REQUESTS: Change of Zoning (AG-1 and AG-2 Districts to Conditional I-1 District)  
Conditional Use Permit (Bulk Storage Yard)

ADDRESS / DESCRIPTION: Southeast Corner of Harpers Road & Dam Neck Road

GPIN: 24056316300000 (part of)  
ELECTION DISTRICT: PRINCESS ANNE  
SITE SIZE: 28.74 acres  
AICUZ: >75 dB DNL

BACKGROUND / DETAILS OF PROPOSAL

Background / Details: 
The applicant requests a conditional change of zoning from AG-1 / AG-2 Agriculture Districts to I-1 Industrial District in conjunction with a use permit to allow use of the site for a bulk storage yard. This change of zoning is necessary, as bulk storage yards are prohibited in the AG-1 / AG-2 Zoning Districts. The applicant intends to subdivide 28.74-acres of the site from the larger 162-acre parcel for use as a storage facility. The residual lot will remain zoned AG-1.

The site is located in the greater than 75 dB Ldn noise zone and in close proximity to Naval Air Station (NAS) Oceana; therefore, the site is subject to the restrictions set forth in Article 18 of the Zoning Ordinance. Article 18, “Special Regulations in Air Installations Compatible Use Zones” (AICUZ), was adopted on December 12, 2005, and identifies the following purpose and intent:

 “…to regulate, in a manner consistent with the rights of individual property owners and the requirements of military operations at Naval Air Station (NAS) Oceana, development of uses and structures that are incompatible with military operations; to sustain the economic health of the city and Hampton Roads Region; to protect and preserve the public health, safety and welfare from the adverse impacts associated with high levels of noise from flight operations at NAS Oceana and the potential for aircraft accidents associated with proximity to airport operations; and to
The site is subject to use restrictions as set forth in Easement #420 B, established on October 23, 1981, by the United States Department of the Navy. The easement prohibits the storage, handling or distribution of explosives, petrochemicals, petroleum and related products. On May 12, 2014, the applicant received a letter from the Department of the Navy, Naval Air Station Oceana stating that the proposed bulk storage facility appears to be compliant with the language of the restrictive easement.

The submitted concept plan depicts two separate areas to be used for the storage of licensed and operable motor vehicles, recreational vehicles, boats, trailers and storage containers. The storage containers will not exceed eight (8) feet in width by forty (40) feet in length and six (6) feet height, as detailed in recommended condition number three. The applicant notes that all boats will be stored on trailers and stacking of storage containers will not be permitted. A 30-foot wide access way crossing the existing ditch is proposed to connect the two storage areas. The bulk storage facility is proposed in areas of the property that are currently cleared. The existing mature vegetation on the site will remain, providing a buffer from the adjacent properties and the right-of-way. The storage yard will be entirely surrounded by an eight-foot privacy fence. A 15-foot earth berm will be installed between the storage yard and the closest residential neighborhood, Prince George Estates. Additionally, a row of Leyland Cypress trees will be planted along the southern edge of the forest line, located north of the existing adjacent residential neighborhood. The surface of the storage area will be crushed gravel.

Access to the site is proposed from Castleton Commerce Way, via the adjacent parcel to the east. A 30-foot ingress/egress easement will be recorded along the southeastern property line of the adjacent parcel. It should be noted that an access road has already been installed. The portion of the adjacent parcel with the access easement will need to be rezoned from R-20 Residential District to I-1 Industrial District. An application for this change of zoning has been submitted to the Planning Department and is on the agenda for Planning Commission on May 13, 2015 (Item #13). A “directional” sign will be installed at this gated access road and will include the contact information of the facility. The access gate and facility will be monitored by security cameras.
COMPREHENSIVE PLAN: The Comprehensive Plan designates this area of the City as being within the Suburban Area and, more specifically, within Special Economic Growth Area 3 (SEGA 3), South Oceana. The SEGAs are located adjacent to NAS Oceana and have significant economic value and growth potential, targeting land uses compatible with military uses (pp. 3-5). The City supports development of and redevelopment of the SEGAs consistent with AICUZ provisions and the City’s economic growth strategy.

