The Virginia Beach Planning Commission Public Hearing is carried LIVE on VBTV, which is available on Cox Cable Channel 48, Verizon Cable Channel 45 and on VBgov.com's Media Center webpage at http://www.vbgov.com/media/pages/videos.aspx. The meeting is recablecast on Cox Channel 48 and Verizon Channel 45 the following morning at 9 a.m. and on Cox Channel 47 and Verizon Cable Channel 47 at 7 p.m. on the two consecutive Fridays following the live meeting. The meeting will also be available on the Media Center webpage for two months beginning the Friday after the live hearing.

Planning Commission Hearing Procedures

The Virginia Beach Planning Commission Public Hearing is held at 12:00 Noon in the Council Chamber of the City Hall Building, Municipal Center. A staff briefing is held at 9:00 a.m. in the City Manager's Conference Room, City Hall Building.

Those members of the public interested in attending the 12:00 Noon Public Hearing should be advised that, for reasons the Planning Commission deems appropriate, certain items on the agenda may be heard out of order and that it should not be assumed that the order listed in this document will be exactly followed during the public hearing.

PLEASE TURN OFF YOUR CELL PHONE WHILE IN THIS CHAMBER.

PLANNING COMMISSION ACTION IS NOT A FINAL DETERMINATION REGARDING THE APPLICATION, BUT ONLY A RECOMMENDATION TO THE CITY COUNCIL OF THE VIEWPOINT OF THE PLANNING COMMISSION. FINAL DETERMINATION OF THE APPLICATION WILL BE MADE BY CITY COUNCIL AT A LATER DATE AFTER PUBLIC NOTICE IN THE VIRGINIAN PILOT/BEACON.

IF YOU ARE ATTENDING THE HEARING AND DESIRE TO SPEAK ON AN ITEM, FILL OUT A 'SPEAKER CARD' AT THE DESK OUTSIDE THE COUNCIL CHAMBER PRIOR TO THE MEETING.

THE FOLLOWING DESCRIBES THE ORDER OF BUSINESS FOR THE PUBLIC HEARING
(IF YOU DO NOT UNDERSTAND, ASK A STAFF MEMBER SITTING AT THE DESK AT THE FRONT OF THE CHAMBER OR THE STAFF MEMBER AT THE DESK OUTSIDE THE CHAMBER).

1. **WITHDRAWALS AND DEFERRALS: The first order of business is the consideration of withdrawals or requests to defer an item. The Commission will ask those in attendance at the hearing if there are any requests to withdraw or defer an item that is on the agenda. PLEASE NOTE THE REQUESTS THAT ARE MADE, AS ONE OF THE ITEMS BEING WITHDRAWN OR DEFERRED MAY BE THE ITEM THAT YOU HAVE AN INTEREST IN.**

   a. **An applicant may withdraw an application without the Commission's approval at any time prior to the commencement of the public hearing for that item. After the commencement of the hearing, however, the applicant must request that the Planning Commission allow the item to be withdrawn.**
   b. **In the case of DEFERRALS, the Commission's policy is to defer the item indefinitely with the understanding that the item will be placed back on the Commission's agenda at the earliest possible date. Although the Commission allows an item to be deferred upon request of the applicant, the Commission will ask those in attendance if there are any objections to the request for deferral. If you wish to oppose a deferral request, let the Commission know when they ask if there is anyone in attendance who is opposed to the deferral. PLEASE confine your remarks to the deferral request and do not address the issues of the application – in other words, please let the Commission know why deferring the application is unacceptable rather than discussing what your specific issue is with the application.**

2. **CONSENT AGENDA: The second order of business is consideration of the "consent agenda." The consent agenda contains those items**

   a. **that the Planning Commission believes are unopposed and**
   b. **which have a favorable Staff recommendation.**

* Deferral
** Withdrawal

If an item is placed on the Consent Agenda, that item will be heard with other items on the agenda that appear to be unopposed and have a favorable staff recommendation. The Commission will vote on all of the items at one time. Once the Commission has approved the item as part of the Consent Agenda, it is deemed approved and will not be discussed any further. It is important, therefore, if you have an objection to an item being placed on the Consent Agenda to note your objection as the Commission goes through the items being considered for the Consent Agenda. Also note that some consent agenda items may be subject to certain conditions, as in those items that are Conditional Use Permits.

Process for the Consent Agenda:

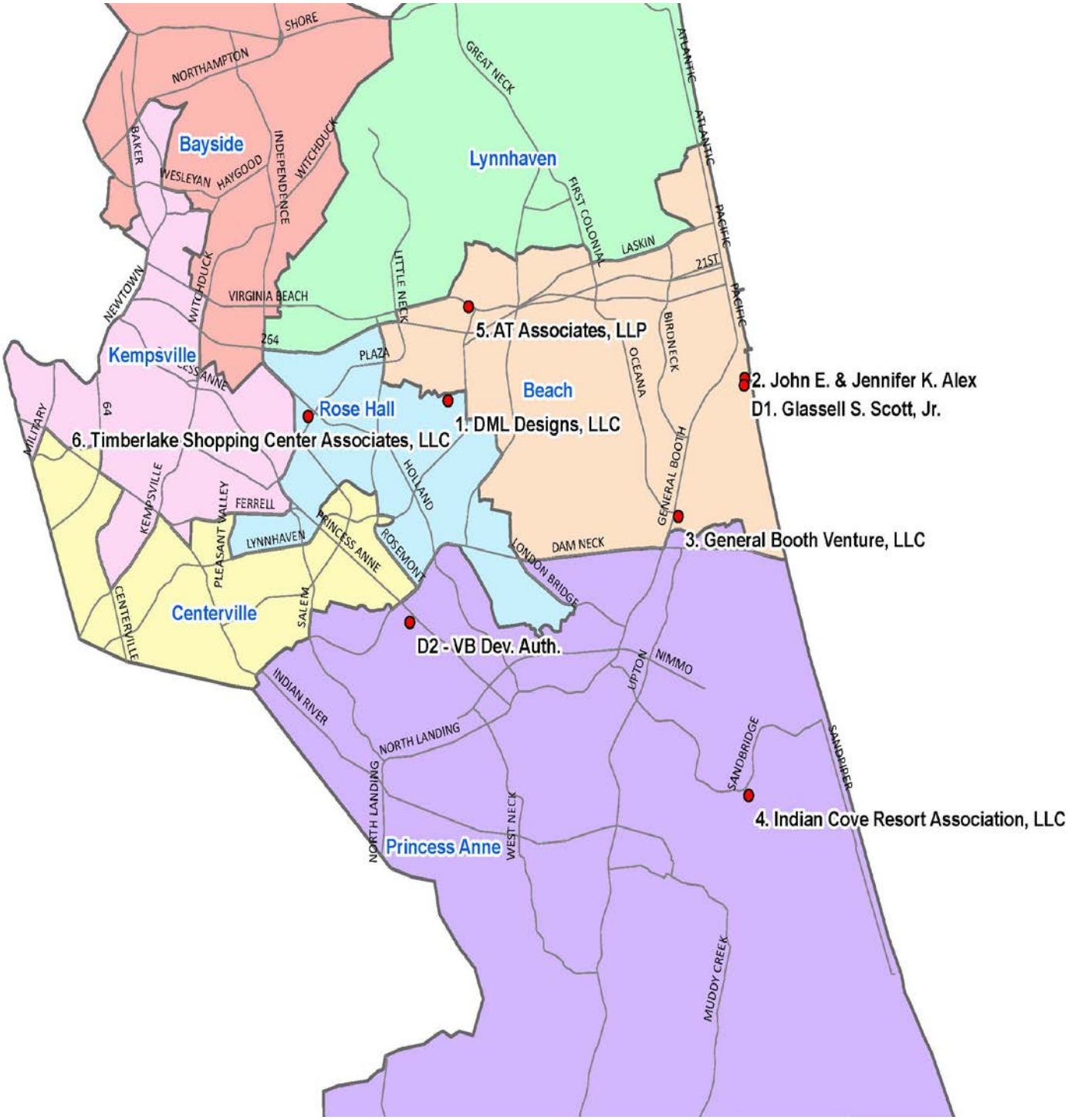
- **The Commission will announce the item number and item title being considered for inclusion on the Consent Agenda.**
- **The Commission will ask if there is anyone in the audience representing the item, and if so, ask them to go up to the podium and state their name for the record.**
- **If there are conditions attached to the approval of the item, the Commission will ask the representative of the item if they are aware of the conditions and if they agree to the conditions.**
- **The Commission will then ask if there is anyone in the audience in opposition to the item. <u>If you are opposed to the item, stand or raise your hand to let the Commission know</u>.**
- **If the item is opposed, it will be removed from the consent agenda and heard in its normal place on the agenda.**
- **After the Commission has gone through all of the items that it believes should be on the Consent Agenda, it will vote at one time for all of the items, announcing the number of each item being voted on. <u>Pay attention to the list of items being voted on.</u>**

3. <u>REGULAR AGENDA:</u> The Commission will then proceed with the remaining items on the agenda, according to the following process:

a. The applicant or applicant's representative will have 10 minutes to present its case.
b. Next, those who wish to speak in support to the application will have 3 minutes to present their case.
c. If there is a spokesperson for the opposition, he or she will have 10 minutes to present their case.
d. All other speakers not represented by the spokesperson in opposition will have 3 minutes.
e. The applicant or applicant's representative will then have 3 minutes for rebuttal of any comments from the opposition.
f. There is then discussion among the Commission members. No further public comment will be heard at that point. The Commission may, however, allow additional comments from the opposition if a member of the Commission sponsors the opposition. Normally, you will be sponsored only if it appears that new information is available and the time will be limited to 3 minutes.
g. The Commission does not allow slide or computer generated projections other than those prepared by the Planning Department Staff.
h. The Commission asks that speakers not be repetitive or redundant in their comments. Do not repeat something that someone else has already stated. Petitions may be presented and are encouraged. If you are part of a group, the Commission requests, in the interest of time, that you use a spokesperson, and the spokesperson is encouraged to have his or her supporters stand to indicate their support.

The staff reviews of some or all of the items on this agenda suggest that certain conditions be attached to approval by City Council. However, it should not be assumed that those conditions constitute all the conditions that will ultimately be attached to the project. Staff agencies may impose further conditions and requirements during administration of applicable city ordinances

MAY 8, 2019
PLANNING COMMISSION AGENDA



* Deferral
** Withdrawal

A.
COMMENTS BY DIRECTOR OF PLANNING AND CHAIR OF COMMISSION

B.
STAFF BRIEFINGS
Aquarium - Cynthia Whitbred-Spanoulis, Director of Aquarium and Historic Houses
Council Priorities – Ron Williams, Deputy City Manager
Zoning Ordinance Amendments – Kevin Kemp, Zoning Administrator

12:00 P.M. – PUBLIC HEARING

City of Virginia Beach – A Resolution to Schedule Monthly Meetings of the Planning Commission of the City of Virginia Beach for June 2019 to May 2020

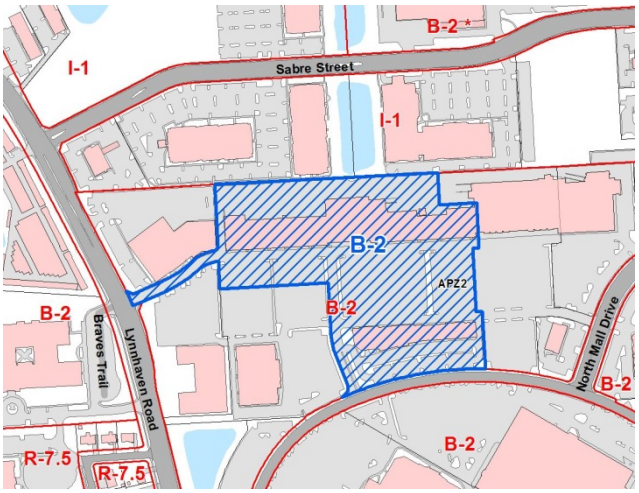
1.
DML Designs, LLC T/A Trinity Tattoo Co. [Applicant]
Mishorim Gold VAB, LP [Owner]

Conditional Use Permit (Tattoo Parlor & Body Piercing Establishment)

2720 N. Mall Drive, Suite 112 & 116

(GPIN 1496373469)

COUNCIL DISTRICT – ROSE HALL
Staff Planner – Jonathan Sanders



2.
John E. & Jennifer K. Alex [Applicant]

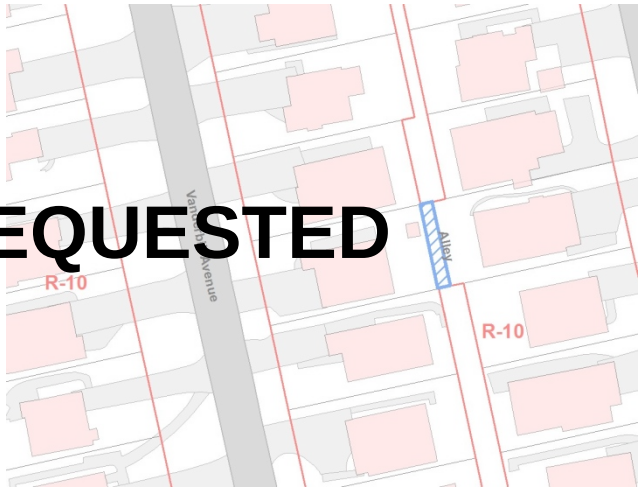
Street Closure

Adjacent to 536 Vanderbilt Avenue

DEFERRAL REQUESTED

(Adjacent GPIN 2426394360)

