



Applicant **Traditional Concepts, LLC & Victory Baptist Church of Virginia Beach, Inc.**

Agenda Item

Property Owner **Victory Baptist Church**

D3

Public Hearing **February 13, 2019** (Deferred January 9, 2019)

City Council Election District **Princess Anne**

Request

Modification of Conditions (Religious Use)

Conditional Rezoning (R-15 Residential to Conditional R-10 Residential)

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

Staff Recommendations

Approval of Modification of Conditions & Conditional Rezoning

Approval of Withdrawal of Subdivision Variance

Staff Planner

Jonathan Sanders

Location

4125 Indian River Road

GPIN

1474534410

Site Size

10 acres

AICUZ

Less than 65 dB DNL

Watershed

Southern Rivers

Existing Land Use and Zoning District

Church and parsonage / R-15 Residential

Surrounding Land Uses and Zoning Districts

North

Indian River Road

Single-family dwellings / R-15 Residential

South

Wetlands / R-15 Residential

East

Single-family dwellings / Conditional R-10 Residential

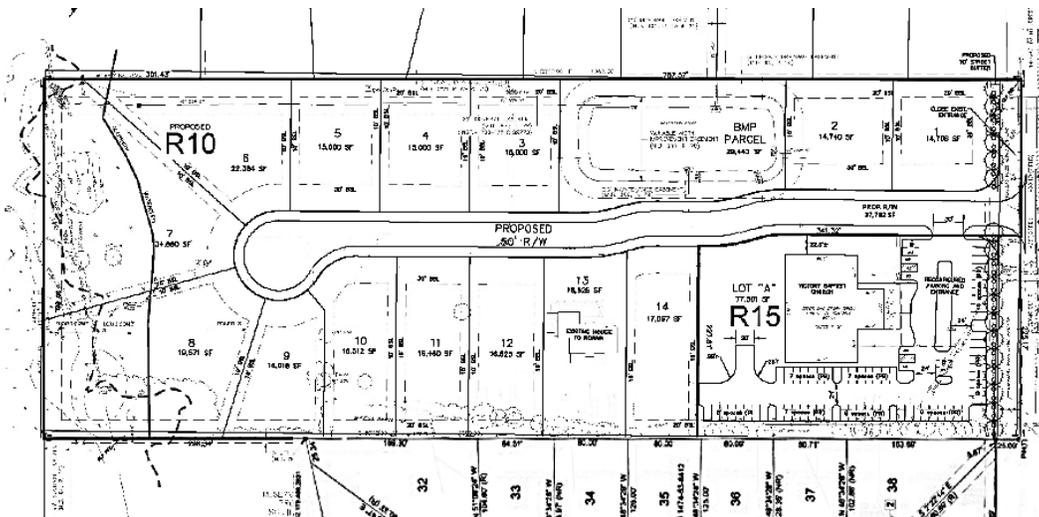
West

Single-family dwellings / R-15 Residential



Background and Summary of Proposal

- This request was deferred for 30 days by Planning Commission at the January 9, 2019 hearing in order for the applicant to address concerns raised by Staff regarding the Subdivision Variance request. The applicants have since revised the concept plan reducing the number of proposed residential lots from 14 to 13. The proposed layout now meets the standards of the Zoning Ordinance and a Subdivision Variance is no longer needed. The applicants have requested to withdraw the request for the Subdivision Variance.
- Additionally, since the January 9, 2019 Planning Commission hearing, the Department of Public Works Staff has verified that the City will no longer be pursuing right-of-way acquisition in this area, including the southwestern portion of this property, for what was once envisioned as the Southeastern Parkway and Greenway. The Master Transportation Plan will be amended in the future to clarify this directive.
- In June 2016, requests to rezone the property from R-15 Residential to Conditional R-10 and to modify the conditions of a Conditional Use Permit for a Religious Use were heard by the Planning Commission and forwarded to the City Council with a recommendation for approval. At that time, all proposed lots met the minimum standards of the Zoning Ordinance. At the August 2016 City Council meeting, the requests were deferred in order to allow additional consideration of issues raised by the adjacent neighbors, specifically with regard to stormwater, as portions of the stormwater captured from the Hillcrest Meadows neighborhood (the adjacent neighborhood to the northwest) is directed into an existing stormwater pond on this site. Since then, the applicant has submitted a preliminary stormwater management strategy that addresses deficiencies in the existing stormwater facility on the site while accommodating future stormwater runoff from the proposed development. Staff has determined that the submitted strategy does have the potential to comply with current standards and regulations.



