-4K Business Districts. Those uses and structures in the respective business districts shall be permitted as either principal uses indicated by a "P" or as conditional uses indicated by a "C." Uses and structures indicated by an "X" shall be prohibited in the respective districts. No uses or structures other than as specified shall be permitted.

77

Use	B-1	B-1A	B-2	B-3	B-4	B-4C	B-4K
....							
Short term rental	X	X	X	X	C X	C X	C X

Short term rental within the Sandbridge Special Service District,* <u>meeting all of the requirements of Section 241.2</u>	P	P	P	P	P	P	P
Short term rental within an STR Overlay District, <u>meeting all of the requirements of Section 241.2 and, where applicable, Section 2303</u>	X	X	X	X	P	P	P
....							

78

79 **ARTICLE 11. - PLANNED DEVELOPMENT DISTRICTS**

80

81 **Sec. 1110. - Land use regulation.**

82

83

84

85 (c) Within a PD-H1 District, all of the principal uses and structures permitted within an
 86 A-12 Apartment District other than hospitals and sanitariums, together with the
 87 following enumerated uses and structures, shall be permitted:

88

89 (1) Fraternity and sorority houses, student dormitories and student centers;

90

91 (2) Housing for seniors and disabled persons, with a conditional use permit;

92

93 (3) Marinas;

94

95 (4) Private clubs or social centers provided that clubs where conduct of commercial
 96 affairs is a principal activity shall not be permitted; and

97

98 (5) Residential care for seniors, provided that no more than two (2) employees
 99 including a bona fide resident of the dwelling shall be permitted; and

100

101 (6) Home sharing meeting the requirements of section 209.6.

102

103 (d) Within a PD-H1 District, the following uses shall be allowed as conditional uses:

104

105 (1) Communication towers;

106

107 (2) Family day-care homes;

108

109 (3) Group homes;

110

111 (4) Kennels, residential;

112

113 (5) Religious uses;

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115 (6) Wind energy conversion systems, free standing and roof-mounted; and

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- (7) Home-based wildlife rehabilitation facilities, provided that the principal structure is a single-family dwelling and the lot is greater than two thousand five hundred (2,500) square feet. ~~and~~

~~(8) Short term rental.~~

B. - PD-H2 PLANNED UNIT DEVELOPMENT DISTRICT

....

Sec. 1125. - Allowed uses.

Within the PD-H2 District, only the following uses and structures shall be permitted:

(a) *Principal uses and structures.*

- (1) Dwelling units of the types specified in the land use plan;
- (2) Public buildings, structures, and other public uses;
- (3) Recreational facilities of the type described in the plan;
- (4) Child care education centers, in connection with public or private elementary schools or churches, provided that such uses shall not be eligible for residential density credit;
- (5) Day-care centers, provided that such uses shall not be eligible for residential density credit;
- (6) Public utilities installations and substations; provided offices or storage or maintenance facilities shall not be permitted; and provided, further, that utilities substations, other than individual transformers, shall be surrounded by a wall, solid except for entrances and exits, or by a fence with a screening hedge five (5) to six (6) feet in height; and provided also, transformer vaults for underground utilities and like uses shall require only a landscaped screening hedge, solid except for access opening; ~~and~~
- (7) Home sharing meeting the requirements of section 209.6; and
- (8) Short term rental within a STR Overlay District meeting all of the requirements of Section 241.2 and, where applicable, Section 2303.

(c) *Conditional uses.*

- (1) Religious uses, provided that such use shall not be eligible for residential density credit;

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- (2) Family day-care homes; foster homes and group homes, provided that such uses shall not be eligible for residential density credit;
- (3) Home occupations; and
- (4) Housing for seniors and disabled persons; ~~and~~
- ~~(5) Short term rental.~~

....

C. RT-3 RESORT TOURIST DISTRICT

....

Sec. 1521. Use regulations.

(a) The following chart lists those uses permitted within the RT-3 Resort Tourist District as either principal uses, as indicated by a "P" or as conditional uses, as indicated by a "C." Conditional uses shall be subject to the provisions of Part C of Article 2 (section 220 et seq.). Except for single-family, duplex, semidetached and attached dwellings, buildings within the RT-3 District may include any principal or conditional uses in combination with any other principal or conditional use. No uses or structures other than those specified shall be permitted. All uses, whether principal or conditional, should to the greatest extent possible adhere to the provisions of the Special Area Design Guidelines (Urban Areas) set forth in the Reference Handbook of the Comprehensive Plan.

Use	RT-3
....	
Short term rental	C
Short term rental within an STR Overlay District, <u>meeting all of</u> the requirements of Section 241.2 and, where applicable, Section 2303	P

ARTICLE 22. - CENTRAL BUSINESS CORE DISTRICT

....

B. - DEVELOPMENT REGULATIONS

198

199

200 **Sec. 2203. - Use regulations.**

201

202 (a) The following chart lists those uses permitted within the Central Business Core
203 District. Uses and structures shall be allowed either as principal uses, indicated by a
204 "P", or as conditional uses, indicated by a "C." Uses and structures indicated by an "X"
205 shall be prohibited, unless allowed by special exception for Alternative Compliance
206 pursuant to Section 2205. No uses or structures other than as specified herein or as
207 allowed pursuant to subsection (b) shall be permitted.
208

Use	District CBC
Short term rental	C X
Short term rental within an STR Overlay District, <u>meeting all of the requirements of Section 241.2 and, where applicable, Section 2303</u>	P

209

210 **APPENDIX 1. - OCEANFRONT RESORT DISTRICT FORM-BASED CODE**

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212

213

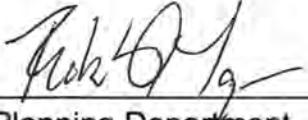
214 **Sec. 5.2. Permitted Use Table.**

215

USE	MIXED-USE BUILDING		COMMERCIAL BUILDING	APARTMENT BUILDING	ROW HOUSE		DETACHED HOUSE	CIVIC BUILDING	Use Standard /Notes
	Ground Floor	Upper Floors	Ground Floor	All Floors	Ground Floor	Upper Floors	All Floors	All Floors	
LODGING									
. . . .									
Short term rental	--	C--	--	--	C--	C--	C--	--	See Sec. 241.2
<u>Short term rental within an STR overlay District meeting the requirements of section 241.2 and, where applicable, Section 2303</u>		P			P	P	P		<u>See, Sec. 241.2 and 2303 (c).</u>
. . . .									

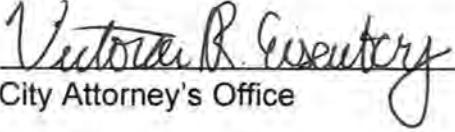
Adopted by the Council of the City of Virginia Beach, Virginia, on the _____ day of _____, 2020.

APPROVED AS TO CONTENT:



Planning Department

APPROVED AS TO LEGAL SUFFICIENCY:



City Attorney's Office

CA15115
R-3
October 6, 2020

REQUESTED BY VICE-MAYOR WOOD AND COUNCILMEMBER JONES AND TOWER

1 AN ORDINANCE ESTABLISHING TRANSITION RULES
2 FOR THE REVIEW OF CONDITIONAL USE PERMITS FOR
3 SHORT TERM RENTALS IN THE SHORT TERM RENTAL
4 OVERLAYS

5
6 WHEREAS, the public necessity, convenience, general welfare and good zoning
7 practice so require;

8
9 WHEREAS, the City Council has referred to the Planning Commission ordinances
10 creating the West Shore Drive Short Term Rental Overlay, East Shore Drive Short Term
11 Rental Overlay, North End Short Term Rental Overlay and Oceanfront Resort Short Term
12 Rental Overlay and providing new regulations that would be applicable to a short term
13 rental use within those overlays; and

14
15 WHEREAS, the referred ordinances would allow the short term rental use only in
16 those areas mandated by the General Assembly and in Short Term Rental Overlays;

17
18 WHEREAS, the short term rental use would no longer be authorized through the
19 granting of a conditional use permit if the referred ordinances are adopted; and

20
21 WHEREAS, it is the sense of the City Council that special transition rules should
22 be adopted to govern applications for conditional use permits for short term rentals that
23 are filed but not approved prior to the referral date of the ordinances.

24
25 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
26 VIRGINIA BEACH, VIRGINIA:

27
28 Any application for a conditional use permit for a short term rental accepted
29 prior to the date of referral shall be processed based upon the law existing at the
30 time of submission. Any application accepted after the date of referral shall be
31 considered based upon the law applicable at the time of City Council consideration.
32 No application shall be unnecessarily delayed.

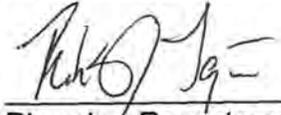
33
34 BE IT FURTHER ORDAINED BY THE COUNCIL OF THE CITY OF VIRGINIA
35 BEACH, VIRGINIA:

36
37 That nothing in this ordinance shall be construed to affect any vested rights which
38 existed as of the effective date of the ordinance.

39

Adopted by the Council of the City of Virginia Beach, Virginia, on the ____ day
of _____, 2020.

APPROVED AS TO CONTENT:



Planning Department

APPROVED AS TO LEGAL SUFFICIENCY:



City Attorney's Office

CA15137
R-5
October 6, 2020



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: A Resolution Referring to the Planning Commission an Ordinance to Amend Section 241.2 of the City Zoning Ordinance Pertaining to Short Term Rentals and Establishing Additional Safety Requirements Pertaining to Short Term Rentals

MEETING DATE: October 20, 2020

■ **Background:** The Resolution will refer the attached ordinance to the Planning Commission for its review and recommendation. Safety concerns have been raised due to two recent deck collapses at properties operating as short term rentals. The ordinance is to amend the City Zoning Ordinance to include additional safety requirements pertaining to short term rentals. It will require property owners to take additional measures to ensure the safety of all structures being used for short term rentals. The referral was requested by Councilmember Henley.

This item was originally part of the agenda for the City Council's October 6, 2020 formal meeting, but that meeting was cancelled at the recommendation of the Health Department.

■ **Considerations:** The Planning Commission has 100 days to bring its recommendation to City Council.

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

■ **Recommendations:** The referral resolution should be adopted to allow further discussion of the need for additional short term rental safety regulations.

■ **Attachments:** Resolution
Ordinances

Requested by Councilmember Henley

REQUESTED BY COUNCILMEMBER HENLEY

1 A RESOLUTION REFERRING TO THE PLANNING
2 COMMISSION AN ORDINANCE TO AMEND SECTION 241.2
3 OF THE CITY ZONING ORDINANCE PERTAINING TO
4 SHORT TERM RENTALS AND ESTABLISHING ADDITIONAL
5 SAFETY REQUIREMENTS PERTAINING TO SHORT TERM
6 RENTALS

7
8 WHEREAS, the public necessity, convenience, general welfare and good zoning
9 practice so require;

10
11 WHEREAS, concern has been expressed that due to two recent deck collapses at
12 properties operated as Short Term Rentals, additional safety regulations should be
13 implemented and

14
15 WHEREAS, the ordinance is to amend the City Zoning Ordinance to require property
16 owners to take additional measures to ensure the safety of all structures being used for
17 short-term rentals; and

18
19 BE IT RESOLVED BY THE COUNCIL OF THE CITY OF VIRGINIA BEACH,
20 VIRGINIA:

21
22 There are hereby referred to the Planning Commission, for its consideration and
23 recommendation the ordinance attached hereto.

24
25 BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF VIRGINIA
26 BEACH, VIRGINIA:

27
28 That the Planning Commission be, and hereby is, directed in accordance with Virginia
29 Code Section 15.2-2229 to transmit to the City Council its recommendations concerning the
30 aforesaid amendments no later than one hundred (100) days after the date of the adoption
31 of this Resolution.

 Adopted by the City Council of the City of Virginia Beach, Virginia, on the _____ day of
_____, 2020.

APPROVED AS TO LEGAL SUFFICIENCY:


City Attorney's Office

CA15174
R-1
September 23, 2020

1 AN ORDINANCE TO AMEND SECTION 241.2 OF
2 THE CITY ZONING ORDINANCE, PERTAINING TO
3 SHORT TERM RENTALS AND ESTABLISHING
4 ADDITIONAL SAFETY REQUIREMENTS

5
6 Section Amended: City Zoning Ordinance Section
7 241.2

8
9 WHEREAS, the public necessity, convenience, general welfare and good zoning
10 practice so require;

11
12 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
13 VIRGINIA BEACH, VIRGINIA:

14
15 **Sec. 241.2. - Short term rental.**

16 Short term rentals shall be subject to the following conditions unless specifically
17 modified by action of the city council in granting a conditional use permit or creating a
18 short term rental overlay district:

19
20 (1) Any property utilized as a short term rental shall provide adequate off street parking
21 for its guests. A minimum of one parking space per bedroom is required. If such parking
22 cannot be provided on-site, the owner must submit a parking plan indicating how the
23 parking requirement will be met. Such plan shall be reviewed and approved by the
24 zoning administrator. Stacking of vehicles shall be allowed and no on-street parking
25 shall be part of the plan;

26
27 (2) No events with more than fifty (50) people present, shall be held absent a special
28 events permit. Events with more than fifty (50) people are limited to no more than three
29 (3) events in a calendar year. No more than one hundred (100) people shall be present
30 at any event held on the property;

31
32 (3) The owner or operator must provide the name and telephone number of a
33 responsible person, who may be the owner, operator or an agent of the owner or
34 operator, who is available to be contacted and to address conditions occurring at the
35 short term rental within thirty (30) minutes. Physical response to the site of the short
36 term rental is not required;

37
38 (4) No signage shall be on site, except that each short term rental is allowed one (1),
39 four-square foot sign, posted on the building which identifies the short term rental.
40 Architectural signs naming the structure are excluded from this limitation;

41
42 (5) To the extent permitted by state law, each short term rental must maintain
43 registration with the Commissioner of Revenue's office and pay all applicable taxes;

44
45 (6) There shall be posted in a conspicuous place within the dwelling a summary
46 provided by the zoning administrator of City Code sections 23-69 through 23-71 (noise),

47 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2
48 (fireworks), and a copy of any approved parking plan;

49
50 (7) All refuse shall be placed in automated refuse receptacles, where provided, and
51 comply with the requirements of City Code sections 31-26, 31-27 and 31-28;

52
53 (8) A short term rental shall have no more than two (2) rental contracts during any
54 consecutive seven (7) day period;

55
56 (9) The owner or operator shall provide proof of liability insurance applicable to the
57 rental activity at registration and renewal of at least one million dollars (\$1,000,000.00)
58 underwritten by insurers acceptable to the city;

59
60 (10) There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.;

61
62 (11) The maximum number of persons on the property after 11:00 p.m. and before 7:00
63 a.m. ("Overnight Lodgers") shall be three (3) individuals per bedroom;

64
65 (12) Any short term rental that has registered and paid transient occupancy taxes to the
66 Commissioner of the Revenue prior to July 1, 2018 shall be considered grandfathered
67 and shall not be required to obtain a conditional use permit, but must meet the
68 conditions of section 241.2. Any expansion of the footprint of the dwelling housing the
69 short term rental that expands the overall square footage by more than twenty-five (25)
70 percent or one thousand (1,000) square feet, whichever is less, shall have its
71 grandfathered status revoked and must immediately obtain a conditional use permit to
72 continue such use. Grandfathered status shall run with the land;

73
74 ~~(13) To the extent permissible under state law, interconnected smoke detectors (which~~
75 ~~may be wireless), a fire extinguisher and, where natural gas or propane is present,~~
76 ~~carbon monoxide detectors shall be installed in each short term rental; Provide an~~
77 ~~affidavit signed by the property owner or their representative to the city annually stating~~
78 ~~or indicating the following: 1) at least one fire extinguisher has been installed inside the~~
79 ~~unit, in plain sight, and where it is located 2) all smoke alarms and carbon monoxide~~
80 ~~detectors are installed in accordance with the building code in affect at the time of~~
81 ~~construction and interconnected. Units constructed prior to interconnection~~
82 ~~requirements must have a minimum of one smoke alarm installed on every floor of the~~
83 ~~structure and in the areas adjacent to all sleeping room and when activated, be audible~~
84 ~~in all sleeping rooms 3) all smoke alarms and carbon monoxide detectors have been~~
85 ~~inspected within the last 12 months, and are in good working order. The property owner,~~
86 ~~his employee, or an independent contractor may perform these inspections.~~

87
88 (14) Accessory structures shall not be used or occupied as short term rentals;

89
90 (15) In addition to other remedies available for violations of the city zoning ordinance,
91 upon the occurrence of a violation of the provisions of this section; a violation of a
92 condition imposed in a conditional use permit; or if the conditions for grandfathered

93 status are no longer satisfied, the city council may revoke the conditional use permit or
94 grandfathered status of a property after notice and hearing as provided in Code of
95 Virginia § 15.2-2204; provided, however, that written notice as prescribed therein shall
96 be given at least fifteen (15) days prior to the hearing;

97
98 (16) All conditional use permits issued for short term rentals shall expire five (5) years
99 from the date of adoption. The renewal process of the conditional use permit will be
100 administrative and performed by the planning department; however, the planning
101 department shall notify the city council in writing prior to the renewal of any conditional
102 use permit for a STR, where the STR has been the subject of neighborhood complaints,
103 violations of its conditions or violations of any building, housing, zoning, fire or other
104 similar codes.

105
106 (17) A structural safety inspection report provided to the city annually indicating all
107 exterior stairways, decks, porches and balconies have been inspected by a licensed
108 engineer or construction professional and are safe for use. The report must indicate the
109 maximum number of occupants permitted on each level of these structures and
110 placards indicating the maximum number of occupants of all exterior stairways, decks,
111 porches and balconies must be posted on each level of these structures.
112

Adopted by the City Council of the City of Virginia Beach, Virginia, on this ____
day of _____, 2020.

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL SUFFICIENCY:

Planning Department



City Attorney's Office

CA15175
R-1
September 25, 2020



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: A Resolution Moving the November 3, 2020 Regular Meeting of the City Council to November 10, 2020

MEETING DATE: October 20, 2020

■ **Background:** The City Charter provides that City Council shall have the power to adopt rules of procedure, including the time and place of holding regular meetings of the Council. Based on this authority, the Council has provided the time, place, and frequency of regular meetings in the City Code. Except for July and December, regular meetings are held on the first and third Tuesdays of each month at 6 p.m. in the City Council Chambers of the City Hall Building, Municipal Center, Virginia Beach, Virginia.

State law allows a governing body to move the day of its regular meeting upon passage of a resolution providing the future meeting day. A copy of such resolution is to be posted on the door of the public meeting place and inserted in a newspaper having general circulation in the City at least seven days prior to the rescheduled meeting.

■ **Considerations:** November 3, 2020 is the first Tuesday of November. This date is also the date of the 2020 general election. The City does not want any citizen to have to choose between exercising the right to vote and attending the City Council meeting. The resolution reschedules the November 3rd meeting for Tuesday, November 10th.

■ **Public Information:** Public information will be provided through the normal Council agenda process. After adoption, the resolution will be posted on the door of the Council Chambers, and a public notice will be provided in the *Beacon*.

■ **Attachment:** Resolution

Requested by Mayor Dyer and Vice Mayor Wood

Requested by Mayor Dyer and Vice Mayor Wood

1 A RESOLUTION MOVING THE NOVEMBER 3, 2020
2 REGULAR MEETING OF THE CITY COUNCIL TO
3 NOVEMBER 10, 2020
4

5 WHEREAS, the City Code provides the regular formal meetings of City Council
6 shall be held in the Council Chambers of the City Hall Building on the first and third
7 Tuesdays of each month at 6:00 p.m.; and
8

9 WHEREAS, state law provides that a regular meeting of the City Council may be
10 scheduled for a day other than the usual day upon adoption of a resolution; and
11

12 WHEREAS, November 3rd is the 2020 general election; and
13

14 WHEREAS, the City Council does not want any citizen to have to choose between
15 exercising the right to vote and attending the City Council meeting.
16

17 NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY
18 OF VIRGINIA BEACH, THAT:
19

- 20 1. The regular City Council meeting scheduled for November 3, 2020 is hereby
21 rescheduled for November 10, 2020.
22 2. The time and location for the City Council Formal Session shall remain at 6 p.m.
23 at the Virginia Beach Convention Center, Suite 5.
24 3. The City Clerk shall post a copy of this resolution on the door of the City Council
25 Chambers from the date of adoption until 6 p.m. on November 10, 2020, and
26 provide a notice as required by law.

Adopted by the City Council of the City of Virginia Beach, Virginia, this _____ day
of _____, 2020.

APPROVED AS TO LEGAL SUFFICIENCY:



City Attorney's Office



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance to Amend Section 2-20 of the City Code Pertaining to the Location of City Council Meetings

MEETING DATE: October 20, 2020

■ **Background:** The City Charter provides that the City Council shall have the power to adopt rules of procedure, including the time and place of holding regular meetings of the Council. Based on this authority, the Council has provided the time, place, and frequency of regular meetings in the City Code. The COVID-19 Pandemic requires the employment of certain public health measures, including social distancing and frequent cleaning of surfaces. The City Council Chamber is not configured in a manner that is conducive to the necessary public health measures. The Virginia Beach Convention Center has substantially more space than the Council Chamber, and it has served as the location for certain special meetings during recent months.

■ **Considerations:** Because the location of the City's regular meetings is codified by ordinance, the attached ordinance makes the change to the section of the City Code providing for the location of regular meetings. As required by state law, a copy of the ordinance is to be posted on the door of the public meeting place, and a notice provided in a newspaper having general circulation in the City at least seven days prior to the meeting on November 10. If the Council needs to utilize the Virginia Beach Convention Center prior to the seven days from such notice, a special meeting setting the location of such meeting would be required.

■ **Public Information:** Public information will be provided through the normal Council agenda process. If adopted, the ordinance will be posted on the door of the Council Chambers, and a public notice will be provided in the *Beacon*.

■ **Attachment:** Ordinance

Recommended Action: Approval

Requesting Department: Office of the City Manager

City Manager: PAD

1 AN ORDINANCE TO AMEND SECTION 2-20 OF THE CITY
2 CODE REGARDING THE LOCATION OF CITY COUNCIL
3 MEETINGS
4

5 WHEREAS, the COVID-19 Pandemic requires the employment of certain public
6 health measures, including social distancing and frequent cleaning of surfaces; and
7

8 WHEREAS, the City Council Chamber is not configured in a manner that is
9 conducive to the necessary public health measures;
10

11 WHEREAS, the City Council has used the Virginia Beach Convention Center for
12 certain special meetings to allow sufficient space to comply with public health measures;
13

14 WHEREAS, the City Council desires to move the location of regular meetings for
15 the duration of the COVID-19 Pandemic.
16

17 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
18 VIRGINIA BEACH, VIRGINIA, THAT:
19

20 Section 2-20 of the City Code is hereby amended and reordained to read as
21 follows:
22

23 **Sec. 2-20. Time and place of regular meetings.**
24

25 (a) Regular formal meetings of the council shall be held in the ~~Council Chamber of the~~
26 ~~City Hall Building, Municipal Center~~ Virginia Beach Convention Center, Suite 5, Virginia
27 Beach, Virginia, on the first and third Tuesdays of each month at 6:00 p.m., unless such
28 date shall fall upon a legal holiday. However, in July and December of each year, regular
29 meetings shall instead be held on the first two (2) Tuesdays of the month at 6:00 p.m.
30 The council may also convene informal meetings on the dates of regular formal meetings
31 at such times as the council may deem appropriate, and on the second and fourth
32 Tuesday of every month except July and December. Informal meetings, which shall be
33 held in the ~~Council Conference Room adjacent to the Council Chamber~~ Virginia Beach
34 Convention Center, Suite 5, and at which no votes shall be cast, shall be for the purpose
35 of discussing matters of interest to the council, and receiving briefings/reports from the
36 city manager, city staff and city boards, commissions, committees and other city
37 agencies. The city manager shall notify the public of the times of such informal meetings
38 in advance thereof.
39

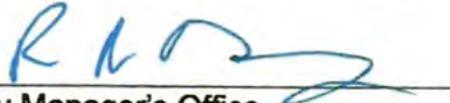
40
41

42
43 BE IT FURTHER ORDAINED, THAT:
44

45 The City Clerk shall cause a copy of this ordinance to be posted on the door of the
46 Council Chamber and a notice of the location change to be published in a newspaper
47 having general circulation at least seven days prior to the first regular meeting at the
48 Virginia Beach Convention Center.

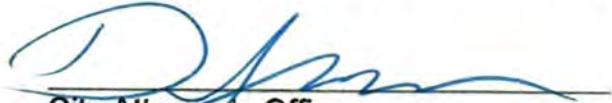
Adopted by the Council of the City of Virginia Beach, Virginia on the _____ day of _____ 2020.

APPROVED AS TO CONTENT:



City Manager's Office

APPROVED AS TO LEGAL SUFFICIENCY:



City Attorney's Office

CA15239
R-1
October 8, 2020



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: A Resolution Formally Re-Adopting the Virginia Beach Emergency Operations Plan

MEETING DATE: October 20, 2020

■ **Background:** Localities in Virginia are required by state law to update and re-adopt an Emergency Operations Plan (EOP) on a four-year cycle. The City Council last adopted the plan in 2016. The City Code also requires that the EOP be maintained and kept up-to-date. The EOP provides an overview of the City's emergency management operations structure and the tasking of agencies to support the community's response to large-scale emergencies and disasters. The Office of Emergency Management has completed the review process and requests that the City Council formally adopt the 2020 version of the City's Emergency Operations Plan, as required by law.

■ **Considerations:** Major revisions resulting from the 2020 review include significant organizational, departmental, and process-driven changes that affect how the City and staff prepare for, respond to, and recover from all hazards. The revised plan establishes a single, comprehensive framework for the management of major disasters and emergencies within the City and is implemented, when necessary, to mobilize resources to save lives, protect property, and stabilize the incident. The City's EOP includes a revised Basic Plan and Emergency Support Function annexes that assign primary and support agencies, describe roles and responsibilities, and highlight key tasks before, during, and after a disaster.

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

■ **Recommendations:** Adopt the Resolution.

■ **Attachments:** Resolution and EOP Abstract.

Recommended Action: Approval

Submitting Department/Agency: Office of Emergency Management

City Manager: 



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A RESOLUTION FORMALLY RE-ADOPTING THE VIRGINIA BEACH EMERGENCY OPERATIONS PLAN

WHEREAS, the City of Virginia Beach Office of Emergency Management regularly and routinely publishes and updates an Emergency Operations Plan for the City of Virginia Beach; and

WHEREAS, Code of Virginia § 44-146.19(E). requires the City Council to formally review and re-adopt the City of Virginia Beach Emergency Operations Plan every four years; and

WHEREAS, that last adoption of the City of the Virginia Beach Emergency Operations Plan occurred in 2016; and

WHEREAS, the four-year review and revision of the City of Virginia Beach Emergency Operations Plan is complete.

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

That the City of Virginia Beach hereby formally re-adopts the revised Virginia Beach Emergency Operations Plan.

Adopted by the City Council of the City of Virginia Beach, Virginia, this _____ day of _____, 2020.

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL SUFFICIENCY:


Office of Emergency Management


City Attorney's Office



City of Virginia Beach

VBgov.com

OFFICE OF EMERGENCY MANAGEMENT
(757) 385-8585

2412 NORTH LANDING ROAD
BUILDING 20
VIRGINIA BEACH, VA 23456

INTER-OFFICE MEMORANDUM

DATE: September 1, 2020

TO: Department Directors, Constitutional Officers, and Appointed Officials

FROM: Patrick Duhaney, City Manager
Via Erin Sutton, Director – Office of Emergency Management

SUBJECT: 2020 City Emergency Operations Plan Revision

As mandated by the Virginia Department of Emergency Management (VDEM), the Office of Emergency Management has worked closely with City departments to complete its comprehensive four-year revision of the City Emergency Operations Plan (EOP). The City EOP revision reflects significant organizational, departmental, and process-driven changes that affect how the City and staff prepare for, respond to, and recover from all hazards.

The revised plan establishes a single, comprehensive framework for the management of major disasters and emergencies within the City and is implemented, when necessary, to mobilize resources to save lives, protect property, and stabilize the incident. The City EOP includes a revised Basic Plan and Emergency Support Function (ESF) annexes that assign primary and support agencies, describe roles and responsibilities, and highlight key tasks before, during, and after a disaster. Over the last year, OEM has worked closely with assigned primary and support ESF partners to conduct an in-depth review of the annexes and incorporate appropriate revisions.

I strongly encourage you to review the EOP in its entirety and understand your department's roles and responsibilities during a significant emergency or disaster. As we've learned through past incidents, it takes the might of the City to appropriately respond to disasters and provide our citizens with a safe and secure environment.

The City EOP and associated documents can be found on the [OEM Sharepoint site](#). Attached is the City EOP abstract, which provides a summary of key concepts and roles/responsibilities as outlined in the plan.

City of Virginia Beach

Emergency Operations Plan Abstract

The intent of this abstract is to provide a brief overview of the City's Basic Emergency Operations Plan (EOP) and an outline of the City's response to a major emergency. Disasters are such that a flexible organization is needed to meet the challenge of an emergency.

PURPOSE

The purpose of the City's Emergency Operations Plan (EOP) is to meet emergency management legal mandates and provide an organizational and functional framework for a comprehensive and integrated response to disasters and/or events where specialized response coordination and integration is desirable.

SITUATIONS AND ASSUMPTIONS

Situations and assumptions that affect the City's emergency planning include the following:

Situations

- The City is vulnerable to various natural, technological, and man-made threats.
- Hurricanes, tropical storms, and flooding represent the primary catastrophic threats facing the City. Other significant natural hazards include winter storms and Nor'easters.
- Virginia Beach is at risk from intentional and non-intentional hazards for which planning is desirable.
- Various legal authorities provide for an emergency management organization to respond to and foster the coordination of large-scale emergencies and/or events.

Assumptions

- The City has significant resources and manpower to deal with most emergencies. However, these resources can be quickly overwhelmed and exhausted when faced with a disaster.
- The City will strive to plan for an accepted level of risk for those emergencies it may experience realizing that total preparedness is not a realistic goal.
- Each citizen and every business should be prepared for emergencies and the consequences associated with emergencies.
- The City will depend upon outside resources and assistance during major emergencies once internal resources have been exhausted. In such instances, outside assistance may take 72 hours or longer to arrive and effectively assist with the consequences of the event.
- Resources and manpower from across the City, region, and state will be solicited to meet the challenge of an emergency.
- Large-scale emergencies can best be supported from a centralized location – the Emergency Operations Center (EOC).
- Based upon anticipated or actual conditions, a local State of Emergency may be declared.
- State and federal assistance are two examples of additional assistance that may be provided.
- The City will strive to create an emergency management system compliant with the National Incident Management System (NIMS) standards for response coordination.

CONCEPTS OF OPERATIONS

The following are central concepts that define the City's emergency management organization.

Emergency Management

Emergency management, as a concept of operations, refers to the art and science of managing large-scale emergencies. This management is based upon legal authorities and focuses on consolidated, integrated, and centralized strategies utilized in a disaster situation.

Comprehensive Emergency Management Program

Emergency management involves four main phases of activities. Each function and activity of the emergency management organization needs to address each phase to ensure a comprehensive emergency response.

- **Mitigation** – Includes those actions taken to reduce or eliminate long-term risk to people and property from disasters and their effects.
- **Preparedness** – Includes activities that are taken to systematically prepare for a developing situation including planning, training, exercises, education, and outreach.
- **Response** – Includes those actions that are taken in anticipation of, or in response to, an actual emergency.
- **Recovery** – Includes activities and considerations associated with the post-emergency period.

National Incident Management System (NIMS)

The City has adopted the concept of NIMS as a basis for its emergency management organization. These concepts provide direction for the City in the areas of Incident Command, emergency planning, external affairs, communications, and resource management.

Emergency Operations Center (EOC)

The City will use its EOC to support the virtual or physical location for emergency management integration and coordination of emergency response activities. The facility may serve as a traditional EOC, a command post, or a Multi-Agency Coordination Center (MACC) to support the coordination of an incident, particularly when an incident command post has been established.

Incident Command System (ICS)

The City's emergency management organization will utilize an ICS structure and response policy for all incidents. This alignment places emphasis on key ICS concepts: Incident Command, Command Staff, Sections, Branches, Operational Periods, Incident/Event Action Plans, and Area Commands to support the efficient management of an incident and assist in the institutionalization of emergency management procedures within the City.

ORGANIZATION

The emergency management organization is established to provide an organizational framework that can work efficiently during an emergency and adapt to the challenging nature of disasters. This organization is a structure that brings together a variety of Citywide and external agencies to respond to the various dimensions of emergencies. The Virginia Beach Emergency Management Organization is built around the Incident Command System. Key elements of this organization include Incident Command/Area Command/Unified Command, Command Staff, Planning, Operations, Logistics, and Finance sections. Branch level elements are defined based upon roles and scope of the incident. This structure can expand and contract based upon the time, scope, and complexity of the incident.

Incident Command Structure Assignments

The City utilizes the ICS organizational structure as the basic structure of the emergency management organization. Please see the attached organizational chart to see the general assignments.

Other Organizational Stakeholders

Other agencies interface with the emergency management organization based upon the incident goals, the pre-existing relationships and the legal structure of the Commonwealth. Some of the agencies that interface with the emergency management organization include: City Council Appointments, Constitutional Officials, Local State Offices, Judicial System, Military Facilities, Volunteer Organizations, Higher Education Institutions, Critical Infrastructure, HRPDC, Virginia Department of Emergency Management, and others.

RESPONSIBILITIES

The EOP outlines general and specific areas of responsibilities for agencies. Key responsibilities include the following:

Office of Emergency Management

The Office of Emergency Management is responsible for providing support to the City Manager/Director of Emergency Management and Emergency Management Coordinator where the functions and structure of the emergency management organization is utilized to respond to the threat of/or an actual incident and to support the integration of the emergency management organization into City operations.

Common Responsibilities – All City Departments

All agencies of the City of Virginia Beach should ensure that they are prepared to support emergency management operations whether they are tasked or not tasked in the plan.

- Ensure that critical agency-level functions are identified and contingencies are in place for emergency situations.
- Prepare the appropriate internal procedures, emergency plans, and/or Standard Operating Procedures (SOPs) to address emergency situations.
- Establish procedures to assess and report emergency conditions, injuries, loss of life, and damage to facilities and equipment.

- Communicate emergency responsibilities to employees, ensure their readiness to respond to emergency situations and develop accountability systems.
- Provide support in non-traditional areas and roles beyond normal job assignments.

Emergency Support Function (ESF) Responsibilities

A core concept of the EOP is the assignment of emergency support functions to City departments. Federal and state ESFs provide a framework for emergency response and recovery operations. Primary City departments are listed below and supporting department roles can be found within the ESF plan:

ESF #01 – Transportation

Primary Agency: *Planning and Community Development*

Responsibilities: Transportation infrastructure, transportation resources, and transportation systems of the community.

ESF #02 – Communications

Primary Agency: *Information Technology*

Responsibilities: Management of communications systems and infrastructure.

ESF #03 – Public Works and Engineering

Primary Agencies: *Public Works/Public Utilities*

Responsibilities: Infrastructure and operations to maintain and provide water, sewer, roads, traffic management, beach operations and stormwater.

ESF #04 – Firefighting

Primary Agency: *Fire*

Responsibilities: All firefighting activities including urban, rural and marine operations.

ESF # 05 – Emergency Management

Primary Agency: *OEM*

Responsibilities: Coordination of incident management and response efforts, incident action planning, and multi-agency coordination.

ESF # 06 - Mass Care, Emergency Assistance, Human Services, and Housing

Primary Agency: *Human Services*

Responsibilities: Mass care, sheltering, disaster housing, family assistance operations, and emergency assistance.

ESF # 07 – Logistics and Support Services

Primary Agency: *Finance*

Responsibilities: incident logistics planning, resource management and sustainment, and resource support and procurement.

ESF # 08 – Health and Medical Services

Primary Agencies: *EMS/Public Health*

Responsibilities: Community/public health, mental health, mass fatality management, and emergency medical services.

ESF # 09 – Search and Rescue

Primary Agency: *Fire*

Responsibilities: Search and rescue operations and life-saving assistance.

ESF #10 – Oil and Hazardous Materials**Primary Agency: Fire**

Responsibilities: Oil and hazardous material response and short- and long-term environmental cleanup.

ESF #11 – Agricultural, Cultural, Historical, and Natural Resources**Primary Agency: Agriculture**

Responsibilities: Animal/pest disease and response, natural and cultural resources, historic property protection and restoration, and pet welfare.

ESF #12 – Energy**Primary Agency: Public Works**

Responsibilities: Energy infrastructure prioritization, industry utility coordination, and energy forecasting.

ESF #13 – Public Safety and Security**Primary Agency: Police**

Responsibilities: Facility and resource security, security planning and technical assistance, public safety and security support, and access traffic and crowd control planning.

ESF #14 – Cross Sector Business and Infrastructure**Currently under revision.****ESF #15 – External Affairs****Primary Agency: Communications Office**

Responsibilities: Public Information Officer coordination, dissemination of public information and protective actions, emergency public information, and warnings.

ESF # 16 – Military Affairs**Primary Agency: City Manager's Office**

Responsibilities: Facilitation and coordination with the military facilities and agencies in emergency management situations.

ESF # 17 - Volunteers and Donations Management**Primary Agencies: Volunteer Resources/Public Works**

Responsibilities: Facilitating the integration of volunteer resources (spontaneous and affiliated) activities in emergency management situations, and donations management activities (collection, warehousing, etc.).

ADMINISTRATION AND LOGISTICS

The following are administrative and logistical considerations in the event of an emergency:

- *Standard operating procedures will be maintained under emergency conditions to the extent possible.*
- *Various predetermined activities may be required to prepare for the effects of an emergency. These include the acquisition of supplies and materials and the relocation of equipment.*
- *The City will utilize WebEOC as its crisis management system for coordination purposes.*
- *The City will ensure that NIMS training standards are obtained by City staff.*
- *The City will develop an integrated preparedness plan to ensure both hazard-specific and functional response issues are regularly exercised, evaluated, and improved.*
- *The City may employ mutual aid and assistance to meet certain critical needs based upon state rules.*

PLAN DEVELOPMENT AND MAINTENANCE

The Office of Emergency Management maintains the City's Emergency Operations Plan. Departments with responsibilities (all primary and supporting) in emergency support functions are responsible for assisting and developing plans in their area of operations. Plans are regularly reviewed / updated and periodically tested to ensure practicality and utility. The EOP is to be exercised annually as part of an exercise or in an actual emergency.

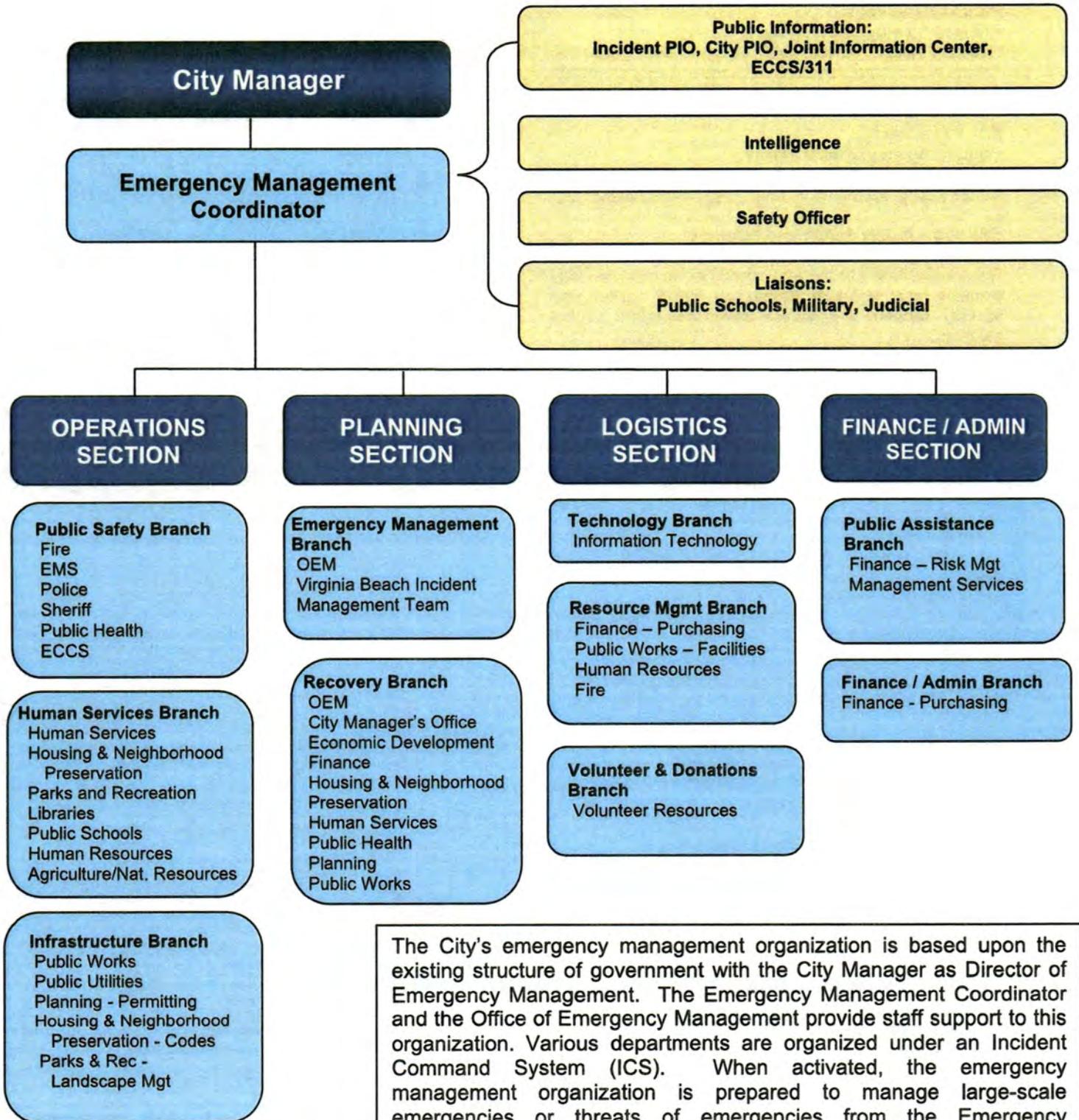
AUTHORITIES AND REFERENCES

- *Code of Virginia*
- *Code of the City of Virginia Beach*
- *City of Virginia Beach Emergency Operations Plan*
- *Commonwealth of Virginia Emergency Operations Plan*
- *National Preparedness Framework*
- *National Incident Management System*

Legal Authority

Section 2-411,412, 413 and 2-215.2 of the Code of the City of Virginia Beach and Commonwealth of Virginia Emergency Services and Disaster Laws, Title 44, Chapter 3.2 through 3.4, Code of Virginia, as amended.

City of Virginia Beach Emergency Management Organization



The City's emergency management organization is based upon the existing structure of government with the City Manager as Director of Emergency Management. The Emergency Management Coordinator and the Office of Emergency Management provide staff support to this organization. Various departments are organized under an Incident Command System (ICS). When activated, the emergency management organization is prepared to manage large-scale emergencies or threats of emergencies from the Emergency Operations Center (EOC). This organization expands and contracts based upon scope, size, complexity, and nature of the threat.



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: A Resolution of the City Council of the City of Virginia Beach, Virginia, Authorizing the Issuance and Sale of its General Obligation Refunding Bond, Series 2020 in an Aggregate Principal Amount Not to Exceed \$3,445,000, and the Execution and Delivery of Certain Documents Prepared in Connection Therewith

MEETING DATE: October 20, 2020

■ **Background:** One of the bond programs authorized by the 2009 American Recovery and Reinvestment Act (the "Stimulus Act") was titled "Recovery Zone Economic Development Bonds." This program provided a subsidy of 45% of the interest paid on the Bonds, and the Stimulus Act required this type of bond to be issued as a taxable bond with the subsidy offsetting the increased interest rate for taxable bonds. In December 2009, the Council authorized the issuance and sale of \$9,300,000 of Recovery Zone Economic Development Bonds ("RZ Bonds") utilizing a portion of the City's annual general obligation authorization. The RZ Bonds were issued as a pool issuance in partnership with the Virginia Municipal League and the Virginia Association of Counties through their previously established not-for-profit corporation, the Virginia Local Government Finance Corporation. With a favorable interest rate environment, the RZ Bonds are candidates for refunding.

This item was originally part of the agenda for the City Council's October 6, 2020 formal meeting, but that meeting was cancelled at the recommendation of the Health Department.

■ **Considerations:** The attached resolution authorizes refunding of the RZ Bonds, and it authorizes the normal and customary actions required in a bond refunding transaction. The amount of principal to be refunded is \$3,445,000, and the estimated debt service savings is \$178,777.

■ **Public Information:** Normal Council agenda process. Also, this refunding was mentioned in a letter to the City Council discussing upcoming bond issuances that was in the City Manager's Friday package on July 31st.

■ **Recommendations:** Adopt the attached resolution.

■ **Attachments:** Resolution; Bond Purchase Agreement

Recommended Action: Approval

Submitting Department/Agency: Department of Finance

City Manager: *PKD*

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VIRGINIA BEACH, VIRGINIA, AUTHORIZING THE ISSUANCE AND SALE OF ITS GENERAL OBLIGATION REFUNDING BOND, SERIES 2020 IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$3,445,000, AND THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS PREPARED IN CONNECTION THEREWITH

WHEREAS, the City of Virginia Beach (the "City"), has determined that it is advisable and in the interest of the City to refinance the outstanding portion of its \$5,995,000 General Obligation Bonds (Recovery Zone Project), Series 2010A, together with related administrative and financing costs of the refinancing ("the Project"); and

WHEREAS, the City intends to finance the Project through the issuance of its general obligation bond under such terms, limitations and conditions as set forth in this Resolution; and

WHEREAS, the Council has previously received a proposal from VML/VACO Finance to solicit proposals from banking institutions and received a proposal from Truist Bank, formerly Branch Banking & Trust Company (the "Lender"), to loan funds and to the City to purchase the Bond (as defined below); and

WHEREAS, after such solicitation, staff recommends the proposal from the Purchaser for the loan and the sale of the City's general obligation bond to the Purchaser in accordance with the terms of a Bond Purchase and Loan Agreement between the Purchaser and the City (the "Agreement"), the form of which has been presented to this meeting;

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

1. Issuance of Bond and Use of Proceeds. Pursuant to the Constitution of the Commonwealth of Virginia and the Public Finance Act of 1991, as amended (the "Public Finance Act"), Title 15.2, Chapter 26 of the Code of Virginia of 1950, as amended (the "Virginia Code") and without regard to any requirements or restrictions contained in any charter or special act of the City, the Council hereby authorizes the issuance and sale of a general obligation bond of the City in an aggregate principal amount set forth below, together with such other monies of the City designated thereby, to provide funds to finance the Project.

2. Authorization of Bond Purchase and Loan Agreement. The form of the Bond Purchase and Loan Agreement submitted to this meeting is hereby approved. The Mayor and the City Manager, either of whom may act (each an "Authorized Signatory"), are authorized to execute the Agreement in substantially such form, with such completions, omissions, insertions and changes not inconsistent with this Resolution as may be approved by such official, whose approval shall be evidenced conclusively by the execution and delivery thereof. The issuance and sale of the bond to the Purchaser shall be upon the terms and conditions of the Agreement. The proceeds

of such bond shall be applied in the manner set forth in the Agreement. All capitalized terms used but not otherwise defined herein shall have the same meaning as set forth in the Agreement.

3. Bond Details. The bond shall be issued as a single, fully registered bond, shall be designated "General Obligation Refunding Bond, Series 2020" (the "Bond"), shall be numbered R-1, and shall be in substantially the form of Exhibit A to this Resolution as hereby approved, with such completions, omissions, insertions and changes not inconsistent with this Resolution as may be approved by the officers signing such Bond. The Council authorizes the issuance and sale of the Bond on such terms as shall be satisfactory to the Authorized Signatory; provided however, that the Bond (a) shall be in a principal amount not to exceed \$3,445,000; (b) shall mature no later than February 15, 2030; (c) shall bear interest on the outstanding principal balance thereof at a rate of interest approved by the Authorized Signatory, with such rate to not exceed 1.28% (provided that default interest may be payable at a rate in excess thereof as provided in the Agreement and the rate may adjust as provided in the Bond and the Agreement); and (d) shall accrue certain other ongoing costs and expenses upon the terms and conditions described in the Agreement. As set forth in the Agreement, the City agrees to pay any applicable late payment or similar costs and expenses described therein. Subject to the preceding terms, the Council further authorizes the Authorized Signatory to determine the final terms, purchase price, initial interest rate, interest rate adjustment provisions, maturity date, and amortization schedule of the Bond. No further action shall be necessary on the part of the City so long as such provisions are within the limits prescribed in this Resolution.

4. Payment and Redemption Provisions. The principal of and premium, if any, and interest on the Bond shall be payable as set forth in the Bond and the Agreement. The Bond shall be subject to redemption on the terms set forth in the related Agreement. The principal of and premium, if any, and interest on the Bond shall be payable via wire transfer in lawful money of the United States of America, without presentation or surrender. The City hereby appoints Virginia Local Government Finance Corporation, a component unit of the Industrial Development Authority of the County of Stafford and the City of Staunton, Virginia, as its paying agent to, among other things, make timely payments on behalf of the City.

5. Execution and Form of Bond. The Bond shall be signed by the Mayor or Vice-Mayor and the City's seal shall be affixed thereon and attested by the Clerk or Assistant Clerk of the City. The Bond shall be issued as a typewritten bond in substantially the form of Exhibit A, with such completions, omissions, insertions and changes not inconsistent with this Resolution as may be approved by the Authorized Signatory, whose approval shall be evidenced conclusively by the execution and delivery of the Bond.

6. Pledge of Full Faith and Credit. The full faith and credit of the City are hereby irrevocably pledged for the payment of principal of and premium, if any, and interest on the Bond. Unless other funds are lawfully available and appropriated for timely payment of the Bond, the Council shall levy and collect an annual ad valorem tax, over and above all other taxes authorized or limited by law and without limitation as to rate or amount, on all locally taxable property in the City sufficient to pay when due the principal of and premium, if any, and interest on the Bond.

7. Preparation of Printed Bond; Mutilated or Destroyed Bond. The printed Bond may be executed by manual or facsimile signature of the Mayor or Vice-Mayor, the City's seal

affixed thereto and attested by the Clerk or Deputy Clerk of the City; provided, however, that if both such signatures are facsimiles, the bond shall not be valid until it has been authenticated by the manual signature of the Registrar (as defined below) and the date of authentication noted thereon. If the Bond has been mutilated, lost or destroyed, the City shall execute and deliver a new bond of like date and tenor in exchange and substitution for, and upon cancellation of, such mutilated Bond or in lieu of and in substitution for such lost or destroyed Bond; provided, however, that the City shall so execute and deliver only if the registered owner has paid the reasonable expenses and charges of the City in connection therewith and, in the case of a lost or destroyed Bond has filed with the City an affidavit reasonably satisfactory to the City that such Bond was lost or destroyed. The Bond surrendered in any such exchange shall be canceled.

8. Registration and Transfer of the Bond. The City appoints the City Treasurer as registrar (the "Registrar") for the Bond and shall maintain registration books for the registration and registration of any transfer of the Bond. Upon surrender of the Bond at the office of the Registrar, together with an assignment duly executed by the registered owner or its duly authorized attorney or legal representative in such form as shall be reasonably satisfactory to the Registrar, the City shall execute, and the Registrar shall authenticate and deliver in exchange, a new Bond or bonds having an equal aggregate principal amount, of the same form and maturity, bearing interest at the same rates and registered in such name as requested by the then registered owner or its duly authorized attorney or legal representative. Any such exchange shall be at the expense of the City, except that the Registrar may charge the person requesting such exchange the amount of any tax or other governmental charge required to be paid with respect thereto.

The Registrar shall treat the registered owner as the person or entity exclusively entitled to payment of principal, interest and premium, if any, and the exercise of all other rights and powers of the owner, except that regular installments shall be paid to the person or entity shown as owner on the registration books on the fifteenth day of the month preceding each payment date.

9. Delivery of Bond. The Mayor or Vice-Mayor and Clerk of the City are authorized and directed to take all proper steps to have the Bond prepared and executed in accordance with its terms and to deliver it to the Purchaser thereof as set forth in the Agreement.

10. Tax Provisions. The City covenants that it shall not take or omit to take any action the taking or omission of which will cause the Bond to be an "arbitrage bond" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, and regulations issued pursuant thereto (the "Code"), or otherwise cause interest on the Bond to be includable in the gross income of the registered owner thereof under existing law. Without limiting the generality of the foregoing, the City shall comply with any provision of law that may require the City at any time to rebate to the United States any part of the earnings derived from the investment of the gross proceeds of the Bond, unless the City receives an opinion of nationally recognized bond counsel that such compliance is not required to prevent interest on the Bond from being included in the gross income for federal income tax purposes of the registered owners thereof under existing law. The City shall pay any such required rebate from legally available funds. The Authorized Signatories, either of whom may act, are authorized to execute a Tax Compliance Agreement or any related document (the "Tax Documents") on behalf of the City, setting forth the expected use and investment of the proceeds of the Bond and covenants of the City regarding compliance with provisions of the Code governing obligations the interest on which is excluded from gross income

for purposes of federal income taxation. Further, the City covenants that it shall at all times conduct or cause to be conducted the use of, or the expenditure of, the proceeds from the issuance of the Bond so as not to permit more than the five percent (5%) for Nonexempt Uses, as that term is used in the Section 141 of the Code.

11. Tax and Other Documents. Each of the Authorized Signatories are authorized and directed to execute and deliver an IRS Form 8038-G in a form approved by such officers and the City's bond counsel.

12. Limitation of Liability of Officials of City. No covenant, condition or agreement contained herein shall be deemed to be a covenant, agreement or obligation of an officer, employee, member of Council, or agent of the City in his or her individual capacity, and no officer of the City or member of Council executing the Bond shall be liable personally on the Bond or be subject to any personal liability or accountability by reason of the issuance thereof. No officer, employee or agent of the City shall incur any personal liability with respect to any other action taken by him or her pursuant to this resolution provided he or she acts in good faith.

13. Other Actions. All other actions of officials of the City in conformity with the purposes and intent of this Resolution and the Agreement and in furtherance of the issuance and sale of the Bond are ratified, approved and confirmed. The officials of the City are authorized and directed to execute and deliver on behalf of the City such agreements and other instruments, documents or certificates, and to do and perform such things and acts, as they shall deem necessary or appropriate to carry out the transactions authorized by this Resolution or contemplated by the Bond or the Agreement, and all of the foregoing, previously done or performed by such officers of the City, are in all respects approved, ratified and confirmed.

14. Headings. Any headings in this resolution are solely for convenience of reference and shall not constitute a part of the resolution nor shall they affect its meaning, construction or effect.

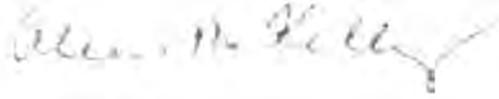
15. Constitutional Authority and Severability. The Bond shall be issued under the provisions of Article VII, Section 10(a) of the Constitution of Virginia. The principal of and interest on the Bond shall be payable from ad valorem taxes to be levied without limitation as to rate or amount on all property in the City subject to taxation, to the extent other funds of the City are not lawfully available and appropriated for such purpose. If any court of competent jurisdiction shall hold any provision of this Resolution to be invalid and unenforceable, such holding shall not invalidate any other provision hereof.

16. Filing of Resolution. The Authorized Signatory and Clerk to the City are authorized and directed to see to the prompt filing of a certified copy of this Resolution in the Circuit Court having jurisdiction over the City, in accordance with Sections 15.2-2607 and 15.2-2627 of the Public Finance Act.

17. Effective Date. This Resolution shall take effect immediately.

Adopted by the Council of the City of Virginia Beach, Virginia, on the ___th day of October, 2020.

APPROVED AS TO CONTENT:



Finance Department

APPROVED AS TO LEGAL
SUFFICIENCY:



City Attorney's Office

CA15140
R-1
September 23, 2020

(Form of Bond)

Interest on this bond is intended by the issuer hereof to be exempt from gross income for federal income tax purposes.

REGISTERED

DATED DATE: October 14, 2020

R-1

MATURITY DATE: February 15, 2030

UNITED STATES OF AMERICA

COMMONWEALTH OF VIRGINIA

CITY OF VIRGINIA BEACH

\$ _____,000

GENERAL OBLIGATION REFUNDING BOND
SERIES 2020

THE CITY OF VIRGINIA BEACH, VIRGINIA (the "City"), for value received, acknowledges itself indebted and promises to pay to **TRUIST BANK** together with its successors, assigns or legal representative (**THE "LENDER"**), the principal amount of:

THOUSAND DOLLARS (\$ _____,000)

on or before February 15, 2030, together with interest on the outstanding principal amount of this Bond at a rate of _____% per year, calculated on the basis of a 360-day year of twelve 30-day months, subject to adjustment as provided herein and in the Bond Purchase and Loan Agreement dated as of October 1, 2020 (the "Agreement"). Interest on this Bond shall be payable in semi-annual installments. Principal shall be payable in the amounts and on the dates set forth in Schedule I attached hereto which is incorporated herein by this reference. Accrued and unpaid interest on this Bond shall be payable on each principal payment date.

If any installment of principal of and interest on this Bond is not paid to the registered owner of this Bond on its due date, the City shall pay to the registered owner a late payment charge in an amount equal to five percent (5.00%) of the overdue installment. Principal and other sums hereunder are payable in lawful money of the United States. Upon an Event of Taxability (as defined below), the outstanding principal amount of this Bond shall bear interest at the Taxable Rate (as defined below), which shall be calculated on the basis of a 360-day year of twelve 30-day months.

For purposes of this Bond, in particular the provisions in the preceding paragraph, the following terms have the meanings assigned to them below:

"Code" means the Internal Revenue Code of 1986, as amended.

“Event of Taxability” means and shall be deemed to have occurred when the interest on this Bond is not excludable in gross income pursuant to Section 61 of the Code for federal income tax purposes.

“Taxable Rate” means the interest rate per annum that shall provide the Lender with the same after tax yield that the Lender would have otherwise received had the Event of Taxability not occurred, taking into account the increased taxable income of the Lender as a result of such Event of Taxability. The Lender shall provide the City with a written statement explaining the calculation of the Taxable Rate, which statement shall, in the absence of manifest error, be conclusive and binding on the City.

Subject to the provisions of the Agreement, between the Lender and the City, so long as this Bond is held by the Lender or its registered assigns or legal representative, principal and interest are payable (without presentation or surrender) by wire transfer, automated clearing house, check or draft sent to the registered owner of this Bond at the address that appears on the registration books kept by the Treasurer of the City, who has been appointed registrar and paying agent, or any successor Lender or trust company (the “Registrar”). Principal of and premium, if any, and interest on this Bond shall be payable in lawful money of the United States of America. In case any payment date on this Bond shall not be a Business Day (as defined below), then payment of principal, premium, if any, and interest need not be made on such date, but may be made on the next succeeding Business Day, and, if made on such next succeeding Business Day, no additional interest shall accrue for the period after such payment date. “Business Day” means any Monday, Tuesday, Wednesday, Thursday or Friday on which commercial banking institutions generally are open for business in New York and Virginia. If an Event of Default has occurred and is continuing under the Agreement, the unpaid principal amount of this Bond shall bear interest at the rate of nine percent (9.00%) per annum or the maximum rate permitted under applicable law, whichever is less.

This Bond has been authorized by a resolution adopted by the Council of the City on October 6, 2020 (the “Bond Resolution”) and is issued pursuant to the Constitution and the Public Finance Act of 1991 of the Commonwealth of Virginia, and the Agreement. Proceeds of this Bond will be used to provide funds to (a) refinance the outstanding portion of the City’s \$5,995,000 General Obligation Bond (Recovery Zone Project), Series 2010A, and (b) pay the issuance and financing costs incurred in issuing this Bond.

The full faith and credit of the City are irrevocably pledged for the payment of principal of and interest and premium, if any, on this Bond and the performance of the City’s obligations under the Agreement. Unless other funds are lawfully available and appropriated for timely payment of this Bond, the Council of the City shall levy and collect an annual ad valorem tax, over and above all other taxes authorized or limited by law and without limitation as to rate or amount, on all locally taxable property in the City sufficient to pay when due the principal of and interest and premium, if any, on this Bond.

Notwithstanding anything in this Bond to the contrary, in addition to the payments of the principal, premium, if any, and interest provided for by this Bond, the City shall also pay such

additional amounts, if any, which may be necessary to provide for payment in full of all amounts due under the Agreement.

This Bond may be redeemed at the option of the City upon the terms and conditions set forth in the Agreement. Capitalized terms used herein and not defined shall have the meaning as set forth in the Agreement.

Transfer of this Bond may be registered upon the registration books of the Bond Registrar. The Registrar shall treat the registered owner as the person exclusively entitled to payment of principal, premium, if any, and interest on this Bond and the exercise of all other rights and powers of the owner; provided that the regular installment payments of principal and interest shall be made to the person shown as the owner on the fifteenth day of the month preceding each payment date.

The holder of this Bond shall not be required to present or surrender this Bond as a condition of receiving payment due hereunder.

All acts, conditions and things required by the Constitution and statutes of the Commonwealth of Virginia to happen, exist or to be performed precedent to and in the issuance of this Bond have happened, exist and have been performed, and this Bond, together with all other indebtedness of the City, is within every debt and other limitation prescribed by the Constitution and statutes of the Commonwealth of Virginia.

IN WITNESS WHEREOF, the City has caused this Bond to be signed by its Mayor and the seal of the City to be affixed hereto and attested by the Clerk of the City, and this bond to be dated the date first above written.

(SEAL)

Mayor of the City of Virginia Beach, Virginia

ATTEST:

Clerk of the City of Beach, Virginia

SCHEDULE I

**CITY OF VIRGINIA BEACH
GENERAL OBLIGATION REFUNDING BOND
SERIES 2020**

[to be completed at closing]

**CERTIFICATE OF THE CLERK OF THE
CITY OF VIRGINIA BEACH, VIRGINIA**

The undersigned Clerk of the City of Virginia Beach, Virginia (the "City"), certifies that:

1. A meeting of the Council (the "Council") of the City was held on October 6, 2020 (the "Meeting").

2. Attached hereto is a true, correct and complete copy of a resolution (the "Resolution") of the Council entitled "Resolution of the City Council of the City of Virginia Beach, Virginia, Authorizing the Issuance and Sale of its General Obligation Refunding Bond, Series 2020 in a Maximum Principal Amount Not to Exceed \$3,445,000, and the Execution and Delivery of Certain Documents Prepared in Connection Therewith," as recorded in full in the minutes of the Meeting and duly adopted by a majority of the members of the Council present and voting during the Meeting.

3. A summary of the members of the Council present or absent at the Meeting, and the recorded vote with respect to the Resolution, is set forth below:

Member Name	Voting				
	Present	Absent	Yes	No	Abstaining
Robert M. Dyer, Mayor	_____	_____	_____	_____	_____
James Wood, Vice Mayor	_____	_____	_____	_____	_____
Jessica Abbott	_____	_____	_____	_____	_____
Michael Berlucchi	_____	_____	_____	_____	_____
Barbara Henley	_____	_____	_____	_____	_____
Louis Jones	_____	_____	_____	_____	_____
John Moss	_____	_____	_____	_____	_____
Aaron R. Rouse	_____	_____	_____	_____	_____
Guy King Tower	_____	_____	_____	_____	_____
Rosemary Wilson	_____	_____	_____	_____	_____
Sabrina Wooten	_____	_____	_____	_____	_____

4. The Resolution has not been repealed, revoked, rescinded or amended, and is in full force and effect on the date hereof.

WITNESS my signature and the seal of the City, this ____ day of _____, 2020.

(SEAL)

Clerk of City of Virginia Beach, Virginia



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: A Resolution Designating Virginia Beach as a Bee City USA Affiliate

MEETING DATE: October 20, 2020

■ **Background:** The mission of Bee City USA is to galvanize communities to sustain pollinators, responsible for the reproduction of almost 90% of the world's flowering plant species, by providing them with healthy habitat, rich in a variety of native plants and free to nearly free of pesticides. Thanks to the more than 3,600 species of native bees in the United States, along with introduced honeybees, we have very diverse dietary choices rich in fruits, nuts, and vegetables. Bees and other pollinators have experienced population declines due to a combination of habitat loss, poor nutrition, pesticides (including insecticides, fungicides, and herbicides), parasites, diseases, and climate change. Pollinator-friendly communities can benefit local and regional economies through healthier ecosystems, increased vegetable and fruit crop yields, and increased demand for pollinator-friendly plant materials from local growers. Pollinator-friendly communities can benefit local and regional economies through healthier ecosystems, increased vegetable and fruit crop yields, and increased demand for pollinator-friendly plant materials from local growers. The ideal pollinator-friendly habitat has the following attributes: (a) is comprised of mostly native wildflowers, grasses, vines, shrubs, and trees blooming in succession throughout the growing season to provide diverse and abundant nectar and pollen, since many wild pollinators prefer or depend on the native plants with which they co-adapted; (b) is free to nearly free of pesticides, as many pesticides can harm pollinators and/or their habitat; (c) comprises undisturbed spaces (leaf and brush piles, unmown fields or field margins, fallen trees and other dead wood) for nesting and overwintering; and (d) provides connectivity between habitat areas to support pollinator movement and resilience.

Integrated Pest Management is a long-term approach to maintaining healthy landscapes and facilities that minimizes risks to people and the environment by: identifying and removing the causes of pest problems rather than only attacking the symptoms (the pests); employing pests' natural enemies along with cultural, mechanical, and physical controls when prevention is not enough; and using pesticides only when no other method is feasible or effective. Supporting pollinators fosters broad-based community engagement in environmental awareness and sustainability. The Department of Parks and Recreation supports the designation of the City as a Bee City USA community because as a City we strive to practice sustainable landscaping and create landscapes that have both habitat and food sources for all pollinators.

■ **Considerations:** The attached resolution authorizes the Department of Parks and Recreation to seek designation as a Bee City USA sponsor on behalf of the City. The Department is authorized to pay an annual fee and to undertake certain activities in furtherance of plantings to support pollinators. This effort will be supported in the

community by the Council of Garden Clubs. The annual fee of \$500 will be split between the City and the Council of Garden Clubs with each paying \$250. The City will commit to \$500 of in-kind support for this initiative in the form of pollinator-friendly plantings. The Council of Garden Clubs will make a similar commitment in the form of educational materials. The resolution includes certain measures to demonstrate the City's commitment including an education event, publicity and information, habitat support, pollinator-friendly pest management, policy and plans, and renewal of the program for subsequent years.

- **Public Information:** Public information will be provided through the normal Council agenda process.
 - **Recommendations:** Adopt the attached resolution.
 - **Attachments:** Resolution
-

Recommended Action: Approval

Submitting Department/Agency: Parks and Recreation *A.K.*

City Manager: *PAO*

1 A RESOLUTION DESIGNATING VIRGINIA BEACH AS A
2 BEE CITY USA AFFILIATE
3

4 WHEREAS, the mission of Bee City USA is to galvanize communities to sustain
5 pollinators, responsible for the reproduction of almost 90% of the world's flowering plant
6 species, by providing them with healthy habitat, rich in a variety of native plants and free
7 to nearly free of pesticides;
8

9 WHEREAS, thanks to the more than 3,600 species of native bees in the United
10 States, along with introduced honeybees, we have very diverse dietary choices rich in
11 fruits, nuts, and vegetables;
12

13 WHEREAS, bees and other pollinators have experienced population declines due
14 to a combination of habitat loss, poor nutrition, pesticides (including insecticides,
15 fungicides, and herbicides), parasites, diseases, and climate change;
16

17 WHEREAS pollinator-friendly communities can benefit local and regional
18 economies through healthier ecosystems, increased vegetable and fruit crop yields, and
19 increased demand for pollinator-friendly plant materials from local growers;
20

21 WHEREAS pollinator-friendly communities can benefit local and regional
22 economies through healthier ecosystems, increased vegetable and fruit crop yields, and
23 increased demand for pollinator- friendly plant materials from local growers;
24

25 WHEREAS, ideal pollinator-friendly habitat has the following attributes: (a) is
26 comprised of mostly native wildflowers, grasses, vines, shrubs, and trees blooming in
27 succession throughout the growing season to provide diverse and abundant nectar and
28 pollen, since many wild pollinators prefer or depend on the native plants with which they
29 co-adapted; (b) is free to nearly free of pesticides, as many pesticides can harm pollinators
30 and/or their habitat; (c) comprises undisturbed spaces (leaf and brush piles, unmown fields
31 or field margins, fallen trees and other dead wood) for nesting and overwintering; and (d)
32 provides connectivity between habitat areas to support pollinator movement and
33 resilience;
34

35 WHEREAS, Integrated Pest Management is a long-term approach to maintaining
36 healthy landscapes and facilities that minimizes risks to people and the environment by:
37 identifying and removing the causes of pest problems rather than only attacking the
38 symptoms (the pests); employing pests' natural enemies along with cultural, mechanical,
39 and physical controls when prevention is not enough; and using pesticides only when no
40 other method is feasible or effective;
41

42 WHEREAS, supporting pollinators fosters broad-based community engagement in
43 environmental awareness and sustainability;
44

45 WHEREAS, the City of Virginia Beach should be certified a Bee City USA
46 community because as a City we strive to practice sustainable landscaping and create

47 landscapes that have both habitat and food sources for all pollinators.

48

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

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52 1. The Parks and Recreation Department is hereby designated as the Bee City
53 USA sponsor on behalf of the City of Virginia Beach, and the Operations
54 Coordinator in the Park & Landscape Services Division is designated as the
55 Bee City USA Liaison. The City commits to an annual fee of \$250 and
56 participation in the form of plantings of an additional \$500, and such amounts
57 shall be provided by the Operating Budget of the Parks and Recreation
58 Department.

59

60 2. The Parks and Recreation Department is to collaborate with the Council of
61 Garden Clubs of the City of Virginia Beach in furtherance of Bee City USA
62 activities.

63

64 3. The City hereby commits to the following activities in support of the Bee City
65 USA efforts:

66

67 a. **Celebration:** Host at least one educational event or pollinator habitat
68 planting or restoration each year to showcase Virginia Beach's commitment to
69 raising awareness of pollinator conservation and expanding pollinator health
70 and habitat;

71

72 b. **Publicity & Information:** Install and maintain at least one authorized Bee
73 City USA street sign in a prominent location, and create and maintain a
74 webpage on the Virginia Beach website which includes, at minimum, the
75 following:

76 i. a copy of this resolution and links to the national Bee City USA
77 website;

78 ii. contact information for your Bee City USA Liaison and Committee;

79 iii. reports of the pollinator-friendly activities the community has
80 accomplished the previous year(s); and

81 iv. recommended native plant species list and integrated pest
82 management plan.

83

84 c. **Habitat:** Develop and implement a program to create or expand pollinator-
85 friendly habitat on public and private land, which includes, but is not limited to,
86 identifying and inventorying Virginia Beach's real property that can be
87 enhanced with pollinator-friendly plantings; creating a recommended locally
88 native plant list to include wildflowers, grasses, vines, shrubs, and trees and a
89 list of local suppliers for those species; and, tracking (by square footage and/or
90 acreage) annual area of pollinator habitat created or enhanced.

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92 d. **Pollinator-Friendly Pest Management:** Create and adopt an integrated

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pest management plan designed to prevent pest problems, reduce pesticide use, and expand the use of non-chemical pest management methods.

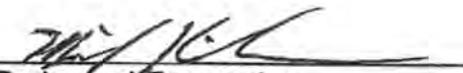
e. **Policy & Plans:** Establish a policy or plan to acknowledge and commit to the Bee City USA designation and review such policy or plan to consider improvements to pest management policies and practices as they relate to pollinator conservation, identify appropriate locations for pollinator-friendly plantings, and consider other appropriate measures.

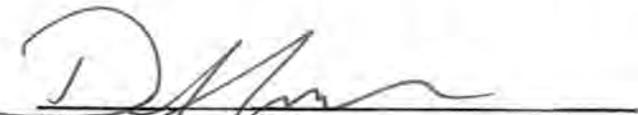
f. **Renewal:** After completing the first calendar year as a Bee City USA affiliate, each February, thereafter apply for renewal of the Bee City USA designation following the format provided by Bee City USA, including a report of the previous year's Bee City USA activities, and paying the renewal fee based on Virginia Beach's population.

Adopted by the City Council of the City of Virginia Beach, Virginia, this ___ day of _____, 2020.

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL SUFFICIENCY:


Parks and Recreation


City Attorney's Office

CA15242
R-1
October 12, 2020



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance to Establish Capital Improvement Projects #100554 "Independence Boulevard / Columbus Street Pedestrian Improvements," # 100555 "Parliament Drive Sidewalk, Phase I," and # 100556 "Sandbridge Road Sidewalk," and to Transfer Funds from Capital Project # 100423 to the Newly Created Projects

MEETING DATE: October 20, 2020

■ **Background:** In 2015, Congress approved a five-year surface transportation authorization bill known as the Fixing America's Surface Transportation (FAST) Act. As part of FAST Act, Congress established a Transportation Alternatives Set-Aside Program to provide dedicated resources to help local sponsors fund projects that expand travel choices and improve the cultural, historical, and environmental aspects of the transportation infrastructure, with an emphasis on pedestrian and bicycle facilities and community improvements. Starting in 2017, the Transportation Alternatives Set-Aside Program launched a biennial application cycle. Therefore, federal funds announced in 2020 are for FY 2021 and 2022.

In 2019, the City submitted five projects for consideration as part of the FY 2021 and FY 2022 award cycle. At its August 20, 2019 session, the City Council conducted a public hearing on the City's proposed application and subsequently adopted a resolution that conveyed the City's endorsement of those five projects. In September 2020, at the monthly Commonwealth Transportation Board meeting, the Virginia Department of Transportation released the Transportation Alternatives Set-Aside Program selections. Three Virginia Beach projects were recommended for funding. The projects are Independence Boulevard / Columbus Street Pedestrian Improvements, Parliament Drive Sidewalk Phase I, and Sandbridge Road Sidewalk. The Commonwealth Transportation Board will ratify this distribution at its October meeting.

The City will receive a total of \$1,643,839 in federal allocations for these three projects. However, due to current funding uncertainty at the federal and Commonwealth levels as a result of the pandemic, the breakdown of these funds between FY 2021 and FY 2022 has yet to be determined. The programmed funds for the projects will be as follows:

	Total Project Cost	FY21 & FY22 Federal Allocations & Programmed Funds	Local Match
Independence Blvd / Columbus Street Pedestrian Improvements	\$511,385	\$352,856	\$158,529
Parliament Drive Sidewalk Ph I	\$1,083,386	\$747,537	\$335,849
Sandbridge Road Sidewalk	\$787,602	\$543,446	\$244,156
Total	\$2,382,373	\$1,643,839	\$738,534

■ **Considerations:** Project # 100554 "Independence Boulevard / Columbus Street Pedestrian Improvement," # 100555 "Parliament Drive Sidewalk, Phase I," and # 100556 "Sandbridge Road Sidewalk" projects will be managed as new standalone CIP Projects within the Roadways Section of the Capital Improvement Program. There is sufficient local funding in Project # 100423, "Traffic Safety Improvements (TSI) IV" to satisfy the City's proposed local match. Accordingly, the applicable local funds will be transferred from Project # 100423, "TSI IV" to the new standalone CIP projects. While the timing of the federal funds is uncertain, the City intends to use the local match to initiate design work for the projects. This will enable the City to maintain all necessary project timelines. Any money the City spends upfront can also be reimbursed once federal funds are assigned. Federal funds will be programmed in the FY 2022 CIP.