COUNCIL DISTRICT – BEACH
Staff Planner – Bill Landfair



* Deferral
** Withdrawal

3.
General Booth Venture, LLC [Applicant]
Kampgrounds of America, Inc. [Owner]

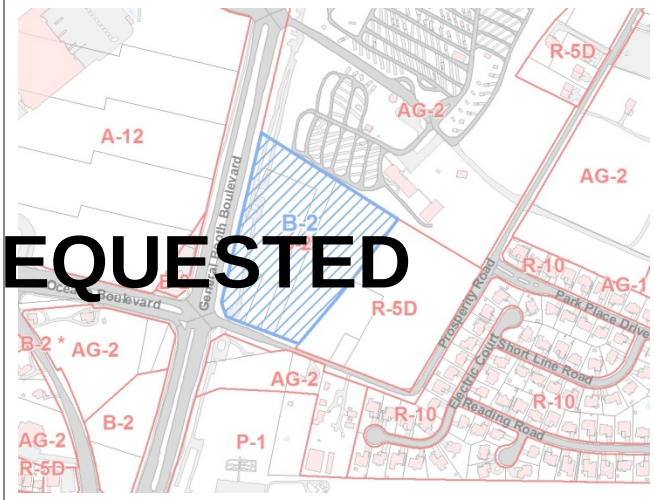
Conditional Use Permit (Automobile Service Station)

Northeast corner of General Booth Blvd & Prosperity Road

DEFERRAL REQUESTED

(GPINS 2415684332, 2415685662, 2415685974, 2415688459)

COUNCIL DISTRICT – BEACH
Staff Planner – Bill Landfair



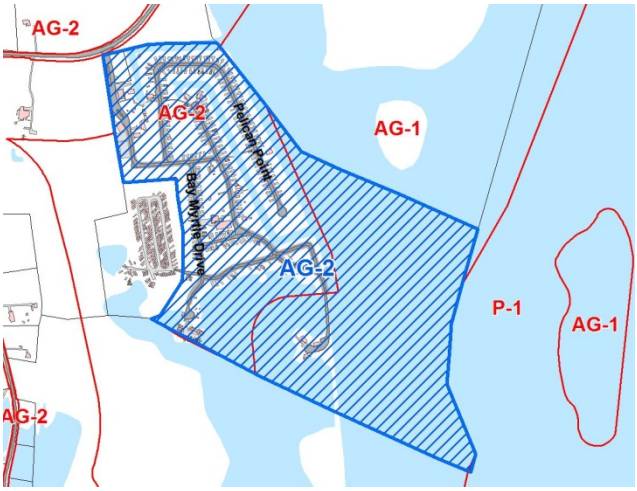
4.
Indian Cove Resort Association, Inc.
[Applicant & Owner]

Modification of Conditions (Campground)

1053 Sandbridge Road

(GPINS 2423354320, 2423358080)

COUNCIL DISTRICT – PRINCESS ANNE
Staff Planner – Whitney McNamara



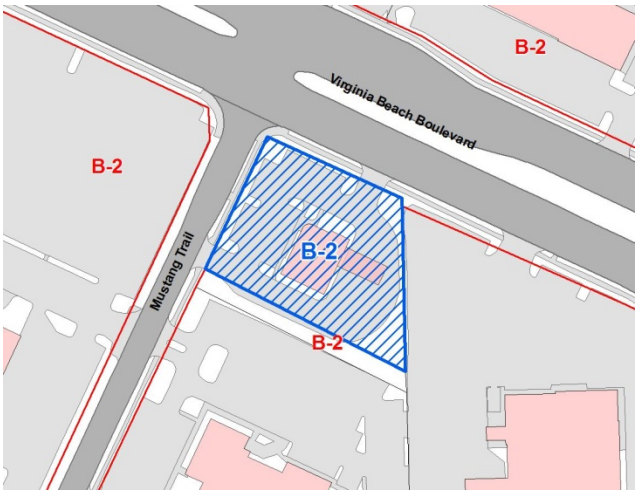
5.
AT Associates, LLP [Applicant & Owner]

Conditional Use Permit (Car Wash Facility)

2677 Virginia Beach Boulevard

(GPIN 1497552196)

COUNCIL DISTRICT – BEACH
Staff Planner – Marchelle Coleman



* Deferral
** Withdrawal

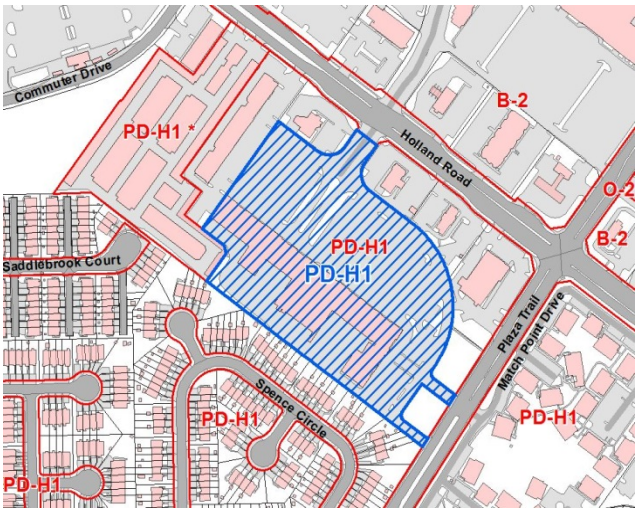
6.
Timberlake Shopping Center Associates, LLC
[Applicant & Owner]

<u>Amendment to the Timberlake PD-H1 Land Use Plan</u> to add an indoor recreational facility over 7500 square feet as a permitted use

4239 Holland Road

(GPIN 1476868558)

COUNCIL DISTRICT – ROSE HALL
Staff Planner – Marchelle Coleman



7.
City of Virginia Beach – An Ordinance to Amend Sections 210.2, 2210 and 2211, of the City Zoning Ordinance pertaining to definitions of sign types, sign regulations in the CBC Central Business Core District and Sign Design Guidelines for the CBC Central Business Core District.

DEFERRAL REQUESTED

8.
City of Virginia Beach – An Ordinance to Amend Section 506 of the City Zoning Ordinance Pertaining to the Lot Size and Lot Width requirements of two single-family dwellings located on a single lot in the North End Overlay District.

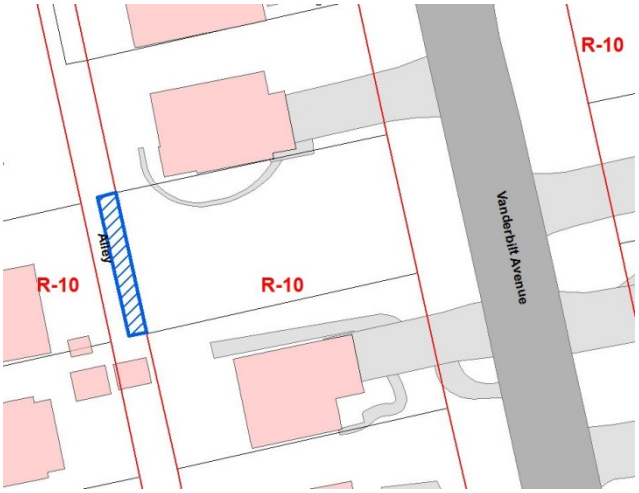
DEFERRAL REQUESTED

9.
City of Virginia Beach – An Ordinance to Amend Sections 501, 801, 901, 1001 and 1110 of the City Zoning Ordinance pertaining to Home-based Wildlife Rehabilitation.

10.
City of Virginia Beach – An Ordinance to Amend Section 107 of the City Zoning Ordinance pertaining to the time limitations for City Council referral of Zoning Amendments to Planning Commission for action.

11.
City of Virginia Beach – An Ordinance to Amend Section 103 of the City Zoning Ordinance pertaining to Notification to Property Owners.

* Deferral
** Withdrawal

PREVIOUSLY DEFERRED	
D1. **Glassell S. Scott, Jr.** [Applicant] **<u>Street Closure</u>** Vacant Parcel on Vanderbilt Avenue, Approximately 263 feet from Croatan Road (Lot 18, Block 18, Croatan Beach) (Adjacent GPIN 2426383787) COUNCIL DISTRICT – BEACH **Staff Planner – Bill Landfair**	
D2. **Virginia Beach Development Authority** [Applicant **City of Virginia Beach** [Owner] **<u>Modification of Proffers</u>** **<u>Conditional Use Permit</u>** (Outdoor Recreational Facility) Northeast Corner of Landstown Road & Landstown Centre Way (GPIN 1484882692) COUNCIL DISTRICT – PRINCESS ANNE **Staff Planner – Bill Landfair**	**WITHDRAWN**

* Deferral
** Withdrawal

Applicant **DML Designs, LLC T/A Trinity Tattoo Co.**
Property Owner **Mishorim Gold VAB, LP**
Public Hearing **May 8, 2019**
City Council Election District **Rose Hall**

Agenda Item

1

Request
Conditional Use Permit (Tattoo Parlor)
Conditional Use Permit (Body Piercing Establishment)

Staff Recommendation
Approval

Staff Planner
Jonathan Sanders

Location
2720 N. Mall Drive, Suites 112 & 116

GPIN
1496273469

Site Size
13.11 acres

AICUZ
Greater than 75 dB DNL; APZ 2

Watershed
Chesapeake Bay

Existing Land Use and Zoning District
Mixed retail / B-2 Community Business

Surrounding Land Uses and Zoning Districts
North
Industrial office / I-1 Light Industrial
South
Lynnhaven Mall Loop
Lynnhaven Mall / B-2 Community Business
East
Furniture store / B-2 Community Business
West
Mixed retail / B-2 Community Business

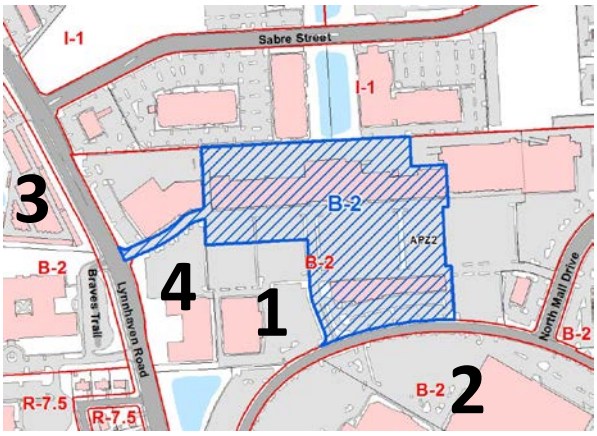
Background and Summary of Proposal

- The applicant proposes to merge two existing tattoo parlors, one located along Bonney Road and the second located within the Lynnhaven Mall, into one operation within a 5,000 square foot unit in the Lynnhaven North Shopping Center. In addition, the applicant proposes to offer body piercing within the same establishment. Based on this, Conditional Use Permits for both a Tattoo Parlor and for a Body Piercing Establishment are requested.

- According to the application, 21 employees are anticipated, of which 13 will likely be tattoo artists.

- The anticipated hours of operation have been identified as between 10:00 a.m. to 9:00 p.m., Monday through Saturday, and 11:00 a.m. to 6:00 p.m. on Sunday.

- No exterior changes to the building are proposed, other than proposed channel-letter signage depicted on page 7 of this report.



Zoning History

#	Request
1	**CUP** (Indoor Commercial Recreation Facility) Approved 06/23/2009
2	**Major Entertainment Venue Signage Permit** Approved 02/06/2018 **CUP** (Tattoo Parlor) Approved 07/09/2013
3	**MOD** Approved 06/12/2007 **MOD** (Mini-Warehouse/Self-Storage**)** Approved 02/26/2002 **CUP** (Mini-Warehouse/Self-Storage**)** Approved 07/03/2001
4	**CUP** (Self-Storage**)** Approved 07/14/2015

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 request for the Conditional Use Permits for a Tattoo Parlor and for a Body Piercing Establishment is, in Staff's opinion, acceptable given that the use will be compatible with the other existing commercial businesses in the Lynnhaven Mall area.

Prior to operating on the site, the applicant is required to obtain a business license and the Health Department must verify that the business meets all the requirements of Chapter 23 of the City Code. This section of the code establishes standards for disclosure, hygiene, licenses, waivers, proof of age, recordkeeping, inspections, cleanliness, vaccinations, and permitting. A Certificate of Occupancy will not be issued until the requirements of the Health Department are met.