Previous lot configuration reviewed by Planning Commission in June 2016

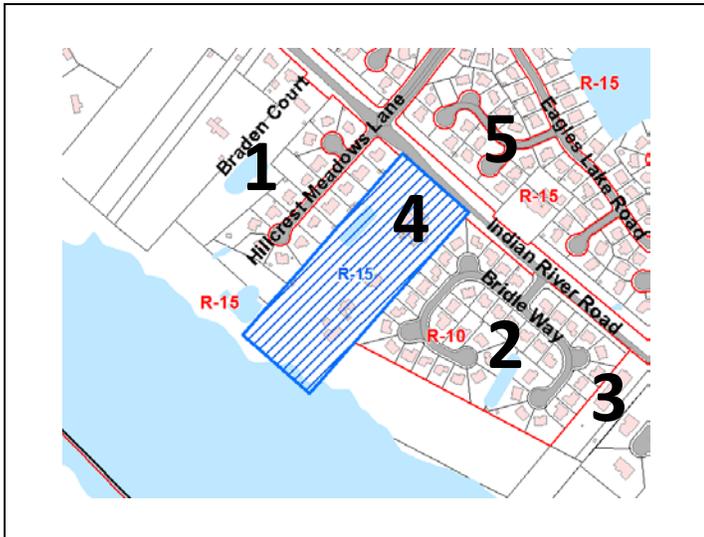
- The 10-acre site is currently occupied by Victory Baptist Church, two single-family dwellings, and several accessory structures. A Conditional Use Permit for the 10,980 square foot church was approved by City Council on December 8, 1998.

Conditional Rezoning

- Traditional Concepts, LLC requests a Conditional Rezoning of 8.19 acres of the site from R-15 Residential to Conditional R-10 Residential in order to develop the site with 13 single-family dwellings, which will include the existing two-story dwelling on the site.
- The resulting density is proposed as 1.59 dwelling units per acre (du/acre), which is comparable to the surrounding area. Dwelling unit density of neighborhoods in the surrounding area are as follows: 3.0 du/acre in Indian River Meadows, 2.02 du/acre in Hillcrest Farms, and 1.98 du/acre in Hillcrest Meadows. Under the current zoning of R-15, it appears that up to 10 or 11 dwellings could be developed on the 8.19 acres, which doesn't include the residual 1.81 acres for the church.
- The proffered elevations depict four two-story house designs with at least 2,400 square feet of living area and no less than a one-car garage. The overall architectural style of the houses is traditional suburban utilizing various elements of vernacular and colonial styles. The primary exterior building materials will consist of a combination of architectural shingles, cement fiberboard siding, stone, brick, premium vinyl siding and/or wood.

Modification of Conditions

- Victory Baptist Church of Virginia Beach, Inc. requests a modification of the current Conditional Use Permit for a reduction of the area of the site subject to the Conditional Use Permit. The request will reduce the church's property to 1.81 acres. Section 240.1 of the Zoning Ordinance, which provides the specific standards for religious facilities, states that the minimum lot area for a religious use be three acres; therefore, the proposed lot area for the church will be deficient by 1.19 acres. The 1.81 acres remaining for the church will consist of the immediate area around the church and a reconfigured parking lot with 66 spaces that will wrap around the southeastern side of the building. The lot for the church will remain zoned R-15 Residential.
- A second issue pertains to the side yard setback for the church with the dedication of the new public right-of-way that will serve the subdivision. The submitted site plan shows that the distance between the northwestern wall of the church building and the new roadway is 16 feet. This setback is deficient by 14 feet and requires a deviation to the standard. For any use other than a dwelling, located within the R-15 Residential District, Section 502(d)(10) of the Zoning Ordinance requires a 30-foot setback for any side yard adjacent to a street. There is insufficient area for both the 50-foot right-of-way and the required 30-foot setback. The 16-foot setback maintains an adequate distance from the right-of-way to the church, while allowing sufficient area for maintenance access and safety.



Zoning History

#	Request
1	CRZ (R-15 to Conditional R-10) Denied 05/27/2014
2	CRZ (R-15 to Conditional R-10) Approved 05/27/2008
3	CUP (Religious Facility – Church with Childcare) Approved 12/08/1998
4	MOD (Modification of Conditions – addition of a single-family dwelling on site) Approved 08/12/2008 CUP (Religious Facility – Church) Approved 12/08/1998
5	REZ (R-15 to R-15 [Open Space Promotion]) Approved 12/12/1988

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

Staff finds the request to rezone 8.19 acres of a larger 10-acre site acceptable and also supports the request to modify the Conditional Use Permit for the church in order to reduce the area from 10 acres down to 1.81 acres. The proposed lots now will meet the standards of the Zoning Ordinance in terms of lot area and lot width, and the preliminary stormwater plan has the potential to comply with the City’s regulations.