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

■ **Attachments:** Ordinance; Location Maps (3); Project Description Pages (3)

Recommended Action: Approval

Submitting Department/Agency: Public Works

City Manager: 

1 AN ORDINANCE TO ESTABLISH CAPITAL IMPROVEMENT
2 PROJECTS #100554 "INDEPENDENCE BOULEVARD /
3 COLUMBUS STREET PEDESTRIAN IMPROVEMENTS",
4 #100555 "PARLIAMENT DRIVE SIDEWALK, PHASE I," AND
5 #100556 "SANDBRIDGE ROAD SIDEWALK," AND TO
6 TRANSFER FUNDS FROM CAPITAL PROJECT #100423
7 TO THE NEWLY CREATED PROJECTS
8

9 WHEREAS, on August 20, 2019, the City Council adopted Resolution #3983,
10 which endorsed the City's FY 2021 and FY 2022 Transportation Alternatives Set-Aside
11 Program applications; and
12

13 WHEREAS, the Virginia Department of Transportation recommended that three of
14 the projects submitted by the City be approved and receive funding in the amounts
15 requested by the City,
16

17 NOW, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF VIRGINIA BEACH,
18 VIRGINIA:
19

20 1. The following capital projects are hereby established in the FY 2020-21
21 Capital Improvement Program:

- 22 #100554 "Independence Boulevard / Columbus Street Pedestrian Improvements;"
23 #100555 "Parliament Drive Sidewalk, Phase I;" and
24 #100556 "Sandbridge Road Sidewalk."
25

26 2. \$738,534 is hereby transferred from CIP # 100423, "Traffic Safety
27 Improvements IV," to newly created capital projects in the following amounts:

- 28 \$158,529 to #100554 "Independence Boulevard / Columbus Street Pedestrian
29 Improvements;"
30 \$335,849 to # 100555 "Parliament Drive Sidewalk, Phase I;"
31 \$244,156 to #100556 Sandbridge Road Sidewalk"
32

33 3. The City Manager is hereby authorized to execute on behalf of the City of
34 Virginia Beach all necessary project agreements for project development, construction,
35 and the receipt or reimbursement of federal funds.

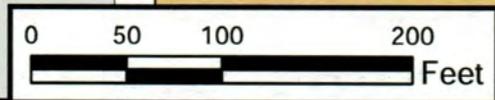
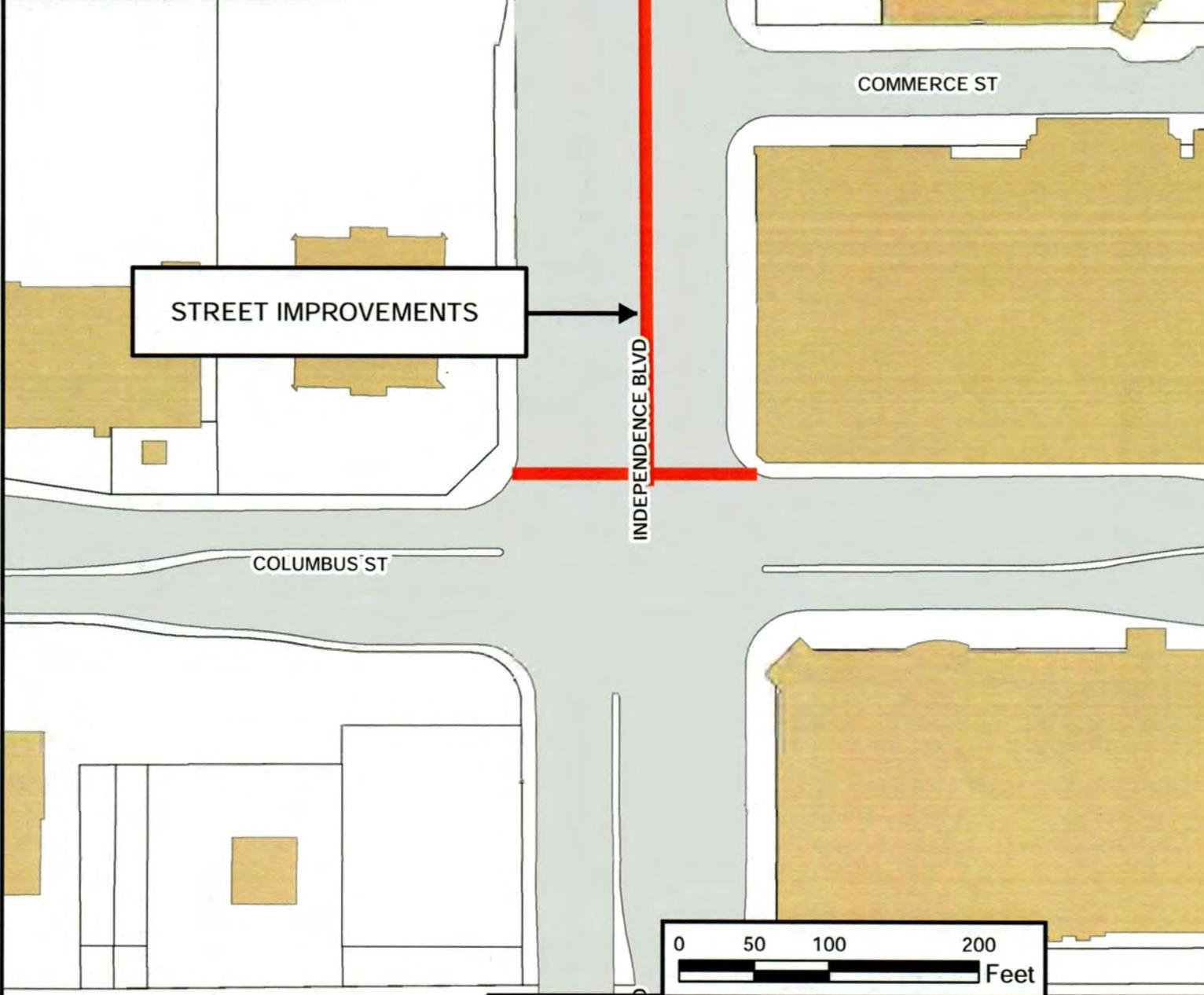
Adopted by the Council of the City of Virginia Beach, Virginia on the _____ day of
_____ 2020.

APPROVED AS TO CONTENT:


Budget and Management Services

APPROVED AS TO LEGAL SUFFICIENCY:


City Attorney's Office



**LOCATION MAP
INDEPENDENCE BOULEVARD
AND
COLUMBUS STREET
IMPROVEMENTS**

City of Virginia Beach FY 2022 thru FY 2027 Capital Improvement Program

Project: 100554	Title: Independence Blvd/Columbus Street Pedestrian Improvements	Status: New Project
Category: Roadways	Department: Capital Improvement Program	Ranking: 0

Project Type		Project Location	
Project Type:		District:	

Programmed Funding								
Programmed Funding	Appropriated To Date	Budgeted FY 2022	Non-Appropriated Programmed CIP Funding					Future Funding
			FY 2023	FY 2024	FY 2025	FY 2026	FY 2027	
			0	0	0	0	0	0

Description and Scope

This project will provide an at-grade pedestrian crossing at the Columbus Street and Independence Boulevard intersection and a median pedestrian refuge across Independence Boulevard. Project improvements include removal of one of the two southbound left turn lanes on Independence Boulevard, installation of a pedestrian refuge area, median and pedestrian signalization equipment on the north leg of the Columbus Street/ Independence Boulevard intersection, striping, and required accessible curb ramps. The ramp on the northwest corner of the Columbus Street/Independence Boulevard intersection will be replaced to meet ADA compliance and to better align with the ramp on the northeast corner of the intersection. The project will be completed entirely within the right-of-way.

Purpose and Need

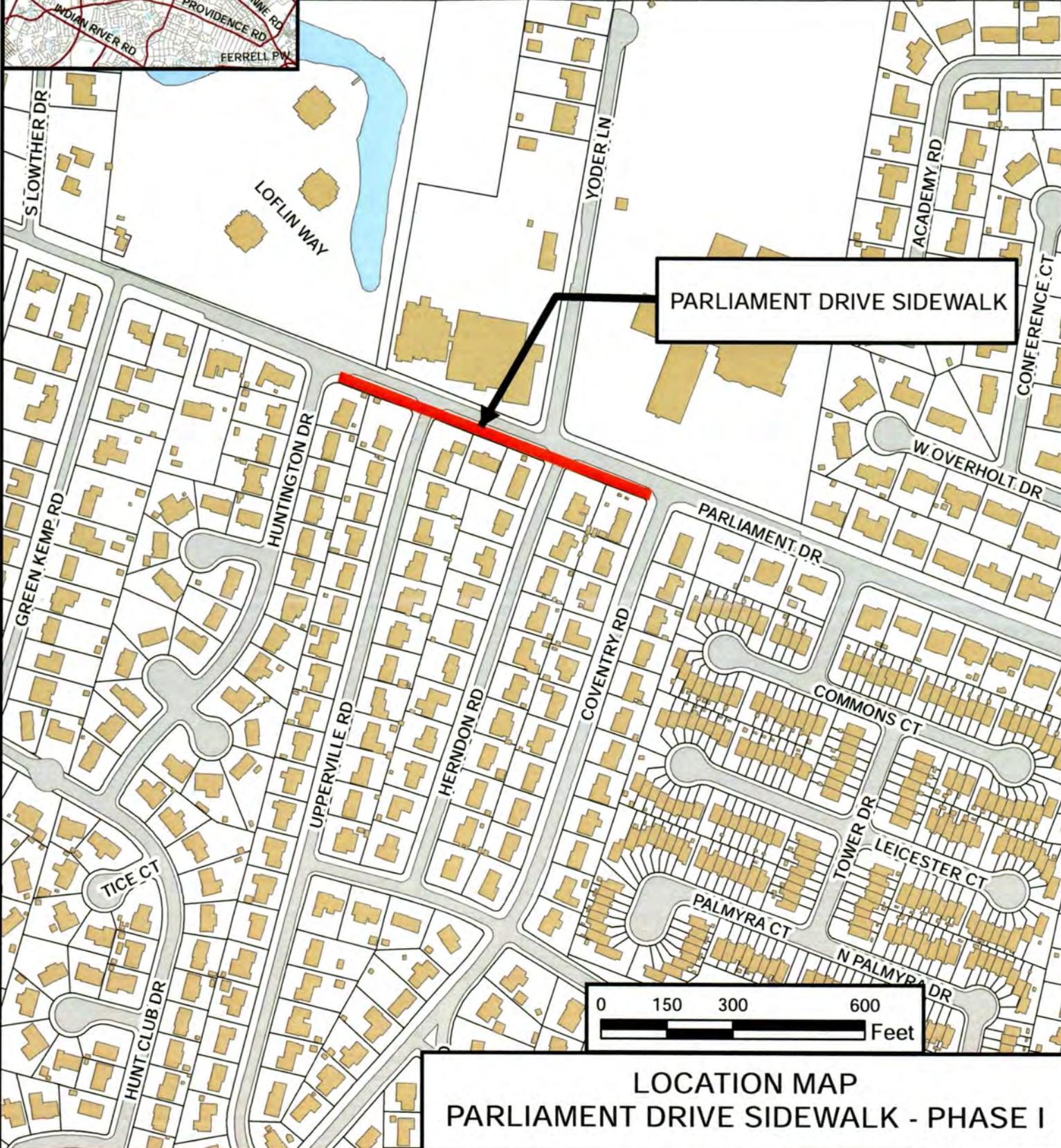
The proposed improvements will complete the pedestrian network to and from the Town Center Area. This project creates a safe route to connect residents and businesses on the west side of Independence Boulevard to those on the east side. Currently, the nearest crosswalk to traverse across Independence Boulevard is at the Virginia Beach Boulevard intersection.

History and Current Status

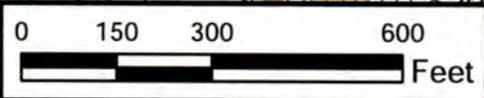
This project was created and approved by Council Ordinance adopted on October 20, 2020. The project will be partially funded with federal Transportation Alternative Program (TAP) funding that will be programmed within the FY 2022 Adopted CIP.

Operating Budget Impacts

Project Map	Schedule of Activities		
	Project Activities	From - To	Amount
	Design	01/21 - 10/21	92,500
	Construction	11/21 - 03/22	359,281
	Contingencies	01/21 - 03/22	59,604
	Total Budgetary Cost Estimate:		511,385
	Means of Financing		
	Funding Subclass		
	Local Funding		158,529
	Federal Contribution		352,856
	Total Funding:		511,385



PARLIAMENT DRIVE SIDEWALK



**LOCATION MAP
PARLIAMENT DRIVE SIDEWALK - PHASE I**

City of Virginia Beach FY 2022 thru FY 2027 Capital Improvement Program

Project: 100555	Title: Parliament Drive Sidewalk Phase I	Status: New Project
Category: Roadways	Department: Capital Improvement Program	Ranking: 0

Project Type:	Project Location:
Project Type:	District:

Programmed Funding		Non-Appropriated Programmed CIP Funding					Future Funding
Programmed Funding	Appropriated To Date	Budgeted FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
			0	0	0	0	0

Description and Scope

This project will provide a five foot wide concrete sidewalk along the southern side of Parliament Drive from Coventry Road to Huntington Drive, a total distance of approximately 0.20 miles. The proposed concrete sidewalk will connect to existing sidewalk at Coventry Road, as well as a small section of existing sidewalk within the project limits. The project will extend the Parliament Drive Sidewalk Phase II project and provide a continuous path along Parliament Drive. The concrete sidewalk will be located entirely within the existing right-of-way. This project includes new accessible curb ramps at each intersection along Parliament Drive; piping the existing ditch, new curb and gutter; and utility relocations.

Purpose and Need

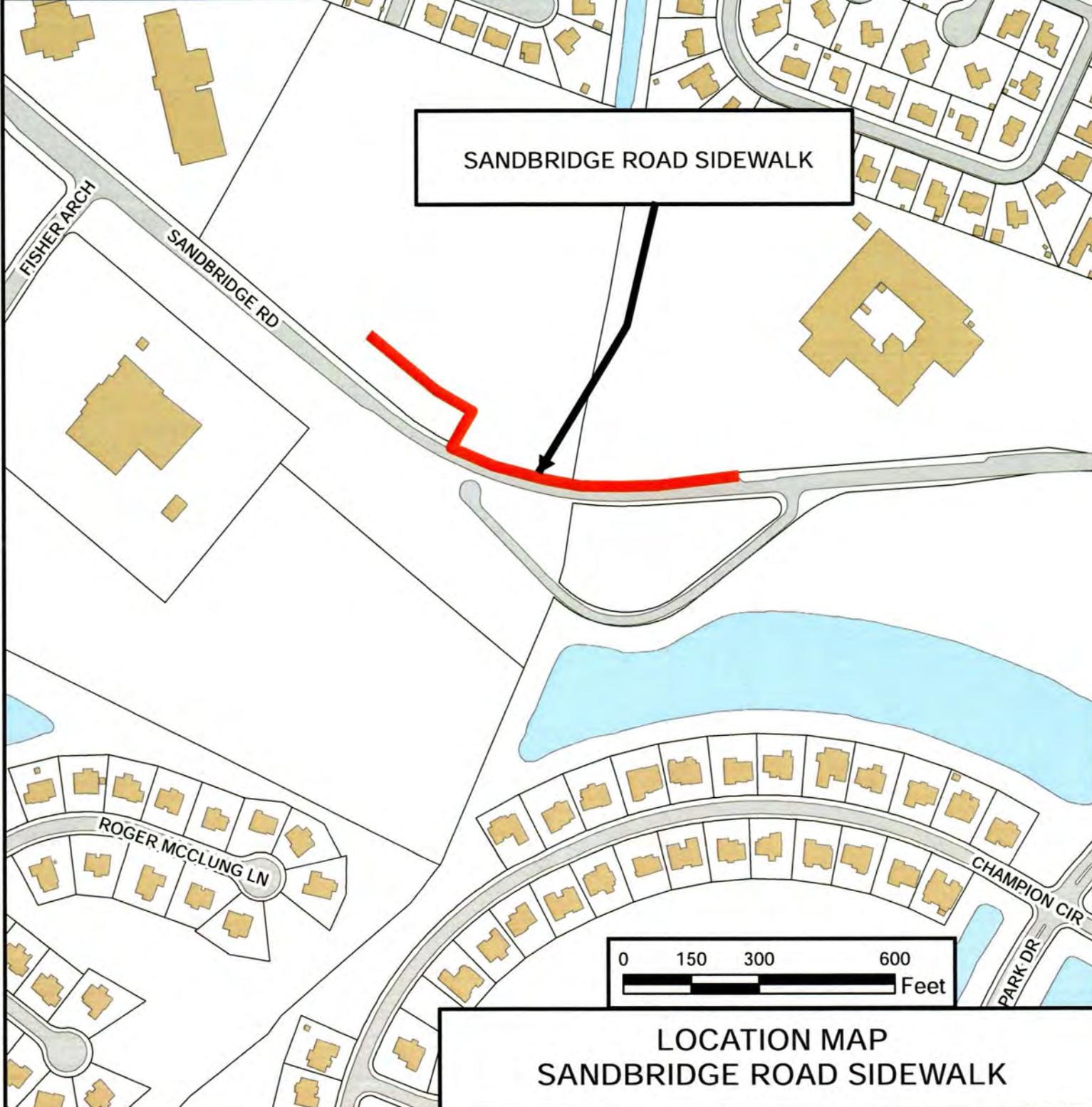
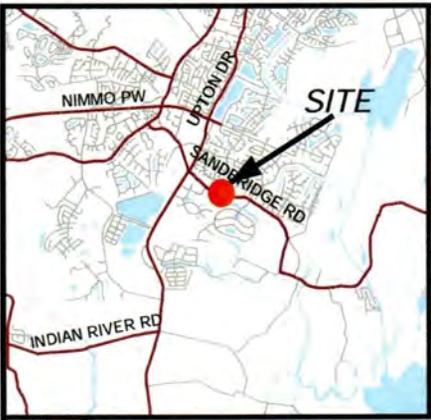
This project will greatly improve safety and provide connectivity for pedestrians walking to destinations along Parliament Drive, such as Point O'View Elementary School, Parliament Park, Arrowhead Shopping Center, and two area churches. The sidewalk will provide connectivity in an area that is heavily traveled by pedestrians.

History and Current Status

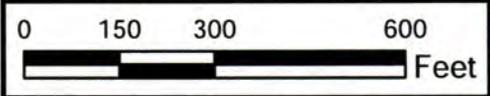
This project was created and approved by Council Ordinance adopted on October 20, 2020. The project will be partially funded with federal Transportation Alternative Program (TAP) funding that will be programmed within the FY 2022 Adopted CIP.

Operating Budget Impacts

Project Map	Schedule of Activities		
	Project Activities	From - To	Amount
	Design	01/21 - 12/21	210,000
	Private Utility Adjustments	10/21 - 02/22	15,000
	Construction	03/22 - 01/23	729,706
	Contingencies	01/21 - 12/23	128,680
	Total Budgetary Cost Estimate:		1,083,386
	Means of Financing		
	Funding Subclass	Amount	
	Local Funding	335,849	
	Federal Contribution	747,537	
	Total Funding:		1,083,386



SANDBRIDGE ROAD SIDEWALK



LOCATION MAP SANDBRIDGE ROAD SIDEWALK

City of Virginia Beach FY 2022 thru FY 2027 Capital Improvement Program

Project: 100556	Title: Sandbridge Road Sidewalk	Status: New Project
Category: Roadways	Department: Capital Improvement Program	Ranking: 0

Project Type		Project Location	
Project Type:		District:	

Programmed Funding								
Programmed Funding	Appropriated To Date	Budgeted FY 2022	Non-Appropriated Programmed CIP Funding					Future Funding
			FY 2023	FY 2024	FY 2025	FY 2026	FY 2027	
			0	0	0	0	0	

Description and Scope

This project will provide a six foot wide concrete sidewalk along the north side of Sandbridge Road. The sidewalk will run approximately 0.20 miles from Red Mill Elementary School to the existing sidewalk at the City of Virginia Beach Red Mill Farms Park ballfields. The proposed project will also include a pedestrian crossing to span over the existing drainage channel. Right of way acquisition is required for the project; however, the City of Virginia Beach owns all adjacent property, so the acquisition process will be streamlined at no cost to the project.

Purpose and Need

This project will greatly improve safety and provide connectivity for pedestrians between Red Mill Farms Park and Red Mill Elementary School and surrounding neighborhoods. Red Mill Farms Park currently has no sidewalk connection to the Red Mill Elementary School. The existing Park includes two lighted ball fields, a playground, and a multi-use path connection to the adjacent neighborhood of Red Mill Farms.

History and Current Status

This project was created and approved by Council Ordinance adopted on October 20, 2020. The project will be partially funded with federal Transportation Alternative Program (TAP) funding that will be programmed within the FY 2022 Adopted CIP.

Operating Budget Impacts

Project Map	Schedule of Activities		
	Project Activities	From - To	Amount
	Design	01/21 - 12/21	150,000
	Private Utility Adjustments	10/21 - 12/21	7,000
	Construction	01/22 - 10/22	537,633
	Contingencies	01/21 - 10/22	92,969
	Total Budgetary Cost Estimate:		<u>787,602</u>
	Means of Financing		
	Funding Subclass		
	Local Funding		244,156
	Federal Contribution		543,446
	Total Funding:		<u>787,602</u>



**CITY OF VIRGINIA BEACH
AGENDA ITEM**

ITEM: An Ordinance to Adopt Revised Regulations for Resort Area Outdoor Café Franchises

MEETING DATE: October 20, 2020

■ **Background:** In 1985, the City Council authorized the City Manager to promulgate Resort Open Air Café Franchise Regulations (“Regulations”) to implement an open-air café program in the public rights-of-way in an effort to enhance the overall dining environment at the Oceanfront. The Regulations have been amended many times since their implementation but have not been substantially updated in more than ten years. The purpose of this ordinance is to adopt revised regulations for Resort Area outdoor café franchises.

■ **Considerations:** Businesses and resort stakeholders have identified barriers with the existing Regulations that hinder the ability of businesses to use new and innovative materials and to comply with the Regulations. The Planning Department’s Strategic Growth Area Office and the Resort Advisory Commission collaborated to revise the Regulations (“Revised Regulations”) to:

- Provide more flexibility for outdoor café owners and operators to keep pace with the current standards in construction, design, and materials available for outdoor cafés;
- Simplify the program and its administration by consolidating the café categories;
- Create a more user-friendly, visually compelling, and organized document;
- Streamline the application and approval processes;
- Conform with current state and local regulations, including the Virginia Alcoholic Beverage Control Act, the Virginia Building Codes, the 2020 Public Works Design Standards Manual and the Oceanfront Resort District Form-Based Code;
- Align with current City guidelines, including the Resort Area Strategic Action Plan 2030 and the Oceanfront Resort District Connector Park Design Guidelines; and
- Expand eligibility to fast, casual establishments that are fully Certified Virginia Green Partner, a sponsored initiative by the state to encourage green practices in all aspects of the tourism industry.

■ **Public Information:** Information will be provided through the normal agenda process.

- **Recommendations:** Approval
 - **Attachments:** Ordinance and Revised Regulations
-

Recommended Action: Approval

Submitting Department/Agency: Planning Department, Strategic Growth Area Office *pmw*

City Manager: *PMW*

1 AN ORDINANCE TO ADOPT REVISED
2 REGULATIONS FOR RESORT AREA OUTDOOR
3 CAFÉ FRANCHISES
4

5 WHEREAS, in 1985, the City Council authorized the City Manager to promulgate
6 Resort Open Air Café Franchise Regulations ("Regulations") to implement an open-air
7 café program in the public rights-of-way in an effort to enhance the overall dining
8 environment at the Oceanfront; and
9

10 WHEREAS, the Regulations have been amended many times since their
11 implementation but have not been substantially updated in more than ten years; and
12

13 WHEREAS, businesses and resort stakeholders have identified barriers with the
14 Regulations that hinder the ability of businesses to use new and innovative materials
15 and to comply with the Regulations; and
16

17 WHEREAS, the Planning Department's Strategic Growth Area Office and the
18 Resort Advisory Commission collaborated to revise the Regulations ("Revised
19 Regulations"); and
20

21 WHEREAS, the Revised Regulations provide more flexibility for outdoor café
22 owners and operators to keep pace with the current standards in construction, design,
23 and materials available for outdoor cafés; and
24

25 WHEREAS, the Revised Regulations simplify the outdoor café program and its
26 administration by consolidating the café categories; and
27

28 WHEREAS, the Revised Regulations create a more user-friendly, visually
29 compelling, and organized document and streamline the application and approval
30 processes; and
31

32 WHEREAS, the Revised Regulations update the document to conform with current
33 state and local regulations and City guidelines; and
34

35 WHEREAS, the Revised Regulations will advance City Council's goal of being a
36 competitive first-class resort for residents, businesses, and tourists.
37

38 NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE
39 CITY OF VIRGINIA BEACH, VIRGINIA:
40

41 That the Revised Regulations, known as the "Resort Area Outdoor Café
42 Franchise Regulations," are hereby adopted, a true copy of which is hereto attached.
43

Adopted by the City Council of the City of Virginia Beach, Virginia, on the _____
day of October 2020.

APPROVED AS TO CONTENT:



Strategic Growth Area Office

APPROVED AS TO LEGAL SUFFICIENCY:



City Attorney's Office

CA15180
R-1
October 8, 2020

Summary of Revised Regulations for Resort Area Outdoor Café Franchises

The following revisions were made to the Resort Area Outdoor Café Franchise Regulations (“Regulations”):

- Replace the term “Open Air” with “Outdoor” to be more concise.
- Provide more flexibility for outdoor café owners and operators to keep pace with the current standards in construction, design, and materials by:
 - Permitting more than one point of access/egress to cafés.
 - Adding rope rails, vinyl PVC, aluminum fencing and continuous hedges to the approved perimeter barrier materials.
 - Eliminating the maximum planting bed width requirement.
 - Eliminating the required overhead structure coverage requirement.
 - Permitting hard-top coverings in Boardwalk café types only.
 - Permitting umbrellas in any café type.
 - Permitting new furniture and fixtures made of high-density polyethylene and heavy weight durable polymer resin.
- Simplify the program and its administration by consolidating the café categories from six categories to three categories. The three revised categories of cafés are:
 - Boardwalk Café - Outdoor cafes located east of Atlantic Avenue’s eastern ROW line, namely outdoor cafes located along the Connector Parks and facing the Boardwalk.
 - Sidewalk Café (Atlantic to Pacific) – Outdoor cafes located between Atlantic Avenue’s eastern ROW line and Pacific Avenue’s western ROW line.
 - Sidewalk Café (West of Pacific) – Outdoor cafes located west of Pacific Avenue’s western ROW line at Laskin Gateway, Central Beach and south of Winston Salem Avenue.
- A new eligibility map is included in the Regulations to illustrate the parcels eligible for an outdoor café franchise and the type of café permitted.
- The Regulations are more user-friendly, visually compelling and organized with maps, example photos, and graphics illustrating required outdoor café components.
- The application process has been streamlined by including City review earlier in the process.
- Clarification is provided on what modifications can be made to existing outdoor cafes without City approval.
- The Regulations conform with current state and local regulations, including the Virginia Alcoholic Beverage Control Act, Virginia Building Codes, 2020 Public Works Design Standards Manual and the Oceanfront Resort District Form-Based Code.
- The Regulations align with current City guidelines, including the recently adopted Resort Area Strategic Action Plan 2030 and the Oceanfront Resort District Connector Park Design Guidelines.
- Previously the Regulations only permitted full-service restaurants with non-disposable dishware. The Regulations expand franchise eligibility to include fast-casual establishments that are Fully Certified Virginia Green Partner, a sponsored initiative by the Commonwealth to encourage green practices in the tourism industry.



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance Granting a Franchise Agreement for an Open Air Café in the Resort Area

MEETING DATE: October 20, 2020

■ **Background:** By resolution adopted November 25, 1985, City Council authorized the City Manager to promulgate Open Air Café Regulations, which have been amended from time to time, for the operation of open air cafés on public property. The City has developed a franchise agreement for the regulation of open air 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 open air 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:** Thirsty-24, LLC t/a Atlantic Pints, is seeking a one-year franchise agreement for the operation of an Atlantic Avenue Sidewalk Café at 2314 Atlantic Avenue.

■ **Public Information:** A public notice was published in *The Beacon* on October 11, 2020.

■ **Attachments:** Ordinance and Disclosure Form

Recommended Action: Adopt Ordinance

Submitting Department/Agency: Strategic Growth Area Office *kmw*

City Manager: *MD*

1 AN ORDINANCE GRANTING A FRANCHISE
2 AGREEMENT FOR AN OPEN AIR CAFÉ IN
3 THE RESORT AREA
4

5 WHEREAS, by resolution adopted November 25, 1985, City Council authorized
6 the City Manager to promulgate Open Air Café Regulations, which have been amended
7 from time to time, for the operation of open air cafés on public property; and
8

9 WHEREAS, the City Council has traditionally granted initial franchises for one-
10 year terms; and
11

12 WHEREAS, if an open air café is successfully operated during the initial one-
13 year term, the franchisee may return to Council and request a five-year franchise
14 agreement; and
15

16 WHEREAS, Thirsty-24, LLC, t/a Atlantic Pints, is seeking a one-year franchise
17 agreement for operation of an Atlantic Avenue Sidewalk Café at 2314 Atlantic Avenue;
18 and
19

20 WHEREAS, the Strategic Growth Area Office recommends that the above-
21 named entity be granted an open air café franchise agreement.
22

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

26 That the City Council hereby grants Thirsty-24, LLC, t/a Atlantic Pints, a one-year
27 franchise agreement for the operation of an Atlantic Avenue Sidewalk Café at 2314
28 Atlantic Avenue.

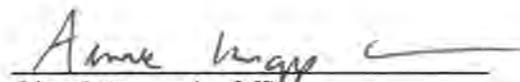
Adopted by the City Council of Virginia Beach, Virginia on this ___ day of
_____ 2020.

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL SUFFICIENCY:



Strategic Growth Area Office



City Attorney's Office



APPLICANT'S NAME *Tristy-24 LLC dba Atlantic Bricks*

DISCLOSURE STATEMENT FORM

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

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

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

SECTION 1 / APPLICANT DISCLOSURE

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

<input type="checkbox"/>	APPLICANT NOTIFIED OF HEARING	DATE:	
<input checked="" type="checkbox"/>	NO CHANGES AS OF	DATE	<i>10.9.20</i>
<input type="checkbox"/>	REVISIONS SUBMITTED	DATE	

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

(A) List the Applicant's name: Thirsty-24 LLC

If an LLC, list all member's names:

Chris P. Kyrakides
Chris P. Kyrus
Thomas C. Kyrus

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-subsidary¹ or affiliated business entity² relationship with the Applicant: *(Attach list if necessary)*

None

See next page for information pertaining to footnotes¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

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

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

(A) List the Property Owner's name: Kyrus Family LLC
If an LLC, list the member's names:

Elaine M. Kyrus

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

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

None

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

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

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

APPLICANT

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

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

YES	NO	Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	

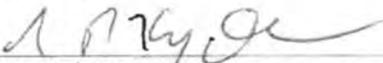
If yes, what is the name of the official or employee and what is the nature of the interest?



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.

	CHRIS P KYRIAKOU	2/28/2020
APPLICANT'S SIGNATURE	PRINT NAME	DATE

OWNER

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

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

<p>YES</p> <input type="checkbox"/>	<p>NO</p> <input checked="" type="checkbox"/>	<p>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?</p>
-------------------------------------	---	---

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

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.

	Elaine M. KYROS	9/28/2018
PROPERTY OWNER'S SIGNATURE	PRINT NAME	DATE



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance Authorizing 1) the Acquisition of an Agricultural Land Preservation Easement from Holly Road, LLC and Ola Hill Krueger (58.22+/- Acres), 2) the Issuance by the City of its Contract Obligations in the Maximum Principal Amount of \$681,174, and 3) Transfer of Funds to Purchase U.S. Treasury STRIPS

PUBLIC HEARING DATE: October 20, 2020

MEETING DATE: October 20, 2020

■ **Background:** In May 1995, the Agricultural Lands Preservation Ordinance (the "Ordinance") was adopted by the City Council for the purpose of promoting and encouraging the preservation of farmland in the rural southern portion of the City. Under the Agricultural Reserve Program established by the Ordinance, the City purchases the development rights of eligible parcels of land, leaving the fee simple ownership of the land unchanged. These purchases are embodied by perpetual agricultural land preservation easements pursuant to which only agricultural uses, as defined in the Ordinance, are allowed on the land.

The subject property has been appraised by an independent appraiser retained by the City. The appraiser has determined the fair market value of the property, based upon ten (10) comparable sales. From the fair market value, the value of the development rights has been determined by subtracting \$1,800 per acre, which has previously been established as the farm value (i.e., value of the land restricted to agricultural uses) for land throughout the southern rural area of the City. The resulting amount is the value of the development rights of the property.

All offers by the City to purchase the development rights of property are expressly made contingent upon the absence of any title defects or other conditions which, in the opinion of the City Attorney, may adversely affect the City's interests, and other standard contingencies.

■ **Considerations:** The subject property, 1200 block of Princess Anne Road (GPIN: 2401-92-6325), consists of one (1) parcel of land having approximately 58.22 acres outside of marshland or swampland. It is owned by Holly Road, LLC and Ola Hill Krueger. Under current development regulations, there is a total development potential of five (5) single-family dwelling building sites, and zero (0) have been reserved for future development. The parcel, which is shown on the attached Location Map, is located in the 1200 block of Princess Anne Road (GPIN: 2401-92-6325) in the District of Princess Anne. The proposed purchase price, as stated in the ordinance, is \$681,174. This price is the equivalent of approximately \$11,700 per acre.

The terms of the proposed acquisition are that the City would pay interest only for a period of 25 years, with the principal amount being due and payable 25 years from the date of closing. The interest rate to be paid by the City will be the greater of 1.505% per annum or the per annum rate which is equal to the yield on U.S. Treasury STRIPS purchased by the City to fund its principal obligation under the Installment Purchase Agreement, not to exceed 3.505% without the further approval of the City Council.

The ordinance authorizes the transfer of the amount needed to purchase the U.S. Treasury STRIPS from the Agriculture Reserve Program Special Revenue Fund to the General Debt Fund.

The proposed terms and conditions of the purchase of the development rights pursuant to the Installment Purchase Agreement, including the purchase price and manner of payment, are fair and reasonable and in furtherance of the purposes of the Ordinance.

■ **Public Information:** Notice of Public Hearing has been advertised by publication in a newspaper having general circulation in the City once per week for two successive weeks (October 4, 2020 and October 11, 2020). The Public Hearing will be held on October 20, 2020. Public notice will be provided via the normal City Council agenda process.

■ **Alternatives:** The City Council may decline to purchase the development rights to the property.

■ **Recommendations:** Adoption of the ordinance and acquisition of the development rights, assuming all contingencies are met.

■ **Attachments:** Ordinance
Summary of Terms of Installment Purchase Agreement
Disclosure Statement Form
Location Map

Recommended Action: Adoption

Submitting Department/Agency: Agriculture Department

City Manager:



1 AN ORDINANCE AUTHORIZING 1) THE ACQUISITION OF
2 AN AGRICULTURAL LAND PRESERVATION EASEMENT
3 FROM HOLLY ROAD, LLC AND OLA HILL KRUEGER
4 (58.22+/- ACRES), 2) THE ISSUANCE BY THE CITY OF ITS
5 CONTRACT OBLIGATIONS IN THE MAXIMUM PRINCIPAL
6 AMOUNT OF \$681,174, AND 3) TRANSFER OF FUNDS TO
7 PURCHASE U.S. TREASURY STRIPS
8

9 WHEREAS, pursuant to the Agricultural Lands Preservation Ordinance (the
10 "Ordinance"), Appendix J of the Code of the City of Virginia Beach, there has been
11 presented to the City Council a request for approval of an Installment Purchase
12 Agreement (the form and standard provisions of which have been previously approved
13 by the City Council, a summary of terms of which is hereto attached, and a copy of which
14 is on file in the City Attorney's Office) for the acquisition of the Development Rights (as
15 defined in the Installment Purchase Agreement) on certain property located in the City
16 and more fully described in Exhibit B of the Installment Purchase Agreement for a
17 purchase price of \$681,174; and
18

19 WHEREAS, the aforesaid Development Rights shall be acquired through the
20 acquisition of a perpetual agricultural land preservation easement, as defined in, and in
21 compliance with, the requirements of the Ordinance; and
22

23 WHEREAS, the City Council has reviewed the proposed terms and conditions of
24 the purchase as evidenced by the Installment Purchase Agreement.
25

26 NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY
27 OF VIRGINIA BEACH, VIRGINIA:
28

29 1. The City Council hereby determines and finds that the proposed terms and
30 conditions of the purchase of the Development Rights pursuant to the Installment
31 Purchase Agreement, including the purchase price and manner of payment, are fair and
32 reasonable and in furtherance of the purposes of the Ordinance, and the City Manager
33 or his designee is hereby authorized to approve, upon or before the execution and
34 delivery of the Installment Purchase Agreement, the rate of interest to accrue on the
35 unpaid principal balance of the purchase price set forth hereinabove as the greater of
36 1.505% per annum or the per annum rate which is equal to the yield on United States
37 Treasury STRIPS purchased by the City to fund such unpaid principal balance; provided,
38 however, that such rate of interest shall not exceed 3.505% unless the approval of the
39 City Council by resolution duly adopted is first obtained.
40

41 2. The City Council hereby further determines that funding is available for the
42 acquisition of the Development Rights pursuant to the Installment Purchase Agreement
43 on the terms and conditions set forth therein.
44

45 3. The City Council hereby expressly approves the Installment Purchase
46 Agreement and, subject to the determination of the City Attorney that there are no defects

47 in title to the property or other restrictions or encumbrances thereon which may, in the
48 opinion of the City Attorney, adversely affect the City's interests, authorizes the City
49 Manager or his designee to execute and deliver the Installment Purchase Agreement in
50 substantially the same form and substance as approved hereby with such minor
51 modifications, insertions, completions or omissions which do not materially alter the
52 purchase price or manner of payment, as the City Manager or his designee shall approve.
53 The City Council further directs the City Clerk to affix the seal of the City to, and attest
54 same on, the Installment Purchase Agreement. The City Council expressly authorizes
55 the incurrence of the indebtedness represented by the issuance and delivery of the
56 Installment Purchase Agreement.

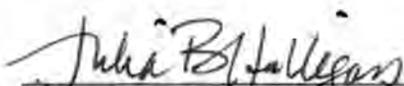
57
58 4. The City Council hereby elects to issue the indebtedness under the Charter
59 of the City rather than pursuant to the Public Finance Act of 1991 and hereby constitutes
60 the indebtedness a contractual obligation bearing the full faith and credit of the City.

61
62 5. The City Council hereby authorizes the transfer of \$454,396.36 from the
63 Agricultural Reserve Program Special Revenue Fund to the General Debt Fund, and the
64 City Manager is empowered to transfer sufficient additional funds or return funds not
65 required, from the Agricultural Reserve Program Special Revenue Fund notwithstanding
66 the dollar limits provided by the Annual Appropriation Ordinance, to purchase the United
67 States Treasury STRIPS as described in the Installment Purchase Agreement.

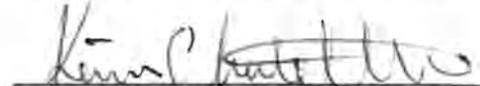
68
69 *Adoption requires an affirmative vote of a majority of all members of the City*
70 *Council.*

71
72 Adopted by the Council of the City of Virginia Beach, Virginia, on this ____ day
73 of _____, 2020.

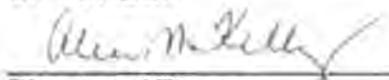
APPROVED AS TO CONTENT:


Agriculture Department

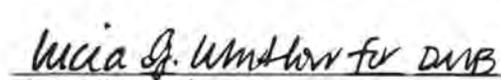
APPROVED AS TO CONTENT:


Budget and Management Services

CERTIFIED AS TO AVAILABILITY
OF FUNDS:


Director of Finance

APPROVED AS TO LEGAL SUFFICIENCY:


City Attorney's Office

CA15190

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R-1

October 15, 2020

AGRICULTURAL RESERVE PROGRAM

INSTALLMENT PURCHASE AGREEMENT NO. 2020-159

SUMMARY OF TERMS

SELLER: Holly Road, LLC, a Virginia limited liability company, and Ola Hill Krueger

PROPERTY

LOCATION: 1200 block of Princess Anne Road (GPIN: 2401-92-6325)

PURCHASE PRICE: \$681,174

EASEMENT AREA: 58.22 acres, more or less

DEVELOPMENT POTENTIAL: 5 single-family dwelling sites (0 reserved by Seller)

DURATION: Perpetual

INTEREST RATE: Equal to yield on U.S. Treasury STRIPS acquired by City to fund purchase price, but not less than 1.505% (actual rate to be determined when STRIPS are purchased prior to execution of Installment Purchase Agreement ("IPA")). Rate may not exceed 3.505% without approval of City Council.

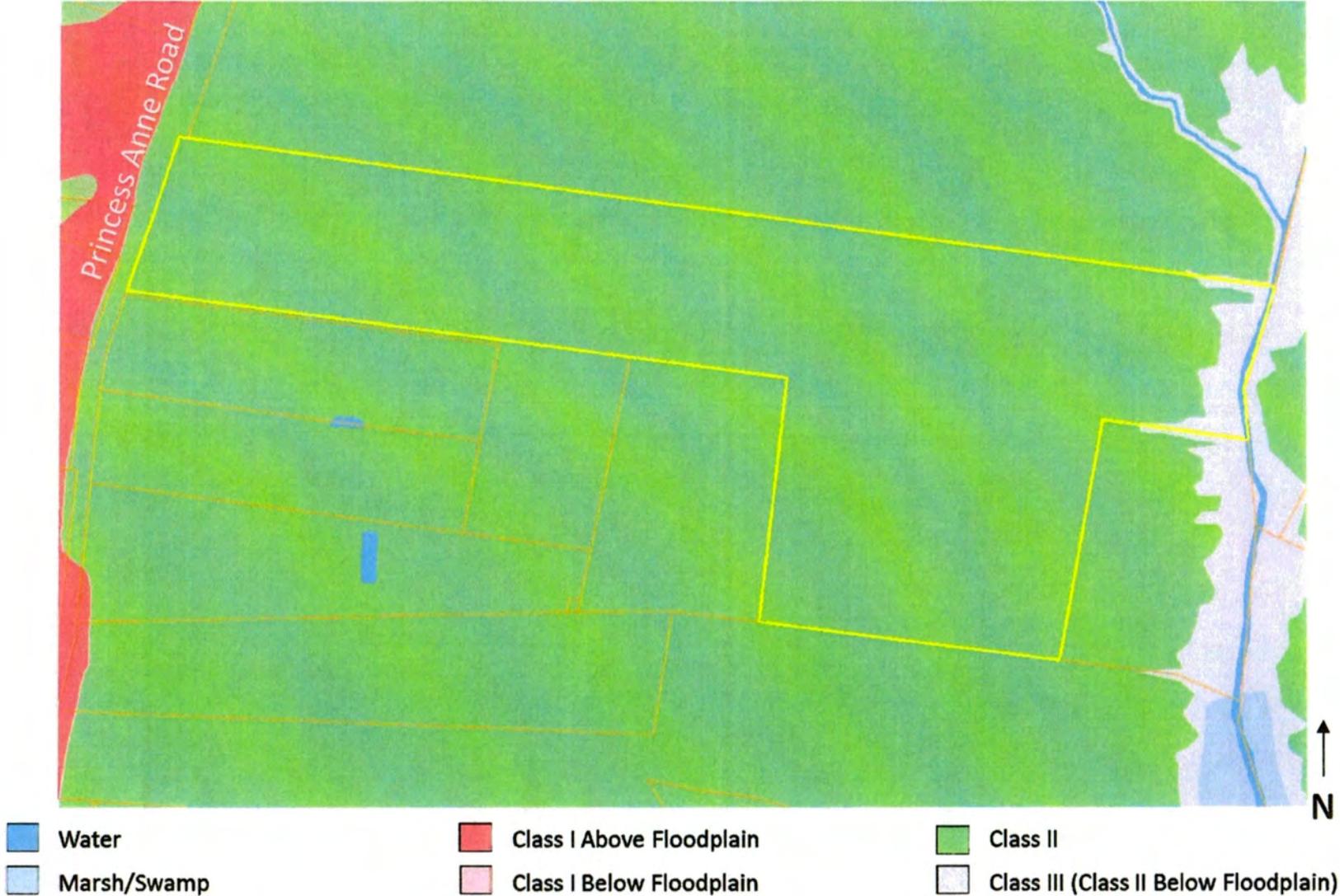
TERMS: Interest only, twice per year for 25 years, with payment of principal due 25 years from IPA date.

RESTRICTIONS ON TRANSFER: IPA ownership may not be transferred (except for Estate Settlement Transfer) for one (1) year following execution and delivery of the IPA.

Holly Road, LLC & Ola Krueger Property - Soils Map

1200 block Princess Anne Road - 58.39 acres - 58.22 acres for ARP

Gpin #: 2401-92-6325



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 Holly Road, LLC, a Virginia limited liability company

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

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

R. Edward Bourdon, Jr., 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)

George R.C. McGuire, Jr., Manager; Mildred W. McGuire, Member

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

¹ "Parent-sub 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-sub 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.
-

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 real estate broker/realtor.
-

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**

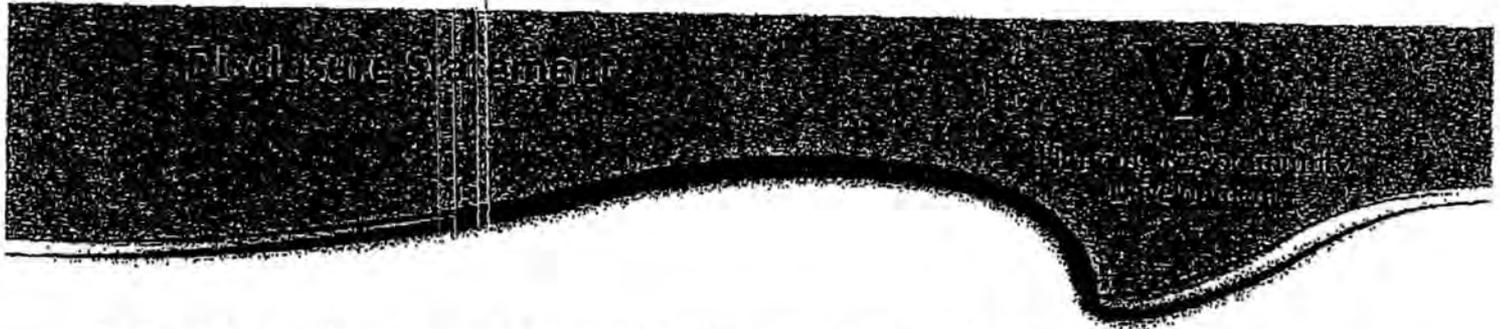
- If **yes**, identify the firm or individual providing the service.
-

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 or individual providing the service.
-

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

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



6. Does the 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 construction contractor.

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 engineer/surveyor/agent.

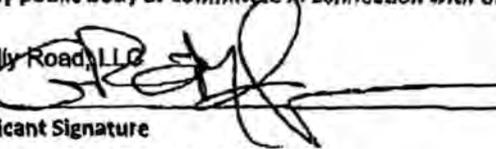
8. Is the applicant receiving **legal services** in connection with the subject of the application or any business operating or to be operated on the property? Yes No

- If yes, identify the name of the attorney or firm providing legal services.

R. Edward Bourdon, 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.

Holly Road, LLC
 BY: 
 Applicant Signature
 George R.C. McGuire, Jr., Manager

Print Name and Title
 October 12 2020

Date

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

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

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

Disclosure Statement



City of Virginia Beach

Planning & Community
Development

Continue to Next Page for Owner Disclosure

Disclosure Statement



Owner Disclosure

Owner Name Ola Hill Krueger

Applicant Name Holly Road, LLC, a Virginia limited liability company

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

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

- If **yes**, list the businesses that have a parent-sub subsidiary³ or affiliated business entity⁴ relationship with the Owner. (Attach a list if necessary)

Known Interest by Public Official or Employee

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

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

³ "Parent-sub 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-sub 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.
-

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

Yes No

- If **yes**, identify the real estate broker/realtor.
-

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

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

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

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

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

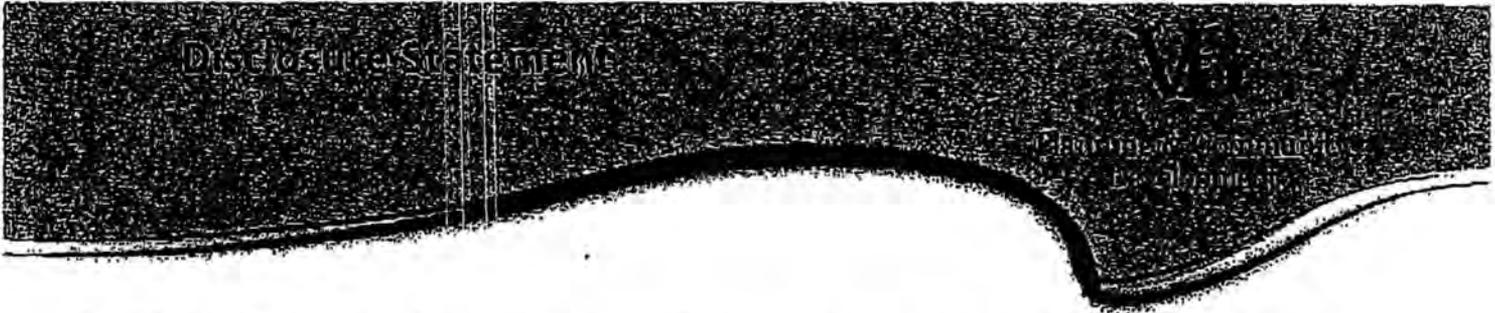
- If **yes**, identify the purchaser and purchaser's service providers.
-

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

- If **yes**, identify the construction contractor.
-

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

- If **yes**, identify the engineer/surveyor/agent.
-



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

- If yes, identify the name of the attorney or firm providing legal services.

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

Owner Signature

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

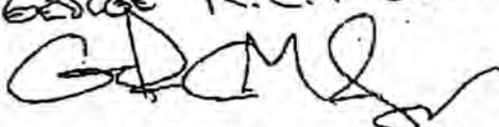
Owner Signature

Ola Hill Krueger

Print Name and Title

October __, 2020

Date

HLWC
 GEORGE R.C. MCGOY JR Manager

 10/14/20



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance Authorizing the City Manager to Execute a Lease for Up to Five Years With Back Bay Wildfowl Guild, Inc. for City-Owned Property Located at 1113 Atlantic Avenue

MEETING DATE: October 20, 2020

■ **Background:**

The City of Virginia Beach (the "City") acquired the property located at 1113 Atlantic Avenue, Virginia Beach, Virginia (GPIN: 2427-25-5317) (the "Premises") commonly known as the deWitt Cottage (the "Cottage") in 1995 from the Virginia Beach Foundation.

The City has been leasing the Premises to Back Bay Wildfowl Guild, Inc. ("Back Bay") since October 2000. The current lease term will expire October 22, 2020. Back Bay has continued to operate in the Premises and desires to enter into a new lease for an additional five-year period.

This item was originally part of the agenda for the City Council's October 6, 2020 formal meeting, but that meeting was cancelled at the recommendation of the Health Department.

■ **Considerations:**

Both the City and Back Bay are dedicated to preserving the historic nature of the Cottage and operating the Cottage in a manner that complements the City's historic culture. Activities conducted by Back Bay at the Premises include wildfowl exhibits and related special events, receptions and meetings, operation of a gift shop and the exhibition of furnishings and other items which are intended to preserve the historic nature of the Cottage.

This lease would be for a term of five years commencing on October 23, 2020 and expiring October 22, 2025. The terms and conditions of the lease are set forth in the Summary of Terms attached to the Ordinance.

■ **Public Information:**

A public hearing will be advertised on October 11, 2020 in *The Virginian-Pilot*. The public hearing will be held on October 20, 2020. Public notice will be provided via the normal City Council agenda process.

- **Alternatives:**
Approve Lease, change conditions of the Lease, or deny leasing the Premises.
 - **Recommendations:** Approval
 - **Attachments:** Ordinance
Summary of Terms
Location map
Disclosure Statement Form
-

Recommended Action: Approval

Submitting Department/Agency: Public Works / Facilities Management

City Manager: 

1 AN ORDINANCE AUTHORIZING THE CITY
2 MANAGER TO EXECUTE A LEASE FOR UP TO 5
3 YEARS WITH BACK BAY WILDFOWL GUILD, INC.
4 FOR CITY-OWNED PROPERTY LOCATED AT 1113
5 ATLANTIC AVENUE, VIRGINIA BEACH
6

7 WHEREAS, the City of Virginia Beach (the "City") acquired the property located
8 at 1113 Atlantic Avenue, commonly known as the deWitt Cottage (the "Property") from
9 the Virginia Beach Foundation on September 28, 1995;

10
11 WHEREAS, the City has been leasing the Property to the Back Bay Wildfowl
12 Guild ("Back Bay") since October 2000;

13
14 WHEREAS, the current lease term expires on October 22, 2020;

15
16 WHEREAS, Back Bay has continued to operate in the Property and desires to
17 enter into a new formal lease agreement with the City for the Property;

18
19 WHEREAS, City staff has determined that it is in the best interest of the City, its
20 citizens and its visitors that Back Bay continue to use the Property consistent with the
21 City's mission to preserve the historic nature of the Property; and

22
23 WHEREAS, the Property would be utilized for purposes which complement the
24 general level of culture of the City of Virginia Beach, including wildfowl exhibits and
25 related special events, meetings and receptions, operation of a gift shop, and exhibiting
26 furnishings and other items which are intended to preserve the historic nature of the
27 Property.

28
29 NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY
30 OF VIRGINIA BEACH, VIRGINIA:

31
32 That the City Manager is hereby authorized to execute a lease for up to 5 years
33 between Back Bay Wildfowl Guild, Inc. and the City for the Premises, in accordance
34 with the Summary of Terms attached hereto as Exhibit A and made a part hereof, and
35 such other terms, conditions or modifications as may be acceptable to the City Manager
36 and in a form deemed satisfactory by the City Attorney.

37
38 Adopted by the Council of the City of Virginia Beach, Virginia on the _____ day of
39 _____, 2020.

APPROVED AS TO LEGAL
SUFFICIENCY AND FORM



City Attorney

APPROVED AS TO CONTENT



Public Works/Facilities Management

CA14873

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R-1

September 23, 2020

EXHIBIT A

SUMMARY OF TERMS

Lease of City-owned Property located at 1113 Atlantic Avenue, known as the deWitt Cottage

LESSOR: City of Virginia Beach

LESSEE: Back Bay Wildfowl Guild, Inc.

PREMISES: 1113 Atlantic Avenue

TERM: 5 Years (October 23, 2020 through October 22, 2025)

RENT: \$1.00 annually

RIGHTS AND RESPONSIBILITIES OF LESSEE:

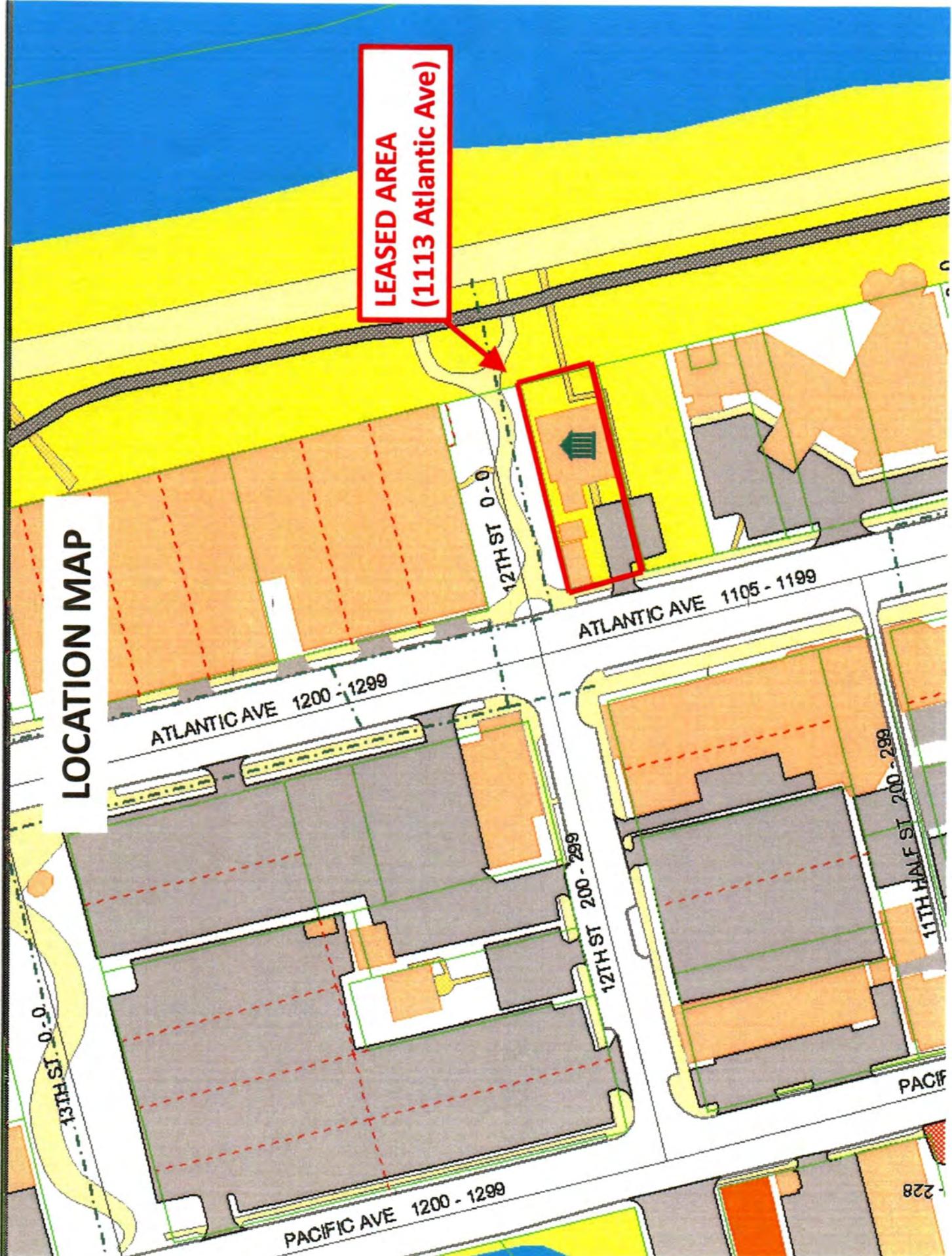
- Lessee shall use Premises for operation and activities that preserve the historic nature of the deWitt Cottage and in a manner that complements the City's historic culture.
- Lessee and its permitted assignees, subtenants or licensees shall be permitted to sell food and drinks on the Premises in conformity with all laws and ordinances applicable to said activities, and subject to the terms set forth in the Lease.
- The Premises must remain open to the general public for at least 120 days and for a total of at least 1,000 hours per year.
- Provide daily housekeeping services.
- Purchase commercial general liability insurance with limits not less than \$1,000,000 combined single limit (CSL).

RIGHTS AND RESPONSIBILITIES OF LESSOR (CITY):

- Maintain the Premises in good condition and repair, including all buildings and improvements, sidewalks and landscaping.
- Provide minimal weekly housekeeping services
- Provide payment for all utility costs and fees as they pertain to electricity, heating, fuel, water, sewer and solid waste collection.
- Retain the right to enter the Premises at any time for emergency repairs.

LOCATION MAP

**LEASED AREA
(1113 Atlantic Ave)**



ATLANTIC AVE 1200 - 1299

ATLANTIC AVE 1105 - 1199

PACIFIC AVE 1200 - 1299

12TH ST 200 - 299

11TH HALF ST 200 - 299

13TH ST 0-9

12TH ST 0-9

- 228

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 Back Bay Wildfowl Guild, INC.

Does the applicant have a representative? Yes No

- If yes, list the name of the representative.

Lynn Hightower

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)

Jason Seward, President Jim Mehne, Secretary Jeff Tinkham Mark Cromwell
Parke Atkinson, Vice President Jim Briggs Bill Walsh, Jr. George Powell
Larry Davenport, Treasurer Tom Richards Phil Davenport

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

NONE

¹ "Parent-sub 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-sub 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.
-

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 real estate broker/realtor.
-

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 or 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 or individual providing the service.
-

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

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

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 construction contractor.

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 engineer/surveyor/agent.

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 name of the attorney or firm providing legal services.

Jeff Tinkham

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

Jason Seward, President

Print Name and Title

9/22/20

Date

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

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

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

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

Disclosure Statement



Continue to Next Page for Owner Disclosure

Disclosure Statement



Owner Disclosure

Owner Name _____

Applicant Name _____

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

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

- If yes, list the businesses that have a parent-sub subsidiary³ or affiliated business entity⁴ relationship with the Owner. (Attach a list if necessary)

Known Interest by Public Official or Employee

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

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

³ "Parent-sub 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-sub 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.
-

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

Yes No

- If **yes**, identify the real estate broker/realtor.
-

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

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

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

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

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

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

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

- If **yes**, identify the construction contractor.
-

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

- If **yes**, identify the engineer/surveyor/agent.
-

Disclosure Statement



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

- If **yes**, identify the name of the attorney or firm providing legal services.

Owner Signature

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

Owner Signature

Print Name and Title

Date



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance Authorizing the City Manager to Execute a Building Lease and Cooperative Agreement for Up to 5 Years with the Senior Resource Center, Inc. Located at 912 Princess Anne Road

PUBLIC HEARING DATE: October 20, 2020

MEETING DATE: October 20, 2020

-
- **Background:** The Senior Resource Center, Inc. is a Virginia non-stock, tax exempt charitable organization ("SRC") that serves senior citizens in the southern part of Virginia Beach. SRC provides resources, referrals and social activities with the goal of helping seniors to remain in their homes as long as possible. SRC is a joint effort between area residents, religious organizations, civic groups and the City of Virginia Beach (the "City"). SRC has been housed in the Old Creeds Library building (the "Premises") for the past 13 years and receives support from various City departments. The Premises is City-owned property, but the land on which the Premises is located is a portion of Creeds Elementary School (the "Land"), owned by the School Board of the City of Virginia Beach ("Schools"). Any agreement involving the Land will be made separately between SRC and Schools. SRC and the City would like to enter into a written Building Lease and Cooperative Agreement to memorialize the relationship and obligations of the parties for lease of the Premises and provision of services (the "Lease"). The Premises will continue to be used to provide senior citizens living in the southern part of Virginia Beach and their caregivers with resources and assistance, and for no other purpose.
 - **Considerations:** The term of the Lease is 5 years. The City has the right to terminate the Lease with sixty (60) days' notice if needed for a public purpose. For more specific terms, see attached Summary of Terms.
 - **Public Information:** Advertisement of a public hearing was placed in The Virginian-Pilot, Beacon, and public notice will be provided via the normal City Council agenda process.
 - **Alternatives:** Change conditions of the Lease or deny leasing of the Premises.
 - **Recommendation:** Approval
 - **Attachments:** Ordinance, Summary of Terms, Location Map, Disclosure Statement

Recommended Action: Approval

Submitting Department/Agency: Public Works/Facilities Management

City Manager:

1 AN ORDINANCE AUTHORIZING THE CITY MANAGER
2 TO EXECUTE A BUILDING LEASE AND
3 COOPERATIVE AGREEMENT FOR UP TO 5 YEARS
4 WITH THE SENIOR RESOURCE CENTER, INC.
5 LOCATED AT 912 PRINCESS ANNE ROAD
6

7 WHEREAS, volunteer members of Senior Resource Center, Inc., ("SRC") and
8 the City of Virginia Beach (the "City") cooperatively provide support and services to
9 senior citizens residing in the southern part of Virginia Beach;

10 WHEREAS, SRC has been operating from a City-owned building located at 912
11 Princess Anne Road, Virginia Beach, Virginia, formerly known as the Old Creeds
12 Library (the "Premises"), for the past 13 years;

13 WHEREAS, SRC and the City wish to enter into a building lease and cooperative
14 agreement for use of the Premises and memorialization of the support services to be
15 provided by the City to SRC;

16 WHEREAS, the Premises will be utilized for providing senior citizens living in the
17 southern part of Virginia Beach and their caregivers with resources and assistance, and
18 for no other purpose; and

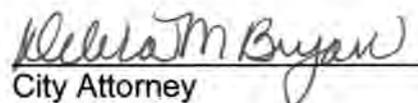
19 WHEREAS, SRC has agreed to pay the City \$1.00 per year for the use of the
20 Premises.

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

23 That the City Manager is hereby authorized to execute any documents necessary
24 to lease the Premises and provide support services to the Senior Resource Center, Inc.
25 for up to 5 years, in accordance with the Summary of Terms attached hereto as Exhibit
26 A and made a part hereof, and such other terms, conditions or modifications as may be
27 acceptable to the City Manager and in a form deemed satisfactory by the City Attorney.
28

29 Adopted by the Council of the City of Virginia Beach, Virginia on the _____ day of
30 _____, 2020.
31

32 APPROVED AS TO LEGAL
33 SUFFICIENCY AND FORM

34 
35 City Attorney

36 APPROVED AS TO CONTENT


Public Works/Facilities Management

CA15184

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R-1

October 2, 2020

SUMMARY OF TERMS

BUILDING LEASE AND COOPERATIVE AGREEMENT WITH THE SENIOR RESOURCE CENTER, INC., FOR 912 PRINCESS ANNE ROAD

- LESSOR:** City of Virginia Beach
- LESSEE:** Senior Resource Center, Inc., a Virginia non-stock, tax exempt charitable organization
- PREMISES:** 912 Princess Anne Road (Old Creeds Library – Building Only)
- TERM:** November 1, 2020 – October 31, 2025 (5 years)
- RENT:** \$1.00 per year

RIGHTS AND RESPONSIBILITIES OF LESSEE:

- Use Premises to provide senior citizens living in the southern part of Virginia Beach and their caregivers with resources and assistance, and for no other purpose.
- Maintain Premises by keeping all equipment and improvements in a safe, clean and orderly condition.
- Maintain applicable liability insurance, as determined by the City's Risk Manager.
- Any agreement involving the land will be made separately between SRC and Schools, if necessary.

RIGHTS AND RESPONSIBILITIES OF CITY:

- The City's Department of Human Services ("DHS") will have one staff member working up to 16 hours per week, to: (a) provide service/resource information applicable and available to senior citizens in Virginia Beach, (b) consult with family caregivers and senior citizens, and (c) provide SRC reports, pamphlets and other materials to be used for senior citizens.
- The City's Department of Information Technology ("IT") shall provide updates to software and hardware; provide support assistance for City-owned equipment and associated DHS services.
- The City's Department of Public Works shall provide building maintenance and custodial services.

TERMINATION:

- City may terminate at any time by giving sixty (60) days' advance written notice.

Location Map

SENIOR RESOURCE CENTER (“PREMISES”)



 = SENIOR RESOURCE CENTER BUILDING

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 Senior Resource Center, INC

Does the applicant have a representative? Yes No

- If yes, list the name of the representative.

Johnnie H. Williams - President

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

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

See Attachment

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

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

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

Disclosure Statement



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

Yes **No**

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

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 real estate broker/realtor.
-

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 or 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 or individual providing the service.
-

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

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

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 construction contractor.

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 engineer/surveyor/agent.

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 name of the attorney or firm providing legal services.

Applicant Signature

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

Applicant Signature

Johnnie H. Williams

Print Name and Title

Johnnie H. Williams, President

Date October 8, 2020

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

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

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

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

**Senor Resource Center
Officers and Directors**

Officers

President

Johnnie Williams*

(H) 721-6378 (C) 470-7186 (T)

johnnie@cox.net

Vice President

Sharon Prescott

(H) 426-2811 (C) 630-2660 (T)

skprescott@msn.com

Secretary

Julie Coppedge

(H) 426-7697 (C) 386-7922

bcdecoys@verizon.net

Treasurer

Pat Jenkins

(C) 618-5304 (T)

pjenkins@cox.net

Directors

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ngregory681@aol.com

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pdqjim97@cox.net

Sarah Burke

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denise23457@yahoo.com

Don Spitzli

729-0562

Airbuzzard24@aol.com

Nancy Allan

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Rita Joyner

(H) 426-8763 (C) 615-7266

teachdance4u@cox.net

Ex Officio Board Members

Barbara Henley

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barbarahenley@cox.net

Sarah Bell

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sbell@vbgov.com

Douglas Knapp

(W) 648-2400

Douglas.Knapp@vbsrc.com

(H) Home phone (C) Cell Phone (T) Text



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance to authorize the acquisition of property in fee simple for the Princess Anne Plaza North London Bridge Creek Pump Station Project, CIP 7-089 and the acquisition of temporary and permanent easements, either by agreement or condemnation

PUBLIC HEARING DATE: September 15, 2020

MEETING DATE: October 20, 2020

Background: The Princess Anne Plaza North London Bridge Creek Pump Station Project, CIP 7-089 (the "Project") is for the construction of a tide gate, stormwater pump station, and tide barriers along London Bridge Creek at the South Lynnhaven Road crossing. The Project will improve stormwater management and relieve widespread tidal and storm flooding of public and private structures and public streets and highways throughout the Princess Anne Plaza and The Lakes neighborhoods. These neighborhoods were among the hardest hit by flooding caused by Hurricane Matthew in 2016.

The Princess Anne Plaza area consists primarily of medium-density residential neighborhoods, with some commercial development along major roads. The area has experienced repeated flooding mainly due to its low-lying topography, tidal influence and lack of stormwater storage. Most of the homes in the Project area were constructed in the early 1960s to the early 1970s and are concrete slab on grade with finished floors less than one foot above top of curb. The existing stormwater infrastructure is inadequate or non-existent and will not protect these homes against the intense storms the region is expected to experience with increased frequency.

A preliminary engineering analysis was completed in November 2019 and concluded that a tide gate, barriers and a large pump station are required along North London Bridge Creek in order to mitigate flooding in the Princess Anne Plaza area. The tide gate and barriers will block the incoming tide to increase available storage capacity within the system, and the pump station will drawdown water levels prior to a storm event to maintain them below flood stage.

The Project includes a 1,400 cubic feet per second pump station, a 120-foot-wide Tide Gate, and adjacent flood barriers. The Project is intended to mitigate flooding up to the 100-year storm event (equating to 9.5 inches of rain in 24 hours).

The Level of Service that has been adopted for the Princess Anne Plaza neighborhood includes limiting peak flood stages to three (3) inches or less above the crown of the roads for the 10-year design storm (i.e., street flooding, 5.6 inches in 24 hours) and preventing structures from flooding for the 100-year design storm. Based on modeling, approximately 583 buildings will be mitigated from flooding during the 100-year storm and 6.9 miles of

roadway will be mitigated from flooding during the 10-year storm. However, there are 18 buildings that may flood during a 100-year storm and one mile of street flooding that may still occur during a 10-year storm.

This item was originally part of the agenda for the City Council's October 6, 2020 formal meeting, but that meeting was cancelled at the recommendation of the Health Department.

■ **Considerations:** The Project will require property and easements from three privately owned parcels in the area shown on the Location Map. Authority is requested to acquire the necessary property and easements (temporary and permanent) by agreement and/or condemnation.

The Project is expected to be completed in phases occurring over the next 10 years.

■ **Public Information:** A Public Information Meeting was held on October 3, 2019. Advertisement of a public hearing was placed in *The Virginian-Pilot, Beacon*, and public notice will be provided via the normal City Council agenda process.

