

CITY OF VIRGINIA BEACH
"COMMUNITY FOR A LIFETIME"

CITY COUNCIL

MAYOR ROBERT M. "BOBBY" DYER, At Large
VICE MAYOR ROSEMARY WILSON – District 5
MICHAEL F. BERLUCCHI – District 3
BARBARA M. HENLEY – District 2
VACANT – District 1
ROBERT W. "WORTH" REMICK – District 6
DR. AMELIA N. ROSS-HAMMOND – District 4
JENNIFER ROUSE – District 10
JOASHUA F. "JOASH" SCHULMAN – District 9
CHRIS TAYLOR – District 8
SABRINA D. WOOTEN – District 7

CITY COUNCIL APPOINTEES

CITY MANAGER – PATRICK A. DULANEY
CITY ATTORNEY – MARK D. STILES
CITY ASSESSOR – SUE CUNNINGHAM
CITY AUDITOR – LYNDON S. REMIAS
CITY CLERK – AMANDA BARNES



CITY HALL BUILDING 1
2401 COURTHOUSE DRIVE
VIRGINIA BEACH, VIRGINIA 23456
PHONE: (757) 385-4303
FAX: (757) 385-5669
EMAIL: CITYCOUNCIL@VBGOV.COM

CITY COUNCIL AGENDA
December 12, 2023

MAYOR ROBERT M. "BOBBY" DYER
PRESIDING

- | | | |
|--|---------------------------|----------------|
| I. CITY MANAGER BRIEFINGS | - Conference Room- | 1:00 PM |
| A. SPRING AND SUMMER FESTIVAL
Nancy Helman, Director – Convention and Visitors Bureau | | |
| B. AUDITED FINANCIAL RESULTS FOR THE FISCAL YEAR ENDED JUNE 30, 2023 | | 1:45 PM |
| Logan Booth, Audit Senior Manager – Cherry Bekaert Advisory, LLC
Kevin Kielbasa, Finance Controller | | |
| C. CITY OF VIRGINIA BEACH FINANCIAL MANAGEMENT | | 2:15 PM |
| David Rose, Senior Vice President, and Manager of Public Finance – Davenport & Company
Kyle Laux, Senior Vice President – Davenport & Company | | |
| II. CITY COUNCIL DISCUSSION/ INITIATIVES/COMMENTS | | 2:45 PM |
| III. CITY COUNCIL AGENDA REVIEW | | 3:15 PM |
| IV. INFORMAL SESSION | - Conference Room- | 3:45 PM |
| A. CALL TO ORDER | | |
| B. CITY COUNCIL ROLL CALL | | |
| C. RECESS TO CLOSED SESSION | | |

V. FORMAL SESSION

- City Council Chamber -

6:00 PM

A. CALL TO ORDER – Mayor Robert M. “Bobby” Dyer

B. INVOCATION Pastor Terrance Livingston
Shadowlawn Church

C. MOMENT OF SILENCE

D. PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

E. ROLL CALL OF CITY COUNCIL

F. CERTIFICATION OF CLOSED SESSION

G. MAYOR’S PRESENTATION

1. **RESOLUTION IN RECOGNITION** - Norfolk Academy Field Hockey

J. FORMAL SESSION AGENDA

1. CONSENT AGENDA

K. ORDINANCES / RESOLUTION

1. Ordinance to **AUTHORIZE** an Amendment of a Sponsorship Agreement for a festival to be held April 26-28, 2024, and to **AUTHORIZE** a Sponsorship Agreement for May 31-June 2, 2024, and **PROVIDE** direction to the City Manager re **the 2025 Festival Season**
2. Resolution to **ESTABLISH** the Short-Term Rental Enforcement Task Force (Requested by Mayor Dyer, Vice Mayor Wilson, and Council Members Berlucchi, Remick, Ross-Hammond, Schulman, Taylor, and Wooten)
3. Ordinance to **AUTHORIZE** the Dedication of a 9,708 square feet (0.223 acres) Utility Easements to Dominion Energy Virginia on City-owned properties at 2283, 2285 and 2287 Landstown Road re **install and maintain underground cable for electric facilities to reduce power outages**
4. Ordinance to **AUTHORIZE** the Dedication of a 323 square feet (0.007 acres) Utility Easement to Dominion Energy Virginia on City-owned property at 4200 North Witchduck Road re **underground and maintain facilities that provide electric service to the Pump Station to reduce power outages**
5. Ordinance to **AUTHORIZE** the Dedication of a 1,253 square feet (0.0288 acres) Utility Easement to Dominion Energy Virginia on City-owned property at 2401 Plantation Drive re **underground and maintain facilities that provide electric service to the Pump Station to reduce power outages**

6. Ordinance to **AUTHORIZE** the Dedication of a 213 square feet (0.005 acres) Utility Easement to Dominion Energy Virginia on City-owned property at 3030 Bray Road re **underground and maintain facilities that provide electric service to the Pump Station to reduce power outages**
7. Ordinance to **DESIGNATE** as **EXEMPT** from Local Property Taxes re **Commonwealth of Charities**
8. Ordinance to **DESIGNATE** as **EXEMPT** from Local Property Taxes re **Virginia Beach Recovery Club, Inc**
9. Ordinance to **DESIGNATE** as **EXEMPT** from Local Property Taxes re **Hospice House of Hampton Roads**
10. Ordinance to **DESIGNATE** as **EXEMPT** from Local Property Taxes re **Only His Grace, Inc**
11. Ordinance to **DESIGNATE** as **EXEMPT** from Local Property Taxes re **Skilled Foundations**
12. Ordinance to **DESIGNATE** as **EXEMPT** from Local Property Taxes re **Speak Up for a Change**
13. Ordinance to **AUTHORIZE** the acquisition of an Agricultural Land Preservation (ARP) easement from **Muddy Creek Farms, LLC** (143.38 +/- acres), the issuance by the City of its contract obligations in the maximum principal amount of \$2,025,959 and **TRANSFER** funds to purchase **U.S. Treasury Strips**
14. Ordinance to **AUTHORIZE** the City Manager to **EXECUTE** a Lease for City-owned property for up to five (5) years at Virginia Beach Farmer Markets, Building 2, Space 12 re **The Country Butcher Shop, Inc**
15. Ordinance to **ACCEPT** and **APPROPRIATE** \$196,004 from the State Compensation Board to the FY 2023-24 Clerk of Circuit Court Operating Budget re **salary increase**

L. PLANNING

1. **RUFFIN 86, LLC** for a Variance to Section 4.4(c) of the Subdivision Regulations re **demolish three (3) dwelling units to construct one-single family dwelling** at 109 A & B 86th Street & 8600 Ocean Front Avenue DISTRICT 6

RECOMMENDATION:

APPROVAL

2. **BONNEY BRIGHT SAND CO. / BONNEY G. BRIGHT** for a Modification of Conditions to a Conditional Use Permit re **borrow pit expansion** at 200 Princess Anne Road DISTRICT 2

RECOMMENDATION:

APPROVAL

3. **AMBERLY CARTER / LONGBAY POINT PARTNERS, LLC** for a Modification of Conditions to a Conditional Use Permit re **assembly use** at 2105 West Great Neck Road DISTRICT 8

RECOMMENDATION:

APPROVAL

4. **MICHAEL D. SIFEN, INC / ROBERT W. WHITE JR. & ET AL, ROBERT W. WHITE JR.** for a Conditional Change of Zoning from AG-1 & AG-2 Agricultural Districts to Conditional R-10 Residential District re **develop a 38-lot single-family subdivision** at 2000 & 2004 Princess Anne Road DISTRICT 2

RECOMMENDATION:

APPROVAL

5. **ANNA CASTILLO-LORA / WINDSOR OAKS WEST PAR 3, LLC** for a Conditional Use Permit re **assembly use** at 4356 Holland Road, Suite 101 DISTRICT 3

RECOMMENDATION:

APPROVAL

6. Ordinance to **AMEND** Section 1804 of the City Zoning Ordinance (CZO) re **Discretionary Development Applications**

RECOMMENDATION:

APPROVAL

7. Ordinance to **AMEND** Sections 237 and 901 of the City Zoning Ordinance (CZO) re **use of mini-warehouses in the B-4C Zoning District**

RECOMMENDATION:

APPROVAL

M. APPOINTMENTS

BAYFRONT ADVISORY COMMISSION
BEACHES AND WATERWAYS ADVISORY COMMISSION
CLEAN COMMUNITY COMMISSION
COMMUNITY SERVICES BOARD
DEFERRED COMPENSATION BOARD
GREEN RIBBON COMMITTEE
HAMPTON ROADS TRANSPORTATION PLANNING ORGANIZATION
HISTORIC PRESERVATION COMMISSION
IN-HOUSE PHARMACY EXPLORATORY COMMITTEE
MILITARY ECONOMIC DEVELOPMENT ADVISORY COMMITTEE
OLD BEACH DESIGN REVIEW BOARD
OPEN SPACE ADVISORY COMMITTEE
PARKS AND RECREATION COMMISSION
PROCESS IMPROVEMENT STEERING COMMITTEE
PUBLIC LIBRARY BOARD
SENIOR SERVICES OF SOUTHEASTERN VA BOARD
URBAN AGRICULTURE ADVISORY COMMITTEE
VIRGINIA BEACH CANNABIS ADVISORY TASK FORCE
VIRGINIA BEACH COMMUNITY DEVELOPMENT CORPORATION
WETLANDS BOARD

N. UNFINISHED BUSINESS

O. NEW BUSINESS

P. ADJOURNMENT

If you are **physically disabled** or **visually impaired**
and need assistance at this meeting,
please call the **CITY CLERK'S OFFICE** at **385-4303**

The Agenda (including all backup documents) is available at <https://clerk.virginiabeach.gov/city-council> under the eDocs Document Archive. If you would like to receive by email a list of the agenda items for each Council meeting, please submit your request to TChelius@vbgov.com or call 385-4303.

Citizens who wish to speak can sign up either in-person or virtually via WebEx. Anyone wishing to participate virtually, must follow the **two-step process** provided below:

1. Register for the WebEx at:
<https://vbgov.webex.com/weblink/register/r996c4188669b829d0da6715610a5e001>
2. Register with the City Clerk's Office by calling 757-385-4303 prior to 5:00 p.m. on December 12, 2023.

I. CITY MANAGER BRIEFINGS - Conference Room- 1:00 PM

A. SPRING AND SUMMER FESTIVAL

Nancy Helman, Director – Convention and Visitors Bureau

B. AUDITED FINANCIAL RESULTS FOR THE FISCAL YEAR ENDED JUNE 30, 2023 1:45 PM

Logan Booth, Audit Senior Manager – Cherry Bekaert Advisory, LLC
Kevin Kielbasa, Finance Controller

C. CITY OF VIRGINIA BEACH FINANCIAL MANAGEMENT 2:15 PM

David Rose, Senior Vice President, and Manager of Public Finance – Davenport & Company
Kyle Laux, Senior Vice President – Davenport & Company

II. CITY COUNCIL DISCUSSION/ INITIATIVES/COMMENTS 2:45 PM

III. CITY COUNCIL AGENDA REVIEW 3:15 PM

IV. INFORMAL SESSION

- Conference Room-

3:45 PM

A. CALL TO ORDER

B. CITY COUNCIL ROLL CALL

C. RECESS TO CLOSED SESSION

V. FORMAL SESSION

- City Council Chamber -

6:00 PM

A. CALL TO ORDER – Mayor Robert M. “Bobby” Dyer

B. INVOCATION Pastor Terrance Livingston
Shadowlawn Church

C. MOMENT OF SILENCE

D. PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

E. ROLL CALL OF CITY COUNCIL

F. CERTIFICATION OF CLOSED SESSION

G. MAYOR'S PRESENTATION

1. **RESOLUTION IN RECOGNITION** - Norfolk Academy Field Hockey



RESOLUTION

WHEREAS: The Norfolk Academy Field Hockey team won the Virginia Independent Schools Athletic Association (VISSA) State Championship on Saturday, November 11, 2023; and

WHEREAS: The 2023 Norfolk Academy Field Hockey team is also the Tidewater Conference of Independent Schools (TCIS) Regular and Tournament Champions; and

WHEREAS: Norfolk Academy Field Hockey earned an UNDEFEATED 2023 season, with a 23-0 record; and

WHEREAS: Norfolk Academy Field Hockey scored 189 goals in the 2023 season; and

WHEREAS: Only 12 goals were scored against them; and

WHEREAS: The majority of players and the Head Coach reside in the City of Virginia Beach; and

WHEREAS: The Norfolk Academy Field Hockey team Head Coach is Mary Werkheiser and Assistant Coaches are Laura Gibson and Catherine McCallum; and

WHEREAS: Coach Werkheiser joined Norfolk Academy's Field Hockey program in 1989 and became head coach in 1995; and

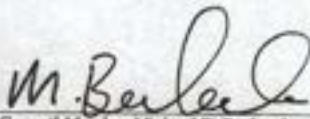
WHEREAS: The 2023 Virginia Independent Schools Athletic Association (VISSA) State Championship State Championship Norfolk Academy Field Hockey has earned under Coach Werkheiser's leadership; and

WHEREAS: Coach Werkheiser was inducted into the USA Regional Field Hockey Training Center Ring of Honor in 2019; and

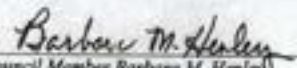
WHEREAS: Norfolk Academy's Director of Athletics is Chad Byler and Head of School is Travis Larrabee; and

NOW THEREFORE, BE IT RESOLVED: The members of City Council, both individually and collectively hereby commend the Norfolk Academy Field Hockey team for their commitment, efforts, and achievement on and off the field and congratulate each member of the team, Head Coach Mary Werkheiser, Assistant Coaches Laura Gibson and Catherine McCallum, Director of Athletics Chad Byler, Head of School Travis Larrabee, and the entire Norfolk Academy community.

Adopted by the City Council of the City of Virginia Beach the 12th day of December 2023 and present this Resolution duly signed by each Member of the Virginia Beach City Council.



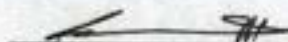
Council Member Michael F. Bertucci



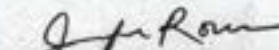
Council Member Barbara M. Henley



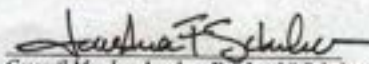
Council Member Robert W. "Worth" Remick



Council Member Amelia N. Ross-Hammond



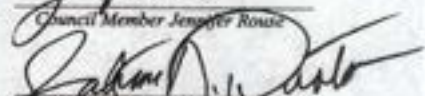
Council Member Jennifer Rouse



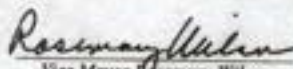
Council Member Joshua F. "Joash" Schulman



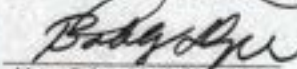
Council Member Chris Taylor



Council Member Sabrina D. Wooten



Vice Mayor Rosemary Wilson



Mayor Robert M. "Bobby" Dyer

J. FORMAL SESSION AGENDA

1. CONSENT AGENDA

K. ORDINANCES / RESOLUTION

1. Ordinance to **AUTHORIZE** an Amendment of a Sponsorship Agreement for a festival to be held April 26-28, 2024, and to **AUTHORIZE** a Sponsorship Agreement for May 31-June 2, 2024, and **PROVIDE** direction to the City Manager re **the 2025 Festival Season**
2. Resolution to **ESTABLISH** the Short-Term Rental Enforcement Task Force (Requested by Mayor Dyer, Vice Mayor Wilson, and Council Members Berlucchi, Remick, Ross-Hammond, Schulman, Taylor, and Wooten)
3. Ordinance to **AUTHORIZE** the Dedication of a 9,708 square feet (0.223 acres) Utility Easements to Dominion Energy Virginia on City-owned properties at 2283, 2285 and 2287 Landstown Road re **install and maintain underground cable for electric facilities to reduce power outages**
4. Ordinance to **AUTHORIZE** the Dedication of a 323 square feet (0.007 acres) Utility Easement to Dominion Energy Virginia on City-owned property at 4200 North Witchduck Road re **underground and maintain facilities that provide electric service to the Pump Station to reduce power outages**
5. Ordinance to **AUTHORIZE** the Dedication of a 1,253 square feet (0.0288 acres) Utility Easement to Dominion Energy Virginia on City-owned property at 2401 Plantation Drive re **underground and maintain facilities that provide electric service to the Pump Station to reduce power outages**
6. Ordinance to **AUTHORIZE** the Dedication of a 213 square feet (0.005 acres) Utility Easement to Dominion Energy Virginia on City-owned property at 3030 Bray Road re **underground and maintain facilities that provide electric service to the Pump Station to reduce power outages**
7. Ordinance to **DESIGNATE** as **EXEMPT** from Local Property Taxes re **Commonwealth of Charities**
8. Ordinance to **DESIGNATE** as **EXEMPT** from Local Property Taxes re **Virginia Beach Recovery Club, Inc**
9. Ordinance to **DESIGNATE** as **EXEMPT** from Local Property Taxes re **Hospice House of Hampton Roads**
10. Ordinance to **DESIGNATE** as **EXEMPT** from Local Property Taxes re **Only His Grace, Inc**
11. Ordinance to **DESIGNATE** as **EXEMPT** from Local Property Taxes re **Skilled Foundations**
12. Ordinance to **DESIGNATE** as **EXEMPT** from Local Property Taxes re **Speak Up for a Change**

13. Ordinance to **AUTHORIZE** the acquisition of an Agricultural Land Preservation (ARP) easement from **Muddy Creek Farms, LLC** (143.38 +/- acres), the issuance by the City of its contract obligations in the maximum principal amount of \$2,025,959 and **TRANSFER** funds to purchase **U.S. Treasury Strips**
14. Ordinance to **AUTHORIZE** the City Manager to **EXECUTE** a Lease for City-owned property for up to five (5) years at Virginia Beach Farmer Markets, Building 2, Space 12 re **The Country Butcher Shop, Inc**
15. Ordinance to **ACCEPT** and **APPROPRIATE** \$196,004 from the State Compensation Board to the FY 2023-24 Clerk of Circuit Court Operating Budget re **salary increase**



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance to Authorize the Amendment of a Sponsorship Agreement for a Festival to be Held April 26-28, 2024, to Authorize a Sponsorship Agreement for a Festival to be Held May 31-June 2, 2024, and to Provide Direction to the City Manager Regarding the 2025 Festival Season

MEETING DATE: December 12, 2023

■ **Background:** The Convention and Visitors Bureau (the "CVB") has successfully created opportunities for large festivals and events for the City's visitors and residents. Successful festivals at the Resort include Something in the Water (2019 and 2023) and BeachIT (2023).

Audacy Virginia, LLC ("Audacy"), has provided entertainment at the Resort including the 60th Coastal Edge East Coast Surfing Championships. On August 15, 2023, the City Council authorized the City Manager to enter into a sponsorship agreement with Audacy for a fall music festival. Due to timing constraints, the fall music festival was placed on hold.

Separately, the City received notice that the Something in the Water Festival in 2024 cannot be held on its customary date of Week 17, which makes the weekend available for programming and allows previously allocated funding in the Tourism Investment Program (TIP) Fund to be redeployed for other projects.

In an ongoing effort to bring large festivals and events to Virginia Beach and its residents, the CVB continues to seek opportunities that can help drive a strong economic impact on the City. The CVB has two festival sponsorship opportunities that require approval by the City Council.

April 26-28, 2024

Audacy Virginia has proposed a three-day music festival to be held on Week 17. This festival will include a national recording artist headliner. This oceanfront festival location will be in a specified area with the footprint being at 31st beach area with the stage facing south. This festival will provide a genre of pop and rock to draw concert goers from across the Mid-Atlantic. There will be a community involvement that allow for partnership activations for programming in the 17th and 24th street park, along with other local community opportunities.

The financial sponsorship is similar to what was approved by the City Council on August 15, 2023. There is a City cash sponsorship of \$750,000. Audacy will provide the City with a national ad buy valued at \$750,000 to promote the City as a travel and tourist destination in markets identified by the City. Audacy will commit to spend \$1.5 million to promote the festival, and such promotion will target customary markets that attract visitors to the City. The City's in-kind support is estimated to be \$590,000 and is programmed for Week 17.

May 31 – June 2, 2024

IMGoing Events is a national event and entertainment organization. They have presented an opportunity to bring a three-day music festival to the City. This three-day event will incorporate Virginia Beach based creatives as well as national headliner entertainment.

This event will provide free live entertainment on May 31, 2024, in the 17th, 24th, and 31st Street Parks. On June 1 and 2, 2024, they will provide admission-based programming on two stages on the oceanfront. The main stage will be at 3rd Street facing north and the second stage will be at 6th Street facing east.

This festival will provide a genre of reggae musical acts to draw concert goers from across the Mid-Atlantic region, as we continue to showcase the City as a top tourist and entertainment venue. This popular genre would provide an additional option of entertainment for residents and visitors alike. There will be community components engaging local Virginia based creatives.

The financial sponsorship is an amount not-to-exceed \$750,000. \$300,000 is to be provided up-front to assist in festival expenses, which are anticipated to be approximately \$3 million. The City sponsorship beyond the \$300,000 is an amount equal to the admissions taxes, meals taxes, and the local portion of the sales taxes generated within the footprint of the special event permit. The City's in-kind support is estimated to be \$380,000. This sponsorship request is for three years. One festival is to be held in 2024, 2025, and 2026.

■ **Considerations:** The funding for the requested sponsorship agreements is already appropriated in the TIP Fund. If approved, each sponsorship agreement will require the festival promoter to provide a high-level budget for the festival including the following categories: marketing; production; talent; operations; and security. The event promoter will be required to provide information to the City including participation and overall economic impact within 90 days of the festival.

As requested by the City Council, the ordinance also directs the City Manager to undertake a competitive process in developing the 2025 festival season. That direction will require the City Manager to develop a process and outline such process to the City Council in advance of posting the solicitation.


■ **Public Information:** Public information will be provided through the normal Council agenda process.

■ **Recommendation:** Adopt the attached ordinance.

■ **Attachment:** Ordinance, Summary of Terms (2); Disclosure Forms (2)

Recommended Action: Approval

Submitting Department/Agency: Convention and Visitors Bureau

City Manager: 

1 AN ORDINANCE TO AUTHORIZE THE AMENDMENT OF A
2 SPONSORSHIP AGREEMENT FOR A FESTIVAL TO BE
3 HELD APRIL 26-28, 2024, TO AUTHORIZE A
4 SPONSORSHIP AGREEMENT FOR A FESTIVAL TO BE
5 HELD MAY 31-JUNE 2, 2024, AND TO PROVIDE
6 DIRECTION TO THE CITY MANAGER REGARDING THE
7 2025 FESTIVAL SEASON
8

9 WHEREAS, on August 15, 2023, the City Council authorized the City Manager to
10 enter into a sponsorship agreement with Audacy Virginia, LLC, for a fall music festival;
11

12 WHEREAS, due to timing constraints, the fall music festival was placed on hold;
13 and
14

15 WHEREAS, separately, the City received notice that the Something in the Water
16 Festival in 2024 cannot be held on its customary date of Week 17, which makes the
17 weekend available for programming and allows previously allocated funding in the
18 Tourism Investment Program (TIP) Fund to be redeployed for other projects;
19

20 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
21 VIRGINIA BEACH, VIRGINIA, THAT:
22

- 23 1. The August 15, 2023, action of the City Council is hereby amended to authorize
24 the City Manager to execute a sponsorship agreement with Audacy Virginia, LLC,
25 in a form acceptable to the City Manager and approved by the City Attorney for a
26 music festival to be held April 26-28, 2024. A summary of proposed terms is
27 attached hereto as Exhibit A.
28
- 29 2. From funds previously set aside in the FY2023-2024 TIP Fund for a sponsorship
30 of Something in the Water, the City Council hereby authorizes the City Manager to
31 execute a sponsorship agreement with Integrated Management Group, LLC, doing
32 business as IMGoing, in a form acceptable to the City Manager and approved by
33 the City Attorney for a festival to be held May 31-June 2, 2024. A summary of the
34 proposed terms is attached hereto as Exhibit B.
35
- 36 3. The City Manager is hereby directed to undertake a competitive process for the
37 2025 festival season. The City Manager shall provide the City Council with a
38 written report outlining the process and the requirements in advance of the posting
39 of the solicitation.

Adopted by the Council of the City of Virginia Beach, Virginia on the ____ day of
_____, 2023.

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL SUFFICIENCY:


Nancy S. Helmer, Supervisor
Convention and Visitors Bureau


City Attorney's Office

EXHIBIT A

SUMMARY OF SPONSORSHIP

Purpose: To have a music festival (the "Festival") the weekend of April 26-28, 2024, at the Oceanfront using the 31st Street beach area with a stage facing south.

Parties: City of Virginia Beach ("City") and Audacy Virginia, LLC ("Producer")

City Financial Sponsorship:

\$750,000 that was previously approved and appropriated on August 15, 2023, from the TIP Fund. The \$750,000 will be paid upon the execution of the sponsorship agreement.

City In-Kind Contributions:

City Public Safety and Public Works personnel already programmed for College Beach Weekend, which is estimated to be approximately \$590,000. Nothing in the sponsorship agreement may limit the City's discretion to staff and deploy City personnel or other City resources.

Responsibilities of the Producer:

The Producer will provide \$750,000 in dedicated media buy to be used in calendar 2024 by the City in tourism markets as identified by the City.

The Producer will create a festival with the general outline as follows:

- o Pop or rock music format that will draw patrons from across the Mid-Atlantic Region;
- o Include community partnerships and programming for the 17th and 24th Street parks; and
- o Spend approximately \$1.5 million in advertising to promote the three-day Festival on Audacy platforms throughout the Mid-Atlantic and traditional Virginia Beach tourism feeder markets.

Provide Festival attendance and sponsor information for safety/security and economic impact purposes. Provide a high-level budget for the Festival including the following categories: marketing; production; talent; operations; and security.

Limitations:

The City's financial sponsorship shall not be used for religious worship, instruction, or proselytizing.

EXHIBIT B

SUMMARY OF SPONSORSHIP

- Purpose:** To have a reggae music festival (the "Festival") the weekend of May 31- June 2, 2024, at the Oceanfront.
- Parties:** City of Virginia Beach ("City") and Integrated Management Group, LLC, doing business as IMGoing ("Producer")
- Term:** Sponsorship is for three festivals – 2024, 2025, 2026. As is customary for any multi-year commitment, any funding obligation beyond FY2023-2024 is subject to appropriation of funds by the City Council.

City Financial Sponsorship:

A not-to-exceed amount of \$750,000. \$300,000 to be provided up-front to assist in Festival expenses. The City sponsorship beyond the \$300,000 is an amount equal to the admissions taxes, meals taxes, and local sales taxes generated with the footprint of the special event permit. The City's funding source is the Tourism Investment Program (TIP) Fund.

City In-Kind Contributions:

City Public Safety and Public Works personnel in an amount estimated to be \$380,000. Nothing in the sponsorship agreement may limit the City's discretion to staff and deploy City personnel or other City resources.

Responsibilities of the Producer:

Create a festival with the general outline as follows:

- Reggae music format that will draw patrons from across the Mid-Atlantic Region;
- Free live entertainment on May 31, 2024 in the 17th, 24th, and 31st Street parks;
- Admission-based programming on two stages at the Oceanfront on June 1st and June 2nd;
- Festival shall incorporate Virginia Beach creatives as well as national headliner entertainment; and
- Spend approximately \$3 million in developing the Festival including marketing/promotion, security, talent, staging, and other expenses.

Provide Festival attendance and sponsor information for safety/security and economic impact purposes. Provide a high-level budget for the Festival including the following categories: marketing; production; talent; operations, and security.

Limitations:

The City's financial sponsorship shall not be used for religious worship, instruction, or proselytizing.

DISCLOSURE STATEMENT FORM

The completion and submission of this form is required for all applications wherein such applicant may utilize certain service providers or financial institutions, and the City seeks to know of the existence of such relationships in advance of any vote upon such application.


SECTION 1 / APPLICANT DISCLOSURE

Organization name: **Audacy Virginia, LLC, a wholly-owned subsidiary of Audacy Operations, Inc.**

SECTION 2. SERVICES DISCLOSURE

Are any of the following services being provided in connection with the applicant? If the answer to any item is YES, please identify the firm or individual providing the service:

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	Audacy is a large, publicly-trade company. This information is available i Audacy's SEC filings, updated quarterly, an available here: https://audacyinc.com/investors/financial
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Financial Services (include lending/banking institutions and current mortgage holders as applicable)	Audacy is a large, publicly-trade company. This information is available i Audacy's SEC filings, updated quarterly, an available here: https://audacyinc.com/investors/financial
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Legal Services	Audacy is a large, publicly-trade company. This information is available i Audacy's SEC filings, updated quarterly, an available here: https://audacyinc.com/investors/financial
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Broker/Contractor/Engineer/Other Service Providers	Audacy is a large, publicly-trade company. This information is available i Audacy's SEC filings, updated quarterly, an available here: https://audacyinc.com/investors/financial

CERTIFICATION:		
I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.		
I understand I am responsible for updating the information provided herein if it changes prior to the Council action upon this Application.		
	Bennett Zier	8/10/23
APPLICANT'S SIGNATURE	PRINT NAME	DATE

DISCLOSURE STATEMENT FORM

The completion and submission of this form is required for all applications wherein such applicant may utilize certain service providers or financial institutions, and the City seeks to know of the existence of such relationships in advance of any vote upon such application.

SECTION 1 / APPLICANT DISCLOSURE

Organization name: IMGOING EVENTS /
INTEGRATED MANAGEMENT GROUP, LLC

SECTION 2. SERVICES DISCLOSURE

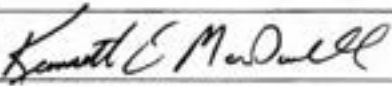
Are any of the following services being provided in connection with the applicant? If the answer to any item is YES, please identify the firm or individual providing the service:

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	BRUNKE + Co. LLC
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Financial Services (include lending/banking institutions and current mortgage holders as applicable)	ATLANTIC UNION BANK TOWNE BANK
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Legal Services	WOODS, ROGERS, VANDLINTER, BLACK
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Broker/Contractor/Engineer/Other Service Providers	

CERTIFICATION:

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

I understand I am responsible for updating the information provided herein if it changes prior to the Council action upon this Application.

	KENNETH E. MCDOWELL	11/16/23
APPLICANT'S SIGNATURE	PRINT NAME	DATE



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: A Resolution Establishing the Short Term Rental Enforcement Task Force

MEETING DATE: December 12, 2023

■ **Background:** The City's Zoning Ordinance regulates short term rentals, and the taxation chapter of the City Code addresses the transient occupancy tax with respect to short term rental operators. Enforcement of the City Code provisions has been challenging due to the nature of short term rentals and the fact that, under state law and the City ordinances, short term rental properties are subject to different requirements based on their location and their grandfathered status, or they may be prohibited. During the November 28, 2023, City Council workshop, City staff gave a public presentation that addressed, among other things, short term rental properties that are not compliant with City Code requirements or that are only partially compliant with those requirements. The City Council would benefit from having a task force review the challenges to regulatory enforcement and recommend to the City Council steps that the City could take to improve compliance, as well as recommendations for how the City's limited number of enforcement employees could best prioritize their enforcement efforts.

■ **Considerations:** The Short Term Rental Enforcement Task Force would study the many aspects of short term rental enforcement and registration, including grandfathered properties, and recommend to the City Council ways in which enforcement and registration could be improved, including prioritization of enforcement efforts and consideration of City recognition of short term rental owners who are fully compliant with all short term rental regulations. The task force will consist of eight voting members who serve in an advisory capacity to council. The City Manager will provide staff support to the task force, including representatives of the Planning Department, an employee of the City Manager's Office with legislative expertise, and one or more members of the City Attorney's Office shall provide legal support. The Commissioner of Revenue will also be asked to have a representative attend meetings. The task force will automatically dissolve upon its submittal of its recommendations to the council.

■ **Public Information:** Public information will be provided through the normal Council agenda process.

■ **Attachments:** Resolution

Requested by Mayor Dyer, Vice Mayor Wilson, and Councilmembers Berlucchi, Remick, Ross-Hammond, Schulman, Taylor and Wooten

**REQUESTED BY MAYOR DYER, VICE MAYOR WILSON, AND
COUNCILMEMBERS BERLUCCHI, REMICK, ROSS-HAMMOND, SCHULMAN,
TAYLOR AND WOOTEN**

1 A RESOLUTION ESTABLISHING THE SHORT TERM
2 RENTAL ENFORCEMENT TASK FORCE
3

4 WHEREAS, the City's Zoning Ordinance regulates short term rentals, and the
5 taxation chapter of the City Code addresses the transient occupancy tax with respect to
6 short term rental operators;
7

8 WHEREAS, enforcement of the City Code provisions has been challenging due to
9 the nature of short term rentals and the fact that, under state law and the City ordinances,
10 short term rental properties are subject to different requirements based on their location
11 and their grandfathered status, or they may be prohibited;
12

13 WHEREAS, during the November 28, 2023, City Council workshop, City staff gave
14 a public presentation that addressed, among other things, short term rental properties
15 that are not compliant with City Code requirements or that are only partially compliant
16 with those requirements;
17

18 WHEREAS, the City Council would benefit from having a task force review the
19 challenges to regulatory enforcement and recommend to the City Council steps that the
20 City could take to improve compliance, as well as recommendations for how the City's
21 limited number of enforcement employees could best prioritize their enforcement efforts;
22 and

23 WHEREAS, the task force could also consider City recognition of short term rental
24 owners who comply with all short term rental regulations as a positive reinforcement and
25 as a form of recognition that could incentive potential guests to choose their short term
26 rental;
27

28 NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF
29 VIRGINIA BEACH, VIRGINIA, THAT:
30

- 31 1. The City Council hereby establishes the Short Term Rental Enforcement Task
32 Force.
- 33 2. The task force shall serve in an advisory capacity to the City Council, and the
34 City Council shall appoint its members.
- 35 3. The task force shall consist of eight voting members.
- 36 4. The City Manager shall provide staff support to the task force, including
37 representatives of the Planning Department and an employee of the City Manager's
38
39
40

41 Office with legislative expertise, and one or more members of the City Attorney's Office
42 shall provide legal support. The Commissioner of Revenue is asked to support the task
43 force by having a representative attend task force meetings.
44

45 5. The task force shall study the many aspects of short term rental enforcement
46 and registration, including grandfathered properties, and recommend to the City Council
47 ways in which enforcement and registration could be improved, including prioritization of
48 enforcement efforts and consideration of City recognition of short term rental owners who
49 are fully compliant with all short term rental regulations.
50

51 6. Given the complexity of short term rental enforcement, this resolution does not
52 impose a deadline for the work of the task force, but because the regulation of short term
53 rentals impacts the quality of life for the City's residents, the Council asks that the task
54 force work expeditiously to provide their recommendations to the City Council.
55

56 7. Absent further action by the City Council, the task force will automatically
57 dissolve upon its submittal of its recommendations.

Adopted by the Council of the City of Virginia Beach, Virginia, on the ____ day of
_____, 2023.

APPROVED AS TO LEGAL
SUFFICIENCY:



City Attorney's Office

CA16385
R-5
December 5, 2023



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: Ordinances Authorizing the Dedication of Utility Easements on City-owned properties to Dominion Energy Virginia:

1. 9,708 Sq. Ft. (0.223 Acres) at 2283, 2285 and 2287 Landstown Road;
2. 323 Sq. Ft. (0.007 Acres) at 4200 N. Witchduck Road;
3. 1,253 Sq. Ft. (0.0288 Acres) at 2401 Plantation Drive; and
4. 213 Sq. Ft. (0.005 Acres) at 3030 Bray Road

PUBLIC HEARING DATE: December 5, 2023
MEETING DATE: December 12, 2023

- **Background:** The City of Virginia Beach (the "City") owns parcels of land identified by Dominion Energy Virginia ("Dominion") as necessary for utility easements as follows:

1. 2283, 2285, and 2287 Landstown Road (GPINs: 1484-94-8243, 1484-84-1996, and 1484-74-8490) acquired in 2015 and 2016 as a part of the Oceana and Interfacility Traffic Area Acquisition Program and currently leased to Land of Promise Farms Partnership for farming;
2. 4200 N. Witchduck Road (GPIN: 1478-96-2404) acquired as a pump station site in 1995 from Witchduck Farms;
3. 2401 Plantation Drive also known as Wolfsnare Park (GPIN: 1498-80-7874) acquired in 1986 from Wolfsnare Community and Civic League, Inc. for use as a public park;
4. 3030 Bray Road (GPIN: 1497-29-9966) was acquired from Grant A. Begley, Jr. and Peggy E. Begley in 1988 by condemnation for a pump station as a part of the Lynnhaven Acres Sewer Project.

(collectively, the "Properties").

Dominion has requested that the City dedicate the following utility easements for a total of 11,497 sq. ft. (0.264 acres) (collectively, the "Easements") across the Properties to install and maintain underground electric facilities that will service the adjacent properties:

1. 9,708 Sq. Ft. (0.223 Acres) at 2283, 2285 and 2287 Landstown Road;
2. 323 Sq. Ft. (0.007 Acres) at 4200 N. Witchduck Road;
3. 1,253 Sq. Ft. (0.0288 Acres) at 2401 Plantation Drive; and
4. 213 Sq. Ft. (0.005 Acres) at 3030 Bray Road

- **Considerations:** Dominion is requesting the Easements as part of its undergrounding program to reduce power outages. City staff has reviewed the Easements and has no objections.
 - **Public Information:** A public hearing will be held on December 5, 2023, and public notice of the hearing will be advertised in The Virginian-Pilot and provided via the normal City Council agenda process.
 - **Alternatives:** Deny the request, or add conditions as desired by Council.
 - **Recommendations:** Approval.
 - **Attachments:** Ordinances, Exhibit A, Location Maps, and Disclosure Statement
-

Recommended Action: Approval

Submitting Department/Agency: Public Works/Real Estate

City Manager: PMS



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 Virginia Electric and Power Company dba Dominion Energy - Virginia

Does the applicant have a representative? Yes No

- If yes, list the name of the representative.

Christina Schneider Dominion Designer

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)

See attached

- If yes, list the businesses that have a parent-sub subsidiary¹ or affiliated business entity² relationship with the applicant. (Attach a list if necessary)

NA

¹ "Parent-sub 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-sub 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.

Disclosure Statement



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?
-

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.
-

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.
-

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

Christina Schneider

Print Name and Title

Christina Schneider Customer Projects Designer

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	

Continue to Next Page for Owner Disclosure

Disclosure Statement



Owner Disclosure

Owner Name City of Virginia Beach

Applicant Name Virginia Electric and Power Company dba Dominion Energy - Virginia

Is the Owner 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-sub subsidiary³ or affiliated business entity⁴ relationship with the Owner. (Attach a list if necessary)

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?

³ "Parent-sub 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.

⁴ "Affiliated business entity relationship" means "a relationship, other than parent-sub 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.

Disclosure Statement



Owner Services Disclosure

1. Does the Owner 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.
-

2. Does the Owner 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 Owner 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.
-

4. Does the Owner 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.
-

6. Does the Owner 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 Owner 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.
-

Disclosure Statement



8. Is the Owner 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 legal the service.

Owner 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.**

Owner Signature

Print Name and Title

Date

Virginia Electric and Power Company

Directors Officers

Name	Title
Baine, Edward H.	Director
Blue, Robert M.	Director
Leopold, Diane	Director
Blue, Robert M.	Chief Executive Officer
Baine, Edward H.	President
Chapman, James R.	Executive Vice President, Chief Financial Officer and Treasurer
Reid, Carter M.	Executive Vice President, Chief of Staff and Corporate Secretary
Arnett, Corynne S.	Senior Vice President - Regulatory Affairs and Customer Experience
Bischof, Gerald T.	Senior Vice President - Nuclear Operations & Fleet Performance
Brown, Carlos M.	Senior Vice President, General Counsel and Chief Compliance Officer
Cardiff, Michele L.	Senior Vice President, Controller and Chief Accounting Officer
Curtis, Katheryn B.	Senior Vice President - Generation
Frederick, Michael D.	Senior Vice President - Administrative Services
Mitchell, Mark D.	Senior Vice President - Project Construction
Murray, William L.	Senior Vice President - Corporate Affairs & Communications
Stoddard, Daniel G.	Senior Vice President and Chief Nuclear Officer
Whitfield, Charlene J.	Senior Vice President - Power Delivery
Avram, Emil G.	Vice President - Business Development
Bassey, Utibe O.	Vice President - Customer Experience
Bennett, Joshua J.	Vice President - Offshore Wind

Name	Title
Curtis, J. Kevin	Vice President - Transmission
Duman, L. Wayne	Vice President - Financial Planning & Analysis
Green, Cedric F.	Vice President - Technical Services
Lee, Adam S.	Vice President and Chief Security Officer
Locke, Robert H.	Vice President - Distribution Operations
Purohit, Prabir	Vice President - Finance
Sartain, Mark D.	Vice President - Nuclear Engineering & Fleet Support
Sauer, Robert W.	Vice President - System Operations
Showalter, Alma W.	Vice President - Tax
Stites, Brandon	Vice President - Project Construction
Tomabene, Amanda B.	Vice President and Chief Environmental Officer
Wellener, Wendy T.	Vice President - Shared Services
Windle, Keith	Vice President - Financial Management
Woomer, Joseph A.	Vice President - Grid & Technical Solutions
Wooten, Steve C.	Vice President and Chief Information Officer
Lawrence, Douglas C.	Site Vice President - Surry Power Station
Mladen, Fred	Site Vice President - North Anna Power Station
Conway, Kelly K.	Controller
Doggett, Karen W.	Assistant Corporate Secretary
Evans, Jonathan T.	Assistant Treasurer
Kurz, William J.	Assistant Controller
Nawrocki, Alison M.	Assistant Controller
Phibbs, Michael Brandon	Assistant Treasurer
Scott, Kathryn "Liza" J.	Assistant Treasurer
Singer, Russell J.	Assistant Corporate Secretary

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

AN ORDINANCE AUTHORIZING THE DEDICATION
OF 9,708 SQ. FT. (0.223 ACRES) OF UTILITY
EASEMENTS ON CITY-OWNED PROPERTIES
LOCATED AT 2283, 2285 AND 2287 LANDSTOWN
ROAD TO DOMINION ENERGY VIRGINIA

WHEREAS, the City of Virginia Beach (the "City") owns parcels of land located at 2283, 2285 and 2287 Landstown Road (GPINs: 1484-94-8243, 1484-84-1996, and 1484-74-8490) (collectively, the "Property");

WHEREAS, Dominion Energy Virginia ("Dominion") has requested that the City dedicate 9,708 +/- sq. ft. of utility easements over portions of the Property, as shown on the plats attached hereto as Exhibit A (collectively, the "Easements"); and

WHEREAS, the Easements would allow Dominion to install and maintain underground cable, which would provide electrical service to adjacent properties and reduce the likelihood of outages in storm events.

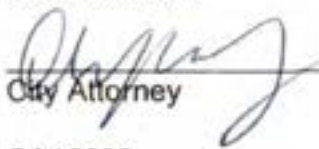
NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VIRGINIA BEACH, VIRGINIA:

That the City Manager, or his designee, is hereby authorized to execute any documents necessary to dedicate the Easements to Dominion, subject to such terms, conditions and modifications as may be acceptable to the City Manager and in a form deemed satisfactory by the City Attorney.


Adopted by the Council of the City of Virginia Beach, Virginia on the _____ day of _____, 2023.

APPROVED AS TO LEGAL SUFFICIENCY

APPROVED AS TO CONTENT



City Attorney



Public Works, Real Estate

CA16239

R-1

November 20, 2023



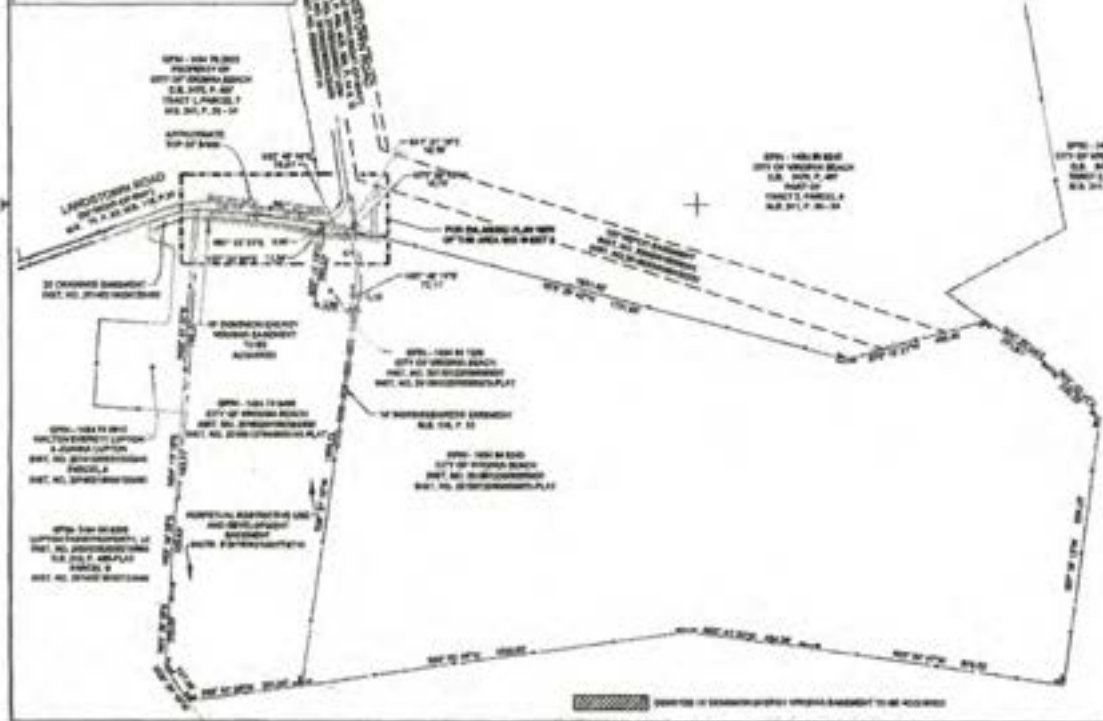
- NOTES**
1. THE INFORMATION SHOWN FOR THIS PLAN IS BASED ON VIRGINIA STATE PLANS CONFORMING WITH THE SURVEYING ACTS OF 1954 AND 1962, AND THE CITY OF VIRGINIA BEACH SURVEYING ACTS OF 1964 AND 1965.
 2. THIS PLAN IS FOR INFORMATION PURPOSES ONLY AND DOES NOT CONSTITUTE A BOUNDARY SURVEY.
 3. THE PROPERTY LINES AND CORNER MARKS ON THIS PLAN ARE BASED UPON AN ACTUAL FIELD SURVEY BY THE ENGINEER, AND THE PLAN IS NOT TO BE USED FOR ANY OTHER PURPOSES.
 4. THIS PLAN WAS PREPARED WITHOUT THE BENEFIT OF A TITLE SURVEY.
 5. EASEMENTS TO BE ACCQUIRED BY DEED.
 6. BY APPROVAL, THE UNDERSIGNED HEREBY CERTIFY AS TO THE CORRECTNESS OF THE INFORMATION SHOWN ON OTHER LATER EASEMENTS ON THIS PLAN.

