

**Request**

**Conditional Use Permit** (Family Day-Care Home)

**Staff Recommendation**

Approval

**Staff Planner**

Antionette Fowlkes

**Location**

1109 Malcoms Way

**GPIN**

1466304744

**Site Size**

8,612 square feet

**AICUZ**

Greater than 75 dB DNL

**Watershed**

Chesapeake Bay

**Existing Land Use and Zoning District**

Single-family dwelling / R-7.5 Residential

**Surrounding Land Uses and Zoning Districts**

**North**

Single-family dwelling / R-7.5 Residential

**South**

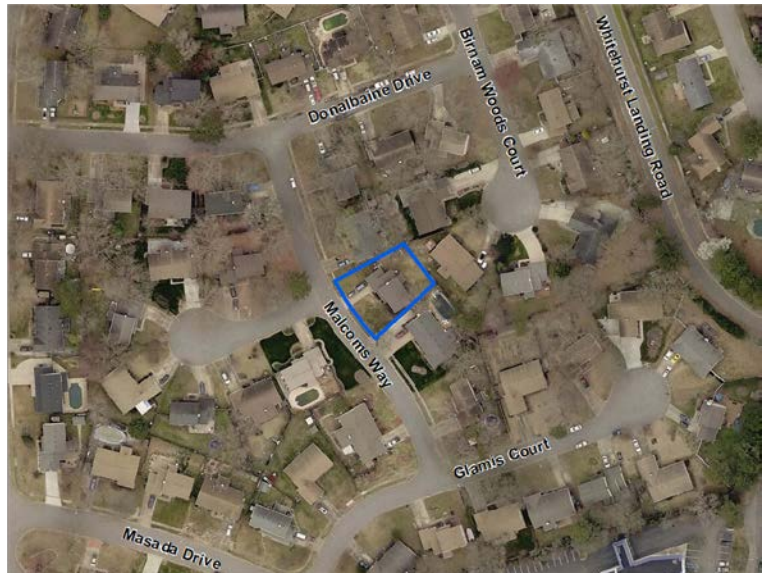
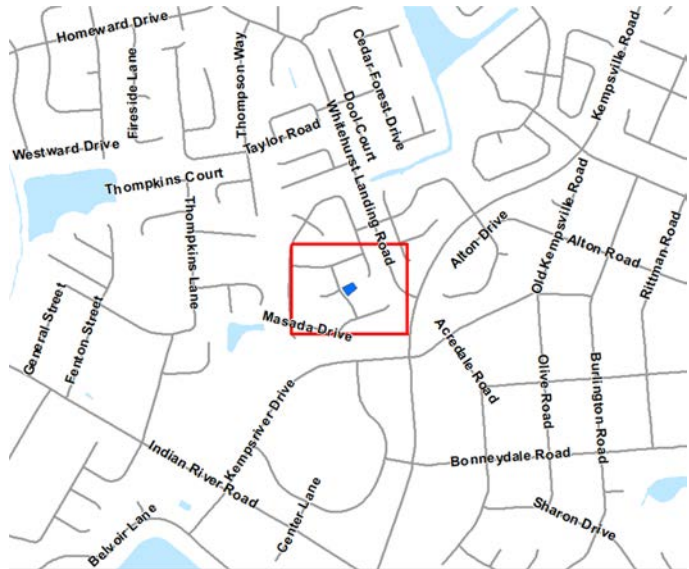
Single-family dwelling / R-7.5 Residential

**East**

Single-family dwelling / R-7.5 Residential

**West**

Single family dwelling / R-7.5 Residential



## Background & Summary of Proposal

- The applicant is requesting a Conditional Use Permit for a Family Day-Care Home to care for up to 12 children within a single-family dwelling. The 2,002 square foot home is zoned R-7.5 Residential District and is located in the Birnam Woods neighborhood. A Family Day-Care Home with four or less children is allowed by-right in residential zoning districts. When the number of children cared for increases to five or more children, excluding the provider’s own children and those who reside in the home, both state licensure and a Conditional Use Permit are required.
- According to the applicant, she has 30 years of experience caring for children.
- The designated outdoor play area is located in the backyard enclosed by a six-foot tall privacy fence.
- The typical hours of operation are proposed as 6:00 a.m. to 6:00 p.m., Monday through Friday.



**No Zoning History to Report**

### 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

LUP – Land Use Plan  
 STR – Short Term Rental

## Evaluation & Recommendation

This request for a Conditional Use Permit for a Family Day-Care Home, in Staff’s opinion, is consistent with the policies and goals set forth in the Comprehensive Plan for the Suburban Area. Staff finds the property to be organized and well kept, successfully promoting the policies intended to ensure the maintenance and sustainability of great neighborhoods.

Staff recommends conditions that pick-up and drop-off times be staggered and to allow only one Home Occupation operating on the property at any one time to alleviate the potential for congestion in the right-of-way.