■ **Alternatives:** Deny the request

■ **Recommendations:** Approve the Ordinance

■ **Attachments:** Ordinance and Location Map

Recommended Action: Approval

Submitting Department/Agency: Public Works

City Manager: PAD

1 AN ORDINANCE TO AUTHORIZE
2 ACQUISITION OF PROPERTY IN FEE SIMPLE
3 FOR THE PRINCESS ANNE PLAZA NORTH
4 LONDON BRIDGE CREEK PUMP STATION
5 PROJECT, CIP 7-089, AND THE ACQUISITION
6 OF TEMPORARY AND PERMANENT
7 EASEMENTS, BY AGREEMENT OR
8 CONDEMNATION
9

10 WHEREAS, in the opinion of the Council of the City of Virginia Beach, Virginia, a
11 public necessity exists for the construction of this important flood mitigation project to
12 improve drainage within the City to relieve widespread tidal and storm flooding of public
13 and private structures and public streets and highways, to treat stormwater, to improve
14 traffic circulation especially during rain and tidal flood events, and for other related public
15 purposes for the preservation of the safety, health, peace, good order, comfort,
16 convenience, and for the welfare of the people in the City of Virginia Beach.
17

18 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
19 VIRGINIA BEACH, VIRGINIA:
20

21 Section 1. That the City Council authorizes the acquisition by purchase or
22 condemnation pursuant to Sections 15.2-1901, et seq., Sections 33.2-1007, et seq., and
23 Title 25.1 of the Code of Virginia of 1950, as amended, of all that certain real property in fee
24 simple, including temporary and permanent easements and entire tracts upon which such
25 rights-of-way or easements shall be located, within the limitations and conditions of Section
26 33.2-1007 of the Code of Virginia of 1950, as amended (the "Property"), as shown on the
27 plan entitled "Princess Anne Plaza North London Bridge Creek Pump Station (CIP #7-089)
28 – Site Plan Layout" (the "Project"), and also as shown on the Location Map attached hereto
29 as Exhibit A and made a part hereof (plans and Location Map collectively referred to as the
30 "Plans"), the Plans being on file in the Engineering Division, Department of Public Works,
31 City of Virginia Beach, Virginia.
32

33 Section 2. That the City Manager is hereby authorized to make or cause to be made
34 on behalf of the City of Virginia Beach, to the extent that funds are available, a reasonable
35 offer to the owners or persons having an interest in said Property. If refused, the City
36 Attorney is hereby authorized to institute, prosecute and settle or resolve proceedings to
37 condemn said Property.
38

39 Adopted by the Council of the City of Virginia Beach, Virginia, on the _____ day of
40 _____, 2020.

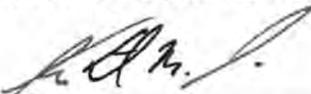
CA14876

PREPARED: 9/2/20

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APPROVED AS TO CONTENT

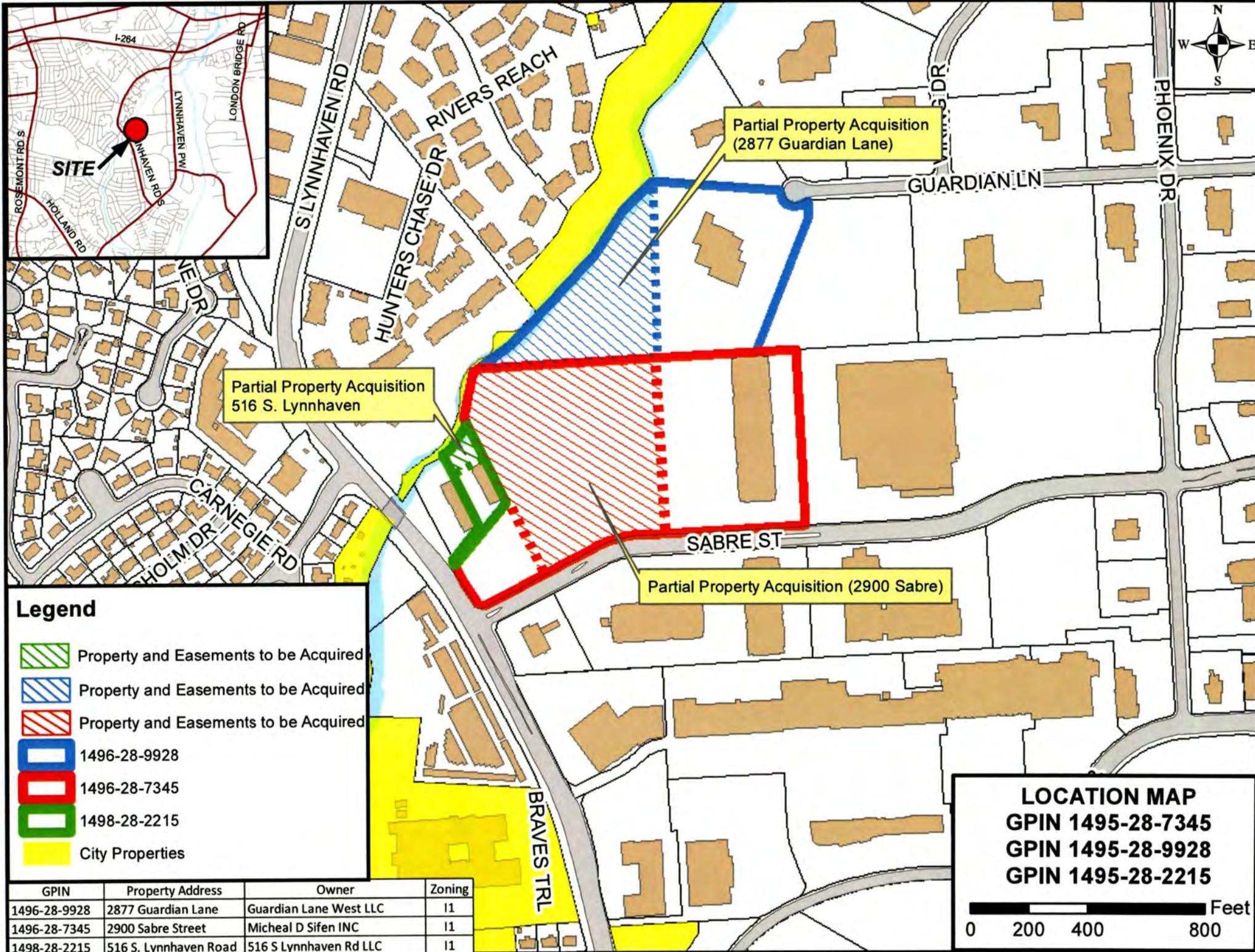


PUBLIC WORKS/REAL ESTATE

APPROVED AS TO LEGAL
SUFFICIENCY



CITY ATTORNEY



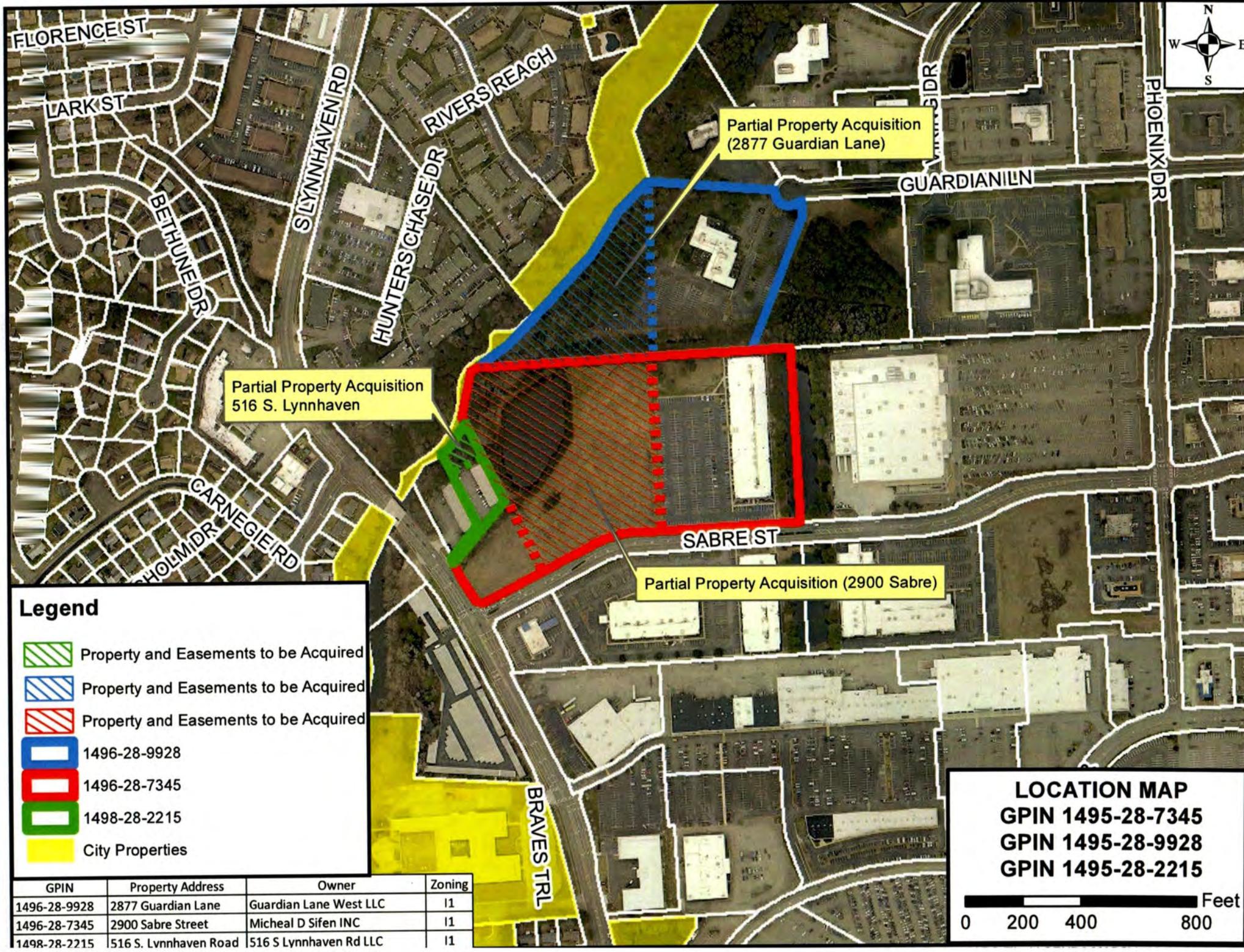
Legend

-  Property and Easements to be Acquired
-  Property and Easements to be Acquired
-  Property and Easements to be Acquired
-  1496-28-9928
-  1496-28-7345
-  1498-28-2215
-  City Properties

GPIN	Property Address	Owner	Zoning
1496-28-9928	2877 Guardian Lane	Guardian Lane West LLC	I1
1496-28-7345	2900 Sabre Street	Micheal D Sifen INC	I1
1498-28-2215	516 S. Lynnhaven Road	516 S Lynnhaven Rd LLC	I1

LOCATION MAP
GPIN 1495-28-7345
GPIN 1495-28-9928
GPIN 1495-28-2215

0 200 400 800 Feet



Legend

- Property and Easements to be Acquired
- Property and Easements to be Acquired
- Property and Easements to be Acquired
- 1496-28-9928
- 1496-28-7345
- 1498-28-2215
- City Properties

GPIN	Property Address	Owner	Zoning
1496-28-9928	2877 Guardian Lane	Guardian Lane West LLC	I1
1496-28-7345	2900 Sabre Street	Micheal D Sifen INC	I1
1498-28-2215	516 S. Lynnhaven Road	516 S Lynnhaven Rd LLC	I1

LOCATION MAP
GPIN 1495-28-7345
GPIN 1495-28-9928
GPIN 1495-28-2215

0 200 400 800 Feet



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance to Authorize a Temporary Encroachment into a Portion of City-Owned Property Known as Treasure Canal in Bay Island Adjacent to 2233 Spinnaker Circle

MEETING DATE: October 20, 2020

■ **Background:**

Mark and Kathleen Pawlak (the "Applicants") have requested permission to construct and maintain a proposed boat lift (the "Temporary Encroachment") adjacent to their property located at 2233 Spinnaker Circle (GPIN: 2409-19-6603). The Temporary Encroachment would extend into the City's property known as Treasure Canal in Bay Island.

This item was originally part of the agenda for the City Council's October 6, 2020 formal meeting, but that meeting was cancelled at the recommendation of the Health Department.

■ **Considerations:**

City staff has reviewed the requested Temporary Encroachment and has recommended approval of same, subject to certain conditions outlined in the Agreement.

There are similar encroachments in Treasure Canal, which is where the Applicants have requested to encroach.

■ **Public Information:**

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

■ **Alternatives:**

Deny the Encroachment or add conditions as desired by Council.

■ **Recommendations:**

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

■ **Attachments:**

Ordinance, Agreement, Exhibit, Location Map, Pictures, Disclosure Statement Form

Recommended Action: Approval of the Ordinance

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

City Manager: *PAO*

1 Requested by Department of Public Works
2
3

4 AN ORDINANCE TO AUTHORIZE A
5 TEMPORARY ENCROACHMENT INTO A
6 PORTION OF CITY-OWNED PROPERTY
7 KNOWN AS TREASURE CANAL IN BAY
8 ISLAND ADJACENT TO 2233 SPINNAKER
9 CIRCLE
10

11 WHEREAS, Mark and Kathleen Pawlak have requested permission to
12 construct and maintain a proposed boat lift (the "Temporary Encroachment") adjacent to
13 their property located at 2233 Spinnaker Circle (GPIN: 2409-19-6603). The Temporary
14 Encroachment would extend into the City's property known as Treasure Canal in Bay
15 Island; and
16

17 WHEREAS, City Council is authorized pursuant to §§15.2-2009 and 15.2-
18 2107, Code of Virginia, 1950, as amended, to authorize temporary encroachments upon
19 the City's property subject to such terms and conditions as Council may prescribe.
20

21 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY
22 OF VIRGINIA BEACH, VIRGINIA:
23

24 That pursuant to the authority and to the extent thereof contained in §§15.2-
25 2009 and 15.2-2107, Code of Virginia, 1950, as amended, Mark and Kathleen Pawlak, their
26 heirs, assigns and successors in title, are authorized to construct and maintain the
27 proposed boat lift in the City's property known as Treasure Canal in Bay Island, as shown
28 on the map entitled: "EXHIBIT A ENCROACHMENT REQUEST FOR A BOAT LIFT BAY
29 ISLAND, SECTION TWO, LOT 209 (M.B. 48, PG. 15) FOR MARK & KATHLEEN PAWLAK
30 2233 SPINNAKER CIRCLE, VIRGINIA BEACH, VA 23451 GPIN: 2409-19-6603, DATE:
31 MAY 29, 2020," prepared by Waterfront Consulting, Inc., a copy of which is attached
32 hereto as Exhibit A, and on file in the Department of Public Works, to which reference is
33 made for a more particular description;
34

35 BE IT FURTHER ORDAINED, that the Encroachment is expressly subject to
36 those terms, conditions and criteria contained in the agreement between the City of Virginia
37 Beach and Mark and Kathleen Pawlak (the "Agreement"), an unexecuted copy of which has
38 been presented to the Council in its agenda, and after execution, will be recorded among
39 the records of the Clerk's Office of the Circuit Court of the City of Virginia Beach;
40

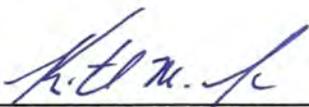
41 BE IT FURTHER ORDAINED, that the City Manager or his authorized
42 designee is hereby authorized to execute the Agreement; and
43

44 BE IT FURTHER ORDAINED, that this Ordinance shall not be in effect until
45 such time Mark and Kathleen Pawlak and the City Manager or his authorized designee
46 execute the Agreement.

47 Adopted by the Council of the City of Virginia Beach, Virginia, on the 6th day
48 of October, 2020.

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL
SUFFICIENCY AND FORM:

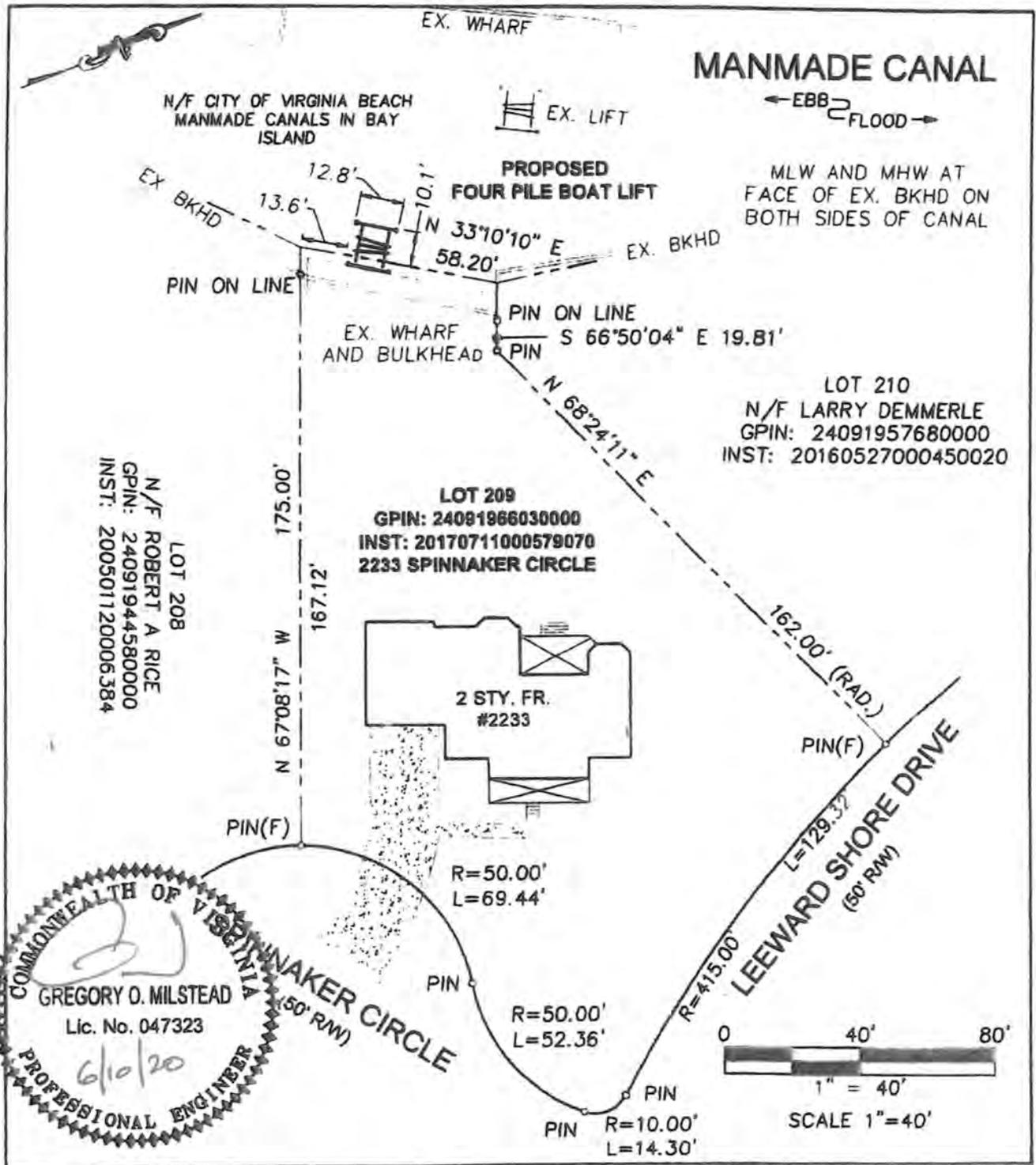


PUBLIC WORKS, REAL ESTATE



DANA R. HARMeyer
SENIOR CITY ATTORNEY

CA14672
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R-1
September 14, 2020

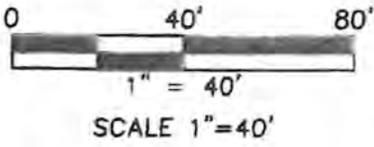


LOT 208
 N/F ROBERT A RICE
 GPIN: 24091944580000
 INST: 200501120006384

LOT 209
 GPIN: 24091966030000
 INST: 20170711000579070
 2233 SPINNAKER CIRCLE

LOT 210
 N/F LARRY DEMMERLE
 GPIN: 24091957680000
 INST: 20160527000450020

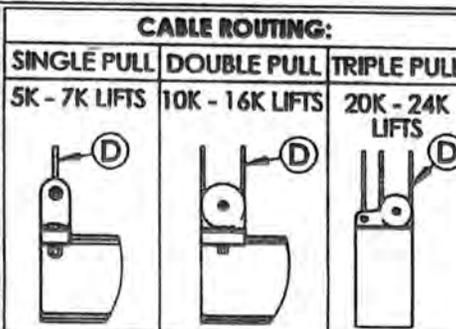
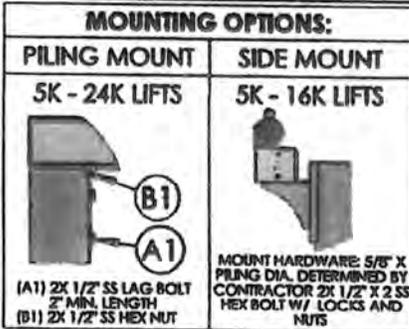
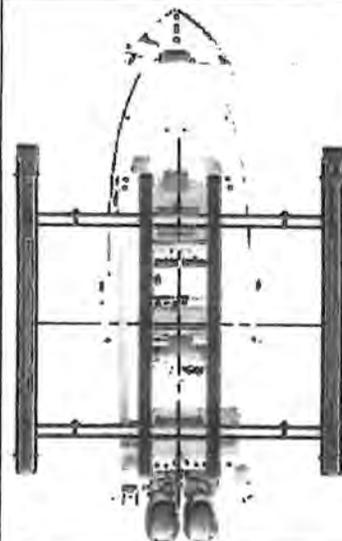
COMMONWEALTH OF VIRGINIA
 GREGORY O. MILSTEAD
 Lic. No. 047323
 6/10/20
 PROFESSIONAL ENGINEER



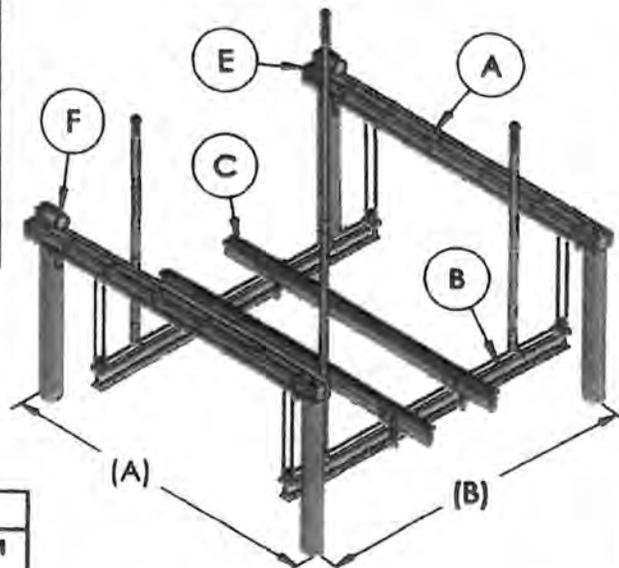
WCI WATERFRONT CONSULTING, INC.
 2589 QUALITY COURT, STE. 323
 VIRGINIA BEACH, VA 23454
 C: 757-619-7302

ENGINEERING SERVICES PROVIDED BY:
 CHESAPEAKE BAY SITE SOLUTIONS, INC.

EXHIBIT A
ENCROACHMENT REQUEST FOR A BOAT LIFT
BAY ISLAND, SECTION TWO, LOT 209 (M.B. 48, PG. 15)
FOR
MARK & KATHLEEN PAWLAK
2233 SPINNAKER CIRCLE, VIRGINIA BEACH, VA 23451
GPIN: 2409-19-6603 DATE: MAY 29, 2020



NOTE: LOAD SHOULD BE EVENLY DISTRIBUTED BY POSITIONING THE CENTER OF GRAVITY DIRECTLY IN THE CENTER OF THE LIFTING BEAMS AS SHOWN IN THE ILLUSTRATION



4 PILING BOAT LIFT SPECIFICATION SHEET

2018	TOP BEAM (A)	CRADLE BEAM (B)	BUNKS (C)	CABLE SIZE (D)	DRIVE (E)	H.P. MOTOR (F)	DRIVE SHAFT	MINIMUM PILING (SIZE & QTY.)	
5,000 LB.	5" CHANNEL X 12' 6"	4" X 6" X 10'	8" ALUM	5/16" SS 7/19 (.313) SINGLE PULL	DIRECT DRIVE	3/4 H.P. (QTY. 2) 220V 4.9A EACH	1-1/2" (SCH 40)	8" (QTY. 4)	
7,000 LB.	6" CHANNEL X 12' 6"	4" X 6" X 12' 6"				-1 H.P. (QTY. 2) 220V 6.8A EACH			
10,000 LB.	7" CHANNEL X 12' 6"	5" X 8" X 12' 6"				3/4 H.P. (QTY. 2) 220V 4.9A EACH			
13,000 LB.			1 H.P. (QTY. 2) 220V 6.8A EACH						
16,000 LB.	8" CHANNEL X 12' 6"	6" X 10" X 14'	10" ALUM	5/16" SS 7/19 (.313) TRIPPLE PULL		3/4 H.P. (QTY. 2) 220V 4.9A EACH			10" (QTY. 4)
20,000 LB.	9" CHANNEL X 14' 6"	6" X 10" X 15'				1 H.P. (QTY. 2) 220V 6.8A EACH			
24,000 LB.		7" X 12" X 16'							

4 PILING BOAT LIFT PILING SPACING

FOUR PILING LIFTS	(A) BOW TO STERN (OUTSIDES)	(B) PORT TO STARBOARD (CENTERS)
5,000 LB.	12 FT 6 IN	10 FT
7,000 LB.		14 FT
10,000 LB.		
13,000 LB.	14 FT 6 IN	12 FT 6 IN
16,000 LB.		14 FT
20,000 LB.	14 FT 6 IN	15 FT
24,000 LB.		16 FT

TITLE:
5K-24K 4 POLE BOAT LIFT ENGINEERING SHEET

SIZE: **A** DWG. NO.: **ENGINEERING** REV: **1**

SCALE: AS NOTED DRAWN BY: ACC DATE: 12-6-18 SHEET 1 OF 1

PH: 800-325-1116
FAX: 252-747-4377
TIDETAMER.COM
P.O. BOX 1118
SNOW HILL, NC 28580

PROPRIETARY AND CONFIDENTIAL
THE INFORMATION CONTAINED IN THIS DRAWING IS THE SOLE PROPERTY OF TIDE TAMER INDUSTRIES. ANY REPRODUCTION IN PART OR AS A WHOLE WITHOUT THE WRITTEN PERMISSION OF TIDE TAMER INDUSTRIES IS PROHIBITED.

ENGINEERING SEAL AFFIXED HERETO VALIDATES STRUCTURAL DESIGN AS SHOWN ONLY. USE OF THIS SPECIFICATION BY CONTRACTOR, et. al. IDENTIFIES & SAVES HARMLESS THIS ENGINEER FOR ALL COST & DAMAGES INCLUDING LEGAL FEES & APPELLATE FEES RESULTING FROM MATERIAL FABRICATION, SYSTEM ERECTION & CONSTRUCTION PRACTICES BEYOND THAT WHICH IS CALLED FOR BY LOCAL, STATE, & FEDERAL CODES & FORM DEVIATIONS OF THIS PLAN, EXCEPT AS EXPRESSLY PROVIDED IN HEREIN. NO CERTIFICATION OR AFFIRMATIONS ARE INTENDED.

PAUL WELCH, INC. HAS NOT VISITED THIS JOB SITE. INFORMATION CONTAINED HEREIN IS BASED ON CONTRACTOR SUPPLIED DATA AND MEASUREMENTS. PAUL WELCH, INC. SHALL NOT BE HELD RESPONSIBLE OR LIABLE IN ANY WAY FOR ERRONEOUS OR INACCURATE DATA OR MEASUREMENTS. WORK SHALL BE VERIFIED PRIOR TO CONSTRUCTION. PAUL WELCH, INC. SHALL BE NOTIFIED AND GIVEN AN OPPORTUNITY TO REEVALUATE OUR WORK UPON DISCOVERY OF ANY INACCURATE INFORMATION PRIOR TO MODIFICATION OF EXISTING FIELD CONDITIONS AND FABRICATION AND INSTALLATION OF MATERIALS.

ENGINEERS SEAL

PREPARED BY VIRGINIA BEACH
CITY ATTORNEY'S OFFICE (BOX 31)

EXEMPTED FROM RECORDATION TAXES
UNDER SECTION 58.1-811(C) (4)

THIS AGREEMENT, made this 11 day of AUGUST, 2020, by and between the **CITY OF VIRGINIA BEACH, VIRGINIA**, a municipal corporation of the Commonwealth of Virginia, Grantor, "City", and **MARK PAWLAK and KATHLEEN PAWLAK**, husband and wife, THEIR HEIRS, ASSIGNS AND SUCCESSORS IN TITLE, collectively, "Grantee".

WITNESSETH:

WHEREAS, the Grantee is the owner of that certain lot, piece or parcel of land designated and described as Lot "209" as shown on that certain plat entitled, "SUBDIVISION OF BAY ISLAND SECTION TWO PRINCESS ANNE CO., VA. LYNNHAVEN MAGISTERIAL DISTRICT," Scale 1" = 100", dated October 1958, prepared by Frank D. Tarrall, Jr. & Associates, which plat is recorded in the Clerk's Office of the Circuit Court of the City of Virginia Beach, Virginia in Map Book 48, at page 15, and being further designated, known, and described as 2233 Spinnaker Circle, Virginia Beach, Virginia 23451;

WHEREAS, it is proposed by the Grantee to construct and maintain a four pile boat lift extending approximately 10.1' and having a width of 12.8', the "Temporary Encroachment", in the City of Virginia Beach.

**GPIN: Not assigned - City Property (Treasure Canal in Bay Island)
2409-19-6603 - 2233 Spinnaker Circle**

WHEREAS, in constructing and maintaining the Temporary Encroachment, it is necessary that the Grantee encroach into a portion of an existing City property known as Treasure Canal adjacent to Lot 209 in Bay Island, the "Encroachment Area"; and

WHEREAS, the Grantee has requested that the City permit the Temporary Encroachment within the Encroachment Area.

NOW, THEREFORE, for and in consideration of the premises and of the benefits accruing or to accrue to the Grantee and for the further consideration of One Dollar (\$1.00), cash in hand paid to the City, receipt and sufficiency of which are hereby acknowledged, the City hereby grants to the Grantee permission to use the Encroachment Area for the purpose of constructing and maintaining the Temporary Encroachment.

It is expressly understood and agreed that the Temporary Encroachment will be constructed and maintained in accordance with the laws of the Commonwealth of Virginia and the City of Virginia Beach, and in accordance with the City's specifications and approval and is more particularly described as follows, to wit:

A Temporary Encroachment into the Encroachment Area as shown on that certain exhibit plat entitled: "EXHIBIT A ENCROACHMENT REQUEST FOR A BOAT LIFT BAY ISLAND, SECTION TWO, LOT 209 (M.B. 48, PG. 15) FOR MARK & KATHLEEN PAWLAK 2233 SPINNAKER CIRCLE, VIRGINIA BEACH, VA 23451 GPIN: 2409-19-6603," dated May 29, 2020, and prepared by Waterfront Consulting, Inc., a copy of which is attached hereto as Exhibit A and to which reference is made for a more particular description.

Providing however, nothing herein shall prohibit the City from immediately removing, or ordering the Grantee to remove, all or any part of the Temporary

Encroachment from the Encroachment Area in the event of an emergency or public necessity, and Grantee shall bear all costs and expenses of such removal.

It is further expressly understood and agreed that the Temporary Encroachment herein authorized terminates upon notice by the City to the Grantee, and that within thirty (30) days after the notice is given, the Temporary Encroachment must be removed from the Encroachment Area by the Grantee; and that the Grantee will bear all costs and expenses of such removal.

It is further expressly understood and agreed that the Grantee shall indemnify, hold harmless, and defend the City, its agents and employees, from and against all claims, damages, losses and expenses, including reasonable attorney's fees, in case it shall be necessary to file or defend an action arising out of the construction, location or existence of the Temporary Encroachment.

It is further expressly understood and agreed that nothing herein contained shall be construed to enlarge the permission and authority to permit the maintenance or construction of any encroachment other than that specified herein and to the limited extent specified herein, nor to permit the maintenance and construction of any encroachment by anyone other than the Grantee.

It is further expressly understood 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 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 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. 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, Mark Pawlak and Kathleen Pawlak, the said Grantees, have caused this Agreement to be executed by their signatures. Further, that the City of Virginia Beach has caused this Agreement to be executed in its name and on its behalf by its City Manager and its seal be hereunto affixed and attested by its City Clerk.

(THE REMAINDER OF THIS PAGE WAS INTENTIONALLY LEFT BLANK)

CITY OF VIRGINIA BEACH

By _____ (SEAL)
City Manager/Authorized
Designee of the City Manager

STATE OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

The foregoing instrument was acknowledged before me this _____ day of _____, 2020, by _____, CITY MANAGER/AUTHORIZED DESIGNEE OF THE CITY MANAGER OF THE CITY OF VIRGINIA BEACH, VIRGINIA, on its behalf. He/She is personally known to me.

Notary Public (SEAL)

Notary Registration Number:
My Commission Expires:

(SEAL)
ATTEST:

City Clerk/Authorized
Designee of the City Clerk

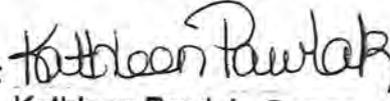
STATE OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

The foregoing instrument was acknowledged before me this _____ day of _____, 2020, by _____, CITY CLERK/AUTHORIZED DESIGNEE OF THE CITY CLERK OF THE CITY OF VIRGINIA BEACH, VIRGINIA, on its behalf. She is personally known to me.

Notary Public (SEAL)

Notary Registration Number:
My Commission Expires: _____

By: 
Mark Pawlak, Owner

By: 
Kathleen Pawlak, Owner

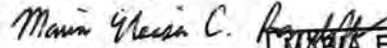
STATE OF Virginia
CITY/COUNTY OF Virginia Beach, to-wit:

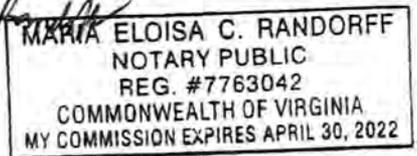
The foregoing instrument was acknowledged before me this 11th day of August, 2020, by Mark Pawlak and Kathleen Pawlak.

Notary Public

(SEAL)

Notary Registration Number: 7763042
My Commission Expires: April 30, 2022





APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL
SUFFICIENCY AND FORM:

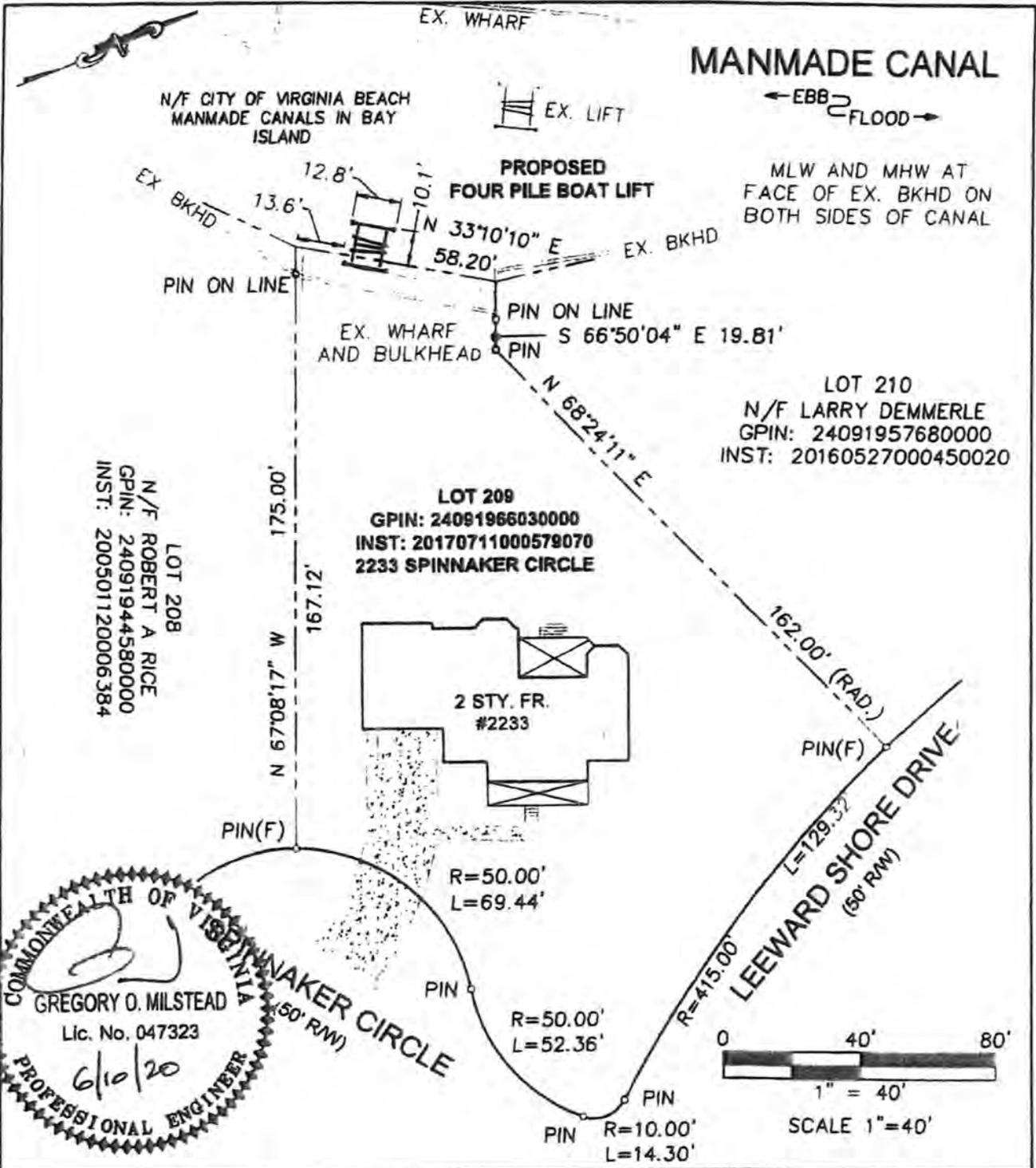


SIGNATURE


for DANA R. HARMeyer,
SENIOR CITY ATTORNEY

DATE

PUBLIC WORKS / REAL ESTATE
DEPARTMENT / DIVISION



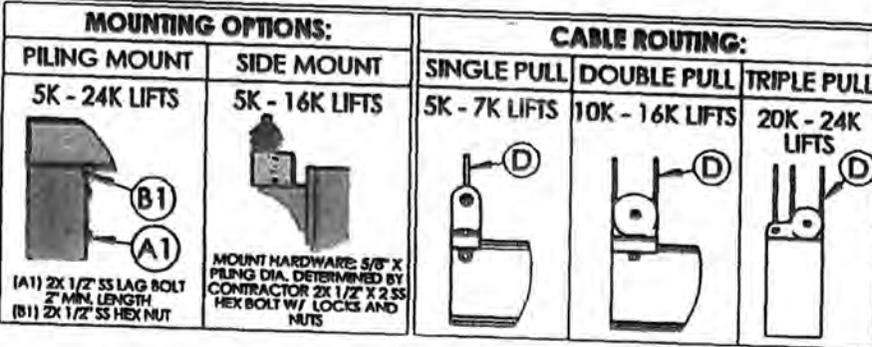
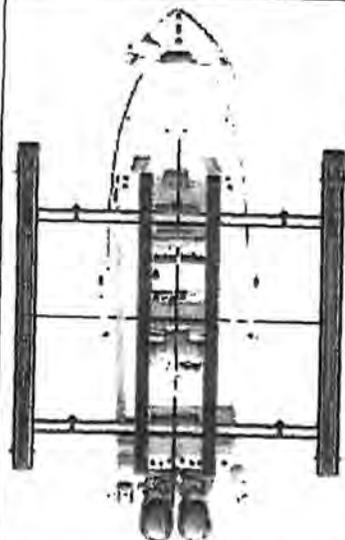
COMMONWEALTH OF VIRGINIA

 GREGORY O. MILSTEAD
 Lic. No. 047323
 6/10/20
 PROFESSIONAL ENGINEER

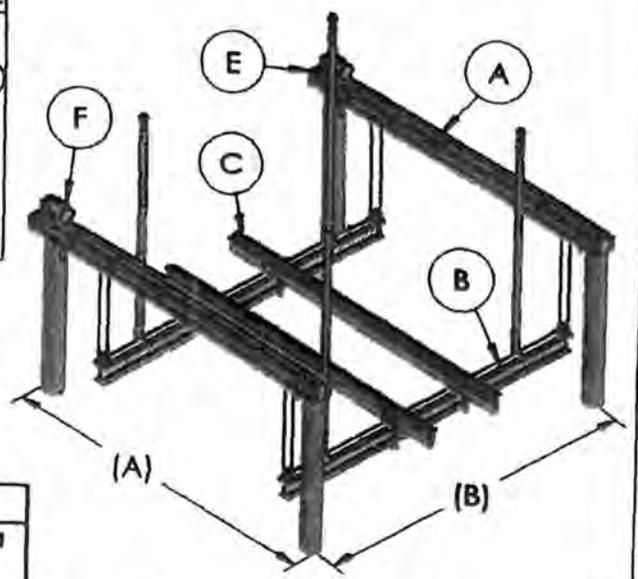
WCI WATERFRONT CONSULTING, INC.
 2589 QUALITY COURT, STE. 323
 VIRGINIA BEACH, VA 23454
 C: 757-619-7302

ENGINEERING SERVICES PROVIDED BY:
 CHESAPEAKE BAY SITE SOLUTIONS, INC.

EXHIBIT A
ENCROACHMENT REQUEST FOR A BOAT LIFT
BAY ISLAND, SECTION TWO, LOT 209 (M.B. 48, PG. 15)
FOR
MARK & KATHLEEN PAWLAK
2233 SPINNAKER CIRCLE, VIRGINIA BEACH, VA 23451
GPIN: 2409-19-6603 DATE: MAY 29, 2020



NOTE: LOAD SHOULD BE EVENLY DISTRIBUTED BY POSITIONING THE CENTER OF GRAVITY DIRECTLY IN THE CENTER OF THE LIFTING BEAMS AS SHOWN IN THE ILLUSTRATION



4 PILING BOAT LIFT SPECIFICATION SHEET

2018	TOP BEAM (A)	CRADLE BEAM (B)	BUNKS (C)	CABLE SIZE (D)	DRIVE (E)	H.P. MOTOR (F)	DRIVE SHAFT	MINIMUM PILING (SIZE & QTY.)
5,000 LB.	5" CHANNEL X 12' 6"	4" X 6" X 10'	8" ALUM	5/16" SS 7/19 (.313) SINGLE PULL	DIRECT DRIVE	3/4 H.P. (QTY. 2) 220V 4.9A EACH	1-1/2" (SCH 40)	8" (QTY. 4)
7,000 LB.	6" CHANNEL X 12' 6"	4" X 6" X 12' 6"				1 H.P. (QTY. 2) 220V 6.8A EACH		
10,000 LB.	7" CHANNEL X 12' 6"	5" X 8" X 12' 6"				3/4 H.P. (QTY. 2) 220V 4.9A EACH		
13,000 LB.						1 H.P. (QTY. 2) 220V 6.8A EACH		
16,000 LB.	8" CHANNEL X 12' 6"	6" X 10" X 14'	10" ALUM	5/16" SS 7/19 (.313) TRIPPLE PULL		3/4 H.P. (QTY. 2) 220V 4.9A EACH		10" (QTY. 4)
20,000 LB.	9" CHANNEL X 14' 6"	6" X 10" X 15'				1 H.P. (QTY. 2) 220V 6.8A EACH		
24,000 LB.		7" X 12" X 16'				1 H.P. (QTY. 2) 220V 6.8A EACH		

4 PILING BOAT LIFT PILING SPACING

FOUR PILING LIFTS	(A) BOW TO STERN (OUTSIDES)	(B) PORT TO STARBOARD (CENTERS)
5,000 LB.	12 FT 6 IN	10 FT
7,000 LB.		12 FT 6 IN
10,000 LB.		
13,000 LB.	14 FT 6 IN	14 FT
16,000 LB.		15 FT
20,000 LB.		
24,000 LB.		16 FT

TITLE:
**5K-24K 4 POLE BOAT LIFT
ENGINEERING SHEET**

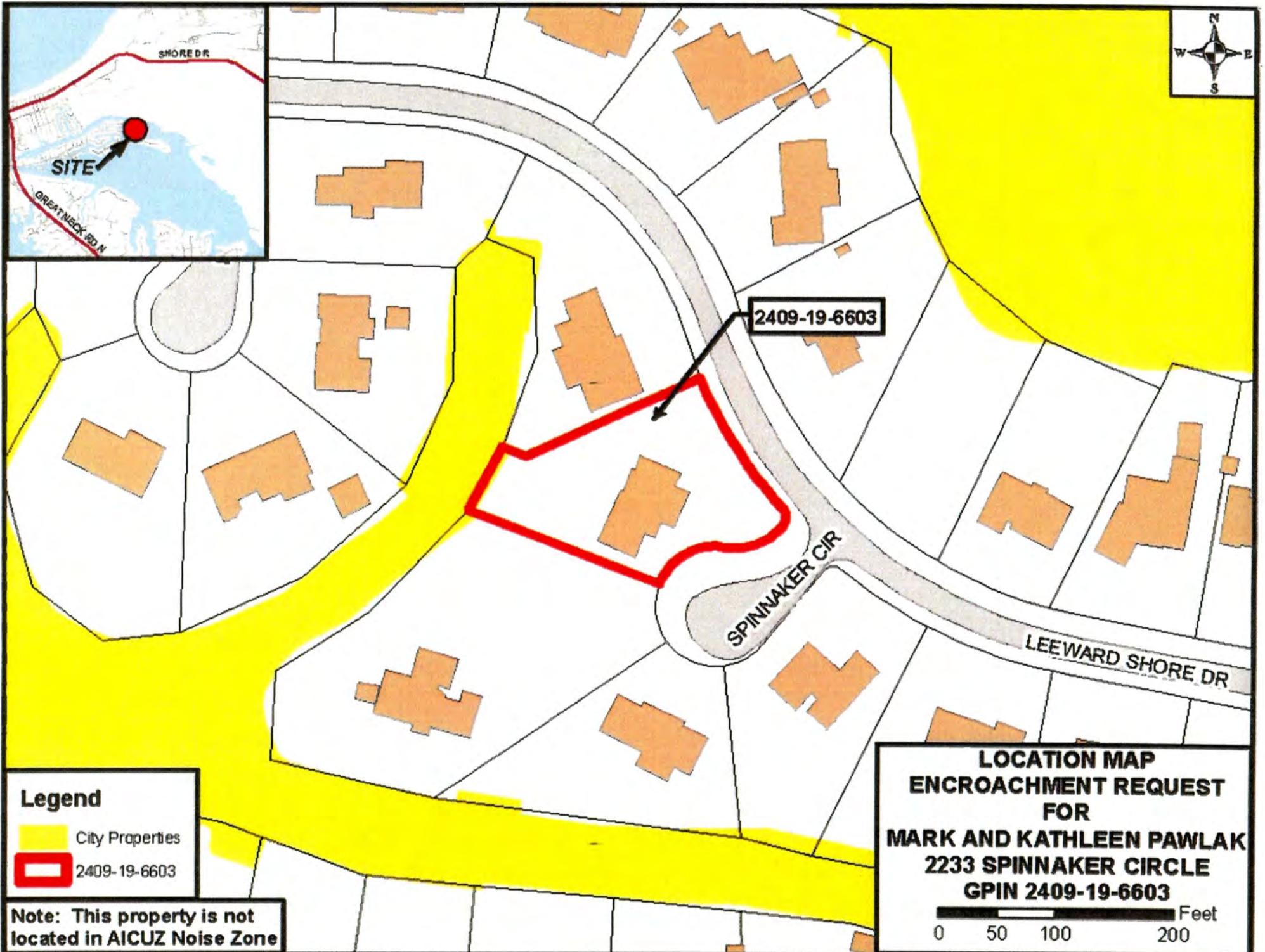
PH: 600-325-1116
 FAX: 252-747-4377
 TIDETAMER.COM
 P.O. BOX 1118
 SNOW HILL, NC 28580

ENGINEERING SEAL AFFIXED HERETO VALIDATES STRUCTURAL DESIGN AS SHOWN ONLY. USE OF THIS SPECIFICATION BY CONTRACTOR, et. al. IDENTIFIES & SAVES HARMLESS THIS ENGINEER FOR ALL COST & DAMAGES INCLUDING LEGAL FEES & APPELLATE FEES RESULTING FROM MATERIAL FABRICATION, SYSTEM ERECTION & CONSTRUCTION PRACTICES BEYOND THAT WHICH IS CALLED FOR BY LOCAL, STATE, & FEDERAL CODES & FORM DEVIATIONS OF THIS PLAN, EXCEPT AS EXPRESSLY PROVIDED IN HEREIN, NO CERTIFICATION OR AFFIRMATIONS ARE INTENDED. PAUL WELCH, INC. HAS NOT VISITED THIS JOB SITE. INFORMATION CONTAINED HEREIN IS BASED ON CONTRACTOR SUPPLIED DATA AND MEASUREMENTS. PAUL WELCH, INC. SHALL NOT BE HELD RESPONSIBLE OR LIABLE IN ANY WAY FOR ERRONEOUS OR INACCURATE DATA OR MEASUREMENTS. WORK SHALL BE VERIFIED PRIOR TO CONSTRUCTION. PAUL WELCH, INC. SHALL BE NOTIFIED AND GIVEN AN OPPORTUNITY TO REEVALUATE OUR WORK UPON DISCOVERY OF ANY INACCURATE INFORMATION PRIOR TO MODIFICATION OF EXISTING FIELD CONDITIONS AND FABRICATION AND INSTALLATION OF MATERIALS.

PROPRIETARY AND CONFIDENTIAL
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SIZE DWG. NO. REV
A ENGINEERING 1
 SCALE AS NOTED DRAWN BY: ACC DATE: 12-6-18 SHEET 1 OF 1

ENGINEERS SEAL



Legend

- City Properties
- 2409-19-6603

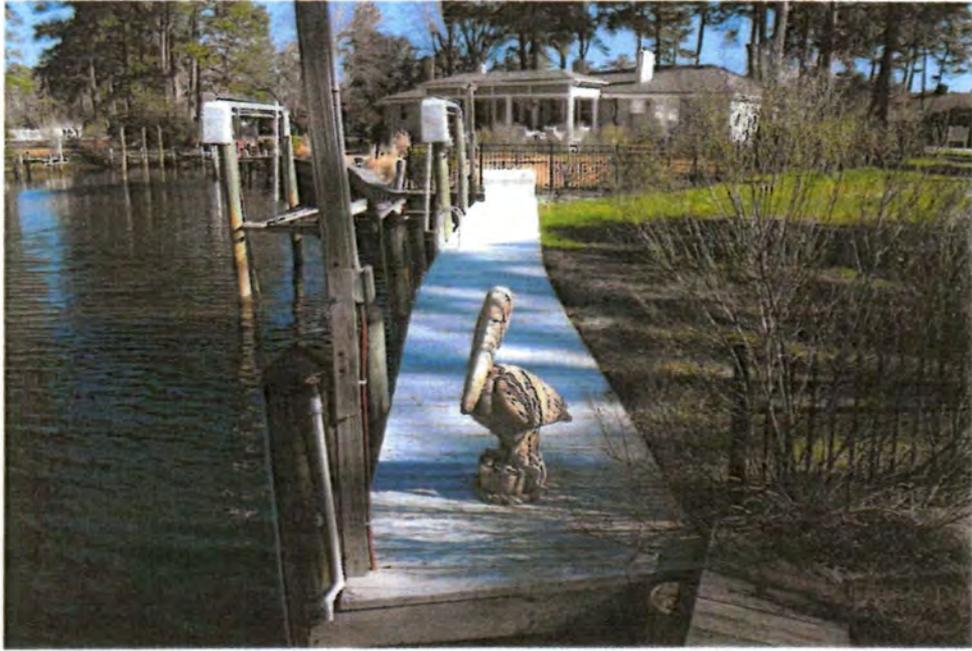
Note: This property is not located in AICUZ Noise Zone

**LOCATION MAP
ENCROACHMENT REQUEST
FOR
MARK AND KATHLEEN PAWLAK
2233 SPINNAKER CIRCLE
GPIN 2409-19-6603**

0 50 100 200 Feet



Pictures 2233 Spinnaker Circle



Picture 2233 Spinnaker Circle



APPLICANT'S NAME Mark & Kathleen Pawlak

DISCLOSURE STATEMENT FORM

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

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

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

SECTION 1 / APPLICANT DISCLOSURE

FOR CITY USE ONLY / All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the application(s).		
<input type="checkbox"/>	APPLICANT NOTIFIED OF HEARING	DATE:
<input checked="" type="checkbox"/>	NO CHANGES AS OF	DATE: 9-18-20
<input type="checkbox"/>	REVISIONS SUBMITTED	DATE:

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

(A) List the Applicant's name: Mark & Kathleen Pawlak
If an LLC, list all member's names:

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

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

See next page for information pertaining to footnotes¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

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

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

(A) List the Property Owner's name: _____
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)*

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

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

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

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

APPLICANT

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

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

YES	NO	Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	

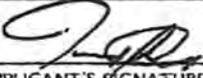
If yes, what is the name of the official or employee and what is the nature of the interest?



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.

	Mark Pawlak	02/9/2019
APPLICANT'S SIGNATURE	PRINT NAME	DATE



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance to Authorize Temporary Encroachment into a Portion of an Existing, Unimproved City Right-of-Way at the Corner of Schumann Drive, Formerly Old Dam Neck Road, and Firefall Drive, Located Adjacent to 685 Firefall Drive

MEETING DATE: October 20, 2020

■ **Background:**

Hampton Roads Sanitation District, a political subdivision of the Commonwealth of Virginia, ("HRSD") has requested permission to construct and maintain an interpretive park (the "Interpretive Park"), comprised of a 5'-wide asphalt path, ornamentally bordered with reclaimed brick, 5 interpretive signs, 3 benches, trash receptacles, and a dog waste station (collectively, the "Encroachment") adjacent to its property located at 685 Firefall Drive. The Encroachment would extend a total of 2,425 square feet (0.0557 acres) into the City's unimproved right-of-way at the corner of Schumann Drive, formerly Old Dam Neck Road, and Firefall Drive.

The Interpretive Park will be open to the public and will communicate the function and operation of the treatment plant as well as HRSD initiatives of interest to the citizens of Virginia Beach.

The Interpretive Park is Phase 2 of a larger project to beautify the Firefall Drive corridor leading to the HRSD Atlantic Treatment Plant. During Phase 1, which has been installed, a variety of plant species were planted along Firefall Drive, including a forested buffer established on lands previously dedicated to agricultural fields. The park area was also planted with trees and large shrubs during this phase. The installation of plant material in this area was coordinated with the City's Landscape Services.

HRSD is currently responsible for the landscape maintenance in this area and will be assuming maintenance of all proposed features described above.

■ **Considerations:**

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

■ **Public Information:**

Public information will be handled through the normal 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, Agreement, Exhibit A, Pictures, Location Map and Disclosure Statement
-

Recommended Action: Approval of the ordinance.

Submitting Department/Agency: Public Works/Real Estate

City Manager:



1 Requested by Department of Public Works

2
3 AN ORDINANCE TO AUTHORIZE
4 TEMPORARY ENCROACHMENT INTO A
5 PORTION OF AN EXISTING,
6 UNIMPROVED CITY RIGHT-OF-WAY AT
7 THE CORNER OF SCHUMANN DRIVE,
8 FORMERLY OLD DAM NECK ROAD,
9 AND FIREFALL DRIVE, LOCATED
10 ADJACENT TO 685 FIREFALL DRIVE
11

12 WHEREAS, Hampton Roads Sanitation District, a political subdivision of the
13 Commonwealth of Virginia, ("HRSD") has requested permission to construct and maintain
14 an interpretive park adjacent to the site of its new HRSD Atlantic Treatment Plant,
15 comprised of a 5'-wide asphalt path, ornamentally bordered with reclaimed brick, 5
16 interpretive signs, 3 benches, trash receptacles, and a dog waste station (collectively, the
17 "Encroachments") on a portion of the City's right-of-way at the corner of Schumann Drive,
18 formerly Old Dam Neck Road, and Firefall Drive, located adjacent to 685 Firefall Drive;
19

20 WHEREAS, City Council is authorized pursuant to §§ 15.2-2009 and 15.2-
21 2107, Code of Virginia, 1950, as amended, to authorize temporary encroachments upon
22 the City's right-of-way subject to such terms and conditions as Council may prescribe.
23

24 NOW, THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
25 VIRGINIA BEACH, VIRGINIA:
26

27 That pursuant to the authority and to the extent thereof contained in §§ 15.2-
28 2009 and 15.2-2107, Code of Virginia, 1950, as amended, HRSD, its assigns and
29 successors in title are authorized to construct and maintain the Encroachments in the City's
30 right-of-way as shown on the map entitled: "HRSD ATLANTIC TREATMENT PLANT
31 INTERPRETIVE PARK EXHIBIT A – SITE PLAN", a copy of which is attached hereto as
32 Exhibit A and to which reference is made for a more particular description.
33

34 BE IT FURTHER ORDAINED, that the Encroachments are expressly subject
35 to those terms, conditions and criteria contained in the agreement between the City of
36 Virginia Beach and HRSD (the "Agreement"), an unexecuted copy of which has been
37 presented to the Council in its agenda, and will be recorded among the records of the
38 Clerk's Office of the Circuit Court of the City of Virginia Beach;
39

40 BE IT FURTHER ORDAINED, that the City Manager or his authorized
41 designee is hereby authorized to execute the Agreement; and
42

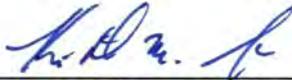
43 BE IT FURTHER ORDAINED, that this Ordinance shall not be in effect until
44 such time as HRSD and the City Manager or his authorized designee execute the
45 Agreement.

46
47
48

Adopted by the Council of the City of Virginia Beach, Virginia, on the _____
day of _____, 20__.

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL
SUFFICIENCY AND FORM:



PUBLIC WORKS, REAL ESTATE


for _____
DANA R. HARMEYER
SENIOR CITY ATTORNEY

CA14862

R-1

Prepared: 10/6/20

\\vbgov.com\dfs1\applications\citylaw\cycom32\wpdocs\d011\p035\00666351.doc

PREPARED BY VIRGINIA BEACH
CITY ATTORNEY'S OFFICE (BOX 31)

EXEMPTED FROM RECORDATION TAXES
UNDER SECTION 58.1-811(C) (4)

THIS AGREEMENT, made this _____ day of _____, 202____, by and between the **CITY OF VIRGINIA BEACH, VIRGINIA**, a municipal corporation of the Commonwealth of Virginia, Grantor, "City", and **HAMPTON ROADS SANITATION DISTRICT, a political subdivision of the Commonwealth of Virginia**, ITS, 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 "PARCEL A-1 AREA = 25.4680 AC. GPIN: 2424-19-8264" as shown on that certain plat entitled: "RESUBDIVISION PLAT OF – PARCEL A, SUBDIVISION OF OCEAN LAKES, PHASE THREE, SECTION TWO DB 2592 PG 1806 AND PROPERTY OF HAMPTON ROADS SANITATION DISTRICT PRINCESS ANNE BOROUGH VIRGINIA BEACH, VA. SCALE: 1" = 200' JULY 27, 1987," prepared by Venture Engineering, P.C., which said plat is recorded in the Clerk's Office of the Circuit Court of the City of Virginia Beach, Virginia in Deed Book 2761, at page 1951, and being further designated, known, and described 685 Firefall Drive, Virginia Beach, Virginia 23454;

WHEREAS, it is proposed by the Grantee to construct and maintain an Interpretive Park, comprised of a 5'-wide asphalt path, ornamentally bordered with reclaimed brick, 5 interpretive signs, 3 benches, trash receptacles, and a dog waste station, collectively, the "Temporary Encroachment", in the City of Virginia Beach; and

**GPINs: NO GPIN ASSIGNED (CITY RIGHT-OF-WAY)
2424-19-8264 (685 FIREFALL DRIVE)**

WHEREAS, in constructing and maintaining the Temporary Encroachment, it is necessary that the Grantee encroach into a portion of an existing, unimproved City right-of-way at the corner of Schumann Drive, formerly Old Dam Neck Road, and Firefall Drive the "Encroachment Area"; and

WHEREAS, the Grantee has requested that the City permit the Temporary Encroachment within the Encroachment Area.

NOW, THEREFORE, for and in consideration of the premises and of the benefits accruing or to accrue to the Grantee and for the further consideration of One Dollar (\$1.00), cash in hand paid to the City, receipt and sufficiency of which are hereby acknowledged, the City hereby grants to the Grantee permission to use the Encroachment Area for the purpose of constructing and maintaining the Temporary Encroachment.

It is expressly understood and agreed that the Temporary Encroachment will be constructed and maintained in accordance with the laws of the Commonwealth of Virginia and the City of Virginia Beach, and in accordance with the City's specifications and approval and is more particularly described as follows, to wit:

A Temporary Encroachment into the Encroachment Area as shown on that certain map entitled: "HRSD ATLANTIC TREATMENT PLANT INTERPRETIVE PARK EXHIBIT A – SITE PLAN," 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, to the extent permitted by law and without waiving sovereign immunity, indemnify, hold harmless, and defend the City, its agents and employees, from and against all claims, damages, losses and expenses, including reasonable attorney's fees, in case it shall be necessary to file or defend an action arising out of the construction, location or existence of the Temporary Encroachment.

It is further expressly understood and agreed that nothing herein contained shall be construed to enlarge the permission and authority to permit the maintenance or construction of any encroachment other than that specified herein and to the limited extent specified herein, nor to permit the maintenance and construction of any encroachment by anyone other than the Grantee.

It is further expressly understood and agreed that the Grantee agrees to maintain the Temporary Encroachment so as not to become unsightly or a hazard.

It is further expressly understood that any existing encroachments referenced in the Exhibit or this Agreement are the ongoing maintenance obligation of the Grantee and the City disclaims any ownership interest or maintenance obligation of such encroachments.

It is further expressly understood and agreed that the Grantee must obtain and keep in effect general liability insurance covering bodily injury and property

damage, with the City named as an additional insured, in an amount not less than \$500,000.00, per occurrence and \$1,000,000 aggregate per year. Policy shall include thirty (30) days written notice to the City prior to the cancellation of such insurance, except in the event of non-payment which shall be ten (10) days. The company providing the insurance must be registered and licensed to provide insurance in the Commonwealth of Virginia. The Grantee will provide a Certificate of Insurance documenting coverage. 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, Hampton Roads Sanitation District, a political subdivision of the Commonwealth of Virginia, the said Grantee, has caused this Agreement to be executed on its behalf by Karen Christine Russo-Scarano, Real Estate Manager of Hampton Roads Sanitation District (HRSD), with due authority to bind said company. 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.

Notary Public (SEAL)

Notary Registration Number: _____

My Commission Expires: _____

(SEAL)
ATTEST:

City Clerk/Authorized
Designee of the City Clerk

STATE OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

The foregoing instrument was acknowledged before me this _____ day of _____, 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.



Notary Public (SEAL)

Notary Registration Number: _____

My Commission Expires: _____

HAMPTON ROADS
SANITATION DISTRICT,
a political subdivision of
the Commonwealth of Virginia

By: Karen Christine Russo-Scarano
Karen Christine Russo-Scarano
Real Estate Manager

STATE OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

The foregoing instrument was acknowledged before me this 7th day of
October, 2020, by KAREN CHRISTINE RUSSO-SCARANO, as Real Estate
Manager of Hampton Roads Sanitation District.



Ashley Renee Hargrove (SEAL)
Notary Public

Notary Registration Number: 7770977

I was commissioned a notary
public as Ashley Renee Hargrove.

My Commission Expires: May 31, 2020

APPROVED AS TO CONTENTS

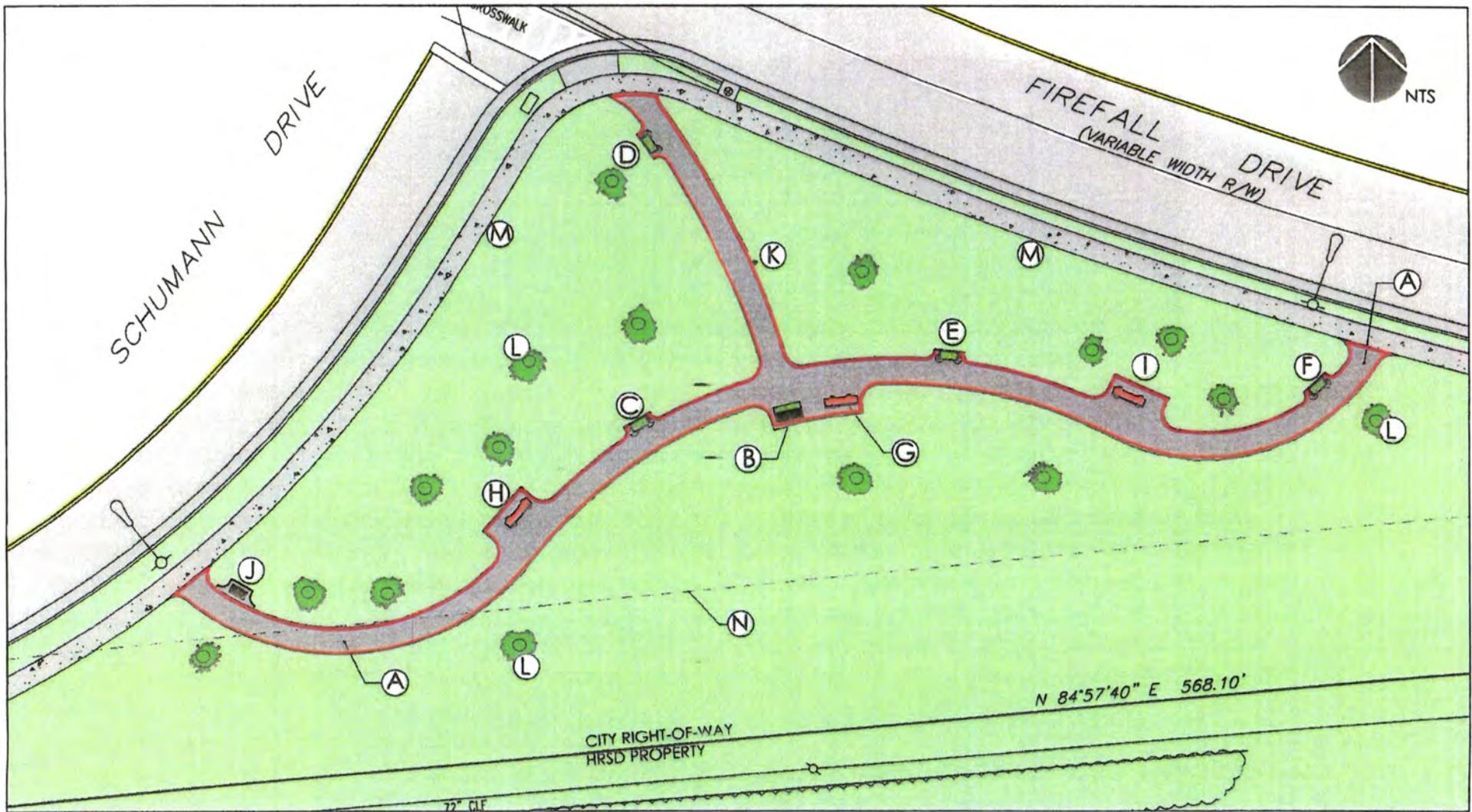
APPROVED AS TO LEGAL
SUFFICIENCY AND FORM

[Signature]
SIGNATURE

PW / REAL ESTATE
DEPARTMENT

[Signature]
for DANA R. HARMEYER
SENIOR CITY ATTORNEY





(A) Proposed 5-foot wide asphalt path (ADA) with reclaimed brick border

(B) Proposed interpretive sign with custom support, Topic: HRSD general information

(C) Proposed interpretive sign with standard support, Topic: Resource recovery and energy capture

(D) Proposed interpretive sign with standard support, Topic: Beautification and reforestation efforts

(E) Proposed interpretive sign with standard support, Topic: Class A biosolids

(F) Proposed interpretive sign with standard support, Topic: Atlantic Treatment Plant process

(G) Proposed 6-foot recycled plastic bench with back, allots space for wheelchair

(H) Proposed 6-foot recycled plastic bench, backless, allots space for wheelchair

(I) Proposed 6-foot recycled plastic bench, backless, allots space for wheelchair

(J) Proposed dual trash receptacles (regular and recycle)

(K) Proposed pet waste station with park closure signage; two closure signs facing down each end of adjacent path.

(L) Existing tree, typical (recently planted)

(M) Existing sidewalk

(N) Existing water line, coordinated with Public works

HRSD ATLANTIC TREATMENT PLANT INTERPRETIVE PARK EXHIBIT A - SITE PLAN



Looking East



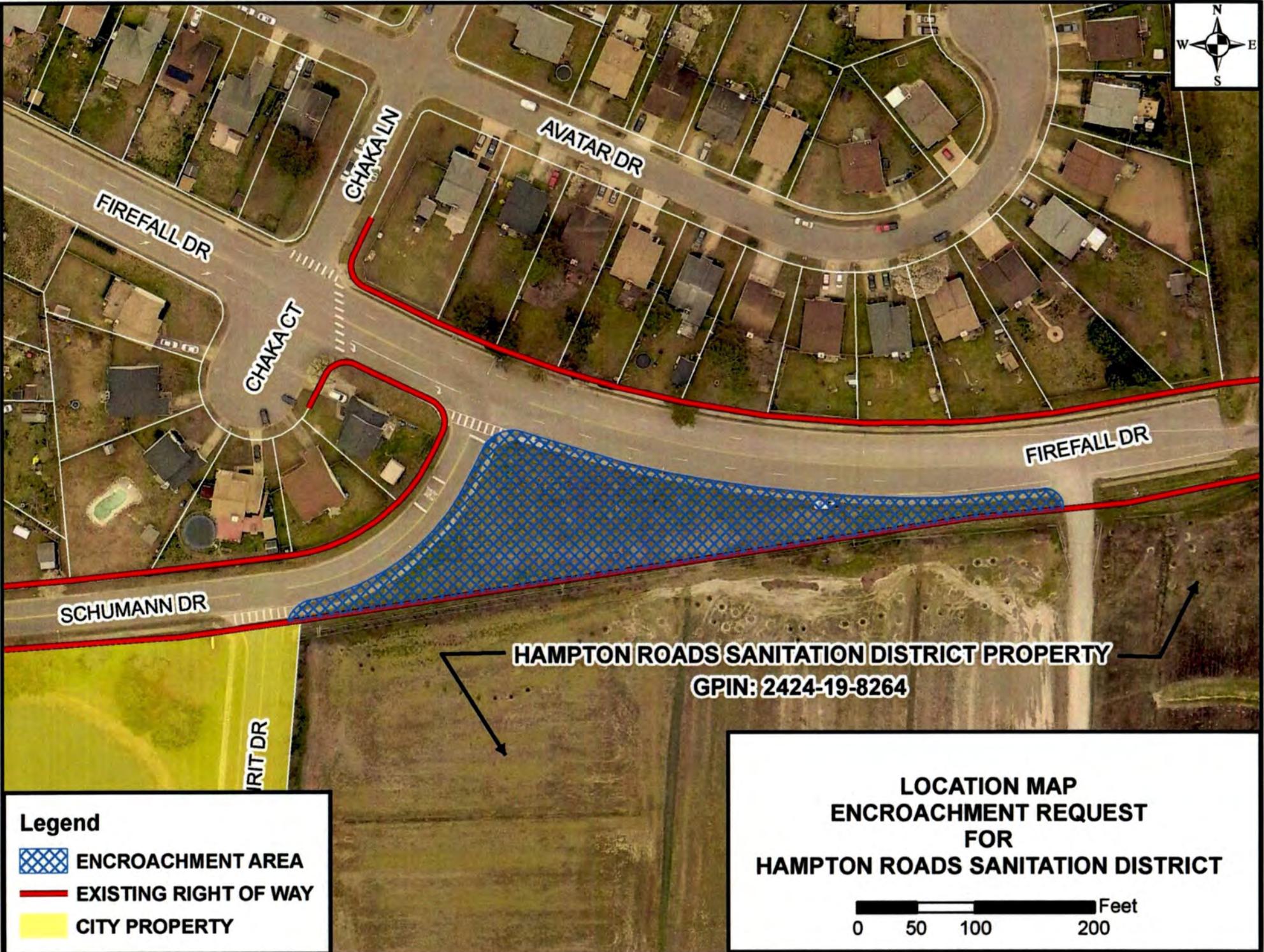
Looking South



Looking Northeast



Looking West



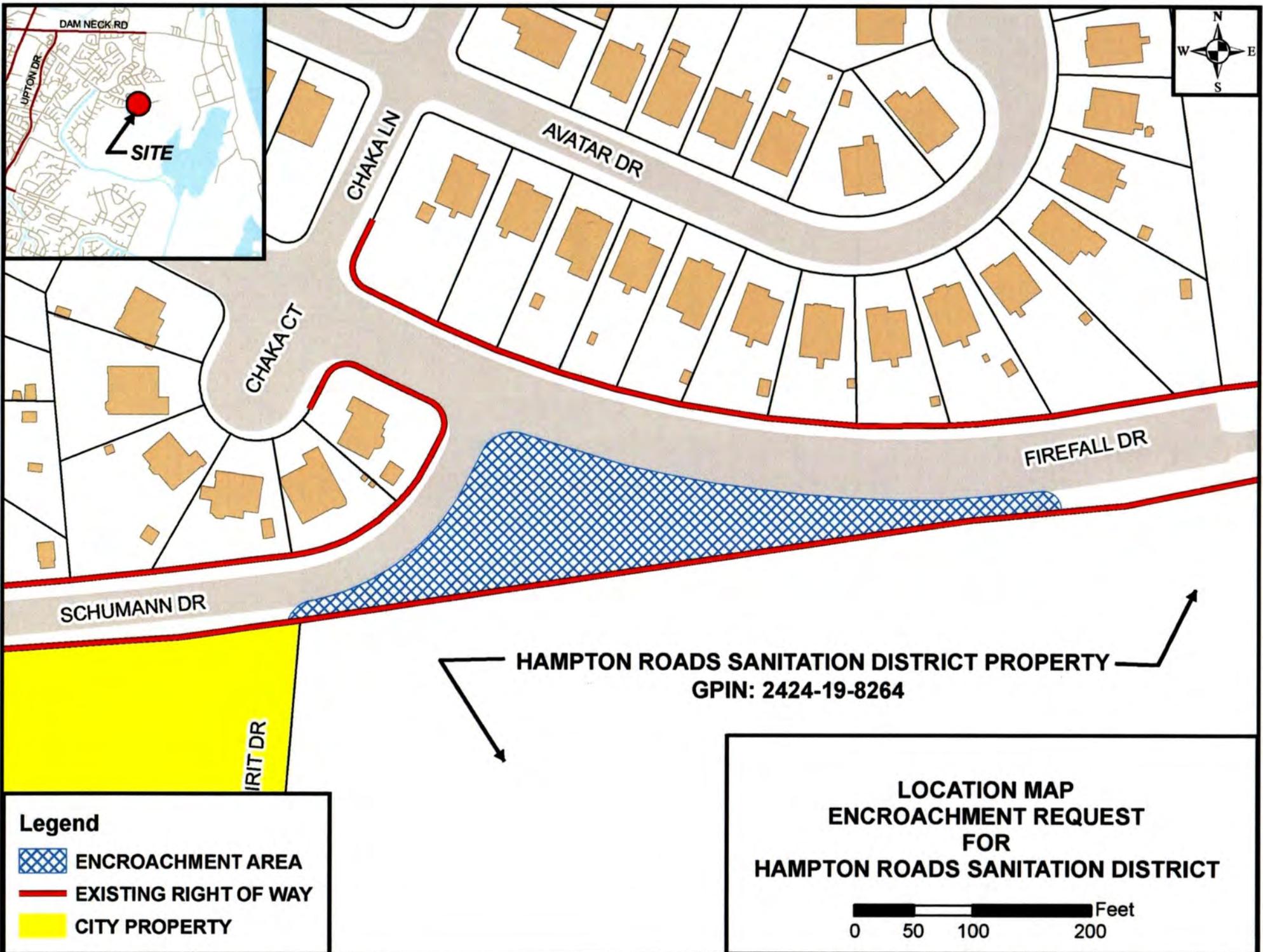
HAMPTON ROADS SANITATION DISTRICT PROPERTY
GPIN: 2424-19-8264

Legend

-  ENCROACHMENT AREA
-  EXISTING RIGHT OF WAY
-  CITY PROPERTY

LOCATION MAP
ENCROACHMENT REQUEST
FOR
HAMPTON ROADS SANITATION DISTRICT

0 50 100 200 Feet



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 Hampton Roads Sanitation District (HRSD)

Does the applicant have a representative? Yes No

- If yes, list the name of the representative.

J. Randall (Randy) Royal, Consultant with Kimley-Horn will represent HRSD at the Council Hearing.

Is the applicant a corporation, partnership, firm, business, trust or an unincorporated business? Yes No
HRSD is a Political Subdivision of the Commonwealth of Virginia

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

NA

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

NA

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

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

Disclosure Statement



Known Interest by Public Official or Employee

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

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

NA

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.

NA

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 real estate broker/realtor.