CURVE TABLE						
STATION	ARC	BEARING	DELTA	TANGENT	CHORD	CHORD BEARING
10	1.00	45.00	90.00	1.00	0.00	90.00
11	1.00	45.00	90.00	0.00	1.00	90.00

LINE TABLE		
LINE	BEARING	DISTANCE
1-2	S 45° 00' 00" W	1.00
2-3	S 45° 00' 00" W	1.00

EXHIBIT A

COMMON ENERGY VIRGINIA EASEMENT RIGHTS OF WAY DATA	
FILE NO.	11-0000
DATE	11/11/2011
PROJECT	COMMON ENERGY VIRGINIA EASEMENT RIGHTS OF WAY DATA
DATE	11/11/2011
PROJECT	COMMON ENERGY VIRGINIA EASEMENT RIGHTS OF WAY DATA



PLAT RECORDING IF EASEMENT TO BE ACQUIRED FOR COMMON ENERGY VIRGINIA FROM THE CITY OF VIRGINIA BEACH

COMMON ENERGY VIRGINIA EASEMENT RIGHTS OF WAY DATA

DATE: 11/11/2011

PROJECT: COMMON ENERGY VIRGINIA EASEMENT RIGHTS OF WAY DATA

THE FISHB COMPANY

2000 BURNING TREE PARK

10000 EIGHTH STREET, CHARLOTTE, NORTH CAROLINA 28203

DATE: 11/11/2011

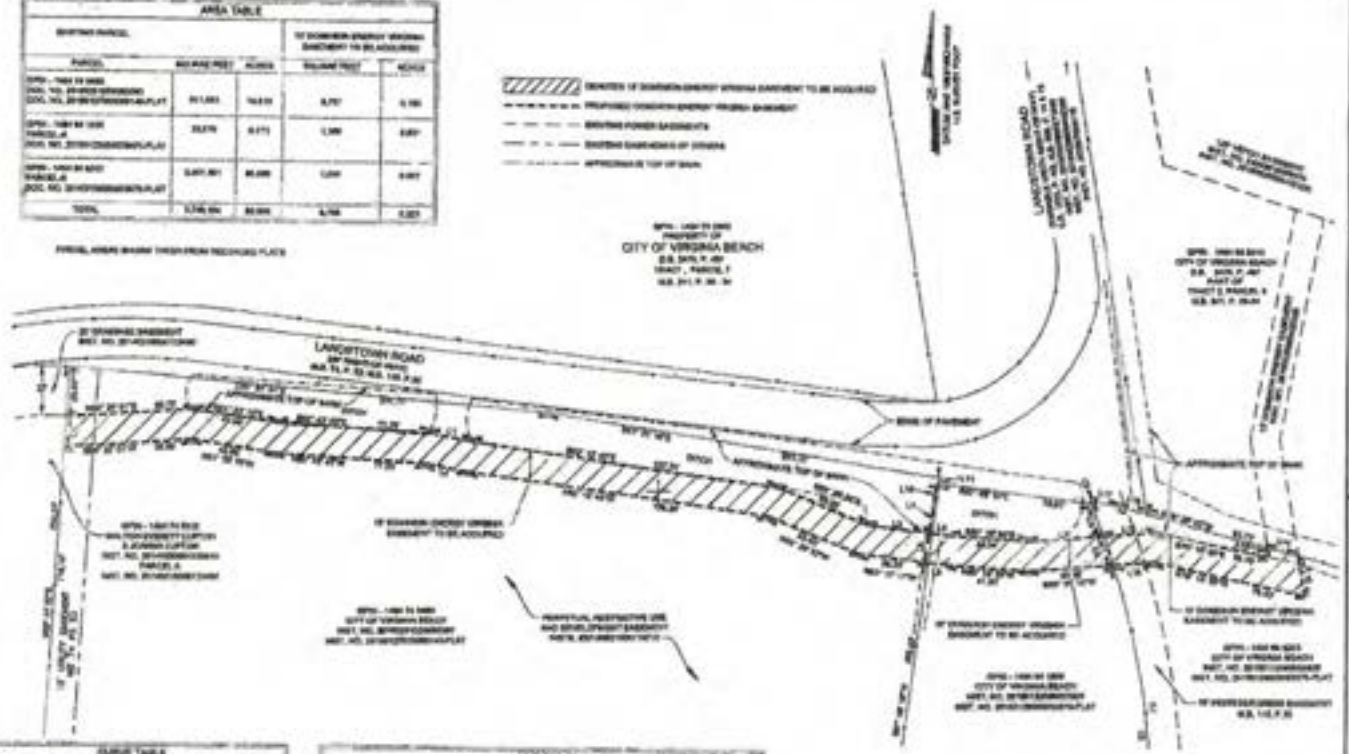
EASEMENTS TO BE ACQUIRED BY DEED

AREA TABLE					
EXISTING PARCEL			IF EXISTING ENERGY UTILITY EASEMENT IS TO BE ACQUIRED		
PARCEL	ACREAGE	AREA	ACREAGE	AREA	AREA
SPCL. 1481 TO 1485 ZON. NO. 2010-000000000-001-01-01 ZON. NO. 2010-000000000-01-01-01	61.023	14,133	6.771	6.771	6.771
SPCL. 1481 TO 1485 TRACT 14 ZON. NO. 2010-000000000-01-01-01	33.779	6,171	1.000	6.871	6.871
SPCL. 1481 TO 1485 TRACT 15 ZON. NO. 2010-000000000-01-01-01	3,497.801	66,008	1.000	6.871	6.871
TOTAL	3,592.603	86,312	8.771	20,073	20,073

FIGURES WERE OBTAINED FROM RECORDING PLATS

-  DENOTES IF EXISTING ENERGY UTILITY EASEMENT IS TO BE ACQUIRED
-  PROPOSED EXISTING ENERGY UTILITY EASEMENT
-  EXISTING POWER LINES/UTILITY
-  EXISTING EASEMENTS OF OTHERS
-  APPROXIMATE TOP OF BANK

SPCL. 1481 TO 1485
PROPERTY OF
CITY OF VIRGINIA BEACH
S.S. 241.14 40'
S. 241.14 40'
S. 241.14 40'



CURVE TABLE						
CURVE	ARC	BEARING	DELTA	TANGENT	CHORD	CHORD BEARING
01	241.14	40.00	89.1707	114.17	233.86	89.1707 40.00
02	1.00	40.00	89.1707	0.84	1.39	89.1707 40.00
03	13.87	40.00	89.1707	6.87	10.77	89.1707 40.00
04	33.78	40.00	89.1707	17.37	26.64	89.1707 40.00
05	3,497.80	40.00	89.1707	51.17	76.28	89.1707 40.00

LINE TABLE						
LINE	BEARING	LENGTH	LINE BEARING	CHORD	ARC BEARING	CHORD BEARING
01	89.17 40.00	34.88	L 7	89.17 40.00	34.87	L 7 89.17 40.00
02	89.17 40.00	23.88	L 8	89.17 40.00	23.87	L 8 89.17 40.00
03	89.17 40.00	16.88	L 9	89.17 40.00	16.87	L 9 89.17 40.00
04	89.17 40.00	11.88	L 10	89.17 40.00	11.87	L 10 89.17 40.00
05	89.17 40.00	6.88	L 11	89.17 40.00	6.87	L 11 89.17 40.00
06	89.17 40.00	1.88	L 12	89.17 40.00	1.87	L 12 89.17 40.00

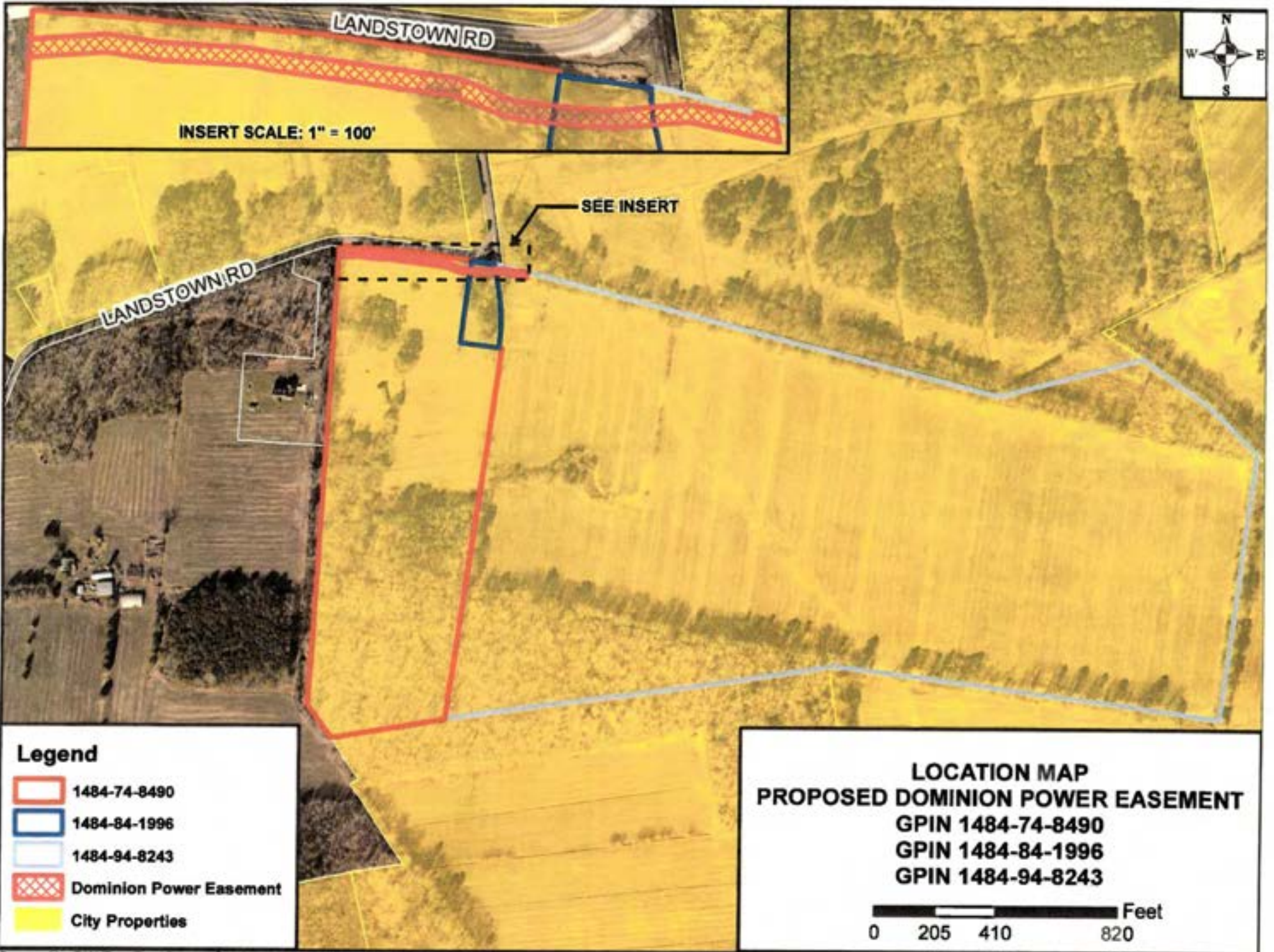


PLAT SHOWING
IF EASEMENT TO BE ACQUIRED
FOR
DOWNER ENERGY UTILITY
TRUCK
THE CITY OF VIRGINIA BEACH
VIRGINIA BEACH, VIRGINIA
MADE THIS 15th DAY OF SEPTEMBER, 2005

THE FIDEL COMPANY
CORPORATED IN VIRGINIA
SOLUTIONS GROUP, ENGINEERING, SURVEY GROUP
SUITE 200
1100 N. 1st St.
Virginia Beach, Virginia 23462
www.fidelcorp.com

BY APPROVAL, THE UNDERSIGNED DOES NOT GUARANTEE AS TO THE CORRECTNESS OF THE RECORDING
INSTRUMENT OR OTHER INSTRUMENTS REFERENCED THEREIN.

APPROVED: _____ DATE: _____
DIRECTOR OF PUBLIC WORKS



INSERT SCALE: 1" = 100'

SEE INSERT

Legend

- 1484-74-8490
- 1484-84-1996
- 1484-94-8243
- Dominion Power Easement
- City Properties

LOCATION MAP
PROPOSED DOMINION POWER EASEMENT
GPIN 1484-74-8490
GPIN 1484-84-1996
GPIN 1484-94-8243

0 205 410 820 Feet

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

AN ORDINANCE AUTHORIZING THE DEDICATION
OF A 323 SQ. FT. (0.007 ACRES) UTILITY
EASEMENT ON CITY-OWNED PROPERTY
LOCATED AT 4200 N. WITCHDUCK ROAD TO
DOMINION ENERGY VIRGINIA

WHEREAS, the City of Virginia Beach (the "City") owns a parcel of land located at 4200 N. Witchduck Road (GPIN: 1478-96-2404) (the "Property"), which is improved with a City-owned pump station (the "Pump Station");

WHEREAS, Dominion Energy Virginia ("Dominion") has requested that the City dedicate a 323 +/- sq. ft. easement over a portion of the Property as shown on the plat attached hereto as Exhibit A (the "Easement"); and

WHEREAS, the Easement would allow Dominion to underground and maintain facilities that provide electric service to the Pump Station and adjacent properties, thereby reducing the likelihood of outages in storm events.

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

That the City Manager, or his designee, is hereby authorized to execute any documents necessary to dedicate the Easement to Dominion, and subject to such terms, conditions and modifications as may be acceptable to the City Manager and in a form deemed satisfactory by the City Attorney.

Adopted by the Council of the City of Virginia Beach, Virginia on the _____ day of _____, 2023.

APPROVED AS TO LEGAL SUFFICIENCY

APPROVED AS TO CONTENT



City Attorney

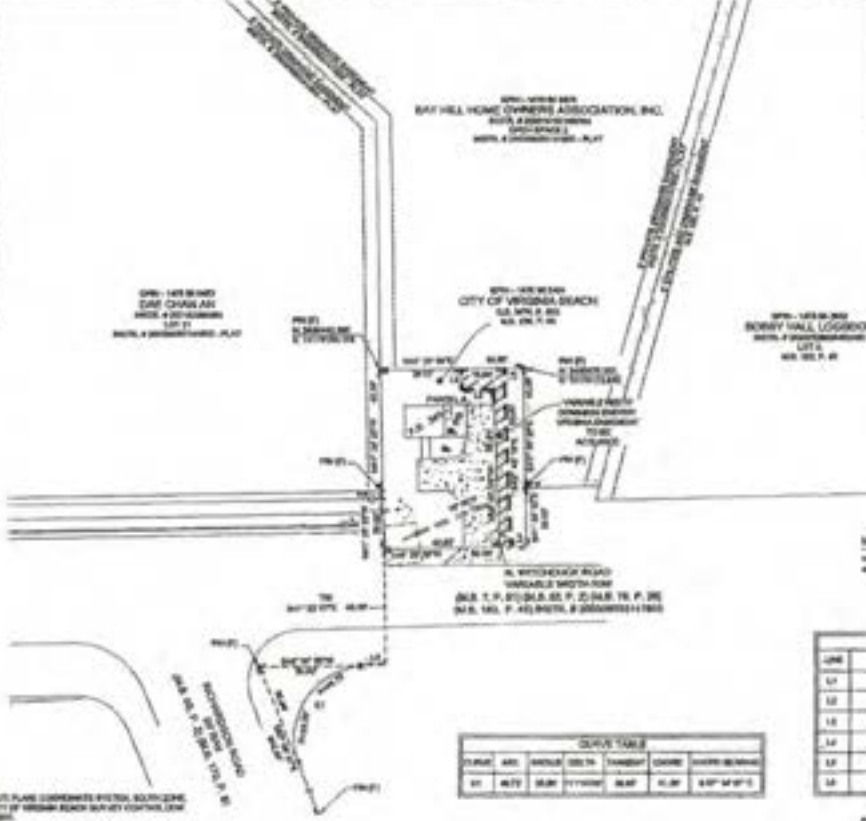


Public Works - Real Estate

CA16260
<https://vbgov.com/dfs1/applications/citylaw/cycom32/wpdocs/d013/p048/00925963.docx>
R-1
November 20, 2023

**THIS ORDINANCE REQUIRES AN AFFIRMATIVE VOTE
OF THREE-FOURTHS OF ALL COUNCIL MEMBERS**

EXHIBIT A



- NOTES:
1. THE DIMENSIONAL DATA FOR THIS PLAN IS BASED ON VIRGINIA STATE PLANS COMPRISED OF THE SOUTH COAST NORTH-AND-OVER SECTORS (SECTION 100, 101, 102, 103, 104) OF VIRGINIA BEACH SURVEY CONTROL, L.S. 403-100-000-100 TO 100-100-000-100 FOR THIS AREA.
 2. THIS PLAN IS FOR INFORMATION PURPOSES ONLY AND DOES NOT CONSTITUTE A LEGISLATIVE INSTRUMENT.
 3. THE PROPERTY LINES AND AREA SET FORTH ON THIS PLAN ARE BASED UPON AN ACTUAL FIELD SURVEY BY TERRY HENNE AND TERRY J. AUST AND OTHERS AS NOTED.
 4. THIS PLAN WAS PREPARED IN PART BY THE SURVEY OF A PROFESSIONAL SURVEYOR.
 5. EXEMPT TO BE REVIEWED BY ZONING.

BY APPROVAL, THE UNDERSIGNED UNDERTAKES TO BE RESPONSIBLE FOR THE CORRECTNESS OF THE DIMENSIONS, SPACING OR OTHER DATA ON THIS PLAN, EXCEPT FOR SUCH PARTS AS ARE OTHERWISE SPECIFICALLY NOTED BY THE SURVEYOR. THE SURVEYOR'S LIABILITY FOR THIS PLAN IS LIMITED TO THE DIMENSIONS, SPACING OR OTHER DATA ON THIS PLAN.

APPROVED: _____ DATE: _____

SURVEYOR OF PUBLIC WORKS

PRICE	SQUARE FEET	ACRES
MINIMUM RESIDENTIAL	500	0.12
VARIABLE WIDTH	50	0.001
MINIMUM RESIDENTIAL	50	0.001

CURVE	ARC	ANGLE	DELTA	TANGENT	CHORD	CHORD BEARING
1	40.72	90.00	17.1749	6.67	6.67	S 87° 00' 00" W

LINE	BEARING	LENGTH
L1	S 87° 00' 00" W	4.37
L2	S 87° 00' 00" W	11.50
L3	S 87° 00' 00" W	5.50
L4	S 87° 00' 00" W	8.17
L5	S 87° 00' 00" W	5.50

R/W PLAT	174-180
MAP NUMBER	174-180
DATE	NOV 1970
ADDITIONAL NUMBER	

PLAT DRAWING EXEMPT TO BE APPROVED FOR DOMINION ENERGY VIRGINIA FROM THE CITY OF VIRGINIA BEACH. VIRGINIA BEACH, VIRGINIA. ROAD 7'-0" MONUMENT 1,200'

THE FISHER COMPANY
 6000 BURNING TREE DRIVE
 10000 WEST GARDENWAY, FALLS CHURCH, VA 22031
 (703) 441-1000
 www.fishervirginia.com

SHADING INDICATES VARIABLE WIDTH EASEMENT EXEMPT FROM ZONING



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

AN ORDINANCE AUTHORIZING THE DEDICATION OF A 1,253 SQ. FT. (0.0288 ACRES) UTILITY EASEMENT ON CITY-OWNED PROPERTY LOCATED AT 2401 PLANTATION DRIVE TO DOMINION ENERGY VIRGINIA

WHEREAS, the City of Virginia Beach (the "City") owns a parcel of land located at 2401 Plantation Drive (GPIN: 1498-80-7874) (the "Property");

WHEREAS, the Property is adjacent to another City-owned parcel of land located at 2387 S. Wolfsnare Drive (GPIN: 1498-80-8870) that is improved with a City-owned pump station (the "Pump Station");

WHEREAS, Dominion Energy Virginia ("Dominion") has requested that the City dedicate a 1,253 +/- sq. ft. utility easement over a portion of the Property that is adjacent to the Pump Station, as shown on the plat attached hereto as Exhibit A (the "Easement"); and

WHEREAS, the Easement would allow Dominion to underground and maintain facilities that provide electric service to the Pump Station and adjacent properties, thereby reducing the likelihood of outages in storm events.


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

That the City Manager, or his designee, is hereby authorized to execute any documents necessary to dedicate the Easement to Dominion, subject to such terms, conditions and modifications as may be acceptable to the City Manager and in a form deemed satisfactory by the City Attorney.

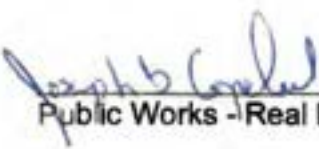
Adopted by the Council of the City of Virginia Beach, Virginia on the _____ day of _____, 2023.

APPROVED AS TO LEGAL SUFFICIENCY

APPROVED AS TO CONTENT



City Attorney



Public Works - Real Estate

CA16261
ivb.gov.com/dfs1/applications/citylaw/cycom32/wpdocs/ld013/p048/0025962.docx

R-1
November 20, 2023

THIS ORDINANCE REQUIRES AN AFFIRMATIVE VOTE OF THREE-FOURTHS OF ALL COUNCIL MEMBERS

EXHIBIT A



LINE TABLE

LINE	BEARING	DISTANCE
L1	S 84° 32' 30" W	20.00'
L2	S 67° 52' 30" E	3.00'
L3	S 12° 30' 00" W	66.00'
L4	S 77° 22' 30" W	6.00'

07/14/2018 10:00 AM
ALDO SARDOTT AND NAO SARDOTT
100 P. 211
AVENUE A
S.E. 11.7. 20

CURVE TABLE

CURVE	ARC	ANGLE	DELTA	TANGENT	CHORD	CHORD BEARING
01	12.71	12.87	207° 07'	12.00	14.14	S 20° 29' 47" E
02	19.27	21.26	272° 56'	18.28	17.12	S 52° 39' 49" E
03	36.00	21.87	171° 14'	33.07	36.28	S 52° 39' 49" E
04	41.00	20.00	179° 59'	39.00	39.00	S 11° 02' 57" E
05	52.00	21.00	207° 07'	4.00	52.00	S 12° 12' 17" E
06	58.00	20.00	179° 59'	4.00	58.00	S 12° 12' 17" E
07	64.00	22.00	174° 12'	11.00	64.00	S 67° 48' 12" E

- NOTES:**
1. THE INFORMATION SHOWN ON THIS PLAN IS BASED ON COMMON STATE PLUMBING CODES AND THE SOUTH FLORIDA DEPARTMENT OF WATER MANAGEMENT (SFWMD) SURVEY POINTS. CITY OF VIRGINIA BEACH PLUMBING CODES MAY BE APPLIED TO THIS PLAN AS LONG AS THEY DO NOT CONTRADICT THE SFWMD SURVEY POINTS.
 2. THIS PLAN IS FOR INFORMATION PURPOSES ONLY AND DOES NOT CONSTITUTE A GUARANTEED SURVEY.
 3. THE PROPERTY LINES AND AREAS SHOWN ON THIS PLAN ARE BASED UPON AN ACTUAL FIELD SURVEY BY THE ENGINEER AND FROM PLATS AND RECORDS OF RECORDS.
 4. THIS PLAN HAS BEEN PREPARED WITH THE BEST OF MY SKILL AND KNOWLEDGE.
 5. EASEMENTS TO BE ACQUIRED BY OTHERS.

AREA TABLE

PARCEL	SQUARE FEET	ACRES	REMARKS	SQUARE FEET	ACRES
WOLFENBARE DRIVE	2000	0.046	AREA IS WITHIN COMMON ENERGY EASEMENT TO BE ACQUIRED	100	0.0023

AREA WITHIN COMMON ENERGY EASEMENT TO BE ACQUIRED

BY APPROVING, THE ENGINEER DOES NOT GUARANTEE AS TO THE CORRECTNESS OF THE BOUNDARY, CORNER, OR OTHER DATA ON THIS PLAN. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY EASEMENTS OR OTHER RIGHTS NECESSARY TO FULLY IMPLEMENT THE PLAN. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY EASEMENTS OR OTHER RIGHTS NECESSARY TO FULLY IMPLEMENT THE PLAN.

APPROVED: _____ DATE: _____
SCALE: 1" = 40' PUBLIC RECORDS



COMMON ENERGY VIRGINIA EASEMENT FRONT-OF-YARD AREA

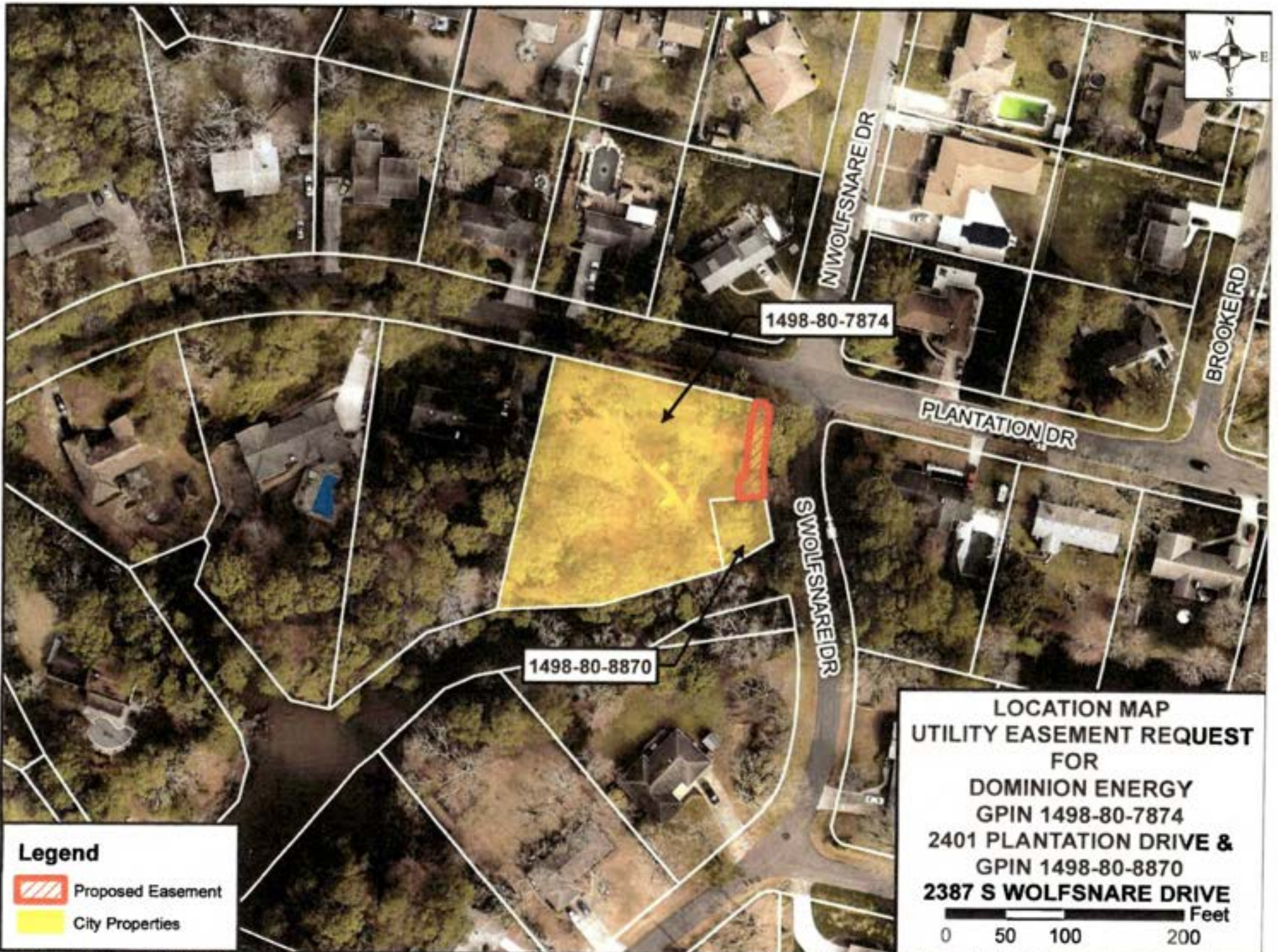
8 1/4" PLAT: 11-24-08
FROM ACQUISITION: 11-24-08
AND: 11-24-08
UNDERGROUND EASEMENT

MONUMENT LEGEND



- 1 1/4" PLAT - 11-24-08
- 1 1/4" PLAT - 11-24-08

PLAT SHOWING EASEMENT TO BE ACQUIRED FOR COMMON ENERGY VIRGINIA FROM THE CITY OF VIRGINIA BEACH, VIRGINIA BEACH, VIRGINIA. SCALE: 1" = 40' NOVEMBER 1, 2018

THE FIDELITY COMPANY
1000 BROADWAY, SUITE 1000
NEW YORK, NY 10004
212.455.1000
www.fidelity.com



Legend

-  Proposed Easement
-  City Properties

LOCATION MAP
UTILITY EASEMENT REQUEST
FOR
DOMINION ENERGY
GPIN 1498-80-7874
2401 PLANTATION DRIVE &
GPIN 1498-80-8870
2387 S WOLFSPNARE DRIVE

Feet
 0 50 100 200

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

AN ORDINANCE AUTHORIZING THE DEDICATION OF A 213 SQ. FT. (0.005 ACRES) UTILITY EASEMENT ON CITY-OWNED PROPERTY LOCATED AT 3030 BRAY ROAD TO DOMINION ENERGY VIRGINIA

WHEREAS, the City of Virginia Beach (the "City") owns a parcel of land located at 3030 Bray Road (GPIN: 1497-29-9966) (the "Property"), that is improved with a City-owned pump station (the "Pump Station");

WHEREAS, Dominion Energy Virginia ("Dominion") has requested that the City dedicate a 213 +/- sq. ft. utility easement over a portion of the Property that is adjacent to the Pump Station, as shown on the plat attached hereto as Exhibit A (the "Easement"); and

WHEREAS, the Easement would allow Dominion to underground and maintain facilities that provide electric service to the Pump Station and adjacent properties, thereby reducing the likelihood of outages in storm events.

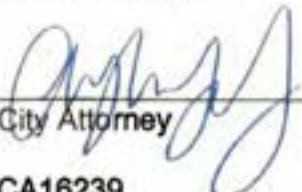
NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VIRGINIA BEACH, VIRGINIA:

That the City Manager, or his designee, is hereby authorized to execute any documents necessary to dedicate the Easement to Dominion, subject to such terms, conditions and modifications as may be acceptable to the City Manager and in a form deemed satisfactory by the City Attorney.

Adopted by the Council of the City of Virginia Beach, Virginia on the _____ day of _____, 2023.

APPROVED AS TO LEGAL SUFFICIENCY

APPROVED AS TO CONTENT



City Attorney



Public Works - Real Estate

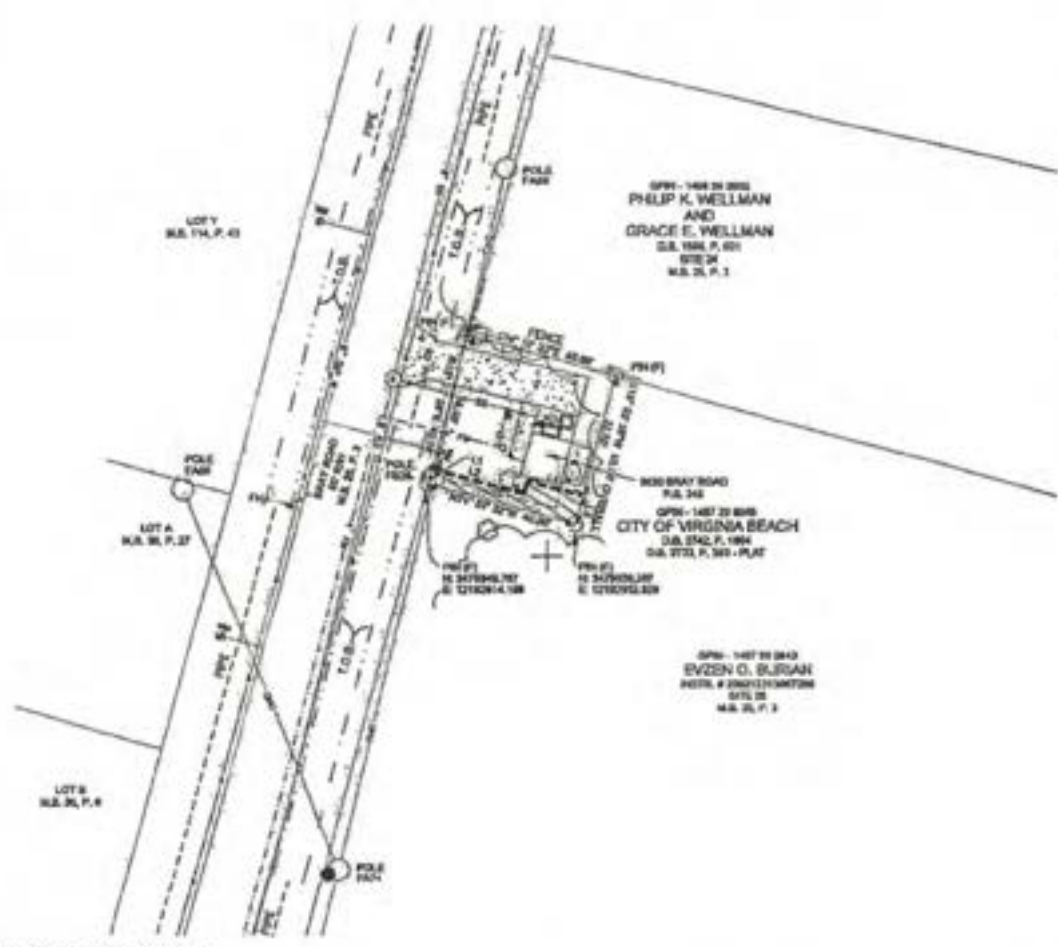
CA16239
\\vbgov.com\dfs1\applications\citylaw\citycom32\wpdocs\d013\p048\00925919.docx
R-1
November 20, 2023

THIS ORDINANCE REQUIRES AN AFFIRMATIVE VOTE OF THREE-FOURTHS OF ALL COUNCIL MEMBERS

EXHIBIT A



LINE	BORINGS	DISTANCE
L1	N 10° 02' 30" E	4.00'
L2	S 74° 37' 52" E	25.00'
L3	N 10° 02' 30" E	3.00'
L4	S 74° 07' 52" E	13.00'
L5	S 10° 02' 30" W	5.00'



DATE AND TIME OF SURVEY
U.S. SURVEY FOOT

NOTES

1. THE HORIZONTAL DATUM FOR THIS PLAT IS BASED ON VIRGINIA STATE PLUMB COORDINATE SYSTEM, SOUTH ZONE, NORTH AMERICAN DATUM 1983/NA83 (NAD 83, U.S. SURVEY FOOT). CITY OF VIRGINIA BEACH SURVEY CONTROL, DWS 1467-4 AND PS 201, PS 202, PS 203 WERE USED TO ESTABLISH COORDINATES FOR THIS PROJECT.
2. THIS PLAT IS FOR ACQUISITION PURPOSES ONLY AND DOES NOT CONSTITUTE A BOUNDARY SURVEY.
3. THE PROPERTY LINES AND AREAS SHOWN ON THIS PLAT ARE BASED UPON AN ACTUAL FIELD SURVEY BY TEAM
4. FISHIL AND FROM PLATS AND DEEDS OF RECORD.
5. THIS PLAT WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT.
6. EASEMENT TO BE ACQUIRED BY DEED.
7. UNDERGROUND UTILITIES SHOWN HEREON TAKEN FROM CITY RECORDS, ABOVE GROUND FEATURES AND LOCATIONS MARKED BY CHAINS.

BY APPROVAL, THE UNDERSIGNED DOES NOT CERTIFY AS TO THE CORRECTNESS OF THE BOUNDARY, STREETS OR OTHER LINES SHOWN ON THIS PLAT.

APPROVED: _____ DATE: _____
DIRECTOR OF PUBLIC WORKS

AREA TABLE		
PARCEL	SQUARE FEET	ACRES
PUMP STATION 240	1990	0.045
VARIABLE WIDTH DOMINION ENERGY EASEMENT TO BE ACQUIRED	215	0.005

VARIABLE WIDTH DOMINION ENERGY EASEMENT TO BE ACQUIRED

DOMINION ENERGY VIRGINIA EASEMENT RIGHTS-OF-WAY DATA	
R/W PLAT:	14-03-001
WORK REQUEST:	#1941591
DATE:	8/18/17
UNDERGROUND EASEMENT	



PLAT SHOWING EASEMENT TO BE ACQUIRED FOR DOMINION ENERGY VIRGINIA FROM THE CITY OF VIRGINIA BEACH VIRGINIA BEACH, VIRGINIA SCALE 1" = 20' OCTOBER 24, 2017



THE FISHIL COMPANY
DOUG BARRON AS TEAM LEADER
633 BYRON STREET, CHESAPEAKE, VIRGINIA 23040
SCALE C
JTD/SAT - 1961
www.fishil.com



Legend

-  City Property
-  Dominion Energy Easement

**LOCATION MAP
FOR
PROPOSED DOMINION ENERGY
POWER EASEMENT
OWNER: CITY OF VIRINIA BEACH
GPIN: 1497-29-9966**





CITY OF VIRGINIA BEACH AGENDA ITEM

ITEMS: Ordinances to Designate Commonwealth Catholic Charities, Virginia Beach Recovery Club, Inc., Hospice House of Hampton Roads, Only His Grace, Inc., Skilled Foundations and Speak Up for a Change as Being Exempt from Local Property Taxation

PUBLIC HEARING: December 5, 2023

MEETING DATE: December 12, 2023

■ **Background:** Article X, Section 6 (a)(6) of the Virginia Constitution provides that property used by its owner for religious, charitable, patriotic, historical, benevolent, cultural, or public park and playground purposes may be exempted from taxation by classification or designation by an ordinance adopted by the local governing body.

Section 58.1-3651 of the Virginia Code sets forth the process for designating specific organizations as being exempt from local taxation and a list of factors for the local governing body to consider is set forth. They are:

1. Whether the organization is exempt from taxation pursuant to § 501 (c) of the Internal Revenue Code of 1954;
2. Whether a current annual alcoholic beverage license for serving alcoholic beverages has been issued by the Virginia Alcoholic Beverage Control Board to such organization, for use on such property;
3. Whether any director, officer, or employee of the organization is paid compensation in excess of a reasonable allowance for salaries or other compensation for personal services which such director, officer, or employee actually renders;
4. Whether any part of the net earnings of such organization inures to the benefit of any individual, and whether any significant portion of the service provided by such organization is generated by funds received from donations, contributions, or local, state or federal grants;
5. Whether the organization provides services for the common good of the public;
6. Whether a substantial part of the activities of the organization involves carrying on propaganda, or otherwise attempting to influence legislation and whether the organization participates in, or intervenes in, any political campaign on behalf of any candidate for public office;
7. The revenue impact to the locality and its taxpayers of exempting the property; and
8. Any other criteria, facts and circumstances that the governing body deems pertinent to the adoption of such ordinance.

The City Council adopted a revised policy regarding applications for Tax Exemption by Designation on May 6, 2008 (attached).

■ **Considerations:** The Commissioner of the Revenue has received six applications for tax exemption by designation, which are presented for the City Council's action. The Commissioner has reviewed the applications presented for formal action and finds each meets the City Council policy for Tax Exemption by Designation. One application (Hospice House of Hampton Roads) requests exemption from real property taxes. The rest of the applications only seeks exemption from personal property taxes.

■ **Alternative:** City Council is not required to approve exemption requests.

■ **Public Information:** A public hearing for these items is scheduled for December 5, 2025, during the Council Formal Session. An advertisement for the public hearing appeared in the *Beacon* more than seven days prior to that hearing as required by statute. Also, this item will be advertised in the normal Council Agenda Process.

■ **Attachments:** Ordinances (6); Commissioner of Revenue Summary of the Applications (6); Disclosure Forms (6); Council Policy

Submitted pursuant to City Council Policy adopted May 6, 2008.



City Council Policy

Title: City Council Policy Regarding Applications for Tax Exemption by Designation		
Date of Adoption: February 3, 2004	Dates of Revisions: May 6, 2008	Page 1 of 4

1.0 Purpose and Need

Purpose: To establish criteria for approval of resolutions by City Council to exempt, by designation, local nonprofit organizations from real and personal property taxes.

Need: City Council has requested guidance as to criteria for considering exemptions as well as a procedure for reviewing requests for exemption from local property taxes. The Commissioner of the Revenue has offered revisions to Council's policy adopted on February 2, 2004 in an effort to streamline the exemption review process for local nonprofit organizations and provide necessary analysis and oversight of the application process.

Legislative Background: The Virginia Constitution provides that, after January 1, 2003, local governments may, by designation, exempt the real and personal property of nonprofit organizations from local property taxes if used exclusively for religious, charitable, patriotic, historical, benevolent, cultural, or public park and playground purposes. However, as provided in Virginia Code § 58.1-3651, the local governing body must adopt an ordinance to exempt the property.

2.0 Policy

The City Council is not required to designate any organization properly applying for exemption from taxation, and every designation of an organization is conditioned upon compliance with the terms of this policy and any ordinance granting the exemption. If an organization does not comply with these requirements, the City Council may revoke the tax exemption after providing notice and a hearing to the organization. Any revocation of an exemption shall be effective at the beginning of the tax year during which the revocation occurs.

The applicant or a representative of the applicant shall provide the Commissioner of the Revenue detailed information necessary to determine the benefits to the public that will result from granting tax exemption. In considering applications, the Commissioner of the Revenue shall employ the following guidelines:

Title: City Council Policy Regarding Applications for Tax Exemption by Designation		
Date of Adoption: February 3, 2004	Dates of Revisions: May 6, 2008	Page 2 of 4

1. The organization must be exempt from federal income tax pursuant to Internal Revenue Code § 501(c).
2. Personal or real property for which an exemption is sought cannot be used by any member of the organization or other persons except for non-profit purposes benefiting the non-profit organization applying for exemption.
3. The organization must be in compliance with all City ordinances and regulations (including but not limited to building, property maintenance, and zoning codes) and all applicable tax obligations.
4. The organization must provide a service to the residents of the City that results in a benefit to the public (tangible or intangible).

The following requirements apply to each entity exempted from local property taxes by the City Council:

1. Upon obtaining exemption, the organization must annually submit (by July 1 of each year) its Internal Revenue Service Form 990 or 990 EZ to the Commissioner of the Revenue. If not required to file Form 990 or 990 EZ, then the organization must annually certify on form(s) prescribed by the Commissioner of the Revenue its continuing tax exempt status. Loss of 501(c) status must immediately be reported to the Commissioner of the Revenue and City Attorney, and is grounds for revocation of tax exempt status.
2. Pursuant to Virginia Code § 58.1-3605, each entity exempted from local property taxes shall, every three years, file an exemption application with the Commissioner of the Revenue as a requirement for retention of the exempt status of the property. The application form shall be approved as to form by the City Attorney.
3. Each entity exempted from local property taxes must cooperate fully with the Commissioner of the Revenue with respect to audit of its financial records, compliance with the terms of this policy, and compliance with any ordinance granting tax exemption.

3.0 Procedure to Accomplish Policy

1. Organizations applying for exemption must request a determination from the Commissioner of the Revenue as to whether the organization is or may be tax-exempt by classification, pursuant to Article 2 (§58.1-3606 et seq.) or Article 3 (§58.1-3609 et seq.) of Title 58.1 of the Virginia Code. If the organization is not exempt, but meets the criteria of organizations that can be exempted by designation (see Virginia Code §58.1-3651), the organization will receive

Title: City Council Policy Regarding Applications for Tax Exemption by Designation		
Date of Adoption: February 3, 2004	Dates of Revisions: May 6, 2008	Page 3 of 4

an application from the Commissioner of the Revenue. The application form shall request all information required by Virginia Code §58.1-3651 and be approved as to form by the City Attorney.

2. Applications for exemption shall be considered quarterly. Applications for exemption must be submitted to the Commissioner of the Revenue. Applications shall be submitted no later than October 1 of the year preceding the effective date of the exemption. Based on the criteria set forth in section 2.0 of this policy, the Commissioner of the Revenue will review each application and make a report to City Council regarding whether an organization qualifies for exemption under law and City policy. The Commissioner of the Revenue will not submit applications he deems incomplete to City Council for a determination.
3. The Commissioner of the Revenue shall forward copies of the applications along with his written findings to the City Attorney. The City Attorney shall prepare the necessary ordinances for City Council and coordinate with the City Clerk to ensure that the applications are properly advertised and placed on the City Council's agenda for a public hearing and formal consideration.
4. The City Council will conduct a public hearing and consider the criteria set forth in Virginia Code §58.1-3651, section 2.0 of this policy, and the findings of the Commissioner of the Revenue.
5. Any exemptions granted shall be effective as of the next January 1.
6. Exemptions, as well as any departure from these guidelines, shall require approval by three-fourths (3/4) of the members of City Council.

4.0 Responsibility and Authority

Responsibility for initiating application for exemption and timely providing any information or application required by the Commissioner of the Revenue shall rest with the organization seeking exemption. Responsibility for making available information, application for exemption, verifying submitted tax information and reporting on the initial and continuing status of the taxpayer shall rest with the Commissioner of the Revenue.

Responsibility for preparing required ordinances, arranging for the advertising of public hearings, and placing items on the City Council's agenda for a vote on proposed exemptions shall rest with the City Attorney. Responsibility for the final determination of the public benefits resulting from tax exemption shall rest exclusively with the City Council.

Title: City Council Policy Regarding Applications for Tax Exemption by Designation		
Date of Adoption: February 3, 2004	Dates of Revisions: May 6, 2008	Page 4 of 4

5.0 Definitions

PUBLIC BENEFIT- Any benefit or advantage expected to be realized by the public, whether tangible or intangible, which may accompany the tax exemption.

LOCAL PROPERTY TAXES- Ad valorem taxes levied by the City of Virginia Beach on real estate or tangible personal property.

6.0 Specific Requirements

In addition to the procedures and responsibilities set forth in paragraphs 3.0 and 4.0, respectively, documentation forwarded to the City Council shall include submission of an application form in form and substance substantially as presented in the attached Exhibit A, as well as any additional information that the applicant wishes to present to the City Council.

1 AN ORDINANCE TO DESIGNATE COMMONWEALTH
2 CATHOLIC CHARITIES AS BEING EXEMPT FROM LOCAL
3 PROPERTY TAXATION
4

5 WHEREAS, in accordance with § 58.1-3651 of the Code of Virginia, the City Council has
6 advertised and conducted a public hearing on the issue of granting an exemption from local
7 personal property taxes to Commonwealth Catholic Charities;
8

9 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
10 VIRGINIA BEACH, VIRGINIA:
11

12 1. That the Council of the City of Virginia Beach, Virginia, hereby designates
13 Commonwealth Catholic Charities a charitable organization within the context of § 6(a)(6) of
14 Article X of the Constitution of Virginia and §58.1-3651 of the Code of Virginia.
15

16 2. That personal property owned by Commonwealth Catholic Charities located within
17 the City of Virginia Beach that is used exclusively for charitable purposes on a nonprofit basis is
18 hereby exempt from local property taxation.
19

20 3. This exemption is contingent on the following:
21

22 (a) continued use of the property by Commonwealth Catholic Charities for
23 exclusively charitable purposes;
24

25 (b) that each July 1, Commonwealth Catholic Charities shall file with the
26 Commissioner of the Revenue a copy of its most recent federal income tax
27 return, or if no such return is required, it shall certify its continuing tax exempt
28 status to the Commissioner of the Revenue;
29

30 (c) that every three years, beginning on January 1, 2026, Commonwealth Catholic
31 Charities shall file an exemption application with the Commissioner of the
32 Revenue as a requirement for retention of the exempt status of the property; and
33

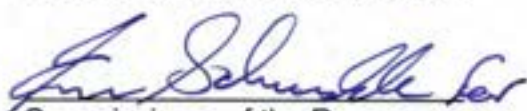
34 (d) that Commonwealth Catholic Charities cooperate fully with the Commissioner of
35 the Revenue with respect to audit of its financial records and compliance with
36 the terms of this ordinance.
37

38 4. That the effective date of this exemption shall be January 1, 2024.

Adopted by the Council of the City of Virginia Beach, Virginia, on the _____ day
of _____, 2023.

Requires an affirmative vote of three-fourths of the members of the City Council.

APPROVED AS TO CONTENT:



Commissioner of the Revenue
CA16371/R-1/November 15, 2023

APPROVED AS TO LEGAL
SUFFICIENCY:


City Attorney's Office

OVERVIEW OF NONPROFIT APPLICATION FOR EXEMPTION

ENTITY NAME: Commonwealth Catholic Charities

Website: cccofva.org

SUMMARY OF NONPROFIT BUSINESS ACTIVITY

To provide temporary and safe housing to unaccompanied children ages 5-17 who are arriving in the United States from the US border. The youth are supervised 24/7 by agency staff, attend school, eat meals and sleep at the facility. Staff work to identify family members or other viable sponsors in the US who can care for the youth. Each youth typically remains in the shelter for 60 days. This organization was new to Virginia Beach 5/1/2023.

TAX IMPACT

Real Property Parcel	Assessment:	None
	Tax:	None

Personal Property	Assessed Value: \$18,078.64
	Tax: \$ 723.15
	Vehicle:

RELEVANT INFORMATION

IRS Granted 501 (c) 3 status – March 1946

DISCLOSURE STATEMENT FORM

The completion and submission of this form is required for all applications wherein such applicant may utilize certain service providers or financial institutions, and the City seeks to know of the existence of such relationships in advance of any vote upon such application.

SECTION 1 / APPLICANT DISCLOSURE

Organization name: Commonwealth Catholic Charities

SECTION 2. SERVICES DISCLOSURE

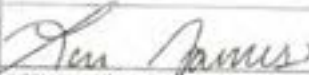
Are any of the following services being provided in connection with the applicant? If the answer to any item is YES, please identify the firm or individual providing the service:

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	Fortis
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Financial Services (include lending/banking institutions and current mortgage holders as applicable)	Truist Wells Fargo VNB
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Legal Services	Harman, Clayton, Corrigan & Wellman, P.C.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Broker/Contractor/Engineer/Other Service Providers	See attached list.

CERTIFICATION:

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

I understand I am responsible for updating the information provided herein if it changes prior to the Council action upon this Application.

 APPLICANT'S SIGNATURE	Lori James PRINT NAME	11/7/23 DATE
--	--------------------------	-----------------

Disclosure Statement Form

Broker/Contractor/Engineer/Other Service Provider

American Red Cross
Baker Roofer Company LLC
CP Technology Group LLC
CT Taylors Home Improvements LLC
Chesbay Landscaping
Cobb Technologies
Cox Communications - Hampton Roads
Dominion Energy Virginia
Fire Defense of Virginia LLC
First Advantage LNS Screening Solutions Inc.
Golden Touch Cleaning Services
Granite Telecommunications
HRSD
Health Training at its Best LLC
Honda Financial Services
Indeed, Inc.
InReach Solutions LLC
Mid Atlantic Fire Protection, Inc.
Mike Zacharias Corporation
Patient First Occupational Health
Quality Contracting, Inc.
Robert G Dashiell Jr. PE Inc.
Security Technology Group Inc.
Shred-it USA
Trident National Corp
TriSource, LLC
Tristate Apartment Furnishers, LLC
VA Dept of Social Services
Virginia Natural Gas
Wade Brothers Painting Co.
Zoom Video Communications Inc.

1 AN ORDINANCE TO DESIGNATE VIRGINIA BEACH
2 RECOVERY CLUB, INC. AS BEING EXEMPT FROM
3 LOCAL PROPERTY TAXATION
4

5 WHEREAS, in accordance with § 58.1-3651 of the Code of Virginia, the City Council has
6 advertised and conducted a public hearing on the issue of granting an exemption from local
7 personal property taxes to Virginia Beach Recovery Club, Inc.;

8
9 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
10 VIRGINIA BEACH, VIRGINIA:

11
12 1. That the Council of the City of Virginia Beach, Virginia, hereby designates Virginia
13 Beach Recovery Club, Inc. a charitable organization within the context of § 6(a)(6) of Article X
14 of the Constitution of Virginia and §58.1-3651 of the Code of Virginia.

15
16 2. That personal property owned by Virginia Beach Recovery Club, Inc. located within
17 the City of Virginia Beach that is used exclusively for charitable purposes on a nonprofit basis is
18 hereby exempt from local property taxation.

19
20 3. This exemption is contingent on the following:

21
22 (a) continued use of the property by Virginia Beach Recovery Club, Inc. for
23 exclusively charitable purposes;

24
25 (b) that each July 1, Virginia Beach Recovery Club, Inc. shall file with the
26 Commissioner of the Revenue a copy of its most recent federal income tax
27 return, or if no such return is required, it shall certify its continuing tax exempt
28 status to the Commissioner of the Revenue;

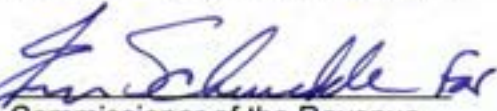
29
30 (c) that every three years, beginning on January 1, 2026, Virginia Beach Recovery
31 Club, Inc. shall file an exemption application with the Commissioner of the
32 Revenue as a requirement for retention of the exempt status of the property; and

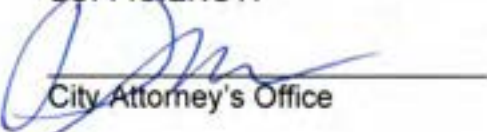
33
34 (d) that Virginia Beach Recovery Club, Inc. cooperate fully with the Commissioner of
35 the Revenue with respect to audit of its financial records and compliance with
36 the terms of this ordinance.

37
38 4. That the effective date of this exemption shall be January 1, 2024.

Adopted by the Council of the City of Virginia Beach, Virginia, on the _____ day
of _____, 2023.

Requires an affirmative vote of three-fourths of the members of the City Council.

APPROVED AS TO CONTENT:

Commissioner of the Revenue
CA16372/R-1/November 15, 2023

APPROVED AS TO LEGAL
SUFFICIENCY:

City Attorney's Office

OVERVIEW OF NONPROFIT APPLICATION FOR EXEMPTION

ENTITY NAME: Virginia Beach Recovery Club Inc.

Website: N/A

SUMMARY OF NONPROFIT BUSINESS ACTIVITY

The club is a meeting house for members and guests of the 12 Steps Recovery programs of Alcoholics Anonymous and Narcotics Anonymous. The Club's primary activity is to hold meetings and activities to help the members and guests stay clean and sober and support personal and spiritual growth. There is no financial requirement to attend any of the meetings or activities. VBRC is the only recovery club in the city of Virginia Beach.

TAX IMPACT

Real Property Parcel	Assessment:	None
	Tax:	None

Personal Property	Assessed Value: \$2,499.20
	Tax: \$ 99.97
	Vehicle:

RELEVANT INFORMATION

IRS Granted 501 (c) 3 status – October 09, 2023

DISCLOSURE STATEMENT FORM

The completion and submission of this form is required for all applications wherein such applicant may utilize certain service providers or financial institutions, and the City seeks to know of the existence of such relationships in advance of any vote upon such application.

SECTION 1 / APPLICANT DISCLOSURE

Organization name: _ VIRGNIA BEACH RECOVERY CLUB, INC

SECTION 2. SERVICES DISCLOSURE


Are any of the following services being provided in connection with the applicant? If the answer to any item is YES, please identify the firm or individual providing the service:

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"/>	Financial Services (include lending/banking institutions and current mortgage holders as applicable)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Legal Services	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Broker/Contractor/Engineer/Other Service Providers	

CERTIFICATION:

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

I understand I am responsible for updating the information provided herein if it changes prior to the Council action upon this Application.

