

**Request**

**Conditional Use Permit** (Short Term Rental)

**Staff Recommendation**

Approval

**Staff Planner**

Summer Peebles

**Location**

911 Pacific Avenue, Unit A

**GPIN**

24272444111025

**Site Size**

34,996 square feet

**Existing Land Use and Zoning District**

Multi-family dwellings / OR Oceanfront Resort

**Surrounding Land Uses and Zoning Districts**

**North**

Duplex, commercial parking lot / OR Oceanfront Resort

**South**

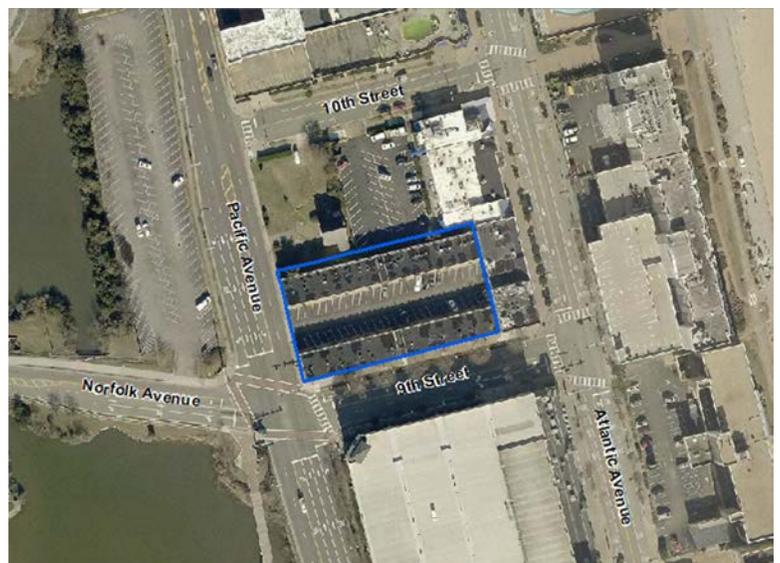
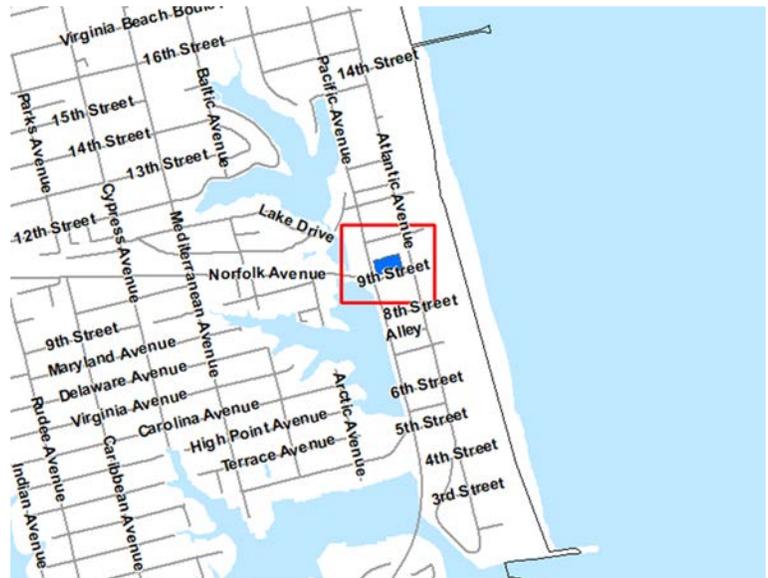
9th Street  
 Municipal parking garage / OR Oceanfront Resort