NA

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 or individual providing the service.

NA

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 or individual providing the service.

HRSD has employed WPL Site Design to design the subject property. No business will be operated on the property.

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.

NA

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 construction contractor.

NA

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 engineer/surveyor/agent.

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 name of the attorney or firm providing legal services.

NA

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

Karen Russo-Scarano, Real Estate Manager

Print Name and Title

10-7-20

Date

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

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

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

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

Continue to Next Page for Owner Disclosure

Disclosure Statement



Owner Disclosure

Owner Name Applicant is not the owner of the property

Applicant Name _____

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

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

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

Known Interest by Public Official or Employee

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

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

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

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

Applicant is not the owner of the property

Owner Services Disclosure

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

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

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

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

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

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

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

Applicant is not the owner of the property

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

Owner Signature

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

Owner Signature

Print Name and Title

Date



DESIGN NARRATIVE

HRSD Atlantic Treatment Plant Interpretive Park – Phase 2

Submitted as RUD Site Plan

Project

Phase 1 summary (phase 1 is installed)

The HRSD Atlantic Treatment Plant Interpretive Park is phase 2 of a larger project to beautify the Firefall Drive corridor leading to the Atlantic Treatment Plant. Phase 1 was planting-only, is installed, and incorporates a variety of plant species along Firefall Drive to include a forested buffer established on lands previously dedicated to agricultural fields. The park area was planted with trees and large shrubs during the first phase. Installing plant material in this location was coordinated with the City's Landscape Services and Development Services Center offices.

Phase 2 (plan proposed herein)

The Interpretive park proposed within the right-of-way at the corner of Firefall Drive and Schumann Drive presents a setting by which the Hampton Roads Sanitation District (HRSD) will communicate function and public relevance regarding the operation of the treatment plant as well as HRSD initiatives of interest to the Virginia Beach citizenry. The park area will be enhanced with a walk, 5 interpretive sign placards, 3 benches, a waste receptacle area, and a combination dog waste station / park closure sign.

The walk will consist of asphalt surfacing (per Parks & Recreation standards) bound by a reclaimed brick border. Four of the interpretive signs will emulate the Parks and Recreation standard support frame supporting a 24-inch by 36-inch sign placards. The remaining interpretive sign will be a 24-inch by 60-inch placard supported by a modified 36-inch diameter ductile iron sewer pipe. This pipe will be modified, machined, and surfaced appropriate for a park setting. Benches and waste receptacles will be made of recycled plastic. Bench bays include a wheelchair space. Waste receptacles will accommodate both regular and recycled content and will be managed by HRSD. A pet waste station including a bag cabinet and leash hold will also be incorporated into the design to help keep the area tidy. Park closure signage will be incorporated on the pet station post. HRSD is currently responsible for the landscape maintenance in this area and will be assuming maintenance of all proposed features described above.

Phase 1 plan sheets are available upon request. Graphic illustrations of both types of interpretive sign supports, interpretive sign content, as well as other proposed features can be found in the Encroachment Exhibit submitted to PW / Real Estate and included in this (initial)

submittal. The project has been vetted through comment/response cycle with PW/Real Estate and currently awaits City Council hearing.

Total land disturbance for this project is 2,425 s.f. (0.0556 acres) and includes the area shown within the erosion and sediment control fencing. WPL was informed by the Development Service Center during the preliminary review phase that keeping the project disturbance under 2,500 s.f. will preclude any stormwater calculations or treatment measures. A 1-foot erosion and sediment control fencing offset from the limits of improvements was recommended by the Development Service Center during preliminary review and reflected on the plans.

Site Preparation

Site access has been proposed off Firefall Drive given the minimal traffic condition east of the intersection and the two-lane condition in that area. Keeping the disturbance footprint low is a priority so laydown and stockpile areas have been proposed within the bays proposed for future bench areas. These areas are within the erosion and sediment control fencing.

The contractor has been provided with references to the Virginia Erosion & Sediment Control handbook in the areas of silt fencing, tree protection, permanent seeding, temporary seeding, mulching, and the application of new vegetation.

Tree protection has been shown on the plan and applied to the newly installed trees from phase 1. Although these trees are outside the designated limits of disturbance, they will be assigned protection for good measure and the at the request of the Development Services Center during the preliminary review.

Planting

Trees are not proposed for phase 2. New planting beds will consist of low-maintenance ornamental grasses and will convert 1,213 s.f. of lawn into mulched planting bed. WPL has confirmed with the Development Service Center during the preliminary review that the proposed bed areas will not count toward land disturbance.

Utility Design

Utilities are not proposed for this project.

Stormwater Management Design

WPL was informed by the Development Service Center during the preliminary review phase that keeping the project disturbance under 2,500 s.f. will preclude stormwater calculations or treatment measures.





CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance to Reserve Fund Balance within the General Fund for the Purpose of Pandemic Financial Relief and Assistance and to Appropriate \$10 Million for Grants to Nonprofit Rescue Squads and for Emergency Assistance

MEETING DATE: October 20, 2020

■ **Background:** On September 22, 2020, the City Council expressed its desire to partner with non-profit organizations that provide emergency assistance and relief to City residents. Specifically, the Council identified small business assistance, workforce development programs, individual finance assistance for medical expenses, and emergency assistance, such as food support and assistance to the unemployed, as underserved areas that require an immediate infusion of resources. The City Council also expressed a desire to further assist local non-profit volunteer rescue squads to ensure they have adequate levels of equipment and resources. To meet these needs, this agenda item will set aside \$39.25 million of local funding as a reservation of General Fund Fund Balance. The money in the reserve will be used to fund programs as they are developed by the non-profit community and needed by the residents of Virginia Beach to fill emerging needs and identified areas of relief.

This item was originally part of the agenda for the City Council's October 6, 2020 formal meeting, but that meeting was cancelled at the recommendation of the Health Department.

■ **Considerations:** Of the \$39.25 million reserve, \$10 million will be appropriated to make it available for immediate relief. Of this initial allocation, \$2 million will be for grants to the City's nonprofit volunteer rescue squads who work closely with the Department of Emergency Medical Services. The remaining \$8 million will be provided as a grant to the United Way of South Hampton Roads. The United Way will disburse these grant funds directly to the residents of the City and by way of subgrants to other non-profits that specialize in the types of relief identified by the City Council. The ordinance provides guidance as to how the \$8 million is intended to be broken down among various forms of assistance for residents and businesses within the City. The City staff will provide updates as to the distributions of these funds.

If approved, the remaining \$29.25 million reservation of General Fund Fund Balance will remain in place and require authorization and appropriation by City Council prior to future use or allocation. The use of fund balance maintains the City Council's Fund Balance Policy, which requires the unassigned fund balance to be between 8% and 12%.

- **Public Information:** Normal Council agenda process.
 - **Recommendations:** Adopt the attached ordinance.
 - **Attachments:** Ordinance; Disclosure Form
-

Recommended Action: Approval

Submitting Department/Agency: City Manager's Office

City Manager: 

1 AN ORDINANCE TO RESERVE FUND BALANCE WITHIN
2 THE GENERAL FUND FOR THE PURPOSE OF PANDEMIC
3 FINANCIAL RELIEF AND ASSISTANCE AND TO
4 APPROPRIATE \$10 MILLION FOR GRANTS TO
5 NONPROFIT RESCUE SQUADS AND FOR EMERGENCY
6 ASSISTANCE
7

8 WHEREAS, the City of Virginia Beach recognizes that there are citizens are in
9 need of additional financial relief and assistance due to the coronavirus pandemic;
10

11 WHEREAS, the City Council Fund Balance Policy of the City of Virginia Beach is
12 that the city shall maintain an unassigned fund balance in the General Fund of 8-12% of
13 the following year's budgeted revenues; and
14

15 WHEREAS, the City of Virginia Beach has, even with this appropriation action,
16 sufficient unassigned fund balances to adhere to the Fund Balance Policy.
17

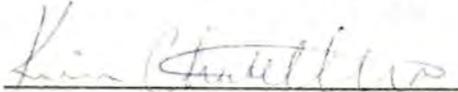
18 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
19 VIRGINIA BEACH, VIRGINIA, THAT:
20

- 21 1. The City Manager is hereby directed to place a reservation of \$39,258,497 within
22 the fund balance of the General Fund for the purpose of providing pandemic
23 financial relief and assistance.
24
- 25 2. From the amounts reserved in the fund balance above, \$8 million is hereby
26 appropriated for purposes of a donation to the United Way of South Hampton
27 Roads (the "United Way"). These funds are intended to be used to provide
28 emergency assistance to the residents of the City. The United Way is hereby
29 requested to use such funds for the following purposes:
 - 30 a. \$2 million for small business assistance, with consideration for certified Small,
31 Woman-owned, and Minority-owned (SWaM) businesses;
 - 32 b. \$2 million for workforce development programs;
 - 33 c. \$2 million for food support;
 - 34 d. \$2 million for individuals and families for medical expenses, emergency
35 assistance or unemployment needs.
36
- 37 3. From the amounts reserved in the fund balance above, \$2 million is hereby
38 appropriated and transferred to the FY 2020-21 Operating Budget of the
39 Department of Emergency Medical Services (EMS). The City Council authorizes
40 these funds to be provided to the nonprofit volunteer rescue squads that partner
41 with EMS to provide service delivery to citizens in the form of grants.
42
- 43 4. The \$29,258,497 remaining in the Pandemic Financial Relief and Assistance
44 Reserve is hereby reserved until such time as the City Council appropriates
45 additional funds therefrom.

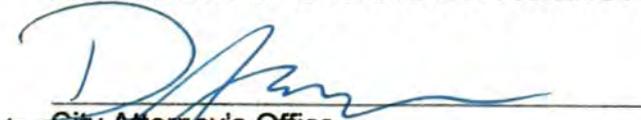
Adopted by the Council of the City of Virginia Beach, Virginia, on the _____ day
of _____ 2020.

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

APPROVED AS TO CONTENT:


Budget and Management Services

APPROVED AS TO LEGAL SUFFICIENCY:


City Attorney's Office

CA-15176
R-3
September 30, 2020

DISCLOSURE STATEMENT FORM

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

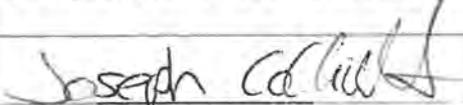
SECTION 1 / APPLICANT DISCLOSURE

Organization name: **United Way SHR**

SECTION 2. SERVICES DISCLOSURE

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

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	Wall Einhorn & Chernitzer (WEC)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Financial Services (include lending/banking institutions and current mortgage holders as applicable)	See attached
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Legal Services	Not at this time, but if UWSHR engages, or becomes aware of any legal services, it will inform the city of VB
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Broker/Contractor/Engineer/Other Service Providers	We are not aware of any current providers that have special interests with the city of VB that would require disclosure

CERTIFICATION:		
I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.		
I understand I am responsible for updating the information provided herein if it changes prior to the Council action upon this Application.		
 APPLICANT'S SIGNATURE	JOSEPH COLLINS PRINT NAME	9/30/20 DATE

United Way of South Hampton Roads

Financial services listing

As of 9.30.2020

Assets

<u>Financial Institution</u>	<u>Account Name</u>
Bank of America	Corporate
Bank of America	Payroll
Bank of America	Lincoln Financial (FUND 14)
Bank of America	Charitable Pledge Processing
Bank of America	Cox Charities - Checking (FUND 14)
Bank of America	Cox Charities - Savings (FUND 14)
BB&T	United Way of South Hampton Roads
BB&T Capital Markets (MMA)	United Way of South Hampton Roads
BB&T Scott & Stringfellow	Stock receipt account (liquidated immediately)
Merrill Lynch	Stock receipt account (liquidated immediately)
Southern Bank	FEMA Fund Norfolk
Southern Bank	FEMA Fund Chesapeake
SunTrust	Corporate
SunTrust	Operating
SunTrust	Sweep Account
The Carr Investment Group	United Way of South Hampton Roads
Towne Investment Group	T-bills
Towne Investment Group	Stock receipt account (liquidated immediately)
TowneBank	Combined Charities Campaign
TowneBank	Combined Charities Campaign - MMA
Wells Fargo	United Way of South Hampton Roads

Liabilities

<u>Financial Institution</u>	<u>Account Name</u>
TowneBank	PPP Loan



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance to Appropriate \$2,400,000 of Fund Balance in the General Fund and \$831,851 of Fund Balance in the Waste Management Enterprise Fund to Purchase Replacement Vehicles and Equipment

MEETING DATE: October 20, 2020

■ **Background:** Public Works Waste Management Division provides essential services for the citizens of Virginia Beach that contribute to the quality of life and cleanliness of the City. A key component of providing high quality reliable services is having a rolling stock fleet ready and available for use. The readiness of our current fleet is insufficient to meet current needs and has resulted in delayed service for citizens. Current replacement funding generated within the Enterprise Fund is sufficient to maintain the current replacement schedule; however, this funding is not adequate to achieve the approximately 7-year replacement cycle needed to optimize equipment life and reliability. A one-time appropriation of \$2.4 million from the fund balance of the General Fund would address the backlog of equipment replacement needed to achieve equipment and service reliability. The requested \$2.4 million would allow the City to purchase eight automated collection tandem trucks and one roll-off truck.

The \$831,851 in Waste Management fund balance is the result of a carry forward request for the replacement of two automated collection tandem trucks, one single-axle automated truck, two pickup trucks, one compactor container, and 38 tablets and hardware for mobile dispatch. Funds to purchase these pieces of equipment were included in the FY 2019-20 budget but could not be purchased due to the City's COVID-19 purchasing restrictions.

This item was originally part of the agenda for the City Council's October 6, 2020 formal meeting, but that meeting was cancelled at the recommendation of the Health Department.

■ **Considerations:** The unaudited FY 2019-20 financials, as presented on September 22nd, estimate \$115.4 million in expenditures savings to occur within the General Fund. The use of \$2.4 million in fund balance from the General Fund for the purchase of Waste Management vehicles will not substantially impact the position of the General Fund's fund balance, and it will still be within the City's policy of 8-12% of revenue. In addition, the Waste Management Enterprise Fund has sufficient fund balance to support the appropriation of \$831,851 without negatively impacting the fund due to decreased expenditures in FY 2019-20 as a result of the purchasing freeze implemented in March.

Without the transfer from the General Fund and the carry forward from the fund balance of the Enterprise Fund, Public Works Waste Management will continue to rely on equipment that has exceeded its useful life. Using such equipment may result in service disruptions to citizens, breakdown of rolling stock, and inefficient deployment of the operators. Additionally, reliance upon equipment that has exceeded its expected useful life could require excessive maintenance and repair costs to keep trucks running.

- **Recommendation:** Adopt the attached ordinance.
 - **Public Information:** Normal Council agenda process.
 - **Attachments:** Ordinance
-

Recommended Action: Approval

Submitting Department/Agency: Public Works

City Manager: 

1 AN ORDINANCE TO APPROPRIATE \$2,400,000 OF FUND
2 BALANCE IN THE GENERAL FUND AND \$831,851 OF
3 FUND BALANCE IN THE WASTE MANAGEMENT
4 ENTERPRISE FUND TO PURCHASE REPLACEMENT
5 VEHICLES AND EQUIPMENT
6

7 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VIRGINIA BEACH,
8 VIRGINIA, THAT:
9

- 10 1. \$2,400,000 of fund balance in the General Fund is hereby appropriated, with
11 revenues increased accordingly, to the Waste Management Enterprise Fund for
12 the purchase of replacement vehicles and equipment; and
13
14 2. \$831,851 of fund balance in the Waste Management Enterprise Fund is hereby
15 appropriated, with revenues increased accordingly, within the Waste Management
16 Enterprise fund for the purchase of replacement vehicles and equipment.

Adopted by the Council of the City of Virginia Beach, Virginia, on the ____ day
of _____, 2020.

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

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL SUFFICIENCY:

Budget & Management Services



City Attorney's Office

CA15165
R-1
September 22, 2020



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance to Accept and Appropriate Two Urban Community Forestry Assistance Grants and to Authorize a Local Grant Match

MEETING DATE: October 20, 2020

■ **Background:** The Virginia Department of Forestry approved two Urban and Community Forestry Assistance Grants, totaling \$29,000, to the Department of Parks and Recreation.

The first grant is an award of \$9,000 to remove and replace Bradford Pear trees along major roadways in Virginia Beach. Bradford Pears were planted in the late '80s and '90s in roadway medians for their spring flowers and fall colors. However, this species of trees is very weak, and they often fall in roadways. The Department would like to remove these trees and replace them with species that are proven to be sustainable and are safer for roadways. If approved, the grant funding will help offset the cost of contractually planting approximately 120 trees of mixed species at a cost of \$208 per tree. This grant requires a local cost share of at least fifty percent. The local match will be provided by in-kind contributions of personnel service hours and previously appropriated funds. The Department plans to use in-kind contributions of personnel service hours and available appropriations to account for fifty percent of the grant funding. The City's cost share will be partial payment for the trees and in-house removal.

The second grant is an award of \$20,000 to review and update the Urban Forest Management Plan. This plan emphasizes that a strong urban forest thrives through mutually beneficial partnerships and effective commitment, which fosters sustainable development, clean air and water, economic vitality, strong neighborhoods, and the City's physical beauty. The current plan was adopted by the City Council in 2014 as a component of the City's Comprehensive Plan. This plan is due for a review and update, which will involve internal and external stakeholder engagement to ensure the plan continues to be relevant and sustainable. If approved, this funding will be used to acquire a consultant to help update the plan. This grant also requires a local cost share of at least fifty percent. The local match will be provided by in-kind contributions of personnel service hours and previously appropriated funds. The Department plans to use in-kind contributions of personnel service hours and available appropriations to account for fifty percent of the grant funding.

This item was originally part of the agenda for the City Council's October 6, 2020 formal meeting, but that meeting was cancelled at the recommendation of the Health Department.

- **Considerations:** The Department of Parks and Recreation has the capacity to absorb the required match through in-kind services and within existing appropriations in their FY 2020-21 Operating Budget.
 - **Public Information:** Normal Council agenda process.
 - **Recommendations:** Approve the attached ordinance
 - **Attachments:** Ordinance
-

Recommended Action: Approval

Submitting Department/Agency: Parks and Recreation

City Manager: 

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AN ORDINANCE TO ACCEPT AND APPROPRIATE
TWO URBAN COMMUNITY FORESTRY
ASSISTANCE GRANTS AND TO AUTHORIZE A
LOCAL GRANT MATCH

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

1. \$29,000 of grant funding from the Virginia Department of Forestry is hereby accepted and appropriated, with estimated state revenues increased accordingly, to the FY 2020-21 Operating Budget of the Department of Parks and Recreation for tree plantings and to review and update the Urban Forest Management Plan.
2. A local match from in-kind resources and existing appropriations is hereby authorized.

Adopted by the Council of the City of Virginia Beach, Virginia on the _____ day
of _____, 2020.

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

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL SUFFICIENCY:

Budget & Management Services


City Attorney's Office

CA15173
R-1
September 23, 2020



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance to Accept and Appropriate \$36,000 from the Virginia Department of Criminal Justice Services for Sanitizing Equipment

MEETING DATE: October 20, 2020

■ **Background:** In Public Law 116-136, the Coronavirus Aid, Relief, and Economic Security (CARES) Act, the United States Congress provided the United States Department of Justice with \$850 million in appropriations for state and local law enforcement assistance. Of this \$850 million, \$10.8 million was awarded to the Commonwealth of Virginia. From this amount, the Commonwealth, through the Department of Criminal Justice Services (DCJS), opted to pass-through up to \$6.5 million to local criminal justice agencies via a Coronavirus Emergency Supplemental Funding (CESF) Grant. Although the City itself received a direct allocation from the \$850 million, DCJS explicitly allowed governments with direct funds to participate in the CESF grant. Priority was granted to governments that did not receive direct assistance first, followed by agencies that did not receive assistance from their government's direct allocation.

Because the Virginia Beach Police Department (VBPD) did not receive any portion of the City's federal award, the VBPD was eligible for part of the CESF grant. In September, the VBPD was awarded \$36,000 by the DCJS. The \$36,000 will fund the purchase of two sanitizing cabinet systems. These cabinets can be used to treat footwear, body armor, clothing, keyboards, headsets, and other duty gear. The systems have a micro-organism kill rate of more than 99.9% and can therefore assist in resisting the spread of the Coronavirus, as well as other contagions, such as STAPH and MRSA.

This item was originally part of the agenda for the City Council's October 6, 2020 formal meeting, but that meeting was cancelled at the recommendation of the Health Department.

■ **Considerations:** This grant provides \$36,000 of federal funding. There is no local match requirement for this grant. As a separate grant, the funds for this award will be kept separate from the City's other federal revenues from the CARES Act.

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

■ **Recommendations:** Adopt the attached ordinance.

■ **Attachments:** Ordinance

Recommended Action: Approval of Ordinance

Submitting Department/Agency: Police Department

City Manager: 

1 AN ORDINANCE TO ACCEPT AND APPROPRIATE \$36,000
2 FROM THE VIRGINIA DEPARTMENT OF CRIMINAL
3 JUSTICE SERVICES FOR SANITIZING EQUIPMENT
4

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

- 8 1. \$36,000 in pass-through federal funds from the Virginia Department of Criminal
9 Justice Services is hereby accepted and appropriated, with federal revenue increased
10 accordingly, to the Police Department in the Fiscal Year 2020-21 Operating Budget
11 for the purchase of sanitary equipment.
12
13 2. The replacement of the above items purchased with these grant funds is conditioned
14 upon the receipt of future grant funds.

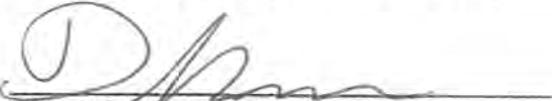
Adopted by the Council of the City of Virginia Beach, Virginia on the _____ day of
_____ 2020.

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

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL SUFFICIENCY:

Budget and Management Services



City Attorney's Office

CA15170
R-1
September 23, 2020



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance to Accept and Appropriate Grant Funds for the Enforcement of DUI Laws and to Authorize an In-Kind Grant Match

MEETING DATE: October 20, 2020

■ **Background:** Since the 1990s, the Virginia Department of Motor Vehicles (DMV) has awarded numerous grants to the Virginia Beach Police Department for highway safety through the enforcement of traffic laws. Among these grants is an award to ensure motorists are sober and not under the influence. The DUI Enforcement grant will be active from October 1, 2020, through September 30, 2021. Officers will use the funding for overtime needed for selective DUI enforcement.

This item was originally part of the agenda for the City Council's October 6, 2020 formal meeting, but that meeting was cancelled at the recommendation of the Health Department.

■ **Considerations:** The grant provides \$48,000 in federal pass through funding from the DMV. It also requires a 50% match of the federal funds. This match may be made with in-kind resources, and the Police Department is able to provide the match.

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

■ **Recommendations:** Adopt the attached ordinance.

■ **Attachments:** Ordinance

Recommended Action: Approval

Submitting Department/Agency: Police Department

City Manager: *PAH*

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AN ORDINANCE TO ACCEPT AND APPROPRIATE GRANT FUNDS FOR THE ENFORCEMENT OF DUI LAWS AND TO AUTHORIZE AN IN-KIND GRANT MATCH

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

1. \$48,000 from the U.S. Department of Transportation National Highway Traffic Safety Administration via the Virginia Department of Motor Vehicles is hereby accepted and appropriated, with federal revenue increased accordingly, to the FY 2020-2021 Police Department Operating Budget for overtime related to the enforcement of DUI laws.

2. The local grant match (50% of the provided federal funds) is to be made in-kind by the Police Department.

Adopted by the Council of the City of Virginia Beach, Virginia on the ____ day of _____ 2020.

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

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL SUFFICIENCY:

Budget and Management Services



City Attorney's Office



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance to Accept and Appropriate Grant Funds for the Enforcement of Seat Belt Laws and to Authorize an In-Kind Grant Match

MEETING DATE: October 20, 2020

■ **Background:** Since the 1990s, the Virginia Department of Motor Vehicles (DMV) has awarded numerous grants to the Virginia Beach Police Department for highway safety through the enforcement of traffic laws. Among these grants is an award to ensure motorists adhere to the proper use of seatbelts. The federal FY 2020-21 Seat Belt Enforcement grant will be active from October 1, 2020 through September 30, 2021. Officers will use the funding for overtime for selective traffic enforcement, the "Click-It-or-Ticket" campaign, and several traffic checkpoints.

This item was originally part of the agenda for the City Council's October 6, 2020 formal meeting, but that meeting was cancelled at the recommendation of the Health Department.

■ **Considerations:** The grant provides \$48,200 in federal pass through funding from the DMV. It also requires a local match equal to 50% of the federal funds provided. This match may be made with in-kind resources, and the Police Department is able to provide the match.

- **Public Information:** Normal Council Agenda process.
 - **Recommendations:** Adopt the attached ordinance
 - **Attachments:** Ordinance
-

Recommended Action: Approval

Submitting Department/Agency: Police Department

City Manager: *PAO*

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AN ORDINANCE TO ACCEPT AND APPROPRIATE GRANT FUNDS FOR THE ENFORCEMENT OF SEAT BELT LAWS AND TO AUTHORIZE AN IN-KIND GRANT MATCH

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

1. \$48,200 from the U.S. Department of Transportation National Highway Traffic Safety Administration, via the Virginia Department of Motor Vehicles, is hereby accepted and appropriated, with federal revenue increased accordingly, to the FY 2020-2021 Police Department Operating Budget for overtime related to the enforcement of seat belt laws.

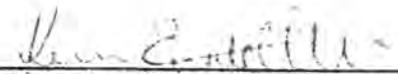
2. The local grant match (50% of the provided federal funds) is to be made in-kind by the Police Department.

Adopted by the Council of the City of Virginia Beach, Virginia on the ____ day of _____ 2020.

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

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL SUFFICIENCY:



Budget & Management Services



City Attorney's Office



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance to Accept and Appropriate Grant Funds, to Appropriate Sale of Property Funds, and to Transfer Funds within the FY 2020-21 Non-Departmental and Police Department Operating Budgets for Marine Patrol Equipment

MEETING DATE: October 20, 2020

■ **Background:** The U.S. Department of Homeland Security, Federal Emergency Management Agency, has approved two applications that were submitted by the Virginia Beach Police Department (VBPD) as part of the FY 2020 Port Security Grant Program. The purpose of this grant is to enhance national port safety and security. Grant recipients must be members of an Area Maritime Security Committee and provide port security services. As the primary responder in the Hampton Roads region and the only local agency to patrol the waters of both the Atlantic Ocean and the Chesapeake Bay, the VBPD meets the criteria.

The first project approved by the federal government will replace a decommissioned Marine Patrol vessel originally purchased with grant funds in the mid-2000s. The second project will upgrade the electronics package on a separate Marine Patrol vessel. The total cost of these projects is \$385,300.

This item was originally part of the agenda for the City Council's October 6, 2020 formal meeting, but that meeting was cancelled at the recommendation of the Health Department.

■ **Considerations:** The grant provides a combined \$288,975 in federal funding and requires a total local match of \$96,325 (25% of the cost of all approved projects).

The local match will be derived from three sources. \$40,000 will be new appropriations derived from proceeds obtained in the sale of a former Marine Patrol vessel. \$51,250 will be transferred from the vehicle replacement appropriation overseen by the City Garage. The remaining \$5,075 will be funded through the Police Department's FY 2020-21 Operating Budget.

- **Public Information:** Normal Council Agenda process.
 - **Recommendations:** Adopt the attached ordinance.
 - **Recommendations:** Ordinance
-

Recommended Action: Approval

Submitting Department/Agency: Police Department

City Manager: 

1 AN ORDINANCE TO ACCEPT AND APPROPRIATE GRANT
2 FUNDS, TO APPROPRIATE SALE OF PROPERTY FUNDS,
3 AND TO TRANSFER FUNDS WITHIN THE FY 2020-21 NON-
4 DEPARTMENTAL AND POLICE DEPARTMENT OPERATING
5 BUDGETS FOR MARINE PATROL EQUIPMENT
6

7 BE IT ORDAINED BY THE COUNCIL OF THE CITY OF VIRGINIA BEACH,
8 VIRGINIA THAT:
9

- 10 1. \$288,975 is hereby accepted from the United States Department of Homeland
11 Security and appropriated, with federal revenues increased accordingly, to the FY
12 2020-21 Police Department Operating Budget for the purchase of a replacement
13 marine patrol vessel and an electronics upgrade to a separate marine patrol vessel.
14
- 15 2. \$40,000 from the sale of property is hereby appropriated, with estimated revenue
16 increased accordingly, to the FY 2020-21 Police Department Operating Budget to
17 provide a portion of the required local grant match for the replacement marine patrol
18 vessel.
19
- 20 3. \$51,250 is hereby transferred from the FY 2020-21 Non-Departmental General
21 Fund Vehicle Replacement Program Operating Budget to the FY 2020-21 Police
22 Department Operating budget to provide a portion of the required local grant match
23 for the replacement marine patrol vessel.
24
- 25 4. \$5,075 is hereby transferred within the FY 2020-21 Police Department Operating
26 Budget to provide the required local grant match for the electronics upgrade.
27
- 28 5. The equipment purchased with these grant funds is not guaranteed to be replaced
29 by the City of Virginia Beach.

Adopted by the Council of the City of Virginia Beach, Virginia on the _____ day
of _____ 2020.

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

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL SUFFICIENCY:


Budget & Management Services


City Attorney's Office

CA15167
R-1
September 23, 2020



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance to Accept and Appropriate \$49,000 in Federal Grant Funds for Law Enforcement Equipment

MEETING DATE: October 20, 2020

■ **Background:** The Virginia Department of Emergency Management has awarded the Virginia Beach Police Department \$49,000 in pass-through federal funds from the U.S. Department of Homeland Security Federal Emergency Management Agency via the FY 2020 State Homeland Security Grant Program. The purpose of this grant program is to assist state and local efforts to prevent, prepare for, protect against, and respond to acts of terrorism.

Funding awarded to the Police Department is for two projects that will be used by the Police Special Operations SWAT Unit to replace outdated or obsolete items. The first project will replace two throwable robots that are over 10 years old and therefore are at the end of their life cycle. The robots are crucial components to SWAT missions and responses, as they are flexible tools that can be used in different situations and conditions. The second project will replace helmet mounted communication headsets. The current headsets operate with technology that is no longer supported by the vendor, and having fully functioning, dependable headsets is critical for communication during SWAT operations.

■ **Considerations:** This grant provides \$49,000 of federal funding. There is no local match requirement for this grant. All funds must be spent by the end of FY 2021.

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

■ **Recommendations:** Adopt the attached ordinance.

■ **Attachments:** Ordinance

Recommended Action: Approval

Submitting Department/Agency: Police Department

City Manager: PAD

1 AN ORDINANCE TO ACCEPT AND APPROPRIATE \$49,000
2 IN FEDERAL GRANT FUNDS FOR LAW ENFORCEMENT
3 EQUIPMENT
4

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

- 8 1. \$49,000 from the United States Department of Homeland Security, through the federal
9 Fiscal Year 2020 State Homeland Security Grant Program, is hereby accepted and
10 appropriated, with federal revenue increased accordingly, to the FY 2020-21
11 Operating Budget of the Police Department for the purchase of law enforcement
12 equipment.
13
14 2. The replacement of the above items purchased with these grant funds is conditioned
15 upon the receipt of future grant funds.

Adopted by the Council of the City of Virginia Beach, Virginia on the _____ day of
_____ 2020.

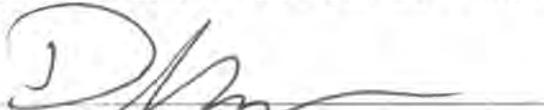
Requires an affirmative vote by a majority of all the members of City Council.

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL SUFFICIENCY:



Budget and Management Services



City Attorney's Office

CA15183
R-1
October 7, 2020



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance to Accept and Appropriate \$39,258,497 from the United States Department of Treasury for CARES Act Coronavirus Relief Fund Eligible Expenses

MEETING DATE: October 20, 2020

■ **Background:** In the Coronavirus Aid, Relief, and Economic Security (CARES) Act (Public Law 116-136), the United States Congress appropriated \$150 billion to the United States Treasury to operate a Coronavirus Relief Fund (CRF) for distribution to states, tribes, and local governments, to assist these units of government in their response to the coronavirus pandemic.

Unless a local government's population exceeded 500,000, these CRF funds were paid to the states, who were then responsible for providing local allocations to their sub-units of government. In May 2020, the Commonwealth of Virginia announced that an initial \$644.5 million would be provided to counties and cities of the Commonwealth on a per-capita population basis. Through this formula, the City of Virginia Beach received \$39,258,497.

On July 31, the Commonwealth of Virginia announced that a second CRF distribution of \$644.5 million would be provided to counties and cities of the Commonwealth, once again on a per-capita population basis. Through this formula, in August, the City of Virginia Beach received an additional \$39,258,497. In the announcement, it was also noted that this would be the final distribution to local governments from the funds received from the CRF.

As this amount exceeds 1% of the City's Operating Budget, it is subject to the public hearing and comment period under §15.2-2507 of the Code of Virginia. The required public hearing was held during the Council's August 18 meeting. Briefings on the intended use of funds were provided to the Council during its September 1 and September 22 meetings.

This item was originally part of the agenda for the City Council's October 6, 2020 formal meeting, but that meeting was cancelled at the recommendation of the Health Department.

■ **Considerations:** City management recommends that the Council appropriate the entire second CARES Act CRF distribution for the reimbursement of salaries of public safety and public health officials who directly mitigate and respond to the coronavirus pandemic (Category #3 under the United States Treasury's Guidance). Based upon current guidance from the United States Department of Treasury, it is forecasted that the

City will incur eligible employee payroll costs from March 1 to December 30 of approximately \$80 million. Therefore, this additional appropriation of \$39.25 million will assist in funding the City's workforce needs related to the public health emergency. Additionally, the City Council will consider alternative forms of distribution of public assistance through a separate Council action.

City management also intends to return to the Council later in the year to reconcile actual expenses and needs related to the Coronavirus that are eligible for federal CRF funds in comparison with funds as appropriated by the Council to the Treasury categories in both the July 7 ordinance, the attached ordinance, and any other ordinances approved by the Council using CRF funds. At that time, the Council may be asked to adjust the allocations among the various categories. Potential adjustments made at that time would be recommended to ensure that the maximum amount of relief funds made available to the City of Virginia Beach from the federal government and the Commonwealth would be used by the City prior to the CARES Act's legislatively imposed deadline of December 30, 2020. This additional time would also allow the Council to use the most recent federal guidance for the eligible uses of CARES Act CRF funding.

■ **Public Information:** This item will be advertised through the normal Council agenda process. A public hearing was held on August 18, 2020 to comply with the requirement of a public hearing when a budget amendment exceeds 1% of the budget. Briefings on the use of these funds occurred at the September 1 and September 22, 2020 Council meetings. Also, the City has established a dedicated website to provide information regarding CARES Act CRF funding at:

<https://www.vbgov.com/government/departments/finance/cares-act/Pages/default.aspx>

■ **Recommendations:** Adopt the attached ordinance.

■ **Attachments:** Ordinance

Recommended Action: Approval

Submitting Department/Agency: City Manager's Office

City Manager: 

1 AN ORDINANCE TO ACCEPT AND APPROPRIATE
2 \$39,258,497 FROM THE UNITED STATES DEPARTMENT
3 OF TREASURY FOR CARES ACT CORONAVIRUS RELIEF
4 FUND ELIGIBLE EXPENSES
5

6 WHEREAS, the Commonwealth of Virginia received a payment from the United
7 States Treasury through the Coronavirus Aid, Relief, and Economic Security (CARES)
8 Act's Coronavirus Relief Fund, and distributed to the City an initial payment of
9 \$39,258,497;

10
11 WHEREAS, the City of Virginia Beach has now received a second payment of
12 \$39,258,497 from the Commonwealth of Virginia's federal funds in FY 2020-21;

13
14 WHEREAS, Section 8 of the Annual Appropriation Ordinances authorizes the
15 expenditure of grant funding over multiple fiscal years if the period of expenditure of such
16 grant includes more than a single fiscal year;

17
18 WHEREAS, notwithstanding the date of adoption, the Council intends for this
19 appropriation to include reimbursable expenditures as permitted by Section 5001 of the
20 CARES Act, which extends back to March 1, 2020;

21
22 WHEREAS, any funds provided by the United States Treasury are required to be
23 spent or returned by December 30, 2020; and

24
25 WHEREAS, the City Council held a public hearing upon this proposed
26 appropriation of funds at its August 18, 2020, Regular Meeting.

27
28 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
29 VIRGINIA BEACH, VIRGINIA THAT:

30
31 \$39,258,497 in federal funds from the United States Department of the Treasury,
32 via the Commonwealth of Virginia, is hereby accepted and appropriated, with federal
33 revenue increased accordingly, in the Grant Fund of the Fiscal Year 2020-21 Operating
34 Budget for the reimbursement and payment of payroll expenses for public safety and
35 public health employees. Consistent with the previous approval of CARES Act
36 Coronavirus Relief Fund funding, the Council is appropriating these funds to the Grant
37 Fund, and the eligible expenditures subject to reimbursement include eligible expenses
38 incurred after March 1, 2020 and before December 30, 2020.

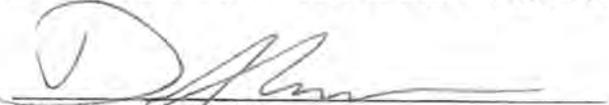
Adopted by the Council of the City of Virginia Beach, Virginia, on the _____ day
of _____ 2020.

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

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL SUFFICIENCY:

Budget and Management Services



City Attorney's Office

CA-15142 / R-2 / September 24, 2020



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance to Accept and Appropriate Byrne JAG Grant Funds for Law Enforcement Purposes

MEETING DATE: October 20, 2020

■ **Background:** The Edward Byrne Justice Assistance Grant (Byrne JAG) Local Solicitation is an annual grant from the United States Department of Justice (DOJ) that provides federal assistance to local units of government for law enforcement and criminal justice programs. Funded by Congress through the Commerce, Justice, Science, and Related Agencies Appropriations Act, the Byrne JAG Grant supports a broad range of activities to prevent and reduce crime and administer rehabilitation, supervision, and care of criminal offenders based on local needs and conditions. The policy of the City of Virginia Beach is for a Community Criminal Justice Board, comprised of representatives from the following City departments and agencies: the Police, Sheriff, Courts, Juvenile Probation, and Community Corrections and Pre-Trial Services, to agree upon the best use of these funds prior to the City's application to the DOJ. This board met via conference call on July 21, 2020 to consider spending proposals and determine distribution of funds anticipated to be received from the federal Fiscal Year 2020 version of this grant.

■ **Considerations:** The total award for this grant is \$70,991. No local match is required. The Virginia Beach Community Criminal Justice Board recommends that the funds be used as follows:

- \$22,118 to the Sheriff's Office to purchase two cameras and a spotlight for security at the Correctional Center;
- \$25,210 to the Police Department to purchase multiple radar and Lidar units to be used for traffic enforcement by the Uniform Patrol Unit and ten bikes to be used in patrol duties; and
- \$23,663 to the Community Corrections and Pre-Trial Services Division to purchase a video communication system to interview defendants via videoconference and a kiosk for defendants to check-in and schedule appointments while on the way to and from judicial proceedings, and to fund a temporary contractual administrative position to assist with drug test submissions and other administrative tasks.

These recommendations were first communicated to the Council through a letter enclosed in the Friday packet of August 21. Based on grant requirements, a public comment period is required, and this hearing is included on the October 20 agenda. The DOJ also requires that the Mayor sign a certificate that attests to the fact that these grant conditions have been satisfied.

■ **Public Information:** Normal Council Agenda process. The grant requires a public comment opportunity, which will occur at the October 20, 2020 meeting.

■ **Recommendations:** Adopt the attached ordinance.

■ **Attachments:** Ordinance

Recommended Action: Approval

Submitting Department/Agency: Police Department

City Manager: 

1 AN ORDINANCE TO ACCEPT AND APPROPRIATE BYRNE
2 JAG GRANT FUNDS FOR LAW ENFORCEMENT
3 PURPOSES
4

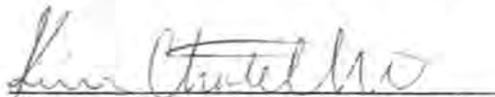
5 NOW, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF VIRGINIA BEACH,
6 VIRGINIA THAT:
7

- 8 1. \$70,991 from the United States Department of Justice, through the federal Fiscal Year
9 2020 Edward Byrne Justice Assistance Grant, is hereby accepted and appropriated,
10 with federal revenue increased accordingly, to the following departments, in the
11 following amounts, for the following purposes in their Fiscal Year 2020-21 Operating
12 Budgets:
13
- 14 a. \$22,118 to the Virginia Beach Sheriff's Office for the purchase of two
15 cameras and a spotlight at the Virginia Beach Correctional Center;
 - 16
 - 17 b. \$25,210 to the Police Department for the purchase of law enforcement
18 equipment for the Uniform Patrol Division and bicycles;
 - 19
 - 20 c. \$23,663 to the Community Corrections and Pre-Trial Services Division for
21 the purchase of a video communication system and a kiosk at the Virginia
22 Beach Judicial Center, and to fund a temporary contractual administrative
23 position.
24
- 25 2. The Mayor, in his capacity as chief elected official of the City of Virginia Beach, is
26 hereby authorized to execute, on behalf of the City of Virginia Beach, all necessary
27 agreements, certifications, and assurances as instructed and required by the United
28 States Department of Justice.
29
- 30 3. The replacement of the above items purchased with these grant funds is conditioned
31 upon the receipt of future grant funds.

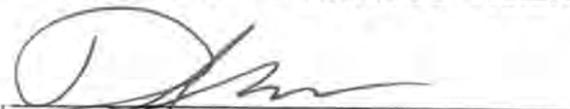
Adopted by the Council of the City of Virginia Beach, Virginia on the ____ day of
_____, 2020.

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

APPROVED AS TO CONTENT:


Budget and Management Services

APPROVED AS TO LEGAL SUFFICIENCY:


City Attorney's Office



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance to Accept and Appropriate \$836,401 from the Federal Emergency Management Agency to the Office of Emergency Management's FY 2020-21 Operating Budget

MEETING DATE: October 20, 2020

■ **Background:** The City has been awarded \$836,401 from the Federal Emergency Management Agency (FEMA) from the FY 2020 Regional Catastrophic Preparedness Grant Program (RCPGP). This is a federal grant from FEMA directly to the City of Virginia Beach to support the Regional Housing Plan Project. This grant supports the project for 17 jurisdictions and is in support of addressing post-disaster Housing capabilities in Hampton Roads. This is a 3-year grant that will assess current needs and available options, ensure community housing recovery plans, address short and long-term needs, and establish a resilient housing market for the community post disaster.

■ **Considerations:** The total grant amount is \$929,334. FEMA has awarded \$836,401 in federal funding and requires regional jurisdictions to provide the remaining \$92,933 through in-kind soft match support. The program period is September 1, 2020 to August 31, 2023.

■ **Alternatives:** Without this grant funding, the Regional Housing Plan Project would not be able to be completed. This project has been applied for previously through DHS grants unsuccessfully. There is currently no other source of funding that could be utilized for this purpose.

■ **Public Information:** Public Information will be coordinated through the normal Council agenda process.

■ **Recommendations:** Accept and appropriate \$836,401 from the Federal Emergency Management Agency.

■ **Attachments:** Ordinance

Recommended Action: Approval

Submitting Department/Agency: Office of Emergency Management

City Manager: Patrick A. Duhaney

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AN ORDINANCE TO ACCEPT AND APPROPRIATE
\$836,401 FROM THE FEDERAL EMERGENCY
MANAGEMENT AGENCY TO THE OFFICE OF
EMERGENCY MANAGEMENT

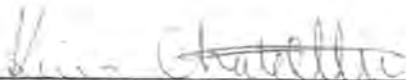
BE IT ORDAINED BY THE COUNCIL OF THE CITY OF VIRGINIA BEACH,
VIRGINIA, THAT:

\$836,401 from the Federal Emergency Management Agency is hereby accepted
and appropriated, with federal revenue increased accordingly to the FY 2020-21
Operating Budget of the Office of Emergency Management for the Regional Housing Plan
Project. The staff is to work with regional partners to provide the required local match
through in-kind resources.

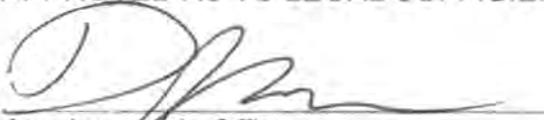
Requires an affirmative vote by a majority of all the members of City Council.

Adopted by the Council of the City of Virginia Beach, Virginia on the _____ day of
_____ 2020.

APPROVED AS TO CONTENT:


Budget and Management Services

APPROVED AS TO LEGAL SUFFICIENCY:


City Attorney's Office

CA15237
R-1
October 7, 2020



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance to Accept and Appropriate \$2,941,791 in Federal Funding and Program Income to the FY 2020-21 Operating Budget of the Department of Housing and Neighborhood Preservation

MEETING DATE: October 20, 2020

■ **Background:** The Department of Housing and Neighborhood Preservation has been notified that it has received multiple funding awards from the US Department of Housing and Urban Development for additional funding under the CARES Act. In addition, the department received additional program revenue above the FY 2020-21 budgeted estimates. Prior to using these funds, they must first be accepted and appropriated. The sources and proposed uses of these funds is detailed in the attached Use of Funds Worksheet.

■ **Considerations:** This funding will support ongoing departmental work and pandemic-related work. The expenditure of such funds will be for the applicable program and pursuant to the regulations of such program.

■ **Public Information:** For the HUD funds, the City is required to obtain public input through electronic means and provide five days' notice to the public, which was accomplished with an ad placed in the *Virginian-Pilot* on October 9th. In addition, a virtual public hearing was held on October 15th. In addition to these federal requirements, which will be completed by October 20, 2020, this item will be advertised as part of the normal Council agenda process.

■ **Recommendation:** Approve the attached ordinance

■ **Attachments:** Ordinance, Exhibit A: Use of Funds Worksheet

Recommended Action: Approval

Submitting Department/Agency: Housing and Neighborhood Preservation

City Manager: 

1 AN ORDINANCE TO ACCEPT AND APPROPRIATE
2 \$2,941,791 IN FEDERAL FUNDING AND PROGRAM
3 INCOME TO THE FY 2020-21 OPERATING BUDGET
4 OF THE DEPARTMENT OF HOUSING AND
5 NEIGHBORHOOD PRESERVATION
6

7 WHEREAS an opportunity for public input was required before the adoption of this
8 ordinance and was advertised in the *Virginian-Pilot* on October 9, 2020, which was
9 conducted virtually on October 15, 2020.
10

11 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
12 VIRGINIA BEACH, VIRGINIA THAT:
13

14 The following adjustments are made in the Department of Housing and
15 Neighborhood Preservation's FY 2020-21 Operating Budget:
16

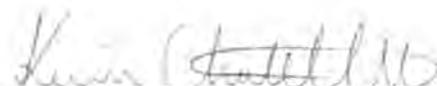
- 17 1. \$2,069,846 is hereby accepted and appropriated, with federal revenues
18 increased accordingly, for the Community Development Block Grant Program;
- 19 2. \$826,776 is hereby accepted and appropriated, with federal revenues
20 increased accordingly, for the Housing Choice Voucher Program;
- 21 3. \$38,759 is hereby accepted and appropriated, with federal revenue increased
22 accordingly, for the Community Development Block Grant Program; and
- 23 4. \$6,410 in HOME Program revenue is hereby appropriated, with revenue
24 increased accordingly.

Adopted by the Council of the City of Virginia Beach, Virginia on the _____ day
of _____, 2020.

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

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL SUFFICIENCY:


Budget & Management Services


City Attorney's Office

CA15235
R-1
October 7, 2020

EXHIBIT A: USE OF FUNDS WORKSHEET		
City Council - October 20, 2020		
1. Amounts to Be appropriated		
Funding Source	Amount	Allowable and/or Proposed Uses
CDBG Cares 3	\$ 2,069,846.00	<i>See list below</i>
HCV-CARES - HAP	\$ 453,474.00	To cover the current costs of rental assistance vouchers
HCV-Admin 3	\$ 363,274.00	To replace current administrative funding/will result in availability of carry-forward funds for next year
HCV-Portability - Set Aside	\$ 10,028.00	To supplement the costs of vouchers issued for households moving to Virginia Beach
Program Income-CDBG (a)	\$ 38,759.43	To supplement funding for housing development grants
Program Income-HOME (a)	\$ 6,409.94	To supplement funding for housing development grants
Total to appropriate	\$ 2,941,791.37	
Note (a): Program income consists of repayments of loans made for housing improvements to individuals in the past. The amounts being appropriated are in excess of the amount that was estimated to be received in FY 19-20		
2. Proposed Uses of CDBG CARES-3 Funding (1st item above)		
CDBG CARES - 3	Amount	Proposed Uses
Motel Shelter	\$ 700,000	Additional funding for motel shelter for homeless persons through a portion of calendar 2021
Winter Shelter	\$ 50,000	Additional COVID-related costs for the Winter Shelter program - additional transportation, cleaning, meals, staffing, equipment needed to facilitate social distancing and a safe environment
Support Services	\$ 350,000	Contract with a non-profit to provide support services to assist people experiencing homelessness to obtain and maintain housing
Air Purification at HRC	\$ 50,000	To provide enhanced air purification in the singles shelter in the Housing Resource Center

Rental Assistance	\$ 289,846	Additional funding for rental assistance to prevent evictions due to COVID-19 loss of income
Mortgage Assistance	\$ 300,000	Additional funding to prevent foreclosures for mortgage-holders who lost income
Staff support	\$ 300,000	Contractual staffing positions to manage CARES grants, accounting and programs (b)
IT equipment	\$ 15,000	Laptops and related it equipment to support remote working for contractual staff
Training, supplies, etc.	\$ 15,000	Training, supplies, miscellaneous admin costs
	\$ 2,069,846	Total CDBG CARES
		Note: administrative costs (last three items) total \$330,000, approximately 16% of the grant amount. CDBG allows up to 20% of grant for admin.
Note (b) Funds are allocated for contractual staffing to support the administrative, financial, compliance and program delivery costs of the programs funded with this and other CARES funding received. Specific positions will be requested through the freeze exemption process and only hired if approved.		



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance to Transfer \$180,000 within the Waste Management Enterprise Fund and to Authorize 7.5 Part-Time FTEs for an Apprenticeship Program

MEETING DATE: October 20, 2020

■ **Background:** Public Works Waste Management Division provides essential services for the citizens of Virginia Beach that contribute to the quality of life and cleanliness of the City. In order to achieve their mission, Waste Management relies on certified CDL drivers to operate garbage trucks and complete neighborhood routes. The Waste Management Division has struggled to maintain full staffing levels, and the lack of full staffing may result in service delays. In order to recruit qualified drivers, Waste Management has partnered with Tidewater Community College's Job Skills Training Program.

The Waste Management Division requests authorization to implement an apprenticeship program. This request would establish temporary part-time positions equal to 7.5 FTEs through March 2021. These positions will be enrolled in the apprenticeship program that is a partnership between the City and Tidewater Community College. The program includes fifteen candidates in a 40-hour a week program that incorporates CDL training with employment and financial literacy training. If the program is completed successfully, the apprentices will be transferred from part-time temporary positions to permanent full-time motor-equipment operators. This program is aimed at reducing the number of vacancies within the Waste Management Division and improving overall service delivery.

This item was originally part of the agenda for the City Council's October 6, 2020 formal meeting, but that meeting was cancelled at the recommendation of the Health Department.

■ **Considerations:** The Waste Management Enterprise Fund has sufficient funding within their operating budget to fund this program; however, a transfer of \$180,000 is required to properly align the funding to hire 7.5 part-time FTEs.

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

■ **Recommendation:** Adopt the attached ordinance.

■ **Attachments:** Ordinance

Recommended Action: Approval

Submitting Department/Agency: Public Works

City Manager: 

1 AN ORDINANCE TO TRANSFER \$180,000 WITHIN THE
2 WASTE MANAGEMENT ENTERPRISE FUND AND TO
3 AUTHORIZE 7.5 PART-TIME FTES FOR AN
4 APPRENTICESHIP PROGRAM
5

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

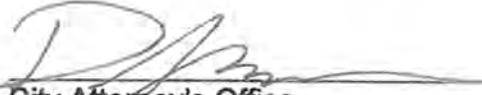
- 9 1. \$180,000 is hereby transferred within the Waste Management Enterprise Fund for
10 the implementation of an apprenticeship program; and
11
12 2. 7.5 temporary part-time positions are hereby established within the Waste
13 Management Enterprise Fund for the apprenticeship program.

Adopted by the Council of the City of Virginia Beach, Virginia, on the ____ day
of _____, 2020.

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL SUFFICIENCY:

Budget & Management Services


City Attorney's Office

CA15172
R-1
September 23, 2020



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance to Transfer \$1,500,000 within the Stormwater Enterprise Fund for Debt Service Payments

MEETING DATE: October 20, 2020

■ **Background:** The Stormwater Enterprise Fund issues bonds for major system improvements and the associated debt service payments from these bonds are paid for by the revenue generated by the Stormwater Equivalent Residential Unit (ERU) Fee. The Stormwater CIP is funded by a mix of Pay-As-You-Go ("Paygo") from the Stormwater Fund and Revenue Bonds. In FY 2019-20, the General Fund, through a 2.5¢ real estate dedication, absorbed approximately \$14.5 million of existing Stormwater operations to include 115 FTEs. The FY 2019-20 realignment of funding was intended to maximize the Stormwater Fund's ability to fund large scale projects and anticipated future debt service payments. The Stormwater CIP financing plan assumes the increase of debt service on the Stormwater Fund's Operating budget, and thus decreases the amount of Paygo funding as a programmed revenue source in the out years of the CIP.

In planning for FY 2020-21, the debt service budget was planned assuming an approximate \$45 million bond sale to occur in the fall of 2020 and is currently budgeted at \$5.5 million. Due to the favorable interest rates as well as the projected timeline of several projects, the Department of Finance proposed and City Council adopted a resolution to have the fall 2020 bond sale in a maximum amount of \$90 million. Of this amount, \$41.6 million is reimbursing prior expenditures, and \$48.4 million is for future spending on projects. As noted in the Agenda Request for the fall 2020 bond sale authorization, the size of the issuance would require a transfer in FY 2020-21, and an additional \$1.5 million is needed.

The source for this transfer is the Stormwater Enterprise Fund's FY 2020-21 Operating Budget. \$695,955 will be transferred from the Fund's Regular Reserve for Contingencies, and the remaining \$804,045 will be transferred from new vehicle purchases. The Fund currently has \$1,000,000 budgeted for net new vehicles, in anticipation for a five-person BMP crew that was not approved in the final Adopted FY 2020-21 Operating Budget. In the FY 2020-21 Proposed Operating Budget, the General Fund was adding the positions, and the Stormwater Fund was going to provide support for needed equipment. In the Adopted Operating Budget, the five positions were eliminated, thus reducing the immediate need for additional equipment for maintaining the City's BMPs.

This item was originally part of the agenda for the City Council's October 6, 2020 formal meeting, but that meeting was cancelled at the recommendation of the Health Department.

■ **Considerations:** This transfer is necessary due to financial controls. The fund has sufficient funds available; however, the funding needs to be within the debt service line items. Having a \$90 million sale now will allow the City to take advantage of favorable interest rates and therefore save the Stormwater Fund money over the long term. The fund has adequate capacity to absorb the debt service in the FY 2021-22 budget and beyond without impacting funding to the CIP, which will allow all funded projects to remain on schedule.

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

■ **Recommendation:** Adopt the attached ordinance.

■ **Attachments:** Ordinance

Recommended Action: Approval

Submitting Department/Agency: Public Works

City Manager: PAD

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AN ORDINANCE TO TRANSFER \$1,500,000 WITHIN THE
STORMWATER ENTERPRISE FUND FOR DEBT SERVICE
PAYMENTS

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

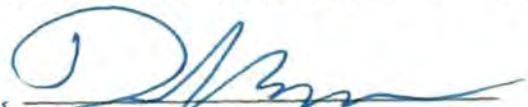
\$1,500,000 is hereby transferred within the Stormwater Enterprise Fund to provide
debt service related to the fall 2020 issuance and sale of Stormwater Revenue Bonds.

Adopted by the Council of the City of Virginia Beach, Virginia, on the ____ day of
_____, 2020.

APPROVED AS TO CONTENT:


Budget & Management Services

APPROVED AS TO LEGAL SUFFICIENCY:


City Attorney's Office

CA15171
R-1
September 23, 2020



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance to Transfer \$133,703 within the FY 2020-21 Operating Budget for the Virginia Aquarium Parking Lot Lease and to Authorize the City Manager to Enter into a New Lease for the Premises

MEETING DATE: October 20, 2020

■ **Background:** The City of Virginia Beach leases approximately 12 acres of land adjacent to Camp Pendleton from the Commonwealth of Virginia for the parking lot of the Virginia Aquarium and Marine Science Center. This parking lot also provides access for the Rudee Inlet boat ramp. The most recent fully executed lease agreement was to be in effect from March 31, 2018 until April 15, 2022, at a cost to the City of \$229,205 annually.

In late calendar year 2018, the City and Commonwealth began negotiations for a 50-year lease of the 12 acres with an additional 50-year option. This agreement will supersede the current lease and allow the City an opportunity for long term planning for the future of the Aquarium.

In the 2019 session of the Virginia General Assembly, language was included in the Commonwealth's budget (2019 Virginia Acts of Assembly, c. 854) that sets forth the financial terms of the lease. Initially under the new terms, the City was to pay the Commonwealth \$2.5 million per year in each of FY 2019-20 and FY 2020-21, and the \$229,205 annual payment would no longer be required. However, due to changes in the Commonwealth's Budget during the 2020 session of the Virginia General Assembly (2020 Virginia Acts of Assembly, c. 1289), the two required lump sum payments were pushed back from FY 2019-20 and FY 2020-21 to FY 2020-21 and FY 2021-22. Additionally, the 2020 legislation requires the City make an annual payment for the use of the property.

Negotiations for the final lease remained ongoing through September 2020 and have been now been finalized by both parties. The commencement date of the 50-year lease agreement will be November 1, 2020, and at that point a \$50,000 annual payment will replace the annual rate from the current lease agreement. A summary of material terms for this lease is attached hereto. The City's Adopted FY 2020-21 Operating Budget includes the \$2,550,000 in first year payments to the Commonwealth within the General Fund Non-Departmental Leases line items.

Because the final new lease agreement will not go into effect until November, the City will owe a prorated annual payment amount of \$133,703 accrued from April through November 2020, or seven months, pursuant to the terms of the current lease. As this prorated annual payment was not anticipated at the time of adoption of the City's Operating Budget, a transfer in the amount of \$133,703 is necessary in order to have sufficient funds available for this added payment to the Commonwealth.

■ **Considerations:** The source for this transfer will be the General Fund Reserve for contingencies. After the transfer, the remaining balance of the reserve will be \$1,301,324.

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

■ **Attachments:** Ordinance; Exhibit A: Summary of Terms

Recommended Action: Approval

Submitting Department/Agency: Public Works

City Manager: 

1 AN ORDINANCE TO TRANSFER \$133,703 WITHIN THE FY
2 2020-21 OPERATING BUDGET FOR THE VIRGINIA
3 AQUARIUM PARKING LOT LEASE AND TO AUTHORIZE
4 THE CITY MANAGER TO ENTER INTO A NEW LEASE FOR
5 THE PREMISES
6

7 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VIRGINIA BEACH,
8 VIRGINIA, THAT:
9

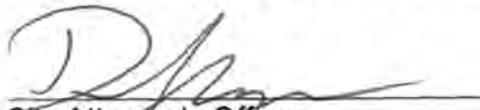
- 10 1. \$133,703 is hereby transferred from the General Fund Reserve for Contingencies
11 to Non-Departmental Operating Budget to allow payment to the Commonwealth of
12 Virginia for the Virginia Aquarium parking lot (the "Premises").
13
14 2. The City Manager is hereby authorized and directed to enter into a long term lease
15 with the Commonwealth of Virginia for the Premises, in accordance with Exhibit A:
16 Summary of Terms, attached hereto and made a part thereof, and any other terms
17 and conditions as determined to be satisfactory by the City Attorney.

Adopted by the Council of the City of Virginia Beach, Virginia, on the ____ day of
_____, 2020.

APPROVED AS TO CONTENT:


Budget & Management Services

APPROVED AS TO LEGAL SUFFICIENCY:


City Attorney's Office

CA15236
R-2
October 8, 2020

EXHIBIT A

SUMMARY OF TERMS

VIRGINIA AQUARIUM PARKING LOT LEASE

- LESSOR:** Commonwealth of Virginia, Department of Military Affairs
- LESSEE:** City of Virginia Beach
- PREMISES:** Approximately 11.9 acres, located on land commonly known as Camp Pendleton State Military Reservation (SMR), and currently used as parking for the Virginia Beach Aquarium and overflow parking for the Rudee Inlet boat ramp
- TERM:** November 1, 2020 – October 31, 2070 (50 years), with an option to renew for an additional 50 years
- RENT:** \$50,000.00 for the first year; 3% escalation annually

ADDITIONAL IMPROVEMENT PAYMENT:

- \$2,500,000 to be paid in FY 2021
- \$2,500,000 to be paid in FY 2022

RIGHTS AND RESPONSIBILITIES OF PARTIES:

- City will have the right to make improvements to the Rudee Inlet boat landing site, and construct a multi-phase, multi-story parking deck on Virginia Beach Aquarium parking lot
- City will own and maintain the parking deck
- City will design and construct intersection improvements on General Booth Boulevard and a new signal-controlled entrance to SMR
- Commonwealth will construct a new secure access point, including all desirable or supporting facilities, to SMR

J. PLANNING

1. **64th STREET, LLC** for a Conditional Use Permit re **short term rental** at 205 64th Street DISTRICT 5 – LYNNHAVEN

RECOMMENDATION:

APPROVAL

2. **C AND C DEVELOPMENT COMPANY, INC & CJE REAL ESTATE, LLC** for a Conditional Use Permit re **short term rental** at 2416 Arctic Avenue, Unit B DISTRICT 6 – BEACH

RECOMMENDATION:

APPROVAL

3. **STUART & LORI GOLDWAG** for Conditional Use Permits re **short term rental** at 2002 Baltic Avenue:
 - a. Unit A
 - b. Unit BDISTRICT 6 – BEACH

RECOMMENDATION:

APPROVAL

4. **JKS PROPONENT PROPERTIES, LLC** for a Conditional Use Permit re **short term rental** at 304 28th Street, Unit 209 DISTRICT 6 – BEACH

RECOMMENDATION:

APPROVAL

5. **RACHAEL PANARIELLO** for a Conditional Use Permit re **short term rental** at 911 Pacific Avenue, Unit A DISTRICT 6 – BEACH

RECOMMENDATION:

APPROVAL

6. **CAROL DAVIS** for a Conditional Use Permit re **short term rental** at 1305 Chickadee Lane DISTRICT 6 – BEACH

RECOMMENDATION:

APPROVAL

7. **OCEAN RENTAL PROPERTIES, LLC** for Conditional Use Permits re **short terms rental** at 516 Norfolk Avenue:
 - a. Unit 1
 - b. Unit 2
 - c. Unit 4
 - d. Unit 5COUNCIL DISTRICT 6 – BEACH

RECOMMENDATION:

APPROVAL

8. **CHARLIE KIM** for a Conditional Use Permit re **short term rental** at 809 Vanderbilt Avenue DISTRICT 6 – BEACH (Deferred from September 15, 2020)

RECOMMENDATION:

APPROVAL



NOTICE OF PUBLIC HEARING

A Regular Public Hearing of the Virginia Beach City Council will be held in the Council Chamber of the City Hall Building, located at Building 1, 2401 Courthouse Drive, Virginia Beach, Virginia 23456, on **Tuesday, October 20, 2020 at 6:00 p.m.**, at which time the following applications will be heard:

C and C Development Company, Inc. [Applicant] C and C Development Company, Inc. & CJE Real Estate, LLC [Owners] Conditional Use Permit (Short Term Rental) 2416 Arctic Avenue, Unit B (GPIN 24270927700002) **COUNCIL DISTRICT – BEACH**

64th Street, LLC [Applicant & Owner] Conditional Use Permit (Short Term Rental) 205 64th Street (GPIN 2419731192) **COUNCIL DISTRICT – LYNNHAVEN**

Stuart & Lori Goldwag [Applicant & Owner] Conditional Use Permits (Short Term Rentals) 2002 Baltic Avenue, Units A&B (GPIN 2427071910) **COUNCIL DISTRICT – BEACH**

JKS Proponent Properties, LLC [Applicant & Owner] Conditional Use Permit (Short-Term Rental) 304 28th Street, Unit 209 (GPIN 24280028662009) **COUNCIL DISTRICT – BEACH**

Rachael Panariello [Applicant & Owner] Conditional Use Permit (Short Term Rental) 911 Pacific Avenue, Unit A (GPIN 24272444111025) **COUNCIL DISTRICT – BEACH**

Carol Davis [Applicant & Owner] Conditional Use Permit (Short Term Rental) 1305 Chickadee Lane (GPIN 2415573190) **COUNCIL DISTRICT – BEACH**

Ocean Rental Properties, LLC [Applicant & Owner] Conditional Use Permits (Short Term Rentals) 516 Norfolk Avenue, Units 1, 2, 4, & 5 (GPIN 2427048118) **COUNCIL DISTRICT – BEACH**

Charlie Kim [Applicant & Owner] Conditional Use Permit (Short Term Rental) 809 Vanderbilt Avenue (GPIN 2426376810) **COUNCIL DISTRICT – BEACH**

Copies of the proposed plans, ordinances, resolutions and amendments are on file and may be examined by appointment in the Planning Department at 2875 Sabre St, Suite 500, Virginia Beach, Virginia 23452 or online at <http://www.vbgov.com/pc>. For information call 757-385-4621.

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

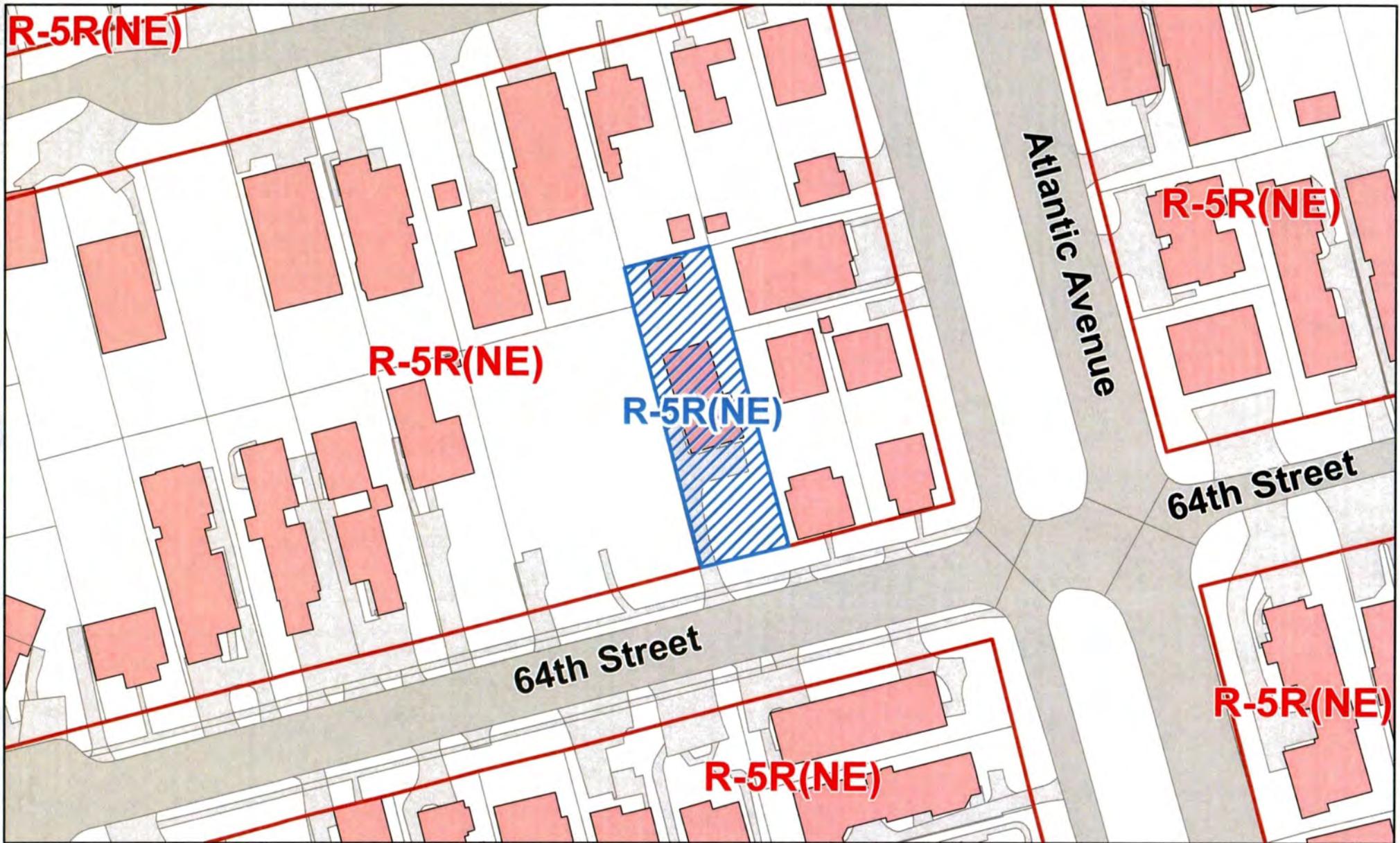
1. Register for the WebEx at:
<https://vbgov.webex.com/vbgov/onstage/g.php?MTID=ee627a0d522bacf90d8ba7c5d8347e7ce>
2. Register with the City Clerk's Office by calling 757-385-4303 or via email at abarnes@vbgov.com prior to 5:00 p.m. on October 20, 2020.

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. Please provide the Virginia Relay operator the login information for the WebEx and the operator will login to allow participation for individuals with hearing disabilities. The meeting will be broadcast on cable TV, www.vbgov.com, and Facebook Live.

All interested parties are invited to attend.

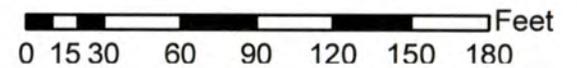
Amanda Barnes
City Clerk

BEACON –OCTOBER 4 & 11, 2020 – 1 TIME EACH



-  Site
-  Property_Polygons
-  Zoning
-  Parking Lot Drive Aisle
-  Building Footprint

64th Street, LLC
205 64th Street





CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: 64th STREET, LLC [Applicant & Property Owner] Conditional Use Permit (Short Term Rental) for the property located at 205 64th Street (GPIN 2419731192). COUNCIL DISTRICT – LYNNHAVEN

MEETING DATE: October 20, 2020

■ **Background:**

The applicant is requesting a Conditional Use Permit for Short Term Rental on a 8,750 square-foot parcel zoned R-5R (NE) Residential District in the North End. The lot consists of one single-family dwelling containing three bedrooms. The minimum number of parking spaces required for the Short Term Rental is one per bedroom, or three spaces in this instance. The maximum occupancy for guests on-site after 11:00 p.m. for a three-bedroom Short Term Rental is nine; however, at the time of this writing, the applicant agreed with City Council's recent Short Term Rental condition revisions reducing the number of overnight guests permitted to two per bedroom and limiting the number of bookings in a seven day period from two to one. These changes are reflected in the conditions below.

■ **Considerations:**

This site is located within the North End community, which consists primarily of single-family and duplex style dwellings. The subject property is approximately 500 feet from the 64th Street entrance to First Landing State Park and approximately 700 feet from the public beach of the Atlantic Ocean. The applicant's parking plan depicts the three required off-street parking spaces within the existing driveway, which meet the provisions of Section 241.2(1) of the City Zoning Ordinance. Additionally, the requirements of Section 241.2 of the Zoning Ordinance pertaining to Short Term Rentals can be reasonably met by the applicant. Further details pertaining to the application are provided in the attached Staff report.

One letter of opposition was received related to this request and is attached. The letter noted a general objection to Short Term Rentals in the neighborhood and was generated by a neighbor who lives behind the subject address.

■ **Recommendation:**

On September 9, 2020, the Planning Commission placed this item on the Consent Agenda, passing a motion by a recorded vote of 7-0, to recommend approval of this request.

1. The following conditions shall only apply to the dwelling unit addressed as 205 64th Street and the Short Term Rental use shall only occur in the principal structure.
2. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.
3. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
4. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1 (8a).
5. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes. Physical response to the site of the Short Term Rental is not required.
6. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
 - a) A completed Department of Planning and Community Development Short Term Rental Zoning registration form; and
 - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
 - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
7. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
8. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-

71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.

9. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
10. Accessory structures shall not be used or occupied as Short Term Rentals.
11. No signage shall be on-site, except one (1), four (4) square foot sign, may be posted on the building which identifies the Short Term Rental.
12. The Short Term Rental shall have no more than one (1) rental contract during any consecutive seven (7) day period.
13. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
14. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
15. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom.
16. To the extent permissible under state law, interconnected smoke detectors (which may be wireless), a fire extinguisher and, where natural gas or propane is present, carbon monoxide detectors, shall be installed in each Short Term Rental.

■ **Attachments:**

Staff Report and Disclosure Statements
Location Map
STR Vicinity Map
Minutes of Planning Commission Hearing
Letter of Opposition (1)

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

Submitting Department/Agency: Planning Department *RJN*

City Manager: *[Signature]*

Request

Conditional Use Permit (Short Term Rental)

Staff Recommendation

Approval

Staff Planner

William Miller

Location

205 64th Street

GPIN

24197311920000

Site Size

8,750 square feet

Existing Land Use and Zoning District

Single-family dwelling / R-5R Residential (North End Overlay)

Surrounding Land Uses and Zoning Districts

North

Single-family and duplex dwellings/ R-5R Residential (North End Overlay)

South

64th Street

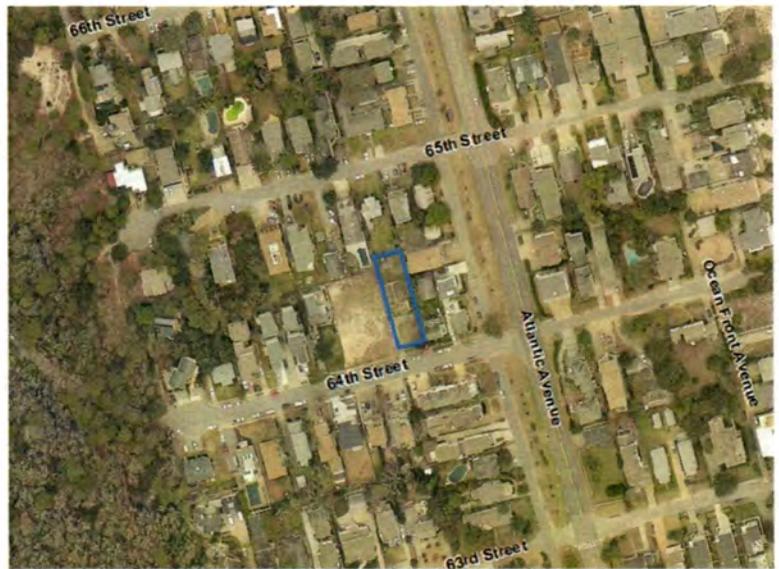
Single-family and duplex dwellings / R-5R Residential (North End Overlay)

East

Single-family and duplex dwellings / R-5R Residential (North End Overlay)

West

Single-family and duplex dwellings / R-5R Residential (Shore Drive Overlay)



Background & Summary of Proposal

Site Conditions and History

- This 8,750 square foot lot is located within the R-5R Residential District (North End Overlay) and contains one single-family dwelling.
- According to City records, this home was constructed in 1936.
- The subject dwelling is not the property owner(s) primary residence.
- Staff inspected the site on July 10, 2020 to observe site conditions and take photographs for this report.
- On-street parking is permitted 24-hours per day, therefore any overflow parking beyond the minimum parking spaces required could occur within the public street.
- No records of zoning violations relating to Short Term Rental use were found associated with the subject address.
- The applicant has agreed with City Council's recently imposed conditions reducing the number of bookings in a seven day period to one and limiting the overnight guest calculation to two per bedroom.

