Applicant **The Edge Sports, LLC**
Property Owner **Fairfield TIC, LLC; BCP TIC, LLC; DMF TIC, LLC & GCK TIC, LLC**
Public Hearing **September 12, 2018**
City Council Election District **Kempsville**

Agenda Item
7

Request
Conditional Use Permit (Indoor Recreation Facility)

Staff Recommendation
Approval

Staff Planner
Robert Davis

Location
5258-A Fairfield Shopping Center

GPIN
1466542739

Site Size
7.70 acres

AICUZ
Less than 65 dB DNL

Watershed
Chesapeake Bay

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

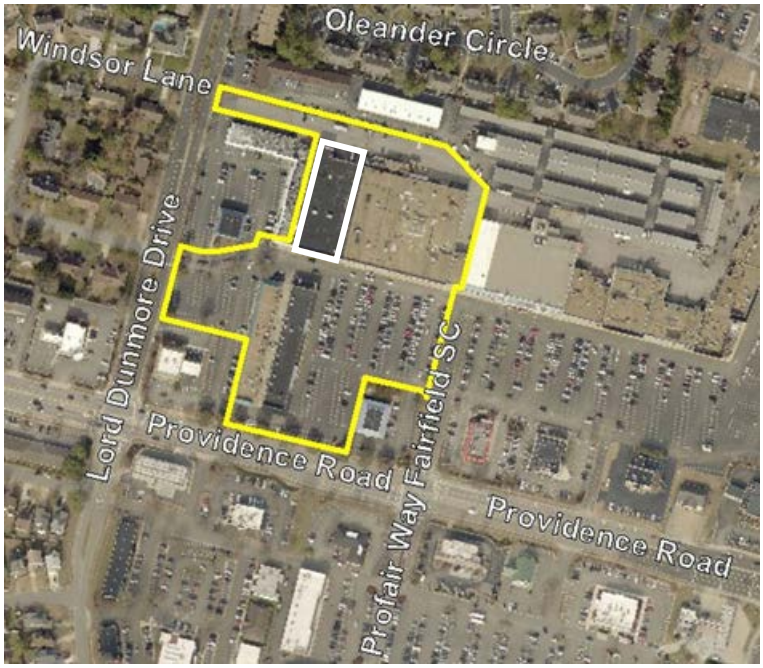
Surrounding Land Uses and Zoning Districts

North
Mini-storage, offices / B-2 Community Business

South
Providence Road
Mixed retail, restaurants / B-2 Community Business

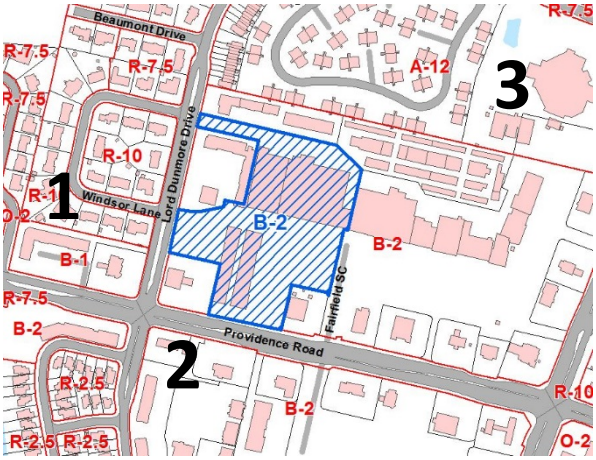
East
Fairfield Shopping Center
Mixed retail, restaurants, financial institutions / B-2 Community Business

West
Lord Dunmore Drive
Single-family dwellings, mixed retail, restaurants, financial institutions / R-7.5 Residential, R-10 Residential, B-2 Community Business



Background and Summary of Proposal

- The applicant is requesting a Conditional Use Permit for an Indoor Recreation Facility to be located in a unit within the Fairfield Shopping Center.
- According to the application, the approximately 18,000 square foot facility will provide baseball and softball instruction, batting and pitching cages, retail sales of related sports equipment, and performance training.
- It is anticipated that up to 17 employees will work at the facility.
- The proposed typical operating hours are 10:00 a.m. to 9:00 p.m., Monday through Friday; 10:00 a.m. to 6:00 p.m., Saturday; and 12:00 p.m. to 6:00 p.m., Sunday.
- The proposed channel-letter wall mounted signage will be three feet tall by 27 feet long and will be internally-illuminated.
- With the exception of the new signage, no other changes are proposed to the exterior of the building.