	Marty Hierholzer, Director	10/27/23
APPLICANT'S SIGNATURE	PRINT NAME	DATE

1 AN ORDINANCE TO DESIGNATE HOSPICE HOUSE OF
2 HAMPTON ROADS AS BEING EXEMPT FROM LOCAL
3 PROPERTY TAXATION
4

5 WHEREAS, in accordance with § 58.1-3651 of the Code of Virginia, the City Council has
6 advertised and conducted a public hearing on the issue of granting an exemption from local
7 real and personal property taxes to Hospice House of Hampton Roads;
8

9 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
10 VIRGINIA BEACH, VIRGINIA:
11

12 1. That the Council of the City of Virginia Beach, Virginia, hereby designates Hospice
13 House of Hampton Roads a charitable organization within the context of § 6(a)(6) of Article X of
14 the Constitution of Virginia and §58.1-3651 of the Code of Virginia.
15

16 2. That real and personal property owned by Hospice House of Hampton Roads
17 located within the City of Virginia Beach that is used exclusively for charitable purposes on a
18 nonprofit basis is hereby exempt from local property taxation.
19

20 3. This exemption is contingent on the following:
21

22 (a) continued use of the property by Hospice House of Hampton Roads for
23 exclusively charitable purposes;
24

25 (b) that each July 1, Hospice House of Hampton Roads shall file with the
26 Commissioner of the Revenue a copy of its most recent federal income tax
27 return, or if no such return is required, it shall certify its continuing tax exempt
28 status to the Commissioner of the Revenue;
29

30 (c) that every three years, beginning on January 1, 2026, Hospice House of
31 Hampton Roads shall file an exemption application with the Commissioner of the
32 Revenue as a requirement for retention of the exempt status of the property; and
33

34 (d) that Hospice House of Hampton Roads cooperate fully with the Commissioner of
35 the Revenue with respect to audit of its financial records and compliance with
36 the terms of this ordinance.
37

38 4. That the effective date of this exemption shall be January 1, 2024.

Adopted by the Council of the City of Virginia Beach, Virginia, on the _____ day
of _____, 2023.

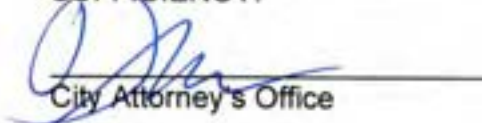
Requires an affirmative vote of three-fourths of the members of the City Council.

APPROVED AS TO CONTENT:



Commissioner of the Revenue
CA16373/R-1/November 15, 2023

APPROVED AS TO LEGAL
SUFFICIENCY:


City Attorney's Office

OVERVIEW OF NONPROFIT APPLICATION FOR EXEMPTION

ENTITY NAME: Hospice House of Hampton Roads

Website: www.hospicehousehr.org

SUMMARY OF NONPROFIT BUSINESS ACTIVITY

A licensed hospice care facility under construction, opening in the Spring of 2024. HHHR will provide 24/7 hospice care by professional medical staff with specialized training in end-of-life care. This care facility will be available to all adult residents of Hampton Roads regardless of their ability to pay.

TAX IMPACT

Real Property Parcel	Assessment:	\$2,188,500.00
	Tax:	\$21,666.16

Personal Property	Assessed Value:	\$200,000.00
	Tax:	\$8,000.00
	Vehicle:	

RELEVANT INFORMATION

IRS Granted 501 (c) 3 status – March 17, 2015

DISCLOSURE STATEMENT FORM

The completion and submission of this form is required for all applications wherein such applicant may utilize certain service providers or financial institutions, and the City seeks to know of the existence of such relationships in advance of any vote upon such application.

SECTION 1 / APPLICANT DISCLOSURE

Organization name: Hospice House of Hampton Roads

SECTION 2. SERVICES DISCLOSURE

Are any of the following services being provided in connection with the applicant? If the answer to any item is YES, please identify the firm or individual providing the service:

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	Accounting: Westminster-Canterbury on Chesapeake Bay Tax Preparer: Barnes, Brock, Cornwell & Painter
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Financial Services (include lending/banking institutions and current mortgage holders as applicable)	Loan: Southern Bank Banking: TowneBank Investments: Wilbanks, Smith & Thomas
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Legal Services	Hugh Patterson, Stephen Brewer, Willcox & Savage, PC
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Broker/Contractor/Engineer/Other Service Providers	Architect: Cox Kiewer & Company, PC Contractor: Whiting-Turner Construction Company Environmental Testing: MSA Fundraising Consultant: The Curtis Group

1 AN ORDINANCE TO DESIGNATE ONLY HIS GRACE, INC.
2 AS BEING EXEMPT FROM LOCAL PROPERTY TAXATION
3

4 WHEREAS, in accordance with § 58.1-3651 of the Code of Virginia, the City Council has
5 advertised and conducted a public hearing on the issue of granting an exemption from local
6 personal property taxes to Only His Grace, Inc.;

7
8 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
9 VIRGINIA BEACH, VIRGINIA:

10
11 1. That the Council of the City of Virginia Beach, Virginia, hereby designates Only His
12 Grace, Inc. a charitable organization within the context of § 6(a)(6) of Article X of the
13 Constitution of Virginia and §58.1-3651 of the Code of Virginia.

14
15 2. That personal property owned by Only His Grace, Inc. located within the City of
16 Virginia Beach that is used exclusively for charitable purposes on a nonprofit basis is hereby
17 exempt from local property taxation.

18
19 3. This exemption is contingent on the following:

20
21 (a) continued use of the property by Only His Grace, Inc. for exclusively charitable
22 purposes;

23
24 (b) that each July 1, Only His Grace, Inc. shall file with the Commissioner of the
25 Revenue a copy of its most recent federal income tax return, or if no such return
26 is required, it shall certify its continuing tax exempt status to the Commissioner
27 of the Revenue;

28
29 (c) that every three years, beginning on January 1, 2026, Only His Grace, Inc. shall
30 file an exemption application with the Commissioner of the Revenue as a
31 requirement for retention of the exempt status of the property; and

32
33 (d) that Only His Grace, Inc. cooperate fully with the Commissioner of the Revenue
34 with respect to audit of its financial records and compliance with the terms of this
35 ordinance.

36
37 4. That the effective date of this exemption shall be January 1, 2024.


Adopted by the Council of the City of Virginia Beach, Virginia, on the _____ day
of _____, 2023.

Requires an affirmative vote of three-fourths of the members of the City Council.

APPROVED AS TO CONTENT:


Commissioner of the Revenue
CA16374/R-1/November 15, 2023

APPROVED AS TO LEGAL
SUFFICIENCY:


City Attorney's Office

OVERVIEW OF NONPROFIT APPLICATION FOR EXEMPTION

ENTITY NAME: Only His Grace Inc.

Website: www.onlyhisgraceinc.com

SUMMARY OF NONPROFIT BUSINESS ACTIVITY

Only His Grace Inc. provides bags of hygienic essentials, food, clothing and other essentials for the homeless and low-income families. They also give out gift cards, so they can purchase the items themselves. They want to empower real, and holistic change. Their goal is to encourage and uplift each individual with encouragement to hold their heads high.

TAX IMPACT

Real Property Parcel	Assessment:	None
	Tax:	None

Personal Property	Assessed Value: \$ 421.88
	Tax: \$ 16.88
	Vehicle:

RELEVANT INFORMATION

IRS Granted 501 (c) 3 status – February 17, 2021

DISCLOSURE STATEMENT FORM

The completion and submission of this form is required for all applications wherein such applicant may utilize certain service providers or financial institutions, and the City seeks to know of the existence of such relationships in advance of any vote upon such application.


SECTION 1 / APPLICANT DISCLOSURE

Organization name: Only His Grace, Inc

SECTION 2. SERVICES DISCLOSURE

Are any of the following services being provided in connection with the applicant? If the answer to any item is YES, please identify the firm or individual providing the service:

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	ATAX
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Financial Services (include lending/banking institutions and current mortgage holders as applicable)	PNC Bank
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Legal Services	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Broker/Contractor/Engineer/Other Service Providers	

CERTIFICATION:		
I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.		
I understand I am responsible for updating the information provided herein if it changes prior to the Council action upon this Application.		
 <small>APPLICANT'S SIGNATURE</small>	TARA B HARRIS <small>PRINT NAME</small>	1-25-23 <small>DATE</small>

1 AN ORDINANCE TO DESIGNATE SKILLED
2 FOUNDATIONS AS BEING EXEMPT FROM LOCAL
3 PROPERTY TAXATION
4

5 WHEREAS, in accordance with § 58.1-3651 of the Code of Virginia, the City Council has
6 advertised and conducted a public hearing on the issue of granting an exemption from local
7 personal property taxes to Skilled Foundations;
8

9 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
10 VIRGINIA BEACH, VIRGINIA:
11

12 1. That the Council of the City of Virginia Beach, Virginia, hereby designates Skilled
13 Foundations a charitable organization within the context of § 6(a)(6) of Article X of the
14 Constitution of Virginia and §58.1-3651 of the Code of Virginia.
15

16 2. That personal property owned by Skilled Foundations located within the City of
17 Virginia Beach that is used exclusively for charitable purposes on a nonprofit basis is hereby
18 exempt from local property taxation.
19

20 3. This exemption is contingent on the following:
21

22 (a) continued use of the property by Skilled Foundations for exclusively charitable
23 purposes;
24

25 (b) that each July 1, Skilled Foundations shall file with the Commissioner of the
26 Revenue a copy of its most recent federal income tax return, or if no such return
27 is required, it shall certify its continuing tax exempt status to the Commissioner
28 of the Revenue;
29

30 (c) that every three years, beginning on January 1, 2026, Skilled Foundations shall
31 file an exemption application with the Commissioner of the Revenue as a
32 requirement for retention of the exempt status of the property; and
33

34 (d) that Skilled Foundations cooperate fully with the Commissioner of the Revenue
35 with respect to audit of its financial records and compliance with the terms of this
36 ordinance.
37

38 4. That the effective date of this exemption shall be January 1, 2024.

Adopted by the Council of the City of Virginia Beach, Virginia, on the _____ day
of _____, 2023.

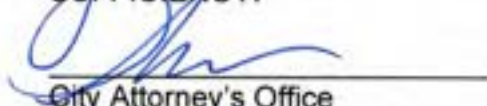
Requires an affirmative vote of three-fourths of the members of the City Council.

APPROVED AS TO CONTENT:



Commissioner of the Revenue
CA16375/R-1/November 15, 2023

APPROVED AS TO LEGAL
SUFFICIENCY:



City Attorney's Office

OVERVIEW OF NONPROFIT APPLICATION FOR EXEMPTION

ENTITY NAME: Skilled Foundations

Website: www.skilled-foundations.square.site

SUMMARY OF NONPROFIT BUSINESS ACTIVITY

Free hands on training for youth in the community to promote understanding and interest in skilled trades. Providing instruction on using various hand tools such as sockets, ratchets, pliers, cutters, screw drivers etc. They do work shops to build bird houses and other projects to introduce different tools.

TAX IMPACT

Real Property Parcel	Assessment:	None
	Tax:	None

Personal Property	Assessed Value:	\$568.00
	Tax:	\$22.72
	Vehicle:	

RELEVANT INFORMATION

IRS Granted 501 (c) 3 status – May 26, 2022

DISCLOSURE STATEMENT FORM

The completion and submission of this form is required for all applications wherein such applicant may utilize certain service providers or financial institutions, and the City seeks to know of the existence of such relationships in advance of any vote upon such application.

SECTION 1 / APPLICANT DISCLOSURE

Organization name: Skilled Foundations

SECTION 2. SERVICES DISCLOSURE

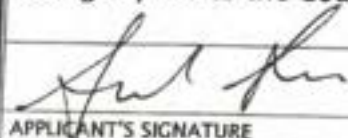
Are any of the following services being provided in connection with the applicant? If the answer to any item is YES, please identify the firm or individual providing the service:

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"/>	Financial Services (include lending/banking institutions and current mortgage holders as applicable)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Legal Services	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Broker/Contractor/Engineer/Other Service Providers	

CERTIFICATION:

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

I understand I am responsible for updating the information provided herein if it changes prior to the Council action upon this Application.



APPLICANT'S SIGNATURE

Samantha Sarke

PRINT NAME

2/16/23

DATE

1 AN ORDINANCE TO DESIGNATE SPEAK UP FOR A
2 CHANGE AS BEING EXEMPT FROM LOCAL PROPERTY
3 TAXATION
4

5 WHEREAS, in accordance with § 58.1-3651 of the Code of Virginia, the City Council has
6 advertised and conducted a public hearing on the issue of granting an exemption from local
7 personal property taxes to Speak Up for a Change;
8

9 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
10 VIRGINIA BEACH, VIRGINIA:
11

12 1. That the Council of the City of Virginia Beach, Virginia, hereby designates Speak Up
13 for a Change a charitable organization within the context of § 6(a)(6) of Article X of the
14 Constitution of Virginia and §58.1-3651 of the Code of Virginia.
15

16 2. That personal property owned by Speak Up for a Change located within the City of
17 Virginia Beach that is used exclusively for charitable purposes on a nonprofit basis is hereby
18 exempt from local property taxation.
19

20 3. This exemption is contingent on the following:
21

22 (a) continued use of the property by Speak Up for a Change for exclusively
23 charitable purposes;
24

25 (b) that each July 1, Speak Up for a Change shall file with the Commissioner of the
26 Revenue a copy of its most recent federal income tax return, or if no such return
27 is required, it shall certify its continuing tax exempt status to the Commissioner
28 of the Revenue;
29

30 (c) that every three years, beginning on January 1, 2026, Speak Up for a Change
31 shall file an exemption application with the Commissioner of the Revenue as a
32 requirement for retention of the exempt status of the property; and
33

34 (d) that Speak Up for a Change cooperate fully with the Commissioner of the
35 Revenue with respect to audit of its financial records and compliance with the
36 terms of this ordinance.
37

38 4. That the effective date of this exemption shall be January 1, 2024.

Adopted by the Council of the City of Virginia Beach, Virginia, on the _____ day
of _____, 2023.

Requires an affirmative vote of three-fourths of the members of the City Council.

APPROVED AS TO CONTENT:



Commissioner of the Revenue
CA16376/R-1/November 15, 2023

APPROVED AS TO LEGAL
SUFFICIENCY:



City Attorney's Office

OVERVIEW OF NONPROFIT APPLICATION FOR EXEMPTION

ENTITY NAME: Speak Up For A Change

Website: www.speakeupforachange.org

SUMMARY OF NONPROFIT BUSINESS ACTIVITY

Speak Up For A Change is committed to empowering women and communities and to be an advocate for those in need, provide education to underprivileged children and work towards an inclusive world where no one is left behind. They provide support to women facing domestic abuse situations by collaborating with local support groups and shelters. They also run regular feeding programs to ensure that homeless individuals receive nutritious meals.

TAX IMPACT

Real Property Parcel	Assessment:	None
	Tax:	None

Personal Property	Assessed Value:	\$2,160.00
	Tax:	\$86.40
	Vehicle:	

RELEVANT INFORMATION

IRS Granted 501 (c) 3 status – April 18, 2018

DISCLOSURE STATEMENT FORM

The completion and submission of this form is required for all applications wherein such applicant may utilize certain service providers or financial institutions, and the City seeks to know of the existence of such relationships in advance of any vote upon such application.

SECTION 1 / APPLICANT DISCLOSURE

Organization name: Speak Up For A Change

SECTION 2. SERVICES DISCLOSURE


Are any of the following services being provided in connection with the applicant? If the answer to any item is YES, please identify the firm or individual providing the service:

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	<u>Jean Laban</u>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Financial Services (include lending/banking institutions and current mortgage holders as applicable)	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Legal Services	<u>Jean Laban</u>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Broker/Contractor/Engineer/Other Service Providers	

CERTIFICATION:

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

I understand I am responsible for updating the information provided herein if it changes prior to the Council action upon this Application.

 APPLICANT'S SIGNATURE	<u>ADZOWIANIS ABENKA</u> PRINT NAME	<u>11/13/23</u> DATE
--	--	-------------------------



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance Authorizing 1) the Acquisition of an Agricultural Land Preservation Easement from Muddy Creek Farms, LLC (143.38+/- Acres), 2) the Issuance by the City of its Contract Obligations in the Maximum Principal Amount of \$2,025,959, and 3) Transfer of Funds to Purchase U.S. Treasury STRIPS

PUBLIC HEARING DATE: December 5, 2023

MEETING DATE: December 12, 2023

■ **Background:** In May 1995, the Agricultural Lands Preservation Ordinance (the "Ordinance") was adopted by the City Council for the purpose of promoting and encouraging the preservation of farmland in the rural southern portion of the City. Under the Agricultural Reserve Program established by the Ordinance, the City purchases the development rights of eligible parcels of land, leaving the fee simple ownership of the land unchanged. These purchases are embodied by perpetual agricultural land preservation easements pursuant to which only agricultural uses, as defined in the Ordinance, are allowed on the land.

The subject property has been appraised by an independent appraiser retained by the City. The appraiser has determined the fair market value of the property, based upon seven (7) comparable sales. From the fair market value, the value of the development rights has been determined by subtracting \$1,800 per acre, which has previously been established as the farm value (i.e., value of the land restricted to agricultural uses) for land throughout the southern rural area of the City. The resulting amount is the value of the development rights of the property.

All offers by the City to purchase the development rights of property are expressly made contingent upon the absence of any title defects or other conditions which, in the opinion of the City Attorney, may adversely affect the City's interests, and other standard contingencies.

■ **Considerations:** The subject property, which consists of five (5) parcels of land having approximately 143.38 acres outside of marshland and swampland, is owned by Muddy Creek Farms, LLC, a Virginia limited liability company. The parcels are located at 4381 Muddy Creek Road (GPINs: 2410-89-7609, 2410-69-4637, 2411-70-8947, 2411-70-3252 and 2410-79-7280) and are shown on the attached Location Map. Under current development regulations, there is a total development potential of ten (10) single-family dwelling building sites, of which one (1) building site is being reserved for a future development.

The proposed purchase price, as stated in the ordinance, is \$2,025,959. This price is the equivalent of approximately \$14,130.00 per acre.

The terms of the proposed acquisition are that the City would pay only interest for a period of 25 years, with the principal amount being due and payable 25 years from the date of closing. The interest rate to be paid by the City will be the greater of 3.953% per annum or the per annum rate which is equal to the yield on U.S. Treasury STRIPS purchased by the City to fund its principal obligation under the Installment Purchase Agreement, not to exceed 5.953% without the further approval of the City Council.

The City has matching funds available for a portion of this purchase through the Virginia Department of Agriculture and Consumer Services ("VDACS"), pursuant to an agreement between the City and VDACS, authorized by this Council on February 21, 2023 (RES-04201).

The ordinance authorizes the transfer of the amount needed to purchase the U.S. Treasury STRIPS from the Agriculture Reserve Program Special Revenue Fund to the General Debt Fund.

The proposed terms and conditions of the purchase of the development rights pursuant to the Installment Purchase Agreement, including the purchase price and manner of payment, are fair and reasonable and in furtherance of the purposes of the Ordinance.

■ **Public Information:** Notice of Public Hearing has been advertised by publication in a newspaper having general circulation in the City once per week for two successive weeks (November 19, 2023 and November 26, 2023). The Public Hearing will be held on December 5, 2023. Public notice will be provided via the normal City Council agenda process.

■ **Alternatives:** The City Council may decline to purchase the development rights to the property.

■ **Recommendations:** Adoption of the ordinance and acquisition of the development rights, assuming all contingencies are met.

■ **Attachments:** Ordinance
Summary of Terms of Installment Purchase Agreement
Location Map
Disclosure Statement Form

Recommended Action: Adoption

Submitting Department/Agency: Agriculture Department

City Manager: 



1 AN ORDINANCE AUTHORIZING 1) THE ACQUISITION
2 OF AN AGRICULTURAL LAND PRESERVATION
3 EASEMENT FROM MUDDY CREEK FARMS, LLC
4 (143.38+/- ACRES), 2) THE ISSUANCE BY THE CITY OF
5 ITS CONTRACT OBLIGATIONS IN THE MAXIMUM
6 PRINCIPAL AMOUNT OF \$2,025,959, AND 3)
7 TRANSFER OF FUNDS TO PURCHASE U.S.
8 TREASURY STRIPS
9

10 WHEREAS, pursuant to the Agricultural Lands Preservation Ordinance (the
11 "Ordinance"), Appendix J of the Code of the City of Virginia Beach, there has been
12 presented to the City Council a request for approval of an Installment Purchase Agreement
13 (the form and standard provisions of which have been previously approved by the City
14 Council, a summary of terms of which is hereto attached, and a copy of which is on file in
15 the City Attorney's Office) for the acquisition of the Development Rights (as defined in the
16 Installment Purchase Agreement) on certain property located in the City and more fully
17 described in Exhibit B of the Installment Purchase Agreement for a purchase price of
18 \$2,025,959; and
19

20 WHEREAS, the aforesaid Development Rights shall be acquired through the
21 acquisition of a perpetual agricultural land preservation easement, as defined in, and in
22 compliance with, the requirements of the Ordinance; and
23

24 WHEREAS, the City Council has reviewed the proposed terms and conditions of the
25 purchase as evidenced by the Installment Purchase Agreement.
26

27 NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
28 VIRGINIA BEACH, VIRGINIA:
29

30 1. The City Council hereby determines and finds that the proposed terms and
31 conditions of the purchase of the Development Rights pursuant to the Installment Purchase
32 Agreement, including the purchase price and manner of payment, are fair and reasonable
33 and in furtherance of the purposes of the Ordinance, and the City Manager or his designee
34 is hereby authorized to approve, upon or before the execution and delivery of the
35 Installment Purchase Agreement, the rate of interest to accrue on the unpaid principal
36 balance of the purchase price set forth hereinabove as the greater of 3.953% per annum or
37 the per annum rate which is equal to the yield on United States Treasury STRIPS
38 purchased by the City to fund such unpaid principal balance; provided, however, that such
39 rate of interest shall not exceed 5.953% unless the approval of the City Council by
40 resolution duly adopted is first obtained.
41

42 2. The City Council hereby further determines that funding is available for the
43 acquisition of the Development Rights pursuant to the Installment Purchase Agreement on
44 the terms and conditions set forth therein.

45 3. The City Council hereby expressly approves the Installment Purchase
46 Agreement and, subject to the determination of the City Attorney that there are no defects
47 in title to the property or other restrictions or encumbrances thereon which may, in the
48 opinion of the City Attorney, adversely affect the City's interests, authorizes the City
49 Manager or his designee to execute and deliver the Installment Purchase Agreement in
50 substantially the same form and substance as approved hereby with such minor
51 modifications, insertions, completions or omissions which do not materially alter the
52 purchase price or manner of payment, as the City Manager or his designee shall approve.
53 The City Council further directs the City Clerk to affix the seal of the City to, and attest
54 same on, the Installment Purchase Agreement. The City Council expressly authorizes the
55 incurrence of the indebtedness represented by the issuance and delivery of the Installment
56 Purchase Agreement.
57

58 4. The City Council hereby elects to issue the indebtedness under the Charter of
59 the City rather than pursuant to the Public Finance Act of 1991 and hereby constitutes the
60 indebtedness a contractual obligation bearing the full faith and credit of the City.
61

62 5. The City Council hereby authorizes the transfer of \$620,969 from the
63 Agricultural Reserve Program Special Revenue Fund to the General Debt Fund, and the
64 City Manager is empowered to transfer sufficient additional funds or return funds not
65 required from the Agricultural Reserve Program Special Revenue Fund notwithstanding the
66 dollar limits provided by the Annual Appropriation Ordinance, to purchase the United States
67 Treasury STRIPS as described in the Installment Purchase Agreement.
68

69 *Adoption requires an affirmative vote of a majority of all members of the City Council.*
70

71 Adopted by the Council of the City of Virginia Beach, Virginia, on this _____ day of
72 _____, 2023.

APPROVED AS TO CONTENT:



Agriculture Department

APPROVED AS TO CONTENT:



Budget and Management Services

CERTIFIED AS TO AVAILABILITY
OF FUNDS:



Director of Finance

APPROVED AS TO LEGAL SUFFICIENCY:



City Attorney's Office

CA16257

vbgov.com/office/applications/citylaw/cycm32/wpdocs/d008/p053/00625317.doc

R-1

November 20, 2023

AGRICULTURAL RESERVE PROGRAM

INSTALLMENT PURCHASE AGREEMENT NO. 2023-167

SUMMARY OF TERMS

SELLER: Muddy Creek Farms, LLC, a Virginia limited liability company

PROPERTY

LOCATION: 4831 Muddy Creek Road

GPINs: 2410-89-7609, 2410-69-4637, 2411-70-8947, 2411-70-3252 and 2410-79-7280

PURCHASE PRICE: \$2,025,959

EASEMENT AREA: 143.38 acres, more or less

DEVELOPMENT POTENTIAL: 10 single-family building sites (1 reserved by Seller for future development)

DURATION: Perpetual

INTEREST RATE: Equal to yield on U.S. Treasury STRIPS acquired by City to fund purchase price, but not less than 3.953% (actual rate to be determined when STRIPS are purchased prior to execution of Installment Purchase Agreement ("IPA")). Rate may not exceed 5.953% without approval of City Council.

TERMS: Interest only, twice per year for 25 years, with payment of principal due 25 years from IPA date.

RESTRICTIONS ON TRANSFER: IPA ownership may not be transferred (except for Estate Settlement Transfer) for one (1) year following execution and delivery of the IPA.

**Muddy Creek Farms,
LLC**

4381 Muddy Creek Road

GPINs: 2410-89-7609
2410-69-4637
2411-70-8947
2411-70-3252
2410-79-7280

Soils Map

-  Class I
-  Class I Below Floodplain
-  Class II
-  Class III (Class II - FP)
-  Wet Soils
-  Water



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 Muddy Creek Farms, LLC

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)

* (Nelson Scott Morris (co-owner, member, manager) Betsy Newman Morris (co-owner, member))

- If yes, list the businesses that have a parent-subsidary¹ or affiliated business entity² relationship with the applicant. (Attach a list if necessary)

N/A

¹ "Parent-subsidary 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-subsidary 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.

Disclosure Statement



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?
-

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.
-

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.
-

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



City of Virginia Beach
Planning & Community
Development

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.

Nelson Scott Morris *Betsy Newman Morris*
 Applicant Signature
Nelson Scott Morris (co-owner / member / manager) *Betsy Newman Morris (co-owner / member)*
 Print Name and Title
 11-16-23 11-16-23
 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	



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance Authorizing the City Manager to Execute a Lease for Up to 5 Years with The Country Butcher Shop, Inc. for City-Owned Property Known as Building 2, Space 12 in the Virginia Beach Farmers Market

PUBLIC HEARING DATE: December 5, 2023

MEETING DATE: December 12, 2023

- **Background:** The City of Virginia Beach (the "City") issued a Request for Proposals for Space 12 in Building 2 at the Virginia Beach Farmers Market, which consists of approximately 939 sq. ft. of space (the "Premises") and received one submittal from The Country Butcher Shop, Inc., a Virginia corporation ("Country Butcher").

Country Butcher has been leasing the Premises since 1997 and desires to enter into a new lease with the City. The Premises will be utilized for the sale of fresh meats and deli products, and related items, and for no other purpose.

- **Considerations:** The initial term of the Lease would be from lease execution date until June 30, 2026, with two (2) additional one-year renewal options, exercisable by mutual agreement of the parties. The City has the right to terminate the Lease with 180 days' notice if needed for a public purpose. For more specific terms, see Summary of Terms attached to the Ordinance.
- **Public Information:** A public hearing was advertised on November 26, 2023, 2023 in The Virginian-Pilot. Public notice provided via the normal City Council agenda process.
- **Alternatives:** Approve Lease as presented, change terms of the Lease or deny leasing of the space.
- **Recommendation:** Approval
- **Attachments:** Ordinance, Summary of Terms, Location Map, Disclosure Statement

Recommended Action: Approval

Submitting Department/Agency: Public Works / Real Estate 

City Manager: 

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37

AN ORDINANCE AUTHORIZING THE CITY
MANAGER TO EXECUTE A LEASE FOR UP TO 5
YEARS WITH THE COUNTRY BUTCHER SHOP,
INC. FOR CITY-OWNED PROPERTY KNOWN AS
BUILDING 2, SPACE 12 IN THE VIRGINIA BEACH
FARMERS MARKET

WHEREAS, the City of Virginia Beach (the "City") is the owner of the City of Virginia Beach Farmers Market located at 3640 Dam Neck Road in Virginia Beach, Virginia (the "Farmers Market");

WHEREAS, the City issued a Request for Proposals for Space 12 in Building 2 at the Virginia Beach Farmers Market, which consists of approximately 939 sq. ft. of space (the "Premises") and received one submittal from The Country Butcher Shop, Inc., a Virginia corporation ("Country Butcher");

WHEREAS, Country Butcher has leased the Premises since 1997 and desires to enter into a new lease with the City;

WHEREAS, the Premises will be utilized for the sale of fresh meats and deli products and related items, and for no other purpose; and

WHEREAS, Country Butcher has agreed to pay the City rent in the amount of \$14,071.68 annually (\$1,172.64 per month) for the first year of the term, with a five percent (5%) annual rent escalation for each year thereafter.

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

That the City Manager is hereby authorized to execute a lease for up to 5 years between The Country Butcher Shop, Inc. and the City for the Premises, in accordance with the Summary of Terms, attached hereto as Exhibit A and made a part hereof, and such other terms, conditions or modifications as may be acceptable to the City Manager and in a form deemed satisfactory by the City Attorney.

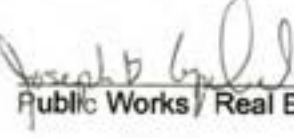
Adopted by the Council of the City of Virginia Beach, Virginia on the _____ day of _____, 2023.

APPROVED AS TO LEGAL
SUFFICIENCY AND FORM

APPROVED AS TO CONTENT



City Attorney



Public Works/Real Estate

EXHIBIT A

SUMMARY OF TERMS

LEASE FOR SPACE AT THE VIRGINIA BEACH FARMERS MARKET

- LESSOR:** City of Virginia Beach (the "City")
- LESSEE:** The Country Butcher Shop, Inc., a Virginia corporation
- PREMISES:** Building 2, Space 12, consisting of 939+/- square feet
- TERM:** Execution of Lease through June 30, 2026, with two (2) additional one-year renewal options. (Lessee's holdover status under prior lease has been conditioned on Lessee paying rent based on the Rent stated herein)
- RENT:** Initial rent of \$14,071.68 annually (\$1,172.64 per month) for the first year of the Term, with five percent (5%) annual escalation for each year thereafter

RIGHTS AND RESPONSIBILITIES OF LESSEE:

- Use Premises for the sale of fresh meats and deli products, and related items, and for no other purpose.
- Maintain in good condition and repair the electrical systems serving the Premises, including existing outlets and installation of additional outlets.
- Maintain the Premises in good condition and repair, clean and sanitary, free of dirt, dust, grime, grease, trash, refuse and vermin.
- Payment of all assessed fees and taxes.
- Purchase and maintain commercial general liability insurance.

RIGHTS AND RESPONSIBILITIES OF CITY:

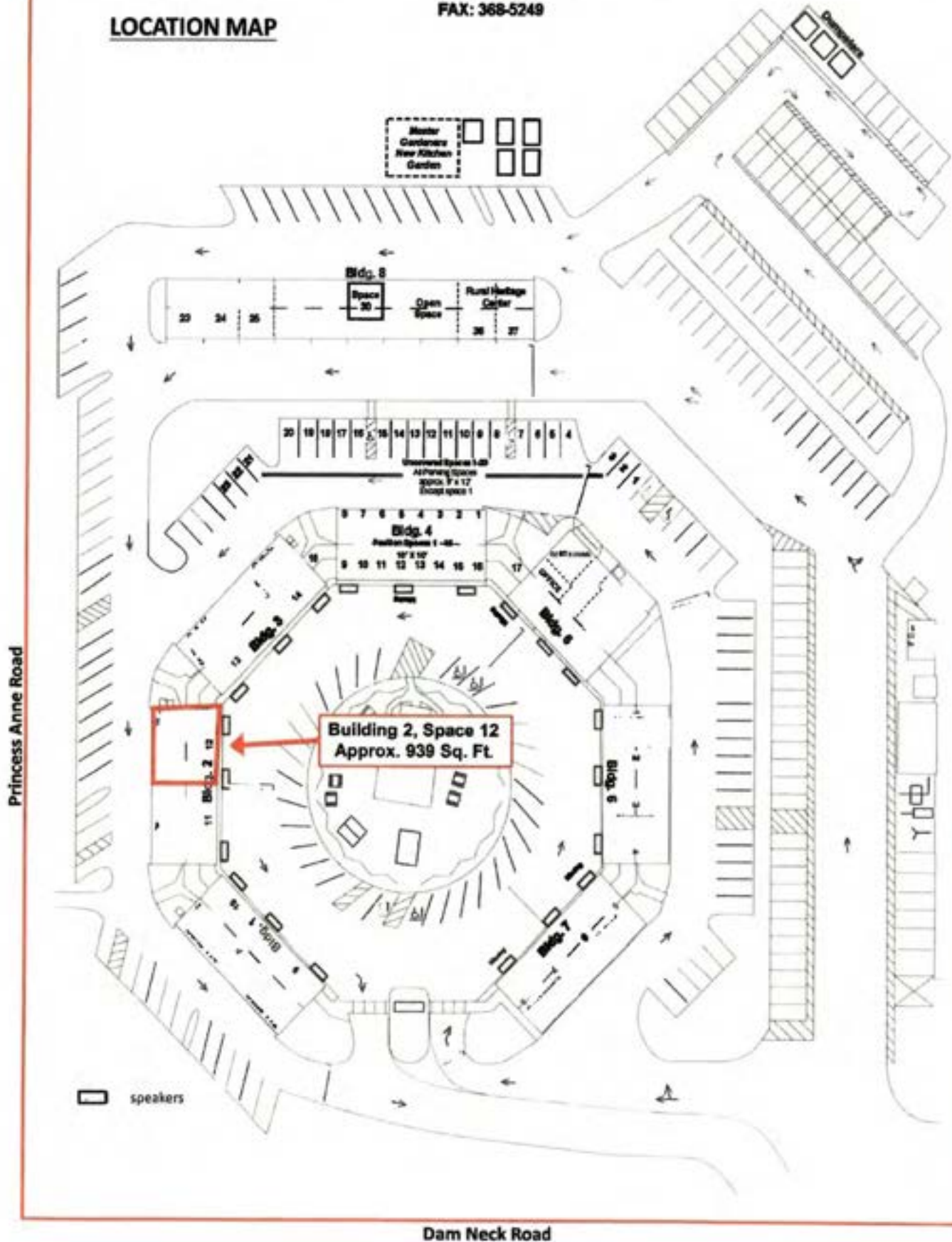
- Maintain and repair air conditioning, ventilation and heating systems, plumbing and other building systems that service the Premises, except electrical system.
- Maintain common areas of the Farmers Market and maintain and/or replace the structural elements of the Premises, including exterior walls, roofs, floors and foundation.

TERMINATION:

City has special right to terminate if necessary for a public purpose by giving one hundred eighty (180) days' advance written notice to the Lessee, upon action by City Council. The Lessee has the right to terminate for any reason by giving ninety (90) days' advance written notice to the City.

City of Virginia Beach Farmers Market
3640 Dam Neck Road
Virginia Beach, VA 23453
757-385-4388
FAX: 368-5249

LOCATION MAP



Dam Neck Road

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 Johnny Hardison

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)

Johnny Hardison

- If yes, list the businesses that have a parent-subsidiary¹ or affiliated business entity² relationship with the applicant. (Attach a list if necessary)

NA

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.

Disclosure Statement



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?

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.

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.

Jay STEER ACCOUNTING

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

Johnny Handerson

Print Name and Title

8-14-27

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



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance to Accept and Appropriate Funds from the State Compensation Board to the FY 2023-24 Operating Budget of the Clerk of the Circuit Court

MEETING DATE: December 12, 2023

■ **Background:** The Clerk of the Circuit Court is a Constitutional Office, and the State Compensation Board providing funding to the City for a portion of the salaries of the authorized positions. On November 3, 2023, the City was notified of the approved compensation adjustment resulting from Virginia's recently adopted budget.

■ **Considerations:** The Clerk of the Circuit Court was provided an additional \$196,004 to increase salaries, effective December 1, 2023. This is an effective salary increase of 2%.

There are no additional obligations to the City as it relates to the additional funding from the State Compensation Board.

- **Public Information:** Normal Council Agenda process.
 - **Attachments:** Ordinance
-

Recommended Action: Approval

Submitting Department/Agency: Clerk of the Circuit Court

City Manager:

A handwritten signature in blue ink, appearing to be "P. D.", written over the text "City Manager:".

1 AN ORDINANCE TO ACCEPT AND APPROPRIATE FUNDS
2 FROM THE STATE COMPENSATION BOARD TO THE FY
3 2023-24 OPERATING BUDGET OF THE CLERK OF THE
4 CIRCUIT COURT

5
6 BE IT ORDAINED BY THE COUNCIL OF THE CITY OF VIRGINIA BEACH,
7 VIRGINIA, THAT:

8
9 \$196,004 is hereby accepted from the State Compensation Board and
10 appropriated, with revenue increased accordingly, to the FY 2023-24 Operating Budget
11 of the Clerk of the Circuit Court.

Adopted by the Council of the City of Virginia Beach, Virginia on the _____ day
of _____, 2023.

Requires an affirmative vote by a majority of all members of the City Council.

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL SUFFICIENCY:



Budget and Management Services



City Attorney's Office

CA16383
R-1
November 29, 2023

L. PLANNING

1. **RUFFIN 86, LLC** for a Variance to Section 4.4(c) of the Subdivision Regulations re **demolish three (3) dwelling units to construct one-single family dwelling** at 109 A & B 86th Street & 8600 Ocean Front Avenue DISTRICT 6

RECOMMENDATION:

APPROVAL

2. **BONNEY BRIGHT SAND CO. / BONNEY G. BRIGHT** for a Modification of Conditions to a Conditional Use Permit re **borrow pit expansion** at 200 Princess Anne Road DISTRICT 2

RECOMMENDATION:

APPROVAL

3. **AMBERLY CARTER / LONGBAY POINT PARTNERS, LLC** for a Modification of Conditions to a Conditional Use Permit re **assembly use** at 2105 West Great Neck Road DISTRICT 8

RECOMMENDATION:

APPROVAL

4. **MICHAEL D. SIFEN, INC / ROBERT W. WHITE JR. & ET AL, ROBERT W. WHITE JR.** for a Conditional Change of Zoning from AG-1 & AG-2 Agricultural Districts to Conditional R-10 Residential District re **develop a 38-lot single-family subdivision** at 2000 & 2004 Princess Anne Road DISTRICT 2

RECOMMENDATION:

APPROVAL

5. **ANNA CASTILLO-LORA / WINDSOR OAKS WEST PAR 3, LLC** for a Conditional Use Permit re **assembly use** at 4356 Holland Road, Suite 101 DISTRICT 3

RECOMMENDATION:

APPROVAL

6. Ordinance to **AMEND** Section 1804 of the City Zoning Ordinance (CZO) re **Discretionary Development Applications**

RECOMMENDATION:

APPROVAL

7. Ordinance to **AMEND** Sections 237 and 901 of the City Zoning Ordinance (CZO) re **use of mini-warehouses in the B-4C Zoning District**

RECOMMENDATION:

APPROVAL



NOTICE OF PUBLIC HEARING

A Public Hearing of the Virginia Beach City Council will be held on **Tuesday, December 12, 2023 at 6:00 p.m. in the Council Chamber at City Hall, 2nd Floor at 2401 Courthouse Drive, Building 1, Virginia Beach, VA 23456.** Members of the public will be able to observe the City Council meeting through livestreaming on www.virginiabeach.gov, broadcast on VBTV, and via WebEx. Citizens who wish to speak can sign up to speak either in-person at the Council Chamber or virtually via WebEx by completing the two-step process below. All interested parties are invited to observe.

If you wish to make comments virtually during the public hearing, please follow the **two-step process** provided below:

1. Register for the WebEx at:
<https://vbgov.webex.com/webex/register?995c418866962940a6715610a5e001>
2. Register with the City Clerk's Office by calling 757-385-4303 prior to 5:00 p.m. on December 12, 2023.

The following requests are scheduled to be heard:

Ruffin 86, LLC (Applicant & Property Owner) Subdivision Variance (Section 4.4(c) of the Subdivision Regulations Addresses: 109A & 109B 86th Street, 8600 Ocean Front Avenue GPIN(s): 2510517095 & 2510518047 **City Council: District 6**

Bonney Bright Sand Co (Applicant) Bonney G. Bright (Property Owner) Modification of Conditions (Borrow Pit Expansion) Address: 200 Process Anne Road GPIN(s): 2317621327, 2317709466, 2317723250, 2317612520, 2317603371 **City Council: District 2**

Amberly Carter (Applicant) Longbay Point Partners, LLC (Property Owner) Modification of Conditions (Assembly Use) Address: 2106 West Great Neck Road GPIN(s): 1499382174 **City Council: District 8**

Michael D. Sifen, Inc (Applicant) Robert W. White, Jr. & et al, Robert W. White, Jr. (Property Owners) Conditional Rezoning (AG-1 & AG-2 Agricultural Districts to Conditional R-10 Residential District Addresses: 2000 & 2004 Princess Anne Road GPIN(s): 2413088768, 2413093020 **City Council: District 2**

Anna Castillo-Lora (Applicant) Windsor Oaks West Parcel 3, LLC (Property Owner) Conditional Use Permit (Assembly Use) Address: 4356 Holland Road, Suite 101 GPIN(s): 1476873632 **City Council: District 3**

City of Virginia Beach - An ordinance to amend Section 1804 of the City Zoning Ordinance pertaining to discretionary development applications.

City of Virginia Beach - An ordinance to amend Section 237 and 901 of the City Zoning Ordinance pertaining to the use of Mini-warehouses in the B-4C Zoning District.

Copies of the proposed plans, ordinances, amendments and/or resolutions are on file and may be examined by appointment in the Planning Department at 2875 Sabre St, Suite 500, Virginia Beach, VA 23452 or online at www.virginiabeach.gov/pc. For information call 757-385-4621. Staff Reports will be available on the webpage 5 days prior to the meeting.

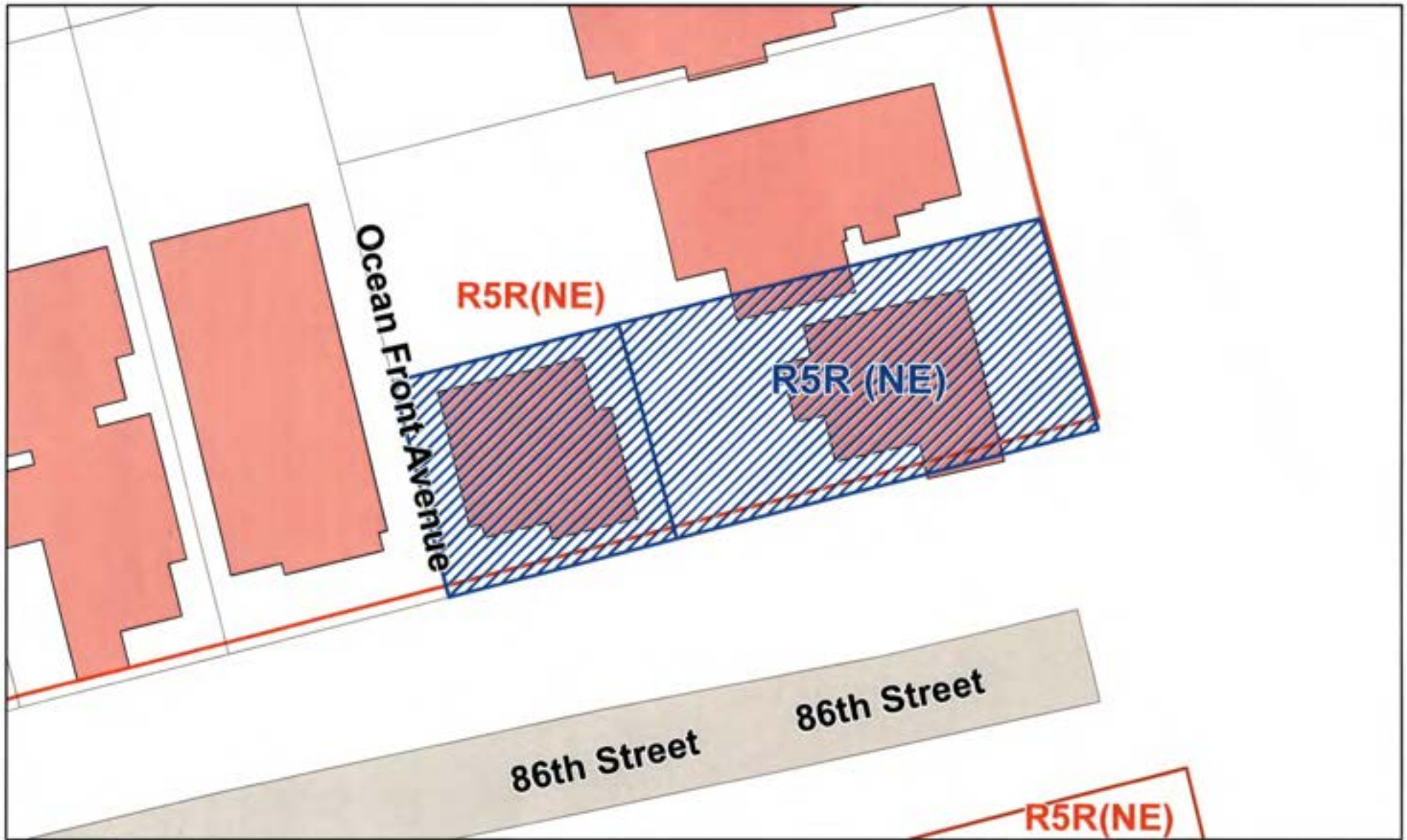
If you require a reasonable accommodation for this meeting due to a disability, please call the City Clerk's Office at 757-385-4303. If you are hearing impaired, you can contact Virginia Relay at 711 for TDD service. The meeting will be broadcast on cable TV, www.virginiabeach.gov and Facebook Live.

Please check our website at <https://clerk.virginiabeach.gov/city-council> for the most updated meeting information.

All interested parties are invited to participate.

Amanda Barnes, MMC
City Clerk

PILOT - NOVEMBER 28, 2023 & DECEMBER 5, 2023 - 1 TIME EACH



-  Site
-  Property Polygons
-  Zoning
-  Building

Ruffin 86, LLC
109A & 109B 86th Street, 8600 Ocean Front Avenue





CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: RUFFIN 86, LLC [Applicant & Property Owner] Subdivision Variance (Section 4.4(c) of the Subdivision Regulations) for the property located at 109 A & B 86th Street & 8600 Ocean Front Avenue (GPINs 2510517095, 2510518047). COUNCIL DISTRICT 6

MEETING DATE: December 12, 2023

■ **Background:**

On May 25, 1925, Lot 6 was recorded as a 50-foot by 150-foot parcel. The parcel was subdivided into two lots by deed in 1944 and again in 1960. The property is currently developed with three dwelling units, one duplex (109 A & B 86th Street) and one single-family dwelling (8600 Ocean Front Avenue). The applicant is requesting to vacate the interior property lines, demolish the three dwelling units, and construct one single-family dwelling. The lot will be restored to the original 50-foot by 150-foot lot, as recorded in 1925. As the current Ordinance would require a minimum lot width of 60 feet for the corner parcel, a Subdivision Variance is required. A Board of Zoning Appeals (BZA) variance will be required for the single-family dwelling as proposed since it does not meet the building setbacks and height requirements established in the Zoning Ordinance. Condition 3 has been recommended to address this requirement.

■ **Considerations:**

The Planning Commission agreed with Staff that granting the requested variance will not adversely affect the character of the neighborhood and is consistent with the principles of the Comprehensive Plan for the North End of the City. As proposed, the development will decrease the number of lots from two to one, reducing the existing nonconformities. Except for lot width, the proposed parcel meets all other dimensional requirements. To adhere to the requirements for the North End established in the Public Works Design Standards Manual, Condition 2 has been recommended, requiring the access on 86th Street to be designed in a manner acceptable to Public Works. This will be reviewed in greater technical detail during site plan review.

Further details pertaining to the application, as well as Staff's evaluation, are provided in the attached Staff Report. There is no known opposition to this request.

■ **Recommendation:**

On November 8, 2023, the Planning Commission passed a motion to recommend approval of this item on the Consent Agenda, by a recorded vote of 8-0.

1. When the Property is developed, it shall be developed substantially as shown on the exhibit entitled "SUBDIVISION VARIANCE EXHIBIT – LOT 6, BLOCK 3, CAPE HENRY SYNDICATE, SECTION "D" (M.B. 1, PG. 8b), VIRGINIA BEACH, VIRGINIA FOR RUFFIN 86, LLC", prepared by WPL, dated April 19, 2021, which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning and Community Development.
2. The existing driveways on 86th Street shall be redesigned in a manner deemed acceptable to the Department of Public Works.
3. The proposed single-family dwelling shall meet the minimum dimensional requirements of the R-5R Residential (NE) North End Overlay zoning district, unless a BZA Variance is granted by the Board of Zoning Appeals. If a BZA Variance is required, the variance shall be granted on the property prior to the site plan approval for the proposed single-family dwelling.

■ **Attachments:**

Staff Report and Disclosure Statements
Location Map
Minutes of Planning Commission Hearing

Recommended Action: Staff recommends Approval. Planning Commission recommends Approval.

Submitting Department/Agency: Planning Department

City Manager:



Request

Subdivision Variance (Section 4.4 (c) of the Subdivision Regulations)

Staff Recommendation

Approval

Staff Planner

Marchelle Coleman

Location

109 A & B 86th Street & 8600 Ocean Front Avenue

GPINs

2510517095, 2510518047

Site Size

7,500 square feet

AICUZ

Less than 65 dB DNL

Watershed

Atlantic Ocean

Existing Land Use and Zoning District

Duplex, Single-family Dwelling / R-SR Residential (NE) North End Overlay

Surrounding Land Uses and Zoning Districts

North

Single-family Dwelling / R-SR Residential (NE) North End Overlay

South

86th Street

Single-family Dwellings / R-SR Residential (NE) North End Overlay

East

150-foot unimproved right-of-way

West

Ocean Front Avenue

Single-family Dwelling / R-SR Residential (NE) North End Overlay



Background & Summary of Proposal

- Lot 6 was recorded on May 25, 1925 in M.B. 1, PG. 8b as a 50-foot by 150-foot parcel. In 1944, Lot 6 was subdivided by deed into two lots, consisting of a 50-foot by 54-foot lot and a 50-foot by 96-foot lot. In 1960, the lots were subdivided again into the current configuration, including a 50-foot by 50-foot lot (duplex lot) and a 50-foot by 100-foot lot (single-family lot). In 2021, the Zoning Administrator determined the lot was improperly subdivided by deed in 1960, as the parcels were not created by a plat as required by the Princess Anne County subdivision ordinance in place at that time, thus resulting in loss of the nonconforming development rights.
- The applicant now seeks to vacate the interior property lines to restore the R-5R (NE) Residential (North End Overlay) parcels to the original 50-foot by 150-foot lot, as was recorded prior to 1944. By doing so, the proposed Lot 6A will not meet the current regulations for lot width for corner lots.
- Per Section 4.4(c) of the Subdivision Regulations, corner lots shall be platted not less than ten feet wider than the minimum required by the Zoning Ordinance for interior lots in the district. A Subdivision Variance is required as proposed Lot 6A will have a width of 50 feet, rather than the required 60 feet.
- Three dwelling units exist on these two lots: a duplex, constructed in 1935, located at 109 86th Street, and a single-family dwelling, constructed in 1934, located at 8600 Ocean Front Avenue. The applicant intends to remove the three units, vacate the interior property lines, and develop the lot with one single-family dwelling.
- The applicant will be attending the Board of Zoning Appeals (BZA) to request variances to the building setback and building height for the proposed single-family dwelling. Condition 3 has been added to address this requirement.