Short Term Rentals in the Vicinity



Summary of Proposal

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

- Number of bedrooms in the Short Term Rental: 3
- Maximum number of guests permitted on the property after 11:00 pm: 6 – As recommended in condition #15
- Number of parking spaces required (1 space per bedroom required): 3
- Number of parking spaces provided on-site: 3

		<h3>Zoning History</h3> <table border="1"> <thead> <tr> <th>#</th> <th>Request</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>STR (Short Term Rental) Pending CC action on 08/04/2020</td> </tr> </tbody> </table>		#	Request	1	STR (Short Term Rental) Pending CC action on 08/04/2020								
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1	STR (Short Term Rental) Pending CC action on 08/04/2020														
<h3>Application Types</h3> <table border="1"> <tr> <td>CUP – Conditional Use Permit</td> <td>MOD – Modification of Conditions or Proffers</td> <td>FVR – Floodplain Variance</td> <td>LUP – Land Use Plan</td> </tr> <tr> <td>REZ – Rezoning</td> <td>NON – Nonconforming Use</td> <td>ALT – Alternative Compliance</td> <td>STR – Short Term Rental</td> </tr> <tr> <td>CRZ – Conditional Rezoning</td> <td>STC – Street Closure</td> <td>SVR – Subdivision Variance</td> <td></td> </tr> </table>				CUP – Conditional Use Permit	MOD – Modification of Conditions or Proffers	FVR – Floodplain Variance	LUP – Land Use Plan	REZ – Rezoning	NON – Nonconforming Use	ALT – Alternative Compliance	STR – Short Term Rental	CRZ – Conditional Rezoning	STC – Street Closure	SVR – Subdivision Variance	
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REZ – Rezoning	NON – Nonconforming Use	ALT – Alternative Compliance	STR – Short Term Rental												
CRZ – Conditional Rezoning	STC – Street Closure	SVR – Subdivision Variance													

Evaluation & Recommendation

This site is located within the North End community, which is primarily home to single-family and duplex style dwellings. The subject property sits approximately 500 feet from the entrance to First Landing State Park and approximately 700 feet from the public beach of the Atlantic Ocean. The applicant's parking plan depicts all three required off-street parking spaces located within the existing driveway, which meet the requirements of Section 241.2(1) the City Zoning Ordinance. Moreover, Staff believes that the requirements of Section 241.2 of the Zoning Ordinance pertaining to Short Term Rentals can be reasonably met by the applicant.

Based on the considerations above, Staff recommends approval of this request with the conditions listed below; however, the recommended conditions do reflect City Council's Short Term Rental revisions by reducing the number of bookings in a seven day period to one and limiting the overnight guest calculation to two per bedroom.

Recommended Conditions

1. The following conditions shall only apply to the dwelling unit addressed as 205 64th Street and the Short Term Rental use shall only occur in the principal structure.
2. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.
3. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
4. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1 (8a).
5. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes. Physical response to the site of the Short Term Rental is not required.
6. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
 - a) A completed Department of Planning and Community Development Short Term Rental Zoning registration form; and
 - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
 - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
7. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
8. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
9. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
10. Accessory structures shall not be used or occupied as Short Term Rentals.
11. No signage shall be on-site, except one (1), four (4) square foot sign, may be posted on the building which identifies the Short Term Rental.
12. The Short Term Rental shall have no more than one (1) rental contract during any consecutive seven (7) day period.
13. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.

14. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
15. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom.
16. To the extent permissible under state law, interconnected smoke detectors (which may be wireless), a fire extinguisher and, where natural gas or propane is present, carbon monoxide detectors, shall be installed in each Short Term Rental.

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.

Public Outreach Information

Planning Commission

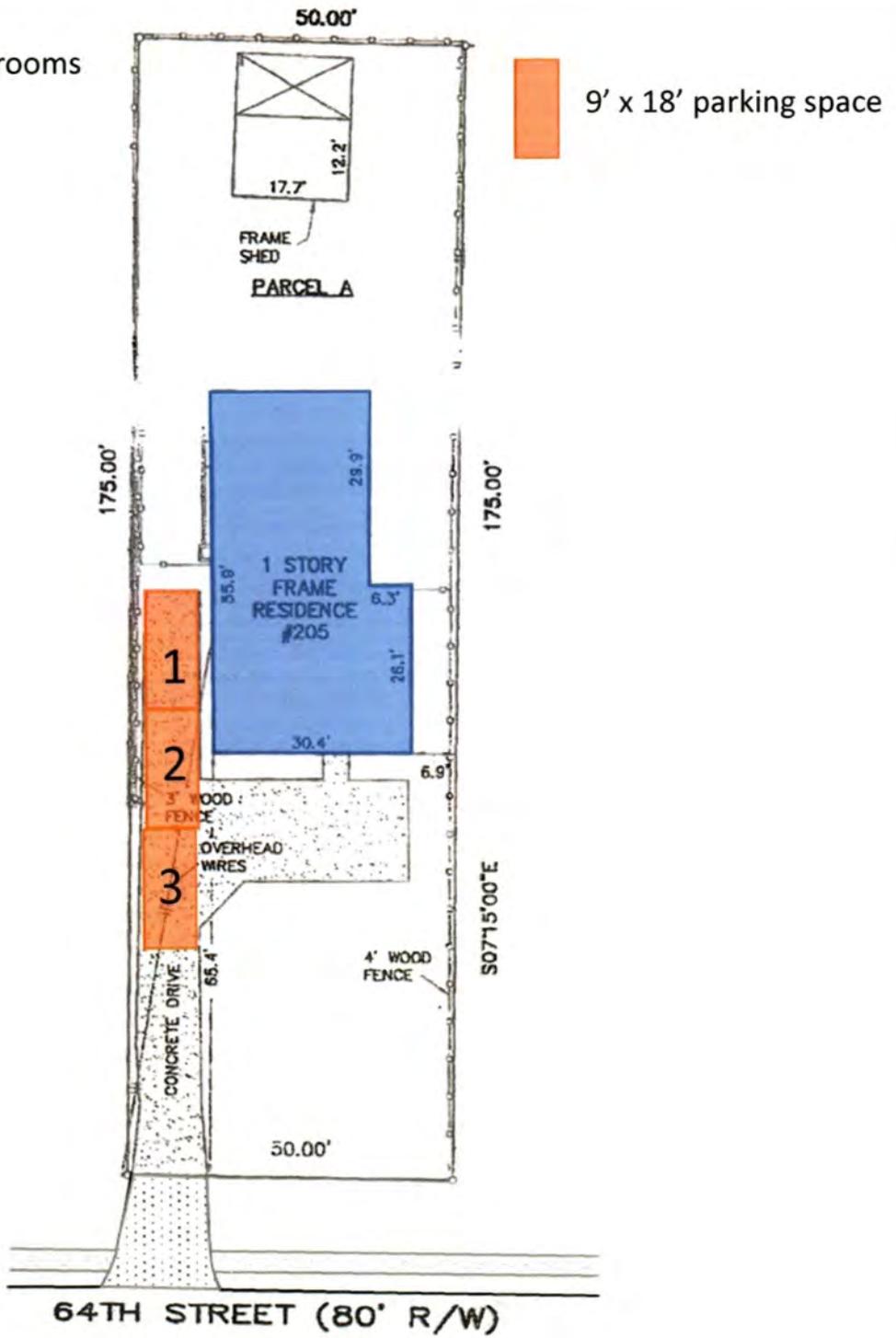
- The applicant reported that they met with the surrounding property owners, and no objections were raised. 1 letters of opposition has been received by Staff noting concerns related to this request.
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on August 10, 2020.
- As required by State Code, this item was advertised in the Virginia Pilot Beacon on Sundays, August 23, 2020, and August 30, 2020.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on August 24, 2020.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.vbgov.com/pc on September 3, 2020.

City Council

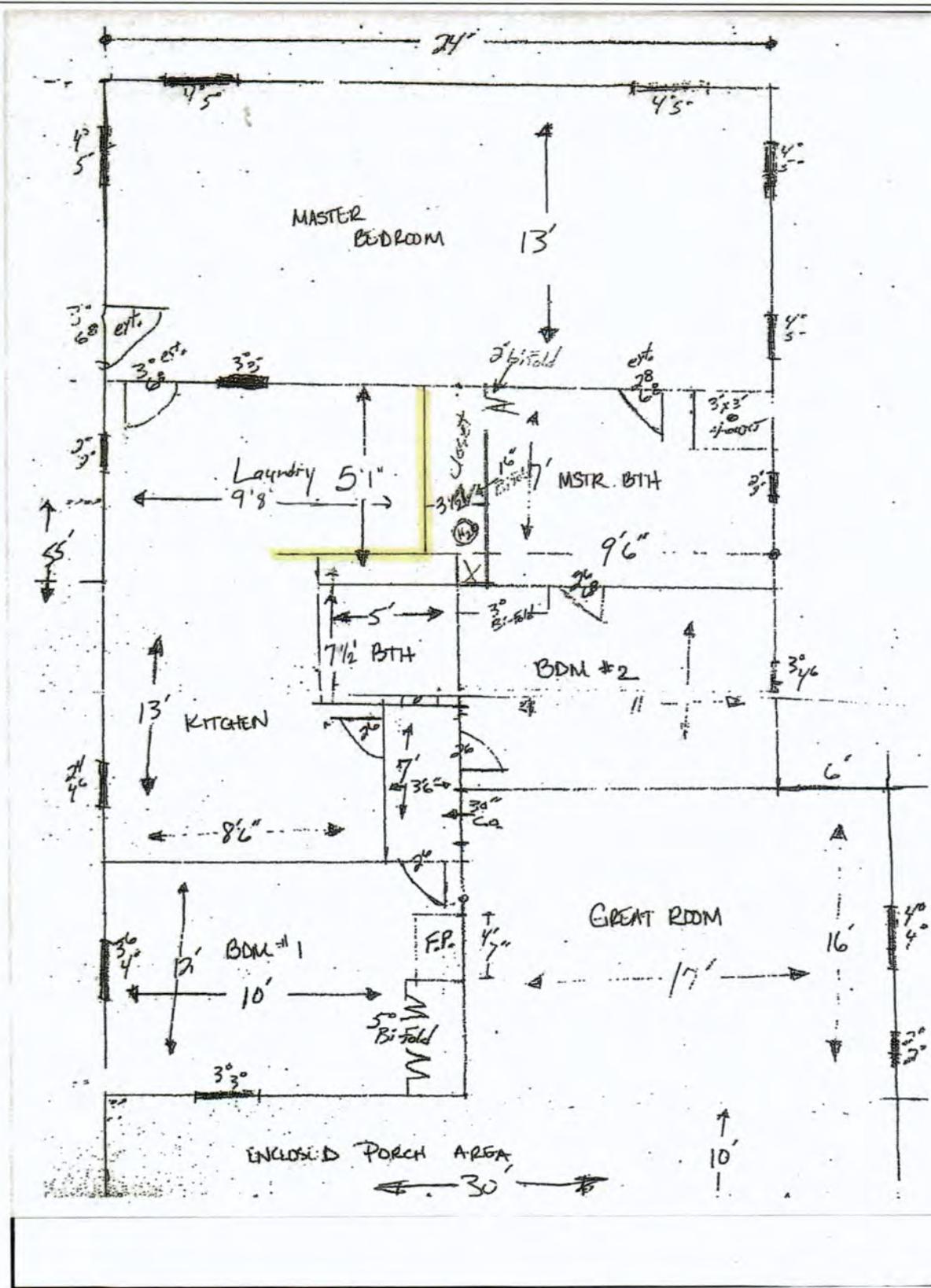
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, October 4, 2020, and October 11, 2020.
- As required by City Code, the adjacent property owners were notified regarding both the request and the date of the City Council's public hearing on October 5, 2020.
- 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 October 16, 2020.

Site Layout & Parking Plan

205 64th Street / 3-bedrooms



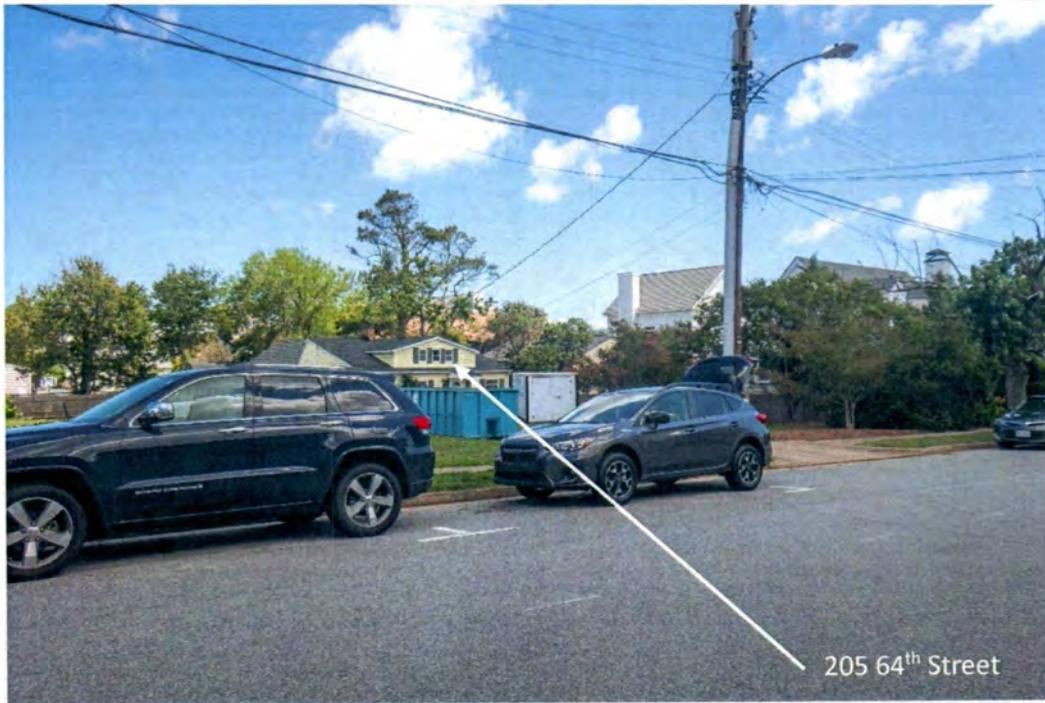
Floor Plan



Site Photos



Site Photos





APPLICANT'S NAME 64th Street, LLC.

DISCLOSURE STATEMENT FORM

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

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

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

SECTION 1 / APPLICANT DISCLOSURE

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

<input type="checkbox"/>	APPLICANT NOTIFIED OF HEARING	DATE	09-15-2020
<input type="checkbox"/>	NO CHANGES AS OF	DATE	10-08-2020
<input type="checkbox"/>	REVISIONS SUBMITTED	DATE	

William Miller – *William Miller* 10-08-2020



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: 64th Street, LLC
If an LLC, list all member's names: Margaret Page Edgerton

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-subsiary ¹ or affiliated business entity ² relationship with the Applicant: *(Attach list if necessary)*

See next page for information pertaining to footnotes ¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

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

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

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

(A) List the Property Owner's name: _____
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)*

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

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

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

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



APPLICANT/OWNER

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	Dixon Hughes Goodman
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Architect / Landscape Architect / Land Planner	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Construction Contractors	Daryl and Paula Sherwood
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Engineers / Surveyors/ Agents	Stephen Boone - Surveyor Dana Cullen (Agent)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Legal Services	David Johnson
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	Frances Germanos of Bershire Hathaway (The applicant purchased this home in Dec. 2019)

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

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

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

Disclosure Statement



CERTIFICATION:

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

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

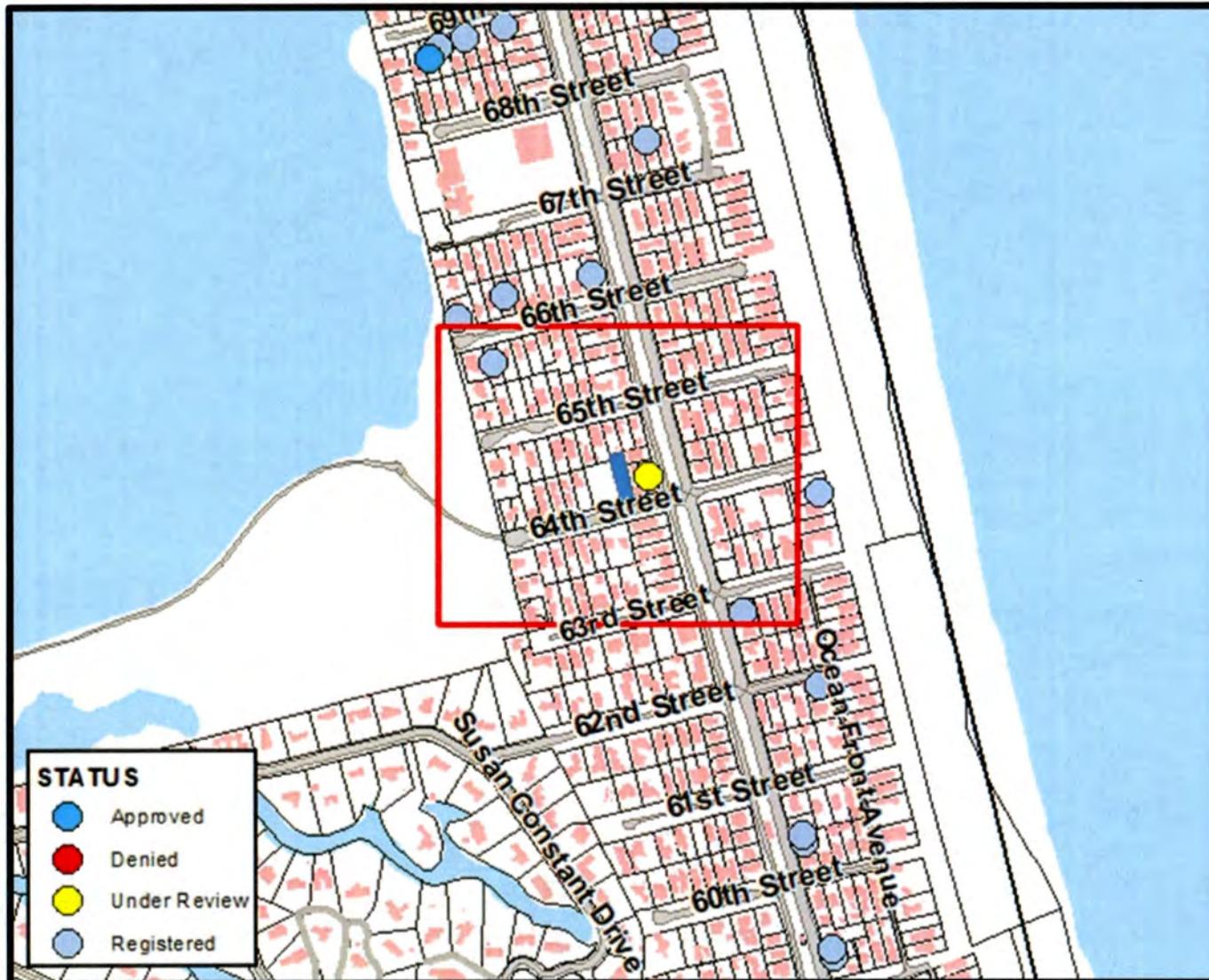
	Margaret Pace Edgerton	
PROPERTY OWNER'S SIGNATURE	PRINT NAME	DATE
Applicant and Owner		6/29/10

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.

STR VICINITY MAP

64TH STREET, LLC. – 205 64TH STREET



**Items # 7.
64th Street, LLC
Conditional Use Permit (Short Term Rental)
205 64th Street**

September 09, 2020

RECOMMENDED FOR APPROVAL- CONSENT

Ms. Oliver: Thank you very much for taking the time to come down and speak. And, with that, we are going to go ahead and move on to the Consent Agenda and Mr. Weiner, yes you. would you take that over please?

Mr. Weiner: Thank you, Madam Chair. These are applications that are recommended for approval by Staff and the Planning Commission concurred. There are no speakers signed up in opposition to the Planning Commission. The Planning Commission places the following applications on the Consent Agenda; item numbers 2, 3, and 4. The Planning Commission also places the following applications for a conditional use permit for Short-Term Rental on the Consent Agenda as they meet the applicable requirements of Section 241.2 of the Zoning Ordinance and Staff and Planning Commission support the applications and there are no known speakers signed up to comment. Items 6, 7, 10, and 11. Is there anyone here in opposition of these items being put on the Consent Agenda? As hearing none, I move for approval of the following items to be on the Consent Agenda: items 2, 3, 4, 6, 7, 10 and 11.

Ms. Oliver: Right. Thank you, is there a second please?

Mr. Alcaraz: I will second.

Ms. Oliver: Alright, we got a second. Does anybody need to abstain from any of these items? Oh, I do. Excuse me. Hold on one second. I forgot it went on. I am going to abstain from item number seven. I am a party to a court case that is unrelated to the Planning Commission or this application, but a representative of the applicant is involved in this case, so, I have chosen to abstain.

Ms. Coleman: If you are in favor of the motion say, yes, and if you are opposed say, no. Mr. Alcaraz.

Mr. Alcaraz: Yes.

Ms. Coleman: Mr. Barnes.

Mr. Barnes: Yes.

Ms. Coleman: Mr. Coston.

Mr. Coston: Yes.

Ms. Coleman: Mr. Graham, Mr. Horsley, Mr. Inman, and Ms. Klein are all absent.
Mr. Redmond.

Mr. Redmond: Yes.

Ms. Coleman: Mr. Wall.

Mr. Wall: Yes.

Ms. Coleman: Mr. Wiener.

Mr. Weiner: Yes.

Ms. Coleman: And, Ms. Oliver.

Ms. Oliver: Yes, with the exception of number seven.

Ms. Coleman: Okay. By a recorded vote of seven for and zero against with the notations noted on number seven, the following items 2, 3, 4, 6, 7, 10, and 11 have been recommended for approval by consent. If you have had an application that was on Consent Agenda today your request will now be scheduled for an upcoming City Council Meeting. Staff will contact you about the date. So that others may attend the chamber, please exit via the side door. If you are watching virtually, you are free to exit or stay and watch. Thank you all for your participation.

Ms. Oliver: Thank you for coming down; and now we will move on.

	AYE 7	NAY 0	ABS 0	ABSENT 4
Alcaraz	AYE			
Barnes	AYE			
Coston	AYE			
Graham				ABSENT
Horsley				ABSENT
Inman				ABSENT
Klein				ABSENT
Oliver			ABSTAIN	
Redmond	AYE			

Wall	AYE			
Weiner	AYE			

CONDITIONS

1. The following conditions shall only apply to the dwelling unit addressed as 205 64th Street and the Short Term Rental use shall only occur in the principal structure.
2. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.
3. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
4. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1 (8a).
5. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes. Physical response to the site of the Short Term Rental is not required.
6. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date. a) A completed Department of Planning and Community Development Short Term Rental Zoning registration form; and b) Copies of the Commissioner of Revenue's Office receipt of registration; and c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
7. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.

8. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
9. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
10. Accessory structures shall not be used or occupied as Short Term Rentals.
11. No signage shall be on-site, except one (1), four (4) square foot sign, may be posted on the building which identifies the Short Term Rental.
12. The Short Term Rental shall have no more than one (1) rental contract during any consecutive seven (7) day period.
13. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
14. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
15. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom.
16. To the extent permissible under state law, interconnected smoke detectors (which may be wireless), a fire extinguisher and, where natural gas or propane is present, carbon monoxide detectors, shall be installed in each Short Term Rental.

Further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid. The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.

From: [William R. Landfair](#)
To: [William N. Miller](#)
Subject: FW: Conditional Use permit.. 205 64th Street. GPIN 2419731192
Date: Tuesday, September 8, 2020 8:39:47 AM

Will,

See correspondence below from concerned citizen regarding 205 64th Street. You may want to add to supplements package Marchelle is putting together.

Bill

-----Original Message-----

From: Milton Twisdale <mtwisdale202@gmail.com>
Sent: Thursday, September 3, 2020 3:27 PM
To: William R. Landfair <WLandfair@vbgov.com>
Subject: Conditional Use permit.. 205 64th Street. GPIN 2419731192

CAUTION: This email originated from outside of the City of Virginia Beach. Do not click links or open attachments unless you recognize the sender and know the content is safe.

My stance on this request is "NO".

I do not believe its favorable for the neighborhood to allow "Short term rentals". Let the record state, I oppose the request made by 64th Street LLC. 205 64th Street.

Milt Twisdale
202 65th Street
VB VA 23451
757-434-6888

From: dcdnyc@aol.com
To: [William N. Miller](mailto:William.N.Miller)
Subject: Please add this final updated version to my file:
Date: Thursday, September 3, 2020 4:17:36 PM

CAUTION: This email originated from outside of the City of Virginia Beach. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To whom it may concern:

My name is Danna Cullen and I am seeking a permit for at STR located at 205 64th Street which is a vintage cottage my mother (who lives in Richmond) purchased in 2019 to use as a vacation cottage. To offset the expenses of owning this cottage she has asked me to manage the STR business connected to the cottage. Our family has owned the vintage cottage next door at 203 64th Street for almost 50 years and it has been my residence since returning to Virginia Beach in 1995. Close management proximity, ample parking and the opportunity to save a vintage cottage and the green space around it in our densely populated neighborhood would make this application a good choice for a STR permit.

The 205 vintage cottage property was listed for sale as a "tear down" and the realtor recommended subdividing and building into two homes in her ad, however, we saw the diamond in the rough and a chance to preserve a rare larger lot property with a nicely preserved vintage cottage, so my family hopes to take the opportunity to maintain the charm of our historic North End neighborhood by restoring the cottage and offering it for STR. It is one of 3 in a row of classic vintage cottages that line the entrance to First Landing State Park on 64th Street, one of which has already been approved for a STR, the second I occupy and this is the 3rd. Millions of visitors drive down 64th Street every year accessing First Landing State Park, and still get to see a little row of authentic North End vintage cottages today, because we saved this one from the wrecking ball. Preserving the old cottage line on 64th Street adds to our park guests "experience", a view we need to protect for everyone to enjoy for generations to come.

It was recommend by Will Miller while completing this application, that I reach out to our neighbours who are directly impacted here on 64th Street, to check and see if they have any issues or concerns regarding our plans to convert this property to a STR space.

To date I have not found anyone who has expressed direct opposition to this proposal. A couple of neighbors were a little apprehensive about the STR concept when I first approached them as we just had one recently approved at 201 64th Street, and parking is a major issue on our street, however, parking may be a big issue in the North End, but it is not an issue at all for our property as we have an enviable amount of ample parking.

After sharing with the 2 apprehensive neighbors on 64th Street that our concept is about providing guests with a quality boutique vintage cottage experience, with high end finishes and a chefs kitchen, professional landscaping, housekeeping and maintenance services and that I would be available right next door if they have any issues, questions or concerns about our guests, they both relaxed and permitted me to share that they are now "cautiously optimistic" about this vintage cottage TR and would much rather have a small vintage cottage STR on a huge lot than a couple of big box condos paving over the charming old nearly 100 year old cottage and further cramping up our street... which was the plan I heard that the developer in line after us who also bid on the cottage was planning to do with it.

The following long term, 64th Street property owning neighbours are 100% in support of this vintage cottage STR project, if you need to contact any of them they have given me permission to share their phone numbers:

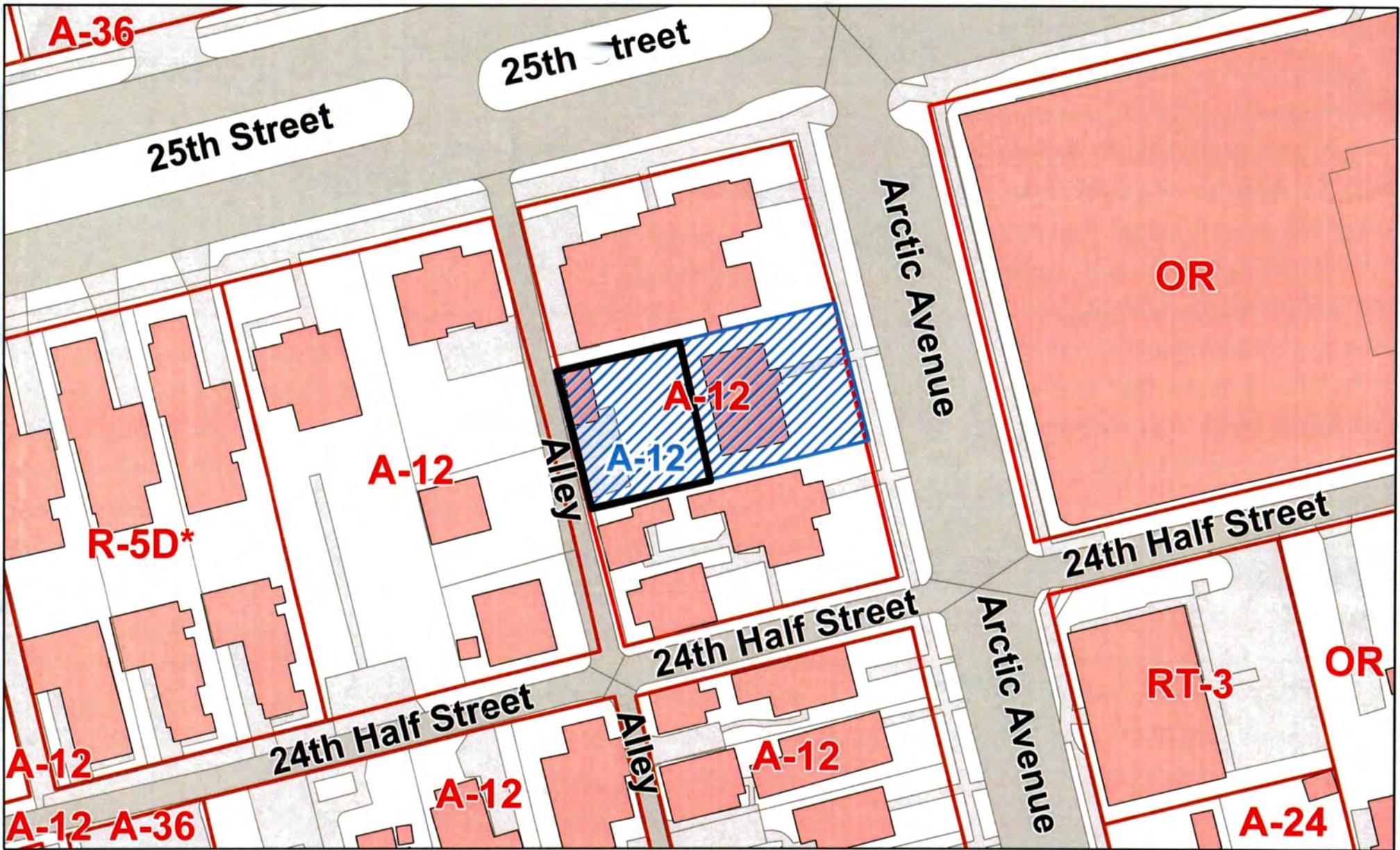
Anthony	757 574 3499
Allison	757 204 1981
Gary	757 569 3523
Amy	757 286 515
John	757 288 2546
Fritz	757 761 1111

-----Original Message-----

From: William N. Miller <WNMiller@vbgov.com>
To: dcdnyc@aol.com <dcdnyc@aol.com>
Sent: Thu, Sep 3, 2020 4:06 pm
Subject: Automatic reply: Duel Registration Required for September 9th Planning Commission Hearing

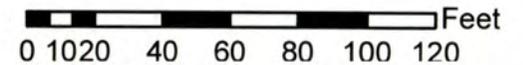
Out of office - 09.03.2020 at 3:30pm - I will be available again on 09-08-2020 at 6:30/7:00 am

Will Miller
757-385-5066



-  Unit
-  Site
-  Property_Polygons
-  Zoning
-  Parking Lot Drive Aisle
-  Building Footprint

C and C Development Company, Inc.
2416 Arctic Avenue, Unit B





CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: C AND C DEVELOPMENT COMPANY, INC. [Applicant] C AND C DEVELOPMENT COMPANY, INC. & CJE REAL ESTATE, LLC [Property Owners] Conditional Use Permit (Short Term Rental) for the property located at 2416 Arctic Avenue, Unit B (GPIN 24270927700002). COUNCIL DISTRICT – BEACH

MEETING DATE: October 20, 2020

■ **Background:**

The applicant is requesting a Conditional Use Permit in order to operate a Short Term Rental. There is an existing single-family dwelling on the site and the applicant proposes to construct a new three-bedroom unit and create a duplex on the site. As the property is zoned A-12 Apartment District (Old Beach Overlay), a duplex is permitted as a matter of right. In February 2020, the City Council approved a Conditional Use Permit for a Short Term Rental for the existing dwelling, which is also owned by the applicant. The minimum number of parking spaces required for a Short Term Rental is one per bedroom, or three spaces in this instance. Vehicular access for this unit is via the alley. The maximum occupancy for guests on-site after 11:00 p.m. for a three-bedroom Short Term Rental is nine; however, the applicant has agreed with the City Council's recent Short Term Rental condition revisions reducing the number of overnight guests permitted to two per bedroom and limiting the number of bookings in a seven day period from two to one. These changes are reflected in the conditions below.

■ **Considerations:**

The proposed dwelling will be located in the Old Beach neighborhood. Plans for the structure are currently under review in the Planning Department. The site is in close proximity to the Atlantic Ocean beaches and resort area where Short Term Rentals are expected. The applicant's parking plan depicts the three required off-street parking spaces, accessible from the adjacent alleyway. Additionally, the remaining requirements of Section 241.2 of the City Zoning Ordinance pertaining to Short Term Rentals can be reasonably met by the applicant. Further details pertaining to the application are provided in the attached Staff report.

Recommendation:

On September 9, 2020, the Planning Commission placed this item on the Consent Agenda, passing a motion by a recorded vote of 7-0, to recommend approval of this request.

1. The following conditions shall only apply to the dwelling unit addressed as 2416 Arctic Avenue, Unit B.
2. When Unit B is developed, it shall be in substantial conformance with the submitted Concept Plan entitled, "2416 Arctic B", prepared by Carroll W. Johnson, dated January 23, 2019, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
3. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council and shall be installed and maintained in a manner consistent with site plan approval by the Development Services Center.
4. While this Conditional Use Permit is active, parking passes issued for the subject dwelling unit(s) through the Residential Parking Permit Program (RPPP) shall be limited to two resident passes only. Guest and temporary passes through the RPPP shall not be permitted.
5. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
6. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1 (8a).
7. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes. Physical response to the site of the Short Term Rental is not required.
8. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
 - a) A completed Department of Planning and Community Development Short Term Rental Zoning registration form; and

- b) Copies of the Commissioner of Revenue's Office receipt of registration; and
 - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
9. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
 10. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
 11. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
 12. Accessory structures shall not be used or occupied as Short Term Rentals.
 13. No signage shall be on-site, except one (1), four (4) square foot sign, may be posted on the building which identifies the Short Term Rental.
 14. The Short Term Rental shall have no more than one (1) rental contract during any consecutive seven (7) day period.
 15. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
 16. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
 17. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom.
 18. To the extent permissible under state law, interconnected smoke detectors (which may be wireless), a fire extinguisher and, where natural gas or propane is present, carbon monoxide detectors, shall be installed in each Short Term Rental.

- **Attachments:**
 - Staff Report and Disclosure Statements
 - Location Map
 - STR Vicinity 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 (Short Term Rental)

Staff Recommendation

Approval

Staff Planner

Jonathan Sanders

Location

2416 Arctic Avenue, Unit B

GPIN

24270927700002

Site Size

7,200 square feet

Existing Land Use and Zoning District

Single-family dwelling / A-12 Apartment (Old Beach Overlay)

Surrounding Land Uses and Zoning Districts

North

Bed & Breakfast / A-12 Apartment (Old Beach Overlay)

South

Single-family dwellings / A-12 Apartment (Old Beach Overlay)

East

Arctic Avenue
 Apartments / OR Oceanfront Resort

West

10-foot alley
 Single-family dwellings / A-12 Apartment (Old Beach Overlay)

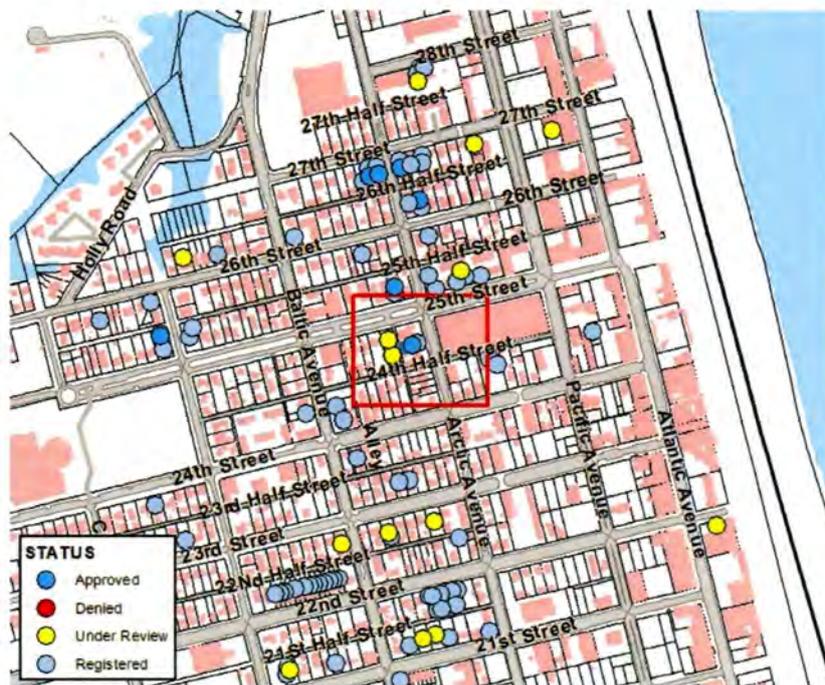


Background & Summary of Proposal

Site Conditions and History

- The 7,200 square foot lot is zoned A-12 Apartment District (Old Beach Overlay) and contains a single-family home. The applicant plans to construct a 1,500 square foot dwelling unit on the west side of the lot which will connect to the existing dwelling, thus creating a duplex. The Department of Planning & Community Development is currently reviewing the site plan.
- Only this new unit, Unit B, is the subject of this application for a Conditional Use Permit for a three-bedroom Short Term Rental. City Council approved a Conditional Use Permit for Short Term Rental for the three-bedroom single-family home (2416 Arctic Avenue, Unit A), on February 4, 2020. Both units are owned by associated companies of the applicant.
- Vehicular access for the proposed Unit B will be via the 10-foot wide alley at the rear of the property, which is accessed from 25th Street and 24th ½ Street. The applicant will improve the alley with new pavement.
- The property lies within the Residential Parking Permit Program (RPPP) boundary, where parking during the evening and overnight hours is limited. Based on this, a condition is recommended that would prohibit the occupants of the STR from parking in the street during the restricted hours.
- Staff inspected the site on March 6, 2020 to observe site conditions and take photographs for this report.
- There are no known zoning violations on the property.
- The applicant has agreed with City Council's recently imposed conditions reducing the number of bookings in a seven day period to one and limiting the overnight guest calculation to two per bedroom.

Short Term Rentals in the Vicinity



Summary of Proposal

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

- Number of bedrooms in the Short Term Rental: 3
- Maximum number of guests permitted on the property after 11:00 pm: 6 – As recommended in Condition 16
- Number of parking spaces required for this dwelling unit (1 space per bedroom required): 3
- Number of parking spaces provided on-site for this dwelling unit: 3

	<h3>Zoning History</h3> <table border="1"> <thead> <tr> <th>#</th> <th>Request</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>CRZ (O-2 to Conditional R-5D) Approved 08/09/2011</td> </tr> <tr> <td>2</td> <td>CUP (Bed & Breakfast) Approved 08/26/2003</td> </tr> <tr> <td>3</td> <td>CUP (Short Term Rental) Approved 02/04/2020</td> </tr> </tbody> </table>	#	Request	1	CRZ (O-2 to Conditional R-5D) Approved 08/09/2011	2	CUP (Bed & Breakfast) Approved 08/26/2003	3	CUP (Short Term Rental) Approved 02/04/2020
#	Request								
1	CRZ (O-2 to Conditional R-5D) Approved 08/09/2011								
2	CUP (Bed & Breakfast) Approved 08/26/2003								
3	CUP (Short Term Rental) Approved 02/04/2020								
<h3>Application Types</h3>									
CUP – Conditional Use Permit REZ – Rezoning CRZ – Conditional Rezoning	MOD – Modification of Conditions or Proffers NON – Nonconforming Use STC – Street Closure	FVR – Floodplain Variance ALT – Alternative Compliance SVR – Subdivision Variance	LUP – Land Use Plan STR – Short Term Rental						

Evaluation & Recommendation

The proposed Short Term Rental is located in the Old Beach neighborhood on the west side of Arctic Avenue. The site is in close proximity to the Atlantic Ocean beaches and resort area of the City; an area where there are a substantial number of Short Term Rentals operating. The subject three-bedroom dwelling has not been constructed; however, plans are currently under review in the Planning Department. Stormwater management strategy will be reviewed during this process, and Staff has recommended Condition 18 to ensure that the pervious area is developed per the approved plan. The proposed plans depict all three required parking spaces accommodated on-site in the driveway.

Since the property is within the boundary of the RPPP, parking passes issued for the subject dwelling unit will be limited to two resident passes for each unit; guest and temporary passes will not be permitted while the Conditional Use Permit is active. Staff believes all other requirements of Section 241.2 of the Zoning Ordinance pertaining to Short Term Rentals

can be reasonably met. The recommended conditions reflect City Council's revisions on Short Term Rentals by reducing the number of bookings in a seven day period from two to one and limiting the number of overnight guests to two per bedroom.

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

Recommended Conditions

1. The following conditions shall only apply to the dwelling unit addressed as 2416 Arctic Avenue, Unit B.
2. When Unit B is developed, it shall be in substantial conformance with the submitted Concept Plan entitled, "2416 Arctic B", prepared by Carroll W. Johnson, dated January 23, 2019, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
3. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council and shall be installed and maintained in a manner consistent with site plan approval by the Development Services Center.
4. While this Conditional Use Permit is active, parking passes issued for the subject dwelling unit(s) through the Residential Parking Permit Program (RPPP) shall be limited to two resident passes only. Guest and temporary passes through the RPPP shall not be permitted.
5. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
6. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1 (8a).
7. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes. Physical response to the site of the Short Term Rental is not required.
8. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
 - a) A completed Department of Planning and Community Development Short Term Rental Zoning registration form; and
 - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
 - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
9. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.

10. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
11. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
12. Accessory structures shall not be used or occupied as Short Term Rentals.
13. No signage shall be on-site, except one (1), four (4) square foot sign, may be posted on the building which identifies the Short Term Rental.
14. The Short Term Rental shall have no more than one (1) rental contract during any consecutive seven (7) day period.
15. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
16. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
17. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom.
18. To the extent permissible under state law, interconnected smoke detectors (which may be wireless), a fire extinguisher and, where natural gas or propane is present, carbon monoxide detectors, shall be installed in each Short Term Rental.

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.

Public Outreach Information

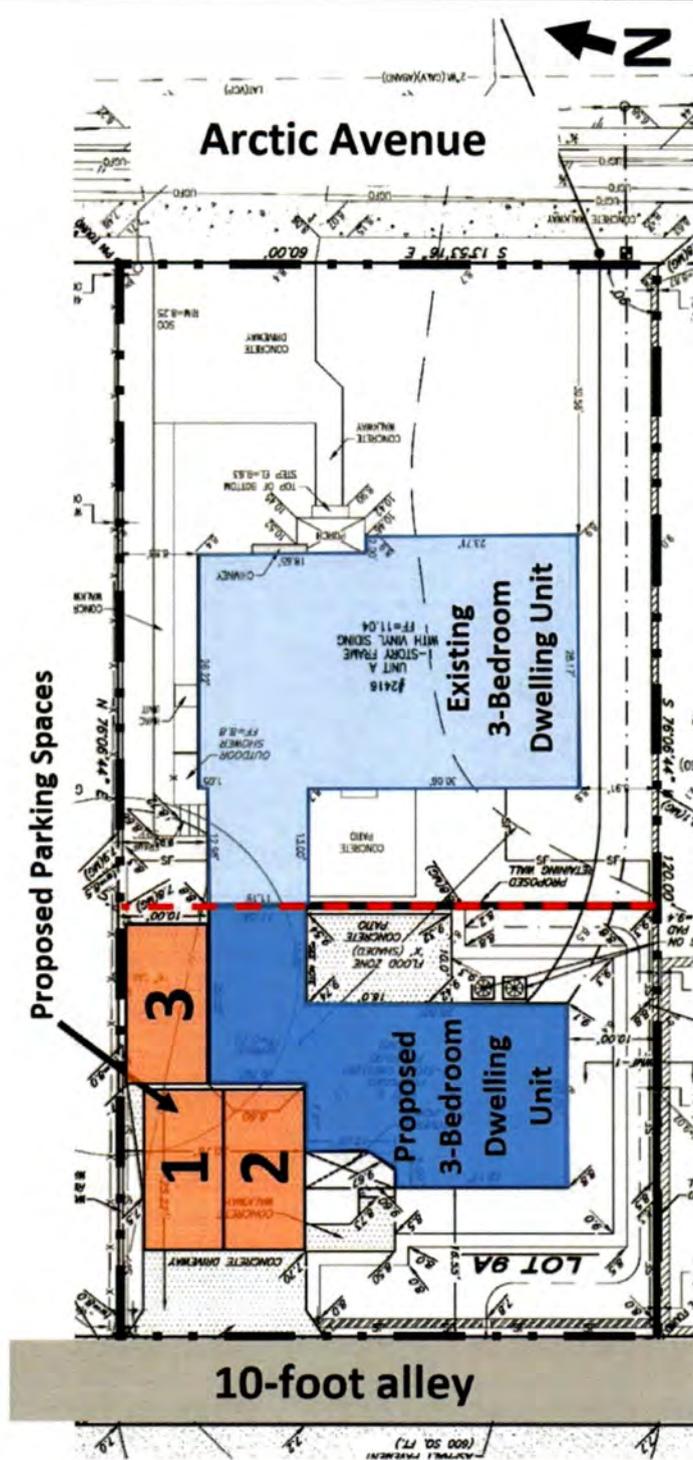
Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on August 10, 2020.
- As required by State Code, this item was advertised in the *Virginian-Pilot Beacon* on Sundays, August 23, 2020, and August 30, 2020.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on August 24, 2020.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.vbgov.com/pc on September 3, 2020.

City Council

- As required by City Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, October 4, 2020 and October 11, 2020.
- 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 October 5, 2020
- 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 October 16, 2020.

Site Layout & Parking Plan



Proposed Elevations



Site Photos



Site Photos



Disclosure Statement

Disclosure Statement



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

Applicant Disclosure

Applicant Name C AND C DEVELOPMENT COMPANY INC

Does the applicant have a representative? Yes No

- If yes, list the name of the representative.

EDDIE BURDON

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)

CHRIS EITZEL

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

NONE

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

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

Disclosure Statement



Known Interest by Public Official or Employee

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

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

Applicant Services Disclosure

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

- If yes, identify the financial institutions.

PRIVATE INVESTOR MICHAEL DONDVAN

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 real estate broker/realtor.

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 or individual providing the service.

WILLIAM F. NAGLE CPA

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

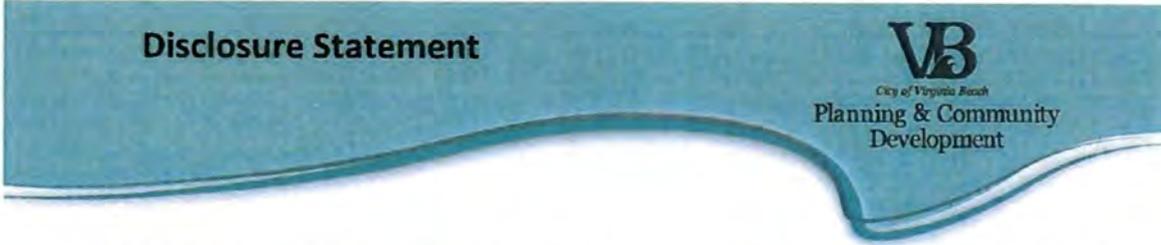
- If yes, identify the firm or individual providing the service.

CARROLL JOHNSON - HOME DESIGNER

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 construction contractor.
VB HOMES DESIGN BUILD LLC
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 engineer/surveyor/agent.
WPL
8. Is the applicant receiving **legal services** in connection with the subject of the application or any business operating or to be operated on the property? **Yes** **No**
- If **yes**, identify the name of the attorney or firm providing legal services.
HARRY R. PURKEY JR P.C., FODDIS BOURDON

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.

Chris Fitts

Applicant Signature

CHRIS FITZEL PRES

Print Name and Title

8/17/20

Date

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

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

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

<input checked="" type="checkbox"/>	No changes as of	Date	10/7/2020	Signature	<u>William R. Landhart</u>
				Print Name	William R. Landhart

Disclosure Statement

Disclosure Statement



Owner Disclosure

Owner Name CJE REAL ESTATE LLC

Applicant Name CANDC DEVELOPMENT COMPANY INC.

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

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

CHRIS ETTEL

- If **yes**, list the businesses that have a parent-subsidiary³ or affiliated business entity⁴ relationship with the Owner. (Attach a list if necessary)

NONE

Known Interest by Public Official or Employee

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

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

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

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.
BAY PORT MORTGAGE
2. Does the Owner have a real estate broker/agent/realtor for current and anticipated future sales of the subject property?
 Yes No
 - If yes, identify the real estate broker/realtor.
LISA EURE
3. Does the Owner have services for accounting and/or preparation of tax returns provided in connection with the subject of the application or any business operating or to be operated on the property? Yes No
 - If yes, identify the firm or individual providing the service.
WILLIAM F. NAGLE CPA
4. Does the Owner have services from an architect/landscape architect/land planner provided in connection with the subject of the application or any business operating or to be operated on the property? Yes No
 - If yes, identify the firm or individual providing the service.
5. Is there any other pending or proposed purchaser of the subject property? Yes No
 - If yes, identify the purchaser and purchaser's service providers.
6. Does the Owner have a construction contractor in connection with the subject of the application or any business operating or to be operated on the property? Yes No
 - If yes, identify the construction contractor.
7. Does the Owner have an engineer/surveyor/agent in connection with the subject of the application or any business operating or to be operated on the property? Yes No
 - If yes, identify the engineer/surveyor/agent.

Disclosure Statement

Disclosure Statement



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

- If yes, identify the name of the attorney or firm providing legal services.

HARRY R. DIRKBY JR. PC, FREDIS BOURDON

Owner Signature

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

A handwritten signature in black ink, appearing to read 'Chris Ester'.

Owner Signature

CHRIS ESTER MANAGING MEMBER

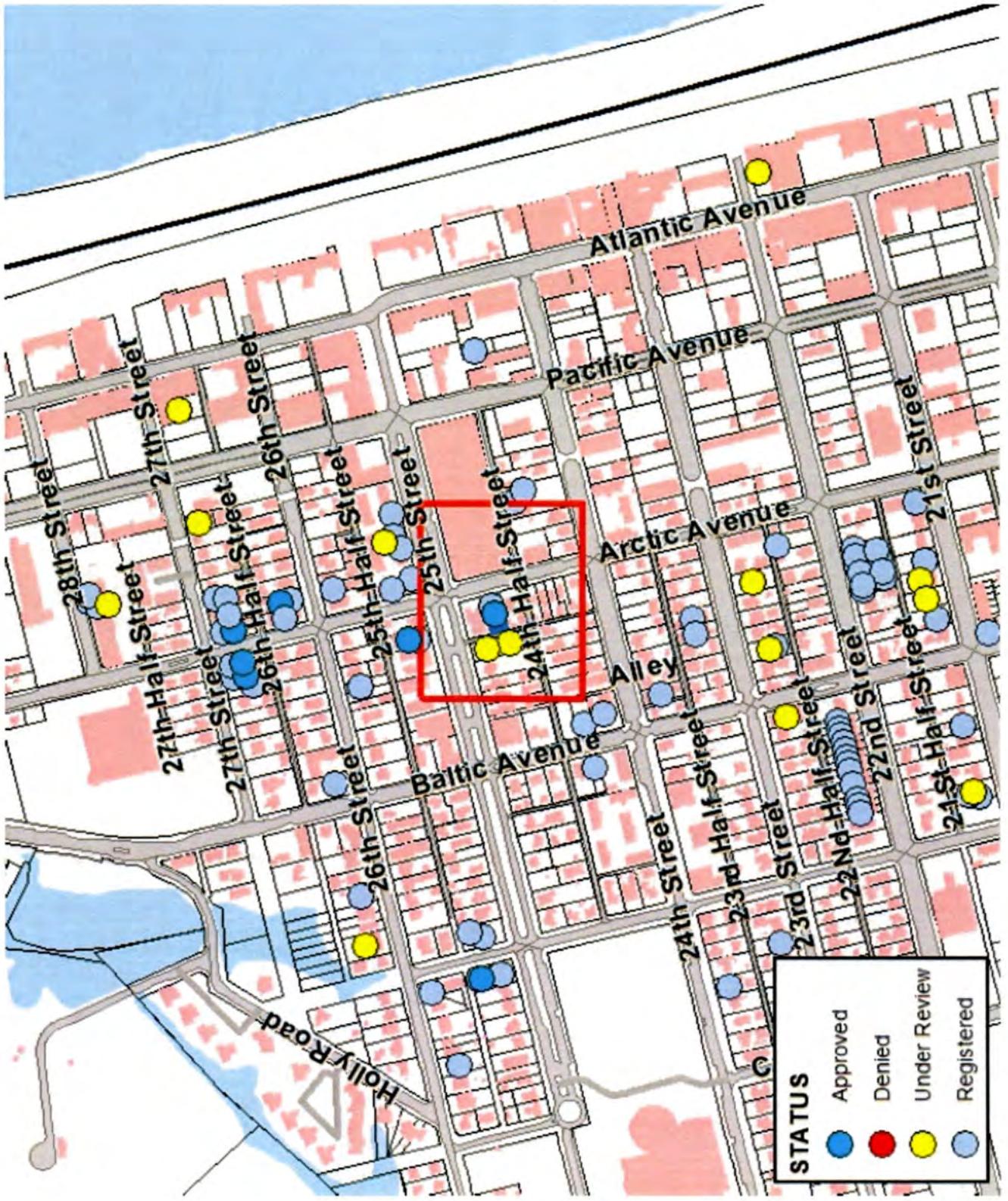
Print Name and Title

8/17/20

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.



Item # 6.

**C and C Development Company, Inc. [Applicant] C and C Development Company, Inc. & CJE Real Estate, LLC [Owners]
Conditional Use Permit (Short Term Rental)
2416 Arctic Avenue, Unit B**

September 09, 2020

RECOMMENDED FOR APPROVAL- CONSENT

Ms. Oliver: Thank you. The next order of business is the Consent Agenda. Our Vice Chair, David Wiener will handle this portion of the meeting. I do understand that we do have one person signed up to speak in favor of item six on the Consent Agenda. Is that correct? Would you like to go ahead and come on up now before we go on with the vote. Thank you. Would you state your name for the record?

Ms. Runkle: Yep. My name is Kathy Runkle, I live at 316 26th Street and I was here earlier for your informal discussion and I know there was some discussion on item six, and I think they were couple others said they have not built the properties yet. So, there was some discussion and concern that you were potentially approving or I guess, consenting on items that had not been built. And, I just wanted to speak up in favor of the redevelopment and the development of the Old Beach Area. I know there has been a lot of construction, a lot of people are opposed to it, but living there, there is a lot of old run down dilapidated houses, vacant lots that these developers are redeveloping, and they are making Virginia Beach so much nicer. I can only think of one building that has been built in the last few years, I thought, oh, what is that. But, I often run into some of the developers and I am like, hey, would you please buy this property across the street from me like I would prefer it would be a Short-Term Rental on every house on my street, than some of the old and rundown dilapidated, you end up with "neighbors in there" that might not be the best neighbors. So, as much as people are sometimes opposed to it, I think if you ride down Arctic Avenue and Baltic in some of the side streets compared to what they were six or eight years ago, I think there is a huge improvement. So, I do not see any negatives to these builders coming in without their plans and are hoping, they will know if they have to sell the house or Short-Term Rental, because the floor plan might be slightly different, depending upon the ultimate purpose of building these houses.

Ms. Oliver: Thank you very much for taking the time to come down and speak. And, with that, we are going to go ahead and move on to the Consent Agenda and Mr. Weiner. Yes, you. Would you take that over please?

Mr. Weiner: Thank you, Madam Chair. These are applications that are recommended for approval by Staff and the Planning Commission concurred. There are no speakers signed up in opposition to the Planning Commission. The Planning Commission places on the following applications on the Consent Agenda. Item number 2, 3, and 4 on the consent agenda. The Planning Commission also replaces the following applications for the Conditional Use Permit of Short-Term Rental on the Consent Agenda as they meet the applicable requirements for Section 241.2 of the Zoning Ordinance. Staff and Planning Commission supports the applications and there are no known speakers signed up to comment is belated item 6, 7, 10, and 11. Is there anyone here in opposition of these items being put on the Consent Agenda? As hearing none, I move for approval of the following items to being on the Consent Agenda, items 2, 3, 4, 6, 7, 10 and 11.

Ms. Oliver: Right. Thank you, is there a second please?

Mr. Alcaraz: I will second.

Ms. Oliver: Alright, we got a second. Is anybody need to abstain from any of these items? Ooh, I do. Excuse me. Hold on one second. I forgot it went on. I am going to abstain from item number seven. I am a party to a court case that is unrelated to the Planning Commission or this application, but a representative of the applicant is involved in this case, so, I have chosen to abstain.

Ms. Coleman: If you are in favor of the motion say, yes. And, if you are opposed say, no. Mr. Alcaraz.

Mr. Alcaraz: Yes.

Ms. Coleman: Mr. Barnes.

Mr. Barnes: Yes.

Ms. Coleman: Mr. Coston.

Mr. Coston: Yes.

Ms. Coleman: Mr. Graham, Mr. Horsley, Mr. Inman, and Ms. Klein are all absent. Mr. Redmond.

Mr. Redmond: Yes.

Ms. Coleman: Mr. Wall.

Mr. Wall: Yes.

Ms. Coleman: Mr. Wiener.

Mr. Weiner: Yes.

Ms. Coleman: And, Ms. Oliver.

Ms. Oliver: Yes, with the exception of number seven.

Ms. Coleman: Okay. By recorded vote of seven, for and zero against, with the notations noted on number seven, the following items to 2, 3, 4, 6, 7, 10, and 11 have been recommended for approval by consent. If you have had an application that was on Consent Agenda today your request will now be scheduled for an upcoming City Council Meeting. Staff will contact you about the date, so, that others may attend the chamber please exit via the side door. If you are watching virtually you are free to exit or stay in watch. Thank you all for your participation.

Ms. Oliver: Thank you for coming down. And, now we will move on.

	AYE 7	NAY 0	ABS 0	ABSENT 4
Alcaraz	AYE			
Barnes	AYE			
Coston	AYE			
Graham				ABSENT
Horsley				ABSENT
Inman				ABSENT
Klein				ABSENT
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

CONDITIONS

1. The following conditions shall only apply to the dwelling unit addressed as 2416 Arctic Avenue, Unit B.
2. When Unit B is developed, it shall be in substantial conformance with the submitted Concept Plan entitled, "2416 Arctic B", prepared by Carroll W. Johnson, dated January 23, 2019, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development.
3. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council and shall be installed and maintained in a manner consistent with site plan approval by the Development Services Center.
4. While this Conditional Use Permit is active, parking passes issued for the subject dwelling unit(s) through the Residential Parking Permit Program (RPPP) shall be limited to two resident passes only. Guest and temporary passes through the RPPP shall not be permitted.
5. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
6. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1 (8a).
7. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes. Physical response to the site of the Short Term Rental is not required.
8. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.

a) A completed Department of Planning and Community Development Short Term Rental Zoning registration form; and

b) Copies of the Commissioner of Revenue's Office receipt of registration; and

c) Proof of liability insurance applicable to the rental activity of at least one million dollars.

9. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes. Recommended Conditions C and C Development Company, Inc.

10. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.

11. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.

12. Accessory structures shall not be used or occupied as Short Term Rentals.

13. No signage shall be on-site, except one (1), four (4) square foot sign, may be posted on the building which identifies the Short Term Rental.

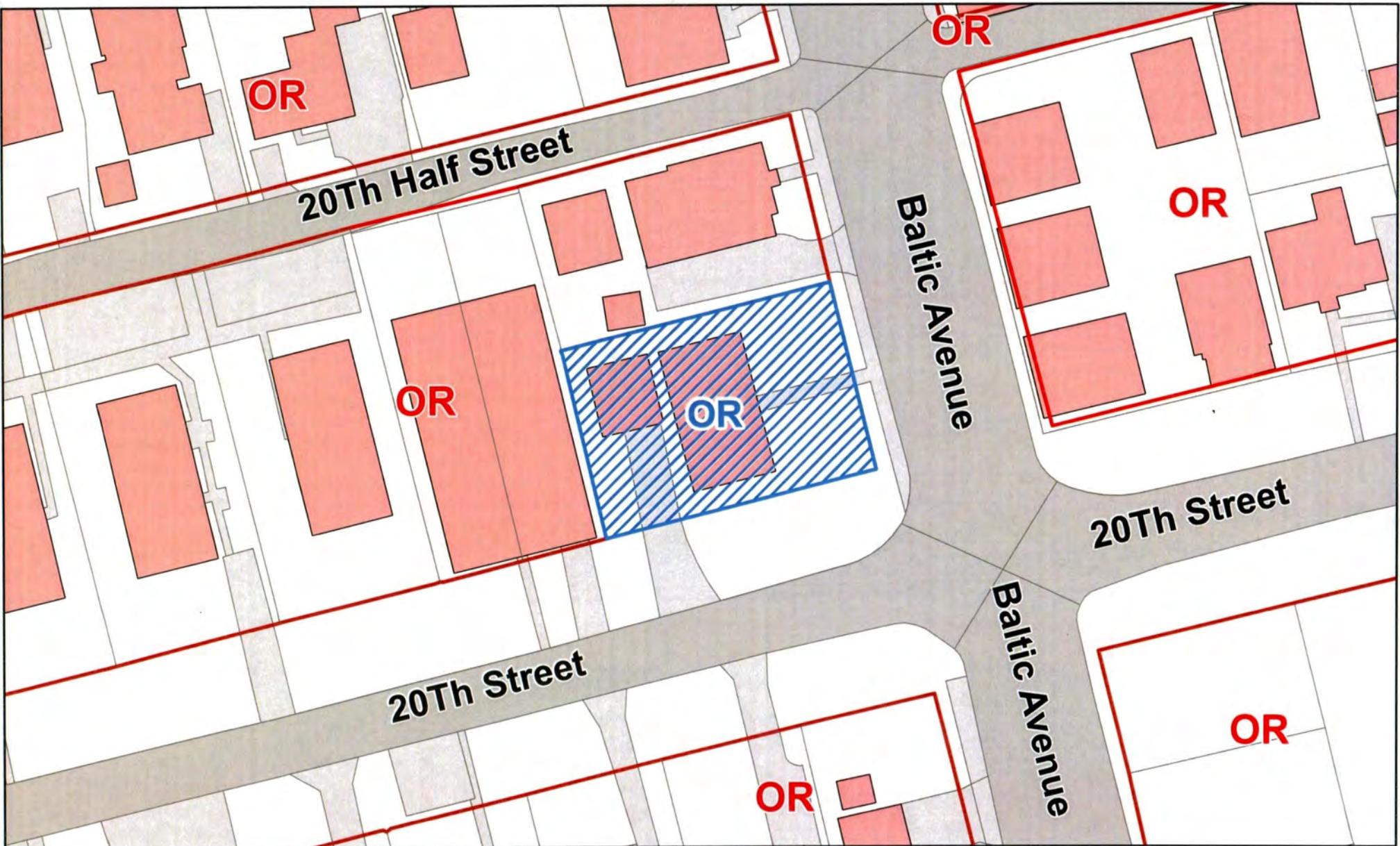
14. The Short Term Rental shall have no more than one (1) rental contract during any consecutive seven (7) day period.

15. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.

16. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.

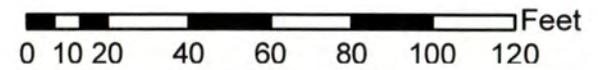
17. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom.

18. To the extent permissible under state law, interconnected smoke detectors (which may be wireless), a fire extinguisher and, where natural gas or propane is present, carbon monoxide detectors, shall be installed in each Short Term Rental.



-  Site
-  Property_Polygons
-  Zoning
-  Parking Lot Drive Aisle
- 

Stuart & Lori Goldwag
2002 Baltic Avenue, Units A & B





CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: STUART & LORI GOLDWAG [Applicant & Property Owner] Conditional Use Permit (Short Term Rental) for the property located at 2002 Baltic Avenue, Units A & B (GPIN 24270719100000). COUNCIL DISTRICT – BEACH

MEETING DATE: October 20, 2020

■ **Background:**

The applicants are requesting a Conditional Use Permit for a Short Term Rental for a two-unit duplex on a 6,636 square-foot parcel zoned Oceanfront Resort District Form-Based Code. The lot currently consists of one single-family dwelling; however, the applicants intend on demolishing the existing home and constructing two, four-bedroom dwellings totaling eight bedrooms. The applicants have stated their intent to retain ownership of both proposed dwelling units. The minimum number of parking spaces required for the Short Term Rental is one per bedroom, or eight spaces in this instance. The maximum occupancy for guests on-site after 11:00 p.m. for two four-bedroom Short Term Rentals is 24; however, at the time of this writing, the applicant agreed with City Council's recent Short Term Rental condition revision reducing the number of overnight guests permitted to two per bedroom. This change is reflected in the conditions below. However, the applicant's representative does not agree with revision that would reduce the number of bookings in a seven day period to one; nevertheless, the condition below reflects this change.

■ **Considerations:**

This site is adjacent to the ViBe Creative District, which includes a myriad of commercial and residential uses with an emphasis on arts and culture. Primarily single-family and duplex style dwellings are in the vicinity of this site; however, the lot is approximately 100 feet from a partially vacant tract referred to as *The Dome Site*, which is a City-owned property slated for a large-scale redevelopment project. In addition, this proposed Short Term Rental location is approximately 0.3 miles from the Virginia Beach Convention Center and 0.34 miles from the public beach of the Atlantic Ocean. The submitted parking plan depicts all of the required off-street parking spaces: two on-site 9' x 18' covered parking spaces (carport style) and six on-site 9' x 18' uncovered marked parking spaces. As permitted by Section 241.2(1) of the City Zoning Ordinance, the Zoning Administrator reviewed the parking plan and deemed it acceptable. Together with the requirements of Section 241.2 of the Zoning Ordinance pertaining to Short Term Rentals, a condition is recommended that limits the number of Residential Parking Permit Program parking passes to two and prohibits the issuance of guest and temporary passes

through the program while the Conditional Use Permit is active. Furthermore, recommended Condition #4 was revised at the request of Planning Commission during the September 9, 2020 public hearing. This revision, as indicated by underlined text below, added project design flexibility while ensuring compliance with the Form-Based Code. As noted above, the applicant is not agreeable to recommended Condition #15, which limits the number of rentals in a seven day period to one. Additional details pertaining to the application are provided in the attached Staff report.

One letter of opposition was received from a resident of an adjacent property. Concerns noted in the letter include the perception of parking difficulties and congestion, property value deterioration due to noise and the transient nature of neighboring Short Term Rentals, and worries of a disruptive atmosphere within a residential neighborhood.

■ **Recommendation:**

On September 9, 2020, the Planning Commission passed a motion to recommend approval of this request by a vote of 7-0.

1. The following conditions shall only apply to the dwelling unit addressed as 2002 Baltic Avenue, Units A & B, and the Short Term Rental use shall only occur in the principal structures as depicted in this application.
2. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.
3. The covered parking spaces must remain a minimum of 9-feet by 18-feet and shall remain free of materials to ensure vehicular accessibility to the Short Term Rental tenants.
4. The proposed buildings shall be in substantial conformance with the submitted Concept Plan entitled, "Crescent Court" dated 8/4/2020, prepared by Altruistic Design, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development, unless deviations are approved by the Planning Director or his designee and are in conformance with the Oceanfront Resort District Form-Based Code.
5. While this Conditional Use Permit is active, parking passes issued for the subject dwelling unit(s) through the Residential Parking Permit Program (RPPP) shall be limited to two resident passes only. Guest and temporary passes through the RPPP shall not be permitted.
6. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term

Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.

7. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two(2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1 (8a).
8. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes. Physical response to the site of the Short Term Rental is not required.
9. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
 - a) A completed Department of Planning and Community Development Short Term Rental Zoning registration form; and
 - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
 - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
10. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
11. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
12. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
13. Accessory structures shall not be used or occupied as Short Term Rentals.
14. No signage shall be on-site, except one (1), four (4) square foot sign, may be posted on the building which identifies the Short Term Rental.

15. The Short Term Rental shall have no more than one (1) rental contract during any consecutive seven (7) day period.
16. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
17. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
18. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom.
19. To the extent permissible under state law, interconnected smoke detectors (which may be wireless), a fire extinguisher and, where natural gas or propane is present, carbon monoxide detectors, shall be installed in each Short Term Rental.

- **Attachments:**
 - Staff Report and Disclosure Statements
 - Location Map
 - STR Vicinity Map
 - Minutes of Planning Commission Hearing
 - Letter of Opposition (1)

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

Submitting Department/Agency: Planning Department 797

City Manager: 

Requests

#8 - Conditional Use Permit (Short Term Rental) - Unit A

#9 - Conditional Use Permit (Short Term Rental) - Unit B

Staff Recommendation

Approval

Staff Planner

William Miller

Location

2002 Baltic Avenue, Units A & B

GPIN

2427071910

Site Size

6,636 square feet

Existing Land Use and Zoning District

Single-family dwelling / OR Oceanfront Resort

Surrounding Land Uses and Zoning Districts

North

Single-family dwellings / OR Oceanfront Resort

South

20th Street

Single-family dwellings / OR Oceanfront Resort

East

Single-family condominium dwellings / OR

Oceanfront Resort

West

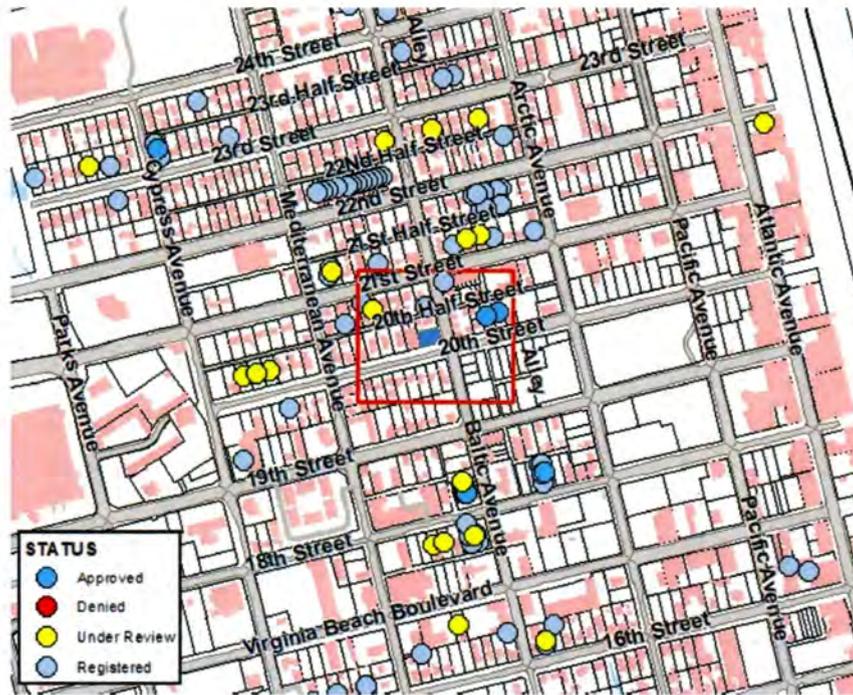
Duplex dwellings / OR Oceanfront Resort



Site Conditions and History

- This 7,000 square foot lot is located within the OR Oceanfront Resort Form Based Code District and currently contains one single-family dwelling.
- The subject dwelling is not the property owner(s) primary residence
- According to City records, the single-family home on the lot was constructed in 1959; however, it is the intent of the applicant to demolish this home and build a duplex “detached house” as defined in Appendix 1 of the City Zoning Ordinance. As per Appendix 1 of the Zoning Ordinance, a detached house is “a building type having a maximum of three stories and containing up to four dwelling units; attached at the rear, rear and side, or between stories; with private yards on all four sides.” In this instance, the detached house structure will contain only two dwelling units, both owned by the applicant.
- Staff spoke with one of the applicant’s representatives on July 20th regarding the timing of this request. Staff expressed concern relating to the submittal of this Short Term Rental request prior to the submittal of a full site plan for review by the Development Services Center division of the Planning Department. The applicant’s representative advised Staff of his client’s desire to obtain approval for the Short Term Rental use prior to finalizing a site plan. He explained that the site plan will be modified if approval for the Short Term Rental use request is not granted; for instance, less on-site parking will be proposed. Thus, his clients do not wish to contract with an engineering firm to design a full site plan since the nature of all Conditional Use Permit requests contains an element of uncertainty.
- The applicant’s representative is agreeable to the addition of a recommended condition relating to the development of the site in substantial compliance with the submitted design inspirations and architectural renderings, both of which are found in this Staff report.
- The applicant’s representative does not agree with City Council’s recently imposed condition reducing the number of bookings in a seven day period to one (recommended condition #15).
- The applicant’s representative does agree with City Council’s recently imposed condition reducing the overnight guest calculation to two per bedroom (recommended condition #18).
- Staff inspected the site on July 10, 2020 to observe site conditions and take photographs for this report.
- The property partially lies within the RPPP boundary, where parking during the evening and overnight hours is limited; however, the 2000 block of Baltic Avenue contains eight on-street parking spaces outside the RPPP controlled area. Based on this, a condition is recommended that would prohibit the occupants of the STR from utilizing the on-street RPPP restricted spaces during controlled hours.
- No records of zoning violations relating to Short Term Rental use were found associated with the subject address.