For the reasons stated above, Staff recommends approval of this application, subject to the conditions listed below.

Recommended Conditions

1. A business license for the Tattoo Parlor and Body Piercing Establishment shall not be issued to the applicant without the approval of the Health Department to ensure consistency with the provisions of Chapter 23 of the City Code.

2. The actual application of tattoos and body piercing shall not be visible from the exterior of the establishment or from the waiting and sales area within the establishment.

3. Any on-site signage for the establishment shall meet the requirements of the City Zoning Ordinance, and there shall be no neon, electronic display or similar sign installed on the exterior of the building or in any window, or on the doors. A separate sign permit shall be obtained from the Planning Department for the installation of any new signs.

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.

Comprehensive Plan Recommendations

This site is located within Special Economic Growth Area 2 - West Oceana. Much of this area is subject to Navy restrictive easements and all of this area is within the AICUZ high noise zone. The majority of this area has been subdivided and is zoned for commercial and industrial uses. The area west of Lynnhaven Parkway is recommended for corporate office, retail and other comparable commercial use due to this site's high visibility. Special attention should be given to ensure high quality site, landscape and building designs. This proposed use is part of an ongoing façade improvement to revitalize the existing shopping center. Several spaces are currently vacant, and this use will better utilize the existing shopping center by consolidating empty commercial bays with a new use.

Natural and Cultural Resources Impacts

The site is located in the Chesapeake Bay watershed. There does not appear to be any significant natural resources associated with the site, as it developed with a shopping center and asphalt parking lot.

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
North Mall Drive	No data available	20,700 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.

Public Outreach Information

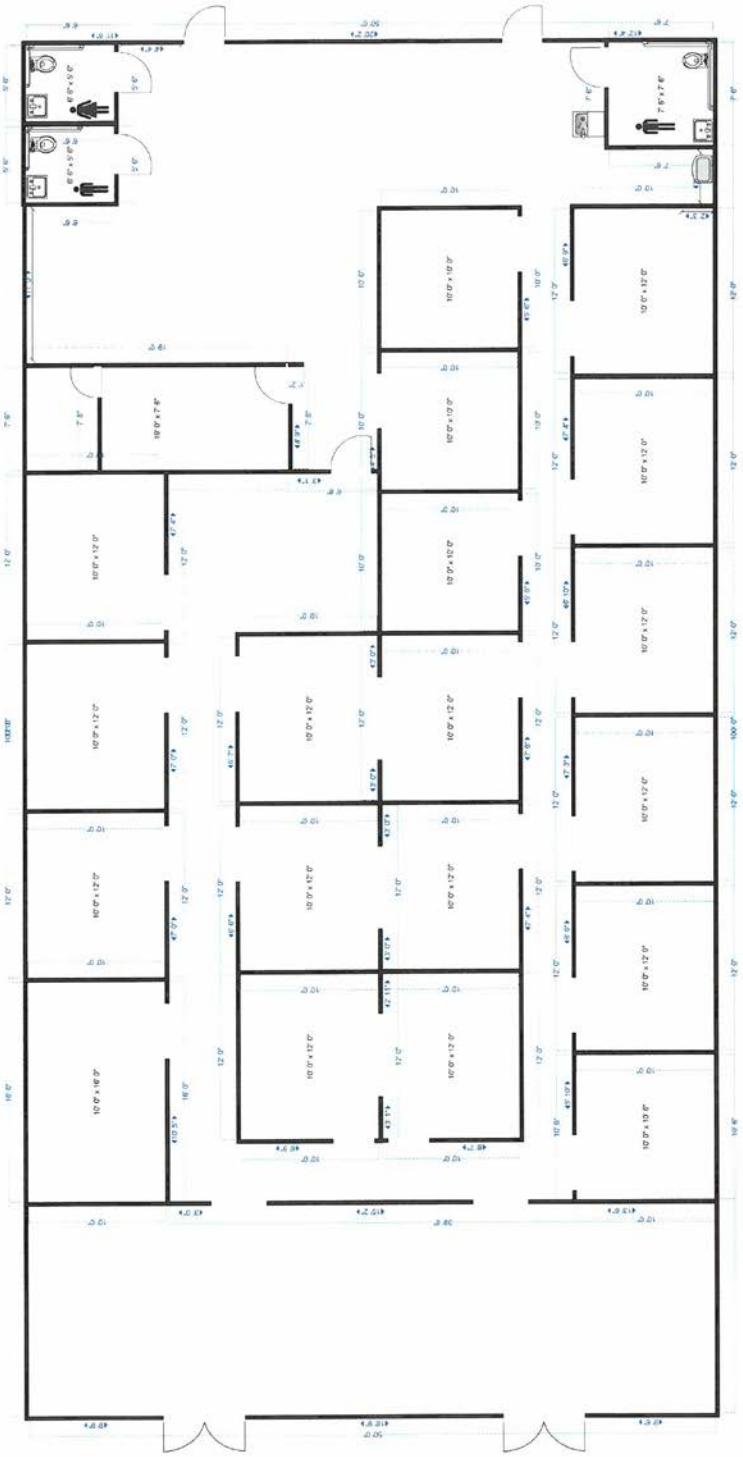
Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on April 7, 2019.
- As required by State Code, this item was advertised in the Virginia Pilot Beacon on Sunday, April 21, 2019 and Sunday, April 28, 2019.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on April 22, 2019.
- 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 May 2, 2019.

Site Layout

Unit
NORTH MALL SHOPS
LYNNHAVEN EAST
LYNNHAVEN MALL RING ROAD
SOUTH LYNNHAVEN ROAD
NORTH MALL DRIVE
MALL RETENTION BASIN
MALL ENTRANCE
Dillard's
macy's
BARNES&NOBLE
jump.
L.L.Bean
JCPenney
DICK'S
amc
FIVE GUYS
MATTRESS FIRM
at&t
Chipotle
DSW
TOYS R US

Proposed Floor Plan



Proposed Signage

Site Photos

City of Virginia Beach

APPLICANT'S NAME DML Designs, LLC T/A Trinity Tattoo Co.

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 Franchise Agreement	Street Closure
Chesapeake Bay Preservation Area Board	Lease of City Property	Subdivision Variance
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

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: DML Designs, LLC T/A Trinity
If an LLC, list all member's names:
Melissa Lukeson, David Lukeson

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: Mishorim Gold VAB, LP
If an LLC, list the member's names: Maoz Goldshtein

City of 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

City of Virginia Beach

APPLICANT

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)	
☐	☒	Legal Services	
☒	☐	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	Colliers International

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

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.**

	Melissa Lukeson	2/28/18
APPLICANT'S SIGNATURE	PRINT NAME	DATE
	Melissa Lukeson	2/28/2019

Page 5 of 7

City of Virginia Beach

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)	
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☒	☐	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	Colliers International

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?

City of Virginia Beach

CERTIFICATION:
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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.**

PROPERTY OWNER'S SIGNATURE	PRINT NAME	DATE
	Maoz Goldshtein	2/28/19

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.

Applicant and Property Owner **John E. & Jennifer K. Alex**
Public Hearing **May 8, 2019**
City Council Election District **Beach**

Agenda Item

2

Due to public notice deficiencies, deferral of the application is requested to the June 12, 2019 public hearing.

Request
Street Closure

Staff Recommendation
Deferral

Staff Planner
Bill Landfair

Location
536 Vanderbilt Avenue
GPIN
2426394360

Site Size
375 square feet
AICUZ
65-70 dB DNL; Sub-Area 2
Watershed
Atlantic Ocean

Applicant **General Booth Venture, LLC**
Property Owner **Kampgrounds of America, Inc**
Public Hearing **May 8, 2019**
City Council Election District **Beach**

Agenda Item

3

The application for a Conditional Use Permit for an Automobile Service Station is requested for deferral to permit Staff review and analysis of revised plans.

Request
Conditional Use Permit

Staff Recommendation
Deferral

Staff Planner
Bill Landfair

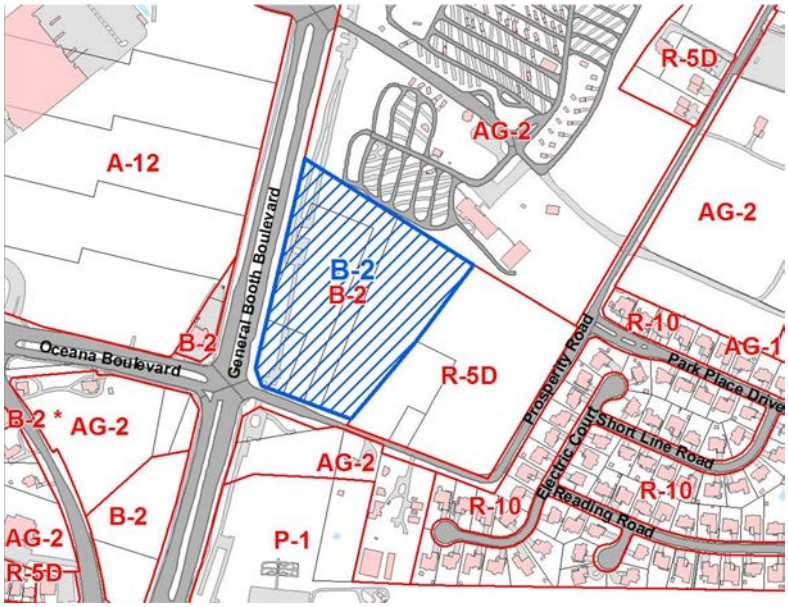
Location
Northeast corner of General Booth Boulevard and Prosperity Road

GPINs
2415684332, 2415685662, 2415685974, 2415688459

Site Size
3.2 acres

AICUZ
Greater than 75 dB DNL

Watershed
Southern Rivers



Applicant & Property Owner **Indian Cove Resort Association, Inc.**
Public Hearing **May 8, 2019**
City Council Election District **Princess Anne**

Agenda Item

4

Request
Modification of Conditions (Member parking area & Relocation of pavilion)

Staff Recommendation
Approval

Staff Planner
Whitney McNamara

Location
1053 Sandbridge Road

GPINs
2423354320, 2423358080

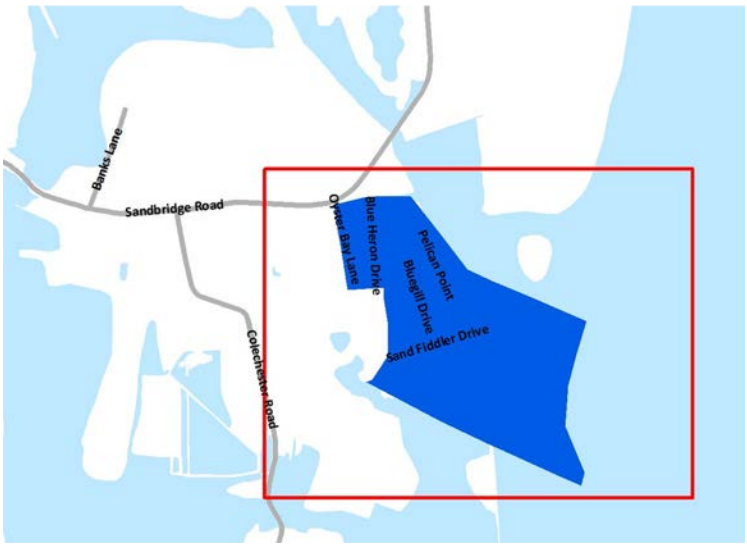
Site Size
101.62 acres

AICUZ
Less than 65 dB DNL

Watershed
Southern Rivers

Existing Land Use and Zoning District
Campground & vacant land / AG-2 Agricultural

Surrounding Land Uses and Zoning Districts
North
Forested / AG-2 Agricultural
South
Forested, wetlands / AG-1 Agricultural
East
Wetlands / AG-1 Agricultural
West
Farmland / AG-1 Agricultural and AG-2 Agricultural



Background and Summary of Proposal

- A Conditional Use Permit permitting a 308-site campground with two restrooms and bath facilities, a manager's office with bath facilities and restrooms, and a single boat ramp was approved by City Council in 1969.

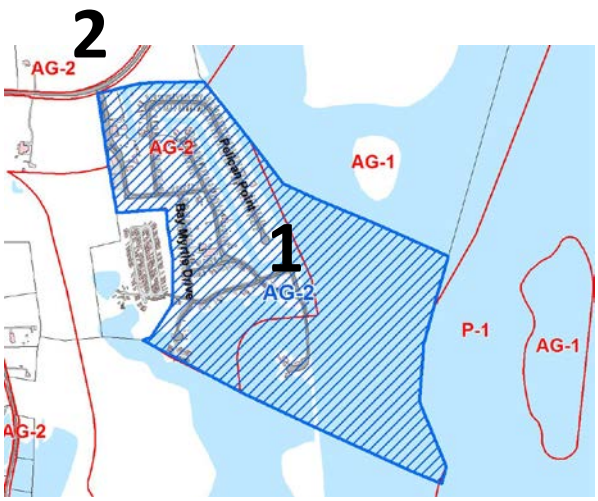
- A modification to the Conditional Use Permit was approved in 1981 to expand the existing campground to a total of 509 camp sites.

