

Request
Street Closure

Staff Recommendation

Approval

Staff Planner

Bill Landfair

Location

Alley adjacent to 317 45th Street

GPIN

2418875164

Site Size

334 square feet of right-of-way

AICUZ

65-70 dB DNL; Sub-Area 3

Watershed

Atlantic Ocean

Existing Land Use and Zoning District

Alley / R-7.5 Residential

Surrounding Land Uses and Zoning Districts

North

Single-family dwellings / R-7.5 Residential

South

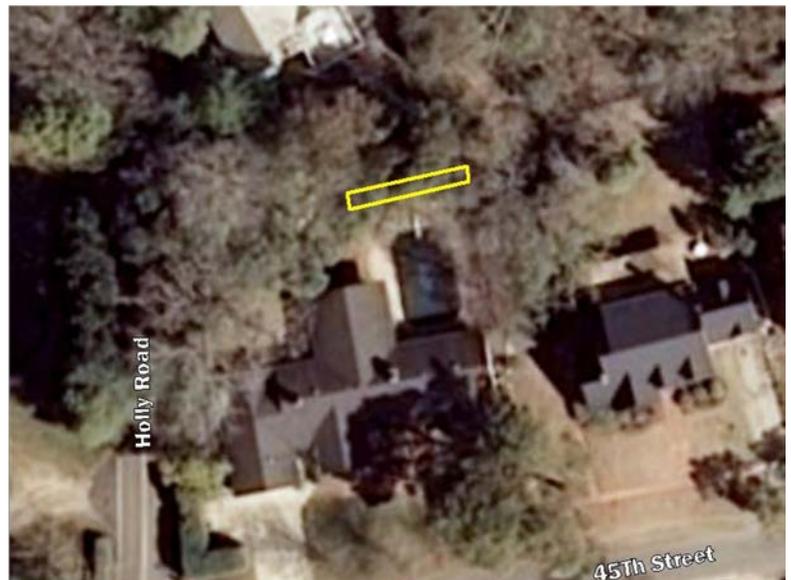
Single-family dwelling / R-7.5 Residential

East

Single-family dwelling / R-7.5 Residential

West

Single-family dwelling / R-7.5 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 adjacent to 317 45th Street, totaling 334 square feet, and incorporate the land into the adjacent residential lot.

	<p>No Zoning History to report.</p>
Application Types	
<p>CUP – Conditional Use Permit REZ – Rezoning CRZ – Conditional Rezoning</p>	<p>MOD – Modification of Conditions or Proffers NON – Nonconforming Use STC – Street Closure</p> <p>FVR – Floodplain Variance ALT – Alternative Compliance SVR – Subdivision Variance</p>

Evaluation and Recommendation

A Viewers’ Meeting was held, that included City Staff from the departments of Public Works, Public Utilities, Planning and Community Development and the Office of the City Attorney, to consider this application. The Viewers determined that the proposed closure of this portion of the alley will not result in any public inconvenience; therefore, closure of this portion of the right-of-way is deemed acceptable. The Department of Public Utilities has indicated that there is an existing public sewer line located within the 334 square foot area; therefore, a condition is recommended that a public utility easement be dedicated to the City over the entire portion of the alley to be closed. Upon dedication of the easement, all improvements, including an existing frame shed and retaining wall, located within the easement area must be removed to allow to access the sewer line when necessary.

Staff received one letter of opposition from the adjoining property owners to the north. The letter outlines concerns regarding the existing improvements that encroach into the alley, which they note has decreased the vegetated buffer between the properties that the unimproved alley provided. While they are not interested in pursuing the closure of half of the alley adjacent to their property, they wish to retain their right to do so in the future. Staff’s position is that once the improvements are removed, the area will naturally revegetate and the former buffer will reestablish. It should be noted that if the need ever arises for City crews to perform maintenance or provide repairs to the underground utilities, the area may be cleared for access.

In Staff’s view, the proposed Street Closure is acceptable and recommended for approval subject to 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 must be submitted and approved for recordation prior to final street closure approval. Said plat must include the dedication of a public utility easement over the closed portion of the alley to the City of Virginia Beach, subject to the approval of the Department of Public Utilities, and the City Attorney's Office, which easement shall include a right of reasonable ingress and egress. Upon dedication of the easement, all improvements located within the easement area shall be removed from the easement area.
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.