Zoning History

#	Request
1	**CUP** (Child Daycare) Approved 10/10/2012
2	**CUP** (Car Wash) Approved 06/12/2002
3	**CUP** (Church Expansion) Approved 03/10/1993 **CUP** (Church Expansion) Approved 06/14/2006

Application Types		
CUP – Conditional Use Permit	MOD – Modification of Conditions or Proffers	FVR – Floodplain Variance
REZ – Rezoning	NON – Nonconforming Use	ALT – Alternative Compliance
CRZ – Conditional Rezoning	STC – Street Closure	SVR – Subdivision Variance

Evaluation and Recommendation

The proposed Conditional Use Permit request for an Indoor Recreation Facility, in Staff's opinion, is consistent with the Comprehensive Plan's land use policies for this area, as this type of use helps support the recreational needs of residents and provides a wholesome and healthy family environment. Since the proposed indoor facility will be located in a retail shopping center, the anticipated traffic generated by the unit has been accounted for in the original design for traffic flow and parking for the shopping center. The proposed use is compatible with the other commercial uses located in the Fairfield Shopping Center, and should not have a negative effect on any of the adjacent properties. As such, Staff recommends approval of this request, subject to the conditions below.

Recommended Conditions

1. The location of the Indoor Recreation Facility shall be limited to the area depicted on the proposed site layout on page 5 of this report, which has been exhibited to the Virginia Beach City Council and is on file in the Department of Planning and Community Development.

2. All exterior building signage shall comply with the requirements of the City Zoning Ordinance.

3. The applicant shall obtain all necessary permits and inspections from the Planning Department and Community Development Permit and Inspections Division, Health Department, and Fire Department. The applicant shall obtain a Certificate of Occupancy from the Building Official prior to commencing operation.

4. The maximum number of individuals within the facility shall not exceed the maximum number as determined by the Fire Marshal.

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.

Comprehensive Plan Recommendations

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

Natural and Cultural Resources Impacts

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

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Providence Road	10,249 ADT [1]	17,300 ADT [1] (LOS [2] "C") 27,300 ADT [1] (LOS [2] "D")	No Change Anticipated

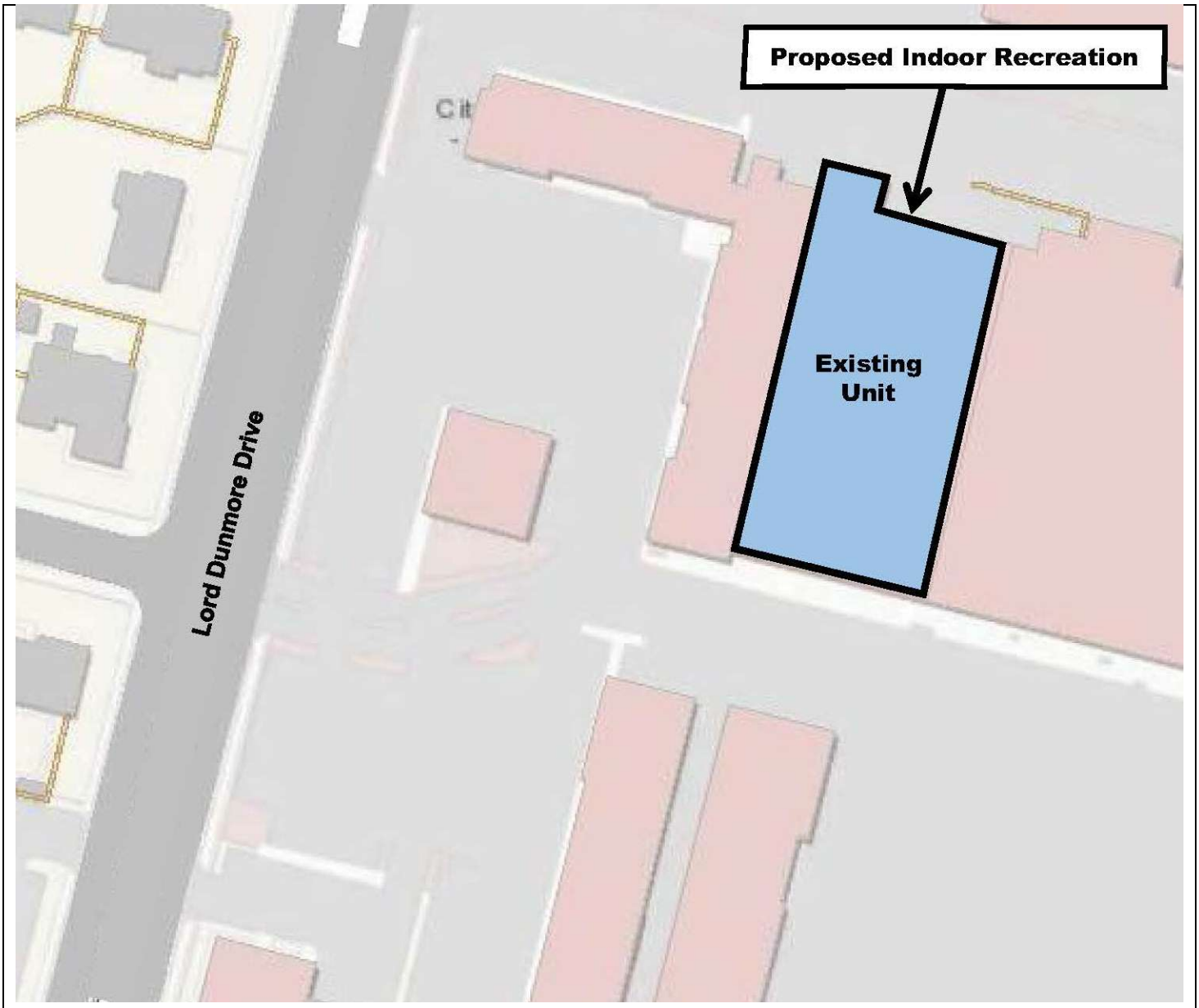
[1] Average Daily Trips [2] LOS = Level of Service