Short Term Rentals in the Vicinity



Summary of Proposal

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

	2002 Baltic Avenue Unit A	2002 Baltic Avenue Unit B
Number of proposed bedrooms in the Short Term Rentals:	4	4
Maximum number of guests permitted on the property after 11:00 pm:	8 - As recommended in condition #18	8 - As recommended in condition #18
Number of parking spaces required (1 space per bedroom required):	4	4
Number of parking spaces proposed on-site:	4	4

		Zoning History	
		#	Request
		1	ALT (Special exception for alternative compliance relating to minimum lot area and width) Approved 06/19/2018
		2	ALT (Special exception for alternative compliance to allow multiple separated building types on one lot and development deviation from the prescribed code criteria) Approved 06/07/2016 STR (Short Term Rental) Applicant withdrew request on 12/10/2019
		3	ALT (Special exception for alternative compliance to the prescribed form and criteria for a detached house) Approved 09/16/2014
		4	SVR (A variance to lot width for three proposed lots) Approved 09/06/2016
		5	ALT (Proposed construction of five detached homes that do not conform to the prescribed building type criteria) Approved 05/14/2013
		6	SVR (A variance to the requirement that all newly created lots front on a public right-of-way) Approved 10/08/2013 ALT (Request to create a lot fronting on a public right-of-way that is not assigned to a required street frontage type - 20 1/2 Street) Approved 10/08/2013
		7	STR (Short Term Rental) Approved 06/09/2020 STR (Short Term Rental) Approved 06/09/2020
		8	STR (Short Term Rental) Approved 06/09/2020
Application Types CUP – Conditional Use Permit MOD – Modification of Conditions or Proffers FVR – Floodplain Variance LUP – Land Use Plan REZ – Rezoning NON – Nonconforming Use ALT – Alternative Compliance STR – Short Term Rental CRZ – Conditional Rezoning STC – Street Closure SVR – Subdivision Variance			

Evaluation & Recommendation

The site is adjacent to the ViBe Creative District, which is home to a myriad of commercial and residential uses with an emphasis on arts and culture. The subject property is surrounded by mostly single-family and duplex style dwellings; however, the lot also sits approximately 100 feet from a partially vacant tract referred to as *The Dome Site*, which will likely be redeveloped in the near future. In addition, this proposed Short Term Rental location is approximately 0.3 miles from the Virginia Beach Convention Center and 0.34 miles, from the public beach of the Atlantic Ocean. The applicant is proposing to demolish the existing single-family dwelling located on the lot. Afterward, a duplex would be constructed and both units would be used for Short Term Rental purposes, if granted authority to do so by City Council. For clarity, the two dwelling units planned for construction will be owned by the applicants named in this request.

The submitted parking plan depicts two on-site 9' x 18' covered parking spaces (carport style) and six on-site 9' x 18' uncovered marked parking spaces. As permitted by Section 241.2(1) of the City Zoning Ordinance, the Zoning Administrator reviewed the parking plan and deemed it acceptable. Together with the requirements of Section 241.2 of the Zoning Ordinance pertaining to Short Term Rentals, a condition is recommended that limits the number of Residential Parking Permit Program parking passes to two and prohibits the issuance of guest and temporary passes through the program while the Conditional Use Permit is active. The applicant is not agreeable to recommended condition #15, which limits the number of rentals in a seven day period to one.

Recommended condition #4 was revised as requested by the Planning Commission at the September 9, 2020 public hearing.

Based on the considerations above, Staff recommends approval of this request with the conditions listed below; however, the recommended conditions reflect City Council's Short Term Rental revisions by limiting the overnight guest calculation to two per bedroom and reducing the number of bookings in a seven day period to one.

Recommended Conditions

1. The following conditions shall only apply to the dwelling unit addressed as 2002 Baltic Avenue, Units A & B, and the Short Term Rental use shall only occur in the principal structures as depicted in this application.
2. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.
3. The covered parking spaces must remain a minimum of 9-feet by 18-feet and shall remain free of materials to ensure vehicular accessibility to the Short Term Rental tenants.
4. The proposed buildings shall be in substantial conformance with the submitted Concept Plan entitled, "Crescent Court" dated 8/4/2020, prepared by Altruistic Design, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development, unless deviations are approved by the Planning Director or his designee and are in conformance with the OR form-based code district.
5. While this Conditional Use Permit is active, parking passes issued for the subject dwelling unit(s) through the Residential Parking Permit Program (RPPP) shall be limited to two resident passes only. Guest and temporary passes through the RPPP shall not be permitted.
6. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
7. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two(2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1 (8a).
8. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes. Physical response to the site of the Short Term Rental is not required.
9. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
 - a) A completed Department of Planning and Community Development Short Term Rental Zoning registration form; and
 - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
 - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.

10. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
11. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
12. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
13. Accessory structures shall not be used or occupied as Short Term Rentals.
14. No signage shall be on-site, except one (1), four (4) square foot sign, may be posted on the building which identifies the Short Term Rental.
15. The Short Term Rental shall have no more than one (1) rental contract during any consecutive seven (7) day period.
16. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
17. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
18. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom.
19. To the extent permissible under state law, interconnected smoke detectors (which may be wireless), a fire extinguisher and, where natural gas or propane is present, carbon monoxide detectors, shall be installed in each Short Term Rental.

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.

Public Outreach Information

Planning Commission

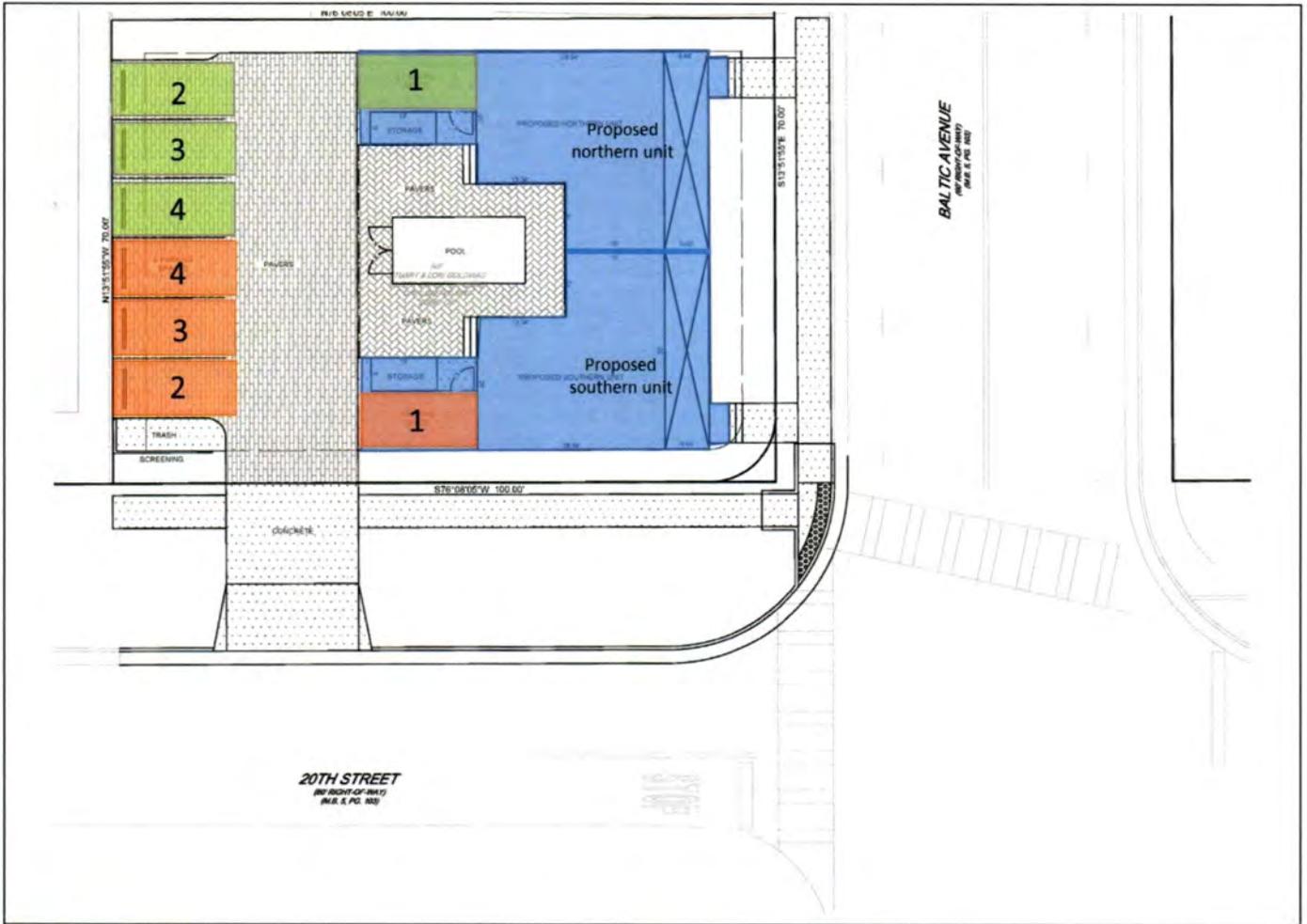
- The applicant reported that they met with the surrounding property owners, and no objections were raised. 1 letter of opposition and 3 letters of support have been received by Staff relating to this request.
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on August 10, 2020.
- As required by State Code, this item was advertised in the Virginia Pilot Beacon on Sundays, August 23, 2020, and August 30, 2020.

- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on August 24, 2020.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.vbgov.com/pc on September 3, 2020.

City Council

- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, October 4, 2020, and October 11, 2020.
- 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 October 5, 2020.
- 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 October 16, 2020.

Site Layout & Parking Plan



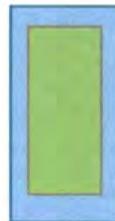
9' x 18' marked parking space



9' x 18' marked parking space



9' x 18' area within a carport/open-covered area



9' x 18' area within a carport/open-covered area

Site Photos



Site Photos



Site Photos



Design Inspirations

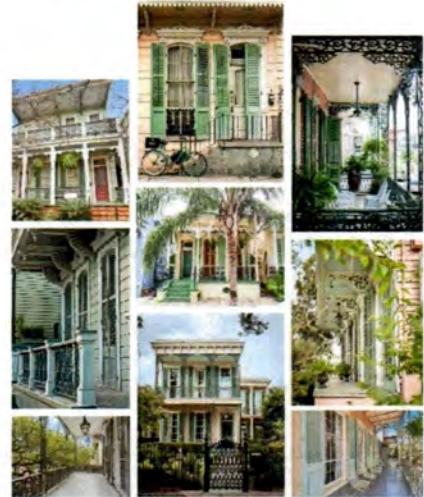
ROW HOUSE DESIGN PROPOSAL FOR 2002 BALTIC AVE.



FRONT EXTERIOR

INSPIRATION

FRONT EXTERIOR



MORE REALISTIC DESIGN

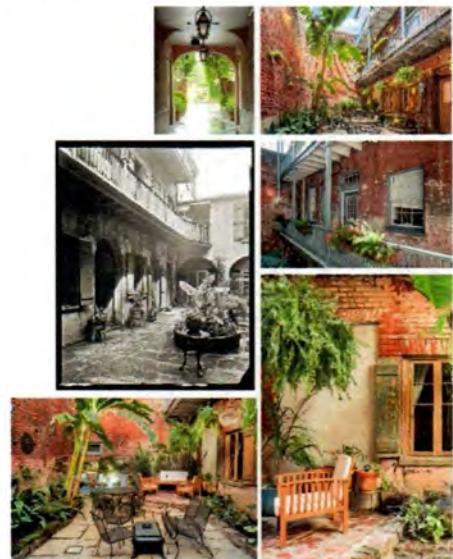
FRONT EXTERIOR



BACK EXTERIOR

INSPIRATION

BACK EXTERIOR



Architectural Renderings



SD101
PRELIMINARY
2 1/2" = 1'-0"

CONCEPTUAL DESIGN FOR
CRESCENT COURT
2002 BALTIMORE AVENUE, VIRGINIA BEACH, VIRGINIA 23461
ALTRUISTIC DESIGN



SD102
PRELIMINARY
2 1/2" = 1'-0"

CONCEPTUAL DESIGN FOR
CRESCENT COURT
2002 BALTIMORE AVENUE, VIRGINIA BEACH, VIRGINIA 23461
ALTRUISTIC DESIGN

Signage does not appear to be in compliance with the City Zoning Ordinance (CZO). If a sign is used, it must comply with Appendix A of the CZO.

Disclosure Statement



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: Stuart & Lori Goldwag
If an LLC, list all member's names:

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

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

See next page for information pertaining to footnotes ¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

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

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

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

(A) List the Property Owner's name: _____
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)*

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

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

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

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



APPLICANT

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

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

YES	NO	Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	

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

Disclosure Statement



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

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

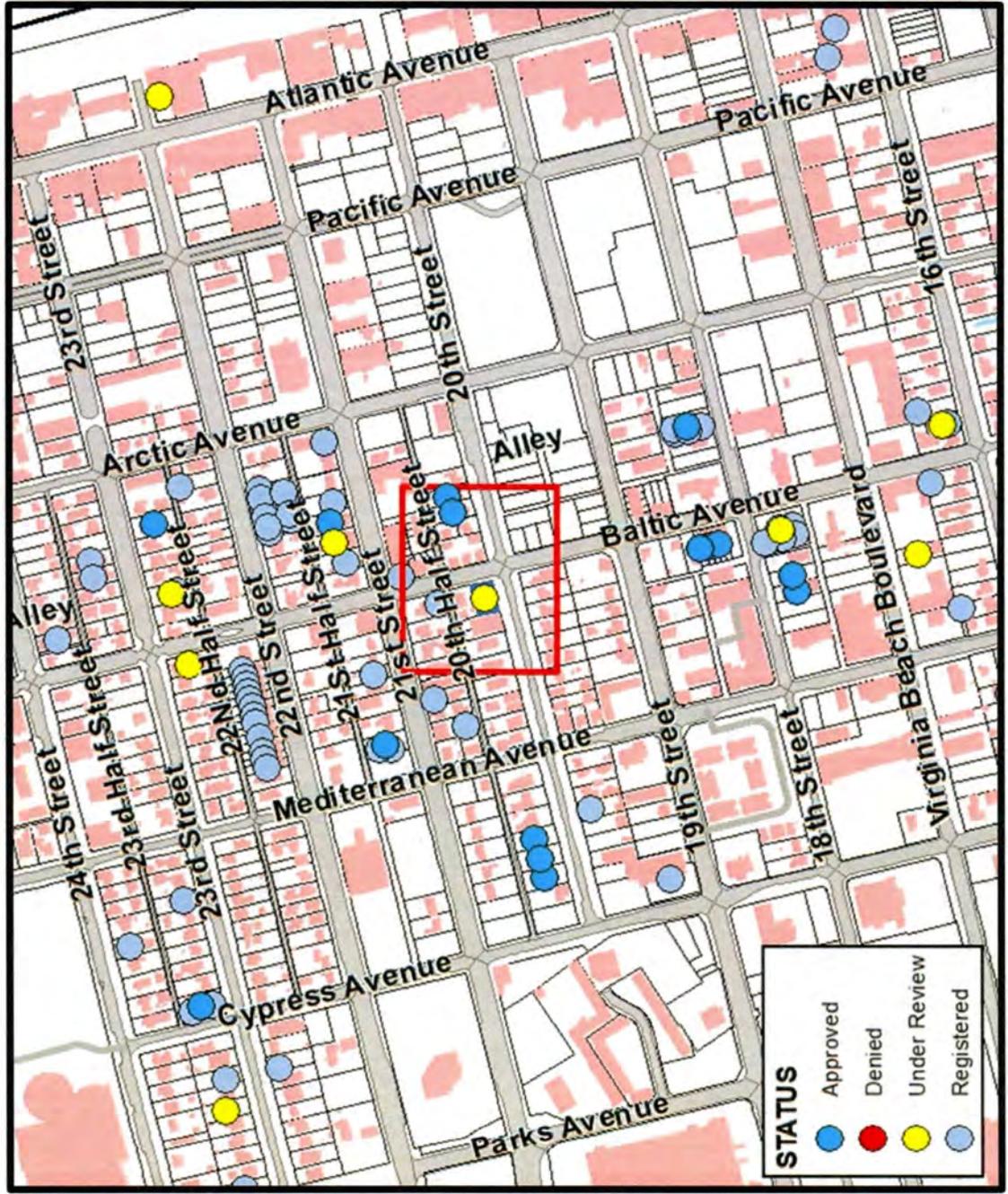
	Stuart Goldwag	6/25/20
APPLICANT'S SIGNATURE	PRINT NAME	DATE
	Lori Goldwag	6/25/2020

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.

STR VICINITY MAP

STUART & LORI GOLDWAG – 2002 BALTIC AVENUE, UNITS A & B



**Items # 8. & 9.
Stuart & Lori Goldwag
Conditional Use Permits (Short Term Rentals)
2002 Baltic Avenue Units A&B**

September 09, 2020

RECOMMENDED FOR APPROVAL- HEARD

Ms. Coleman: Yes, the next order of business is the Regular Agenda and Bill Landfair will introduced the first application.

Ms. Oliver: Right.

Mr. Landfair: Madam Chair, we have eight items on today's Regular Agenda. The first items to be heard are agenda items eight and nine, Stuart and Lori Goldwag for conditional use permit requests for Short-Term Rentals at 2002 Baltic Avenue, Units A and B in the Beach District. The applicant's representative is Eddie Bourdon. Mr. Bourdon, you have up to 10 minutes. Thank you.

Mr. Bourdon: Thank you, Mr. Landfair. Madam Chair and members of the Commission, for the record Eddie Bourdon, Virginia Beach Attorney. It is my privilege to come before the Commission this afternoon representing Stuart and Lori Goldwag, who are the owners of the subject property. This is a proposal to redevelop a 60-plus-year-old bungalow at the corner of 20th and Baltic Avenues in the OR District with a new two unit Short-Term Rental with an outdoor pool and eight onsite parking spaces. The elevations are a first blush, we will have to meet and will meet all of the requirements of the form-based code, which we are pretty close to meeting at this point. But, there will be some additional review as it goes through the DSC process with the SGA folks. I want to also thank William Miller and Zoning Administrator Kevin Kemp and Director Bobby Tajan for their tireless efforts in dealing with these Short-Term Rental issues city wide. And, as you guys know, you all have spent many, many hours over the last two plus years dealing with the issues of STRs. I thought it might be a time to get back to the foundation of our land use restrictions and that is our zoning districts. Our 1973 conventional zoning ordinance, which actually followed on 1957s conventional zoning ordinance for the town of Virginia Beach, as it pertains to this property is still to this day the basic foundation of our CZO has not changed. Almost 50 years later, there have been many tweaks and modifications to our zoning ordinance, however, and one of the most

significant ones, is the adoption just a few years ago of form-based codes in a couple of our SGAs. One of those areas is the Oceanfront Resort District, the OR District. And, this property is smack dab in the middle of it - in the Central Beach District. Now I have provided you all with a handout and I pulled some things out of the form-base code and I want to first of all read just one sentence on the first page of the handout. "The standards of form-based codes presented in both diagrams and words are key to a regulating a plan that designates the appropriate form and scale of development rather than only distinctions in uses. This is in contrast to conventional zonings focus on the micromanagement and segregation of land uses, and the control of development intensity through abstract and uncoordinated parameters to the neglect of an integrated built form." Our form-base code on the second page, given you a copy of the area that is the Central Beach District from 22nd Street on the north to 17th Street, and we are right smack dab in the middle of it on this piece of property. The next page, I got it marked and circled what the Central Beach 17th and 19th Street and Atlantic Avenues are supposed to look like someday. But, that is what we have adopted. Most importantly, after that is the height map, the frontage map, and the setback map, and, those are keys to form-base code and I have marked this piece of property on all three of those exhibits. You will note on the height map that this is half-a-block north of 20th and half-a-block south of 21st, the height is 45-feet, directly to our north and to our south (inaudible) height 75-feet of new structures. And, then to the actually west, you get all the way up to 110-feet with five foot setbacks. Not your typical suburban zoning that we have elsewhere in the City of Virginia Beach. And, as you can well understand when you look at this, and the entirety of form-based code, this was a forward looking effort to see this area substantially and significantly, and with much higher values, redevelop. So, it is not Shadowlawn, it is not Lakewood, it is not Old Beach, and it is not Sea Pines. All of those areas still have conventional zoning. This area does not. And that is a distinction that cannot be over stated. The Gateway Streets 21st, 22nd, 17th, and 19th all have large commercial components. This is not yours and mine growing up residential neighborhood. This is an area that is intended to be highly developed, very, very, highly developed. The Goldwags are looking at investing well over a million dollars. The value of this property will go up at least 200%, probably closer to 300% with the redevelopment of this piece of property and you have already seen redevelopment take place across the street at Baltic and 21st Street, a large condominium complex that was built before we ever adopted form-based code because the City has been pushing and pushing

to see this area redeveloped. And that is exactly what this represents, that is exactly what the City Council approved. As you go out of the Ocean Front on 22nd Street, Jerry Miller, all that development of Short-Term Rentals transformed 22nd Street and that was all with City Council approval prior to form-base code; all Short-Term Rentals. So, the reason I bring all this up is that this is not like the other areas of the City that you will have to deal with. This is a very unique, and as Staff correctly indicates, exactly where Short-Term Rentals need to be. We are three-and-a-half blocks, at most, from the ocean, from the pavilion, from the new sports center, from the Vibe District, and we are about 70-feet caddy corner across Baltic Avenue from the dome site, where we hope to have yet another very substantial commercial development. This is not Old Beach, this is not ShadowLawn, plain and simple. And, staff correctly notes that is exactly where a Short-Term Rental should be. Now, I know this was going to be on the Consent Agenda, but my clients who are making this investment, and frankly others in this area that should be making the investment, do not believe that it is appropriate, as it may very well be in other more conventional zoned areas, for there to be this one rental per week restriction. Now, I know the idea of Council may change that to 52 rentals a year, which builds in flexibility, but we do not know that and you all are here to advise City Council, not to presume what City Council is going to do. And, I would ask that you all individually decide what you think is the best way to handle a Short-Term Rental in an area of the City that is not conventionally zoned and where we are absolutely pushing complete and total redevelopment. The other condition that also should not apply here is the five year limitation. Why again? Why it's about form and not about micromanaging uses. If you meet all the criteria, and you will abide by the requirements, then there should not be a five-year limitation in the OR District, a big difference. And that is something that I do not think has been discussed quite enough, and may not change what you all recommend, but we want to put it on the record that this is totally different than the other areas that have conventional zoning. This is an area where we have adopted a code that says we want to incentivize huge development in this area, in terms of large buildings up on the road, we just had a presentation about cafes in the public right away. This is the area where that is perfectly okay to do and (inaudible) on a Short-Term Rental. But that is again, it is completely different than the suburban neighborhoods we have gotten and we still have at some parts at the Oceanfront and that is something that I think needs to be a part of this discussion. We hope that you will recommend approval as Staff has recommended, as we were going to do this morning, but would consider

those two conditions, the five-year limitation and the one per week which is a lot less flexible than what may happen. But, we do not know what is going to happen when it gets to City Council with their overlay. I would be happy to answer any questions.

Ms. Oliver: Thank you, Mr. Bourdon. Do we have any questions for Mr. Bourdon?

Mr. Wall: Yes.

Ms. Oliver: Yes, Jack.

Mr. Wall: I have got a couple questions about the form.

Mr. Bourdon: Thank you, I was hoping that you would ask.

Mr. Wall: There is a third story, can you describe a little bit about the material or what the character of that.

Mr. Bourdon: Sure, I will be happy to, but first I want to say is, this is a first blush, I have talked to my clients and it is not going to wind up looking like this. The architect was trying to bring in a New Orleans look and I do not think my clients are sold on it, and certainly, I am not. So, not that my opinion matters, but that third floor is probably not going to look like that and that is what the form-base code and the City's review will take into account. This was just to put something out there. The front will, I think there probably needs to be some shutters and some other additions to the sides as well. But, this was a process to get the Short-Term Rental use out there. But, I heard your comments earlier and I have already made those similar comments myself Mr. Wall, but the third floor will not, it is not going to be that dark color and it is probably not going to have a flat roof on it. It does not need to, again, we have a 45-foot height limit, not a 35. I think the architect believes that there was 35, but did not realize it was not in a standard residential district in Virginia Beach. So, it is going to be more attractive than what that third floor looks like I can assure you.

Mr. Wall: Okay. It looks like you have missed the buildings on that street, do you have a pitched roof?

Mr. Bourdon: Yeah, that flat roof I think was because of the mistaken belief that there was a 35-foot height limitation. And, it is that third floor design that's going to be modified. I think the front looks great, but we have to put the wide sidewalks in there, etc. And, I think there should be a little bit of dressing up at the side elevation, but the third floor is going to be changed, there is no two ways about it.

Mr. Wall: And, I am fine with that. The only thing is that we have condition number four that says that the proposed building shall be in substantial conformance with the submitted concept plan prepared by this exhibited to the City Council and is on file.

Mr. Bourdon: I think it should be modified to read and in accordance with the requirements of form-base code. I think there needs to be more. I think it is called, it is not called glass, but there needs to be I think more windows and others on the side as well. And, the third floor is not going to look like that third floor.

Mr. Wall: And, I guess, then this question would be for the Planning Staff. Can we edit that if it gets to you, when we get to that point, can it be edited, stated that the proposed building shall be in substantial conformance with I'm guessing the form-based code if that aligns with it.

Mr. Tajan: Yes, Mr. Wall. If it is the will of the Commission to edit the condition, we can do that.

Ms. Oliver: Which one is that Jack?

Mr. Tajan: That is condition number four.

Ms. Oliver: Okay. Got it. Does anyone else have any questions? Yes, David.

Mr. Bourdon: Thank you, Commissioner Wall, I appreciate the question.

Mr. Weiner: Mr. Bourdon, I do not know if you were there a couple weeks ago, at 1 o'clock in the morning.

Mr. Bourdon: I was there till 11:30. I got the pleasure of leaving before you all did.

Mr. Weiner: But, at 1 o'clock in the morning, we had the same discussion with an applicant that said his Short-Term Rental was not deserving of one per seven days and in a (inaudible) location. And, I disagree with them and I know how you feel. But, I disagree with them in this, the way we are, we are going to be consistent about it, at least I am. And, I have told you that I really liked that, I do. But, I am all for even making a motion for approval, but it is going to be one per seven days.

Mr. Bourdon: It is up to the Commission, I am not here to argue with you. I am just here to get information out there and I appreciate what everyone's thoughts on the subject are.

Mr. Weiner: Okay.

Ms. Oliver: Mr. Bourdon, can you flip back to the street, the side street view on their renderings.

Mr. Weiner: Can you show us the back as well.

Ms. Oliver: Right there. Signage, what is the deal with that?

Mr. Bourdon: Yeah. Because the form-base code, the screen wall is there.

Ms. Oliver: Oh, I get the wall?

Mr. Bourdon: Right, and they just like that, the artist put that on there. There would not be a sign frankly, unless there is a change to the ordinance there would not be any signage there.

Ms. Oliver: I was just, wanted to say

Mr. Bourdon: What I think there is been discussion of, I think the Commissioner of the Revenues Office would like to see, but we would typically put that by the front door, is a little sign with the contact information for the agent and all that, so. But, there is not going to be a sign there.

Ms. Oliver: But, not like that.

Mr. Bourdon: No, I do not think it will be a sign at all and in that fact I think that is what the note at the bottom is saying.

Ms. Oliver: I can't read it that close, I am sorry.

Mr. Bourdon: Yeah, I understand. But, there is no sign and that is what that note is saying, that it is not in compliance with the code.

Ms. Oliver: Oh, okay. Thank you.

Mr. Bourdon: Yeah, there is. Good catch.

Ms. Oliver: Yeah. Okay.

Mr. Bourdon: Again, this was done to get the conversation.

Ms. Oliver: Got it. It is good. Thank you. Mr. Redmond has some questions.

Mr. Redmond: No, I do not have questions. I am sorry, I jumped the gun.

Ms. Oliver: Okay. Alright. Thank you.

Mr. Wall: I have one more.

Ms. Oliver: Oh, Mr. Wall has one more, Mr. Bourdon.

Mr. Wall: This does not sure have a lot of teeth to it, but you need to add a condition then to the maximum extent practicable that the site is developed in a way to maintain existing landscaping.

Mr. Bourdon: I am sorry, maintain?

Mr. Wall: Existing landscaping. Mature landscaping.

Mr. Bourdon: I f it's practical I am fine with that.

Mr. Wall: So, that means there is some mature trees.

Ms. Oliver: Yeah, there is a huge tree on that lot.

Mr. Wall: Huge tree.

Ms. Oliver: In between that and the house north of.

Mr. Wall: There is one right on the corner.

Mr. Alcaraz: The applicant's site plan.

Mr. Bourdon: I do not know how much, given what the development is supposed to be in this area, how much it is going to, but that particular tree is probably in the right of way.

Mr. Weiner: In the right of way.

Mr. Bourdon: Right. And, we could not take that down. That would be up to the City as to whether. But, that is correct, but onsite I certainly do not know that there is anything onsite that is likely to be able to be retained, but that condition is not a problem because if it is practical. Because, we have to have the eight onsite parking spaces and obviously, it takes up a lot of site.

Ms. Oliver: Thank you.

Mr. Bourdon: You are welcome. Thank you.

Ms. Oliver: Anything else for Mr. Bourdon.

Mr. Alcaraz: No, sorry. Mr. Tajan.

Ms. Oliver: Okay, thank you.

Mr. Alcaraz: In the OR District, I consider different and I know we had our, I guess you call, our workshop here. He said that they might go 52 a year, is there a max on that per week.

Mr. Tajan: No, again we are just in rough draft stages, but what was handed out to Council yesterday is 52 rentals per year.

Mr. Alcaraz: Where I am lost, as I thought when we made the recommendation, it was two for the OR and the Overlay District. I thought that is what we voted on.

Ms. Oliver: No, it was.

Mr. Alcaraz: Now, I am hearing is 52 max overall a year.

Ms. Oliver: That is what they are in discussions about now, what we voted on, and correct me if I misspeak, what we voted on a couple of weeks ago was that it was going to go two per room. Parking had to be onsite and one rental per week. And that is where we are right now, and that is what we voted on, and that is what went to Council. Now Council, as we have seen in the last month. I am going to officially close this Commissioners, but as we have seen this last month (inaudible). We have more speakers.

Mr. Landfair: Madam Chair, we have one speaker signed up to speak, Kathy Runkle. Ms. Runkle please state your name for the record.

Ms. Runkle: Kathy Runkle, again I live at 316, 26th Street. Interestingly enough, probably in 2015, the house next door to me, the guy decided to rent it out as a Short-Term Rental, and the house behind me decided to rent it out as a Short-Term Rental. As one might imagine, I was not thrilled about it because you had the fear of the unknown. As it turns out, having families in Virginia Beach vacationing as my neighbors was a wonderful experience. The next year and I think that is part of the challenge is people are fearful of the unknown they are afraid to have it as their neighbors. We had someone show up at the Resort Beach Civic League, and she said I have them behind me, next door, across the street, and I love it. So, it is interesting perspective but the next year he decided to sell the house. So, I bought the house next door to me and I made it a Short-Term Rental. And, I am only speaking now because I know the condition on this particular item is renting it one-time per week. So, I went through my personal records for four years; for 2016, 2017, 2018, and 2019. When I could have before November of last year, I could have rented it every day. So, in theory I could have rented it 365 times a year. And, then when you look at doing it twice a year, I know if the Resort Beach Civic League they are like happy that is 104 families

coming and going every year. But, that is not reality, I had each year between 20 and 23 rentals a year. So, people came in 20 to 23 times, and the average stay was five times. So, allowing someone to rent it twice a week or three times a week, I mean it does not mean they are coming and going every day. And, part of that is because of the cleaning fee they are paying. Most people do not want to come for two days and pay a \$200 cleaning fee on top of the rent. So, I think it is a lot, and unfortunately I was out of town a couple weeks ago when you guys talked about these subjects all night long, but I thought well, since the subject came up on this particular property, I would just speak up now and it sounds like we might have modifications but, I mean, the suggestion of 52 times a year, I mean I think that is a great alternative. But, I just wanted to say just because somebody wants to do it more than once a week, does not mean every single week they are going to have families coming and going twice a week, like that is not reality in the Short-Term Rental world out there. So, thank you.

Mr. Alcaraz: I got one question.

Ms. Runkle: Sure.

Mr. Alcaraz: What is your window when you start and when you end your season of rentals.

Ms. Runkle: I could rent it all year long, but it stays vacant in the winter if I do not get somebody in there. I mean, I actually have had families who want to rent it in the winter, but they want to pay 1500 bucks. It is not worth the risk to me to have somebody in there in the winter for 1500 bucks a month. And, there is the wear and tear and the furniture and the possibility of destruction, when in June I can start getting \$3,000 a week. Interestingly enough, in April every single one of my reservation cancelled because of COVID. So, I rented it out annually starting June 1, because there was this unknown right. Unfortunately for me, the season has been great for Short-Term Rentals and everyone is fully booked. There is no empty properties at the Oceanfront, which has been great. And, last thing I am going to say a little bit on a different subject, we spend a ton of time in Virginia Beach worrying about Short-Term Rentals and there is a much bigger problem in Virginia Beach down at the Oceanfront, but the destruction, the violence, the disruption and I can tell you those people are not staying in Short-Term Rentals. To me, Short-Term Rentals are not the biggest problem in Virginia Beach right now. It is the destruction going on down at the Oceanfront. So, thank you.

Ms. Oliver: Where are your short-term.

Ms. Runkle: I am on 26th Street. So, I live in 316 and I rent out 318.

Ms. Oliver: You are on 26th Street.

Ms. Runkle: Yeah, between Arctic and Pacific.

Ms. Oliver: Okay.

Ms. Runkle: Yeah. So, it is interesting because the people that moved in long-term, they came from Shore Drive and the first Saturday night, they rode their bikes, from 26th Street to Dairy Queen and they came back and the husband said his wife was petrified going down Atlantic Avenue. I actually said if I was renting it out to short-term renters and between taxes and cleaning fees and all that, they are spending about \$3,800. I would be embarrassed that they did not feel safe to go down to the beach. So, I mean I was kind of glad I was not doing it because it has not been a great environment. I know that is a different subject, but I do not think those people are in our Short-Term Rentals.

Ms. Oliver: Got it.

Ms. Runkle: Thank you.

Ms. Oliver: Thank you very much.

Mr. Landfair: Madam Chair, there are no more speakers.

Ms. Oliver: Alright. So, I jumped the gun on you Bill on that one. I will close it the hearing and open it up to the Commissioners right now. So, anybody want to go, Mr. Redmond.

Mr. Redmond: Yeah, Mr. Bourdon makes a really good point and I do not think we have discussed it yet or at least I have not seen it, and that is the nature of the Short-Term Rentals in the context of form-based code. And, this is a very helpful document that he passed out. I remember, I was here of course when we did form-base code, and that was the whole point; it is in the ordinance and is that it is the form, not the use that has primacy. It is the form that you are going for in the built environment, whether it is a nail shop or a cafe or residence that is not really what it is supposed to be about, it is supposed to be about the built environment, but within the Short-Term Rental debate, of course it is 100% of the use. The whole topic is the use and not, is there more trash from that or longer-term rent, well it is just the use itself has become everything. So, that reality is quite completely

conflicting with form-based code and that is in our ordinance. So, I think we really need to think about that. I mean, not just us, I mean City Council, us as a community understand this because that was a real advance on our zoning ordinance. I will also say that he made the point, others have made the point, that Short-Term Rentals are causing redevelopment. They are the reason that certain places are redeveloping and this lady here said it quite well I think earlier. What in the world is so admirable about that house that is sitting right there on our screen. I do not know why in the world we would not want to have that property redeveloped. And if form is that which has primacy within the form-based code, it seems to me you are talking about an improvement. I do not like the idea of very frankly the City Council is using the conditions, the conditional use permit part of the application, as though it is the ordinance. The ordinance says one thing, they are acting in a different way with regard to the number of people in a bedroom and the number of rentals. Just put in the ordinance, as I think frankly is the straighter and more honest way to go about that. Otherwise, the law says one thing and you act a different way, I do not know how people can trust laws that are written that way and we ought to have trust within our law. So, I think that ought to be (inaudible) you might think that. You could probably write up an ordinance this afternoon and put it on their desks that would accomplish that. And, maybe that is common, but I do not think that's the right way to go about it. So, I think he has kind of hit, I think, on some important points in that regard, and this debate is nowhere near over, of course, it is the first time I heard about the 52 times a year thing, that seems to me to make a heck of a lot more sense, which is why I think I have got to take a breath and understand some things that do make sense. But, I think he has raised some very good and interesting points there that we ought to think about as a community, because they do make sense. Thank you.

Ms. Oliver: You are welcome. Mr. Weiner, what do you want to say, did you want to say something.

Mr. Weiner: Mr. Tajan doesn't that go in to council next week, one per seven in two per bedroom.

Mr. Tajan: So, I think we may be getting some of the things confused. The Old Beach recommendations did not include.

Mr. Weiner: It did not include.

Mr. Tajan: It did not include that. What is confusing about it is that we were reviewing those when Council imposed the new conditions of two people per bedroom and one rental per week.

Mr. Weiner: Okay, I thought we did. I do not remember the lady's name and thank you very much it was really enlightening and I kind of thought about it a little bit, but you are 100% right, even if we do 52 a year, there is no way you are going to get three or four in a week, this is not going to happen. But, until that 52 a year comes out, it is not in front of us right now. So, I am still going to stick with the one per seven days.

Ms. Oliver: Anybody else? I have to say, the applicants have done a great job as far as their drawing, their rendering of what they would like to do, and I appreciate the form-based code, but we have found down in that district the form-based code has its own issues, as it is been applied to other buildings down there. But, it is great drawing. But, we have voted on the once a week and we did come to terms with how many per bedroom and that is what we have agreed on and I need to stand by that because that is where we are. And, we can debate, I feel like we can debate all day about form-based code and then all of those things and what it should be and what we would like to see or whatever, but that is where we are today and we have asked all these other applicants adhere to those that we put in place and it would not be fair, or at least personally I do not think it would be fair, to change the rules in the middle of the road, just for this. And, then you have to look at it as in the OR section is catty corner to probably what will one day hopefully be a waterpark, but then you have a letter from the people as Bill and I stood there and looked, that is everything west of that is not Short-Term Rental. It is their homes and then the people here write a letter that they are right behind it and are concerned that this a hotel, what is this kind of thing and so you want to be respectful of the neighbors as well going forward, but you certainly want to see them develop the piece of property as nicely as they are and I am assured that they will run a very, very nice Short-Term Rental, but I am at one week, unfortunately. So, with that we are going to need a motion.

Mr. Redmond: Excuse me.

Ms. Oliver: Yes, sir.

Mr. Redmond: Before you do, can I make one more point.

Ms. Oliver: You sure can.

Mr. Redmond: We had just a brief discussion about these elevations here, I just throw out I am not at all opposed to the idea of something on the street that looks a little different. The idea that you have that third level is flat and has some different things, all too much of our stuff is kind of looking all the same these days and a little bit of originality is not a bad thing in some places. I am not sure that is it, I am just saying the idea this has to look like everything else on the street is, I do not think, is where we ought to go with this stuff, we ought to have some diversity within the built environment, needs to be attractive and well done and all that stuff, but you know we have got to have more than the same look and stuff. Thank you.

Ms. Oliver: Alright. Well, I need a motion.

Mr. Wall: I will make a motion for approval.

Ms. Oliver: With once a week.

Mr. Weiner: The conditions now are once a week. It is what is in here, but Jack said.

Mr. Wall: I mean I would like to make, I mean it does not mean that they have to change it. It is just that it has to be in accordance with the form-base code and I am not sure what the architectural standards are within the, I will be honest, I am not really sure what their standards are.

Ms. Oliver: I will ask this, the guidelines for this area, there are set guidelines, are they set guidelines as in form-base code, or they set guidelines as an Old Beach Guidelines.

Mr. Tajan: It is not like Old Beach Guidelines, so it is said similar to what Mr. Bourdon provided to use the essentially the massing that they are allowed to have.

Ms. Oliver: Okay.

Mr. Tajan: And, so there are some, it will need to get reviewed for compliance with that code.

Mr. Wall: Okay, and one thing about the condition as it is written is that it will look like the elevation views that are within this application. And, I am not necessarily opposed to it, it looks a little odd you have a deck and the front of the building on the second floor above the second floor. So, it looks a little odd for the architecture that is currently along the street in my opinion, but I think that if we add some flexibility in there, then it is not so rigid as to say that it is going to look like this elevation view in the application.

Mr. Tajan: Can I take a stab at that for you, Mr. Wall.

Mr. Wall: Sure.

Mr. Tajan: So, at the end of the sentence on file of the Department Planning Committee Development unless deviations are approved by the Planning Director or his designee in accordance with the OR form-base code.

Mr. Wall: Thank you. Can you say it again Mr. Tajan.

Mr. Tajan: Yes. I am going to look at Mr. Kemp to make sure he is okay with that condition. I am sorry, given once I am writing it down as well while we are doing this. Okay, so, as it currently reads the proposed building shall be in substantial conformance with the submitted concept plans entitled crescent code dated August 4, 2020, prepared by altruistic design, which has been exhibited and is on file with the Department of Planning Community Development, unless deviations are approved by the Planning Director or his designee and are in conformance with the OR form-based code district.

Mr. Bourdon: That is perfectly agreeable to the applicant.

Mr. Weiner: That is the motion.

Mr. Wall: Okay. Alright, and that is fine.

Ms. Oliver : Is that alright. You do not like that.

Mr. Wall: I could do it again, it just says it is going to be this way unless those deviations are approved by the City Staff, which is That is fine, it gives them the flexibility to make any deviations that they feel appropriate, but it does not necessarily change the form of the building and the way that it looks currently. Yeah, let us move forward. That is fine.

Ms. Oliver: Okay. Alright. So, we have a motion on the floor, by Commissioner Wiener to approve the application with the addition of the condition and as a one rental per week. Do I have a second please?

Mr. Wall: Second.

Ms. Oliver: Thank you, Commissioner Wall. Will you call for the question please.

Ms. Coleman: Sure. If you are in favor of the motion say, yes, and, if you are opposed say, no. Mr. Alcaraz.

Mr. Alcaraz: Yes.

Ms. Coleman: Mr. Barnes.

Mr. Barnes: Yes.

Ms. Coleman: Mr. Coston.

Mr. Coston: Yes.

Ms. Coleman : Mr.Graham, Mr. Horsley, Mr. Inman, and Ms. Klein are all absent.
Mr. Redmond.

Mr. Redmond: Yes.

Ms. Coleman: Mr. Wall.

Mr. Wall: Yes.

Ms. Coleman: Mr. Wiener.

Mr. Weiner: Yes.

Ms. Coleman: Ms. Oliver.

Ms. Oliver: Yes.

Ms. Coleman: By recorded vote of seven for and zero against, agenda items eight and nine are hereby recommended for approval by the Planning Commission with the notations to condition number four to include changes to add address deviations and conformance with the form-base code

Ms. Oliver: Okay.

	AYE 7	NAY 0	ABS 0	ABSENT 4
Alcaraz	AYE			
Barnes	AYE			
Coston	AYE			
Graham				ABSENT
Horsley				ABSENT
Inman				ABSENT
Klein				ABSENT
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

CONDITIONS

1. The following conditions shall only apply to the dwelling unit addressed as 2002 Baltic Avenue, Units A & B, and the Short Term Rental use shall only occur in the principal structures as depicted in this application.
2. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.
3. The covered parking spaces must remain a minimum of 9-feet by 18-feet and shall remain free of materials to ensure vehicular accessibility to the Short Term Rental tenants.
4. The proposed buildings shall be in substantial conformance with the submitted Concept Plan entitled, "Crescent Court" dated 8/4/2020, prepared by Altruistic Design, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning & Community Development, unless deviations are approved by the Planning Director or his designee and are in conformance with the OR form-based code district.
5. While this Conditional Use Permit is active, parking passes issued for the subject dwelling unit(s) through the Residential Parking Permit Program (RPPP) shall be limited to two resident passes only. Guest and temporary passes through the RPPP shall not be permitted.
6. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
7. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two(2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1 (8a).
8. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is

available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes. Physical response to the site of the Short Term Rental is not required.

9. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date. a) A completed Department of Planning and Community Development Short Term Rental Zoning registration form; and b) Copies of the Commissioner of Revenue's Office receipt of registration; and c) Proof of liability insurance applicable to the rental activity of at least one million dollars.

10. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.

11. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.

12. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.

13. Accessory structures shall not be used or occupied as Short Term Rentals.

14. No signage shall be on-site, except one (1), four (4) square foot sign, may be posted on the building which identifies the Short Term Rental.

15. The Short Term Rental shall have no more than one (1) rental contract during any consecutive seven (7) day period.

16. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.

17. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.

18. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom.

19. To the extent permissible under state law, interconnected smoke detectors (which may be wireless), a fire extinguisher and, where natural gas or propane is present, carbon monoxide detectors, shall be installed in each Short Term Rental.

Further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid. The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.

From: [Planning Administration](#)
To: [William N. Miller](#)
Subject: FW: 2002 Baltic Ave Rebuild Project
Date: Monday, July 27, 2020 12:07:40 PM
Attachments: [image001.png](#)
[image002.png](#)

Hi Will,

See email of opposition received in the Planning Administration inbox on today, 7/27/2020 for Stuart & Lori Goldwag (CUP -STR).

 **Marchelle L. Coleman, City Planner II**
City of Virginia Beach
Virginia Beach Planning & Community Development
Planning Administration Division
2875 Sabre Street, Suite 500
Virginia Beach, VA 23452
(757) 385-8557 (Direct)
(757) 385-4621 (Office)
mcoleman@vbgov.com



From: RONALD HOTTLE <hottles5@comcast.net>
Sent: Monday, July 27, 2020 11:42 AM
To: Planning Administration <PlanAdmn@vbgov.com>
Subject: 2002 Baltic Ave Rebuild Project

CAUTION: This email originated from outside of the City of Virginia Beach. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Last week, a couple stopped by our home at 505 20th Street wanting us to sign a paper supporting a short term rental project next door to us. The house currently on the property has been rented for many years to a family who take excellent care of it. The plans are to tear it down and put up a 2 unit "motel".

We are very much opposed to this plan. All the homes around 2002 Baltic are either owner occupied or rented for the long term. We do have some short term rental, legal or not, in the next block. In addition to all the activity it involves, we are concerned about our property value. We used to live in an area that allowed short term rentals. The people came to have a fun time, which we understand, but it was not compatible with working people.

Please advise if this letter has not been sent to the proper place. I will resend it.

Thank you for your consideration.
Sincerely,
Ron and Karol Hottle

September 4, 2020

To: City of Virginia Beach Planning Department

Concerning: Conditional Use Permit GPIN 2427071910

On August 27th, we received official information concerning a public hearing on the above property. We were aware that the property owners wanted permission to build short term rentals in a residential zone. We want to go on record opposing the change.

Our home is located directly behind the proposed new construction. We would probably be the most affected of all homeowners in the area. We purchased our home with the idea of being in a relatively quiet area while still having easy access to the beach. I believe all our neighbors are either home owners or long term renters.

We have several concerns:

1. Property values. Short term rentals, with the noise and constant activity, will not make our house attractive to future buyers.
2. Parking. While we have reserved parking on 20 ½ Street, it is often difficult to find legal parking for friends and visitors.
3. Noise and activity: Once 19th Street is opened, 20th Street should be quiet again.
4. Competition with established hotels. There are plenty of hotels along Atlantic and Pacific. Why disrupt the atmosphere of a residential area with short term rentals?

We know many of the single story homes on 20th Street will eventually be torn down and replaced with more expensive coastal-style homes. You can't stop progress, but is commercialization of this area really what the city wants?

Respectfully,

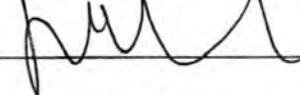
A handwritten signature in cursive script that reads "Ron and Karol Hottle". The signature is written in black ink and is positioned above the printed name.

Ron and Karol Hottle

2002 Baltic Ave Rebuild Project

We are in support of this project for Two Short Term Rentals as presented by Ownership of the property located at 2002 Baltic Ave, Virginia Beach VA 23454.

Name: Jamie George

Signature: 

Date: 1.20.20

Address: 507 20th St
VA Beach VA 23451

2002 Baltic Ave Rebuild Project

We are in support of this project for Two Short Term Rentals as presented by Ownership of the property located at 2002 Baltic Ave, Virginia Beach VA 23454.

Name: Michael Emig

Signature: 

Date: 7/19/2020

Address: 523 20th St
Virginia Beach, Va 23451

2002 Baltic Ave Rebuild Project

We are in support of this project for Two Short Term Rentals as presented by Ownership of the property located at 2002 Baltic Ave, Virginia Beach VA 23454.

Name: Domingo Rivera

Signature: 

Date: 7/19/2020

Address: 433 20th St
VB VA 23451

From: amccorkle@sykesbourdon.com
To: [William N. Miller](#)
Cc: [stuart.goldwag](#); [Erik Polumbo](#)
Subject: STR/CUP Goldwag; 2002 Baltic Avenue Units A & B in the OR Zoning District; Planning Commission public hearing 9/09-2020
Date: Tuesday, September 8, 2020 12:23:46 PM

CAUTION: This email originated from outside of the City of Virginia Beach. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Will

As a follow up to my voicemail message, my clients are not objecting to recommended conditions #7 and #18 which limit the occupancy to two (2) persons per room.

We are seeking to modify condition #15 to the original no more than two (2) rentals per week. Unlike the overwhelming majority of the STR/CUP Applications, this property is in the Ocean Front Resort (OR) Zoning District at the northwest corner of Baltic Avenue and 20th Street. It is diagonally across Baltic Avenue from the DOME SITE. It is one block from the principal Gateway to the Oceanfront (21st Street a Gateway 1 road) and one block from the second major Gateway 19th Street which doubles as a shopping 2 street.

This area is designated the Central Beach District. Buildings are only to be setback 5 feet from the rights of way and building heights from 22nd to 18-1/2 Streets are allowed up to 75 feet (with the only exception being the lots along 20th Street which are allowed to be 45 feet in height).

The Vibe District along 17th Street is yet the third Gateway street within three (3) blocks.

This property is surrounded by the Convention Center, the Field House, the Dome Site and the Vibe District. The Beach is 3-1/2 blocks to the east.

Eddie Bourdon

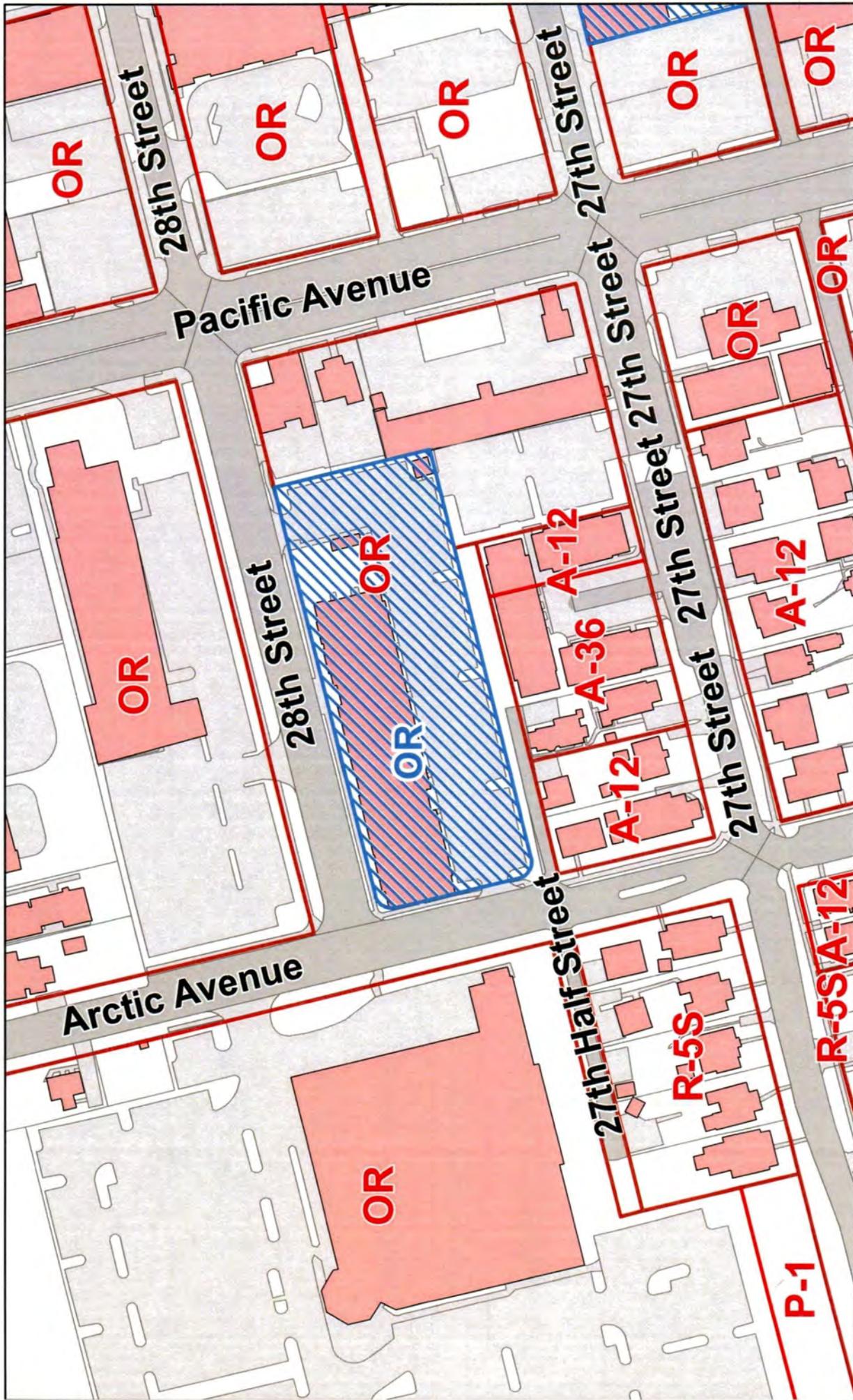
Anita R.H. McCorkle, Legal Secretary to
R. Edward Bourdon, Jr., Esquire
Sykes, Bourdon, Ahern & Levy, P.C.
4429 Bonney Road
Suite 500
Virginia Beach, Virginia 23462
Phone: 757/499-8971
Direct: 757/965-5015
Facsimile: 757/456-5445 or 757/671-1454
Email: amccorkle@sykesbourdon.com

NOTICE: WE HAVE MOVED - our new location/address is:

Sykes, Bourdon, Ahern & Levy, P.C.
4429 Bonney Road, Suite 500
Virginia Beach, Virginia 23462

ALL PHONE NUMBERS WILL REMAIN THE SAME.

THE INFORMATION CONTAINED IN THIS MESSAGE IS ATTORNEY-CLIENT PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE ERASE ALL COPIES OF THE MESSAGE AND ITS ATTACHMENTS AND IMMEDIATELY NOTIFY SYKES, BOURDON, AHERN & LEVY, P.C. BY TELEPHONE.



JKS Proponent Properties, LLC
304 28th Street, Unit 209

-  Site
-  Property_Polygons
-  Zoning
-  Parking Lot Drive Aisle
-  Building



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: JKS PROPONENT PROPERTIES, LLC [Applicant & Property Owner] Conditional Use Permit (Short Term Rental) for the property located at 304 28th Street, Unit 209 (GPIN 24280028662009). COUNCIL DISTRICT – BEACH

MEETING DATE: October 20, 2020

■ **Background:**

The applicant is requesting a Conditional Use Permit for a Short Term Rental in one of the 42 units on this 53,385 square foot parcel. The multi-family development is zoned OR Oceanfront Resort Form Based-Code District. The subject unit contains two bedrooms. The minimum number of parking spaces required for the Short Term Rental is one per bedroom, or two spaces in this instance. The maximum occupancy for guests on-site after 11:00 p.m. for a two-bedroom Short Term Rental is six; however, at the time of this writing, the applicant agreed with City Council's recent Short Term Rental condition revisions reducing the number of overnight guests permitted to two per bedroom and limiting the number of bookings in a seven day period from two to one. These changes are reflected in the conditions below.

■ **Considerations:**

The subject dwelling is located within the OR Oceanfront Resort Form Based Code District and is part of a multi-family dwelling building situated approximately 875 feet from the public beach of the Atlantic Ocean. The applicant's parking plan depicts the two required off-street parking spaces within the existing on-site parking lot of the condominium complex. According to the applicant, both off-street parking spaces are permanently assigned to the subject dwelling. Consequently, the existing parking arrangement meets the requirements of Section 241.2(1) of the City Zoning Ordinance. Additionally, the remaining requirements of Section 241.2 of the Zoning Ordinance pertaining to Short Term Rentals can be reasonably met by the applicant. Further details pertaining to the application are provided in the attached Staff report.

There is no known opposition to this request.

■ **Recommendation:**

On September 9, 2020, the Planning Commission passed a motion to recommend this item on the Consent Agenda, passing a motion by a recorded vote of 7-0, to recommend approval of this request.

1. The following conditions shall only apply to the dwelling unit addressed as 304 28th Street, Unit 209 and the Short Term Rental use shall only occur in the principal structure.
2. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.
3. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
4. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1 (8a).
5. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes. Physical response to the site of the Short Term Rental is not required.
6. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
 - a) A completed Department of Planning and Community Development Short Term Rental Zoning registration form; and
 - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
 - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
7. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
8. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-

71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.

9. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
10. Accessory structures shall not be used or occupied as Short Term Rentals.
11. No signage shall be on-site, except one (1), four (4) square foot sign, may be posted on the building which identifies the Short Term Rental.
12. The Short Term Rental shall have no more than one (1) rental contract during any consecutive seven (7) day period.
13. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
14. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
15. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom.
16. To the extent permissible under state law, interconnected smoke detectors (which may be wireless), a fire extinguisher and, where natural gas or propane is present, carbon monoxide detectors, shall be installed in each Short Term Rental.

■ **Attachments:**

Staff Report and Disclosure Statements
Location Map
STR Vicinity Map
Minutes of Planning Commission Hearing

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

Submitting Department/Agency: Planning Department *Rgn*

City Manager: *MD*

Request

Conditional Use Permit (Short Term Rental)

Staff Recommendation

Approval

Staff Planner

Summer Peebles

Location

304 28th Street, Unit 209

GPIN

24280028662009

Site Size

53,385 square feet

Existing Land Use and Zoning District

Multi-family dwellings / OR Oceanfront Resort

Surrounding Land Uses and Zoning Districts

North

28th Street
 Hotel / OR Oceanfront Resort

South

27th ½ Street (alley)
 Apartments / A-12 & A-36 Apartment

East

Commercial / OR Oceanfront Resort

West

Commercial / OR Oceanfront Resort

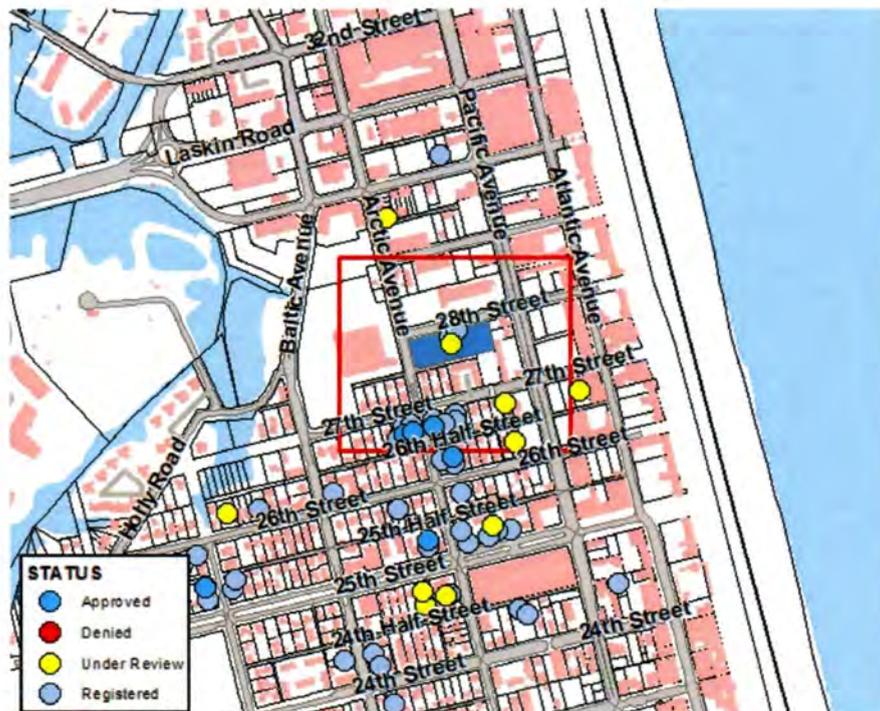


Background & Summary of Proposal

Site Conditions and History

- The site is approximately 53,385 square feet and is zoned OR Oceanfront Resort District.
- The property consists of a three-story, multi-family condominium building containing 42 units. Designated parking spaces are provided on-site. City Records indicate this building was constructed in 1985.
- Staff inspected the site on July 16, 2020 to observe site conditions and take photographs for this report.
- Parking along this segment of 28th Street is metered so this property is not eligible for the Residential Parking Permit Program (RPPP).
- No Zoning violations were found for this property. City Council previously approved a Conditional Use Permit for Sunray Court Associates, L.P. in April of 1996 for 'Housing for the Elderly' on the subject site. This building now operates as a condominium known as Playa Rana; therefore, the previous CUP for Housing for the Elderly is no longer active.
- The applicant has agreed with City Council's recently imposed conditions reducing the number of bookings in a seven day period to one and limiting the overnight guest calculation to two per bedroom.

Short Term Rentals in the Vicinity



Summary of Proposal

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

- Number of bedrooms in the Short Term Rental: 2
- Maximum number of guests permitted on the property after 11:00 pm (maximum 2 per bedroom): 4- as recommended in condition #15
- Number of parking spaces required (1 space per bedroom required): 2
- Number of parking spaces provided on-site: 2



Zoning History

#	Request
1	ALT (Hotel, Apartments, Parking Garage along 27 th Street) Approved 11/13/2018
2	CUP (Housing for Elderly) Approved 04/1996

Application Types

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

Evaluation & Recommendation

This Short Term Rental request is for a one, two-bedroom unit within the Playa Rana Condominium complex. The 42-unit condominium complex is located three blocks west of the public beaches of the Atlantic Ocean, an area of the City where Short Term Rental use is common. There are two assigned on-site parking spaces that will be used to fulfill the parking requirement. Furthermore, it is Staff’s opinion that all other requirements of Section 241.2 of the Zoning Ordinance regulating Short Term Rentals can be reasonably met with this application.

Based on the factors identified above, Staff recommends approval of this request with the conditions listed below; however, the recommended conditions reflect City Council’s Short Term Rental revisions by reducing the number of rental contracts in a seven day period to one and limiting the overnight guest calculation to two per bedroom. The applicant is agreeable to these condition changes. No letters of opposition or support have been received.

Recommended Conditions

1. The following conditions shall only apply to the dwelling unit addressed as 304 28th Street, Unit 209 and the Short Term Rental use shall only occur in the principal structure.
2. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.
3. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
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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.

Public Outreach Information

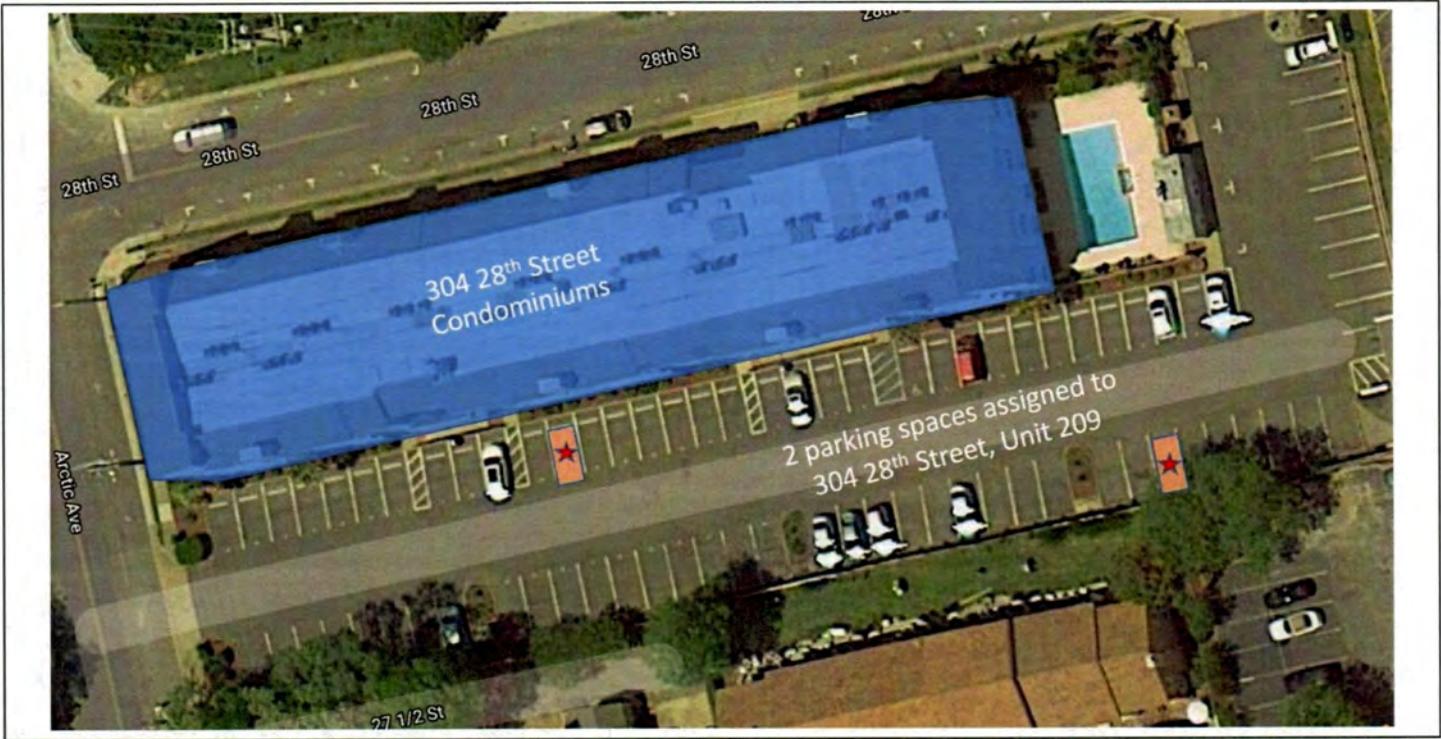
Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on August 10, 2020.
- As required by State Code, this item was advertised in the Virginia Pilot Beacon on Sundays, August 23, 2020, and August 30, 2020.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on August 24, 2020.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.vbgov.com/pc on September 3, 2020.

City Council

- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, October 4, 2020, and October 11, 2020.
- 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 October 5, 2020.
- 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 October 16, 2020.

Site Layout & Parking Plan



Site Photos



Site Photos





APPLICANT'S NAME JKS Proponent Properties, LLC

DISCLOSURE STATEMENT FORM

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

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

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

SECTION 1 / APPLICANT DISCLOSURE

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

<input type="checkbox"/>	APPLICANT NOTIFIED OF HEARING	DATE	
<input checked="" type="checkbox"/>	NO CHANGES AS OF	DATE	10/8/2020
<input type="checkbox"/>	REVISIONS SUBMITTED	DATE	

Page 1 of 7

Summer Peebles



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: JKS Proponent Properties, LLC
If an LLC, list all member's names:
Kelly Stuart, James Stuart

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

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

See next page for information pertaining to footnotes¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

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

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

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

(A) List the Property Owner's name: JKS Proponent Properties, LLC
If an LLC, list the member's names: Kelly Stuart, James Stuart



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

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

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

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



SECTION 3. SERVICES DISCLOSURE

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



APPLICANT

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

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

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

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

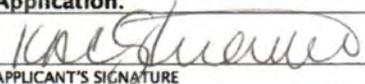
Disclosure Statement



CERTIFICATION:

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

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

	Kelly Stuart	31 May 2021
APPLICANT'S SIGNATURE	PRINT NAME	DATE



OWNER

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

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

YES	NO	Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	

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

Disclosure Statement



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

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

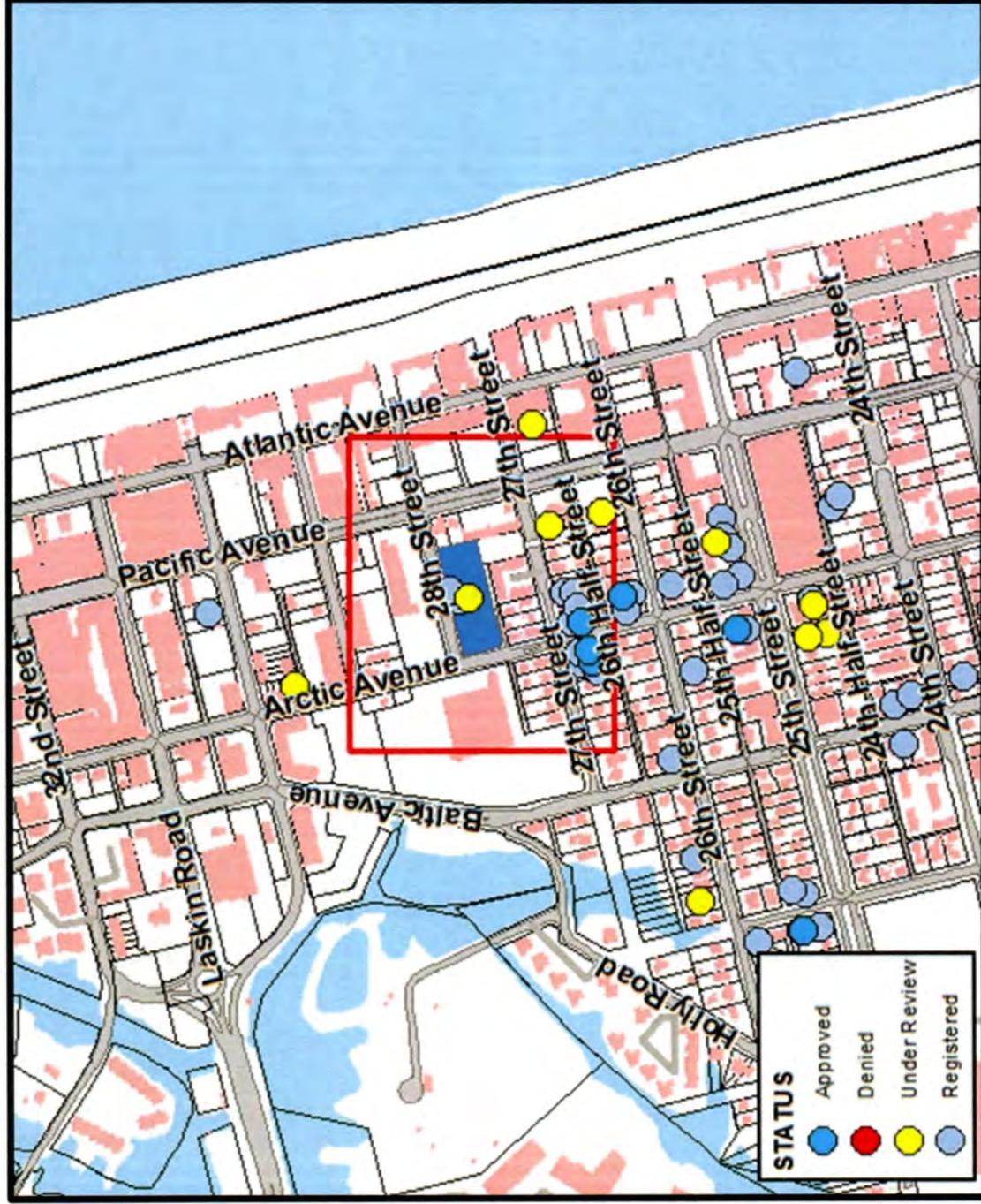
	Kelly Stuart	31 May 2020
PROPERTY OWNER'S SIGNATURE	PRINT NAME	DATE

Next Steps

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

STR VICI CITY MAP

JKS PROPONENT PROPERTIES, LLC. – 304 28TH STREET, UNIT 209



Items # 10.
JKS Proponent Properties, LLC
Conditional Use Permit (Short-Term Rental)
304 28th Street, Unit 209

September 09, 2020

RECOMMENDED FOR APPROVAL- CONSENT

Ms. Oliver: Thank you very much for taking the time to come down and speak. And, with that, we are going to go ahead and move on to the Consent Agenda and Mr. Weiner, yes you, would you take that over please?

Mr. Weiner: Thank you, Madam Chair. These are applications that are recommended for approval by Staff and the Planning Commission concurred. There are no speakers signed up in opposition to the Planning Commission. The Planning Commission places the following applications on the Consent Agenda. Item numbers 2, 3, and 4 on the consent agenda. The Planning Commission also places the following applications for the Conditional Use Permit for Short-Term Rental on the Consent Agenda as they meet the applicable requirements of Section 241.2 of the Zoning Ordinance. Staff and Planning Commission support the applications and there are no known speakers signed up to comment, 6, 7, 10, and 11. Is there anyone here in opposition of these items being put on the Consent Agenda? As hearing none, I move for approval of the following items to be on the Consent Agenda, items 2, 3, 4, 6, 7, 10 and 11.

Ms. Oliver: Right. Thank you, is there a second please?

Mr. Alcaraz: I will second.

Ms. Oliver: Alright, we got a second. Does anybody need to abstain from any of these items? Oh, I do. Excuse me. Hold on one second. I forgot it went on. I am going to abstain from item number seven. I am a party to a court case that is unrelated to the Planning Commission or this application, but a representative of the applicant is involved in this case, so, I have chosen to abstain.

Ms. Coleman: If you are in favor of the motion say, yes. And, if you are opposed say, no. Mr. Alcaraz.

Mr. Alcaraz: Yes.

Ms. Coleman: Mr. Barnes.

Mr. Barnes: Yes.

Ms. Coleman: Mr. Coston.

Mr. Coston : Yes.

Ms. Coleman: Mr. Graham, Mr. Horsley, Mr. Inman, and Ms. Klein are all absent.
Mr. Redmond.

Mr. Redmond: Yes.

Ms. Coleman: Mr. Wall.

Mr. Wall: Yes.

Ms. Coleman: Mr. Wiener.

Mr. Weiner: Yes.

Ms. Coleman: And, Ms. Oliver.

Ms. Oliver: Yes, with the exception of number seven.

Ms. Coleman: Okay. By recorded vote of seven for, and zero against, with the notations noted on number seven, the following items 2, 3, 4, 6, 7, 10, and 11 have been recommended for approval by consent. If you had an application that was on Consent Agenda today, your request will now be scheduled for an upcoming City Council Meeting. Staff will contact you about the date, so that others may enter the chamber, please exit via the side door. If you are watching virtually, you are free to exit or stay and watch. Thank you all for your participation.