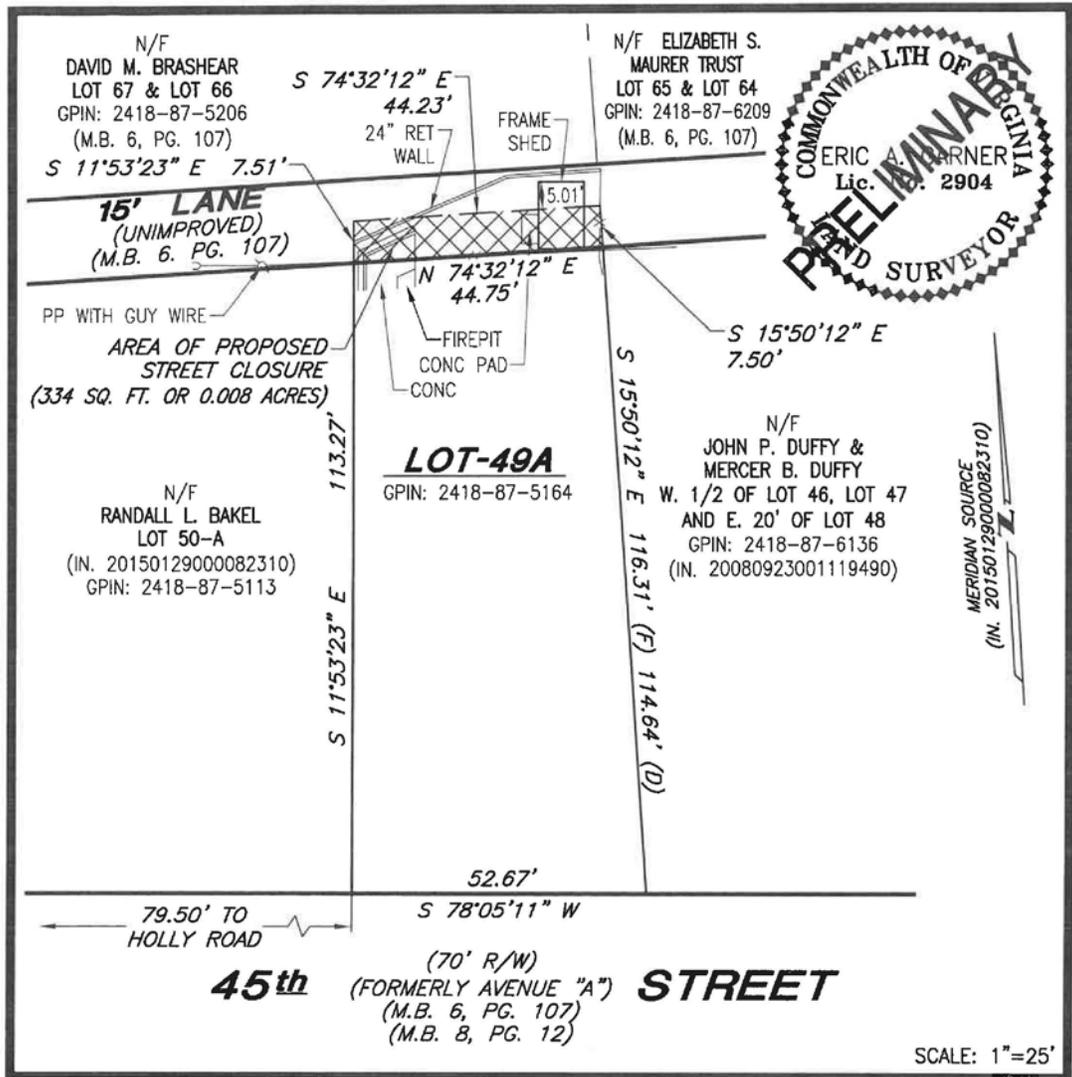
The applicant is encouraged to contact and work with the Crime Prevention Office within the Police Department for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts and strategies as they pertain to this site.

Public Outreach Information

Planning Commission

- The adjoining property owners to the north have written a letter of opposition to the proposed street closure. The details are provided in the evaluation section of this report.
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on July 15, 2019.
- As required by State Code, this item was advertised in the Virginia Pilot Beacon on Sunday, August 11, 2019 and Sunday, August 18, 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 August 12, 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 August 22, 2019.