Public Utility Impacts

Water & Sewer

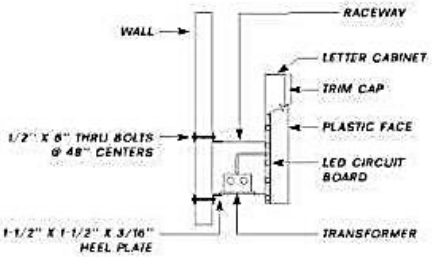
This site is currently connected to both City water and sanitary sewer service.

Proposed Site Layout



Proposed Sign Elevations

CHANNEL LED LETTERS ON RACEWAY



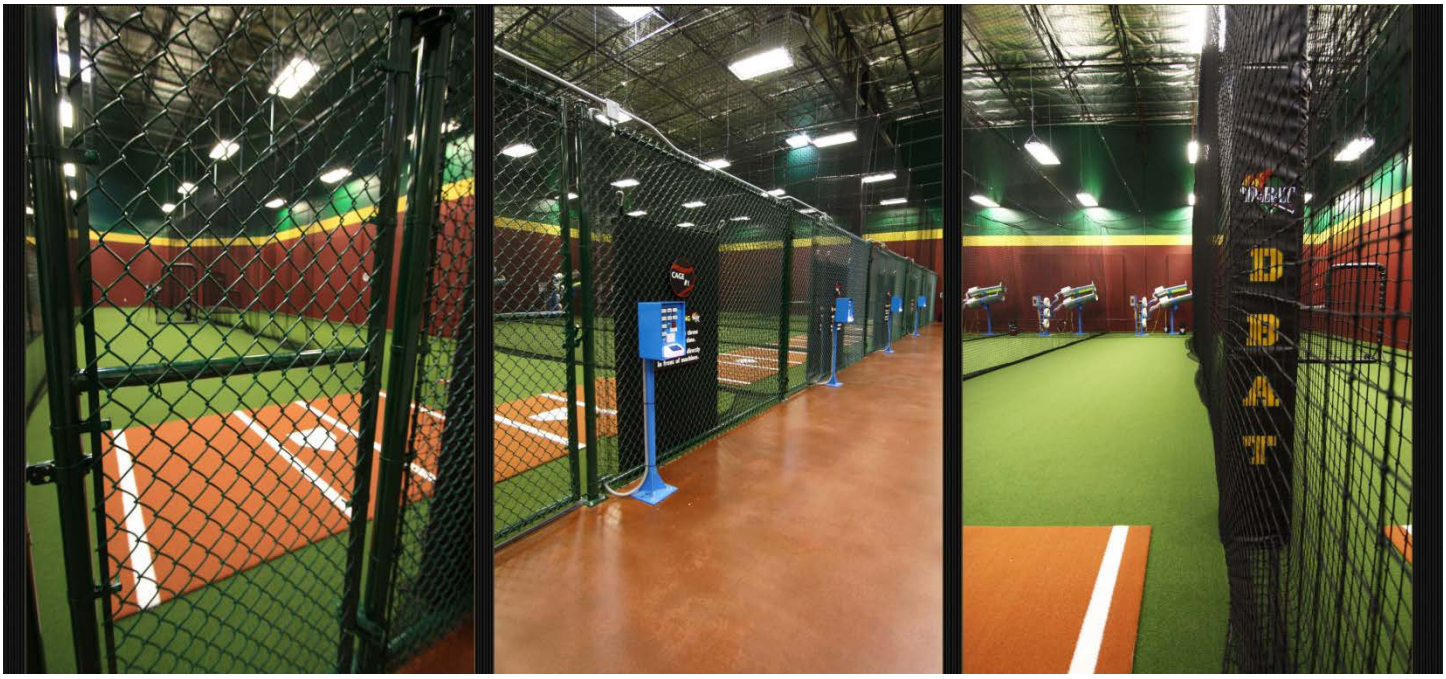
NOT TO SCALE

Site Photos

FURNITURE MART
Garden
NO CREDIT NEEDED

FURNITURE MART
NO CREDIT NEEDED

Exhibits of Batting & Pitching Cages Submitted by the Applicant



Disclosure Statement

Virginia Beach

APPLICANT'S NAME The Edge Sports, 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
		Franchise Agreement	
	Chesapeake Bay Preservation Area Board	Lease of City Property	Subdivision Variance
X	Conditional Use Permit	License Agreement	Wetlands Board

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

SECTION 1 / APPLICANT DISCLOSURE

Page 1 of 7

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)			
☐	APPLICANT NOTIFIED OF HEARING	DATE:	
☐	NO CHANGES AS OF	DATE:	
☐	REVISIONS SUBMITTED	DATE:	

City of Virginia Beach

☐ 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: The Edge Sports, LLC
If an LLC, list all member's names:
Craig Colucci

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

(B) List the businesses that have a parent-subsidiary [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: Fairfield TIC, LLC; BCP TIC, LLC; DMF TIC, LLC; & GCK TIC, LLC **In Receivership**

If an LLC, list the member's names: See attached letter from Receiver

Virginia Beach

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

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

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

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

SECTION 3. SERVICES DISCLOSURE

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPERATELY

APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
☒	☐	Accounting and/or preparer of your tax return	Chris Wood, C. Wood & Co.,LLC
☒	☐	Architect / Landscape Architect / Land Planner	Clay Dills, Dills Architects
☐	☒	Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers	
☐	☒	Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)	
☒	☐	Construction Contractors	Chris Taylor, Taylor Construction Cardinal Sign Corporation
☐	☒	Engineers / Surveyors/ Agents	
☒	☐	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	Wells Fargo SBA Lending
☒	☐	Legal Services	Greg Montero, Inman, & Stickler, PLC
