



Applicant **Atlantic Wildfowl Heritage Museum**
 Property Owner **City of Virginia Beach**
 Public Hearing **September 13, 2017**
 City Council Election District **Beach**

Agenda Item

7

Request

Conditional Use Permit (Open-Air Market)

Staff Recommendation

Approval

Staff Planner

Jonathan Sanders

Location

1113 Atlantic Avenue

GPINs

2427255317, 2427255322

Site Size

15,651 square feet

AICUZ

65-70 dB DNL

Watershed

Atlantic Ocean

Existing Land Use and Zoning District

Atlantic Wildfowl Heritage Museum / OR
 Oceanfront Resort (Historic and Cultural
 Overlay)

Surrounding Land Uses and Zoning Districts

North

Hotel / OR Oceanfront Resort

South

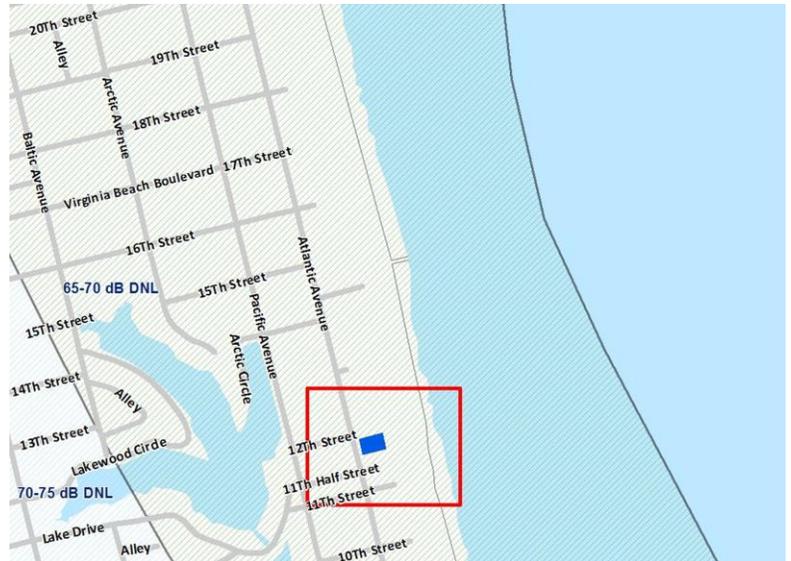
Hotel / OR Oceanfront Resort

East

Atlantic Ocean

West

Atlantic Avenue
 Multi-family dwellings / OR Oceanfront Resort



Background and Summary of Proposal

- The applicant is seeking a Conditional Use Permit for an Open-Air Market to allow a mobile vendor on the south patio of the Atlantic Wildfowl Heritage Museum in order to provide an additional revenue source for the museum. The museum is located within the deWitt Cottage, which is the main structure on the property.
- The property is owned by the City of Virginia Beach and leased to the museum and in June of 2017, the City Council created the deWitt Cottage Historic and Cultural Overlay District for this property. The museum will need to modify their contract with City and the City Attorney’s Office is amenable to the request.
- The applicant plans to work with a vendor to sell food and drinks on the property using a flat-top grill with seating under a single umbrella. As this proposed use is outside of the right-of-way and on the property of the museum, it is classified as an Open-Air Market, which requires and Conditional Use Permit.
- It is anticipated that one employee will operate the Open-Air Market, with hours of operation of 10:00 a.m. to 6:00 p.m., Monday through Saturday, and 12:00 p.m. to 6:00 p.m., on Sunday. The site will be open primarily from Memorial Day through Labor Day.
- The applicant presented this request to the Planning and Design Review Committee of the Resort Advisory Commission at their August meeting. The Committee recommended that the project move forward.

	<p>Zoning History</p> <table border="1"> <thead> <tr> <th>#</th> <th>Request</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>CUP (Outdoor Recreation) Approved 10/27/1992</td> </tr> <tr> <td>2</td> <td>ORD (Historic District) Approved 06/02/2017</td> </tr> </tbody> </table>	#	Request	1	CUP (Outdoor Recreation) Approved 10/27/1992	2	ORD (Historic District) Approved 06/02/2017
#	Request						
1	CUP (Outdoor Recreation) Approved 10/27/1992						
2	ORD (Historic District) Approved 06/02/2017						
Application Types							
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					

Comprehensive Plan Recommendations

This site is located within the Resort Area Strategic Growth Area (SGA). The Resort Area Strategic Action Plan, adopted in 2008, is the master plan prepared for this SGA and identifies the potential for three distinct yet complementary districts: Laskin Gateway, Central Beach and Rudee Marina. The Plan provides a vision for enhancing the energy at the beach into these three areas by developing synergies between the cultural and commercial life, the recreational and the natural life, and an overall focus of drawing residents and visitors into the area.

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 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.

Proposed Site Layout

Proposed location for
mobile food vendor



Proposed Grill, Chair, Table and Umbrella





Site Photos





- 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: Atlantic Wildfowl Heritage Museum
 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)*

Jeff Tinkham, Wayne Jarman, Jim Mehne, Roger Shope, John Champe, Albert Henley, Herbert Videll, Jr., Gentry Childress, Will Walsh, Jr., Werner Seibel, and Charles "Lynn" Hightower.

(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: City of Virginia Beach
 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 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.**

<i>Charles L. Hightower</i>	Charles L. Hightower	7/5/17
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	

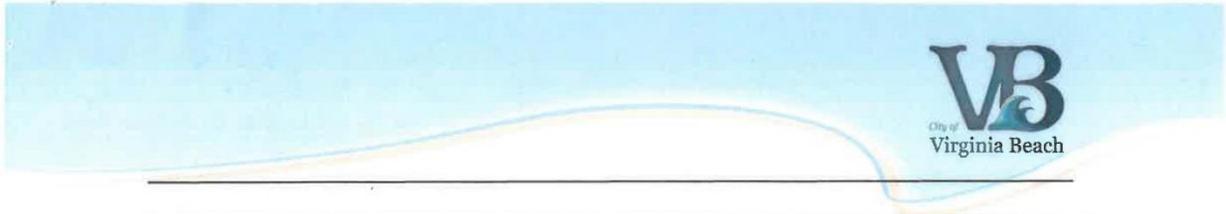
SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

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.**

	Dave Hansen, City Manager	8-21-17
PROPERTY OWNER'S SIGNATURE	PRINT NAME	DATE