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

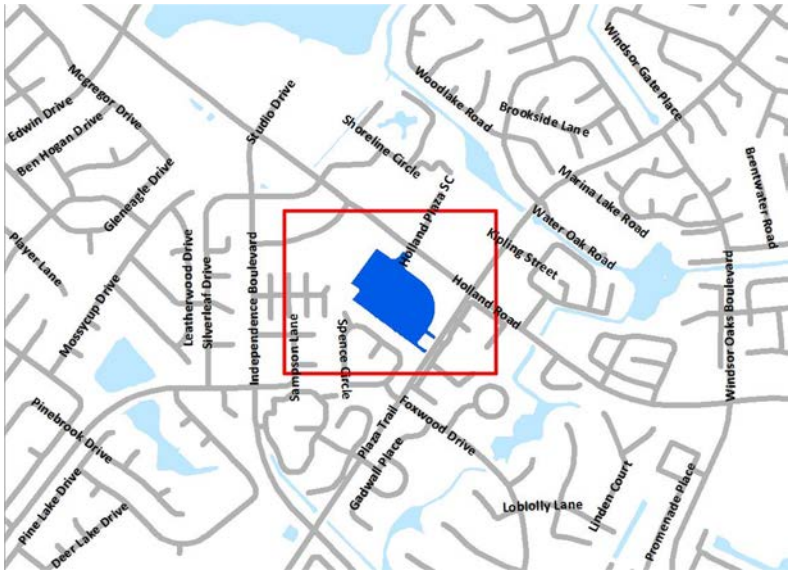
Location
4239 Holland Road

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

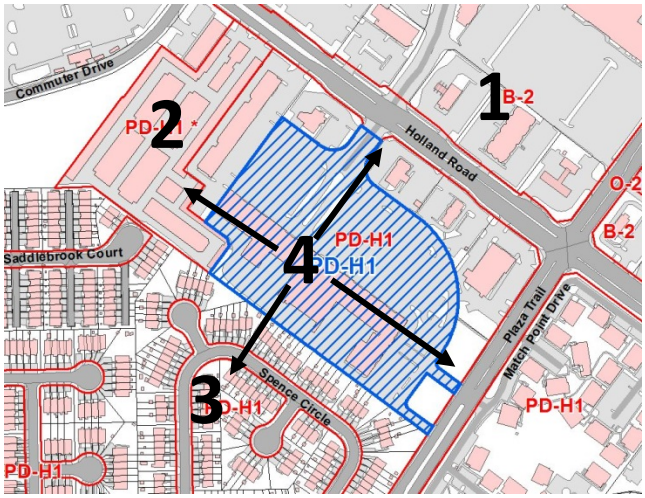
West
Storage facility / PD-H1 Planned Unit Development

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

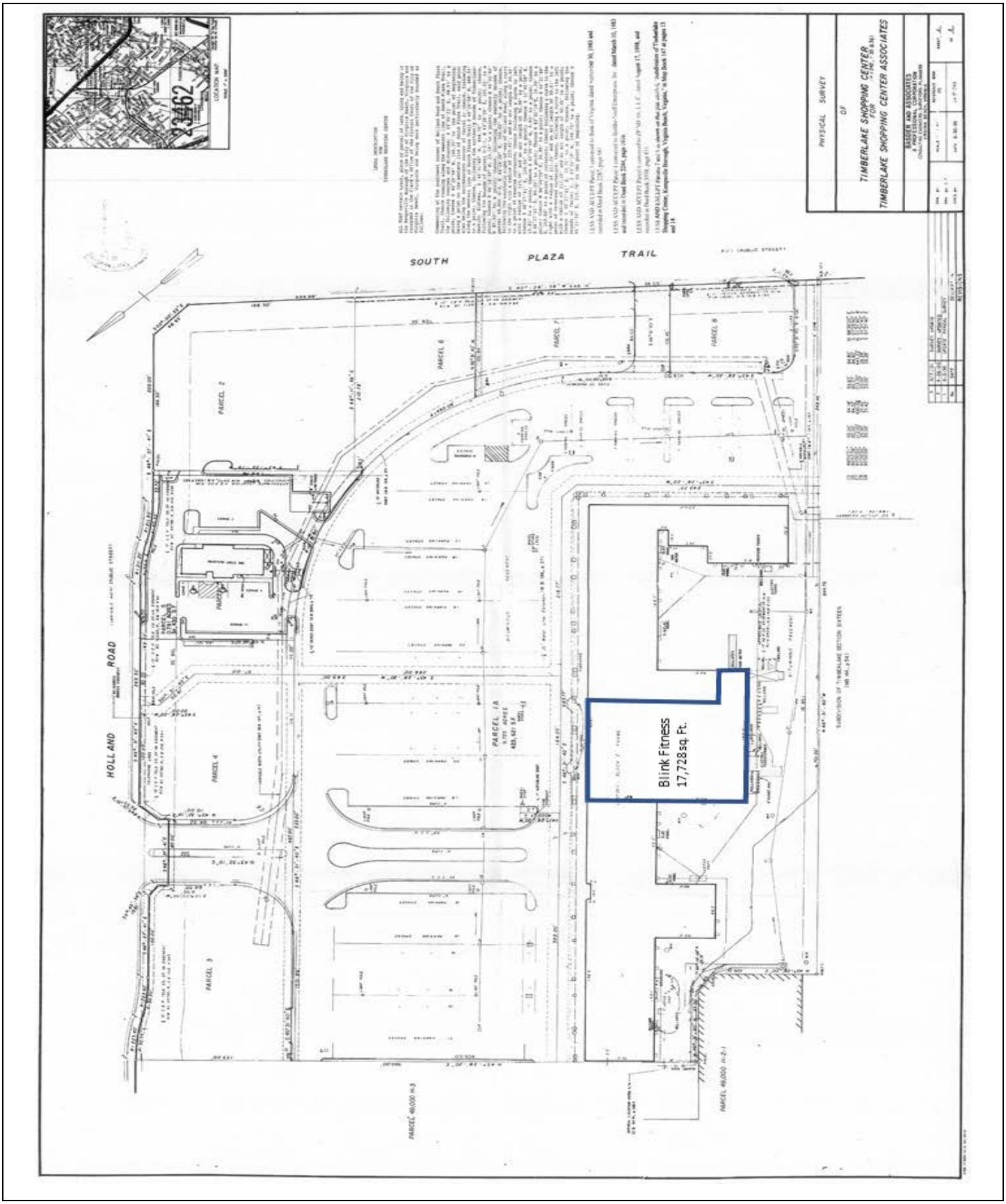
This site is currently connected to both City water and sanitary sewer service.