The church is requesting to deviate from the required three-acre lot requirement for a Religious Use. The three-acre requirement is in place so that churches have the opportunity to grow; however, this congregation is experiencing a decline in membership. Also, a request to deviate from the 30-foot side yard setback required for a building adjacent to the street in the R-15 District is being sought by the church. The church building is depicted on the plan at 16 feet from the property line. In Staff’s view there will be adequate distance from the right-of-way to the church to accommodate sufficient area for maintenance access and safety. Through the provisions of Section 221 (i) of the Zoning Ordinance, which allows City Council to grant deviations from required landscaping if “for good cause shown upon a finding that there will be no significant detrimental effects on surrounding properties.” Staff concludes that a deviation to the lot area and to the side yard setback requirement will not adversely impact the adjacent properties, particularly given that the church has existed on the site for many years.

As previously noted, City Staff will no longer be actively pursuing right-of-way acquisition in this area, including the southwestern portion of this property, for a proposed roadway. The Master Transportation Plan will be amended in the future to clarify this directive.

The property is located within the Stumpy Lake Dam Inundation Zone (see page 10 for a map showing this zone), and as such, it is recommended that the lowest adjacent grade to any structure exceeds the design flood elevation of 8.30 feet, and that the right-of-way and sidewalk elevations meet or exceed an elevation of 8.30 feet (NAVD88). The applicants have provided Proffer 6 to ensure that the proposed development will meet this standard.

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

Conditions

1. All conditions of the 1998 Conditional Use Permit as well as the conditions of the 2008 Modification are null and void.
2. Development of the church site shall be substantially as shown on the Preliminary Subdivision Plan entitled "PRELIMINARY SUBDIVISION PLAN ENCLAVE AT VICTORY", sheet C1, dated 12/10/18, prepared by Pinnacle Group Engineering, Inc. Said plan has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning (the "Preliminary Subdivision Plan").
3. Any trash dumpster on the site shall be enclosed by a solid brick wall (brick substantially matching the existing brick on the building) or a vinyl fence of six feet in height. No dumpster shall be located within 40 feet of Lot 13 on the plan identified in Condition 2.
4. Light fixtures may remain on at any time, provided that the source of the light is shielded to not be visible from the property lines of adjacent properties and that the light be contained on the subject property.

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 as a single family subdivision with no more than thirteen (13) single family residential lots, with one lot containing an existing home, designated as Lot 12, and one additional lot to remain as a church use, designated as Lot A, substantially in accordance with the Preliminary Subdivision Plan designated "PRELIMINARY SUBDIVISION PLAN ENCLAVE AT VICTORY", sheet C1, dated 12/10/18, prepared by Pinnacle Group Engineering, Inc., which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning (the "Preliminary Subdivision Plan").

Proffer 2:

The total number of residential lots permitted on the Property shall not exceed thirteen (13) (including Lot 12). Each new home shall contain a minimum of 2,400 square feet of living area and at least a one (1) car garage.

Proffer 3:

Lot A with the existing church shall continue in its current use as allowed under the Conditional Use Permit granted to Victory Baptist Church of Virginia Beach, Inc., by Grantee.

Proffer 4:

The architectural design of the residential dwellings and any detached garages will be substantially as depicted on elevations exhibited on the designated "PRELIMINARY SUBDIVISION PLAN ENCLAVE AT VICTORY", sheet C1, dated 12/10/18, which have been exhibited to the Virginia Beach City Council and are on file with the Virginia Beach Department of Planning. The exterior building elevations shall be limited to the following materials, and each elevation shall include some combination of: architectural shingles, hardiplank, stone, brick, premium vinyl siding, fiber cement siding, and/or wood.

Proffer 5:

When the Property is developed, the Grantor shall record a Declaration submitting the Property to a mandatory membership Homeowner’s Association, which shall be conveyed title to any Open Space and/or BMP Lot, and shall be responsible for maintaining all open spaces, landscaping and other improvements in the BMP Lot(s) on the Property as depicted on the Concept Plan.

Proffer 6:

When the Property is developed, the ground elevation surrounding and immediately adjacent to any structure shall exceed 8.30 feet as referenced by the North American Vertical Datum of 1988 (NAVD 88) and the right-of-way and sidewalk elevations on the Property as depicted on the Concept Plan shall meet or exceed an elevation of 8.30 feet NAVD 88.