- The campground currently has 365 recreational vehicle (RV) sites and 10 tent sites, as well as three swimming pools, four bathhouses, a boat ramp, horseshoe pits, two playgrounds, a dog park, a sport court, four picnic pavilions, a clubhouse and a recreation room. Reservation periods are limited to a maximum of 14 days out of every 21-day period.

- The applicant proposes to use the adjacent site (GPIN 2423354320) for overflow parking for members' boat trailers, golf carts, and cars while they are using the campground. While under the applicant's ownership, as this parcel is not currently associated with the existing Conditional Use Permit, a modification to the permit is requested in order to officially incorporate this additional property into the campground.

- The proposed parking area is currently encompassed with a six-foot privacy fence, and there is an existing concrete slab where a residential structure was previously demolished. Additional gravel is proposed to fill in low spots where water tends to accumulate during rain and storm events.

- In addition, there is an existing open sided pavilion with picnic tables that currently experiences flooding. The applicant proposes to move the pavilion to a different location on the property that does not experience frequent flooding.



Zoning History

#	Request
1	**CUP** (Campground) Approved 11/23/1981 **MOD** (Campground) Approved 4/14/1969
2	**SVR** (Minimum lot size) Approved 1/20/2015 **FVR** (Fill for foundation) Approved 1/20/2015 **CUP** (Farm Stand) Approved 1/20/2015

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

Evaluation and Recommendation

In Staff's opinion, the applicant's request for a Modification to the Conditional Use Permit is acceptable. The area is currently fenced, providing screening from the adjacent roadway. While the proposal is located in the Floodplain Subject to Special Restrictions, the applicant has minimized the impacts by limiting fill to the greatest extent possible to correct minor changes in grade to the existing land. On-site parking is limited, and the proposed parking area will provide an additional amenity to members and their guests. In addition, the proposed relocation of the pavilion will allow campground members additional access and use not currently afforded due to its current floodprone location. With the recommended conditions further protecting the natural resources, Staff recommends approval of this request with the following conditions.

Recommended Conditions

1. All conditions attached to the Conditional Use Permit granted by the City Council on November 23, 1981 are deleted and are hereby replaced with the conditions listed below.

2. A buffer zone of 400 feet shall be provided between the on-site, private sewage plant and any campsites for habitation, and a well lot 100 feet x 100 feet shall be centered on the wells and enclosed with a minimum six-foot chain link fence. The well site must be dedicated and recorded in the Office of the Clerk of the Circuit Court.

3. The developer shall dedicate an easement for Canal No. 1 along Hells Point Creek 150 feet from the center line of the canal.

4. The proposed parking area shall be limited to the temporary parking of boat trailers, golf carts, and private vehicles of members while on site. In no case shall this area be used for parking or storage of vehicles for greater than 90 days.

5. The removal of any existing healthy tree canopy or understory woody vegetation shall be prohibited. Any damaged or removed vegetation shall be mitigated at a 3 to 1 ratio.

6. Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s). All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.

7. All recreational vehicles shall be licensed and road ready to be relocated out of the Special Flood Hazard Area in the event of the issuance of a hurricane warning for the City of Virginia Beach, as well as prior to any approaching significant storm or wind tide flooding.

8. No dredging, filling, bulkheading or other waterfront related activities shall be allowed without the proper permits from the appropriate local, state, and federal agencies.

9. Encroachment into any environmentally sensitive portion of the property, including but not limited to the 50-foot Southern Rivers buffer, the Special Flood Hazard Area, and tidal or non-tidal wetlands for any development or land disturbance, including permanent or temporary structures, shall be prohibited without obtaining all applicable permits from federal, state, and local agencies.

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.

Comprehensive Plan Recommendations

The Comprehensive Plan designates the subject property as being located within the Rural Area. The Rural Area lies south of Indian River Road from North Landing Road to Muddy Creek and Back Bay and extends to the North Carolina border. The physical character of this area is low, flat land with wide floodplains and wind driven tides. Within this area is a significant presence of working farms, farm related businesses, and limited non-residential areas along with scattered housing sites. The Comprehensive Plan's Rural Preservation Plan policies recognize this rural character, seeking to preserve and promote continued agricultural production and its open space and scenic beauty while providing reasonable rural development opportunities that will help stabilize and reinforce the rural way of life in southern Virginia Beach.

Natural and Cultural Resources Impacts

The site is located within the Southern Rivers watershed. As the property is located adjacent to a canal connecting to Back Bay, a 50-foot buffer is required. While the proposed parking area and pavilion are located in the 50-foot buffer, no disturbance to the existing vegetation is proposed. The majority of the property is classified as Floodplains Subject to Special Restrictions, and the proposed parking area and pavilion are proposed within the Special Flood Hazard Area. The parking area does not require a Floodplain Variance because limited fill (less than 4 inches in an area less than 2,500 square feet) is proposed to fill in low spots in the parking area. This amount of development is not anticipated to impact flood levels and can be administratively approved. The proposed pavilion is an open sided structure that does not require a floodplain permit. It is replacing a similarly sized pavilion and is being relocated to an area that is mostly outside the Special Flood Hazard Area.

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Sandbridge Road	9,100 ADT [1]	12,500 ADT [1] (LOS [4] "D")	Existing Land Use [2] – No Data Available Proposed Land Use [3] – No Change Anticipated
[1] Average Daily Trips	[2] as defined by Campground	[3] as defined by Campground	[4] LOS = Level of Service

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

Sandbridge Road is a two-lane minor rural arterial in the vicinity of this site. This section of Sandbridge Road has a variable right-of-way width and it is included on the MTP as an ultimate 100-foot right-of-way rural two-lane section. There are currently no CIPs scheduled for this segment of Sandbridge Road.

Public Utility Impacts

Water

City water is not available. Health Department approval is required for private wells.

Sewer

City sanitary sewer is not available. The Campground owns and operates their own private sewage treatment plant that is licensed by DEQ.

Public Outreach Information

Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on April 7, 2019.
- As required by State Code, this item was advertised in the Virginia Pilot Beacon on Sunday, April 21, 2019 and Sunday, April 28, 2019.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on April 22, 2019.
- 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 May 2, 2019.

Approved Conditions from November 23, 1981

Real-Tronic Corp.
Application #4093
Page Two

Very truly yours,

R. Dean Lee
Chairman

RDL:lmg

CITY COUNCIL ACTION: GRANTED NOV 23 1981 R01181435

Approval is subject to the following provisions in conjunction with the intended use of the land:

1. Standard improvements as required by the Site Plan Ordinance.

2. City water and sewer.

3. State Statute requires that a buffer zone of 300 feet be provided between a sewage plant and any sites for habitation, in accordance with Local and State Statutes, and that a well lot 100 feet x 100 feet be centered on the wells and enclosed with a minimum six (6) foot chain link fence. The well site must be dedicated and recorded in the Office of the Clerk of the Circuit Court.

4. The developer shall dedicate an easement for Canal #1, as required.

5. No dredging, filling, bulkheading or other waterfront related activities will be allowed without the proper permits from the appropriate Local, State, and Federal agencies.

This Ordinance shall be effective from date of adoption.

Proposed Site Layout

Site Photos

City of Virginia Beach

APPLICANT'S NAME Indian Cove Resort Assoc, Inc.

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
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

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: Indian Cove Resort Assoc., Inc.
If an LLC, list all member's names:
Vincent Posey Randall Marrs Jonathan Hoggard
Bonnie Herring Todd Beck

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:_____
If an LLC, list the member's names:

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	Garry Larossa, CPA
☐	☒	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)	
☒	☐	Legal Services	Sarah Palamara, PC
☐	☒	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

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.**

Vincent Posey	Vincent Posey	2-28-19
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.

Applicant & Property Owner **AT Associates, LLP**
Public Hearing **May 8, 2019**
City Council Election District **Beach**

Agenda Item

5

Request
Conditional Use Permit (Car Wash Facility)

Staff Recommendation
Approval

Staff Planner
Marchelle Coleman

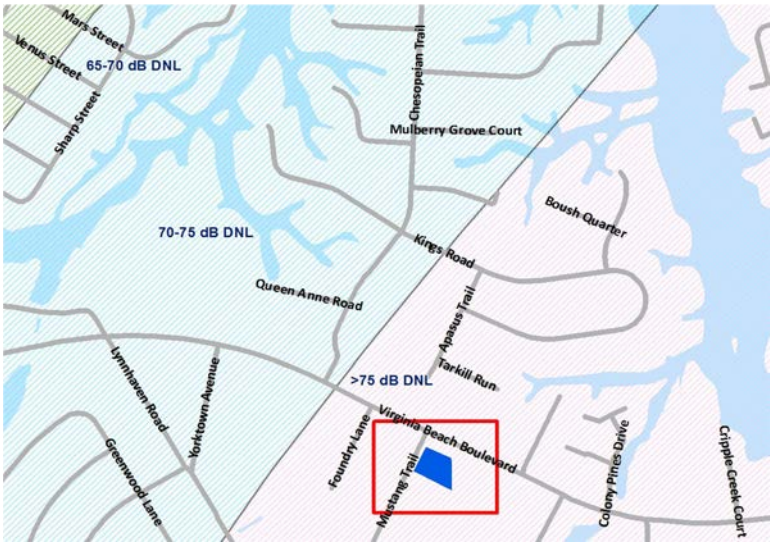
Location
2677 Virginia Beach Boulevard

GPIN
1497552196

Site Size
36,496 square feet

AICUZ
Greater than 75 dB DNL

Watershed
Chesapeake Bay



Existing Land Use and Zoning District
Vacant bank / B-2 Community Business

Surrounding Land Uses and Zoning Districts
North
Virginia Beach Boulevard
Mixed retail / B-2 Community Business

South
Motor vehicle sales / B-2 Community Business

East
Motor vehicle sales / B-2 Community Business

West
Mustang Trail
Motor vehicle sales / B-2 Community Business

Background and Summary of Proposal

- In April 2017, a Conditional Use Permit for a Bulk Storage Yard was granted on this property for the storage of up to 75 automobiles in association with the nearby Beach Ford car dealership. The applicant is now requesting to replace the storage area with a car wash. Based on this, a Conditional Use Permit to operate a Car Wash Facility is requested.

- The subject 36,496 square-foot site is currently developed with a vacant bank building, drive-through lanes, and associated pavement.

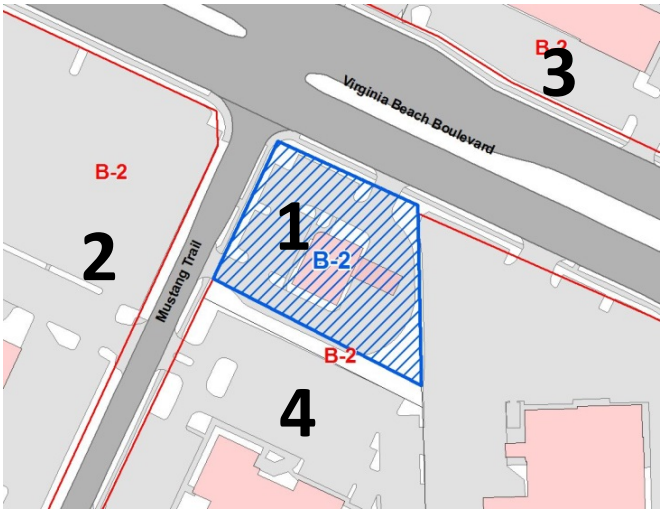
- The applicant proposes to remove the existing building and redevelop the site with a 6,429 square-foot car wash facility with two wash bays.

- The submitted building elevations depict facades of wood siding with storefront windows, sectional overhead doors, and a wood framed porch element.

- According to Section 203 of the Zoning Ordinance, this site will require a minimum of six parking spaces. The applicant is proposing a total of 13 parking spaces, as depicted on the concept plan. An additional five spaces are provided for self-service car vacuum use only.

- The applicant worked diligently with Staff to ensure a high level of aesthetics for the redevelopment of the site, such as relocating the self-service vacuums that were originally proposed adjacent to Virginia Beach Boulevard and are now proposed on the west side of the property along Mustang Trail.

- The applicant intends to preserve the existing street frontage landscaping and supplement it with additional plantings, as necessary.