☒	☐	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	Greg Spitler, Cresa Levi Thomson, Divaris

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?

Danielle Colucci, spouse of Craig Colucci, is an employee of Virginia Beach City Public Schools. Danielle Colucci is not a owner and not a member of the Edge Sports LLC.

City of Virginia Beach

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.**

	Craig C. Colucci	22Jun18
APPLICANT'S SIGNATURE	PRINT NAME	DATE

OWNER

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
☒	☐	Accounting and/or preparer of your tax return	
☐	☒	Architect / Landscape Architect / Land Planner	
☐	☒	Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers	
☐	☒	Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)	
☐	☒	Construction Contractors	
☐	☒	Engineers / Surveyors/ Agents	
☒	☐	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	US Bank National Association, as Trustee for LB-UBS Commercial Mortgage Trust
☒	☐	Legal Services	David A. Greer, PLC
☒	☐	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	Divaris Real Estate, Inc.

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

YES	NO	
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City of Virginia Beach

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Susan E. Collins	Susan E. Collins, Receiver	6/29/18
PROPERTY OWNER'S SIGNATURE	PRINT NAME	DATE

Disclosure Statement

SUSAN E. COLLINS
RECEIVER

4525 Main Street
Suite 900
Virginia Beach, VA 23462

June 29, 2018

City of Virginia Beach
Planning & Community Development
Department

RE: Conditional Use Permit
THE EDGE SPORTS, LLC
Property: 5258-A Fairfield Shopping Center
Virginia Beach, VA
Owners: Fairfield TIC, LLC, BCP TIC, LLC, DMF TIC, LLC, and GCK TIC, LLC
Receiver: Susan E. Collins

To Whom It May Concern:

On March 15, 2018, I was appointed Receiver for the above-referenced property. A copy of the Order Appointing Receiver is attached for your review which provides the Receiver full authority over matters related to this property.

Section 2 of the attached application, requests Property Owner information. As the form would not allow sufficient space to provide this info, it is as follows:

Fairfield TIC, LLC – Member: Jon S. Wheeler
BCP TIC, LLC – Member: Jon S. Wheeler
DMF TIC, LLC – Member: Donald M. Faulkner, Jr.
GCK TIC, LLC – Member: Gary C. Kimnach

Please let me know if you have any questions. Thank you very much for your assistance.

Sincerely,

Susan E. Collins
Receiver

Attachment