Proffer 7:

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

Staff Comments:

The proposed proffers are acceptable and provide confidence that the site will be developed as depicted in terms of layout, density and architectural design.

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 adjacent to Gum Swamp, which is associated with the North Landing River and is part of the Southern Watershed. The applicant has delineated on the submitted plan the extent of the Southern Watershed Management Area. The site is located within the Stumpy Lake Dam Inundation Zone (see page 10 for a map showing this zone). When development or redevelopment in an inundation zone is proposed, the Dam Safety Act requires evaluation of the impact that development will have on the hazard classification and corresponding design flood standards of the dam. If the proposed development worsens the hazard classification of the dam, then the dam may need to be improved to safely pass a greater design flood.

In 2015, a study was commissioned by the City to evaluate the impact of this proposed development (and others) on the hazard classification of the Stumpy Lake Dam. The study determined that this proposed development was not anticipated to change the current hazard classification of the dam provided that the lowest adjacent grade (LAG) to any structure exceeded the design flood elevation. The study further recommended that all LAG, roadway, and sidewalk elevations meet or exceed an elevation of 8.3 feet (NAVD88). While there appears to be no immediate impact to the hazard classification and design flood standards of the dam caused by this proposed subdivision, it should be noted that any new development, including this one, within the inundation zone will elevate the risk profile of the dam. The following points should be given proper consideration when evaluating any request to develop property located within the inundation zone to a density greater than that which is permitted by-right:

1. Increasing the population residing within the inundation zone will result in direct impacts to notification and evacuation procedures required at specific elevated lake levels caused by severe weather events.

2. Evacuation of residents within the inundation zone can be complicated by roadway flooding of evacuation routes during severe weather events. Increasing the number of residents requiring evacuation will increase the evacuation time and/or resources required.
3. Filling on land within the inundation zone has the potential to displace the limits of the inundation zone to area currently outside it.

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Indian River Road	8,095 ADT ¹	13,600 ADT ¹ (LOS ⁴ "C") 16,200 ADT ¹ (LOS ⁴ "E")	Existing Land Use ² – 87 ADT Proposed Land Use ³ - 197 ADT
¹ Average Daily Trips	² as defined by an 11,000 square foot church and two single-family dwellings	³ as defined by an 11,000 square foot church and 13 single-family dwellings	⁴ LOS = Level of Service

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

Indian River Road, in this vicinity, is considered a two-lane undivided minor suburban arterial. The existing infrastructure currently resides in an 80-foot variable width right-of-way. The MTP proposes a four-lane facility within a 145-foot right-of-way.

Public Utility Impacts

Water

The site is currently connected to City water. There is an existing 10-inch City water main along Indian River Road.