Zoning History

#	Request
1	**CUP** (Bulk Storage Yard) Approved 04/18/2017
2	**CUP** (Motor Vehicle Sales and Services) Approved 02/08/2005 **CUP** (Motor Vehicle Sales and Services) Approved 07/01/1997 **CUP** (Motor Vehicle Sales and Services) Approved 09/28/1993
3	**CUP** (Auto Rentals) Approved 04/10/2001
4	**CUP** (Motor Vehicle Sales) Approved 10/26/1993

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

Evaluation and Recommendation

The proposed request for a Conditional Use Permit for a Cash Wash, in Staff's opinion, is an acceptable use and is compatible with the other business uses, many of which are motor vehicle related, along this section of Virginia Beach Boulevard. As stated previously, the applicant intends to maintain the existing street frontage landscaping and will provide additional plantings to conform to the requirements of the Virginia Beach Landscaping Guide. The parking provided on-site meets the requirements of Section 203 of the Zoning Ordinance, exceeding the minimum parking space requirement by seven additional spaces. The applicant worked with Staff to ensure a high-quality site layout and an attractive building design.

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

Recommended Conditions

1. The Conditional Use Permit for a Bulk Storage Yard, granted by City Council on April 19, 2017, is hereby voided with City Council's approval of this request.

2. When the site is developed, it shall be in substantial conformance with the site layout entitled "BEACH FORD CAR WASH, 2677 VIRGINIA BEACH BLVD, VIRGINIA BEACH, VA 23452", prepared by Clark Nexsen.

3. When the site is developed, the building shall have the architectural style, colors and materials with the rendering entitled "BEACH FORD CAR WASH, 2677 VIRGINIA BEACH BLVD, VIRGINIA BEACH, VA 23452", prepared by Clark Nexsen.

4. All signage on the site must be in accordance with sign regulations of the Zoning Ordinance.

5. Any freestanding sign on the site shall be monument style, no taller than eight feet and have a brick base.

6. No vehicles shall be parked within any portion of the public right-of-way.

7. No water produced by activities at the facility lot shall be permitted to fall upon or drain across the public streets or sidewalks or adjacent properties.

8. There shall be no signs that contain or consist of pennants, ribbons, streamers, spinners, strings of light bulbs, or other similar moving devices on the site. There shall be no signs that are pasted or attached to utility poles, trees, or fences, or in an unauthorized manner to walls or other signs. There shall be no portable or nonstructural signs, or electronic display signs on the site.

9. If at any time the existing landscaping on the site is removed or dies, the applicant shall replace it with plant material as recommended in the Virginia Beach Landscape Guide.

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.

Comprehensive Plan Recommendations

The Comprehensive Plan designates this site as located in the Lynnhaven Strategic Growth Area (SGA). The long-term vision for the Lynnhaven SGA calls for series of mixed-uses at this location. The applicant is proposing to utilize the existing compliant landscaping and parking areas and construct a new car wash building within the existing area of the former bank. The proposed use and development form does not meet the policies of the Lynnhaven SGA; however, due to the site being oddly shaped and not being part of a consolidated proposal to create a non-residential mixed-use development, staff feels the proposal meets the intent of the Lynnhaven SGA by being flexible with current market conditions. Staff believes that the proposed building meets the design principles of the Lynnhaven SGA, which include enabling flexible development sites and building types to respond to ever-changing market needs and development programs, uses that are compatible with AICUZ restrictions and building on the existing good balance between homes, jobs, and services.

Natural and Cultural Resources Impacts

This site is located in the Chesapeake Bay watershed. As the site is developed with a building and associated parking, there are no significant natural or cultural resources associated with the site.

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Virginia Beach Boulevard	33,100 ADT [1]	74,000 ADT [1] (LOS [4] "D")	Existing Land Use [2] – 410 ADT Proposed Land Use [3] - 320 ADT
[1] Average Daily Trips	[2] as defined by 3,500 square foot bank with drive-thru	[3] as defined by car wash with 2 wash bays	[4] LOS = Level of Service

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

Virginia Beach Boulevard, in this vicinity, is an eight-lane major urban arterial road with an approximate right-of-way width of 150 feet. The MTP shows an eight-lane major arterial with an ultimate right-of-way width of 155 feet. There are no CIP projects scheduled in this vicinity.

Public Utility Impacts

Water & Sewer

The site is currently connected to City water and sewer service.

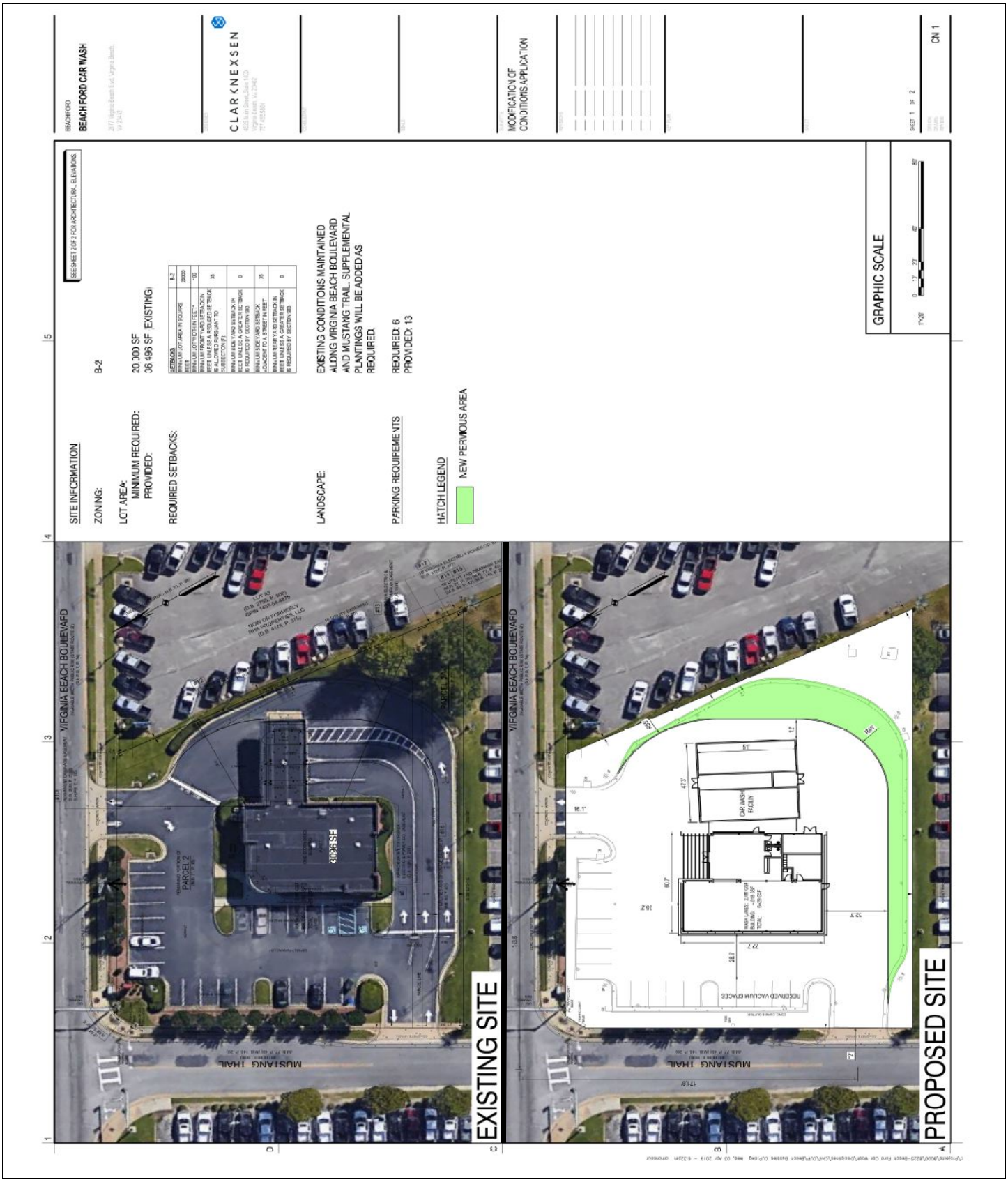
Public Outreach Information

Planning Commission

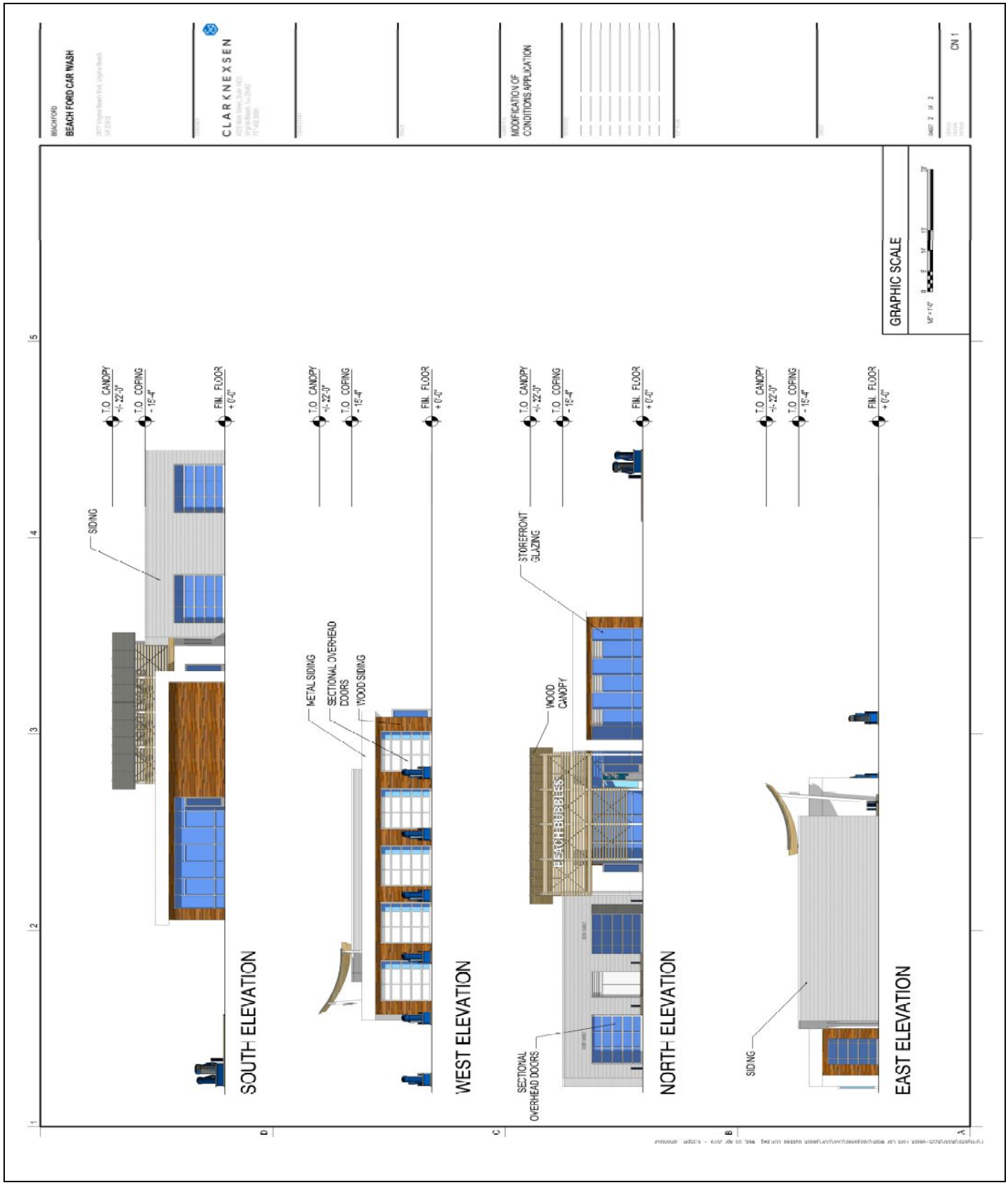
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on April 7, 2019.
- As required by State Code, this item was advertised in the Virginia Pilot Beacon on Sunday, April 21, 2019 and Sunday, April 28, 2019.

- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on April 22, 2019.
- 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 May 2, 2019.

Proposed Site Layout



Proposed Elevations



Site Photos

City of Virginia Beach

APPLICANT'S NAME AT Associates, LLP

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 Franchise Agreement	Street Closure
Chesapeake Bay Preservation Area Board	Lease of City Property	Subdivision Variance
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: AT Associates, LLP
If an LLC, list all member's names:

Thomas A. Barton, Jr., Ann T. Barton, The Thomas A. Barton, Jr. Irrevocable Trust, The Ann T. Barton Irrevocable Trust, Thomas A. Barton, III, Robert H. Barton, Kristen Cuthriell, Dr. Daniel Barton.

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)*

Beach Ford, Inc.

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: AT Associates, LLP
If an LLC, list the member's names: Thomas A. Barton, Jr., Ann T. Barton, The Thomas A. Barton, Jr. Irrevocable Trust, The Ann T. Barton Irrevocable Trust, Thomas A. Barton, III, Robert H. Barton, Kristen Cuthriell, Dr. Daniel Barton

City of Virginia Beach

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

Beach Ford, Inc.

[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

City of Virginia Beach

APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
☐	☒	Accounting and/or preparer of your tax return	
☒	☐	Architect / Landscape Architect / Land Planner	Clark Nexsen, Inc.
☐	☒	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	Clark Nexsen, Inc./John Sirine
☐	☒	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	
☒	☐	Legal Services	Williams Mullen
☐	☒	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?