In Staff’s view, Family Day-Care Homes provide a needed and valuable service to the community and will not be detrimental to any adjacent land uses. Based on these considerations, Staff recommends approval of this request subject to the conditions listed below.

## Recommended Conditions

1. Arrival and departure times shall be staggered to avoid vehicular congestion.
2. The Family Day-Care Home shall be limited to the total of twelve (12) children, other than children living in the home.
3. The applicant shall maintain a license with the Virginia Department of Social Services for childcare.
4. No more than one (1) person, other than the applicant, shall assist with the operation of the Family Day-Care Home at any one time.
5. Any sign identifying the home occupation shall be non-illuminated, not more than one (1) square foot in area and mounted flat against the residence.
6. The applicant shall obtain all necessary permits and inspections from the City of Virginia Beach. Prior to operation, the applicant shall obtain a Certificate of Occupancy from the Building Official's Office for use of the house as a Family Day-Care Home.
7. The applicant/owner shall maintain a six-foot privacy fence around the perimeter of the rear yard for the duration of the use.
8. There shall be only one Home Occupation, the Family Day-Care Home, operating on the property associated with this Conditional Use Permit.

*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 identifies this site as being located within the Suburban Area. The general planning principles for the Suburban Area focus on creating and maintaining great neighborhoods through stability and sustainability; protecting and enhancing open spaces and places of cultural and historical significance; and creating and maintaining a transportation system that provides connectivity and mobility. Achieving these goals requires that all land use activities either maintain or enhance the existing neighborhood through compatibility with surroundings, quality and attractiveness of site and buildings, improved mobility, environmental responsibility, livability, and effective buffering with respect to type, size, intensity and relationship to the surrounding uses.

## Natural & Cultural Resources Impacts

The site is located in the Chesapeake Bay watershed and there are no known significant cultural resources associated with this site.

## Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Malcoms Way	No Data Available		Existing Land Use <sup>1</sup> – 10 ADT Proposed Land Use <sup>2</sup> – 58 ADT
	<sup>1</sup> as defined by a single-family dwelling	<sup>2</sup> as defined by a single-family dwelling with a Family Day-Care Home	

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

Malcoms Way in the vicinity of this application is considered a two-lane undivided local street. It is not included in the Master Transportation Plan. No roadway Capital Improvement Program projects are slated for this area.

## Public Utility Impacts

### Water and Sewer

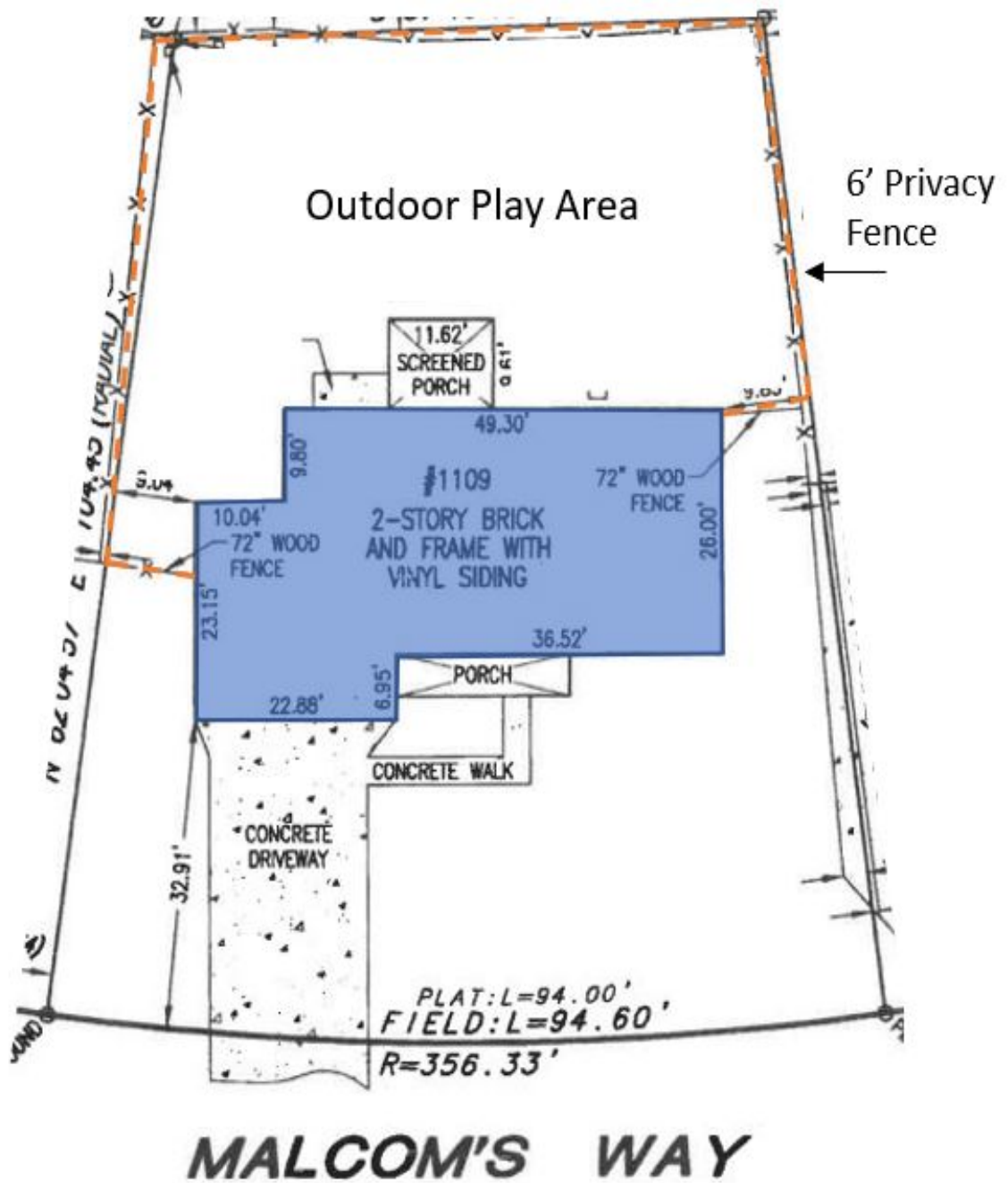
The site is currently connected to both City water and sanitary sewer services.