	Required Lot Width for Corner Lots in R5R(NE) (feet)	Proposed Lot Width for Corner Lots in R5R(NE) (feet)	Required Street Line Frontage in R5R(NE) (feet)	Proposed Street Line Frontage in R5R(NE) (feet)	Required Lot Area in R5R(NE) (feet)	Proposed Lot Area in R5R(NE) (acre)
Parcel Lot 6A	60 feet	50 feet*	40 feet	50 feet	5,000 feet	7,500 feet

*Variance required



No Zoning History to Report

Application Types

CUP – Conditional Use Permit	MDC – Modification of Conditions	STC – Street Closure	SVR – Subdivision Variance
REZ – Rezoning	MDP – Modification of Proffers	FVR – Floodplain Variance	LUP – Land Use Plan
CRZ – Conditional Rezoning	NON – Nonconforming Use	ALT – Alternative Compliance	STR – Short Term Rental

Evaluation & Recommendation

Section 9.3 of the Subdivision Regulations states:

No variance shall be authorized by the Council unless it finds that:

- A. Strict application of the ordinance would produce undue hardship.
- B. The authorization of the variance will not be of substantial detriment to adjacent property, and the character of the neighborhood will not be adversely affected.
- C. The problem involved is not of so general or recurring a nature as to make reasonably practicable the formulation of general regulations to be adopted as an amendment to the ordinance.
- D. The hardship is created by the physical character of the property, including dimensions and topography, or by other extraordinary situation or condition of such property, or by the use or development of property immediately adjacent thereto. Personal or self-inflicted hardship shall not be considered as grounds for the issuance of a variance.
- E. The hardship is created by the requirements of the zoning district in which the property is located at the time the variance is authorized whenever such variance pertains to provisions of the Zoning Ordinance incorporated by reference in this ordinance.

This request for a Subdivision Variance to Section 4.4 (c) of the Subdivision Regulations for a reduction in lot width for this corner lot is acceptable, as Staff finds the proposal to be consistent with the principles of the Comprehensive Plan for the North End of the City.

The current Zoning Ordinance requires that corner lots be platted not less than ten feet wider than the minimum required by the Zoning Ordinance for interior lots in the district; however, this was not required when this lot was originally created, and the applicant is seeking to restore the dimensions as platted prior to 1944. As mentioned previously, lot width is the only deficiency; all other dimensional standards will be met. Since this request will decrease the number of lots from two to one, reduce the existing nonconformities, will not create any new nonconformities, and will restore the property back to its originally recorded parcel size (M.B.1, PG 8b) of 50-foot by 150-foot, Staff is amenable to this request as it will not change the character of the neighborhood, nor will it have any adverse impacts to the surrounding area.

Currently, there are two units on one of the existing lots and one single-family dwelling on the other. All units will be demolished, and a new home will be constructed that will be compatible with the surrounding area. The exterior design of the proposed home reflects the character of the area and incorporates attractive, high-quality materials and a design that is capable of withstanding severe weather events as is recommended by the Comprehensive Plan. Condition 2 has been recommended to ensure that the proposed single-family dwelling substantially adheres to the proposed elevations submitted with this application.

In the early 2000s, the City Council directed the Department of Public Works to review parking within the North End of the City in an attempt to provide additional public parking within the public right-of-way. Driveways for new developments in the North End must meet the regulations identified in the Public Works Design Standards Manual, Section 3.9.E, Residential Entrances in the North Beach Area. As such, Staff is recommending Condition 2 to address this requirement which will be further reviewed during the site plan review process.

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

Recommended Conditions

1. When the Property is developed, it shall be developed substantially as shown on the exhibit entitled "SUBDIVISION VARIANCE EXHIBIT – LOT 6, BLOCK 3, CAPE HENRY SYNDICATE, SECTION "D" (M.B. 1, PG. 8b), VIRGINIA BEACH, VIRGINIA FOR RUFFIN 86, LLC", prepared by WPL, dated April 19, 2021, which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning and Community Development.
2. The existing driveways on 86th Street shall be redesigned in a manner deemed acceptable to the Department of Public Works.
3. The proposed single-family dwelling shall meet the minimum dimensional requirements of the R-SR Residential (NE) North End Overlay zoning district, unless a BZA Variance is granted by the Board of Zoning Appeals. If a BZA Variance is required, the variance shall be granted on the property prior to the site plan approval for the proposed single-family dwelling.

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 the subject property as being located in the North End Suburban Focus Area. The Comprehensive Plan recommends that parcels in the North End should be consolidated only when best management practices for stormwater control are included in the reconstruction. The inclusion of porous materials for driveways, walkways, and other similar surfaces should be used to reduce net impervious coverage wherever feasible. Materials for this proposed home shall be attractive, high quality, and capable of withstanding severe weather events. Staff recommends incorporation of standards and guidelines found in the recently adopted Flood Resiliency Toolkit to prepare and mitigate for flooding and storm surges. Existing natural features should be considered early in the

development process, especially with such close proximity to the Atlantic shoreline and dunes. Natural drainage patterns and unusual topography that would support environmental and human health should be preserved to the highest degree possible.

Natural & Cultural Resources Impacts

The site is located in the Atlantic Ocean Watershed.

8600 Ocean Front Avenue is known as the Faulkner House. It was listed in the Virginia Beach Historical Register in 2003. Demolition of the building will result in its delisting from the local register. The site was recommended not eligible for listing in the National Register in the 2018 survey update of the northern half of the City. The property was presented to the Historic Preservation Commission on September 6, 2023. When a building is listed in the Virginia Beach Historical Register, the committee prefers that if it is in good condition that it be preserved. After deliberation, it was determined that there were not sufficient preservation incentives to present to the property owner to retain this historic structure.

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
86th Street	No Data Available	9,900 ADT ¹ (LOS ⁴ "D")	Existing Land Use ² – 30 ADT Proposed Land Use ³ – 10 ADT
¹ Average Daily Trips	² as defined by a single-family dwelling and a duplex	³ as defined by a single-family dwelling	⁴ LOS = Level of Service

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

86th Street is a two-lane local neighborhood street. There are currently no CIP projects scheduled to upgrade this roadway.

Public Utility Impacts

Water

The site currently connects to City water. Any unused services must be abandoned. There is an existing four-inch City water main along 86th Street.

Sewer

The site currently connects to City sanitary sewer. Any unused services must be abandoned. There is an existing eight-inch City sanitary sewer gravity main along 86th Street.

Public Outreach Information

Planning Commission

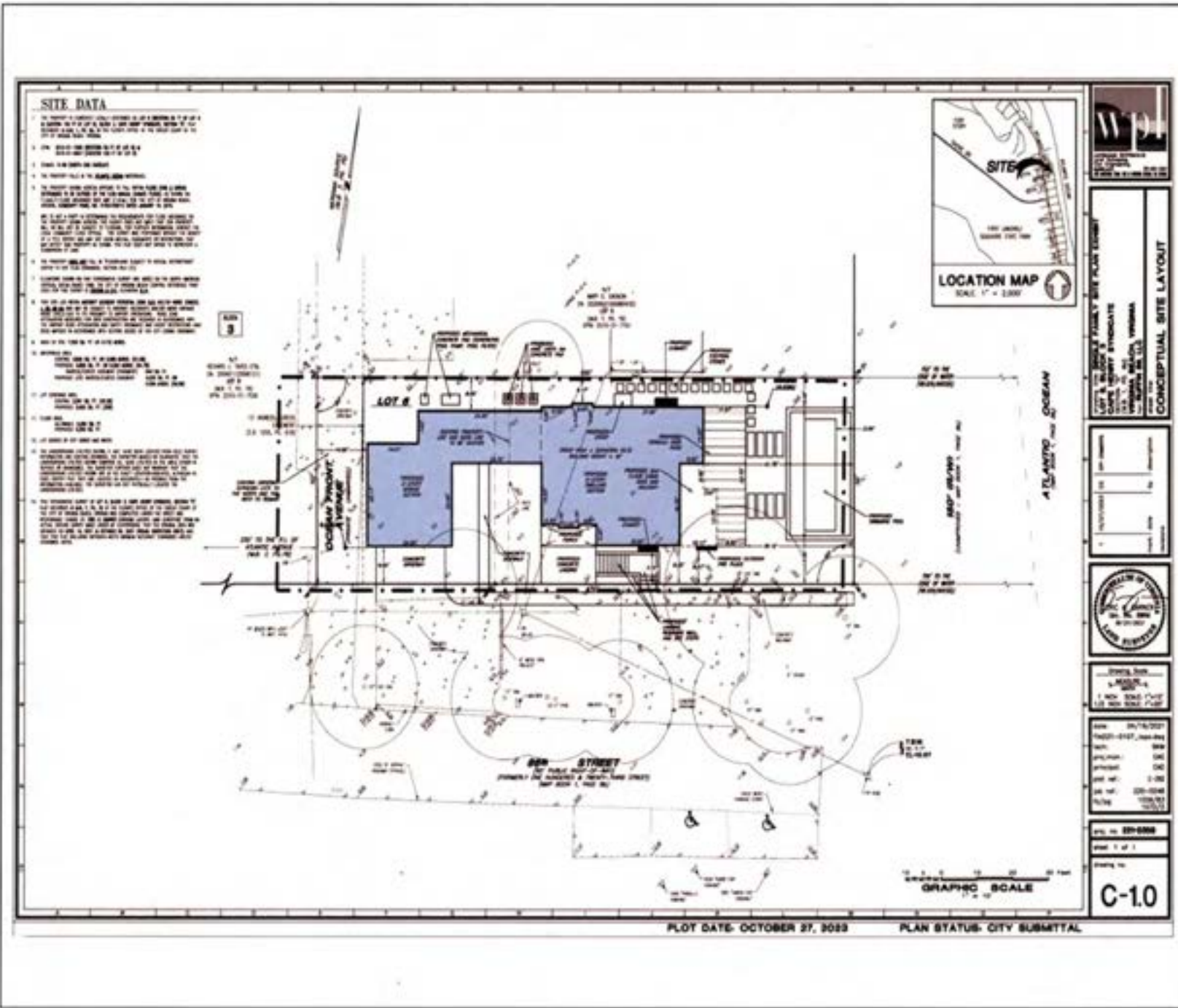
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on October 9, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, October 25, 2023 and November 1, 2023.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on October 23, 2023.

- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.virginiabeach.gov/pc on November 2, 2023.

City Council

- As required by City Code, this item was advertised in the *Virginian-Pilot* on Tuesdays, November 28, 2023 and December 5, 2023.
- As required by City Code, the adjacent property owners were notified regarding both the request and the date of the City Council's public hearing on November 27, 2023.
- The City Clerk's Office posted the materials associated with the application on the City Council website of <https://clerk.virginiabeach.gov/city-council> on December 8, 2023.

Proposed Site Layout



Proposed Building Elevations



PROPOSED NORTH ELEVATION

100% DEVELOPMENT PLAN - 10/14/2021



PROPOSED SOUTH ELEVATION

100% DEVELOPMENT PLAN - 10/14/2021





EAST ELEVATION

PROPOSED EAST ELEVATION

RUFFIN 86, LLC 11000 W. 11TH AVENUE, SUITE 100, DENVER, CO 80202

1" = 16'-0" W.S.C.



WEST ELEVATION HOUSE



WEST ELEVATION GARAGE

1" = 16'-0" W.S.C.

PROPOSED WEST ELEVATIONS

RUFFIN 86, LLC 11000 W. 11TH AVENUE, SUITE 100, DENVER, CO 80202



Site Photos



Site Photos



Disclosure Statement

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 Ruffin 86, LLC

Does the applicant have a representative? Yes No

- If yes, list the name of the representative.

Billy Garrington, GPC, Inc

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)

The Dare Marie Ruffin Irrevocable Trust is the Sole Member of Ruffin 86, LLC.

Clark L. Davidson is the Trustee of the Trust. John Babb is the Manager of Ruffin 86, LLC

- If yes, list the businesses that have a parent-subsidiary¹ or affiliated business entity² relationship with the applicant. (Attach a 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.

Disclosure Statement

Disclosure Statement



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?
-

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.
-

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.
-

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.
-

3North, Erin Webb

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

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.

WPL, Eric Garner

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.

[Handwritten Signature]

Applicant Signature

John Babb, Manager

Print Name and Title

7/3/23

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 checked="" type="checkbox"/>	No changes as of	Date	11/21/2023	Signature	<i>[Handwritten Signature]</i>
				Print Name	Marchelle L. Coleman

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.

Virginia Beach Planning Commission
November 8, 2023, Public Meeting
Agenda Item # 5

Ruffin 86, LLC

RECOMMENDED FOR APPROVAL- CONSENT

Mr. Horsley: Thank you. Is there any opposition to this ordinance? All right. Next item is item number five Ruffin 86, LLC subdivision variance. Mr Garrington.

Mr. Garrington: Good afternoon, Mr Chairman, ladies and gentlemen of the Planning Commission for the record, Billy Garrington on behalf of the applicant. Applicant in this case is Ruffin 86, LLC property known as 109 A & B 86th Street and 8600 Oceanfront Avenue. Property in question is subdivided lots that were created by deed back in the forties that we're going to vacate the interior lot line between the two of them create one less non-conforming lot upon which will be built a single-family dwelling, not four duplexes that two duplexes one on each lot that could be built otherwise. A lot still one will not meet all of the requirements of the zoning ordinance because it's a corner lot. It doesn't have the additional 10 feet of width, but it will be a significant less non-conforming over that which is there now and the new use for the property will be one single family dwelling. In the staff, there are three conditions as a part of this request when total agreement with all three those conditions and Thank Marchelle Coleman very much for working with us on this request.

Mr. Horsley: Thank you, Mr. Garrington. Is there any opposition to this? Hearing none. I asked Mr. Plumlee if he'd read this into the record.

Mr. Plumlee: Just briefly, the commission has allowed this matter to be placed on the consent agenda. This is for the vacation of an interior lot line at 86th Street in the Oceanfront. As the applicant's agent pointed out, this will require a variance be obtained by the board of zoning appeals, which staff has agreed is acceptable under the current ordinance. We've been shown plans that are quite attractive for the construction, and it should reduce some of the activity in that area. I've received nothing but positive comments.

Mr. Horsley: Thank you, sir. So, we have four items to be placed, make a motion that we approve the item number one City of Virginia Beach, item number two City of Virginia Beach, item number five Ruffin 86 LLC and item number seven Anna Costello-Lora Windsor Oaks West Parcel 3.

Mr. Alcaraz: All right. Thank you, Mr. Vice Chair. We have a motion. Do I have a second?

Mr. Parks: Yes, second.

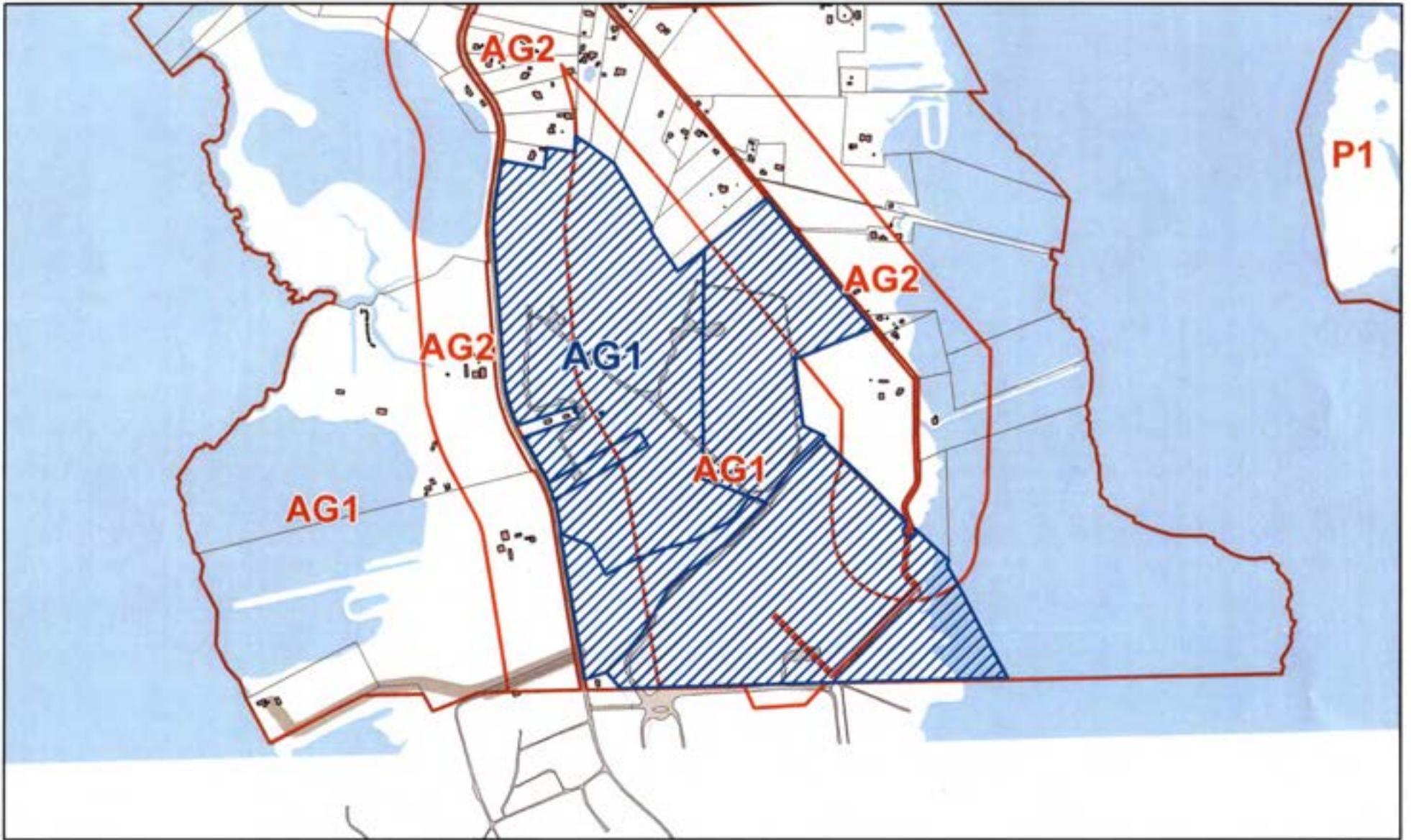
Mr. Alcaraz: Second by Mr. Parks.

Madam Clerk: Mr. Horsley, can you make that motion on your iPad? Thank you, Mr. Parks. All right, the vote is now open. By a vote of eight to zero, items number one, two, five, and seven have been recommended for approval.

	AYE 8	NAY 0	ABS 0	ABSENT 3
Alcaraz	AYE			
Anderson				ABS
Byler	AYE			
Clemons	AYE			
Coston				ABS
Cuellar	AYE			
Estaris				ABS
Hippen	AYE			
Horsley	AYE			
Parks	AYE			
Plumlee	AYE			

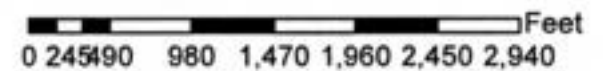
CONDITIONS

1. When the Property is developed, it shall be developed substantially as shown on the exhibit entitled "SUBDIVISION VARIANCE EXHIBIT – LOT 6, BLOCK 3, CAPE HENRY SYNDICATE, SECTION "D" (M.B. 1, PG. 8b), VIRGINIA BEACH, VIRGINIA FOR RUFFIN 86, LLC", prepared by WPL, dated April 19, 2021, which has been exhibited to the Virginia Beach City Council and is on file with the Virginia Beach Department of Planning and Community Development.
2. The existing driveways on 86th Street shall be redesigned in a manner deemed acceptable to the Department of Public Works.
3. The proposed single-family dwelling shall meet the minimum dimensional requirements of the R-5R Residential (NE) North End Overlay zoning district, unless a BZA Variance is granted by the Board of Zoning Appeals. If a BZA Variance is required, the variance shall be granted on the property prior to the site plan approval for the proposed single-family dwelling.



-  Site
-  Property Polygons
-  Zoning
-  Building

**Bonney Bright Sand Co
200 Princess Anne Road**





CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: BONNEY BRIGHT SAND CO. [Applicant] BONNEY G. BRIGHT [Property Owner] Modification of Conditions to a Conditional Use Permit (Borrow Pit Expansion) for the property located at 200 Princess Anne Road (GPINs 2317621327, 2317709466, 2317723259, 2317612520, 2317603371). COUNCIL DISTRICT 2

MEETING DATE: December 12, 2023

■ **Background:**

Sand excavation operations have occurred on the property since the 1970s. In 1989, a Conditional Use Permit was granted by the City Council to operate a 23.40-acre borrow pit on the site. Since that time, several modifications have been approved by the City Council, both to expand the land area of the borrow pit and to extend the length of time allotted for excavation and ultimate restoration of the site. As currently conditioned, the borrow pit operation shall cease and the property shall be restored by June 2030. It is the intention that at the time of restoration, the borrow pits will be converted to lakes and the surrounding property will be cultivated. The applicant recently purchased 3.90 acres and seeks to incorporate that area into their existing mining operations. On-site operations will continue between the hours of 7:00 a.m. to 7:00 p.m., Monday through Saturday, with no operations being conducted on Sundays. Access to the site will continue to be from North Carolina, just south of the state line.

■ **Considerations:**

The request is consistent with the policies and goals set forth in the Comprehensive Plan for the Rural Area. The borrow pit will continue to operate for another 7 years as the use has been extended by City Council action to 2030, permitting the complete extraction of marketable material and restoration of the site. **Since this property falls along the Commonwealth's Scenic Byway, Staff recommended, and the Planning Commission concurred, that a row of pine trees be planted along Princess Anne Road to maintain the natural and scenic integrity of the property. Condition 10 has been recommended to address this.** According to the Virginia Department of Mines, Minerals, and Energy (VDMME), the borrow pit has been operating without incident and in accordance with VDMME's regulations. No impacts to the groundwater have been reported and the applicant is required to submit a quarterly report to the Department of Public Utilities for review and approval to ensure there are no impacts to the groundwater as a result of this operation. Staff is unaware of any opposition to this request. Further details

pertaining to the application, as well as Staff's evaluation, are provided in the attached Staff Report.

■ **Recommendation:**

On October 11, 2023, the Planning Commission passed a motion to recommend approval of this item on the Consent Agenda, by a recorded vote of 11-0.

1. All previous conditions attached to the Modification of Conditions Permit approvals of August 3, 2021, shall be voided and replaced with the following conditions below.
2. Activities on the site shall meet all the requirements identified by the Virginia Department of Mines, Minerals and Energy. Additionally, the applicant shall renew their permit and license with the Department of Mines, Minerals and Energy before October 21, 2023.
3. No excavation or restoration of the borrow pit expansion shall be allowed without first obtaining any necessary permits from the appropriate Federal, State and Local agencies, required as a result of the expansion of the existing borrow pit operation. In addition, the applicant shall renew the Non-Metallic Mineral Mining General Permit from the Department of Environmental Quality for the proposed expansion.
4. No excavation or restoration of the borrow pit shall commence until such time that a site plan has been reviewed and approved by the Development Services Center. The site plan must include a specific street and highway contingency plan that addresses the repair and replacement of any damaged roadway surfaces associated with the borrow pit operation. The site plan shall also detail the truck watering schedule currently utilized for the abatement of the dust generated by this operation and must indicate the sequence of construction for maintaining 3:1 side slopes on the borrow pit within sixty (60) days after the excavation is complete.
5. No access to or from Pocahontas Club Road shall be permitted for the borrow pit operation.
6. Operating hours shall be 7:00 a.m. to 7:00 p.m., Monday through Saturday. No operations shall be permitted on Sunday.
7. No encroachment into existing easements will be allowed. Access to drainage easements must be provided by the applicant over all the output systems within the site.
8. No encroachments into natural drainage channels shall be permitted.

9. The existing buffer of pine trees along Princess Anne Road, the double row of Loblolly and Virginia pine trees, an understory row of wax myrtle shrubs and the three to four-foot-high berm along Pocahontas Club Road used for screening and buffering shall remain undisturbed.
10. A row of pine trees shall be planted along Princess Anne Road continuing north from the existing trees that will be used as screening and buffering for the expansion of the borrow pit. The required pine trees shall be allowed to grow and be maintained at a height of no less than thirty (30) feet.
11. Undrained pockets and stagnant pools resulting from surface drainage shall be sprayed in accordance with requirements of the state board of health to eliminate breeding places for mosquitos and other insects.
12. The one hundred (100) foot buffer between the cemetery in the southeast corner and the excavation site must remain undisturbed.
13. The maximum depth of the proposed expansion shall not exceed an elevation of 25.00 feet below ground surface from elevation 0.00 feet below ground surface. The applicant shall not breach the confining layers regardless of depth.
14. Dewatering of the pit will be allowed and the following are required:
 - a. A permit from the Virginia Water Control Board is required to discharge any water from dewatering into a state waterway.
 - b. The operator of the borrow pit shall be responsible for continuous water service for the private wells up to one thousand (1,000) feet from the borrow pit operation and those within twenty-five hundred (2,500) feet if proved to be affected by this operation.
15. The maximum number of truck trips generated by the borrow pit shall be seventy (75) per day. A truck trip shall be considered one round trip, in and out of the borrow pit.
16. All trucks and equipment used in conjunction with the borrow pit operation must be stored, repaired, and fueled on the borrow pit site or on property zoned for such use.
17. The applicant and/or operator of the borrow pit shall provide sufficient information to further the knowledge of the impacted subsurface geology by providing a Monitoring Well/Bore Hole Installation Plan and to estimate existing and projected recharge of dewatering operation discharge water. The applicant shall provide a Groundwater Recharge Plan, which shall include all phases of the expansion, subject to the approval of the Director of Public Utilities or designee.
18. The Groundwater Recharge Plan shall provide for the retention of water

onsite to the highest degree practical. As one means to achieve this, the flooding of depleted mine areas shall be implemented to the maximum extent practical and outlined in detail in the Groundwater Recharge Plan, accounting for all phases of expansion and reclamation. The applicant and/or operator of the borrow pit shall provide a reliable quarterly report to the Department of Public Utilities to include the analysis of the recharge system. This plan shall contain the amount of water pumped from the borrow pit, the amount of groundwater recharged on the site, the amount of water discharged to offsite surface water, the local precipitation, and a detailed description of the way in which each of these volumes were determined. The plan shall be subject to the approval of the Director of Public Utilities or designee.

19. Testing shall be performed at each monitoring well a minimum of four times a year and analytical results shall be provided to the Director of Public Utilities or designee. The Director of Public Utilities or designee may reduce monitoring frequency to annual testing at each well. If, in the judgement of the Director of Public Utilities or designee, such results indicate that saltwater intrusion is occurring to such extent that private drinking water wells are threatened, the applicant shall cease dewatering of the borrow pit at the cost of the borrow pit operator.
20. Extension of time for operations is ending in June 2030, to include restoration of the property.
21. When mining is complete, the applicant shall redevelop the sides of the pit to a 3:1 slope within six (6) months as depicted on the plan for the borrow pit entitled "Reclamation Plan", dated October 3, 2007, revised September 10, 2009, revised July 1, 2021, prepared by Gallup Surveyors and Engineers. Said plan has been exhibited to the City of Virginia Beach City Council and is on file in the Planning Department.
22. The applicant shall provide quarterly reports from the test wells to include nitrate readings. The reports shall be submitted to the Zoning Administrator for review by the Water Resources Manager. Following the first year, frequency of the reports shall be determined by the Water Resources Manager. Required frequency shall not exceed four (4) reports per year.
23. The applicant shall submit a site development plan in accordance with the Zoning Ordinance, Article 2 C Section 227 Borrow Pits to the Development Services Center of the Planning Department for review and approval prior to any excavation of the additional areas depicted on the submitted site plan entitled "PROPOSED BORROW PIT EXPANSION PLAN FOR BONNEY G. BRIGHT", dated October 3, 2007, revised September 10, 2009, revised March 12, 2021, prepared by Gallup Surveyors & Engineers. Said plan has been exhibited to the City of Virginia Beach City Council and is on file in the Planning Department.

24. Trucks that haul material to and from the property shall not use Princess Anne Road as an ingress and egress for the operation. All trucks in association with the mining operation shall use the entrance in North Carolina to enter and exit the site. If the entrance from Princess Anne Road is used to haul material then the following shall apply: the operator shall install a left turn lane on Princess Anne Road into the borrow pit entrance, the property owner shall dedicate as deemed necessary by City Staff any additional right-of-way to accommodate the turn lane, the entrance from Princess Anne Road shall be paved and the pavement shall extend fifty (50) feet back from the property line and then graveled an additional fifty (50) feet, and an entrance plan shall be required subject to the review and approval by Department of Public Works/Traffic Engineering.

- **Attachments:**
 - Staff Report and Disclosure Statements
 - Location Map
 - Minutes of Planning Commission Hearing

Recommended Action: Staff recommends Approval. Planning Commission recommends Approval.

Submitting Department/Agency: Planning Department 

City Manager: 

Request

Modification of Conditions (Borrow Pit Expansion)

Staff Recommendation

Approval

Staff Planner

Marchelle Coleman

Location

200 Princess Anne Road

GPINs

2317621327, 2317709466, 2317723259,
2317612520, 2317603371

Site Size

248 acres (13.9 acre expansion)

AICUZ

Less than 65 dB DNL

Watershed

Southern Rivers

Existing Land Use and Zoning District

Cultivated fields, borrow pit / AG-1 & AG-2
Agricultural

Surrounding Land Uses and Zoning Districts

North

Single-family dwelling, cultivated fields / AG-1 & AG-2
Agricultural

South

North Carolina line, borrow pit

East

Pocahontas Club Road

Single-family dwellings, cultivated field / AG-1
Agricultural

West

Princess Anne Road

Campground, marshland / AG-1 & AG-2
Agricultural



Background & Summary of Proposal

- The applicant is requesting a Modification of Conditions to the existing Conditional Use Permit to expand the existing borrow pit by 13.9 acres on this property zoned AG-1 & AG-2 Agricultural District. The applicant proposes to use the materials that are mined to provide private, commercial, and government entities with fill sand, masonry sand, clay and fill "dirt".
- Sand excavation operation has been ongoing on this property since the 1970s. In 1989, the City Council approved a Conditional Use Permit to operate a 23.40-acre borrow pit. There were no approvals granted prior to 1989, as no consideration by Council was required. Since that time, there have been two additional Conditional Use Permits granted. In 2000, an expansion of the Borrow Pit by 46 acres was granted, as well as an additional expansion in 2010 by 87.23 acres. Subsequently, in 2006, 2010, & 2020, approvals were granted to extend the length of time allotted for excavation and ultimate restoration of the site. In 2021, City Council approved the expansion of the borrow pit by 17.32-acres.
- The applicant is now seeking to expand the borrow pit by another 13.9-acres. The applicant recently purchased the 13.9-acres to incorporate into their existing mining operations. Since the area was not included with the previous approval, a Modification of Conditions to expand the mining operation is required.
- As with previous applications, the on-site operations will continue between the hours of 7:00 a.m. to 7:00 p.m., Monday through Saturday. No operations will be conducted on Sundays.



Zoning History

#	Request
1	MDC (Borrow Pit Expansion) Approved 08/03/2021 MDC (Borrow Pit Expansion) Approved 09/15/2020 CUP (Borrow Pit Expansion) Approved 02/09/2010 MDC (Borrow Pit Expansion) Approved 02/14/2006 CUP (Borrow Pit Expansion) Approved 11/28/2000 CUP (Borrow Pit) Approved 12/08/1989
2	MDC Approved 04/16/2019 MDC Approved 11/08/2005 CUP (Campground) Approved 11/08/1971

Application Types

CUP – Conditional Use Permit
REZ – Rezoning
CRZ – Conditional Rezoning

MDC – Modification of Conditions
MDP – Modification of 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 request for a Modification of Conditions for an expansion of the existing borrow pit is, in Staff's opinion, acceptable. The request is consistent with the policies and goals set forth in the Comprehensive Plan for the Rural Area, as the site has remained rural throughout the years and is maintaining its commitment to the agricultural vision for this area.

The Virginia Department of Mines, Minerals and Energy indicated no opposition to the borrow pit expansion and noted that the pit has been operating in accordance with State regulations and there have been no violations or issues on site.

Since this property falls along the Commonwealth's Scenic Byway, Staff has requested a row of pine trees be planted along Princess Anne Road to maintain the natural and scenic integrity of the property in this area. Condition 10 has been recommended to address this.

As monitoring of the groundwater continues to indicate no detrimental impact to drinking water wells or saltwater intrusion into the aquifer, the roadway system is not expected to be adversely impacted, and there have been no known incidents regarding compliance with State regulations, Staff recommends approval of this request subject to the conditions listed below.

Recommended Conditions

1. All previous conditions attached to the Modification of Conditions Permit approvals of August 3, 2021 shall be voided and replaced with the following conditions below.
2. Activities on the site shall meet all the requirements identified by the Virginia Department of Mines, Minerals and Energy. Additionally, the applicant shall renew their permit and license with the Department of Mines, Minerals and Energy before October 21, 2023.
3. No excavation or restoration of the borrow pit expansion shall be allowed without first obtaining any necessary permits from the appropriate Federal, State and Local agencies, required as a result of the expansion of the existing borrow pit operation. In addition, the applicant shall renew the Non-Metallic Mineral Mining General Permit from the Department of Environmental Quality for the proposed expansion.
4. No excavation or restoration of the borrow pit shall commence until such time that a site plan has been reviewed and approved by the Development Services Center. The site plan must include a specific street and highway contingency plan that addresses the repair and replacement of any damaged roadway surfaces associated with the borrow pit operation. The site plan shall also detail the truck watering schedule currently utilized for the abatement of the dust generated by this operation and must indicate the sequence of construction for maintaining 3:1 side slopes on the borrow pit within sixty (60) days after the excavation is complete.
5. No access to or from Pocahontas Club Road shall be permitted for the borrow pit operation.
6. Operating hours shall be 7:00 a.m. to 7:00 p.m., Monday through Saturday. No operations shall be permitted on Sunday.
7. No encroachment into existing easements will be allowed. Access to drainage easements must be provided by the applicant over all the output systems within the site.
8. No encroachments into natural drainage channels shall be permitted.
9. The existing buffer of pine trees along Princess Anne Road, the double row of Loblolly and Virginia pine trees, an understory row of wax myrtle shrubs and the three to four-foot-high berm along Pocahontas Club Road used for screening and buffering shall remain undisturbed.

10. A row of pine trees shall be planted along Princess Anne Road continuing north from the existing trees that will be used as screening and buffering for the expansion of the borrow pit. The required pine trees shall be allowed to grow and be maintained at a height of no less than thirty (30) feet.
11. Undrained pockets and stagnant pools resulting from surface drainage shall be sprayed in accordance with requirements of the state board of health to eliminate breeding places for mosquitos and other insects.
12. The one hundred (100) foot buffer between the cemetery in the southeast corner and the excavation site must remain undisturbed.
13. The maximum depth of the proposed expansion shall not exceed an elevation of 25.00 feet below ground surface from elevation 0.00 feet below ground surface. The applicant shall not breach the confining layers regardless of depth.
14. Dewatering of the pit will be allowed and the following are required:
 - a. A permit from the Virginia Water Control Board is required to discharge any water from dewatering into a state waterway.
 - b. The operator of the borrow pit shall be responsible for continuous water service for the private wells up to one thousand (1,000) feet from the borrow pit operation and those within twenty-five hundred (2,500) feet if proved to be affected by this operation.
15. The maximum number of truck trips generated by the borrow pit shall be seventy (75) per day. A truck trip shall be considered one round trip, in and out of the borrow pit.
16. All trucks and equipment used in conjunction with the borrow pit operation must be stored, repaired, and fueled on the borrow pit site or on property zoned for such use.
17. The applicant and/or operator of the borrow pit shall provide sufficient information to further the knowledge of the impacted subsurface geology by providing a Monitoring Well/Bore Hole Installation Plan and to estimate existing and projected recharge of dewatering operation discharge water. The applicant shall provide a Groundwater Recharge Plan, which shall include all phases of the expansion, subject to the approval of the Director of Public Utilities or designee.
18. The Groundwater Recharge Plan shall provide for the retention of water onsite to the highest degree practical. As one means to achieve this, the flooding of depleted mine areas shall be implemented to the maximum extent practical and outlined in detail in the Groundwater Recharge Plan, accounting for all phases of expansion and reclamation. The applicant and/or operator of the borrow pit shall provide a reliable quarterly report to the Department of Public Utilities to include the analysis of the recharge system. This plan shall contain the amount of water pumped from the borrow pit, the amount of groundwater recharged on the site, the amount of water discharged to offsite surface water, the local precipitation, and a detailed description of the way in which each of these volumes were determined. The plan shall be subject to the approval of the Director of Public Utilities or designee.
19. Testing shall be performed at each monitoring well a minimum of four times a year and analytical results shall be provided to the Director of Public Utilities or designee. The Director of Public Utilities or designee may reduce monitoring frequency to annual testing at each well. If, in the judgement of the Director of Public Utilities or designee, such results indicate that saltwater intrusion is occurring to such extent that private drinking water wells are threatened, the applicant shall cease dewatering of the borrow pit at the cost of the borrow pit operator.

20. Extension of time for operations is ending in June 2030, to include restoration of the property.
21. When mining is complete, the applicant shall redevelop the sides of the pit to a 3:1 slope within six (6) months as depicted on the plan for the borrow pit entitled "Reclamation Plan", dated October 3, 2007, revised September 10, 2009, revised July 1, 2021, prepared by Gallup Surveyors and Engineers. Said plan has been exhibited to the City of Virginia Beach City Council and is on file in the Planning Department.
22. The applicant shall provide quarterly reports from the test wells to include nitrate readings. The reports shall be submitted to the Zoning Administrator for review by the Water Resources Manager. Following the first year, frequency of the reports shall be determined by the Water Resources Manager. Required frequency shall not exceed four (4) reports per year.
23. The applicant shall submit a site development plan in accordance with the Zoning Ordinance, Article 2 C Section 227 Borrow Pits to the Development Services Center of the Planning Department for review and approval prior to any excavation of the additional areas depicted on the submitted site plan entitled "PROPOSED BORROW PIT EXPANSION PLAN FOR BONNEY G. BRIGHT", dated October 3, 2007, revised September 10, 2009, revised March 12, 2021, prepared by Gallup Surveyors & Engineers. Said plan has been exhibited to the City of Virginia Beach City Council and is on file in the Planning Department.
24. Trucks that haul material to and from the property shall not use Princess Anne Road as an ingress and egress for the operation. All trucks in association with the mining operation shall use the entrance in North Carolina to enter and exit the site. If the entrance from Princess Anne Road is used to haul material than the following shall apply: the operator shall install a left turn lane on Princess Anne Road into the borrow pit entrance, the property owner shall dedicate as deemed necessary by City Staff any additional right-of-way to accommodate the turn lane, the entrance from Princess Anne Road shall be paved and the pavement shall extend fifty (50) feet back from the property line and then graveled an additional fifty (50) feet, and an entrance plan shall be required subject to the review and approval by Department of Public Works/Traffic Engineering.

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.

Previous Conditions from 2021 Approval

1. All previous conditions attached to the Conditional Use Permit approvals of November 28, 2000 and February 9, 2010 and the Modification of Conditions Permit approvals of February 14, 2006 and September 15, 2020 shall be voided and replaced with the following conditions below.
2. Activities on the site shall meet all the requirements identified by the Virginia Department of Mines, Minerals and Energy. Additionally, the applicant shall renew their permit and license with the Department of Mines, Minerals and Energy before October 21, 2021.

3. No excavation or restoration of the borrow pit expansion shall be allowed without first obtaining any necessary permits from the appropriate Federal, State and Local agencies, required as a result of the expansion of the existing borrow pit operation. In addition, the applicant shall renew the Non-Metallic Mineral Mining General Permit from the Department of Environmental Quality for the proposed expansion.
4. No excavation or restoration of the borrow pit shall commence until such time that a site plan has been reviewed and approved by the Development Services Center. The site plan must include a specific street and highway contingency plan that addresses the repair and replacement of any damaged roadway surfaces associated with the borrow pit operation. The site plan shall also detail the truck watering schedule currently utilized for the abatement of the dust generated by this operation and must indicate the sequence of construction for maintaining 3:1 side slopes on the borrow pit within sixty (60) days after the excavation is complete.
5. No access to or from Pocahontas Club Road shall be permitted for the borrow pit operation.
6. Operating hours shall be 7:00 a.m. to 7:00 p.m., Monday through Saturday. No operations shall be permitted on Sunday.
7. No encroachment into existing easements will be allowed. Access to drainage easements must be provided by the applicant over all the output systems within the site.
8. No encroachments into natural drainage channels shall be permitted.
9. The existing buffer of pine trees along Princess Anne Road, the double row of Loblolly and Virginia pine trees, an understory row of wax myrtle shrubs and the three to four-foot-high berm along Pocahontas Club Road used for screening and buffering shall remain undisturbed.
10. A row of pine trees shall be planted along Princess Anne Road continuing north from the existing trees that will be used as screening and buffering for the expansion of the borrow pit. The required pine trees shall be allowed to grow and be maintained at a height of no less than thirty (30) feet.
11. Undrained pockets and stagnant pools resulting from surface drainage shall be sprayed in accordance with requirements of the state board of health to eliminate breeding places for mosquitos and other insects.
12. The one hundred (100) foot buffer between the cemetery in the southeast corner and the excavation site must remain undisturbed.
13. The maximum depth of the proposed expansion shall not exceed an elevation of 25.00 feet below ground surface from elevation 0.00 feet below ground surface. The applicant shall not breach the confining layers regardless of depth.
14. Dewatering of the pit will be allowed and the following are required:
 - a. A permit from the Virginia Water Control Board is required to discharge any water from dewatering into a state waterway.
 - b. The operator of the borrow pit shall be responsible for continuous water service for the private wells up to one thousand (1,000) feet from the borrow pit operation and those within twenty-five hundred (2,500) feet if proved to be affected by this operation.
15. The maximum number of truck trips generated by the borrow pit shall be seventy (75) per day. A truck trip shall be considered one round trip, in and out of the borrow pit.

16. All trucks and equipment used in conjunction with the borrow pit operation must be stored, repaired, and fueled on the borrow pit site or on property zoned for such use.
17. The applicant and/or operator of the borrow pit shall provide sufficient information to further the knowledge of the impacted subsurface geology by providing a Monitoring Well/Bore Hole Installation Plan and to estimate existing and projected recharge of dewatering operation discharge water. The applicant shall provide a Groundwater Recharge Plan, which shall include all phases of the expansion, subject to the approval of the Director of Public Utilities or designee.
18. The Groundwater Recharge Plan shall provide for the retention of water onsite to the highest degree practical. As one means to achieve this, the flooding of depleted mine areas shall be implemented to the maximum extent practical and outlined in detail in the Groundwater Recharge Plan, accounting for all phases of expansion and reclamation. The applicant and/or operator of the borrow pit shall provide a reliable quarterly report to the Department of Public Utilities to include the analysis of the recharge system. This plan shall contain the amount of water pumped from the borrow pit, the amount of groundwater recharged on the site, the amount of water discharged to offsite surface water, the local precipitation, and a detailed description of the way in which each of these volumes were determined. The plan shall be subject to the approval of the Director of Public Utilities or designee.
19. Testing shall be performed at each monitoring well a minimum of four times a year and analytical results shall be provided to the Director of Public Utilities or designee. The Director of Public Utilities or designee may reduce monitoring frequency to annual testing at each well. If, in the judgement of the Director of Public Utilities or designee, such results indicate that saltwater intrusion is occurring to such extent that private drinking water wells are threatened, the applicant shall cease dewatering of the borrow pit at the cost of the borrow pit operator.
20. Extension of time for operations is ending in June 2030, to include restoration of the property.
21. When mining is complete, the applicant shall redevelop the sides of the pit to a 3:1 slope within six (6) months as depicted on the plan for the borrow pit entitled "Reclamation Plan", dated October 3, 2007, revised September 10, 2009, revised July 1, 2021, prepared by Gallup Surveyors and Engineers. Said plan has been exhibited to the City of Virginia Beach City Council and is on file in the Planning Department.
22. The applicant shall submit a site development plan in accordance with the Zoning Ordinance, Article 2 C Section 227 Borrow Pits to the Development Services Center of the Planning Department for review and approval prior to any excavation of the additional areas depicted on the submitted site plan entitled "PROPOSED BORROW PIT EXPANSION PLAN FOR BONNEY G. BRIGHT", dated October 3, 2007, revised September 10, 2009, revised March 12, 2021, prepared by Gallup Surveyors & Engineers. Said plan has been exhibited to the City of Virginia Beach City Council and is on file in the Planning Department.
23. Trucks that haul material to and from the property shall not use Princess Anne Road as an ingress and egress for the operation. All trucks in association with the mining operation shall use the entrance in North Carolina to enter and exit the site. If the entrance from Princess Anne Road is used to haul material then the following shall apply: the operator shall install a left turn lane on Princess Anne Road into the borrow pit entrance, the property owner shall dedicate as deemed necessary by City Staff any additional right-of-way to accommodate the turn lane, the entrance from Princess Anne Road shall be paved and the pavement shall extend fifty (50) feet back from the property line and then graveled an additional fifty (50) feet, and an entrance plan shall be required subject to the review and approval by Department of Public Works/Traffic Engineering.

Comprehensive Plan Recommendations

The Comprehensive Plan recognizes this site to be within the Rural Area, a critical part of the City that encompasses the agricultural industry and economic vitality, rural heritage, and wildlife habitat. The Rural Area supplements the diversity of the City's character and provides a unique component to the City's tourist industry while maintaining the rural community that is essential to the overall quality of life for Virginia Beach residents. The vision for the Rural Area is for it to remain rural into the foreseeable future through a commitment to strong planning objectives that emphasize its agricultural and environmental economic value, in an effort to preserve the area for future generations.

Natural & Cultural Resources Impacts

The site is located in the Southern Rivers watershed. Drainage in the Southern Rivers watershed is highly impacted by the presence of high ground water, poorly draining soils, and high-water surface elevations in downstream receiving waters. There does not appear to be any significant natural or cultural resources associated with the site.

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Princess Anne Road	4,025 ADT ¹	11,200 ADT ¹ (LOS ² "D")	No Change Anticipated ³
¹ Average Daily Trips	² LOS = Level of Service	³ No information available in the ITE Trip Generation Manual for borrow pit	

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

Princess Anne Road in the vicinity of this site is a two-lane rural road with a 50-foot right-of-way. The MTP Map indicates an ultimate future right-of-way width of 90 feet for a roadway with a bikeway. There is currently no roadway CIP scheduled for this segment of Princess Anne 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. Health Department approval is required for septic systems.

Public Outreach Information

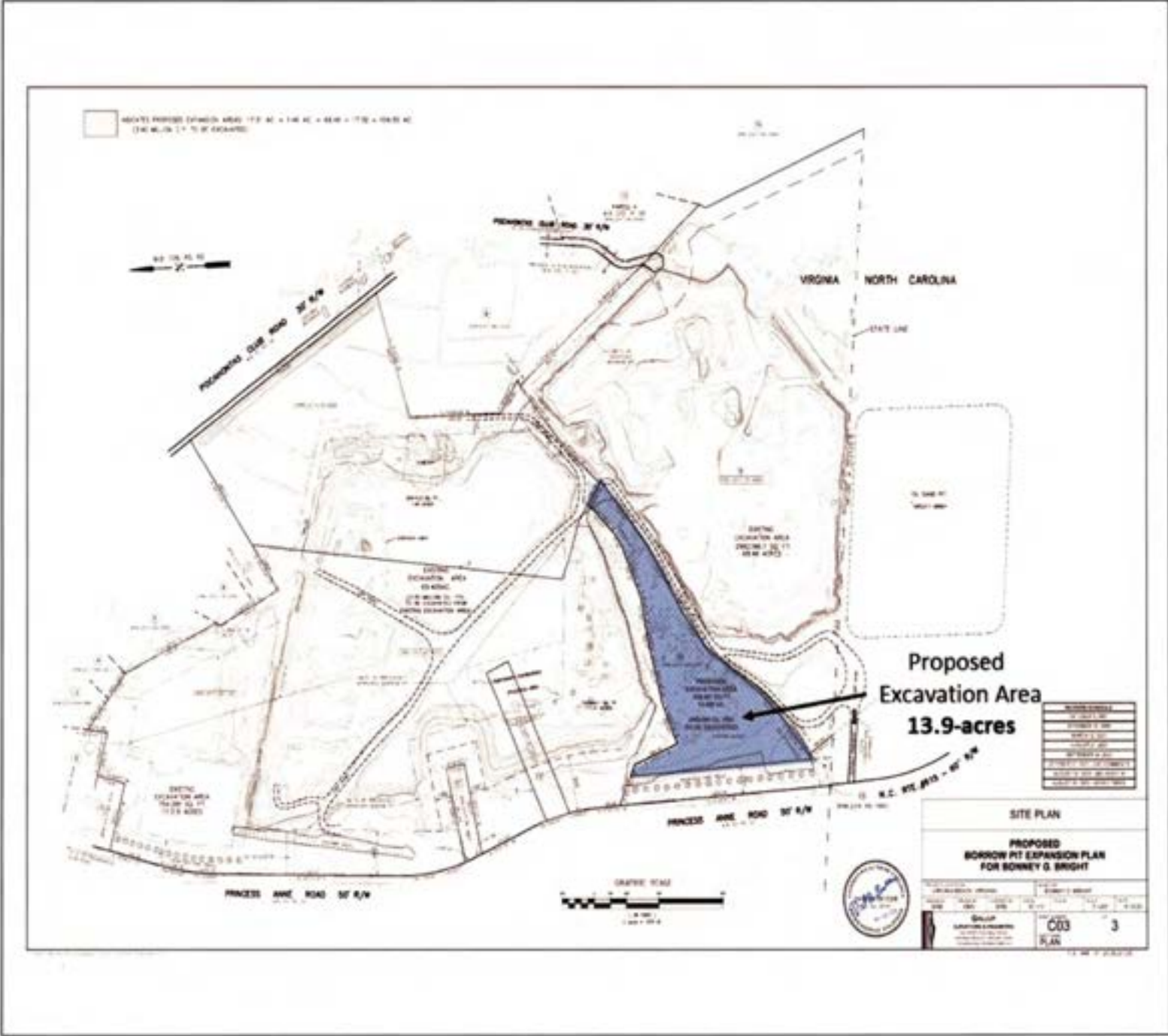
Planning Commission

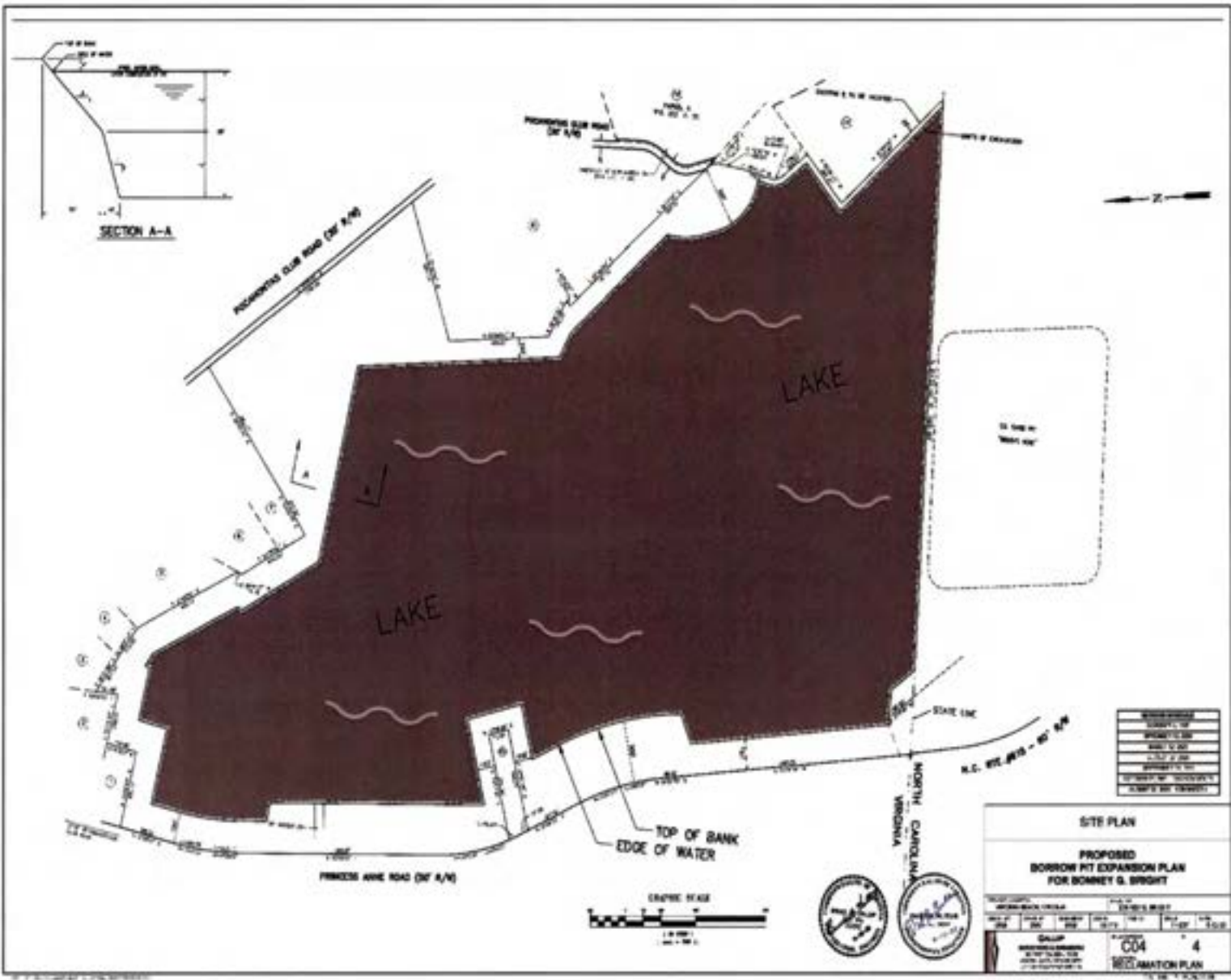
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on September 11, 2023.

- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, September 27, 2023 and October 4, 2023.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on September 25, 2023.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.viriniabeach.gov/pc on October 5, 2023.

City Council

- As required by City Code, this item was advertised in the Virginian-Pilot on Tuesdays, November 28, 2023 and December 5, 2023
- As required by City Code, the adjacent property owners were notified regarding both the request and the date of the City Council's public hearing on November 27, 2023.
- The City Clerk's Office posted the materials associated with the application on the City Council website of <https://clerk.viriniabeach.gov/city-council> on December 8, 2023.





Site Photos



Site Photos



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 Bonney Bright Sand Co.

Does the applicant have a representative? Yes No

- If yes, list the name of the representative.
R. Harold Jones, PWS Emeritus

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)
Bonney G. Bright, Owner

- If yes, list the businesses that have a parent-subsiary¹ or affiliated business entity² relationship with the applicant. (Attach a list if necessary)
None

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.

Disclosure Statement

Disclosure Statement



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?

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.

Towne Bank, Farmers Bank

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.

Anderson & Associates, Inc.

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.

Bruce Gallop Surveyors & Engineers, LTD

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.

Sigma Environmental Services, Inc. c/d R. Harold Jones, PWS Emeritus

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.

Sykes, Bourdon, Ahern & Levy, P.C.

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.

Bonney Bright
 Applicant Signature
 Bonney G. Bright
 Print Name and Title
 7/18/2023
 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 checked="" type="checkbox"/>	No changes as of	Date	11/21/2023	Signature <i>M. Coleman</i>
				Print Name Marchelle L. Coleman

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.

Virginia Beach Planning Commission
October 11, 2023, Public Meeting
Agenda Item # 6

Bonney Bright Sand Co

RECOMMENDED FOR APPROVAL- CONSENT

Mr. Horsley: Thank you, Mr. Plumlee. Next item is item number six Bonney Bright Sand Company for borrow pit expansion, is a representative.

Mr. Jones: Good afternoon, Mr. Chairman and members of the commission. My name is Harold Jones. I'm with Sigma Environmental and I represent the Bonney Bright Sand Mine application today. We've worked with staff; there was a couple of existing modifications to existing conditions on the operation of the mine that accompanied this -- this modification for four conditions and they are totally acceptable to us. And we have, I'd be happy to answer any questions that you all may have.

Mr. Horsley: Thank you, Mr. Jones. Appreciate it.

Mr. Jones: Thank you.

Mr. Horsley: Is there any opposition to this? Hearing none. We've asked Mr. Clemons if he would read this into the record.

Mr. Clemons: Thank you very much. The applicant is requesting a modification of conditions to the existing conditional use permit to expand the existing borrow pit by 13.9 acres on this property zoned AG-1 and AG-2 agricultural district. The applicant proposes to use the materials that are mined to provide private, commercial, and government entities with fill sand, masonry sand, clay and fill dirt. Sand excavation operation has been going on this property since the 1970s. In 1989, the City Council approved the conditional use permit to operate a 23.4 acre borrow pit. There were no approvals granted prior to 1989 and there's no consideration by council was required. Since that time, there have been two additional conditional use permits that have been granted and in 2000, an expansion of the borrow pit by 46 acres was granted, as well as an additional expansion in 2010 by 87.23 acres. The applicant recently purchased the 13.9 acres to incorporate into their existing operations, and since this area was not included with the previous approval, a modification of conditions to expand

the mining operation is required. We did not find any opposition to this request; therefore we placed it on the consent agenda.

Mr. Horsley: Thank you, Mr. Plumlee. And now I'd like to, Chairman, I'd like to place in a motion that we accept item number one, Whitney W. Elliott and Matthew Mancoll. Item number six, Bonney Bright Sand. Item number nine and 10 Burnette Baum Development Corporation, number 12 Excel Fitness, Virginia 9 and items number 13 through 18, short term rentals moved they be approved.

Mr. Alcaraz: Thank you, Mr. Vice Chair. I have a motion. Do I have a second?

Mr. Plumlee: Second.

Mr. Alcaraz: Second by Mr. Plumlee. Thank you.

Madam Clerk: The vote is now open. By a vote of 11 to 0 items 1, 6, 9, 10, 12, 13, 14, 15, 16, 17, and 18 have been recommended for approval.

	AYE 11	NAY 0	ABS 0	ABSENT 0
Alcaraz	AYE			
Anderson	AYE			
Byler	AYE			
Clemons	AYE			
Coston	AYE			
Cuellar	AYE			
Estaris	AYE			
Hippen	AYE			
Horsley	AYE			
Parks	AYE			
Plumlee	AYE			

CONDITIONS

1. All previous conditions attached to the Modification of Conditions Permit approvals of August 3, 2021 shall be voided and replaced with the following conditions below.
2. Activities on the site shall meet all the requirements identified by the Virginia Department of Mines, Minerals and Energy. Additionally, the applicant shall renew their permit and license with the Department of Mines, Minerals and Energy before October 21, 2023.
3. No excavation or restoration of the borrow pit expansion shall be allowed without first obtaining any necessary permits from the appropriate Federal, State and Local agencies,

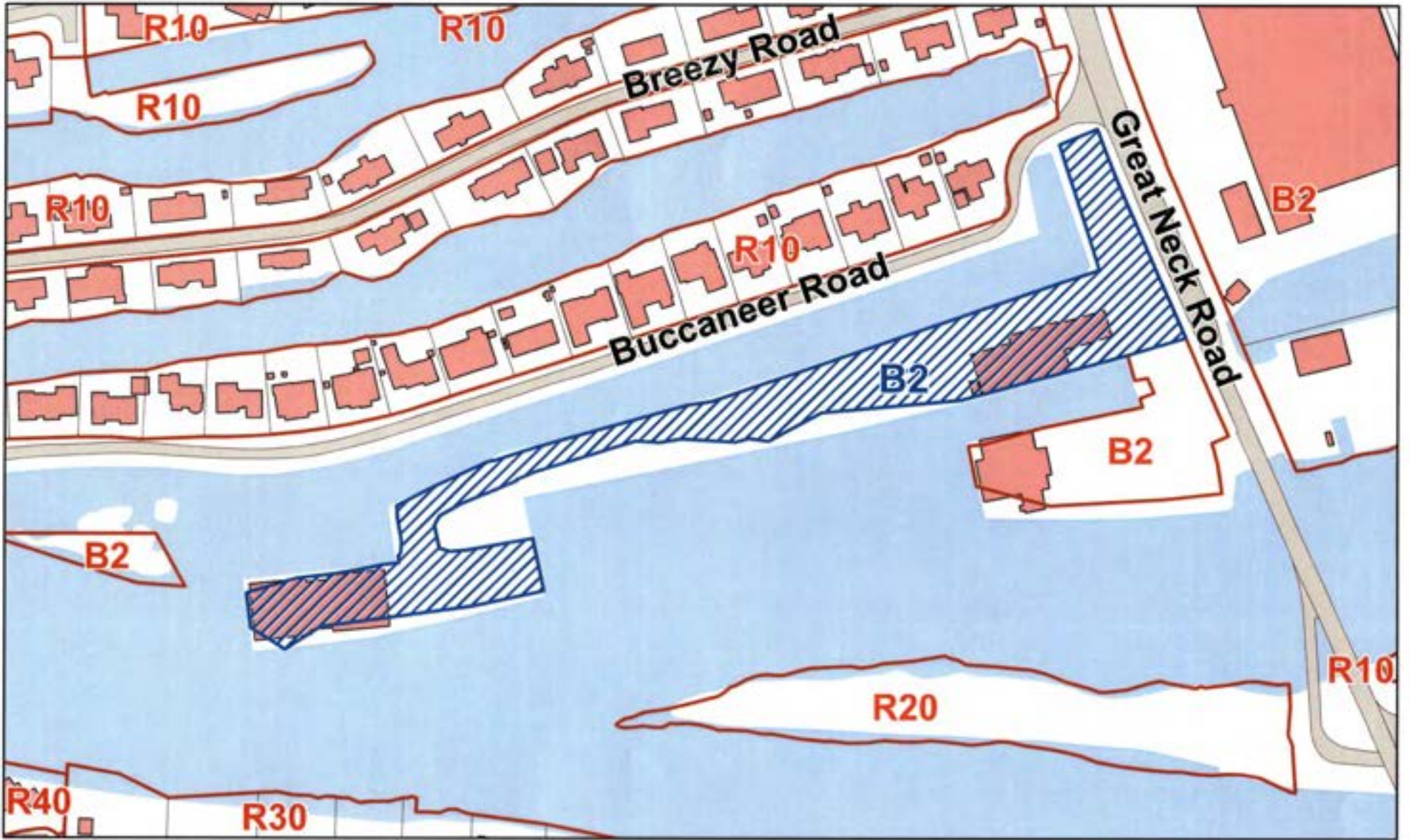
required as a result of the expansion of the existing borrow pit operation. In addition, the applicant shall renew the Non-Metallic Mineral Mining General Permit from the Department of Environmental Quality for the proposed expansion.

4. No excavation or restoration of the borrow pit shall commence until such time that a site plan has been reviewed and approved by the Development Services Center. The site plan must include a specific street and highway contingency plan that addresses the repair and replacement of any damaged roadway surfaces associated with the borrow pit operation. The site plan shall also detail the truck watering schedule currently utilized for the abatement of the dust generated by this operation and must indicate the sequence of construction for maintaining 3:1 side slopes on the borrow pit within sixty (60) days after the excavation is complete.
5. No access to or from Pocahontas Club Road shall be permitted for the borrow pit operation.
6. Operating hours shall be 7:00 a.m. to 7:00 p.m., Monday through Saturday. No operations shall be permitted on Sunday.
7. No encroachment into existing easements will be allowed. Access to drainage easements must be provided by the applicant over all the output systems within the site.
8. No encroachments into natural drainage channels shall be permitted.
9. The existing buffer of pine trees along Princess Anne Road, the double row of Loblolly and Virginia pine trees, an understory row of wax myrtle shrubs and the three to four-foot-high berm along Pocahontas Club Road used for screening and buffering shall remain undisturbed.
10. A row of pine trees shall be planted along Princess Anne Road continuing north from the existing trees that will be used as screening and buffering for the expansion of the borrow pit. The required pine trees shall be allowed to grow and be maintained at a height of no less than thirty (30) feet.
11. Undrained pockets and stagnant pools resulting from surface drainage shall be sprayed in accordance with requirements of the state board of health to eliminate breeding places for mosquitos and other insects.
12. The one hundred (100) foot buffer between the cemetery in the southeast corner and the excavation site must remain undisturbed.
13. The maximum depth of the proposed expansion shall not exceed an elevation of 25.00 feet below ground surface from elevation 0.00 feet below ground surface. The applicant shall not breach the confining layers regardless of depth.
14. Dewatering of the pit will be allowed and the following are required:
 - a. A permit from the Virginia Water Control Board is required to discharge any water from dewatering into a state waterway.
 - b. The operator of the borrow pit shall be responsible for continuous water service for the private wells up to one thousand (1,000) feet from the borrow pit operation and those within twenty-five hundred (2,500) feet if proved to be affected by this operation.

15. The maximum number of truck trips generated by the borrow pit shall be seventy (75) per day. A truck trip shall be considered one round trip, in and out of the borrow pit.
16. All trucks and equipment used in conjunction with the borrow pit operation must be stored, repaired, and fueled on the borrow pit site or on property zoned for such use.
17. The applicant and/or operator of the borrow pit shall provide sufficient information to further the knowledge of the impacted subsurface geology by providing a Monitoring Well/Bore Hole Installation Plan and to estimate existing and projected recharge of dewatering operation discharge water. The applicant shall provide a Groundwater Recharge Plan, which shall include all phases of the expansion, subject to the approval of the Director of Public Utilities or designee.
18. The Groundwater Recharge Plan shall provide for the retention of water onsite to the highest degree practical. As one means to achieve this, the flooding of depleted mine areas shall be implemented to the maximum extent practical and outlined in detail in the Groundwater Recharge Plan, accounting for all phases of expansion and reclamation. The applicant and/or operator of the borrow pit shall provide a reliable quarterly report to the Department of Public Utilities to include the analysis of the recharge system. This plan shall contain the amount of water pumped from the borrow pit, the amount of groundwater recharged on the site, the amount of water discharged to offsite surface water, the local precipitation, and a detailed description of the way in which each of these volumes were determined. The plan shall be subject to the approval of the Director of Public Utilities or designee.
19. Testing shall be performed at each monitoring well a minimum of four times a year and analytical results shall be provided to the Director of Public Utilities or designee. The Director of Public Utilities or designee may reduce monitoring frequency to annual testing at each well. If, in the judgement of the Director of Public Utilities or designee, such results indicate that saltwater intrusion is occurring to such extent that private drinking water wells are threatened, the applicant shall cease dewatering of the borrow pit at the cost of the borrow pit operator.
20. Extension of time for operations is ending in June 2030, to include restoration of the property.
21. When mining is complete, the applicant shall redevelop the sides of the pit to a 3:1 slope within six (6) months as depicted on the plan for the borrow pit entitled "Reclamation Plan", dated October 3, 2007, revised September 10, 2009, revised July 1, 2021, prepared by Gallup Surveyors and Engineers. Said plan has been exhibited to the City of Virginia Beach City Council and is on file in the Planning Department.
22. The applicant shall provide quarterly reports from the test wells to include nitrate readings. The reports shall be submitted to the Zoning Administrator for review by the Water Resources Manager. Following the first year, frequency of the reports shall be determined by the Water Resources Manager. Required frequency shall not exceed four (4) reports per year.
23. The applicant shall submit a site development plan in accordance with the Zoning Ordinance, Article 2 C Section 227 Borrow Pits to the Development Services Center of the Planning Department for review and approval prior to any excavation of the additional areas depicted on the submitted site plan entitled "PROPOSED BORROW PIT

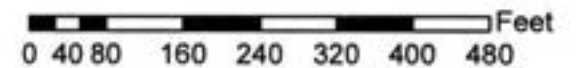
EXPANSION PLAN FOR BONNEY G. BRIGHT", dated October 3, 2007, revised September 10, 2009, revised March 12, 2021, prepared by Gallup Surveyors & Engineers. Said plan has been exhibited to the City of Virginia Beach City Council and is on file in the Planning Department.

24. Trucks that haul material to and from the property shall not use Princess Anne Road as an ingress and egress for the operation. All trucks in association with the mining operation shall use the entrance in North Carolina to enter and exit the site. If the entrance from Princess Anne Road is used to haul material then the following shall apply: the operator shall install a left turn lane on Princess Anne Road into the borrow pit entrance, the property owner shall dedicate as deemed necessary by City Staff any additional right-of-way to accommodate the turn lane, the entrance from Princess Anne Road shall be paved and the pavement shall extend fifty (50) feet back from the property line and then graveled an additional fifty (50) feet, and an entrance plan shall be required subject to the review and approval by Department of Public Works/Traffic Engineering.



**Amberly Carter
2105 West Great Neck Road**

-  Site
-  Property Polygons
-  Zoning
-  Building





CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: AMBERLY CARTER [Applicant] LONGBAY POINT PARTNERS, LLC [Property Owner] Modification of Conditions to a Conditional Use Permit (Assembly Use) for the property located at 2105 West Great Neck Road (GPIN 1499382174). COUNCIL DISTRICT 8

MEETING DATE: December 12, 2023

■ **Background:**

The applicant is requesting a Modification of the Conditional Use Permit for an Assembly Use granted by City Council on February 18, 2020, to expand the use for outdoor events. Specifically, the applicant intends to renovate an existing outdoor covered patio at the rear of the building that was not included with the original Conditional Use Permit request. While the applicant initially included a request to allow amplified music and speakers outdoors, the applicant withdrew that request at the Planning Commission hearing based on concerns from adjacent property owners. The maximum occupant load has been determined by the Building Official & Fire Marshal's Office and will not increase with this patio expansion. On-site parking exceeds the Ordinance requirement by 77 spaces.

■ **Considerations:**

The proposed modification is acceptable given that the use is compatible with the other commercial uses along this section of W. Great Neck Road. On-site parking is satisfied, and additional off-site parking spaces are available, if needed, via shared parking agreements with surrounding property owners. There was one speaker present at the hearing and 13 letters of opposition received from adjoining property owners indicating concerns with noise from the proposed amplified music and use of speakers outside of the main building. A petition of opposition was also provided after the Planning Commission Hearing with 10 signatures from adjacent property owners stating concerns regarding increased noise. Due to the opposition received, the applicant opted to remove the modified condition to address the concerns regarding noise. The condition will remain as initially approved in 2020, only allowing amplification of music and the use of speakers within the building. Condition 10 has been modified to address this change. Further details pertaining to the application, as well as Staff's evaluation, are provided in the attached Staff Report.

■ **Recommendation:**

On November 8, 2023, the Planning Commission passed a motion to recommend approval of this request by a vote of 8 to 0.

1. All previous conditions attached to the previous Conditional Use Permit granted on February 18, 2020 shall be voided and replaced with the following conditions below.
2. A business license for the Assembly Use 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.
3. The applicant shall obtain all necessary permits and inspections from the Planning Department/Permits and Inspections Division. The applicant shall secure a Certificate of Occupancy from the Building Official's Office for use of the existing building as an Assembly Use.
4. The maximum number of individuals within the facility to include the covered patio shall not exceed 197 or the maximum number as required by applicable building codes, noted on the Certificate of Occupancy and posted by the Fire Marshal.
5. 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.
6. All lighting, temporary or permanent, related to events held on the subject property, shall be directed downward and towards the interior of the site and contained such that the source of light shall be shielded from view from any area outside of the property.
7. Any outdoor storage of materials associated with the Assembly Use shall be prohibited.
8. All trash receptacles shall be emptied regularly so as not to overflow, and litter and debris shall not be allowed to accumulate.
9. Consistent with the requirements for a Special Event, for each event exceeding 250 people, the applicant shall obtain a Special Event Permit and shall notify the Police Department, the Fire Prevention Bureau, the Health Department and Emergency Medical Services of the event's time, size, and scope of activities.
10. No amplification of music or use of speakers shall be permitted ~~outside of the main building after 8:00 p.m.~~ except within the main enclosed building.

- **Attachments:**
Staff Report and Disclosure Statements

Location Map
Minutes of Planning Commission Hearing
Letter(s) of Opposition (13)
Petition of Opposition (10 signatures)

Recommended Action: Staff recommends Approval. Planning Commission recommends Approval.

Submitting Department/Agency: Planning Department

City Manager:



Request

Modification of Conditions (Assembly Use)

Staff Recommendation

Approval

Staff Planner

Marchelle Coleman

Location

2105 West Great Neck Road

GPIN

1499382174

Site Size

3.20 acres (7,963 square foot space)

AICUZ

Less than 65 dB DNL

Watershed

Chesapeake Bay

Existing Land Use and Zoning District

Retail, Restaurant, Commercial Marina / B-2
Community Business

Surrounding Land Uses and Zoning Districts

North

Buccaneer Road
Single-family Dwellings/ R-10 Residential (Shore
Drive Corridor Overlay)

South

Long Creek
Indoor Recreation Facility, single-family
Dwellings/ B-2 Community Business, R-30
Residential (Shore Drive Corridor Overlay)

East

West Great Neck Road
Commercial Marina, Boat Sales, Boat Repair
Yards / B-2 Community Business (Shore Drive
Corridor Overlay)

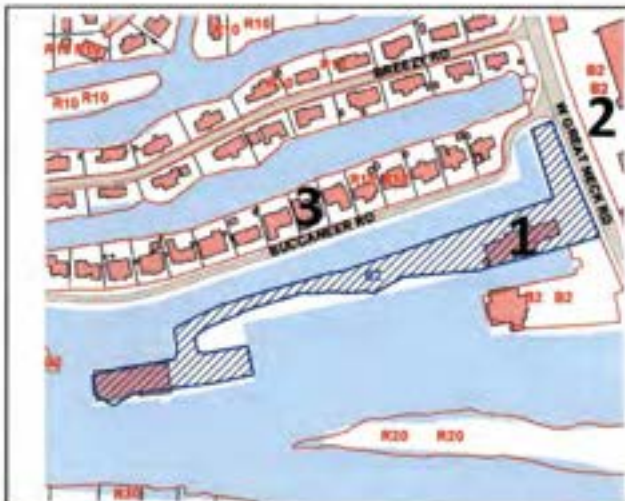
West

Long Creek



Background & Summary of Proposal

- The applicant is requesting to modify a condition associated with the Conditional Use Permit for an Assembly Use approved by City Council in 2020 on this B-2 Community Business District zoned parcel. Specifically, the applicant is seeking to revise Condition 9 which restricted the use of speakers and amplified music outside of the main building.
- The applicant seeks to amend the condition to offer renters an option to host events outside, to include the use of speakers and amplified music. With the previous approval, all events were to occur inside of the main building.
- The applicant now intends to renovate the existing covered patio at the rear of the building, to provide outdoor event space. Renovations will include structural changes, including the removal of the center windows to construct doors to the main ballroom, a landing with a ramp, and remodeling of an existing restroom accessible from the outdoor patio area. The outdoor space will be used as needed from 4:00 p.m. to 8:00 p.m., Thursday through Sunday.
- No net increase in attendees per each event is expected with inclusion of the patio area. The maximum occupant load for this building, which includes the patio in its calculation, is 197. The occupancy load is determined by the Building Official & Fire Marshal's Office.
- Per Section 203 of the Zoning Ordinance, when a shopping center with more than 50% of the total floor area is occupied by restaurant uses, a parking requirement of one parking space per 100 square feet of floor area of the building is required. As the combined floor area of these buildings is 11,240 square feet, 113 on-site parking spaces are required. There is also a marina on the property which has 216 boat slips. The minimum parking requirement for the marina is 108 parking spaces. The submitted concept plan depicts 298 on-site parking spaces. Based on this, the minimum parking requirements for all uses on site are met and are exceeded by 77 spaces. While not required, to safeguard against a deficiency of parking for both tenants and guests, the applicant has entered into parking agreements with surrounding property owners. The off-site parking locations are depicted on the exhibit on page 8 of this report. When these satellite parking areas are in use, shuttles will bring attendees to and from the property.
- No new signage is proposed on the site.



Zoning History

#	Request
1	CUP (Assembly Use) Approved 02/18/2020
2	CUP (Dry Storage Boatel) Approved 05/13/1997
3	SVR Approved 05/08/1996

Application Types

CUP – Conditional Use Permit
 REZ – Rezoning
 CRZ – Conditional Rezoning

MDC – Modification of Conditions
 MDP – Modification of 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 request for a Modification of Conditions is, in Staff's opinion, acceptable given that the use will be compatible with the other commercial uses along this section of W. Great Neck Road.

As noted in the 2020 Conditional Use Permit request, while the site exceeds the parking requirement for the shopping center and marina, the applicant has obtained additional off-site parking spaces via shared parking agreements. While the extra parking locations are in place as a future safeguard, the applicant has indicated that in the four years of operation, the off-site parking spaces have never been needed to provide additional parking for any events.

To alleviate any nuisance to adjacent property owners, a condition is recommended restricting the use of amplified music and use of speakers outside of the main building after 8:00 p.m. The applicant is agreeable to this condition. Staff does not anticipate any negative impacts to the surrounding property owners, as the outdoor space is in the rear of the building, shielded from the residential properties along Buccaneer Road, and will be restricted from the use of speakers and amplified music after 8:00 p.m.

Based on these considerations, Staff recommends approval of this application, subject to the conditions listed below.

Recommended Conditions

1. All previous conditions attached to the previous Conditional Use Permit granted on February 18, 2020 shall be voided and replaced with the following conditions below.
2. A business license for the Assembly Use 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.
3. The applicant shall obtain all necessary permits and inspections from the Planning Department/Permits and Inspections Division. The applicant shall secure a Certificate of Occupancy from the Building Official's Office for use of the existing building as an Assembly Use.
4. The maximum number of individuals within the facility to include the covered patio shall not exceed 197 or the maximum number as required by applicable building codes, noted on the Certificate of Occupancy and posted by the Fire Marshal.
5. 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.
6. All lighting, temporary or permanent, related to events held on the subject property, shall be directed downward and towards the interior of the site and contained such that the source of light shall be shielded from view from any area outside of the property.
7. Any outdoor storage of materials associated with the Assembly Use shall be prohibited.
8. All trash receptacles shall be emptied regularly so as not to overflow, and litter and debris shall not be allowed to accumulate.
9. Consistent with the requirements for a Special Event, for each event exceeding 250 people, the applicant shall obtain a Special Event Permit and shall notify the Police Department, the Fire Prevention Bureau, the Health Department and Emergency Medical Services of the event's time, size, and scope of activities.

10. No amplification of music or use of speakers shall be permitted ~~outside of the main building after 8:00 p.m.~~ except within the main enclosed building.

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.

Previous Conditions from 2020 CUP

1. A business license for the Assembly Use 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 applicant shall obtain all necessary permits and inspections from the Planning Department/Permits and Inspections Division. The applicant shall secure a Certificate of Occupancy from the Building Official's Office for use of the existing building as an Assembly Use.
3. The maximum number of individuals within the facility shall not exceed 150 or the maximum number as required by applicable building codes, noted on the Certificate of Occupancy and posted by the Fire Marshal.
4. 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.
5. All lighting, temporary or permanent, related to events held on the subject property, shall be directed downward and towards the interior of the site and contained such that the source of light shall be shielded from view from any area outside of the property.
6. Any outdoor storage of materials associated with the Assembly Use shall be prohibited.
7. All trash receptacles shall be emptied regularly so as not to overflow, and litter and debris shall not be allowed to accumulate.
8. Consistent with the requirements for a Special Event, for each event exceeding 250 people, the applicant shall obtain a Special Event Permit and shall notify the Police Department, the Fire Prevention Bureau, the Health Department and Emergency Medical Services of the event's time, size, and scope of activities.
9. No amplification of music or use of speakers shall be permitted except within the main enclosed building.
10. Subject to Section 221 (k) of the Zoning Ordinance, an annual review based on the date of City Council approval shall be performed by the Planning Director of the Assembly Use Conditional Use Permit. This use may be allowed to remain on the site subject to a determination by the Planning Director that the presence of the use is not detrimental to the public health, safety, and welfare. Furthermore, this use, as conditioned herein, shall not cause public inconvenience, annoyance, disturbance, or be incompatible with other uses in the vicinity or otherwise

interfere with the reasonable use and enjoyment of neighboring properties by reason of excessive noise, traffic, or overflow parking.

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 to provide a framework for neighborhoods 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 & 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.

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
West Great Neck Road	8,500 ADT ¹	12,500 ADT ¹ (LOS ² "D")	No Change Anticipated

¹ Average Daily Trips ² LOS = Level of Service

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

West Great Neck Road is a two-lane urban collector roadway. There are currently no CIP projects scheduled to upgrade this roadway.

Public Utility Impacts

Water & Sewer

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

The existing 1.5-inch meter may be used or upgraded to accommodate the proposed use. If a plumbing permit is required, the water meter size will be evaluated by Public Utilities prior to permit issuance. Depending on the number and type of fixtures and use within the building, the water meter may need to be upgraded.

Public Outreach Information

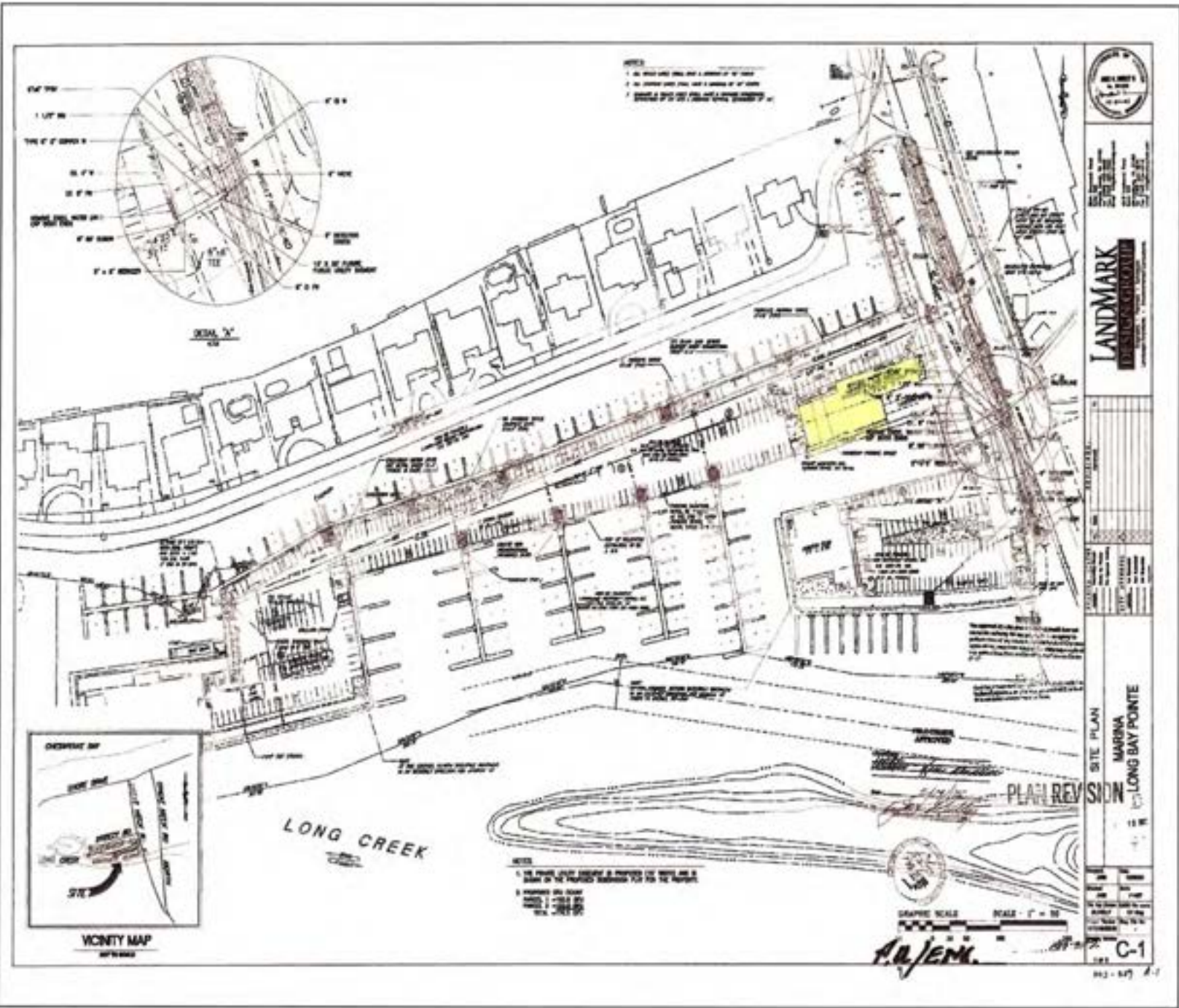
Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on October 9, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, October 25, 2023 and November 1, 2023.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on October 23, 2023.

- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.viriniabeach.gov/pc on November 2, 2023.

City Council

- As required by City Code, this item was advertised in the Virginian-Pilot on Tuesdays, November 28, 2023 and December 5, 2023.
- As required by City Code, the adjacent property owners were notified regarding both the request and the date of the City Council's public hearing on November 27, 2023.
- The City Clerk's Office posted the materials associated with the application on the City Council website of <https://clerk.viriniabeach.gov/city-council> on December 8, 2023.



Proposed Outdoor Patio Renovations



Off-Site Parking Locations

The Gala 417 at 2105 W Great Neck Road



Key

- 1** Lynnhaven Colony UCC Church
- 2** Citrus
- 3** Lynnhaven Colony Shoppes

Assembly Use Location

Site Photos



Site Photos



Disclosure Statement

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 Amberly Carter

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-subsidiary¹ or affiliated business entity² relationship with the applicant. (Attach a 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.

Disclosure Statement

Disclosure Statement



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?
-

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.
-

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.

Gary Becker, CPA, LLC

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.

Reich Design LLC, Armond Reich

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

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.

Amberly Carter

Applicant Signature

Amberly Carter, Owner

Print Name and Title

9/11/23

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 checked="" type="checkbox"/>	No changes as of	Date	11/21/2023	Signature	<i>M. Coleman</i>
				Print Name	Marchelle L. Coleman

Disclosure Statement

Disclosure Statement



Owner Disclosure

Owner Name Longbay Point Partners, LLC

Applicant Name Amberly Carter

Is the Owner 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)

Jim Underhill

- If yes, list the businesses that have a parent-subsidary³ or affiliated business entity⁴ relationship with the Owner. (Attach a list if necessary)

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?

³ "Parent-subsidary 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.

⁴ "Affiliated business entity relationship" means "a relationship, other than parent-subsidary 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.

Disclosure Statement

Disclosure Statement



Owner Services Disclosure

1. Does the Owner 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.
Fulton Financial Corporation

2. Does the Owner 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 Owner 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.
Dans Josay, Lifting & Lott, LLC individual, James Davis

4. Does the Owner 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.

6. Does the Owner 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 Owner 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.

Disclosure Statement

Disclosure Statement



8. Is the Owner 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 legal the service.

Owner 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.



Owner Signature

Jim Underhill

Print Name and Title

9-23

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.

Virginia Beach Planning Commission
November 8, 2023, Public Meeting
Agenda Item # 4

Amberly Carter

RECOMMENDED FOR APPROVAL

Madam Clerk: The next item is agenda item number four Amberly Carter, it's an application for modification of conditions for assembly use at 2105 West Great Neck Road in District eight.

Mr. Alcaraz: Just state your name please.

Ms. Carter: Amberly Carter.

Mr. Alcaraz: You're the owner?

Ms. Carter: I am, yes, speaking on behalf of myself as the applicant.

Mr. Alcaraz: Okay, great. Go ahead.

Ms. Carter: Yes, all right, yes, good morning, commissioners, all of the lovely people behind me and also everyone here to speak in opposition of this. I actually am really thankful for my platform to speak today. I have been operating a wedding venue on Long Bay Point Marina of West Great Neck Road for four years now. We opened just before COVID and we were able to get through that. So, I'm sure we'll be able to get through this, but I am really thankful for this opportunity because I believe there's a large misconception of what my goal is for the modification of conditions for this permit. I am not looking to host more events. I am not looking to host events outside. I am not looking to host events with more people. The area behind the building that I operate of now, so right now we are pretty much all inside. We have a very small deck that like a porch that is on the front side of the building that faces the canal and Buccaneer Road. There is a space behind us that was previously operated by Spots Fishing Company. It kind of resembles a carport. There is a large driveway in front about 50 feet by 33 feet and it's just like an open pavement that needs to be fixed. There were 18 wheelers going to and from the Spots Fish Company multiple times a day and [Inaudible 36:38] and so then as you go further back, there's a covered space. So as an extension from the roof that I have now and it's come fully outside space, but it is covered and it's already built, it's just like a carport.

We had the opportunity to take over the space and we thought it would be a wonderful idea for storage and then also for to create a terrace. So, what we are looking to do is if you can see here, we have three sets of three windows. The top is what it looks like right now, those on the other side of the wall where the windows are, it's where our ballroom is located. So, what we would like to do is take the center set of windows that is under the carport, turn those into the doors that you see below. After the ceremony is over, guests would come out of those doors, see the platform there, and then come down the ramp or the steps. Both sides are open and then have cocktail hour on that terrace for 50 minutes. At the moment, they actually go into the other half of the inside of our building and sometimes go out onto that front porch. Okay when they go out onto the front porch, that is when they're facing Buccaneer Road that is also when they're facing our beautiful boating resort on a Long Bay Point Marina. There are 10 peer houses along the Marina, and it is inviting. It's a beautiful space. The sunsets are absolutely beautiful, and this is where guests know that they have about 50 minutes before they're going to be needed for anything else if they've been to a wedding before. So, we do have guests that want to take a walk or they're excited to see each other in weddings, you know, they haven't seen each other in quite some time. So, there's a little bit of ruckus. I have never received a complaint, a formal complaint or an informal complaint of any kind in four years from anyone on Buccaneer Road or Adam Keeling or any anywhere else. The closest thing to a complaint I got was a light shining through Mr. Wise's window, that's actually inlets parking lot and I was able to fix that for him through my contacts at Dominion Power. Anyways, so we are actually trying to take all of the ruckus if you will, from the front patio or from guests wanting to walk along the Marina, and we are trying to bring them outside into this terrace that is completely private. We could not shine a light into someone's house if we wanted to. I could not wave at anyone. There's absolutely no visual sight of any homes. The main reason for being here today is for amplified sound so that is a hundred percent the reason for everyone's misunderstanding. It just kind of just says, like, we're looking at a speaker outside. The last thing that I want to do is be another Ballyhoos, or anything like that. We are absolutely not looking to have a parking lot party or any type of music that impedes on anyone's dwellings. I do not want anyone to have a cookout that I'm impeding their happiness with their family because of sound during cocktail hour. So not only am I more than happy to agree to the recommendations by the Council but I am also willing to completely withdraw the need for amplified sound because it is simply not needed. The sound that I was looking to have is no more than

65 decibels of people talking and the background music during cocktail hour, it would also be faced towards the building where it would be a great, you know, provide that interference from any houses on Buccaneer Road, but we don't need it. We can play a violin out there with absolute, plugged into absolutely no speaker, no amplified sound whatsoever. This is just for 50 minutes of guests, taking guests from the front side of the building to the back side of the building, which is actually solving problems that I didn't even know we were having with the homeowners on Buccaneer Road. I completely understand where they're coming from and I'm actually, like I said, thankful that I get to present this because I believe that this will actually solve any issues that they were having prior.

Mr. Alcaraz: All right, so I'm going to ask a question to staff. Staff, I'm hearing, is she withdrawing her requests for amplified music? Is it now? Is it still modification?

Unknown Speaker: It will be a slight modification to the verbiage of condition number 10, and that verbiage would be, right now, the current conditions state that no amplification of music or use of speakers shall be permitted outside of the main building after 8 p.m. So, we just delete after outside a main building after 8 p.m. So, we will allow to say that no amplify of music or speaker shall be permitted outdoor.

Mr. Alcaraz: No amplified or music. That's two different.

Unknown Speaker: No amplification of music or use of speakers.

Mr. Alcaraz: Or use? Piano and a violin is music without amplified, that's what I'm asking. Okay, but it's not as loud. Okay. Is there any other questions? So, we have some opposition we're going to hear.

Ms. Carter: Absolutely.

Mr. Alcaraz: We'll hear them and we'll allow you to come back and rebut.

Ms. Carter: Thank you so much, everyone.

Mr. Alcaraz: Thank you.

Madam Clerk: Rick Boyles, followed by Joe Koklisa.

Mr. Boyles: Good morning, commissioners. Rick Boyles, lifelong Virginia Beach resident. I am a tenant at Longbay Point Marina, have been for the last 17 years. I do come here today in opposition to the amplified sound portion of Ms. Carter's application. We also might want to look technically at the application itself because the original CUP is under Ferguson Wedding, LLC. She's applied as Amber Carter. She also goes by Amber Ferguson, and she also has another company Velvet, LLC. So, I'm not sure who's actually making this application today and whether we're actually modifying the right CUP. In any event, Ms. Carter is operator of her establishment for the last three or four years at the Marina. I come and go out of the Marina many times a week. I'm down there a lot of times on the weekends for a couple of days, all weekend long, haven't seen any issues with the organization seems to run a fine organization every once in a while, maybe a little parking problem or maybe some issue with people standing in the street as you go by there, but nothing of any significance. The amplified sound, though, is going on that what was a loading dock for Spots Fish Company, that's located in between Inlet Fitness and the building that she leases from Longbay Point Marina. I think there's an opportunity there for that sound, if it's amplified to get in there and start echoing. There have been some complaints from over at Ballyhoos, you know, we heard this morning at the informal that sound does travel farther across the water than it does across land, and this is an open Marina with lots of water. So, if she's willing to remove the amplified music criteria, I'd love to hear piano music or violin music or anything along those lines there. The other thing that might be addressed by the commission would be that this concrete piece of property, if we could pull the slide back up, is literally on the waterway where Spots Fish used to dock their boats. So I might want to address the safety concern there of people imbibing alcohol too close to the water's edge there, may be, I don't know if you can require some kind of fence or some other nature of safety protection there, and the only other thing that I would point out is when the city grants a variance, a modification or condition, we ought to get something in return at this stage of the game. If we do modify this CUP, I don't know that we're getting anything in return. So again, I don't have any objections to it if the modification, if the amplified sound is taken out of the application, and I appreciate your time here today. Thank you.

Mr. Alcaraz: Thank you, sir. Next speaker.

Madam Clerk: Joe Koklisa.

Mr. Alcaraz: Repeat that name again.

Madam Clerk: Joe Koklisa.

Mr. Alcaraz: All right. Next speaker.

Madam Clerk: That's it.

Mr. Alcaraz: That's it. If you come forward, Ms. Carter. You can rebut anything that was stated.

Ms. Carter: So, my name is Amberly Carter, like Kimberly, but Amberly, my legal name is Amberly Carter. I was married in 2017 about a year after I opened my first business, and I have been working ever since. I went to social security office, like twice and to finish changing my name and didn't get called by the end of the day and never got around to it. So here we are seven years later and I didn't change my name from Carter to Ferguson, but I am married. My name is Amberly Carter and I have just been busy and that's why I haven't changed it. The company is Ferguson Wedding Company, LLC and that is the company that is in question today, and then Velvet, LLC is actually option A, was option A for this proposed terrace space. So, we have been on this project for over a year. We are thousands and thousands and thousands of dollars into this project. It was originally supposed to be built out as a restaurant called Velvet. We were going to be a members' only restaurant with boat docking and things like that in that area that fell through with the landlord and so this was our agreed upon use. So that is where all of those questions come into place. Are there any questions on my name or companies?

Mr. Alcaraz: If I may ask legal, is there any problems with entity? It goes with the land, right? The use?

Ms. Wilson: Not that I know of.

Mr. Alcaraz: Thank you.

Ms. Carter: Okay. And then the other question was the benefit to the community. So, of course, like we don't, like he said, we don't have a whole lot of issues as

is, but based on the opposition letters that were received, I would really love to move these guests to this private terrace space located on the backside of the building as to not interfere with residents on Buccaneer Road. I really never knew that was a problem before. Like I said, I never received any complaints but after hearing what they've said, I would really love to respect them enough to solve that problem for them.

Mr. Alcaraz: Okay.

Ms. Carter: Absolutely.

Mr. Alcaraz: Is there any other questions to Ms. Carter? None? All right, you may be seated. Thanks.

Ms. Carter: Thank you. I appreciate.

Mr. Alcaraz: We have a discussion amongst ourselves, unless we have a motion. Yes?

Ms. Wilson: I am little confused, what would condition 10 then?

Unknown Speaker: If you look at your staff report package in 2020, there is a condition so we revert back to that condition. So, we would replace condition number 10 with the exact language that was conditioning 2020 under condition number 10. So, we we'll read, no amplification of music or use of speakers shall be permitted except within the main enclosed building.

Ms. Byler: So, the only thing we're then considering is expansion of the use to include that outdoor area.

Mr. Alcaraz: Mr. Plumlee?

Mr. Plumlee: Well, then if we're dropping the noise matter from the consideration, this question may not be relevant anymore if we've dropped it, but I will just say the amplification question doesn't change the current noise ordinance about bars and night clubs, which says you can't have excessive noise. So, it uses the term excessive as I see it already. So, the neighbors would certainly have the authority to call the police and say there's excessive noise. You can do that if boats are too loud if they're not muffled properly in that area. So, I understand they're dropping this, I guess, from the condition. So, we don't have to consider that, but that was what was going

on in my mind during that presentation is that you still have the right, even if this CUP was permitted with that outside amplification to say this is too loud. Please address this and the police have the authority to go on the premises and charge them with the citation, so.

Mr. Alcaraz: All right. Any other comments? Do I have a motion?

Mr. Clemons: So, moved.

Mr. Alcaraz: Mr. Clemons as modified?

Mr. Clemons: As modified. I move that we accept this.

Mr. Alcaraz: Thank you and a second by Ms. Cuellar.

Ms. Cuellar: Correct, second.

Mr. Alcaraz: Are there any commissioners abstaining, none. Votes open.

Madam Clerk: The vote is open. By a vote of eight to zero, item number four has been recommended for approval.

	AYE 8	NAY 0	ABS 0	ABSENT 3
Alcaraz	AYE			
Anderson				ABS
Byler	AYE			
Clemons	AYE			
Coston				ABS
Cuellar	AYE			
Estaris				ABS
Hippen	AYE			
Horsley	AYE			
Parks	AYE			
Plumlee	AYE			

CONDITIONS

1. All previous conditions attached to the previous Conditional Use Permit granted on February 18, 2020 shall be voided and replaced with the following conditions below.

2. A business license for the Assembly Use 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.
3. The applicant shall obtain all necessary permits and inspections from the Planning Department/Permits and Inspections Division. The applicant shall secure a Certificate of Occupancy from the Building Official's Office for use of the existing building as an Assembly Use.
4. The maximum number of individuals within the facility to include the covered patio shall not exceed 197 or the maximum number as required by applicable building codes, noted on the Certificate of Occupancy and posted by the Fire Marshal.
5. 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.
6. All lighting, temporary or permanent, related to events held on the subject property, shall be directed downward and towards the interior of the site and contained such that the source of light shall be shielded from view from any area outside of the property.
7. Any outdoor storage of materials associated with the Assembly Use shall be prohibited.
8. All trash receptacles shall be emptied regularly so as not to overflow, and litter and debris shall not be allowed to accumulate.
9. Consistent with the requirements for a Special Event, for each event exceeding 250 people, the applicant shall obtain a Special Event Permit and shall notify the Police Department, the Fire Prevention Bureau, the Health Department and Emergency Medical Services of the event's time, size, and scope of activities.
10. No amplification of music or use of speakers shall be permitted ~~outside of the main building after 8:00 p.m.~~ except within the main enclosed building.

From: [Stephen Ballard Jr.](#)
To: [Marchelle L. Coleman](#)
Subject: Longbay Point Partners LLC - Application for Additional Speakers - Gala 417
Date: Wednesday, November 1, 2023 5:00:38 PM

CAUTION: This email originated from outside of the City of Virginia Beach. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Mr. Coleman,

My name is Stephen Ballard Jr and I live at 2904 Buccaneer Road for which is directly across the canal from Longbay Point – Gala 417. For the past couple years we have been dealing with several issues regarding The Gala 417 including loud music from wedding venues or parties. We also have been dealing with party attendees that are on the patio screaming, cursing, arguing, fighting, etc. When attendees stay inside the venue and enjoy the celebration everything is somewhat quite and we are able to deal with the noise, however majority of the time people are on the outside patio for which directly faces our house with no trees or anything to minimize sound. We can hear everything that comes from the patio including cursing, yelling and celebrating whatever event might be hosted that day. I have witnessed fights in the parking lot and several loud inappropriate arguments from function participants. With young kids we struggle to put the kids to bed during big events as we can hear the music already from inside the venue. This music plays until 11PM probably 3-4 days a week while events are held and can be heard perfectly from inside our house. If additional speakers are added outdoors this would promote more people to party on the patio and create even more of an issue for not just my family but all the residents on Buccaneer Road.

I firmly disagree with approving additional speakers outside the venue as this will only increase the noise level we can hear from inside our house. It will also only encourage the attendees to hang out on the patio causing more disruption to our neighborhood. I am fairly certain the venue already has speakers outside as when the DJ is talking or a speech is being made we can make out every word from across the canal. I don't understand the end goal for adding speakers as majority of the functions at the Gala are held indoors and whomever runs the Gala is constantly battling and telling attendees to not take alcohol drinks off the patio and to come back inside. Adding speakers outside will only encourage attendees to congregate outside and cause serious disruption not only to my family but all of our neighbors.

I am typically not one to complain to city about issues but this issue will only make a small issue in our neighborhood into a serious issue with fellow homeowners. With all the kids and families on our street I feel that if this is allowed there will be serious noise complaints from Buccaneer Road residents.

Thanks,

Stephen Ballard, Jr. | Vice President / Corporate Secretary
S.B. Ballard Construction Company

sbjr2@sballard.com

Office - (757) 689-5460

Cell - (757) 286-0343

Fax - (757) 689-5560

www.sballard.com

From: [Gary Mah](#)
To: [Marchelle L. Coleman](#)
Subject: Modification of Conditions Long Bay Point Partners
Date: Thursday, November 2, 2023 11:53:59 AM

CAUTION: This email originated from outside of the City of Virginia Beach. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Re: Long Bay Point Partners request to Modify Conditions
2105 West Great Neck Road

I am registering my opposition to allow outdoor terrace event activities and loud speakers to be used at this location.

I live across the water canal in the residential neighborhood of Lynnhaven Colony on Buccaneer Road. My home faces the Marina and It would be disruptive and cause me to not enjoy my own outdoor activities if there were speakers playing music I may not enjoy and having people attending events adding to the noise level.

Gary C. Mah
2956 Buccaneer Road
Virginia Beach, Va. 23451

From: tasos@att.net
To: [Marchelle L. Coleman](mailto:Marchelle.L.Coleman)
Cc: tasos@att.net
Subject: Longbay Point Partners: 2105 West Great Neck Road
Date: Thursday, November 2, 2023 12:26:51 PM

CAUTION: This email originated from outside of the City of Virginia Beach. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Marchelle L. Coleman
Planner III
Virginia Beach Planning Department

Dear Marchelle:

I am writing in response to the application of Longbay Point Partners to approve for the outdoor terrace space for events and allow speakers to be used outdoors. I am the owner of 2948 Buccaneer Road house. The house is right across from the Longbay Point Partners property. They are at least 20 houses across from the Longbay Point partners property. If you allow to have speakers or events on proposed terrace the noise from these events and speakers will be harmful to all the residences surrounded by this property. The property in the middle of residential area from both sides. There are no trees or walls to absorb any of the noise. The proposed property is just too close to residences with open water space that the sound can transmit with limited attenuation. The sounds levels from the events, speakers or both will be too high for a residential area and will be harmful to the loyal tax paying residents. If the owners would like to have these events they should purchase a property far away from residential areas. Furthermore the proposed property does not have sufficient parking space for their existing customers. Any additional approved space will require additional parking. Many of their customer already are trying to park on Buccaneer. I can not imagine the issues that we will have if you approve the terrace for their events.