**East**

Retail shops / OR Oceanfront Resort

**West**

Pacific Avenue  
 Off-site parking lot / OR Oceanfront Resort

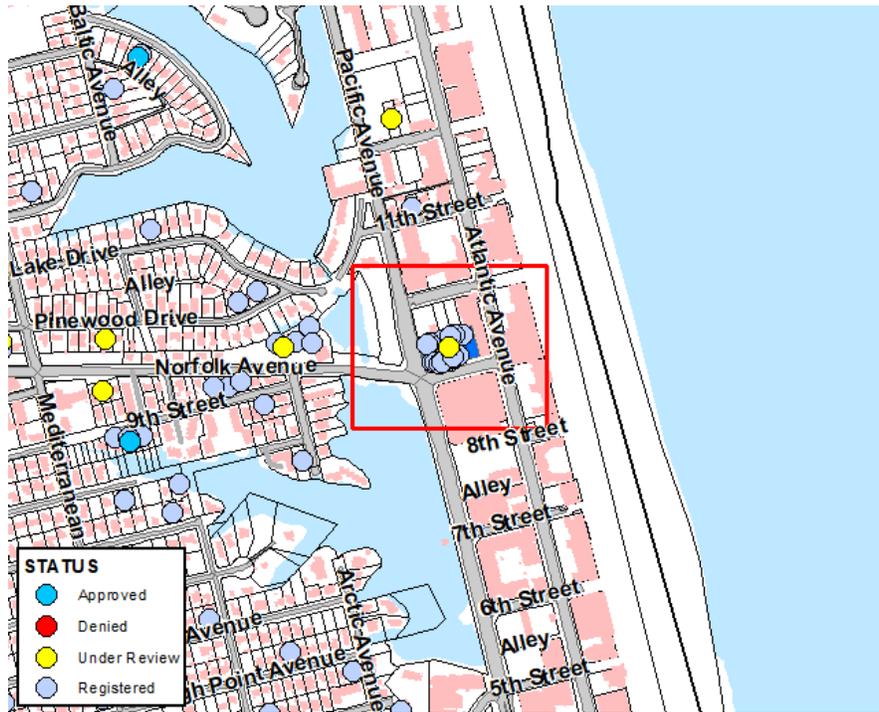


# Background & Summary of Proposal

## Site Conditions and History

- The 35,000 square foot parcel is zoned OR Oceanfront Resort District.
- City records indicate that the multi-family condominium complex was constructed in 1969.
- Staff inspected the site on July 28, 2020 to observe site conditions and take photographs for this report.
- There is no on-street parking on Pacific Avenue.
- No record of zoning violations relating to Short Term Rental use were found associated with the subject property.
- The applicant has agreed with City Council’s recently imposed conditions reducing the number of bookings in a seven day period to one and limiting the overnight guest calculation to two per bedroom.

*Short Term Rentals in the Vicinity*



## Summary of Proposal

The applicant submitted a Conditional Use Permit request to operate a two-bedroom Short Term Rental on the subject site. The regulations for Short Term Rental use are identified in Section 241.2 of the City Zoning Ordinance. Specific details pertaining to this application are listed below.

- Number of bedrooms in the Short Term Rental: 2
- Maximum number of guests permitted on the property after 11:00 pm (maximum 2 per bedroom): 4 - as recommended in condition #16

- Number of parking spaces required (1 space per bedroom required): 2
- Number of parking spaces provided on-site: 1\*

\*A Letter of Intent to Lease a parking space within the 9<sup>th</sup> Street parking garage has been submitted.

	<h3>Zoning History</h3> <table border="1"> <thead> <tr> <th>#</th> <th>Request</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>STC (Closure of unimproved ROW) Approved 12/04/2004</td> </tr> <tr> <td>2</td> <td>CUP (Short Term Rental) Approved 02/04/2020</td> </tr> <tr> <td>3</td> <td>CUP (Short Term Rental) Approved 06/09/2020</td> </tr> <tr> <td>4</td> <td>CUP (Short Term Rental) Approved 08/25/2020</td> </tr> <tr> <td>5</td> <td>CUP (Short Term Rental) Approved 08/25/2020</td> </tr> </tbody> </table>	#	Request	1	STC (Closure of unimproved ROW) Approved 12/04/2004	2	CUP (Short Term Rental) Approved 02/04/2020	3	CUP (Short Term Rental) Approved 06/09/2020	4	CUP (Short Term Rental) Approved 08/25/2020	5	CUP (Short Term Rental) Approved 08/25/2020
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<h3>Application Types</h3>													
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	LUP – Land Use Plan STR – Short Term Rental										

## Evaluation & Recommendation

The applicant is requesting to operate a Short Term Rental in a two-bedroom unit within a condominium development located at 911 Pacific Avenue. This site is located one block from the public beaches of the Atlantic Ocean in the resort area of the City; an area where Short Term Rental use is common. The two-bedroom unit is required to have two off-street parking spaces. One space is accommodated on-site in a designated space. To satisfy the second parking space requirement, the applicant has purchased an annual parking pass at the 9<sup>th</sup> Street Municipal Parking Garage, which is located directly across the street. As recommended below in Condition 4, the applicant will be required to submit receipts/proof of availability of a second off-street parking space annually to the Zoning Administrator as long as the Conditional Use Permit is active. The Zoning Administrator has reviewed this alternative parking plan and has deemed it acceptable. Staff believes that all other requirements of Section 241.2 of the Zoning Ordinance pertaining to Short Term Rentals can reasonably be met.

Based on the factors listed above, Staff recommends approval of this request with the conditions listed below; however, the recommended conditions do reflect City Council’s Short Term Rental revisions by reducing the number of bookings in a seven day period to one and limiting the overnight guest calculation to two per bedroom. The applicant is agreeable to these condition changes.