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.**

Tom Barton	Tom Barton	12-20-16
APPLICANT'S SIGNATURE	PRINT NAME	DATE

City of Virginia Beach

OWNER

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
☐	☒	Accounting and/or preparer of your tax return	
☒	☐	Architect / Landscape Architect / Land Planner	Clark Nexsen, Inc.
☐	☒	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)	
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Tom Barton	Tom Barton	12-26-16
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.

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- 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.

Applicant & Property Owner **Timberlake Shopping Center Associates, LLC**
Public Hearing **May 8, 2019**
City Council Election District **Rose Hall**

Agenda Item

6

Request
Amendment to PD-H1 Land Use Plan for Timberlake (Allow an Indoor Recreation Facility over 7,500 square feet as a permitted use)

Staff Recommendation
Approval

Staff Planner
Marchelle Coleman

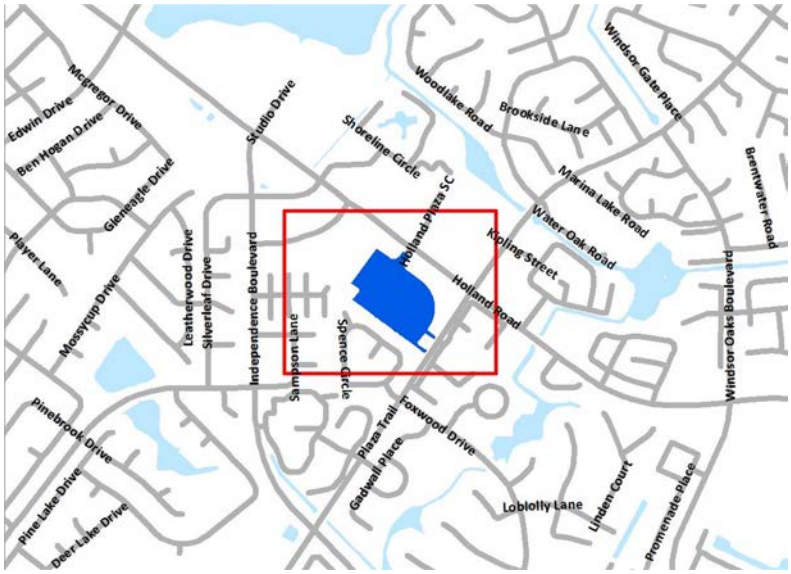
Location
4239 Holland Road

GPIN
1476868558

Site Size
9.73 acres

AICUZ
Less than 65 dB DNL

Watershed
Chesapeake Bay



Existing Land Use and Zoning District
Mixed retail / PD-H1 Planned Unit Development

Surrounding Land Uses and Zoning Districts
North
Holland Road
Mixed retail / B-2 Community Business

South
Townhomes / PD-H1 Planned Unit Development

East
South Plaza Trail
Apartments / PD-H1 Planned Unit Development

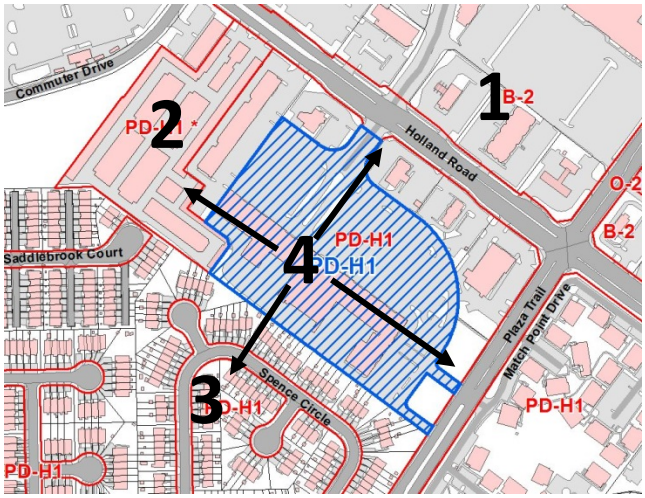
West
Storage facility / PD-H1 Planned Unit Development

Background and Summary of Proposal

- The applicant is requesting to amend the PD-H1 Land Use Plan for Timberlake to add an Indoor Recreational Facility with a floor area greater than 7,500 square feet as a permitted use at this location. Currently, the land use plan limits commercial uses to only principal uses within the B-2 Zoning District. Amending the plan will allow the applicant to operate a 17,728 square-foot fitness center in the Timberlake Shopping Center. This is not a blanket change for the Timberlake PD-H1 Land Use Plan, as this application will only amend the PD-H1 Land Use Plan for this location.

- It is anticipated that up to 15 employees will work at the facility which will be staffed typically from 5:00 a.m. to 11:00 p.m., Monday through Friday, and from 7:00 a.m. to 8:00 p.m., Saturday and Sunday.

- The applicant proposes to paint the exterior of the building a shadow gray color with a blue stripe on the upper horizontal trim above the new proposed signage, as depicted on page seven of this report.



Zoning History

#	Request
1	**CUP** (Tattoo Parlor) Approved 10/17/2017 **CUP** (Indoor Recreational Facility) Approved 04/05/2016 **CUP** (Indoor Recreational Facility) Approved 07/03/2012 **CUP** (Motor Vehicle Rentals) Approved 08/27/1996
2	**CUP** (Communication Tower) Approved 10/14/2008 **MOD** (Timberlake Land Use Plan) Approved 10/14/2008 **LUP** Approved 05/24/1994
3	**LUP** Approved 05/24/1994
4	**REZ** (PD-H1 Timberlake Land Use Plan) Approved 06/14/1971

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

In Staff's view, the applicant's request to amend the Timberlake PD-H1 Land Use Plan is acceptable. Due to the amending of the PD-H1 Land Use Plan, a Conditional Use Permit is procedurally not required. The proposed indoor recreation facility is appropriate for this location and will occupy an otherwise large, vacant space in the shopping center. The anticipated traffic generated by the fitness center 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 Timberlake Shopping Center and will provide a service to the surrounding community. As such, Staff recommends approval of this request, subject to the proffers below.

Proffers

The following are proffers submitted by the applicant as part of this Amendment to the PD-H1 Land Use Plan for Timberlake. 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 amendment to the PD-H1 Land Use Plan for Timberlake.

PROFFER 1:
The PD-H1 Land Use Plan applicable to the Property shall be modified to allow that portion of the building containing approximately 17,728 square feet and currently designated as Suite 764 in the Timberlake Shopping Center to be renovated and used as a Recreation Facility, other than one of an outdoor nature, with a floor area greater than 7,500 square feet substantially as depicted on the "PHYSICAL SURVEY OF TIMBERLAKE SHOPPING CENTER', dated 6-30-95, prepared by Basgier & Associates which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning ('Physical Survey").

PROFFER 2:
When the Suite is renovated, the building mounted sign will be substantially as depicted on the "SIGN RENDERING FOR BLINK FITNESS" dated April 4, 2019, which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning ("Sign Rendering").

PROFFER 3:
Further conditions may be required by the Grantee during the 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:
Staff has reviewed the Proffers listed above and finds them acceptable.

The City Attorney's Office has reviewed the proffer agreement and found it to be legally sufficient and in acceptable legal form.

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.

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

This site is located in the Chesapeake Bay watershed. There does not appear to be any significant natural resources or cultural features associated with the site as it is fully developed with a shopping center and parking lot.

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Holland Road	39, 650 ADT [1]	32,700 ADT [1] (LOS [2] "D")	No Change Anticipated [3]
[1] Average Daily Trips	[2] LOS = Level of Service	[3] average daily trips not expected to change	

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

Holland Road, in this vicinity, is considered a four-lane divided minor urban arterial. There are no roadway CIP projects slated for this area.

Public Utility Impacts

Water & Sewer

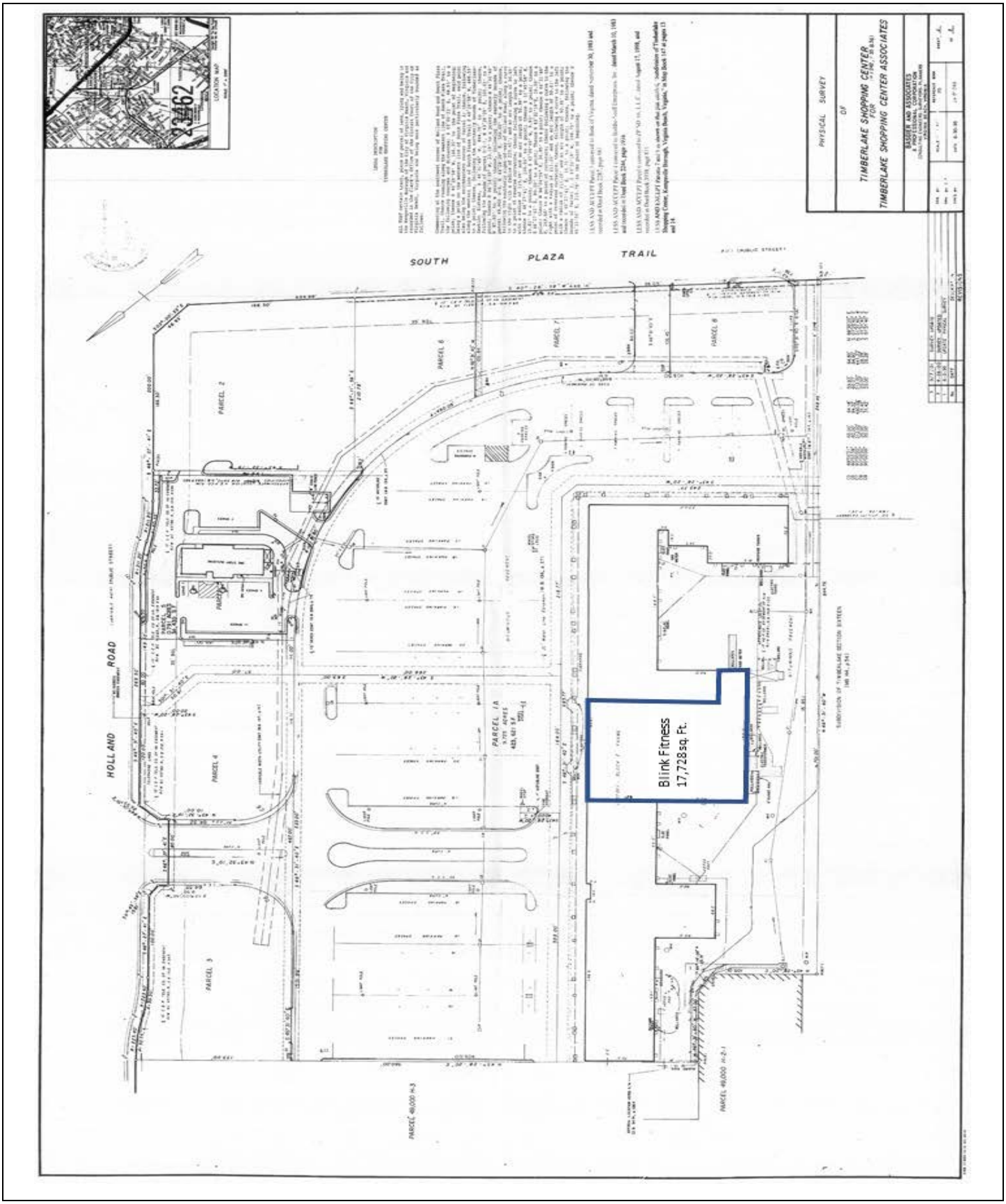
This site is currently connected to both City water and sanitary sewer service.