Ms. Oliver: Thank you for coming down. And now, we will move on.

	AYE 7	NAY 0	ABS 0	ABSENT 4
Alcaraz	AYE			
Barnes	AYE			
Coston	AYE			
Graham				ABSENT
Horsley				ABSENT
Inman				ABSENT
Klein				ABSENT
Oliver	AYE			

Redmond	AYE			
Wall	AYE			
Weiner	AYE			

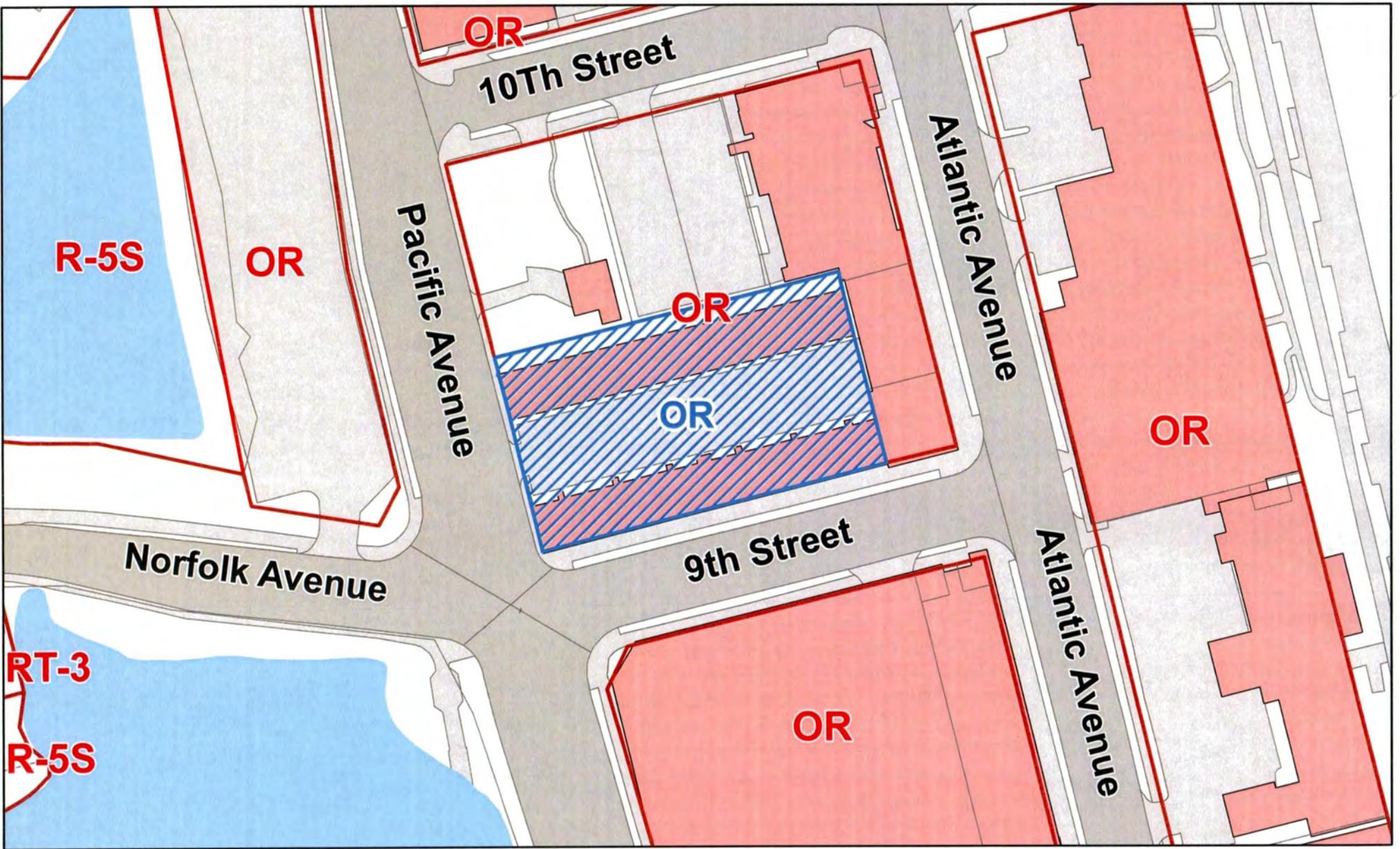
CONDITIONS

1. The following conditions shall only apply to the dwelling unit addressed as 304 28th Street, Unit 209 and the Short Term Rental use shall only occur in the principal structure.
2. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.
3. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
4. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1 (8a).
5. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes. Physical response to the site of the Short Term Rental is not required.
6. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date. a) A completed Department of Planning and Community Development Short Term Rental Zoning registration form; and b) Copies of the Commissioner of Revenue's Office receipt of registration; and c) Proof of liability insurance applicable to the rental activity of at least one million dollars.

7. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
8. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
9. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
10. Accessory structures shall not be used or occupied as Short Term Rentals.
11. No signage shall be on-site, except one (1), four (4) square foot sign, may be posted on the building which identifies the Short Term Rental.
12. The Short Term Rental shall have no more than one (1) rental contract during any consecutive seven (7) day period.
13. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
14. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
15. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom.
16. To the extent permissible under state law, interconnected smoke detectors (which may be wireless), a fire extinguisher and, where natural gas or propane is present, carbon monoxide detectors, shall be installed in each Short Term Rental.

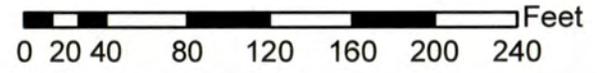
Further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, 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



**Rachael Panariello
911 Pacific Avenue, Unit A**

-  Site
-  Property_Polygons
-  Zoning
-  Parking Lot Drive Aisle
-  Water





CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: RACHAEL PANARIELLO [Applicant & Property Owner] Conditional Use Permit (Short Term Rental) for the property located at 911 Pacific Avenue, Unit A (GPIN 24272444111025). COUNCIL DISTRICT – BEACH

MEETING DATE: October 20, 2020

■ **Background:**

The applicant is requesting a Conditional Use Permit in order to operate a Short Term Rental in a two-bedroom unit within a condominium development constructed in 1969. This approximately 35,000 square foot site is zoned Oceanfront Resort Form-Based Code District. The minimum number of parking spaces required for a Short Term Rental is one per bedroom, or two spaces in this instance. The maximum occupancy for guests on-site after 11:00 p.m. for a two-bedroom Short Term Rental is six; however, at the time of this writing, the applicant agreed with City Council's recent Short Term Rental condition revisions reducing the number of overnight guests permitted to two per bedroom and limiting the number of bookings in a seven day period from two to one. These changes are reflected in the conditions below.

■ **Considerations:**

The subject dwelling is located within the Retreat by the Sea multi-family condominium community where adjacent uses include a mixture of commercial, hotel and other multi-family developments. The subject site is approximately 350 feet from the public beach of the Atlantic Ocean. The applicant's parking plan depicts the two required off-street parking spaces; one on-site and one off-site. The on-site parking space is permanently assigned to this unit and is located in the Retreat by the Sea parking lot. The parking lot poses some challenges for maneuverability of vehicles due to its configuration. As a result, conditions are recommended that limit the maximum vehicle length within the on-site parking space to 18 feet and requires the Pacific Avenue ingress/egress area to remain unobstructed to ensure safe maneuvering.

The off-site space will be leased from the City-owned 9th Street Parking Garage, which is across the street from the subject site. Consequently, a condition is recommended that the applicant submit proof of parking space rental and that the space is continuously leased while the Short Term Rental Conditional Use Permit is active. As permitted by Section 241.2(1) of the City Zoning Ordinance, the Zoning Administrator reviewed and approved this parking proposal. Additionally, the remaining requirements of Section 241.2 of the Zoning Ordinance pertaining

to Short Term Rentals can be reasonably met by the applicant. Further details pertaining to the application are provided in the attached Staff report.

■ **Recommendation:**

On September 9, 2020, the Planning Commission passed a motion to recommend this item on the Consent Agenda, passing a motion by a recorded vote of 7-0, to recommend approval of this request.

1. The following conditions shall only apply to the dwelling unit addressed as 911 Pacific Avenue Unit A, and the Short Term Rental use shall only occur in the principal structure.
2. No vehicles longer than 18-feet shall be permitted in the parking spaces associated with this Short Term Rental.
3. The ingress/egress area along Pacific Avenue shall remain clear in order for vehicles to safely enter and exit the property.
4. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.
5. A second (2nd) parking space, at a location subject to approval by the Zoning Administrator, shall be available for use by the Short Term Rental occupants at all times. Proof of ability to use at least one off-street parking space at a location acceptable to the Zoning Administrator shall be provided to the Planning Department on an annual basis, as long as the Conditional Use Permit is active.
6. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
7. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1 (8a).
8. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes. Physical response to the site of the Short Term Rental is not required.

9. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
 - a) A completed Department of Planning and Community Development Short Term Rental Zoning registration form; and
 - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
 - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
10. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
11. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
12. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
13. Accessory structures shall not be used or occupied as Short Term Rentals.
14. No signage shall be on-site, except one (1), four (4) square foot sign, may be posted on the building which identifies the Short Term Rental.
15. The Short Term Rental shall have no more than one (1) rental contract during any consecutive seven (7) day period.
16. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
17. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
18. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom.
19. To the extent permissible under state law, interconnected smoke detectors (which may be wireless), a fire extinguisher and, where natural gas or propane is present, carbon monoxide detectors, shall be installed in each Short Term Rental.

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

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

Submitting Department/Agency: Planning Department *RGN*

City Manager: *PAD*

Request
Conditional Use Permit (Short Term Rental)

Staff Recommendation
 Approval

Staff Planner
 Summer Peebles

Location
 911 Pacific Avenue, Unit A

GPIN
 24272444111025

Site Size
 34,996 square feet

Existing Land Use and Zoning District
 Multi-family dwellings / OR Oceanfront Resort

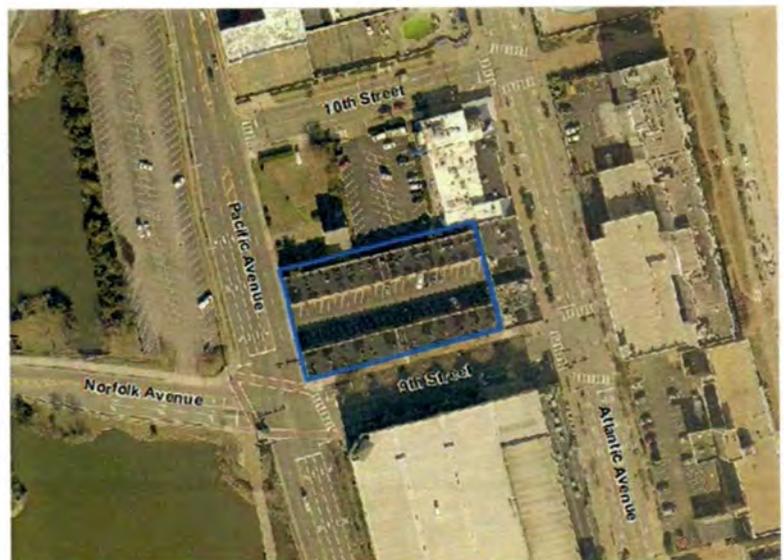
Surrounding Land Uses and Zoning Districts

North
 Duplex, commercial parking lot / OR Oceanfront Resort

South
 9th Street
 Municipal parking garage / OR Oceanfront Resort

East
 Retail shops / OR Oceanfront Resort

West
 Pacific Avenue
 Off-site parking lot / OR Oceanfront Resort

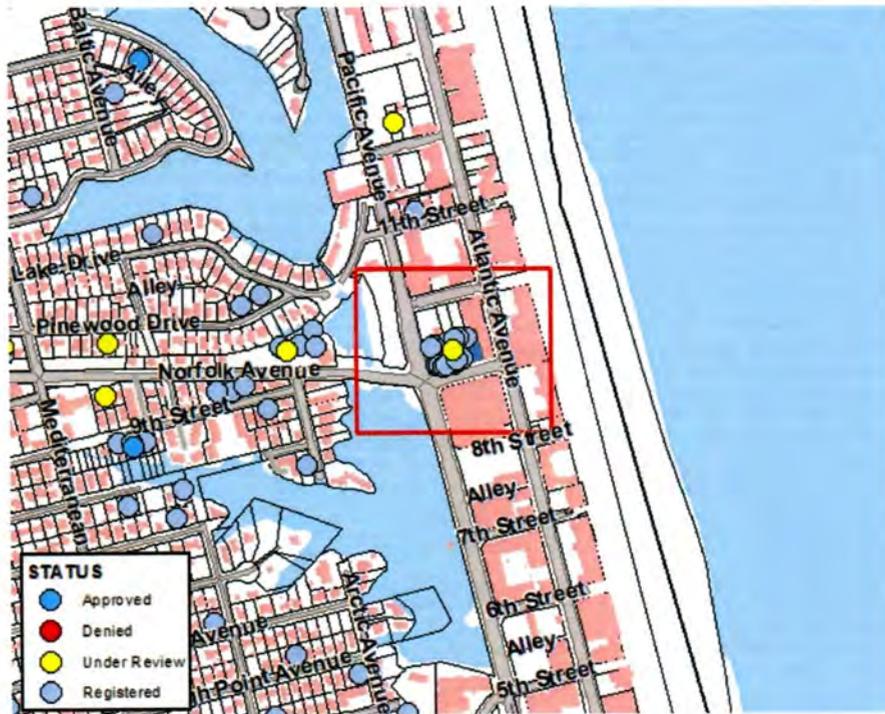


Background & Summary of Proposal

Site Conditions and History

- The 35,000 square foot parcel is zoned OR Oceanfront Resort District.
- City records indicate that the multi-family condominium complex was constructed in 1969.
- Staff inspected the site on July 28, 2020 to observe site conditions and take photographs for this report.
- There is no on-street parking on Pacific Avenue.
- No record of zoning violations relating to Short Term Rental use were found associated with the subject property.
- The applicant has agreed with City Council's recently imposed conditions reducing the number of bookings in a seven day period to one and limiting the overnight guest calculation to two per bedroom.

Short Term Rentals in the Vicinity



Summary of Proposal

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

- Number of bedrooms in the Short Term Rental: 2
- Maximum number of guests permitted on the property after 11:00 pm (maximum 2 per bedroom): 4 - as recommended in condition #16

- Number of parking spaces required (1 space per bedroom required): 2
- Number of parking spaces provided on-site: 1*

*A Letter of Intent to Lease a parking space within the 9th Street parking garage has been submitted.

	<p>Zoning History</p> <table border="1"> <thead> <tr> <th>#</th> <th>Request</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>STC (Closure of unimproved ROW) Approved 12/04/2004</td> </tr> <tr> <td>2</td> <td>CUP (Short Term Rental) Approved 02/04/2020</td> </tr> <tr> <td>3</td> <td>CUP (Short Term Rental) Approved 06/09/2020</td> </tr> <tr> <td>4</td> <td>CUP (Short Term Rental) Approved 08/25/2020</td> </tr> <tr> <td>5</td> <td>CUP (Short Term Rental) Approved 08/25/2020</td> </tr> </tbody> </table>	#	Request	1	STC (Closure of unimproved ROW) Approved 12/04/2004	2	CUP (Short Term Rental) Approved 02/04/2020	3	CUP (Short Term Rental) Approved 06/09/2020	4	CUP (Short Term Rental) Approved 08/25/2020	5	CUP (Short Term Rental) Approved 08/25/2020
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<p>Application Types</p>													
<p>CUP – Conditional Use Permit REZ – Rezoning CRZ – Conditional Rezoning</p>	<p>MOD – Modification of Conditions or Proffers NON – Nonconforming Use STC – Street Closure</p>	<p>FVR – Floodplain Variance ALT – Alternative Compliance SVR – Subdivision Variance</p>	<p>LUP – Land Use Plan STR – Short Term Rental</p>										

Evaluation & Recommendation

The applicant is requesting to operate a Short Term Rental in a two-bedroom unit within a condominium development located at 911 Pacific Avenue. This site is located one block from the public beaches of the Atlantic Ocean in the resort area of the City; an area where Short Term Rental use is common. The two-bedroom unit is required to have two off-street parking spaces. One space is accommodated on-site in a designated space. To satisfy the second parking space requirement, the applicant has purchased an annual parking pass at the 9th Street Municipal Parking Garage, which is located directly across the street. As recommended below in Condition 4, the applicant will be required to submit receipts/proof of availability of a second off-street parking space annually to the Zoning Administrator as long as the Conditional Use Permit is active. The Zoning Administrator has reviewed this alternative parking plan and has deemed it acceptable. Staff believes that all other requirements of Section 241.2 of the Zoning Ordinance pertaining to Short Term Rentals can reasonably be met.

Based on the factors listed above, Staff recommends approval of this request with the conditions listed below; however, the recommended conditions do reflect City Council’s Short Term Rental revisions by reducing the number of bookings in a seven day period to one and limiting the overnight guest calculation to two per bedroom. The applicant is agreeable to these condition changes.

Recommended Conditions

1. The following conditions shall only apply to the dwelling unit addressed as 911 Pacific Avenue Unit A, and the Short Term Rental use shall only occur in the principal structure.
2. No vehicles longer than 18-feet shall be permitted in the parking spaces associated with this Short Term Rental.
3. The ingress/egress area along Pacific Avenue shall remain clear in order for vehicles to safely enter and exit the property.
4. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.
5. A second (2nd) parking space, at a location subject to approval by the Zoning Administrator, shall be available for use by the Short Term Rental occupants at all times. Proof of ability to use at least one off-street parking space at a location acceptable to the Zoning Administrator shall be provided to the Planning Department on an annual basis, as long as the Conditional Use Permit is active.
6. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
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8. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes. Physical response to the site of the Short Term Rental is not required.
9. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
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17. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
18. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom.
19. To the extent permissible under state law, interconnected smoke detectors (which may be wireless), a fire extinguisher and, where natural gas or propane is present, carbon monoxide detectors, shall be installed in each Short Term Rental.

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.

Public Outreach Information

Planning Commission

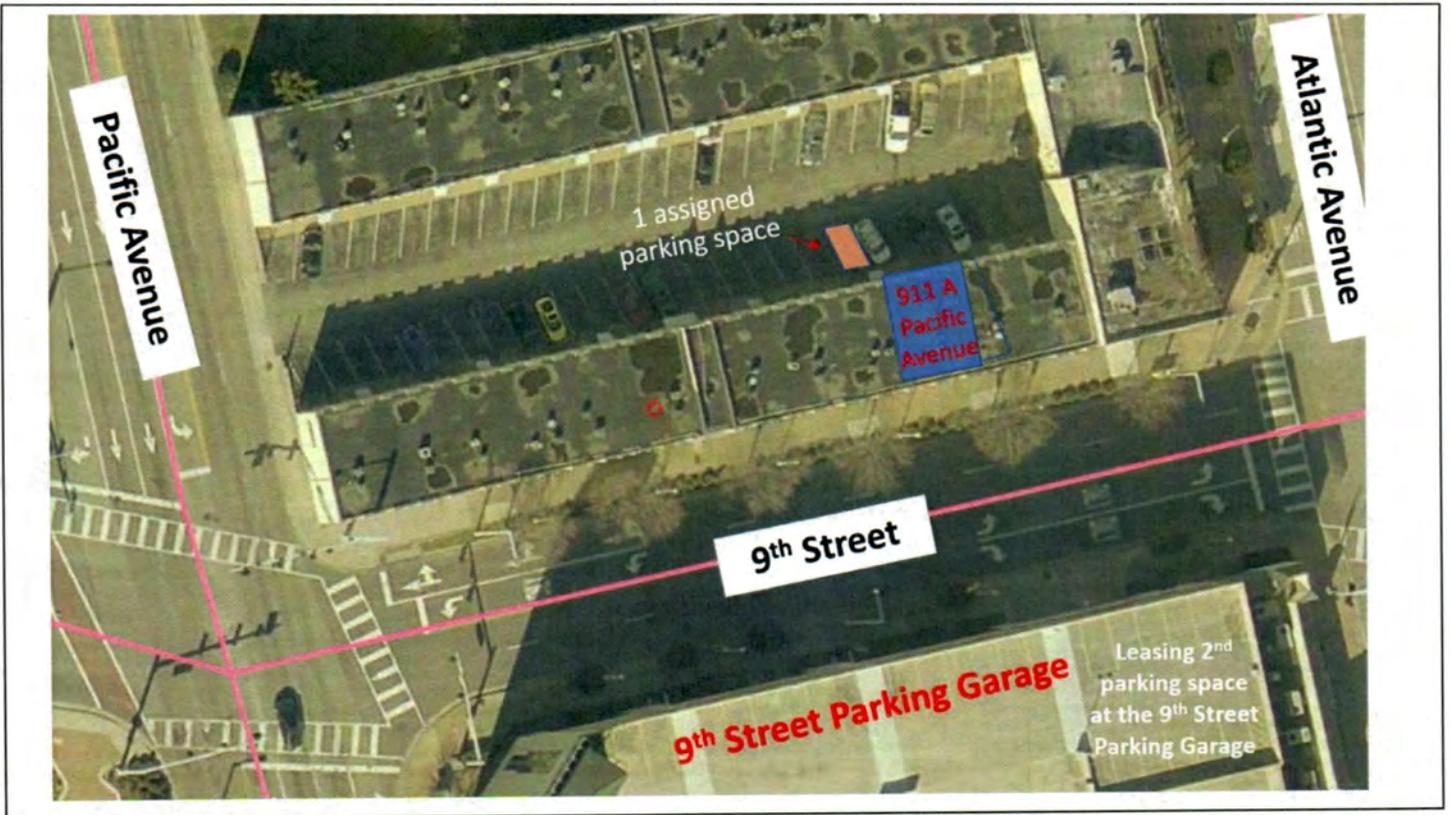
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on August 10, 2020.
- As required by State Code, this item was advertised in the Virginia Pilot Beacon on Sundays, August 23, 2020, and August 30, 2020.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on July 24, 2020.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.vbgov.com/pc on September 3, 2020.

City Council

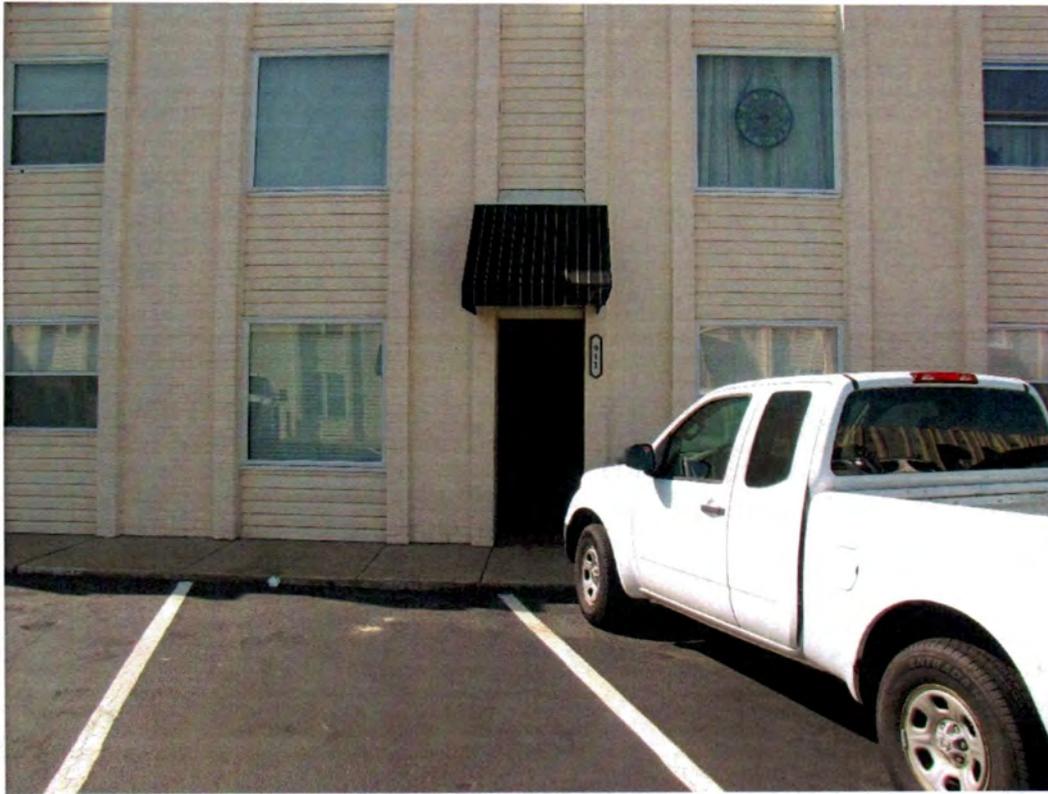
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, October 4, 2020, and October 11, 2020.
- As required by City Code, the adjacent property owners were notified regarding both the request and the date of the City Council's public hearing on October 5, 2020.

- 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 October 16, 2020.

Site Layout & Parking Plan



Site Photos



Site Photos





APPLICANT'S NAME Rachel Panariello

DISCLOSURE STATEMENT FORM

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

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

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

SECTION 1 / APPLICANT DISCLOSURE

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

<input type="checkbox"/>	APPLICANT NOTIFIED OF HEARING	DATE:	
<input checked="" type="checkbox"/>	NO CHANGES AS OF	DATE:	10/7/2020 Summer Peebles
<input type="checkbox"/>	REVISIONS SUBMITTED	DATE:	



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

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

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

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

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

See next page for information pertaining to footnotes¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

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

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

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

(A) List the Property Owner's name: _____
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)*

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

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

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

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



APPLICANT

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

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

YES	NO	Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	

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

Disclosure Statement



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

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

<i>Rachael Panariello</i>	Rachael Panariello	6/8/2020
APPLICANT'S SIGNATURE	PRINT NAME	DATE



OWNER

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

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

YES	NO	Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	

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



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.

	Rachael Panariello	6/8/2020
PROPERTY OWNER'S SIGNATURE	PRINT NAME	DATE

Next Steps

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

Items # 11.
Rachael Panariello
Conditional Use Permit (Short Term Rental)
911 A Pacific Avenue

September 09, 2020

RECOMMENDED FOR APPROVAL- CONSENT

Ms. Oliver: Thank you very much for taking the time to come down and speak. And with that, we are going to go ahead and move on to the Consent Agenda, and Mr. Weiner, yes you, would you take that over please?

Mr. Weiner: Thank you, Madam Chair. These are applications that are recommended for approval by Staff and the Planning Commission concurred. There are no speakers signed up in opposition to the Planning Commission. The Planning Commission places the following applications on the Consent Agenda. Item numbers 2, 3, and 4 on the consent agenda. The Planning Commission also places the following applications for the Conditional Use Permit of Short-Term Rental on the Consent Agenda as they meet the applicable requirements for Section 241.2 of the Zoning Ordinance. Staff and Planning Commission supports the applications and there are no known speakers signed up to comment, items 6, 7, 10, and 11. Is there anyone here in opposition of these items being put on the Consent Agenda? As hearing none, I move for approval of the following items to be placed on the Consent Agenda; items 2, 3, 4, 6, 7, 10 and 11.

Ms. Oliver: Right. Thank you, is there a second please?

Mr. Alcaraz: I will second.

Ms. Oliver: Alright, we got a second. Does anybody need to abstain from any of these items? Oh, I do. Excuse me. Hold on one second. I forgot it went on. I am going to abstain from item number seven. I am a party to a court case that is unrelated to the Planning Commission or this application, but a representative of the applicant is involved in this case, so, I have chosen to abstain.

Ms. Coleman: If you are in favor of the motion say yes, and if you are opposed say no. Mr. Alcaraz.

Mr. Alcaraz: Yes.

Ms. Coleman : Mr. Barnes.

Mr. Barnes: Yes.

Ms. Coleman: Mr. Coston.

Mr. Coston: Yes.

Ms. Coleman: Mr. Graham, Mr. Horsley, Mr. Inman, and Ms. Klein are all absent.
Mr. Redmond.

Mr. Redmond: Yes.

Ms. Coleman: Mr. Wall.

Mr. Wall: Yes.

Ms. Coleman: Mr. Wiener.

Mr. Weiner: Yes.

Ms. Coleman: And, Ms. Oliver.

Ms. Oliver: Yes, with the exception of number seven.

Ms. Coleman: Okay. By a recorded vote of seven for and zero against, with the notations noted on number seven, the following items, 2, 3, 4, 6, 7, 10, and 11, have been recommended for approval by consent. If you had an application that was on the Consent Agenda today, your request will now be scheduled for an upcoming City Council Meeting. Staff will contact you about the date. So that others may enter the chamber, please exit via the side door. If you are watching virtually, you are free to exit or stay and watch. Thank you all for your participation.

Ms. Oliver: Thank you for coming down. And now, we will move on.

	AYE 7	NAY 0	ABS 0	ABSENT 4
Alcaraz	AYE			
Barnes	AYE			
Coston	AYE			
Graham				ABSENT
Horsley				ABSENT
Inman				ABSENT
Klein				ABSENT
Oliver	AYE			
Redmond	AYE			
Wall	AYE			

Weiner	AYE			
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CONDITIONS

1. The following conditions shall only apply to the dwelling unit addressed as 911 Pacific Avenue Unit A, and the Short Term Rental use shall only occur in the principal structure.
2. No vehicles longer than 18-feet shall be permitted in the parking spaces associated with this Short Term Rental.
3. The ingress/egress area along Pacific Avenue shall remain clear in order for vehicles to safely enter and exit the property.
4. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.
5. A second (2nd) parking space, at a location subject to approval by the Zoning Administrator, shall be available for use by the Short Term Rental occupants at all times. Proof of ability to use at least one off-street parking space at a location acceptable to the Zoning Administrator shall be provided to the Planning Department on an annual basis, as long as the Conditional Use Permit is active.
6. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
7. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1 (8a).
8. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental

within thirty (30) minutes. Physical response to the site of the Short Term Rental is not required.

9. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date. a) A completed Department of Planning and Community Development Short Term Rental Zoning registration form; and b) Copies of the Commissioner of Revenue's Office receipt of registration; and c) Proof of liability insurance applicable to the rental activity of at least one million dollars.

10. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.

11. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.

12. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.

13. Accessory structures shall not be used or occupied as Short Term Rentals.

14. No signage shall be on-site, except one (1), four (4) square foot sign, may be posted on the building which identifies the Short Term Rental.

15. The Short Term Rental shall have no more than one (1) rental contract during any consecutive seven (7) day period.

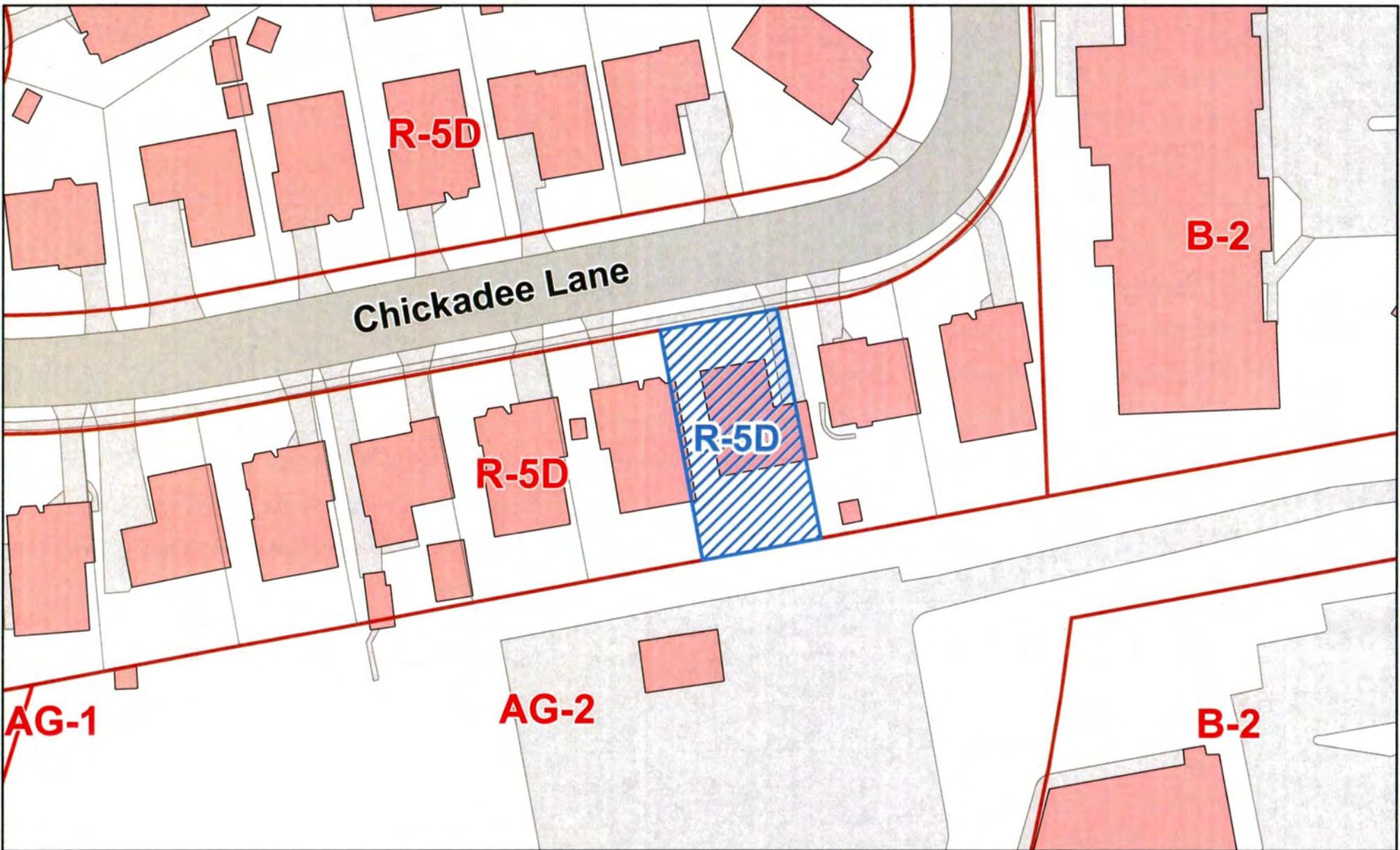
16. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.

17. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.

18. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom.

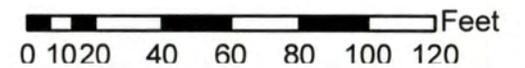
19. To the extent permissible under state law, interconnected smoke detectors (which may be wireless), a fire extinguisher and, where natural gas or propane is present, carbon monoxide detectors, shall be installed in each Short Term Rental.

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.



-  Site
-  Property_Polygons
-  Zoning
-  Parking Lot Drive Aisle
-  ...

Carol Davis
1305 Chickadee Lane





CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: CAROL DAVIS [Applicant & Property Owner] Conditional Use Permit (Short Term Rental) for the property located at 1305 Chickadee Lane (GPIN 2415573190). COUNCIL DISTRICT – BEACH

MEETING DATE: October 20, 2020

■ **Background:**

The applicant is requesting a Conditional Use Permit for a Short Term Rental on a 5,000 square-foot parcel zoned R-5D Residential District in the Redwing neighborhood. The lot consists of one single-family dwelling containing three bedrooms. The minimum number of parking spaces required for Short Term Rental use is one per bedroom, or three spaces in this instance. The maximum occupancy for guests on-site after 11:00 p.m. for a three-bedroom Short Term Rental is nine; however, at the time of this writing, the applicant agreed with City Council's recent Short Term Rental condition revisions reducing the number of overnight guests permitted to two per bedroom and limiting the number of bookings in a seven day period from two to one. These changes are reflected in the conditions below.

■ **Considerations:**

The three-bedroom single-family dwelling was constructed in the early 1980s in Redwing which consists of single-family and semi-detached dwellings. The submitted parking plan depicts the three required off-street parking spaces; two in the driveway and one in the garage. As permitted by Section 241.2(1) of the City Zoning Ordinance, the Zoning Administrator reviewed the parking plan and deemed it acceptable and a condition is recommended that assures the garage will always be available for use by the Short Term Rental occupants. Furthermore, the requirements of Section 241.2 of the Zoning Ordinance pertaining to Short Term Rentals can be reasonably met by the applicant. Additional details pertaining to the application are provided in the attached Staff report.

One letter of opposition is attached and was submitted from a long term resident who lives across the street from the subject address. Concerns noted in the letter include excessive noise, parking congestion, vandalism, and indecent exposure (urination outside) related to an incident near and or at the property.

■ **Recommendation:**

On September 9, 2020, the Planning Commission passed a motion to recommend approval of this request by a vote of 7-0.

1. The following conditions shall only apply to the dwelling unit addressed as 1305 Chickadee Lane, and the Short Term Rental use shall only occur in the principal structure.
2. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.
3. The garage space within the unit must remain a minimum of 9-feet by 18-feet, contain a minimum 8-foot wide vehicle entryway opening, and shall remain free of materials to ensure vehicular accessibility to the Short Term Rental tenants.
4. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
5. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1 (8a).
6. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes. Physical response to the site of the Short Term Rental is not required.
7. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
 - a) A completed Department of Planning and Community Development Short Term Rental Zoning registration form; and
 - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
 - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.

8. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
9. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
10. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
11. Accessory structures shall not be used or occupied as Short Term Rentals.
12. No signage shall be on-site, except one (1), four (4) square foot sign, may be posted on the building which identifies the Short Term Rental.
13. The Short Term Rental shall have no more than one (1) rental contract during any consecutive seven (7) day period.
14. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
15. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
16. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom.
17. To the extent permissible under state law, interconnected smoke detectors (which may be wireless), a fire extinguisher and, where natural gas or propane is present, carbon monoxide detectors, shall be installed in each Short Term Rental.

- **Attachments:**
 - Staff Report and Disclosure Statements
 - Location Map
 - STR Vicinity Map
 - Minutes of Planning Commission Hearing
 - Letter of Opposition (1)

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

Submitting Department/Agency: Planning Department *PAH*

City Manager: *PAH*

Request

Conditional Use Permit (Short Term Rental)

Staff Recommendation

Approval

Staff Planner

Summer Peebles

Location

1305 Chickadee Lane

GPIN

2415573190

Site Size

5,000 square feet

Existing Land Use and Zoning District

Single-family dwelling / R-5D Residential

Surrounding Land Uses and Zoning Districts

North

Chickadee Lane

Single-family dwellings / R-5D Residential

South

Shopping center, transformer station,
storage facility / B-2 Community Business

East

Single-family dwellings / R-5D Residential

West

Single-family dwellings / R-5D Residential

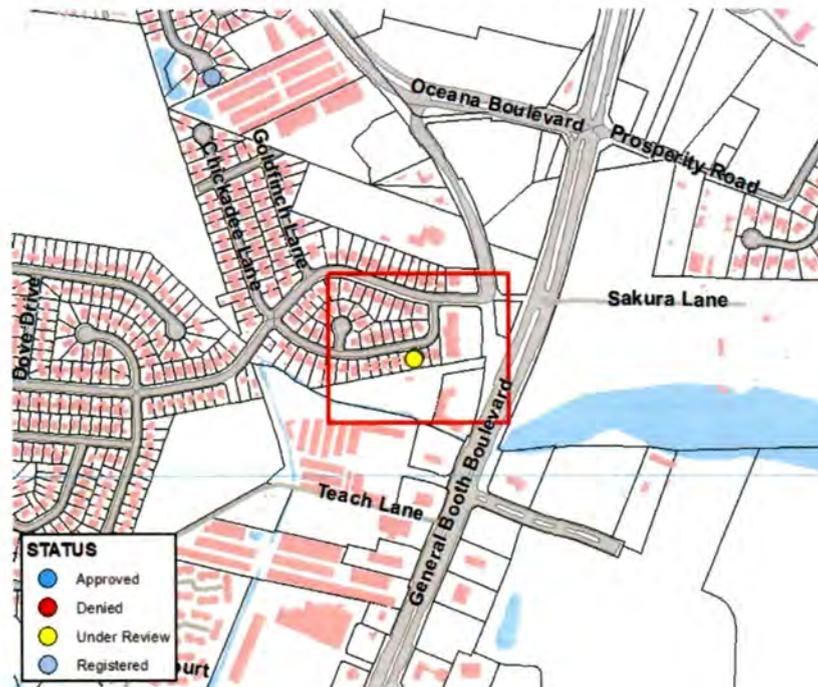


Background & Summary of Proposal

Site Conditions and History

- This is a 5,000 square foot parcel zoned R-5D Residential.
- City records indicate this single-family dwelling was built in 1986.
- Staff inspected the site on July 9, 2020 to observe site conditions and take photographs for this report.
- On-street parking is permitted 24-hours per day, therefore any overflow parking beyond the minimum parking spaces required could occur within the public street.
- No record of zoning violations relating to Short Term Rental use were found associated with the subject address.
- The applicant has agreed with City Council's recently imposed conditions reducing the number of bookings in a seven day period to one and limiting the overnight guest calculation to two per bedroom.

Short Term Rentals in the Vicinity



Summary of Proposal

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

- Number of bedrooms in the Short Term Rental: 3
- Maximum number of guests permitted on the property after 11:00 pm (maximum 2 per bedroom): 6 - as recommended in condition #16

- Number of parking spaces required (1 space per bedroom required): 3
- Number of parking spaces provided on-site: 3



Zoning History

#	Request
1	CUP (Church) Approved 09/10/2002
2	CUP (Tattoo Parlor) Approved 04/12/2017
3	NON (Motor Vehicle Rentals) Approved 09/25/2001
4	CUP (Bulk Storage) Approved 11/10/1992
5	CUP (Indoor Commercial Recreational Facility) Approved 02/13/1996
6	CUP (Church) Approved 05/11/1993

Application Types

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

Evaluation & Recommendation

The applicant is requesting a Conditional Use Permit for a Short Term Rental for a three bedroom single-family dwelling located in the Redwing Subdivision. The Redwing Subdivision consists of single-family dwellings. Short Term Rental use has not proven to be common in the neighborhood or surrounding area and staff is not aware of other Short-Term rentals in close proximity to this unit. Three on-site parking spaces are required. All three spaces are accommodated on-site, two in the driveway and one in the garage. The Zoning Administrator has reviewed this alternative parking plan and deemed it acceptable. Staff believes that all other requirements of Section 241.2 of the Zoning Ordinance pertaining to Short-Term Rentals can reasonably be met.

Staff recommends approval of this request with the conditions listed below; however, the recommended conditions do reflect City Council’s Short Term Rental revisions by reducing the number of bookings in a seven day period to one and limiting the overnight guest calculation to two per bedroom. The applicant is agreeable to these condition changes.

Recommended Conditions

1. The following conditions shall only apply to the dwelling unit addressed as 1305 Chickadee Lane, and the Short Term Rental use shall only occur in the principal structure.
2. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.

3. The garage space within the unit must remain a minimum of 9-feet by 18-feet, contain a minimum 8-foot wide vehicle entryway opening, and shall remain free of materials to ensure vehicular accessibility to the Short Term Rental tenants.
4. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
5. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1 (8a).
6. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes. Physical response to the site of the Short Term Rental is not required.
7. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
 - a) A completed Department of Planning and Community Development Short Term Rental Zoning registration form; and
 - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
 - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
8. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
9. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
10. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
11. Accessory structures shall not be used or occupied as Short Term Rentals.
12. No signage shall be on-site, except one (1), four (4) square foot sign, may be posted on the building which identifies the Short Term Rental.
13. The Short Term Rental shall have no more than one (1) rental contract during any consecutive seven (7) day period.
14. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
15. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
16. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom.

17. To the extent permissible under state law, interconnected smoke detectors (which may be wireless), a fire extinguisher and, where natural gas or propane is present, carbon monoxide detectors, shall be installed in each Short Term Rental.

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.

Public Outreach Information

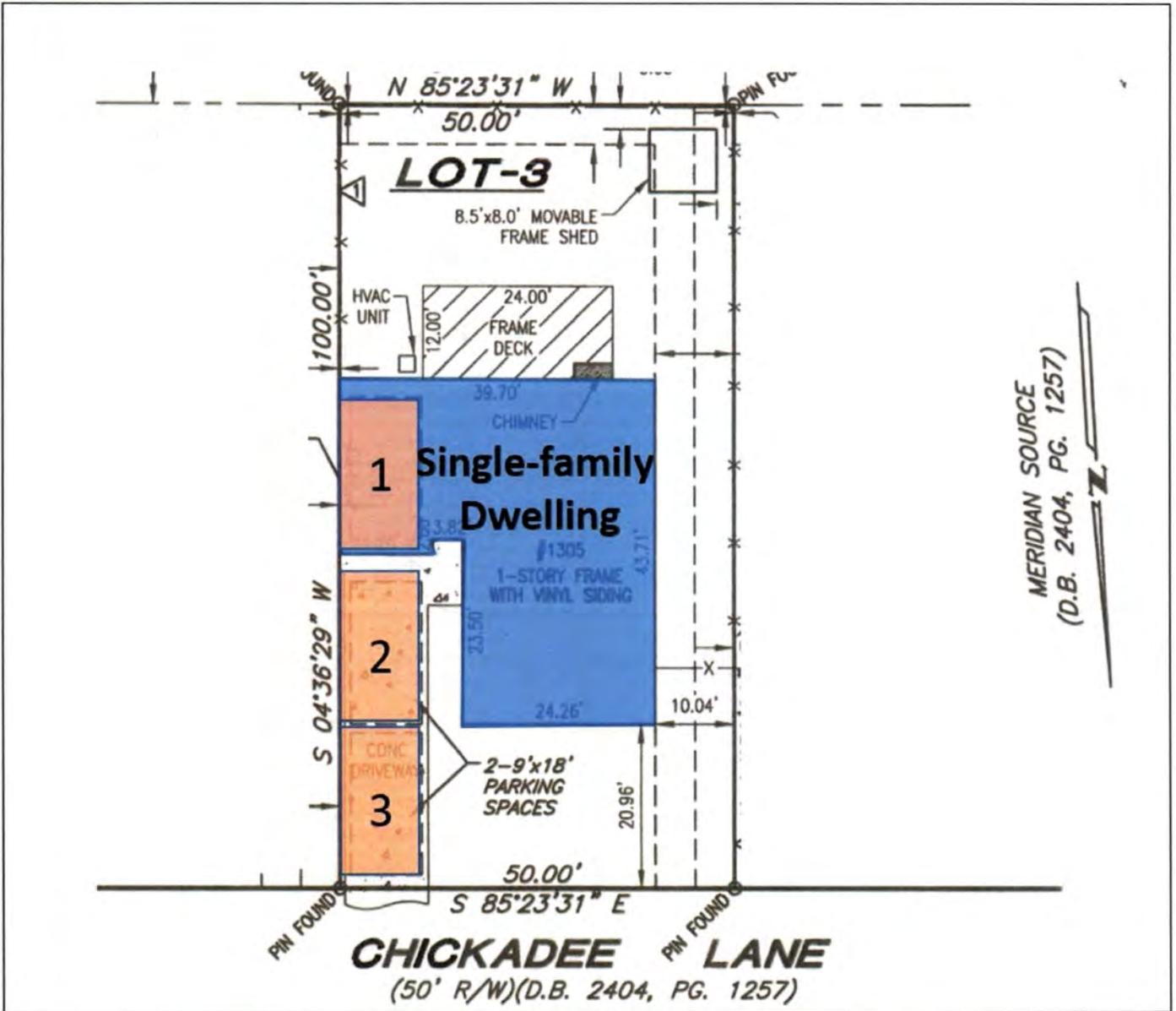
Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on August 10, 2020.
- As required by State Code, this item was advertised in the Virginia Pilot Beacon on Sundays, August 23, 2020, and August 30, 2020.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on August 24, 2020.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.vbgov.com/pc on September 3, 2020.
- Staff has received 1 letter of opposition, citing concerns with trash, loud tenants and the nature of Short Term Rentals.

City Council

- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, October 4, 2020, and October 11, 2020.
- 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 October 5, 2020.
- 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 October 16, 2020.

Site Layout & Parking Plan



Site Photos





APPLICANT'S NAME Carol Davis

DISCLOSURE STATEMENT FORM

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

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

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

SECTION 1 / APPLICANT DISCLOSURE

FOR CITY USE ONLY - TO BE COMPLETED BY THE APPLICANT AND THE CITY CLERK OR CITY COMMISSIONER AND CITY COUNCIL MEMBERS (SEE INSTRUCTIONS TO THE APPLICANT)

<input type="checkbox"/>	APPLICANT NOTIFIED OF HEARING	DATE	
<input checked="" type="checkbox"/>	NO CHANGES AS OF	DATE	10/7/2020 Summer Peebles
<input type="checkbox"/>	REVISIONS SUBMITTED	DATE	

Page 1 of 7

Disclosure Statement



- 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: Carol Davis
If an LLC, list all member's names:

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

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

See next page for information pertaining to footnotes¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

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

- Check here if the **PROPERTY OWNER IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- Check here if the **PROPERTY OWNER IS** a corporation, partnership, firm, business, or other unincorporated organization, **AND THEN**, complete the following.
- (A) List the Property Owner's name:.....
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)*

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

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

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

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



APPLICANT

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

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

YES	NO	Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	

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

Disclosure Statement



CERTIFICATION:

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

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

	Carol Davis	3/13/2020
APPLICANT'S SIGNATURE	PRINT NAME	DATE



OWNER

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

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

YES	NO	Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	

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

Disclosure Statement



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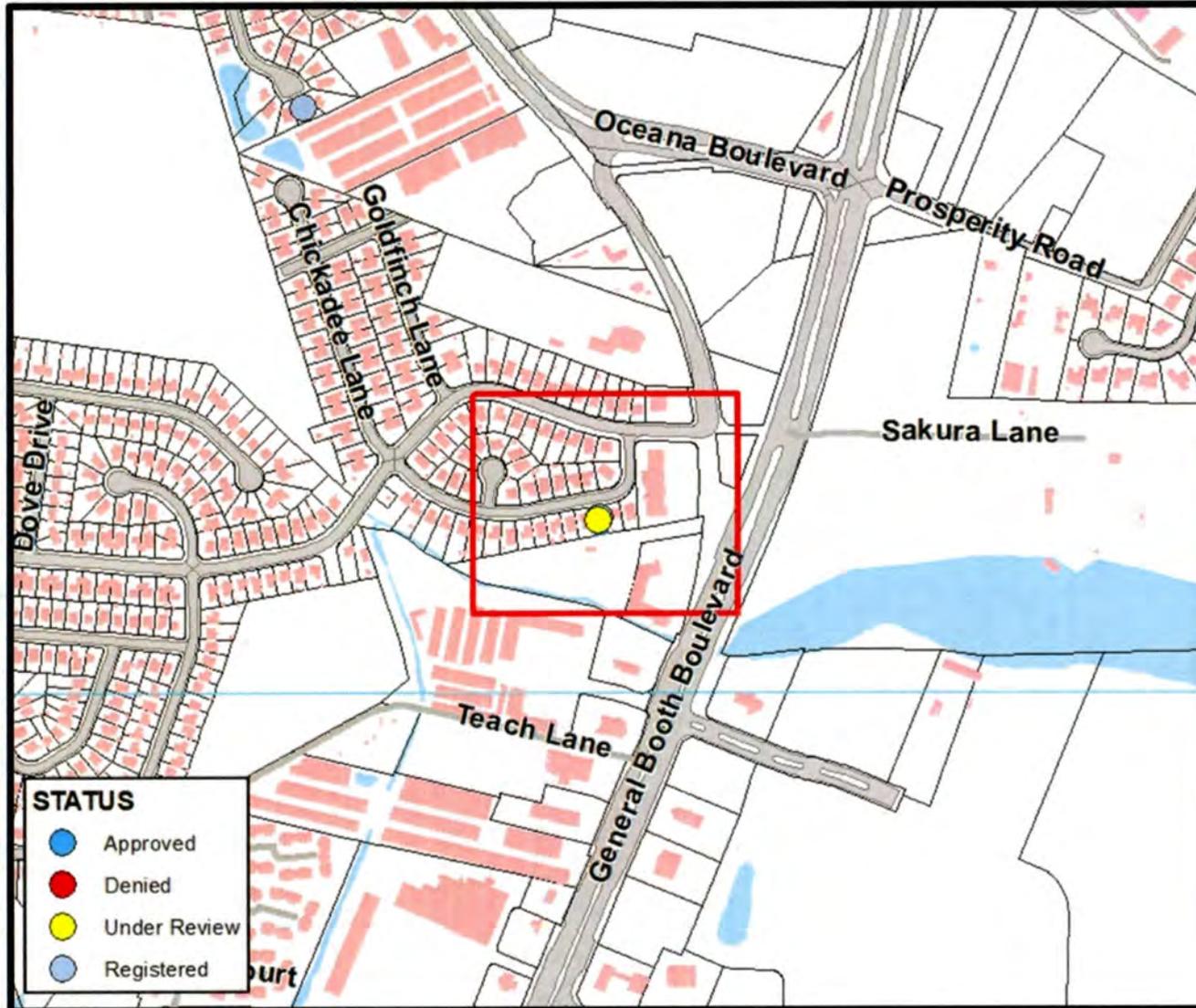
	Carol Davis	3/13/2010
PROPERTY OWNER'S SIGNATURE	PRINT NAME	DATE

Next Steps

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

STR VICINITY MAP

CAROL DAVIS – 1305 CHICKADEE LANE



Items # 12.
Carol Davis
Conditional Use Permit (Short Term Rental)
1305 Chickadee Lane

September 09, 2020

RECOMMENDED FOR APPROVAL- HEARD

Mr. Landfair: Madam Chair, the next item is agenda item 12; Carol Davis for a Conditional Use Permit request for Short-Term Rental at 1305 Chickadee Lane in the Beach District. The applicant is Carol Davis. Ms. Davis is a virtual speaker. Ms. Davis, you have up to 10 minutes. Thank you.

Ms. Davis: The reason for wanting to request a Short-Term Rental comes from the fact that for the past year, year-and-a-half, my boyfriend and I have been kind of either living at his house or living in my house and therefore, I just thought maybe to go through the process for the Short-Term Rental. I know that when going out of town, I would rather stay in a Short-Term Rental than staying in a hotel, something about the peace and relaxation is, and having my own space is a little bit more enjoyable. And, therefore, frankly, I just wanted to complete the application and to periodically put my house up as a Short-Term Rental. And, really to assist the Virginia Beach economy. And I really wanted to focus this specifically for families that either could not afford to stay at the Oceanfront, because I am really not that far from there, and also for those families that kind of need their own space as well, like I had mentioned, what I look forward to when I travel versus the hotel. And, therefore those families being able to do that as well, so, I believe. That is all I have.

Ms. Oliver: Okay. I know we have one letter. Do we have any questions for the applicant? We had one letter of opposition.

Mr. Landfair: Madam Chair, there are no more known speakers.

Ms. Oliver: Okay. Alright. Mr. Wall, did you.

Mr. Wall: I do have a question it has this is, and maybe I have seen this before as just on the second page of the application, it says it is registered already. And, I think this has come up before, I am just curious why it does not say under review, it just says registered.

Mr. Tajan: I believe that is a mistake with the colors, I apologize Mr. Wall, I did not notice that should be under review, but I will double check if you give me a moment.

Ms. Oliver: I also have a question. Maybe I have never noticed this either, where it says the applicant has not responded with agreement or disagreement to the City Council's recently imposed conditions reducing the number of bookings in a seven day period to one and limiting the overnight guests calculation two per bedrooms. So, what does that mean, she is not in agreement or she is unaware.

Mr. Tajan: Ms. Davis, if you pause three seconds, can you please answer the chairwoman's question.

Ms. Davis: Yes, I am in agreement with that proposed change, I emailed Summer Peebles about that and I am not sure why that says, neither agrees or disagrees in there.

Ms. Oliver: Okay. Anything else?

Mr. Wall: I do not have any questions.

Ms. Oliver: No questions. Anybody have any questions for the applicant? Alright, we will close this hearing and we do not have any other speakers and open it up for discussion or a motion, please.

Mr. Coston: Madam Chair, I move that we approve item 12 on the agenda.

Ms. Oliver: Thank you. Do we have a second please?

Mr. Redmond: Second.

Ms. Oliver: May I call for the question.

Ms. Coleman: If you are in favor of the motion say, yes and if you are opposed say no. Mr. Alcaraz.

Mr. Alcaraz: Yes.

Ms. Coleman: Mr. Barnes.

Mr. Barnes: Yes.

Ms. Coleman: Mr. Coston.

Mr. Coston: Yes.

Ms. Coleman: Mr. Graham, Mr. Horsley, Mr. Inman, and Ms. Klein are all absent.
Mr. Redmond.

Mr. Redmond: Yes.

Ms. Coleman: Mr. Wall.

Mr. Wall: Yes.

Ms. Coleman: Mr. Wiener.

Mr. Weiner: Yes.

Ms. Coleman: And, Ms. Oliver.

Ms. Oliver: Yes.

Ms. Coleman: By a recorded vote of seven for and zero against, agenda item 12 is hereby recommended for approval by the Planning Commission.

	AYE 7	NAY 0	ABS 0	ABSENT 4
Alcaraz	AYE			
Barnes	AYE			
Coston	AYE			
Graham				ABSENT
Horsley				ABSENT
Inman				ABSENT
Klein				ABSENT
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

CONDITIONS

1. The following conditions shall only apply to the dwelling unit addressed as 1305 Chickadee Lane, and the Short Term Rental use shall only occur in the principal structure.
2. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.

3. The garage space within the unit must remain a minimum of 9-feet by 18-feet, contain a minimum 8-foot wide vehicle entryway opening, and shall remain free of materials to ensure vehicular accessibility to the Short Term Rental tenants.

4. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.

5. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1 (8a).

6. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes. Physical response to the site of the Short Term Rental is not required.

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a) A completed Department of Planning and Community Development Short Term Rental Zoning registration form; and

b) Copies of the Commissioner of Revenue's Office receipt of registration; and

c) Proof of liability insurance applicable to the rental activity of at least one million dollars.

8. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.

9. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.

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From: [Amy Roper](#)
To: [William R. Landfair](#)
Cc: [Summer J. Peebles](#)
Subject: Short Term Rental
Date: Monday, August 31, 2020 10:27:05 AM

CAUTION: This email originated from outside of the City of Virginia Beach. Do not click links or open attachments unless you recognize the sender and know the content is safe.

RE: Application from 1305 Chickadee Lane

Good morning,

My response is "no" to this application.

It is already a revolving door of renters without this application being approved.

There has been one house party where the street was clogged with cars, someone peed on our front lawn and ultimately the police were called.

These renters were unauthorized for these additional guests and were ultimately kicked out.

This is a quiet residential neighborhood with long term homeowners.

We have been here 13 years.

We already have vandalism, tires slashed on multiple cars this past weekend.

And we certainly don't need a repeat of the house party.

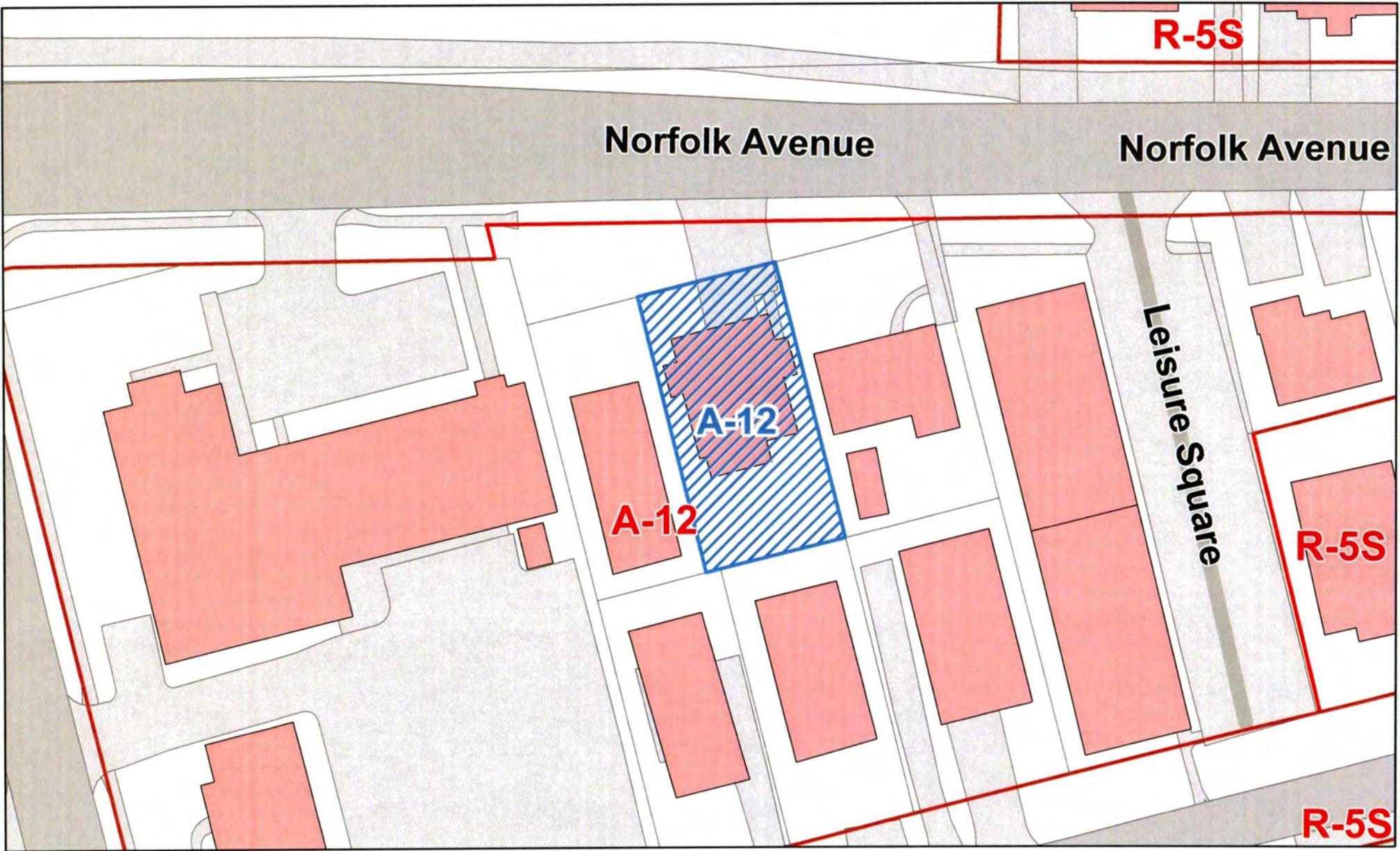
Thank you for your time.

Amy Roper

1302 Chickadee Lane

Virginia Beach, VA 23454

757-961-3105



Norfolk Avenue

Norfolk Avenue

Leisure Square

A-12

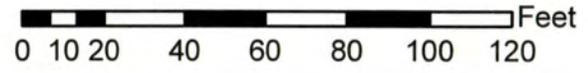
A-12

R-5S

R-5S

-  Site
-  Property_Polygons
-  Zoning
-  Parking Lot Drive Aisle
-  Building Footprint

Ocean Rental Properties, LLC
516 Norfolk Avenue





CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: OCEAN RENTAL PROPERTIES, LLC [Applicant & Property Owner] Conditional Use Permit (Short Term Rental) for the property located at 516 Norfolk Avenue, Units 1, 2, 4, & 5 (GPIN 2427048118). COUNCIL DISTRICT – BEACH

MEETING DATE: October 20, 2020

■ **Background:**

The applicant is requesting a Conditional Use Permit for four Short Term Rental units on this 5,010 square-foot parcel zoned A-12 Apartment District at the oceanfront. The lot contains one building with four apartment-style dwelling units. For clarity, there is no Unit 3 on this property; the request applies to all four units on the site, which are addressed as Units 1, 2, 4, and 5. There are a total of five bedrooms within these four units. The minimum number of parking spaces required for Short Term Rental use is one per bedroom, or five spaces in this instance. The maximum occupancy for guests on-site after 11:00 p.m. for five bedrooms of Short Term Rental use is 15; however, at the time of this writing, the applicant agreed with City Council's recent Short Term Rental condition revisions reducing the number of overnight guests permitted to two per bedroom and limiting the number of bookings in a seven day period from two to one. These changes are reflected in the conditions below.

■ **Considerations:**

This site is located within the Shadowlawn Heights community, which contains a variety of commercial, public and religious uses, as well as an abundance of varied residential building types. The subject property is approximately 2,000 feet, or 0.3 miles, from the public beach of the Atlantic Ocean. Following a deferral by the Planning Commission to consider adjustments to the proposed parking configuration, the revised parking plan depicts eight on-site parking spaces; six located at the rear of the building and two situated in front of the building. Two of the parking spaces at the rear of the building are dedicated for use by the adjacent property owner of 518-B Norfolk Avenue. Thus, six of the eight on-site parking spaces are designation for the proposed Short Term Rental uses. As permitted by Section 241.2(1) of the City Zoning Ordinance, the revised plan was reviewed by the Zoning Administrator and found to be acceptable. During the September 9, 2020 Planning Commission public hearing, a condition was added that would require the applicant to apply for a Street Closure for a portion of Norfolk Avenue to address concerns raised related to the maneuverability and ease of access to all of the parking spaces located at the rear of the lot. By closing a portion of Norfolk

Avenue, which Staff and the Planning Commission believe is a viable option, up to two of the proposed spaces at the rear of the building can be shifted to the front of the building. As a result, the overall on-site parking will be less cumbersome for ingress and egress of vehicles. If the Street Closure is not granted by City Council, the recommended condition requires the applicant to comply with the latest submitted parking plan. Further details pertaining to the application are provided in the attached Staff report.

One letter of opposition was received related to this request and there were two speakers in opposition who noted the following concerns: parking congestion, character changes and use incompatibility in the neighborhood, the transient nature of the occupants, and the perception of negative impacts to property value due to Short Term Rentals.

■ **Recommendation:**

On September 9, 2020, the Planning Commission passed a motion to recommend approval of this request by a vote of 7-0.

1. The following conditions shall only apply to the dwelling unit addressed as 516 Norfolk Avenue Units one (1), two (2), four (4), five (5) and the Short Term Rental use shall only occur in the principal structure.
2. Prior to the operation of the Short Term Rental Use, a Street Closure shall be submitted and approved by City Council for the unimproved portion of the Norfolk Avenue in front of 516 and 518 Norfolk Avenue. A new parking plan utilizing the closed portion of the right-of-way shall be reviewed by the Zoning Administrator. If City Council does not approve the Street Closure, all parking shall comply with the parking plan as submitted.
3. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council and shall be installed and maintained in a manner consistent with site plan approval by the Development Services Center.
4. As shown on the parking plan illustration within the "Site Layout and Parking Plan" section of this Staff report and unless a modification of material type and/or location is approved by the Zoning Administrator, the existing concrete driveway shall be widened to accommodate two additional stacked 9-foot by 18-foot parking spaces, as well as the removal of the depicted curb cut, gravel in right-of-way and the driveway apron directly in front of the property.. A building permit for this additional concrete parking space must be obtained from the Permits and Inspections division of the Department of Planning and Community Development within 60-days of any City Council approval for the proposed Short Term Rental use.
5. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Condition Use Permit may be

- administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
6. No events with more than the permitted number of people who may stay overnight (number of bedrooms times two (2)) shall be held at the Short Term Rental and the property on which it is located. This Short Term Rental may not request or obtain a special event permit under City Code Section 4-1 (8a).
 7. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes. Physical response to the site of the Short Term Rental is not required.
 8. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Department of Planning and Community Development for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
 - a) A completed Department of Planning and Community Development Short Term Rental Zoning registration form; and
 - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
 - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
 9. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
 10. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
 11. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
 12. Accessory structures shall not be used or occupied as Short Term Rental.

13. No signage shall be on-site, except one (1), four (4) square foot sign, may be posted on the building which identifies the Short Term Rental.
14. The Short Term Rental shall have no more than one (1) rental contract during any consecutive seven (7) day period.
15. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000.00) underwritten by insurers acceptable to the City.
16. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
17. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom.
18. To the extent permissible under state law, interconnected smoke detectors (which may be wireless), a fire extinguisher and, where natural gas or propane is present, carbon monoxide detectors shall be installed in each Short Term Rental.

- **Attachments:**
 - Staff Report and Disclosure Statements
 - Location Map
 - STR Vicinity Map
 - Minutes of Planning Commission Hearing
 - Letter of Opposition (1)

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

Submitting Department/Agency: Planning Department *Rm*

City Manager: *AD*

Requests

- # 14 - **Conditional Use Permit** (Short Term Rental) – Unit 1
- # 15 - **Conditional Use Permit** (Short Term Rental) - Unit 2
- # 16 - **Conditional Use Permit** (Short Term Rental) - Unit 4
- # 17 - **Conditional Use Permit** (Short Term Rental) - Unit 5

Staff Recommendation

- ~~Denial~~
- Approval

Staff Planner

Kevin Hershberger

Location

516 Norfolk Avenue

GPIN

2427048118

Site Size

5,010 square feet

Existing Land Use and Zoning District

Apartments / A-12 Apartment

Surrounding Land Uses and Zoning Districts

North

Norfolk Avenue
 Single-family dwellings / R-5S Residential

South

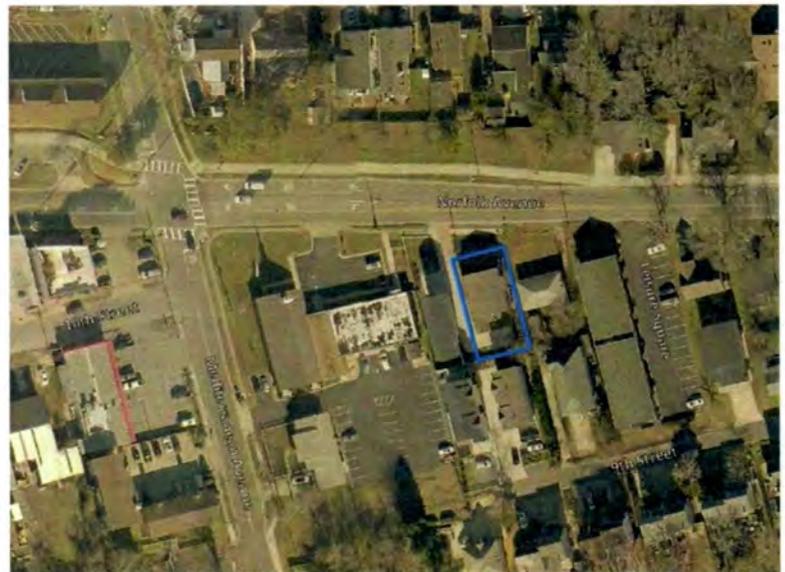
Duplexes / A-12 Apartment

East

Single-family and multi-family dwellings / A-12 Apartment

West

Duplex dwelling, church / A-12 Apartment



Background & Summary of Proposal

Site Conditions and History

- The property is 5,010 square feet and is in the A-12 Apartment District.
- The site is developed with a multi-family dwelling containing four units.
- City records indicate the building was constructed in 1940.
- No records of Zoning violations relating to Short Term Rental use were found associated with the subject address.

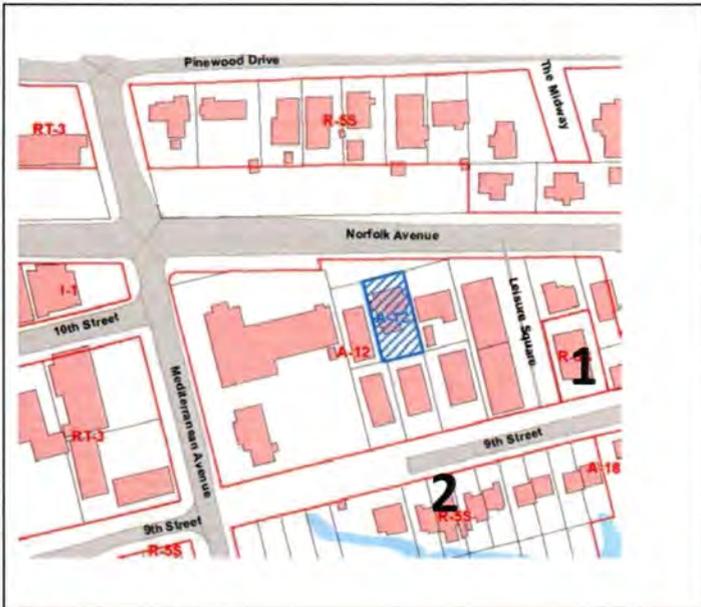
Short Term Rentals in the Vicinity



Summary of Proposal

	Unit 1	Unit 2	Unit 4	Unit 5
Number of bedrooms in the Short Term Rentals:	2	1	1	1
Maximum number of guests permitted on the property after 11:00 pm (maximum 3 per bedroom – note: see condition #14 recommending 2 per bedroom):	6 (4 per condition #14)	3 (2 per condition #14)	3 (2 per condition #14)	3 (2 per condition #14)
Number of parking spaces required (1 space per bedroom required):	2	1	1	1
Number of parking spaces provided on-site:	0± 2	1	1	0± 1

* Two parking spaces are in the Right of Way (total of four)



Zoning History

#	Request
1	REZ (A-12 Apartment to R-5S Residential) Approved 05/8/2001
2	NON (Enlargement/Room addition) Approved 06/27/2000

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

Evaluation & Recommendation

The site is located five blocks from the public beaches of the Atlantic Ocean and resort area of the city. This is an area where Short Term Rental use is common and expected. The surrounding neighborhood is characterized by a mixture of residential development containing multi-family, duplex and single-family dwelling types, as well as small-scale commercial establishments. ~~Although Short Term Rental use is common in this area, Staff cannot support this application due to a deficiency in required off street parking.~~ The property currently contains ~~two~~ six parking spaces located at the rear of the building. Two additional parallel spaces are shown in front of the dwelling, though not needed to meet the parking requirement. ~~All other parking is currently located in front of the building within the public right-of-way along Norfolk Avenue.~~ The area within the right-of-way is gravel. Staff was not able to find documentation that would support this gravel was installed legally. ~~Additionally, in order to maneuver in and out of the front parking area, vehicles would need to cross City sidewalk and may be backing directly out onto Norfolk Avenue, a heavily trafficked roadway. The gravel in the right-of-way will be removed and converted back to grass.~~ The Zoning Administrator has reviewed this parking plan and has determined that it is ~~not~~ acceptable. In Staff’s opinion, all other requirements of Section 241.2 of the City Zoning Ordinance pertaining to Short Term Rentals can reasonably be met.

Initially, the parking plan for this Short Term Rental included four spaces located in the gravel area in front of the home, located entirely in the public right-of-way. Following discussions with Staff, this application was deferred by the Planning Commission to consider a revised parking plan. A new parking plan was submitted, as shown on page 7 of this report, and was deemed acceptable by the Zoning Administrator.

Based on the information above, Staff recommends ~~denial~~ approval of this request ~~should this application be recommended for approval,~~ with the conditions below that include City Council’s modifications ~~for that include~~ a reduction in the number of rental contracts in a seven day period to one and ~~limits~~ limitation of the number of overnight guests to two per bedroom. Staff has received one letter of opposition from a current tenant of 516 Norfolk Avenue and one phone call.