Public Outreach Information

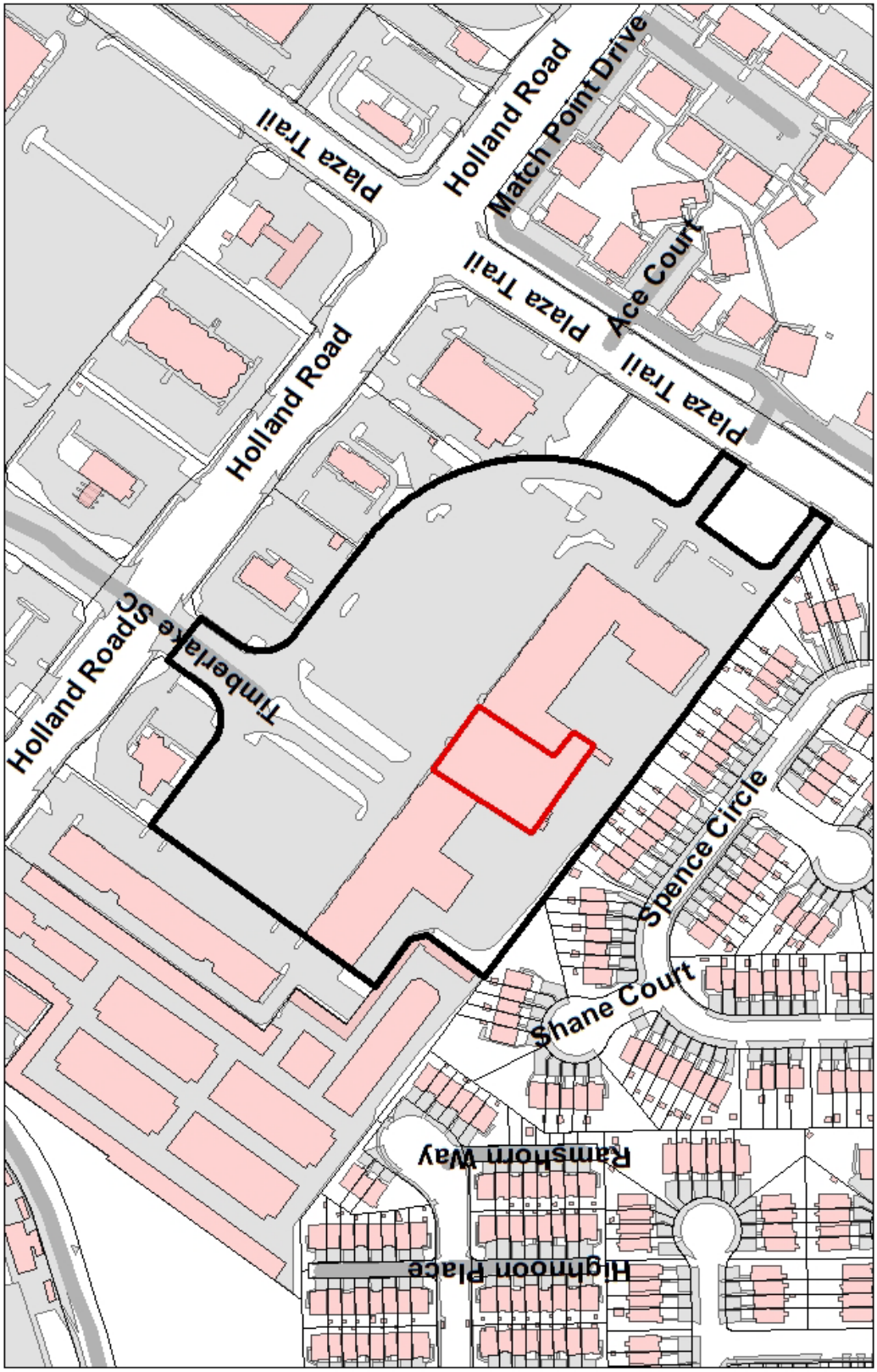
Planning Commission

- 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

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.	

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☐ 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: 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)*

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

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	Sykes, Bourdon, Ahern & Levy, P.C.
☒	☐	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	Pembroke Commercial Realty

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.**

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

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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.

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