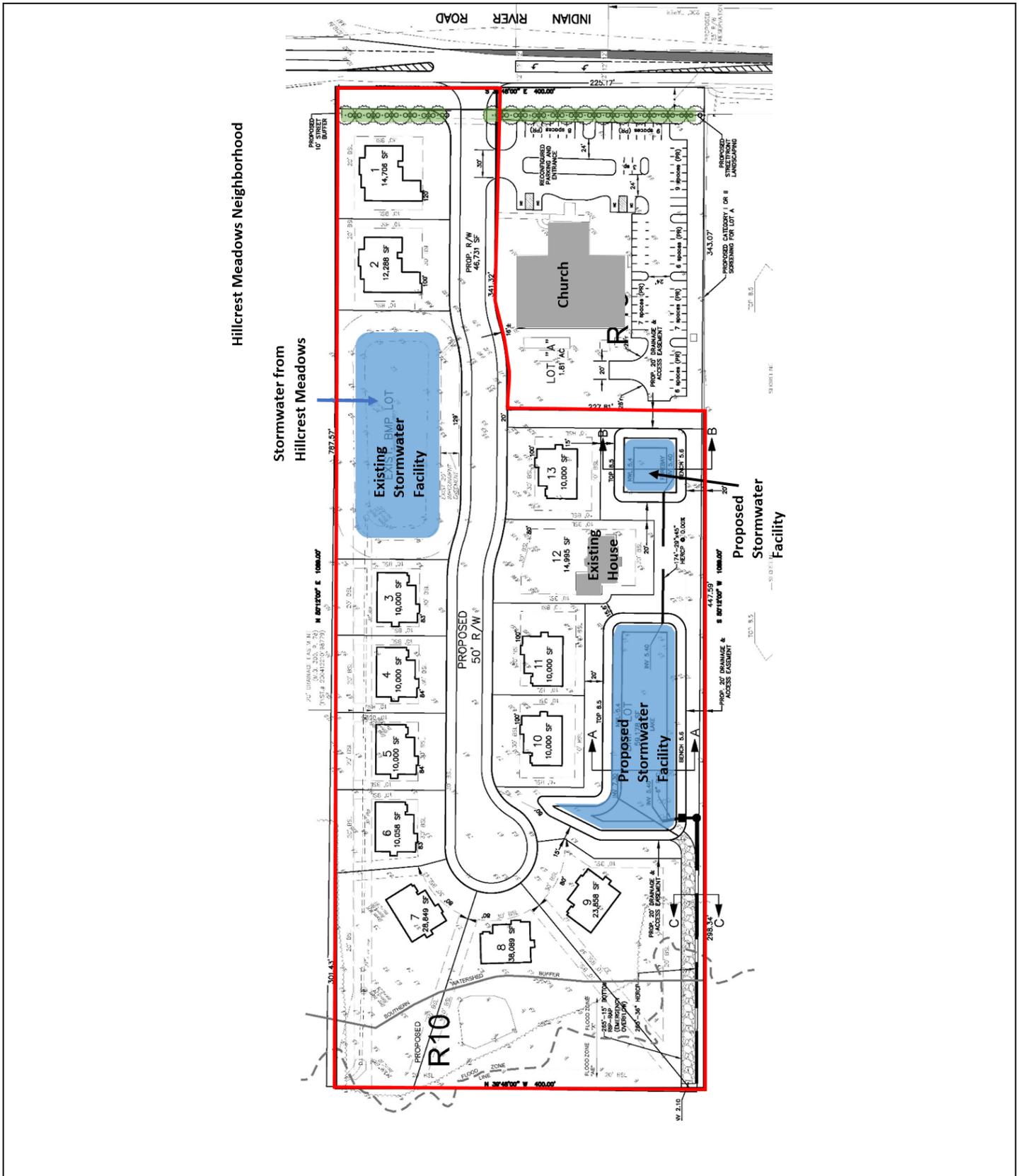
Sewer

The site is currently connected to City sanitary sewer. There is an existing 10-inch City sanitary sewer gravity main along Indian River Road.

School Impacts

School	Current Enrollment	Capacity	Generation ¹	Change ²
New Castle Elementary	735	801	4	1
Landstown Middle	1,412	1,481	2	0
Landstown High	2,163	2,569	3	0
¹ "Generation" represents the number of students that the development will add to the school. ² "change" represents the difference between the number of potential or actual students generated under the existing zoning and the number generated under the proposed zoning. The number can be positive (additional students) or negative (fewer students).				

Proposed Site Layout



Proposed Elevations



Cottage Home

Low Country Home



Traditional Home



3 Car Garage Home



Stumpy Lake Dam Inundation Zone



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: Victory Baptist Church
 If an LLC, list all member's names:
 Leslie Smith, Kevin Inmon, Norman Smith, Paul Smith

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

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 checked="" type="checkbox"/>	<input type="checkbox"/>	Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers	Traditional Concepts, LLC
<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	Pinnacle Group Engineering, Inc.
<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)	Southern Bank and Trust Company
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Legal Services	John M. Napier, Esq., PLLC
<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>Leslie W. Smith</i>	President/Justice	Leslie W. Smith	12/10/2018
PROPERTY OWNER'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 checked="" type="checkbox"/>	<input type="checkbox"/>	Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers	Traditional Concepts, LLC
<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	Pinnacle Group Engineering, Inc. Southern Bank and Trust Company
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<i>Leslie W. Smith</i> PROPERTY OWNER'S SIGNATURE	Leslie W. Smith PRINT NAME	12/10/2018 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: Traditional Concepts, LLC

If an LLC, list all member's names:

Wayne R. Crosby and Lesli Crosby

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)*

See next page for information pertaining to footnotes¹ and ²

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(A) List the Property Owner's name: _____

If an LLC, list the member's names:



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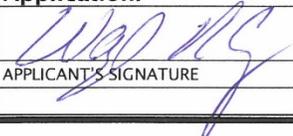
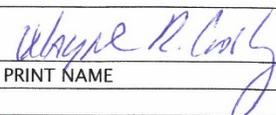
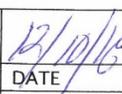
If yes, what is the name of the official or employee and what is the nature of the interest?

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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 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.