Street Closure Survey



MERIDIAN SOURCE
 (IN. 20150129000082310)

SCALE: 1"=25'

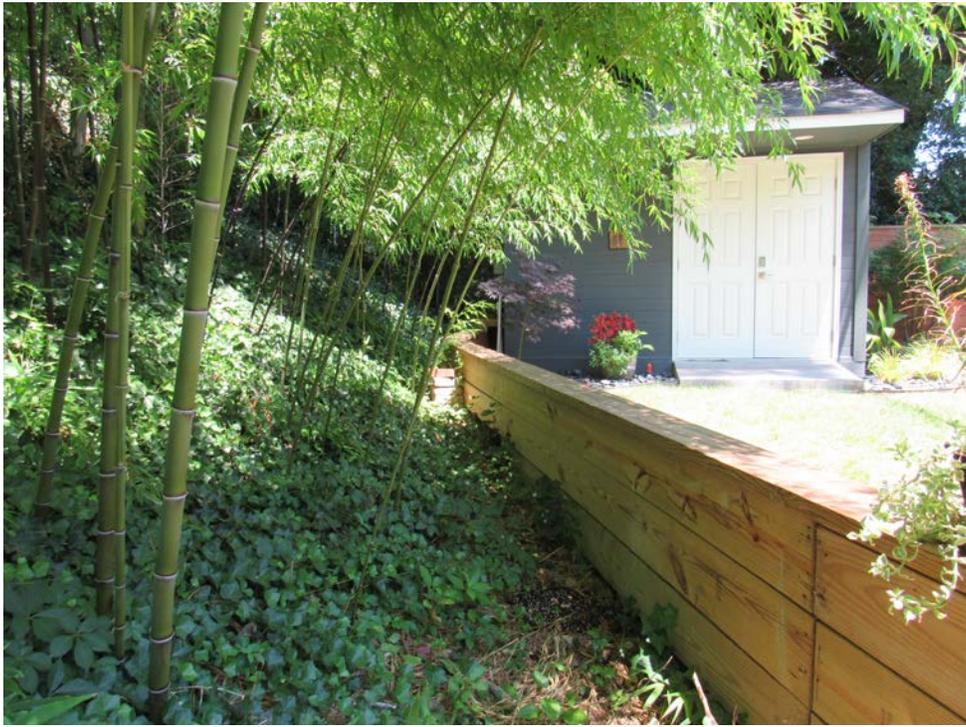


Landscape Architecture
 Land Surveying
 Civil Engineering
 wpsite.com 757.431.1041
 242 MUSTANG TRAIL STE 8 VIRGINIA BEACH, VA 23452

SHEET 1 OF 1
STREET CLOSURE EXHIBIT
 OF
LOT-49A
 RESUBDIVISION OF
 LOT 49, LOT 50 AND THE W. 30' OF LOT 48
 MAP OF
THE HOLLIES (M.B. 6, PG. 107)
 (IN. 20150129000082310)
VIRGINIA BEACH, VIRGINIA

date: 06/28/2017	F.B./PG.: 1034/33 & 1044/77	proj. no.: 216-0341
file: 216-341_st closure ex.dwg	PLAT: H-0699	CAD/chk: WJW/eag

Site Photos





APPLICANT'S NAME Jeffrey & Paige Madrigal

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
Chesapeake Bay Preservation Area Board	Franchise Agreement	Subdivision Variance
Conditional Use Permit	Lease of City Property	Wetlands Board
	License Agreement	

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).		
<input type="checkbox"/>	APPLICANT NOTIFIED OF HEARING	DATE: _____
<input type="checkbox"/>	NO CHANGES AS OF	DATE: _____
<input type="checkbox"/>	REVISIONS SUBMITTED	DATE: _____



Check here if the **APPLICANT IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.

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

(A) List the Applicant's name: Jeffrey & Paige Madrigal
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-subsiary¹ or affiliated business entity² relationship with the Applicant: *(Attach list if necessary)*

See next page for information pertaining to footnotes¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

Complete Section 2 only if property owner is different from Applicant.

Check here if the **PROPERTY OWNER IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.

Check here if the **PROPERTY OWNER IS** a corporation, partnership, firm, business, or other unincorporated organization, **AND THEN**, complete the following.

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



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

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

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

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

SECTION 3. SERVICES DISCLOSURE

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



APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Accounting and/or preparer of your tax return	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Architect / Landscape Architect / Land Planner	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Construction Contractors	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Engineers / Surveyors/ Agents	WPL
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	Xenith Bank (formerly Monarch Bank); Navy Federal Credit Union
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Legal Services	Sykes, Bourdon, Ahern & Levy, P.C.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

YES	NO	Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	

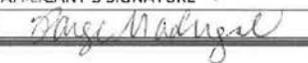
If yes, what is the name of the official or employee and what is the nature of the interest?



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.

	Jeffrey Madrigal	6-29-17
APPLICANT'S SIGNATURE	PRINT NAME	DATE
	Paige Madrigal	6-29-17

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.