Public Outreach Information

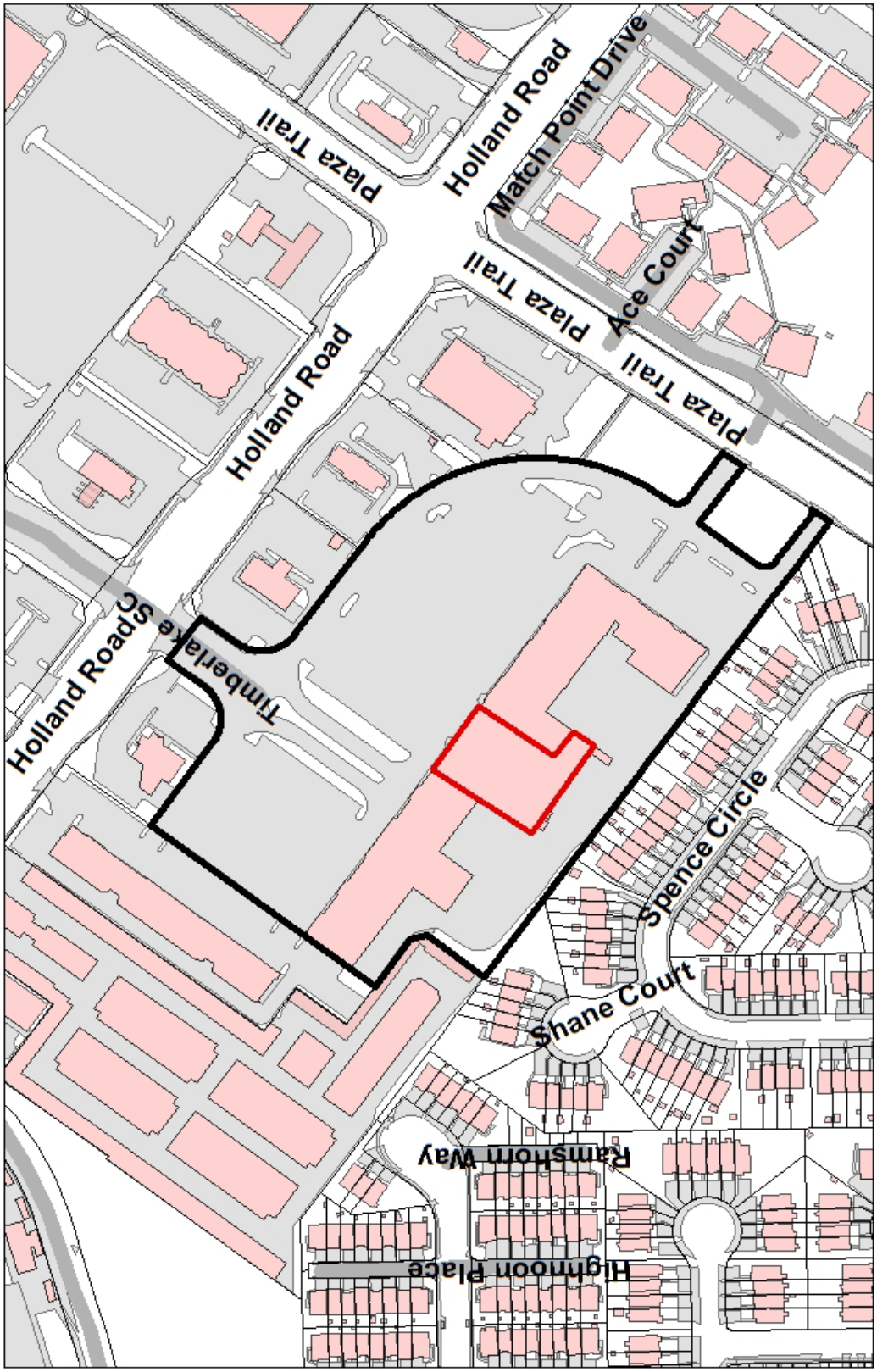
Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on April 7, 2019.
- As required by State Code, this item was advertised in the Virginia Pilot Beacon on Sunday, April 21, 2019 and Sunday, April 28, 2019.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on April 22, 2019.
- 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 May 2, 2019.

Physical Survey



Site Layout


Holland Road
Plaza Trail
Holland Road
Match Point Drive
Plaza Trail
Ace Court
Plaza Trail
Holland Road
Timberlake SC
Spence Circle
Shane Court
Ramshorn Way
Highnoon Place
Legend
Location of Range
Site
Parking Lot Drive Aisle
Building
Timberlake Shopping Center Associates, LLC
4239 Holland Road, Suite 764
Virginia Beach, VA
0 40 80 160 240
Feet
N
E
S
W

Proposed Signage

Site Photos

Virginia Beach

APPLICANT'S NAME Timberlake Shopping Center Associates, LLC

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Page 1 of 7

Virginia Beach

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☒ Check here if the **APPLICANT *IS*** a corporation, partnership, firm, business, or other unincorporated organization.

(A) List the Applicant's name: Timberlake Shopping Center Associates, LLC
If an LLC, list all member's names:

Patricia Racanello Revocable Trust; FJN Trust 1; Richard E. Olivieri Marital Trust; Emilio Olivieri Family Company, LLC

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)*

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

Virginia Beach

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

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Virginia Beach

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☐	☒	Engineers / Surveyors/ Agents	
☐	☒	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	
☒	☐	Legal Services	Sykes, Bourdon, Ahern & Levy, P.C.
☒	☐	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	Pembroke Commercial Realty

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YES	NO	
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City of Virginia Beach

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	FREDERICK J. NAPOLITANO	8 MAR 19
PROPERTY OWNER'S SIGNATURE	PRINT NAME	DATE

Page 7 of 7

Next Steps

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Applicant **City of Virginia Beach**
Public Hearing **May 8, 2019**
Sign Regulations in the CBC

Agenda Item
7

Request

An Ordinance to Amend Sections 210.2, 2210 and 2211, of the City Zoning Ordinance pertaining to definitions of sign types, sign regulations in the CBC Central Business Core District and Sign Design Guidelines for the CBC Central Business Core District.

Summary of Request

At the direction of Staff, this ordinance is being withdrawn. The subject matter, directional signage, will be brought to Planning Commission and City Council on the June agenda as an application for Alternative Compliance.

Recommendation

Staff has withdrawn this ordinance from consideration.

Applicant **City of Virginia Beach**
Public Hearing **May 8, 2019**
North End Overlay Amendment

Agenda Item
8

Request

An Ordinance to Amend Section 506 of the City Zoning Ordinance Pertaining to the Lot size and Lot width requirements of two single-family dwellings located on a single lot in the North End Overlay District.

Summary of Request

In November 2015, the City Council approved an overlay over the North End neighborhood of Virginia Beach. This overlay allows for two single-family homes to be developed on a lot that can support a duplex. The intention of this overlay was to enhance the redevelopment of the area to include beach cottages, rather than large duplex structures. This request was brought to staff and has been reviewed by the North End Civic League.

Over the past three and a half years, there have been a substantial number of development projects that have used this overlay to develop sites with two single-family dwellings. Many of these developments have used 5,000 square feet lots with 50-feet of frontage for the development of two homes. This has presented issues that have been brought to staff's attention by the community, particularly the North End Civic Association. The community feels that these developments to be too dense for these small lots and have presented extreme difficulty in handling the stormwater on site. As such, this ordinance has been proposed which will require that a newly created lot be a minimum of 7,500 square feet, with a minimum width of 50-feet, to be developed with two single family dwellings.

Recommendation

Staff has recommended a deferral of this item. The additional time will give staff the opportunity to brief the Planning Commission and receive feedback from the Commission and the community.

Applicant **City of Virginia Beach**
Public Hearing **May 8, 2019**
Home-Based Wildlife Rehabilitation

Agenda Item
9

Request

An Ordinance to Amend Sections 501, 801, 901, 1001 and 1110 of the City Zoning Ordinance pertaining to Home-based Wildlife Rehabilitation

Summary of Request

At the request of Councilwoman Wooten, Staff has drafted an ordinance that would permit home-based wildlife rehabilitation in the residential districts, absent the R-2.5 district. Currently this use is a conditional use in these districts. All home-based wildlife rehabilitation facilities would be required to follow the regulations set forth in section 242.3 of the City Zoning Ordinance. A summary of those regulations is provided below:

a. Each operator shall provide:
    1. Adequate food and water;
    2. Adequate and appropriate shelter;
    3. Adequate exercise;
    4. Adequate lighting; and
    5. Veterinary care as necessary.
b. Each operator shall have valid permitting from the VA Dept. of Game and Inland Fisheries
c. Operator may only hold species to which they are permitted for a period longer than 24 hours.
d. Operator cannot hold more animals than available caging.
e. No animal shall be held at facility for greater than 180 days.
f. Animals must be kept such that there is no nuisance deemed by the Zoning Administrator to be detrimental to the community health (insects, noise, odor, dust, or similar)
g. Removal of dead animals in accordance with City Code Section 5-14.
h. Removal of all waste in accordance with City Code Section 31-7.
i. All structures housing animals shall comply to zoning dimensional regulations and shall not occupy more than 20 percent of the lot or be greater than eight-feet in height.
j. No signage is permitted.

Recommendation

Staff recommends approval of this ordinance. Home-based wildlife rehabilitation facilities are a necessary service that are in demand in the City of Virginia Beach. Although City facilities are available, the need for this service exceeds its capacity. This amendment would make the process easier and faster for property owners desiring to provide this service. City Council has approved many home-based wildlife rehab facilities in the past several years, and the Zoning Division has not received any complaints regarding their operation. This use is also highly regulated by the Virginia Department of Game and Inland Fisheries.

Requested by Councilmember Wooten

AN ORDINANCE TO AMEND SECTIONS 501, AND 1110 OF THE CITY ZONING ORDINANCE PERTAINING TO HOME BASED WILDLIFE REHABILITATION FACILITIES

Sections Amended: §§ 501 and 1110 of the City Zoning Ordinance

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

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

That Sections 501, and 1110 of the City Zoning Ordinance is hereby amended and reordained to read as follows:

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.

	Residential Districts									
Uses	R-40	R-30	R-20	R-15	R-10	R-7.5	R-5D	R-5R	R-5S	R-2.5
. . . .										
Home-based wildlife rehabilitation facilities meeting the requirements of Sec. 242.3	~~C~~P	~~C~~P	~~C~~P	~~C~~P	~~C~~P	~~C~~P	~~C~~P	~~C~~P	~~C~~P	X
. . . .										

Sec. 1110. – Land use regulation.

. . . .

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

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

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

(3) Marinas;

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

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

(6) Home sharing meeting the requirements of section 209.6;

(7) Short term rentals within the Sandbridge Special Service District; ~~and~~

(8) Short term rentals within a STR Overlay District~~.~~; and

(9) Home-based wildlife rehabilitation facilities provided that the principal structure is a single-family dwelling, the lot is greater than two thousand five hundred (2,500), and it meets the requirements of Sec. 242.3.

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

(1) Communication towers;

(2) Family day-care homes;

(3) Group homes;

(4) Kennels, residential;

(5) Religious uses;

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

(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 rentals.

. . . .

Adopted by the Council of the City of Virginia Beach, Virginia, on the _____ day of _____, 2019.

APPROVED AS TO CONTENT:

Planning Department

APPROVED AS TO LEGAL SUFFICIENCY:

City Attorney's Office

CA14714
R-2
April 24, 2019

Applicant **City of Virginia Beach**
Public Hearing **May 8, 2019**
City Council Initiation of Amendments

Agenda Item
10

Request

An Ordinance to Amend Section 107 of the City Zoning Ordinance pertaining to the permitted time to consider a City Council referral of Zoning Amendments by the Planning Commission.

Summary of Request

This ordinance is in response to a change in the Code of Virginia. The ordinance will make section 107 of our City Zoning Ordinance consistent with the regulations set forth by the General Assembly.

This ordinance permits City Council to initiate code amendments and adds the following language to the section of the Zoning Ordinance covering the initiation of amendments to the Zoning Ordinance.

> *"…City Council may refer to Planning Commission an amendment or reenactment of the Zoning Ordinance. Planning Commission must report within 100 days of the first meeting of the Planning Commission after its referral. City Council may require Planning Commission to report earlier after a public hearing; notice published in a newspaper having general circulation in the locality at least two weeks prior to the public hearing; and publish the notice on the city website.…"*

Recommendation

Staff recommends approval of this ordinance. This amendment will ensure that the City Zoning Ordinance is responsive to legislative changes to the Code of Virginia. The requirements set forth in this ordinance are reasonable and ensure that the public will have sufficient notification of a proposed amendment change.

Ordinance

AN ORDINANCE TO AMEND SECTION 107 OF THE CITY ZONING ORDINANCE PERTAINING TO CITY COUNCIL REFERRAL OF AMENDMENT

Section Amended: § 107 of the City Zoning Ordinance

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

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

That Section 107 of the City Zoning Ordinance is hereby amended and reordained to read as follows:

Sec. 107. – Amendments.

(a) *Initiation.* Whenever the public necessity, convenience, general welfare, or good zoning practice requires, the city council may by ordinance, amend, supplement, or change the regulations, district boundaries, or zoning district classifications of property. Any such action may be initiated by resolution of the city council, or by motion of the planning commission, or, where a change of the zoning district classification of property is sought, by petition of the owner, contract purchaser with the owner's written consent, or the owner's duly authorized agent therefor, of the property which is the subject of the proposed change of zoning district classification, addressed to the city council. City Council may refer to Planning Commission an amendment or reenactment of the Zoning Ordinance. Unless a shorter time is prescribed in the referral resolution, Planning Commission must report its recommendation within 100 days of its first meeting after the date of the referred ordinance. City Council shall require a report in less than 100 days only after a public hearing. Notice of such public hearing shall be published in a newspaper having general circulation in the locality at least two weeks prior to the public hearing and such notice shall also be published on the city website. In the latter case, the petition shall be addressed to city council but shall be filed with the director of planning. The director shall cause the petition to be placed on the agenda of the planning commission. For purposes of this section, a change of zoning district classification shall be deemed to include modifications of the conditions of a conditional change of zoning district classification pursuant to subdivision (h).