I will not be able to participate on the November 8th meeting. I have customer meetings at that time that I can not cancel. Please feel free to contact me if you have any questions. I can be reached at tasos@att.net or on my mobile 757-651-4834.

Thank you in advance for listening and not approving their request.

Regards,
Anastasios Tsolakis

From: [The Dunns](#)
To: [Marchelle L. Coleman](#)
Subject: Gpin(s) 1499382174 Accela record 2023-PCCC-00157
Date: Friday, November 3, 2023 2:51:42 PM

CAUTION: This email originated from outside of the City of Virginia Beach. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To: City council .

I definitely oppose any speakers being put outside at 2105 West Greek Neck Road, Va Beach , Va.

Nobody will be able to control the noise volume and they will be a nuisance to our neighborhood.

George Dunn
2932 Buccaneer Road
Virginia Beach, Va

Sent from my iPhone

From: [Sherrie Foster](#)
To: [Marchelle L. Coleman](#)
Subject: Public Hearing Nov 8 for Modification of Conditions OPINION
Date: Saturday, November 4, 2023 2:57:57 PM

CAUTION: This email originated from outside of the City of Virginia Beach. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Marchelle Coleman,

My husband Bernarr Tate Foster and I, property owners at 2924 Buccaneer Rd, Virginia Beach, 23451 are submitting our opinion regarding the Request for Modification of Conditions that was submitted by Applicant Amberly Carter of Longbay Point Partners, LLC. They are requesting to amend their previous approval to include the outdoor terrace space for event venues and also to allow speakers to be used outdoors.

We are STRONGLY OPPOSED to BOTH of these requests. We live directly across the water from this marina and already with the music that they already play, it is loud enough to hear the bass thumping even while inside our home as we are sitting here today at this very moment hearing it. The water amplifies the noise and we don't want more. The residents of our street request The Porch to reduce the sound of their venue regularly and they turn it down briefly and then turn it back up. Also, the traffic generated for these venues is already a problem as people who cannot find the venues drive speeding down our street, Buccaneer Rd, looking for the Gala and The Porch, etc.

Thank you for your attention and for recording our opinion for the hearing on Wednesday the 8th.

Sincerely,

Sharon M and Bernarr T Foster

2924 Buccaneer Rd
Virginia Beach, VA 23451

From: mik.wise@verizon.net
To: [Marchelle L. Coleman](#)
Subject: Longbay Point Partners LLC- The Gala 417 request for outside speakers.
Date: Sunday, November 5, 2023 9:22:51 AM

CAUTION: This email originated from outside of the City of Virginia Beach. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Ms Coleman,

I am writing in reference to a request by Longbay Point Partners, LLC and applicant Amberly Carter for outdoor speakers at 2105 West Great Neck Rd.

My name is Michael Wise and I have lived at 2909 Breezy Road for 47 years My home is one street and one canal opposite The Gala 417 Longbay Point. Since its opening, we have experienced loud noise from music and loud cheering and yelling from guests several nights a week until at least 11 PM. This noise is even heard inside of the house with all windows closed. It is hard to imagine how much worse the sound will be if outdoor speakers are allowed. The noise and the outdoor dusk to dawn light that was recently installed, have made sitting on our back deck very uncomfortable. I have asked at Long Bay marina, The Gala, Inlet Fitness, and Dominion Power to see who requested the light. The only answer I got was that the City of Virginia Beach requested it be installed. Why?

Please consider the neighbors this request for outdoor speakers impacts. It is not only the residents of Buccaneer Road but also Breezy Road who have to deal with the noise from the The Gala when events are loud and out of control.

Thank you for your time.

Michael Wise
Home # (757) 481-3221
Cell 3 (757) 619-3221

From: [LISA TOMPKINS](#)
To: [Marchelle L. Coleman](#)
Subject: Opposed upcoming hearing Nov 8, Longbay Pointe
Date: Monday, November 6, 2023 2:30:42 PM

CAUTION: This email originated from outside of the City of Virginia Beach. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello,

We received the notice regarding the application to approve outdoor terrace space for event venues & to allow speakers for outdoor use. This is absurd. We live directly across from The Porch and as it, we have to hear their music, (several different at the same time) and can hear the Inlet Fitness down the waterway and now , additional speakers and noise disturbances? What about us who plan our own outdoor activities having family and guests, a nice quiet night on the water which we paid a pretty penny for only to be drowned out by venue speakers? Let it be known that we here at 2972 Adam Keeling Road are NOT in favor of this proposal. Sound travels a great deal around here. We can hear for drop across the water. This is not a good idea for us residents.

Lisa Tompkins
Howard Webb

Sent from my iPad

From: [Suburban Plumbing Co](#)
To: [Naomi Estaris](#)
Cc: [Marchelle L. Coleman](#)
Subject: 2105 West Great Neck Rd. Amberly Carter and Longbay Point Lic. November 8 th. agenda # 4
Date: Tuesday, November 7, 2023 2:14:05 PM

CAUTION: This email originated from outside of the City of Virginia Beach. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good afternoon,

My name is Joe Kuklica and I reside at 2924 Adam Keeling Rd. in Great Neck Point directly across the water from Gala 417 on Long Creek waterway. I have read the request by Amberly Carter for additional outdoor seating and amplified speakers on the south side of the Gala 417 which used to be the loading dock of the commercial fish company. In the planners Evaluation and Recommendations they say that the surrounding property owners on Buccaneer Rd. will be shielded from the noise by the main building since the deck and speakers will be on the back of the Gala 417, this is probably true however they neglected to take into consideration the numerous homes on Long creek which are on that south side of the Gala 417. The structure in which the deck and speakers are to be placed in is built with two sides and a roof with the open side directed towards Great Neck Point and Adam Keeling Rd. this structure acts like an amphitheater while blocking noise to Buccaneer Rd. it amplifies and directs the noise across the water to Great Neck Point. Even without speakers one can easily hear talking and activities from that loading dock. As it is right now there have been occasions of yelling and fighting from the existing front deck of the Gala 417 which could be heard without amplification on the opposite side of the main building. Sound travels much faster across water and I feel that our neighborhood was completely overlooked by the planners study, in fact it wasn't mentioned at all they merely mentioned that Long Creek bordered the deck on the back side of the Gala 417, that's true but there are many houses on the bank of Long Creek that will be effected. In fact Adam Keeling Rd. is about 200 yards from the deck, much closer to the deck then Buccaneer Rd. and there's nothing in the way to block the noise. The planners also didn't take into consideration the homes along the water on Bay Island just under the bridge these homes are even closer then Adam Keeling Rd. I know I speak for all the home owners along Long Creek when I ask the committee to deny the request for outside amplified speakers as I can see no one being happy with the outcome. The times they requested, Thursday through Sunday 4:00-8:00 are also the times the surrounding homeowners like to sit outside and enjoy their time off peacefully. These homes have been here since 1972 and many of which are the same owners, it is very disturbing to witness a once quiet waterfront community turn into a commercially dominated area. Are these speakers really necessary? Are they worth disrupting so many long time residents? Thank you ,

Joe Kuklica

From: [Kenneth Lowe](#)
To: [Naomi Estaris](#); [Marchelle L. Coleman](#)
Subject: Outside dining/speaker request for variance.
Date: Tuesday, November 7, 2023 2:46:41 PM

CAUTION: This email originated from outside of the City of Virginia Beach. Do not click links or open attachments unless you recognize the sender and know the content is safe.

My name is Kenneth M. Lowe Jr. and I reside at 2920 Adam Keeling Road in Great Neck Point. I am writing you over serious concerns about the request by Gala 417 for additional outside seating and to install/use outside speakers.

I strongly oppose the request for any outside speakers at this location.

Presently, I am unable to enjoy my own back deck on Friday and Saturday evenings because of the noise generated by Ballyhoos outdoor entertainment. Apparently they are allowed to make as much noise as a band can generate as long as it ends by 10:00 PM.

Should outdoor speakers be approved for Gala 417, their noise will just add to an already bad situation.

Please do NOT approve any outside speakers.

Thanks for your consideration in this matter.

Kenneth M. Lowe Jr.
2920 Adam Keeling Road
Virginia Beach, VA 23454-1001
(757) 965-2225
(757) 288-8681
KML500A@COX.NET

From: [TK Norfolk](#)
To: [Naomi Estaris](#)
Cc: [Marchelle L. Coleman](#)
Subject: 2105 WEST GREAT NECK RD. AMBERLY CARTER AND LONGBAY POINT LLC. NOVEMBER 8TH AGENDA #4
Date: Tuesday, November 7, 2023 3:28:52 PM

CAUTION: This email originated from outside of the City of Virginia Beach. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good Afternoon,

My name is Ronnie Capps and I reside at 2988 Adam Keeling Rd. in Great Neck Point right across the water from Gala 417 on Long Creek waterway. I have seen the written request by Amberly Carter for amplified speakers and additional seating for Gala 417. At this point, even without amplified speakers – the noise is still very noticeable for residents in this neighborhood facing this venue. I don't think this decision is being made with the residents' best interest in mind. The times that are being requested, 4:00-8:00pm Thursday-Sunday are the peak times for residents like myself to enjoy being outside, this will no longer be the case if her request is approved. Most home owners, including myself, have lived in these houses for a decade or more – this community has been known to have a quiet and peaceful waterfront and I am very disturbed knowing that all of that could quickly change only to support the commercial industry.

With all of this being said – sound travels very quickly across water and I believe I speak for all the home owners along Long Creek when I ask that the committee deny this request for amplified speakers as this is only beneficial to the venue and will leave many residents very displeased.

Thank you,

Ronnie Capps

From: [Kenneth Lowe](#)
To: [Naomi Estaris](#); [Marchelle L. Coleman](#)
Subject: Outside dining/speaker request for variance.
Date: Tuesday, November 7, 2023 2:46:41 PM

CAUTION: This email originated from outside of the City of Virginia Beach. Do not click links or open attachments unless you recognize the sender and know the content is safe.

My name is Kenneth M. Lowe Jr. and I reside at 2920 Adam Keeling Road in Great Neck Point. I am writing you over serious concerns about the request by Gala 417 for additional outside seating and to install/use outside speakers.

I strongly oppose the request for any outside speakers at this location.

Presently, I am unable to enjoy my own back deck on Friday and Saturday evenings because of the noise generated by Ballyhoos outdoor entertainment. Apparently they are allowed to make as much noise as a band can generate as long as it ends by 10:00 PM.

Should outdoor speakers be approved for Gala 417, their noise will just add to an already bad situation.

Please do NOT approve any outside speakers.

Thanks for your consideration in this matter.

Kenneth M. Lowe Jr.
2920 Adam Keeling Road
Virginia Beach, VA 23454-1001
(757) 965-2225
(757) 288-8681
KML500A@COX.NET

From: [Adam Halstead](#)
To: [Marchelle L. Coleman](#)
Subject: Amberly Carter/Longbay Point Partners LLC application
Date: Tuesday, November 7, 2023 6:59:10 PM

CAUTION: This email originated from outside of the City of Virginia Beach. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good Evening,

I am a resident on Buccaneer Road adjacent to Long Bay Point. We have lived here since November of 2015 and things have been relatively quiet with the exception of the Porch restaurant which we have had noise issues with in the past. Not so much anymore as they have turned the music volume down to a respectable level (thankfully).

I am very concerned that a venue of this type with outdoor speakers will become a nuisance. We live in a beautiful area that is quiet and enjoyable to spend evenings outside and we hope that this will continue. As a resident, I hope this proposal is not allowed to proceed. If for any reason it does proceed, I respectfully ask that rules are put in place regarding volume and bass levels so that the noise does not negatively affect any home outside of the Longbay Point Property. If noise becomes an issue, be prepared to have our law enforcement assets engaged in dealing with noise complaints.

Thank you for allowing us to have a say in this matter.

Respectfully,

Adam Halstead

From: [Albert DeAngelis](#)
To: [Marchelle L. Coleman](#)
Subject: Modifications of Conditions Long Bay Point Partners
Date: Sunday, November 12, 2023 4:24:09 PM

CAUTION: This email originated from outside of the City of Virginia Beach. Do not click links or open attachments unless you recognize the sender and know the content is safe.

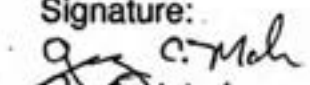
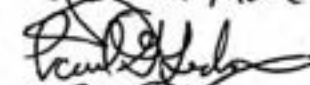

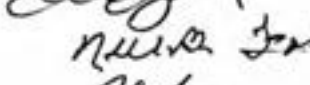

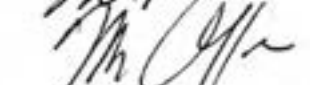



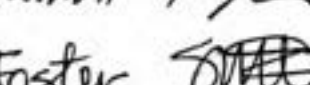
I too am registering my opposition to allow outdoor terrace event activities and LOUD speakers to be used at this location (2105 West Great Neck Road "GALA") along with several of my fellow neighbors. I live directly across the canal on Buccaneer Road and my home faces the establishment. I would not be able to enjoy my own residence with the added people attending these events, not to mention the excessive noise they already have going on daily, just to be enhanced by more outdoor speakers. I have not complained before even though it has interrupted my peace at my private residence. For example, the marijuana smell when events are taking place, loud noise from music and patrons during their special events. Also the constant traffic on our street from people turning the wrong way. On several occasions my property was damaged unintentionally by their patrons turning their vehicles around in my driveway, knocking over my poles (some people stop and are very respectful others commit a hit and run). I have only reported it once to the police but my new neighbors just witnessed this just the other week when I was at work a vehicle crashing into my poles tearing them from the concrete and then headed over toward the Gala and The Porch. I certainly don't want to ruin anyone's special day or prevent a business from making money but they need to keep it indoors and not make it worse than it already is.

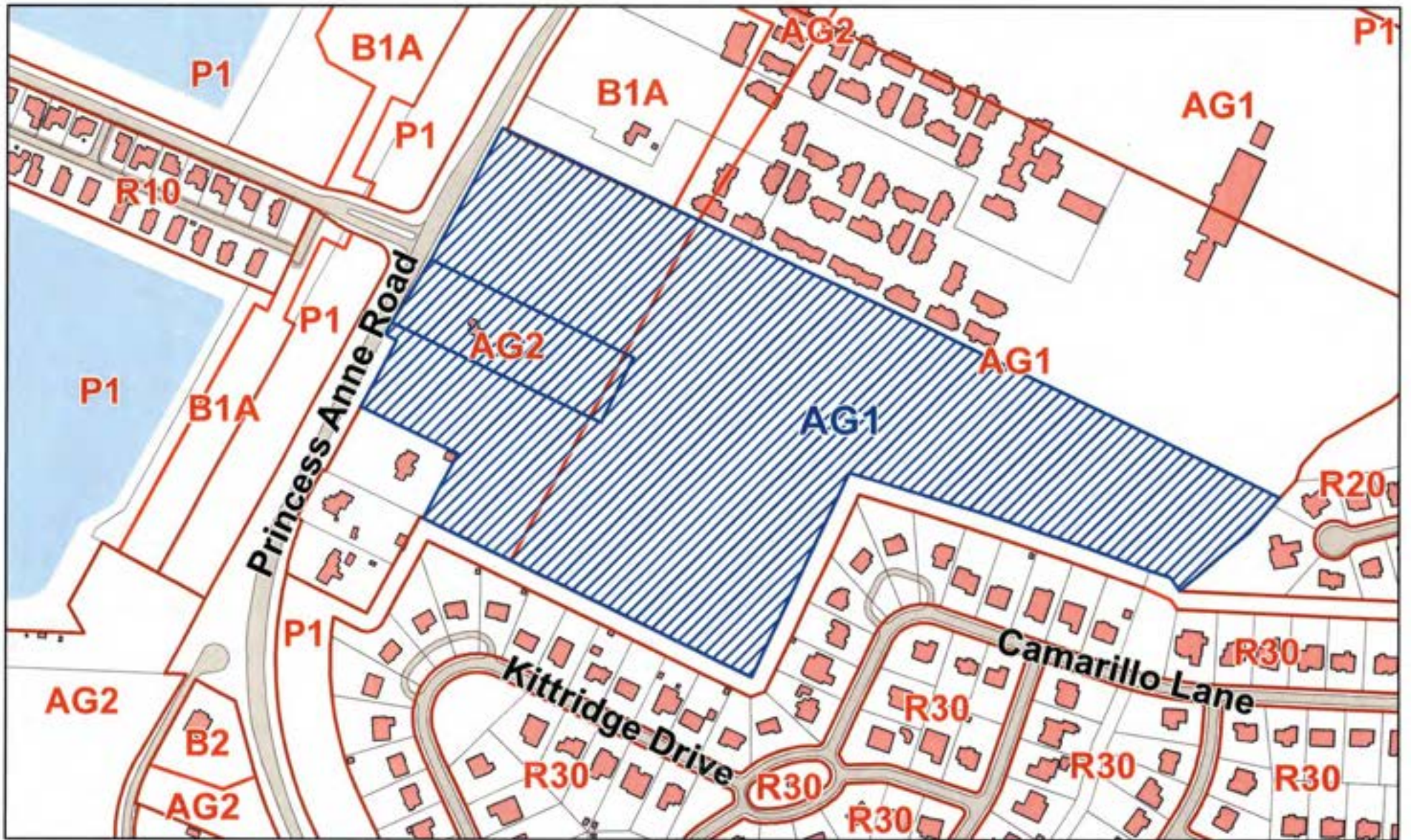
Al DeAngelis
2908 Buccaneer Road
Virginia Beach, VA 23451

Thank you,
Al

Long Bay Point Partners request to Modify Conditions
 2105 West Great Neck Road

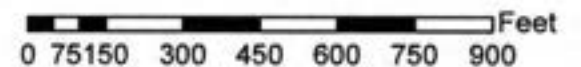
I am registering my opposition to allow additional outdoor terrace event activities and loud speakers to be installed outside at this location. I do not oppose the current usage for indoor events.

Name:	Signature:	Address:
Garry C. Mah		2956 Buccanera Rd
PAUL G. Ledoux		2960 Buccanera Rd
FRED TYLER		2964 BUCCANEER RD
NEIL D. Fortner		2984 Buccanera Rd.
Adam Halstead		2968 Buccanera Rd
MORRIS CLAFFEE		2952 BUCCANEER RD
RONNI DRILLI		2718 Buccanera Rd.
GLENN McDERMOTT		2944 Buccanera Rd 23455
Bernarr & Sherrie Foster		2924 Buccanera Rd
Edward Downs S.A.N.V.		2912 Buccanera Road



-  Site
-  Property Polygons
-  Zoning
-  Building

Michael D. Sifen, Inc
2000 & 2004 Princess Anne Road





CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: MICHAEL D. SIFEN, INC [Applicant] ROBERT W. WHITE JR. & ET AL, ROBERT W. WHITE JR. [Property Owners] Conditional Rezoning (AG-1 & AG-2 Agricultural to Conditional R-10 Residential) for the property located at 2000 & 2004 Princess Anne Road (GPIN 2413088768, 2413093020). COUNCIL DISTRICT 2

MEETING DATE: December 12, 2023

■ **Background:**

The applicant seeks to rezone 38.6 acres zoned AG-1 & AG-2 Agricultural District to Conditional R-10 Residential District to develop a 38-lot single-family subdivision at a density of 0.98 units per acre. The subject site lies within the Transition Area and the eastern portion is located within the 65-70 dB DNL, Sub-Area 2 of the Air Installations Compatible Use Zones (AICUZ). The proffered plan depicts residential lots on the western half of the site and a stormwater management pond in the middle. The eastern portion of the site, which falls within the noise zone and Sub-Area 2 of the AICUZ, is proposed as open space to be reforested. All residential building lots are proposed to be outside of the limits of the 65-70 dB DNL noise zone and Sub-Area 2.

Consistent with the Transition Area Design Guidelines, the proposed development meets the density recommendations of no more than 1 unit per acre, the proposed house styles reflect the Tidewater vernacular and rural architecture. The plan also depicts a 150-foot landscape buffer with a multi-use trail along Princess Anne Road, and pedestrian paths throughout the site. At the Planning Commission public hearing the applicant informed the Commission of the intent to provide a revised concept plan that include a pedestrian path connecting to the adjacent Ashville Park neighborhood. Staff received a copy of the revised concept plan on November 17, 2023.

The applicant appeared before the Transition Area/Interfacility Traffic Area Citizen's Advisory Committee (TA/ITA CAC) on October 5, 2023, and the Joint Review Process (JRP) Group on September 20, 2023, to share details of the project. Since all the residential lots are proposed outside of the noise zone and sub-area, the JRP Group finds the proposal to be in compliance with Article 18 of the Zoning Ordinance. The TA/ITA CAC supports the proposal, finding it to be consistent with the recommendations of the Transition Area Design Guidelines.

■ **Considerations:**

The Planning Commission concurs with Staff, the TA/ITA CAC, and JRP findings and recommends approval of this project by a unanimous vote.

The Planning Commission was also supportive of the request to provide a 20-foot wide buffer rather than the required 50-foot wide buffer for Lots 6 through 9, given that the adjacent parcel is zoned B1-A and is part of the proposed Vanguard Landing development.

The applicant was made aware of and intends to seek a deviation from the Fire Code requirement that requires two separate points of access for residential subdivisions containing more than thirty lots. The Fire Department has not taken a position on the proposed deviation and will review the request during the subdivision plan submittal. If the deviation is not approved, the applicant will be required to provide a secondary access designed in a manner acceptable to the Fire Department prior to plan approval.

The proposed development is consistent with the recommendations found in the Transition Area Design Guidelines. The development also includes a 50-foot dedication along Princess Anne Road for the future widening of the roadway and left and right turn lanes on Princess Anne Road will be installed to provide safe access for this development.

Further details pertaining to the application, as well as Staff's evaluation, are provided in the attached Staff Report. Staff received one letter of concern regarding stormwater management and there was one speaker in opposition to this request at the Planning Commission public hearing with concerns regarding the viewshed from their backyard.

■ **Recommendation:**

On November 8, 2023, the Planning Commission passed a motion to recommend approval of this item on the Consent Agenda, by a recorded vote of 8-0.

Proffer 1:

When the Property is subdivided, developed and landscaped, it shall have the entrance, neighborhood identification sign, typical street section, landscaping, trails and open spaces, including the 150' Transition Area Buffer substantially as depicted and described on the exhibits entitled, "ROBERT WHITE FARM COMMUNITY – VIRGINIA BEACH, VA. CONCEPTUAL LAYOUT", dated July 16, 2023 and "ROBERT WHITE FARM COMMUNITY – VIRGINIA BEACH, VA. CONCEPTUAL LANDSCAPE PLAN", dated July 16, 2023, prepared by Timmons Group, copies of which have been exhibited to the Virginia Beach City Council are on file with the Virginia Beach Department of Planning (the "Conceptual Subdivision Plan" and "Conceptual Landscape Plan") and are incorporated herein by this reference. A detailed landscape plan for the designated landscaped buffers

as depicted on the Conceptual Landscape Plan shall be submitted with the Subdivision Construction Plan and the landscaped buffer on the north side of the Property along with the designated area to be reforested shall be in lieu of the landscape buffer specified by the rural residential development guidelines to protect adjoining agriculturally zoned property.

Proffer 2:

When the Property is developed, it will be subdivided into no more than thirty-eight (38) single family residential building lots each having a minimum of 12,000 square feet of area. The thirty-eight (38) new homes will be built with a crawlspace or a raised slab foundation and they will contain a minimum of 2,200 square feet of living area for a two story dwelling and 2,000 square feet of living area for a one story dwelling. Each home shall have no less than a two (2) car garage and utilize the quality architectural features and design elements substantially as depicted on the eight (8) pictorial exhibits designated "Robert White Farm Subdivision – Home Quality Example" (1 through 8), which have been exhibited to the Virginia Beach City Council are on file with the Virginia Beach Department of Planning (the "Quality Home Depictions") and are incorporated herein by this reference.

Proffer 3:

When the Property is developed, the exterior building materials to be used on the residential structures shall consist primarily of high quality architectural shingles, cementitious siding (e.g., "HardiPlank"), brick or masonry stone, or a combination of those materials along with high-quality accent or ancillary material such as metal roof accents and vinyl shutters. The quality and colors of the exterior building materials shall be substantially as depicted and described on the "ROBERT WHITE FARM SUBDIVISION PROFFERED MATERIAL SELECTION" containing nine (9) pages and dated July 15, 2023, which has been exhibited to the Virginia Beach City Council is on file with the Virginia Beach Department of Planning (the "Material Selection") and is incorporated herein by this reference.

Proffer 4:

When the Property is developed, the "playground" area designated within one of the "OPEN SPACE" areas on the Conceptual Subdivision Plan shall be equipped with a children's swing and "PRANCING PANDA" playground equipment substantially as depicted on the six (6) page exhibit entitled "ROBERT WHITE FARM SUBDIVISION – PLAYGROUND EQUIPMENT dated July 15, 2023", which has been exhibited to the Virginia Beach City Council is on file with the Virginia Beach Department of Planning (the "Playground Equipment") and is incorporated herein by this reference. The area designated "REFORESTED PASSIVE OPEN SPACE 8.8± AC" will be sprigged with indigenous evergreen and deciduous trees and otherwise allowed to reforest and regenerate naturally.

Proffer 5:

When the Property is developed, on street parking within the community shall be restricted to one (1) side of the street. In addition to the added turn lanes within

the Princess Anne Road right of way, and other required improvements within the existing rights of way to create the entrance to this community, as depicted on the Conceptual Subdivision Plan, additional intersection traffic signalization will be installed at the intersection by the party of the first part. As depicted on the Conceptual Subdivision Plan, the community entrance road will be a divided roadway with a curbed median in lieu of a second access vehicular point to this small community.

Proffer 6:

When the Property is developed, the party of the first part shall record a Declaration submitting the building lots, all of the other property, and where applicable any easements outside the public rights of way to a mandatory membership Home Owners' Association which shall own and be responsible for maintaining all open space areas, common areas, Transition Area Buffer Easement, vegetated buffer areas, entrance feature signage, landscaping, benches, playground equipment and other improvements within the Open Space Areas, as depicted on the Subdivision Plans. The open spaces and landscape buffers, including the 150' Transition Area Buffer shall be conveyed to the Home Owners' Association prior to the issuance of the first occupancy permit.

Proffer 7:

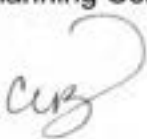
When the Subdivision Plat and Subdivision Construction Plans are submitted, the final stormwater management plan submitted to the Development Services Center (DSC) shall be in substantial conformance with the Preliminary Drainage Study and shall comply with the Stormwater Management Ordinance.

Proffer 8:

Further conditions may be required by the Grantee during detailed Subdivision and/or Site Plan review and administration of applicable City Codes by all cognizant City agencies and departments to meet all applicable City Code requirements.

- **Attachments:**
 - Staff Report and Disclosure Statements
 - Location Map
 - Proffer Agreement
 - Minutes of Planning Commission Hearing
 - Letter of Concern (1)

Recommended Action: Staff recommends Approval. Planning Commission recommends Approval.

Submitting Department/Agency: Planning Department 

City Manager: 

Request

**Conditional Rezoning (AG-1 & AG-2
Agriculture to Conditional R-10 Residential)**

Staff Recommendation
Approval

Staff Planner
Hoa N. Dao

Location

2000 & 2004 Princess Anne Road

GPINs

2413088768, 2413093020

Site Size

38.6 acres

AICUZ

Less than 65 dB DNL, 65-70 dB DNL; Sub-Area 2

Watershed

Southern Rivers

Existing Land Use and Zoning District

Vacant, cultivated field / AG-1 & AG-2

Agricultural

Surrounding Land Uses and Zoning Districts

North

Single-family dwelling, cultivated field / AG-1 & AG-2 Agricultural, B-1A Limited Community Business

South

Single-family dwellings / R-30 Residential, P-1 Preservation

East

Single-family dwellings / R-20 & R-30 Residential, P-1 Preservation

West

Princess Anne Road

Eating & drinking establishment, single-family dwellings / B-1A Limited Community Business, R-10 Residential, P-1 Preservation



Background & Summary of Proposal

- The applicant seeks to rezone approximately 38.6 acres of properties zoned AG-1 & AG-2 Agricultural District to Conditional R-10 Residential District to develop a 38-lot single-family subdivision at a density of 0.98 units per acre.
- The subject site lies within the Transition Area and the eastern portion is located within the 65-70 dB DNL, Sub-Area 2 of the Air Installations Compatible Use Zone (AICUZ). Developments within this noise zone and sub-area are restricted to a density similar to that of the surrounding developments. All residential building lots are proposed to be outside of the limits of the 65-70 dB DNL noise zone and Sub-Area 2.
- The proffered plan depicts residential lots on the western half of the site and a stormwater management pond in the middle. The eastern half of the site, which falls within the noise zone and Sub-Area 2 of the AICUZ, is proposed to be reforested. The plan also depicts a 150-foot landscape buffer with a multi-use trail along Princess Anne Road, pedestrian paths throughout the site, a playground, gazebo, and benches along pedestrian paths.
- Consistent with the Transition Area Design Guidelines, the proposed house styles reflect the Tidewater vernacular and rural architecture. All exteriors will feature architectural shingles, cementitious siding, brick or masonry stone. Each dwelling will have a front porch with varied rooflines.
- The applicant appeared before the Transition Area/Interfacility Traffic Area Citizen's Advisory Committee (TA/ITA CAC) on October 5, 2023, to share details of the project. The TA/ITA CAC supports the proposal, finding it to be consistent with the recommendations of the Transition Area Design Guidelines.
- The applicant also appeared before the Joint Review Process (JRP) Group to discuss the proposed project on September 20, 2023. Since all the residential lots are proposed outside of the noise zone and sub-area, the JRP Group finds the proposal to be in compliance with Article 18 of the Zoning Ordinance.
- Deviation from the required 50-foot wide vegetative buffer for residential development abutting agricultural operations is requested for Lots 6 through 9.
- The applicant was made aware of and intends to seek a deviation from the fire code requirement that requires two separate points of access for residential subdivisions containing more than thirty lots. The Fire Department has not taken a position on the proposed deviation and will review the request during the subdivision plan submittal.



Zoning History

#	Request
1	MDC (Borrow Pit) Approved 01/21/2020 CUP (Borrow Pit) Approved 09/27/2005
2	CRZ (AG1 & AG-2 to Conditional B-1A) Approved 03/11/2014 CUPs (Housing for the Disabled, Commercial Kennel, Assembly Use, Indoor & Outdoor Recreational Facilities, Horses for Hire/Boarding) Approved 03/11/2014
3	MDP Approved 12/10/2013 CRZ (AG1 & AG-2 to Conditional R-10 & P-1 w/ PD-H2 Overlay) Approved 03/28/2006
4	NON Approved 09/24/2013 CRZ (AG-2 to Conditional O-2) Approved 11/08/1995 CUP (Athletic Club) Approved 11/08/1995
5	CRZ (AG-2 to Conditional B-2) Approved 07/07/2009

Application Types

CUP – Conditional Use Permit REZ – Rezoning CRZ – Conditional Rezoning	MDC – Modification of Conditions MDP – Modification of 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 proposal to rezone approximately 38.6 acres to allow for the construction of 38 single-family dwellings, in Staff's opinion, is acceptable. The development is consistent with the Comprehensive Plan's recommendations including a density of less than 1 unit per acre, inclusion of more than 50 percent of open space, and high-quality rural vernacular character housing styles.

A summary of applicable Transition Area Design Guidelines is provided below.

- Residential developments are recommended to have a density of no more than one unit per acre of developable land. This proposal, at 0.98 units per acre, meets the density recommendation.
- Residential developments are required to provide a 150-foot buffer with robust landscaping along selected roadways. The proffered plan depicts a 150-foot reservation along Princess Anne Road to include a ten-foot wide asphalt shared-use path.
- Fifty percent open space is required. The proposed development consists of 23.4 acres, or 62%, of open space including, outdoor recreational areas with benches, a playground, gazebo, and recreational paths that connect to the path surrounding the stormwater management pond.
- Lot sizes less than 15,000 square feet may be considered when located within a half-mile distance of active open space and each lot should be located to maximize views of the open space. The proposed lots vary in size between 12,000 and 19,500± square feet with a pedestrian sidewalk that connects each lot to the open space amenities outlined above.
- The eight (8) housing styles proposed are reflective of the recommended high-quality rural transitional architecture.

The Rural Development Guidelines set forth in the City of Virginia Beach Comprehensive Plan recommends a minimum 50-foot wide, vegetative buffer be installed between proposed residential structures and abutting agricultural operations. The applicant seeks to provide a 20-foot wide buffer rather than the required 50-foot wide vegetative buffer for the proposed lots 6, 7, 8, and 9. Currently, there are agricultural operations abutting this site to the north; however, a portion (7.2 acres) of the 74.54± acre site to the north was rezoned in 2014 to Conditional B-1A. This rezoning was associated with Conditional Use Permits for Housing for the Disabled, Outdoor Recreational Facilities, Indoor Recreational Facilities, Commercial Kennel, Horses for Hire/Boarding, and Assembly Uses, all associated with the proposed Vanguard Landing development. The site received site plan approval for these operations in 2021. As such, Staff is supportive of the deviation request.

The proffered Conceptual Plan shows a stormwater retention pond and community park at the center of the development. Staff has reviewed the conceptual stormwater management strategy and agrees it has the potential to successfully comply with the stormwater requirements. Final design and detailed updates will be made during site plan submittal to ensure conformance with all requirements set forth in the Public Works Design Standards Manual. The development will include a 50-foot dedication along Princess Anne Road for the future widening of the roadway. In addition, left and right turn lanes on Princess Anne Road will be installed to provide safe access for this development.

In sum, Staff recommends approval of the rezoning application. The proposed development largely adheres to the recommendations found in the Transition Area Design Guidelines. This includes recommendations related to density,

open space, pedestrian connectivity, and architectural character. According to Public Works staff, Princess Anne Road has adequate capacity to support the proposed development. While Virginia Beach City Public Schools (VBCPS) Staff indicated that Princess Anne Middle School currently exceeds the optimum capacity, the proposed development is only anticipated to generate an additional six middle school aged students and the capacity will be within the 10 percent threshold that is considered acceptable. According to VBCPS staff, the optimum capacity fluctuates annually to meet curriculum needs and enrollment of students can fluctuate daily throughout the school year.

Proffers

The following are proffers submitted by the applicant as part of a Conditional Zoning Agreement (CZA). 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 change of zoning.

Proffer 1:

When the Property is subdivided, developed and landscaped, it shall have the entrance, neighborhood identification sign, typical street section, landscaping, trails and open spaces, including the 150' Transition Area Buffer substantially as depicted and described on the exhibits entitled, "ROBERT WHITE FARM COMMUNITY – VIRGINIA BEACH, VA. CONCEPTUAL LAYOUT", dated July 16~~5~~, 2023 and "ROBERT WHITE FARM COMMUNITY – VIRGINIA BEACH, VA. CONCEPTUAL LANDSCAPE PLAN", dated July 16~~5~~, 2023, prepared by Timmons Group, copies of which have been exhibited to the Virginia Beach City Council are on file with the Virginia Beach Department of Planning (the "Conceptual Subdivision Plan" and "Conceptual Landscape Plan") and are incorporated herein by this reference. A detailed landscape plan for the designated landscaped buffers as depicted on the Conceptual Landscape Plan shall be submitted with the Subdivision Construction Plan and the landscaped buffer on the north side of the Property along with the designated area to be reforested shall be in lieu of the landscape buffer specified by the rural residential development guidelines to protect adjoining agriculturally zoned property.

Proffer 2:

When the Property is developed, it will be subdivided into no more than thirty-eight (38) single family residential building lots each having a minimum of 12,000 square feet of area. The thirty-eight (38) new homes will be built with a crawlspace or a raised slab foundation and they will contain a minimum of 2,200 square feet of living area for a two story dwelling and 2,000 square feet of living area for a one story dwelling. Each home shall have no less than a two (2) car garage and utilize the quality architectural features and design elements substantially as depicted on the eight (8) pictorial exhibits designated "Robert White Farm Subdivision – Home Quality Example" (1 through 8), which have been exhibited to the Virginia Beach City Council are on file with the Virginia Beach Department of Planning (the "Quality Home Depictions") and are incorporated herein by this reference.

Proffer 3:

When the Property is developed, the exterior building materials to be used on the residential structures shall consist primarily of high quality architectural shingles, cementitious siding (e.g., "HardiPlank"), brick or masonry stone, or a combination of those materials along with high-quality accent or ancillary material such as metal roof accents and vinyl shutters. The quality and colors of the exterior building materials shall be substantially as depicted and described on the "ROBERT WHITE FARM SUBDIVISION PROFFERED MATERIAL SELECTION" containing nine (9) pages and dated July 15, 2023, which has been exhibited to the Virginia Beach City Council is on file with the Virginia Beach Department of Planning (the "Material Selection") and is incorporated herein by this reference.

Proffer 4:

When the Property is developed, the "playground" area designated within one of the "OPEN SPACE" areas on the Conceptual Subdivision Plan shall be equipped with a children's swing and "PRANCING PANDA" playground equipment

substantially as depicted on the six (6) page exhibit entitled "ROBERT WHITE FARM SUBDIVISION – PLAYGROUND EQUIPMENT dated July 15, 2023", which has been exhibited to the Virginia Beach City Council is on file with the Virginia Beach Department of Planning (the "Playground Equipment") and is incorporated herein by this reference. The area designated "REFORESTED PASSIVE OPEN SPACE 8.8± AC" will be sprigged with indigenous evergreen and deciduous trees and otherwise allowed to reforest and regenerate naturally.

Proffer 5:

When the Property is developed, on street parking within the community shall be restricted to one (1) side of the street. In addition to the added turn lanes within the Princess Anne Road right of way, and other required improvements within the existing rights of way to create the entrance to this community, as depicted on the Conceptual Subdivision Plan, additional intersection traffic signalization will be installed at the intersection by the party of the first part. As depicted on the Conceptual Subdivision Plan, the community entrance road will be a divided roadway with a curbed median in lieu of a second access vehicular point to this small community.

Proffer 6:

When the Property is developed, the party of the first part shall record a Declaration submitting the building lots, all of the other property, and where applicable any easements outside the public rights of way to a mandatory membership Home Owners' Association which shall own and be responsible for maintaining all open space areas, common areas, Transition Area Buffer Easement, vegetated buffer areas, entrance feature signage, landscaping, benches, playground equipment and other improvements within the Open Space Areas, as depicted on the Subdivision Plans. The open spaces and landscape buffers, including the 150' Transition Area Buffer shall be conveyed to the Home Owners' Association prior to the issuance of the first occupancy permit.

Proffer 7:

When the Subdivision Plat and Subdivision Construction Plans are submitted, the final stormwater management plan submitted to the Development Services Center (DSC) shall be in substantial conformance with the Preliminary Drainage Study and shall comply with the Stormwater Management Ordinance.

Proffer 8:

Further conditions may be required by the Grantee during detailed Subdivision and/or 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 agreement and found it to be legally sufficient and in acceptable legal form.

Comprehensive Plan Recommendations

The Comprehensive Plan designates this area of the city as the Transition Area. The Transition Area serves as a unique land use buffer for the low-density Rural Area from the more densely developed Suburban Area by promoting open space and low-density development. Development within the Transition Area should adhere to the planning and design principles cited in the Transition Area Design Guidelines.

Natural & Cultural Resources Impacts

The site is a cultivated farm field within the Southern Rivers watershed. Drainage in the Southern Rivers watershed is highly impacted by the presence of high ground water, poorly draining soils, and high-water surface elevations in downstream receiving waters. There does not appear to be any significant natural or cultural resources associated with the site.

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Princess Anne Road	12,960 ADT ¹	15,400 ADT ¹ (LOS ⁴ "D")	Existing Land Use ^{2a} – 0 ADT Existing Zoning ^{2b} – 10 ADT Proposed Land Use ³ – 380 ADT
¹ Average Daily Trips	^{2a} as defined by a vacant 38-acre property ^{2b} as defined by a 38-acre property zoned AG-1 & AG-2	³ as defined by 38 single-family dwellings	⁴ LOS = Level of Service

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

Access to this site is from Princess Anne Road opposite Locksley Arch at a signalized intersection. Princess Anne Road is a 2-lane rural highway, with a one-hundred-foot (100') right-of-way width. The City's Master Transportation Plan (MTP) map shows Princess Anne Road as a four-lane parkway with 135-ft right-of-way width. The Capital Improvements Plan (CIP) project, Princess Anne Road Phase VII-A, is proposed to address some safety and drainage improvements, the scope of which have not been fully identified, in the vicinity of this site along Princess Anne Road. This project is unfunded, has not begun design and is tentatively scheduled to begin construction in 2031, outside of the six-year CIP budget.

Traffic signal improvements will be required at the intersection of Princess Anne Road and Locksley Arch. Improvements include signaling the development's entrance and providing protected pedestrian crosswalks across Princess Anne Road and the development's entrance.

Stormwater Impacts

Project Stormwater Design Staff Summary

This project consists of the construction of a single-family subdivision, including 38 lots. In addition to the lots, this project will include associated right-of-way improvements and a stormwater management facility to support the proposed development.

Stormwater runoff from the site currently sheet flows in two directions, towards the public drainage system in Princess Anne Road, and towards the historic ditch to the east. Stormwater runoff from the proposed buildings and right-of-way improvements will be collected into a wet pond that will treat for both water quality and water quantity before discharging into the historic ditch. Manufactured Treatment Devices will be utilized for any remaining water quality pollutant load reduction requirements not treated by the onsite wet pond.

Based on the information provided by Timmons Group in the Preliminary Drainage Study, the DSC agrees that the proposed conceptual stormwater management strategy can successfully comply with the stormwater requirements. Final design and detailed updates will be made during site plan submittal to ensure conformance with all requirements set forth in the Public Works Design Standards Manual. More detailed project stormwater information is listed below.

Project Information

Total project area: 38.60 acres

Pre-Development impervious area: 0.00 acres

Post-Development impervious area: 11.00 acres

Stormwater Management Facility Design Information

Type of facility proposed: Wet Pond

Description of outfall: Stormwater runoff from the site that enters into the Stormwater Management Facility will discharge directly into the historic ditch.

Downstream conveyance path: This site is part of the Dam Neck Drainage Basin. Drainage from this site drains through the historic ditch into Redmill Pond, which outfalls into Ashville Bridge Creek, then into Back Bay. Back Bay drains through the Currituck Sound and into the Atlantic Ocean.

Public Utility Impacts

Water

City water is available for connection. There is a 10-inch city water main along Princess Anne Road.

Sewer

City sanitary sewer is available for connection. There is a 12-inch city sanitary sewer force main along Princess Anne Road and an 8-inch city sanitary sewer gravity main along Locksley Arch.

School Impacts

School	Current Enrollment	Capacity	Generation ¹	Change ²
Three Oaks Elementary	654 students	718 students	10 students	10 students
Princess Anne Middle	1,395 students	1,315 students	6 students	6 students
Kellam High	1,875 students	2,093 students	8 students	8 students

¹ "Generation" represents the number of students that the development will add to the school.
² "change" represents the difference between the number of potential or actual students generated under the existing zoning and the number generated under the proposed zoning. The number can be positive (additional students) or negative (fewer students).

Public Outreach Information

Planning Commission

- One letter of concern has been received by Staff noting concerns related to stormwater runoff.
- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on October 9, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, October 25, 2023 and November 1, 2023.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on October 23, 2023.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.virginiabeach.gov/pc on November 2, 2023.

City Council

- As required by City Code, this item was advertised in the Virginian-Pilot on Tuesdays, November 28, 2023 and December 5, 2023
- As required by City Code, the adjacent property owners were notified regarding both the request and the date of the City Council's public hearing on November 27, 2023
- The City Clerk's Office posted the materials associated with the application on the City Council website of <https://clerk.virginiabeach.gov/city-council> on December 8, 2023.



SITE DATA:

- GPN: 241308740000 AND 241309320000
- SITE ADDRESS: 2004 PRINCESS ANNE ROAD AND 2004 PRINCESS ANNE RD
- EXISTING ZONING: AG-1 AND AG-2
- PROPOSED ZONING: CONDITIONAL R-10
- PROPOSED USE: 38 RESIDENTIAL LOTS
- LOT SIZES: VARY BETWEEN 12,000 SF TO 19,500 SF
- MIN LOT WIDTH: 80 FT

- SITE AREA:	38.6 +/- AC
- R.O.W DEDICATION (ALONG PRINCESS ANNE ROAD)	0.8 +/- AC
- NET SITE AREA:	37.8 +/- AC
- OPEN SPACE AREA REQUIRED:	18.9 +/- AC (50%)
- OPEN SPACE PROVIDED: (INCLUDES 50% 150 FT TRANSITION AREA BUFFER AND SHARED USE PATH WITHIN ROW DEDICATION)	24.2 +/- AC (64%)

ROBERT WHITE FARM COMMUNITY - VIRGINIA BEACH, VA
 CONCEPTUAL LAYOUT - July 16, 2023





ROBERT WHITE FARM COMMUNITY - VIRGINIA BEACH, VA
 CONCEPTUAL LANDSCAPE PLAN - July 16, 2023



Proposed Housing Styles



Proposed Housing Styles



Proposed Housing Styles



Proposed Housing Styles



Site Photos



Disclosure Statement

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 Michael D. Sifen, Inc., a Virginia stock corporation

Does the applicant have a representative? Yes No

- If yes, list the name of the representative.

R. Edward Bourdon, Jr., Esq., Sykes, Bourdon, Ahern & Levy, P.C.

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)

President - Michael Sifen, 1st Vice President/Chief Financial Officer/SEC - Barry A. Sifen, Vice President - Donald R. Smith

- If yes, list the businesses that have a parent-subsiary¹ or affiliated business entity² relationship with the applicant. (Attach a 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.

Disclosure Statement

Disclosure Statement



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?

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.

T&D

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.

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.

FRANKENFIELD DESIGN + DEVELOPMENT, LLC, Barry Frankenfield, FASLA

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.

The applicant

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.

John Zaszewski, The Timmons Group

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.

R. Edward Bourdon, Jr., Esq., Sykes, Bourdon, Ahern & Levy, P.C.

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.

Michael D. Sifen, Inc.

By:

Applicant Signature

Donald K. Smith, Vice President

Print Name and Title

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 checked="" type="checkbox"/>	No changes as of	Date	2023.11.22	Signature	
				Print Name	Hoa N. Dao

Disclosure Statement

Disclosure Statement



Owner Disclosure

Owner Name See Attachment Exhibit "A"

Applicant Name Michael D. Sifen, Inc., a Virginia stock corporation

Is the Owner 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)

2. Robert W. White, Sr. Revocable Living Trust under agreement dated August 22, 2001.

- If yes, list the businesses that have a parent-subsidary³ or affiliated business entity⁴ relationship with the Owner. (Attach a list if necessary)

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?

³ "Parent-subsidary 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.

⁴ "Affiliated business entity relationship" means "a relationship, other than parent-subsidary 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.

Disclosure Statement



Owner Services Disclosure

1. Does the Owner 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.

2. Does the Owner 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.
Keller Williams Realty Town Center, Bob Williams

3. Does the Owner 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.

4. Does the Owner 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.

6. Does the Owner 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 Owner 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.

Disclosure Statement

Disclosure Statement



8. Is the Owner 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 legal the service.

Kaufman & Canoles, P.C., Michael E. Barney, Esq.

Owner 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.

Robert W. White, Jr.

Owner Signature

Robert W. White, Jr.

Print Name and Title

07/26/2023

Date

EXHIBIT "A"

Property Owners

1. Robert W. White, Jr.
2. Robert W. White, Sr. Revocable Living Trust under agreement dated August 22, 2001
3. Kimberly S. White
4. Kylie S. Driver
5. Kaitlin Elizabeth White
6. Kathryn L. Martin
7. Kolby Madison White

Address

3004 Seaboard Road, Virginia Beach, VA 23456

Phone

Email

H:\MRG\EB\2000 Princess Anne Rd\EXHIBIT A to the CRZ application - White Farm 3.27.23.docx

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.



CITY OF VIRGINIA BEACH
INTER-OFFICE CORRESPONDENCE

In Reply Refer To Our File No. DF-11053

DATE: December 1, 2023

TO: Mark D. Stiles

DEPT: City Attorney

FROM: B. Kay Wilson

DEPT: City Attorney

RE: Conditional Zoning Application; Michael D. Sifen, Inc.

The above-referenced conditional zoning application is scheduled to be heard by the City Council on December 12, 2023. I have reviewed the subject proffer agreement, dated July 15, 2023 and have determined it to be legally sufficient and in proper legal form. A copy of the agreement is attached.

Please feel free to call me if you have any questions or wish to discuss this matter further.

BKW/ka
Enclosure

cc: City Manger's Office

MICHAEL D. SIFEN, INC., a Virginia stock corporation
ROBERT W. WHITE, JR., individually
ROBERT W. WHITE, JR., as TRUSTEE OF THE FAMILY TRUST CREATED UNDER THE ROBERT W. WHITE, SR. REVOCABLE LIVING TRUST U/A/D 8/22/01
KIMBERLY S. WHITE, KYLIE S. DRIVER, KAITLIN ELIZABETH WHITE, KATHRYN L. MARTIN, and KOLBY MADISON WHITE

TO (PROFFERED COVENANTS, RESTRICTIONS AND CONDITIONS)

CITY OF VIRGINIA BEACH, a municipal corporation of the Commonwealth of Virginia

THIS AGREEMENT, made this 15th day of July, 2023, by and between MICHAEL D. SIFEN, INC., a Virginia stock corporation, party of the first part, Grantor; ROBERT W. WHITE, JR., individually, party of the second part, Grantor; and ROBERT W. WHITE, JR., as TRUSTEE OF THE FAMILY TRUST CREATED UNDER THE ROBERT W. WHITE, SR. REVOCABLE LIVING TRUST U/A/D 8/22/01, party of the third part, Grantor; and KIMBERLY S. WHITE, KYLIE S. DRIVER, KAITLIN ELIZABETH WHITE, KATHRYN L. MARTIN, and KOLBY MADISON WHITE, parties of the fourth part Grantors; and THE CITY OF VIRGINIA BEACH, a municipal corporation of the Commonwealth of Virginia, party of the fifth part, Grantee.

WITNESSETH:

WHEREAS, the parties of the second, third and fourth part are the owners of a parcel of land located in District 2 (formerly Princess Anne) of the City of Virginia Beach containing approximately 35.59 acres which is more particularly described as "PARCEL ONE" on Exhibit "A" attached hereto and incorporated herein by this reference. Said parcel along with PARCEL TWO as described on Exhibit "A" are herein collectively referred to as the "Property"; and

WHEREAS, the party of the second part is the owner of a parcel of land located in District 2 (formerly Princess Anne) of the City of Virginia Beach containing approximately 2.76 acres which is more particularly described as "PARCEL TWO" on Exhibit "A" attached hereto and

GPIN: PARCEL ONE 2413-08-8768-0000
PARCEL TWO 2413-09-3020-0000

Prepared by:
R. Edward Bourdon, Jr., Esquire
VSB #22160
Sykes, Bourdon, Ahern & Levy, P.C.
4429 Bonney Road, Suite 500
Virginia Beach, Virginia 23462

incorporated herein by this reference. Said parcel along with PARCEL ONE as described on Exhibit "A" are herein collectively referred to as the "Property"; and

WHEREAS, the party of the first part, as contract purchaser of the Property, has initiated a conditional amendment to the Zoning Map of the City of Virginia Beach, Virginia, by petition addressed to the Grantee so as to change the Zoning Classification of the Property from AG-1 Agricultural District and AG-2 Agricultural District to Conditional R-10 Residential District; and

WHEREAS, the Grantee's policy is to provide only for the orderly development of land for various purposes through zoning and other land development legislation; and

WHEREAS, the Grantors acknowledge that the competing and sometimes incompatible uses conflict and that in order to permit differing uses on and in the area of the Property and at the same time to recognize the effects of change, and the need for various types of uses, certain reasonable conditions governing the use of the Property for the protection of the community that are not generally applicable to land similarly zoned are needed to cope with the situation to which the Grantors' rezoning application gives rise; and

WHEREAS, the Grantors have voluntarily proffered, in writing, in advance of and prior to the public hearing before the Grantee, as a part of the proposed amendment to the Zoning Map, in addition to the regulations provided for the Residential District by the existing overall Zoning Ordinance, the following reasonable conditions related to the physical development, operation, and use of the Property to be adopted as a part of said amendment to the Zoning Map relative and applicable to the Property, which has a reasonable relation to the rezoning and the need for which is generated by the rezoning.