Special Economic Growth Area 3 is a large hourglass shaped tract of land encompassing properties on both sides of Dam Neck Road between Holland Road and Corporate Landing Parkway. In the western part of this area there are considerable environmental constraints. Portions of this area are impacted by high noise zones, accidental potential zones, and Navy restrictive easements. (pp. 3-32)

IMPACT ON CITY SERVICES

MASTER TRANSPORTATION PLAN (MTP) / CAPITAL IMPROVEMENT PROGRAM (CIP): This site is located at the intersection of Dam Neck Road and Harpers Road. In the vicinity of this site, Dam Neck Road is a four-lane divided, access controlled, major suburban arterial, with 165-foot right-of-way width. It is designated in the City’s Master Transportation Plan as a six-lane roadway. Harpers Road is a two-lane collector with a 100 foot right-of-way width. A Capital Improvement Plan project (CIP #2-178.025) for safety improvements at the intersection of Dam Neck Road and Harpers Road is currently under construction. Access to the proposed site is shown on the Conceptual Site Layout to be from a shared private roadway that accesses London Bridge Road at an existing traffic signal. In the vicinity of this access point, London Bridge Road is a four-lane minor suburban arterial with a 110-foot right-of-way width, which is also what is shown in the City’s MTP. No CIP projects are planned for this portion of London Bridge Road.

TRAFFIC:

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<td>11,100 ADT 1 (Level of Service “E”)</td>
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1 Average Daily Trips
2 as defined by two single-family dwellings for 28.74 acres of Agricultural zoning
3 as defined by 28.74 acres “General Heavy Industrial” Use

WATER & SEWER: No City water and sewer connections are proposed; therefore, the proposed use has no anticipated impact on City water and sewer.
EVALUATION AND RECOMMENDATION

Staff recommends approval of the requests for a change of zoning from AG-1 & AG-2 Agriculture Districts to Conditional I-1 Industrial District and the Conditional Use Permit for the purpose of developing the site as a bulk storage facility. The proposed storage use is consistent with the Comprehensive Plan’s land use policies for the Special Economic Growth Area 3. Two specific policies that are relevant to this proposal are that access to the site is not achieved from Dam Neck Road, and that measures are taken to mitigate the impact of the facility on the adjoining stable residential area.

The proposed use is compatible with the AICUZ land use restrictions identified in Article 18 of the Zoning Ordinance. The purpose of the Ordinance is to regulate, in a manner consistent with the property owners rights and the requirements of the military operations at NAS Oceana, uses and structures that are incompatible, while sustaining the economic health of the City and protect and preserve public health, safety and welfare from adverse impacts associated with high levels of noise from flight operations at NAS Oceana. The proposed storage facility is identified as a compatible use in Section 1804 (Table 1). In Staff's opinion, the use is consistent with the intent of the Ordinance, which restricts residential development and encourages low intensity development that is industrial in nature. Consistent with the policies of the Comprehensive Plan and with the AICUZ restrictions, the area in the vicinity of this site will continue to experience industrial growth in the future.

The submitted site plan shows a design that is conscientious of existing site conditions; therefore, minimizing the impacts of the proposed development. The areas being used for storage are already cleared of any vegetation, and most of the existing mature vegetation on the site will remain.

Section 228 of the Zoning Ordinance provides the standards to be applied to a Use Permit for a bulk storage yard; one of the standards is that the area be entirely enclosed by Category VI landscaping. Category VI landscaping consists of a six-foot high solid fence and Category I landscape plantings with a minimum five-foot wide planting bed. The screening shown on the submitted site plan surrounding the bulk storage yard includes an eight-foot privacy fence; however, as noted above, there is no Category I landscape plantings shown. The City Council, per Section 221 (i), may allow a deviation from this requirement “for good cause shown upon a finding that there will be no significant detrimental effects on surrounding properties.” Staff concludes that allowing a deviation of the landscaping requirements will not adversely impact the adjacent properties. It is Staff’s opinion that the use of an eight-foot privacy fence, retention of the existing mature vegetation, the distance to the nearest residence and the 15-foot earth berm provide more than adequate screening and actually exceed the requirements of Section 228 of the Zoning Ordinance.

Based on the considerations above, staff recommends approval of this request as proffered and with the conditions below.

PROFFERS

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

PROFFER 1:
When the Property is developed, it shall be developed into a bulk storage facility with heavy landscape buffers and limited access as shown on the exhibit entitled “CONCEPTUAL SITE LAYOUT & LANDSCAPE PLAN OF CREECH OUTSIDE STORAGE, Virginia Beach, Virginia”, dated 03/24/14, prepared by MSA, P.C., which has been exhibited to the Virginia Beach City Council and is on file with the Virginia beach Department of Planning (hereinafter “Site Plan”).

PROFFER 2:
Outside bulk storage in the areas designated on the Site Plan shall be the only use permitted on the Property without an amendment to these proffers.