## Recommended Conditions

1. The following conditions shall only apply to the dwelling unit addressed as 911 Pacific Avenue Unit A, and the Short Term Rental use shall only occur in the principal structure.
2. No vehicles longer than 18-feet shall be permitted in the parking spaces associated with this Short Term Rental.
3. The ingress/egress area along Pacific Avenue shall remain clear in order for vehicles to safely enter and exit the property.
4. Off-street parking shall be provided as required by Section 241.2 of the City Zoning Ordinance or as approved by City Council.
5. A second (2nd) parking space, at a location subject to approval by the Zoning Administrator, shall be available for use by the Short Term Rental occupants at all times. Proof of ability to use at least one off-street parking space at a location acceptable to the Zoning Administrator shall be provided to the Planning Department on an annual basis, as long as the Conditional Use Permit is active.
6. This Conditional Use Permit shall expire five (5) years from the date of approval. The renewal process of this Conditional Use Permit may be administrative and performed by the Planning Department; however, the Planning Department shall notify the City Council in writing prior to the renewal of any Conditional Use Permit for a Short Term Rental where the Short Term Rental has been the subject of neighborhood complaints, violations of its conditions or violations of any building, housing, zoning, fire or other similar codes.
7. No events associated with the Short Term Rental shall be permitted with more than the allowed number of people who may stay overnight (number of bedrooms times two (2)) on the property where the Short Term Rental is located. This Short Term Rental may not request or obtain a Special Event Permit under City Code Section 4-1 (8a).
8. The owner or operator must provide the name and telephone number of a responsible person, who may be the owner, operator or an agent of the owner or operator, who is available to be contacted and to address conditions occurring at the Short Term Rental within thirty (30) minutes. Physical response to the site of the Short Term Rental is not required.
9. If, or when, the ownership of the property changes, it is the seller's responsibility to notify the new property owner of requirements 'a' through 'c' below. This information must be submitted to the Planning Department for review and approval. This shall be done within six (6) months of the property real estate transaction closing date.
  - a) A completed Department of Planning and Community Development Short Term Rental Zoning registration form; and
  - b) Copies of the Commissioner of Revenue's Office receipt of registration; and
  - c) Proof of liability insurance applicable to the rental activity of at least one million dollars.
10. To the extent permitted by state law, each Short Term Rental must maintain registration with the Commissioner of Revenue's Office and pay all applicable taxes.
11. There shall be posted in a conspicuous place within the dwelling a summary provided by the Zoning Administrator of City Code Sections 23-69 through 23-71 (noise), 31-26, 31-27 and 31-28 (solid waste collection), 12-5 (fires on the beach), 12-43.2 (fireworks), and a copy of any approved parking plan.
12. All refuse shall be placed in automated refuse receptacles, where provided, and comply with the requirements of City Code sections 31-26, 31-27 and 31-28.

13. Accessory structures shall not be used or occupied as Short Term Rentals.
14. No signage shall be on-site, except one (1), four (4) square foot sign, may be posted on the building which identifies the Short Term Rental.
15. The Short Term Rental shall have no more than one (1) rental contract during any consecutive seven (7) day period.
16. The owner or operator shall provide proof of liability insurance applicable to the rental activity at registration and renewal of at least one million dollars (\$1,000,000) underwritten by insurers acceptable to the City.
17. There shall be no outdoor amplified sound after 10:00 p.m. or before 10:00 a.m.
18. The maximum number of persons on the property after 11:00 p.m. and before 7:00 a.m. ("Overnight Lodgers") shall be two (2) individuals per bedroom.
19. To the extent permissible under state law, interconnected smoke detectors (which may be wireless), a fire extinguisher and, where natural gas or propane is present, carbon monoxide detectors, shall be installed in each Short Term Rental.

*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 August 10, 2020.
- As required by State Code, this item was advertised in the Virginia Pilot Beacon on Sundays, August 23, 2020, and August 30, 2020.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on July 24, 2020.
- 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](http://www.vbgov.com/pc) on September 3, 2020.

# Site Layout & Parking Plan



Site Photos



Site Photos





**APPLICANT'S NAME** Rachel Panariello

**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:

<b>Acquisition of Property by City</b>	<b>Disposition of City Property</b>	<b>Modification of Conditions or Proffers</b>
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**

<small>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).</small>			
<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: Rachael Panariello  
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-subsiary <sup>1</sup> or affiliated business entity <sup>2</sup> relationship with the Applicant: *(Attach list if necessary)*

See next page for information pertaining to footnotes <sup>1</sup> and <sup>2</sup>

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## 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 <sup>1</sup> or affiliated business entity <sup>2</sup> relationship with the Property Owner: *(Attach list if necessary)*

<sup>1</sup> "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.

<sup>2</sup> "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.

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### 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 type="checkbox"/>	<input checked="" type="checkbox"/>	Engineers / Surveyors/ Agents	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Legal Services	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	applicant / owner / agent

**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?

# Disclosure Statement



**CERTIFICATION:**

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, **I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.**

<i>Rachael Panariello</i>	Rachael Panariello	6/8/2020
APPLICANT'S SIGNATURE	PRINT NAME	DATE



**OWNER**

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Accounting and/or preparer of your tax return	
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<input type="checkbox"/>	<input checked="" type="checkbox"/>	Legal Services	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	I am also a Real Estate agent.

**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?

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	Rachael Panariello	6/8/2020
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.
- 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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