NOW, THEREFORE, the Grantors, for themselves, their successors, personal representatives, assigns, grantees, and other successors in title or interest, voluntarily and without any requirement by or exaction from the Grantee or its governing body and without any element of compulsion or quid pro quo for zoning, rezoning, site plan, building permit, or subdivision approval, hereby make the following declaration of conditions and restrictions which shall restrict and govern the physical development, operation, and use of the Property and hereby covenant and agree that this declaration shall constitute covenants running with the Property, which shall be binding upon the Property and upon all parties and persons claiming under or through the Grantors, their successors, personal representatives, assigns, grantees, and other successors in interest or title:

1. When the Property is subdivided, developed and landscaped, it shall have the entrance, neighborhood identification sign, typical street section, landscaping, trails and open

spaces, including the 150' Transition Area Buffer substantially as depicted and described on the exhibits entitled, "ROBERT WHITE FARM COMMUNITY - VIRGINIA BEACH, VA. CONCEPTUAL LAYOUT", dated July 16, 2023 and "ROBERT WHITE FARM COMMUNITY - VIRGINIA BEACH, VA. CONCEPTUAL LANDSCAPE PLAN", dated July 16, 2023, prepared by Timmons Group, copies of which have been exhibited to the Virginia Beach City Council are on file with the Virginia Beach Department of Planning (the "Conceptual Subdivision Plan" and "Conceptual Landscape Plan") and are incorporated herein by this reference. A detailed landscape plan for the designated landscaped buffers as depicted on the Conceptual Landscape Plan shall be submitted with the Subdivision Construction Plan and the landscaped buffer on the north side of the Property along with the designated area to be reforested shall be in lieu of the landscape buffer specified by the rural residential development guidelines to protect adjoining agriculturally zoned property.

2. When the Property is developed, it will be subdivided into no more than thirty-eight (38) single family residential building lots each having a minimum of 12,000 square feet of area. The thirty-eight (38) new homes will be built with a crawlspace or a raised slab foundation and they will contain a minimum of 2,200 square feet of living area for a two story dwelling and 2,000 square feet of living area for a one story dwelling. Each home shall have no less than a two (2) car garage and utilize the quality architectural features and design elements substantially as depicted on the eight (8) pictorial exhibits designated "Robert White Farm Subdivision - Home Quality Example" (1 through 8), which have been exhibited to the Virginia Beach City Council are on file with the Virginia Beach Department of Planning (the "Quality Home Depictions") and are incorporated herein by this reference.

3. When the Property is developed, the exterior building materials to be used on the residential structures shall consist primarily of high quality architectural shingles, cementitious siding (e.g., "HardiPlank"), brick or masonry stone, or a combination of those materials along with high-quality accent or ancillary material such as metal roof accents and vinyl shutters. The quality and colors of the exterior building materials shall be substantially as depicted and described on the "ROBERT WHITE FARM SUBDIVISION PROFFERED MATERIAL SELECTION" containing nine (9) pages and dated July 15, 2023, which has been exhibited to the Virginia Beach City Council is on file with the Virginia Beach Department of Planning (the "Material Selection") and is incorporated herein by this reference.

4. When the Property is developed, the "playground" area designated within one of the "OPEN SPACE" areas on the Conceptual Subdivision Plan shall be equipped with a children's swing and "PRANCING PANDA" playground equipment substantially as depicted on the six (6)

page exhibit entitled "ROBERT WHITE FARM SUBDIVISION – PLAYGROUND EQUIPMENT dated July 15, 2023", which has been exhibited to the Virginia Beach City Council is on file with the Virginia Beach Department of Planning (the "Playground Equipment") and is incorporated herein by this reference. The area designated "REFORESTED PASSIVE OPEN SPACE 8.8± AC" will be sprigged with indigenous evergreen and deciduous trees and otherwise allowed to reforest and regenerate naturally.

5. When the Property is developed, on street parking within the community shall be restricted to one (1) side of the street. In addition to the added turn lanes within the Princess Anne Road right of way, and other required improvements within the existing rights of way to create the entrance to this community, as depicted on the Conceptual Subdivision Plan, additional intersection traffic signalization will be installed at the intersection by the party of the first part. As depicted on the Conceptual Subdivision Plan, the community entrance road will be a divided roadway with a curbed median in lieu of a second access vehicular point to this small community.

6. When the Property is developed, the party of the first part shall record a Declaration submitting the building lots, all of the other property, and where applicable any easements outside the public rights of way to a mandatory membership Home Owners' Association which shall own and be responsible for maintaining all open space areas, common areas, Transition Area Buffer Easement, vegetated buffer areas, entrance feature signage, landscaping, benches, playground equipment and other improvements within the Open Space Areas, as depicted on the Subdivision Plans. The open spaces and landscape buffers, including the 150' Transition Area Buffer shall be conveyed to the Home Owners' Association prior to the issuance of the first occupancy permit.

7. When the Subdivision Plat and Subdivision Construction Plans are submitted, the final stormwater management plan submitted to the Development Services Center (DSC) shall be in substantial conformance with the Preliminary Drainage Study and shall comply with the Stormwater Management Ordinance.

8. Further conditions may be required by the Grantee during detailed Subdivision and/or Site Plan review and administration of applicable City Codes by all cognizant City agencies and departments to meet all applicable City Code requirements.

The above conditions, having been proffered by the Grantors and allowed and accepted by the Grantee as part of the amendment to the Zoning Ordinance, shall continue in full force and effect until a subsequent amendment changes the zoning of the Property and specifically repeals

such conditions. Such conditions shall continue despite a subsequent amendment to the Zoning Ordinance even if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised Zoning Ordinance until specifically repealed. The conditions, however, may be repealed, amended, or varied by written instrument recorded in the Clerk's Office of the Circuit Court of the City of Virginia Beach, Virginia, and executed by the record owner of the Property at the time of recordation of such instrument, provided that said instrument is consented to by the Grantee in writing as evidenced by a certified copy of an ordinance or a resolution adopted by the governing body of the Grantee, after a public hearing before the Grantee which was advertised pursuant to the provisions of Section 15.2-2204 of the Code of Virginia, 1950, as amended. Said ordinance or resolution shall be recorded along with said instrument as conclusive evidence of such consent, and if not so recorded, said instrument shall be void.

The Grantors covenant and agree that:

(1) The Zoning Administrator of the City of Virginia Beach, Virginia, shall be vested with all necessary authority, on behalf of the governing body of the City of Virginia Beach, Virginia, to administer and enforce the foregoing conditions and restrictions, including the authority (a) to order, in writing, that any noncompliance with such conditions be remedied; and (b) to bring legal action or suit to insure compliance with such conditions, including mandatory or prohibitory injunction, abatement, damages, or other appropriate action, suit, or proceeding;

(2) The failure to meet all conditions and restrictions shall constitute cause to deny the issuance of any of the required building or occupancy permits as may be appropriate;

(3) If aggrieved by any decision of the Zoning Administrator, made pursuant to these provisions, the Grantors shall petition the governing body for the review thereof prior to instituting proceedings in court; and

(4) The Zoning Map may show by an appropriate symbol on the map the existence of conditions attaching to the zoning of the Property, and the ordinances and the conditions may be made readily available and accessible for public inspection in the office of the Zoning Administrator and in the Planning Department, and they shall be recorded in the Clerk's Office of the Circuit Court of the City of Virginia Beach, Virginia, and indexed in the name of the Grantors and the Grantee.

WITNESS the following signature and seal:

Grantor:

Michael D. Sifen, Inc., a Virginia stock corporation

By: Michael D. Sifen Pres. (SEAL)
Michael D. Sifen, President

STATE OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

The foregoing instrument was acknowledged before me this 27th day of July, 2023, by Michael D. Sifen, President of Michael D. Sifen, Inc., a Virginia stock corporation, Grantor.

Anita R. H. McCorkle
Notary Public

My Commission Expires: 8/31/2026
Notary Registration Number: 192628



WITNESS the following signature and seal:

Grantor:

R. W. White Jr. (SEAL)
Robert W. White, Jr.

STATE OF Virginia
CITY/COUNTY OF Virginia Beach to-wit:

The foregoing instrument was acknowledged before me this 26 day of July
2023, by Robert W. White, Jr., Grantor.

Ashley Dekker Dickerson
Notary Public

My Commission Expires: 06-30-27
Notary Registration Number: 351361



WITNESS the following signature and seal:

Grantor:

The Family Trust created under the Robert W. White, Sr.
Revocable Living Trust under agreement dated August 22,
2001.

By: Robert W. White, Jr. - Trustee (SEAL)
Robert W. White, Jr., Trustee

STATE OF Virginia
CITY/COUNTY OF Virginia Beach to-wit:

The foregoing instrument was acknowledged before me this 21 day of July
2023, by Robert W. White, Jr., Trustee under the Family Trust created under the Robert W. White,
Sr. Revocable Living Trust under agreement dated August 22, 2001, Grantor.

Ashley Dekker Dickerson
Notary Public

My Commission Expires: 06-30-27
Notary Registration Number: 35130



WITNESS the following signature and seal:

Grantor:

R. W. White Jr. (SEAL)
Kimberly S. White by Robert W. White Jr.,
her attorney-in-fact

STATE OF Virginia
CITY/COUNTY OF Virginia Beach to-wit:

The foregoing instrument was acknowledged before me this 26 day of July
2023, by Kimberly S. White, Grantor by Robert W. White, Jr., her attorney-in-fact.

Ashley Dekker Dickerson
Notary Public

My Commission Expires: 6-30-27
Notary Registration Number: 351361



WITNESS the following signature and seal:

Grantor:

Robert W. White Jr. (SEAL)
Kylie S. Driver, by Robert W. White Jr.,
her attorney-in-fact

STATE OF Virginia
CITY/COUNTY OF Virginia Beach, to-wit:

The foregoing instrument was acknowledged before me this 26 day of July
2023, by Kylie S. Driver, Grantor by Robert W. White, Jr., her attorney-in-fact.

Ashley Dekker Dickerson
Notary Public

My Commission Expires: 06-30-27
Notary Registration Number: 351361



WITNESS the following signature and seal:

Grantor:

R. W. White, Jr. (SEAL)
Kaitlin Elizabeth White by Robert W. White, Jr.,
her attorney-in-fact

STATE OF Virginia
CITY/COUNTY OF Virginia Beach to-wit:

The foregoing instrument was acknowledged before me this 26 day of July
2023, by Kaitlin Elizabeth White, Grantor by Robert W. White, Jr., her attorney-in-fact.

Ashley Dekker Dickerson
Notary Public

My Commission Expires: 6-30-27
Notary Registration Number: 351361



WITNESS the following signature and seal:

Grantor:

R. W. White Jr. (SEAL)
Kathryn L. Martin by Robert W. White Jr.,
her attorney-in-fact

STATE OF Virginia
CITY/COUNTY OF Virginia Beach to-wit:

The foregoing instrument was acknowledged before me this 26 day of July
2023, by Kathryn L. Martin, Grantor by Robert W. White, Jr., her attorney-in-fact.

Ashley Decker Dickerson
Notary Public

My Commission Expires: 6-30-27
Notary Registration Number: 351361



WITNESS the following signature and seal:

Grantor:

Robert W. White Jr. (SEAL)
Kolby Madison White by Robert W. White Jr.,
her attorney-in-fact

STATE OF Virginia
CITY/COUNTY OF Virginia Beach to-wit:

The foregoing instrument was acknowledged before me this 27 day of July
2023, by Kolby Madison White, Grantor by Robert W. White, Jr., her attorney-in-fact.

Ashley Dekker Dickerson
Notary Public

My Commission Expires: 6-30-27
Notary Registration Number: 35136



EXHIBIT "A"

PARCEL I:

ALL THAT certain tract, piece or parcel of land, with the improvements thereon, situate, lying and being in the Princess Anne Borough of the City of Virginia Beach, State of Virginia, fronting on the highway known as Route 615, now known as Princess Anne Road, leading from Nimmo Church to Pungo, originally containing 48.24 acres, more or less, being bounded on the West by the aforementioned public road, on the North by the land now or formerly belonging to George W. Land, on the East by the property now or formerly of the United States Government known as the Pungo Airfield, and on the South by the lands now or formerly belonging to Mittie L. Cooper, et als., known as the home farm of William H. James with Four and One-half (4.5) acres of Woodland south of the Mittie L. Cooper property.

LESS, SAVE and EXCEPT, however that certain parcel of land containing 2.76 acres, more or less, conveyed by Cameron Munden, et ux. To Merritt E. Hitchings, and wife, by deed dated July 7, 1954, and recorded in the above mentioned Clerk's Office in Deed Book 366, at page 286, reference to said deed being hereby made for a more particular description of the parcel excepted; and

LESS, SAVE and EXCEPT further, that certain 1.33 acre parcel conveyed to Jefferson Utley and Kimberly Jeanne Utley, by Deed of Gift dated December 21, 1999, and recorded in Deed Book 4185 at page 1360 (GPIN 2403-98-9694); and

LESS, SAVE and EXCEPT that certain parcel of land containing 0.372 acres and conveyed to the City of Va. Beach by Certificate of Take No. 1239 recorded in the aforesaid Clerk's Office in Deed Book 3048, Page 1858 and in the Final Order Vesting Title recorded in Instrument No. 20031124001954070.

GPIN: 2413-08-8768-0000

PARCEL II:

ALL THAT certain tract, piece or parcel of land, with the buildings and improvements thereon, situate, lying and being in the City of Virginia Beach, State of Virginia, fronting on the Nimmo-Pungo Road, now known as Princess Anne Road or Route 615, shown and designated on a plat and survey thereof, made by W.B. Gallup, County Surveyor, dated May 18, 1954, and duly recorded in the Clerk's Office of the Circuit Court of the City of Virginia Beach, Virginia, in Map Book 36, at page 50, and being more particularly described as follows:

Beginning at a pin in the eastern line of the right of way of Nimmo-Pungo Road, distant 450.3' N 60 degrees E, as measured along the eastern line of the right of way of said road from a pipe in a ditch separating the property of Munden from the property of Cooper, and from said point, running along the edge of the right of way of said road, N 36 degrees W 196' to a pin; thence S 56

degrees 36' E 616.5' to a pin; thence S 36 degrees W 196' to a pin; thence N 56 degrees 36' W 616.5' to the point of the beginning, said tract of land containing 2.76 acres.

GPIN: 2413-09-3020-0000

H:\AM\Conditional Rezoning\Sifen_Michael D Inc\White Farm\Proffer Agreement_final 6-09-2023.docx

Virginia Beach Planning Commission
November 8, 2023, Public Meeting
Agenda Item # 3

Michael D. Sifen, Inc

RECOMMENDED FOR APPROVAL

Madam Clerk: Agenda item number three. Michael D. Sifen is an application for a conditional rezoning AG-1 and AG-2 agricultural districts, two conditional R-10 residential district at 2000 and 2004 Princess Anne Road in District two.

Mr. Bourdon: Mr. Chairman, for the record, Eddie Bourdon, Virginia Beach Attorney representing Michael D. Sifen, Inc and Robert White Jr. and his family on this conditional rezoning application. The project involves a 38-acre farm that's been in the White family for many, many, many decades. The proposal, I'm going to thank Dao and the entire staff, we've been working on this for over a year, well over a year, primarily on stormwater, which has been through all of the models and can meet the requirements of our current ordinance. This is a 38 lot proposed development on 38 acres. Of which, 24 will be open space of one type or another and I know this was on the consent agenda. So I'll just address a couple of the items that Hoa did a good job of discussing this morning. The first is the idea of having two points of access and as you can see, that's really it isn't feasible. The property, we have Ashville Park to our south, as well as a single family residence on Princess Anne Road, into the north will be the Vanguard Landing Development and Vanguard Landing is not going to be, they'll have some small plots for the residents to garden, but it's not the type of agricultural operation, and most of it will be back where we're reforesting the eastern part of this property, but it's not the type of agriculture operation that involves large equipment and dust and noise, the industrial type of farming operation. So that variance along there to the 50 foot buffer to a 20 foot buffer, we believe is more than warranted. The access issue; however, there's no way to have a second access on Princess Anne Road. What we have agreed to do and it's shown on the plans is put a median for the entirety of the entrance so that you've got two separate sections of roadway in and out. So if there's an accident on, you won't be blocking the entire access way. So that's the best we could do to deal with that and it's the 38 unit, single family development. You all have been provided with a copy of a slightly revised plan. I want to explain that. We had a community meeting that we've notified all the people who had joined the property and the folks across the Sherwood Lakes as well and the two residents of Heritage Park

who border the eastern end of the property, and we had no one from Ashville Park came. I've spoken to the representative for Home Fed, who is in-charge of the whole development in there every day and he has spoken with the president of Ashville Park. Home Owner Association, they meet later next week. The president thinks it's a good idea to extend and connect to their path, that you all have seen and my clients perfectly willing to do that. They will be taking this up and determining whether they want to do it and want us to do it and whether they're willing to give a temporary construction easement to connect to their path. If that does happen, which we think it's going to happen, then we will be submitting the revised plan that shows that additional path running along the southern side of the reforested area, the 8.8 acres that will be reforesting and that will help with stormwater, too. By the way, it's a big help for stormwater to have that forested area out there rather than of agricultural field and that will happen before we get to City Council. If Ashville Park does wish to have the connection, which we believe makes sense, as I think you all are aware, there'll be a four-way intersection now with not away and with the entrance of this neighborhood with crosswalks. There already is the multipurpose trail on the Sherwood Lakeside of Princess Anne Road, going up to the big park that the city is going to be developing at the north end of that lake and we're obviously putting the same trail in the 150 foot transition area buffer in front of our property, which will connect through to the vanguard. One that they'll be putting in and then Munden Farm, which already has theirs so that there will be, as Mr. Kemp said this morning, a lot of opportunities as things progress for people to get around on bikes without actually going out on Princess Anne Road and there will be bike path in Princess Anne Road as I understand it as well, but that's the reason for that new plan. Nothing of any other substance changed whatsoever with that, with that plan. This is a proffered rezoning and as you know, it's been recommended for approval by the TA/ITA Committee and nothing is being built as far as any structures at all in the noise zone. It's all outside of the 65 to 70 DBN. I will be happy to answer any questions.

Mr. Alcaraz: Any questions? I will call you. I think we have one.

Madam Clerk: We have one speaker via WebEx. Bobby Wood.

Ms. Wood: My name is Bobby wood. I live at 2008 [Inaudible 23:16] Drive and have a property that here in Ashville park that is actually backs up to the property in question for rezoning. Our speaker that we actually had a spokesperson,

he's a military fighter pilot and he obviously was called away, he has a list of signatures of those of us that line that property in opposition. Also, I would like to say that we just stumped. There was no notification of any meeting given to any of us, be on our door, in our mailbox, or through any channels for us to know about a previous meeting where the Ashville park residents were invited in order to have an opportunity to speak regarding this rezoning. This is the first I've heard of it right now. John Cole lives directly the Ashville Park present lives directly across the street from me, and we speak every single time we see each other outside. I will say that my husband and I, my husband grew up in the country and, it has always been our dream when he retired after 25 years in the military to come out here to Pungo area and build our dream forever home and we chose this lot carefully. As a realtor, I probably was my [Inaudible 24:44] and I probably seen 50-75 homes before we decided on building and chose this lot specifically because of it backing up to the agricultural property as have all the other individuals that are lining that property and have, you know, chose that property specifically because we see what we look out in our backyards. We have fences that are raw iron so as to not infringe on the property view so that we can see straight out through over it, whether it's soybean or corn or whatever it may be. So I really don't like the idea of having someone's backyard with any type of, you know, fencing backed up to my back property and that's what I'm looking at for my forever home when that's not what I chose, not what I paid for. So, also the BMP that is slated to go in according to that proposal backs up against the back of my property and there's already a ditch behind my property. So, you know, we're looking at, you know, the possibility I lived through the flooding here, so I built here. So I've been here for a while and I lived through the [Inaudible 26:05] Ashville Park and a lot of that was because of the BMP construction at the time and this one here backs up to the majority of the homes and I'm not a fan of that either. So definitely opposition, I wish that my neighbor was able to have made it. I don't know what kept him from making it there today, but he has the signatures.

Madam Clerk: That was her three minutes.

Mr. Alcaraz: That was three minutes. Eddie, just want to make sure I see some more people. Is there any other speakers? Okay, just making sure Eddie.

Mr. Bourdon: All right. So hopefully the speakers tuned in, I do not know there are only six houses that back up to where we have lots and just to be clear, the

Ashville Park Homeowners Association has a 50 foot strip of land behind all of the homes in Ashville Park that abut this property and we're providing a 30 foot buffer on this property again will be owned by the Home Owners Association, not the residents and there the fence, the wrought iron fence that is up on the boundary between the properties will be the only fence. Now, whether someone on one of these lots that face south chooses to put a fence on their property or not, we don't know. We don't expect that that will happen, but there will be 80 feet of property owned by the two associations between the back property line of anyone whose house, the back of the house faces north towards these homes and the same is true only to a greater extent with anybody who faces the BMP. There is a much wider buffer. There is a path and then there's a BMP, a wet pond before you see a path on the other side of the wet pond and then the people's back property line. So we're not abutting directly anybody in Ashville Parks back property line at the minimum width and distance is 80 feet from property line to property line with landscaping and a trail on our property in between. We have trails going down both the strips behind all the houses to connect to the multipurpose trail in the 150 foot. Actually, multipurpose trails in the 50 foot dedicated public right away after we cross 150 foot open space transition area buffer along Princess Anne Road so that's best I can do for that. As in the notices went out to all of the homeowners owners whose properties abut this development in Ashville Park, Heritage Park. Heritage Park, you know, came and then also to the people on Locksley Arch are not away. I don't know which is called on the entrance to Sherwood Lakes. Happy to answer any questions?

Mr. Alcaraz: All right. Any questions to Mr. Bourdon? Mr. Plumlee?

Mr. Plumlee: Is the BMP plan to be a public BMP or private?

Mr. Bourdon: Well, it will be a public impoundment easement, but the ownership stays with the association.

Mr. Plumlee: So long term maintenance remains with the association?

Mr. Bourdon: The maintenance, yes the impoundment; however, it's shared. I will just put it that way, it's shared between the property owner association and the City of Virginia Beach. That's the way it is.

Mr. Plumlee: So the city will have access if necessary to make improvements to the BMP to prevent there from being any kind of unnecessary problem?

Mr. Bourdon: Correct, that's the way they're all done at this point.

Mr. Plumlee: And the reforested passive open space as part of this plan that will be preserved?

Mr. Bourdon: Yes, that's correct.

Mr. Plumlee: That's locked down.

Mr. Bourdon: Yes, that's 100 percent.

Mr. Plumlee: The reforested area is locked down.

Mr. Bourdon: That is 100 percent correct and that will be owned by the Home Owner Association, but it has, it's proffered that it has to be reforested and just to be clear, it'll do it naturally. We're going to put some seedlings and all down but we are not going to be planting a bunch of big trees out there. It'll happen, you know, over time.

Mr. Plumlee: And one last question, the buffer behind the house of the person that just spoke a few minutes ago, that you indicate is a 50-foot buffer?

Mr. Bourdon: On the Ashville Park side.

Mr. Plumlee: On the Ashville Park side only.

Mr. Bourdon: If you see their Ashville Park owns a strip of land and I believe it is 50 feet. It's either 40 or 50. I think it's 50. That's my recollection. That's behind all of the homes in Ashville Park.

Mr. Plumlee: Yeah, I see where the property line ends and I was just curious to know if that also is going to be undevelopable, blocked off.

Mr. Bourdon: That's a part of the Ashville Park.

Mr. Plumlee: I'm getting nods behind you, yeah.

Mr. Bourdon: Yes, it's open space under the Ashville Park development plan.

Mr. Plumlee: And is it currently forested, do you know?

Mr. Bourdon: There is vegetation in it, it's not like a complete, you know, like some of the things you see along Great Neck, North Great Neck Road, where it's just, you know, blocks all.

Mr. Plumlee: But that maintenance and care will be the obligation of the association?

Mr. Bourdon: That is the application of Ashville Parks Association that the buffer on our side is on--

Mr. Plumlee: I see. Thank you.

Mr. Bourdon: There is two different associations.

Mr. Plumlee: Okay. So she can go to her association and say this needs to be improved and make efforts to increase the vegetation in that buffer?

Mr. Bourdon: If they believe the view looking our buffer and at the lake and then the houses is, you know, deleterious, then they can put more trees up there if they wish.

Mr. Plumlee: Thank you.

Mr. Alcaraz: All right. Any other questions? None. All right. So I'll close it now. If I can get any additional comments and if none, if I can get a motion, please? Mr. Plumlee?

Mr. Plumlee: I don't have a lot of comments other than, you know, in this district we're looking at an entirety, if you look at the city's statistics, it comes to something of like 93 percent is either open space AG or under preservation. There's a very small percentage of single family housing and as we know, we need an inventory of single family housing. It's very slow. We spent a year or they have spent a year going through the process. So I would like to make a motion in support of this project.

Mr. Alcaraz: I have a motion by Mr. Plumlee. Mr. Horsley, do you have something to say?

Mr. Clemons: I'll second it.

Mr. Horsley: Yes, I'll just make a comment that this AG land is in the transition area and it's the proper density in the transition area, that's the reason we knew that this would not remain agriculture forever and I think it's an excellent plan and I support the application also.

Mr. Alcaraz: All right, Mr. Clemons, I got a second from you.

Mr. Clemons: Yes, I second.

Mr. Alcaraz: All right, thank you.

Ms. Byler: Can I make a comment?

Mr. Alcaraz: Yes.

Ms. Byler: I just like to comment that when I reviewed this, I was sensitive that we're taking agricultural and we're rezoning it for houses. However, as has been pointed out, it is in the transition area, so we could anticipate this and if Mr. Horsley thinks it's good, you know it's good, because he's always protecting the agricultural. Moreover, in the informal meeting, we had Mr. Walter Kemp single this out and say what a poster child it was for open space, green space, walkability, pass and bike pass. So I do support it also.

Mr. Alcaraz: All right. Thank you. So I have a motion, a second by Mr. Clemons. Is there anybody abstaining? No.

Madam Clerk: The vote is now open. By a vote of eight to zero, item number three has been recommended for approval.

Mr. Alcaraz: Thank you.

	AYE 8	NAY 0	ABS 0	ABSENT 3
Alcaraz	AYE			
Anderson				ABS
Byler	AYE			
Clemons	AYE			
Coston				ABS
Cuellar	AYE			
Estaris				ABS

Hippen	AYE			
Horsley	AYE			
Parks	AYE			
Plumlee	AYE			

PROFFERS

The following are proffers submitted by the applicant as part of a Conditional Zoning Agreement (CZA). 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 change of zoning.

Proffer 1:

When the Property is subdivided, developed and landscaped, it shall have the entrance, neighborhood identification sign, typical street section, landscaping, trails and open spaces, including the 150' Transition Area Buffer substantially as depicted and described on the exhibits entitled, "ROBERT WHITE FARM COMMUNITY – VIRGINIA BEACH, VA. CONCEPTUAL LAYOUT", dated July 16⁵, 2023 and "ROBERT WHITE FARM COMMUNITY – VIRGINIA BEACH, VA. CONCEPTUAL LANDSCAPE PLAN", dated July 16⁵, 2023, prepared by Timmons Group, copies of which have been exhibited to the Virginia Beach City Council are on file with the Virginia Beach Department of Planning (the "Conceptual Subdivision Plan" and "Conceptual Landscape Plan") and are incorporated herein by this reference. A detailed landscape plan for the designated landscaped buffers as depicted on the Conceptual Landscape Plan shall be submitted with the Subdivision Construction Plan and the landscaped buffer on the north side of the Property along with the designated area to be reforested shall be in lieu of the landscape buffer specified by the rural residential development guidelines to protect adjoining agriculturally zoned property.

Proffer 2:

When the Property is developed, it will be subdivided into no more than thirty-eight (38) single family residential building lots each having a minimum of 12,000 square feet of area. The thirty-eight (38) new homes will be built with a crawlspace or a raised slab foundation and they will contain a minimum of 2,200 square feet of living area for a two story dwelling and 2,000 square feet of living area for a one story dwelling. Each home shall have no less than a two (2) car garage and utilize the quality architectural features and design elements substantially as depicted on the eight (8) pictorial exhibits designated "Robert White Farm Subdivision – Home Quality Example" (1 through 8), which have been exhibited to the Virginia Beach City Council are on file with the Virginia Beach Department of Planning (the "Quality Home Depictions") and are incorporated herein by this reference.

Proffer 3:

When the Property is developed, the exterior building materials to be used on the residential structures shall consist primarily of high quality architectural shingles, cementitious siding (e.g., "HardiPlank"), brick or masonry stone, or a combination of those materials along with high-quality accent or ancillary material such as metal roof accents and vinyl shutters. The quality and colors of the exterior building materials shall be substantially as depicted and described on the "ROBERT WHITE FARM SUBDIVISION PROFFERED MATERIAL SELECTION" containing nine (9) pages and dated July 15, 2023, which has been exhibited to the Virginia Beach City Council is on file with the Virginia Beach Department of Planning (the "Material Selection") and is incorporated herein by this reference.

Proffer 4:

When the Property is developed, the "playground" area designated within one of the "OPEN SPACE" areas on the Conceptual Subdivision Plan shall be equipped with a children's swing and "PRANCING PANDA" playground equipment substantially as depicted on the six (6) page exhibit entitled "ROBERT WHITE FARM SUBDIVISION – PLAYGROUND EQUIPMENT dated July 15, 2023", which has been exhibited to the Virginia Beach City Council is on file with the Virginia Beach Department of Planning (the "Playground Equipment") and is incorporated herein by this reference. The area designated "REFORESTED PASSIVE OPEN SPACE 8.8± AC" will be sprigged with indigenous evergreen and deciduous trees and otherwise allowed to reforest and regenerate naturally.

Proffer 5:

When the Property is developed, on street parking within the community shall be restricted to one (1) side of the street. In addition to the added turn lanes within the Princess Anne Road right of way, and other required improvements within the existing rights of way to create the entrance to this community, as depicted on the Conceptual Subdivision Plan, additional intersection traffic signalization will be installed at the intersection by the party of the first part. As depicted on the Conceptual Subdivision Plan, the community entrance road will be a divided roadway with a curbed median in lieu of a second access vehicular point to this small community.

Proffer 6:

When the Property is developed, the party of the first part shall record a Declaration submitting the building lots, all of the other property, and where applicable any easements outside the public rights of way to a mandatory membership Home Owners' Association which shall own and be responsible for maintaining all open space areas, common areas, Transition Area Buffer Easement, vegetated buffer areas, entrance feature signage, landscaping, benches, playground equipment and other improvements within the Open Space Areas, as depicted on the Subdivision Plans. The open spaces and landscape buffers, including the 150' Transition Area Buffer shall be conveyed to the Home Owners' Association prior to the issuance of the first occupancy permit.

Proffer 7:

When the Subdivision Plat and Subdivision Construction Plans are submitted, the final stormwater management plan submitted to the Development Services Center (DSC) shall be in substantial conformance with the Preliminary Drainage Study and shall comply with the Stormwater Management Ordinance.

Proffer 8:

Further conditions may be required by the Grantee during detailed Subdivision and/or Site Plan review and administration of applicable City Codes by all cognizant City agencies and departments to meet all applicable City Code requirements.

Hoa N. Dao

From: Duane Roth <duaneroth12@gmail.com>
Sent: Monday, October 30, 2023 2:40 PM
To: Hoa N. Dao
Subject: Sifen Application

Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION: This email originated from outside of the City of Virginia Beach. Do not click links or open attachments unless you recognize the sender and know the content is safe.

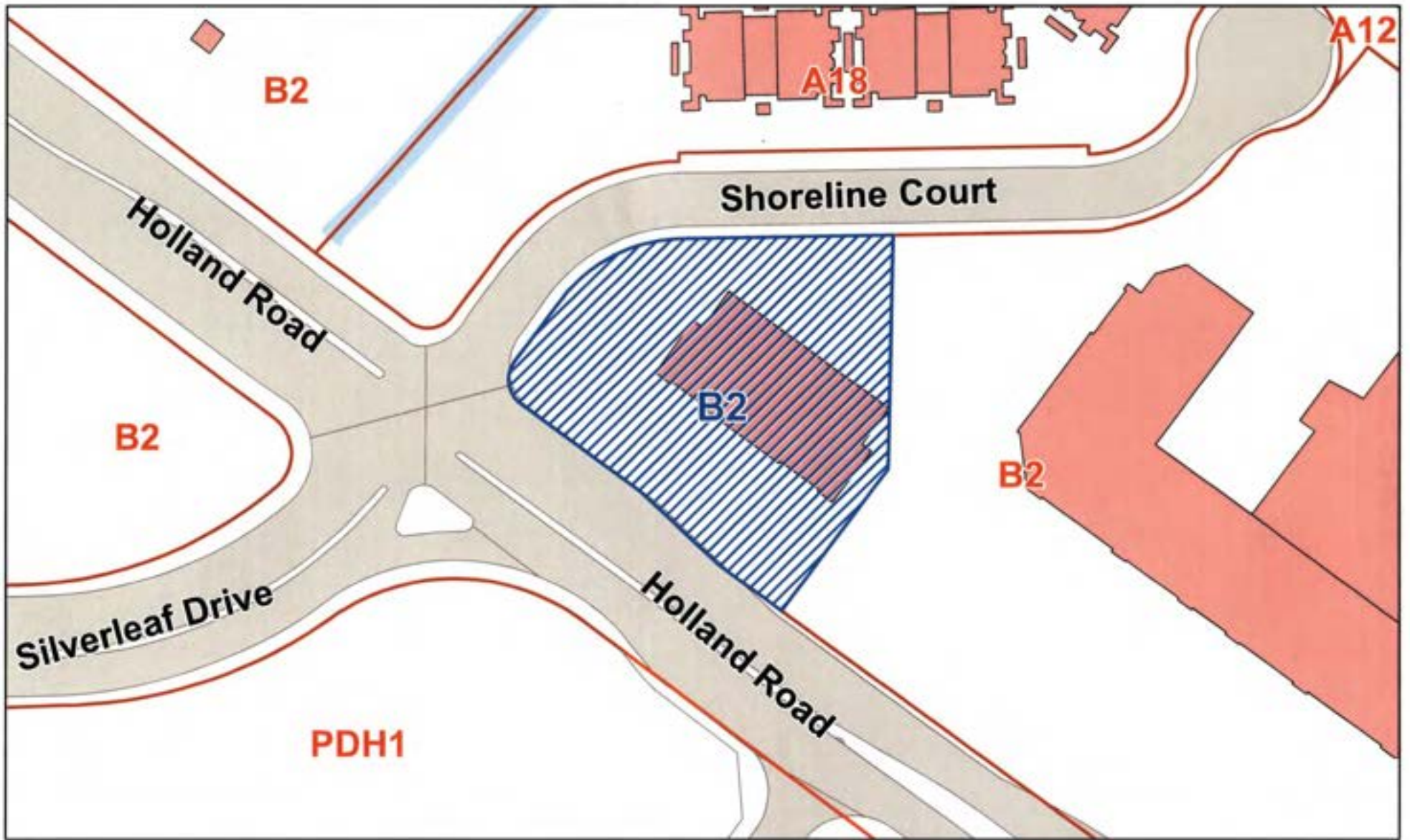
Dear VB Planning Commission,

Thank you for the notification concerning the Michael D. Sifen application for rezoning acreage that backs up to our property/development for residential development. We are out of town next week and unable to attend the meeting, so we are expressing our question/concern via this email.

Our primary question/concern for this development is how stormwater management will be handled, and the exact flow of runoff from the development. As a resident of Ashville Park for 10 years we experienced the flooding firsthand in 2016 which has led to SWM improvements, but any plan by this developer to run their stormwater runoff through Ashville Park to Ashville Bridge Creek could exceed the capacity that has been created since 2016 and reintroduce flooding concerns to our neighborhood. If the intent is not to run stormwater through Ashville Park and the reforested passive open space plan we received in the mail from Sifen goes ahead as planned, we do not have any objections to the development as it is currently laid out.

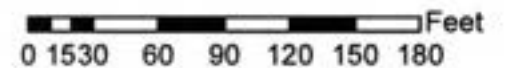
We would appreciate clarification on this question/concern at your earliest convenience, and once again thank you for the notification and opportunity to express any concerns.

Respectfully yours,
Duane and Karin Roth
2820 Camarillo Lane
Ashville Park



-  Site
-  Property Polygons
-  Zoning
-  Building

Anna Castillo-Lora
4356 Holland Road, Suite 101





CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: ANNA CASTILLO-LORA [Applicants] WINDSOR OAKS WEST PAR 3, LLC [PROPERTY OWNER] Conditional Use Permit (Assembly Use) for the property located at 4356 Holland Road, Suite 101 (GPIN 1476873632). COUNCIL DISTRICT 3

MEETING DATE: December 12, 2023

■ **Background:**

The applicant is requesting a Conditional Use Permit for an Assembly Use to operate an event rental space for small gatherings within an existing 2,070 square foot unit in the Holland Plaza shopping center. Proposed hours of operation shall be limited to 9:00 a.m. to 10:00 p.m., Monday through Sunday. The maximum number of guests is anticipated at 80 people; however, the maximum occupant load will ultimately be determined by the Building Official and Fire Marshal's Office. There will be no amplified music or use of speakers outside of the building.

■ **Considerations:**

The proposed Conditional Use Permit is acceptable given that it is consistent with the Comprehensive Plan's vision for the Suburban Area. The assembly use helps to maintain great neighborhoods by providing an affordable amenity to the community for the use of gatherings and social events. This use is not intended to generate an extensive amount of traffic, beyond what would be expected for similar commercial uses typically found in shopping centers. Staff is unaware of any opposition to the request.

Further details pertaining to the application, as well as Staff's evaluation, are provided in the attached Staff Report.

■ **Recommendation:**

On November 8, 2023, the Planning Commission passed a motion to recommend approval of this item on the Consent Agenda, by a recorded vote of 8-0.

1. A business license for the Assembly Use shall not be issued to the applicant without the approval of the Health Department to ensure consistency with the provision of Chapter 23 of the City Code.
2. The applicant shall obtain all necessary permits and inspections from the Department of Planning & Community Development/Permits and Inspections

Division. The applicant shall secure a Certificate of Occupancy for use of the existing building as an Assembly Use.

3. The maximum occupancy load shall not exceed the maximum number as required by applicable building codes, noted on the Certificate of Occupancy, and posted by the Fire Marshal.
4. 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 Department of Planning & Community Development for the installation of any new signs.
5. All event activities shall occur within the building. Outdoor events shall be prohibited unless specifically permitted with a Special Event Permit.
6. No amplification of music or use of speakers shall be permitted except within the enclosed building.
7. Hours of operation shall be limited to 9:00 a.m. to 10:00 p.m., Monday through Sunday.

■ **Attachments:**

Staff Report and Disclosure Statements
Location Map
Minutes of Planning Commission Hearing

Recommended Action: Staff recommends Approval. Planning Commission recommends Approval.

Submitting Department/Agency: Planning Department 

City Manager: 

Request

Conditional Use Permit (Assembly Use)

Staff Recommendation

Approval

Staff Planner

Michaela D. McKinney

Location

4356 Holland Road, Suite 101

GPIN

1476873632

Site Size

40,458 square feet (2,070 square-foot suite)

AICUZ

Less than 65 dB DNL

Watershed

Chesapeake Bay

Existing Land Use and Zoning District

Shopping Center / B-2 Community Business

Surrounding Land Uses and Zoning Districts

North

Shoreline Court

Multi-family dwellings/ A-18 Apartment

South

Holland Road

Government Office / PD-H1 Planned Unit Development

East

Shopping Center / B-2 Community Business

West

Multi-family dwelling / A-18 Apartment



Background & Summary of Proposal

- The applicant is requesting a Conditional Use Permit for an Assembly Use to operate an alcohol- and tobacco-free venue in an existing 2,070 square foot suite in the Holland Plaza Shopping Center. The shopping center is located along Holland Road on property zoned B-2 Community Business District.
- The venue, "Weddings and Events", will host weddings, elopements, receptions, and private events. Food will only be prepped and served as there will be no kitchen onsite. No alcoholic beverages or smoking products will be served or allowed onsite.
- The applicant estimates the number of guests at any event will range from 70 to 80; however, the maximum occupant load of the event space will ultimately be determined by the Building Official and the Fire Marshal.
- The space will be available to rent from 9:00 a.m. to 10:00 p.m., seven days a week.
- Since this parcel and the adjacent parcel to the east are under common ownership and are not separated by an alleyway or other right-of-way, the two lots are considered one zoning lot. Given this, parking spaces on these lots can be shared. There are 396 parking spaces across the two lots, which meets the minimum parking requirement for the shopping center.
- The applicant proposes to have building and door signage on the exterior of the building. No other exterior changes to the building are proposed.

	<h3>Zoning History</h3> <table border="1"> <thead> <tr> <th>#</th> <th>Request</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>CUP (Motor Vehicle Sales and Service) Approved 02/22/2005</td> </tr> <tr> <td>2</td> <td>CUP (Automobile Service Station & Convenience and Carry-out food store) Approved 12/18/2001</td> </tr> <tr> <td>3</td> <td>CRZ (B-2 to Conditional A-18) Approved 02/10/1998</td> </tr> <tr> <td>4</td> <td>LUP (AG-2 to Conditional B-2) Approved 09/20/1979</td> </tr> </tbody> </table>	#	Request	1	CUP (Motor Vehicle Sales and Service) Approved 02/22/2005	2	CUP (Automobile Service Station & Convenience and Carry-out food store) Approved 12/18/2001	3	CRZ (B-2 to Conditional A-18) Approved 02/10/1998	4	LUP (AG-2 to Conditional B-2) Approved 09/20/1979		
#	Request												
1	CUP (Motor Vehicle Sales and Service) Approved 02/22/2005												
2	CUP (Automobile Service Station & Convenience and Carry-out food store) Approved 12/18/2001												
3	CRZ (B-2 to Conditional A-18) Approved 02/10/1998												
4	LUP (AG-2 to Conditional B-2) Approved 09/20/1979												
<h3>Application Types</h3> <table border="1"> <tbody> <tr> <td>CUP – Conditional Use Permit</td> <td>MDC – Modification of Conditions</td> <td>STC – Street Closure</td> <td>SVR – Subdivision Variance</td> </tr> <tr> <td>REZ – Rezoning</td> <td>MDP – Modification of Proffers</td> <td>FVR – Floodplain Variance</td> <td>LUP – Land Use Plan</td> </tr> <tr> <td>CRZ – Conditional Rezoning</td> <td>NON – Nonconforming Use</td> <td>ALT – Alternative Compliance</td> <td>STR – Short Term Rental</td> </tr> </tbody> </table>		CUP – Conditional Use Permit	MDC – Modification of Conditions	STC – Street Closure	SVR – Subdivision Variance	REZ – Rezoning	MDP – Modification of Proffers	FVR – Floodplain Variance	LUP – Land Use Plan	CRZ – Conditional Rezoning	NON – Nonconforming Use	ALT – Alternative Compliance	STR – Short Term Rental
CUP – Conditional Use Permit	MDC – Modification of Conditions	STC – Street Closure	SVR – Subdivision Variance										
REZ – Rezoning	MDP – Modification of Proffers	FVR – Floodplain Variance	LUP – Land Use Plan										
CRZ – Conditional Rezoning	NON – Nonconforming Use	ALT – Alternative Compliance	STR – Short Term Rental										

Evaluation & Recommendation

In Staff's opinion, this request for a Conditional Use Permit for an Assembly Use is acceptable. The use is consistent with the Comprehensive Plan's recommendations for the Suburban Area and is compatible with the existing shopping center. Due to the business's proximity to residences to the north and west, staff has conditioned that all activities and music shall take place inside the building. This is reflected in conditions 5 & 6 below and the applicant is agreeable to these conditions.

As mentioned previously, adequate parking is provided on site for the proposed assembly use, exceeding the minimum parking requirement, as defined in Section 203(33) of the Zoning Ordinance.

Based on these considerations, Staff recommends approval of the application subject to the following conditions.

Recommended Conditions

1. A business license for the Assembly Use shall not be issued to the applicant without the approval of the Health Department to ensure consistency with the provision of Chapter 23 of the City Code.
2. The applicant shall obtain all necessary permits and inspections from the Department of Planning & Community Development/Permits and Inspections Division. The applicant shall secure a Certificate of Occupancy for use of the existing building as an Assembly Use.
3. The maximum occupancy load shall not exceed the maximum number as required by applicable building codes, noted on the Certificate of Occupancy, and posted by the Fire Marshal.
4. 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 Department of Planning & Community Development for the installation of any new signs.
5. All event activities shall occur within the building. Outdoor events shall be prohibited unless specifically permitted with a Special Event permit.
6. No amplification of music or use of speakers shall be permitted except within the enclosed building.
7. Hours of operation shall be limited to 9:00 a.m. to 10:00 p.m., Monday through Sunday.

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 the Suburban Area of the City. Guiding principles have been established in the Comprehensive Plan to protect the stability of the Suburban Area and to provide a framework for neighborhoods and places that are visually interesting and that provide memorable character. The Plan's primary guiding principle is to create "great neighborhoods," and to support those neighborhoods with complementary non-residential uses in such a way that the stability of the Suburban Area is maintained in a sustainable way. The proposed use moving into an existing shopping center would be in keeping with the Comprehensive Plan.

Natural & Cultural Resources Impacts

The site is located in the Chesapeake Bay Watershed. There are no known natural or cultural impacts.

Traffic Impacts

Street Name	Present Volume	Present Capacity	Generated Traffic
Holland Road	37,900 ADT ¹	32,700 ADT ¹ (LOS ⁴ "D")	Existing Land Use ² – 110 ADT Proposed Land Use ³ – No Data Available
¹ Average Daily Trips	² as defined by a 2,000 square foot strip retail center	³ No information available in the ITE Trip Generation Manual for event venues	⁴ LOS = Level of Service

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

Holland Road in the vicinity of this application is considered a four-lane divided minor urban arterial. The MTP proposes a six-lane facility within a 165-foot right-of-way. There is a CIP project funded for this section of Holland Road, which is scheduled to begin construction in 2031. This project will reconfigure Holland Road as a six-lane superstreet by adding additional through lanes in both directions from South Independence Boulevard to South Plaza Trail and by installing Restricted Crossing U-Turn (R-CUT), which helps reduce crashes at the intersections that lack a traffic signal. The project will also include continuous five-foot wide sidewalk on both sides of Holland Road, as well as LED streetlights and installation of bus shelters at four existing bus stops.

Public Utility Impacts

Water & Sewer

This site is connected to City water and city sanitary sewer.

Public Outreach Information

Planning Commission

- As required by the Zoning Ordinance, the public notice sign(s) was placed on the property on October 9, 2023.
- As required by State Code, this item was advertised in the Virginian-Pilot on Wednesdays, October 25, 2023 and November 1, 2023.
- As required by City Code, the adjacent property owners were notified regarding the request and the date of the Planning Commission public hearing on October 23, 2023.
- This Staff report, as well as all reports for this Planning Commission's meeting, was posted on the Commission's webpage of www.virginiabeach.gov/pc on November 2, 2023.

City Council

- As required by City Code, this item was advertised in the Virginian-Pilot on Tuesdays, November 28, 2023 and December 5, 2023
- As required by City Code, the adjacent property owners were notified regarding both the request and the date of the City Council's public hearing on November 27, 2023

- The City Clerk's Office posted the materials associated with the application on the City Council website of <https://clerk.virginiabeach.gov/city-council> on December 8, 2023.

Site Layout



Site Photos



Disclosure Statement

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 Anna Castillo-Lora

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)
Owner Anna Castillo-Lora

- If yes, list the businesses that have a parent-subsidiary¹ or affiliated business entity² relationship with the applicant. (Attach a 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.

Disclosure Statement



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?

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.

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.

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

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

Print Name and Title

Anna Castillo-Lora

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 checked="" type="checkbox"/>	No changes as of	Date	11/25/23	Signature	<i>Michaela D. McKinney</i>
				Print Name	Michaela D. McKinney

Disclosure Statement

Disclosure Statement



Owner Disclosure

Owner Name Windsor Oaks West Parcel 3, LLC

Applicant Name Anna Castillo-Lora

Is the Owner 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)

Shorehaven Properties, LLC; Sycamore Road Properties, LLC;
General Investors Realty Associates; Cohen Family Limited Partnership;
Arleen Cohen 2021 Irrevocable Trust, Michael D. Newsome, Managing Member

- If yes, list the businesses that have a parent-sub subsidiary³ or affiliated business entity⁴ relationship with the Owner. (Attach a list if necessary)

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?

³ "Parent-sub 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.

⁴ "Affiliated business entity relationship" means "a relationship, other than parent-sub 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.

Disclosure Statement



Owner Services Disclosure

1. Does the Owner 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.

2. Does the Owner 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 Owner 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.

4. Does the Owner 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.

6. Does the Owner 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 Owner 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.

Disclosure Statement

Disclosure Statement



8. Is the Owner 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 legal the service.

Owner 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.

A handwritten signature in black ink, appearing to read 'Michael D. Newsome', written over a horizontal line.

Owner Signature

Michael D. Newsome, Managing Member

Print Name and Title

A handwritten date 'August 29, 2023' written in black ink over a horizontal line.

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.

Virginia Beach Planning Commission
November 8, 2023, Public Meeting
Agenda Item # 7

Anna Castillo-Lora

RECOMMENDED FOR APPROVAL- CONSENT

Mr. Horsley: Thank you, Mr. Plumlee. The last item on the consent agenda is item number seven Anna Castillo-Lora, Windsor Oaks, West Parcel 3, LLC, conditional use permit.

Ms. Castillo-Lora: Good afternoon, council members. My name is Anna Castillo-Lora. I'm the wedding officiant. So basically, just want to use the, we'll need a conditional use permit to use the parcel in the Holland Plaza Shopping Center for, as a wedding chapel and also a reception hall for small events.

Mr. Horsley: There are some conditions. Are you acceptable to conditions?

Ms. Castillo-Lora: Yes.

Mr. Horsley: Yes. Thank you.

Ms. Castillo-Lora: Thank you.

Mr. Horsley: Is there any opposition to this, hearing none. We've asked Commissioner Byler to read this into the record.

Ms. Byler: This property is owned by Windsor Oaks West Parcel 3, LLC. The applicant is requesting a conditional use permit for an assembly use to operate an alcohol free and tobacco free venue in an existing 2,070 square foot suite in the Holland Plaza Shopping Center. The shopping center is located along Holland Road on property zone B-2, Community Business District. The city has recommended some conditions and the applicant has agreed to them. There is no known opposition and is appropriate to be added to the consent agenda.

Mr. Horsley: Thank you, that concludes the consent agenda.

Mr. Horsley: Thank you, sir. So, we have four items to be placed, make a motion that we approve the item number one City of Virginia Beach, item number two

City of Virginia Beach, item number five Ruffin 86 LLC and item number seven Anna Costello-Lora Windsor Oaks West Parcel 3.

Mr. Alcaraz: All right. Thank you Mr. Vice Chair. We have a motion. Do I have a second?

Mr. Parks: Yes, second.

Mr. Alcaraz: Second by Mr. Parks.