. . . .

Adopted by the Council of the City of Virginia Beach, Virginia, on the _____ day of _____, 2019.

APPROVED AS TO CONTENT:

Planning Department

APPROVED AS TO LEGAL SUFFICIENCY:

City Attorney's Office

CA14733
R-1
April 9, 2019

2

Applicant **City of Virginia Beach**
Public Hearing **May 8, 2019**
Notification to Property Owners

Agenda Item
11

Request

An Ordinance to Amend Section 103 of the City Zoning Ordinance pertaining to Notification to Property Owners.

Summary of Request

This ordinance is in response to a change in the Code of Virginia. The ordinance will make section 103 of our City Zoning Ordinance consistent with the regulations set forth by the General Assembly.

This ordinance adds “Certified” mail as a legal method of notification to which the appeal period begins once received by the property owner or their registered agent. The current ordinance only recognizes registered mail or posting of the notice at the last known address or usual place of abode of the property owner or registered agent.

Recommendation

Staff recommends approval of this ordinance. This amendment will ensure that the City Zoning Ordinance is responsive to legislative changes to the Code of Virginia. Adding certified mail as an acceptable form of notification will have a positive impact on the zoning notification process.

AN ORDINANCE TO AMEND SECTION 103 OF THE CITY ZONING ORDINANCE PERTAINING TO NOTIFICATION TO PROPERTY OWNER

Section Amended: § 103 of the City Zoning Ordinance

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

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

That Section 103 of the City Zoning Ordinance is hereby amended and reordained to read as follows:

Sec. 103. – Administration.

. . . .

(l) The zoning administrator shall provide written notice to the owner of any real property that is the subject of a request for a written order, requirement, decision, or determination of the zoning administrator. Such notice shall be given by the zoning administrator or by the applicant on forms provided by the zoning administrator within ten (10) days of the date of the request. The appeal period for such order, requirement, decision or determination shall not commence until the notice is sent by registered <u>or certified</u> mail to, or posted at, the last known address or usual place of abode of the property owner or its registered agent, if any. There is a rebuttable presumption that the property owner's last known address is that shown on the current real estate tax assessment records, or the address of a registered agent that is shown in the records of the Clerk of the State Corporation Commission.

Adopted by the Council of the City of Virginia Beach, Virginia, on the _____ day of _____, 2019.

APPROVED AS TO CONTENT:

Planning Department

APPROVED AS TO LEGAL SUFFICIENCY:

City Attorney's Office

CA14732
R-1
April 9, 2019

Applicant and Property Owner **Glassell S. Scott, Jr.**
Public Hearing **May 8, 2019**
City Council Election District **Beach**

Agenda Item

D1

Request
Street Closure

Staff Recommendation
Approval

Staff Planner
Bill Landfair

Location
Alley adjacent to vacant parcel on Vanderbilt Avenue, approximately 263 feet from Croatan Road

GPIN
2426383787

Site Size
375 square feet of right-of-way

AICUZ
65-70 dB DNL; Sub-Area 1

Watershed
Atlantic Ocean

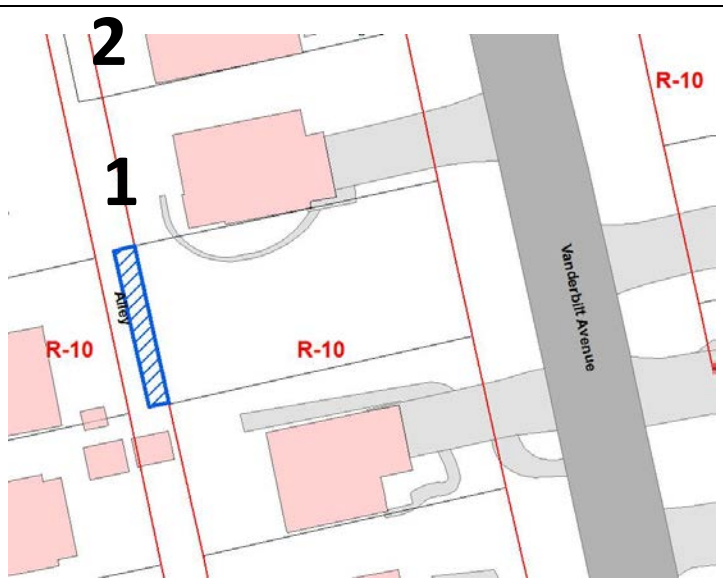
Existing Land Use and Zoning District
Vacant alley / R-10 Residential

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
Single-family dwellings / R-10 Residential

Background and Summary of Proposal

- The property owner proposes to close a portion of the platted, unnamed, and unimproved alley that is adjacent to the rear lot line. As shown on the submitted street closure exhibit, the applicant is requesting to close half of the 15-foot-wide alley, totaling 375 square feet, and incorporate into the adjacent residential lot.

- The applicant intends to develop the property with a single-family home consistent with other residentially-zoned parcels in the Croatan neighborhood. Currently, the area proposed to be closed is covered with vegetation.



Zoning History

#	Request
1	**STC** Approved 02/22/2011
2	**STC** Approved 02/22/2011

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

City Staff from Public Works, Public Utilities, Planning and Community Development and the Office of the City Attorney have reviewed this application and have determined that the proposed closure will not result in a public inconvenience; therefore, they recommend closure of the right-of-way. The Department of Public Works has indicated that there are no assets within the 375 square foot area; therefore, there is no need for a drainage easement.

City Council adopted a policy aimed at disposing of undeveloped rights-of-way to adjoining property owners in the Croatan community. All funds generated from such closures are directed to a Croatan Beach Access account and ultimately the funds collected are to be used by the City to purchase additional public access to the beach in the Croatan area. Many similar requests have been reviewed and approved by the City Council for the closure of alleys within the vicinity of the site. The proposed Street Closure is recommended for approval with the following conditions.

Recommended Conditions

1. The City Attorney's Office will make the final determination regarding ownership of the underlying fee. The purchase price to be paid to the City shall be determined according to the "Policy Regarding Purchase of City's Interest in Streets Pursuant to Street Closures," approved by City Council.

2. The applicant shall resubdivide the property and vacate internal lot lines to incorporate the closed area into the adjoining parcel. The resubdivision plat shall be submitted and approved for recordation prior to final street closure approval.

3. The applicant shall verify that no private utilities exist within the right-of-way proposed for closure. If private utilities do exist, easements satisfactory to the utility company must be provided.

4. Closure of the right-of-way shall be contingent upon compliance with the above stated conditions within 365 days of approval by City Council. If the conditions noted above are not accomplished and the final plat is not approved within one year of the City Council approval, said approval shall be considered null and void.

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.

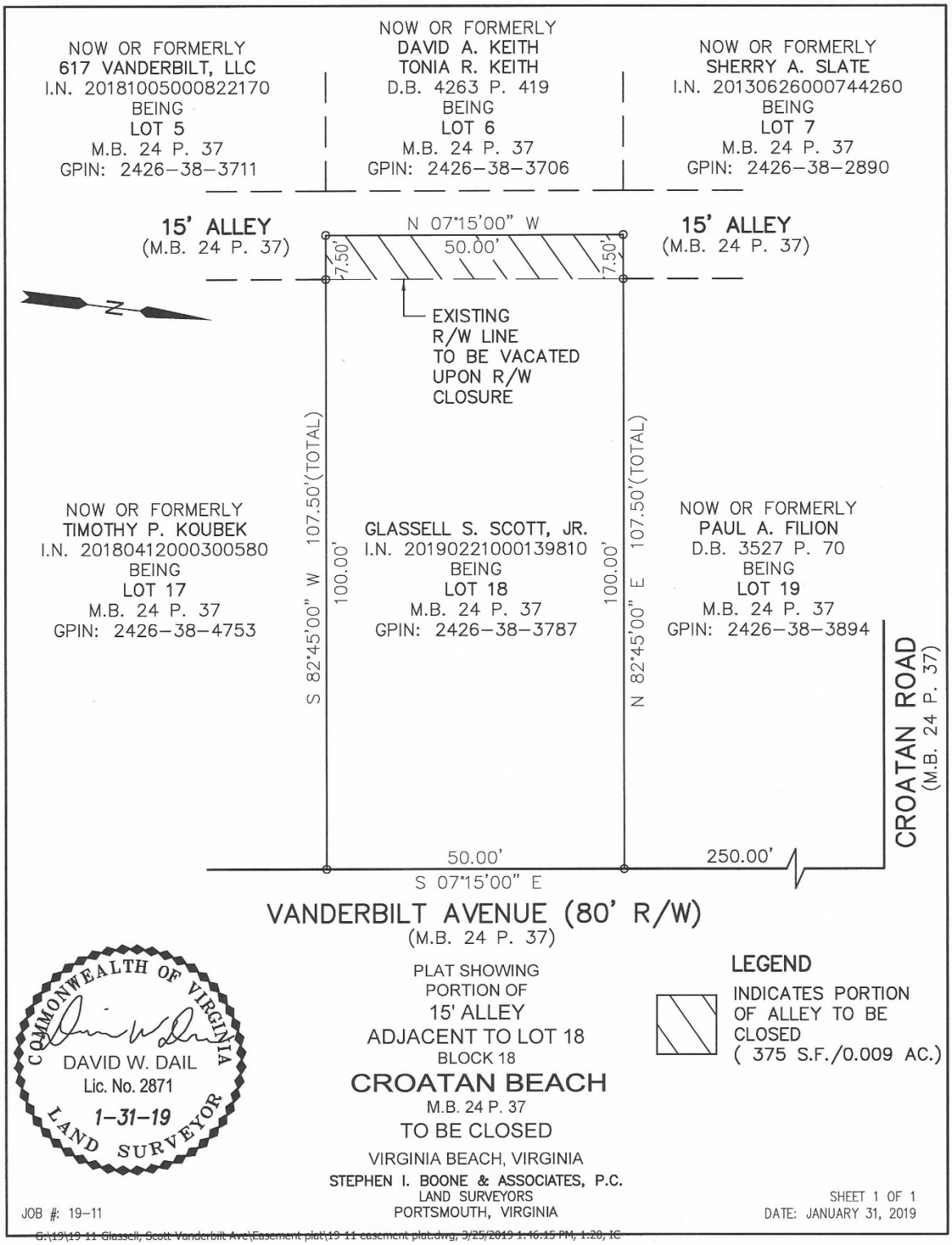
The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.

Public Outreach Information

Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on March 9, 2019.
- As required by State Code, this item was advertised in the Virginia Pilot Beacon on Sunday, April 21, 2019 and Sunday, April 28, 2019.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on April 22, 2019.
- 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 May 2, 2019.

Street Closure Survey



Site Photo

City of Virginia Beach

APPLICANT'S NAME Glassell S. Scott, Jr.

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 Franchise Agreement	Street Closure
Chesapeake Bay Preservation Area Board	Lease of City Property	Subdivision Variance
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: Glassell S. Scott, Jr.
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-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:_____
If an LLC, list the member's names:

City of 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	
☐	☐	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	Gallup Surveyors & Engineers, Ltd.
☐	☐	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	
☒	☐	Legal Services	Sykes, Bourdon, Ahern & Levy, P.C.
☒	☐	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	Karen Adcock, Keller Williams Town Center

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?

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.**

	Glassell S. Scott, Jr.	1/30/19
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.

Applicant **Virginia Beach Development Authority**
Property Owner **City of Virginia Beach**
Public Hearing **May 8, 2019** (Deferred April 10, 2019)
City Council Election District **Princess Anne**

Agenda Item

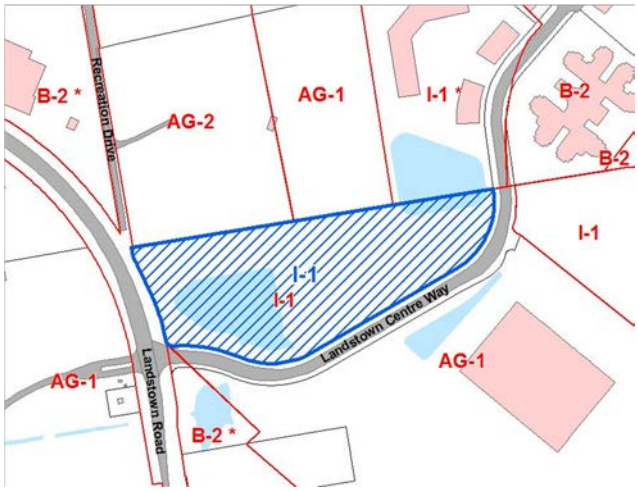
D2

The Applicant has requested a withdrawal of this application.

Request
Modification of Proffers
Conditional Use Permit (Outdoor Recreational Facility)

Staff Recommendation
Approval

Staff Planner
Bill Landfair

Location
Northeast Corner of Landstown Road & Landstown Centre Way
GPIN
1484882692

Site Size
11.29 acres
AICUZ
70-75 dB DNL
Watershed
Southern Rivers