Recommended Conditions for Items 14, 15, 16, & 17

1. The following conditions shall only apply to the dwelling unit addressed as 516 Norfolk Avenue Units one (1), two (2), four (4), five (5) and the Short Term Rental use shall only occur in the principal structure.
2. Prior to the operation of the Short Term Rental Use, a street closure shall be submitted and approved by City Council for the unimproved portion of the Norfolk Avenue in front of 516 and 518 Norfolk Avenue. A new parking plan utilizing the closed portion of the right of way shall be reviewed by the Zoning Administrator. If City Council does not approve the street closure, all parking shall comply with the parking plan as submitted.
3. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council and shall be installed and maintained in a manner consistent with site plan approval by the Development Services Center.
4. As shown on the parking plan illustration within the "Site Layout and Parking Plan" section of this Staff report and unless a modification of material type and/or location is approved by the Zoning Administrator, the existing concrete driveway shall be widened to accommodate two additional stacked 9-foot by 18-foot parking spaces, as well as the removal of the depicted curb cut, gravel in right-of-way and the driveway apron directly in front of the property.. A building permit for this additional concrete parking space must be obtained from the Permits and Inspections division of the Department of Planning and Community Development within 60-days of any City Council approval for the proposed Short Term Rental use.
5. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Condition Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
6. No events with more than the permitted number of people who may stay overnight (number of bedrooms times two (2)) shall be held at the Short Term Rental and the property on which it is located. This Short Term Rental may not request or obtain a special event permit under City Code Section 4-1 (8a).
7. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes. Physical response to the site of the Short Term Rental is not required.
8. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Department of Planning and Community Development for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
 - a) A completed Department of Planning and Community Development Short Term Rental Zoning registration form; and
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 - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
9. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.

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18. To the extent permissible under state law, interconnected smoke detectors (which may be wireless), a fire extinguisher and, where natural gas or propane is present, carbon monoxide detectors shall be installed in each Short Term Rental.

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.

Public Outreach Information

Planning Commission

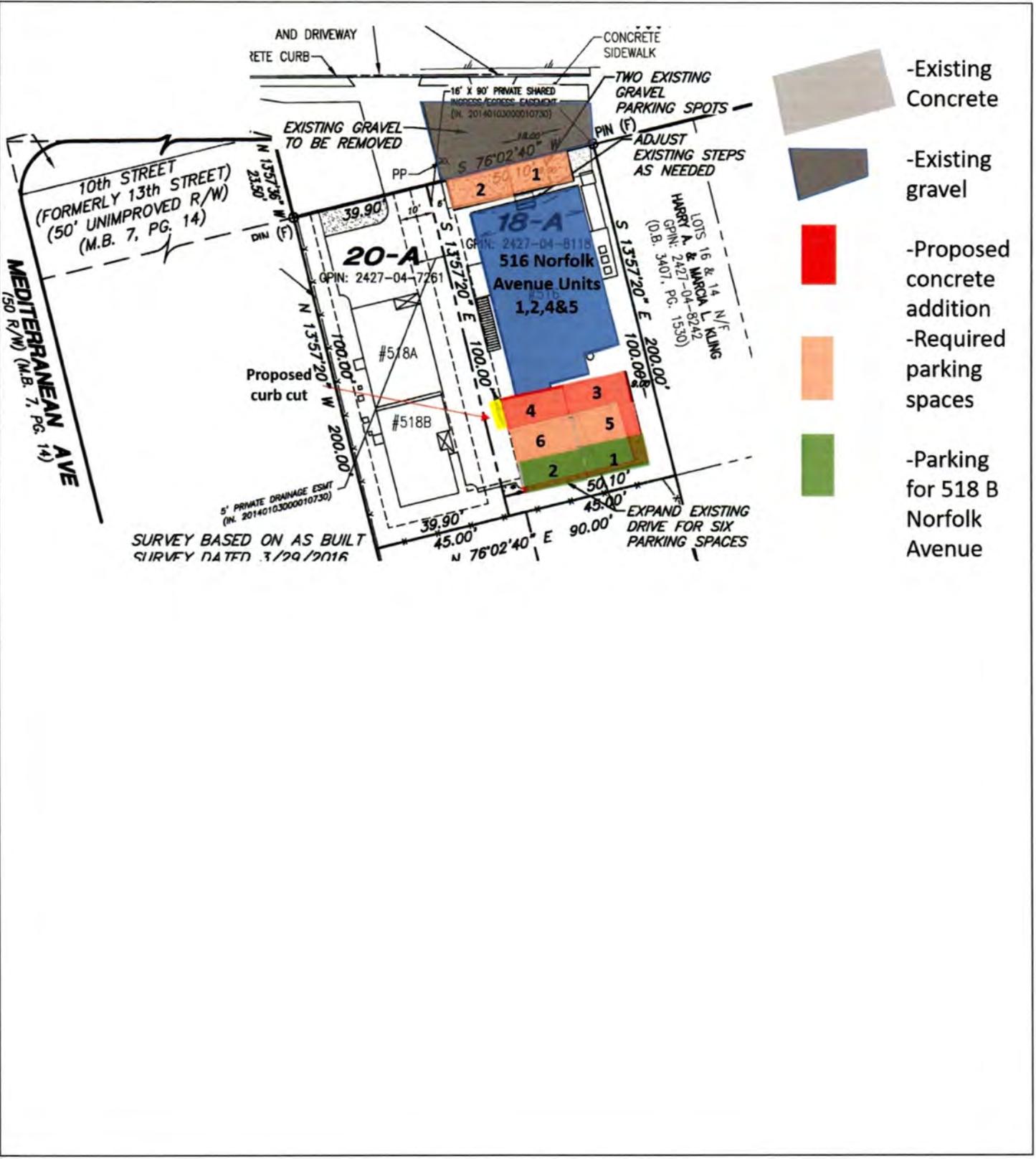
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on August 10, 2020.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, August 23, 2020, and August 30, 2020.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on August 24, 2020.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.vbgov.com/pc on September 3, 2020.

- Staff received one phone call noting concerns that the applicant would have insufficient parking and overcrowding while operating. And one letter stating that the exiting long-term renter does not want the change to Short Term Rentals.

City Council

- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, October 4, 2020, and October 11, 2020.
- 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 October 5, 2020.
- 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 October 16, 2020.

Site Layout & Parking Plan



Site Photos



Site Photos





APPLICANT'S NAME Ocean Rental Properties, LLC

DISCLOSURE STATEMENT FORM

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

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

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

SECTION 1 / APPLICANT DISCLOSURE

<small>FOR CITY USE ONLY / All disclosures must be updated immediately prior to any Planning Commission and City Council meeting that pertains to this application(s)</small>			
<input type="checkbox"/>	APPLICANT NOTIFIED OF HEARING	DATE	09-14-2020 SP
<input type="checkbox"/>	NO CHANGES AS OF	DATE	10-08-2020 WM
<input type="checkbox"/>	REVISIONS SUBMITTED	DATE	

William Miller – *William Miller* - 10-08-2020



- 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: Ocean Rental Properties, LLC
 If an LLC, list all member's names:
 Steven W. Bishard, Manager
 John K. Bishard, Manager

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-subsiidiary¹ or affiliated business entity² relationship with the Applicant: *(Attach list if necessary)*

See next page for information pertaining to footnotes¹ and ²



SECTION 2 / PROPERTY OWNER DISCLOSURE

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

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

(A) List the Property Owner's name: _____
 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)*

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

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

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

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



APPLICANT

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

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

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

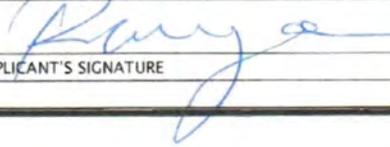
If yes, what is the name of the official or employee and what is the nature of the interest?



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.

	Roger Orozco	Dec 19, 2019
APPLICANT'S SIGNATURE	PRINT NAME	DATE

Next Steps

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

STR VICINITY MAP

OCEAN RENTAL– 516 NORFOLK AVENUE, UNITS 1, 2, 4, & 5



**Items # 14, 15, 16, & 17.
Ocean Rental Properties, LLC
Conditional Use Permits (Short Term Rentals)
516 Norfolk Avenue, Units 1, 2, 4, & 5**

September 09, 2020

RECOMMENDED FOR APPROVAL- HEARD

Mr. Landfair: Madam Chair, the final items are agenda items 14, 15, 16, and 17 Ocean Rental Properties, LLC for Conditional Use Permit request for Short-Term Rentals at 516 Norfolk Avenue, Units 1, 2, 4, and 5 in the Beach District. The applicant's representative is Eddie Bourdon. Mr. Bourdon, you have up to 10 minutes. Thank you.

Mr. Bourdon: Thank you, Mr. Landfair, Madam Chair and members of the Commission again for the record Eddie Bourdon, Virginia Beach Attorney representing Ocean Rental Properties, LLC, Mr. Bishard and Mr. Motto, with my client, are here this afternoon. The application involves an existing four unit multifamily dwelling that has existed on Norfolk Avenue, another important gateway to the resort area, since back in the - I think - the late 40s. The four units are three one bedroom units and one that is a two bedroom unit. They appreciate Mr. Kemp's presentation to the Commission this morning in the informal. Back in December this application was filed when Mr. Hershberger advised me that the parking in the front was in the right of way, and again it was the application that was filed by my clients. When I was advised it was in the right of way, even though it has been used for parking for decades and decades, we said that we would take a deferral and determine how we could place all the parking on-site, as has been the desire of the Commission. And, back in May, we provided the plan that you saw this morning that is right up here on the screen. And, reviewing all of this information with my clients on a number of occasions, the one thing and listening to what was stated this morning just reaffirmed what we came to the conclusion, the best course of action to ensure that not only will we have the five onsite parking spaces, which we clearly can do. They can clearly create six onsite parking, actually eight onsite parking spaces. The two that are in green, while there is nothing legally binding those, it is my understanding that they are being used by the owners of 518-B adjacent. So, we have got six that we can provide onsite, but the most appropriate way to do this is going to be to close the unimproved section of Norfolk Avenue and you can see up there, I do not think this thing works anymore,

the church next door closed that street a number of years ago. My clients actually owned the underlying fee in that section of Norfolk Avenue, so, we would propose to close that we have to file an application. And, we would also close it in front of the property the two-unit condo in between and provide that additional land to that condominium, which will provide them with the opportunity to have some green space or provide additional parking on that property. But, the two spaces in front, clearly meet code, however, it would not be very attractive. And, what we would do by closing the right of way, the driveway would come in and then you would have at least two spots that would be located directly east of the driveway in front to go along with the spaces in the rear. The conditions in the recommendation are all acceptable, this will be professionally managed as all of the Ocean Rental Properties are with someone it will be far better managed than the long-term rentals as we have discussed on a number of occasions. But, this plan will work, meets all the code requirements, but as Ms. Oliver mentioned this morning it would be far better if the parking in the front were not sitting right in front of the dwelling. So, that is one of the things that we will agree to as a condition of the Short-Term Rental that there be a an approved and street closure and a re-subdivision to include the additional excess property, which has already been determined on the property next door to be access frankly in front of the two properties we can do it and add them to both. I think that is the better way to provide the parking than what is shown here. But, as it shown here all we would have to provide parking spaces, the one in the front we do not want to provide both and 4, 3, 5, and 6 in the back, which will all fit on the property and meet all the requirements. The driveway that is there is 15 or 16 feet wide, at the north end we have 10 foot and 11 foot wide 12 foot max driveways that people use to turn into their condo units in the back, etc. So, there is plenty of room for that to work, it works just fine now and will continue to work with the additional impervious surface and will have to meet all the stormwater management requirements, which might include underground storage of stormwater. The property as it exists today, again it was built 60 plus years ago, and there is not a lot of stormwater management is taking place, there is some with the improvements that were made. All the conditions is recommended by Staff are acceptable, the weekly and the two persons per unit in the bed. I would be happy to answer any questions.

Ms. Oliver: Yes, George go ahead.

Mr. Alcaraz: I just want to make sure I heard it right, you are going to apply for a street closure for both properties.

Mr. Bourdon: Well, my clients own the underlying fee in the unimproved portion of Norfolk Avenue in front of both 18-A and 18-B, so, from a cost standpoint, it makes eminently good sense to close both sections. We would provide the portion in front of 20-A to the condominium that exists on 20-A. We would not maintain that would belong to them unless they did not want. But they would get the opportunity to add additional parking in front of that duplex as well, which is probably something that would be perceived to be beneficial I would hope anyway.

Ms. Oliver: Anybody have any questions for Mr. Bourdon.

Mr. Bourdon: And, that would be a condition of the Short-Term Rental application approval if it were to be approved by the Commission.

Ms. Oliver: Thank you.

Mr. Bourdon: Thank you very much.

Ms. Oliver: Do we have any speakers?

Mr. Landfair: Madam Chair, there are two speakers signed up to comment, the first speaker is Stanley Vane, followed by Robert Perkins. Mr. Vain, please state your name for the record. Thank you.

Mr. Vane: My name is Stanley William Vane. I am the owner of 515 and 513, 9th Street, which is directly behind them. I came here before and complained about the Airbnb parking. We have such a massive trouble with the over parking Airbnb. For instance, you can give him his five parkings, there is seven Airbnbs right in our neighborhood, right around in the strip, there is two of them that are illegal. And, what is happening is that these people are renting Airbnbs, and then having your guests come and are coming into our street on 9th Street and actually parking in the middle of the street and blocking traffic. The last time I was here, I complained about it. He said, call the number. I have several incident reports and several, several.

Ms. Oliver: Sir, do not lose your train of thought, but if you could speak into the microphone, that will help. Thank you.

Mr. Vane: I forgot where I am .

Ms. Oliver: You made phone calls.

Mr. Vane: Okay. So, he told us to make phone calls when there is no way to call, when there is parking problems call. I have pictures of where I have incident numbers with the law, where our 9th Street was literally blocked off. There

is a legal parking space and there is an Airbnb parking, and nobody could get through. That was on a 8 - 28 incident number 746. And, it was Officer Mabry, when the law came when I called the law, they said the parking enforcement would have to tow the car. And, they made the legal person that was parked on the street move, parking enforcement never towed. Our street is off the radar, parking enforcement do not enforce it, the law do not come in enforce it. You have these Airbnb people they are parking on the pavement, it is an absolute nightmare. I have called again, Officer Chettin and fortunately they found the owner, and the car was moved. Talking about cars that are parked right in the middle of the road, the fireman who lives next to me was supposed to call because he needs to get to work, and my concern is with the parking in front at this house. All they did, I mean it was a beautiful I do not know how many decades it was, it was a beautiful old beach house. They tear one down and they put six houses up, and they take this old beach house, and they renovate it and they put four apartments in it. And, now they want to turn around there and rent it out to 16 people a week differently. If this was a regular house that was not cut up into four apartments, you can maybe rent the house out to a family of six to eight. And, now we are going to have up to 15 people a week parking behind me coming in, and then influencing our street. I did talk away with the other Airbnbs on 9th Street, and the solution is now we have security cameras for the parking. And, we have also turned it around and applied for a residential parking permit. That will possibly help stop the extra parking of the Airbnbs. My neighborhood in Shadow Lawn is a rental community it is not a neighborhood no more. I got five of them across the street and I got an illegal one right across the street, and a possibly another one that is in the second condo. I am not sure, but I believe is possible, but the parking overflows on the 9th Street and it is really causing a problem. And, then these pictures here, there is not enough room for four people to park here right now. And, then these builders they come up and they sign these signs parking for a designated spot. The houses that are built right behind him, the City says they are illegal. I mean after the houses are built and after the people buy them, and then you turn around here and you have City Officials come in there and they say, this parking spot for 527, 9th Street is illegal,

Ms. Oliver: Sir, I have to stop you now, you have run out of time. But, I do want to ask you a question, so, do not sit down yet. Where are you, are you directly behind him.

Mr. Vane: On my property, I have a fence.

Ms. Oliver : See where his property is, it is the blue.

Mr. Vane: It is the blue, I am here.

Ms. Oliver: You are here.

Mr. Vane: On there, right there.

Ms. Oliver: And, then there is five of them across the street from you correct.

Mr. Vane: Ooh, god. Yes. I am sorry.

Ms. Oliver: I got it.

Mr. Vane: And, then you have all these people, I mean it is like this was a single family home. This was the yard that went to here decades of having gravel in the front yard, I only recall that being done after he bought the house

Ms. Oliver: Sir can I get you to the mic?

Mr. Vane: And, he rose the gravel in the front yard, and it comes apartment place, but we also have troubles with people parking behind the easement, just like this picture here. There is two cars here and there is a car parked behind it. It is not going to stop and we have that down with the other one, I mean, this is an Airbnb two houses down is another Airbnb, across the street from me they are buying these houses and cutting them in half and taking away city parking, so, that can extend our driveways for their businesses. So, we are hoping that we can get residential parking on that street that will help take care of it. And, I think that is in the works right now. And, that is my complaint, as opposed to I rent to a single professional woman I own Airbnbs and having all these people coming in, all the time. A lot of people have better skill sets and others when it comes to renting these out. But, some of the people and the characters that I have seen it makes me a little concerned.

Ms. Oliver: Got it.

Mr. Vane: I am retired Merchant Marine, I have seen the world, but I am a little concerned when I see Michigan, Chicago, Detroit tags and I know what gang tattoos look like thank you.

Ms. Oliver: Thank you.

Mr. Landfair: Madam Chair, the next speaker is Robert Perkins.

Ms. Oliver: Hello, Mr. Perkins.

Mr. Landfair: Mr. Perkins, please state your name for the record. Thank you.

Mr. Perkins: My name is Robert Perkins, I currently live at 518-A. Previously, I had sent letters out to the City Council and also to each Planning Commissioner, like that same letter I am going to read because I am not that great of a speaker, I do have copies here if each one of you would allow me to just let you have one

Ms. Oliver: You can hand them right, Bill he will take.

Mr. Perkins: I had talked to Bill previously on the phone to get me on the docket, I appreciate that. I will wait for a second until you get the letter.

Ms. Oliver: Well, your time is ticking.

Mr. Perkins: Okay, alright.

Ms. Oliver: You get started.

Mr. Perkins: Basically, I am just going to read this, if you do not mind, bear with me. As a full time resident of 518, Norfolk Avenue, Unit-A I am opposed to the Conditional Use Permit requested for 516, Norfolk Avenue apartment 1, 2, 4, and 5. This Conditional Use Permit is not compatible with residential living at this juncture, all my neighbors are year round permanent residents. We have invested in this property as a home and object to having it to become a condo for short-term or seasonal rentals. My specific concerns include negative aspects of Short-Term Rentals like cramped parking, trash, noise, traffic congestion, and a revolving door of new visitors. Please consider the quality of life of the permanent residents of the complex before you vote on the Conditional Use Permit for 516, Norfolk Avenue, 1, 2, 4, and 5. We aske that you fully consider the needs of those who reside in the community as their principal residence. Would you approve a property in a dense neighborhood like our condo complex to be rented for compensation for less than 30 days? What will happen is that the use of property will then become more like a hotel or time share property, filled with investors who are not vested in the community. I fully support tourism and I am now a very proud resident of Virginia Beach. I believe that restrictions on the use of residential property have served us well for decades. I understand property rights and the ability of the property owner to receive rent as compensation, but I am opposed to Short-Term Rental approach and is simply not compatible with our residential community as designed. Right now, this is an investment property and is going to become a hotel. I recently moved from Chesapeake to Virginia Beach to take care of my daughter and my grandson, I did not have to come to Virginia Beach, but I found a place very close to them. I was happy and blessed with my realtors here it was able to find me and get

this. I made a capital investment of close to \$400,000, to have right now, originally Bishard gave me a letter the other day saying as much as three per bedroom that is 15 people. Now I understand you are lowering it down the two, as 10 people right next to me. Also, if you do not mind, I am going to give you these and you look at the actual property photos, because I do not think you have the parking.

Ms. Oliver: Thank you. Do we have any questions for Mr. Perkins?

Mr. Perkins: Is my time over?

Ms. Oliver: Well, you know what Mr. Redmond is going to ask you a question.

Mr. Perkins: Okay, thank you.

Ms. Oliver: And, you can continue.

Mr. Perkins: Look at the time because I am a little bit. As far as I know my plot, given to me.

Ms. Oliver: Mr. Redmond is going to ask you a question.

Mr. Perkins: Okay.

Mr. Redmond: That is okay, I am passionate about it. So, where is your 516, where is 518, show me where are you, this does not help us obviously if you guys can switch over to the.

Mr. Perkins: The pictures, you will see showing

Mr. Perkins: Go back to the old ones, if you do not mind.

Ms. Oliver: You cannot find it.

Mr. Perkins: I guess its there. Go to your diagram. I am 518-A the door me behind is.

Ms. Oliver: Ooh, you are next door.

Mr. Perkins : I am right next door, believe me. Okay. Right now, if you look at the picture, there is a small little entrance made from here, you see the angle the rocks and everything like that. They are currently, according to my plot, we have a conditional use up to my property line here for people to be able to come in here. I do not have a problem with that. My code is completely over here, I am getting people which they are very good residents.

Ms. Oliver: So, Mr. Perkins, I might put you back at the podium in front of that microphone.

Mr. Perkins: Alright. Currently, the residents are using my access, my driveway to go into their gravel area. I do not mind that too much, it is a couple of feet, they are not completely coming on. But, there is no way in the world you can get four cars in there without coming across my access. According to my plot and everything like that, the driveway can be used for access for 518-B, but it is not meant to be used for anything else.

Mr. Redmond: Mr. Perkins, I think your time has expired. You answered my question and I appreciate you. Thank you.

Mr. Perkins: Thank you for the opportunity.

Ms. Oliver: Thank you,

Mr. Landfair: Madam Chair, there are no more known speakers.

Ms. Oliver: Okay. Mr. Bourdon.

Mr. Bourdon: Thank you. I will start with Mr. Perkins. Mr. Perkins owns a unit, two-unit condominium 518-A, and there is an ingress-egress easement between the properties there, the driveway is on both properties and lot 18-A has the right to use that ingress-egress easement it does not belong to "Mr. Perkins" he owns a condominium unit and two-unit condominium that is subject to the ingress-egress easement and has the benefit of an ingress-egress easement on the adjacent lot to the east, so, it is not up to Mr. Perkins as to the ability to go up and down that driveway belongs to both properties. Mr. Vane, if you can put the map back up there, Mr. Vane's condo is not directly behind and I understand because his numbers are not up there, it can be confusing to him. But, his property is catty corner, he lives in 513, 9th Street which is here, 515 is also there and that is rented. So, it is two units in that duplex, but it is not directly behind my clients property. It is, however, adjacent to 16 or 18 units in leisure square. I would also ask the Commission to take note that 9th Street is a dead end and this piece of property has no access to or from 9th Street and, and most of Mr. Vane's commentary had to do with Short-Term Rentals on 9th Street. So, this is not on 9th Street, this will be professionally managed as all of my clients Short-Term Rentals are, and you have heard testimony from other folks and other hearings about their management, and how good it is and how it probably will, frankly, be better than the situation that exists today and if there is any issues whatsoever you get immediate response, if someone out there and

I cannot speak to the other people who have Short-Term Rentals on 9th Street with whom Mr. Vane has issues, but that will not be the case and I think you are very comfortable with that fact with how my clients operate. This will definitely not be a hotel and, again you have people cleaning every week, you have trash pickup, you have professional management on call totally different than with your long-term rental use. We do concur that the better way to handle the parking would be to close the right of way, access right of way, unused right of way in front of both properties which would actually be to Mr. Perkins benefit as well, in that it would provide some additional area in front of his unit, and in front of 518-B for their use as opposed to it being public right of way it is probably being used now to one-degree or another, but it would belong to them, it would increase their setback from potential public use, which there is not a need for has been evidenced by the closure that has taken place on the adjacent property of the church. Again, I will be happy to answer any questions that any of you may have, but this as is meets the requirements of the ordinance. But, we absolutely will agree that the Short-Term Rental will not take place unless and until that access right of way is closed and a better way to provide more than the necessary parking will be provided. The parking in the back can all be accommodated it's just the curbing that has to be modified, but it can all be accommodated, but we believe the better way to do it is to increase the parking in the front - make it legal. I will be happy to answer any questions.

Ms. Oliver: Yes, George, go ahead.

Mr. Alcaraz: There was a comment made that these units are just kind of remodeled, but I see four entrances, I see four meters, is this all old.

Mr. Bourdon: Ooh, absolutely this is totally legal it goes back to the 1950s, yes. It is not something that is just been done not by any stretch of the imagination. And, and your Staff checked all that out Mr. Hershberger checked that out. In fact it was checked out many years ago, verified. The Bishard's did go in and upgrade and make improvements, but not the create four units, there is always four units. We would not be here otherwise.

Mr. Alcaraz: That is all I have.

Ms. Oliver: Anybody have any questions for Mr. Bourdon.

Mr. Bourdon: And, there are three one bedroom units and one, two bedroom unit. They are not large units that will have a lot of people in it. Thank you all.

Ms. Oliver: Anymore questions. Thank you. Alright, we will close this hearing and open it up for discussion and or a motion. Anybody?

Mr. Alcaraz: Well, I appreciate the applicant, I mean they went and made the changes to get the parking because that is always been a thorn in our side to make sure that criteria was made and now he is come up, or the applicant representative has come up with an idea for street closures to make it more pleasing to look at. So, I am going to recommend approval unless anyone wants to talk about it.

Mr. Redmond: I will second.

Mr. Alcaraz: Well, I will make a motion that we approve it with a condition as the representative said that he would go for a street closure.

Mr. Tajan: Do you mind if I take a stab

Mr. Alcaraz: Yes, I would love that.

Mr. Tajan: New condition would be added to condition number 18, prior to the operation of the Short-Term Rental use, a street closure shall be submitted and approved by the City Council for the unimproved portion of Norfolk Avenue in front of 516 and 518 Norfolk Avenue. A new parking plan utilizing the closed portion of the right of way shall be reviewed by the Zoning Administrator. If City Council does not approve the street closure, all parking shall comply with the parking plan as submitted

Mr. Alcaraz: Thank you.

Ms. Oliver: Do we have a second?

Mr. Redmond: I will second.

Ms. Oliver: We have a motion and a second. And, call for the question please.

Ms. Coleman: Okay. If you are in favor of the motion say, yes. And, if you are opposed say, no. And, this motion is to recommend approval. Mr. Alcaraz.

Mr. Alcaraz: Yes.

Ms. Coleman: Mr. Barnes.

Mr. Barnes: Yes.

Ms. Coleman: Mr. Coston.

Mr. Coston: Yes.

Ms. Coleman: Mr. Graham, Mr. Horsley, Mr. Inman, and Ms. Klein are all absent.
Mr. Redmond.

Mr. Redmond: Yes.

Ms. Coleman: Mr. Wall.

Mr. Wall: Yes.

Ms. Coleman: Mr. Wiener.

Mr. Weiner: Yes.

Ms. Coleman: And, Ms. Oliver.

Ms. Oliver: Yes.

Ms. Coleman: By a recorded vote of seven for and zero against, agenda items 14, 15, 16, and 17 are hereby recommended for approval with the new condition 18, regarding the street closure requirement.

	AYE 7	NAY 0	ABS 0	ABSENT 4
Alcaraz	AYE			
Barnes	AYE			
Coston	AYE			
Graham				ABSENT
Horsley				ABSENT
Inman				ABSENT
Klein				ABSENT
Oliver	AYE			
Redmond	AYE			
Wall	AYE			
Weiner	AYE			

CONDITIONS

1. The following conditions shall only apply to the dwelling unit addressed as 516 Norfolk Avenue Units one (1), two (2), four (4), five (5) and the Short Term Rental use shall only occur in the principal structure.

2. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council and shall be installed and maintained in a manner consistent with site plan approval by the Development Services Center.

3. As shown on the parking plan illustration within the "Site Layout and Parking Plan" section of this Staff report and unless a modification of material type and/or location is approved by the Zoning Administrator, the existing concrete driveway shall be widened to accommodate two additional stacked 9-foot by 18-foot parking spaces, as well as the removal of the depicted curb cut, gravel in right-of-way and the driveway apron directly in front of the property.. A building permit for this additional concrete parking space must be obtained from the Permits and Inspections division of the Department of Planning and Community Development within 60-days of any City Council approval for the proposed Short Term Rental use.

4. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Condition Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.

5. No events with more than the permitted number of people who may stay overnight (number of bedrooms times two (2)) shall be held at the Short Term Rental and the property on which it is located. This Short Term Rental may not request or obtain a special event permit under City Code Section 4-1 (8a).

6. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes. Physical response to the site of the Short Term Rental is not required.

7. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Department of Planning and Community Development for review and approval. This shall be done within six (6) months of the property real estate transaction closing date. a) A completed Department of Planning and Community Development Short

Term Rental Zoning registration form; and b) Copies of the Commissioner of Revenue's Office receipt of registration; and c) Proof of liability insurance applicable to the rental activity of at least one million dollars.

8. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.

9. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.

10. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.

11. Accessory structures shall not be used or occupied as Short Term Rental.

12. No signage shall be on-site, except one (1), four (4) square foot sign, may be posted on the building which identifies the Short Term Rental.

13. The Short Term Rental shall have no more than one (1) rental contract during any consecutive seven (7) day period.

14. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000.00) underwritten by insurers acceptable to the City.

15. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.

16. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom.

17. To the extent permissible under state law, interconnected smoke detectors (which may be wireless), a fire extinguisher and, where natural gas or propane is present, carbon monoxide detectors shall be installed in each Short Term Rental.

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.

To: Members of the Virginia Beach Planning Commission, Mayor Bobby Dwyer and Members of Virginia Beach City Council.

From: Robert Perkins (757 630 5636 – cell)

Subject: Opposition to Conditional Use Permit

CC: Virginia Beach Zoning and Planning Department, Bobby Tujan, Kevin Hershberger (757 385 8074)

As a full time resident of 518 Norfolk Avenue, Unit A, I am opposed to the conditional use permit requested for 516 Norfolk Avenue, Apt. 1, 2, 4, 5.

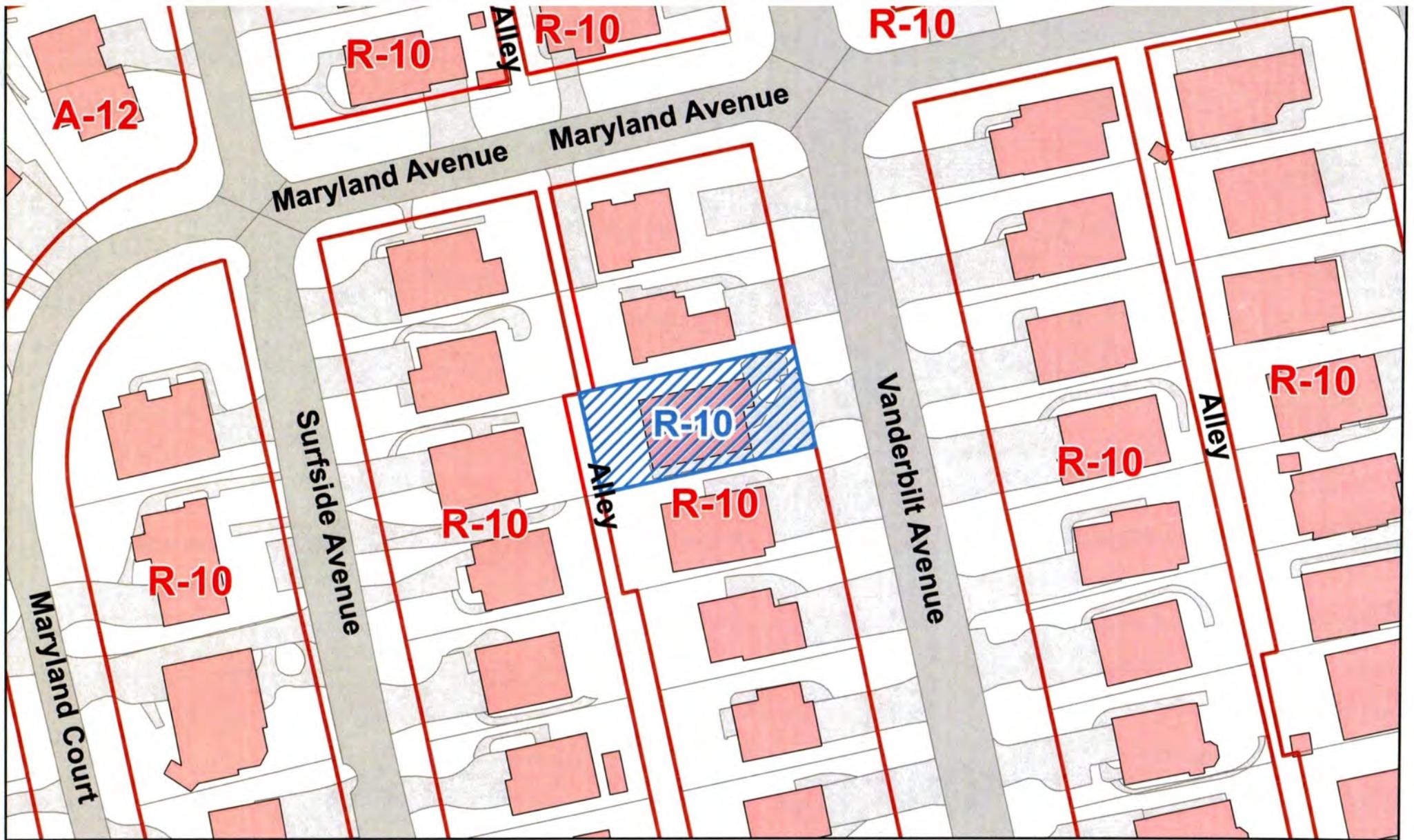
This conditional use permit is not compatible with residential living. At this juncture, all my neighbors are year – round permanent residents. We have invested in this property as a home and object to having it become a condo for short-term or seasonal rentals.

My specific concerns include negative aspects of Short-Term Rentals like; cramped parking, trash, noise, traffic congestion and a “revolving door” of new visitors. Please consider the quality of life of the permanent residents of this complex before your vote on the conditional use permit for 516 Norfolk Avenue, Apt 1, 2, 4, 5.

We ask you to fully consider the needs of those who reside in the community as their principal residence. Would you approve of property in a dense neighborhood like our condo complex to be rented for compensation for less than 30 days? What will happen is that the use of the property will then become more like a hotel or time share property filled with visitors who are not vested in the community.

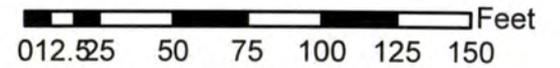
I fully support tourism and am a very proud resident of Virginia Beach! I believe that restrictions on the use of residential property have served us well for decades. I understand property rights and the ability of the property owner to receive rent as a compensation – but, I am opposed to the short-term rental approach and it is simply not compatible with our residential community as designed.

*Thank you,
Robert Perkins*



-  Site
-  Property_Polygons
-  Zoning
-  Parking Lot Drive Aisle
-  Building

Charlie Kim
809 Vanderbilt Avenue





CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: CHARLIE KIM [Applicant & Property Owner] Conditional Use Permit (Short Term Rental) for the property located at 809 Vanderbilt Avenue (GPIN 2426376810). COUNCIL DISTRICT – BEACH

MEETING DATE: October 20, 2020

■ **Background:**

At the request of the applicant, on September 15, 2020, City Council deferred this application to the October 20, 2020 public hearing.

The applicant is requesting a Conditional Use Permit for a Short Term Rental on a 5,375 square-foot parcel zoned R-10 Residential District in the Croatan neighborhood at the oceanfront. The lot consists of one single-family dwelling containing four bedrooms. The minimum number of parking spaces required for the Short Term Rental use is one per bedroom, or four spaces in this instance. The maximum occupancy for guests on-site after 11:00 p.m. for a four-bedroom Short Term Rental is twelve; however, at the time of this writing, the applicant agreed with City Council's recent Short Term Rental condition revisions reducing the number of overnight guests permitted to two per bedroom and limiting the number of bookings in a seven day period from two to one. These changes are reflected in the conditions below.

■ **Considerations:**

The oceanfront community of Croatan, which is predominately single-family dwellings, has over the years contained several vacation rental properties. The subject property is approximately 570 feet from the public beach of the Atlantic Ocean. The applicant's parking plan depicts all four of the required off-street parking spaces on the property; one within the garage and three in the driveway. As permitted by Section 241.2(1) of the City Zoning Ordinance, the Zoning Administrator reviewed the parking plan and deemed it acceptable. A condition is recommended that assures the garage will always be available for use by the Short Term Rental occupants. Furthermore, the requirements of Section 241.2 of the Zoning Ordinance pertaining to Short Term Rentals can be reasonably met by the applicant. Additional details pertaining to the application are provided in the attached Staff report.

The Planning Commission heard the application in order to review the contents of a letter of opposition that was submitted by a nearby property owner. The letter of

opposition attached provides the neighbor's view of potential impacts of Short Term Rentals.

■ **Recommendations:**

The Planning Commission passed a motion to recommend approval of this request by a vote of 8-0.

1. The following conditions shall only apply to the dwelling unit addressed as 809 Vanderbilt Avenue, and the Short Term Rental use shall only occur in the principal structure.
2. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.
3. The garage space within the unit must remain a minimum of 9-feet by 18-feet, contain a minimum 8-foot wide vehicle entryway opening, and shall remain free of materials to ensure vehicular accessibility to the Short Term Rental tenants.
4. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
5. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1 (8a).
6. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes. Physical response to the site of the Short Term Rental is not required.
7. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.

- a) A completed Department of Planning and Community Development Short Term Rental Zoning registration form; and
 - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
 - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
8. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
 9. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
 10. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
 11. Accessory structures shall not be used or occupied as Short Term Rentals.
 12. No signage shall be on-site, except one (1), four (4) square foot sign, may be posted on the building which identifies the Short Term Rental.
 13. The Short Term Rental shall have no more than one (1) rental contract during any consecutive seven (7) day period.
 14. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
 15. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
 16. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom.
 17. To the extent permissible under state law, interconnected smoke detectors (which may be wireless), a fire extinguisher and, where natural gas or propane is present, carbon monoxide detectors, shall be installed in each Short Term Rental.

- **Attachments:**
 - Staff Report and Disclosure Statements
 - Location Map
 - STR Vicinity Map
 - Minutes of Planning Commission Hearing
 - Letter of Opposition (1)

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

Submitting Department/Agency: Planning Department *RM*

City Manager: *YAD*

Request
Conditional Use Permit (Short Term Rental)

Staff Recommendation
 Approval

Staff Planner
 William Miller

Location
 809 Vanderbilt Avenue

GPIN
 2426376810
Site Size
 5,375 square feet

Existing Land Use and Zoning District
 Single-family dwelling / R-10 Residential

Surrounding Land Uses and Zoning Districts

North

Single-family dwellings / R-10 Residential

South

Single-family dwellings / R-10 Residential

East

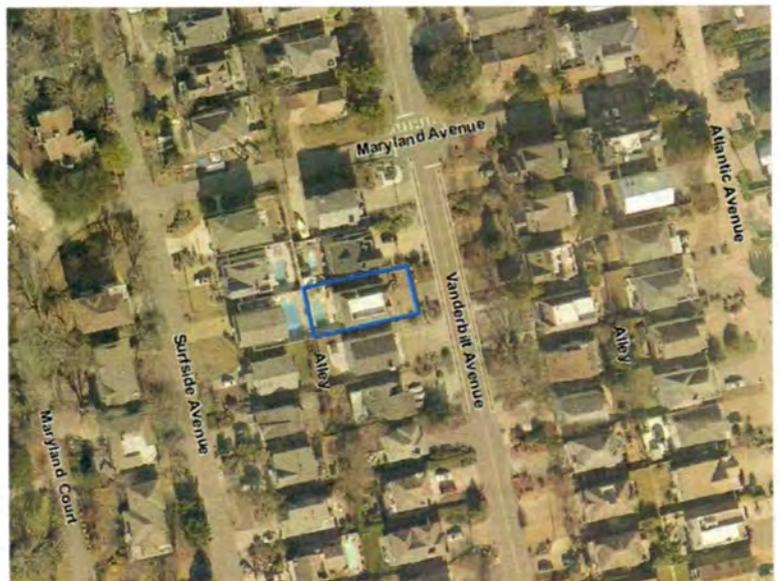
Vanderbilt Avenue

Single-family dwellings / R-10 Residential

West

Alley (unimproved)

Single-family dwellings / R-10 Residential



Background & Summary of Proposal

Site Conditions and History

- This property is 5,375 square feet and is zoned R-10 Residential District.
- The lot is developed with one single-family home.
- According to City records, this home was built in 2009.
- No records of zoning violations relating to Short Term Rental use were found associated with the subject address.
- Staff inspected the site on June 17, 2020 to observe site conditions and take photographs for this report.
- On-street parking is not permitted on this portion of Vanderbilt Avenue.

Short Term Rentals in the Vicinity



Summary of Proposal

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

- Number of bedrooms in the Short Term Rental: 4
- Maximum number of guests permitted on the property after 11:00 pm: 8 as recommended in condition #16
- Number of parking spaces required (1 space per bedroom required): 4

- Number of parking spaces provided on-site: 4 (1 in the garage and 3 in the driveway)



Zoning History

#	Request
1	STC (Closure of multiple portions of 15-alley) Numerous approvals occurred between 2005 and 2012

Application Types

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

Evaluation & Recommendation

This site is located within the Croatan subdivision, which primarily consists of single-family dwellings. In fact, the neighborhood contains only three known lots with dwelling types other than single-family. In addition, the subject property sits approximately 570 feet from the public beach of the Atlantic Ocean. The applicant’s parking plan depicts four required off-street parking spaces; one within the garage and the others in the driveway. As permitted by Section 241.2(1) of the City Zoning Ordinance, the Zoning Administrator reviewed the parking plan and deemed it acceptable; however, a condition is recommended that assures the garage will always be available for the Short Term Rental occupants. Furthermore, staff believes that all the requirements of Section 241.2 of the Zoning Ordinance pertaining to Short Term Rentals can be reasonably met by the applicant. The recommended conditions reflect City Council’s most recent Short Term Rental revisions by reducing the number of bookings in a seven day period to one and limiting the overnight guest calculation to two per bedroom.

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

Recommended Conditions

1. The following conditions shall only apply to the dwelling unit addressed as 809 Vanderbilt Avenue, and the Short Term Rental use shall only occur in the principal structure.
2. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.

3. The garage space within the unit must remain a minimum of 9-feet by 18-feet, contain a minimum 8-foot wide vehicle entryway opening, and shall remain free of materials to ensure vehicular accessibility to the Short Term Rental tenants.
4. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
5. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1 (8a).
6. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes. Physical response to the site of the Short Term Rental is not required.
7. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
 - a) A completed Department of Planning and Community Development Short Term Rental Zoning registration form; and
 - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
 - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
8. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
9. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
10. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.
11. Accessory structures shall not be used or occupied as Short Term Rentals.
12. No signage shall be on-site, except one (1), four (4) square foot sign, may be posted on the building which identifies the Short Term Rental.
13. The Short Term Rental shall have no more than one (1) rental contracts during any consecutive seven (7) day period.
14. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
15. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
16. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom.

17. To the extent permissible under state law, interconnected smoke detectors (which may be wireless), a fire extinguisher and, where natural gas or propane is present, carbon monoxide detectors, shall be installed in each Short Term Rental.

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.

Public Outreach Information

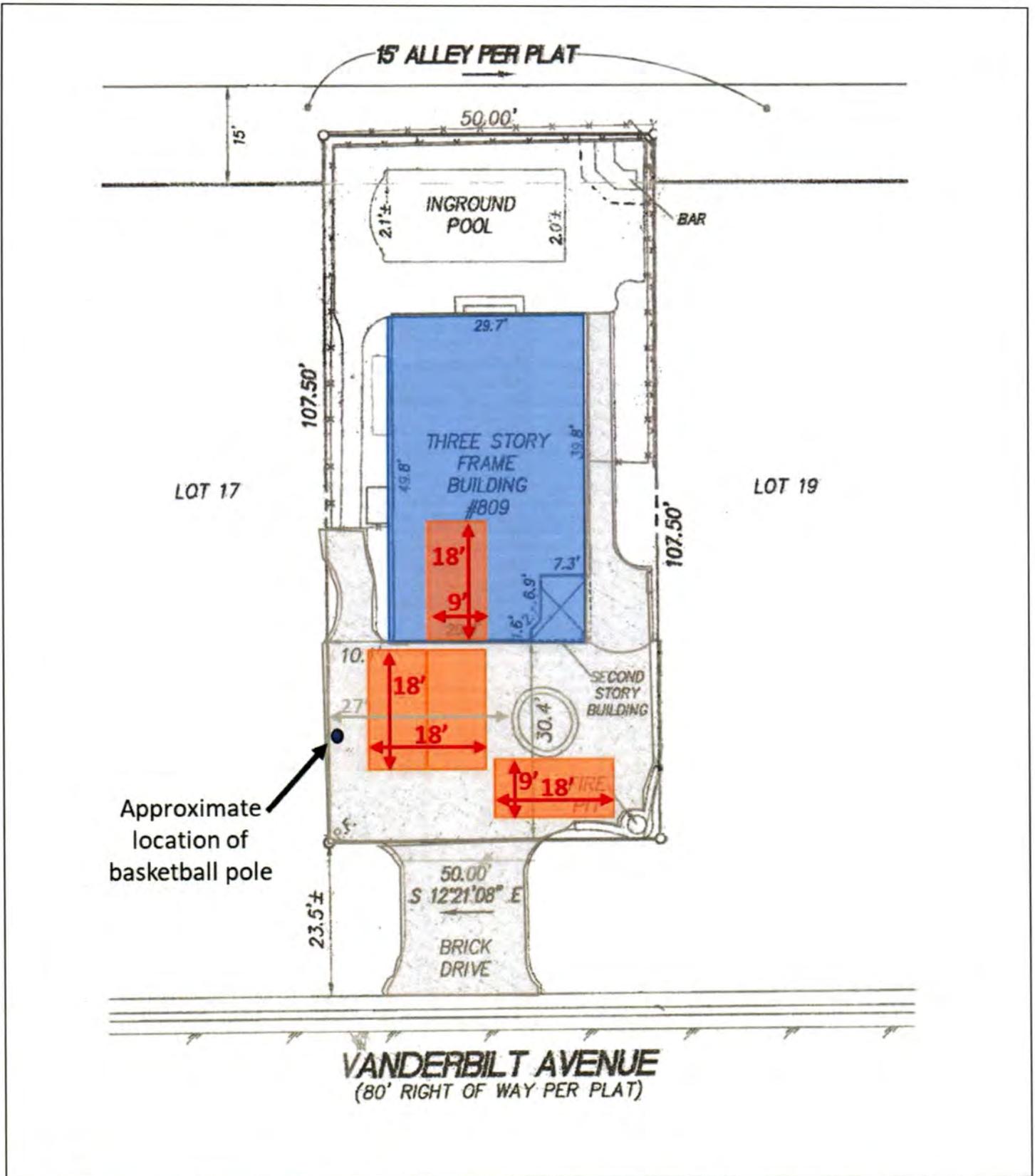
Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on July 13, 2020.
- As required by State Code, this item was advertised in the Virginian-Pilot on Fridays, July 31, 2020 and August 7, 2020.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on July 27, 2020.
- 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 August 6, 2020.

City Council

- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, October 4, 2020, and October 11, 2020.
- 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 October 5, 2020.
- 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 October 16, 2020.
- 1 letters of support/opposition has been received by Staff related to this address.

Site Layout & Parking Plan



 9' x 18 parking space

 9' x 18 parking space in the garage

 Brick paver driveway

Site Photos



Site Photos



Site Photos





APPLICANT'S NAME Charlie Kim

DISCLOSURE STATEMENT FORM

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

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

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

SECTION 1 / APPLICANT DISCLOSURE

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

Page 1 of 7

<input type="checkbox"/>	APPLICANT NOTIFIED OF HEARING	DATE:	08-14-2020 and 09-15-2020 WM
<input type="checkbox"/>	NO CHANGES AS OF	DATE:	09-01-2020 and 10-07-2020 WM
<input type="checkbox"/>	REVISIONS SUBMITTED	DATE:	

William Miller *William Miller* - 09.01.2020 and 10-07-2020



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: Charlie Kim
If an LLC, list all member's names:

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

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

See next page for information pertaining to footnotes ¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

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

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

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

(A) List the Property Owner's name: _____
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)*

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

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

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

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



APPLICANT

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

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

YES	NO	Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	

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



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.**

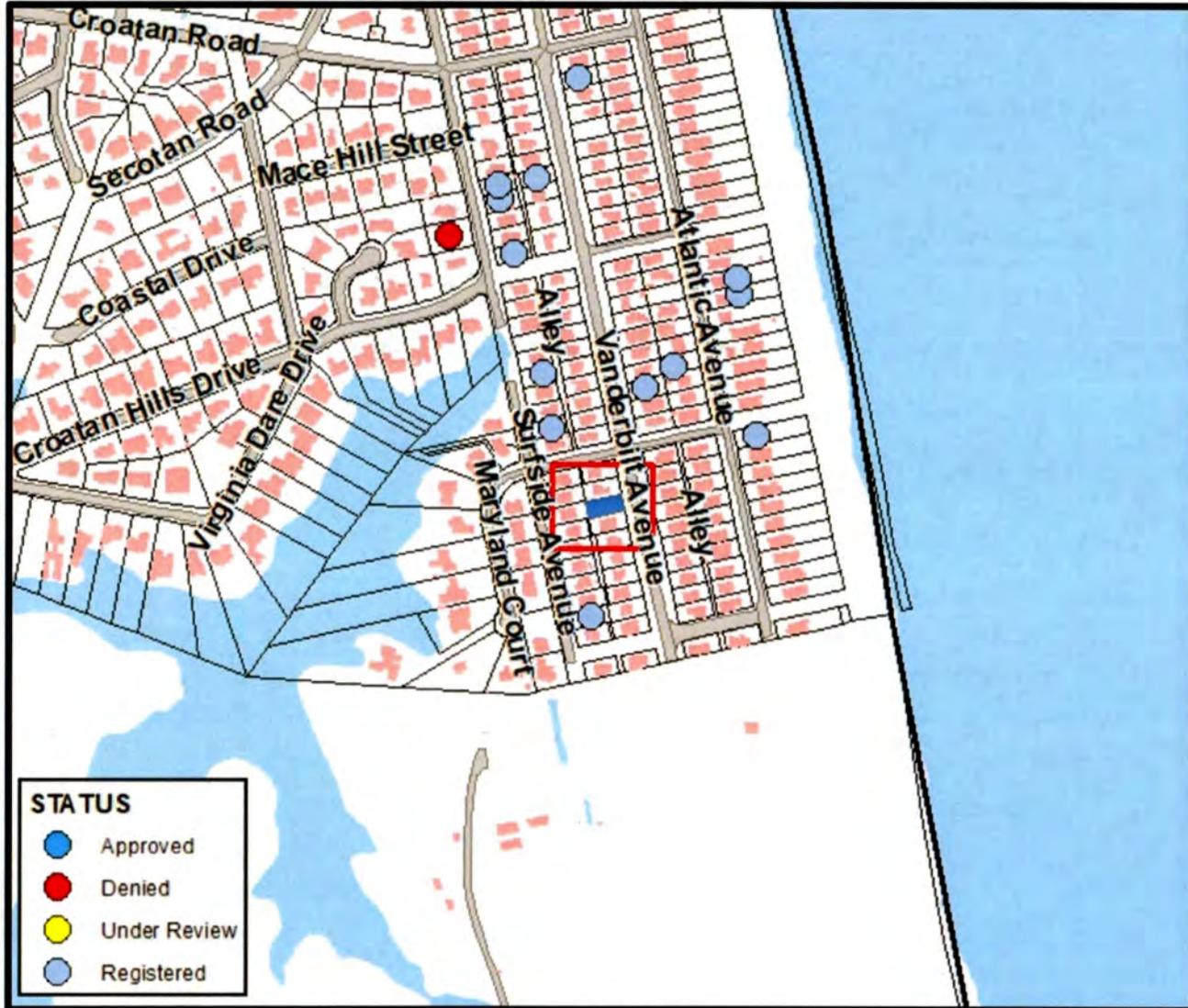
	Charlie Kim	6/12/2020
APPLICANT'S SIGNATURE	PRINT NAME	DATE

Next Steps

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

STR VICI ITY MAP

CHARLIE KIM – 809 VANDERBILT AVENUE



**Items # 8.
Charlie Kim [Applicant & Owner]
Conditional Use Permit (Short Term Rental)
809 Vanderbilt Avenue**

August 12, 2020

RECOMMENDED FOR APPROVAL- HEARD

Mr. Landfair: The next item on today's Regular Agenda is agenda item eight. Charlie Kim for conditional use permit requests for a short-term rental at 809, Vanderbilt Avenue in the Beach District. The applicant is Charlie Kim. Mr. Kim is a virtual speaker, Mr. Kim you have up to 10 minutes. Please pause for three seconds, so we can unmute your mic. Please start by stating your name for the record. Thank you.

Mr. Kim: Hello, my name is Charlie Kim. Thank you, Madam Chair and Member of the City Council for reviewing our application. Thank you, Planning Member Mr. William Miller and other Staff Members who have provided us with guidance and direction to get us to this point. With COVID-19 and social distancing, we have grandparents that live with us in their 80s, so, we decided to do this virtually. My wife and I purchased the 809, Vanderbilt beach home in late April, ultimately with the intention of family enjoyment with our four kids and my in laws, until I am fully retired in few years. And, our plan for the short-term rental is not to build a lucrative business but simply to supplement until I fully retire and our decision to apply for short-term rental we remain very sensitive to maintaining good relationship with our fellow neighbors, especially since we will be moving into this home permanently. But, even with one opposing letter, I would say we are still in great relationship with Mr. Daddio. As a homeowner, investor, and landlord experience wise, I have been and still am an active member of HOA and active participant in HOAs where I have investment properties and condos and so on. And, for over 20 years my wife and I have actively managed our properties and respect both owners and renters, we actively perform the wedding of our renters, and we treat our property as if we would be living there ourselves. And, in fact, after moving into this Virginia Beach home we have been complimented several times by our neighbors, and how well we have tremendously improved the look of the home. In preparation for this rental, we have not only complied with the city rules but have planned rental agreement will include things like only allow family groups, minimum age of 30. No fireworks and such, and we will also have welcome packets that will explicitly state that we will have security cameras located in a certain position, which the renters will know, maintain noise control, and most

importantly respect fellow neighbors. We are currently pursuing a Rental Management Company, but we will continue to screen the renters ourselves and have local service providers such as plumbers. And, we request this approval as we have been compliant with this application. We follow the procedures and guidelines, no balance in our taxes and what not. We have erected the orange sign, although the sign got bent in half after the last hurricane, but it was displayed for about a month. We have held off on renting before approval by the Virginia Beach Government to maintain our respect for rules and process. We understand the concerns of the renters and we are concerned about the wear and tear, as any homeowners would be. And, we would ask Madam Chair and the Commissioners to please consider our application for approval. And, if there is any chance of being denied, please, I ask that you be clear as to why we would be rejected. Thank you.

Ms. Oliver: Thank you. Do we have a speaker?

Mr. Landfair: Madam Chair, there is one speaker signed up to speak, William Daddio. Mr. Daddio, please state your name for the record. Thank you. Mr. Daddio does not appear to be here Madam Chair.

Ms. Oliver: Okay. Alright.

Mr. Landfair: There are no more known speakers.

Ms. Oliver: Okay. Well, on that note, we will go ahead and close this and open it up to any comments or a motion from any of the Planning Commissioners.

Mr. Alcaraz: Well, I asked to hear this because I did receive calls, I was hoping someone was here to speak up if they were against it, but I need to hear and you guys need to hear it and it is a shame. So, I mean, if we are meeting the criteria and I do not get any complaints and we do it publicly then I am going to get some comments from you guys or I am going to make a motion.

Mr. Redmond: Make a motion.

Mr. Alcaraz: Nobody else.

Ms. Oliver: No.

Mr. Alcaraz: Well then I make a motion that we approve the application.

Ms. Oliver: Okay. Alright.

Ms. Coleman: Was there a second.

Ms. Oliver: Yes.

Ms. Coleman: Okay, thank you .If you are in favor of the motion say, yes. If you are oppose say, no. Mr. Alcaraz

Mr. Alcaraz: Yes.

Ms. Coleman: Mr. Graham.

Mr. Graham: Yes.

Ms. Coleman: Mr. Horsley.

Mr. Horsley: Yes.

Ms. Coleman: Mr. Inman.

Mr. Inman: Yes.

Ms. Coleman: Ms. Klein.

Ms. Klein: Yes.

Ms. Coleman: Mr. Redmond.

Mr. Redmond: Yes.

Ms. Coleman: Mr. Weiner.

Mr. Weiner: Yes.

Ms. Coleman: Ms. Oliver.

Ms. Oliver: Yes.

Ms. Coleman: By recorded vote of eight for and zero against, Agenda Item 8 is hereby recommended for approval by the Planning Commission.

Ms. Oliver: Right. Thank you.

	AYE 8	NAY 0	ABS 0	ABSENT 3
Alcaraz	AYE			

Barnes				ABSENT
Coston				ABSENT
Graham	AYE			
Horsley	AYE			
Inman	AYE			
Klein	AYE			
Oliver	AYE			
Redmond	AYE			
Wall				ABSENT
Weiner	AYE			

CONDITIONS

1. The following conditions shall only apply to the dwelling unit addressed as 809 Vanderbilt Avenue, and the Short Term Rental use shall only occur in the principal structure.
2. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.
3. The garage space within the unit must remain a minimum of 9-feet by 18-feet, contain a minimum 8-foot wide vehicle entryway opening, and shall remain free of materials to ensure vehicular accessibility to the Short Term Rental tenants.
4. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
5. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1 (8a).
6. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes. Physical response to the site of the Short Term Rental is not required.

7. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.

a) A completed Department of Planning and Community Development Short Term Rental Zoning registration form; and

b) Copies of the Commissioner of Revenue's Office receipt of registration; and

c) Proof of liability insurance applicable to the rental activity of at least one million dollars.

8. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.

9. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.

10. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.

11. Accessory structures shall not be used or occupied as Short Term Rentals.

12. No signage shall be on-site, except one (1), four (4) square foot sign, may be posted on the building which identifies the Short Term Rental. 13. The Short Term Rental shall have no more than one (1) rental contract during any consecutive seven (7) day period.

14. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.

15. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.

16. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom.

17. To the extent permissible under state law, interconnected smoke detectors (which may be wireless), a fire extinguisher and, where natural gas or propane is present, carbon monoxide detectors, shall be installed in each Short Term Rental.

Further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this application may require revision during detailed site plan review to meet all applicable City Codes and Standards. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before any approvals allowed by this application are valid. The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site

From: [Zoning Short Term Rental](#)
To: [William N. Miller](#)
Cc: [Marchelle L. Coleman](#)
Subject: FW: Against approval of 809 Vanderbilt Ave CUP request at this time
Date: Tuesday, August 11, 2020 3:36:43 PM
Attachments: [VB Planning STR letter.docx](#)

Good Afternoon,

This came into the STR Zoning Email.

From: jtrouter@aol.com <jtrouter@aol.com>
Sent: Tuesday, August 11, 2020 2:14 PM
To: Zoning Short Term Rental <STR@vbgov.com>
Subject: Against approval of 809 Vanderbilt Ave CUP request at this time

CAUTION: This email originated from outside of the City of Virginia Beach. Do not click links or open attachments unless you recognize the sender and know the content is safe.

After some preliminary research for a freelance article, I started wondering why the city was turning part of Croatan into a little Sandbridge. The most apparent reason for the investors is that they do not have to pay the higher rate of taxes in Croatan that they have to pay in Sandbridge for beach replenishment. The other day I sent a letter to the Commission asking for a moratorium in granting short-term rental waivers in Croatan (the letter is attached). What stuck me was the level of approval of the waivers - at the time 95%. The latest number is 91% (82 processed, 75 approved for all short-term rental requests and questioned the standards used to approve these Zoning waivers. One reason for approval given in the meeting was a need for rental spaces. That need is not true now (see information in the letter attached).

My letter did not specifically address the 809 property but that property fits the profile. A little research found that the owner filed for the short -term rental CUP the day the owner settled on the house. (May 1, 2020). The owner made certain modifications to add a fourth bedroom. (The house was advertised as a four bedroom based on a conversion of the recreation room. The city listed the property as a three bedroom, and a status on the Planning Commissions website stated that the discrepancy would be evaluated).. The 809 house sits in the middle of the block and is three stories separated from its three story neighbors by about 20 feet each . The rear yard is filled with a pool, and the front yard has a fire pit. There are two other short-term rentals listed on the street. I understand how short-term rental status benefits the investor. I understand no benefit to the residents. The 809 Vanderbilt Ave. house happens to be in a poor place for a rental. There are no privacy screen at the front yard. Some type of fence or shrub barrier should be installed by the investor to provide privacy for the neighbors. The grandfathered short term rental at 821 Vanderbilt Ave does have

shrubbery that provides privacy to the residents and the renters. I know because I have been one of the next door neighbors since 2004.

On a separate matter the hearing notice sign which was installed by the investor has folded over in half and has been unreadable since at least August 10, 2020.

Bill Daddio
703-201-3434

August 8, 2020

Virginia Beach Planning Commission
ATTN: Bill Landfair,
2875 Sabre Street, Suite 500,
Virginia Beach, VA 23452

By email: wlandfair@vbgov.com

Ref: Comments Croatan Short Term Rental Continued Use Permits

Dear Board Members:

Investors are buying homes in residential Croatan, turning them into weekly summer rentals with the approval of the City and avoiding the Virginia Beach special taxes levied in the Sandbridge Special District for similar rentals. This and other issues should be addressed before the Commission approves any new Croatan Continued Use Permits (CUP). I recommend the Planning Commission place a moratorium on the approval of CUP requests until the consequences of this and other issues can be understood.

I am writing a freelance piece on commercializing residential areas and am comparing the Croatan neighborhood with the Sandbridge Special District. I am focusing on the impact of short-term rentals on a community. Part of the story includes the Virginia Beach Planning Commission's recent action to formally control short-term rentals in residential communities. (Virginian Pilot, Shelton, 2019). During my research I noticed several issues that I recommend the Planning Commission address before approving additional CUPs for the Croatan neighborhood.

The Commission stated that to waive a residential zoning rule to include a commercial enterprise is based on balancing the needs of the residents with the needs of the investors. In examining the actions so far, the Commission understands the needs of the investor, but the needs of the residents seem unclear. Based on the recent planning meeting I observed, the Commission members and staff seemed genuinely interested in the resident's needs. In the meeting the zoning director identified areas of concern from residents, like density of investment houses, but from what I understand from the meeting, the criteria to address those issues is in development. I will use one issue to demonstrate: taxes to support beach enhancement, and examine Croatan, a very residential community without convenience stores, restaurants, or shops.

An investor who purchases a Croatan house, and receives the Commission's CUP for a short-term rental escapes the additional property tax they are required to pay in the Sandbridge Special Service District, but not in Croatan. For a similar house offered at a similar price, the reduced property tax is profit for the investor. An investor in a Sandbridge house collects for the city a higher transient room rental tax than in Croatan. While that city tax is specifically stated in the advertised rental price, houses are promoted as a final weekly or daily rate. For a similar house offered at a similar price, the investor earns more profit in Croatan. So, for the investor, with the Commission's approval, Croatan is a good place to offer short term rentals.

The approval seems to have an adverse impact for the residents without any benefit. The additional tax levies in Sandbridge are meant to contribute to the City's share of beach replenishment cost, a recognition that the investor house renters place increased pressure on the beach. Croatan and Sandbridge are the same beach separated by two small military bases, so you should expect the same pressure at Croatan as in Sandbridge. How will the Croatan residents need to maintain the beach be met. Will the city fund restoration of the Croatan beach without enacting higher property taxes. That would balance the needs of the residents with the needs of the investors.

Two types of short-term rentals exist, and they have different impacts on the community. The City recognized this difference and created different rules for each of them. The first type is like a traditional B&B that is an owner-occupied short-term rental of a room or suite in the same house. The impact on the neighborhood would be similar as having friends or family visit – relatively small groups under the sponsorship of the friend or family member.

The second type of short-term rental is the investor house where the whole house is rented on a short-term basis usually weekly without the owner present. In this area that type of short-term rental is usually called a summer weekly rental. The city has enacted special rules to limit community disruption for the investment houses. A significant requirement is that occupancy is limited to three persons per bedroom. Investors now are turning every space they can, like the rec room, into a bedroom. Think bedroom with fireplace and Tiki bar, bedroom with two indoor parking spaces, and bedroom with full kitchen. (You get the idea.) The city does check to make sure the changes are legitimate. The investor home that once housed a family of four with three bedrooms now can hold nine, no wait, it is now a four-bedroom home for 12. The increase in occupancy does significantly affect the community, especially if there are a lot of these investment units.

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In examining the rentals in Croatan and Sandbridge. I noticed that the Sandbridge houses were less densely stacked than in Croatan. Many of the Croatan houses are three story 3,000 to 4,000 sq. ft. and 20 feet apart. Many have a small back yard usually occupied by a pool. There is very little separation between the properties. Fine for a private residence, a potential for problems when you plopp an investment house in the middle of the block. I noticed one investor house owned by a popular local builder which sits on a corner and the house is designed in an L shape facing that corner. There is plenty of room for the renters and the disruption to the neighbors is minimal.

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I recommend the Planning Commission issue a moratorium for granting Croatan short-term rental requests until resident needs can be understood. The impact will be slight. The next Planning meeting is on August 12, 2020, and by that time the "season" will be almost over. There is no need for additional spaces soon. The recent ODU report indicated that the Hampton Roads area has the highest hotel occupancy rate of the selected vacation venues. But in Virginia Beach revenues are down 12%, and room prices are down 50%. According to the report, some hotels have reduced the number of rooms available due to lack of demand. This is a good time to temporarily stop approving short term rental waivers so you can approve them later understanding the consequences of the actions. The Commission enacted the new rules for that very reason.

Sincerely,

William F. Daddio

William F. Daddio, Ph.D.
Adjunct Professor

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Cell: 703-201-3434

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From: [Zoning Short Term Rental](#)
To: [William N. Miller](#)
Cc: [Marchelle L. Coleman](#)
Subject: FW: Against approval of 809 Vanderbilt Ave CUP request at this time
Date: Tuesday, August 11, 2020 3:36:43 PM
Attachments: [VB Planning STR letter.docx](#)

Good Afternoon,

This came into the STR Zoning Email.

From: jtrouter@aol.com <jtrouter@aol.com>
Sent: Tuesday, August 11, 2020 2:14 PM
To: Zoning Short Term Rental <STR@vbgov.com>
Subject: Against approval of 809 Vanderbilt Ave CUP request at this time

CAUTION: This email originated from outside of the City of Virginia Beach. Do not click links or open attachments unless you recognize the sender and know the content is safe.

After some preliminary research for a freelance article, I started wondering why the city was turning part of Croatan into a little Sandbridge. The most apparent reason for the investors is that they do not have to pay the higher rate of taxes in Croatan that they have to pay in Sandbridge for beach replenishment. The other day I sent a letter to the Commission asking for a moratorium in granting short-term rental waivers in Croatan (the letter is attached). What stuck me was the level of approval of the waivers - at the time 95%. The latest number is 91% (82 processed, 75 approved for all short-term rental requests and questioned the standards used to approve these Zoning waivers. One reason for approval given in the meeting was a need for rental spaces. That need is not true now (see information in the letter attached).

My letter did not specifically address the 809 property but that property fits the profile. A little research found that the owner filed for the short -term rental CUP the day the owner settled on the house. (May 1, 2020). The owner made certain modifications to add a fourth bedroom. (The house was advertised as a four bedroom based on a conversion of the recreation room. The city listed the property as a three bedroom, and a status on the Planning Commissions website stated that the discrepancy would be evaluated).. The 809 house sits in the middle of the block and is three stories separated from its three story neighbors by about 20 feet each . The rear yard is filled with a pool, and the front yard has a fire pit. There are two other short-term rentals listed on the street. I understand how short-term rental status benefits the investor. I understand no benefit to the residents. The 809 Vanderbilt Ave. house happens to be in a poor place for a rental. There are no privacy screen at the front yard. Some type of fence or shrub barrier should be installed by the investor to provide privacy for the neighbors. The grandfathered short term rental at 821 Vanderbilt Ave does have

shrubby that provides privacy to the residents and the renters. I know because I have been one of the next door neighbors since 2004.

On a separate matter the hearing notice sign which was installed by the investor has folded over in half and has been unreadable since at least August 10, 2020.

Bill Daddio
703-201-3434

August 8, 2020

Virginia Beach Planning Commission
ATTN: Bill Landfair,
2875 Sabre Street, Suite 500,
Virginia Beach, VA 23452

By email: wlandfair@vbgov.com

Ref: Comments Croatan Short Term Rental Continued Use Permits

Dear Board Members:

Investors are buying homes in residential Croatan, turning them into weekly summer rentals with the approval of the City and avoiding the Virginia Beach special taxes levied in the Sandbridge Special District for similar rentals. This and other issues should be addressed before the Commission approves any new Croatan Continued Use Permits (CUP). I recommend the Planning Commission place a moratorium on the approval of CUP requests until the consequences of this and other issues can be understood.

I am writing a freelance piece on commercializing residential areas and am comparing the Croatan neighborhood with the Sandbridge Special District. I am focusing on the impact of short-term rentals on a community. Part of the story includes the Virginia Beach Planning Commission's recent action to formally control short-term rentals in residential communities. (Virginian Pilot, Shelton, 2019). During my research I noticed several issues that I recommend the Planning Commission address before approving additional CUPs for the Croatan neighborhood.

The Commission stated that to waive a residential zoning rule to include a commercial enterprise is based on balancing the needs of the residents with the needs of the investors. In examining the actions so far, the Commission understands the needs of the investor, but the needs of the residents seem unclear. Based on the recent planning meeting I observed, the Commission members and staff seemed genuinely interested in the resident's needs. In the meeting the zoning director identified areas of concern from residents, like density of investment houses, but from what I understand from the meeting, the criteria to address those issues is in development. I will use one issue to demonstrate: taxes to support beach enhancement, and examine Croatan, a very residential community without convenience stores, restaurants, or shops.

An investor who purchases a Croatan house, and receives the Commission's CUP for a short-term rental escapes the additional property tax they are required to pay in the Sandbridge Special Service District, but not in Croatan. For a similar house offered at a similar price, the reduced property tax is profit for the investor. An investor in a Sandbridge house collects for the city a higher transient room rental tax than in Croatan. While that city tax is specifically stated in the advertised rental price, houses are promoted as a final weekly or daily rate. For a similar house offered at a similar price, the investor earns more profit in Croatan. So, for the investor, with the Commission's approval, Croatan is a good place to offer short term rentals.

The approval seems to have an adverse impact for the residents without any benefit. The additional tax levies in Sandbridge are meant to contribute to the City's share of beach replenishment cost, a recognition that the investor house renters place increased pressure on the beach. Croatan and Sandbridge are the same beach separated by two small military bases, so you should expect the same pressure at Croatan as in Sandbridge. How will the Croatan residents need to maintain the beach be met. Will the city fund restoration of the Croatan beach without enacting higher property taxes. That would balance the needs of the residents with the needs of the investors.

Two types of short-term rentals exist, and they have different impacts on the community. The City recognized this difference and created different rules for each of them. The first type is like a traditional B&B that is an owner-occupied short-term rental of a room or suite in the same house. The impact on the neighborhood would be similar as having friends or family visit – relatively small groups under the sponsorship of the friend or family member.

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K. APPOINTMENTS

2040 VISION TO ACTION COMMUNITY COALITION
BAYFRONT ADVISORY COMMISSION
BOARD OF BUILDING CODE APPEALS
CHESAPEAKE BAY ALCOHOL SAFETY ACTION PROGRAM
CLEAN COMMUNITY COMMISSION
COMMUNITY ORGANIZATION GRANT REVIEW & ALLOCATION COMMITTEE
COMMUNITY POLICY AND MANAGEMENT TEAM
COMMUNITY SERVICES BOARD
GREEN RIBBON COMMITTEE
HEALTH SERVICES ADVISORY BOARD
HOUSING ADVISORY BOARD
HUMAN RIGHTS COMMISSION
INVESTIGATIVE REVIEW PANEL
MILITARY ECONOMIC DEVELOPMENT ADVISORY BOARD
MINORITY BUSINESS COUNCIL
OCEANA LAND USE CONFORMITY COMMITTEE
OLD BEACH DESIGN REVIEW COMMITTEE
OPEN SPACE ADVISORY COMMITTEE
PARKS AND RECREATION COMMISSION
PUBLIC LIBRARIES BOARD
RESORT ADVISORY COMMISSION
TRANSITION AREA/INTERFACILITY TRAFFIC AREA CITIZENS ADVISORY COMMITTEE
VIRGINIA BEACH COMMUNITY DEVELOPMENT CORPORATION
WETLANDS BOARD

L. UNFINISHED BUSINESS

M. NEW BUSINESS

N. ADJOURNMENT

PUBLIC COMMENT

Non-Agenda Items

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 pmcgraw@vbgov.com or call 385-4303.

**CITY OF VIRGINIA BEACH
SUMMARY OF COUNCIL ACTIONS**

DATE: 09/22/2020

PAGE: 1

AGENDA ITEM #	SUBJECT	MOTION	VOTE	A B B O T T	B E R L U C H I	D Y E R	H E N L E Y	J O N E S	M O S S	R O U S E	T O W E R	W I L S O N	W O O D	W O O T E N
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I.	CITY MANAGER'S BRIEFINGS													
A.	EMERGENCY OPERATIONS PLAN UPDATE	Erin Sutton, Director – Office of Emergency Management												
B.	PENDING PLANNING ITEMS	Kevin Kemp, Zoning Administrator Bill Landfair, Planning Evaluation Coordinator												
C.	INTERIM FINANCIAL UPDATE/ CARES ACT	Alice Kelly, Director – Finance Kevin Chatellier, Director – Budget and Management Services												
D.	BEACH REPLENISHMENT WITH THE NORFOLK HARBOR & CHANNELS DEEPENING PROJECT	Phillip Roehrs, Coastal Program and Project Management – Public Works												
E.	CIVILIAN OVERSIGHT RESEARCH AND RECOMMENDATIONS	Regina Hilliard, Director – Human Resources												
F.	OVERVIEW OF ATLANTA CIVILIAN REVIEW BOARD	RESCHEDULED												
II/III/ IV/A.	CERTIFICATION OF CLOSED SESSION	CERTIFIED	7-0	A	Y	Y	Y	A	Y	Y	Y	A	A	Y
B.1	WESTMINSTER CANTERBURY ON CHESAPEAKE BAY for a <u>Modification of Conditions</u> re home of the aged, disabled and handicapped for the properties located at 3100 Shore Drive (Approved November 14, 1977) (Deferred from August 25, 2020) DISTRICT 5 – LYNNHAVEN	APPROVED/ MODIFIED	5-2	A	Y	Y	Y	A*	N	N	Y	A*	A*	Y
C.	ADJOURNMENT	9:47 P.M.												

*Council Members Jones, Wilson, and Vice Mayor Wood were absent, however, previously filed letters of abstention.