PROFFER 3:
Further conditions may be required by the Grantee during detailed Site Plan and/or Subdivision review and administration of applicable City Codes by all cognizant City agencies and departments to meet all applicable City Code requirements.

STAFF COMMENTS: Staff has reviewed the Proffers listed above and finds them acceptable.

The City Attorney’s Office has reviewed the proffer agreement dated Month 31, 2014 and found it to be legally sufficient and in acceptable legal form.

CONDITIONS

1. There shall be no access to the storage yard from Dam Neck Road. Access to the site shall be from an ingress/egress easement on the adjacent parcel (GPIN 24053323940000).

2. The bulk storage facility shall be used for the storage of licensed and operable motor vehicles including cars, recreational vehicles and buses, and boats on trailers that are licensed and operable (the trailers), including panel trucks that are not permitted to be parked in residential communities. No storage of construction equipment shall be allowed at this facility.

3. No equipment shall be stored other than in fully enclosed steel storage containers. The storage containers shall be a maximum of six (6) feet in height, eight (8) feet in width, and forty (40) feet in length. No storage containers shall be permitted to be stacked. They must be situated on the ground or any surface material at ground level.

4. No one shall be permitted to operate a generator at any time on the property.

5. All outdoor lighting shall be shielded to direct light and glare onto the premises. Said lighting and glare shall be deflected, shaded, and focused away from adjoining property. Any outdoor lighting fixtures shall not be erected any higher than fourteen (14) feet.

6. No signage shall be permitted along the property line adjacent to Dam Neck Road.

7. Access to the facility shall be restricted by a gated entry containing a keypad. Access shall be available only from 6:00 a.m. until 10:00 p.m.
8. A row of Leyland Cypress trees shall be planted along the southern edge of the forest line located north of the adjacent residential neighborhood (Prince George’s Estates).

9. The storage facility shall not be used for any purpose other than the storage of vehicles and goods as identified in Condition 2. No person shall be permitted to reside at the facility, and no other repair, retail, or other similar business shall be conducted on the site.

NOTE: 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 uses allowed by this Use Permit or Change of Zoning 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.
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DISCLOSURE STATEMENT

BT HOLDINGS, III, L.L.C.
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ADDITIONAL DISCLOSURES

List all known contractors or businesses that have or will provide services with respect to the requested property use, including but not limited to the providers of architectural services, real estate services, financial services, accounting services, and legal services: (Attach list if necessary)

Sykes, Bourdon, Ahern & Levy, P.C.
MSA, P.C.

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

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

CERTIFICATION: I certify that the information contained herein is true and accurate.

I understand that, upon receipt of notification (postcard) that the application has been scheduled for public hearing, I am responsible for obtaining and posting the required sign on the subject property at least 30 days prior to the scheduled public hearing according to the instructions in this package. The undersigned also consents to entry upon the subject property by employees of the Department of Planning to photograph and view the site for purposes of processing and evaluating this application.

BT Holdings III, LLC

Applicant’s Signature

Barbara T. Creech, Managing Member

Print Name

Property Owner’s Signature (If different than applicant)

Print Name

Conditional Rezoning Application
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DISCLOSURE STATEMENT

APPLICANT DISCLOSURE
If the applicant is a corporation, partnership, firm, business, or other unincorporated organization, complete the following:
1. List the applicant name followed by the names of all officers, members, trustees, partners, etc. below. (Attach list if necessary)

BT Holdings III, LLC: Barbara T. Creech, Managing Member

2. List all businesses that have a parent-subsidiary\(^1\) or affiliated business entity\(^2\) relationship with the applicant. (Attach list if necessary)

☐ Check here if the applicant is NOT a corporation, partnership, firm, business, or other unincorporated organization.

PROPERTY OWNER DISCLOSURE
Complete this section only if property owner is different from applicant.
If the property owner is a corporation, partnership, firm, business, or other unincorporated organization, complete the following:
1. List the property owner name followed by the names of all officers, members, trustees, partners, etc. below. (Attach list if necessary)

2. List all businesses that have a parent-subsidiary\(^1\) or affiliated business entity\(^2\) relationship with the applicant. (Attach list if necessary)

☐ Check here if the property owner is NOT a corporation, partnership, firm, business, or other unincorporated organization.

\(^1\) & \(^2\) See next page for footnotes

Does an official or employee of the City of Virginia Beach have an interest in the subject land? Yes [ ] No [X]
If yes, what is the name of the official or employee and the nature of their interest?
CONDITIONAL USE PERMIT APPLICATION

DISCLOSURE STATEMENT

BT HOLDINGS, III, L.L.C.

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