Madam Clerk: Mr. Horsley, can you make that motion on your iPad? Thank you, Mr. Parks. All right, the vote is now open. By a vote of eight to zero, items number one, two, five, and seven have been recommended for approval.

	AYE 8	NAY 0	ABS 0	ABSENT 3
Alcaraz	AYE			
Anderson				ABS
Byler	AYE			
Clemons	AYE			
Coston				ABS
Cuellar	AYE			
Estaris				ABS
Hippen	AYE			
Horsley	AYE			
Parks	AYE			
Plumlee	AYE			

CONDITIONS

1. A business license for the Assembly Use shall not be issued to the applicant without the approval of the Health Department to ensure consistency with the provision of Chapter 23 of the City Code.
2. The applicant shall obtain all necessary permits and inspections from the Department of Planning & Community Development/Permits and Inspections Division. The applicant shall secure a Certificate of Occupancy for use of the existing building as an Assembly Use.
3. The maximum occupancy load shall not exceed the maximum number as required by applicable building codes, noted on the Certificate of Occupancy, and posted by the Fire Marshal.
4. 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 Department of Planning & Community Development for the installation of any new signs.

5. All event activities shall occur within the building. Outdoor events shall be prohibited unless specifically permitted with a Special Event permit.
6. No amplification of music or use of speakers shall be permitted except within the enclosed building.
7. Hours of operation shall be limited to 9:00 a.m. to 10:00 p.m., Monday through Sunday.



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: AN ORDINANCE TO AMEND SECTION 1804 OF THE CITY ZONING ORDINANCE PERTAINING TO DISCRETIONARY DEVELOPMENT APPLICATIONS.

MEETING DATE: December 12, 2023

■ **Background:**

In August 2005, the Base Realignment and Closure (BRAC) Commission added NAS Oceana to the list of installations to be closed or realigned, if, among other things, the cities of Virginia Beach and Chesapeake failed to enact and enforce legislation to prevent further encroachment of NAS Oceana by adopting zoning ordinances requiring governing bodies to follow Air Installations Compatibility Use Zones (AICUZ) guidelines in deciding discretionary development applications for property in noise level 70 dB DNL or greater. As a result, the City adopted Article 18 - Special Regulations in Air Installations Compatible Use Zones (AICUZ).

Currently, residential density for discretionary development in the AICUZ is currently limited by the actual number of residential units on the property at the time the application is submitted, rather than the number of dwelling units authorized in the underlying zoning district. However, if properties were to develop by-right, the AICUZ provisions of Article 18 would not apply and thus the property could be developed at the maximum residential density of the underlying zoning district. As a result, property owners and developers typically prefer to build by-right development to achieve the maximum density, which disincentivizes the rezoning of parcels to allow for a mixed-used development or other development patterns that are more desirable or better aligned with the Comprehensive Plan.

■ **Considerations:**

The proposed amendment defines Previously Authorized Dwelling Units, which are residential uses currently permitted or approved prior to December 20, 2005, and also allows the City Council to consider a discretionary application or modification that would allow:

- 1) the Previously Authorized Dwelling units to be changed in form and/or relocated;
- 2) the incorporation of additional land;
- 3) or the introduction of compatible uses, as per section 1804

The aforementioned allowances are subject to the following:

- 1) No Previously Authorized Dwelling Units shall be relocated into a higher noise zone or into an Accident Potential Zone or Clear Zone; and
- 2) Previously Authorized Dwelling Units that are affected or changed by the proposed discretionary action shall be reduced by 5%

Nothing in this amendment shall require the reduction of Previously Authorized Dwelling Units for discretionary actions that:

- 1) Shift Previously Authorized Dwelling Units to a lower noise zone, but only for those Previously Authorized Dwelling Units that are actually moved, not the entire development; or
- 2) Modify conditions or proffers where the number of Previously Authorized Dwelling Units are not increased, the site layout or building design is modified, and no additional uses are proposed; or
- 3) It is determined by the Zoning Administrator to be Redevelopment and meets the criteria as set forth in section 1804 (d) of this ordinance.

Furthermore, no actions taken in accordance with subdivision (e) of this section shall be allowed to take the additional bonus density of the City Zoning Ordinance, Article 21, Workforce Housing.

Staff is unaware of any opposition to the proposed amendment. There was one speaker in support of this request at the Planning Commission hearing. Further details pertaining to the ordinance, as well as Staff's evaluation, are provided in the attached Staff Report.

■ **Recommendation:**

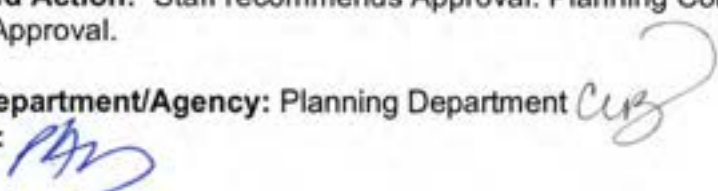
On November 8, 2023, the Planning Commission passed a motion to recommend this item on the Consent Agenda, passing a motion by a recorded vote of 8-0, to recommend approval of this request.

■ **Attachments:**

Staff Report
Ordinance
Minutes of Planning Commission Hearing
Letter of Support (1)

Recommended Action: Staff recommends Approval. Planning Commission recommends Approval.

Submitting Department/Agency: Planning Department
City Manager:



1 AN ORDINANCE TO AMEND SECTION 1804
2 OF THE CITY ZONING ORDINANCE
3 PERTAINING TO DISCRETIONARY
4 DEVELOPMENT APPLICATIONS
5

6 Section Amended: § 1804 of the City Zoning
7 Ordinance
8

9 WHEREAS, the public necessity, convenience, general welfare and good zoning
10 practice so require;
11

12 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VIRGINIA
13 BEACH, VIRGINIA:
14

15 That Section 1804 of the City Zoning Ordinance is hereby amended and
16 reordained to read as follows:
17

18
19

20 (d) *Redevelopment*. The provisions of this section shall not apply to discretionary
21 development applications for the redevelopment of property where the proposed
22 dwelling unit density is the same as or lower than the actual unit density existing at
23 the time the application is submitted. Actual units are those units that exist on the
24 property at the time of application.
25

26 (e) Dwelling unit density - Reduction in density required.
27

28 (1) Definitions
29

30 (i) For purposes of this section Previously Authorized Dwelling Units is
31 defined as residential uses currently permitted or approved prior to
32 December 20, 2005:
33

34 (1) as a matter of right;

35 (2) subject to a conditional use permit or proffer agreement; or

36 (3) subject to any prior City Council approval.
37

38 (2) Notwithstanding the provisions of subsection (a) above, where Previously
39 Authorized Dwelling Units are permitted on one or more contiguous properties,
40 City Council may consider an application or modification that would allow (1) the
41 Previously Authorized Dwelling units to be changed in form and/or relocated; (2)
42 the incorporation of additional land; (3) or the introduction of compatible uses, as
43 per section 1804, subject to the following:
44

45 (i) No Previously Authorized Dwelling Units shall be relocated into a higher
46 noise zone or into an Accident Potential Zone or Clear Zone; and

47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65

(ii) Previously Authorized Dwelling Units that are affected or changed by the proposed discretionary action shall be reduced by 5%, except as noted below.

(3) Nothing in this section shall require the reduction of Previously Authorized Dwelling Units for discretionary actions that:

(i) Shift Previously Authorized Dwelling Units to a lower noise zone, but only for those Previously Authorized Dwelling Units that are actually moved, not the entire development; or

(ii) Modify conditions or proffers where the number of Previously Authorized Dwelling Units are not increased, the site layout or building design is modified and no additional uses are proposed; or

(iii) It is determined by the Zoning Administrator to be Redevelopment and meets the criteria as set forth in section 1804 (d) of this ordinance.

(4) No actions taken in accordance with subdivision (e) of this section shall be allowed to take the additional bonus density of the City Zoning Ordinance, Article 21, Workforce Housing.


Adopted by the Council of the City of Virginia Beach, Virginia, on the _____ day of _____, 20__.

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL SUFFICIENCY:



Planning Department



City Attorney's Office

CA15506
R-7
November 20, 2023



Applicant **City of Virginia Beach**

Planning Commission Public Hearing **November 8, 2023**

Discretionary Development Applications in the AICUZ

Agenda Item

1

Request

An Ordinance to amend Section 1804 of the City Zoning Ordinance pertaining to discretionary development applications.

Summary of Request

The purpose of this amendment is to allow the City Council to consider a discretionary application or modification that would allow (1) Previously Authorized Dwelling Units to be changed in form and/or relocated; (2) the incorporation of additional land; or (3) the introduction of compatible uses, as per Section 1804.

In August 2005, the Base Realignment and Closure (BRAC) Commission NAS Oceana to the list of installations to be closed or realigned by relocating the East Coast Master Jet Base to Cecil Field in Jacksonville, Florida, if, among other things, the cities of Virginia Beach and Chesapeake failed to enact and enforce legislation to prevent further encroachment of NAS Oceana by the end of March 2006 by adopting zoning ordinances requiring governing bodies to follow Air Installations Compatibility Use Zone (AICUZ) guidelines in deciding discretionary development applications for property in noise level 70 dB DNL or greater. The impact of such a move would have been devastating for the region and the state, predicting a 10-year recession to result, based on economic studies. As a result, the City adopted Article 18 - Special Regulations in Air Installations Compatible Use Zones (AICUZ).

Residential density for discretionary development in the AICUZ is currently limited by the actual number of residential units on the property at the time the application is submitted, rather than the number of dwelling units authorized in the underlying zoning district. However, if the property were to develop by-right, the AICUZ provisions of Article 18 would not apply and thus the property could be developed at the maximum residential density of the underlying zoning district. As a result, property owners and developers typically prefer to build by-right development to get the maximum density, which disincentivizes the rezoning of parcels to allow for a mixed-used development or other development pattern that is more desirable or that better aligns with the Comprehensive Plan.

The proposed amendment defines Previously Authorized Dwelling Units, which are residential uses currently permitted or approved prior to December 20, 2005, and also allows the City Council to consider a discretionary application or modification that would allow:

- 1) the Previously Authorized Dwelling units to be changed in form and/or relocated;
- 2) the incorporation of additional land;
- 3) or the introduction of compatible uses, as per section 1804

The aforementioned allowances are subject to the following:

- 1) No Previously Authorized Dwelling Units shall be relocated into a higher noise zone or into an Accident Potential Zone or Clear Zone; and
- 2) Previously Authorized Dwelling Units that are affected or changed by the proposed discretionary action shall be reduced by 5%

Nothing in this amendment shall require the reduction of Previously Authorized Dwelling Units for discretionary actions that:

- 1) Shift Previously Authorized Dwelling Units to a lower noise zone, but only for those Previously Authorized Dwelling Units that are actually moved, not the entire development; or
- 2) Modify conditions or proffers where the number of Previously Authorized Dwelling Units are not increased, the site layout or building design is modified, and no additional uses are proposed; or
- 3) It is determined by the Zoning Administrator to be Redevelopment and meets the criteria as set forth in section 1804 (d) of this ordinance.

Furthermore, no actions taken in accordance with subdivision (e) of this section shall be allowed to take the additional bonus density of the City Zoning Ordinance, Article 21, Workforce Housing.

Recommendation

Staff recommends approval of this Ordinance as it allows for development patterns that are more consistent with the Comprehensive Plan, while also decreasing the overall density within the AICUZ.

**Virginia Beach Planning Commission
November 8, 2023, Public Meeting
Agenda Item # 1**

City of Virginia Beach

RECOMMENDED FOR APPROVAL- CONSENT

Mr. Horsley: Thank you, Mr Chairman. I think we have four items on the consent agenda today. First item is the City of Virginia Beach and ordinance to amend section 1804 of the city zoning ordinance pertaining to discretionary development applications. I don't think Kevin Kemp is here but Kathy Warren will address that from her staff. Kathy?

Ms. Warren: Good afternoon Mr. Chairman, Vice Chairman, Commissioners. I'm Kathy Warren, the Director of Planning and Community Development. As you are aware, there is a more detailed presentation this morning at the informal session, but we wanted to highlight some of the details of this proposal. So why the change? Properties are permitted to develop by right, utilizing zoning in place prior to adoption of the AICUZ in December of 2005. Maximum density set by underlying zoning district. Density for discretionary development or a conditional rezoning in the AICUZ is currently limited by the actual number of units existing on the property at the time, the application is submitted, not the previously authorized dwelling units of the zoning district. In effect, property owners and developers prefer to build by rate development to get the maximum density allowed, which disincentivizes for rezoning of parcels to mixed use development or other development patterns that may be more desirable in accordance with the Comprehensive Plan. So this proposal will define previously authorized dwelling units as residential uses currently permitted or approved prior to December 1, 2005 as a matter of right, subject to a conditional use permit, or subject to any prior City Council approval. It will allow City Council to consider discretionary application or modification that would allow the previously authorized dwelling units to be changed in form and/or relocated. The incorporation of additional land or the introduction of compatible uses as per section 1804. There will be an allowance subject to the following. No previously authorized dwelling units shall be relocated into a higher noise zone or into an accident potential zone or clear zone, and previously authorized dwelling units that are affected or change by the proposed discretionary action shall be reduced by five percent. No actions taken shall be allowed to take the additional bonus density of the city's zoning ordinance, article 21, the workforce housing, and then nothing in this

amendment shall require the reduction of previously authorized dwelling units for discretionary actions that shift previously authorized dwelling units into a lower noise zone, but only for those previously authorized dwelling units that are actually moved, not the entire development, or modify conditions or proffers where the number of previously authorized dwelling units are not increased. The site layout or building design is modified and no additional uses are proposed or it is determined by the zoning administrator to be redevelopment and meets the criteria as set forth in section 1804 (d) of this ordinance.

Madam Clerk: Excuse me, Vice Chair. We did have one speaker in support of item one before we take the vote.

Mr. Horsley: Okay.

Madam Clerk: Mark Rosenfield.

Mr. Rosenfield: Good afternoon, Mr. Chairman, Vice Chairman, and members of the Planning Commission. Mark Rosenfield, Executive Vice President with McCleskey Developer here in Virginia Beach. We're located at 2859 Virginia Beach Boulevard, Suite 106 in Virginia Beach, Virginia 23452 and we support the adoption of this proposed ordinance change to allow projects flexibility in land planning while maintaining the spirit of the relationship with the Navy to limit base encroachment. This language modification enables us to design projects that are current, modern, and of quality. So, thank you.

Mr. Horsley: Thank you, sir. So, we have four items to be placed, make a motion that we approve the item number one City of Virginia Beach, item number two City of Virginia Beach, item number five Ruffin 86 LLC and item number seven Anna Costello-Lora Windsor Oaks West Parcel 3.

Mr. Alcaraz: All right. Thank you Mr. Vice Chair. We have a motion. Do I have a second?

Mr. Parks: Yes, second.

Mr. Alcaraz: Second by Mr. Parks.

Madam Clerk: Mr. Horsley, can you make that motion on your iPad? Thank you, Mr. Parks. All right, the vote is now open. By a vote of eight to zero, items number one, two, five, and seven have been recommended for approval.

	AYE 8	NAY 0	ABS 0	ABSENT 3
Alcaraz	AYE			
Anderson				ABS
Byler	AYE			
Clemons	AYE			
Coston				ABS
Cuellar	AYE			
Estaris				ABS
Hippen	AYE			
Horsley	AYE			
Parks	AYE			
Plumlee	AYE			



DEPARTMENT OF THE NAVY
NAVAL AIR STATION OCEANA
1750 TOMCAT BOULEVARD
VIRGINIA BEACH, VIRGINIA 23460-2191

5726
N00
November 6, 2023

Mr. Patrick Duhaney
City Manager
City of Virginia Beach
2401 Courthouse Drive
Virginia Beach, VA 23456

Dear Mr. Duhaney,

I am writing to express my support for the proposed amendment to Article 18 of the City Zoning Ordinance, specifically to §1804, which regulates discretionary development applications within the Air Installations Compatible Use Zones (AICUZ) Overlay. I would therefore request that you pass this letter to the members of the Virginia Beach Planning Commission and the City Council to whom the amendment will be presented for consideration.

As you know, Article 18 was conceived during the 2004/05 Hampton Roads Joint Land Use Study (JLUS), and subsequently enacted by the City Council, as a means to ensure the compatibility of future development around Naval Air Station (NAS) Oceana. To this end, Article 18 classified as incompatible residential land uses located in the high noise zones around NAS Oceana; that is, those areas within the 70 decibel (dB) Day-Night Average (DNL) and greater noise zones. The regulations of Article 18, together with the other initiatives undertaken by the Cities of Virginia Beach and Chesapeake and the Commonwealth of Virginia, have been recognized as a model for communities seeking to support the mission compatibility requirements of Department of Defense installations located in them.

For close to six years, the proposed amendment to Article 18 has been in development by the Virginia Beach Planning and City Attorney staffs, in consultation with members of the NAS Oceana staff. This effort has been undertaken to address issues presented by those properties that had been granted residential zoning classifications before the enactment of Article 18 in December 2005. For the U.S. Navy, these represent properties on which otherwise incompatible residential development may occur with no approvals required by the City Council. The challenge to Virginia Beach is that Article 18 has effectively frozen these "grandfathered" properties in time, only permitting development using outdated planning and design schemes. The challenge has been how to address these concerns, recognizing that if nothing is done owners will inevitably use their grandfathered approvals to build out these properties.

If enacted, the amendment will permit the Planning Commission and the City Council to consider proposed reconfigurations and adjustments to grandfathered planning and zoning approvals. The Navy's airfield compatibility priorities will be incorporated through provisions requiring a reduction in the number of residential units that could otherwise be constructed under grandfathered approvals, and preventing redesigned plans from moving residential structures


5726
N00
November 6, 2023

from lower into higher noise zones, or into Accident Potential Zones. In this way, both Virginia Beach and U.S. Navy objectives will be significantly and measurably included.

Given the importance of our concerted efforts for the past 18 years to ensure the compatibility of community growth around NAS Oceana, I believe it is important to highlight the reason the amendment was prepared; that is, the properties that the amendment will affect may today be built out with residential development by reason of their grandfathered zoning classifications. The amendment to Article 18 will ameliorate this situation. Please therefore accept my sincere thanks for all the work undertaken by the current and past members of the City of Virginia Beach staff that will help ensure the long-time operational viability of the U.S. Navy's East Coast Master Jet Base.

Should you have any questions, please do not hesitate to contact me directly. My point of contact for this matter is Mr. John Lauterbach, NAS Oceana Planning Liaison. He may be reached at (757) 433-2577 or by email at john.c.lauterbach.civ@us.navy.mil.

Sincerely,


S. V. DJUNARDI
Captain, U.S. Navy
Commanding Officer

Copy to:
City of Virginia Beach (Director of Planning)
City of Virginia Beach (City Attorney)
Commander, Navy Region Mid-Atlantic



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: AN ORDINANCE TO AMEND SECTIONS 237 AND 901 OF THE CITY ZONING ORDINANCE PERTAINING TO THE USE OF MINI-WAREHOUSES IN THE B-4C ZONING DISTRICT

MEETING DATE: December 12, 2023

■ **Background:**

The B-4C is a potential zoning district which is geographically limited to the area generally bounded by Thalia Creek on the east, Interstate 264 on the south, Aragona Boulevard on the west, and Jeanne Street and Broad Street on the north, within the Pembroke SGA. The purpose of the B-4C district is to provide an area that complements the Central Business Core District through quality mixed-use development at intensities and patterns that support multiple modes of transportation, higher residential densities, including high-quality workforce housing in appropriate areas within the district, and an integrated mix of residential and non-residential uses within the same building or on the same lot. Currently, mini-warehouses are not a permitted use within this district.

■ **Considerations:**

The purpose of this amendment is to permit the Mini-Warehouse use, with an approved Conditional Use Permit, in the B-4C Central Business Mixed-Use Zoning District. Additionally, in acknowledgment of the urban form desired in the Pembroke Strategic Growth Area, the amendment would add additional form standards for the Mini-Warehouse use.

This amendment will require mini-warehouses to be contained on the upper-floors of a mixed-use building which features a minimum of one additional use unrelated to the mini-warehouse. While no storage units would be permitted on the ground floor, a maximum of 30 percent of the ground floor area could be used for storage-related office and/or retail space. The mixed-use building housing the mini-warehouse use would be subject to the same site criteria as any other development in the B-4C district, including the street setback minimum of zero feet and maximum of 10 feet and height minimum of 35 feet, both of which align with the dense, urban environment envisioned by the Pembroke SGA. This amendment will not permit the traditional mini-warehouse layout of a horizontal storage unit compound found within the rest of the City.

Staff presented to the Central Business District Association (CBDA) on September 18th, 2023, which were in support of the text amendment.

Staff is unaware of any opposition to the proposed amendment. Further details pertaining to the ordinance, as well as Staff's evaluation, are provided in the attached Staff Report.

■ **Recommendation:**

On November 8, 2023, the Planning Commission passed a motion to recommend this item on the Consent Agenda, passing a motion by a recorded vote of 8-0, to recommend approval of this request.

■ **Attachments:**

Staff Report
Ordinance
Minutes of Planning Commission Hearing
PowerPoint Presentation
Boundary Map of Potential B-4C District

Recommended Action: Staff recommends Approval. Planning Commission recommends Approval.

Submitting Department/Agency: Planning Department
City Manager:



1 AN ORDINANCE TO AMEND SECTIONS 237
2 AND 901 OF THE CITY ZONING
3 ORDINANCE PERTAINING TO MINI-
4 WAREHOUSES

5
6 Sections Amended: §§ 237 and 901
7

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

10
11 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VIRGINIA
12 BEACH, VIRGINIA:

13
14 That Sections 237 and 901 of the City Zoning Ordinance are hereby amended
15 and reordained to read as follows:

16
17 **Sec. 237. Mini-warehouses.**

18
19 In addition to general requirements, the following special requirements and
20 limitations shall apply to mini-warehouses in all districts, excluding the B-4C district, in
21 which they are generally permitted:

22
23 (a) *Lighting.* All outdoor lights shall be shielded to direct light and glare onto the
24 mini-warehouse premises; said lighting and glare shall be deflected, shaded,
25 and focused away from all adjoining property. Any outdoor lighting fixtures
26 shall not be erected any higher than fourteen (14) feet.

27
28 (b) *Fencing.* The mini-warehouse facility shall be completely enclosed, except for
29 necessary openings for ingress and egress, by a fence or wall not less than six
30 (6) feet in height, except where prohibited by section 201(e)(1) of this
31 ordinance, and Category VI landscaping.

32
33 (c) *Form.* Mini-warehouses in B-4C shall be a multi-story fully enclosed mixed-use
34 building.

35
36 (1) Such building shall include two (2) or more uses within the building.
37 Applicable uses include Retail Sales, Services, Office; Institutional,
38 Recreational, and Industrial, and those uses permitted by the applicable
39 zoning district in which the mini-warehouse is located. The storage facility
40 shall be counted as one of the uses.

41
42 (2) No storage units shall be located on the ground floor; however, a maximum
43 of thirty (30) percent of the ground floor area may be used as storage
44 related office and/or retail space.

45
46

47
48
49
50
51
52
53
54
55
56

Sec. 901. Use regulations.

(a) *Principal and conditional uses.* The following chart lists those uses permitted within the B-1 through B-4K Business Districts. Those uses and structures in the respective business 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.

Use	B-1	B-1A	B-2	B-3	B-4	B-4C	B-4K
....							
<u>Mini-warehouses; must comply with the provisions of section 237</u>	X	C	C	C	C	X-C	X
....							

57
58
59

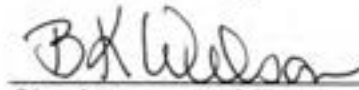
Adopted by the Council of the City of Virginia Beach, Virginia, on the _____ day of _____, 2023.

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL SUFFICIENCY:



Planning Department



City Attorney's Office

CA16284
R-6
November 7, 2023



Request

An Ordinance to amend Section 237 and 901 of the City Zoning Ordinance pertaining to the use of Mini-Warehouses in the B-4C Zoning District.

Summary of Request

The purpose of this amendment is to permit the *Mini-Warehouse* use, with an approved Conditional Use Permit, in the B-4C Central Business Mixed-Use Zoning District. Additionally, in acknowledgment of the urban form desired in the Pembroke Strategic Growth Area, the amendment would add additional form standards for the *Mini-Warehouse* use.

The B-4C zoning district is geographically limited to the Pembroke SGA, more specifically the Core Area, Bonney Area, and Waterfront Area. The purpose of the B-4C district is to provide an area that complements the Central Business Core District through quality mixed-use development at intensities and patterns that support multiple modes of transportation, higher residential densities, including high-quality workforce housing in appropriate areas within the district, and an integrated mix of residential and non-residential uses within the same building or on the same lot. Currently, mini-warehouses are not a permitted use within this district.

This amendment will require mini-warehouses to be contained on the upper-floors of a mixed-use building which features a minimum of one additional use unrelated to the mini-warehouse. The mixed-use building housing the mini-warehouse use would be subject to the same site criteria as any other development in the B-4C district, including the street setback minimum of zero feet and the maximum of 10 feet and the height minimum of 35 feet, both of which align with the dense, urban environment envisioned by the Pembroke SGA. This amendment will not permit the traditional mini-warehouse layout of a horizontal storage unit compound found within the rest of the City.

Recommendation

Staff recommends approval of this Ordinance as it expands the uses available to developers within the Pembroke SGA while also ensuring that development of the mini-warehouse use is consistent with the vision and goal of the urban core of the City.

**Virginia Beach Planning Commission
November 8, 2023, Public Meeting
Agenda Item # 2**

City of Virginia Beach

RECOMMENDED FOR APPROVAL- CONSENT

Mr. Horsley: Thank you Kathy. Is there any opposition to this amendment? All right, thank you. The next item on that consent agenda is the City of Virginia Beach, an ordinance to add sections 237 and 901 of the City Zoning Ordinance pertaining to the use of many warehouses in B-4C zoning district. Garrick from the staff is going to address this.

Mr. Hannigan: Hi, good afternoon commissioners. Garrick Hannigan in the zoning administration division, item two is an ordinance to amend section 237 and 901 of the City Zoning Ordinance and that pertains to the use of mini-warehouses within the B-4C District. The purpose of this amendment is to permit this use with a conditional use permit and additionally an acknowledgement of the urban forms that are desired within the Pembroke strategic growth area. The amendment would add additional form standards to that mini-warehouse use. So this amendment will require mini-warehouses to be contained on the upper floors of a mixed use building, which feature a minimum of one additional use that is unrelated to that mini-warehouse. The mixed use building housing the mini-warehouses will be subject to the same side criterias, any other development within the B-4C district, and in keeping with the environment envisioned by that Pembroke SGA. So with that staff recommends approval of this ordinance as it expands the uses available to developers within the Pembroke SGA while also ensuring that development of mini-warehouses is consistent with the visions of the overall urban core of the city.

Mr. Horsley: Thank you, sir. So, we have four items to be placed, make a motion that we approve the item number one City of Virginia Beach, item number two City of Virginia Beach, item number five Ruffin 86 LLC and item number seven Anna Costello-Lora Windsor Oaks West Parcel 3.

Mr. Alcaraz: All right. Thank you Mr. Vice Chair. We have a motion. Do I have a second?

Mr. Parks: Yes, second.

Mr. Alcaraz: Second by Mr. Parks.

Madam Clerk: Mr. Horsley, can you make that motion on your iPad? Thank you, Mr. Parks. All right, the vote is now open. By a vote of eight to zero, items number one, two, five, and seven have been recommended for approval.

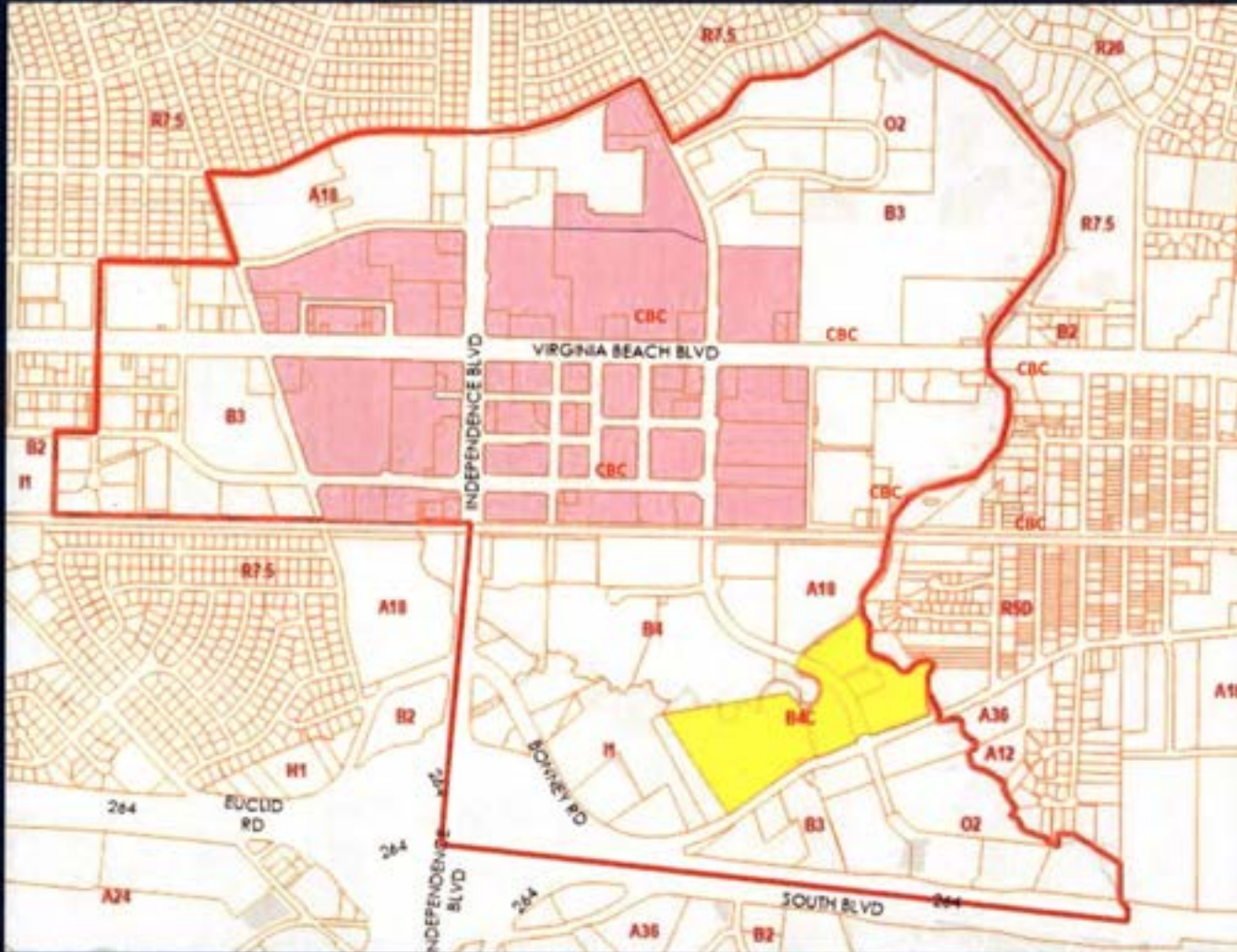
	AYE 8	NAY 0	ABS 0	ABSENT 3
Alcaraz	AYE			
Anderson				ABS
Byler	AYE			
Clemons	AYE			
Coston				ABS
Cuellar	AYE			
Estaris				ABS
Hippen	AYE			
Horsley	AYE			
Parks	AYE			
Plumlee	AYE			

CITY OF VIRGINIA BEACH

An ordinance to add Section 237 and 901 of the City Zoning Ordinance pertaining to the use of Mini-warehouses in the B-4C Zoning District

BACKGROUND

- The B-4C Central Business Mixed Use District is a zoning district limited to the Waterfront Area, Core Area, and Bonney Area of the Pembroke SGA
- Development within the B-4C Central Business Mixed Use District should adhere to the Comprehensive Plan's Mixed Use Development Guidelines
- Mini-warehouses are a use not permitted within the B-4C district; however, Staff has received inquiries from the development community regarding the use
- Mini-warehouse within the limited B-4C footprint would support the needs of citizens residing within the Town Center area



Existing B-4C Central Business Mixed Use District

- Area outlined in red would be eligible for rezoning to B-4C, however conversion from CBC to B-4C would not be recommended by Staff

PROPOSED AMENDMENT

Sec. 901. Use regulations.

(a) Principal and conditional uses. The following chart lists those uses permitted within the B-1 through B-4K Business Districts. Those uses and structures in the respective business 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.

Use	B-1	B-1A	B-2	B-3	B-4	B-4C	B-4K
....							
<u>Mini-warehouses; must comply with the provisions of section 237</u>	X	C	C	C	C	X -C	X
....							

PROPOSED AMENDMENT

Sec. 237. Mini-warehouses.

In addition to general requirements, the following special requirements and limitations shall apply to mini-warehouses in all districts, excluding the B-4C district, in which they are generally permitted:

(a) Lighting. All outdoor lights shall be shielded to direct light and glare onto the mini-warehouse premises; said lighting and glare shall be deflected, shaded, and focused away from all adjoining property. Any outdoor lighting fixtures shall not be erected any higher than fourteen (14) feet.

(b) Fencing. The mini-warehouse facility shall be completely enclosed, except for necessary openings for ingress and egress, by a fence or wall not less than six (6) feet in height, except where prohibited by section 201(e)(1) of this ordinance, and Category VI landscaping.

The following special requirements and limitations shall apply to mini-warehouses in th B-4C district:

(c) Form. Mini-warehouses in B-4C must also be a multi-story fully enclosed mixed-use building.

(1) Such building shall include two (2) or more uses within the building. Applicable uses include Retail Sales, Services, and Office; Institutional; Recreational; and/or Industrial, and as permitted by the governing zoning district. The storage facility shall be counted as one of the uses.

(2) No storage units shall be located on the ground floor; however, a maximum of thirty (30) percent of the ground floor area may be used as storage related office and/or retail space.

PROPOSED AMENDMENT

Sec. 237. Mini-warehouses.

The following special requirements and limitations shall apply to mini-warehouses in the B-4C district:

(c) Form. Mini-warehouses in B-4C must also be a multi-story fully enclosed mixed-use building.

(1) Such building shall include two (2) or more uses within the building. Applicable uses include Retail Sales, Services, and Office; Institutional; Recreational; and/or Industrial, and as permitted by the governing zoning district. The storage facility shall be counted as one of the uses.

(2) No storage units shall be located on the ground floor; however, a maximum of thirty (30) percent of the ground floor area may be used as storage related office and/or retail space.

CONCEPTUAL EXAMPLE RENDERING

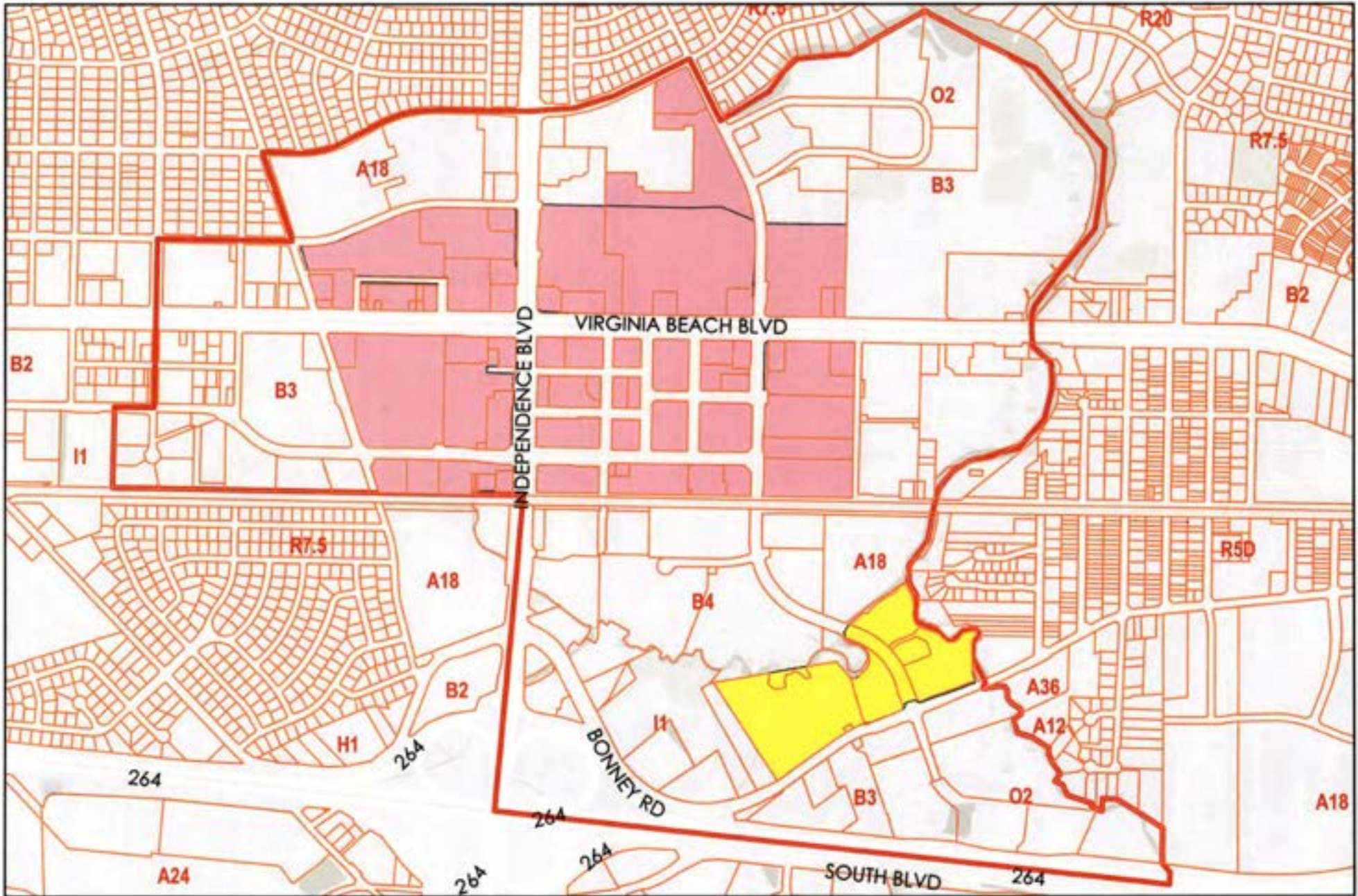


CONCEPTUAL EXAMPLE RENDERING



CONCEPTUAL EXAMPLE RENDERING





- Geographic Limit of B-4C
- Existing B-4C
- Central Business Core District

Boundary of Potential B-4C District Rezoning



M. APPOINTMENTS

BAYFRONT ADVISORY COMMISSION
BEACHES AND WATERWAYS ADVISORY COMMISSION
CLEAN COMMUNITY COMMISSION
COMMUNITY SERVICES BOARD
DEFERRED COMPENSATION BOARD
GREEN RIBBON COMMITTEE
HAMPTON ROADS TRANSPORTATION PLANNING ORGANIZATION
HISTORIC PRESERVATION COMMISSION
IN-HOUSE PHARMACY EXPLORATORY COMMITTEE
MILITARY ECONOMIC DEVELOPMENT ADVISORY COMMITTEE
OLD BEACH DESIGN REVIEW BOARD
OPEN SPACE ADVISORY COMMITTEE
PARKS AND RECREATION COMMISSION
PROCESS IMPROVEMENT STEERING COMMITTEE
PUBLIC LIBRARY BOARD
SENIOR SERVICES OF SOUTHEASTERN VA BOARD
URBAN AGRICULTURE ADVISORY COMMITTEE
VIRGINIA BEACH CANNABIS ADVISORY TASK FORCE
VIRGINIA BEACH COMMUNITY DEVELOPMENT CORPORATION
WETLANDS BOARD

N. UNFINISHED BUSINESS

O. NEW BUSINESS

P. ADJOURNMENT

If you are **physically disabled** or **visually impaired**
and need assistance at this meeting,
please call the **CITY CLERK'S OFFICE** at **385-4303**

The Agenda (including all backup documents) is available at <https://clerk.virginiabeach.gov/city-council> under the eDocs Document Archive. If you would like to receive by email a list of the agenda items for each Council meeting, please submit your request to TChelius@vbgov.com or call 385-4303.

Citizens who wish to speak can sign up either in-person or virtually via WebEx. Anyone wishing to participate virtually, must follow the **two-step process** provided below:

1. Register for the WebEx at:
<https://vbgov.webex.com/weblink/register/r996c4188669b829d0da6715610a5e001>
2. Register with the City Clerk's Office by calling 757-385-4303 prior to 5:00 p.m. on December 12, 2023.

**CITY OF VIRGINIA BEACH
SUMMARY OF COUNCIL ACTIONS**

DATE: 12/05/2023

PAGE: 2

AGENDA
ITEM #

SUBJECT

MOTION

VOTE

B
E
R
L
U
C
C
H
I

D
Y
E
R

H
E
N
L
E
Y

V
A
C
A
N
T

R
E
M
I
C
K

R
O
S
S
-
H
A
M
M
O
N
D

R
O
U
S
E

S
C
H
U
L
M
A
N

T
A
Y
L
O
R

W
I
L
S
O
N

W
O
O
T
E
N

AGENDA ITEM #	SUBJECT	MOTION	VOTE	B E R L U C C H I	D Y E R	H E N L E Y	V A C A N T	R E M I C K	R O S S - H A M M O N D	R O U S E	S C H U L M A N	T A Y L O R	W I L S O N	W O O T E N
1.	PUBLIC HEARINGS													
1.	ACQUISITION OF AGRICULTURAL LANDS PRESERVATION (ARP) EASEMENT Installment Purchase Agreement for 143.38 acres of land located at 4381 Muddy Creek Road	NO SPEAKERS												
2.	PROPOSED PROPERTY TAX EXEMPTION Commonwealth Catholic Charities Hospice House of Hampton Roads Only His Grace, Inc. Skilled Foundations Speak Up for a Change Virginia Beach Recovery Club, Inc.	NO SPEAKERS												
3.	LEASE OF CITY PROPERTY – FARMERS MARKET Building 2, Space 12 to The Country Butcher Shop, Inc.	NO SPEAKERS												
4.	DEDICATION OF EASEMENTS TO DOMINION ENERGY VIRGINIA <ul style="list-style-type: none"> 9,708 Sq. Ft. (0.223 Acres) at 2283, 2285 and 2287 Landstown Road 323 Sq. Ft. (0.007 Acres) at 4200 North Witchduck Road 1,253 Sq. Ft. (0.0288 Acres) at 2401 Plantation Drive 213 Sq. Ft. (0.005 Acres) at 3030 Bray Road 	NO SPEAKERS												
K.1.	Ordinance to AMEND City Code Section 2-5 re Members of the Historic Preservation Commission (Requested by Mayor Dyer and Vice-Mayor Wilson)	ADOPTED, BY CONSENT	9-0	A	Y	Y		Y	Y	Y	Y	Y	Y	Y
K.2.	Ordinance to AMEND City Code Section 2-451 re Boards / Commissions	ADOPTED, BY CONSENT	9-0	A	Y	Y		Y	Y	Y	Y	Y	Y	Y
K.3.	Ordinance to REPEAL City Code Section 2-452 re Military Liaison Commission	ADOPTED, BY CONSENT	9-0	A	Y	Y		Y	Y	Y	Y	Y	Y	Y
K.4.	Ordinance to REPEAL Article II, Chapter 6 re Port of Virginia Beach Advisory Commission	ADOPTED, BY CONSENT	9-0	A	Y	Y		Y	Y	Y	Y	Y	Y	Y
K.5.	Resolution to ESTABLISH a 90-day Festival Task Force (Requested by Vice-Mayor Wilson and Council Members Berlucchi, Remick, Ross-Hammond, and Schulman)	ADOPTED, BY CONSENT	8-0	A	Y	Y		Y	Y	Y	Y	A B S T A I N E D	Y	Y
K.6.	Resolution to APPROVE the amendments to the Resort Advisory Commission Bylaws	ADOPTED, BY CONSENT	9-0	A	Y	Y		Y	Y	Y	Y	Y	Y	Y
K.7.	Ordinance to DONATE to the Office of Attorney General re 44 ballistic vests	ADOPTED, BY CONSENT	9-0	A	Y	Y		Y	Y	Y	Y	Y	Y	Y

**CITY OF VIRGINIA BEACH
SUMMARY OF COUNCIL ACTIONS**

DATE: 12/05/2023

PAGE: 3

AGENDA

ITEM # SUBJECT MOTION VOTE

B
E
R
L
U
C
H
I

D
Y
E
R

H
E
N
L
E
Y

V
A
C
A
N
T

R
E
M
I
C
K

R
O
S
S
-
H
A
M
M
O
N
D

R
O
U
S
E

S
C
H
U
L
M
A
N

T
A
Y
L
O
R

W
I
L
S
O
N

W
O
O
T
E
N

K.8.	Ordinance to AUTHORIZE temporary encroachments into the City's right-of-way known as Bobolink Drive at 1045 Bobolink Drive re maintain hardscaping and landscaping DISTRICT 6	ADOPTED, BY CONSENT	9-0	A	Y	Y		Y	Y	Y	Y	Y	Y	Y	Y
K.9.	Ordinance to APPROPRIATE funds from the Tourism Investment Program (TIP) Fund Balance / AWARD a \$170,000 grant to Hampton Roads Soccer Council re site plan and engineering work to turf and light several soccer fields at the Hampton Roads Soccer Complex (Requested by Mayor Dyer and Council Members Remick, Ross-Hammond, Schulman and Taylor)	ADOPTED, BY CONSENT	9-0	A	Y	Y		Y	Y	Y	Y	Y	Y	Y	Y
K.10.	Ordinance to ACCEPT / APPROPRIATE \$803,000 from the Virginia Department of Juvenile Justice to the FY2023-24 Human Services Operating Budget re Juvenile Detention Center	ADOPTED, BY CONSENT	9-0	A	Y	Y		Y	Y	Y	Y	Y	Y	Y	Y
K.11.	Ordinance to ACCEPT / APPROPRIATE \$36,008.47 from the Virginia Beach Library Foundation to the FY 2023-24 Public Libraries Operating Budget re acquisition of a new bookmobile	ADOPTED, BY CONSENT	9-0	A	Y	Y		Y	Y	Y	Y	Y	Y	Y	Y
K.12.	Ordinance to ACCEPT / APPROPRIATE State funds totaling \$63,164 from the Virginia Department of Environmental Quality to the Waste Management Enterprise Fund within the FY 2023-24 Public Works Operating Budget (\$51,332) and Park and Recreation Operating Budget (\$11,832) re litter prevention/recycling	ADOPTED, BY CONSENT	9-0	A	Y	Y		Y	Y	Y	Y	Y	Y	Y	Y
K.13.	Ordinance to TRANSFER \$1,750,000 from Capital Project #100147 "Atlantic Park Parking" to Capital Project #100606 "Atlantic Park Offsite Infrastructure" re replenish construction contingencies / meet anticipated requirements to complete the offsite infrastructure work	ADOPTED, BY CONSENT	7-0	A	Y	Y		Y	Y	Y	Y	A B S T A I N E D	A B S T A I N E D	Y	
L.	BAYFRONT ADVISORY COMMISSION BEACHES AND WATERWAYS ADVISORY COMMISSION CLEAN COMMUNITY COMMISSION COMMUNITY SERVICES BOARD DEFERRED COMPENSATION BOARD GREEN RIBBON COMMITTEE HAMPTON ROADS TRANSPORTATION PLANNING ORGANIZATION HISTORIC PRESERVATION COMMISSION IN-HOUSE PHARMACY EXPLORATORY COMMITTEE MILITARY ECONOMIC DEVELOPMENT ADVISORY COMMITTEE OLD BEACH DESIGN REVIEW BOARD OPEN SPACE ADVISORY COMMITTEE PARKS AND RECREATION COMMISSION PROCESS IMPROVEMENT STEERING COMMITTEE	RESCHEDULED		B	Y	C	O	N	S	E	N	S	U	S	

**CITY OF VIRGINIA BEACH
SUMMARY OF COUNCIL ACTIONS**

DATE: 12/05/2023

PAGE: 5

AGENDA
ITEM #

SUBJECT

MOTION

VOTE

B
E
R
L
U
C
H
I

D
Y
E
R

H
E
N
L
E
Y

V
A
C
A
N
T

R
E
M
I
C
K

R
O
S
S
-
H
A
M
M
O
N
D

R
O
U
S
E

S
C
H
U
L
M
A
N

T
A
Y
L
O
R

W
I
L
S
O
N

W
O
O
T
E
N

	HISTORIC PRESERVATION COMMISSION	Reappointed: Glenn Carwell Richard Klobuchar Ellen Perry Livas 3 Year Term 1/1/2024 – 12/31/2026 Sharon Felton 2 Year Term 1/1/2024 – 12/31/2025	8-0	A	Y	A	Y	Y	Y	Y	Y	Y	Y	Y
	OPEN SPACE ADVISORY COMMITTEE	Reappointed: Richard Bowie 3 Year Term 1/1/2024 – 12/31/2026	8-0	A	Y	A	Y	Y	Y	Y	Y	Y	Y	Y
	PLANNING COMMISSION	Appointed: Michael Mauch -Representing At-Large 4 Year Term 1/1/2024 – 12/31/2027	8-0	A	Y	A	Y	Y	Y	Y	Y	Y	Y	Y
	RESORT ADVISORY COMMISSION	Appointed: Mark Stevens -Representing Resort Retailer Unexpired thru 12/31/2024 + 3 Year Term 1/1/2025 – 12/31/2027 Harshad Barot -Representing Hotel Association Unexpired thru 1/31/2026 Reappointed: William Almond -Representing Design Professional Michael Mauch -Representing Restaurant Association John Zirkle -Representing Hotel Association 3 Year Term 1/1/2024 – 12/31/2026	8-0	A	Y	A	Y	Y	Y	Y	Y	Y	Y	Y

**CITY OF VIRGINIA BEACH
SUMMARY OF COUNCIL ACTIONS**

DATE: 12/05/2023

PAGE: 6

AGENDA
ITEM #

SUBJECT

MOTION

VOTE

B
E
R
L
U
C
C
H
I

D
Y
E
R

H
E
N
L
E
Y

V
A
C
A
N
T

R
E
M
I
C
K

R
O
S
S
-
H
A
M
M
O
N
D

R
O
U
S
E

S
C
H
U
L
M
A
N

T
A
Y
L
O
R

W
I
L
S
O
N

W
O
O
T
E
N

	<p>VIRGINIA BEACH CANNABIS ADVISORY TASK FORCE</p>	<p>Appointed: Captain Michele Meister -Representing Law Enforcement Unexpired Term thru 12/31/2025 Jairo Pedilla -Representing Virginia Beach City Public Schools Unexpired Term thru 12/31/2024 + 2 Year Term 1/1/2025 – 12/31/2026</p> <p>Reappointed: Michael Berlucchi -Representing City Council Shannon Kane -Representing Citizen Andrew Lock -Representing Citizen Leif E. Olsen -Representing Cannabis Industry Damen Watson -Representing Minority Business Council 2 Year Term 1/1/2024 – 12/31/2025</p>	8-0	A	Y	A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
	<p>VIRGINIA BEACH COMMUNITY DEVELOPMENT CORPORATION</p>	<p>Reappointed: Andrey Douglas-Cook Andrew Friedman Timothy Mccarthy 4 Year Term 1/1/2024 – 12/31/2027</p>	8-0	A	Y	A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
	<p>VIRGINIA BEACH VA250 COMMITTEE</p>	<p>Appointed: Robert Dozier -Representing Education Field 12/5/2023 – 7/4/2026</p>	8-0	A	Y	A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
M.	<p>UNFINISHED BUSINESS</p>															
N.	<p>NEW BUSINESS</p>															
O.	<p>ADJOURNMENT</p>	<p>6:29 PM</p>														
	<p>OPEN DIALOGUE</p>	<p>6:47 PM 5 SPEAKERS</p>														