## Public Outreach Information

### Planning Commission

- The applicant reported that they met with the surrounding property owners, and no objections were raised.
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on August 9, 2021.
- As required by State Code, this item was advertised in the Virginian-Pilot Beacon on Sundays, August 22, 2021 and August 29, 2021.
- 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 23, 2021.
- 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 2, 2021.

# Proposed Site Layout



Site Photo



# Disclosure Statement



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. 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 City board, commission or other body.

**Applicant Disclosure**

Applicant Name JENITA WHITE

Does the applicant have a representative?  Yes  No

- If yes, list the name of the representative.

Is the applicant a corporation, partnership, firm, business, trust or an unincorporated business?  Yes  No

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

- If yes, list the businesses that have a parent-subsidiary<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the applicant. (Attach a list if necessary)

<sup>1</sup> "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.

<sup>2</sup> "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.



**Known Interest by Public Official or Employee**

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?  **Yes**  **No**

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

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**Applicant Services Disclosure**

1. Does the applicant have any **existing financing (mortgage, deeds of trust, cross-collateralization, etc)** or are they considering any financing in connection with the subject of the application or any business operating or to be operated on the property?

**Yes**  **No**

- If **yes**, identify the financial institutions providing the service.

*SHELL POINT MORTGAGE*

\_\_\_\_\_

2. Does the applicant have a **real estate broker/agent/realtor** for current and anticipated future sales of the subject property?

**Yes**  **No**

- If **yes**, identify the company and individual providing the service.

\_\_\_\_\_

3. Does the applicant have services for **accounting and/or preparation of tax returns** provided in connection with the subject of the application or any business operating or to be operated on the property?  **Yes**  **No**

- If **yes**, identify the firm and individual providing the service.

*Prosperity Tax Solutions, Mario White*

\_\_\_\_\_

4. Does the applicant have services from an **architect/landscape architect/land planner** provided in connection with the subject of the application or any business operating or to be operated on the property?  **Yes**  **No**

- If **yes**, identify the firm and individual providing the service.

\_\_\_\_\_

5. Is there any other **pending or proposed purchaser** of the subject property?  **Yes**  **No**

- If **yes**, identify the purchaser and purchaser's service providers.

\_\_\_\_\_



# Disclosure Statement



6. Does the applicant have a **construction contractor** in connection with the subject of the application or any business operating or to be operated on the property?  Yes  No

- If **yes**, identify the company and individual providing the service.

7. Does the applicant have an **engineer/surveyor/agent** in connection with the subject of the application or any business operating or to be operated on the property?  Yes  No

- If **yes**, identify the firm and individual providing the service.

8. Is the applicant receiving **legal services** in connection with the subject of the application or any business operating or to be operated on the property?  Yes  No

- If **yes**, identify the firm and individual providing the service.

### Applicant Signature

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 meeting of Planning Commission, City Council, VBDA, CBPA, Wetlands Board or any public body or committee in connection with this application.

Applicant Signature  
Jenita White, Owner

Print Name and Title  
June 21, 2021

Date

Is the applicant also the owner of the subject property?  Yes  No

- If **yes**, you do not need to fill out the owner disclosure statement.

**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 applications**

<input type="checkbox"/>	No changes as of	Date	Signature	
			Print Name	

## 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.